



THE COUNCIL OF STATE GOVERNMENTS

STATEMENT OF PRINCIPLES ON FEDERALISM

The diversity of policy experimentation and accountable governance made possible by the 10th Amendment to the U.S. Constitution has enabled our nation to thrive despite the changing needs of a global economy. Given the importance of federalism to our future, it is essential that The Council of State Governments dedicate itself to preserving the role of the states as the “laboratories of democracy” and work both to limit unnecessary federal intrusions into areas of state responsibility and to foster effective cooperation in areas of shared jurisdiction.

Principles for State-Federal Relations

Though the federal government has a vital role to play in advancing national priorities through the powers enumerated to it by the U.S. Constitution, our founders recognized long ago that many of the challenges our citizens face can best be addressed at the state level. The Council of State Governments affirms the vital importance of the federal system to our nation’s future and encourages the federal government to adhere to the following principles when developing laws, enacting regulations or rendering judicial rulings which impact state powers.

Principles on Avoiding Pre-emption – Before 1900 the federal government had enacted only 29 statutes that pre-empted state law; but since 1900, there have been more than 500 federal pre-emptions.

- Federal pre-emption of state authority and responsibility should be the exception rather than the rule. While there is a legitimate role for federal pre-emption when the national interest is at risk, pre-emption should be engaged in sparingly and should be avoided in traditional areas of state responsibility, such as education and criminal justice.
- Federal entities should not take actions that serve to pre-empt, directly or indirectly, state revenue systems as the independent revenue raising authority of states is essential to their exercise of sovereign powers.

Principles on Avoiding Unfunded Mandates – A 2015 report by the White House’s Office of Management and Budget (OMB) on the cost of federal regulation and the impact of unfunded mandates noted that federal mandates cost states, cities and the general public between \$57 and \$85 billion each year.

- Congress and the administration should avoid the imposition of both unfunded federal and partially funded mandates on states.

- The federal government should work with states to ensure the actions by independent federal agencies, not originally covered by the Unfunded Mandate Reform Act of 1995, receive the same level of scrutiny for unfunded mandates that acts of Congress currently receive.

Principle on Promoting Flexibility – In 2015, federal funds to state and local governments represented more than 30 percent of total state spending. Most of the 42 major state-federal grant programs, however, will see substantial cuts over the next decade as a result of the federal fiscal crisis.

- The federal government should ease restrictions, in times of federal funding decline, on the maintenance of effort, grant reporting requirements, and provide maximum flexibility, including the transfer of funds among related grant funding streams, to ensure that programs can be administered as effectively as possible without imposing new burdens on state budgets.

Principles on Promoting State Input in International Trade Agreements – While the power to make treaties is solely a federal role, modern international trade agreements have moved beyond setting tariff limits to include commitments on state government procurement, regulatory transparency standards, and other requirements that impact the powers and duties of state governments.

- The federal government should actively work with states to preserve state interest in international trade agreements.
- The federal government should expand its single point of contact communications system on trade policy negotiations, which currently includes only the state executive branch, to include state legislative and judicial branch contacts.

Adopted by The Council of State Governments' Leadership Council this 14th Day of May, 2016 in Lexington, Kentucky.