



States hope Trump era will reset federal relationship

By Reid Wilson
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States across the country are hoping President-elect Donald Trump will usher in a new era of cooperation with the federal government after eight years of contentious political and legal battles with the Obama administration.

On a handful of issues, legislators say they are watching the incoming Trump administration's early maneuverings to glean insight into the way the new White House and the Republican-led Congress will deal with states.

From replacing the Affordable Care Act (ACA) to management of public lands and major tax reforms, even some Republicans are taking a wait-and-see approach.

"We have a great hope, cautiously optimistic, but we're somewhat apprehensive," said Utah state Sen. Curt Bramble, a Republican who served as president of the National Conference of State Legislatures and on the board of the conservative American Legislative Exchange Council.

Some of the issues on which states hope for a new relationship include:

ObamaCare

President Obama's signature domestic legislative achievement sends billions of dollars to states, and any replacement will certainly upset the status quo.

If Republicans opt to repeal the ACA without replacing it, state and local governments stand to lose more than \$48 billion in funding over the next five years, according to an analysis

by the Commonwealth Fund and the Milken Institute School of Public Health at George Washington University. States would lose \$1.5 trillion in gross domestic product, the analysis found, while shedding millions of jobs.

"The loss of jobs and the loss of federal funds to the states due to the ACA repeal would lead to higher unemployment rate[s], which would leave state budgets with large gaps and could very quickly lead to another economic downturn," said Lucy Dadayan, a senior policy analyst at the Rockefeller Institute of Government.

Republicans in Congress have yet to roll out their proposal to replace the ACA, though they have hinted that block grants to state governments is a likely solution. That, Republicans say, would free states to be more flexible in offering care.

"Ultimately, what they'd like to see is some flexibility, but more so some money that they can utilize to make sure their Medicaid programs are shored up financially," said Robert Holden, who lobbies on state issues for the Virginia-based firm Stateside Associates. "They feel they're best placed to determine how healthcare should be provided in their states."

Public lands

For eight years, the Obama administration has created new rules governing everything from drilling on public lands, to mining, to new territory for national parks and monuments. And for eight years, Republican-led states like Texas have sued to block those rules at every turn.

Even Democratic states, especially in the West, have voiced anger at what they perceive as a lack of consultation and communication between the Interior Department and state governments.

Now, both Republicans and Democrats see an opportunity to shift power from Washington back to the states.

“Governors are optimistic that any change in administrations provides an historic opportunity to reset the state-federal relationship,” said Jim Ogsbury, who heads the bipartisan Western Governors Association. “We’re designing what almost amounts to a military campaign to operationalize the better relationship.”

Governors and state legislators have already asked for an early meeting with the Trump administration’s point person on inter-governmental relations, incoming deputy chief of staff Rick Dearborn, to lay out their priorities. They want to see better management of federal lands, a different way of funding wildfire fighting and prevention, and revisions to the Waters of the United States rules and the Endangered Species Act.

Above all, states want to be consulted more before federal intervention takes place.

“States and governors have on-the-ground experience and knowledge. They know about their environments and cultures and economies,” Ogsbury said. “The governors are really going to lean in on those policy issues that impact their constituents and affect state authority. They’re going to be very vocal about trying to make the Endangered Species Act work better.”

Tax reform

As Trump and his Republican allies begin crafting tax reform packages, state officials are scrambling to convince Washington to leave two elements of the current system alone: a deduction for state and local taxes and an exemption on taxes on municipal bonds.

But House Ways and Means Committee Chairman Kevin Brady (R-Texas) said in December he believes there is “merit” to eliminating the deduction. Both the House plan’s

architects and the incoming Trump administration have said little about municipal bonds.

States and localities use municipal bonds to generate revenue for infrastructure projects, and officials worry that ending the exemption would lead to higher capital costs across the board.

“When you’re talking about muni bonds, it’s not sexy. It’s so traditional. But it works,” said Scott Pattison, executive director of the National Governors Association.

“One of the most critical ways that state and local government can finance infrastructure at a reasonable cost is to issue municipal debt. To have that limited in any way will directly decrease the amount of infrastructure being built.”

In a letter to members of Congress this week, the National Governors Association and 28 other groups representing state and local officials said municipal bonds are on track to finance \$2 trillion in infrastructure spending over the next decade and that even a slight increase in costs will slow down projects.

Online sales taxes

States also want to see Congress approve legislation allowing them to collect sales tax on purchases made over the internet. Proposals like the Marketplace Fairness Act have languished on Capitol Hill for years.

“Quite a few states are real-ly tight on money right now, for various reasons,” Pattison said. “This is not new taxes. This is simply taxes that are owed to the state anyway, and they ought to be paid.”

Some legislators see hope in Vice President-elect Mike Pence, a former governor whose home state of Indiana has sought to collect internet taxes.

“He understands the challenge states have with the rapid expansion of remote sales,” Bramble said. “We still want a federal solution, but if that’s not possible or we’re not successful there, we believe we’ll be successful in court.”

Marijuana

Eight states have legalized the use of marijuana for recreational purposes, and dozens

more allow marijuana to be prescribed for medical purposes. Under the Obama administration, the Justice Department instructed U.S. attorneys to de-prioritize minor marijuana offenses in states where it was legal.

For states, legal marijuana has meant hundreds of millions of dollars in new tax revenue and millions more in cost savings that come from keeping low-level nonviolent offenders out of jail.

But Trump's pick to take over the Justice Department, Sen. Jeff Sessions (R-Ala.), has taken a much harder line on marijuana, leading some to worry that he would overturn the guidance to U.S. attorneys — laid out in a document known as the Cole memo, after its author, Dep-

uty Attorney General James Cole — and crack down on states.

"The current federal policy, as outlined by the Cole memo, has respected carefully designed state regulatory programs while maintaining the Justice Department's commitment to pursuing criminals and prosecuting bad actors," said Aaron Smith, executive director of the National Cannabis Industry Association.

Beyond the Cole memo, states that have legalized marijuana are struggling to figure out how to deal with what is largely a cash-based industry.

Bipartisan measures in Congress have proposed opening the banking system to cannabis businesses, though none have advanced so far.