

WELFARE REFORM: THE ISSUE THAT BUBBLED UP FROM THE STATES TO CAPITOL HILL

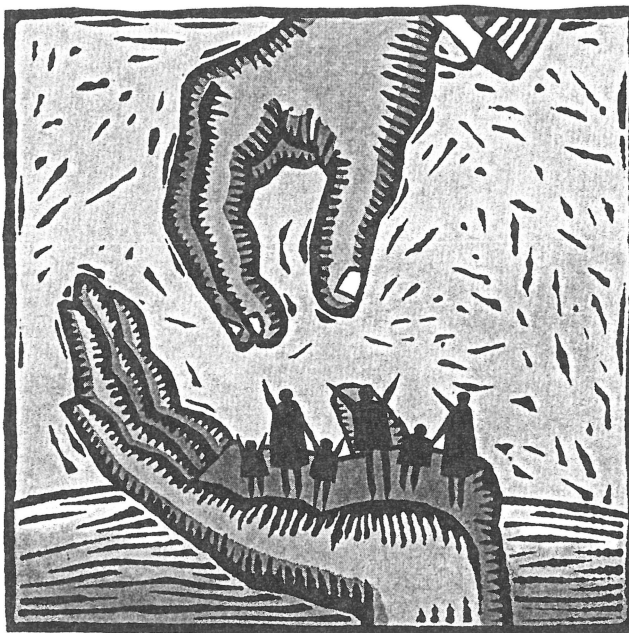
Crafting the law created a new relationship between the states and the federal government.

By Julie Rovner

The rhetoric surrounding enactment of the new federal welfare law focused on how it would create a new relationship between welfare recipients and the governments that help them. But the unprecedented participation of governors and other state officials in crafting the reforms also justifies the argument that it creates a new relationship between the states and the federal government as well.

"This was a historic partnership, and I can only hope that we'll see more of it in the future," said Democratic Governor Bill Clinton of Arkansas, co-chairman of the National Governors' Association working group on welfare reform and a key player in making the new welfare law a reality.

"This is an indication of the new federalism," said Republican Governor Michael N. Castle of Delaware, Clinton's co-chairman. "It's a policy that actually began at the state level and then bubbled up to the federal level, as opposed to almost any health and social service policy in the last 50 years, which started at the federal



level and went back down."

Congressional sponsors of welfare reform are quick to agree. "The governors were the ones who originally conceived of these changes," said U.S. Representative Thomas J. Downey, the New York Democrat who steered the new law through the House. "What they want is paid attention to."

Democratic U.S. Senator Daniel Patrick Moynihan of New York, sponsor of the Senate version of the bill and veteran of a quarter century of failed welfare-reform attempts, was

unequivocal. Without the work of the governors, he said, "there would be no legislation. The experimental mode of the states and their enthusiasm is what brought [Congress] to the debate."

The experiments cited by Moynihan include a number of state welfare-to-work programs, such as California's Greater Avenues to Independence (GAIN), Massachusetts' vaunted Employment and Training Choices (ET) and New Jersey's Realizing Economic Achievement (REACH). Obeying the unwritten rule that such programs must bear a catchy acronym, the new federal law requires states, by 1990, to implement what has been

formally named the Job Opportunities and Basic Skills program: JOBS, of course.

The creation of the JOBS program — the centerpiece of the welfare reform law — is the embodiment of an emerging consensus on welfare that prompted President Reagan to put welfare reform on the congressional agenda in his 1986 State of the Union message and stirred the NGA, a year later, to endorse welfare reform by a near-unanimous vote. The president was not at all specific, simply calling for legislation to help

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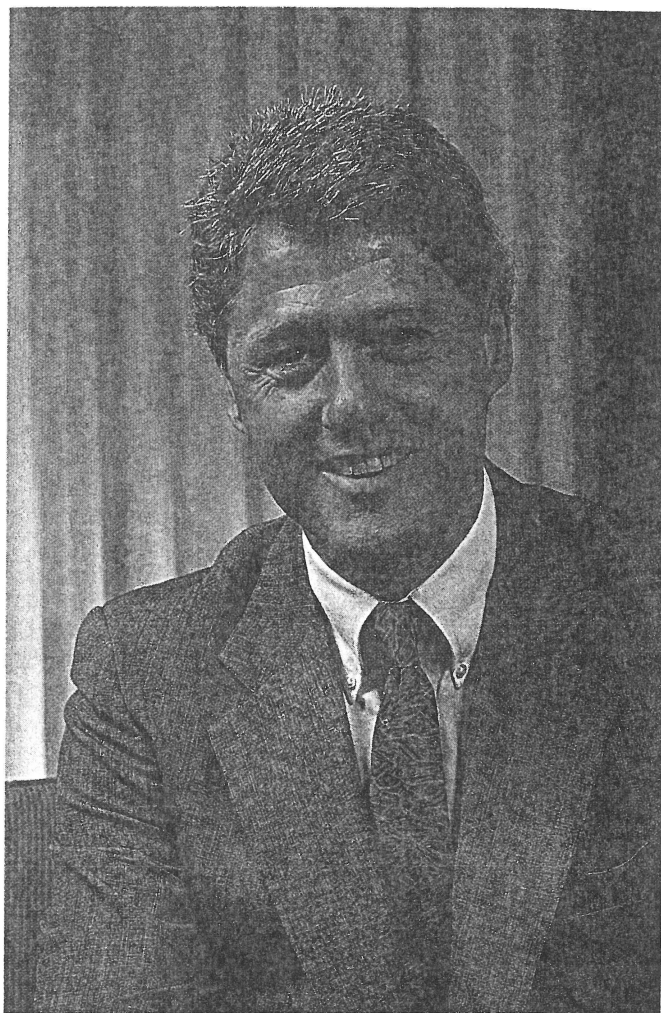
welfare recipients "escape the spider's web of dependency." Some aspects of the governors' plan, on the other hand, included considerable detail.

That was important politically.

The governors' bipartisan support for a specific blueprint for reform became a convenient shield to hide behind for members of Congress who advocated similar reforms. "For members who were on the fence and don't like voting for welfare, being able to point to the governors' involvement really helped," said Representative Downey. On the other side of the Capitol, Senator Moynihan insisted on calling his measure "the governors' bill," and delighted in telling anyone who would listen how it was approved by a 49-1 vote at the governors' association convention. That stretched the truth. Some governors had not come to this particular convention; as many as 10 others left before the welfare policy came up. Still, the proposal was adopted with only a single dissenting vote, from Wisconsin Republican Tommy G. Thompson.

The exaggeration probably did not matter much. What did matter was not just the promising record of the new welfare-to-work programs in a number of states or the success of Clinton, Castle and others in working out a reform plan and selling it to their peers. More important was the persistent work the governors put into the task of persuading Congress to enact reforms that made sense from the states' point of view — substantively, financially and administratively. The governors left their mark on each of these aspects of the welfare reform law.

The consensus that finally brought about the first major overhaul of the nation's welfare laws in half a century found congressional liberals accepting the concept that mothers of even



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small children should work. Conservatives, in turn, acknowledged that both the federal government and state governments have a responsibility to provide not only the education and training that will enable welfare mothers to get jobs but also the support services, such as child care and continuing medical coverage, that will enable them to keep jobs once they get them.

That consensus broke down repeatedly during the law's two-year trip to enactment, and the effort was declared dead more often than George Bush and Michael Dukakis attacked each other over the summer and early fall. The final product was a compromise of the most classic sort, with each side getting what it wanted most and swallowing what it earlier vowed never to accept.

Conservatives, led by President

Reagan, got requirements that states enroll set percentages of their welfare recipients in work or training programs and a first-ever federal requirement that at least one of the unemployed parents in a two-parent welfare family work part time at community service or another job. Although the number of two-parent families currently on welfare is small — some 236,000 out of the total family caseload of 3.8 million — the administration insisted on this provision because of the symbolic importance it attaches to work.

Liberals swallowed the work requirements and, in return, got quite a lot. They got a guarantee that the federal government will pay a share of the costs of education and job training for the next seven years, without the need for Congress to pass annual appropriations. Uncertainties about federal funding from year to year had discouraged major state training efforts under the predecessor Work Incentive program, known as WIN; provision for consistent, reliable funding this time around

was the governors' top priority.

Liberals also got a requirement that welfare recipients who get jobs and go off the welfare rolls will continue to be eligible for subsidized child care and health benefits for a year. The automatic termination of these benefits for those who get jobs has long been seen as one of the biggest deterrents to moving mothers off welfare.

They got a stipulation that no parent will be required to accept a job that would result in a reduction in the family's net cash income. And the liberals got their long-sought goal of requiring all states to pay some benefits to poor two-parent families. Twenty-seven do so now.

Conservatives and liberals worked together, along with the governors, to make sure the new law did not

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perpetuate a crucial flaw in WIN, created in 1967. WIN unrealistically required states to enroll virtually every welfare recipient in job training or work. Even though more than half the caseload was later made exempt, the goals still never became attainable and the existence of statutory work and training requirements that could not be met enhanced the conviction, in Congress and elsewhere, that WIN was a failure and welfare reform an impossibility.

In large measure because of WIN's poor record in moving large numbers of welfare families off the rolls, the percentage of welfare recipients required to work or enroll in educational or job-training programs under the new law was kept low. These "minimum participation rates" for single parents start at 7 percent of the welfare caseload in 1990 and rise in four steps to 20 percent in 1995. (There are exceptions for mothers of children under age three — or under one, at the option of the state — and for a few other categories of people, such as those who are old or unable to work.) It was the governors who insisted that the participation rates should not be too high. That would force them, they said, to spread resources too thinly, thus doing little good for large numbers of people instead of making significant progress with fewer people. "Workfare" (unpaid work) requirements for one of the parents in two-parent welfare families are higher, rising to 75 percent by 1997.

In addition to its JOBS program, what is formally known as the Family Support Act of 1988 is a law of many provisions and considerable complexity.

Some of its key elements were hardly controversial at all. Most notable among these are the sections that expand and strengthen procedures for collection of child support payments

from absent parents, almost all of them fathers. Building on groundbreaking programs in Wisconsin and Texas, the law will require, in increasing numbers of cases, states to withhold court-ordered child support payments from the paycheck of an absent parent even if the parent has not fallen behind on the payments. By 1994, states will be required to institute immediate wage withholding not only for all welfare families and any non-welfare parent who asks for help in collecting child support, but also under every new child support order issued in the state. (See *GOVERNING*, February 1988, p. 52.)

States also will be required to strengthen efforts to establish paternity for children born out of wedlock, even those who are not on welfare. Washington will pay 90 percent of the cost of blood tests and other laboratory work to establish paternity. In the past, the general view has been that it was not worth the effort to establish paternity if the father was a 17-year-old high school dropout. But, as Moynihan pointed out repeatedly, 10 years down the road the 17-year-old will be a 27-year-old and likely

curity numbers when birth certificates are issued for their children. And, in an effort to introduce some measure of uniformity to child support payments, the law will require states to tell judges to use guidelines based on the absent parent's income, barring good reasons for not doing so.

As is so often the case with programs that are funded by the federal government but run by the states, the new law is full of new requirements. States are required to implement a JOBS program in every political subdivision, unless they can show that it is not necessary or feasible; required to pay benefits to poor two-parent families; even required to procure only licensed child care for welfare children whose parents are participating in work or training programs. They must also install an automated system for statewide tracking and monitoring of child support payments and periodically review support orders. They must make sure that no work assignment under the JOBS program displaces any currently employed worker and



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to have some source of income, while his illegitimate offspring will still be in grade school and in need of support.

Additional federal assistance in locating absent parents is also provided — including a requirement, which becomes effective in 1990, that both parents must supply their Social Se-

establish grievance procedures to handle alleged violations of this rule. These and many other requirements are imposed with a vast range of deadlines and effective dates.

But the new law is also full of options — many of them a direct result of on-the-scene participation of governors and other state officials in

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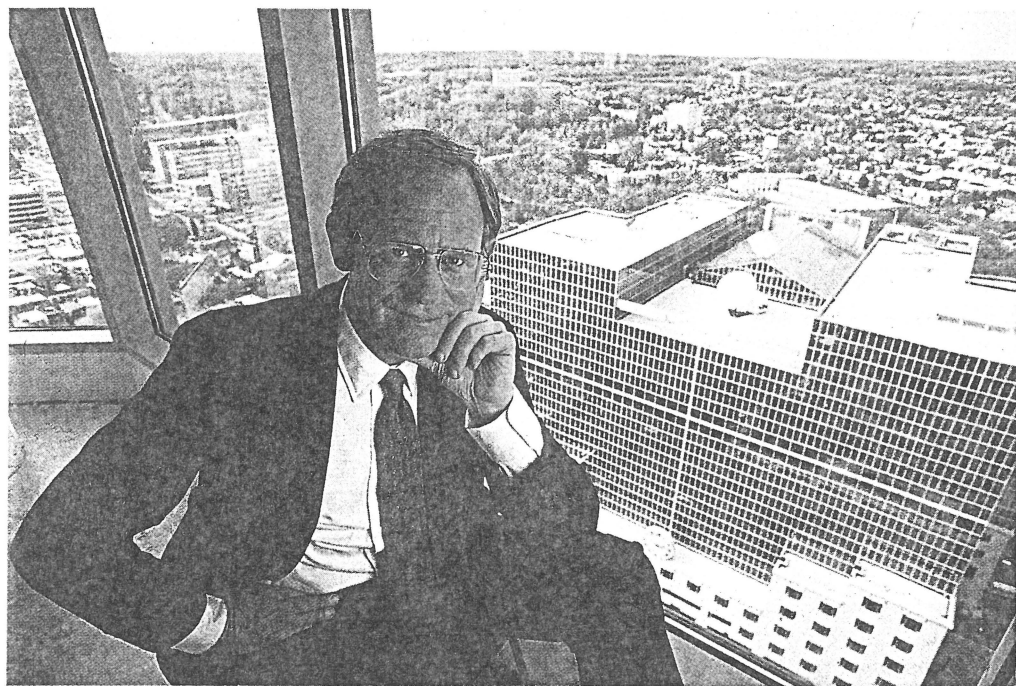
the writing of the law. States will be given significant leeway in setting up their JOBS programs, and indeed the law seems to resemble a Chinese restaurant menu, allowing states to pick two from column A (work programs) and three from column B (education programs).

A letter from the NGA also helped remove from the Senate-passed version of the bill a plan requiring states to make those who have gone off the welfare rolls pay an income-related premium for part of their extra year of Medicaid coverage. Governors complained that it would be virtually impossible to determine each family's monthly income and the appropriate premium. The payments were made optional.

Some of the optional provisions were included because ideological conflicts could be resolved no other way. The most important one: States will be permitted, but not required, to deny welfare payments to parents under the age of 18 who are living on their own, with no parent or older person in the household. This has long been a conservative objective.

The governors did not get everything they wanted. Consistent, adequate funding, though better than before, is still not assured under the new law. Because the White House insisted on it, federal funding for the JOBS program is subject to a national cap, which starts at \$600 million in 1989 and rises to \$1.3 billion in fiscal 1995. That means that Washington will pay a fixed portion of the cost — at least 50 percent, and more for poorer states — but only until the dollar ceiling for the year is reached. Federal funding for part of the cost of such support activities as child care and Medicaid will come under no such ceilings, however.

Even with the guarantee of federal funding for the support services, attendees at a Washington workshop on administering the new law expressed concern over the ability of



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poorer states to pay their share of them.

Another worry was whether there would be enough jobs for those who complete training and education programs. In parts of western Alabama, said Carol Gundlach, state coordinator of the Alabama anti-hunger coalition, "real unemployment is 50 percent and the major industry is welfare. What you've got to have is job development or else you're training people for nothing."

The biggest concern was the fear that miracles had been promised. "The rhetoric that has surrounded this bill is that we have an instant solution to this problem," said David L. Rickard of Arkansas Advocates for Children and Families.

Castle agreed that "every training success involves tremendous work." But he was upbeat about money. He estimates that his state will get an additional \$1 million per year from Washington under the new law to help with its two-year-old welfare-to-work program. "Some people ask if there's enough funding," he noted. "It's a start. A lot of this is experimental, it's new, and you cannot expect it to arise full bloom at its first blush."

The governors began their quest for a national welfare program that

would transform an income maintenance program with a minor jobs component into a jobs and training program with a minor income maintenance component soon after Reagan issued his 1986 call for welfare reform. Then-NGA Chairman Lamar Alexander, a Republican who was governor of Tennessee, asked Clinton and Castle to co-chair a governors' working group on the issue.

From the outset, said Castle, the members of the group knew the policy that they would draft had to be more than a mere statement of intent. "From the very beginning, we knew that the policy was something we wanted to enact into legislation," he said, "and that's one of the reasons we drafted it — to go to the Congress with."

By February 1987, the Clinton-Castle working group had produced a bipartisan plan that called for mandatory work and training programs for welfare recipients, with the savings that would ultimately be realized by reducing the welfare rolls plowed back into increased benefits. Originally, they had proposed concurrent benefit increases in low-benefit states, but an uprising by a number of Republican governors, led by New Hampshire's John H. Sununu, sank

that idea.

Indeed, benefit increases in the law as finally passed are few. A provision of the House bill that would have provided federal incentives to low-benefit states to raise their payments was eliminated from the final package, partly because of its cost and partly because of the fears of the White House and congressional conservatives that making welfare more attractive would encourage welfare dependency.

The governors did not end their activities with approval of their plan. Clinton seemed all but a member of Congress during consideration of the measure, traveling to or phoning Washington repeatedly. What's more, he participated in a closed-door session of the House Ways and Means subcommittee when it was actually writing the bill. It was an unprecedented involvement by a governor, some say.

"I was almost stunned," said Clinton later of the invitation to join the drafting session. "I wasn't prepared for it. I was just there to give testimony and encouragement."

When the House was preparing to vote on the bill last December, it was Clinton who worked on a dozen or so recalcitrant Southern Democrats at a lunch in the Capitol. He followed up later with phone calls, and at least one member, North Carolina Democrat Tim Valentine, said the "courteous persuasion" of Clinton and others was what won his support. "I have been touched by the feelings of the governors more than anything else," Valentine said at the time.

Also pitching in was Louisiana's governor-elect, Buddy Roemer, then still a House member, who persuaded all of his state's Democrats in the House to support the measure. Said U.S. Representative Jimmy Hayes of the man then about to take over the helm of his economically troubled state, "We don't want to do anything to add to his nightmare."

The enthusiastic Clinton also was cordially received in the Reagan White House, keeping open lines of communication with, among others, domestic policy adviser Charles Hobbs and Joseph Wright of the

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Office of Management and Budget. New Hampshire's Sununu is also credited with keeping the White House on board at crucial moments.

Said Clinton, "This was a very unusual thing both at the level of involvement of the governors with the Congress and the level of bipartisan involvement from the states and federal government crossing together."

"Bill was willing to work hard, to talk to people," said Castle. "It certainly prompted me to make a lot of phone calls and write a lot of letters."

The governors also kept up the drumbeat when it seemed that congressional interest was flagging. Last February, after the House had passed its bill by a narrow margin and while Senate action was still uncertain, a group of governors, including Clinton, Castle and Republican Thomas H. Kean of New Jersey, trudged from office to office at the Capitol, paying personal calls on most of the principals in the welfare battle, helping set the bill back on track. Welfare proved a particularly apt issue for the governors to become so intimately involved in. "It's logical," said Democratic U.S. Senator John D. Rockefeller IV, former governor of West Virginia, "because they've got to implement it."

Said Republican U.S. Senator William L. Armstrong of Colorado, who helped craft the final compromise, "There was a general belief that [the governors] knew what they were talking about."

What remains unclear is whether the new relationship forged between the governors and federal legislators was just "a magic moment," as Clinton termed it, or a model for future endeavors.

Not surprisingly, the governors say

it will be a model for the future. "I think this is what you're going to see more of in the next three or four years," said Castle. "I would suggest in drug policy you may see it; in dealing with AIDS you may see it." He noted that the welfare bill was not the first time the governors had gotten organized to shape legislation

to their liking. It was a working group headed by former South Carolina Governor Richard W. Riley, a Democrat, that gave Congress the push to expand Medicaid to cover more poor women with children and women pregnant with their first child as part of the drive to reduce infant mortality.

Clinton expects to see the relationship grow and prosper on issues such as child care, parental leave and acid rain. "Whenever you've got a problem where there's a core American value that Republicans and Democrats can agree on, and which you know will have to be addressed at the federal level, and where the federal government cannot solve the problem without heavy involvement from the states, I think there is this opportunity," he said.

Even a few members of Congress agree. "Federalism is the sharing of responsibility, and we should not determine the share without the help of those who would be affected," said Downey. "The whole idea of federalism is dealt with properly when governors do this kind of work and provide this kind of help."

Still, Downey said he did not see the new relationship as a model for all problems facing both the federal government and the states. Governors are too often parochial, he said, and "they always complain they don't have enough money."

But the effort seems to have energized some for a future fight. "It took two and a half years out of my life and put a few more gray hairs in my head," said Clinton, "but it was exhilarating because I felt we were actually doing something together, where we put aside all the political rhetoric, all the smoke and mirrors and actually worked together for the common good." □