



Chapter 3: Federalism

Governor Abbott:

“Texans aren’t spoiling for a fight, but we won’t shrink from one if the cause is right. For too long Washington has tried to remake America in its image. In Texas, we offer a different approach: We don’t put our trust in government; we put our trust in the people, and I will make sure we keep it that way.” (From 2015 Inaugural Address)



Organizing the Constitutional System

Key Terms

Unitary System: a central government that has complete authority over all levels of government

Confederal System: a power-sharing arrangement in which a central government's authority is granted by the individual political units

Federal System: a power-sharing arrangement between central governing authority and individual political units



Organizing the Constitutional System

Supremacy Clause

- Article VI, Section 2 of the U.S. Constitution states that the U.S. Constitution and federal laws “shall be the supreme law of the land.”
- This asserts that federal powers are superior to state powers.
- Every state constitution, state legislature, and state judge is subject to the U.S. Constitution.



Organizing the Constitutional System

Necessary and Proper Clause

- Article 1, Section 8 of the U.S. Constitution states that “Congress shall 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 this Constitution in the government of the United States, or in any department or officer thereof.”
- Specifies that Congress is allowed to assume additional powers needed to carry out its function



Organizing the Constitutional System

Types of Power

Enumerated Powers: powers that are expressly identified as powers that the federal government can take

Implied Powers: powers that the federal government is not expressly granted but that it is assumed to possess so that Congress can carry out its duties



Organizing the Constitutional System

Commerce Clause

- One of the enumerated powers listed in the Constitution.
- “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”
- The commerce clause has been used by Congress and the Supreme Court as one of the most fundamental powers delegated to the federal government.



Organizing the Constitutional System

Key Federalism Cases

- [McCullough v. Maryland \(1819\)](#)
- [Gibbons v. Ogden \(1824\)](#)
- [Baker v. Carr \(1962\)](#)
- [Arizona v. United States \(2012\)](#)



Organizing the Constitutional System

Reserved Powers

The 10th Amendment-

“The powers not delegated in the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”



Organizing the Constitutional System

Reserved Powers

- The 10th Amendment gives the states authority to decide anything that is not expressly stated in the U.S. Constitution as a federal power.
- The states' reserved powers include policy matters such as public education, public health, and state elections.
- States have the power to protect citizens and promote safety, welfare, and morals.



Organizing the Constitutional System

Concurrent Powers: are those powers that are shared between the state and federal governments

- Examples include the power to establish courts, tax citizens, and enforce laws

Full Faith and Credit Clause: a Constitution clause that requires that each state respect the rights and proceedings of other states



Advantages of Federalism

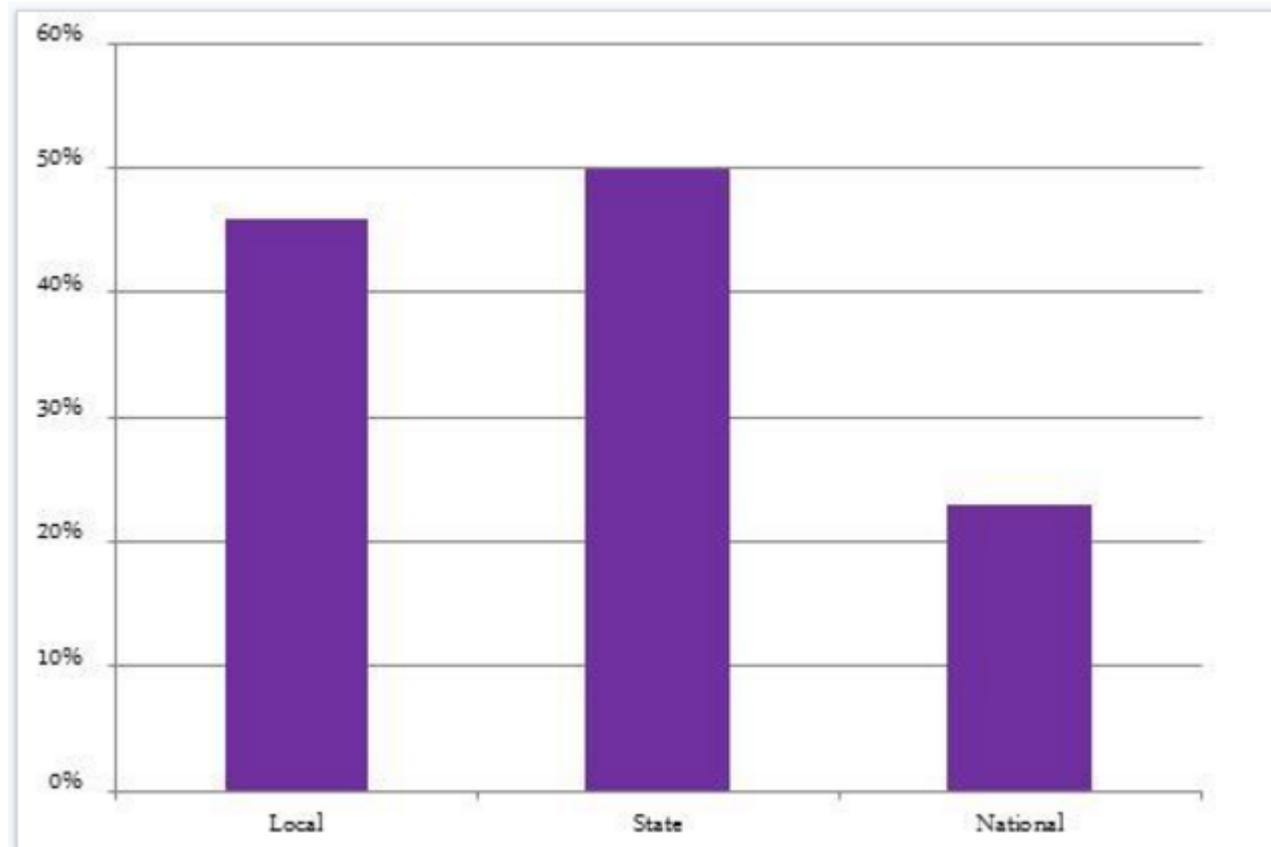
A Stronger Central Government

- Many problems existed under the Articles of Confederation.
- Had no federal power to tax citizens or states to pay off debts, no provisions for independent leadership, and no mechanism for enforcement of laws under the Articles
- Shay's Rebellion

Advantages of Federalism

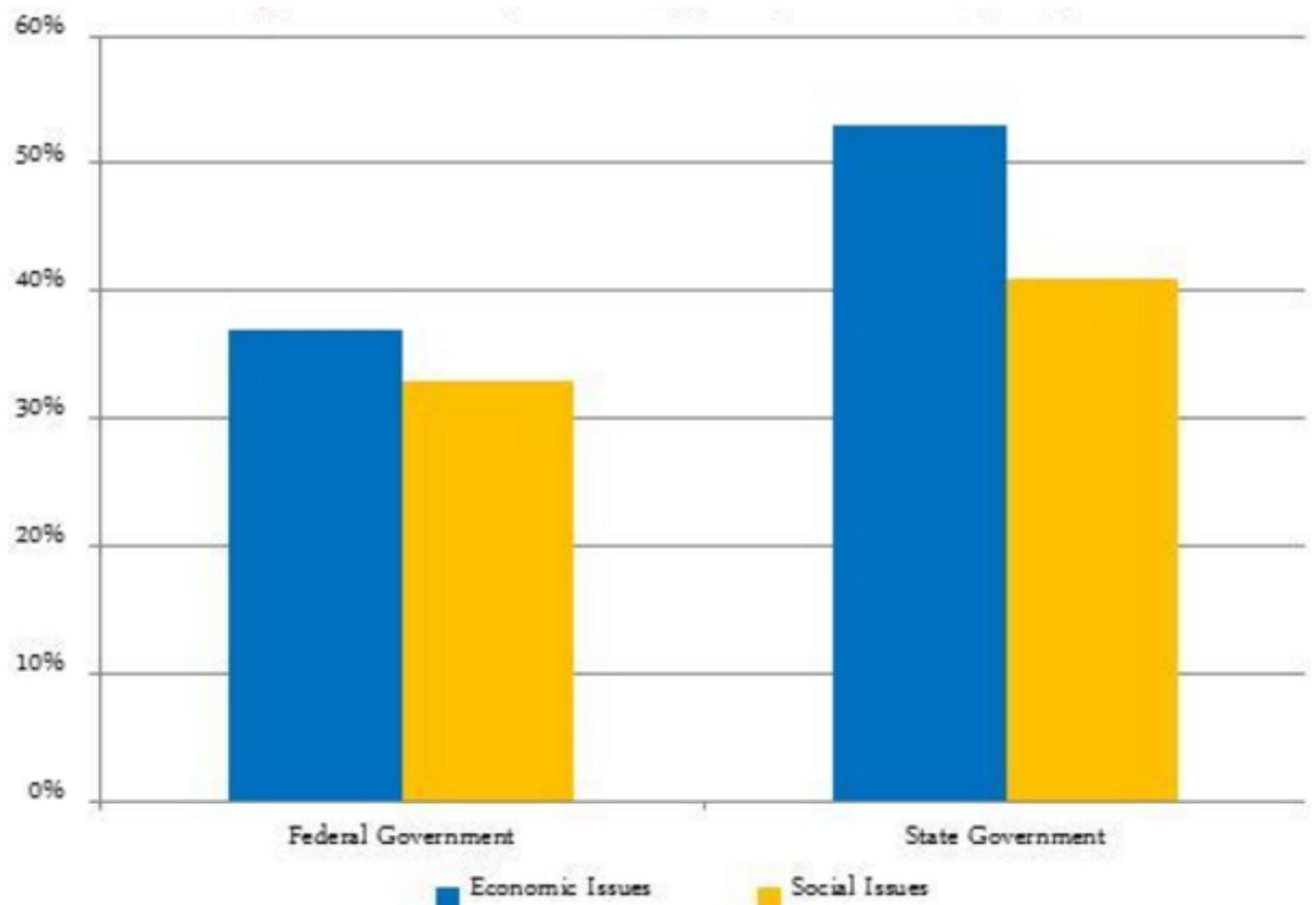
Views on Government

- Texans are more likely to favor state government than local or national government.



Advantages of Federalism

Views on Government





Advantages of Federalism

A Stronger Central Government

- Although the support Texans gave to any policy affecting social issues was lower than to policy affecting economic issues, Texans were more supportive of state government making these policies (41 percent) than the federal government (33 percent).
- Texans feel like they have more control over economic policies at the state level.



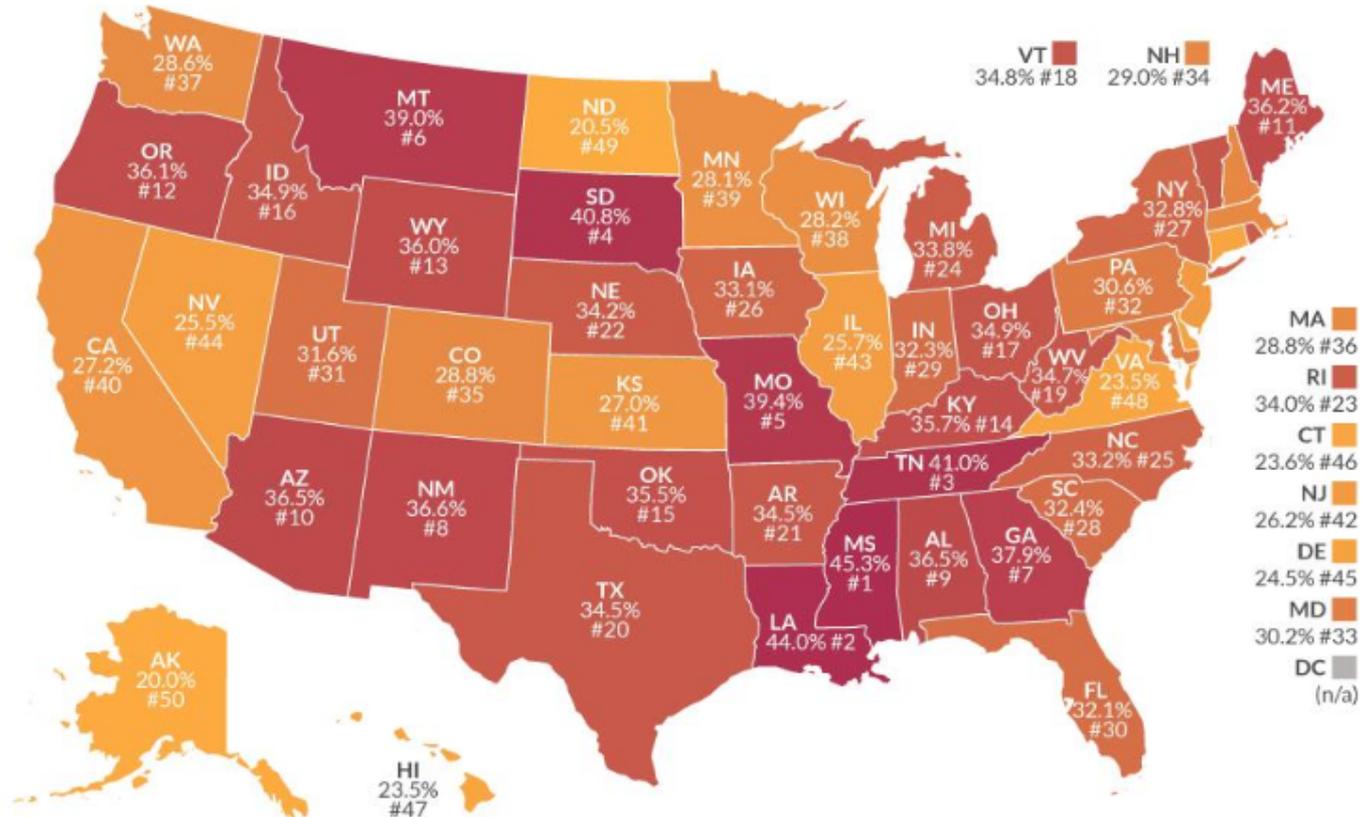
Texas and Federal Funding

Financing

- One important way that the federal government and states share power is through budget finance.
- More than 500 separate federal programs provide grants and funds to the states.
- In the 2016–2017 budget, Texas received \$68 billion from the federal government.
- Texas received about \$8,800 per capita, while the national average of federal spending per capita was \$11,300.

Texas and Federal Funding

Federal Aid as a Percentage of General Revenue



Note: Figures are calculated by dividing the amount of each state's "intergovernmental revenue" from the federal level to the state level into the state's "general revenue," as estimated by the Census Bureau. General revenue includes all taxes but excludes utility revenue, liquor store revenue, and insurance trust revenue. Data as of December 16, 2014. Published January 8, 2015.





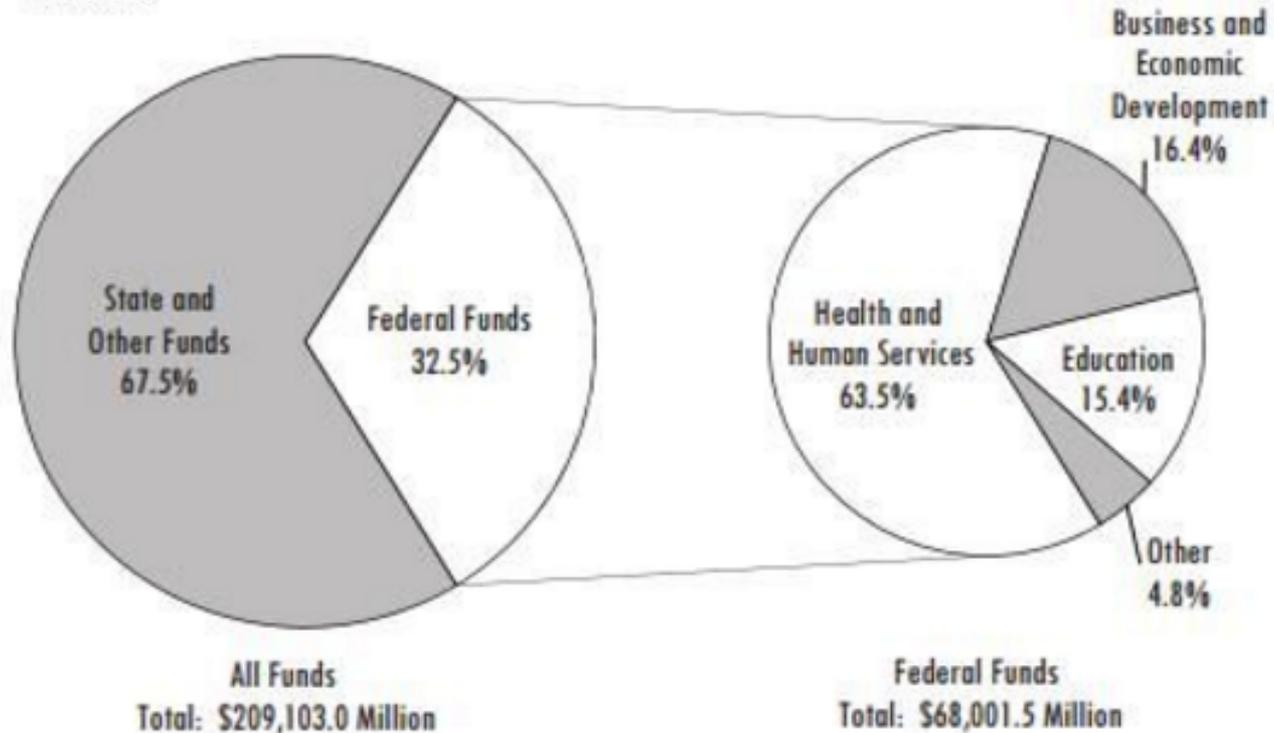
Texas and Federal Funding

Financing

- Texas relies on the federal government for just over a third of its total budget, approximately \$68 billion in 2015.
- States similarly situated (a third of their budget) include Oklahoma, Arkansas, and Indiana.
- For comparison purposes, Mississippi relies on the federal government the most (43%), followed by Louisiana (42%), Tennessee (40%), and South Dakota (39%).

Texas and Federal Funding

IN MILLIONS



NOTE: Other = Natural Resources 2.6%; General Government 1.1%; Public Safety and Criminal Justice 1.1%; General Provisions 0.1%
Judiciary <0.01%; Regulatory <0.01%.

SOURCE: Legislative Budget Board.



Texas and Federal Funding

Federal Funds as a Percentage of All Texas Funds 2014–2015 Biennium

- Most of the state's federal share of funds goes to agencies involved in health and human services totaling \$42.2 billion in the 2014–2015 budget amounting to almost 62% of all federal funds allocated to the state.
- Education is the third largest category of federal funds and was appropriated \$10.6 billion in federal fund in the 2014–2015 budget.



Styles of Federalism

Dual Federalism

- The simplest type of arrangement between a federal government and the individual states is referred to as dual federalism.
- Each branch is coequal and sovereign.
- Federal, state, and local government each has exclusive powers that are reserved to it alone.
- Sometimes referred to as “layer cake” federalism.

Cooperative Federalism

- Cooperative federalism refers to a style of federalism in which each level of government has overlapping and intertwined authority over shared issues.
- Instead of a layer cake, this could be described as a “marble cake” where the layers (government) overlap and mix with each other.
- Jurisdictions on policy and regulatory matters are not bound by cleanly set layers.



Styles of Federalism

Grants

Categorical Grants: funds distributed to state or local governments for programs that require governments to meet conditions established by the federal government

Matching Grants: funds the state adds to supplement specific federal government programs



Styles of Federalism

New Federalism

- In the 1970s, President Richard Nixon introduced a new style of federalism called new federalism.
- This system returns greater responsibilities, duties, and funding to the states and reduces the size of the federal government.
- This transfer of power to states is often called *devolution*.



Styles of Federalism

Block Grants

- Greater autonomy for states in new federalism does not mean that the federal government folds up their wallet and leaves the states on their own.
- The difference is that there are fewer strings attached.
- Block grants are fixed funds that are transferred to states for the implementation of a policy or program.
- Medicaid would be an example of this: Medicaid in Texas covers more than 3.7 million poor, disabled, and elderly. The federal government pays 60% of the cost of this program.

Coercive Federalism

- Coercive federalism is a system in which the federal government establishes guidelines for the states and may punish the states for not participating.

Unfunded Mandates: federal or state legislation that requires the states to implement policies but does not supply funding necessary for implementation



Texas and Conflicts over Federalism

Texas Versus Washington

- In recent years, a resurgent Republican Party in Texas, combined with the political opportunity to challenge a Democratic presidential administration, has led to conflicts between the state and the federal government.
- Texas has sued the federal government frequently over environmental issues, voting rights, business regulations, and healthcare.

Texas and Conflicts over Federalism

Texas Versus Washington

Issue	Cases and Issues	Cases won/total cases
Environment 	Texas sued Environmental Protection Agency for rejecting rules the state instituted. Texas also sued over overall acceptable sulfur dioxide limits. The state also sued the EPA over greenhouse gas emission standards.	5/21
Business Regulations 	Texas sued over reporting regulations and financial oversight. The state also sued Equal Employment Opportunity Commission over discrimination of hiring felons violated hiring laws.	1/3
Health Care 	Texas sued the Obama Administration challenging the expansion of Medicare under the Affordable Care Act ("Obamacare") Texas also sued over not allowing exemptions to religious organizations to subsidize contraception services	1/3
Voting and Elections 	Texas sued the Department of Justice over requirements that election districts lines must pass "pre-approval." State also sued over the requirements for voter identification for the same reason.	2/2