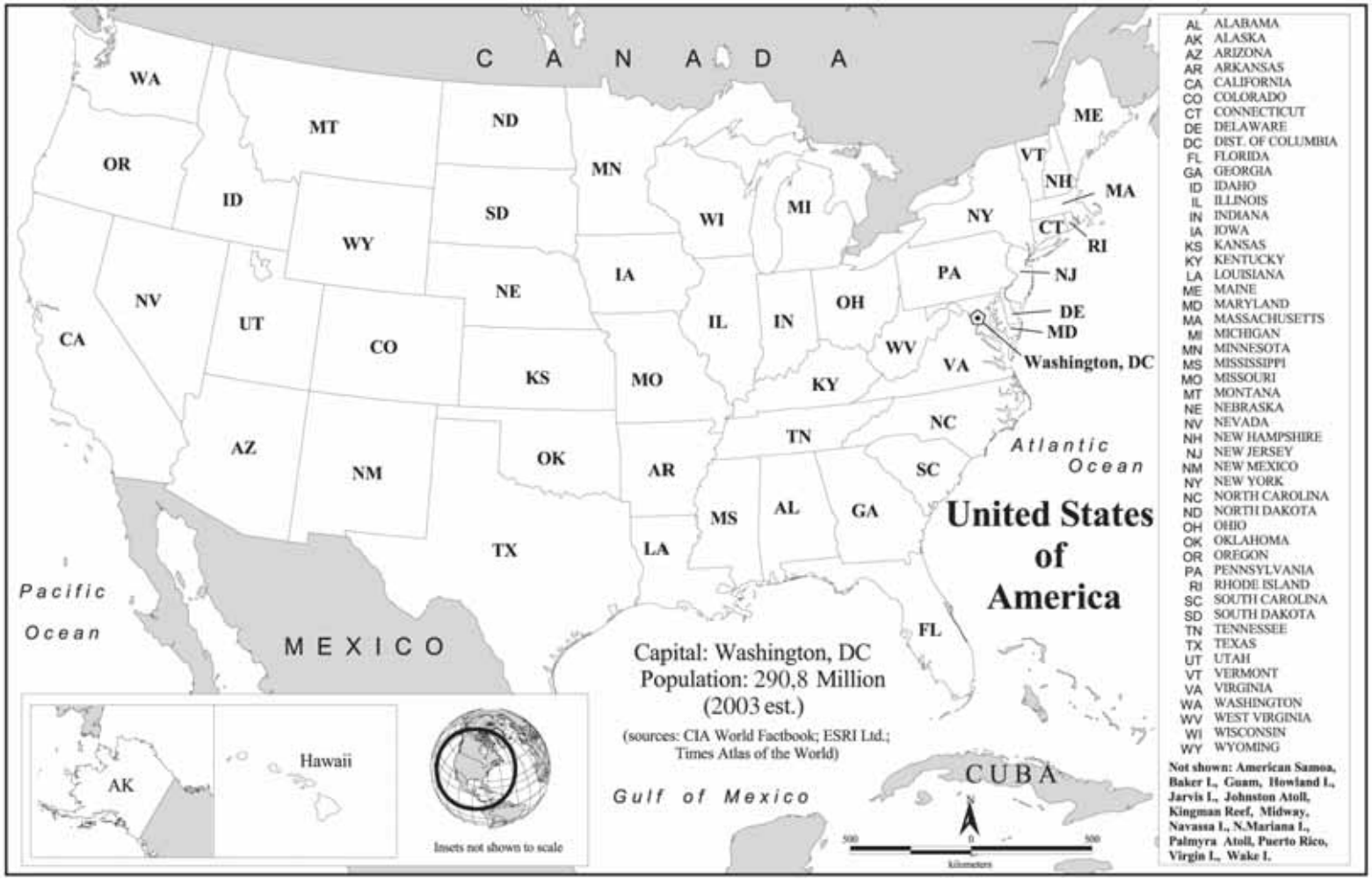
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Washington, DC
Atlantic Ocean
Pacific Ocean
MEXICO
CUBA
Gulf of Mexico
United States of America
Capital: Washington, DC
Population: 290,8 Million
(2003 est.)
(sources: CIA World Factbook; ESRI Ltd.; Times Atlas of the World)
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OR OREGON
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WA WASHINGTON
WV WEST VIRGINIA
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Not shown: American Samoa, Baker I., Guam, Howland I., Jarvis I., Johnston Atoll, Kingman Reef, Midway, Navassa I., N.Mariana I., Palmyra Atoll, Puerto Rico, Virgin I., Wake I.

United States of America

SANFORD F. SCHRAM

1 HISTORY AND DEVELOPMENT OF FEDERALISM

With independence in 1776 the American colonies formed a confederation. Without a strong central government, however, centrifugal forces soon began to pull the states apart. Instead of working together, some states began coining their own money and erecting trade barriers, and the state governments were too weak on their own to ensure the rule of law. These problems seemed to be a result of shortcomings in the Articles of Confederation and Perpetual Union. It was to address these issues that a convention was held in Philadelphia in 1787. The result was a new constitution that has survived to this day.

In 1789 the United States of America adopted what was at that time an entirely unique form of governance. The government created by the new constitution became, arguably, the first structured according to principles of what is today referred to as federalism. Confederalism had existed for centuries; federalism had not. While confederalism called for a loose union of states, federalism called for a two-tier system of governance and it was a revolutionary idea. The Swiss canton system of the Middle Ages and other instances of confederalism were built upon by the framers of the US Constitution to create this new form of governance.

The constitution that emerged from Philadelphia sought to build a national government on top of the states to create a "more perfect union" that could ensure liberty while enforcing law and order. The

constitution was, however, less than a systematically planned blueprint for the development of a federal system. It was to emerge out of a series of compromises during the days of deliberation in Philadelphia. One major compromise of particular significance for the new federal system was the specification of a bicameral Congress with the Senate providing equal representation to each state in the form of two Senators, and a House of Representatives providing representation of the people by districts based on population. In this way, less populous states could agree to the development of a new national government because they were accorded better representation in it than would be the case if representatives were apportioned strictly on the basis of population.

Even with such compromises, the constitution was not without its opponents. The battle over its ratification pitted Federalists and anti-Federalists against each other largely over the question of whether the new national government would become an all-powerful source that would threaten the liberty of the common people. This battle threatened to doom the constitution until a compromise was reached. According to this compromise, the first Congress under the new constitution would put a bill of rights before the states for ratification. The result was the first 10 amendments to the constitution which guaranteed such rights as the freedom of speech, press and religion, the right to jury trials, protection against unwarranted searches and seizures, the right to bear arms, and even an amendment that suggested there were other unspecified rights beyond those listed in the constitution.

James Madison was in many ways one of the most important thinkers behind the idea of a new federation. He provocatively reasoned that an "expanded republic" would actually increase the protection of liberty, by introducing diversity and cancelling out the power of a tyrannous minority or even a tyrannous majority. And the United States did indeed become an expanded republic with the Louisiana Purchase in 1803 in particular massively increasing the territory and creating the basis for the westward expansion and the gradual growth of the country from 13 to 50 states.

Sectionalism, however, was always a threat to the viability of the expanded republic. In particular the issue of slavery increasingly divided the country along a north-south axis in the first half of the nineteenth century and eventually led to the Civil War (1861–65). The Civil War was to have a critical impact upon the shape of US federalism, leading as it did to the national government asserting its responsibility for upholding the Union as inviolable. The national government's imposi-

tion of a period of reconstruction on the South from 1865–1876 solidified its role as the keeper of the Union and gave new meaning to the constitution's statement that the laws of the national government were supreme.

After reconstruction, the power of the national government was not asserted to a similar degree, but rapid industrialization of the country created forces of nationalization that would lay the basis for the growth of federal power. In the twentieth century, two world wars, and the emergence of the United States as a world power would further redefine the character of US federalism. The national government, particularly the office of the President would assume increased significance and authority. Today, the national government is far stronger than it was when it was first established. All three branches of the national government – not just the presidency, but also the Congress and the Supreme Court – have assumed greater power in the federal system than they had in the early years of the republic.

Nonetheless, for more than 200 years the US Constitution has resisted giving answers as to the definitive shape and scope of American federalism. Instead, all questions regarding it have remained subject to contestation, from its origins, to its purposes, to, most commonly and critically, its distribution of powers between the national government and the states. The division over the origin of the federal system is critical to understanding it. If the "compact" theory – which argues that the two-tier federal system of governance is the product of a compact between the different states – holds, then the states, and their people as citizens of separate states, are the fundamental units of the federal system. If the "national democracy" theory – which argues that the federal system was a creature of the American people as a democratic polity unto itself – holds, then both the states and the national government are creatures of that collective will and are subservient to it. James Madison seems to have tried to have it both ways, trying to resolve the conflict so as to ensure both the sovereignty of the states *and* supremacy of the new national government, thereby hoping to ensure it would not become a mere creature of the states.

For over two centuries this debate has persistently arisen, even as the issues changed, thus, for example, undermining national law, as with the National Bank under President Andrew Jackson, and taking the country into civil war, as with the battle over slavery. The compact theory was reintroduced by Ronald Reagan in his inaugural address in 1981 when he stated that he was committed to reducing the power of the national government so as to "restore the balance between the levels of government."[1] He justified this at the time on the grounds that the federal

government had improperly come to exercise too much control over the states. He then famously noted: "The federal government did not create the states; the states created the federal government."

For Reagan, the compact theory was unassailable and unquestioned. Yet this is not the case for many others. Today, President George W. Bush develops his domestic agenda to turn back power to the states. He faces opposition from Democrats in Congress, however, who see constitutional justification for the national government to assert its role in influencing the states on matters of national importance concerning issues as diverse as education and the environment, welfare and discrimination, economic development and crime.

2 CONSTITUTIONAL PROVISIONS RELATING TO FEDERALISM

The national government has three branches: the bicameral Congress (made up of the House of Representatives and the Senate) serving as the legislative branch; the independently elected President heading the executive branch; and the Supreme Court heading the judicial branch. The relationship of each of these branches to the states has changed since the federation was created. With the rise in power of the presidency along with the increasing responsibility of that office for the national economy, Presidents have become the national political figures they were originally intended to be. The Supreme Court – made up of nine Justices appointed by the President, but ratified by the Senate, and removable only by impeachment – has come a long way from first asserting in *Marbury v. Madison* (1803) the right of judicial review to serve as the final arbiter as to the constitutional questions.

Article I, Section 3(1) of the constitution specifies that states are to be represented in the national government by two Senators from each state. With 50 states, there are 100 Senators, each serving a six-year term and one-third of whom are up for election every two years. The Seventeenth Amendment (1913) switched the election of Senators to popular vote from election by the legislature in each state. While this undoubtedly has led Senators to become more independent of state legislatures, they continue to be a source of federalism in the national government, often focusing on representing the interests of their states more so than the interests of the country as a whole.

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1 Samuel H. Beer, *To Make a Nation: The Rediscovery of American Federalism* (Cambridge, MA: The Belknap Press of Harvard University Press, 1993), p. 2.

The division of powers between the national government and the states is specified in the constitution. Article VI of the constitution includes the "supremacy clause" that makes the constitution and the laws of the national government supreme. The "enumerated powers" of the Congress are listed in Article I, Section 8, and authorize Congress to:

1 lay and collect taxes;
2 pay the debts;
3 provide for the common defence;
4 promote the general welfare of the United States;
5 borrow money on the credit of the United States;
6 regulate commerce with inter-state commerce;
7 establish uniform rules for naturalization;
8 establish uniform rules for bankruptcies;
9 coin money and regulate its value;
10 fix the standard of weights and measures;
11 establish a Post Office and post roads;
12 issue patents and copyrights;
13 constitute tribunals inferior to the Supreme Court;
14 define and punish felonies committed on the high seas, and offences against the "law of nations";
15 raise and support an army and a navy; and
16 declare war.

Article I, Section 8, ends by stating that Congress shall also have the power to make all laws which shall be "necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States." This clause has been referred to as the "elastic clause" because it has allowed over time for a great expansion of the powers of the national government especially to regulate inter-state commerce and promote the general welfare. It is also important to note that the Fourteenth Amendment, ratified after the Civil War, specifies that the national government must ensure that state actions do not deny citizens due process, privileges and immunities and rights to equal protection of the laws.

Despite the "enumerated powers" listed above, the division of power between the national government and the states is not outlined in explicit terms by the constitution. It is possible that this is because the framers intended there to be overlapping or concurrent powers, including, inter alia, the power to tax, the power to regulate forms of

commerce, and the power to initiate social policies. The supremacy clause, however, has at times been invoked to preempt state concurrent powers, for instance in recent years regarding the regulation of air and water pollution. The area of concurrent powers suggests that the debates about the allocation of power in the US federal system are unavoidable.

Article IV, Section 4, guarantees all states a "republican form of government." The Tenth Amendment reserves all power not granted to the national government to the "states or the people." While the early years of the constitution saw the growth of a national government, for much of its history especially after the Civil War, the Tenth Amendment has served to create a great reservoir of residual powers for the states. This changed with the Great Depression which spurred President Franklin Delano Roosevelt to initiate the "New Deal" with its great expansion of federal powers. In the post-World War II era, the Tenth Amendment lost much of its power, but in recent years to some degree the Supreme Court has renewed it as a constraint on the growth of federal power.

The procedure for amending the constitution is specified in Article V which in part reads: "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments." Three-fourths of the states must approve an amendment for it to be ratified as part of the constitution.

Yet, formal revision of the constitution has not been the primary means by which power has been re-allocated in the system. While the Fourteenth Amendment did significantly revise the division of powers between the national government and the states, most of the shift has been accomplished by means other than formal amendment of the constitution – decisions of the Supreme Court in particular. The Supreme Court has performed a critical constitutional role, at times reining in federal power over the states, and at times allowing for the growth of federal power. The variations in American federalism have been regulated by the Court which over time built on its assertion of judicial review to establish itself as an independent arbiter between the states and the federal government on constitutional issues.

In its early years, the Court, particularly under the leadership of Chief Justice John Marshall, was a nationalist court that asserted the supremacy of the national government. Starting after Marshall and until the New Deal, however, the Court limited the ability of Congress to expand its powers at the expense of the states. At first the Court struck

down key New Deal legislation in the mid-1930s as violating principles of federalism, but under intense political pressure from Roosevelt, a new majority emerged on the Court and it began to uphold expansion of national power in ways that would continue into the 1970s. The Court, thus, became a strong supporter of the growth of national power, especially in the areas of regulating inter-state commerce, expanding social policy initiatives, and enforcing the Fourteenth Amendment to ensure civil rights.

By the 1990s, however, there was growing evidence that the Court had changed again. A slim 5–4 states' rights majority on the Court under the leadership of Chief Justice William Rehnquist has worked to strike down national legislation as undercutting the constitutional autonomy of the states. Most significantly, the Court has resurrected the idea that the national government cannot legislate away the "sovereign immunity" of states, thereby reducing the extent to which citizens can sue states for failure to uphold federal laws. The Court also sided in recent years with states in several significant cases that had led to limiting the reach of federal law in regulating state governments. The Court, for instance, narrowed the use of the Fourteenth Amendment's due process and equal protection clauses as applied to federal law regulating state government actions regarding such things as zoning and bank regulation. The Court at the same time has expanded the Tenth Amendment's implication that states have a form of sovereignty under the constitution that prevents the federal government from commandeering state officials to carry out federal laws regarding nuclear waste and gun control. By 2002, the Court seemed finally to stop whittling away at the constitutional authority of the federal government to regulate states.

The conceptualization of national-state government relations has changed over time as well. A contrast has historically been between the theories of dual and cooperative federalism. Dual federalism emphasized the separateness of the tiers and the need to limit the national government so that it did not undermine the sovereignty of each state as vouchsafed by the constitution. Others noted that the framers' vague wording in the constitution intended a more nuanced system of overlapping powers necessitating a more cooperative federalism of sharing powers and supporting each other as the national government helped states fulfill basic functions and states helped the national government fulfill national objectives. Still others have noted that since the presidency of Richard Nixon, but especially since Reagan, there has been an effort to have a "new federalism" that insists on turning power "back" to the states.

The status of the fundamental constitutional rights of citizens has been significantly affected by the shifts in federalism over time. The Civil War brought a major assertion of national power and resulted in the ratification of three constitutional amendments that still have supreme importance in the system. The Thirteenth Amendment barred slavery (and all involuntary servitude except for punishment of a crime), the Fourteenth Amendment prohibited all states from denying any citizens equal protection of the laws and guaranteed due process of the laws and privileges and immunities, and the Fifteenth Amendment extended that guarantee to all black citizens including former slaves. While slavery is not likely to return, these amendments remain significant in their creation of national power. With these amendments, the national government assumed ultimate responsibility for ensuring that states did not deny citizens their civil rights under the constitution. The Supreme Court, however, at times leaned towards allowing states substantial latitude and, thus, in *Plessy v. Ferguson* (1896) infamously upheld the racially exclusionary "separate but equal" Jim Crow laws in the South. The "separate but equal" doctrine would hold until the 1954 decision of *Brown v. Board of Education* at which time a new era of national intervention in the states commenced in order to enforce civil rights. The Rehnquist Court has in recent years stopped further extensions of federal power in this area.

The fiscal arrangements of the federal system have changed dramatically. Article I, Section 8(1), gave Congress the power to raise taxes and impose duties. The national government levied an income tax during the Civil War but did not implement a graduated income tax until the early twentieth century. With the Supreme Court questioning the constitutionality of such a tax, it could only finally be established as a constitutionally legitimate power of the national government with the ratification of the Sixteenth Amendment in 1913. With this power to levy taxes on incomes, the federal government increasingly became the primary source of revenue in the federal system. The federal government increasingly relied on this power to gain leverage on the states, enticing them to enlist in national programs by offering them conditional grants-in-aid. This leverage was maximized during the Johnson administration's "Great Society" during the 1960s. The high-water mark in federal grants-in-aid was the 1970s. With the budget cuts adopted by the Reagan Administration in the early 1980s, federal aid began a long decline. Once President Bill Clinton proposed, and Congress enacted, a balanced federal budget in the late 1990s, the downward trend had been set. In addition, since 1994 Congress has moved toward turning more power back to the states. This has prompted in-

terest in shifting away from narrow categorical grants with matching-fund requirements for the states toward removal or relaxation of conditions-of-aid and the conversion of categorical grants into block grants.

Even with reforms, the power of the "federal fisc" remains strong and grants-in-aid are still a potent source of federal leverage over the states (which are generally prohibited by their state constitutions from running deficits). The relatively new idea of "performance partnership" grants suggests a trend toward giving states substantial discretion in using grant funds while making allocations in part contingent upon performance effectiveness in achieving nationally specified goals.

3 RECENT POLITICAL DYNAMICS

Even before the presidential election of 2000 was completed, the presidency of Republican George W. Bush quickly demonstrated the persistence of old issues of federalism in the new millennium. Most controversially, Bush gained office even as he got fewer popular votes than his main opponent, Democrat Al Gore, Bill Clinton's Vice-President. Bush narrowly won a majority of the Electoral College votes, only after a prolonged battle contesting the outcome of voting in the state of Florida. This historic battle dramatically reminded the world just how decentralized the system of voting is in the United States and how significant principles of federalism are in the system of electing a President. Yet, the end result, with the states' rights majority (5–4) on the Supreme Court intervening to overturn the decision of the Supreme of Court of Florida, caused some to worry that a highly politicized process had made a mockery of important principles of federalism and in a way that made them less viable for the future.

The presidential election of 2000 powerfully underscored how federalism is even built into the only truly nationally elected office in the land. Citizens only vote indirectly for the President because the votes are used to determine the allocation of electors from each state who then vote accordingly as an "Electoral College" to choose the President (and the designated Vice-President). The process therefore makes the election a question of garnering enough support in enough states in order to achieve a majority in the Electoral College. In addition, all states but Maine and Nebraska give *all* their electors to the candidate who gets the most popular votes. Also, small states are over-represented in the Electoral College because the number of electors is based on the number of Senators (each state has two) and the number of members of the House of Representatives (each state has a delegation which is based on the population of the state, but small states have at least one representative).

All of these factors make the national election very much a federal one, where candidates must develop a strategy to build support, not necessarily nationwide, but in a number of selected states in order to garner a majority of electoral votes. The Electoral College works against the idea that a simple national majority, concentrated or dispersed, can be relied upon to win even the one nationally elected office of the system.

Therefore, even though Bush lost the national popular vote, he could still win the presidency as three other Presidents had before him. All he needed in the end was to carry Florida. Yet, Florida was to highlight another dimension of the federalism of presidential elections. Each state gets to run its election largely on its own terms as long as it is consistent with the constitution and federal law. And Florida, like most states, allows local election boards to vary their practices within state law. The result was that in Florida, as in most other states, different counties used different mechanisms for recording votes, with poorer areas in particular more likely to use outdated machinery that is subject to error. The Florida election proved to be extremely close, with Bush ahead by fewer than 2,000 votes. Gore subsequently asked for hand recounts of the ballots and eventually won a decision from the Florida Supreme Court to hand recount all ballots in the state for which machines did not record a vote for President. Bush appealed to the Supreme Court in spite of his having campaigned as a candidate who promoted states' rights and discouraged federal, particularly judicial, intervention in the affairs of states. And even more dramatically, the slim 5–4 states' rights majority on the Supreme Court surprised many when it took the case and ruled in *Bush v. Gore* (2000) that the hand recounts violated federal standards of equal protection under the Fourteenth Amendment. Many accused the Court of allowing partisanship to affect its decision, thereby handing the presidency to Bush at the expense of preserving important principles of federalism.

The issue of the 2000 election was pushed to the background after 11 September 2001 ("9/11") when highjackers crashed airplanes into the World Trade Center in New York and the Pentagon in Washington. Following this, the federal government initiated its "war on terrorism" which has involved overthrowing the Taliban regime in Afghanistan and an invasion of Iraq to remove Saddam Hussein from power. Both of these activities were undertaken while seeking to destroy the Al-Queda network led by Osama bin Laden who masterminded the 9/11 plot.

To facilitate fighting the war on terrorism, on 21 October 2001, President Bush signed into law the *US Patriot Act* which greatly increased the federal government's power to investigate, monitor, arrest,

detain, try and deport persons suspected of terrorism, sometimes in ways that circumvented constitutional protections assumed to be in place during times of peace. A new federal Department of Homeland Security was created to address perceived security needs.

In terms of its effect on US federalism, the post-9/11 events may have exacerbated federal-state relations. In the post-9/11 world, the federal government allocated some additional funding to intensify the states' efforts to ensure safety from terrorism. This federal funding has not, however, kept up with the mandates imposed on states which were already running deficits from a slowdown in the economy. Therefore, the war on terrorism necessitated increased authority for the federal government and increased fiscal strain for states.

In addition to the strains imposed by increased security needs, federal-state financial relations have become increasingly conflictual on several other fronts. One particular sore point is the Bush administration's record tax cut package passed in early 2003 even as the government was fighting its war on terrorism and watching its deficit increase and the economy slow down. The President pushed through a record federal tax cut package that over the next decade if fully implemented will likely negatively affect state revenues for a number of reasons. First, the tax package repealed the federal estate tax (which had come to be known as the "death tax") which means states that piggybacked their own estate tax on this must now write new legislation to decouple their tax laws with a likely loss in revenue in the process. Second, the tax package called for the federal reduction in capital gains taxes, which affects state taxes in a similar way as the estate taxes. Third, and perhaps most importantly, this tax cut package means that the federal government will have less money for funding existing programs and will likely encourage a shift of responsibilities to the states without corresponding financial support. It is estimated that the Bush tax cuts will cost states up to $64 billion in revenues over the next 10 years.

For the states, the negative effects of the tax cut are likely to compound already existing budgetary woes which have seen most of them confronting deficits for the past three years. This will make it the longest period of continued state deficits since the Great Depression. Since states generally cannot run deficits in their operating budgets, their governments have been cutting annually for several years in a row. For 2004, projections were that only New Mexico, Arkansas and Wyoming will succeed in avoiding what has quickly become an annual ritual in financial bloodletting.

While states may have originally pushed for more discretion in the administration of federal programs, there is evidence now that some Governors are increasing their lobbying to stop the load shedding and

cost shifting that is being contemplated in Washington. A good case in point is welfare reform. Many Governors supported the *Personal Responsibility and Work Opportunity Reconciliation Act* of 1996 that abolished the main federal cash assistance program for low-income families with children (Aid to Families with Dependent Children (AFDC)) and replaced it with a block grant program (Temporary Assistance for Needy Families (TANF)) that gave states more latitude on how to spend the money as long as they met quotas to get the mostly single mothers on welfare to leave the rolls by increasing their involvement in paid employment. By 2001, welfare reform, as it was called, was heralded as a success largely because the states had cut the rolls more than in half, from approximately 14 million recipients to less than 7 million. Yet, as the economy slowed, as states took on increased responsibilities associated with homeland security, and as they faced persistent and growing deficits, state leaders began to become concerned about taking on more responsibility under welfare reform. The block grants were fixed and the amounts did not grow when times were bad and the number of recipients increased. The cost of getting "job ready" the hard-to-serve recipients left on the rolls was also higher than for the recipients who had already left. Plus, the Bush administration, with support of Republicans in both houses of Congress was pushing for increased quotas and more responsibility by the states in getting the rolls down further. As a result, welfare reform renewal after its five-year initial period was delayed several times and was still not resolved by the end of 2003.

A related change that underscores the growing tensions between the federal government and the states concerns education reform. The legislation in this case is the *No Child Left Behind Act* of 2001. The law most prominently called for statewide standardized testing of students in selected grades, and gave students attending schools with low average scores the option of seeing their schools improve or attending other schools. Like welfare reform, education reform promised great things and the first steps looked promising. Yet, in this case, the policy over time came to be seen somewhat as another under-funded mandate with not nearly enough money being allocated to upgrade schools or fund other schools which had to absorb transferring students. The law was increasingly at risk of being still another instance where the federal government was imposing increased responsibilities on states without helping finance their ability to meet those increased responsibilities.

Various other policy areas, from health care to voting reform, faced similar problems – i.e., that federal money seemed inadequate for the tasks that had been assigned to states. In some areas, such as health care financing, Congress moved to provide emergency aid to the states, but

the amounts were still below what was needed to avoid more bloodletting at the state level. As a result, tensions between the federal government and the states continued to mount.

Before George Bush started running for the presidency, selected Governors from both parties (such as Utah's Republican Governor Mike Leavitt and Nebraska's Democratic Ben Nelson) had been organizing "federalism summits" to find ways to wrest power from the federal government and give it to the states. By the time the presidential election of 2004 was starting to take shape, however, no Governors were meeting to plot how to take on more responsibility from the feds.

President Bush, nonetheless, continues to push for more of the "new federalism" that had been touted by his Republican predecessors. His efforts include the turning of social welfare programs over to state and local community agencies, including faith-based organizations, so as to reduce the power of the federal government further and thereby create even greater opportunities not only for states but communities to exercise more discretion in the use of federal funds. Recent proposals include decentralizing control of federal housing and health insurance programs. Such actions could further weaken national commitments to provide service, enforce rights and protect values across a gamut of policy areas. Supporters emphasize that Bush is seeking to enable states and local governments to act independently of federal regulation. Opponents stress that he is eviscerating federal commitments in key areas of social policy and the environment in particular.

Bush as President originally faced not only questions of legitimacy but a Senate evenly divided between Democrats and Republicans at 50–50, and a closely divided House. This changed with the mid-term elections in 2002. The Republicans rode the post-9/11 popularity of President Bush and increased their seats in both houses of Congress. Republicans now hold a slim majority in the Senate and an increased majority in the House. In the aftermath of the invasion of Iraq, however, the approval ratings for President Bush have fallen dramatically. In the absence of any sign of weapons of mass destruction in Iraq, critics questioned the accuracy of the information used to persuade Congress to support invading the country, and American forces continued to be killed there to the point that more soldiers have died since the President declared the end of hostilities than before. The prospect of a Bush re-election, once seen as a sure thing, is now less clear. An economic turnaround has begun and that will help with re-election bid, but whether it will sustain the Bush administration's ability to pursue its program of devolution is very much in doubt.

One historic reality remains persistently clear – federalism lies at the centre of the system and disputes about almost any policy issue inevitably

raise issues of federalism. In spite of all that has happened in recent years, the federal nature of the system is not about to go away.

4 SOURCES FOR FURTHER INFORMATION

Beer, Samuel H., *To Make a Nation: The Rediscovery of American Federalism*, Cambridge, MA: The Belknap Press of Harvard University Press, 1993.

"Federalism: Reconciling National Values with States Rights and Local Control in the 21st Century – a dialogue with Michael Belknap, Michael Greve, Jennie Kronenfeld, Kathryn McDermott, Robert Nagel, Paul Posner, and Sanford Schram," *Focus on Law Studies*, Vol. 26 (Spring 2001), pp 1-16. http://www.abanet.org/publiced/focus/spring_01.pdf.

Kincaid, John, "The State of U.S. Federalism, 2000–2001: Continuity in Crisis," *Publius: The Journal of Federalism*, Vol. 31 (Summer 2001), pp. 1-70.

Krane, Dale A., "The State of American Federalism, 2001–2002: Resilience in Response to Crisis," *Publius: The Journal of Federalism*, Vol. 32 (Fall 2002), pp 1-29.

Zimmerman, Joseph F., "National-State Relations: Cooperative Federalism in the Twentieth Century," *Publius: The Journal of Federalism*, Vol. 31 (Spring 2001), pp. 15-31.

www.senate.gov

www.census.gov/populatio/cen2000

www.house.gov

www.publicdebt.treas.gov

http://www.temple.edu/federalism/federalism.html

http://www.federalismproject.org

Table I
Political and Geographic Indicators

Capital city	Washington, District of Columbia
Number and type of constituent units	*50 States:* Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming; *1 Federal District:* Washington, District of Columbia. Note: The United States of America also claims administrative relations with *2 Federacies,* Puerto Rico, Northern Marianas; *3 Associated States,* Republic of Palau, Federated States of Micronesia, Republic of the Marshall Islands; *3 Local Home-Rule Territories*; *3 Unincorporated Territories*; and *130 Native American Domestic Dependent Nations.*
Official language(s)	The United States does not declare an official language. *De facto,* the language of the state for all governing and judicial bodies is English.
Area	9 372 600 km²
Area – largest constituent unit	Alaska – 1 530 700 km
Area – smallest constituent unit	Washington, District of Columbia – 178 km²
Total population	290 809 777 (1 July 2003 est.)[1]
Population by constituent unit (% of total population)	California 12.1%, Texas 7.5%, New York 6.6%, Florida 5.7%, Illinois 4.3%, Pennsylvania 4.2%, Ohio 3.9%, Michigan 3.4%, New Jersey 2.9%, Georgia 2.9%, North Carolina 2.8%, Virginia 2.5%, Massachusetts 2.2%, Indiana 2.1%, Washington 2.1%, Tennessee 2.0 %, Missouri 1.96 %, Maryland 1.89%, Arizona 1.89%, Wisconsin 1.88%, Minnesota 1.74%, Colorado 1.56%, Alabama 1.55%, Louisiana 1.55%, South Carolina 1.42%, Kentucky 1.41%, Oregon 1.22%, Oklahoma 1.21%, Connecticut 1.20%, Iowa 1.01%, Mississippi 0.99%, Kansas 0.94%, Arkansas 0.93%, Utah 0.80%, Nevada 0.75%, New Mexico 0.64%, West Virginia 0.62%, Nebraska 0.59%, Idaho 0.46%, Maine 0.44%, New Hampshire 0,44%, Hawaii 0.43%, Rhode Island 0.37%, Montana 0.31%, Delaware 0.27%, South Dakota 0.26%, Alaska 0.22%, North Dakota 0.21%, Vermont 0.21%, Washington, District of Columbia 0.19%, Wyoming 0.17%.

Table I (continued)

Political system – federal	Federal Republic
Head of state – federal	President George W. Bush (2000), Republican Party. President and Vice-President are elected on the same ticket by an Electoral College composed of electors from each state equal to the total number of Senators and Congress representatives, plus three from the District of Columbia. The members of the Electoral College are chosen by party slates by popular vote within each state. In theory, they are free to choose any presidential candidate but, by convention, the electors are bound to support the candidate to whom they are pledged. The President can serve no more than two 4-year terms.
Head of government – federal	President George W. Bush. The President appoints Cabinet, but Cabinet members must be approved by the Senate.
Government structure – federal	Bicameral: Congress *Upper House* – Senate, 100 seats. Senators are popularly elected to serve 6-year terms, with one-third elected every 2 years. *Lower House* – House of Representatives, 435 seats. Representatives are directly elected to serve 2-year terms. Each state is guaranteed at least one representative.
Number of representatives in lower house of federal government of most populated constituent unit	California – 55
Number of representatives in lower house of federal government for least populated constituent unit	Alaska, Delaware, South Dakota, North Dakota, Montana, Vermont, Wyoming – 3 representatives each
Distribution of representation in upper house of federal government	Each of the 50 states has 2 representatives in the Senate.
Distribution of powers	The federal government has exclusive power over matters such as foreign affairs, international trade, defence, citizenship and naturalization, the regulation of commerce (including bankruptcy law), taxation, coinage and the higher levels of justice. The last paragraph of Article 1, Section 8 of the constitution grants implied powers – they are not explicitly allocated but inferred – to the federal government such as the provision of welfare and medical services. In the event of conflict between federal and state law the former will prevail.

Table I (continued)

Residual powers	Residual powers belong to the states.
Constitutional court (highest court dealing with constitutional matters)	Supreme Court. 9 Justices are appointed for life by the President with confirmation by the Senate.
Political system of constituent units	Bicameral (except Nebraska). State Senates and Houses of Representatives are directly elected with the duration of the terms varying from state to state.
Head of government – constituent units	Governor. Popularly elected with the term in office varying from 2 years to 4 years, depending upon the state.

Table II
Economic and Social Indicators

GDP	US$10.4 trillion at PPP (2002)
GDP per capita	US$36 100 at PPP (2002)
National debt (external)	US$6.3 trillion (June 30, 2003)
Sub-national debt	US$1.5 trillion (2000–01)
National unemployment rate	5.8 % (2002)
Constituent unit with highest unemployment rate	District of Columbia – 6.5 %
Constituent unit with lowest unemployment rate	South Dakota – 3.1 %
Adult literacy rate	99.0 % (2003)[2]
National expenditures on education as % of GDP	4.8 % (1998–2000)
Life expectancy in years	76.9 (2001)
Federal government revenues – from taxes and related sources	US$2 008.4 billion (2001)
Constituent unit revenues collectively – from taxes and related sources	US$983.9 billion (2001)
Federal transfers to constituent units	US$277.4 billion (2001)[3]
Equalization mechanisms	There is no systematic method in place for equalizing state fiscal capacity. Some equalization occurs indirectly through a variety of grant-in-aid programs.

Sources

Alabama, Government of, The Alabama Legislature, "Legislative Glossary," web site: http://www.legislature.state.al.us/misc/legislativeprocess/legislativeglossary.html

Census 2000: State Population Information, web site: http://www.netstate.com/states/tables/st_population.htm

Experimental Program to Stimulate Competitive Research (EPSCOR), "California," web site: http://www.ehr.nsf.gov/epscor/statistics/glance.cfm?st_abbr=CA

International Monetary Fund, "IMF Country Report: United States." August 2003, web site: http://www.imf.org/external/pubs/ft/scr/2003/cr03244.pdf

Organisation for Economic Co-operation and Development, "Managing Across Levels of Government: United States," web site: http://www.oecd.org/dataoecd/9/32/1902246.pdf

Organisation for Economic Co-operation and Development, "OECD in Figures: Statistics on the Member Countries." September 2003, web site: http://www1.oecd.org/publications/e-book/0103061E.PDF

"Review of Commonwealth-State Funding: Background Paper." December 2001. Available from Review of Commonwealth-State Funding web site: http://www.reviewcommstatefunding.com.au/library/BackgroundPaper_FINAL.pdf

United Nations Development Programme, *Human Development Report 2003: Human Development Index*, web site: http://www.undp.org/hdr2003/pdf/hdr03_HDI.pdf

United States, Government of, National Archives and Records Administration, "Federal Register: U.S. Electoral College," web site: http://www.archives.gov/federal_register/electoral_college/electoral_college.html

United States, Government of, Office of Management and Budget, "Economic Report of the President: Federal government current receipts and expenditures, national income and product accounts (1959–2002)," "Economic Report of the President: State and local government current receipts and expenditures, national income and product accounts (1959–2002)." February 2003, web site: http://www.gpoaccess.gov/usbudget

United States, Government of, US Census Bureau, "Annual Population Estimates by State," web site: http://eire.census.gov/popest/data/states/tables/NST-EST2003–01.php

United States, Government of, US Census Bureau, "State Rankings from the Statistical Abstract of the United States," web site: http://www.census.gov/statab/www/ranks.html

United States, Government of, US Census Bureau, "Summary of State and Local Government Finances by Level of Government: 2001–01," web site: http://www.census.gov/govs/estimate/01sloous.html

United States, Government of, US Department of Treasury, "Treasury International Capital System: U.S. External Debt." 2003, web site: http://www.treas.gov/tic/debta603.html

United States Constitution. Available from The United States Constitution Online web site: http://www.usconstitution.net/

Watts, Ronald L. 1999. *Comparing Federal Systems*. Second Edition. Kingston: Institute of Intergovernmental Relations, Queen's University, p. 126.

World Directory of Parliamentary Libraries: United States. Available from German Bundestag web site: http://www.bundestag.de/bic/bibliothek/library/usa.html

Notes

1 Latest figure available.
2 Age 15 and above.
3 Federal Grants-in-aid.