

March 22, 1995, WEDNESDAY, Late Sports Final Edition

SECTION: NEWS; Pg. 26

LENGTH: 371 words

HEADLINE: Edgar Opposes Ban on Benefits to Teens

BYLINE: BY LYNN SWEET

DATELINE: WASHINGTON

BODY:

Gov. Edgar, in a split with the House GOP leadership, opposes abolishing benefits to unwed teen mothers and legal immigrants, as proposed in the welfare bill that Congress started debating Tuesday.

The Republican-crafted bill would ban cash benefits to children born to unmarried mothers younger than 18. Teen mothers would still be eligible for health and food programs. Cash benefits would not be allowed for additional children born to a mother on welfare.

In January, Edgar unsuccessfully argued before the House Ways and Means Committee against cutting benefits to teen mothers because "it may cost federal and state governments more in the long run." Foster care and residential facilities are more expensive alternatives, he said.

Writing to House Speaker Newt Gingrich (R-Ga.), Edgar said Illinois "needs the flexibility to determine whom to serve."

Illinois, a major destination for immigrants, is home to about 1.1 million foreign born people; 605,000 are non-citizens living in the state legally. As of September, 1992, there were 6,856 non-citizens legally in Illinois who received welfare benefits.

Denial of federal funding of benefits for services, which state and local Illinois governments may feel obliged to provide, would mean "a cost shift to the state which will severely hamper our ability to implement welfare reform effectively," Edgar wrote.

Terri Moreland, Edgar's Washington lobbyist, said the "cost shift" would mean state and local governments would have to pick up a tab that could run at least \$ 100 million each year.

Under the legislation, legal immigrants would be denied almost every welfare benefit. Exceptions would be made for refugees here less than five years, the aged and veterans.

Illinois has 20,000 refugees who have lived in the state less than five years, according to the Illinois Department of Public Aid.

The GOP-run House Rules Committee agreed to allow consideration of amendments proposed by Luis V. Gutierrez (D-Ill.). One calls for extending federal benefits to legal non-citizens if direct local and state welfare costs exceed \$ 50 million a year. Another amendment calls for legal residents who have paid five years of taxes to be eligible for benefits.

cc'd to Congressman Solome



STATE OF ILLINOIS  
**OFFICE OF THE GOVERNOR**  
SPRINGFIELD 62706

JIM EDGAR  
GOVERNOR

March 16, 1995

The Honorable Newt Gingrich  
Speaker of the House  
H-232 Capitol Building  
Washington, D.C. 20515

Dear Congressman Gingrich:

I am writing to express my support for HR 4, the "Personal Responsibility Act of 1995." In particular, I applaud the provisions in the bill which move welfare programs to the states with enhanced flexibility and an entitlement of funds. I commend you for your willingness to work with governors to craft meaningful reforms to the nation's welfare programs.

Over the last several months, you have provided the opportunity for Illinois and other states to work with Congressional leadership in identifying areas of concern in welfare reform. Your offices have been responsive, and numerous state concerns have been resolved in the process. However, significant issues remain that have not yet been addressed. I hope that you will allow these concerns to be considered as the legislative process moves forward.

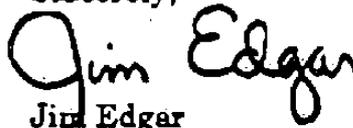
First, I am concerned that the bill continues to contain federal mandates defining how Illinois will use its funds and whom Illinois may serve. For example, the bill mandates work participation rates and imposes limits that are inconsistent with welfare reforms that are already in place in Illinois and that we are committed to pursue. Similarly, the bill now under consideration would not allow our current program for teen parents, which stresses the role of education in self-sufficiency. I believe that each state needs the flexibility to determine whom to serve and what program requirements are appropriate to achieve the desired result. As currently structured, the bill identifies numerical participation goals and then prescribes what will count toward those goals. Our preferred alternative would be to define the outcomes expected, such as employment, and let states design strategies to achieve them based on their own specific needs and characteristics.

I am also concerned about provisions in the bill making legal aliens ineligible for AFDC, SSI, Medicaid, Food Stamps and Title 20 assistance. Illinois is one of the states with the largest legal alien populations, and these provisions represent an unfunded mandate and cost shift to the State which will severely hamper our ability to implement welfare reform effectively. Congressman Luis Gutierrez of Illinois has proposed three amendments that would allow debate on this issue, and I urge you to rule these in order so that the full House has an opportunity to consider them.

Finally, I am concerned about the provision of the bill establishing a "rainy day" loan fund. I urge that a fund be created to make grants, rather than loans, to states impacted by economic downturns and disasters. I understand that Congressman Portman of Ohio has proposed amendments addressing this issue, and also ask that you allow debate on these proposals. Further, the trigger for access to the fund should not be a statewide indicator, which will tend to preclude a state as large, diverse and populous as Illinois from accessing the fund. An approach that better reflects the principle of state flexibility and responsiveness to local communities is to adopt triggers for smaller political boundaries such as counties or geopolitical areas defined by population. This would allow access to the fund if a part of the state experiences deep recession tied to the economic conditions in that area.

I very much appreciate your consideration on these issues, as well as the time and effort that you and other members of Congress have devoted to bringing much-needed reforms to the welfare system. I look forward to working with you as this bill moves forward.

Sincerely,

A handwritten signature in black ink that reads "Jim Edgar". The signature is written in a cursive, slightly slanted style.

Jim Edgar  
GOVERNOR

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Pittsburgh Post-Gazette

April 2, 1995, Sunday, FIVE STAR EDITION

SECTION: STATE, Pg. B1

LENGTH: 1513 words

HEADLINE: Governor welcomes welfare reforms

BYLINE: Frank Reeves, Post-Gazette Harrisburg Correspondent

DATELINE: HARRISBURG

BODY:

Gov. Ridge and his new secretary of Public Welfare are enthusiastic about the revolution in state-federal relations being pressed by a Republican Congress, but they're a little nervous about some of the fine print in the "Contract with America." 2, 1995

In separate interviews last week, both welcomed its promise of increased flexibility for the states, but both expressed reservations about key provisions of the GOP-backed welfare bill approved by the House in March.

The comments from Ridge and DPW Secretary Feather Houstoun come at a time when the debate on welfare reform has taken center stage in Harrisburg and Washington.

Ridge said he was glad the bill would give Pennsylvania and other states greater latitude to reshape welfare programs.

"I have a strong belief that Pennsylvania would be equipped to devise a delivery system for addressing the needs of the poor and the disadvantaged ... better than the one-size-fits-all approach of the federal government," Ridge said.

But Ridge said he was concerned that some provisions of the bill -- notably changes in eligibility rules for disabled children receiving Supplemental Security Income -- could force the state to pick up millions of dollars in health care costs for disabled children.

Houstoun said she supported the concept of block grants, noting it would be "an opportunity for the states to be a lot more flexible about setting benefit structures and incentives for work."

But Houstoun, a former financial manager for the Philadelphia area's mass transit system, said she, too, had reservations about the bill that cleared the U.S. House.

Houstoun said she was wary of the possibility that states would face greater costs with no increase in federal dollars.

Critics of the SSI program have said it's riddled with fraud and abuse and

Critics of the SSI program have said it's riddled with fraud and abuse and its eligibility rules need to be tightened.

But Ridge countered: "You can always point to anecdotal data about abuse in any program. But I am not convinced the allegations of abuse justify the cuts envisioned in the (U.S.) House bill. The measure seems pretty Draconian to me."

Last week, House Democratic Leader Ivan Itkin, D-Point Breeze, urged Ridge to oppose the changes in SSI, warning the federal legislation would eliminate benefits for 12,000 Pennsylvania children and saddle the state with \$ 200 million in additional expenses.

The changes in SSI are included in a Republican-backed welfare bill, dubbed the Personal Responsibility Act, which is now under consideration in the U.S. Senate. The measure would allocate block grants to the states in place of the main cash welfare program created in the New Deal. The program, Aid to Families with Dependent Children, is now an entitlement for anyone who meets the eligibility requirements set by federal and state laws.

The bill would also end the guarantee of cash aid to women and children who qualify for AFDC. Benefits could be cut off after five years, and unmarried parents under age 18 would not be allowed to receive cash assistance. Women on welfare would not receive additional benefits for children they have while they're on public assistance.

Federal funding for AFDC would remain at current levels of \$ 15.3 billion annually through fiscal year 2000. The federal government pays for about 55 percent of the program's cost; the states pay the remaining 45 percent.

Echoing concerns of other governors, Ridge said that in a recession, when AFDC case loads usually rise dramatically, the states might not have the funds to provide public assistance to all who need it.

\* "When the unemployment rate is 5 or 6 percent, it is easy. But we know there are business cycles. I think there is an appropriate role for the federal government to provide a safety net in an economic downturn," Ridge said.

Houstoun said she was also concerned that while the bill promises increased discretion for the states, it restricts flexibility in some areas such as requirements that deny benefits to unmarried parents under 18. Such decisions, Houstoun argued, should be left to state officials.

And while she supports efforts to curb teen-age pregnancy, she said, she doubts a denial of benefits will have much effect on the problem.

Of the more than 200,000 adults on AFDC in Pennsylvania, about 3,500 are teen-agers receiving benefits in their own name and living in separate households, Houstoun said.

Most of these girls, Houstoun said, had children by men five or seven years older.

"We are talking about jail bait -- about statutory rape. We need to pay

more attention to the fathers," she said.

Under the U.S. House-approved bill, welfare would no longer be an entitlement-- meaning that if you qualified you would automatically receive benefits.

"I am not sure where I come out on this," Houstoun said. "The bill tries to get at the nub of the problem to what extent does an entitlement change the character and motivation of the person getting public assistance."

Houstoun said she favored an approach that would require the government and the welfare recipient to enter into "a contract of mutual responsibility."

Under it, a welfare recipient would agree to get a job or job training, while the government would guarantee aid for a limited time, health care benefits, child care and job training.

Some critics of the House bill complain that it doesn't require the states to continue their current level of funding of welfare programs. They warn that many states could cut back once they're no longer bound by conditions on federal aid.

But Ridge said: "I don't expect to reduce Pennsylvania dollars. I see the savings in welfare in the long term. Welfare reform is about saving people, not money. I hope we will have a larger pool of federal funds to devise programs with greater flexibility."

GRAPHIC: PHOTO, PHOTO: DPW Secretary Feather Houston

LOAD-DATE-MDC: April 4, 1995



GEORGE V. VONOVICH  
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*Fax to  
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*P. 02*

March 27, 1995

OPTIONAL FORM 99 (7-93)

The Honorable Bob Dole  
Majority Leader  
U.S. Senate  
Washington, DC 20510

**FAX TRANSMITTAL**

# of pages **4**

To <i>Bruce Reed</i> Dept./Agency	From <i>John Monahan</i> Phone #
Fax #	Fax #

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

Dear Senator Dole:

As you know, the House of Representatives has completed its consideration of welfare reform legislation. While I strongly support the decision made by the House to convert welfare programs into block grants, I am concerned that the House bill fails to provide states with the flexibility needed to set our own priorities and conduct innovative experiments to promote responsibility and self-sufficiency. Many of my fellow Republican Governors share a number of my concerns.

I was disappointed with the allocation formula established through the Temporary Family Assistance Block Grant. It is the position of the National Governors' Association that any formula should allow states to use either a three year average or 1994 spending levels in determining base year allocations. While the House formula includes this choice, it then applies a 2.4 percent reduction factor to each state's allocation. The reduction factor leaves Ohio with a base year allocation of \$700 million annually, which is lower than what we would have received using either formula without a reduction factor. Speaker Gingrich assured states he would support eliminating the reduction factor. We would like to work with you in the Senate to make this correction.

Although allowing each state to receive its most favorable allocation without a reduction factor requires funding for the block grant to be increased by approximately \$200 million nationally, it is important to remember that states are making a significant financial sacrifice in supporting capped block grants. If states are disadvantaged in determining base year allocations, it becomes even more difficult to make the increased investments in work programs necessary to move individuals off welfare.

The House bill also does not include sufficient protections for states in the event of an economic downturn. If Congress replaces open-ended individual entitlements with capped state entitlements, states are placed in an extremely vulnerable position should the welfare-eligible population increase significantly. The state and federal governments should be partners in meeting the needs of expanded caseloads in recessions. The House bill contains a \$1 billion rainy day fund designed to provide the states with short-term loans,

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March 27, 1995  
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repayable with interest in three years. A loan fund does not represent a partnership; instead, it is a cost shift.

Ohio would be particularly disadvantaged in a recession due to aggressive steps already taken to reduce welfare caseloads. Today, 85,000 fewer Ohioans receive welfare than in 1992. States that have not been aggressive in reducing their welfare rolls will be better able to accommodate increased caseloads. Ohio's streamlined base makes it very difficult for us to absorb increased recessionary demands.

As part of our efforts to reduce welfare caseloads, Ohio has developed the strongest JOBS program in the nation. Ohio leads the nation with 33,911 recipients participating in JOBS. Only California comes close to matching Ohio's performance with 32,755 recipients enrolled in JOBS, and California has three times as many ADC recipients as Ohio. Our success with the JOBS program reflects a strong investment in training and education programs. Regardless of the extent of our investment, however, no work program can succeed without a commitment to making quality child care available for recipients. In Ohio, the state provides non-guaranteed day care to families with incomes up to 133 percent of the federal poverty level. The program currently has an average daily enrollment of 17,800. The State of Ohio is doing its part to provide child care to those in need. The federal government also must meet its responsibility.

I would like to see the child care and family nutrition block grants converted into capped state entitlements. In the House bill, funding for these block grants is discretionary. Key child care programs currently are individual entitlements. The need for child care only will grow as welfare recipients move into the workforce. My comfort level with the House package would increase significantly if states were guaranteed to receive a specified level of funding for child care and for child nutrition services for the next five years. That guarantee can only come through a capped state entitlement.

Excessive prescriptiveness is a problem throughout the House legislation. The bill's work requirements are a perfect example. The federal government mandates how many hours per week a federally defined percentage of cash assistance recipients must participate in federally prescribed work activities. In a true block grant, states would be free to choose how best to allocate resources to meet goals developed jointly by the federal and state governments. The record keeping requirements in the House bill also are extraordinarily prescriptive. States remain concerned that our computer systems lack the capability to provide the information required by the House.

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A true block grant should also give states the ability to determine their own program eligibility standards. The House legislation includes a number of specific eligibility restrictions. For example, cash benefits will be denied to unwed minor mothers and their children. Additional children born to mothers on welfare will be denied benefits. Decisions like these should be left to the states. By federally mandating these restrictions, the House is interfering with successful state reforms. For example, in Ohio we have developed a program designed to encourage minor mothers to remain in school. The LEAP (Learning, Earning, and Parenting) program supplements or reduces a teen mother's ADC cash grant based on her school attendance to teach her that there is a real value to completing her education. LEAP has led to a significant decrease in the drop-out rate for this vulnerable population. If the House prohibition on cash benefits remains in place, the LEAP program will have to be discontinued.

As the Senate begins to consider welfare legislation, I would be grateful for your assistance in addressing my concerns. Like many other Governors, I strongly support the broad outline of the House proposal, but it is important that these issues be resolved successfully. As a Governor, it will be up to me to implement welfare reforms in my State. I would like to work with you to ensure that block grants give the states the flexibility we need to implement innovative reforms designed to meet the specific needs of our communities. Without this flexibility, I cannot support this welfare reform package.

While Ohio watches federal welfare reform developments with tremendous interest, we have been actively pursuing a statewide reform agenda. I have enclosed a summary of Ohio's history of welfare reform innovation for your information.

Thank you for your personal consideration of my concerns.

Sincerely,



George V.oinovich  
Governor



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OFFICE OF THE GOVERNOR  
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CHRISTINE TODD WHITMAN  
GOVERNOR

March 17, 1995

The Honorable Newt Gingrich  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

I am writing to thank you for your leadership on welfare reform. I firmly believe that block grants provide the opportunity to reform the welfare system in ways that previous attempts at welfare reform have been unable to do, and I am confident that New Jersey's welfare system will be more efficient, more humane and more effective if maximum flexibility is granted to states through block grants.

In New Jersey we are not waiting until federal welfare reform is enacted before we begin thinking about how the welfare system should be redesigned. I would like to take this opportunity to share with you some of our plans, as well as some of my concerns about the House bill.

The primary goals of New Jersey's welfare program will be to get people into the labor market and keep them there.

New Jersey's current welfare program allows and, in some localities, encourages long-term training and education. In fact, we have more AFDC recipients in educational activities than in employment and training activities. The results of rigorous research projects show, however, that welfare reform strategies that emphasize workforce attachment are more effective in getting people off welfare. Therefore, we will be changing the focus of New Jersey's program to emphasize job placement rather than education. This refocusing corresponds with H.R. 1214's emphasis on work requirements that are more oriented toward job placement. We plan to offer government sponsored work opportunities to those who lack the job skills to enter the job market, and to develop public service jobs as a condition of receipt of AFDC after two years on welfare. We also plan to change the culture of the welfare offices by imposing performance standards at local welfare offices.

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March 17, 1995  
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However, I am concerned with H.R. 1214's participation rate requirements. In New Jersey, approximately 1% of our AFDC population is participating in a component that would count toward the federal participation requirement. We will need time to develop the type of activities that focus on job placement, and therefore, I ask that states, like New Jersey, that have been emphasizing education, rather than job placement, be given until 1997 to develop the type of work activities proscribed by the bill.

**New Jersey's welfare program would instill personal responsibility for the entire AFDC population.**

As you know, I am opposed to the provision in the House bill that would deny benefits to women under 18 years of age, though I agree with what I believe is the intent of the provision -- to instill personal responsibility. I believe we share the same goals, we only differ on how to achieve those goals. In New Jersey, we plan to require teenage mothers to stay in high school, live at home with their parent or guardian and enroll in a parenting program. We also are exploring the possibility of developing residential facilities for those teenagers who are unable to stay in their home. These transitional facilities would provide intensive case management that would strive to imbue strong values and expectations.

I believe that the denial of benefits to teen parents, as well as to legal aliens, is contradictory to the purpose and intent of block grants. States should have the flexibility to determine who should be eligible for benefits. In New Jersey we plan to use state funds to continue providing benefits to these two groups.

For each mother on AFDC, we plan to provide a training voucher that will enable a welfare recipient to make choices about the type of job placement activity that is most appropriate for her. As you know, the current welfare system has many recyclers, that is, welfare recipients who are trained and re-trained at government expense. The provision of job placement vouchers will convey the message that welfare recipients are responsible for making choices about their future. This creative use of AFDC funds, which would be unique to New Jersey, would also make the best use of finite dollars. This type of strategy, impossible under previous welfare reform attempts, will be possible only if block grants are enacted.

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We also plan to extend the use of vouchers for support services. These vouchers will enable women to make personal decisions about which support services they need to help stay in the labor market. A menu of support services may include clothing, transportation, child care and job coaches. The importance of such a provision has been highlighted by recent research that shows that staying in the job market may be even more difficult than entering the labor market for welfare mothers.

We also plan to continue the family cap policy, and look forward to learning more about the program's effectiveness when preliminary research results are available later this year.

New Jersey's welfare reform program will create a new set of incentives.

New Jersey will communicate to welfare recipients that there are rewards for those who leave welfare and stay off welfare. We plan to give priority to welfare recipients who enter the labor market for state-funded home ownership programs, as well as make low-cost subsidized health insurance available to women whose Medicaid benefits are ending.

New Jersey's welfare reform program will make use of the flexibility afforded by block grants to intervene early in the lives of children at risk.

We plan to expand successful school-based or related programs including, but not limited to: curriculum-based program for young children stressing responsible social decision making; school-based youth services providing health, counseling, employment and substance abuse services for high school students, and expansion of quality early childhood programs for at-risk youth.

These are just some of the ideas that I will be discussing with our state legislature and the citizens of New Jersey in the upcoming months. As I said earlier, I believe block grants provide an unprecedented opportunity to redesign the welfare system comprehensively. And it is because I believe so strongly in the potential of block grants to truly reform the system that I urge you to provide the flexibility that many states need to redesign their welfare systems.

Finally, I believe that the bill should be amended to include a Rainy Day Fund as a grant program, rather than as a loan program. Although Republican governors have been supportive of the conversion of the AFDC program from an entitlement to a block grant, many of us would be more comfortable if a Rainy Day Fund was an add on to the block grant given the fiscal exposure of states and the possibility that in economic downturns vulnerable citizens may not be served.

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I would be happy to discuss any of this with you. Please let me know what I can do to help you ensure the enactment of block grants. I appreciate all you have done to provide Governors the opportunity for meaningful welfare reform. I understand that the funding formula will be made more flexible in response to gubernatorial concerns, and I appreciate your leadership in this matter.

Yours Sincerely,



Christine Todd Whitman  
Governor

c: Hon. Gerald Solomon

**THE NEED FOR A NEW FEDERALISM:  
*A State-Federal Legislative Agenda for the 104th Congress***

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**George V. Voinovich  
Governor of Ohio**

**November 1994**

***Note: This document was adopted as part of The Williamsburg Resolve by the Republican Governors' Association on November 22, 1994, in Williamsburg, Virginia.***

## I. UNFUNDED FEDERAL MANDATES

### *Introduction*

Unfunded federal mandates are placing severe pressure on taxpayers across the country, crippling state, city, and county budgets from Maine to California, and forcing governors and local officials to reorder their own budget priorities. Unfunded mandates are federal programs enacted by Congress, but with one major catch -- they must be financed and implemented with state and local resources.

Activism in government is not always a bad thing, provided that those who advocate such activism are prepared to accept responsibility for its costs. What burdens state and local governments is activism on the cheap, and what outrages state governments is Congress' insistence that new federal policy initiatives be paid out of state budgets.

Through increasing use of this budgetary sleight of hand, Congress compels states and local governments to fund programs Washington cannot because of the persistent budget deficit. The result is trickle-down taxes, an erosion of governmental accountability at all levels, and reduced effectiveness of government programs.

### *The Scope of the Problem*

Mandates have become pervasive in recent years. While state and local governments were forced to comply with only 19 new mandates between 1970 and 1986, since the late-'80s the Congress has passed into legislation some 72 mandates. There is seemingly no end to the burden that Washington is inclined to pass on to state and local governments.

In 1993, Ohio released a comprehensive study identifying the burdens imposed by mandates. This study, the first of its kind nationwide, analyzed the harmful effects imposed by unfunded mandates and determined that federal mandates will cost the State \$356 million in 1994 and over \$1.74 billion from 1992-95.

This is just the tip of the iceberg. Barring serious reform, other states and local governments, and their taxpayers, can expect similar burdens from Washington in the years ahead. To be sure, unfunded mandates will cost the nation's cities and counties nearly \$88 billion over five years, consuming about one-quarter of all locally raised revenue by 1998.

Federal mandates also interfere with one of the most fundamental tasks of government -- setting priorities. Perhaps the most glaring example for states is the forced trade-off between Medicaid and education funding. In the past five years, education declined as a share of state spending at a time when nearly everyone acknowledges that improving our schools is one of government's highest priorities. Many states cannot spend a greater share of tax dollars on education because new Medicaid mandates consume more and more state resources -- about one-third of states' budgets.

There is an implicit assumption in Washington that all states need to address specific problems in specific ways. One glaring example of this "one-size-fits-all" mentality is in the area of substance abuse programs. The Congress requires that 35 percent of the money allocated to substance abuse must be spent on alcohol abuse services and 35 percent must be spent on drug abuse services. But of the 35 percent spent on drug programs, a least half must be spent on programs for intravenous drug users. States that do not have a large problem with intravenous drug users are still forced to spend money on these programs or face the loss of all federal aid. In effect, important decisions for the states are being made by a vast, arrogant bureaucracy in Washington.

While most mandates may reflect well-intentioned policy goals, many impose excessive costs without any discernible benefit. For example, recent federal highway law requires states to use a scrap tire additive in highway pavement, a mandate that by 1997 will cost the states \$1 billion. Incredibly, this mandate was enacted without any assessment of its effects, and experts have real questions about the durability, recyclability, and potentially harmful environmental effects of rubberized asphalt.

In case after case, states and local communities have developed affordable, effective programs that meet local needs only to face orders from Washington that require questionable changes to conform to federal guidelines. For example, while some states have developed thorough, comprehensive solid waste management plans, they are still required to change most of their landfill rules to comply with federal standards that in some respects are weaker than the states'. To make matters worse, state regulators increasingly are being forced to spend time fulfilling burdensome federal paperwork requirements, inhibiting their ability to clean up and close landfill sites that pose environmental risks.

City and local governments, in particular, are heavily burdened by environmental mandates. Columbus, Ohio determined that 14 environmental mandates will cost the city \$1.6 billion during the coming decade -- that represents \$856 per year for every household for 10 years. This figure obviously does not include additional mandates that Congress might decide to impose in the future.

The Safe Drinking Water Act, which is responsible for many of these costs, requires the federal Environmental Protection Agency to identify 25 new substances every three years that local systems must test for in their water supply. Cities from coast to coast are now forced to bear the costs of testing their drinking water for substances that have literally been banned for decades.

States and local governments are also forced to fulfill public policy responsibilities that are largely federal in nature. For example, while the federal government readily acknowledges that illegal immigration is a national responsibility, the states are nonetheless forced to pay for failed federal immigration policies. The State of California has determined that the cost of educating illegal immigrants in California public schools in fiscal years 1994-95 is \$1.5 billion. The cost of providing emergency health care to this same population is \$395 million over those years. Mandates associated with illegal immigration are only part of the burden on California taxpayers. The State has estimated that federal mandates on California in the current fiscal year is nearly \$8 billion.

As the burden of unfunded mandates worsens each day, the overall relationship between Washington and the states continues to erode. In addition to mandates, a spate of new regulations and administrative rules on state and local governments over the past decade have caused countless problems for both government and business. Virtually every state or local official is painfully aware of the simple fact that while regulatory relief has been enacted in certain areas, these minor successes are counterbalanced by new federal requirements that do nothing but place added burden on the American taxpayer.

In the final analysis, the debate over federal mandates is not about the environment, health care, entitlement programs or any other single issue. It is about our government's structure and the interaction of its various pieces. And today the argument for federal micromangement of state and local affairs is weaker than ever before.



**The bottom line is that a firm commitment from Congress and the President is necessary to end this irresponsible practice. No longer can the nation afford the trickle-down tax burden and service reductions necessary to fund programs dictated by Washington. After two centuries of change and progress, the constitutional vision of a true federal-state partnership must be restored.**

## II. A LEGISLATIVE BLUEPRINT FOR THE 104th CONGRESS

Restoring balance in state-federal relations is perhaps the most important national reform that could be undertaken by the 104th Congress.

The following proposals represent a blueprint for attaining mutual goals of empowering states and local governments and the efficient, orderly reduction of the federal government.

### A. BLOCK GRANTS

Responding to the demands of various special interest groups, there are more separate streams of funding to states and localities than ever before — 578 separate grant programs. There are 154 federal job training and employment service programs alone, each with its own set of requirements and bureaucrats.

While it is necessary to maintain separate programs to protect vulnerable populations, consolidating many duplicate programs would increase states' flexibility to meet local needs while reducing red tape and needless bureaucratic costs.

In 1991, President Bush proposed consolidating several federal grant programs to states and merging them into an omnibus block grant. Block grant consolidation made sense then, and it makes sense now.

### B. BUDGET REFORM

Governors agree that congressional action is needed to reduce the federal budget deficit. However, random, across-the-board application of these reforms could have significant, burdensome implications for states.

#### *Entitlement Caps*

The imposition of federal caps to restrain the growth of entitlement spending would constitute the single most burdensome unfunded mandate on already strained budgets.

Well-reasoned, systematic reforms undertaken in partnership with states to provide maximum flexibility are necessary to curb funding for entitlement programs to avoid simply transferring the cost burden from the federal budget to state ledgers.

***Balanced Budget Amendment***

Federal support for state and local grant programs would be a certain casualty under a constitutional amendment to require a balanced budget unless accompanied by companion reforms. Simply reducing assistance in the absence of a fundamental reordering of state and federal responsibilities would cause substantial disruptions and reductions in necessary government services.

As partners in implementing most federal funded programs, the federal government should work with states on a new covenant determining the appropriate level of government to be responsible for delivering government services.

**C. WELFARE REFORM**

National reforms should not be financed by increasing state burdens. For example, states should not be forced to develop massive public service employment programs that will be costly, administratively burdensome, and possibly ineffective. Similarly, terminating federal assistance for certain vulnerable populations, such as unwed teenage mothers, would saddle the states with billions of dollars in new costs.

Within a reformed welfare system, participation rates must be realistic, and no reform strategy should be financed through federal caps on assistance programs. Excess costs of programs such as emergency assistance would simply be passed on to the states.

Time limits must be carefully structured, and state consultation will be needed to craft a program that addresses challenges to implementation.

***Waivers***

Preserving and enhancing flexibility to experiment is the first priority of states with regard to welfare reform. The 1115 process for welfare waivers must be protected and streamlined. Unfortunately, rather than streamlining waiver consideration, the Clinton Administration has recently added a number of requirements for approval of welfare waivers. Several reforms that currently require waivers, such as expanding earned income disregards, should be available through the simpler state option process.

***Food Stamps***

States need flexibility to innovate in order to reduce welfare rolls. Proposals to impose strict limits on states' ability to experiment with the food stamp program are counterproductive to this overall goal. Limitations on the number of states permitted to implement food stamp cashout demonstration projects should be lifted.

The Clinton Administration is encouraging states to implement electronic benefits transfer (EBT) systems to deliver food stamps and other benefits more efficiently. However, efforts to move forward have been hampered by the Federal Reserve's decision to apply cumbersome regulations. These regulations would change current policy by making states responsible for replacing federal benefits claims as lost. Application of this regulation will cost states an estimated \$800 million yearly.

**D. HEALTH REFORM**

Because states provide health care to millions of Americans through the Medicaid program, and because as much as one-third of states' budgets are spent on health care services, decisions made in the context of national health reform will have an enormous impact on states.

***Waivers***

Currently, states can experiment with Medicaid innovations through the 1115 waiver process. That process must be streamlined to remove burdensome obstacles to innovations that improve the health care delivery system and increase access to services.

***Entitlement Caps***

Several reform proposals call for caps on federal Medicaid spending. If the federal government decides to limit its Medicaid exposure, states must be similarly protected, or billions of dollars in excess costs will simply be shifted. Before caps are considered, states would like to fully explore managed care and other cost control options.

***Managed Care***

In order to run Medicaid managed care programs, states must apply for federal waivers which must be renewed every two years. Managed care should be made possible through a simple state plan amendment.

***Market Reform and ERISA***

The Employee Retirement Income Security Act preempts all self-insured health plans from state regulations, preventing states from implementing reforms including minimum benefits packages, standard data collection systems, and uniform claims forms. ERISA flexibility would dramatically expand state health reform options and allow states the ability to develop and implement their own health reforms.

***Boren Amendment***

Court decisions have interpreted the amendment in such a way that unrealistic Medicaid reimbursement rates are required for hospitals and nursing homes. States support changing the legislation to control Medicaid institutional rates.

**E. FEDERAL RULEMAKING*****Cost Benefit Analysis***

Recent studies have found that federal regulations impose hundreds of billions of dollars in costs on the national economy on an annual basis, all too often with negligible benefits.

Excessive federal regulations not only burden state and local governments, they impose an unacceptable drag on our nation's economic competitiveness, inhibiting job creation, investment and innovation.

Congress should undertake a systematic cost benefit study on federal regulations to make recommendations for eliminating or modifying regulations that impose undue cost burdens relative to their benefit to society.

***Federal Advisory Committee Act***

States and local governments are severely disadvantaged during the federal regulatory process as a result of the Federal Advisory Committee Act.

This legislation essentially treats states and local governments as special interests, despite the fact that they have the responsibility of implementing most federal programs and enforces federal regulations.

State and local governments should be given special consultative opportunities before federal regulations are issued in order to enhance efficiency and reduce burdensome regulatory mandates.

## F. ENVIRONMENT

With federal and state resources becoming more limited, it is critical that states have the ability to prioritize risks, assess costs and have the flexibility for implementing federal requirements by using innovative programs to meet those requirements.

### *Risk Assessment-Cost Benefit Analysis*

This is essential for setting priorities and allocating resources to solve serious safety, health and environmental problems. It would require EPA, when making final rules, to estimate a regulation's impact on human health or ecological risk, compare the rule to other risks to which the public is exposed and estimate the costs of implementation.

Risk assessment-cost benefit analysis would be a common-sense approach to addressing environmental standards in a cost-effective manner, ensuring that they are based on sound scientific analysis.

For example, U.S. EPA currently is reviewing the Great Lakes Water Quality Initiative. An independent study estimated direct compliance costs for Great Lakes states between \$500 million and \$2.3 billion -- without contributing to meaningful toxic reductions. Given these findings, EPA should take advantage of the flexibility contained in the law to issue policy guidance, not prescriptive new rules.

In another area, EPA should be required to use risk assessment when selecting new contaminants for regulation. Currently EPA is required to regulate 25 new contaminants every three years, making local water systems test for substances that are not utilized in that region, which imposes costly, unreasonable burdens on many communities.

### *Clean Water Act*

While these programs are important for our waterways, there is a large gap between the funding needed to run effective programs and available federal assistance.

Given the increasing share of state dollars needed to carry out federal mandates, we must strike a better balance between state and federal roles and provide less prescriptive measures for states to implement programs.

States also need more flexibility to carry out federal requirements, such as use of the State Revolving Fund and voluntary nonpoint source program. These have proven to be successful, innovative and efficient measures to meet Clean Water Act goals.

#### ***Safe Drinking Water Act***

Small communities bear a tremendous financial burden from Safe Drinking Water Act mandates for increased monitoring and treatment.

State and local governments need relief through a change in the standard-setting process, allowing EPA to consider public health risk reduction benefits as well as costs when setting standards. Currently, EPA is required to set standards at the level achieved by the very best technology affordable to large water systems. This change alone could save hundreds of millions of dollars a year, while protecting public health.

#### ***Superfund***

Superfund law should be restructured so that fewer resources are utilized determining liability and more on actual cleanup.

States have demonstrated that they are very effective in cleaning up contaminated sites. And because states are contributing increased resources into the Federal Superfund program, they need more flexibility and authority for selecting sites for cleanup, selecting remedies and conducting cleanup activities.

States clean up approximately twenty times more contaminated sites than the federal government does under Superfund. Mandating increased state investments in the federal Superfund program is counterproductive. Such proposals will only serve to limit the number of sites that are cleaned up nationally under the voluntary program.

#### ***Clean Air Act***

The states, local governments and industry have worked vigorously to implement the Clean Air Act at considerable cost. However, many rules promulgated under the Clean Air Act Amendments of 1990 have questionable legal or statutory basis, are inflexible in their design and enforcement, needlessly bureaucratic and often of dubious environmental value. U.S. EPA regularly delays issuance of rules and guidance, yet still prescribes unrealistic compliance deadlines. These rules have had a profound, unnecessarily harmful impact on state environmental planning and on private sector economic development efforts alike.

**States are opposed to needlessly punitive Clean Air enforcement actions, such as the withholding of states' federal highway funds.**

**EPA rules must provide maximum flexibility to states and industry in implementing workable Clean Air programs while minimizing their cost of compliance.**

**U.S. EPA's revised Title V permitting program rules for industrial sources provide an excellent illustration of states' and the private sector's frustrations with federal Clean Air rules. In August 1994, EPA issued permitting regulations that contradicted the two-year old EPA guidelines upon which many states had designed their federally-mandated permit programs.**

**The revised Title V rules are far more complex and far-reaching, will be infinitely more difficult for states and industry to administer and will not benefit the environment significantly. Proposed Title V changes would triple the permitting burden of industry and states for such "minor modifications" as adding a single spray paint nozzle in a factory.**

**Absent more flexible, constructive federal Clean Air Act implementation policies, states must weigh the possibility of statutory relief, either through litigation or by requesting that the Act be reopened in the 104th Congress.**

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LETTERS TO THE STATE, DEPT,  
 DS, and ASST SAC'S.  
 P - Pls. for copies of both  
 documents to Bruce Reed.

*Foundations of  
 Federalism*

Republican  
 Governors  
 Conference  
 1994



*Albany, Virginia*

## THE WILLAMSBURG RESOLVE

We gather at an historic moment at an historic place.

Here and in other colonial capitals, the nation's founders first debated the idea of independence and the fundamental principles of freedom. Then, the challenge to the liberties of the people came from an arrogant, overbearing monarchy across the sea.

Today, that challenge comes from our own Federal government — a government that has defied, and that now ignores, virtually every constitutional limit fashioned by the framers to confine its reach and thus to guard the freedoms of the people.

In our day, the threat to self-determination posed by the centralization of power in the nation's capital has been dramatically demonstrated. The effects of intrusive Federal government authority have been felt so widely and so profoundly that a united chorus of opposition has risen from town halls and State capitols, from community organizations and private associations, from enterprises and individuals, across America.

The founders of our Republic and the framers of our Constitution well understood the ultimate incompatibility of centralized power and republican ideals. They did not pledge their lives, fortune and sacred honor to achieve independence from an oppressive monarchy in England only to surrender their liberties to an all-powerful central government on these shores. Rather, they devoted their considerable energies and insights to erecting an array of checks and balances that promised to prevent the emergence of an unresponsive and unaccountable national government.

Chief among these checks were to be the State governments, whose co-equal role was expressly acknowledged in the Tenth Amendment to the Constitution, and whose sweeping jurisdiction and popular support were presumed sufficient to resist Federal encroachment. The Federal government, by contrast, was given certain expressly enumerated powers and denied all others. From this balanced federal-state relationship, predicated on dual sovereignty, there was to come a healthy tension that would serve as a bulwark against any concentration of power that threatened the freedoms of the people.

Two centuries later, it is clear that these checks and balances have been dangerously undermined. The States have witnessed the steady erosion — sometimes gradual, sometimes accelerated — of their sphere of responsibility. Today, there is virtually no area of public responsibility or private activity in which Federal authorities do not assert the power to override the will of the people in the States through Federal rules, rulings, and enactments.

*Our freedoms are no longer safe when they exist only at the sufferance of Federal legislators, Federal courts, and Federal bureaucrats.*

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The people of the States seek to regain control of their own destiny, and they have entrusted State leaders with the responsibility for achieving this fundamental reform in our governmental system. We are pledged to fulfill this promise by restoring to the States and the people the prerogatives and freedoms guaranteed to them under the Constitution.

### Excesses and Abuses by the Federal Government

We begin by candidly enumerating, as did our forebears, the grievances of the people who have turned to us for leadership:

- The Congress and Executive Branch, regardless of the party in control, have imposed ever-growing numbers of mandates, regulations and restrictions upon States and local governments, removing power and flexibility from the units of government closest to the people and increasing central control in Washington.
- Federal action has exceeded the clear bounds of its jurisdiction under the Constitution, and thus violated rights guaranteed to the people. The government of "limited, delegated powers" envisioned by the framers has become a government of virtually unlimited power.
- Federal courts have largely refused to enforce the guarantees of the Tenth Amendment, which reserves to the States and the people powers not expressly delegated to Congress. Most Federal court decisions have refused to recognize any meaningful constitutional limit to congressional power.
- In holding that the States must rely on political processes in Washington for their protection, the Federal courts have permitted Congress and Federal agencies to treat the States as though they are merely part of the regulated community, rather than as sovereign partners in a federal system of shared powers.
- Federal mandates have imposed enormous costs on States and localities, draining away resources and preventing State governments from addressing pressing local needs such as education, law enforcement and transportation.<sup>1</sup>
- With a persistent budget deficit, the Federal government has forced the burden of funding Federal programs onto State and local governments, resulting in increased taxes at the State and local level that citizens do not want.

<sup>1</sup>The U.S. Conference of Mayors has estimated that unfunded federal mandates consume about 12 percent of locally raised revenues.

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- Federal mandates and preemptive measures deprive State and local governments of the ability to set priorities, thereby diminishing their ability to allocate resources and tailor programs in the way best suited to meet local needs.
- Federal laws impose "one size fits all" requirements that often make no sense in light of local conditions and force States and localities to waste limited resources.
- The Federal government's failure to meet its own responsibilities has forced States to incur billions of dollars in excess costs.
- In addition to laws passed by Congress, States and localities are burdened by mushrooming numbers of complex, lengthy, and incomprehensible regulations, imposing enormous costs of compliance. These regulations are drafted by unelected bureaucrats who are not accountable to the people.<sup>2</sup>
- Congress has not only assumed ever-growing power for itself, it has thwarted many State initiatives to deal with local problems. Federal preemption of State and local laws has reached unprecedented proportions.<sup>3</sup>
- Congress has refused to make itself subject to the same laws that it has imposed on States, localities, and citizens, granting itself exemptions from labor, civil rights, and other laws that States, localities, and citizens must obey.
- Congress has failed to show a capacity for self-regulation in its relations with the States, falling thus far even to pass reform measures to restrain the growth of unfunded mandates.

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<sup>2</sup>The Congressional Budget Office estimates that regulations imposed on local governments during 1983-1990 cost up to \$12.7 billion.

<sup>3</sup>Of 439 explicit preemptions of State and local laws enacted by Congress in the 202 years from 1789 to 1991, 233 (53%) were enacted in the 21 years between 1970 and 1991.

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### The Effects of Centralized Power in Washington

The effects of the centralization of power in Washington are evident in the acute frustration and feeling of powerlessness among the voters, which was manifest in the recent congressional elections.

#### *I. Decisions affecting the lives of citizens have been placed beyond their reach.*

As Federal institutions -- Congress, the Federal courts, and the Federal bureaucracy -- have seized ever-greater responsibility for determining policy on issues of importance, the ability of citizens to influence the course of government has been diminished. Decisions made through government processes at the State and local levels are far more accessible to citizens than decisions made in Washington. Citizens increasingly feel powerless to shape their future because fewer policy choices are made at levels of government within their grasp.

#### *II. Centralized power in Washington is denying to the people the responsiveness and accountability that are essential for republican self-government.*

The hallmark of self-determination is government that is responsive and accountable to the people. The appetite for power on the part of Federal institutions has allowed a centralized government to operate often without the support of the people and in disregard of their will. This has undermined the very premise of representative democracy.

Citizens possess little or no control over the actions of Federal courts and the Federal bureaucracy, both of which have assumed dramatically broadened policy-making roles in recent decades. In the recent elections, Americans signalled their determination to reassert control over the Congress, which has long been largely insulated from accountability to the voters by reason of procedure, perquisite, and distance.

The problem is not that the Federal government invariably pursues the wrong aims or invariably fails to attain those aims which it pursues. Examples abound in our history where the exercise of Federal power has been wise and unwise, effective and ineffective, constructive and destructive.

The problem, fundamentally, in a country of this size and diversity, is the inherent unaccountability of a *national* legislature and bureaucracy. Governments at all levels can and do make mistakes that call for correction. Such corrections, however, are more easily accomplished at the State and local levels, where voters can more easily hold the responsible decision-makers accountable. When decisions are made at the Federal level, the actions that aggrieve people in one State typically are made by officials elected from other States, or by officers who are not elected at all, and over which the affected citizens thus have no real political influence.

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**III. *The people's acute frustration and anger today are attributable in part to the growth of Federal power at the expense of State and local governments.***

There has been much commentary about the current popular mood of profound discontent and cynicism. Some apologists for the *status quo* have sought to blame the people for having unreasonable expectations. This is the ultimate insult to an electorate that has seen the value of its franchise systematically diminished by the transfer of policy-making powers away from accountable State and local officers to the aloof power structure in Washington.

*The current, cresting feeling of frustration and futility among voters is not an inexplicable phenomenon. To the contrary, it is a direct and wholly predictable consequence of the shift of government power to institutions beyond the grasp of the people.*

The problem is not only that decision-makers in our nation's capital are remote and unaccountable. It is that their actions in many cases have rendered State and local officials unresponsive as well. Officials at the State and local levels often cannot meet the expectations of the people who elected them because of an inhibiting web of Federal laws, regulations, court orders, administrative interpretations and edicts. Thus, there is a widening gulf between the voters' demands for change and the ability of State and local leaders to surmount Federal obstacles and effect that change.

**The Means of Correction**

Recognizing the imperative of reform to restore balance in federal-state relations and empower citizens, we turn our attention to the question of remedy.

In *The Federalist No. 46*, James Madison commented on the primary means by which the States would correct any intrusion of Federal power upon their prerogatives. He wrote:

[A]mbitious encroachments of the federal government on the authority of the State governments would not excite the opposition of a single State, or a few States only. They would be signals of general alarm. Every government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combinations, in short, would result from an apprehension of the federal, as was produced by the dread of a foreign, yoke. . . .

The concerted action by the States envisioned by the Father of our Constitution is now required.

Concerns about the condition of federal-state relations have been voiced throughout our Nation's history. But, today, there is a unique need — and a unique opportunity — for reform:

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- Never has there been a broader consensus among the States -- and among the elected officials and voters in the States, regardless of party -- that the Federal government has pervasively exceeded its constitutional bounds and must be restrained.
- Never has there been a national debate over federal-state relations directed exclusively to the merits of the question, and neither obscured nor diverted by divisive policy disputes that pit region against region or State against State.
- Never have those wielding Federal power until the recent election been so imperious in their assertion of Federal supremacy and so out of step with the majority philosophy and views of the American people.
- And never has there been such a profound change in national leadership, bringing into Federal office persons disposed to support bold reform to restore the States and the people to their rightful place in our constitutional system.

In short, this is an historic moment of opportunity -- an occasion when the political climate makes possible fundamental change in the federal-state relationship.

While congressional cooperation is essential in order to achieve this structural change, the leadership for lasting reform must come from the States.

### A Common Agenda of Reform

Recognizing the urgency of the need and the uniqueness of the opportunity for reform, we declare our common resolve to restore balance to the federal-state relationship and renew the framers' vision. An agreed agenda for concerted action to achieve this objective is essential. Among the principal elements of this common agenda of reform are these:

#### *1. Mobilizing the People to Reclaim Their Freedom*

The people of the United States, and of the several States, are frustrated and disillusioned by the decline of responsiveness and accountability in our political processes. This feeling of powerlessness has been manifested in calls for a host of political reforms, including greater direct democracy, term limitations, and various campaign reform proposals. Yet, too few of our citizens appreciate the central role that the erosion of State and local prerogatives, and the emergence of the Federal bureaucratic, judicial and legislative leviathan, have played in their loss of political liberty.

*We are resolved to bring these developments and consequences urgently to the attention of the people of our States, and all Americans. Only when our citizens fully appreciate the practical and pervasive impact on their daily lives of federalism's decline will they demand change.*

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## **II. *Litigation to Enforce the Tenth Amendment***

The central purpose of the United States Constitution was to establish a federal government of expressly delegated and therefore limited powers. The powers reserved by the States were, in Madison's words, "numerous and indefinite," extending "to all objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the States."<sup>4</sup> The framers of the Bill of Rights specifically designed the Tenth Amendment to protect the States from encroachments by the Federal government on their reserved powers.

In *The Federalist*, No. 39, Madison recognized that the Constitution entrusts to the Supreme Court alone the responsibility to police and to nullify Federal encroachments on the reserved powers of the States and that the Court's faithful exercise of that responsibility would be "essential to prevent an appeal to the sword and a dissolution" of the Constitution itself. The Supreme Court, however, has failed to enforce the constitutional boundary between the respective powers of the Federal and State governments. For over half a century, the Federal government has steadily extended its rules and regulations into virtually every area of public and private life, and the Supreme Court has acceded to each succeeding usurpation.

In recent years, the Supreme Court has broadly abandoned its constitutional role, ceding to Congress itself the responsibility to determine the extent of Congress' own legislative power. The decision of the Supreme Court in *New York v. United States*, 112 S.Ct. 2408 (1992), while encouraging in its indication that there is some remaining vitality to the Tenth Amendment, nevertheless demonstrates the exceedingly modest nature of the limitations on Federal action that the Supreme Court is currently willing to enforce.

Still, because nothing less than the constitutionally guaranteed freedom of Americans to govern themselves is at stake, usurpations by Federal legislators and bureaucrats of powers not delegated to them under the Constitution must be resisted with whatever tools are at hand and in whatever forums are available. Until the Constitution is amended to give the States additional powers to protect against Federal encroachment, recourse to the courts is the only available means of relief.

*We are therefore resolved to pursue energetically in the Federal courts Tenth Amendment challenges to Federal encroachments into the domain of the States.*

## **III. *Restrictions on Federal Mandates and Other Legislative Initiatives***

Across the country, governors, mayors, county officials, and state legislators of both parties are working together to obtain relief from burdensome Federal mandates. This bipartisan State-local partnership has created a potent force for change, and offers hope for resolving a broad array of problems arising from Federal encroachment upon State and local responsibilities.

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<sup>4</sup>*The Federalist*, No. 45.

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Foremost among these problems is the displacement of State and local priority-setting and the imposition of trickle-down tax increase pressure as a result of unfunded Federal mandates. While unfunded obligations are most objectionable, other Federal mandates also impose unacceptable burdens by treading upon areas of traditional State and local responsibility, by imposing onerous conditions on Federal grants unrelated to the purpose of the Federal funding, and by commandeering the States and local governments for the administration of Federal programs and policies.

A majority of the U.S. House of Representatives and U.S. Senate co-sponsored mandate relief bills during the 103rd Congress. President Clinton, himself a former governor, has repeated his intention to work with governors and other State and local officials to end the proliferation of new mandates. Nevertheless, Congress has continued to pass, and the President has continued to sign, legislation that imposes unfunded mandates on the States and on local governments.

Although slightly different forms of the Federal Mandate Accountability and Reform Act of 1994 were passed by overwhelming bipartisan majorities of the Senate Governmental Affairs Committee and the House Government Operations Committee earlier this year, this legislation was denied consideration on the House and Senate floors. The recent congressional election results are cause for optimism that mandate relief legislation will soon be enacted.

The legislation offered earlier this year requires the Congressional Budget Office to prepare an estimate of the costs of new mandates to States and local governments if the total cost exceeds \$50 million a year. It also erects a series of impediments to new mandates, and makes Congress more accountable for those that are imposed. Through these mechanisms, State and local officials would enhance their political and procedural leverage to defeat unwanted, and especially unfunded, mandate proposals.

While this year's proposed legislation is the most stringent and effective mandate relief bill ever considered by Congress, it is clear that States and local governments want even more far-reaching change. Restoring balance in state-federal relations is perhaps the most important national reform that could be undertaken by the 104th Congress. From health care to welfare reform to the environment, Congress should work in partnership with the States to attain our mutual goals of empowering State and local governments and achieving the efficient, orderly reduction of the Federal government.

*In cooperation with our respective State congressional delegations, we are resolved to promote prompt and dramatic mandate relief during the next Congress.<sup>2</sup>*

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<sup>2</sup>Attached as Appendix A is a partial list of federalism-related legislative initiatives suggested by Governor Voinovich of Ohio.

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#### ***IV. A Conference of the States to Forge Consensus on Structural Reforms***

While the recent changes in Washington have raised hopes for prompt action to restore balance to the federal-state relationship, the need for an agreed agenda and concerted action by the States is clear.

A Conference of the States would enable State representatives to consider, refine and adopt proposals for structural change in our federal system. The proposals so adopted would comprise the States' Petition, which would be a powerful instrument for arousing popular support and promoting change in Congress and State legislatures.

Throughout our history, the States have faced this dilemma in resisting the growth of Federal power. On the one hand, questions regarding the scope of Federal government jurisdiction are resolved by Federal courts, which generally have favored more expansive interpretations of Federal power. On the other hand, the States' recourse to the constitutional amendment process has been impeded by Congress' control over the initiation of constitutional amendments. Use of the "convention" method of amendment that is available through direct State action has never been used due to fears that a constitutional convention called by the States would become a "runaway" assemblage that would seek to rewrite our entire national charter.

At the Conference of the States, a variety of proposed constitutional changes could be put forward that would enable the States to become full partners again in a dynamic federal system premised on dual sovereignty.

One possible amendment would provide constitutional protection against unfunded mandates by barring enforcement of Federal legislation that imposes obligations on the States without funding and legislation that imposes conditions on Federal assistance not directly and substantially related to the subject matter of the assistance.

Another proposed structural reform would allow 3/4 of the States to initiate constitutional amendments, and to repeal Federal legislation or regulations that burden State or local governments, subject to congressional authority to override the State-sponsored measures by a 2/3 vote of both houses.

The Conference of the States could also adopt an amendment that would make clear the Supreme Court's duty to entertain and resolve controversies between the States and the Federal government arising under the Tenth Amendment.

To be effective, the Conference of the States must focus on fundamental, structural reforms, such as those described above and others, rather than transitory policy issues or special-interest concerns. It must be scrupulously bipartisan. And it must be pro-active, concentrating the influence of the States and focusing public attention nationally on the relevance and importance of federalism.

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*We are therefore resolved to promote in our respective States and nationally the convening of the Conference of the States, and to urge passage of Resolutions of Participation in our respective State legislatures during the 1995 legislative session.\**

### Conclusion

As future chapters are written in the history of this great American experiment in enlightened self-rule, no single contribution can be more important than to preserve the vital checks and balances that prevent the centralization of governmental power and thus stand guard in defense of our liberties. To achieve this essential goal, the leadership must come from the States and the people in the States.

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\*For detailed information regarding the Conference of the States proposal, see Appendix B.

## Why the Governors Can't Decide What Reforms They Really Want

By Paul Offner

IT'S BEEN a topsy-turvy year for welfare reform—Democrats attacking Republicans for not being tough enough on work, for instance—and nowhere have things gotten stranger than among the nation's governors.

These men and women hold the key to this year's welfare reform effort as they did in 1988 when Govs. Bill Clinton of Arkansas and Michael Castle of Delaware led the campaign to enact the Family Support Act. But this year the governors are split on the subject. In fact, on the basic issue of whether welfare should remain an entitlement, they have flip-flopped so often that it's not clear they know what they want.

On Nov. 22, the Republican governors met in Williamsburg, Va., to discuss unfunded federal mandates on the states, like welfare a prime target of the promised Republican revolution. After some discussion, they endorsed a policy paper written by Ohio Gov. George Voinovich, which stated that imposing a ceiling on federal aid for programs like welfare—instead of letting such aid rise and fall with changing economic times—would constitute the single most burdensome unfunded mandate on already strained budgets.

By January, however, all that had changed. Meeting in Washington, the Republican governors now endorsed limits on federal aid and were unanimously in favor of block grants—annual lump-sum payments to each state. Governors were willing to take less in federal funds if they were given the ability to tailor programs to local circumstances and didn't have to "come to Washington on bended knee and kiss somebody's ring to get a waiver," said Wisconsin's Tommy Thompson.

No more than nine weeks had passed since Williamsburg. Rarely even in politics, have so many changed their position so much so fast.

The governors' switch is all the more remarkable since they have a lot to lose from the new policy—no least an end to adjustable federal funding—and relatively little to gain. Current law already gives them a lot of flexibility in administering welfare programs, and for the last two years, the Clinton administration has been

tripping over itself to give them even more (25 waivers of federal rules have been approved so far).

So why did they go for block grants? The Republican governors were hijacked by two wily veterans, Wisconsin's Thompson and John Engler of Michigan. Without bothering to get the endorsement of the National Governors' Association, of which Thompson is vice chairman, these two brashly went ahead and negotiated a block-grant deal with House leaders.

And for a while they got away with it. Notwithstanding the Williamsburg resolution, the other governors were not about to publicly criticize Thompson and Engler, particularly on a position that had the support of the new House speaker Newt Gingrich.

Eventually, though, the criticisms started to mount and Thompson had to backpedal. Appearing before the Senate Finance Committee on March 8 along with Vermont Gov. Howard Dean, a Democrat, Thompson said he was still for block grants but with conditions. For instance, federal funding should increase with inflation, he said. Also, there should be an adjustment to reflect "changes in the cyclical economy and for major natural disasters." Furthermore, federal payments should increase with the "demand for services." In other words, he was all for a cap as long as it's adjusted every time costs go up—which is to say, not much of a cap.

The other governors had plenty of reason to be uneasy with the Thompson-Engler team when it came to block grants. For one thing, most of them are less conservative than the two Midwesterners (Thompson favors limiting welfare to two years). Moreover, their states are different. Both Wisconsin and Michigan have booming economies. Consider this: If welfare block grants had been approved in 1987, before the last recession, the states as a whole would have lost 29 percent of the federal funding they actually received in 1993. Only two states would have ended up ahead, Wisconsin and Michigan.

Part of the explanation for the governors' strange behavior is the growing conviction among some of them that reforming welfare is easy, so there is no need to worry about federal funding. "It's that simple—just do it," says Engler. Not much fi-

nancial risk, either—reform must save money," he adds.

One of those who has taken Engler's advice seriously is George Pataki, the new governor of New York. Within weeks of taking office, he had a plan to put half the state's welfare mothers and all its home relief recipients to work within two years. How he's going to do this is a mystery; it will be expensive and will face strong opposition from unions and advocacy groups. But Pataki told the New York Daily News that workfare would cost less than welfare; even though the evidence suggests otherwise. In the 1980s, Mayor Ed Koch worked tirelessly to enroll New York City's welfare recipients in workfare positions and he never got much above 10,000. Now Pataki says in two years he will put 200,000 to work. And he'll save money doing it.

Pataki's plan is modest compared to that proposed by Massachusetts Gov. William Weld (subsequently modified by the state legislature). After 60 days on the rolls, under Weld's plan, recipients would have to go to work. But this won't be a problem, says Weld, because 90 percent of these individuals—50,000 welfare mothers—will get private jobs. Result: The Massachusetts caseload is cut in half, and the state saves lots of money.

Similar plans have been proposed in both Virginia and Maryland. Last Monday, Virginia Gov. George Allen signed legislation requiring that recipients go to work within 90 days of coming onto that state's welfare rolls. By 1999, when the plan is fully phased in, the state will have saved \$130 million, says Allen.

If welfare reform were this easy, we wouldn't need federal legislation. States could just follow the leads of these three governors and put their welfare recipients to work, and—presto—the job is done. The only question is why we didn't think of this 20 years ago. The sad part is that the Republican governors are in a strategic position to influence this year's welfare debate, and there's a real need for the practical common sense that comes from having run these programs. But the governors are in a daze, not sure whether to follow Thompson and Engler or to heed the advice of every expert on the subject as well as their own welfare directors: Putting recipients to work is expensive, and they will need adequate federal funding to pull it off.

Paul Offner is a legislative assistant to Sen. Daniel Patrick Moynihan (D-N.Y.)