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DEMOCRATIC GOVERNORS' ASSOCIATION

**MEMORANDUM**

**TO:** Democratic Staffs

**FROM:** Katie Whelan  
Richard McGrath

**RE:** Education News Conference By Democratic Governors

**DATE:** February 15, 1999

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To take advantage of the Democratic Governors' presence in Washington and to exploit the Party's favorable public image in addressing the issues of concern to the American people, especially on education, we could hold a news conference on Saturday to have Democratic Governors challenge the Republican-controlled Congress to "go to work on the people's business by acting on important education issues."

Using the release of the Democratic Governors' Education Accomplishments and Priorities as a "hook," the Governors can criticize the Congress for its past failures and challenge Capitol Hill Republicans to act on education initiatives that have been pushed aside by a party with misplaced priorities.

**I - Message Platform for Democratic Governors.**

The Democratic Governors could reinforce their strength on the education issue by:

- Using the release of the Accomplishments & Priorities booklet as a vehicle for discussing the importance of more progress on education.

- **Point to past accomplishments on education to enhance credibility and to validate knowledge of additional reforms.**
- **Refer to Democratic election victories in which education was the primary issue to underscore the public's support for Democrats on education. South Carolina and Alabama, where Republican incumbents were defeated by Democrats urging dedicated funding for education improvement; Georgia, where the Democrat candidate's association with his predecessor's education agenda was a ticket for electoral success; Iowa, where the Democrat's call for education and economic improvements made him the first Democratic Governor in 30 years; and California, where the Democrat won a decisive victory by emphasizing educational improvements at all levels.**
- **Use the Democratic Governors' goals for education as further reason for action in Washington to support their efforts at the state and local levels.**

## **II - The Need For Action on Education.**

**The focus of the news conference would be the need for Washington to get engaged in the education issue; that needed reforms and improvements would best be made with an active, working partnership among the federal, state and local governments.**

**The support and resources of the federal government should be joined in the shared effort to improve educational opportunities and prepare the nation for the demands of the international economy.**

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### **III – Republican Failures on Education.**

To document the Republicans' failure on education we would point to proposals by the President and Congressional Democrats during the 105<sup>th</sup> session that were ignored, only partially enacted, or enacted only after forceful political pressure.

These would include school construction and modernization, after-school programs, the integration of new technologies, literacy programs and vocational technology programs. The Republicans also tried to slash education funding by \$2 billion, only to be thwarted by Democrats.

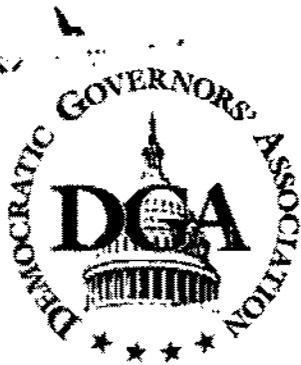
### **IV – Challenge The GOP To Join In Efforts for Education.**

Democratic Governors, who have been in the vanguard on education improvements for years, urge the Republicans in Congress to join with Democrats in Congress and the President, to join in a working partnership for educational excellence. They should get to work on school construction, the funding for more teachers in the classroom, funds to recruit and train teachers and after school programs.

### **V – Vouchers vs. School Choice.**

The wedge issue with the Republicans will be vouchers. Democrats don't have to be defensive on this issue. Actually, we can throw it back at the Republicans by saying vouchers will drain vital resources needed to build a strong system of schools that educate all children, for now and for years to come.

Democrats can point to success on choice programs that keep resources within the system. These include, magnet schools, charter schools, options for students to transfer out of failing schools, as well as other efforts, some of which are already working.



## DEMOCRATIC GOVERNORS' ASSOCIATION

January 15, 1999

Mr. Bruce Reed  
Assistant to the President for Domestic Policy  
The White House  
Washington, DC 20500

*Only if Bonnie  
wants to  
(I'd rather not)*

Dear Bruce:

On behalf of the Democratic Governors' Association, I would like to take this opportunity to invite you to the 1999 Annual Dinner - "A Salute to Democratic Governors" on Monday, February 22, 1999.

As Chairman of the DGA, it is my hope that you can join me and my colleagues and our special guest President Bill Clinton. We will also be joined by the Democratic Leadership of the U.S. House and Senate. The dinner begins at 7:45 p.m. at the National Building Museum on 401 F Street NW in Washington, D.C.

We are extremely pleased with our successes in November 1998 with the addition of new Democratic Governors: Alabama Governor Don Siegelman; California Governor Gray Davis; Iowa Governor Tom Vilsack; South Carolina Governor Jim Hodges; and Virgin Islands Governor Charles Turnbull. We are looking forward to working with these governors in the years ahead.

Not only does the dinner honor all of the 21 Democratic governors of the United States and the American Territories, but we raise money for future Democratic gubernatorial candidates. We are in full swing in preparing for the three Governors races to be held in 1999 as well as the eleven Governors races in the year 2000. Your support can help ensure Democratic victories in gubernatorial races.

Enclosed you will find an invitation for the dinner. Please fax the attached form to DGA Political Director Alison McLaurin at (202) 479-5156 by Monday, February 1, 1999. If you have additional questions, you can call Alison at (202) 479-5133. We look forward to your continued support this year and in future years to come.

Sincerely,

*Frank O'Bannon*

Governor Frank O'Bannon  
Chair

**1999 DGA ANNUAL GOVERNORS' DINNER**

**Monday, February 22, 1999  
7:00 p.m. Governors' Reception  
7:45 p.m. Dinner  
National Building Museum, 401 F Street NW  
Washington, DC**

**TIME SENSITIVE MATERIAL**

PLEASE FAX THIS FORM BY FEBRUARY 1, 1999 TO (202) 479-5156.

**NAME: Mr. Bruce Reed**

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**ORGANIZATION:**

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**ADDRESS:**

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**TELEPHONE NUMBER:**

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**FACSIMILE NUMBER:**

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*This invitation is non-transferable. If you have any questions, please call Alison McLaurin at (202) 479-5133.*

**DRAFT**  
**SCHEDULE TIMELINE**

MBH  
mkj

**SATURDAY, FEBRUARY 20, 1999**  
**DGA POLITICAL AND POLICY BRIEFING**  
**RONALD REAGAN INTERNATIONAL TRADE CENTER**  
**1300 PENNSYLVANIA AVENUE NW**

**POLARIS ROOM**  
**CONCOURSE LEVEL**  
**2p.m. - 5 p.m.**

1:30 p.m. - 2:00 p.m.	Democratic Governors' Press Conference	(tentative) Room Hemisphere A
2:00 p.m. - 2:15 p.m.	Welcome and 1999 Races	Governor Frank O'Bannon
2:15 p.m. - 2:40 p.m.	Mood of the Nation/Polling Report	Geoff Garin Gann Hart Yang Frank Greer President, Greer, Margolis, Mitchell & Burns
2:40 p.m.	Questions from Governors to Garin and Greer	
3:00 p.m. - 3:30 p.m.	Presentation by Clinton Administration Officials and Cabinet Secretaries	<i>WH Lead Staff:</i> John Podesta Ann Lewis Bruce Reed Hon. Richard Riley Hon. Donna Shalala  <i>WH Backup Staff:</i> Fred DuVal Josh Gautbaum Mickey Ibarra Doug Sosnik
3:30 p.m.	Questions from Governors to Clinton Officials	
4:00 p.m.	Report from U.S. Senate and House of Representatives	Senator Evan Bayh Congressional Rep. (tba)
4:30 p.m.	Questions from Governors to Congressional Leadership	

**DRAFT**  
**SCHEDULE TIMELINE**

**MONDAY, FEBRUARY 22, 1999**  
**DGA BUSINESS MEETING**  
**JW MARRIOTT HOTEL**  
**1333 PENNSYLVANIA AVENUE NW**  
**SALON 1**  
**7:30 a.m. – 9 a.m.**

7:30 a.m.	Welcoming Remarks	Governor Frank O'Bannon
7:30 a.m.- 7:40 a.m.	1999 and 2000 Gubernatorial Elections	Governor Frank O'Bannon
7:40 a.m. – 7:50 a.m.	DGA Financial Report	Mark Weiner, <i>DGA Treasurer</i>
7:50 a.m. – 8:10 a.m.	Introduction of DNC Chairs/Report from DNC Chairs	Governor Roy Romer, <i>General Chair, DNC</i> Joe Andrew, <i>National Chair, DNC</i>
8:10 a.m.	Questions from Governors to Romer and Andrew	
8:15 a.m.	White House Political Agenda Briefing	Minyon Moore Jack Lew (?) Steve Richetti DuVal or Ibarra
8:30 a.m.	Questions from Governors to White House Officials	
8:45 a.m.	NGA Business	Governor Tom Carper
9:00 a.m.	Adjournment	Governor Frank O'Bannon

Fred Duval 02/16/99 11:14:24 AM

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Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: NGA/DGA mtg - 4:00

Here is some background for the 4:00 meeting, and a suggested agenda:

**Roundtable topics.** We host the Governors at the WH Monday morning from 9:30 - 11:30 in a Roundtable discussion. The topics and presentations are pre-agreed to. This is tentatively what it would look like:

**OPEN PRESS PORTION**

9:30 - Opening Remarks by President - topic tbd  
Opening Remarks by Governors Carper and Leavitt  
Opening Remarks by Vice President -topic tbd

**CLOSE PRESS**

10:00 - First Topic Presentation: Tobacco Recoupment  
Presenter: Gov Patton  
Gov Rowland  
Response: POTUS/Reed?/Shalala?  
Brief discussion

10:25 - Second Topic Presentation: Ed-Flex  
Presenter: Gov O'Bannon  
Response: POTUS/Riley?  
Brief Discussion

10:45 - Third Topic Presentation: ESEA/Accountability  
Presenter: Gov Hunt  
Gov Ridge  
Response: POTUS/Riley?

11:10 - Q and A  
First Question: Livability - Gov Glendening  
Response: POTUS/Browner?

Second Question: Federalism and Regulatory Reform - Gov Englar  
Response: POTUS/ Katzen?

11:30 - Adjourn - Governors proceed to Stakeout

**Agenda for 4:00 Planning meeting**

1. Agree on Topic selection and Administration participants
2. Ed-Flex policy
3. Wed Conf call 4:30 - 6:00 (if Riley) with Democratic governors - participants/message
4. Organize Sat (3:00 to 4:00) DGA presentation
5. Radio address subject and timing

**Message Sent To:**

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Steve Ricchetti/WHO/EOP  
Douglas B. Sosnik/WHO/EOP  
Ann F. Lewis/WHO/EOP  
Mickey Ibarra/WHO/EOP  
Elena Kagan/OPD/EOP  
Bruce N. Reed/OPD/EOP  
William H. White Jr./WHO/EOP  
Monica M. Dixon/OVP @ OVP

**--Draft Statement on Democratic Governors' Priorities--**  
**(February 15, 1999)**

Democratic Governors have a record of success on the vital needs of the great majority of working families and are working to achieve progress on the priority issues for all Americans. We believe that the demands of the rapidly-evolving economy, powered by continual changes in technology, offer unique opportunities that should not be lost to neglect or complacency.

Benefiting from the nation's strong and sustained economic expansion and embracing the great resolve of the American people, we are well positioned to solve today's problems and prepare for the challenges of the future. With 18 million new jobs, the longest period of peacetime growth in history, unemployment at a 29-year low, modest inflation and increasing wages, this is the time to build on our success and invest in the great potential of succeeding generations of Americans.

The President's budget plan provides a solid foundation for America to make steady progress into the 21<sup>st</sup> century. It prudently protects Social Security and Medicare, meets important funding commitments to the states, offers targeted tax relief and provides strategic investments for educational improvement, child care, environmental protection and continued economic expansion. President Clinton's budget sets a high standard for Congress to achieve. Democratic Governors now urge our elected officials in Washington to work in partnership on the priority goals of the American people.

These priorities are:

**I - Educational Excellence.**

Democratic Governors have already achieved success with innovative education reforms. But more needs to be done. Recognizing the imperative for continued progress on education, Democratic Governors are actively working to make our schools the best in the world so that our children are given the skills and knowledge to succeed. We welcome the commitment of the President and Congress in this effort.

We believe the federal government has a role to play in this national commitment to educational excellence. We also believe, however, that the best results are achieved with the decision-making responsibility at the state and local levels. The federal government's programs should support and compliment state and local efforts.

Our education priorities are:

- Early-childhood development to prepare children for a lifetime of learning;
- More teachers, more classrooms and smaller class sizes;
- Accountability standards for teachers, students and administrators;
- Keeping public funds within the public school system so that all students benefit from improved educational opportunities and the public school system is strengthened for generations to come;

- Provide school choice within the public system to improve educational opportunities;
- Teacher training and skills development;
- Performance incentives for teachers and administrators;
- Remedial programs for students in need;
- Mechanisms to turn around failing schools;
- The use of education technology to improve the improve the learning process & to teach high-tech skills;
- Discipline rules that maintain a safe and secure environment for learning;
- Tuition assistance for higher education.

### **II - Saving Social Security and Preserving Medicare.**

- The burgeoning surplus produced by effective fiscal policies and sustained by strategic economic investments should be used primarily to maintain the long-term solvency of Social Security and to strengthen Medicare. As a nation, we must honor our commitment to the care and well being of aging Americans whose hard work and sacrifice built this country.
- Social Security now provides benefits to 44 million Americans, keeping 15 million from falling into poverty. With more Americans living longer and the first wave of the baby boom generation approaching retirement age, the number of senior citizens eligible for Social Security benefits will double by the year 2030.
- The interrelationship of these federal programs cannot be overlooked and the potential impact of cost shifts to the states from higher Medicaid expenses cannot be ignored. As states struggle to maintain their share of support for seniors citizens and the disabled, any changes to Social Security and Medicare must fully account for costs shifted to the states.

### **III - Affordable and Accessible Health Care & Child Care.**

- Dramatic changes in the health-care industry, coupled with the growing number of working people without medical insurance, give need for affordable and accessible health care.
- The public and private sectors need to be more resourceful in creating incentives for coverage for the uninsured and providing consumer safeguards for members of managed-care programs.
- Both the public and private sectors, sometimes working in partnership, should try to provide affordable child care for the large number of working parents.

### **IV - Expanding Economic Opportunity.**

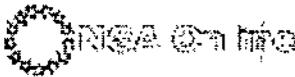
- We should take advantage of the nation's strong economic expansion with targeted investments that create more jobs, nurture the development of new and evolving industries, and facilitate long-term growth.

- **The strong economy of recent years is not reason for complacency. We need to capitalize on the good times by extending opportunities to all Americans in all corners of the country so that no one willing to work is denied employment.**
- **We should pursue job training, investment incentives and economic and fiscal policies that help businesses grow with good paying jobs.**

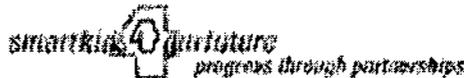
**We need to put the needs and aspiration of the American people first by dedicating ourselves to the issues. We believe Democratic Governors are best equipped to meet these challenges because:**

- 1 -- We already have a record of success on these issues to build upon;**
- 2 -- Our goals reflect the priorities of the American people;**
- 3 -- The Democratic Party is unified at the national, state and local levels in a shared commitment to the priorities of the American public and we are prepared to put people ahead of politics to meet current and future challenges.**

**We find strength in our common commitment and dedication to the issues. Through common-sense wisdom, resourcefulness and the belief that the nation's prosperity should reach all corners of America and embrace all Americans, we will work in partnership to meet the challenges of today and to be prepared for future opportunities. We hope all public officials will join us in this effort – we believe the American people already have.**



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**Saturday  
February 20**

Opening News Conference

Task Force on Information Technology

Welcome

Governor Jim Geringer, Wyoming, Co-Chair

Making Smart Investments for a Digital Government

*Guests:*

John Connors, Vice President and CIO, Microsoft Corporation

John Kost, Vice President, TRW Public Sector Solutions

**Sunday  
February 21**

Plenary Session/Executive Committee\*

Governor Thomas R. Carper, Delaware, Chairman

Welcoming Remarks

Governor Thomas R. Carper, Delaware, Chairman

The Restructuring of the U.S. Economy

*Guest:*

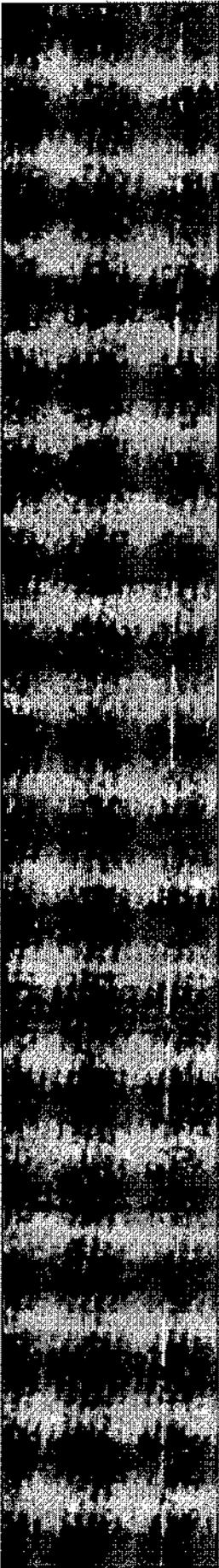
Michael E. Porter, C. Roland Christensen Professor of Business Administration, Harvard Business School

How States Should Respond to the New Economy

*Guests:*

Robert D. Atkinson, Ph.D., Progressive Policy Institute, Technology and New Economy Project

Jeffrey A. Eisenach, Ph.D., President, The Progress and Freedom Foundation



Executive Committee Business

**Committee on Economic Development and Commerce\***

Governor George E. Pataki, New York, Chair

Welcome and Call to Order

Governor George E. Pataki, New York, Chair

Governor Jeanne Shaheen, New Hampshire, Vice Chair

Implementing the Transportation Equity Act for the 21<sup>st</sup> Century (TEA 21)

Governor Paul E. Patton, Kentucky

Governor Edward T. Schafer, North Dakota

Promoting Electronic Commerce

*Guest:*

Linda S. Sanford, General Manager, Global Industries, IBM Corporation

Omproving the Federal-State Trade Partnership

*Guest:*

Secretary William M. Daley, U.S. Department of Commerce

Consideration of Proposed Policies

**Committee on Human Resources\***

Governor James B. Hunt Jr., North Carolina, Chair

Welcome and Call to Order

Governor James B. Hunt Jr., North Carolina, Chair

Governor Mike Huckabee, Arkansas, Vice Chair

Mentoring: Change the Outcome

Governor James B. Hunt Jr., North Carolina

North Carolina Program

Governor Mike Huckabee, Arkansas

Arkansas Program

*Guest:*

Barry R. McCaffrey, Director, Office of National Drug Control Policy

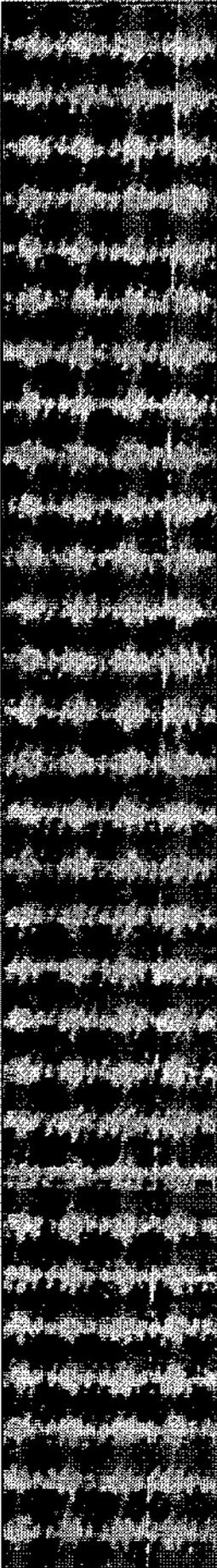
Consideration of Proposed Policies

**Committee on Natural Resources\***

Governor Parris N. Glendening, Maryland, Chair

Welcome and Call to Order

Governor Parris N. Glendening, Maryland, Chair



Governor Edward T. Schafer, North Dakota, Vice Chair

Presentation on Enlibra: A New Doctrine for Shared Decisions

Governor John A. Kitzhaber, Oregon  
Governor Michael O. Leavitt, Utah

Thinking Ahead: Governors' Roundtable Discussion on Open Space and Smart Growth

*Guests:*

Secretary Dan Glickman, U.S. Department of Agriculture  
William H. Hudnut III, Senior Resident Fellow, The Urban Land Institute

America's Enduring Oil Crisis: Governors' Roundtable Discussion on Economic and Strategic Implications

*Remarks:*

Governor Frank Keating, Oklahoma  
Secretary Bill Richardson, U.S. Department of Energy

Consideration of Proposed Policies

Other Committee Business

**Evening with the President and Mrs. Clinton**

*Governors and Spouses Only*

**Monday  
February 22**

**Meeting with the President at White House**

*Governors Only*

**Plenary Session\***

Governor Thomas R. Carper, Delaware, Chairman

Opening Remarks

Governor Thomas R. Carper, Delaware, Chairman

Smarter Kids Task Force: Helping All Students Do Their Best

**Technology**

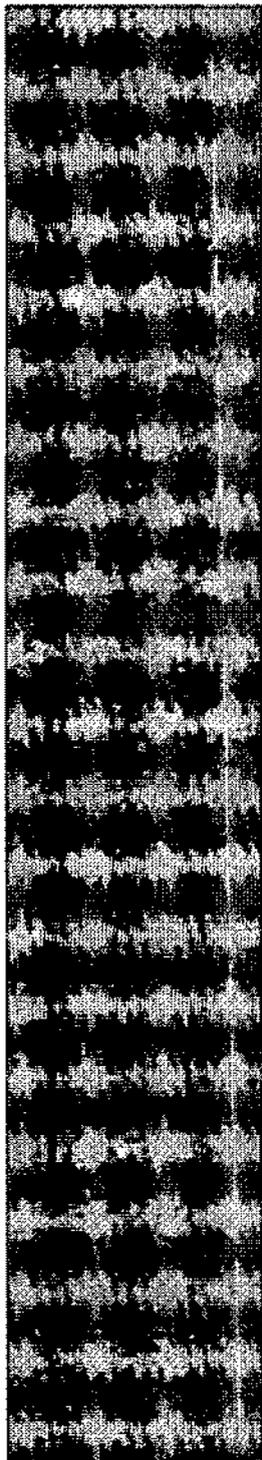
Governor Paul E. Patton, Kentucky, Co-Chair  
Governor Don Sundquist, Tennessee, Co-Chair

*Guest:*

Fred Carrig, Director of Academic Programs, Union City Schools, New Jersey

**Accountability**

Governor Tony Knowles, Alaska, Co-Chair



Governor John G. Rowland, Connecticut, Co-Chair

*Guest:*

Paul G. Vallas, Chief Executive Officer, Chicago Public Schools, Illinois

**Extra Learning Opportunities**

Governor Frank O'Bannon, Indiana, Co-Chair

Governor William J. Janklow, South Dakota, Co-Chair

*Guest:*

Jane Quinn, Program Director, DeWitt Wallace-Reader's Digest Fund

Presentation of Awards for Outstanding State Progress Reports on Education

**Higher Education and Technology**

Governor Michael O. Leavitt, Utah

C. Michael Armstrong, Chairman and CEO, AT&T

**Tuesday  
February 23**

**Plenary Session\***

Governor Thomas R. Carper, Delaware, Chairman

Committee Reports and Consideration of Proposed Policies

The Congressional Agenda

*Guests:*

Representative J. Dennis Hastert, Illinois, Speaker of the U.S. House of Representatives

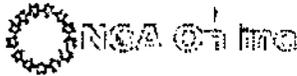
Senator Thomas A. Daschle, South Dakota, Democratic Leader of the U.S. Senate

Representative Richard A. Gephardt, Missouri, Democratic Leader of the U.S. House of Representatives

Senator Trent Lott, Mississippi, Majority Leader of the U.S. Senate

12:15 p.m.-12:45 p.m.

Closing News Conference



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## Scheduled Speakers for the 1999 NGA Winter Meeting

### Saturday, February 20, 1999

[John Connors](#), Vice President and CIO, Microsoft Corporation  
[John Kost](#), Vice President, TRW Public Sector Solutions

### Sunday, February 21, 1999

[Michael E. Porter](#), C. Roland Christensen Professor of Business Administration, Harvard Business School  
[Robert D. Atkinson](#), Ph.D., Progressive Policy Institute, Technology and New Economy Project  
[Jeffrey A. Eisenach](#), Ph.D., President, The Progress and Freedom Foundation  
[Linda S. Sanford](#), General Manager, Global Industries, IBM Corporation  
[Secretary William M. Daley](#), U.S. Department of Commerce  
[Barry R. McCaffrey](#), Director, Office of National Drug Control Policy  
[Secretary Dan Glickman](#), U.S. Department of Agriculture  
[William H. Hudnut III](#), Senior Resident Fellow, The Urban Land Institute  
[Secretary Bill Richardson](#), U.S. Department of Energy

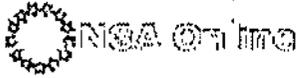
### Monday, February 22, 1999

[Fred Carrig](#), Director of Academic Programs, Union City Schools, New Jersey  
[Paul G. Vallas](#), Chief Executive Officer, Chicago Public Schools, Illinois  
[Jane Quinn](#), Program Director, DeWitt Wallace-Reader's Digest Fund

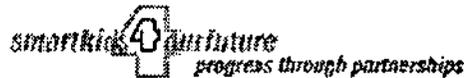
### Tuesday, February 23, 1999

[Representative J. Dennis Hastert](#), Illinois, Speaker of the U.S. House of Representatives  
[Senator Thomas A. Daschle](#), South Dakota, Democratic Leader of the U.S. Senate  
[Representative Richard A. Gephardt](#), Missouri, Democratic Leader of the U.S. House of Representatives  
[Senator Trent Lott](#), Mississippi, Majority Leader of the U.S. Senate

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## Policy at a Glance

The nation's governors will discuss and adopt policies on several important issues at the winter meeting. NGA policy adopted at the meetings forms the basis for the governors' collective lobbying efforts on Capitol Hill. The process starts Sunday, Feb. 21, with each committee's consideration of the proposed policies under its jurisdiction. During the closing plenary session on Tuesday, Feb. 23, all of the governors will vote on proposed policies passed by the committees. Policy must pass by a two-thirds vote during the closing plenary session.

- [Executive Committee](#)
- [Committee on Economic Development and Commerce](#)
- [Committee on Human Resources](#)
- [Committee on Natural Resources](#)

### Executive Committee

#### Streamlining State Sales Taxes

##### *Amendment*

Supports state action to streamline and simplify sales taxes and calls for federal action to ensure that these simplified taxes can be applied fairly to all forms of remote commerce, including mail-order and Internet sales.

#### Ed Flex

##### *Resolution*

Calls for the expansion of the Education Flexibility Demonstration Program to all states.

#### Political Self-Determination

*Reaffirmation of existing policy.*

#### Political Status for Guam

*Reaffirmation of existing policy.*

#### Equal Rights

*Reaffirmation of existing policy.*

### Committee on Economic Development and Commerce

## **Rail Transportation**

### *New policy*

Supports a strong and efficient passenger and freight rail transportation network that enables timely delivery of goods, greater mobility for citizens, and access to local shippers; encourages economic growth; and supports existing federal programs to develop and improve high-speed rail corridors and improve the safety of rail grade crossings.

## **Bankruptcy Reform**

### *New policy*

Supports federal efforts to prevent debtors with the ability to pay part or all of their debts from using Chapter 7 filings to escape their responsibilities. Calls for state claims to be given parity with federal claims, encourages payment of domestic support obligations, and protects the state role in bankruptcy proceedings.

## **Affordable Housing**

### *Amendment*

Supports housing programs that help people with AIDS and programs that address affordable housing and community development in rural America. Asks the federal government to refrain from implementing data tracking systems that have not been adequately tested and that are incompatible with state systems.

## **Air Transportation**

### *Amendment*

Urges that all existing and future revenue dedicated to the Airport and Airway Trust Fund be spent for its intended purposes—airport construction and air traffic control modernization.

## **Federal Economic Development**

### *Amendment*

Incorporates existing policy supporting a national product liability standard, certain tax-exempt bond provisions, and a moratorium on future rounds of military base closures. Adds language clarifying that existing tax-exempt bond policy intended for the volume cap on "private activity" bonds should be raised immediately and indexed to inflation.

## **International Trade**

### *Amendment*

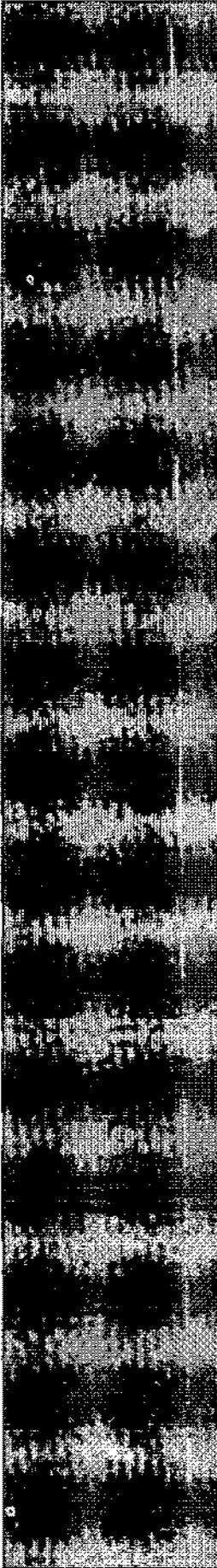
Supports the expansion of trade, reenactment of fast-track trade authority, adequate funding for the International Monetary Fund, continuation of normal trade relations with China, and driver's license reciprocity.

## **TEA-21**

### *Amendment*

Asks Congress and the administration to implement the Transportation Equity Act for the 21st Century in a timely manner and fund federal highway and transit programs at no less than the guaranteed levels in the act.

## **Small Manufacturers**



### *Resolution*

Supports naming 1999 the Year of the Small Manufacturer to recognize small manufacturers' importance to the nation's economy.

### **Indian Gaming**

*Reaffirmation of existing policy.*

## **Committee on Human Resources**

### **Child Support**

#### *New policy*

Supports maintaining a strong federal financial commitment to the child support system. (Current proposals to reform the child support financing system could result in cost-shifts to states.)

### **Domestic Terrorism**

#### *New policy*

Outlines challenges for states in developing a national domestic terrorism preparedness strategy, including handling information needs, managing consequences, and clarifying the role of the National Guard.

### **Community Service**

#### *Amendment*

Calls on community and business leaders to encourage participation in mentoring programs.

### **Immigration and Refugees**

#### *Amendment*

Updates the policy to make it consistent with the 1996 welfare reform law; recognize the "H" visa programs; ensure that state criminal alien assistance funds are released in a timely manner; and ensure that states have a role in refugee resettlement determinations.

### **Long-Term Care**

#### *Amendment*

Calls for increased coordination between Medicaid and Medicare to improve health care for the elderly while maintaining current state and federal funding levels.

### **Emergency Management**

#### *Amendment*

Continues governors' support for the Emergency Management Assistance Compact.

### **HIV/AIDS**

#### *Amendment*

Calls for federal resources to be awarded through states to ensure state and local coordination and encourages federal investments in preventing sexually transmitted diseases and improving access to prenatal care as means to control the spread of HIV.

## Medicaid

### *Amendment*

Continues NGA's opposition to unfunded mandates, prescriptive regulations, and cuts to Medicaid administrative funding. Asserts that the Americans with Disabilities Act was never intended to supersede Medicaid law and should not require deinstitutionalization or new mandatory benefits.

## Private-Sector Health Care

### *Amendment*

Calls for state regulatory control of healthmarts and multiple employer welfare arrangements. Asserts that state laws regarding medical privacy should not be preempted by federal action.

## Welfare

### *Amendment*

Urges Congress not to reduce funding for, or place restrictions on, states' efforts to implement the 1996 welfare reform law.

## National Guard

*Reaffirmation of existing policy.*

## Committee on Natural Resources

### Nonrenewable Resource Revenues

#### *New policy*

Calls on the federal government to share a meaningful portion of revenues from mineral leasing activities on the Outer Continental Shelf for investment in natural resource priorities, including coastal restoration, protection, and impact assistance; park and recreation investments; and wildlife conservation and education. Supports directing balances in the Abandoned Mine Land Trust Fund to states.

### Environmental Justice

#### *Amendment*

Supports consultation with the states to develop a workable alternative to Title IV of the Civil Rights Act that ensures adjudication of environmental justice complaints; has a clear basis in regulation or statute; assists states in preventing or reducing complaints; includes definitions based on peer-reviewed science; and recognizes alternative state programs that satisfy federal requirements.

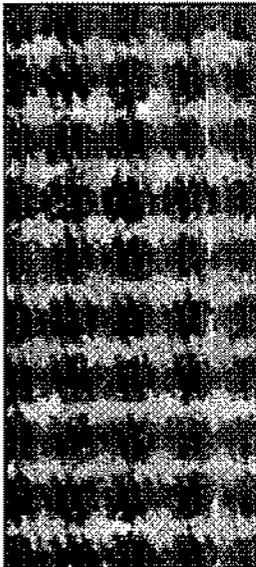
### Environmental Priorities

#### *Amendment*

Supports the formation and use of geologic mapping and spatial data infrastructure and recommends that this infrastructure be implemented equitably among states, local governments, and federal agencies.

### Low-Level Radioactive Waste

#### *Amendment*



Urges Congress to exercise restraint in imposing its views on the management of low-level waste compacts.

### **Pollution Prevention**

#### *Amendment*

Supports the "prevention first" hierarchy, which lists waste minimization first and land disposal last, established in the Pollution Prevention Act of 1990. Suggests that this hierarchy be fully integrated into federal, state, and local environmental protection programs.

#### **Superfund**

*Reaffirmation of existing policy.*



## **EDUCATION FLEXIBILITY**

### **Governors Who Will Discuss:**

Governor Frank O'Bannon (D-IN)

### **Administration Experts Present:**

Bruce Reed  
Secretary Riley

### **What Governors Will Say:**

The governors will remind you that at last year's NGA Winter Meeting, you proposed to expand Ed-Flex from a twelve-state demonstration project to a nationwide program. They will ask you to reiterate your commitment to Ed-Flex by supporting the Frist-Wyden bill, which Senator Lott intends to bring to the Senate floor in the next few weeks. Governors believe that Ed-Flex will accelerate the pace of education reform by freeing states and school districts from certain regulatory burdens. Governor O'Bannon also believes that passing Ed-Flex will remove the pressure to pass broad education block grants as part of ESEA reauthorization.

### **BACKGROUND:**

Under the current Ed-Flex program, the Secretary of Education can delegate to 12 states his authority to waive certain federal rules and regulations. To apply for status as an Ed-Flex state, states must (1) institute a comprehensive school improvement plan approved by the Secretary; (2) agree to waive their own regulatory requirements when they waive federal requirements; and (3) take steps to hold districts and schools affected by the waivers accountable for academic performance.

A state may use Ed-Flex authority to waive requirements relating to a number of programs authorized as part of the ESEA, including Title I, Eisenhower Professional Development, Safe and Drug-Free Schools, and Even Start. Ed-Flex does not apply to the Individuals with Disabilities Education Act (IDEA) or to requirements pertaining to health, safety, civil rights, and parental participation in education. The twelve states with Ed-Flex authority are: Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Michigan, New Mexico, Ohio, Oregon, Texas and Vermont.

In November 1998, a GAO report gave Ed-Flex mixed reviews. The GAO found that while Ed-Flex succeeded in relieving states, districts, and schools of certain regulatory burdens, it failed to ensure accountability for results. GAO found that under the program, some states did very little to monitor and assess the impact of the waivers on student

achievement.

While Democratic Governors are strongly supportive of Ed-Flex, Hill Democrats have greater reservations. They are concerned about the accountability issues raised by the GAO; they are also concerned about the possibility that states will use their Ed-Flex authority to divert Title I and other funds from the most disadvantaged students.

Notwithstanding these reservations, most Senate Democrats have resigned themselves to voting for the Ed-Flex bill. They will use the debate on the bill to strengthen Ed-Flex's accountability provisions and push other education proposals, including our class size initiative. Some House Democrats are now expressing greater real resistance to the Ed-Flex bill, but we would be surprised if they do not eventually adopt the Senate Democrats' more pragmatic position.

Secretary Riley has taken the position that he would like Congress to take up Ed-Flex as part of ESEA reauthorization, rather than as a freestanding bill. He has indicated, however, that he could accept a freestanding bill if it had sufficiently strong accountability provisions.

#### **Administration Talking Points:**

- I continue to support Ed-Flex. I would have preferred that Congress consider this bill as part of the overall reauthorization of the Elementary and Secondary Education Act (ESEA), rather than as a freestanding bill. This would ensure that Ed-Flex is designed to fit the federal education programs of the next five years, rather than the last five years.
- But as Secretary Riley has already told Mike Castle, Tim Roemer, and the other sponsors, if Congress is going to take up Ed-Flex as a stand-alone bill, we need to strengthen the accountability provisions so we can know whether a waiver is getting results and turnaround or drop those that are not succeeding.
- Secretary Riley and Bruce Reed are willing to work with you and members of both parties in both Houses to try to reach a bipartisan agreement on this issue.

#### **Q&A:**

**Q:** What kind of accountability provisions are you demanding be included in an Ed-Flex proposal?

**A:** I believe that we should know whether a waiver is improving student performance and make sure we turnaround or drop waivers that are failing to do so. I am open to a variety of specific proposals, but Ed-Flex ought to contain a mechanism that links waivers to

student performance.

**Q: Will you support amendments to Ed-Flex that raise unrelated issues, such as school construction or class size reduction?**

**A:** I will support amendments of this kind if members of Congress choose to raise them. Ed-Flex is important, but modernizing our schools and reducing class size is even more so. If we are having an education debate prior to reauthorizing the ESEA, we ought to include these important issues.

## **EDUCATION ACCOUNTABILITY**

### **Governors Who Will Discuss:**

Governor Jim Hunt (D-NC)  
Governor Tom Ridge (R-PA)

### **Administration Experts Present:**

Bruce Reed  
Secretary Riley

### **What Governors Will Say:**

Governor Hunt will speak about the positive impact that his accountability initiatives are having in North Carolina. Governor Ridge will likely endorse the concept of accountability, but object to the increasing "federalization" of education. Ridge will say that education is a state and local issue, and that because states provide 93 percent of all education dollars, Washington should not dictate education policy.

### **Administration Talking Points:**

- First, let's recognize that we are making progress. Our children are doing better. SAT scores are up; math scores have risen in nearly all grades. Last week, we learned that our students are making gains in reading. But there's a problem. While our 4th graders outperform their peers in other countries in math and science, our 8th graders are around average, and our 12th graders rank near the bottom.
- I know that there is not a Governor at this table that believes our work is done. I know that because I've read many of your State of the State addresses, and I've followed closely, with the help of Secretary Riley, what is going on in the states in education. Some have even said I'm following education policy in the states too closely -- because I'm stealing all of your best ideas. I plead guilty.
- We need these ideas, because too many schools in depressed communities still fail to give disadvantaged children the tools they need to break their way out of poverty. Too many public school students still move from grade-to-grade without having mastered the basics. And too many of our teachers aren't appropriately prepared to teach the subjects they're assigned to.
- I believe -- as you all believe -- that we must change these things, and hold schools accountable for their performance. As a former governor, I know that states and localities must have primary responsibility for education and must have the flexibility to decide what

to teach and how to teach it, what standards to set for students and teachers, and how to measure students and teachers against those standards. But at the federal level, we should invest in what works and not in what doesn't. We have spent \$118 billion on Title I over the last 30 years, and we certainly have not gotten \$118 billion worth of results. We should put into place the tough accountability measures that the states themselves have shown produce results and increase student achievement.

- So in my proposal to reauthorize the Elementary and Secondary Education Act (ESEA), we will say that states and school districts receiving federal education funds should do certain things.

- They should end social promotion, and give students who are lagging behind the intensive help they need to meet high standards;
- They should phase out the use of unqualified teachers and ensure that all new teachers pass performance and subject matter tests;
- They should take responsibility for turning around their lowest-performing schools by providing intensive intervention and if necessary, by making significant staff changes or closing the school down and reopening it as a charter school;
- They should make sure that parents get annual report cards so they can see how well the schools are working and make informed choices; and
- They should institute effective discipline codes so that schools can be real places of learning.

- A growing number of states, cities, and schools are implementing these reforms. They are, almost without exception, the places making the biggest student achievement gains. I want to build on those efforts and ensure that all our children reap the rewards of these accountability measures.
- I am committed to securing resources to help states take these steps. My FY 2000 budget asks Congress for \$1.4 billion to continue on the path to hire 100,000 teachers to reduce class size in the early grades; \$600 million to fund summer and after-school programs; \$200 million to help states turn around their lowest-performing schools; and a sixfold increase in college scholarships for students who commit to teach in inner cities, isolated rural areas, and Indian communities.

- I ask for your guidance and support as we draft an Education Accountability Act. I am committed to developing legislation that provides a great deal of flexibility in how these accountability measures are designed and carried out. I am not interested in micromanaging anybody. We want to build on the great work being done in states and communities, not interfere with it. This is a debate I welcome. It is a debate whose outcome is vital to the future of our nation. And it is a debate that needs to include each of you.

**Q&A:**

**Q.** If states are already implementing accountability measures, why are you proposing to make them federal policy?

**A.** States and school districts have made great progress in raising academic standards, but not all of them are taking the steps necessary to ensure that schools, teachers, and students meet these high standards.

For example, only 26 states require students to pass high school graduation exams, and far fewer have policies preventing unprepared students from being promoted. Only 19 states have policies in place to intervene in low performing schools and take responsibility for turning them around. And every year, approximately 50,000 individuals teach on "emergency" certificates, which means that they do not meet the standards states themselves have set for beginning teachers.

We need to do better than this. We need to take the education reforms that some states and cities are showing the best results -- ending social promotion, turning around failing schools, phasing out the use of unqualified teachers -- and spread those reforms throughout the nation. I have probably supported more state options for more policies than any President in history -- but I can't think of one good reason why continuing social promotion or ignoring failing schools or hiring unqualified teachers ought to be an option for states or anybody else. We all agree these changes are the right things to do, so let's all agree to do them.

**Q.** Doesn't this amount to a federal takeover of education?

**A.** No. I believe, as strongly as I did when I was a governor, that states and localities must have primary responsibility for education and must have the flexibility to decide what to teach and how to teach it. But I also believe that we should hold schools accountable for results. For our children's sake, we should invest in what works and not in what doesn't. We should put into place the accountability measures that study after study shows produce results and increase student achievement. A growing number of states, cities, and schools are implementing these reforms. They are, almost without exception, the places making the biggest student achievement gains. I want to ensure that all our children reap the rewards of these accountability measures.

**Q.** Will states that decline to adopt these policies lose their share of federal education funds?

**A.** We fully expect that states will adopt these accountability mechanisms, just as they have complied with current law's requirements to adopt academic standards and measure student performance. Governors of both parties, state and local school superintendents,

and other educators know that these reforms work, and many are implementing them already. So we do not expect to face compliance problems. But if we do, we will take steps to ensure compliance and, in the very last resort, we will withhold some or all federal money. We cannot continue to invest in failing educational systems. That would be cheating American taxpayers -- and cheating our children.

**Q. Are you concerned that the requirement to end social promotion will lead to an increase in retention rates, especially for minority youngsters? Won't you have a problem with the civil rights community on this?**

**A.** I believe that when a "no social promotion" policy is done right, it helps all students -- particularly minority and disadvantaged students. We have to insist on high standards and we have to give students the assistance they need to meet these standards -- including reduced class size, more training for teachers, and extended learning time. My FY 2000 budget will help significantly, in particular by tripling funding --from \$200 to \$600 million -- for after-school and summer-school programs that provide extra help to students who need it.

## WELFARE REFORM BACKGROUND

**Q: Will the final welfare regulations respond to the governors' concerns?**

**A:** The draft final welfare regulations are currently under review at the Office of Management and Budget. I know that many governors -- individually and through NGA -- submitted extensive and constructive comments on this regulation, which we greatly appreciate. In addition, we have consulted with State organizations consistent with the regulatory review procedures. Because of your critical role in welfare reform, your comments have been given considerable weight in the rulemaking process and I expect the final rule will address many of your priorities.

### Background

NGA's welfare reform resolution seeks several major changes in the pending TANF regulations including: allowing greater flexibility for programs funded with state maintenance-of-effort funds; narrowing the definition of assistance under TANF so that supports for working families won't be subject to the federal time limit, work requirements, or reporting requirements; providing states maximum flexibility to continue their welfare reform waivers; streamlining data reporting; and allowing more flexibility in the definition of administrative costs.

**NOTE:** Under the Executive Order governing rulemaking, only the President himself can talk about the status of a rule under review; any communications by staff must be made through the Administrator of the Office of Regulatory Affairs at OMB.

**Q: Is the Administration committed to upholding the funding levels agreed to in the welfare reform law?**

**A:** We will continue to support preservation of full funding for the TANF block grant over a five-year period. In particular, we will oppose any attempt to divert the \$3 billion in unobligated TANF funds for other priorities. Since the TANF block grant is fixed, we believe it is prudent for States to reserve some funds should economic conditions change. In addition, States may need to invest more as work requirements increase and as the 'hardest to employ' become a greater proportion of the caseload. We also understand that different states are in different situations: nearly half the states have obligated all of their FY 1998 funds.

### Background

The Governors are urging Congress and the Administration to uphold the commitment in the 1996 welfare reform law to provide five years of fixed TANF block grant funding and to maintain the flexibility of the TANF block grant, including maximum flexibility to transfer funds between TANF and the social services (SSBG) and child care block grants. We share the commitment to preserving the five-year funding levels, and will oppose efforts to divert unobligated funds to

other purposes.

However, your FY 2000 budget does propose two offsets which may be troubling to the Governors.

- The budget proposes to reduce the amount states can transfer from TANF to SSBG from 10% of the TANF block grant to 4.25%, moving up by one year the cap reduction already enacted for FY 2001 as part of the transportation reauthorization bill. This offset allows us to restore funding for SSBG to its fully authorized level of \$2.38 billion -- the level the Governors agreed to as part of the welfare reform law in 1996 (another priority of the Governors). Preliminary data show that, in FY 98, 36 States used their flexibility to transfer funds from TANF to SSBG, of which 28 States transferred more than 4.25%. However, the restoration of SSBG funding in FY 2000 does reduce the need to transfer funds from TANF to SSBG to make up for SSBG cuts.
- The budget freezes supplemental TANF grants at the FY 99 level for all eligible States. Currently, low-benefit States with population growth get 2.5% increases in their TANF grants each year. Under our budget proposal, 17 States that received an increase in FY 99 will not receive an additional increase in FY 2000.

**Q: Why is the Administration proposing new strings on Welfare-to-Work funds?**

**A:** First, we should all commit to work together to reauthorize the Welfare-to-Work program, so that these funds will continue. Some in Congress believe that there is no longer a need for those funds -- especially given unobligated TANF funds. But I know there are many good reasons why some states have not obligated all their TANF funds, including the need to put funds aside for a rainy day. In addition, I believe that the Welfare-to-Work funds complement rather than duplicate the TANF block grant funds, because they are focused on long-term welfare recipients with the greatest challenges to employment are targeted to those areas with the greatest need.

In my \$1 billion reauthorization of Welfare-to-Work, I will maintain the program's focus on long-term welfare recipients, while streamlining some of the eligibility criteria that I understand many States found got in the way of serving those most in need. That change means there will be fewer strings than in the current program. In addition, I am proposing that the Welfare-to-Work funds build on the responsible fatherhood efforts initiated by a number of Governors, by focusing a minimum of \$150 million on increasing the employment of low-income fathers so they can better meet their responsibilities to their children. States such as Missouri, Nevada and Wisconsin have already focused much of their Welfare-to-Work money on this population, and now I'm proposing that all States do so.

Background

In the Republican radio address on January 30th, Governor Keating touted the Governors' success with welfare reform, but charged that the Administration was proposing to shift some welfare funds into programs with more strings attached. We believe these claims are unwarranted -- in fact, your proposed reauthorization of Welfare-to-Work would streamline eligibility criteria that many States have expressed concerns about. We also do not believe the proposal to require each State to spend at least 20% of their Welfare-to-Work funds on fathers is particularly burdensome: many Governors are committed to promoting responsible fatherhood and the reauthorization would allow them to spend Welfare-to-Work funds on a broader population of low-income fathers than they can under current law.

In FY 1998, 44 States plus D.C., Guam, Puerto Rico, and the Virgin Islands claimed the Welfare-to-Work formula funds, though 6 States did not (ID, MS, OH, SD, UT, WY). In addition, in FY 1998, the Department of Labor received approximately 1,400 applications totaling approximately \$5 billion for Welfare-to-Work competitive grants funds, but only had sufficient funds to award \$468 million to 126 grantees.

## **TOBACCO RECOUPMENT**

### **Governors Who Will Discuss:**

Governor John Rowland (R-CT)

Governor Paul Patton (D-KY)

### **Administration Experts Present:**

Bruce Reed

Secretary Shalala

### **What Governors Will Say:**

The NGA's top legislative priority for the 106th Congress is the Hutchison-Graham bill, which protects tobacco settlement funds awarded to states from claims by the federal government. The Governors will argue that there is no basis for federal recoupment because (1) the states assumed all the burden and risks of litigation and (2) much of the settlement money is for non-Medicaid claims. In an NGA statement, Governors Carper and Leavitt said, "After bearing all the risks initiating the suits and all the expense of years of arduous negotiations and litigation, states are now entitled to all of the funds awarded to them in the tobacco settlement without federal seizure. States should not be hindered from using the settlement funds for programs to promote the health, education, and welfare of their citizens."

### **Administration Talking Points:**

- The state tobacco settlement is a real step in the right direction and I congratulate you.
- I know we all share a commitment to reducing youth smoking. Every day, 3,000 children become regular smokers and 1,000 have their lives shortened as a result. Almost 90 percent of adult smokers began smoking by age 18. Today, 37 percent of all high school students smoke cigarettes.
- We also all share a commitment to protecting tobacco farmers. I am pleased that the states and industry were able to negotiate a package to compensate farmers and I remain committed to protecting tobacco farmers and their communities.
- While the state settlement is a real step in the right direction, I believe we must do more protect children and reduce youth smoking. I will continue to push for legislation to increase the price of cigarettes so fewer young people start to smoke, hold the tobacco companies accountable for their youth marketing practices, and reaffirm the Food and Drug Administration's authority to regulate tobacco products. In addition, as you know, the federal government is bringing suit to recover from the tobacco companies the health care costs incurred in Medicare and other federal programs as a result of smoking.

- On the question of tobacco recoupment, we have an obligation under current Medicaid law to recoup the federal share of the tobacco settlement. As you know the federal government pays an average of 57 percent of Medicaid costs, and states routinely reimburse us for the federal share of Medicaid collections. I realize that there is some debate about how much of the settlement represents Medicaid damages, but both the Justice Department and HHS have analyzed this question and concluded that the bulk of the settlement is for Medicaid.
- But I want you to know that I am committed to working with you and members of Congress to change the law, to enact legislation to settle the federal government's claims in exchange for a commitment by the states to use tobacco money to prevent youth smoking, protect tobacco farmers, improve public health, and assist children. My budget specifically assumes no recoupment until FY 2001 so that we can reach an agreement this year. I hope we can start work on this kind of agreement as soon as possible.
- I will, however, vigorously oppose any legislation which would completely give up the federal share of the states' tobacco settlement -- without any commitment by the states to use these monies to prevent youth smoking, protect tobacco farmers, improve public health, or assist children. I know that most states will do the right things with this money, but I cannot waive federal claims without appropriate assurances that the federal share will be used for these purposes.

**O&A:**

**Q: Why are you trying to recoup state funds when you are filing a federal lawsuit to obtain reimbursement for federal tobacco-related costs?**

A: These two claims are separate and distinct. Under current law, the federal government cannot pursue Medicaid claims directly; states are under a legal obligation to pursue them and the federal government must recoup its share from the states. The Justice Department litigation will seek reimburse for federal claims outside of Medicaid, including tobacco-related health costs in Medicare, the Federal Employee Health Benefits program, military and veterans benefits, and the Indian Health Service.

**Q: You say you want a commitment from the states to spend the federal share of the state tobacco settlement on certain shared national and state priorities. What exactly do you have in mind?**

A: I am seeking a commitment from the states to use tobacco money to prevent youth smoking, protect tobacco farmers, improve public health, and assist children. I want to work with you and with Congress to devise a specific menu which meets these purposes as we were able to do last year in the McCain legislation. We will have to rethink some issues this year -- for example the McCain bill had other spending for tobacco prevention and farmers and thus the menu did not include those items.

**Q: Our state has agreed to spend all the state tobacco funds on preventing youth smoking and other important public health needs. Why should we have to change our plans to fit a bill written here in Washington?**

A: I want to enact legislation that will enable states like yours to continue your efforts to reduce youth smoking. I just want some assurance that every state will use these funds to prevent youth smoking, protect tobacco farmers, improve public health, or assist children.

**Q: Our legislature is meeting now and will be appropriating our budget over the next two months. We can't wait for months for this legislation to be finished!**

A: I understand your concerns and I couldn't agree more that we should enact this legislation as soon as possible.

**Q. Isn't it contradictory to bring suit against the tobacco companies and try to protect farmers?**

A. I have repeatedly reaffirmed my commitment to protecting tobacco farmers and their communities and I believe we can reduce youth smoking and also protect tobacco farmers. I am encouraged that the states and industry were able to agree recently upon a \$5 billion package to compensate farmers. I will continue to work with all parties to ensure the financial well-being of tobacco farmers, their families, and their communities. Farmers who never marketed cigarettes to children and worked hard to sell a legal crop should be protected.

THE WHITE HOUSE  
WASHINGTON

February 19, 1999

MEMORANDUM TO THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Summary and Analysis of NGA Resolutions

**HR-2: Immigration And Refugee Policy**

**Summary**

The resolution calls for increased enforcement against illegal immigration, including efforts at the border, such as hiring more Border Patrol agents, and efforts in the interior, such as identifying and removing criminal aliens, combating alien smuggling and document fraud, and barring the employment of illegal aliens. The resolution calls on the Immigration and Naturalization Service to eliminate backlogs in naturalization and other immigration benefits. Further, on a variety of immigration related issues, the resolution requests increased federal consultation with states and increased federal funding commensurate with federal responsibility for immigration policy. NGA urges the federal government to continue to support refugees and not to shift these costs to state and local governments.

**Analysis**

The Administration's budget helps combat illegal immigration by:

- Funding nearly 9,000 Border patrol agents, a 122 percent increase since FY 1993, while also enhancing technology and facilitating legal border traffic; and
- Enhancing interior enforcement by providing \$20 million and 185 new positions to identify and remove criminal aliens from the United States, deter and dismantle smuggling organizations, and block employer access to illegal workers.

The Administration is improving customer service and reducing the waiting time for naturalization through \$124 million in new funding and a comprehensive set of administrative reforms. The Administration also has succeeded in restoring certain benefits to legal immigrants that were cut off by the welfare law. This year's budget builds on this progress by proposing to restore disability, health, and nutrition benefits to additional categories of legal immigrants, at cost of \$1.3 billion over five years.

## **HR-14: Child Support Financing**

### **Summary**

The NGA resolution states that any reduction in the federal government's financial commitment to the child support system would be a breach of the 1996 welfare reform act and could negatively affect states' ability to serve families. The resolution expresses appreciation for efforts the Administration has made in the past year to consult with states on issues related to CSE financing, and argues that the financing system should not be restructured at this time. In addition, the governors call for a continuation of the "hold harmless" provision which guarantees states their 1995 share of child support collections despite falling welfare caseloads.

### **Analysis**

During the last year, the Administration conducted an extensive consultation process regarding child support financing that included both the NGA and the states. Through this process, we are seeking to develop legislation that will: 1) maximize collections and support for all families in the program; 2) maximize paternity establishment; 3) give priority to increasing payments to families, while ensuring federal budget cost neutrality; 4) create incentives for state and local investment of staff and resources needed to improve performance; and 5) promote national standards and ease of interstate case processing, while maintaining state flexibility.

This year's budget, like last year's, proposes to eliminate the child support "hold harmless" provision which guarantees states their 1995 share of child support collections. Originally designed to protect states from the results of new rules determining what share of child support was retained by the family versus the state, the hold harmless provision has instead guaranteed states funds despite falling welfare caseloads. The budget also lowers the federal match for paternity establishment from the enhanced 90 percent level established to encourage states to adopt the practice to the normal 66 percent match level. The third change will require states to review and revise the amount of support orders for TANF families every three years, which will increase the amount of support collected for families. Together these changes are estimated to save less than \$500 million over five years.

## **HR-16: MEDICAID**

### **16.2.1: The Federal Commitment to the Medicaid Program**

#### **Summary**

NGA is concerned about proposals to reduce the federal match for or cap the federal commitment to the Medicaid program, believing there is no way to reduce funds without jeopardizing patient protections and other critical program functions. In addition, NGA feels strongly that Medicaid expenditures should not be cut as part of efforts to balance the budget.

### **Analysis**

The Administration does not support either a cap on federal Medicaid spending or any federal matching rate reductions. The President's FY 2000 budget proposal reduces Medicaid administrative payments to offset the overall rise in Medicaid administrative costs as states shift costs that were previously charged to AFDC to Medicaid.

### **16.2.2: Medicaid Mandates**

#### **Summary**

NGA is calling on Congress to enact statutory language to clarify that a cut or a cap on the Medicaid program without new or expanded flexibility is an unfunded mandate.

#### **Analysis**

It is not clear that the Unfunded Mandate Act should cover changes in Medicaid policy. All Medicaid spending is matched at some rate by the Federal government. This Administration has both given states significant flexibility in Medicaid and made appropriate policy changes to ensure the fiscal integrity of this program. Thus, this extension does not appear to be needed.

### **16.2.3: Medicaid and Medicare**

#### **Summary**

NGA would like additional flexibility to integrate Medicaid and Medicare funding streams, benefit packages, and delivery systems in order to improve on fragmented systems of care.

#### **Analysis**

This Administration has been a strong proponent of budget-neutral demonstrations to improve the effectiveness of Medicare service delivery. This Administration shares the states' commitment to integrating care for dual eligibles and we have demonstrated this commitment by working closely with states to develop creative ways to utilize both Medicaid and Medicare to serve vulnerable populations in a way that is consistent with the statute.

### **16.2.4: Disproportionate Share Hospital Program**

#### **Summary**

NGA is opposed to any further cuts in DSH payments.

#### **Analysis**

There is no change in DSH payments in the President's FY 2000 budget.

### **16.2.5: Budget Neutrality**

#### **Summary**

NGA notes that expenditures in one program often realize savings in others. NGA would like

states to have the flexibility to consider budget neutrality across federal programs, not just for individual programs.

#### **Analysis**

The current way that budget neutrality is determined for Medicaid waivers reflects an agreement made with the NGA in 1993. We have since heard states' concerns about the narrowness of the determination, but are concerned that broadening budget neutrality to include other programs would create additional federal liabilities. Although we are willing to hear how states propose that budget neutrality can be broadened, we have serious concerns about this resolution.

### **16.3.1: Allow States Greater Flexibility to Establish Managed Care Networks**

#### **Summary**

Although NGA is appreciative of the added flexibility that the BBA provided in the design and development of Medicaid managed care networks, it believes HCFA regulations will create so many barriers to full implementation of these networks that the option is not really valid. NGA also wants Congress to clarify that, under federal law, if the state enters into a contract with a provider or HMO that covers the necessary benefits, the state's obligation to provide services is satisfied. Any dispute regarding covered services should be resolved as a contractual matter between the client and provider under state law.

#### **Analysis**

The Administration supports states in their efforts to expand mandatory managed care programs consistent with BBA. HHS is currently in the process of reviewing comments from Governors, Medicaid agencies, managed care organizations and other stakeholders on the proposed regulation, and will give them full consideration.

### **16.3.2: Managed Care Quality Standards**

#### **Summary**

NGA believes that the HCFA regulations governing grievance procedures in Medicaid managed care are overly proscriptive, and that many states have specific grievance and appeal procedures in their plan contracts that are as effective as the federal approach.

#### **Analysis**

The Administration intends to work in partnership with the states to improve the quality of care for Medicaid beneficiaries. When developing the regulation, HCFA was guided by three principles: the preservation of state flexibility wherever possible and appropriate; consistency with the Medicare program; and incorporation of the recommendation of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry.

### **16.3.3: Waivers**

#### **Summary**

NGA believes that states should not have to produce and defend waivers that are “similar to” previously approved ones in other states. NGA argues that developing and securing approval for similar waivers is a waste of both federal and state resources.

#### **Analysis**

Although states often implement similar programs through waivers, no two state waiver programs are the same. Each state’s goals, desired changes, budget neutrality, etc. are unique and thus distinct waivers are required. Thus, we cannot support this resolution. However, this Administration has eliminated the need for managed care waivers, and through eligibility simplification, allowed states to cover new categories of people without waivers (e.g., two-parent families, working families, people with disabilities who return to work).

### **16.3.4: Boren-like Provisions**

#### **Summary**

NGA believes that the same ambiguity that caused problems for states in the Boren amendment exists in other parts of the Medicaid statute governing reimbursement to providers and urges Congress to repeal them in order to preclude any litigation over provider or health plan payment rates.

#### **Analysis**

We are reviewing this issue and will consult with Governors and Medicaid agencies as we do so.

### **16.3.5: Managing Costs in EPSDT**

#### **Summary**

NGA believes that current policy should be modified to allow states to limit the range and cost of services required under EPSDT.

#### **Analysis**

Recognizing states’ concerns about costs, the BBA authorized a study to determine whether and how much EPSDT raises costs. We do not support this resolution while this study is ongoing.

### **16.3.6: Ensure that States will not be Required to Implement Medicaid Program Changes Until HCFA has Published Final Regulations to Guide Program Administration**

#### **Summary**

NGA believes that states should not be held liable for operating under state law or state interpretation of federal statute until the federal regulations are adopted. In addition, NGA feels that states should not be bound by informal policy directives that are issued in violation of the

formal rulemaking process.

#### **Analysis**

The Administration is sensitive to the desire of states to be guided by final regulations that are complete, consistent, and reflect the input of governors and other stakeholders. HHS will give comments from governors full consideration as it drafts the Medicaid managed care final regulations.

#### **16.3.7: Promote Cost Control and Efficiency**

##### **Summary**

NGA believes that mandatory reasonable cost reimbursement strategies should be repealed.

##### **Analysis**

The Administration is committed to carrying out the intent of the Congress to phase out cost-based reimbursement for federally qualified health centers and rural health clinics through the gradual process outlined in the BBA. We will work with states and these community based providers throughout this process to ensure that the delivery of high quality care is not interrupted or impaired.

#### **16.3.8: Assume Full Financial Responsibility for All Low Income Medicare Beneficiaries Who Are Not Otherwise Medicaid-Eligible**

##### **Summary**

NGA believes that the federal government should assume full responsibility for meeting the Medicare cost sharing obligations for low income beneficiaries and for providing the full Medicaid benefit package to these beneficiaries when applicable.

##### **Analysis**

The Administration is committed to ensuring that low income beneficiaries receive the medical care they require. We are committed to maintaining at least the current level of assistance to low income Medicare beneficiaries. Any proposed increase in federal spending would need to be considered in the context of a balanced budget.

#### **16.3.9: Make Audit and Disallowance Policies More Equitable**

##### **Summary**

NGA believes that the Medicaid statute should be revised to prohibit heavy federal penalties when the state violation does not result in direct harm to beneficiaries. States should be held harmless against possible penalties or disallowances for reasonable interpretations of law prior to the issuance of Federal regulations.

**Analysis**

Part of the Federal government's fiduciary responsibility for overseeing the Medicaid program is to employ disallowances for violations such as unauthorized or inappropriate payments, and so we do not agree that penalties should be limited to those violations that directly harm patients. We share the states' concerns that the size of a disallowance be in proportion to the significance of the state violation, but believe this would require a statutory change.

**16.3.10: Allowing Greater Flexibility in Medicaid Home and Community-based Programs****Summary**

NGA requests the authority to administer home and community-based care programs through Medicaid State Plan Amendments rather than through waivers. However, the states would like to retain the ability to limit the number of beneficiaries served under this program. In addition, the states would like to eliminate the current incentives in the Medicaid program to place beneficiaries in institutional care.

**Analysis**

The Administration's FY 2000 budget proposes to eliminate the institutional bias in Medicaid by implementing an equal eligibility standard (300% of SSI) for all institutional home and community based services program, and we are extremely supportive of state efforts in this area. However, the Administration could not support allowing states to implement home and community based services programs that provided services to only a portion of those who would qualify under equal eligibility criteria, as this would fundamentally change the entitlement nature of Medicaid.

**16.3.11: Children who are eligible for Medicaid****Summary**

NGA is opposed to tying receipt of Medicaid funds to achieving increased program enrollment rates.

**Analysis**

The Administration has not proposed to link receipt of Medicaid funds to increased program enrollment rates.

**16.3.12: Flexibility for Optional Eligibility Groups****Summary**

NGA believes that states should have the flexibility to customize a package of optional benefits to meet the particular needs of optional eligibility groups, acknowledging that this would require waiving comparability and statewideness.

**Analysis**

The Administration could not support a program that would change the entitlement nature of

Medicaid by providing services to only a portion of those who would qualify under equal eligibility criteria. We are committed to working with the states through the waiver programs to allow for additional program flexibility while demonstrating improvements in service delivery and cost-efficiency.

### **16.3.13: The Americans With Disabilities Act**

#### **Summary**

NGA believes that recent court decisions have interpreted the ADA in such a way that home and community based services will become an open ended entitlement for people with disabilities. They would like constructive clarification of the parameters of state requirements under the ADA.

#### **Analysis**

The Administration supports state flexibility in designing a range of institutional and home and community based services to serve Medicaid beneficiaries with disabilities. We are committed to working closely with states to ensure the civil rights protections found in the ADA while affording states the flexibility to provide services to each beneficiary in the setting most appropriate to their needs.

### **HR 17: MEDICARE**

#### **17.1: Improving the Coordination of Acute, Primary, and Long Term Care**

##### **Summary**

NGA believes that the lack of coordination between the Medicare and Medicaid programs causes fragmented service delivery and poor clinical outcomes. NGA suggests that the way to end this fragmentation is full integration of funding and care delivery.

##### **Analysis**

The Administration is extremely interested in working with states to develop programs for the integration of acute and long term care. However, the BEA outlined broad parameters for the expansion of Medicare managed care, and we believe that state integrated care demonstrations should stay within this framework. We are also committed to beneficiary choice within the Medicare program, and believe that Medicare beneficiaries should retain the choice as to whether or not to join a managed care program.

#### **17.1 Eliminating Institutional Bias**

##### **Summary**

NGA believes that current Federal policy related to long term care is very complicated and results in care management based on reimbursement instead of need.

### **Analysis**

The Administration shares NGA's commitment to developing community based care options for the disabled. We believe that there is significant flexibility within Medicaid's current structure through the personal care option and the home and community care waiver program to allow recipients access to a comprehensive range of home and community based services. The Administration's FY 2000 budget proposes to eliminate the institutional bias in Medicaid by implementing an equal eligibility standard (300% of SSI) for all institutional home and community based services program, and we are extremely supportive of state efforts in this area.

### **HR-24: National and Community Service**

#### **Summary**

NGA revised this resolution on promoting a system of service and volunteer programs emphasizing that the federal government should provide for sustained federal funding to continue and strengthen local service programs. NGA also affirmed that federal, state and local government officials should be encouraged to serve as mentors and promote personnel policies that allow for flexible time for mentoring activities.

#### **Analysis**

The administration agrees with NGA on the importance of service and volunteer programs. The President's 2000 budget continues and expands the Administration's consistent and strong support for community service through AmeriCorps, the National Senior Service Corps, Service-Learning and other service programs. The FY 2000 budget request includes \$585 million for AmeriCorps, an increase of \$113 million over last year, to expand AmeriCorps to nearly 70,000 members by the year 2000, with the goal of reaching 100,000 members serving each year by 2002. To tap the skills and experience of America's growing senior population, the budget requests \$201 million for the Senior Corps, a \$13 million increase over last year. This level would support an estimated 464,000 retired and senior volunteer program volunteers, 28,200 foster grandparents serving 100,000 children and youth with special needs, and 14,800 senior companions providing support to almost 52,000 adults who have difficulty with daily living tasks.

The administration also supports the efforts of federal employees to contribute their time and resources to their communities, even as they fulfill official responsibilities. On April 22, 1998, the President directed all Federal departments and agencies to explore additional measures to expand service opportunities for Federal employees, including the use of flexible scheduling to allow employees to perform community service.

### **HR-36: Implementation of Welfare Reform**

#### **Summary**

This resolution emphasizes the early success of welfare reform, as well as the remaining challenges to help those remaining on the rolls move into jobs and help those who go to work

succeed in the workforce. The governors lay out principles and recommendations to ensure the continued successful implementation of welfare reform.

#### **Analysis**

Most of these points address the final TANF regulations which are close to being finalized, but several also relate to FY 2000 budget initiatives.

### **36.2.1: Block Grant Funding And Flexibility**

#### **Summary**

The resolution calls on Congress and the Administration to uphold the financial commitment in the 1996 welfare reform law to provide five years of fixed block grant funding and to maintain the flexibility of the TANF block grant, including maximum flexibility to transfer funds between TANF and the social services and child care block grants.

#### **Analysis**

The Administration continues to support preservation of full funding for the TANF block grant over a five-year period. Some in Congress have indicated that the \$3 billion in unobligated TANF funds may be a good way to pay for other priorities. We disagree. Since these funds are fixed based on historic spending levels, it is prudent for states to reserve some funds for a rainy day when economic conditions may change. In addition, states may need to invest more as they face increasing work requirements, approaching time limits, and at the same time, those remaining on the rolls are the 'hardest to employ.'

### **36.2.2 - 36.2.8: Issues Related to the TANF Rule**

#### **Summary**

The resolution, and a recent NGA letter, raise several concerns related to the pending TANF regulations including: allowing greater flexibility for programs funded with State Maintenance of Effort funds; narrowing the definition of assistance under TANF so that supports for working families won't incur the federal time limit, work requirements, or reporting requirements; providing states maximum flexibility to continue their welfare reform waivers; allowing greater flexibility in what counts toward the work requirement; streamlining the data reporting burden; and allowing more flexibility in the definition of administrative costs.

#### **Analysis**

HHS' draft final regulations for TANF are currently under review at the Office of Management and Budget. Governors -- individually and through NGA -- submitted extensive and constructive comments, as did many other interested parties. In addition, the Administration has consulted with state organizations consistent with the Administrative Procedures Act and Executive Order 12866 (which governs the Administration's regulatory review procedures). As critical pillars in the success of welfare reform, the Governors' comments have been given considerable weight in the rulemaking process, and the final rule is

expected to address many of their priorities.

### **36.2.9: Contingency Fund**

#### **Summary**

The Governors recommend modifying the TANF Contingency Fund.

#### **Analysis**

Your budget proposes uncapping the Contingency Fund (currently capped at \$2 billion). In addition, the Administration is currently developing a revenue neutral proposal to submit to Congress to further improve the Contingency Fund, which should address some of the state concerns.

### **36.2.14: State Flexibility to Set Benefit Levels for Families from Other States**

#### **Summary**

The resolution supports the continuation of state flexibility provided in the 1996 welfare reform law to set durational residency requirements on individuals moving from one state to another -- that is, to pay new residents at the benefit levels of their prior state. The Governors maintain such provisions are constitutional.

#### **Analysis**

The United States filed a friend of the court brief with the Supreme Court which essentially supports the states' position on this issue. The Administration's position is that the residency provision in the 1996 welfare reform law is constitutional, and that its residency provision, like other sections of the statute, simply gives states additional flexibility to establish welfare policies that best meet their needs. About one-quarter of the states provide differential benefits to new residents.

### **36.3.2: Job Development/Creation**

#### **Summary**

The resolution emphasizes the importance of private sector involvement in hiring and also challenges the public sector to lead by example and hire welfare recipients.

#### **Analysis**

Your Administration shares a commitment to both these goals, as evidenced by your launching of the successful Welfare-to-Work Partnership which has now enlisted over 10,000 companies (26 Governors serve on the Partnership's National Advisory Council, co-chaired by Governors Carper and Thompson). In addition, the federal government is doing its part -- you challenged federal agencies to hire 10,000 welfare recipients by 2000 and under the leadership of the Vice President, they will meet this goal ahead of schedule.

### **36.3.6: Social Services Block Grant**

#### **Summary**

The Governors urge full funding and flexibility for the Social Services Block Grant.

#### **Analysis**

Your budget restores funding for SSBG to its fully authorized level of \$2.38 billion -- the level the Governors agreed to as part of the welfare reform law in 1996. States use these funds to support a wide range of programs for children and adults including child protection and child welfare, child care, and services for the elderly and disabled. However, the budget also moves forward by one year the 4.25% cap on transfers from TANF to SSBG. While states will argue that this reduces their flexibility, the Administration believes that restoring full funding increases the funds available for SSBG purposes and therefore reduces the need for transfers from TANF to make up SSBG cuts.

### **EC-11: Child Care And Early Education**

#### **Summary**

At last year's meeting, the Governors adopted a strong resolution urging greater investment in child care and early childhood education. The resolution, which remains active for this year, calls for the creation of a seamless child care and early education system that provides a safe, nurturing, and developmentally sound environment for children.

#### **Analysis**

The Governors' policy proposals dovetail well with the child care initiative that you put forth last year and that remains a central part of your budget. Your FY 1999 budget victories on child care -- including enhanced support for after-school care, Head Start, child care quality, and child care research -- address specific needs identified by the Governors. The Governors share your rationales for efforts to improve child care as well as many of our policy prescriptions. Their largest priority for federal action is to maintain state flexibility and provide adequate funding to meet demand, both of which our initiative does through your proposed dramatic expansion of the Child Care and Development Block Grant. Other areas of mutual agreement on the child care agenda include: providing tax incentives for the private sector like our Business Tax Credit; providing tax credits for individuals, like our proposed expansion of the Child and Dependent Care Tax Credit; increased funding for Head Start and Early Head Start, which is included in the FY 2000 budget; and supporting state and local efforts to improve child care quality, like our Early Learning Fund.

### **EDC-14: Affordable Housing**

#### **14.2: Percent Cap On Rental Payments**

### **Summary**

This resolution expresses the NGA's desire for greater flexibility in housing programs in order to assist tenants in public housing who are trying to move from welfare-to-work.

### **Analysis**

Your administration is asking Congress, as part of our request for additional welfare-to-work housing vouchers, for greater waiver authority in the Section 8 statute subject to HUD approval for moving people off welfare into work.

## **14.3: Existing Programs**

### **Summary**

The NGA is requesting increases for a number of programs including the Low-Income Housing Tax Credit (LIHTC), the Community Development Block Grant (CDBG), the Housing Opportunities For People With AIDS (HOPWA) program, among others.

### **Analysis**

We are asking for increases of 7% in HOPWA, a \$1.6 billion increase in the LIHTC, and \$25 million for CDBG. We are also proposing increases of \$10 million for the Home Investment Partnerships (HOME) program. The NGA is also asking for increase in the volume cap for the Mortgage Revenue Bond (MRB) program. Last year you signed an increase in the overall private activity bond cap and this year we are proposing over \$30 billion in bond authority for school construction and Better America Bonds (BABs). The NGA is also asking for quick implementation of HUD's new Mark-to-Market program. HUD is working in consultation with the states on implementation of this program and expects it to be up and running this year.

### **14.3.1: Data Tracking Systems.**

### **Summary**

This resolution expresses NGA's desire that HUD delay implementation of its Analysis Integrated Data Information System (IDIS) until it is ready and field-tested.

### **Analysis**

HUD has had some difficulty in implementing IDIS. This system is designed to improve the efficiency of the agency's grant-making process. The implementation of this system has been a sore point with the Governors because it was not originally rolled out effectively and with adequate consultation. HUD is working with the states to improve the system to get all the problems with the system worked out. At this time 11 states have voluntarily adopted the system.

## **14.4: Programs Serving the Homeless**

### **Summary**

The NGA supports the combining of the seven programs authorized by the Stewart B. McKinney

Homeless Assistance Act into a block grant to state and local governments.

### **Analysis**

The Administration does not believe this proposal is necessary. While the Administration supported the notion of performance-based block grants six years ago, HUD has now administratively consolidated the various McKinney Act programs -- as has the Appropriations Committee. The Continuum of Care provides a coordinated community approach to homelessness in moving persons into jobs and permanent housing. Each community submits a single Continuum of Care plan to HUD that reflects efforts to address the complexities of homelessness through a range of housing and services. These plans are prepared by the private sector, non-profit groups, and local and state governments working together. HUD then determines which individual projects to fund from these plans. The Administration is committed to furthering the benefits of the Continuum of Care. The FY 2000 budget provides \$1.125 billion in homeless assistance -- more than a 15 percent increase from the \$975 million enacted last year.

## **EDC-6: The Role of States, The Federal Government, And Indian Tribal Governments With Respect to Indian Gaming And Other Economic Issues.**

### **Overview**

While recognizing the sovereignty of Tribal governments, the NGA proposes changes to the Indian Gaming Regulatory Act of 1988 (IGRA) which would clarify the role of states and tribal governments in negotiating gaming issues.

#### **6.2.1: Clarification of the Scope of Gaming**

##### **Summary**

The NGA seeks amendments to IGRA that make clear that tribes can negotiate to operate gambling of the same types and subject to the same restrictions that apply to all other gambling in the state. The NGA believes that governors should not be compelled by federal law to negotiate for gambling activities or devices that are not expressly authorized by state law.

##### **Analysis**

The Administration has taken the position in court filings that a state has no duty under IGRA to negotiate with a Tribe with respect to particular Class III (casino-type) gaming that state law completely and affirmatively prohibits. However, the Administration has never taken a position as to what the outcome should be if a type of gaming is neither expressly prohibited nor expressly authorized.

#### **6.2.2: Application of the "Good Faith" Negotiation Standard**

##### **Summary**

The NGA would like to amend IGRA to apply the "good faith" negotiation standard in tribal-state

compacts to tribes as well as states.

#### **Analysis**

While the Administration has never articulated a position on whether the "good faith" negotiation standard should apply to tribes as it does for states, the legislative history indicates that the "good faith" standard was added to address the issue of unequal bargaining power between states and tribes.

### **6.2.3: Regulatory Oversight**

#### **Summary**

The NGA believes that in many cases, federally imposed minimum regulatory standards for the operation of tribal gambling facilities may be appropriate.

#### **Analysis**

The Administration agrees that certain federal minimum standards are necessary.

### **6.3: The Effect of the Seminole Decision on the Authority of the Secretary of the U.S. Department of the Interior**

#### **Summary**

The NGA opposes the Department of the Interior promulgating a rule permitting the Secretary to provide a remedy to a tribe to permit Class III gaming in the event that the state and the tribe are unable to reach agreement and the state then raises immunity as a bar to a suit by the tribe.

#### **Analysis**

The Administration disagrees that the Secretary of the Interior has no authority to create an administrative compact process. While there is a Congressional moratorium on Interior promulgating its rule before March 31, 1999, it is likely that the Interior rule finally issued after that time will authorize the Secretary to create an administrative compact process.

### **6.4: Federal Enforcement**

#### **Summary**

The NGA wants the federal government to actively use existing IGRA enforcement authority to shut down Class III gaming conducted on Indian lands in violation of or in the absence of a tribal-state compact.

#### **Analysis**

The Administration agrees with federal enforcement of unlawful gaming consistent with the Attorney General's tribal gaming enforcement policy.

### **6.5: The Governors' Role in Congressional and Other Federal Decisionmaking**

### **Summary**

The NGA believes that in cases where a new tribe becomes federally recognized, there should be the concurrence of the Governor of the state in which the tribe is located.

### **Analysis**

The Administration opposes the concurrence of states in the process for providing federal recognition to tribes. This function has historically been the sole purview of the federal government. Furthermore, under current procedures, states are permitted to comment on whether a tribe should be federally recognized.

### **6.5.1: Trust Land Acquisition for Gambling Purposes and**

### **6.5.2: Trust Land Acquisition in General**

#### **Summary**

The NGA seeks the commitment to preserve the current required concurrence of a state to acquire land in trust for gambling purposes. In addition, the NGA seeks state concurrence when land is taken into trust for nongaming purposes.

#### **Analysis**

The Administration generally supports state concurrence in trust land acquisition for gambling purposes. However, the Administration opposes gubernatorial concurrence on nongaming trust acquisitions. This is the subject of a proposed rulemaking to be submitted to OMB in the Spring of 1999. The proposed rule will somewhat ease the burdens required to take land into trust for nongaming purposes, but will increase the requirements for consultation with third parties and will provide for a showing of demonstrated need for acquiring land into trust for gaming purposes.

### **6.5.2.1: State and Local Taxation Authority Over New Trust Lands**

#### **Summary**

The NGA seeks a requirement that before new trust land is acquired, the federal government, the state, and the tribe should reach an agreement regarding the application of state and local taxes on the land.

#### **Analysis**

The Administration opposes state and local taxation of new trust land.

### **Addendum: Community Policing and Federal Support for Prisons Background**

While there was no resolution on criminal justice, it is possible that the NGA could raise issues with respect to state and local funding in our FY 2000 budget for administration of justice programs. It is important to note that while overall crime funding is up slightly (\$200 million) from last year, and our COPS proposal will help keep about \$3.6 billion going to the state and local level, our decisions

not to fund Republican-proposed block grants and to cut prison construction funds will mean that total state and local crime funding is about \$1.2 billion lower than last year's high of \$4.8 billion. Three programs may be of particular interest to NGA:

(1) Prisons: The Administration's budget does not provide funding for the Violent Incarceration/Truth-in-Sentencing State prison construction program authorized in the 1994 Crime Act. Instead, our budget provides \$100 million in new funds to help states to comprehensively drug test, sanction, and treat inmates, parolees, and probationers, and continues to provide \$500 million for the State Criminal Alien Assistance Program. Our budget also contains a significant increase in funding for federal prisons, but this is not likely to appease the Governors.

(2) Community Policing: As you know, the COPS Initiative was slated to phase out beginning in FY 2000. Our FY 2000 budget provides \$1.3 billion to roughly maintain the current COPS funding level for a new 21st Century Policing Initiative. In addition to funding more officers, the Initiative will provide more support for statewide law enforcement priorities such as improved criminal history records, crime labs, and police communications. This proposal should be strongly supported by the NGA, as nearly every state police agency has received COPS funding for hiring, training, technology and other non-hiring purposes.

(3) Byrne: The NGA has historically supported full, unearmarked funding for the Byrne Law Enforcement Memorial block grant -- the primary source of state anti-crime funds. Amidst budget pressures and overall reduced funding for state and local crime funds, Byrne was reduced by \$92 million in our budget (from \$552 million in FY 99 to \$460 million in FY 2000).