Office of State-Based Initiatives Annual Report

2014

Federal government overreach has increased the costs of doing business and limited the ability of states to implement creative solutions.

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Executive Summary

Federalism concerns the division of power between states and the federal government. The federal government has outgrown its Constitutional authority, and the mandates and regulations that it passes down to states and citizens has shackled the economy and limits the State's ability to effectively and efficiently serve its citizens. This report, in accordance with Indiana Executive Order 13-20, examines the present and projected impact of federal mandates and regulations on Indiana and presents Indiana's first Block Grant Contingency Plan.

Economists John Dawson and John Seater estimate that Federal regulations since 1949 have decreased national GDP by two percentage points per year or nearly $40 trillion.[1] While Indiana has cut taxes and reduced regulations to spur business expansion, federal mandates and regulations have chilled the marketplace by creating a sense of uncertainty. Complying with the Affordable Care Act has proven to be extremely burdensome for Hoosiers and small businesses. Proposed EPA greenhouse gas regulations threaten all Hoosiers with much higher energy bills and fewer jobs. Federal regulations increase the cost of infrastructure projects, which means more and more taxpayer dollars are needed to complete the job because of red tape. Highway funding is on an unsustainable path, and strings attached to highway dollars greatly increase the cost of projects. Finally, the telecom industry, while largely unregulated in Indiana, has brought access to more than 95 percent of the population. However, federal telecom taxes paid by users are spent without return.

Indiana receives about $12 billion for programs.[2] But this is not "free" money or money returned to Indiana to spend as Indiana sees fit; rather, it comes with strings attached. These strings increase the costs of programs while limiting their effectiveness. For example, Indiana Office of Management and Budget estimates that at its peak, in total their team spent nearly 40 weeks per year on reporting for the American Recovery and Reinvestment Act. Furthermore, the strings attached to federal funds decrease the amount of ingenuity that a state can use to help fix its problems. Instead of creatively developing solutions, states must adhere to the priorities and guidelines of Washington bureaucrats or lose their funding.

This is not how America's founding fathers intended the relationship between the states and the federal government. Now, with more than $17 trillion in national debt and approval of

[1] Dawson, John W. and John J. Seater, "Federal Regulation and the Aggregate Economic Growth," January, 2013.
[2] See Indiana's Comprehensive Annual Financial report for Fiscal Year ended July 30, 2012 prepared by the Indiana Auditor's Office and filed July 30, 2013. This does not include the roughly $10 billion Indiana residents receive in Medicare payments (see: http://kff.org/medicare/state-indicator/medicare-spending-by-residence/.) or the $16 billion in Social Security (retirement, survivors, and disability) payments (see: http://www.ssa.gov/policy/docs/statcomps/supplement/2012/supplement12.pdf.)

Washington at a new low, it is time to restore the proper balance between the federal and state governments, and that begins with solutions coming from the states. Indeed, federalism is an idea whose time has come again. The recommendations and reforms are as follows:

- Congress should consider looking to and reverting authority back to the states when it comes to healthcare. Indiana's Healthy Indiana Plan has high satisfaction rates and is a good model for state innovation.
- The proposed EPA greenhouse gas regulations should be quashed by Congress. They threaten the economies of Midwestern states at a time when we are beginning to make positive inroads.
- Highway funding should be reverted to the states. The federal process takes too long thus increasing costs and wasting tax payer dollars.
- Congress should follow Indiana's lead in the de-regulation of the telecom industry. In Indiana, this has increased access to broadband and unlocked hundreds of millions of dollars in private investment.
- Funding provided to states should come in the form of block grants with control reverted to states completely. This would allow more of the funding to be spent on the implementation of programs and services instead of administration. Also, this would free up states to develop innovative solutions.
    - Medicaid could be run more effectively and efficiently if Indiana had fewer requirements.
    - The federal WIC program creates inefficiencies that greater State control could eliminate.
    - Federal regulations prevent the most effective means of finding and preventing fraud in unemployment insurance cases. Fewer strings would allow Indiana to prosecute fraudsters and increase recovery.
    - Maintenance of effort requirements limit the Indiana State Police's ability to implement projects based on ISP priorities.
    - DCS funding comes with a litany of reporting requirements that are duplicative and contradictory. These requirements move precious resources away from the programs and into compliance. A block grant would allow more funding to go into the programs.
    - Homeland Security grants limit the ability of the State to implement statewide programs which can increase inefficiencies.

I. Introduction

In an executive order issued in his first year in office, Governor Mike Pence established the Office of State-Based Initiatives (OSBI) to promote job creation, economic development, Hoosier ingenuity, and the principles of federalism.[3] As then-Congressman Pence once explained, "If the republic is to survive, we must have a revival of federalism and state-based constitutionalism."[4]

Under Governor Pence's leadership, OSBI is identifying problematic federal regulations and mandates and is working with other states and Indiana's Congressional delegation to develop solutions. There are three things most people agree on: 1) there is a need for smart, sensible regulation; 2) too much regulation stifles economic growth; and 3) our economy today is adversely affected by onerous, unnecessary federal regulations and mandates. The amount of regulation is overwhelming; in 2012, the *Code of Federal Regulations* contained over 170,000 pages with over 1,000,000 restrictions.[5] This has developed into a Babel of regulation that employers, entrepreneurs, and all our citizens are forced to heed…or else.

The relationship between the States and the federal government has been turned on its head. *The Federalist*, which set the gold standard for intergovernmental relationships and obliges the government to control itself,[6] was written by Alexander Hamilton, James Madison, and John Jay as a way to sell a federal government to leery New Yorkers under the penname "Publius." In *Federalist* 45, James Madison wrote that "[t]he powers delegated . . . to the federal government are few and defined. Those which are to remain in the state governments, are numerous and indefinite." Moreover, he intimated that people should not fear an overbearing federal government rather, because the branches of government would owe their existence to the states, the only concern would be a federal government too submissive to the states.

The reverse is true today. States are largely submissive to an overbearing national government. From light bulbs to ceiling fans to the state highways you drive on to an elementary school student's educational standards to your health insurance, the federal government has enacted regulations to keep a steady hand over seemingly every minute detail of our lives. This federal

[3] http://www.in.gov/gov/2384.htm.
[4] Pence, Mike "Ensure limited-government victory by empowering states," The Washington Times, March 10, 2011, http://www.washingtontimes.com/news/2011/mar/10/ensure-limited-government-victory-by-empowering-st/.
[5] McLaughlin, Patrick A., "On the Human Costs of the US Regulatory System: Should Congress pressure agencies to make rules faster?", August 1, 2013, Mercatus Center at George Mason University.
[6] See Madison, James *Federalist* 51, "In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the net place oblige it to control itself."

overreach increases the cost of goods and puts faceless regulators in charge of spending Hoosier tax dollars on *their* priorities instead of our own.

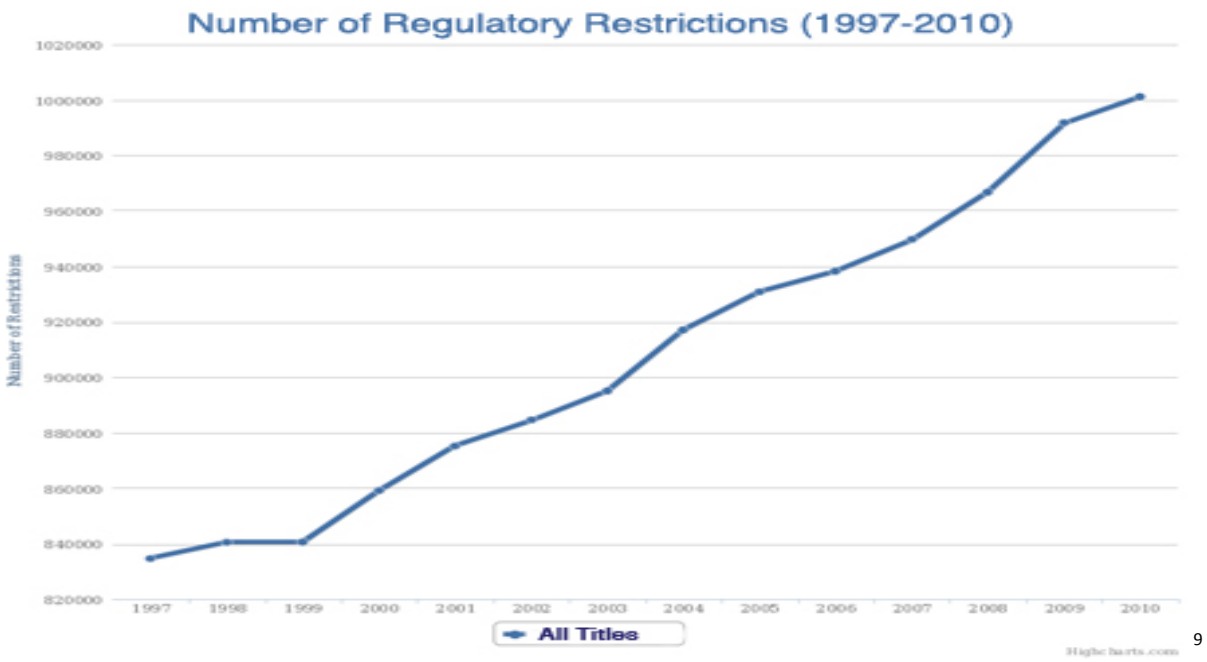
This report identifies and explains particular areas of federal government overreach that dilute Indiana's sovereignty. Whereas the founders proposed a limited federal government leaving most of the governing to the states, the current structure is such that the federal government coerces the money from a state's citizens, then redistributes the money back to the states with strict instructions on how that money may be used, often accompanied by explicit threats and duplicative reporting requirements reducing states to administrative adjuncts. Over time, this has severely eroded the sovereignty of all states and individual freedoms of each and every citizen. This report will explore those areas where federal overreach has eroded state sovereignty and propose recommendations to remedy the effects of federal overreach.

The exorbitant cost of regulation

Regulatory restrictions stunt economic growth. Economists John Dawson and John Seater estimate that accumulated federal regulations have stunted the growth of national gross domestic product (GDP) by about 2 percent per year since 1949; nearly $40 trillion in 2011 alone.[7] Keep in mind the national GDP for 2011 was just shy of $15 trillion. This means the national GDP would have been closer to $55 trillion, which equates to an annual loss of about "$277,100 per household and $129,300 per person."[8]

To give an idea, the graph below illustrates that in 1997 there were roughly 834,000 federal regulatory restrictions, and that number increased to over one million federal regulatory restrictions by 2010.

[7] Dawson, John W. and John J. Seater, "Federal Regulation and the Aggregate Economic Growth," January, 2013. This is a staggering figure and reflects the effects of total regulations since 1949, and the effect of compounding. The authors concede that they are unaware of any theory that addresses the effects that regulation has on the macroeconomy.
[8] Ibid.



[9]

It is no wonder that the workforce has not been able to recover to pre-recession levels[10] which is due in part to so many new restrictions put in place. Complying with federal regulations creates opportunity costs – that is activity foregone because resources are devoted to regulatory compliance. OSBI's goal is to work with businesses and Hoosiers to identify problems and provide the Governor, the State Legislature, and the Indiana Congressional delegation the information they need to push back against counterproductive federal mandates in order to make real reforms here and in Washington to ease the regulatory burden on Hoosiers.

Indiana has laid out the welcome mat for people to live and businesses to settle, expand, and invest. Indiana has reduced the corporate and personal income tax, eliminated its inheritance tax, maintained its AAA credit rating through fiscal responsibility, and passed right-to-work legislation and other business-friendly initiatives to create an attractive business climate and bring more jobs to Indiana. Also, Governor Pence issued a moratorium on state regulations to promote job creation and refocus efforts on clearing out existing regulatory underbrush.[11] However, because the federal regulatory burden is so high, the benefits that Indiana has to

[9] http://regdata.mercatus.org/

[10] Greenstone, Michael and Adam Looney, "The Lasting Effects of the Great Recession: Six Million Missing Workers and A New Economic Normal," September, 2013, The Hamilton Project, http://www.hamiltonproject.org/papers/the_lasting_effects_of_the_great_recession_six_million_missing_workers/.

[11] New regulations are down 52 percent from 2012 under the moratorium.

offer are mitigated. Instead of a model that allows for state comity and also for states to compete with one another and to develop the best solutions for each state's citizens based on each state's priorities, the federal regulatory framework has created a system that subsidizes and even encourages bad state governance[12] and limits any positive changes a state makes by overwhelming job creators with regulations.

Onerous regulations act as a tax on Hoosier ambitions. Therefore, when a company is looking to expand capacity, states with heavy state regulations and taxes are artificially attractive since federal regulations smooth out some of their inadequacies by creating a floor of burdensome federal requirements.

This has all contributed to the sense of uncertainty in the marketplace. An overarching concern throughout this report will be uncertainty caused not just by the staggering national debt, but also by regulations, and the way and reasons regulations have been enacted or in other cases laws or regulations ignored.

How we got here

So how did this crisis come to be? How has the federal government been able to reach so deeply into every aspect of our lives?

First, Congress has, in many cases, abdicated its central responsibility –legislating– to the executive branch. Instead of detailed legislation, Congress has opted in favor of broad, comprehensive bills for healthcare (The Affordable Care Act), education (No Child Left Behind), and financial services (Dodd-Frank). The details of legislation are left to administrative rule makers and planners, and Congress simply writes the checks.

Second, states are not without blame. For all the talk about state sovereignty, little has been done to force the issue. As Chief Justice John Roberts noted "[t]he States are separate and independent sovereigns. Sometimes they have to act like it."[13] The difficulty lies in the balance of power. We now are faced with the inverse of what Alexander Hamilton lamented in *Federalist* 15;[14] now the federal government claims that the states are "destitute of energy" while having confiscated that energy.

[12] A federal "match" encourages states to spend more money. For example, if the federal government pays 60 percent of a program's costs, then for every $1.00 the state spends, the federal government will kick in $1.50 for a total of $2.50. This encourages states to spend more in order to get more.

[13] *Nat'l Federation of Ind. Bus. v. Sebelius* 183 L. Ed. 2d 450 (2012).

[14] Hamilton was arguing against those that lamented the United States lacked certain basic authority, but did not want to a Constitution to grant the United States necessary authority.

States face tremendous fiscal and political pressure to accept every federal dollar available to expand programs and offer more services. The short-term revenue "fix" often ignores the longer-term consequences of binding a state with what may be unfunded future liabilities.

Indiana receives annually roughly $12 billion from the federal government[15] or roughly 38 percent of Indiana's expenditures. Included in that $12 billion is more than $4.6 billion for Medicaid, $118 million for WIC, $117 million for TANF, almost $1.5 billion for SNAP, $373 million on child nutrition and school lunches, $176 million from Housing and Urban Development, $27 million to enforce EPA regulations, $1.78 billion for unemployment insurance, $29 million from the Department of the Interior, and $975 million for schools and education programs. This is by no means "free" money. Most of this funding requires a state monetary match or for the state to enact laws to comply with federal priorities. For example, to receive roughly $1.2 billion in 2012 from the Federal Highway Trust Fund, Indiana paid nearly $939 million through gas taxes. However, Indiana is also required to build highways according to federal specifications, enact legislation that complies with federal priorities, and is restricted from using assets to raise revenue.

Because federal funding comes with strings attached, Indiana Executive Order 13-20 also requires that all federal grant funding opportunities be approved by OSBI prior to application. It is necessary for the State to be more strategic in its federal partnership and to ensure that the taxes the IRS collects from Indiana annually is used as efficiently and effectively as possible. Indiana, as a Constitutionally independent state in a federal republic, fully intends "to act like it" by developing a cost-benefit analysis to determine when to say "Thanks, but no thanks" to federal dollars when costs exceed the benefits or it doesn't make practical sense in order to protect Indiana's financial future.

Federalism: an idea whose time has come

Indiana is leading the way on saying no to federal funding. Since September, 2013, Indiana has declined to either apply for or accept nearly $1 million in federal funds. While that represents a small portion of the funding that comes to Indiana annually, it is a start toward greater financial independence and responsibility. The mindset that federal money is free money needs to change. The old saying apocryphally attributed to Milton Friedman goes, "There's no such thing as a free lunch." The same can be said for federal dollars. The funding Indiana turned down would in the case of a few grants that Indiana State Police applied for, cost the state in the long

[15] See Indiana's Comprehensive Annual Financial Report for Fiscal Year Ended July 30, 2012 prepared by the Indiana Auditor's Office and filed July 30, 2013. This does not include the roughly $10 billion Indiana residents receive in Medicare payments (see: http://kff.org/medicare/state-indicator/medicare-spending-by-residence/.) or the $16 billion in Social Security (retirement, survivors, and disability) payments (see: http://www.ssa.gov/policy/docs/statcomps/supplement/2012/supplement12.pdf.)

run due to long-term costs. And, as to the other grant, the first part would have provided public service announcements (PSA) for the HPV vaccination. The grant materials, however, indicated that PSAs alone do not increase the rate at which people choose to be vaccinated, but a physician's recommendation was the number one reason an individual chooses to be vaccinated. The grant offered no indication that objectives would be met while potentially setting up an unfunded liability.

Some argue that because Indiana turns down the funding other states will get it. That's not always the case. For competitive grants, such as the Race to the Top grants, there is no guarantee that Indiana will receive the money in the first place. As for formula grants, such as the Supplemental Nutrition Assistance Program (SNAP), states receive funding based on a certain formula and not whether the state next door accepts the funding.

II. Federal Mandates and Recommendations

In accordance with Indiana Executive Order 13-20, OSBI has surveyed Indiana businesses and industries, studied data, and talked to Hoosiers, about what regulations and federal mandates are the most burdensome. OSBI found that while federal mandates and regulations raise costs on Hoosiers, it was more difficult for corporate citizens to detail specific impacts of specific regulations. Instead, businesses and Hoosiers shared more broad concerns about the Affordable Care Act or the Environmental Protection Agency in general. The following details OSBI's findings and makes recommendations that, if enacted, would help Hoosier families through lower costs on goods and services and greater employment opportunities.

a. THE PATIENT PROTECTION AND AFFODABLE CARE ACT (The Affordable Care Act)

The number one regulatory hurdle indicated by businesses is the Patient Protection and Affordable Care Act – more commonly known as the Affordable Care Act. This Act significantly affects Indiana because it raises insurance rates[16], forces companies to cancel plans[17], and creates uncertainty in the marketplace which prevents job creation.[18] Duke University and CFO

[16] Up to 72% higher for individual plans according to Indiana Department of Insurance. See http://www.in.gov/idoi/.
[17] 108,000 individual plans cancelled in Indiana as reported by the Associated Press. http://www.wishtv.com/news/local/ind-insurance-chief-plans-will-stay-canceled?utm_source=twitterfeed&utm_medium=twitter.
[18] Kristof, Kathy, "Employment prospects dim over Obamacare", CBSNews.com, December 11, 2013, http://www.cbsnews.com/news/employment-prospects-dim-over-obamacare/.

Magazine recently released a survey showing that 48 percent of U.S. CFOs are considering reducing their workforce because of the Affordable Care Act and 40 percent might reduce some workers hours to below thirty (30) hours per week.[19] Overall, those surveyed expect the economy to get better, but clearly the Affordable Care Act is hurting hiring expectations.

Thousands of Hoosiers have lost their insurance[20] and thousands more have seen their rates increase.[21] The Affordable Care Act is a perfect example of an oversized federal "fix" that exacerbates the underlying problem instead of actually fixing it. Instead of more individual freedom and choice, the Affordable Care Act has limited individual choices and tells individuals what plans are good enough for them while creating more costs and headaches for employees and employers. Instead of reducing the number of uninsured, the Affordable Care Act is creating more uninsured Americans.

According to the Federal Register, the Department of Health and Human Services has implemented over 11,000 pages of regulations since the passage of the Affordable Care Act.[22] This is because the law essentially only provides a general outline, while the nuts and bolts, the rules and regulations, are "made on the fly."[23] That is a tremendously difficult challenge for a small business to keep up with, and costly too. Prior to making a new hire, a business must first determine the cost of hiring a new employee, but that cost cannot be assessed without some degree of certainty in the marketplace. The current environment does not lend itself to certainty thus preventing hiring by companies of all sizes.

In addition, a 2.3 percent medical device excise tax was included as a part of the Affordable Care Act. Two large Hoosier medical device manufacturers, Zimmer Holdings and Cook Group, Inc., both estimate they will pay tens of millions of dollars in the tax.[24] This tax hurts Indiana businesses by lowering profits which in turns hurts Hoosiers. Lower profits mean companies have less capital to hire, and invest back into research and capacity expansion. For example, Cook Group already changed plans to build new factories in Indiana.[25] The increase in tax payments could also affect Indiana suppliers who supply parts and equipment for medical

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[19] Ibid.
[20] http://www.wishtv.com/news/local/ind-insurance-chief-plans-will-stay-canceled?utm_source=twitterfeed&utm_medium=twitter.
[21] See July 18, 2013 Indiana Department of Insurance press release, "Affordable Care Act Brings Higher Insurance Rates for Hoosiers."
[22] www.federalregister.gov.
[23] Williamson, Kevin "The Front Man: President Obama is the Nominal Leader for a Permanent Bureaucracy" National Review Online, November 24, 2013, http://www.nationalreview.com/article/364731/front-man-kevin-d-williamson.
[24] Wall, J.K., "Indiana device makers absorbing Obamacare excise tax", May 13, 2013, IBJ.com, http://www.ibj.com/device-makers-absorbing-excise-tax/PARAMS/article/41336.
[25] Ibid.

device producers because Indiana medical device producers could order fewer supplies as their profit margins decrease.

Furthermore, the administration continues to delay key provisions of the Act.[26] Furthering the confusion and uncertainty, the business mandate has been delayed, while the individual mandate is currently set to remain for some,[27] though Congressional leaders on both sides of the aisle have called for delay.[28] This has all added to the uncertainty surrounding the implementation of the law.

Unsurprisingly, here in Indiana, the overwhelming response from employers, trade organizations, and the Indiana Economic Development Corporation (IEDC) was that the law and the thousands of pages of regulations that accompany it have kept businesses from hiring. Simply, the main problem from a hiring standpoint, aside from the astronomical costs, is the uncertainty created by the law. Even though the law was passed nearly four years ago, regulations continue to trickle out and the business community is uncertain what the final costs will be per employee which prevents new hiring.

On Lieutenant Governor Sue Ellspermann's listening tour, she heard from employers in all of Indiana's ninety-two (92) counties about their concerns. One Hancock County employer that met with the Lt. Governor commented that he had to hire legal counsel simply to keep up with bureaucracy. That is money that could be going to expanding his business or to hire a new employee, but instead is spent on keeping up with federal regulations. Instead of a race to increase efficiency in the marketplace, companies are forced to compete to be more efficient in complying with regulations.[29]

Another small business owner in Northern Indiana explained that he truly cares about his employees, and he wants to be able to provide good benefits and good wages. However, the costs associated with the Affordable Care Act will force him to either drop insurance coverage for his employees or begin lay-offs. Forced to choose between two terrible options, he is leaning toward dropping coverage. Another employer in Western Indiana has employees numbering in the low forties. He has the need to expand capacity, but he's afraid to expand over fifty employees since that would subject him to the Affordable Care Act mandates.[30] He

[26] Roy, Avik, "Yet Another White House Obamacare Delay: Out-Of-Pocket Caps Waived Until 2015", August, 2013, http://www.forbes.com/sites/theapothecary/2013/08/13/yet-another-white-house-obamacare-delay-out-of-pocket-caps-waived-until-2015/.

[27] On December 19, 2013 Health and Human Services Secretary Kathleen Sebelius waived the individual mandate for those with cancelled policies citing affordability.

[28] http://www.foxnews.com/politics/2013/10/24/dems-join-call-to-delay-obamacare-mandate-amid-website-failures/.

[29] Williamson, Kevin "Welcome to the Machine." National Review Online, January 11, 2011, http://www.nationalreview.com/articles/256612/welcome-machine-kevin-d-williamson..

[30] 26 USC §4980H

simply does not know what it would mean for his business if he crossed that threshold, so he is choosing not to expand.

The Affordable Care Act is not only increasing costs for businesses. It is also increasing costs for the young and relatively healthy. Unfortunately, the Affordable Care Act shifts costs from older, wealthier Americans to younger people who are at the beginning of their careers, saddled with student loan debt, and less equipped financially to handle higher health insurance premiums.[31]

The fact of the matter is that the implementation of the Affordable Care Act remains a confused mess; and it is a mess that people's healthcare is subject to and the business community is forced to reckon with when making hiring decisions.

Recommendation

There is no silver bullet to cure the problems that the Affordable Care Act has created; even full repeal will create some problems without accompanying legislation to create a true marketplace for healthcare. The Affordable Care Act was an attempt to control 1/6th of the nation's economy and has proven to be much more problematic than anticipated, to say the least. Congress should consider the following:

- First, repeal the Affordable Care Act; nullify the costly regulations, and re-appropriate funding as necessary. Get out of the way and let states, employers, families, and individuals make the best decisions for themselves.
- States should be allowed to innovate to better serve their citizens. Indiana state employees and members of the Healthy Indiana Plan (HIP) have exhibited high satisfaction rates with their consumer driven plans which is evidence that consumer driven healthcare works. These plans empower individuals by giving them choices and keep them aware of the costs of healthcare. With respect to HIP, more than 95 percent would re-enroll if given the chance.
- Health Savings Accounts could be strengthened.
- Protect the right of conscience.
- Businesses and other organizations could also be allowed and encouraged to form larger group plans with fewer restrictions (an issue at the federal and state levels) which would increase the size of the risk pools thus bringing down costs for the insured.
- It is currently illegal to purchase insurance across state lines. Open up the marketplace for consumers to shop around.

[31] Trinko, Katrina, "Obamacare options grim for young people," www.usatoday.com, November 11, 2013, http://www.usatoday.com/story/opinion/2013/11/10/obamacare-costs-young-people-column/3489751/.

- Congress should consider common sense solutions to medical liability litigation. According to the Wall Street Journal, 54 percent of doctors surveyed said that they run more tests than they otherwise would as a precaution in case they wind up in court.[32] Doctors ordering tests to protect themselves in the event of litigation in court is a real driver of costs. Higher costs, as in any other sector, are passed to the customer, or in this case the patient.

b. ENVIRONMENTAL PROTECTION AGENCY

The Environmental Protection Agency (EPA) affects all sorts of industry from manufacturing to energy producing. This section will focus on the effects of the EPA as it relates to the energy sector in Indiana due to proposed rules, such as carbon capture sequestration, that are particularly important to Indiana.

The EPA has depressed job growth for years, and the downward pressure the EPA puts on the economy has seemingly only intensified since 2009. Most agree that there needs to be a certain level of regulation to protect the environment where there are clear market failures. However, a problem exists when costs exceed benefits. Between January 2009 and January, 2013, new reported annual regulatory costs from the EPA have increased by $37.8 billion nationally.[33] Though by the EPA's estimation, the benefits, such as fewer extreme weather events and possible health benefits, far outpace the costs.[34] Unfortunately, the EPA incorrectly uses old data to predict future benefits which can only be valid if the EPA presumes a "linear relationship between pollution abatement and health outcomes."[35] Because of the way in which the EPA estimates benefits, "[t]he EPA's benefits estimates are unreliable and vulnerable from a statistical standpoint."[36] It seems the EPA grossly and incorrectly overstates the benefits of regulations while minimizing the costs. Also, the EPA underestimates the benefits of higher levels of carbon dioxide including higher crop yields and benefits of up to $9 trillion by at least one estimate.[37]

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[32] Marte, Jonnelle, "10 Things Emergency Rooms Won't Tell You: Why it takes so long and costs so much to get care in the E.R.", December 9, 2013, Wall Street Journal Market Watch, http://www.marketwatch.com/story/10-things-emergency-rooms-wont-tell-you-2013-12-06?pagenumber=6.

[33] Gattuso, James L., and Diane Katz, "Red Tape Rising: Regulation in Obama's First Term," May 2, 2013, The Heritage Foundation, http://report.heritage.org/bg2793.

[34] Office of Management and Budget, "Validating Regulatory Analysis: 2005 Report to Congress on the Bosts and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities", December 16, 2005.

[35] Pham, Nam D. and Daniel J. Ikenson "A Critical Review of the Benefits and Costs of EPA Regulations on the US Economy", November, 2012 NDP Consulting.

[36] Ibid.

[37] Loris, Nicolas, D., Kevin D. Dayaratna, and David W. Kreutzer, PhD, "EPA Power Plant Regulations: A Backdoor Energy Tax", December 5, 2013, The Heritage Foundation,

The EPA is considering regulations that would require carbon dioxide capture sequestration mechanisms to limit greenhouse gases (GHG). In November 2013 it held a listening tour, but neglected to bring that tour to states, like Indiana, that are most dependent on the coal industry. Carbon dioxide capture sequestration mechanisms are simply not yet commercially viable and would cause the price of electricity for all Hoosiers to sky rocket and severely damage the coal industry in Indiana. The effects of this would be devastating on families that are struggling to get by and who may have had their healthcare costs significantly increased or cancelled.

If the EPA promulgates rules on existing power plants as scheduled, Indiana may be one of the states hardest hit because of its heavy reliance on coal as a source of energy – roughly 85%. Regulations as anticipated on existing plants would effectively shutdown Indiana coal utility plants since the technology that would give the plants the ability to comply simply is not commercially viable. Also, Indiana coal mines and related industries employ thousands of Hoosiers. If the coal electric plants shutdown, it could shut down the mines, putting thousands of Hoosiers in the unemployment line while significantly increasing electric bills for all Hoosiers.[38] The Heritage Foundation estimates that if EPA power plant regulations go into effect, Indiana will lose more than 17,000 jobs in both manufacturing and the energy sector in less than ten years.[39]

In addition, implementing EPA GHG rules, such as carbon dioxide capture and the Mercury and Air Toxics standards, could affect the reliability of the power grid.[40] Earlier this year MISO warned that EPA regulations could "accelerate generation retirements" since the costs of compliance could be overwhelming for the owners of generators.[41] Increased energy bills and a less reliable grid will put Hoosier energy consumers in a bind.

And all of these costs will have limited impact on climate. The EPA admits as much in its proposed rule on carbon dioxide writing that "the EPA projects that this proposed rule will result in negligible CO_2 emission changes, quantified benefits, and costs by 2022."[42] The

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http://www.heritage.org/research/reports/2013/12/epa-power-plant-regulations-a-backdoor-energy-tax. citing "Environmental Protection Agency: Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule," Federal Register.

[38] Gotham, Douglas J., "Indiana Electricity Price Projections" presented February, 2013, State Utility Forecasting Group, Purdue University.

[39] Nicolas Loris, "EPA Power Plant Regulations". p. 7.

[40] https://www.misoenergy.org/Library/Repository/Communication%20Material/One-Pagers/EPA%20Compliance_MISO%20Concerns.pdf

[41] https://www.misoenergy.org/Library/Repository/Communication%20Material/One-Pagers/EPA%20Regulations.pdf

[42] Environmental Protection Agency, "Standards of Performance for Greenhouse Gas Emission from New Stationary Sources: Electric Utility Generating Units," September 20, 2013, http://www2.epa.gov/sites/production/files/2013-09/documents/20130920proposal.pdf.

question remains, then, why would the EPA propose rules with no "quantified benefits" that will serve to drive costs for consumers?

In addition, while Indiana has traditionally been a low cost state for electricity, shutting down plants would increase costs.[43] This would have a negative impact on Indiana's efforts to draw companies looking at Indiana to expand their operations. Not only would Indiana lose current jobs, but Indiana would lose future growth opportunities. Again, Indiana has created a business friendly environment – the best in the Midwest by some reports.[44] And Indiana continues to work to clear the regulatory underbrush. However, federal regulations are actively working against Indiana. The increased costs of electricity will make Indiana a less attractive place to do business thereby preventing growth and job opportunities in Indiana. And worse, some Hoosiers could lose their jobs as energy rates increase.

Increased regulations will affect the costs of other products as well. Secondary products such as coal ash are used for various items from shingles to concrete to other industries. Eliminating a supply source will necessarily increase costs for these products that use coal byproducts. Therefore, an EPA regulation to create an unknown and unsubstantiated benefit will increase not only energy prices for millions of Hoosiers, it will also increase costs on other goods Hoosiers use in and around their homes.

This is not just a coal problem; other energy sources around the country have been hindered by the EPA. Cities around the country have tried to use micro-hydro power which is clean energy, but federal regulations make it inefficient.[45] The Mercatus Center recently profiled Logan City, Utah, a town that hoped to use micro-hyrdo-power as a source of energy. Unfortunately, the compliance costs were determined to be too high since it would take decades for the system to pay for itself. Therefore, Logan City was unable to take advantage of a source of energy that was clean, efficient, and readily available. The EPA needs to allow state and local government decide their own best methods for increasing capacity of energy based on resource availability and technological efficiency.

Finally, even when Indiana achieves the standards set by the EPA, the EPA still tries to punish Indiana. For instance, an ozone monitoring site on the Illinois – Wisconsin border exceeded

[43] The average retail price of electricity was higher across the board in October 2013 over October 2012. http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_5_6_a

[44] Indiana was ranked fifth in the country by CEOs surveyed by Chief Executive Magazine. See Donlon, JP, "2013 Best & Worst States for Business", May 6, 2013, ChiefExecutive.net, http://chiefexecutive.net/states-more-aggressive-in-competing-with-one-another-2013.

[45] Hansen, Megan E., Randy Simmons, Ryan M. Yonk, and Ken J. Sim "Logan City's Adventures in Micro_Hydropower: How Federal Regulations Discourage Renewable Energy Development", December 3, 2013, Mercatus Center, http://mercatus.org/publication/logan-city-s-adventures-micro-hydropower-how-federal-regulations-discourage-renewable.

standards. The EPA included Jasper County as part of the non-attainment zone even though Indiana was in compliance. Eventually, Jasper County was removed from the list, but Lake and Porter Counties remained. This is an example of the EPA casting a wide net of punishment thus limiting the economic opportunities available to those counties and the State as a whole.

Recommendation

The following are recommendations that should be considered to ease the burdens the EPA places on producers and consumers.

- Congress dangles the financial carrot in front of states to get Congress' policies and priorities passed, and they should do the same to the EPA. As part of the appropriation process, Congress should limit the ability of the EPA to enact harmful regulations. In order to receive funding, Congress should lay out its priorities, and those priorities ought to have an emphasis on returning authority to states.
- If the EPA insists on proceeding with regulating carbon dioxide emissions, Indiana's energy industry needs time and the flexibility to comply with regulations. Short compliance deadlines drive costs up because everyone in the industry must comply, and quickly, which drives demand. This increases the costs of parts and labor which are then passed onto the customers. One way to not create a bottleneck in labor and supply would be to stagger starts.
- When producers sue the EPA, they are not able to recoup litigation fees nor are they provided an opportunity to wait for litigation to end prior to having to comply with costly regulations. Due to the large costs associated with upgrading plants, producers should not be expected to comply with regulatory deadlines while in litigation or they should be able to recoup litigation fees.
- Once a regulation has been issued, the EPA should not issue a similar regulation until the effects are known. This will allow the EPA and the states to gain a better understanding of costs and benefits.
- The EPA should allow the full amortization of existing electrical generation units before requiring them to close. Full utilization of the remaining life of an asset will allow emission reductions to be attained in the most cost effective manner. It does not foster cost effective decision-making by producers or their state retail rate regulators if the EPA regulations are not temporally aligned with investment usefulness. Investments approved by regulators and made by producers to comply with current rules can become stranded investments borne by ratepayers if future rules drive premature retirement. Stranded investment recovery from customers creates unnecessarily increasing costs that reasonable rule timing can temper.

c. DEPARTMENT OF LABOR

The war on coal does not end with the EPA. All miners above and below ground including engineers and technicians must be certified by the Mining Safety and Health Administration (MSHA) annually. To be certified, individuals must have a certain number of training hours per year. However, in federal fiscal year (FY) 2014 the MSHA completely withdrew funding to states for training, and instead, shifted efforts to enforcement. Miners are still required by federal law to be certified, but MSHA has changed priorities from safety training to fines and enforcement. This is a problem for a variety of reasons. First, the safety programs are crucial to mining safety and miners are particularly vulnerable to safety concerns given the nature of the profession. Indiana has a very good record when it comes to mining safety, and unfunded mandates could jeopardize that record. While large companies can absorb these costs, smaller companies, with their thin profit margins, will have a more difficult time. Again, this puts small businesses in a precarious position forced to deal with the brunt of federal mandates.

Recommendation

- MSHA should refocus its resources back to mine safety. The industry advised that quality mine safety training is more effective in preventing mining accidents than enforcement. All miners above and below ground need certification to work on the mines. Enforcement only ensures they have their certification, and does not check the quality of training. If taxpayer money is going to be spent on a program, it should be spent in the most effective way possible.

d. HIGHWAY FUNDING

The Federal Highway Trust Fund (HTF) receives its funding through the fuel tax drivers pay at the pump. The taxes raised within a state's borders are then redistributed based on a formula developed by the U.S. Department of Transportation. Historically Indiana has received less, 97 percent, in return than it has paid to the federal government. Whereas other states have received as much as six times the amount they have paid.[46] Indiana's neighboring states average more than 100 percent in their rate of return. Some estimates suggest that due to federal requirements and restrictions on projects the project costs are increased by 25 percent to 30 percent.

The Federal Highway Administration administers the HTF and anticipates the HTF will run out of money by 2015. The root cause of insolvency is that under the current funding scheme all fifty

[46] According to Department of Transportation Alaska's historic ratio of apportionment and allocations to payments was 6.08 for fiscal years 1957-2012.

states currently receive more money from the HTF than they pay into it, and five (5) territories that pay nothing into the fund receive money out of it.[47]

Possible solutions have been offered in anticipation of HTF insolvency. Nearly every year since the mid-1990s federal legislation has been introduced to transfer highway authority to the states.[48] Returning authority to the states would give states the responsibility of repairing, building, and maintaining the roads in their jurisdiction. States would also have the freedom to put transportation funding into priorities set by the states' citizens. Currently "less than two-thirds of federal highway surface transportation spending from the [HTF] goes for general-purpose highways."[49] Indiana is forced to comply with federal policies with the money it receives from HTF instead of being able to focus on and more efficiently tend to our own priorities. Highway projects are hit by federal laws and corresponding regulations from the Affordable Care Act and the EPA. They all drive up costs and limit a state's ability to repair, build, and maintain roads, highways, bridges, and vital elements of infrastructure efficiently and effectively.

Recommendation

Forcing INDOT to wait on federal approvals and navigate the labyrinth of federal regulations prior to beginning projects increases costs. If given the freedom, INDOT could begin and complete projects much faster thus saving money for taxpayers. Also, restrictions on how existing assets such as limiting the use of rest areas, prevent states from being able to raise revenue through means such as advertising from those assets.

Highway funding authority ought to be returned to the states to allow states to set their own priorities in order to more efficiently and effectively serve their citizens. While under the current scheme, Indiana would receive less funding, the status quo is unsustainable since each state and territory receives more in return than it pays. The country is $17 trillion in debt; continuing to pump out more highway funding cannot continue in perpetuity. At minimum, states should have the option of opting out of the federal scheme when the benefits outweigh the costs.

Consumers pay state and federal taxes at the pump. If states were allowed to opt out of federal highway funding, then states could set their own gas tax at a rate that makes sense for the particular state and meet that state's priorities.

[47] http://www.fhwa.dot.gov/policyinformation/statistics/2012/fe221.cfm.
[48] Utt, Ronald D. "Federal Highway Program: How Opting Out Would Help States" July 6, 2011, The Heritage Foundation.
[49] Ibid.

e. TELECOM

The Connect America Fund (CAF), spun off from the Universal Service Fund, and the Rural Utilities Service Connect America Fund (RUS) were implemented to expand broadband coverage to rural areas. Both funds are made up of a required user's tax paid by existing users for the purpose of expanding broadband access to those that do not have broadband access. While this is a noble goal, more than 95 percent of Americans[50] currently have access to broadband internet service.[51] And we can do better.

Unfortunately, though the language in the law requires the funding to be used on underserved populations, the law is ambiguous as to what actually constitutes an underserved population.[52] Reports from USDA found the RUS focused on areas that included suburbs of Chicago and Las Vegas. Like so many other programs, these funds are duplicative and indicative of federal government waste. Nearly $0.59 of every dollar spent out of the fund, which is funded by a tax paid by other users, goes toward administrative costs.[53] Also, the FCC did not count mobile broadband users in its report which is a more efficient way for rural users to access broadband.[54]

In addition, CAF and RUS funds are another example of the federal government picking winners and losers. According to Kelly Cobb of the Cato Institute, most of the RUS loans went to communities that already had broadband access by 2009.[55]

Recommendation

The federal government should look to the states once again for a solution. In 2006 Indiana largely deregulated the telecom industry. Within two years more than $500 million in private investment was unlocked and more than 100 rural communities enjoyed accelerated deployments of digital subscriber line.[56] Congress should cut back on regulations and eliminate the CAF and RUS so that the industry can continue to quickly grow and expand coverage while

[50] Federal Communications Commission, "Eighth Broadband Progress Report", http://www.fcc.gov/reports/eighth-broadband-progress-report.
[51] Glans, Matthew, "Rural Broadband Program Misses the Mark", November 27, 2013, Heartland Institute, heartland.org.
[52] Ibid.
[53] Glans, Matthew, "The Connect America Fund and Broadband Internet Taxes", Sepetermber 13, 2012, Heartland Institute, heartland.org.
[54] Downes, Larry "How the FCC sees Broadband's 95% success as 100% failure", Forbes, August 23, 2012, http://www.forbes.com/sites/larrydownes/2012/08/23/how-the-fcc-sees-broadbands-95-success-as-100-failure/2/.
[55] Matthew Glans, "Rural Broadband Program Misses the Mark".
[56] The Digital Policy Institute, "Telecom Regulatory Reform: Indiana Update 2012", Ball State University, January 2012, http://cms.bsu.edu/-/media/WWW/DepartmentalContent/DPI/PDFs/FinalVersionofIndianaTemplate2012.pdf.

simultaneously cutting taxes on users. The internet went largely unregulated for years and grew at an incredible rate. As demonstrated by Indiana, fewer federal regulations across the board will allow for increased growth and accessibility.

III. Block Grant Contingency Plan

The Honorable Anthony Kennedy relayed a story to the Heritage Foundation last winter. While he was teaching a class in Krakow, Poland, a student said, "Federalism is very important in America, but money goes to Washington, and then it goes to the states with conditions, with grants. Doesn't this undermine federalism?" Sometimes it is easier for someone outside to pick out the obvious flaws in a system.

Federal funding sent to Indiana is generated from two sources: 1) Hoosier taxpayers; and 2) future generations of Hoosier taxpayers. Unfortunately, when the federal government returns money back to Hoosiers through grants, we are expected to play by their rules or face consequences such as losing future funding. For example, the federal agencies that oversee these programs force State agencies to push federal priorities and spend the money as quickly as possible. Federal agencies want states to spend quickly so they can go back to Congress and ask for more money. It seems that by federal standards, the amount of money spent is the primary measure of success not whether a program actually works. This is why instead of allowing the State to keep funding for a rainy day for a change in circumstance federal agencies penalize State agencies for not spending money fast enough.

A block grant differs from categorical grants in that, at least in theory, strings are not attached. Block grants would allow Indiana to set its own priorities and serve Hoosiers more efficiently and more effectively. Historically, there have been pushes to increase block grants both during the Nixon and Reagan administrations. Instead of duplicative and contradictory reporting to different federal agencies, time, energy, and resources could be better spent on providing effective programs.[57] Also, if a state wants to try a new program, or make adjustments to an existing program, the state could lose federal funding. Federal agencies use funding against states instead of working with states and encouraging innovation and creativity. Essentially, federal agencies threaten our most vulnerable neighbors when coercing the State to get in line.

The purpose of a Block Grant Contingency plan is to bring to light how federal grant inefficiencies affect state agencies. This plan essentially demonstrates how Hoosiers could be better served by not having federal strings attached to funding. The following is Indiana's Block

[57] Not everyone agrees with the effectiveness of block grants. E.g. http://www.huffingtonpost.com/bruce-lesley/medicaid-block-grants-texas_b_3044635.html. Mr. Lesley argues that block grants would "lock in" funding. However, he misses the point since that would be a problem with the formula and not the block grant.

Grant Contingency Plan outlining ways in which state agencies[58] could better serve Hoosiers without federal conditions.

Family and Social Services (FSSA)

Medicaid

Indiana serves roughly 1 million Hoosiers through the Medicaid program. If Indiana received Medicaid money in a true block grant form, it would be able to provide care that makes the most sense for its citizens. For instance, Indiana could offer different options, such as consumer driven health plans to better serve needy Hoosiers. The State of Indiana currently offers its employees consumer driven plans and also more traditional plans. 96 percent of State employees choose the consumer driven plan which indicates people are generally pleased with consumer driven plans. Medicaid customers should be able to take advantage of such options as well. Nationwide it is difficult for Medicaid patients to see a doctor; which is why many wind up in an emergency room for ailments that could have been tended to by a primary care physician. To better serve low-income Hoosiers, states need the freedom and ability to craft plans that will better serve their populations instead of the outdated and failing 1965 system.

Even smaller changes such as allowing for more flexibility for Indiana to conduct reimbursement rates without federal preconditions and streamlining the federal approval process would make the process more efficient. These are just two small examples of inefficiencies that drive administrative expenses. Most people would agree that if the money is going to be spent, it should be spent on the people that need it and not on administration to keep up with federal requirements.

Under the Medicaid drug program, FSSA is required to include FDA-approved protease inhibitors and drugs such as Viagra when necessary. If Indiana had more flexibility to decide which drugs it would not cover, the Medicaid program could more effectively serve Hoosiers and reduce costs to the benefit of taxpayers.

Temporary Assistance for Needy Families (TANF)

Although TANF is already classified as a block grant, there are restrictions that if removed could better meet both Indiana's goals and the goals of TANF. For example, more children in targeted areas could be served without provisions limiting how much TANF funding can be transferred to the Child Care Development Fund (CCDF) and the Social Services Block Grant. There is a waitlist for the CCDF program and if FSSA had a block grant it would be able to transfer money between

[58] See Appendix for agency plans.

programs more easily thus serving more Hoosiers. In addition, funding could be transferred to adoption services that may not be "grand-fathered" under the current TANF spending plan.

Also, the maintenance of effort (MOE) creates an inefficient use of resources. If Indiana spends less than in previous years on TANF then it will be penalized. If Indiana was able to spend what is needed when it is needed, taxpayer dollars could be used more efficiently.

Mental Health and Substance Abuse Prevention and Treatment Block Grants

The Mental Health and Substance Abuse block grants provide funding for mental health and substance abuse counseling services. While they are called block grants, instead of the Division of Mental Health and Addiction (DMHA) having wide latitude in the programs that it supports and setting its own priorities, these two grants have onerous requirements taking time, money, and energy away from the citizens that the grants are supposed to assist. For instance, the application for the grants is well over one hundred 100 pages long. That creates a tremendous burden for DMHA just to receive the money generated by Hoosier taxpayers.

Indiana State Department of Health (ISDH)

ISDH indicated that if they were able to consolidate grant programs they would be able to save time and money by not having to submit as many reports. Some grants come down from the same Catalog of Federal Domestic Assistance (CFDA) account, but the funding needs to be used in specific areas. Pooling that funding together would provide ISDH with greater flexibility to meet the needs of Hoosiers. In addition, they would have the flexibility to focus on the areas that they need to focus on to successfully implement their programs.

Women Infants and Children Program (WIC)

WIC is a program that, as its name implies, provides food for women with infants and children. Pregnant women may also apply for the program. 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. USDA is required to implement EBT in every state by 2020. Instead of developing a plan and allowing states to implement that plan, USDA has amended their process every year over the past four years. This has made it tremendously difficult and inefficient for Indiana to implement the EBT system. This ends up hurting customers since it the EBT system would allow 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.

Also, it would be useful if the Indiana WIC program could share its data. Over the years, Indiana's infant mortality rate has remained near the bottom as compared to other states, and one of ISDH's goals is to lower the infant mortality rate. However, when Indiana wants to use WIC to study infant mortality corollaries, the USDA, which claims ownership over the data, sets up a roadblock for months to determine whether using the data is a "WIC use." If Indiana's WIC program shared the data and USDA determined it was not for a WIC use, Indiana could lose funding.

Indiana Department of Homeland Security (DHS)

DHS provided opportunities in which they could more efficiently serve Hoosiers without federal requirements.

Homeland Security Grant Program

The Homeland Security Grant Program supports the building, sustainment, and delivery of core capabilities to achieve the National Preparedness Goal of a secure nation. It is a pass-through grant that goes through DHS and then 80% goes to local jurisdictions. If DHS did not have to pass-through the funding Indiana could re-prioritize that funding based on best practices. Indiana could create and support state-level programs instead of passing the funding down to local units. Currently, programs and priorities are not standardized, but with strategic prioritization programs and initiatives could be streamlined and achieve greater results and improved efficiencies. This top-level state prioritization would also reduce the redundancies among state agencies and among the state and local capabilities for preparedness and response.

Emergency Management Performance Grant (EMPG)

EMPG assists state and local governments in preparing for all types of hazards. It also requires a soft match requirement. If there were no match requirement, and the program was administered based on a need or formula, DHS reports that they would be able to reimburse more individuals. However, the match requirement limits the amounts available because there are limited State funds available.

Indiana State Police (ISP)

ISP receives and operates the Motor Carrier Safety Assistance Program (MCSAP). ISP advises that the MCSAP program could be more effectively operated if provided in terms of a block grant. For instance, one measure of success MCSAP uses is the number of tickets, warning, and inspections issued. But there is no data that shows a correlation between the number of tickets issued and a decrease in fatalities. One of ISP's goals is to reduce highway fatalities. ISP advises

that, instead, it would be more productive for ISP to be able to use the funding on ISP priorities – driver education programs, joint enforcement efforts, and partnerships with the Indiana Motor Truck Association.

Also, a "rolling" required maintenance of effort (MOE) limits what ISP can do in strong economic times and the match limits ISP's share in lean economic times. MOE requires ISP to spend a certain amount based on past years. A "rolling" MOE would prevent ISP from spending more in good times when they have more manpower because then the State would be on the hook in out years based on the MOE. Also, in lean times, the 20 percent required match limits what the State can spend thus limiting ISP's share. It would be simpler to provide Indiana with a flat amount not based on what the state spent years ago or what it can afford today.

Department of Child Services (DCS)

DCS receives over $300 million in federal grant funding. One issue that DCS has with its grants is with reporting. There is overlap in reporting and audits, different time frames for audits, and financial reports. It requires the same information to be tracked in different manners with different formats. This decreases efficiency and creates a greater need for compliance staff and creates an enormous expenditure. If the federal government synchronized its reporting requirements, it would make it easier for DCS to comply thus allowing for a greater share of that $300 million to get to those whom it is supposed to be helping.

While there are several grants that provide funding to DCS and other agencies, it could be more efficient to be able to comingle funds from those grants with other grants. One of the most flexible grants DCS has is the Social Services Block Grant. Funds from this grant can be moved within the agency to cover shortfalls in other programs, and the flexibility it provides is a benefit to agencies.

Department of Workforce Development (DWD)

DWD sees an opportunity to more effectively use Workforce Investment Act (WIA) funds. Currently WIA funds are paid 100 percent to 3rd party training providers regardless of whether the student completes courses. DWD recommends using WIA funds to pay 70 percent upfront and then the final 30 percent upon successful completion. This will incentivize institutions to pay greater attention to student retention.

Within unemployment insurance administration, DWD is actively trying to find ways to increase enforcement efforts to decrease benefit overpayment and fraud recoupment. However, if the state received a block grant, Indiana would have an easier time recouping overpayments and fraud. Also, federal requirements prevent the State from removing bad administrative law judges that do not aid in recoupment and federal requirements also increase case error rates.

Positive changes could be implemented with a block grant to have a system wherein benefits are paid, but fraud is punished.

IV. Conclusion

Indiana is taking the lead on reasserting state rights and privileges. For example, Senate President Pro Tempore David Long authored legislation last session that requires delegates to a United States constitutional convention to only consider issues the legislature lays out. Indiana is the first state to take this step.

As Governor Pence noted in a speech on federalism, "To win a lasting victory for limited government . . . [w]e must support those who fight within the federal system and assist those leaders at the state level who are leading the fight from without." It is up to the states to take the lead in order to wrestle back control as an independent sovereign in order to promote a government that serves its citizens effectively and responsibly.

Appendix 2014

Agency Block Grant Contingency Plans: FSSA, ISDH, DHS, ISP, DCS, & DWD

David P Johnson,
Executive Director

Family and Social Services Administration Block Grant Contingency Plan

In looking at an overall block grant contingency plan for our agency we focused on several grants within our agency that have current federal requirements that limit our ability to utilize the funding available in the most efficient way possible and to provide the appropriate amount of services needed. Below we have provided a list of these grants, identified the current Federal requirements and identified opportunities that could be available if these requirements were removed or modified.

Medicaid Assistance Block Grant

Current requirements and barriers in federal administration that create complexity and prevent the state from operating the Medicaid program in a more efficient manner.

Freedom of Choice

In general, federal Medicaid rules permit beneficiaries to obtain Medicaid services from any provider of their choice as long as the provider is qualified to furnish the services and enrolled in the program.[1] Even beneficiaries enrolled in managed care plans (which by definition restrict beneficiary choice to the managed care plan's network providers) may not be restricted in freedom of choice in family planning services. While federal law permits states to set "reasonable standards relating to qualifications of providers," in practice it is quite difficult to impose any restrictions as a result of this "free choice" mandate. For example, in 2011, the Indiana General Assembly passed House Enrolled Act 1210, Section 1 of which disqualifies abortion providers from State contracts and grants, including those that distribute federal funds.[2] Indiana submitted a State Plan amendment to CMS which was not approved. Planned Parenthood sued the state and the state was enjoined from implementing the law.[3]

Not being subject to the federal free choice provision would give Indiana flexibility to enroll providers it determines appropriate to participate in the Indiana Medicaid program and maintain greater control over the program.

Medicaid Coverage of Drugs

Under the federal Medicaid drug rebate program, a state that opts to cover outpatient prescription drugs must cover, for their medically-accepted indications, almost all FDA-approved prescription drugs of manufacturers that have entered into drug rebate agreements with the Secretary of HHS. For this reason, for example, CMS has advised state Medicaid agencies that their programs are required to extend coverage to include FDA-approved protease inhibitors and Viagra when medically necessary. States may impose prior authorization requirements on these and other covered outpatient prescription drugs.[4]

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[1] See Section 1902(a)(23) of the Social Security Act and 42 CFR 431.51.
[2] House Enrolled Act 1210, Pub. L. No. 193-2011, Sec.1, (codified at Ind. Code § 5-22-17-5.5).
[3] *Planned Parenthood of Indiana, Inc. et al v. Commissioner of the Indiana State Department of Health, et al,* No. 11-2464, 7th Circuit, October 23, 2012.
[4] See Section 1927 of the Social Security Act and *The Medicaid Resource Book*, Kaiser Commission on Medicaid and

If the State were not subject to these requirements, it would have more flexibility to determine what drugs to cover in its Medicaid program, which could result in more cost savings.

Medicaid Administration Block Grant

Bureaucracy of State Plan Amendment Process

The Medicaid State Plan is a comprehensive written statement that the State submits to CMS describing the nature and scope of its Medicaid program.[5] It contains all information necessary for CMS to determine whether federal funding is available. In the normal course of business, the State must amend its State plan when certain policy changes are made. Over time, the federal approval process for these State Plan Amendments (SPAs) has become lengthier and more burdensome. In the past, SPAs were typically approved within 90 days of submission. However, currently typical approval timelines are between 9 and 12 months long. Over the course of that time period, there may be between 5 and 10 interactions with CMS in the form of formal and informal questions that the State must answer in writing as well as multiple conference calls to discuss the SPA, CMS' questions and the State's responses. The amount of time involved in these delays can impact availability of federal funding because CMS takes the position that there is no federal funding available until after a State Plan Amendment is approved.[6] Thus, the State may be in the position of being unable to implement a policy change or to claim federal funding for it until nearly a year after it has been submitted.

[5] See 42 CFR 430.10.

[6] See State Medicaid Director Letter, January 2, 2001, available at http://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/smd010201.pdf

Temporary Assistance for Needy Families Block Grant $206,799,109 FY13

Current TANF Grant Requirements:

- A maximum of 30% of block grant can be transferred to CCDF program
- A maximum of 10% of block grant total can be transferred to SSBG

The current TANF block grant has caps for the amount of funding that can be transferred to both the Child Cared Development Fund and the Social Services Block Grant fund. The removal of these caps would allow more children to be served in these targeted areas.

Special Education Infants and Toddlers Grant (Part C)-First Steps

The Division of Disabilities and Rehabilitative Services currently receives approximately $8.4M under this grant with the below required Maintenance of Effort (MOE):

34 CFR § 303.225 Prohibition against supplanting
(a) Each application must provide satisfactory assurance that the Federal funds made available under section 643 of the Act to the State:
(1) Will not be commingled with State funds; and
(2) Will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds.
(b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available.

Issues or barriers identified with this regulation –

- Limits the ability to invest state funding into "startup projects" that may not require the same level of state contribution in the future.
    - State funded program or system enhancements undertaken by Part C could reflect subsequent noncompliance with the MOE if the following year's expenditures were not continued at the same level.
- Limits the use of state one time money that may be available, in that those funds would not be available in the future.
    - If properly identified additional state funds were applied to Part C, for example, to implement new or creative methods of service delivery to improve access to Part C services in more rural areas of the state, it may adversely impact future federal allocations.
- Places some necessary caution on identification of additional federal or private funding, as the overall state funding cannot be reduced below the MOE requirement. Therefore, any additional funding would need to elevate the program expenditures from the prior year.
    - If the same level of funding is not available in future years, a funding cliff could be reached.
    - In some cases, if a state allocates local funds less than it did the previous year, the federal government would deduct the difference from its federal IDEA allocation the following year.

Mental Health and Substance Abuse Prevention and Treatment Block Grants

- DMHA receives two federal block grants currently from SAMHSA. The mental health block grant provides $7,824,302 in funding and the substance abuse block grant totals $31,301,396. Both grants are provided to the states and the amount is determined by a federal formula.

- Current requirements mandated under these grants:
    - Mental health block grant:
        - The state is required to have a planning council with membership requirements identified in the rules
        - Maintenance of effort for community services and for children's services
        - Annual report
        - Services provided only through qualified community programs
    - Substance abuse block grant:
        - Maintenance of effort
        - 20% minimum for prevention programs
        - Women's services MOE
        - Tuberculosis MOE
        - HIV MOE in designated states (IN is not a designated state)
        - Intravenous drug use outreach and capacity monitoring
        - Synar requirements to prevent minor access to tobacco
        - Annual implementation report
- Issues facing the state
    - The application for these funds is lengthy and cumbersome and is well over 100 pages long. The recent application requested a great deal of info related to implementation of healthcare reform and asked for projections related to Medicaid expansion.
    - The data reporting is onerous and goes to support federal initiatives not necessarily priorities for the state.
- Opportunities if federal requirements were lifted
    - These funds would be used to address state priorities rather than priorities established by the federal government. This would include the flexibility to have these funds without an MOE requirement or targeted consumer populations.
    - Flexibility would allow for the funds to be shifted to other targeted consumer populations as the state determined new or growing needs.
    - Combining the two block grants would allow for additional funds for mental health treatment or treatment for co-occurring conditions.

Older Americans Act Title II Grant

The Division of Aging currently receives $22,303,338 under the Older Americans Act Title II Grant with the following grant requirements:

Currently these funds are distributed to the 16 Area Agencies on Aging (AAAs) with the intra-state funding formula. This grant is currently required to be broken into 5 different funding mechanisms:

1. Title III B – Supportive Services ($6,855,949)

2. Title III C1 – Congregate Meals ($8,105,861)
3. Title III C2 – Home-Delivered Meals ($4,062,628)
4. Title III D – Preventive Health ($400,823)
5. Title III E – NFCSP ($2,878,077)

Our recommendation would be to remove the 5 different funding mechanisms and to provide one all-inclusive grant total, which would still include all available services under the grant. The difference would be that the AAAs would be allowed the flexibility to identify the greatest needs within their geographic regions and to apply the appropriate level of resources to that need.

Indiana State Department of Health – Memorandum

Date: November 1, 2013
To: David Johnson, Indiana Office of State Based Initiatives
From: Rebecca Chauhan, Indiana State Department of Health
Re: Block Grant Contingency Plan per Executive Order 13-20

Grants: The Indiana State Department of Health (ISDH) receives multiple Federal grant awards under certain families of grants. These grant families are arranged under the same classification number in the Catalog of Federal Domestic Assistance (CFDA). Some examples of multiple grant awards within the same grant family are listed below, along with funding amounts for Federal fiscal year 2013.

HIV/AIDS Surveillance, CFDA 93.944
- HIV/AIDS Surveillance ($627,444)
- Medical Monitoring Project ($425,422)
- National Indiana HIV Surveillance System ($582,912)

Food and Drug Administration Research, CFDA 93.103
- Accreditation for State Testing Laboratories ($298,300)
- Advancing Conformance Voluntary National Retail Food Standards ($70,000)
- Conformance with the Manufactured Food Regulations Program ($287,206)
- Food Safety Task Force ($9,000)

Maternal, Infant, and Early Childhood Home Visiting Program, CFDA 93.505
- MIECHV Competitive ($9,145,337)
- MIECHV Formula ($4,436,760)

Requirements: The awards in these grant families all benefit a single ISDH program area, are all authorized by the same Federal code or Public Law, and all are meant to achieve the same general objectives. While the specific purpose and uses of these grant programs are not identical, they do stem from the same overarching goals and are made with the same general intent, eligibility, restrictions, and requirements. A similar application and award process, post-assistance requirements such as financial and programmatic reporting, and accountability efforts such as participation in the annual A-133 Single Audit are all similarly scheduled requirements of these Federal grant awards.

Plan: If Federal grantor agencies were to consolidate these grant programs into larger block grant-style awards, ISDH program and finance areas would theoretically submit fewer reports and potentially have the flexibility to shift funds from one focus area to another under a single family of grants.

In the example of Public Health Emergency Preparedness (PHEP) and Hospital Preparedness Program (HPP) grants, these two similar programs were consolidated recently into one annual award under CFDA 93.074. While consolidation of this award has created one unified grant schedule and deadlines, these dollars still cannot be comingled or shifted from one program to another. Performance measures of these two similar initiatives are more formally aligned, and reporting of these measures is submitted on a singular document and schedule. ISDH staff time has not been reduced in managing this consolidated grant, though Federal site visits and audits have been consolidated into a single effort.

MICHAEL R. PENCE, Governor
STATE OF INDIANA

INDIANA DEPARTMENT OF HOMELAND SECURITY
302 West Washington Street
Indianapolis, IN 46204

Federal Funds Managed by the IDHS Grants Management Branch

1. Homeland Security Grant Program (HSGP)

The HSGP plays an important role in the implementation of the National Preparedness System (NPS) by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal (NPG) of a secure and resilient Nation. Delivering core capabilities requires the combined effort of the whole community, rather than the exclusive effort of any single organization or level of government. Provide planning, equipment, training, exercise, and management and administrative funding to emergency prevention, preparedness, and response personnel in all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories expanding the scope and reach of the program.

- Utilize Homeland Security Strategies to more effectively fill the gaps between needs and existing capabilities.
- Changes and additions to the allowable uses of funds reflect input received by DHS from local and State officials and a continued commitment to better serve our nation's emergency prevention, preparedness, and response personnel.
- Local jurisdictions must receive 80 percent (80%) of the State's total Homeland Security Grant Program awards.

1.1. State Homeland Security Program (SHSP)

This core assistance program supports the implementation of risk driven, capabilities-based State Homeland Security Strategies to address capability targets set in Urban Area, State, and regional Threat and Hazard Identification and Risk Assessments (THIRAs). The capability levels are assessed in the State Preparedness Report (SPR) and inform planning, organization, equipment, training, and exercise needs to prevent, protect against, mitigate, respond to, and recover from acts of terrorism and other catastrophic events. Consistent with the Implementing Recommendations of the 9/11 Act of 2007 (Public Law 110-53) (9/11 Act), states are required to ensure that at least 25 percent of SHSP appropriated funds are dedicated towards law enforcement terrorism prevention-oriented planning, organization, training, exercise, and equipment activities, including those activities which support the development and operation of fusion centers.

- Provides financial assistance directly to each of the states and territories to prevent, respond to, and recover from acts of terrorism.
- Supports the implementation of the State Homeland Security Strategy to address the identified planning, equipment, training, and exercise needs.

- Supports the implementation of NIMS, Homeland Security Presidential Directive (HSPD) 8: *National Preparedness*, and the National Response Plan (NRP).
- These funds also provide law enforcement communities support for the following prevention activities:
  - Information sharing to preempt terrorist attacks
  - Target hardening to reduce vulnerability of selected high value targets
  - Recognition and mapping of potential or developing threats
  - Counterterrorism and security planning
  - Interoperable communications
  - interdiction of terrorists before they can execute a threat or intervention activities that prevent terrorists from executing a threat
- These funds may be used for planning, organization, training, exercises, and equipment, and administered by the State Administrative Agency (SAA), Indiana Department of Homeland Security.
  - 2007: $6,200,000 (LETPP) + $8,680,000 (SHSP) = $14,880,000
  - 2008: $12,650,000
  - 2009: $11,633,500
  - 2010: $11,326,441
  - 2011: $5,663,221
  - 2012: $2,801,316
  - 2013: $3,459,364

1.2 Urban Areas Security Initiative (UASI)

The UASI program addresses the unique risk driven and capabilities-based planning, organization, equipment, training, exercise needs, of high-threat, high-density Urban Areas based on the THIRA-generated capability targets process and associated assessment efforts, and assists them in building an enhanced and sustainable capacity to prevent, protect against, mitigate, respond to, and recover from acts of terrorism. Consistent with the 9/11 Act, states are required to ensure that at least 25 percent of UASI appropriated funds are dedicated towards law enforcement terrorism prevention-oriented planning, organization, training, exercise, and equipment activities, including those activities which support the development and operation of fusion centers.

- Provides financial assistance to address the unique planning, equipment, training, and exercise needs of high risk urban areas, and to assist them in building an enhanced and sustainable capacity to prevent, respond to, and recover from threats or acts of terrorism.
- Marion County and the contiguous (Boone, Hamilton, Hancock, Hendricks, Johnson, Morgan and Shelby) counties in Indiana are eligible for UASI funding. This funding is administered by the Indianapolis/Marion County Emergency Management Agency.
  - 2007: $7,710,000
  - 2008: $7,478,500
  - 2009: $7,107,700
  - 2010: $7,104,700
  - 2011: $0
  - 2012: $1,250,000
  - 2013: $0

If there was no pass-through requirement on the Homeland Security Grant, Indiana would be able to re-prioritize funding based on previous best practices. Funding could be used to support state-level programs and projects that are currently being passed down to the local units of government and have the potential to not be standardized across the State.

2. Emergency Management Performance Grant (EMPG)

The purpose of the EMPG Program is to make grants to States to assist State, local, territorial, and tribal governments in preparing for all hazards, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). Title VI of the Stafford Act authorizes FEMA to make grants for the purpose of providing a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government, States, and their political subdivisions. The Federal Government, through the EMPG Program, provides necessary direction, coordination, and guidance, and provides necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists at all levels for all hazards.

- Structure individual emergency management programs based on identified needs and priorities for strengthening their emergency management capabilities, while addressing issues of national concern.
- Develop intrastate emergency management systems that encourage the building of partnerships which include government, business, volunteer, and community organizations.
- Conduct emergency management planning activities, including (but not limited to) activities and costs related to EMAP accreditation process, developing/enhancing comprehensive emergency management, all-hazards, mitigation, catastrophic incident, logistics and resource management, evacuation, response/recovery and mass casualty plans.
- Allows for a wide range of emergency management training and exercising.
- 50% soft match requirement.
    - 2007: $3,896,491 + $1,004,250 (Supplementary) = $4,900,741
    - 2008: $5,808,552
    - 2009: $6,100,540
    - 2010: $6,562,747
    - 2011: $6,529,870
    - 2012: $6,749,053
    - 2013: $6,592,684

If there was no soft match requirement on the Emergency Management Program, Indiana would be able to reimburse more individuals out of the grant program. Due to the need to match dollar for dollar what is brought in, we can only accept what we can match which limits the amount available.

3. Nonprofit Security Grant Program (NSGP)

UASI NSGP provides funding support for target-hardening activities to nonprofit organizations that are at high risk of a terrorist attack and are located within one of the specific UASI-eligible urban areas. While this funding is provided specifically to high-risk nonprofit organizations under The *Department of Homeland Security Appropriations Act, 2013* (Public Law 113-6), the program seeks to integrate nonprofit preparedness activities with broader State and local preparedness efforts.

- In 2012, Indiana received a NSGP grant for Congregation B'nai Torah in Indianapolis for $28,161. Due to Indiana not receiving UASI funding, the NSGP funding will not be available in FY2013.
    - 2007: $116,000
    - 2008: $0
    - 2009: $36,758
    - 2010: $0
    - 2011: $0
    - 2012: $28,161
    - 2013: $0

Funding out of this program is directly allocated to a non-profit agency. There is currently no opportunity to use these funds unless that stipulation was lifted.

4. Hazardous Materials Emergency Preparedness (HMEP) Grant Program

The Hazardous Materials Emergency Preparedness (HMEP) grant program is intended to provide financial and technical assistance as well as national direction and guidance to enhance State, Territorial, Tribal, and local hazardous materials emergency planning and training. The HMEP Grant Program distributes fees collected from shippers and carriers of hazardous materials to emergency responders for hazmat training and to Local Emergency Planning Committees (LEPCs) for hazmat planning.

- 25% soft match requirement.
    - 2007: $378,143
    - 2008: $302,308
    - 2009: $512,532
    - 2010: $512,532
    - 2011: $512,532
    - 2012: $537,270
    - 2013: $536,745

If there was no soft match requirement on the Hazardous Materials Emergency Preparedness Program, Indiana would be able to use the funds more broadly than they are able now. Because each of the expenses must have 25% match, the awards are limited due to the LEPC's inability to match a large amount of funding.

5. National Earthquake Hazards Reduction Program (NEHRP)

The National Earthquake Hazards Reduction Program leads the federal government's efforts to reduce the fatalities, injuries and property losses caused by earthquakes. This program works hand-in-hand with other FEMA administered grant programs including the Pre-Disaster Mitigation (PDM) grant program and the Hazard Mitigation Grant Program (HMGP).

- 2010: $0
- 2011: $0
- 2012: $48,619

STATE OF INDIANA

INDIANA STATE POLICE

INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE

INDIANAPOLIS, INDIANA 46204-2259

www.state.in.us/isp

October 30, 2013

TO: David Johnson, Executive Director
Office of State-Based Initiatives

FROM: Steven E. Hillman, Major
Assistant Chief of Staff - Fiscal

SUBJECT: Block Grant Contingency Report

This letter is in response to your request for the Indiana State Police to submit a block grant contingency report to the Office of State-Based Initiatives. Based on the instructions you previously provided, the Department has selected the Motor Carrier Safety Assistance Program (MCSAP) grant for your review.

The MCSAP grant is an annual grant the Indiana State Police applies for and receives to enforce federal and state commercial motor vehicle laws. As designated by the Governor, the Indiana State Police is the lead agency for this grant. Statutorily, the Indiana State Police is the only agency in the state authorized to certify officers and enforce the Federal Motor Carrier Regulations that this grant is intended to supplement. The annual amount the department receives varies slightly, but in 2013 the Department was awarded 5.7 million dollars in MCSAP funds. This amount includes a twenty percent state funding match.

The MCSAP grant includes a Maintenance of Effort (MOE) requirement. The following excerpt is taken from the Federal Motor Carrier Safety Administration (FMCSA) MOE:

"In accordance with the provisions of 49 CFR Part 350.301, States must maintain a level of effort to qualify for MCSAP funding, including:

(a). The State must maintain the average aggregate expenditure of the State and its political subdivisions, exclusive of Federal funds and State matching funds, for CMV safety programs eligible for funding under this part at a level at least equal to the average level of expenditure for the 3 full fiscal years beginning after October 1 of the year 5 years prior to the beginning of each Government fiscal year. This definition has been recently updated to reflect calculations from FY 2004 and 2005 but has not yet

been published.

(b). Determination of a State's level of effort must not include the following three things:
1. Federal funds received for support of motor carrier and hazardous materials safety enforcement.
2. State matching funds.
3. State funds used for federally sponsored demonstration or pilot CMV safety programs.

(c). The State must include costs associated with activities performed during the base period by State or local agencies currently receiving or projected to receive funds under this part. It must include only those activities which meet the current requirements for funding eligibility under the grant program.

All MCSAP eligible costs, whether they are billed to the grant or not, must be tracked and included in the MOE calculation. Indirect costs are MCSAP-eligible expenses as defined in 49 CFR 350.311 and include such costs as personnel, accounting or human resources staff, office space, supplies, utilities, etc. Although the State may choose not to seek MCSAP reimbursement for indirect costs, indirect costs (either the State's approved indirect cost rate or actual indirect costs) are MCSAP-eligible expenses and, therefore, must be included in the State's MOE calculation."

The purpose of the MOE requirement is to ensure the recipient of federal funds does not spend those funds in place of state and local dollars. The MOE ensures grant recipients spend their state and local funds for the same activities that would be provided if federal dollars were not available. This will result in a program where federal dollars supplement normal activities and not replace normal activities.

FMCSA historically required states to calculate their MOE on their previous three years efforts prior to grant application. This required states each year to invest significant time and effort into MOE calculations. In response to the issues associated with annual MOE calculations, FMCSA decided to allow states to use the average of 2004 and 2005 as their MOE calculation dates. Since that time, states that are able to show an MOE calculation that meets or exceeds the MOE average of 2004 and 2005 will meet the grant requirements. There is concern, however, that FMCSA could require a return to a "rolling" MOE based on years that immediately proceeded the grant application year.

The MOE formula unfortunately is a disincentive to the states to expand existing commercial vehicle enforcement programs and create new and innovative approaches to motor carrier safety. Under the "rolling" MOE scenario, if the Department found itself with additional manpower and resources to expand its commercial vehicle enforcement efforts for a three year period, FMCSA would require this same level of effort in the years following this period of time. This is a disincentive to agencies to expand their programs for fear of being required to maintain an enforcement effort in later years when that effort may not be sustainable through state resources.

The MCSAP 20 percent match in state funding also creates issues for the Department. During lean economic times, this can be a strain on the Department's budget and can be difficult to maintain. The Commercial Vehicle Safety Alliance (CVSA) has recommended for FMCSA to amend the MCSAP grant to a 90/10 match for all states. This increase in federal funding, with a reduced state funding commitment, would place the Department in a better position to meet its grant requirements during lean economic times.

Additionally, FMCSA evaluates the success of the MCSAP grant in terms of tickets, warnings, and inspections. However, there is no data that clearly shows a correlation between the issuance of tickets/inspections and a reduction in fatal crashes. The Department's goal in reducing commercial vehicle related fatalities in Indiana is multi-faceted and involves more than just writing tickets/warnings and conducting inspections. To reduce commercial vehicle crashes, the Department is also deeply involved with public speaking engagements, driver educational programs, partnerships and joint enforcement efforts with neighboring jurisdictions, and partnerships with organizations such as CVSA and the Indiana Motor Truck Association. Having a true impact on commercial vehicle safety requires more than just writing tickets and inspecting vehicles and the measurement of a state's efforts should encompass more than the counting of these numbers.

It is acknowledged that the Department could possibly operate more efficiently and effectively in the absence of the above stated federal restraints. However, it must be noted that the financial assistance offered through the MCSAP grant provides Indiana with the resources it needs to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles. The availability of this grant money greatly increases the likelihood that safety defects, driver deficiencies, and unsafe motor carrier practices are detected and corrected before they become contributing factors to crashes. Without the MCSAP grant, there is no doubt that Indiana would see a significant increase in commercial motor vehicle crashes and deaths on Indiana roadways.

Respectfully,

Steven E. Hillman
Major

Department of Child Services Grant Funding
Summary of Federal Administrative Requirements
October 31, 2013

Federal Funding Stream	FFY 2013 Funding Received	Funds are Used For:	Federal Administrative Requirements	Costly/Burdensome Requirements	How DCS can use funds more efficiently w/o Requirement
All Funding	$303,496,113	All Programs	Financial Reporting • Statewide Consolidated Annual Financial Report. • CFSP/APSR financial reports • CFS-101(reports the actual amt of funds spent in each IV-B program area and the number of individuals and children served) • SF-425 (Final financial status report) Audits • Programmatic Child and Family Services Review • Programmatic IV-E Foster Care Eligibility Review • Programmatic IV-E Adoption Eligibility Review • Annual Federal A-133 Financial Audit	There is overlap in financial reporting and audits. Different time frames are used for programmatic reports/audits than are used for financial reports/audits, This requires the same information to be tracked in two different manners and formats.	ACF is working on an approach using state agencies existing systems of Continuous Quality Improvement (CQI), which will reduce several of these challenges if enacted. DCS strongly supports this approach.
Social Services Block Grant (SSBG) **THIS IS OUR ONLY BLOCK GRANT**	$33,553,526		• State Plan/Application • Annual Pre Expenditure Report • Annual Post Expenditure Report • Validation Question Response	No barriers currently noted with SSBG as it is a very flexible funding stream.	While standard SSBG is very flexible and desired it should be noted that Disaster Relief funding under SSBG is not as flexible and comes with heavy regulation and eligibility criteria for use.

IV-E Foster Care	$64,762,869 $48,240 $1,126,505 $3,588,775 $69,526,389	Foster Care Foster Care ARRA Education and Training Vouchers Chafee Foster Care Independence Program (CFCIP)	• Eligibility Determinations • State Plan • Cost Allocation Plan • NCANDS (National Child Abuse and Neglect Data System) • Child and Family Services Review (CFSR) • Adoption and Foster Care Analysis and Reporting System (AFCARS) Assessment Review • IV-E Foster Care Eligibility Review • Psychotropic Medication Oversight • Statewide Automated Child Welfare Information System (SACWIS)	None while under the Waiver Agreement. Due to the Title IV-E Waiver, DCS has a great deal of flexibility in financial and reporting requirements until the agreement ends in 2017 DCS does not receive funding for SACWIS but is pursuing this as a part of the system accreditation process.	Currently an initiative at the Federal level is underway to bring reform to the Foster Care component of Title IV-E funding. DCS is in favor of these efforts as it will prevent the State from reverting to current regulations relative to Title IV-E Foster Care administration when the Waiver Demonstration expires in 2017. In the event that we secure SACWIS compliance or some portion thereof, some level of Federal reimbursements would be possible.
IV-E AAP and GAP	$75,264,630 $2,375,819 $77,640,449	Adoption and Guardianship Assistance Adoption Incentives	• Eligibility Determinations • State Plan • IV-E Foster Care Eligibility Review • Tracking of inter-country adoptions • Report on use of Savings from removal of AFDC financial requirements	DCS does not receive funding for SACWIS but is pursuing this as a part of the system accreditation process.	Title IV-E Adoption has completed Funding Reform efforts and is a phased in project that will be fully realized in FFY 2017 . In the event that we secure SACWIS compliance or some portion thereof, some level of Federal reimbursements would be possible.
IV-B Part 1	$6,309,324	Child Welfare Social Services	• Child and Family Services Plan (CFSP) 5 year plan outlining vision and goals to be accomplished to strengthen the child welfare system – update annually with the Annual Progress and Services Report (APSR) • Adoption and Foster Care Analysis and Reporting System (AFCARS) Assessment Review • CFS-101(reports the actual amount of funds spent in each IV-B program area and the number of individuals and children served) • SF-425 (Final financial status report) • Monthly Caseworker Visit Data Report • Training Plan • Quality Assurance System using Continuous Quality Improvement	Both the CFSP/APSR and CAPTA State Plan are very time and system intensive in nature to deliver.	Although there is a considerable amount of personnel cost in the generation of these reports they both provide an effective means to describe publicly and compare nationally the achievements and positive outcomes of the Indiana programs in the area of Child Welfare and Protection. Both reports are also very broad in nature, reporting several of our Federal Awards in a comprehensive deliverable.

			• Services for children under 5 to reduce the amount of time in care.		
Title IV-B Part II	$6,038,541 <u>$381,693</u> $6,420,234	Promoting Safe and Stable Families IV-B Visitation	• Child and Family Services Plan (CFSP) 5 year plan outlining vision and goals to be accomplished to strength the child welfare system – update annually with the Annual Progress and Services Report (APSR) • Adoption and Foster Care Analysis and Reporting System (AFCARS) Assessment Review • CFS-101(reports the actual amount of funds spent in each IV-B program area and the number of individuals and children served) • SF-425 (Final financial status report)	Reporting requirements for the Promoting Safe and Stable Families award includes segregation of spending into five distinct categories that are confining and a challenge for managing Federal outcome expectations.	Relaxing or removing portions of the Federal constraints within the categories of activities would allow State to better leverage funding within the award.
Title IV-A (TANF)	$34,680,245		DCS is a sub-recipient of this award via FSSA. We defer to FSSA on this portion of the Federal Funding for reporting to OSBI.	DCS is a sub-recipient of this award via FSSA. We defer to FSSA on this portion of the Federal Funding for reporting to OSBI.	DCS is a sub-recipient of this award via FSSA. We defer to FSSA on this portion of the Federal Funding for reporting to OSBI.
Title V Maternal, Infant, & Early Childhood Home Visiting	$1,345,582 <u>$5,999,946</u> $7,345,528	Sir Comp	DCS is a sub-recipient of this award via Dept of Health. We defer to the Dept of Health on this portion of the Federal Funding for reporting to OSBI.	DCS is a sub-recipient of this award via Dept of Health. We defer to Health on this portion of the Federal Funding for reporting to OSBI.	DCS is a sub-recipient of this award through the Dept of Health. We defer to the Dept of Health on this portion of the Federal Funding for reporting to OSBI.
Title II Community-Based Child Abuse Prevention (CBCAP)	$988,950	Community Based Family Resources	• Washington DCS Conference Attendance by CBCAP Representative • CFSP/APSR • CAPTA State Plan and Certifications	Both the CFSP/APSR and CAPTA State Plan are very time and system intensive in nature to deliver.	Although there is a considerable amount of personnel cost in the generation of these reports they both provide an effective means to describe publicly and compare nationally the achievements and positive outcomes of the Indiana programs in the area of Child Welfare and Protection. Both reports are also very broad in nature, reporting several of our

					Federal Awards in a comprehensive deliverable.
Child Abuse Prevention and Treatment Act (CAPTA) State Grant	$518,408 $352,709 $871,117	Child Abuse and Neglect State Grants Administrative Law Judges Children's Justice Act (CJA)	• CFSP/APSR • Child Maltreatment Deaths Reporting through data in NCANDS (National Child Abuse and Neglect Data System) • Child Fatality and Near Fatality Public Disclosure of Findings (involving child abuse or neglect) • CAPTA State Plan and Certifications • Administrative Law Judges – Appeals Process for Substantiation of Child Abuse that is not litigated • Citizen's Review Panels (3) – Annual Report and Response • Information on Child Protective Service Workforce Report • Juvenile Justice Transfers Report • Annual State Data Report (Most data is included in NCANDS) • Health Care Oversight and Coordination Plan • Disaster Plan • Washington DCS Conference Attendance by State Liaison Officer • Children's Justice Act Panel • Annual Conference • Washington DCS Conference Attendance by CJA Representative	Both the CFSP/APSR and CAPTA State Plan are very time and system intensive in nature to deliver. Compliance with federal and state law requiring three Citizens Review Panels is time consuming. The panels must include members of the Child Protection Team, Fatality Review Board, and Foster Care Advisory Board. Members of these boards are already volunteering their time on these boards and adding another responsibility is problematic. Elimination of this requirement would reduce the time and cost associated with CAPTA compliance.	Although there is a considerable amount of personnel cost in the generation of these reports they both provide an effective means to describe publicly and compare nationally the achievements and positive outcomes of the Indiana programs in the area of Child Welfare and Protection. Both reports are also very broad in nature, reporting several of our Federal Awards in a comprehensive deliverable

Department of Workforce Development

Block Grant Contingency Plan

November 1, 2013-October 31, 2015

In accordance with Executive Order 13-20, The Department of Workforce Development submits our block grant contingency plan for the period November 1, 2013-October 31, 2015.

Requirement A - Evaluate whether and how Indiana could use federal funds more effectively without federal constraints, including opportunities for cross agency collaboration.

The Department of Workforce Development receives federal funding through 7 main federal funding streams that include; The Workforce Investment Act (WIA), Wagner-Peyser Act (WP), Adult Basic Education (ABE), Carl D. Perkins Act (Perkins), Trade Adjustment Assistance Act (TAA), Bureau of Labor Statistics (BLS) and Unemployment Insurance Administration (UI). The federal constraints surrounding the allowable usage of these funding streams are significant and pose many challenges in changing elements of the service delivery model in order to achieve greater effectiveness. We have identified opportunities in two of the funding streams and are actively working toward implementation of these initiatives.

Workforce Investment Act –

One method currently being explored to gain more effective utilization of WIA funds is to implement a reimbursement mechanism for 3rd party training providers, i.e. community colleges and technical schools, where 70% of the training costs are paid upon enrollment in the program and the remaining 30% is withheld until the student completes the course. This method is in contrast to the current model where 100% of the training cost is paid upon enrollment and there is no recourse to the provider if the student fails to complete the prescribed class. Implementing this model of reimbursement incentivizes training institutions to pay greater attention to student retention and reduces the cost of training for individuals that do not complete the course.

Another opportunity for greater effectiveness is to establish a State policy that requires each of our local WorkOne operators to spend a specified percentage of their formula distribution on direct client services, such as training and supportive services. While the exact percentage to require is still undetermined, this requirement will ensure that local operators are actively managing administrative costs and enrolling the maximum amount of individuals into training programs that lead to a high wage/high demand occupation in their area.

Unemployment Insurance Administration –

With the continued improvements in Indiana's UI administrative operations, the department is heavily focused on creating the proper balance of spending on efforts to support timeliness, quality, enforcement and technology.

Within the federal constraints, we have identified that administrative spending associated with enforcement of UI benefit provisions will allow for increased benefit overpayment and fraud recoupment as well as increase Indiana's overall proportion of federal UI administrative funding. Because of this, the department is rapidly increasing enforcement efforts on both the staffing and technology fronts.

Additionally, the department has been actively working with the Indiana Department of Revenue to create a shared system of employer audits that will allow IDOR to perform UI tax audits at the same time they perform employer audits for Indiana State tax purposes. The intended benefit of this partnership would allow IDOR to experience potential cost savings by utilizing UI funding to offset a portion of their current auditing costs, increase the audit penetration rate for UI tax audits, broaden the knowledge of IDOR tax auditors and reduce the audit burden on Indiana employers.

While this effort has proven to be more challenging than originally expected, we believe there is opportunity for increased effectiveness and overall efficiency and will continue working toward this objective.

Requirement B – Identify specific action items that are significant in solving issues caused by federal mandates and regulations.

The federal Emergency Unemployment Compensation program (EUC) was first enacted in 2008 at the beginning of the most recent recession. EUC, at its peak, provided for up to 99 weeks of eligibility for unemployed individuals where the State paid for the first 26 weeks of eligibility and the federal government paid the cost of weeks 27-99. As the economy has recovered, the provision of EUC have changed to where Indiana claimants are now eligible for up to 64 weeks of UI benefits. This program (weeks 27-64) is scheduled to expire at the end of 2013. While early in the year we expected that the program would not be reauthorized, the prospect of Congress extending the program through 2014 has gaining more traction in recent weeks.

If the federal government does in fact extend the EUC program through 2014, Indiana is not compelled to participate and we believe there is sufficient justification to opt out of the federal

program. If Indiana were to take this step, the State would revert to providing benefits to only those that qualify for State UI benefits for up to 26 weeks.