

Ridge approach: A new trend?

Homeland security director proactively involves states in plan

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The relationship between the federal government and the states is ever evolving. Shortly after becoming President, George W. Bush set a goal to revise the standing Presidential Executive Order that provides guidelines for federal agency interaction with the states. Events of September 11, 2001, stalled those formal efforts. However, in the absence of a formal Executive Order, former Governor Tom Ridge seems to be taking an exemplary approach regarding the role states should play in the establishment and execution of national policy.

With no clearly established track record or formal policy on how the Bush Administration's pro-state rhetoric would be matched by action, Governor Ridge applied his state contacts and experience to proactively involve the state and local communities in his Homeland Security implementation efforts. The approach of Governor Ridge should bring great hope to the members of the state community and may provide an example to other Bush administration officials. This article outlines the "Ridge approach" and areas where it may be applied by other members of the administration to engage the states.

The Homeland Security success story

The nation is experiencing its first era of



Higher education is one area where the Tom Ridge approach to governing could be a workable solution.

homeland insecurity in nearly a generation. "The temptation to bring the federal government and its dictates into every facet of life must be compelling," said The Council of State Governments (CSG) Executive Director Daniel M. Sprague.

Sprague said Governor Ridge has developed an innovative model of intergovernmental communication on the issue of homeland security that could be a model for all intergovernmental relations, now and in the future. "The Governor's

staff is experienced and accessible, and they are sensitive to states' information needs, states' rights and states' responsibilities," he said. Governor Ridge and his staff have repeatedly consulted, held conference calls, sought formal feedback and addressed groups of state leaders in an attempt to gain insight. Prior to public release of the Federal Threat Advisory system, Ridge held a conference call with state leaders, including CSG leadership, to describe the proposal and seek feedback. Many comments were made and incorporated into the system.

Sprague said most plans put forth by Ridge have included input from state officials and from state and local government groups, including CSG. He added that many components of Ridge's plans allow flexibility and encourage states to opt-in voluntarily rather than accept federal mandates. While the debate over airline security was more a debate about continued privatization of functions than federalism, even there the Homeland Security Office consulted with local officials involved in management of airports.

One of the most hotly contested federal issues was the distribution of federal funds to improve homeland security. The current plan indicates an important role for states. "The homeland security funds are anticipated to be given in block grants to state governments," said Sprague. "States will build and improve their security systems while also awarding grants to local governments from these funds. This distribution of funds successfully avoided the temptation to manage from the federal level. It ensures comprehensive, statewide planning with a majority of the funds going to the appropriate local level first responders."

In conference calls with state and local officials, Ridge has said the federal government did not want, and could not perform, what is more appropriately a state responsibility - prioritizing local funding requests and approving coordinated emergency response plans. It is anticipated these plans will be devised at the local level, coordinated at the state level, and reviewed for regional and national effectiveness at the state level.

On April 25, 2002, Ridge convened a group of state leaders from CSG, NCSL, the National Governors Association, the

National Association of Attorneys General, and other state and local organizations at the White House to discuss homeland security. Prior to submitting his recommendations on homeland security to the President this summer, Ridge felt it was imperative to seek the comments of his former colleagues at the state level regarding issues of funding, implementation, coordination and the proposed first responder initiative. Participants from CSG included Governor Parris N. Glendening (MD), Senator Robert Thompson (PA) and Representative Dan Bosley (MA).

Judicial precedent drives the trend

Ridge seems to be heeding a longer judicial trend favoring states' rights. His work of involving state leaders at the start of federal policy development may prevent future judicial battles. The Supreme Court currently retains a 5-4 split in favor of the states on federalism issues.

The trend of judicial support for state rights' was continued in recent district court action. "A U.S. District Court further reinforced states' rights in the Oregon assisted suicide case just this past April," said CSG Policy Director Albert Harberson, who recently returned from a multi-city speaking tour in India on the merits of federalism. In the Oregon case,



CSG Executive Director Daniel M. Sprague

a U.S. District judge ruled that U.S. Attorney General John Ashcroft may not supercede, as he intended, Oregon's law permitting assisted suicide.



Homeland Security Director Tom Ridge

"Ashcroft evidently sought to stifle an ongoing debate in the various states concerning physician-assisted suicide," Judge Robert Jones wrote. "No provision...demonstrates or even suggests that Congress intended to delegate to the attorney general...the authority to decide, as a matter of national policy, a question of such magnitude as whether physician-assisted suicide constitutes a legitimate medical purpose."

He further wrote that Oregon voters decided "not once, but twice" to support the law and "have chosen to resolve the moral, legal and ethical debate...for themselves." This ruling allows other states to pursue the issue for themselves.

Welfare reform needs state involvement

The Ridge approach to state involvement may work if implemented in the Department of Health and Human Services regarding Temporary Assistance for Needy Families (TANF) program reauthorization. In 1996, the 104th Congress ended the welfare entitlement program under Aid to Families with Dependent Children (AFDC). This program was replaced with Temporary Assistance for Needy Families (TANF). The TANF program is a \$16.6 billion per year block grant to states, according to CSG policy analyst Amy Scott.

Since the authorization of TANF is set to expire on September 30, 2002, the

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Administration is now working on reauthorization. In February, the Department of Health and Human Services issued a press release outlining key parts of the President's welfare agenda. Since then, Secretary Tommy Thompson of the Department of Health and Human Services, a former CSG President, has been conveying the Administration's message to Congress. Thompson detailed administration welfare work requirements that will continue to cause debate.

In April Senate testimony, Michigan Governor John Engler and Vermont Governor Howard Dean cited the unprecedented levels of single mothers entering the workforce, the 50 percent decrease in overall caseloads and the lowest poverty rates in decades as examples of the success of the historic welfare reform of 1996. "The flexibility of the TANF block grant was the cornerstone of the 1996 act...we stress the importance of maintaining the flexibility of the TANF block grant while keeping an emphasis on work," said Engler.

The Bush team is working to increase work requirements, but state officials from Governor Engler to New York Senator Raymond Meier fear that the debated work requirements may stretch state resources too thin. "Due to the fixed amount in the TANF block grant and the current fiscal conditions of most states, policymakers will be forced to cut back on existing programs that support work," said Meier in a press release.

Gov. Dean said to Congress, "We're

(state governors) calling for an inflationary increase in the TANF funding level in order to maintain the programs that have made welfare reform successful so far." Debate will likely continue on this topic and the outcome will be a big test of the President's commitment to federalism. If Thompson chooses to adopt the Ridge approach and include state leaders in consultation, continued success may be achieved in welfare.

Education needs state consultation

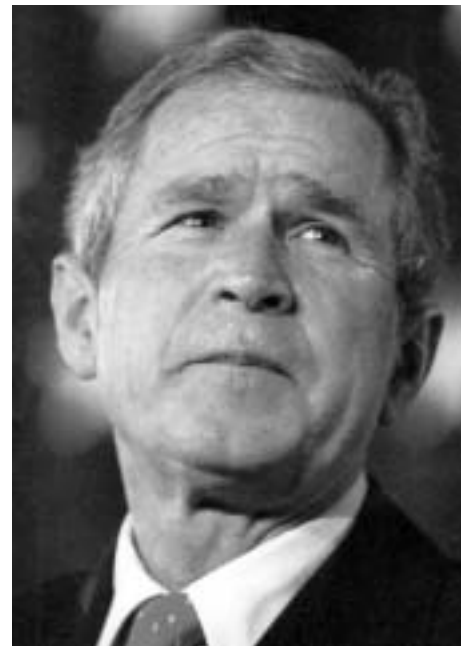
President Bush signed the Leave No Child Behind Act in January. The law reauthorized and made sweeping changes to the Elementary and Secondary Education Act (ESEA). ESEA has four main parts: stronger accountability for results, increased flexibility and local control, expanded options for parents, and an emphasis on established and proven teaching methods. The law met with mixed reviews. As of April, all states were in compliance with the requirements of the 1994 ESEA law. Many states are now working with the Department of Education to ensure they achieve the goals outlined in the new ESEA.

Federal funding of this act remains an issue. In the March issue of *State Government News*, North Dakota State Superintendent Wayne Sanstead said, "I am impressed with the levels of support that (reauthorized ESEA) does provide to local schools. It provides funding for testing that will provide accountability."

However, the federalism question seems to be whether or not the funding is enough to successfully meet the mandates. "(The reauthorized ESEA) is a step forward and the dollars in it are indeed promising, however there remains a big gap between the aims of this bill and the resources available to implement it," Rural School and Community Trusts President Rachel Tompkins told *State Government News*.

Conclusion

"President Bush believes that by devolving power and authority to the states – ultimately to the people, we ensure that the government programs are



President George W. Bush

focused on the needs of our citizens – not on what is convenient for government," Ruben Barrales, President Bush's Director of the Office of Intergovernmental Affairs, wrote in the Summer 2001 edition of CSG's *Spectrum magazine*.

Despite the lack of formal improvement in federalism policy to date, the Ridge model holds hope for future communications. "Excellent models of intergovernmental communication and respect for states' rights have been developed during work on homeland security. We are hopeful these advances will continue and grow as welfare reform and other pressing issues come to the fore, but there remain serious threats of federally imposed mandates and regulations. So, states and CSG are very eager to work with the Administration on the issues that lie ahead," said Sprague.

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Resources

The Council of State Governments Washington D.C. office monitors intergovernmental affairs. For federalism updates, visit www.csg.org, Washington D.C. office, "News from Washington." State officials may also hear federalism briefings as part of CSG Spring and Annual Meetings. The next Annual Meeting is in December in Richmond, Virginia (see www.csg.org).