Promises Unfulfilled

Unfunded Mandates Reform Act of 1995

Angela Antonelli

In response to the increasingly hostile reaction of states and localities to unchecked and costly federal mandates, Congress passed with much fanfare, and President Clinton signed on March 22, 1995, the Unfunded Mandates Reform Act (UMRA). With its origins in the Republican Contract with America, UMRA was designed to make it more difficult for the federal government to make state and local governments pay for programs and projects that it refuses to pay for itself.

Specifically, the act requires the Congressional Budget Office (CBO) to estimate the costs of bills with federal mandates reported out of committees. The CBO must provide a detailed cost estimate for each bill containing an annual aggregate impact of $50 million or more on the public sector (i.e., state and local governments) or $100 million on the private sector. The act allows a point of order in both the House and Senate against any bill or joint resolution reported by an authorizing committee that lacks the necessary CBO statement, or that results in direct costs in excess of $50 million a year to state and local governments. A proposed bill is in order if it provides funding to cover the costs of the mandate. In addition, federal agencies must assess the effects of new regulations on state, local, and tribal governments, and the private sector and seek to minimize burdens where possible.

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As the Advisory Council on Intergovernmental Relations (ACIR), a body tasked by UMRA to review current mandates, recently noted, "The Washington tendency has been to treat as a national issue any problem that is emotional, hot, and highly visible. Often this has meant passing a federal law that imposes costs and requirements on state and local governments without their consent and without regard for ability to comply."

Unfunded federal mandates and highly prescriptive federal programs have backed many states and localities into a fiscal corner, forcing them to sacrifice their own programs and priorities in order to comply with standards set by a distant federal government. Governors and mayors have been complaining for years that the increasing number of regulations in areas such as education, environment, and transportation cost them billions of dollars. For example:

- A Virginia state representative recently testified before Congress that the city of Danville, Virginia, which has a population of 55,000, spent 13,800 staff hours and more than $176,000 to comply with the Americans with Disabilities Act. In all, Danville spent more

than $6.3 million in 1993, or almost 16 percent of its local source revenue to comply with just 10 of more than 200 federal mandates.

- In 1991 the city of Columbus reported that it would cost over $1 billion to comply with the environmental mandates enacted as of January 1991. This 10-year cost amounted to a per-household increase of $856 per year by the year 2000.
- In 1993 the state of Ohio estimated that it would cost $356 million in 1994 and over $1.74 billion from 1992-95 to comply with unfunded mandates.
- In 1994 Texas reported that its federally mandated costs rose from $6.5 billion in the 1990-91 biennium to $8.9 billion in the 1992-93 biennium, to $11.4 billion in the 1994-95 biennium.
- The Claremont Institute estimated that if California kicked the federal government out of state transportation policy, it would lose $2.3 billion in federal funds. However, the state would save $1.9 billion in unnecessary mandated expenditures. The $400 million difference could be made up by recouping a portion of federal highway taxes. The state would be able to control its transportation policy without increasing the tax burden.

The first two years of the Clinton administration only fueled concern that mandates would continue unabated with the passage of the Family and Medical Leave Act (1993) and Goals 2000 (1994). The passage of UMRA was viewed as a great victory and the beginning of a fundamental change in the scope and nature of federal actions affecting state and local governments.

One year after the passage of the act, the results are mixed. The Republican majority of the 104th Congress has tried to resist imposing significant new mandates. Unfortunately however, little has been done to relieve the burden of existing mandates. Although many members of the 104th Congress have introduced bills that would mitigate many existing burdens, they have had little success passing them. For example, proposals to reauthorize the Safe Drinking Water Act could actually significantly reduce the burden on states and localities by giving them greater flexibility to enhance public health protection. But this proposal, like many others, has been stalled due to election-year politics.

UMRA gives only a congressional majority the power to force federal funding of mandates. This means that if the Republicans lose control of Congress or if there is an ideological shift toward interventionist government policies, states and localities cannot count on UMRA for protection. States and localities must continue to explore other vehicles to address the problems of unfunded mandates. While one congress ultimately cannot tie the hands of a future one, it can make it more difficult and politically costly to repeal checks put on the use of political power. Congress will need to go further than UMRA to reasonably assure that local governments and the private sector will not bear the costs of federal mandates.

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Toothless Tiger?

Although the Clinton administration now publicly claims to have welcomed UMRA, the reality is that the administration's acceptance of the bill came at great cost. In order to pacify the unfounded concerns of environmental and public interest groups, the bill was weakened in important ways. As Professor Nelson Lund of the George Mason School of Law noted in a November 27, 1995 *National Review* article, the act "is extremely complex, and that complexity has prevented most observers from recognizing its toothlessness." He notes that the act establishes a procedure that is supposed to make it harder to enact mandates; however, there are huge procedural loopholes that significantly weaken its ability to achieve real reform. Most notably:

- The act does not apply to existing unfunded mandates. However, the burden of existing mandates was the primary reason that states and localities fought for UMRA. In the end, the act would do little more than task the Advisory Council on Intergovernmental Relations with studying the issue.
- The act exempts certain categories of new unfunded mandates including those that enforce the constitutional rights of individuals;

Milk Marketing Order System. The CBO estimated that the direct cost of this provision on dairy processors and manufacturers would have been between $800 million and $1 billion annually. The final farm bill did not contain the higher fluid-milk standards because the CBO estimates were used to help make the case for their elimination.

- **Minimum Wage.** The CBO estimated that the private-sector cost for the Senate proposal to increase the minimum wage in two annual steps from $4.25 to $5.15 per hour would be over $12 billion between 1996 and 2000. The cost to state and local governments would be over $1 billion between 1996 and 2000. The CBO estimates have certainly helped underscore the significant cost of raising the minimum wage. However, this represents a good example of UMRA's weakness. Proposals to raise the minimum wage are politically popular and a point of order would do little to stop them. A supermajority rather than a simple majority certainly would make it more difficult to enact new unfunded mandates, but even in this case, it might not be enough.
- **Telecommunications.** During the development of the final telecommunications bill, the relevant committees worked hard to minimize the imposition of new mandates and taxes. However, when the conference committee agreement was completed, the CBO was given only one day to review it. This made it impossible for the CBO to do its job—a result the conferees intended. This highlights a weakness in UMRA—the CBO estimates are necessary only for bills reported out of committee. Once a bill is reported out of committee, it can change significantly for good or bad, but the CBO usually will not be asked to estimate the costs of such changes.
- **Executive Branch Evasions.** Although the CBO's work with Congress on legislative proposals seems productive, the administration's work to limit the burdens of new regulatory mandates appears less successful. Title II of the act requires federal agencies to assess the effects of federal regulatory actions on state, local, and tribal governments, and the private sector. The OMB issued its first annual report on agency compliance with Title II on March 22, 1996. The results are not encouraging.

To put the report in perspective, between March 22, 1995 and March 22, 1996, there were more than 3,000 proposed and final rules published in the *Federal Register*. OMB reviews many but not all of these rules. However, it does review all economically significant rules for agencies subject to its oversight. Since 1993, OMB typically has reviewed anywhere from 75 to 100 economically significant proposed and final rules each year. President Clinton's Executive Order 12866, Regulatory Planning and Review, generally defines "economically significant" as a rule that will have an annual effect on the economy of $100 million or more, or among other things, that would adversely affect state, local, or tribal governments. The UMRA Title II thresholds are modeled on this concept.

The first OMB report raises a number of questions about how carefully federal agencies and OMB assess whether rules contain mandates, and more importantly, the extent to which mandates are addressed in a timely manner. OMB reported that there were only two rules that met the $100 million threshold standard for intergovernmental mandates and only 14 rules that met the $100 million threshold for private-sector mandates. For the two intergovernmental rules (Clean Air Act rules), OMB concluded that both met UMRA requirements. That is to say, the overseeing agencies identified and considered a number of regulatory alternatives and from those alternatives, selected the least costly, most cost-effective, or least burdensome alternative. Of the 14 that had private-sector mandates, however, OMB concluded that only two of the five final rules and only two of the nine proposed rules satisfied the requirements. The proposed rules appear to have been issued with OMB doing little more than expressing its hope that the agencies would address the problems with the rules before finalizing them.

The number of rules OMB reported to Congress—16: two intergovernmental mandates and 14 private-sector mandates—appears to be unusually low given the number of economically significant rules it reviews annually. In an oversight hearing on March 22, 1996, the first anniversary of UMRA, Rep. Christopher Shays (R-Conn.), chairman of the House Subcommittee on Human Resources and Intergovernmental Relations, noted that two days before the hearing, OMB still had not forwarded to the CBO any agency statements as required under Title II. Just in time for the hearing and inclusion in the annual report, 16 rules suddenly appeared, even though reporting is required "periodically." OMB appears to be asleep at the wheel, and the accuracy of its count is highly suspect. Not surprisingly, between March 22, 1996 and mid-May, the CBO still had not received another statement.

Table 1: Administration Rules Reporting Record

	April 1994	October 1994	April 1995	October 1995	April 1996
Active Regulatory Actions Affecting State and Local Governments	426	426	275	233	226
EPA	128	136	91	93	99
HHS	30	27	14	13	9
DOI	8	11	5	2	2
DOL	14	11	9	9	6
HUD	58	50	19	17	16

Source: Unified Agenda of Federal Regulations

A review of the administration's report on regulations under development also suggests that absent the November 1994 elections and the passage of UMRA by the Republican-led 104th Congress, the Clinton administration would have done little on its own to reduce the burden of unfunded mandates. Every six months the administration issues the Unified Agenda of Federal Regulations. The most recent agenda was issued in May 1996, renamed the Unified Agenda of Federal Regulatory and Deregulatory Actions. The agenda lists all federal regulations under consideration. Table 1 shows that in the first report after the November election, April 1995, there was a precipitous drop in the number of rules identified as being under development and affecting state and local governments. Nevertheless, the Environmental Protection Agency (EPA) remains the champion of rule writing. The burden of environmental regulation is still heavy, and the Clean Air Act is largely to blame.

Existing Mandates. The large number of EPA rules under development points to one of the most serious weaknesses of the act—it does nothing to address existing mandates other than require ACIR to study them and make recommendations. The crushing burden of existing mandates is what precipitated UMRA in the first place, yet the act fails to address them directly. As John Novison of the International City-County Management Association predicted, "Without a vigorous and concerted effort to move the recommendations to further legislative and executive action, this review will be yet another interesting but essentially meaningless academic exercise."

The fact that Congress subsequently budgeted ACIR for termination in fiscal year 1996 shows just how little commitment to this effort exists. For fiscal year 1996 ACIR's appropriation is $784,000, $216,000 less than 1995. To perform the four studies required under the act, ACIR has a handful of personnel. Although ACIR issued its first report on judicially created mandates on time, it has been unable to meet its other deadlines.

Title III of the act gave ACIR nine months to issue a preliminary report on its review of existing federal mandates with recommendations for termination, revision, or continuation. Based on input from the National Governors Association and dozens of other state and local government organizations and relevant federal agencies, ACIR issued its preliminary report in January 1996. The report identified 14 mandates as the most problematic for states and localities. The report recommended that seven federal laws, including the Family and Medical Leave Act, the Occupational Safety and Health Act, and the Fair Labor Standards Act, should no longer apply to state and local governments. The report contends that another seven laws, including the Americans with Disabilities Act, the Safe Drinking Water Act, and the Clean Air Act, should be made more flexible or receive more federal funding. In addition, ACIR also reported that it had identified approximately 180 additional mandates affecting state and local governments.

Immediately upon release of the report, ACIR was subject to considerable criticism, not only

for its recommendations, but also for how the report was developed. The administration and environmental and public interest groups argued that the commission's recommendations would mean the end of important environmental and public health and safety protections. EPA administrator Carol Browner, a member of the commission, was among the critics calling for a fundamentally different report. This was despite the fact that ACIR staff had worked with the federal agencies, including the EPA, in developing its recommendations. The strength of the opposition made it almost seem as if ACIR was being accused of pulling its recommendations out of thin air, when in fact none of the statutes identified would surprise anyone who has followed the issues and listened to state and local governments.

On March 6 and 7, 1996, ACIR sponsored a conference around its preliminary report. At the last minute, the White House discouraged representatives of the federal agencies from participating in the conference. ACIR held a public hearing on March 26, 1996, and more than 40 people testified; many critical of the report. In addition, ACIR received more than 500 public comments on the report. The vast majority of comments focused on the Americans with Disabilities Act and the Individuals with Disabilities Education Act. Groups representing the disabled were outraged that the commission included the Americans with Disabilities Act, citing the exemption in the law for legislation and regulation that enforces constitutional rights of individuals, even though the exemption only applies to Titles I and II. However, many of the state and local groups that had been involved with ACIR in a consultative role since the passage of the act were generally supportive of the report and interested in seeing a final report issued.

In general, the ACIR report scratches the surface of a huge problem. Its shortcoming is not that it goes too far, but that it does not go far enough. ACIR acknowledges that there are countless environmental, health, and education mandates that it does not address. For those it does address, ACIR focuses solely on the "intergovernmental issues associated with the mandates, and did [does] not evaluate the specific mandate requirements." Thus, the report recommends that states and localities should be exempt for example, from the Occupational Safety and Health Act and the Clean Air Act, even though it recognizes more fundamental problems inherent in the acts, such as the questionable scientific basis of some standards.

Asking Congress to exempt states and localities from ill-conceived statutes or regulations is bad precedent and creates a double standard for treatment of the private sector. Although UMRA calls for recommendations about whether such relief efforts should extend to the private sector or what impact its recommendations might have on the private sector, the ACIR preliminary report does not address this.

A comment on the preliminary report submitted by the National Association of Towns and Townships seems to express the sentiments of those state and local groups that wanted to see the report move forward despite its shortcomings: "Critics of the report seem to assume that current laws need no perfection (unless they are further prescriptive) and that there is no shortage of federal funds for state and local governments for these programs, no taxpayer revolts limiting revenues that can be raised locally and only malice in the hearts of state and local officials who can't wait to be unchained from their federal responsibilities to wreak havoc on the environment, workers, and the disabled. . . . All acts of Congress are not perfection and to suggest other ways to achieve a goal is not extremism."

Despite the controversy, the ACIR preliminary report does two very important things: it confirms that the burden of unfunded mandates is real and significant, and serves as a useful starting point for undertaking reform. States and localities should view the ACIR report as a new

opportunity for action and demand that it be issued. Title III requires ACIR to issue the final report to Congress within three months after the release of the preliminary report. Unfortunately, ACIR has missed the deadline and has been unable to take on the other studies required by the act. Given the controversy around the preliminary report, the prospects for a final report do not look good, particularly if it cannot be finished by September 30, the end of this fiscal year.

Recommendations

If state and local communities expect change from Washington, they must realize that they will have to continue to pursue it through other legislative avenues, because the Unfunded Mandates Reform Act of 1995 does not protect them from federally imposed burdens. The act gives states, localities, and the private sector an opportunity, but not a solution, to the problems of new or existing unfunded mandates.

Change will have to come from the states. As Tom McClintock, director of economic and regulatory affairs at the Golden State Center for Policy Studies at the Claremont Institute recently concluded in a September 1995 report: "If substantial relief from these mandates is to come, such as repealing or significantly changing any existing mandate, it must almost certainly be initiated in the states, either through subtle acts of non-compliance or bold acts of outright defiance. Fortunately, the states are far from helpless in defending themselves."

If there is to be a solution, it will depend on states and localities making mandates-reform a priority for the president and Congress. With this in mind, there are a number of constructive steps that state and local governments and the private sector can take to help relieve themselves of the burden of these mandates. These include:

- **Follow up aggressively on implementation by state and local governments.** Beginning with Alabama in 1992, a number of state legislatures have established annual meetings between themselves and their congressional delegations to review the latter's votes on unfunded federal mandates. Although states cannot compel attendance or attentiveness, there is a certain political cost for those who simply ignore such requests, and the meetings do provide a way for both sides to air their concerns. In addition, Title IV allows federal agency compliance with Title II to be judicially reviewable. Clearly the Clinton administration and the agencies are not complying, yet no state or locality has chosen to sue even though the law permits it.
- **Build momentum for Congress to strengthen the act by making it harder to pass unfunded mandates.** During the debate on the bill last year, critics claimed that the bill did not go far enough because it only requires a simple majority in each chamber to overcome the procedural hurdle and to pass an unfunded mandate. Sen. Phil Gramm (R-Tex.) and others have hinted at toughening the law to require a three-fifths majority in each chamber to pass an unfunded mandate.

Ultimately, changing the laws or returning complete responsibility to the states is the only way to eliminate mandates.

- **Support congressional efforts to reform the actual statutes containing mandates.** The 104th Congress has made attempts to reform Superfund, the Clean Water Act, the Safe Drinking Water Act, the Endangered Species Act, and many others. The Clinton administration and congressional Democrats have resisted these changes every step of the way. Ultimately, changing the laws or returning complete responsibility to the states is the only way to eliminate mandates. Fortunately when these laws come up for reauthorization, the bills are subject to the CBO cost estimates.
- **Consider opting out of federal mandates.** As Tom McClintock of the Claremont Institute recently pointed out, one option for states "might well be to withdraw from such programs, tell the federal government, in essence, to go pound sand." Indeed, some states have begun to do just that. For example, four states—Montana, New Hampshire, Virginia, and Alabama—have turned down or returned Goals 2000 funding because they objected to increased federal intrusion in schooling. President Clinton's support for Goals 2000 undermines progress to improve education because it ignores real results. Instead, Goals 2000 focuses on obtaining more federal dollars through increased state spending.

- **Consider a "States' Veto" amendment.** Members of Congress should propose constitutional amendments that can be presented to the states for debate and ratification. For example, there have been several versions of amendments which would allow a majority of state legislatures to veto or recommit to federal legislation. Virginia Governor George Allen has proposed a measure that gives such power to a simple majority of state legislatures; other versions would require a supermajority or merely request that Congress reconsider the subject legislation or regulation. Restoring the ability to block objectionable national legislation to states would help reduce some of the blatant disregard for state and local interests.
- **Ensure that Congress effectively implements its review of federal agency rulemaking for unfunded mandates.** Subtitle E of Public Law 104-121, signed March 29, 1996, created for the first time a mechanism for Congress to systematically review federal agency rulemaking. Each rule must be transmitted to both houses of Congress and to the General Accounting Office before it can take effect. According to section 801(a)(1)(B), federal agencies must submit among other things, a report of the agency's actions to comply with UMRA. As Congress continues to set up the framework which will determine how agencies report such information, it will be critically important that it requires them to present a well-organized summary of the benefits, costs, and federal funds expected to be available to pay for mandates on state, local, and tribal governments, and to certify that they have chosen the "least costly, most cost-effective or least burdensome alternative." For regulations affecting private entities, Congress also should ask federal agencies to submit cost and benefit information on private entities with similar certification.
- **Support the establishment of a federal regulatory budget.** Rep. Lamar Smith (R-Tex.) has proposed H.R. 3277, the Regulatory Accountability Act, which builds on UMRA. UMRA already requires the CBO to determine the impact of mandates of $100 million or more on the private sector. Under H.R. 3277, Congress would establish ceilings for regulations mandated by future legislation, including reauthorizations. If an agency is unable to implement a regulation within the cost ceiling, the agency will have to go to Congress to request an increase in the ceiling. The bill's sponsors intend to inject congressional responsibility into the regulatory process. Now, with the new law establishing the congressional review of rules, holding Congress accountable through use of a regulatory budget takes on even greater importance.
- **Support comprehensive regulatory reform.** Legislative proposals to fundamentally reform the regulatory process should require the use of cost-benefit analysis and sound science in assessing risks to the public. Further, agencies should be required to consider a range of alternatives when making rules. Unfortunately, such reforms, particularly those that were market-based, failed to move in the 104th Congress. Thus, state and local governments and the private sector must continue to demand that Congress enact such reform. Critics have claimed that reform would mean terminating important environmental, public-health, and safety regulations. Instead, such reform simply means regulating smarter; devoting scarce economic resources where they can achieve the greatest benefits.

Conclusion

Unfortunately, UMRA largely has proven to be a case of promises unfulfilled. The first year's success in holding back new mandates is likely to change after November if the Republicans lose control of Congress. If they do, states and localities should not count on UMRA to protect them. This means that states and localities must continue to explore other vehicles for keeping the president and Congress focused on addressing the problems of unfunded mandates. If not, Washington will continue to pass the buck.

Selected Readings

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Rhetoric vs. Reality

New Jersey Regulatory Reform

Dana C. Joel

When Christine Todd Whitman took office in 1994, she became chief executive to one of the most highly regulated states in the nation. Extending far beyond the original intent to protect the health, education, and welfare of the public, New Jersey's regulations are a costly intrusion in taxpayers' everyday lives. This is a state that fined a nun at a parochial school $9,000 because she failed to meet the state's environmental paperwork requirements. This is a state that charged a manufacturing plant $5,000 for not mowing the lawn.

Decades of debilitating rules and regulations—afflicting everyone from nuns to school teachers, small firms to large corporations, property owners to shop owners, not to mention consumers who pay for regulations in the form of higher prices—prompted the New Jersey Institute of Technology (NJIT), a private university research institution, in its *Review of the Economic Impact of Environmental Statutes, Rules and Regulations on New Jersey Industry* to conclude that "New Jersey has more inclusive or stricter regulations than those adopted at the federal level and most other states."

Many voters were hopeful in 1994 that Governor Whitman's election would solve desperate regulatory problems. Several indicators supported this widespread optimism. For one thing, Whitman appeared truly committed to turning the tide and making regulatory reform her top priority after tax reform. "Make no mistake about it, we are in a battle for jobs with Pennsylvania, the Carolinas and the Sun Belt every single day," she stated in her inaugural speech in January 1994. "One of the main reasons we've been losing that battle is state government. We must cut through the needless overregulation that drives businesses out of New Jersey and discourages new firms from locating here."

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A second reason for optimism was that New Jersey's governor has some of the most extensive powers of a state chief executive in the nation. The only statewide elected official, New Jersey's governor has authority to appoint all judges, authorities, and commissions; to veto many decisions made by authorities and commissions; and to veto legislation through line-item and conditional veto power. A third positive sign was Whitman's exceptional popularity with New Jersey voters. This not only made her one of the most powerful governors nationwide, but gave her powerful leverage over the state legislature. And a fourth good omen was that the legislature was in the hands of her own Republican Party.

But little of Whitman's rhetoric has translated into reality. The governor must show a much stronger commitment to repealing the many costly and burdensome rules and regulations if she is to fulfill her promise to the electorate.

Evidence of Economic Damage

The most apparent indication of how damaging regulations have been is the state's employment situation. During the 1980s, New Jersey was one

of the leading industrial states, surpassing the rest of the nation in economic growth and prosperity. From 1980-89, New Jersey's gross state product (GSP), in constant dollars, grew 48 percent compared to the national average of 31 percent. Moreover, 625,000 jobs were created in New Jersey from 1982-89, averaging close to 100,000 jobs annually, compared to only 50,000 jobs created per year in the expansive post-World War II period.

Today New Jersey is in an economic slump, lagging far behind other states in job creation. New Jersey's annual unemployment rate averaged 5.7 percent from 1982-89, compared to the national average of 7.3 percent. (The national unemployment rate dropped from 9.7 percent at the beginning of that period to 5.3 percent at the end.) But between 1990-95, New Jersey's average annual rate was 6.8 percent compared to a national rate of 6.4 percent. By 1995 the state's unemployment rate stood at 6.4 percent while the national rate had dropped to 5.6 percent. Further, the state is far ahead of others in business failures. While nationwide there were fewer business failures in 1995 than 1994, the reverse is true in New Jersey. As many as 27 percent more companies closed their doors in the Garden State in 1995 than in 1994.

Two years after Governor Whitman promised to address the regulatory problem, businesses still view regulations as one of the biggest impediments to doing business in the state.

Manufacturing, which includes the chemical, pharmaceutical, electronics, and textile industries, and which is New Jersey's number one employer, has been particularly harmed by the state's regulatory climate, especially its environmental regulations. Its struggles prompted the *NJIT Review* to conclude, "The state's emphasis on being first among other states to respond to environmental issues and the practice of having the strictest regulations, has increased the cost of doing business in New Jersey and has been a particularly heavy burden on manufacturing. Those costs contribute to the perception that New Jersey is not friendly to business. Most of the industrial participants in this study, both small and large businesses, indicated that the uncertainties related to the environmental process led them to decide not to expand in New Jersey. Time and again, participants claimed that compared to surrounding states, New Jersey is more inflexible and less willing to exercise discretionary authority to assist industry and manufacturing when such assistance could be provided without compromising environmental standards."

The chemical industry, which employs more workers in New Jersey than in any other state, and produces more chemicals in New Jersey than in all but one other state, has been one of the industries most severely affected by state regulations. Manufacturing jobs in the chemical industry, the state's largest employer, have fallen 30 percent since 1980. Corporate giants that have been forced either to close down or downsize since 1992 include Bristol-Myers Squibb Company, Pioneer Pharmaceuticals, American Cyanamid Company, Ciba-Geigy Corporation, Arsynco, E.I. duPont de Nemours & Company, Reichhold Chemicals Inc., Oxy Petrochemicals, Inc., and most recently, Hoffmann-La Roche Foundation and American Home Products Corporation. State regulations cannot escape a major part of the blame.

While there has been continuous talk of the need to bring more jobs to the state and to cut "needless overregulation," enterprises still view New Jersey as a bad place to do business. Two years after Governor Whitman promised to address the regulatory problem, businesses still view regulations as one of the biggest impediments to doing business in the state. According to the "Business Outlook Survey," conducted in January 1996 by the industry group New Jersey Business and Industry Association, state regulations—tied with property taxes—are viewed by business as the third biggest problem with operating in New Jersey. Environmental compliance ranked as the fourth biggest problem. When asked to list the problems that they believe are worse in New Jersey than in other states, 86 percent of businesses listed the cost of regulatory compliance, 79 percent listed the issuance of permits, 73 percent listed uncontrolled health-care spending, and 67 percent listed problems in attracting new business. The survey also found that of the 15 percent who said they were planning to expand operations out of state, 24 percent said it was due to New Jersey's unfriendly regulatory climate.