

“Restoring the Partnership: The Future of Federalism in America”

Government Operations Subcommittee

4:00 PM, Tuesday, July 23, 2019

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Chairman Gerald E. Connolly

Today, the Subcommittee will pick up where my friend and colleague Mr. Rob Bishop of Utah, who served as Chairman of the Speaker’s Task Force on Intergovernmental Affairs, left off. Our hearing examines the status of federalism in the United States and legislation that Rob Bishop and I have introduced to help spur dialogue and coordinated action on the greatest challenges facing our intergovernmental system. As a former member and Chairman of the Fairfax County Board of Supervisors, I know how important it is to balance the roles and responsibilities of federal, state, and local governments. I am also painfully aware of how local government – the most immediate form of government – can suffer when we fail to strike the right balance.

The value proposition of functional intergovernmental relationships is immense. America’s federated system demands that federal, state, local, and tribal governments work together and reduce overlap to improve people’s lives.

The United States Constitution does not give any one level of government absolute power or unlimited jurisdiction over public matters. Therefore, we rely on collaboration across governments to ensure the reliable administration of public services and the protection of the public welfare. A federated system that works and delivers real results for our constituents is as fundamental to our system of governance as free and fair elections. Without either, confidence and trust in our institutions are diminished.

While the Constitution formed a stronger federal government in the wake of the failure of the Articles of Confederation, it also included a respect for the sovereignty of states. To honor the framers' vision we must remain vigilant about unfunded mandates passed down to state and local governments and push back on overly intrusive federal regulations. In Dillon Rule states where local governments only have the authorities explicitly granted to them by the state government, overreach at the federal and state level can be especially burdensome as local governments are often forced to deal with mandates with their revenue hand tied behind their back. We can all agree that overreach exists – the No Child Left Behind Act being a prime example.¹ What the intergovernmental relationship needs is a venue for addressing that overreach in a collaborative manner.

¹ Pub. L. 107-110

Our legislation, the Restore the Partnership Act, which we introduced today, would provide such a venue by reconstituting the U.S. Advisory Commission on Intergovernmental Relations (ACIR), a committee that fosters critical conversations and allows for the sharing of best practices among the leaders of the governments that form our nation. We are proud to announce this bipartisan legislation has received the endorsement of the so-called Big 7, which includes the National Governors Association, the Council of State Governments, the National Conference of State Legislatures, the National League of Cities, the United States Conference of Mayors, the National Association of Counties, and the International City/County Management Association.

Please indulge my short historical aside, which mirrors how the Restore the Partnership legislation came about: In 1953, Congress authorized the temporary Commission on Intergovernmental Relations, or “Kestenbaum Commission” as it became known, to conduct a review of intergovernmental affairs in the United States. After the Commission published its final report and then sunset, the House Intergovernmental Relations Subcommittee studied and held hearings on the Commission’s recommendations.

Acknowledging the usefulness of the Kestenbaum Commission, the Subcommittee subsequently developed legislation to establish a permanent successor entity.

Congress established that successor entity, the ACIR, in September 1959, when President Dwight D. Eisenhower signed into law legislation that resulted from the work of the Subcommittee.² The ACIR operated until September 1996, and during those 37 years, the committee was tasked with serving as both a forum for intergovernmental dialogue and a neutral analytical commission that published reports and guidance on how to create partnerships across the different levels of government. It operated much like the modern-day Congressional Budget Office, but remained focused on intergovernmental relations.

The ACIR also provided a bipartisan venue for finding solutions to intergovernmental challenges. It brought together representatives of federal, state, local, and tribal governments to promote innovation and collaboration in the intergovernmental space. The ACIR also provided the expertise and analysis necessary for state and local governments to share best practices in fiscal administration and program management.

² Pub. L. 86-380.

The Commission was defunded in 1996 as part of a push to cut federal agencies. In retrospect, the decision to abandon the ACIR deprived the federal government of a useful venue for input and pushback on the encroachment of the federal government into state and local affairs.

Our legislation seeks to reconstitute an evolved Commission on Intergovernmental Relations of the United States. The bill language includes several key reforms to the original ACIR statute, many of which are recommendations the Speaker's Task Force received from intergovernmental partners and other stakeholders during our work in the 115th Congress.

The reforms include:

1. The addition of town and tribal representatives to the Commission as well as expanded membership for state legislatures and counties to reach parity with state executive representation.
2. New responsibilities that include examining Supreme Court decisions and their impact on the intergovernmental relationship.
3. A requirement that Congress hold hearings to examine the Commission's annual report within 90 days of the report's submission to Congress.
4. New authorities that ensure the Commission receives written responses from agencies on the recommendations it provides to them.

These new provisions generate a new level of accountability to the Commission, placing it on par with the way in which federal agencies currently engage the Government Accountability Office.

With that, it is my pleasure to welcome Mr. Bishop to our hearing today. Mr. Bishop will provide testimony to the Subcommittee from various expert vantage points. He was formerly the Chairman of the Speaker's Task Force on Intergovernmental Affairs. He's a long-time champion of improved intergovernmental relations. And, he is the lead cosponsor of the Restore the Partnership Act. I want to thank him for the way he led the Task Force in the last Congress and for how he continues to be a leader in this area. Last Congress, he was always was inclusive and fair, and he even let me – a Democrat – chair a hearing on the ACIR. I am glad the Subcommittee has the opportunity to continue his excellent work.