



1997 Annual Meeting

COMMITTEE ON HUMAN RESOURCES

Governor Tom Carper, Chair
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Proposed Changes in Policy

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The Committee on Human Resources recommends the consideration of three new policy positions, amendments to five existing policy positions, and the reaffirmation of one existing policy position. Policy proposals are time limited to two years, unless otherwise noted. Background information and fiscal impact data follow.

1. The National Guard Youth Challenge Program (New Policy Position, HR-3)

On June 4, 1997, the Committee on Human Resources approved this proposal as interim policy. NGA rules require that interim policy be approved by the full membership at their next meeting.

The proposed policy supports the National Guard Youth Challenge Program, which is sponsored by the U.S. Department of Defense to help "at risk" males and females, ages sixteen to eighteen, acquire essential life skills, job skills, and a General Educational Development diploma. The program was a five-year pilot. This policy urges Congress to permanently authorize the program.

The program is currently funded at \$20 million; however, \$48 million in total funding will be needed to include more states in fiscal 1998. A state match usually consists of volunteer workers and the use of the National Guard Armory.

2. Individuals with Disabilities Education Act (Amendments to HR-23)

This policy expresses the views of Governors on the education of children with disabilities. It has been updated to reflect continuing concerns about the number of mandates and underfunding. The Governors also call upon the U.S. Department of Education to use a federal-state consensus process in implementing the recent reauthorization of the Individuals with Disabilities Education Act.

These amendments have no additional fiscal impact.

3. National and Community Service (Amendments to HR-24)

This policy has been amended to reflect what has transpired in states since the enactment of federal national and community service legislation. In addition, the policy contains new views expressed by the Governors as a result of the recent Summit on Volunteerism.

This policy has no fiscal impact.

4. Emergency Management (Amendments to HR-25)

This policy is amended by recognizing winter storms as a potential disaster condition consistent with all other natural disaster conditions. It says that the Federal Emergency Management Agency should be equitable in its issuance of regulations and in making declaratory policy. States also are encouraged to create mutual cooperative agreements with all parties to help facilitate response and recovery activities based on specific threats or risk to individual states.

The federal and state fiscal impact will be determined by the damage from each disaster, by whether there is a federal declaration, and by the cost ratio.

5. Facilitating Innovation for Medical Devices and Drug Research (Amendments to HR-27)

This policy is amended by adding language stating that the Governors applaud the cooperation among the industry, the Food and Drug Administration, and Congress that has already yielded real improvements in approval time through the creation of a system of user fees.

The fiscal impact should be minimal.

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

This policy is amended to encourage the involvement of the community in addressing the desirability of father involvement and to develop strategies that include both parents in activities focused on children.

The fiscal impact should be minimal.

7. Gang Violence (New Policy Position, HR-40)

This proposed policy recognizes the explosion of gang membership over the past five to ten years and calls for a greater level of intergovernmental coordination and information sharing between the various states and the federal government. The proposal urges technical assistance from the federal government and encourages U.S. Attorneys to increase their efforts to prosecute gang members for violating federal laws without federalizing criminal law under state jurisdiction.

The fiscal impact will be determined by enforcement efforts.

8. High Performance Bonuses and Outcomes (New Policy Position, HR-41)

The new proposed policy on high performance bonuses and outcomes for welfare reform reflects broad principles and recommendations developed by a joint National Governors' Association (NGA) and American Public Welfare Association (APWA) working group of states. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 provides \$1 billion over five years for bonuses to reward high performing states, and requires the U.S. Department of Health and Human Services to consult with NGA and APWA in developing a formula for awarding these bonuses. The policy identifies key principles as the foundation for a high performance bonus system, recommends several core national measures along with optional state-selected measures, recommends achievement and progress measures, and suggests guidelines for distribution of the funds.

The proposed policy addresses how federal funds would be distributed among states, but federal law sets the total amount of bonus funds and sets a cap on the amount available to any states. Therefore, the policy does not have a direct fiscal impact on states.

9. Reaffirmation of Existing Policy

The committee proposes the reaffirmation of existing policy HR-26, Religious Freedom Restoration Act Application to State Prison Inmates.

HR-3. THE NATIONAL GUARD YOUTH CHALLENGE PROGRAM

AMERICA'S YOUTH ARE OUR NATION'S GREATEST ASSET AND HOPE FOR THE FUTURE. OUR YOUNG PEOPLE ARE DROPPING OUT OF HIGH SCHOOL AT THE RATE OF ONE EVERY FIFTEEN SECONDS. THEIR LACK OF EDUCATION WILL MAKE IT DIFFICULT FOR THEM TO FIND EMPLOYMENT, AND ULTIMATELY BURDENS THE BUSINESS AND INDUSTRIAL COMMUNITY BY SLOWING ECONOMIC GROWTH AND PRODUCTIVITY.

TO HELP ADDRESS THIS CRUCIAL PROBLEM, THE NATIONAL GUARD OF THE UNITED STATES, AS PART OF THEIR COMMUNITY MISSION, ESTABLISHED AND IMPLEMENTED A HIGHLY SUCCESSFUL PILOT PROGRAM TO HELP YOUNG PEOPLE ACQUIRE ESSENTIAL LIFE SKILLS, JOB SKILLS, AND A GENERAL EDUCATIONAL DEVELOPMENT (GED) DIPLOMA. YOUTH CHALLENGE IS UNIQUE IN THAT IT FOCUSES ON "AT-RISK" MALES AND FEMALES, AGES SIXTEEN TO EIGHTEEN, WHO HAVE SHOWN THE NECESSARY DRIVE TO COMPLETE THEIR EDUCATION AND BECOME CONTRIBUTING MEMBERS OF SOCIETY.

THE YOUTH CHALLENGE PROGRAM IS IN THE FINAL YEAR OF A FIVE-YEAR PILOT PROGRAM IN FIFTEEN STATES. EVALUATIONS OF THE PROGRAM HAVE BEEN OUTSTANDING. THROUGH SIX CLASSES, 7,966 YOUTH HAVE GRADUATED, OF WHICH, 6,486 ATTAINED A GED DIPLOMA. THIS EQUALS AN 81.4 PERCENT ATTAINMENT RATE, WHICH IS 9.4 PERCENT HIGHER THAN THE NATIONAL GED OR HIGH SCHOOL GRADUATION RATE. FURTHER, MORE THAN 96 PERCENT OF PROGRAM GRADUATES ARE EITHER EMPLOYED, IN COLLEGE OR TECHNICAL SCHOOL, OR IN THE MILITARY. MORE THAN 10 PERCENT OF THE MOST RECENT CLASSES HAVE JOINED THE MILITARY AND ARE PERFORMING WELL.

FEDERAL FUNDS FOR THE YOUTH CHALLENGE PROGRAM HAVE BEEN ALLOCATED THROUGH THE U.S. DEPARTMENT OF DEFENSE (DOD). DISCONTINUING THIS FUNDING WILL BRING ABOUT THE DEMISE OF THE PROGRAM, REMOVING A PROVEN, SUCCESSFUL OPPORTUNITY TO HELP THOUSANDS OF AT-RISK TEENAGERS BECOME EDUCATED, HIGHLY MOTIVATED, AND PRODUCTIVE YOUNG ADULTS.

THE NATION'S GOVERNORS FULLY SUPPORT THE YOUTH CHALLENGE PROGRAM AND URGE CONGRESS TO PERMANENTLY AUTHORIZE THIS PROGRAM. FURTHER, WE ENCOURAGE DOD TO CONTINUE ADMINISTERING THE PROGRAM AS PART OF THE NATIONAL GUARD'S MISSION IN STATES AND LOCAL COMMUNITIES.

Interim Policy approved by the NGA Committee on Human Resources, June 4, 1997.

Time limited (effective Annual Meeting 1997--Annual Meeting 1999).

HR-23. INDIVIDUALS WITH DISABILITIES EDUCATION ACT

23.1 Preamble

The last two decades have witnessed a revolution in promoting, protecting, and advancing the education rights of people with disabilities. Key in this overall effort has been the Individuals with Disabilities Education Act (IDEA). Enacted in 1990 as amendments to the Education for All Handicapped Children Act, this law provides states with funding as well as mandates to provide a free and appropriate education and procedural safeguards for all children with disabilities without regard to costs incurred by states and localities. In addition to IDEA, children with disabilities are guaranteed as a civil right the entitlement to an education under Section 504 of the Rehabilitation Act of 1973. Finally, additional protections are provided for children with disabilities under the Americans with Disabilities Act.

States have enacted their own statutes and regulations to comply with the federal laws and in many cases have gone beyond what is mandated by the federal government in providing services. State and federal laws and regulations combined with the extensive and increasingly complex case law that has developed around this act has made the practice of delivering services to students with disabilities complex and costly for states and communities.

The nation's Governors support equal opportunity for all citizens and support the purposes and the spirit of IDEA. In addition, the Governors have expressed their strong commitment to improving the academic performance of all students, including students with disabilities. ~~We believe that the following issues should be addressed when the 104th Congress reauthorizes the Individuals with Disabilities Education Act.~~

THE 105TH CONGRESS HAS COMPLETED THE REAUTHORIZATION OF IDEA AND THE BILL HAS BEEN SIGNED INTO LAW. ALTHOUGH SOME OF THE CONCERNS OF STATES WERE ADDRESSED IN THE FINAL BILL, MANY WERE NOT. GOVERNORS URGE CONGRESS TO AMEND THIS LEGISLATION TO COMPLETELY ADDRESS ALL OF THE FOLLOWING RECOMMENDATIONS.

23.2 Recommendations:

~~23.2.3~~

23.2.1

Federal Funding Commitment. IDEA currently includes a provision that authorizes the federal government to fund up to 40 percent of Part B of the services to be provided under the act. Since its enactment, the federal government has appropriated funds for only 10 percent of Part B services. The Governors urge Congress to fully fund the program to assist states in achieving the principles of the act. In the event that the federal government fails to fully fund this act, the Governors believe that the statute should be amended to release states from prescriptive and costly administrative mandates that are not related to providing students with disabilities a "free and appropriate public education."

23.2.2

ADDITIONAL FEDERAL MANDATES. CONGRESS SHOULD AMEND IDEA TO MINIMIZE THE NUMBER OF UNFUNDED FEDERAL MANDATES INCLUDED IN THE ACT. STATES SHOULD BE PROVIDED WITH SUFFICIENT FUNDS TO ADMINISTER THE PROGRAMS UNDER THE ACT. IN ADDITION, THE FEDERAL GOVERNMENT SHOULD NOT DICTATE THE POLICIES BY WHICH STATES DETERMINE THE DISTRIBUTION OF STATE SPECIAL EDUCATION DOLLARS.

23.2.3

Education Reform. States and school districts around the nation are actively engaged in school reform efforts. In addition to activities in virtually every state, the federal government has also enacted new

legislation to support improved student performance through the Goals 2000: Educate America Act, the School-to-Work Opportunities Act, and the recent amendments to the Elementary and Secondary Education Act. We ARE PLEASED believe that IDEA HAS BEEN ~~should be~~ reauthorized in the same spirit to ensure that all students, including those with disabilities, have access to a high-quality education. Specifically, the act HAS BEEN ~~should be~~ amended to permit state and local school districts to coordinate and directly link IDEA funds with other federal education programs. For example, states should be given the option to combine IDEA funds with other federal funds that support state and local systemic education reform activities under the following conditions: if the state is willing to include a substantial number of students with disabilities in the state's assessment system, and if the state is willing to demonstrate that these students are making progress toward predetermined goals through the disaggregation and public reporting of data on the performance of students eligible under IDEA.

23.2.4 Regulation. In order to ensure that states have an opportunity to comment on proposed regulations, the Governors ARE PLEASED THAT THE NEW LAW REQUIRES believe that the U.S. Department of Education, specifically the Office of Special Education and Rehabilitative Services and the Office of Civil Rights, ~~should be required~~ to issue all existing and subsequent federal policy statements as required under the Federal Administrative Procedures Act, which provides for public notice in the Federal Register and for public input. The use of the Federal Administrative Procedures Act will also substantially improve the ability of states to implement the act, as states would be fully aware of all of the rules and regulations. The Governors do not intend that the department be prohibited from providing direct guidance in response to specific requests from the field about individual cases. Such timely guidance is essential to the successful implementation of such a complex program. However, we do not believe that a response to an individual request for guidance should carry the weight of a federal ruling or regulation because these responses should provide guidance based on the law.

23.2.5 State Flexibility. Under THE NEW ~~current~~ law, local education agencies are PERMITTED TO COMBINE ~~prohibited from combining~~ IDEA funds with other funding streams to provide noncategorical support for children with disabilities. This LAW PROVIDES ~~amendment would provide~~ local education agencies with additional flexibility to meet the unique needs of their students within their programs. The Governors ARE PLEASED believe that the act HAS BEEN ~~should be~~ amended to allow all local education agencies to use A PERCENTAGE ~~up to 10 percent~~ of IDEA funds with funds from other federal or state categorical programs on an intra-agency, interagency basis, as well as within and among individual school districts, to provide noncategorical supports and services for children and youth with disabilities. THE USE OF THESE FUNDS MUST BE CONSISTENT WITH FEDERAL IDEA REQUIREMENTS AND BE DIRECTED TO SERVICES THAT BENEFIT STUDENTS WITH DISABILITIES. States should also have the option of combining preschool grant funds with the basic state grant funds into a single state award with a single accountability system.

- 23.2.6 Mediation.** The resolution of disputes under the act has become litigious and adversarial and every effort should be made to reduce this atmosphere and refocus the program on serving students. The Governors urge Congress to SUPPORT THE PROVISIONS OF amend the NEW act THAT to strongly encourage the use of mediation in resolving disputes. Settlements should be BINDING enforced and only those issues that cannot be settled will be appealed in an administrative hearing. States should encourage the use of professional mediators and HAVE should be given the option to prohibit the direct participation of attorneys in the mediation. We believe that the use of mediation will reduce the adversarial tone of negotiations, foster better communication between the parties, and lead to better cooperation in the future. The use of mediation should not preclude or delay either party from requesting a due process hearing as provided for under the current act. To ensure the highest quality of independent and impartial mediation, mediation guidelines should be developed.
- 23.2.7 Simplified Application Process.** When IDEA was first enacted, a detailed local application procedure was necessary to help states develop programs that met the overall goals of the act. Now that such state plans have been developed and ARE BEING have begun to be implemented, such complex local applications are now unnecessary, and the Governors believe they should be replaced with a simplified application process to be developed by the state. We SUPPORT THE PROVISIONS OF THE ACT urge Congress to give states the authority to develop a simplified application for local education agencies that would include a list of assurances that services would be provided to eligible students. At the end of the year, local education agencies would be required to provide a full accounting of how federal funds were utilized. Such an application should be developed by each state with the support of the Governor.
- 23.2.8 Discipline.** The Governors believe that, to the extent practical, determination of disciplinary policies for all students should conform with state law, but should actually be determined by the local education agency in consultation with parents and community representatives. If the federal statutes must contain provisions with respect to disciplinary policies, such provisions should not preempt state law nor should such provisions create separate and unequal disciplinary policies for different categories of students. All federal statutes, including IDEA, should be consistent to ensure that students with disabilities are treated the same as all other students unless there is clear and convincing evidence that the offending conduct is a result or manifestation of a student's disability. When the behavior of the pupil with a disability presents a clear danger to the safety of other students, the district must be able to move the pupil to an alternative placement while parents and the school system come to agreement on a permanent placement. States should also be able to resolve differences with parents through administrative hearings rather than through the courts.
- 23.2.9 Assistive Technology.** Current law broadly defines assistive technology devices in a manner that has caused some confusion for school districts in making determinations. Further, there are no clear guidelines to assist schools in determining which devices are appropriate to meet educational needs. The Governors believe that "assistive technology" should be more clearly defined, and urge the secretary of education to develop and issue guidelines to assist school districts in making determinations with respect to assistive devices. SUCH GUIDELINES SHOULD NOT REQUIRE A SCHOOL TO PURCHASE

ASSISTIVE TECHNOLOGY IF SUCH A DEVICE IS NEEDED BY THE STUDENT WHETHER OR NOT HE OR SHE ATTENDS SCHOOL.

23.2.10 REGULATION OF IDEA. AS THE DEPARTMENT OF EDUCATION MOVES FORWARD TO DEVELOP REGULATION AND POLICY LETTERS TO GUIDE THE IMPLEMENTATION OF IDEA, THE GOVERNORS URGE THE SECRETARY OF EDUCATION TO USE A TRUE CONSENSUS PROCESS IN DEVELOPING SUCH REGULATIONS. ALTHOUGH IT IS IMPORTANT THAT GUIDANCE BE PROVIDED IN A TIMELY MANNER, IT IS CRITICAL THAT SUCH REGULATIONS BE DEVELOPED IN A MANNER THAT INCORPORATES THE CONCERNS OF THE STATES, ESPECIALLY BECAUSE THE ACT AS AMENDED REDUCES RESOURCES MADE AVAILABLE TO STATES FOR IMPLEMENTATION AND TECHNICAL ASSISTANCE EFFORTS AT THE STATE AND LOCAL LEVEL.

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- Provide a single point of focus at the federal level to disseminate information about national service AND VOLUNTEER programs to assist state and local government and groups, individuals, and nonprofit organizations. ~~who are actively engaged in volunteerism and service programs.~~
- Collect, evaluate, and disseminate information on model programs to promote citizen and organizational involvement in community service and volunteerism.
- SUPPORT SERVICE AS A STRATEGY FOR ENSURING THAT THE GOALS OF THE PRESIDENT'S SUMMIT FOR AMERICA'S FUTURE ARE IMPLEMENTED.

The Governors believe strongly in the value of community service in that it benefits both the provider and the recipient. We want to provide all of our citizens with a variety of opportunities that will allow them to contribute to their community throughout their lives.

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~~Annual Meeting 1997).~~

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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.

~~Emergency management is evolving as a new multidisciplinary field. Inherent with any profession are institutions of higher learning associated with a discipline. Therefore,~~ 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.

25.3 The Local Government Role

Local governments have the primary responsibility for preparation and response to most emergencies. States should encourage local governments to use their resources and to share resources with other local jurisdictions and the state. Local governments should review their capabilities to protect the public from all hazards and, as needed, undertake comprehensive, all-hazard emergency management program improvements.

25.4 The Federal Role

Protection of the population of the United States against the potentially catastrophic effects of natural and human-caused disasters has long been recognized as requiring a partnership of federal, state, and local governments. Presidents and Congresses have encouraged improved national emergency management capability, which is coordinated by the Federal Emergency Management Agency (FEMA). They have recognized that states and local communities across the nation are increasingly exposed to a wider range of natural and technological hazards.

Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288) provides for a comprehensive emergency management system that is capable of ensuring a timely and coordinated response. This system must become more flexible through consolidation and better regulation to accommodate the unique needs of individual states and local jurisdictions. This federal, state, and local emergency management system needs further development and continued maintenance to include support for state-of-the-art facilities, equipment, and communications systems. It is imperative that Congress provide sufficient funds based on each state's risk and vulnerability to ensure the continued viability of the "all-hazards" approach to emergency management.

THE STAFFORD ACT RECOGNIZES WINTER STORMS AS A POTENTIAL DISASTER CONDITION AND PROVIDES FOR FEDERAL AID, CONSISTENT WITH ALL OTHER NATURAL DISASTER CONDITIONS. UNDER CERTAIN CONDITIONS, SEVERE WINTER STORMS CAN HAVE THE SAME PARALYZING EFFECT ON A COMMUNITY AS A HURRICANE, AN EARTHQUAKE, A TORNADO, OR ANY OTHER SEVERE WEATHER CONDITION. SEVERE WINTER STORMS CAN CAUSE WIDESPREAD DESTRUCTION OF PROPERTY, THREATEN AND CLAIM MANY LIVES, AND SERIOUSLY IMPAIR ESSENTIAL MUNICIPAL SERVICES.

The Governors support a federal response plan that focuses the resources and capabilities of the federal government on the needs of disaster victims and their communities. This plan should form the basis for a national response system that integrates the efforts of local, state, and federal governments. The system should be exercised annually in coordination with the states, local governments, and volunteer and private organizations.

The federal response to presidentially declared emergencies and disasters is provided through the Stafford Act, as amended. This statute allows for up to 100 percent federal reimbursement for eligible disaster assistance costs.

The Governors support this level of supplemental federal assistance and do not support changes or cost-sharing proposals that fail to address such basic issues as the state's total liability; the fiscal conditions and resources of state and local government; the impact of multiple disasters occurring over a short period of time; and the effects of catastrophic disasters.

The Governors believe that the Stafford Act provides the President with sufficient flexibility to negotiate and determine appropriate levels of cost sharing. Further, the federal government should not impose restrictive guidelines regarding state and local division of any portion of the nonfederal share. It must be recognized that assistance programs authorized under the Stafford Act are a shared responsibility between state and federal emergency management agencies. The substantial administrative costs of assistance programs can be reduced by increasing the states' role in managing

public assistance programs and by eliminating federal micromanagement of programs. States should take the leadership role in the management and operation of the recovery effort. Further, the federal government should expedite funding of recovery activities to ensure that there is no disruption in the state and local efforts to restore communities.

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.

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 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. FEMA SHOULD BASE ITS POLICY ON THE REALITY OF EACH DISASTER, THE DAMAGE CAUSED, AND THE PROCESS NECESSARY FOR FULL RECOVERY.

THE GOVERNORS BELIEVE A SEVERE WINTER STORM DISASTER CAN BE A BROAD PUBLIC HEALTH AND SAFETY ISSUE AND SHOULD BE TREATED THE SAME AS OTHER FEDERALLY DECLARED DISASTERS. FEMA'S 1996 PROPOSED RULE ON SNOW POLICY APPEARS TO BE BASED ON A DIFFERENT STANDARD AND IS INCONSISTENT WITH THIS OBJECTIVE.

25.5 The Role of the Private Sector

The private sector has a major role in providing resources and expertise in emergency preparedness, response, recovery, and mitigation. Governments at all levels should establish meaningful partnerships for emergency management with the private sector, including groups such as the Hazardous Materials Advisory Councils, which are organizations of small, medium-sized, and large companies that provide assistance to public emergency agencies through resources, materials, and training. These partnerships will help mitigate the casualties and economic costs of emergencies suffered by the private sector.

The Governors recognize that any industry that creates an extraordinary threat to public safety, such that specific measures must be taken by government to mitigate that threat, should bear a reasonable share of any associated costs.

The Governors recognize and appreciate the valuable contributions made by other private and volunteer organizations such as the American Red Cross, Voluntary Organizations Active in Disasters, and others, which provide essential services to victims regardless of their eligibility for federal or state assistance.

25.6 Disaster Mitigation and Insurance

Disasters such as Hurricane Andrew, the Midwest floods, the Northridge earthquake, and others have called attention to the structural, social, and economic impacts of catastrophic disasters. Federal and state governments must continue working together to develop systems for dealing with all disasters.

Throughout the emergency management process, states are encouraged to work with the federal government and private industry to determine the feasibility and desirability of a cost-effective program to assist the insurance industry in better responding to natural disasters. The states should be permitted flexibility in prioritizing and determining eligibility for mitigation activities based on the states' unique needs assessments.

The private sector, especially the insurance industry, should be encouraged to work closely with states in developing and enforcing policies to mitigate disasters and emergencies, such as providing incentives to prevent or reduce damage, particularly before an emergency or disaster. This will require coordination among state emergency management directors, state insurance commissioners, and Governors and their policy staffs.

STATES SHOULD BE ENCOURAGED TO CREATE MUTUAL COOPERATIVE AGREEMENTS WITH ALL PARTIES THAT HELP FACILITATE RESPONSE AND RECOVERY ACTIVITIES BASED ON SPECIFIC THREATS OR RISK TO INDIVIDUAL STATES.

Some options that may be considered include: providing comprehensive nationwide mitigation to prevent or minimize the consequences of wind, flood, and earthquake disasters of all sizes; augmenting the emergency management infrastructure at the state, local, and federal levels by providing all-hazards funding for personnel, training, and facilities and equipment; providing natural disaster insurance for eligible commercial and residential properties at the lowest possible actuarial rates; and establishing an excess reinsurance fund that would enable the insurance industry to continue making insurance available, regardless of the severity of disasters. The program would be funded by insurance and reinsurance premiums.

Finally, resources must continue to be allocated to augment the emergency management infrastructure at the state, local, and federal levels to improve response to disasters, especially in areas at risk for catastrophic disasters.

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HR-27. FACILITATING INNOVATION FOR MEDICAL DEVICES AND DRUG RESEARCH

Better health care for all Americans is a paramount national goal. One component to improved health care is the development and approval of safe and effective new medical technology. Innovative private sector firms in the medical technology industry have research underway that could make significant advances to the practice of medicine. New therapies derived from medical technology have the potential to improve the lives of millions of Americans and may reduce health care costs in many instances.

Minimizing delays between the creation and eventual approval of a new product derived from the genius of medical technology is an important public health goal. Reduction of the development time, while ensuring consumer protections, is likely to reduce the cost of new medical technology products and should free up needed capital for new research and cures.

The competitiveness of the U.S. biotechnology and pharmaceutical industries is dependent on bringing products to market quickly. Within the industry, there is a belief that outdated and antiquated export laws encourage companies to locate manufacturing facilities outside of the United States. These laws are thought to no longer serve any meaningful public health purpose. Regulatory delays are believed to be forcing U.S. companies to move their innovation overseas to countries that have regulatory systems more consistent with the rapid pace of innovation.

A CONTINUAL reexamination of the policies and procedures at the Food and Drug Administration (FDA) may be necessary to facilitate better and more rapid access to new therapies and cures. The review and approval of innovative new drugs, biological products, and devices must be as prompt as possible. However, the safety of the public must be preserved. Public confidence in the safety and efficacy of medical technology must be maintained while making changes in the law to speed medical discoveries from the bench to the bedside.

THE GOVERNORS APPLAUD THE COOPERATION BETWEEN THE INDUSTRY, FDA, AND CONGRESS THAT ALREADY HAS YIELDED REAL IMPROVEMENTS IN APPROVAL TIME THROUGH THE CREATION OF A SYSTEM OF USER FEES. WE ENCOURAGE CONTINUED COOPERATION ~~The National Governors' Association encourages Congress and the administration to review the governing statutes and operation of FDA~~ to ensure that products can be brought to the market as quickly as possible while preserving the safety of all Americans. It is imperative that the federal government be responsive to the changing health care market and ensure that the excellence of medical innovation in the United States is maintained.

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Adopted Annual Meeting 1995.

HR-28. PATERNAL INVOLVEMENT IN CHILD REARING

28.1 Preamble

The deterioration of child well-being over 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 our 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, to become teenage parents, or to become involved in violent criminal behavior. When both mother and father are actively engaged in a child's life—providing not only financial support but love, guidance, and discipline as well—that child has a better chance of success.

The Governors also recognize that under certain circumstances, such as to protect the personal safety of the mother and children, fathers cannot be involved in the lives of their children. In such instances, efforts can be undertaken to provide surrogate father figures to assist single mothers in meeting parental obligations and to provide fatherhood role models for children.

28.2 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 our 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 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, to educate youth and young adults about the responsibilities and lifelong obligations of fatherhood;
- expanding efforts to prevent unintended and out-of-wedlock teen pregnancies, particularly in cases involving adult males;
- providing children with appropriate adult male role models, such as mentors, in the absence of a caring father;
- ENCOURAGING THE INVOLVEMENT OF THE COMMUNITY, INCLUDING THE RELIGIOUS COMMUNITY, CIVIC COMMUNITY, AND BUSINESS COMMUNITY, IN ADDRESSING THE DESIRABILITY OF FATHER INVOLVEMENT;
- DEVELOPING STRATEGIES THAT INCLUDE BOTH PARENTS IN ACTIVITIES FOCUSED ON CHILDREN, SUCH AS TRAINING SERVICE PROVIDERS AND EDUCATORS TO INCLUDE BOTH PARENTS IN THEIR SERVICE DELIVERY;
- ~~encouraging the involvement of the community, including the religious community, in addressing the problem of father absence;~~
- working with private employers and the EDUCATION academie community to provide education and job training opportunities to unemployed, underemployed, and low-skilled fathers; and
- strengthening paternity establishment and child support enforcement efforts.

The nation's Governors have played a leadership role at both the national and state level in developing and implementing comprehensive strategies to strengthen the American family. Further efforts in this area should include special emphasis on encouraging fathers to play a role in raising their children.

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Annual Meeting 1997~~).
Adopted Annual Meeting 1995.

HR-40. GANG VIOLENCE

40.1 PREAMBLE

GANGS, AND THE VIOLENCE AND DRUG TRAFFICKING ASSOCIATED WITH THEM, HAVE BECOME A MAJOR PROBLEM THROUGHOUT THE NATION. GANGS ARE INCREASING AND EXPANDING ACROSS STATE LINES AT AN ALARMING RATE. ELABORATE NETWORKS OF GANG ACTIVITY, PARTICULARLY INVOLVING THE DISTRIBUTION AND SALES OF ILLEGAL DRUGS, HAVE DEVELOPED ALL ACROSS THE UNITED STATES. TOO MANY COMMUNITIES ARE BEING TERRORIZED AND HELD HOSTAGE BY GANGS THAT LITERALLY CONTROL VAST TERRITORIES.

ONE SUCH EXAMPLE IS THE NOTORIOUS 18TH STREET GANG IN LOS ANGELES, WHICH BOASTS A MEMBERSHIP OF 20,000 AND IS REPORTEDLY SPREADING ITS CRIMINAL GANG ACTIVITIES TO OTHER STATES AND COUNTRIES (LOS ANGELES TIMES, NOVEMBER 17, 1996). MEMBERSHIP IN THIS ONE GANG ALONE IS WELL OVER TWICE THAT OF UNIFORMED OFFICERS IN THE ENTIRE LOS ANGELES POLICE DEPARTMENT.

THE EXPLOSION OF GANG MEMBERSHIP IN THE PAST FIVE TO TEN YEARS HAS NOT ONLY PLACED AN EXTREME BURDEN ON LOCAL LAW ENFORCEMENT, BUT HAS ALSO CREATED AN UNMET NEED FOR GREATER LAW ENFORCEMENT CAPABILITIES TO COMBAT THE SHEER VOLUME OF GANG ACTIVITY. A RECENT SURVEY CONDUCTED BY THE NATIONAL YOUTH GANG CENTER ESTIMATES THAT THERE ARE 23,388 GANGS, WITH 664,906 MEMBERS ACROSS THE NATION. THESE CRIMINAL ORGANIZATIONS CONTINUE TO BECOME MORE INTERSTATE IN NATURE, EXPANDING FROM STATE TO STATE TO FURTHER THEIR ILLEGAL ACTIVITIES. MANY GANG ACTIVITIES TODAY HAVE TAKEN ON ALL OF THE APPEARANCES AND SOPHISTICATION OF CRIMINAL ACTIVITY USUALLY ASSOCIATED WITH ORGANIZED CRIME.

THE NATION'S GOVERNORS BELIEVE THAT THERE NEEDS TO BE A GREATER LEVEL OF INTERGOVERNMENTAL COORDINATION AND INFORMATION SHARING AMONG STATES AND THE FEDERAL GOVERNMENT TO HELP STATE AND LOCAL LAW ENFORCEMENT OFFICIALS IN THEIR TASK OF CONTAINING AND ELIMINATING CRIMINAL GANG ACTIVITY AND TO ENHANCE PREVENTION AND EARLY INTERVENTION ACTIVITIES.

40.2 INTERVENTION

THE INCREASING SCOPE OF CRIMINAL GANG ACTIVITY REQUIRES A MUCH LARGER, MORE DIVERSE, AND MORE SOPHISTICATED RESPONSE. ALTHOUGH MANY STATE AND

LOCAL LAW ENFORCEMENT AGENCIES ARE UTILIZING THE LATEST TECHNIQUES TO COMBAT GANG ACTIVITY, THE INCREASING SIZE OF THE PROBLEM NECESSITATES ADDITIONAL RESOURCES THAT ARE BEYOND THE REACH OF STATE AND LOCAL GOVERNMENTS IN CERTAIN AREAS OF THE COUNTRY. THE FOLLOWING FACTORS HAVE SIGNIFICANTLY CONTRIBUTED TO THE ESCALATION OF GANG ACTIVITIES AND THEIR IMPACT.

- SUBSTANTIAL INCREASES IN GANG MEMBERSHIP, PARTICULARLY IN HEAVILY IMPACTED AREAS, HAVE MADE IT EXTREMELY DIFFICULT TO HANDLE ALL OF THE DEMANDS CREATED BY CRIMINAL GANG ACTIVITY.
- GREATER USE BY GANGS OF SOPHISTICATED ELECTRONIC COMMUNICATIONS DEVICES.
- THE DEVELOPMENT OF COMPLEX, HIGHLY-ORGANIZED DRUG DISTRIBUTION AND SALES NETWORKS, BOTH WITHIN VARIOUS STATES AS WELL AS ACROSS THE NATION.
- INCREASED LEVELS OF WITNESS INTIMIDATION BY GANGS DURING COURT PROCEEDINGS.
- INCREASED ALLIANCES WITH FOREIGN CRIMINAL ELEMENTS INVOLVED IN DRUG TRAFFICKING.

IN ADDITION TO SUPPRESSION EFFORTS, STATE AND LOCAL GOVERNMENTS SHOULD BE ENCOURAGED TO DEVELOP INTERVENTION PROGRAMS TO HELP GANG MEMBERS, PARTICULARLY JUVENILES, LEAVE THESE GANGS. THE GOVERNORS SHOULD IDENTIFY AND SHARE BEST PRACTICES OF SUCCESSFUL PREVENTION AND INTERVENTION EFFORTS.

40.3 COORDINATION

UNDER THE PROVISIONS OF THE 1994 FEDERAL CRIME ACT, CONGRESS PROVIDED THAT THE GOVERNORS WOULD DESIGNATE WHICH STATE AGENCY WOULD BE RESPONSIBLE FOR THE IMPLEMENTATION OF THE ACT. THIS DESIGNATION RECOGNIZED THE FACT THAT THE STATES' CHIEF EXECUTIVES WERE IN THE BEST POSITION TO PROVIDE THE PROPER COORDINATION OF CRIMINAL JUSTICE RESOURCES. THIS SAME PREMISE IS APPLICABLE IN PLANNING AND DETERMINING THE TYPE OF ACTIVITIES AND ASSISTANCE THAT SHOULD BE IMPLEMENTED IN DEALING WITH CRIMINAL GANG ACTIVITY. ANY EFFORT DESIGNED TO EFFECTIVELY IMPACT CRIMINAL GANG ACTIVITY WILL HAVE TO BE, OUT OF NECESSITY, A HIGHLY COORDINATED AND COOPERATIVE EFFORT UTILIZING:

- BOTH INTRA- AND INTERSTATE TASK FORCES AND WORKING GROUPS;
- FEDERAL LAW ENFORCEMENT AND INTELLIGENCE RESOURCES, INCLUDING AN EXPANDED COORDINATION BETWEEN FEDERAL LAW ENFORCEMENT AGENCIES INVOLVED IN COMBATING CRIMINAL ACTIVITIES; AND
- INFORMATION-SHARING TECHNOLOGIES.

THE GOVERNORS ARE THE OFFICIALS BEST POSITIONED TO COORDINATE SUCH ACTIVITIES, INCLUDING THE USE OF VARIOUS FEDERAL RESOURCES.

40.4 FEDERAL ROLE

GIVEN THE FACT THAT RAPIDLY EXPANDING CRIMINAL GANG ACTIVITY IS BEGINNING TO OVERBURDEN AND OUTPACE STATE AND LOCAL LAW ENFORCEMENT AGENCIES IN SOME AREAS, AND GIVEN THE GROWING INTERSTATE NATURE OF GANGS, THERE IS AN URGENT NEED FOR CERTAIN KINDS OF TECHNICAL ASSISTANCE FROM THE FEDERAL GOVERNMENT. THIS ASSISTANCE MUST BE COORDINATED WITH STATE AND LOCAL LAW ENFORCEMENT EFFORTS.

ALTHOUGH THE GOVERNORS OPPOSE THE FEDERALIZATION OF CRIMINAL LAWS UNDER STATE JURISDICTION, THE GOVERNORS ALSO BELIEVE THAT U.S. ATTORNEYS SHOULD INCREASE THEIR EFFORTS TO PROSECUTE GANG MEMBERS FOR VIOLATION OF FEDERAL LAWS.

40.5 URGENCY

INCREASING CRIMINAL GANG ACTIVITY PRESENTS A VERY CLEAR AND PRESENT DANGER TO THE WELL-BEING OF ALL CITIZENS OF THE UNITED STATES. THE GOVERNORS URGE CONGRESS AND THE ADMINISTRATION TO MOVE QUICKLY TO INCREASE SUPPORT FOR STATE AND LOCAL EFFORTS TO COMBAT CRIMINAL GANG ACTIVITY.

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HR-41. HIGH PERFORMANCE BONUSES AND OUTCOMES

41.1 PREAMBLE

THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996, P.L. 104-193, PROVIDES \$1 BILLION OVER FIVE YEARS FOR BONUSES TO REWARD HIGH PERFORMING STATES. THE LAW REQUIRES THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, IN CONSULTATION WITH THE NATIONAL GOVERNORS' ASSOCIATION (NGA) AND THE AMERICAN PUBLIC WELFARE ASSOCIATION (APWA), TO DEVELOP A FORMULA BY AUGUST 22, 1997, FOR MEASURING STATE PERFORMANCE IN ACHIEVING THE GOALS OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM. THE AMOUNT AWARDED TO EACH HIGH PERFORMING STATE SHALL NOT EXCEED 5 PERCENT OF THE STATE'S TANF GRANT.

41.2 LEGISLATIVE GOALS

THE GOVERNORS GENERALLY SUPPORT THE BROAD GOALS STATED IN THE FEDERAL WELFARE REFORM LAW. FEDERAL LAW STATES THAT THE PURPOSE OF TANF IS TO INCREASE THE FLEXIBILITY OF STATES IN OPERATING A PROGRAM DESIGNED TO:

1. PROVIDE ASSISTANCE TO NEEDY FAMILIES SO THAT CHILDREN MAY BE CARED FOR IN THEIR OWN HOMES OR IN THE HOMES OF RELATIVES;
2. END THE DEPENDENCE OF NEEDY PARENTS ON GOVERNMENT BENEFITS BY PROMOTING JOB PREPARATION, WORK, AND MARRIAGE;
3. PREVENT AND REDUCE THE INCIDENCE OF OUT-OF-WEDLOCK PREGNANCIES AND ESTABLISH ANNUAL NUMERICAL GOALS FOR PREVENTING AND REDUCING THE INCIDENCE OF THESE PREGNANCIES; AND
4. ENCOURAGE THE FORMATION AND MAINTENANCE OF TWO-PARENT FAMILIES.

41.3 PRINCIPLES FOR A HIGH PERFORMANCE BONUS SYSTEM

THE GOVERNORS BELIEVE THAT STATES SHOULD CONTINUE TO PLAY A LEADING ROLE IN PROVIDING INPUT ON THIS CRITICAL ISSUE AND SUPPORT THE FOLLOWING PRINCIPLES DEVELOPED BY A JOINT NGA/APWA WORKGROUP OF STATES. THE HIGH PERFORMANCE BONUS SYSTEM SHOULD:

- BE SIMPLE, CREDIBLE, QUANTIFIABLE, UNDERSTANDABLE TO THE PUBLIC, AND CONSISTENT WITH THE GOALS OF THE LAW;
- FOCUS ON OUTCOMES RATHER THAN PROCESS;

- TAKE VARYING STATE ECONOMIC CIRCUMSTANCES AND POLICIES INTO ACCOUNT AND NOT IMPEDE THE FLEXIBILITY PROVIDED TO STATES UNDER P.L. 104-193;
- MINIMIZE DOUBLE JEOPARDY OR REWARD (FOR EXAMPLE, THE LAW ALREADY PROVIDES BONUSES FOR REDUCING OUT-OF-WEDLOCK BIRTHS, A CASELOAD REDUCTION CREDIT, AND PENALTIES AND INCENTIVES RELATED TO CHILD SUPPORT ENFORCEMENT AND PATERNITY ESTABLISHMENT);
- AVOID ADDITIONAL DATA COLLECTION REQUIREMENTS AND COSTS AND BUILD ON EXISTING SYSTEMS;
- AVOID UNINTENDED CONSEQUENCES;
- FOCUS ON POSITIVE RATHER THAN NEGATIVE MEASURES; AND
- REFLECT THE STRONG EMPHASIS ON EMPLOYMENT AND SELF-SUFFICIENCY IN THE FEDERAL LAW AND IN THE GOVERNORS' IMPLEMENTATION OF THE LAW. THIS EMPHASIS SHOULD INFLUENCE THE MEASURES INCLUDED IN THE SYSTEM AND THE DISTRIBUTION OF BONUS FUNDS.

41.4 MEASURES

THE HIGH PERFORMANCE BONUS SYSTEM SHOULD REWARD TWO IMPORTANT TYPES OF PERFORMANCE: ACHIEVEMENT AND PROGRESS. ACHIEVEMENT MEASURES COMPARE STATES' PERFORMANCE TO EACH OTHER DURING A GIVEN YEAR, WHILE PROGRESS MEASURES COMPARE A STATE'S PERFORMANCE OVER TIME TO ITS PAST PERFORMANCE TO MEASURE IMPROVEMENT. IN SOME CASES, DATA ON ACHIEVEMENT MUST BE ADJUSTED TO RECOGNIZE DIFFERENT STATE CIRCUMSTANCES, SUCH AS ECONOMIC FACTORS, THAT ARE BEYOND THE CONTROL OF THE PROGRAM. THESE TWO TYPES OF MEASURES WILL ALLOW ALL STATES TO HAVE A FAIR OPPORTUNITY TO COMPETE, WHILE AT THE SAME TIME ENCOURAGING AND REWARDING EXCELLENCE.

THE PERFORMANCE SYSTEM SHOULD INCLUDE TWO GROUPS OF MEASURES: CORE NATIONAL MEASURES AND STATE-SELECTED MEASURES.

41.4.1 CORE NATIONAL MEASURES. THE CORE MEASURES SHOULD INCLUDE A SMALL NUMBER OF MEASURES CONSISTENT WITH THE BROAD GOALS OF THE FEDERAL LAW AND STATE PROGRAMS. THESE MEASURES SHOULD USE DATA THAT ARE CONSISTENTLY AVAILABLE IN ALL STATES.

THE MAJORITY OF CORE MEASURES, AND OF BONUS FUNDS, SHOULD BE EMPLOYMENT-RELATED. MEASURES SHOULD RECOGNIZE THE EXTENT TO WHICH PARENTS ARE MAKING THE TRANSITION FROM WELFARE TO PAID EMPLOYMENT AND

MOVING TOWARD SELF-SUFFICIENCY. TO PROMOTE BALANCE BETWEEN THESE TWO OBJECTIVES, AND AVOID UNINTENDED CONSEQUENCES, GOVERNORS RECOMMEND TWO COMPOSITE WORK MEASURES COMBINING BOTH EMPLOYMENT-RELATED OBJECTIVES. GIVEN THAT STATES ARE IN DIFFERENT STAGES OF IMPLEMENTATION AND FACE DIVERSE CIRCUMSTANCES, THERE SHOULD BE ONE COMPOSITE WORK MEASURE FOR ACHIEVEMENT AND ONE FOR PROGRESS.

IN ADDITION, IT IS APPROPRIATE TO MEASURE AND REWARD REDUCTIONS IN BIRTHS TO TEENAGERS. THERE IS EXTENSIVE EVIDENCE THAT TEENAGE MOTHERS ARE MORE LIKELY TO BECOME DEPENDENT ON PUBLIC ASSISTANCE FOR LONG PERIODS OF TIME AND THEIR CHILDREN ARE DISADVANTAGED IN A VARIETY OF WAYS.

41.4.2 STATE-SELECTED MEASURES. THE SYSTEM SHOULD ALSO INCLUDE A "MENU" OF OPTIONAL STATE-SELECTED MEASURES RELATED TO THE STATUS OF FAMILIES AND CHILDREN. STATES COULD CHOOSE TO COMPETE FROM AMONG THESE MEASURES ACCORDING TO THEIR POLICY PRIORITIES AND THEIR ABILITY TO PROVIDE NEEDED DATA. STATE-SELECTED MEASURES WOULD SUPPLEMENT CORE MEASURES IN SEVERAL IMPORTANT WAYS: THEY WOULD HIGHLIGHT THE IMPORTANCE OF WORKING TOWARD THE ACCOMPLISHMENT OF THESE POLICY GOALS FOR ALL STATES WHILE PROVIDING SOME INFORMATION ON THE PERFORMANCE OF SELECTED STATES ON THESE GOALS IN THE INTERIM. THEY ALSO WOULD SERVE A DEVELOPMENTAL FUNCTION BY ALLOWING A SELECT GROUP OF STATES TO FOCUS ON REFINING DATA COLLECTION AND MEASUREMENT. AREAS FOR OPTIONAL MEASURES MIGHT INCLUDE, BUT NOT BE LIMITED TO: DIVERSION FROM CASH ASSISTANCE, SCHOOL ATTENDANCE, LONG-TERM SELF-SUFFICIENCY, CHILD SUPPORT COLLECTIONS, HOUSEHOLD INCOME, AND REDUCTIONS IN DEPENDENCY.

41.5 FORMULA AND DISTRIBUTION ISSUES

THE GOVERNORS BELIEVE THE \$1 BILLION PROVIDED FOR HIGH PERFORMANCE BONUSES SHOULD BE ALLOCATED EVENLY ACROSS THE FIVE-YEAR PERIOD REFERENCED IN FEDERAL LAW. THE FORMULA USED TO AWARD HIGH PERFORMANCE BONUSES SHOULD ALLOCATE THE MAJORITY OF FUNDS TO CORE MEASURES. WITHIN THE CORE MEASURES, PRIMARY WEIGHT SHOULD BE GIVEN TO MEASURES RELATED TO EMPLOYMENT AND SELF-SUFFICIENCY. IN ORDER TO PROMOTE HIGH PERFORMANCE, AWARDS WITHIN THE CORE MEASURES SHOULD BE AVAILABLE BOTH TO THE STATES WITH THE GREATEST ACHIEVEMENT AND TO THE STATES DEMONSTRATING THE GREATEST PROGRESS IN IMPROVING PERFORMANCE.

THE NUMBER OF STATES RECEIVING AWARDS IN EACH CORE AND OPTIONAL CATEGORY SHOULD BE SMALL ENOUGH TO PROMOTE EXCELLENCE AND TO MAINTAIN AWARDS OF SIGNIFICANT SIZE. FOR THE CORE MEASURES, THE GOVERNORS PREFER DETERMINING THE NUMBER OF STATES ELIGIBLE FOR AWARDS RATHER THAN THE SIZE OF EACH AWARD. THE NUMBER OF STATES RECEIVING AWARDS ON EACH STATE-SELECTED MEASURE, AND THE SIZE OF THOSE AWARDS, SHOULD TAKE INTO ACCOUNT THE NUMBER OF STATES COMPETING ON EACH MEASURE. THE SIZE OF THE BONUS PROVIDED TO EACH HIGH PERFORMING STATE SHOULD ACCOUNT FOR THE SIZE OF THE STATE'S TANF BLOCK GRANT. IN LIGHT OF THESE CONSIDERATIONS, PRORATED ADJUSTMENTS MAY BE NECESSARY TO ACCOMMODATE THE FIXED FUNDING LEVEL PROVIDED FOR BONUSES AND THE 5 PERCENT STATUTORY CAP ON EACH STATE'S AWARD.

41.6 OTHER CONSIDERATIONS

THE FEDERAL PERFORMANCE BONUS SYSTEM IS ONLY ONE OF THE AVAILABLE ACCOUNTABILITY TOOLS AND THEREFORE DOES NOT HAVE TO ADDRESS ALL POLICY ISSUES ADDRESSED BY THE FEDERAL LEGISLATION. MANY STATES HAVE EXTENSIVE PERFORMANCE MANAGEMENT, EVALUATION, OR BENCHMARKING SYSTEMS IN PLACE OR UNDER DEVELOPMENT. IN ADDITION, THERE ARE EXTENSIVE REPORTING REQUIREMENTS AND MECHANISMS THROUGHOUT THE FEDERAL LAW.

THE HIGH PERFORMANCE BONUS SYSTEM MUST BE FLEXIBLE AND ALLOW EVOLUTION IN ORDER TO INCORPORATE LESSONS LEARNED OVER TIME ABOUT MEASURES, DATA SOURCES, AND DISTRIBUTION ISSUES. THE SYSTEM SHOULD ALSO PROMOTE AND SUPPORT CONTINUAL IMPROVEMENT AND SHARING OF BEST PRACTICES AMONG STATES. IT MAY BE APPROPRIATE TO IMPLEMENT INTERIM MEASURES FOR THE FIRST SEVERAL YEARS, WHICH COULD BE FURTHER DEVELOPED WITH SUBSTANTIAL STATE INPUT OVER TIME.

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REAFFIRM

**HR-26. RELIGIOUS FREEDOM RESTORATION ACT APPLICATION TO
STATE PRISON INMATES**

The Governors strongly support First Amendment rights that protect an individual's freedom to worship. The Governors also recognize the importance of balancing the interests of prison administrators responsible for running safe and secure facilities with the legitimate claim of prisoners to exercise their right to worship and practice according to their individual religious faiths. Enacted federal legislation disrupts this delicate balance and threatens the ability of prison officials to effectively manage state and local correctional institutions.

Under current federal law, prison regulations governing religious practices are subjected to strict legal scrutiny. This effectively interferes with prison management on a day-to-day basis. For example, correctional institutions can be prohibited from regulating certain types of garments claimed to be religious clothing, which may conceal weapons, narcotics, and other contraband.

In addition to the concerns for safety within our prison facilities, extensive litigation and an explosion of frivolous petitions by prisoners demanding accommodations for specific religious activities has a detrimental impact on the costs of operating correctional institutions. Additional guards, new physical structures, legal expenses, and other additional costs are being incurred at a time when states can least afford expenditures of this nature.

The Governors strongly believe that prison officials require necessary flexibility to enact regulations that allow religious worship, but that also preserve institutional order and safety. For these reasons, the Governors believe Congress should enact legislation without delay that would:

- exclude prison and jail inmates or any person held or incarcerated as a pretrial detainee from provisions of the Religious Freedom Restoration Act; and
- eliminate any liability that may have accrued to state and local governments as a result of the misapplication of the Religious Freedom Restoration Act to individuals who are incarcerated in a state or local correctional, detention, or penal facility.

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