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## Those Unfunded Mandates

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Ten years ago this week, Congress was in the final stage of a truly bitter battle. A Senate debate that began on Jan. 12 stretched over 15 days and forced 44 roll-call votes. The House debated the companion bill for eight days in February and had to dispose of more than 30 amendments before reaching final passage. It took five more weeks of difficult negotiations to get agreement on a final version, signed into law by President Bill Clinton on March 22, 1995.

And what was this highly controversial piece of legislation? It has the sexless title of the Unfunded Mandates Reform Act of 1995, or UMRA.

Basically, it was no more than a requirement that committees of Congress, when writing a bill that would impose new duties on states, local governments or private companies, obtain an estimate of the additional costs they would entail and make those part of their report on the legislation.

Under the newly approved procedure, any mandate that would cost state or local governments more than \$50 million a year, or private business \$100 million, would be subject to a point of order during debate -- and legislators would have to vote specifically that the benefit was worth the cost.

This modest nod to the interests of the other levels of government was bitterly resisted by Washington-knows-best legislators. Democrats, whose 40-year grip on the House of Representatives had just been shattered by the Republican revolution of 1994, were overwhelmingly opposed.

Dirk Kempthorne, then a freshman Republican senator, recalled this week that he could find only two co-sponsors for his UMRA bill when he first introduced it in 1993 and was dressed down by the powerful West Virginia Democrat Robert C. Byrd for even offering such legislation. But Kempthorne, who had served previously as mayor of Boise and now is governor of Idaho, wooed other Democrats and mobilized state and local officials to put pressure on their congressional delegations to support the change.

So how has it worked? Kempthorne told the National League of Cities convention Monday that it has been a success, that "it fundamentally changed the relationship" between Washington and the other levels of government. He cited a recent Congressional Budget Office report that found only five new mandates had been passed in the past decade. In a later interview he told me, "It has changed the culture on Capitol Hill" by making Congress far more sensitive to the fiscal impact of its decisions.

Others are not so certain. The CBO testimony cited by Kempthorne said that while UMRA drove Congress "to either eliminate mandates or lower their costs" in several pieces of legislation, exemptions and restrictions that were part of the law have meant that "some federal requirements that state and local officials view as burdensome to their jurisdictions are not considered unfunded mandates under UMRA." These big programs include the No Child Left Behind school reform act, the legislation guaranteeing special-education benefits for disabled children, the Medicaid program and the post-2000-election law mandating improved voting equipment -- no small matters.

A similar study by the Government Accountability Office reached a similar conclusion, noting that expensive conditions placed on such programs as No Child Left Behind are beyond the reach of UMRA, because states can theoretically decline to participate.

Republican Sen. Lamar Alexander, who followed Kempthorne to the League of Cities podium, painted a much bleaker picture. Alexander, a former governor of Tennessee, called UMRA "a tremendous accomplishment" but one that "hasn't done nearly as much as we might have hoped."

He noted that the National Conference of State Legislatures "has identified \$29 billion in federal cost shifts to states in transportation, health care, education, environment, homeland security, election laws and in other areas." The ability of elected officials to manage their own budgets has been further narrowed by the proliferation of federal court consent decrees, which, he said, now dictate how "to run Medicaid in Tennessee, to run foster care in Utah, to run transportation in Los Angeles and to decide how to teach English to children in New York City."

Alexander has a package of changes he says would shift the power balance back toward the states and cities. The problem, he says, is that "Democrats, still stuck in the New Deal, are reflexively searching for national solutions to local problems [and] Republicans, having found ourselves in charge, have decided it is more blessed to impose our views, rather than to liberate Americans from Washington."

It may take another grass-roots rebellion to shake up Washington.

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