



# THE COUNCIL OF STATE GOVERNMENTS

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

### **U.S. Senate Environment and Public Works Committee, Subcommittee on Superfund, Waste Management and Regulatory Affairs**

#### **“Oversight of EPA Unfunded Mandates on State, Local, and Tribal Governments”**

**June 7, 2016**

Chairman Rounds, Ranking Member Markey, and Members of the Committee, 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 serve as Tennessee’s Senate Representative on the Southern States Energy Board. 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.

On behalf of CSG and our state leaders throughout the country, I want to thank you for convening this important hearing and for your leadership in exploring ways to improve the working relationship between our states and the federal government.

Founded in 1933, The Council of State Governments is the nation’s only organization serving all three branches of state government. CSG is a region-based, non-profit, and non-partisan organization that fosters the exchange of insights and ideas to help state officials shape public policy. CSG has also been a leader in advancing the role of the states in our federal system and working to identify real solutions to improve the regulatory process.

Last week, we celebrated the 220th anniversary of statehood in Tennessee and our entry as the 16th sovereign state in the union ratified by Congress in an act signed by George Washington, including a state constitution recognized by Thomas Jefferson as “the lest imperfect and most Republican of state constitutions.”

It provides: “the people have the right of exercising sovereignty ... so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation [and] the Bill of Rights.”

As a former Governor, Chairman Rounds, you understand that states are the foundation of our federal system as enshrined in the Tenth Amendment which provides:

"(t)he 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 is the foundation upon which states develop innovative ideas and policies and often fulfill their role as "laboratories of democracy."

However, state-based innovation is increasingly being adversely impacted by the growing web of federal policies and regulations which regularly come in the form of unfunded mandates.

A 2015 report by the White House's Office of Management and Budget (OMB) estimated that federal regulations and unfunded mandates cost states, cities and the general public between \$57 and \$85 billion each year. This is no different in Tennessee.

Recent examples of regulatory overreach by the federal government include the Clean Power Plan and Clean Water Rule, both of which are being challenged by a number of states in federal court. In Tennessee, though far from perfect, the Clean Power Plan was presented better than the Clean Water Rule.

Notwithstanding the foregoing, studies have shown that Tennessee could experience electricity price increases of approximately 15 percent under the Clean Power Plan. Tennesseans already spend an estimated average of 12% of their after-tax incomes on energy.

Along with the cost of financing these new unfunded mandates, the majority of federal regulations have too often been enacted with limited – or no- input nor adequate consultation from state and local governments. Moreover, federal agencies regularly process rules without even conducting an appropriate analysis of 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 bi-partisan 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 has led to adoption by eight states, including Tennessee, of resolutions calling for Congress to adopt the Regulation Freedom Amendment to the U.S. Constitution.

In past years, we've held a variety of meetings with the White House, federal agencies, and Members of Congress on these issues. However, there has been little response or real action to help resolve them. All too often, we, meaning states, are treated as incidental, rather than integral, to our republic and the process of governing.

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.

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.

In the past year, CSG has had the opportunity to chair the coalition of state and local government organizations - also known as the Big 7 - and have made this issue a priority. Along with CSG, the organizations include the National Governors Association, National Conference of State Legislatures, National Association of Counties, National League of Cities, U.S. Conference of Mayors, and the International City/County Management Association.

Under the leadership of CSG's Executive Director and CEO, David Adkins, the coalition has worked to identify recommendations on how to improve the state-federal regulatory process. I have provided the list of recommendations in my written testimony.

As you can see, the recommendations include updating the Unfunded Mandates Reform Act; establishing consistent state-federal advisory committees within federal agencies; and simply ensuring state legislators know who to contact in each federal agency.

Navigating the relationship between state and federal governments is no easy task, but we are hopeful that we can take practical steps to improve our cooperation.

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 Committee for the opportunity to appear before you today, and I look forward to your questions.