Office of State-Based Initiatives Annual Report

2015

Federal overreach has stymied creative government solutions and stunted private sector growth. Innovative solutions to provide effective and efficient services will come from the states. Decreased federal regulation will lessen burdens on employers, families, and individuals and promote economic opportunity.

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Executive Summary

States need more flexibility to implement efficient and effective services as opposed to one-size-fits-all programs. Furthermore, federal regulations need to be curtailed in order to decrease the regulatory burdens employers face to encourage spending on hiring and investment. Also, federal regulations affect the everyday life of Hoosiers through the increased cost of goods and services. A decreased federal regulatory burden on employers could open up opportunities for economic mobility and increased investment.

In order to promote flexibility and innovative solutions, many federally funded programs should be block granted to the states. This would allow states to develop new programs to more effectively serve the needs of their citizens instead of waiting for permission to innovate from a distant federal government. Not only will citizens be able to benefit from better services, Congress will benefit from being able to concentrate on national matters.

Federal laws and regulation have impeded economic growth and discouraged employers from hiring and investing, and new companies from starting in the first place. Despite Congressional attempts to limit administrative authority to promulgate rules, the cascade of expensive and expansive rules continues. Federal regulations impact nearly every facet of an individual's life, and result in higher costs, stagnant paychecks, and less opportunity. Increased freedom for all Hoosiers to innovate will encourage economic growth and promote economic mobility.

Think tanks, citizen activists, and individuals have great ideas that could revolutionize the way government works for its citizens. In "Proverbs from Plymouth Pulpit," Henry Ward Beecher stated that "[l]iberty is the soul's right to breathe, and, when it cannot take a long breath, laws are girdled too tight. Without liberty man is [unconscious]." Fewer strings attached to federal funds and decreased federal regulation will provide Indiana employers, families, and individuals the liberty needed to innovate, create, and prosper.

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INTRODUCTION

Despite decades of promises that more federal spending and regulations would fix the problems facing the nation, recent polling suggests the opposite. A majority of Americans believe that the country is heading in the wrong direction[1] and opportunities to succeed in life are not as good as those of their parents' generation.[2] These pessimistic numbers come despite an increase of federal grants to states from $24 billion in 1970 to an estimated $640.8 billion in 2015.[3] It's clear the top-heavy one-size-fits-all approach to governing that has left the middle class struggling, the country $18 trillion in debt, and years of anemic economic growth has failed.

Meanwhile, states are balancing budgets and providing effective services while holding the line on or even cutting taxes and spending. The successes made in Indiana and other states around the country make it clear that the solutions that are required to turn this country around will come from the states as envisioned by the nation's founders and not by a distant federal government.

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Federalism

The key to providing states with the flexibility and authority to develop innovative solutions is adherence to the principle of federalism ingrained in the Constitution. The founders intended to create tension between the states and the federal government so that neither would have excessive authority over the other.

For decades, all three branches of government in Washington and state governments largely forgot about federalism favoring instead large scale one-size-fits-all prescriptions. In his new book, "Saving Congress from Itself," James Buckley notes that "[o]ver the years, successive Congresses and an accommodating Supreme Court have emasculated federalism to the point where there is virtually no exercise of federal power that the Court will deem unconstitutional."[4] Despite the Congress being granted enumerated powers[5], with the rest being reserved to the states[6], the Supreme Court, starting with *Steward Machine Co. v Davis* in 1937, has interpreted those limited powers to be quite broad indeed. Bolstering Mr. Buckley's point above, Justice Sandra Day O'Connor observed in her *South Dakota v Dole* dissent, "[i]f the spending power is to be limited only by Congress' notion of the general welfare, the reality . . . is that Spending Clause gives power to the Congress . . . subject to no restrictions save such as are self-imposed."[7]

James Madison described the difficulty in setting up a limited government when he wrote in *Federalist 51*, "you must first enable the government to control the governed; and in the next place oblige it to control itself." As a country we have reached the point where the states' failure to check the federal government and the federal government's lack of self-control has led to an $18 trillion[8] unfunded tab to be paid by future generations that had no say in the spending. In addition to federal spending and overreach run amok, studies show expensive and burdensome regulations impede economic expansion.[9] Unfortunately, the cascade of federal regulations shows little sign of letting up despite popular concern about the growth of regulation – a recent New York Times poll showed that 54 percent of Americans believe over-regulation that may interfere with economic growth is a bigger problem than too little regulation.[10]

Undeterred, the Obama Administration recently released its Unified Agenda which includes plans for 3,415 regulations.[11] Included in the Agenda are more than 189 rules that will cost more than $100 million.[12] One example is a proposal to redefine the 'waters of the U.S.' which could allow the EPA to regulate even very small bodies of water on private property.[13]

It is up to the states to work together and with Congress to ensure that the Constitutional structure envisioned by the founders is implemented. To this end, Governor Pence established the Office of State-Based Initiatives (OSBI) in July 2013. By working with other governors and Indiana's Congressional delegation to limit the reach of the federal government, Indiana can bring authority of programs back to the states and other local levels of government.

<u>Block Grant Plans</u>

This report identifies and explains examples of federal government overreach and centralized planning that drive costs and dilute accountability to voters. Federal funding to the states in the form of grants is not free. In most cases, the federal government disperses grants-in-aid for specific programs with specific requirements attached to receiving that funding. Without onerous strings attached Indiana could have the flexibility to innovate and provide better services. Furthermore, federal laws and regulations cause states to incur regulatory costs which increase state budgets.

First, the Affordable Care Act continues to drive costs and regulation in both the private and public sectors. In the public sector, states would be better served by receiving healthcare funding in block grants in order to choose the best program for each state. For example, Indiana could focus on consumer driven health plans while another state might institute a single payer system.

Second, education grants ought to be block granted in order to increase state and local control over education funding. Indiana received more than $627 million from the federal government for elementary and secondary level programs in 2013.[14] However, while federal funding represents less than 1/10th of state appropriations, federal funding comes with strings attached that influence education policy, and waivers are required to pursue state and local priorities. In order to provide families with more choices for their children's education, Indiana needs more flexibility.

Third, block grants could trim costs at the Indiana State Department of Health (ISDH). Delays in federal approvals not only impact ISDH's ability to serve, but also affect families' ability and willingness to use services. In addition, costs are incurred when a state agency is treated as subordinate to a federal granting agency. These costs accrue when employees answer to the federal agency instead of pursuing state priorities.

Fourth, as mentioned in last year's report, Indiana would benefit from greater flexibility to encourage sustainability in highway spending. Governor Pence recognizes the urgent need to tend to our infrastructure and has prioritized state spending in this area. Because the highway system was completed in the 1990s, continued federal involvement muddies the waters. Therefore, it makes sense to devolve funding and authority to states or for states to be able have the option to opt-out of the current scheme. Furthermore, federal regulations, like Davis-Bacon, raise the costs of projects and Indiana would be able to build and repair more roads with the same amount of money.

Fifth, in the past fifty years, the federal government has spent over $20 trillion in a war on poverty that has not worked. The federal one-size-fits-all approach has led to increased dependency and creates perverse incentives that undermine program goals. States need block grants to have the flexibility to create their own safety net programs that encourage work, education, and do not discourage marriage.

Finally, there are more subtle yet egregious areas in which federal overreach impacts the way in which agencies can fund projects. Many grants that have a match requirement put restrictions on how match funding may be used. The result is that Congress or federal bureaucrats not only tell a state how to use tax dollars coming back to Indiana, but commandeer state funding and require Indiana to spend its own money on federal priorities.

Private Sector Regulations

Indiana has created a welcoming business climate with recent cuts in tax rates, a balanced budget, and AAA credit rating. While Indiana has developed a market structure that encourages growth, in a global economy Indiana is hindered in many ways by burdensome federal laws and regulations. First, the Affordable Care Act continues to be a weight around the neck of business. The cost of providing coverage continues to rise as the law is becoming fully implemented.[15]

Second, the EPA remains an obstacle to economic growth. Often a rule is officially proposed, and months later another compounding rule is proposed. This increases the cost of energy and compliance, and also creates a sense of uncertainty in the marketplace. Companies need to know how to budget the costs of energy whether they are managing a fleet or paying to keep the lights on.

Third, Dodd-Frank has created problems for small businesses especially when they try to obtain loans. Dodd-Frank's legislative intent was to close gaps in the financial systems and prevent another large scale financial crisis. While the consensus is that those are good intentions, the reality is Dodd-Frank has hurt small businesses, families, and individuals, and has made banks that were "too big to fail" even bigger. Furthermore, the Consumer Financial Protection Bureau's attempts to cut back on fraud and discrimination could have the unintended consequence of unnecessarily hurting consumers through higher loan rates.[16]

Finally, the overall level of regulation and the regulatory environment has caused businesses to keep money on the sidelines. Employers need to have certainty so they know what to expect; even bad policies can be planned around. However, the impunity with which the current administration treats the marketplace has kept businesses on edge, which has decreased investment in both people and infrastructure.[17]

BLOCK GRANT PLANS

The federal government disperses grants-in-aid to the states, usually for specific purposes. Some grants, such as the Social Services Block Grant, are more general, allow for great latitude, and are useful across several agencies. However, the vast majority of funding comes with strings attached. Indiana would have more flexibility to innovate and could provide better services to citizens if funding were received without strings.

Health Care

Federal healthcare grants-in-aid, especially Medicaid, put a strain on state budgets in large part because of the high administrative costs. Also, while states are generally responsible for the regulation of insurance within their borders, they are required to enforce federal regulations or lose funding.

Indiana has negotiated with the Center for Medicare and Medicaid Services (CMS) and the Department of Health and Human Services (HHS) for several months to expand the successful Healthy Indiana Plan (HIP) to Medicaid participants. For many, the HIP 2.0 program offers an alternative to the broken Medicaid system.[18] This consumer driven plan would provide citizens with greater access to healthcare and more control over their healthcare decisions instead of being stuck in a system with "no significant improvement in measured physical health outcomes."[19]

While Indiana has received approval of HIP 2.0, that plan might not be the best option for other states; each state should be able to develop solutions of its own. At the state level, successful solutions can be imitated by other states, and lessons can be learned from programs that fail. States have the authority and ability to provide healthcare systems within their borders and a state operated system would be more responsive to citizens' needs.

OSBI Supports:

- Repeal of the ACA and nullification of accompanying regulations. Federal involvement with private insurance markets should be limited and authority over insurance carriers and plans left to the states.

- Congress should pass legislation to offer states the option of a Medicaid block grant[20] opt-out to allow for innovation and to better aid the most vulnerable members of society.

Education

Federal government involvement in education began in 1958 with the National Defense Education Act as a result of fear that students in the United States were falling behind in math and science after the Soviet Union launched Sputnik.[21] Prior to that, education was a state and local matter. In 1980, the first year that the United States Department of Education provides figures, just under $7 billion was appropriated for elementary and secondary education nationally and Indiana received $71 million.[22] In 2013, over $35 billion was appropriated for elementary and secondary education nationally and Indiana's portion was over $600 million.[23] Despite the increase in funding SAT scores in Indiana and nationwide have remained stagnant.[24] While in Indiana ISTEP scores and graduation rates are up, Indiana needs more flexibility to ensure future students have access to better schools.

There are strings attached to the funding that restrict how it may be used. Strings are even attached to waivers.[25] Instead of focusing solely on education, schools and Indiana's Department of Education are required to spend resources on compliance. To the extent that the federal government should be involved in education, the aid that comes to states should again be in the form of block grants. Allowing state and local government officials that are accountable to voters the ability to make decisions on education is necessary to provide the best education system possible. Greater state and local control will give parents a louder voice when it comes to making education policy. Furthermore, as an equitable matter, the federal government's role in forcing education policy far outweighs its investment. The $600 million Indiana receives from the federal government should not dictate how the $7 billion Indiana appropriates is spent.

Additionally, career and technical education (CTE) needs more flexibility that will allow states to aid citizens in obtaining certificates or degrees in fields that will equip them with the skills that today's employers are looking for. For example, the vast majority of Perkins grant funding must go to fund secondary and postsecondary institutions and limits the choices available to an individual. States ought to be free to determine how to best allocate their CTE and vocational dollars in ways that will help people obtain the skills necessary to get jobs. While, the Workforce Innovation and Opportunity Act signed into law in 2014 offers more flexibility, it is still a nearly 300 page bill that has additional regulations that state agencies need to master in order to not run afoul of the law. One option that should be considered is Rep. Paul Ryan's plan to block grant job-training programs. Rep. Ryan's plan, "Expanding Opportunity in America," provides a flexible, state-based solution to job training. Ryan's plan would consolidate some federal job-training programs into a flexible block grant and allow states to request to further consolidate other programs into that block grant. This approach would support states in developing their own innovative job-training programs.

OSBI Supports:

- Block grant federal primary and secondary education funding to the states. This will allow for greater state and local control over the funding which gives voters more control over the funding.
- Block grant vocational and CTE funding to allow states the flexibility to create innovative programs that will help develop the workforce and open up job opportunities. More flexibility would allow the funding to follow the individual to pursue possible non-traditional avenues. For example, with more flexibility an individual could use the money to attend a coding academy or enroll in an apprenticeship program.
- Congress should work with states to clear away federal regulations, requirements, and other impediments to state and local officials.[26] With increased flexibility in spending, Indiana can pay teachers more, provide families with more choices, and expand vocational education.

Environment and Energy

The Environmental Protection Agency (EPA) has authority to regulate air and water pollution. This authority has been broadly interpreted by the Supreme Court, and when the EPA changes and increases regulation, it falls to the states to carry out the specifics of the EPA's regulations. States may defer to the EPA for implementation, but as Richard Epstein and Mario Loyola point out in their essay, "The United State of America," the EPA essentially says to states, "Implement our regulations for us, or we'll do it ourselves, and your constituents will be sorry."[27] While it might be tempting for states facing exorbitant enforcement costs to allow the EPA to enforce its own regulations, the effect of the EPA taking over could be extremely expensive for individuals and employers. One function that the EPA would take over under this scenario is permitting. This is an especially important function since quicker permitting saves time and money for the regulator and the regulated. For example, if the EPA took over the permit process in Indiana it would be especially expensive for individuals and employers in Indiana because the Indiana Department of Environmental Management (IDEM) processes permits with certainty more quickly than any other state. IDEM's permitting speed and certainty allows projects to move forward quickly which saves time and money.

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Moreover, the need to perform tasks for the federal government leads to increased state funding. To carry out federal regulations, the state needs a large staff and resources that are not provided by the federal government. Furthermore, the state has reporting requirements that must be submitted to the EPA. New EPA regulations that require specific top-down schemes require IDEM staff to expend time and energy to understand the regulations and be able to make a plan that is in line with strict EPA guidelines instead of developing solutions that are achievable, based on science, improve human health, and protect the environment. This often takes months of work for IDEM staff, takes staff away from other priorities, is unfunded and is thus a driver of state costs.

OSBI Supports:

- The EPA should set achievable, science-based goals that improve human health and protect the environment. However, states should be in charge of developing the specific solutions instead of the EPA.

Indiana State Department of Health

The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) program provides food deemed healthy by Congress[28] or the United Stated Department of Agriculture (USDA) for pregnant women, women with infants, and young children. WIC is different from Supplemental Nutrition Assistance Program (SNAP) in that the food that may be purchased is from a prescribed food package and participants receive several checks a month. In most states recipients receive checks, but USDA is required to implement electronic benefit transfers (EBT) in every state by 2020.[29] Instead of allowing states to develop and implement their own plan, USDA has requirements that are continually amended and have delayed the implementation process. This has made it tremendously difficult and inefficient for Indiana to implement the electronic benefit transaction (EBT) system, and hurts recipients since the EBT system would encourage them to better utilize their food benefits. The purpose of the program is to help women and children eat healthier food, but federal requirements are getting in the way of Indiana being able to efficiently and effectively serve Hoosiers. Since the state is tasked with administering the WIC program and determines whether one qualifies, it makes little sense to maintain heavy-handed federal oversight.

Another program under WIC in Indiana is the Senior Farmer's Market Nutrition (SFMN) program. This provides individuals over 60 with an income below 185 percent of the federal poverty guidelines with funding to purchase fresh fruits and vegetables at farmers' markets. Of course, there are limitations on what is considered an appropriate fruit or an appropriate vegetable, and the money cannot be spent on purchasing vegetable plants at farmers' markets. That is, the federal government tells seniors on the program, "You can buy a tomato, but not a tomato plant." If the goal of the program is to entice seniors to eat their fruits and vegetables, then it makes little sense to prohibit using program funds to purchase a plant that could provide a continuous vegetable supply for a season. But if the purpose of the program is to subsidize farmers' markets, then that should be made clear and the money should go to the farmers themselves instead of adding layers of bureaucracy. At any rate, those decisions should be made at the state level and not by federal lawmakers.

ISDH also administers preparedness funding that comes from the Center for Disease Control (CDC). One problem with the way the funding is disbursed to the state is that the funding is funneled into silos to be spent in accordance with strict guidelines instead of being available for ISDH to react to public health emergencies.

Costs are incurred by the state when state employees are treated as subordinates by federal granting agency staff. In the past the close relationship between divisions of ISDH and federal granting agencies created conflicts in carrying out state policies. Employees whose positions are largely federally funded are more inclined, under heavy federal pressure from federal agencies such as the CDC, to acquiesce to federal agency requests or direction. These costs are difficult to quantify, but they do take time, energy, and resources away from state priorities.

OSBI Supports:

- States administer the WIC program and can provide better customer service without federal oversight. This program should be block granted to the states and allow the states to determine whether to use EBT and also what are appropriate uses of funding.

- The SFMN should be restructured and, the program should be explicit as to its purpose. Seniors certainly do not need the federal government telling them what they may and may not eat.

- Preparedness funding needs to be block granted to the states. This will allow states to prepare for those public health matters that pose the greatest threat to each state. Furthermore, this will allow states to set money aside for unforeseen health emergencies.

“. . . the federal government tells seniors on the program, ‘You can buy a tomato, but not a tomato plant.’”

Other areas in need of reform

Highway Funding

The federal government’s role in the highway system is largely administrative through the Federal Highway Trust Fund (HTF). The HTF is funded by gas taxes paid by users at the pump, the money is sent to Washington, and, then redistributed back to the states using a formula. Indiana has historically received 97 percent of what it has sent to the HTF while most states average more than a 100 percent return, and this grant program largely represents the federal government’s role in transportation. Over the last decade, the HTF has been running a deficit, and the Congressional Budget Office forecasts that the shortfalls will increase to over $162 billion in the next decade.[30]

While on its face, the federal funding system sounds simple enough, federal laws and regulations have shifted the focus away from highway surface projects. In 2011, less than two-thirds of highway surface transportation spending went toward general purpose highways.[31] Instead, highway funding is spent on trails and other priorities. States need to have more flexibility to tend to the highways within their borders instead of focusing on special federal projects.[32]

There is no single answer to untangle the complicated web of transportation funding. However it is widely agreed by think tanks and Congressional leaders that something must be done. The Pew Charitable Trusts Federalism in Action Series recently released a study and recommends a rethinking of the roles of all levels of government[33] and noted that since the federal highway system was completed in 1990 the federal government’s role in transportation funding has been confusing. Instead of removing or limiting federal involvement after completion of the federal highway system, federal regulations and requirements compounded and continue to strain highway spending budgets and increases the amount of time spent on projects.

By some estimates, federal requirements increase the cost of projects by up to 30 percent. For example, Davis-Bacon increases the cost of projects 9.9 percent[34] and the rates are 22 percent above market wages. While some argue that the gas tax needs to be increased, instead of reflexively raising taxes on individuals, families, and business, Congress should work to remove the drivers of costs in order to root out price distortion. Decreasing the federal burden would save states money, and allow families to spend less time on the road and more time at home.

OSBI Supports:

- Devolve funding and authority to the states. Allow states to develop their own sustainable transportation plans that will allow them to plan for future projects, set their own funding mechanisms, and give voters more control over the funding. This would decrease the cost of federal laws and regulations that distort the prices of projects.

- In the absence of full devolution, allow states an opt-out. States that want to assume authority over their roads would be able to form their own plans while states that want to remain in the federal funding scheme could. States that opt-out also would not be subject to possible funding shortages at the federal level.

- In the absence of either of the above options, Congress should reconsider the Transportation Empowerment Act introduced by Rep. Tom Graves (GA) and Sen. Mike Lee (UT). This would, over time, provide states with more flexibility and authority while at the same time leaving the federal government with control of the federal highway system.

> "By some estimates, federal requirements increase the cost of projects by up to 30 percent."

Anti-poverty Programs

The welfare state currently creates the perverse incentive not to marry despite overwhelming evidence that marriage is one of the best economic decisions that an individual can make.[35] Unfortunately under current welfare programs, if a single mother who works marries a man who makes a similar amount, the couple might lose thousands in benefits.[36] A system that encourages marriage will create benefits for adult couples and those benefits will be compounded for children, as studies have shown that children who grow up with their two married parents are associated with a higher level of education, work, and income.[37] This is not meant to demean single parents; they are heroes. And it does not mean that children who are raised by single parents cannot succeed, because they obviously can. Rather, anti-poverty programs simply should not discourage marriage.

Furthermore, they should encourage work. As has been noted by Arthur Brooks of the American Enterprise Institute and Pope Francis, the sense of purpose and accomplishment that comes with work provides benefits beyond just a paycheck.[38] In addition, programs should open opportunities for educational opportunities as discussed above.

States need to have the flexibility to create social programs because the federal welfare system has not worked. The poverty rate in Indiana is nearly what it was in 1969 despite hundreds of millions of dollars being spent on programs. Last summer, Rep. Paul Ryan released a plan that called for block granting anti-poverty programs in what he called "Opportunity Grants." These would block grant several program funds into one block grant and allow states to form their own programs which would allow Indiana to create more effective programs that promote work, education, and marriage.

OSBI Supports:

- States need to have more flexibility to develop programs that will aid those in poverty by encouraging marriage, education, and work. Rep. Ryan's proposal would allow states the flexibility to develop state based solutions as opposed to federal and would give voters more control over those programs.

- While poverty is a national concern generally, each state's demographics differ. States should be provided block grants over a period of time and then phase out the programs at the federal level. This will allow states to adjust their own taxes, create state specific programs, and allow the federal government to adjust its tax rate likewise.

Commandeering of state funds

In *New York v. United States* the Supreme Court of the United States reaffirmed its decision in *South Dakota v. Dole* that Congress has the authority to induce states through the use of federal funding to regulate or enact certain policies that Congress deems necessary for the general welfare. [39] However, this pertains only to federal spending. There exist in grant programs, notably from the United States Department of Interior and Department of Education, requirements and strings not only on how the federal funding is to be spent, but also similar restrictions on how state matching funds may be spent.

Effectively the federal government commandeers state funding and purposes it for federal priorities. Regardless of state acquiescence, "[w]here Congress exceeds its authority relative to the States, therefore, the departure from the constitutional plan cannot be ratified by the 'consent' of state officials."[40] It is tenuous enough to require states to change laws, procedures, or policies to receive funding spent under the general welfare clause, but to allow federal agencies to set requirements and enforcement mechanisms on state funding is a Constitutional crisis. As Justice O'Connor declared in her *South Dakota v. Dole* dissent, "[t]he immense size and power of the Government of the United States ought not obscure its fundamental character. It remains a Government of enumerated power."[41]

> "This will allow states to be more flexible in their spending and allow Congress and federal agencies to focus on national matters and not how an Indiana Department of Natural Resources truck is being used."

OSBI Supports:

- Congress ought to take steps to return to the federalism ingrained the Constitution by repealing any legislative requirements and nullify any regulations or other strings on state matching funds.

- By block granting aid to states, Congress will free itself and future Congresses from negotiating details of people's lives, and the states from onerous requirements and future spending.[42]

This will allow states to be more flexible in their spending and allow Congress and federal agencies to focus on national matters and not how an Indiana Department of Natural Resources truck is being used.

Conclusion:

Indiana needs more flexibility to provide services. The top-down one-size-fits-all approach has not only encroached on the powers reserved to the states, but it has failed the citizens it purports to serve.

PRIVATE SECTOR

Federal laws and regulations in key economic areas have limited the ability of Indiana and the country to rebound after the Great Recession. The four major areas of concern are:

1. The Affordable Care Act (ACA)
2. The Environmental Protection Agency
3. Dodd-Frank
4. Overall regulatory burden

Legislative changes in these four areas will allow businesses to have a sense of stability in the market which will give them increased confidence to spend on infrastructure and hiring.

The Affordable Care Act

The ACA is not only a burden on the state as discussed above, but it has had a tremendous effect on private sector businesses, families, and individuals. Insurance premiums increased across much of the state, which puts a strain on family budgets.[43]

Insurance rates continue to rise, but according to some reports the worst price increases are yet to come. An extension of the risk corridor program has prevented many individuals and families from feeling the full effects of the law, but that expires at the end of 2016 after recently being extended. The Wall Street Journal reports that price increases for bronze plans could increase 45 percent for families and 96 percent for individuals.[44] Such an increase will put a strain on families, especially lower to middle class families.

OSBI Supports:

- As stated above, repeal the Affordable Care Act. Allow states to take control of insurance within their borders.

- Federal government involvement in private insurance markets should encourage choice, competition, and innovation.

The Environmental Protection Agency

The Environmental Protection Agency (EPA) released its rule entitled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." On December, 1, 2014, Governor Pence and the Indiana Department of Environmental Management (IDEM) in coordination with other state agencies filed comments urging the EPA to withdraw the proposed rule.

The reasons for opposition to the rule are simple: The rule will be costly, the rule oversteps the bounds of EPA's authority under the Clean Air Act, the rule will affect reliability of Indiana's electrical grid, and the rules will drive investment to other countries. All of this and the effect on global carbon dioxide emissions will be minimal.

Indiana's electrical grid is heavily dependent on coal-burning power plants which are essentially the target of the rule. Furthermore, Indiana has the highest concentration of manufacturing jobs and manufacturing operations require a reliable grid and relatively inexpensive energy.

In the end, these rules in conjunction with past EPA actions will increase Hoosier energy bills, make Indiana's electricity less reliable, and stifle economic growth.

Also, the Obama administration announced a rule in November that will limit ozone pollution from factories and power plants after 2020. A report commissioned by the National Manufacturer's Association and performed by NERA Economic Consulting showed that the new ozone regulation could cost $270 billion per year and potentially put millions of jobs at risk and the incremental health benefit is minimal. They are calling it "the most expensive regulation ever," and it could have a tremendous effect on Indiana's economy.[45]

Another EPA rule that will have major implications on Indiana small businesses and agriculture is the EPA's proposed rules that would expand and redefine the term "waters of the United States." The rule would include ditches, flood plains, and man-made ponds, and failure to comply with the rule could cost builders, farmers, or homeowners tens of thousands of dollars per day.[46] This is a prime example of federal overreach because states are the proper authority, and one that would impact farmers, building construction, and small businesses.

OSBI Supports:

- Congress needs to rein in the EPA through clarification of the Clean Water Act and hold the EPA accountable through the power of the purse to provide relief to families, employers, and state budgets.

Dodd-Frank

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) was established in 2010, after the financial crisis, to protect individuals and ensure the stability of the financial system. With 25 percent of the law still not put into effect, the Act has already placed undesirable regulatory burden on individuals and small businesses.

Hoosiers now face increased regulatory obstacles when doing business with their community bank. Historically, community banks have been a staple in Indiana providing customers with customer service based approaches to lending. The niche that community banks have carved out stems from their ability to lend to individuals who lack all the necessary information to obtain a loan at a large bank, as well as their ability to engage in "relation-or-reputation based lending."[47]

"Smaller, financially constrained firms need greater access to financing to increase performance, instead of limited access to financing through homogenized lending practices."

This niche has better positioned community banks to cater to individuals who have irregular income or to small businesses that do not have the data required by large banks in credit scoring models.[48] Furthermore, according to a recent Harvard Kennedy School study, "the vast majority of agricultural loans originated from community banks."[49] Previously, community banks have been able to distinguish themselves from larger banks by utilizing information gathered over the course of a long banking relationship to make lending decisions. Due to new regulations under Dodd-Frank this is no longer the case.[50] As community banks lose their foothold they are absorbed by larger banks. In 1984 there were 600 banks in Indiana, and today that number has dwindled to 120. The Indiana Bankers Association has found that these changes in lending practices due to increased regulation have had negative effects on young people and minorities who relied on personal based approaches to lending practices.

The Indiana Bankers Association stated that they have found one of the largest regulatory burdens on Indiana community banks to be the newly created Consumer Financial Protection Bureau (CFPB). The CFPB was formed as a result of Dodd-Frank for the purpose of safeguarding consumers against fraud and other threatening practices implemented by financial institutions. The CFPB is run by a single director and lacks budgetary oversight from Congress which has given way to a powerful and largely unaccountable federal agency.[51] An example of the overarching power of the CPPB can be observed in the recently proposed new federal oversight over nonbank auto finance companies. The agency lacks authority over auto finance companies, but wants to use its upper hand against bank by holding them responsible for the lending practices of their auto finance partners.[52]

> "Since 1997 regulation on manufacturing by the EPA has increased over 93 percent."

Finally, young and small firms need access to adequate financing in order to alleviate constraints and to be part of the creative destruction that is a feature of a blossoming economy. A recent study by the Cato Institute determined that increased access to financing leads to higher productivity.[53] Smaller, financially constrained firms need greater access to financing to increase performance, instead of limited access to financing through homogenized lending practices.

OSBI Supports:

- First, raise the threshold for mandatory prudential standards and Federal Reserve oversight over bank holding companies from $50 billion to $250 billion. There is little risk with this increase that would ultimately lessen the unwarranted imposition that current bank holding companies must comply with.[54]

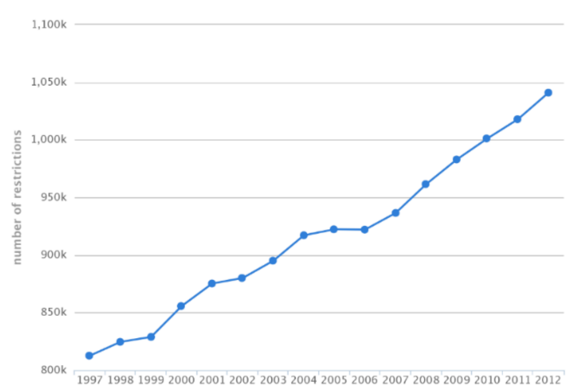
- Congress should remove the Financial Stability Oversight Council's power to designate a nonbank financial firm as a "systemically important financial institution" (SIFI) and rescind any existing SIFI designations.[55] Instead, increased capital requirements for too-big-to-fail banks could be considered as proposed by economist James Pethokoukis to decrease the likelihood of future bailouts.[56]

- Rein in the CFPB. The agency lacks proper oversight and will continue to be unaccountable for its actions unless it is reined in by Congress.

Overall Regulatory Burden

Finally, businesses and individuals continue to be concerned about the general amount of regulation that comes out of federal agencies and the almost palpable punitive regulatory environment. It is an issue that is difficult to pinpoint because there does not seem to be a single regulation that is the problem. Instead, it is the sense that the steady stream of regulations threatens economic freedom and has created a general malaise.

From the chart below, you can see the rapid increase of restrictions in regulations which have increased 28 percent since 1997.



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Now, there are over one million restrictions in federal regulations that employers, individuals, and families are expected to be aware of. In some areas this has been particularly burdensome.

Take, for example, manufacturing. Since 1997 regulation on manufacturing by the EPA has increased over 93 percent.[58] On top of that, regulation on manufacturing by the U.S. Department of Justice has increased by an additional 93 percent in the same timeframe.[59] As noted above, this is particularly burdensome for Indiana companies because Indiana is a hub of manufacturing.

And, what is worse, many regulations are regressive. In testimony before the House Committee on the Judiciary and published by Mercatus, Professor Diana Thomas explained how regulations shift wealth from lower-income households to satisfy the wants and needs of higher-income households. As explained in her testimony, lower-possibility risks are often regulated and they are more costly to regulate.[60] This means that lower-income households have less money to spend against higher-possibility risks that they might otherwise spend against.

Indiana's economy is well positioned to expand, moving forward with relatively low taxes, a regulatory structure that is not overly burdensome, and a financially secure government.[61] However, increasing federal regulatory and tax burdens limit Hoosiers' ability to start their own businesses, businesses' willingness to invest, businesses' willingness to hire, and disparately impacts lower income households.

OSBI Supports:

- Congress needs to assert its Constitutional duty to legislate. Instead of large scale legislation that leaves details to unaccountable bureaucrats, Congress should focus on legislating, understanding bills, and allow individuals the freedom to succeed or fail on their own merits.
- States should unite on regulatory issues and actively push back hard against administrative overreach.

Conclusion:

Federal regulation in the private sector has stunted the growth of Indiana's economy. In order to encourage higher wages, faster economic growth, and the opportunities for individuals to prosper, federal regulations need to be restrained and allow individuals and employers to make the best decisions.

RECAP OF 2014

In 2014 OSBI received over 400 grant applications, not including highway surface funding, totaling nearly $11 billion. The focus in 2014 was largely on cataloguing and analyzing the grants that are received. In 2015, it is the goal of OSBI to affect grant programs – whether that is through consolidation, pushing for more waivers, or recommending the discontinuation of certain programs.

Also, other states have made a priority of taking a closer look at federal funding. Utah has a legislative committee and has worked with an outside auditing firm to determine the risk associated with its acceptance of federal funding. Idaho's governor issued an executive order that requires agencies to make plans for a reduction in federal funding and also requires agencies to identify state programs that might be impacted by the loss of federal funds.

States across the country are interested in setting up a similar office to OSBI. This will only help in building the necessary coalition of states to assert state authority and make it easier for governors and state legislatures to run their states.

CONCLUSION

Solutions will come from the states, and states must be willing to work together and with Congress to enact legislation that will provide them with more flexibility to provide better services and a more accountable government. Now is a tremendous opportunity for Congress to work with states to return authority and responsibility of programs.

Federal regulations have stunted economic growth and need to be reined in. Private and corporate citizens are best positioned to make decisions for themselves within the framework of open markets. Increased freedom through decreased federal regulation will allow for innovation and spur creation and prosperity.

However, if we maintain the status quo, decades of top-down one-size-fits-all government shows us what we will wind up with – more spending, debt, economic inequality, and few results. The recommendations included herein will restore the Constitutional structure and provide voters with greater authority over the size, scope, and effectiveness of their government.

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