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The New Dynamics of Legislating and the Implications for Delegating: What's to be Expected on the Receiving End?

Anne M. Khademian

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Abstract

Any effort to “reinvent” the management of federal government activities must consider the way in which Congress practices oversight and, fundamentally, the way in which it delegates authority to government agencies. Both concerns are rooted in the institutional dynamics of Congress—the formal and informal mechanisms legislators utilize to reach collective decisions and the incentives they face for oversight and legislative activity. Critics of Congress long have pointed to vague mandates, laden with procedural restrictions for decision making and implementation, and the constituent-driven, ad hoc approach to oversight as the source of policy failures and public management frustration. Congressional scholars, in turn, have explained the phenomenon as perfectly rational responsiveness to the incentive structure of the legislature and the dynamics of the institution. This article suggests, however, that recent changes in the way Congress legislates as an institution could produce changes in the way Congress delegates authority to government agencies and oversees their activities. From the perspective of the public manager, these changes are problematic. It is important to know what changes are taking place, how they might affect the way agencies are held accountable for their mandated responsibilities, and how they will affect managers' ability to behave in an entrepreneurial manner as advocated by the reinvention effort. The recent effort to reform the nation's banking laws is examined as representative of the changes.

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