Preface

The 10th edition of *Governing States and Localities* is a dynamic collaboration between an academic and a journalist, blending scholarly insight with accessible writing for undergraduates. The fundamental goal of the text remains unchanged: to provide a comprehensive introduction to state and local governments and do it with a difference. The difference comes from the dual perspective on state and local politics—one coming from an academic with more than two decades of experience teaching undergraduates about state and local governments, the other drawn from the insight and experience of a journalist with decades of experience covering state and local politics.

The text deliberately follows a magazine's crisp journalistic style, and the book employs magazine-quality, full-color layout and design. The text is designed to meet the highest academic and pedagogical standards while remaining engaging and easily accessible to undergraduates.

While the goals and format remain the same as previous editions, the content has undergone significant revisions to reflect the latest issues, trends, and political changes. Key updates include the following:

- The text has been thoroughly updated to reflect the post- COVID-19 world at the state and local level. All chapter introductions have been updated, and most boxes (described in the next section) are new. These provide fresh and contemporary context for the subject matter of each chapter.
- We have put a particular focus on a contemporary era where, in a reversal of common wisdom, all politics seems to be national politics.

Although the content is significantly revised for the 10th edition, the comparative method continues to provide the text's core thematic pedagogical structure. This approach compares similar units of analysis to explain *why* differences exist. As scholars know well, state and local governments make excellent units of analysis for comparison because they operate within a single political system. The similarities and differences that mark their institutional structures, laws and regulations, political cultures, histories, demographics, economies, and geographies make them exciting laboratories for asking and answering important questions about politics and government. Put simply, their differences make a difference.

The appeal of exploring state and local government through comparison is not just that it makes for good political science. It is also a great way to engage students because it gives undergraduates an accessible, practical, and systematic way to understand politics and policy in the real world. Students learn that even such seemingly personal concerns as why their tuition is so darned high are not just relevant to their particular situation and educational institution but also fundamental to the interaction of that institution with its state's political culture, economy, history, and tax structure, and even to the school's geographic and demographic position within the state and region. Using the comparative method, this book gives students the resources they need to ask and answer such questions themselves.

Key Features

This book includes several elements designed to showcase and promote its main themes. Each chapter begins with a list of chapter objectives. Based on Bloom's taxonomy, these objectives present straightforward, big-picture statements of key information students should take away from each chapter. Instructors may easily turn these into class discussion topics or homework assignments.

Following the objectives, each chapter presents an opening vignette modeled after a lead in a newsletter article—a compelling story that segues naturally into the broader themes of the chapter. Many of these vignettes (as well as many of the feature boxes) represent original reporting.

Each chapter concludes with a set of questions intended to engage student interest and prompt students to look systematically for answers using the comparative method. The idea is not simply to spoon-feed the answers to students, but rather to demonstrate how the comparative method can be used to explore and explain questions about politics and policy.

The feature boxes in each chapter emphasize and reinforce the comparative theme:

- "A Difference That Makes a Difference" boxes provide clear examples of how variations among states and localities can be used to explain a wide range of political and policy phenomena. These pieces detail the ways the institutions, regulations, political culture, demographics, and other factors of a particular state shape everything from state constitutions to property taxes to voting patterns.
- "Local Focus" boxes spotlight the ways localities function independently of the states and show how they are both constrained and empowered by intergovernmental ties. From the power of sheriffs to the problem of homelessness to the importance of shared data, the topics addressed in these boxes showcase the rich variety represented in these nearly tens of thousands of substate entities.
- "Policy in Practice" boxes demonstrate how different states and localities have interpreted and implemented the legislation handed down from higher levels of government, and the consequences of these decisions. Controversies surrounding diversity, equity, and inclusion programs; movements to rewrite constitutions; and the policy implications of the power imbalance between states and localities are just some of the issues addressed.

Another key feature that serves the comparative theme is the design and use of graphics and tables. Nearly 30 full-color, 50-state maps, including three unique cartograms, provide a visual representation of and intuitively easy way to grasp the differences among states and localities—whether the sizes of the state economies, the party affiliation requirements for voting in direct primaries, the methods of judicial selection, or state incarceration rates. Similarly, more than 40 tables and figures emphasize how states and localities differ and what these differences mean to politics and policy. State rankings of voter turnout rates, recent regional murder rates, and many other features support comparisons made in the text.

To help students assimilate content and review for tests, at the end of each chapter is a list of "Top Ten Takeaways" that reinforces key themes and ideas. Each chapter also includes a set of highlighted key concepts. These terms are compiled into a list at the end of each chapter. A comprehensive glossary of key terms precedes the book's index.

Organization of the Book

The book is organized so that each chapter logically builds on previous chapters. The first chapter (subtitled "They Tax Dogs in West Virginia, Don't They?") is essentially a persuasive essay that lays the conceptual groundwork for the book. Its aim is to convince students that state and local politics are important to their day-to-day lives and to their futures as professionals and citizens. That is, it makes the case for why students should care about state and local politics. Along the way, it introduces the advantages of the comparative method as a systematic way to explore this subject. In introducing the book's approach, the chapter provides the basic context for studying state and local governments, especially the differences in economics, culture, demographics, and geography that drive policy and politics at the regional level.

The next two chapters cover federalism and state constitutions. These chapters provide a basic understanding of what state and local governments are and what powers, responsibilities, and roles they have within the political system of the United States, as well as a sense of how they legally can make different political and policy choices.

Chapter 4 examines the finances of state and local governments. This chapter not only provides a readily accessible introduction to the revenue and expenses of states and localities, but also highlights the importance of budgets to understanding policy priorities. Chapter 5 examines voting and political participation with an eye to helping students understand how citizens connect to the core policymaking institutions of government. Chapters 6 through 10 are separate treatments of those core institutions: parties and interest groups, legislatures, governors and executives, courts, and the bureaucracy. There is special emphasis in each chapter on how variations in the structure, powers, and responsibilities of these institutions have real-life implications for citizens of states and localities.

Chapters 11 and 12 focus on local government. Chapter 11 concentrates on laying out the basic structure, authority, and responsibilities of local government. Chapter 12 examines the relations among local governments from a regional perspective. The final four chapters are devoted to specific policy areas—education, crime and punishment, health and welfare, and the environment—that represent a selection of the most critical policy functions of state and local governments.

Digital Resources

This text includes an array of instructor teaching materials designed to save you time and to help you keep students engaged. To learn more, visit **sagepub.com** or contact your Sage representative at **https://collegepublishing.sagepub.com/find-my-rep**.

Chapter 1

Introduction to State and Local Government

They Tax Dogs in West Virginia, Don't They?

Dogs are not just man's best friend. They are also a source of money for government.

iStockPhoto/Lenin Suntaxi

Chapter Objectives

1.1 Identify the ways state and local governments can affect daily life.

1.2 Discuss how the comparative method can help explain differences between states.

1.3 List some of the basic differences that occur among states and localities.

1.4 Describe the importance of state and local government within the wider context of American government.

Beating a 10-term incumbent is not easy, especially for a college student without the experience, contacts, and campaign infrastructure that a lengthy term in office bestows. But that's exactly what Wyatt Gable did. In 2024, at a time when many college students are focused on spring break, the East Carolina University junior was focused on a primary campaign aimed at ousting George Cleveland, who had served in the North Carolina House of Representatives since 2005. That Republican primary contest was a nail-biter, but Gable pulled out a narrow win, beating Cleveland by fewer than 100 votes. Gable had an easier time in the November general election. He won 66 percent of the vote and, at 22 years old, became the youngest member ever elected to the North Carolina legislature.

Gable's victory received a good deal of media attention. And for good reason. Gable racked up a notable political victory at a remarkably young age. That novelty, though, kind of misses an important part of Gable's story. He is no political neophyte. He was already giving serious thought to a bid for elective office during the COVID-19 pandemic. He was politically active on campus and served as the president of East Carolina's chapter of Turning Point USA, a nonprofit that organizes and promotes conservative values at the high school and college level. Gable, in short, is what many young college students are not—interested and active in state and local politics.[1] Gable does not just study politics (he is a political science minor); he is actively and directly participating in politics.

That's not typical of the average college student. Nationwide, most freshmen say they will vote if eligible, but that's about the extent of their political involvement. Less than half say that keeping up with political affairs is important.[2] Only about a quarter think it is important to exert influence on the political system.[3] The huge distance in political interest between Gable and the vast majority of college students creates a big problem for a textbook like this. The data suggest that we can expect, at most, that roughly half the people reading this book have some sort of minimal threshold of interest in politics generally, and the proportion with a genuine interest in and curiosity about state and local politics is, without a doubt, lower. To those who do have that interest, to the Wyatt Gables in our audience, we say welcome and enjoy the ride—given your interest in state politics, there is a lot to enjoy and soak up in what follows.

As a general rule, young people tend to be less interested in politics than older people. Not Wyatt Gable, a college student who successfully ran for a seat in the North Carolina House of Representatives.

Retrieved from NewsNation; https://www.youtube.com/watch?v=vSV8Yvfa2U4

What about the rest of you, though—why should you care? Why should you bother to have an interest in politics? More specifically, why should you give a hoot about politics and government at the state and local level? Fair question. The first goal of this textbook is to answer it. Everyone, and we mean *everyone*, should be interested in state and local politics. Let us start by explaining why.

The Impact of State and Local Politics on Daily Life

Regardless of who you are, what you do, or what you want to do, if you reside in the United States, state and local governments play a large role in your life. Regardless of what you are interested in—graduating, starting a career, beginning a family, or just good old-fashioned sex, drugs, and rock 'n' roll—state and local governments shape how, whether, and to what extent you are able to pursue those interests. To make things immediately relevant, let us consider your college education. The vast majority of college students in the United States—more than 70 percent—attend public institutions of higher education.[4] Public colleges and universities are created and supported by state governments. For many readers of this book, the opportunity to get a college education is possible only because each state government created a system of higher education. For example, California has three major higher education systems: the University of California, California State University, and California Community Colleges systems. State governments require that taxpayers subsidize the operation of these education systems; in other words, the systems were designed not just to provide educational opportunities but also to make those opportunities broadly accessible, with tuition covering only a portion of the actual costs of a student's education.

Much of the rest comes from the taxpayers' pockets via the state government. When that state subsidy falls, college students inevitably end up paying more in tuition. If you wonder why your tuition bill keeps going up, wonder no more. Adjusted for inflation, most state governments were spending less on higher education in 2020 than they did in 2008.[5] In 2000, state government appropriations in 47 states covered a bigger portion of higher education costs than student tuition and fees. In other words, if you went to a public university or college 20 years ago, there was a very good chance that your state government paid more for your college education than you did. That is no longer true. Today, students at public universities routinely cover more of the cost than state government does.[6] The budgetary math here is pretty simple: the lower the subsidy from state government, the higher your tuition bill.

State governments do not just play an outsize role in what you pay to go to college; they may also determine what classes you pay for, whether you want to take those classes or not. Some states have curriculum mandates. You may be taking a course on state and local politics—and buying and reading this book—because your state government decided it was a worthy investment of your time and money. In Texas, for example, a state politics course is not just a good idea; it's the law. According to Section 51.301 of the Texas Education Code, to receive a bachelor's degree from any publicly funded college in the state, a student must successfully complete a course on state politics.

And, dear college student, if you think all of this adds up to government having a big impact on your life, dream on. The government's role in shaping your college education is actually pretty small. Compared with the heavy involvement of state and local governments in shaping K–12 education, colleges have pretty much free rein. In 2024, roughly 90 percent of students in Grades 9–12 were attending public high schools.[7] Local units of government operate most of these schools. Private grade schools also are subject to a wide variety of state and local government regulations, from teacher certification and minimum curriculum requirements to basic health and safety standards. Whether you attended public or private school—or were homeschooled—at the end of the day, you had no choice in the decision to get a basic grade school education. Although the minimum requirements vary, every state in the union requires that children receive at least a grade school education.

Believe it or not, state and local governments do not exist simply to regulate large areas of your life, even if it sometimes seems that way. Their primary purpose is to provide services to their respective populations. In providing these services, state and local governments shape the social and economic lives of their citizens. The roads you use to get to school are there because state and local authorities built them and maintain them. The electricity that runs your computer comes from a utility grid regulated by state government, local government, or both. State and local governments are responsible for the sewer and water systems that make the bathroom down the hall functional. They make sure that the water you drink is safe and that the burger, sushi, or salad you bought in your student union does not make you sick.[8] State governments determine the violations and punishments that constitute criminal law. Local governments are responsible primarily for law enforcement and fire protection. The services that state and local governments supply are such a part of our lives that in many cases we notice only their absence—when the water does not run, when the road is closed, or when the educational subsidy either declines or disappears.

The Comparative Method in Practice: Yes, They Really Do Tax Dogs in West Virginia

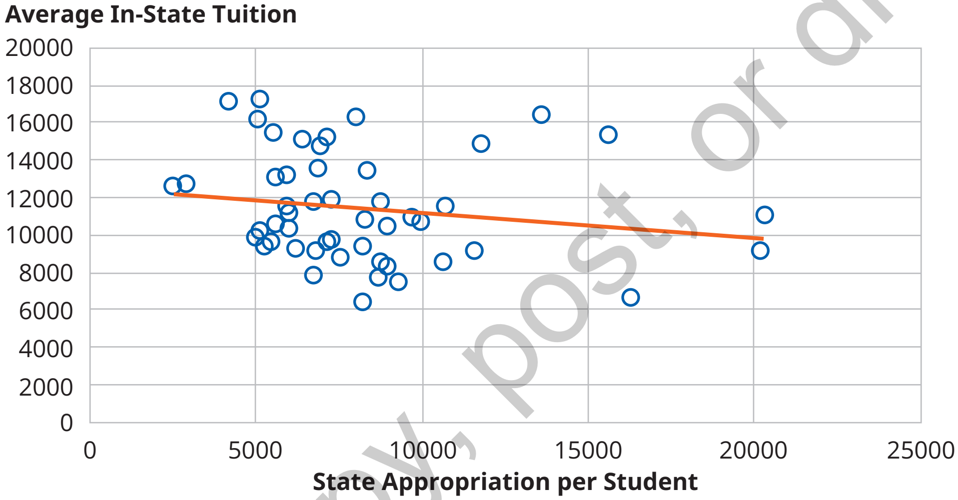
Recognizing the impacts of state and local government may be a reasonable way to spark an interest in the topic, but interest alone does not convey knowledge. To gain a coherent understanding of the many activities, responsibilities, and levels of state and local governments, you need a systematic approach to learning. In this book, that systematic approach is the **comparative method**, which uses similarities and differences as the basis for explaining why the world is the way it is. Think of it this way: Any two states or localities that you can think of will differ in a number of ways. For example, they really do tax dogs in West Virginia—a dollar per head for male and spayed female dogs and two dollars a head for unspayed females. This is not the case in, say, Nebraska, where dogs have to be licensed but are not taxed.[9]

Or consider the electoral differences among states. Kansans and Nebraskans reliably send Republicans to the U.S. House of Representatives, while the people of Massachusetts send Democrats. Differences among states and localities are not limited to oddities like the tax status of the family pet or such big political questions as the balance of power in the House of Representatives. Those of you who do something as ordinary as buying a soda after class may pay more than your peers in other states or cities. Some readers of this book are certainly paying more in tuition and fees than those attending other colleges. Why is that? Why do those differences exist?

The comparative method seeks answers to these kinds of questions by looking for systematic **variance**, or differences, between comparable units of analysis. For our purposes, states are comparable units of analysis. Local governments—governments below the state level, such as county boards of commissioners and city councils—are another. Governments at each of these levels, state or local, have basic similarities that make comparisons of their differences meaningful. One way to think of this is that the comparative method is based on the idea that you can learn more about apples by comparing them with other apples than you can by comparing them with oranges or bananas.

This is because state and local governments, like apples, have a lot of baseline similarities. For example, governmentally speaking, all 50 states are pretty similar. All state governments have a basic division of powers among the executive, legislative, and judicial branches of government. All have to operate within the broad confines of the single set of rules that is the U.S. Constitution. There's a bit more variety below the state level, with many different kinds and levels of local government (counties, municipalities, townships, and so forth), but broadly speaking, all these governments share a basic set of responsibilities, and all have to operate within the rules set down within their respective state constitutions. It is these similarities among states and among local governments that make meaningful comparisons possible. Paradoxically, though, what makes such comparisons meaningful are not the similarities but the differences. This is because even though states share similar political structures and follow the same overall set of rules, they make very different choices. These differences have consequences—as in the example of college tuition and fees. Figure 1.1 shows how differences in the size of a state government's contribution to higher education relate to differences in the tuition and fees paid. See the trend? As the per-student state appropriation—the amount the state kicks in per student—goes up, the average tuition bill goes down. In short, the state-level differences plotted on the horizontal axis systematically map onto the state-level differences on the vertical axis. That's an example of the comparative method in action—a set of comparable (similar) governments make systematically different policy choices that result in different outcomes. Similar sorts of systematic differences among the states explain why some of you will pay more for a soda after class than others will. Depending on the city and state, sales taxes can range from zero to more than 9 percent, meaning what you pay depends on not just what you buy, but where you buy it.[10] These examples demonstrate the essence of the comparative method—from your tuition bills to the price of soda, differences among political jurisdictions make a difference in the daily lives of citizens.

Figure 1.1 ▪ State Appropriations and Tuition, 2024



Sources: Data from College Board, "Trends in College Pricing 2023," https://research.collegeboard.org/trends/college-pricing/highlights, and National Science Board/National Science Foundation, "State Support for Higher Education per Full-Time Equivalent Student," https://ncses.nsf.gov/indicators/states/indicator/state-support-for-higher-education-per-fte-student.

Such differences can lend themselves to sophisticated and useful statistical analyses. For example, exactly how much is a tuition bill influenced by state support of public higher education? Using the data in Figure 1.1, we can calculate a precise relationship between contributions from state government and college costs. In 2024, tuition and fees at public four-year universities were, on average, lowered about $138 for each additional $1,000 per student provided by state government.[11]

This basic approach of looking for differences that make a difference can be used to answer a broad range of "why" questions. For example, we know that how much a state gives to higher education helps determine how much you pay in tuition. So why do some states provide more support to higher education than others do? This is a question about one difference (variation in how much state governments spend on higher education) that can be answered by looking at other differences. What might these differences be? Well, they could stem from partisan politics in a state's legislature, a state's traditions and history, or a state's relative wealth, among many other possibilities. As a starting point for using the comparative approach to analyze such questions, consider the following basic differences among states and among localities.

Basic Differences Among States and Localities

As a starting point for using the comparative approach to analyze such questions, consider the following basic differences among states and among localities.

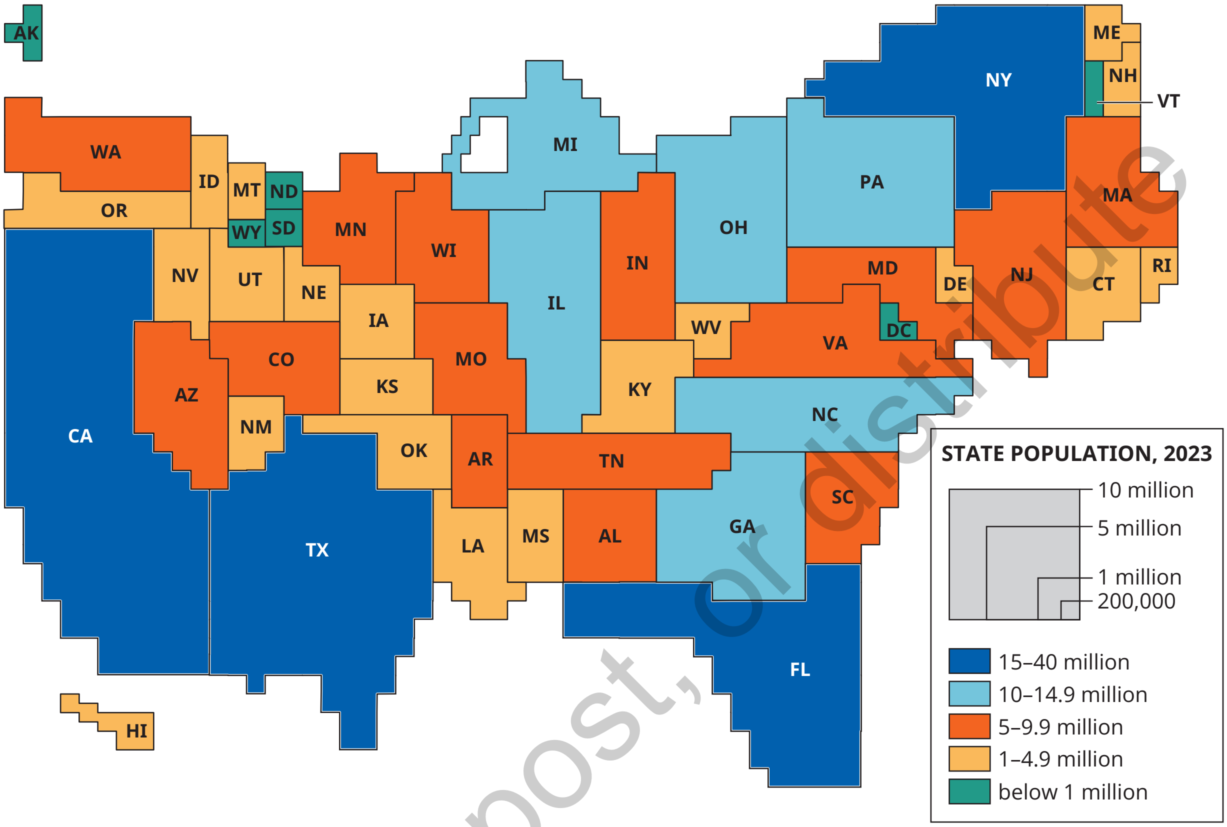
Sociodemographics

The populations of states and localities vary enormously in size, age, and ethnicity. The particular mix of these characteristics, or **sociodemographics**, in a specific state or community has a profound impact on the state or community's politics. California is the most populous state in the nation, with roughly 39 million residents. This is a racially and ethnically diverse population, about 40 percent Hispanic and Latino, about 35 percent white, nearly 16 percent Asian, and around 7 percent Black. Roughly 12 percent of Californians live in poverty. Compare this with New Hampshire, which has about 1.4 million residents, nearly 90 percent of whom are non-Hispanic and white and only about 7 percent of whom live below the poverty line.[12] These population characteristics present different challenges to the governments in these two states. Differences in populations are likely to promote different attitudes about and policies on welfare, affirmative action, bilingual education programs, and even the roles and responsibilities of government in general.

All these sorts of population characteristics are dynamic—that is, they change. Between 2020 and 2021, Georgetown, Texas, welcomed more than 75,000 new residents—an astonishing annual growth rate of 10 percent. That same year, San Francisco, California, saw its population decline by more than 6 percent as more than 50,000 moved elsewhere.[13] Population expansion and population contraction create very different problems and policy priorities for local governments—the struggle to accommodate new growth in a fast-developing area versus the challenge of managing decline. The same is true at the state level. Population-wise, some states are actually shrinking. Illinois, West Virginia, and Mississippi all had fewer people in 2020 than they did in 2010. During the same decade, Texas and Florida saw steady population growth as millions moved south and west.[14] Such population shifts have potentially huge impacts, influencing everything from housing starts to job creation to demand for public services to state and local tax collections.

Study Map 1.1 for a moment. Believe it or not, you are actually looking at the United States. The reason the states look so strange is that this is a special kind of map called a cartogram. Instead of using actual geographical space to determine the size of a particular area represented in the map—the number of square miles in each state, for instance—cartograms use other variables to determine how size is represented. This cartogram depicts the size of each state's population, another useful way to compare states. Notice that some states that are geographically pretty big, such as New Mexico at 122,000 square miles, are very small on this map because they have small populations. Other states that are geographically quite small, such as Connecticut (with only 5,000 square miles), look much bigger on this map because they have large populations. Some states, such as Virginia, don't look that different in size from their appearance on a traditional map.

Map 1.1 ▪ Population by State, 2023



Source: U.S. Census Bureau, "Estimates of Resident Population Change for the United States, Regions, States, and Puerto Rico: April 1, 2020 to July 1, 2023, " https://www.census.gov/data/tables/time-series/demo/popest/2020s-national-total.html.

Culture and History

States and localities have distinct "personalities" that are apparent in everything from the "bloody bucket" shoulder patch worn by the Pennsylvania National Guard to the drawl that distinguishes the speech of West Texas natives. Some states have been part of the union for more than 200 years and still project an Old World connection to Europe. Hawaii and Alaska became states within living memory and are more associated with the exoticism of the Pacific and the Old West. New York City prides itself on being a cosmopolitan center of Western civilization. The visitors' bureau of Lincoln, Nebraska, touts the city's small-town ambience and Middle American values. These differences are more than interesting variations in accent and local points of pride; they are visible symbols that represent distinct values and attitudes. Political scientists generally accept that these differences extend to government and that each state has a distinct **political culture**, identifiable general attitudes and beliefs about the role and responsibility of government.

Daniel Elazar's *American Federalism: A View from the States* is the classic study of political culture. In this book, first published more than 50 years ago, Elazar not only describes different state cultures and creates a classification of those still in use today but also explains why states have distinctly different political cultures. Elazar argues that political culture is a product of how the United States was settled. He says that people's religious and ethnic backgrounds played the dominant role in establishing political cultures. On this basis, there were three distinct types of settlers who fanned out across the United States in more or less straight lines from the East Coast to the West Coast. These distinct migration patterns created three different types of state political cultures: moralistic, individualistic, and traditionalistic.[15]

States with **moralistic cultures** are those in which politics is the means used to achieve a good and just society. Such states tend to be clustered in the northern parts of the country (New England, the upper Midwest, and the Pacific Northwest). Elazar argues that the Puritans who originally settled the Northeast came to the New World seeking religious freedom. Their political culture reflected a desire to use politics to construct the best possible society. This notion, that government and politics represent the means to the greater good, creates a society that values involvement in politics and views government as a positive force for addressing social problems. This general orientation toward government and politics spread across the northern and middle parts of the country in successive waves of migration. Wisconsin, for example, is a classic moralistic state. Settled first by Yankees and later by Scandinavians, Germans, and Eastern Europeans, the state has long had a reputation for high levels of participation in politics (e.g., high levels of voter turnout), policy innovation, and scandal-free government.

States with **individualistic cultures** have a different view of government and politics. In individualistic cultures, people view government as an extension of the marketplace, something in which people participate for individual reasons and to achieve individual goals. Government should provide the services people want, but it is not viewed as a vehicle to create a "good society" or intervene in private activities. In individualistic states, politics is viewed the same as any other business. Officeholders expect to be paid like professionals, and political parties are, in essence, corporations that compete to provide goods and services to people. Unlike those in moralistic states, as long as the roads are paved and the trains run on time, folks in individualistic states tend to tolerate a certain level of corruption in government. Illinois is a classic individualistic culture state—and 4 of its last 10 governors have served jail terms for corruption, bribery, and fraud.

In a **traditionalistic culture**, politics is the province of elites, something that average citizens should not concern themselves with. Traditionalistic states are, as their name suggests, fundamentally conservative, in the sense that they are concerned with preserving a well-established society. Like moralistic states, traditionalistic states believe that government serves a positive role. But there is one big difference—traditionalistic states believe the larger purpose of government is to maintain the existing social order. Those at the top of the social structure are expected to play a dominant role in politics, and power is concentrated in the hands of these elites. Traditionalistic states tend to be rural (at least historically); in many of these states, agriculture, rather than a broader mix of competing commercial activities, is the main economic driver.

Traditionalistic cultures tend to be concentrated in the Deep South, in states such as Georgia, Mississippi, and South Carolina. In these states, politics is significantly shaped by tradition and history. Like the settlers of individualistic states, those who settled the South sought personal opportunity. The preindustrial, agrarian economy of the South, however, led to a culture that was little more than a variation of the feudal order of the European Middle Ages. As far back as the 1830s, French aristocrat and writer Alexis de Tocqueville, writing about the United States, noted that "as one goes farther south . . . the population does not exercise such a direct influence on affairs. . . . The power of the elected officials is comparatively greater and that of the voter less."[16]

A Difference That Makes a Difference: The Best States to Be a College Student

According to Studee.com, an online advisory platform that seeks to match students with higher education institutions, it is better to be a college student in California than in Alaska (Table 1.1).

Why? Well, Studee used the comparative method to examine state differences that presumably make a difference to students (you can check the rankings yourself here: https://studee.com/discover/best-states-usa/). The differences they used included college costs—tuition, fees, and housing. But it included way more than that. They looked at differences in mental health rates, the size of a state's young population, the starting salaries for recent college grads, the number of top-rated schools, and even a state's "happiness index." They combined all those data into a unified ranking. California came out on top—on average it had reasonable tuition rates, lots of young people, a lot of colleges with good reputations, and high starting salaries. In other words, it's a good state for college students because you have a decent shot at getting into a good college, not paying through the nose for it, and finding yourself in a place with plenty of college-aged people where it will be easy to make friends.

Table 1.1 ▪ Best States to Be a College Student

Five Best States for College Students	Dominant Political Culture	Population Rank
1. California	Moralistic	1
2. New York	Individualistic	4
3. Minnesota	Moralistic	22
4. Utah	Moralistic	30
5. Florida	Traditionalistic	3
Five Worst States for College Students	**Dominant Political Culture**	**Population Rank**
46. Vermont	Moralistic	49
47. Mississippi	Traditionalistic	35
48. Alaska	Individualistic	49
49. West Virginia	Traditionalistic	39
50. Arkansas	Traditionalistic	33

Sources: Studee.com, "Best State to Be a Student in the USA 2022," https://studee.com/discover/best-states-usa. Amy Tikkanen, "List of U.S. States by Population," *Encyclopaedia Britannica*, https://www.britannica.com/topic/largest-U-S-state-by-population.

States at the tail end of Studee's ranking were not necessarily more expensive. Arkansas (50th in Studee's list), for example, had average tuition rates that were pretty similar to those of California. According to Studee's methodology, what distinguished the lower-ranking states were fewer top-rated schools, higher crime rates, lower happiness indexes, and lower starting salaries.

How accurate do you think Studee's rankings are? If you are a student having a miserable time at a California school or a student loving your college experience at the University of Arkansas, the answer is probably something like "not very." So what else might explain these rankings? Well, we can use the comparative method to answer that question too.

The second column of Table 1.1 shows the dominant political culture in the five highest- and lowest-ranked states in Studee's list. Notice any pattern? Well, the top five states are dominated by moralistic states (three of five). The bottom states are dominated by traditionalistic states (three of five). Maybe what Studee is picking up on is partly culture. All else equal, moralistic states may simply be more committed to supporting public higher education—that would fit with moralistic beliefs that government can be used as a vehicle to improve the prospects of citizens.

Or maybe it's nothing quite so deep. The third column of Table 1.1 lists the states' population ranking. Notice anything there? The bottom five on Studee's list are all low-population states. None are even in the top half in terms of population. Contrast that with the top five states. Three of the top five states on Studee's rankings are also in the top five in terms of their population size. Why might that make a difference? Well, think about what Studee uses to put together its ranking—the number of top-rated schools in a state, for example. Might population size help explain that? Big population states like Florida and California need comparatively more higher education institutional capacity than Vermont or Alaska. There's simply more room there for good schools to develop based on population-related demand.

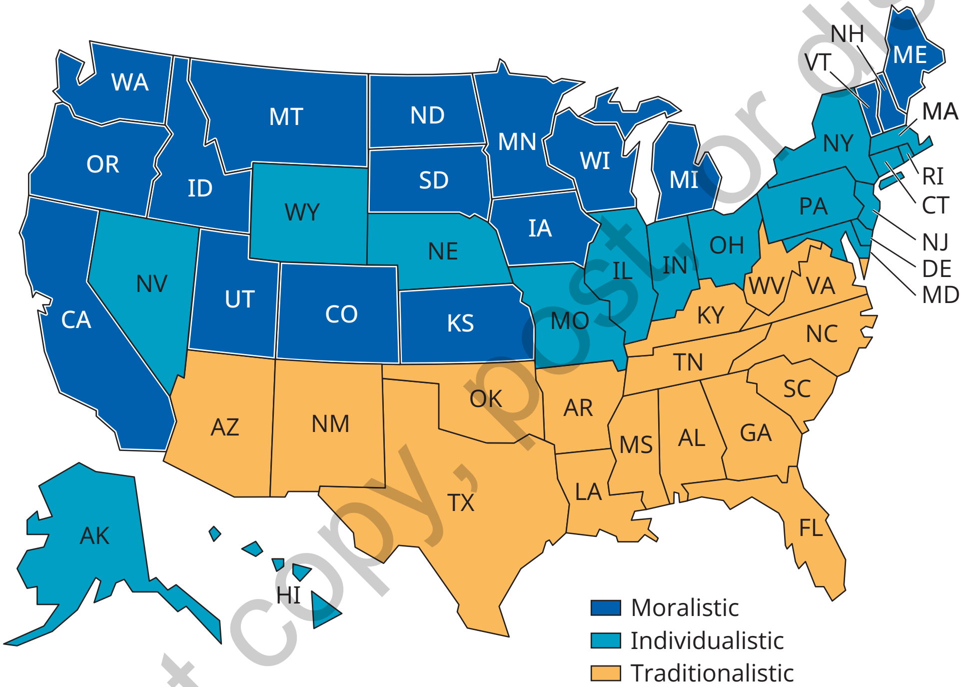
Or maybe the best state to be a college student has nothing to do with political culture, population size, or, come to that, any of the measures Studee used to make up its rankings. The point here is not to come up with any definitive judgment of what states are the "best" for college students, whatever that means. The point is to provide an example of how the comparative method works on a question that might be relevant to the readers of this book. What makes a good place to go to college? Is there some difference (e.g., state population size, availability of well-regarded schools, postgraduate starting salaries) that might make a difference to the experience and value of a particular college education for potential applicants? Structuring questions this way is an example of the comparative method in action.

States have changed considerably since Elazar's pioneering research. Some traditionalistic states (e.g., Florida) have seen huge influxes of people from northern states, people who often are not from traditionalistic cultures. The Deep South is also considerably more urban than it used to be; thus the agricultural foundation of many traditionalistic states has changed. The upshot of these sorts of shifts is that many states these days tend to encompass a mix of two or even all three cultures.

Even with such changes, however, political culture is remarkably resilient. In most states, one of Elazar's three political cultures is likely to be dominant, as shown in Map 1.2. More than a half-century after Elazar first introduced these ideas, his cultural classifications still hold explanatory power and are likely to do so for the foreseeable future.[17] There have been other attempts to measure state political culture. For example, a 2014 academic study conducted a highly sophisticated statistical analysis of state differences based on a wide range of variables—from disease rates to the threat of natural disasters—to identify cultural differences among states.

The resulting state rankings turned out to be highly correlated with the moralistic/traditionalistic/individualistic typology—indeed, so highly correlated that it is reasonable to argue that these researchers used different methods to rediscover what Elazar had already found more than 50 years previously.[18] This new cultural ranking scheme joins a long list of studies that have found that political culture (however measured) shapes politics and policy in important ways. Policy change and innovation, for example, are more likely in moralistic states. Individualistic states are more likely to offer businesses tax breaks. Traditionalistic states tend to commit less public money to areas such as education.[19] Faced with similar problems, therefore, the Texas and California state legislatures may propose radically different policy responses. These differences are at least partially products of the political cultures that still distinguish each state. In other words, culture and history matter.

Map 1.2 ▪ Dominant Political Culture



Source: Virginia Gray, "The Socioeconomic and Political Contexts of States," in *Politics in the American States: A Comparative Analysis*, 10th ed., ed. Virginia Gray and Russell Hanson (CQ Press, 2013), 22.

These cultural differences certainly are apparent when it comes to states' support for higher education. Moralistic states commit considerably more resources to higher education than do individualistic and traditionalistic states. They spend about 13 percent more per capita on colleges and universities than do states with the other two cultures. Because moralistic states are those in which attitudes support higher levels of commitment to the public sector, these spending differences make sense in cultural terms. Why do some states provide more support to higher education than others do? Apparently, another part of the answer is that some political cultures see higher education in more communal than individual terms. See Table 1.2 for a summary of the three political cultures as classified by Elazar.

Table 1.2 ▪ Political Cultures at a Glance

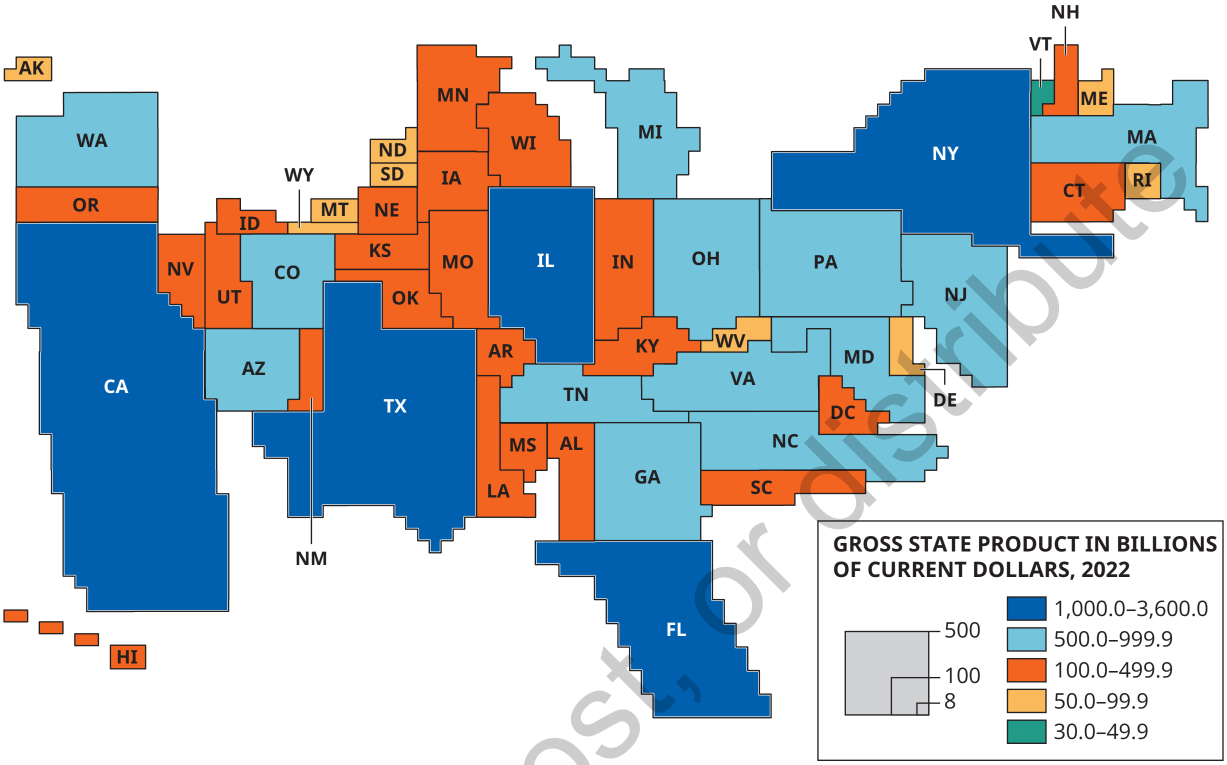
	Elazar Classification		
	Moralistic	**Individualistic**	**Traditionalistic**
Role of Government	Government should act to promote the public interest and policy innovation.	Government should be utilitarian, a service provider.	Government should help preserve the status quo.
Attitude of Public Representatives	Politicians can effect change; public service is worthwhile and an honor.	Businesslike—politics is a career like any other, and individual politicians are oriented toward personal power. High levels of corruption are more common.	Politicians can effect change, but politics is the province of the elites.
Role of Citizens	Citizens actively participate in voting and other political activities; individuals seek public office.	The state exists to advance the economic and personal self-interest of citizens; citizens leave politics to the professionals.	Ordinary citizens are not expected to be politically involved.
Degree of Party Competition	Highly competitive	Moderate	Weak
Government Spending on Services	High	Moderate—money goes to basic services but not to perceived "extras."	Low
Political Culture	Strong	Fragmented	Strong
Most Common in . . .	Northeast, northern Midwest, Northwest	Middle parts of the country, such as the Mid-Atlantic; parts of the Midwest, such as Missouri and Illinois; parts of the West, such as Nevada	Southern states, rural areas

Source: Adapted from Daniel J. Elazar, *American Federalism: A View from the States*, 2nd ed. (Crowell, 1972).

Economy

The relative size and health of a state's economy has a huge impact on its capacity to govern and provide public services. State-level gross domestic product—the state equivalent of the gross national product—varies wildly, from Vermont's $43 billion to California's roughly $3.8 trillion (see Map 1.3). If we standardize that on a per capita basis, state economies range from about $39,000 in Mississippi to about $90,000 in New York.[20] This means government in New York has the ability to tap a greater amount of resources than can government in Mississippi. The difference in wealth, in effect, means that if New York and Mississippi were to implement identical and equivalent public services, Mississippi would have a considerably higher tax rate. This is because Mississippi would have to use a greater proportion of its smaller amount of resources, compared with New York. These sorts of differences also are visible at the local level. Wealthy suburbs can enjoy lower tax rates and still spend more on public services than can economically struggling urban or rural communities.

Map 1.3 ▪ Economy by State, 2022



Source: Bureau of Economic Analysis, "GDP by State," https://www.bea.gov/data/gdp/gdp-state.

Regional economic differences do not determine only tax burdens and the level of public services; they also determine the relative priorities of particular policy and regulatory issues. Fishing, for example, is a sizable industry in coastal states in the Northeast and Northwest. States such as Maine and Washington have numerous laws, regulations, and enforcement responsibilities tied to the catching, processing, and transporting of fish. Regulating the economic exploitation of marine life occupies very little government attention and resources in places such as Kansas and Nevada, although agriculture in the former and gambling in the latter create just as many policy challenges and demands for government action.

Regardless of the basis of a state's economy, greater wealth does not always translate into more support for public programs. States with above-average incomes actually tend to spend *less* per capita on higher education. Why would less wealthy states concentrate more of their resources on higher education? There are a number of possible explanations. Education is a critical component of a postindustrial economy, so states that are less well-off may direct more of their resources into education in hopes of building a better economic future. Citizens in wealthy states simply may be better able to afford higher tuition costs. Whatever the explanation, this example suggests another advantage of employing the comparative method—it shows that the obvious assumptions are not always the correct ones.

Geography and Topography

There is wild variation in the physical environments in which state and local governments operate. Hawaii is a lush tropical island chain in the middle of the Pacific Ocean, Nevada encompasses a large desert, Michigan is mostly heavily forested, and Colorado is split by the Rocky Mountains.

Such geographical and topographical variation presents different challenges to governments. State and local authorities in California devote considerable time and resources to preparing for earthquakes. Their counterparts in Texas spend comparatively little time thinking about earthquakes, but they do concern themselves with tornadoes, grass fires, and hurricanes.

Combine geography with population characteristics, and the challenges become even more complex. Montana is a large rural state in which the transportation logistics—simply getting students to school—can present something of a conundrum. Is it better to bus students long distances to large, centrally located schools, or should there be many smaller schools within easy commuting distance for relatively few students? The first is cheaper. Larger schools can offer academic and extracurricular activities that smaller schools cannot afford. But the busing exacts a considerable cost on students and families. The second alternative eases transportation burdens, but it requires building more schools and hiring more teachers, which means more taxes. Geographical and population differences often not only shape the answers to such difficult policy issues but also pose the questions.

Consider the variety of seasonal weather patterns that occur within the enormous geographical confines of the United States. In Wisconsin, snow removal is a key service provided by local governments. Road-clearing crews are often at work around the clock during bad weather. The plows, the crews, and the road salt cost money. They all require a considerable investment in administration and coordination to do the job effectively. In Florida, snow removal is low on local governments' lists of priorities, for good reason—it rarely snows in the Sunshine State. On the other hand, state and local authorities in Florida do need to prepare for the occasional hurricane. Hurricanes are less predictable and less common than snow in Wisconsin, and it takes only one to create serious demands on the resources of local authorities.

Weather and climate are differences that make a difference. Some states need to prepare for tornadoes or hurricanes. Others need to have the ability to respond to devastating wildfires.

David McNew/Getty Images

And, yes, even basic geography affects your tuition bill, especially when combined with some of the other characteristics discussed here. Many large public colleges and universities are located in urban centers because central geographical locations serve more people more efficiently. Delivering higher education in rural areas is a more expensive proposition simply because there are fewer people in the service area. States with below-average population densities tend to be larger and more sparsely populated. They also tend to spend more on higher education. Larger government subsidies are necessary to make tuition affordable.

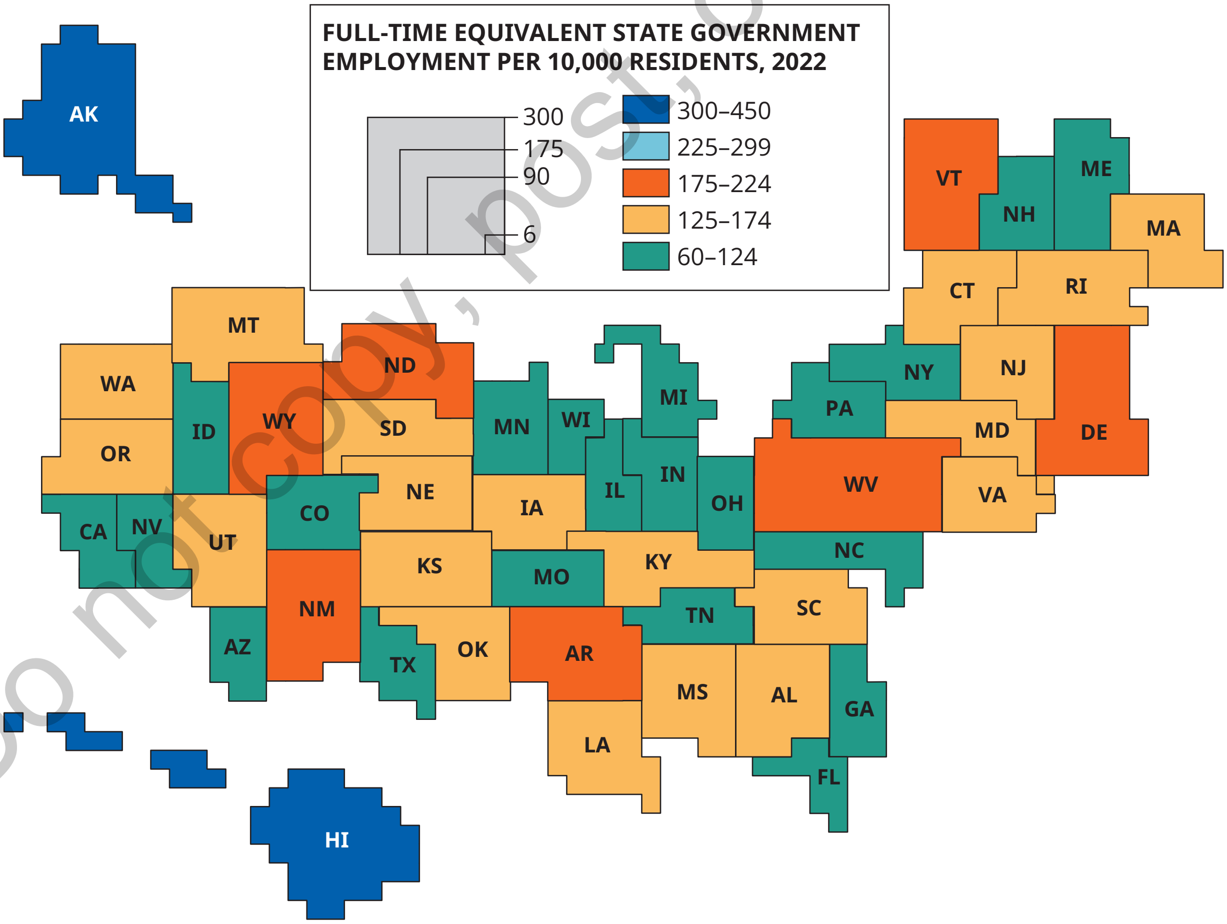
Recognizing the Stakes

The variation across states and localities offers more than a way to help make sense of your tuition bill or to explain why some public school systems are better funded or to understand why taxes are lower in some states. These differences also serve to underline the central role of states and localities in the American political system. Compared with the federal government, state and local governments employ more people and buy more goods and services from the private sector. They have the primary responsibility for addressing many of the issues that people care about the most, including education, crime prevention, transportation, health care, and the environment. Public opinion polls often show that citizens place more trust in their state and local governments than in the federal government. These polls frequently express citizens' preference for having the former relieve the latter of a greater range of policy responsibilities.[21] With these responsibilities and expectations, it should be obvious that state and local politics are played for high stakes.

High stakes, yes, but it is somewhat ironic that state and local governments tend to get less attention in the media, in private conversation, and in curricula and classrooms than does their federal counterpart.[22] Ask most people to think about American government, and chances are they will think first about the president, Congress, Social Security, or some other feature of the national government. Yet most American governments are state or local. Only 535 elected legislators serve in the U.S. Congress. Thousands of legislators are elected at the state level, and tens of thousands more serve in the legislative branches of local government.

In terms of people, state and local governments dwarf the federal government. There are more teachers working for public schools—about 3.5 million—than the entire combined civilian workforce of the federal government (about 2.9 million).[23] Combined, state and local governments employ roughly 15 million. (See Map 1.4.) In terms of dollars, state and local governments combined represent about the same spending force as the federal government. In 2021, state and local government expenditures totaled about $4.5 trillion.[24]

Map 1.4 ▪ Number of State Government Employees by State, 2022



Source: U.S. Census Bureau, "Annual Survey of Public Employment & Payroll," https://www.census.gov/programs-surveys/apes.html.

The size of state and local government operations is commensurate with these governments' 21st-century role in the political system. After spending much of the 20th century being drawn closer into the orbit and influence of the federal government, states and localities have spent the last few decades aggressively asserting their independence. This maturing of nonfederal, or subnational, government made its leaders and policies—not to mention its differences—among the most important characteristics of our political system.

The context of the federal system of government, and the role of state and local governments within that system, is given more in-depth coverage in Chapter 2. For now, it is important to recognize that governance in the United States is more of a network than a hierarchy. The policies and politics of any single level of government are connected and intertwined with the policies and politics of the other levels of government in a complex web of interdependent relationships. The role of states and localities in these governance partnerships has changed considerably in the past few decades.

What states and localities do, and how they go about doing it, turns out to shape national life overall, as well as the lives of individual citizens. Given what is at stake at the state and local levels, no citizen can fully comprehend the role and importance of government without understanding subnational politics.

Laboratories of Democracy: Devolution and the Limits of Government

U.S. Supreme Court Justice Louis Brandeis famously described the states as **laboratories of democracy**. This metaphor refers to the ability of states—and, to a lesser extent, localities—to experiment with policy. Successful experiments can be replicated by other states or adopted by the national government. For much of the past 30 years, state–federal relations have been characterized by **devolution**, or the process of taking power and responsibility away from the federal government and giving it to state and local governments. As a result, the states for a time aggressively promoted new ways to solve old problems in such high-profile policy areas as welfare, gun control, and education. That trend of increasing state policy autonomy was temporarily halted by the severe economic contraction of 2007–2009, the so-called Great Recession. For several years after the Great Recession, states became critically dependent on federal money to stay solvent, and that meant they had to pay attention to federal policy priorities. As the economy recovered and states became less reliant on federal grant dollars, however, states in the past decade have once again begun to assert their independence from the federal government. This independence is increasingly characterized by deep ideological and partisan differences. States with conservative Republican governors sought to resist the health care, immigration, and environmental policy priorities of Democratic Presidents Barack Obama and Joe Biden, and blue state Democratic governors aggressively opposed Republican President Donald Trump's priorities on those same issues. We'll take a closer look at the details of intergovernmental relations in the next chapter, but it is important here to recognize that how state and local governments exercise their independent decision-making authority is dependent on a number of factors. Some of these factors are external. The U.S. Constitution, federal laws and regulations, nationwide recessions, and the like constrain what states and localities can and cannot do. Internal factors, such as the characteristics of a particular state, also play a critical role in setting limits on what the state decides to do.

The big three of these internal factors are wealth, the characteristics of the state's political system, and the relative presence of organized interest groups, those individuals who organize to support policy issues that concern them. For states and localities, money is the biggest factor limiting independent policy action. Launching new policy initiatives tends to be expensive, and simply continuing to support existing programs and services (higher education, for example) at historical levels can require ever-increasing infusions of cash. While critically important, money is not the only factor that influences policy directions at the subnational level. Political system characteristics are the elements of the political environment that are specific to a state. States in which public opinion is relatively conservative are likely to pursue different policy avenues than are states in which public opinion is more liberal. States in which Republicans dominate the government are likely to opt for different policy choices than are states in which Democrats dominate. States with professional full-time legislatures are more likely to formulate and pursue sustained policy agendas than are states in which legislators are part-timers who meet only periodically. States in which the government perceives an electoral mandate to reform government are more likely to be innovative than are states in which the government perceives an electoral mandate to retain the status quo.[25] Organized interest group activity helps determine what sorts of policy demands government responds to. Governments in states with powerful teachers' unions, for example, experience different education policy pressures than do governments in states where teachers' unions are politically weak. These three factors constitute the basic ingredients for policymaking in the states. Specifics vary enormously from state to state, and the potential combinations in this democratic laboratory are virtually infinite.

Localities face more policymaking constraints than states do because they typically are not sovereign governments. This means that, unlike states, local governments get their power from the level of government above them rather than directly from citizens. The states have much greater control over local governments than the federal government has over the states. Yet, even though local governments are much more subordinate to state government than state government is to the federal government, they do not simply take orders from the state capitol. Many have independent taxing authority and broad discretion to act within their designated policy jurisdictions.

These policy jurisdictions, nevertheless, are frequently subject to formal limits. The authority of school districts, for example, extends only to funding and operating public schools. State government may place limits on districts' tax rates and set everything from minimal employment qualifications to maximum teacher-to-pupil ratios. Even within this range of tighter restrictions, however, local governments retain considerable leeway to act independently. School districts often decide to contract out cafeteria and janitorial services, cities and counties actively seek to foster economic development with tax abatements and loan guarantees, and police commissions experiment with community-based law enforcement. During the past two decades, many of the reforms enthusiastically pursued at all levels of government—reforms from innovative management practices to the outright privatization of public services—have had their origins in local government.[26]

What all this activity shows is that states and localities are not only the laboratories of democracy but also the engines of the American republic. States and localities are not just safe places to engage in limited experimentation; they are the primary mechanisms connecting citizens to the actions of government.

Washington, D.C., is neither a state nor a local government in the traditional sense. It has a municipal government like a city and electoral votes like a state. It is ultimately ruled by Congress, even though it has no voting representatives in the federal legislature.

iStockPhoto/uschools

Conclusion

There are good reasons for developing a curiosity about state and local governments. State politics determines everything from how much you pay for college to whether your course in state and local governments is required or elective. Above and beyond understanding the impact of state and local governments on your own life and interests, studying such governments is important because of their critical role in the governance and life of the nation. Subnational, or nonfederal, governments employ more people than the federal government and spend as much money. Their responsibilities include everything from repairing potholes to regulating pot. It is difficult, if not impossible, to understand government in the United States and the rights, obligations, and benefits of citizenship without first understanding state and local governments.

Local Focus: The States That Aren't

Most people think of the United States as being composed of 50 states. And it is. But the United States also includes areas that look like states and are governed like states, but are most definitely not states. The United States also includes a big, important city that is not in any state at all. Confused? Welcome to the world of the territories of the United States.

Territories are geographical, administrative subdivisions of the United States. People who live in them are U.S. citizens, and they have legislatures, governors, and courts. Sounds pretty state-like, right? Not so fast. Unlike states, territories have no voting representation in Congress, and they have a much higher degree of legal subordination to the federal government.

The territory familiar to most people is Puerto Rico, a Caribbean island roughly a thousand miles off the southern coast of Florida. With 3.2 million residents, Puerto Rico has a population larger than Wyoming, Vermont, Alaska, North Dakota, and South Dakota combined. Unlike any of those states, though, citizens in Puerto Rico have no say in electing the president, and have no one to vote on their behalf in the U.S. Senate or House of Representatives; they have only a nonvoting commissioner to represent their interests. Other U.S. territories are scattered across the globe—Guam in the western Pacific, American Samoa in the South Pacific, the Northern Mariana Islands in the North Pacific, and the U.S. Virgin Islands in the Caribbean.

The not-quite-in-the-system status of territories is, historically speaking, not as odd as it sounds to contemporary ears. Alaska and Hawaii, for example, were territories before they became states, and many other states were carved out of geographical areas originally governed as territories. Periodically, statehood is still seriously mooted for Puerto Rico. Mostly, though, territories are holdovers from a different era, strongly tied to the United States, but separated by geographical distance and legal standing.

In addition to these not-quite states, the United States includes a sort-of city-state. This is the District of Columbia, or Washington, D.C., the nation's capital. Technically, Washington, D.C., is a federal city, and the power to govern it is given to Congress in Article I, Section 8, Paragraph 17, of the U.S. Constitution. Congress has used that power inconsistently over the years, and Washington, D.C.'s status within the American political system has varied a lot over the years. Unlike the territories, the District of Columbia does help elect the president—the Twenty-Third Amendment to the U.S. Constitution, ratified in 1961, explicitly granted the district electors in the Electoral College. Like the territories, though, it has no voting representation in Congress.

You will not hear much about Washington, D.C., or the territories in this textbook, which explicitly focuses on states and the localities within them. It is important to recognize, though, that as broad as that scope is, it does not cover the governing realities of a huge swath of Americans living in America. Collectively, the district and the U.S. territories constitute more than 4 million U.S. citizens who live and work on American soil, but they are not fully incorporated in the American political system in the same sense as states and cities that are located within states.

This book fosters such an understanding through the comparative method. This approach involves looking for patterns in the differences among states and localities. Rather than advocating a particular perspective on state and local politics, the comparative method is predicated, or based, on a systematic way of asking and answering questions. Why is my tuition bill so high? Why does Massachusetts send mostly Democrats to the U.S. House of Representatives? Why are those convicted of capital crimes in Texas more likely to be executed than those convicted of comparable crimes in Connecticut? Why are sales taxes high in Alabama? Why is there no state income tax in South Dakota? We can answer each of these questions by comparing states and looking for systematic patterns in their differences. The essence of the comparative method is to use one difference to explain another.

The Latest Research

As discussed extensively in this chapter, the comparative method is an important tool used by scholars to understand how state-level differences translate into meaningful political and policy differences. A lot of these differences that make a difference are not static—indeed, some may be changing even as you read this textbook.

The "granddaddy" of all differences—though far from the only one—is political culture, a concept originated by Daniel Elazar that continues to be widely respected for its explanatory power. While scholars in the past few decades have conducted a number of more fine-grained analyses of political culture that take advantage of new data sources and more sophisticated statistical techniques, Elazar's original classification system remains a disciplinary standard. In this section we summarize some of the newest research that uses the comparative method and investigates state political cultures and their impact on politics and policy.

- **Nolasco, Claire Angelique, and Daniel Braaten.** "The Role of Hospitable and Inhospitable States in the Process of Refugee Resettlement in the United States." *Journal of Refugee Studies* 34, no. 1 (2021): 634–62.
- **Kang, Seong C.** "The Politics of Regulatory Design: Evidence from State-Level Energy Regulations in the United States." *Policy Studies* 43, no. 6 (2022): 1322–39. https://doi.org/10.1080/01442872.2021.1948984.

Nolasco and Braaten use Elazar's classic classification of political culture to help understand why some states are more welcoming to refugees than other states. Unsurprisingly, at least to students of state politics, they find that one of the strongest predictors of refugee resettlement is the presence of a moralistic political culture. Moralistic cultures are more likely to have governments willing to support immigrants, and provide high-quality public services like education. That combination makes them an attractive landing spot for refugees. Kang is interested in a very different policy question: Why do some states have stricter energy and environmental regulations? The answer, at least partially, is political culture, with traditionalistic states tending to have weaker regulatory regimes and moralistic states stronger regulatory regimes. What these studies show is that more than 50 years after Elazar first developed his theory of political culture, contemporary scholars continue to find his cultural classifications have a lot of explanatory power across various dimensions of politics and policy.

- **Lopez, Omar.** "The Efficacy of Today's American Political Culture in Closing the Achievement Gap." *Social Sciences and Humanities Open* 6, no. 1 (2022): 100367. https://doi.org/10.1016/j.ssaho.2022.100367.

This study seeks to establish an alternative measure of political culture and uses it to predict achievement gaps in local education systems. The starting premise here is that political culture is distinguishable at the local level, not just the state level. Lopez creates a culture measure based on county-level election results and finds it has predictive power, at least in terms of helping to explain achievement gaps in schools. The jumping-off point for this study is Elazar's theory of political culture, but Lopez seeks to update and extend it to the local level.

This book's examination of state and local politics is organized into three distinct sections. The first section consists of five chapters designed to set the basic context for studying state and local politics. Included here are chapters on federalism, state constitutions, budgets, political participation, and political parties and interest groups. The second section covers the institutions of state and local government: legislatures, executives, courts, and bureaucracy. Although elements of local government are discussed in all these, there are also two chapters in this section devoted solely to local politics and government. The final section covers a series of distinct policy areas: education, crime, health care, and the environment. These chapters not only cover areas of substantive policy interests but also offer concrete examples of how a broad understanding of the context and institutions of state and local governments can be combined with the comparative method to promote a deeper understanding of the politics of states and localities.

Top Ten Takeaways

1. Most citizens know comparatively little about state and local politics, even though these governments have a significant impact on their daily lives.
2. State and local governments have the primary policy responsibility in areas such as education and law enforcement, and decisions made by these governments affect everything from the size of a tuition bill to the size of an elementary school class, from the licensing requirements to become a barber to the licensing requirements to become a doctor.
3. States are different in many ways, from topography and weather to population size and sociodemographics.
4. Despite their differences, all states have a core set of political similarities—they all must operate within the guidelines of the U.S. Constitution, and they have similarly structured governments, with an elected legislature, an independently elected executive, and an independent judiciary.

5. States are sovereign governments. In other words, as long as they are not in violation of the U.S. Constitution, they are free to do as they please. They draw their power not from the federal government, but from the U.S. Constitution, their own state constitutions, and their own citizens.

6. These differences and similarities make the states unique laboratories for investigating a wide range of important political and policy questions. The states constitute 50 truly comparable and sovereign governments.

7. The comparative method uses the similarities and differences of the states as a basis for looking at systematic variance. In other words, this method seeks to see whether one set of differences among the states can help explain other differences.

8. There are three basic types of political culture in the states. Moralistic cultures tend to view government as a means to make society better. Individualistic cultures view government as an extension of the marketplace. Traditionalistic cultures tend to view government and politics as the concern of elites, not average citizens.

9. Political culture provides a good example of how "a difference makes a difference." Variation in political culture helps explain a wide variety of political and policy differences among the states—everything from differences in voter turnout to differences in the political status of women.

10. It is virtually impossible to understand politics, policy, and governance in the United States without understanding state and local government.

Key Concepts

Comparative method
Devolution
Individualistic cultures
Laboratories of democracy
Moralistic cultures
Political culture
Sociodemographics
Traditionalistic culture
Variance

Discussion Questions

1. Write a list of all the things you typically do every day—everything from turning on a light to checking social media to walking on a sidewalk to buying lunch. How many of these are in some way touched by policies and programs managed by state and local governments? How many of the things on your list would be hard, or even impossible, to do without those policies and programs?

2. The sidebar on the best state to be a college student (see "A Difference That Makes a Difference: The Best States to Be a College Student") examines how the comparative method might be used to help determine what states are good places to pursue education. That discussion looked at several possibilities—differences—that might explain why college students are attracted to one state over another. That said, it deliberately made no firm conclusions. What state-level differences do *you* think might make a difference to the college experience of people like yourself? Do not limit yourself to those specifically discussed like tuition and starting salary. Maybe the political environment makes a difference.

How about tax levels, or maybe even the weather? This chapter discusses a range of "differences that make a difference," everything from culture to geography. Which of these do you think plays the biggest role in making states different economically and socially? If you had to identify one difference among states that causes the most social and economic variation, what would that difference be?

3. Given the importance of state and local governments across a range of crucially important programs and policies, why do you think most people know much less about them compared to the federal government? Is it really important to know as much about state and local governments as the federal government? Why or why not?

Chapter 2

Federalism

The Power Plan

The president and state governors need each other if they are to achieve important domestic policy goals. Here former President Biden talks to a group of governors about reproductive health care.

Tasos Katopodis/Getty Images

Chapter Objectives

2.1 Identify the three systems of government and how they divide power.

2.2 Explain what federalism is and why it was chosen as a system for the United States.

2.3 Discuss the advantages and disadvantages of federalism.

2.4 Describe the ways elements in the U.S. Constitution provide a basis for federalism.

2.5 Summarize the different types of federalism that developed over time.

2.6 Discuss the Supreme Court's role in U.S. federalism.

Dustin Hoffman once described Canada as a nice family living above a biker bar. That nice family keeps asking the downstairs neighbors to keep quiet so they can get some sleep, but, well, it's a biker bar. It's loud. It's open all hours. And there's a lot of conflict between rival gangs. Some, understandably, might take umbrage at having their nation compared to a raucous watering hole stuffed with rival clubs and a jukebox with the volume level permanently set to 11. Yet there's a kernel of accuracy to Hoffman's metaphor. And that grain of authenticity is rooted in federalism.

In a word, what's "noisy" about the United States is the states. In the American political system, the states have a role and a voice independent of the federal government. And they are not shy about exercising those rights to challenge the national government and even each other. **Federalism** is a political system in which national and regional governments share powers and are considered independent equals. The upshot of federalism in the United States is that the national government and state governments can, and do, have pretty different ideas about what they should or should not be allowed to do.

Examples of these differences are prominent in issue areas like abortion rights, marijuana legalization, environmental regulations, immigration, and the appropriate (or inappropriate) role of diversity, equity, and inclusion (DEI) programs in higher education. That list of issues alone—and this is but a small sample—is enough to cause any number of high-volume quarrels, so our collective biker bar is likely to stay noisy for the foreseeable future. The states and the federal government will continue arguing over what is or is not allowable, and who does or does not have the legitimate power to decide what's allowed, because that's how federalism works in the United States. The United States is far from the only example of federalism in the world—Canada, Hoffman's nice family upstairs, also has a federal system. The U.S. version, though, is by any measure one of the noisiest. And this is a feature rather than a flaw of the system.

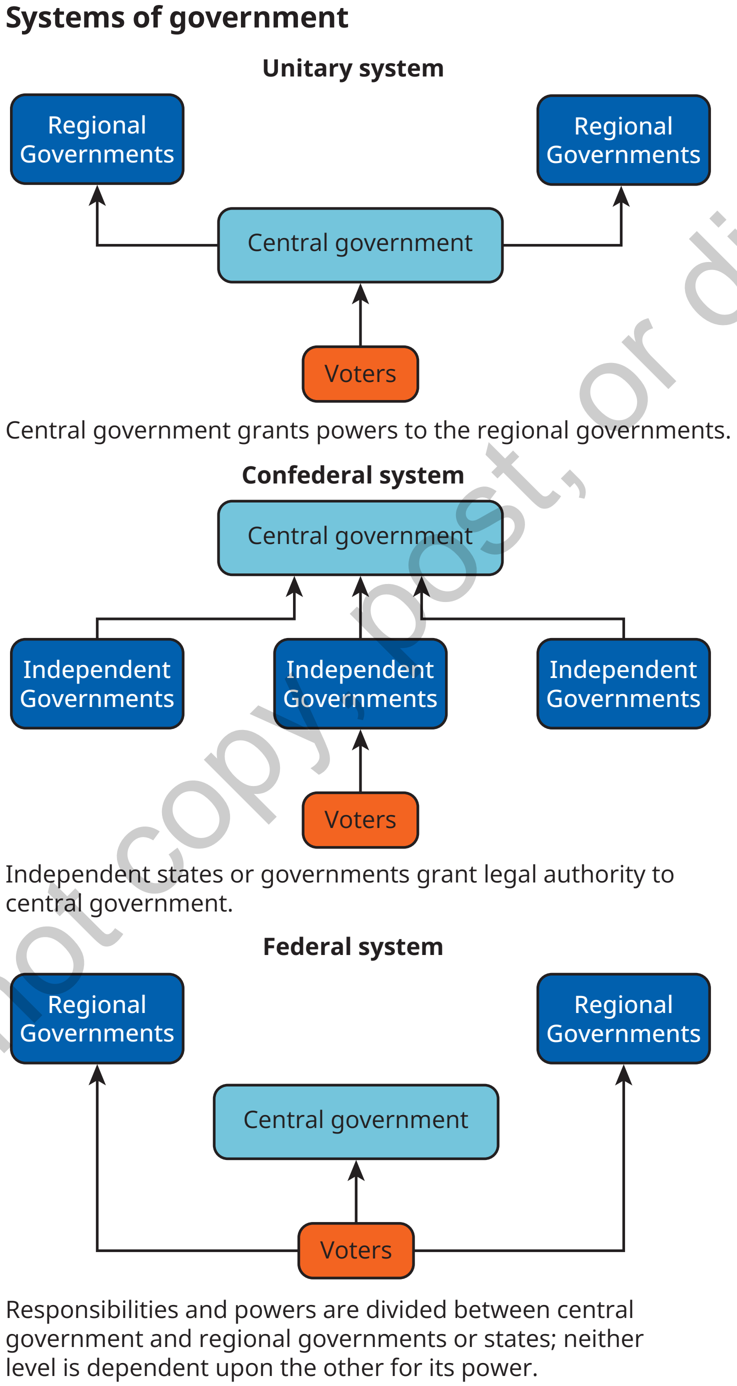
Why? Well, federalism in the United States means the dividing line between what is and is not legally permissible depends on not just what you do but where you do it. It means state and national governments will not only have different ideas about what should or should not be legally permissible; they will, and frequently do, butt heads about who has the right to grant or withdraw that permission. If the federal government wants the nation to go one way on any controversial issue—abortion, environmental regulations, immigration—some states will always want to go in another direction. Clearly, both of these things cannot happen. So, who ultimately has the power and the authority to get their way? The states or the federal government? Finding the answer to this question drives a good deal of political conflict in the United States. It is what makes us noisy. And the only way to make sense of the whole rowdy scrum is to understand federalism. Indeed, the bottom line is that you cannot understand politics in the United States—and that means national as well as state and local politics—without understanding federalism. This chapter is aimed at providing that basic understanding of federalism, its history and evolution in the United States, and its implications for politics and governance in states and localities.

Systems of Power

We typically think of a nation as being ruled by a single sovereign government—that is, a government that depends on no other government for its political authority or power. This does not mean that every nation has one government. Power and policy responsibility are distributed throughout any given political system in one of three ways, and all typically involve multiple levels of government. (See Figure 2.1.) The first option is to concentrate power in a single central government. Nations in which legal authority is held exclusively by a central government are known as **unitary systems**. Unitary systems typically have regional and/or local governments, but these can exercise only the powers and responsibilities granted them by the central government.

In other words, these governments are not sovereign; how much or how little power they are allowed to wield is up to the central government, not the citizens of the particular localities. For example, the United Kingdom is a unitary system with a strong tradition of local and regional government. Yet power is concentrated in the nation's Parliament—Parliament can expand or contract the powers and responsibilities of these lower governments or even shut them down entirely.

Figure 2.1 ▪ How It Works



In contrast to unitary systems, confederal systems concentrate power in regional governments. A **confederacy** is defined as a voluntary association of independent, sovereign states or governments. This association stands the power hierarchy of a unitary system on its head. In a confederacy, the central government depends on the regional governments for its legal authority. The United States has experimented with confederal systems twice during its history. The Articles of Confederation was the first constitution of the United States. It organized the U.S. political system as an agreement of union among sovereign states, and that confederal system remained in effect for the first decade or so of the nation's existence. The Articles were replaced by a new constitution drafted at the Constitutional Convention of 1787. The product of that gathering in Philadelphia—the U.S. Constitution—was ratified in 1788 and replaced the Articles of Confederation as the basis of the U.S. political system.[1] The second experiment with confederacy began in 1861 at the onset of the Civil War. Southern states seeking to secede from the Union organized their political system as a confederacy. All this ended with the South's surrender in 1865 and the return of the seceded states to the Union.

Federal systems operate in a middle range between unitary systems and confederacies. Responsibilities in a federal system are divided between the two levels of government, and each is given the appropriate power and legal authority to fulfill those responsibilities. The system's defining feature is that neither level of government is dependent on the other for its power. Within its defined areas of responsibility, each is considered independent and autonomous. In the United States, the two levels of government considered sovereign are the federal government and state governments. States are legally equal partners with the national government and occupy a central role in the political system. Although required to operate within the rules laid down by the U.S. Constitution, states are considered sovereign because their power and legal authority are drawn not just from the U.S. Constitution but also from their own citizens as codified in their own state constitutions. Local governments are treated very differently than are states. Within their own borders, states are very much like unitary systems; substate governments such as cities and counties get their power from the state, and they exercise only the policymaking authority the state is willing to grant. The specifics of local governments' powers and policy responsibilities are discussed in more depth in Chapter 11.

Why Federalism? The Origins of the Federal System in the United States

The United States is a federal system for a number of reasons. Largely because of their experiences with the Articles of Confederation, the framers of the Constitution rejected the possibility of a confederacy. The national government was so weak under the Articles that prominent figures such as James Madison and George Washington feared it doomed the newly independent republic to failure.

These fears were not unfounded. Following the successful conclusion of the Revolutionary War in 1783, the new United States found itself in the grip of an economic recession, and the central government had little power to address the crisis. Indeed, it actually contributed to the problem by constantly threatening to default on its debts. Independence had brought political freedom, but it also meant that American-made products were now in head-to-head competition with cheap, high-quality goods from Great Britain. This made consumers happy but threatened to cripple American businesses. The economic difficulties pitted state against state, farmer against manufacturer, and debtor against banker. The weak central government really did not have the power to attempt a coordinated, nationwide response to the problem. It could do little but stand by and hope for the best.

As internal tensions mounted within the United States, European powers still active in the Americas threatened the nation's very sovereignty. Spain shut down shipping on the Mississippi River. The British refused to withdraw from some military posts until the U.S. government paid off its debts to British creditors. George Washington believed the United States, having won the war, was in real danger of losing the peace. He said that something had to change "to avert the humiliating and contemptible figure we are about to make on the annals of mankind."[2]

For a loose coalition of the professional classes who called themselves Federalists, the "something" that needed to change was obviously the central government. Americans, however, were not particularly enthusiastic about handing more power to the central government, an attitude not so different from that held by many today. Most recognized that the Articles had numerous flaws, but few were ready to copy the example of the British and adopt a unitary system.

Two events in fall 1786 allowed the Federalists to overcome this resistance and achieve their goal of creating a more powerful national government. The first was the Annapolis Convention. This meeting in Maryland's capital was convened for the purpose of hammering out an interstate trade agreement. Few states sent delegates, and those who did show up had strong Federalist sympathies. They took advantage of the meeting and petitioned Congress to call for a commission to rewrite the Articles of Confederation.

The second event was Shays's Rebellion, an uprising of Massachusetts farmers who took up arms in protest of state efforts to take their property as payment for taxes and other debts. It was quickly crushed, but with further civil unrest threatening to boil over into civil war and with mounting pressure from powerful elites within the Federalist ranks, the Continental Congress was pushed to call for states to send delegates to Philadelphia in summer 1787. The purpose of the meeting, which came to be known as the Constitutional Convention, was the rewriting of the Articles of Confederation.

Once convened, the group quickly abandoned its mandate to modify the Articles and decided to write an entirely new constitution. In doing so, the Federalists who dominated the convention rejected confederacy as an adequate basis for the American political system. What they wanted was a government capable of dealing effectively with national problems, and this meant a strong central government whose power was independent of the states. Some Federalists, notably Alexander Hamilton, were attracted to the idea of a unitary government, but such a system was never seriously considered. As the Revolutionary War had been fought in no small part because of the perceived arrogance of and abuse by a central government toward its regional subordinates (the states were originally colonies of the British Crown), this was not surprising. Political realities also argued against a unitary system. To have any legal force, the new constitution would have to be ratified by the states, and it was unlikely the states would voluntarily agree to give up all their powers to a national government. Federalism was thus the only practical option.

Yet a federal system meant more than the political price that had to be paid to achieve a stronger national government. The founders were attempting to construct a new form of **representative government**, in which citizens would exercise power indirectly, on the basis of a paradox. Convention delegates wanted a more powerful national government, but at the same time, they did not want to concentrate power for fear that would lead to tyranny. Their solution to this problem was to create a system of separated powers and checks and balances. They divided their new and stronger national government into three branches—legislative, executive, and judicial—and made each branch partially reliant on the others to carry out its own responsibilities. This made it difficult for any single group to gain the upper hand in all three divisions of government and gave each branch the power to check the excesses of the other branches.

The delegates achieved a similar set of goals by making state and national governments coequal partners. By letting states remain independent decision makers in a wide range of policy arenas, they divided power between the national and subnational levels of government. The national government was made more powerful by the new constitution, but the independence of the states helped set clear limits on this power.

The Advantages and Disadvantages of Federalism

Federalism solved a political conundrum for the founders and helped achieve their philosophical aims of dispersing and separating power. Yet federalism is not necessarily better than a confederal or a unitary system—it's just different. In the United States, the pros and cons of federalism have benefited and bedeviled the American political system for more than two centuries.

There are four key advantages to the federal system. (See Table 2.1.) First, it keeps government closer to the people. Rather than the federal government's imposing one-size-fits-all policies, states have the freedom and authority to match government decisions to local preferences. This freedom also results in the local variance in laws, institutions, and traditions that characterizes the U.S. political system and provides the comparative method with its explanatory strength.

Table 2.1 ▪ Advantages and Disadvantages of Federalism

Advantages	Disadvantages
Allows for flexibility among state laws and institutions.	Increases complexity and confusion.
Reduces conflict because states can accommodate citizens' interests.	Sometimes increases conflict when jurisdictional lines are unclear.
Allows for experimentation at the state level.	Duplicates efforts and reduces accountability.
Enables the achievement of national goals.	Makes coordination difficult.
	Creates inequality in services and policies.

Second, federalism allows local differences to be reflected in state and local government policy and thereby reduces conflict. Massachusetts, for example, is more liberal than, say, Alabama. California is more ethnically and culturally diverse than Nebraska. Rather than having the various interests and preferences that spring from state-to-state differences engage in a winner-take-all policy struggle at the federal level, they can be accommodated at the state level. This reduces the friction among interests and lessens conflict.

Third, independent subnational governments allow for flexibility and experimentation. The states, as Supreme Court Justice Louis Brandeis famously put it, are "the laboratories of democracy." Successful policy innovations in one state can be adopted by other states and copied by the federal government. Fourth, the achievement of at least some national goals is made easier by the participation of independent subnational governments. State governments constitute ready-made centralized regulatory bodies geographically distributed across the nation. It thus makes sense for the federal government to use states to help implement a wide range of policies and programs—everything from road construction to health care—rather than create a separate (and expensive) management infrastructure.

Along with its benefits, however, federalism confers a set of disadvantages. First, while allowing local differences does keep government closer to the people, it also creates complexity and confusion. For example, if you own a nationwide business, you have to deal with state *and* federal regulations—51 sets of regulations in all. That means, among other things, 51 tax codes and 51 sets of licensing requirements.

Second, federalism can increase conflict as easily as reduce it. The Constitution is very vague on the exact division of powers between state and federal governments, and it doesn't mention local governments at all (see the box "Local Focus: Federalism Stops at the State Border"). This results in a constant struggle—and a lot of litigation—to resolve which level of government has the responsibility and legal authority to take the lead role in a given policy area.

Local Focus: Federalism Stops at the State Border

Central to the concept of federalism is shared sovereignty among different levels of government. In the United States that means figuring out how power gets shared between the national government and state governments. Though the U.S. Constitution sets some basic rules for power sharing, there's plenty of gray area and enough room for serious disagreements. That's putting it mildly. Throughout the republic's history the federal and state governments have engaged in titanic donnybrooks over who has the power to do what. Such conflicts include numerous U.S. Supreme Court rulings, endless political maneuvering, and one very bloody civil war.

These sorts of conflicts over power sharing, though, stop at state lines. We'll talk more in-depth about this in Chapter 11, but local governments simply do not wield the power of state governments. The outcomes of disagreements over who has the power to do what between local and state governments tend to be pretty lopsided: States almost always win. One of the ironies of federalism is that if you examine a state in isolation it looks, at least internally, very much like a unitary government (see Figure 2.1). In other words, for the most part local governments only get to exercise the powers state government grants to them; they do not have the legal status or protections that the U.S. Constitution grants states. The coequal sovereigns established by federalism are a state–federal thing. They are most definitely not a state–local government thing.

While local governments are in a weak position power-wise, state–local government relations often expose a certain amount of hypocrisy at the state level. State governments are, after all, notoriously touchy about the federal government trying to tell them what to do. Conservative governors kick back at signing onto progressive initiatives from Democratic presidential administrations, just as liberal governors have kicked back at the cajoling of Republican administrations. What really trips the trigger of state governments is preemption, which is defined in this chapter as the process of the federal government overriding areas already regulated by state law. As a general rule, state governments do not like preemption and are quick to raise the argument that a one-size-fits-all law fashioned in the national capitol will not fit the needs, interests, and context of a particular state.

That argument tends to go out the window, though, when the one-size-fits-all law is fashioned in the state capitol and is imposed on local governments. In reality, state governments are pretty enthusiastic proponents of preemption when they are the ones doing the preempting. For example, take gun control. Many cities would like the ability to pass stricter gun control regulations than those found in state law. They mostly cannot do this because the vast majority of states have preemption laws specifically preventing them from doing such things.

It's not just gun control. It's everything from regulating ride-sharing services to policing to the use of plastic shopping bags. Upset state government badly enough, and parts of local government might find even themselves being taken over entirely by the state government. Texas Governor Greg Abbott once raised the possibility of the state taking over the entire Austin police department. A number of states have considered laws that would legally prevent local governments from reducing public safety budgets. Sixty percent of mayors report abandoning or delaying programs because of the threat of preemption.

The bottom line is that the system of federalism set up by the U.S. Constitution creates two basic levels of sovereign governments—the federal level and the state level. These are, at least in theory, coequals in the business of governance. That concept of federalism stops at state borders. Within states the relationship between state and local governments much more resembles that of a unitary system, and in those systems there's no doubt who holds the real power: the states, not the local governments.

Sources: Alan Greenblatt, "States Pre-empt Cities Almost to the Point of Irrelevance," *Governing*, February 5, 2021, https://www.governing.com/now/states-preempt-cities-almost-to-the-point-of-irrelevance; Matt Vailogambros, "Colorado Overturns Preemption Law; Other States May Follow," *Governing*, November 3, 2021, https://www.governing.com/community/colorado-overturns-preemption-law-other-states-may-follow.

Third, although federalism promotes flexibility and experimentation, it also promotes duplication and reduces accountability. For example, local, state, and national governments have all taken on law enforcement responsibilities. In some areas, this means there may be municipal police departments, a county sheriff's department, and the state patrol, plus local offices of the Federal Bureau of Investigation and the U.S. Drug Enforcement Administration. The responsibilities and jurisdictions of these organizations overlap, which means taxpayers end up paying twice for some law enforcement activities. Also, when these agencies are unsuccessful or ineffective, it can be very difficult to figure out which is responsible and what needs to change.

Fourth, the federal system can make it hard to coordinate policy efforts nationwide. For example, police and fire departments on opposite sides of a state border, or even within adjacent jurisdictions in the same state, may have different communication systems. It is hard to coordinate a response to a large-scale emergency if the relevant organizations cannot talk to each other, but the federal government cannot force state and local governments to standardize their radio equipment.

Emergency management is a classic example of how different levels of government work together. The Federal Emergency Management Agency plays a critical role in responding to disaster, but FEMA's effectiveness is dependent on its ability to coordinate with state and local agencies.

Pedro Alejandro Granadillo Hernanadez/Anadolu Agency via Getty Images

Finally, a federal system creates inequality in services and policies. The uneven implementation of Obamacare is an obvious example: Health care options can differ fairly dramatically from state to state. The quality of public schools and welfare services more generally also depends heavily on the choices state and local governments make. This inevitably means that some states offer better educational opportunities and do more for the needy than others do.

The Constitutional Basis of Federalism

The ink was barely dry on the newly ratified Constitution before the federal government and the states were squabbling over who had the power and authority in this or that policy area. In writing the Constitution, the founders recognized that the differences between states and the federal government were likely to be a central and lasting feature of the political system. Accordingly, they attempted to head off the worst of the disputes—or at least to provide a basis for resolving them—by making a basic division of powers between the national and state governments.

The Constitution grants the federal government both enumerated and implied powers. **Enumerated powers** are grants of authority explicitly given by the Constitution. Among the most important of these is the **national supremacy clause** contained in Article VI. This states that the Constitution "shall be the supreme law of the land; and the judges in every state shall be bound thereby." In other words, federal law takes precedence over all other laws. This allows the federal government to preempt, or override, areas regulated by state law. In recent decades, the federal government has aggressively used this power to extend its authority over states in a wide range of policy issues, so much so that **preemption** has been called "the gorilla that swallows state laws."[3] Other enumerated powers are laid out in Article I, Section 8. This part of the Constitution details a set of **exclusive powers**—grants of authority that belong solely to the national government. These include the powers to regulate commerce, to declare war, and to raise and maintain an army and navy. Article I, Section 8, also confers a set of **concurrent powers** on the national government. Concurrent powers are those granted to the national government but not denied to the states. Both levels of government are free to exercise these prerogatives. Concurrent powers include the power to tax, borrow, and spend.

Finally, this same section of the Constitution gives the national government **implied powers**. The basic idea behind implied powers is that the authors of the Constitution realized they could not possibly list every specific power that the national government would require to meet the needs of a developing nation. Accordingly, they gave Congress the flexibility to meet unforeseen challenges by granting the federal government a set of broad and largely undefined powers. These include the **general welfare clause**, which gives the federal government the authority to provide for "the general welfare of the United States," and the **necessary and proper clause**, which authorizes Congress "to make all laws which shall be necessary and proper" to carry out its responsibilities as defined by the Constitution. (See Table 2.2 for explanations of these and other provisions.)

Table 2.2 ▪ The U.S. Constitution's Provisions for Federalism

What It Is	What It Says	What It Means
Article I, Section 8 (commerce clause)	The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.	Gives Congress the right to regulate interstate commerce. This clause has been broadly interpreted to give Congress a number of implied powers.
Article I, Section 8 (necessary and proper clause)	The Congress shall have Power . . . To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.	An implied power giving Congress the right to pass all laws considered "necessary and proper" to carry out the federal government's responsibilities as defined by the Constitution.
Article IV, Section 3 (admission of new states)	New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.	Allows the U.S. Congress to admit new states to the union and guarantees each state sovereignty and jurisdiction over its territory.

(*Continued*)

Table 2.2 ▪ The U.S. Constitution's Provisions for Federalism (*Continued*)

What It Is	What It Says	What It Means
Article IV, Section 4 (enforcement of republican form of government)	The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.	Ensures that a democratic government exists in each state and protects states against foreign invasion or insurrection.
Article VI (supremacy clause)	This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.	States that federal law takes precedence over all other laws.
Tenth Amendment	The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.	Guarantees that a broad, but undefined, set of powers be reserved for the states and the people, as opposed to the federal government.
Fourteenth Amendment	All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.	Prohibits any state from depriving individuals of the rights and privileges of citizenship, and requires states to provide due process and equal protection guarantees to all citizens.
Sixteenth Amendment	The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.	Enables the federal government to levy a national income tax, which has helped further national policies and programs.
Seventeenth Amendment	The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. . . . When vacancies happen in the representation of any State in the Senate, the executive authority of each State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.	Provides for direct election of U.S. senators, rather than election by each state's legislature.

The Constitution says a good deal about the powers of the federal government but very little about the powers of the states. The original, unamended Constitution spent much more time specifying the obligations of the states than it did defining their power and authority. The list of obligations includes Article IV, Section 2, better known as the **full faith and credit clause**. The clause requires all states to grant "full faith and credit" to each other's public acts and records. This means that wills, contracts, and marriages that are valid under one state's laws are valid under all. Under the **privileges and immunities clause**, states are prohibited from discriminating against citizens from other states. The idea here was to protect people traveling across state boundaries or temporarily residing in a state because of business or personal reasons from becoming the targets of discriminatory regulation or taxation.

The Constitution also sets out an often-criticized system for electing the nation's president and vice president. The presidency goes not to the candidate who wins the most votes but, rather, to the one who wins the most states. Article II, Section 1, charges the states with appointing electors—one for each of a state's U.S. senators and representatives—who actually choose the president based on the winner of the state's popular vote. A presidential candidate needs a majority in the Electoral College, which requires the votes of at least 270 of the 538 state electors, to be named the winner.

Other than these responsibilities and explicitly granting the states the right to enter into compacts, or binding agreements, with each other on matters of regional concern, the Constitution is virtually silent on the powers of the states. This lopsided attention to the powers of the federal government was a contentious issue in the battle to ratify the Constitution. Opponents of the document, collectively known as Anti-Federalists, feared that states would become little more than puppets of the new central government. Supporters of the Constitution sought to calm these fears by arguing that states would remain sovereign and independent and that the powers not specifically granted to the federal government were reserved for the states. As James Madison put it, in writing the Constitution the Federalists were seeking "a middle ground which may at once support due supremacy of the national authority" and also preserve a strong independent role for the states.[4]

Madison and his fellow Federalists offered to put these assurances in writing. In effect, they promised that if the Constitution was ratified, the first order of business for the new Congress would be to draft a set of amendments that would spell out the limits of central government power and specify the independence of the states. Although Anti-Federalist skepticism remained, the Federalists kept their promise. The First Congress formulated a series of changes that eventually became the first 10 amendments to the Constitution, which are collectively known as the **Bill of Rights**.

Most of these amendments set specific limits on government power. The aim was to guarantee certain individual rights and freedoms, and, at least initially, they were directed at the federal government rather than at state governments. The **Tenth Amendment**, however, finally addressed the power of the states. In full, the Tenth Amendment specifies: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This provided no enumerated, or specific, powers to the states, but those implied by the language of the amendment are considerable. The so-called reserved powers encompass all the concurrent powers that allow the states to tax, borrow, and spend; to make laws and enforce them; to regulate trade within their borders; and to practice eminent domain, which is the power to take private property for public use. The reserved powers also have been traditionally understood to mean that states have the primary power to make laws that involve the health, safety, and morals of their citizens. Yet the powers reserved for the states are more implied than explicit, and they all rest in an uneasy tension with the national supremacy clause of Article VI.

After the Tenth Amendment, the **Fourteenth Amendment** is the most important in terms of specifying state powers. Ratified in 1868, the Fourteenth Amendment is one of the so-called Civil War Amendments that came in the immediate wake of the bloody conflict between the North, or the Union, and the South, or the Confederacy. The Fourteenth Amendment prohibits any state from depriving individuals of the rights and privileges of citizenship and requires states to provide due process and equal protection guarantees to all citizens. The Supreme Court has used these guarantees to apply the Bill of Rights to state governments as well as to the federal government and to assert national power over state power in issues ranging from the desegregation of public education to the reapportioning of state legislatures.

The implied powers of the federal government, the limitations set on states by the Fourteenth Amendment, and the undefined "leftovers" given to the states by the Tenth Amendment mean that the scope and authority of both levels of government are, in many cases, dependent on how the Constitution is interpreted. The Constitution, in other words, provides a basic framework for solving the sibling-rivalry squabbles between the states and the federal government. (See Figure 2.2.) It does not, however, provide an unambiguous guide to which level of government has the primary power, responsibility, and authority on a broad range of policy issues. This, as we will see, means that the U.S. Supreme Court is repeatedly thrust into the role of referee in power disputes between national and state governments.

Figure 2.2 ▪ Powers of National and State Governments

National Government Powers
- Coin money
- Regulate interstate and foreign commerce
- Tax imports and exports
- Make treaties
- Make all laws "necessary and proper" to fulfill responsibilities
- Make war
- Regulate postal system

Powers Denied
- Tax state exports
- Change state boundaries
- Impose religious tests
- Pass laws in conflict with the Bill of Rights

Concurrent Powers
- Tax
- Borrow money
- Charter banks and corporations
- Take property (eminent domain)
- Make and enforce laws and administer a judiciary

State Government Powers
- Run elections
- Regulate intrastate commerce
- Establish republican forms of state and local government
- Protect public health, safety, and morals
- All powers not delegated to the national government or denied to the states by the Constitution

Powers Denied
- Tax imports and exports
- Coin money
- Enter into treaties
- Impair obligation of contracts
- Enter compacts with other states without congressional consent

Source: Adapted from Samuel Kernell, Gary C. Jacobson, and Thad Kousser, *The Logic of American Politics*, 6th ed. (CQ Press, 2013), Figure 3.2.

The Development of Federalism

Although they clearly establish a federal political system, the provisions of the U.S. Constitution leave considerable room for disagreement about which level of government—federal or state—has the power to do what. Disagreements about the scope and authority of the national government arose almost immediately when the First Congress convened in 1789. The issue of a national bank was one of the most controversial of these early conflicts and the one with the most lasting implications. Alexander Hamilton, secretary of the treasury under President George Washington, believed a central bank was critical to stabilizing the national economy, but there was nothing in the Constitution that specifically granted the federal government the authority to create and regulate such an institution.

Lacking a clear enumerated power, Hamilton justified his proposal for a national bank by using an implied power. He argued that the necessary and proper clause implied the federal government's power to create a national bank because the bank would help the government manage its finances as it went about its expressly conferred authority to tax and spend. Essentially, Hamilton was interpreting *necessary* as "convenient" or "appropriate." Secretary of State Thomas Jefferson objected, arguing that if the Constitution was going to establish a government of truly limited powers, the federal government needed to stick to its enumerated powers and interpret its implied powers very narrowly. He thus argued that the *necessary* in the necessary and proper clause should properly be interpreted as "essential" or "indispensable." Hamilton eventually won the argument, and Congress approved the national bank. Still, the issue simmered as a controversial—and potentially unconstitutional—expansion of the national government's powers.

The issue was not fully resolved until 1819, when the Supreme Court decided the case of *McCulloch v. Maryland*. This case stemmed from the state of Maryland's attempts to shut down the national bank, which was taking business from state-chartered banks, by taxing its operations. The chief cashier of the national bank's Baltimore branch refused to pay the tax, and the parties went to court. The Supreme Court, in essence, backed Hamilton's interpretation of the Constitution over Jefferson's. This was important above and beyond the issue of a national bank. It suggested that the Constitution gave the national government a broad set of powers relative to the states. Key to this early affirmation of the federal government's power was U.S. Chief Justice John Marshall, whose backing of a broad interpretation of implied powers laid the foundation for later expansions in the scope and authority of the federal government.

The full impact of *McCulloch v. Maryland*, however, would not be felt for some time. For the most part, the federal government began to feel its way into the gray areas of its constitutional powers pretty cautiously. Federalism went on to develop in four distinct stages—dual federalism, cooperative federalism, centralized federalism, and New Federalism—and the first of these stages leaned toward the more limited role of the federal government favored by Jefferson.

Dual Federalism (1789–1933)

Dual federalism is the idea that state and federal governments have separate jurisdictions and responsibilities. Within these separate spheres of authority, each level of government is sovereign and free to operate without interference from the other. Dual federalism represents something of a middle ground in the initial interpretations of how the Constitution divided power. On one side of the debate were Federalists such as Hamilton, who championed a nation-centered view of federalism. They wanted to interpret the Constitution as broadly as possible to give the national government supremacy over the states. On the other side were fierce **states' rights** advocates such as John Calhoun of South Carolina, who served as vice president in the administrations of John Quincy Adams and Andrew Jackson. Supporters of states' rights wanted the federal government's power limited to the greatest possible extent and saw any expansion of that power as an encroachment on the sovereignty of the states.

In the 1820s and 1830s, Calhoun formulated what became known as the **compact theory** of federalism. The idea was that the Constitution represented an agreement among sovereign states to form a common government. It interpreted the Constitution as essentially an extension of the Articles of Confederation, a perspective that viewed the U.S. political system as more confederal than federal. The compact theory argued that if sovereignty ultimately rested with the states, then the states rather than the Supreme Court had the final say in how the Constitution should be interpreted. The states also had the right to reject federal laws and make them invalid within their own borders. This process was known as **nullification**, and the compact theory took it to an extreme. Calhoun argued that states could reject the entire Constitution and choose to withdraw, or secede, from the Union. In the 1820s, national policies—especially a trade tariff—triggered an economic downturn in the southern states, which created wide support for nullification and **secession** arguments. These extreme states' rights views were not completely resolved until the Union victory in the Civil War ended them for good.

Dual federalism walked the line of moderation between the extremes of **nation-centered federalism** and **state-centered federalism**. Basically, dual federalism looks at the U.S. political system as a layered cake. The state and federal governments represent distinct and separate layers of this cake. To keep them separate, advocates of dual federalism sought to limit the federal government to exercising only a narrow interpretation of its enumerated powers. If the Constitution was to be interpreted broadly, that interpretation should favor the states rather than Congress. This became the central operating philosophy of the U.S. Supreme Court for much of the 19th century and is most closely associated with the tenure of Chief Justice Roger B. Taney, who served from 1836 to 1864. Compared with his immediate predecessor, John Marshall, Taney was much less sympathetic to arguments that interpreted the federal government's powers broadly.

The dual federalism doctrine gave rise to some infamous Supreme Court decisions on the powers and limitations of the federal government. Perhaps the best known is *Scott v. Sandford* (1857). This case dealt with Dred Scott, a slave taken by his master from Missouri, a slave state, to Illinois, a free state, and on into what was then called the Wisconsin Territory, where slavery had been outlawed by the Missouri Compromise of 1820. This federal law stipulated which new states and territories could and could not make slavery legal. After his master's death, Scott sued for his freedom, arguing that his residence in a free territory had legally ended his bondage. Scott's case was tied to the Missouri Compromise, which the Supreme Court subsequently ruled unconstitutional. The justices' justification was that Congress did not have the enumerated, or the implied, power to prohibit slavery in the territories. Thus, Scott remained a slave, although his owners voluntarily gave him his freedom shortly after the Supreme Court decision. He died of tuberculosis in 1858, having spent only 1 of his nearly 60 years as a free man.

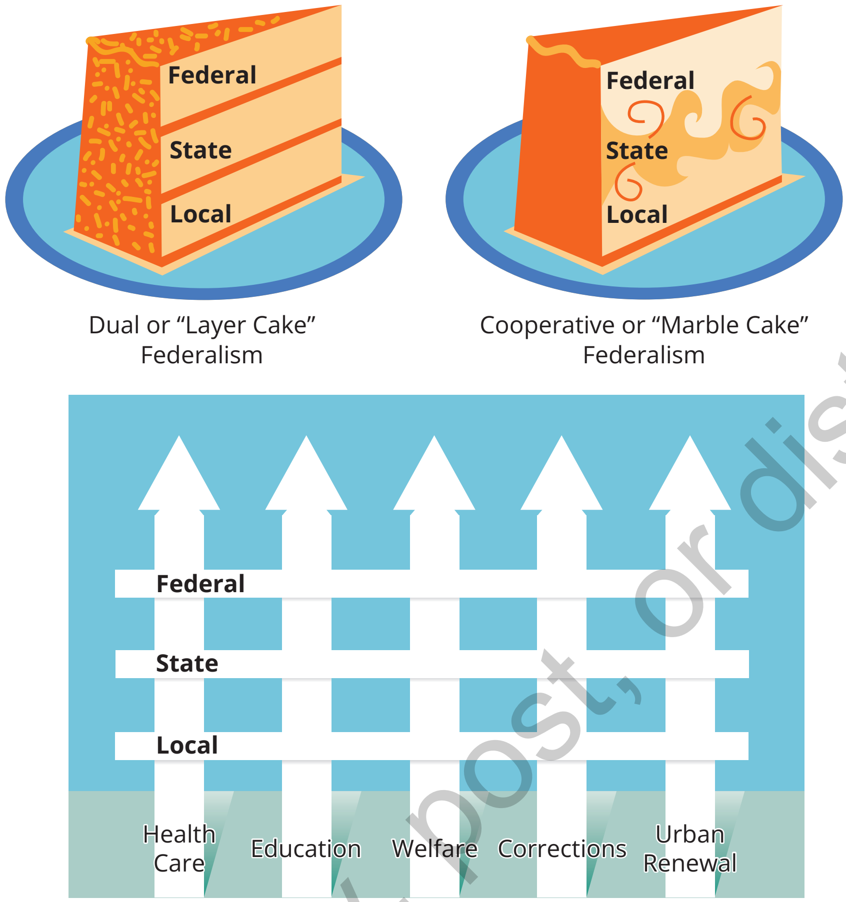
Cooperative Federalism (1933–1964)

In theory, dual federalism defines and maintains a clear division between state and national governments and sets a clear standard for doing so. If the federal government has the enumerated power to take a disputed action or make a disputed law, it has supremacy over the states in the particular case; if it does not have the enumerated power, then the Tenth Amendment reserves that power for the states, and state preferences take precedence.

The problem was that dual federalism's clarity in theory rarely matched the complex realities of governance in practice. State and national governments share interests in a wide range of issues, from education to transportation. To divide these interests cleanly into separate spheres of influence was not only difficult; in many cases, it was impractical and not desirable. Even at the height of the dual federalism era, state and federal governments were collaborating as much as they were fighting. The federal government, for example, owned vast tracts of land in the Midwest and West, and it made extensive grants of these lands to the states to help develop transportation and education systems. Many of the nation's best-known state universities got their start this way, as land-grant colleges.

In the 19th century, the federal government also gave out cash grants to support Civil War veterans housed in state institutions, gave money to the states to support agricultural research, and lent federal manpower—primarily U.S. Army engineers—to help state and local development projects.[5] Rather than a layered cake, some experts believe a more appropriate metaphor for federalism is a marble cake, with the different levels of government so thoroughly mixed with one another that they are impossible to separate. (See Figure 2.3.)

Figure 2.3 ▪ The Varieties of Federalism



Dual or "Layer Cake" Federalism

Cooperative or "Marble Cake" Federalism

Centralized or "Picket Fence" Federalism

Certainly as the nation became increasingly industrialized and more urban, state and federal interests became increasingly intertwined. As the 19th century drew to a close and the 20th century began, the federal government undertook a significant expansion of its policy responsibilities. In 1887, it began to regulate the railroads, a policy area with enormous significance for the economic development of states and localities. In economic and social terms, this was roughly equivalent to the federal government of today announcing its comprehensive regulation of the internet and software manufacturers. By fits and starts, dual federalism gradually fell out of favor with the Supreme Court. The Court instead began to interpret the powers of the federal government very broadly and to allow the jurisdictions of state and national governments to merge gradually.

Several events accelerated this trend. In 1913, the Sixteenth Amendment was ratified, giving the federal government the ability to levy a nationwide income tax. The new taxing and spending authority helped further national policies designed during the next decades. World War I (1914–1918) resulted in a significant centralization of power in the federal government. During World War II (1939–1945), that power was centralized even further. The need to fight global conflicts pushed the federal government to assert its authority on a wide range of economic and social issues. Even more important to the long-term relationship between state and national governments was the Great Depression of the 1930s, a social and economic catastrophe that swept aside any remaining vestiges of dual federalism.

The central catalyst for a fundamental change in the nature of state–federal relations was the election of Franklin Delano Roosevelt to the presidency in 1932. In an effort to combat economic and social malaise, Roosevelt aggressively pushed the federal government into taking a lead role in areas traditionally left to the states, and in the 1930s, the federal government became deeply involved in regulating the labor market, creating and managing welfare programs, and providing significant amounts of direct aid to cities. The general approach of Roosevelt's so-called New Deal agenda defined the central characteristics of **cooperative federalism**—using the federal government to identify a problem, set up the basic outline of a program to address the problem, and make money available to fund that program and then turning over much of the responsibility for implementing and running the program to the states and localities. This arrangement dominated state and federal relations for the next three decades.

Centralized Federalism (1964–1980)

Having all levels of government addressing problems simultaneously and cooperatively paid dividends. It combined the need to attack national problems with the flexibility of the decentralized federal system. Cooperative federalism, however, also signaled a significant shift in power away from the states and toward the federal government. The key to this power shift was money, specifically federal **grants-in-aid**, which are cash appropriations given by the federal government to the states. An ever-increasing proportion of state and local budgets came from federal coffers. At the beginning of the 19th century, federal grants constituted less than 1 percent of state and local government revenues. By the middle of the 1930s, federal grants accounted for close to 20 percent of state and local government revenues.[6]

For the next 30 years, the federal government continued to rely on grants to administer programs, including the 1950s construction of the federal highway system that Americans drive on today. The 1960s marked a shift, however. **Centralized federalism**, ushered in with Lyndon Baines Johnson's presidency, further increased the federal government's involvement in policy areas previously left to state and local governments. It is commonly associated with Johnson's Great Society program, which used state and local governments to help implement such national initiatives as the Civil Rights Act and the War on Poverty. This is sometimes called "picket-fence federalism" because in practice the relationships among local, state, and national governments were centered on particular programs and the agencies that managed them. These policy-specific agencies (bureaucracies dealing with education, transportation, welfare, and the like) were laid across the levels of government like pickets on a three-rail fence.

Those initiatives meant more money—and more regulations—for states and localities. The federal government began aggressively attaching strings to this money through **categorical grants**. Federal–state relations evolved into a rough embodiment of the Golden Rule of politics—he who has the gold gets to make the rules.

Richard Nixon's presidential administration took a slightly different tack. It cut some strings but continued to increase the number of grants doled out by the federal government.[7] In the late 1960s, the administration pioneered the idea of **general revenue sharing grants**, federal funds turned over to the states and localities with essentially no strings attached. Although popular with states and localities—from their perspective it was "free" money—this type of grant-in-aid had a short lifespan; it was killed by the Ronald Reagan administration in the early 1980s (see Figure 2.4).

Federal grants, strings or no strings, do not sound so bad on the surface. Money is money, and a government can never have too much. The problem was that the grants were not distributed equitably to states and localities, and a central feature of cooperative federalism was the often-fierce competition to control and access these revenues. The politics became complex.

Figure 2.4 ▪ Key Dates in the History of American Federalism

- **1775** Revolutionary War starts
- **1776** Declaration of Independence adopted
- **1781** Articles of Confederation ratified
- **1783** Revolutionary War ends
- **1786** Annapolis Convention
- **1786** Shays's Rebellion
- **1787** Constitutional Convention drafts new constitution
- **1788** U.S. Constitution ratified
- **1791** First Congress adopts Bill of Rights
- **1819** *McCulloch v. Maryland* establishes that the federal government has a broad set of powers over the states
- **1832** South Carolina attempts to nullify federal law
- **1836** Roger Taney sworn in as chief justice; adopts dual federalism as model for federal–state relations
- **1857** *Scott v. Sandford* demonstrates the limits of the federal government
- **1860** South Carolina secedes from the Union in December; hostilities between North and South begin a month later
- **1861** Southern states experiment with confederacy as Civil War starts
- **1865** Civil War ends with Union victory; Thirteenth Amendment abolishes slavery
- **1868** Fourteenth Amendment passes
- **1887** Federal government regulates the railroads
- **1913** Sixteenth Amendment passes
- **1930** Great Depression begins
- **1933** Franklin Delano Roosevelt takes office; era of cooperative federalism begins
- **1964** Era of centralized federalism begins
- **1972** Richard Nixon begins revenue sharing
- **1980** Ronald Reagan is elected; New Federalism emerges
- **1986** William Rehnquist becomes chief justice; Supreme Court begins to look more favorably on states' rights arguments
- **2000** Supreme Court decides *Bush v. Gore*; George W. Bush receives Florida's contested electoral votes and becomes president
- **2008** Great Recession
- **2012** *National Federation of Independent Business v. Sebelius* expands federal government power by upholding the government's right to mandate that individuals purchase health care coverage; the Court upholds state sovereignty in the case by ruling that the federal government cannot force states to expand Medicaid
- **2013** Supreme Court decides *Shelby County v. Holder;* states with histories of disenfranchising minority voters no longer have to get voting laws and regulations approved by federal government
- **2022** Supreme Court overturns *Roe v. Wade* and removes constitutional protections for abortion rights, effectively making abortion access a state rather than federal issue

One form of conflict arose between the states and the federal government over what types of grants should be used for particular policies or programs. States and localities favored federal grants with fewer strings. Congress and the president often favored putting tight guidelines on federal money because this allowed them to take a greater share of the credit for the benefits of federal spending.

Perhaps the most important dimension of the politics of grants-in-aid, however, was the federal government's increasing desire to use its purse strings to pressure states and localities into adopting particular policies and laws. Beginning in the 1960s and 1970s, cooperative federalism began a new, more coercive era with the rise of ever more stringent grant conditions. These included **crosscutting requirements**, or strings that applied to all federal grants. For example, one requirement a state or locality must meet to receive virtually any federal government grant is an assessment of the environmental impact of the proposed program or policy. Accordingly, most state and local governments began writing—and defending—environmental impact statements for any construction project that involved federal funds.

The federal government also began applying **crossover sanctions**. Crossover sanctions are strings that require grant recipients to pass and enforce certain laws or policies as a condition of receiving funds. One example is the drinking age. As a condition of receiving federal highway funds, the federal government requires states to set 21 as the minimum legal age for drinking alcohol.

Increasingly, the strings came even if there were no grants. State and local governments were issued direct orders, essentially were commanded, to adopt certain laws or rules, such as clean-water standards and minimum-wage laws.[8] These **unfunded mandates** became a particular irritant to state and local governments. Even when there was broad agreement on the substance of a mandate, subnational governments resented the federal government's taking all the credit while leaving the dirty work of finding funds and actually running the programs to the states and localities.

Congress eventually passed a law banning unfunded mandates in the mid-1990s, but it is full of loopholes. For example, the law does not apply to appropriations bills—the laws that actually authorize the government to spend money. The National Conference of State Legislatures estimated that between 2004 and 2008, the federal government shifted $131 billion in costs to the states in unfunded mandates.[9]

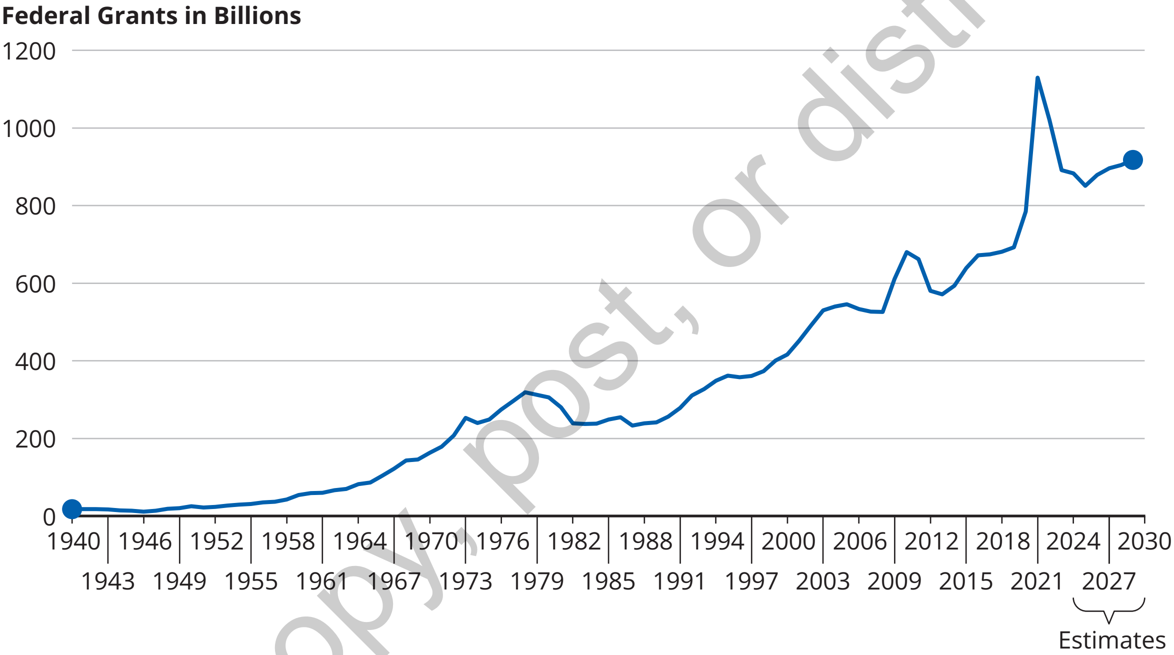
New Federalism (1980–2002)

Centralized federalism's shift of power toward the national government always faced opposition from states' rights advocates, who viewed the growing influence of the national government with alarm. By the end of the 1970s, centralized federalism also was starting to face a practical crisis—the federal government's revenues could not keep up with the demand for grants. With the election of Ronald Reagan in 1980, the practical and ideological combined to create pressure for a fundamental shift in state and federal relations.

Reagan was not the first president to raise concerns about the centralization of power in the national government. A primary reason for Nixon's support of general revenue sharing, for example, was the attraction of giving states more flexibility by cutting the strings attached to federal grants. It was not until Reagan, however, that a sustained attempt was made to reverse the course of centralized federalism. Reagan believed the federal government had overreached its boundaries, and he wanted to return power and flexibility to the states. At the core of his vision of state-centered **New Federalism** was the desire to reduce federal grants-in-aid. In return, states would be given more policymaking leeway with the money they did get through **block grants**.

Reagan's drive to make this vision a reality had mixed success. The massive budget deficits of the 1980s made cutting grants-in-aid a practical necessity. We can see this in Figure 2.5, which shows federal government grants to state and local governments in billions of constant dollars from 1940 through 2029. There was a clear upward trend beginning in the 1960s that peaked in about 1978. After that, federal grants to states stayed relatively constant for about a decade—while the federal government was not really drastically cutting grants in the 1980s, in real terms it did not increase them either. At least for a while, the federal government managed to rein in the grant dollars flowing to states and localities. Reducing the federal government's influence over states and localities turned out to be another matter.

Figure 2.5 ▪ Federal Grants to States, 1940–2029 (in billions of constant 2017 dollars)



Source: U.S. Office of Management and Budget, *Budget of the United States*, Historical Tables, Table 12.1, "Summary Comparison of Total Outlays for Grants to State and Local Governments: 1940–2029 (in Current Dollars, as Percentages of Total Outlays, as Percentages of GDP, and in Constant [FY 2017] Dollars)," https://www.govinfo.gov/app/details/BUDGET-2025-TAB/BUDGET-2025-TAB-13-1?.

Note: Total outlays include off-budget outlays; however, all grant outlays are from on-budget accounts.

Reagan, like many conservatives, was a modern heir to a states' rights perspective that dated back to the Anti-Federalist movement. This means he believed that government should be as close to the voters as possible—in the city hall or the state capitol—rather than far away in Washington, D.C. Yet believing that government should be closer to the people in the abstract is far different from putting that belief into practice. Taking power from the federal government did advance a core philosophical belief of the Reagan administration, but it also created problems for Reagan supporters, who were not shy about voicing their displeasure.

Such core conservative constituencies as business and industry quickly realized that dealing with a single government was much less of a headache than dealing with 50 governments. They almost immediately began to put counterpressure on the movement toward expanded state policymaking authority. The result was something of a push and pull, with the Reagan administration trying to shove power onto the states with one set of legislative priorities and yank it back to the federal government with another. Ultimately, Reagan did succeed in cutting grants-in-aid. He consolidated 57 categorical grants into 9 new block grants. General revenue sharing and another 60 categorical grants were eliminated entirely. This reduced the amount of money sent to the states while increasing the states' ability to act independently.[10] Yet Reagan also engaged in a number of fairly aggressive preemption movements and backed a number of unfunded mandates. This reduced the independence of states and forced them to fund programs they did not necessarily support.

The seeds of New Federalism had a hard time taking root at the national level, but the roots sank fast and sank deep at the state and local levels. States were caught between the proverbial rock of a cash-strapped federal government and the hard place of the demand for the programs traditionally supported by federal funds. They slowly and often painfully worked themselves out of this dilemma by becoming less reliant on the federal government. States began aggressively pursuing innovative policy approaches to a wide range of social and economic problems. By the 1990s, as one author puts it, there was "a developing agreement among state and national political elites that states should have greater authority and flexibility in operating public programs."[11]

The effort to take power away from the federal government and give it to the states was broadly supported by public opinion, as polls consistently showed that Americans placed more trust in state and local governments than they did in the federal government.[12] In the 1990s, the Bill Clinton administration championed the idea of devolution, an extension of New Federalism that sought a systematic transition of power from the federal to the state level in certain policy areas.

Like its parent, New Federalism, the devolution revolution faced strong resistance, often from an old enemy. Conservatives, at least rhetorically, still were the strongest states' rights advocates. Yet when states' rights conflicted with key portions of the conservative political agenda, conservative groups fought tenaciously for federal supremacy over the states, just as they had during the 1980s. An example of this contradictory behavior is the 1996 Defense of Marriage Act, which was a reaction to states taking the first steps toward legalizing same-sex marriages. Under the full faith and credit clause of the Constitution, a contract—including a marriage contract—made under the laws of one state is legally recognized and binding in all states. This precipitated a strong push from many traditional states' rights advocates for the federal government to, in essence, grant states exceptions from their full faith and credit obligations. The Defense of Marriage Act did this. It also put the federal government into the business of defining what constitutes a marriage, an area traditionally left to the states.[13]

While there was a clear philosophy of government underpinning New Federalism, the bottom line is that practice frequently diverged from that theory in specifics. Ben Nelson, governor of Nebraska during the 1990s—supposedly part of the New Federalism era—is said to have joked at the time that he didn't know whether he was the chief executive of a sovereign state or a branch manager for the federal government.[14]

Ad Hoc Federalism (2002–Present)

For a variety of reasons, even a theoretical commitment to New Federalism, at least at the federal level, more or less dissolved entirely by the end of the administration of President George W. Bush. Circumstances and policy priorities led Bush, initially a champion of pushing power, away from Washington, D.C., to advocate for greater federal authority in a number of policy areas, such as education, traditionally dominated by states.[15] Federal–state relations, however, did not shift from a commitment to devolution to a commitment to centralizing power in Washington, D.C. What happened was that a principled guiding philosophy of state–federal relations—such as dual federalism, cooperative federalism, or New Federalism—was simply abandoned. Instead a new, more partisan or ideologically based approach to state–federal relations came to the fore, an approach described as **ad hoc federalism**.[16] Ad hoc federalism is the process of choosing a state-centered or nation-centered view of federalism on the basis of political or partisan convenience. As one review of federal–state government relations put it, "In practice, federalism in the current political environment is largely a tool used to help justify the maintenance or pursuit of favored policy outcomes."[17]

The rise of ad hoc federalism is explained at least partly by the nationalization of party politics. Historically, national political parties were little more than confederations of state party organizations, and that decentralized party structure meant that Democrats in Texas might have more in common with Republicans in New York than Democrats in California. These days, that's hard to imagine. In the past couple of decades, party polarization has gone national, with Republicans and Democrats at all levels of government aligning themselves with consistent and opposing ideological agendas. As a number of scholars have noted, one result is that it is now not uncommon for members of Congress to vote the interests of their party over the interests of their constituents, and for candidates competing for state and local offices to run on issues aligned with national party positions.[18] The nationalization of party politics, and the sorting of the political parties into opposing ideological camps, has big implications for federalism.

For one thing it makes it hard for the federal government to do anything. Congress gets deadlocked as the party out of power takes advantage of the system's many veto points to make things difficult for the majority party. National policymaking, and federal–state relations generally, becomes increasingly centered on the administrative powers of the presidency. As bitter partisan divisions gridlock Congress, presidents become increasingly reliant on executive orders and their bureaucratic rulemaking authority to advance their domestic agendas. Yet because executive orders and bureaucratic rules are not laws, the policy goals they champion can change drastically depending on who is president. This can create a whiplash effect. For example, faced with congressional inaction Barack Obama pushed the Environmental Protection Agency to use its regulatory powers to fight climate change. Donald Trump pushed the EPA to roll back those same regulations. Trump's successor, Joe Biden, focused on the traditional lawmaking route to advance his policy agenda and, though it took some protracted wrangling, did manage to persuade Congress to act on some of his big legislative priorities. Even so, this did little to slow the use of the administrative tools Obama and Trump had relied on. Biden issued more executive orders during his first year in office than Trump or Obama.[19] With Congress unable or unwilling to pass laws and thus impose nationwide consistency on key policy questions, states enthusiastically championed or doggedly fought such presidential initiatives based on the ideological and partisan makeup of their governments.[20]

Having ideologically divided, nationally centered political parties running a highly decentralized federal system thus means that state governments frequently put up strong resistance to the policy preferences of the White House. Underlying those differences is not a genuine philosophical difference over whether the federal or state governments have policy jurisdiction over this or that issue, but ideological and partisan differences between the two levels of government. The end result can be somewhat chaotic as states try to go in different policy directions at the same time. The bare-knuckle ideological brawling characteristic of ad hoc federalism certainly makes it more difficult to mount comprehensive and coherent policy responses to big national problems.

A good example is the piecemeal governmental approach to the COVID-19 pandemic that occurred in the United States. State and federal governments repeatedly clashed over what to do and/or what not to do to address the pandemic, disagreements that were often anchored in partisan differences and ended up politicizing a massive public health problem. President Trump openly feuded with governors who complained about inconsistent and ineffective federal action to address the crisis—particularly Democratic governors like Jay Inslee of Washington and Gretchen Whitmer of Michigan, who were pushing for an aggressive response to the pandemic.[21] More Trump-aligned states like Texas and Florida ended up taking a much less aggressive approach. For example, Texas Governor Greg Abbott took action to ban vaccine mandates in his state, which prevented companies from requiring their employees to get a COVID-19 shot.[22] The COVID-19 pandemic was arguably the biggest economic, social, and political challenge faced by the United States since World War II, and ad hoc federalism contributed to a response that was disjointed and made less effective partisan divisions.

The pandemic highlighted conflict with the federal system, but serious as it was, that conflict was more a symptom than a cause. States at partisan odds with federal government initiatives are increasingly geared to resist compliance and assert their independence to follow paths more ideologically pleasing to state government. That sort of conflict is also having a trickle-down effect. As ideological and partisan divides have widened over culture wars and policy disagreements, voters who are not in tune with whatever flavor of political beliefs are championed by state governments sometimes end up feeling like strangers in their own land. Indeed, some are uncomfortable enough that they move to another state where they hope to find the politics more to their liking (see the feature "A Difference That Makes a Difference: Red State, Blue State . . . You State, Me State?"). In other words, ad hoc federalism is not just promoting policy incoherence at the national level and increasing conflict between states and the federal government. One of the by-products is that it seems to be encouraging people—not just states—to geographically sort themselves along ideological lines.

The COVID-19 pandemic provided a dramatic example of ad hoc federalism. State and federal governments repeatedly clashed over the best response to the public health crisis, clashes that quickly aligned along partisan lines.

Sean M. Haffey/Getty Images

A Difference That Makes a Difference: Red State, Blue State . . . You State, Me State?

One of the most politically consequential aspects of federalism is the blue state–red state phenomenon. This term is perhaps most commonly employed in reference to presidential voting patterns: Some states reliably, election cycle after election cycle, vote for the Republican candidate (red states), while others just as reliably vote for the Democratic candidate (blue states).

This fact, obviously, has enormous consequences for who ends up in the White House. For example, California hasn't voted for a Republican presidential candidate since 1988. Texas hasn't voted for a Democratic presidential candidate since 1976. The number of states that are actually competitive in a given presidential race—so-called swing states—amount to no more than six or seven. It is in that handful of states where the electoral fates of White House hopefuls are decided.

The red state–blue state divide, though, is increasingly having an impact within states. As of 2023, 28 legislatures were under the unified control of Republicans, and

20 under unified Democratic control. In the vast majority of states—39 to be precise—a single party controlled the legislature and the governor's office. Statistically speaking, that meant in 2023 you were much more likely to be in a state where one party is dominant than in one where the parties split control of the state government.

What does all this have to do with the red state–blue state divide? Well, if you are a progressive Democrat in California or a conservative Republican in Texas, probably nothing because there's a decent chance that state government reflects your partisan and ideological preferences. But what if you are a conservative Republican in California or a progressive Democrat in Texas? In that case you might have a very different view of state government. You are a red voter in a blue state, or a blue voter in a red state. There's a greater chance here that the political environment makes you feel uncomfortable. And you may feel uncomfortable enough to consider moving to where your personal political colors better match those of the state.

There are signs that Americans are increasingly relocating not just for better job opportunities, cheaper housing, nicer weather, or a good school. They are upping the stakes to find places that are more compatible with their politics. For example, Texas and Florida have good weather, lots of jobs, good schools, and a relatively affordable cost of living. Real estate agents in these states, though, report some people are moving because they are uncomfortable with things like the state government's approach to abortion or LGBTQ issues. Those same real estate agents, though, also report others are moving in at least in part because they feel more comfortable with the conservative, family values approach championed by those same state governments.

In some ways this all just represents federalism working as intended. Remember, one of the arguments favoring federalism is its ability to let state governments have a measure of independence, the freedom to fashion laws and policies that respond to the particular concerns and interests of their citizens. The big potential downside is that this may also make it harder for the system as a whole to function. Why? Because it will increase conflict between the federal government and states who resist the former's initiatives that are not in tune with their interests. Those divisions will only harden if voters also start geographically sorting themselves in blue or red states.

To some extent fears about the red state–blue state divide are blown out of proportion. There are still lots of Democrats in the reddest of red states, and lots of Republicans in the bluest of blue states. Most states, in other words, are more accurately described as some shade of purple and are in little danger of becoming a starkly uniform hue of blue or red. Yet it's also clear that at least some people are willing to move because they are so uncomfortable with the overwhelmingly red-ish or blue-ish political environments created by their state governments. The bottom line is that these different political environments make for a powerful difference, powerful enough to make some people up the stakes and look for a more compatible political home within the federal system.

Sources: National Conference of State Legislatures, "2023 State & Legislative Partisan Composition," November 28, 2023, https://documents.ncsl.org/wwwncsl/About-State-Legislatures/2023-November-State-Legislative-Partisan-Composition-11-28-23.pdf; Suzanne Blake, "Political Tensions Lead Some Americans to Move to Other States," *Newsweek*, February 7, 2024, https://www.newsweek.com/americans-moving-relocating-political-reasons-1867856.

The Supreme Court: The Umpire of Federalism

Article VI of the Constitution contains the national supremacy clause, which declares that the Constitution, laws passed by Congress, and national treaties are the "supreme law of the land." This does not mean that the states are always subordinate to the national government. Don't forget—the Tenth Amendment also counts as part of that supreme law. However, it does mean that federal courts often have to referee national–state conflicts. Because it has the final say in interpreting the Constitution, the Supreme Court is, in effect, the umpire of federalism. Its rulings ultimately decide the powers and limitations of the different levels of government.

The Rise of Nation-Centered Federalism on the Court

Throughout U.S. history, the Supreme Court has cycled through trends of state-centered and nation-centered philosophies of federalism. As we have already seen, the early Supreme Court under Chief Justice John Marshall pursued a fairly broad interpretation of the federal government's powers in such cases as *McCulloch v. Maryland*. Marshall's successor, Roger Taney, took the Court in a more state-centered direction by establishing dual federalism as the Court's central operating philosophy. The shift from dual federalism to cooperative federalism required a return to a more nation-centered judicial philosophy. Although the Court initially took a more nation-centered direction in its rulings following the Civil War, it was not until the Great Depression and Roosevelt's New Deal that a decisive tilt in the Court's rulings cleared the way for the rise of cooperative federalism and the centralization of power in the national government.

The shift toward a liberal interpretation of the federal government's powers dominated the Supreme Court's operating philosophy for much of the next 60 years and is exemplified by its decision in *United States v. Darby Lumber Co.* (1941). The substantive issue at stake in this case was whether the federal government had the power to regulate wages. The Supreme Court said yes, but the decision is of more lasting interest because of the majority opinion's dismissive comment on the Tenth Amendment. Once considered the constitutional lockbox of state power, the amendment, according to the Court's ruling, now did little more than state "a truism that all is retained which has not been surrendered." In other words, the Tenth Amendment was simply a basket for the "leftover" powers the federal government had not sought or did not want.

During and after the New Deal era, the Supreme Court also accelerated a trend of broadly interpreting Congress's powers to regulate interstate commerce. It did this through its interpretation of the **interstate commerce clause**. In *Wickard v. Filburn* (1942), the Court ruled that the clause gave Congress the power to regulate what a farmer could feed his chickens. The case involved an Ohio farmer, Roscoe Filburn, who was growing more wheat than allowed under federal production limits. He wasn't selling the excess wheat; he was feeding it to his chickens. The Court reasoned that this reduced the amount of chicken feed Filburn needed to buy on the open market, and because that market was an interstate market, which meant interstate commerce, Congress could regulate what Filburn was doing. In *Heart of Atlanta Motel v. United States* (1964) and *Katzenbach v. McClung* (1964), the justices ruled that this clause gave Congress the power to regulate private acts of racial discrimination. These cases involved the owners of a motel and a restaurant, respectively, who wanted to refuse service to Black people. The Court ruled that these businesses served interstate travelers, and that was interstate commerce, so Congress had the power to force them to obey federal antidiscrimination laws.

A series of such decisions over the course of more than 50 years led some judicial scholars to conclude that the Supreme Court had essentially turned the concept of enumerated and reserved powers on its head. In effect, the assumption now seemed to be that the federal government had the power to do anything the Constitution did not specifically prohibit.[23] The states and localities were drawn ever closer into roles as subordinate satellites in orbit around the federal government. This situation continued until just before the end of the 20th century. At that point, the Court once again began siding with the states over the federal government.

A Tenth Amendment Renaissance or Ad Hoc Federalism?

By the mid-1990s, the Supreme Court was dominated by justices appointed by New Federalists. Reagan, who had campaigned on his intention to nominate federal judges who shared his conservative philosophy, appointed four. He also elevated a fifth, William Rehnquist—originally appointed as an associate justice by Nixon—to the position of chief justice. Reagan's vice president and presidential successor, George H. W. Bush, appointed two more justices. The end result was a mid-1990s Supreme Court chosen largely by conservative Republican presidents who wanted limits set on the federal government's powers and responsibilities. The justices obliged.

In a series of narrow (mostly 5–4) decisions in the 1990s, the Court began to back away from the nation-centered interpretation of the Constitution that had dominated its rulings during the era of cooperative federalism (see Table 2.3). *United States v. Lopez* (1995) was a significant victory for states' rights and a clear break from a half-century of precedent. This case involved the Gun-Free School Zones Act of 1990, which made it a federal crime to possess a firearm within 1,000 feet of a school. Following a good deal of precedent, Congress justified its authority to regulate local law enforcement by using a very liberal interpretation of the interstate commerce clause, the basic argument being that the operation of public schools affected interstate commerce, so the federal government had the constitutional authority to ban guns near schools. The Supreme Court disagreed and argued that the commerce clause granted no such authority.

Table 2.3 ▪ Key U.S. Supreme Court Rulings Regarding Federalism, 1995–2022

Case	Decision
United States v. Lopez (1995)	Court strikes down a federal law prohibiting possession of firearms near public schools. First time since World War II that Court placed limits on Congress's powers under the interstate commerce clause.
Seminole Tribe of Florida v. Florida (1996)	Court rules Congress cannot allow citizens to sue states in a federal court except for civil rights violations. State claim upheld.
Printz v. United States (1997)	Court strikes down a federal law requiring mandatory background checks for firearms purchases. State claim upheld.
Alden v. Maine (1999)	Court rules that Congress does not have the power to authorize citizens to sue in state court on the basis of federal claims. State claim upheld.
United States v. Morrison (2000)	Court strikes down the federal Violence Against Women Act. State claim upheld.
Reno v. Condon (2000)	Court upholds a federal law preventing states from selling driver's license information. State claim overturned.
Bush v. Gore (2000)	Court overrules a Florida Supreme Court action allowing hand recounts of contested election ballots. State claim overturned.
Alabama v. Garrett (2001)	Court rules that state employees cannot sue their employers in federal court to recover monetary damages under the provisions of the Americans with Disabilities Act. State claim upheld.
Lorillard Tobacco Co. v. Reilly (2001)	Court strikes down Massachusetts laws regulating the advertising of tobacco products. State claim overturned.

(Continued)

Table 2.3 ▪ Key U.S. Supreme Court Rulings Regarding Federalism, 1995–2022 (*Continued*)

Case	Decision
Kelo v. City of New London (2005)	Court rules that government can seize private property for public purposes, including economic development. State claim upheld.
Gonzales v. Raich (2005)	Court rules that federal laws outlawing marijuana possession can be upheld by federal law enforcement officers in states where medical marijuana has been legalized. State law enforcement groups, however, do not have to participate in federal efforts to seize marijuana.
Gonzales v. Oregon (2006)	Court rules that the U.S. attorney general overstepped his authority by threatening to eliminate prescription-writing privileges for doctors who follow state law allowing physician-assisted suicide. State claim upheld.
Arizona v. United States (2012)	Court rules that states do not have the authority to enact and enforce immigration laws; however, it allows states to implement "show me your papers" regulations that require law enforcement officers to determine the immigration status of anyone they stop or detain.
National Federation of Independent Business v. Sebelius (2012)	Court rules that the federal government can require individuals to purchase health insurance and that doing so does not violate powers reserved to the states under the Tenth Amendment.
Environmental Protection Agency v. EME Homer City Generation (2014)	Court rules that the Environmental Protection Agency can regulate greenhouse gas emissions over the opposition of state governments.
Rucho v. Common Cause (2019)	Court rules that federal courts cannot review challenges to partisan gerrymandering by states.
Dobbs v. Jackson Women's Health Organization (2022)	Court overturns constitutional right to abortion access, effectively making the right to choose a matter of state law rather than a constitutionally protected right.

The justices used similar reasoning in *United States v. Morrison* (2000) to strike down the Violence Against Women Act. Congress had passed this law in 1994 out of concern that the states, although having primary responsibility for criminal law, were not adequately dealing with the problem of violence against women. The key provision of the act gave assault victims the right to sue their assailants in federal court. Congress argued that it was authorized to pass such a law because fear of violence prevented women from using public transportation or going out unescorted at night. Such fears, the reasoning went, placed limits on economic opportunities for women. This argument made the connection to commerce and Congress's constitutional authority, but the Supreme Court rejected this broad interpretation of the commerce clause.

At the same time it was narrowly interpreting the Constitution to limit federal power, the Supreme Court after 1990 began to interpret the Constitution broadly to expand state power. Notably, the Court made a series of rulings that broadly interpreted the Eleventh Amendment's guarantee of **sovereign immunity** to the states. Sovereign immunity is essentially "the right of a government to be free from suits brought without its consent."[24] In cases such as *Seminole Tribe of Florida v. Florida* (1996) and *Alden v. Maine* (1999), the Supreme Court adopted an interpretation of the Eleventh Amendment that limited the right of citizens to sue states for violations of federal law. These rulings not only lessened the power of the federal government over the states but also arguably gave the states more power over their own citizens.

Although these and other rulings resurrected the Tenth Amendment and underlined the independent power of the states, there has been an element of inconsistency to Supreme Court decisions since 1990. In *Bush v. Gore* (2000), the Court abandoned its commitment to states' rights by overruling the Florida Supreme Court and ordering a halt to the contested recount of presidential ballots. Democratic presidential nominee Al Gore indisputably won the popular vote in 2000, but the outcome of the presidential election was decided by Florida's electoral votes. Gore and Bush ran neck and neck in this state, the decision so close that a series of controversial and hotly contested recounts were undertaken with the approval of the Florida courts. In effect, the U.S. Supreme Court overturned the state court's interpretation of state law—which allowed the recounts—and decided the presidency in favor of George W. Bush. Another decision that favored federal power over state power came in *Lorillard Tobacco Co. v. Reilly* (2001). Here, the Court overturned a Massachusetts law that regulated the advertising of tobacco products. The Court argued that federal law—specifically, the Federal Cigarette Labeling and Advertising Act—legitimately preempts state law on this issue.

The Court also trumped 10 states that had legalized the use of marijuana for medical purposes. In *Gonzales v. Raich* (2005), the Court, led by its more liberal justices, ruled that federal law enforcement officers, prosecutors, and judges can prosecute and punish anyone possessing marijuana. This ruling is interesting because, while it upheld federal laws, it did not overturn state laws and left state and local officials free not to participate in any federal efforts to seize medical marijuana.[25] Just six months later, however, the Court upheld a state law related to serious illnesses when it ruled in *Gonzales v. Oregon* (2006) against the federal government's challenge of Oregon's law that allows physician-assisted suicide. In recent years, the Court has reviewed a number of preemptions of state law on everything from banking regulation to labor arbitration, and, for the most part, it has sided with federal authority.[26]

This was certainly the case in the Court's 2012 landmark ruling in *National Federation of Independent Business v. Sebelius*, which bitterly disappointed many conservatives. This case decided the federal government's power to enact the Patient Protection and Affordable Care Act, in particular the federal government's authority to require individuals to purchase health insurance. Chief Justice John Roberts, appointed by President George W. Bush and typically seen as a member of the Court's conservative bloc, surprised many by voting with the more liberal justices to affirm that power. Yet in another landmark case decided the same year, the Court put caveats on federal supremacy. In *Arizona v. United States* (2012), the Supreme Court essentially ruled that only the federal government has the power to set immigration policy but affirmed that states have the right to check the immigration status of people within their borders. In other words, the Court sort of split the difference between state and federal claims to power. Similarly, the Court in 2014 ruled in *Environmental Protection Agency v. EME Homer City Generation* that the federal EPA could regulate major producers of greenhouse gas emissions—something opposed by coal-producing states—but then in 2016 issued an order that blocked the Obama administration's attempts to implement such regulations.

More recently, in *Rucho v. Common Cause* (2019) the Court controversially ruled that the federal courts cannot review allegations of partisan gerrymandering, or the process of redrawing political districts to achieve a partisan advantage (see Chapter 7). Every 10 years following the decennial census, states are obligated to redraw the nation's political geography by setting the boundaries of legislative districts for the U.S. House of Representatives and for state legislative seats. This helps ensure districts are equally apportioned—that is, they contain roughly equal numbers of people. Redistricting, though, is also an opportunity to press a partisan advantage. State legislatures do most of the redistricting, and it is always tempting for a majority party to slice and dice boundary lines to favor their candidates. Following 2010 a number of states—including

Wisconsin, Texas, and North Carolina—produced maps considered so egregiously gerrymandered they prompted lawsuits claiming that state governments were deliberately seeking to constrain the voting rights of citizens who supported the minority party. It is hard to underestimate the importance of this issue: If states have the power to engage in unbridled gerrymandering, they can influence who wields political power at the national as well as state level. In the *Rucho* ruling, the Supreme Court effectively said that's a state prerogative if they want to pursue it. States can (and do) put their own constraints on such activities, but in essence it's not something the federal government is going to interfere in. Through their redistricting powers states, in short, can seek to deliberately influence the partisan and ideological balance of power at the national as well as state level.

Even more controversial than the *Rucho* ruling was the Supreme Court's explosive 2022 decision to overturn the constitutional right to an abortion established by *Roe v. Wade* (1973). In *Dobbs v. Jackson Women's Health Organization*, a Supreme Court ideologically tilted to the right ruled that *Roe* was incorrectly decided and that the Constitution conferred no such right. The decision was seen as an enormous victory for antiabortion supporters, who had long pressed Republican presidents to appoint justices skeptical of *Roe*. This decision was (and is) also hugely controversial because, whatever the pros and cons of the judicial reasoning underpinning *Roe*, retracting a constitutional right is not something that can be done without kicking off a political firestorm. And that's pretty much what *Dobbs* has done. The *Dobbs* ruling effectively left the legality of abortion up to the states. In response, states such as California steadfastly maintained legal access to abortion. Other states had laws on the books that outlawed abortion the minute it was constitutionally permitted. The upshot is that thanks to the Supreme Court legal access to an abortion is now dependent on geography, and states have primary policy authority over one of the most fought-over and contentious issues of the culture wars.

As of 2024, 21 states either banned abortion or placed tighter restrictions on the procedure than those allowed under *Roe*.[27] Abortion has gone from a largely settled constitutional issue to the center of bruising battles within and across state lines, and a prominent and divisive issue in state and federal elections. Those battles inevitably include sharp disagreements over what state abortion regulations are or are not constitutionally permitted. Rather than simply devolving abortion policy to the states, post-*Dobbs* the Supreme Court has found itself refereeing more and more conflicts over what state abortion regulations are or are not constitutionally allowed. For example, in *Moyle v. United States* (2024), the Court upheld a lower court decision preventing Idaho from enforcing a ban on abortion in cases of medical emergencies. In another 2024 case, *FDA v. Alliance for Hippocratic Medicine*, the Court essentially declined to hear the merits of an argument challenging the Food and Drug Administration's approval of the abortion drug mifepristone. Though both decisions were a blow to abortion opponents, in neither case did the Supreme Court issue any sort of definitive ruling. In other words, there is an extremely good chance the Supreme Court will be revisiting disagreements over state abortion regulations in the future.

The bottom line is that over the past few decades the Supreme Court has sometimes zigged and sometimes zagged on state–federal relations, sometimes backing states' rights and sometimes backing federal supremacy. Some scholars argue that these sorts of inconsistencies have always been characteristic of the Supreme Court's federalism rulings and should not be surprising in an era of ad hoc federalism. Ideology—not a firm commitment to a particular vision of state–national relations—is what ultimately decides how a justice rules in a particular case.[28] Therefore, a Court dominated by conservative appointees will occasionally depart from the state-centered notion of federalism if a nation-centered view is more ideologically pleasing, whereas a Court dominated by liberal appointees will do the opposite. The Supreme Court, like the president, finds it hard to resist the temptations of ad hoc federalism.

Conclusion

The Constitution organizes the United States into a federal political system. This means that the states are powerful independent political actors that dominate important policy areas. Many of these policy areas are those with the most obvious and far-reaching roles in the day-to-day lives of citizens. Education, law enforcement, utility regulation, and road construction are but a handful of examples. The independence states are granted under the federal system allows them broad leeway to go their own way in these and many other policy areas.

The resulting variation has advantages, such as making it easier to match local preferences with government action and allowing states and localities to experiment with innovative programs and policies. There are also disadvantages. These include the complexity and difficulty in coordinating policy at the national level, a disadvantage made glaringly clear by the mixed and sometimes ineffective response to the coronavirus crisis of 2020. Regardless, the bottom line is that the interests of state and national governments overlap in many areas. Because of this and because the Constitution does not clearly resolve the question of who has the power to do what in these arenas of shared interest, conflict is inevitable.

What is the future of federalism? That is a hard question to answer because across the partisan and ideological spectrum there is less commitment to any overarching philosophy of federalism. Dual, cooperative, and centralized federalism are history. New Federalism had largely run its course by the end of the George W. Bush administration. What has emerged since then is ad hoc federalism, with views on which level of government has primacy shifting from policy to policy on the basis of partisan and ideological preferences. Liberals and conservatives champion federal supremacy if doing so advances their political agenda, and they champion states' rights if that better serves those same interests. That highlights and exacerbates ideological divides, lumping states—and sometimes even voters—into red state–blue state tribal loyalties. The era of ad hoc federalism is certainly one of fractured state–federal relations, dominated at the federal level by the administrative powers of the president rather than the lawmaking powers of Congress. It is characterized by partisan and ideological conflict between and within different levels of government. In many cases, these conflicts will likely have to be resolved by the Supreme Court.

The Latest Research

The following are summaries of some of the most recent research on federalism. A constant theme among the latest scholarship continues to be federal–state relations characterized by partisan and ideological differences.

- **Bromley-Trujillo, Rebecca, and Paul Nolette.** "The State of American Federalism 2022–23: Escalating Culture Wars in the States." *Publius: The Journal of Federalism* 53, no. 3 (2023): 325–48.

This is *Publius*'s annual survey of the current state of federalism in the United States. Bromley-Trujillo and Nolette report contemporary federalism is characterized by political polarization that fuels partisan conflict and escalates the culture wars. State and federal governments find themselves feuding over reproductive rights, education, gun control, and much more. These conflicts have become particularly intense over such issues as transgender rights, book bans, and the broad role of "parental rights" in K–12 educational policy. As both political parties often field electoral candidates championing one camp or the other in these cultural battles, there are few signs this sort of conflict is going to decrease in the foreseeable future.

- **Kettl, Donald F.** *The Divided States of America.* Princeton University Press, 2020.

Kettl is one of the nation's most preeminent policy scholars, and in this book he undertakes a comprehensive analysis of the evolution of federalism. A central question Kettl examines is how a power-sharing system originally designed to unite has ended up promoting division and conflict. He argues this is at least partly because federalism bakes inequality into the American political system. The quality and quantity of public services clearly differs—sometimes drastically—between states. And that means a given individual's ability to access things like quality education and health care is tied to what state they live in. Some are better off than others, in other words, because of which state they live in. These are differences that make a powerful difference to quality of life. And, according to Kettl, those same differences also lead to instability in the political system. Federalism has to make changes, Kettl argues, to deal with that instability

- **Grumbach, Jacob.** *Laboratories Against Democracy.* Princeton University Press, 2022.

This book examines the impact of nationalized political parties on state politics. Specifically, Grumbach argues that the subnational institutions of state government have increasingly become conduits of national political conflict, mainly because the parties that control those institutions are less focused on regional concerns and more beholding to the political agendas at the heart of partisan conflict at the national level. One consequence of these trends is a widening red state–blue state divide, with states controlled by different partisan teams going in very different directions on a wide range of policy issues. This mismatch between increasingly centralized parties exerting control over a highly decentralized system, Grumbach argues, is potentially dangerous. It means rather than reducing conflict by pushing government closer to the people, states are replicating and exacerbating national divisions.

Top Ten Takeaways

1. A unitary political system concentrates power in a single central government. Confederal systems concentrate power in regional governments. In federal systems, power and policy responsibilities are divided between central and regional governments.
2. The framers of the U.S. Constitution chose a federal system for several reasons. Their experience with the confederal system under the Articles of Confederation convinced them of the need for a more powerful central government. Their experience under a unitary system—as colonies of the United Kingdom—made that option unpalatable to many.
3. A federal system also fit with the framers' preferences for division of powers and allowed states to retain sovereign powers.
4. Federalism has advantages and disadvantages. For example, it allows policy experimentation by the states, but it also creates legal and political complexity and confusion.
5. Federal–state division of powers is governed by the U.S. Constitution. While the Constitution provides a number of explicit grants of power to the federal government, powers of the states are vaguer and are derived in large part from the Tenth Amendment.

6. Disagreements about which level of government has the power and authority to do what inevitably lead to conflicts between state and local governments. These conflicts ultimately have to be resolved by the Supreme Court.
7. Relationships between state and federal governments have evolved considerably, being characterized by dual federalism initially and by cooperative and centralized federalism for much of the last century. This evolution generally shifted power toward the federal government.
8. The New Federalism movement of the late 20th century sought to push power away from the federal government and back to the states.
9. Current state–federal government relations are characterized by ad hoc federalism, where political actors favor state power or federal power based on the issue and their own political preferences.
10. After signaling a return to supporting states' rights in the 1990s, Supreme Court rulings have been inconsistent in the 21st century, favoring state authority in some cases and federal authority in others.

Key Concepts

Ad hoc federalism
Bill of Rights
Block grants
Categorical grants
Centralized federalism
Compact theory
Concurrent powers
Confederacy
Cooperative federalism
Crosscutting requirements
Crossover sanctions
Dual federalism
Enumerated powers
Exclusive powers
Federalism
Fourteenth Amendment
Full faith and credit clause
General revenue sharing grants
General welfare clause
Grants-in-aid
Implied powers
Interstate commerce clause
National supremacy clause
Nation-centered federalism
Necessary and proper clause
New Federalism
Nullification
Preemption
Privileges and immunities clause
Representative government
Secession
Sovereign immunity
State-centered federalism
States' rights
Tenth Amendment
Unfunded mandates
Unitary systems

Discussion Questions

1. Imagine if the political system of the United States was reorganized as a unitary system. What would politics and government look like under this system? How and in what ways would it be different from the current federal system? Would those differences make governance and politics better or worse in the United States? Why or why not?

2. List what you think are the three biggest advantages and three biggest disadvantages of federalism. Do the advantages on your list outweigh the disadvantages, or vice versa? What, specifically, justifies your answer?
3. Consider the various types of federalism that have existed. Pick one of these models to exemplify the best approach to state–federal relations, and pick one of these models as the approach to state–federal relations to avoid if at all possible. How would you try to convince the Supreme Court why your favored choice does a better job of structuring state–federal relations than your least favored choice?