



# THE COUNCIL OF STATE GOVERNMENTS

## Statement from Tennessee Senate Majority Leader Mark Norris, on behalf of The Council of State Governments

### Speaker's Task Force on Intergovernmental Affairs

**June 22, 2017**

Chairman Bishop and Members of the Task Force, thank you for the opportunity to testify before you today.

My name is Mark Norris; I am the Senate Majority Leader of the great state of Tennessee. I have the honor of serving the citizens of the 32nd district of Tennessee, which includes Tipton and most of Shelby County, including portions of Memphis and the municipalities of Arlington, Bartlett, Collierville, Lakeland and Millington.

I also had the privilege of serving as the National Chair of The Council of State Governments—also known as CSG—in 2014, and I am here in that capacity today. We appreciate that CSG has been asked to serve on the Speaker's Task Force. Our mission embodies the same mission of this task force.

Founded in 1933, The Council of State Governments champions excellence in state governments to advance the common good. CSG is a region-based forum that fosters the exchange of insights and ideas to help state officials shape public policy. A nonprofit, nonpartisan organization, CSG is the nation's only organization that serves all three branches of state government. CSG membership includes 56 U.S. states and territories, and six Canadian provinces also partner with the council.

CSG offices include a national headquarters in Lexington, Kentucky, and an office focused on federal and international affairs in Washington, D.C. In addition, CSG regional offices are located in Atlanta; Chicago; New York City; and Sacramento, California. The CSG Justice Center is headquartered in New York City with offices around the country.

CSG provides insights and information to state leaders through forums, publications and other tools. Services include policy academies, research briefs, webinars, and annual conferences and meetings. CSG also provides state leaders with opportunities at the

regional and national levels for personal and professional growth. CSG has also been a leader in advancing the role of the states in our federal system and working to identify solutions to improve the regulatory process.

On behalf of CSG and our state leaders throughout the country, I want to thank Speaker Ryan and Leader Pelosi for creating this new bipartisan task force. This is an important step in our efforts in strengthening the state, local and federal partnership.

This hearing comes at an important time. Yesterday, June 21, 2017, marked the last day of National Flag Week during which, this year, we celebrate the 200th Anniversary of the adoption of this proud symbol of our Nation's commitment to freedom and federalism in its truest form. We celebrate these days through Independence Day as a time to honor what makes us the United States by focusing upon that which unites us rather than what divides us. We also appreciate, therefore, the Administration's expression of support for improving relationships between federal, state and local governments.

In the first months of the new administration, the President and Vice President have both voiced their strong support for strengthening the relationship with state and local governments.

Our nation is facing a number of major policy challenges and opportunities, including changes in our health care system, reforming the tax code, improving our infrastructure, and modernizing our current workforce. These federal policies have an enormous impact on our state and local governments, and we must work together to ensure we get it right. The establishment of this Intergovernmental Affairs Task Force will help provide the platform to share best practices and insights on key public policy.

This Task Force understands the constitutional and foundational role that states play in our federal system. Unfortunately, the general public's understanding of the Constitution is often not as keen, and we commend Congress for supporting various initiatives such as provisions in the recently enacted Every Student Succeeds Act (ESSA) which includes provisions for the teaching of civics and history in our schools.

The Tenth Amendment states, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the state respectively, or to the people." This laid the foundation for states to develop innovative ideas and policies, and fulfill their role as "laboratories of democracy."

We believe that state-based innovation continues to be stifled by a growing web of federal policies and regulations, which often come in the form of unfunded mandates. State leaders are challenged to balance budgets, and these difficulties are compounded by unanticipated economic costs associated with unfunded mandates resulting from federal regulations without adequate state input. Unfunded mandates limit the flexibility of state and local governments to address more pressing local problems like crime and education.

In addition, the majority of federal regulations have been enacted with limited, or no input and consultation from state and local governments. Moreover, federal agencies regularly process rules without even conducting an analysis on the potential economic costs, as required by the Unfunded Mandate Reform Act.

This is what led my colleague, Alaska State Senator Gary Stevens, and me to start a multi-year initiative within CSG focused on improving the role of states in our federal system. We convened a bipartisan Federalism Task Force and adopted a set of principles that outline our vision.

I've included the full list of principles in my written testimony. Briefly, they focus on the importance of avoiding pre-emption, avoiding unfunded mandates, promoting state flexibility, and promoting state input on international trade policy.

It is also what led ten states, including Tennessee, to adopt resolutions calling for Congress to adopt the Regulation Freedom Amendment to the U.S. Constitution.

On May 22, 2017, the Attorneys General of sixteen states, including Tennessee, wrote the President of the United States to express concern about federal regulatory overreach. They request that he "lead a regulatory reform effort centered on two principles: restoring the lawmaking role of Congress and the power of federal courts." From their perspective, "the current regulatory framework turns separation of powers and federalism on their head. The legislative, executive, and judicial powers are combined in the hands of the executive. And whereas the Constitution allows only federal law to defeat state law, federal administrative action overrides state law and thus allows the federal executive to undermine federalism." They call upon Congress "to pass legislation clarifying that regulatory agencies have no power to enforce their will in federal court unless the enforcement action is based on a federal law."

This brings me to an important point. We need to take a closer look at what we call "consultation" with states. Many of our state legislators, like me, are truly citizen legislators—we hold full-time jobs in addition to our public service. It is difficult, if not impossible, to keep up with and meaningfully respond to the proliferation of regulations and paperwork required.

Moreover, stronger coordination and communication will help reduce conflicts which end up in court. I believe we all share the same mission of reducing litigation between states and the federal government, as this comes at enormous economic and opportunity costs.

We are thankful for organizations like CSG which are our eyes and ears in Washington, but we also need to identify other real and concrete ways to improve the consultation process. All too often, we, meaning states, are treated as incidental, rather than integral, to our republic and the process of governing.

In conclusion, I want to stress the importance of establishing a process that ensures states are true partners in our federal system, and not just another stakeholder. I believe, with your leadership, we can take steps to improve the outreach and consultation between our states and the federal government.

Again, thank you and the Task Force for the opportunity to appear before you today, and I look forward to your questions.