

# STATES, COMMUNITIES, AND AMERICAN FEDERALISM

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## Chapter 3

# What is Federalism?

- Definition
- Alternatives
  - Unitary
  - Confederation

# Why Federalism?

- Weaknesses/dangers of centralized government
- Tyranny of the majority

# Benefits of Federalism

- Distributes authority
- Increases participation
- Encourages policy responsiveness
- Creates laboratories of democracy
- Helps manage conflict by localizing issues

# Criticisms of Federalism

- Confusing division of responsibility
- Protecting Slavery and Segregation
- Obstructing National Policies
- Racing to the Bottom?
- Allowing Inequalities

# Structure of Federalism

- Delegated Powers and National Supremacy
- Implied Powers
- Reserved Powers
- Powers Denied to the Nation and States

# Constitutional Amendments

- The important role of states is highlighted in the ratification process
- Constitutions require  $\frac{3}{4}$  of states to ratify an amendment after Congressional approval for the amendment to become law
  - Defeat of the ERA-Equal Rights Amendment
  - Defeat of the District of Columbia Amendment
  - Passage of the 27<sup>th</sup> amendment concerning Congressional pay increases

# The Evolution of Federalism

- The effect of money on federalism
- The effect of Supreme Court cases on federalism
- The effect of historic events on federalism



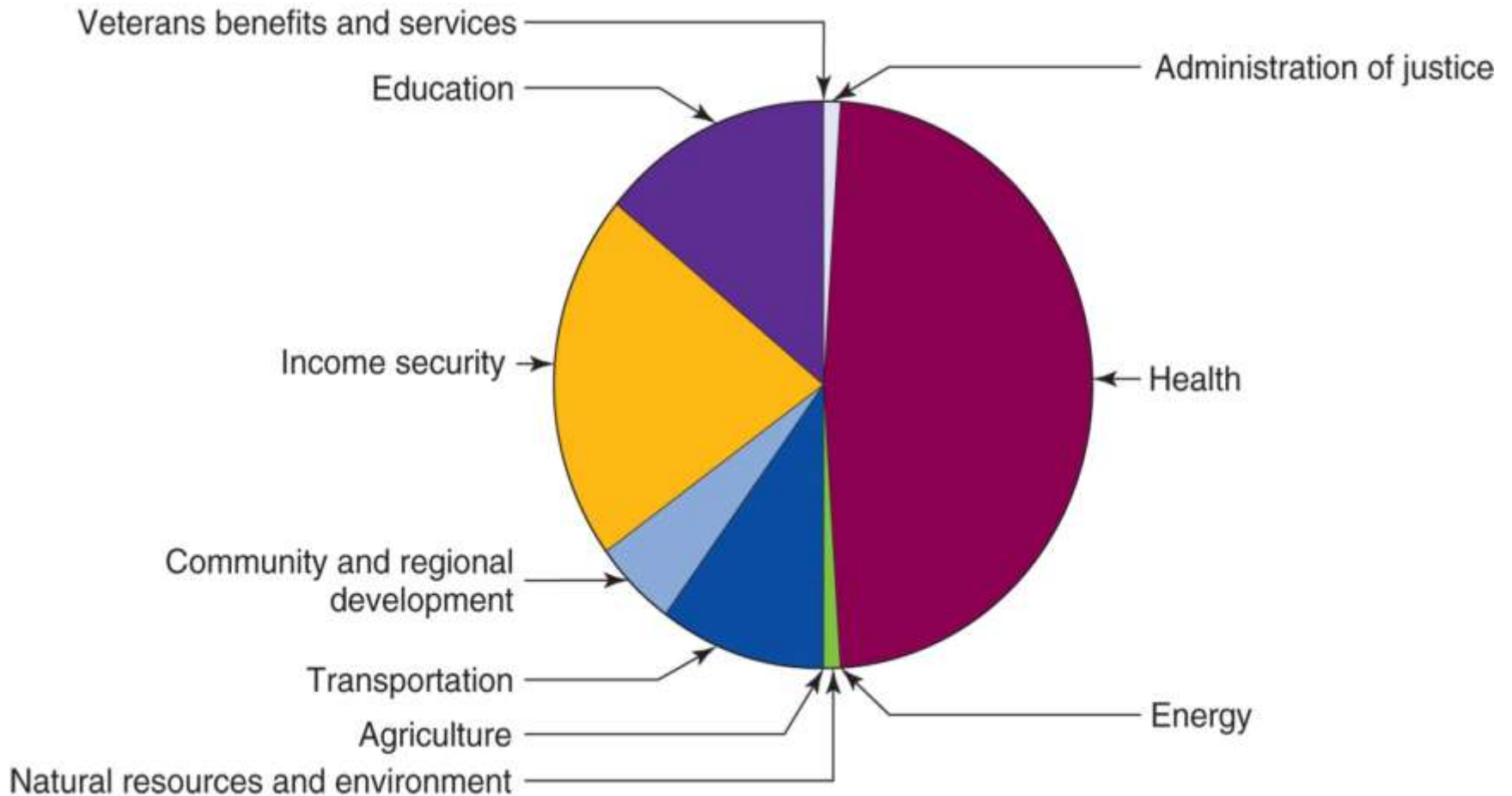
# Money and Federalism

- The 16<sup>th</sup> Amendment to the U.S. Constitution (1913)
- Federal Grants-in-Aid
- Grantsmanship
- Federal Mandates

# Ideology and Federalism

- Liberal views on the role of the national government
- Conservative views on the role of the national government

# Federal Grants-in-Aid by Major Function



**TABLE 3-4 Selected Federal Mandates**

**Examples of Federal Mandates to State and Local Governments**

- *Age Discrimination Act 1986* Outlaws mandatory retirement ages for public as well as private employees, including police, firefighters, and state college and university faculty.
- *Asbestos Hazard Emergency Act 1986* Orders school districts to inspect for asbestos hazards and remove asbestos from school buildings when necessary.
- *Safe Drinking Water Act 1986* Establishes national requirements for municipal water supplies; regulates municipal waste treatment plants.
- *Clean Air Act 1990* Bans municipal incinerators and requires auto emission inspections in certain urban areas.
- *Americans with Disabilities Act 1990* Requires all state and local government buildings to provide access for individuals with physical disabilities.
- *National Voter Registration Act 1993* Requires states to register voters at driver's licensing, welfare, and unemployment offices.
- *No Child Left Behind Act 2001* Requires states and their school districts to test public school pupils and provide vouchers to pupils from consistently below average scoring schools.
- *Help America Vote Act 2002* Requires states to modernize registration and voting procedures and voting technology.
- *Homeland Security Act 2002* Requires states and communities as "first responders" to train, equip, and prepare for terrorist attacks.
- *REAL ID Act 2005* Designed to prevent terrorism, reduce fraud, and improve the reliability and accuracy of identification documents that state governments issue. The REAL ID Act requires that a REAL ID driver's license be used for "official purposes," as defined by the Department of Homeland Security.

*Note:* Some of these mandates are partially funded by the federal government but state and local officials still see them as "unfunded" because they are not totally funded.

# U.S. Supreme Court Cases Impacting Federalism

- *Marbury v. Madison* - 1803
- *McCulloch v. Maryland* -1819
- *National Labor Relations Board v. Jones and Laughlin Steel* -1937
- *Brown v. Board of Education* -1954

# Historic Events Impacting Federalism

- The U.S. Civil War
- The Industrial Revolution
- The Great Depression
- World War II

# Post-Civil War Amendments

- 13<sup>th</sup> Amendment-abolished slavery in the states
- 14<sup>th</sup> Amendment-states could not make laws which abridge the rights of citizens or deprive them of life, liberty, or property without due process, nor deny equal protection of the law
- 15<sup>th</sup> Amendment-prevented states from discriminating against blacks in the right to vote

# Industrial Revolution/Growth of U.S. Economy and Federalism

- National Labor Relations Board Case
- Interstate Commerce
- National government control over national economy



# The Great Depression

- New Deal programs
- Vast expansion of federal government, federal bureaucracy, and federal authority in nearly all aspects of American life
- Economic affairs, labor relations, business practices, agriculture, poverty, unemployment, old age, health care, transportation, public works, utilities, etc.

# World War II

- Expansion of control of economy and economic activity
- Expansion of military-industrial complex
- Expansion of foreign presence, foreign aid, and military

# Models of Federalism

- Dual Federalism: 1787-1913
- Cooperative Federalism: 1913-1964
- Centralized Federalism: 1964-1980
- New Federalism: 1980-1985
- Representative Federalism: 1985-1996
- Ad Hoc/Coercive Federalism: 1996-present

# Devolution

- Definition – What is devolution?
- Arguments for devolution
- Conditions favoring devolution
- Consequences of devolution

# Devolution of Federalism: Welfare Reform

- Ended a sixty-year federal entitlement program for cash welfare aid (Aid to Families with Dependent Children)
- Granted states broad flexibility in determining eligibility and benefit levels for persons receiving such aid
- Allowed states to increase welfare spending if they chose to do so but penalizes states that reduce their spending for cash aid below 75 percent of their 1996 levels
- Allowed states to deny additional cash payments for children born to women already receiving welfare assistance and allowed states to deny cash payments to parents under age eighteen who do not live with an adult and attend school

# U.S. Supreme Court Cases Limiting Federal Supremacy

- *U.S. v. Lopez* -1994
- *Seminole Tribe v. Florida* – 1996
- *Alden v. Maine* - 1998
- *U.S. v. Morrison* – 1999
- *Gonzales v. Raich* - 2004
- *Gonzales v. Oregon* - 2005

# Horizontal Federalism

- Full Faith and Credit
- Privileges and Immunities
- Extradition
- Interstate Compacts
- Conflicts between States

# Whose Problem is it?

- Read the scenario and discuss the appropriate powers and responsibilities of federal, state and local government.