Welcome to Our American States, a podcast of meaningful conversations that tell the story of America’s state legislatures, the people in them, the politics that compel them, and the important work of democracy. For the National Conference of State Legislatures, I’m your host Gene Rose.

Americans learned a lot about the birth of our nation when Lin-Manuel Miranda launched the hit Broadway show, “Hamilton.” In the song, “Non-Stop,” part of the lyrics goes:

“All joined forces with James Madison and John Jay to write a series of essays defending the new United States Constitution, entitled The Federalist Papers.”

From those papers, came a concept of government called federalism, where states share power with the federal government. As our guests today will explain, the system works – but it also creates great tension between those entities.

Today’s podcast comes from interviews conducted for State Legislatures magazine. An article will appear in the July 2017 issue.

Robin Vos, a Republican and the speaker of the Assembly in Wisconsin, and Dan Blue, a Democratic senator from North Carolina, share their viewpoints on the state of federalism today, nearly 230 years after Hamilton, Jay and Madison published those papers. We’ll first hear from Speaker Vos, and then Senator Blue.
Gene Rose

Let’s just start out talking about the tension that exists between the federal government and the legislatures right now. How do you view that relationship today in terms of federalism?

Speaker Vos

I think that the Founders were so incredibly bright in how they designed the system where there should be a natural tension between folks who want to have decisions made closer to home in state governments and the necessity to have decisions made on a broader basis when they impact the entire country.

So I certainly understand that over time, power has a tendency to naturally go to one location; it’s just easier. But I also think it’s not what was inherent in the brilliant concept that was designed over 200 years ago.

My frustration has continually been that more and more and more of the decisions that are being made on behalf of our citizens are made by people who either are well-intentioned, but misguided, or perhaps not even well-intentioned but still misguided, on thinking that a one-size-fits-all solution has the same ability to solve problems today as it did before we really had most of the bureaucracy we do today.

So I guess I understand the need to have a system where you have a strong central government, especially in the world that we live in today, but as we see across the country and really across the world, more entrepreneurship, more individual decisions being made, you know, the power of the Internet where you can be on a cellphone in the middle of the Sahara Desert – that’s just the world that we live in and I fear that having D.C. make so many decisions makes us less nimble and less competitive, and that’s why to me federalism is something we really need to reinvigorate and do a better job of explaining why decisions made closer to the ground are better for all involved.

Senator Blue

I think the tension is a healthy thing. It was designed to be that way. Just looking back at some of the discussions that must have gone on in the Constitutional Convention and especially after the Articles of Confederation, I developed a greater appreciation of the wisdom of those guys who got together and naturally built this tension into the system and divided responsibilities between the states and the federal government, but basically equipped each to sort of be a check on the other to some degree, not just having states as outposts of the central government, but as active partners through this tension that’s built in through this concept of federalism.

The response from the federal government is you have a choice – to take it or not take it. But quite often that’s not the case; you don’t really have any choice because
a lot of times funding decisions are so massive that you have to have the federal involvement in them as well as state involvement to make it work: issues like transportation, issues like education, issues like healthcare, as long as it’s appreciated that the state has a very important and viable and constitutionally mandated role to play in that.

But other times I’ve seen some of them improve; others I’ve seen get worse. But I’ve accepted the fact that they’re going to be there and that’s the nature of this federal democracy that we have.

Gene Rose

So typically, from your perspective, where does the pressure usually come from? Who do you worry about the most, the President or the Congress?
Speaker Vos

It’s really a combination from my perspective. It usually seems like it’s an over-arching regulatory burden where you have people who I will never meet, never understand why they’re making decisions, making decisions on behalf of the entire country, where they think that something that happens in Wisconsin and our way of life and our common practices is the same as Utah or Oregon or Southern Florida. I mean, that’s my frustration, that I want to have the nimbleness to be able to say what happens in Minnesota and Wisconsin, even though they’re right next to each other, might be dramatically different based on where we’ve been for the past 200 years.

Gene Rose

Do you have some examples on how federalism has either positively or negatively affected your state?

Speaker Vos

Sure. So in Wisconsin, we’ve actually had an opportunity to get waivers, so underneath the federal government’s plan for healthcare, not the most recent iteration, but ones that have happened over time, we have something in Wisconsin called Badger Care – that is our form of Medicaid. So it covers folks in Wisconsin who are of course in poverty.

Now, when a lot of states around the country made the decision to accept federal funding for an expansion of Medicaid, we actually asked for a waiver so that we would have the opportunity to do it differently. So we decided that we were going to cover every single person in Wisconsin who is at 100 percent or below in poverty, whether they have children or not, and they’re covered by our Badger Care plan, really which is basically no premiums, no deductibles, no cost share. It’s basically free health insurance with very limited exceptions. That was allowed because we had the ability to get a waiver under the concept of federalism.

We also before Medicare Part D happened, we had a waiver for something called Senior Care, where we were one of the first in the country to create a prescription drug benefit for seniors so that they could afford to buy drugs to make sure that they could have the life-saving medications they need.

So those are both examples where I think in many ways our Senior Care became a model for some of the ways they dealt with Medicare Part D. I think that our Badger Care reform will become a model for the rest of the country. And that’s what I’ve always said I want more of. I want to say: Hey, if California decides they want to do socialized medicine or do something that I would consider on one end of the equation, and Wisconsin wants to do something dramatically different on the other end, I’d love for the country to watch us both and see which does better so that we have a chance to adopt those reforms based on real-world tactics as opposed to just
having Washington dictate it and no way to judge success or failure other than something that could be catastrophic to those involved.

Gene Rose

And so it comes to these federal directives, are you more concerned about policy implications, or the effect on the budget?

Senator Blue

I’m more concerned about the fiscal directives. Policies are fine. If the federal government thinks that it has the authority to legislate in an area and they want to set what the policy is on a national level, I’m fine with that.

What concerns us at the state level more than anything else is to implement a policy that costs a tremendous amount of money and not give the states the resources with which to execute the policy that the federal government, either congressionally or administratively, has decreed. That’s where the real tension comes and I think that that’s where the checks of this system of federalism really show its true meaning and show how the states were meant to be partners, not just in implementing, but in also formulating these policies if it’s expected that they’re supposed to pay some of the costs associated with them.

Speaker Vos

For us, we have a two-year budget, so we take right after the election from about January until roughly the 4th of July, and that’s our most intense legislating period where we pass the budget.

Now, you and I know that there’s an annual federal budget that’s supposed to pass; it often doesn’t, but it’s supposed to; but appropriations bills don’t really happen until hopefully by October. We have to use an educated guess to be able to develop our budgets. If, for some reason, dramatic things happen in that budget process, it really has the potential to screw up where Wisconsin has planned to go based on our best guess.

And I would say also on the policy side, it’s the same thing because so many of the decisions that they make have a fiscal effect, either on state government directly or on the citizens that we both represent.

Gene Rose

So let’s look at some of the key issues that Congress and the Administration is looking at right now, such as repealing and replacing the Affordable Care Act, tax reform, and infrastructure investment that would affect state policies and budgets. What do you as leaders of the state legislatures plan to do to maintain the balance of power between Washington and the states on these particular issues?
Speaker Vos

Well, it’s really why...about six years ago why I made the decision to get more involved in NCSL. I understand the fact that I’m in my state capitol, I love the opportunity to work inside our system, so I’m so busy here in Wisconsin that I try to pay attention to what’s happening in Washington, but I have to rely on others to make sure that the interests of our legislature and our citizens are kind of watched over.

So for me it was the first easy decision, which was to be more involved in NCSL and to really trust that they are doing a good job representing our interests. And the more I got involved, the more I have seen evidence that they are making sure that states are heard, they’re making sure that we have an opportunity to have that direct voice at the United States Capitol, and that our legislators know it’s important to consider the impacts on states, not just on their own interests.

Senator Blue

You relate to three separate but equally important issues. Let me start with the infrastructure question. Part of the real issue that ought to be discussed now as we discuss infrastructure is really get the master plan with the federal government along with the states, coming up with the master plan of what we need to do for the crumbling infrastructure, and come up with a timetable to replace it or improve it in some way or other.

I see allusions made to those kinds of conversations, but I don’t see them occurring in the kind of way that gives me any real sense that it’s going to happen because a lot of it is discussing incentives and things like that that affect states in different ways depending on whether they are mostly rural states or urban states.

We, as states, have to come up with some policy across the board that enables us to have significant improvements in both rural and urban states. I’d really like to see some joint efforts and joint discussions between congressional leadership, the executive branch, that is the White House, and the analogues at the state level to come up with the kind of thing that I was talking about, and then see a unified plan: to have joint funding, but not mandated funding.

On tax reform, all of us who are involved in government at every level, whether it’s state, federal or local level, understand some of the significant benefits of meaningful reform if we could get some of the political jargon and rhetoric out of it and really focus on the kinds of reforms that help us be more competitive internationally, help us create new industries and new jobs, and help put many of our people into new skills and put them back to work, I’m all for that and I think the states generally are for that as well. And we want to be actively involved in those conversations.
The third one you mentioned, Gene, had to do with the Affordable Care Act. As you see in the discussions going on in Washington now, people are all over the place. There is a sense across the land that there has to be a real national commitment to affordable health insurance, affordable care for all of the citizens of this country.

I’m watching the debate in the United States Senate now, but also am aware of some of the observations of the Congressional Budget Office as to what impact that might have on coverage on so many of our citizens, and aware of the debate on how it affects Medicaid and other things related to an essential part of this nation’s economy.

I know that what we’re concerned about is whether or not if there is a reformulation of the way Medicaid funds are spent and it’s given to the states at a much greater level with greater discretion, there ought to be an acknowledgement that state legislatures should play an essential role in making these things happen, not just conversations between the executive branch nationally and the Congress and the state executive branches.

So those are some of the concerns that we always have about these broad issues: that legislatures be involved in the conversation along with governors, whether it’s at the congressional level or whether, again, it’s at the White House and administrative levels.

Gene Rose

Recently the Speaker of the House and the Democratic leader created a bipartisan taskforce on intergovernmental relations. Originally it was supposed to be called the taskforce on federalism, but there are some concerns that using federalism connotes only conservative efforts to limit the federal government. Do you think that’s a fair statement? Are there mandates from the federal government that are always bad, or sometimes does it depend on your political affiliation?

Speaker Vos

Boy, it certainly shouldn’t. The one thing that I have learned being involved with NCSL is that it seems like on the idea of letting states decide for themselves, more often than not that’s one of the things that brings Republicans and Democrats together, because like I say, conservative Republicans in Wisconsin, we want to make our own choices, and so do liberal Democrats in California.

And I think that’s why on the Democratic side, we are seeing a renewed sense of federalism now that President Trump is in office, and I have not seen any decline in support for that idea among my Republican colleagues.

So I hope this is one of those times where maybe there is the perfect storm in the best of ways where both sides begin to realize having well-intentioned bureaucrats
making decisions instead of well-intentioned elected officials just isn’t the right answer for the long run.

I hope that it’s not a partisan issue; it certainly shouldn’t be, because I don’t view the term federalism in a partisan lens, but perhaps if some people do, they need to do a little bit more studying about what happened with the framers where it wasn’t Republicans and Democrats back then; it was just people who believed in power closer to the people or further away.

Senator Blue

We have to look at things through two separate viewing apparatuses. We have to look at things from the national perspective: How do we measure up internationally since we compete against governments around the world, or at least countries around the world. We compete in commerce, we compete in education in trying to make sure that our economy hums along because we invent things first and we educate our people to a high level and we try to make sure that they’re healthy, and that they have free will to do pretty much what they want to do as long as it doesn’t adversely affect other people.

I don’t think that federalism, the term itself, is a bad term. Maybe some folks have a perception that it just means conservative values and stuff. That’s not my perception. As a lawyer I’ve got a pretty good idea of what was intended by it and how I perceive it. But I’m glad that the Minority Leader and the Speaker came up with this joint committee so that they could talk about this role with intergovernmental relations at the federal level and state level.

Gene Rose

Your state is one of 23 states that have created federalism committees. Tell us why these were created and what roles you think they should play.

Speaker Vos

I guess, it did start out in my own philosophy, which says that I want to have more decisions come back to Wisconsin. So I presume that with a Republican Congress, with potential renewed efforts of Democrats saying let’s let states make more of these decisions, and a president who has implied very vociferously his support for federalism, that this will be a great chance for us to take an opportunity and see how far we can get it to go.

So I appointed State Representative Tyler Vorpagel to be the head of our federalism committee. He’s already met with folks in other states: Ohio, Utah, around the country to begin this effort of bringing ideas to the table. So just take a couple quick ones: I would love for them to take all of the myriad federal programs with worker training and instead of having rules and regulations that treat Massachusetts the
same as Wisconsin, that we would have more freedom to send that back to states so we could innovate and be the way that we want to be.

So in Wisconsin, we have three large industries: manufacturing, tourism and agriculture – those are our big three. I would love for us to be able to target the worker training resources in the career fields that are most necessary; not just have a federal program that treats everybody the same. In Florida perhaps they want to focus more on tourism. In Silicon Valley, maybe it’s focused more on technology.

But the current process treats them all exactly the same with no ability to specialize based on your own unique needs. And that’s why if we had it come back to the states, I really think that we’d have a great opportunity to have more jobs created at a lower cost, or even at the same cost but train a whole heck of a lot more people. And I think you can take that same concept on healthcare, on energy, the idea of economic development as more than just worker training, and you’d have an opportunity to really see those laboratories of democracy flourish in a way that truly has the American spirit of competition in a healthy way, trying to have the best possible product come out in the end.

Gene Rose

We’ll take a brief break, and come back with our guests’ views on how NCSL can best address federalism issues.

[Break]

Gene Rose

You talked about NCSL’s role and how you’ve appreciated what they’ve been doing lately. Does the makeup of the current political parties of the President and the Congress change how you think NCSL will be approaching things or how you wish they would approach them this year?

Speaker Vos

You know, I’m not certain... I guess that’s why I want to stay involved because I think that there was a perception, unfortunately now that I understand it, but I’ve been involved in ALEC in my earlier career as a legislator. I still am because I view them as a more conservative organization. And I think some of the former NCSL presidents, especially some of the most recent ones, have done a good job reaching out to Republicans saying that this is a bipartisan organization and it only flourishes if people from both sides of the political aisle, every end of the ideological spectrum, participate.

So I’ve really enjoyed the discussion, to work with Democrats from across the country and Republicans and learn from them. So I think this is a good example though where having Republicans in charge of the federal government and so many
Republicans in charge of state governments across the country reminds us why it’s inherent that NCSL look to where leaders are, look to where legislatures are, and try to reflect that in the most reflective way they can.

Senator Blue

I see NCSL as being even more active in advocating for the states and the states’ position in this system. The challenge might be a little bit greater because with the newness of this administration and the different approach they’re taking to a lot of things, we have a real challenge to educate this administration on the traditional roles that state legislatures have played in congressional enactments, with the administrative agencies, and with the courts on behalf of states.

And so once we get them up on the learning curve to understand fully what states do and the roles that we play in this, I think that NCSL will continue to be the advocate for the states, the voice for the states, and the entity that advocates the states’ position in the federal structure, whether it relates to these things that you mentioned earlier, relating to taxation, relating to healthcare, or relating to tax reform and key issues that we face.

And when the administration starts making specific proposals in education, transportation, infrastructure, the states should be considered an important source of information and participation in this, and NCSL will continue to be a strong advocate for that and insist that we be part of the conversation.

Gene Rose

What do you think are the top issues that you’d like to see NCSL advocating for in front of Congress and the Administration this year?

Speaker Vos

Well, it really goes back to the whole point of what we’re talking about, which is that idea of allowing states to be the laboratories of democracy. We can argue at the state level whether or not the Affordable Care Act or the American Healthcare Act is a better vehicle for helping folks get access to insurance, but I think that is more effectively done at the states. So unfortunately I think most Americans look at Washington D.C. and they’re frustrated with what they perceive as not dealing with the big problems of our country.

I don’t think you see that same level of frustration with state governments but with a few exceptions, most people look at state governments as functional and getting things done. We make sure money is there for schools; we fund highways; we ensure that people have access to healthcare and worker training – those are the basic functions that people want government to see.
So from my perspective, NCSL is one of the leading organizations in kind of the concept of devolving power back to the states, and I think that is the preeminent thing that they need to work on over the course of the next four, 10, 20, 40 years, because the more power that goes back to the states, I think the more free and more efficient and effective our government is.

Senator Blue
What we do as an organization, Gene, is we take directions from the member states and it takes 75 percent of the states to set forth a position that NCSL lobbies the federal government or lobbies the administration or Congress on. But we have a list of issues that we’re constantly talking to Congress about, the same issues we will be talking to the administration about once they finish getting fully organized.

Gene Rose
The makeup of Congress right now which is about half former state legislators. Have you ever heard any of these people who are former state legislators running for Congress saying that they’re going to take power away from the states? How can we hold them accountable once they get to Washington?

Senator Blue
Well, they don’t campaign on doing that, but once they get to Washington, they see things through a different set of lenses and sometimes forget the concerns that they had as state legislators on these issues. And I’ve gone to a few of them for you already. But when you’re looking at it from that side of the line, you do think that you ought to be able to tell states what they should be doing in so many given areas.

I talk to my colleagues in the Congress from all over the country occasionally about that change in attitude and try to give them another dose of reality so that they remember the kinds of things that they dealt with as state legislators and that we continue to deal with, so they won’t so readily think that all of the answers rest up on the banks of the Potomac.

Speaker Vos
Right. Well, you know, that’s why having us be there and just be that friendly face/reminder, using our connections that we have back home, and I spoke at a group not too long ago and it made me really think about even my own role. So in Wisconsin prior to being elected to the legislature, I was a county commissioner. We call it a county board supervisor. And I was often frustrated at state government taking power away from local governments. And just like I now am frustrated with state government having powers taken away from it by the federal government.

So it’s a good reminder for me to make sure I try not to do the same thing to the local governments that I was frustrated by when I was there, thinking that somehow just because I got elected I now became smarter.
So I think that’s why it’s just inherent upon us not to be angry, because I’m not; it’s just a natural thing that you want to be that problem solver and remind people that maybe not every problem is best solved from a capitol and from people who will never step foot inside your state. I think most people know that, but we just have to remind them, and NCSL hopefully will continue to do a good job doing that.

Gene Rose

And that concludes this edition of our podcast. For more on this subject, please read the July 2017 issue of State Legislatures magazine. Also, consult the National Conference of State Legislature’s website, at www.ncsl.org, to learn more on current state-federal issues.

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For the National Conference of State Legislatures, this is Gene Rose. Thanks for listening to “Our American States.”