

## **Bush Administration Attacks on State Programs**

The debilitating economic policies of the Bush Administration on the national economy has demonstrated, through its “trickle-down economics”, the struggling conditions of the American states and her people. Cuts by the Federal Government to the states negatively affect the ability of states to effectively fund programs, particularly healthcare and education programs dependent on federal matching funds. Programs mandated by the Federal Government for the states to follow, but without additional federal funds to implement the new mandates, also cause ripple effects in state coffers, which, in turn, often cause the state to be held in violation of the unfunded mandates or, as is often the case, causing states to have to pull from other existing programs to make up the difference. Additionally, Federal stipulations placed on funding, such as the Federal Government requiring a state to adhere to certain federally-imposed standards before being able to receive federal funding, have an affect on a state’s ability to govern based on its own standards and requiring it to change standards to a Federal one in order to receive funding. Bush Administration actions to rescind money already committed by a state to its budget to fund particular programs leaves states in non-session time periods (interim periods) scrambling to find funds, pull funds from other committed projects, or ending programs due to lack of funding availability.

Federal cuts also threaten to harm efforts to help laid-off workers in the states. President Bush is asking for an additional \$474 million cut in work-force services nationwide. Arkansas Governor Mike Beebe said of the cuts in Federal funding for worker education, “The timing of this rescission couldn’t be worse. Amidst predictions of national economic downturn, the federal government cuts the very kind of work-force development that is vital to spurring the economy.” In 2007, the U. S. Department of Labor cut \$4.3 million dollars from the funds Arkansas receives to train workers. U. S. Sen. Mark Pryor, D-Ark., said the White House supported the cuts over objections from the Senate. “The buck stops at President Bush’s doorstep in regards to job-training cuts,” Pryor said. Senator Pryor also remarked, “It is amazing how out of touch the president and his administration are with working Americans.” Governor Beebe contends, “The moneys depleted for these work-force-development programs in Arkansas could be paid for by what we are spending in Iraq in the next 24 minutes” adding, “I support our troops; that is not an issue. But the Bush administration is rescinding funds for programs that help our returning veterans get job skills to re-enter the work force, helps workers who’ve been laid off gain new skills for new jobs, and helps the underemployed and unemployed obtain better jobs and get off taxpayer assistance.”

The National Conference of State Legislatures is lobbying Congress to pass a bill prohibiting federal pre-emption of state laws. Congress has long tried to dictate what states should do – with varying degrees of success. They’ve approved these edicts, oftentimes by threatening to withhold federal money from states that don’t comply. A few of those states would occasionally fight those mandates for a period of time, only to succumb later to receive federal money. “The NCSL is troubled by the growing trend in Congress, the federal agencies and now the United States Supreme Court to pass legislation, promulgate rules and render decisions that have a substantial, detrimental impact on states because of their intrusively preemptive nature,” says Utah House Majority Leader David Clark examining a proposal on whether patients hurt by defective drugs and medical devices would no longer have the ability to seek compensation for their injuries. The Utahan, who serves as a standing committee chairman

for the NCSL, testified before Congress recently on its actions and ramification of those actions on states, specifically on a proposed federal effort to prohibit lawsuits against drug manufacturers by patients who are hurt by defective drugs or medical devices.

Meanwhile, states across the nation have joined in a cooperative effort to identify unfunded mandates from Congress. Its count, predictably, is much higher than the number put out by the nonpartisan Congressional Budget Office (CBO). The CBO says there are 10 such unfunded mandates since 1985, totaling \$68 million dollars; with most of those being within the past five years, which include:

- a provision preempting state taxes on premiums for prescription drug coverage contained in the Medicare Prescription Drug and Modernization Act of 2003;
- a preemption of state authority to tax certain Internet services and transactions (2004);
- eliminating federal matching funds for administrative expenses funded by incentive payments to states as it relates to the child support enforcement program (2006);
- a requirement that all government entities, including state and local governments, withhold 3 percent on certain non-essential government payments for property or services (2006);
- a preemption of state authority to tax certain Internet services and transactions (2007);
- a requirement that public transportation agencies and rail carriers implement various security measures and vulnerability assessments, and institute training programs and background checks for certain employees (2007).

The NCSL, in its count, uses a broader definition of an unfunded mandate. Its list cites \$131 billion worth of unfunded mandates from fiscal 2004 through fiscal 2008. Its list includes:

- Establishes a condition of grant in aid.
- Reduces current funds available (including a reduction in the federal match rate or a reduction in available administrative or programmatic funds) to state and local governments for existing programs without a similar reduction in requirements.
- Extends or expands existing or expiring mandates.
- Establishes durational goals to comply with federal statutes or regulations with the caveat that if a state fails to comply they face a loss of federal funds--a condition of grant aid.
- Creates a loss in state/local funds.
- Compels coverage of a certain population/age group/other factor under a current program without providing full or adequate funding for this coverage.
- Creates under-funded national expectations, i.e., homeland security.

Perhaps no issue has had so many states in such a froth and tizzy as the federal REAL ID Act, a federal order for states to develop a national I.D. card. At least eight states, citing various reasons, have refused implementation. Others, including Arkansas, have approved legislation criticizing the law and asking Congress to overturn it or, at the very least, rewrite it to address concerns. Because of the uproar, the Department of Homeland Security has put off its enforcement deadlines several times, most recently until December 31, 2009. Typically, Congress failed to approve the billions of dollars needed by states to implement the law – one of

the three major reasons cited by states in their outright opposition to the law or in their concerns about it. When and if the REAL ID Act is enforced, it carries a big stick: Anyone who doesn't have the federally recognized ID card would be prohibited from boarding an airplane or entering a federal building. Opponents also cite privacy concerns. The federal law requires states to build and maintain a mammoth database of personal information on all applicants. Opponents also note how Congress came to approve such a law in 2005: it was never debated or discussed on the floor of either chamber. Instead, its provisions were tucked, virtually unnoticed except by its authors, into a bill that provided supplemental funds for the wars in Iraq and Afghanistan and for emergency aid to Indonesia following that region's destructive and deadly tsunami.

Some states also are fighting a Bush administrative policy last year restricting states' abilities to expand the SCHIP health insurance program for children. The Bush Administration said states could expand the program to children in families with incomes of more than 250 percent of the federal poverty line only if the states:

- Can prove that 95 percent of children in families with incomes under 200 percent of the poverty line are covered by Medicaid, SCHIP or private insurance.
- Establish cost-sharing that is almost equal to competing private plans.
- Ensure that children have been without insurance for at least a year before enrolling them in the plan.

Critics' complaints are numerous, and they have the ears of congressional Democrats who are considering legislation that would nullify the Bush move. They contend that the Bush change is a regulation and, therefore, requires a period for public comment. Eight states have sued the Administration for that reason. Critics also contend that the 95 percent threshold is an impossibility and that Bush officials haven't yet offered the measures that will be used to gauge whether the 95 percent standard has been reached. Bush Administration officials have said the change would ensure that SCHIP covers the lowest-income children before coverage is extended to children in families with higher incomes. They also don't want working families to replace their current private health insurance with the SCHIP program.

Nobody has ever said law-making is a pretty process. It's has been compared to sausage-making. The process can be even more of a grind when state governments are at loggerheads with the federal government, a state our Union has been increasingly forced into under economic conditions of the Bush Administration.