Business ♥ Washington

"Save Us from the States!" by Jonathan Walters, in *Governing* (June 2001), 1100 Connecticut Ave. N.W., Ste. 1300, Washington, D.C. 20036.

Washington regulators were once the bane of business existence, but they're beginning to look much lovelier to corporate executives. Faced by thickets of state and local laws, business is increasingly seeking single federal standards, reports Walters, a staff correspondent at *Governing*. Banks, for example, have gone to federal court to argue that federal banking law preempts state and local laws restricting certain automatic teller machine surcharges. Walters says that 35 preemptive bills were introduced in Congress in 1999, "mostly in the areas of telecommunications and finance."

From a corporate point of view, the advantages of uniformity are obvious. It's easier and cheaper to conform to a single federal standard than to 50 different state standards. "The business attitude today seems to be that no matter how bad a single federal standard might be, it's better than 50 of them," notes the Cato Institute's Adam Thierer. And centralized regulation allows business to concentrate all of its resources on enacting, modifying, or defeating a single law or regulation.

Others see great advantages in multiple standards. "In a world of increasingly large, amorphous, and distant corporations, who better to hold business accountable than those officials closest to the people?" writes Walters, summarizing this view. In some cases, the states have been able to step in when Washington has fallen down on the job. "Congress failed to agree on a health bill in 1994; the states have responded with patients' rights and prescription drug laws. Congress debated bills to deregulate the electric utilities industry but passed nothing; more than 20 states went ahead and did it."

Utah governor Mike Leavitt (R) argues that the state governments must cooperate with one another and with the federal government to coordinate their efforts in areas where it makes sense for them to act. "States are going to have to reinvent themselves," he declares. Otherwise, they will become "functionally obsolete." But state governments don't have a strong record of collaboration. The 45-member Multistate Tax Commission has been working for years without success to devise a policy dealing with the application of state sales taxes to out-of-state mail-order purchases. And last year's federal Gramm-Leach-Bliley law overhauling the financial services industry allows the states to regulate the insurance industry if 29 of them can settle on a uniform standard. Leavitt himself says that's not likely.

Getting state and local governments to cooperate may require a slap in the face. Walters knows just where it might come from: an international trade tribunal. For example, when a small town in Mexico denied Metalclad Corporation a permit to dump toxic material, the U.S.-based company complained to a North American Free Trade Agreement (NAFTA) arbitration panel. The company won a $16.7 million judgment against Mexico. Now NAFTA is looking at another case: A Canadian company is seeking $970 million because the state of California is phasing out the gasoline additive MBTE on health grounds the company says are not scientifically justified.

Leaving such wild cards aside, Walters is sanguine about the effort to shift power away from the states. As one official said, "there's always an ebb and flow" in a federal system.

The Rich Get Richer

"Where Has All the Money Gone?" by Edward N. Wolff, in *The Milken Institute Review* (Third Quarter, 2001), 1250 Fourth St., 2nd fl., Santa Monica, Calif. 90401–1353.

Yes, the rich got richer than other Americans did during the late, lamented economic boom. But there's a bit more to the story than that.

Overall, writes Wolff, an economist at New York University, the richest 20 percent of American households claimed 91 percent of the increase in wealth between 1983 and