NATIONAL GOVERNORS' ASSOCIATION

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September 29, 1993

The Honorable Robert B. Reich
Secretary of Labor
200 Constitution Avenue N.W.
Room S-2018
Washington, D.C. 20210

Dear Secretary Reich:

We would like to bring to your attention the serious concerns many Governors have regarding the department's proposed Workforce Investment Strategy. Governors fear that the proposal -- both the Worker Adjustment section and the One-Stop Career Centers section -- will impose a rigid, narrow vision of a workforce development system on the states and exclude other approaches already being pursued by many Governors.

Governors are among the strongest proponents of reforming and consolidating employment and training programs. Governors do not have a vested interest in maintaining the existing delivery and governance structure and have repeatedly called for federal assistance to streamline and integrate workforce development programs. In fact, the Administration's Workforce Investment Strategy does contain many provisions that Governors strongly support. These provisions include federal assistance to build national, state, and local labor market information systems; increased flexibility in the form of waiver authority; and consolidation of dislocated worker programs.

Unfortunately, these positive changes have been overshadowed for Governors by what they view as an overly prescriptive and rigid approach to creating and operating both the Worker Adjustment Career Center and the One-Stop Career Center systems. The Governors' concerns include but are not limited to the following areas:

- *Flexibility*: The proposal mandates that states create an entirely new administrative and operational structure for carrying out the goals of the worker adjustment and one-stop sections. Both parts of the proposal require states to create new centers as sole deliverers of worker adjustment (or one-stop) services through a competitive bidding process. This mandate flies in the face of existing efforts by a number of states to consolidate some or all of their workforce development programs through interagency collaboration and to create a "no wrong door" system where clients may access a wide array of services through a variety of locations and agencies. *Many Governors believe that a mandated competitive bid process, in particular, would severely undermine the gains that have been made to date through collaboration.*

In addition, both of the proposed options for governing the Worker Adjustment Career Centers and the required Workforce Investment Boards for One-Stop Centers would add layers of bureaucratic controls and costs.

- *Funding*: Both the worker adjustment section and the one-stop section require that states and localities provide many more services to more clients through a new delivery system. If the proposal creates an entitlement by clients to some or all of those services, then sufficient federal funding must be available. If funding is not sufficient and clients are entitled to services, states would be faced with unfunded federal mandates which are unacceptable. Furthermore, the proposal requires states to take on other new responsibilities, such as developing and maintaining labor market information systems, expanding rapid response services, and creating systems for qualifying service providers, that have significant cost implications.

Governors should have the discretion to work with localities to decide who will operate Worker Adjustment and One-Stop Career Centers and how the centers will be managed. The federal role should focus on setting program goals, encouraging innovation, and holding states accountable for results. Many Governors are unwilling to dismantle their current efforts to build workforce development systems in a collaborative way, unless the department can offer compelling evidence that its proposed approach will be significantly more effective.

We ask that you not move this proposal forward until these issues have been addressed. We are committed to continue working with you to resolve these and other concerns (see attached summary of NGA comments previously forwarded to the department), but we believe it will be much more difficult to reach agreement if the proposal is not revised significantly before it becomes legislation.

Sincerely,

Pete Wilson

Governor Pete Wilson
Chair
Human Resources Committee

David Walters

Governor David Walters
Vice Chair
Human Resources Committee

cc: Carol Rasco, Assistant to the President for Domestic Policy
Robert Rubin, Assistant to the President for Economic Policy
Marcia Hale, Assistant to the President for Intergovernmental Relations

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September 20, 1993

Memorandum

To: Ray Uhalde, Office of Strategic Planning and Policy Development, ETA/DOL
Pat Fahy, Congressional and Intergovernmental Affairs, DOL

From: Julie Strawn, Human Resources Committee

Re: NGA Comments on the August 31st Draft of the Workforce Investment Strategy

Thank you for asking the Governors to provide additional comments on the Department's Dislocated Worker/One-Stop Career Center proposal. The attached comments should not be viewed as formal NGA positions but rather just an early indication for you of the reaction of Governors to this proposal.

As you know, the Governors have lead efforts in recent years to consolidate and streamline employment and training programs. In fact, while many other organizations have a vested interest in the current system, Governors are one of the few natural constituencies for reform and consolidation of employment and training programs. At our recent annual meeting in August, the Governors adopted a workforce development policy that calls for a new state-federal partnership designed to create a comprehensive, flexible, and high-quality workforce development system. (A copy of that policy is attached for your information.)

Governors strongly support the same overall goals that the Administration's Workforce Investment Strategy is intended to achieve. The comments I have received to date from Governors' offices indicate, however, that they have some serious concerns about the means by which the Administration intends to pursue those common goals in the Workforce Investment Strategy outline. What Governors would like to see is federal legislation that facilitates -- but does not prescribe -- state and local efforts to consolidate and integrate the employment and training system to better serve workers, the unemployed, and employers. In particular, the comments I received indicated that Governors most want federal assistance in three key areas:

- ***Increased flexibility, including waiver authority***, to allow states and localities to tailor programs to client needs and to remove obstacles to program consolidation currently posed by certain federal laws and regulations. Governors would like to see increased flexibility not just for Department of

Labor programs, but for all federal programs that could be part of a workforce development system.

- *Funding and technical assistance for information systems* in order to build national, state and local capacity to collect and exchange labor market information, and to facilitate the exchange of client and program data needed for eligibility determination and program referrals.
- *Technical assistance on design and implementation of workforce development systems* to help states and localities exchange information on best practices and adapt those practices to their own states and communities.

The Administration's Workforce Investment Strategy as outlined in the August 31st document does include many provisions in these and other areas that many states favor. Unfortunately, these positive programmatic changes and new initiatives are currently overshadowed for many states by what they view as the overly prescriptive nature of the Investment Strategy as a whole, especially with regard to mandated competition of worker adjustment and career centers, and what states see as an unnecessarily complex governance structure for such centers. Because NGA and Governors' staff expressed similar concerns in comments on the July draft of the proposal, a number of states expressed disappointment that the August 31st draft seemed to be even more prescriptive than the first one.

Given the serious reservations many states have about the current structure of the proposed initiative, and the fact that Congress does not plan to move this legislation until next year, perhaps the Department of Labor could reconsider the planned October 4th introduction date to allow more time for resolving some of the Governors' questions and concerns. This would be especially useful given the short period of time states have had to review and respond to each of the two drafts of the initiative. Governors could be among the Administration's strongest allies for reform of workforce development programs if the focus of proposed legislation can be kept on the defining the goals and expected outcomes of the system rather than on specifying a "one size fits all" approach that states and localities must follow in pursuing those goals.

Thank you again for asking for the Governors' perspective on the initiative -- we look forward to working with you further to refine this far-reaching and ambitious proposal.

DETAILED SUMMARY OF NGA COMMENTS
(see also August 13th NGA memo)

Comments relevant to both the Worker Adjustment and One-Stop Center Sections

Competition: The mandate that states and localities compete out Worker Adjustment and Career Centers have drawn more objections from Governors than any other single provision in the proposal. Many states are currently engaged in efforts to streamline workforce development programs through interagency collaboration. Many Governors' offices believe that competing out Centers would undermine those efforts by asking the partners involved in them to compete against each other after spending years persuading them to collaborate and build on each other's strengths. Their general sense was that competition may be appropriate in some states and localities but in others would be simply be a wasteful use of federal and state resources. A number of Governors found the mandate particularly objectionable given the lack of evidence offered by DOL to support the notion that competition is the only best approach for creating and improving workforce development systems.

Other concerns voiced by Governors included the fear that under competition "consistency, quality and fiscal accountability could not be assured," and that competition would worsen problems with incompatible data systems, making it more difficult rather than easier for clients to move between programs. Many Governors continue to believe that they should have discretion as to whether to allow for-profit entities to become Center operators. Finally, a number of states felt that competing out Centers would chiefly result in duplication of administrative functions rather than promote client choice.

Funding: Many Governors were concerned about whether adequate funding would be available for expanding and restructuring services, doubling (at a minimum) client access points, and running competitions for centers. Even though funding for dislocated worker services will be increased, the numbers given so far by DOL suggest that while overall funding may triple, the federal government expects states and localities to serve four times as many clients -- and to serve them more comprehensively under a new administrative structure. State concerns about funding were even greater regarding the One-Stop Career Centers section because little additional federal funding is expected to be available to support these efforts.

Several Governors noted that administrative costs are likely to increase as more organizations become involved through competition in providing the same services. Furthermore, both the dislocated worker and one-stop sections use language that suggests a broad entitlement to services (e.g. p. 28 and p. 35), especially since broader eligibility and expanded required services are coupled with client appeal procedures. If in fact clients do have an entitlement to services under the proposal,, then the funding issue becomes paramount as does the question of what mechanisms would be available to Governors to control program costs and prioritize services among those eligible.

Governance: Many Governors believe that they and local elected officials should decide the governance structure for Centers rather than have it prescribed by federal law. In particular, a number of Governors commented that a consolidated workforce development system should build on the existing service delivery systems states have rather than creating additional agencies and systems. Overall, the proposed governance system seems to many Governors unnecessarily complex and cumbersome. One Governor's office observed that the "current proposal calls for multiple layers of advisory and administrative boards, administration of thousands of partnership agreements by the state, localities and USDOL and creation and operation of two different appeal processes." A number of Governors do not believe it is desirable or even feasible for the federal government to become involved in writing partnership agreements for every Center. Several states commented that the multiplicity of governance structures is likely to cause administrative chaos and client confusion. Several states feel that it is unrealistic to create Workforce Investment Boards (WIBs) in every locality.

One state observed that the Worker Adjustment section calls for five levels of local governance authority, beginning with training providers and moving upward through center operators, to fiscal agents, to workforce investment boards and to local elected officials. The one-stop centers seem to call for a similar governance structure. Several states commented on what seemed to them confusing and vague distinctions between different administrative functions at the local level and unclear lines of authority.

Labor Market Information: Every Governor that commented felt that federal support for LMI systems was critical. This is the area where states saw the largest potential for federal resources to really have an impact. Federal support for data collection and state and local information systems development is essential to developing a national system. Several states commented that capital expenditures on automation should not be prohibited.

Collocation of services: Many of the states commenting on the proposal viewed it as requiring collocation of services. Governors have long supported the concept of convenient access to multiple services but comments on this proposal indicated that they do not want access narrowly defined as collocation of services. This view was voiced in particular by Governors who are already very involved in creating one-stop services. They are using collocation in some areas but believe strongly that a "no wrong door" approach is equally valid, with linked data systems allowing clients to obtain information, eligibility determinations, and referrals to services at many different locations. Allowing both approaches would recognize that collocation is not the only way to improve client access to services.

Training Services:

Quality -- Several Governors commented that criteria to measure the quality of training should include the training/education providers' placement performance, e.g. that is was training-related, and also require that the training itself match industry skill standards where appropriate. One state voiced concern about the provision to allow localities to negotiate a training program with a new provider that will be "subsequently qualified" because there will be no track record by which to judge whether clients will benefit from the training.

Choice -- Several Governors are concerned that all training would have to be provided on an individual referral basis. In particular, rural states often must create training opportunities for clients by contracting for classes or programs size that would otherwise not exist at all.

Eligibility: Many Governors are concerned that eligibility in both sections seemed to be defined in sweeping and vague ways. In particular, they wondered how states would be allowed to prioritize among clients if resources fail to be available to serve comprehensively all of those that meet eligibility criteria. Several Governors noted that if the federal expectation is that all who are eligible are served, and funding is inadequate, then states and localities will be forced to provide the least intensive, least expensive services to everyone regardless of client need.

Comments on One-Stop Career Centers

Governors have many questions on this section of the proposal and generally found it vague and confusing. Their largest concerns focus on governance, competition, scope, and funding issues. Governors' concerns around competition and governance issues are described above.

Scope: Governors believe that this initiative should encompass more than DOL programs. At the federal level it should include at least the Departments of Labor, Education, Commerce, and HHS to so that all relevant workforce development and economic development programs can be linked. Several states commented that at a minimum the initiative should include the JOBS program.

Funding: Governors are skeptical that all of the required services and administrative structures could be created simply by shifting over existing money from Wagner-Peyser and JTPA Title II and III programs, especially as the primary programs involved (with the exception of Title III and Title II-B) have had their budgets cut several years in a row now. In practice states were concerned that the initiative would mean providing a much expanded range of services compared to what is now provided with few new resources. Several Governors also asked for clarification as to whether DOL intends to establish an entitlement for eligible clients to the listed required services.

Performance measures: Several Governors noted that the performance standards do not appear to continue the emphasis of existing performance standards on serving the hard-to-serve. If services are expanded and made available to more individuals, but funding under the redirected programs does not increase proportionately, then this will create incentives to "cream" by serving the most employable clients. The workforce policy statement adopted by the Governors this August calls on the federal government to maintain its commitment to disadvantaged individuals while building a comprehensive workforce development system.

Waivers: Governors strongly support expanded waiver authority but their comments indicated that they would like it to be broader than DOL programs and want it to be available regardless of whether a state has gone in for a grant on One-Stop Centers. This is particularly important if the current features of the proposed one-stop system that Governors dislike are not changed. Several states also noted that waivers are not a substitute for funding.

Centers as Sole Deliverers: Several Governors observed that the requirement that Centers be the "sole deliverers" of DOL services contradicts the idea of competition and increasing client access. For example, why should an organization that now provides a community with all of the basic services lose its funding for providing those services simply because it cannot provide intensive worker adjustment services?

Comments on Worker Adjustment Provisions:

State comments indicated strong support for early intervention and for consolidation of worker adjustment programs. State comments also generally supported a single standard for dislocated worker eligibility regardless of cause of dislocation, including full-time, part-time and seasonal workers.

Funding: See concerns noted above about whether funding will be adequate to support expansion of services, development of better labor market and client information systems, and restructuring of governance structure. Several states also were concerned about the source of funding for administrative costs for providing income support. These costs will be substantial.

Governors' Reserve Funds: Many Governors commented that the proposed Governors' share of the state allotment is likely to prove inadequate for the expanded rapid response, UI profiling, LMI, and administrative activities envisioned under the proposal. States particularly objected to the proposed reduction in the Governor's share because the proposal also reduces the flexibility of the Governor in deciding how those funds can be used.

A number of Governors want to have the option to undertake skills upgrading activities with Reserve funds, recognizing that there would need to be certain safeguards around the use of those funds. Several states also commented that the administrative cap should be raised to 20 percent, at least initially while the system is restructured.

Income support: A number of Governors commented that they did not favor using a tenure screen as the primary mechanism for targeting income support. Several states suggested that client employability should be a factor. A number of Governors expressed concern that the combined impact of the five different requirements that a client must meet to receive income support could have the effect of targeting extended training and income support on those who need it least. Several states were concerned that the requirements around enrollment in certain services by the 8th and 16th weeks of the initial UI benefits period were too rigid. One state suggested that a small copayment for those enrolling in extended education or training services would serve to screen out those who would otherwise enroll simply to qualify for income support.

Eligibility: Several states found this section unclear. Key terms here need to be defined more specifically, so that states can understand better whether eligibility is being expanded significantly or not. The legislation will need to be much clearer about eligibility since client access to other critical services, such as income support, hinge on prompt notification of eligibility.

National Reserve Funds: Several states commented favorably on the continued role for national reserve funds. However, they also noted that there is nothing currently in the proposal that would improve access to these funds. The proposal should include changes that would streamline the application process and make these funds available in a more timely fashion. Many states noted that skill upgrade training, and funding for that activity, should be included in the Governors' Reserve to facilitate aid to small and medium firms rather than providing it to large corporations.

Upgrade Training: A number of Governors support the authority for upgrade training, layoff aversion, and work restructuring assistance as an allowable activity under the basic program. As noted above, many Governors felt that they should determine to what extent skill upgrading should be funded in a particular area. The Governor can more easily direct this assistance to small and medium businesses who could not otherwise undertake these activities. One state commented that the current safeguards in the Defense Diversification program are adequate and could be used here.

Rapid response: Several Governors commented that it is unreasonable to expect that states could provide on-site services within five days of receiving notice of layoffs of 50 workers or more. States have no control over whether an employer or employee representatives will even allow on-site services within that timeframe. Other states noted the need for some form of incentive to persuade employers to participate in Transition Assistance Committees.

Governance: In addition to the concerns described above, Governors made the following comments specific to the worker adjustment section:

- Regarding the Options 1 and 2 on p. 27, either the existing structure or a WIB may be appropriate depending on the area. Several Governors felt that they should have the discretion to work with localities on devising the right structure for each area.