

Learning about Legislation #30 – Unfunded Mandates

This is an issue that has been central to the philosophy of government reform for the last several decades. That's when the federal government passes a bill about an issue but leaves it to states and localities to implement and pay for the content of the bill. The Americans with Disabilities Act is frequently used as an example of an unfunded mandate. The federal government passed rules about accessibility and stopping discrimination, but then left it to other government entities to enact the practical framework needed to support the bill.

The Congressional Research Service wrote a [white paper](#) on efforts to reform unfunded mandates a few months ago, and they did a great job explaining the crux of the issue:

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Advocates argue that these reforms will improve the quality of congressional deliberations and... enhance the ability of Congress, federal agencies, and the public to identify federal mandates that may impose undue harm on state, local, and tribal governments and the private sector. Opponents argue that these reforms are an assault on the nation's health, safety, and environmental protections, would erect new barriers to unnecessarily slow down the regulatory process, and would give regulated industries an unfair advantage to water down consumer protections.

Underlying disagreements over [the Unfunded Mandate Reform Act's] future are fundamentally different values concerning American federalism. One view emphasizes the importance of freeing state and local government officials from the constraints brought about by the directives and costs associated with federal mandates so they can experiment with innovative ways to achieve results with greater efficiency and cost effectiveness. This view focuses on the positive effect active state and local governments can have in promoting a sense of state and community responsibility and self-reliance, encouraging participation and civic responsibility by allowing more people to become involved in public questions, adapting public programs to state and local needs and conditions, and reducing the political turmoil that sometimes results from single policies that govern the entire nation.

Another view emphasizes the federal government's responsibility to ensure that all citizens are afforded minimum levels of essential government services. This view focuses on the propensity of states to restrict governmental services because they compete with one another for businesses and taxpaying residents; the variation in state fiscal capacities that makes it difficult for some states to provide certain governmental services even though they might have the political will to do so; and the propensity of states to have different views concerning what services are essential and what constitutes a sufficient level of essential government services.

In general, the Republican Party tends to favor efforts to limit the passage of unfunded mandates, while Democrats see them as a necessary part of establishing norms and protections for a fair society.