

Northwest Reporting

NATIONAL GOVERNORS ASSOCIATION

2007 ANNUAL MEETING

TRAVERSE CITY, MICHIGAN

OPENING PLENARY SESSION

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SATURDAY

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1 Opening Plenary Session

2 Traverse City, Michigan

3 Saturday, July 21, 2007 - 2:45 p.m.

4
5
6 GOVERNOR NAPOLITANO: Good afternoon. Good
7 afternoon.

8 GOVERNORS: Afternoon.

9 GOVERNOR NAPOLITANO: Thank you. Good afternoon,
10 Governors and Distinguished Guests. I now call to
11 order the 99th Annual Meeting of the National Governors
12 Association. I would like to begin just by saying what
13 a privilege it's been to serve as the chair of the NGA,
14 as we've addressed a myriad of issues that confront
15 governors at any given time from the National Guard,
16 health care, education, Real ID, public safety, energy,
17 to name but a few of the items that have been on our
18 plate this last year and will be on our plate over the
19 next few days.

20 At this plenary we're going to begin by discussing
21 the chair's initiative that we have undertaken this
22 past year, Innovation America. We have undertaken this
23 initiative on the realization that for the United
24 States to continue to survive and thrive in this
25 increasingly global economy we must re-think what we're

1 doing in K-12 education, the linkage with postsecondary
2 education, and then what the workforce needs of the
3 future indeed are going to be. And that has been the
4 focus of our sessions today, the focus of sessions in
5 February and throughout the year.

6 Today, in addition to discussing the Innovation
7 America initiative, we will recognize one of our
8 departing colleagues. We will also recognize our
9 Distinguished Service Award winners, and our 15-year
10 Corporate Fellows. Immediately after this meeting we
11 will have a quick meeting of the NGA Executive
12 Committee. So before we dive in totally we need to
13 adopt the rules and procedures for the plenary and for
14 the NGA meeting as a whole. I ask for a motion from
15 Governor Pawlenty.

16 GOVERNOR PAWLENTY: So moved.

17 GOVERNOR NAPOLITANO: So moved. Very eloquently
18 put. Part of the rules require that any governor who
19 wants to submit a new policy or resolution for adoption
20 at this meeting will need a three-quarters vote to
21 suspend the rules, and if you have a new policy
22 proposal for this meeting please give it to David Quam
23 by 5:00 o'clock tomorrow. All in favor of adopting the
24 rules as explained so thoroughly by Governor Pawlenty
25 please say aye.

1 GOVERNORS: Ayes.

2 GOVERNOR NAPOLITANO: Thank you. In addition, I
3 would like to announce the appointment of the following
4 governors to the Nominating Committee for the 2007-2008
5 NGA Executive Committee; Governor Douglas will serve as
6 chairman; the members will be Governors Heineman,
7 Sanford, Henry and Minner. So thank you for
8 undertaking that service.

9 I'd also like to take a moment to acknowledge some
10 of the distinguished guests who are joining us here in
11 Traverse City; his Excellency Sagr Ghobash, Ambassador
12 of the United Arab Emirates; his Excellency Hunaina
13 Al-Mughairy, Ambassador of the Sultanate of Oman is
14 here with us today; his Excellency Aziz Mekouar,
15 Ambassador of the Kingdom of Morocco; his Excellency
16 Samir Sharkir M. Sumaida'ie, Ambassador of the Republic
17 of Iraq is here as well.

18 We are also joined today by distinguished guests
19 from the Canadian Parliament representing the United
20 States in their parliamentary group; Senator Jerry
21 Grafstein; Dean Del Mastro, Member of Parliament; Brian
22 Masse, Member of Parliament; and Lloyd St. Amand,
23 Member of Parliament. I want to thank all of you for
24 attending our session today.

25 (Applause)

1 GOVERNOR NAPOLITANO: I'd also like to specially
2 thank and recognize the hosts of this year's annual
3 meeting, Governor Granholm and Dan Mulhern, who have
4 been wonderful hosts already, introducing us all to the
5 great state of Michigan where so much good work is
6 ongoing. Governor Granholm, a few remarks?

7 GOVERNOR GRANHOLM: Thank you, Governor
8 Napolitano, and thank you to you all. For those who
9 are on the selection committee, thank you for choosing
10 Michigan. For those of you who have come here for the
11 first time, I hope that you can understand why we so
12 deeply love our state and our natural resources. I
13 hope that you'll thank too, as you see them, the great
14 volunteers that are interspersed throughout not just
15 this hotel but throughout the city who are so very
16 proud of our Great Lakes and of our region.

17 I look forward to, Dan and I look forward to,
18 talking about the issue of innovation, because
19 certainly it's something that Michigan has been focused
20 like a laser on in building and crafting the next
21 Michigan in response to globalization. So thank you
22 all to the NGA for coming. We are so glad to be able
23 to welcome you here, and particular thanks to all of
24 the Michigan hosts, the businesses and corporations,
25 who have also had a huge amount of pride in sponsoring

1 you all to come to northern Michigan. Thank you,
2 Governor.

3 GOVERNOR NAPOLITANO: Thank you, Governor
4 Granholm.

5 (Applause)

6 GOVERNOR NAPOLITANO: I'd like to start today's
7 discussion about the chair's initiative, Innovation
8 America, by thanking some of the organizations that
9 have made the initiative possible; the Bill and Melinda
10 Gates Foundation, the Ewing Marion Kauffman Foundation,
11 the Intel Foundation, the Alfred P. Sloan Foundation,
12 Ford Motor Company Fund, Verizon Foundation, the Pew
13 Center on the States, and Scholastic Inc. Let's give
14 them a round, please.

15 (Applause)

16 GOVERNOR NAPOLITANO: And now I'd like to draw
17 your attention to the screens for a short video
18 highlighting some of the initiative's work over the
19 past year.

20

21 (Video being shown on screens)

22

23 GOVERNOR NAPOLITANO: Very good. Thank you very
24 much.

25

(Applause)

1 GOVERNOR NAPOLITANO: The purpose of the video
2 was to illustrate briefly some of the activities that
3 have been ongoing in many of the states across the
4 country this year where innovation is concerned; K-12
5 level, postsecondary, workforce preparation as I
6 mentioned earlier. Perhaps the thing we can do most as
7 governors is use our office as a bully pulpit to create
8 a sense of urgency about this, that this is not just
9 another study committee or another report. It's really
10 rethinking on an urgent and real time basis what we are
11 doing with the generation that's in school today, the
12 generation that will be entering school next year, and
13 the kind of economy in which they will live in which
14 they need to be able to succeed.

15 In this area the states play a key role. The
16 federal government, as we all know, has a role to play
17 in education, and we continue to support legislation on
18 these fronts, including legislation currently pending
19 in a conference committee in the congress, but the
20 states here are really in the driver's seat.

21 It is the state governments that fund the lion's
22 share of public education. It's the states that set
23 graduation and teacher standards. It's the states that
24 invest in public universities and community colleges
25 and research and development at those institutions.

1 It's the states that pursue specific policies for
2 promoting regional innovation, improving
3 infrastructure, promoting entrepreneurship, and it is
4 the governors who are in the best position in their
5 respective states to help lead those efforts. That's
6 why this initiative was created, to help give governors
7 the tools they need, research, challenge grants, policy
8 academies, to help states create comprehensive and
9 sustainable innovation policies.

10 Through Innovation America we focused on the three
11 key areas; K-12, particularly STEM education in the
12 K-12 levels; preparing the workers of tomorrow by
13 aligning higher education with the economic and
14 workforce needs of the states; and fostering economic
15 development through state investments in things like
16 R&D and strategies to promote regional innovation and
17 entrepreneurship. Together these things will help the
18 states strengthen their capacity and our nation
19 collectively to strengthen its capacity to compete in a
20 global world, a global economy.

21 Throughout this year there have been a lot of
22 highlights. Let me mention a few. There were national
23 forums in Phoenix and Kansas City. More than 40 states
24 participated in those. There were official visits to
25 state innovation hubs in Philadelphia; Cupertino;

1 Woodbury, Minnesota; New York, New York. We declared
2 Innovation America week May 14 through 18. More than
3 30 states participated in activities at that time. And
4 we awarded \$3 million in grants to states to establish
5 education centers.

6 Throughout the course of this year I've been
7 privileged to be joined by really an extraordinary
8 group of leaders, other governors, CEOs, college and
9 university presidents, who as members of the Innovation
10 America task force have provided valuable input during
11 the past time.

12 I want to particularly thank these individuals,
13 including those who are with us today. Governor Tim
14 Pawlenty played a very critical role as vice chair of
15 the NGA. He will soon take over my spot as chair.
16 We're joined also by fellow gubernatorial task force
17 members; Governor Sebelius of Kansas, Governor Blunt of
18 Missouri, Governor Rendell of Pennsylvania, and
19 Governor Huntsman of Utah. I'd like to give them all a
20 hand, please.

21 (Applause)

22 GOVERNOR NAPOLITANO: And today representing
23 other members of the task force we have Craig Barrett,
24 Chairman of the Board of Intel; Dr. Wayne Clough,
25 President of Georgia Tech; Dr. Michael Crow, President

1 of Arizona State University; Dr. Shirley Ann Jackson,
2 President of Rensselaer Polytechnic Institute; Dr.
3 Judith Ramaley, President of Winona State University;
4 Dr. Mary S. Spangler, Chancellor of the Houston
5 Community College System. I'd like to give them a
6 special round, because not only did they give up their
7 time, energy and talents, but they became introduced to
8 the world of the governors and the NGA simultaneously,
9 and we appreciate the efforts that go along with that.

10 (Applause)

11 GOVERNOR NAPOLITANO: I'd also like to thank Ray
12 Scheppach and his wonderful staff at the NGA for all of
13 the work that they have put in over the past year on
14 this and many other issues. I think they deserve a
15 special round from the governors as well.

16 (Applause)

17 GOVERNOR NAPOLITANO: Today I'm proud to release
18 three publications to help ensure the work of
19 Innovation America continues. One is "A Compact for
20 Postsecondary Education," which brings together
21 government, universities, community colleges, boards of
22 regents, private schools and the private sector really
23 to look at compacts between the states and their higher
24 education systems. And I ask the governors to not only
25 review those but to increase and redouble the efforts

1 they have already undertaken where postsecondary
2 education is concerned.

3 The second is a document entitled "Investing in
4 Innovation." It is produced by the Pew Center on the
5 States and partnershiped with NGA. It provides a
6 snapshot of successful state investments in research
7 and development. It is designed, in other words, to
8 give governors ideas of what has been happening not
9 only in their own states but in other states to foster
10 an innovation based economic agenda.

11 And, finally, "Innovation America: A Final
12 Report," summarizes what we have learned to date in the
13 course of this initiative, paying, again, special
14 attention to the role of governors in establishing best
15 practices.

16 These publications as well as the others that were
17 issued throughout the course of the year have all been
18 loaded onto a special Innovation America zip stick.
19 Each of you have one at your place, and it's kind of
20 like an external hard drive I think is the best way to
21 explain it, and it's something that you can take home
22 obviously and share and use with your staffs in your
23 various states.

24 So, again, lots of work undertaken and lots of, I
25 think, identification of issues and programs and

1 practices that we need to pursue on an urgent basis,
2 the time is now basis, where innovation is concerned.

3 Today we're going to at this session focus on some
4 of the aspects of Innovation America where the private
5 sector is concerned. And we have speaking with us two
6 of the nations most distinguished business leaders;
7 Randall Stephenson from AT&T, Dr. Eric Schmidt from
8 Google. They will talk from their different
9 perspectives about the role of innovation as it affects
10 their industries. What we're going to do is have each
11 of them speak for 10 to 15 minutes and then take some
12 questions and comments from the governors.

13 The first speaker will be Randall Stephenson. He
14 is Chairman of the Board and CEO of AT&T. Prior to
15 being named chairman and CEO in 2007 he served as chief
16 operating officer and was responsible for all wireless
17 and wire-like operations. During his tenure the
18 company outperformed its peers in many categories and
19 leads the industry in business and wireless and other
20 capacities, and is also gaining momentum in the
21 television market. So let me turn the podium over to
22 Randall Stephenson. Randall.

23 (Applause)

24 RANDALL STEPHENSON: Thank you, Governor. It's
25 good to be here. I appreciate you inviting Eric and

1 myself here. I notice how you set us apart. Were you
2 afraid that we might squabble?

3 GOVERNOR NAPOLITANO: Just call me Switzerland.

4 RANDALL STEPHENSON: I think you are going to find
5 that Eric and I probably agree on more than we disagree
6 on to be quite candid, but it's good to be here. I
7 appreciate you arranging this. I also appreciate you
8 very much doing this in Michigan this time of year.
9 It's good to get out of the rain in Texas.

10 I read over the course of this week your
11 innovation document that you talked about here, and I
12 found a lot of the comments interesting, and I have to
13 tell you I very much agree with the position that is in
14 that document. If I could summarize it, I'm probably
15 over-simplifying it, but if I can over-simplify it,
16 basically what I understand the group is saying is that
17 innovation is the key for driving productivity, which
18 is the key for driving job growth, which is by
19 therefore the key to driving economic growth, and I
20 think you're dead on. I think I would completely agree
21 with that position.

22 I thought what I would spend my time here doing is
23 drilling down on that a little bit more and from my
24 standpoint what do I see are the key pillars, if you
25 will, for driving true economic growth. And as I kind

1 of look at this I've always felt that there's a
2 three-legged stool that has to be in balance here to
3 drive true sustainable economic growth. The three legs
4 of this stool I have seen consistently demonstrated in
5 a number of countries and a number of levels of
6 government and markets from municipalities to state
7 level to national level, and now we're seeing it played
8 out at the global level, and I want to talk about those
9 three legs of this stool.

10 The first leg of the stool is probably not going
11 to surprise anybody in this room, but I think it's
12 absolutely fundamental to sustained economic growth,
13 and that's a system of affordable and efficient
14 education for the masses. Obviously, I think telecom
15 is very important. We're all talking about economic
16 growth, and, you know, the question I ask is: What is
17 an economy? An economy is nothing more than the
18 creation of wealth through free trade and commerce. So
19 the objective is: How do you increase the velocity of
20 commerce and thereby grow the economies?

21 So I ask: What's the basic component of commerce?
22 It's real simple, it's communication. Apart from
23 communication and human interaction there really is no
24 commerce to be had. So efficient communication serves
25 to accelerate commerce, to increase the velocity of

1 commerce. The more efficient the communication, the
2 more velocity in the commerce, in the economy.

3 And so I ask: What's been the greatest catalyst
4 of communication that we've seen on this planet? I
5 would say the greatest catalyst of communication that
6 we see on this planet came from my predecessor, former
7 Chairman of the Board of AT&T, Alexander Graham Bell.
8 I think it was the telephone, telecommunications in
9 general.

10 If you think about the telephone, it allowed
11 commerce to suddenly be conducted in real time rather
12 than only in person. It accelerated the pace and the
13 rhythm of trade and commerce dramatically. In fact, I
14 would suggest to you that the pace of commerce, more
15 than any other invention from the telegraph to the
16 locomotive, steam engine, the combustible engine, any
17 of those, the telephone, the invention of the
18 telephone, has accelerated the pace of commerce.

19 On the heels of the telephone comes wireless
20 communication, and wireless communication has
21 accelerated commerce even more by untethering
22 businesses. Not only was it no longer necessary to be
23 physically present to conduct business, but you no
24 longer had to be present in your home or your line of
25 business where you had a telephone access. With

1 wireless we have basically instantaneously any time,
2 anywhere communication, and it's taken the velocity of
3 commercial activity to a whole different level. Again,
4 more velocity means more jobs. More jobs means more
5 prosperity.

6 Within the granddaddy of them all, my friend over
7 here who is a major player in this, on the heels of
8 telecommunication is the internet. We've now
9 discovered a whole new gear of commercial velocity by
10 virtue of the internet. We're achieving RPMs in the
11 economy that I don't think we've ever dreamed of, quite
12 frankly. Now commerce is being conducted 24 by 7 by
13 365 days a year. It's being conducted in storefronts
14 that are literally open to the entire world. And any
15 time you can turn a one or a zero, anything into a one
16 or a zero, the substance of digital communication,
17 those can now be transmitted to customers and markets
18 and the globe instantaneously.

19 So the velocity and pace of commerce is now
20 following the sun, right? Anywhere there's sunlight,
21 there's velocity and pace in commerce. So the
22 punchline of all this, the first leg of this stool, is
23 that a strong system of commerce or an economy
24 requires, without exception, I cannot find an
25 exception, that it occurs with a strong system of

1 telecommunication. The system needs to be pervasive.
2 It needs to be available to the masses, and it has to
3 be affordable.

4 And that brings us to the second leg of the
5 stool. The second leg of the stool is free open
6 markets where capital flows freely without undue or
7 unnecessary regulation or restraint. That probably
8 surprises you as well that I might say that, doesn't
9 it? You know, these pervasive telecommunication
10 systems we're talking about with multiple providers,
11 they consume an unbelievable amount of capital
12 investment. They consume more capital than even the
13 heavy manufacturers like the automobile makers here in
14 Michigan, Governor Granholm.

15 The states and countries that have encouraged
16 investment in telecom have thrived, period. The US has
17 historically led the world in telecom infrastructure
18 investment, until recently I would suggest. In the
19 early part of this decade we got sidetracked by what
20 was some well intentioned, but I'm afraid it was
21 disastrous, policies on telecommunication.

22 And I'll give you an example. In 2001 my old
23 company SBC was spending \$11 billion a year on
24 infrastructure. Within the course of one year that was
25 cut to \$5 billion and sustained that level for about 3

1 years. We were keeping the lights on and the systems
2 running, but not much more than that.

3 The US position in broadband dropped from number 1
4 in the industrialized world over that period of time to
5 number 16. I strongly believe that it is no
6 coincidence that the economy in this country struggled
7 during that same time frame. During that time in
8 telecom over half a million jobs were eliminated and \$2
9 trillion of market capitalization was lost.
10 Fortunately, these rules were rectified in the 2003
11 time frame, and almost instantaneously, and I mean
12 instantaneously, investment in telecommunications
13 jumped again.

14 This year AT&T is going to spend north of \$18
15 billion in telecommunications infrastructure, and it
16 probably doesn't surprise many in here that the lion's
17 share of that capital is being deployed in states that
18 have gotten rid of these old barriers to competition
19 and barriers to entry into video markets as well.

20 A classic example is right here in Michigan.
21 Governor Granholm recently signed legislation
22 eliminating the old local franchising barriers to
23 competition for entering the video business. Many in
24 this room have done the exact same thing. And as a
25 result, in Michigan AT&T is now going to increase their

1 spending and capital by \$700 million, and we're in the
2 process of hiring 2,000 people in the State of Michigan
3 to deploy an advanced state-of-the-art fiber network
4 for deploying video technology. Again, investment
5 flows where the regulatory burdens are light and the
6 opportunity to earn a return exists.

7 I would say that to drive growth, communications
8 has to be available to the masses, and that includes
9 rural America. In our territory everyone is enjoying
10 the benefits of this telecom revolution. We now have
11 fixed line broadband capabilities to 85 percent of our
12 footprint. The remaining 15 percent is being covered
13 by our satellite broadband technology. We're working
14 hard to find a wired solution for that remaining 15.

15 We also just announced a deal to acquire Dobson
16 Communication. They are a rural wireless carrier.
17 Soon the advantages that they don't have today of
18 national pricing, things like iPhone, new technologies,
19 will now be available to those rural customers as
20 well.

21 So the more areas of this country that we bring
22 along with this telecom revolution the more velocity
23 that we create, the more commerce we create, the better
24 the economy.

25 That brings us to the third leg of our stool, and

1 this is one I feel very passionate about. The well
2 educated workforce is absolutely required for sustained
3 growth. You know, this telecom system not only
4 requires massive sums of capital, they also require
5 massive sums of labor, big labor requirements.

6 Today AT&T employs 300,000 people. Of that
7 300,000, 60 percent of them are represented by labor
8 unions. In fact, we employ more represented people
9 than the big three automobile makers combined. We have
10 12,000 of these people right here in Michigan. We're
11 hiring right now at a pace of 50,000 people per year to
12 fuel our broadband, our wireless and our TV
13 initiatives. These are technical jobs, and I've got to
14 tell you, and I just shared this with Governor
15 Napolitano, frankly, we're struggling to find the
16 numbers required to fill these jobs, qualified
17 candidates to fill these jobs.

18 We just created a unique arrangement with the CWA,
19 which is our largest labor union, where AT&T is now
20 bringing back 4,000 jobs that have previously been
21 outsourced overseas, primarily to India. This
22 agreement with the CWA, it's a new paradigm I believe
23 for labor relations in the 21st century. I think this
24 is something very, very unique, and I'm actually very
25 proud of what we're doing here.

1 We put in place competitive benefit and wage
2 agreements. We put in place performance based
3 incentives. And guess what? I'm sorry to tell you in
4 the first wave we're struggling to find the numbers we
5 need to bring those 4,000 jobs back. We're committed
6 to making this work. We're going to develop the people
7 that we need to make this work, but right now we're not
8 finding the numbers we need.

9 My point of all this is that this isn't an issue
10 of a company that's sending jobs overseas to take
11 advantage of cheap labor. We have an issue of supply
12 in this country, and we're not competitive in our
13 educational programs, and I really believe that it's
14 time for industry and government to step up and fix
15 this and get it right.

16 My opinion, our education system has fallen flat.
17 It's not keeping up with the demands of the global
18 economy that Governor Napolitano spoke of. I believe
19 the US graduate and undergraduate schools continue to
20 lead the world. I don't think that's where the problem
21 is. I think that's why the best and the brightest
22 continue to come to our colleges and universities.
23 We're failing to develop the best and the brightest
24 among our own children at the K-12 level, because we're
25 not demanding more from them in math and

1 science. We've gotten fat and lazy, that's my personal
2 opinion.

3 I don't believe that the average 12-year-old kid
4 in Korea wakes up wanting to study algebra any more
5 than a kid does here in the United States. I don't
6 believe that. I just believe the kids in Korea don't
7 have much of a choice on whether they study algebra or
8 not. We've got to change that. For our part, I have
9 in the first 30 days on my job directed all spending
10 from the AT&T Foundation to be directed to educational
11 priorities that drive performance based rewards for
12 education.

13 I was in India last week, and while I was there it
14 hit me like a ton of bricks that in India they've hit
15 the trifecta of this three-legged stool that we're
16 talking about. They've liberalized their telecom
17 investment laws. It is free and open markets, period.
18 Foreign companies are now allowed to own infrastructure
19 in India. There is very little regulation in telecom.
20 They are inciting investment in telecom, and telecom is
21 flourishing like you can't imagine.

22 They've invested in education. They are
23 graduating the same number of engineers in India that
24 we graduate in the US, and their economy is 7 percent
25 the size of the US economy. And guess what? They are

1 gobbling up jobs from all over the world. It's being
2 facilitated by an advanced telecom infrastructure and a
3 well educated workforce. As a result, their economy is
4 growing 9 percent year over year.

5 You know, a good year in the US, AT&T or Verizon,
6 we'll add 6 million wireless customers. India is doing
7 that every single month right now. They are adding
8 about 7 million wireless customers every month,
9 demonstrating the power of telecom to accelerate the
10 velocity of commerce, that's what we're seeing over
11 there. Companies around the world are going to India
12 to take part of this growth.

13 I had an industrialist in India tell me last week,
14 he said, "It used to be people came here to get cheap
15 labor. Now they are coming to India to get cheap
16 brains." I think he's right on. The more efficient
17 the system of telecommunications, the greater the
18 velocity of commerce. I really believe it's that
19 simple.

20 In summary, let's face it, you can't lead the
21 digital economy without leading in telecom. You can't
22 lead in telecom without markets that are open and
23 conducive to investment, and you can't lead the digital
24 economy without a high tech labor supply. You can't
25 hardly think of a job anymore that you would not regard

1 as a high tech job. You know, our technicians out in
2 the field today, they carry laptops.

3 Is there anything more blue collar than making an
4 automobile? That may be the conventional wisdom, but
5 I'd submit to you there's few things more high tech
6 than a new car. I don't know if you've lifted the hood
7 of a car lately, but it is high tech, and the labor to
8 build these cars is getting more and more high tech.

9 So as fellow chief executives, my challenge to
10 each of us is that in every policy decision we make I
11 think we ought to ask two fundamental questions.
12 First, are we inciting more or less telecom
13 infrastructure investment, and as a result are we
14 increasing the pace, the rhythm and the velocity of
15 commerce in our states? Second, are we giving our
16 young people the best chance to compete in this global
17 economy by absolutely demanding the most of them? The
18 correct answers to those questions I think will lead to
19 greater investment, I think it will lead to greater
20 employment, and I think it will lead to greater
21 velocity in our economies and more jobs. So with that
22 I thank you, Governor.

23 (Applause)

24 GOVERNOR NAPOLITANO: Thank you. Our next guest
25 is Dr. Eric Schmidt, Chairman of the Board and CEO of

1 Google. Since coming to Google Eric has focused on
2 building the infrastructure necessary to maintain
3 Google's rapid growth. Previously Eric served as the
4 chairman and CEO of Novell, marking a 20-year record of
5 achievement as an internet strategist, entrepreneur and
6 developer of new and great technologies. Dr. Schmidt.

7 (Applause)

8 DR. ERIC SCHMIDT: Thank you very much, Governor.
9 I completely agree with what Randall had to say, and
10 I'd like you all to think of information technology in
11 a very different way. I'd like you to think of it as a
12 way that people can actually change their views of
13 government. We're now at the point where the quality
14 and the way in which your information technology
15 services work for your citizens will fundamentally
16 affect how they view not only your leadership but
17 government as a whole. Because unlike many other
18 people in our government worldwide, the buck stops with
19 you guys. You actually run these places and you have
20 tremendous services that you offer.

21 It's also clear that broadband, as Randall said,
22 is about to cross a tipping point. We're at 50-60
23 percent overall penetration. AT&T and other companies
24 are leading this way and they're doing a great job. As
25 it crosses the two-thirds point of actual usage in

1 American homes, it will become the first place that
2 people, that the businesses will be built on.

3 And I want you to think internet first, not second
4 or third or fourth, because that's ultimately how you
5 will transform your fundamental mission, which is
6 serving your citizens and really change the world. And
7 what's nice about this "think internet first" message
8 is that the United States is the leader in the
9 internet. So you have all of the positive benefits of
10 both the investment that you make in your states, the
11 creativity in your universities represented here as
12 part of our leadership task force, and the great story
13 that is the American dream and entrepreneurship.

14 Now, most people when they think about the
15 internet think about, as an example, you too have been
16 candidates and you all have looked at this, and indeed
17 there is a big debate on Monday and a subsequent one in
18 September in Florida for the two major parties
19 involving you too. What people do not appreciate is
20 how fundamentally the internet is changing the normal
21 course of business.

22 I'll give you the numbers. The internet, by far
23 the fastest growing piece of media technology ever, 3
24 years to get 50 million users. It took 37 years to do
25 the same thing with radio and television. There are

1 more than 1.3 billion users worldwide. We're adding a
2 couple hundred million a year now, and most of those,
3 of course, outside the United States.

4 The mobile phone growth, when I travel, and
5 Randall and I do this all over, what sound do I hear?
6 I hear the sound of mobile phones ringing. It drives
7 me crazy sometimes, right, but Randall, he loves it.
8 It's the perfect outcome; ring, ring, ring. And it is
9 of even greater impact to have American led technology
10 changing the world, and the numbers are fascinating.
11 More than 2.5 billion phones, again, growing on the
12 order of 400 or 500 million a year.

13 This is all being driven by something called
14 Moore's Law, which you've heard about before, roughly
15 doubling the density of chips every 18 months. There's
16 another law called Kryder's Law, which says that
17 storage power is increasing by a factor of 1,000 every
18 10 years. So you say, oh, no big deal. This has some
19 pretty interesting implications.

20 In the year 2019 you'll be able to have in your
21 iPhone or equivalent 85 years of video. So when
22 you're born, we can hand you this thing and you'll
23 never be able to watch all the video on your device
24 until you're dead. The rate at which this
25 consolidation of data storage and computing power is

1 changing our world is breathtaking.

2 Now, my observation is that people everywhere
3 pretty much want the same things. They want good
4 family, good health. They want safety, security,
5 happiness, prosperity, and they have a lot to say, and
6 they are going to say it in this new medium whether we
7 like it or not.

8 The statistics are phenomenal. There are more
9 than 70 million blogs that exist today, about 120,000
10 blogs being created worldwide each day. So no one is
11 reading them, except for the author I guess. 76
12 percent of US internet users over the age of 15
13 initiated a video stream monthly. 75 percent of the
14 users 18 to 25 are reading or writing user generated
15 content as it's called, and few of them are passive
16 participants.

17 And last night in our Ann Arbor office, where we
18 have a nice big operation, I asked the survey, how many
19 of you have a home phone, a very strange question to
20 ask, and that was clearly the wrong question. So I
21 said, how many of you don't have a home phone. 90
22 percent of the people raised their hands and said that
23 their only phone is their mobile device. It gives you
24 a sense of how rapid this change really is occurring.

25 When you think about search, which is the business

1 that Google is in, it really fulfills the human need
2 for information, and, of course, this is growing very,
3 very, very dramatically, the billions of pages that we
4 index, and the many hundreds of millions of users that
5 we service have to deal with this all the time, and our
6 next product is really about personalization.

7 Here we are in Michigan and you do a search for
8 wolverine. Now, are you talking about a sports team or
9 are you talking about a particular marsupial? We need
10 to know a little bit about you in order to do that, and
11 we now have algorithms and techniques where we can sort
12 of more or less figure out whether you are a sports fan
13 or whether you're really very interested in science,
14 and if you're both, maybe we will be a little bit
15 confused.

16 We're trying to close the gap between what I want
17 and what I typed, and, to me, Google is really built
18 around "aha!" moments. For me, the "aha!" moment was
19 I've always wanted to climb Mt. Everest, which if you
20 look at me it's clearly not going to happen. So I took
21 Google Earth and I started at the bottom and I climbed
22 right up to the top in the safety of my office and I
23 had a great view. You can't do that without these
24 kinds of technologies.

25 Here's another example. All of us give a lot of

1 speeches, and I was told that the problem with speeches
2 is that the microphone rubs against your (indicating
3 front of shirt). Everybody knows this, right? So how
4 do you solve this problem? You tape it to your skin.
5 How do you do that? You get double-sided tape that's
6 made for wigs. Now, where am I going to buy this? How
7 would you find out where to buy it? Well, it turns out
8 you can use a search engine and you will find there
9 are, in fact, a whole industry of people who make this
10 sort of thing. I never knew I needed this product and
11 now I have to have it.

12 What's interesting about all of these "aha!"
13 moments, and Google is really built around "aha!"
14 moments, is that they really do create trust, and then
15 trust between ourselves, the company, the end user and
16 their searches and information becomes paramount. And
17 this is another issue that you all are going to face;
18 how do people trust the internet. In our case we've
19 changed our privacy policies. We don't keep logs more
20 than 18 months. The cookies that we put in place,
21 which is a technical term, expire in 2 years and other
22 things like that. But the important point is that you
23 will face, as everyone is online, what is the privacy,
24 what is the trust factor, do they believe you, is it
25 really true.

1 If we look at information and mass innovation it's
2 having a lot of other interesting issues. The fellow
3 who runs Venezuela did not like a particular television
4 station, so he banned them. So now they are
5 rebroadcasting on YouTube. Very interesting. Please
6 don't tell them. I don't want them to shut down
7 YouTube.

8 This process makes governing both harder and more,
9 I think, exciting. It's harder, because you have to
10 some degree less control over the voices; on the other
11 hand, you have the ability to listen to them. And you
12 can imagine that not only can Google, for example, trap
13 all the things that politicians say, right, do we
14 agree, disagree, but we can also give you information
15 as to what people are thinking more quickly, and you
16 can decide what your view is and how you should react
17 to this.

18 This phenomena, this phenomena of jumping to
19 things, is really occurring very, very quickly. It may
20 very well be that the next Watson and Crick, who were
21 co-inventors or discoverers of DNA, they might meet
22 online instead of a university, and we want them to be
23 in the US universities talking to each other over this
24 broadband network that Randall and others are trying to
25 build.

1 So what should you all do? Encourage the
2 expansion of broadband. We are 100 percent in
3 agreement with this. It is the basis of so much of the
4 future of America. The only analogy, and it seems
5 obvious, is here we are in a beautiful part of
6 relatively rural Michigan. How do you get here? By a
7 highway. What do you do when you're here? You get on
8 your broadband network and you have access to the whole
9 world. The interstate highway system is the 1950's
10 analogy. This is ours.

11 By making information available you can finally
12 cross this issue of the opacity or lack of capability
13 of governments. We have a project generally known as
14 site maps. We have projects with states that we've
15 done this, for example, already; Arizona, California,
16 Michigan, Utah, Virginia. The states already had
17 information that was on their web sites that none of
18 the search engines could get to. Literally almost all
19 access to government services seems to be starting
20 through the search engines and they can't find your
21 service. Working together, a simple example, Arizona,
22 it took, you'll be pleased to know, Governor, took 46
23 staff hours to make all this work available, not just
24 to Google, but to the other search engines as well,
25 and, boom, millions of people in your state have access

1 to this. Let's do this together. It's easy to do.

2 I believe when we talk about education, and this
3 group has worked on education for a very long time, we
4 all understand how fundamental this issue of job
5 training and education and higher learn is. I believe
6 this next generation of children process information
7 differently than we do. It is the generation gap of
8 which we are the elders and they are the juniors. That
9 you face, we face, the issue of transforming the
10 classroom from a classroom to an internet classroom,
11 and I don't mean getting rid of teachers and so forth.
12 They are crucial to making this happen.

13 When I was a young person growing up in Virginia,
14 my home and a great state, one of the things in seventh
15 grade, Governor, is that I had to memorize the 50
16 counties in Virginia, and I managed to do it correctly
17 by the way. Why, and of course I don't remember them
18 anymore, why was that memorization so important? If I
19 can carry a device that has that piece of information
20 and everything else in the world with me at all time.

21 What I really needed to do was to learn how to
22 search, understand, manipulate and research, learn how
23 to think about the state that I love and the state at
24 which I was a member and all the things going on. It's
25 a fundamentally different way of teaching, and we're

1 not teaching that way now, and the tools and the
2 techniques are now available and ubiquitous.

3 With energy needs all of us, Craig and Intel and
4 many other companies, are working to deal with climate
5 and climate issues. With innovation, we're all
6 building innovation models. Google is particularly
7 innovated because of a model called 70-20-10; where 70
8 percent of our investments are in core things, 20
9 percent in adjacent, and 10 percent in others.

10 I would challenge you as governors, how much of
11 your budget is spent on true innovation that's not
12 described to you or regulated to you or lobbied to you
13 by the many people who want a piece of your budgets and
14 your attention? How much of it is true discovery
15 that's going on in your states? Reserve 5 percent or
16 10 percent, and the leverage is enormous.

17 This is a remarkable time to be here, to be part
18 of the United States, the entrepreneurial system that's
19 represented by Randall and myself's view of the world.
20 School children in rural towns very much have the same
21 access to the students of Oxford and Harvard,
22 Cambridge, what have you. It's very different from
23 what it used to be. We are very much at the beginning
24 of a real revolution in education, information access,
25 and governing and in serving the citizens of the United

1 States. So with that I thank you very much.

2 (Applause)

3 GOVERNOR NAPOLITANO: Well, thank you very much,
4 Randall and Eric, for your remarks and your comments to
5 us on the role of innovation as you see it. Let me
6 open up the table to questions or comments from any of
7 the governors who are here on this or any of the other
8 innovation topics. Phil. You've got to press on it
9 and keep it down.

10 GOVERNOR BREDESEN: So you have to hold it down.
11 All right. I'll hold it down. This is probably for
12 Mr. Stephenson more. You talked as one of the legs of
13 the stool about the free flow of capital, and, of
14 course, we had in our legislature this year, along with
15 many other states, initiatives generated from you to
16 open that up. It did not succeed in Tennessee. I
17 think as a side bar, more because some of the lobbyists
18 were making so much money out of the basic approach of
19 it.

20 But the question I have is, there are real issues
21 surrounding the free flow of capital in communications
22 and the absence of regulations. I mean, the phone
23 industry, as you've described, grew in a highly
24 regulated environment. The cable TV industry started
25 and grew in a highly regulated environment. The

1 internet may have exploded, but that would have been
2 massively slower without the huge infrastructure of
3 copper and fiber and so on that were already developed
4 that way.

5 I mean, what do you feel the role of a state is in
6 terms of trying to ensure the quality of access?
7 Mobile phones are very important. There's huge pieces
8 of Tennessee where I can't get a mobile phone signal
9 and people who live in those communities who can't get
10 it. What is our role in making that happen?

11 RANDALL STEPHENSON: I think inherently the role,
12 and many may not like this, is more and more to stay
13 out of the way. The more truly competitive these
14 markets become, I think the less government
15 intervention is required. There was a day when there
16 really was not competition, and you understood
17 significant government oversight. But now when you
18 have, you know, multiple pipes going into the house,
19 you have at least a cable and a telephone line going
20 into a house, you have at least four or five wireless
21 providers in each market, and as long as there is
22 vibrant competition I think the consumer is protected
23 from pricing. I think the consumer is logically
24 protected from service issues.

25 Right now the biggest driver of customer loyalty

1 in wireless is service quality and coverage. So what
2 are we all scrambling to do? Improve service quality,
3 improve coverage. That's where I'm spending a lion's
4 share of my wireless capital budget now is in those
5 areas. So it gets back to what I said before. I think
6 the government's role is to make the environment
7 conducive for investment, and what I mean by that is
8 knock down barriers.

9 I was talking to Governor Blunt earlier today
10 where Missouri just passed legislation, and I told him
11 I've never seen anything like what I'd just gone
12 through in the last 2 1/2 years. Where back in 2005,
13 early 2005, my board authorized me to spend \$6 billion
14 to get broadband, you know, video capable broadband,
15 deployed throughout our what was then a 13 state region
16 and now it's 22. Here I am in 2007 and I'm just now
17 starting to get the freedoms I need to spend, invest
18 and deploy that capital, and that money was there. It
19 was available. It could have been deployed, jobs
20 created back in 2005, and we had not been able to
21 deploy it.

22 So I just, you know, my challenge is if the market
23 is competitive, and let's make sure -- I mean, we all
24 have to be intellectually honest, is it truly
25 competitive -- if it is, knock down the barriers, let

1 companies invest. The more competitive it is, the more
2 inventiveness you have, innovation you have, and that's
3 my challenge I guess.

4 GOVERNOR NAPOLITANO: Governor Rendell.

5 GOVERNOR RENDELL: I think with what Governor
6 Bredesen was driving at, and I agree with everything
7 you said, except he left out an important area. There
8 are some places in all of our states, and Pennsylvania
9 is a rural state too and a mountainous state, there are
10 places that the marketplace won't go, because profit
11 can't come from those places. Don't you think that we
12 have an obligation to our citizens to force the market
13 into those places?

14 RANDALL STEPHENSON: Yeah. I understand your
15 point, and this is where, you know, the whole universal
16 service issue, right? It used to be universal service
17 on telephones was what everybody focused on. I believe
18 universal service for broadband is probably phase two,
19 right, that's where we are now, and we ought to look at
20 this whole subsidy structure that's in place.

21 We're, I don't know if you know it or not, we're
22 subsidizing wireless companies for going into rural
23 America, but we're not subsidizing broadband companies
24 for building into rural America. Let's take a hard
25 look at this subsidy structure. I think that's

1 worthwhile.

2 GOVERNOR NAPOLITANO: Governor Palin.

3 GOVERNOR PALIN: Still a follow on the last two
4 questions from the governors to Randall, and then I
5 have a question for Eric, and I thank you both for
6 being here. But, Randall, still from your perspective
7 what are more of those specific barriers that a state
8 government perhaps has built and held on to that gets
9 in the way of progress there in telecom?

10 And then a question for Eric also. In your
11 encouragement of expansion of broadband, who should be
12 paying for that expansion?

13 GOVERNOR NAPOLITANO: Randall, then Eric.
14 Randall.

15 RANDALL STEPHENSON: Me go first. What are the
16 things that are in the way? I'll give you the classic
17 examples. These are the ones that we have been trying
18 to address over the last 2 years. But the State of
19 California, you know, we had the money set aside to go
20 invest in large broadband pipes into all the homes to
21 deliver video. Absent statewide legislation we had to
22 go through multiple municipalities, and I'm talking
23 thousands of municipalities, and get licensing,
24 right-of-ways, franchising agreements in place to
25 deploy this. We were doing it without legislation, and

1 over the course of one year out of the thousands we
2 needed we got three, and so it just slowed. It's slow
3 and it doesn't go anywhere. The capital doesn't get
4 deployed. It doesn't get spent.

5 So we're getting statewide franchises. We're not
6 looking for any leg up on the cable guys. We ought to
7 pay the same fees. We ought to have the same peg
8 requirements as the cable guys, but just speed along
9 the process, that's what we're looking for.

10 GOVERNOR NAPOLITANO: Eric.

11 DR. ERIC SCHMIDT: The countries outside the
12 United States directly subsidize broadband deployment
13 literally with money, and they have a national
14 broadband policy, it's heavily subsidized, and it has,
15 in fact, accelerated their economic growth. So in the
16 American system where such subsidies are probably not
17 the right political outcome, I can report to you that
18 the financials of broadband are so positive that the
19 telecommunication companies and the cable companies and
20 so forth are, in fact, seeing economical turns from
21 broadband. The problem is that there are still
22 regulations in their way, as Randall said.

23 If I were a governor and I heard this message,
24 what I would do is have a broadband task force for my
25 state and I would sit down and I would say, tell me the

1 ten things, I wouldn't ask the industry, I would ask my
2 staff and the various end users, what are the things
3 that are preventing us from getting what we want, and
4 then I would go to the industry and say what are your
5 problems, and I would try to figure a way to bridge
6 them.

7 There are many cases where local relatively
8 antiquated laws are preventing widespread adoption of
9 something which is economically positive. The spread
10 of broadband is so directly related to the increase of
11 jobs in rural areas, the use of the internet,
12 advertising businesses, the business we're in,
13 electronic commerce and so forth that it's fundamental.

14 I was in rural Nevada and I happened to be driven
15 by the mayor of this small town, and he was explaining
16 to me that his basic problem was that he could not get
17 the telecommunications company to put a fiberoptic
18 cable to his town, because he wanted to create an
19 outsourcing center. We want all the mayors to think
20 about where is the fiber and do they have enough of it,
21 and that will then put pressure on their own regulatory
22 bodies to work with the local guys to get that stuff
23 going.

24 GOVERNOR NAPOLITANO: Thank you. Governor
25 Sebelius.

1 GOVERNOR SEBELIUS: Eric, since you are here to
2 give us a new way to look at a lot of the initiatives
3 moving forward, I'm struck by the fact that the numbers
4 that you gave, which I think all of us know intuitively
5 about phones, who has a land line phone who now is just
6 using a cell phone we can translate into our own kids,
7 but it has an interesting application when you go to
8 polling. Who are you reaching? I mean, that's a
9 technique that often relies on reaching people by
10 telephone, surveying by telephone.

11 I'm curious as you look at the future, and knowing
12 that you have folks in your shop, including yourself,
13 who see 10 years down the road much more clearly than
14 some of us might, in the whole area of government, I
15 mean, polling is one, how you communicate with voters,
16 how you let them know about services. What are the
17 things that we're going to need to change about the way
18 we just go about our business and jobs to maximize the
19 technology that's out there, hopefully, get a step
20 ahead of it and truly be able to reflect what people
21 need?

22 DR. ERIC SCHMIDT: Most states have many
23 overlapping lists of their citizens. They have polling
24 data, driver's license data, other kind of regulatory
25 data, and there are tremendous inefficiencies in how

1 those services are delivered, because they don't have a
2 way of seeing one person as the same, and there are
3 some reasons that that structure exists, including
4 concern over privacy.

5 So to the degree that we can address privacy and
6 misuse of driver's license data and so forth, it would
7 be very good if states had a better model of who their
8 citizens were and they knew roughly where they were or
9 they had an ability to reach them in an emergency.

10 I'm struck by, as an example, you find out that in
11 your state there's a mortgage crisis and your citizens,
12 a good percentage of your citizens, are going to
13 default. So you as a good legislator figure out a way
14 to give them some credits. How do you reach them, how
15 do you reach them today, a television they don't watch
16 as much any more? You can't call them at home. Your
17 canvassers are off doing something else. You have to
18 find a way to reach them. An obvious way would be to
19 have more use of the web, more use of the electronic
20 mail, and get them to choose to communicate with you
21 under their own terms. People are now choosing to
22 communicate more directly.

23 The polling question is much harder, because
24 people are harder to find, if you will, and I think
25 what we will see in polling is many more estimates,

1 which is not necessarily good, but probably the best
2 that we can do.

3 GOVERNOR NAPOLITANO: Governor Sanford, and then
4 we will have Governor Corzine, Governor Douglas,
5 Governor Baldacci, and Governor Pawlenty, and then
6 we'll have to cut off the questions. Governor Sanford.

7 GOVERNOR SANFORD: Yeah. Eric, you just mentioned
8 a moment ago the brain power example of thinking
9 differently and that you had been taught the 46
10 counties in Virginia, and, really, you thought the next
11 step of education was not necessarily memorizing the 46
12 counties but being able to access those counties.

13 I thought in a different way, Randall, you touched
14 on the same theme. You said, look, there are basically
15 three components to a vibrant economy. You've got to
16 have open tech, open economy and, again, brain
17 power. Both of you stress this theme of brain power.
18 Randall, your specific quote just a moment ago, I
19 jotted it down, was, "The more competitive you are, the
20 more inventive you will be; in other words, the better
21 off you will be."

22 Given that we have almost a closed system when it
23 comes to K-12 education, where do you all stand on that
24 issue? I mean, if competition is a good thing, I know
25 that school choices are a very controversial issue,

1 where would you all come out on that one?

2 GOVERNOR NAPOLITANO: Eric, and then Randall.

3 DR. ERIC SCHMIDT: The US educational system has
4 been very, very closed as you said. I think both
5 political parties have taken strong positions that more
6 choices are good, whether it's teachers or charter
7 schools or so forth. My personal vow is that almost
8 anything that we try will give us some experience of
9 different models and that we should encourage that
10 experiment.

11 What I will also tell you is we now have the
12 ability to measure outcomes. So rather than arguing
13 about what could happen in these infinite strategy
14 meetings, why don't you try five different initiatives
15 and see what works and mesh the outcomes, and we will
16 accept any positive outcome.

17 GOVERNOR NAPOLITANO: Randall.

18 RANDALL STEPHENSON: Very simplistically, I don't
19 think it matters whatever endeavor it is, in government
20 or in anything else, competition is good, and it's just
21 inherently part of a free market society. I just think
22 more competition is good in every endeavor. So I would
23 always encourage competition.

24 GOVERNOR NAPOLITANO: Governor Corzine.

25 GOVERNOR CORZINE: Thank you. Let me first just

1 make an observation to Randall that this isn't just a
2 spread of broadband, the implementation of those
3 programs, which we've done in New Jersey, isn't just an
4 issue of rural consumers. There are the difficulties
5 of bringing this into urban areas, and there actually
6 may even be bigger hurdles associated with that. I'm
7 wondering if you could comment on that.

8 And then, Eric, it's very hard to argue with the
9 evolution of how we disseminate information and how we
10 communicate. But the oversight, some might say of
11 regulation, of how the internet works is something
12 that's increasingly a concern to our citizens,
13 particularly from predators who use what is obviously a
14 great leverage device in a way that comes harmful to
15 society. I'm wondering if you want to speak to what
16 you think the role of government is or isn't in that
17 world as we see this inevitable evolution and
18 strengthening of our technology system.

19 GOVERNOR NAPOLITANO: Randall.

20 RANDALL STEPHENSON: Yeah. In terms of urban
21 areas and broadband coverage in urban areas, I can't
22 speak to New Jersey, we don't have that in our
23 footprint, but as a rule in our 22 states the urban
24 areas are very, very well covered. I will tell you we
25 have done more to make it available to urban areas in

1 terms of pricing. We have a \$10 broadband product
2 available for anybody that wants broadband.

3 The dilemma we have in penetrating urban areas
4 that we're working, and we're working this very
5 aggressively, is the cost of a computer, right? I
6 mean, in urban areas they don't own, the density of the
7 computers in the homes is not that great. So what can
8 you do to improve that? We're working with Intel on a
9 device, that it's not a full PC, but it's a device that
10 can access and utilize the internet and hook to
11 broadband. Can you get a \$100 or a \$200 device? We
12 can subsidize that, right, and truly begin to penetrate
13 urban areas with broadband access. But I think that is
14 the long pole in the tent, if you will, can we get the
15 computing device in the house, that cost down.

16 GOVERNOR NAPOLITANO: Eric.

17 DR. ERIC SCHMIDT: On the wireless aspect for
18 cities, one of the good news about cities is that they
19 are dense, and so wireless broadband solutions,
20 including some that are free or are very, very little
21 cost or are in developments, I think we have some hope
22 that technology can really help there.

23 With respect to the oversight and regulation of
24 the internet, one of the great sort of sadnesses of my
25 career is to discover that there are evil people on the

1 internet. Those of us who were part of the internet 20
2 years ago, we didn't think there would be any evil
3 people on the internet, and now we find them left and
4 right, and they spend an awful lot of time sending us
5 really terrible e-mails in the form of spam.

6 There's a series of things that society has to do.
7 The first is to talk about it so people are aware of
8 it. Schools need to spend a fair amount of time
9 educating children about it, because no matter what we
10 do, on the margin there will be a new attack and they
11 will find a 13-year-old boy or girl and potentially put
12 them at risk, and that's a truly terrible thing.

13 From a government perspective, the interesting
14 thing is that virtually all of the things that we're
15 upset about on the internet are, in fact, illegal in
16 the states in which they are performed. So it does not
17 appear as there's a need for some whole new national
18 set of laws in this area, but rather the development of
19 the tools and the techniques of, you know, law
20 enforcement to discover, track and so forth.

21 And there are companies, like Google, who can
22 actually help in the sense that we do have a pretty
23 good idea of what people are doing, and under the
24 appropriate legal systems that information can be used
25 to help essentially apprehend the bad people.

1 There are issues when you cross borders. So, for
2 example, you'll have somebody who is doing something
3 inappropriate where the US law does not reach, and
4 there are probably issues around trade agreements to
5 make sure that we can have quick response for those
6 sorts of things as well.

7 GOVERNOR NAPOLITANO: Yeah, and I would also add
8 to that. I think the Early Childhood Committee meeting
9 this week is going to be talking about online predators
10 as one of their topics. So, obviously, an issue of
11 great concern to all of us. Governor Douglas.

12 GOVERNOR DOUGLAS: Thank you. Earlier this year I
13 signed into law a bill to create telecommunications
14 authority to both get out of the way in terms of
15 expediting permitting, and, as Governor Rendell
16 suggested, make sure that we deploy infrastructure in
17 rural, remote parts of the state that may not be
18 economically feasible for the telecom providers.

19 But one discussion point that has come up is, what
20 is the future of infrastructure when in this area we
21 have a phone becoming a computer, becoming a
22 television, providing different types of
23 telecommunication services? Are the federal grants we
24 are getting to deploy fiberoptic cable really forward
25 looking or are they a generation that perhaps will

1 pass? We've got a satellite company offering to do a
2 pilot program in a rural part of our state. What's the
3 future of infrastructure for telecom?

4 GOVERNOR NAPOLITANO: In ten words or less.

5 DR. ERIC SCHMIDT: A quick summary is that
6 fiberoptic bandwidth has almost no limit of the amount
7 of bits that you can put in with the appropriate
8 upgrades of the ends. So you should be proud of all
9 that fiber that you are busy laying, because that fiber
10 will last 25, 50 years, and people will be doing
11 amazing things with that fiber in our lifetimes.

12 RANDALL STEPHENSON: More fiber is a good thing.
13 I don't care, you know, where you are or when you're
14 doing it, more fiber is good.

15 GOVERNOR NAPOLITANO: So it's a pro-fiber diet for
16 telecommunications is where we are. All right.
17 Governor Baldacci.

18 GOVERNOR BALDACCI: First, I want to thank you,
19 Janet, for your leadership and the issues that are
20 being discussed. I find them very interesting.

21 I would like to ask Randall a question when he
22 talked about the needs of rural America. Governor
23 Douglas and Governor Lynch and myself in Maine are
24 coordinating in the rural part of northern New England
25 IT clusters to get industry support, to give us a

1 curriculum, to give us some of their recipes and needs
2 for their workforce. So that we can transition our
3 people from the old economy to the new economy, and the
4 challenge is to find those companies and they're
5 willing to partner.

6 And there's new studies coming out showing that
7 it's probably better, more productive, more retention
8 here to, instead of outsourcing to India, it is to do
9 it in rural America. And we offer the opportunity in
10 rural northern New England to be able to come out with
11 these sorts of things, because we've changed our
12 educational system from 2 years of math and science to
13 4 years of math and science, and have eliminated
14 tracking. So that everybody is thinking about higher
15 education.

16 But industry partnering I think is a huge help to
17 me and to our region, and I would just put that at your
18 doorstep in representing industry today. So I'd
19 appreciate any comments you have on that.

20 And I think Governor Douglas asked the question I
21 asked. At what point is it going to be either the
22 television or the telephone or which one is it going to
23 be that's going to end up being the one that everything
24 ends up coming through? Because it just seems like it
25 just completely evolves and changes so much so that

1 it's amazing.

2 So, I mean, Eric, if you could ever look down that
3 road and just tell us, because it used to be everybody
4 was in their own compartments and they had their own
5 responsibilities. Now, it seems like the whole thing
6 has merged and they are all competing with each other,
7 which is great, but at what point.

8 GOVERNOR NAPOLITANO: Randall, and then Eric.

9 RANDALL STEPHENSON: In terms of the partnering, I
10 mean, I accept you laying that our doorstep. I think
11 it's important for industry and government to partner.
12 In fact, a few leaders in our area where we do business
13 prevalently we are partnering with in this regard.
14 Especially, as it relates to bringing some of these
15 jobs back from India specifically, in trying to get the
16 skill sets up to make sure that we have a workforce
17 that can accommodate the volumes that we're going to be
18 bringing back.

19 In terms of which device is going to win, you know
20 what, there are three screens that matter in my world,
21 right; this wireless screen, the PC, and the
22 television. All three are going to be relevant for a
23 long time. I think if the companies that can make
24 those kind of work together and seamlessly I think we
25 will stay at a big advantage, but I'll let Mr. Internet

1 respond to that as well.

2 DR. ERIC SCHMIDT: Thank you. Most people assume
3 that all the devices that you carry will end up as one,
4 and, unfortunately, I think the inverse is probably
5 true. You probably, unfortunately, will have more
6 devices. You know, you'll have, what we say, IP
7 addresses even in your shoe, because there will be
8 something that's useful in your shoe that the internet
9 will need to know about, like how far you are or where
10 you are.

11 I carry my old phone, my iPhone, my Blackberry and
12 my camera, and now I have a zip drive that doesn't fit
13 any of the four, thank you very much. This is not
14 convergence. The trick, as Randall pointed out, is
15 that all of these devices along with these amazing
16 televisions that are being built and amazing new PC
17 screens will have access to the same information. So
18 you'll be able to use your phone or your hand-held
19 device or whatever other device you use to access this
20 same information, and then when you go to your office
21 you'll be able to see it, and when you go home you'll
22 be able to see it, and then you can work all the time.

23 GOVERNOR NAPOLITANO: Oh, boy. Thank you. And,
24 Governor Pawlenty.

25 GOVERNOR PAWLENTY: This is for Eric. You talked

1 about the IT or I guess the internet classroom. We
2 have, of course, this generation behind us absorbing
3 information fundamentally differently and transmitting
4 it fundamentally differently than even my generation.
5 And so our children, my 14-year-old, my 11-year-old,
6 they instant message, text message, MySpace, YouTube,
7 e-mail, you know, it is completely different, and yet
8 we are in classrooms, even though we have smart boards
9 and internet classroom opportunities, where we
10 primarily still have people standing up with erasers in
11 front of white boards and lecturing and boring
12 children, particularly at the high school level, and we
13 are still using standardized textbooks which are, you
14 know, one size fits all kind of assembly line
15 approach.

16 Beyond white boards, beyond some internet
17 classroom opportunities or online learning
18 opportunities, what is the future of the internet
19 classroom in a way that might allow us to leverage
20 technology, better customize learning opportunities
21 across an array of needs and abilities and speeds?
22 What do you see for the future in that, and what
23 policies and suggestions would you have for us?

24 DR. ERIC SCHMIDT: A couple of observations. The
25 teachers of America are among the most isolated working

1 professionals that we have. They have relatively few
2 opportunities to spend time with their peers to learn
3 how to be better teachers and so forth. With the
4 internet, and the National Governors Association has
5 been part of that, there are now groups that are trying
6 to standardize not just the textbooks but also the
7 teaching tools, the teaching methodologies, and, in
8 fact, producing videos of the Great Teachers to augment
9 that. So that's observation number one. The internet,
10 which is now present in pretty much every classroom in
11 one form or another, we finally now have a way of
12 getting into that classroom.

13 The second observation is that the modality, the
14 way in which people are teaching, has to become more
15 interactive. Fundamentally in this new world, it's an
16 interactive world, it's a personal world, and that
17 means two things; the teachers actually have to have a
18 conversation, the students have to interact with the
19 media, and there needs to be a test, and the test needs
20 to be based on the outcome, not the time spent in the
21 classroom; and a simple change, a simple legislative
22 change, that would allow some flexibility and some
23 experiments with that, and then test the outcomes would
24 probably begin to show the way in each and every one of
25 the states represented here about how citizens really

1 can take advantage of the internet.

2 What's interesting to me is I originally thought
3 that this information was not available on the
4 internet. There are tremendous amounts of teaching
5 resources available on the internet, and they are not
6 being used to teach our students.

7 GOVERNOR NAPOLITANO: With that, thank you very
8 much. Thank you, Randall, thank you, Eric, very much.

9 (Applause)

10 GOVERNOR NAPOLITANO: And kind of as a nice segue
11 from the last question and answer, but there's a new
12 innovative web site I want to draw your attention to.
13 It's www.youinnovate21.net. Youinnovate21.net. It's a
14 new interactive web site for middle school students,
15 and it's been developed between NGA and Scholastic to
16 give middle school students the tools they need to be
17 innovators and leaders, and, quite frankly, it's a
18 great web site for their teachers as well. Outside in
19 the hallway there are a number stations where you can
20 see the web site and try it out for yourselves, and I
21 want to thank Scholastic for their efforts in that
22 regard.

23 I also want to announce today the formation of
24 Innovation America, the Foundation. This is the
25 follow-up to the initiative. Through this foundation

1 we are joining our forces with a number of
2 distinguished organizations, including; the Advertising
3 Council, Apple, Sysco, The Council on Competitiveness,
4 eBay, Girls Scouts of America, Intel, Microsoft,
5 National Academy of Engineering, National Association
6 of Governors, of course, National Science Foundation,
7 PBS, Scholastic, Symantec, and the United States
8 Chamber of Commerce's Institute for Competitive
9 Workforce. The idea behind the foundation is to
10 continue the work of the initiative on a state by
11 state, governor by governor basis, and, again, to help
12 create that sense of urgency I alluded to earlier.

13 To kick-start that effort, the foundation is
14 launching the "Voices of Innovation" campaign with
15 support from Apple. Governors will be invited to
16 engage small teams of high school students from their
17 states to submit 30-second video spots showcasing
18 perspectives on how to maintain United State's global
19 leadership with respect to innovation. The select
20 spots will be featured on the foundation's web site,
21 the National Academy of Engineering's web site, on
22 Apple's, Student Gallery, and on the youinnovate21.net
23 web site.

24 In addition, these organizations and others will
25 join this fall to put together and to launch a national

1 outreach campaign to put a human face on innovation,
2 and in the coming months you'll hear more and more
3 about work of the Innovation America Foundation. Then
4 if you all are interested in participating as governors
5 or as private sector participants, please contact me or
6 a member of my staff after this session today. So this
7 does not end and we do not finish innovating with our
8 meeting here in Michigan.

9 With that let me turn to another item in our
10 agenda. During our annual meetings we always take time
11 to say farewell and pay tribute to colleagues who will
12 be departing after the fall elections. Governor Blanco
13 will be completing her service to Louisiana in January,
14 and she and her husband, Raymond, or as we call him,
15 Coach, have been active and enthusiastic participants
16 in the NGA. It's an honor for all of us to celebrate
17 her services as Governor of Louisiana, and, indeed,
18 Louisiana's first woman governor.

19 She spearheaded the largest investment in
20 education in Louisiana history, expanding pre-K to all
21 outreach children, making great strides in improving
22 teacher quality, and increasing accountability. She
23 brought test scores and student achievement to historic
24 highs, reforming Louisiana high schools to decrease
25 dropout rates, and this year she signed a historic

1 teacher pay raise. She has made health care more
2 affordable and accessible today. More than 90 percent
3 of Louisiana's children have health insurance. And
4 she's led the way in economic development, bringing in
5 nearly \$24 billion in new investments and thousands of
6 new jobs to her state.

7 And as a nation we honor Governor Blanco for her
8 leadership in leading Louisiana through the largest
9 national disaster in American history. She was tested
10 in a way no governor in this nation has ever been
11 tested as Louisiana's coastline was devastated by
12 hurricanes Katrina and Rita. She commanded more troops
13 than any governor in US history, and she led the fight
14 to secure the federal funding necessary to help rebuild
15 more than 200,000 homes. Under her leadership well
16 over \$2 billion in recovery dollars is already at work
17 aiding local communities in her state.

18 Governor Blanco, there is life after politics.
19 You have earned a lifetime of happiness. The NGA will
20 miss you and Coach very much, and we wish you and your
21 family all the best in the years to come.

22 (Applause)

23 GOVERNOR BLANCO: I do want to thank you, Governor
24 Napolitano. My husband, Raymond, and I have thoroughly
25 enjoyed being a part of this magnificent organization

1 that shares so much information and so many of the best
2 practices that happen in the states.

3 I have been very, very privileged to have been
4 chosen to lead my state in the most difficult times
5 that any state has ever experienced in modern times in
6 the United States of America. Let me tell you that we
7 are coming along. There is a tremendous amount of work
8 that has been done. There is a tremendous amount of
9 work to be done. We look upon the disaster with some
10 sorrow, because we lost some very valuable assets. At
11 the same time it has given us opportunities that we
12 would not have ever dreamed could have happened but for
13 a complete upheaval of our lives.

14 So as we go forward I want you to know that we
15 have had one of the most extraordinary sessions,
16 regular sessions and not special sessions, in
17 Louisiana's history that just ended at the end of
18 June. We have made investments that I believe are
19 going to stabilize Louisiana and cause us to become
20 economic and education leaders in the future. We have
21 a long way to go, but we are well on the way to being a
22 very strong whole state. Thank you so much. I
23 appreciate the recognition.

24 (Applause)

25 GOVERNOR NAPOLITANO: Our next order of business

1 is a special one, presenting the NGA awards for
2 distinguished service in state government and in the
3 arts. The awards program offers governors the
4 opportunity to recognize their state's most valuable
5 civil servants and private citizens. Each of these
6 honorees has made invaluable contributions to state
7 government and to public service, and on behalf of my
8 fellow governors I commend all of them for their work.

9 Awards will be presented in the State Official,
10 Private Citizen, and Arts categories. As I announce
11 each winner, would you please come forward along with
12 your governor, if present. I will ask each of the
13 governors to step up to the podium and make remarks
14 with respect to the winners.

15 We will begin with the State Official category.
16 First, Vincent Meconi, Cabinet Secretary of the
17 Delaware Department of Health and Social Services. I
18 would like to ask Governor Minner to make the
19 presentation.

20 GOVERNOR MINNER: Thank you very much. It is
21 indeed our pleasure to participate in the 31st Annual
22 NGA Distinguished Service Awards for state government
23 employee, and Vince has actually been a part of state
24 government for almost that long. His commitment to
25 state government spans well over the last 25 years

1 serving as assistant to a member of congress and posed
2 as cabinet secretary for two different departments. I
3 appointed Vince as Cabinet Secretary for the Department
4 of Health and Social Services in 2001. I had the added
5 pleasure of serving with him in the state legislature
6 as a state legislator back in the 1980s.

7 Throughout his career Vince has been an agent for
8 change, fighting for what he believes is right. Under
9 his strong leadership and creative cost containment
10 strategies the department survived a severe economic
11 downturn, and this included the continuation of our
12 Medicaid program without any cuts, yes, without any
13 reductions in any of the areas of enrollees or of
14 benefits. Children, seniors, disabled, uninsured were
15 served and were served well throughout the period of
16 time when we had less dollars and more people to
17 serve.

18 I would also like to note that Vince's tiredless
19 effort to reduce the cancer rate and smoking have been
20 outstanding. His leadership to implement the
21 recommendations of the Advisory Council on Cancer
22 Incidence and Mortality has led the state to
23 implementing a lifesaving cancer care program that
24 provides free cancer treatment to any uninsured
25 Delawarean.

1 Ladies and Gentlemen, it is my pleasure on behalf
2 of the first to congratulate and ask you to join me in
3 congratulating Vince Meconi, Cabinet Secretary of the
4 Delaware Department of Health and Social Services.

5 (Applause)

6 GOVERNOR NAPOLITANO: The next award winner in
7 this category is Bob Butterworth, who is Secretary of
8 the Florida Department of Children and Families, and
9 the former Attorney General of Florida. He could not
10 be here, nor his governor, today, but on behalf of all
11 the governors I would like to congratulate him. He
12 will be honored at a separate ceremony in Florida.

13 Our next State Official winner is Dr. Robert Bruce
14 Stroube, Commissioner of the Virginia Department of
15 Health. I would like to call on Governor Kaine to make
16 the presentation.

17 GOVERNOR KAINE: Well, fellow governors, it's
18 great to be here with Bob Stroube. Bob is the
19 Commissioner of Health for the Commonwealth of
20 Virginia, a physician who is advising me, his ninth
21 governor, in his 32 years of service to the
22 commonwealth. He advises the governor, the secretary
23 of Health and Human Resources in the legislature on all
24 matters concerning the health of Virginians.

25 Bob is a physician who is well known as an

1 epidemiologist and in the area of preventive health,
2 and Bob's focus on prevention and preparation has made
3 Virginia one of the best prepared states in the nation
4 for natural emergencies, we have a hurricane season
5 every year, for man-made emergencies, and also for
6 illnesses and infectious diseases.

7 Bob is not just a preparer, he's also a responder,
8 and has been tested with the 9/11 attack on the
9 Pentagon, the anthrax scare that came in the aftermath
10 of that attack, and most recently in the very difficult
11 series of events surrounding the shooting at Virginia
12 Tech on April 16. And in all those instances Bob
13 responded in a very calm and deliberate way that
14 reflects a real sense of urgency best serving folks.
15 It's a great honor to be able to present to you, Bob
16 Stroube, a truly wonderful servant for the
17 commonwealth.

18 (Applause)

19 GOVERNOR NAPOLITANO: Next we will recognize the
20 award winners in the Private Citizens category. The
21 first winner, again, is from Delaware, the first state.
22 The winner is William Bowser. I would like to ask him
23 to come forward and Governor Minner, please.

24 GOVERNOR MINNER: And, again, it is indeed our
25 pleasure to congratulate another Delawarean for an

1 outstanding job. Bill Bowser is a very talented and
2 respected attorney in Delaware, but, more importantly,
3 he is a champion for reducing cancer rates and
4 improving the lives of cancer patients. Before I
5 became governor I pledged to Delawareans that I would
6 find out why our rates were so high, the highest in the
7 nation in both incidence and mortality, and that I
8 would do what needed to be done to reduce both areas.

9 In 2001 I called upon Bill to serve as the chair
10 of the Advisory Council on Cancer Incidence and
11 Mortality. He led a group of experts, cancer victims,
12 cancer survivors and, yes, advocates to provide
13 recommendation for reducing the burden of cancer in
14 Delaware. From our smoking ban to our cancer plan,
15 turning commitment into action, Bill Bowser led the
16 battle.

17 The result of Bill's commitment and service has
18 changed the landscape for Delaware. Programs and
19 services are available that never existed. Bill
20 broadened our vision. Yes, he not only allowed us to
21 think beyond what we had thought possible, he required
22 it, and, yes, today our state is much better. Bill
23 also is the parent of a cancer survivor, his son.

24 Join me in congratulating Bill Bowser, a man who
25 cares very deeply for all of us in Delaware and wants

1 to make sure he does his part, volunteering thousands
2 of hours to make sure Delawareans are healthy. Thank
3 you, Bill.

4 (Applause)

5 GOVERNOR NAPOLITANO: Our next award winner in
6 the Private Citizen category is to the late William O.
7 "Doc" Farber. At this time I would like Governor
8 Rounds and Mr. Richard Brown, who is accepting the
9 award in honor of Dr. Farber, to join me at the podium.

10 GOVERNOR ROUNDS: Thank you, Governor Napolitano.
11 Dick Brown and I are honored to be here today on behalf
12 of William O. Farber. To his students and his friends
13 he was known affectionately as Doc Farber. The
14 contributions that Doc made to South Dakota over his
15 lifetime are truly remarkable, and our state was
16 saddened when he passed away at the age of 96 on March
17 24 of this year. Despite this loss we are grateful
18 that Doc's memory and his service to the people of
19 South Dakota and America will last for generations.

20 One of Doc's greatest contributions was his
21 advancement of our state's greatest resource, our
22 youth. Doc was a Professor Emeritus of Political
23 Science at the University of South Dakota, and also
24 served as the chairman of the Department of Political
25 Science for 38 years. Doc was an inspiration and a

1 great mentor to thousands of college students. Not
2 only did he cultivate his students academically, but he
3 fostered a very strong sense of civic duty and
4 encouraged many students to enter public service.

5 In the forward to Doc Farber's 2005 autobiography
6 one of his students, Tom Brokaw, wrote that Doc had a
7 great influence on the young people of this state
8 before his time or since.

9 During Farber's term as chairman of USD's
10 Department of Government he established the Government
11 Research Bureau. The Government Research Bureau then
12 became the model that Doc Farber used when he
13 established the South Dakota Legislative Research
14 Council. Doc Farber served as its director, and the
15 Legislative Research Council continues today as the
16 non-partisan research and administrative office for all
17 105 members of the South Dakota legislature. There are
18 few South Dakotans, past or present, whose lives have
19 had such a meaningful impact on our state and on our
20 citizens.

21 I'm happy to have Dick Brown here to accept this
22 award on Doc Farber's behalf. Even though Doc did not
23 have any children of his own, Dick was like a son to
24 Doc. He was a student and a lifelong friend of Doc's,
25 and it was Doc Farber who introduced Dick to his future

1 wife, Sue. At Doc's memorial service Dick Brown said,
2 "Doc's basic philosophy of teaching to stimulate
3 critical thought, encourage positive meaningful public
4 participation, motivate students to reach their highest
5 potential is his greatest teaching and mentoring
6 legacy. Always available, always nurturing and always
7 challenging you to be involved. The fact that he
8 practiced the public participation that he preached
9 gave him a lasting credibility and legacy beyond
10 graduation day."

11 Dick and I would like to express our sincere
12 thanks to the National Governors Association for
13 honoring Doc Farber with this award. Thank you.

14 (Applause)

15 GOVERNOR NAPOLITANO: Our final award winner in
16 this category is Frank Batten, Sr. of Virginia. He,
17 unfortunately, could not be with us today. Governor
18 Kaine, would you like to say a few words about him?

19 GOVERNOR KAINE: Thank you, Governor. If I could
20 just say a few words. Frank was thrilled to receive
21 this award and would very much like to be here, but
22 can't for reasons of health, but let me just say a
23 couple of words about Frank.

24 I think Frank Batten is probably the great
25 philanthropist in the history of the commonwealth.

1 We've had a long history and we've had a lot of
2 philanthropists. He is the former publisher of two of
3 our state's newspapers, the Roanoke Times and the
4 Virginia Pilot, but has decided his contribution to
5 public life is going to extend beyond well written
6 editorials, and so he has been a passionate supporter
7 of education.

8 Earlier this year he was extremely concerned over
9 the course of his life about the quality of people who
10 decide to go into public life, and so he decided to
11 work with the University of Virginia, his alma mater
12 that created our president here, Janet Napolitano, as a
13 UVA law graduate, to create the first new school at UVA
14 for more than 50 years, the School of Leadership and
15 Public Policy. He and his wife donated \$100 million to
16 begin the school.

17 This followed from a \$60 million donation to the
18 Business School at UVA in 1999, a \$32 million donation
19 to Old Dominion University in Virginia in 2003, a \$32
20 million donation in that same year to the other needy
21 institution, Harvard Business School, and the list goes
22 on and on. Frank and his family have donated over \$400
23 million to either institutions or scholarships for low
24 income students, and that's before I get into the
25 museum, arts and all the other philanthropy that Frank

1 Batten and his family have visited not just upon
2 Virginians but upon citizens all over the nation.

3 So for Frank's philanthropy and his great belief
4 that we should do all we can to educate the next
5 generation of political and public leaders of the
6 commonwealth, I'm very happy to have this award for
7 him. Thank you.

8 (Applause)

9 GOVERNOR NAPOLITANO: Next we will recognize
10 winners in the final category, the Arts. From
11 Connecticut the winner in the artist production
12 category is Michael Wilson, Janet S. Suisman Artistic
13 Director of the Hartford Stage. Governor Rell, would
14 you like to make a presentation?

15 GOVERNOR RELL: Thank you, Governor. I just want
16 to share with everyone, you know, I'm often asked what
17 it is about the State of Connecticut that I love best,
18 and I have to tell you it's an awful hard question to
19 answer sometimes, because we have a beautiful state,
20 and we have so much to offer. We have gorgeous state
21 parks, of course, and changing seasons, and we have
22 some of the most generous and wonderful people you
23 would ever want to meet.

24 But Connecticut is also in a very lucky position,
25 because we have an unrivaled opportunity to enjoy the

1 arts. We have theater. We have music. We have dance.
2 We have museums. We have galleries. And not only is
3 the quality unrivaled, but the selection that we have
4 is immense as well. In a relatively small state like
5 Connecticut we enjoy so much and it is an opportunity
6 that a state ten times our size would absolutely envy.

7 One reason we have and enjoy such a bounty, of
8 course, is the Hartford Stage. For 43 years now the
9 Hartford Stage has brought the best in classic works
10 and new production to the people of Connecticut.

11 Indeed the man that we honor this afternoon said it
12 best when he became the artistic director. He said
13 what he really wanted to do was to make this a people's
14 theater, and it has become just that. Michael Wilson
15 has made it the very best theater in arts all around,
16 and made it accessible to families and to children and
17 to professionals alike.

18 Recently he produced Enchanted April and moved it
19 from the Hartford Stage to Broadway where it has earned
20 a Tony nomination. Many theaters would settle just for
21 that, but not Michael Wilson.

22 Not only do we enjoy great theater, but Michael
23 has made this an educational and outreach priority,
24 working with diverse audiences in education and in
25 organizations, the local schools to the Hartford

1 Seminary. Michael truly created a town square, a place
2 to discuss the issues of the day in a creative,
3 exciting and an imaginative atmosphere. I'll share
4 with you that Hartford is very lucky to have such an
5 outstanding resident theater there, but Hartford Stage
6 is truly blessed to have Michael Wilson.
7 Congratulations, Michael.

8 (Applause)

9 GOVERNOR NAPOLITANO: Our final award winner in
10 the Arts support category representing the great state
11 of Kansas is Don Lambert. I'd like to ask Governor
12 Sebelius to join me at the podium to recognize her
13 nominee.

14 GOVERNOR SEBELIUS: Well, I know some of you
15 might have wondered why in the great state of Michigan
16 you have a homage to the Flint Hills book at your
17 place, and it's because you're about to meet the Kansas
18 muse who is responsible for this and a number of other
19 artistic endeavors in Kansas.

20 Don Lambert is someone who has dedicated his life
21 to promoting art in our great state, and his family has
22 been in Kansas for over a century, and he shares that
23 connection to our state by bringing recognition to more
24 than 400 Kansas artists and exhibits all over the
25 country and the world. Don has published four books,

1 written dozens of articles about Kansas art, and
2 continues to keep a focus on the art in our great
3 heartland state.

4 One of the famous American muralists, John Stewart
5 Curry, has works all over America, but they also
6 highlight our Capitol. Our legislators at the time
7 that John Stewart Curry was painting those murals
8 decided that they really didn't like the murals or him
9 very much. So they refused to actually pay him his
10 last couple of payments, and he left the state with a
11 very unpleasant taste in his mouth. Thanks to Don's
12 efforts he went out and got to know John's widow, and
13 we now are the proud owners of 950 of the artist's
14 works, which actually are part of this amazing
15 collection.

16 Don discovered a painter who became famous, a
17 68-year-old woman who is now known as Grandma Layton,
18 whose real name is Elizabeth Layton, who suffered a
19 lifetime of depression and began to cure that
20 depression at age 68 by beginning to paint works of
21 social justice. She now is a famous painter, and Don,
22 again, was promoting her all over the country.

23 Don in this book put together a book of art on our
24 gorgeous Flint Hills. 85 percent of the tall grass
25 prairie left in the world is in Kansas, an amazing

1 stretch of land from Nebraska to the Oklahoma border,
2 and artists who paint these beautiful prairies have
3 been featured in this exhibit, but the exhibit toured
4 the nation for 2 years and ended up at the Capitol of
5 the United States, and the book that I wanted to give
6 you indicates that.

7 Finally, he's been a great promoter of art in our
8 office. Don is my personal curator. So every 3 or 4
9 months I have a rotating show of Kansas artists, which
10 thousands and thousands of Kansans have seen over the
11 years and have been able to enjoy, but I can tell you
12 it brings a lot of beauty to my life and I'm personally
13 grateful each and every day. Every state needs a muse.
14 I want you to meet the Kansas muse, Don Lambert.

15 (Applause)

16 GOVERNOR NAPOLITANO: Thank you very much. I want
17 to briefly, before we close out today's meeting,
18 recognize an employee of the NGA, Susie Weihofen.
19 She's the one back there that's been handing me the
20 plaques and making sure we're keeping everything in
21 order. She is a person at the NGA who is one of those
22 people, and we all have them on our staff and we
23 appreciate them, they are dedicated, professional and
24 loyal. We can't do what we do without them. She has
25 coordinated the Distinguished Service Awards. She

1 keeps us informed of federal actions through daily
2 e-mail and is just an integral part of the entire NGA
3 process.

4 She is getting ready to retire this fall after 29
5 years of service to the nation's governors and 58 NGA
6 meetings. I think she deserves an ovation, don't you?

7 (Applause)

8 GOVERNOR NAPOLITANO: Today, finally, we will
9 recognize two of our Corporate Fellows, Hewlett Packard
10 and Proctor & Gamble, who have been members of our
11 Corporate Fellows program for 15 years. The Corporate
12 Fellows program, of course, promotes exchange between
13 the private sector and the governors. Accepting on
14 behalf of Hewlett Packard is Mr. Carlos Cardoso, and I
15 would ask him to come forward and we will do a picture,
16 and then Karen Smith on behalf of Proctor & Gamble.

17 (Applause)

18 GOVERNOR NAPOLITANO: That concludes the general
19 meeting of this afternoon's plenary. I want to thank
20 the presenters again, Randall, Eric, for your
21 participation. The members of the task force, the task
22 force will reconvene in a few moments in accord with
23 the schedule. Right now we will adjourn.

24 The members of the NGA Executive Committee, if you
25 could come up here to the front, we have to have a

1 very, very quick Executive Committee meeting and that
2 will be chaired by Governor Pawlenty. So with that I
3 thank you all very much. Welcome to the conference.

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6 (At 4:26 p.m. Opening Plenary Session concluded)

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STATE OF MICHIGAN)
COUNTY OF GRAND TRAVERSE)

I certify that this transcript, consisting of 78 pages, is a complete, true, and correct transcript of the proceedings and testimony taken in this case on July 21, 2007.

Date: _____

Kathleen Tulick

Kathleen Tulick, CSR 4806
121 E. Front Street, Ste. 302
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NATIONAL GOVERNORS ASSOCIATION

2007 ANNUAL MEETING

TRAVERSE CITY, MICHIGAN

CLOSING PLENARY SESSION

JULY 23, 2007

MONDAY

10:00 - 11:30 a.m.

REPORTED BY:
KATHLEEN TULICK, CSR 4806
CERTIFIED SHORTHAND REPORTER

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1 Closing Plenary Session

2 Traverse City, Michigan

3 Monday, July 23, 2007 - 10:20 a.m.

4
5
6 GOVERNOR NAPOLITANO: Good morning.

7 GOVERNORS: Good morning.

8 GOVERNOR NAPOLITANO: I think once again that our
9 hosts of Michigan showed us a wonderful evening last
10 night and have shown Michigan off to great advantage,
11 and we thank you, Jennifer, and all of the wonderful
12 volunteers. Everyone has been great.

13 (Applause)

14 GOVERNOR NAPOLITANO: Welcome to the Closing
15 Plenary Session of the 2007 NGA Annual Meeting. This
16 morning we are going to hear from two very
17 distinguished guests about the issues of judicial
18 independence. Following their addresses we will have
19 some opportunity for dialogue, and then we will move on
20 to the proposed policies from our committees, and the
21 election, or selection, of the new chair of the NGA.

22 As we move into the topic of the judiciary and
23 judicial independence, we have spent most of our
24 meeting talking about relationships with the
25 legislative branches, both at the state and the federal

1 level. So it's highly appropriate that we turn some
2 attention to the equally important third branch of
3 government, but Governor Kaine mentioned to me that we
4 have a number of spouses of governors here who are
5 themselves either members of the judiciary or former.

6 We have the Honorable Midge Rendell, who is on the
7 Court of Appeals for the Third Circuit; Gary Sebelius,
8 who is a Federal Magistrate Judge; Anne Holton, who is
9 a former Virginia Juvenile Court Judge; Katie O'Malley,
10 who is a General District Court Judge in Maryland; and
11 Mary Pawlenty, who is a former State Court Judge in
12 Minnesota. So we cover the judiciary from a number of
13 angles and are appreciative of that.

14 Moving on to the topic at hand. The Supreme
15 Court's ruling in Republican Party of Minnesota vs.
16 White has had a major effect on judicial independence.
17 In a five to four decision the court held that states
18 should not restrict judicial candidates from expressing
19 their views on political topics. As a result, many
20 states reversed limits on speech for judicial
21 candidates which were parts of their codes of judicial
22 conduct. That case and the aftermath was the
23 precipitant for our session here this morning.

24 Our first speaker is Sandra Day O'Connor, who is
25 the first female Associate Justice of the United States

1 Supreme Court. She is an Arizonan. She spent her
2 childhood on a ranch in southeastern Arizona, and
3 returned to the state after law school to practice law
4 and serve in the Arizona State Senate. As a state
5 senator Justice O'Connor became the first woman to
6 serve as a state senate majority leader ever in the
7 history of the United States, and while serving on the
8 Arizona Court of Appeals Justice O'Connor was nominated
9 by President Reagan to serve on the United States
10 Supreme Court. Throughout her tenure on that court
11 Justice O'Connor was a leading voice on the topic of
12 judicial independence. Recently retired, and we regret
13 that I must say, after serving for more than 24 years
14 she continues to speak out on this important issue
15 today. Please welcome Justice O'Connor.

16 (Applause)

17 SANDRA DAY O'CONNOR: Thank you. (Standing
18 ovation). Now, don't do that, come on. Thank you,
19 thank you. Thank you very much. Governor Napolitano
20 is doing an outstanding job in my home state, and I was
21 so appreciative when as chairman of this group she
22 agreed that I could have a few words with you this
23 morning, and that Tom Phillips, the former chief
24 justice of the Texas Supreme Court, could also be part
25 of this package. And we hope to be brief in our

1 remarks, so that we might spend some time answering
2 questions, if there are some.

3 And, Governor Granholm, you're a great hostess. I
4 had not previously been to the northern part of
5 Michigan, and it's beautiful. It's been such a treat
6 to glimpse Traverse City and the surroundings. It's so
7 enchanting. I hope to come back.

8 Now, it's elementary high school civics that we
9 have three branches of government, not just governors
10 and not just legislatures, and they regulate each other
11 by a very intricate system of checks and balances, and
12 the main check the judicial branch has on the others is
13 the power to declare statutes or executive acts
14 unconstitutional. Although, sometimes judges might
15 check the political branches in a softer way merely by
16 interpreting a statute in light of constitutional
17 values or by ruling that a regulation or executive act
18 is not authorized by statute. But whatever courts do,
19 the courts have the power to make the President or
20 congress or a governor or a state legislature really,
21 really angry. In fact, if judges do not make them mad
22 some of the time, they probably aren't doing their
23 jobs.

24 Judges effectiveness relies on the knowledge, I
25 think, that they won't be subject to retaliation for

1 their judicial acts. And as James Madison put it, and
2 he being the father of our constitution of to be heard,
3 "An independent judiciary. . .," he said, ". . . is an
4 impenetrable boulder against every assumption of power
5 in the legislative or executive." Impenetrable may be
6 putting it a bit strongly, but his basic idea is sound.
7 If you believe, as James Madison did and as I do, that
8 courts are important guardians of constitutionally
9 guaranteed freedoms in our common law system, you know
10 that the system breaks down without judicial
11 independence.

12 Now, judicial independence is sort of hard to
13 define. It doesn't mean freedom to decide cases or
14 issues based on the judge's personal preferences. It
15 means that judges must decide issues before them fairly
16 and impartially based on the law and the constitution,
17 and without fear of retaliation by the other branches.

18 Now, former Chief Justice Bill Rehnquist compared
19 the role of the judges to that of a referee in a
20 basketball game who is obliged to call a foul against a
21 member of the home team at a critical moment in the
22 game. He will be soundly booed, but he is,
23 nonetheless, obliged to call it as he saw it, not as
24 the home crowd wants him to call it. And that's not a
25 bad description of what judges sometimes have to do.

1 Judicial independence does not happen all by
2 itself. It's tremendously hard to create, and easier
3 than most people imagine to damage or destroy. And
4 that's why the Supreme Court Building in Washington
5 features a larger than life size statute of the great
6 Chief Justice John Marshall, who spent 35 years trying
7 to nurture a culture where, by and large, the political
8 branches were willing to acquiesce in the judicial
9 branch's interpretation of the law and the
10 constitution.

11 Now, they don't always acquiesce, but fortunately
12 most of the time politicians do not challenge the
13 courts to enforce their judgments themselves, as
14 President Andrew Jackson did in the wake of the Supreme
15 Court's decision in Worcester vs. Georgia.

16 Now, creating a culture in our early days as a
17 republic where usually courts' judgments are enforced
18 by the other branches of government entitles John
19 Marshall to take his place in the frieze of the great
20 lawgivers of the world in the Supreme Court courtroom
21 along with such people as Hammurabi and Grotius and
22 Confucius.

23 Now, our judges and our courts have faired far
24 better than those in some other countries such as in
25 Russia, Uganda, Zimbabwe, Ecuador, to name a few, but

1 we have some recent efforts in our own country to strip
2 courts of jurisdictions over certain types of cases,
3 and proposals to impeach federal judges who cite
4 foreign court judgments, and to strip judges and jurors
5 of immunity for their official acts as was proposed in
6 South Dakota -- thanks to the efforts of the governor
7 over there that was defeated, but they're coming back
8 -- or to retroactively terminate appellate judges'
9 terms of office, as was proposed in Colorado, and so
10 on. We have all seen examples, and some of them are
11 pretty much a source of concern.

12 In a recent article in Judicature two academics,
13 Bruce Fine and Bert Newborn, one a conservative, one a
14 liberal, issued a joint statement that I rather liked.
15 They said, "Judicial independence in the United States
16 strengthens border liberty, domestic tranquility, the
17 rule of law and democratic ideals. At least in our
18 political culture it has proved superior to any
19 alternative form of discharging the judicial function
20 that has ever been tried or conceived. It would be
21 folly to squander this priceless constitutional gift to
22 placate the clamors of political partisans." I thought
23 they put it rather well, but then I happen to agree.

24 The key to maintaining our system lies in the
25 education of our citizens, and that is where you come

1 in, and that is why I'm so pleased to be able to have a
2 few words today. You're the elected leaders in our 50
3 states, and it is up to each state to provide public
4 school education to our young people, and we are not
5 meeting the educational needs.

6 A recent survey by the National Constitution
7 Center shows that fewer American teenagers can identify
8 the three branches of government than could identify
9 The Three Stooges. Now, I enjoy Larry, Moe and Curly,
10 but the polls show an absence of even the most basic
11 knowledge of our national and state governmental
12 structure. Today there are many school districts in
13 our country that do not make civics and government a
14 required high school course, and many who, at most,
15 offer only a single semester course.

16 Now, the need to educate our youth about our
17 government and how it works is crucial to our future as
18 states and as a nation. We have to do that. You don't
19 inherit that through the gene pool. We have to do it,
20 and it's complicated. We don't have a simple system of
21 government, and in my view civics education must be
22 made a requirement, and we have to teach it in more
23 interactive ways.

24 Students should be encouraged to explore issues
25 like separation of powers and federalism by having

1 debates, mock trials, and personal engagement in the
2 student government in various forms, and I think we
3 should capitalize on the computer proficiency of
4 today's students. Many states provide access to
5 computers to students, certainly in high school, and
6 internet based learning environments offer an
7 opportunity that will engage the students more than
8 reading some dull textbook.

9 Now, with the participation of Arizona State
10 University in my home state and Georgetown University
11 in DC, I am actively engaged in developing a computer
12 based course on our courts, and it's aimed at seventh,
13 eighth and ninth graders. So that maybe we can capture
14 middle school and the start of high school with
15 something that will be so interesting and fun to use
16 that the students will absolutely want to sit down and
17 work with it.

18 And I hope that all of you will help in the
19 efforts to preserve the intent of the framers of our
20 fabulous constitution. I hope you will work in your
21 own ways to protect judicial independence and to
22 educate every generation of students about why we need
23 judicial independence and what it is the courts do.

24 And there's another very important issue affecting
25 the courts that I care a lot about, and that's how we

1 select judges, and as you well know, the 50 states have
2 many different ways of judicial selection. Some of
3 them much better than others in my opinion, and to
4 start that discussion is Tom Phillips, who himself was
5 a state court judge.

6 I was too, and when I first became a state court
7 judge I became a trial court judge and I had to run in
8 a contested partisan election. I thought it was a
9 ghastly way to pick a judge. I won and I could have
10 continued to win, but instead I ended up in the state
11 legislature, and I led the effort in Arizona to go to a
12 merit selection system, at least for appellate courts,
13 and we have done that and I am so proud of the judicial
14 system in that state today.

15 But I think that Tom Phillips is going to talk a
16 little bit about that, and then I hope there will be
17 some questions and we have other discussion. Thanks
18 for letting me speak.

19 (Applause)

20 GOVERNOR NAPOLITANO: As to merit selection, I
21 have to point out that my last appointment to the
22 Arizona Supreme Court was actually one of Justice
23 O'Connor's law clerks. So we know how that works.

24 Tom Phillips is the retired chief justice of the
25 Supreme Court of Texas, having spent nearly a quarter

1 century on the bench. After leaving the court he was a
2 distinguished visiting professor at South Texas College
3 of Law in Houston, and the Dedman School of Law at
4 Southern Methodist University in Dallas. In 2005 he
5 joined the Austin office of the law firm of Baker
6 Botts. Justice Phillips.

7 (Applause)

8 TOM PHILLIPS: Thank you, Governor. It's a great
9 honor for me to be here to visit for a few minutes with
10 such a distinguished group about an issue that remains
11 very important to me and to the lawyers and judges of
12 America. I also am here to talk about judicial
13 independence; why we need it, how we have preserved it
14 for two centuries, why it is under threat today, and
15 what I hope the governors of the 50 states will do to
16 support and strengthen it.

17 Why should a democracy remain committed to this
18 process of judicial independence that often leads to a
19 clash with the people's rights to govern themselves?
20 As Justice Scalia has noted, the political branches
21 represent the people, while the judges represent the
22 law, which often requires them to rule against the
23 people.

24 The simple reason why a democracy needs this
25 system is that the democratic branches alone cannot

1 guarantee freedom and security. Without the rule of
2 law and strong institutions, including judges, to
3 enforce the rule of law, electoral winners have a nasty
4 habit of trampling on the rights of their vanquished
5 opponents, and democracy alone certainly cannot ensure
6 economic progress. There is not capital investment in
7 any society where contracts are not fairly enforced and
8 government expropriations are not tightly regulated.

9 Thus, in the words of Justice Breyer, "There is a
10 rule book almost worldwide towards a realization that
11 people's liberty and prosperity depends, in part, upon
12 strong judicial institutions." Of course, an
13 independent judiciary cannot fulfill this role without
14 good judges, and it has never been easy to find men and
15 women who have both the intellect and the experience to
16 understand and apply the law, and also the temperament
17 and humility to recognize and honor the limitations on
18 that power.

19 Some of the newly emerging countries find it so
20 difficult to choose judges that they import retired
21 judges from other countries. While America has never
22 had to go that far, the states can and do use many
23 different systems to select their judges, which points
24 out the difficulty we have had in reaching a consensus
25 on who's the best judge and how to get and retain that

1 person in office.

2 Some limits on judicial behavior do inhere on the
3 structure of the judiciary itself. For instance,
4 juries usually find to the facts in a case, trial court
5 judgments are nearly always subject to appeal, the
6 appellate courts sit in collegial bodies that require a
7 majority vote and they have to justify their rulings
8 with a written explanation. But all states have
9 traditionally relied on more than these minimal
10 limitations, and more than the innate goodness of their
11 judges to assure that judges remain accountable.

12 First, there is the nature of the judicial role.
13 Whether judges are following and applying stares
14 decisis when they make a common law ruling or whether
15 they are using principles of statutory and
16 constitutional construction when they read statutes and
17 apply constitutions, they use everyday tools that
18 remind them that they are not free to impose their own
19 personal preferences on litigants, but that they must
20 apply the law that has been made and developed in this
21 government of laws and not men.

22 Every judge I know takes pride in their ability to
23 make a ruling with which they personally disagree, but
24 which they believe reflects the law as it has been
25 made, either through long precedence or by the

1 constitutional framers, legislators or regulators.

2 Secondly, every state has promulgated some type of
3 code of judicial conduct, and nearly all have
4 established commissions to discipline or even remove
5 judges who violate that code of judicial conduct.

6 These codes constrain judicial behavior in a way that
7 tries to encourage judges to be, and to be seen as
8 being, impartial and nonpolitical.

9 Today the increased politicalization of the
10 judicial branch has imperiled these norms, whether by
11 choice or necessity, and that's a debate for another
12 day. Judges are now making more controversial
13 decisions on more contentious policy issues than ever
14 before. As a result, political parties and interest
15 groups are now more keenly interested in who sits on
16 the bench than they have ever been before.

17 At the federal level a lucrative cottage industry
18 has sprung up to support or oppose nominees not just
19 for the Supreme Court but for all of our Courts of
20 Appeals, and at the state level money is flowing in
21 judicial campaigns in unprecedented amounts, very
22 little of it from widows and orphans. As a result, the
23 press increasingly sees judges less as mutual
24 arbitrators of the law than as mere politicians in
25 robes.

1 The primary defense against this trend has been
2 our codes of judicial conduct. As Governor Napolitano
3 mentioned, they are under attack. First, most of the
4 really offensive television ads that we've seen in
5 Michigan and elsewhere in judicial campaigns come not
6 from the candidates but from independent committees
7 over which the candidates have no control.

8 Second, in the last 5 years federal courts at all
9 levels in the name of free speech have struck down
10 restrictions on judges that previously kept them from
11 announcing their views on disputed policy issues,
12 personally soliciting campaign funds, identifying with
13 a political party, making pledges or promises about
14 their performance in office or making statements that
15 commit the candidate on matters likely to come before
16 the court for which the candidate seeks election.

17 Armed with these judgments political parties,
18 individual and PAC contributors and interest groups are
19 now demanding that judicial candidates announce how
20 they will rule before they have heard a single witness
21 or read a single brief. Whether these changes are
22 merely a passing phase in the relations between the
23 branches and between the body of politics or whether
24 they are precursors of a permanent change in the
25 judicial function remains to be seen. But in order to

1 ensure that we keep a strong and independent judiciary
2 the bench and bar needs your help.

3 I offer a few suggestions. First, as many of you
4 have done in continuing to defend the role of the
5 judiciary, don't let these outrageous attacks like JAIL
6 for judges gain any traction in your state. When a
7 judge in your state makes a decision that you disagree
8 with, try to phrase it that the judge misread the law,
9 not that he or she is a bad person or of the wrong
10 political persuasion. Explain how that judge's ruling
11 can be appealed, if it can, or how after appeals have
12 been exhausted a statute can be rewritten or the
13 constitution amended.

14 Second, make sure your judges have the resources
15 they need to process cases efficiently and effectively
16 and that our system is as fair and inexpensive as
17 possible, and that resources are fairly distributed
18 across your state.

19 Third, explore whether your state's method of
20 judicial selection is producing the best judges for
21 your state. No system is perfect, but some systems
22 seem particularly bad, especially in today's
23 politically charged environment.

24 In my opinion, partisan elections are the worst,
25 and having run for statewide partisan races I think I

1 have some incite on that. Judicial candidates
2 inevitably become affiliated with their party's
3 positions and fortunes. So that judges are swept in or
4 out of office depending on issues and personalities far
5 above them on the ballot over which they have no
6 control.

7 Non-partisan elections are somewhat better, but
8 they do nothing to reduce the need for campaign
9 contributions, and, in fact, they may make single issue
10 politics even more important and more influential in
11 determining who wins.

12 Legislative elections or gubernatorial
13 appointments do free judges from raising campaign cash
14 and having to sell themselves to voters like
15 snowflakes, but, of course, they are only as good as
16 the appointing authority. Not every governor appoints
17 Supreme Court clerks to these vacancies.

18 As an extreme example, permit me to quote from one
19 delegate to the 1851 Ohio Constitutional Convention who
20 was seeking to justify popular elections instead of
21 gubernatorial appointments. He explained, "I would
22 inquire if a blindfolded man might go into a crowd of
23 50 and select at random a man competent to fill the
24 office of governor of Ohio." But with the judges of
25 the Supreme Court who pronounce the final decree upon

1 questions involving life and property of a citizen,
2 would you go to a crowd and play catch-s-catch can?
3 "No. . .," he explained, ". . .because judges require
4 learning ability, experience and purity of character,
5 qualities that cannot be found in a moment."

6 While I certainly appear to disavow his
7 disparagement of the executive branch, but the delegate
8 pointed out that the appointing power gives the people
9 very little control over accountability, unless there
10 is some way that that judge is periodically called up
11 for reassessment.

12 So that leaves the fourth system, which is
13 commonly used around the country, and that is merit
14 selection. Under that system the governor appoints
15 judges with or without a pre-screening by a commission,
16 and the judges then keep their jobs by running in a
17 retention or yes/no election. There is some study that
18 suggests on an objective basis that this leads to a
19 better judiciary.

20 First, no state that has ever adopted merit
21 selection has ever abandoned it, while the other states
22 seem to switch back and forth between the other
23 methods.

24 Second, the American Judicature Society has
25 conducted several studies suggesting that merit

1 selection is the best system for promoting women and
2 minorities to the bench.

3 Third, every US Chamber of Commerce survey of
4 general counsel shows that they rank partisan elected
5 states as the places they would least like to before a
6 court.

7 And, fourth, and similarly, since 2002 the
8 American Tort Reform Association has identified 26
9 different jurisdictions as judicial hell holes. 16 of
10 those are in the 8 partisan election states. 7 are in
11 one of the 17 states that conduct non-partisan
12 elections, while only one each are in states with
13 legislative election, gubernatorial appointment or
14 merit selection.

15 Truly then, judicial independence is an economic
16 issue in America just like it is in China or any
17 developing nation. Chief Justice Rehnquist was fond of
18 calling the American judiciary the crown jewel of the
19 American constitutional system. It is the one part of
20 the American system that is most emulated around the
21 rest of the world. And so as the first nation to
22 create a separate and collegial judicial branch, we
23 have a special obligation to our posterity and to the
24 world to ensure that it remains strong and vital.

25 Thank you very much.

1 (Applause)

2 GOVERNOR NAPOLITANO: Thank you very much. I
3 will open it up to the floor for questions. Governor
4 Rounds.

5 GOVERNOR ROUNDS: Thank you, Madam Chair. Justice
6 O'Connor, you were very gracious in suggesting that I
7 played a role in the defeating of the JAIL amendment in
8 South Dakota. I'd like to share with all of you a
9 little bit about what happened.

10 In this particular case South Dakota has a very
11 easy access to the ballot approach for initiatives and
12 referendums. We were I believe the first state in the
13 nation to adopt both the initiative and the referendum
14 on the part of the voters to be able to go directly to
15 the ballot box. In this particular case it took about
16 30,000 signatures collected over a one-year period to
17 actually place this amendment to our state constitution
18 on the ballot. Once it was placed on the ballot we had
19 a near unanimous, if not a unanimous, support to oppose
20 it in the following manner.

21 Every single statewide office holder publicly
22 announced their opposition. 105 legislators out of 105
23 legislators announced their opposition. Not a single
24 association within our state, business or consumer
25 oriented, supported the measure. It was defeated 89 to

1 11 within our general election. But what I noticed in
2 this process was the amount of work that it took to
3 bring out the facts that our system works just fine
4 without having this type of an attack on an independent
5 judiciary.

6 And I just wanted to share with you that there is
7 solid support for the three separate branches of
8 government, and we found that at the ballot box. But
9 sometimes I think it's difficult for the voter or the
10 interested individual to recognize the checks and the
11 balances that the judiciary places upon its own
12 members, and I was just wondering if either of you
13 would care to comment in a little bit more detail on
14 those checks and balances that are currently in place
15 on a single individual that may draw the eye or the
16 attention of the public.

17 SANDRA DAY O'CONNOR: This is not in direct
18 response perhaps to your question, but it seems to me
19 that it cost your state a great deal of money in effect
20 to oppose this ballot proposition. And Arizona, like
21 your state, has measures go on the ballot by
22 initiatives, and it's fairly common in the west, and
23 some of the proposals can be pretty nutty, and they're
24 awfully easy to get on the ballot.

25 And I think probably some examination in states

1 that have initiative about how the requirements can be
2 tightened a little bit would make sense. I don't think
3 voters necessarily want to give it up, but I think
4 maybe it ought to be a little tighter than it was in
5 South Dakota and probably than it is in my home State
6 of Arizona.

7 Now -- well, I think I'll leave it there.

8 GOVERNOR NAPOLITANO: Justice Phillips, did you
9 want to respond to that?

10 TOM PHILLIPS: Well, I do think that there are a
11 lot of norms that inhere informally within any group,
12 and the judiciary sometimes is what the appointing
13 authorities and the bar and the citizens demand of it.
14 So that I think it's important to keep explaining to
15 civic groups what the proper role of a judge is, and on
16 those occasions when an opinion is out of bounds, gets
17 reversed on appeal, that it's important to discuss that
18 too.

19 It's a delicate balance, as I'm sure you saw
20 firsthand in South Dakota, between sweeping decisions
21 under the rug, which I don't think in a democracy we
22 can or should do, and demonizing a judge for coming out
23 in a way you disagree with. Very few cases get as far
24 as an appellate court these days or a serious long
25 trial unless there's an arguably correct position on

1 both sides. The process is just too expensive for
2 that. And it worries me by the press accounts and
3 accounts by legislators or other public officials seem
4 to assume that the judge is just always off as the Lone
5 Ranger not guided by written rules or precedent or
6 anything else and just doing what they think is fair,
7 much like a judge might do in dividing property in a
8 divorce settlement or something like that.

9 GOVERNOR NAPOLITANO: Governor Beebe.

10 GOVERNOR BEEBE: Thank you. I really want to
11 direct this to Justice O'Connor. A few years ago an
12 AG's, attorney's general, Mr. Justice Kennedy, used a
13 phrase that stuck with me, and he said that "The
14 framers split the atom of democracy with federalism."
15 Now, I will admit that this group is probably a little
16 bit prejudiced in that regard, but it seems with
17 preemption several of us wonder whether that atom is
18 still split.

19 And I understand the need for a central authority,
20 and I understand that the federal government should
21 preempt in certain areas critical to our nation's
22 security and our future. But the balance it seems, at
23 least from our standpoint, and, again, I acknowledge my
24 own prejudices and suggest that my colleagues probably
25 possess the same prejudices, but it seems that this

1 atom may be fused back together in more instances than
2 not.

3 And I'm wondering if you had any thoughts in your
4 vast experience of watching this both from the state
5 level and, obviously, from the highest court in the
6 land as to whether or not you think this trend is
7 reaching proportions that are alarming.

8 GOVERNOR NAPOLITANO: Justice O'Connor.

9 SANDRA DAY O'CONNOR: There is no doubt that the
10 framers of our constitution intended to leave in place
11 the separate state structures of government as the
12 fundamental regulators of what goes on within their
13 territory, and that was clear throughout the process of
14 the framing of the constitution and its adoption.

15 That said, the trend for over 200 years now has
16 been for the national congress and government to take
17 over traditional activities of state government, and
18 that trend has seemed almost on an inexorable track.
19 And in my close to 25 years at the Supreme Court I
20 worked pretty hard on a number of cases where I tried
21 to preserve what I thought was a proper role for the
22 states, and it was an uphill going insofar as you are
23 dealing with the commerce clause power of the federal
24 government.

25 The most recent case decided by the court and

1 while I was still sitting that, again, went against the
2 state's power was the medical marijuana case out of
3 California where, again, the courts said, well, the
4 feds can regulate it and prohibit the states from even
5 making a medical exception, and I thought that was on
6 the wrong track.

7 The court has been rather divided on the subject
8 of federalism questions, as you all know, and I think
9 Chief Justice Rehnquist and several of us tried pretty
10 hard during the years to preserve a role for the
11 states, but as you point out, it's been an uphill
12 battle, because the trend is certainly the other way.

13 And I don't think you should withdraw from a
14 position of asserting the proper role of the states in
15 our system, because the states are closer to the
16 people, and it is absolutely true that it helps our
17 nation when states themselves are experimenting with
18 ways to deal with national problems such as health
19 care.

20 We have not done much at the national level on
21 health care, and nobody can figure out how to do it.
22 Some of the states have been rather courageous, I think
23 Michigan has made an effort, California is making an
24 effort and others are, in this direction, and I hope
25 states will point the way for how we should do it.

1 So don't give up. Don't stop raising the issue.
2 I think it's certainly in keeping with the intent of
3 the framers and I hope with long-term interests of our
4 nation.

5 GOVERNOR NAPOLITANO: Justice Phillips, did you
6 want to comment?

7 TOM PHILLIPS: This is such a good group that I
8 can't resist. I do think that the trend or increasing
9 centralization is apparent, and I think as
10 communications change and issues change sometimes
11 matters that had previously been at the federal
12 government can be better handled by the states and vice
13 versa, and, you know, welcome the kind of systemic
14 dialogue on where in our system issues could best be
15 addressed, rather than right now it seems to me a lot
16 of times federalism is sort of the last refuge of the
17 scoundrel, particularly in Washington. If you are
18 losing, you say this ought to be done by the states;
19 and if you have the votes, it gets passed.

20 When congress does pass a bill that appears to
21 trample on existing state regulations or existing
22 common law principles, I wish that they would make the
23 preemption issue clear within the text of the statute.
24 And Senator Thurmond had a bill for years that would
25 have done that, and then there would be presumptions of

1 no preemption unless it was explicitly stated. That
2 has not been passed.

3 And there were years when the Texas Supreme Court
4 had 10 percent of its docket were preemption issues,
5 and, of course, the litigants are very sensitive to a
6 situation where you make a choice and if you do that
7 you are violating federal law, but you escape liability
8 in state courts; and if you do it the other way you
9 comply with the federal regulator, but you are open to
10 massive tort liability from juries, and that's a very
11 unfair situation.

12 So just, you know, the supremacy clause is there.
13 I hope the Supreme Court continues to police when the
14 congress passes its bounds, and when they have not
15 passed their bounds I wish they would clarify whether
16 or not they are preemptive existing state law or not.

17 GOVERNOR NAPOLITANO: Governor Rendell.

18 GOVERNOR RENDELL: I want to, for all of us,
19 emphasize the wisdom of what Justice O'Connor said
20 about civics education. We've all witnessed in our
21 lifetimes the level of voter participation drop
22 significantly, particularly when young people, we all
23 talk about how do we engage young people back into the
24 political process, and what a boom for the process it
25 would be if we could get our young people to exercise

1 their rights as citizens.

2 And I do think it is incumbent upon us to make
3 sure that civics education is part of curriculums, but
4 not just in high school. I think the mistake we make
5 is if you look at most public education civics really
6 kicks in in high school. I think it should be done
7 earlier, and Justice O'Connor talked about interactive.
8 It certainly should be interactive.

9 I remember going to a suburban Philadelphia public
10 school to address a third grade class, and they had
11 spent the entire year as a model city, and everyone in
12 that class had been assigned a role; police chief, fire
13 chief, city council person, local judge, et cetera.
14 And they had role-played those roles to understand how
15 the process of government worked and how its
16 relationship with the community worked and how the
17 different branches of government worked. There was, of
18 course, a mayor and a controller, et cetera, and I
19 can't tell you the value. I looked at that class and I
20 answered questions to that class, and that class was
21 going to grow up to be 100 percent participatory
22 citizens, because they had that experience.

23 And Justice O'Connor has spent a great deal of her
24 time to promote civics around the country, and I think
25 it's a tremendously worthwhile effort, but it needs to

1 be buttressed by our looking at our curriculums and not
2 only pushing for civics at the high school level or
3 even the middle school level, as Justice O'Connor
4 suggested, but down to the elementary schools as well.
5 I think it's one of the most important things we can
6 leave to future generations.

7 GOVERNOR NAPOLITANO: Other questions for the
8 justices? Governor Ritter.

9 GOVERNOR RITTER: This is in the way of a comment
10 and it has to do with, again, I think a balance. We
11 want our judiciary to be independent. We want them to
12 be bright. We have some of the brightest minds seeing
13 social problems unfold in our courtrooms every day.
14 And what I found, I was the District Attorney in Denver
15 for almost 12 years, is that judges did not contribute
16 to the conversation about how we should handle or
17 intersect with those problems, even in a criminal
18 justice system where I think they have a great deal of
19 input that they could offer.

20 And so this effort to be independent then results
21 in an isolation, and an isolation from the, not the
22 political conversation, but the substantive
23 conversation, and it would be helpful for a message to
24 go back to the judiciary that says there is a way to
25 engage, and, in fact, by engaging I think you encourage

1 people about the confidence that can and should be
2 placed in the judiciary. But I found that to be the
3 case.

4 When Justice Kennedy took up the AVA Commission on
5 Sentencing and led that effort, I thought that was a
6 great example of where a justice sitting and watching a
7 very significant problem unfold said, I don't want to
8 become personally involved and here's a way to engage.
9 I think that message should go out to judges and
10 justices all over the country about another way to
11 inspire confidence, not just among school children, but
12 among all the people who participate in a democracy.
13 It would be helpful for them to be involved and be
14 engaged in a really positive and practical way that
15 doesn't have to be at all political.

16 SANDRA DAY O'CONNOR: I certainly agree with that,
17 and I think one thing governors can do is encourage the
18 state court judges to do exactly that. You might have
19 a little session with your chief justice and some of
20 the leaders and say, look, we think this would be
21 helpful and won't you help us.

22 GOVERNOR NAPOLITANO: Governor Granholm.

23 GOVERNOR GRANHOLM: This is really for you, Janet.
24 Who is on your merit selection panel that makes
25 recommendations for the appellate or the supreme

1 courts?

2 GOVERNOR NAPOLITANO: There are two commissions;
3 one is for trial court appointments and one is for
4 appellate court appointments, and it's a mix. Some are
5 appointees of the bar, some are appointees of the
6 governor, and some are appointees from some other
7 groups. I can --

8 GOVERNOR GRANHOLM: Is this a statutory breakdown?

9 GOVERNOR NAPOLITANO: Yes.

10 GOVERNOR GRANHOLM: And are those people that you
11 appoint to that commission then?

12 GOVERNOR NAPOLITANO: No, some are appointed or
13 nominated. For example, the bar association gets some
14 nominees to the commission.

15 GOVERNOR GRANHOLM: And how often are they moved
16 on?

17 GOVERNOR NAPOLITANO: They serve every couple of
18 years. I think they serve 2-year terms. That's
19 interesting. The commission nominees have to be
20 confirmed by the Arizona State Senate. The actual
21 judges that I get to appoint from the panel that they
22 present to me, but by appointments do not have to be
23 confirmed. That's very cool.

24 Governor Blanco.

25 GOVERNOR BLANCO: Thank you, Governor. I want to

1 ask the justice and, well, each of the justices, what I
2 see happening is that the executive and legislative
3 branches have been rather noisy public branches, and
4 the judiciary has been a very quiet branch, but as of
5 late a new kind of media attention is being drawn,
6 especially when any individual judge renders a decision
7 that might have fire power for media consumption. And
8 I think that part of the brave new world is that a
9 judiciary has never found itself in a position of
10 having to defend itself. And is this something that
11 you are becoming consciously aware of?

12 I mean, you come here to ask us to teach our
13 people to respect and to defend the process, but,
14 obviously, there are no sacred sectors left in our
15 world. Everything is subject to dissection and placing
16 value judgments from nonexperts who can be regular
17 citizens or well-trained citizens who have missions to
18 undo whatever has been done.

19 SANDRA DAY O'CONNOR: I think there's probably no
20 doubt that greater media exposure of judicial decisions
21 that some people might say, at least on the face of it,
22 wow, how did they ever decide that, contributes to a
23 degree of lack of respect for the judiciary, and I
24 suppose it doesn't help a lot to have television
25 programs, so many of them, devoted to watching judges

1 in action so to speak, some successfully and some not
2 so. I don't think that's helped either.

3 And that's probably why in the past judges have
4 not chosen to step out of their traditional role on the
5 bench to take public positions on things. But it
6 certainly seems to be a time in our history when we'd
7 better do some of that, and just try to ensure that the
8 public is aware of the proper role of the courts and
9 the contribution that a sound judicial system makes to
10 our form of representative government.

11 GOVERNOR NAPOLITANO: Justice Phillips.

12 TOM PHILLIPS: Well, this is a difficult issue,
13 because a judge who attempts to explain a decision
14 later in a press interview or a citizen speech nearly
15 always comes out the worst for it. So there are
16 several things that can be done.

17 First, if you have any notion that you are fixing
18 to make a controversial ruling, a trial or appellate
19 judge, it's good to explain the rationale for your
20 decision when you're announcing it, hopefully, with as
21 much press there as is going to be there to criticize
22 you the next day.

23 Secondly, in a number of states the bar
24 associations have set up rapid response teams that try
25 to explain to the press what the judicial process is

1 about and how this judge was trying to follow the law,
2 what the law was. Those, in my impression, have worked
3 only on offensive starts, but it's better than the
4 judge doing it themselves.

5 Third, I think as there are inevitably going to be
6 cameras in more courtrooms, and one day Justice Souter
7 will pass on probably, and it will come back on
8 congressional demand and even in the United States
9 Supreme Court, I think more exposure is probably the
10 answer, rather than trying to kick all the cameras out
11 of a courtroom just because some people thought Judge
12 Ito did a bad job in the OJ trial.

13 Eventually, there will be enough exposure that
14 people will see that, by and large, most of the time
15 the justice system does work like it's supposed to and
16 serves us all well. But, in the meantime, I do think
17 the judge is the poorest defender of his or her own
18 behavior.

19 GOVERNOR NAPOLITANO: Governor Kaine.

20 GOVERNOR KAINE: Just a problem that we're seeing
21 in Virginia that I think ties into attacks on judicial
22 independence and understanding of the role, and I don't
23 know how common this is in other states, but in the
24 past the tradition would be if there was controversy,
25 if a judge was attacked about a decision, obviously,

1 the judge isn't going to defend himself. There's going
2 to be an appeal route to decide whether the decision
3 was good or not. But our legislature was filled with
4 individuals, large numbers of lawyers, who understood
5 the system, and the legislature would often come to
6 back up the judge, to support the system, et cetera.

7 Kind of an unforeseen consequence of dramatically
8 increased ethics legislation in Virginia has been many
9 law firms now do government relations work, they do
10 lobbying. Ethically, you are not allowed to serve on a
11 body of one of your partners. You are not allowed to
12 lobby a governmental agency, a legislature, city
13 council, if one of your partners or associates or firms
14 serves on the body. So many of our law firms across
15 the state have now forbidden members of those firms to
16 serve on city councils or in the legislature.

17 The number of lawyers in the legislature have
18 decreased. The percentage of people who don't have a
19 working everyday understanding of the judiciary has
20 gone down. There are fewer defenders of the judiciary,
21 and that has been kind of an unforeseen negative
22 consequence of a well intentioned effort to promote
23 sort of lobbying reform.

24 I do see this more generally as I talk to folks in
25 other states that, you know, large groups of the

1 talent, securities regulation, makes it very difficult
2 for people who work in financial institutions to run
3 for legislators. Big groups of the well-educated
4 talent no longer can support folks who go into public
5 service and elected bodies. That then leads sometimes
6 to misunderstandings or folks not being there to back
7 up or defend the judiciary. The judiciary can't defend
8 itself, and so we're really seeing some challenges in
9 that way.

10 And I know that our Supreme Court in Virginia has
11 felt like they used to not have to spend a lot of time
12 educating the legislature about the important role, and
13 now they really do, because they don't have the natural
14 allies who understood that role that they once took.

15 GOVERNOR NAPOLITANO: Justice Phillips, do you
16 want to comment to that?

17 TOM PHILLIPS: I'm still thinking. I think that's
18 a serious problem. Texas still has close to half its
19 legislators with legal training, but I know that's the
20 first or second highest in the nation. California and
21 Texas have always had more lawyer legislators than most
22 states.

23 I think it just means that the Virginia judges
24 have to find lawyers who are competent in dealing with
25 the press and have access to the press, who can make

1 this explanation both to the legislature and to the
2 public when the judges come under unfair attack, and
3 it's more difficult, but judges are getting out into
4 the community I think of necessity.

5 A lot of states have started programs where judges
6 trade places or they accompany a legislator for a day
7 and then a legislator sits on the bench with them for a
8 day. Judges are making more speeches from third grade
9 on to rotary clubs to senior citizens clubs, not as
10 part of a campaign for election, but explaining what
11 the process is about, and there's really no alternative
12 to that. But to say formidably sealed and tell people
13 just to trust you isn't working well anymore.

14 GOVERNOR NAPOLITANO: Justice O'Connor, did you
15 want to comment to that? Governor Baldacci.

16 GOVERNOR BALDACCI: Thank you very much, Janet.
17 Thank you very much, Justice O'Connor and Justice
18 Phillips. Le me just say, first of all, I really
19 appreciate your service to the country, and it was
20 greatly appreciated, and we appreciate your ideas on
21 judicial education.

22 In our state our chief justices have really gone
23 out and, as Justice Phillips has suggested, in trying
24 to be as helpful and to be making people more and more
25 aware. But we need to do more, and we do have

1 technology in the classroom, and we would be very
2 interested in that, and I'm concerned about that
3 national survey that you cited.

4 I would be kind of interested in your thoughts,
5 each one of you, in terms of the relationship between
6 federal courts and state courts and how's that
7 refereeing working; and, also, in terms of federal
8 appointments, if there are suggestions that we can
9 learn from the way federal appointments are made that
10 maybe we could look at in the states to kind of emulate
11 or not emulate.

12 GOVERNOR NAPOLITANO: Justice O'Connor.

13 SANDRA DAY O'CONNOR: On the appointment process
14 in a state where the governor has appointive power,
15 different presidents have used different techniques to
16 find names of qualified people to appoint, and you are
17 just going to have to experiment and see what works for
18 you.

19 When I was nominated by President Reagan in 1981
20 he had made a decision to let suggestions flow through
21 his attorney general, and William French Smith at that
22 time was attorney general, and he told me the first
23 thing he started to do when he sat down in the
24 Department of Justice was to keep a little list
25 handwritten under his telephone in his office of

1 possible names in case there was a vacancy, and sure
2 enough there was one. And that's not a very scientific
3 way to get names, is it? But I'm sure you can find
4 trusted advisors who will help you, because it does
5 make a huge difference when appointments are made of
6 people who are qualified.

7 Now, I might also suggest that you look for a few
8 cowgirls now and then, but not every state has those in
9 abundance. Maine probably doesn't have as many as
10 Arizona.

11 GOVERNOR NAPOLITANO: Justice Phillips.

12 GOVERNOR BALDACCI: We have a chief justice who
13 probably would like that definition.

14 GOVERNOR NAPOLITANO: Justice Phillips.

15 TOM PHILLIPS: I think that the federal and state
16 judiciaries work very well together. They meet in
17 conferences. Some states have formal relations, formal
18 meetings between the two sets of judiciaries, others
19 it's informal. But most states now have a
20 certification process where federal judges who have an
21 open question of state law can certify that to the
22 state supreme court. So there's that type of
23 interbranch cooperation as well.

24 As to the appointments, really, one of our biggest
25 problems in trying to get traction for merit selection

1 in Texas is people we appoint to the federal system say
2 we don't want that, we don't want benches staying
3 vacant for 2 or 3 or 5 years. We don't want
4 multi-million dollar ad campaigns directed at the
5 confirming authority. And I think the federal
6 appointment system is broken right now in the short
7 term. Hopefully, that will get better.

8 Of course, I do think governors, in those states
9 where governors have plenary powers, sometimes they
10 have found it useful to create their own merit
11 selection formal committee like Governor Dukakis
12 started in Massachusetts, and most of his successors
13 have continued.

14 Where you have merit selection, the main complaint
15 I've heard about it is that there can be regulatory
16 capture of the commission. Some places commissions are
17 elected, like in Missouri, others appointed. It's very
18 important that commission have a broad enough spectrum
19 of diverse views that the governor is not stuck with a
20 list of people who all look just alike, particularly if
21 those people are being voted out of office by the
22 voters and three clones are replacing them. So I think
23 governors can take proactive leadership there just to
24 make sure, insofar as they can, that their commission
25 fairly represents the spectrum of acceptable legal

1 abuse.

2 GOVERNOR NAPOLITANO: Justice O'Connor.

3 SANDRA DAY O'CONNOR: I just have one additional
4 thought, and that is, that most circuit courts I think
5 have tried to establish a formal mechanism to involve
6 interaction with the state courts as well. I was the
7 circuit justice in the 9th, which is the biggest
8 circuit, and there was a mechanism within the circuit
9 to involve representatives of the state courts
10 throughout the year, and they would have meetings and
11 they would talk about issues of conflict.

12 And one of the worst when I first took office was
13 the unhappy relationship that evolved by virtue of
14 habeas corpus review in federal court of criminal cases
15 decided in state courts, but that's changed over the
16 years with action of congress.

17 But I think many of the circuits have formal
18 relations, and you might check with your circuit, you
19 are in the 1st, and see what the mechanism is for that,
20 because it can work effectively.

21 GOVERNOR NAPOLITANO: Very good. Well, thank you
22 very much, Justice Phillips, Justice O'Connor, for
23 spending some time with us. We're very grateful for
24 that.

25 (Applause)

1 GOVERNOR NAPOLITANO: You certainly have given us
2 a lot of food for thought. Now we will proceed with
3 the final business items of our meeting agenda. We
4 will move to the committee reports, and motions will
5 begin with the Committee on Economic Development and
6 Commerce, Governor Granholm.

7 GOVERNOR GRANHOLM: Thank you, Governor
8 Napolitano. The Economic Development and Commerce
9 Committee this week heard from a number of businesses
10 as well as investment capital leaders on how to have
11 states respond to a global and changing economy. We
12 have also proposed a number of recommendations with
13 respect to policy for existing EDC policies, three in
14 the nature of a substitute. On behalf of the committee
15 I would move adoption of our policy recommendations.

16 GOVERNOR: Second.

17 GOVERNOR NAPOLITANO: There's a motion and a
18 second. All in favor please say aye.

19 GOVERNORS: Ayes.

20 GOVERNOR NAPOLITANO: Any opposed?

21 (No response)

22 GOVERNOR NAPOLITANO: So held, so moved, so
23 approve. Governor Rell, Education, Early Childhood and
24 Workforce.

25 GOVERNOR RELL: Thank you, Governor. I would like

1 to report that we met this week, and our discussion
2 really centered around working together to keep
3 students safe from online predators, and we heard from
4 Attorney General Kelly Ayotte from New Hampshire, Miss
5 America of 2007 Lauren Nelson, MySpace.com, and an
6 internet crimes investigator from Illinois. The
7 governors were also joined by AT&T, Quest, Scholastic,
8 and the Symantec Corporation.

9 At the conclusion of the panel discussion the
10 governors announced the formation of an NGA cyber and
11 electronic crimes industry roundtable to seek advice
12 from the private sector and identify recommendations to
13 improve online protections for students. And, lastly,
14 the committee unanimously reaffirmed two policies all
15 without change. We recommend to the NGA membership the
16 reaffirmation of these two policies; ECW-8, Individuals
17 with Disabilities Education Act; and ECW-9, National
18 and Community Service. On behalf of the committee I
19 move adoption of these policy recommendations.

20 GOVERNOR NAPOLITANO: There's a motion. Is there
21 a second?

22 GOVERNOR: Second.

23 GOVERNOR NAPOLITANO: There's a motion and a
24 second. All in favor please say aye.

25 GOVERNORS: Ayes.

1 GOVERNOR NAPOLITANO: Any opposed?

2 (No response)

3 GOVERNOR NAPOLITANO: Thank you. Governor
4 Douglas, Health and Human Services.

5 GOVERNOR DOUGLAS: Madam Chairman, the Health and
6 Human Services Committee met yesterday and focused on
7 two topics. One, S-CHIP, something that was the
8 essence of our discussion at the governors-only meeting
9 as well yesterday. As I think all of our colleagues
10 know, we've sent another letter to the congressional
11 leadership that you, Governor Pawlenty and Governor
12 Corzine and I have signed. We will circulate that to
13 everybody, so that we can get all the governors on
14 board, and we encourage them to act promptly and
15 substantively to approve S-CHIP with an increased
16 appropriation and reauthorization.

17 The second topic we discussed is health
18 information technology. Governor Bredesen and I have
19 been chairing a Health IT task force that continues to
20 work hard. We're having a meeting in Vermont next
21 month. If you'd like to come, we welcome you. It's
22 the 15th of August in Burlington. We had three experts
23 in the Health IT field make some very helpful
24 presentations, and I think that's the topic that's
25 going to be of continued importance to the health care

1 system in all of our states.

2 We have approved amendments to four existing
3 policies, reaffirmation of two others, and I would move
4 that they be approved on.

5 GOVERNOR NAPOLITANO: There's a motion. Is there
6 a second?

7 GOVERNOR: Second.

8 GOVERNOR NAPOLITANO: All in favor please say
9 aye.

10 GOVERNORS: Ayes.

11 GOVERNOR NAPOLITANO: Any opposed?

12 (No response)

13 GOVERNOR NAPOLITANO: All right. Natural
14 Resources, Governor Schweitzer.

15 GOVERNOR SCHWEITZER: Governor Huntsman had to
16 return to Utah because to attend to the fires he's got
17 out there, and, of course, the vice chair, Bill
18 Richardson, is trying to get some fires started in Iowa
19 and New Hampshire. I tried to fill in as best as I
20 could, and thank you.

21 The governors focused on climate change, and we
22 heard from the EPA agency's administrator, Steve
23 Johnson. We also heard from several panelists that
24 gave us ideas. And the committee has adopted six
25 policies all without changes, and we recommend adoption

1 by the NGA on the policies on Clean Air, Comprehensive
2 Energy and Electricity Plan, Drought, Solid Waste,
3 Recreation Resources, and Invasive Species. On behalf
4 of the committee I move adoption of our policies and
5 recommendations. Thank you.

6 GOVERNOR: Second.

7 GOVERNOR NAPOLITANO: There's a motion and a
8 second. All in favor please say aye.

9 GOVERNORS: Ayes.

10 GOVERNOR NAPOLITANO: Any opposed?

11 (No response)

12 GOVERNOR NAPOLITANO: Very good. Governor
13 Pawlenty, would you please address the Executive
14 Committee policies?

15 GOVERNOR PAWLENTY: Madam Chair, we have for
16 consideration four proposed changes in policies that
17 have come through the Executive Committee. The first
18 relates to our policy on Comprehensive Health Care
19 Reform, which was worked out earlier by the Executive
20 Committee in June.

21 We also have some minor changes to the Homeland
22 Security Policy to reflect an "all hazards" approach to
23 terrorism that needed to be updated.

24 It also reflects our need and desire to change the
25 policy relating to State Communications and Tax

1 Modernization to continue to work with our federal
2 partners, and, hopefully, to have a consensus approach
3 with some of the communication industry's concerns in
4 that regard.

5 We also have a change in the Medicare Reform
6 Policy, so that it reflects the changes in the Deficit
7 Reduction Act of 2005, and also reflection of the
8 biosimilar pharmaceuticals as Medicaid reform is
9 forwarded.

10 With that I would move adoption of those policy
11 changes, EC-3, 5, 15, 16, and the amendments to those
12 policies.

13 GOVERNOR NAPOLITANO: There's a motion. Is there
14 a second?

15 GOVERNOR: Second.

16 GOVERNOR NAPOLITANO: All in favor please say
17 aye.

18 GOVERNORS: Ayes.

19 GOVERNOR NAPOLITANO: Any opposed?

20 (No response)

21 GOVERNOR NAPOLITANO: Very good. That concludes
22 the motions and actions on policies for this plenary.
23 As we move into the concluding items of business,
24 again, I want to thank Governor Granholm, Dan, your
25 staff, the wonderful volunteers of the State of

1 Michigan. You opened your arms to us, and, really, I
2 think many of us have never been to this part of
3 Michigan before, and it was just a wonderful experience
4 and a great place to have a substantive meeting like we
5 had. So thank you again, Governor Granholm.

6 (Applause)

7 GOVERNOR NAPOLITANO: It is now time to transition
8 in terms of the chair, and let me just say that I
9 really enjoyed my time as chair, and I really want to
10 express my personal thanks and appreciation to the
11 staff of the National Governors Association and the
12 staff of your offices who work with them. There's a
13 reason why these motions and policies proceed so
14 expeditiously. That's because all the work has been
15 done already and issues ironed out and discussed
16 between us and amongst us before we actually get to
17 these plenaries, and that requires a lot of work by a
18 lot of people to make sure that the governors'
19 positions on issues are taken into account. So a
20 personal thanks for the efforts there.

21 A personal thanks also to the NGA for their work
22 both on this plenary, this meeting, and also the
23 February meeting where we kicked off the Innovation
24 America initiative.

25 Also, I would like to thank the members of my

1 staff who have worked throughout the year on NGA
2 related matters. As Governor Pawlenty will discover,
3 there is a certain amount that goes on on a fairly
4 regular basis from the position of the chair, and I
5 would not have been able to do half the work that we
6 got accomplished this year without the members of my
7 staff, Dennis Burke, Noah Kroloff, Loren Kielsmeier,
8 Darcy Renfro, Bib Hubbard, Amy Shlossman, who all were
9 working regularly on matters involving the NGA. I'd
10 like to give them a round as well.

11 (Applause)

12 GOVERNOR NAPOLITANO: Also, my Washington office,
13 Brian de Vallance as many of you know could not be with
14 us at this meeting. He's had to have some surgery.
15 We're sending a get-well card around for those of you
16 who know Brian, if you'll sign it. Katie Green is here
17 from my DC office as well, which I think puts out more
18 work on a per capita basis than any other office I've
19 ever met. So I would like to thank them as well.

20 (Applause)

21 GOVERNOR NAPOLITANO: And as I close I would like
22 to just reiterate that the initiative that we began on
23 innovation really is designed not to stop today. It
24 really is designed to help us think about K-12
25 education, postsecondary and how that works into the

1 economy of the 21st century. It allows all different
2 types of public and private partnerships to plug in,
3 and it's really a long-term initiative designed to make
4 sure that we are recasting our efforts and really
5 thinking long term about the future of our country and
6 what we do as governors to make sure that the United
7 States maintains its position in the world, and that
8 the next generation is able to thrive as we have and
9 the generations to come as well.

10 So we will be continuing the work through the
11 Innovation America Foundation. Several of you have
12 indicated you want to personally participate. We will
13 begin with a kick-off in the fall with a competition
14 for high school students to design 30-second videos on
15 what innovation means to them. We will partner them
16 with the National Science Foundation on some regional
17 meetings designed to really bring the concept of
18 innovation down to earth in particular regions of the
19 country.

20 So the work will be ongoing, but I must say over
21 the last months with everybody's help here and some
22 folks who are not here I think we've had a tremendous,
23 tremendous effort and focus on this very, very
24 important topic, and I thank you for your efforts there
25 as well.

1 With that I will now turn the microphone over to
2 Governor Douglas to give us the report of the
3 Nominating Committee for 2007-08. Governor Douglas.

4 GOVERNOR DOUGLAS: Madam Chair, on behalf of the
5 Nominating Committee I'm pleased to nominate the
6 following governors to serve on the Executive Committee
7 in the ensuing year; Governor Easley, Governor
8 Huntsman, Governor Sebelius, Governor Hoeven, Governor
9 Doyle, Governor Perdue and Governor Napolitano.

10 For vice chairman of the association I should
11 offer a cautionary note. The last time I presented the
12 Nominating Committee report the new vice chairman was
13 defeated for re-election a few months later, but I
14 guess I don't think there's a risk of that this time.
15 It's a pleasure to nominate Governor Ed Rendell for
16 vice chairman of the association, and for the position
17 of chairman of the National Governors Association,
18 Governor Tim Pawlenty.

19 GOVERNOR NAPOLITANO: We have now heard the report
20 of the Executive Committee. I take it that's in the
21 form of a motion?

22 GOVERNOR DOUGLAS: Indeed.

23 GOVERNOR NAPOLITANO: Is there a second?

24 GOVERNOR: Second.

25 GOVERNOR NAPOLITANO: All in favor of the motion

1 please signify by saying aye.

2 GOVERNORS: Ayes.

3 GOVERNOR NAPOLITANO: Any opposed?

4 (No response)

5 GOVERNOR NAPOLITANO: Well, thank you very much.

6 And with that, Governor Pawlenty, I'm proud and
7 pleased. I think you've been a fabulous vice chair,
8 and you will be a fabulous chair of this association.
9 Congratulations.

10 (Applause)

11 GOVERNOR PAWLENTY: Thank you. And just as I
12 start I too want to say thank you to Governor Granholm
13 and First Gentleman Dan Mulhern, what a fantastic
14 extension of hospitality. The meetings were terrific,
15 the weather fantastic. You've exposed all of us to
16 just a beautiful slice of the country, and amongst the
17 other things, overlooking that vista last night on the
18 water and the vineyards and the beautiful countryside
19 in northern Michigan. We deeply appreciate it, and you
20 put a lot of work into it and we are grateful to you
21 and your whole team.

22 So as a first order of business as the Chairman of
23 the NGA I have the pleasure of asking Governor
24 Napolitano to rejoin me back at the podium for just a
25 moment. As you all know and just heard, she

1 spearheaded the America Innovation initiative, focusing
2 on how states can use innovation to foster and develop
3 better policies and enhance economic competitiveness
4 and the standard of living for our citizens. We all
5 appreciate, Governor, the tools that this initiative
6 has developed and made available to us, including
7 research reports and challenge grants and policy
8 academies, all designed to highlight the strategies and
9 ideas coming from your initiative.

10 We also are thankful for the task force that you
11 assembled and had a chance to work with you on. We
12 collected a great deal of information, cataloged best
13 practices that have now been put forward and I think
14 will better equip us as policy makers to help our
15 states compete in the global economy.

16 So we want to thank you and congratulate you, but
17 I also want to just say on a personal note how much I
18 enjoy working with Governor Napolitano. She is a
19 strong and clear leader. She's a consensus builder.
20 She's obviously a very gifted communicator. We had a
21 chance, amongst other things, to go to the middle east
22 together and to Iraq, and so we snored together on the
23 plane.

24 She is just somebody who is a strong leader, but
25 also understands the need within the context of the NGA

1 to work together to sand off the rough edges and find a
2 common point, and she did that time and time again.
3 And I think we all should, again, give her another
4 hand, and I want to present to her a Gavel of
5 Appreciation for her time as the chair of the NGA.

6 (Applause)

7 GOVERNOR NAPOLITANO: Thank you.

8 GOVERNOR PAWLENTY: Arizona is very fortunate to
9 have you as governor. I also hope we can continue
10 Governor Napolitano's good work with her initiative on
11 innovation as we move forward into the next year, and
12 the topic that I have chosen kind of feeds into her
13 topic or continues it in one particular area, and that
14 is energy. And as you'll see from the brochure that's
15 been passed out the title for the initiative is
16 Securing a Cleaner Energy Future, and it is going to
17 involve a number of subcomponents, and we're going to
18 need all of your help, and so I hope that you'll join
19 me in addressing this opportunity that we have at this
20 historic crossroads.

21 We have as a nation for a long time enjoyed
22 inexpensive energy, seemingly inexhaustible oil in a
23 relatively forgiving environment, but as we move
24 forward now further into this new century we need to
25 confront an inescapable challenge. By the year 2030

1 America will be able to meet only 65 percent of its
2 energy needs from domestic supplies. Our remaining
3 energy needs and over 60 percent of our transportation
4 fuels will depend on foreign sources. And, as you
5 know, many of those foreign sources are places that are
6 unstable and unfriendly to the United States of
7 America. So we want to encourage and discover and
8 produce more American energy to further our national
9 security needs and other opportunities as well.

10 Our current energy technologies and patterns of
11 use are causing us to emit greater and greater amounts
12 of carbon dioxide into the atmosphere, exacerbating
13 global concerns over potential climate change. By the
14 year 2030 the United States will be responsible for
15 about 20 percent of the planet's carbon dioxide
16 emissions, largely because of our growing
17 transportation and electricity sectors. Only China
18 will outpace us by then in terms of emissions, carbon
19 dioxide emissions.

20 So if we continue down this path we're going to
21 risk further our national security posture. We're also
22 going to risk potentially our prosperity and our
23 quality of life. But if we take the road not yet
24 taken, one that involves the devotion to conservation,
25 research and development, innovation, clean fuel

1 technologies and incentives to build a brighter and
2 better and cleaner energy infrastructure and delivery
3 system in the United States, we can alter and improve
4 our future prospects.

5 So I look forward to working with each and every
6 one of you on that agenda, and we'll need everybody's
7 participation to succeed. We are already seeing some
8 wonderful leadership at the state level on
9 conservation, on carbon emissions, on climate change
10 and on alternative fuels, and we want to accelerate and
11 mutually celebrate and share those ideas and see if we
12 can make some quicker and stronger progress.

13 We will have a task force that will continue to
14 work in these areas, and that will include Governor
15 Sebelius, who will co-chair the task force with me.
16 We'll also include Governors Rell and Lingle and Crist
17 and Schweitzer, Rendell, Gregoire. And if there are
18 others who want to join the effort, we welcome you. We
19 want to make sure we're inclusive as possible.

20 We also want to make sure that we recognize there
21 are traditional energy states that have concerns about
22 this potential new energy future. We want to make sure
23 there is room in the debate for taking the existing
24 energy sources and using new technology and promoting
25 the potential of clean coal, for example. Governor

1 Schweitzer and Governor Rendell has raised that as well
2 from a federal perspective.

3 We hope that even though federal governments have
4 been a partner in these issues, I think many of us
5 would conclude that their energy legislation is not as
6 comprehensive or robust as we would like, and the
7 states can play a role I think in encouraging and
8 demonstrating faster, more aggressive approaches.

9 Now, with all of that we're going to have some
10 agreements that we're going to try to reach in these
11 areas with industry, with governments. Regionally, the
12 Western Governors Association has led the way as an
13 example on that, but we think those can be expanded
14 upon in terms of public/private partnerships in other
15 parts of the country, other states, and that's an area
16 of opportunity as well.

17 Now, we have another opportunity coming up as
18 governors, and switching gears a little bit, we're
19 going to meet in Philadelphia in the summer of 2008.
20 It's my hope that we can demonstrate not only a
21 cleaner, better energy environment there, but we'll
22 also have a chance to celebrate 100 years of the
23 National Governors Association as we gather next summer
24 in Philadelphia, and it will be a great honor for all
25 of us I think to be serving at that historic benchmark.

1 The first national summit of governors involved
2 Theodore Roosevelt, Teddy Roosevelt, in 1908. The
3 topic was conservation, and the NGA began to serve as a
4 collective voice for those issues and, obviously, many
5 more over the ensuing 100 years.

6 So to mark the beginning of this year-long
7 celebration of the NGA's centennial celebration we have
8 a new logo. Some of you I know are fond of the old
9 one, but we're moving forward with a new 100 years, and
10 so at this time if you'll turn your attention to the
11 board you'll see the new National Governors Association
12 logo. The dates will appear as we use that logo over
13 the next year, and then after the next year, obviously,
14 the centennial reference will fade away, but overall
15 that's the new logo. We hope that you like it.

16 They've also designed at the NGA a new web site
17 that's going to involve celebration of 100 years of the
18 NGA's role. At this site you and others, there's my
19 picture that won't always be there, but you can scroll
20 through on a state by state basis, and you'll see a
21 list of every governor that has served during this
22 time. You can learn about the past meetings,
23 initiatives and policy statements of the NGA through an
24 archive like experience. You can hear former governors
25 talk about their NGA experiences, glance through a

1 timeline of notable NGA and gubernatorial events. So I
2 hope you all take time to visit the site at
3 NGA.org/centennial.

4 And then next we have a chance to hear from our
5 host of next summer's meeting. Governor Rendell is
6 somebody who I've always enjoyed working with, and I
7 look forward to working with him on a bi-partisan basis
8 on behalf of the NGA in the next year. He's strong,
9 he's clear, he's bi-partisan, and he's very cuddly. So
10 the host of our next year's meeting, Governor Rendell.

11 (Applause)

12 GOVERNOR RENDELL: Thanks. Thanks, Tim. And I
13 am looking forward to working with Governor Pawlenty on
14 what I think is the one or two or three most important
15 challenges facing our country in an area where
16 governors have led in the absence, as Tim said, of a
17 robust federal policy, and where I think it's incumbent
18 upon us to continue to lead. So I think he has adopted
19 a really exciting agenda, and we're looking forward to
20 it this next year.

21 I want to thank you all for your resounding vote
22 of confidence in my election as vice chair. I've
23 always analyzed my election victories to find the most
24 important factor in those victories, and in this one it
25 was the fact that nobody else wanted the job that led

1 me to this successful election.

2 So, but we're real excited about next year in
3 Philadelphia. As Governor Pawlenty said, it's a great
4 opportunity to celebrate 100 years, but not just
5 celebrate by looking back, the governor made this point
6 in a meeting we had right before the plenary session,
7 but to sort of look forward to see where we are and
8 look forward. And this meeting is going to have,
9 unlike our normal summer meeting, is going to have a
10 day devoted to the centennial, and then we're going to
11 devote time, of course, to Governor Pawlenty's agenda,
12 and we're hoping to make this a very impactful day to
13 really make a mark on the national scene.

14 We're inviting every former living governor to
15 join us in Philadelphia, included among that, of
16 course, are two ex-presidents, President Carter and
17 President Clinton, and one sitting President, former
18 Governor Bush, and many former cabinet members, et
19 cetera.

20 And at yesterday's governors-only luncheon we
21 discussed, and a few of you brought it up as did
22 Justice O'Connor, the increasing challenges on
23 federalism, and I think that is a tremendously serious
24 discussion for this nation as we go forward, and it's a
25 discussion that cuts across all parts and lines. As

1 Justice O'Connor said, can you imagine if we could
2 bring back Thomas Jefferson and tell him that the
3 federal government has already declared a moratorium on
4 one important area of potential state taxation, and has
5 three other moratoriums in the pipeline, can you
6 imagine what Jefferson would have said? He would have
7 been astounded that they even thought about that type
8 of encouragement in the power of states.

9 So I think we're at a critical juncture, and among
10 the issues, and federalism will not be our only
11 discussion, but among the issues are; what are the
12 proper balance between the roles of states and the
13 roles of the federal government; how are we going to
14 rebuild this nation's infrastructure. So many
15 different things that are crucial to us, but, more
16 importantly, crucial to American citizens will be
17 discussed during the centennial.

18 We're also going to have occasion to celebrate
19 with wonderful entertainment, a high level of
20 entertainment, and it should be a terrific, terrific
21 meeting, and I urge you all to come and urge your
22 ex-governors from your states to also attend. So we're
23 looking forward to having you in Philadelphia. It will
24 be a different experience than Traverse City. The only
25 thing we hope to duplicate is the weather. It's about

1 a 100 to 1 shot, but we're hoping that we will have a
2 great time, and, hopefully, use this session to leave a
3 real impact on the nation's psyche. Thank you.

4 (Applause)

5 GOVERNOR PAWLENTY: With that if there is no
6 further business we will adjourn the 2007 Annual
7 Meeting of the NGA. Thanks.

8
9 (At 11:43 a.m. closing plenary session concluded)

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STATE OF MICHIGAN)
COUNTY OF GRAND TRAVERSE)

I certify that this transcript, consisting of 65 pages, is a complete, true, and correct transcript of the proceedings and testimony taken in this case on July 23, 2007.

Date: _____

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