

Federalism: The View from Washington

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Despite the protests of state legislators lamenting "unfunded federal mandates," not everyone believes the federal partnership is in dire straits.

State legislators have recently moved to pass alternatives to — or outright undermine — federal policies such as REAL ID, sparking debate about the federal-state partnership among policy makers across the country. At the National Conference of State Legislators' Spring Forum, lawmakers from both red and blue corners of the nation could agree, there was cause for concern.

Kansas Speaker of the House Melvin Neufeld says, "The real problem I have is that the federal government passes so much authority to the states' executive branches, ignoring the legislative branches. Then we have to play catch up to try and retain our separation of powers and constitutional duties in the states."

Are we now dealing with an unprecedented level of overstepping on the part of the federal government, where unfunded mandates are left undisputed, and legislation is passed along to a selected body of officials instead of the legislators who must execute them? What ever happen-ed to the partnership? Are there larger issues involved?

Former Montana Democratic Congressman Pat Williams dismisses the idea that there are severe constraints on state legislators. Williams, who served in the House of Representatives from 1979 to 1997, as well as on the state legislature for nearly 10 years, said, "The term 'unfunded mandate' is like a bumper sticker, it doesn't mean anything. The notion that states are being bankrupted simply falls on its face."

Williams believes that states currently hold a great deal of political capital, and that it is only in the last two decades that states have begun to reclaim their position as laboratories for change. He points to an unwieldy, overbearing federal bureaucracy and the advent of Reaganism as prime catalysts that sparked a new dynamic in the model.

"With Reaganism, federal legislators believed incorrectly that the states could 'go it alone'," Williams says. "But those notions collided, and the states had no choice but to run with the ball on their own, with economic consequences."

UC-Berkeley federalism expert Malcolm Feeley appreciates that there are "perennial problems" felt on the state level when "aspirations exceed budgets or capacity", but notes that both tiers are not supposed to work in concert. When they do not, he says, this forces a new discussion on the roles and responsibilities of both sides of the state/federal model.

With states passing legislation on such contentious issues as immigration and global warming before federal lawmakers can create their own standards, a great deal of discussion about government authority, and its lack of diligence, has been felt on the state level. But how do federal legislators view the partnership as it now stands? Policy Today spoke with members of congress to address the divide felt by many of their counterparts on the state level.

A Call for Communication

Congressman Sam Farr (D-California), has been representing the Central Coast's 17th district for 14 years, having previously held a seat on the California State Assembly for 12 years, and the Monterey County Board of Supervisors for six years.

Says Farr, "As elected officials, we all share the commonality of being on the same ballot. But we tend to, the minute we get here, make our own alliances."

Farr is weary of the pack mentality that can divide, rather than unite, Washington lawmakers and their constituents. "On all levels, legislators are petitioning one another. Organizers are spending an inordinate amount of money on these resolutions that are useless." He says that legislators on all levels need closer levels of communication, not delegation.

"We must be in a close dialogue; we've got to truly remember the partnership, you don't delegate your actions to others — you do it yourself." Farr cites emails and phone calls as better means of communicating than enacting resolutions or petitioning.

Congressman Todd Tiahrt (R-Kansas), a former Kansas State Senator of two years and Congressman for 12, voices a similar viewpoint, calling for more direct contact with state and

local officials.

"There are issues such as national security, where it makes sense for the federal government to take the lead but still communicate with our partners at the state and local level," he says. "The strongest relationships will be those with a great deal of communication and mutual appreciation for the role and responsibilities of each participant."

Structural Concerns

State lawmakers also believe they are being left out of the national discussion regarding federal measures they will inevitably become accountable for. As a side effect to this disconnect, states feel they must deal with "one size fits all" policy, creating more problems at the local level.

Rep. Tiahrt notes the No Child Left Behind Act as an example of how states were not given the required flexibility to carry out the "commendable roles of accountability and measurable progress," by comparing Douglass, Kansas to Wichita, Kansas. "What works for a school of 2,000 probably does not work for a school of 200," he says. "But we all want our schools to teach our kids to read and to be productive members of society upon graduation."

Congressman Farr refers to the current federal structure as a "smokestack administration" in need of a more integrated approach to governing, rather than having levels of government "siloes", and never crossing.

He believes that the Transportation Improvement Plan is a case in which intergovernmental relations worked because of the required collaboration at all levels.

"There's a real dialogue and priority-setting process, all done on a local level," he says. "Education and healthcare are areas that could benefit from this type of management."

Rep. Farr also suggests that the small California town of Big Sur could be looked to as a model of a more vertical, integrated means of governing. Big Sur, which stretches 90 miles along the central coast, is sparsely populated at 1,400 people, and does not have a government of its own. In order to manage it, Farr says, an inter-agency task force made up of state park officials, highway regulators, commercial business leaders and county supervisors work together in a "small-scale version of a Vermont town hall meeting."

Because of the hands-on nature of communication with Big Sur's citizenry, Farr says he feels a strong sense of satisfaction in governing. "When the county supervisors get involved, we all get a big kick out of it," he said.

The Partnership Strengthened

Farr thinks that an integrative, risk-based management system works best, and finds this model present in the way in which federal legislators manage Homeland Security.

In addressing Homeland Security, Farr says, "Intelligence tells us we have to address what causes fear, what the risk of having that fear acted out could mean, and which areas might be targets for terrorist organizations.

Risk-based policy is just good business policy and security strategy. I would argue that local governments manage smaller-scale matters the same way."

Rep. Tiahrt points to Homeland Security as policy in which the federal legislative branches have worked well within their means. "National Defense is one of the few responsibilities specifically given to the federal government in the U.S. Constitution," he says. "But we have assumed too much control that should be ceded to the states." Tiahrt cites education policy as an example.

Tiahrt, like many of his counterparts on the state level, does believe that the federal and state partnership can be strengthened and work more effectively to address the needs of American citizens.

"I view state legislators as partners, especially those with whom I share constituents," he said. "As elected representatives of the people, we are on equal footing in the eyes of the voters, and we should be striving for the same goal of making our state and our country a better place to live."

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