

TALKING POINTS ON WELFARE REFORM

THE CLINTON ADMINISTRATION WILL INTRODUCE A WELFARE REFORM PLAN THAT BUILDS ON THE WORK OF THE PAST YEAR.

0 The EITC passed last year is the first step in making work pay. The minimum wage job becomes a \$6.00 per hour job when the EITC is fully implemented. .

0 The health care reform plan that has been introduced will allow families that currently stay on welfare or return to welfare to receive adequate health coverage to accept employment and leave the welfare rolls.

THE CLINTON ADMINISTRATION WILL INTRODUCE A WELFARE REFORM PLAN THAT REFLECTS THE FUNDAMENTAL AMERICAN VALUES OF WORK AND RESPONSIBILITY.

0 The welfare offices will be changed from stations that determine eligibility for welfare checks to offices where welfare recipients find work.

0 We will ensure that those who can work, do work.

0 We will ensure that those who do work are better off than those who do not work.

GOVERNMENT DOESN'T RAISE CHILDREN, PARENTS DO.

0 We will strengthen requirements for paternity and tighten child support requirements.

CHILDREN HAVING CHILDREN MEANS A LIFE OF POVERTY FOR THE MOTHER AND CHILD.

0 We will work to reduce teen pregnancy.

0 We will require minor mothers to live with their parents.

0 We will require teen mothers to finish their high school education.

0 Welfare reform must work aggressively to reduce the level of teen pregnancy.

THE CLINTON ADMINISTRATION WILL CONTINUE TO WORK CLOSELY WITH THE NATION'S GOVERNORS IN DEVELOPING THIS WELFARE REFORM PLAN

0 As a former Governor, and as a leader in the NGA's efforts to enact the Family Support Act in 1988, President Clinton is committed to working with the nation's Governors in developing his welfare reform plan.

0 Outreach and consultation with state and local governments have been a central component of the Administration's efforts to make its welfare reform principles a reality. The President's Working Group has collaborated closely with the State and Local Welfare Reform Task Force as well as the NGA's Leadership Team on Welfare Reform.

0 Governors' representatives and other key state officials testified at all public forums held by the Working Group throughout 1993.

0 In briefings with the NGA, its Welfare Reform Task Force, and individual Governors, the Working Group provided information on the progress of the Administration's efforts and solicited advice and input on the State perspective in welfare reform.

STATES HAVE PROVIDED LEADERSHIP IN TESTING KEY PRINCIPLES OF WELFARE REFORM

0 In testing strategies to make work pay, place time limits on welfare benefits, promote parental responsibility, and improve Child Support Enforcement, states have provided real leadership in welfare reform efforts nationwide.

States that are making work pay.

0 To encourage people to work, many States are expanding earning disregards within welfare so that going work does not reduce welfare dollar for dollar. Vermont, Colorado, Virginia, Iowa and Illinois already have received waivers to expand earning disregards and New York, Virginia, Florida, South Dakota, and South Carolina are awaiting approval to do the same.

0 The Federal Earned Income Tax Credit provides up to a 40 percent pay raise to working people with children -- supporting work outside the welfare system. Six States, Vermont, Rhode Island, Maryland, Wisconsin and Minnesota, have their own EITC to give working people the extra money they need to stay off welfare and New York has recently proposed one. In addition, both Minnesota and Michigan have expressed interest in administering the Federal EITC to their citizens so that it can be disbursed in a timely and practical manner.

States that are experimenting with time limits and work requirements.

0 Three States, Vermont, Colorado, and Iowa have made AFDC a time limited benefit followed by work. Recipients are expected to spend the time they are on AFDC training and looking for a job in the private sector. If they reach the time limit without finding a job, then the state will provide them the opportunity to work, most often in community service.

0 The JOBS Program created by the Family Support Act of 1988 helps people get training, education, and employment in order to get off welfare. By narrowing exemptions for JOBS participation, Vermont, Iowa and Utah have dramatically expanded the expectation of work, moving toward a system in which all those who are able to work are expected to work.

States that are promoting parental responsibility.

0 As one step to promote responsibility behavior among teens, several States have taken advantage of the option to require mothers under 18 to live at home, except in extraordinary circumstances. Connecticut, Delaware, Vermont, Maine, Michigan, Wisconsin, and two territories have taken that option.

0 To try to stem the number of teen parents dropping out of high school, several States have made receipt of benefits conditional on school attendance including Vermont, Wyoming, and Illinois. Several other States including Florida and New York hope to implement this as well.

States that are helping two-parent families. The current federal welfare rules favor single parent families, but States are taking steps to provide benefits on an equal basis to two-parent families.

0 Federal rules limit welfare benefits to two parent families to those who are not working more than 100 hours a month and to only those with recent work histories. In the past year, Vermont, Iowa, Wisconsin and Illinois have all eliminated the 100-hour rule and Florida will do so soon.

States that are improving child support enforcement.

0 Early paternity establishment eliminates the costs involved with locating alleged fathers, genetic testing, and court costs. Model Hospital Paternity establishment procedures have been adopted in West Virginia, Virginia, and Washington.

0 To ease the burden on employers and to ensure the collection of child support payments from working parents, eight States have implemented a policy which requires employers to report new hires by forwarding a copy of the W-4 form of which new employee to the State Employment Security Agency or the State Child Support Agency. States can then withhold the wages of these delinquent parents and pay the outstanding child support.

payments. Among the first States to implement new hire reporting are: Georgia, Virginia, Texas, West Virginia, Hawaii, Washington, Massachusetts, California, Minnesota, and Alaska.

0 Colorado and New York have embarked on initiatives to centralize collections and distribution operations. Colorado's Family Support Registry provides a single point of contact for any IV-D case payments or inquiries from parents, employers, and other State Child Support Enforcement agencies.

0 Fourteen States are using the powerful enforcement remedy of restricting or revoking professional, trade, sporting, and vehicle driving licenses for people with child support arrearage.



THE CLINTON ADMINISTRATION HAS EXPEDITED THE WAIVER REVIEW PROCESS

0 To further the Administration's goal of enhanced State flexibility, DHHS and HCFA have become more responsive to States seeking Medicaid waivers. Working closely with the NGA, HCFA has instituted improvements in the application review process, and has clarified policy principles guiding waiver decisions.

0 **Simplification.** HCFA actively works with States, before and after a formal proposal is submitted, to turn innovative concepts into concrete waiver proposals, and we have removed several cumbersome steps States were historically required to meet.

0 **Streamlining.** HCFA's new procedure of concurrent review has significantly reduced the time needed for review and decision of proposals to an average of four months.

0 **Technical Assistance.** HCFA has provided States with recommendations and guidelines for Medicaid pilot projects, and central and regional office staff have actively assisted States in developing ideas and using "lessons learned" from other projects.

0 **Flexibility.** HCFA now measure budget neutrality over the life of the project (as opposed to annually), will consider alternative evaluation designs, and will approve projects for sufficient duration (larger reform projects typically require waivers of five years).

0 **Reallocation of Resources.** HCFA's central and regional offices have identified key personnel to work in teams to facilitate comprehensive review of waiver proposals.

0 Number of waiver approved in 1993 -

THE CLINTON ADMINISTRATION HAS APPROVED STATE INNOVATION IN HEALTH CARE REFORM THROUGH THE MEDICAID WAIVER REVIEW PROCESS

0 As a result of these improvements, HHS has approved Medicaid waivers for comprehensive health reform in five States. Key elements common to each State health reform program are expanded access for the uninsured and increased coordination of care through managed care organizations.

0 The Oregon Medicaid Reform Demonstration was approved on March 19, 1993, with implementation to begin February 1, 1994. Governor Roberts' plan expands Medicaid eligibility to 100 percent of the Federal Poverty Level, and Oregon is testing an innovative method of controlling costs through a prioritized benefit package.

0 Hawaii HealthQUEST was approved on July 15, 1993. Governor Waihee's HealthQUEST demonstration is scheduled to become operational in July, 1994. Hawaii expands Medicaid eligibility to 300 percent of the Federal Poverty Level and will integrate the Medicaid program with other State programs for the uninsured. Hawaii is also the only State with an ERISA exemption which allows Hawaii to enforce an employer mandate.

0 Rhode Island Rite Care was approved on November 1, 1993 and is scheduled to become operational in June, 1994. Governor Sundlun's Rite Care expands Medicaid eligibility to 250 children, and includes a unique feature that allows pregnant women to enroll in an extended family planning program for two years postpartum (rather than the traditional 60-days).

0 Tennessee TennCare was approved on November 18, 1993 and became operational on January 1, 1994. Governor McWherter's TennCare program expands Medicaid eligibility without regard to income and assesses premiums on a sliding scale basis.

0 The Kentucky Medicaid Access and Cost Containment Demonstration was approved on December 9, 1993, and implementation is scheduled for July, 1994. Governor Jones' program expands access to health care to all families up to 100 percent of the Federal Poverty Level and integrates the expansion population with State employees in the same managed care organization.



CRIME AND VIOLENCE

"Violent crime and the fear it provokes are crippling our society, limiting personal freedom and fraying the ties that bind us. The crime bill before Congress gives you a chance to do something about it -- a chance to be tough and smart."

President Clinton
State of the Union Address
January 25, 1994

IT'S TIME TO PASS A CRIME BILL. AMERICANS HAVE WAITED LONG ENOUGH.

- * Personal security has become the most pressing concern in the everyday lives of millions of Americans and their families. People have a right to feel safe, and the first duty of government is to keep them safe.

- * We are in the midst of an epidemic of violence in this country. It is time to put politics and ideology aside and start providing real answers to the real fears of real people. We need more police, more drug courts, more boot camps, and a criminal justice system that keeps violent criminals off the streets. We also need stronger families, better schools, and more work in our communities.

FIGHTING CRIME IS A CENTERPIECE OF THE ADMINISTRATION'S DOMESTIC AGENDA.

- * President Clinton made crime a centerpiece of his State of the Union Address, and challenged Congress to move quickly to pass a crime bill that will reduce and prevent crime and violence.

- * The Administration is seeking action on all fronts:

- Put 100,000 More Police Officers on the Street in Community Policing.** Putting more police on the beat will do more than anything else to catch criminals and prevent crime from occurring in the first place. In December, the Administration awarded grants to 74 cities and towns to expand community policing.

Put Violent, Repeat Offenders Away for Life. Most violent crimes are committed by a small percentage of criminals. We need a criminal justice system that makes sure those who commit crimes serve their sentences, and says to repeat offenders: When you commit a third violent crime, you will be put away, and put away for good -- three strikes and you're out. The Senate crime bill includes more money for prisons.

Pass an Assault Weapons Ban. No other nation allows teenagers to roam the streets with assault weapons, better armed than the police. The President has challenged sportsmen and others to join in this effort to build on the Brady Bill and keep guns out of the hands of criminals. The Senate crime bill includes a ban on the manufacture and sale of assault weapons, the gun of choice for drug dealers and gangs.

Expand Drug Treatment. Drugs are a factor in an enormous percentage of crimes. Recent studies indicate that drug use is on the rise again among young people. The crime bill contains more money for drug treatment for criminal addicts and boot camps for youthful offenders, and the Administration FY95 budget will contain a large increase in funding for drug treatment and drug education.

Give Young People Something to Say Yes to. In America's toughest neighborhoods, meanest streets, and poorest rural areas, we have seen a stunning breakdown of community, family and work -- the heart and soul of civilized society. This has created a vast vacuum into which violence, drugs and gangs have moved. So, even as we say no to crime, we must give people -- especially our young people -- something to say yes to. The Administration has undertaken many initiatives to help rebuild distressed communities, strengthen families, and provide work, including: job training, welfare reform, health reform, Empowerment Zones, reform of the Community Reinvestment Act, and legislation to launch a national network of community development banks.



IMMIGRATION

The major immigration issue among states and localities is fiscal responsibility for illegal immigration and others, such as refugees, the federal government permits to enter. States and localities assert that their budgets are strained under the burden of providing health care, education and incarceration of illegal immigrants and refugees. They believe that because the federal government is solely responsible for immigration policy including border enforcement, it alone should pay the costs incurred for services to illegal immigrants and refugees.

At least three of the governors of the five states (California, Texas, Florida, Illinois and New York) in which most illegal immigrants reside have requested their state attorney's general to pursue a suit against the federal government to recover costs for illegal immigrants and refugees.

- Texas estimates its net costs associated with illegal immigration to be \$166 million;
- California has requested in excess of \$3 billion for illegal immigration and refugee costs;
- Florida estimates its costs to be over \$1 billion for services to illegal immigrants and refugees.

Other than the changes in the law proposed by Governor Wilson (change birthright citizenship, deny education and social services and institute a tamper proof identification card), no state has suggested changes in the law. Rather, states and localities are requesting that the Administration:

- recognize the impact of undocumented aliens on health care costs and commit to a firm and realistic federal subsidy;
- recognize federal responsibility for identifying, incarcerating, processing, deporting illegal aliens and provide adequate funding and resources therefor; and
- more adequate reimbursement of both immigrant and refugee education assistance programs.



THE WHITE HOUSE

WASHINGTON

January 25, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: BRIAN BURKE
DOMESTIC POLICY COUNCIL

SUBJECT: SUPERFUND REAUTHORIZATION:
STATE RECOMMENDATIONS AND THE ADMINISTRATION'S BILL

THE ISSUE

The health, environment and economic development impacts of hazardous waste sites are felt primarily at the state and local level. Accordingly, the Governors are deeply concerned about, and committed to improving the Superfund program so that it achieves its purpose of eliminating unreasonable risks to the public and the environment, as quickly as possible.

The Governors seek a larger role in implementing the Superfund program than current law and policy allow.¹ The Administration's Superfund bill seeks to grant States the larger role they desire.

BACKGROUND

At present, the federal government has primary responsibility for implementing the Superfund program, and has exclusive access to the money in the Superfund. States, however, play a large role in the program's implementation. State standards apply to all cleanups, and states must pay a share of cleanup costs at non-federal facility sites. In addition, states provide input in selecting cleanup remedies.² Due to this overlapping authority and responsibility, federal and state governments often disagree over the degree to which sites should be cleaned up, the remedy to be used, and the allocation of costs. These disagreements contribute to criticisms about the

¹ NGA and ASTSWMO have developed and promoted specific recommendations for increasing State responsibilities and authority in the program. Furthermore, State Superfund managers have been kept well-informed and involved in the development of the Administration's proposed revisions to the Superfund law. Consequently the administration's bill reflects a substantial amount of the changes States have recommended.

² States have been dissatisfied with the limited role in remedy selection afforded them by the statute, and are likely to seek an expanded state role during reauthorization.

control at each Superfund site, thus creating uncertainty, duplication of effort and higher transaction costs.

THE ADMINISTRATION'S SUPERFUND BILL

The Administration's Superfund Reauthorization bill is presently in OMB for interagency review. We anticipate introducing the bill by February 3. Regarding the States, the principle features of the Administration bill are:

- to end the duplication of effort and inefficiencies of having both EPA and the State trying to supervise the same cleanups at the same time;
- to allow States to obtain primary responsibility to clean up all selected Superfund sites within the State. States may either seek authorization to take the lead at all sites within their borders, or they may seek to have EPA refer individual sites. Either "authorization" or "referral" status would give States access to Federal funds for Superfund site cleanups they oversee;
- to allow "authorization" and "referral" States to recover Federal costs and cleanup and to keep the proceeds to support their own hazardous waste cleanup programs;

STATE RECOMMENDATIONS NOT INCLUDED IN THE ADMINISTRATION'S BILL

- States would like access to Federal funding for cleanup at all hazardous waste sites, but, for cost purposes the Administration's bill continues to restrict funding to only sites on the National priorities list;
- Some states want Federal "delegation," under which they could avail themselves of Federal enforcement authority under the Superfund law, rather than "authorization," under which they have to enact their own legislation. The Administration bill provides for "authorization."

CONCLUSION

In addition to the specific State related Superfund improvements set forth above, the States will applaud the Administration's bill because it:

- reduces the time and costs needed to clean up sites;
- makes the liability scheme more fair;
- empowers communities to participate in Superfund decisions; and,
- removes impediments to economic development.

**Community Development Issues that
May arise at NGA and Mayors Conference**

Empowerment Zones: This is a hot topic. We are getting numerous inquiries from mayors and the competitive atmosphere is starting to heat up.

1) Where to get applications:

Call HUD (urban), Andrew Cuomo's Office 708-2690
Call USDA (rural), Bob Nash's Office 720-4581

2) Are the selections already locked up? Have the six big urban zones already been picked?

No! The deadline for submitting applications is June 30. This is a competitive process. We have established selection criteria that are set out in the application materials. All communities must develop a comprehensive strategic plan that identifies how they are going to foster economic opportunity, sustainable community development, and community-based partnerships. No city should think that they are automatically going to be selected.

Community Development Banking and Financial Institutions Bill:
Status: Passed the house last November. Has passed senate banking. Is expected to be taken up by the Senate in February. We need your support to get the bill passed.

Community Reinvestment Act Reform:

Status: The four bank regulators issued proposed performance-based enforcement regulations in December that are currently subject to notice and comment. The proposed regulations would grade CRA compliance primarily upon actual lending, investment and banking service in underserved markets. We hope that you support these regulations and we believe they will help you get substantial new investment into your communities.



EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES: Program Overview

The Empowerment Zones (EZ) and Enterprise Community (EC) program is designed to empower people and communities all across the nation by inspiring Americans to work together to create jobs and opportunity. The Federal government will designate up to 9 EZs and 95 ECs that meet certain poverty and distress criteria and that prepare creative strategic plans for revitalization. (See Application Process Handout for more details).

Key Principles: Four key principles will guide the application and selection process:

- **Economic Opportunity.** Creating jobs within the community, attracting private investment, and expanding access for residents to jobs throughout the region is a first priority to enabling residents to become self-sufficient and communities to revitalize.
- **Sustainable Community Development.** Sustainable economic development can only be successful when part of a coordinated and comprehensive strategy that includes physical and human development, for example, safe streets, clean air and water, lifelong learning and a commitment to personal, family and civic responsibility.
- **Community-Based Partnerships.** A strategic plan for revitalization should start with broad participation of the entire community, including community residents, community groups, private and non-profit sectors, educational and religious institutions and local and state governments.
- **Strategic Vision for Change.** A vision for change is not a laundry list of concerns, shortcomings, and deficits. It is a vision that describes what the community will become -- e.g. a center for emerging technologies, a key export center for farm products. It is also a strategic map that builds on assets and coordinates a response to the needs of the community by integrating economic, physical, human, and other strategies.

Overcoming Federal Barriers: A primary goal of this initiative is to renew the commitment to cooperation among the federal, state and local governments. The Community Enterprise Board will work with all communities that have submitted a strategic plan for change -- even if they are not designated as an EZ or EC -- to overcome programmatic, regulatory, and statutory impediments and encourage more effective economic, human, physical environmental and community development strategies.

Tax Incentives: The legislation included approximately \$2.5 billion in new tax incentives. ECs are eligible for new tax-exempt facility bonds for certain private business activities. Businesses located in EZs will also be afforded an employer wage credit of up to \$3000 per year per employee for wages and training expenses for employees who are zone residents. And zone businesses will be afforded additional Section 179 expensing deductions of up to \$20,000 (for an annual total of up to \$37,500). In addition, although not limited to EZs or ECs, individual investors are eligible for a 50% exclusion of capital gains for investments in

certain small businesses. And, corporate and individual investors may now defer the gain on the sale of publicly traded securities by reinvesting the proceeds in a Specialized Small Business Investment Company (SSBIC) -- an SBA-licensed venture capital firm that provides equity investment and loans to socially and economically disadvantaged businesses.

Social Services Block Grants: The legislation included \$1 billion in flexible social services block grant (SSBG) funds that can be used to promote economic self-sufficiency and reduce dependency. ECs will receive approximately \$3 million in SSBG funds for approved activities identified in their strategic plans. In EZs, designated areas will receive up to \$40 million for each rural zone and up to \$100 million for each urban zone for approved activities identified in their strategic plans.

Private-Sector Investment: Designated EZs and ECs will have a range of tools available to maximize the flow of private capital and investment to their nominated areas. Fannie Mae, for example, has committed to work with EZs and ECs to generate substantial investments for housing and homeownership. Other new initiatives -- such as the President's Community Development Banking and Financial Institutions Bill, the SSBIC rollover provision, and new, proposed Community Reinvestment Act regulations that focus on actual lending and investment in low-income communities -- should also result in substantial new credit investment in underserved communities.

One Stop Capital Shops: The Small Business Administration (SBA) has committed to targeting some of its considerable lending and community development tools to small and minority businesses in distressed communities and underserved markets. Up to 12 One-Stop Capital Shops will be located in designated EZs or ECs, with at least three serving rural areas. The Capital Shops will also serve as national and regional capital distribution points for underserved markets, with each shop having the capacity to provide \$300-400 million in private loans and equity investments over 5 years.

Additional Federal Programs: On September 9, 1993, the President issued a Presidential memorandum creating the Community Enterprise Board and directing 13 agency members of the Board to identify existing programs that further the goals of the EZ/EC initiative and make resources available from those programs for use by EZs and ECs in implementing their strategic plans. Included in the application materials is a menu of programs, including Community Policing and National Service, for which EZs and ECs may receive consideration and technical assistance.

National Challenge to the Private Sector in Each Region: With the EZ/EC application process, and the tools listed above, local communities and governments have a unique opportunity to build strategic alliances with the private sector in their region. Many of the tools, such as the SSBIC rollover, One Stop Capital Shops, and CRA Reform, offer positive incentives to the private sector to get involved. The EZ/EC initiative is a national challenge to all sectors to come together to realize a strategic vision for community revitalization.



LIHEAP

- Energy prices have fallen since the late 1970s making the need for assistance less pressing.
- Also, we believe that in these times of fiscal stringency, it is important to leverage federal resource as much as possible and target them on the people most in need.
- Therefore, we are not just cutting the program but proposing to set aside a larger proportion of the funds to be allocated to states based on their ability to leverage contributions from other sources (utility companies, states, nonprofits, low-income households).
- We are also proposing a limit assistance to the most needy. Currently, those with incomes below 150 percent of poverty or 60 percent of a states median income (whichever is higher) can receive assistance. We are planning to set the threshold at a lower level and may also limit assistance to those not already receiving housing subsidies.
- Overall, we are doing more for the poor through the EITC, WIC, Head Start, child care, Chapter 1, and Empowerment Zones, but we have also tried to reallocate funds to what we believe are the most effective programs -- those that help the working poor and children.



THE WHITE HOUSE

WASHINGTON

January 26, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: BRIAN BURKE
DOMESTIC POLICY COUNCIL

SUBJECT: RENEWABLE OXYGENATES IN THE
REFORMULATED GAS PROGRAM (ETHANOL)

THE ISSUE

The reformulated gasoline provisions of the Clean Air Act Amendments of 1990 require EPA to promulgate a rule requiring the addition of oxygenates¹ to gasoline to make it burn more cleanly in vehicles, thereby reducing ozone-forming and toxic emissions. Renewables can reduce the United States' dependence on imported oil and lower energy use, but scientists believe that lower cost renewables (such as ethanol) increase evaporative emissions leading to summertime smog.

THE ADMINISTRATION'S PROPOSAL

On December 15, 1993, pursuant to court-ordered deadline, EPA announced the final rule for the reformulated gasoline program. At the same time, EPA, with full administration support, addressed concerns about the role of renewable oxygenates such as ethanol by proposing that at least 30 percent of the oxygen in reformulated gasoline must come from renewable oxygenates. The proposal addresses criticisms of the Bush administration's proposal because it assures that renewables have a place in reformulated gasoline, and that the environmental benefits of reformulated gasoline are maintained. The proposal requires that in the summertime, ethers made with renewables (such as ETBE) be used. While these ethers are more expensive, they reduce summertime emissions.

The administration's proposal continues to be well received in the press, among corn growers, the Midwest Governors and the environmentalists. At a recent hearing on the December 15 proposal, midwestern elected officials, including Governor Branstad of Iowa were supportive and commended you and EPA for the proposal.

¹ There are two types of oxygenates: nonrenewable oxygenates made from natural gas (methanol and MBTE) and renewable oxygenates made from corn, other grains, wood, and even garbage (ethanol and ETBE).





GOALS 2000: EDUCATE AMERICA ACT

Background

Goals 2000 passed the House last fall on a strong bipartisan vote and is now scheduled for early action on the Senate floor. Sen. Kennedy has taken the lead in crafting a Senate substitute to ensure bipartisanship in the Senate vote as well. Some key points of difference between the two versions:

- o State Opportunity-to-Learn Progress: The House bill requires participating states to describe in their state plans procedures to ensure that schools and LEAs meet state OTL standards within established timelines. The Senate version lacks this provision.
- o High Stakes Testing: The House bill restricts high stakes testing of students by prohibiting NESIC certification of tests for high stakes use for five years. Moreover, such tests may not be certified until state OTL standards are in place. The House version also prohibits the use of Title II or Title III funds for high stakes testing for the first five years. The Senate substitute contains a three-year waiting period before NESIC certification is allowed, and it lacks the OTL linkage and the restriction on the use of funds contained in the House bill.
- o Goals Panel Powers: Under the Senate bill, the Goals Panel must review and approve NESIC-developed criteria and standards. Under the House version, they are considered approved unless the Goals Panel disapproves by a 2/3 majority vote within 60 days of receipt--a significant difference on an evenly split bipartisan panel.
- o Changes to the Goals: The House version adds a 7th goal concerning teacher professional development. The Senate substitute adds a separate 7th goal on parental participation. The Senate substitute also adds civics and economics to the list of core subjects in Goal 3, and includes in Goal 3's objectives language on the importance of physical and health education.

Gubernatorial Concerns

- o Governors may be concerned about the terms of state participation in Goals 2000. They should be assured that participation is strictly voluntary and that the Secretary of Education will give wide discretion to states in considering the plans they submit for approval.
- o Governors may also be concerned about the effect of Goals 2000 on the distribution of Chapter 1 funds under the Elementary and Secondary Education Act. There is no direct linkage. Our proposed ESEA reauthorization would however retarget funds to the poorest urban and rural districts.



SCHOOL TO WORK

Background

The School-to-Work Opportunities Act has passed the House and is expected to come to the floor in the Senate sometime after Goals 2000--probably early- to mid-February. The Departments of Education and Labor have already issued planning grants under existing statutory authority, and they expect to make implementation grants by June.

We attach a concise Department of Education/Department of Labor summary of the key provisions of the administration's bill.

Gubernatorial Concerns

Perhaps the most important issue to governors in this bill is the question of who gets final authority over state plans. The Senate version of the bill gives this authority to the governors, while the House version gives it primarily to the chief state school officers. The Departments of Education and Labor have taken no position on this issue, and it is likely to remain contentious through the House/Senate conference.

Another area of controversy concerns paid work experience. Senator Kassebaum is opposed to provisions in the bill that allow program participants to be paid. The Departments would like to retain these provisions but are willing to negotiate. Senators Kennedy and Kassebaum are talking in an effort to resolve the issue, and as of now prospects for a reasonable compromise look good.

The United States Department of Education
The United States Department of Labor

SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1993
LEGISLATIVE FACT SHEET

The School-to-Work Opportunities Act, jointly administered by the Departments of Education and Labor, will bring together partnerships of employers, educators and others to build a high quality School-to-Work system that prepares young people for careers in high-skill, high-wage jobs.

Key Strategies for Building School-To-Work Systems:

- The legislation allows for flexibility so that programs can address local needs and respond to changes in the local economy and labor market. While the legislation requires core components and goals, it does not dictate a single method for fulfilling those requirements. Multiple sources of support -- federal grants to states, waivers, direct grants to local partnerships, and high poverty area grants -- will allow all states to build School-to-Work systems within the first few years.
- States and localities can build School-to-Work systems upon existing successful programs -- such as youth apprenticeship, tech-prep education, cooperative education, career academies, and school-to-apprenticeship programs.
- The legislation will promote the coordination of state, local and other federal resources. When the School-to-Work funds end, the programs will be supported by other resources.
- The active and continued involvement of local business, education, union, and community leaders is critical to the success of School-to-Work programs.
- The legislation will:
 - establish required components and goals of every School-to-Work program in the nation;
 - provide development grants for all states to plan and create comprehensive, statewide School-to-Work systems;
 - provide five-year, implementation grants to states that have completed the development process and are ready to begin operation of School-to-Work systems;
 - provide wavers of certain statutory and regulatory program requirements to allow other federal funds to be coordinated with comprehensive School-to-Work programs;
 - provide direct implementation grants to localities that are ready to implement School-to-Work systems, but are in states that have not yet received implementation grants; and
 - provide direct grants to high poverty areas to address the unique challenges of implementing School-to-Work systems in impoverished areas.

Basic Program Components

- Every School-to-Work program must include:
 - Work-based learning that provides: a planned program of job training or experiences, paid work experience, workplace mentoring, and instruction in general workplace competencies and in a broad variety of elements of an industry.
 - School-based learning that provides: career exploration and counseling, instruction in a career major (selected no later than the 11th grade); a program of study that is based on high academic and skill standards as proposed in the Administration's "Goals 2000: Educate America Act," and typically involves, at least one year of postsecondary education; and periodic evaluations to identify students' academic strengths and weaknesses.
 - Connecting activities that coordinate: involvement of employers, schools and students; matching students and work-based learning opportunities; and training teachers, mentors and counselors.
- Successful completion of a School-to-Work program will lead to a high school diploma; a certificate or diploma from a postsecondary institution, if appropriate; and an occupational skill certificate. The skill certificate will be a portable, industry-recognized credential that certifies competency and mastery of specific occupational skills.

State and Local Governance

- The Governor, the chief state school officer, and state agency officials responsible for job training and employment, economic development, postsecondary education, and other appropriate officials will collaborate in the planning and development of the state School-to-Work system.
- Partnerships that consist of employers, secondary and postsecondary educational institutions, labor organizations, and other local community and business leaders are responsible for designing and administering the local School-to-Work programs.

Federal Grants to States and Localities

- State and local applications for direct federal grants will be submitted to a peer review team composed of federal staff and outside experts in education and training. State applications for implementation grants must include a plan for a comprehensive statewide system which shows how a state will meet the basic program elements and required outcomes. In addition, states must show how the programs will ensure the opportunity to participate is given to economically disadvantaged students, low achieving students, students with disabilities and dropouts.
- Localities will apply for subgrants administered by the states. The state process for distribution of subgrants will be reviewed and approved by the federal government.

ABORTION/HYDE
AMENDMENT

ABORTION

Background

In late December, the Department of Health and Human Services informed the states that pursuant to congressionally enacted changes in the Hyde amendments, they would be required to fund Medicaid abortions in cases of rape and incest as well as when the life of the mother is in danger. On December 30, Ray Hanley, Chairman of the State Medicaid Directors' Association, wrote to HHS objecting to this notification on various grounds. Bruce Vladek, Administrator of the Health Care Financing Administration, responded on January 5 with a letter setting forth the HHS justification for its position. A copy of that letter is attached.

Key Elements of the HHS Legal Analysis

o The decision to implement this policy nationwide was not discretionary. Under the Supremacy Clause of the U.S. Constitution, when law statutes or constitutions conflict with federal law, the federal law takes precedence.

o Medicaid law mandates coverage of medically necessary physician services. When state laws have sought to restrict medically necessary physician services, those restrictions were allowed only if consistent with federal law.

o When Congress this year changed the Hyde amendment to lift the ban on funding for abortions of pregnancies resulting from rape or incest, those abortions then became subject to the same standard for medically necessary physician services as any other medical procedure.

o Four U.S. Courts of Appeal have held that when a state funding law is more restrictive than the terms of the Hyde amendment, the states have no choice but to fund amendments covered by the Hyde amendment.

Key Elements of HHS's Collaboration with the States

o In the past year, HHS has followed the Presidential directive to consult with states on the implementation of federal health policies. HHS consultations have resulted in streamlined managed care waiver processes and enhanced flexibility in the Medicaid State Plan Amendment process.

o HHS will work carefully and flexibly with the states in enforcing the revised Hyde amendment and in dealing with special problems posed by legislative calendars.

o Gov. Casey of Pennsylvania has objected to the HHS directive and has announced his intention not to comply with it. Copies of Gov. Casey's letter and HHS's response are attached.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

The Administrator
Washington, D.C. 20201

January 5, 1994

Mr. Ray Hanley
Chairman
State Medicaid Directors' Association
810 First Street, N. E.
Suite 500
Washington, D. C. 20002

Dear Ray:

I am responding to your letter of December 30, concerning the "Hyde Amendment." I hope my comments will help clarify our plans for implementation of this congressional action. The position of the Administration is that interpreted Medicaid law mandates treating the exceptions for abortions resulting from rape and incest in the same manner as the existing exception relating to the life of the mother.

Medicaid law mandates coverage of medically necessary physician services. Courts have held that when state laws have sought to restrict medically necessary physician services, such as abortion services, those restrictions were permissible only if consistent with federal law.

The Hyde Amendment prohibits the use of federal funds for abortions, with certain exceptions. When Congress this year changed the Hyde Amendment to lift the prohibition on funding for abortions of pregnancies resulting from rape or incest, it is my understanding that those abortions then became subject to the same standards for medically necessary physician services as any other medical procedure.

The decision to implement this policy nationwide was not discretionary. Under the Supremacy Clause of the Constitution, when state statutes or constitutions conflict with federal law, the federal law takes precedence by pre-emption.

The legislative history of the Hyde Amendment extends back over most of two decades and has always dealt with the mandatory services provisions of the Medicaid program. In the fiscal years between 1981 and 1983, Congress enacted the Bauman Amendment to the Hyde provision, which specifically relieved the states of the Medicaid mandate to fund medically necessary abortions, and thus created an express exception to the rule of pre-emption. The Bauman Amendment made state funding of medically necessary abortions discretionary; absent such language it is not. That

page 2

language has been absent from the Hyde Amendment since 1984.

When Congress enacted the Hyde Amendment last year, it added abortions in the case of pregnancies resulting from the tragedy of rape or incest to the category of abortions which Medicaid must cover. Thus, if state law conflicts with this enactment, court decisions require that state law give way to the federal law insofar as it applies to the Medicaid program. State law is unaffected for programs that use only state funds.

The current Hyde Amendment was enacted in October 1993. The intent of the letter which we issued in December 1993 was to advise states of the need to come into compliance with federal law. As with any modification to a state plan, states can make changes up to the last day of a quarter, and those changes may be retroactive to the first day. As a result of our notifying states prior to the end of the first fiscal quarter (October through December 1993), states which paid for abortions resulting from rape or incest now have the opportunity to qualify for federal matching funds for those expenditures. Other states have until March 31, 1994 to amend their plans in order for those changes to be effective January 1, 1994.

In your letter, you assert that the implementation of the Hyde Amendment imposes an unfunded federal mandate on states and is therefore contrary to the President's Executive Order. This Administration understands the fiscal burdens experienced by states; indeed, that is the motivation underlying the Executive Order. The Executive Order, however, concerns areas of policy and regulation in which federal agencies have discretionary authority, which is not the case here.

In addition, the amount of state funds involved is negligible because the revision of the Hyde Amendment expands abortion coverage to a very small group of women. Those who will now be served as a result of the Hyde Amendment of 1993 are poor women who have been the victims of rape or incest, who have suffered physical and mental abuse and who, beyond that, have been made pregnant by those acts. Congress has extended needed medical services to these women.

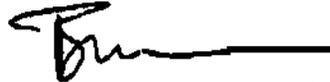
Finally, where statutory language permits, I believe we have worked hard to consult with states on the implementation of policies--as promised. Our work on the drug rebate program, home and community-based services waivers, and issues in health care reform are prime examples of these collaborative efforts.

page 3

As in the past, we will continue to be as flexible as we can in helping states implement the law. We have made considerable strides in allowing state flexibility and will continue to work toward this end in assisting states in their efforts to comply.

I look forward to our continued collaboration on state health policy issues.

Sincerely,



Bruce C. Vladeck
Administrator

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COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

THE GOVERNOR

January 14, 1994

The Honorable William Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

I am in receipt of a December 29, 1993, letter, copy attached, that was sent to our state Medicaid director by Sally K. Richardson, Director, Medicaid Bureau, at the Health Care Finance Administration ("HCFA") outlining Ms. Richardson's interpretation of recent revisions to the Hyde Amendment and directing that certain steps be taken to comply with this interpretation of the new law.

Pennsylvania law limits public funding of abortions in the case of rape and incest only to instances which have been reported to the appropriate law enforcement agency. With a broad stroke, without a hearing or even notice to the states, Ms. Richardson's letter purports to nullify state reporting requirements, such as Pennsylvania's, in asserting that:

any such reporting requirement must be waived and the procedure considered to be reimbursable if the treating physician certifies that in his or her professional opinion, the patient was unable, for physical or psychological reasons, to comply with the requirement.

Implementing this directive would require me to disregard a validly enacted state statute, serving important public policy goals, based solely on the unfounded legal interpretation of a federal official. This I cannot and will not do, because such an interpretive ruling cannot legally preempt a state law and because HCFA's interpretation is not supported by the underlying federal law. I urge you to withdraw and rescind the directive contained in the letter of December 29.

Pennsylvania's reporting procedures serve the purpose of encouraging women to make known to law enforcement authorities incidents of rape and incest, thereby enhancing the ability of authorities to apprehend the perpetrators of these crimes and prevent the commission of further crimes. These procedures also insure that taxpayers' dollars are not spent to fund abortions in

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The Honorable William Clinton
January 14, 1994
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the case of fraudulent claims of rape and incest. As Governor, I cannot ignore those goals particularly where, as here, a federal agency has exceeded its authority in attempting to nullify our state law.

Pursuant to the Supremacy Clause of the United States Constitution, only properly promulgated federal rules and regulations with the force of law can preempt state law. If, indeed, the December 28 letter was intended to be a rule or regulation with the force of law, it would appear that the Administrative Procedures Act, 5 U.S.C. 5500, et seq., would require that a notice and a comment period be available to allow states sufficient time to comply with the federal law and, if necessary, challenge HCFR's authority to promulgate these new rules. HCFR's letter met none of these requirements and thus, is at most an interpretive ruling or a statement of policy that does not have the force of law. Accordingly, this interpretive letter is a nullity and without any effect on the law of this Commonwealth as it applies to the rape and incest reporting requirements.

Moreover, even assuming the directive in HCFR's December 28 letter had been properly promulgated as a federal rule or regulation, in order to preempt state law it would need to be based upon statutory authority indicating that Congress intended to preempt state action in this area. Such authority is clearly lacking, however. The language of P.L. 103-112, as well as its legislative history, is completely devoid of any language pertaining to rape and incest reporting requirements, nor is there any indication of an intent to preempt state regulation as it applies to such reporting requirements. Indeed, HCFR's letter suggests otherwise, acknowledging the important state role of defining rape and incest, as well as the states' existing authority to impose reasonable reporting requirements. Because the waiver language appears to lack any statutory basis and seriously encroaches upon the states' traditional authority in this area, I have no intention of following it.

HCFR's conduct is in stark contrast to its past practice and position with respect to the "life of the mother" reporting requirements, where regulations were properly promulgated and states were permitted to implement their own requirements without federal interference. It also flies in the face of your recent Executive Order instituting measures to enhance federal/state relations and to, specifically, "establish regular and meaningful consultation and collaboration with state[s]."

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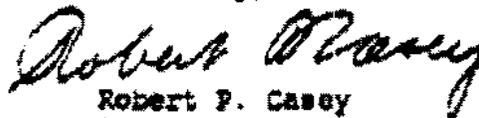
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The Honorable William Clinton
January 14, 1994
Page -3-

This directive places the Commonwealth and my Office in an unfair, untenable position. It directs me to ignore validly enacted state reporting requirements under circumstances in which HCPA has neglected to follow fundamental procedures necessary to preempt state law, and where in any event there is no federal statutory basis to preempt state law. A failure to follow this directive, however, could lead to the loss of all federal Medicaid funding -- funding that is critical to sustain necessary health care for the poor in Pennsylvania. Accordingly, I would request that HCPA change its interpretation relative to the waiver of state reporting requirements, and allow states to continue to regulate in this area.

This issue involves a serious question concerning the limits of federal power over the states and the process that is utilized to exercise such power. Given this broader issue, I believe it is essential that we take steps to resolve this conflict in a way that gives appropriate recognition to the proper role of the states in this important area of our law.

Sincerely,


Robert P. Casey
Governor

TAB A

TALKING POINTS RE: GOV. CASEY'S LETTER

Gov. Casey's January 14 letter to the President charges that the December 28 letter from HCFA to state Medicaid directors gave improper and unlawful instructions on how states must address the issue of reporting requirements in the case of abortions of pregnancies caused by rape or incest. Gov. Casey's letter is wrong on all counts.

* Gov. Casey charges that the December 28 letter "purports to nullify state reporting requirements, such as Pennsylvania's. . ."

That charge is simply not true. The HCFA letter specifically states that "States may impose reasonable reporting or documentation requirements on recipients or providers, as may be necessary to assure themselves that an abortion was for the purpose of terminating a pregnancy caused by an act of rape or incest."

* The only basis for the Governor's allegation is HCFA's requirement that any reporting requirement that a state already has or chooses now to impose must be waived if "the treating physician certifies that in his or her professional opinion, the patient was unable, for physical or psychological reasons, to comply with the requirement." Gov. Casey asserts that "[i]mplementing this directive would require me to disregard a validly enacted state statute."

No "disregard" of state statutes is necessary or required.

All that is required of state officials is that they permit a waiver in those individual cases, which are likely to be very few in number, where a physician certifies that a particular woman was unable to comply with the otherwise valid reporting requirement.

* Gov. Casey asks that the December 28 directive be rescinded and asserts that it "places the Commonwealth and my Office in an unfair, untenable position" because of the conflict with state law.

In fact, however, the HCFA directive specifically permits a policy position that Pennsylvania once previously claimed as its own.

In litigation in 1984 in which a Pennsylvania court found a previous version of the state's reporting requirement to be unconstitutional, the state itself asserted as a defense the very kind of waiver provision included in HCFA's letter. The court in that case wrote, "Respondents [the state] in their brief point out that '[a]ny rape or incest victim who found it impossible, physically or psychologically, to comply with the 72-hour reporting requirement could not and would not be expected to comply.'" The court referred to that representation by the state as "a gratuitous statement of the obvious." Fischer v. Commonwealth Dept. of Public

Welfare, 482 A.2d 1148, 1160 n.32 (Commonwealth Ct. 1984).

We do not know whether Pennsylvania's policy remains as it was in 1984. In any event, however, Pennsylvania argued for this position in the Fischer case, and at the time the state must have believed that this position was appropriate.

* Gov. Casey also asserts that HCFA's December 28 letter is invalid under the Administrative Procedures Act because there was no formal notice-and-comment rulemaking process.

No formal notice and comment process is required where, as here, an agency issues an interpretive rule that merely implements the requirements enacted by Congress, as part of a statute. Such interpretive rules are a standard method used by federal agencies in communicating with persons and entities who participate in agency programs. If Pennsylvania wants to contest this interpretive ruling, there is an established process for doing so. [The process involves a formal finding that a state is in noncompliance, which has not yet occurred. That finding would be followed by a hearing before an appeals board.]

* Lastly, Gov. Casey argues that there is no federal statutory authority for HCFA's December 28 letter, insofar as it addresses state reporting requirements.

There is ample statutory authority for the HCFA position. A reporting requirement cannot be used to bar coverage when insisting on compliance would be contrary to the principle in Medicaid law of covering medically necessary services. Although the states are free to impose reasonable reporting requirements, those requirements cannot have the effect of denying services that Congress has mandated must be covered. Federal law would be undermined if states were allowed to set conditions that effectively block the will of Congress.



THE WHITE HOUSE

WASHINGTON

January 25, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: Michael Schmidt, Domestic Policy Council

SUBJECT: Occupational Safety and Health Act Reform

This memorandum summarizes the proposed reform of the Occupational Safety and Health Act (OSHA). It focuses on the issue of expansion of OSHA coverage to all public sector employees, since this is the aspect of OSHA reform that most concerns the National Governors Association. This issue may come up in the context of an amendment to the NGA Policy on Federalism, introduced by Governor Voinovich (OH), which calls on the Congress and the President to end the practice of unfunded federal mandates.

BACKGROUND

The Occupational Safety and Health Act has not been amended in 20 years. Substantial concerns have been raised about its efficacy, cost, and coverage. In March, Senator Kennedy and Chairman Ford introduced essentially identical bills that would, among other things:

- Expand OSHA coverage to all public employees in the 27 states not currently covered by approved state plans, and to all federal employees (except congressional employees);
- Require all employers (subject to limited Secretarial exemptive authority) to establish comprehensive occupational safety and health programs, and all employers with more than 10 part- or full-time employees to establish joint safety and health committees at each worksite;

The Department of Labor estimates that compliance with these reforms will cost the private sector approximately \$13 billion annually, and state and local governments approximately \$1.8 billion. They estimate that over 1,000 fatalities and 1.4 million injuries will be prevented, and that over \$13 billion will be saved in reduced medical costs, workplace disruption, and other related areas.

STATE AND LOCAL COVERAGE

Mandatory coverage of all public sector employees has been one of the most controversial areas of the Kennedy/Ford bills. AFSCME has made coverage of state

and local employees -- many of whom work in very hazardous conditions -- one of its top priorities. Many state and local officials have been equally adamant against this proposal, identifying this requirement as yet another unfunded federal mandate. While the NGA has not taken a formal position on OSHA reform, they will be voting on an amendment during this session calling for an end to unfunded federal mandates.

The case for mandatory public sector coverage is strong. At the present time, less than half of the states (23) provide OSHA safety and health coverage for their employees (under current law, state compliance with OSHA is voluntary). This leaves more than 7 million state and local workers uncovered by OSHA, although a number of non-OSHA states do provide some protections to public employees under their own laws. The hazards facing public employees are no less serious than those facing employees in the private sector, especially for those employees in common occupations. For example, it makes no sense that private hospital workers are covered by OSHA standards, while public hospital workers are not. Finally, public sector coverage is also included in the only OSHA reform bill introduced by the minority (albeit with an effective date delay several years longer than in the Kennedy/Ford bills), which somewhat immunizes the issue from partisanship.

Up to this point, the Administration has been careful not to specifically endorse mandatory public sector coverage. Rather, in a letter to Chairmen Kennedy and Ford, Secretary Reich pledged to "support efforts to enact legislation that would address gaps in the protection of public employees." Having made this declaration, the Administration must now decide how to best square this commitment with the serious concern of state and local officials that we not create another unfunded federal mandate. This is especially important in light of the strong commitment this Administration has made to slow the growth of unfunded mandates (through Executive Orders 12866, "Regulatory Planning and Review," and 12875, "Enhancing the Intergovernmental Partnership").

The Department of Labor has already taken steps to ensure that the Administration works with state and local officials on this issue and takes their concerns to heart:

- Over the past six months, the Department of Labor's Occupational Safety and Health Administration has conducted an extensive outreach campaign to gather suggestions and input from state and local officials. Organizations contacted include the National League of Cities, the National Governors Association, the National Association of Counties, and the U.S. Conference of Mayors.
- Based on conversations with state and local officials, the Department is currently analyzing a number of strategies that would help ease the burden of OSHA compliance on state and local governments, including increasing compliance assistance and developmental funding, and phasing in mandatory coverage over a period of several years.

Finally, any new regulation or requirement issued under a revised OSHA would be subject to the Administration's Executive Orders on Regulatory Planning and Review and Enhancing the Intergovernmental Partnership, which specifically require state and local participation up-front in the regulatory process.



INDIAN GAMING

Indian gaming is governed by the Indian Gaming Regulatory Act of 1988 (IGRA). States are dissatisfied with IGRA primarily because the Act's vagueness has allowed tribes to expand gaming activities well beyond state gaming laws. Accordingly, bills have been introduced which would severely tighten state control of Indian gaming.

Seeking to provide a negotiated settlement, Senators Inouye and McCain invited all tribes, governors and state attorneys general to work together to come up with compromise amendments to IGRA. Originally, the parties were requested to negotiate a compromise by July 20. The parties did not meet the deadline but continued to talk.

While the Inouye process is technically in force, it seems an impasse has been reached, especially on the issue of what types of games should be allowed. The parties last met in October. Apparently, the parties are still pretty far apart on the key issue: what types of gaming should be subject to negotiation when states and tribes negotiate Indian gaming compacts. States take the position that only those games expressly permitted by state law should be available for compacting. Tribes take the position that all games not expressly prohibited by state law should be available for inclusion in a compact.

If the two sides are unable to reach agreement, three alternatives are possible:

- Senator Inouye will draft and pass amendments to IGRA, without state and tribal approval. These amendments would probably make no one happy, but could slightly favor tribes over states. The Senator's staff has indicated they will have draft language within two weeks.
- The Congress will pass the Bryan-Reid-Torricelli alternative bill, which would give states almost complete control over Indian gaming. No-one except Nevada and New Jersey are very excited about this bill (although without a serious Inouye alternative, it may leap into the vacuum and pass).
- No action will be taken -- IGRA will remain as is and the current debates will continue. This is not very likely.

Should the Inouye process be abandoned, the Senator would look to move his bill as would other congressional sponsors of legislation. The Administration would no longer have the ability to remain neutral but would be asked to take a position on various pieces of legislation. Therefore, it is probably in the Administration's interest to continue to urge and support a negotiated settlement versus a legislative one.



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THE WHITE HOUSE

WASHINGTON

January 26, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: BRIAN BURKE
DOMESTIC POLICY COUNCIL

SUBJECT: SAFE DRINKING WATER ACT REAUTHORIZATION

BACKGROUND

Congress passed the Safe Drinking Water Act (SDWA) in 1974 following public concern over findings of harmful chemicals in drinking water supplies. SDWA established the basic Federal-State partnership for drinking water used today. EPA sets standards to protect drinking water and provides grants, guidance and technical assistance to States and public water systems. States enforce the standards and supervise the 200,000 water systems serving Americans.

THE ISSUE

The SDWA has become a symbol of the debate over unfunded federal mandates. Two issues seem to fuel the controversy:

- Costs to small systems are increasing. While 80% of US households pay an average of less than \$1 per month for SDWA compliance, costs for households served by small systems can be more than ten-fold higher; and
- Nation-wide standards address contaminants not found in certain localities. This leads to costs that disproportionate to benefits.

THE CRITICAL ROLE OF STATES

States are given "primacy" to oversee the day-to-day operations of the Act if they meet certain conditions. In addition to SDWA duties, most States train and certify water system operations, certify (or operate) laboratories where drinking water tests are conducted, oversee sanitary surveys, and carry out a range of other activities. Under current regulations, States can waive monitoring requirements for systems - saving money -- once they establish an EPA-approved waiver program. Two States now have approved waiver programs that will cut monitoring costs by about 50% or more.

States need additional resources to carry-out their responsibilities, particularly if the Act is reauthorized to place more emphasis on pollution prevention and provide new flexibility for small systems.

REAUTHORIZATION ISSUES

Focusing on Real Health Risks: Spending should be targeted to the highest priority health risks.

Helping Small Systems: Eighty percent of Americans relying on public water supplies are served by systems with over 10,000 customers. Yet most water systems are small: 87% of the systems serve fewer than 3,300 persons.

Pollution Prevention: Preventing contaminants from reaching and fouling our water supplies in the first place is a sensible, cost-effective approach for protecting our drinking water. The SDWA needs a pollution prevention emphasis equal to its current "monitoring and treatment" approach.

Reducing Monitoring Burdens: Most people want to know that the water coming out of their faucet is safe. Unfortunately, testing can be expensive, especially for chemical contaminants. For example, while it costs only \$8 to test for an indicator of parasites and viruses, and \$14 to test for lead and copper (using the Kansas State Department of Health and Environment laboratory), testing for synthetic and volatile organic chemical regulations can cost thousands of dollars.

The Funding Challenge: No matter how hard we work to focus SDWA on real public health risks and address the disproportionate costs to small systems, new funding is needed for States.

THE ADMINISTRATION'S REAUTHORIZATION BILL

In September 1993, the Administration submitted to Congress a ten-point plan for reforming the Safe Drinking Water Act in response to concerns of State and local governments. The plan provides for more flexibility, funding and pollution prevention.

The Administration wants new flexibility to regulate only contaminants posing real public health risks, to extend compliance deadlines up to five years if major new construction is needed, and to work with States on new approaches for the small systems facing disproportionate cost burdens.

A new State Revolving Loan Fund (SRF) would help communities invest in needed drinking water infrastructure. A small, optional SDWA user-fee would help States fund their own drinking water programs. This would reduce costs to communities that rely on State programs for monitoring waivers, and help States take advantage of new flexibilities that may come with reauthorization.



MIDWEST FLOOD RECOVERY

The flooding this past summer was unprecedented in terms of human suffering and economic impact. Never before has the midwestern region experienced such protracted flooding, affecting so many people.

0 Nine states--Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin were declared Presidential disaster areas.

0 More than 525 counties were designated to receive disaster assistance from the Federal government.

0 More than 100,000 residents of the Midwest received Federal Assistance due to the floods.

0 In response to these disasters, disaster victims have witnessed an historic partnership between the Federal, State, and local levels of government to bring assistance to those in need.

0 Under the leadership of Secretary Espy and Director Witt the Federal government has established a Long-Term Recovery Task Force charged with the overall coordination of Federal assistance to the stricken Midwest.

0 The Task Force has worked to assure priority levees are repaired and reconstructed, to encourage relocation for families and communities where danger of future flooding is a concern and to anticipate the problems the spring thaw will bring to this area.

0 We can not solve all the problems created by the disaster in the Midwest, but we are committed to continuing to work with State and local governments as the recovery effort continues.

Federal Spending¹ on the Mid-West Flood Recovery

- Federal agencies currently project that \$4.9 billion will be obligated for the Mid-West flood recovery in the nine Mid-West states through the end of FY 1994. Federal agencies are also projecting some additional spending in FY 1995. To date, they report obligations totalling \$1.8 billion in the nine states affected by the flood.
- Federal agencies mainly involved in the Mid-West flood recovery effort include: USDA (mostly crop disaster payments); FEMA (public and individual assistance); SBA (loans to individuals and businesses); U.S. Army Corps of Engineers (rebuilding infrastructure); and HUD (community development block grants). A total of 16 Federal agencies are involved.
- Iowa, Missouri, Minnesota and Illinois together are projected to receive most (over 65%) of the direct Federal assistance; Kansas, South Dakota, Wisconsin, North Dakota, and Nebraska share the rest.
- USDA is projected to provide the bulk of the assistance (over three quarters) in Minnesota, Wisconsin, and South Dakota; and over half the assistance in North Dakota and Iowa. Of the total projection through FY 1994, USDA is expected to provide just over half of the flood recovery assistance; FEMA 15%; SBA 12%; with the other agencies each providing 5% or less.

¹ Federal spending obligations include outlays for which obligations have not been recorded previously plus outlay precursors such as orders placed, contracts awarded, services received and similar transactions that require outlays during the same or future period. Does not include indirect spending (e.g., Federal income maintenance programs), nor changes to Federal tax liabilities (i.e., losses claimed against 1992 or 1993 taxes).

**Federal Obligations for Mid-West Flood Recovery by State Based on
Current Appropriations**

(in millions of dollars)

State	Cumulative Obligations			Composition of FY94 Projection
	Actual		Proj.	
	9/30/93	10/31/93	9/30/94	
Illinois	\$180.2	\$239.8	\$538.5	34% USDA; 24% FEMA; 19% SBA; 9% HUD; 8% Corps; 6% other.
Iowa	348.5	402.7	996.7	57% USDA; 13% SBA; 12% FEMA; 6% HUD; 6% Corps; 6% other.
Kansas	92.9	154.1	388.1	43% USDA; 25% FEMA; 8% Corps; 7% SBA; 6% DOT; 6% HUD; 5% other.
Minnesota	137.7	200.0	738.9	86% USDA; 7% FEMA; 7% other.
Missouri	358.1	453.3	935.5	27% SBA; 23% USDA; 23% FEMA; 8% Corps; 8% HUD; 7% DOT; 4% other.
Nebraska	40.8	79.1	132.3	39% FEMA; 39% USDA; 7% SBA; 7% HUD; 8% other.
N. Dakota	61.1	96.0	199.8	68% USDA; 13% FEMA; 8% SBA; 7% HUD; 4% other.
S. Dakota	67.6	95.9	295.4	80% USDA; 8% FEMA; 5% SBA; 7% other.
Wisconsin	40.7	52.6	282.5	78% USDA; 11% FEMA; 3% SBA; 8% other.
Louisiana	9.5	9.5	9.5	100% Corps.
Unknown	2.1	2.3	416.8	45% USDA; 29% Educ.; 24% DOC; 2% other.
Total	\$1,339.2	\$1,785.3	\$4,934.0	52% USDA; 15% FEMA; 12% SBA; 5% HUD; 4% Corps; 3% DOT; 9% other.

NBA

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**National Governors' Association
1994 Winter Meeting
Preliminary Program Structure
January 5, 1994**

* → MEMO ^{TO BC} ON GOOD GOV. INITIATIVE
ON CRIME + VIOLENCE
→ CHECK w/MTTB re WR
* → WR TALKING PIS
TO GOVS. →

plus warning
on Byrne Gov

Saturday, January 29

11:00 a.m.
11:30 a.m. - 1:00 p.m.
6:00 p.m. - 7:30 p.m.

Opening Press Conference → Mtg Thurs 1/13 10 A.M.
Health Care Leadership Team Luncheon Meeting
Governors & Their Staff Only
Reception at Austrian Embassy
Governors & Spouses Only

Sunday, January 30

10:30 a.m. - 11:30 a.m.
11:45 a.m. - 1:30 p.m.
1:45 p.m. - 3:15 p.m.

Executive Committee
Governors-only Luncheon
Plenary Session
Governor Carroll Campbell, Chair
• Welcome & Introductory Remarks
• Adoption - Dave Thomas
• Education
Governor Jim Edgar, Illinois, Co-chair
Governor Jim Hunt, North Carolina, Co-chair
• Discussion
• Presentation of State Report Card Awards
• National Educational Goals Panel
Chairs Report
• Children & Violence

3:30 p.m. - 4:30 p.m.

Standing Committee Business Sessions
Economic Development Committee
Governor Terry Branstad, Iowa, Chair
Governor Mike Sullivan, Wyoming
• Telecommunications Vision Statement
• NAFTA - Governor Richards, Texas
• GATT - Governor Thompson, Wisconsin
• Business Incentives - Governor Edgar, IL
• Consideration of Policies

Human Resources Committee*Governor Pete Wilson, California, Chair**Governor David Walters, Oklahoma, Vice-chair*

- Welfare Reform and Health and Human Services - Departmental Initiatives Briefing, Mary Jo Bane, Assistant Secretary for Children & Families
- Consideration of Policies

Natural Resources Committee*Governor Bob Miller, Nevada, Chair**Governor Mel Carnahan, Missouri, Vice-chair*

- Risk Assessment
Congressman James Slattery (D-KS)
Congressman Thomas J. Bliley, Jr. (R-VA)
John Graham, Ph.D., Harvard University
Center for Risk Analysis
- Consideration of Policies

**This agenda is nowhere near to final,
please check with Tom before publishing.**

5:00 p.m. - 6:00 p.m.

7:00 p.m. - 10:00 p.m.

All Attendee Reception

**State Dinner (Time tentative)
Governors & Spouses Only**

Monday, January 31

7:30 a.m. - 9:00 a.m.

**Democratic Governors' Association &
Republican Governors Association
Breakfast Meetings**

9:30 a.m. - 12:00 noon

**Meeting with the President
Governors Only**

12:15 p.m. - 2:15 p.m.

Governors-only Luncheon

2:30 p.m. - 4:30 p.m.

Plenary Session*Governor Carroll Campbell, Chair*

- Call to Order & Introductory Remarks
- 1995 International Special Olympics
Governor Lowell Weicker, Connecticut
- Invitation to 1994 Annual Meeting
Governor William Weld, Massachusetts
- Development of Health Care Networks
Governor Roy Romer, Colorado
Governor Tommy Thompson, Wisconsin
- Chancellor Helmut Kohl

4:45 p.m. - 6:00 p.m.

**Corporate Fellows Issue Briefing
Governors, Governors' Staff & Corporate
Fellows Only**

Tuesday, February 1

7:30 a.m. - 9:00 a.m.

Regional Governors' Associations
Breakfast Meetings

9:15 a.m. - 11:45 a.m.

Plenary Session

- Call to Order & Introductory Remarks
- President Bill Clinton
- Welfare Reform - State Initiatives
Governor John Engler, Michigan
Governor Tom Carper, Delaware
- Republican Luminery
- State Management Task Force
Governor Kirk Fordice, Mississippi,
Chair
Governor Mel Carnahan, Missouri, Vice-
chair
- Federalism Report:
Governor George V. Voinovich, Ohio
Governor Bruce Sundlun, Rhode Island
- Committee Reports and Consideration of
Policy
- Chairman's Remarks

12:00 noon - 12:30 p.m.

Closing Press Conference

**National Governors' Association
1994 Winter Meeting
Preliminary Program Structure
January 10, 1994**

NBA

Saturday, January 29

11:00 a.m. - 11:30 a.m.

Opening News Conference

11:30 a.m. - 1:00 p.m.

Health Care Leadership Team Luncheon Meeting
Governor Roy Romer, Colorado, Co-Chair
Governor Tommy G. Thompson, Wisconsin,
Co-Chair
Governors and Their Staff Only

6:00 p.m. - 7:30 p.m.

Reception at Austrian Embassy
Governors and Their Spouses Only

Sunday, January 30

10:30 a.m. - 11:30 a.m.

Executive Committee
Governor Carroll A. Campbell Jr., South
Carolina, Chairman
• Update on Legislative Priorities
• Consideration of Policy Positions

11:45 a.m. - 1:15 p.m.

Governors-only Luncheon

1:30 p.m. - 3:15 p.m.

Plenary Session
Governor Carroll A. Campbell Jr., South Carolina,
Chairman
• Adoption Assistance Programs—Dave Thomas,
Founder, Wendy's International Inc.
• Education
Governor Jim Edgar, Illinois, Co-Chair,
Education Leadership Team
Governor James B. Hunt Jr., North
Carolina, Co-Chair, Education
Leadership Team
• National Education Goals
• Discussion of State Education Reform
• Presentation of State Report Card Awards
• Report of the Chair of the National
Education Goals Panel
Governor John R. McKernan Jr., Maine
• Children and Violence
Governor Pete Wilson, California, Chair,
Committee on Human Resources
Governor David Walters, Oklahoma, Vice
Chair, Committee on Human Resources

* →

Standing Committee Business Sessions

Committee on Economic Development and Commerce

Governor Terry E. Branstad, Iowa, Chair

- Telecommunications Vision Statement
- North American Free Trade Agreement (NAFTA)
- General Agreement on Trade and Tariffs (GATT)
- Business Incentives
- Consideration of Policies

Committee on Human Resources

Governor Pete Wilson, California, Chair

- Status of Welfare Reform Initiatives
- Overview of Federal Family and Children Initiatives
- Consideration of Policies

Committee on Natural Resources

Governor Bob Miller, Nevada, Chair

- Risk Assessment and Environmental Mandate
- Consideration of Policies

5:00 p.m. - 6:00 p.m.

Reception for All Attendees

7:30 p.m. - 10:00 p.m.

**White House Dinner (Time tentative)
Governors and Their Spouses Only**

Monday, January 31

7:30 a.m. - 9:00 a.m.

Democratic Governors' Association and Republican Governors Association Breakfast Meetings

8:30 a.m. - 10:00 a.m.

Briefing for Governors' Staff and Meeting Attendees on National Service

9:30 a.m. - 12:00 noon

**Meeting with the President
Governors Only**

Press only at opening BC speech
BC - crime + violence
AG - E-Zones + safety

12:15 p.m. - 2:15 p.m.

Governors-only Luncheon

- * → ① Remarks
- * → ② Advice on state programs for Discussion
- * → ③ Talking pts on crime for DGA Saturday
- * → ④ Talking pts on WR

Plenary Session

**Governor Carroll A. Campbell Jr., South Carolina,
Chairman**

- 1995 International Special Olympics
Governor Lowell P. Welcker Jr., Connecticut
- Invitation to 1994 Annual Meeting
Governor William F. Weld, Massachusetts
- Remarks by Chancellor Helmut Kohl
- Development of Health Care Networks
*Governor Roy Romer, Colorado,
Co-Chair, Health Care Leadership Team*
*Governor Tommy G. Thompson, Wisconsin,
Co-Chair, Health Care Leadership Team*

4:45 p.m. - 6:00 p.m.

Corporate Fellows Issue Briefing

**Governors, Governors' Staff, and Corporate Fellows
Only**

Tuesday, February 1

7:30 a.m. - 9:00 a.m.

**Regional Governors' Associations' Breakfast
Meetings**

9:15 a.m. - 12:00 noon

Plenary Session

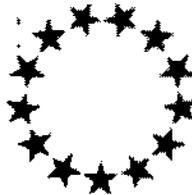
- Remarks by President Bill Clinton ^{11 A.M.}
- Welfare Reform—State Initiatives and Roles *(Michigan invited)*
*Governor Tom Carper, Delaware,
Co-Chair, Welfare Reform Leadership Team*
*Governor John Engler, Michigan,
Co-Chair, Welfare Reform Leadership Team*
- Remarks by Senator Bob Dole — Dole at 9:15
Senate Republican Leader
- Chairman's Remarks
- State Management Task Force
Governor Kirk Fordice, Mississippi, Co-Chair
Governor Mel Carnahan, Missouri, Co-Chair
- Federalism Report
*Governor George V. Voinovich, Ohio,
Co-Lead Governor*
*Governor Bruce Sundlun, Rhode Island,
Co-Lead Governor*
- Committee Reports and Consideration of Policy

* →

LISTEN +
BRIEF BC
+ TALK TO
SWS ABOUT
WR
(read principles -
APWA stuff)

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

Closing News Conference



January 4, 1994

INITIATIVE

PROPOSED POLICY POSITIONS (for consideration by NGA Committees)

Executive Committee

Committee Policy Proposals

Amendment to Federalism Policy

New Policy Position – Medicaid

Individual Governors' Policy Statements Referred to Committee

Governor Waihee – Reform of the Boren Amendment (Medicaid)

Governor Weld – Unfunded Federal Mandates

SAC Meeting

Wednesday, January 12

10:00 a.m. - 12:30 p.m.

Hall of the States, Room 283

Committee on Economic Development and Commerce

Committee Policy Proposals

New Policy Position – Motor Carrier Transportation

New Policy Position – National Highway System

New Policy Position – GATT

"Vision Statement on Telecommunications"

Individual Governors' Policy Statements Referred to Committee

Governor Dean – Review of the NAIC Accreditation Process

Governor Wilson – Military Base Disposal and Re-Use

Governor Richards – The Equitable Escheatment Act

Existing Policy Scheduled to Sunset*

H-3. Legal and Regulatory Considerations

SAC Meeting

Monday, January 10

1:00 p.m. - 5:00 p.m.

Hall of the States, Room 333

Committee on Human Resources

Committee Policy Proposals

New Policy Position -- Head Start

Individual Governors' Policy Statements Referred to Committee

Governor Engler -- Supplemental Security Income Program

Governor Voinovich -- National Guard

Governor Wilson -- Health Care Reform and the Undocumented Immigrant Caseload

Reimbursement of Costs Associated with Educating the Children of Undocumented Immigrants

Federal Responsibility for Costs Associated with Incarceration of Undocumented Alien Felons

FLSA Application to State Prison Inmates

State Requirements for Participation in Proposed Federal Regional Prisons

Existing Policy Scheduled to Sunset*

C-5, Health and Medical Care

SAC Meeting

SAC meeting held on 12/16.

Additional SAC Meeting

Tuesday, January 11

3:00 p.m. - 5:00 p.m.

Hall of the States, Room 233

Committee on Natural Resources

Committee Policy Proposals

New Policy Position -- Environmental Priorities and Unfunded Mandates

Individual Governors' Policy Statements Referred to Committee

Governor Wilson -- Reforming the Endangered Species Act

Existing Policy Scheduled to Sunset*

D-3, The Clean Air Act (SAC recommended reaffirmation)

D-13, Environmental Education

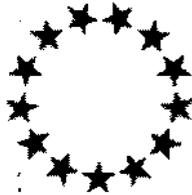
D-14, Environmental Compliance at Federal Facilities (SAC recommended reaffirmation)

G-10, 1990 Farm Bill (SAC recommended reaffirmation)

SAC Meeting

Conference call held on 12/16.

*No action is required on policies scheduled to sunset.



December 28, 1993

MEMORANDUM

To: Executive Committee Staff Advisory Council
From: Ray Scheppach
Re: Proposed Policy Statements and Resolutions From Individual Governors

NGA Rules of Procedure require that individual Governors submit any proposed policy statements or resolutions to the NGA executive director at least 45 days in advance of the plenary session. Any policy so submitted will be transmitted to the appropriate standing committee for review. Committee-approved policy statements and resolutions will be transmitted to all Governors no later than January 17, 1994.

The NGA Strategic Review Task Force Report recommends that new, time-limited (two years) policies and policy amendments should, to the extent possible, focus on current NGA priorities. They should be as brief as possible and should include specific objectives and a brief justification.

Enclosed are policy proposals from the following Governors, which are being referred to the Executive Committee.

Governor Waihee

Reform of the Boren Amendment
(Medicaid)

Governor Weld

Unfunded Federal Mandates

The committee may accept, postpone, or reject the proposals, or present the proposals to all Governors in summary form as a clarification, an amendment, or an addition to other NGA policy statements. Resolutions deal only with current policy and not new issues. They may also address persons, places, or one-time events, but not new policy.

Should the committee reject the proposals, the submitting Governor is still free to present their proposal at the next meeting under the suspension of the rules. If adopted or amended by the committee, the proposals would be sent to all Governors by January 17 and be presented at the winter meeting under regular procedures, which require a majority vote of the committee and a two-thirds vote by the association for adoption.

Enclosures

cc: Governor Waihee
Governor Weld

JOHN WAIHEE
GOVERNOR



R. PHILIP SHIMER
DIRECTOR

STATE OF HAWAII - WASHINGTON, D.C. OFFICE

444 NORTH CAPITOL STREET, N.W., SUITE 706
WASHINGTON, D.C. 20001
(202) 508-3630
FAX: (202) 508-3834

December 17, 1993

MEMORANDUM

TO: Raymond C. Scheppach
Executive Director
National Governors' Association

FROM: R. Philip Shimer 
Director

SUBJECT: Proposed Statement on Boren

I have attached, on behalf of Governor Waihee, a proposed policy statement for consideration at the NGA Winter Meeting in 1994. As you know, this policy represents the combined efforts of 22 governors who have already agreed to its contents.

Governor Waihee believes it is very important that the NGA consider this policy proposal so that the governors can be united in efforts to include Boren Amendment changes in NGA's discussions with Congress and the Administration on national health care reform.

Thank you for your attention to the Governor's request.

Please call if you have questions.

Attachment

NEW POLICY (C-29)

REFORM OF THE BOREN AMENDMENT

Preface

The Boren Amendment to the Medicaid law was passed in the early 1980s to give states greater flexibility in establishing reimbursement rates for hospitals and nursing homes and to encourage health care cost containment. It has instead led to havoc in the administration of Medicaid programs. Court decisions have interpreted the Boren Amendment to embody an ever more restrictive and unrealistic set of requirements in setting reimbursement rates, and have in effect given judges the power to establish reimbursement rate levels and criteria.

The differences in judicial approach, and the inability of the courts to develop a coherent, consistent and sensible construction of the Boren Amendment, have left states frustrated in their efforts to rationalize their Medicaid programs, prevented from bringing some discipline to their budgets, and thwarted in their attempts to realize the purposes of the Amendment.

The nation's Governors believe that any coherent approach to national health care reform must address the issue of the Boren Amendment. They believe that statutory change to the Boren Amendment is one of the key tools necessary to bring the Medicaid program under control. Therefore, the Governors urge the Administration and Congress to adopt the following proposed changes to Boren Amendment.

Substantive Standards

The Governors agree that standards for establishing adequate reimbursement rates for hospitals, nursing facilities, and ICF/MRs must be designed to promote access to care for Medicaid patients, quality of service, cost-containment and efficient service delivery. Therefore, the current cost/efficiency-based standard in the Boren Amendment would be eliminated and replaced with five "safe harbor" standards. A state reimbursement methodology that met any one of the standards would satisfy the statute.

The five standards are:

1. The payment rate is equal to the Medicare-based upper payment limit.
2. The payment rate is no less than the rate agreed to by the facility for comparable services paid for by any other payor. For example, payment rates for Medicaid patients would not have to be higher than rates paid by large managed care plans or large businesses.

3. (For nursing facilities only). The aggregate number of participating licensed and certified nursing home beds in the State, plus resources devoted to home or community-based care of the elderly, is at least equal to a specified percentage of the population aged 65 or over.
4. The reimbursement rate is sufficient to cover at least 80 percent of the allowable costs of the facilities in the State in the aggregate.
5. The reimbursement rate is equal to a benchmark rate plus inflation no less than the rate of inflation for the overall economy according to a general economic index (national or state), such as CPI or GNP-IPD. The benchmark rate would be the approved rate as of the date of enactment of the statute or the current rate approved by HCFA.

In addition:

- Any disproportionate share payments that are still available would be taken into account in determining whether the safe harbor tests were met.
- There would be no federal reimbursement requirements applicable to any capitated payment plans or other contractual arrangements covering services for Medicaid patients. This is particularly important for states that have moved significant numbers of their Medicaid population into managed care plans.

Procedural Framework

In addition to developing specific substantive standards for reimbursement, the Governors believe that procedural requirements in the current Boren Amendment must be streamlined. Therefore:

- In the place of existing cumbersome procedural requirements, there would be a simple requirement that providers or their representatives be given an opportunity to participate in the process used to establish or change rates.
- Where no safe harbor was met, HCFA would hold an informal hearing with appropriate discovery and would either approve or disapprove the proposal depending on whether the rates proposed were sufficient to permit continued provider participation at the requisite levels of quality.

Role of the Courts

One of the significant "costs" of the current Boren Amendment is prolonged and costly

litigation. Therefore, in an effort to reduce this burden on both states and providers, the Governors propose:

- Either the State or the participating providers would have the right to appeal an adverse HCFA decision to a specified federal court. The court would be required to apply an Administrative Procedure Act standard of review, under which the HCFA decision would be upheld unless found to violate a legal requirement or to be arbitrary and capricious.

The Governors believe that this policy proposal will bring order and discipline to their Medicaid budgets and still enable well-run hospitals, nursing facilities, and ICF/MRs to provide quality service to Medicaid clients. Further, they believe that this proposal must be a part of the national debate on health care reform and be incorporated in any final legislation for national reform.

SEN. WEL

**RESOLUTION URGING THE ELIMINATION OF UNFUNDED
FEDERAL MANDATES THAT INFRINGE STATE SOVEREIGNTY**

In New York v. United States, 112 S. Ct. 2408 (1992) the United State Supreme Court unequivocally reaffirmed the vitality of state governments in the federal system as separate and independent political entities. The Court held that state governments cannot and should not be treated as mere subdivisions or agents of the federal government. States must be free to maintain the integrity of their governmental structures and governing processes.

State governments cannot, however, function as full partners in our federal system if the federal government appropriates the states' ability to devise and legislate their own solutions to domestic problems by requiring states to devote their limited resources toward complying with unfunded federal mandates. For this reason, the Governors call on the President to implement Executive Order No. 12875 rigorously to eliminate unfunded federal mandates that deprive states of the capacity to set priorities, develop their own policies, and enact legislation to effect those priorities and policies.

The Governors further call upon the Members of Congress to oppose legislation that imposes further federal mandates without providing adequate funding to cover fully the costs of their implementation.

Finally, the Governors urge states to take charge of developing creative solutions to our domestic problems and to document the costs, and protest the imposition, of unfunded federal mandates that drain states' abilities to do so.

MEMORANDUM

TO: Brackett B. Denniston, III, Governor's Chief Legal Counsel
FROM: Wendy E. Warring, Deputy Legal Counsel
DATE: December 20, 1993
RE: New York v. United States and Proposed NGA Resolution

You have asked me to consider the grounds for a constitutional challenge to unfunded federal mandates. Based on my research (which does not exhaust the topic by any means), the theory of federalism recently articulated by Justice O'Connor in New York v. United States, 112 S.Ct. 2408 (1992), may afford states with a means to invalidate unfunded federal mandates that substantially interfere with a state's means of self-governance.

The legal commentators who have analyzed New York v. United States, 112 S.Ct. 2408 (1992), maintain that the case charts a new course for defining state's rights in the federal system. See H.J. Powell, The Oldest Question of Constitutional Law, 79 VA. L. REV. 633 (1983); see also A. Althouse, Variations on a Theory of Normative Federalism: A Supreme Court Dialogue, 42 DUKE L. J. 979 (1993). Until its demise in 1985,¹ National League of Cities v. Usery, 426 U.S. 833 (1976), had attempted to protect "state sovereignty" by defining substantive islands in the broad

¹ Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) overruled National League of Cities.

stream of commerce that were off-limits to federal regulation.⁷

"Put in its most favorable light, National League of Cities . . . [was] an attempt to identify those functions most essential to the continued significance of states as separate governmental entities and then to provide enhanced protection in those areas."

L. Tribe, American Constitutional Law, p. 395 (2d ed. 1988).⁸

New York v. United States, however, evidences a concern primarily with protecting the integrity of state processes, rather than with creating substantive realms of state legislative

⁷ In National League of Cities, the Court held that the 1974 amendments to the Fair Labor Standards Act, which extended minimum wage and maximum hour provisions to almost all state employees, were not within the authority granted Congress by the Commerce Clause insofar as the amendments displaced the states' ability to structure employer-employee relationships in areas of traditional governmental functions, such as fire prevention, police protection, sanitation, public health, and parks and recreation. "Congress may not . . . force directly upon the states its choices as to how essential decisions regarding the conduct of integral governmental functions are to be made." 426 U.S. at 855.

⁸ In Garcia, the Court recognized that "municipal ownership and operation of a mass-transit system is a traditional governmental function." Nevertheless, it stated, "[o]ur examination of this 'function' standard applied in [this] and other cases over the last eight years now persuades us that the attempt to draw the boundaries of state regulatory immunity in terms of 'traditional governmental function' is not only unworkable but is inconsistent with established principles of federalism. . . ." 469 U.S. at 531.

The Court in Garcia, with Justice Blackmun as its speaker, found that "[a]part from the limitation on federal authority inherent in the delegated nature of Congress' Article I powers, the principal means chosen by the Framers to ensure the role of the States in the federal system lies in the structure of the Federal Government itself." Id. at 550. Thus, the Court concluded, the Constitution designed the political process to protect the "States as States", a protection of "process rather than one of result." Id. at 554. Because the Fair Labor Standards Act, as applied to San Antonio's public transit system "was not destructive of state sovereignty or violative of any constitutional provision," there was no reason to invalidate it. Id.

autonomy. Powell, at 650. In this way, the case reinvigorates the concept of state sovereignty in a manner that may be consonant with the federal government's formidable presence in almost all areas of policy that were traditionally of state and local concern.

New York v. United States

New York involved a challenge by New York State to certain provisions of the Low-Level Radioactive Waste Policy Amendments Act of 1985. The statute, which made each state responsible for providing for the disposal of low-level radioactive waste generated within the State, established deadlines for devising and implementing state waste-disposal plans, and created three incentives for state compliance with the deadlines. New York asserted that the incentive provisions violated the Constitution's Tenth Amendment and the Guarantee Clause, Art. IV, section 4. * The Court agreed that the harshest incentive violated the Tenth Amendment.

The incentive offered the states without disposal sites the choice of regulating waste disposal in accordance with Congressional instructions, or taking title to the waste and becoming liable for all damages arising from the waste's

* The Tenth Amendment provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or the people." The Guarantee Clause declares that "[t]he United States shall guarantee to every State in this Union a Republican Form of Government."

possession.⁵ This "so-called 'incentive'", as Justice O'Connor called it, was unconstitutional because it offered the states a "choice" of two equally unconstitutional options. 112 S.Ct. at 2428. The Court held that the Constitution does not permit Congress to instruct states to enact legislation or regulations at Congress' direction, nor does it authorize Congress to "commandeer" state governments into service of federal regulatory purposes by requiring states to accept radioactive waste from generators and making states liable for the generators' damages. Id.

Such appropriations of state legislative processes, the Court objected, are inconsistent with the Constitution's division of authority between federal and state governments." Id. Whereas, the Court conceded, Congress had "substantial powers to govern the Nation directly, including in areas of intimate concern to the States," and to pre-empt contrary state regulation, it cannot "require the States to govern according to Congress' instructions." Id. at 2421. See also 112 S.Ct at 2429. "[I]t may not conscript state governments as its agents."

⁵ The other challenged provisions, which the Court upheld, provided, respectively, monetary and access incentives. The former provided for a surcharge on out-of-state waste, a portion of which the Secretary of Energy would place in an escrow account for distribution to states that made progress toward developing new disposal sites. The latter allowed the sited states to increase gradually the cost of access and ultimately to deny access to their sites.

The Court found both of these incentives valid because they were supported "by affirmative constitutional grants of power to Congress" under the Commerce and Spending clauses. Id. at 2427.

The Tenth Amendment Reasoning

The Court decided New York on Tenth Amendment grounds, although it referred to the Amendment as "essentially a tautology". See Id. at 2418. Its opinion is grounded on what is more accurately described as "observations about the 'spirit' of the Tenth Amendment," Powell, at 684; see also Garcia, 469 U.S. at 588, or a re-analysis of "the fundamental purpose served by our Government's federal structure". 112 S.Ct. at 2431.

It is necessary to maintain state sovereignty, "not just [as] an end in itself", but to balance federal power and, thus, safeguard the rights of individuals. Id. The Court explained:

The Constitution does not protect the sovereignty of States for the benefit of the States or state governments as abstract political entities, or even for the benefit of the public officials governing the States. To the contrary, the Constitution divides authority between federal and state governments for the

"The Court emphasized its objection to the coercive aspect of the "take title provision" without otherwise cutting back on the broad grants of federal authority conferred by the Commerce and Spending Clauses. "Our cases have identified a variety of methods, short of outright coercion, by which Congress may urge a State to adopt a legislative program consistent with federal interests." Id. at 2423. Indeed, the Court took care to distinguish (although on precarious grounds) the history of jurisprudence on the Tenth Amendment: Cases such as National League of Cities and Garcia concerned the authority of Congress to subject state governments to generally applicable laws whereas "[t]his case. . .concerns the circumstances under which Congress may use the States as implements of regulation" Id. at 2420.

The Court also carefully distinguished between requiring state courts to enforce federal directives and requiring state legislatures to comply with federal legislation. The former requirement, the Court explained, derives from the text of the Supremacy Clause. Id. at 2430.

protection of individuals. State sovereignty is not just an end in itself: "Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power." [citation omitted]: "Just as the separation and independence of the coordinate Branches of the Federal Government serves to prevent the accumulation of excessive power in any one Branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. Gregory v. Ashcroft, 111 S.Ct.(2395) at 2400 (1991). . . .

Id. at 2431. Under this concept of federalism (a concept indeed threaded through Justice O'Connor's opinions since National League of Cities), a functioning democracy depends on the maintenance of separate and independent states. See Althouse, supra, at 1009.

Although the Court declined to decide the petitioner's guarantee clause challenge, its brief discussion of the issue re-emphasized this point.

Even if we assume that petitioners' [guarantee clause] claim is justiciable, neither the monetary incentives provided by the Act or the possibility that a State's waste producers may find themselves excluded from the disposal sites of another State can reasonably be said to deny any State a republican form of government. . . . Under each, Congress offers the States a legitimate choice rather than issuing an unavoidable command. The States thereby retain the ability to set their legislative agendas; state government officials remain accountable to the local electorate. . . . [The incentives] do not pose any realistic risk of altering the form of or the method of functioning of New York's government.

Id. at 2433. (emphasis added). See also D.J. Merritt, The Guarantee Clause and State Autonomy: Federalism For A Third

In sum, the Constitution forbids the federal government from treating states as political subdivisions. "State governments are neither regional offices nor administrative agencies of the Federal Government." Id. at 2434. The New York federalism thus protects the qualities of a state that render it a separate and independent political entity-- at least the power to legislate its own programs, rather than those of the federal government. See 112 S.Ct. at 2435.

The Challenges to Federal Mandates That Derive From New York

At the heart of the Court's objection to the Act's third incentive provision was thus a concern with preserving the autonomy of the state's legislative processes. The New York decision continues to accord broad authority to the federal government to exercise its powers under the Spending and Commerce Clauses, unless those powers coerce state action or interfere with the state's governing mechanisms. In examining broad federal mandates it is thus important for states to think about how the mandates affect the state's abilities to control their own governments.⁸

⁷ The article, which the Court cited in its opinion, appears to have substantially shaped that opinion. Merritt's view of the Guarantee Clause is essentially the court's view of the Tenth Amendment's protections.

⁸ In the analysis, however, it is important to distinguish between federal mandates that interfere with the state's governing mechanisms and those that regulate state decisions. New York did not overturn Garcia. Thus, under New York, the federal government still retains the authority to regulate the wages and hours of most government employees because most state

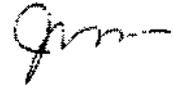
It seems possible to argue that federal unfunded mandates, those that leave no choice of compliance to the states and that affect states directly (not through private parties), run afoul of New York because they deprive the state of the resources necessary to make and implement laws. In New York's terms, unfunded federal mandates appropriate the state budget for federal purposes. Whereas the effect of a single unfunded mandate might not be obvious, it is not difficult to imagine that several unfunded mandates would require the state to divert a significant portion of its budget to the implementation of federal goals, forcing the state to choose between foregoing its own legislative agenda or raising additional revenues. Unfunded federal mandates would thus interfere with the process by which the legislature determines its budget (and with the state's legislative agenda) or with the manner in which the state exercises its taxing powers, functions central to the maintenance of the state as a separate political entity.

and local employees do not perform functions critical to the state's decision-making processes -- functions critical to the republican form of government. Under New York, the federal government would not, however, have the power to regulate the wages, and thus the state's choices, of state governors, legislators, judges, and others key to maintaining the state's political structure. See Merritt, supra, at 56.

It also seems important to distinguish between federal mandates that leave to states a real choice of whether or not to implement them. Even under New York, the spending power continues to give Congress considerable, although not unlimited, opportunity to induce changes in state governmental structures. Merritt, supra, at 48. See also South Dakota v. Dole, S. Ct. 2793 (1987). When Congress imposes objectionable conditions in exercising its spending powers, states may simply refuse the grant-in-aid and avoid the objectionable conditions.

Because, under the New York federalism theory, federal mandates are objectionable only if they affect states directly, rather than by imposing burdens and costs on private parties, and are coercive, even if not explicitly so, not all unfunded mandates or intrusive federal legislation will be subject to tenth amendment challenge. A provision, like one that has been criticized in the Health Security Act (to take over health care financing in a state that doesn't establish health alliances according to the plan by imposing a payroll tax on businesses to pay for health care), would likely survive a tenth amendment/guarantee clause challenge. The provision leaves the state's a choice as to whether or not to establish health alliances, does not tax the state directly, and does not require the state to administer the payroll tax. *

* The provision has, however, been critized as violating the Equal Protection Clause and Section 8 of Article 1, which deals with taxation powers of Congress.



December 28, 1993

MEMORANDUM

To: Tim Masanz
From: Ray Scheppach
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Enclosed are policy proposals from the following Governors, which are being referred to the Committee on Economic Development and Commerce.

Governor Dean	Review of the NAIC Accreditation Process
Governor Wilson	Military Base Disposal and Re-Use
Governor Richards	The Equitable Escheatment Act

The committee may accept, postpone, or reject the proposals, or present the proposals to all Governors in summary form as a clarification, an amendment, or an addition to other NGA policy statements. Resolutions deal only with current policy and not new issues. They may also address persons, places, or one-time events, but not new policy.

Should the committee reject the proposals, the submitting Governor is still free to present their proposal at the next meeting under the suspension of the rules. If adopted or amended by the committee, the proposals would be sent to all Governors by January 17 and be presented at the winter meeting under regular procedures, which require a majority vote of the committee and a two-thirds vote by the association for adoption.

Please bring the attached proposals before your committee for action. It is the responsibility of each committee director to notify the appropriate Governor regarding the disposition of their proposal.

Enclosures

cc: Governor Dean
Governor Wilson
Governor Richards



State of Vermont
OFFICE OF THE GOVERNOR
Montpelier 05609

Tel: (802) 828-3333
Fax: (802) 828-3339
TDD: (802) 828-3346

HOWARD DEAN, M.D.
Governor

December 16, 1993

Mr. Raymond C. Scheppach
Executive Director
National Governors' Association
Hall of the States
444 No. Capitol Street
Washington, DC 20001-1512

Dear Ray:

As you know, I have some strong concerns about the treatment of my State's risk management and captive insurance companies as we prepare to participate in the NAIC accreditation process. We are hoping we can come to an agreement with the Accreditation Subcommittee as to the scope of their review in Vermont, but this process has raised substantial and serious questions about the range of authority being assumed by NAIC, states' prerogatives and due process.

I am attaching a Resolution calling for a review of the NAIC accreditation process. It is my hope that this Resolution could be considered by the appropriate standing committee and supported during the winter meeting.

Sincerely,

A handwritten signature in dark ink, appearing to be 'HD', written over a light-colored background.

Howard Dean, M.D.
Governor

HD/clc

Attachment

RESOLUTION
NATIONAL GOVERNORS ASSOCIATION

REVIEW OF THE NAIC ACCREDITATION PROCESS

In February, 1992 the nation's governors reaffirmed their existing policy stating opposition to federal preemption of state regulation of the insurance industry and affirming their commitment to an effective system of state insurance regulation aimed at the protection of policyholders and claimants and the safety and soundness of insurance companies. (Policy E-7, the Regulation of Insurance) In that policy, the governors also stated their support for the establishment of minimum financial regulation standards by the National Association of Insurance Commissioners and the creation of the National Association of Insurance Commissioners (NAIC) Financial Regulation Standards and Accreditation Program.

As the sanctions under this program become effective on January 1, 1994, the nation's governors request the National Governors' Association to review the implementation of the NAIC accreditation program in order to determine whether the goals of Policy E-7 are being met and the accreditation process is being applied fairly and uniformly to all states.

In conducting this review, the National Governors' Association should focus on the following issues and concerns:

Because the NAIC accreditation program effectively requires states to adopt model acts, the National Governors' Association should evaluate whether the NAIC has set up adequate consultative processes with the nation's governors to allow the elected officials in each state to determine whether these proposed laws effectively serve the best interests of their states and the regulation of the insurance industry. They should determine whether the NAIC requirements for new statutes and continuous updating of previously passed statutes are necessary to effect the intent of Policy E-7.

In connection with this review, the National Governors' Association should also review the due process procedures of the NAIC to make certain that each state's rights are protected and that interested parties have adequate opportunity to comment on model legislation.

The National Governors' Association should also make recommendations as to whether the meetings and processes of the NAIC should be subject to state open meeting or sunshine laws to assure that the NAIC processes are conducted fairly, openly and in the public interest.

The National Governors' Association should evaluate the sanctions under the NAIC Accreditation Program to determine

whether they are appropriate. Although the model statutes state simply that other states will not accept a non-accredited state's exam, a number of states have indicated that they may refuse to license or revoke the licenses of companies from non-accredited states apparently without regard to the solvency of the individual company or the reason a particular state did not receive accreditation.

The National Governors' Association should evaluate the due process procedures of the accreditation process itself to assure that all states are treated fairly and uniformly and there are adequate avenues of appeal of an adverse decision.

The National Governors' Association should also evaluate the accreditation standards to determine whether they are effective at promoting solvency and whether their benefits outweigh their costs, both in terms of financial costs, their effect on availability and affordability of insurance, and competition in the insurance industry. This issue should be looked at both with respect to traditional insurance companies and the alternative insurance mechanisms utilized by business consumers such as captives and risk retention groups.

In order to avoid placing the states in conflict with

federal law, the National Governors' Association should also review the issue of whether the inclusion of risk retention groups in the accreditation process is indirect regulation of these groups by non-chartering states in violation of the federal risk retention act. The nation's governors request the National Governors' Association to review the issue of whether recommendations should be made to Congress to set certain minimum standards which must be met by all states chartering risk retention groups in order for such groups to comply with the federal Risk Retention Act.

The National Governors' Association shall report back results of this review by Summer Meeting, 1994.

resolutn.nga



GOVERNOR PETE WILSON

December 17, 1993

Mr. Ray Scheppach
Executive Director
National Governors' Association
444 North Capitol Street, N.W.
Washington, D.C. 20001

Dear Ray:

Attached are policy statements for consideration at the 1994 winter meeting of the National Governors' Association.

As always, I look forward to a successful and productive conference.

Sincerely,

A handwritten signature in cursive script that reads "Pete Wilson".

PETE WILSON

Enclosures

PW/dw

**DRAFT NGA POLICY:
MILITARY BASE DISPOSAL AND RE-USE**

Preamble

The efficient disposal and effective re-use of surplus military properties remain an important economic issue for states and affected communities. This will continue to be the case as the federal government begins another round of military base realignments and closures. The Governors believe economic development and job creation must be the primary factors governing the disposal of military properties.

Federal Action

The Governors call on the federal government to improve existing military property disposal procedures. Although encouraged by congressional action to hasten disposal, additional legislation is needed to further expedite the process and provide incentives for timely commercial reuse. Specifically, the Governors believe that the McKinney Homeless Assistance Act should be amended to

- o provide a single screening period for homeless assistance providers;
- o require the participation of community reuse planners throughout the disposal process;
- o require that homeless provider applicants demonstrate how property would be utilized, and the financial ability to carry out their proposals to meet regional homeless assistance needs; and
- o allow community reuse planners to offer homeless assistance providers alternative locations to carry out their proposals.

The Governors also urge the federal government to work with impacted states and communities to provide incentives to businesses to locate on surplus military properties. Such incentives include but are not limited to enterprise and free trade zones, and insurance coverage to protect businesses from possible economic losses due to undiscovered environmental contamination.

The Governors believe timely reuse of closed military bases is dependent on the active cooperation of the federal government and affected states and communities in remediation efforts. The Governors call on the federal government to take the following steps:

- o Permit coordinated remediation planning and implementation among federal, state and local representatives to occur concurrently with the reuse planning process;
- o Provide adequate resources to ensure timely and effective remediation, including funding assistance for community advisers;

- o Consider the implications of listing additional bases on the National Priorities List, and work with the states towards quicker alternative measures; and
- o Establish a coherent remediation policy that encourages innovation.

Resolution Urging Enactment of
The Equitable Escheatment Act (H.R. 2443 and S. 1715)

Whereas, numerous brokerage firms, banks and depositories acting as intermediaries in the distribution of dividend and interest payments hold large amounts of unclaimed securities distributions belonging to persons unknown to them; and

Whereas, the dividends and interest on municipal bonds and corporate securities are paid, respectively, by taxpayers or companies doing business in every state; and

Whereas, it would be unfair for virtually all of these unclaimed distributions to be paid to only three states (Delaware, New York, and Massachusetts), while ignoring the interests of the states where the funds originated; and

Whereas, federal legislation has been introduced to require a fairer distribution of these unclaimed funds; and

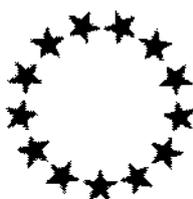
Whereas, these unclaimed distributions accrue in the amount of \$100 to \$150 million annually; and

Whereas, time is of the essence to resolve this matter equitably.

Now, therefore be it resolved by the National Governors' Association, that Congress is hereby urged to expeditiously enact H.R. 2443 and S. 1715 to require that owner-unknown unclaimed securities distributions held by intermediaries be returned to the states of the taxpayers and companies that paid them so that the states can hold and disburse these unclaimed funds in accordance with their laws for the benefit of their citizens; and be it further

Resolved that the chairman of the National Governors Association prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate and to the Speaker of the House of Representatives; and be it further

Resolved, that this resolution become effective upon passage and approval.



December 28, 1993

MEMORANDUM

To: Tom Curtis
From: Ray Schenker
Re: Proposed Policy Statements and Resolutions From Individual Governors

NGA Rules of Procedure require that individual Governors submit any proposed policy statements or resolutions to the NGA executive director at least 45 days in advance of the plenary session. Any policy so submitted will be transmitted to the appropriate standing committee for review. Committee-approved policy statements and resolutions will be transmitted to all Governors no later than January 17, 1994.

The NGA Strategic Review Task Force Report recommends that new, time-limited (two years) policies and policy amendments should, to the extent possible, focus on current NGA priorities. They should be as brief as possible and should include specific objectives and a brief justification.

Enclosed is a policy proposal from Governor Wilson on Reforming the Endangered Species Act, which is being referred to the Committee on Natural Resources.

The committee may accept, postpone, or reject the proposal, or present the proposal to all Governors in summary form as a clarification, an amendment, or an addition to other NGA policy statements. Resolutions deal only with current policy and not new issues. They may also address persons, places, or one-time events, but not new policy.

Should the committee reject the proposal, the submitting Governor is still free to present the proposal at the next meeting under the suspension of the rules. If adopted or amended by the committee, the proposal would be sent to all Governors by January 17 and be presented at the winter meeting under regular procedures, which require a majority vote of the committee and a two-thirds vote by the association for adoption.

Please bring the attached proposal before your committee for action. It is the responsibility of each committee director to notify the appropriate Governor regarding the disposition of their proposal.

Enclosures

cc: Governor Wilson



GOVERNOR PETE WILSON

December 17, 1993

Mr. Ray Scheppach
Executive Director
National Governors' Association
444 North Capitol Street, N.W.
Washington, D.C. 20001

Dear Ray:

Attached are policy statements for consideration at the 1994 winter meeting of the National Governors' Association.

As always, I look forward to a successful and productive conference.

Sincerely,

A handwritten signature in cursive script that reads "Pete Wilson".

PETE WILSON

Enclosures

PW/dw

**DRAFT NGA POLICY:
REFORMING THE ENDANGERED SPECIES ACT**

The Governors recognize that since the enactment by Congress of the current Endangered Species Act (ESA) in 1973, the number of plant and animal species listed as threatened or endangered has markedly increased, yet very few species have been recovered by the federal government to warrant removal from the list. Presently, the United States Fish and Wildlife Service has 1,346 plant and animal species listed as threatened or endangered, as well as approximately 2,500 species listed as candidates.

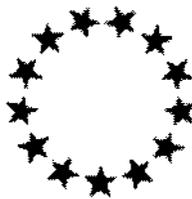
The Governors are concerned that the current application of the ESA works against efforts by state and local governments to balance effectively environmental protection and economic development. The Governors support the following four principles to better reconcile wildlife and economic needs:

Moving away from a reactive, 11th hour, species-by-species approach toward responsible multi-species, ecosystem planning as is being implemented in Southern California with the Natural Communities Conservation Planning Program:

Adopting significant reforms to make the ESA more workable, accountable, and reflective of state and local economic needs, including but not limited to requirements for scientific peer review, greater public involvement in decision making, and recovery plans within one year from the date of listing that incorporates economic impact;

Improving coordination among state and federal agencies regarding their endangered species activities, such as increasing efficiencies of environmental protection through the delegation of federal responsibility to a state that agrees to perform to specified standards; and

Identifying new, targeted approaches to funding implementation of the ESA so that burdens are not unfairly placed on builders, farmers, and owners of private lands, and the protection mandates in the law can succeed.



December 28, 1993

MEMORANDUM

To: Margaret Siegel
From: Ray Schimpach
Re: Proposed Policy Statements and Resolutions From Individual Governors

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The NGA Strategic Review Task Force Report recommends that new, time-limited (two years) policies and policy amendments should, to the extent possible, focus on current NGA priorities. They should be as brief as possible and should include specific objectives and a brief justification.

Enclosed are policy proposals from the following Governors, which are being referred to the Committee on Human Resources.

Governor Engler

Supplemental Security Income Program

Governor Voinovich

National Guard

Governor Wilson

Health Care Reform and the
Undocumented Immigrant Caseload
Reimbursement of Costs Associated
with Educating the Children of
Undocumented Immigrants
Federal Responsibility for Costs
Associated with Incarceration of
Undocumented Alien Felons
FLSA Application to State Prison
Inmates
State Requirements for Participation in
Proposed Federal Regional Prisons

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Please bring the attached proposals before your committee for action. It is the responsibility of each committee director to notify the appropriate Governor regarding the disposition of their proposal.

Enclosures

cc: Governor Engler
Governor Voinovich
Governor Wilson



STATE OF MICHIGAN
WASHINGTON OFFICE

444 North Capitol Street, NW, Suite 411

Washington, DC 20001

202/624-5840

JOHN ENGLER
GOVERNOR

LeAnne Redick, Director

MEMORANDUM

TO: Ray Scheppach, Executive Director
National Governors' Association

FROM: LeAnne Redick, Director *LAR*

DATE: December 15, 1993

RE: Proposed Resolution

I have attached, on behalf of Governor John Engler, a proposed resolution for consideration at the NGA winter meeting.

This resolution is regarding the Supplemental Security Income program and recent Congressional action requiring the Social Security Administration to charge fees to states for administering state supplements to SSI. The resolution calls upon Congress to reconsider and repeal this fee.

I understand that at a recent APWA conference, a meeting was held on this issue. It was decided that APWA will be issuing a resolution in the near future, calling on Congress to provide relief, both on the fee and the SSI state supplementation maintenance of effort requirements.

I have also attached a chart, produced by FFIS, that indicates the amount states will be liable for under this provision.

Please don't hesitate to call if you have any questions.

attachments

cc: Human Resources Committee



*** PROPOSED RESOLUTION ***

AS PART OF AN EFFORT TO REDUCE THE FEDERAL DEFICIT, CONGRESS ENACTED A PROVISION IN THE OMNIBUS BUDGET RECONCILIATION ACT (OBRA) OF 1993 REQUIRING THE SOCIAL SECURITY ADMINISTRATION TO CHARGE FEES TO STATES FOR ADMINISTERING THE STATE SUPPLEMENT PORTION OF SUPPLEMENTAL SECURITY INCOME (SSI). THIS NEW FEDERAL POLICY DIRECTLY CONTRADICTS THE LEGISLATIVE HISTORY OF THE SSI PROGRAM, IN WHICH THE FEDERAL GOVERNMENT ENCOURAGED STATES TO VOLUNTARILY SUPPLEMENT SSI AND TO ALLOW THE FEDERAL GOVERNMENT TO ADMINISTER THE SUPPLEMENTS AT NO CHARGE. THESE SUPPLEMENTS ARE NOW MANDATORY, AND YET OBRA 1993 IMPOSES FEES ON STATES.

WHILE THE GOVERNORS SUPPORT DEFICIT REDUCTION AND RECOGNIZE THE NEED TO KEEP FEDERAL SPENDING WITHIN AVAILABLE RESOURCES, RESPONSIBLE DEFICIT REDUCTION SHOULD NOT NECESSARILY RESULT IN SHIFTING COSTS TO STATES. IN ADDITION, THE FEDERAL GOVERNMENT'S SAVINGS FROM THE FEE ARE ILLUSORY BECAUSE AS MORE STATES OPT TO ADMINISTER THE SUPPLEMENT DIRECTLY, THE FEDERAL GOVERNMENT WILL NOT COLLECT ANY REVENUE. FINALLY, STATE ADMINISTRATION OF THE FEE MAY JEOPARDIZE THE MEDICAID BENEFITS RECEIVED BY SOME STATE SUPPLEMENT RECIPIENTS.

THE GOVERNORS URGE CONGRESS TO REPEAL THE SSI STATE SUPPLEMENT FEE AND TO HONOR THE COMMITMENT MADE WHEN THE SSI PROGRAM WAS ESTABLISHED IN 1972.

Table 2. Fee for Federal Administration of State Supplemental SSI Benefits
(federal fiscal years, dollars in thousands)

State	1994	1995	1996	1997	1998	Five Year Total
Alabama	30	30	30	30	30	30
Alaska	0	0	0	0	0	0
Arizona	0	0	0	0	0	0
Arkansas	1	3	4	4	4	16
California	21,426	50,943	80,034	83,289	86,204	321,947
Colorado	0	0	0	0	0	0
Connecticut	0	0	0	0	0	0
Delaware	11	27	42	44	45	169
Dist of Columbia	394	936	1,472	1,531	1,584	5,917
Florida	1	2	3	3	3	11
Georgia	2	4	6	8	6	23
Hawaii	297	706	1,110	1,155	1,195	4,463
Idaho	0	0	0	0	0	0
Illinois	0	0	0	0	0	0
Indiana	0	0	0	0	0	0
Iowa	49	115	181	189	195	729
Kansas	1	2	4	4	4	15
Kentucky	0	0	0	0	0	0
Louisiana	3	8	12	12	12	50
Maine	565	1,244	2,113	2,198	2,275	8,496
Maryland	3	6	10	10	10	39
Massachusetts	2,956	7,029	11,051	11,493	11,895	44,424
Michigan	3,520	8,370	12,188	12,684	14,163	52,895
Minnesota	0	0	0	0	0	0
Mississippi	2	5	8	8	9	32
Missouri	0	0	0	0	0	0
Montana	22	54	84	88	91	339
Nebraska	0	0	0	0	0	0
Nevada	118	281	441	459	475	1,773
New Hampshire	0	0	0	0	0	0
New Jersey	2,597	6,175	9,707	10,095	10,448	39,022
New Mexico	0	0	0	0	0	0
New York	10,311	24,515	38,539	40,080	41,483	154,927
North Carolina	0	0	0	0	0	0
North Dakota	0	0	0	0	0	0
Ohio	3	6	9	9	9	35
Oklahoma	0	0	0	0	0	0
Oregon	0	0	0	0	0	0
Pennsylvania	4,544	10,803	16,983	17,662	18,280	68,273
Rhode Island	427	1,016	1,597	1,661	1,719	6,421
South Carolina	0	0	0	0	0	0
South Dakota	1	2	3	3	3	12
Tennessee	0	1	2	2	2	7
Texas	0	0	0	0	0	0
Utah	304	725	1,137	1,183	1,224	4,571
Vermont	249	592	930	967	1,001	3,738
Virginia	0	0	0	0	0	0
Washington	1,492	3,548	5,577	5,800	6,003	22,421
West Virginia	0	0	0	0	0	0
Wisconsin	2,035	4,838	7,605	7,909	8,186	30,573
Wyoming	0	0	0	0	0	0
Puerto Rico	0	0	0	0	0	0
Virgin Islands	0	0	0	0	0	0
Territories	0	0	0	0	0	0
Unallocated	0	0	0	0	0	0
Total	\$31,333	\$123,051	\$191,874	\$199,549	\$206,533	\$771,340

Note: Estimates based on annualized December 1991 payment data inflated to reflect estimated program growth.

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STATE OF OHIO
WASHINGTON OFFICE

George V. Voinovich
Governor

December 16, 1993

Mike DeWine
Lt. Governor

To: *Ray Schappach*
~~Nolan Jones~~

From: Ted Hollingsworth

Subject: Amendment to NGA Policy on the National Guard

Attached is Governor Voinovich's proposed amendment to current NGA policy on the Army National Guard. We would appreciate consideration of this policy amendment during NGA's Winter Meeting.

Thank you for your consideration and assistance.

AMENDMENT TO NGA POLICY ON THE NATIONAL GUARD

5.5 [Leave the first, second, and fourth paragraphs, delete the third and insert the following:]

~~We wish to commend Congress for its continuous support of the Guard and urge that in considering any Department of Defense force drawdown proposal and/or force restructuring and reorganizing, reductions in the Guard should achieve a floor of not less than 450,000 force structure allowance, and a 420,000 end strength floor for the Army National Guard. Going below this floor could adversely affect the ability of the Army National Guard to train and develop personnel, effectively manage career opportunities, provide opportunities for upward mobility for women and minority groups, perform state missions, support the war on drugs, and make the most cost effective contributions to national defense.~~

THE DEFENSE DEPARTMENT'S RECENTLY ANNOUNCED ARMY NATIONAL GUARD FORCE STRUCTURE LEVEL OF 405,000 REPRESENTS THE ABSOLUTE MINIMUM LEVEL ACCEPTABLE TO GOVERNORS. THE GOVERNORS ARE CONVINCED THAT NO FURTHER CUTS CAN BE MADE SAFELY FROM THE FORCE STRUCTURE WITHOUT JEOPARDIZING THE GUARD'S ABILITY TO RESPOND TO NATIONAL AND STATE EMERGENCIES. GOING BELOW THIS FLOOR COULD ADVERSELY AFFECT THE ABILITY OF THE ARMY NATIONAL GUARD TO TRAIN AND DEVELOP PERSONNEL, EFFECTIVELY MANAGE CAREER OPPORTUNITIES, PROVIDE OPPORTUNITIES FOR UPWARD MOBILITY FOR WOMEN AND MINORITY GROUPS, SUPPORT THE WAR ON DRUGS, AND MAKE THE MOST COST EFFECTIVE CONTRIBUTIONS TO NATIONAL DEFENSE.

WE MUST ENSURE THAT SUFFICIENT STRUCTURE REMAINS TO RESPOND TO BOTH FEDERAL AND STATE MISSIONS. ENGINEER, MEDICAL, AIRLIFT, MILITARY POLICE, AND TRANSPORTATION UNITS ARE PARTICULARLY IMPORTANT. IT IS IMPERATIVE THAT THESE NATIONAL GUARD UNITS BE RESOURCED TO MAINTAIN A READINESS LEVEL THAT PROVIDES THE CAPABILITY TO MEET THE NEEDS OF THE STATES AND THE NATION.



GOVERNOR PETE WILSON

December 17, 1993

Mr. Ray Scheppach
Executive Director
National Governors' Association
444 North Capitol Street, N.W.
Washington, D.C. 20001

Dear Ray:

Attached are policy statements for consideration at the 1994 winter meeting of the National Governors' Association.

As always, I look forward to a successful and productive conference.

Sincerely,

A handwritten signature in cursive script that reads "Pete Wilson".

PETE WILSON

Enclosures

PW/dw

DRAFT NGA POLICY:

HEALTH CARE REFORM AND THE UNDOCUMENTED IMMIGRANT CASELOAD

The Governors believe that under no circumstances should state and local governments be required to share in costs resulting from federal policy decisions that would provide health care and other federal entitlements to undocumented individuals. Since the United States Constitution requires that our nation's immigration policy be placed under the exclusive jurisdiction of the federal government, all costs resulting from immigration policy should be paid by the federal government.

The Governors believe the President and the Congress should use the ongoing debate over national health care reform as an opportunity to consider what health benefits are to be provided by the federal government directly to undocumented immigrants, and a payment structure under which the federal government will pay directly for it.

The Governors oppose state and local governments being forced to subsidize federal immigration policy. Therefore, the Governors call on the President and the Congress to establish a health care plan that recognizes the federal government's sole responsibility in immigration policy by: 1) removing all current federal mandates on state and local governments to provide health and other public services to undocumented individuals; and 2) developing a direct billing mechanism to ensure that any health care provided to undocumented immigrants -- be it as a result of ongoing federal entitlement mandates, or of legitimate emergent or public health care needs -- be financed fully by the federal government. The provision of health care to undocumented immigrants must remain a fundamental federal responsibility, financed exclusively with federal dollars, not an unfunded mandate or a cost shift to the states, local governments, or health care professionals.

DRAFT NGA POLICY:

REIMBURSEMENT OF COSTS ASSOCIATED WITH EDUCATING THE CHILDREN OF UNDOCUMENTED IMMIGRANTS

The education of our children is one of the most sacred of state and local government responsibilities. As governors, we have struggled to continue to adequately fund education services in our states in the face of prolonged economic stagnation and increased public safety needs.

The presence of ever larger numbers of undocumented children in our school systems can no longer be ignored -- it has led to classroom overcrowding and has seriously exacerbated the funding crunch faced by public school systems. Every state and local dollar spent providing education to undocumented children is one less dollar spent educating the children of legal residents and citizens.

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

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

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

**DRAFT NGA POLICY:
FEDERAL RESPONSIBILITY FOR COSTS ASSOCIATED WITH INCARCERATION OF
UNDOCUMENTED ALIEN FELONS**

Correction costs represent an ever-increasing percentage of state government budgets. This is particularly true for states impacted by illegal immigration, where undocumented felons represent a significant segment of the state prison population.

Section 501 of the Immigration Reform and Control Act of 1986 authorized the federal government to reimburse state and local governments for the costs associated with the incarceration of undocumented alien felons. The nation's governors repeatedly have called on the federal government to appropriate the funds authorized under Section 501 to no avail.

Section 501 has proven to be an ineffective mechanism for fulfilling the federal government's responsibility to pay the correctional costs of undocumented felons.

The leadership of the 103rd Congress has pledged to consider measures to reform existing immigration and refugee policy. The Governors believe the President and Congress should use this opportunity to replace Section 501 with a policy that will ensure that state and local governments are relieved of the fiscal burden associated with the incarceration of undocumented alien felons.

Therefore, the Governors call on the President and the Congress to include in any immigration reform package a policy that provides for:

- o federal incarceration, or country of origin transfer and incarceration of undocumented felons convicted of state crimes for the full duration of their sentence; or
- o if federal incarceration or transfer is infeasible, a billing mechanism to allow state and local governments to bill the federal government directly for the incarceration of undocumented felons.

**DRAFT NGA POLICY:
FLSA APPLICATION TO STATE PRISON INMATES**

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

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

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

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

The Governors urge the federal government to clarify the judicial misinterpretation of the FLSA. The Governors believe the Congress should enact without delay legislation that would

- o exclude prison and jail inmates from the FLSA; and
- o eliminate any liability that may have accrued to state and local governments as a result of the misapplication of the FLSA to inmates.

DRAFT NGA POLICY:

STATE REQUIREMENTS FOR PARTICIPATION IN PROPOSED FEDERAL REGIONAL PRISONS

Drug trafficking and violent crime continue to place enormous strains on the material and financial resources of state and local governments, particularly on prison capacity. In order to implement appropriate sentences, as well as truth in sentencing, against violent offenders, states are required to direct a greater proportion of their corrections budget to prison construction.

New construction represents the most obvious, long-term response to ensure that society's worst offenders are placed and kept behind bars. It is a response that involves tremendous costs. Therefore, the Governors believe that the need for increased prison capacity for violent offenders requires the pooling of federal and state resources to construct new regional prison facilities.

The Governors further believe that the price paid by the states for participation in regional prisons should not be a contribution of limited public funds, but a commitment to expanded public safety. States that wish to pledge participation in regional prisons should be required to pledge enactment of a minimum standard of penalties and procedures that ensure violence criminals are placed in prison for virtually the entire sentence received, and repeat violent offenders are given life in prison without parole.

Therefore, the Governors call on the federal government to work with state officials, including law enforcement and community leaders, to establish a regional prison program, and that such program include clearly defined mandatory requirements that the participating states at a minimum are providing

- o truth in sentencing, which provides that violent criminals will serve at least 85 percent of the sentence ordered;
- o mandatory life in prison without parole for persons convicted of a third serious or violent felony, including but not limited to firearm and drug offenses, sex offenses, rape, and child molestation;
- o mandatory minimum prison sentences, including life in prison, for first time rapists and child molesters; and
- o procedures and programs recognizing the rights of victims, including recognition of the victim's perspective at all appropriate stages of criminal proceedings.

ENVIRONMENTAL PRIORITIES AND UNFUNDED MANDATES

The nation's Governors are committed to protecting public health and the environment for the American people. In protecting the environment, the Governors strongly support and are committed to achieving the national goals outlined by Congress in recent decades. The successful implementation of many environmental programs at the state level demonstrates the Governors' significant contribution to environmental protection. In order to demonstrate further environmental progress in the states, the Governors pledge to continue working with Congress and the Administration in the development of new or revised federal environmental programs.

Yet the Governors are deeply concerned about the high and growing costs of environmental protection, including both programmatic and capital costs required to comply with federal environmental mandates. These costs, borne by states, local governments, and the private sector, result in part from new federal requirements for air, drinking water, water quality, and waste management that require substantially more sophisticated programs and additional environmental infrastructure throughout the nation.

The Governors are also committed to reducing unfunded federal mandates, including environmental requirements. While many environmental requirements are meritorious, some are not and the cumulative effects of unfunded mandates confronts states with the difficult challenge of attempting either to fund the federal requirements from very limited revenue growth or to transfer funds from other state priorities. Therefore, the Governors believe that Congress must provide adequate resources to fund mandatory environmental programs.

In this era of reinventing government, the federal government and the states must commit to a new partnership for environmental protection that aggressively promotes high standards of performance -- not bureaucratic processes. All levels of government must stress the importance of maximizing efficiency in the use of available resources, in order to work not just harder, but smarter, in the protection of the environment. In turn, the Governors call upon the federal government to commit to the following important principles.

First, federal environmental laws and regulations must recognize the need to set priorities and develop policies that focus on the most important environmental objectives at the national, state, and local level. In order to promote risk-based priority setting, environmental requirements should be based upon sound science and risk reduction principles, including the appropriate use of cost-benefit analysis. Such analyses will ensure that funds expended on environmental protection address the greatest risks first and provide the greatest possible "investment return."

Second, the federal government must discipline environmental legislation and regulation based upon the following criteria.

- If an environmental problem warrants passage of federal legislation or adoption of regulations, states and local governments should receive federal assistance to carry out the resulting requirements.
- If the federal government does not provide necessary financial assistance for states to comply with federal environmental mandates, the federal government should allow states and local

governments to carry out environmental protection activities based upon their own priorities and programs.

- If new problems emerge that require federal attention, but additional federal resources are not available, then the federal government should balance existing requirements against new requirements so that the highest priority work can be accomplished within existing budgets.

The principles of this resolution are consistent with the intent of Executive Order No. 12866 on regulatory development and review issued by President Clinton on September 30, 1993. The Executive Order states its objectives to "reform and make more efficient the regulatory process" in order to provide the American people with a "system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society." This resolution is also consistent with recommendations from EPA's Science Advisory Board in 1990 promoting risk-based priority setting to address the greatest environmental needs first. In 1993, the Environmental Financial Advisory Board also offered its support with a recommendation that EPA expand the role of financial analysis in its regulatory development process to facilitate compliance with affordability tests and fiscal plans.

MONDAY, AUGUST 16 (CONTINUED)

3:30 p.m.- 5:30 p.m.	Committee on Economic Development and Commerce	Arena Lower Level
3:30 p.m.- 5:30 p.m.	Committee on Human Resources	Conf. Hall D
3:30 p.m.- 5:30 p.m.	Committee on Natural Resources	Conf. Hall A
6:30 p.m.- 9:30 p.m.	"Oklahoma Fare" Reception and Dinner for All Meeting Attendees	Discoveryland Sand Springs, Oklahoma

TUESDAY, AUGUST 17

9:15 a.m.- 11:45 a.m.	PLENARY SESSION	Arena, Lower Level
12:00 noon- 12:30 p.m.	Closing News Conference	Conf. Hall B
12:30 p.m.- 1:00 p.m.	1993-94 Executive Committee and Standing Committee Chairs	Conf. Hall A
1:30 p.m.- 2:30 p.m.	Special Trade Briefing for Governors	Conf. Hall F

*By Invitation Only †

1993 ANNUAL MEETING  NATIONAL GOVERNORS' ASSOCIATION

CHOICES

- 1) Move from behind
Only idea consistent w/ New Left
- 2) Econ plan did nothing for me families
- 3) People looking for safety they can see -
inst of or prog don't affect them,
the def. & just a #
- 4) Down payment on America's trust
- 5) Left hand, right hand

August 14-17, 1993 • Tulsa Convention Center
Tulsa, Oklahoma

All sessions will be held at the Tulsa Convention Center unless otherwise indicated.

SATURDAY, AUGUST 14

10:30 a.m.- 11:00 a.m.	Opening News Conference	<i>Conf. Hall B</i>
11:00 a.m.- 1:30 p.m.	Task Force on State Management: Conference on Redesigning Government Governors' Plenary Session	<i>Conf. Hall A</i>
5:30 p.m.- 6:30 p.m.	Reception for Governors and Invited Guests*	<i>The Summit Tower</i>
6:30 p.m.- 10:00 p.m.	Reception and Dinner for Governors, Their Spouses, the Oklahoma Host Committee, and Invited Guests*	<i>Gilcrease Museum of Art</i>

SUNDAY, AUGUST 15

9:30 a.m.- 11:00 a.m.	Brunch for Governors and Their Families*	<i>The Summit Tower</i>
11:30 a.m.- 1:15 p.m.	Executive Committee	<i>Arena, Lower Level</i>
1:30 p.m.- 3:15 p.m.	Task Force on Health Care	<i>Conf. Hall D</i>
3:30 p.m.- 5:00 p.m.	Governors-Only Work Session*	<i>Manchester Room Doubletree Hotel Downtown</i>
6:30 p.m.- 9:30 p.m.	"The Oil Baron's Garden Gala" Welcome Reception for All Meeting Attendees	<i>Philbrook Museum of Art</i>

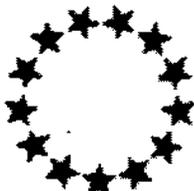
MONDAY, AUGUST 16

9:15 a.m.- 11:15 a.m.	OPENING PLENARY SESSION	<i>Arena, Lower Level</i>
11:30 a.m.- 1:15 p.m.	Governors-Only Lunch and Work Session with President Bill Clinton*	<i>Assembly Hall 2nd Level</i>
1:30 p.m.- 3:15 p.m.	Task Force on Education	<i>Conf. Hall D</i>

NATIONAL GOVERNORS' ASSOCIATION

Ray Romer, Governor of Colorado, Chairman; Carroll A. Campbell Jr., Governor of South Carolina, Vice Chairman

Raymond C. Scheppach, Executive Director; Hall of the States, 444 North Capitol Street, Washington, D.C. 20001-7172, Telephone (202) 624-4300



July 13, 1993

Dear Task Force Member:

Thank you very much for participating in our meeting of July 12th and for your active involvement in developing the Task Force document, the "Conceptual Framework for National Welfare Reform." I am enclosing a revised document which reflects the changes that were made in yesterday's meeting.

The attached "Conceptual Framework" is a working document that represents our initial effort to define the issues of critical concern to state, county and local government and to set forth possible areas of agreement. This statement provides a framework for consideration by the membership of our individual organizations at their national meetings over the next few weeks.

We look forward to hearing the results of these deliberations as soon as possible prior to August 20th. The staff will compile this information and we will distribute it by September 1st. At that time, we will determine when and if another meeting of the Task Force will be scheduled to discuss next steps.

Please report back the results of your organization's meetings to me at the National Governors' Association, 444 N. Capitol Street, Washington, D. C., 20001. You may FAX them to me at (202) 624-5313.

In the meantime, I hope that staff can continue working on further defining issues and options. In addition, I expect that we will all be working with the President's Working Group to ensure that state, county and local concerns are fully understood.

Once again, thank you for your help as we move forward to replace our current welfare system with one that reinforces the values of work, responsibility, and independence, and makes available meaningful education and job training and support programs in order to make the successful transition from welfare to work.

Very truly yours,

Handwritten signature of Jim Florio, followed by printed name: Jim Florio, Governor

Post-It brand fax transmittal memo 7871 # of pages 1. To: Bruce Reed, Ch. From: Betty Wilson, Co. Dept. Phone # Fax # 456-7028

7/12/93

STATE AND LOCAL TASK FORCE ON WELFARE REFORM
Conceptual Framework for
National Welfare Reform
PRELIMINARY WORKING DOCUMENT

NOTE: The material in this paper is intended to provide a common framework for continuing discussion among the six organizations represented on the State and Local Task Force on Welfare Reform. While the paper reflects the variety of state, county and local concerns, each individual organization is in the process of reviewing this document which may result in changes or additions over the next several weeks.

Welfare should be a transitional program that moves people from temporary assistance to self-sufficiency. Welfare benefits should be based on a social contract that sets forth the responsibilities and obligations of both the beneficiary and the government. The goals of this temporary assistance program should include recognition of the essential dignity, well-being, and responsibilities of every American.

This program should be a partnership between all levels of government on behalf of the taxpayer and those who are in need of temporary assistance. The welfare program should be structured so as to encourage meaningful work and the move to independence. It should reward work and a reasonable amount of savings.

In addition to rewarding meaningful work, the welfare program should seek to support stable family relationships, ensure child support collection, and provide the necessary assistance to obtain the educational and job skills necessary to long-term self-sufficiency.

Eligibility for other government programs, such as Supplemental Security Income and Social Security Disability Insurance, should be expanded to assist those for whom work is not an option because of age or disability -- although independence and self-sufficiency should not be excluded as appropriate goals for all Americans.

The national program should be financed so as to ensure full federal funding of any mandates and should not result in new costs or a shift of federal costs to states, counties and localities. The federal government must recognize its responsibility to provide for the long term needs of children and persons who are physically or mentally disabled.

Temporary Cash Assistance

Assistance, in the form of cash grants*, to families with children should be available for a time-limited period during which activities that are designed to make the transition from welfare to work take place.

These activities should include education, training and support services necessary to assist participants become self-sufficient. Receipt of assistance during this period should be conditioned upon ongoing compliance with the social contract. States should be granted broad flexibility in constructing components of the social contract, including requirements to begin work before the maximum time is exhausted. The ongoing financial needs of children shall be addressed in any time limited system.

Continued federal, state, county and local assistance under the national program beyond the time limited period should be dependent on a requirement of work or work-related activities unless no job, community service work opportunity or community service program is available.

-2-

States should have the flexibility to extend assistance, with full federal financial participation, for a limited period beyond the federal standard on a case-by-case basis as needed to ensure that recipients complete education or job-training programs, complete treatment for substance abuse or other physical or mental impairments, or resolve emergency situations such as homelessness.

Earned Income Tax Credit

The Earned Income Tax Credit (EITC) should be expanded over time so that with food stamps, a family of four with a full-time year round worker will be brought to the poverty line. Administration of the EITC should be simplified, outreach and education to assure full participation should be expanded, and worker choice as to frequency of payment should be preserved.

Child Support Enforcement

Parents have an obligation to support their children.

A more effective child support system is a critical component of welfare reform. The attached paper outlines in detail Task Force recommendations on restructuring child support. The recommendations include improved federal collection tools, incentives for improved state performance, child support assurance demonstrations, and improvements to interstate enforcement.

Job Development

As jobs are created in the economy through various means, every effort is necessary to assure that employment is available to those making the transition from welfare to work. The private sector, the major source of new job opportunities, should be encouraged to train workers and to hire those recipients who are trained and ready to work. Incentives to employers to hire, such as targeted tax credits and wage supplementation, should be enhanced. Job development through creation of empowerment zones and enterprise communities should make jobs available to workers in transition from welfare. Public agencies at all levels of government should lead by example and accept their obligation to employ workers in transition from welfare as jobs are developed and, where appropriate, government vendors should bring workers in transition into their work force.

Work and Community Service

All Americans should be productive members of their community. There are various ways to achieve this goal. The preferred means is through private sector, unsubsidized work in business or the non-profit sector. Other alternatives in priority order include: unsubsidized public sector employment; subsidized jobs; grant diversion; working off the welfare grant; and volunteering in community service work.

Community service work opportunities should be developed and managed through the existing infrastructure on the federal, state, county, and local levels. Recipients should be placed in jobs that attend to the public good, such as in school systems, public works departments, social service agencies, and health care and child care facilities. Every effort should be made to place the person in a position that has a relationship to their educational and job training skills and can, therefore, act as a useful stepping stone to private sector employment.

-3-

State and local governments should have the flexibility to utilize some portion of their funds for community service to provide short-term subsidies to assure the transition of people into private sector employment.

Additional Support Needs

Child Care: The shortage of affordable, available and quality child care in the nation is a problem for working families with children at all income levels. This is a problem that is no less a burden on those who want to avoid welfare and those who want to leave welfare. The federal government should formulate a child care financial support policy which applies to all Americans. In addition, the federal government should lift regulatory barriers and allow states discretion to coordinate, consolidate and combine child care assistance administratively into one program. The Dependent Care Tax Credit should be made refundable to assist low income working families with the costs of child care. Other solutions include expansion of transitional child care for up to two years, increased support for at-risk child care, incentives and training to expand family day care, expansion of Head Start and year round school. These solutions have the added benefit of being opportunities for employment for those in transition from welfare to work.

Health Care: Access to quality, affordable health care for all Americans is essential to enable a person to make a permanent transition from welfare to work. Assurance of health care coverage outside the welfare system can prevent entry into the system for some and enable others who leave welfare for jobs to do so without loss of health benefits. Pending development and implementation of national health care reform, health care should be made available to those in transition from welfare to work without regard to participation in other assistance programs at fees based on a sliding scale reflecting family income.

Transportation: In many areas of the country transportation is a significant barrier to employment. Many workers are unable to travel to available jobs because they do not have reliable transportation. Raising asset limits would enable some to own cars so they could get to jobs. States, counties and localities should also be encouraged and assisted to coordinate use of existing transportation (e.g. school buses; vans for transportation of the elderly and disabled).

Subsidized Housing: For many families the cost of unsubsidized housing exceeds the amount of cash assistance they receive. Other families rely on subsidized housing for shelter, housing for which they are eligible based on their family income. In order for these families to move from welfare to work, they need to be able to remain in subsidized housing for some period of time until their earnings are high enough to enable them to pay for unsubsidized housing. Eligibility for subsidized housing should be coordinated with eligibility for other assistance programs so as to ensure that work is financially rewarded.

Workplace adjustment: This assistance must continue as an eligible program to meet the needs of people unfamiliar with the work environment. Help should be provided in learning and dealing with workplace requirements such as hours and punctuality, leave, appropriate dress, speech, relationships with co-workers and supervisors, and employment and labor rules, for example. The objective is to enable people to make the transition from a dependent lifestyle to a self-sufficient life within a work environment.

-4-

Family and individual counselling, peer support groups, mentoring, and other needed family supports: These programs should be maintained throughout the transition from welfare to work.

Program Coordination

The effective delivery of services and benefits will require better coordination and integration. Federal education, housing, health and human services, labor and agriculture agencies should remove barriers and consolidate and standardize language, programs and requirements. States and localities should be given greater flexibility in the use of existing programs.

Transition

Pending the adoption of a new or reformed national welfare program, the federal government should:

- increase federal funding for the JOBS program, modify state matching requirements, and allow states to negotiate performance targets that reflect their economic conditions and the priorities likely to be established under a reform program. These performance targets should replace existing weekly, hourly and annual participation requirements.
- allow states additional flexibility in the design of cash assistance programs through modification of state plans rather than waivers, including but not limited to:
 - elimination of the 100 hour rule and the JOBS 20 hour rule;
 - extension of eligibility to all families with children;
 - the cash-out of food stamp benefits;
 - increasing the asset limit, especially regarding the permissible value of vehicles;
 - disregarding the income of stepparents in calculating income and eligibility;
 - converting welfare benefits to wages for grant diversion or other work in exchange for welfare programs;
 - expansion of earned income disregards; and
 - extension of support services to families until they reach economic self-sufficiency.
- allow various evaluation methods to be used in lieu of control groups.

-5-

Implementation of Reform

There is broad support for moving ahead expeditiously with national welfare reform. As the federal government moves forward with a national program, states should be encouraged and permitted to pursue state-based welfare reform programs aggressively and to move forward on demonstrations.

States, counties and localities which are able and willing to move quickly on the implementation of welfare reform should be encouraged to do so. Appropriate incentives, technical assistance and programmatic support should be offered to them. For states which need a longer time to implement the new system, the federal role should be one of facilitating the transition with targeted technical assistance and support.

Efficiently-managed programs require investment in technology and training. The federal government must maintain its level of investment in this necessary infrastructure in order to achieve welfare reform. Federal requirements regarding the process of acquisition of technology designed to support welfare reform should be simplified and expedited.

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July 12, 1993

STATE AND LOCAL TASK FORCE ON WELFARE REFORM
Child Support Enforcement
PRELIMINARY WORKING DOCUMENT

NOTE: The material in this paper is intended to provide a common framework for continuing discussion among the six organizations represented on the State and Local Task Force on Welfare Reform. While it reflects the variety of state, county and local concerns, each individual organization is in the process of reviewing this document which may result in changes or additions over the next several weeks.

The task Force believes that a more effective child support system is a critical component of welfare reform. Both custodial and non-custodial parents must accept primary responsibility for the support of their children.

The current child support enforcement system is not working very well. States do not have the tools or the resources to run a good system. Just 58% of eligible women have orders and only half collect the full amount. This means that over 70% of mothers entitled to child support either lack support orders or do not receive the full amount due under such orders.

States, counties and localities have continued to make improvements in the establishment of paternity and support orders and in the collection of support. In particular, the Family Support Act of 1988 made important improvements to the child support system. However, the statistical data showing large arrearages and substantial differences in performance among states suggests that collections can be increased further with broader use of the more successful techniques. In addition, there are significant problems in the interstate enforcement of support obligations and there are areas where additional federal support could increase the effectiveness of state efforts.

While we believe that it is important that all states move to a more effective child support system, there is not yet consensus among Task Force members as to whether new federal mandates should be considered. The establishment and enforcement of support obligations are a central part of family law, an area long within the purview of state government. Similarly many of the proposed enforcement techniques require changes in licensing, insurance regulation, and commercial law; areas again long under state purview. As a result, many Task Force members continue to oppose additional process-oriented mandates at this time.

We would suggest that consideration of federal action to improve child support enforcement focus on the following areas:

Improved Federal Collection Tools

State governments need access to IRS data.

IRS collection tools should be available to the states.

Support obligations should be reported on a modified W4 form.

Employers should be required to report new hires to state agencies via the modified W-4 form.

-2-

A national registry of new hires should be maintained.

A federal registry of support orders should be established and maintained.

A national computer data base of locator information should be established and maintained.

Federal resources should support effective child support enforcement.

Performance Based Incentives for State and Local Implementation

Incentives should be available to the states for the successful completion of performance outcomes. Incentive funds should be earmarked for programs that serve children.

Areas of performance might include some of the following:

*establishing paternity

A state establishes a system to voluntarily establish paternity and achieves improvements in this area.

*application of national child support standards

A national commission with a strong state, county and local role should be established by Congress to develop national standards for child support orders. Incentives that induce states to achieve national standards are recommended.

Federal legislation should require ERISA plans to conform to state law and regulations regarding availability of medical support.

In the event national guidelines are established prior to passage of universal access to health care, those guidelines would have to include provision for medical support, including reasonable limits on the additional costs that would be borne by the absent parent.

*improving collections of child support

States, counties and localities should receive incentive payments for reaching certain levels of collections agreed upon in advance. This could be accomplished through adversely affecting licenses, interdicting lump sum payments, and reporting to credit agencies.

*timeliness of interstate collections

*processing times at key decision points

*amount or percent of support collected

*establishment of mediation services that resolve visitation issues

-3-

Standards should be developed in consultation with the states, counties and localities. They should be based on actual levels of achieved performance and should be tailored to individual state conditions. At least initially, the emphasis should be on improvement rather than an arbitrary target.

Data Collection and Research

While there is strong evidence to support the effectiveness of a variety of enforcement tools, this data is often fragmented and is not designed to effectively answer questions about cost/benefit in specific circumstances or to allow for the careful evaluation of alternative approaches to a similar goal. More complete data and additional research on specific enforcement tools would both encourage action at the state level and improve decision making.

The federal government should expand its data collection and research capacity and work cooperatively with the states to develop priorities for future research.

Data Processing Systems

The existing requirements for management information systems have developed over an extended period of time. In some cases it appears that required matches between and among systems may be duplicative. In other cases the systems may not provide access to the full range of available information.

The federal government should, in cooperation with the states, undertake a comprehensive review of the management information needs of the program and develop recommendations both for the required interfaces between state systems and federal and state data bases, and for the needed interfaces among the state systems themselves.

Administrative Changes

It is recommended that the audit process be changed from process-oriented to outcome-oriented performance measures.

The federal Office of Child Support Enforcement should conduct a study on minimum staffing standards.

Technical Assistance and Support

Additional technical assistance from the federal government to the states, counties and localities is needed. Technical assistance must go beyond merely telling states and localities what they should do. Effective technical assistance requires an understanding of good practice and the ability to work with the states and localities to help decisionmakers understand the benefits of such practices and to help tailor those practices to the political and administrative conditions of each state.

-4-

Improvements to Interstate Enforcement

One-third of child support enforcement cases require interstate collection. Federal legislation should be enacted to adopt uniform interstate child support enforcement procedures to assure that child support orders are enforced uniformly throughout the nation.

Continuing Experimentation

Authorize full federal funding for child support assurance demonstrations.

Assistance to Non-custodial Parents

Examine eligibility for job training and other services designed to improve earning capacity.

Consider elimination of disincentives to marriage, particularly for teenage parents.

In addition, we as national organizations urge states to continue to evaluate and implement the broad range of establishment and enforcement tools now in operation across the nation.

*File
MGA*



July 7, 1993

NGA LEGISLATIVE ISSUES

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- Overview
- General Assistance Mandate
- Funding for Police
- Refugee Funds

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- Safe Drinking Water Funding
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NGA LEGISLATIVE ISSUES

FISCAL 1993 SUPPLEMENTAL APPROPRIATIONS

Overview

The fiscal 1993 supplemental appropriations bill (H.R. 2118) was signed by the President on July 2 (P.L. #103-50). The \$16 billion economic stimulus proposal has been pared down to less than \$2 billion -- and all paid through rescission of other unspent funds. The largest expenditure is for Somalia operations at \$750 million, as well as \$730 million for various "stimulus" programs. A Senate floor amendment requiring states to institute workfare for all able-bodied recipients without dependents or lose federal welfare was dropped in conference.

Conference Agreement
(In Millions)

Amtrak	45
Clean Water SRF	-0-
Pell Grants	341
Police	150
Rural Water and Sewer	75
Small Business Loans	175
Summer Jobs	220

Contact: Jim Martin, 202/624-5315

General Assistance Mandate

On June 30, Senate conferees on the fiscal year 1993 Supplemental Appropriations bill voted to drop a provision imposing a workfare mandate on states that have general assistance programs (GA). The amendment had originally been added to the Supplemental Appropriations bill on the floor of the Senate and had survived one key vote in conference on June 29.

NGA had sent a letter on June 25 urging House and Senate conferees to oppose the general assistance mandate, which would have required states to enroll at least 10 percent of GA recipients in workfare programs or face having their AFDC federal administrative funds cut by half. A July 2 Washington Post editorial called the amendment "a crude and ludicrous proposal."

Contact: Julie Strawn, 202/624-7823

Funding for Police

The supplemental appropriations package for fiscal 1993 provides \$150 million in Byrne Memorial discretionary grants for hiring new police officers or for rehiring laid-off police officers.

Contact: Nolan Jones, 202/624-5360

Refugee Funds

The supplemental appropriations package provides \$15 million for the Refugee Cash and Medical Assistance Program to complete fiscal 1993.

Contact: Nolan Jones, 202/624-5360

FISCAL 1994 APPROPRIATIONS

Overview

The House has completed action on most of the fiscal 1994 appropriations bills. The attached chart summarizes House action for fiscal 1994 in comparison to funding levels of last year, current fiscal 1993, and the President's proposals for fiscal 1994. The first page covers domestic discretionary programs and the second page covers entitlement programs currently exempt from sequestration.

Fiscal 1994 funds for discretionary programs goes up 7.7 percent over fiscal 1993, or by \$5.2 billion. The largest dollar increases are for highways, \$1.5 billion; mass transit, \$700 million; dislocated workers, \$551 million; HOPE housing, \$542 million; and Head Start, \$500 million. The House gives the President less than half of his additional requests for discretionary state-local programs. EPA wastewater funds may actually be cut by 40 percent to pay for the new safe drinking water program, if enacted. The Department of Education only received a \$136 million net increase for its grant programs.

Safety net entitlement programs (second page) are usually funded at the levels requested by the President, except for Food Stamps, which is \$3 billion less than requested. These eleven safety net programs increase nearly twice as much as the total of all discretionary programs and account for 67 percent of all federal aid. Medicaid alone is now 40 percent of all federal assistance to state and local government. The footnotes are important to this chart.

Contact: Jim Martin, 202/624-5315

Clean Water Funding

NGA Objective

- Appropriate \$2 billion in fiscal 1994 for the State Revolving Fund (SRF), which finances waste water treatment construction, and increase funding for state nonpoint source pollution control grants.

The President proposed \$1.2 billion for Clean Water Act SRF, a \$100 million grant to Boston, MA for sewage treatment construction, and \$80 million for state nonpoint source grants. Compared with the fiscal 1993 funding level, the clean water SRF is cut by \$600 million to fund the new safe drinking water SRF.

On June 29, the House passed the VA/HUD/IA fiscal 1994 appropriations bill. This bill would appropriate \$1.25 billion for the state revolving loan fund, \$500 million for wastewater treatment grants to "hardship" communities, and \$100 million for state nonpoint source pollution control grants.

The Senate VA/HUD/IA subcommittee markup is not yet scheduled, but is expected to take place in mid-July.

The supplemental appropriations bill (P.L. #103-50) includes \$35 million for rural sewage treatment construction grants and \$35 million for loans.

Contact: Tom Curtis, 202/624-5389
Karen Tyler, 202/624-8575

Safe Drinking Water Funding

NGA Objective

- Appropriate \$599 million for the new state revolving fund proposed in the President's budget to finance drinking water infrastructure.

On June 29, the House passed the VA/HUD/IA fiscal 1994 appropriations bill. The House recommended \$599 million for the drinking water revolving fund, subject to authorization.

The Senate VA/HUD/IA subcommittee is scheduled to mark up its bill in mid-July.

Two bills authorizing the drinking water revolving fund have been introduced in the House: H.R. 1865, reported by the Public Works and Transportation Committee; and H.R. 1701, introduced by Representative Waxman, with strong support of House Energy and Commerce Committee Chairman Dingell. The two House committees are in conflict concerning which has jurisdiction over drinking water capital monies. It remains unclear when either bill will move to the House floor.

Senator Baucus, Chairman of the Senate Environment Committee may introduce an authorization bill based on administration recommendations. Senator Chafee, ranking minority member on the Senate Environment Committee, may attempt to use a drinking water revolving fund authorization bill as a vehicle for reauthorization of the Safe Drinking Water Act.

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Housing Funding

NGA Objectives

- Retain a minimum of \$1.5 billion in fiscal 1994 funding for HOME.
- Develop program regulations that permit states the flexibility needed to operate an effective housing partnership with the federal government and local governments.
- Permanent extension of the low-income housing tax credit and mortgage revenue bond program.

The House has passed the VA/HUD/IA appropriations bill with the following fiscal 1994 program funding levels: HOME - \$1.25 billion; HOPE - \$109 million; and CDBG - \$4.223 billion.

The Senate is expected to mark up its appropriations bill in mid-July.

The low-income housing tax credit is extended permanently while the mortgage revenue bonds are extended permanently by the House and from July 1, 1992 to July 1, 1994 by the Senate. See the "Budget Reconciliation" section for more details.

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Surface Transportation Funding

NGA Objective

- Secure full funding of highway and transit programs authorized in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and continued dedication of gas taxes to the Highway Trust Fund and transit.

The House will soon consider the fiscal 1994 transportation appropriations recommendation reported out by its appropriations committee on June 24 (H.R. 2940, H. Rpt. #103-149). The legislation includes a \$17.2 billion obligation ceiling, with \$2.1 billion outside the ceiling, an increase of \$1.3 billion over the current year's spending but still \$700 million short of the ISTEA authorization levels. The bill also provides \$4.5 billion in total transit funding, with an increase of \$677 million over the current \$3.8 billion, but below the ISTEA-authorized level of \$5.1 billion. Additionally, the House committee proposal included a \$300 million cut in the current funding of \$1.8 billion for airport improvement grants. Funding for the Essential Air Service was also zeroed out, despite the Administration request for current annual funding of \$38.6 million. Even so, transportation received the largest fiscal 1994 increases for discretionary programs -- a major NGA victory.

On June 7, letters were sent to members of the House and Senate Appropriations Committees regarding funding for their state if appropriation levels were set at the level of the President's budget.

On June 16, NGA Chairman Romer, Governor Edgar, Chairman of the Economic Development and Commerce Committee, and Governor Bob Miller, Lead Governor for Surface Transportation, sent a letter (attached) to Senate Finance Committee members, as well as Senators Mitchell and Dole, urging the dedication of "all current and future motor fuel tax revenues to the highway trust fund and to fully fund the President's infrastructure initiatives, especially the Intermodal Surface Transportation Efficiency Act of 1991." (See "Budget Reconciliation" for further information on the proposed energy and gas tax issues.)

Governors have been asked to respond to a survey to determine their interest in developing NGA policy on the federal requirement for making transportation projects conform to air quality goals. The two executive branch organizations representing state air quality and state transportation officials have not been able to come to agreement on the contentious issue. The survey was due on July 2.

On April 20, Governor Edgar and Governor Bob Miller submitted a statement for the record before the Surface Transportation Subcommittee of the House Committee on Public Works regarding oversight of the ISTEA. The Governors outlined several state concerns: full funding of ISTEA, federal mandates, the development of the National Highway System, state relationships with Metropolitan Planning Organizations, a forthcoming NGA Clean Air/ISTEA conference, and the base state working group initiated to facilitate universal state participation in the International Fuel Tax Agreement and the International Registration Plan.

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1994 HOUSE APPROPRIATIONS AS OF JULY 2, 1993 -- FFIS ESTIMATES
GRANTS-IN-AID: MAJOR DISCRETIONARY AND MANDATORY PROGRAMS

7/7/93

(federal fiscal years; dollars in millions)

SELECTED DISCRETIONARY	FY 1992 ACTUAL	FY 1993 ENACTED	FY 1994 PRESIDENT'S BUDGET	FY 1994 HOUSE ACTION	1994 PRESIDENT vs. 1993 ENACTED		1994 HOUSE vs. 1993 ENACTED	
					\$	%	\$	%
DEPARTMENT OF AGRICULTURE								
EMERGENCY FOOD ASS'T (TEFAP) ADMIN.	\$45	\$45	\$46	\$40	\$1	2.7%	-\$5	-11.1%
WOMEN, INFANTS & CHILDREN (WIC) 1/	2,600	2,860	3,287	3,210	427	14.9%	350	12.2%
RURAL WATER & WASTE DISPOSAL GRTS.	376	390	541	450	151	38.6%	60	15.4%
DEPARTMENT OF COMMERCE								
ECONOMIC DEVELOPMENT ASSIS.	302	217	223	223	6	2.8%	6	2.8%
DEPARTMENT OF EDUCATION								
COMPENSATORY EDUCATION	6,706	6,709	7,110	6,871	401	6.0%	162	2.4%
EDUCATION REFORM INITIATIVE 3/	0	0	660	134	660	NA	134	NA
IMPACT AID: MAINT. AND OPERATIONS	744	738	686	801	-52	-7.1%	63	8.5%
CHAPTER 2 EDUCATION BLOCK GRANT	450	435	415	370	-20	-4.6%	-66	-15.2%
DRUG FREE SCHOOLS & COMMUNITIES	508	499	499	370	0	0.0%	-129	-25.9%
SPECIAL EDUCATION:								
BASIC STATE GRANTS	1,976	2,053	2,164	2,108	111	5.4%	55	2.7%
PRESCHOOL, INFANT, & TODDLERS GRTS.	495	539	600	570	61	11.3%	30	5.7%
CHAPTER 1 STATE INSTITUTIONS	143	126	114	114	-13	-10.0%	-13	-10.0%
SCIENCE & MATH EDUCATION	240	246	253	246	7	2.7%	0	0.0%
VOCATIONAL & ADULT EDUCATION	1,435	1,474	1,448	1,474	-27	-1.8%	0	0.0%
HEALTH AND HUMAN SERVICES								
ADMINISTRATION ON AGING--STATE GRANTS	770	765	765	766	0	0.0%	1	0.1%
SUBSTANCE ABUSE BLOCK GRANT	1,080	1,131	1,131	1,097	0	0.0%	-34	-3.0%
MENTAL HEALTH BLOCK GRANT	280	278	278	268	0	0.0%	-10	-3.6%
CHILD WELFARE SERVICES	274	295	295	295	0	0.0%	0	0.0%
COMMUNITY SERVICES BLOCK GRANT	360	372	372	372	0	0.0%	0	0.0%
FAMILY PLANNING	149	173	208	173	35	20.2%	0	0.0%
IMMUNIZATION GRANTS 4/	255	288	554	377	266	92.4%	89	30.9%
RYAN WHITE AIDS GRANTS	316	348	658	572	310	89.1%	224	64.3%
HEAD START	2,202	2,776	4,150	3,276	1,374	49.5%	500	18.0%
CHILD CARE & DEV. BLOCK GRANTS	825	893	933	893	40	4.5%	0	0.0%
LOW INCOME HOME ENERGY ASSISTANCE 5/	1,500	1,346	1,507	1,437	161	12.0%	91	6.8%
MATERNAL & CHILD HEALTH BLOCK GRANT	650	665	705	665	40	6.0%	0	0.0%
COMMUNITY HEALTH CENTERS 1/	536	559	617	585	59	10.5%	26	4.6%
HEALTHY START INITIATIVE	64	79	100	90	21	26.5%	11	13.5%
PREVENTIVE HEALTH BLOCK GRANT	135	149	149	149	0	0.0%	0	0.0%
REFUGEE ASSISTANCE	411	381	420	400	39	10.1%	19	4.8%
UNDOCUMENTED ALIENS IMPACT GRTS 6/	0	0	400	0	400	NA	0	NA
STATE LEGALIZATION ASSIS. GRANTS 7/	0	311	812	812	501	161.1%	501	161.1%
HUD AND INDEPENDENT AGENCIES								
COMMUNITY DEVELOPMENT BLOCK GRANTS	3,400	4,000	4,224	4,274	224	5.6%	274	6.8%
EPA WASTEWATER STATE REV. FUND 8/	1,939	1,928	1,617	1,817	-310	-16.1%	-111	-5.7%
EPA WASTEWATER CONSTRUCTION GRTS 8/	461	623	235	660	-388	-62.2%	38	6.0%
HOPE GRANTS 9/	361	661	109	119	-552	-83.5%	-542	-82.0%
HOME INVESTMENT PARTNERSHIP PROGRAM	1,500	1,000	1,600	1,250	600	60.0%	250	25.0%
OPERATION OF LOW-INCOME HOUSING	2,450	2,282	2,521	2,621	238	10.4%	338	14.8%
DEPARTMENT OF THE INTERIOR								
ABANDONED MINE REC. FUND	135	134	135	135	1	0.9%	1	0.8%
DEPARTMENT OF JUSTICE								
DRUG CONTROL & SYSTEM IMPROV. GRTS.	473	473	481	371	8	1.7%	-102	-21.6%
JUVENILE JUSTICE & DELINQUENCY PREV.	72	77	77	99	0	0.0%	22	28.6%
DEPARTMENT OF LABOR								
DISLOCATED WORKERS	577	567	1,921	1,118	1,354	239.0%	551	97.3%
ADULT & YOUTH TRAINING GRANTS	1,773	1,742	1,717	1,647	-25	-1.4%	-95	-5.5%
SUMMER YOUTH TRAINING GRANTS	1,183	671	1,689	989	1,018	151.8%	318	47.4%
EMPLOYMENT SERVICE STATE ADMIN.	822	811	833	833	22	2.7%	22	2.7%
UNEMPLOYMENT COMP STATE ADMIN	2,565	2,380	2,507	2,507	127	5.3%	127	5.3%
DEPARTMENT OF TRANSPORTATION								
AIRPORT OBLIGATION CEILING	1,900	1,800	1,879	1,500	79	4.4%	-300	-16.7%
HIGHWAY OBLIGATION CEILING	16,055	15,327	18,398	17,198	3,071	20.0%	1,871	12.2%
HIGHWAY EXEMPT FROM CEILING 10/	1,826	2,342	2,117	2,117	-225	-9.6%	-225	-9.6%
MASS TRANSIT:								
FORMULA GRANTS	1,984	1,700	2,455	2,405	755	44.4%	705	41.5%
INTERSTATE TRANSFER GRANTS	160	75	45	45	-30	-40.0%	-30	-40.0%
URBAN DISCRETIONARY GRANTS	1,346	1,725	1,772	1,707	47	2.7%	-18	-1.0%
SUBTOTAL: DISCRETIONARY	\$66,808	\$67,456	\$78,430	\$72,617	\$10,974	16.3%	\$5,161	7.7%

MANDATORY/ENTITLEMENT PROGRAMS	FY 1992 ACTUAL	FY 1993 ENACTED	FY 1994 PRESIDENT'S BUDGET	FY 1994 HOUSE ACTION	1994 PRESIDENT vs. 1993 ENACTED		1994 HOUSE vs. 1993 ENACTED	
					\$	%	\$	%
CHILD NUTRITION	\$6,168	\$6,827	\$7,559	\$7,497	\$732	10.7%	\$671	9.8%
TEFAP, COMMODITY PURCHASES	120	120	163	80	43	36.0%	-40	-33.3%
FOOD STAMPS 11/	23,663	28,115	31,221	28,137	3,105	11.0%	21	0.1%
SOCIAL SERVICES BLOCK GRANT 2/	2,800	2,800	2,800	2,800	0	0.0%	0	0.0%
FAMILY SUPPORT WELFARE PAYMENTS	14,789	14,833	15,076	15,108	243	1.6%	273	1.9%
AFDC JOBS 2/	1,000	1,000	1,100	1,100	100	10.0%	100	10.0%
CHILD SUPPORT ENFORCEMENT	668	778	896	896	118	15.2%	118	15.2%
FOSTER CARE AND ADOPTION ASSISTANCE								
BASE AMOUNT	2,315	2,924	2,993	2,993	69	2.4%	69	2.4%
PRIOR YEAR CLAIMS	116	0	0	0	0	NA	0	NA
FAMILY SUPPORT AND PRESERVATION 12/	0	0	60	0	60	NA	0	NA
MEDICAID 13/	69,766	82,596	88,792	89,077	6,197	7.5%	6,482	7.8%
VOCATIONAL REHAB. STATE GRANTS	1,788	1,880	1,940	1,940	60	3.2%	60	3.2%
SUBTOTAL MANDATORY/ENTITLEMENT	\$123,193	\$141,872	\$152,600	\$149,628	\$10,728	7.6%	\$7,756	5.5%
TOTAL SELECTED GRANTS-IN-AID	\$190,001	\$209,327	\$231,629	\$222,245	\$21,702	10.4%	\$12,917	6.2%

NOTE: House 1994 funding estimates for programs in the Transportation, Commerce/Justice and Interior bills, reflect House Appropriations Committee action only. All other funding estimates reflect House-passed levels.

FOOTNOTES:

- 1/ Unlike all other discretionary programs in this section, WIC and Community Health Center spending is currently exempt from sequestration.
- 2/ Unlike all other mandatory programs in this section, spending for these programs is currently subject to sequestration.
- 3/ Includes funding for Goals 2000, school-to-work transition, an urban-rural initiative, teacher professional development, and a safe schools initiative. The House includes \$100 million that is not distributed and \$34 million for school to work.
- 4/ The 1994 Budget would provide an additional \$60 million for immunization grants through the community health centers program.
- 5/ The 1994 Budget request includes \$1,437 million appropriated in 1993 for use during the period 10/1/93 through 6/30/94, and \$70 million for use after 7/1/94. The House bill does not include the \$70 million.
- 6/ This new temporary program would provide funding for medical services to states disproportionately burdened by serving undocumented aliens. The House is requesting omnibus funding for this purpose in the reconciliation bill.
- 7/ The 1994 funding level reflects \$812 million in funding delayed from 1993.
- 8/ The 1994 Budget would replace the current wastewater SRF with \$1,018 million for a new clean water SRF and \$599 million for a drinking water SRF. The House would provide approx. \$1,253 million for the clean water SRF and \$599 million for the drinking water SRF.
- 9/ The 1994 Budget would transfer \$340 million of 1993 HOPE funds to other programs and fund only implementation grants in 1994.
- 10/ Includes funding for minimum allocation provisions, special projects, and emergency relief.
- 11/ 1993 and 1994 estimates include funding for food stamp benefits, state admin., contingency funds, and nutrition assistance for Puerto Rico.
- 12/ This new capped omnibus program would provide funds to states for family support and preservation services. Because authorizing legislation for this new program is still pending, the House bill does not include a 1994 appropriation.
- 13/ The 1994 Budget 1994 funding level assumes \$285 million in Medicaid savings including the elimination of enhanced administrative matching rates. Estimates for 1994 assume the Medicaid program will have \$3.2 billion in unobligated balances in 1993 that will be applied to 1994 obligations.

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July 2, 1993

BUDGET RECONCILIATION

TO ALL GOVERNORS:

House and Senate conferees on the fiscal 1994 budget resolution will begin reconciling their differences after their July 3-12 recess. Next week, congressional staff will begin to clarify areas of disagreement and options for compromise.

State input during House and Senate debates already has resulted in significant changes that benefit states. These include:

- no entitlement caps with automatic sequesters;
- return of the existing 2.5 cents of the federal gas tax, which is now used for deficit reduction, to the highway trust fund on October 1, 1995;
- Medicaid changes that repeal the mandate for personal care services, delete the requirement for prior authorization to provide new drugs, allow easier collection of third-party payments, and place limitations on physician referrals;
- partial extension of tax-exempt bonds and credits for housing, industrial development, education, jobs, and research; and
- real deficit reduction through a five-year freeze on discretionary spending at fiscal 1993 levels, a requirement that any new entitlement or tax cut be deficit neutral, and a requirement that the House formally vote on entitlement spending that is in excess of projections for the next five years.

Major state issues in conference include:

- Dedication of any new 4.3-cent gas tax to the trust fund. The Senate bill increases all transportation fuels, except jet fuel, by 4.3 cents a gallon and exempts state and local governments. By a vote of 66-32, the Senate voted to dedicate the gas tax portion to the highway trust fund. The House bill creates a Btu tax, which includes an estimated gasoline tax of 7.5 cents a gallon and which does not exempt state or local government or dedicate any of the gas tax funds to the trust fund.

Governors have always strongly supported the exemption of state governments from federal taxes and dedication of gas tax receipts to the highway trust fund.

Even though these funds would be dedicated to the trust fund, they would still be used for deficit reduction until the funds are obligated and appropriated. Since the spend-out is slow, most of the funds would contribute to deficit reduction in the first five years.

Action Needed. Governors must convince their delegations, and ultimately all conferees, that dedication of any gas tax receipts to the Highway Trust Fund and transit programs has served the nation well and is critical to future infrastructure investments.

- Entitlement Controls. Currently, there are no entitlement caps in either the House or Senate bill; however, the House bill has entitlement "controls." These controls consist of a target for total entitlement spending for each of the next four years, beginning with the fiscal 1994 budget resolution baseline, which includes projections to maintain current services and add new participants. If total entitlement spending levels as projected in the budget resolution are exceeded, the President must propose action in his next budget and Congress must vote on a bill that deals with the excess entitlement spending. The House bill has a very limited 2.7 percent inflation adjustment above the current service baseline.

Action Needed. If the House language is adopted, it should be improved so that the actual Consumer Price Index inflation adjustment be used for future projections.

- Medicaid. The program is affected in more than ten significant ways by each bill. Most changes are positive from the state viewpoint; however, they must be reconciled for the final conference report. Changes generally supported by NGA policy include Senate provisions that:
 - give states the option to establish drug formularies (list of eligible drugs) and the calculation of drug rebate formulas;
 - give states more authority to recover assets that were transferred illegally from individuals qualifying for Medicaid services; and
 - postpone the effective date of the new limits on disproportionate share payments to public hospitals to state fiscal year 1996 (the House uses fiscal 1995).

Recent NGA policy supports a House provision for emergency Medicaid assistance to undocumented aliens for those states most affected. States oppose House provisions mandating a maintenance of effort for fraud and abuse units. Restrictions on state programs that encourage the purchase of long-term care insurance should be dropped from the House bill.

- Access to Childhood Immunizations. The House language establishes a new mandated entitlement to immunize children beyond the Medicaid program. The Senate chose not to establish a mandate, but a mechanism by which states may purchase vaccines at a reduced rate as part of Medicaid. In the House bill, states are mandated to create a registry and outreach program, as well as to ensure that Medicaid payment rates for immunization are adequate to enlist providers. These differences are expected to result in major revisions to both proposals in conference.
- Delay of the two-parent work requirement. The Family Support Act of 1988 requires states to enroll at least 40 percent of two-parent families in work activities in fiscal 1994, rising to 75 percent by fiscal 1997. Many states are unlikely to meet this target and may face significant sanctions. States facing this situation will likely prefer the House

bill, which delays this requirement by one year while states participate in the Administration's comprehensive welfare reform efforts. NGA policy supports a reciprocal obligation toward work by recipients; however, current economic conditions, which have resulted in unusually high two-parent welfare caseloads, provide a strong argument for a delay.

- Extension of tax-exempt bond and credit programs for housing, small issue development bonds, jobs, education, and research credits. NGA policy supports the House provisions that make these permanent, rather than the 24-month Senate extension from July 1, 1992, to July 1, 1994. The only reason for short-term extensions is the appearance of saving money. These programs are expected to be renewed next year as in past years.
- Food Stamp Quality Control. The provisions in the House bill change the method of calculating a state's penalty rate, thereby making penalties more reasonable, as called for in NGA policy. However, states are seeking additional reforms, such as addressing the statistical flaws in the system and authorizing an administrative law judge to consider good-cause criteria.
- New fees for state Supplemental Security Income (SSI) Programs. States support a one-year delay in implementing the new federal per person monthly fee for the administration of state programs that supplement the SSI program. This delay is provided for in the Senate bill.

Other conference issues that will affect states include:

- The level of increase for the earned income tax credit. The House has \$28 billion and the Senate has \$17 billion.
- The creation of empowerment and enterprise zones for inner cities and rural areas, found in the House bill.
- State penalty fees of \$300 million over five years based on the number of institutions with student loan defaults in excess of 20 percent. This is included in both bills. The Senate version requires states to pass these fees directly to institutions. The House bill makes the pass-through optional.

The major issues in the budget conference will center on the gas tax versus the Btu tax, or a new formulation of both; the level of cuts in Medicare, with the House at \$50 billion and the Senate at \$58 billion; the level of tax credits for small business investments; and the overall mix of spending cuts versus tax increases. Although these issues will dominate conference politics, the state issues will be positively addressed only if a majority of Governors register their views to their delegations and to the conferees. The individual and collective bipartisan action of the Governors carries significant weight when exercised.

Sincerely,


Raymond C. Scheppach
Executive Director

CLEAN WATER ACT

NGA Objective

- Reauthorize the Clean Water Act to extend the federal commitment to provide capitalization grants for the wastewater State Revolving Fund of \$5 billion (at least \$2 billion) through the year 2000; increase funding for state nonpoint source pollution control programs; and improve management of wetlands through streamlining of regulatory requirements and facilitation of state assumption of the wetlands program.

The Senate Environment Committee has introduced a Clean Water Act reauthorization bill, S. 1114. Some of its major provisions are as follows.

- The bill authorizes a minimum of \$2.5 billion per year through the year 2000 for grants to state revolving loan funds. Congress can appropriate additional funds in any year that it meets deficit reduction targets. The Environmental Protection Agency (EPA) is directed to develop new grant allocation formulas based in part on eligible needs and in part on state participation in a new voluntary watershed planning program. States can use a portion of SRF funds for grants to disadvantaged communities.
- States are required to collect permit fees to cover 60 percent of costs related to administration of point source elements of state programs.
- The bill establishes new authority for watershed planning and management. The new program is voluntary, but portions of state revolving fund and nonpoint source monies are available only to states that participate.
- A new nonpoint source pollution control program is established. EPA is required to develop guidance for state programs and states must revise current strategies accordingly. States must require that all "new" nonpoint sources, as well as all sources in impaired watersheds, implement management measures to control polluted runoff, or comply with a "site-specific plan."
- The bill exempts most communities under 100,000 in population from stormwater permitting requirements.

The Senate Environment Committee is holding a series of hearings on the bill. It has already held hearings concerning funding issues, stormwater, combined sewer overflows, and toxics. It is scheduled to hold hearings in the next few weeks on watersheds, nonpoint source control, wetlands, and regional issues.

The House Environment and Public Works Committee currently plans to introduce a bill in September.

The Administration has convened a special task force to develop an Administration position on wetlands, due to report its recommendation in mid-July. On July 1, Langdon Marsh, Deputy Commissioner of the New York State Department of Environmental Conservation, testified to the task force on behalf of NGA.

The Senate Clean Water Act reauthorization bill does not address wetlands. The committee plans to add in wetlands language after the Administration makes its recommendations.

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DEFENSE CONVERSION

NGA Objectives

- Ensure adequate funding for state and local efforts to turn closed military bases into productive properties.
- Permit states flexibility in the use of funds to retrain workers dislocated by either base closings or the reduction on federal defense contracts.
- Coordinate federal efforts at defense business conversion with efforts already underway in states and support states wherever possible.

The House Armed Services Committee will mark up the fiscal 1994 authorization bill soon after the July 4 recess. At stake for states is the level of funding for such economic conversion programs as the Office of Economic Adjustment (funding for strategic planning for affected communities), the Advanced Research Projects Agency of the Department of Defense, which administers the Technology Reinvestment Project, and the manufacturing extension program, which is administered by the National Institute of Standards.

The President announced that he will forward the recommendations of the Military Base Closure and Realignment Commission to Congress. That commission has recommended the closing of over 100 bases and the realignment of another 40 bases across the country. The President also announced the formation of a package of mitigation assistance for affected communities. Over the next 90 days, legislation will be prepared by the National Economic Council to provide adequate funding for planning in affected communities; streamlined federal land transfer provisions for affected bases; establishment of single federal agency contacts for each affected community; increased funding of environmental cleanup at bases; and increased investment in job training and retraining for affected workers. The cost of the program is estimated to be \$5 billion over five years.

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EDUCATION

H.R. 1804, the President's education reform package (Goals 2000: Educate America Act) was introduced in the House on April 22. Two hearings were held on the bill and it has been reported out of the Committee on Education and Labor. In a letter to the committee, President Clinton expressed opposition to a number of amendments that would weaken the National Education Goals Panel and strengthen the federal role in opportunity-to-learn standards. NGA echoed these concerns in a letter to the committee. However, a number of negative amendments were added over the opposition of the President and the Governors.

In the Senate, the bill has been reported out of committee and is scheduled for consideration after the July recess. While the Senate bill contains a number of provisions that are opposed by some Governors, the Senate bill is far more favorable to the states.

In general, both bills contain the following provisions:

- Title I and II of the legislation would codify the national education goals and the National Education Goals Panel. In addition, the bill would create a National Education Standards and Improvement Council to oversee the development and certification of national voluntary content and student performance standards, a national voluntary system of assessments, and voluntary national opportunity-to-learn standards.
- Title III of the bill creates a national formula grant program for state and local improvements in education. To participate in the program, states would submit a systemic reform plan for review by the Secretary of Education. The legislation includes a list of elements to be included in the plan. Under the plan, the state can request the waiver of federal education program regulations for specified programs.
- Title IV of the bill creates a National Skills Standards Board and calls for the development of national voluntary skill standards.

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HEALTH CARE REFORM

The Clinton Administration is now planning to release its health care reform proposal in early September if reconciliation is completed. Critical issues that are being discussed include:

- state flexibility in administering the new program;
- how long-term care is structured;
- how fast can the new system be implemented by states;
- what is the state maintenance of effort definition;
- how would global budgets be implemented; and
- how is Medicaid folded into the new system.

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INDIAN GAMING REGULATORY ACT

IGA Objectives

- Amend the Indian Gaming Regulatory Act (IGRA) to clarify the scope of gaming so that only those games expressly authorized by state law are subject to negotiation in a state/tribal compact.
- Amend IGRA to provide alternative dispute resolution mechanisms, designed to keep these conflicts out of court, and to apply the good faith negotiation standard to all parties.
- Clarify the provision that requires the Governor's concurrence in the tribal acquisition of new trust-lands for gaming purposes.

On Friday, July 2, Governors, state Attorneys General, Tribal government leaders, and federal officials met with the leadership of the Senate Indian Gaming Committee to discuss changes to the Indian Gaming Regulatory Act of 1988. Governor Sullivan, NGA's working group chair, and Governor Sundlun participated in the meeting. Senator Inouye, chair, and Senator McCain, vice-chair, reviewed numerous issues with participants throughout the four-hour meeting. They reiterated their interpretation of the scope of gaming issue, agreeing with Governors that tribes may insist upon offering only those games expressly authorized by state law. Also discussed was the development of alternative dispute resolution mechanisms to end protracted IGRA litigation. This mechanism would allow a state to opt-out of compact negotiations; a state also could decline to regulate gaming on tribal lands altogether.

The Senators emphasized their intent to introduce (consensus) legislation before the August recess. Committee staff has been convened to draft legislation, and a joint staff working group (with representatives from states, tribes, and federal officials) has been established to develop recommendations on scope of gaming and other issues. The joint working group plans to report back to the Senate committee by a July 20 target date. NGA's contribution to the working group includes staff representatives of Governors on the NGA working group.

Members of the NGA Working Group on Indian Gaming include Governor Sullivan, Chairman, Governor Branstad, Governor Sundlun, and Governor Thompson. Ex-officio members are Governor Engler and Governor Bob Miller, as members of the Legal Affairs Committee.

Legislation to amend IGRA has been introduced in the House and Senate by Rep. Torricelli and Senator Reid.

The House version includes a moratorium on new compacts until necessary regulations to implement IGRA are in place, prohibits gaming on lands acquired by tribes after IGRA enactment, and forbids a tribe from suing a state directly.

The Senate bill limits compact negotiations to those class II and class III games authorized under state law for commercial purposes only; this precludes tribal negotiations for games permitted for charitable purposes. The Senate proposal also restricts Indian gaming to those lands taken into trust by the date of IGRA enactment, and to those tribes recognized before IGRA enactment, and redefines the application of the good/bad faith negotiation standards.

Contact: Victoria Becker, 202/624-5368

NATIONAL SERVICE

NGA Objectives

- Promote a strong partnership between federal, state, and local governments, as well as with the volunteer and business communities, to emphasize the importance of community-wide involvement in state service efforts.
- Recognize the multitude of existing state service provider systems and programs and seek to complement them, as well as encourage new and innovative programs.

- Develop a federal national service program that is operated primarily by states and provide for the coordination with states for those programs that are not funded by state service commissions.

On April 30, the President announced the National Service Trust Act. If enacted, the proposal would create a national service program that draws on the work of the states. The Act creates a bi-partisan Corporation for National Service, which includes a state representative, to oversee programs at the federal level and calls for the creation of gubernatorially appointed service commissions at the state level. Thirty-three percent of the funds would be allocated to the state commissions to support service programs in the states. Thirty-three percent would also be awarded to states in an effort to encourage innovative service programs. The remaining thirty-three percent would be awarded by the Corporation for National Service through a national competition.

In addition, the proposal reauthorizes or modifies a number of other service related programs, including Serve-America, VISTA and Older Americans, Civilian Community Corps, and the Points of Light Foundation.

On May 7, Governor Romer and Governor Campbell wrote a letter to the President (attached) in support of this legislation.

Both the House and Senate have held hearings on this issue and the legislation has been reported from both House and Senate committees, with floor action expected prior to the August recess. In anticipation that this legislation will be enacted shortly, the White House Office of National Service has created a taskforce to begin thinking through the implementation of the program. NGA has been asked to serve on this working group.

Contact: Patty Sullivan, 202/624-7723

NORTH AMERICAN FREE TRADE AGREEMENT

NGA Objective

- Ensure that implementing legislation establishes formal mechanisms for coordination and communication between the states and the federal government, particularly in settling disputes that challenge state laws. Areas of potential dispute will likely occur over state regulation of environmental standards, services, investment, and government procurement.

On June 30 a judge in the U.S. District Court of Washington, D.C. issued a ruling that will delay progress on implementation of the North American Free Trade Agreement (NAFTA). The judge (in Civil Action No. 92-2102 (CRR)) indicated that the President cannot proceed with implementation of NAFTA without filing an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA). In his 23-page ruling, Judge Charles R. Richey agreed with plaintiffs Public Citizen, Sierra Club, and Friends of the Earth who said proposed NAFTA legislation should be subject to NEPA requirements, given its potential significant effect on the environment, especially along the U.S.-Mexico border. Preparation of an EIS can take months, sometimes years. If the ruling stands, it could prevent the U.S. from achieving congressional approval by the end of the year, when the NAFTA agreement is scheduled to go into effect.

The Justice Department will appeal the ruling, saying it interferes with the President's ability to negotiate international agreements for the United States. But it will be at least a month before a hearing date will be set. First, the government will file a brief July 19, the plaintiffs will file a response by August 2, and then the government will refile August 10; only after that will a hearing be scheduled.

Before the ruling last week, the Office of U.S. Trade Representative (USTR) was pursuing negotiations with Mexico and Canada on separate agreements for the environment and labor issues. These side agreements would be included in a package with legislation implementing the NAFTA agreement itself, which was concluded last year. This package would be submitted to Congress perhaps as early as mid-July, with a vote by Congress targeted for the Fall. USTR has announced that it will proceed with this timetable despite the ruling.

States are working with negotiators on the side agreements. A small working group of state staff has submitted comments informally to environmental negotiators, calling for a stronger role for states in dispute settlement and other trilateral environmental enforcement efforts. A similar effort to advise on the labor negotiations is underway. Meanwhile, individual Governors are expressing their support for NAFTA. A Heritage Foundation survey indicated that 40 of the 50 Governors support NAFTA. NGA lead Governors are Governor Thompson and Governor Richards.

Contact: Jody Thomas, 202/624-7824

SAFE DRINKING WATER REFORM

NGA Objectives

- Reform the drinking water statute to allow EPA to consider risk reduction benefits when it sets standards, thereby making the program more risk based and cost-effective.
- Reform monitoring requirements to allow states greater flexibility.
- Replace the requirement to regulate 25 new contaminants every three years with a system based on occurrence in water and health risks.

There is growing pressure in Congress for changes to be made to the Safe Drinking Water Act. Senators Baucus and Chafee have asked Senate Environment Committee staff to develop a reform proposal during the August recess, with hearings beginning possibly in September. Representative Waxman, Chairman of the House Energy and Commerce Health Subcommittee, has indicated he will not move a drinking water bill if it includes reform of the standard setting process.

The Administration is developing a report that is due to Congress in early July, and therefore are considering their position on a number of reauthorization issues, including reform of the standard setting process.

Contact: Tom Curtis, 202/624-5389
Karen Tyler, 202/624-8575

SCIENCE AND TECHNOLOGY/TELECOMMUNICATIONS

NGA Objectives

- Strengthen the state-federal partnership in science and technology by structuring federal initiatives -- such as manufacturing extension programs -- to build on and support existing state programs, and provide incentives for more comprehensive state programs.
- Strengthen state manufacturing extension programs.
- Permit flexibility in the targeting of programs to provide support for state priorities, including participation in proposed "High Performance Computing Networks."

The House adopted H.R. 820, the National Competitiveness Act of 1993 and the Senate is expected to consider it soon after the July 4 recess. The Senate version (S. 4) also contains language on telecommunications intended to support research to develop a wider range of applications for the high performance computing networks. That legislation (H.R. 1757) has been introduced separately in the House by Representative Boucher. H.R. 1757 was reported by the House Committee on Science, Space, and Technology.

S. 4 contains language that would explicitly restrict state government from building, owning, or managing telecommunications networks that are not either high speed, "test bed" networks for research purposes or for "government mission purposes." The House version contains more general language about the need to use commercial carriers wherever feasible.

Contact: Tim Masanz, 202/624-5311

WELFARE REFORM

On June 24, the planning group of the State and Local Welfare Reform Task Force met with leaders of the nine Administration working groups of the President's Working Group on Welfare Reform, Family Support, and Independence (attached). The meeting also included representatives of the newest members of the Task Force: the National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties.

The principal members of the Task Force will meet on July 12 to discuss the process for working with the Administration on the issue and to revise and agree upon a statement of policy principles for welfare reform. The Administration will be represented at the meeting by Bruce Reed, co-chair of the Administration's Working Group and Deputy Assistant to the President for Domestic Policy. The statement of welfare reform policy principles, if adopted, will be considered for adoption as NGA policy in August at the annual meeting.

The task force is chaired by Governor Florio.

Contact: Julie Strawn, 202/624-7823

NGA REGULATORY ISSUES

CLEAN AIR REGULATIONS

NGA Objective

- Encourage EPA to finalize regulations governing state environmental agency review of state highway improvement plans, as well as other regulations necessary for efficient management of state air quality plans.

The Clean Air Act Amendments of 1990 required that state air quality agencies review plans for transportation improvement to insure that transportation projects do not impede efforts to reduce automotive pollutants. EPA is in rulemaking to define the exact scope and nature of this authority. Specific issues under consideration include the geographic areas for which a finding of "conformity" between the states air quality plan and its transportation plan must be made, the projects to be covered by the conformity finding, and whether the state air agency or the state transportation agency should make the finding.

On June 16, NGA sent a survey to all Governors asking whether NGA should weigh-in on the rulemaking, and providing an opportunity to choose several options on the pending issues of concern. Responses were due on July 2.

Contact: Tom Curtis, 202/624-5389

MEDICAID PROVIDER TAXES AND VOLUNTARY CONTRIBUTIONS

NGA completed negotiations with the Health Care Financing Administration of the Department of Health and Human services regarding nine points of concern in the interim-final regulations published on November 24. That agreement has been distributed to Governors. New interim final regulations are expected to be published by mid-July.

Contact: Carl Volpe, 202/624-7729

MEDICAID WAIVER AUTHORITY

NGA Objective

- Simplify the Medicaid waiver process so that states will be able to implement cost efficient and innovative service delivery systems in Medicaid.

NGA established a working group of six state representatives to meet with representatives of the Department of Health and Human Services. The group has been discussing ways to simplify research and demonstration waivers (1115(a)), freedom of choice waivers (1915(b)), and home- and community-based waivers (1915(c)). The effort is ongoing, and the topics have been expanded to include improvement to Medicaid beyond waivers.

Contact: Carl Volpe, 202/624-7729

INDIVIDUALLY ADDRESSED LETTERS SENT TO ALL
SENATE FINANCE CMTE MEMBERS AND SEN.
MITCHELL AND DOLE



June 16, 1993

*Reconciliation
GAS TAX*

The Honorable Daniel P. Moynihan
Chairman
Committee on Finance
SD-205 Dirksen Senate Office Building
Washington, D.C. 20510-6200

Dear Mr. Chairman:

We know you are facing a crucial challenge and must make some hard choices on the budget reconciliation bill. The Governors are committed to a long-term strategy for significant deficit reduction that includes shifting spending priorities towards investments that make clear and direct contributions to national productivity.

In that regard, it is the long-standing policy of the Governors to dedicate motor fuel taxes exclusively for transportation infrastructure investment. We, therefore, urge you to dedicate all current and future motor fuel tax revenues to the highway trust fund and to fully fund the President's infrastructure initiatives, especially the Intermodal Surface Transportation Efficiency Act of 1991. We urge you as well to maintain the motor fuel tax exemption for state and local government.

We wish you good luck in the tremendous undertaking you have before you.

Sincerely,


Governor Roy Romer


Governor Jim Edgar
Chairman, Committee on
Economic Development and Commerce


Governor Bob Miller
Lead Governor on
Surface Transportation



*Reconciliation
MEDICAID*

June 14, 1993

The Honorable George J. Mitchell
Majority Leader
United States Senate
The Capitol, Room S-221
Washington, D.C. 20510

Dear Senator Mitchell:

The Governors are committed to a long-term strategy for significant deficit reduction done in concert with state and local governments. However, we are opposed to unilateral procedural actions that shift costs but fail to solve the underlying problems.

As the Senate Finance Committee begins work on its reconciliation bill, the nation's Governors oppose an entitlement cap on Medicaid that includes unrealistic future adjustments and an automatic sequester. Such actions would only shift federally mandated costs to state and local governments. States simply cannot absorb the additional costs and would be required to make cuts in other state programs such as education, training, and infrastructure, which are so critical to long-run economic growth.

With respect to the House provision to impose additional restrictions on disproportionate share payments, we urge you at a minimum to delay the effective date until each state's 1996 fiscal year. This would give states some ability to make changes over time without the severe disruption to their programs that would otherwise result. We also oppose any additional cuts in the Medicaid Disproportionate Share Hospital program until a fair resolution of the overall controversies around this program can be achieved — possibly one linked to enactment of more comprehensive health care reform.

In addition, we ask that you not make any additional reductions in the enhanced matching rates for administration of certain aspects of the Medicaid, AFDC, and Food Stamp programs. Such actions will result in a loss of health care for low-income individuals and will greatly reduce states' abilities to effectively administer programs that are known to be run extremely efficiently. These are the funds now used for state cost control procedures. Also, we oppose any provision that would assess a fee on states for the administration of SSI Supplementation programs.

The Honorable George J. Mitchell
June 14, 1993
Page Two

Legislating artificial caps or substantial reductions in health care programs for the poor is particularly inappropriate without looking more comprehensively at the nation's health care problems. Such actions should only be considered as part of a broader health care reform package and in the context of greater program flexibility for states.

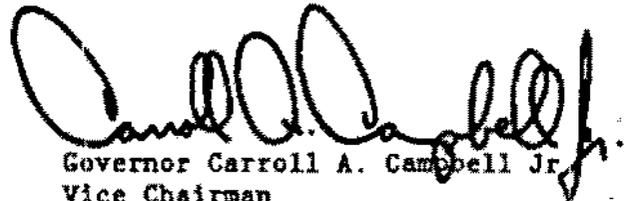
We encourage you to include provisions that give states the option to establish meaningful Medicaid prescription drug formulary programs. In addition, we support provisions that limit individuals from transferring assets inappropriately to qualify for Medicaid services.

We look forward to working with you as you craft the remaining portions of your deficit reduction package.

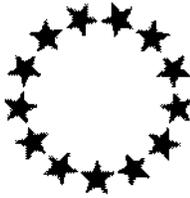
Sincerely,



Governor Roy Romer
Chairman



Governor Carroll A. Campbell Jr.
Vice Chairman



INDIAN GAMING

June 30, 1993

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

The Honorable John McCain
Vice Chair, Committee
on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Inouye and Senator McCain:

We appreciate your continuing efforts to work with interested parties to resolve important issues that have arisen in connection with the implementation of the Indian Gaming Regulatory Act of 1988 (IGRA). We were glad to have had the opportunity to meet with you and tribal government representatives in Tucson and were especially pleased with your intent to have a bill in place for Senate consideration before the August recess. We look forward to working with you and the tribal governments towards the successful completion of this process.

In preparation for the meeting on Friday, we wanted to review with you the Governors' fundamental concerns on implementation of IGRA. We regret that, due to the legislative schedules in several of our states, not all members of our working group are able to attend this meeting. We do, however, want to reiterate our support for reaching an early and satisfactory resolution of our concerns and are especially hopeful that there will be adequate opportunity on Friday to address the following issues.

Scope of gaming. Governors want clarification in the law that the types of games that are permissible are those expressly authorized by state law. Governors believe the statute should make clear that tribes can operate gaming of the same types and subject to the same restrictions that apply to all other gaming in each state. Also, we think the statute should address the distinction we perceive between charitable and commercial gaming.

It is particularly important to clarify the scope of gaming activities, so that states are not obligated to negotiate for games that are not expressly authorized by state law. Further, it is the view of the Governors that this principle should be the basis for resolving other issues such as: the effect of a state's charitable or social gaming laws on tribal gaming; whether tribes should be subject to the same limitations applied to non-Indian gaming; and the range of issues subject to negotiation in the compact process.

Senator Inouye and Senator McCain
June 30, 1993
Page two

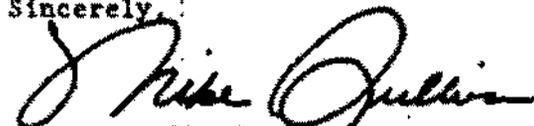
Good faith and an end to protracted litigation. Currently under IGRA, only the states are required to negotiate in good faith. Some states have been taken to court by tribes asserting that the simple failure to reach a compact agreement constitutes bad faith on the part of the state. IGRA should reflect not only that both sides must negotiate in good faith if a reasonable and effective compact is to be reached, but that states cannot be found in bad faith for negotiating within the boundaries of state law. IGRA also should provide mechanisms to resolve disputes, outside of court, in the event the initial compact negotiations fail.

Tribal acquisition of non-trust lands. Under the Bush administration, an Interior Department solicitor opined that tribal acquisition of non-trust lands for the purpose of conducting gaming activities requires the approval of the Governor in the state where the land is acquired. We accept this interpretation, however, judicial and administrative cases continue the controversy. Perhaps the timing of the Governor's concurrence, and the process through which a Governor concurs or declines to concur, should be clarified.

Other more technical issues have been raised, but we would request that you focus on these three main issues as being of the highest concern to the states. Also note that we see the resolution of the scope of gaming and good faith negotiation to be closely linked and believe they should not be considered independently.

Governors support the efforts of tribal governments within their states to pursue economic development opportunities. Governors have strong concerns about the role that gaming should play in those economic development strategies, and, indeed, in the overall culture of the state, and we want to work with you to improve the implementation of the act. We all have an interest in resolving this matter as quickly as possible, because continued conflict is unproductive for both states and tribes.

Sincerely,



Governor Mike Sullivan
Chairman
Working Group on Indian Gaming

c: Patricia Zell
Dan Lewis
Eric Eberhard

NATIONAL
SERVICE

May 7, 1993

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

On behalf of the National Governors' Association, we write to express our support for the National Service Trust Act. This initiative embodies one of our most valued American traditions -- working together to help one another -- and we applaud your efforts to work with the states to provide a variety of meaningful service opportunities that reflect the needs of our communities, the states, and the nation.

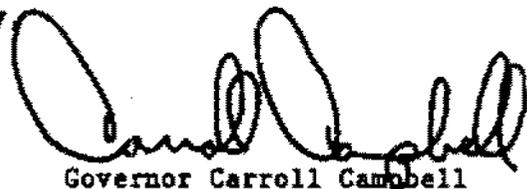
We support the strong state and federal partnership for providing service opportunities proposed in the bill. The bill is structured to permit states to supplement existing service activities, while also encouraging the development of innovative service activities through a competitive grant program. The proposal draws on current gubernatorial leadership that is promoting state service projects by asking the Governors to appoint the proposed state commissions on national service. We also are pleased by the involvement of state agency heads in the work of the commission to ensure that programs funded by the commissions complement and support existing state activities. In addition, for those states that have proven to be the real leaders in service activities, the bill recognizes existing state structures and provides flexibility and time for a transition to the new system.

At the federal level, we are pleased with the planned involvement of state service experts in the work of the proposed federal Corporation for National Service and with the opportunity to coordinate programs funded by the corporation with the appropriate state commissions.

We commend the Office of National Service for their cooperation in developing legislation that draws on the leadership of the states to support a national service initiative and we look forward to working with you toward the enactment of this important legislation.

Sincerely,


Governor Roy Romer


Governor Carroll Campbell

Working Group on Welfare Reform, Family Support and Independence

Chairs

- Bruce Reed** *Deputy Assistant to the President for Domestic Policy*
- David Ellwood** *Assistant Secretary for Planning and Evaluation, Department of Health and Human Services*
- Assistant Secretary for the Administration for Children and Families, Department of Health and Human Services*

Members

- Ken Apfel** *Assistant Secretary for Management and Budget, Health and Human Services*
- Walter Broadnax** *Deputy Secretary, Department of Health and Human Services*
- Robert Carver** *Deputy Assistant Secretary for Returns Processing, Treasury Department*
- Maurice Foley** *Office of Tax Policy, Treasury Department*
- Thomas Glynn** *Deputy Secretary, Department of Labor*
- Ellen Haas** *Assistant Secretary for Food and Consumer Services, Department of Agriculture*
- Elaine Kamarck** *Office of the Vice President*
- Madeleine Kunin** *Deputy Secretary, Department of Education*
- Alicia Munnell** *Assistant Secretary for Economic Policy, Treasury Department*
- Larry Parks** *Senior Advisor to the Secretary, Department of Commerce*
- Wendell Primus** *Deputy Assistant Secretary for Human Services Policy, Department of Health and Human Services*
- Julie Samuels** *Director, Office of Policy and Management Analysis, Department of Justice*
- Isabel Sawhill** *Associate Director for Human Resources, Office of Management and Budget*
- Eli Segal** *Assistant to the President for National Service*
- Eugene Sperling** *Deputy Assistant to the President for Economic Policy*
- Michael Stegman** *Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development*
- Joseph Stiglitz** *Council of Economic Advisors*
- Fernando Torres-Gil** *Assistant Secretary for Aging, Department of Health and Human Services*
- Jeff Watson** *Deputy Assistant to the President for Intergovernmental Affairs*
- Kathi Way** *Special Assistant to the President for Domestic Policy*
- Surgeon General**
Assistant Secretary for Intergovernmental and Interagency Affairs, Department of Education
Assistant Attorney General for Policy Development, Department of Justice
Assistant Secretary, Employment and Training Administration, Department of Labor

Welfare Reform: Next Steps

The Welfare Reform Working Group is charged with presenting a detailed proposal to create a transitional assistance system in line with the broad principles outlined by the President. To tackle this complex task, the Working Group is assigning staff to develop background information and policy options in the following areas:

Making Work Pay – to explore ways of improving the economic incentives to work and the distribution of financial and other supports for the working poor, such as the Earned Income Tax Credit

Child Support – to address issues ranging from paternity establishment and support enforcement to the possibility of a child support insurance/assurance program

Absent Parents – to examine current government policies as they relate to absent parents so that they can better meet their parental responsibilities

Transitional Support – to review strategies for providing assistance on a temporary basis along with the education, training, and other supports needed to get off welfare and into jobs

Post Transitional Work – to examine the issues related to employing those reaching the end of their time-limited assistance

Child Care – to explore how best to meet the need for child care in a system of transitional assistance and mandatory work

Program Simplification – to look at the rules and regulations of benefit programs for low income families to find ways to make them more uniform and simple

Private Sector Job Creation – to focus on including in a transitional assistance system the incentives necessary to create jobs for welfare recipients in the private sector

Prevention/Family Stability – to ensure that efforts to prevent out-of-wedlock births and family break-up are given priority in the reform plan

While federal employees will be staffing the Working Group, they will be seeking input and proposals from individuals and organizations outside the government. Those who are interested in providing input, ideas and suggestions are invited to write to the Working Group at the address provided on the following page. Specific proposals as well as general comments are welcome.

*File:
NGA*



May 7, 1993

*FYI
Jim
Martin*

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NGA LEGISLATIVE PRIORITIES

ADMINISTRATIVE COST CAP

NGA Objective

- Oppose the 50 percent cap for the reimbursement rate on administrative costs associated with the Medicaid, Food Stamp, Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) programs.

The House Energy and Commerce Subcommittee did not include the Administration's capping proposal for Medicaid in its mark.

The Administration has proposed to cap the federal reimbursement rate at 50 percent for all administrative costs for the programs noted above. The Medicaid cap is expected to cost states approximately \$2.2 billion over the next 5 years, while the AFDC and Food Stamp programs will each cost states \$20 million in fiscal 1994. For the twenty-four states that currently utilize the federal government's joint administration of the supplemental security program SSP and SSI, the administrative fee will cost the states \$57 million in fiscal 1994 and could increase to over \$200 million per year when fully implemented in 1998.

NGA has urged Congress to retain the current special match rates and not implement a fee for the federal administration of state supplements to SSI.

Contact: Nolan Jones, 202/624-5360

BUDGET RECONCILIATION

NGA Objective

- NGA policy specifically calls for full funding of ISTEA and increased funding for the Clean Water Act. (Both of these programs are presently in jeopardy for fiscal 1994 appropriations.)

The House is in a crucial two-week phase when most of the specific decisions on line items of the President's fiscal 1994 budget will be made. The congressional budget resolution for fiscal 1994 was passed in early April. It set a total cap on discretionary spending and included instructions on how to achieve deficit reduction of \$343 billion over the next five years -- mostly through revenues increases of \$245 billion and the balance in spending cuts. To date, the largest spending cut is a \$48 billion COLA freeze in payments to doctors and hospitals for services.

House committees, including the Ways and Means tax committee, must report by May 14 on all of the fiscal 1994 changes, which will then be packaged by the House Budget Committee and sent to the floor for a vote before the May 28 recess. This package would enact most of the President's fiscal 1994 budget and is expected to pass.

The Senate committees must report by June 18 under a similar fast track process, with a target for floor action before the August recess. This process is complicated by tight voting in the Senate Finance Committee, where disagreement exists over specific tax changes and the level of spending cuts vs. taxes.

The most significant impact on states will be savings directed at Medicaid, now being considered before the House Energy and Commerce Committee, and final spending levels for the highway obligation ceiling and the clean water state revolving loan fund program. Because the President's budget is over the congressional target for transportation by \$2 billion and below 1993 funding for clean water by \$700 million, states stand to lose \$2.7 billion in these vital infrastructure programs this year alone. If this were to happen, it would gut the President's infrastructure initiatives as called for by the Governors.

Note: See the chart at the back of this document for a comparison of current funding levels vs. the President's fiscal 1994 proposals for all major state and local assistance programs.

Contact: Jim Martin, 202/624-5315

CLEAN WATER FUNDING

NGA Objectives

- Appropriate \$2 billion in fiscal 1994 for the State Revolving Fund (SRF), which finances waste water treatment construction.
- Reauthorize the Clean Water Act to extend the federal commitment to provide capitalization grants for the State Revolving Fund of \$5 billion (at least \$2 billion) through the year 2000; increase funding for state nonpoint source pollution control programs; and improve management of wetlands through streamlining of regulatory requirements and facilitation of state assumption of the wetlands program.

Fiscal 1994 funding for the State Revolving Loan Funds is in jeopardy. President Clinton's failed stimulus package included \$845 million in SRF funding that was essentially forward shifted to fiscal 1993 from what would have been the fiscal 1994 budget. It will be very difficult to restore the lost \$845 million to the fiscal 1994 budget because the stimulus package was considered emergency spending and as such was not scored against the discretionary spending cap imposed under the Budget Enforcement Act of 1993. The President's fiscal 1994 SRF request stands at \$1.2 billion, more than \$900 million less than what was appropriated in fiscal 1993.

Clean Water Act reauthorization is a priority for both the House Public Works Committee and the Senate Environment Committee, but neither committee has introduced a reauthorization bill in this Congress.

The House Public Works, Water Resources Subcommittee held a series of hearings on the Clean Water Act this Spring. State and local interests, environmental interests, and the Environmental Protection Agency have testified. Dennis Hemmer, Director of the Wyoming Department of Environmental Quality, testified for NGA.

Contact: Tom Curtis, 202/624-5389
Karen Tyler, 202/624-8575

DEFENSE CONVERSION

NGA Objectives

- Ensure adequate funding for state and local efforts to turn closed military bases into productive properties.
- Permit states flexibility in the use of funds to retrain workers dislocated by either base closings or the reduction on federal defense contracts.
- Coordinate federal efforts at defense business conversion with efforts already underway in states and support states wherever possible.

The 1992 Defense Authorization Act and the 1992 Defense Appropriations Act both contained programs to address base closings, dislocated workers, and defense business conversion. However, due to the firewalls in place for fiscal 1993, all the funds were appropriated to the Department of Defense (DoD). Past experience has been uneven.

Military Base Closings. The DoD Office of Economic Adjustment has provided help to most affected communities, but has not maintained as strong a responsibility to work closely with states. The Defense Base Closure Commission is due to submit its list of recommendations for base closings and realignments to the President by June 1. A number of specific programs aimed at assisting the transfer of uniformed military personnel into civilian life are in place, with all of them to be administered by DoD.

Dislocated Workers. Over two-thirds of the \$150 million allocated to DoD in 1990 to be transferred to the Department of Labor (DoL) for defense worker retraining remains in the U.S. Treasury today. An additional \$50 million for transfer to the Department of Commerce's Economic Development Agency is in a similar situation. The 1992 legislation provided an additional \$75 million for transfer to DoL. The Department is at work on a comprehensive redrafting of all existing worker readjustment programs, including defense worker programs and Trade Adjustment Assistance. That proposal is expected to go to the Hill in the next 4 to 6 weeks. One remaining question is how much money there is for this comprehensive, combined program.

Defense Business Conversion. The Advanced Research Projects Agency (ARPA) of DoD coordinated the March 10 release of the Technology Reinvestment Project, offering over \$500 million to firms, consortia, universities, states, and localities for a wide range of defense reinvestment activities. Principally the funds can be used for technology development (with a focus on eleven critical technologies and dual uses), technology deployment, including manufacturing extension services, and manufacturing education. ARPA is coordinating this effort on behalf of DoD, the National Aeronautics and Space Administration, the National Institute on Standards and Technology in the Department of Commerce, the Department of Energy, and the National Science Foundation.

By May 10, ARPA will release final changes to its earlier document, and the clock will begin on proposal development. All proposals are due by July 23, and it is hoped that a significant amount of funds can be awarded before the

end of the fiscal year, September 30. In preparing proposals, it is important to understand the programs available and meet their goals, to include hard money matching funds if the project seeks more than \$1 million in federal funds, and to show business support through matching funds.

Contact: Tim Masanz, 202/624-5311

EDUCATION

H.R. 1804, the President's education reform package (Goals 2000: Educate America Act) was introduced in the House on April 22. Two hearings were held on the bill and it was reported out of the Subcommittee on Elementary, Secondary, and Vocational Education on May 7.

Title I and II of the legislation would codify the national education goals and the National Education Goals Panel. In addition, the bill would create a National Education Standards and Improvement Council (NESIC) to oversee the development and certification of national voluntary content and student performance standards, a national voluntary system of assessments, and voluntary national opportunity-to-learn standards.

Title III of the bill creates a national formula grant program for state and local improvement in education. To participate in the program, states would submit a systemic reform plan for review by the Secretary of Education. The legislation includes a list of elements to be included in the plan. Under the plan, the state can request the waiver of federal education program regulations for specified programs.

Title IV of the bill creates a National Skills Standards Board and calls for the development of national voluntary skill standards.

In a letter to the Secretary of Education, NGA supported portions of the legislation. However, the letter also expressed concerns regarding a number of provisions in the bill, including the voluntary certification of state opportunity-to-learn standards by NESIC.

Contact: Patty Sullivan, 202/624-7723

EPA REGULATORY REFORMS

NGA Objective

- NGA policy calls for cost-benefit and risk analysis of environmental regulations.

The Senate passed S. 171 on May 5 by a vote of 79-14, thereby elevating EPA to the Department of Environmental Protection. Amendments adopted include a requirement that all future EPA regulations have a cost-benefit analysis and risk assessment; creation of a central, one-stop ombudsman office for small governments, small business, and farmers; and creation of a single federal agency responsible for wetlands decisions.

Contact: Tom Curtis, 202/624-5389

FAMILY PRESERVATION AND SUPPORT ACT

NGA Objective

- Increased support for state efforts at family preservation and family support (parenting).

The House Ways and Means, Subcommittee on Human Resources has adopted a new program in family support and preservation. The full committee will consider the language as part of its reconciliation legislation next week. The proposal would preserve the existing child welfare services program (Title IV b) and create an entirely new program. The program will be a capped entitlement providing states a total of \$1.34 billion over five years, with \$60 million available in the first year. Funds would be distributed to states based on the number of children in each state receiving food stamps.

The program would require a 25 percent state match. It would also require that states spend money for both family support or parenting, as well as family preservation services. The program permits the use of one percent of funds for demonstration projects.

In the Senate, Senator Rockefeller has introduced a bill, S. 596, which contains all the provisions for family preservation programs that were adopted by Congress last year as H.R. 11, which was vetoed in November. The bill is pending in the Senate Finance Committee, which will begin to markup its reconciliation legislation after the House committee has completed its work.

The Ways and Means Committee legislation also contains \$35 million for use over the next four years to assess the ability of state courts to be effective in responding to current pressures that impact family preservation. Funds require no match in the first year and a 25 percent match in the next three years. The bill also contains language to address the Suter amendment. It is the exact same language that was adopted in H.R. 11 in 1992.

FINANCIAL REGULATION

NGA Objectives

- Preserve state authority in banking and insurance regulation, including preserving the viability of the dual banking system.
- Ensure that federal consumer credit reporting legislation does not preempt state legislation.
- Adopt uniform product liability legislation.

Banking Legislation. The President's budget calls for significant funds to be generated by charging state banks for federal examinations. Currently state examinations can be accepted by the Federal Deposit Insurance Corporation (FDIC), and they usually are. This proposal and the \$1.37 billion five year price tag, attached to it suggests that the FDIC will soon begin to do their own separate examinations. If state banks are forced to pay for two examinations while nationally chartered banks only pay one fee, state banks will be seriously disadvantaged, and state banking departments, which make these examinations and depend on these fees for staffing, will be seriously impaired.

A bill has been introduced in the Senate on interstate bank branching and Rep. Vento is expected to introduce a bill shortly on the House side. In the Senate, S. 371, by Senator Dodd would permit branching by acquisition of existing banks after one year, permit bank holding companies to establish new banks in other states after two years, and allow healthy state and national banks to move into new states after three years. Senator Ford has introduced legislation (S. 810) that would give states three years to opt out of a nationwide interstate branching program through acquisition of existing banks and permit states to opt in to interstate bank branching using new banks (de novo).

Insurance Regulation. Rep. Dingell, chairman of the House Committee on Energy and Commerce, has introduced legislation (H.R. 1290) to partially preempt state regulation by creating a federal agency to establish federal standards and to regulate surplus lines, standards for agents and brokers, highly capitalized insurers, liquidations, and reinsurance. Agents and brokers would regulate themselves through a National Association of Registered Agents and Brokers. The bill also provides an exemption from state regulation for insurers who provide commercial coverage to large buyers of insurance. Chairman Dingell held a hearing on April 28 and questioned why only 18 states had met the newly revised standards for accreditation developed by the National Association of Insurance Commissioners. The chairman announced further hearings on June 9 before the Subcommittee on Oversight and Investigations, which he also chairs.

Rep. Gonzalez, who chairs the House Committee on Banking, Finance and Urban Affairs, and Rep. Kennedy jointly introduced H.R. 1257, a bill to elevate the office of the Federal Insurance Administrator to the status of an independent agency.

Product Liability. Legislation has been introduced in the House and the Senate to establish a uniform product liability code: S. 687 whose chief sponsors include Senators Rockefeller, Danforth, Lieberman, Dodd, and Gorton; and H.R. 1910 with 36 co-sponsors, including Reps. Rowland, Carr, Dingell, Frank, Fish, Hastert, Glickman, and Michel.

Credit Reporting Consumer Protections. Rep. Kennedy has introduced H.R. 1510, a bill to establish federal standards for the regulation of consumer credit reporting agencies. This bill does not contain language preempting existing state laws or regulations that are stronger than the federal standards. In the Senate, Senators Bryan, Bond, and Riegle have introduced a similar bill (S. 783) without preemption language.

Contact: Tim Masanz, 202/624-5311

FOOD STAMP SANCTIONS

NGA Objectives

- Change the error-rate target to a national average.
- Use "sliding scale" method for calculating penalties.
- Eliminate the Food and Nutrition Service good-cause waiver process in favor of a system that authorizes an administrative law judge to consider good-cause criteria.

These objectives are embodied in the Food Stamp Quality Control System Amendment of 1993, H.R. 1195. This bill is sponsored by a bipartisan coalition of 50 members of the House, including 9 members of the Agriculture Committee. NGA has urged the House Agriculture Committee to attach H.R. 1195 to the first appropriate legislative vehicle moving through the committee.

Contact: Nolan Jones, 202/624-5360

HEALTH CARE REFORM

The Clinton Administration is now planning to release its health care reform proposal in mid-June. Critical issues that are being discussed include:

- state flexibility in administering the new program;
- how long-term care is structured;
- how fast can the new system be implemented by states;
- what is the maintenance of effort definition;
- how would global budgets be implemented; and
- how is Medicaid folded into the new system.

Contact: Ray Scheppach, 202/624-5320

HOUSING

NGA Objectives

- Retain a minimum of \$1.5 billion in fiscal 1994 funding.
- Develop program regulations that permit states the flexibility needed to operate an effective housing partnership with the federal government and local governments.
- Permanent extension of the low-income housing tax credit and mortgage revenue bond program.

The Senate Housing Subcommittee has held hearings on HOME, but no legislative vehicle is presently available for programmatic changes. Reconciliation may provide an opportunity, but the temptation will be to reduce funding, since the utilization of HOME funds is so low.

The Senate Appropriations Subcommittee on HUD is holding hearings next week on housing programs, including HOME.

The low-income housing tax credit and mortgage revenue bonds are covered in the section on tax-exempt financing.

The Housing and Community Development Act of 1992 made a number of important amendments to the HOME program. States can use HOME funds to support operating expenses of community housing development organizations; the per unit subsidy is increased in high cost areas; new construction restrictions

are eliminated; the rental production set-aside is eliminated; tenant-based rental assistance no longer must be tied to public housing waiting lists; HOME funds can be used for administrative purposes (10 percent limit); rent pricing requirements are simplified; homeownership resale provisions are clarified; matching rates are lowered and not restricted to state funds in HOME funded projects; some bond proceeds now count as match; and match reductions are permitted for fiscal distress (specifics on state reductions are not yet available).

HOME is reauthorized for two years and authorized at \$2.1 billion in fiscal 1993 and \$2.2 billion in fiscal 1994. Changes were made in the comprehensive housing affordability strategies (CHAS), but the changes only made the effort more difficult. Since HUD had waived the CHAS regulations for states in the first two program years, states face significant problems in developing their next CHAS. HOME is funded at \$1.0 billion for fiscal 1993 and the President has proposed \$1.06 billion for fiscal 1994.

Contact: Tim Masanz, 202/624-5311

INDIAN GAMING

NGA policy calls for Indian gaming activities to incorporate the following:

- conformity to state law;
- be subject to gubernatorial concurrence before noncontiguous land can be acquired for gaming purposes; and
- apply the "good faith" clause to all parties, as well as be based on the premise of state law.

NGA will convene a Governors-only meeting in Washington, D.C., on May 18 with congressional leaders to focus on legislative changes that would clarify the Governors' policies with regard to the Indian Gaming Regulatory Act.

Contact: Charilyn Cowan, 202/624-7814

MEDICAID

(Fiscal 1994 Changes)

The Subcommittee on Health and the Environment of the House Energy and Commerce Committee approved Medicaid legislation to be included in the 1994 Omnibus Budget Reconciliation Act. The major provisions are as follows.

- A significant limitation on state Disproportionate Share Hospital programs with an emphasis on limiting state and county public hospitals. NGA opposes this provision.
- A provision that would change personal care services from a mandate to a state option under Medicaid. NGA supports this provision.
- A provision to establish federal parameters for health maintenance organizations that contract with Medicaid programs. NGA could support this provision with amendments that would make it more flexible for states.

- A provision to give states the option to establish prescription drug formularies. NGA could support this provision with amendments to make it more flexible for states.
- A provision to establish limitations on the ability of wealthy individuals to transfer assets to become eligible for Medicaid. NGA supports this provision.

The subcommittee chose not to reduce enhanced Medicaid administrative match as proposed by the President. NGA opposed the elimination of enhanced administrative match.

Contact: Carl Volpe, 202/624-7729

NORTH AMERICAN FREE TRADE AGREEMENT

NGA Objective

- Ensure that implementing legislation establishes formal mechanisms for coordination and communication between the states and the federal government, particularly in settling disputes that challenge state laws. Areas of potential dispute will likely occur over state regulation of environmental standards, services, investment, and government procurement.

Congressional hearings are underway in anticipation of implementing legislation for the North American Free Trade Agreement (NAFTA). The agreement was signed by President Bush and his counterparts in Canada and Mexico on December 17, 1992. The comprehensive text is designed to reduce or eliminate barriers to trade among the three countries. The effective date for the agreement is January 1, 1994, pending congressional approval since implementation of the agreement requires changes to domestic laws. The Office of the United States Trade Representative is currently drafting proposed implementing legislation to Congress and is expected to transmit it to the Hill in early June. The language will then be considered under "fast-track" procedures, which set time limits for House and Senate review and also prohibit any amendments.

President Clinton has said he supports NAFTA and does not plan to reopen negotiations. However, he has endorsed the current efforts to negotiate supplemental agreements to address matters related to the environment, labor, and the effects of import surges. Talks began in March and are continuing. In the meantime, the extent of congressional support for NAFTA is difficult to gauge but appears to be diminishing. While many members of Congress have indicated they will not take a stand on NAFTA until the side agreements are finalized, an increasing number have expressed doubts about the potential benefits of NAFTA for their constituents.

NGA Economic Development and Commerce Chairman Governor Jim Edgar and Lead Governors on Trade Governor Tommy Thompson and Governor Ann Richards have assumed responsibility for monitoring NAFTA's progress and ensuring that state concerns are incorporated into the implementing legislation. NGA policy approved at the winter meeting revised and updated the Governors position on NAFTA, expressing general support for implementing NAFTA, provided that the environment and labor issues are addressed.

Contact: Jody Thomas, 202/624-7824
Lydia Conrad, 202/624-5363

SAFE DRINKING WATER FUNDING

NGA Objectives

- Reauthorization of the Safe Drinking Water Act to increase funding for state drinking water program administration; reform the process EPA uses to decide which contaminants to regulate so that EPA regulates contaminants based on evidence that they occur in drinking water at harmful levels; reform the drinking water standard setting process so that standards are set based on risk reduction benefits and compliance costs; and give states flexibility to tailor contaminant monitoring schedules to local conditions.
- Establish a new state revolving fund to finance drinking water capital costs funded at \$1 billion per year.

There is substantial interest in this issue in Congress. Senator Chafee, ranking minority member of the Senate Environment Committee, may introduce legislation this spring focused on compliance problems of small communities.

President Clinton proposed \$599 million in fiscal 1994 and \$1 billion per year in fiscal 1995-1997 funding for a new drinking water state revolving fund. The House Energy and Commerce Committee has passed authorizing legislation. However, it appears possible that Congress will not appropriate this money. President Clinton's fiscal 1994 budget request is \$5.4 billion in excess of the Budget Resolution's discretionary spending cap. The drinking water SRF is a likely cut because it would be a new program and is not currently authorized; and because EPA characterized it as "investment spending," as opposed to part of the "core EPA budget."

Contact: Tom Curtis, 202/624-5389
Karen Tyler, 202/624-8575

SURFACE TRANSPORTATION FUNDING

NGA Objective

- Secure full funding of highway and transit programs authorized in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991.

Governor Bob Miller, Lead Governor for Surface Transportation, testified before the House Transportation Appropriations Subcommittee on April 1, communicating the strong and undivided support of the nation's Governors for fully funding ISTEA. This was followed by an April 12 letter to key appropriations members from Governor Edgar, Governor Sundlun, and Governor Miller to urge immediate action to allow full funding. An NGA Action Letter was sent to all Governors on April 15 asking them to immediately contact their key senators and representatives to influence the appropriations action in both houses of Congress. See "Budget Reconciliation" for funding process.

The President's budget included a full funding request of \$20.5 billion for highways and a 21 percent increase in transit funding, but it exceeds the overall limits of the budget resolution, forcing choices on other cuts to fully fund ISTEA.

House and Senate Appropriations Committees are about to allocate funding allowed under the spending cap in the budget resolution by subcommittee, which will limit the amount of budget authority and outlays in each appropriations bill. The House Transportation Subcommittee plans to report its bill to the full committee later this month.

Contact: Charilyn Cowan, 202/624-7814

TAX-EXEMPT BOND FINANCING:

NGA Objectives

- Extend the low-income housing tax credit, the mortgage revenue bond program, the small issue industrial development bond program, and the jobs, education, and research tax credit.
- Enact the recommendations of the Anthony Commission on Public Finance to permit states greater flexibility in infrastructure financing.

Governors Edgar and Sundlun, chair and vice chair of the Committee on Economic Development and Commerce wrote President Clinton asking him to support the recommendations of the Anthony Commission on Public Finance and to include them in his tax package. The major recommendations include easing barriers against public-private partnerships utilizing tax-exempt bonds, limiting the impact of the arbitrage rebate on state and local government borrowing, broadening the range of state and local bonds that carry "bank deductibility of interest" as a means of getting banks back into the municipal bond market and increasing the demand for bonds, and raising the annual volume cap for state borrowing, which have been at the same level since 1986.

The House Ways and Means Committee is scheduled to begin mark-up of the President's tax bill the week of May 10. The President has proposed permanent extension of the mortgage revenue bond program and the low-income housing tax credit, and a two year extension of the small issue industrial development bond program. No relaxation of current tax-exempt regulations or restrictions were proposed.

The Senate is scheduled to draft its version in mid-June. Final action is expected before the Congress recesses for the Fourth of July.

Contact: Tim Masanz, 202/624-5311

WELFARE REFORM

NGA Objective

- Pursue welfare restructuring strategies that will encourage self-sufficiency and deter long term reliance on public assistance.

The President has announced his intention to develop a comprehensive welfare reform proposal that will "end welfare as we know it." The proposal is expected to establish a time limit on the receipt of welfare benefits, create job opportunities for those who will no longer be eligible for welfare benefits, increase efforts to collect child support, and expand the Earned

Income Tax Credit, as well as take other steps to ensure that those who work are better off. At the NGA Winter Meeting the President invited the Governors to work closely with his task force in the development of proposals.

Although the President's task force has not yet been named, Governor Romer has named a state welfare reform task force consisting of five Governors, three state human service commissioners, and two legislators to explore state concerns and to work with the President's task force. Governor Florio chairs the state task force, and several planning meetings have been scheduled to develop issues and proposals for its consideration.

In addition, the Committee on Human Resources has been conducting a series of meetings designed to highlight state level initiatives and to develop new proposed policy for consideration by the Governors at the annual meeting in Tulsa.

While Congress is interested in welfare reform, it is unlikely that legislative proposals will be seriously considered pending the President's proposals.

Work will continue in preparation for meetings with the President's task force and the final drafting of proposed NGA policy.

Contact: Barry Van Lare, 202/624-5342

NGA REGULATORY ISSUES

CLEAN AIR REGULATIONS

NGA Objective

- Encourage EPA to finalize regulations governing state environmental agency review of state highway improvement plans, as well as other regulations necessary for efficient management of state air quality plans.

The Clean Air Act Amendments of 1990 required that state air quality agencies review plans for transportation improvement to insure that transportation projects do not impede efforts to reduce automotive pollutants. EPA is in rulemaking to define the exact scope and nature of this authority. Specific issues under consideration include the geographic areas for which a finding of "conformity" between the states air quality plan and its transportation plan must be made, the projects to be covered by the conformity finding, and whether the state air agency or the state transportation agency should make the finding.

On April 23, NGA sent an Implementation Alert to all Governors suggesting that the Governors coordinate the comments of the two concerned state agencies.

Contact: Tom Curtis, 202/624-5389

MEDICAID DONATION AND TAX REGULATIONS

Negotiations with HHS are now complete and NGA is waiting for a letter from the Secretary indicating that states can assume that the agreement will be implemented in new interim final regulations shortly. The major changes include additional provider classes and allowing low disproportionate share states to receive their nominal program growth. There are a number of other technical amendments.

Contact: Carl Volpe, 202/624-7729

MEDICAID WAIVER AUTHORITY

NGA Objective

- Simplify the Medicaid waiver process so that states will be able to implement cost efficient and innovative service delivery systems in Medicaid.

NGA has established a working group of six state representatives to meet with representatives of the Department of Health and Human Services. The groups have been discussing ways to simplify research and demonstration waivers (1115(a)), freedom of choice waivers (1915(b)), and home- and community-based waivers (1915(c)).

Contact: Carl Volpe, 202/624-7729

OTHER ISSUES WITH STATE IMPACT

EMPOWERMENT AND ENTERPRISE ZONES

NGA Objective

- Enactment of a demonstration program that is linked to state enterprise zone programs for the most efficient subsidy.

President Clinton's empowerment zone program was released by the Treasury Department May 4. The program calls for 100 enterprise communities and 10 empowerment zones, all of which will be eligible for \$1.0 billion in empowerment tax incentives over the first five years and will receive special priority for many innovative federal programs, including the Community Development Banks. All 110 will be eligible for \$500 million in existing funds that will be targeted toward the zones and communities, and an additional \$500 million in community policing funds.

An additional \$3 billion in existing funds will be targeted to the zones and communities by the Administration. The Department of Education has already committed funding for 30 Enterprise schools -- 24 hour, year-round community centers within the zones. HUD has agreed to target \$200 million of its Community Partnership Against Crime funds (public safety and drug prevention) within the zones. In addition to these benefits, the empowerment zones will be eligible for \$3 billion in employment and training wage tax credits for businesses that employ people who live within the zones.

The enterprise zones and communities will be chosen through a challenge grant process that will require nomination by a state or a state and local government, and require a commitment to a comprehensive strategic plan that brings together the community, the private sector, and government and demonstrates how the community will reform the delivery of government services. Of the 100 enterprise communities, 65 will be in urban areas, 30 will be rural, and 5 will be on Indian reservations. Of the empowerment zones, 6 will be in urban areas, 3 in rural areas, and 1 on an Indian reservation.

An Enterprise Board, made up of relevant cabinet secretaries, will provide communities a single point of federal contact and have broad waiver authority to help in the use of existing federal programs and resources.

Contact: Tim Masanz, 202/624-5311

LINE ITEM VETO

NGA policy supports line item veto authority for the President. On May 5, the House passed the rule for the enhanced rescission authority bill, H.R. 1578, by a vote of 212-208. The final bill passed by a vote of 258-157. This effort is in lieu of line item veto authority and a balanced budget amendment. The bill would require a vote by the full House within twenty legislative days. If the House votes "no", the rescission is dead; if "yes", the rescission moves to the Senate on similar fast-track procedures for an "up or down" vote. The President could rescind line items in each appropriations bill.

Contact: Jim Martin, 202/624-5315

LOBBYING DISCLOSURE

NGA Objective

- NGA policy supports the exemption of state and local government activities from lobbying requirements based on constitutional and federalism principles.

On May 6, the Senate passed the Lobbying Disclosure Act, S. 349, by a vote of 95-2. H.R. 823, with identical language, is pending in the House. On May 5, the Senate added an amendment by voice vote to require lobbyists to disclose twice a year all gifts, meals, and trips to members or staff worth more than \$20.00. The basic bill requires all lobbyists to register with the Justice Department and disclose clients, issues, contacts with executive and legislative branch offices, income, and expenses. State and local elected officials, as well as their employees and organizations, are exempt from registering as lobbyists. "Employee" is defined as someone who receives regular benefits, i.e., pension and vacation. Hired or contract lobbyists who work for state and local governments would be required to register.

Contact: Jim Martin, 202/624-5315

MOTOR VOTER REGISTRATION

NGA Objective

- NGA policy supports voter registration efforts by elected officials at all levels of government but makes no specific reference to H.R. 2 OR its specific provisions.

The National Voter Registration Act (H.R. 2) report passed the House on May 5 by a vote of 259-164. The bill requires states to provide a voter registration application to each applicant for a driver's license, as well as in all military recruitment offices and state welfare and disability offices, but not state unemployment offices. Employees of state offices are forbidden to coerce people to register while in these offices. Registration by mail is also required. States with same day registration or with no voter registration requirements are exempt. The Senate will vote on the conference report shortly.

Contact: Jim Martin, 202/624-5315

NATIONAL COMPETITIVENESS ACT (Science and Technology Investments)

NGA Objectives

- Strengthen the state-federal partnership in science and technology by structuring federal initiatives -- such as manufacturing extension programs -- to build on and support existing state programs, and provide incentives for more comprehensive state programs.
- Strengthen state manufacturing extension programs.
- Permit flexibility in targeting of programs to provide support for state priorities, including participation in proposed "High Performance Computing Networks."

The House is considering H.R. 320, the National Competitiveness Act of 1993, reported by the House Committee on Science, Space, and Technology. The bill would increase federal support for manufacturing extension centers and programs, support wider applications for the high performance computing network, provide federal support for greater adoption of total quality management (through the National Science Foundation), enhance the advanced technology program, fund additional Hollings Centers (currently there are seven manufacturing technology centers), establish a program for "patient capital" to provide venture capital to support technology ventures, and increase funding for the National Institute of Standards and Technology (NIST) including support for additional work on benchmarking. The bill generally keeps with President Clinton's budget figures for fiscal 1994, but calls for significant increases in fiscal 1995.

The Senate Committee on Commerce, Science, and Transportation will soon mark-up comprehensive legislation (S. 4) on competitiveness, including most of these provisions and the so-called "Gore II" language, intended to support research to develop a wider range of applications for the high performance computing networks. That legislation (H.R. 1757) has been introduced separately in the House by Rep. Boucher.

Contact: Tim Masanz, 202/624-5311

NATIONAL SERVICE

NGA Objectives

- Promote a strong partnership between federal, state, and local governments, as well as with the volunteer and business communities, to emphasize the importance of community-wide involvement in state service efforts.
- Recognize the multitude of existing state service provider systems and programs and seek to complement them, as well as encourage new and innovative programs.
- Develop a federal national service program that is operated primarily by states and provide for the coordination with states for those programs that are not funded by state service commissions.

On April 30, the President announced the National Service Trust Act. If enacted, the proposal would create a national service program that draws on the work of the states. The Act creates a bi-partisan Corporation for National Service, which includes a state representative, to oversee programs at the federal level and calls for the creation of gubernatorially appointed service commissions at the state level. Thirty-three percent of the funds would be allocated to the state commissions to support service programs in the state. Thirty-three percent would also be awarded to states in an effort to encourage innovative service programs. The remaining thirty-three percent would be awarded by the Corporation for National Service through a national competition.

In addition, the proposal reauthorizes or modifies a number of other service related programs, including Serve-America, VISTA and Older Americans, Civilian Community Corps, and the Points of Light Foundation.

NGA has written a letter in support of this legislation.

Contact: Patty Sullivan, 202/624-7723

ATTACHMENTS

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

April 30, 1993

**ADMINISTRATIVE
COST CAP**

The Honorable Dan Rostenkowski
Chairman
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515-6348

Dear Mr. Chairman:

We appreciate the efforts of the President and Congress to reduce the deficit, and pledge our commitment and support in achieving this goal. However, we are concerned about the President's recent proposal to cap the federal reimbursement rate at 50 percent for all administrative costs associated with the Medicaid, Food Stamps, Aid to Families with Dependent Children (AFDC) programs, and the Supplemental Security Income (SSI) program. This proposal represents a cost shift to states at a time when they are least able to afford it. The Medicaid cap is expected to cost states some \$2.2 billion over the next 5 years; and AFDC and the Food Stamps programs will cost states \$20 million each in FY 1994 under this proposal. It will hinder severely state efforts to effectively administer their programs; retard state efforts to investigate fraud, waste and abuse; and likely will result in offsetting cuts in other programs areas.

The proposal has the potential to undermine the ability of states to carry out other mandated activities pursuant to these federal entitlement programs. For example, most states have invested in a Medicaid data processing system that tracks data on beneficiaries and providers in claims processings. The Medicaid Management Information Systems (MMIS) was established to ensure that data systems among states had sufficient uniformity and administrative sophistication to meet the growing data and financial needs of both the federal and state governments. States entered into multiyear contracts with vendors to develop and operate their computer systems. Reducing federal funds at this point could have a serious and costly impact on states trying to honor those contracts.

The Food Stamps and AFDC programs also require data processing activities that improve program efficiency and control fraud. These efforts will suffer immensely from the capping proposal. The proposal could setback state efforts to curtail fraud just when many states are making great strides in this program area.

April 30, 1993
Page Two

In order to maintain the integrity of these programs, states will be forced to offset the proposed federal cuts, and at the same time produce a balanced budget. This is no easy task in these economic times.

For the twenty four states which currently utilize the federal government's joint administration of the supplemental security program (SSP) and supplementary security income (SSI), the President's suggested administrative fee will compound further the financial burden being shifted to state governments as a result of the capping proposal. The administrative fee will cost the states \$57 million in FY 1994, and could increase to over \$200 million per year when fully implemented in 1998. In 1974, the federal government encouraged the integration of state supplements and the federal SSI program by agreeing to provide the administrative services for the integrated programs free of charge.

We strongly urge you to retain the current special match rates and not implement a fee for the federal administration of state supplements to SSI.

Sincerely,


Governor James Florio
Chairman
Committee on Human Resources


Governor Arne H. Carlson
Vice Chairman
Committee on Human Resources

CLEAN WATER
AND
SAFE DRINKING WATER
April 26, 1993

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2328 Rayburn House Ofc Bldg
Washington, DC 205150001

Dear Mr. Chairman:

The nation's Governors strongly support the President's proposal to provide up to a billion dollars per year to states to assist in the provision of safe drinking water. These resources are sorely needed now, along with substantive reform of the Safe Drinking Water Act, to help assure that safe drinking water is available to all Americans at a reasonable cost.

As you develop the details of the President's proposal, we urge you to consider the best way to ensure that federal monies in support of drinking water meet state needs and can be spent in a timely manner. Of overriding importance, we believe that the maximum degree of flexibility must be allowed states in the use of federal drinking water funds, consistent with the purpose for which they are provided. It is impossible from Washington to anticipate every need and circumstance in each state, but with appropriate flexibility, the states can invest drinking water funds wisely. In particular, we urge you to allow states the maximum degree of flexibility in selecting projects for support and in establishing procedural requirements. Eligible projects should include new or improved community water supply systems, whether publicly or privately-owned; construction needed to comply with any regulations promulgated under the Safe Drinking Water Act; and the consolidation or regionalization of existing systems where the state has found an economic, health, or environmental benefit to such consolidation.

We also believe that this flexibility should include the ability for the Governor to transfer some or all of the funds provided for wastewater to the support of drinking water projects or vice versa, and to combine the funds within a single SRF, depending upon the needs of the state. We do not believe or intend that this recommendation presupposes the jurisdiction of particular congressional committees over the drinking water SRF.

In addition, we urge you to consider waiving the state match requirement for drinking water funds for the first year. In many

states, the legislature has already met to act on the fiscal year 1994 budget, and will not reconvene until January 1994. Those states are unlikely to be able to participate in this program if there is a requirement for matching funds in fiscal year 1994.

The ability of the program to meet the needs of financially disadvantaged community water systems is also an important consideration. Some financially disadvantaged communities cannot now use the wastewater SRF, due to low economies of scale and other problems. It is critical for many reasons, including political support for the new program, that it avoid the limitations that currently hobble the wastewater SRF for these communities. We recommend that the drinking water program:

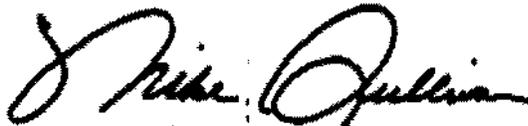
- 1) Allow costs associated with the purchase of land, easements, and rights-of-way necessary for infrastructure construction to be fully eligible for SRF funding. Expenses for these items are not currently fully eligible for reimbursement under the wastewater SRF, yet these expenses may represent a significant portion of total project costs, especially in rural areas and smaller communities. Such costs should be eligible for SRF financing.
- 2) Require loan repayments within thirty years generally, and up to forty years in financially hard-pressed communities, provided the loan repayment period does not exceed the useful life of the project. We believe the twenty-year repayment requirement for the current wastewater SRF makes it inaccessible to many financially disadvantaged communities, and often uncompetitive with market sources. Extending the loan repayment period reduces debt service to more affordable levels. And,
- 3) Allow states the flexibility to use SRF funds to establish principal subsidy programs to provide special assistance to financially disadvantaged communities. Such principal subsidy programs could be paid for with interest earnings on SRF monies set aside in a special account within the SRF and dedicated to reducing the debt service burden for a particular project. We emphasize that the principal of the fund would not be expended, and would remain available for lending to other SRF projects once the needs of a particular community were satisfied.

Finally, we suggest that payments of federal capitalization grants in support of SRFs be in no form other than cash. In the wastewater SRF, capitalization grants are paid to the state in letters of credit, and funds are not released to states until they are actually paid out to loan recipients as reimbursements for costs already incurred. This denies states the opportunity to earn short-term interest on grant funds and limits the ability to leverage additional funds.

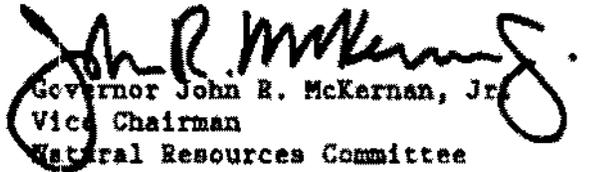
We would note that at the earliest opportunity, the waste water SRF program should be amended so that it conforms to these same guidelines regarding eligibilities, loan repayment period, etc. We are committed to making such changes during the reauthorization of the Clean Water Act.

Thank you for considering our recommendations on the drinking water SRF. We look forward to working with you to make the President's proposal a reality.

Sincerely,



Governor Michael Sullivan
Chairman
Natural Resources Committee



Governor John R. McKernan, Jr.
Vice Chairman
Natural Resources Committee



May 6, 1993

EDUCATION

Richard Riley
Secretary
U.S. Department of Education
400 Maryland Ave.
Washington, D.C. 20202

Dear Secretary Riley:

On behalf of the National Governors' Association, we write to share our thoughts and concerns regarding the Goals 2000: Educate America Act.

We begin by reaffirming our commitment to the national education goals and we appreciate that the Administration's first education initiative to the Congress is a re-affirmation of your commitment to achieving the six education goals. As Governors, our position on these issues is based on the following principles:

- that this nation needs to establish high standards and then rely on performance and outcomes to appropriately measure progress towards them;
- that all children can learn and must be provided the opportunity and appropriate assistance to achieve high standards; and
- that classrooms, schools, districts and states must be able to tailor their curricula and programs to assist their students to achieve high standards.

Regarding H.R. 1804, we strongly support the work of the National Education Goals Panel in building a national consensus for education improvement and reporting annually on progress made in achieving the goals. As a state-federal entity, we believe the Goals Panel is an appropriate forum for discussion of national education issues, particularly regarding standards and assessment issues. We support Title I and the portions of the bill dealing with the Goals Panel, especially with regard to the enhanced role that the panel will play in reviewing and approving the voluntary national standards and criteria for assessments and urge you to hold firmly to this position during the legislative process.

Secretary Riley
May 6, 1993
page 2

We also support the creation of a council to provide the technical expertise necessary to take the next step in developing a national system of voluntary content and student performance standards and assessments. While we had envisioned a slightly different structure as reflected in the report of the National Council on Education Standards and Testing, we believe that the bill provides an appropriate balance in the roles and responsibilities between the Panel and the newly created National Education Standards and Improvement Council to assure that such a system is "national" as opposed to "federal" in nature.

However, there is not consensus on the appropriateness of the council's role in certifying voluntary state content and state voluntary opportunity-to-learn standards. Some Governors believe that it is inappropriate for NESIC, a federally appointed entity, to certify either state content standards or opportunity to learn standards. Even on a voluntary basis, some of the Governors believe that this is an example of federal intrusion into an area that has historically been a responsibility of the states. Moreover, some Governors fear that the creation of a voluntary mechanism for this certification could create pressure for a mandatory requirement. There is agreement among the Governors that is appropriate for state assessments to be certified. And indeed Governors see student performance on these assessments as the appropriate means of measuring a state's progress towards the goals.

We commend you for your efforts to accommodate the differing perspectives on the issue of opportunity-to-learn standards. This bill maintains the voluntary nature of such standards by leaving the impetus for development to the discretion of the state and creates a joint approval process with the Goals Panel. However, section 2(a)(6) of the bill ties all future federal education programs to standards, including the opportunity-to-learn standards, which are supposed to be voluntary in nature. Many Governors oppose this and we urge you to correct this provision to clarify that future funding is not tied to the implementation of these provisions.

In addition, while the bill is silent on the exact nature of opportunity-to-learn standards, states must have some latitude in accommodating these standards to the differing needs and problems of local schools.

As H.R. 1804 moves through the legislative process, we hope that you will emphasize the focus on outputs to measure progress towards achieving the goals. The use of outputs as opposed to inputs preserves the opportunity for diversity in state and local efforts to achieve the goals.

Secretary Riley
May 6, 1993
page 3

Generally, we support Title III of the bill. However, many Governors are opposed to the provision of the bill that requires states to establish a timetable and a strategy to ensure that "every school in the state achieves the state's opportunity-to-learn standards." We propose that instead states be required to "demonstrate progress" towards achieving the standards set under this part.

As Governors, we are actively engaged in education issues and much of what is contained in Title III of the bill is drawn from our experiences in education reform in the states. We believe that this title of the bill will provide states and local school districts with the additional resources and flexibility to further existing state reform efforts and will serve as a catalyst for those states just considering reform activities.

In general, we support many of the concepts on which Goals 2000: Educate America Act is based. We remain committed to the six national education goals and to the need to ensure that every student is given the opportunity to meet the high standards proposed by this legislation. However, at the same time we firmly believe in the need to preserve the opportunity for diversity in state approaches to meeting this important challenge. We look forward to working with you as this bill works its way through the legislative process.

Sincerely,



Governor Roy Romer
Chairman



Governor Carroll Campbell
Vice-Chairman



INDIAN Gaming

April 14, 1993

TO ALL GOVERNORS:

The Governors' May 1 meeting in Denver on the Indian Gaming Regulatory Act (IGRA) has been changed due a number of schedule conflicts. The meeting has now been rescheduled for Tuesday, May 18, 9:00 - 11:00 a.m., in room 485 of the Russell Senate Office Building. We have attempted to make it as convenient as possible for Governors to attend and hope that holding it close to the NGA Executive Committee meeting on May 17 in Washington, D.C. is helpful.

The purpose of the meeting will be to focus on legislative changes to clarify that the scope of gaming for state-tribal compacts is game specific and subject to the same restrictions expressly authorized by state law; to improve the provision regarding good faith negotiations; and to ensure that a Governor has veto power over tribal acquisition of land in trust for gaming purposes. The Senators want to add their concern that states have raised constitutional defenses under the Tenth Amendment and the Eleventh Amendment's immunity from suit in federal court.

As you know, Senators Daniel K. Inouye (D-Hawaii) and John McCain (R-Arizona), Chair and Vice Chair of the Senate Select Committee on Indian Affairs wrote each Governor March 19 requesting a series of meetings to resolve "outstanding concerns of all of the governments" that are affected by the act. I had a very productive initial discussion with the two Senators on April 2 and I am very hopeful we will be able to resolve the majority of our concerns in this meeting. Collaboration at the staff level will proceed and a follow on meeting with tribal representatives and attorneys general can be discussed, with hopes for a consensus to be reached in advance of Senate hearings in late May or early June.

House Native American Affairs Subcommittee Chairman Bill Richardson (D-New Mexico) initiated a series of oversight hearings April 2, to hear specific concerns on implementing IGRA. Governor Bruce Sundlun and Governor Joan Finney testified on behalf of their states. I testified for NGA in favor of clarifying changes to the law supported by NGA's position statement and tried to correct the perception that the Governors have adopted an anti-tribe perspective. I said that aggressive federal-state efforts are needed to help the tribes with economic development and that we need to put tribal economic development on the Governors' agenda. We need to talk more about this, but perhaps we can begin at the meeting on May 18.

TO ALL GOVERNORS
April 14, 1993
Page two

This meeting is open to Governors only, accompanied by one staff person. While it will not be possible to send a substitute because of the nature of the discussion, it would be helpful to have your specific concerns in advance and we will let you know the results as soon as possible after the meeting. If possible, would you please respond by April 22 regarding your attendance plans. Please call or fax the attached form to Norma Jeter in the NGA office (202/624-5362; fax 202/624-5313).

I look forward to seeing you at this meeting and to reaching some very productive results.

Sincerely,



Governor Roy Romer



March 29, 1993

PRODUCT
LIABILITY

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Just as the issue of medical malpractice and defensive medicine is a key component of our recent health care discussion with you, Governors also are concerned with our nation's product liability system. As you develop your economic program, we hope that you will consider the National Governors' Association position in support of a uniform federal product liability law.

The current system impedes competitiveness and innovation and has become a roadblock to economic growth and the safety and welfare of citizens and consumers. Inconsistent state product liability laws hurt interstate commerce and send diverse — and many times conflicting — messages to manufacturers. Consequently, the Governors have urged Congress to enact a federal product liability law as an economic stimulus that would not expend any federal funds, but would reduce the cost of American goods.

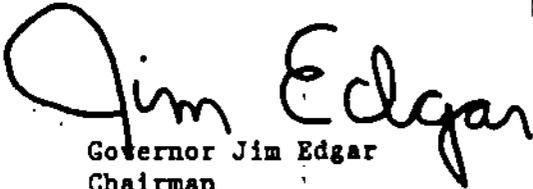
We do not need to tell you that decisions favoring federal preemption over state laws do not come easily for the National Governors' Association. NGA testimony before the Senate Commerce Committee during its hearings on a federal product liability bill, stated:

"NGA traditionally has opposed federal preemption unless there are 'highly compelling reasons to justify federal actions that require changes in policies adopted by state...officials.' (NGA Policy Statement, "Avoiding Federal Preemption of State Laws and Policies") In the area of product liability, the Governors believe such conditions exist."

While NGA policy does not endorse any particular piece of legislation, the Governors feel that a uniform product liability law would enhance interstate commerce and America's competitiveness, reduce prices to consumers, and prevent the discontinuation of necessary product lines. The Governors ask that in the development of such legislation, "Congress should assess the impact of a uniform code on public safety and consumer protection and, if deemed appropriate, enhance federal safety and consumer protection standards." (NGA Policy Statement, "Uniform Product Liability Code")

The President
March 29, 1993
Page Two

As always, the National Governors' Association stands ready to assist you in this and other areas of mutual concern. Please do not hesitate to contact us if we can be of further assistance.



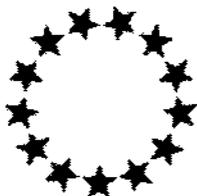
Governor Jim Edgar
Chairman
Committee on Economic
Development and Commerce

Sincerely,



Governor Bruce Sundlun
Vice Chairman
Committee on Economic
Development and Commerce

Enclosure



Similar letter to Rep. Joseph McDade, Ranking
Republican, House Appropriations Committee.

April 12, 1993

*SURFACE
TRANSPORTATION
FUNDING*

The Honorable William Hatcher
Chairman
Committee on Appropriations
Room H-218, The Capitol
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As you and the members of the Appropriations Committee make critical choices regarding spending priorities for fiscal 1994, we want to communicate the strong and undivided support of the nation's Governors for fully funding the nation's surface transportation program.

Just 15 months ago, Congress acted with strong public and bipartisan support to adopt the landmark Intermodal Surface Transportation Efficiency Act (ISTEA). ISTEA authorized more than \$20 billion a year for highways and \$5 billion a year for public transit.

Our consensus on full funding for ISTEA is backed by commitment. States and local governments already provide four out of every five dollars spent nationally for surface transportation. Our collective ability to fulfill the expectations created with the new surface transportation program depends in large part on the federal government providing the funding authorized in ISTEA.

The substantial value that would be generated by this increased investment is well documented -- from the sustained economic benefits in terms of jobs and construction activity to the long-term contributions to national productivity and competitiveness. We strongly urge you to fully fund ISTEA in fiscal 1994, and to complete favorable action on the ISTEA funding contained in the supplemental appropriation for fiscal 1993.

Sincerely,

Jim Edgar

Governor Jim Edgar, Chair
Committee on Economic Development
and Commerce

Bruce Sundlun

Governor Bruce Sundlun, Vice Chair
Committee on Economic Development
and Commerce

Bob Miller

Governor Bob Miller
Lead Governor on Transportation

c: Committee Members
All Governors

TAX EXEMPT
BOND FINANCING

April 27, 1993

The President
The White House
Washington, D.C. 20500

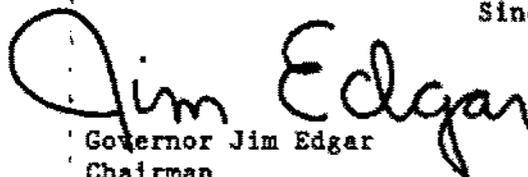
Dear Mr. President:

The National Governors' Association continues to support the recommendations of the Anthony Commission on which you and Governor Carroll Campbell served as task force chairs.

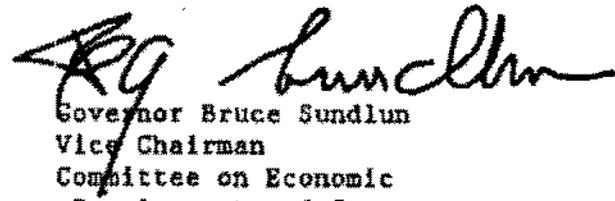
The Anthony Commission made several recommendations with regard to the federal treatment of tax-exempt bonds. These changes should be incorporated in your tax reform bill and would contribute directly to your long-term investment strategies. A small amount of federal funds would leverage much more in state, local, and private investments.

We thank you for already including our suggestions in your FY 1994 budget with regard to small issue and mortgage revenue bonds, low income housing tax credits, education, and research and development credits.

Sincerely,



Governor Jim Edgar
Chairman
Committee on Economic
Development and Commerce



Governor Bruce Sundlun
Vice Chairman
Committee on Economic
Development and Commerce

cc: Secretary Bentsen
Mr. Rubin
Ms. Montoya

**JOINT COMMITTEE ON TAXATION STAFF PRELIMINARY ESTIMATES (JCX-2-93) OF
BUDGET EFFECTS OF ADMINISTRATION'S REVENUE PROPOSALS IN FY 1994 BUDGET,
RELEASED MAY 4, 1993
(TEXT)**

*Joint Committee on Taxation
May 4, 1993
JCX-2-93
PRELIMINARY*

**ESTIMATED BUDGET EFFECTS OF THE ADMINISTRATION'S REVENUE PROPOSALS
CONTAINED IN THE FISCAL YEAR 1994 BUDGET (1)**

Fiscal Years 1994-1998

(Millions of Dollars)

Provision	Effective	1994	1995	1996	1997	1998	1994-98
I. REVENUE-RAISING PROVISIONS							
A. Individual Income and Estate and Gift Tax Provisions							
1. Increase tax rates paid by high-income individuals (2).....	1/1/93	25,937	17,288	20,371	24,509	26,351	114,455
[a.] Add fourth bracket at 36% rate for taxable income over \$140,000 (joint), \$127,500 (head of household), \$115,000 (single). [b.] Impose a 10% surtax on regular taxable income over \$250,000 (not applicable to capital gains). [c.] Increase minimum tax rate to 26% for AMTI of less than \$175,000 and 28% for AMTI over \$175,000; increase AMTI exemption to \$45,000 (joint) and \$37,500 (single). [d.] Extend itemized deduction limitation and personal exemption phaseout scheduled to expire for 1996 and 1997, respectively.							
2. Repeal Health Insurance (HI) wage base cap (3).....	1/1/94	2,750	6,030	6,374	6,808	7,200	29,161
3. Reinstate top estate and gift tax rates at 53% and 55%.....	1/1/93	475	512	553	588	647	2,785
4. Reduce deductible portion of business meals and entertain- ment from 80% to 50%.....	1/1/94	1,839	3,151	3,315	3,478	3,636	15,420
5. Deny deduction for club dues.....	1/1/94	134	229	239	250	261	1,112
6. Deny deduction for executive pay over \$1 million.....	1/1/94	43	56	59	78	108	345
7. Reduce compensation that can be taken into account for purposes of benefits and contributions under qualified retirement plans to \$150,000 in 1994 (1993 cap is \$235,840).....	1/1/94	174	542	555	556	556	2,383
8. Disallow moving expense deduction for meals and real estate expenses.....	1/1/94	36	362	381	407	442	1,627
9. Increase taxable portion of Social Security and Railroad Retirement Tier 1 benefits.....	1/1/94	2,859	6,104	6,891	7,683	8,462	31,990

*Revenue
Changes*

5-5-93 (OTR) TAXATION, BUDGET AND ACCOUNTING TEXT (NO. 95) L-71

Provision	Effective	1994	1995	1996	1997	1998	1994-98
B. Provisions Affecting Businesses							
1. Increase corporate tax rate to 36% for taxable income above \$10 million (phaseout benefit of 34% rate beginning at \$15 million) (2)	1/1/93	8,510	5,417	5,577	5,942	6,147	31,694
2. Deny deduction for lobbying expenses	tyba 12/31/93	105	179	188	-197	-203	873
3. Require securities dealers to mark-to-market	tyba/a 12/31/93	845	814	824	835	572	3,890
4. Prohibit double-dip related to FSLIC assistance (4)	3/4/91	142	92	2	172	254	661
5. Extend corporate estimated tax rules	1/1/87	..	..	..	4,301	894	5,185
6. Limit section 908 credit to 50% of compensation	tyba 12/31/93	111	526	1,575	2,320	2,314	6,846
7. Enhance "earnings stripping" rules	tyba 12/31/83	65	80	85	90	95	415
C. Provisions Affecting International Businesses							
1. Repeal deferral for excessive accumulated foreign earnings	tyba 9/30/93	72	150	180	192	204	798
2. Royalties in passive basket of foreign tax credit; 100% R&E allocation	tyba 12/31/93	151	770	628	639	646	2,835
3. Revise foreign tax credit for oil and gas and shipping income	tyba 12/31/92	538	451	473	497	522	2,581
4. Transfer pricing compliance initiative (enhanced penalty provision)	tyba 12/31/93	75	75	75	75	75	375
D. Energy and Motor Fuels Provisions							
1. Modified BTU tax	6/1/94	1,990	9,997	16,191	20,437	21,929	70,544
2. Extend 2.5 cents/gallon motor fuels tax (1/1/95 - 9/30/98); transfer revenues to Highway Trust Fund	10/1/95	..	..	2,595	2,670	2,651	7,916
3. Increase inland waterways fuel tax	1/1/94	19	91	195	289	323	917
E. Compliance Provisions							
1. Service industry non-compliance initiative	1/1/94	27	91	97	102	106	423
2. Raise standard for accuracy-related and preparer penalties	1/1/94	..	..	..	..	..	..
3. Modified substantial understatement penalty	1/1/94	86	108	104	97	88	484
4. Increase enforcement of harbor maintenance tax (5)	1/1/94	..	3	9	11	12	35
F. Miscellaneous Revenue-Raising Provisions							
1. Substantiation and disclosure of charitable contributions (6)	1/1/94	9	60	64	68	72	273
2. Expand 45-day interest rule for certain refunds (outlays) (3)	1/1/94	44	64	64	64	64	300
3. Deny business travel deductions for spouse and dependents on non-business travel	1/1/94	2	20	21	23	24	90
4. Increase withholding rate on bonuses to 28%	1/1/94	188	9	10	10	11	228
G. Other Provisions							
1. Permanent extension of tax information access for Department of Veterans Affairs	10/1/97	..	..	..	..	136	136

Provision	Effective	1994	1995	1996	1997	1998	1994-98
2 BATF user fees for alcohol labeling and formula applications (3).....	10/1/93	5	5	5	5	5	25
3 Permanent extension of vaccine excise tax	4/1/93	181	124	124	124	124	676
TOTAL REVENUE-RAISING PROVISIONS.....		47,512	53,400	67,924	83,527	85,124	337,486

N. REVENUE-REDUCTION PROVISIONS

A. Training and Education

1. Extend employer-provided educational assistance permanently (7).....	7/1/92	-641	-490	-520	-552	-586	-2,789
2 Targeted jobs tax credit and youth apprenticeship program:							
a. Extend targeted jobs tax credit permanently.....	7/1/92	-287	-308	-363	-410	-452	-1,819
b. Youth apprenticeship credit	1/1/94	-14	-52	-106	-171	-236	-580

B. Investment Incentives

1 Temporary incremental tax credit for large businesses and permanent investment tax credit for businesses with gross receipts under \$5 million.....	ppsa 12/3/92	-12,875	-6,586	-3,631	-3,274	-4,003	-30,370
2. Extend research and experimentation credit permanently.....	7/1/92	-2,219	-1,569	-1,878	-2,151	-2,391	-10,208
3. Targeted capital gains incentives for investment in small businesses.....	1/1/93	-17	-124	-206	-276	-329	-952
4. Modify AMT depreciation schedule.....	ppsa 12/31/93	-433	-1,507	-2,212	-1,959	-1,906	-8,017
5. Exempt high-speed rail bonds from private activity bond caps.....	1/1/94	-4	-17	-35	-57	-68	-182
6. Extend small-issue manufacturing and agricultural bonds permanently.....	7/1/92	-17	-33	-48	-61	-71	-230

C. Expand Earned Income Tax Credit (EITC) (8).....

	1/1/94	-397	-4,328	-7,571	-7,860	-8,180	-28,336
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D. Real Estate Investment Provisions

1. Extend mortgage revenue bonds permanently.....	7/1/92	-70	-137	-194	-242	-280	-924
2. Extend low-income housing credit permanently.....	7/1/92	-376	-601	-945	-1,305	-1,672	-4,899
3. Provide passive loss relief for real estate professionals.....	1/1/94	-261	-471	-436	-491	-578	-2,237
4. Facilitate pension investments in real estate.....	1/1/94	-36	-46	-49	-54	-59	-245
5. Increase recovery period for non-residential real property to 37 years	1/1/94	15	110	323	567	908	1,922

E. Other Provisions

1. Extend AMT treatment of gifts of appreciated property to charities permanently	(9)	-100	-77	78	-80	-82	-417
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Provision	Effective	1994	1995	1996	1997	1998	1994-98
2. Extend General Fund transfer to railroad retirement fund permanently	(3)	No Revenue Effect					
3. Extend 25% deduction for self-employed health insurance through 12/31/93	7/1/92	566					566
F. Customs Overtime Pay Provision (Oversight Subcommittee) (3)	10/1/93	18	18	18	18	18	90
G. Empowerment Zones	1/1/94	562	944	992	-1,016	-1,036	-4,550
TOTAL REVENUE-REDUCTION PROVISIONS		-18,842	-17,162	-18,923	-19,374	-21,003	-95,309
NET TOTAL - REVENUE INCREASE		28,670	36,238	49,001	64,153	64,121	242,177

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding

Legend for "Effective" column
 ppsa - property placed in service after
 tyba - taxable years beginning after
 tyeo/a - taxable years ending on or after

- (1) Revenue estimates are provided based on information on the proposals from the U.S. Treasury Department; however, all estimates are subject to change.
- (2) Effective 1/1/93, but no penalties for underwithholding or estimated tax in 1993.
- (3) Estimate for this provision provided by the Congressional Budget Office (CBO).
- (4) Because the provision to prohibit double-dipping by thrifts receiving Federal financial assistance affects both Federal revenues and outlays, the net budget effects of this proposal are included in this table. The estimate includes an increase in outlays of \$136 million in 1994, a decrease of \$14 million in 1995, an increase of \$29 million in 1996, an increase of \$95 million in 1997, and an increase of \$109 million in 1998. According to CBO, Budget Act requirements may prohibit counting this provision for pay-as-you-go purposes.
- (5) Subject to passage of legislation to appropriate funds from the Harbor Maintenance Trust Fund. Estimate does not include effect on outlays.
- (6) Substantiation requirement for charitable contributions in excess of \$750; disclosure related to quid pro quo contributions.
- (7) FICA portion of estimate (on budget) \$176 million for 1994, \$193 million for 1995, \$204 million for 1996, \$217 million for 1997, and \$230 million for 1998. HI portion (off budget) \$40 million for 1994, \$44 million for 1995, \$47 million for 1996, \$49 million for 1997, and \$52 million for 1998.
- (8) Estimate includes outlays of \$339 in 1994, \$3,735 in 1995, \$6,895 in 1996, \$7,191 in 1997, and \$7,518 in 1998.
- (9) Effective for contributions of tangible personal property made after June 30, 1992, and for contributions of all property made after 1992.

End of Text
 End of Section

1994 PRESIDENT'S BUDGET -- FFIS ESTIMATES

5/7/93 GRANT-IN-AID PROGRAMS: SELECTED DISCRETIONARY AND MANDATORY PROGRAMS
(federal fiscal years; dollars in millions)

SELECTED DISCRETIONARY	FY 1991 ACTUAL	FY 1992 ACTUAL	FY 1993 ENACTED	PRESIDENT' BUDGET FY 1994	FY 1993 vs. 1992 ACTUAL		FY 1994 vs. 1993 ENACTED	
					\$	%	\$	%
DEPARTMENT OF AGRICULTURE								
EMERGENCY FOOD ASS'T (TEFAP) ADMIN.	550	545	545	546	50	0.0%	51	2.7%
WOMEN, INFANTS & CHILDREN (WIC) 1/	2,350	2,600	2,860	3,287	260	10.0%	427	14.9%
RURAL WATER & WASTE DISPOSAL GRTS.	300	376	390	541	14	3.8%	151	38.6%
DEPARTMENT OF COMMERCE								
ECONOMIC DEVELOPMENT ASSIS. 3/	209	302	217	223	-85	-28.1%	6	2.8%
DEPARTMENT OF EDUCATION								
COMPENSATORY EDUCATION:	6,076	6,706	6,709	7,110	3	0.0%	401	6.0%
EDUCATION REFORM INITIATIVE 4/		0	0	585	0	NA	585	NA
IMPACT AID: MAINT. AND OPERATIONS	741	744	738	686	-5	-0.7%	-52	-7.1%
CHAPTER 2 EDUCATION BLOCK GRANT	449	450	435	415	-15	-3.2%	-20	-4.6%
DRUG FREE SCHOOLS & COMMUNITIES	498	508	499	499	-9	-1.8%	0	0.0%
SPECIAL EDUCATION:								
BASIC STATE GRANTS	1,854	1,976	2,053	2,164	77	3.9%	111	5.4%
PRESCHOOL, INFANT, & TODDLERS GRTS.	410	495	539	600	44	8.9%	61	11.3%
CHAPTER 1 STATE INSTITUTIONS	149	143	126	114	-17	-11.6%	-13	-10.0%
SCIENCE & MATH EDUCATION	202	240	246	253	6	2.5%	7	2.7%
VOCATIONAL & ADULT EDUCATION	1,246	1,435	1,474	1,448	39	2.7%	-27	-1.8%
HEALTH AND HUMAN SERVICES								
ADMINISTRATION ON AGING--STATE GRANTS	745	770	765	765	-5	-0.7%	0	0.0%
SUBSTANCE ABUSE BLOCK GRANT	1,005	1,080	1,131	1,131	51	4.7%	0	0.0%
MENTAL HEALTH BLOCK GRANT	264	280	278	278	-2	-0.8%	0	0.0%
CHILD WELFARE SERVICES	274	274	295	295	21	7.6%	0	0.0%
COMMUNITY SERVICES BLOCK GRANT	349	360	372	372	12	3.3%	0	0.0%
FAMILY PLANNING	144	149	173	208	24	16.1%	35	20.2%
IMMUNIZATION GRANTS	182	255	288	614	33	12.9%	327	113.4%
RYAN WHITE AIDS GRANTS	221	316	385	695	70	22.1%	310	80.4%
HEAD START	2,055	2,202	2,776	4,150	574	26.1%	1,374	49.5%
CHILD CARE & DEV. BLOCK GRANTS	732	825	893	933	68	8.2%	40	4.5%
LOW INCOME HOME ENERGY ASSISTANCE 5/	1,610	1,500	1,346	1,507	-154	-10.3%	161	12.0%
MATERNAL & CHILD HEALTH BLOCK GRANT	587	650	665	705	15	2.3%	40	6.0%
COMMUNITY HEALTH CENTERS 1/	478	536	559	617	23	4.2%	59	10.5%
HEALTHY START INITIATIVE	25	64	79	100	15	23.9%	21	26.5%
PREVENTIVE HEALTH BLOCK GRANT	93	135	149	149	14	10.6%	0	0.0%
REFUGEE ASSISTANCE	411	411	381	420	-29	-7.1%	39	10.1%
UNDOCUMENTED ALIENS IMPACT GRTS 6/	0	0	0	400	0	NA	400	NA
STATE LEGALIZATION ASSIS. GRANTS 7/	273	0	311	812	311	NA	501	161.1%
HUD AND INDEPENDENT AGENCIES								
COMMUNITY DEVELOPMENT BLOCK GRANTS	3,200	3,400	4,000	4,224	600	17.6%	224	5.6%
EPA WASTEWATER STATE REV. FUND 8/	2,048	1,939	1,928	1,617	-12	-0.6%	-310	-16.1%
EPA WASTEWATER CONSTRUCTION GRTS 8/	52	461	623	235	162	35.0%	-388	-62.2%
HOPE GRANTS 9/	0	361	661	109	300	83.1%	-552	-83.5%
HOME INVESTMENT PARTNERSHIP PROGRAM	0	1,500	1,000	1,600	-500	-33.3%	600	60.0%
OPERATION OF LOW-INCOME HOUSING	2,175	2,450	2,282	2,521	-168	-6.8%	238	10.4%
DEPARTMENT OF THE INTERIOR								
ABANDONED MINE REC. FUND	149	135	135	135	0	0.0%	0	0.0%
DEPARTMENT OF JUSTICE								
DRUG CONTROL & SYSTEM IMPROV. GRTS.	473	473	473	479	0	0.0%	6	1.3%
JUVENILE JUSTICE & DELINQUENCY PREV.	75	72	77	77	5	6.9%	0	0.0%
DEPARTMENT OF LABOR								
DISLOCATED WORKERS 10/	527	577	597	1,921	20	3.4%	1,324	222.0%
ADULT & YOUTH TRAINING GRANTS	1,779	1,773	1,742	1,717	-32	-1.8%	-25	-1.4%
SUMMER YOUTH TRAINING GRANTS	683	1,183	671	1,689	-512	-43.3%	1,018	151.8%
EMPLOYMENT SERVICE STATE ADMIN.	805	822	811	833	-11	-1.3%	22	2.7%
UNEMPLOYMENT COMP STATE ADMIN	2,134	2,565	2,380	2,507	-185	-7.2%	127	5.3%
DEPARTMENT OF TRANSPORTATION								
AIRPORT OBLIGATION CEILING	1,800	1,900	1,800	1,879	-100	-5.3%	79	4.4%
HIGHWAY OBLIGATION CEILING	14,500	16,055	15,327	18,398	-728	-4.5%	3,071	20.0%
HIGHWAY EXEMPT FROM CEILING 11/	1,769	1,826	2,342	2,117	516	28.3%	-225	-9.6%
MASS TRANSIT:								
FORMULA GRANTS	1,605	1,984	1,700	2,455	-284	-14.3%	755	44.4%
INTERSTATE TRANSFER GRANTS	149	160	75	45	-85	-53.1%	-30	-40.0%
URBAN DISCRETIONARY GRANTS	1,400	1,346	1,725	1,772	379	28.1%	47	2.7%
SUBTOTAL: DISCRETIONARY	\$59,306	\$66,808	\$67,524	\$78,450	\$717	1.1%	\$10,926	16.2%

MANDATORY/ENTITLEMENT PROGRAMS	FY 1991 ACTUAL	FY 1992 ACTUAL	FY 1993 ENACTED	PRESIDENT BUDGET FY 1994	FY 1993 vs. 1992 ACTUAL		FY 1994 vs. 1993 ENACTED	
					\$	%	\$	%
CHILD NUTRITION	\$5,577	\$6,168	\$6,827	\$7,559	\$658	10.7%	\$732	10.7%
TEFAP, COMMODITY PURCHASES	120	120	120	160	0	0.0%	40	33.3%
FOOD STAMPS 12/	19,699	23,663	28,115	31,221	4,452	18.8%	3,105	11.0%
SOCIAL SERVICES BLOCK GRANT 2/	2,800	2,800	2,800	2,800	0	0.0%	0	0.0%
FAMILY SUPPORT WELFARE PAYMENTS	13,261	14,789	14,832	15,076	44	0.3%	243	1.6%
AFDC JOBS 2/	684	1,000	1,000	1,100	0	0.0%	100	10.0%
CHILD SUPPORT ENFORCEMENT	608	668	778	896	110	16.4%	118	15.2%
FOSTER CARE AND ADOPTION ASSISTANCE								
BASE AMOUNT	2,063	2,315	2,924	2,995	609	26.3%	71	2.4%
PRIOR YEAR CLAIMS	521	116	0	0	-116	-100.0%	0	NA
FAMILY SUPPORT AND PRESERVATION 13/	0	0	0	60	0	NA	60	NA
MEDICAID 14/	53,393	69,766	82,396	88,792	12,830	18.4%	6,197	7.5%
VOCATIONAL REHAB. STATE GRANTS	1,633	1,788	1,880	1,940	92	5.1%	60	3.2%
SUBTOTAL MANDATORY/ENTITLEMENT	\$100,359	\$123,193	\$141,872	\$152,598	\$18,678	15.2%	\$10,727	7.6%
TOTAL: SELECTED GRANTS-IN-AID	\$159,665	\$190,001	\$209,396	\$231,049	\$19,395	10.2%	\$21,653	10.3%

FOOTNOTES

- 1/ Unlike all other discretionary programs in this section, WIC and Community Health Center spending is currently exempt from sequestration.
- 2/ Unlike all other mandatory programs in this section, spending for these programs is currently subject to sequestration.
- 3/ President's Budget 1993 and 1994 levels include funding for communities severely affected by defense conversion.
- 4/ Includes funding for Goals 2000, school-to-work transition, an urban-rural initiative, and teacher professional development.
- 5/ The 1994 request includes \$1.427 billion appropriated in 1993 for use during the period 10/1/93 through 6/30/94, and \$70 million for use after 7/1/94.
- 6/ This new temporary program would provide funding for medical services to states disproportionately burdened by serving undocumented aliens.
- 7/ The 1994 funding level reflects \$812 million in funding delayed from 1993.
- 8/ The 1994 Budget would replace the current wastewater SRF with \$1,018 million for a new clean water SRF and \$599 million for a drinking water SRF.
- 9/ The 1994 Budget would transfer \$340 million of 1993 HOPE funds to other programs and fund only implementation grants in 1994.
- 10/ The 1994 funding level includes an additional \$1.7 billion above baseline levels for dislocated worker employment and training.
- 11/ Includes funding for minimum allocation provisions, special projects, and emergency relief.
- 12/ 1993 and 1994 estimates include funding for food stamp benefits, state admin., contingency funds, and nutrition assistance for Puerto Rico.
- 13/ This new capped entitlement program would provide funds to states for family support and preservation services.
- 14/ The 1994 funding level assumes \$285 million in medicaid savings including the elimination of enhanced administrative matching rates.
- 1994 Budget estimates assume the medicaid program will have \$3.2 billion in unobligated balances in 1993 that will be applied to 1994 obligations.

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