

MEETING ON FEDERALISM

The Issue

American federalism is built on the mutual trust and respect of federal, state, and local governments. This produces a partnership based on the voice of the people. Our governments work for the people through elected officials with highly decentralized methods of administration, and management, whereby state and local governments actually run most government programs. The system also demands great flexibility to adjust to new priorities, policies, and economic circumstances.

These principles are now being seriously eroded by a philosophy that one size fits all, that federal elected officials know better what is right for 50 very different states and 39,000 local governments.

Our system of government is being eroded by an increasing separation between those who make the law and those who implement the law. Unfunded federal laws are now being imposed on state and local governments by the federal government and the courts that dramatically distort locally-determined priorities.

The differences are not over goals and objectives, but methods, procedures, and resources to meet the goals. Nearly all elected officials strongly support national goals for clean air and water, safe highways and workplaces, voting rights, and specific attention to the poor and those with special needs. However, they differ substantially on methods and what level of government should fund programs.

The strong national influence of non-elected public and special interest groups, the cost of campaign finance, and instantaneous sound-byte journalism only add to the current problems of

federalism, especially the unique partnership. The basic tenants of federalism are also being seriously challenged in this era of a real freeze in spending by all governments. This is increasing the shifts to lower levels of governments and "credit card federalism."

If Congress can no longer pay its fair share of the governance partnership, the payment issue cannot be left to the courts to referee state and local cost allocations. This is now breeding resentment and rebellion against the original lawmakers -- Congress itself.

State and local resistance is now focused on unfunded federal mandates with an emphasis on "unfunded." There is a new House Caucus on unfunded mandates with 84 members that recently and successfully insisted on a cost-benefit analysis for EPA mandates. This effort is supported by every state and local organization of elected officials. Congress cannot ignore such a coalition!

Now is the time to convene a meeting of the elected members of our government to discuss these problems and unfunded mandates in particular.

Purpose

The purpose of the meeting would be to adopt a concept that could be enacted as a bill that would do the following.

1. Establish a consultation process with state and local officials that Congress would follow in enacting legislation. While, this obviously could not be enforced, it would help to change the "culture": of Congress. It could be similar to the mandates executive order that was released by the administration. This consultation process could become the preamble of a mandate bill.
2. Provide guidelines to significantly reduce the number of unfunded mandates. It could include the following provisions:

- a. Language that would state that Congress would no longer enact mandates without the appropriate revenues.
 - b. Requirement that CBO would provide a cost estimate on all mandates above e.g. 25 million. There would be a point of order on the floor of the House and Senate in there was no cost estimate.
 - c. Establishment of a paco tracking system for mandates whereby CBO would provide a baseline on the cost of mandates and Congress could only enact additional mandates if they were to repeal others of equal costs.
3. The legislation would also include clarifying language that state and local elected officials and their organizations may consult with federal agencies on proposed legislation or regulations without violating the federal Advisory Committee Act or the Administrative Procedure Act.

The intent would be to have a concept paper on this proposed bill which would be the basis of the meeting. It would be hoped that an agreement would be made in the meeting on the broad parameters of the legislation coupled with a timeframe to enact the proposed legislation.

Participating, Convening, and Timing

The 2-4 hour meeting would be convened jointly by the President and Congressional leadership on a bipartisan basis. It could be held late spring or early summer, but prior to the July NGA meeting. The President, Senator Mitchell, Senator Dole, Speaker Foley, Minority Leader Michael, and the chairman and ranking minority members of the two Government Operations Committees, which have jurisdiction over the legislation would be involved. Finally, it would include two representatives of each of the seven state and local organizations.

UNFUNDED MANDATES MARCH 1, 1994 MEETING: AGENDA

I. INTRODUCTION & OVERVIEW (JACK & CAROL)

II. NPR RECOMMENDATIONS (KUMIKI & PAUL)

FSL01: IMPROVE DELIVERY OF GRANT PROGRAMS

LEGISLATION THAT ALLOWS BOTTOM-UP
CONSOLIDATION OF FUNDING (UNDER REVIEW BY NPR)

CONSOLIDATE 55 CATEGORICAL GRANT PROGRAMS (UNDER
REVIEW BY NPR).

ESTABLISH ENTERPRISE BOARD (COMPLETE 9/93)

FSL02: MANDATE RELIEF

WAIVER LEGISLATION (IN PROGRESS)

EXECUTIVE ORDER ON UNFUNDED MANDATES
(MOST RECOMMENDATIONS ADDRESSED IN E.O. 12866 &
12875)

OTHER RELEVANT RECOMMENDATIONS: REINVENT ACIR (FSL06)

III. NGA REQUEST FOR CONFERENCE (MARCIA HALE)

MEET ABOUT PROCESS OR LEGISLATION?

WHO ORGANIZES & RUNS?

IV. NEXT STEPS

MEMO TO POTUS?

THE WHITE HOUSE
WASHINGTON

February 25, 1994

MEMORANDUM FOR THE REGULATORY POLICY ADVISORS
(SEE ATTACHED DISTRIBUTION LIST)

FROM: JACK QUINN *JK/ksa*
CAROL RASCOCK *CR/ksa*

SUBJECT: UNFUNDED MANDATES

Roz - Here's
another
copy --
just in case
you don't
find your
copy.
ksa

The Domestic Policy Council and the Office of the Vice President will be convening a working group to address the unfunded mandates issue. If your office is interested in actively participating in the group, please plan to attend (or send a designee to) the first planning meeting, which is scheduled for Tuesday, March 1, 1994 (at 1:15 p.m.) in the Vice President's Ceremonial Office.

Please feel free to call Kumiki Gibson (ext. 6-7020) if you have any questions about the issue or the meeting itself.

Thank you.

Attachment

cc: Greg Simon
Elaine Kamarck
Kumiki Gibson
Paul Weinstein
Steve Warnath

DISTRIBUTION LIST

Leon S. Panetta
Director, Office of Management and
Budget

Laura D'Andrea Tyson
Chair, Council of Economic Advisers

Robert E. Rubin
Assistant to the President for
Economic Policy

Carol H. Rasco
Assistant to the President for
Domestic Policy

Anthony Lake
Assistant to the President for
National Security Affairs

Dr. John H. Gibbons
Assistant to the President for
Science & Technology

Marcia L. Hale
Assistant to the President for
Intergovernmental Affairs

John D. Podesta
Assistant to the President and
Staff Secretary

Bernard Nussbaum
Assistant to the President and
Counsel to the President

Kathleen McGinty
Deputy Assistant to the President and
Director of White House Office on
Environmental Policy

Sally Katzen
Administrator of OIRA

Carol: is this agenda o.k.? Do you want to add anything? Pqu

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This is fine. Roy: I still need a list of meeting participants - Also - did I give you the copy of NGA summary on unfunded mandates?

Office of the Vice President

Legal/Administrative
Old Executive Office Building
Washington, DC 20501
(202) 456-7022



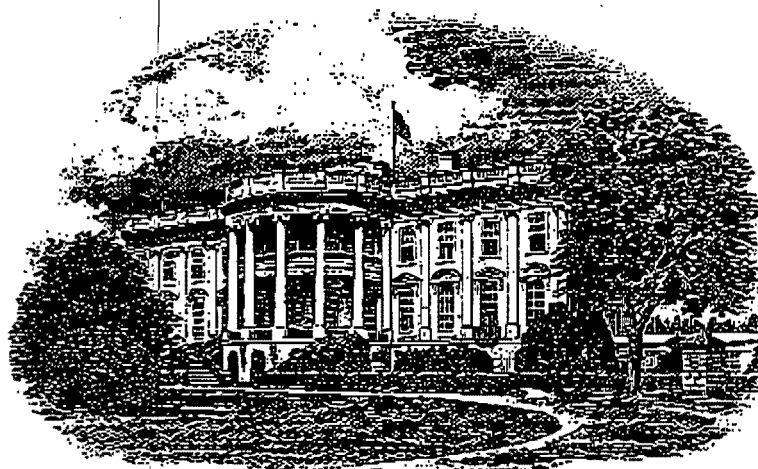
TO: Carol Rasco

FROM: Kumiki Gibson

DATE: 02/24/94

number of pages including cover: 2

COMMENTS: Please call me as soon as possible
with your comments. This needs to
go out today. Thank you.



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CAROL RASCO

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