



Chapter 6

Federalism: National, State, and Local Powers

How does power flow through our federal system of government?

■ 6.1 Introduction

You might not expect the gray wolf to be involved in a power struggle between the national government and state wildlife agencies. Under our federal system of government, states traditionally exercised control over wildlife within their borders. Wolves were universally viewed as threats to people and livestock. In fact, many states paid residents a bounty, or reward, for every wolf they killed. As a result, by the mid-1900s, wolves had all but disappeared from every state except Alaska.

Concern over the dwindling population of once-common animals such as the gray wolf led Congress to pass the Endangered Species Act in 1973. This law gave control of endangered animals to the U.S. Fish and Wildlife Service. Once the gray wolf came under federal protection, state bounties were banned and the hunting of wolves was outlawed in most areas. A person found guilty of killing a wolf could be punished with a fine of \$100,000 and a year in jail.

The Fish and Wildlife Service also worked to restore endangered species to habitats where they had once flourished. As part of this effort, federal officials reintroduced gray wolves to Yellowstone National Park in 1995. No wolves had been seen in the park, which includes parts of Idaho, Montana, and Wyoming, since 1939.

State flags wave beneath the Star-Spangled Banner

Speaking of Politics

expressed powers

The powers given specifically to the national government by the U.S. Constitution. These are also known as enumerated or delegated powers.

interstate commerce

Trade that takes place between two states or among several states.

intrastate commerce

Trade that takes place within the borders of a state.

unfunded mandate

A regulation or policy imposed by the federal government on state and local governments without adequate federal funds to carry out the policy.

devolution

The transfer of power from a central government to a regional or local government. In the United States, the term usually refers to the delegation of power from the national to the state governments.

apportionment

The distribution of seats in a legislature according to law. The U.S. Constitution requires that seats in the House of Representatives be apportioned according to the population of each state.

gerrymandering

Drawing the boundaries of a legislative district with the intent of giving one party or group a significant advantage.

redistricting

The process of redrawing the geographic boundaries of legislative districts after a census to reflect population changes.

The reintroduction of the gray wolf in Idaho, Montana, and Wyoming caused tension among ranchers, state officials, and the U.S. Fish and Wildlife Service. At the same time, the wolves boosted tourism in the region. These vacationers are hoping to spot wolves in Yellowstone National Park.



The return of wolves to Yellowstone Park triggered a storm of protest from nearby sheep and cattle ranchers. Fearing wolf raids on their livestock, they urged state officials to wrest control of the growing wolf population away from the federal government. Fish and Wildlife Service officials resisted these efforts, fearing that handing over wolf management to the states could lead to overhunting and even extinction.

By 2007, Idaho and Montana's wolf population had grown to the point at which the Fish and Wildlife Service agreed to return management of wolves to state agencies. However, environmentalists contested this decision. After much debate, Idaho and Montana regained management of wolves in 2011. In 2012, Wyoming also regained this authority.

This long and often heated debate over who should manage the gray wolf is an example of the kinds of conflicts that can arise in a federal system of government. This chapter will trace the evolution of federalism in the United States over the past two centuries, including the important role of state and local governments within our federal system of government.

6.2 The Establishment of a Federal System

The United States was the first nation-state founded with a federalist system of government. This system contributes to both a national and federal identity, making Americans proud of both their country and their state.

The framers of the Constitution formed a federalist system of government out of necessity. The delegates attending the Constitutional Convention in 1787 knew that the 13 states would be reluctant to give up any real power to a national government. As a result, the framers carefully configured how power should be divided among the national government and state governments.

The Constitutional Division of Powers

The U.S. Constitution divides powers into three categories: expressed, concurrent, and reserved. The diagram "The Federal System" shows how these powers are distributed between the national and state governments.

Expressed powers are powers specifically granted to the national government. The Constitution lists only 17 of these specific powers. Some, such as the power to coin money or to make treaties with other countries, are delegated exclusively to the national government. Others, such as the power to levy taxes, are concurrent powers shared by the national and state governments.

The Constitution says little about the powers reserved by states. But it does place some requirements on state governments. The Full Faith and Credit Clause, for example, insists that states recognize, honor, and enforce one another's public actions. Because of this clause, a driver's license issued by your home state is recognized as legal in any other state.

In addition, the Privileges and Immunities Clause says a state cannot discriminate against residents of other states or give its own residents special privileges. This means that if you move to a new state, you will enjoy all of the rights given to any other citizen of that state.

The Tenth Amendment further clarifies the constitutional division of powers by declaring that powers not specifically delegated to the national government are reserved for the states. These reserved powers include overseeing public schools, regulating businesses, and protecting state resources. The states also reserve the power to establish and regulate local governments.

The Benefits of a Federal System

While the framers had little choice but to create a federal system of government, they could see several benefits of federalism. Four of the most important are listed below.

Federalism protects against tyranny of the majority.

By dividing power among several units of government, federalism makes it difficult for a misguided majority to trample the rights of a minority. If a minority group feels abused in one state, its members can move to a state where their rights are more likely to be respected.

Jonah Goldberg, an editor with the *National Review*, compared the states to housing dorms on a hypothetical college campus to describe how this protection benefits a diverse population. On this campus, roughly half of the students like to have loud parties every night, while the other half like to have peace and quiet for studying. He wrote,

A purely democratic system where all students get to decide dorm policy could result in the tyranny of 51 percent of the students over 49 percent of the students. The party-hardy crowd could pass a policy permitting loud music and . . . parties at all hours of the night. Or if the more academically rigorous coalition won, they could ban "fun" of any kind, ever . . .

But, if you allowed each individual dorm to vote for its own policies, you could have a system where some dorms operate like scholarly monasteries and other dorms are more fun than a pool party . . . Theoretically, 100 percent of the students could live the way they want. Maximized human happiness!

—Jonah Goldberg, "United States of Happiness," *National Review Online*, 2004

The Federal System

This Venn diagram shows how powers are divided and shared in our federal system of government. There are relatively few expressed powers, or powers delegated exclusively to the national government. A larger number are either concurrent powers shared by both the states and the national government or powers reserved for the states.



Federalism promotes unity without imposing uniformity. As Goldberg's example suggests, federalism allows groups with different values and different ways of life to live together in peace. Likewise, federalism allows states to pass laws that reflect the needs and goals of their citizens while still remaining part of the union of states. All states, for example, support public education for young people. But how schools are funded and regulated differs from state to state, depending on local preferences.

Federalism creates "laboratories" for policy experiments. The flexibility of federalism allows states to act as testing grounds for innovative solutions to common problems. U.S. Supreme Court Justice Louis Brandeis once noted,

It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory and try novel social and economic experiments without risk to the rest of the country.

—Justice Louis Brandeis, dissent in
New State Ice Co. v. Liebmann, 1932

If a state tries a new idea and succeeds, other states will follow suit. On the other hand, if an experimental policy fails, the problems that result are limited to one state. In some cases, a failure may provide lessons to others about better ways to implement policies.

Federalism encourages political participation. Finally, federalism provides an opportunity for people to be involved in the political process closer to home than the nation's capital. As Goldberg observed,

The more you push . . . decisions down to the level where people actually have to live with their consequences, the more likely it is they [the people] will be a) involved and interested in the decision-making process, and b) happy with the result. Federalism . . . requires the consent of the governed at the most basic level. Sure, your side can lose an argument, but it's easier to change things locally than nationally.

The Drawbacks of a Federal System

For all of the benefits, there are drawbacks to a federal system. One is the lack of consistency of laws

and policies from state to state. This can create problems when people move from state to state. Drivers who cross state lines, for example, may not be aware that the speed limits and traffic laws of one state may not apply to the next. Teachers and other professionals often face hurdles when they move from state to state. A teaching credential valid in one state may not allow a teacher to teach in another state without additional testing or coursework.

Another drawback of our federal system is the tension it sometimes creates between state and federal officials. The Constitution does not always draw a clear dividing line between national and state powers. For example, it does not specify whether control of wildlife should be a federal or a state responsibility. The same can be said for other issues, such as regulating air quality and providing health care to the poor. When questions arise over who is in charge, it is often left to the Supreme Court to draw the line between the state and federal authority.

6.3 The Evolution of Federalism

There are approximately 88,000 national, state, and local units of government in the United States. This diagram shows how that total breaks down into a pyramid of governments. Not surprisingly, with so many different units of government at work in this country, relations among the different levels have evolved and changed over time.

Dual Federalism: A Layer Cake of Divided Powers

The framers of the Constitution disagreed among themselves about the ideal balance of power among the different levels of government. But they did agree, as James Madison wrote in *The Federalist* No. 45, that the powers of the national government were "few and defined" and the powers of the states "numerous and indefinite."

From 1790 to 1933, national and state governments maintained a fairly strict division of powers. Political scientists sometimes refer to this system as **dual federalism**, or "layer cake" federalism. In such a system, the two levels of government are part of the whole, but each has its own clearly delineated responsibilities.

Units of Government in the United States, 2012

The number of governments in the United States has grown over time as new states were added to the Union and new towns and cities were established. In the last few decades, the number of special-purpose districts has soared. These districts govern everything from schools to mass transit to cemeteries.



Source: U.S. Census Bureau.

During the era of dual federalism, the Supreme Court sometimes played the role of referee between the states and the national government. For example, in *McCulloch v. Maryland* (1819), a case involving the creation of a national bank, the Court made it clear that federal laws took precedent over state laws when the two came into conflict.

A few years later, the Court further clarified the roles of the state and national governments, this time in the regulation of commerce. The case of *Gibbons v. Ogden* (1824) arose when the New York State legislature granted Aaron Ogden a monopoly on steamboat operations between New York and New Jersey. Ogden went to court in New York to force a rival steamboat operator, Thomas Gibbons, off the river. When the state court ruled in Ogden's favor, Gibbons appealed the decision to the Supreme Court.

Lawyers for Gibbons argued that New York had no authority to limit commerce on waterways between states. The Supreme Court agreed. Chief Justice John Marshall concluded that the Constitution clearly gives control of trade among the states to the national government. As a result, New York's

grant of a monopoly to Ogden was unconstitutional.

The Gibbons decision drew a sharp line between state and federal power. The national government controls **interstate commerce**, or trade among the states. The states control **intrastate commerce**, or trade within their borders. This clear division of power was typical of how federalism worked during the dual federalism era.

Cooperative Federalism: A Marble Cake of Mixed Powers

The Great Depression of the 1930s led to a very different conception of federalism. As the Depression deepened, the efforts of state governments to feed the hungry and revive the economy proved inadequate. In desperation, Americans turned to the national government for help.

On taking office in 1933, President Franklin Roosevelt launched a flurry of legislation known as the New Deal. These New Deal programs ushered in a new era of shared power among national, state, and local governments. Unlike in the past, when officials at different levels had viewed each other with suspicion, they now worked together as allies to ease human suffering.

Political scientists refer to this new era as one of **cooperative federalism**, or "marble cake" federalism. Political scientist Morton Grodzins wrote of the federalist system during this period,

When you slice through it you reveal an inseparable mixture of differently colored ingredients . . . so that it is difficult to tell where one ends and the other begins. So it is with the federal, state, and local responsibilities in the chaotic marble cake of American government.

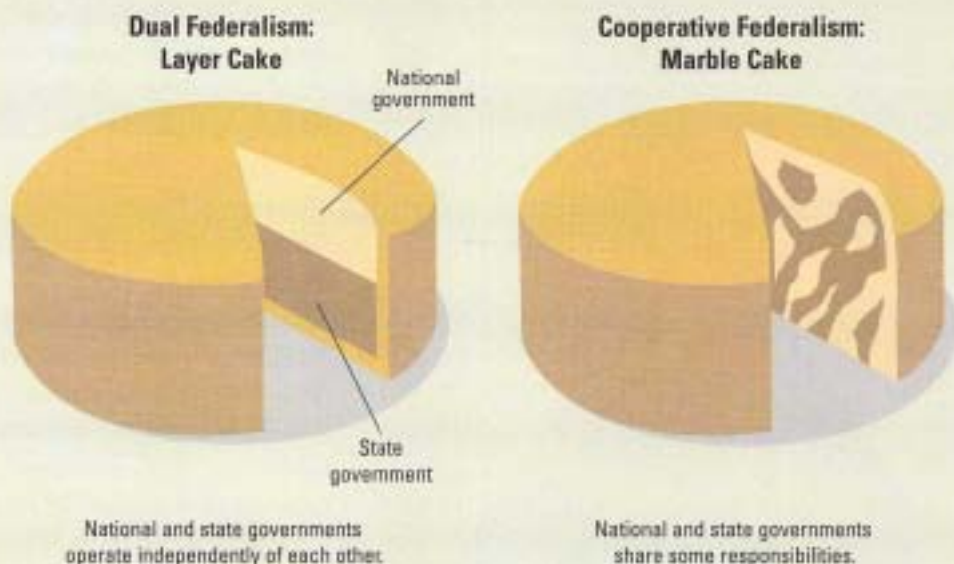
—"The Federal System," 1960

The diagram "Dual Versus Cooperative Federalism" illustrates the differences between dual (layer cake) and cooperative (marble cake) federalism.

A key ingredient in marble cake federalism was a mix of federal **grants-in-aid** programs. Grants-in-aid are funds given by the federal government to state and local governments for specific programs, such as aid to the unemployed. Such grants had long been used by the national government, but only for very narrow purposes. Roosevelt greatly expanded

Dual Versus Cooperative Federalism

During the era of dual federalism, the national and state governments usually operated independently of one another. The two levels have often been compared to a layer cake. The shift to cooperative federalism led to more sharing of responsibilities. The result was a mingling of federal and state powers, like the swirls in a marble cake.



the use of grants-in-aid to get help to the needy. In 1927, shortly before the Depression began, federal funds made up less than 2 percent of state and local government revenues. This figure jumped to just over 13 percent early in the New Deal and remained near there until 1960.

Regulated Federalism: More Money with More Strings Attached

A generation later, President Lyndon Johnson set out to expand on the New Deal by creating what he called the Great Society. The Great Society was a set of programs designed to end poverty, eliminate racial injustice, and improve the environment.

Like Roosevelt, Johnson looked to state and local governments to carry out many of his new programs. As during the New Deal, the federal government provided funding in the form of grants. But unlike earlier grants-in-aid, Great Society grants often came with strict regulations as to how the money could be spent. Johnson called his partnership with state and local governments creative federalism. Political scientists, however, prefer the more descriptive term **regulated federalism**.

Johnson's Great Society legislation led to a huge increase in federal involvement in state and local

governments. Political scientist Timothy Conlan observed that by the end of the 1960s,

The federal government became more involved in virtually all existing fields of governmental activity—including many that had been highly local in character (for example, elementary and secondary education, local law enforcement, libraries, and fire protection). In addition, new public functions were established, such as adult employment training, air pollution control, health planning, and community antipoverty programs.

—Timothy Conlan, *From New Federalism to Devolution: Twenty-Five Years of Intergovernmental Reform*, 1998

Although state and local governments welcomed the new influx of federal funds, they were not happy about the federal regulations that came with the money. They were even less happy about the rapid growth of **unfunded mandates** that began in the 1960s. These are programs and regulations imposed on state and local governments by Congress without adequate funding, if any, attached to them.

Unfunded mandates were attractive to members of Congress, since members could declare that they were solving problems without having to raise taxes

to fund the solutions. Instead, the mandates put the burden of paying for those solutions on state and local governments. In effect, Congress provided the recipe for solving problems but required state and local governments to provide the ingredients—both money and people—to make those solutions work.

New Federalism: Returning Power to the States

The rapid expansion of federal power in the 1960s alarmed people who valued state and local control. While running for president in 1968, Richard Nixon promised voters that he would restore “true” federalism by reigning in federal power. Nixon called his pledge to return power to the states the **new federalism**. Political scientists call these more recent efforts to return power to the states **devolution**.

Devolution began slowly in the 1970s and 1980s, first under President Nixon and later under President Ronald Reagan. Both presidents tried to shift

power back to the states by encouraging them to write their own “recipes” for solving problems. The national government’s role was reduced to providing ingredients, mostly in the form of federal funds.

Devolution picked up speed in 1994, when Republicans gained control of Congress for the first time in 40 years. Once in power, the new Republican majority enacted the Unfunded Mandates Reform Act. The purpose of this 1995 law was to stop Congress from burdening states with responsibilities without providing adequate funding.

A year later, Congress pushed devolution still further when it overhauled the nation’s welfare system. In the past, federal officials had closely regulated how states gave out welfare payments to needy families. The 1996 Personal Responsibility and Work Opportunity Reconciliation Act, more commonly known as the Welfare Reform Act, returned control of welfare systems to state governments.

Regulated Versus New Federalism

Over the years, the national government has devised different “recipes” for federalism. During the period of regulated federalism, the national government greatly expanded its power over the states. Congress often mandated programs for state and local governments with strict regulations but inadequate funding. Supporters of new federalism sought to restore the balance between the two levels of government. This was done by returning control over many programs to the states.

Recipe for Regulated Federalism

Ingredients



Federal programs and unfunded mandates



Federal grants-in-aid, state and local tax dollars



State and local officials

Directions

Mix together as required by federal rules and regulations.

Recipe for the New Federalism

Ingredients



State programs and policies



Federal block grants, state and local tax dollars



State and local officials

Directions

Mix together as directed by state laws and policies.

The federal government continued to provide “ingredients” in the form of **block grants** to the states. But unlike the highly regulated grants-in-aid that funded Great Society programs, block grants left states free to decide how best to spend the money they received. One of the requirements imposed on state welfare programs was that they limit the time a person could receive federally funded welfare payments to five years.

The Impact of the Supreme Court on Devolution

Since power began shifting back to the states in the late 20th century, the Supreme Court has made a series of decisions that contributed to devolution. One of the first involved the Gun-Free School Zones Act of 1990, a law passed by Congress that banned firearm possession around public schools. In 1992, Alfonso Lopez, Jr., a high school student in Texas, was convicted of violating the law after taking a gun to school. Lopez appealed his conviction on the grounds that Congress lacked the power to regulate gun possession in schools.

In *United States v. Lopez* (1995), the Supreme Court agreed with Lopez and voted 5–4 to strike down the 1990 act as an unconstitutional expansion of federal power. Speaking for the Court, Chief Justice William Rehnquist reasoned that upholding this law would “convert congressional authority under the Commerce Clause to a general police power of the sort retained by the States.”

The Supreme Court also limited federal power in *United States v. Morrison* (2000), a case involving a federal law that gave victims of gender-motivated crimes the right to sue in federal courts. In another split decision, the Court ruled that Congress did not have the authority to enact this law.

However, if the past is any guide, federalism will continue to evolve. In recent years, federal power has expanded in some areas. For example, President Bush signed the No Child Left Behind Act of 2001 into law. Under this act, states must provide students with qualified teachers and administer annual standardized tests in federally funded schools. Furthermore, in 2005 the Court upheld a federal law that limited marijuana usage in *Gonzales v. Raich*. In 2012, this federal law was challenged again when two states legalized recreational marijuana.

In some cases, the Court helped define what

the national government can and cannot do. For instance, Congress passed the Affordable Care Act of 2010, which required Americans to buy health insurance. Those who refused would have to pay a penalty. The Supreme Court upheld most provisions of the act in *National Federation of Independent Business v. Sebelius* (2012), but declared the act “constitutional in part and unconstitutional in part.” Chief Justice John Roberts, the deciding vote in this case, found that the federal mandate was constitutional because of Congress’s power to impose taxes, not because of the Commerce Clause, as the government argued. The Court’s decision to reject the government’s argument may limit federal power in the long run, and power will continue to shift between the states and the national government.

6.4 State Governments in a Federal System

Strange things were going on in Texas in 2003. State troopers were scouring the state looking for lost legislators. The missing lawmakers were not in any danger. Instead, they were hiding out in Ardmore, Oklahoma, and later in Albuquerque, New Mexico, in an effort to stall a vote in their state legislature. The activities of state governments do not usually get much coverage in the news. But the case of the runaway Texas lawmakers made headlines across the nation.

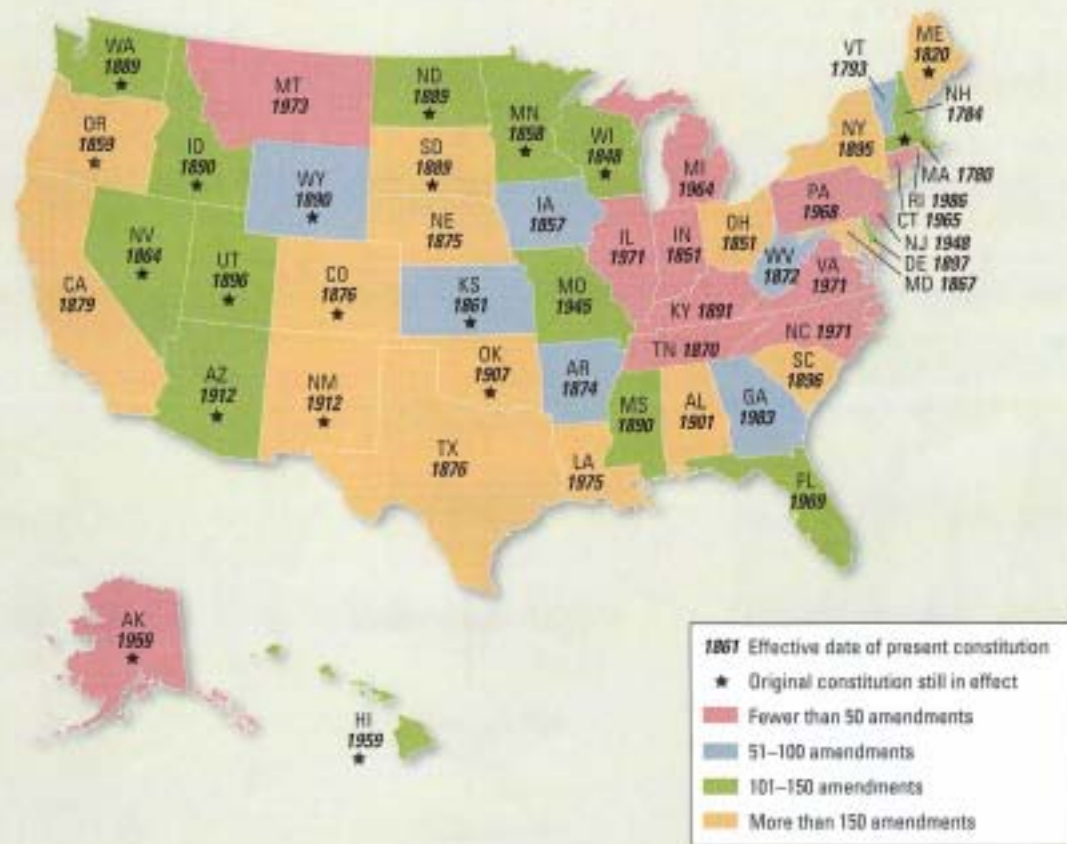
State Constitutions: Long and Much Amended

The missing Texas lawmakers were using a provision in their state constitution to keep the legislature from voting on a bill they opposed. The constitution of Texas, like that of most states, requires a **quorum** to be present for the legislature to vote on bills. A quorum is a fixed number of people, often a majority, who must be present for an organization to conduct business. The purpose of a quorum is to prevent an unrepresentative minority from taking action in the name of the full organization.

The U.S. Constitution requires every state constitution to support “a republican form of government.” Beyond that stipulation, each state is free to organize its government as its citizens choose. Nebraska, for instance, is the only state with

State Constitutions and Amendments

Nineteen states today are still governed by their original constitutions. In contrast, Louisiana holds the record for change, with 11 constitutions. Vermont has the shortest constitution with around 8,500 words. Alabama's constitution, on the other hand, has more than 350,000 words.



Source: The Council of State Governments, *Book of the States* 2012. www.csg.org.

a unicameral state legislature. Alabama, unlike other states, allows for “local amendments” to its constitution. These amendments apply only to the local areas that approve them.

In contrast to the U.S. Constitution, state constitutions tend to change frequently. Most states have adopted entirely new constitutions at least once, if not several times. Today, only five states still rely on constitutions written before 1850. This map shows when each state adopted its present-day constitution.

The map also shows that states tend to amend their constitutions relatively often. A majority of states have amended their constitutions at least 100 times. In Texas, voters were asked to approve 19

constitutional amendments during a single election. One of the amendments simply allowed towns to donate old firefighting equipment to charities. At the national level, such an issue would have been settled by an act of Congress.

Because of their many amendments, state constitutions tend to be much longer than the U.S. Constitution. The U.S. Constitution has only about 7,400 words, compared with an average of around 36,000 for state constitutions. Alabama boasts the longest constitution of all—with more than 760 amendments.

State constitutions are usually amended in one of two ways. The legislature may propose an amendment, which is then submitted to voters for approval.

About three-fourths of amendments proposed by legislatures win voter approval. Or citizens can petition for a public vote on a proposed amendment through the initiative process. About half of the amendments proposed by citizen initiatives are enacted by voters.

The Role of State Legislatures: Laws, Budgets, and Redistricting

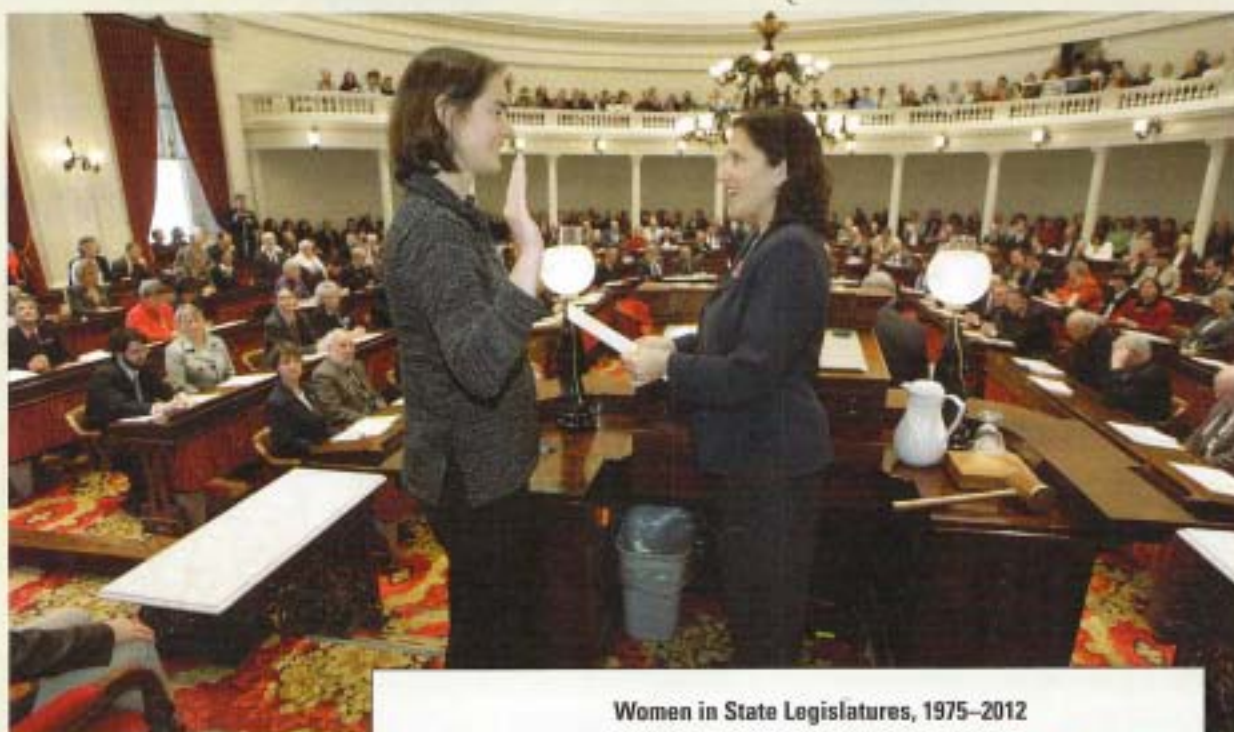
Like the U.S. Congress, state legislatures are responsible for enacting laws, levying taxes, and creating budgets. In all states, lawmakers are elected by popular vote. Some states elect citizen legislatures, whose members meet only a few weeks per year.

Other states elect professional legislatures, whose members meet almost year-round.

State lawmakers act on a wide range of issues. For example, they enact laws that create state parks, establish graduation requirements for high school students, and regulate business activities within the state. They also pass tax laws and draw up budgets to fund everything from state prisons to community colleges.

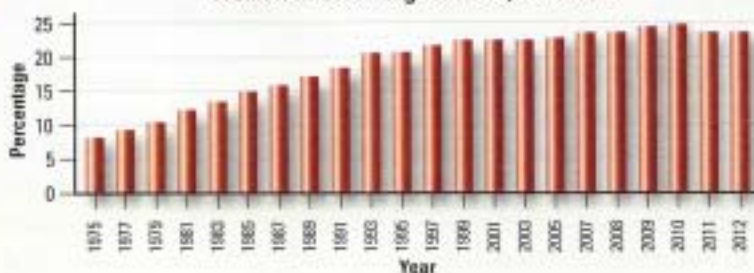
State lawmakers are also responsible for **apportionment**, or the distribution of seats in the U.S. House of Representatives and in state legislatures. The U.S. Constitution apportions seats in the House of Representatives to the states based on population.

The Rise of Women in State Legislatures



The number of women legislators has grown steadily since 1975. By 2012, a total of 1,749 women were serving in state legislatures across the country. Colorado led the nation with 40 percent of its legislative seats occupied by women. South Carolina lagged with only 10 percent.

Women in State Legislatures, 1975–2012



Source: Center for American Women and Politics, www.cawp.rutgers.edu.

But Congress does not have the power to say how those seats should be distributed within a state. That decision is left up to each state.

For much of our history, state legislatures varied in how they approached apportionment. Often, lawmakers tried to draw district boundaries to benefit themselves or other members of their party, a practice known as **gerrymandering**. The term gerrymander was coined in 1811 to describe a salamander-shaped legislative district in Massachusetts. Elbridge Gerry, the governor of Massachusetts, had created the oddly shaped district to help members of his party.

In addition to gerrymandering, some state legislatures favored voters in small towns and rural areas by basing legislative districts on factors other than population. People in cities complained that legislatures dominated by rural lawmakers failed to deal with urban problems. But there was little they could do to force state legislatures to apportion seats differently.

Frustration with this situation prompted a group of citizens, led by Charles Baker, to sue Tennessee's secretary of state, Joe Carr, in 1959. At issue was the failure of the Tennessee legislature to adjust the state's legislative districts since 1901. During that time, many rural families had migrated to cities.

As a result of the legislature's inaction, Baker's urban district had ten times as many residents as some rural districts had. Baker claimed that this imbalance violated his Fourteenth Amendment right to "equal protection under the laws." He asked the court to prevent Carr and other state officials from holding elections in Tennessee until district lines were redrawn.

Baker v. Carr reached the Supreme Court in 1961. In the past, the Court had treated **redistricting**, or the redrawing of voting districts to reflect population changes, as a political question. As such, it was up to state legislatures, not federal courts, to decide when and how redistricting should take place. After months of deliberation, however, the Court rejected this position. In 1962, it decided that legislative apportionment was a question for state and federal courts to consider.

The impact of this decision was immediate and far-reaching. Within a year, 36 states were involved in lawsuits over their apportionment of legislative seats. A number of these cases, including *Reynolds v. Sims*,



This 1812 cartoon shows the salamander-like shape of a Massachusetts legislative district created by Governor Elbridge Gerry. Since then, the term gerrymandering has come to mean the drawing of district boundaries in a way that favors one political party or elected official over another.

came before the Supreme Court in 1964. Speaking for the Court, Chief Justice Earl Warren wrote,

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests . . . A citizen, a qualified voter, is no more nor no less so because he lives in the city or on the farm. This is the clear and strong command of our Constitution's Equal Protection Clause. This is an essential part of the concept of a government of laws and not men.

As a result of this decision, state legislatures across the country were forced to redraw their legislative districts following the principle of "one person, one vote."

Today, redistricting is done every ten years after the Census Bureau reports the results of the national census. A few states have turned over the task of redrawing district lines based on census data to an independent commission. In most states, however, redistricting is still done by lawmakers.

The redistricting process is often divisive. The Texas lawmakers who fled the state in 2003 did so to block action on a redistricting bill they saw as unfair to their party. They did not have enough votes to defeat the bill. Instead, they tried to keep the legislature from voting at all by preventing a quorum from appearing at the statehouse. Redistricting continues to be a concern in Texas. When district lines were redrawn after the 2010 census, the issue was brought to the Supreme Court. In some states, however, arguments of redistricting can get even more intense.

When fists flew in the Illinois legislature in 1981, it was not over policy. It was about politics: the politics of redistricting.

That's no surprise. Redistricting is the political equivalent of moving the left field fence for a right-handed hitter. By changing the boundaries, redistricting helps some, hurts others—and leaves just about everyone else scrambling.

—Jack Quinn, Donald J. Simon, and Jonathan B. Sallet, "Redrawing the Districts, Changing the Rules," *Washington Post National Weekly Edition*, April 1, 1991

The Role of State Governors: Managing the Executive Branch

State governors are usually the best-known public officials in their state. In all states, governors are elected by popular vote. Almost all serve four-year terms. In many states, they are limited to just two terms. After serving as governor, the majority return to private life. But some view the governorship as a training ground for higher office. About half of all U.S. presidents were governors first.

The most important task of a state governor is to manage the executive branch of his or her state government. In addition, most governors have the power to

- help establish the legislature's agenda.
- prepare the state budget.
- veto bills and budgets approved by the legislature.
- appoint state officials.
- grant pardons or reduce a criminal's sentence.
- command the state National Guard.
- issue executive orders.

Arizona Governor Jan Brewer



Jan Brewer became Arizona's governor in 2009. Her legislative agenda has pushed to increase the state's economic competitiveness, reform education, improve government efficiency, and challenge the authority of the federal government.

Governor Brewer's 2012 Agenda

Economic Development

- simplify tax code to aid small businesses
- promote tourism and trade by building interstate highway from Phoenix to Las Vegas
- support unemployed and underemployed adults transitioning into new careers

Education

- implement rigorous school standards
- increase parent involvement in K–12 education
- administer performance-based funding for higher education institutions

Effective State Government

- modernize State personnel system
- create a Government Transformation Office to improve government efficiency

Public Safety

- provide health services for mentally ill individuals
- improve training of child protection service officials
- improve efficiency of abuse hotline

Federalism

- support immigration reform bill Arizona SB 1070 in Supreme Court case
- oppose federal health care law
- push the federal government to restore forests in Arizona



MARRIAGE LICENSE WAITING ROOM

There are many types of courts. Municipal courts deal with issues such as divorce and adoptions. County courts deal with criminal trials and lawsuits. They may also handle legal documents such as marriage licenses.

An executive order is an order issued to a government agency to accomplish a specific task or carry out a specific policy. Governors differ in how they use their power. For example, as governor of Arizona, Jan Brewer issued executive orders that called for the creation of task forces to study problems such as the economy and education.

At times, governors take actions that put them at odds with the federal government. In 2010, for instance, Brewer authorized the training of law enforcers to carry out Arizona S.B. 1070, a controversial bill that allowed police to arrest people suspected of being illegal aliens without a warrant if they do not carry proof of legal residency. However, in *Arizona v. United States* (2012), the Court determined that states do not have the authority to arrest illegal aliens.

Governors may also serve as ambassadors for their state and play a major role in promoting its economic development. As governor of Washington, Chris Gregoire led trade missions to countries in Europe and Asia. When announcing a trade mission to India in 2012, Gregoire explained, "This is our opportunity to get out in front, and make sure that consumers and businesses in India are aware of the quality items produced in Washington state."

The Role of State Court Systems: Settling Legal Disputes

If you ever have a reason to go to court, you will probably deal with your state court system. The vast majority of legal cases in the United States are handled at the state and local level. Only cases that have a bearing on federal law are heard in federal courts.

There are two main kinds of courts in state judicial systems: trial courts and appeals courts. Trial courts handle most cases that affect the daily lives of citizens. Appeals courts handle cases that are appealed, or requested to be reviewed in order to reverse the decision of a trial court. In general, appeals center on questions involving interpretation of the law.

In most states, there are two levels of trial courts. At the lower level, municipal courts deal with traffic tickets, adoptions, divorces, and minor violations of the law. Small claims courts settle disputes involving small amounts of money—usually less than \$5,000. Most participants in small claims cases act as their own attorneys.

At the higher level, trial courts—with names such as superior court, county court, and district court—deal with major criminal cases and lawsuits. These are the trials usually shown in movies and television dramas.



Law enforcement at the county level is led by the county sheriff, who is usually an elected official. The sheriff department may work with the police in a city, but it also enforces laws in unincorporated areas under the county's jurisdiction.

6.5 Local Governments

A savvy Massachusetts politician named Thomas "Tip" O'Neill once declared, "All politics is local." While O'Neill spent much of his career in Washington, D.C., in the House of Representatives, he realized that most of the decisions that directly affect our daily lives are made close to home. Local governments provide such basic services as drinking water, police protection, garbage collection, public schools, and libraries. Despite their importance, local governments are not mentioned in the U.S. Constitution. It is left up to each state to establish local units of government for its citizens.

Counties, Parishes, and Boroughs

Following British tradition, 48 of the 50 states divide their territory into districts called counties. Louisiana is divided into parishes. Alaska, with its large landmass and small, scattered population, divides its land into large boroughs.

The original purpose of counties was to provide government services to rural residents. Initially, these services included law enforcement, courts, road construction and maintenance, public assistance

to the poor, and the recording of legal documents. Over time, some county governments expanded to provide health protection, hospitals, libraries, parks, fire protection, and agricultural aid.

Traditionally, county governments were headquartered in the **county seat**. This was often the largest or most centrally located town in the county. Ideally, the county seat was no more than a day's wagon journey from any county resident. This made it easier for people to participate in local politics.

With the rise of urban areas, towns and cities have taken over many of the functions that were once county responsibilities. In some areas, the duties of city and county governments overlap. For example, most towns and cities today have their own police forces, but the county may maintain a sheriff's office to enforce laws in areas outside city limits.

Most county governments are headed by an elected board of commissioners or board of supervisors. The board's duties vary depending on the powers granted to the county by the state. Other elected officials typically include the county sheriff, treasurer, tax assessor, and judges. The board may appoint other officials, such as the fire marshal and county coroner.

Forms of City Government

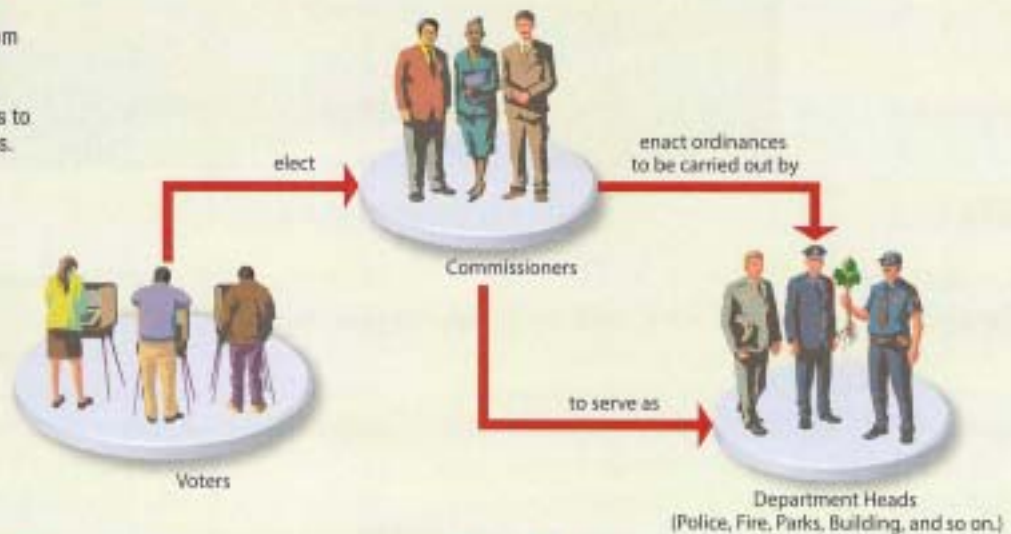
Mayor-Council System

The oldest system of city government in the United States divides power between an elected mayor and the city council.



Commission System

The commission system of city government depends on electing qualified professionals to head city commissions.



Council-Manager System

The council-manager system combines a democratically elected council with professional city management.



New York City operates under a mayor-council system. Here the city council gathers to vote on a bill in 2008. If passed, the bill would allow the mayor and members of the city council to run for a third term.



Towns and Cities

As the United States changed from a rural to a largely urban nation, new forms of local government evolved to meet citizens' needs. The three most common are illustrated on the diagram "Forms of City Government."

The oldest form of city government is the **mayor-council system**. In this system, voters elect both city council members and a mayor. The mayor is the chief executive of the city government. The council is the city's lawmaking body. The duties and powers given to the mayor vary from city to city. Some cities have strong mayors with expansive powers. Others have weak mayors with limited powers.

The mayor-council form of government served most cities fairly well throughout the 1800s. In 1900, however, a natural disaster gave birth to a new approach. That year the Gulf Coast city of Galveston, Texas, was destroyed by a massive hurricane. Believing that its traditional government could not manage the rebuilding effort, a group of influential business leaders pressed for replacing the city council with a board of commissioners appointed by the Texas governor. The board's goal was to turn over the

rebuilding effort to civil engineers and other skilled professionals.

Galveston adopted this new **commission system**. However, criticism that it was undemocratic soon led to the election, rather than appointment, of commissioners. Still, commissioners ran for office based on their formal training in civil management rather than on their political popularity.

The commission system worked wonders for Galveston. The new government rebuilt the city on higher ground and constructed a seawall to protect it from hurricanes. Seeing Galveston's success, dozens of other cities adopted the commission system.

In the 1950s and 1960s, many cities (including Galveston) switched to a third form of local government known as the **council-manager system**. In this system, citizens elect a city council (often led by a weak mayor), but the day-to-day job of running the city government is handled by a hired city manager. This system combines democratic rule with professional management expertise. Today, the council-manager system is the most common form of city government in the United States.

Special-Purpose Districts

Some functions of government are so specialized that citizens create separate units of government to deal with them. These **special-purpose districts** may overlap the geographic boundaries of counties and cities, but they operate independently from those other local units of government.

Special-purpose districts have their own elected leaders and taxing authority. Most carry out just one function, such as running a hospital or a park. Your local school board is an example of a special-purpose district. Elected school boards hire school officials, approve school budgets, and establish school policies. Some of the most common functions of special purpose districts include regulating natural resources and providing fire protection.

The Challenges Facing Local Governments

Local city and county governments and special-purpose districts face serious challenges. Because they provide so many vital services, local governments are usually more closely watched by

citizens than are the more distant state and national governments. Yet local governments often lack the resources they need to meet everyone's expectations.

More than other levels of government, local governments depend on citizens who are willing to volunteer their time. People who serve on city councils or sit on boards of special-purpose districts get paid very little, if anything at all. The same is true for people who serve on city or county advisory boards, commissions, and task forces. Finding willing and able volunteers to fill these and other positions can be difficult.

To meet these challenges, local governments must be in close touch with the people they serve. This is good news for you and your family. Local officials usually welcome and listen to input from people in their community. By doing something as simple as writing a letter to your local newspaper or speaking up at a local city council or school board meeting, you can affect how decisions are made. And who knows, you might decide to get involved in local government yourself.

Summary

Our federal system divides powers among the national, state, and local governments. The U.S. Constitution gives considerable freedom to states to set up the kind of state and local governments that work best for their citizens.

Benefits of federalism Federalism promotes national unity while allowing for diversity among the states. Federalism also allows states to operate as laboratories for public policy experiments.

Evolution of federalism The way federalism works has evolved over time. During the era of dual federalism, national and state governments operated independently of one another. More recently, the federal government has become increasingly involved in state and local affairs. Federalism will continue to evolve in the future.

State governments Each state government has a legislative, executive, and judicial branch. One of the most important jobs of state legislatures is the apportionment of legislative districts.

Local governments County and city governments provide such basic services as water and fire protection. One of the challenges facing local governments is meeting citizen demands for services with limited funds.

Does federalism work in the face of natural disasters?

In August 2005, Hurricane Katrina barreled toward Louisiana and Mississippi through the Gulf of Mexico. In the aftermath, New Orleans—a populated city in Louisiana that stood below sea level—was terribly flooded. By the end of August, 80 percent of the city was underwater. Hurricane Katrina became one of the most destructive and costliest storms to hit the United States.

Government agencies such as FEMA, the National Guard, and the U.S. Army provided relief. However, many critics cite the aftermath of Katrina as a failure of federalism, stating that aid from the federal, state, and local governments was slow and ineffective. As you read this article, consider these questions: Is federalism unreliable in the face of natural disasters? Or was the ineffectiveness of government response during Hurricane Katrina an isolated incident?

Why Federalism Works (More or Less)

by David L. Paletz, Diana Owen, and Timothy E. Cook

When Hurricane Katrina hit New Orleans and the surrounding areas on August 29, 2005, it exposed federalism's frailties. The state and local government were overwhelmed, yet there was uncertainty over which level of government should be in charge of rescue attempts. Louisiana governor Kathleen Blanco refused to sign an order turning over the disaster response to federal authorities. She did not want to cede control of the National Guard and did not believe signing the order would hasten the arrival of the troops she had requested. President Bush failed to realize the magnitude of the disaster, then believed that the federal response was effective. In fact, as was obvious to anyone watching television, it was slow and ineffective. New Orleans mayor C. Ray Nagin and state officials accused the Federal Emergency Management Agency (FEMA) of failing to deliver urgently needed help and of thwarting other efforts through red tape.

Hurricane Katrina was an exceptional challenge to federalism. Normally, competition between levels of government does not careen out of control,

and federalism works, more or less. We have already discussed one reason: a legal hierarchy—in which national law is superior to state law, which in turn dominates local law—dictates who wins in clashes in domains where each may constitutionally act.

There are three other reasons. First, state and local governments provide crucial assistance to the national government. Second, national, state, and local levels have complementary capacities, providing distinct services and resources. Third, the fragmentation of the system is bridged by interest groups, notably the intergovernmental lobby that provides voices for state and local governments . . .

Applying Policies Close to Home

State and local governments are essential parts of federalism because the federal government routinely needs them to execute national policy. State and local governments adjust the policies as best they can to meet their political preferences and their residents' needs. Policies and the funds expended on them thus vary dramatically from one state to the next, even in national programs such as unemployment benefits.



Levees and floodwalls were meant to protect New Orleans from rising water levels. However, after Hurricane Katrina, these barriers broke, flooding the city and submerging homes, buildings, and cars.

This division of labor, through which the national government sets goals and states and localities administer policies, makes for incomplete coverage in the news. National news watches the national government, covering more the political games and high-minded intentions of policies than the nitty-gritty of implementation. Local news, stressing the local angle on national news, focuses on the local impact of decisions in distant Washington.

Complementary Capacities

The second reason federalism often works is because national, state, and local governments specialize in different policy domains. The main focus of

local and state government policy is economic development, broadly defined to include all policies that attract or keep businesses and enhance property values. States have traditionally taken the lead in highways, welfare, health, natural resources, and prisons. Local governments dominate in education, fire protection, sewerage, sanitation, airports, and parking.

The national government is central in policies to serve low-income and other needy persons. In these redistributive policies, those paying for a service in taxes are not usually those receiving the service. These programs rarely get positive coverage in the local news, which often shows them as “something-for-noth-

ing” benefits that undeserving individuals receive, not as ways to address national problems.

States cannot effectively provide redistributive benefits. It is impossible to stop people from moving away because they think they are paying too much in taxes for services. Nor can states with generous benefits stop outsiders from moving there . . .

The Intergovernmental Lobby

A third reason federalism often works is because interest groups and professional associations focus simultaneously on a variety of governments at the national, state, and local levels. With multiple points of entry, policy changes can occur in many ways . . .

Policy diffusion is a horizontal form of change. State and local officials watch what other state and local governments are doing. States can be “laboratories of democracy,” experimenting with innovative programs that spread to other states.

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