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Study Challenges House GOP Contract

Plan Is a Big Government Document, Power Will Not Shift, Brookings Report Says

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The House Republicans' "Contract With America," which seeks to dramatically reduce the reach of the federal bureaucracy, serves more as a slogan than as a feasible plan to shift power from Washington to state and local governments and private institutions, according to a new Brookings Institution study.

"Make no mistake: the Contract With America is a big government—and a big government from Washington—document," the study says. In defense and national security affairs, the contract does not call for significant cuts, while in the domestic policy arena, "it would maintain a large federal policymaking, administrative and funding role in crime policy, environmental management and many other areas," the study says.

"Fine Print," written by John J. DiIulio Jr. and Donald F. Kettl and scheduled for release today, analyzes the "devolution" debate on Capitol Hill—from shifting programs to states to increasing Washington's reliance on block grants and so-called privatization—and provides examples of previous, usually flawed, attempts to reorder federal programs and spending.

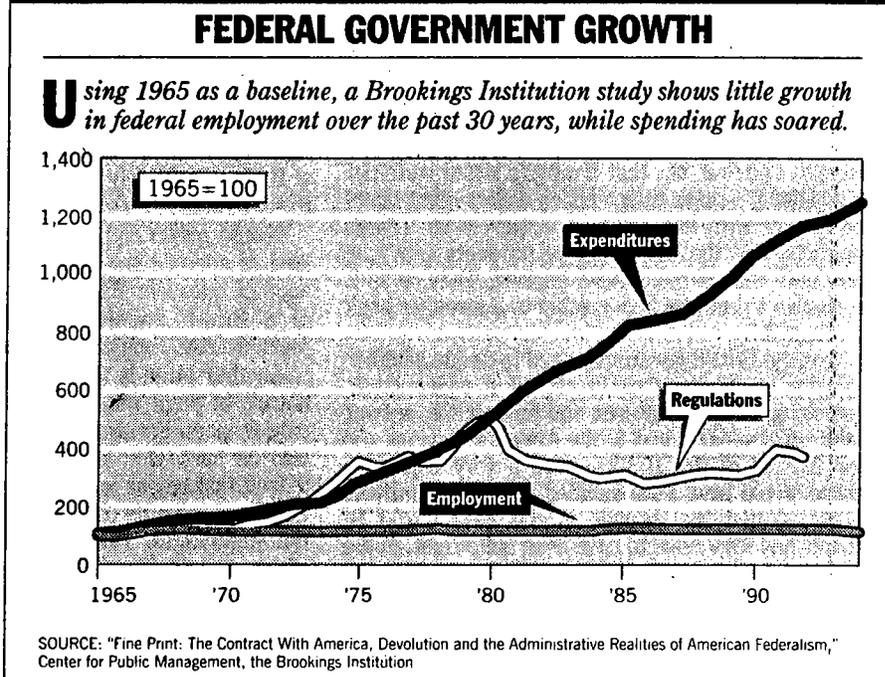
DiIulio and Kettl write that their report "is not about the desirability of the contract" but about "the administrative realities of contemporary American federalism." They conclude that the GOP contract "contains virtually no administrative fine print.

"The language of devolution does more to hide than to highlight the administrative realities of federal-state relations, more to distort than to delineate the facts about how existing intergovernmental policies are implemented, and more to delay nitty-gritty implementation decisions than to define precisely how 'devolved' domestic policies can be administered so that they might succeed where existing federal policies have ostensibly failed."

In particular, DiIulio and Kettl try to deflate the popular argument that a bloated federal bureaucracy is to blame for many policy failures and for long-standing problems of waste, fraud and abuse.

Between 1965 and 1994, they note, the amount of federal dollars spent and the volume of federal regulations rose much faster than federal employment, which has essentially remained flat at about 2 million workers, the authors report. Except for defense, most of the government revolves around pay subsidies to farmers, veterans, schools and hospitals; transferring money to states and localities, and enforcing laws written by Congress.

Virtually every major domestic policy pro-



gram—from Medicare to highways to the environment—involves state and local governments, which employ more than 15 million workers. State and local spending, about \$1.3 trillion, rivals total federal spending, the authors point out.

Although popular accounts portray Washington bureaucrats as lording it over states and cities through federal regulatory power, the Brookings study says "an entire generation of empirical research on intergovernmental affairs reveals that the rule is more nearly the reverse: Washington has had, and continues to have, tremendous difficulty in executing even relatively straightforward policies precisely because state and local governments enjoy such wide latitude in deciding how best to translate federal policies into action, or whether, in fact, to allow federal policies at all."

In 1988, for example, Congress approved the Job Opportunities and Basic Skills (JOBS) program, designed to change the way states run some welfare programs by emphasizing "workfare" requirements. Six years later, the study says, most states have not fully implemented the program.

Other studies show that welfare reforms envisioned under the contract "can be achieved only where significant resource increases are made in the government bureaucracies that administer the new programs," the study says. One study of Wisconsin Republican Gov. Tommy G. Thompson's plan

showed that overhauling welfare may save money "but it requires more bureaucracy rather than less."

The study also sounds a warning against rush to sell off government assets, create new quasi-governmental corporations or contract out services in the name of "privatization." The study says the government "has privatized far more functions than most Americans realize" and that "drawing the line between functions that could be turned over to the government and what government itself needs to do is deceptively difficult."

In their closing chapter, DiIulio, a Princeton University professor, and Kettl, a University of Wisconsin-Madison professor question the depth and commitment behind the public's call for less government. Downsizing the federal work force or abolishing department represent relatively minor efforts when Medicare, Social Security and the military consume giant portions of the budget, they argue. Americans, who live in a "national culture," still maintain expectations about government delivering uniform standards for public health and safety, they add.

"What can easily be lost in the debate over devolution is the fact that, despite the explosion in Washington's powers, America's federal system remains one in which who gets what still depends greatly on who lives where," the authors write.

'Putting People in Their Place'

Remember "Putting people first," Bill Clinton's campaign mantra? The rampaging Republicans in the House have an unformulated variation, "Putting people in their place."

How else to explain the assault on school lunches, fuel for the elderly poor, housing for veterans, public television. To read the "Contract With America," the Republicans want to cure the public of its failure to understand that government's obligation is to the rich, the powerful and the Pentagon.

Their latest offensive is against people who bring suit against their betters, that is, corporations. "Tort reform" is ostensibly aimed at frivolous lawsuits, which clog the courts and make a mockery of the law, as if the O.J. Simpson case had not done that by now. Actually, it is a way of protecting corporations against consumers.

The harshest penalty the Republicans suggest against people who do not have the good taste to suffer in silence when sold defective or damaging goods is the invocation of the so-called English rule, which requires an unsuccessful plaintiff to pay the costs of the defendant.

Says White House counsel Abner J. Mikva, a former federal judge, "If the English rule had been in effect here, none of the civil rights cases would have been brought. If they had lost, a single lawsuit would have wiped out their treasuries."

The White House, after another of its interminable ditherings, jumped in on the side of common people seeking redress. Mikva and Attorney General Janet Reno sent a letter to House Speaker Newt Gingrich (R-Ga.), calling the legislation contained in three bills "unfair, unnecessary and unwise."

Why the president waited until the first bill hit the House floor is not clear. Mikva said there is so much going on, "it is hard to keep up." Democratic members rail at the press for breathlessly chronicling the many antics of Speaker Gingrich while failing to record the proliferating outrages of the speaker's agenda.

The Product Liability Act, HR 956, among other things, includes a 15-year limitation on civil action against a manufacturer or product seller of equipment. But there is an exemption for commercial loss. Rep. Edward J. Markey (D-Mass.) uses the example of a 15-year-old wrench that malfunctions and causes severe injury to a worker. His company could bring suit against the

wrench manufacturer, but the worker could not.

The most egregious indulgence to the haves may be found in the securities fraud bill. In one section, relating to disclosure on the part of sellers to investors, it goes the extra mile to protect the seller from penalties for "reckless failure to disclose." Say the kindly authors of the legislation: "A defendant who genuinely forgot to disclose or to whom disclosure did not come to mind is not reckless." That's pretty permissive stuff from a crowd that in a lifetime will not forgive a child for being born out of wedlock.

Critics of the Republican bill point out that it is not individuals, such as victims of the Dalkon Shield and silicone breast implants, who are doing the heavy litigating but big corporations, as in *Pennzoil v. Texaco*. The \$3 billion settlement in that case exceeded all the individual product liability settlements in a single year.

The howling irony of diminishing accountability on the part of corporations while Republicans march under the banner of individual accountability for the poor is completely lost on the perpetrators of the "tort reform" bills.

Little hope is held out for justice in the House. But, as before, the Senate is expected to curb excess. Majority Leader Robert J. Dole (R-Kan.) must surely be thinking of the swift end of his front-running candidacy if he fails to stop certain measures that would be regarded as anathema by early primary voters. They may see as the end product of their sacrifices unneeded tax cuts for the undeserving rich and take exception.

Dole said on "Face the Nation" that the Senate might not go along with all the House tax cuts. He does well to be wary. If, for instance, the House plan to kill a \$1.3 billion fuel assistance program weathers the Senate, Dole had better head for the hills. New Hampshire is full of retirees, who huddle in one room of the family home to save heating bills. They would not forgive a failure to stand up and fight for them.

Such considerations do not deter House Republicans in their march to the sea. They truly believe that the country voted on Nov. 8 of last year for putting people in their place. Shivering seniors or hungry schoolchildren, it's all the same. If their view of the country as a pitiless and vengeful collection of affluence-worshipers is wrong, somebody better stand up and say so pretty soon.