

**NATIONAL GOVERNORS' ASSOCIATION**

**1993 WINTER MEETING**

*January 31st- February 2nd*

**JW MARRIOTT HOTEL  
WASHINGTON, D.C.**

**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

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# NATIONAL GOVERNORS' ASSOCIATION

## 1993 WINTER MEETING

### 1992-1993 COMMITTEES & TASK FORCES

#### OVERVIEW

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- **STRATEGIC PLANNING TASK FORCE:**

The Strategic Planning Task Force was created in August of 1991 to evaluate the mission and services of the National Governors' Association and to make recommendations to ensure the continued effectiveness of the Association. The Task Force made several discussions with Governors and State Officials and gathered input from a series of surveys. Based on its findings, the Task Force submitted recommendations which resulted in changes of the NGA structure and processes. At the conclusion of the August 2-4, 1992 Annual Meeting, the Governors consolidated NGA's seven former standing committees into three; the Committee on Economic Development and Commerce, the Committee on Human Resources, and the Committee on Natural Resources. The Executive Committee's established task forces on Education, Health Care, and State Management were part of the initiative called "Strategic Investment: Tough Choices for America's Future" launched by Governor Roy Romer of Colorado who became NGA's new chairman on August 4, 1992.

- **PRIORITY ISSUES:**

Twelve (12) priorities that will guide NGA's work in 1992-1993 had been chosen by the governors. The choice of the priorities resulted from a strategic planning review conducted in 1991. The process included suggestions from the standing committees, a survey of governors, and extended discussion among the governors. The Executive Committee was tasked to assign the twelve priorities to appropriate standing committees and task forces. NGA efforts, through research activities as well as technical assistance to the states, focus on influencing national policy and helping governors address priority issues in their individual states. The following are the twelve chosen priorities for 1992-1993:

- 1) ***Medicaid;***
- 2) ***Health Care Reform;***
- 3) ***Achieving the National Education Goals;***
- 4) ***Economic Development and Jobs (including Workforce Preparation<sup>SM</sup> and Competitiveness);***
- 5) ***Reducing the Federal Deficit While Increasing State Flexibility and Reducing Mandates;***
- 6) ***The Environment;***
- 7) ***National Energy Policy;***
- 8) ***International Trade;***
- 9) ***Surface Transportation and Infrastructure (including Telecommunications);***

## 1992-1993 COMMITTEES & TASK FORCES

### OVERVIEW

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- 10) *Defense Adjustment and North American Free Trade;*
- 11) *Welfare Restructuring; and*
- 12) *Agriculture*

- **EXECUTIVE COMMITTEE:**

The Executive Committee, in consultation with standing committee chairs develops the annual association work plan that outlines objectives for each priority and assigns oversight responsibility to committees. The Executive Committee and the standing committees retain the authority to develop interim policy on emerging issues. Furthermore, the Executive Committee by the combined action of a standing committee can change priorities to provide flexibility while ensuring that the change represents the interests of a substantial number of Governors.

The adopted priority on **Reducing the Federal Deficit While Increasing State Flexibility and Reducing Mandates** falls under the Executive Committee. With a deficit of about \$350 billion a year, governors must be major participants in the debate on the federal budget because of the impact on state government. The committee is tasked to build a strong coalition with Congress and the Administration to ensure that as federal spending is cut, unfunded mandates and program responsibilities are not merely shifted to states without considering how they will be funded. The Committee is urged to convene a national meeting with Congress and the Administration before the NGA's 1993 Winter Meeting to explore specific budget-cutting actions.

- **COMMITTEE ON ECONOMIC DEVELOPMENT AND COMMERCE:**

Three committees were downsized to form the new Economic Development and Commerce Committee. The committees were: Transportation, Commerce, and Communications; Economic Development and Technological Innovation; and the International Trade and Foreign Relations. Also included in the newly formed committee was the Rural Development component of the Committee on Agriculture and Rural Development.

Of the twelve 1992-1993 adopted priorities, the following were assigned to the Committee on Economic Development and Commerce:

1. Economic Development and Jobs (including Workforce Preparation and Competitiveness);
2. International Trade;
3. Surface Transportation and Infrastructure (including Telecommunications),
4. Defense Adjustment and North American Free Trade.

## 1992-1993 COMMITTEES & TASK FORCES

### OVERVIEW

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- **COMMITTEE ON HUMAN RESOURCES:**

The new Committee on Human Resources resulted from fusing together the Human Resources and the Justice and Public Safety standing committees. Priority on **Welfare Restructuring** falls under the new committee's responsibility.

- **COMMITTEE ON NATURAL RESOURCES:**

The newly formed Natural Resources Committee includes the Committee on Energy and Environment and the Agriculture component of the Committee on Agriculture and Rural Development. The new committee is responsible for priorities on the **Environment**, the **National Energy Policy**, and **Agriculture**.

- **TASK FORCE ON EDUCATION:**

The Task Force on Education was established to deal with **Achieving the National Education Goals**. The Task Force will involve governors in the most advanced thinking on what it will take to improve education performance. The focus will be on systemwide change for the six educational goals cannot be achieved without redesigning our educational system to meet the needs of an increasingly competitive world. The task force will invite states to participate in a gap analysis to evaluate the current policies and what needs to be done to achieve the national education goals. The governors will be asked to mobilized support for education content and performance standards. These standards describe what children should know and be able to do at various points in their education. High content and performance standards also provide a vision for what a world-class system should be and can help drive the changes necessary to achieve that vision.

- **TASK FORCE ON HEALTH CARE:**

The new Task Force on Health Care was established to deal with **Medicaid and Health Care Reform**. Almost all states are presently experiencing health care crisis. The governors face growing populations with little or no health care and skyrocketing costs that prevent states from addressing other critical needs. The task Force will bring governors together in regional seminars to develop reform strategies and help states implement these reforms. The Task force will continue to promote federal legislation that allows states to experiment with innovative approaches

## 1992-1993 COMMITTEES & TASK FORCES

### OVERVIEW

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to health care and look at designing an alternative structure for Medicaid that serves the needy, but the states can afford.

- **TASK FORCE ON STATE MANAGEMENT:**

The newly formed task force will address **non-policy issues and will identify state-oriented government management issues which will be addressed by the governors.** The task force will look at redesigning state governments to provide efficient and effective programs that stress quality and recognize that citizens are also customers. The State management task force will highlight models and approaches that work; bring together governors and staff to share successes and develop workable strategies; and help broker assistance in tailoring and implementing strategies to a particular state or system.

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# NATIONAL GOVERNORS' ASSOCIATION

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

## 1992-1993 COMMITTEES & TASK FORCES

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### EXECUTIVE COMMITTEE/CENTER BOARD OF DIRECTORS

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Governor Roy Romer, Colorado - Chairman\*  
Governor Carroll A. Campbell, Jr., South Carolina, Vice Chairman\*  
Governor Michael N. Castle, Delaware/\*\* Governor John Ashcroft, Missouri/\*\*  
Governor George V. Voinovich, Ohio Governor John Engler, Michigan  
Governor Zell Miller, Georgia Governor Ann W. Richards, Texas  
Governor John Waihee, Hawaii Governor Tommy G. Thompson, Wisconsin  
Governor Terry E. Branstad, Iowa

#### Finance Committee

Governor Carroll A. Campbell, Jr., South Carolina - Chairman  
Governor Roy Romer, Colorado  
Governor Jim Florio, New Jersey  
Governor Tommy G. Thompson, Wisconsin

#### Legal Affairs Committee

Governor Bob Miller, Nevada - Chairman  
Governor Evan Bayh, Indiana  
Governor John Engler, Michigan

- \* *The chairman and vice chairman serve as ex-officio members of all standing committees and task forces.*
- \*\* *Governor Voinovich will replace Governor Castle effective January 19, 1993 and Governor Engler will replace Governor Ashcroft effective January 13, 1993 on the Executive Committee.*

**NATIONAL GOVERNORS' ASSOCIATION**  
**1992-1993 COMMITTEES & TASK FORCES**

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**COMMITTEE ON ECONOMIC DEVELOPMENT AND COMMERCE**

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**Governor Jim Edgar, Illinois - Chairman**  
**Governor Bruce Sundlun, Rhode Island - Vice Chairman**  
**Governor Guy Hunt, Alabama**  
**Governor Peter T. Coleman, American Samoa**  
**Governor Lawton Chiles, Florida**  
**Governor Joseph Ada, Guam**  
**Governor Terry E. Branstad, Iowa**  
**Governor Joan Finney, Kansas**  
**Governor William Donald Schaefer, Maryland**  
**Governor William F. Weld, Massachusetts**  
**Governor Kirk Fordice, Mississippi**  
**Governor John Ashcroft, Missouri**  
**Governor Stan Stephens, Montana**  
**Governor E. Benjamin Nelson, Nebraska**  
**Governor Bob Miller, Nevada**  
**Governor Mario M. Cuomo, New York**  
**Governor Ned Ray McWherter, Tennessee**  
**Governor Ann W. Richards, Texas**  
**Governor L. Douglas Wilder, Virginia**  
**Governor Gaston Caperton, West Virginia**  
**Governor Tommy G. Thompson, Wisconsin**

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**COMMITTEE ON HUMAN RESOURCES**

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**Governor Jim Florio, New Jersey - Chairman**  
**Governor Arne H. Carlson, Minnesota - Vice Chairman**  
**Governor Jim Guy Tucker - Arkansas**  
**Governor Pete Wilson, California**  
**Governor Lowell P. Weiker Jr., Connecticut**  
**Governor Michael N. Castle, Delaware**  
**Governor John Waihee, Hawaii**  
**Governor Evan Bayh, Indiana**  
**Governor Brereton C. Jones, Kentucky**  
**Governor John Engler, Michigan**  
**Governor George V. Voinovich, Ohio**  
**Governor Robert P. Casey, Pennsylvania**  
**Rafael Hernandez-Colon, Puerto Rico**  
**Governor Howard Dean, Vermont**  
**Governor Alexander A. Farrelly, Virgin Islands**  
**Governor Booth Gardner, Washington**

**NATIONAL GOVERNORS' ASSOCIATION  
1992-1993 COMMITTEES & TASK FORCES**

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**COMMITTEE ON NATURAL RESOURCES**

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**Governor Michael Sullivan, Wyoming - Chairman**  
**Governor John R. McKernan Jr., Maine - Vice Chairman**  
**Governor Walter J. Hickel, Alaska**  
**Governor Fife Symington, Arizona**  
**Governor Zell Miller, Georgia**  
**Governor Cecil D. Andrus, Idaho**  
**Governor Edwin W. Edwards, Louisiana**  
**Governor Judd Gregg, New Hampshire**  
**Governor Bruce King, New Mexico**  
**Governor James G. Martin, North Carolina**  
**Governor George A. Sinner, North Dakota**  
**Governor Lorenzo I. DeLeon Guerrero, Northern Mariana Islands**  
**Governor David Walters, Oklahoma**  
**Governor Barbara Roberts, Oregon**  
**Governor George S. Mickelson, South Dakota**  
**Governor Norman H. Bangert, Utah**

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**TASK FORCE ON STATE MANAGEMENT**

**Governor William F. Weld, Massachusetts - Co-Chairman**  
**Governor David Walters, Oklahoma - Co-Chairman**  
**Governor Fife Symington, Arizona**  
**Governor Jim Guy Tucker - Arkansas**  
**Governor Michael N. Castle, Delaware**  
**Governor John Waihee, Hawaii**  
**Governor Jim Edgar, Illinois**  
**Governor Terry E. Branstad, Iowa**  
**Governor Joan Finney, Kansas**  
**Governor John Engler, Michigan**  
**Governor Arne H. Carlson, Minnesota**  
**Governor Kirk Fordice, Mississippi**  
**Governor Barbara Roberts, Oregon**  
**Governor Bruce Sundlun, Rhode Island**  
**Governor Ann W. Richards, Texas**  
**Governor Booth Gardner, Washington**  
**Governor Gaston Caperton, West Virginia**

**NATIONAL GOVERNORS' ASSOCIATION**  
**1992-1993 COMMITTEES & TASK FORCES**

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**TASK FORCE ON EDUCATION**

Governor Roy Romer, Colorado - Co-Chairman  
Governor George V. Voinovich, Ohio - Co-Chairman  
Governor Guy Hunt, Alabama  
Governor Zell Miller, Georgia  
Governor Jim Edgar, Illinois  
Governor Joan Finney, Kansas  
Governor Edwin W. Edwards, Louisiana  
Governor John R. McKernan Jr., Maine  
Governor William F. Weld, Massachusetts  
Governor John Engler, Michigan  
Governor Arne H. Carlson, Minnesota  
Governor John Ashcroft, Missouri  
Governor E. Benjamin Nelson, Nebraska  
Governor Bruce King, New Mexico  
Governor Mario M. Cuomo, New York  
Governor David Walters, Oklahoma  
Governor Barbara Roberts, Oregon  
Governor Bruce Sundlun, Rhode Island  
Governor Gaston Caperton, West Virginia  
Governor Tommy G. Thompson, Wisconsin  
Governor Michael Sullivan, Wyoming

**TASK FORCE ON HEALTH CARE**

Governor George S. Mickelson, South Dakota - Co-Chairman  
Governor Howard Dean, Vermont - Co-Chairman  
Governor Fife Symington, Arizona  
Governor Pete Wilson, California  
Governor Lowell P. Weiker Jr., Connecticut  
Governor Michael N. Castle, Delaware  
Governor Lawton Chiles, Florida  
Governor John Waihee, Hawaii  
Governor Evan Bayh, Indiana  
Governor Terry E. Branstad, Iowa  
Governor Brereton C. Jones, Kentucky  
Governor Kirk Fordice, Mississippi  
Governor Bob Miller, Nevada  
Governor Jim Florio, New Jersey  
Governor Robert P. Casey, Pennsylvania  
Governor Ann W. Richards, Texas

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**NATIONAL GOVERNORS' ASSOCIATION**  
**1993 WINTER MEETING**  
**WASHINGTON, D.C.**  
**JANUARY 29 - FEBRUARY 2, 1993**

**A G E N D A**

**FRIDAY, JANUARY 29:**

**7:00 pm - 9:00 pm**

*Salon D  
Capitol Ballroom  
Ballroom Level*

**GOVERNORS AND CEOs - DINNER AND ROUNDTABLE**  
*Governors and Invited Guest Only*

- *Economic Growth and Development Incentives*

**SATURDAY, JANUARY 30:**

**8:30 am - noon**

*Salon D  
Capitol Ballroom  
Ballroom Level*

**GOVERNORS AND CEOs - ROUNDTABLE**  
*Governors and Invited Guest Only*

- *Economic Growth and Development Incentives*

**9:30 am - 6:00 pm**

*Russell Room  
Meeting Room Level*

**NEWS MEDIA REGISTRATION**

**10:00 am - 5:30 pm**

*Capitol Foyer  
Ballroom Level*

**GENERAL REGISTRATION**

**11:00 am - 11:30 am**

*Salon F  
Capitol Ballroom  
Ballroom Level*

**OPENING NEWS CONFERENCE**

**3:30 pm - 5:30 pm**

*Salon III  
Grand Ballroom  
Ballroom Level*

**EXECUTIVE COMMITTEE MEETING**  
*Governor Roy Romer, Colorado, Chair*

- *Proposed Policies on: Health Care,  
Deficit Reduction, & Federalism*

**5:45 pm - 7:00 pm**

*Salon E & D  
Capitol Ballroom  
Ballroom Level*

**ORIENTATION AND RECEPTION FOR NEW GOVERNORS' STAFF**

**6:30 pm - 8:00 pm**

*Ambassador's Residence*

**RECEPTION HONORING THE NATION'S GOVERNORS**

*Hosted by: The Honorable Takakazu Kuriyama, Japanese Ambassador to the United States, and Mrs. Kuriyama*

*Governors, Spouses and One Senior Staff Member  
By Invitation Only*

**SUNDAY, JANUARY 31:**

**8:30 am - 6:30 pm**

*Russell Room  
Meeting Room Level*

**NEWS MEDIA REGISTRATION**

**8:30 am - 6:30 pm**

*Capitol Foyer  
Ballroom Level*

**GENERAL REGISTRATION**

**8:30 am - 9:45 am**

**WESTERN GOVERNORS' ASSOCIATION MEETING**

**9:00 am - 10:00 am**

*Salon J  
Capitol Ballroom  
Ballroom Level*

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

**9:30 am - 11:00 am**

*Salon K  
Capitol Ballroom  
Ballroom Level*

**STAFF ADVISORY COUNCIL TO THE COMMITTEE ON NATURAL RESOURCES**

**10:00 am - 11:30 am**

*Salon III  
Grand Ballroom  
Ballroom Level*

**TASK FORCE ON HEALTH CARE**

*Governor George S. Mickelson, South Dakota, Co-Chair  
Governor Howard Dean, Vermont, Co-Chair*

- *Briefing on Outstanding Health Policy Issues*
- *Long-Term Care and Health Care Financing*

**11:45 am - 1:30 pm**

*Salon III  
Grand Ballroom  
Ballroom Level*

**TASK FORCE ON EDUCATION**

*Governor Roy Romer, Colorado, Co-Chair  
Governor George V. Voinovich, Ohio, Co-Chair*

- *Strategic Investment in Education - Priorities and Problems*
- *Reauthorization of the Elementary and Secondary Education Act of 1965*

**1:45 pm - 3:15 pm**

**Salon I  
Grand Ballroom  
Ballroom Level**

**TASK FORCE ON STATE MANAGEMENT**

**Governor William P. Weld, Massachusetts, Co-Chair  
Governor David Walters, Oklahoma, Co-Chair**

- **Selected State Management Initiatives**
- **Priorities for Future Task Force Activities**
- **Design of National Conference on Redesigning Government**

**3:30 pm - 5:30 pm**

**Salon I  
Grand Ballroom  
Ballroom Level**

**COMMITTEE ON ECONOMIC DEVELOPMENT & COMMERCE**

**Governor Jim Edgar, Illinois, Chair**

- **Strategic Investment and Infrastructure**
- **Governors' Roundtable on North American Free Trade Agreement (NAFTA)**
- **Consideration of Proposed Policies:**
  - **NAFTA**
  - **Workforce Excellence (also in Human Resources Committee)**
  - **Resolution on ISTEA**

**3:30 pm - 5:30 pm**

**Salon III  
Grand Ballroom  
Ballroom Level**

**COMMITTEE ON HUMAN RESOURCES**

**Governor Jim Florio, New Jersey, Chair**

- **Welfare Reform**
- **Consideration of Proposed Policies:**
  - **Workforce Excellence**
  - **Emergency Management and Civil Defense**
  - **Immigration and Refugee**
  - **Income Security**

**3:30 pm - 5:30 pm**

**Salon E  
Capitol Ballroom  
Ballroom Level**

**COMMITTEE ON NATURAL RESOURCES**

**Governor Michael Sullivan, Chairman**

- **Safe Drinking Water and Clean Water**
- **Consideration of Proposed Policies:**
  - **State Revolving Loan Funds**
  - **Interstate Waste**
  - **Cumulative Impact of Environmental Regulation**
  - **Reaffirmation of Comprehensive Energy Policy**

**6:00 pm - 7:00 pm**

**Salon II  
Grand Ballroom  
Ballroom Level**

**RECEPTION FOR ALL ATTENDEES**

**7:30 pm - 10:30 pm**

*The White House*

**EVENING WITH THE PRESIDENT AND FIRST LADY**

*Governors and Spouses Only  
Black Tie*

**MONDAY, FEBRUARY 1:**

**7:30 am - 6:00 pm**

*Russell Room  
Meeting Room Level*

**NEWS MEDIA REGISTRATION**

**8:00 am - 4:30 pm**

*Capitol Foyer  
Ballroom Level*

**GENERAL REGISTRATION**

**8:10 am**

*E Street Entrance  
Pennsylvania Avenue Level*

**DEPARTURE OF BUS TRANSPORTATION FOR  
GOVERNORS TO THE WHITE HOUSE**

**8:30 am - 11:30 am**

*White House*

**MEETING WITH THE PRESIDENT  
Governors Only**

**9:00 am - 11:00 am**

*Salon A  
Capitol Ballroom  
Ballroom Level*

**NEW CHIEFS OF STAFF MEETING**

**10:00 am - 11:30 am**

*Salon K  
Capitol Ballroom  
Ballroom Level*

**BRIEFING ON EDUCATION ISSUES FOR GOVERNORS'  
STAFF**

**12:30 pm - 2:30 pm**

*Salon I  
Grand Ballroom  
Ballroom Level*

**GOVERNORS-ONLY LUNCH AND WORK SESSION**

**12:30 pm - 2:30 pm**

*Salon E  
Capitol Ballroom  
Ballroom Level*

**CHIEFS OF STAFF-ONLY MEETING  
By Invitation**

**1:00 pm - 2:30 pm**

*Salons B and C  
Capitol Ballroom  
Ballroom Level*

**PRESS AIDES LUNCH AND WORK SESSION  
By Invitation**

**2:45 pm - 4:15 pm**

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

**PLENARY SESSION**

*Governor Roy Romer, Colorado, Chair*

- *Federalism and the Federal Deficit*
- *Report on National Education Goals Panel  
Governor E. Benjamin Nelson, Nebraska,  
Chair, National Education Goals Panels*
- *Consideration of Proposed Policies  
(Except Health Care)*

**4:30 pm - 6:00 pm**

**WESTERN GOVERNORS' ASSOCIATION MEETING**

**TUESDAY, FEBRUARY 2**

**8:00 am - 1:30 pm**

*Russell Room  
Meeting Room Level*

**NEWS MEDIA REGISTRATION**

**8:00 am - 12:30 pm**

*Capitol Foyer  
Ballroom Level*

**GENERAL REGISTRATION**

**7:30 am - 9:00 am**

*The Colonial Room  
The Mayflower Hotel*

**BREAKFAST MEETING OF THE REPUBLICAN  
GOVERNORS' ASSOCIATION**

**9:30 am - 12:00 noon**

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

**PLENARY SESSION**

*Governor Roy Romer, Colorado, Chair*

- *Health Care Cost Containment*
- *Health Care Policy Discussion and Vote*

**12:15 pm - 12:45 pm**

*Salon F  
Capitol Ballroom  
Ballroom Level*

**CLOSING NEWS CONFERENCE**

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**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**EXECUTIVE COMMITTEE**

**TAB 4**

- **Summary of Issues and Briefing Papers** **A**
- **State Role on Federalism** **B**
- **Federal Deficit Reduction** **C**
- **Health Care Costs Containment** **D**
- **State Role in the Implementation of  
the Indian Gaming Regulatory Act (IGRA)** **E**

# EXECUTIVE COMMITTEE

## SUMMARY

### *State-Federal Legislative Issues and Briefing Papers*

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#### ISSUE:

- *State Role on Federalism*

Governors, other state and local government leaders, and business executives who met on November 12, 1992 in Colorado Springs agreed on principles to guide their future collective work on federalism within the context of deficit reduction. They agreed to work with Congress and the new administration on critical issues and on economic development. Critical priorities include cutting the federal budget deficit, containing health care costs, and addressing strategic investment and improving accountability and efficiency in government programs. The participants recognized the need for fundamental change in domestic government and the public demand for such change. The meeting was the first of three being convened by NGA for the initiative, "Strategic Investment: Tough Choices for America's Future". The group reached consensus on the following national policy issues:

- \* Substantially reducing the federal deficit over the next five to ten years as a major national priority. Representatives of the participating group will work closely with President-elect Clinton and Congress to make tough decisions on deficit reduction.
- \* Participants made a commitment to help build a national consensus so that national policymakers will have the political will to act on cutting the deficit.
- \* Health care cost containment, the highest domestic priority for deficit reduction to be addressed in partnership with state and local governments.
- \* Strategic investment and improved accountability and efficiency in government programs must also be

addressed. While it is recognized that the major source of productivity change is private capital formation, sufficient public investments must parallel the private investment. The stimulus package must be a part of a long-term strategy and concurrent with a commitment to deficit reduction.

Toward these ends, the participants have agreed to work together with the administration and the Congress to develop specific proposals for the consolidation and simplification of existing governmental programs and to establish a new national investment strategy to address critical needs in human resource development and public infrastructure. The participants' individual and cooperative efforts must continue to harness public concern, to help develop a strong sense of public will to make tough choices needed to preserve the future well-being of the nation.

#### **BRIEFING PAPER:**

- *University of Guam*

Federalism is a dual system in which government powers are distributed between central (national) and local (state) authorities. United States is governed by federalism. The problem of determining the extent of national and state power and of resolving conflicts between the centers of authority was left to the Supreme Court. Over the years, the Supreme court tended to increase the scope of national authority. The powers of the national government are limited to those delegated to it by the Constitution, expressly or by implication. The powers not delegated nor prohibited by it to the states are reserved to the states respectively or to the people. The federal government maintains its supremacy in the limited sphere of its activity, however, if the legitimate powers of the states and nations conflict, that of the national government prevails. Federalism shapes American politics and dictates the way many national policies are both developed and implemented.

Conflicts between the states and the federal government are avoided by maintaining the independence of each, however, cooperation is often desirable and necessary. Interaction of the two governments is apparent where concurrent legislative power is exercised. The purpose of federalism is most significant in the use of grant-in-aid by the national government to the states in initiating and administering welfare programs. The national government may appropriate funds in aid of such state activities as education, road building, and unemployment relief. The grant may require fund

matching by the states or that could be waived on condition that funds would be spent in ways specified by federal law. Changing views on the proper roles of nation and the states demonstrate that federalism is now as always in flux.

**ISSUE:**

- ***Federal Deficit Reduction***

The House failed to pass a bill calling for a Constitutional amendment that would require the President and Congress to agree each year on an estimate of total receipts (including Social Security) and to enact this estimate into law. These provisions would take effect in FY 1998 or three years after ratification, whichever is later and would be waived during military conflicts. The Senate also failed twice to enforce cloture and proceed to a vote on the balanced budget constitutional amendment, which was identical to the House-defeated bill. The effort is expected to surface in 1993.

NGA believes that although reducing the federal deficit is a national priority, the Governors should help by increasing domestic investment in infrastructure, research and development, education, job training, and health care, while strengthening the federal-state partnership. The Governors should focus on building a strong coalition with Congress and the administration to ensure that as federal spending is cut, unfunded mandates and program responsibilities are not merely shifted to states without considering how they will be funded, that any entitlement caps on programs like Medicaid and Aid to Families with Dependent Children (AFDC) control both the state and federal costs, rather than reducing the federal share and shifting the cost to states, and to develop a process that ensures the Governors and states are fully involved in developing national solutions to reducing the deficit and reorienting the budget toward long-term investments.

**BRIEFING PAPER:**

- ***Bureau of Budget and Management Research***

Guam echoes the nation's cry for reduction of the deficit. BBMR feels that the adverse impact on programs dictates the need for strategic planning, development of alternative funding solutions, and reassessment of government spending priorities in order to abate negative ramifications on the populace. Moreover, revenue enhancement and costs containment should be on the forefront of any attempt to achieving fiscal

responsibility, deficit reduction, and economic recovery.

In recent years, Guam has shifted its priorities from the operational spending to infrastructure and capital improvement investments. Budget cuts have been inevitable. The need for infrastructure and capital improvement have been escalated to meet social and economic growth. The alternative fund source for such critical improvements have been the sale of bonds. This action has allowed the Territory to proceed with needed highway and other infrastructure improvements.

Guam has attempted, as much as possible, to finance its programs and projects utilizing its own revenues. However, with the numerous federally funded priority projects that the Territory currently has, any shift in program funding from the federal to local level must be approached with caution. Decision-makers at the federal level must be sensitized to the potential impact program cutbacks may have on the clients they serve.

#### **ISSUE:**

- ***Health Care Costs Containment***

Containing health care costs is a critical priority addressed during a series of NGA sponsored meetings participated by Governors, state and local government leaders, and business executives. It is the highest domestic priority for deficit reduction which should be addressed in partnership with the state and local governments. Participants committed themselves to work with the new administration and Congress to find an equitable solution to this problem. The group has begun work on a framework for national health care cost containment based on managed competition. The group believes it is imperative that the barriers that currently exist to implementing managed care system should be eliminated. The participants agreed that access to health care for all and efforts to contain health care cost are linked. Putting limits on public health programs such as Medicaid and Medicare alone would not adequately restrain spiraling health care costs, and all health care that is publicly supported either directly or through the tax code must be included in any cost containment plan. NGA supports the federal government establishment of a National Health Care Board that includes state and local representation. The following are some basic and fundamental federal framework for a restructured health care system that both controls costs and provides access and coverage. The federal government should:

- \* Organize a standardized health information base that could be used by purchasers and users of health care;
- \* Organize a national outcomes research focusing on primary and preventive care;
- \* Develop minimum standards for the regulation of health insurance;
- \* Develop state /or regional purchasing cooperatives to increase the buying power of small businesses and individuals;
- \* Use an amended federal tax code as a mechanism to control health care costs, including limits on the tax deductibility of health insurance and health costs for both employers and employees;
- \* Develop minimum standards for medical tort reform, which states may exceed;
- \* Develop a single claims form and support the development of electronic billing as a means to reduce administrative costs;
- \* In consultation with states, localities, businesses, and labor, develop a basic benefit package comparable to that now provided by the most efficient and cost-effective health maintenance organizations;
- \* greatly expand its support for primary and preventive care, including but not limited to, childhood immunizations and prenatal and well-baby care.

NGA urges Governors to support the above agreed statement which will be the basis for policy consideration at the Winter Meeting. Once adopted, the policy will be the foundation for discussion with the new administration and the Congress.

The new administration has indicated that it will develop a health care reform plan within the first 100 days. Whatever its shape, it will have a tremendous impact on the states. President-elect Clinton has backed a proposal for a tight, overall national health care budget.

## **BRIEFING PAPER:**

### ● ***Guam Health Planning and Development Agency***

Guam controls its health problems and costs by moving toward greater awareness of human potentials and by developing high levels of physical fitness, sensible nutrition, positive relationships with others, and concerns for self-care and sensitivity to the environment.

Guam is working effectively in cost containment rather than cost shifting when dealing with the rising costs on health. Guam will continue to orientate and educate the public on public spending on health education, research and development, health infrastructures, health promotion, health protection, and preventive health care to make the government more efficient, accountable, and responsive.

In controlling rising costs of health, the Governor's Task Force on Availability and Accessibility to Health Care is evaluating the cost pattern of insurance for the insured and uninsured, medical-liability, and subsidized programs.

The agency recommends support for the NGA agreed statement. Based on experience, Guam is also emphasizing health cost containment practices in: prioritized public health and prevention, unity of neighboring islands for the development of an inter-island health policies to understand the universal health care and service delivery problems, "contractual" trust for federal program commitments, maximizing hospital accreditation efforts, health research, and many others.

## **ISSUE:**

### ● ***State Role in the Implementation of the Indian Gaming Regulation Act (IGRA)***

The Indian Gaming Regulatory Act (IGRA) was enacted in 1988 to provide a legal framework for the establishment and operation of Indian gaming. The statute set up a federal Indian Gaming Commission to oversee its implementation and divided the gaming into the following classes:

- \* Class I Indian ceremonial and traditional games
- \* Class II bingo, pulltabs, lotto, and other bingo-like games
- \* Class III casino-style gaming

The state role in Class II gaming on Indian lands is limited, but states were given a direct role in Class III gaming activities. Tribes are not permitted to engage in Class III gaming unless and until they have negotiated a tribal-state compact with the state. If the state either refuses to negotiate with a tribe, or the tribe claims the state has failed to negotiate in good faith, the tribe can sue the state in federal court 6 months after the tribe's request to negotiate.

Indian tribes operate gaming facilities in nearly half the states and about a dozen states have negotiated compacts covering some type of Class III gaming. Regulations distinguishing between Class II and Class III gaming were only proposed in 1992 by the gaming Commission. The question of gaming off-reservation lands (including other states) is one of the issues in the law and regulations that is unclear, creating a potential concern even for states without tribes or reservations. A growing number of states are in litigation over the scope of gaming activities, the requirement to negotiate in good faith, and issues of state immunity from suit in federal court. Decisions in several cases have created problems for states. Some tribes claim that if any Class III gaming is permitted in the states (e.g. a state-run lottery), then all Class III gaming should be permitted. Some states have claimed immunity from suit under the Eleventh Amendment of the U.S. Constitution, angering the tribes and the congressional sponsors

Congress is urging Governors to negotiate compacts with tribes in their states and raising concerns with some states asserting immunity from suit. Governors are asked whether they want to continue to be involved in the negotiation of tribal-state compacts and the regulation of Class III gaming on Indian lands consistent with state law as currently authorized or face outright preemption by the federal government.

NGA's position is that Class III gaming permitted for Indian tribes should be limited to the type of gaming operations explicitly authorized by state law. The Executive Committee suggested that the Legal Affairs Committee work with all interested Governors to develop recommendations.



# UNIVERSITY OF GUAM UNIBETSEDAT GUAHAN

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25 January 1993

### MEMORANDUM

TO: D. Johnson, Assistant to the President  
FROM: G. Berkley, Professor of History  
RE: Briefings on Federalism and Redesigned State Government

### FEDERALISM:

The United States is governed by FEDERALISM - that is, a dual system in which government powers are distributed between central (national) and local (state) authorities. The reasons for the adoption of such a government are both historical and rational. Initially the states regarded themselves as independent sovereignties. When the Constitutional Convention met, compromise between the advocates of a strong central government and supporters of state's rights was necessary. The IX ("The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people") and the X ("The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people") Amendments were designed to insure a distribution of power between the States and the central government.

The problem of determining the extent of national and state power and of resolving conflicts between the two centers of authority was, however, left to the Supreme Court. The Supreme Court tended over the years to increase the scope of national authority. The nature of this national authority is as follows: (1) DELEGATED AND RESERVED POWERS. Theoretically, the powers of the national government are limited to those delegated to it by the Constitution, expressly or by implication; the powers "not delegated ... nor prohibited by it to the states" are "reserved to the states respectively or to the people" (Tenth Amendment). (2) EXPRESS AND IMPLIED POWERS. As a second dimension, the national government may use any and all means to give effect to any power specifically granted. This doctrine of implied powers

finds its verbal basis in the power granted to Congress to make all laws necessary and proper for carrying into execution those powers expressly delegated to it (Art. I, Sec. 8, Cl. 18). No new or additional powers are granted by the "necessary and proper" clause; it merely enables the federal government to maintain its supremacy in the limited sphere of its activity. The supremacy clause in Article VI, Paragraph 2, the keystone of the federal system, supplies a third dimension of national power. It indicates that if the legitimate powers of the state and nation conflict, that of the national government shall prevail.

Thus national power is of three dimensions: (A) the enumeration in which the grant of power is couched; (B) the discretionary choice of means that Congress has for carrying its enumerated powers into execution; (C) the fact of supremacy. Under this three-dimensional theory of national authority, no subject matter whatever is withdrawn from control or regulation by the United States simply because it also lies within the usual domain of state power. Since the Tenth Amendment merely asserts a truism - powers not delegated are reserved - the coexistence of state governments does not limit national power. (3) RESULTING POWERS. Resulting powers are derived by implication from the mass of delegated powers or from a group of them. Such powers include the taking of property by eminent domain for a purpose not specified in the Constitution, the power to carry into effect treaties entered into by the United States, the power to maintain the supremacy of the national government within its sphere of authority, and the power to control relations with the Indians. (4) EXCLUSIVE AND CONCURRENT POWERS. The powers of the national government may also be classified as exclusive or concurrent. Powers delegated to Congress by the Constitution are exclusive under the following conditions: (A) Where the right to exercise the power is made exclusive by express provision of the Constitution. For example, Congress has exclusive power over the District of Columbia (Art. I, Sec. 8, Cl. 17). (B) Where one section of the Constitution grants an express power to Congress and another section prohibits the states from exercising a similar power. For example, Congress is given the power to coin money (Art. I, Sec. 8, Cl. 5), and the states are expressly prohibited from exercising such power (Art. I, Sec. 10, Cl. 1). (C) Where the power granted to Congress, though not in terms exclusive, is such that the exercise of a similar power by the states would

## FEDERALISM AND REDESIGNING STATE GOVERNMENT - Page 3 - Berkley

be utterly incompatible with national power.

With only one exception [United States v. Darby, 312 U.S. 100 (1941)], the Supreme Court since 1937 has invalidated no act of Congress because of conflicting state prerogatives. This fact hardly means that federalism has ceased to be an important element in the constitutional system, however. For one thing federalism shapes American politics and dictates the way many national policies are both developed and implemented. For another, the Court has continued to be wary of states laws that intrude on protected national interests.

COOPERATIVE FEDERALISM. Although conflicts between the two governments are sometimes avoided by maintaining the independence of each, there are times when cooperation is both desirable and necessary. The Constitution does not prevent such comity. The interaction of the two governments is most apparent where concurrent legislative power is exercised. Congress may choose to leave the states free to act, either by failing to legislate itself or by specifically consenting to state legislation in the field. On the other hand, state laws may be adopted outright, or Congress may provide that the operation of its law shall depend on or be qualified by existing state laws.

In the zeal to examine to examine the niceties of legal conflict, the constructive purposes federalism may serve have sometimes been overlooked. Of greatest significance is the use of grants-in-aid by the national government to the states in initiating and administering welfare programs. The national government may appropriate funds in aid of such state activities as education, road building, and unemployment relief. It may grant such funds to the respective states on condition that a like amount or a specified portion thereof be raised by them for similar purposes, or on condition that the funds be spent in ways specified by federal law. Changing views on the "proper" roles of nation and states amply demonstrate that federalism is now, as always, in flux. Moreover, what presidents, governors, and members of Congress and state legislatures have to say about their respective responsibilities is today as important as are judicial decisions in deciding what federalism, American style, means.

PREEMPTION. The supremacy clause (Art. VI, Para. 2) means that state statutes and constitutional provisions must give way when they conflict with the Constitution, treaties, and valid laws of the United States. The latter preempt or supersede the former. What is the outcome when state and national

## FEDERALISM AND RELEGATING STATE GOVERNMENT - Page 4 - Berkley

governments choose to legislate on the same topic without enacting conflicting laws? Sometimes Congress explicitly recognizes a concurrent state interest and so approves complementary state statutes. At other time, Congress explicitly rules out a role for the states.

JUDICIAL FEDERALISM. Because a large part of the Supreme Court's docket each term consists of cases from state courts, the justices are active players in the game of federalism, not simply referees between state policies and the dictates of the Constitution and congressional acts. Interaction between state and federal courts is called judicial federalism. One dimension of judicial federalism involves Supreme Court review of state court decisions, which arguably rest on the state, not the national, constitution.

The Supreme Court has the power to sit in judgment on the decisions of the highest court of each state when federal questions are involved. A case raises a federal question when the correct interpretation of a provision of the United States Constitution, a treaty, or a national statute is at issue, or when a state court decision resting on the state constitution or law results in restricting of a federally protected right. A provision in the Constitution may not mean "less" in a state court than it does in a federal court. Once a federal question is present, the Court becomes the ultimate arbiter of its resolution. This rule encourages uniformity among the states. In contrast, the absence of a federal question encourages diversity because the final resolution of an issue rests with the individual states.

## FEDERALISM

### Governors, Other Leaders Agree on Federalism

*Leaders to work with President-elect Clinton, new Congress*

**G**overnors, other state and local government leaders, and business executives agreed Nov. 12 on principles to guide their collective work with Congress and the new administration on federalism and economic issues. The meeting was convened by NGA Chairman Roy Romer of Colorado.

The leaders agreed on critical priorities: curbing the federal budget deficit, containing health care costs, and addressing strategic investment and improving accountability and efficiency in government programs.

Participants called the Nov. 12 meeting "unprecedented," noting that it recognized "the need for fundamental change in domestic government and the public demand for such change." Their statement included four major points:

- Substantially reducing the federal deficit over the next five to ten years is a major national priority. Representatives of the participating groups will work closely with President-elect Clinton and Congress to make tough decisions on deficit reduction.
- There is only a short window of opportunity to act on the deficit issue. Individuals at the meeting made a commitment to help build a national consensus on cutting the deficit.
- The highest domestic priority for deficit reduction is health care cost containment, which should be addressed in partnership with state and local governments.
- Strategic investment and improved accountability and efficiency in government programs must also be addressed.

In the statement, the leaders said they will work together and with the new administration and Congress "to develop specific proposals for the consolidation and simplification of existing governmental programs" and "to establish a new national investment strategy to address critical needs in human resource development and public investment."

Participants said their individual and cooperative efforts must continue to harness public concern, to help "develop a strong sense of public will to make tough

choices needed to preserve the future well-being of the nation," they said.

The meeting was the first of three private sessions for Gov. Romer's NGA initiative, "Strategic Investment: Tough Choices for America's Future." The initiative focuses on reducing the federal deficit, restructuring education, reforming health care, and redesigning state government. The second meeting, on Dec. 1, will focus on health care cost containment, the third, on Dec. 8, on deficit reduction. ■

## HEALTH REFORM

### 1992 Is a Banner Year for Action On State-Based Health Reform

1992 was a banner year for state legislative action on health care, with reform measures proposed in at least 19 states and adopted in 12. This year's initiatives included measures to control health care costs, increase access to health care services, urge federal action to encourage state-based health reforms, change insurance laws, reform medical malpractice laws, and improve data systems.

According to an NGA paper, states developed a range of proposals this year to make health insurance coverage more affordable and more available. Many have also passed or proposed bills to improve access to health services.

The paper was based on responses to an NGA survey from 19 states. The survey covered major initiatives adopted this year, generating significant legislative

activity this year, or proposed between September 1991 and August 1992.

In general, this year's reforms were aimed at strengthening the employer-based system of private health insurance (see chart, page 2). States also are concerned about limiting the erosion of the private market. As more workers are priced out or otherwise shut out of the private insurance market, states are subsidizing health expenses for an increasing proportion of the uninsured. At the same time, states face shrinking public revenues and increasing competing demands for public investment.

State approaches to strengthen the current system include creating market incentives to encourage providers, insur-

*Continued on page 2*

In this issue

#### HEALTH REFORM

Health reform measures were proposed in at least 19 states this year and adopted in 12, according to an NGA survey. *Page 1*

#### SCHOOL READINESS

More efforts are needed to ensure that children are ready for school, says a report on U.S. education progress. *Page 3*

#### EDUCATION GOALS

A five-year national media campaign was launched last week to build support for education reform. *Page 3*



**Statement of Representatives**

**of the**

**National Governors' Association  
National Conference of State Legislatures  
Council of State Governments  
National Association of Counties  
National League of Cities  
U.S. Conference of Mayors  
International City/County Management Association  
Committee for Economic Development  
American Business Conference  
Business Roundtable**

**Meeting on Federalism**

**November 12, 1992  
Colorado Springs, Colorado**

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On November 12, in Colorado Springs, Colorado, representatives of the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the International City/County Management Association and representatives of the Committee for Economic Development, the American Business Conference, and The Business Roundtable met on the critical issues of federal deficit reduction and federalism. This unprecedented meeting was held in recognition of the need for fundamental change in domestic government and the public demand for such fundamental change. The groups reached consensus on a number of key national policy issues.

First, substantially reducing the federal deficit over the next five to ten years is a major national priority and representatives of these groups are willing to stand shoulder to shoulder with President-elect Clinton and Congress to make the tough decisions that will be required to meet this challenge. The annual deficit must be reduced to encourage savings to pay for investment to increase productivity and the standard of living. This will free up the capital so that the private sector can make the investments necessary to produce jobs and grow the economy for the future.

**-more-**

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

Third, the highest domestic priority for deficit reduction is health care cost containment, which should be done in partnership with state and local governments. The members of these organizations want to work with the new president and Congress to find an equitable solution to this problem.

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

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

While our individual organizations have not yet reviewed or approved these recommendations, we, as individual members and leaders, believe that they reflect a reasonable and workable approach to this critical issue. We are prepared to work with our organizations, with other interested organizations, with the President and the Congress first to flesh out the details of specific proposals and then to secure formal support and enactment.

A key step will be to continue our individual and cooperative efforts to harness the public concern that characterized much of the electoral process this year. We are prepared to work actively to provide the information needed to develop a strong sense of public will to make tough choices needed to preserve the future well-being of the nation.

-end-



**BUREAU OF BUDGET & MANAGEMENT RESEARCH**  
OFFICE OF THE GOVERNOR, Post Office Box 2950 Agaña, Guam 96910



GIOVANNI T. SGAMBELLURI  
DIRECTOR

JAN 25 1993

**Position Paper: Federal Deficit Reduction**

**Prepared by: Bureau of Budget and Management Research**

The issue of deficit reduction is not one which can be innocuously implemented at any level of government. While Guam echoes the nation's cry for reduction of the deficit, it does so with a tone of caution. The corollary adverse impact on programs dictate the need for strategic planning, development of alternative funding solutions, and reassessment of government spending priorities in order to abate negative ramifications on the populace. Moreover, revenue enhancement and cost containment have come to the forefront of any attempt at achieving fiscal responsibility, deficit reduction, and economic recovery. Innovative solutions to old funding problems have now become requisites, rather than alternatives, in budgetary decision-making.

In recent years, the Government of Guam has shifted its priorities from operational spending to infrastructure and capital improvement investments. Budget cuts have been inevitable. The need for infrastructure and capital improvement have been escalated to meet social and economic growth. The alternate fund source for such critical improvements have been the sale of bonds. This action has allowed the territory to proceed with needed highway and other infrastructure improvements.

Certainly, there is a debt ceiling that the local government is limited to. Guam has attempted, as much as possible, to finance its programs and projects utilizing its own revenues. However, there are numerous priority projects that are currently being funded by federal dollars. As such, any shift in program funding from the federal level to the local level must be approached with caution. Decision-makers at the federal level must be sensitized to the potential impact program cutbacks may have on the clients they serve. It must be made clear that dialogue between the federal and local authorities must be espoused.

### BALANCED BUDGET AND DEFICIT REDUCTION

The Senate failed twice (on June 30 and July 1) by four votes (56/39) to enforce cloture and proceed to a vote on the balanced budget constitutional amendment, which was identical to the House-defeated bill. This killed the effort for 1992. On October 6, House Republican leaders said they would attach a balanced budget amendment to the debt ceiling increase that will be required in the Spring of 1993.

The House failed to pass, by a vote of 280-153 (two-thirds required/290), H.J. Res. 290, calling for a Constitutional amendment that would require the President and Congress to agree each year on an estimate of total receipts (including Social Security) and to enact this estimate into law. A three-fifths roll call vote would be necessary for total outlays to exceed total receipts on an annual basis. These provisions would take effect in FY 1998 or three years after ratification, whichever is later, and would be waived during military conflicts. Revenues could be raised by an absolute majority of the whole of each House.

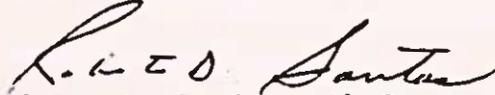
Contact: James L. Martin, 202/624-5315

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FAX: (671) 646-4432

MEMORANDUM

TO: Governor Joseph F. Ada  
VIA: Director, Bureau of Planning  
FROM: Executive Director  
DATE: January 8, 1993  
SUBJECT: National Governor's Association Briefing Paper

Attached is the requested briefing paper for the upcoming National Governor's Association Winter Meeting. If you need additional information, please contact me.

  
Robert D. Santos, Ph.D

Attachment

## Cost Containment Framework

Health issues are based on (1) increasing the span of healthy living, (2) measuring health disparities, and (3) assessing preventive and primary health services. Guam leaders hold the premise that health is a value rather than an instrument. With this overall mission statement, it allows Guam to control its health problems and costs by moving toward greater awareness of human potential by developing high levels of physical fitness, sensible nutrition, positive relationships with others, and a concern about self-care and sensitivity to the environment. In short, health is a personal right requiring responsibility and determination to take control of one's life.

In Guam, the leaders achieve this standard by logically understanding the costs of accessibility and availability without falling short of understanding social relief and intervention in health. Guam, an island nation in the Western Pacific, is faced with similar challenges that the United States faces in terms of health reforms and cost containment for the Year 2000.

## Landmarks of Challenges

Since October 1990, thirteen territorial health goals for the Year 2000 have been established. Thirteen task forces were mandated to ensure the achievement of these goals. Each Health Task Force is responsible for planning, managing, directing, and evaluating their strategic action plans for the accomplishment of the Year 2000 health goals. In addition, the Guam Health

Planning and Development Agency is tasked in monitoring the task forces' progress.

In March 1991, a precursor Governor's Task Forces forum was developed as a workshop to prepare the task force chairpersons in monitoring their program's management. As for preparing the chairperson in program management, the forum also served as a synergistic body for the health professionals. In November 1992, the task forces and members convened in the First Annual Governor's Health Task Forces Forum to discuss their accomplishments and to renew their objectives stimulated by the discussion and input of the participants (health professionals, social agency personnel, and the public) for the ensuing year.

The experiences Guam is enduring and cultivating emphasizes on the following cost containment practices:

- Public health and prevention must be a priority.
- The neighboring islands must unite and develop an inter-island health policies in order to comprehensively understand its universal health care and service delivery problems.
- Federal programs that impact the social systems (i.e., education and health) on Guam must maintain "contractual" trust for program commitment.
- Guam is maximizing its hospital accreditation effort.
- Health research must be the tool for logical understanding on measuring health disparities, increasing the span of healthful living, and assessing preventive and primary health services.

- physicians on Guam must be "board" certified in the areas of specialty.
- Guam must encourage more physicians to enter the field of family practitioners.
- The health information system on Guam must be a priority for certificate of need of health infrastructure effectiveness.
- Guam's political leaders must be central and sensitive to health problems by being health legislative reformers.

In short, Guam is working effectively in cost containment rather than cost shifting when dealing with the rising cost on health. Guam will continue to orientate and educate the public on public spending on health education, research and development, health infrastructures, health promotion, health protection, and preventive health care to make the government more efficient, accountable, and responsive.



December 21, 1992

*Handwritten notes:*  
S  
Letter  
for  
NGA  
copy to DA  
CHP DA etc

**To All Governors**

As you know, NGA held two meetings on the issue of health care cost containment here in Washington, D.C. on December 1 and 15, 1992. About twelve Governors attended both of these meetings. As a result of these meetings, the attached statement was drafted and agreed to by all of the participants. These meetings were landmark events in the history of NGA coalition building and policy making as we brought together all of the other state and local groups as well as representatives of both small and large business. This statement will be the basis for policy submitted to all Governors for consideration at the Winter Meeting. If adopted it will be the foundation for our discussion with the new administration and the Congress regarding health care reform.

Sincerely,

*Handwritten signature of Raymond C. Schepbach*  
Raymond Schepbach

Attachment



**Statement of Representatives**

of the

**National Governors' Association  
National Conference of State Legislatures  
Council of State Governments  
National Association of Counties  
National League of Cities  
U.S. Conference of Mayors  
International City/County Management Association  
American Business Conference  
Committee for Economic Development  
National Federation of Independent Businesses  
The Business Roundtable**

**Meeting on Health Care Cost Containment**

**December 15, 1992  
Washington, D.C.**

On December 1 and 15, in Washington, D.C., representatives of the above organizations met on the critical issue of health care cost containment. These unprecedented meetings were held in recognition of the need and public demand for fundamental change in the health care system. The individuals reached consensus on a number of key national policy issues.

The United States spends more on health care than any other industrialized nation even though fewer of our citizens have insured access to the health care system.

Growth in the health care industry has exceeded growth in the overall economy for almost every one of the last thirty years. As a result, health care expenditures represent an increasing share of the economy as measured by the gross domestic product (GDP). In 1980 health care was approximately 9.1 percent of GDP; in 1992 it represented 13.4 percent; and it is projected to represent about 17 percent of GDP by the turn of the century if current trends continue.

This phenomenal growth in costs has negatively impacted government at every level and has seriously eroded the competitive edge of our businesses attempting to compete in a global marketplace.

Clearly the nation cannot sustain the current rate of growth in health care costs. If the system is expanded to include universal coverage without reform, the cost problems will be greatly exacerbated. While people may argue about the final target for an acceptable rate of growth in costs, the nation must develop a health care system which, over the next several years, will move growth in costs toward a long term sustainable level.

The kinds of structural changes that must occur in the health care system to control costs cannot be effective unless and until every legal resident has health insurance. Universal access to health care is both a moral imperative and an invaluable cost containment tool.

## **Basic Federal Framework**

We support a managed competitive approach to health care with the caveat that attention must be paid to ensuring that the approach will work in both rural and inner city areas. Toward that end, the federal government should establish a national health care board that includes state and local representation. Much of the framework necessary to allow the establishment of managed competition could be developed and administered by the national board.

The basic and fundamental federal framework for a restructured health care system that both controls costs and provides access and coverage, must include, at a minimum:

1. The federal government should organize a standardized information base for consumers that would include price and quality information for all providers of health care services in a given geographic area.
2. The federal government should organize national outcomes research. One component of such research should focus on primary and preventive care. Among other uses, this research could be used as a base for clinical practice models.
3. In consultation with states, the federal government should develop minimum standards for the regulation of health insurance, which would include limitations on the variation in rates that different individuals and groups would be charged, limitations on medical underwriting, and guaranteed renewability, portability and availability of insurance products. States can exceed these minimum standards. Once reforms are implemented, individuals bear a personal responsibility to obtain coverage either through public or private programs. The cost of coverage should be supplemented for low-income individuals.
4. The federal government should work with states to develop purchasing cooperatives through which affordable insurance products will be made available.
5. The federal government should develop minimum standards for medical tort reform, which states may exceed. States must develop systems within those parameters.
6. The federal government should develop a single claims form and support the development of electronic billing as a means to reduce administrative costs.
7. The federal government, in consultation with states, localities, businesses, and labor, shall develop a basic benefit package comparable to that now provided by the most efficient and cost-effective health maintenance organizations. There may be some state or regional variations in the basic benefit package, but such variations must be certified by a national health care board. Individuals would be free to purchase additional insurance with after-tax dollars.
8. The federal tax code should be amended to limit the tax deduction/exemption of health insurance for both employers and employees. Employer-paid insurance above the limit would be taxable to either the employer or employee. The self-employed would be eligible to purchase fully deductible health insurance, exempt from taxation as personal income, within the federal limit and/or tied to a percentage of an income level. This limit may be tied to the local cost of a basic benefit package, set at a specific dollar amount. Additional coverage or care can be purchased with after-tax dollars.
9. The federal government should greatly expand its support for primary and preventive care, including, but not limited to, childhood immunizations and prenatal and well-baby care.

### **Specific Cost Containment Strategies**

Even if a federal framework is established which adheres to the principles described above, there is still a real possibility that the federal government will attempt cost control by capping the federal medical entitlement programs. A cap only on federal health care entitlement programs will most certainly continue to shift costs to the private sector and local governments and reduce real benefits to real people. A more effective strategy is to control costs throughout the health care system through the development of health care expenditure targets.

At this time, it may be unrealistic to set a strict national health care expenditure budget because adequate objective data do not exist. We propose a goal for growth in health care costs that represents the sum of the general inflation rate, a population factor, and a factor that accounts for changes in service intensity and cost-effective new technologies. Extending the latest Congressional Budget Office estimates, health care costs should increase by no more than 9 percent in 1994. By 1995 growth should not exceed 7 percent, and in future years, growth should not exceed 5 percent annually. We recognize that in the early years, the lack of standardized data will result in a certain degree of imprecision in the measure of national health care expenditures. We recommend:

- The goals for growth of national health care expenditures should be established for expenditures that are publicly supported either directly or through the tax code. These goals should be used to estimate expenditure targets for each state. Health care expenditures made by individuals with after-tax dollars would not be included in the targets.
- Data systems necessary to measure objectively national and state health care expenditures must be established.
- As data become available there should be a review of the progress the federal and state governments have made toward achieving the national expenditure goals. Any decisions about the need for statutory enforcement mechanisms and incentives would be made at that time.
- The federal government should issue an annual report to the states which addresses:
  - 1) The effectiveness of our health care expenditures toward producing and maintaining health for all of our citizens. The data shall be presented in at least the following categories: populations, state-by-state, urban and rural, fee-for-service, various types of managed care, and comparative therapies;
  - 2) the status of data system improvements, including the development of data categories, sample sizes, and timeliness; and
  - 3) the progress or failure of each state toward any state or per capita expenditure goals.

### **State and Local Management**

Within the context of a managed competitive approach to health care reform, which ensures universal access and controls costs, we support the principle of state and local management. States and local government will need a set of tools to manage a cost effective health care system.

1. Assuming that there is still a public program, even if that public program is modeled after Medicaid, states and local government will need stable financing and a common definition of eligibility. Beyond that, however, states and local government must be given the flexibility and authority to integrate fully the public program into a service delivery system that reflects the national movement towards managed care. The federal government must not impose mandates beyond the basic benefits or service delivery restrictions on the public program. A streamlined and efficient public program will obviate the need for the complex and costly waiver process.
2. If Medicare continues to exist as a separate program, states and local government will need the flexibility to integrate Medicare fully into their health care systems.

3. States must have the ability to include the current self-insured market (ERISA plans) in their state design.
4. States must have additional authority now precluded by federal anti-trust statutes.
5. The federal government must participate in a discussion about how to deal with the access issues of rural areas, inner cities, and populations currently financed by federal programs including Native Americans, veterans, and CHAMPUS. The federal government must also participate in discussions about the provision of care to undocumented aliens.
6. The federal government, states, and local government must agree on the structure and role of public health financing and delivery systems.
7. The federal government and states and local government must work toward agreement on a long-term care program that would "demedicalize" and uncouple it from the health care system.

While our individual organizations have not yet reviewed or approved these recommendations, we, as individual members and leaders, believe that they reflect a reasonable and workable approach to this critical issue. However, the National Conference of State Legislatures has certain formal positions at variance with some aspects of the statement. We are prepared to work with our organizations, with other interested organizations, and with the President and the Congress first to flesh out the details of specific proposals and then to secure formal support and enactment.

**NATIONAL  
GOVERNORS  
ASSOCIATION**



Ben Rayson  
Governor of Colorado  
Chairman

Carroll A. Campbell Jr.  
Governor of South Carolina  
Vice Chairman

Raymond C. Schroppach  
Executive Director

Hall of the States  
444 North Capitol Street  
Washington D.C. 20001-1572  
Telephone: (702) 424-1100



November 19, 1992

TO ALL GOVERNORS:

At the November 12 meeting of the Executive Committee, the issue of Indian gaming was discussed. I have been asked to work with members of the Legal Affairs Committee and all other interested Governors to more fully develop an NGA position on implementation of the Indian Gaming Regulatory Act.

Attached are copies of correspondence between NGA and Senators Inouye and McCain on this matter. As you can see, there are a number of issues involved that impact on states and that will very likely be the subject of Congressional action next year. Therefore, I believe it would be helpful to develop a consensus position as an organization and help clarify the ground rules regarding gaming on Indian lands within our states.

If you wish to participate in this effort, please let me know. I have asked Brian Harris of my staff (702-687-5670) and Charilyn Cowan of the NGA staff (202-624-7814) to coordinate a staff working group. It is my understanding that they hope to call a staff meeting in mid-December so that we might have a recommendation to consider at the winter meeting. Therefore, please let one of them know by November 30, 1992 the person you wish to designate to work with us on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Bob Miller".

Governor Bob Miller  
Chairman  
Legal Affairs Committee





November 6, 1992

The Honorable Daniel C. Inouye  
Chairman, Select Committee  
on Indian Affairs  
United States Senate  
Washington, D.C. 20510-6450

The Honorable John McCain  
Vice Chairman, Select Committee  
on Indian Affairs  
United States Senate  
Washington, D.C. 20510-6450

Dear Senator Inouye and Senator McCain:

We are writing to respond to your request for comments regarding implementation of the Indian Gaming Regulatory Act. As you know from having worked so closely with the development and oversight of this law, the range of concerns to be addressed is very broad and the competing interests are difficult to balance. You and members of the Select Committee are to be commended for the serious consideration you have given to resolving implementation problems. We want to be helpful to your efforts.

As you stated, the law requires states to negotiate in good faith to facilitate the development of state-tribal compacts that permit class III gaming on Indian lands. Your review of the legislative history notes that state governments successfully argued for a significant role in determining which gaming activities may be conducted within state borders and their regulation. The Senate report indicates that appropriate state governmental interests involve the state's public policy, safety, legal, regulatory, and economic concerns.

We feel strongly that Governors cannot and should not be expected to negotiate beyond the limits of state law. The ground rules for tribal-state compact negotiations should be clarified to ensure that the gaming operations permitted are those explicitly authorized by state law. We believe this is consistent with the law's intent and your efforts to oversee its effective implementation.

We know that a number of other implementation issues need clarification, as well, especially the acquisition of land specifically for gaming purposes. While individual Governors may wish to share specific concerns with you, it also may be helpful for NGA to consult further with you as you consider appropriate measures to clarify roles and responsibilities under the Act. We do appreciate your solicitation of the Governors' views as you consider legislative options on Indian gaming and look forward to working with you in the months ahead.

Sincerely,

Governor Ken Romer

Governor Carroll A. Campbell, Jr.

## Indian Gaming

The Indian Gaming Regulatory Act (IGRA) was enacted in 1988 to provide a legal framework for the establishment and operation of Indian gaming. Passage of the law followed a 1987 Supreme Court decision in a California case which held that neither state nor county laws applied to the regulation of gaming activities on Indian lands without congressional consent.

Regulatory structure. The Indian gaming statute set up a federal Indian Gaming Commission to oversee its implementation and divided gaming into three classes.

Class I Indian ceremonial and traditional games

Class II bingo, pulltabs, lotto, and other bingo-like games

Class III casino-style gaming

The state role in class II gaming on Indian lands is limited, but states were given a direct role in class III gaming activities. Tribes are not permitted to engage in class III gaming unless and until they have negotiated a tribal-state compact with the state. If the state either refuses to negotiate with a tribe, or the tribe claims the state has failed to negotiate in good faith, the tribe can sue the state in federal court 6 months after the tribe's request to negotiate.

Status of implementation. Indian tribes operate gaming facilities in nearly half the states and about a dozen states have negotiated compacts covering some type of class III gaming. The Indian Gaming Commission got a late start and regulations distinguishing between class II and class III gaming were only proposed in 1992. The question of gaming off-reservation lands (including other states) is one of a number of issues in the law and regulations that remain unclear, creating a potential concern even for states without tribes or reservations. The Western Governors Association and the National Association of Attorneys General have taken the lead in seeking clarification from Congress and the U.S. Department of Interior on the interpretation of IGRA as it applies to state law.

Indian lawsuits. A growing number of states are in litigation over the scope of gaming activities, the requirement to negotiate in good faith, and issues of state immunity from suit in federal court. Decisions in several cases have created problems for states. In Wisconsin, a 1991 federal court ruling required the state to include casino games, video games, and slot machines in its compact negotiations with the tribes because the court said that the state's public policy was reversed with a constitutional amendment authorizing a state lottery. In this case and others, some tribes took the position that if ANY class III gaming is permitted in the state (e.g. a state-run lottery), then all class III gaming is permitted. Some states have claimed immunity from suit under the Eleventh Amendment of the U.S. Constitution, angering the tribes and the congressional sponsors.

Congressional oversight. Senators Daniel Inouye (D-HI) and John McCain (R-AZ) wrote NGA urging Governors to negotiate compacts with tribes in their states and raising concerns with some states asserting immunity from suit. They ask whether Governors want to continue to be "involved in the negotiation of tribal-state compacts and the regulation of Class III gaming on Indian lands consistent with state law currently authorized" or face outright preemption by the federal government. Action in the next Congress may be expected.

NGA position. The Senate letter was referred to the NGA Legal Affairs Committee for a recommendation. The Legal Affairs SAC met and found common ground on one major point: that class III gaming permitted for Indian tribes should be limited to the type of gaming operations explicitly authorized by state law. The Executive Committee discussed the importance of the issue on November 12, 1992 and suggested that the Legal Affairs Committee work with all interested Governors to develop fuller recommendations. The Legal Affairs Committee is chaired by Governor Miller (NV).

NAME & PHONE NUMBER (OPTIONAL)  
YOUR OFFICE ADDRESS (OPTIONAL)

SENATORS IN CONGRESS: ARIZONA  
BUD SHULTZ & JIM COOPER  
ARIZONA & CALIFORNIA: BOB DODD  
ARIZONA & CALIFORNIA: BOB DODD

FRANK R. WATSON, CHAIRMAN  
FRANK R. WATSON, CHAIRMAN

STAFF DIRECTOR: [Name]  
STAFF DIRECTOR: [Name]  
STAFF DIRECTOR: [Name]

**United States Senate**  
SELECT COMMITTEE ON INDIAN AFFAIRS  
WASHINGTON, DC 20510-6450

June 16, 1992

The Honorable John Ashcroft  
Chairman  
National Governors Association  
444 North Capitol Street  
Washington, D.C. 20001

Dear Governor Ashcroft:

As the primary sponsors of a federal law which has been the subject of some controversy in the several states, we are most appreciative of the opportunity to call upon you to convey some of the thoughts we wish to share with those governors who are involved or who anticipate becoming involved in the implementation of the Indian Gaming Regulatory Act.

Prior to its enactment into law in 1988, the Indian Gaming Regulatory Act was the subject of consideration in the Congress for over four years, although the impetus for expedited Congressional action came with the Supreme Court's ruling in the now well known case of California, et al. v. Cabazon Band of Mission Indians, et al., No. 85-1708 (February 25, 1987), in which the Court held that neither state nor county laws applied to the regulation of gaming activities on Indian lands in the absence of Congressional consent to the application of such laws.

Following the Court's action in Cabazon, considerable pressure was brought to bear upon the members of the Congress to develop a comprehensive federal framework for the regulation of gaming activities on Indian lands. Within the context of the United States' trust responsibility for Indian lands and resources and the historical government-to-government relationship between the United States and Indian tribal governments, much serious discussion and consideration was given to the establishment of a federal commission that would be solely responsible for the comprehensive regulation of gaming activities on Indian lands. However, members of Congress soon began to hear from the governors and attorneys general of states in which Indian reservations and Indian tribes were located, expressing their desire that the Congress give its consideration to a mechanism whereby state governments would have a significant role in the kind of gaming activities that would be conducted within state borders and the regulation of gaming operations.

After much deliberation, the Congress settled upon a formulation which was premised upon a government-to-government relationship between the state governments and Indian tribal governments, pursuant to which the Congress would authorize the negotiation of tribal-state compacts to govern the operation and regulation of Class III gaming activities on Indian lands. This proposal was strongly opposed by the tribal governments, and as primary sponsors of the proposed legislation, it fell to us to convince the tribal governments that these joint undertakings by tribal and state governments could prove beneficial to both governments in discharging their respective responsibilities to their citizens. In the end, the tribal governments reluctantly accepted the tribal-state compact provisions of the bill, and in exchange, the state governments agreed to play their part in facilitating the implementation of the Act by entering into negotiations leading to the establishment of tribal-state compacts.

Today, we find ourselves at a critical crossroads, and we must call upon you for your guidance, and hopefully, your timely response to our query. As you know, if a state refuses to enter into negotiations or fails to negotiate in good faith, the Act authorizes tribal governments to initiate action in federal district court. This aspect of the Act was well understood and accepted by the state governments at the time of the Act's passage, however, several states have now asserted the Eleventh Amendment as a bar to any action and in so doing have thus challenged the constitutionality of the Act's compact provisions. Further, we understand that in two states, the state governments suggested that the state and tribal government involved in negotiations enter into a "friendly" lawsuit to seek a declaratory judgment as to what games are allowable under state law, only to then later assert the Eleventh Amendment when the tribal governments initiated the agreed-upon action.

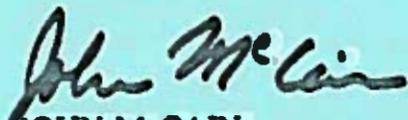
Not surprisingly, the tribal governments have come to the Congress with a request that the Act be amended to provide some other means by which federal law would authorize the conduct of Class III gaming activities on Indian lands. In our view, the alternatives to address this unanticipated action on the part of several states are limited. If a state refuses to enter into negotiations and asserts the Eleventh Amendment as a bar to a suit that would compel negotiation or mediation, the tribal governments may clearly be without a means to produce a tribal-state compact. And if the Eleventh Amendment challenge to a court's jurisdiction is upheld, several legal experts have advised the Committee of their view that if the tribal-state compact provision of the Act is not sustained by the courts, Cabazon will be controlling law to preclude the application of state law to Indian gaming activities that are not criminally-prohibited by the state in which such activities are conducted.

The actions of those states that have asserted the Eleventh Amendment or that have refused to enter into negotiations and have announced the state's intention to assert the Eleventh Amendment, compel us to take action to provide for a workable framework for the conduct of Class III gaming on Indian lands. If, by asserting the Eleventh Amendment, the states are indicating that they wish to have no role to play in the regulation of Indian gaming operations, it would seem that we are left with the alternative of having the federal government negotiate compacts with the tribal

governments for the conduct of Class III gaming and of comprehensive federal regulation of Indian gaming. Under this proposed framework, the parameters of compacts would still be determined by what state law defines as criminally prohibited, but there would be no involvement of state governments in the negotiation of compacts or the regulation of Indian gaming.

Accordingly, we pose this fundamental question to the governors of the concerned states: Is it your desire to have the state government involved in the negotiation of tribal-state compacts and the regulation of Class III gaming on Indian lands consistent with state law as currently authorized by the Indian Gaming Regulatory Act, or is it your desire to have the United States assume exclusive responsibility for the regulation of Class III gaming on Indian lands?

We look forward to your response.

  
JOHN McCAIN  
Vice-Chairman

Sinc  
  
DANIEL K. INOUE  
Chairman

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**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**TASK FORCE ON HEALTH CARE**

**TAB 5**

- **Summary of Issues and Briefing Papers** **A**
- **State Role in National Health Care Reform Proposals** **B**
- **State Implementation of Donation and Provider Tax Regulations** **C**
- **Enhanced Waiver Authority and Flexibility for Statewide Health Care Reforms** **D**

# TASK FORCE ON HEALTH CARE

## SUMMARY

### *State-Federal Legislative Issues and Briefing Papers*

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#### ISSUE:

- *State Role in National Health Care Reform Proposals*

Health care reform requires the facilitated movement toward universal access to quality health care at prices the nation can afford. This requires working with Congress and the administration to provide the necessary flexibility for state-based reform efforts, providing technical assistance and information sharing with states, commonwealths, and territories around health care reform efforts, and developing policy consensus around emerging national issues, such as long-term care, as necessary. This issue is critical to all states and territories as health care costs continue to climb and increasing numbers of citizens lack access.

Health care reform is a major part of NGA's four-pronged 1992-1993 initiative. Under the initiative's health care component, the task force is developing reform strategies and helping states implement reforms. NGA is also promoting federal legislation that allow states to experiment with innovative approaches to health care. NGA will look at designing an alternative structure for Medicaid to serve the needy, but that states can afford.

NGA supports the principle of state and local management within the context of a managed competitive approach to health care reform, which ensures universal access and control costs. The Governors are urged to continue maintaining a strong presence in all health care reform debates. The following are workable approaches to manage a cost-effective health care system:

- \* Assuming that there is still a public program even if that public program is modeled after Medicaid, states and local government will need stable

financing and a common definition of eligibility; beyond that, states and local government must be given the flexibility and authority to integrate fully the public program into a service delivery system that reflects the national movement towards managed care. The federal government must not impose mandates beyond the basic benefits or service delivery restrictions on public program;

- \* If Medicare continues to exist as a separate program, states and local government will need the flexibility to integrate Medicare fully into their health care system;
- \* States must have the ability to include the current self-insured market (ERISA plans) in their state design;
- \* States must have additional authority now precluded by federal anti-trust statutes;
- \* The federal government must participate in a discussion about how to deal with the access issues of rural areas, inner cities, and populations currently financed by federal programs;
- \* The federal government, states, and local government must agree on the structure and role of public health financing and delivery systems;
- \* The federal government, states, and local government must work toward agreement on a long-term care program that would "demedicalize" and uncouple it from the health care system.

The senate has indicated they are ready to move forward on comprehensive health care reform legislation this year. The senators said the comprehensive plan will accomplish four things: control cost; guarantee quality, affordable care for all Americans; make health care affordable to small businesses; and emphasize preventive care. The senators support the creation of a new public-private partnership that builds on the current health care system and reduces costs and expands access through the appropriate use of competitive market forces. The Senate will develop a cost control program that will include a national board that would set a budget to reduce projected spending increases, "reasonable" payment levels for health care providers, and encouragement of competition through managed care, managed competition, and other means.

## **BRIEFING PAPER:**

- ***Guam Health Planning and Development Agency***

The escalating cost for health care is a complex, yet universal problem. To effectively correct this dilemma, a conscientious effort must be given to the identification of all underlying causes or influencing factors. For a total health care reform system to work, the agency believes that priority should focus on primary health care with emphasis on more family health practitioners. Furthermore, marketing for quality health and allied health professionals and educational candidates and recruitment of qualified and competent health practitioners should be undertaken.

Findings of the Governor's Task Force on Health Manpower show that Guam lacks the ability to produce and supply its own health manpower needs. Such inadequacy has caused undue stress on the limited health manpower resources on the island. Guam should develop and implement a tracking system to control the health personnel variation on the workforce. Additionally, the University of Guam should offer programs leading to a degree in allied health in order to control the rising health spending. Since accreditation of health institutions is a priority, GMH is diligently upgrading the facility and searching for qualified and competent top management personnel. The Mental Health Facility is also nearing completion and should be ready for services by the end of this year.

- ***Department of Public Health and Social Services***

The department believes that health care reform is an economic issue and is necessitated by the spiraling health care costs that the budget of individuals, families, states, territories and the nation as a whole can no longer fully support. The solution is to have a more viable economy that will provide jobs and education necessary for people to get health care and/or purchase health insurance coverage.

Emphasis on prevention is also essential since it is cost-effective, saves lives and lost productivity, saves dollars that would be needed for problem solution, and uses less high-cost technology. The department supports health care reform that recognizes and adequately supports and funds primary preventive health care services, such as, prenatal care, routine health assessments for all ages particularly children, immunizations, and education to promote health and reduce health risks. These services must be available and accessible

to everyone. Public Health also supports reform that provides sufficient resources to Public Health agencies to carry out its responsibilities. The health of the general public should be protected through early disease identification, follow-up and control of diseases or health problems that threaten or potentially threaten the community at large.

Without a strong Public Health efforts, communities lose their protective shields, individuals and families experience health problems that could have been prevented or diminished in severity and productivity (work or learning) is adversely impacted.

#### ISSUE:

- *State Implementation of Donation and Provider Tax Regulations*

The Governors adopted a resolution on August 4, 1992 urging the U.S. Health Care Financing Administration (HCFA) to issue regulations on provider taxes, voluntary donations from health care providers, and other methods states use to raise Medicaid Matching funds. An advisory group of NGA staff and state representatives has been working with HCFA to develop regulatory language for a new law on provider taxes for states cannot proceed to develop their programs without the final guidance that the regulations will provide.

HCFA released the long-awaited final regulations on November 24, 1992. However, the rules restrict state taxing powers and federal waiver approval procedures. HCFA also provided notice that allocations for the "disproportionate share hospitals" (DSH) program will not increase over the previous year's levels. The rules are now in effect, but states still have a 60-day comment period, and NGA is working on a coordinated response. The new rules do not allow states to tax health care provider groups beyond those specifically listed in the statute. They also put forth a narrowly crafted process for states to get waivers of a broad-based or uniform tax. As expected, preliminary 1993 DSH program allocations - for hospitals that serve disproportionately high numbers of low-income patients - have been limited to 1992 DSH levels.

NGA urges the Administration to honor the deal agreed upon wherein the states could raise no more than 25% of their state share of Medicaid from the "good" taxes and that disproportionate share hospital spending would be limited to 12% of a state's total Medicaid program expenditures. The requested regulations will make it possible for states to both raise 25% of their financial contribution from taxes and also spend up to 12% of their Medicaid resources on

disproportionate share hospitals. Negotiations with the administration will continue within the time frame allotted.

#### **BRIEFING PAPER:**

- *Department of Public Health and Social Services*

Health care reform has to consider the entire system (government, health care providers, insurers, client/customers, business, etc.) because of the interrelationship of the various components of the system. Today, Guam has medical coverage for the indigent, government employees, and employees of most private businesses. However, private practitioners cannot cope up with the high number of clients while some doctors will not serve the indigent. Public Health is also plagued with recruitment difficulties and local operational budget that remains status quo. The Community Health Centers of Guam (CHC) has provided an opportunity for the underserved communities to have personal primary preventive health care services that are affordable, accessible and available. Fees are charged to third party payor and to clients based on their ability to pay. The revenue collected is used to fund operational costs. The CHC model thus provides service and recoups most of its costs so that service could be continued. The department recommends that the federal government supports the expansion of CHC.

#### **ISSUE:**

- *Enhanced Waiver Authority and Flexibility for Statewide Health Care Reforms*

In 1992, the Governors did not win broad waiver authority for statewide health care reforms, so this issue continues as a major NGA priority for 1993. Last August, the States Care Act of 1992 (S.3180) was introduced that established a mechanism and defined parameters under which states could apply for authority to develop and implement a comprehensive state-based health reform initiative. The proposed legislation, which was supported by NGA would have given states extended Medicaid and Medicare waiver authority, as well as establish limited waiver authority under the Employee Retirement Income Security Act (ERISA). The legislation also would have established a simplified review and approval process for demonstration applications. The legislation was never reported out of the committee or voted on by the full Senate. Companion legislation was not introduced in the House of the Representatives.

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

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

#### **BRIEFING PAPER:**

- ***Department of Public Health and Social Services***

In Guam, we have Medicaid although Congress set a budget ceiling of \$2.5 million per annum. Costs for eligible recipients exceed that ceiling by over 100 percent each year. Therefore, all these new innovative strategies to increase Medicaid coverage and federal funding is no incentive at all. The local government created the Medically Indigent Program which provides health care coverage to individuals just above the eligibility levels for Medicaid. The Catastrophic Illness Assistance for a medical problem exceeding \$30,000 over and beyond health insurance and with a coverage cap of \$100,000 per illness per year is also provided. Free care services are also provided to several other diseases showing that Guam's government funded health care is well established.

Guam has a \$3.8 million cap for federal assistance programs but despite this cap, Guam is still required to expand services i.e. transitional child care services. Guam is also liable for high error which could further reduce this funding. Social Security Supplemental income benefits do not apply to

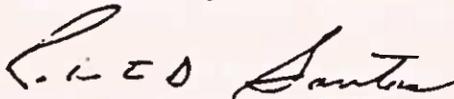
Guam residents. Guam is also required to use U.S. medical resources. Because Guam cannot always fit the mold that the federal government established, a request for provision for waiver be allowed under any national health care reform mandate and any federal health legislation/policy.

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

MEMORANDUM

TO: Governor Joseph F. Ada  
VIA: Director, Bureau of Planning  
FROM: Executive Director  
DATE: January 8, 1993  
SUBJECT: National Governor's Association Briefing Paper

Attached is the requested briefing paper for the upcoming National Governor's Association Winter Meeting. If you need additional information, please contact me.

  
Robert D. Santos, Ph.D

Attachment

## Back to Basic Re~~com~~ndations

The escalating cost for health care is a complex, yet universal problem. To effectively correct this dilemma, a conscientious effort must be given to the identification of all underlying causes or influencing factors. The starting point for a total health care reform system requires going back to basics. Priority should be focused on primary health care with emphasis on more family health practitioners. Another priority is in marketing for quality health and allied health professionals and educational candidates and recruitment of qualified and competent health practitioners.

The Guam Health Planning and Development Agency and the Governor's Health Task Force on Health Manpower conducted the first comprehensive health work-force survey for the Territory in 1992. The survey focused on four areas (1) work force planning, (2) work force training and development, (3) work force management, and (4) health facility and budget. The findings show that Guam lacks the ability to produce and supply its own health manpower needs. Such inadequacy has caused undue stress on the limited health manpower resources on the island.

To control the health personnel variations on the work force, a tracking system will be developed and implemented to monitor the educational and training progression of selected Government of Guam and World Health Organization's Fellowship and scholarship recipients. The tracking system will inform human resource development authorities of program completion necessary for appropriate job placement in the work force. In addition, the tracking system will monitor the stages of service obligation and job detachment for legal and obligatory control.

Programs leading to a degree in allied health must be a part of our institutions of higher learning--the University of Guam and Guam Community College--on Guam in order to control the rising health spending. In addition, collaborative and cooperative efforts with other higher learning institutions in the United States will facilitate human resources production and narrow the gap of inadequacy and supply.

Where do the qualified and competent health professionals practice and provide services? The Work force Survey also indicated that accreditation of health institutions is a priority. Thus, the Guam Memorial Hospital Authority is diligently upgrading the facility and searching for qualified and competent top management personnel. An application to the Joint Commission on Accreditation of Health-care Organizations will be filed by the end of this year. In the midst of accreditation, the Mental Health facility is near completion and should be ready for service by the end of the year. In offsetting the specificity and non-specificity of problems to cost containments, the Department of Public Health and Social Services' main facility requires upgrading and expansion to effectively provide the necessary health care and service created by free association, development, and inadequate inter-island health policies.

In understanding the logical aspect to cost containment, the Agency and the Governor's Task Force on Health Information Management System (BIMS) has submitted a grant proposal for a 4-

year project to establish and implement a standardized health information system to be accessible to the public. The BIMS, as conceived by the Agency, is an innovative and creative concept. The project, if approved for funding by a private philanthropic organization, will benefit the island's health and social agencies and neighboring island nations in the Western Pacific region.

Research is an essential tool in understanding health disparities in the community. The Guam Health Planning and Development Agency, a locally funded agency, serves as the state agency for health planning and development. The Agency is kept abreast on health issues on the island by developing professional papers or position papers for the Governor to make informed policy decisions and for the island Legislators' information. In addition, the Annual Governor's Health Task Forces Forum serves as the medium for gathering current and evolving health issues which are addressed and referred to the Governor as needed.

In controlling rising costs of health, the Governor's Task Force on Availability and Accessibility to Health Care is evaluating the cost pattern of insurance for the insured and uninsured, medical-liability, and subsidized programs.

Lastly, the Contractual relationship between the United States and the Federated States of Micronesia (FSM) on free association created unforeseen disparities with the educational, health, and social institutions on Guam. This unilateral decision by the Federal Government has created cross resistance in community adaptation. The reimbursement to the Government of Guam for maintaining contractual and covenant commitment with the Federal Government for the health care and services, education, and social welfare of the FSM citizens is still pending.

## BRIEFING PAPER

### NATIONAL GOVERNORS' ASSOCIATION 1993 WINTER MEETING

#### DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES

##### Social Economics

Health care reform, a recognized national issue of paramount importance, is an economic issue. Reform is necessitated by the spiraling health care costs that the budgets of individuals, families, states and territories, and the nation can no longer fully support. The fundamental solution is to have a better and more viable economy that will provide the jobs and education necessary for people to purchase health insurance coverage, food, shelter, education, transportation and other necessities of life. Businesses that are making a profit will provide better employee benefits such as health insurance. General good health is based on having these essentials in life i.e. adequate nutrition, shelter. The basics must be available and accessible to everyone; a thriving economy that gives everyone the opportunity for the "American dream" also gives the individual the purchasing power necessary to get health care. Purchased health care means payment is made for services rendered; therefore, health provider costs can be recovered. External quality assurance processes and utilization reviews would assure that "good" medicine is being practiced.

## BRIEFING PAPER

### NATIONAL GOVERNORS' ASSOCIATION 1993 WINTER MEETING

#### DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES

##### Prevention

Secondly, the reemphasis on prevention is essential. To prevent a problem from occurring is the most desirable objective; the adage, "an ounce of prevention is worth a pound of cure", has direct value. Prevention is cost-effective, saves lives and lost productivity, saves dollars that would be needed for problem resolution, and uses less high-cost technology. Education, healthy lifestyle practices, and a safe environment are essential and offer individuals the potential to achieve good health throughout life in large part through their own means of control. We support health care reform that recognizes and adequately supports and funds primary preventive health care services such as prenatal care, routine health assessments for all ages particularly children, immunizations, education to promote health and reduce health risks. These services must be available and accessible to everyone. Further, we support health care reform that provides sufficient resources to Public Health agencies to carry-out its responsibilities. The President of the Association of State and Territorial Health Officials (ASTHO) states that 10 percent of a State's budget should be for Public Health services. There must be the means whereby the health of the general public is protected through early disease identification, follow-up and control of diseases or health problems that threaten or potentially threaten the community at-large. This is the mission of Public Health.

Without a strong Public Health efforts, communities lose their protective shield, individuals and families experience health problems that could have been prevented or diminished in severity, and productivity (work or learning) is adversely impacted.

## HEALTH REFORM

### 'Managed Competition' Approach Endorsed

Agreement represents 'real mandate for change,' says Gov. Romer

Leaders of state and local government groups and businesses last week endorsed managed competition as the framework for national health care reform. The unprecedented alignment of state and local officials and representatives of small and large businesses represents "a real mandate for change," said NGA Chairman Roy Romer of Colorado.

Gov. Romer said the group has "taken a major step toward a restructured health care system that both controls costs and provides access. It is significant that we have called for creation of a basic benefit package and limitations on the tax deductibility of health insurance. We also agreed to establish national goals to slow the rate of growth in health care costs."

Gov. Romer said the governors "want

to come to the table with the new President and the newly formed Congress and work out the problems, so we truly can contain health care costs and provide universal access."

NGA Vice Chair Carroll A. Campbell Jr. of South Carolina said that "managed competition recognizes the need to control costs but maximizes the impact of market forces in health care. It does not propose a federal takeover of the health care system, which I oppose."

Gov. Campbell said the agreement moves the group toward a managed competition system that would emphasize services such as primary care and prevention—areas needing more attention in a reformed health care system. It would help improve care and people's health "on the front end" and stop cost-shifting

"so there should be effective savings for many people."

South Dakota Gov. George Mickelson, who co-chairs NGA's Task Force on Health with Vermont Gov. Howard Dean, called the agreement "unprecedented" and said it "effectively carves out a role for the states to administer their health care programs, which is essential." Gov. Dean said that access and cost control are most important, and emphasized that "some very tight expenditure controls" will be needed for a restructured system to work.

The agreement was reached in a meeting convened by NGA. Other governors participating in NGA's health care or federal budget deficit reduction discus-

DEC 31 1992

Continued on page 2

## INFRASTRUCTURE

### NGA Calls for Full Transportation Funding

The nation's governors last week urged the incoming administration and Congress to provide full funding for last year's landmark surface transportation law. Full funding will allow states to move ahead rapidly with highway and transit projects that will create thousands of jobs and help speed the nation's economic recovery.

Three governors in NGA leadership positions urged President-elect Bill Clinton to "accelerate investment in ready-to-go transportation projects by fully funding" the Intermodal Surface Transportation Efficiency Act (ISTEA)

of 1991. "This is a vehicle for immediate action, without creating new programs or structures," the governors said in a Dec. 16 letter. "A new survey of state programs indicates states could let bids this year on an additional \$8.5 billion in highway and bridge projects alone, with labor-intensive rehabilitation projects presenting the most pressing need."

The letter was sent by Illinois Gov. Jim Edgar, chair of NGA's Committee on Economic Development and Commerce; Rhode Island Gov. Bruce Sundlun, committee vice chair; and Nevada Gov. Bob Miller, lead governor on surface trans-

portation. They cite a survey by the American Association of State Highway and Transportation Officials (AASHTO).

The governors praised Clinton's leadership in promoting increased public investment in infrastructure and urged full funding of ISTEA "as an urgent first step in your economic growth strategy." Full funding would help in the short term by creating jobs and in the long term by enhancing economic competitiveness, they said.

Congress adopted ISTEA in 1991 with

Continued on page 2

## In this issue . . .

### HEALTH REFORM

State, local government, and business leaders have taken a major step toward a restructured health care system. *Page 1*

### TRANSPORTATION

Full funding of 1991 transportation law will allow states to move ahead rapidly with job-creating projects. *Page 1*

### DEFENSE CONVERSION

States can use and are using existing programs to help defense-related firms convert to commercial ventures. *Page 3*

## *The health care cost containment effort is part of a broader NGA initiative to discuss ways to reduce the federal deficit and promote strategic investment.*

### **Health Reform**

*Continued from page 1*

sions were Connecticut Gov. Lowell P. Weicker Jr.; Illinois Gov. Jim Edgar; Iowa Gov. Terry E. Branstad; Kansas Gov. Joan Finney; Maine Gov. John R. McKernan Jr.; Oklahoma Gov. David Walters; and Rhode Island Gov. Bruce Sundlun.

Also participating was Delaware Gov.-elect Thomas Carper.

Other organizations represented in the sessions included: the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities, and International City/County Management Association, the American Business Conference, the Committee for Economic Development, the National Federation of Independent Businesses, and The Business Roundtable.

A statement released by the group said that changes in the health care system should include:

■ developing state and/or regional purchasing cooperatives to increase the buying power of small businesses and individuals;

■ developing a federal basic benefit package, with the ability to adapt to the differing needs of states and regions;

■ limiting the tax deductibility/exemption to the cost of the basic health insurance package, both to employers and employees, and extending the exemption to the cost of basic health insurance to the self-employed; and

■ emphasizing capitated care plans in which providers assume the responsibility for the quality and cost of the care provided.

It also recognizes the need for:

■ minimum federal standards for regulating health insurance practices, including limitations on rating and medical underwriting, and medical tort reform; and

■ outcomes research as a basis for establishing practice guidelines, reforming medical malpractice law, and improving the quality of health care.

The agreement emphasizes the need for the federal government to carefully consult with states, localities, business, and labor in developing a basic benefit package.

The health care cost containment effort is part of a broader NGA initiative to discuss ways to reduce the federal deficit and promote strategic investment.

The statement adopted by the group represents the agreement of the participants in the meeting, not necessarily the organizations they represent.

NCSL has noted that it has certain formal policy positions that differ from some aspects of the group's statement. All participants in last week's meeting will take the statement back to their respective organizations for their consideration.

Gov. Romer said the group hopes "the participating organizations will develop formal policy supporting this statement."

The nation's governors will consider such a policy proposal during NGA's winter meeting Jan. 31-Feb. 2 in Washington, D.C. ■

### **Transportation**

*Continued from page 1*

overwhelming support. It promised the states more than \$25 billion a year in highway and transit improvements, but funding for the two surface transportation programs fell \$3.9 billion short of enacted levels for fiscal 1993. Highway programs were cut by \$2.5 billion and mass transit was cut by \$1.4 billion.

At a Dec. 16 news briefing in Washington, D.C., NGA Executive Director Raymond C. Scheppach said the AASHTO survey of state highway and transportation departments indicated the states could spend a total of \$26.5 billion in federal aid for highway and bridge projects by the end of fiscal 1993. Currently, only \$18 billion in federal highway aid is available to the states. That's the amount included in the budget Con-

gress approved, even though the law authorized \$20.4 billion for highways in fiscal 1993. Besides NGA, the briefing included several transportation, state, and local government groups.

States could immediately use the additional \$8.5 billion for transportation capital projects, highway and bridge rehabilitation and safety, and other improvements, Scheppach said. "This year, states have committed project funds at a rate faster than any other recent year."

Governors have consistently and very strongly urged Congress to fully fund the act, he said. "Sufficient funding will not only help the nation's economy over the short term, but also will help build the integrated, productive transportation network the nation needs."

The AASHTO survey says that state highway and transportation departments could fully obligate \$8.5 billion more

than the appropriated level for fiscal 1993, which is \$6 billion more than the authorized level of fiscal 1993 highway funds. If an expanded federal-aid highway program were continued through fiscal 1996, more than half the states (38) estimate they could have contracts ready to let on an additional \$22.82 billion in projects above the amounts available in ISTEA. States cite flexibility in the use of funds as the most important factor in creating any new highway investment program.

Other participants included representatives of AASHTO; the American Public Transit Association; the American Road and Transportation Builders Association; the U.S. Conference of Mayors, the Highway Users Federation; and the Surface Transportation Policy Project.

The briefing commemorated the first anniversary of ISTEA, which was passed a year ago this week. ■

## **State and Local Management**

**Within the context of a managed competitive approach to health care reform, which ensures universal access and controls costs, we support the principle of state and local management. States and local government will need a set of tools to manage a cost effective health care system.**

- 1. Assuming that there is still a public program, even if that public program is modeled after Medicaid, states and local government will need stable financing and a common definition of eligibility. Beyond that, however, states and local government must be given the flexibility and authority to integrate fully the public program into a service delivery system that reflects the national movement towards managed care. The federal government must not impose mandates beyond the basic benefits or service delivery restrictions on the public program. A streamlined and efficient public program will obviate the need for the complex and costly waiver process.**
- 2. If Medicare continues to exist as a separate program, states and local government will need the flexibility to integrate Medicare fully into their health care systems.**
- 3. States must have the ability to include the current self-insured market (ERISA plans) in their state design.**
- 4. States must have additional authority now precluded by federal anti-trust statutes.**
- 5. The federal government must participate in a discussion about how to deal with the access issues of rural areas, inner cities, and populations currently financed by federal programs including Native Americans, veterans, and CHAMPUS. The federal government must also participate in discussions about the provision of care to undocumented aliens.**
- 6. The federal government, states, and local government must agree on the structure and role of public health financing and delivery systems.**
- 7. The federal government and states and local government must work toward agreement on a long-term care program that would "demedicalize" and uncouple it from the health care system.**

**While our individual organizations have not yet reviewed or approved these recommendations, we, as individual members and leaders, believe that they reflect a reasonable and workable approach to this critical issue. However, the National Conference of State Legislatures has certain formal positions at variance with some aspects of the statement. We are prepared to work with our organizations, with other interested organizations, and with the President and the Congress first to flesh out the details of specific proposals and then to secure formal support and enactment.**

## BRIEFING PAPER

### NATIONAL GOVERNORS' ASSOCIATION 1993 WINTER MEETING

#### DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES

##### Systems Management and Relationships

Health care reform has to consider the entire system (government, health care providers, insurers, clients/consumers, business, etc.) because of the interrelationship of the various components of the system. Today in Guam we have medical coverage for the indigent, for government employees, for employees of most private businesses. However, every week we hear of people who cannot get an appointment to see a doctor because he/she is not accepting an indigent client or because they cannot handle a higher number of clientele. Public Health has very limited direct health care services and is plagued with recruitment difficulties and a local operational budget that remains status quo. Community Health Centers (CHCs), of which Guam has one, have provided an opportunity for underserved communities to have personal primary preventive health care services that are affordable, accessible and available. Fees are charged to third party payors and to clients based on ability to pay and the revenues collected are used to fund operational costs; The CHC model thus provides a service and recoups most of its costs so that services can be continued. We recommend that the federal government support the expansion of CHCs.

Our evergrowing and evolving society must be reexamined to assure that health care reform uses our dollars to the best advantage that will assure us of better health for our people and communities. New programs and services come with a price tag. More competitive salaries, malpractice coverage, worker safety, etc. must be addressed and come with a built-in cost. Research, new medical treatment, and new health problems will continue to impact on cost. The system must be able to respond to change.

Government must also further examine its own system. In its efforts to cut costs and control spending, policies and procedures are set for so many layers of approval that the paperwork for procurements and personnel recruitments are delayed to such an extent that there is little assurance that the resources needed for client health care will be available when needed. Government must set mechanisms for control but not at the expense of jeopardizing or interrupting health care services. The "certificate of need" process should be reestablished so that states/territories can assess and take action on proposed capital improvement projects that have impact on health care costs.

Another observation is that health care systems have over the years become less and less patient/client focused and instead have become immersed in high-tech equipment, organ-focused care (called specialty medicine), distrust between patient and provider, and dollar driven survival competitiveness. Changing this requires attitude reform" and a collective will at all levels to achieve "corrected vision".

## Work Begun on Cost Containment Framework

Group of government, business leaders covered 'great deal of ground,' says Gov. Romer

Leaders of NGA and other government and business groups last week began work on a framework for national health care cost containment.

NGA Chairman Roy Romer of Colorado, who convened the Dec. 1 meeting in Washington, D.C., said the group "covered a great deal of ground" and will convene again on Dec. 15 to continue its discussion. "We need to have a national framework for health care reform in this nation," he said.

The group is moving forward on a number of critical issues and support is emerging for some form of managed competition model. "We believe the framework should be based on managed competition," said South Carolina Gov. Carroll A. Campbell Jr., NGA vice chairman. "It is imperative that we eliminate the barriers that currently exist to implementing managed care systems."

Meeting participants agreed that access to health care for all and efforts to contain health care costs are inextricably linked. They also agreed that putting limits on public health programs such as Medicaid and Medicare alone would not adequately restrain spiraling health costs. All health care that is publicly supported, either directly or through the tax code, must be included in any cost containment plan.

The meeting of the broad-based, bipartisan group was unprecedented, because it recognized the need for fundamental change in the health care system and the importance of collective action by major purchasers of health care.

Other governors participating in the meeting were South Dakota Gov. George S. Mickelson and Vermont Gov. Howard Dean, co-chairs of NGA's Task Force on Health Care; Florida Gov. Lawton Chiles; Hawaii Gov. John Waihee; Kentucky Gov. Brereton Jones; New Jersey Gov. Jim Florio; Rhode Island Gov. Bruce Sundlun; and Wisconsin Gov. Tommy G. Thompson. Also participating were Delaware Gov.-elect Thomas Carper and New Hampshire Gov.-elect Steve Merrill.

Other issues discussed by the group included:

- the need for standardized health information that could be used by purchasers and users of health care;
- the importance of research on health care outcomes;
- the need for health insurance and medical malpractice reform; and

■ the use of the federal tax code as a mechanism to control health care costs, including limits on the tax deductibility of health insurance and health costs for both employers and employees.

The group explored diverse topics, including the use of purchasing cooperatives that would allow businesses and other purchasers to obtain affordable insurance and the need to reduce paperwork through standardized billing procedures and claims forms.

Health care costs "continue to be a driving force in state budgets and it limits their ability to make strategic investments in critical areas such as education, infrastructure, and job training. Health care costs also affect business competition," the group said.

Continued on page 2

### PROVIDER TAXES

## HCFHA Releases Long-Awaited Rules

Interim final regulations on provider taxes generally reflect negotiations between governors and the U.S. Health Care Financing Administration (HCFA), which released the regulations Nov. 24. However, the rules restrict state taxing powers and federal waiver approval procedures.

Also, HCFA provided notice that allocations for the "disproportionate share hospitals" (DSH) program will not increase over the previous year's levels.

The rules are now in effect, but states still have a 60-day comment period, and

NGA is working on a coordinated response.

The new rules do not allow states to tax health care provider groups beyond those specifically listed in the statute. They also put forth a narrowly crafted process for states to get waivers of a broad-based or uniform tax.

Finally, as expected, preliminary 1993 DSH program allocations—for hospitals that serve disproportionately high numbers of low-income patients—have been limited to 1992 DSH levels ■

### In this issue

#### U.S.-JAPAN TIES

U.S. and Japanese governors recently adopted a joint statement that emphasizes ties between the two countries. Page 2

#### EDUCATION GOALS

Generally, U.S. education standards do not match those of most other developed nations. Page 3

#### WINTER MEETING

Health reform, federal budget deficit reduction, and education top the agenda at NGA's Jan. 31-Feb. 2 meeting. Page 2



August 4, 1992

Mr. Samuel Skinner  
Chief of Staff  
The White House  
Washington, D.C.

Dear Sam:

Thank you for participating in the meeting with the Governors on June 16th to discuss our concerns about health care. We particularly appreciate the opportunity to share concerns about pending regulations to implement the new Medicaid statute which was negotiated between the Governors and the administration last fall.

I understand the regulations are now in the formal review process at the Department of Health and Human Services and will soon be forwarded to OMB for final review. Therefore, I simply want to reiterate some of the major concerns which have been expressed by my colleagues.

#### Honoring the Spirit of the Negotiations

The administration's key objective last year was to halt the phenomenal growth in Medicaid spending which could be attributed to phony tax schemes and a burgeoning disproportionate share hospital program. Towards that end, we all agreed that states could raise no more than 25 percent of their state share of Medicaid from "good" taxes and that disproportionate share hospital spending would be limited to 12 percent of a state's total Medicaid program expenditures.

We urge the administration to honor that deal by publishing regulations that make it possible for states to both raise 25 percent of their financial contribution from taxes and also to spend up to 12 percent of their Medicaid resources on disproportionate share hospitals.

We both know that regulations which are too narrowly drawn can preclude both those goals. No state can afford Medicaid without explicit recognition of our agreement reflected in the regulations.

Mr. Samuel Skinner  
August 4, 1992  
Page Two

When we talked in June, I articulated a series of specific examples of provisions that could prohibit states from being able to raise 25 percent of their state share from provider taxes. These included: restrictions on the classes of providers it would be permissible to tax and strict statistical tests for defining "hold harmless" and "generally redistributive." NGA staff tells me that with the exception of the treatment of permissible classes, they are now comfortable with the regulations as they left HCFA. We do not want to lose the ground we have gained in the review process.

Timely Release of the Regulations

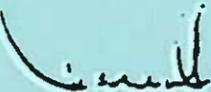
I want to stress again how very important it is to the Governors that the administration keep its commitment to get these regulations published by the end of August. There is big money at stake and states cannot proceed to develop their programs without the final guidance that the regulations will provide. Since the regulations are already in the review process, I see no reason why they can't be published by the end of August.

Finally, Sam, we would like to accept Tom Scully's offer to let us review the regulations before publication. We began this process together and we'd like to finish it in the same spirit of cooperation to ensure that we can put this matter behind us and move on to other issues.

We would like Mr. Scully to work with NGA staff and arrange a mutually convenient time for a review of the proposed regulations before they are issued.

Again, I thank you for your time and your cooperation in this matter which is critical to all of our Governors.

Sincerely,



Carroll A. Campbell Jr.  
Vice Chairman  
National Governors' Association

Adopted 8/4/92

RESOLUTION\*

**SUSPENSION**  
(Proposed by the Executive Committee)

**MEDICAID PROVIDER TAX AND DONATIONS REGULATIONS**

Whereas the Medicaid provider taxes and donations agreement was one in which the administration agreed to stop overregulation of states and in exchange the states agreed on a cap on the federal costs in the Medicaid program;

Whereas, as offered by the administration, the National Governors' Association has been working with the Medicaid Bureau and others to draft acceptable regulations;

Whereas, without ~~published~~ regulations by the Health Care Financing Administration (HCFA) and the Office of Management and Budget (OMB), states have had to pass laws and administer the program with the risk that a return to overregulation will cost states hundreds of millions of dollars;

Now, therefore be it resolved, the nation's Governors call upon HCFA to issue regulations no later than August 31, 1992, to protect states that have acted in good faith, and above all, to not overregulate state Medicaid programs.

- based upon Policy C-28

## BRIEFING PAPER

### NATIONAL GOVERNORS' ASSOCIATION 1993 WINTER MEETING

#### DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES

##### Government Funded Health Care Coverage

In Guam we have Medicaid although Congress set a budget ceiling of \$2.5 million per annum. Costs for eligible recipients exceed that ceiling by over 100 percent each year. Therefore, all these new innovative strategies to increase Medicaid coverage and federal funding is no incentive at all for us. The local government created the Medically Indigent Program which provides health care coverage to individuals just above the eligibility levels for Medicaid. Guam law also provides Catastrophic Illness Assistance for a medical problem exceeding \$30,000 over and beyond health insurance and with a coverage cap of \$100,000 per illness per year. In addition there is free care for tuberculosis, insulin and insulin administration and supplies, end-stage renal disease including hemodialysis, and ALS and Parkinson's Dementia. Thus, as you can see, government funded health care is well established. However, the question to be answered is whether the government dollar is well used. For instance, the "free care" categories of care is based on disease condition and does not consider financial eligibility; therefore, rich and poor receive equal benefit.

Government and an unknown percentage of local businesses provide/fund health insurance as an employee benefit. Public Health manages a Community Health Center and provides maternal and child health care and disease detection and surveillance services. The 217 bed hospital in Guam is an autonomous agency under the government and by mandate cannot refuse care to anyone. Costly, but necessary off-island medical referral for certain specialty care, including patient transportation costs, is covered by government health insurance.

Politically and geographically Guam is unique. Guam has a \$3.8 million cap for federal assistance programs, i.e. AFDC benefit payments, adult assistance for Aid to Blind, Old Age Assistance. Despite this cap Guam is still required to expand services i.e. transitional child care services. Guam is also liable for high error rate which could further reduce this funding. Social

Security Supplemental income benefits do not apply to Guam residents. Despite the geographic fact that Guam is closer to Japan and the Philippines where good medical care can be obtained, Guam cannot use federal funds to purchase specialty care there but must use only U.S. medical resources. Because Guam cannot always fit the mold" that the federal government established, we request that provisions for waiver be allowed under any national health care reform mandate and any federal health legislation/policy.

### Incentives

Employer funded health care benefits should derive some tax benefit in proportion to percentage of funded coverage. The health insurance deduction for non-smokers should be less than for smokers.

Federal government agencies should set the example through reorganization/realignment or consolidation of programs and agencies and by standardizing information/data and eligibility requirements.

Government hospitals, public health agencies, and schools of training should be required to have written agreements/contracts outlining use of resources for cost-effective care.

There should be nationally supported malpractice insurance for health care providers that requires arbitration at the initial level and sets a cap for coverage.

Foreign trained health care providers are a resource that is not always tapped because of licensing restrictions. Training institutions should be given financial incentives to establish programs for these providers so that U.S. licensing requirements can be met.

Physicians, nurses and other health care professionals who work in rural areas or community/migrant health centers should have their training costs subsidized or reduced. Scholarships for training should be given to persons who commit to work in underserved areas or specialty.

## HEALTH CARE LEGISLATION

### Comprehensive State Based Health Reform

Last August, Senators Leahy and Pryor introduced the State Care Act of 1992 (S. 3180) that established a mechanism and defined parameters under which ten states could apply for authority to develop and implement a comprehensive state-based health reform initiative. The proposed legislation, which was supported by NGA, would have given states extended Medicaid and Medicare waiver authority, as well as establish limited waiver authority under the Employee Retirement Income Security Act (ERISA). The legislation also would have established a simplified review and approval process for demonstration applications. While the Senate held two hearings on the legislation, it was never reported out of committee or voted on by the full Senate. Companion legislation was not introduced in the House of Representatives.

### Medicaid Waiver Simplification

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

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

Contact: Carl Volpe, 202/624-7729

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**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**TASK FORCE ON EDUCATION**

**TAB 6**

- **Summary of Issues and Briefing Papers** **A**
- **Elementary and Secondary Education -  
Neighborhood Schools Improvement Act** **B**
- **National Education Goals Panel** **C**

# TASK FORCE ON EDUCATION

## SUMMARY

### *State-Federal Legislative Issues and Briefing Papers*

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#### ISSUE:

- *Elementary and Secondary Education - Neighborhood Schools Improvement Act*

Both the House and Senate have completed action on neighborhood schools improvement bills that will encourage reform in the nation's elementary/secondary school system. S.2 passed the Senate and the House completed action on H.R. 4323. However, the conference agreement to S.2 died at the end of the 102nd Congress after the Senate failed to obtain the two-thirds vote needed to end debate and move to consideration of the agreement. S.2 codifies the National Education Goals and the National Education Goals Panel, authorizes the National Education Standards Council, calls for the publication of a National Academic Report Card, provides for state-based school reform, permits some regulatory flexibility for schools, and provides for a study on distance learning. H.R. 4323 also codifies the National Education Goals Panel. It authorizes a Technical Review Committee. The rest of the provisions are similar to S.2.

The administration opposed the conference agreement because it failed to provide for private school choice, made no mention of "New American Schools", and called for the development and certification of prescriptive school delivery standards. NGA also opposed the provision on school delivery standards. It is expected that many of the issues included in the conference agreement will be looked into in the reauthorization of the elementary and secondary education programs in the 103rd Congress. Such issues include the creation of a state grant program to support systemic education reform, authority for the Secretary of Education to grant states and schools waivers from federal regulations, codification of the re-configured National Education Goals Panel, and the creation of the National Council on Standards and Assessments.

## ISSUE:

- ***National Education Goals Panel***

The National Education Goals Panel took the first steps toward appointing a new National Education Standards and Assessments Council (NESAC), to coordinate the development of national education standards and developing criteria to determine the appropriateness of recommended standards and assessments. Furthermore, it will also provide information how student competence in challenging subjects measures up against world-class standards. The council's scope of work includes collecting information to measure citizenship, creating a higher education assessment system, and gathering data on international workforce comparison. Findings revealed in the annual education progress reports would enable the council to carry out its responsibilities.

According to the annual education progress reports from the National Education Goals Panel (NEGP), there is a disturbing gap between academic achievement and expectations in the U.S. and other countries that hampers the nation's future competitiveness. American parents are letting our children down by being satisfied with mediocre performance and curricula that is not world class.

The report's findings on adult literacy emphasize that being literate in today's highly competitive environment requires more than being able to write and compute on a simple level. It means having higher level of knowledge, an ability to use that knowledge, and an unprecedented interest in continuing education. According to the report, businesses provide more training than any other sector - but primarily to those already well-educated. Yet it is entry-level workers and /or those in low-wage jobs, who are most likely to believe that their current skills will not be very useful in five years.

The report also found that children in low-income families are less likely than children in wealthier families to do well in school because children from low-income families are less likely to be born healthy, to enjoy routine health care, or to attend preschool. More efforts are needed to ensure that all children are healthy, socially and emotionally ready for school, able to express themselves verbally, and eager to learn about the world around them. Over one-third of the children entering kindergarten are disadvantaged. Ensuring that they begin school ready to learn will take a national commitment, including leadership from the very top, to make preschool children a priority. The report acknowledges that some progress is being made in developing ways to make sure

that children are ready for school.

The goals panel is currently developing the Early Childhood Assessment System , which will measure five characteristics that the panel has assembled as indicators of readiness for school. The characteristics are: physical well-being and motor development; social and emotional development; approaches toward learning; language usage; and general knowledge. The panel has recommended creating a voluntary state/local record system that would eventually permit comparable state high school completion and dropout data to be reported on a regular basis. Additionally, to help ensure that schools are free of drugs and violence and provide an environment conducive to learning, the panel is working to establish definitions and develop indicators needed to determine what contributes to such an environment. The report, however, indicated that there are areas where more progress is required.

## ELEMENTARY/SECONDARY EDUCATION

2  
The conference agreement to S. 2 died at the end of the 102nd Congress after the Senate failed to obtain the two-thirds vote needed to end debate and move to consideration of the agreement. The effort to block the Senate vote was successfully orchestrated by Secretary of Education Lamar Alexander, who has consistently called for a veto of the bill. The administration opposed the conference agreement because it failed to provide for private school choice, made no mention of "New American Schools," and called for the development and certification of prescriptive school delivery standards. NGA also opposed the provision on school delivery standards.

It is expected that many of the issues included in the conference agreement will be revisited in the reauthorization of the elementary/secondary education programs in the 103rd Congress. Such issues include the creation of a state grant program to support systemic education reform, authority for the Secretary of Education to grant states and schools waivers from federal regulations, codification of the re-configured National Education Goals Panel, and creation of the National Council on Standards and Assessments.

Contact: Patricia Sullivan, 202/624-7723

*"We are letting our children down by being satisfied with mediocre academic performance and curricula that is not world-class."*

—South Carolina Gov. Carroll A. Campbell Jr.

## EDUCATION GOALS

# International Comparisons Point to Need For Reform

*First in a series on goals report findings*

The second annual National Education Goals Report documents a disturbing gap between academic achievement and expectations in the United States and other countries that hampers the nation's future competitiveness.

The report reveals:

■ American parents are more satisfied with lower achievement levels than are Japanese parents, and American students tend to do less well in school as a result.

■ American workers are less likely to believe that they will need to upgrade their present job skills than are workers in Germany and Japan.

■ American schools offer—and students choose to take—less challenging coursework than do students in higher performing nations.

"Clearly, the world demands more of us, and now we must expect more of ourselves," South Carolina Gov. Carroll A. Campbell Jr., immediate past chair of the National Education Goals Panel, said in releasing the report. "We're dealing with massive inertia. American expectations are too low."

The report states that it is not "surprising that meaningful education reform is so difficult when those who should have the greatest personal stake in educational improvements (parents) are content with their children's mediocre performance levels."

Gov. Campbell said, "We are letting our children down by being satisfied with mediocre academic performance and curricula that is not world-class. That was adequate in the past but doesn't allow our children to compete."

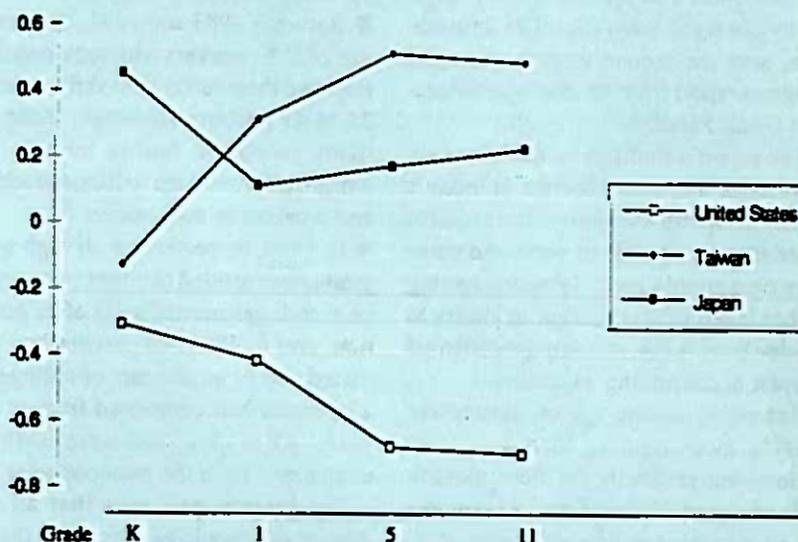
Other findings include:

### Low Expectations from Parents

■ Research comparing education in selected cities in the U.S., Japan, and Taiwan shows that American students lag in math achievement by as early as first

## Mathematics Achievement Through School

Mean scores on mathematics tests. The math achievement of students in Minneapolis lags behind students in Taipei, Taiwan, and Sendai, Japan, as early as first grade and widens throughout high school.



grade and that the gap grows with age.

■ Mothers in Japan are much more likely to value education and to stress the importance of doing well in school than are their U.S. counterparts.

■ Japanese mothers tend to attribute low achievement, even at a young age, to lack of hard work, whereas American mothers are more likely to emphasize a lack of ability or talent in a subject.

■ Parents in the U.S. tend to be very satisfied when their fifth-graders perform at the 60th percentile, while parents in Taiwan and Japan are not very satisfied unless their children score at or near the 80th percentile.

### Low Expectations from Schools

■ The lack of rigorous curriculum for all students has been cited as the reason for the achievement gap in math and science between American students and their foreign counterparts. For example, U.S. students tend to be placed in different mathematics courses based on their presumed ability, while virtually all Japanese presecondary students are exposed to

advanced mathematical content.

### Low Expectations from Workers

■ American workers were less likely than workers in West Germany and Japan to agree that they should think of better ways to do their jobs or to anticipate a need to upgrade their job skills. ■

October 12, 1992

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Shelley Borysiewicz, Staff Writer

*The report emphasizes that being literate in today's highly competitive environment requires more than being able to write and compute on a simple level.*

## EDUCATION GOALS

# Few Have High-Level Literacy Skills, Says Goals Report

*Second in a series on goals report findings*

While 97 percent of young American adults have mastered the most basic functional literacy skills, few are able to perform more complex tasks that require the synthesis of many pieces of information, says the second annual education progress report from the National Education Goals Panel.

The report's findings on adult literacy emphasize that being literate in today's highly competitive environment requires more than being able to write and compute on a simple level. It means having higher levels of knowledge, an ability to use that knowledge, and an unprecedented interest in continuing education.

According to the report, businesses provide more training than any other sector—but primarily to those already well-educated. Yet it is entry-level workers, and/or those in low-wage jobs, who are most likely to believe that their current skills will not be very useful in five years.

Other major new findings

■ Overall, U.S. workers were far more likely than Belgian, German, or Japanese

workers to predict that their present job skills would be very useful in five years. U.S. workers were much less likely than German or Japanese workers to report that workers should be expected to think up better ways to do their jobs.

■ Between 1983 and 1991, the percentage of U.S. workers who took training to improve their current job skills rose from 35 to 41 percent. However, those most likely to pursue further training were white-collar workers, college graduates, and workers in mid-career.

■ In 1990, 61 percent of all high school graduates enrolled in either two- or four-year colleges immediately after graduation, and in 1991, 43 percent had completed two or more years of college, and 27 percent had completed four or more years. All of these rates were essentially unchanged from the previous year.

The literacy goal says that all adult Americans should be literate by the year

2000 and have the knowledge and skills necessary "to compete in a global economy and exercise the rights and responsibilities of citizenship." But the report indicates a gap between the training received and the kind of training that is actually relevant to new technology, work methods, and markets.

The goals panel will present new comprehensive national and state data on adult literacy next year. In the coming months it will be reviewing proposals on ways to compare international workforce skills and measure collegiate attainment and performance, soliciting feedback and developing action plans where appropriate. Discussion will center on detailed recommendations on such comparisons and measures that the panel received in July 1992. ■

For more information on the report, contact Laura Lancaster, National Education Goals Panel, 202/632-0952.

## CLEAN AIR

# NGA: States Promote Pollution Prevention

For years, government, industry, and environmental groups have agreed the most cost-effective way to protect the environment is to prevent pollution—achieving the most efficient use of resources to reduce or eliminate waste. A new NGA report, *Pollution Prevention*, describes how states are transforming this concept into tangible results.

It says government's best role is to underscore pollution prevention's rewards, identify methods for achieving it, and invest the time and resources needed to implement it. The report recommends that states take the following steps.

- Promote prevention at the highest level of government.
- Create a multimedia focus through innovation.
- Accommodate and reward private ec-

tor pollution prevention efforts.

- Forge public/private cooperation through committees.
- Provide technical assistance.
- Collect and integrate reliable pollution prevention data.
- Participate in interstate organizations.

The report stresses efforts to overcome entrenched government and business practices that favor pollution control over pollution prevention.

Furthermore, many states have recognized the potential for all government agencies to promote pollution prevention, whether by changing their own practices or encouraging businesses to change theirs. ■

*Pollution Prevention* is available for \$18.95, from NGA Publications, P.O. Box 421, Annapolis Junction, MD 20701.

November 9, 1992

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*The goals panel is currently developing an early childhood assessment system, to measure five characteristics the panel has assembled as indicators of readiness for school.*

## SCHOOL READINESS

# More Efforts Needed to Ensure Children Ready for School

*Third in a series of goals report findings*

Children in low-income families are less likely than children in wealthier families to do well in school because children from low-income families are less likely to be born healthy, to enjoy routine health care, or to attend preschool.

According to the second annual education progress report from the National Education Goals Panel (NEGP), more efforts are needed to ensure that all children are healthy, socially and emotionally ready for school, able to express themselves verbally, and eager to learn about the world around them.

"Over one-third of the children entering kindergarten are disadvantaged. Ensuring that they begin school ready to learn will take a national commitment, including leadership from the very top, to make preschool children a priority," says panel member U.S. Sen. Jeff Bingaman (D-N.M.).

The report acknowledges that some progress is being made in developing ways to make sure that children are ready for school.

The goals panel is currently developing the Early Childhood Assessment System, which will measure five characteristics that the panel has assembled as indicators of readiness for school.

The characteristics are: physical well-being and motor development; social and emotional development; approaches toward learning; language usage; and general knowledge.

However, the report also indicates areas where more progress is required:

- Between 1973 and 1991, the percentage of three- to five-year-olds enrolled in nursery school almost doubled, from 19 percent to 37 percent. However, children from higher income families are roughly twice as likely to attend nursery school as children from low-income families.

- The percentage of mothers receiving early prenatal care increased during the 1970's for all racial/ethnic groups, but leveled off since 1980. Between 1988 and 1989 the proportion of mothers receiving early prenatal care declined slightly, while the number receiving late or no prenatal care increased slightly.

- In 1991, fewer than half of all preschoolers were read to daily and fewer than half were told stories by their parents several times per week.

- Among children three to eight, it is the younger ones—those in preschool and kindergarten—who watch the most television.

"Providing special services in school is a costly remedy for the failure to nurture children when they are very young," says the report.

"But assuring that every child is ready to learn is important beyond economic considerations," the report said. ■

For more information on the second annual education progress report from the National Education Goals Panel (NEGP) and its findings, contact Laura Lancaster, NEGP, 202/632-0952.

## EDUCATION GOALS

# Media Campaigns Launched

A five-year national media campaign to build public support for education reform and to change public attitudes toward education was launched Nov. 17 in Washington, D.C. "Creating a world-class education system will require significant changes—in our schools, in our education systems, and in our attitudes about education," NGA Chairman Roy Romer of Colorado said at the campaign's kick-off event.

A second campaign also is being launched this month to build public support for early intervention programs for young children.

The education reform campaign, "Keeping the Promise," will feature broadcast and print public service announcements.

Viewers and readers will be encouraged to call a toll-free number for information about the national education goals and ways to get involved in their communities' education reform efforts.

"We as a nation must 'keep the promise' to our children by providing educational opportunities that enable each child to meet his or her full potential," said Gov. Romer, a former chair of the National Education Goals Panel. "Our goal is to build public support for education and to motivate citizens to action."

The campaign is being sponsored by the Advertising Council and the Education Excellence Partnership, a coalition consisting of NGA, the Business Roundtable, the National Alliance of Business, the American Federation of Teachers, and the U.S. Department of Education.

The campaign for early intervention efforts is sponsored by the Ad Council and the Academy for State and Local Government. It will use television, radio, and print advertising to convey the message: "Change the world of a child and you change the world." ■

November 23, 1992

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*The goals panel recently chartered a council to coordinate the development of national education standards and a voluntary system of assessments aligned to them.*

## EDUCATION GOALS

# U.S. Education Standards, Student Achievement Still Low

*Opportunities are expanding for those with high skill levels, but dropping for others*

### *Last in a series on goals report findings*

High school completion rates for 19- and 20-year-olds improved between 1975 and 1991, and the use of alcohol and other drugs declined from 1980 to 1991, according to the second annual education progress report from the National Education Goals Panel.

However, U.S. education standards generally do not match those of most other developed nations, and U.S. student achievement in math, science, and other core subjects is too low.

The report's section on high school completion notes that while employment opportunities are expanding for those with higher skill levels — those most able to adapt to technical changes — opportunities are rapidly disappearing for those with only rudimentary skills.

The individual youth who left school before graduating in 1990 can expect to earn less than half as much over a lifetime as a youth who dropped out in 1973.

It also reports that surveys of American students and parents indicate a prevailing attitude that science and math are not

important and that high achievement results from "having the right genes," not from hard work.

At the same time, it also indicates that that more and more students must cope with theft and vandalism, assaults involving weapons, and influences that encourage their use of drugs and alcohol. Other findings:

■ In 1991, the overall high school completion rate for 19- to 20-year-olds and 23- to 24-year-olds was 85 percent. Although the completion rates for both age groups dropped by one percentage point from their 1990 levels, these differences were not statistically significant.

■ According to a recent study of dropouts between the eighth and tenth grades, not liking school and not being able to keep up at school were two of the main reasons students gave for leaving.

■ Sizable percentages of dropouts reported that they would return if school could accommodate their academic and personal needs, such as providing tutoring help and classes at night or on weekends.

■ In 1988, 55 percent of all American eighth graders had not mastered simple math operations with decimals and fractions, and 26 percent of all American eighth graders had not mastered everyday science knowledge about the natural world.

■ American 13-year-olds were outperformed by students in Hungary, Korea, and Taiwan in three of the four science areas in 1991. They were also outperformed by students in Korea, Switzerland, and Taiwan in all areas tested in a 1991 mathematics assessment, and by students in France and Hungary in four of five math areas tested.

■ Between 1990 and 1991, the percentage of 12th graders who reported being threatened with a weapon increased from

13 to 16 percent. This increase is consistent with a pattern of increases in instances of student victimization at school from 1980-1991.

■ According to 1991 data, students in progressively higher grades are less likely to disapprove of adults drinking large quantities of alcohol or trying marijuana, and more likely to engage in these behaviors themselves.

To help obtain more information on the number of students completing and dropping out of school, the panel has recommended creating a voluntary state/local record system that would eventually permit comparable state high school completion and dropout data to be reported on a regular basis.

Other ways to obtain comparable data are also being pursued.

To help ensure that schools are free of drugs and violence and provide an environment conducive to learning, the panel is working to establish definitions and develop indicators needed to determine what contributes to such an environment.

To learn how student competence in challenging subjects measures up against world-class standards, the panel recently chartered a council to coordinate the development of national education standards and a voluntary system of assessments aligned to them.

The panel is also working to help ensure the quality and integrity of international assessments if future comparison of U.S. students in math and science are to be made. ■

Earlier installments in this series focused on academic expectations and achievement in the United States and other countries, adult literacy, and school readiness. For more information on the findings of the national education progress report, contact Laura Lancaster, National Education Goals Panel, 202 632-0952.

December 7, 1992

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**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**TASK FORCE ON STATE MANAGEMENT**

**TAB 7**

- **Summary of Issue and Briefing Paper** **A**
- **Redesigning State Government** **B**

# TASK FORCE ON STATE MANAGEMENT

## SUMMARY

### *State-Oriented Management Issue and Briefing Paper*

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#### ISSUE:

- *Redesigning State Government*

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

Governors who set a clear policy agenda and who have an effective structure for managing the agenda substantially increase the odds that they will accomplish their policy goals. Many Governors look to a policy unit to identify emerging issues and problems confronting the state, analyze possible solutions and strategies, provide the Governor with information needed to make decisions, and oversee policy implementation.

There are a number of organizational models available for managing a policy unit within the governor's office, a separate integrated policy/budget office, or free-standing policy agency. Variations on these options include an informal policy group coordinated by the governor's office and informal policy groups within the governor's office. The following case studies describe how and why five governors chose to organize their policy staff and manage their policy agenda: The cases illustrate a full range of organizational options and provide real-world examples of how management styles and structures are used to accomplish specific gubernatorial priorities.

- \* A policy unit located in the governor's office (such as in New Jersey) has ease of access and communication with the governor and the senior staff;

- \* An integrated policy/budget office (such as in Iowa) can do just that - help integrate the policy agenda and budget;
- \* A free-standing policy unit (such as in Maine) typically provides a wider range of professional services, sometimes including oversight of special programs and even research and analytical support to the legislature;
- \* An informal policy group coordinated by the governor's office (such as in North Dakota) relies heavily on agency input and maintains direct access to the governor for strategic advice and direction;
- \* The use of informal policy groups within the governor's office (such as in Idaho) formalizes the involvement of senior staff (as the 'inner circle'), legitimizes involvement of all staff (as the "outer circle"), and seems to serve well those governors who prefer a hands-on management style.

Without effective agenda management, governors may run the risk of losing control of their agenda to others and spending their time instead on the minutiae of government. The roles that both governors and staff play in managing the policy agenda are influenced in part by the governor's personal style and preferences. The choice and location of a policy unit and the use of other means of managing the policy agenda must also fit gubernatorial roles and styles. Effective agenda management often depends more on the people and processes involved, including the use of supplementary mechanisms for shaping and steering the agenda. These mechanisms include obtaining citizen input, using a formal steering group, using cabinet councils on cross-cutting issues, and using task forces on specific issues.

## Setting a Clear Policy Agenda Helps Accomplish Goals

Governors who set a clear policy agenda and who have an effective structure for managing the agenda substantially increase the odds that they will accomplish their policy goals, according to a new report from NGA and the Council of Governors' Policy Advisors (CGPA).

The report, *Managing the Policy Agenda: Organizational Options for Governors*, contains case studies that describe how and why five governors chose to organize their policy staff and manage their policy agenda.

The governors are Idaho Gov. Cecil D. Andrus, Iowa Gov. Terry E. Branstad, Maine Gov. John R. McKernan Jr., former New Jersey Gov. Thomas H. Kean, and North Dakota Gov. George A. Sinner. The cases illustrate a full range of organizational options and provide real-world examples of how management styles and structures are used to accomplish specific gubernatorial priorities.

### Organizing the Policy Unit

Many governors look to a policy unit to identify emerging issues and problems confronting the state, analyze possible solutions and strategies, provide the governor with information needed to make policy decisions, and oversee policy implementation.

There are a number of organizational models available for managing a policy unit, including a policy office within the governor's office, a separate integrated

policy/budget office, or a free-standing policy agency. Variations on those options include an informal policy group coordinated by the governor's office and informal policy groups within the governor's office.

- A policy unit located in the governor's office (such as in New Jersey) has ease of access and communication with the governor and senior staff.

- An integrated policy/budget office (such as in Iowa) can do just that—help

*Many governors look to a policy unit to identify emerging issues.*

integrate the policy agenda and budget.

- A free-standing policy unit (such as in Maine) typically provides a wider range of professional services, sometimes including oversight of special programs and even research and analytical support to the legislature.

- An informal policy group coordinated by the governor's office (such as in North Dakota) relies heavily on agency input and maintains direct access to the governor for strategic advice and direction.

- The use of informal policy groups within a governor's office (such as in Idaho) formalizes the involvement of senior staff (as the "inner circle"), legitimizes involvement of all staff (as the

"outer circle"), and seems to serve well those governors who prefer a hands-on management style.

### Managing the Agenda

Without effective agenda management, governors may run the risk of losing control of their agenda to others and spending their time instead on the minutiae of government.

The roles that both governors and staff play in managing the policy agenda are influenced in part by the governor's personal style and preferences. The choice and location of a policy unit and the use of other means of managing the policy agenda also must fit gubernatorial roles and style.

Any configuration of gubernatorial staff can serve the governor well in helping to manage the governor's agenda, as long as staff roles are clearly communicated to others.

Effective agenda management often depends more on the people and processes involved, including the use of supplementary mechanisms for shaping and steering the agenda.

These mechanisms include obtaining citizen input, using a formal steering group, using cabinet councils on cross-cutting issues, and using task forces on specific issues. ■

For further information, contact Kelly Donley French of NGA, 202/624-7872, or Lauren Cook of CGPA, 202/624-5824.

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**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**COMMITTEE ON ECONOMIC DEVELOPMENT  
AND  
COMMERCE**

**TAB 8**

- **Summary of Issues and Briefing Papers** **A**
- **Highway Obligation Ceiling; Full Funding Levels for Highways and Mass Transit as Authorized Under the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991** **B**
- **Improved Investment in Infrastructure Such as Telecommunications** **C**
- **Consumer Credit Reporting** **D**
- **Uniform Product Liability Code** **E**
- **Enactment of Legislation that Further Defines and Improves the State-Federal Partnership in International Trade Policy and Promotion** **F**
- **Legislative Implementation and Effective Federal-State Programs to Help Businesses, Workers, and Communities Adjust to Changes in:**
  - \* **Defense Spending** **G**
  - \* **NAFTA** **H**
- **Stronger State Role in Science & Technology Policy**
  - \* **The Pryor Proposal** **I**
  - \* **Prior-User Rights Proposal** **J**
  - \* **NSF Grant Awards to Guam** **K**

● *Note: Competitive Workforce included with Committee on Human Resources*

**COMMITTEE ON ECONOMIC DEVELOPMENT  
AND  
COMMERCE**

**SUMMARY**

*State-Federal Legislative Issues  
and  
Briefing Papers*

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**ISSUE:**

- ***Highway Obligation Ceiling: Full Funding Levels for Highways and Mass Transit as Authorized Under the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991***

The President signed H.R. 5518, the FY 1993 Transportation Appropriation Bill (P.L. #102-388) and has urged the states to expeditiously spend the funds made available to provide jobs to help promote economic recovery. Funding for surface transportation included highway funding of \$18 billion, with an obligation ceiling of \$15.33 billion, and \$3.8 billion for mass transit. The \$21.8 billion total funding available to the states falls \$3.9 billion below the \$25.7 billion enacted in ISTEA 1991, with an obligation ceiling less than the authorized \$18.3 billion. ISTEA also authorized \$5.2 billion funding for mass transit.

Governors had been urging Congress to provide full funding enacted in ISTEA. A resolution to that effect was unanimously adopted during NGA's 1992 Annual Meeting in Princeton, New Jersey, for the Governors believed that each state stands to lose several million dollars without the full funding. States have committed project funds and state plans have relied on the enacted level of funding. Transportation investments are critical to our nation's economic future.

Governors should fully exercise their new power to influence federal decisions associated with implementation of ISTEA 1991. Federal regulations should be such that will minimize burden on states administration while giving states unprecedented flexibility to use federal highway funds to meet statewide and regional development objectives. Myriad of regulations for complex requirements underlie new flexible

grant programs and governors' role is limited. Governors should develop state strategies to use ISTEA funds to link surface transportation network with ports, airports and rail systems.

#### BRIEFING PAPER:

- *Guam Mass Transit Authority*

The agency strongly supports full funding levels for highways and mass transits since GMTA gets only 10% of its funding from federal grants under a non-urban classification. Guam urgently needs additional grant monies to fund additional expenditures required by the American With Disabilities Act. The Act requires a separate "Paratransit" system and wheel chair lift on every vehicle bought after August 26, 1990, for persons with disabilities. Now, the agency is faced with a yearly expenditure in this area of over \$500,000 without additional federal grant funds.

#### ISSUE:

- *Improved Investment in Infrastructure Such as Telecommunications*

Telecommunications and economic development requires the sharing of innovative state programs which utilize telecommunications to strengthen economic development. Encouraging the development and diffusion of advanced telecommunications can improve delivery of many services, including education and health care.

NGA calls for governors to discuss ways that state telecommunications initiatives can enhance education and promote economic development. Discussion topics include using telecommunications as an alternative to transportation, use of transportation rights of way for fiber optic cables, state policies that encourage expansion of enhanced telecommunications infrastructure, and using telecommunications to expand education options. Additionally, Governors should persuade the private sector, businesses, parents, and the entire communities to support telecommunications investments and the use of telecommunications technologies.

## **BRIEFING PAPER:**

- ***Guam Telephone Authority***

The Guam Telephone Authority feels that Guam is being used as a "football" by the United States Government in the critical expansion of telecommunications in the Pacific. Guam is treated as an international location on one hand and a domestic location on the other. Guam is being held hostage as it moves forward in the ever changing Pacific Rim telecommunications advancement. The agency feels that it is about time the Federal Communications Commission (FCC) let go and allow Guam to become the ruler of its own advancement.

On Guam, local residential and business service is provided by the Guam Telephone Authority. Off-island communications are provided by a number of competitors, including MCI and IT&E. While these companies provided service through facilities considered "international" not domestic, the Columbia Communications Corporation was granted by FCC to provide a full range of domestic telecommunications service, including circuits connecting to public switched networks between the continental U.S., Alaska, and Hawaii on one hand and Guam on the other hand. This authorization of Columbia will allow for an opportunity to lower cost communications for the citizens of Guam.

In 1992, FCC required GTA to file interstate and foreign exchange tariffs. GTA demonstrated that filing of an access tariff would cause a catastrophic increase in local rates. Guam had asked FCC to implement the rate integration for Guam since to exclude Guam for domestic rate integration is discriminatory.

GTA seeks the Governor's support to convince FCC of the need for immediate fare and equal application of rates for all off-shore territories.

## **ISSUE:**

- ***Consumer Credit Reporting***

The 102nd Congress had not taken a final action on the issue of credit reporting for the House failed to pass an amendment to strip preemption language from H.R. 3596, the Consumer Credit Reporting Act. The House dropped consideration of the bill, but hopefully, legislation will again be proposed on

this subject in the 103rd Congress. In the Senate, legislation remained in the Senate Banking Committee because the Chairperson refused to report a bill that contained a preemption of state laws.

The states have not been preempted from enacting laws on the subject of consumer protection regarding credit reporting agencies. NGA is opposed to federal preemption of consumer protection laws in credit reporting which protect consumers from abusive and negligent actions of the consumer credit reporting firms. NGA had urged that the preemption language be dropped and reminded Congress that state government "has primary responsibility for consumer protection, and states have been leaders in credit reporting consumer protection". Without the amendment, the bill would have broadly preempted state consumer laws, weakening the states' ability to protect consumers from credit reporting abuses and inaccuracies that sometimes occur. NGA urges nation's Governors to support attempts made to modify the preemption language. NGA believes that states have the right to enforce federal credit reporting standards. Several states already have laws regulating credit reporting.

#### **BRIEFING PAPER:**

- ***Department of Revenue and Taxation***

The department is recommending that our Governor fully support the removal of the preemption language from H.R. 3596. Although at present Guam has not enacted any statute regulating credit reporting, Guam like most states would like to retain the option to enact local statute regulating credit reporting. Guam believes that no matter how thoroughly federal laws are discussed and deliberated, there are instances when local conditions and trade practices prevailing in an area like Guam are ignored. The department, therefore, strongly recommends that a letter be sent to the House in support for removal of the preemption language.

#### **ISSUE:**

- ***Uniform Product Liability Code***

Senate bill S. 640, the Product Liability Fairness Act, is pending in the Senate. NGA supports the adoption of a federal uniform product liability code that contains adequate consumer safeguards because of its implications for commerce, economic growth, and the welfare and safety of our citizens.

NGA believes that the nature and extent of the problem of liability insurance requires the coordinated efforts of the federal, state, local governments, and the private sector. The issue of product liability insurance reforms has increasingly pointed to federal action as a way to alleviate the problems faced by manufacturers with regard to inconsistent state product liability laws. 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, however, in establishing a uniform code, the federal government should assess the impact of such a code on public safety and consumer protection, and if deemed appropriate, should enhance federal safety and consumer protection standards.

**ISSUE:**

- ***Enactment of Legislation that Further Defines and Improves the State-Federal Partnership in International Trade Policy and Promotion***

To formulate and implement U.S. trade policy, NGA calls for a clear definition of the federal-state partnership. The new partnership must be able to effectively coordinate state and federal governments in all the major functions of trade policy; negotiation and implementation of trade agreements and dispute settlement. The nation's governors believe that using international trade to better the standard of living of Americans can no longer be met without the active and effective participation of states. The following NGA proposals for a new trade policy partnership are believed to be the necessary first steps to ensure that the U.S. takes maximum possible advantage of the global economy's expanding opportunities:

- \* ***Continuation of the Intergovernmental Policy Advisory Committee (IGPAC)***

To date, the working arrangements between the federal and state governments on trade policy have reflected informal and casual communications rather than regular coordination and contact. The most formal contact has been the IGPAC, established by Congress in 1974 and renewed in 1988. USTR has consulted regularly with IGPAC during the Uruguay Rounds and NAFTA. IGPAC should continue to be the centerpiece of the partnership since it has proven to be a valuable tool and reflects the perspectives of both state and local governments.

\* ***Establishment of an Intergovernmental Staff Function Within USTR***

The Office of the U.S. Trade Representative (USTR) serves as America's point of contact with more than 100 nations with which the U.S. conducts trade negotiations. USTR coordinates trade policy among federal agencies and as the central point of coordination on trade policy for the U.S. government, it is the appropriate link between the federal and state governments. An intergovernmental staff is needed at USTR. The USTR, being one of the smallest federal agencies could not be expected to carry out the additional coordination responsibilities called for by the expanding trade environment with its existing personnel. While it is for this reason that an intergovernmental staff is needed at USTR, such staff function is also customary at all other federal agencies that have regular dealings with state and local governments, and it is time for USTR to have this capacity.

\* ***Designation of a Trade Policy Coordinator in Each State***

While additional resources in the federal government are needed, they must be matched with additional resources in the state level. States have the double burden of participating in the complex trade policy issues confronting the U.S. and of developing expertise in what traditionally has been an area outside normal state government operations. One of the most difficult challenges for national trade policy that affects the states is dealing with fifty-five governments and the hundreds of state agencies that have the responsibility for administering everything. Just as national trade policy has required the establishment of a central coordinator in USTR, effective participation by states will require the designation of state trade policy coordinators. These coordinators, chosen by the Governors will serve as central points of contact in the state capitals for USTR and other federal agencies dealing with states on trade policy issues. They would serve as the voice of states on a day to day basis to federal agencies, and the link for requests for assistance from the federal government. These coordinators would ensure that all relevant state officials will be kept informed, while bringing into action those officials most

appropriate to the stage of the dispute.

Justification for federal financial support of state trade policy coordinators could be done through a cost share grant program. Legislation should include grants to provide financial assistance to states on a matching basis to fund the necessary staff, travel, and other direct costs of participating in trade policy development and implementation.

\* *Improvement of Existing State Programs Related to Trade*

The involvement of states in trade policy provides the opportunity to plan and prepare for the market-opening opportunities created by initiatives such as the Uruguay Round and NAFTA. By doing so, the ability of the U.S. to take full advantage of its trade policy is greatly enhanced. There is a matter of adjustment, though, to the economic realities brought about by changing trade policies. Trade adjustment assistance programs have been important federal policies since the Tokyo Round in 1979, however, they will have to be reformed and expanded at the conclusion of the NAFTA or Uruguay Round. The administration has pledged to propose such reforms and their development should be considered an essential part of the new partnership. State departments of labor have been the primary deliverer of employment, training, and income support services under the nations's trade adjustment programs. Moreover, education is a key state responsibility. State involvement in trade policy ensures that the specific needs created by new initiatives such as the NAFTA are met as efficiently as possible.

**BRIEFING PAPER:**

● *Department of Commerce*

The department believes that because Guam does not engage in the manufacture of products for export to foreign countries while imports the vast majority of the goods consumed here, international trade conditions have a substantially different effects on the economy and the material well-being of our people than they do in the States. However, with regards to the NGA, the department recommends to use the Governor's vote on trade issues in "log rolling" to gather votes favorable to Guam on issues of greater importance to us in exchange for our

vote in favor of the States' position on trade.

According to the department, the state-federal partnership indicates that the Governors' have been "coopted" into supporting the federal role and perspective in trade matters and neglecting their respective responsibilities to promote the interest of their own states above all others. The department recommends that Guam takes the opportunity of a "statesman's" role in reminding the Governors that the costs they bear in cooperating with federal initiatives often outweigh the benefits they gain for their own jurisdictions in the process. The department takes a firm stand that the "new federalism" is forcing more responsibilities to the states and territories while securing greater authority and power for the central government. It appears that the states are being lured by the bait of federal "dependency" mechanisms and are falling into a trap that will ultimately strip them of much of their authority under the Constitution. It is time that the Governors say no to hollow federal offers of benefits for which states will eventually bear inordinate costs. It should be impressed upon the NGA membership that the government within a democracy is intended to serve the interests of the people, rather than the people serving the interest of the government. The state governments serve as intermediaries between the populace and the nation's "leaders". We serve our nation in time of war, the nation should serve us in return during time of peace. Guam should keep in mind that the nation's protectionist tendencies are contrary to our own interests and they are short-term, externalize solutions for long-term, internal problems that will eventually have to be addressed with more lasting changes in any event. Any sacrifice that the nation makes today to give us greater strength in the long-run will be inconsequential in relation to the benefits that we gain.

The states should be expending efforts internationally to promote products of their own industries, but this activity should be a supplement to the overall national efforts. The national efforts should be designed to promote the interests of the nation as a whole and should not conflict with the interests of any state. The federal government's intimate interest in international trade for the purpose of the balances of payments and trade, national monetary policy, and national security, should dictate a much higher investment in promotions than occurs at present. The idea of a partnership is inimicable to the interests of both the states and the federal government in that it sets up a conflicts of interest rather than the proffered "spirit of cooperation". This type of cooperation, if supported at all, should be a cooperation of the federal government with the desires of the states, rather than the reverse.

The department strongly urges that a single responsible employee, the Guam's "Trade policy Coordinator", should represent Guam at all meetings on the Staff Advisory Council of the NGA's Committee on Economic Development and Commerce.

ISSUE:

- *Legislative Implementation and Effective Federal-State Programs to Help Businesses, Workers, and Communities Adjust to Changes in:*

- \* *Defense Spending*

Declining federal defense spending could have a great impact on individual states but NGA says that states could use existing programs to help defense-related firms convert to commercial enterprises, assist laid-off workers, retain workers threatened with job loses, and aid communities dependent on military bases or defense firms. Defense budget will decline by 15% between 1992 and 1997 under the administration's fiscal 1993 budget. Each state will be affected differently but the impact could be great, depending on the proportion of defense-related spending to total state spending, the percentage of the workforce in defense-related jobs, and other factors. The Governors call for new public policies needed to facilitate these conversions while working to ensure that any federal adjustment programs complement state strategies. Most states have developed adjustment strategies but request that federal resources should support state objectives.

Congress responded to the economic dislocation caused by declining defense spending by including roughly \$1.6 billion for the transition of workers and communities and the adjustment of defense firms in the FY 1993 Defense Authorization Act. The measure which is awaiting the President's signature includes: \$688 million for personnel benefits, including health transition benefits, aid for dislocated workers, occupational training, and the Troops to Teachers Program; \$694 million for technology conversion and dual use technologies for basic defense industries, small business, federal laboratories, and public-private partnerships; and \$132 million for state and community planning, economic development, and demonstration projects.

\* North American Free Trade Agreement (NAFTA)

The United States, Canada, and Mexico completed the NAFTA negotiations. A panel of state and local policymakers says that the North American Free Trade Agreement "bodes well with U.S. exports", but more time would be needed to determine if the complete final text, with implementing legislation and other actions, would fully promote U.S. interests. Although NAFTA is expected to expand U.S. market opportunities in Canada and Mexico, it may also have a small negative impact on the US economy - most notably in the automotive and agricultural sectors. States may have to respond with assistance for dislocated workers.

NGA supported the negotiation of NAFTA; one that is as comprehensive as possible and is sensitive to the implications for the environment, labor conditions, and sensitive industries. The NAFTA itself does not address worker adjustment, however, parallel activities are underway. The President has introduced a proposal for a new comprehensive worker adjustment program to respond to anticipated dislocations from NAFTA, defense conversion, and other economic shifts. There is not a consensus that any or all of these activities and provisions are sufficient. Many express concern about how a new worker program would be funded. These matters will need to be worked out in the implementing legislation.

There are a host of issues within NAFTA that specify or imply a role for state governments, including regulations of services, investment practices, development of environmental and safety standards, and participation in trade disputes. Again these matters may require legislative clarification. NGA supports a formal mechanism of coordination and communication between the states and the federal government. The Office of the US Trade Representative has designated a director of intergovernmental relations to work with state and local governments on an ongoing basis regarding implementation matters.

## BRIEFING PAPER:

- *Department of Commerce*

### Defense Spending

The department feels that in a general sense, all provisions of the Act by fostering conversion to a civilian economy, (10) benefit Guam. As part of the world, Guam benefits by conversion.

The provisions concerning community initiatives that include grants for planning and implementing for defense downsizing in communities can be beneficial to Guam. Grants that might be secured for Guam may be in the conversion of NAS to civilian airport use. Grants for planning the conversion of part of the Apra Harbor should also be considered.

### North American Free Trade Agreement (NAFTA)

The department would like to emphasize that any trade agreement which provides access to foreign markets should cover Guam, while Guam should have no less access to the U.S. market than provided to any nation under the trade agreement. Although Guam will benefit from the opening of international trade, a trade war would hurt Guam because of the impact on the world economy. Specifically, Guam's prosperity depends on Japan's and the Asian newly industrialized economies' prosperity.

At present, Guam's protectionist interests in preserving U.S. trade restrictions are weak. If all U.S. trade restrictions ceased, Guam would lose some unstable and unskilled jobs in textiles and watch assembly. These are declining industries for Guam. Currently, Guam generates an excess of unskilled jobs. Therefore, it is in Guam's best interest to take a position in support of free trade. The gain for Guam of freer world trade would be defused but significant. Guam will gain credibility when demanding market access. Guam has tariff-free access to U.S. market provided products satisfy U.S. Customs product of Guam criteria. If the Uruguay round eliminates quotas such as those on textiles, the U.S. will eliminate the machinery for issuing quotas. Thus, Guam would gain access also.

Guam's inclusion in the market opening measures is such a small position that it is likely to be ignored and forgotten. It is recommended that the Governor attends NGA's hearings (11) trilateral trade talks and Guam's position should be repeated

at forums until it is recognized by the U.S. Trade Representative. Also, cooperation on access to Canada and Mexico from the Governors of other territories and commonwealth maybe solicited. It is recommended further that Guam supports the extension of the "fast-track" trade negotiation authority.

ISSUE:

● *Stronger State Role in Science and Technology Policy*

The Carnegie Commission on Science, Technology, and Government has released a report, "Science, Technology, and the States in America's Third Century", calling for a stronger state role in science and technology policy and urges a firm partnership of state and federal governments in harnessing technological change. Scientific and technological issues are a fundamental element of almost every area of public sector responsibility. Furthermore, the National Science Foundation (NSF) and the state governments have joined with universities and industry as part of its on-going efforts to promote NSF-state interaction to create a program to support basic and applied research, promote technology advancement, and encourage technology transfer activities. The following proposals are of interest to entrepreneurial technology companies calling for support from nation's governors:

\* *The Pryor Proposal*

The Contractor Licensing Reform Act of 1992 (S. 2928) introduced by Senator Pryor seeks to establish an office of Contractor Licensing within the Department of Treasury that would require all companies to hold a license in order to do business with the federal government. If passed, the bill would force contractors to seek new licenses annually. Each company would have to submit to investigation to assure government officials that no conflict of interest exists. Each contractor would have to fully disclose every activity affecting the federal market. The bill would further bureaucratize technology procurement and in effect shut down the multi-billion dollar federal technology procurement market. Even companies that do not sell directly to the federal government, but whose products may be components in off-the-shelf and other systems purchased by the government, would be negatively affected. Although the bill was not widely supported, it made to the Senate Governmental Affairs Committee, heightening its

chances of passage.

\* *Prior-User Rights Proposal*

Technology-transfer efforts could face serious setbacks if a recommendation to the Administration to amend U.S. patent laws is adopted by Congress. To help standardize international patent law, the Advisory Committee on Harmonization has recommended that the U.S. change its unique first-to-invent patent structure to mirror Europe and Japan's first-to-file system. Moreover, the private-sector panel endorsed international adoption of a policy known as Prior User Rights, which in effect compromises both patent standards and strips exclusive rights to inventions. Anyone who can document use of the technology before an application was filed will be allowed to use and commercialize the product without paying royalty fees to the patent holder.

The current U.S. patent structure awards a patent to the individual or company who can verify beyond doubt its claim to invention. The existing system in Japan and Europe recognizes the patent claim of whoever files first, regardless of who discovered the product. The proposed change would adversely affect U.S. scientists, who typically publish their findings in trade journals or announce them at scientific meetings long before ever filing a patent.

The proposal has unleashed a fury of criticism in universities, federal laboratories and small business, who say adoption of the recommendation will devastate their research and development. If adopted, this right would weaken the U.S. patent system in favor of secrecy of invention that would threaten technology creation and transfer for all federal, non-profit and small organizations. The Prior-User Rights recommendations now rest, with the Patent Office's blessing on the desk of the Secretary of Commerce.

\* *National Science Foundation (NSF) Grant Awards to Guam*

Included herein, is a special grants report for Guam with all active NSF grants awarded to the University of Guam as part of NSF on-going efforts to promote NSF-state interaction on mutual science and technology research and education goals.



# Guam Mass Transit Authority

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



15 January 1993

## MEMORANDUM

TO: DIRECTOR, BUREAU OF PLANNING

FROM: PLANNER IV

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

Per your request we respond as follows:

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

  
MACK EZZELL

FILE: EXBR BUREAU OF PLANNING FY 93

FILE NAME: MACKBBMR

## HEALTH REFORM

### 'Managed Competition' Approach Endorsed

Agreement represents 'real mandate for change,' says Gov. Romer

Leaders of state and local government groups and businesses last week endorsed managed competition as the framework for national health care reform. The unprecedented alignment of state and local officials and representatives of small and large businesses represents "a real mandate for change," said NGA Chairman Roy Romer of Colorado.

Gov. Romer said the group has "taken a major step toward a restructured health care system that both controls costs and provides access. It is significant that we have called for creation of a basic benefit package and limitations on the tax deductibility of health insurance. We also agreed to establish national goals to slow the rate of growth in health care costs."

Gov. Romer said the governors "want

to come to the table with the new President and the newly formed Congress and work out the problems, so we truly can contain health care costs and provide universal access."

NGA Vice Chair Carroll A. Campbell Jr. of South Carolina said that "managed competition recognizes the need to control costs but maximizes the impact of market forces in health care. It does not propose a federal takeover of the health care system, which I oppose."

Gov. Campbell said the agreement moves the group toward a managed competition system that would emphasize services such as primary care and prevention—areas needing more attention in a reformed health care system. It would help improve care and people's health "on the front end" and stop cost-shifting

"so there should be effective savings for many people."

South Dakota Gov. George Mickelson, who co-chairs NGA's Task Force on Health with Vermont Gov. Howard Dean, called the agreement "unprecedented" and said it "effectively carves out a role for the states to administer their health care programs, which is essential." Gov. Dean said that access and cost control are most important, and emphasized that "some very tight expenditure controls" will be needed for a restructured system to work.

The agreement was reached in a meeting convened by NGA. Other governors participating in NGA's health care or federal budget deficit reduction discus-

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Continued on page 2

## INFRASTRUCTURE

### NGA Calls for Full Transportation Funding

The nation's governors last week urged the incoming administration and Congress to provide full funding for last year's landmark surface transportation law. Full funding will allow states to move ahead rapidly with highway and transit projects that will create thousands of jobs and help speed the nation's economic recovery.

Three governors in NGA leadership positions urged President-elect Bill Clinton to "accelerate investment in ready-to-go transportation projects by fully funding" the Intermodal Surface Transportation Efficiency Act (ISTEA)

of 1991. "This is a vehicle for immediate action, without creating new programs or structures," the governors said in a Dec. 16 letter. "A new survey of state programs indicates states could let bids this year on an additional \$8.5 billion in highway and bridge projects alone, with labor-intensive rehabilitation projects presenting the most pressing need."

The letter was sent by Illinois Gov. Jim Edgar, chair of NGA's Committee on Economic Development and Commerce; Rhode Island Gov. Bruce Sundlun, committee vice chair; and Nevada Gov. Bob Miller, lead governor on surface trans-

portation. They cite a survey by the American Association of State Highway and Transportation Officials (AASHTO).

The governors praised Clinton's leadership in promoting increased public investment in infrastructure and urged full funding of ISTEA "as an urgent first step in your economic growth strategy." Full funding would help in the short term by creating jobs and in the long term by enhancing economic competitiveness, they said.

Congress adopted ISTEA in 1991 with

Continued on page 2

## In this issue

### HEALTH REFORM

State, local government, and business leaders have taken a major step toward a restructured health care system. *Page 1*

### TRANSPORTATION

Full funding of 1991 transportation law will allow states to move ahead rapidly with job-creating projects. *Page 1*

### DEFENSE CONVERSION

States can use and are using existing programs to help defense-related firms convert to commercial ventures. *Page 3*

*The health care cost containment effort is part of a broader NGA initiative to discuss ways to reduce the federal deficit and promote strategic investment.*

## Health Reform

*Continued from page 1*

sions were Connecticut Gov. Lowell P. Weicker Jr.; Illinois Gov. Jim Edgar; Iowa Gov. Terry E. Branstad; Kansas Gov. Joan Finney; Maine Gov. John R. McKernan Jr.; Oklahoma Gov. David Walters; and Rhode Island Gov. Bruce Sundlun.

Also participating was Delaware Gov. -elect Thomas Carper.

Other organizations represented in the sessions included: the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities, and International City/County Management Association, the American Business Conference, the Committee for Economic Development, the National Federation of Independent Businesses, and The Business Roundtable.

A statement released by the group said that changes in the health care system should include:

- developing state and/or regional purchasing cooperatives to increase the buying power of small businesses and individuals;

- developing a federal basic benefit package, with the ability to adapt to the differing needs of states and regions;

- limiting the tax deductibility/exemption to the cost of the basic health insurance package, both to employers and employees, and extending the exemption for the cost of basic health insurance to the self-employed; and

- emphasizing capitated care plans in which providers assume the responsibility for the quality and cost of the care provided.

It also recognizes the need for:

- minimum federal standards for regulating health insurance practices, including limitations on rating and medical underwriting, and medical tort reform; and

- outcomes research as a basis for establishing practice guidelines, reforming medical malpractice law, and improving the quality of health care.

The agreement emphasizes the need for the federal government to carefully consult with states, localities, business, and labor in developing a basic benefit package.

The health care cost containment effort is part of a broader NGA initiative to discuss ways to reduce the federal deficit and promote strategic investment.

The statement adopted by the group represents the agreement of the participants in the meeting, not necessarily the organizations they represent.

NCSL has noted that it has certain formal policy positions that differ from some aspects of the group's statement. All participants in last week's meeting will take the statement back to their respective organizations for their consideration.

Gov. Romer said the group hopes "the participating organizations will develop formal policy supporting this statement."

The nation's governors will consider such a policy proposal during NGA's winter meeting Jan. 31-Feb. 2 in Washington, D.C. ■

## Transportation

*Continued from page 1*

overwhelming support. It promised the states more than \$25 billion a year in highway and transit improvements, but funding for the two surface transportation programs fell \$3.9 billion short of enacted levels for fiscal 1993. Highway programs were cut by \$2.5 billion and mass transit was cut by \$1.4 billion.

At a Dec. 16 news briefing in Washington, D.C., NGA Executive Director Raymond C. Scheppach said the AASHTO survey of state highway and transportation departments indicated the states could spend a total of \$26.5 billion in federal aid for highway and bridge projects by the end of fiscal 1993. Currently, only \$18 billion in federal highway aid is available to the states. That's the amount included in the budget Con-

gress approved, even though the law authorized \$20.4 billion for highways in fiscal 1993. Besides NGA, the briefing included several transportation, state, and local government groups.

States could immediately use the additional \$8.5 billion for transportation capital projects, highway and bridge rehabilitation and safety, and other improvements, Scheppach said. "This year, states have committed project funds at a rate faster than any other recent year."

Governors have consistently and very strongly urged Congress to fully fund the act, he said. "Sufficient funding will not only help the nation's economy over the short term, but also will help build the integrated, productive transportation network the nation needs."

The AASHTO survey says that state highway and transportation departments could fully obligate \$8.5 billion more

than the appropriated level for fiscal 1993, which is \$6 billion more than the authorized level of fiscal 1993 highway funds. If an expanded federal-aid highway program were continued through fiscal 1996, more than half the states (38) estimate they could have contracts ready to let on an additional \$22.82 billion in projects above the amounts available in ISTEA. States cite flexibility in the use of funds as the most important factor in creating any new highway investment program.

Other participants included representatives of AASHTO; the American Public Transit Association; the American Road and Transportation Builders Association; the U.S. Conference of Mayors; the Highway Users Federation, and the Surface Transportation Policy Project.

The briefing commemorated the first anniversary of ISTEA, which was passed a year ago this week. ■



**August 4, 1992**

**Honorable Thomas S. Foley  
Speaker of the House**

**Honorable Dan Quayle  
President of the Senate**

**Honorable George J. Mitchell  
Senate Majority Leader**

**The Honorable Robert Dole  
Senate Republican Leader**

**Honorable Richard A. Gephardt  
House Majority Leader**

**Honorable Robert H. Michel  
House Minority Leader**

**Honorable Robert C. Byrd  
Chairman  
Senate Appropriations Committee**

**Honorable Mark O. Hatfield  
Ranking Republican  
Senate Appropriations Committee**

**Honorable Frank R. Lautenberg  
Chairman  
Transportation Appropriations**

**Honorable Alfonse M. D'Amato  
Ranking Republican  
Transportation Appropriations**

**Honorable Jim Sasser  
Chairman  
Senate Budget Committee**

**Honorable Pete V. Domenici  
Ranking Republican  
Senate Budget Committee**

**Honorable Jamie L. Whitten  
Chairman  
House Appropriations Committee**

**Honorable Joseph M. McDade  
Ranking Republican  
House Appropriations Committee**

**Honorable William Lehman  
Chairman  
Transportation Appropriations**

**Honorable Lawrence Coughlin  
Ranking Republican  
Transportation Appropriations**

**Honorable Leon E. Panetta  
Chairman  
House Budget Committee**

**Honorable Willis D. Gradison, Jr.  
Ranking Republican  
House Budget Committee**

**Last year, Congress and the Administration joined together to enact the landmark Intermodal Surface Transportation Efficiency Act (ISTEA). Its enactment reflected a major commitment to creating jobs and improving our nation's vital transportation infrastructure.**

**In response to concerns that additional funds are not needed, states have committed project funds at a rate faster than any recent year. State plans have relied on the enacted level of funding and these transportation investments are critical to our economic future.**

August 4, 1992

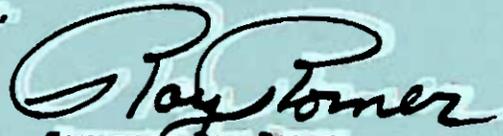
page two

Meeting this week in Princeton, New Jersey, the nation's Governors unanimously adopted the enclosed policy resolution proposed by Governor Bob Miller and the Transportation Committee. While we appreciate the efforts made in the House and Senate to secure the highest possible funding level for fiscal year 1993, we strongly urge you to continue exercising your personal leadership to secure full funding for the enacted highway obligation ceiling and other surface transportation programs. This action is absolutely crucial to economic recovery and the long term integrity of America's transportation infrastructure.

Sincerely,



Governor John Ashcroft  
Chairman



Governor Roy Romer  
Vice Chairman



Governor Tommy S. Thompson  
Chairman, Committee on  
Transportation, Commerce,  
and Communications



Governor Gaston Caperton  
Vice Chairman, Committee on  
Transportation, Commerce,  
and Communications

Enclosure

DRAFT  
#1  
WITH  
RATE  
INTERGRATION

# TELECOMMUNICATIONS ON GUAM

GOVERNOR JOSEPH F. ADA

GOVERNOR, TERRITORY OF GUAM

Guam is being used as a football by the United States Government in the critical expansion of Telecommunications in the Pacific. It is treated as an International location on one hand and a domestic location on the other. Guam is being held hostage as it moves forward in the ever changing Pacific Rim Telecommunication advancement. It is time the Federal Communications Commission let go and allow Guam to become the ruler of its own advancement.

The Territory of Guam, with a 1990 population of over 130,000, lies at the crossroads of the Pacific. It is the social, political and economic hub of Micronesia, located 6,000 miles from San Francisco, 3,700 miles from Honolulu and 1550 miles from Tokyo at 13 degrees north latitude and 114 degrees east latitude. Guam is 30 miles long and between 4 and 8 miles wide, covering an area of approximately 212 square miles. Citizens of Guam were granted U.S. citizenship by the Organic Act of 1950 and are entitled to all the rights and privileges appertaining thereto. Guam enjoys a tropical climate and although afflicted by serious typhoons, is gaining a worldwide reputation as an idyllic tourist haven.

With regard to telecommunications, local residential and business service is provided by the Guam Telephone Authority (GTA). Off-island communications are provided by a number of competitors, including two companies which provide the majority of interstate telephone service: MCI Telecommunications Corporation ("MCI") and IT&E Overseas, Inc. ("IT&E"). These companies provide service through facilities that are primarily considered "international", not domestic. Specifically, it is GovGuam's understanding that the carriers use satellite facilities by INTELSTAT and fiber optic submarine cables co-owned by U.S. and foreign entities.

However, on October 14, 1992 the FCC granted the application of Columbia Communications Corporation to provide a full range of domestic telecommunications services, including circuits connecting to public switched networks, between the continental U.S., Alaska, and Hawaii on the one hand and Guam on the other hand. GovGuam believes that the authorization of Columbia will have the effect of increasing opportunities for lower cost communications for the citizens of Guam.

Until recently, the Federal Communications Commission did not assert jurisdiction over the interstate interconnection activities of GTA. However, on June 2, 1992 the Commission issued an Order which required GTA to show cause why it should not be required to file interstate and foreign exchange tariffs. On December 9, 1992 GTA responded to the Show Cause Order and demonstrated that the filing of an access tariff would cause a catastrophic increase in local rates. GTA also pointed out that the citizens of Guam would not be likely to enjoy the reductions in rates for interstate services that accompanied implementation of access tariffs on the U.S. Mainland.

The Government of Guam has asked the FCC to undertake an immediate rule making leading to the implementation of rate integration for Guam. To not do so and continue the exclusion of Guam from domestic rate averaging is prima facie discriminatory. I seek your support in our efforts to convince the FCC of the need for immediate fair and equal application of rates for all off shore territories.

*The governors discussed ways that youth apprenticeship programs can target students whose needs are not being met by traditional education.*

## PRIORITY ISSUES

### NGA Meeting

*Continued from page 3*

designed for their grandfathers' time, where people only went to school a few months a year. Schools were created to help the family do some things it couldn't do. The family has changed, the world has changed, and it's time our schools changed."

Alexander, speaking at NGA's Human Resources Committee Aug. 3 session, called for a longer school day and a year-round school year.

### Apprenticeship Programs

Governors and other participants in the Human Resources Committee session also discussed ways that youth apprenticeship programs can target students whose needs are not being met by traditional education programs.

Maine Gov. John R. McKernan Jr., committee chair, said the state's Center for Youth Apprenticeship "draws liberally from business experience and business needs to make sure that students are trained for jobs that actually exist." The center's three-year program will be offered in 20 percent of Maine's high schools by 1993 and statewide by 1997.

U.S. Department of Labor Assistant Secretary Roberts T. Jones cautioned that the youth apprenticeship program should be used as a tool in the education process, and not a job training program in itself. "Youth apprenticeships should be looked at as another tool in reaching a group of young people in the education process."

Hilary Pennington, president of Jobs for the Future, said educational change "must be for all, and will only work as an integrated system. When we talk about youth apprenticeship programs, we are not talking about individual programs, but fundamentally changing the system to allow young people to make the transition."

### Welfare Reform

The Human Resources Committee also discussed ways that welfare reform strategies play a role in developing alternative education approaches. Judith Gueron, president of Manpower Demonstration

Research Corp., stressed reducing the reliance on public assistance by taking measures to reduce child poverty and encourage self-sufficiency for parents. "We must make welfare less attractive while increasing work incentives," Gueron said, "but not at the expense of children."

Gueron said the Aid to Families with Dependent Children (AFDC) program must change from a pure entitlement program to a program conditioned upon participation in work-related activities. MRDC's evaluations of work incentive (WIN) demonstration programs became the foundation of the governors' efforts that led to the passage of welfare reform legislation in 1988.

### Telecommunications

In a joint session of NGA's former economic development and technological innovation committee and former transportation, commerce, and communications committee, governors discussed ways that state telecommunications initiatives can enhance education and promote economic development.

Dan Daniel, project coordinator of a fiber optic network that links five West Virginia schools for interactive instructional television, said the system allows students to take language classes and other courses they wouldn't have access to without the network.

Daniel credited West Virginia Gov. Gaston Caperton with persuading the private sector, parents, and entire communities to support the network.

John Rau, co-chair of the Illinois Task Force on Advanced Telecommunications and Networking, said the task force used work groups, a survey, and focus groups to develop recommendations to help small businesses make greater use of telecommunications technologies.

The task force said the role of the states can include providing incentives for innovation; removing barriers to the use of telecommunications; helping small businesses learn about and gain skills in telecommunications; encouraging a broad-based telecommunications infrastructure; establishing technology discovery centers with private industry; promoting the creation of small business clusters; and

providing more on-line information services in state library systems.

### Enterprise Zones

U.S. Housing and Urban Development Secretary Jack Kemp urged the governors to support an enterprise zone bill that would create about 200 urban and 100 rural enterprise zones. A different enterprise zone bill, recently approved by the Senate Finance Committee, would create only 15 urban and 8 rural zones.

Kemp, addressing NGA's former economic development and technological innovation committee Aug. 3, said the committee bill bypasses many areas of the country that need aid the most and might not even get to Los Angeles until 1996 or later. He said the nation needs a "bold plan" that will drive job creation and entrepreneurship opportunities.

Kemp emphasized the concepts of empowerment and ownership, saying government can "do a lot better job of giving people a stake in their own communities." Maryland Gov. William Donald Schaefer said he agreed on the benefits of ownership, but said that other new efforts should be tried that focus more directly on the people who need help dealing with the pervasiveness of crime, violence, drugs, and other urban problems. "We don't get down far enough" with many efforts, he said.

### Transportation Funding

Transportation Secretary Andrew H. Card called on states to quickly spend \$16 billion in highway funds "to get the economy moving." But the states have already obligated 74 percent of the funding available through the 1991 surface transportation act and are calling on the federal government to provide full funding under the act.

Card urged the governors to "spend the money fast" to create jobs. "It's absolutely imperative that we get the money out of the pipeline in Washington," he said "We want to jump-start the economy and create jobs." Card said the administration's goal is to have all the funds obligated by the states on ready-to-start projects before the current federal fiscal year ends Sept. 30. ■

DEPARTMENT OF

**REVENUE & TAXATION**

GOVERNMENT OF GUAM

FRANK P. BLAS  
Assistant Secretary

JOAQUIN G. BLAS, Director - V.M. CONCEPCION, Deputy Director

## CONSUMER CREDIT REPORTING

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

The Territory of Guam like most states, would like to retain the option to enact local statute regulating credit reporting. In this matter now thoroughly federal laws are discussed and deliberated there are many instances when local conditions and trade practices prevailing in an area like Guam are ignored.

It is recommended that the Territory of Guam fully support the Senate Banking Committee for refusing to report the bill that contained a preemption of state laws.

It is likewise recommended that letters be sent to the House to remove or take away the preemption language from H. R. 3596, the Consumer Credit Reporting Act.

In the event the preemption language is taken away from both the Senate and House bills, the states would then retain the right to enact laws on consumer credit reporting protection.

### CREDIT REPORTING

The 102nd Congress took no final action on this issue. Therefore, states have not been preempted from enacting laws on the subject of consumer protections regarding credit reporting agencies. However, Congress is not entirely supportive of this right and it is likely that legislation will again be proposed on this subject in the 103rd Congress. Currently, twenty states have laws regulating credit reporting: Arizona, Arkansas, California, Connecticut, Florida, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, New Mexico, New York, Oklahoma, Texas, Utah, and Vermont.

When the House of Representatives recently considered H.R. 3596, the Consumer Credit Reporting Act, with a provision preempting state laws on the subject, House Banking Committee Chairman Gonzalez proposed an amendment to strike the preemption language, which was defeated by a vote of 203-207. The House then dropped consideration of the bill for this year.

In the Senate, legislation remained in the Senate Banking Committee because Chairman Riegle refused to report a bill that contained a preemption of state laws. However, he did not have the votes to strike the preemption language.

Contact: Tim Masanz, 202/624-5611



August 4, 1992

Honorable John D. (Jay) Rockefeller  
United States Senate  
SH-109 Hart Building  
Washington, D.C. 20510

Honorable Robert W. Kasten, Jr.  
United States Senate  
SH-110 Hart Building  
Washington, D.C. 20510

Dear Senator Rockefeller and Senator Kasten:

In response to your request, we are writing to share with you the position of the National Governors' Association on product liability. This is a subject of importance to all Governors because of its implications for commerce, economic growth, and the welfare and safety of our citizens.

NGA 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. But the issue of product liability insurance reform has increasingly pointed to federal action as a way to alleviate the problems faced by manufacturers with regard to inconsistent state product liability laws. Clearly a national product liability code would greatly enhance the effectiveness of interstate commerce, and the Governors urge Congress to adopt a federal uniform product liability code.

In establishing a uniform code, the federal government should assess the impact of such a code on public safety and consumer protection and, if deemed appropriate, should enhance federal safety and consumer protection standards.

Enclosed is the complete statement of policy. Thank you for your consideration in this matter.

Sincerely,

Governor Jim Edgar  
Chairman  
Committee on Economic  
Development and Technological  
Innovation

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

Enclosure



## **E-7. UNIFORM PRODUCT LIABILITY CODE**

The National Governors' Association recognizes 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 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 has increasingly pointed to federal action as a way to alleviate the problems faced by product manufacturers with regard to inconsistent state product liability laws. This lack of uniformity makes it impossible for insurers to predict accurately the potential liability of product manufacturers and insurers. Clearly, a national product liability code would greatly enhance the effectiveness of interstate commerce. Furthermore, the system causes inflated prices for our consumer goods, the discontinuation of necessary product lines, and adversely affects the international competitiveness of the U.S. 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.

Adopted August 1986; revised August 1991.

## United States Senate

WASHINGTON, DC 20510-4 02

July 31, 1992

Dear Colleague,

We are writing to seek your support for S.640, the Product Liability Fairness Act, and to explain the basis for our endorsement of this legislation. As you know, the Senate plans to take up S.640 on a motion to proceed on September 8, immediately following the August recess.

The provisions in S.640 have been developed and refined for over a decade. Unlike early attempts at federal product liability reform, our bill balances the interests of consumers and businesses, combining a more moderate package of changes, some of which benefit manufacturers, some of which benefit victims, but which will produce a fairer and more certain system of rules for redressing product injuries.

It is as important to note what is not in the bill as what is in the bill. S.640 does not --

- \* contain any caps on damage awards.
- \* set standards of liability for product manufacturers.
- \* tell plaintiffs' lawyers how much they can charge.
- \* eliminate the ability of an injured victim to be fairly compensated for all economic damages.

S.640 will restore basic principles of fairness to our product liability laws, strengthen U.S. competitiveness, enhance product innovation, and advance consumer welfare and safety -- all of which represent fundamental Democratic goals.

Three important themes permeate S.640: 1) increased incentives for accident prevention by those who can best accomplish that goal; 2) elimination of some unfairness and arbitrariness in the law, both for people who are injured and those who make products; and 3) reduction of unnecessary legal costs.

Dear Colleague  
July 31, 1992  
Page 2

The bill achieves these goals through a variety of changes in our current tort system. First, S.640 contains a statute of limitations that will open courthouse doors in many states to injured persons by suspending toxic tort claims until a claimant knows both that she or he has been harmed and the cause. This provision ends the present substantial unfairness to injured persons.

Second, S.640 reduces unnecessary legal costs and puts money in the hands of injured persons more quickly through an expedited settlement provision that encourages businesses and victims alike to settle cases early.

Third, S.640 increases incentives for employers to maintain safe workplaces. Currently, the law in most states permits employers that have mis-used a product in the workplace to recover, from a manufacturer, workers' compensation payments made to an injured employee through a mechanism called a "subrogation lien." S.640 ends this practice if a manufacturer shows by clear and convincing evidence that an employee's injury was due to employer fault.

Fourth, by prohibiting punitive damages where the Food and Drug Administration (FDA) or the Federal Aviation Administration (FAA) has approved a product, S.640 creates an important incentive for companies to engage in full disclosure and compliance with all FDA and FAA regulations. However, a manufacturer that withholds material information from the FDA or the FAA would be subject to the full thrust of punitive damages -- these are the familiar cases where punitive damages have been imposed in the past.

The FDA/FAA provision encourages companies to innovate and market new and useful products, e.g., medical devices and pharmaceuticals and aircraft. Recently, a company working on a vaccine to prevent AIDS, the Immune Response Corporation, stopped its promising work because of liability concerns. S.640 would encourage companies like Immune Response Corporation to continue their efforts.

The bill also permits punitive damages where a plaintiff proves by clear and convincing evidence that the harm resulted from the manufacturer's "conscious, flagrant indifference to the safety of those who might be harmed by a product." S.640 does not limit (or "cap") the amount of punitive damages which may be awarded, and it does not take away the jury's right to decide punitive damages awards.

Dear Colleague  
July 31, 1992  
Page 3

Fifth, S.640 says to manufacturers of capital goods used in the workplace that their liability will not continue beyond twenty-five years. This provision will not leave injured people without compensation because it only bars product liability claims against capital goods manufacturers if the claimant is entitled to workers' compensation benefits. A similar provision in the European Community Product Liability Directive stipulates only ten years.

Finally, S.640 denies recovery to people whose use of alcohol or illegal drugs is the predominant cause of their injury. Once again, S.640 places responsibility for accident prevention on the party who is in the best position to avoid it.

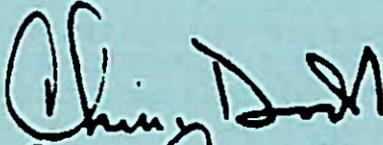
Early versions of product liability reform legislation lacked the balance and bipartisan support achieved by S.640, but the benefit of time has allowed this bill to mature into fair and moderate legislation. S.640 does not limit or cap damages; it does not set standards of liability for product manufacturers; it does not tell plaintiffs' lawyers how much they can charge; and it does not eliminate the ability of an injured victim to be fairly compensated for all economic damages. Opponents of product liability reform have often misrepresented the scope and provisions of S.640, but in reality, this is the most even-handed product liability bill to come before the Senate. It will make product liability law fairer for both businesses and injured people.

S.640 won't give absolute predictability to the law or radically cut insurance rates. It will, however, help reduce unnecessary legal costs and encourage accident prevention. Most importantly, it is fair to consumers and businesses. Democrats share these goals for our country, and we believe S.640 is the kind of sound, rational legislation that those of us who traditionally represent consumers can and should endorse. A uniform product liability law must be pursued as an integral part of our country's effort to achieve a prosperous future.

We hope you will join us in supporting S.640. Please get in touch with us if you have any questions or concerns about the bill. We want to do everything possible to help you consider this issue. Thank you.

Dear Colleague  
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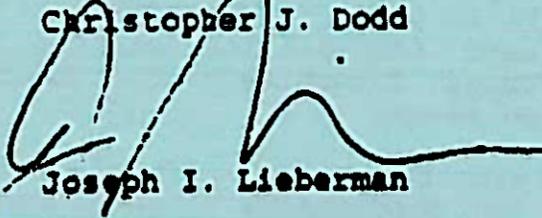
Sincerely,



Christopher J. Dodd



John D. Rockefeller IV



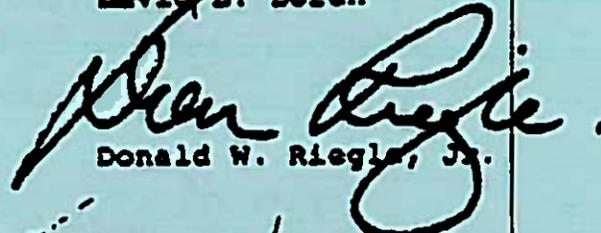
Joseph I. Lieberman



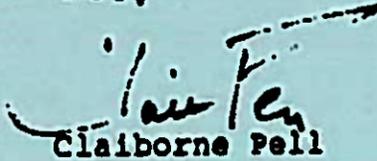
David L. Boren



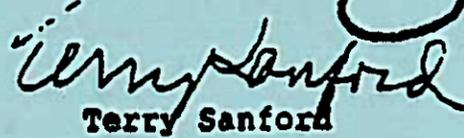
Lloyd Bentsen



Donald W. Riegle, Jr.



Claiborne Pell



Terry Sanford



John Glenn

**BRIEFING**  
Trade Issue  
1993 Winter Meeting  
National Governors' Association  
Department of Commerce

**BACKGROUND**

Because Guam engages in virtually no manufacture of products for export to foreign nations and because the island imports the vast majority of the goods consumed here, international trade conditions have a substantially different effect on the economy and the material well-being of our people than they do in the States. Consequently, although our interests are aligned with those of the several States in some trade issues, in most cases they are diametrically opposed. With regard to the National Governors' Association and the positions that the collective body takes, the recommended course of action is to use the Governors' vote on trade issues in "log rolling", to gather votes favorable to Guam on issues of greater importance to us in exchange for our vote in favor of the States' position on trade.

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

This document, included in the package preparing Governors for this year's NGA meeting, is quite disturbing, and indicates that the NGA is far along the road to surrendering States' rights under the Constitution to the "new federalism". It indicates that the governors have been "coopted" into supporting the federal role and perspective in trade matters, and neglecting their respective responsibilities to promote the interest of their own States above all else. It appears that the governors have succumbed to a federal appeal to their sense of national pride (nationalism) in a way that endangers the separation of state from central government power, thus putting the benefits of decentralized government in jeopardy. Guam has the opportunity to take the "statesman's" role in reminding the governors that the costs that they bear in cooperating with federal initiatives often outweigh the benefits that they can gain for their own jurisdictions in the process.

The "new federalism" is forcing more responsibility on to the States (and Territories) while securing greater authority (and power) for the central government. This is as true in international trade as it is in other more evident areas. National trade negotiations and prerogatives are increasingly crossing boundaries of power traditionally reserved to the States under the Constitution, so that States' laws and regulations must be modified to comply with national trade commitments. It appears that the States (and their governors) are being lured (or blackmailed) by the bait of the federal "dependency" mechanisms, and are falling into a trap that will ultimately strip them of much their authority under the Constitution. It is time that the States and their governors learn to "just say no" to hollow federal offers of benefits for which the States will eventually bear inordinate costs.

Over the past fifteen years, the focus of international trade negotiations has turned from tariff and quota issues to so-called "non-tariff" barriers to trade. These non-tariff barriers include such things as licensing requirements, economic development program subsidies, product health and safety standards, and so forth. These are legal and regulatory areas that have been reserved for the States; the national government has been negotiating away elements of States' prerogatives in its international dealings, then effectively forcing the States into compliance by appealing for State support of "national" objectives, even when the means to those objectives often go against the internal self-interest of the States themselves. The result may have been short-term gains in a strictly national context, accompanied by localized losses in other jurisdictions, alluded out of a spirit of cooperation, but the long-term results have indicated a continued deterioration of the United States (and the individual States') ability to compete in the international arena.

Take the automobile industry as an example: The people of Hawaii receive no benefits whatsoever from protecting Detroit from Japanese competition, yet they certainly bear significant costs associated with such protection. In the meantime, the Detroit auto makers are allowed to continue their inefficient operations, the United Auto Workers continue their ability to command irresponsible labor concessions, the quality of U.S.-made vehicles continues to decline (while prices continue to escalate), and the ability of the industry to compete internationally continues to erode. What have the people of Hawaii (or of Detroit, for that matter) gained from this? The distortion of international markets that has been engendered by automobile protectionism has ultimately served to do damage to the entire national economy, even though there initially were short-term benefits gained by a few groups and individuals.

The proposal for a new "partnership" will have this same effect: it is an attempt to get the governors to make their own States' interests subordinate to those of the nation, with the net effect of transferring power from the State level to the national government's regime. It does not represent an attempt to get the federal government to coordinate its policies in international trade with the objectives of the States, but rather an attempt to get the States to fall in line behind the national government's objectives. It is said that one of the principal advantages of a capitalistic economic system is its reliance on decentralized decision-making. With this procedure, a bad decision has only a localized impact, while a good decision can gradually be adopted by others. The centralized decision-making of so-called "communist" systems is open to disaster as the result of one wrong move. The lesson is that centralized decision-making on a large scale, particularly when driven by short-term goals and objectives (as is the case in a democratic political system), will inevitably lead to long-term problems that ultimately carry costs greater than the benefits gained through the coordination of efforts; group decisions for the benefit of select individuals almost always harm the group.

The States (and Territories) should not cooperate with the federal government in international trade initiatives that impact upon the States' internal policies; the sacrifices that they make may not even be repaid in the short-run, and will do little good for them or the States that they are attempting to support over the long haul. The States should certainly keep a close eye on the activities of the federal government in its international trade programs and negotiations, and adapt to (and even adapt) changes as they are made, but they should not allow themselves to be

enticed into supporting ideas that are purportedly in the national interest at the expense of the interests of their own States. These ideas are almost always in the form of short-term "fixes" to longer-term problems, and do damage to the entire nation by reducing the incentive to find lasting solutions. Instead, the States' representatives to Congress (particularly to the Senate, but also those in the House of Representatives) should be made unmistakably aware of their perpetual responsibilities to their own jurisdictions, rather than to the temporal interests of the nation that they govern.

In summary, the "partnership" described in Mr. Colgan's paper for the Governors is an illusion: the federal government will dominate this relationship, and merely use the accord as a vehicle to co-opt state governments into arbitrary national actions. Only if the States can be guaranteed specific powers and authority in the relationship should it even be considered; as it stands, all that would be accomplished would be a voluntary transfer of power to the central government with an aura of legitimacy generated by the illusion of "cooperation." The States should demand that their interests be promoted by the federal government, rather than coming as willing supplicants to the vanishing federal trough.

### THE FEDERAL GOVERNMENT'S EXPORT PROMOTION PROGRAMS

Again, the illusory concept of a federal-State "partnership" is the core element discussed in the presentation of this issue, yet the content of the issue repeats over and over that the federal government has not been doing its part in promoting the international commercial interests of the country. This is highlighted by the fact that the U.S. and Foreign Commercial Service budget of \$103 million in 1990 comprised the national government's expenditure on the international "marketing" of \$394 billion in U.S. exports in 1991; this is just over 0.025% of revenues devoted to the nation's advertising budget, a deplorably small amount. The testimony presented on behalf of the NGA does not criticize this deficiency directly, but it does indicate that the State governments are doing far more in the international arena to promote U.S. exports than is the federal government. Again, we have clear evidence of the State governments having to take up the slack caused by federal ineffectiveness.

The federal government is the logical vehicle for the promotion of U.S. products in international trade: the size of the task and the unified nature of federal efforts engender the potential exploitation of economies of scale in promotions, and the federal government should be promoting U.S. products as a generic classification internationally. The States, on the other hand, should be touting those products and industries in which they have an intimate interest. As it ends up, though, the States have had to take on the burden of the federal responsibility, forming regional coalitions to promote their mutual goals; this is a role more appropriately handled by the federal government.

The States should certainly be expending efforts in the main to promote the products of their own industries, but this activity should be a supplement to the overall national effort. However, the national effort should be designed to promote the interests of the nation as a whole, and

should not conflict with the interests of any State. In addition, the federal government's intimate interest in international trade for the purposes of the balances of payments and trade, national monetary policy and national security should dictate a much higher investment in promotions than occurs at present. The idea of a "partnership," though, is inimicable to the interests of both the States and the federal government, in that it sets up conflicts of interest rather than the proffered "spirit of cooperation." This type of "cooperation," if it is supported at all, should be a cooperation of the federal government with the desires of the States, rather than the reverse.

## CONCLUSIONS

Guam has the opportunity to take a leadership role in this area of discussions, bringing the Governors back to a reasonable position regarding the interactions of state and federal governments on matters related to international trade. It is clear that the States have been seduced into being the champions of federal objectives, as opposed to the more-appropriate opposite relationship. It should be impressed upon the NGA membership that government within a democracy is intended to serve the interests of the people, rather than the people serving the interests of the government, and that the State governments serve as intermediaries between the populace and the nation's "leaders." We serve our nation in times of war, the nation should serve us, in return, during times of peace.

Guam should also keep clearly in mind that the nation's protectionist tendencies are contrary to our own interests (for several reasons, both selfish in the short-term and nationalistic in the long-term) and that they are short-term, externalized solutions for long-term, internal problems that will eventually have to be addressed with more lasting changes in any event. Any sacrifice that the nation makes today to give us greater strength in the long-run will be inconsequential in relation to the benefits that we gain; we must not "lose the forest for the trees."

## RECOMMENDATIONS

Use Guam's votes on these issues as a tool to gain leverage (and votes) on other issues that more directly affect us. International trade provisions (so long as they do not initiate a trade war that adversely affects us) have little impact upon our economy or our people and standards of living; we have little to lose and much to gain by trading our vote for others' on matters that more directly affect us.

In addition, Guam has a perspective that is virtually divorced from that of the States: we can view the process as effective outsiders, and may be able to guide the Governors to a position that will help to maintain the Union into the next century. The subjugation of States' interests to those of the federal government (apparent in the paper provided for the governors in preparation for this meeting) harms both the States and the nation. We have the opportunity to take a leadership position that will enhance the long-term stability of the nation in this time of "crisis."

## A NEW TRADE POLICY PARTNERSHIP

There is no question that the federal government has the principal responsibility for America's trade policy. As the evolving global economy has brought the states into the trade policy process, there has been an evolution in the way in which the federal government determines trade policy. When trade policy has traditionally focused on tariffs, which were once the major source of revenue for the federal government, Congress dominated the setting of trade policy. Over time, as nontariff barriers rose in importance and as trade policy increasingly became a matter for negotiation with our trade partners rather than unilateral action, Congress recognized that the President would have to take a much greater role and began to delegate more responsibility to the Executive Branch, first through the delegation of "proclamation authority" on tariff rates, and then through such procedures as "Fast Track" authority to enable a workable balance between Congress and the President in making trade policy.

One of the questions that may be asked about emerging role of the states in trade policy is how that role will fit in with that of congress. The American system of government gives to the Congress, particularly the Senate, the job of representing the interest of the states in the formulation of federal policies. This raised in the minds of some the potential for conflicts between the state governments and the Congress and a question of whether an appropriate role exists for the state governments. There are several reasons why this should not be a concern:

1. State governments will play a key role in the ability of the United States to meet national trade policy goals. Expansion of markets abroad in such areas as services and government procurement depends on the states to efficiently and effectively act.
2. Most of the proposed new trade policy partnership is framed in terms of relations between the Executive Branch and the states; this reflects

the focus of the partnership in the negotiation and implementation of trade policy, those aspects which are the Executive Branch responsibilities.

3. The states have assumed a much larger role in trade expansion efforts over the past twenty years, as economic development efforts have focused on the growing importance of world markets. These efforts have significantly enhanced America's competitiveness in international trade.

4. The benefits of international trade are frequently dispersed broadly across all citizens of the nation, while the costs are often concentrated in smaller regions. In adjusting to the economic changes created by trade, state governments play a key role in operating trade adjustment assistance and job training programs and in developing, through state development programs and public universities, the new products and markets that provide the ultimate adjustments to the changing global economy.

As the states have emerged as players in trade policy, the Federal government has chosen to bring the states in as partners. But the partnership has been based so far more on informal and casual communications than on regular coordination and contact. The most formal contact has been the Intergovernmental Policy Advisory Committee (IGPAC) established by the United States Trade Representative in 1988. IGPAC consists of 32 state and local officials from around the country, fourteen of which are governors.<sup>1</sup> The USTR has consulted regularly with the IGPAC and with its staff working group during the Uruguay Round and NAFTA negotiations, although staff turnover and shortages at USTR have occasionally reduced the efficiency of communication.

Prior to the establishment of IGPAC, the states had played an active and effective role in advising the USTR during the negotiations leading to the US-Canada Free Trade Agreement from 1985-1988. This took place primarily through regular meetings between American negotiators and the Staff Advisory Council to the National Governors' Association's Committee on International Trade and Foreign Relations.

While the experience so far has been quite positive for both the federal and state governments, it will not be sufficient for the future. A new trade policy partnership that the states propose must have as its goals:

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

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

**Minimization of Conflict through Communication** The only way that conflicts between federal and state interests can be minimized is through constant,

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<sup>1</sup>There are also two lieutenant governors, five state legislators, one elected commissioner, six elected county and municipal officials, and three appointed state officials.

effective communication that anticipates problems rather than attempts to resolve them after the problems have arisen.

Enhanced effectiveness of US negotiating positions. As complex issues such as services, standards, and procurement rise in importance on the international trade agenda, America's ability to be effective in international negotiations will depend on the timeliness, accuracy, and minimal conflicts between the federal and state governments.

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

The new partnership must be able to effectively coordinate state and federal governments in all the major functions of trade policy: negotiation of trade agreements, implementation of trade agreements, and dispute settlement. To do this, the key is constant communication in each of these areas, and since all three are occurring simultaneously<sup>2</sup> there is a need for significant resources to assure effective and timely communication.

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

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

2. An Intergovernmental Staff at USTR has an extraordinarily challenging job, serving as America's point of contact with the more than 100 nations with which the United States conducts trade negotiations. It coordinates trade policy among a dozen federal agencies with interests in trade policy. As the central point of coordination on trade policy for the U.S. government, it is the appropriate link between the federal and state governments. Yet it is also one of the smallest federal agencies, with less than 150 full time staff.

USTR has worked hard to coordinate with the fifty state governments and with numerous local governments, but it is simply not realistic to expect it to be able to expand its efforts to deal with the level of coordination with state and local governments in the future unless additional resources are provided.

For this reason, an intergovernmental staff should be established at USTR. Such staffs are common at all other federal agencies that have regular dealings with state and local governments, and it is now time for USTR to have this capacity. The intergovernmental staff should have three full time staff:

An Assistant United States Trade Representative for Intergovernmental Relations with overall responsibility for intergovernmental relations. This would be the principal point of contact with USTR on intergovernmental trade policy issues for state and local governments, federal agencies, and foreign governments.

A policy analyst who would assist the AUSTR by coordinating the IGPAC, educating state and local officials with respect to trade policy

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<sup>2</sup> In the last half of 1991, negotiations were underway in both the NAFTA and Uruguay Round, the Canadian beer and wine case was before a GATT panel, and implementation steps were underway for the U.S.-Canada Free Trade Agreement.

initiatives, and conducting research on relevant state and local policies.

An attorney in the General Counsel Office with expertise in both state and local law and international trade law who would serve as principal legal resource for all issues involving state and local governments and trade.

The estimated annual cost of this additional staffing at USTR is \$300,000.

### 3. Assistance Grants for State Trade Policy Coordinators

Additional resources in the federal government are needed, but must be matched by additional resources at the state level. The states have the double burdens of both participating in the complex trade policy issues confronting the United States and developing a level of expertise in what has traditionally been an area well outside normal state government operations.

But the commitment on the part of state governments participating in trade policy is still there. In the past year, which has surely been the most difficult time for state government budgets in over fifty years, governors have provided the funds to participate in IGPAC and to provide at least some staff support necessary for advising USTR during the current negotiations.

In the past when issues of national concern required development of state-level expertise and participation the federal government provided financial assistance to states on a matching basis to fund the necessary staff, travel, and other costs. For example, in the 1970s when development of the outer continental shelf oil and gas resources was a national priority, Congress provided for assistance grants to coastal states through the Coastal Energy Impact Program. This approach should be revived with a program of trade policy assistance grants for the states.

The grants should be distributed to states for the purpose of funding staff, travel, and other direct costs of participating in trade policy development and implementation. Grants should be distributed to states on the basis of population, with a minimum grant of \$100,000 per state and larger states receiving larger grants to some maximum level. The grants should be provided on an 80/20 federal-state matching basis to begin, with the state share increasing over a period of five years to a 50-50 split. The Economic Development Administration in the Department of Commerce should be the administering agency for the grants, since EDA has the necessary grants accounting capacity through the Section 302 program.

4. Trade adjustment assistance. The costs of adjusting to the new economic realities brought about by changing trade policies are a continuing source of concerns to governors. Trade adjustment assistance has been an important federal policy since the Tokyo Round. Reform and expansion of trade adjustment assistance programs will be required after the conclusion of the NAFTA or Uruguay Round negotiations. The Administration has pledged to propose such reforms in connection with an agreement on a North American Free Trade Agreement, and this should be considered an essential part of the new partnership.

5. Expanded trade promotion assistance. States are actively involved in promoting export opportunities and assisting businesses to take advantage of the world market. While coordination with federal export promotion activities of the International Trade Administration and the United States and Foreign Commercial Service exists in all states, opportunities exist for additional federal assistance to states. This will be particularly important as an incentive for voluntary participation of states in such areas as the government procurement code expansion.

The United States proposal for expansion of the government procurement code to subnational governments is for voluntary participation by state and local governments. States are being asked to commit to maintain open markets for procurement and to remove restrictions in order that the United States might secure as large a share of foreign market access as possible.

While taxpayers in the states agreeing to open procurement markets will benefit from the lower costs for goods and services, there is no assurance that a participating state will be able to take advantage of the additional export opportunities created by their adherence to the procurement code. Providing funding assistance for export promotion to states who voluntarily participate in the procurement code would increase the number of states participating, and thus the size of the markets abroad open to American firms, and provide the assistance to those firms to take advantage of those markets.

This proposal admittedly entails the expenditure of federal dollars in a period of significant budget deficits, and this should not be done lightly. But the costs of this new partnership are a tiny fraction of the additional federal revenues that will be made available from the expansion of the American economy resulting from the increased trade made possible by agreements such as the US-Canada Free Trade Agreement and the potential NAFTA and Uruguay Round.

Moreover, America's hopes for using international trade to better the standard of living of Americans can no longer be met without the active and effective participation of the state governments. These proposals for a new trade policy partnership are the necessary steps to make sure that the maximum possible advantage is taken of the global economy's expanding opportunities.

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*500*

JAN 19 1993



DC/SE/ERC/93-01-15A

MEMORANDUM

TO: The Governor  
VIA: Bureau of Planning  
FROM: Director of Commerce  
SUBJECT: National Governors' Association Winter Meeting

Attached is a briefing note concerning "Economic Adjustment Provisions of The FY 1993 Defense Authorization and Appropriations Act and two briefing papers concerning U.S. international trade policy. The papers concerning trade policy date from April 1991. We still stand by these papers.

The material from the National Governors' Association included comments under the heading "ENACTMENT OF LEGISLATION THAT FURTHER DEFINES AND IMPROVES THE STATE-FEDERAL PARTNERSHIP IN INTERNATIONAL TRADE POLICY AND PROMOTION." Included was a statement "...effective participation by states [in trade policy] will require the designation of state trade policy coordinators." An April 22, 1991 memorandum from the Director of Commerce to the Director of Planning contained "...we strongly urge that a single responsible employee of the Government of Guam represent Guam at all meetings on the Staff Advisory Council to the Committee on International Trade and Foreign Relations of the National Governors' Association. This responsible person would be Guam's "trade policy coordinator."

  
PETER R. BARCINAS



**ECONOMIC ADJUSTMENT PROVISIONS  
of  
THE FY 1993 DEFENSE AUTHORIZATIONS AND APPROPRIATIONS ACT**

Position Not  
Department of Commerce  
Government of Guam

January 1993

Only one set of the Economic Adjustment Provisions of The FY 1993 Defense Authorizations and Appropriations Act are specifically germane to Guam. In a general sense, all provisions, by fostering conversion to a civilian economy, do benefit Guam. As part of the world, Guam benefits by conversion.

The provisions concerning community initiatives to ease the burden of reduced military expenditure can be very beneficial to Guam. The provisions include grants for planning and implementing for defense downsizing in communities with substantial defense spending but yet to experience the impact from defense downsizing. That is, it includes grant for communities like Guam.

Grants might be secured under such provisions, for example, for converting NAS to civilian airport use. Grants for planning the conversion of parts of Apra Harbor should also be considered.

# DEFENSE BUDGET PROJECT

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October 21, 1992

## THE FY 1993 DEFENSE AUTHORIZATION AND APPROPRIATIONS ACT: ECONOMIC ADJUSTMENT PROVISIONS

Congress responded to the economic dislocation caused by declining defense spending by including roughly \$1.6 billion for the transition of workers and communities and the adjustment of defense firms in the FY 1993 Defense Authorization Act, which is awaiting signature by the President.<sup>1</sup> The Act includes provisions from both the House and Senate versions. The House had included \$1.0 billion in adjustment assistance based on recommendations by a Democratic task force led by Representative Martin Frost (D-TX). The Senate had provided \$1.2 billion for programs drawing upon proposals made by a Democratic task force led by Senator David Pryor (D-AR) and a Republican task force led by Senator Warren Rudman (R-NH). Ordinarily, funding differences are split in conference. In this unusual case, conferees adopted nearly all of the programs recommended in the two versions, resulting in higher overall spending for defense-related adjustment than in either version.<sup>2</sup>

The Defense Appropriations Act (Public Law 102-396) appropriates funds for most of the programs delineated in the Authorization Act, with the exception of roughly \$300 million for some personnel transition programs and new study centers which are not specifically appropriated funds.<sup>3</sup> Therefore, the actual appropriation for the authorized programs is \$1.1

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<sup>1</sup> Totals differ from the those reported in the press of \$1.5 in the Defense Authorization Act and \$1.7 in the Defense Appropriations. The major difference in the Authorization total is that \$141 million is included for DoE cooperative agreements and \$70 million for "other defense industry and technology base programs" in the conference report table is not included. See *The National Defense Authorization Act for FY 1993, Conference Report 102-966*. For a review of the totals used in this summary, see the attached table.

<sup>2</sup> For a review of proposals related to Defense Economic Proposals, see an earlier version of this piece: Carol A. Lessure, *The 1992 Defense Economic Adjustment Proposals* (Washington, DC: Defense Budget Project, July 1, 1992) and *Adjusting to Lower Defense Spending: Economic Adjustment Issues for Conference* (Washington, DC: Defense Budget Project, August 26, 1992).

<sup>3</sup> The Defense Authorization Act establishes legislative authority to fund defense programs, but it is the Defense Appropriations Act that provides the spending authority for these programs. Each year there are differences between the two laws. In the past, DoD has attempted to resolve these differences through various mechanisms: informal discussion with staff and members; or formally request an authorization, supplemental appropriation or rescission of appropriated funds.

billion dollars from the Defense Appropriations Act plus another \$190 million from The Dire Emergency Supplemental and the Energy and Water Appropriations Act.<sup>4</sup>

## MAJOR FEATURES OF THE ACTS

The Defense Authorization Act authorizes over \$1.6 billion in defense spending for these provisions, spending \$716 million on workforce related measures and defense firm assistance, while community assistance receives \$202 million.

While the Defense Appropriations Act provides nearly \$1.1 billion in appropriations for the authorized programs, these provisions are scattered in various titles of the act. Title VIII, Defense Reinvestment for Economic Growth, which includes \$392 million for authorized workforce measures, leaving two programs totalling \$294 million to be funded, at discretion of the Department of Defense, from the military personnel account. An additional \$80 million is appropriated in Title VIII to fund a community assistance program, making the appropriated total for authorized community programs \$235 million.<sup>5</sup> The defense firm assistance programs were appropriated \$602 million.<sup>6</sup>

### *New Administrative Offices*

The Defense Authorization Act establishes an Executive Council of the Economic Adjustment Committee to coordinate and develop policies on defense technology and industrial base issues. The new council is authorized \$5 million for analysis and assessment of defense technology and industrial base needs. A new Center for the Study of Defense Adjustment is established at the National Defense University and is authorized \$2 million. These two provisions were not appropriated.

An Office of Technology Transition headed by the Director of Defense Research and Engineering is also established to ensure that applicable defense technology is transferred to

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<sup>4</sup> The Appropriations Act includes roughly \$500 million for research and development programs in their version of defense transition assistance. These programs are generally dual-use and could have commercial applications, which is why the Defense Appropriations Act includes them as part of their transition assistance. However, these programs are well established and have been authorized and appropriated through the research and development accounts. Since these programs did not correspond with the defense transition programs in the Authorization Act, they are not included in this discussion of defense-related economic adjustment. See Public Law 102-396, Title VIII. For a further discussion of technology development programs in the Defense Authorization and Appropriation Acts, see Office of Senator Jeff Bingaman, Press Release, October 8, 1992.

<sup>5</sup> \$50 million of this total was appropriated for School Impact Aid through the Dire Emergency Supplemental Appropriations, Public Law 102-368. The remaining \$115 million is appropriated in the operations and maintenance accounts of the Defense Appropriations Act.

<sup>6</sup> \$141 million of this total is through the Energy and Water Appropriations, Public Law 102-377. The remaining \$461 million is appropriated in the Research and Development Account of the Defense Appropriations Act.

the private sector. No new funding would be provided for this office, but DoD is directed to use existing resources. DoD is authorized to create a Military-Civilian Integration and Technology Transfer Advisory Board with both private and public sector representatives to advise the office on these matters.

In addition, the Defense Appropriations Act provides \$5 million for the Defense Conversion Commission to continue its research and be the "primary [coordinating] DoD body responsible for . . . oversight of defense conversion activities" through FY 1993.

#### *Ability to Transfer Funds Flexible*

In previous legislative versions of the Defense Reinvestment plan, funds were transferred from defense to other agencies, modeled on the Division D transfer of \$200 million defense related funding to non-DoD agencies in the FY 1991 Defense Authorization Act. Both the Defense Authorization and Appropriations Acts would transfer \$80 million to Department of Commerce and would allow for the possible transfer funds to Departments of Labor and Veterans Affairs. However, these transfers would occur at the discretion of the Secretary of Defense and only if the Administration's Office of Management and Budget (OMB) agreed to score such transfers as defense.<sup>7</sup> Otherwise transfers to these agencies would not occur. At the time the Defense Appropriations Act was signed into law, President Bush indicated that his administration plans "to ensure that these provisions are used only for defense-related functions, consistent with the Budget Enforcement Act and the Department of Defense."<sup>8</sup> What this statement means in terms of the potential transfers is unclear.

The following sections discuss the major provisions of the Defense Authorization Act reinvestment plan in each of three categories: workforce, community, and defense firm initiatives. Areas of funding difference with the Defense Appropriations Act are noted.<sup>9</sup>

### WORKFORCE INITIATIVES

In the past, defense-related economic adjustment targeted assistance to the workforce by funding job training programs and providing military personnel with educational opportunities. The Defense Authorization Act alters these retraining programs, establishes

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<sup>7</sup> Under the Budget Enforcement Act, if OMB does not determine that these adjustment related provisions are defense spending, then these funds would be considered domestic spending, thereby causing automatic cuts in domestic spending accounts in order to meet the spending limit set for FY 1993 in the BEA law. The Act is written so that if such transfers would not be considered defense related spending, then the transfers would not occur.

<sup>8</sup> "Statement of the President," White House Press release, Office of the Press Secretary, October 6, 1992.

<sup>9</sup> For a review of this issue and federal programs that could be utilized, see Conrad Schmidt, *Issue Brief: Defense-Related Economic Adjustment and Federal Policy* (Washington, DC: Defense Budget Project, February 24, 1992).

new ones within DoD, and includes separation incentives and transition assistance for active duty military, national guard and reserves personnel and DoD civilian personnel.

### *Job Retraining*

The Authorization Act amends the Department of Labor's Job Training Partnership Act (JTPA) by establishing a program specifically designed to meet the training needs of separated military and civilian DoD and Department of Energy (DoE) personnel, as well as for displaced defense workers. This DoD program is authorized and appropriated \$75 million for this program. The option of transferring any or all of this program's functions and funding to the Department of Labor is also authorized.

JTPA is amended by the Defense Authorization Act to expand eligibility and promote early participation. DoD civilians at base closure sites could participate in JTPA services two years prior to the facility closing or realignment date. States could be reimbursed through Division D JTPA funds for rapid response expenditures. Eligibility for JTPA funds allocated in Division D would be expanded, categorizing layoffs as "substantial" when they entail 50 or more individuals at a firm. Current legislation states that a layoff at a firm would have to meet or exceed 100 individuals to be eligible. DoD is directed to inform JTPA grantees of current and projected base closure or realignment. The availability of the \$150 million transferred funds from Division D is extended through FY 1995.

The Authorization Act establishes a program to provide firms which permanently hire and train former military personnel partial reimbursement for the cost of employer-provided training. This program is authorized and appropriated \$75 million. DoD is authorized to enter into agreements with the Departments of Veterans Affairs and Labor in implementing the program.

The Defense Department is directed to inventory all training programs that it currently offers and identify those that have application to civilian employment. Civilian DoD personnel are eligible for one year of skills training provided by the department.

### *Alternative Employment and Education Programs*

The Act authorizes DoD to underwrite the cost of preparing for teaching certification (up to \$5,000 per person) for separated civilian and military personnel and defense industry workers.<sup>10</sup> In addition, the teaching salaries of these workers would be underwritten, not to exceed \$50,000 total for the first two years of employment. This program is authorized and appropriated \$65 million.

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<sup>10</sup> Military and civilian defense employees who participate in any of the early retirement and separation incentive programs would not be eligible for the \$5,000.

The Department of Defense is authorized and appropriated \$20 million in funds for environmental studies scholarships and fellowships, grants to institutions of higher learning for environmental training programs geared toward defense related cleanup and management needs.

The DoD Manufacturing Engineering Education Program is authorized and appropriated \$30 million which provides matching grants to establish or enhance manufacturing engineering degree programs.<sup>11</sup>

The Authorization Act establishes an "upward bound" program to assist separating military personnel who wish to pursue higher education, providing \$5 million to fund the coursework needed to qualify for acceptance into advanced degree programs. Federal agencies are directed to give priority consideration to displaced DoD civilian employees before selecting any candidate from outside the agency and defense contractors are required to give hiring preferences to displaced defense industry workers. DoD contractors would also be required to list any job vacancies resulting from a new DoD contract with local employment services. The federal government is directed to expand access to existing employment services for military and civilian personnel and displaced defense contract workers, \$4 million is provided for these expansions.

#### *Separation Pay, Retirement Incentives and Benefits*

Separation pay up to \$25,000 is provided for selected DoD civilian employees who choose early retirement through FY 1997, \$72 million is provided for this new program. Voluntarily separating personnel are able to participate in the Montgomery GI bill education program.<sup>12</sup>

Reservists with at least 15 years of service can retire, with benefits commencing at age 60. Those reservists with 20 or more years of service could retire and receive an immediate, reduced retirement annuity. Lump sum separation pay and continued Reserve G.I. Bill educational assistance would be provided to separated reservists. Life insurance, as well as access to military commissaries and shopping facilities, would be provided to involuntarily separated reservists for up to 12 months. The reserve transition provisions are authorized \$40 million, but funding is not clearly delineated in the Defense Appropriations Act and would have to come from the overall funding allocation for reserve personnel.

Health care benefits for separating military personnel and separated civilian employees would be provided for up to 18 months, \$76 million is authorized and appropriated for these

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<sup>11</sup> Funding of \$25 million was authorized and funded in FY 1992 for this program last year. (The July 1, 1992 version of this report erred in stating that FY 1992 appropriations for this program were not provided.)

<sup>12</sup> If they did not elect to participate while on active duty and their basic pay would be reduced by \$1,200 if they elect to participate in this program.

provisions. DoD is also directed to establish a continued health care program for separating members and dependents by FY 1995.

## COMMUNITY INITIATIVES

In the FY 1991 Defense Conversion Act, communities received assistance to help plan for major economic dislocation caused by defense cutbacks. These programs help community planners develop plans for economic development and diversification, promoting strong local economies that can survive the dislocation.

### *Community Planning and Coordination*

The Authorization Act would provide DoD's Office of Economic Adjustment (OEA) with \$52 million. The normal functions of the office would be expanded to make both planning and implementation grants to communities. OEA is authorized to offer grants to communities that are substantially dependent on defense spending, but may have yet to experience impact from defense downsizing. OEA is directed to establish demonstration projects to study the effectiveness of economic adjustment and diversification assistance activities under various circumstances: major defense contract termination, national laboratory adjustment, military installation closure and multiple adjustment factors.

While OEA is authorized \$52 million, \$79.7 million is appropriated. The Appropriations Act would add \$25 million to OEA's current budget of \$4.7 million for its normal planning grant operations, \$50 million is provided for the Philadelphia Shipyard Conversion Project.<sup>13</sup>

Both Authorization and Appropriations Acts transfer \$80 million to Department of Labor's Economic Development Administration (EDA) for continuation of its defense transition planning and implementation grants established by Division D in FY 1991. The availability of the \$50 million transferred funds from Division D is extended through FY 1995.

### *Other Community Assistance Provisions*

DoD's Procurement Technical Assistance (PTA) program is authorized \$12 million and appropriated \$25 million to help firms explore other government markets, the PTA program is expanded to permit assistance in contracting to non-DoD departments, including federal, state and local agencies. Phase-out funding to school districts affected by base closure or defense

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<sup>13</sup> The Department of Defense is reviewing the two Acts and trying to resolve the differences in funding levels and mandates for OEA. The Defense Appropriations Act provides 79.9 million to OEA in the operations and maintenance accounts, however its budget function received \$89.7 million reflecting an additional \$10 million for disaster relief planning within the U.S. military base structure which may not necessarily be under OEA's jurisdiction.

reductions is increased by \$58 million.<sup>14</sup> The Department of Defense is directed to develop a plan to transfer surplus DoD equipment to communities.

## **DEFENSE FIRM INITIATIVES**

Previous defense economic assistance largely ignored defense firms affected by reduced defense spending. Special assistance has been provided to the industrial sector, in this year's legislation. The Acts fund programs to promote dual-use technologies, provide technology development and extension services, and enhance the defense industrial base by promoting civilian use of military technology.<sup>15</sup> All of these partnership programs will leverage federal funds with non-federal funding sources, with the Defense Department covering no more than 50 percent of costs.

### *Dual-Use and Critical Technology Development*

DoD's Defense Advanced Research Projects Agency (DARPA) dual-use critical technology partnerships program is authorized and appropriated at nearly \$100 million. This program will create dual-use consortia to research and develop critical dual-use technologies, leveraging both industry and DoD investment. A similar program was established in FY 1991 and funded at \$60 million in FY 1992.

DARPA is provided roughly \$50 million to fund commercial-military integration partnerships, a joint venture program that provides industry with matching contributions for research technologies with both defense and commercial applications. Participating firms would be required to cost share, with Defense covering no more than 50 percent of the initial funding with a decreasing share each year thereafter.

DoD is directed to encourage cooperation between federal laboratories and private industry, developing a federal defense laboratory diversification program. DoD must report on this program by the end of the fiscal year. DoE is directed to promote Cooperative Research and Development Agreements (CRADAs) and to use at least \$141 million of the DoE laboratories budget (the same amount in the President's budget request) for dual-use technology partnerships.

The Acts also earmark roughly \$25 million of the manufacturing technology budget for DoD Advanced Manufacturing Technology Partnerships.

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<sup>14</sup> These additional funds were appropriated in the Dire Emergency Supplemental, Public Law 102-368.

<sup>15</sup> The Appropriations Act appropriates funds for all of the programs at a three percent reduction, do to an overall reduction of all R&D accounts in the Act.

### *Regional Technology Programs*

Funding is provided to support federal, regional, state and local dual-use technology extension and assistance programs. The Authorization bill approved 200 million for this program, however only \$97 million is appropriated. The distribution of these funds would be at the discretion of the Department of Defense, in consultation of the Departments of Commerce and Energy. Cost sharing is required, with Defense covering no more than 50 percent of the initial funding with a decreasing share each year thereafter. The Authorization Act earmarks \$50 million for assisting regional, state and local governments to develop such programs and \$75 million for assisting small businesses.

### *Federal Technology Programs*

DoD is provided nearly \$100 million for Regional Technology Alliances to provide private industries with grant funding for facility construction or modernization with 50/50 matching grants with the federal government. This program is similar to the Critical Technology Application Centers program which was authorized, but not appropriated in the FY 1992 Act.

### *Small Business Initiatives*

The Small Business Innovation Research (SBIR) program will gradually increase its R&D set aside to 2.5 percent by FY 1997, with additional areas of the defense R&D budget covered by the program. SBIR previously set 1.25 percent of each agency's R&D budget aside for small businesses.<sup>16</sup>

# # # # #

For additional information, contact Carol Lessure, Outreach Coordinator, (202) 408-1517.

The Defense Budget Project is a nonprofit, nonpartisan research and analysis organization that examines national security policies and defense spending issues. The Project is funded by grants from major foundations. The Project's director is Dr. Gordon Adams.

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<sup>16</sup> SBIR was reauthorized this year superseding provisions included in the Defense Authorization Act. See the Small Business Innovative Research Authorization bill, S. 2941, which is awaiting the President's signature.

**FY 1993 Funding for Defense Related Economic Adjustment**  
(dollars in millions)

<b>Program</b>	<b>House Auth.</b>	<b>Senate Auth.</b>	<b>Conf. Auth.</b>	<b>Conf. Approp.</b>
<b>WORKFORCE</b>				
Temporary Active Duty Early Retirement	+	+	\$ 254	(\$254)
Job Training (JTPA)	\$100	\$ 50	\$ 75	\$ 84
Job Bank	\$ 6		\$ 4	
GI Upward Bound	\$ 5		\$ 5	
Servicemembers Employer Provided Training	\$100		\$ 75	\$ 75
Teacher training and assistance	\$180	+	\$ 65	\$ 65
Manufacturing Engineering Education Program		\$ 30	\$ 30	\$ 30
DoD Environmental Scholarship & Training	\$ 20		\$ 20	\$ 20
Civilian Personnel Separation and Health Benefits	\$ 7	\$ 72	\$ 72	\$ 72
Guard & Reserve Transition Benefits		\$ 97	\$ 40	(\$ 40)
Temporary Health Transition Assistance	\$ 52		\$ 76	\$ 76
<b>COMMUNITY</b>				
Office of Economic Adjustment	\$ 6.9 (plus \$103 Reg. Tech. Ext.)	\$ 29.9	\$ 52	\$ 79.9
Economic Development Administration		\$150	\$ 80	\$ 80
Impact Aid for Schools		\$ 58	\$ 58	(\$ 50 <sup>*)</sup>
Procurement Technical Assistance	\$ 25	\$ 9	\$ 12	\$ 25
<b>DEFENSE FIRM</b>				
DARPA Dual Use	\$150	\$100	\$100	\$ 97
Commercial-Military Integration Partnerships	\$ 50	\$50	\$ 50	\$ 48.5
Adv. Manufacturing Technology		\$ 25	\$ 25	\$ 24.3
DoD Manufacturing Technology	\$ 25	\$100	\$100	\$ 97
Dual Use Technology & Industrial Base Extension	\$103	\$250	\$200	\$ 97
Regional Technology Alliances	\$ 25	\$100	\$100	\$ 97
Small Business Innovative Research	doubled	\$ 50 (SBIR) <sup>***</sup>	doubled over time	
Small Business Loans and Assistance	\$ 85			
DoE Cooperative R&D Agreements		+	\$141	(\$141 <sup>*)</sup>
NDU Center for the Study for Defense Adj.	\$ 2		\$ 2	
Center for Analysis of Tech and Ind. Base		\$ 5	\$ 5	
Foreign Critical Technology Assistance		\$ 2		
Defense Conversion Commission				\$ 5
<b>Total</b>	<b>\$1.003 billion</b>	<b>\$1.178 b</b>	<b>\$1.634 b</b>	<b>\$1.073 b (\$485)</b>

\* Appropriations for "Job Training, employment and educational opportunities," includes \$9 million for the Job Bank and Upward Bound programs.

\*\* Appropriations for Impact Aid for Schools was included in the Emergency Supplemental, P.L. 102-368. Appropriations for DoE programs are in the Energy and Water Appropriations, P.L. 102-377.

\*\*\* SBIR is a set aside of total agency R&D budgets for small business contracts. The funding increase of \$50 million represents the additional funds to be earmarked for small businesses, not an increase in overall DoD R&D budget.

+ indicate program was authorized but funding amounts were not delineated

( ) indicate that exact program total amount is not delineated in the Defense Appropriations Act or that appropriations were made in another enacted law. These amounts are not included in the column total.

DEPARTMENT OF COMMERCE  
DIPATTAMENTON I KUMETSIO

URUGUAY ROUND OF NEGOTIATIONS  
UNDER GATT  
BRIEFING PAPER

April 15, 1991  
Page 1 of 2

The discussion is based on the following premisses.

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

Premiss 1 may appear academic; but trade opportunities are impossible to forecast. For example, no one predicted in 1985 that sashimi grade tuna would be a major export of Guam to Japan. If Japan restricted such imports, the industry would never have developed.

Premiss 5 may require explanation. If all U. S. trade restrictions ceased, Guam would loose some unstable and unskilled jobs in textiles and watch assembly. The number of jobs vary greatly from month to month but average about two-hundred. Under the best future, these are declining industries for Guam. Further, Guam currently generates an excess of unskilled jobs. As a judgement of proportion, we believe that its in Guam's interest to take the magnanimous position in support of free trade. The gain for Guam of freer world trade would be defuse but significant. Further, Guam gains credibility when demanding market access.

**Special Issue: Trade Distorting Subsidies (TRIMs) and GEDA**

The Government of Guam should be alert to the possibility that the Uruguay round agreement will limit the issuance of Qualifying Certificates. Such is unlikely, however.

The U. S. proposal prohibits those "TRIMs that are inherently trade-distorting and nondiscrimination for other TRIMs, coupled with an obligation not to use any investment measures in a way that adversely affects trade" [Uruguay Round Update of May 1990]. All

Qualifying Certificates outstanding and probably all ever issue would be permissible under the U. S. proposed criteria. The compromise position will probably be less restrictive than the U. S. proposal. Most developing countries find the U. S. position too restrictive.

#### **Guam's Access to Non-U. S. Markets**

We recommend that Guam's representative to the Staff Advisory Council of the Committee on International Trade and Foreign Relations of the National Governors' Association try to confirm or correct the judgements in the next paragraph. The person may wish to discuss these matters with staff members of the U. S. Trade Representative

We have failed to identify any way by which Guam would be excluded in the benefits of the Uruguay Round of GATT negotiations. GATT benefits have been inclusive of all countries unless special contrary action is taken. Further, suppose non-members are excluded from benefits and Guam is not included as part of the U. S. membership. Suppose this has a significant impact on Guam. Then, it is believed that Guam could freely sign the GATT agreements, receiving the benefits. As a free port, Guam satisfies the obligations of such signing.

#### **Guam's Access to the U. S. Market**

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

#### **Support of Uruguay Round Negotiations**

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

DEPARTMENT OF COMMERCE  
DIPATTAMENTON I KUMETSIO

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

April 12, 1991  
Page 1 of 2

The discussion is based on the following premisses.

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

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

**Guam's Access to the Canadian and Mexican Markets**

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

As said in previous briefing papers, Guam's interest is to be included in any U. S. access to the Canadian and Mexican markets. That is, the U.S.-Canada agreement should be improved to include Guam's access to the Canadian market. This position apparently has not registered outside of Guam. That is, we have yet to receive a statement concerning this position from the U. S. trade represen-

tative nor from any organization dealing with the trilateral negotiations.

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

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

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

#### **Guam's Access to the U. S. Market**

Through the agreement, better access by Canada and Mexico to the U. S. market than Guam now has is possible. Such access is most likely for textiles and other goods governed by quotas outside of GATT. With little effort on Guam's part, we believe that Guam will be provided equivalent access when the trade treaty passes Congress. Vigorous expression now of concern about access to the U. S. market in relation to the trilateral agreement may interfere with Guam's inclusion in the U. S. access to the Canadian and Mexican markets.

#### **Support of Negotiation of the Trilateral Free Trade Agreement**

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

## NORTH AMERICAN FREE TRADE

The completion of the North American Free Trade Agreement (NAFTA) was highlighted at an official ceremony on October 7 attended by President Bush, President Salinas, and Prime Minister Mulroney. Although negotiations for NAFTA, which began in June 1990, were completed officially on August 12, time for a thorough review of the language of the text was needed before the trade ministers of the three countries affixed their initials to the document this week. The President has already formally notified Congress of his intent to sign the agreement by the end of this year. In accordance with "fast-track" procedures(\*), legislation that would implement the agreement must be submitted to Congress.

Fast-track authority was extended last year and will expire June 1, 1993. To meet the requirements, NAFTA implementing legislation must be introduced ninety days prior to that, or by March 1, 1993. Of course, a new Congress might choose to modify these timelines.

NGA supported the negotiation of a North American free trade agreement; one that is as comprehensive as possible and is sensitive to the implications for the environment, labor conditions, and sensitive industries. The agreement contains a series of safeguards for numerous agricultural and manufacturing sectors. It also has a number of so-called "green provisions" that express a commitment to addressing environmental concerns. Additional bilateral efforts between the United States and Mexico address border and enforcement matters related to the environment. Although NAFTA itself does not address worker adjustment, parallel activities are underway. In addition, the President has introduced a proposal for a new comprehensive worker adjustment program to respond to anticipated dislocations from not only NAFTA, but defense conversion and other economic shifts.

There is not a consensus that any or all of these activities and provisions are sufficient. Many express concern about how a new worker program would be funded. Others are not assured that environmental standards will be maintained. Many of these matters will need to be worked out in the implementing legislation.

In addition, there are a host of issues within NAFTA that specify or imply a role for state governments, including regulation of services, investment practices, development of environmental and safety standards, and participation in trade disputes. Again, these matters may require legislative clarification. NGA supports a formal mechanism of coordination and communication between the states and the federal government. In a positive step, the office of the U.S. Trade Representative has designated a director of intergovernmental relations to work with state and local governments on an ongoing basis regarding implementation matters.

(\* ) Fast-track authority refers to special procedures Congress has established for reviewing legislation that implements trade agreements. The procedures call for notification and consultation before, during, and after negotiations in return for which Congress will expedite its consideration of implementing legislation. Thus far, the authority has been used to pass legislation implementing the Tokyo Round of the GATT, the U.S.-Israel free trade agreement, and the U.S.-Canada free trade agreement.

Contact: Jody Thomas, 202/624-7824



To: Member Councils

From: Esther Smith, Chairman  
National Advisory Board

For several weeks Washington Technology has been covering 900 issues which are of particular interest to entrepreneurial technology companies, and I wanted to call them to your attention.

1. The Pryor Bill, introduced by Senator David Pryor, would further bureaucratize technology procurement and in effect shut down the multi-billion dollar federal technology procurement market. Even companies that do not sell directly to the federal government, whose products may be components in off-the-shelf and other systems purchased by the government, would be negatively affected should this bill be passed. Although it was not believed to be widely supported, the bill made it out of committee, heightening its chances.

2. The report of the U.S. Patent Office's Advisory Committee on Harmonization is now resting on the desk of the Secretary of Commerce. Its recommendations would modify U.S. procedures to conform to international practices (hence the term 'harmonization.') But if adopted, they could weaken or destroy the levels of protection that now exist in U.S. law with a devastating effect on entrepreneurs and researchers. The findings of the Advisory Committee, which was appointed by former Sec. of Commerce Mosbacher, have been well received by the Patent Office; as reported, the members almost entirely were legal counsels to Fortune 500 companies. Rep. Helen Bentley is holding a hearing on Sept. 23 via the Technology Transfer Task Force of the Republican Research Committee. Beverly Selby, 202-225-3061 is her legislative aide on this subject.

I have enclosed copies of two articles and one editorial on each of these issues. You may feel free to reprint them if you think your member companies would like to have the information.

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In addition, within a few days you will be receiving a copy of the newest Report of the Carnegie Commission on Science, Technology & Government, 'Science, Technology and the States in America's Third Century.' Former Ohio Governor Richard Celeste chaired the Task Force for this extremely prestigious group. There will be a hearing on Sept. 30. Previous Carnegie Commission reports of particular interest 'New Thinking and American Defense Technology,' chaired by Dr. William Perry; and 'Technology and Economic Performance: Organizing the Executive Branch for a Stronger National Technology Base,' chaired by Adm. B.R. Inman. Copies are available from the Commission at 212-998-2150.

Please contact me or Ginny Askew if we can be of additional help.

# TECHNOLOGY

The Business Newspaper of Technology

## Pryor Licensing Bill Gathers Speed in Senate

*Ride Options Depend on \$1B Trim in SDIO Budget*

By Lucy Reilly  
SENIOR STAFF WRITER

Considered a long shot only weeks ago, an amendment threatening to bar all federal government services contractors from doing business until licensed is gaining speed and could be passed as early as this week.

The Contractor Licensing Reform Act of 1992 (S. 2928) was introduced early last month by Sen. David Pryor, D-Ark, before the Senate Governmental Affairs Committee. The bill seeks to establish an Office of Contractor Licensing within the Department of the Treasury that would require all companies to hold a license in order to do business with the federal government.

But the amendment has caused an uproar in the professional and technical services communities.

Pryor is expected to attach the measure this week to either the Defense Authorization or Defense Appropriation bill for quick passage, said contract executives. If that fails, industry executives said another possibility is the Treasury bill.

Regarding the help it lands, the Pryor bill is a relief to industry's local pressure.

"We are concerned," said Dr. Hayden Bryan, vice president of B & B de min-

lations for the Professional Services Council in Vienna, Va. "It's no less offensive if it's offered later on."

Ironically, service contractors might be saved by Pryor's intense focus on paring down the Strategic Defense Initiative. Late last week and early this week, Pryor devoted most of his attention to SDI—seeking to cut \$1 billion from its Senate funding and targeting companies which hold Scientific, Engineering and Technical Assistance (SETA) contracts like Nichols Research Corp., BDM and TASC.

A rider for the legislation for a federal contracting office seemed to depend on whether Pryor would be able to conclude his fight over SDI's future before the Senate closed late Aug. 12.

"At this point, we're really just waiting," said Olga Grkavac, vice president of systems integration for the Information Technology Association of America.

If the licensing was not attached to a major bill this week, it is expected to re-emerge after Labor Day, Grkavac said.

When the bill was introduced July 1, contractors saw it as merely a move by Pryor to distance his intransigence with the idea that the legislation wouldn't be attached to a major bill until next year. But in a few weeks the Arkansas senator has

been pushing hard for its passage this year, drawing heavy opposition.

If passed, the bill would force contractors to seek new licenses annually. Each company would have to submit to investigation to assure government officials that no conflict of interest exists. And each contractor would have to fully disclose every activity affecting the federal market.

Moreover, according to the Professional Services Council, the Pryor bill would:

- Require federal agencies in their budgets to estimate the amount to be spent on specific categories of consulting services.

- Establish controls to ensure agencies do not use contractors to perform governmental functions.

- Require meaningful cost comparison be made to determine whether work could be done cheaper by the government.

- Prevent service contractors from charging for entertainment or alcoholic beverages.

- Require each agency's inspector general to audit annually part of their service contracts.

The bill also would establish a database on contractors for contracting officers, said the PSC.

# TECHNOLOGY

The Business Newspaper of Technology



## Consider the Pryor Bill Fallout

**I**t is simply astounding that Sen. David Pryor's bill to license government services contractors—high-tech engineering, R&D and information systems companies—has been reported out of committee. Aside from its other failings, this bill reflects fundamental ignorance—or the worst kind of cynicism—about both business and ethical issues affecting federal outsourcing.

Let us examine what the Pryor proposal would do:

First, it will bring federal operations dependent upon communications and information systems to a virtual halt. (We can already see exemptions for the Defense Department, the weather service, the FAA, the Public Health Service. Where, in the name of responsible service, can one draw the line?)

Second, it will stall the entire productivity movement, so dependent upon better communications and information, that is beginning to transform federal departments and agencies and incidentally, eliminate duplication, inefficiencies and waste.

Third, it would create wholesale layoffs within the engineering and technical community—the seed talent for America's economic future. The layoffs would not be limited to systems integrators and professional

services companies, but would extend throughout the high-tech food chain to all kinds of companies that contribute to the final product: chip makers, switch makers, microprocessor assemblers, software developers, electronics manufacturers, and on and on.

Fourth, it will cripple or ruin both large and small corporations which cannot afford to ride out the revenue drought accompanying the inevitable delays of a new bureaucracy.

Fifth, it will create a huge and inexperienced bureaucracy in the Treasury Department, inviting federal vigilantes to wield power arbitrarily.

Sixth, by virtue of being in the Treasury Department, it will tend to criminalize compliance failures of which, you can be sure as the regulations are developed, there will be, usually inadvertently, many.

While destroying the federal sector of the country's most competitive economic industry, there are several things the Pryor proposal will not do, most important being:

It will not improve the ethical environment.

In fact, it lies in the face of the best advice coming out of government, industry and policy intellectuals alike: The pendulum has already swung too far in creating rela-

tionships at such extremes of arm's-length that effective operations are impeded; and without closer working relationships, and a return to a condition of trust, we all lose.

Instead of dredging up a bogeyman in the form of "government contractors" to divert attention outward, Senator Pryor and his colleagues would do better to look inward and clean up their own act first. Taking a leaf from the quality movement, let Senator Pryor and his colleagues on the Governmental Affairs committee ask themselves, "Who is the client?"

For too long, federal agencies have been forced by Congressional micro-managers to treat Congress as the client. Senator Pryor's innocence in attempting to quick-fix an extremely complex area is more forgivable than the arrogance engendered in many of his colleagues in dealing with contracting issues; but it is no less dangerous.

Let Congress concede that the U.S. taxpayer is the client. Where they can act directly, such as in congressional elections, taxpayers are making their wishes clear. We believe the well informed will agree that the U.S. taxpayer does not need more bureaucracy, fewer jobs, poorer operations or a misguided attack on one of the most productive segments of our economy, technology services.

The Business Newspaper of Technology

## Pryor Eyes Contractor Licensing Integrators, Service Providers in His Sights

By Lucy Reilly  
STAFF WRITER

Systems integrators, R&D and engineering services firms and software vendors could be arbitrarily barred or delayed from doing business with the federal government if a Senate bill to license all such providers under Treasury Department jurisdiction is passed.

Introduced by Sen. David Pryor, D-Ark., July 1 before the Senate Governmental Affairs Committee, the Contractor Licensing Reform Act of 1992 (S. 2928) intends to establish an Office of Contractor Licensing within Treasury. No company could bid on a contract without holding a valid license, which would be subject to renewal annually.

In order to receive a license, a contractor would have to be investigated and certified as being free of any blots such as undeclared conflicts of interest, and would have to fully disclose every activity impinging on the federal marketplace.

The proposed Treasury office would be run by a presidentially appointed director with Senate confirmation.

If passed, "the bill would have a devastating effect," says Mary Ann Gillece, a partner in the Washington, D.C. law firm of Lepon, McCarthy and a representative of the professional services industry. The professional services community regards as "disastrous" Pryor's plan to create an-

other government agency that impedes the procurement process, the attorney said. "Just administering it would be a nightmare," said a consultant. "It could shut down industries."

"We are on red alert."

Pryor came out of nowhere to attack the federal services industry, industry say, after riding unrecognized in a taxi in which two men discussed "ripping off the government" by \$50,000.

Although his bill is not expected to pass this year, Pryor is believed to be positioning it for a strong push in the 1993 session. While the senator is regarded as being close to fellow Arkansan and presidential candidate Gov. Bill Clinton, his bill is not regarded as consistent with Clinton's economic and technology policy positions and is seen as unlikely to become a party cause. Favoring Pryor's attack, ironically, could be the position of the Office of Management and Budget regarding a 40-year old policy affecting outsourcing, known as Circular A-76, which supports outsourcing that can be proved by studies to offer a cost advantage.

A draft report from OMB would curtail outsourcing in such areas as systems integration, weapons-systems testing and aircraft maintenance, but is being widely resisted by the Dept of Defense and 20 other agencies that would prefer to open up the

outsourcing process and encourage increased private-sector participation as a solution to personnel and financial cutbacks.

With a stagnant economy and declining defense budget, Congress is chafing at OMB's delay; to add to the pressure on OMB, in May the House tacked a clause into the National Defense Authorization Act for FY 1993 that would prohibit the Pentagon from outsourcing any activity that had been awarded based on an A-76 study. The bill (H.R. 5003, section 313) was passed about a month ago.

The Senate, with a history of opposing additional contracting restrictions, is expected to oppose passage of the bill. In its markup last week of the Defense Authorization bill, the Senate Armed Services Committee version contained no provisions similar to the House bill. However, industry executives are jockeying intently to see if any such language appears.

"While the provision targets A-76, the net effect would be to stall the award of work loads to commercial vendors," according to the Information Technology Association of America (ITAA).

OMB is expected to release a decision on A-76 in September. Industry officials say they are hopeful OMB will modify the language expressed in draft bills passed earlier.

# TECHNOLOGY

The Business Newspaper of Technology



## Stop the Progress of Prior-User Rights

**T**he findings of the Advisory Committee on Harmonization of U.S. Patents have sailed through the Patent Office and now rest, with the Patent Office's blessing, on the desk of the Secretary of Commerce. We hope they will go no further.

Not only would the recommendations overturn U.S. law that rightly awards full protection to original inventors; but they also would allow free rein to non-inventors who may have been casually—or not so casually—using someone else's property.

Although they raise obvious questions about the point of seeking "harmonization," let us put aside for a moment the extensive and well-documented problems that U.S. corporations in European and Pacific markets have faced in protecting their intellectual property rights.

Instead, let's examine the disconnect between U.S. desires to be competitive in the global arena by maintaining our technological edge, a desire that has fostered the entire federal technology transfer movement; and the eagerness with which the Advisory Committee wants to give away the store.

The whole store.

The Advisory Committee isn't satisfied with making the act of filing instead of the act of invention the legal requirement for protection—a recommendation that disenfranchises the true inventor and sanctifies practices that in other countries heretofore have generated outrage.

The committee also wants to allow any-

one who can prove use of a technology prior to its being patented a free ride forever on some inventor's nickel. The Advisory Committee did not address qualifying the origin of prior use: imitation, theft, confusion or serendipity would all be valid.

While we ruminate on the fairness and equity of these efforts at "harmonization," let us look at the Advisory Committee itself.

The entire Advisory Committee—with the exception of a university president who spent his career in a Fortune 10 corporation, and former Washington University Vice Chancellor Edward MacCordy, who resigned in protest—consisted of corporate counsels of Fortune 100-level corporations.

Leaving aside the negative correlation between large size and innovation, or the strong correlation between innovation and job growth we can nevertheless establish that this group of industrial behemoths is thoroughly unrepresentative.

And what they want is very simple:

A license to steal.

The assistant general counsel of IBM, Roger Smith, told our reporter, "If I lose the race to the patent office... I need some way to give me some relief for the fact that I lost the race."

We suggest that there are several mechanisms not unfamiliar to Mr. Smith's company that might be explored: Buy the company that won the patent (the source of much corporate entrepreneurship of late); or establish a strategic alliance; or, we respectfully suggest, there is always that long-

standing alternative of paying royalties to the inventor.

If enacted, first-to-file and prior use would vitiate the value of the Wyder-Stevens Act, already successfully fostering U.S. competitiveness through technology transfer initiatives. Ironically, the Commerce Department itself, with its National Institutes of Standards and Technology and its leadership in the National Technology Initiative, is blazing this trail.

We would remind the Commerce Department that it has at its disposal vast evidence that identifies entrepreneurial companies as the source of innovation, job growth, and future global leadership—and that the health of this segment of the economy is a vital issue in any decision relating to intellectual property rights—rights that would be severely compromised by the Advisory Committee's recommendations.

We would remind our readers in government and industry that harmonization with so-called market forces—in this case the strong urge around the globe to steal U.S. intellectual property—is no substitute for good policy.

It genuinely amazes us that the deplorable recommendations of this most unrepresentative Advisory Committee on Harmonization could have progressed to the desk of the Secretary of Commerce. We say, Madame Secretary, let this go no further.

# TECHNOLOGY

The Business Newspaper of Technology

## Patent Advice Stirs Call for Hill Hearing

*GOP Rep. Troubled by Effect on Tech-Transfer Efforts*

By Lucy Reilly  
SENIOR STAFF WRITER

Despite a strong reception by the Bush administration, a controversial patent proposal threatening to undermine U.S. technology transfer efforts is eliciting the concern of congressional Republicans, who have scheduled a hearing on patent reform Sept. 29.

"Prior user rights are going to wipe us out," said Beverly Selby, executive assistant to Rep. Helen Bentley, R-Md., referring to a proposal in a private sector advisory report to the Department of Commerce that is regarded by some as a modern-day Trojan Horse.

The Republican Research Committee's Task Force on Technology Transfer, co-chaired by Reps. Bentley and Frank Horton (N.Y.), has filled the witness panels with numerous inventors and only a few patent attorneys.

The private-sector panel was appointed by former Secretary of Commerce Robert Mosbacher two years ago. Last week, the panel submitted its recommendations to Mosbacher's successor, Barbara Franklin. The panel, called the Advisory Committee on Harmonization, is composed of industry/university patent experts attempting to help the United States standardize its patent laws in accordance with international regulations.

"We feel that the report is a very high-quality report," said Doug Comer, acting director of the U.S. Patent and Trademark Office. "There are some very positive reactions at the senior levels in the Department of Commerce, and they are favorably looking at some initiatives coming out of this."

The Commerce Department plans to complete its own assessment of the panel's report and submit a final report to Congress some time in the next few weeks.

The administration hopes legislation based on their report will be crafted and adopted, Comer said.

At issue is a small portion of the report that seeks, in effect, to render the existing patent system obsolete by opening up the process and not granting patents conventional protection. The existing system requires that if an inventor has been granted a patent, any other users of the product must pay a licensing or royalty fee.

Not so under the newly proposed law, which would require only that a competing inventor show documents proving prior use. The technology transfer community fears adoption of prior user rights would discourage inventors from small companies and federally funded labs by making their discoveries fair game for any potential user.

Moreover, legislative enactment of the proposal could result in a flood of lawsuits and attempts from companies seeking to claim ownership and monetary rights to previously filed patents.

Advisory committee panelist Roger Smith, IBM Corp. assistant general counsel disagrees, saying opponents of the final report blow it out of proportion.

Non-manufacturers in U.S. universities and labs are "paranoid about large corporations beating the small inventors into the ground because [the corporations] have got more money to spend than small inventors," Smith said. "I don't think they are getting punished. Prior users only get ... to continue doing what they were at the level they were."

But that, according to at least one panelist, is easier said than done. Only if a prior user admits usage and can be tracked and documented would prior user rights offer some degree of protection, said Dr. Edward MacCordy, who resigned from the

panel in protest last month.

As the former vice chancellor for Washington University in <sup>St. Louis</sup>, MacCordy has earned a high degree of respect among his technology transfer colleagues for his work a decade ago on pushing the first legislative package <sup>on</sup> technology transfer, the Bayh-Dole Act.

"There's a whole lot of recommendations in the [final report] and the only one I took issue with was an obscure one. Prior User Rights wasn't even a stand-alone [item]," MacCordy said of the advisory panel's patent report. But, he added, "the rest of the report has a lot of merit to it."

Federal lab and university officials are in the preliminary stages of planning a conference on the matter to be held in Washington before election day.

The panel's report "may be wonderful in its entirety," said one laboratory official, "but certain parts of it are unacceptable to the labs and universities. The big business view and the university view are really two different things."

The report has stimulated a variety of responses, from strong criticism to strong support. Congress has become interested in the case, and in addition to the Sept. 29 hearing, Sen. Dennis DeConcini (D-Ariz.) has introduced preliminary legislation to address what needs to be done with regard to U.S. efforts to adopt the international patent system of first-to-file, abandoning the current U.S. practice of first-to-invent.

Acting PTO Commissioner Comer acknowledged criticism of the panel's report, but said: "Bear in mind that the report is the work of the commission. We did our very best to give due note to [MacCordy's] concerns. We feel that this commission's work is a good job and there was a lot of careful thought put into the recommendations. We're hoping for broad [congressional] implementation of recommendations."

The Business Newspaper of Technology

## Changes in Patent Law on Horizon

### *Prior User Rights Said Threat to Tech Transfer*

By Lucy Reilly  
SENIOR STAFF WRITER

Technology-transfer efforts could face serious setbacks if a recommendation to the Bush administration to amend U.S. patent laws is adopted by Congress.

To help standardize international patent laws, the Advisory Committee on Harmonization has recommended that the U.S. change its unique first-to-invent patent structure to mirror Europe and Japan's first-to-file system.

Moreover, the private-sector panel endorsed international adoption of a policy known as Prior User Rights, which in effect compromises both patent standards and strips exclusive rights to inventions. Anyone who can document use of the technology before an application was filed will be allowed to use and commercialize the product without paying any royalty fees to the patent holder.

The current U.S. patent structure awards a patent to the individual or company who can verify beyond a doubt its claim to invention. The existing system in Japan and Europe recognizes the patent claim of whoever files first, regardless of who discovered a product.

The proposed change would adversely affect U.S. scientists, who typically publish their findings in trade journals or announce them at scientific meetings long before ever filing a patent. In the United States, scientists are protected by an extensive patent examination process that considers all public statements and published reports as part of the application process.

But the concepts of first-to-file and prior user rights have neared support from several large U.S. manufacturers whose general counsels serve on the panel appointed by former Secretary of Commerce Robert Mosbacher two years ago.

"If I'm a manufacturing entity and I lose the race to the patent office, then [my competitor] gets the patent," said Roger Smith,

assistant general counsel for IBM Corp. "I need some way in this first-to-file world to give me some relief for the fact that I lost the race. If you're at the mercy of someone who happens to file a patent application a day before you do, you have a serious problem."

Yet the proposal has unleashed a fury of criticism in universities, federal laboratories and small businesses, who say adoption of the recommendation will devastate their research and development.

"It is pro-big business and anti-small business," said Duke Leahey, director of industrial contracts and licensing for Washington University in Saint Louis and president-elect of the Association of University Technology Managers (AUTM).

"If adopted, this right would weaken the U.S. patent system in favor of secrecy of invention that would threaten technology creation and transfer for all federal, non-profit and small organizations," Leahey said.

Yet officials from the U.S. Patent and Trademark Office who staffed the commission appear to support the advisory panel's final recommendations. All but one of the 20-some advisory panel members concur.

"It gives individuals claiming prior user rights protection against charges of being an infringer. It's an absolute defense against infringement," said Edward MacCordy, retired associate vice chancellor for research at Washington University.

"The economic value of the patent can be destroyed in whole or in part by a prior user," MacCordy said. Prior users "would just cut you to pieces in the marketplace."

The issue escalated last month when MacCordy resigned in protest over the panel's recommendations to the Commerce Department, claiming that adoption of the first-to-file system will act as a disincentive to technology transfer. His resignation is serving as a rallying point for the

tight-knit U.S. technology transfer community.

"Anybody that has to have technology commercialized through the licensing process is going to be victimized because licensees are people that must make multi-million dollar investments in the development and commercialization of technology," MacCordy said in an interview from his St. Louis home Sept. 8.

IBM's Smith admitted the proposed changes are not going to aid the non-manufacturers in the nation's universities and labs. "There's nothing in it for them." However, he added that U.S. transfer experts are "paranoid about large corporations beating the small inventors into the ground because [the corporations] have got more money to spend than small inventors."

At stake, tech-transfer officials argue, are Bush administration efforts like the highly touted National Technology Initiative, which emphasize transferring technology from the hundreds of federally funded laboratories and universities to the private sector.

U.S. technology transfer supporters are concerned that congressional enactment of the panel's recommendations will bring a flood of litigation.

The only U.S. entities financially capable of continued litigation are large corporations, said AUTM President Lita Nelsen, associate director of the MIT Technology Licensing Office.

U.S. universities, labs and small businesses—which represent slightly more than 50 percent of the total U.S. patents filed—will fall victim to the new patent standards. A large portion of their technology transfer income is made on licensing in-house discoveries to any one interested in commercialization.

"It devalues the technology that comes out of the labs and universities. It makes technology transfer questionable," said one U.S. government official.

*for info  
to NCA*

**M E M O R A N D U M**

DATE: December 16, 1992  
TO: Science and Technology Council of the States  
FROM: Michelle Hainbach *MH*  
National Science Foundation  
SUBJ: Grants Report

Enclosed is a special grants report for your state indicating all active National Science Foundation (NSF) grants to institutions in your state. The report is alphabetical by institution. The following information is given for each grant: award number and title, principal investigator, department, start date for the grant, and the amount of NSF funds awarded to date.

This report is generated periodically and distributed to members of the National Governors' Association Science and Technology Council of the States, as part of NSF's on-going efforts to promote NSF-state interaction on mutual science and technology research and education goals. Please pass the report on to others in your department who may be interested in it.

If you have any questions or comments about the report, please call me at (202) 357-7196, or send a message via electronic mail to "mhainbac@nsf.gov".



NATIONAL SCIENCE FOUNDATION  
ACTIVE AWARDS BY STATE  
AS OF 12-08-92

Awards to the state of Guam

Institution	Award Number	Principal Investigator Department	Start Date	Amount To Date
University of Guam	9212256	Rosina Iping Department of Natural Sciences	08-15-92	\$ 18,000
University of Guam	9253053	John Lecson Department of Marine Laboratory RCMS: Enhancement of Scientific Career Opportunities for American Pacific Islanders Through a Research and Academic Enrichment Program at the University of Guam.	08-15-92	\$295,956
University of Guam	9013081	Ernest Matson Marine Laboratory	08-15-90	\$56,500
University of Guam	8813350	Stephen Nelson Marine Laboratory	08-15-88	\$78,000
University of Guam	9023311	Valerie Paul Department of Chemistry	11-01-91	\$100,000
University of Guam	9116307	Valerie Paul Department of Chemistry	06-01-92	\$79,999
University of Guam	9021782	Robert Richmond Marine Laboratory	02-01-91	\$130,795
University of Guam	9115182	Robert Richmond Marine Laboratory	12-01-91	\$15,000

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**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**COMMITTEE ON HUMAN RESOURCES**

**TAB 9**

- **Summary of Issues and Briefing Papers** **A**
- **Welfare Restructuring (C-6: Income Security)** **B**
- **The Suter Amendment** **C**
- **Defense Authorization Act Reinvestment  
Plan in Workforce, Amending the  
Job Training Partnership Act (JTPA)** **D**
- **C-14: Immigration and Refugee Policy** **E**
- **Competitive Workforce (C-16: Worker Adjustment)** **F**

# COMMITTEE ON HUMAN RESOURCES

## SUMMARY

### *State-Federal Legislative Issues and Briefing Papers*

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#### ISSUE:

- *Welfare Restructuring (C-6: Income Security)*

States, commonwealths, and territories are pursuing welfare reform strategies that will facilitate the economic self-sufficiency of current welfare recipients as well as discourage long-term welfare reliance. NGA's Human Resources Committee stressed that welfare reform strategies play a role in developing alternative education approaches. Reliance on public assistance had to be reduced by taking measures to reduce child poverty and encourage self-sufficiency for parents. Governors emphasized on making welfare less attractive while increasing work incentives but not at the expense of children. The Aid to Families with Dependent Children (AFDC) program must change from a pure entitlement program to a program conditioned upon participation in work-related activities. Evaluations of work incentive demonstration programs by the Manpower Demonstration Research Corporation led to the foundation of the Governors' efforts that led to the passage of welfare reform legislation (Family Support Act) of 1988. NGA urges Governors to actively continue participating in both state-based innovation and further efforts in the national reform strategies.

NGA encourages Governors to designate senior advisors and/or welfare or human service commissioners to take part in an NGA welfare initiative and to represent them in a series of NGA forums on welfare reform efforts that will take place after the Winter Meeting. Issues to be addressed include: time-limited benefits, child support assurance, and changes in the Job Opportunities and Basic Skills (JOBS) training program.

The U.S. Department of Health and Human Services has released final regulations on child care laws that make it easier for states to coordinate various child care programs. Minor revisions in the final rules were based in part on comments from states.

Recent waivers from federal program requirements enabled more than a dozen states to require school attendance from children in families receiving AFDC, expand AFDC eligibility and benefits, emphasize job training and education, require participation in preventive health care programs, and improve and streamline other services and programs. Although waiver authority has existed for some time, states now seem to be more interested in waivers and the federal government seems more willing to expedite the waiver process.

#### **BRIEFING PAPER:**

- ***Department of Public Health and Social Services***

Guam is concerned with the growing number of individuals being dependent on public assistance to meet their basic financial and medical assistance needs and the effect of the present welfare program on the indigent of Guam. The current program is not an incentive for families to be self-sufficient through finding employment since the total benefits to be received is higher than the salaries they will be earning. The end result is a growing population of Guam that will be subsisting through public assistance programs and may never be able to be self-sufficient. There is a need to change the present system to one that will encourage self-sufficiency.

Welfare reform should first start by treating the states, territories and commonwealths equally. Any ceiling on federal financial participation presently imposed on all territories and commonwealths should be lifted. All other programs available to the states, such as, the Supplemental Security Insurance Program should also be made available to Guam. Welfare benefits, once totaled should not exceed Guam's identified poverty guideline for the appropriate family size. Also, all able-bodied adult members should be required to earn benefits they receive in any of the mentioned programs. Supportive services, such as, child care and transportation if necessary should be provided. Services provided, such as, food stamps, housing, public assistance, and training/manpower development, and job placement services should come from one department. If possible, only one application should be required. Eligibility requirements should be standardized and policies should be promulgated to encourage families in seeking and achieving independence. Child support enforcement should also be streamlined to collect from the absent parents and make payments to families on a timely basis.

The program should be preventive in nature by requiring all children to attend and complete school. Any child

discontinuing his education shall have his benefits terminated. This will decrease future generations of welfare-dependents from the same family.

**ISSUE:**

- ***The Suter Amendment***

The Suter Amendment is the provision in the Urban Aid Package, H.R. 11, passed by Congress that would give beneficiaries of all Social Security Act programs new and express right to sue states for all (as opposed to some) program services and benefits covered in the state plans. NGA is opposing this amendment which would expose states to expensive law suits under the Aid to Families with Dependent Children (AFDC), Medicaid, JOBS, and most child care services. However, a compromise is being worked out. The House and Senate conferees were considering alternative language to the amendment that if accepted would uphold the central part of a March 1992 U.S. Supreme Court ruling (*Suter v. Artist M.*), without creating new rights to sue the states. The alternative language which the Governors strongly support, is being negotiated on the states' behalf by NGA, other state organizations, and the child welfare advocacy community. The Supreme Court ruling deals with state compliance with federal law on foster care, in order to make it possible for the child to return to his home. The new language also would restore a longstanding case-by-case test of which aspects of the Act to determine when recipients can sue states. The central part of the ruling held that federal law on the "reasonable efforts" clause is too ambiguous to be enforceable in federal court.

Although NGA and other state and child welfare organizations agreed on a Suter Amendment compromise, the President is expected to veto the Urban Aid Bill in which it was included. Action is expected in 1993. Until then, the Court decision remains in effect.

**ISSUE:**

- ***Defense Authorization Act Reinvestment Plan in Workforce, Amending the Job Training Partnership Act (JTPA)***

Congress responded to the economic dislocation caused by declining defense spending by including \$1.6 billion for the transition of workers and communities and the adjustment of defense firms in the FY 1993 Defense Authorization Act, which is awaiting the President's signature.

In the past, defense-related economic adjustment targeted assistance to the workforce by funding job training programs and providing military personnel with educational opportunities. The Defense Authorization Act alters these retraining programs, establishes new ones within the Department of Defense (DoD), and includes separation incentives and transition assistance for active duty military, national guard and reserves personnel and DoD civilian personnel. The Act amends the Department of Labor's Job Training Partnership Act (JTPA) by establishing a program specifically designed to meet the training needs of separated military and civilian DoD and Department of Energy (DoE) personnel, as well as for displaced defense workers. Appropriation for this DoD program is \$75 million.

Congress enacted several reforms to dislocated workers programs which were in line with NGA policy and with all provisions NGA sought to include. However, contrary to NGA policy, the new program sets up a funding stream through the Department of Defense, separate from existing JTPA programs. Also, it is a federal discretionary program, and does not utilize the formula-grant approach advocated by many states. New federal regulations for the JTPA job training program implement extensive amendments that will require each state to review its JTPA system, including local private industry councils. Although the interim final rules were published in December 29, 1993 Federal Register and will take effect immediately, a 45-day comment period was also provided.

#### **BRIEFING PAPER:**

- ***Agency for Human Resources Development***

The agency feels that although the measure of the Defense Authorization Act Reinvestment Plan in workforce is well-meant, yet, the vehicle for this type of program should be the Job Training Partnership Act (JTPA) through the Department of Labor because the mechanism is already in place and is working.

The measure may not affect the Territory immediately in terms of base closures and "substantial" lay-offs. However, should we experience substantial lay-offs, this measure paves the way for the Territory to apply and receive federal funds to serve the dislocated workers.

The following are concerns regarding the measure expressed by the agency:

- \* Most likely, affected workers are family-oriented and their priority would be employment rather than training or retraining. Furthermore, these workers would seek employment in occupations with comparable or better wages than what they were receiving. Retraining under JTPA may not result in placement in occupations with competitive wages, therefore, the non-competitive wages may serve as a deterrence for program participation rather than a benefit to the individual.
- \* The proposed funding distribution mechanism is not clear. The Defense Department should utilize JTPA's existing funds to avoid undue delays in funding distribution since JTPA's allocation system is in place and workable.
- \* For the program to work effectively, a strong commitment to timely information-sharing must be achieved.
- \* The measure calls for expanded eligibility criteria for servicing dislocated workers which when added to JTPA's basic eligibility criteria, may create unnecessary obstacles to program participation resulting in undue delays in the delivery of vital services to clients.

● *Department of Labor*

At present, the Department of Labor through the Guam Employment Service Division, provides job service instruction, information, and assistance to members of the Armed Forces and their spouses, who are within 180 days of separation, on a regularly scheduled basis through the Transition Assistance Program established by Public Law 101-510. However, this program is administered without any funding from the Department of Defense or Veterans' Affairs. The Department of Labor feels that if the Department of Defense Program is similar to the local transition assistance program, then Guam must apply for funding. The department further feels that although the intent of the act is highly commendable, yet Guam must be prepared financially to continue its local transition assistance program.

## ISSUE

### ● C-14: Immigration and Refugee Policy

The nation's Governors recognize the important contribution immigrants have made and continue to make to our nation. However, demands on education, job training, social and health services, and other assistance to promote the integration of immigrants into our communities are challenges that the states cannot ignore. The states are working on projects that will help to develop coalitions between immigrants and other established groups in our communities around issues of common concern, such as the environment or public safety. Currently, program research on newcomer employment and training, health and community relations as well as resettlement programs are undertaken.

Although the federal government has the primary role in immigration decisions, states are involved because of the broad influence immigrants and refugees have upon our society. The Governors urge Congress to consider in the deliberation and formulation of immigrant policies, concerns raised by the Governors such as: available resources we, as a nation are determined to provide; no further shift of costs to the states; policy with consideration of our national interests in family preservation, demographic trends, economic development, labor market needs, and humanitarian concerns; not discriminatory or giving preference because of nationality, race, sex or religion; reliable statistical information and its consequences for the United States; efficient methods to reduce migration; and modernized policies and administrative systems that should be reviewed periodically to ensure they are fair and workable.

NGA supports the domestic resettlement of refugees as defined by the Refugee Act of 1980, as amended. However, since refugee issues are an international responsibility, resettlement must be shared as equitably as possible. NGA believes that there must be a genuine effort to protect refugees worldwide. States are committed to working toward the rapid integration of refugees into our communities but the federal government has the total responsibility to meet the basic needs of refugees and entrants for the initial three years. NGA is opposed to the significant funding reduction in refugee programs that took place in recent years and which resulted in the shifting of fiscal responsibility for meeting the basic needs of refugees to states and localities. NGA urges the federal government to continue its commitment to refugees entering by providing financial support for the state-administered refugee programs.

## **BRIEFING PAPER:**

### ***Bureau of Planning (Excerpt from Article 7 of the Draft Guam Commonwealth Act)***

Guam is a territory of the United States and is very close to Asia and the Pacific which supply a large proportion of the immigrants coming to the United States. A significant number of these immigrants have in recent years chosen to make Guam their home, and the administration of such substantial numbers threatens to produce a severe impact on the limited infrastructure, health, education, housing, and other services available in Guam. It is therefore necessary and there is a compelling need to limit the number of persons permitted to immigrate to Guam.

When Guam becomes a commonwealth, it is its wish to have the authority to control entry of all aliens to include the admission, exclusion, and expulsion of such aliens in Guam. The Immigration and Nationality Act should remain applicable to Guam for two years after enactment of this Act, and within the two-year period, a comprehensive law on immigration for Guam should be enacted by the Guam Legislature, to become effective at the end of the said two-year period and to be dully coordinated with the Immigration and Nationality Service, the Department of Labor, and the Department of States. These actions will not impair free movement of U.S. citizens to and from Guam and naturalization of aliens for U.S. citizenship. The Governor of Guam will continue to have authority to issue U.S. passports within existing regulations. Furthermore, Guam should not be considered as a port of entry for the entrance into the U.S. of aliens lawfully admitted for permanent residence into the U.S. except as provided by the Guam Immigration Law and in those cases where the Governor has made labor determination. The intent of Article 7 is to minimize the adverse social and economic impacts of federally controlled immigration.

While the United States consular officials and other officials authorized to issue visas for entry into the U.S. are authorized to issue visas for travel only to Guam for any alien seeking entry to Guam as a non-immigrant in order to encourage investors and tourists to come to Guam, regulations governing the issuance of such visas shall be coordinated with the Governor of Guam. The United States and Guam should adopt appropriate measures for implementation and enforcement of this provision upon or after entry of aliens into Guam.

Guam should have an immigration policy that is separate from that of the U.S. and that would take into account Guam's limited resources, unique history and cultural mix.

## ISSUE

- ***Competitive Workforce (C-16: Worker Adjustment)***

States, commonwealths and territories need the capacity to prepare young people for today's workforce. States also has to work with communities, workers, and businesses to help workers adjust to changes in workforce needs through national legislation, technical assistance to states, and information sharing among states.

As the country undergoes changes in its economic base including reduction in low-skill jobs and defense spending, the states have significant responsibility in the federal system to facilitate training and retraining for American workers, promoting job creation and providing basic human services. Dislocated worker policies are necessary to revitalize the productive sector of the economy and to address the human effects of the change that is occurring in the workforce. The Governors are in key positions to orchestrate the diverse systems involved in anticipating change, managing change, and minimizing the adverse effects of change.

A newly created NGA Workgroup for a Competitive Workforce, chaired by Minnesota Governor Arne Carlson, met December 8, 1992, and a policy statement on improving the U.S. workforce has been developed. The proposal will be considered at the NGA Winter Meeting.

## BRIEFING PAPER

### NATIONAL GOVERNORS' ASSOCIATION 1993 WINTER MEETING

#### DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES

##### Welfare Reform

Guam, as with the other states, is concerned with the growing number of individuals being dependent on public assistance to meet their basic financial and medical assistance needs. While the burgeoning cost is of major consideration, a greater concern is the effect of the present welfare program on the indigent of Guam. It is presently a disincentive for families to be self-sufficient through finding employment since the total benefit being received is higher than the salaries they will be earning. The end result is a growing population of Guam who will be subsisting through public assistance program and may never be able to be self-sufficient. There is a definite need to change the present system to a system that will encourage self-sufficiency.

The whole issue of welfare reform should first start by treating the states, territories and commonwealth entities equally in all aspects specially with regards to lifting any ceiling on federal financial participation presently imposed on all territories and commonwealth status possessions. For both medicaid and public assistance categorical programs, the ceilings are \$2.5 million and \$3.8 million respectively. All other programs available with other states should also be made available to Guam such as the Supplemental Security Insurance program.

Any discussion of welfare reform should focus in providing the minimum basic needs of indigent families such shelter, food, medical and personal maintenance needs. Also, of paramount consideration is that all benefits once totaled should not exceed the amount of Guam's identified poverty guideline for the appropriate family size. Lastly, all able-bodied adult members should be required to earn any benefits they receive in any of the afformentioned programs. With this regards, they should be provided supportive services such child care and transportation expense.

Guam's welfare reform should start in providing services to the indigent under one department. This will include such programs as public assistance, food stamps, housing, and training/manpower development and job placement services (including vocational rehabilitation). There should be one application for all of these services when required. Eligibility requirements should be standardized and policies should be promulgated to encourage families in seeking and achieving independence. For example, there

is a policy limiting the market value vehicles to welfare recipients which are far below the market value of a reliable transportation in Guam. Case management services should be provided and placed emphasis on so that each family on assistance should be able to be "self-sufficient".

Benefit computations should be simplified for both workers and clients. Tax incentives should be given to employers who employ former welfare recipients who are working with them for a minimum of one (1) year. Public and private partnership should be cultivated and nurtured to ensure that training and job placements are provided.

Guam should also provide a cap on what a family should receive based on the actual family income (average family size in Guam).

Child support enforcement should also be streamlined to collect from absent parents and make payments to families on a timely basis.

The program should also be preventive in nature. One way of doing this is to require all children to attend and complete school. Any child discontinuing the education shall have their benefits terminated. This will decrease future generations of welfare from the same family.

Wage matches with Revenue and Taxation should be improved to include the timely reporting and processing of data to prevent possible fraud. Also, tax offsets for recoupment would result in recovering any payments to ineligible families.



**GOVERNOR'S  
OFFICE**

**December 21, 1992**

**TO ALL GOVERNORS:**

We are writing to invite you and your staff to participate in the National Governors' Association initiative to facilitate welfare reform at the national and state levels. The initiative will bring together the Governors to develop state and national strategies to transform the welfare system from one that fosters dependency, to one that genuinely encourages and supports self-sufficiency. The Governors played a lead role in the passage of the Family Support Act in 1988. We anticipate that we will play a critical role in upcoming efforts to restructure welfare.

At our Annual Meeting in Princeton, we designated welfare reform among our highest priorities for the current year. With that in mind, we have initiated a series of meetings to be held around the country between February and May. Each of the meetings will focus on developing consensus around efforts to reform welfare at the national level, which as you know, is among President-elect Clinton's top priorities, and on providing a forum for states to share information about state-based reform. As needed, we may also schedule meetings or conference calls in Washington, D.C.

The meetings are scheduled for:

- February 8-9:** Portland, Oregon, hosted by Governor Barbara Roberts.
- April 26-27:** Dearborn, Michigan, hosted by Governor (tentative) John Engler.
- End of May:** Newark, New Jersey, hosted by Governor Jim Florio.

**NOTE:** We anticipate that the Oregon and Michigan meetings will be attended primarily by senior Gubernatorial policy staff and state human services commissioners, and that the New Jersey meeting will be attended primarily by Governors.

We have enclosed a form for you to complete indicating: (1) which person(s) from your staff will be representing you on the welfare reform initiative; and (2) which person(s) from your staff will attend the first meeting in Portland, Oregon. The form should be returned by January 15 to Jackie Hall at NGA.



December 21, 1992

Page Two

Details regarding registration for the Portland meeting are included in the enclosed registration form.

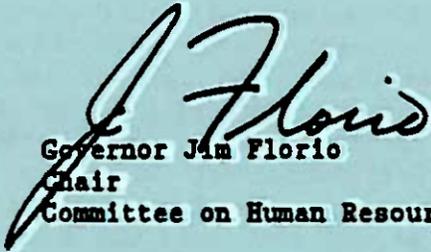
The Portland, Oregon meeting will be dedicated largely to a discussion of several of the far-reaching reform proposals being debated by the incoming administration, Congress, and other policymakers. We have enclosed a draft agenda for your information.

The American Public Welfare Association (APWA) has also designated a Task Force on Self-Sufficiency, which includes eleven human service commissioners and five program administrators from around the country. We are in the process of determining the best way to coordinate these efforts.

We look forward to a strong gubernatorial effort to rethink welfare. Please contact either of us if you have any questions about this NGA initiative.

In the meantime, happy holidays and best wishes for the new year.

Sincerely,

  
Governor Jim Florio  
Chair  
Committee on Human Resources

  
Governor Arne H. Carlson  
Vice-Chair  
Committee on Human Resources

## C-6. INCOME SECURITY

## 6.1 Job-Oriented Welfare Reform

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

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

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

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

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

6.1.2 **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.

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

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

The Governors believe it is crucial to give high priority to young, first-time mothers. Studies show that over 50 percent of AFDC mothers under age thirty had their first child as teenagers. In many cases, it is easier to train and find jobs for those individuals than for long-term recipients. For a relatively modest investment, there is the potential for substantial savings if these individuals can be diverted from the welfare system into the job stream. This would also tend to reduce the incidence of a second or third birth.

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

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

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

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

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

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

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

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

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

In implementing our welfare reform plan, it is critical that federal matching funds be made available for all services which are extended to recipients who are required to participate in the jobs program. Further, the emphasis on jobs should be reflected in the federal matching rate. Ultimately, we believe that there should be a higher matching rate for the jobs program than for the income assistance program.

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

## **6.2 Reform of Income Assistance**

**6.2.1 Preface.** The immediate goal of the Governors is to put into place 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.

**6.2.2 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 which will prevent and reduce the dependence of families on the welfare system.

### 6.3 The Food Stamp Program

6.3.1 **Preface.** 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. While 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 the assistance programs, and to better assist welfare families and individuals in need to obtain food and become economically self-sufficient. The Governors do not support proposals that would transform benefits into a block grant or reduce the federal commitment.

6.3.2 **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.

6.3.3 **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 Congress commission a study by an independent, nonpartisan organization to reevaluate how benefits are determined, including 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 over 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 benefits, all families should be treated equitably. For example, the cap on excess shelter costs should be removed, and the proration of benefits for families reapplying for food stamps within one month after their benefits 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.
- Increase the limit on the value of vehicles that a household may own to reflect an annually adjusted standard that is based on the actual cost of low-priced cars. Exempt vehicles that are used to transport fuel or water for households with no external energy source or piped-in water.
- Exclude payments that the Department of Housing and Urban Development provides to households living in subsidized housing to help defray utility expenses.
- Allow food stamps to be used in restaurants to provide meals to the homeless.
- Permit food stamp recipients to exclude income and resources that they have set aside under the SSI Pass Plan for education, vocational training, or other activities that would help a client obtain self-sufficiency.
- Permit higher levels of federal reimbursement for food stamp employment and training 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.

- Allow states to have a separate standard utility allowance for households that indirectly pay heating or cooling expenses without going through Food and Nutrition Service's waiver process.

6.2.4

Program Consistency and Coordination. The Government believes 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 administrative efforts of the Food Stamp Program, AFDC, and other assistance programs. The Government has urged 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 Government recommends the following:

- 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, especially the food stamp benefit adjustment required by AFDC benefits, 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 require conformance wherever feasible.
- Changes made through this process should simply administer and, at a minimum, maintain the current level of recipient benefits.

6.2.5

Employment and Training Programs. While the Government continues 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 JOBS program. 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 programs that best meet their needs. For example, states should have the option to give vocational priority in their food stamp employment and training programs.

The Government are concerned with the mandate that performance standards be implemented for the Food Stamp Employment and Training program. While 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 Government recommends that food stamp employment and training outcome standards be imposed at least until the standards for the JOBS program are developed and reviewed.

6.2.6

Quality Control. The Government support a strong federal-state quality control system that provides for a real partnership in controlling payment errors. The Government 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 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 Government still have concerns specific to the food stamp quality control system, including the treatment of the backlog of past sanctions and the current restrictions on appealing waiver denials. The Government believe that these issues should be resolved so states are not penalized based on an unequitable system. The spirit of the AFDC quality control reform should be reflected where possible in further refinements of the food stamp quality control system.

**6.3.7 Program Simplification.** The Governors also believe that the present food stamp system is unnecessarily complex, and 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.
- 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.
- Recipients' alien status should be verified only if an applicant cannot provide an INS document or provides 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.
- States should be given statutory authority to allow Electronic Benefit Transfer Systems to coast 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 first and second months' benefits 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.
- Recipients of general assistance (GA) should be 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.
- States should be permitted the option to cash out benefits for SSI recipients.

**6.3.8 Program Outreach.** 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 assure 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.

**6.3.9 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.

6.4 Low-Income Energy Assistance

- 6.4.1 **Preface.** 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:
- 6.4.2 **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 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.
- 6.4.3 **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.
- 6.4.4 **Low-Income Energy Assistance.** 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.
- 6.4.5 **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:<sup>1</sup>
- 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.
- 6.4.6 **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.
- 6.4.7 **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.

<sup>1</sup> 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, applying 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.

- 6.4.8 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.
- 6.4.9 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.
- 6.4.10 State Financial Assistance.** State financial assistance or 'matching' should be required for any net cost paid through this program for administrative costs because program funding will be provided from new tax revenues going 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.

## 6.5 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. While these programs are generally administered in an integrated manner at the state and local level, they are separately administered at the federal level. The results are often 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.

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 assure that a single federal agency was aware of the demands and requirements placed on state and local staff. It would also assure that the Congress was aware of such issues prior to the adoption of legislation.

The Governors therefore urge the administration and the Congress to develop and enact legislation that would provide for the common administration of the AFDC and food stamp program and that would authorize consistent funding for administrative costs between the two programs.

## 6.6 Employment and Training for Welfare Recipients

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 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:

- 6.6.1 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.

- 6.6.2 **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.
- 6.6.3 **Administration.** Governors should be provided flexibility to decide the proper agency or organization to administer the new program.
- 6.6.4 **Funding Level.** At a minimum, funding for the program should be at a level equal to the WTN 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.
- 6.6.5 **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 which have no impact on benefit levels.
- 6.6.6 **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.

6.7 **The Supplemental Food Program for Women, Infants, and Children**

- 6.7.1 **Purpose.** 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. While 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.

- 6.7.2 **Funding Limitations.** A continuing problem within the WIC program has been low enrollment levels due to the limited funding from the federal government. While 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. While 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 services received and administrative dollars to total dollars (i.e., 20/80) is too lopsided, particularly when such services as prenatal screenings are considered as administrative overhead. In addition, states have found the penalty for not spending all of their allocated funds in a given year to be unnecessarily restrictive.

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 is often limited as well.

The lack of coordination between the two programs leads to independent eligibility processes that do not encourage women to enroll in both programs to enroll in both of them. If a woman goes to a health clinic to attend a prenatal clinic may enroll 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 variations in eligibility rules, pregnant women 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.

Recommendations. The National Governors' Association believes that the goal of the WIC program should be that each state reach the 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 a national level. 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 reserve 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 accorded 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 as well as 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 is also important.
- States should automatically refer recipients of WIC and Medicaid from one program to the other. While 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.

Adopted August 1980; revised February 1982, March 1983, July 1984, February 1985, August 1985, February 1986, February 1987, February 1989, and February 1990.

6.74

6.73



August 7, 1992

The Honorable Thomas S. Foley  
Speaker of the House  
of Representatives  
The Capitol, Room H-204  
Washington, D.C. 20515-4705

Dear Mr. Speaker:

We are writing to convey our support for hearings to provide a public and thorough airing of the issues surrounding the Suter v. Artist M. Supreme Court decision and the potential advantages and disadvantages of a legislative response at this juncture. Specifically, the Governors:

- Ask that Congress conduct a thorough review of the complicated implications of the Court's decision before far-reaching legislation is enacted. We must have a more workable alternative than the provision included in the House urban aid package, and pledge to work with you as we mutually strive to serve our neediest citizens.
- Support provisions included in S. 4 and H.R. 5600 to create an advisory committee to study and make recommendations on the reasonable efforts requirement in the Adoption Assistance and Child Welfare Act.

The House included in its urban aid bill (H.R. 11) a provision referred to as the "Suter amendment." Involving the Illinois child welfare system, the Suter v. Artist M. case related to whether the Adoption Assistance and Child Welfare Act of 1980 creates a right to sue the state in federal court to enforce the provision requiring "reasonable efforts" in preventing out-of-home placement and returning foster children to their families. The State and Local Legal Center filed an amicus brief with the Supreme Court on behalf of NGA, the National League of Cities, the National Association of Counties, the National Conference of State Legislatures, and others in support of Illinois.

While its proponents contend that the purpose of the provision is to restore individual rights of action to a "pre-Suter" status, we believe that in fact the amendment goes well beyond the scope of that ruling. While it is difficult to predict with certainty the full implications of this complex provision, we believe that it would create a new and express right to sue in federal court for all

services and benefits covered by a state plan in all titles of the Social Security Act, regardless of whether the underlying statutes or regulations were intended to create enforceable rights or sufficiently define state requirements. We fear that the Suter amendment would radically expand state exposure to law suits. We oppose the House language for a number of reasons:

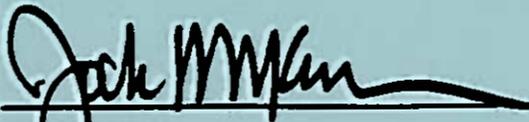
- Suter v. Artist M. still protects families and children by retaining strong avenues for redress. Beneficiaries continue to have opportunities for redress in instances when services and benefits are not forthcoming. These include federal administrative and state court remedies, as well as actions brought on constitutional grounds. The federal government ~~has~~ broad authority ~~to~~ cause compliance with statutory and regulatory requirements; individuals have protections through administrative hearings; and individuals may also continue to bring suit when ~~Congress~~ has provided clear guidance on program performance. It is important ~~to~~ note that in Suter, the Supreme Court did not rule out the use of Section 1983 of the Civil Rights Act in future litigation. Prior to Suter, the enforceability of Social Security Act plan requirements ~~was~~ determined ~~on~~ a case-by-case basis. The high court's decision still ~~permits~~ this case-by-case analysis to continue.
- There are no direct benefits to children assured by this action. By encouraging the proliferation of litigation, the provision could actually harm, rather than help, the children it is designed to protect. It could undermine the capacity of state and federal governments to serve children. The threat of exposure to litigation of this magnitude will require states to be more cautious in their state plans to provide services for children and other needy individuals. Additionally, time and money spent on litigation are resources not spent on providing direct services to children.
- The provision would cede to the courts responsibilities that now rest with Congress and state and federal agencies. Although we recognize that state and federal courts have an important role to play, we fear that this provision would abrogate to the courts responsibilities that presently rest with Congress and ~~state~~ and federal governments.
- The provision undoubtedly will have very significant fiscal impacts to both state and federal governments. House Ways and Means Committee staff noted in a table ~~of~~ the budget impact of H.R. 11 that "it is difficult to estimate the magnitude of the potential effects" of the Suter amendment on both state and federal ~~pending~~ since the provision could influence the way in which states administer such programs as Medicaid, AFDC, foster care, child support, and all other Social Security Act programs that are matched with federal funds.

We look forward to continuing to work with you to ensure that our combined efforts result in genuine improvements in services for our country's children in need.

Sincerely,

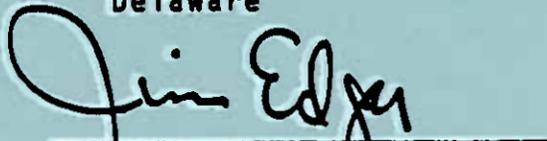
  
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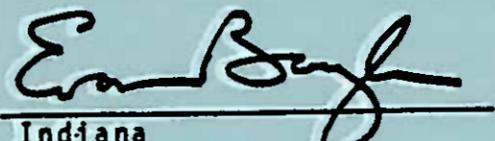
  
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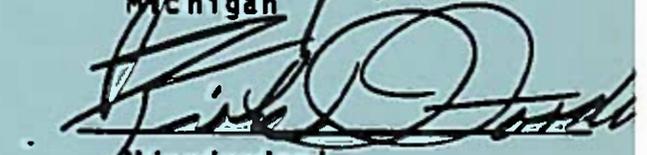
  
Ohio

  
Indiana

  
Colorado

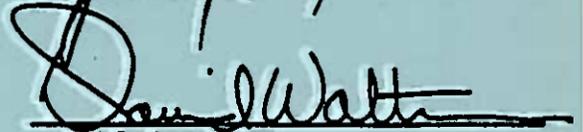
  
Massachusetts

  
Michigan

  
Mississippi

  
Alabama

  
New Jersey

  
Oklahoma

  
Iowa

  
Arkansas

## BRIEFING PAPER

### DEFENSE AUTHORIZATION ACT REINVESTMENT PLAN IN WORKFORCE, AMENDING THE JOB TRAINING PARTNERSHIP ACT (JTPA)

The above mentioned measure, currently before the President for approval, may not affect the Territory immediately, in terms of base closures and "substantial" lay-offs. Notwithstanding, should we experience "substantial" lay-offs (50 or more) of Departments of Defense and Energy personnel and civilian employees, this measure paves the way for the Territory to apply and receive federal funds from the U.S. Department of Defense, through the U.S. Department of Labor, to serve these dislocated workers.

While the intent of the measure is laudable, several concerns immediately come to mind:

1. More often than not, affected workers are primarily family-oriented and their priority would be employment, not training or re-training services. In addition, these workers would seek employment in occupations whose wages are comparable or better than what they were receiving.

Retraining, under JTPA, may not result in placement in occupations with competitive wages, therefore, the non-competitive wages may serve as a deterrent for program participation rather than a benefit to the individual.

2. The funding distribution mechanism, as proposed, is still unclear. Unless the Defense Department opts to use JTPA's existing funding distribution system, additional networks and mechanisms may have to be implemented resulting in undue delays in receiving these monies. JTPA's existing funds allocation/distribution system is in place, workable and should be utilized.
  
3. Advanced notice from the Defense Department on potential base closures or realignment dates is crucial to the effectiveness of the program and the people it serves. A strong commitment to timely information-sharing must be achieved if this program is to work effectively.
  
4. The proposed measure calls for expanded eligibility criteria for servicing dislocated defense and energy personnel and civilian workers. By adding other eligibility factors to JTPA's basic eligibility criteria -- under the Economic Dislocation and Worker Adjustment Assistance Act (EDWAAA - Title III, Dislocated Worker Program) -- we may be creating unnecessary obstacles to program participation. This causes undue delays in the delivery of vital services to the client.

These are just several immediate concerns we identified in reviewing the proposed measure's Summary. Despite the measure's well-meant intentions, we still feel that the vehicle for this type of program should be primarily the Job Training Partnership Act (JTPA) through the U.S. Department of Labor -- simply because the mechanism is already in place and working.

## BRIEFING PAPER

DEFENSE AUTHORIZATION ACT REINVESTMENT PLAN IN WORKFORCE,  
AMENDING THE JOB TRAINING PARTNERSHIP ACT (JTPA)

THE DEFENSE AUTHORIZATION ACT REINVESTMENT PLAN IN WORKFORCE, AMENDING THE JOB TRAINING PARTNERSHIP ACT (JTPA) IS IN RESPONSE TO THE ECONOMIC DISLOCATION CAUSED BY THE DECLINING DEFENSE SPENDING. AT THIS JUNCTURE, GUAM HAS NOT BEEN GREATLY IMPACTED BY BASE CLOSURES AND SUBSTANTIAL MILITARY LAY-OFFS. IF ANYTHING, GUAM BECAME THE BENEFICIARY OF 2,500 NAVAL PERSONNEL AND DEPENDENTS AS A RESULT OF THE CLOSURES OF SUBIC BAY NAVAL STATION AND NAVAL AIR STATION AT CUBI POINT PHILIPPINES. REALISTICALLY, BECAUSE OF ITS LOCATION, GUAM WILL CONTINUE TO PLAY A MAJOR MILITARY STRATEGICAL ROLE.

AT PRESENT, THE DEPARTMENT OF LABOR, THROUGH THE GUAM EMPLOYMENT SERVICE DIVISION, PROVIDES JOB SERVICE INSTRUCTION, INFORMATION, AND ASSISTANCE TO MEMBERS OF THE ARMED FORCES WHO ARE WITHIN 180 DAYS OF SEPARATION, AND THEIR SPOUSES, ON A REGULARLY SCHEDULED BASIS THROUGH THE TRANSITION ASSISTANCE PROGRAM ESTABLISHED BY PUBLIC LAW (PL) 101-510. THE PROGRAM IS CONDUCTED IN CONJUNCTION WITH THE NAVY FAMILY SUPPORT SERVICES AND THE ANDERSEN AIRFORCE BASE FAMILY SERVICES. HOWEVER, THE GUAM EMPLOYMENT SERVICE ADMINISTERS THIS PROGRAM WITHOUT FUNDING FROM THE DEPARTMENTS OF DEFENSE AND VETERANS' AFFAIRS.

IF THE DEFENSE AUTHORIZATION ACT REINVESTMENT PLAN IN WORKFORCE, AMENDING THE JOB TRAINING PARTNERSHIP ACT (JTPA) IS A MIRROR-ED PROGRAM OF TAPS, THEN GUAM MUST APPLY FOR FUNDS TO IMPLEMENT THIS

BRIEFING PAPER

PAGE 2

PROGRAM.

AS MILITARY SPENDING DECREASES AND MILITARY PERSONNEL LEAVE, THESE INDIVIDUALS WILL LOOK FOR EMPLOYMENT OPPORTUNITIES IN THE CIVILIAN SECTORS. HOWEVER, BECAUSE OF THE LOW WAGES AND THE HIGH COST OF LIVING IN GUAM, THESE INDIVIDUALS WILL CHOOSE TO RETURN TO THE CONTINENTAL U.S. WHILE THE INTENT OF THE ACT IS HIGHLY COMMENDABLE, THE DEPARTMENT OF LABOR, GUAM EMPLOYMENT SERVICE, MUST BE PREPARED FINANCIALLY TO DELIVER THESE SERVICES.

# DEFENSE BUDGET PROJECT

777 North Capitol Street, NE ■ Suite 710 ■ Washington, DC 20002 ■ 202 408-1517 ■ Fax 202 408-1526

October 21, 1992

## THE FY 1993 DEFENSE AUTHORIZATION AND APPROPRIATIONS ACT: ECONOMIC ADJUSTMENT PROVISIONS

Congress responded to the economic dislocation caused by declining defense spending by including roughly \$1.6 billion for the transition of workers and communities and the adjustment of defense firms in the FY 1993 Defense Authorization Act, which is awaiting signature by the President.<sup>1</sup> The Act includes provisions from both the House and Senate versions. The House had included \$1.0 billion in adjustment assistance based on recommendations by a Democratic task force led by Representative Martin Frost (D-TX). The Senate had provided \$1.2 billion for programs drawing upon proposals made by a Democratic task force led by Senator David Pryor (D-AR) and a Republican task force led by Senator Warren Rudman (R-NH). Ordinarily, funding differences are split in conference. In this unusual case, conferees adopted nearly all of the programs recommended in the two versions, resulting in higher overall spending for defense-related adjustment than in either version.<sup>2</sup>

The Defense Appropriations Act (Public Law 102-396) appropriates funds for most of the programs delineated in the Authorization Act, with the exception of roughly \$300 million for some personnel transition programs and new study centers which are not specifically appropriated funds.<sup>3</sup> Therefore, the actual appropriation for the authorized programs is \$1.1

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<sup>1</sup> Totals differ from the those reported in the press of \$1.5 in the Defense Authorization Act and \$1.7 in the Defense Appropriations. The major difference in the Authorization total is that \$141 million is included for DoE cooperative agreements and \$70 million for "other defense industry and technology base programs" in the conference report table is not included. See *The National Defense Authorization Act for FY 1993, Conference Report 102-966*. For a review of the totals used in this summary, see the attached table.

<sup>2</sup> For a review of proposals related to Defense Economic Proposals, see an earlier version of this piece: Carol A. Lessure, *The 1992 Defense Economic Adjustment Proposals* (Washington, DC: Defense Budget Project, July 1, 1992) and *Adjusting to Lower Defense Spending: Economic Adjustment Issues for Conference* (Washington, DC: Defense Budget Project, August 26, 1992).

<sup>3</sup> The Defense Authorization Act establishes legislative authority to fund defense programs, but it is the Defense Appropriations Act that provides the spending authority for these programs. Each year there are differences between the two laws. In the past, DoD has attempted to resolve these differences through various mechanisms: informal discussion with staff and members; or formally request an authorization, supplemental appropriation or rescission of appropriated funds.

billion dollars from the Defense Appropriations Act plus another \$190 million from The Dire Emergency Supplemental and the Energy and Water Appropriations Act.<sup>4</sup>

## MAJOR FEATURES OF THE ACTS

The Defense Authorization Act authorizes over \$1.6 billion in defense spending for these provisions, spending \$716 million each on workforce related measures and defense firm assistance, while community assistance receives \$202 million.

While the Defense Appropriations Act provides nearly \$1.1 billion in appropriations for the authorized programs, these provisions are scattered in various titles of the act. Title VIII, Defense Reinvestment for Economic Growth, which includes \$392 million for authorized workforce measures, leaving two programs totalling \$294 million to be funded, at discretion of the Department of Defense, from the military personnel account. An additional \$80 million is appropriated in Title VIII to fund a community assistance program, making the appropriated total for authorized community programs \$235 million.<sup>5</sup> The defense Q1111 assistance programs were appropriated \$602 million.<sup>6</sup>

### *New Administrative Offices*

The Defense Authorization Act establishes an Executive Council of the Economic Adjustment Committee to coordinate and develop policies on defense technology and industrial base issues. The new council is authorized \$5 million for an analysis and assessment of defense technology and industrial base needs. A new Center for the Study of Defense Adjustment is established at the National Defense University and is authorized \$2 million. These two provisions were not appropriated.

An Office of Technology Transition headed by the Director of Defense Research and Engineering is also established to ensure that applicable defense technology is transferred to

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<sup>4</sup> The Appropriations Act includes roughly \$500 million for research and development programs in their version of defense transition assistance. These programs are generally dual-use and could have commercial applications, which is why the Defense Appropriations Act includes them as part of their transition assistance. However, these programs are well established and have been authorized and appropriated through the research and development accounts. Since these programs did not correspond with the defense transition programs in the Authorization Act, they are not included in this discussion of defense-related economic adjustment. See Public Law 102-396, Title VIII. For a further discussion of technology development programs in the Defense Authorization and Appropriation Acts, see Office of Senator Jeff Bingaman, Press Release, October 8, 1992.

<sup>5</sup> \$50 million of this total was appropriated for School Impact Aid through the Dire Emergency Supplemental Appropriations, Public Law 102-368. The remaining \$115 million is appropriated in the operations and maintenance accounts of the Defense Appropriations Act.

<sup>6</sup> \$141 million of this total is through the Energy and Water Appropriations, Public Law 102-377. The remaining \$461 million is appropriated in the Research and Development Account of the Defense Appropriations Act.

the private sector. No new funding would be provided for this office, but DoD is directed to use existing resources. DoD is authorized to create a Military-Civilian Integration and Technology Transfer Advisory Board with both private and public sector representatives to advise the office on these matters.

In addition, the Defense Appropriations Act provides \$5 million for the Defense Conversion Commission to continue its research and be the "primary [coordinating] DoD body responsible for . . . oversight of defense conversion activities" through FY 1993.

#### *Ability to Transfer Funds Flexible*

In previous legislative versions of the Defense Reinvestment plan, funds were transferred from defense to other agencies, modeled on the Division D transfer of \$200 million defense related funding to non-DoD agencies in the FY 1991 Defense Authorization Act. Both the Defense Authorization and Appropriations Acts would transfer \$80 million to Department of Commerce and would allow for the possible transfer funds to Departments of Labor and Veterans Affairs. However, these transfers would occur at the discretion of the Secretary of Defense and only if the Administration's Office of Management and Budget (OMB) agreed to score such transfers as defense.<sup>7</sup> Otherwise transfers to these agencies would not occur. At the time the Defense Appropriations Act was signed into law, President Bush indicated that his administration plans "to ensure that these provisions are used only for defense-related functions, consistent with the Budget Enforcement Act and the Department of Defense."<sup>8</sup> What this statement means in terms of the potential transfers is unclear.

The following sections discuss the major provisions of the Defense Authorization Act reinvestment plan in each of three categories: workforce, community, and defense firm initiatives. Areas of funding difference with the Defense Appropriations Act are noted.<sup>9</sup>

### WORKFORCE INITIATIVES

In the past, defense-related economic adjustment targeted assistance to the workforce by funding job training programs and providing military personnel with educational opportunities. The Defense Authorization Act alters these retraining programs, establishes

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<sup>7</sup> Under the Budget Enforcement Act, if OMB does not determine that these adjustment related provisions are defense spending, then these funds would be considered domestic spending, thereby causing automatic cuts in domestic spending accounts in order to meet the spending limit set for FY 1993 in the BEA law. The Act is written so that if such transfers would not be considered defense related spending, then the transfers would not occur.

<sup>8</sup> "Statement of the President," White House Press release, Office of the Press Secretary, October 6, 1992.

<sup>9</sup> For a review of this issue and federal programs that could be utilized, see Conrad Schmidt, *Issue Brief: Defense-Related Economic Adjustment and Federal Policy* (Washington, DC: Defense Budget Project, February 24, 1992).

new ones within DoD, and includes separation incentives and transition assistance for active duty military, national guard and reserves personnel and DoD civilian personnel.

### *Job Retraining*

The Authorization Act amends the Department of Labor's Job Training Partnership Act (JTPA) by establishing a program specifically designed to meet the training needs of separated military and civilian DoD and Department of Energy (DoE) personnel, as well as for displaced defense workers. This DoD program is authorized and appropriated \$75 million for this program. The option of transferring any or all of this program's functions and funding to the Department of Labor is also authorized.

JTPA is amended by the Defense Authorization Act to expand eligibility and promote early participation. DoD civilians at base closure sites could participate in JTPA services two years prior to the facility closing or realignment date. States could be reimbursed through Division D JTPA funds for rapid response expenditures. Eligibility for JTPA funds allocated in Division D would be expanded, categorizing layoffs as "substantial" when they entail 50 or more individuals at a firm. Current legislation states that a layoff at a firm would have to meet or exceed 100 individuals to be eligible. DoD is directed to inform JTPA grantees of current and projected base closure or realignment. The availability of the \$150 million transferred funds from Division D is extended through FY 1995.

The Authorization Act establishes a program to provide firms which permanently hire and train former military personnel partial reimbursement for the cost of employer-provided training. This program is authorized and appropriated \$75 million. DoD is authorized to enter into agreements with the Departments of Veterans Affairs and Labor in implementing the program.

The Defense Department is directed to inventory all training programs that it currently offers and identify those that have application to civilian employment. Civilian DoD personnel are eligible for one year of skills training provided by the department.

### *Alternative Employment and Education Programs*

The Act authorizes DoD to underwrite the cost of preparing for teaching certification (up to \$5,000 per person) for separated civilian and military personnel and defense industry workers.<sup>10</sup> In addition, the teaching salaries of these workers would be underwritten, not to exceed \$50,000 total for the first two years of employment. This program is authorized and appropriated \$65 million.

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<sup>10</sup> Military and civilian defense employees who participate in any of the early retirement and separation incentive programs would not be eligible for the \$5,000.

The Department of Defense is authorized and appropriated \$20 million in funds for environmental studies scholarships and fellowships, grants to institutions of higher learning for environmental training programs geared toward defense related cleanup and management needs.

The DoD Manufacturing Engineering Education Program is authorized and appropriated \$30 million which provides matching grants to establish or enhance manufacturing engineering degree programs.<sup>11</sup>

The Authorization Act establishes an "upward bound" program to assist separating military personnel who wish to pursue higher education, providing \$5 million to fund the coursework needed to qualify for acceptance into advanced degree programs. Federal agencies are directed to give priority consideration to displaced DoD civilian employees before selecting any candidate from outside the agency and defense contractors are required to give hiring preferences to displaced defense industry workers. DoD contractors would also be required to list any job vacancies resulting from a new DoD contract with local employment services. The federal government is directed to expand access to existing employment services for military and civilian personnel and displaced defense contract workers, \$4 million is provided for these expansions.

#### *Separation Pay, Retirement Incentives and Benefits*

Separation pay up to \$25,000 is provided for selected DoD civilian employees who choose early retirement through FY 1997, \$72 million is provided for this new program. Voluntarily separating personnel are able to participate in the Montgomery GI bill education program.<sup>12</sup>

Reservists with at least 15 years of service can retire, with benefits commencing at age 60. Those reservists with 20 or more years of service could retire and receive an immediate, reduced retirement annuity. Lump sum separation pay and continued Reserve G I. Bill educational assistance would be provided to separated reservists. Life insurance, as well as access to military commissaries and shopping facilities, would be provided to involuntarily separated reservists for up to 12 months. The reserve transition provisions are authorized \$40 million, but funding is not clearly delineated in the Defense Appropriations Act and would have to come from the overall funding allocation for reserve personnel.

Health care benefits for separating military personnel and separated civilian employees would be provided for up to 18 months, \$76 million is authorized and appropriated for these provisions. DoD is also directed to establish a continued health care program for separating members and dependents by FY 1995.

<sup>11</sup> Funding of \$25 million was authorized and appropriated in the 1992 version of this report (see also the 1992 version of this report in stating that FY 1992 appropriations for this program were not provided)

<sup>12</sup> If they did not elect to participate while on active duty and their basic pay would be reduced by \$1,200 if they elect to participate in this program.

## ARTICLE 7. IMMIGRATION

### §701. Guam Immigration Authority.

(a) The Congress recognizes that Guam is a small and densely populated insular Commonwealth with limited infrastructure and resources, that it is that portion of the United States which is in closest proximity to nations of Asia and the Pacific which supply a large proportion of the immigrants coming to the United States, and that significant numbers of such immigrants have in recent years chosen to make Guam their home, and that the admission of substantial additional numbers of immigrants to Guam threatens to produce a severe impact on the limited infrastructure, health, education, housing, and other services available in Guam. Congress therefore further recognizes that there is a necessary and compelling need henceforth to limit the number of persons permitted to immigrate to Guam, and therefore:

The Commonwealth of Guam shall have the authority to control entry of all aliens into the Commonwealth of Guam to include the admission, exclusion, and expulsion of such aliens.

(b) The Immigration and Nationality Act and federal regulations applicable thereto, shall remain applicable to Guam for two (2) years from enactment of this Act. The Commonwealth of Guam shall, within the two (2) year period of this subsection, enact a comprehensive law on immigration for Guam, such law to become effective at the end of the said two-year period. Enactment of local law by the Legislature of Guam under this authority, and the actions of the Commonwealth of Guam pursuant to such authority shall be duly coordinated with the Immigration and Nationality Service, the Department of Labor, and the Department of State.

(c) (i) Such actions by the Commonwealth of Guam shall not impair the free movement of U.S. citizens to and from Guam.

~~(ii) Such authority shall not include naturalization of aliens for U.S. citizenship.~~

~~(iii) The Governor of Guam shall continue to have the authority to issue U.S. passports within existing regulations.~~

(iv) Entry of aliens into Guam under the authority of Subsection (a) above, shall not affect, either favorably or unfavorably, an alien's entry to any other part of the United States. Article 7 shall not preclude a person who previously has been lawfully admitted for permanent residence in the United States and who is otherwise admissible from being readmitted in Guam upon return to the United States.

(d) Guam shall not be considered as a port of entry for the entrance into the United States of aliens lawfully admitted for permanent residence into the United States except as provided for in subparagraph (b) or in those cases where the Governor of Guam has made labor determination.

*Continued on page 50*

## ARTICLE 7. IMMIGRATION

*Continued from page 49*

### **§702 Guam-Only Visa.**

United States consular officials, and other officials authorized to issue visas for entry into the United States, are authorized to issue visas for travel only to the Commonwealth of Guam for any alien seeking to enter Guam as a non-immigrant in order to encourage investors and tourists to come to Guam. Regulations governing the issuance of such visas shall be coordinated with the Governor of Guam. Such regulations shall consider the points of origin, duration of permitted stay, the means by which the aliens could alter visas to permit entry into the United States, and other appropriate conditions to assure the regulation serves the best interests of the Commonwealth of Guam. The United States and the Commonwealth of Guam shall adopt appropriate measures for the implementation and the enforcement of this section upon or after entry of the aliens into Guam.



*The intent of Article 7 is to minimize the adverse social and economic impacts of uncontrolled immigration.*

*Photo courtesy of Pacific North News*

## COMMISSION'S COMMENTS

### ARTICLE 7. IMMIGRATION

Because of Guam's small size and its geographic location, it is this article's intent to allow the Commonwealth to have an immigration policy that is separate from that of the United States, and that would take into account Guam's limited resources, unique history and cultural mix. Under this article's provisions, the Commonwealth government will have complete control over the immigration of aliens to Guam.

The transfer of immigration control from the federal government to the Commonwealth will occur two years after the Commonwealth Act becomes law. The implementation of the Commonwealth's new immigration law will require the proper coordination with the relevant federal agencies.

Under this article, the Commonwealth cannot restrict the free movement of American citizens to and from Guam, nor can the Commonwealth naturalize aliens for United States citizenship. However, Guam will no longer serve as a port of entry into the United States for the purposes of attaining U.S. citizenship. Immigrants wishing to become naturalized American citizens will have to enter other parts of the United States to satisfy federal residency requirements.

The Commonwealth Governor will continue to be able to issue American passports under existing regulations. In order to encourage tourists and investors to come to Guam, visas for entry into the Commonwealth only (Guam-only visas) can be issued, subject to regulations determined by Guam and the federal government.



*Article 7 would also allow for the issuance of "Guam-only visas" to make it easier for tourists to visit Guam.*  
*Photo: courtesy of Pacific Daily News*

## C-14. IMMIGRATION AND REFUGEE POLICY

### 14.1 Immigration

14.1.1 **Preface.** The nation's Governors recognize the important contribution immigrants have made and continue to make to our nation. While the federal government has the primary role in directing national policy in the area of immigration and refugee issues, the implication of immigration decisions on our society and local communities presents challenges that cannot be ignored by the states. These challenges include demands on education, job training, social and health services, and other assistance to promote the integration of immigrants into our communities.

14.1.2 **Principles.** Because immigration decisions have a broad influence upon our society and involve the states, the Governors urge the 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 they are fair and workable.

14.1.3 **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.

14.1.4 **Prohibiting 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 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.

### 14.1.5 Legalization

- The federal government must provide full and timely reimbursement to state and local governments for costs incurred as a consequence of the legalization program. Federal agencies must also provide timely guidelines on implementation requirements and assure stability of program funding for states to effectively deliver services to newly legalized aliens.
- 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. Due to insufficient national and community outreach efforts resulting from a compressed timetable as required by law, application deadlines should be extended.

## C-14. IMMIGRATION AND REFUGEE POLICY

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- 14.1.6 **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.
- 14.1.7 **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.
- 14.1.8 **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 the 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, implementation, and evaluation of immigration policy.

- 14.1.9 **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.
- 14.1.10 **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.
- 14.1.11 **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.
- 14.1.12 **Coordination with States.** 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.

### 14.2 Refugee Policy

- 14.2.1 **Federal Responsibility.** The National Governors' Association has supported and will continue to support the domestic resettlement of refugees as defined by the Refugee Act of 1980, as amended. We believe that refugee issues are an international responsibility and resettlement must be shared as equitably as possible. Further, there must be a genuine effort to protect refugees worldwide. For those who are resettled in this country, states are committed to working toward the rapid integration of refugees into our communities. However, the federal government has the total responsibility to meet the basic needs of refugees and entrants (that is, cash, medical, social services, and special educational costs) for the initial three years. The federal government also has the total responsibility for determining and accounting for secondary migration to areas of saturation.

If the federal government is unwilling to sufficiently fund the necessary services, then it is incumbent upon the federal government to decrease the flow of refugee admissions. Under no circumstances should there be any further shift of costs to state and local governments.

In recent years, there has been significant funding reductions in refugee programs. These budget reductions represent a major federal policy change that shifts fiscal responsibility for meeting the basic needs of refugees and entrants from the federal government to states and localities. This fiscal policy change occurs at a time when state and local resources have experienced significant cuts in human service programs due to federal budget balancing. Since the states do not have the authority to set

immigration quotas or limit secondary migration, they are unable to effectively control the additional costs incurred due to this change in policy. The National Governors' Association strongly believes that the federal government must continue its commitment to refugees entering by providing financial support for the state-administered refugee programs.

4.2.2 Principles. In addition, we emphasize that the following principles are important components of a federal domestic assistance program:

- The goal of resettlement assistance efforts is to help refugees achieve self-sufficiency as quickly as possible. The key to economic self-sufficiency is entry into unsubsidized employment at a living wage at the earliest possible time with concurrent removal from dependency on public aid.
- Social services are vital to reaching the goal of self-sufficiency; and federal funding should not be decreased as a means of reducing the federal refugee or entrant budget.
- Stability of federal funding is crucial if states are to implement an effective resettlement program. In addition, the timely provision of funding is essential to enable states to discharge their administrative responsibilities in an expeditious manner, relative to funding decisions and program planning.
- States must be consulted in a timely manner when changes in the current program are being considered. A process for ongoing state participation in program review should be incorporated into the federal administrative structure.
- The federal government should synchronize the funding cycles and streamline its administrative and reporting requirements for the states to allow for more cost-effective management of the program, while maintaining state flexibility.
- Since the refugee program is state-administered, it is essential that all funding should flow to the states to allow for centralized program planning, administration, accountability, and coordination of local planning efforts.
- While the states are willing to consider changes in the current program that would improve the efficiency or effectiveness of the program, we would oppose any attempt to convert funding for the program to a block grant.

14.2.3 Coordination and Consultation. Governors continue to be concerned about the lack of adequate consultation on the part of the voluntary agencies (VOLAGs) and their local affiliates in the initial placement of refugees and on the part of the federal government in the equitable distribution of refugees and entrants.

States have continually urged the federal government to establish a mechanism to ensure appropriate coordination and consultation. However, significant progress has not been made and the following mechanisms need to be considered to address this problem:

- A requirement in the State Department/VOLAG contract to limit placement to areas conducive to resettlement. In addition, VOLAGs and their local affiliates should be required to have a letter of agreement that specifies that there has been consultation and planning for the initial placement of refugees, and sets forth the continuing process of consultation. The requirement in the State Department/VOLAG contract to limit placement to areas conducive to resettlement should include concurrence by the state.
- The State Department should enter into agreements with the states for the purpose of planning and consultation on refugee placement strategies within available federal resources. This should include state participation in identifying appropriate areas for resettlement.
- There should be a designated requirement that sponsorship not be on welfare. The sponsorship program should be modified so that sponsorship obligations should be more strictly enforced.

## C-13. PREVENTION AND TREATMENT OF CHILD ABUSE AND NEGLECT

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It is essential that the U.S. Coordinator for Refugee Affairs actively coordinate the resettlement of refugees and provide Governors with relevant information on activities within their states. In addition, there needs to be a clear delineation of the roles of the U.S. coordinator, the State Department's Bureau of Refugee Affairs, and the Department of Health and Human Services' Office of Refugee Resettlement.

An advisory committee should be established representing state and local government officials, VOLAGs and the refugee community to examine and advise Congress and the federal agencies on a full range of refugee resettlement issues.

The Governor should be closely involved in the Congress in a consultative process through which new refugee admission levels are determined to ensure that program funding is provided to support the level of refugee admissions.

- 14.2.4. Impact Aid. Special impact aid to state and local governments should be provided to meet unusual burdens on communities. Impact aid should be provided in the event that any of the following occur:
- A refugee flow is unexpectedly large or sudden;
  - The resettlement area is highly concentrated by initial placement of refugees, including secondary migrants;
  - The resettlement area has unfavorable economic conditions;
  - The refugee population has special needs.

Adopted February 1988.

## C- 16. WORKER ADJUSTMENT

### 16.1 Preface

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

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

### 16.2 Principles

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

- 16.2.1 **Needs.** The Governors should have discretionary authority to develop worker adjustment programs that address the unique needs of the workers, the businesses, and the communities in their states.
- 16.2.2 **Recipients.** The program should be broad enough to allow states to assist workers, regardless of the cause of their dislocation (technological change, international competition, market forces, etc.). This may include dislocated farmers, unemployment insurance recipients and exhaustees, potentially dislocated workers, and other structurally unemployed individuals.
- 16.2.3 **Reemployment Assistance.** The need to provide workers with reemployment assistance as early as possible is of paramount importance in helping them find new jobs. Early intervention strategies operate most effectively in a cooperative environment where information is shared among labor, management and government.
- 16.2.4 **Service Alternatives.** Displaced workers may need a variety of services and assistance in order to successfully adjust to change. Governors should be allowed to choose from a variety of service alternatives including: educational services, training alternatives, job search assistance, support services and income support.
- 16.2.5 **Coordination of Services.** Funds allocated by the federal government should be made available to assist states in implementing worker adjustment programs that are designed to both prevent job loss and facilitate reemployment of dislocated workers. States should be allowed to develop interdisciplinary approaches to worker adjustment by coordinating the employment and training, education, economic development, human services, and unemployment systems. States recognize the importance of reserving a small percentage of the funds at the national level to address unanticipated dislocations; and multistate dislocations, however, the majority of the funds should be allocated to the states.
- 16.2.6 **Labor Data.** The federal government can assist states and business by collecting and disseminating information on local labor trends that will facilitate anticipatory responses by states. Current data is not sufficient or pertinent enough to effectively anticipate occupational and industrial growth and decline.

Adopted February 1987.

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\* To be amended at a later date

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**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**COMMITTEE ON NATURAL RESOURCES**

**TAB 10**

- **Summary of Issues and Briefing Papers** **A**
- **Interstate Transportation of Waste and the  
Resource Conservation and Recovery  
Act (RCRA) Reauthorization** **B**
- **State Authority for River Protection in  
the Federal Hydropower Licensing Process** **C**
- **Clean Water Act Reauthorization** **D**
- **Proposal on Economic Growth for Agriculture** **E**

# COMMITTEE ON NATURAL RESOURCES

## SUMMARY

### *State-Federal Legislative Issues*

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#### ISSUE:

- *Interstate Transportation of Waste and the Resource Conservation and Recovery Act (RCRA) Reauthorization*

The 102nd Congress has adjourned without finishing the interstate waste bill. RCRA reauthorization bills in the House and Senate failed to gather enough widespread support to be passed in the 102nd session and final efforts to enact interstate waste legislation also failed. The Senate Environment and Public Works Committee had reported Bill S. 976, a comprehensive reauthorization bill. However, because of its unlikelihood to be considered, another bill, S.2877 addressing only the interstate municipal waste issue ~~was~~ introduced and passed the Senate.

The House Committee on Energy and Commerce approved H.R. 3865, a RCRA bill limited primarily to municipal solid waste. However, the House considered bringing up a substitute bill for a vote in the final days of the 102nd legislative session. The substitute bill, opposed by NGA, would have included a so-called Boucher interstate provisions and the state solid waste management planning requirements contained in H.R. 3865. The provisions would have given local governments the authority to ban waste at facilities that had not received waste imports as of November 1991. Such provisions provide no direct role for the Governors and do not address existing waste flow. NGA had written House leaders arguing against considering the bill under a suspension of the rules due to concerns about the interstate and planning provisions, precluding opportunities for improving the bill.

The NGA policy addresses the following final status of provisions for both S. 976 and H.R. 3865:

- \* State Planning: NGA policy supports the concept of state planning but stresses that excessive federal mandates should not be imposed on state and the local governments that have had, and should

continue to have, primary jurisdiction over municipal waste management.

- \* Federal Role: NGA policy encourages and expands federal role in research and development of waste management technologies, recyclability and recycled content initiatives, recycled materials market development, and technical assistance.
- \* Industrial Waste: NGA policy acknowledges that uniform national management practices are needed to manage industrial waste following sufficient study.
- \* Incinerator Ash: NGA urges the federal government to set technical performance standards, rather than design standards, for waste disposal facilities.
- \* Interstate Waste Flow: NGA policy on interstate waste calls for state authority to impose fees on waste imports and to impose bans in limited circumstances.

#### **BRIEFING PAPER:**

- **Guam Environmental Protection Agency**

The agency concurs with NGA's policy on the different roles the states and the federal government should play in regards to management of municipal waste. Because of Guam's remoteness and mandatory requirements in the Continental U.S. may not be applicable locally, excessive federal mandates should not be imposed on Guam. GEPA wishes to continue to have primary jurisdiction over municipal waste management practices while request for technical assistance and appraisal of the on-going research and development of waste management technologies, recyclability and recycled content initiatives, recycled materials market development for the island from the federal government should be pursued.

GEPA further concurs with NGA's policy on states authority to impose fees on waste imports and be allowed to impose bans for certain circumstances. Although it may never become a reality, the island should have some mechanism to discourage import of waste. Because of Guam's problem with solid waste management and the unavailability of land for waste disposal, measures taken to prevent the U.S. or other countries from looking at the Western Pacific as a dumping ground should be pursued at all costs.

**ISSUE:**

● ***State Authority for River Protection in the Federal Hydropower Licensing Process***

NGA urges Governors to strongly support Title XXXI, Sections 3103 and 3104 of H.R. 776, the National Energy Efficiency Act, which protect state prerogatives in water management.

The Governors strongly urge the Conferees to assure that the provisions contained in Title XXXI of the House bill remain intact through the Conference proceedings. Furthermore, the Governors urge Congress to amend federal law in order to clarify the respective roles of the states and the federal government regarding decisions on sitting of new hydroelectric projects.

Section 3103 prohibits the condemnation of state and local parks and natural resource lands for hydropower development without the express consent of the affected state or local government. Section 3104 ensures that reaches of river statutorily protected by the state through the existing State Comprehensive Outdoor Recreation Planning (SCORP) process under the Land and Water Conservation Fund Act are protected from new, non-federal hydroelectric development.

Thirty-three states have enacted statutory programs to protect rivers inside their borders which have outstanding natural, cultural or recreational features. However, the Federal Energy Regulatory Commission (FERC) is not required to adhere to these protection. Sections 3103 and 3104 would remedy this situation with respect to both state lands and waters. In addition, by clarifying the status of these protected lands and waters, both measures will also help create a climate of greater certainty which should result in fewer disputes between states, localities, FERC, and hydropower license applicants.

The Energy Bill was signed into law on October 24, 1992. However, Guam has no idea whether provisions supported by NGA were included. Governors met in early January 1993 in an energy conference to study and discuss innovative programs that can serve as models for the nation.

**ISSUE:**

● ***Clean Water Act Reauthorization***

Water quality and quantity, including infrastructure

financing, requires continuing to lobby Congress in favor of comprehensive management of the nation's water resources, including substantially greater funding for water quality investments through the State Revolving Loan Fund. Present and projected need for water quality financing far outstrips available resources, and additional federal investment in state revolving loan funds is critical to continued progress toward meeting the goals of the Clean Water Act. Reauthorization and final action on the bill will continue into the 103rd Congress.

A Clean Water Act reauthorization bill was introduced in May 1991 by the Senate Environment and Public Works Subcommittee on Environmental Protection. However, the bill was widely criticized and the Committee did not mark up the legislation. The House Subcommittee on Water Resources never introduced a bill because of disagreement over wetlands policy.

NGA's major policy recommendations address infrastructure financing and wetlands. NGA advocates retention of the State Revolving Loan Funds (SRF) as the sole mechanism for water infrastructure financing; expansion of SRF eligibility to include all water infrastructure needs; and extension of federal capitalization grants for SRFs of at least \$2.1 billion per fiscal year through the year 2000. In addition, NGA policy advocates revision of the law to facilitate state assumption of the federal wetlands program; development of regional wetlands delineation guidelines in consultation with the states and an independent policies to regional variance in the resource.

Appropriations of about \$2.5 billion are expected for a state revolving loan fund for wastewater treatment plant projects. The Senate figure of \$2.65 billion would be about \$250 million higher than fiscal year 1992 funding level.

#### ISSUE:

- *Proposal on Economic Growth for Agriculture*

The National Association of State Departments of Agriculture (NASDA) and other agricultural organizations propose to establish a group or task force to develop a proposal on economic growth for agriculture for the new Clinton administration. The proposal's objective would be to present to the President-elect and his transition team the needs, ideas, opportunities, and value of focusing on Agriculture as a major area for economic development.

Governors are requested to air their views regarding NASDA's

participation in such a group and make suggestions on the proposal needed to stimulate economic growth in agriculture. NASDA is also compiling a list of candidates for the position of Under Secretary of International Affairs and Commodity Programs at the Department of Agriculture for the new administration. The information was circulated to all NASDA members which included Guam.

#### **BRIEFING PAPER:**

- ***Department of Agriculture***

The department supports the formation of a group to develop a proposal on economic growth for agriculture for the new administration with the objective of presenting the needs, ideas, opportunities, and value of focusing on agriculture as a major area for economic development. The department wishes to articulate the following suggestions:

- \* To institute an effective Federal Quarantine and Inspectional Program to prevent entry of foreign agricultural pests into Guam thus farmers will no longer be faced with high cost in pesticides and chemicals needed for farm survival.
- \* To provide adequate resources to GEPA to expedite timely registration and substitutions of pesticides.
- \* Flexible federal agricultural programs and funding should be extended to Guam instead of the limited programs and subsidies that Guam currently have.

- ***College of Agriculture & Life Sciences, UOG***

CALS also supports the formation of the task force and recommends that NASDA actively participate in the development of a proposal for the new administration on economic growth for agriculture. CALS wishes to articulate the following suggestions:

- \* The Executive Branch and the Congress should direct USDA and USAID to strengthen the U.S. institutions in tropical agricultural programs for effective transfer of technology to the less developed countries in the tropics.
- \* More attention for increasing the production of specialty crops in the U.S. as the population of

immigrants from the tropical countries will be creating a demand fore such commodities.

- **Bureau of Planning**

Based on suggestions submitted by the Department of Agriculture and CALS, UOG, a letter was prepared to the Special Projects Director/Policy Analyst of the National Association of State Departments of Agriculture in support of its participation and the formation of a task force that will develop a proposal on economic growth for agriculture. The announcement of the position of Under Secretary for International Affairs and Commodity Programs at the U.S. Department of Agriculture was routed to the Guam Department of Agriculture but no response was received as of this date.

S/c/cz

# GUAM ENVIRONMENTAL PROTECTION AGENCY

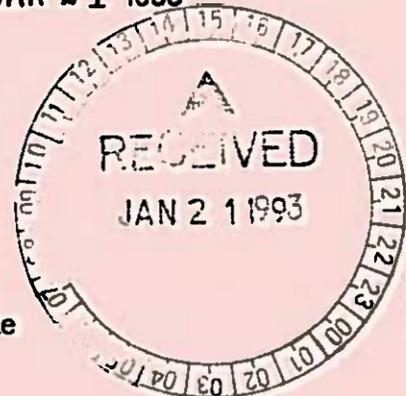


D-107 HARMON PLAZA, 130 ROJAS ST., HARMON, GUAM 96911 TEL. NO. 646-8863/5 FAX: 646-9402  
AHENSIAN PRUTEKSION LINA'LA GUAHAN

FRED M. CASTRO  
Administrator

JOANNE M. BROWN  
Deputy Administrator

JAN 21 1993



## INTER-AGENCY MEMORANDUM

TO: Director, Bureau of Planning

FROM: Administrator

SUBJECT: Interstate Transportation of Waste and the  
Resource Conservation and Recovery Act  
Reauthorization (RCRA)

Guam EPA concurs with the National Governors Association's policy on the different role the State and the Federal government should play in regards to management of municipal waste. In particular, Guam EPA believes that because of Guam's remote location and the fact that requirements mandatory in the Continental United States may not be applicable locally, excessive federal mandates should not be imposed on the Government of Guam. GEPA should continue to have primary jurisdiction over municipal waste management practices. However, the island would still like to continue to have the opportunity to request technical assistance from the federal government and be kept apprised of the ongoing research and development of waste management technologies, recyclability and recycled content initiatives, and recycled materials market development.

In regards to interstate transportation of waste, Guam EPA also concurs with the National Governors Association policy that the states should be given the authority to impose fees on waste imports and be allowed to impose bans for certain circumstances. Although it may never become a reality, the island of Guam should have some mechanism in place to discourage the import of waste. Considering the island's problems with the management of solid waste and the unavailability of land for waste disposal, any measures taken to prevent the United States or other countries from looking at the Western Pacific as a dumping ground should be pursued at all costs.

  
FRED M. CASTRO



## RCRA REAUTHORIZATION

RCRA reauthorization bills in the House and Senate failed to gather enough widespread support to be passed this session and final efforts to enact interstate waste legislation also failed.

The Senate Environment and Public Works Committee reported its RCRA Reauthorization bill, S. 976, on May 20, 1992. Recognizing the unlikelihood, however, that a comprehensive reauthorization bill would be considered by the Senate this year, Senators Baucus and Coats introduced a bill, S. 2877, addressing only the interstate municipal waste issue. The bill passed the Senate on July 23 by a vote of 89-2.

The House Committee on Energy and Commerce approved H.R. 3865, a RCRA bill limited primarily to municipal solid waste, on July 2, 1992. Chairman Dingell stated an interest in bringing a substitute of H.R. 3865 to the floor for a vote in the final days of the legislative session, but ultimately did not. That substitute, opposed by NGA, would have included the so-called Boucher interstate provisions and the state solid waste management planning requirements contained in H.R. 3865.

The final status of provisions addressed by NGA policy is summarized below.

State Planning. NGA policy supports the concept of state planning but stresses that excessive federal mandates should not be imposed on state and local governments that have had, and should continue to have, primary jurisdiction over municipal waste management. The planning provisions and federal plan review requirements were less onerous in the Senate bill than in the House bill. H.R. 3865 incorporated a compromise on federal plan review offered by the states but then included an implementation review that has been considered unacceptable by states.

Federal Role. NGA policy encourages an expanded federal role in research and development of waste management technologies, recyclability and recycled content initiatives, recycled materials market development, and technical assistance. Both the House and Senate bills contained recycled content and recovery rates for newspaper and for packaging composed of paper, glass, steel, aluminum, and rigid plastic. S. 976 contained federal procurement requirements and authorization for federal research in waste management while H.R. 3865 did not.

Industrial Waste. NGA policy acknowledges that uniform national management practices are needed to manage industrial waste following sufficient study. Both the House and Senate bills included a notification process for industrial wastes that would allow both states and the EPA to get a better idea of the volumes and waste types involved.

Incinerator Ash. NGA policy urges the federal government to set technical performance standards, rather than design standards, for waste disposal facilities. S. 976 contained detailed design standards for the disposal of municipal incinerator ash that have been viewed by the states as too inflexible.

Interstate Waste Flows. NGA policy on interstate waste calls for state authority to impose fees on waste imports and to impose bans in limited circumstances. Neither the House or Senate bills provided fee or direct ban authority to Governors. H.R. 3865 vested ban authority with the "affected local government," while S. 976 required that a Governor's action to ban waste be initiated by a request from both the local government and solid waste planning authority if one exists. Governors would have been able to designate the level of local government initiating the request.

C-92-3240



STATE OF WYOMING  
OFFICE OF THE GOVERNOR  
CHEYENNE 82002

MIKE SULLIVAN  
GOVERNOR

September 4, 1992

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

Dear Joseph:

As chairman of the <sup>NATIONAL</sup> Natural Governors' Association Committee on Natural Resources, I am seeking your support and signature for the attached letter to the House and Senate conferees on ~~HR~~ 776, the Energy Bill. The letter supports Title XXXI, Sections 3103 and 3104 of this legislation which protect state prerogatives in water management.

Section 3103 prohibits the condemnation of state and local parks and natural resource lands for hydropower development without the express consent of the affected state or local government. Section 3104 ensures that reaches of river statutorily protected by the state through the existing State Comprehensive Outdoor Recreation Planning (SCORP) process under the Land and Water Conservation Fund Act are protected from new, non-federal hydroelectric development.

Thirty-three states have enacted statutory programs to protect rivers inside their borders which have outstanding natural, cultural or recreational features. However, the Federal Energy Regulatory Commission is not required to adhere to these protections. Sections 3103 and 3104 would remedy this situation with respect to both state lands and waters. In addition, by clarifying the status of these protected lands and waters, both measures will also help create a climate of greater certainty which should result in fewer disputes between states, localities, FERC and hydropower license applicants.

By way of background, I have attached a resolution supporting these provisions passed by the Western Governors at our most recent annual meeting in Jackson Hole, Wyoming. You should recognize this is by no means a Western issue only. I understand letters supporting these provisions were received during House consideration from Kentucky, California, New York, Idaho and Michigan, among others.



Sullivan FERC letter  
September 3, 1992  
Page two

In addition, as you may recall, during the U.S. Supreme Court's hearing of California v. FERC in 1990, 49 states signed onto an amicus brief in support of California's position. While Sections 3103 and 3104 do not overturn the Supreme Court's decision, they take a very large step toward remedying the current situation in which FERC is able to preempt state water management determinations.

The attached letter signed by all 50 governors in support of these provisions could have a significant positive impact on conference negotiations. Conference negotiations ~~(1992)~~ scheduled to resume September 8, so it is important that this letter be finalized early next week.

If you are willing to sign this letter, I urge that you have a member of your staff contact either Karen Tyler at NGA at (202) 624-8575, or Kristen Dillon at the WGA Washington, D.C., office at (202) 624-5402 as soon as possible.

Thank you for your attention to this matter. I hope you will be able to support this important states' rights issue. With best regards, I am

Very truly yours,



Mike Sullivan  
Governor

MS:SF:tmp  
Enclosure

cc: Kristen Dillon  
Karen Tyler

## DRAFT

September 8, 1992

Dear Energy Bill Conferees:

We, the undersigned Governors, are writing in strong support of Title XXXI of HR 776, the National Energy Efficiency Act. On May 27, 1992 four sections addressing the authority of the Federal Energy Regulatory Commission (FERC) to license new private hydropower projects were added to HR 776 as an amendment by a vote on the Floor of the House of 318 to 98. The Members of the House of Representatives gave a clear signal that the time has come to reform the existing licensing procedures of the FERC to more comprehensively factor in the States' primary role in the management of critical natural resources. We strongly urge the Conferees to assure that the provisions contained in Title XXXI of the House bill remain intact through the Conference proceedings.

As you are well aware, the States have long exercised a primary role in management of this country's water resources. The provisions of Title XXXI do much to guarantee the ability of the States to apply their growing expertise in river and natural resource management in order to protect certain outstanding resources from private hydropower development that is inconsistent with conservation of these resources. Without irrefutable authority, States' legislative efforts to preserve the most outstanding natural, recreational, and cultural values of their rivers can be overridden by FERC.

Specifically, Section 3104 of Title XXXI would prohibit FERC from licensing new private hydropower projects on outstanding river reaches when a State, through the existing State Comprehensive Outdoor Recreation Planning process under the Land and Water Conservation Fund Act, has recognized the importance of specific reaches to its citizens and protected them from such development through enactment of a State statute. In such cases, FERC should not be permitted to continue to veto these actions which more broadly consider all of the values of these outstanding rivers.

Section 3103 would prohibit private hydropower license holders from exercising their derivative power of condemnation for the construction of projects on lands owned by States and local governments and managed as public parks, for recreation purposes, or as wildlife refuges.

We urge Congress to amend federal law in order to clarify the respective roles of the states and the federal government regarding decisions on siting of new hydroelectric projects. HR 776, Title XXXI, Sections 3103 and 3104 would provide necessary safeguards for the states to improve their water resources management, as well go a long way toward improving the relationship between FERC and the states. In addition, by clarifying which reaches of river are off-limits from hydropower development, a major area of contention and delay in the hydropower licensing process would be removed. Therefore, we urge retention of Title XXXI in the Energy Bill.

Thank you for your attention and consideration. Each one of us looks forward to working with you on this crucial matter.

**SPONSOR:** Governor Andrus

**SUBJECT:** State Authority for River Protection in the Federal Hydropower Licensing Process .

**A. BACKGROUND**

1. Thirty-three states have enacted statutory programs to protect outstanding rivers inside their borders in order to preserve the exceptional natural, cultural, or recreational features of such rivers.
2. The Federal Power Act (FPA) was enacted prior to the establishment of these state river protection statutes and does not recognize state authority in these respects. Consequently, FERC disregards these state statutes in licensing the construction of new hydroelectric projects.
3. In the First Iowa case the U.S. Supreme Court held that the FPA preempts state laws concerning the siting of new hydroelectric projects and more recently, in California v. Federal Energy Regulatory Commission (FERC), the Court ruled that state imposed instream flow conditions were subject to FERC veto.
4. The Federal Power Act, as interpreted in these cases, continues to cause unnecessary intergovernmental conflict over the licensing of new hydroelectric projects and interferes with the expeditious development of new projects in a wise and balanced manner at locations well suited to such development. This also reduces the states' abilities to manage the resources over which they have primacy, such as fish, wildlife and recreational resources, and to protect both water quantity and quality.
5. The U.S. House of Representatives, on May 27, 1992, passed H.R. 776, which addressed these concerns specifically in Title XXXI, Sections 3103 and 3104, through amendment of the FPA and the Land and Water Conservation Fund Act. Section 3104 requires FERC deference to state river protection statutes and Section 3103 prohibits the condemnation of state and local parks and natural resource lands for FERC licensed new hydropower projects.

## WATER ISSUES

### Clean Water Act

Final action on the Clean Water Act was held over until the next Congress.

Senators Baucus and Chafee, the chairman and ranking minority member of the Senate Environment and Public Works Subcommittee on Environmental Protection, introduced a Clean Water Act reauthorization bill on May 15, 1991. This bill was widely criticized and the Committee did not mark up the legislation. The House Public Works Subcommittee on Water Resources never introduced a bill because of disagreement among committee members over wetlands policy.

Reauthorization will continue in the 103rd Congress. NGA's major policy recommendations address infrastructure financing and wetlands. NGA advocates retention of the State Revolving Loan Fund (SRF) as the sole mechanism for water infrastructure financing; expansion of SRF eligibilities to include all water infrastructure needs; and extension of federal capitalization grants for SRFs of at least \$2.1 billion per fiscal year through the year 2000. In addition, NGA policy advocates revision of the law to facilitate state assumption of the federal wetlands program; development of regional wetlands delineation guidelines in consultation with the states and an independent scientific advisory panel; and flexibility in the program to tailor management policies to regional variance in the resource.

Water Issues



# Department of Agriculture

P.O. Box 2950

Agana, Guam 96910



Director's Office	734-3942/43
Aquatic & Wildlife Resources	734-3944/45
Agricultural Development Svcs.	734-3946/47
Forestry & Soil Resources	734-3948
Animal & Plant Industry	734-3940/49

ANTONIO S. QUITUGUA  
Director

JOSE A. E. MANIBUSAN  
Deputy Director

November 27, 1992

## Memorandum

**To:** Director, Bureau of Planning

**From:** Director of Agriculture

**Subject:** Agricultural Economic Growth Package for President  
Elect Clinton

The Guam Department of Agriculture supports the formation of a group to develop a proposal on economic growth for agriculture for the new administration as well as the objective of presenting the needs, ideas, opportunities and value of focusing on agriculture as a major area for economic development. There are compelling reasons, in economic and political terms, to engage in the process of agricultural support and negotiation. It is a laudable goal not only for the United States and its territories but for other industrialized nations as well.

In developing a proposal on economic growth for the President Elect, we wish to articulate the following suggestions as it relates to Guam:

- 1) Institute an effective Federal Quarantine and Inspectional Program to prevent entry of foreign agricultural pests into Guam. Presently, there is only one USDA Plant Protection and Quarantine Officer assigned to Guam. In boosting the Federal capability, farmers are no longer faced with the high cost of pesticides and chemical needed for farm survival.
- 2) Provide adequate resources to the Environmental Protection Agency to expedite timely registration of pesticides. Recently malathion which is in great use on Guam has been identified to be deleted. In order for a replacement to be approved the United States Environmental Protection Agency must first approve it.
- 3) More Federal Agricultural Programs and funding should be extended to Guam. Presently, limited U.S. Federal Agricultural Programs and



subsidies are extended to Guam.

These suggestions will undoubtedly stimulate economic growth in agriculture on Guam.

  
ANTONIO S. QUIÑONES

 **UNIVERSITY OF GUAM**  
**UNIBETSEDAT GUAHAN**  
**COLLEGE OF AGRICULTURE AND LIFE SCIENCES**  
UOG Station, Mangilao, Guam 96923  
Telephone: (671) 734-2575 FAX: (671) 734-6842

November 27, 1992

**MEMORANDUM**

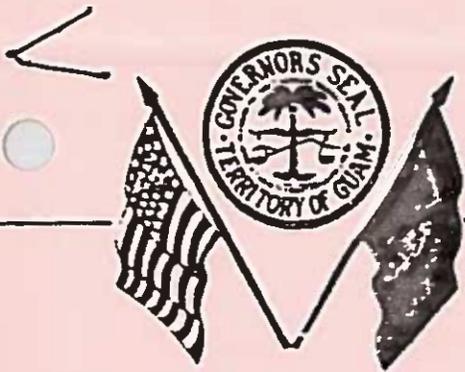
**TO:** Director, Bureau of Planning

**FROM:** Dean, CALS-UOG

**SUBJECT:** NASDA - Agricultural Economic Growth Package  
for President Elect Clinton

1. Executive branch and the Congress should direct USDA and USAID to strengthen the U.S. institutions in tropical agricultural programs so that U.S. institutions could effectively transfer the technology to the needed Less Developed Countries in the tropics. Currently USAID is providing most of the funds for operations of international institutes such as IRRI, AVRDC, IITA, CYMMET etc. that are located in foreign countries. This does not help to strengthen the tropical agricultural programs in the U.S.
2. More attention should be paid for increasing the production of speciality crops in the U.S. as the population of the immigrants from the tropical countries will be creating a demand for these commodities. Otherwise U.S. will end up importing such commodities from other countries.
3. NASDA should actively participate in the group that plans to develop the proposal to President Elect Clinton on economic growth for agriculture.

  
R. Muniappan  
Acting



*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
LUPANAN, GUAM  
AGANA, GUAM, P.O. BOX 154

DEC 15 1992

Ms. Barbara Spangler  
Special Projects Director/Policy Analyst  
National Association of  
State Departments of Agriculture  
1156 15th St. Street, Suite 1020  
Washington, D.C. 20005

Hafa Adai Ms. Spangler:

Greetings from the Territory of Guam! As the new administration prepares for assuming office in the upcoming new year, central focus will be directed on the policies and solutions that the new administration will implement in improving the economic, social, and environmental quality of the United States.

In response to your memorandum dated November 16, 1992 requesting input for the proposed Agricultural Economic Growth Package for President-Elect Clinton, the following suggestions are offered for your consideration as they relate to Guam:

1. The Administration and the Congress should direct USDA and USAID to strengthen U.S. institutions involved in tropical agricultural programs to ensure effective program implementation, transfer of technology, and knowledge to areas that are less developed in the tropics. However, in providing the necessary funds to assist tropical agriculture programs, funds provided as aid to foreign countries should not be used or reduced.
2. More federal agricultural programs and funds should be extended to tropical countries such as Guam, while flexible agricultural regulations should be established in partnership with involved environmental agencies. Presently, Guam is receiving limited federal agricultural programs and funds. An effective Federal Quarantine and Inspection Program to prevent the entry of foreign agricultural pests into Guam should be instituted as there is only one USDA Plant Protection and Quarantine Officer assigned to handle the job on Guam. In boosting the federal capability, farmers will no longer be faced with the high cost of pesticides/chemicals to eradicate the pests and stringent Environmental Protection Agency regulations necessary for farm survival.
3. More attention should be paid for increasing the production of specialty crops in the U.S. as the population of the immigrants from the tropical countries will be creating a demand for these commodities. Otherwise, the U.S. will end up importing such commodities from other countries.



Ms. Barbara Spangler  
Page 2

4. Territorial governments should be provided with the flexibility to import non-immigrant alien agricultural workers to address the needs of specialized manpower in tropical agriculture when U.S. workers are not available.

It is my hope that through this forum, much could be accomplished in addressing the needs of our agricultural industry and in exemplifying the opportunities and the values of focusing on Agriculture as a major area for economic development.

With warm regards for the holiday season.

Sincerely,

*Joseph F. Ada*  
JOSEPH F. ADA  
Governor of Guam

CC: BDP

# FAX MESSAGE

National Association of State Departments of Agriculture  
1156 15th St. Street, Suite 1020  
Washington, D. C. 20005  
Tel: 202-296-2980 Fax: 202-296-9686

To: Commissioners, Secretaries and Directors

From: Barbara Spangler *Barbara*  
Special Projects Director/Policy Analyst

Date: November 16, 1992

Subj: Agricultural Economic Growth Package for President Elect Clinton

A group of agriculture organizations has begun reviewing the value of forming a group to develop a proposal on economic growth for agriculture for the new administration. One objective would be to present to President-Elect Clinton and his transition team, the needs, ideas, opportunities and value of focusing on Agriculture as a major area for economic development.

Please let us know how you feel about NASDA's participation in such a group. Your suggestions on the proposals needed to stimulate economic growth in agriculture would be of great value.

We will keep you informed on the progress of this group if there is sufficient interest for its formation.

Please send me your initial suggestions for an Agricultural growth package by **NOVEMBER 30**.



National Association of State Departments of Agriculture  
1156 15th Street, N.W., Suite 1020 • Washington, D.C. 20005  
Telephone (202) 296-9680 • Fax (202) 296-9686

see  
y.  
route to  
Dept. of Ag.  
for review  
& comments

**Fax Memorandum**

**To:** Commissioners, Secretaries and Directors  
**From:** Rick Kirchhoff  
**Subj:** (1) Away from Office  
(2) New Administration Request  
**Date:** December 30, 1992



- (1) This is to advise you that I will be traveling to Asia for the U.S. Food Export Show as of January 3. I return to the office on January 19. If there is need to contact me, I can be reached via fax. Please call the Washington Office for assistance.
  
- (2) This afternoon I received a telephone call from our former colleague, Stewart Smith from Maine. Stewart is currently on loan to the Clinton transition team and has been asked to compile a list of candidates for the position of Under Secretary for International Affairs and Commodity Programs at the U.S. Department of Agriculture.

Stewart requests that any NASDA members who wish to submit names for consideration immediately fax a cover letter and resume to him at the transition office here in Washington. The fax numbers are:

202/973-1637  
or  
202/973-1640.

Regards,  
Rick

This is a 1 page fax (including this sheet).  
If transmitting improperly, please call (202) 296-9680.

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**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**MISCELLANEOUS**

**State Level Issues For Additional  
Discussion and Attention**

**TAB 11**

- **Summary of Additional Issues** **A**
- **Guam Visitors Bureau** **B**
  - \* **U.S. Immigration & Naturalization Service at Ports of Entry**
  - \* **Reliable Air Service**
- **Guam Energy Office** **C**
  - \* **Energy Reserve on Guam**
- **Department of Mental Health & Substance Abuse** **D**
  - \* **Block Grant Cuts**
  - \* **Load-Shedding of Guam Power Authority**
- **University of Guam** **E**
  - \* **Status of Insular American Programs**
  - \* **Faculty and Student Assistance Programs**
- **Department of Commerce** **F**
  - \* **Whether and How States Gather Statistics**

# MISCELLANEOUS

## SUMMARY

### *State Level Issues for Additional Discussion and Attention*

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- **Guam Visitors Bureau**

- \* *U.S. Immigration and Naturalization Service at Port of Entry (USINS)*

Guam continues to experience long lines at the USINS counters which seems to indicate that staffing levels are not up to par. The Bureau recommends a proposal of using local manpower resources to alleviate the congestion. This proposal has yet to be implemented by the Officer-in-Charge of the Guam USINS Office. New positions have been allocated by Congress, but funding has yet to be authorized. The need to adequately staff all points of entry, and especially Guam should be assigned a high priority.

- \* *Reliable Air Service*

The Bureau recommends a massive capital injections to retire debts and to continue operations of U.S. airline industry which appears to be plagued by continuing financial difficulties. Continued deterioration of the airlines' (Continental Air Micronesia and Northwest Airlines) ability to sustain new and existing routes will severely impact Guam more than any other U.S. jurisdiction as a result of our dependence on reliable air service.

- **Guam Energy Office**

- \* *Energy Reserve on Guam*

Guam Energy Office would like the Governor to discuss the issue of Energy Reserve on Guam for the benefit of U.S. Strategic needs as well as energy

requirements of Guam and surrounding U.S. insular areas in time of crisis.

- **Department of Mental Health and Substance Abuse**

- \* *Block Grant Cuts*

- The Department recommends that the Governor discuss the Block Grant Cuts streamlining policies and procedures for approval of contracts, expenditures, hiring and other.

- \* *Load Shedding of Guam Power Authority*

- The Department recommends discussion of our island's long goal plan of eliminating load shedding and GPA to be able to supply power to our island with effective maintenance. The Department would like NGA to prepare a report of answers to problems of concerned parties and to be precise and effective to the issues of our economic dollar for the projected goal for the year 2,000.

- **University of Guam**

- \* *The Status of Insular American Programs*

- This refers to American Indian and Hawaiian-specifically getting Guam more than the one percent of the program devoted to "others".

- \* *Faculty and Student Assistance Programs*

- The University would like NGA to follow-up on initiatives and activities regarding faculty development planning and funding, providing faculty housing, and expanding and/or curtailing student financial aid Programs.

- **Department of Commerce**

- \* *Whether and How States Gather Statistics*

- The department is interested in whether and how states gather statistics on sales to out-of-state entities by establishments within the states and

visitor expenditures within the states, and also the manner and the extent to which states have established a state-wide data base covering data from different agencies.



National Governors' Association

GOVERNORS' SURVEY:  
STATE LEVEL ISSUES FOR ADDITIONAL DISCUSSION AND ATTENTION

Please complete the following questions and return this form by December 22 to:

Mr. Raymond C. Scheppach, Executive Director  
National Governors' Association  
444 North Capitol Street  
Washington, D.C. 20001  
(202) 624-5313 - FAX

1. What problems or issues would you like to discuss at the Governors-only sessions at the 1993 Winter Meeting?

ENERGY RESERVE IN GUAM FOR THE  
BENEFIT OF U.S. STRATEGIC NEEDS, AS  
WELL AS ENERGY REQUIREMENTS OF  
GUAM AND SURROUNDING U.S. MILITAR  
AREAS IN TIMES OF CRISIS.

2. What issues or problems you would like NGA to follow at the state level in order to provide you with more information about state initiatives and activities?

Completed By: \_\_\_\_\_ State: \_\_\_\_\_

National Governors' Association

GOVERNORS' SURVEY:  
STATE LEVEL ISSUES FOR ADDITIONAL DISCUSSION AND ATTENTION

Please complete the following questions and return this form by December 22 to:

Mr. Raymond C. Schappach, Executive Director  
National Governors' Association  
444 North Capitol Street  
Washington, D.C. 20001  
(202) 624-3313 - FAX

1. What problems or issues would you like to discuss at the Governors-only sessions at the 1993 Winter Meeting?

*I would like to see the discussion of our islands long term plan of eliminating lead shedding and Queen Power Authority to be able to supply power to our island with effective maintenance. If it's money the problem then the Governor should address a new Power Plant*

2. What issues or problems you would like NGA to follow at the state level in order to provide you with more information about state initiatives and activities?

*I would like to have NGA report the answers to the problems of concern parties. NGA must be precise and effective to the issues of our Economic dollar for the projected goal for the year 2000.*

Completed By: *Greg*

State: *Guam*

National Governors' Association

GOVERNORS' SURVEY:  
STATE LEVEL ISSUES FOR ADDITIONAL DISCUSSION AND ATTENTION

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National Governors' Association  
444 North Capitol Street  
Washington, D.C. 20001  
(202) 624-5313 - FAX

- 1. What problems or issues would you like to discuss at the Governors-only sessions at the 1993 Winter Meeting?

*Block Grant cuts -*

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- 2. What issues or problems you would like NGA to follow at the state level in order to provide you with more information about state initiatives and activities?

*Streamlining policies and procedures  
for approval of contracts, expenditures,  
leasing, etc*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Completed By: *M. [Signature]*

State: \_\_\_\_\_

National Governors' Association

**GOVERNORS' SURVEY:  
STATE LEVEL ISSUES FOR ADDITIONAL DISCUSSION AND ATTENTION**

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1. What problems or issues would you like to discuss at the Governors-only sessions at the 1993 Winter Meeting?

The status of Insular American programs (American Indian, Hawaiian)--specifically getting Guam more than the one percent of the program devoted to "others."

2. What issues or problems you would like NGA to follow at the state level in order to provide you with more information about state initiatives and activities?

Initiatives and activities regarding faculty development planning and funding.

Initiatives and activities in the area of providing faculty housing.

Initiatives and activities in the area of expanding and/or curtailing of Student Financial Aid programs.

Completed By: University of Guam State: Guam

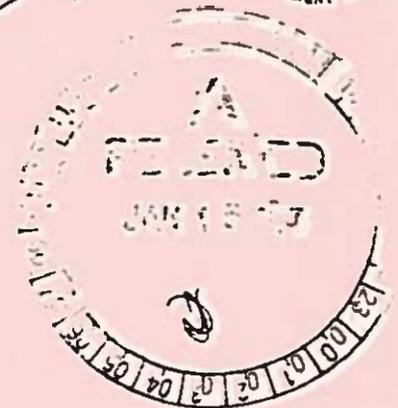


DIPATTAMENTON I KUMETSIO  
 Suite 601, 6th Floor GITC Bldg.  
 Tamuning, Guam 96911  
 Tel: (671) 646-5841/4 Fax: (671) 646-7242

GOVERNMENT OF GUAM  
 AGANA GUAM 96910



*Handwritten signature*



DC/SE/ERC/92-12-21A

JAN 15 1993

MEMORANDUM

TO: Director, Bureau of Planning  
 FROM: Director, Department of Commerce  
 SUBJECT: The National Governors' Association Winter 1993 Meeting

In your December 16th correspondence, you requested comments on a National Governors' Association request. The request was for topics to be discussed at the Winter 93 meeting. The request also included an offer of Association assistance in providing information on how states have dealt with issues and problems. The offer was in the form of a request for a list of the issues and problems for which Guam would like the assistance.

The Department of Commerce has no suggestions for topics for the meeting. The Department, however, would like to know whether and how states gather statistics on

1. sales to out-of-state entities by establishments within the state, and
2. visitor expenditures within the state.

Further, the Department of Commerce would also like to know the manner and the extent to which states have established a state-wide data base covering data from different agencies.

*Handwritten signature*  
 PETER R. BARCINAS



**NATIONAL GOVERNORS' ASSOCIATION  
1993 WINTER MEETING**

**EXISTING POLICY SCHEDULED  
TO  
SUNSET**

**TAB 12**

- **EXECUTIVE COMMITTEE**
  - A-6 - Political Self-Determination for Puerto Rico A
  - A-15 - Uniform Poll Closing B
  - A-16 - Voter Registration and Participation Expansion C
  
- **COMMITTEE ON ECONOMIC DEVELOPMENT AND COMMERCE**
  - E-2 - Housing Issues and Needs D
  
- **COMMITTEE ON HUMAN RESOURCES**
  - C-7 - Long-Term Care E
  - C-10 - General Human Resources Policies F
  - C-11 - The Homeless G
  - C-18 - Child Care H
  - C-19 - Vocational & Technical Education I
  
- **COMMITTEE ON NATURAL RESOURCES**
  - D-12 - A Comprehensive National Energy Policy J
  - G-8 - Agriculture & Water Quality K
  - G-9 - Rural Health Care Policy L

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## **A-10. 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, with congressional concurrence, either as a state of the Union, a commonwealth, or independent status.

The National Governors' Association supports and recognizes the importance of 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 their efforts to work with Congress to develop legislation pertinent to the call of the referendum. The National Governors' Association urges the United States Congress to enact legislation responsive to the will of the people of Puerto Rico.

Adopted August 1978; revised February 1989.

## **A-28. UNIFORM POLL CLOSINGS**

An American citizen's vote is his or her most valuable possession. The exercise of the right to vote is the very foundation of our democracy. Anything that diminishes the value of that vote undermines our freedom and the strength of our republic.

Modern technology has now become a factor threatening this most precious franchise. In the last three presidential elections, network reporting of exit polls and early returns from eastern states has resulted in elections being "called" hours before the polls on the West Coast closed. Many western state voters, assuming their votes would be of no consequence, either lost confidence in our democratic system or stayed home, possibly affecting the final results of the presidential race as well as many state and local contests.

The Governors reaffirm the right of every state to enact its own election laws, but recognize the necessity to ensure that voters in western states remain equal partners in our democracy. This is not a partisan issue, nor is it a regional issue. It is an American issue.

Therefore, the Governors urge Congress to expeditiously enact legislation requiring uniform poll closing times in the continental United States, excluding Alaska and Hawaii, during presidential elections, and urge the President to sign such a bill into law. The Governors further urge Congress, in drafting this legislation, to minimize disruption and cost to the states.

Adopted February 1989.

## **A-29. VOTER REGISTRATION AND PARTICIPATION EXPANSION**

In 1984, America had the largest voter registration effort in two decades -- 12 million voters were registered. But while 61 percent of those eligible were registered, only about 53 percent of those eligible voted. In the 1988 election the turnout was only 50.2 percent of those eligible to vote -- the lowest since 1924. There are still too many cumbersome and outdated administrative impediments standing in the way of voting.

Many states have taken the initiative in voter registration and have instituted measures to increase voter participation. The states are making progress, but we must look at ways to hold our nation together as it diversifies further.

The facts make a clear case for change:

- Voter turnout has declined by nearly 20 percent in presidential elections since 1960.
- Only slightly more than half of eligible voters actually voted in the last two presidential elections.
- In the 1986 congressional and statewide elections, voter turnout decreased by 10 percent from 1982 and, outside the Deep South, the turnout of eligible voters was the lowest in American history.
- In its presidential year elections, the United States has one of the lowest voter turnout rates in any democracy worldwide.

Elected officials across the country are turning their attention to methods of increasing the number of registered and participating voters. The Governors express a strong commitment to expand the franchise while taking strict precautions to eliminate the possibility of fraud.

Adopted February 1989.

## E-4. HOUSING ISSUES AND NEEDS

### 4.1 Preface

The 1949 national policy of "a decent home and a suitable living environment for all Americans" must continue to be a major national priority for the 1980s and beyond. The nation is still far from reaching this goal, particularly in the area of affordable housing. Hence, a national housing goal is as important now as it was in 1949.

The national housing goal must remain a high priority for the federal government, as well as for states, local governments, and the private sector. Housing programs should be designed to encourage joint public/private efforts to finance, build, and maintain an adequate supply of affordable housing.

Current housing problems affect many sectors of the U.S. population, particularly the homeless, renters, and first-time home buyers. The size of the nation's homeless population has increased steadily, in part as a result of escalating housing costs, which have accelerated almost three times faster than incomes in the past fifteen years. Following a period of relatively stable rents, rental costs (adjusted for inflation) have increased at a steady pace since 1981, and now are at the highest level in more than two decades. Since 1980 there also has been a decline in the percentage of the nation's households owning their own homes, following increases in homeownership rates for thirty-five years.

### 4.2 Developing A New National Housing Policy

In order to respond to the nation's housing needs, a new national housing policy must incorporate a variety of goals, including a renewed federal commitment to housing, and the preservation and expansion of affordable housing. Meeting these goals will require active cooperation and collaboration between the private and public sectors, including federal, state, and local governments; housing developers, builders, managers, financial institutions, and investors; nonprofit housing organizations; religious and civic groups; and consumers of housing.

As a society, we must recognize that our highest priority is to ensure that low-income Americans are housed in adequate shelter. While part of a national and state housing policy may be directed to increasing economic opportunity, we must not forget that dependent populations and many working poor cannot secure decent housing without public intervention.

#### 4.2.1 Partnership. A national housing policy must recognize that the provision of decent and affordable housing requires a partnership.

Neither the public sector nor the private sector alone can resolve the nation's housing problems. The federal government must develop a national housing policy that recognizes its basic responsibility to ensure that shelter is provided to low-income individuals and families, that the housing stock serving these citizens is preserved and added to, and that low-income individuals are provided with sufficient subsidies to afford the standard housing available in the marketplace. The states, local governments, the private sector, and consumers of housing also must contribute to efforts to address the issue of affordable housing. They must work together with the federal government to preserve the unsubsidized housing stock for low-income people and produce sufficient new single- and multi-family housing to meet increasing demand.

A comprehensive national housing policy must address a wide range of issues, including ways to preserve the nation's existing stock of affordable housing; provide reasonable levels of rental assistance to low-income households; respond to the nation's homeless population; expand the supply of affordable housing; encourage homeownership; increase enforcement of fair housing laws; and create a national housing partnership.

#### 4.2.2 Preservation of Affordable Housing. Current federally subsidized housing will remain the core of the nation's low-income housing supply for decades to come. As its first priority the federal government must protect its substantial investment in the current stock of affordable housing. Over the years the federal government has subsidized the construction of more than 2 million units of affordable housing, through the use of below-market interest rate and public housing construction programs. Much of this subsidized housing stock now is at risk, due to expiring use restrictions, sale preferences, mortgage prepayment, or physical deterioration. It is essential for the federal government to take creative steps to ensure the preservation of these units.

This threat exists in rural as well as urban communities. During the next five years, more than 300,000 housing units assisted by the U.S. Department of Housing and Urban Development (HUD) will become eligible for mortgage prepayment. Between 1988 and 1993, approximately 864,000 tenant- and unit-based rental subsidy contracts will expire or be subject to termination, along with the rental subsidies attached to 131,000 units of older HUD-assisted stock.

Meaningful solutions to the problem of expiring use restrictions and federal contracts will require considerable sacrifice. A variety of federal incentives tailored to individual market areas and owners must be considered to preserve the inventory of subsidized housing, including renewing subsidy

contracts; allowing owners a higher rate of return on their investment; allowing owners greater access to appreciated equity and residual reserve accounts; providing grants and loans for capital repairs; providing tax abatements; and providing restricted sale to nonprofit housing organizations, housing finance agencies, or tenants. It is essential for the federal government to take creative steps to ensure the preservation of these units, in both urban and rural communities. For every unit that is not able to be preserved, the federal government should provide for a replacement unit in an area where the need is evident. While it will be necessary for the federal government to offer incentives to private owners, penalties should not be levied, lest future private sector investment in housing be further discouraged. The cost of preserving this stock could approach \$750 million of new funding each of the next fifteen years.

Special attention also must be paid to the rehabilitation and replacement of public housing, which is a permanent source of low-income housing. Each year, approximately 70,000 units of public housing are abandoned, as a result of neglect and inadequate rehabilitation. In light of the long waiting lists for public housing in many communities, it is essential that resources be earmarked for preservation or replacement of the nation's public housing stock. Particular consideration should be given to expansion of mixed-income public housing developments, and to the conversion of HUD-owned foreclosed properties to scattered site public housing.

In addition, means must be found to preserve the large number of privately owned and unsubsidized units that are deteriorating, and to improve the large number of substandard units that still exist in the U.S. Many aging units are not renovated and maintained for low-income housing because the rents paid by tenants are not sufficient to cover the costs involved.

- 4.2.3 **Rental Assistance.** The second priority for the federal government must be to continue its key role in the subsidization of rental housing. A substantial portion of the nation's low-income population depends on federal rental subsidies, in the form of Section 8 certificates and housing vouchers. Without such assistance, these families and individuals would be required to spend an extraordinary portion of their modest monthly income on housing, far exceeding the national standard.

Gross rent (rent plus fuel, water, sewerage, and utilities) as a portion of income increased significantly between 1974 and 1982, and is still at a historically high level. The problem is particularly severe for younger Americans. In 1974, the ratio of median rent to income for households with heads aged twenty-five to thirty-four was 18.7 percent; by 1983, the ratio had increased to 25.4 percent.

The West and the Northeast have experienced the most significant rent increases during the past ten years. Between 1981 and 1987, real gross rents in the West increased by nearly 19 percent, and those in the Northeast increased approximately 17 percent. The most rapid rent increases have been at the low end of the market. Currently, one-fourth of the poor spend over three-fourths of their income on rent.

As a result of the extraordinary rent burden on low-income households, the federal government must increase its funding of rental assistance. This assistance amounts to the difference between 30 percent of a tenant's adjusted income and local fair market rent. Because the rental allowance for those families on public assistance has never been adequate, it is preferable for such assistance to be provided through housing subsidy programs.

- 4.2.4 **Expanding the Supply of Affordable Housing.** Efforts should be undertaken to preserve mechanisms currently available for expanding the supply of affordable housing. A wide variety of mechanisms currently are in place to encourage its development.

Between 1973 and 1983, 4.5 million units were lost to the nation's housing stock as a result of demolition or structural conversion. It is estimated that nearly half of these units were occupied by low-income renters. In 1980, the number of low-income renter households seeking affordable housing actually exceeded the aggregate number of units available to them for the first time in years—even though more than 1 million new, federally subsidized units of lower-income housing were added to the supply between 1976 and 1982. In recent years fewer than 25,000 units have been produced annually.

Although states can design and sponsor a wide variety of mechanisms to increase the supply of affordable housing, they are still dependent upon a number of critical and important federal housing

programs. These include mortgage revenue bonds, general obligation bonds, mortgage insurance programs, tax credits for low-income housing, and community development block grant funds. Preservation and enhancement of these mechanisms are essential to providing citizens with affordable housing.

- 4.2.5 **Expanding Homeownership.** Homeownership, especially for first-time buyers, should continue to be a key public policy objective for federal, state, and local governments. A widely embraced goal, homeownership has declined in the U.S. annually since 1981, following thirty-five years of steady increase. In recent years housing costs have accelerated at a much faster pace than incomes. For many Americans, homeownership can be achieved only with below-market mortgages underwritten by the federal, state, and local governments.

Although the portion of U.S. households owning their own homes increased between 1973 and 1980, homeownership has fallen since then, from 65.6 percent in 1980 to 64.0 percent in 1987. For many Americans, high down payment requirements and monthly carrying costs prevent homeownership. Increasing access to Federal Housing Administration (FHA) mortgage insurance and the Veterans Administration (VA) mortgage program can significantly expand homeownership opportunities. Increasing FHA mortgage limits and making adjustable-rate mortgages fully available to FHA and VA borrowers will help many Americans qualify for homeownership. In addition, allowing prospective home purchasers to draw on Individual Retirement Account (IRA) and other self-funded benefit plan monies can expand homeownership substantially. Further, a tax-exempt homebuyers savings account program – modeled after the IRA program and allowing an exemption from federal taxes – would greatly enhance homeownership opportunities.

Continuation of the federal Mortgage Revenue Bond (MRB) program for low- and moderate-income first-time homebuyers also is essential. The MRB is an important vehicle for the financing of homeownership in light of interest rates and housing costs that place homeownership out of the reach of many would-be first-time homebuyers. The Mortgage Credit Certificate Program also should remain an optional alternative to, not a mandatory replacement for, the states' use of mortgage revenue bonds.

To reduce the extreme effects of the money market cycle on mortgage availability, private lenders also should be encouraged to offer more flexible mortgages without precluding consumer choice of conventional financing. Federal regulatory agencies should monitor the growth of these new mortgage instruments and, where necessary, should consider limitations to protect lenders and borrowers alike against unacceptably high economic risks.

- 4.2.6 **The Problem of Homelessness.** The national housing policy must address the plight of the homeless. Homelessness is a growing national crisis. While there are no reliable data on the extent of homelessness in America, estimates range from 500,000 to 3 million homeless people.

Although in the past, most homeless people have been older, single men, the homeless population increasingly includes battered women, elderly poor, runaways, veterans, and – most significantly – unemployed people with their families. Homeless families with children are now the fastest-growing segment of the homeless population. The homeless also include the mentally and physically disabled and substance abusers.

Difficult economic conditions, long-term unemployment, shortages of low-income housing, reductions in federal expenditures for social service programs, and deinstitutionalization have exacerbated the problems of the poor and increased the numbers of homeless people. Although these problems must be addressed in order to respond adequately to the causes of homelessness, the housing needs of this population call for immediate attention.

Throughout the country, both the public and private sectors are committing resources to the homeless population. The federal government, in cooperation with state and local efforts, must assume the financial leadership role in addressing this problem, specifically making the provision of permanent housing to the homeless a priority.

The federal McKinney Homeless Assistance Act has contributed significantly to states' efforts to address the problem of homelessness. However, it is essential that states have greater flexibility to administer McKinney Act funds according to local licensing requirements, funding cycles, site control

schedules, and housing policies. Funding also is needed to enhance the routine collection of data at the local level on trends related to homelessness, to enable construction of single-room-occupancy and efficiency units for the homeless, and to promote effective integration of housing and social services.

While the McKinney Act includes provisions mainly for the short-term housing needs of homeless individuals, federal housing programs need to support permanent housing for the homeless. The homeless are not being adequately served by existing housing programs. Permanent housing for the homeless needs to become a priority. This can occur by expanding and preserving the permanent supply of affordable and decent housing and targeting slots in federally subsidized housing to those who are homeless or at risk of becoming homeless. Housing programs for the homeless should also reflect rural and urban variances.

Federally subsidized housing programs should be coordinated with service providers to ensure that homeless persons entering permanent housing receive the necessary special supports. These may include case management, counseling, or referral services. For those persons who are mentally ill, substance abusers, or otherwise disabled, these supports are especially important. Employment and training services are also essential for people who are homeless.

**4.2.7 Fair Housing.** The right of free choice in the housing market is protected by federal and state laws. Enforcement of federal fair housing laws is delegated to states that have comparable legislation. This augments the enforcement provisions of the federal law with the generally greater authorities the states possess. Effective enforcement of federal and state fair housing laws is an important step toward ensuring equal opportunities and preventing overt discrimination in housing.

However, there are some subtle barriers to freedom of housing choice that can be more difficult to identify and overcome, e.g., mortgage or insurance redlining, and exclusionary zoning practices. In addition, the market often does not meet the needs of those with special housing requirements, such as families with children and disabled persons, and consequently deprives them of the range of choice available to others. While federal and state regulations, enforcement mechanisms, and disclosure requirements are necessary tools to eliminate unfair housing practices, only through the active involvement and commitment of the private sector can the promise of equal opportunities in housing be fulfilled.

Unfortunately, enforcement of the federal and state fair housing statutes has been uneven, in part because of the federal government's reliance on the powers and resources of state agencies. To improve the enforcement record, the federal government should provide sufficient resources to the states for enforcement. States also should continue aggressive enforcement of state and, where delegated, federal fair housing laws. In addition, states should encourage affirmative efforts by local governments to eliminate exclusionary zoning and other local restrictions that pose barriers to freedom of choice in housing.

Several specific measures can help to eliminate housing discrimination. The Home Mortgage Disclosure Act is an important instrument for overcoming mortgage redlining, one of the indirect obstacles to equal opportunity in housing. The program should be carried out as diligently as in its initial years.

The Housing and Community Development Act of 1987 also includes important provisions for funding of private fair housing groups to carry out testing and enforcement activities. It is important for Congress to authorize funding and to seek implementation of this program.

State housing finance programs also can be used to expand housing opportunities as a positive complement to enforcement of antidiscrimination laws. States, too, should assume a leadership role in working with the full range of commercial sectors involved in housing, e.g., builders, owners of rental housing, realtors, lending institutions, to gain active private sector involvement in eliminating discriminatory practices, assuring equal housing opportunities, and affirmatively marketing housing to minorities and persons with special needs.

**4.2.8 National Housing Partnership.** While the new national housing policy should reflect the principal role of the federal government to ensure adequate shelter for low-income individuals, states ought to be direct participants in programs designed to promote affordable housing.

In the last ten years, states have significantly increased their participation in housing assistance programs. The ability of states to utilize a broad tax base and access the capital markets; to generate

widespread corporate and industry participation in and support for public initiatives; and to blend the housing needs of economically disadvantaged central cities, development-stressed metropolitan areas, and more sparsely populated but economically distressed rural areas, underscores their place as major participants in the affordable housing arena.

Regarding affordable housing, states should be responsible for developing a state plan identifying populations in need, including the homeless, in cooperation with local governments to ensure comprehensive and consistent services throughout the state; allocating federal housing funds for the provision and promotion of affordable housing; promoting the development of projects making the most efficient use of available federal housing incentives; and fostering an effective partnership with local governments to best utilize the limited public and private funds available for affordable housing. While the federal government provides for the preservation of existing low-income units and rental subsidies to low-income tenants, the federal government should create a "housing opportunity program" (HOP) similar to the proposal of the National Housing Task Force. The Governors urge that it be funded in the amount of \$5 billion by combining money from the consolidation of some existing housing programs (\$2.5 billion) and the allocation of new budget authority (\$2.5 billion). In 1988 nearly \$4 billion was appropriated for the following categorical housing programs: Section 202, Section 312, the rental rehabilitation grants, Section 8 moderate rehabilitation, a portion of the urban development action grant program, Section 502, Section 504, and Section 515. A number of these programs could be efficiently consolidated to make money available for the HOP. Individual states would have the flexibility through the HOP to continue any effective programs affected by this consolidation. The allocation of new budget authority for the HOP should occur when federal budget conditions permit the investment of additional resources. The Governors recommend that states and localities be required to obtain match for the HOP on a sliding scale that might be based on per capita income, available resources, and demonstrated housing need. Money expended under the HOP would be used to address populations in need as identified in a state plan.

### 4.3 Addressing Problems of Supply and Cost

4.3.1 **Introduction.** The supply of affordable housing in most markets is not adequate to meet the demand; the shortage is particularly acute in the rental housing sector and in regions experiencing rapid population growth. Housing costs have risen faster than incomes, making decent housing unaffordable for many people and raising the costs of subsidy programs. The cost of housing is a particular problem for low- and moderate-income families, and barriers to choice posed by racial discrimination and other discrimination have not been fully overcome.

In the 1980s, about 42 million Americans will reach the prime home-buying age of thirty, compared to about 30 million in the 1970s. The trend toward more single-person households not only increases aggregate demand for housing but also results in changes in the type of housing units in demand. Growth in demand also results from homeownership being an excellent personal investment in inflationary times.

The housing market in many areas of the country has been unable to satisfy this growth in demand. The shortfall in supply is attributable to two major factors: the shortage of capital for new residential construction and the rapid escalation of housing costs.

Housing construction is one of the most cyclically sensitive sectors of the economy. Minor fluctuations in interest rates can produce major changes in the mortgage market and production levels for new housing. Although the recent growth of long-term certificates of deposit and expansion of the secondary mortgage market have mitigated this problem somewhat, residential construction still remains highly sensitive to cyclical changes in the economy.

Sharp increases in the costs of housing over the past decade have placed the dream of owning a single-family home beyond the reach of a growing proportion of households. The market has not provided new alternative home ownership opportunities, e.g., new condominiums, in sufficient quantities to satisfy the demand, nor has construction of new multifamily rental housing been sufficient to meet rental demand. Increases in construction and financing costs have been a significant constraining factor in both the single-family and multifamily housing markets. In many areas, operating costs for multifamily rental housing have increased more rapidly than rents, further eroding investment and contributing to severe shortages of rental housing.

The present housing crunch can be attributed in part to the cumulative effects of government monetary and fiscal policies, environmental and other restrictions on residential construction, rent control and condominium conversion, and program investment decisions. Because government policies exert a major influence on the housing market, solutions to the related problems of supply and cost depend, in part, on governmental action to remove unnecessary barriers to a smoothly functioning housing market. Direct government involvement should be focused on those areas where the private sector is unable or unwilling to address the needs of particular markets or population groups. In addition, governmental agencies continue to have an important role in facilitating an efficient system of mortgage financing.

- 4.3.2 Federal Actions Suggested. A more stable flow of capital into residential construction would result in a more smoothly functioning housing market and a lower rate of growth in housing costs. A thorough reevaluation of the regulation of thrift institutions and the effects on housing finance of conventional monetary policy should be undertaken to identify alternative approaches that can "smooth out the bumps" in the availability of funds for residential construction. Particular attention should be given to measures that would enable thrift institutions to compete more effectively for funds during periods of high short-term interest rates.

The federal government should, consistent with adequate investor protection, encourage the activities of both federal and private issuers and guarantors of mortgage-backed securities in order to maintain an adequate flow of capital through the secondary mortgage market. Federal policy should continue to recognize the central role played by public or quasi-public institutions involved in the secondary mortgage market. The ceiling on the size of single-family loans purchased by FNMA and FHLMC should be adjusted for high cost areas to permit homebuyers and financial institutions in all sections of the country to benefit equally from the activities of these federally sponsored corporations.

Home ownership and rental subsidy programs should be targeted to low- and moderate-income households but also should encourage a mix of family income levels in assisted housing. These programs should be reviewed regularly to ensure that interest rates and mortgage limits are set at realistic levels.

To reduce the extreme effects of the money market cycle on mortgage availability, private lenders should be encouraged to offer more flexible mortgages, e.g., variable rate, graduated payment, without precluding consumer choice of conventional financing. Federal regulatory agencies should monitor the growth of these new mortgage instruments and, where necessary, should consider limitations to protect lenders and borrowers alike against unacceptably high economic risks.

Programs utilizing a shallow subsidy approach should be retained to increase the supply of rental housing, provided such a program does not reduce commitments to low-income rental housing needs and itself contains a low- or moderate-income component. Such a program should permit states the flexibility needed to assure production of rental housing in areas where the problems are most severe. Determination of the mix between new and existing housing units for purposes of low-income rental subsidy programs should be based on community needs, as reflected in locally developed housing assistance plans.

The Mortgage Revenue Bond Program is an important vehicle for the financing of home ownership in light of continued high interest rates and housing costs that place home ownership out of the reach of many would-be first time homebuyers. The Mortgage Subsidy Bond Tax Act of 1980, the Deficit Reduction Act of 1984, and the Tax Reform Act of 1986 placed significant restrictions on the program, and there is no need to further restrict the program. Congress must eliminate the provision that "sunsets" the Mortgage Revenue Bond Program on December 31, 1988. The Mortgage Credit Certificate Program, newly authorized by the 1984 act, should remain an optional alternative to, not a mandatory replacement for, the states' use of mortgage revenue bonds. Consideration should be given to utilizing existing public and private programs to operate in tandem with mortgage revenue bonds to reduce home ownership costs for target populations.

In many jurisdictions, the construction of rental housing other than luxury dwellings is economically infeasible without tax-exempt financing. Therefore, Congress should continue to permit state housing finance agencies to issue tax-exempt multifamily housing industrial development bonds. To further reduce finance costs and thus promote affordability for low- and moderate-income tenants, federal guarantees should continue to be available in tandem with tax-exempt bonds for housing.

Federal housing policies should recognize the special needs of rural areas, and the federal commitment to rural housing should remain intact. The Farmers Home Administration should encourage joint federal/state initiatives to develop affordable rural housing.

An explicit federal strategy to avert housing abandonment should be developed. The most effective strategies are likely to be those that combine and target the resources of both federal and state government. Existing federal programs therefore should provide states with flexibility to target them to buildings threatened with abandonment or acquired by government as a result of foreclosure. Expansion of the urban homesteading program and provision to set aside Section 8 units for this purpose should be given priority consideration in developing an overall approach to the problem of abandonment.

Private pension funds, which are federally regulated pursuant to the Employee Retirement Income Security Act, hold approximately \$700 billion in assets. Historically, only a small percentage of those assets have been invested in housing. The federal government should carefully consider whether there are any unnecessary regulatory barriers to pension fund investments in residential mortgages.

Manufactured (mobile) homes are an important source of affordable housing to a growing segment of our population. The states' regulatory authority over the design and construction of such homes was federally preempted in 1974, yet the states have retained a vital interest and cooperative role in the federal regulation of these homes by the U.S. Department of Housing and Urban Development. A recently completed state sponsored study reviewed the strengths and weaknesses of the federal manufactured housing construction and safety standards program and found the program wanting in a number of major aspects. The U.S. Congress and HUD should work cooperatively with the states and industry to improve the quality of manufactured housing. In such an effort, HUD should continue to work with the states to reaffirm and strengthen the vital regulatory and administrative roles which the states continue to provide under various aspects of the federal manufactured housing construction and safety standards program.

**4.3.3 State Actions Suggested.** Forty-nine states have established housing finance agencies that use tax-exempt revenue bonds to meet the home ownership and rental housing needs of low- and moderate-income residents. States are also responsible for overseeing the issuance of mortgage revenue bonds by local units of government and for ensuring that these programs conform with legitimate public purposes. States should continue to assure that this indirect federal subsidy is used in a responsible and effective manner to fill gaps in the private mortgage market. States also should encourage their housing finance agencies to explore and evaluate the uses of the newly authorized Mortgage Credit Certificate Program and the Low-income Rental Housing Tax Credit.

While federal programs play a significant role in stimulating new condominium construction, regulation of conversion and protection of tenants' interests can be addressed most effectively in response to particular market characteristics at the state and local level. The loss of rental units and displacement of tenants due to condominium conversions are phenomena best regulated at the state level.

As state and local public employee pension funds grow in importance in national capital markets, they are increasingly able to play an important role in housing finance. States should consider using their pension funds to provide mortgages to public employees, shared-equity programs to lower initial down payments in return for a share of eventual capital gains, and direct provision of loans for single-family housing.

Due to the growing demand for and critical shortage of decent affordable housing, states should develop strategies to address these problems through joint public/private cooperation. States should work with lending institutions, real estate developers, builders, community groups, and local governments to encourage production of new housing and reclamation of abandoned buildings for rehabilitation and vacant lots for new residential construction. Such efforts should include assistance to households whose current housing needs are not currently being met, whether these be low-income individuals looking for temporary shelter or first time home buyers unable to afford a down payment. States, in conjunction with appropriate representatives of the private sector, also should promote research and development initiatives that explore new methods and approaches for dealing with housing needs and shortages.

In recent years, the decline in Americans' ability to purchase homes and find affordable rents has become a national crisis. States can play a significant role in reducing housing costs. States should examine, where appropriate, their land development and housing policies and regulations to consider amending those that unnecessarily add to the costs of housing production. States also should provide information to their local governments about ways to reduce housing production costs and make housing more affordable.

In recent years numerous federal, state, and private sector studies have demonstrated the cost savings that are possible to the homebuyer through reforms and streamlining of the nation's building regulatory process. States, working together with their units of local government, should seek to reduce the building regulatory portion of the cost of new housing by adopting and maintaining uniform modern model building codes and supporting the introduction of new building technologies. State and local government further should implement those codes through streamlined administration techniques and provide positive support for the adequate education and training of state and local code enforcement personnel.

Industrialized and modular buildings, which are built in a factory and sited on permanent foundations, are a growing segment of the nation's affordable housing and commercial building stock. These structures are frequently being manufactured in one state and sited in another. The regulation of such structures varies from state to state and locality to locality and imposes confusing and costly burdens on state and local building officials, the modular building industry, and the consumer. Currently, manufacturing facilities must undergo numerous inspections and build to the codes of several states while state governments must inspect plants in more than one state. This costly and duplicative regulation ultimately costs the consumer more and restricts market access and use of new technologies. To supply the growing demand for safe, decent, and affordable housing and commercial buildings, state governments should work with the industrialized/modular buildings industry to develop and adopt uniform administrative regulatory procedures and implement interstate reciprocity agreements for the design and construction of modular buildings.

States should actively monitor the progress of Farmers Home Administration (FmHA) state offices in obligating their allocated funds for rural housing. Where appropriate, states should work with FmHA officials to remove obstacles to participation in FmHA housing programs.

#### 4.4 Meeting Low-Income Housing Needs

4.4.1 Introduction. While national housing policies should be designed to ensure an adequate supply of housing to satisfy the demands of the general population, particular attention must be given to meeting the needs of low-income households. Past federal subsidy programs for new construction and substantial rehabilitation of rental housing have been characterized by high unit costs. Although rent subsidies for existing housing units may appear to lower unit costs and stretch the housing assistance dollar further, this approach is not responsive to low-income needs in areas where the supply of existing housing is tight.

The range of federal subsidy programs directed to meeting low-income housing needs should include programs that effectively leverage federal funds to produce new units as well as programs that provide rental assistance for existing units. Priority also should be given to programs that protect the physical and fiscal soundness of the nation's existing inventory of assisted low-income housing. Government at both the federal and state levels should strive to maintain sufficient levels of activity, improve program flexibility and adaptability, and ensure effective administration of programs in response to local needs and conditions.

Greater recognition should be given to the fact that programs that produce new or rehabilitated housing units provide more than shelter. They also play an important role in stabilizing families and revitalizing distressed neighborhoods. Thus, low-income housing programs should be viewed as an important component of community and economic development efforts.

4.4.2 Federal Actions Suggested. Although past and present federal programs have improved housing conditions and housing choices for millions of Americans, there remains a significant shortfall in the amount of decent and adequate housing at rents that low-income households can afford. For this reason, low-income housing programs should be maintained at adequate levels.

To the extent that certain construction programs may be considered too costly, greater reliance may be warranted on rehabilitation of available buildings to increase the supply of decent housing for low-income tenants. Such programs should be implemented in a manner that assures that the current tenants of renovated units are not involuntarily displaced.

The federal government should accord high priority to maintaining the physical and financial soundness of existing low-income, federally assisted housing and protect substantial governmental investments in these properties while assuring their continued viability and affordability for low-income tenants.

Increased attention is being given to the idea of "privatizing" public housing, i.e., selling public housing units to the tenants. Demonstration projects to explore tenant purchases of public housing are more appropriate at this stage than wide-scale national programs. Federal subsidies should remain in place where necessary to help low-income owners maintain their units after they purchase them.

To ensure that federal low-income housing resources are directed to projects where the need is most acute and the impact greatest, program dollars should be allocated in accordance with local, regional, and state plans and priorities.

The Farmers Home Administration has negotiated formal cooperative agreements with a number of states to assure that federal funding decisions are consistent with overall state priorities. The U.S. Department of Housing and Urban Development should make the necessary program adjustments to permit and encourage similar agreements with states.

Total reliance on a rental subsidy approach should be discouraged. However, Congress should continue to fund both Section 8 housing certificates and housing vouchers while carefully monitoring these programs' impact and effectiveness in meeting low-income housing needs. Fair market rent determinations should be pegged closely to local market conditions and should be adjusted frequently as market conditions change.

Housing program regulations should be as simple and straightforward as possible and should be consistent among all agencies that finance housing so red tape costs are minimized and private sector participation is not discouraged.

Federal block grants to states, whether for the construction, subsidization, rehabilitation, or operation of housing units, may be an appropriate mechanism for federal assistance. Any block grant proposal should be funded at substantially the same level as the federal programs to be consolidated. The block grants should be characterized by flexibility, adequate administrative funds, targeting to low- and moderate-income individuals, and minimal mandates. A block grant proposal should permit each state to choose to administer the program or leave the administration with the federal government.

**4.4.3 State Actions Suggested.** States should continue the roles they have played successfully -- developing appropriate housing strategies, filling in gaps between federal programs, complementing and adapting federal programs to work in local settings, and providing technical assistance to local agencies and private developers who utilize federal and state programs.

Because state housing finance agencies (HFAs) have been particularly successful in forging linkages with federal programs, states should continue to strengthen their HFAs and target their resources to complement federal and private sector efforts to meet low income housing needs.

Many states have found it beneficial to act as housing authorities for smaller communities that otherwise lack the resources and expertise to participate in the Section 8 and public housing programs. This approach warrants consideration by other states.

States should encourage the use of available housing programs as a component of neighborhood revitalization efforts, in conjunction with community development block grants and similar programs. State technical assistance can help localities effectively combine federal housing and community development funds for maximum benefit.

#### 4.5 Ensuring Fair Housing Policies and Practices

4.5.1 **Introduction.** The rights of free choice in the housing market are protected by federal and state laws. Enforcement of federal fair housing laws is delegated to states that have comparable legislation. This augments the enforcement provisions of the federal law with the generally greater authorities the states possess. Effective enforcement of federal and state fair housing laws is an important step toward ensuring equal opportunities and preventing overt discrimination in housing.

However, there are some subtle barriers to freedom of housing choice that can be more difficult to identify and overcome, e.g., mortgage or insurance redlining, exclusionary zoning practices. In addition, the market often does not meet the needs of those with special housing requirements and consequently deprives them of the range of choice available to others. While federal and state regulations, enforcement mechanisms, and disclosure requirements are necessary tools to eliminate unfair housing practices, only through the active involvement and commitment of the private sector can the promise of equal opportunities in housing be fulfilled.

4.5.2 **Federal Actions Suggested.** Enforcement of the federal (and state) fair housing statutes is uneven, in part because of the federal government's reliance on the powers and resources of state agencies. To improve the enforcement record, the federal government should provide sufficient resources to the states for enforcement.

The Home Mortgage Disclosure Act is an important instrument for overcoming mortgage redlining, one of the indirect obstacles to equal opportunity in housing. The program should be made permanent and its implementation should continue to be carried out as diligently as in its initial years.

In recent years, a number of federal initiatives have been undertaken to encourage expansion of housing opportunities for the disadvantaged through demonstration programs, incentive mechanisms, and the establishment of priorities within existing federal programs. Efforts to develop "partnership" agreements with state and local governments represent a similar positive approach to fair housing. The Governors endorse the provision of positive incentives for achievement of fair housing through the development of a cooperative partnership approach to shared federal/state objectives.

4.5.3 **State Actions Suggested.** States should continue aggressive enforcement of state and, where delegated, federal fair housing laws. In addition, states should encourage affirmative efforts by local governments to eliminate exclusionary zoning and other local restrictions that pose barriers to freedom of choice in housing.

State housing finance programs can be used to expand housing opportunities as a positive complement to enforcement of antidiscrimination laws. States also should assume a leadership role in working with the full range of commercial sectors involved in housing, e.g., builders, owners of rental housing, realtors, lending institutions, to gain active private sector involvement to eliminate discriminatory practices and assure equal housing opportunities.

Adopted August 1980; revised March 1983, August 1983, February 1985, February 1986, July 1987, February 1988, August 1988, and February 1989.

## C-7. LONG-TERM CARE

### 7.1 Preface

A national long-term care system must address the extended social, residential, rehabilitative, supportive, and medical needs of persons who are elderly, chronically ill, mentally or physically disabled. Long-term care is currently provided through federal and state programs, family members and friends. Recognizing that family members are the primary providers of care in the community, there is growing support for a shift of government resources from institutional to community care programs. The majority of publicly supported long-term care programs, however, continue to focus on nursing homes and other institutional providers.

In addition, the increasing population of elderly and disabled persons in this country, particularly very elderly persons, increases the need for action. The direction of federal policy, however, is unclear and the coordination of effort between the federal and state governments is less than it should be. Finally, it must also be recognized that there is a role for the private sector, as well as government, in providing for the long-term care needs of the country.

### 7.2 Principles

The National Governors' Association supports the following principles regarding a national long-term care policy:

- The independence of the individual and the opportunity to make choices must be maintained and enhanced to the maximum extent possible, and family efforts to assist must also be supported.
- The range of services provided in the long-term care system must be appropriately balanced between institutional and community services and recognize the medical and social models of care.
- The federal government has played, and should continue to play, an important role in the financing of the long-term care system. New funding sources should be developed by the federal government as economic circumstances permit. The federal and state governments should stimulate public and/or private strategies, including meaningful and comprehensive long-term care insurance, as well as other financing mechanisms that would enhance an individual's opportunity to pay for long-term care.
- The federal and state governments should monitor to ensure that appropriate standards and procedures for financial accountability are being met.
- The federal government, states, and local government have an important role in establishing standards for appropriate quality care and a responsibility to ensure that these standards are met with input from consumers in the development and monitoring of such systems.
- States should continue to take the lead responsibility for the administration and coordination of public programs and be allowed maximum administrative flexibility in carrying out these functions.

### 7.3 Populations Served

Planning for the delivery of long-term care services has traditionally focused on the elderly. In meeting the needs of all its citizens, each state needs to respond to a variety of individuals requiring long-term, supportive health and social services that will augment family and community resources and enable each person to remain as independent as possible in the least restrictive setting. The need for long-term care services extends over all age groups and includes persons who are in need of assistance or supervision in carrying out activities of daily living appropriate for their age.

Persons in need of long-term care include, but are not limited to, the following:

- Elderly persons with chronic illness, or dementia, or who are dependent due to a serious accident;

- Physically disabled adults with impairments or degenerative conditions, or who are dependent due to a serious accident;
- Children with special needs, such as congenital handicapping conditions or autism;
- Adults dependent due to serious mental illness; and
- Mentally retarded and developmentally disabled persons of all ages.

It should be recognized that persons suffering from AIDS or related conditions are also in need of long-term care and may fall into several of the categories mentioned above.

Entry into the system should be based on a comprehensive assessment of a person's ability to consistently and appropriately perform activities of daily living. The assessment should be based on the person's physical, cognitive, and emotional/behavioral function, and also should determine health conditions that may require technology or health professional intervention on a long-term basis. All of this should be evaluated in conjunction with an assessment of the individual's family support and living environment.

#### 7.4 Service Package

At the core of an effective long-term care system are nonmedical services. An effective long-term care system must provide a range of health, social, income maintenance, transportation, and housing services to meet the needs of those who are functionally limited and require assistance with the activities of daily living over a sustained period of time.

The ability of a long-term care system to maintain vulnerable people in their existing homes and communities depends on a unified system with several important components. These include:

- A single point of entry;
- A case management system that includes assessing the need for community-based or institutional services and assists in arranging for the provision of suitable services;
- An adequate mix of social and health services; and
- An ongoing mechanism for evaluation and maintaining quality care.

It is essential that any system structured in this way have case management as an integral component. Case management is involved in assessing functional levels and service needs and assists in the formulation of a plan of care across services categories. The case manager assesses the amount of support available from family and community members and then arranges for the services needed to be provided and monitors the provision of those services for quality and changing needs. The case manager acts as both a manager of resources and promoter of access to services for dealing with the persons in need of assistance.

An important part of any service package is the availability of suitable alternative housing for persons in need of long-term care.

#### 7.5 Federal and State Roles

National policy should cultivate a partnership between government and the private sector to support the long-term care system. The role of the federal government is to provide financial support and to monitor the overall system. Under the leadership of the Governor, the state must maintain the primary responsibility for administering the system and assuring the delivery of appropriate care. The state should establish a relationship with local government or private agencies so that the long-term care system has a single point of entry and there is clear accountability and responsibility within the system. States are in the best position to provide leadership in quality assurance efforts in the provision of all long-term care services. Specifically, the states should play the pivotal role in identifying the population, determining their needs, establishing standards and educating consumers and providers, ensuring the fiscal accountability of local providers, and selecting those who are most capable of providing community based services.

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## 7.6 Financing

7.6.1 **Preface.** The continuing care needs of our vulnerable population require a blend of social and health services that cannot be financed in a cost-effective manner under today's programs. Federal concern for the excessive growth of health care costs has produced policies that shift the burden of health and long-term care costs to the states. The limitations of Medicare coverage and recent financing changes have shifted costs to beneficiaries and state Medicaid programs. The current structure of the Medicaid program limits the financing of community care and encourages expensive institutional care.

The demographics of aging foreshadow the growing costs of care. These trends will force the current system to serve more people at substantial costs. An ongoing federal financial commitment is especially critical.

Restructuring services will produce a cost-effective system. This restructuring will increase the efficiency and control the rate of increase in costs of long-term care at the same time it enables the provision of more humane and appropriate care, expanded client options, and improved quality of life.

7.6.2 **Two-Phase Approach.** The National Governors' Association recommends a two-phase approach to establishing a financing mechanism for a comprehensive community care system. During the first phase, current program resources should be adjusted to finance long-term care services that are effective in preventing or delaying admission to an institution. Medicaid should be amended to give states the authority to provide home- and community-based services as an option under their state plans. This would allow for balanced growth within the system between community and institutional services.

This first phase would help to further establish and develop the supply of community-based services, the system of delivering, monitoring, and administering services, and the mechanisms for creating a balance between community and institutional care. Federal and state policies should encourage the flexibility to select service providers in a manner that enhances competition, delivers cost-effective, high quality community care, and promotes the efficient use of human resources. Procedures that limit the growth of institutional services may be required to accommodate an expansion of non-institutional services.

The objective of the second phase would be to create an overall long-term care system that is based on the premise that care should be provided in the home and community and institutionalization serve only as a last resort. During the second phase, a single financing mechanism would be established to provide long-term care services for those determined to be in need of such services. Benefits would be based on a combined medical and social model and be designed to provide coverage of community and institutional services. Generally, individuals would share in the cost of services through payment of a coinsurance that would vary based on income. Medicaid would no longer cover community and institutional long-term care services.

States would be integrally involved in administering the new program. Due to their extensive experience and knowledge of long-term care systems, states are in the best position to implement and manage such programs. Their responsibility would include activities, such as assessments and eligibility determination, services planning, authorization of home and community services, and provider survey and certification.

A significant amount of funds from new sources should be sought to finance the increased demand for long-term care. While it is recognized that family, friends, and neighbors will remain the primary providers of care, greater outside support is needed. The funding should come from both the public and private sector. The federal government should provide most of the new funding from the public sector, although states should be encouraged to maintain their current financial commitment. Additional federal commitments should not contribute to the national deficit, but should be financed through new dedicated revenue sources when available. At the same time, private sector financing alternatives to complement public sector financing should continue to be strongly encouraged, particularly comprehensive and meaningful private long-term care insurance. Only through the efforts of a public and private partnership can the burden of long-term care financing be realistically and successfully addressed.

Adopted August 1980; revised February 1984, July 1984, and February 1989.

## **C-10. GENERAL HUMAN RESOURCES POLICIES**

### **10.1 Inflation and Cost-of-Living Adjustments**

Inflation disproportionately and severely hurts the poor, the unemployed, the disabled, the aged, and others served by human resources programs, and diminishes the purchasing power of funding allocated for human services and assistance programs directed toward these groups.

The federal government should recognize this and ensure that program funding levels are increased to respond to real inflationary pressures.

Where program funding levels are subject to statutory ceilings, such ceilings should be adjusted for inflation. When undertaken prospectively, such adjustments should be on a multi-year basis to ensure effective planning and budgeting at the state and local levels and the most efficient use of program resources.

For personal entitlement programs, all eligibility and benefit level criteria and stipulations that incorporate specific dollar amounts should be adjusted annually, based on the most realistic economic indicators available, so the amounts cited are consistent with original congressional intent. The Congress should not allow benefits in any personal entitlement program to be reduced by any means other than specific congressional action.

### **10.2 Federal Programs to Combat Hunger and Malnutrition**

Federal and state efforts to combat hunger and malnutrition should be improved, including the administration and coordination of current food programs and the continued purchase by the federal government - at market prices if necessary - of commodity foods for distribution to school and supplemental feeding programs.

### **10.3 Nondiscriminatory Financial Treatment for the Territorial Jurisdictions**

Congress should revise federal programs and legislation in the human resources field to provide nondiscriminatory treatment, particularly with respect to federal financial participation, for the people and governments of the Commonwealth of Puerto Rico and the territories.

### **10.4 Support for Initiatives to Improve Management of Human Resources Programs, and Opposition to Federally Imposed Fiscal Sanctions Based on Error Rates**

State and federal initiatives designed to improve the management of human services and assistance programs can yield increased efficiency and economy in program operation and reduce errors in determining program eligibility and benefit amounts for eligible persons. The Governors do not believe that a punitive program of fiscal sanctions against states and localities based on error rate samples contributes to the goal of reducing error rates. The concept of federally imposed fiscal sanctions also fails to recognize the shared responsibility of both the federal and state governments for errors. The federal government should focus on efforts to stabilize program regulations, simplify administrative requirements, and assist states in developing constructive programs to minimize errors.

### **10.5 Wartime Relocation and Internment**

On February 19, 1942, Executive Order 9066 resulted in the internment of all persons of Japanese ancestry on the Pacific Coast and in the spring of 1942, 120,313 persons of Japanese ancestry, the majority of whom were American citizens, were evicted from their West Coast homes and placed in government detention camps.

These persons suffered tremendous economic losses in potential income and personal property, the loss of freedom and human dignity, the curtailment of education, and the psychological trauma of internment.

The Commission on Wartime Relocation and Internment of Civilians has reviewed these actions and has submitted its findings to the United States Congress and to the administration. It concluded that "the promulgation of Executive Order 9066 was not justified by military necessity. . . . a grave injustice was done to American citizens and resident aliens of Japanese ancestry. . . ."

The National Governors' Association believes that appropriate apology and national recognition of the injustice incurred by the victims of wartime internment by the United States government is long overdue and the National Governors' Association supports efforts to seek nonmonetary redress for these injustices.

## 10.6 Social Security Disability Determination

The National Governors' Association recognizes that the Social Security Disability program provides critically needed support for the disabled people in our nation. While the goal of assuming that only those eligible actually continue to receive benefits is laudable, currently large numbers of people in our nation are experiencing hardships due to terminations of individuals or family members who cannot be reasonably expected to return to work.

This situation has been of great concern to the states, which administer the program under policies and regulations established by the Social Security Administration. Some progress has been made as a result of interim measures adopted by the secretary of health and human services. However, the National Governors' Association supports remedial legislation and calls upon Congress to enact pending legislation for the Social Security Disability program that will:

- Permanently continue Social Security Disability benefits in all Continuing Disability Investigation cases, through the level of hearings before an administrative law judge;
- Once eligibility is initially established, adhere to a medical improvement standard before terminating benefits;
- Publicly promulgate policies and regulations affecting the determination of disability;
- Require SSA to apply decisions of the circuit courts of appeal or appeal those decisions with which it disagrees;
- Provide for face-to-face evidentiary interviews at the initial decision level;
- Provide for a temporary moratorium on mental impairment reviews until such time as the listings for mental impairment have been revised.

## 10.7 Continuation of Historical Federal Responsibilities

The unilateral withdrawal or reduction of federal support in traditional areas of federal responsibility places unreasonable burdens on the states and particularly on those that are heavily affected by such withdrawals and reductions. The Governors oppose such unilateral federal action, particularly where it reduces the health, education, nutrition, and economic welfare services available to needy citizens, including specially targeted groups, such as native Americans, refugees, and migrants.

Many of these programs have evolved over a number of years in response to statutory and treaty obligations of the federal government. They frequently entail a cooperative relationship between the federal government and the states, with each party sharing a portion of the burdens. Beneficiaries depend upon the continuation of these programs for essential and minimal life and health services. The federal government benefits from the continuation of these programs through the satisfaction of its obligations to the most needy of its citizens and through the enhanced participation of these citizens in the economic, social, and political life of the nation.

We urge that no further withdrawal or reduction of federal support for such services occur without timely and proper consultation with the states and, to the extent that such action is taken, that time be allowed for a sorting out of responsibilities among federal, state, and local governments or other providers for continuing such services.

## 10.8 Quality Control and Performance Accountability

10.8.1 Preface. Congress has called into question the validity of the current quality control processes. The National Academy of Sciences has substantiated these concerns and recommends a restructuring of the current performance assessment mechanisms used in the Aid to Families with Dependent Children (AFDC), Medicaid, and Food Stamp programs. The Governors, in accordance with the changes recommended by the National Academy, urge Congress to put in place a fair and equitable system for assessing state performance. Current sanction policies threaten the integrity of our major entitlement programs and inhibit future innovation in the administration of these programs.

10.8.2 Quality Control Studies. Numerous studies criticizing the current quality control systems have been conducted over the last decade. The General Accounting Office (GAO) has done a series of such studies. GAO has faulted many aspects of the current processes - in particular, the bias in using the mid-point of the confidence interval in a penalty system. The most comprehensive study of quality control to date, however, is the congressionally mandated study of quality control in the AFDC, Medicaid, and Food Stamp programs by the National Academy of Sciences. The National Academy

reaffirms earlier findings and calls for comprehensive reform and further urges the separation of management and audit functions in the quality control system. The academy's recommendations for change are consistent with the Governors' principles for reform.

The academy praises states' efforts and progress in reducing mispayments and recommends a reformed system that holds the federal agencies and states mutually accountable for program performance. The academy, like the Governors, believes states should not be penalized for factors they cannot control.

**10.8.3** Background. The Governors strongly support performance accountability for needs-tested entitlement programs administered by the states and jointly funded by federal and state appropriations. States' primary goal in administering the AFDC, Medicaid, and Food Stamp programs is effective and compassionate delivery of services to eligible low-income families. The Governors urge Congress to put in place a fair and equitable system to assess state performance and encourage, rather than inhibit, management improvements.

Such a system must address the need for coordination of policies, particularly quality control policies, in all three programs. There must be a mutual obligation on the part of the states and the federal government to better serve eligible persons.

States and localities, as well as the federal government, have a major financial interest in proper administration of these programs. Each error in the AFDC and Medicaid programs costs states dollars that they can ill afford to expend and accomplish program objectives. The Governors are as concerned as federal officials that benefits be targeted toward those who need them most. Payments to ineligible persons, and overpayments, are an unacceptable waste of both state and federal resources. At the same time, reducing improper denials and underpayments must also be a priority for state and federal agencies.

As evidence of our commitment to reducing errors, the states have accomplished significant reductions in error rates over the past several years. Indeed, since the early 1970s, the AFDC program error rate dropped from 16.5 percent to 7.1 percent, the Food Stamp program error rate dropped from 16.0 percent to 7.6 percent, and the Medicaid program error rate dropped from 6.2 percent to 2.3 percent. In all three programs the greatest error reduction was achieved prior to the imposition of fiscal penalties in 1981.

This reduction was achieved in spite of increasing complexities of federal regulations. The Governors believe that further reductions in the mispayment error rate can be achieved, but only if the federal policies, regulations, and initiatives reflect a cooperative relationship that seeks to effectively reduce program inconsistencies and complexities. The Governors, therefore, urge Congress to develop nationwide standards of achievable performance thresholds that equitably and reasonably acknowledge caseload characteristic and demographic differences. Furthermore, we believe that disincentives for excessive failures need to be balanced with incentives.

The Governors are committed to reducing the mispayments and curtailing unacceptable waste of state and federal resources. This will be achieved only if Congress revises the current processes.

**10.8.4** Current Sanctions. Under the current quality control systems, the states face AFDC sanctions that will total more than \$1 billion over the next few years. Moreover, it appears that sanctions in the Food Stamp and Medicaid programs will equal close to \$500 million over the same period of time. These sanctions are an inflated and inaccurate portrayal of actual misspent dollars. Should such punitive sanctions be imposed, the consequences are clear:

- The resulting shift of costs from federal to state governments will have an immediate and significant impact on the ability of the states to finance human service programs, which may result in the reduction of services to those most in need.
- States will be forced to increase administrative costs with little or no evidence that such expenditures will be cost-effective.
- Pending sanctions threaten the very error reduction efforts Congress envisioned. Further, the current sanction systems distort management priorities by forcing an exclusive focus on payment accuracy.

**10.8.5 Principles for Reform.** The Governors' strongly support reform of the quality control system in the AFDC and Medicaid programs. NGA also supports additional reform of the Food Stamp quality control system. A fair and equitable quality control system must be based on the following principles:

- Both federal and state government are responsible for administration of the AFDC, Medicaid, and Food Stamp programs; therefore, both must be held accountable for efficient management of these programs.
- Given that the current quality control processes serve primarily federal interests, a reformed system must separate the management and audit functions.
- States' performance should be assessed according to the federal/state agreement on program administration represented in the state plan. Any discrepancies between state and federal agencies over a state plan or program manual should be dealt with in the compliance process.
- The states' progress in error reduction must be considered. The standards to which states are held accountable should be based on demonstrated state achievement, not arbitrary standards.
- A system that penalizes the poorest performing states should also reward those states that are the best performers.
- States should be penalized only for actual misspent dollars. Technical errors should not be tied to fiscal penalties and state penalties should be reduced by overpayments recovered.
- States should not be penalized for errors based on information unavailable at the time of the state review yet available at the time of the federal review.
- Acceptable measures of performance should be based on statistical estimates designed to shift the margin of error in the states favor (i.e., use of the lower bound of the confidence interval in lieu of the point estimate in calculating payment accuracy rates). In addition, a fair measure of performance must take into consideration significant demographic and program variations within and across the states.
- States with a financial liability should have the opportunity to reinvest in activities designed to reduce erroneous payments. Similarly, a fair and effective mechanism should be available to provide administrative relief for such states.
- For its part, the federal government should be held accountable for reviewing the reported quality control findings in a consistent and timely manner. More flexibility is needed to enable both the federal government and the states to compensate for inaccurate federal data (e.g., BENDEX, IEVS data).
- Federal support is needed to minimize the impact of federal programs and policy changes on state performance. Special attention must be given to simplifying and coordinating the three diverse federal programs. Given program complexity, states should be afforded adequate lead time to implement federal program changes and should not be subject to sanction during the implementation of new policy.

Adopted August 1980; revised August 1983, February 1984, February 1985, July 1987, and February 1989.

## C-11. THE HOMELESS

### 11.1 Preface

The Governors are alarmed at the growing numbers of homeless people – in particular, homeless families with children. In a land of tremendous wealth and opportunity, the plight of the homeless represents a national disgrace.

The homeless are found not only in our nation's cities – the problem is increasingly shared by our suburban and rural areas as well. The number of homeless people is growing. Estimates of the number of homeless persons range from 350,000 to 3 million; the wide variance is indicative of the difficulty in identifying and serving those who are without shelter. Most of the estimates do not include those households at risk of becoming homeless.

Contrary to many common perceptions, the homeless are not a monolithic group. Poor working families, unemployed parents with their children, victims of domestic violence, runaways, and persons with AIDS comprise a growing proportion of the homeless population. Additionally, alcoholics and drug abusers, veterans, the mentally and physically disabled, and the elderly still comprise segments of the homeless population.

Homeless families with children are now the fastest growing portion of the homeless population. For too many children, a homeless shelter or welfare hotel is the only home they have ever known. In addition to the psychological effects of being without a safe and secure home, homeless children often do not attend school regularly, may suffer from inadequate health care and poor nutrition, and can too easily become involved in alcohol and drug abuse and crime. These children will face multiple barriers to becoming productive, self-sufficient, and healthy adults. Our goal must be to eliminate shelters as a permanent way of life.

While the causes of homelessness are diverse and often interrelated, the extreme shortage of decent and affordable housing for low-income people is the most significant factor. Unemployment and inadequate wage levels, the lack of community-based support services, particularly mental health, substance abuse, teen pregnancy, and domestic violence, and catastrophic illness are among other economic and social factors that play major roles in the homeless crisis.

### 11.2 Permanent Housing

Although prevention, emergency shelter, support services, and transitional housing represent important components, permanent housing must be the primary focus of any long-term solution to the problem of homelessness. The National Governors' Association's housing policy reaffirms the Governors' support for the goal of the 1949 Housing Act to provide a 'decent home and suitable living environment for all Americans' while calling for a comprehensive national housing policy to address the nation's housing needs. Such a comprehensive national housing policy must address a wide range of issues, including ways to preserve the nation's existing stock of affordable housing, with particular attention to expiring federal subsidies and owners' mortgage prepayment options; provide reasonable levels of rental assistance to low-income households; expand the supply of affordable housing; encourage homeownership; increase enforcement of fair housing laws; and create a national housing partnership.

The Governors recognize that the provision of permanent housing for the homeless must be a priority of such a national housing policy. This housing should be provided in a scattered-site, mixed-income setting, rather than isolated, segregated housing. Additionally, without special attention to rental assistance, low-income families and individuals would be required to spend an extraordinary portion of their modest income on housing, far exceeding the national standard.

### 11.3 Government Response to the Problem

Many states are playing a lead role in responding to the needs of the homeless, often investing substantial state resources to address the problem. Similarly, cities and towns, religious organizations, private nonprofits, and individual volunteers have made significant contributions.

Due to the extent of the current problem, an effective strategy to address homelessness will require a partnership among all levels of government and the private sector. The federal government, in cooperation with increased state and local efforts, must assume a lead role.

The federal McKinney Homeless Assistance Act has supplemented states' efforts to address the problem of homelessness. This federal effort, however, has focused primarily on the short-term housing and emergency needs of the homeless. In order to be effective in truly addressing the needs of the homeless, any comprehensive national housing strategy must address permanent housing solutions.

Until longer term permanent housing solutions become viable, programs authorized under the McKinney Act provide a necessary emergency response. Unfortunately, McKinney programs have never been funded at their fully authorized levels. Given the extent of the homeless crisis, the Governors urge full funding of the McKinney Act.

To ensure the effective implementation of the McKinney Act, the Governors make the following recommendations:

- Many Governors have initiated programs specifically aimed at combatting homelessness. States need more flexibility to utilize McKinney Act funds to augment existing state programs and to tailor programs to better address states' individual needs. Flexibility in administering McKinney Act programs is also required, given local licensing requirements, funding cycles, site control schedules, and housing policies. Restrictive requirements placed on the use of McKinney Act funds have impeded states' efforts in utilizing these resources in the most cost-effective and efficient way.
- States are playing an integral role in the centralization and coordination of services for the McKinney Act and other homeless programs on the state level. Many Governors have established state coordinators and interagency councils to increase statewide planning of homeless assistance and to ensure the effective coordination of services provided by other state agencies.

The state role in the coordination of McKinney funds with current state and local efforts should be enhanced to ensure that scarce federal resources are used effectively. States need increased predictability regarding when the various grants will be awarded to assist in their planning efforts for the homeless. A small set-aside for state administration of McKinney funds would greatly assist states in this coordination role.

- State and local efforts in implementing McKinney Act programs have been hampered due to a lack of information on McKinney programs, including application procedures and deadlines. The Federal Interagency Council on the Homeless, established by the McKinney Act, must take a more active role in coordinating federal homeless initiatives, providing technical assistance to states and localities, and disseminating information concerning the availability of McKinney funds and effective homeless programs. Additionally, relevant federal and state agencies need to better coordinate programs to meet the diverse needs of the homeless.
- Many states have reported that there are under-utilized federal properties in their areas that could be used for shelter and for other services to assist the homeless. Since the McKinney Act became law, only a few of the homeless properties that are suitable for use by the homeless have been leased. The federal government needs to fulfill the intent of the McKinney Act by actively making these properties available to states, localities, and nonprofits.

#### 11.4 Homeless Prevention

An effective policy approach to combat homelessness must direct resources toward homeless prevention activities. In the long run this not only will prove cost-effective but also will prevent individuals and families from becoming homeless.

Preventing homelessness requires more than providing housing related services. Employment and training programs under the Family Support Act and the Job Training Partnership Act, child care subsidies, Medicaid, Food Stamps, Aid to Families with Dependent Children, child support enforcement, and other social service programs are also critical in the war against homelessness. These programs benefit low-income individuals by improving their economic situation and lessening the risk of homelessness. Federal and state governments should work toward removing barriers that homeless persons encounter in utilizing existing income support and social service programs. Other preventative services, such as family counseling, landlord-tenant mediation and housing information and referral, can provide an effective means for helping at-risk individuals and families maintain their homes.

The AFDC Emergency Assistance/Special Needs Program has helped states provide temporary shelter for homeless families with children and prevent homelessness among poor families. The Governors believe that enhancing state flexibility under this program would permit more efficient and effective use of these funds. The Governors' policy on Emergency Assistance recommends that Congress adopt legislation that gives states the flexibility to utilize Emergency Assistance Special Needs funds for transitional and permanent housing arrangements if states can demonstrate that this is a cost-effective alternative to welfare hotels.

The Governors also recommend that the use of Emergency Assistance funds to prevent homelessness, such as paying back rent to prevent a family's eviction, should continue to be allowed. The Governors believe that phasing out the placement of families in welfare hotels is dependent upon the availability of adequate funding and the flexibility of policies to provide transitional or permanent housing for these families.

#### 11.5 Emergency Shelters

Emergency shelters must be provided to meet the most immediate and life-threatening needs of those who have no place to live. Emergency shelters should be used only as a temporary measure, and at a minimum, should guarantee adequate food, health, safety, and hygiene standards. The federal government should provide adequate funding for the operation of shelters, including the necessary support services. The most cost-effective solution is not building bigger and better shelters but developing long-term solutions to meet the permanent housing and service needs of the homeless.

Transitional housing can provide an important bridge to help persons and families who are homeless move from the streets and shelters into permanent housing. In order to be effective, however, such transitional shelters must be accompanied by the necessary support services.

#### 11.6 Support Services

Appropriate support services - whether provided in conjunction with emergency shelter, transitional housing, or permanent housing - are essential in helping homeless individuals and their families become self-sufficient. Such support services include case management, counseling and referral services, job training and placement services, child care services, literacy programs, alcohol and drug treatment programs, health and mental health programs, and transportation. For homeless families, the ability to take advantage of support service programs is dependent upon the availability of child care. In addition, given the increasing number of homeless children, access to education services is also an important support for homeless families.

#### 11.7 A Comprehensive Approach to Homelessness

The Governors recognize the need for a comprehensive approach to the problem of homelessness, one that stresses prevention, emergency shelter, support services, transitional housing, and, above all, permanent housing.

Since the extreme shortage of low-income housing is the most significant cause of homelessness in America, an effective strategy must address the permanent housing needs of the homeless. It must address the inadequate supply of housing at affordable rents for low-income people that has occurred during this time of federal retrenchment in housing production.

At present, the homeless are not being adequately served by existing federal housing programs. As part of a comprehensive national housing policy, they must become a top priority. This can occur by expanding and preserving the permanent supply of affordable and decent housing and targeting slots in federally subsidized housing to those who are homeless or at risk of becoming homeless. Federally subsidized housing programs should also be coordinated with service providers to ensure that homeless persons entering permanent housing receive the necessary supports.

The Governors are committed to working with Congress to establish a national housing partnership to address this nation's housing needs, including the provision of decent and suitable permanent housing for the nation's homeless.

Adopted August 1983; revised February 1989.

## C-18. CHILD CARE

### 18.1 Preface

The Governors believe that the expansion of child care opportunities is vital to the economic growth of our nation and the well-being of our nation's families and children. The need to expand the supply of quality child care, particularly for low-income families, must be addressed, and the federal and state commitment to child care should be strengthened.

The Governors recognize that dramatic and ongoing changes in our society will continue to fuel a growing demand for child care over the next several decades. Today, more than half the women with children under the age six are working -- a fourfold increase since 1950. The number and proportion of children living with single mothers who have a great need for child care is also increasing. Tightening of the U.S. labor markets in the 1990s means that in order for our country to remain economically competitive, we will need to further encourage the participation of women, poor, and minorities in the labor force.

Affordable child care is especially critical for working poor families. The implementation of welfare reform legislation, which provides twelve months of transitional child care assistance, will enable many individuals to leave the welfare rolls and become self-sufficient. The Governors recognize that affordable child care must also be available beyond the transition period if these families are to remain economically independent.

Investment in child care programs is a sound investment in our nation's future. Quality programs ensure the health and safety of young children when they are away from their parents' care. High quality preschool and early childhood development programs can foster the social, cognitive, emotional, and physical development and the skills that lay the foundation for later success in school and the workforce. Child care and early childhood development programs should be coordinated at the federal, state, and local levels to create the richest possible experience for the child. The Governors believe that a national child care policy must support families in their primary role of nurturing and caring for children and enable parents to choose from a range of child care options (family, in-home, center-based) the care that is most appropriate to their family's needs.

### 18.2 Public/Private Partnerships

In order to improve the quality, accessibility, and supply of child care, there must be a concerted effort among all levels of government and the private sector. Together, the public and private sectors share the responsibility of meeting the child care needs of our nation. The Governors urge the expansion of innovative public/private partnerships and the continuation of existing provisions in the federal tax code that provide incentives for business involvement in child care. States should increase their outreach to the business community to educate employers about the advantages of providing child care benefits and available programs and tax incentives. Child care resource and referral agencies can be an effective mechanism for establishing public/private partnerships at the local level.

### 18.3 Federal Role

**18.3.1 Introduction.** While the current budget situation imposes limitations on federal expenditures and programs, the Governors believe that the federal government should begin to take action to improve child care. A carefully designed and modest federal effort could start to address significant child care issues as well as lay the groundwork for a more expanded federal commitment at a later date when fiscal conditions permit. This effort should contain an appropriate balance between grant programs and tax credits in order to comprehensively address the issues of supply, quality, and affordability.

**18.3.2 Broad-based Grant.** The federal government should provide states with the financial support and flexibility necessary to improve the availability of child care for lower-income families. We recommend that Congress:

- Allocate redirected or new funds through a broad-based grant to states to expand child care services to lower-income families. Such an approach will enable each state to respond in the most appropriate manner to its particular needs. Additionally, a flexible grant will facilitate coordination with the existing public and private child care service delivery system, thereby reducing administrative costs and enhancing efficiency. The Title XX/Social Services Block Grant, the largest form of direct federal assistance for child care to low-income families, was cut by 20 percent in 1981 and has never been restored to its previous level.

**18.3.3 Support of State Efforts.** The Governors believe that the federal government should support and encourage state efforts to increase the supply of child care for all families. Many states are implementing innovative programs and the National Governors' Association should serve as a clearinghouse for information on these efforts. We recommend that Congress:

- Make funds available for seed money for states to initiate effective responses to address existing gaps or problems in the supply of appropriate child care options. Specific issues needing attention include "latch-key" programs; liability insurance pools; infant needs; recruitment and training of day care providers; grant and loan programs for child care start-up costs; programs for sick children and children with special needs; and resource and referral programs.

**18.3.4 Tax Credits.** Tax credits to help offset the costs of child care should be targeted to assist low-income families in maintaining their economic independence. The Governors believe that tax credits should provide parents with the flexibility to choose the child care arrangement that is most appropriate to their family's needs. Since the majority of child care arrangements for working poor families are home-based, tax credits are an appropriate form of assistance for these families who may not benefit from other programs.

The dependent care tax credit, the largest federal child care program, primarily benefits middle- and upper-income families. The Governors recommend retargeting the credit toward low-income families by making the credit refundable and increasing the monetary value of the credit. In addition, further consideration should be given to the creation of a children's allowance or an adjustment of the earned income tax credit based not only on income, but also on family size. These proposals could be phased in as fiscal conditions permit.

#### **18.4 Child Care Standards**

The quality and regulation of child care are state responsibilities. Many states have enacted or upgraded child care standards and licensing procedures and the federal government should support rather than supplant state initiatives. The Governors recognize, however, that some states do not have the resources to establish and enforce optimal child care standards. The Governors believe that the federal government should work with the states and localities to improve the quality of care. Therefore, we recommend that:

- The federal government provide incentives or grants to assist states in moving toward national model child care standards. A commission representing the child care community, including state, local and federal officials should develop the model child care standards based upon current research findings.
- The model standards should include recommendations for qualifications and training of child care workers; parental involvement; health and safety; group size and composition; and staff/child ratios. The commission should also investigate the best way of enforcing such requirements including licensing of staff, frequency of inspections, and enforcement tools.

#### **18.5 Government Employers as Models**

Federal, state, and local governments as employers should serve as models for business for the provision of child care benefits to their employees. Additionally, all levels of government should review their policies regarding leave, alternative work schedules, and other programs and policies for assisting working parents.

#### **18.6 Child Care Employees**

The low salaries earned by child care workers have made it difficult to hire and retain qualified, skilled individuals and have contributed to the scarcity of quality child care programs. The Governors believe that low salaries are symptomatic of a larger problem that is the under-investment in our nation's children, which jeopardizes their present and future well-being.

#### **18.7 Role of Education**

Our nation's schools can and should become an important partner in our child care efforts. State and local education agencies must also expand the role of the local school system in partially meeting child care needs through the sharing of facilities and such programs as full-day kindergarten, preschool or prekindergarten, and before- and after-school programs. The community shares in the responsibility of providing child care for its children. Civic, religious, and professional community organizations have resources that can be used for the provision of child care.

Adopted February 1988; revised February 1989.

## C-20. VOCATIONAL AND TECHNICAL EDUCATION

### 20.1 Introduction

The process of training and preparing our nation's citizens for work is an integral part of economic development and ultimately the economic future of our country. The nation is now faced with demographic and economic realities that increase the need for more effective occupational preparation and retraining.

- Rising skill and greater knowledge requirements will be characteristic of virtually all occupations, and the majority of new jobs will require postsecondary education or training. Skill requirements for even traditionally lower skilled occupations will rise substantially with the broadening of functions and the introduction of computers and other technologies.
- Workers are likely to change careers or occupations as many as five times throughout their lifetimes. Workers need the flexibility and mobility to shift not only from task to task, but also from job to job, and career to career.
- The pace of technological change will require ongoing upgrading of skills.

There are numerous public and private resources and institutions devoted to worker training activities. Where this activity is occurring, however, is of less importance than the quality, efficiency, and effectiveness of these efforts. As Governors, we must rethink our approach to vocational and technical education and training – both who will require it and how we will provide it. We must:

- Take an active leadership role in coordinating and facilitating these activities and integrating them into the economic development strategies of our states.
- Provide high quality educational and training opportunities to give the existing and future workforce the chance to obtain and continuously refresh their work-related skills and knowledge to improve productivity.
- Strengthen partnerships between business, education, and government to assure that vocational and technical education are relevant to changing needs in a highly competitive economy.
- Identify desired outcome measures and hold the providers of education and training accountable for achieving the skills and competencies required.

### 20.2 Vocational and Technical Education as a Key to a Competitive Workforce

**20.2.1 Preface.** To build a world class America's workforce, vocational and technical education must be able to prepare workers who are both well-educated, with the ability to reason and adapt, and well-trained, to perform specific work tasks.

**20.2.2 The Role of Secondary Vocational and Technical Education.** The focus of secondary vocational and technical education should be to provide broad-based competencies that educate for employment. It should provide students with the basic skills necessary to join the workforce and prepare them for further learning in an academic environment.

**20.2.3 The Role of Postsecondary Vocational and Technical Education.** Postsecondary vocational and technical education is more closely linked to job skills development. A primary goal is to promote the development of occupational skills required by business and labor. It should complement the strengths of our employer-based training capacity whenever available. There must be a continuum of learning beginning with the secondary and postsecondary levels and continuing into the marketplace.

### 20.3 Meeting the Needs of Individuals, Businesses, and Communities

**20.3.1 Preface.** The market for vocational and technical skills education is determined jointly by individuals, businesses, and communities. Ongoing changes in that market require new, more flexible approaches to designing and delivering vocational and technical education. Such adaptations, designed with the consumers in mind, will elevate its status and encourage greater utilization of services. In turn, satisfied clients will enhance public support and serve as advocates for vocational and technical education.

**20.3.2** **Individuals.** Improving the status of vocational and technical education and adult retraining by making it more accessible to the public is a first step toward meeting the needs of individuals. Workers must be shown that their participation in vocational and technical education will result in the acquisition of skills marketable within the labor market. They must know where to get training and where to have skills assessed.

A system should be developed to assure that individuals are given credit for competencies they possess and skills they attain. Such a system that provides easily identifiable and transferable documentation of skills would enhance flexibility of the workforce and encourage greater participation in training opportunities.

**20.3.3** **Businesses.** The technological gap between education and the workplace can be closed only by creating close partnerships with business and industry. Business has an essential role to play in identifying the kinds of skills workers need, providing resources for relevant training, assisting in the decisionmaking process on how skills can best be obtained, and encouraging working partnerships for on-site training at secondary and postsecondary education levels.

**20.3.4** **Communities.** Vocational and technical education must be responsive to the economic development needs of local and state labor markets. It is at the local level, with broad-based involvement of the community and strong leadership from the state, that planning and accountability mechanisms must be strengthened to revitalize vocational and technical education.

## **20.4 Financing Vocational and Technical Education**

**20.4.1** **Practices.** Currently, vocational and technical education is funded through a variety of sources, with state governments providing a majority of the financial support for public programs. Traditional funding schemes linked reimbursement with enrollment, credits earned, semesters completed, and other criteria that may be inconsistent with the needs of current consumers of vocational and technical education. Reimbursement policies need to be revised to reflect outcome-based performance standards.

Just as the benefits of vocational and technical education are shared between individuals, employers, and the society as a whole, so should the cost of financing the continuous education and training of the workforce. Cost-sharing arrangements should follow the general principle that basic education is an appropriate government responsibility and that employers and individuals assume a greater share of the burden as the training becomes more job-specific.

## **20.5 Federal Role**

**20.5.1** **Special Populations.** While a primary federal role continues to be assuring equal access for special populations, the current federally mandated uniform set-asides encourage enrollments, but often limit the ability of states to provide quality services for all students. Vocational and technical education must be more effective in helping at-risk students and disadvantaged adults achieve the skills necessary to become productive members of the American workforce. This is essential to achieve national goals aimed at increasing economic self-sufficiency. Only through a performance-based accountability system that provides incentives for raising outcomes for all students can we assure equal opportunity for special populations. As Governors, we need the flexibility to determine equity of service levels for our states.

**20.5.2** **Program Improvement.** There is compelling federal interest in improving the productivity of our vocational and technical education system, and enhancing its capacity to meet the economic challenges faced by this nation. Federal policy should provide incentives for effective management. It should improve the quality of basic academic, pretechnical, and technical preparation to enhance the overall competence of the workforce and help states expand opportunities for education and training during all stages of an individual's worklife. Program improvement activities should be devoted to such areas as:

- Broadening opportunities for more students to explore career options and take part in work experience by encouraging employers to expand work experience and cooperative educational opportunities as the final stage of initial preparation.

- Integrating vocational and technical instruction into the basic academic programs at the elementary and secondary school levels and increasing flexibility in the structure of high school curriculum to allow students to move more easily between vocational and technical education and other educational courses and various education levels.
  - Developing competency-based assessment instruments that measure work-related skills and competencies.
  - Using technology for instruction, guidance, and management of the learning process.
  - Promoting the availability of a national curricula exchange network, including program design, organization, implementation, and evaluation.
  - Enhancing teacher quality through grants and scholarships designed to expand opportunities for ongoing basic pretechnical and technical preparation skills.
- 20.5.3 Strengthening the Public/Private Partnership.** Federal policy should promote business, industry, and labor involvement to keep teachers, curricula, and equipment relevant and current. This might include:
- Exploring the use of trade associations for tie-in to business needs and latest developments.
  - Expanding industry-based schools and apprenticeship-type arrangements to upgrade the skills of the existing workforce.
  - Creating an ongoing public/private forum to monitor changing skill requirements.
  - Demonstrating various uses of customized training, cooperative education, apprenticeship opportunities, education/business partnership programs, internships, and trade association projects.
  - Developing exchange programs for teachers with members of the labor force and employers to learn each other's needs.
- 20.5.4 Accountability.** Current law does not provide for meaningful evaluation of vocational and technical education programs. The federal government should encourage states to utilize objective criteria for performance management and evaluation purposes. Multiple measures of labor market and educational outcomes are needed. The federal government should encourage states to work with employers to identify a core set of employment-related competencies against which providers of vocational and technical education can be held accountable. Governors should be provided with incentive dollars to reward achievement of these goals by providers.
- 20.5.5 Coordination and the Need for Flexibility.** A broad range of federal programs exists to provide education and training. Since resources are limited, Governors should have the responsibility and flexibility for coordination of the various programs to ensure maximum efficiency and effectiveness. States need the flexibility to develop services at the secondary and post secondary levels to accommodate their particular needs. Governors should be allowed to merge the State Advisory Committee on Vocational Education and the State Job Training Coordinating Council, and expand the new council's mission to deal with broader workforce issues.
- 20.5.6 Data Collection.** There is an increasing need for relevant, consistent, and comparable data on various aspects of vocational and technical education and occupational needs. The existing National and State Occupational Information Coordinating Committees should be more effectively utilized in the planning and guidance of vocational and technical education and other human capital development systems. For purposes of federal reporting, the federal government should mandate a core set of common data elements that are to be collected uniformly under vocational and technical education and other employment and training programs. Definitions should be consistent with those used under the Job Training Partnership Act. Such terms include economically and educationally disadvantaged, at-risk youth, dropout and potential dropout, and school-to-work transition.

Adopted February 1989.

## D-50. A COMPREHENSIVE NATIONAL ENERGY POLICY

### 50.1 Preface

From the time of the Industrial Revolution, energy has been the lifeblood of economic activity and growth. To provide a foundation for continuing economic development, it is important that our changing economy have available the appropriate energy supplies and services. Our energy infrastructure must be sufficiently flexible to adapt to changing needs.

Currently the United States imports more than 40 percent of the oil it consumes, and in 1987 energy imports accounted for almost one-fourth of the nation's balance of trade deficit. Domestic oil production is decreasing and will continue to decline, and by the middle of the next decade, oil imports could rise to 50 percent or more of American oil consumption. In the critical transportation sector alone -- where there are virtually no alternatives to petroleum-based fuels -- the nation consumes more oil than it produces. The implications for the nation's economy, national security, and balance of trade are enormous. There is also a great risk that foreign policy options will become constrained as the result of our dependence on foreign energy supplies.

Yet America is also blessed with abundant domestic energy resources, including supplies of oil, coal, gas, uranium, and a variety of renewable energy resources, which can help meet our energy needs and reduce levels that must be imported. The nation is also learning to use energy supplies more efficiently. Indeed, since the 1973 oil embargo, the nation's use of energy has declined significantly both per capita and per unit of the GNP, and greater efficiency has been our largest new "source" of energy supply. In particular, the nation's use of nonelectric energy forms has declined appreciably, while its use of electricity has increased significantly, with almost all of the increase provided by coal and nuclear energy.

*The Governors believe that the development of a comprehensive, coherent, and productive national energy policy is imperative as the nation approaches the 1990s.* This policy should recognize the risks involved in relying heavily on imported energy and should provide for the optimum use of domestic energy resources. It must promote both development of additional domestic energy supplies and increased energy efficiency as consumers meet their needs for energy services. A viable domestic energy supply industry must be maintained. The nation's economy must become more energy efficient in order to compete globally.

### 50.2 Policy Framework

A comprehensive national energy policy must meet public needs for energy, recognizing the tradeoffs between costs and risks and striving for consistency with other national priorities and goals. The principal goal of our national energy policy should be to provide secure and affordable energy supplies and services that will ensure the health of our economy and our environment. The Governors suggest a national energy policy based on seven guidelines. Energy policy should:

- Promote the prudent and efficient use of our resources and the pursuit of a long-term least-cost energy strategy to minimize the cost of reliable energy supplies and services;
- Pursue a diverse and flexible energy supply mix that provides for future needs and reflects security and reliability concerns;
- Address environmental concerns;
- Ensure sustained public and private investment in energy research and development;
- Include a well-specified division of regulatory authority between the states and the federal government;
- Provide our citizens with affordable and adequate energy supplies and services; and
- Provide Americans with access to the information they need to make sound energy choices.

**50.2.1 Energy Efficiency.** Energy efficiency offers a practical means of achieving many of our energy policy goals. Increased efficiency will decrease our reliance on imported oil, reduce the environmental impacts of fossil fuels, enhance the competitiveness of U.S. industries, slow the depletion of our finite fossil fuels, and extend the time we have to make the transition to new and innovative energy technologies.

There are environmental implications associated with energy policy choices. Mounting concerns over ozone pollution, acid deposition, and global warming bring this issue to the forefront. We must recognize and address the short- and long-term environmental impacts of our energy choices and make them environmentally acceptable. The Governors believe addressing these environmental concerns can be accomplished most effectively by improving the efficiency of this nation's energy use and by making sure that choices among fuels and energy products and services reflect their true environmental costs. This principle should apply to imported energy as well as domestic energy.

- 50.2.2 **Energy Emergencies.** It is also imperative that the states and federal government develop strategies for responding to a broad variety of possible energy emergencies. Initial efforts should focus on strategies to prevent emergencies from occurring. Efforts to diversify our energy systems while maximizing our use of cost-effective domestic energy resources are part of this long-term effort. Additional efforts in the interim must focus on planning the response federal and state governments would take if any energy emergency occurs. It is essential that emergency response procedures be well tested to ensure the coordination and flow of information between energy suppliers, consumers, and federal, state, and local governments.
- 50.2.3 **Cost-Effective Energy Services.** The Governors reiterate their support for programs to assist those unable to afford a minimal level of energy services. The focus should be on providing energy services in the most cost-effective manner. Permanent solutions such as efficiency improvements should be stressed, recognizing that temporary assistance may be necessary to defray fuel bills. Also, job retraining and relocation assistance may be necessary for those in the energy industries who suffer job dislocations as the result of energy policy decisions.
- 50.2.4 **Risk Reduction.** The Governors recognize that all energy sources carry some degree of risk – either military, economic, environmental, or social. Options carrying high risk should be compared to alternatives. Then the question becomes whether a premium needs to be paid to reduce the risk. The Governors recognize that some premiums are worth paying. The country may purchase additional energy security and reliability through measures that assure diversified supplies of those energy resources on which we currently depend, including greater domestic production, and by expanding our energy choices through improved energy efficiency and the development of commercially available alternatives.
- 50.2.5 **Information Needs.** The Governors also recognize that the strength of the economy is its reliance on the private sector, and that a government has a responsibility to provide consistent, clear policy direction and make rational decisions that can help guide private sector initiatives. Federal, state, and local governments cannot provide credible policy direction or respond properly to the needs of consumers without good information. Thus, an essential step in formulating a balanced energy policy is to develop the necessary data and employ analytical methods and models to assess the productivity costs and risks of the various energy choices available to the nation.

The Governors urge the Department of Energy (DOE), with assistance from the Departments of Defense and State, and in conjunction with the states, to develop this analytic base. DOE should rank the energy options available to the nation. The options should be grouped by end use and not by specific fuels or efficiency improvements. The ranking of each option within a group should reflect the market and nonmarket costs of energy saved or delivered, the relative degree of uncertainty and risk exposure, and the compatibility of each option with other national goals. Because the costs and risks associated with each option change over time, DOE should periodically revise the rankings. The results of this work would provide Congress and federal and state energy policymakers with the information to respond appropriately as the future unfolds, and to take the steps necessary to protect the needs of consumers and the country.

- 50.2.6 **Long-Term Costs.** In choosing among energy policy alternatives, including those in this policy, the Governors believe that a cost-benefit approach should be applied in which the full long-term costs of an option in taxes, consumer energy bills, environmental impacts, security risks, and other national goals are weighed against the additional availability or conservation of energy and other long-term benefits it might be expected to generate.

Those measures involving the lowest costs, in terms of public expenditures, revenue losses, costs to consumers, or environmental or other impacts, should be considered first, and indeed, there are measures that would improve our energy security and reliability without imposing significant new costs. Although the potential costs and benefits of a given proposal can be extremely difficult to estimate, this framework is valuable in setting consistent terms of debate for our various energy policy choices, both now and in the future.

## 50.3 Policy Options

The Governors recognize that while a comprehensive evaluation of energy policy options is needed, *some energy decisions must be made now*. Consistent with the policy framework described herein, the Governors recommend several policy options that are expected to promote additional domestic energy supplies or efficiency. The following recommended options provide a sound beginning for a comprehensive national energy policy. In considering the implementation of these options, specific programs and strategies must be carefully designed to properly balance all of their short- and long-term benefits and costs.

### 3.1 Improving Energy Supply

- Encourage exploration and development of the nation's primary energy resources, including oil, gas, coal, uranium, renewable energy resources, and others, to the extent they are competitive in energy markets and consistent with environmental requirements. Consideration should be given to expanding exploration and development in currently restricted areas.
- Provide tax incentives for domestic oil and gas exploration and development and enhanced recovery, to encourage new domestic reserve development and avoid premature shut-in of wells. These incentives could include, as examples, a standard investment tax credit on exploration and development expenditures, for stripper well operation and maintenance expenditures, and for secondary or tertiary enhanced recovery project expenditures, expensing of geological and geophysical costs, repeal of the well transfer rule, and elimination of exploration and development expenditures as an alternative minimum tax "preference" item.
- Provide tax incentives for coal production, transportation, and utilization which will allow for the increased use of coal in an environmentally acceptable manner.
- Encourage early resolution of nuclear power issues, consistent with safety and environmental requirements. These issues include plant standardization and timely permitting, consistent regulatory oversight of operations, plant life extension and decommissioning, and waste disposal. States should continue to have the right to monitor operating conditions at nuclear power plants.
- Deregulate natural gas wellhead prices upon contract expiration.
- Provide open access on the part of consumers and producers to natural gas pipeline capacity, consistent with state and federal regulatory authority regarding by-pass of local distribution companies.
- Recognize state responsibility to ensure timely decisions on permitting, siting, and licensing of energy facilities, consistent with state and federal law and health and safety requirements.
- Encourage multi-state cooperation in identifying the economics of and need for additional energy transmission and generation projects. Regional energy transmission and generation planning could be further enhanced through improved communication among the appropriate state and federal regulatory agencies, affected utility companies, and any other affected parties.
- Allow expanded regional and interregional electricity markets where cost-effective. Further consideration needs to be given to questions of transmission access and local by-pass.
- Ensure that regulation of interstate wholesale markets does not impede state regulation of utility investments. States should be free to reflect public interest concerns and least-cost objectives in their regulatory activities.
- Shift FERC jurisdiction over intrastate wholesale transactions to individual states or to regional regulatory bodies at the option of the state or states involved.
- Provide for full utilization of existing rights of way, including highway rights of way, for energy transmission. The siting of energy transmission facilities must be consistent with state and federal law and safety and environmental requirements.
- Encourage fair and mutually beneficial hemispheric energy trade agreements consistent with obligations under international agreements. In addition, the Governors support the barrel-for-barrel trade of Alaskan oil for oil from other countries, except in times of energy emergency.

- Provide federal incentives for renewable energy resources equivalent (in terms of cost per unit of energy) to the tax credits and other incentives provided for traditional fossil fuels. These could include tax credits for purchasers, cost sharing of demonstration projects, or like measures.

### 50.3.2 Improving Energy Utilization

- Increase vehicle fuel efficiency through means such as raising the corporate average fuel efficiency standards.
- Provide incentives for use of alternative motor fuels and production of alternative motor fuel vehicles, including a variety of early fleet demonstrations, such as conversion of postal vehicles to alternative fuels.
- Fully consider the energy implications of alternative transportation strategies and resulting actions in transportation planning.
- Provide federal incentives for energy efficiency and conservation improvements equivalent to those provided for fossil fuels and renewable energy resources.
- Encourage the energy rating of new and existing building stock and establish standards for major energy-using appliances that generally convey with property.
- Work with the housing and construction industries and other private and public organizations to promote improved building design and construction technologies for energy efficient buildings and the protection of indoor air quality.
- Expand the government's leadership role in the purchase and use of new energy efficient technologies and products.
- Expand energy conservation programs for government-owned buildings.
- Encourage energy information programs for the residential, small business, commercial, industrial, agriculture, and government sectors to increase awareness of energy use and conservation; new outreach programs for energy information; and energy education in primary and secondary schools and in vocational/technical schools.
- Develop alternative financing programs for energy efficiency improvements in the residential, small business, commercial, industrial, agriculture, and government sectors. Examples could include programs such as revolving loans, third party financing, and mortgages that include financing for efficiency improvements.
- Restore federal funding of low-income energy service programs. Within both LIHEAP and weatherization, allow the states maximum flexibility to balance immediate and long-term needs. Regulations should encourage state-by-state innovation in approaches to meet varied needs.
- Encourage regulated and unregulated energy suppliers to work with states to develop supplemental programs of financial assistance for low-income households in order to make energy efficiency improvements, and other programs that reduce fuel costs.

### 50.3.3 Research and Development

- Two-thirds of the current DOE research budget is devoted to basic sciences and long-term fusion activities. The remaining third is divided among current and emerging technologies, and is dominated by clean coal and nuclear research. The Governors encourage efforts to emphasize emerging fields and technology transfer in promising areas required to meet immediate and future energy service needs. Priority should be given to research in the following areas:
  - Petroleum and Natural Gas. Enhanced oil and gas recovery by joint federal-state-private initiatives such as the Geoscience Institute for Oil and Gas Recovery.
  - Energy Efficiency. Capturing opportunities for cost-effective energy efficiency improvements. Additional federal research, development, and technology transfer activities should include support for resource assessment, applied research in building sciences, transportation systems studies, and other end-user applications.
  - Coal. The production, transportation, and utilization of coal in an environmentally acceptable manner, with particular emphasis on transportation fuels and electric power generation, including the continuation of the clean coal technology program.
  - Renewable Resources. Reducing the cost and improving the reliability and efficiency of renewable energy sources, in partnership with the private sector. This should include selective commercialization and implementation assistance aimed at demonstrating promising technologies.

- **Alternative Fuels.** Developing alternative fuels, especially those that may be used in the transportation sector. Demonstration and commercialization of alternative fuels that may be produced and used in a manner consistent with protection of the atmosphere is particularly important.
- **Nuclear Energy.** The development and evaluation of advanced, safe, reactor designs, waste management technology, nuclear fusion, and plant retrofit and life extension.
- Increase and better coordinate energy research and development by:
  - Strengthening the federal-state-private research partnership, and shifting research priorities to ensure a balance between basic and applied research and among fuel types and energy efficiency improvements.
  - Examining the benefits of removing anti-trust barriers to pooled industry research efforts.
  - Promoting federal funding of research and development in areas in which businesses and industries are unable to capture the benefits of energy research and development.
- Increase the emphasis on timely transfer of research findings and new technologies from the laboratory to factories, builders, and users.

#### 50.3.4 Emergency Preparedness

- Fill the strategic petroleum reserve (SPR) to its authorized level and provide flexibility to increase or decrease fill rates in response to changes in oil prices. The Governors recognize the efforts of International Energy Agency member nations to establish comparable stocks and urge the continuation and expansion of this effort as well the continuation of cooperation in designing strategic and diplomatic mechanisms to avoid supply interruptions.
- Encourage continued refinement of the timely sales process for SPR oil and the continued regular testing of the SPR sales mechanism and physical drawdown capabilities. The Governors urge the development of a region-by-region analysis of the impact of SPR use on the availability of various fuels. If this analysis indicates that any region of the country would not be assured of the availability of fuels in the event of a drawdown, then states should work closely with the petroleum industry to develop regional rotating product stocks or some other mechanism to ensure regional availability of supplies. Establish regional petroleum reserves (RPR) in import dependent or insular states which cannot be served efficiently by the SPR.
- Ensure a full state, federal, local, international, and private partnership in energy emergency response planning for diverse supply shortage scenarios.
- Encourage fuel switching capability for large energy users to reduce dependence upon a single fuel source.

#### 50.4 Funding

The costs and benefits of a national energy program will depend upon which policy options we, as a nation, elect to pursue. The Governors believe that many of the options identified in this policy may be implemented at little or no cost to the federal government. The Governors also recognize that additional federal expenditures may be required to fund adequately other options identified in this policy. In part, these funds could come from a reallocation of existing federal expenditures. The Governors believe that energy should be a national priority.

Adopted February 1989.

## **G-9. AGRICULTURE AND WATER QUALITY**

A high quality water supply is essential to the health and economic well-being of the nation's citizens. Nearly half of the nation's population uses groundwater as their primary source of drinking water, and most rural areas rely completely on groundwater for human and animal needs. While there are many sources of water pollutants, agricultural activities are highly visible because of the dominance of agricultural land use and the use of potential contaminants such as nitrogen and pesticides in today's intensive agriculture.

The Governors believe pollution can be controlled while maintaining farm profitability, improving rural community stability, and ensuring the long-term sustainability of agriculture by preserving the natural resource base.

Attaining those goals requires a renewed commitment to interdisciplinary research and development to provide and transfer to the farmer economical and environmentally sound farming systems. Redirection and coordination of federal, state, and industry research and extension is essential. This will require specific initiatives from Congress, federal and state agencies, industry, and farmers. When fully implemented, the resulting changes in farm management practices will be more harmonious with the principles of sustainable agriculture and environmental protection.

Specific initiatives should:

- Establish a continuing Environmental Protection Agency/United States Geological Survey national groundwater monitoring database to facilitate exchange of data among all levels of government involved in groundwater protection strategies.
- Encourage the U.S. Department of Agriculture to adopt a national goal to markedly increase the efficiency of nitrogen (from all sources) through research, extension, financial assistance, and changes in federal farm policy or tax structures.
- Include provisions in the 1990 farm program revisions that will encourage management to reduce nonpoint pollution by nitrogen and pesticides while minimizing farmers' risk of economic losses.
- Encourage practices where economically practical that complement a sustainable agricultural system.
- Encourage states to develop groundwater management plans that mitigate to the extent possible point and nonpoint sources of pollution.
- Encourage efforts of agricultural chemical companies to develop safer pesticides considering human toxicity, environmental impacts, and potential effects on non-target organisms.
- Establish a bipartisan multiagency approach to foster technical cooperation and encourage joint federal-state activities for groundwater protection.

Adopted February 1989.

## **G-10. RURAL HEALTH CARE POLICY**

### **10.1 Preface**

Rural and frontier areas have unique characteristics that health care policy must address. Rural health care facilities and manpower serve a population with a lower health status for the elderly (especially those over eighty-five years old), young children residing in low-income households, and a rural workforce with higher injury rates due to occupational hazards. The economic viability of rural towns increasingly depends upon community health services. Frequently, health care businesses provide as much as 25 percent of community employment.

### **10.2 Principles of Rural Health Care Policy**

Governors believe that manpower, equipment, and facilities must network with urban and rural resources to provide high quality, affordable health care in rural and frontier communities.

Multiple use of available facilities and manpower can be accomplished by:

- Integrating public health care, including maternal and child health, primary care, acute care, and long-term care services to meet the diverse needs of rural citizens.
- Supporting flexible medical facility policies to make creative use of structures and personnel, including swing beds, revenue-producing ventures where returns on investment support indigent care, lower health care costs, or improved rural health status, and addressing malpractice liability.
- Establishing flexible licensure, certification, and conditions for participation in state and federal programs to meet rural health care needs.

### **10.3 Federal and State Reimbursement Financing and Program Delivery**

Federal and state reimbursement financing and program delivery should help rural communities develop a stable health care system that meets locally determined health status and economic development goals.

### **10.4 Federal Role**

The federal role is to establish realistic national health goals and promote implementation according to needs established at the community level.

- The federal government should provide flexible seed money for states to help local communities plan, develop, and operate stable rural health care systems that improve health status.
- Reimbursement rates for rural health care facilities should be established at rates at least equal to urban rates.

### **10.5 State Role**

The state role is to help rural communities develop an appropriate, financially stable health care system.

- States should provide technical assistance to help communities incorporate health care planning in a strategic plan for rural development.
- States should promote local experimentation in providing financial incentives to health care providers and health care administrators to recruit and retain personnel that enhance the health status of rural citizens.

Adopted February 1989.

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