

The Washington Times By Tom Howell Jr.

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NewsMaker: Republican attorneys general see Obama misuse of power

Top Republican legal officials say the Obama administration is renegeing on key duties such as border security while overstepping its role through health care mandates and tight regulation of the energy industry, a trend that has led states to heighten their defenses against federal intrusion.

As states brace for cutbacks from the sequester standoff between President Obama and congressional Republicans, several of their elected attorneys general contrast that gridlock — and not in a good way — with Mr. Obama's precedent-setting use of executive orders and federal rule-making.

"You just see it all over the place. You see it in land management, you see it in energy development," Colorado Attorney General John W. Suthers told The Washington Times on Tuesday in a wide-ranging interview with editors and reporters. "It's a pretty significant trend, I think."

The state officials, who are in Washington for the winter meeting of the Republican Attorneys General Association, bemoaned an administration that they say has failed to lead on issues that require the states to cede to federal supremacy, such as border security and immigration, while making it difficult for them to wield any influence with federal lawmakers who represent their states.

"We are seeing, I believe, an administration at the White House [that is] increasingly going around Congress and attempting to implement laws through the regulatory agencies, most particularly the [Environmental Protection Agency], in executive orders designed to shut down the traditional areas in which we create jobs and enhance our economy in Montana," Montana Attorney General Tim Fox told The Times. "Oil and gas. Coal, for instance."

West Virginia Attorney General Patrick Morrisey said the Obama administration's attempts to scale back coal production make his residents "very concerned."

Buoyed by his re-election in November, Mr. Obama set out an ambitious second-term agenda on climate change, saying in his inaugural address that the country must not "betray" its children and warning that "the path toward sustainable energy sources will be long and sometimes difficult."

Texas Attorney General Greg Abbott scoffed at assurances this month by Homeland Security Secretary Janet A. Napolitano that the southwestern border is more secure than ever. He pointed to the bullet-ridden buildings along his state's border with Mexico, which is wracked by drug-cartel violence.

The White House and the EPA did not respond to requests for comment Tuesday on the Republican attorneys general statements.

The Republican attorneys general also homed in on Mr. Obama's signature accomplishment, the Affordable Care Act, as Exhibit A among the list of federally imposed burdens. Among other things, Mr. Obama wanted the states to implement a substantial part of the act by expanding Medicaid, but promising to cover all the costs for only a short period. He also wanted the states to set and run statewide insurance markets.

Mr. Obama's health care reforms also attracted legal challenges from Republican-led states across the country, until the Supreme Court upheld the individual mandate to buy insurance. The justices also made the expansion of Medicaid enrollment optional for the states by saying the federal government could not yank existing funding from those that declined to expand the entitlement program.

Mr. Morrissey said states are grappling with "the pause before the big storm," arguing that the administration is behind in its rule-making for a law that is "doomed to fail."

Mr. Abbott said Texas is holding firm in its opposition to the Medicaid expansion, noting that it may be difficult to sustain its budgets if the federal government does not uphold its share of contributions to the program, which are supposed to scale down to 100 percent during 2014 to 2016 and to 90 percent by 2020.

"It's akin to the line of 'Hotel California' — once you check in, you really can't check out," he said. "So if states opt in, they probably are not going to be able to extricate themselves from it in years going forward."

The attorneys general said patients who show up at emergency rooms cannot be turned away and will cost the states anyway. But they remain skeptical of the law's costs.

"When does the hemorrhaging stop?" Mr. Fox said. "At what point do we say that every federal program that might come down the road is not something we should embrace, because we don't have the money to do it?"

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