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Proposed Changes in Policy

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New language is typed double-spaced and in ALL CAPS, with deleted material lined-throughout (—).

The Committee on Human Resources recommends the consideration of six new policy positions; amendments to twelve existing policy positions, two in the form of substitutes; and the reaffirmation of five existing policy positions, three with technical amendments. Policy proposals are time-limited to two years, unless otherwise noted. Background information and fiscal impact data follow.

1. Governors' Principles to Ensure Workforce Excellence (Amendments to HR-1)

   This policy is amended to reflect passage of the Workforce Investment Act. In addition, the policy's sunset date is extended for two years.

2. Immigration and Refugee Policy (Amendments to HR-2)

   The policy is amended with language stating that Governors believe that the State Criminal Alien Assistance Program should be reauthorized, and the federal government should fairly reimburse states for the expense of incarcerating illegal criminal aliens.

   In addition, the entire text of policy EC-4, Health Care for Undocumented Immigrants, (which is scheduled to sunset) has been moved into HR-2 as a new section (2.2.6). Existing language stresses that since the federal government sets immigration policy, it should be responsible for the associated costs. Requiring states to fully fund health care for undocumented immigrants represents an unfunded mandate on the states.

3. Child Support Financing (Amendment in the form of a substitute to HR-14)

   This policy reiterates the Governors' concern that the federal government must maintain its commitment to funding for child support enforcement. In addition, it acknowledges that because of the financial instability and changing mission of the child support enforcement system, it may be appropriate to consider system reform at this time. As an option for reform, the policy suggests allowing states to pass through to families a greater share of child support collections. Any programmatic or financing changes in the child support system will have an impact on many related human service programs administered by the states.

4. Children's Health (Amendments to HR-15)

   The current policy is amended to add two new sections: one to stress state flexibility in regard to cost sharing for Native American children in S-CHIP; and one to acknowledge and reward innovative states that have already moved to cover families in S-CHIP. These proposals could lead to cost savings for states.

5. Medicaid (Amendments to HR-16)

   The Medicaid policy is amended to add a new section on the Drug Rebate Program (DRP). There are concerns that the DRP is not flexible enough to adequately help states as the nature of the pharmaceutical business changes and that the high cost of Medicaid prescription drugs is overwhelming state budgets. The proposals in this policy could result in significant savings for Medicaid programs.

10. Paternal Involvement in Child Rearing (Amendments to HR-28)

This policy recognizes that in families in which fathers to do not contribute their time and support, children are subject to a number of risk factors. In addition, it outlines a number of options for government involvement in encouraging fathers' participation in their children's lives. The policy is amended to say that any new federal funding stream to support fatherhood initiatives should be coordinated with, and supportive of, existing programs, and should not be funded at the expense of another vital human service program. Several Members of Congress and the administration have proposed establishing a new federal fatherhood program that would provide additional funding to states, local governments, and nonprofit organizations.

11. Public Safety, Crime Control, and Prevention (Amendments to HR-29)

This policy is amended with a section that urges the continuation of the Byrne program with more flexibility; a section that urges reauthorization and continuation of the state prison grants program with reduced requirements; and a section urging support for improvement of forensic science laboratories. The Byrne grant program is a block grant to states with a 10 percent match; the prison grants program was initiated in the 1994 crime bill, with states receiving funds only if they require prisoners to serve 85 percent of their sentence (some 30 states currently participate in the program); and the proposed fiscal 2001 budget has $15 million for forensic labs to reduce their offender DNA backlog.

12. Indian Health Services (Amendments to HR-31)

The policy reiterates the Governors' position that the Indian Health Service and other treaty-based trust issues with Native Americans are a federal responsibility and should not be shifted to the states. The policy is amended to stress that Governors remain willing to work closely with the federal government on improving Indian health through joint federal-state programs such as Medicaid and S-CHIP. In addition, the policy's sunset date is extended for two years. There are no fiscal impacts of the revised policy language.

13. Low-Income Home Energy Assistance Program (Amendments to HR-33)

The Low-Income Home Energy Assistance Program (LIHEAP) provides funds to states to assist low-income individuals in meeting their heating and cooling needs. The proposed amendments reflect support for increased flexibility between LIHEAP and other related federal programs in light of a new state match requirement in the weatherization program. In addition, the policy's sunset date is extended for two years. Because LIHEAP is a federally-funded program, cuts in funding would result in a cost-shift to states.

14. Synar Statute (New Policy Position, HR-34)

The Synar statute of the Substance Abuse and Mental Health Services Administration requires states to pass and enforce laws regarding the sale of tobacco products to minors. Failure to attain certain levels of vendor compliance results in a massive penalty to a state's Substance Abuse Prevention and Treatment (SAPT) block grant. This proposed new policy states that a series of changes to the administration of Synar or to the Synar statute itself must occur in close consultation with the states. If enacted, these policies could prevent states from facing a 40 percent cut in their SAPT block grant.

HR-1. GOVERNORS' PRINCIPLES TO ENSURE WORKFORCE EXCELLENCE

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

- States and the federal government should promote the development of high-performance work organizations by providing technical, financial, and training assistance to firms seeking to implement quality management improvement and modernization initiatives. Firms and workers negatively affected by federal policy decisions, including defense downsizing and trade policy, should receive adjustment assistance faster and in a more flexible manner. Federal assistance should be provided through state-based networks AND INITIATIVES and SHOULD build on existing state and local programs.

- FURTHER ~~Wholesale~~ change in the nation's approaches to workforce development is needed in order to create a coherent, customer-driven, results-oriented workforce development system. This system should be understandable, accessible, and responsive to the needs of local and regional businesses, workers, job seekers, and students. Customers should be able to receive information about the full array of services available and be able to easily enter and re-enter the system at any point. This state-based system should be comprehensive, flexible, accountable, and designed to build on current strengths, and it should be managed at the local level to achieve desired results. A comprehensive national human investment policy should BE DEVELOPED TO guide and support state and local efforts to implement such a system.

- National and state programs and policies should promote expanded private sector investment in workforce development and enhance the capacity of small and medium-sized firms to train their workers. Federal efforts should be designed to support state-based programs.
- Legislative action is STILL needed to integrate multiple, targeted, federal workforce development programs into a comprehensive and flexible system. FOR EXAMPLE ~~Specifically~~, currently funded and newly proposed worker readjustment programs should be consolidated and delivered through this system.
- Federal workforce development programs should be streamlined to eliminate barriers to effective service delivery caused by inconsistent definitions, planning and reporting requirements, and accountability measures. Incentives, including access to waiver authority and additional federal funds, should be provided to all states to establish comprehensive workforce development systems in partnership with local governments AND PRIVATE SECTOR LEADERS.

The Governors believe that the agreement developed IN 1998 by the bipartisan State and Local Workforce Coalition meets the principles described above. This agreement reflects months of negotiation and compromise among the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors, the organizations representing the government officials across the nation who operate the federal employment and training system. ~~The Governors strongly believe that Congress should enact this agreement into law.~~ The Governors believe Congress should ~~continue to work to~~ craft ADDITIONAL legislation providing FOR FURTHER comprehensive reform that closely reflects this agreement, including an EXPANDED opportunity for states to consolidate programs.~~, and should defer action until that has been achieved. We believe that this goal is within our grasp, as items in dispute are clearly identified and very limited. Governors and the Coalition have already demonstrated a willingness to negotiate and believe that such negotiations on the part of all parties should produce the serious comprehensive workforce development reform that we desire.~~ The Governors believe that nothing short of such reform, as reflected in the State and Local Workforce Coalition agreement, is CAPABLE OF ADDRESSING THE CHALLENGES OF THE NEW ECONOMY ~~acceptable~~ and that FURTHER ~~no~~

HR-2. IMMIGRATION AND REFUGEE POLICY

2.1 Immigration Policy

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

Decisions regarding the admission and placement of legal immigrants and refugees rest solely with the federal government. Similarly, the illegal entry of other individuals also is a direct responsibility of the federal government.

The federal government's unwillingness to provide adequate funding for costs attributable to migration and resettlement services has resulted in a dramatic shift of program costs from the federal government to state and local taxpayers. This inadequate federal commitment has strained the states' ability to provide the programs and services necessary to promote economic self-sufficiency within the immigrant and refugee community. The Governors recognize Congress' well-intentioned efforts and agree that sponsorship requirements can help prevent immigrants from becoming public charges. However, provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) now require states to verify immigration status and deny certain benefits to this population that represent a considerable cost transfer to some state and local governments. Indeed, several states have chosen to use state funds to provide critical assistance to certain immigrants. However, because immigration and refugee policy is under the sole jurisdiction of the federal government, the Governors believe that the federal government must be prepared to bear the costs of such policy. Since the passage of PRWORA, the federal government has restored Medicaid, food stamps, and Supplemental Security Income (SSI) benefits to many of those who had been denied eligibility under the original statute.

The Governors remain concerned about the effect of PRWORA on immigrants who were in the United States on the date of enactment, but who cannot meet the citizenship requirements because of age or disability. The nation's Governors urge Congress and the administration to work in partnership with the National Governors' Association to ensure that the immigration system and its requirements are fair to both citizens and noncitizens and meet the needs of aged and disabled legal immigrants who cannot naturalize and whose benefits may be affected.

Even though mandates have been terminated and states have been provided the option to establish eligibility for Temporary Assistance for Needy Families (TANF), Medicaid, and the Social Services Block Grant (SSBG), it is not clear that the judicial system will permit states to ban legal immigrants and others who are in need from critical services provided to other residents of the state. At the least, during an initial period of judicial deliberation, states could be required to sustain benefits.

Further, the Governors call upon Congress and the administration to consider whether those individuals who are receiving federal benefits and who have submitted an application to naturalize should continue to be eligible to receive these benefits while they are participating in the approximate two-year naturalization process.

The nation's Governors have expressed to the administration state concerns with the proposed rule implementing provisions of PRWORA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that require eligibility verification for federal public benefits. Both the process of verification and the definition of covered programs will have a significant impact on all applicants for various key human service programs, including those who may be eligible. Specifically, Governors believe that the definition of "federal public benefit" should be narrowed to exclude certain programs such as SSBG, Title IV-E Foster Care and Adoption Assistance, the Low Income Home Energy Assistance Program, and child care. Further, the proposed rule for the verification process could result in a significant cost shift to the states. Governors urge the administration to grant greater flexibility to the states in implementing the eligibility verification process.

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

increased the ceiling for H-1B workers for a period of three years. Congress also provided for demonstration programs to improve technical skills of American workers, along with grants for mathematics, engineering, or science enrichment courses, and a low-income scholarship program to assist Americans. Governors recognize the need for supplemental workers to assist employers in high tech and other specialty industries for a limited time period. The Governors commend Congress' effort to assist in developing the skills of American workers. However, they strongly urge that any new programs be coordinated with existing state-based efforts in skills and training. Most importantly, supplemental workers should not cause displacement of American workers.

2.1.7 **Cooperation with Western Hemisphere Countries.** A workable immigration program must recognize and involve trade and investment policies that are critical elements to reduce illegal immigration.

2.1.8 **Legal 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.

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

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

2.2 Illegal Immigration

2.2.1 **Law Enforcement.** Recognizing the need for stronger enforcement against illegal immigration and increased alien smuggling, Congress should continue to provide sufficient funding for the Immigration and Naturalization Service and other appropriate agencies to control our nation's border and to remove criminal aliens from the United States. The Governors strongly support provisions in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that will double the number of border patrol agents by 2001, enhance investigative and enforcement authority for alien smuggling and document fraud, and streamline the process of removal of criminal aliens and alien terrorists. The Governors call on the federal government to effectively use the resources provided for these purposes.

The Governors also are concerned about the increase in drug trafficking by illegal immigrants along the borders of the states and territories. Control of the flow of drugs across our borders is a federal responsibility, and smuggling drugs into the United States is a federal felony. The Governors are concerned that the federal government's current drug-smuggling policy is allowing a large number of people caught smuggling illegal drugs into the United States to be returned to Mexico without prosecution. The Governors urge the federal government to reverse this policy and to vigorously enforce our drug control laws.

2.2.2 **Prosecution and Removal of Undocumented Felons.** The Governors are concerned about the lack of resources in the Immigration and Naturalization Service devoted to the early identification of criminal aliens in state criminal justice systems. Currently, a large number of convicted undocumented felons do not come to the attention of the INS and escape formal deportation because of a lack of presence of INS officials in local facilities. The Governors believe that programs like the early identification pilot programs currently operating in several states should be expanded significantly to ensure that undocumented felons are formally deported.

In addition, the Governors believe that greater efforts should be made by the federal government to facilitate the transfer of criminal alien felons to their home countries to serve their sentences. Current transfer treaties are unworkable because they require the consent of the prisoner and they provide little incentive for the country of origin to cooperate with the United States in the enforcement of transfer treaties. Although the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 echoes these concerns, current federal implementation is lacking.

For this reason, the Governors continue to call on the federal government to negotiate and renegotiate prisoner transfer treaties to expedite the transfer of criminal aliens in the United States who are subject to deportation or removal. The negotiations for such agreements should focus on:

- ensuring that the transferred prisoners serve the balance of their state-imposed prison sentence;

school systems. Because of the federal government's failure to provide funding for the education of undocumented children, Governors have had to cut back on other vital public services.

Therefore, the Governors call on the federal government to recognize its exclusive responsibility for costs associated with the unfunded mandate that is the result of failed immigration policies by establishing a direct billing mechanism to ensure that any educational services provided to undocumented children are financed entirely by the federal government.

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

[Note: Material in brackets is existing language moved from policy EC-4.]

2.2.6 **[Health Care for Undocumented Immigrants.** The Governors recognize that every individual in the United States and U.S. territories must continue to have access to emergency and other public health care services. However, because the U.S. Constitution requires that our nation's immigration policy be placed under the exclusive jurisdiction of the federal government, all costs resulting from immigration policy should be paid by the federal government. The Governors believe that under no circumstances should state, territorial, and local governments be required to share in costs resulting from federal policy decisions that would provide health care and other federal entitlements to undocumented individuals.

The Governors oppose state, territorial, and local governments being forced to subsidize federal immigration policy. Therefore, the Governors call on the President and Congress to recognize the federal government's sole responsibility in immigration policy by repealing all current federal mandates that require state, territorial, and local funds to be used to provide health care and other public services to undocumented individuals. In its place, the Governors call upon Congress and the administration to develop a direct billing system to ensure that emergency or public health care needs that are provided to undocumented immigrants be financed fully by the federal government. The provision of health care to undocumented immigrants must remain a fundamental federal responsibility, financed exclusively with federal dollars, not an unfunded mandate or a cost shift to states, territories, local governments, or health care professionals.

With the passage of the Balanced Budget Act, the federal government took a first step toward fulfilling its responsibility for meeting the health care costs of undocumented immigrants. The new law creates an entitlement to states through which the twelve states with the largest populations of undocumented immigrants will receive $100 million from the federal government between 1998 and 2001 for emergency health care costs. The Health Care Financing Administration should work with the states to set up quickly a process for disbursing these funds. In claiming these funds, states should not be subjected to burdensome administrative requirements in providing documentation that could create barriers to providing emergency medical services.

The Governors call on the appropriations committees to take the next step. Through the immigration act, Congress has authorized federal payment for the emergency and ambulatory health care costs of undocumented immigrants. To the extent that needs exist beyond the new state entitlement program, funds should be made available through the appropriations process to fulfill this obligation.]

2.3 Refugee Policy

2.3.1 **Preamble.** International political conditions over the past two decades have forced numbers of people to leave their homes and seek refuge in other countries. The United States has provided leadership to the world community in addressing the needs of refugees and displaced persons. The nation's Governors are supportive of this effort to assist those individuals who have been displaced.

We believe that refugee issues are an international responsibility and that resettlement must be shared as equitably as possible. Further, there must be a genuine effort to protect refugees worldwide.

States play a major role in refugee resettlement. They must work with the refugees to assist in their adjustments to American life and to expedite their economic self-sufficiency. Effective resettlement of refugees requires the development of systems that provide culturally appropriate services to meet the

- 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 admissions and appropriation cycles to allow for more effective management of the program.
- Because 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.
- Although the states are willing to consider changes in the current program that would improve the efficiency or effectiveness of the program, the Governors would oppose any attempt to convert funding for the program to a block grant.
- Privatization under the Wilson-Fish Amendment to the Refugee Act should be an option open to all states and not a federal mandate.

2.3.4 **Coordination and Consultation.** The 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.

- There should be 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.
- INS, the U.S. Department of State (DOS), and the Office of Refugee Resettlement should coordinate with states receiving entrants and refugees. Entrants should be made eligible for DOS assistance for thirty days, or another mechanism should be developed to allow for a smooth transition of entrants into a community. The current system, in which an entrant simply arrives in the United States without any knowledge of the state, creates a tremendous burden on the community, leaves gaps in the provision of services, and provides no foundation for planning purposes.

The Governors should be closely involved in the congressional consultation process through which new refugee admissions levels are determined to ensure that program funding is provided to support the level of refugee admissions.

2.3.5 **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; or
- there is a continuing stream of refugees to one geographic area.

HR-14. CHILD SUPPORT FINANCING

14.1 BACKGROUND

CHILD SUPPORT IS AN INTEGRAL PART OF FINANCIAL STABILITY FOR MANY FAMILIES. FOR LOW-INCOME FAMILIES, RECEIVING CHILD SUPPORT PAYMENTS IS A CRUCIAL COMPONENT IN ACHIEVING AND MAINTAINING SELF-SUFFICIENCY. GOVERNORS ARE COMMITTED TO CONTINUE WORKING WITH THE FEDERAL GOVERNMENT TO IMPROVE THE CHILD SUPPORT SYSTEM AND ADVANCE THE MISSION OF THE PROGRAM.

FEDERAL, STATE, AND LOCAL GOVERNMENTS ALL PLAY A KEY ROLE IN THE CHILD SUPPORT SYSTEM. SUCCESS IN CHILD SUPPORT ENFORCEMENT RELIES HEAVILY ON A STRONG STATE-FEDERAL PARTNERSHIP. FURTHER, THE COORDINATION OF THE LARGE INTERSTATE CHILD SUPPORT CASELOAD IS ONE EXAMPLE THAT DEMONSTRATES THE NEED FOR THE FEDERAL GOVERNMENT'S INVOLVEMENT IN THE CHILD SUPPORT SYSTEM. IN 1996, AS PART OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT (PRWORA), STATES AGREED TO TAKE ON NUMEROUS NEW RESPONSIBILITIES DESIGNED TO IMPROVE THE CHILD SUPPORT SYSTEM. THESE MANDATES CAME WITH A FINANCIAL COMMITMENT FROM THE FEDERAL GOVERNMENT. IN MANY CASES, STATES HAVE INVESTED ADDITIONAL STATE FUNDS AND STAFF RESOURCES TO IMPLEMENT THE PRWORA MANDATES.

GOVERNORS BELIEVE THAT ANY REDUCTION IN THE FEDERAL GOVERNMENT'S FINANCIAL COMMITMENT TO CHILD SUPPORT ENFORCEMENT IS A BREACH OF THE 1996 WELFARE REFORM AGREEMENT AND COULD NEGATIVELY IMPACT STATES' ABILITY TO SERVE FAMILIES. FURTHER, THE CONTINUATION OF THE PRWORA REQUIREMENTS WITHOUT STABLE FEDERAL FUNDING CONSTITUTES AN UNFUNDED MANDATE, WILL RESULT IN A SIGNIFICANT COST SHIFT TO THE STATES, AND COULD JEOPARDIZE THE TIMELY AND EFFECTIVE IMPLEMENTATION OF SUCH MANDATES. GOVERNORS ARE ALSO CONCERNED THAT ANY NEW PROPOSED FEDERAL REQUIREMENTS, WITHOUT

ASSISTANCE FOR NEEDY FAMILIES (TANF) COLLECTIONS TO SUPPORT THE CHILD SUPPORT SYSTEM. OTHER FACTORS CONTRIBUTING TO THE FINANCIAL INSTABILITY FOR SOME STATES' CHILD SUPPORT ENFORCEMENT SYSTEMS INCLUDE THE NEW INCENTIVE FORMULA AND THE DECREASING FINANCIAL COMMITMENT FROM THE FEDERAL GOVERNMENT, MOST RECENTLY THROUGH THE REPEAL OF THE CHILD SUPPORT "HOLD HARMLESS" PROVISION ESTABLISHED IN PRWORA.

14.3 NEED FOR REFORM

GOVERNORS BELIEVE THAT BOTH THE FINANCING STRUCTURE AND THE CURRENT DISTRIBUTION RULES FOR CHILD SUPPORT COLLECTIONS ARE EXTREMELY COMPLEX AND ARE NOT NECESSARILY COORDINATED WITH THE GOALS OF WELFARE REFORM. THE COMPLEXITY OF CHILD SUPPORT DISTRIBUTION, SPECIFICALLY DISTRIBUTION OF ARREARAGES, CREATES A COSTLY ADMINISTRATIVE BURDEN FOR BOTH STATES AND THE FEDERAL GOVERNMENT. GOVERNORS BELIEVE THAT EASING THIS EXTENSIVE BURDEN THROUGH SOME TYPE OF SIMPLIFICATION MAY ALLOW A GREATER SHARE OF TIME AND RESOURCES TO BE FOCUSED ON IMPROVING THE ECONOMIC SECURITY OF FAMILIES. IN AN EFFORT TO INCREASE THE EFFECTIVENESS OF THE CHILD SUPPORT PROGRAM AND TO IMPROVE FAMILIES' SELF-SUFFICIENCY, GOVERNORS ARE INTERESTED IN CONSIDERING CHANGE WITHIN THE CHILD SUPPORT FINANCING STRUCTURE, SUCH AS AN OPTION FOR GREATER PASSTHROUGH.

14.3.1 PASSTHROUGH. ONE OPTION FOR CHANGE IN DISTRIBUTION OF CHILD SUPPORT COLLECTIONS IS FOR THE FEDERAL GOVERNMENT TO PROVIDE STATES THE OPTION TO PASS THROUGH A GREATER SHARE OF THE CHILD SUPPORT COLLECTED ON BEHALF OF TANF FAMILIES. WHILE GOVERNORS ARE SUPPORTIVE OF INCREASING OPTIONS AND FLEXIBILITY FOR STATES, THE FINANCIAL STABILITY OF THE CHILD SUPPORT SYSTEM MUST BE CONSIDERED IN THE DEBATE REGARDING GREATER PASSTHROUGH TO FAMILIES. PROVIDING CHILD SUPPORT SERVICES IS A STATE-FEDERAL PARTNERSHIP, HOWEVER, AND ANY PROPOSAL TO ALLOW FOR GREATER PASSTHROUGH MUST

~~demonstrated that states have chosen to invest federal incentive funds in the child support system and other related human service programs.~~

~~14.2 Current Challenges~~

~~States currently face many new challenges in the child support system. Examples of these challenges include the following.~~

- ~~Although welfare caseloads are dropping, child support caseloads are rising in many states as more families depend on child support payments to maintain self sufficiency. Declining welfare caseloads are leading to new financial challenges for these states that rely heavily on retained Temporary Assistance for Needy Families (TANF) collections to support the child support system.~~
- ~~The new child support incentive structure adds uncertainty to states' financial future. The new statute (P.L. 105-200) caps the federal incentive pool for the first time requiring states to compete with each other for these funds. The capped incentive pool will make it difficult for states to predict future federal revenues in the child support system.~~
- ~~States also face enormous systems challenges in the next year as they prepare the child support program systems, as well as those for all human service programs, for the Year 2000. "Y2K" compliance could be especially challenging in the child support program, as many states are still implementing the Family Support Act requirement of an automated statewide child support system.~~

~~14.3 Conclusion~~

~~For all of these reasons, Governors are greatly concerned with any attempt by the federal government to restructure child support financing at this time. Governors have appreciated the administration's efforts to examine the current structure and believe the consultations should continue as restructuring proposals emerge. Because of the complexity of the child support system, any programmatic or funding changes will have an impact on many related human service programs administered by the states. More importantly, such changes could have a negative impact on the children and families the system is designed to serve. Governors strongly believe, therefore, that changes to the child support system should not be made without serious deliberation and consultation with the states.~~

Time limited (effective Winter Meeting 1999–Winter Meeting 2001).
Adopted Winter Meeting 1999.

HR-15. CHILDREN'S HEALTH

15.1 Preamble

The Governors share the commitment of Congress and the Administration to making health insurance available to children in need. States have long been leaders in expanding health care access for children.

States have been increasing eligibility levels for pregnant women and children for many years through Medicaid expansions and other state-designed programs. However, the Balanced Budget Act of 1997 authorized unprecedented increases in health care coverage for uninsured children not eligible for Medicaid. Under the State Children's Health Insurance Program (S-CHIP), states are using state-designed programs, Medicaid expansions, or a combination of both approaches to make more children eligible for health care coverage. Of the fifty-two states and territories that have approved S-CHIP plans, twenty-five states are expanding Medicaid, twelve states are using a separate state insurance program, and fifteen states are using a combined approach.

Today, almost 20 million children receive health care services through Medicaid and S-CHIP. Through these two programs, fifty-four states and territories have expanded coverage well beyond federally mandated levels.

Given their commitment to children's health and extensive experience in operating programs that provide health care to tens of millions of children, the Governors stand ready to work with Congress and the Administration to continue improving opportunities for states to expand health care access for uninsured children.

Strategies to extend coverage to currently uninsured children classify this population into two subsets: children who lack any connection to the insurance marketplace and children who are eligible for Medicaid or S-CHIP but are not enrolled in these programs. Consequently, the Governors' policy recommendations focus first on areas for improvement in S-CHIP and then on outreach.

15.2 Medicaid and S-CHIP Eligibility

Despite initial guidance to states that a majority of uninsured children would be eligible for S-CHIP, some states are discovering that a substantial number of uninsured children are not those in the S-CHIP income eligibility range. Instead, these children are eligible for, but not enrolled in, Medicaid. In fact, in some states, S-CHIP outreach has brought in nine Medicaid-eligible children for every S-CHIP-eligible child. This phenomenon is largely attributable to families that do not want to be enrolled in the welfare-associated Medicaid program. Many families have asked to participate in the state-designed programs, even volunteering to pay premiums and copayments. However, federal law prohibits states from enrolling Medicaid-eligible children in S-CHIP. States should not have to force beneficiaries into Medicaid when it is clear they want to be enrolled in a separate program. Such a policy may lead families not to enroll in any program, leaving children uninsured. The Governors call on Congress to make technical changes to the program to give states the option of allowing beneficiaries to voluntarily turn down Medicaid in favor of a separate S-CHIP program.

15.3 State Flexibility

For states to fully implement this program and cover the maximum number of children possible, they must be provided additional flexibility to expand access to employer-based insurance and family coverage, limit "crowd-out," and design innovative programs with regard to cost-sharing and other issues.

States have embraced many different approaches to expanding health insurance coverage for children through S-CHIP. As envisioned by the authors of the program, this flexibility has expanded coverage and fostered innovations in program design and development. State policymakers are dedicated to designing the most effective programs possible to meet the needs of citizens in their states. The Governors call on Congress and the Administration to work with states to ensure greater flexibility in reaching the common goal of expanding meaningful health insurance to children.

Exact estimates of the number of children who are eligible but not enrolled are difficult to develop. The Governors call on the U.S. General Accounting Office and the U.S. Department of Health and Human Services (HHS) to provide states with a more detailed and accurate explanation of the group of children who they believe are eligible but not currently enrolled. This explanation should include the number and characteristics of uninsured children, and it may require a national survey that is state-specific.

Uncoordinated federal outreach efforts would be administratively cumbersome and would fail to achieve the desired results. For example, although the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) serves a large number of children who are in need of health care coverage, the U.S. Department of Agriculture has determined that WIC administrative funds can be used only to provide information about S-CHIP and enroll children under very limited circumstances. Changing this policy and encouraging cooperation between the states and HHS will help states maximize their outreach and enrollment efforts.

15.8 Waiver Authority

States must have the flexibility to design and implement programs that reduce the number of uninsured children in each state. To reach this goal, the S-CHIP statute provides a number of options for states, including the option to pursue research and demonstration projects through the Section 1115 waiver process. To maximize outreach and extend coverage to more children, states must be permitted to use this waiver authority without artificial restrictions.

15.9 Family Coverage

Many states would like to expand their S-CHIP programs to allow the parents of S-CHIP-eligible children to enroll in the state program. Even if a state is willing to expend its own funds to do this, it still has to pursue a federal waiver and demonstrate cost-neutrality, which is not feasible in most cases. S-CHIP is a promising vehicle to promote the goal shared by the Governors, Congress, and the Administration—decreasing the number of Americans without health insurance. The Governors encourage Congress and the Administration to provide opportunities outside the waiver process to enable states to enroll entire families in S-CHIP. IF CONGRESS DECIDES TO EXPAND S-CHIP COVERAGE TO FAMILIES, STATES THAT HAVE ALREADY DONE SO MUST NOT BE PENALIZED FOR HAVING MOVED FORWARD.

15.10 NATIVE AMERICAN COST SHARING

THE GOVERNORS RECOGNIZE THAT THE FEDERAL GOVERNMENT'S TRUST RESPONSIBILITY TOWARD AMERICAN INDIANS AND ALASKAN NATIVES PROHIBITS THESE INDIVIDUALS FROM CONTRIBUTING TO COST SHARING IN FEDERAL HEALTH PROGRAMS. THE GOVERNORS ASSERT THAT THIS IS A FEDERAL RESPONSIBILITY THAT MUST NOT BE MANDATED ON ALL STATES. THE GOVERNORS WOULD SUPPORT A STATE OPTION THAT WOULD PERMIT STATES TO ELIMINATE COST SHARING FOR THIS

HR-16. MEDICAID

16.1 Preamble

The Medicaid program is a state/federal program that serves as the primary source of acute health care coverage and long-term care for the poor. Because it is a national program providing access to health care for more than 40 million beneficiaries, the Governors believe that quality services must be provided as efficiently and effectively as possible.

In 1998 approximately $184 billion was spent in the Medicaid program. Of that amount, about $80 billion was state funds. Medicaid is now one of the largest components of state budgets, comprising 20 percent of state spending. Medicaid spending has grown in both absolute and relative terms, and as a result of this growth, Medicaid is now the second-largest expenditure in state budgets. As a result, states are experiencing great difficulty in finding the money to fund Medicaid. Even more important, perhaps, is that increased Medicaid spending makes it difficult, if not impossible, to increase funding for other priorities. Finding ways to control Medicaid spending is a major priority for the Governors.

Medicaid financing and administration are shared jointly by the federal government and the states. This federal-state partnership of financial responsibility must be maintained without further cost shifts from the federal government to the states and without expansions of federal programmatic mandates that increase state costs or limit state flexibility. In recent years, federal policymakers have narrowed the administrative flexibility of states and made legislative and regulatory changes that mandate greatly increased state expenditures. As a result, states increasingly view their relationship with the federal government not as a partnership, but as a relationship in which states have been forced to accept federal mandates that have great impact on state budgets and health policy initiatives.

Congress helped to alleviate some of this pressure with its passage of the Balanced Budget Act of 1997 (BBA). The repeal of the Boren Amendment, the phase-out of the requirement for cost-based reimbursement for federally qualified health centers and rural health clinics, and the ability for states to operate mandatory managed care programs without a waiver were all much-appreciated programmatic improvements. Clearly, congressional intent was to provide states with more flexibility to develop and operate Medicaid managed care programs, and specifically to give states the ability to do so through the state plan amendment option without requiring a waiver. The Health Care Financing Administration (HCFA) has significantly restricted state flexibility to develop and administer Medicaid managed care initiatives by increasing its federal oversight role in promulgating regulations that go far beyond congressional intent.

There are enough real and pressing problems presented by the Medicaid program without creating new regulatory burdens. The Governors continue to believe that urgent changes are needed to promote effectiveness and efficiency. Therefore, the Governors call on Congress and the administration to work to immediately address the problems with this program. Included among those solutions must be an overall reduction in the federal statutory and regulatory micro-management that has typified the program in the last decade.

16.2 Federal Financing

16.2.1 **The Federal Commitment to the Medicaid Program.** The Governors are extremely concerned about various recent proposals that would actually reduce the federal commitment to the Medicaid program. Proposals to reduce the federal matching percentage for administrative costs of the program, or to, in any way, weaken the foundation of the federal-state partnership that guides the operation of the Medicaid program, are unacceptable. Medicaid has contributed significant savings to the historic balanced budget agreement, and there is simply no way for additional funds to be cut without seriously jeopardizing patient protections and such important functions as "Year 2000" (Y2K) contingency planning, Medicaid fraud control units, and third-party liability recoveries. The Governors are committed to conducting outreach to potentially eligible children and the elderly; cuts in needed administrative funding would interfere with their ability to do so.

Further, the Governors firmly hold that Medicaid should not be included in efforts to balance the budget, nor be used as a funding source for other purposes. Governors already have contributed to significant budgetary savings by controlling Medicaid growth rates. In the late 1980s and early 1990s, Medicaid spending grew at an annual average of more than 20 percent. From 1995 to 1997, Medicaid growth has been held to an average of less than 4 percent. The Congressional Budget Office recently

16.3 Programmatic Recommendations

16.3.1 **Allow States Greater Flexibility to Establish Managed Care Networks.** There is a national trend in health care service delivery toward organized systems of care. These systems or networks have been shown to provide cost-efficient, quality care while ensuring that the patient has a reliable source from which to seek primary care and to which specialty care can be directed. Systems of coordinated care have particular benefits for Medicaid beneficiaries. These systems ensure a medical home for beneficiaries, encourage primary and preventive care, and discourage the use of emergency rooms and specialists for routine medical care.

Although the BBA contained many measures designed to give states more flexibility, the subsequent proposed regulations, if enacted, would not only fail to provide that flexibility, but would in fact place a greater regulatory burden on state Medicaid programs. The proposed rules would create so many barriers for states to implement mandatory managed care through the state plan amendment option that it would not become a valid option at all. Further, the decision to apply an entirely new set of prescriptive regulations to currently existing 1915(b) and 1115 waivers could very well result in the end of Medicaid managed care. The extension of this regulatory burden to even the relatively simple "gatekeeper" premise of primary care case management programs may prevent physicians and group practices from becoming Medicaid providers and thereby jeopardize continuity of and access to care for many families.

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

Congress should clarify that under federal law, the states' obligation to provide services is satisfied if the state enters into a contract with a provider or HMO that covers the necessary benefits. Beyond that, any dispute by a client regarding covered services should be resolved as a contractual matter between the client and the provider or HMO under state law. Many states have alternative dispute resolution processes that should be exhausted before recourse to the state court system. There should be no private right of action for providers or health plans regarding payment rates.

16.3.2 **Managed Care and Quality Standards.** Governors are committed to ensuring that every Medicaid recipient receives high-quality health care. Managed care has been an effective strategy for meeting that goal by providing high-quality, cost-effective health care services to millions of recipients.

Given the expertise states have developed with Medicaid managed care, the Governors had hoped to work closely with the administration as quality issues were debated. Unfortunately, HCFA developed proposed rules on Medicaid managed care without any meaningful state input. The prescriptive approach will create systemic difficulties in implementing any form of managed care, particularly in the area of quality standards. A single reference in the BBA about grievance standards became many pages of prescriptive regulations and mandates for the states. The Governors recommend that states be allowed to establish meaningful goals and be given the tools to hold plans accountable for meeting those goals, rather than constraining all parties by prescribing in minute detail the step-by-step approach that must be followed. Many states have specific grievance and appeal procedures spelled out in their plan contracts, and/or have state laws in this area. None of them would conform in all respects to these proposed regulations.

Any time Congress mandates coverage of a particular benefit or sets requirements around the terms of that benefit, careful consideration must first be given to the fiscal impact of the change on Medicaid. Even requirements limited to the private sector can have a strong Medicaid impact through contractual relationships with HMOs. Governors oppose any changes in the health care market that will result in unfunded mandates to the states.

16.3.3 **Waivers.** Currently, each state must produce and defend waiver requests even if other states have already received approval to implement similar waivers. Obtaining redundant federal approval is an inefficient use of resources at both the state and federal level. States should be allowed to import any waiver in place in another state without securing additional federal approval.

16.3.4 **Boren-Like Provisions.** The repeal of the Boren Amendment in the BBA was one of the most important programmatic improvements to the Medicaid program in many years. States are now able to negotiate reimbursement rates for nursing homes and other facilities that more accurately reflect market pressures.

HCBC program providing a broad range of medical and social services to beneficiaries. Existing Medicaid statute requires states to establish and administer these programs through waivers. The statutes must be revised to give states the authority to administer HCBC programs through a plan amendment process. However, states must be able to retain the authority to control the number of beneficiaries receiving Medicaid home- and community-based care. Finally, Congress and the states must work together to restructure the Medicaid program to eliminate the incentive to place beneficiaries in institutional care when community care would be more appropriate and cost-effective.

16.3.11 **Children Eligible for Medicaid.** Recently there has been a great deal of attention focused on the population of children eligible for Medicaid but not currently enrolled in the program. Governors agree that health care is essential to the well-being of children. Accordingly, children entitled to Medicaid benefits should receive those benefits.

Exact estimates of the number of children who are Medicaid-eligible but not enrolled are difficult to develop. Eligible children may not be enrolled in Medicaid for a number of reasons. For example, a child may have health insurance coverage through a noncustodial parent. Many states already have implemented a range of innovative outreach strategies targeted to those who need benefits but may not be aware of their Medicaid eligibility. These strategies include enrollment centers located out in communities, "one-stop shops," and simplified presumptive eligibility processes.

Should the federal government consider additional strategies to reach out to families of children eligible for Medicaid but not receiving benefits, those strategies must be developed in conjunction with the states. Uncoordinated outreach efforts would be administratively cumbersome and would fail to achieve the desired results. For example, while the Special Supplemental Nutritional Program for Women, Infants, and Children (WIC) serves a large number of children who are in need of health care coverage, the U.S. Department of Agriculture has determined that WIC administrative funds can only be used to provide information about the State Children's Health Insurance Program (SCHIP) and enroll children under very limited circumstances. Changing this policy would help states maximize their outreach and enrollment efforts.

Outreach efforts also must be designed in a way that discourages employers from discontinuing private sector insurance coverage for children. The Governors believe strongly that no Medicaid outreach strategy should create an opportunity for shifting private sector insurance costs to the public sector.

Because the group of children currently eligible for Medicaid but not enrolled has proved difficult to accurately quantify and has been resistant to previous outreach efforts, the Governors would oppose tying receipt of Medicaid funds to achieving increased enrollment targets. The full results of these outreach efforts may take some time to develop, as states experiment with methods that will be most effective for reaching the families in those states.

16.3.12 **Flexibility for Optional Eligibility Groups.** States interested in expanding or restructuring Medicaid eligibility for optional beneficiary categories should have the flexibility to customize a package of optional benefits to meet the particular needs of the optional group. This flexibility would require the waiver of benefit comparability and statewideness standards related to the amount, duration, and scope of benefits. States have shown that the provision of a few well-placed services, such as respite care, minor home modifications, or limited amounts of personal care can significantly delay the onset of debilitating conditions and keep beneficiaries in their homes for longer periods of time. Not only is this sound public policy, but the potential savings for the individual, the family, and the state and federal governments is significant.

16.3.13 **The Americans with Disabilities Act.** The Americans with Disabilities Act of 1990 (ada) is a civil rights law prohibiting discrimination against the disabled. Recent court decisions have interpreted ada in a way that means that states must provide community placements for virtually all of the mentally and physically disabled persons eligible to receive state services. Governors believe these decisions have extended ada's reach beyond anything Congress intended. Without reconsideration of this caselaw and constructive clarification of the reasonable and permissible limits on states' ADA obligations, the proliferation of costly litigation against states will continue and the integrity of the state Medicaid programs will be jeopardized.

PARTICIPATION OR INCREASED MANUFACTURERS' INCENTIVES FOR REDUCING COSTS ON CERTAIN TYPES OF VERY EXPENSIVE DRUGS.

- ENCOURAGE MULTI-STATE, PUBLIC/PRIVATE OR INTERNATIONAL PURCHASING ALLIANCES, OR OTHER INNOVATIVE WAYS TO BETTER LEVERAGE STATE BUYING POWER.
- ENSURE THAT MEDICAID MANAGED CARE DOES NOT IMPOSE ARTIFICIAL RESTRICTIONS THAT PROHIBIT STATES FROM REALIZING THE MAXIMUM POTENTIAL BENEFIT OF THE DRUG REBATE.

Time limited (effective Winter Meeting 1999–Winter Meeting 2001).
Adopted Winter Meeting 1995; revised Winter Meeting 1997 and Winter Meeting 1999.

HR-20. CONSTITUTIONAL AND CIVIL RIGHTS IN MANAGING INSTITUTIONALIZED POPULATIONS

20.1 PREAMBLE

THE GOVERNORS STRONGLY SUPPORT THE RELIGIOUS RIGHTS AND THE CIVIL RIGHTS OF INDIVIDUALS. THESE INCLUDE THE FIRST AMENDMENT RIGHTS THAT PROTECT AN INDIVIDUAL'S FREEDOM TO WORSHIP, AND THE CIVIL RIGHTS OF INDIVIDUALS WHO ARE INSTITUTIONALIZED UNDER SPECIAL CIRCUMSTANCES. HOWEVER, GOVERNORS BELIEVE THAT THERE SOMETIMES MUST BE A BALANCE BETWEEN THESE FREEDOMS AND RIGHTS, AND THE INTEREST OF THE STATES IN MANAGING INSTITUTIONALIZED POPULATIONS.

20.2 RELIGIOUS FREEDOM

ANY FUTURE LEGISLATION REGARDING RELIGIOUS FREEDOM SHOULD SPECIFICALLY EXCLUDE PRISON AND JAIL INMATES OR ANY PERSON HELD OR INCARCERATED AS A PRETRIAL DETAINEE. LIKEWISE, SINCE THE RELIGIOUS FREEDOM RESTORATION ACT (RFRA) WAS INVALIDATED BY THE SUPREME COURT, ANY LIABILITY THAT MAY HAVE ACCRUED TO STATE AND LOCAL GOVERNMENTS AS A RESULT OF THE MISAPPLICATION OF RFRA TO INDIVIDUALS WHO ARE INCARCERATED IN A STATE OR LOCAL CORRECTIONAL, DETENTION, OR PENAL FACILITY SHOULD BE ELIMINATED.

20.3 CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS

WITH REGARD TO THE CIVIL RIGHTS OF INDIVIDUALS, CONGRESS ADOPTED THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT (CRIPA) TO SECURE THE RIGHTS OF INDIVIDUALS WHO ARE INSTITUTIONALIZED IN GOVERNMENT INSTITUTIONS. UNDER CRIPA, THE U.S. DEPARTMENT OF JUSTICE (DOJ) HAS THE AUTHORITY TO LITIGATE ALLEGED CIVIL RIGHTS VIOLATIONS AND TO ENTER INTO CONSENT DECREES OR SETTLEMENT AGREEMENTS WITH STATE GOVERNMENTS AS AN ENFORCEMENT MECHANISM OF THE ACT. THEREFORE, TO ENSURE RESPECT FOR A STATE'S STRONG

- CLARIFY THAT DOJ, IN ORDER TO MAINTAIN AND SUBSEQUENTLY PREVAIL IN A CRIPA ACTION IN FEDERAL COURT, MUST FIRST ALLEGE AND THEN PROVE ACTUAL HARM TO INSTITUTIONALIZED PERSONS AS A RESULT OF THE ALLEGED UNCONSTITUTIONAL CONDITIONS WITHIN AN INSTITUTION.
- PROVIDE THAT IN ALL CRIPA ACTIONS, DOJ AND THE COURTS MUST GIVE SUBSTANTIAL WEIGHT TO ANY ADVERSE IMPACT ANY RELIEF MIGHT CAUSE ON THE PUBLIC SAFETY AND THE OPERATION OF THE INSTITUTION AT ISSUE.
- REQUIRE THAT ANY SETTLEMENT AGREEMENT ENTERED UNDER THE AUTHORITY OF CRIPA THAT IMPOSES AN OBLIGATION ON A STATE OR LOCAL FACILITY LAST NO LONGER THAN TWO YEARS AFTER THE DATE OF THE ORIGINAL AGREEMENT.

Time limited (effective Winter Meeting 2000–Winter Meeting 2002).

HR-22. FOOD STAMPS

22.1 BACKGROUND

THE NATION'S GOVERNORS BELIEVE THAT THE FOOD STAMP PROGRAM PROVIDES A KEY BENEFIT TO MANY LOW-INCOME INDIVIDUALS AND FAMILIES, INCLUDING THE ELDERLY AND THE DISABLED. FURTHER, GOVERNORS SUPPORT THE NOTION OF PROMOTING FOOD SECURITY FOR ALL CITIZENS. HOWEVER, GOVERNORS BELIEVE THAT REFORM IN THE FOOD STAMP PROGRAM COULD GREATLY IMPROVE THE EFFECTIVENESS OF THE PROGRAM BY REDUCING THE ADMINISTRATIVE BURDEN ON STATE AND FEDERAL GOVERNMENTS, AND MOST IMPORTANTLY, BY IMPROVING ACCESS TO BENEFITS FOR INDIVIDUALS AND FAMILIES IN NEED.

THE FOOD STAMP PROGRAM MEETS DUAL PURPOSES—PROVIDING BOTH NUTRITIONAL ASSISTANCE AND AN INCOME SUPPLEMENT TO LOW-INCOME INDIVIDUALS AND FAMILIES. GOVERNORS RECOGNIZE THAT ORIGINALLY THE FOOD STAMP PROGRAM WAS DESIGNED AS A MEANS TO ALLEVIATE HUNGER. AND WHILE SUPPORTING THE CONTINUATION OF THIS GOAL, GOVERNORS ALSO BELIEVE THAT FOOD STAMP BENEFITS FOR MANY RECIPIENTS SHOULD BE VIEWED IN A BROADER CONTEXT OF MOVING INDIVIDUALS TOWARD SELF-SUFFICIENCY. AS SUCH, FOOD STAMPS SHOULD BE REGARDED AS AN ESSENTIAL INCOME SUPPLEMENT. WITH THE ADVENT OF WELFARE REFORM, MORE LOW-INCOME FAMILIES ARE IMPROVING THEIR ECONOMIC STATUS BY MOVING FROM WELFARE TO WORK. GOVERNORS BELIEVE THE FOOD STAMP PROGRAM IS A KEY COMPONENT IN STATES' EFFORTS TO ASSIST IN INDIVIDUALS' TRANSITION FROM WELFARE TO WORK AND TOWARD SELF-SUFFICIENCY.

AS WITH MANY OTHER HUMAN SERVICE PROGRAMS, SUCCESS IN THE FOOD STAMP PROGRAM RELIES HEAVILY ON A STRONG STATE-FEDERAL PARTNERSHIP. ALTHOUGH FOOD STAMP BENEFITS ARE 100 PERCENT FEDERALLY FUNDED, STATES ADMINISTER THE PROGRAM. FURTHER, THE ADMINISTRATIVE FINANCING IS SHARED 50-50.

STAMP SYSTEM, THE FEDERAL PROGRAM REQUIREMENTS NEED TO BE ADJUSTED TO BE MORE RECIPIENT-FRIENDLY. FOR EXAMPLE, CURRENT FOOD STAMP POLICIES REQUIRE FREQUENT IN-PERSON ELIGIBILITY RECERTIFICATION INTERVIEWS, WHICH USUALLY REQUIRE A DAY AWAY FROM WORK. IN ADDITION, CURRENT RULES REQUIRE RECIPIENTS TO REPORT NEARLY EVERY CHANGE IN WAGE AMOUNTS, WHICH ARE LIKELY TO FLUCTUATE OFTEN.

22.2.3 **CONFUSION AMONG IMMIGRANTS REGARDING ELIGIBILITY.** THE 1996 WELFARE REFORM LAW RESTRICTED ACCESS TO FOOD STAMP BENEFITS FOR MANY IMMIGRANTS. HOWEVER, BENEFITS FOR CERTAIN CATEGORIES OF ELIGIBILITY HAVE NOW BEEN RESTORED, AND MANY OF THESE INDIVIDUALS MAY NOT BE AWARE OF THIS RESTORATION.

22.3 NEED FOR REFORM

AS WELFARE REFORM HAS PROGRESSED THROUGHOUT THE COUNTRY, POLICIES WITHIN THE FOOD STAMP PROGRAM HAVE PRIMARILY REMAINED STAGNANT. WHILE GOVERNORS BELIEVE THE CURRENT FOOD STAMP SYSTEM PROVIDES A KEY BENEFIT FOR INDIVIDUALS AND FAMILIES, MANY OF THE OUTDATED POLICIES SHOULD BE RECONSIDERED IN LIGHT OF WELFARE REFORM. THE CURRENT FOOD STAMP PROGRAM IS INCREASINGLY COMPLEX TO ADMINISTER, AND THE PROGRAM'S QUALITY CONTROL (QC) SYSTEM LARGELY IGNORES MEASURES TO SUPPORT WORKING FAMILIES. FEDERAL RESTRICTIONS, SUCH AS THE REQUIREMENT THAT STATES MUST CONTINUE TO SPEND 80 PERCENT OF THEIR FOOD STAMP EMPLOYMENT AND TRAINING (E & T) FUNDS ON A DECREASING SEGMENT OF THE POPULATION, DIMINISHES THE EFFECTIVENESS OF THE E & T PROGRAM. THESE INCREASING ADMINISTRATIVE COMPLEXITIES WEAKEN THE ULTIMATE PURPOSE OF THE PROGRAM, WHICH IS TO SERVE LOW-INCOME INDIVIDUALS AND FAMILIES.

GOVERNORS BELIEVE THAT EXPLORING OPTIONS FOR FOOD STAMP REFORM WILL PROVE TO BE BENEFICIAL TO ALL LOW-INCOME CITIZENS IN NEED. IT IS IMPORTANT TO

FACE REDETERMINATIONS OFTEN DISRUPTS AN INDIVIDUAL'S WORKDAY, DECREASING EFFECTIVENESS ON THE JOB. GOVERNORS URGE CONGRESS AND THE ADMINISTRATION TO SIMPLIFY THE CURRENT FOOD STAMP RULES TO REFLECT THE CHANGING FOOD STAMP POPULATION IN LIGHT OF WELFARE REFORM. WHILE GOVERNORS APPRECIATE RECENT CHANGES THAT WERE MADE TO REDUCE THE ADMINISTRATIVE BURDEN ON RECIPIENTS, FURTHER SYSTEM IMPROVEMENTS COULD BE MADE, SUCH AS PROVIDING STATES WITH THE OPTION TO DISREGARD THE VALUE OF A VEHICLE IN DETERMINING FOOD STAMP ELIGIBILITY.

22.4.3 **IMPROVE PROGRAM BENEFITS FOR THE ELDERLY AND THE DISABLED.** CHANGES IN THE CURRENT FOOD STAMP RULES COULD ALSO BENEFIT THOSE NOT CONNECTED TO TANF, SUCH AS THE ELDERLY AND THE DISABLED. FOR EXAMPLE, THE MINIMUM FOOD STAMP BENEFIT LEVEL IS CURRENTLY SET AT $10. COMPLEX PAPERWORK FOR A VERY SMALL BENEFIT MAY DISCOURAGE MANY ELDERLY AND DISABLED FROM ACCESSING FOOD STAMP BENEFITS.

22.4.4 **STREAMLINE THE QUALITY CONTROL (QC) PROCESS.** GOVERNORS BELIEVE THAT THE EXISTING QC SYSTEM FOR FOOD STAMPS IS EXTREMELY BURDENSOME AND CONFLICTS WITH THE BROADER PUBLIC POLICY GOAL OF ENCOURAGING LOW-INCOME INDIVIDUALS TO MAINTAIN STEADY EMPLOYMENT. NOTWITHSTANDING THE NEED FOR ACCOUNTABILITY WITHIN THE FOOD STAMP SYSTEM, THE CURRENT QC REQUIREMENTS DIMINISH THE TIME AND RESOURCES THAT COULD BE MORE APPROPRIATELY DEDICATED TO PROVIDING BENEFITS TO INDIVIDUALS IN NEED. FURTHER, AS MORE FOOD STAMP RECIPIENTS ARE GOING TO WORK, THEIR INCOME LEVELS BEGIN TO MORE FREQUENTLY FLUCTUATE. THESE INCOME FLUCTUATIONS OFTEN LEAD TO THE INCREASED CHANCE FOR A FOOD STAMP WORKER TO "ERROR." STATES ARE ESSENTIALLY PENALIZED, THEREFORE, AS A RESULT OF MORE INDIVIDUALS WORKING. GOVERNORS URGE CONGRESS AND THE ADMINISTRATION TO

HR-25. EMERGENCY MANAGEMENT

25.1 Preamble

Comprehensive emergency management consists of the judicious planning, assignment, and coordination of all available resources in an integrated program of hazard mitigation, preparedness, response, and recovery activities for emergencies of any kind (all hazards), whether from human or natural sources, at all levels of government. The inherent responsibilities of government include the need to educate and inform citizens about their responsibility to plan for and take precautions to ensure their safety.

All emergency-related program activities are not the responsibility of one agency or level of government; they should be integrated and coordinated. Effective emergency management involves interaction between the Governor's office, the state emergency management office, the state planning office, the state budget office, the state legislature, other state agencies, local governments, the private sector, volunteer organizations, and the federal government.

~~In developing an emergency management program, states may consider intergovernmental linkages that ensure that all emergency-related activities are handled at the lowest appropriate level of government; assist local emergency programs as requested and appropriate; facilitate the acquisition of needed federal resources to support state emergency programs; encourage establishment of and voluntary participation in interstate agreements to facilitate emergency management activities; and encourage local jurisdictions to work together to address the integrated management of all types of hazards.~~

The need exists to provide critical training in emergency management through the best possible methods, ~~including regional training where feasible,~~ and to maintain the Emergency Management Institute and the National Fire Academy, owing to their critical and specialized support to emergency management.

Sound emergency management requires regular review by state and local government officials of the performance, effectiveness, and coordination of a state's emergency-related program in light of public need and the utilization of resources.

~~25.2 Role of the Governor~~

~~The Governor has the authority and responsibility to promote the general welfare and provide for the common good of the citizens of the state and has special powers and resources that can be used in emergency situations.~~

~~The Governor establishes policy and performance standards for the state's comprehensive emergency management program. Just as national emergency management must have the interest, support, and confidence of the President, the state emergency management program should have the interest, support, and confidence of the Governor. Further, Governors may wish to see that a high degree of professionalism is maintained in the state's emergency management operation, with the individual who is responsible for the state's program having direct access to the Governor.~~

~~Governors should require the periodic review of the vulnerability of the state to all hazards. The state should ensure that the emergency management program coordinates long-term mitigation, preparedness, response, and recovery activities with all agencies. To achieve the vital ability to communicate and coordinate activity in the event of an emergency, there is a recognized need to establish and maintain state-of-the-art facilities, equipment, and communications systems.~~

~~The Governor's program should develop and maintain comprehensive emergency management activities that, when needed, provide leadership and supplement and facilitate local efforts before, during, and after emergencies. The state must be prepared to maintain or accelerate current services and provide new services to local governments that may be unable to manage all aspects of an emergency. To supplement these activities, the state may cooperate, and when necessary, seek help from and share resources with other states. Further, the state is responsible for facilitating the request for federal assistance when needed.~~

methods to expedite delivering aid to victims that will reduce the administrative delivery costs of the public assistance and the hazard mitigation programs. The Governors further recommend that FEMA work with states to allow programs to be state administered, freeing up resources so states can handle their own disasters. In order to achieve this recommendation, the Governors urge FEMA to work with the state emergency management directors through the National Emergency Management Association to identify realistic and responsible ways to reduce costs while continuing to meet the needs of victims.

The Governors support the systematic review of major disaster events by all levels of government. Lessons learned in this review will provide opportunities to enhance and improve the national ability to mitigate and prepare for future disasters. The Governors endorse state and local government programs that lower the risk of major loss of life and economic destruction through better preparedness and mitigation activities, such as predisaster activities, appropriate land use, ~~and~~ construction codes, AND UPDATED FLOODPLAIN MAPPING.

The Governors recommend that the President and Congress cooperate with the National Governors' Association, the National Emergency Management Association, the National Association of Counties, and the INTERNATIONAL ASSOCIATION OF EMERGENCY MANAGEMENT ~~National Coordinating Council on Emergency Management~~ in developing and/or evaluating changes to program structure, funding, and procedures for the administration of federal assistance to states as well as to the development of regulations that affect federal funding distribution mechanisms. States should be provided greater flexibility in determining the type of activities available and in applying the limited resources available. We recommend that FEMA continue its drive to be customer-oriented in the delivery of state services for both disaster- and nondisaster-related activities.

In developing policy regarding how FEMA will handle natural disasters such as storms, hurricanes, and snow, FEMA should be equitable in its issuance of regulations and in making declaratory policy. REGARDING SNOW, FEMA SHOULD COORDINATE WITH THE NATIONAL WEATHER SERVICE TO ENSURE ACCURATE DATA ON ACTUAL AND HISTORICAL SNOWFALL, WHICH IS REQUIRED IN MAKING A REQUEST FOR SNOW ASSISTANCE. FEMA should base its policy on the reality of each disaster, the damage caused, and the process necessary for full recovery.

25.5 Hazard Mitigation

Under current Federal Emergency Management Agency regulations, no structures can be erected on land purchased under the Section 404 Hazard Mitigation program. When Community Development Block Grant funds are used to purchase land for the purpose of hazard mitigation, similar restrictions apply. Although Governors recognize the sound nature of these prohibitions as they apply to residential or commercial structures, they believe that FEMA and the U.S. Department of Housing and Urban Development should amend their regulations to exempt any structures, such as dikes, that will serve to mitigate future disasters.

25.6 Mutual Assistance Through State Compacts

Realizing the necessity of sharing mutual assistance in times of emergencies and disasters, states and territories have been entering into the Emergency Management Assistance Compact (EMAC), to facilitate mutual assistance among states during emergencies and disasters. The 104th Congress granted its consent to EMAC.

The Governors fully endorse EMAC and encourage every state to consider entering into the compact as soon as practical. Participation in the compact should be voluntary. Each Governor must be given an adequate opportunity to evaluate his or her individual state's needs and capabilities in making a determination to participate.

THE GOVERNORS ENCOURAGE FEMA AND OTHER FEDERAL RESPONSE AGENCIES TO WORK MORE CLOSELY WITH THE EMAC ORGANIZATION REGARDING THE COORDINATION OF AVAILABLE RESOURCES FOR RESPONSE TO DISASTERS.

Time limited (effective WINTER MEETING 2000–WINTER MEETING 2002 ~~Winter Meeting 1998–Winter Meeting 2000~~).

Adopted Annual Meeting 1995; revised Annual Meeting 1997, Winter Meeting 1998, and Winter Meeting 1999.

HR-27. THE OLDER AMERICANS ACT

27.1 PREAMBLE

THE NATION'S GOVERNORS STRONGLY SUPPORT THE OLDER AMERICANS ACT (OAA) AND URGE CONGRESS TO REAUTHORIZE THIS IMPORTANT ACT. CREATED IN 1965, THE OAA HAS HELPED TO DEFINE AND BROADEN THE RANGE OF ASSISTANCE AVAILABLE TO SENIORS. THIS LAW HAS ESTABLISHED THE PRIMARY FRAMEWORK IN THE STATES FOR THE DELIVERY OF VITAL SUPPORT AND NUTRITIONAL SERVICES TO SENIORS. FOR EXAMPLE, THIS LAW PROVIDES ASSISTANCE TO THE ELDERLY SUCH AS CONGREGATE AND HOME-DELIVERED MEALS, TRANSPORTATION, PERSONAL CARE, HOMEMAKER CHORE SERVICES, RESPITE CARE, INFORMATION, AND LEGAL SERVICES.

THE AUTHORIZATION FOR THE OAA EXPIRED IN 1995, AND THE LAW HAS NOT BEEN REAUTHORIZED IN THE PAST FIVE YEARS. THE LACK OF LEGAL AUTHORITY PUTS OAA PROGRAMS AND FUNDING AT RISK. GOVERNORS BELIEVE THAT THE REAUTHORIZATION OF THE OAA IS CRUCIAL FOR ENSURING THAT SENIORS CONTINUE TO RECEIVE KEY OAA SERVICES. FURTHER, GOVERNORS BELIEVE THAT THE REAUTHORIZATION OF THE OAA WOULD DEMONSTRATE A FEDERAL COMMITMENT TO THESE IMPORTANT PROGRAMS.

GOVERNORS RECOGNIZE THAT THE SERVICES PROVIDED THROUGH THE OAA WILL BECOME MORE CRITICAL AS THE DEMOGRAPHICS IN THIS COUNTRY ADD PRESSURE TO THESE PROGRAMS IN THE COMING YEARS. THE DEMOGRAPHIC TREND IS MOVING TOWARD AN UNPRECEDENTED INCREASE IN THE ELDERLY POPULATION ACROSS THE COUNTRY.

27.2 ISSUES FOR REAUTHORIZATION

27.2.1 FLEXIBILITY. GOVERNORS SUPPORT GRANTING STATES GREATER FLEXIBILITY WITHIN THE OAA WHEN IT IS REAUTHORIZED. THIS FLEXIBILITY WOULD ALLOW GOVERNORS TO TAILOR OAA PROGRAMS IN A MANNER TO BETTER MEET THE NEEDS OF EACH INDIVIDUAL STATE.

HR-28. PATERNAL INVOLVEMENT IN CHILD REARING

28.1 Preamble

~~The deterioration of child well-being during the past three decades is an urgent domestic concern. In all major categories of child well-being -- violent crime, neglect and abuse, suicide rates, test scores, and poverty -- there is evidence that children are worse off now than they were just thirty years ago.~~

The Governors recognize ~~that too many children are in trouble and~~ that strong families and communities are essential elements for providing a secure future for children. Within that context, there is growing evidence that suggests that in families in which fathers do not contribute their time and support, children are far more likely to endure myriad risk factors.

Children with absent fathers are more likely to drop out of school, become teenage parents, DEVELOP DRUG OR ALCOHOL PROBLEMS, or become involved in violent criminal behavior. When both mother and father are positively and actively engaged in a child's life—providing not only financial support but love, guidance, and discipline—that child has a better chance of success.

The Governors also recognize that under certain circumstances, fathers are not involved in the lives of their children. In such instances, efforts can be undertaken to provide supports, as needed, to assist single mothers in meeting parental obligations and PROVIDING ~~provide~~ fatherhood role models for children.

28.2 OPTIONS FOR GOVERNMENT INVOLVEMENT ~~Recommendations~~

The nation's Governors recognize that government alone cannot reverse the growing trend of father absence. What is needed is a fundamental change in society to provide greater emphasis on the role of fathers in child rearing. However, governments at all levels can and should take immediate action to help reduce the number of out-of-wedlock pregnancies and encourage active participation by fathers of all ages in raising their children. Such action COULD INCLUDE ~~includes~~:

- providing additional education and information ~~to the courts, all levels of government, and the public at large~~ about the importance of fathers participating in raising their children;
- developing strategies, such as parent education programs AND STATE-DIRECTED MEDIA CAMPAIGNS, to educate youth and young adults about the responsibilities and lifelong obligations of fatherhood;
- ESTABLISHING A NONGOVERNMENTAL NATIONAL CLEARINGHOUSE TO COLLECT AND DISSEMINATE INFORMATION REGARDING RESPONSIBLE FATHERHOOD;

- BE COORDINATED WITH EXISTING FATHERHOOD PROGRAMS, AS WELL AS WITH OTHER FEDERAL FUNDS THAT CAN BE USED FOR FATHERHOOD INITIATIVES, SUCH AS TANF; AND
- NOT BE FUNDED AT THE EXPENSE OF ANOTHER VITAL HUMAN SERVICE PROGRAM.

Time limited (effective Annual Meeting 1999–Annual Meeting 2001).
Adopted Annual Meeting 1995; revised Annual Meeting 1997 and Annual Meeting 1999.

HR-29. PUBLIC SAFETY, CRIME CONTROL, AND PREVENTION

29.1 Preamble

Each level of government—federal, state, and local—plays a role in fighting criminal activities. Preventing crime, particularly violent crime, requires strong and effective action and cooperation by law enforcement officials at all levels of government. Each level of government is responsible for working with communities to promote public safety, because every citizen has a right not to be victimized by crime and to live in a safe environment without fear of violent crime. Government must also recognize the needs of crime victims, witnesses, and their families. The Governors believe that federal, state, and local governments must work together to control crime and eliminate violence based on race, gender, religion, nationality, disability, age, sexual orientation, or other inappropriate bias. Support for the incapacitation of violent criminals does not mean abandoning the goals of rehabilitation, deterrence, and prevention.

The Governors also believe that citizen involvement in crime prevention is a key element in the fight against crime. They endorse the National Citizens' Crime Prevention Campaign, which is a coalition of citizens, law enforcement agencies, and private organizations designed to support crime prevention programs.

29.2 Principles for the Federal Role in Controlling Crime

THE GOVERNORS RECOGNIZE THAT ACCORDING TO THE FEDERAL BUREAU OF INVESTIGATION (FBI), STATE CRIME STATISTICS, AND OTHER DATA SOURCES, THE CRIME RATE HAS BEEN DECLINING. VIOLENT CRIME AMONG BOTH ADULTS AND JUVENILES IS ON THE DECLINE. HOWEVER, IT IS TOO EARLY TO DECLARE VICTORY. ALTHOUGH THE CRIME RATE IS DOWN FROM PREVIOUS DECADES, IT IS STILL HIGH FOR OUR CIVIL SOCIETY. RATHER THAN DECLARE VICTORY, WE MUST CONTINUE TO USE EVERY AVAILABLE RESOURCE TO ENSURE THAT OUR COMMUNITIES ARE SAFE FOR OUR CITIZENS.

[Note: Material in brackets is existing language moved from 29.2.4.]

[Because of its extensive resources and national scope, the federal government is best positioned to provide the resource assistance necessary for states to implement effective policies. ~~locally.~~ However, the Governors oppose new requirements that place unreasonable additional costs on states to secure federal assistance.] IN SEEKING FUNDING FOR NEW FEDERAL PROGRAMS OR INITIATIVES, CAREFUL ATTENTION SHOULD BE PAID TO ENSURE THAT FUNDS ARE NOT DIVERTED FROM EXISTING STATE AND LOCAL PROGRAMS THAT HAVE PROVEN EFFECTIVE.

29.2.1 **Avoid federalizing the criminal justice system.** In recent years, the federal government has created or has considered creating penalties for a wide range of crimes and activities that are typically prosecuted at the state level. The nation's Governors are concerned that some attempts to expand federal criminal law into traditional state functions would have little effect in eliminating crime but could undermine state and local anticrime efforts. Further, the Governors are concerned that federal concurrent

FEDERALLY IMPOSED STRINGENT SET OF CRIMINAL PROCEDURES AND SENTENCING REQUIREMENTS. STATE GOVERNMENTS ALSO SHOULD NOT BE REQUIRED BY THE FEDERAL GOVERNMENT TO PASS LAWS THAT WOULD RESULT IN MORE COSTS TO STATES THAN THE BENEFITS REALIZED FROM PARTICIPATING IN A FEDERAL PRISON PROGRAM. STATES SHOULD BE GIVEN MAXIMUM FLEXIBILITY TO USE PRISON GRANT FUNDS FOR APPROPRIATE CORRECTIONAL PURPOSES. EFFORTS BY STATES, PAST AND PRESENT, TO COMBAT VIOLENT CRIME, IN CONJUNCTION WITH STATE PRISON CAPACITY, SHOULD BE CONSIDERED IN HOW PRISON GRANT FUNDS ARE ADMINISTERED TO ASSIST STATES. FURTHERMORE, GOVERNORS BELIEVE THAT THE PRISON GRANTS PROGRAMS SHOULD BE REAUTHORIZED AND CONTINUED.

29.2.4.3 **FEDERAL ASSISTANCE TO LOCAL GOVERNMENTS AND AGENCIES.** Although certain federal programs, such as crime control, provide local governments with resources for priority needs, the nation's Governors oppose the federal government providing direct assistance to local units of government without the approval of a state coordinating agent and/or agency designated by the Governor. Any aid, whether financial or in kind, must be flexible and be coordinated with the state to ensure state and local cooperation. ~~Finally, a corollary issue with regard to federal funding of criminal justice programs relates to the source of funds. In seeking funding for new federal programs or initiatives, careful attention should be paid to ensure that funds are not diverted from existing state and local programs that have proven effective.~~

29.2.4.4 **IMPROVEMENT OF FORENSIC SCIENCE LABORATORIES.** THE GOVERNORS ARE CONCERNED THAT GROWING DEMANDS ON CRIME LABORATORIES WILL NEGATIVELY IMPACT THE QUALITY OF THE FINDINGS OF THE LABS. LABORATORY ACCREDITATION IS GENERALLY ACCEPTED AS A FUNDAMENTAL STEP IN ACHIEVING QUALITY ASSURANCE AND CONSISTENCY IN FORENSIC SCIENCES. ACCREDITATION OF ALL CRIME LABORATORIES WOULD LEAD TO A UNIFORMLY HIGH LEVEL OF TOTAL QUALITY PROCESSES AND PRACTICES, SUPPORTING FORENSIC ANALYSIS THAT IS CREDIBLE TO A COURT OF LAW.

HR-31. INDIAN HEALTH SERVICES

31.1 Preamble

The U.S. government has a trust responsibility for Indian peoples, and this trust responsibility extends to the provision of health care. The federal government has established and financially supports the Indian Health Service and has made special provisions in the current Medicaid program to ensure that the federal government bears all of the costs of care provided through Indian Health Service facilities. States do not have treaty-based trust responsibilities to provide health care to Native American peoples and, consequently, have no proper role in the financial support or operation of Indian Health Service facilities. HOWEVER, STATES ARE COMMITTED TO PRESERVING AND IMPROVING THE HEALTH OF NATIVE AMERICANS AND WILL CONTINUE TO WORK WITH THE FEDERAL GOVERNMENT TO MEET BENEFICIARIES' NEEDS IN STATE-FEDERAL HEALTH PROGRAMS.

31.2 Recommendations

Any proposed changes to publicly funded health care in the United States must take into consideration this long-standing balance of roles and responsibilities among federal, tribal, and state governments with regard to the provision and financing of health care for Native Americans. Toward that end, the Governors reaffirm our belief that:

- states not be required to subsidize the U.S. government trust responsibility;
- the Indian Health Service and tribal governments be directly funded by the U.S. government at a level that does not require a state subsidy to provide health services; and
- if states continue to be involved in the provision of health services to individuals covered by the federal trust responsibility, 100 percent federal funds be made available to states for such medically necessary care without regard to the provider of the service or the location of the provider.

Time limited (effective WINTER MEETING 2000–WINTER MEETING 2002 ~~Winter Meeting 1998–Winter Meeting 2000~~).
Adopted Winter Meeting 1996; revised Winter Meeting 1998.

HR-33. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

33.1 Preamble

The Governors believe that the federal Low-Income Home Energy Assistance Program (LIHEAP) is an important federal assistance program AND ~~. They~~ believe that FUNDING ~~LIHEAP~~ should be maintained. LIHEAP provides energy assistance to low-income households to meet home heating and cooling needs. The program currently serves close to 5 million primarily elderly, disabled, and working poor households, including former welfare recipients. The average household income of most recipients is less than $8,000 per year. LIHEAP also acts as a lever, helping to encourage utilities and other sources to establish fuel funds and other sources of assistance to help low-income households pay their fuel bills.

33.2 State Responsibility

Under current law, states have maximum flexibility to allocate LIHEAP resources, set eligibility levels, and determine administrative structures. One indication of the success of this approach is that states are able to allocate funds using a limited administrative funding level of 10 percent.

33.3 Implementation

The federal government should continue to provide advanced funding for LIHEAP. Without advanced funding, the potential for delay in program appropriations can create severe problems in states where the winter heating season can begin as early as October.

33.4 Contingency Fund

Emergency funds should continue to be available upon the request of the President in the event of unforeseen increases in energy prices, national disasters, and other emergencies. THE GOVERNORS ~~We~~ urge the President to release these funds in a timely manner so that they may be used during periods of greatest need.

33.5 FLEXIBILITY AND RELATED PROGRAMS

THE NATION'S GOVERNORS RECOGNIZE THAT COORDINATION BETWEEN LIHEAP AND OTHER RELATED FEDERAL PROGRAMS, SUCH AS WEATHERIZATION, COULD GREATLY BENEFIT THOSE IN NEED OF ASSISTANCE. RECENTLY, CONGRESS ENACTED A CHANGE IN THE FINANCING STRUCTURE OF THE WEATHERIZATION PROGRAM THAT DEMONSTRATES A WEAKENING OF THE FEDERAL COMMITMENT TO THE PROGRAM. SPECIFICALLY, BEGINNING IN FISCAL 2001, STATES WILL BE EXPECTED TO CONTRIBUTE

HR-34. SYNAR STATUTE

34.1 PREAMBLE

IN 1992, CONGRESS ESTABLISHED THE SYNAR STATUTE WITHIN THE SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT, WHICH IS ADMINISTERED BY THE SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA). THE GOAL OF SYNAR IS TO REDUCE TOBACCO SALES TO MINORS. STATES ARE REQUIRED TO ENACT LAWS PROHIBITING TOBACCO SALES TO MINORS AND TO ACHIEVE AN 80 PERCENT COMPLIANCE RATE AMONG STATE TOBACCO VENDORS BY 2001. THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ISSUED REGULATIONS FOR SYNAR ENFORCEMENT IN 1996 THAT ESTABLISHED BASELINE AND ANNUAL TARGET RATES FOR EACH STATE. IF STATES DO NOT REACH THEIR ANNUAL COMPLIANCE RATES, THEY SUFFER A 40 PERCENT CUT IN THEIR SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT.

THE GOVERNORS ARE STRONGLY COMMITTED TO REDUCING YOUTH SMOKING AND TO RESTRICTING UNDERAGE ACCESS TO TOBACCO PRODUCTS. AS SUCH, THE GOVERNORS HAVE COMMITTED SUBSTANTIAL STATE FINANCIAL RESOURCES AND SERIOUS STRATEGIC PLANNING FOR THE ENFORCEMENT OF THE SYNAR STATUTE. DESPITE GOOD-FAITH EFFORTS, MANY STATES HAVE EXPERIENCED SERIOUS CHALLENGES TO IMPLEMENTING AND ENFORCING THE SYNAR STATUTE AND TO ACHIEVING AND MAINTAINING COMPLIANCE. THE PENALTY FOR NONCOMPLIANCE WITH SYNAR IS A SEVERE 40 PERCENT CUT TO THE STATE'S SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT. CUTTING PROGRAMS THAT SEEK TO PREVENT AND TREAT SERIOUS SUBSTANCE ABUSE CANNOT POSSIBLY FURTHER THE GOALS OF THE SYNAR STATUTE. CONGRESS AND HHS HAVE BOTH THE AUTHORITY AND RESPONSIBILITY TO RECTIFY PERSISTENT PROBLEMS WITH THE ADMINISTRATION AND STRUCTURE OF THE SYNAR STATUTE.

RATES. SYNAR TARGET RATES SHOULD BE REVISED BASED UPON NEW AND MORE RELEVANT DATA.

- HHS MUST PROVIDE STATES WITH THE OPPORTUNITY TO TRULY NEGOTIATE AND RENEGOTIATE BASELINE AND ANNUAL TARGET RATES, AS ALLOWED FOR IN THE SYNAR REGULATIONS.
- HHS SHOULD PROVIDE TARGETED TECHNICAL ASSISTANCE TO STATES THAT ARE EXPERIENCING TECHNICAL DIFFICULTIES AND PROMOTE BEST PRACTICES THROUGH THE DEVELOPMENT OF MODEL PROTOCOLS TO ASSIST STATES IN THE ENFORCEMENT OF SYNAR.

34.2 PENALTY STRUCTURE

WHILE THE GOVERNORS ARE STRONGLY COMMITTED TO REDUCING TEEN SMOKING AND TOBACCO SALES TO MINORS, SEVERE CUTS TO A STATE'S SUBSTANCE ABUSE TREATMENT AND PREVENTION BLOCK GRANT WILL ONLY FURTHER HINDER THESE EFFORTS. CUTTING THESE FUNDS WILL RESULT IN A CRITICAL REDUCTION OR EVEN ELIMINATION OF VITAL CLINICAL PROGRAMS AND SERVICES FOR INDIVIDUALS WITH SERIOUS SUBSTANCE ABUSE PROBLEMS AND MENTAL ILLNESSES. SUCH CUTS WOULD ALSO LIMIT A STATE'S ABILITY TO PREVENT SUBSTANCE ABUSE, BECAUSE 20 PERCENT OF THE BLOCK GRANT IS USED FOR PREVENTIVE SERVICES. IN ADDITION TO ELIMINATING TREATMENT AND PREVENTIVE SERVICES FOR THIS VULNERABLE POPULATION, SUCH FUNDING CUTS MAY LEAD TO REDUCTIONS IN REIMBURSEMENT RATES FOR PROVIDERS AND EMPLOYEES CURRENTLY WORKING HARD TO ALLEVIATE SUBSTANCE ABUSE AND MENTAL ILLNESS MAY LOSE THEIR JOBS.

THE NATION'S GOVERNORS SUPPORT CONGRESSIONAL INTENT IN THE SAMHSA SYNAR STATUTE BUT URGE CONGRESS TO DEVELOP ENFORCEMENT STRATEGIES THAT PROMOTE PERFORMANCE AND BEST PRACTICES. RATHER THAN FINANCIALLY PENALIZING STATES THAT FACE DIFFICULT ENFORCEMENT CHALLENGES, AN EFFECTIVE ENFORCEMENT POLICY WOULD SUPPORT STATES IN THEIR EFFORTS TO

EMANATING FROM THE REGIONAL OFFICES VARY IMMENSELY BETWEEN REGIONS AND DO NOT NECESSARILY REFLECT THE POLICY CONCERNS OF THE CENTRAL OFFICE.

34.3.1 **TARGET NEGOTIATIONS.** A MOST CRITICAL PROCEDURAL ELEMENT OF THE SYNAR STATUTE IS THE ESTABLISHMENT OF TARGET RATES FOR EACH STATE. DESPITE FEDERAL REGULATIONS THAT SPECIFY THAT STATES WILL HAVE THE OPPORTUNITY TO NEGOTIATE BOTH THE BASELINE AND ANNUAL TARGET RATES WITH FEDERAL OFFICIALS, THAT HAS NOT BEEN THE PRACTICE. RATHER THAN ENTER INTO A TRUE NEGOTIATION WITH STATES, THE FEDERAL GOVERNMENT HAS MERELY ESTABLISHED TARGET RATES FOR EACH STATE. AS WAS ESTABLISHED IN REGULATIONS PROMULGATED BY HHS, FAIR AND FORMAL TARGET NEGOTIATION AND RENEGOTIATION PROCESSES MUST BE ESTABLISHED BETWEEN THE FEDERAL GOVERNMENT AND THE STATES. TARGET RATES MUST BE BASED UPON HIGH-QUALITY, LONG-TERM, STATE-BASED STUDIES THAT DETERMINE THE PREVALENCE OF TOBACCO SALES TO MINORS AND VALIDATE THE LINK BETWEEN THE SALE OF TOBACCO TO MINORS AND YOUTH SMOKING RATES. SYNAR TARGET RATES SHOULD BE REVISED BASED UPON NEW AND MORE RELEVANT DATA, AS WELL AS STATISTICAL FLUCTUATIONS.

34.3.2 **BLOCK GRANT APPROVAL.** AS THE AWARD OF A STATE'S SUBSTANCE ABUSE TREATMENT AND PREVENTION BLOCK GRANT IS BASED UPON SYNAR COMPLIANCE, FAILURE ON THE PART OF HHS TO MAKE A DETERMINATION REGARDING PENALTIES CAN HOLD UP THE APPROVAL OF A STATE'S BLOCK GRANT APPLICATION. THIS RESULTS IN AN INTERRUPTION OF CRITICAL SERVICES TO INDIVIDUALS WITH SEVERE SUBSTANCE ABUSE PROBLEMS. SAMHSA MUST ESTABLISH A FAIR AND FORMAL PROCEDURE FOR CONSIDERING BLOCK GRANT APPLICATIONS IN A TIMELY FASHION, PROVIDING A DATE CERTAIN WHEN STATES WILL BEGIN TO RECEIVE FUNDING, IN ORDER TO ENSURE THAT SERVICES ARE NOT DISRUPTED.

REBOUND RATES DO NOT REPRESENT A FAILURE, BUT ARE A RESULT OF STATES' GOOD-FAITH EFFORTS TO LOCATE AND IDENTIFY CURRENT VIOLATIONS AND TO PROPERLY REPORT SUCH FINDINGS TO THE FEDERAL GOVERNMENT. ESSENTIALLY, THE BETTER THE STATE RESEARCH AND STATE ENFORCEMENT, THE GREATER THE CHANCE THAT STATES WILL FIND VENDORS SELLING TOBACCO TO MINORS, INDUCING THEIR RATES TO REBOUND. STATES SHOULD NOT BE PUNISHED FOR THEIR GOOD-FAITH EFFORTS.

THE INITIAL DATA USED BY HHS TO DETERMINE SYNAR TARGET RATES WAS INSUFFICIENT AND INCORRECT. IF SYNAR IS TO BE FULLY EFFECTIVE, THE PROVISION MUST BUILD UPON THE EXPERTISE ALREADY GAINED IN THE STATES AND CONDUCT NEW RESEARCH IN ORDER TO DETERMINE THE TRUE EXTENT OF TOBACCO SALES TO MINORS. TO CONTINUE TO HOLD STATES TO A FALSE STANDARD IS UNREASONABLE AND OFFERS A DISINCENTIVE TO STATES TO EMPLOY HIGH-QUALITY ENFORCEMENT STRATEGIES. RESEARCH SHOULD ALSO BE CONDUCTED TO DETERMINE THE RELATIONSHIP BETWEEN TOBACCO SALES TO MINORS AND YOUTH SMOKING RATES. IF THE SALES RATE DROPS BUT TEEN SMOKING DOES NOT, STATES SHOULD BE PERMITTED TO TAKE ANOTHER APPROACH TO REDUCING TEEN SMOKING.

34.5 COORDINATION BETWEEN FEDERAL AGENCIES

SAMHSA IS NOT THE ONLY FEDERAL HEALTH AGENCY CONCERNED WITH TOBACCO SALES TO MINORS. BOTH THE FOOD AND DRUG ADMINISTRATION (FDA) AND CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC) OPERATE SUCCESSFUL COMPETITIVE GRANT PROGRAMS WITH THE SAME GOAL AS SYNAR. HOWEVER, SAMHSA, FDA, AND CDC HAVE ALL SET DIFFERENT CRITERIA AND TARGETED AGE RANGES FOR THEIR PROGRAMS. THIS MAKES IT DIFFICULT FOR STATES TO PARTICIPATE IN THE GRANT PROGRAMS OFFERED BY FDA OR CDC AND HAS RESULTED IN SOME STATES HAVING DIFFICULTY ACHIEVING AND MAINTAINING SYNAR COMPLIANCE. FEDERAL AGENCIES SHOULD ESTABLISH GREATER COORDINATION,

HR-37. PRIVATE SECTOR HEALTH CARE REFORM

37.1 Preamble

The health of our nation depends on the health of our people. The United States has the most sophisticated and technologically advanced health care system in the world. However, the technological excellence of our system has come with a price. For several decades, growth in the American health care industry exceeded growth in the overall economy. In the mid 1990s, there was a moderation in medical inflation thanks in large part to the cost controls and management efficiencies implemented in Medicaid and other state health programs by Governors.

However, recent indications are that health care premiums are beginning to rise in response to increases in underlying health care costs as well as market pressures. States must have the flexibility to work with the private sector health care delivery system to explore strategies to help control costs and ensure quality of care.

A growing number of Americans, including children and adolescents, are without private sector health coverage, with even basic care beyond the reach of many. With health care costs having exceeded general economic growth for decades, coverage has declined, and costs have shifted to a smaller percentage of Americans who can afford to pay. Affordable quality care is becoming more elusive. The challenge that we face is to extend access to affordable quality care to all Americans, including those in underserved and rural areas, while containing costs.

The last several years have seen intense federal efforts to develop a consensus on national health care reform. Although efforts to enact fundamental national reform have been unsuccessful thus far, important progress has been made with the passage of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In addition, the reform efforts of Governors and state legislators have been much more successful than federal attempts at fundamental reform. The emphasis of Governors today is to develop state-based health care reform efforts.

In almost every state, strategies have been implemented to improve the quality and availability of health care. In most states, the reform efforts have been focused to address a specialized problem. States are testing strategies to restructure both the health care market and the public programs that support the most vulnerable citizens.

37.1.1 **Private Market.** Even before the enactment of HIPAA, states have acted to enhance access and improve equity for both employers and employees within the private insurance market. In some states, for example, limits have been placed on preexisting conditions exclusions for certain market segments. In both the individual and small group markets some states have implemented reforms setting forth guaranteed issue, which requires insurers in the small group market to accept every small employer who applies for coverage, and portability of coverage, through which individuals can be ensured access to coverage after changing jobs. And within the small group insurance market, a number of states are establishing modified community rating systems, while two states have moved to a pure community rating.

Many states are experimenting with tax incentives to increase coverage. Included among these strategies are transitional tax credits to small businesses and medical savings accounts. These state experiments are applicable only to state taxes and do not affect federal tax laws.

Some states are encouraging the establishment of purchasing alliances or group purchasing pools. By spreading risk and encouraging competition among health networks and insurers, alliances are able to offer affordable coverage to individuals, those who are self-employed, and people who work in small businesses—those who find it most difficult to purchase affordable coverage. Although these programs are still in their earliest stages, the results look promising. The Governors continue to be concerned about federal preemption of state law in the regulation of health care networks.

By experimenting with a number of innovations within the private insurance market, states have taken the lead in developing and implementing reforms designed to expand affordable access to insurance coverage while controlling costs. The experience gained through state reform efforts laid the groundwork for the passage of the federal Health Insurance Portability and Accountability Act of 1996.

- Waivers would be approved for an initial five-year period with five-year renewals thereafter.
- Waiver applications would be submitted by the Governor.
- ~~As a condition for waiver approval, the state would have to demonstrate that the strategy has the support of the state's legislature.~~
- For states making requests for exemptions in the areas of financing or cost control, the state's waiver application would have to include a plan for expanding coverage and maintaining quality, and a strategy for documenting the state's progress toward achieving these goals.

37.2.2 **The Health Insurance Market.** With the enactment of the McCarran-Ferguson Act in the 1940s, a state's prerogative to regulate health insurers has been recognized by federal law. However, since ERISA's enactment in 1974, that delineation of state and federal responsibilities has been blurred. ERISA provides that self-funded single employer or Taft-Hartley jointly administered plans are exempt from state regulation. States cannot establish minimum solvency and capital requirements for these self-funded plans. They cannot ensure that employees and dependents in self-funded plans receive the basic consumer protections that are offered to those in commercial state-regulated plans; nor can they ensure that those in self-funded plans have remedies available when problems arise over coverage decisions and other matters. As such plans proliferate, they represent a growing share of the total health care market and greatly erode the ability of states to regulate the private health care market. The federal government must act to rectify the situation.

The nation's Governors call on the federal government to correct these inequities by adopting one or more of the following options.

- Congress should work with the states to establish national health care standards for self-funded plans that are similar to those imposed by states on commercial plans. If Congress is unwilling to define legislative standards in ERISA, the U.S. Department of Labor, in consultation with the states, should be given the authority to develop regulations that, at the very least, establish essential consumer protections and remedies standards for self-funded plans.
- Anecdotal evidence suggests that consumer protections problems are more likely to arise in small self-funded plans. Congress could limit self-funding authority to businesses above a certain size. Businesses below that limit would be required to follow state laws. The U.S. Department of Labor would need to enforce standards for those plans that remain under its jurisdiction.

If Congress chooses to set minimum national standards, they should be developed with state officials in consultation with representatives of affected small businesses, insurers, and consumers.

37.2.2.1 **Special Group Arrangements and Markets**

Healthmart Arrangements. Although Governors support many of the goals of healthmarts and recognize that they would preserve some important state prerogatives, states do have some serious concerns about the proposal. First, healthmarts would preempt state benefit requirements, which already provide some of the strongest consumer protections. These benefit requirements include automatic coverage of newborns without any preexisting condition exclusions. A healthmart could design its own benefit package without any requirements or oversight.

Second, a healthmart is allowed to determine what geographic area it will serve. This would leave people who are poorer risks in a smaller pool, raising their rates, and increasing the likelihood that their employer will drop coverage.

Finally, healthmarts would undermine state health reforms by fragmenting the health insurance marketplace. They would also undermine efforts undertaken by states to ensure that their small business communities have access to affordable health insurance.

37.2.2.2 **Multiple Employer Welfare Arrangements.** The Governors support efforts designed to enable small employers to join together to participate more effectively in the health insurance market. In fact, states have taken the lead in facilitating the development of such partnerships and alliances. However, these partnerships must be carefully structured and regulated by state agencies. Many states have experienced extensive and well-documented problems with fraudulent Multiple Employer Welfare Arrangements (MEWAs) in recent years. In many cases, state legislation has been adopted to protect against further abuse.

RESPONDING TO FUTURE MEDICAL RECORDS PRIVACY NEEDS THAT CANNOT BE FORESEEN AT THIS TIME. ADDITIONALLY, THE GOVERNORS EXPECT THAT FEDERAL LEGISLATION OR REGULATION WILL NOT INHIBIT THE NECESSARY ACTIVITIES OF STATE INSURANCE COMMISSIONERS, PARTICULARLY IN REGARD TO THE INVESTIGATION OF FRAUD AND ABUSE, THAT ALLOW STATES TO PRESERVE THE FINANCIAL INTEGRITY OF PUBLIC PROGRAMS AND PROTECT CONSUMERS. GOVERNORS ARE CONCERNED THAT THE REGULATIONS COULD IMPOSE SIGNIFICANT AND COSTLY ADMINISTRATIVE BURDENS FOR THE STATES, SUCH AS REWRITING AND DISTRIBUTING MEMBER HANDBOOKS, PROVIDING ADDITIONAL TRAINING FOR STATE AGENCY PERSONNEL, AND ESTABLISHING PRIVACY OFFICERS. ~~These state laws should not be preempted in any way by federal action regarding HIPAA.~~

37.2.5 **Medical Tort Reform.** Reform of the medical tort system should be undertaken with a view toward achieving high-quality and appropriate care. Ideally, medical tort reform will reduce the cost of defensive medicine and provide appropriate levels of compensation for patients injured by medical negligence. Toward that end, the federal government should establish national minimum tort and liability standards. States could establish more restrictive standards if they so choose. The federal government, working with states, also must consider alternative dispute resolution strategies that could be used to reduce the costs of litigation.

37.2.6 **Antitrust.** More and more Americans are receiving their care through health delivery networks. Establishing these networks requires new approaches to cooperation among providers and businesses that heretofore have been competitors. Congress and the administration must work with the states to accommodate this new health care environment while ensuring that competition remains in the marketplace.

37.2.7 **Outcome and Quality Standards.** If meaningful choices are ever to be made in health care, research must be supported to develop outcomes and quality standards for use by providers, purchasers, and consumers alike. Also, information systems must be developed that include price and quality information for all providers and consumers of health care services in a given geographic area. The federal government, the states, and the private sector (both purchasers and providers) must cooperate in the development and implementation of such standards. Data measures must provide information relevant to state programmatic decisions and consumer choice. The collaborative processes of standard development and measurement must be designed in such a way that they do not create unreasonable administrative burdens without yielding useful results.

37.2.8 **Administrative Simplifications.** The administrative complexity of the current system must be reduced. The Governors support the reforms set forth in the Health Insurance Portability and Accountability Act to move the nation toward uniform claims forms and uniform standards for electronic data interchange. However, states must be closely involved in the development of the national standards to ensure that state data needs are met and individual privacy rights are protected.

37.2.9 **Public Sector Health Care Delivery.** Although the Governors support the delivery of care through the private health care system, a public system of services, funded by the state and federal governments, has arisen to address needs unmet by the private sector. (See the Governors' Public Health Services policy, HR-7.)

HR–39. SENIOR PRESCRIPTION DRUGS

IF CONGRESS DECIDES TO EXPAND PRESCRIPTION DRUG COVERAGE TO SENIORS, IT SHOULD NOT SHIFT THAT RESPONSIBILITY OR ITS COSTS TO THE STATES. FURTHERMORE, IN THE PROCESS OF DEVELOPING A SENIOR PRESCRIPTION DRUG POLICY, THE FEDERAL GOVERNMENT SHOULD ACKNOWLEDGE AND ACCOMMODATE STATE PROGRAMS AND AVOID DISINCENTIVES TO STATE INNOVATION, SUCH AS UNREASONABLE MAINTENANCE-OF-EFFORT REQUIREMENTS, REDUCED FEDERAL MATCHING FUNDS, OR OTHER PENALTIES.

Time limited (effective Winter Meeting 2000–Winter Meeting 2002).

HR-40. BUILDING SUCCESSFUL LITERACY INITIATIVES

40.1 PREAMBLE

READING IS A FUNDAMENTAL TOOL FOR SUCCESS FOR ALL. IT OPENS THE DOORS TO ALL OTHER ACADEMIC SUBJECTS FOR STUDENTS. EARLY INTERVENTION IS ESSENTIAL TO ENSURE THAT EACH CHILD HAS THE READING SKILLS TO SUCCEED FIRST AS A STUDENT AND LATER AS AN ADULT. WHILE IN THE PAST ILLITERATE ADULTS HAVE FACED GREAT CHALLENGES IN FINDING WORK, THE NEAR FUTURE WILL HOLD EVEN FEWER JOB OPPORTUNITIES FOR THOSE WHO CANNOT READ. THE INFORMATION AGE AND THE ADVANCEMENT OF NEW TECHNOLOGIES WILL FUEL A NEW ECONOMY THAT HOLDS ALMOST NO JOB OPPORTUNITIES FOR THOSE WHO ARE NOT LITERATE.

HOWEVER, IN 1998 ONLY 60 PERCENT OF THE NATION'S FOURTH-GRADE STUDENTS WERE READING AT A LEVEL APPROPRIATE FOR THEIR AGE OR GRADE LEVEL. THIS IS IN PART BECAUSE MANY STUDENTS ARRIVE AT SCHOOL WITHOUT THE FUNDAMENTAL SKILLS AND EXPERIENCES TO LEARN TO READ. IMPORTANT EXPERIENCES THAT LEAD TO READING SUCCESS BEGIN VERY EARLY IN LIFE. CHILDREN WHO ARE LIKELY TO DEVELOP READING DIFFICULTIES INCLUDE THOSE WHO DO NOT HAVE GENERAL VERBAL ABILITIES, AWARENESS OF THE SOUNDS OF LANGUAGE, OR FAMILIARITY WITH THE BASIC PURPOSE AND MECHANICS OF READING. THESE CHILDREN RARELY EXPERIENCE THE JOY OF READING OR BEING READ TO.

THE GOVERNORS HAVE LONG RECOGNIZED THE CRITICAL ROLE THAT READING PLAYS IN THE LIFE OF A CHILD. ACROSS THE COUNTRY, STATES ARE ENGAGED IN EFFORTS TO ENRICH THE LIVES OF CHILDREN BY CULTIVATING COGNITIVE, LANGUAGE, PHYSICAL, SOCIAL, AND EMOTIONAL DEVELOPMENT DURING THE FIRST FIVE YEARS OF LIFE. MANY STATES HAVE INSTITUTED FAMILY LITERACY PROGRAMS THAT TEACH BOTH PARENTS AND THEIR CHILDREN TO READ. THESE INITIATIVES HAVE AND WILL CONTINUE TO HELP MORE CHILDREN ARRIVE AT SCHOOL READY TO LEARN

GUIDED INSTRUCTION; ATTENTION TO ORAL LANGUAGE DEVELOPMENT; OBSERVATION OF STUDENTS' LITERACY BEHAVIORS; AND AUTHENTIC ASSESSMENT OF STUDENTS' LITERACY DEVELOPMENT.

40.2.3 **ASSESSMENTS.** ASSESSMENTS HELP PARENTS AND TEACHERS UNDERSTAND WHAT STUDENTS KNOW, WHAT STUDENTS NEED TO KNOW, AND WHAT CHANGES IN THE CURRICULUM OR INSTRUCTION NEED TO BE MADE TO HELP ALL STUDENTS REACH THEIR LITERACY GOALS. LITERACY INITIATIVES NEED A SYSTEMATIC APPROACH TO INFORMAL AND FORMAL ASSESSMENTS AND THE SHARING OF DATA IN WAYS THAT WILL SUPPORT AND CHALLENGE THE READER AND PROMOTE CONTINUITY OF READING SKILLS AND KNOWLEDGE. TEACHERS, IN COORDINATION WITH ASSESSMENT EXPERTS, NEED TO BE GIVEN THE TIME TO DEVELOP A WIDE RANGE OF AGE-APPROPRIATE ASSESSMENT TOOLS TO MEASURE STUDENT PERFORMANCE.

40.2.4 **EARLY INTERVENTION.** A WIDE VARIETY OF FACTORS AFFECT A STUDENT'S APTITUDE AND ABILITY TO READ. MANY OF THESE SKILLS ARE DEVELOPED LONG BEFORE A STUDENT ARRIVES AT SCHOOL. CREATING EARLY AND EFFECTIVE INTERVENTION STRATEGIES WILL HELP IDENTIFY STUDENTS WHO MAY NEED EXTRA HELP BEFORE THE PROBLEMS BECOME OVERWHELMING AND POTENTIALLY DISCOURAGING TO YOUNG READERS. ALL PROGRAMS SHOULD BEGIN WITH THE BELIEF THAT ALL STUDENTS CAN BE SUCCESSFUL READERS, BUT THEY SHOULD ALSO INCLUDE A CONTINUUM OF PREVENTION AND INTERVENTION STRATEGIES THAT SUPPORT CHILDREN WHO ARE AT RISK OR WHO ALREADY HAVE DEMONSTRATED DIFFICULTIES WITH READING.

40.2.5 **ONGOING PROFESSIONAL DEVELOPMENT.** ONGOING PROFESSIONAL DEVELOPMENT WILL ASSIST TEACHERS IN ALL DISCIPLINES AS THEY IMPROVE THEIR KNOWLEDGE OF LITERACY DEVELOPMENT AND LEARN NEW STRATEGIES FOR HELPING ALL STUDENTS MEET THEIR LITERACY GOALS. THIS IS AN ONGOING PROCESS THAT OCCURS EVERY DAY IN CLASSROOMS AND IS ESSENTIAL TO THE SUCCESS OF ANY PROGRAM.

OF RESOURCES TO SUPPORT THE VARIOUS STRATEGIES THAT HAVE BEEN IDENTIFIED AS ESSENTIAL FOR ENSURING THAT ALL STUDENTS ARE SUCCESSFUL READERS. THIS INCLUDES RESOURCES NOT ONLY WITHIN SCHOOLS AND SCHOOL DISTRICTS, BUT ALSO WITHIN THE COMMUNITY PARTNERSHIPS.

40.3 FEDERAL PROGRAMS TO SUPPORT STATE AND LOCAL LITERACY EFFORTS

THE FEDERAL GOVERNMENT HAS HISTORICALLY PLAYED A ROLE IN SUPPORTING STATE AND LOCAL LITERACY EFFORTS. OVER THE PAST TEN YEARS, FEDERAL FUNDING FOR FAMILY LITERACY HAS GROWN FROM $14.5 MILLION TO $135 MILLION, AND ADDITIONAL FUNDING INCREASES ARE EXPECTED IN THE COMING YEAR. IN ADDITION, AS PART OF THE REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT, CONGRESS IS EXPECTED TO CONSIDER THE EVEN START FAMILY LITERACY PROGRAM. EVEN START PROVIDES FUNDING FOR STATEWIDE FAMILY. LITERACY INITIATIVES THAT COORDINATE LOCAL, STATE, AND FEDERAL EFFORTS TO IMPROVE LITERACY RATES. IN ADDITION, STATES CAN USE FUNDS PROVIDED UNDER OTHER FEDERAL PROGRAMS SUCH AS TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT, AND THE MIGRANT, BILINGUAL, AND INDIAN EDUCATION PROGRAMS TO SUPPORT FAMILY LITERACY INITIATIVES. GOVERNORS RECOGNIZE THE ROLE THAT THE FEDERAL GOVERNMENT HAS PLAYED IN BOLSTERING STATE AND LOCAL LITERACY IMPROVEMENT EFFORTS, ESPECIALLY IN THE AREA OF FAMILY LITERACY PROGRAMS, AND APPLAUD FEDERAL EFFORTS TO HELP STATES EXPAND AND/OR CREATE FAMILY LITERACY PROGRAMS THAT ARE OF THE HIGHEST QUALITY AND THAT ARE BASED ON RELIABLE AND REPLICABLE RESEARCH. THE GOVERNORS CALL FOR THE REAUTHORIZATION AND FUNDING OF THE EVEN START FAMILY LITERACY PROGRAM.

Time limited (effective Winter Meeting 2000–Winter Meeting 2002).

HR-46. ADMINISTRATIVE FUNDS FOR HEALTH AND HUMAN SERVICES PROGRAMS

46.1 PREAMBLE

RECENT CONGRESSIONAL PROPOSALS HAVE ATTEMPTED TO RESTRICT FEDERAL REIMBURSEMENTS TO STATES FOR ADMINISTRATIVE COSTS OF FEDERAL MEANS-TESTED BENEFITS, SUCH AS FOOD STAMPS, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF), AND MEDICAID. GOVERNORS ARE CONCERNED THAT WITHOUT CERTAIN STATE FLEXIBILITY, SUCH PROPOSALS WILL RESULT IN A COST SHIFT TO STATES. FURTHER, GOVERNORS ARE CONCERNED THAT A REDUCTION IN THE FEDERAL COMMITMENT TO THE ADMINISTRATION OF THESE PROGRAMS WILL RESULT IN A LOSS OF VITAL HEALTH AND HUMAN SERVICE BENEFITS TO INDIVIDUALS AND FAMILIES IN NEED.

46.2 BACKGROUND

WITH THE ENACTMENT OF THE AGRICULTURAL RESEARCH, EXTENSION AND EDUCATION ACT IN THE 105TH CONGRESS, FEDERAL ADMINISTRATIVE FUNDS FOR THE FOOD STAMP PROGRAM WERE REDUCED BY AN ESTIMATED $1.8 BILLION OVER FIVE YEARS. WHILE SOME STATES ARE STILL IN THE PROCESS OF APPEALING THE AMOUNT BY WHICH THEIR ADMINISTRATIVE FUNDS ARE REDUCED, THE LOSS OF FEDERAL REIMBURSEMENTS, TOGETHER WITH RESTRICTIONS ON THE USE OF TANF FUNDS, IS CLEARLY A VIOLATION OF THE UNFUNDED MANDATES REFORM ACT OF 1995 AND HAS RESULTED IN A COST SHIFT TO STATES. THROUGHOUT THE DEBATE ON FOOD STAMP COST ALLOCATION, GOVERNORS ACKNOWLEDGED THE NEED TO ADDRESS LEGITIMATE CONCERNS THAT SOME STATES MAY HAVE HAD SHARED ADMINISTRATIVE COSTS FOR FOOD STAMPS AND MEDICAID BUILT INTO THEIR TANF BLOCK GRANT BASE. IN ADDITION, GOVERNORS HAVE CONSISTENTLY BEEN WILLING TO WORK WITH CONGRESS AND THE ADMINISTRATION TO DEVELOP A REASONABLE

THAN 5 PERCENT OF TOTAL PROGRAM SPENDING, FAR LESS THAN IN PRIVATE INSURANCE PLANS.

CUTS IN MEDICAID ADMINISTRATIVE FUNDS WOULD HAVE A DEVASTATING IMPACT ON VITAL FUNCTIONS, SUCH AS CHILDREN'S HEALTH OUTREACH, FRAUD AND ABUSE PREVENTION, AND QUALITY MONITORING OF NURSING HOMES. STATES HAVE FOUND THAT MODEST INVESTMENTS IN ADMINISTRATIVE PROGRAMS SUCH AS PRIOR AUTHORIZATION CAN REAP SAVINGS TEN- OR TWENTY-FOLD. FRAUD AND ABUSE PREVENTION PROGRAMS, SUCH AS OPERATION RESTORE TRUST, ARE KEY TO THE EFFICIENT AND EFFECTIVE MANAGEMENT OF THE MEDICAID PROGRAM; ELIMINATING THEM WOULD ERODE CONSUMER CONFIDENCE AND THREATEN BENEFICIARY PROTECTIONS. AUTOMATED PRESCRIPTION DRUG UTILIZATION REVIEW SYSTEMS HAVE NOT ONLY SAVED DOLLARS, BUT ALSO PROTECTED MEDICAID BENEFICIARIES FROM HARMFUL DRUG INTERACTIONS.

46.3.2 **TANF.** ADMINISTRATIVE FUNCTIONS WITHIN TANF ARE NO LONGER SIMPLY DETERMINING ELIGIBILITY AS THEY ONCE WERE UNDER THE FORMER AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC). THROUGHOUT THE COUNTRY, FORMER WELFARE OFFICES ARE NOW BEING TRANSFORMED INTO JOB PLACEMENT CENTERS. RECIPIENTS RECEIVE INTENSE CASE MANAGEMENT AND ASSISTANCE IN ACCESSING BENEFITS THAT WILL HELP THEM ACHIEVE SELF-SUFFICIENCY—A SERVICE THAT TENDS TO BE MORE COSTLY THAN SIMPLY DETERMINING ELIGIBILITY. FURTHER, ADMINISTRATIVE FUNDS ARE ALREADY CAPPED WITHIN THE TANF BLOCK GRANT, AND ANY ATTEMPT TO DECREASE OR LIMIT GOVERNORS' FLEXIBILITY IN THE USE OF TANF FUNDS WOULD BE AN INFRINGEMENT ON THE CAREFULLY CRAFTED WELFARE REFORM AGREEMENT.

46.3.3 **FOOD STAMPS.** WITH THE ENACTMENT OF THE AGRICULTURAL RESEARCH, EXTENSION AND EDUCATION ACT, MANY STATES ARE ALREADY FACING A REDUCTION IN FEDERAL FUNDS FOR FOOD STAMP ADMINISTRATION. WITH THE ADVENT OF WELFARE REFORM, A GREATER NUMBER OF LOW-INCOME FAMILIES ARE WORKING AND MUST NOW RELY

COST ALLOCATION

46.1 Preamble

The nation's Governors strongly believe in upholding the welfare reform agreement reached with congressional leadership and the administration with the passage of P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act. As part of the agreement, Governors were granted significant flexibility in administering the Temporary Assistance for Needy Families (TANF) block grant. Any attempt to decrease or limit Governors' flexibility in the use of TANF funds sets a dangerous precedent and would be an infringement on the carefully crafted welfare reform agreement.

Recent congressional proposals have attempted to restrict federal reimbursements to states for administrative costs of federal means-tested benefits, such as food stamps and Medicaid, and at the same time limit state flexibility in the use of the TANF grant. Governors oppose such proposals as they would result in a cost shift to states and would be a clear violation of the Unfunded Mandates Reform Act of 1995.

46.2 Background

Historically, state practice around the allocation of administrative costs among Aid to Families with Dependent Children (AFDC), food stamps, and Medicaid has varied greatly. In some states, shared state administrative costs were charged to AFDC, such as a single eligibility interview for welfare, food stamps, and Medicaid. Under this practice, AFDC was designated as the "primary" program for claiming shared administrative reimbursements. This practice was acceptable to, and encouraged by, the federal government, even though a more traditional approach, called "benefiting," was prescribed in Office of Management and Budget (OMB) Circular A-87. Some states pursued a benefiting approach, whereby shared administrative costs are distributed proportionally among the programs, while some used a combination of primary and benefiting cost allocation. In reviewing varying state practices, it has become apparent that guidance from the U.S. Department of Health and Human Services (HHS) with respect to these programs and compliance with OMB Circular A-87 has differed by, as well as within, geographic region.

To the extent states designated AFDC as primary programs, the states' TANF block grant bases included the reimbursement states received for shared administrative costs. Subsequently, when the Congressional Budget Office (CBO) revised its baseline in 1997, it anticipated that states would move to a benefiting approach by allocating some administrative costs to the food stamp and Medicaid programs that would otherwise be borne only by TANF. In its baseline, CBO estimated that combined administrative costs for food stamps and Medicaid would increase significantly because of this practice. Some in Congress have expressed concerns that if states now move to a benefiting approach they would effectively be receiving a double reimbursement for these shared administrative costs. However, CBO's estimate was based on the erroneous assumption that all states were uniformly designating AFDC as the primary program and that all states would move to benefiting.

46.3 Issues

Various proposals have been introduced in Congress in an attempt to restrict federal reimbursements to states for administrative costs of federal means-tested benefits, based on the assumption that states are now claiming shared administrative costs in their TANF block grants while also benefiting those costs out to the corresponding programs, such as food stamps or Medicaid.

One proposal would reduce a state's federal food stamp administrative reimbursement by the amount in the TANF grant representing common costs that under a primary allocation were charged to AFDC. In its current form, this proposal would be highly problematic for states. Once a state moves to a benefiting approach, it would not be able to utilize its TANF grant to cover the federal portion of shared food stamp administrative costs, even though federal funding was included in the block grant for that purpose. As a result, states would have to come up with their own funds to cover these costs. Although the proposal requires state-specific calculations for any food stamp reductions, state officials would not be given any meaningful process to challenge incorrect determinations. With these two fatal flaws, this approach clearly represents a cost shift to states and would constitute an unfunded mandate. Fixing the defects of this proposal could make it a more viable option for limiting state reimbursements, but it would not be likely to produce any short term savings under CBO projections because states were never

HR-5. FAIR LABOR STANDARDS ACT AS APPLIED TO PUBLIC EMPLOYEES AND INMATE LABOR

5.1 Application to Public Employees

Rather than protecting only the most vulnerable public employees, application of the Fair Labor Standards Act (FLSA) by the courts has provided a means for the most highly compensated public employees—those whom the law was not intended to protect—to seek and reap windfalls from already depleted government coffers.

Public employers have been exposed to unforeseen and unjustifiable liability owing to judicial interpretations that have found violations based on long-standing personnel and budgetary practices common throughout the public sector.

To date, congressional and U.S. Department of Labor (DOL) efforts to effect partial solutions have been unsuccessful. In 1986 Congress passed a number of amendments to FLSA to address the then-known problems that its application to state and local governments created. In 1991 and 1992, DOL issued regulations intended to resolve the salary basis issue for state and local governments. However, these regulations have been subject to continuing court challenge, and since their issuance, more recent court decisions have opened new areas of salary basis liability that are not adequately addressed in existing regulations.

Examples

- White-collar employees, many earning over $50,000 per year, have received millions of dollars in overtime and liquidated damages solely because they have been more strictly accountable for their working time than the private sector. This increased accountability has been held to violate the so-called "salary basis" test, rendering such highly paid employees covered by FLSA.
- White-collar administrative employees have received millions of dollars in overtime and liquidated damages because they work in "line" versus "staff" positions.
- State government employees have sought liquidated damages because they were paid during a budget impasse with registered warrants, even though almost all banks cashed the warrants as though they were regular paychecks.

5.2 Application to Inmate Labor

In recent years, federal courts have ruled that the protections provided to the American workforce under FLSA and its implementing regulations also apply to prison and jail inmates. These decisions are of great concern to the Governors.

The fiscal impact of applying FLSA for typical prison work, such as laundry, custodial chores, and food service, would be staggering. Inmates could seek back pay and other workplace guarantees governed by FLSA, including overtime pay. The result would be millions of dollars in additional liability for states and localities already struggling with limited fiscal resources.

At the very least, the threat of liability under FLSA could force many states and localities to dramatically cut or even eliminate job training and other innovative educational programs for inmates. Prisoners would lose the opportunity to learn job skills during their incarceration and, thus, the opportunity to return to society in a productive capacity.

The Governors believe that FLSA was never intended to cover prison inmates involved in typical prison duties. Historically, Congress has sought to regulate prison labor and prison work programs under the Ashurst-Sumners Act, which was enacted three years before FLSA. Yet, rather than follow the letter of the law, federal courts are willing to force states to provide the same degree of wage protections to prisoners that is provided to law-abiding citizens. To do so is antithetical to the need for states to be accountable to their taxpayers for the expenditure of public funds.

HR-7. PUBLIC HEALTH SERVICES

7.1 Preamble

Effective public health services ensure access to or education about community-based preventive and primary health care for all citizens, especially vulnerable and medically underserved populations. The Governors believe such services are a cost effective way to improve the health of our citizens and prevent illness.

7.2 Core Public Health Services

The Governors encourage support for the core public health functions that are routinely carried out by public health agencies and improve the health of our citizens and prevent illness, resulting in a higher quality of life and lower medical services expenses. Conversely, an inadequate public health infrastructure can result in increased health care costs, substantial economic loss, unnecessary suffering, and premature death.

7.3 Federal, State, and Local Responsibilities

The delivery of public health services is best carried out by states, which can allocate resources and develop policies that respond to their unique needs and health problems. The Governors believe that the federal government has a responsibility to work in partnership with the states and to provide financial and technical assistance to the states and, in turn, to local governments for the delivery of public health services. The federal government's role is financing public health delivery, collecting information on a national level, and taking the lead on certain public health functions that are national in scope.

Federal assistance to state and local governments should be based on the following principles.

- The responsibility for the delivery of public health services must remain with state and local governments.
- State government, through a state health plan, should be responsible for the design of public health programs.
- Federal financial assistance should be broad-based enough to permit states to target available resources on the highest priority health problems affecting the citizens of each state.
- All public health activities financially assisted by the federal government within a state should be under the sponsorship of agencies specified by the state.
- The federal government should establish policies for the surveillance of environmental threats to the public health and for monitoring health trends and identifying the long-term chronic health effects of exposure to toxic substances and other environmental contaminants. Information gained through this surveillance should be made available to the states in a timely manner.
- The federal government, in concert with state and local governments, should provide the leadership necessary to establish nationwide health promotion and disease prevention efforts such as those focused on childhood immunization, sexually transmitted disease and HIV/AIDS prevention, women's health, chronic diseases, and the hazards of youth smoking. Health education and promotion programs can play an important role in modifying unhealthy practices and can reduce the incidence of disease.
- In providing for the prevention and control of infectious AND CHRONIC diseases, current federal efforts to support and coordinate state programs for strong surveillance, investigation, reporting, and other disease prevention and control activities should be maintained AT A CONSISTENT LEVEL.

7.4.3 **Early Child Health Development.** For the past two years, a focus on the special needs of our youngest children has been an integral part of the chairman's initiative for the National Governors' Association. Additionally, individual Governors have been creating programs and prioritizing investments to ensure that children receive the services they need during the critical formative years. Clinical research has established that much of the potential for future learning is determined during the first three years of life as pathways in the brain are formed. This research should help inform public health policy decisionmaking at all levels.

Time limited (effective WINTER MEETING 2000–WINTER MEETING 2002 ~~Winter Meeting 1998–Winter Meeting 2000~~).

Adopted Annual Meeting 1980; revised Annual Meeting 1981, Winter Meeting 1982, Annual Meeting 1984, Winter Meeting 1986, Annual Meeting 1986, Winter Meeting 1988, Winter Meeting 1989, Annual Meeting 1989, Winter Meeting 1990, Winter Meeting 1994, Winter Meeting 1996, and Winter Meeting 1998 (formerly Policy C-5).

HR-21. ~~EC-11.~~ CHILD CARE AND EARLY EDUCATION

21.1 Preamble

The nation's Governors believe in working toward a goal of a seamless child care and early education system that provides a safe, nurturing, and developmentally sound environment for all children. This seamless system of care should be linked to health care and education systems and promote parental involvement in their children's out-of-home care setting.

Governors recognize that parents are children's first and primary nurturers. Parents have primary responsibility for the care of their children, including financial responsibility, and government and employer policies should support the family as the primary child care unit. Parents should make the choice about what child care, if any, is right for their child. For instance, child care may be offered by a stay-at-home parent, a relative, or a formal day care provider. Although parents remain the cornerstone of a child's upbringing, the increased number of parents in the workplace, especially single parents, enforces the need for ensuring appropriate child care and early education for children of all ages. Some states have adopted programs that permit parents to stay home, especially in the early years.

~~Recent~~ Research demonstrates that children need a stimulating and nurturing environment for healthy brain development. Cost-benefit research shows that early investment in child development can prevent larger expenses to remediate problems in the future. This early investment should be linked to other children's programs to help children make a smooth transition into the education system.

The need for ensuring a quality system of care extends to families of all income levels who require child care. A productive workforce depends on a reliable child care system to allow working parents to focus on their work. Parents who know their children are in a safe, nurturing, and developmentally sound child care setting can focus on their own job performance. ~~According to data from the 1990 National Child Care Survey, failures in child care arrangements caused nearly one of every six working mothers to lose time from work in the prior month.~~

In addition, with the enactment of P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), more children will need to be cared for by someone other than their parents. For many current and former welfare recipients, finding safe, nurturing, and developmentally sound child care may be the key to a successful transition from welfare to work. In some states, ~~new~~ rigorous work requirements and time limits ~~will~~ intensify the demand for child care. ~~as states face greater pressure to promote job retention in order to meet the required work rate.~~

The nation's Governors recognize that there are gaps in the current child care supply and that there is a need to focus resources in specific areas. For example, a need exists to focus resources on helping the low-income working poor; not only to assist families in their transition from welfare to work but to provide quality child care that will help low-income working families keep their jobs and prevent them from entering the welfare system.

In addition, there may be a need to provide child care during nontraditional hours. Many parents who find work in second- or third-shift jobs have difficulty finding child care during those hours. Many families also struggle to find interim care when schools or centers are closed for holidays or for staff professional development days. These gaps are apparent in rural, as well as urban, areas. There is also an unmet need for child care for infants and sick or disabled children.

School-age children are another population that states should be mindful of in developing a seamless system of care. Some experts argue that time after school could be spent providing students with the additional assistance they need to meet state academic standards. Others believe that after-school programs serve as a prevention mechanism for juvenile crime, teen and preteen pregnancy, and substance abuse.

Developing partnerships and increasing coordination of services among all levels of government, as well as with the private sector and employers, is essential to creating a seamless system of care and increasing parents' access to such a system. Any new funding for child care and early education should allow Governors to create or maintain an integrated system of programs serving children at the state level. In addition, if the federal government is willing to commit resources to improve the current child care and early education system, the program should require collaboration with state programs. It is

opportunity to promote state flexibility and to respond to the child care needs of their individual state. Key to states' efforts is the coordination of children's programs at the state level. To facilitate this coordination, any new federal funding for child care and early education should be allocated in a manner that requires collaboration with existing state programs that serve children. Options for states include:

- ensure that child care and early education programs are well coordinated and that state funds are allocated to reflect such coordination;
- encourage parental involvement in the state governance structure;
- provide incentives to improve quality through state standards, accreditation, credentialing, or training opportunities for all types of child care providers;
- explore possible incentives to permit one parent in a two-parent family to remain in the home to provide care, at least in the early years;
- encourage accreditation of child care centers through financial incentives;
- encourage professional development through scholarships and training programs for child care providers;
- improve consumer education efforts and increase public awareness of quality child care programs;
- develop tax incentives for providers to expand the availability of child care, such as financing facility development;
- establish measures of program success and hold providers accountable for meeting performance expectations;
- encourage private sector involvement;
- coordinate delivery of services with other programs serving children, such as children's health, transportation, and education;
- promote family-friendly workplace policies and practices in both the public and private sectors;
- encourage community efforts to assess and meet local child care needs; and
- encourage and provide incentives for public schools to arrange after-school care, child care for students who have their own children, and full-day kindergarten.

21.2.4 **Federal Roles and Responsibilities.** The Governors believe the federal government should support state activities in child care and early education, not control them. The federal government should support state efforts to build a quality system of care, provide funding and technical assistance, and provide information on models of best practices. The federal government can have a positive impact on children's development by encouraging greater coordination of federal programs that serve children and encouraging private sector involvement. Options for the federal government include:

- maintain maximum flexibility at the state level through CCDF and allow increased flexibility for any new child care and early education programs with respect to the delivery of services and the use of funds;
- explore possible incentives to permit one parent of a two-parent family to remain in the home to provide care, at least in the child's early years;
- provide adequate funding to states to meet the need for child care;
- provide incentives and rewards for improved coordination of child care and early education programs;

REAFFIRM

HR-43. COMMUNITY SERVICES BLOCK GRANT PROGRAM

The Governors support CONTINUATION ~~reauthorization~~ of the Community Services Block Grant (CSBG) program as an effective and flexible program uniquely suited to reduce dependency and promote the self-sufficiency of millions of LOW-INCOME INDIVIDUALS. ~~poor Americans.~~ CSBG supports a broad range of federal, state, local, public, and private initiatives aimed at reducing the causes and effects of poverty. CSBG agencies have launched a series of self-sufficiency model programs that can be utilized for the implementation of welfare reform initiatives. GOVERNORS SUPPORT MAINTAINING the integrity of CSBG. ~~must be retained.~~

CSBG funds constitute a small but necessary percentage of the total funding available to local CSBG subgrantee agencies. Besides maintaining current services, these modest sums also create new initiatives, augment existing resources, and extend relatively scarce or restricted services available under other programs to poor people who otherwise would not be served. The CSBG funds are essential to support the local agencies often responsible for administering other federal programs such as the Low-Income Home Energy Assistance Program, Head Start, and emergency homeless assistance. The planning and INTEGRATION ~~integrating~~ of CSBG services with state Temporary Assistance for Needy Families (TANF) plans is therefore critical to efficient administration of this funding.

One of the most significant aspects of the CSBG program is the development of partnerships between the states and community action agencies. By working toward mutually defined goals, coordination is increased and private sector resources and volunteers are utilized to strengthen community efforts that address poverty.

Time limited (effective WINTER MEETING 2000–WINTER MEETING 2002 ~~Winter Meeting 1998–Winter Meeting 2000~~).
Adopted Winter Meeting 1998.

HR-44. POSTSECONDARY EDUCATION

44.1 Preamble

States and private institutions have created an infrastructure for the nation's postsecondary institutions that is subsidized by the federal government through student aid and some other federal programs. As Higher Education Act (HEA) programs are reauthorized, Congress needs to recognize the state and institutional context in which these programs operate and work closely with states and institutions in the reauthorization process.

Federal aid comprises more than 75 percent of all student financial assistance provided in the country. States also provide aid to students through traditional aid programs and by heavily investing in state colleges and universities to keep tuition levels well below the cost of actually attending college. Although major federal funding for overall postsecondary education, with regard to student assistance, is less than 12 percent, states, localities, and institutions provide the remaining funding for an extensive and widely diverse system of education opportunities for students after high school.

44.2 Recommended Federal Role

The Governors support the primary goal of the Higher Education Act, which is to expand access to postsecondary educational opportunities for low-income students and ensure the affordability of postsecondary education for moderate-income families. At present, the federal government is responsible for ensuring institutional compliance with federal aid regulations and student aid programs at institutions. States do not determine which institutions or students are eligible for federal aid, nor do they have any recourse over an institution that fails to follow federal regulations. The Governors believe that this is clearly the responsibility of the U.S. Department of Education and HEA should be modified to reflect this responsibility.

44.2.1 **Promoting Quality in Postsecondary Education.** The Governors recognize the need to promote and maintain quality education in all higher education institutions. Many states have undertaken efforts to achieve this goal. However, states will have an increasing need for reliable measures of effectiveness. This is clearly an issue for states and institutions to address. The federal government should learn from the lessons of the states and not attempt to establish a federal set of quality measures.

44.2.2 **Coordinating the State-Federal-Institutional Partnership.** The Governors recognize the long tradition of direct relationships among federal agencies and their staff, colleges and universities and their faculties, and students. However, it is important that different levels of government coordinate their efforts when addressing similar public policy concerns. Without such coordination, small federal programs may have little or no impact. In addition, a well-intentioned federal effort may have a negative or disruptive effect if it runs counter to delicately designed state strategies. Therefore, the Governors urge Congress to design federal programs so that they result in an effective state-federal-institutional partnership in both the funding and delivery of student and institutional assistance.

44.2.3 **Preparing the Workforce for a Changing Economy.** Our nation's economy is undergoing a major transformation from one based on heavy industry to one based on skilled services and technology. This decrease in jobs in heavy industry and increase in jobs in skilled services and technology require a more educated workforce. Postsecondary institutions contribute significantly in the training of the workforce for these new jobs and contribute to the economic development of states and the nation. In addition, institutions provide information services and research essential to an efficient and productive workforce. HEA should support these critical efforts.

44.2.4 **Preparing Teachers and Supporting Professional Development.** A substantial number of our nation's teachers are approaching retirement and are expected to leave the classroom. At the same time, the number of students enrolled in elementary and secondary programs is at an all-time high and is expected to increase. Many states are considering proposals to reduce the student-teacher ratio in classrooms, thus further increasing the demand for teachers. There is a growing need to train more new teachers and teacher aides and support professional development for current teachers who are being asked to teach more rigorous curriculums to help students achieve higher academic standards.

NATIONAL GOVERNORS' ASSOCIATION

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February 11, 2000

TO ALL GOVERNORS:

The enclosed policy positions and amendments, proposed by the Executive Committee and the three Standing Committees, are being transmitted for your review in accordance with the NGA Articles of Organization.

Policy positions, including any changes made by the committees, will be considered and voted upon on February 29 at the 2000 NGA Winter Meeting in Washington, D.C. These policies and amendments focus on current NGA priorities and, unless otherwise noted, are time-limited to two years.

Please note that each committee's policy positions are accompanied by a cover sheet providing background information and fiscal impact data where appropriate.

The individual group directors and I will be pleased to answer any questions you may have concerning the proposed policy positions.

Sincerely,

Raymond C. Scheppach

Enclosures

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ADOPTION OF POLICY STATEMENTS IN PLENARY SESSIONS

Article IX of the National Governors' Association Articles of Organization and the Rules of Procedure determine the procedures necessary to adopt policy statements. In accordance with these Rules, enclosed are the Committee policy positions and amendments proposed for the NGA Winter Meeting. Proposed policy statements are submitted by the Standing Committees and are transmitted to all Governors 15 days before the plenary session at which they will be considered.

These policies and amendments primarily focus on current NGA priorities and, unless otherwise noted, are time-limited to two years.

1. Germane Committee amendments and floor amendments by individual Governors to these proposed Committee policies require a two-thirds vote. Final adoption of a Committee amended policy statement requires a two-thirds vote.

2. Individual Governors must submit proposed policy statements to the Executive Director at least 45 days in advance of the plenary session. These proposals are transmitted to the appropriate NGA Standing Committee for further action.

   If an individual Governor's proposal is not adopted by the Standing Committee and therefore not included in this 15-day advance mailing to all Governors, it is subject to the suspension of the rules if the individual Governor or the Committee chooses to resubmit the proposal at the plenary session.

3. Any proposed new policy or resolution by a Committee or an individual Governor that is not included in this advance mailing requires a three-fourths vote to suspend the rules, a three-fourths vote for final passage, and a three-fourths vote for any amendment.

4 Resolutions do not address new policy, but affirm existing policy and/or recognize certain persons, places, and events. They remain in effect for one year.

5. Notice procedures: Motions for the suspension of the Rules of Procedure shall be distributed to all Governors present by the end of the calendar day before such motion is put to a vote. The Chairman may request that copies of floor amendments also be available for distribution.

6. Non-debatable motions: Table -- majority vote; Previous Question -- two-thirds vote; Suspend the Rules -- three-fourths vote.

7. A motion to postpone is debatable on the entire policy only and requires a majority vote.

8. Voting may be by voice, show of hands, or roll call. A roll call vote shall be called by a show of hands of ten members.

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2000 Winter Meeting

COMMITTEE ON ECONOMIC DEVELOPMENT AND COMMERCE

Governor Jim Hodges, Chairman
Governor John G. Rowland, Vice Chairman

Tim Masanz, Group Director

Proposed Changes in Policy

EDC-12	Economic Recovery from Disasters	Page 2
EDC-16	Rail Transportation	Page 4

New language is typed double-spaced and in ALL CAPS, with deleted material lined-throughout (—).

The Committee on Economic Development and Commerce recommends the consideration of amendments to two existing policy positions. Policy proposals are time-limited to two years, unless otherwise noted. Background information and fiscal impact data follow.

1. Economic Recovery from Disasters (Amendments to EDC-12)

   The amendments update the policy, including dropping the term "natural" disasters from the title, to broaden its application. New language adds the U.S. Department of Agriculture to the list of affected agencies and seeks enhanced coordination of federal resources. Amendments also call on the federal government to review and enhance its programs and policies to better ensure community-wide economic recovery. Finally, new language was added seeking greater flexibility in siting certain disaster mitigation facilities or telecommunications equipment in hazard mitigation areas. In addition, the policy's sunset date is extended for two years.

   The proposed changes primarily call for administrative reforms and should not have any significant federal or state fiscal impact.

2. Rail Transportation (Amendments to EDC-16)

   The amendment to this policy supports fully funding the National Railroad Passenger Corporation in fiscal 2001 at the level authorized in the Amtrak Reform and Accountability Act of 1997. It also calls for the development of federal high speed and regional rail policy and programs, which would use federal funding to leverage private and other resources to aid states in the development of high speed and regional rail corridors across the country.

   This amendment would require a federal investment of $500 million over five years. States choosing to participate may provide matching funds to assist in funding the program.

EDC-12. ECONOMIC RECOVERY FROM ~~NATURAL~~ DISASTERS

12.1 Preamble

When major disasters strike, the economic impact on local communities and entire states and territories can be devastating. In the past, many state, territorial, and local governments have found the Federal Emergency Management Agency (FEMA), the U.S. Department of Housing and Urban Development (HUD), the Economic Development Administration, ~~and~~ the Small Business Administration (SBA), AND THE U.S. DEPARTMENT OF AGRICULTURE, AMONG OTHERS, to be effective partners in providing long-term economic recovery assistance to communities that have suffered economic loss because of disaster. The Governors urge the federal government to continue to develop ~~a~~ federal-state PARTNERSHIPS ~~partnership~~ AND TO PROVIDE FOR ENHANCED COORDINATION OF FEDERAL RESOURCES TO ~~by providing both financial assistance and technical support to develop and~~ carry out ~~long-term~~ economic recovery strategies.

12.2 The Federal Role in Disaster Recovery

Though many PROGRAMS EXIST THAT SUPPORT ECONOMIC RECOVERY FOLLOWING DISASTERS AND MANY effective partnerships have been established among states, territories, local governments, and the federal government, the Governors believe that THE FEDERAL GOVERNMENT SHOULD TAKE STEPS TO PROMOTE THE CLOSER COORDINATION OF FEDERAL PROGRAMS THAT CAN ASSIST STATES, TERRITORIES, AND LOCAL GOVERNMENTS IN DEVELOPING AND IMPLEMENTING ECONOMIC RECOVERY STRATEGIES FOR DEVASTATED COMMUNITIES. ~~several changes need to be made in federal assistance programs to better assist states, territories, and local governments as they help devastated communities rebuild.~~

12.2.1 **Community Development Block Grant and HOME Investment Partnerships Program.** The U.S. Department of Housing and Urban Development administers the Community Development Block Grant (CDBG) and the HOME Investment Partnerships Program (HOME). In general, both of these programs provide successful and proven models of beneficial federal-state partnerships. However, in the aftermath of the 1997 floods, some states encountered problems securing permission to reallocate CDBG and HOME funds to communities impacted by floods. In particular, HUD did not waive income-targeting restrictions that would have allowed Governors to target CDBG funds to impacted communities. Because it can take a significant amount of time for Congress to pass supplemental disaster legislation and for federal agencies to begin distributing supplemental funds, flexible use of federal resources already available to states, territories, and local governments when a disaster strikes is crucial. The Governors urge the federal government to take proactive steps to lift restrictions on the use of CDBG and HOME funds in the event of a federally declared disaster. Further, the Governors strongly oppose the direct allocation of emergency CDBG funds to nonentitlement communities.

EDC-16. RAIL TRANSPORTATION

16.1 Preamble

Across the nation, rail is increasingly being used to move both people and freight. Investments in rail mean greater access, expanded mobility, efficient movement of goods, and job creation. A vibrant rail network is essential to the maintenance of a strong economy. Without it, the United States will lack a balanced intermodal transportation system.

In some areas of the nation, rail line capacity is at or near full capacity, while in other areas, usage is still well below capacity and could be expanded. Under the Transportation Equity Act for the 21st Century (TEA 21), states will play an increasingly larger role in the development and implementation of both passenger and freight rail, including high speed rail corridors, commuter rail, intercity passenger rail, intermodal linkages, and shortline and regional freight rail development. Governors strongly support both new and revived efforts that are taking place nationwide in the development of passenger and freight rail.

16.2 Recommendations for Developing a Strong Regional Freight System

Since the passage of the Staggers Rail Act in 1980, railroads again have become profitable and more efficient. Since 1980, rail freight ton miles have increased by 49 percent, average rail rates adjusted for inflation are down 50 percent, and train accidents and derailments have declined by almost 70 percent. The shedding of lightly used rail lines by the larger Class I railroads has provided local economic opportunity through the creation of smaller shortlines and regional railroads. The smaller shortline or regional rail companies have provided access to shippers who otherwise would be cut off from access to the larger freight railroads. Several states have purchased rail lines, cast off by the larger railroads during mergers, and have worked to establish shortline operations. The Governors believe these efforts are essential to a strong regional freight system that will bring more jobs and greater access to shippers, as well as a strong national transportation network.

16.3 Fully Fund High Speed Rail Programs Authorized in TEA 21

Governors will play a crucial role in developing a safe and efficient rail system. The Governors urge Congress to fully fund Section 7201 of TEA 21, which authorizes $35 million in planning and technology funding to develop and improve the life of high-speed rail corridors. The high-speed rail provisions of TEA 21 extended the ability of Congress to provide funding for the existing high-speed rail assistance program created in the Swift Rail Development Act of 1994. These funds provide financial assistance to public agencies for high-speed corridor planning activities and certain preconstruction activities, including right-of-way acquisition. Further, as states continue to assume a greater role in developing and maintaining passenger and commuter rail corridors, they should be afforded the maximum amount of flexibility to invest federal funds in rail corridors that relieve congestion in heavily traveled corridors or that contribute to air quality improvements in nonattainment areas.

16.4 Invest in Rail Safety

The Governors support full funding for the mitigation of grade-crossing hazards under TEA 21. Technology has greatly reduced the potential of collisions between trains, but more progress can be made by addressing the issue of rail grade-crossings. Proven educational efforts, such as Operation Lifesaver, along with technological advances and better planning, will play a key role in addressing this threat.

The Governors strongly believe that the authority for grade-crossing improvements, closures, grade separations, and rail line relocation lies under the jurisdiction of the state. Adequate funding for applicable federal programs will assist states in addressing rail grade-crossing safety improvement.

16.5 Fully Fund the Next Generation High Speed Rail Program

The Next Generation High Speed Rail program has been an effective means of providing federal seed money to promising high-speed, rail-related technology developments. This program has helped encourage technology advances in communication and signaling for rail operations, equipment development, and assistance to state and local planners for corridor development. The Governors support fully funding this program at the authorized level.

LIST OF PROPOSED CHANGES IN POLICY

COMMITTEE ON ECONOMIC DEVELOPMENT AND COMMERCE

EDC-12	Proposed Amendments	"Economic Recovery from Disasters"
EDC-16	Proposed Amendments	"Rail Transportation"

COMMITTEE ON HUMAN RESOURCES

HR-1	Proposed Amendments	"Governors' Principles to Ensure Workforce Excellence"
HR-2	Proposed Amendments	"Immigration and Refugee Policy" ✓
HR-14	Proposed Amendment (in the form of a substitute)	"Child Support Financing" ✓
HR-15	Proposed Amendments	"Children's Health" ✓
HR-16	Proposed Amendments	"Medicaid" ✓
HR-20	Proposed Policy Position	"Constitutional and Civil Rights in Managing Institutionalized Populations" ✓
HR-22	Proposed Policy Position	"Food Stamps" ✓
HR-25	Proposed Amendments	"Emergency Management"
HR-27	Proposed Policy Position	"The Older Americans Act" ?
HR-28	Proposed Amendments	"Paternal Involvement in Child Rearing" ✓
HR-29	Proposed Amendments	"Public Safety, Crime Control, and Prevention" ✓
HR-31	Proposed Amendments	"Indian Health Services" ✓
HR-33	Proposed Amendments	"Low-Income Home Energy Assistance Program"
HR-34	Proposed Policy Position	"Synar Statute" ✓
HR-37	Proposed Amendments	"Private Sector Health Care Reform" ✓
HR-39	Proposed Policy Position	"Senior Prescription Drugs" ✓
HR-40	Proposed Policy Position	"Building Successful Literacy Initiatives" ✓

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COMMITTEE ON HUMAN RESOURCES (Continued)

HR-46	Proposed Amendment (in the form of a substitute)	"Administrative Funds for Health and Human Services Programs"
HR-5	Proposed Reaffirmation	"Fair Labor Standards Act as Applied to Public Employees and Inmate Labor"
HR-7	Proposed Reaffirmation	"Public Health Services"
HR-21	Proposed Reaffirmation	"Child Care and Early Education"
HR-43	Proposed Reaffirmation	"Community Services Block Grant Program"
HR-44	Proposed Reaffirmation	"Postsecondary Education"

COMMITTEE ON NATURAL RESOURCES

NR-3	Proposed Amendments	"Water Resource Management"
NR-8	Proposed Amendments	"Environmental Compliance at Federal Facilities"
NR-9	Proposed Amendments	"Farm and Agriculture Policy"
NR-15	Proposed Policy Position	"Improving Safety of NRCS Watershed Dams"
NR-17	Proposed Amendments	"Management of Federal Lands"
NR-19	Proposed Amendments	"Low-Level Radioactive Waste Disposal"
NR-20	Proposed Policy Position	"Improved Pipeline Safety"
NR-12	Proposed Reaffirmation	"Endangered Species Act"

EXECUTIVE COMMITTEE

EC-1	Proposed Amendments	"Consolidation of Categorical Grants"
EC-3	Proposed Policy Position	"Federalism and the New Economy"
EC-9	Proposed Amendments	"Federal Tax Reform"