

MANAGING ACROSS LEVELS OF GOVERNMENT

UNITED STATES

1. Institutions and authority**1.1 Structures***Description of levels*

The United States is governed by a federal government, fifty states, 39 000 general purpose local governments (counties, municipalities and townships), and 44 000 special purpose local governments, of which a third are school districts. The United States also includes several islands in the Pacific Ocean and the Caribbean Sea, which are governed as territories or commonwealths, and the District of Columbia, which is the city of Washington, the nation's capital. Washington D.C. and the island territories and commonwealths have non-voting representatives in Congress. The focus this chapter is on the fifty states and on local governments within those states. It does not cover the District nor the island territories and commonwealths.

The total area of the United States is 9 372 600 square kilometres and the total population in 1994 was 260 651 000. States, municipalities and counties vary enormously in population and in their budgets. California, for example, comprises about 15 per cent of the nation's population and has over 60 times as many people as the State of Wyoming. Municipalities and counties are also of widely different sizes, from over 7 million (the City of New York and Los Angeles County) to small hamlets.

Creation, elimination and restructuring

The United States Constitution recognises only the federal government and the states. The existence of the states is guaranteed by the federal Constitution, and no state can be divided without its consent. State constitutions recognise local governments and provide for a variety of ways that state legislatures can regulate local governments.

Congress cannot divide or change the borders of states without their consent, but it can create new states from territories or other dependencies. Hawaii and Alaska took the step to statehood only a few decades ago, and in Puerto Rico and the District of Columbia there are strong but minority political parties favouring statehood.

No large metropolitan region is covered by a single local general purpose government, and most include scores of municipalities and special districts. Several regions include areas in more than one state. Regions have no standing under state or federal constitutions. A few metropolitan areas consolidated local governments in the 1970s, and proposals for further consolidation are still made from time to time.

Since these proposals must be approved by each local government and often by the state legislature as well, few succeed.

As seen in Table 1, the total number of local general purpose governments has remained rather stable. The internal breakdown among these governments, however, has changed dramatically. The number of school districts has dropped to 40 per cent of the 1962 total as rural schools have consolidated, usually under pressure from state departments of public education which have been concerned about the capacity of small districts to provide high-quality education. Meanwhile, the number of other special districts and public authorities has grown dramatically, almost doubling since 1962. Districts comprised 20 per cent of all local units in 1962 compared to 35 per cent in 1987. The proliferation of special districts has been a concern of many experts in public administration. Some argue that special districts allow citizens more choice in the array of public services which they receive, but others argue that the result is fragmentation, inefficiency, and inequitable taxation and service delivery.

Table 1. Division of local government units (1962, 1987)

| | 1962 | 1987 |
|----------------------|--------|--------|
| County | 3 043 | 3 042 |
| Municipal | 18 000 | 19 200 |
| Township | 17 142 | 16 691 |
| School District | 34 678 | 14 721 |
| Special District (1) | 18 323 | 29 532 |
| TOTAL | 91 186 | 83 186 |

1. Water supply, sewerage, utilities/power, natural conservation, etc., of which bodies there has been a tremendous increase over the past 25 years.

Source: *Public Management: OECD Country Profiles*, OECD, 1993.

1.2 Powers

Nature of sub-national institutions

Powers not exercised by the Congress are reserved to the states, but local governments enjoy no such protection -- they exist at the pleasure of the states.

States: The distribution of constitutional and political power among the three branches (executive/legislative/judicial) and among key office-holders varies widely from state to state. A few state governors appoint virtually all other top state officials, but other governors must share power with other elected leaders and with strong state legislatures.

Legislative bodies of states are usually organised in the same way as the federal government, with a bicameral legislature. States also have a judicial branch.

The executive branch consists of many agencies headed by a single executive (as with the national government). Altogether, the 50 states elect more than 500 officials to executive office, including

43 attorneys general, 43 lieutenant governors, 38 treasurers, 36 secretaries of state, and an assortment of other officers ranging from the Texas railroad commissioner to the commissioner of public land in New Mexico. There are 7 461 elected state legislators. State bureaucracies are generally staffed by professional administrators.

Local government: Local governments vary widely in their organisation, although virtually all have a council or legislative branch. In many counties and some municipalities, the council appoints the chief executive or wields both legislative and executive power. In others, a mayor or chief county executive is elected directly and manages government agencies. Districts are usually governed by elected boards.

Type and degree of autonomy

The United States is a relatively decentralised federal system. States finance about three quarters of their spending from their own sources. States also borrow on the open market and have direct access to bond markets. There is a standard private system for rating the credit status of states which encourages fiscal discipline on them.

Their budgets are not reviewed nor approved by the federal government. The federal government and states can levy taxes and spend money. State constitutions also allow local general purpose governments to levy taxes, but constitutions and state statutes may classify several types of local governments with different ranges of power and taxing authority.

The federal government and states can directly enforce their laws on individuals through their own courts. State constitutions also allow local general purpose governments to enforce ordinances, but constitutions and state statutes may assign several types of local governments with different ranges of power.

The distribution of power among the federal and state levels has shifted over the decades. The 10th amendment to the federal constitution provides that any powers not expressly granted to the federal government are reserved to the states or the citizens. Until the 1930s, the US Supreme Court periodically ruled that federal social legislation was invalid as an intrusion into state authority. But the Court's willingness to make such rulings has declined sharply and in 1985, the Court ruled (*Garcia v. San Antonio Metropolitan Transit Authority*) that it will no longer play the role of umpire of the federal system, leaving determination of the scope of national authority to Congress.

A similar story has been played out in many local governments, but without the constitutional dimension except that state legislatures mandate requirements affecting local governments but may not provide compensatory funding. When state revenues were increasing, many local officials welcomed new state programmes of assistance to local government. But when states cut back on local assistance or attempt to hand responsibilities to local governments without providing funds, tensions between states and local officials rise sharply as the cumulative administrative burden and cost resulting from unfunded or inadequately compensated federal and state mandates is significant.

Legally a city is a *municipal corporation* that has been chartered by the state to exercise certain defined powers and provide certain specific services. There are two kinds of such charters: special-act charters and general-act charters. A *special-act charter* applies to a certain named city (for example, New York City) and lists what that city can and cannot do. A *general-act charter* applies to a number of cities

that fall within a certain classification, usually based on city population. Thus in some states all cities over 100 000 population will be governed on the basis of one charter. In accordance with the legal principle known as Dillon's rule, the terms of these charters are to be interpreted very narrowly. Under this rule, a municipal corporation can only exercise the powers expressly given it or those powers necessarily implied by, or essential to the accomplishment of, the powers which the state legislature has specifically given the city by law or charter. City officials, needless to say, intensely dislike these restrictions and so argue in favour of a different kind of authorising law, called a *home-rule charter*. Such a charter, now in effect in many cities, especially larger ones, reverses Dillon's rule and allows the city government to do anything that is not prohibited by the charter or by state law. In practice however many home-rule charters have not been so flexible since city laws (ordinances) cannot be in conflict with state laws.

1.3 *Responsibilities*

Distribution of responsibilities

The federal government provides few direct domestic services, but these include farm price supports, the Postal Service, medical care for veterans, electrical energy production in some parts of the country, and management of parks and wildlife refuges and of federally-owned forests and grazing lands in the West. The federal government also supports scientific and medical research, through government-operated laboratories, laboratories operated under contract, and grants to individual researchers. Aside from these examples, the federal role in delivery of public services is typically indirect, that of financier and regulator, and thus of setting a framework for policy. The financial role involves giving money to individuals, primarily the elderly and the poor, and giving money to state and local governments (see section 2.2). The regulatory role influences the environment, facilities for the handicapped, prison overcrowding, and many other areas.

State governments play a major role in service delivery, including the direct provision of some services. These include highway construction, prisons, institutions for handicapped people, universities and other institutions for post-secondary education, parks, some policing functions, as well as a number of training programmes. Some states deliver social services directly, while others provide funding to counties or other local governmental entities for social and mental health services. States also regulate many professions.

Local governments are heavily involved in service delivery. For the most part, local governments operate virtually all elementary and secondary schools; build and maintain most local roads and most public transportation systems including airports and public transit; provide drinking water, waste-water and solid waste management; provide law enforcement services; and operate local parks, recreation, and senior citizen centres and, in many states, social service programmes. However, since states provide some of the funding for these services, either from their own tax revenues or by passing along federal funds, the design and operation of local services is highly regulated by state and federal requirements.

Mandatory, optional and shared responsibilities

In the early years of the republic, it was relatively easy, both in law and in practice, to distinguish between the respective roles of the federal government on one hand and states and localities on

the other hand. "Dual federalism" held that the state and the federal governments functioned separately in their own spheres of authority. As federal regulation and programmes of financial grants to states and localities expanded, mixed responsibilities became pre-eminent, and interest groups, professional groups, and agency personnel working in the same issue area tended to band together across the levels of government, resistant to the authority of elected officials or of government-wide supervisory agencies. The rather complex pattern of funding that resulted from these issue networks is shown in Table 2. The most dominant trend between 1955 and 1980 is the decline in the percent of total spending allocated to primarily federally-funded programmes and the shift of government expenditures towards state and locally-funded education and jointly-funded programmes. Since 1980, expenditures have stabilised with almost a quarter of all government expenditures allocated to programmes which require joint funding from federal, state, and local governments.

Table 2. Expenditures by function as a share of total (1955, 1980, 1991)

| Function | Total government expenditures (US\$ billions) | | | As a percentage of total spending | | |
|---|--|--------------|----------------|--------------------------------------|------------|------------|
| | 1955 | 1980 | 1991 | 1955 | 1980 | 1991 |
| Primarily federal funding (85 per cent or more federal funding) <i>of which:</i> | | | | | | |
| National defence | 57.8 | 376.3 | 809.7 | 60 | 44 | 42 |
| Social insurance | 38.9 | 142.4 | 323.4 | 40 | 17 | 17 |
| | 7.5 | 187.5 | 440.0 | 8 | 21 | 23 |
| Primarily state and local funding (85 per cent or more state and local funding) <i>of which:</i> | | | | | | |
| Education | 14.6 | 169.2 | 391.3 | 15 | 20 | 20 |
| Shared funding (15-85 per cent federal funding) <i>of which:</i> | | | | | | |
| Welfare and social services | 15.0 | 209.8 | 426.1 | 15 | 24 | 22 |
| Medical care (Medicaid) | 3.1 | 49.9 | 105.8 | 3 | 6 | 5 |
| Health and hospitals | 0.2 | 24.9 | 102.1 | (1) | 3 | 5 |
| Transportation | 2.2 | 23.5 | 40.6 | 2 | 3 | 2 |
| | 6.8 | 46.0 | 83.5 | 7 | 5 | 4 |
| Central expenditures, retirement, and net interest: | 9.6 | 105.7 | 313.0 | 10 | 12 | 16 |
| TOTAL | 97.1 | 861.0 | 1 940.1 | 100 | 100 | 100 |

1. Indicates less than \$50 million or less than 0.5 per cent.

Source: Hush, "Federal and State and Local Roles in Government Expenditure", *Public Budgeting & Finance*, vol. 13, No. 2 (Summer 1993).

2. Management functions

2.1 Policy-making and co-ordination

Coherence, consultation and conflict resolution

All legislative powers of the federal government are vested in the United States Congress, but once a law has been passed, full executive authority lies with the President. The United States Supreme Court also plays a role, although in recent decisions the Court has indicated that it will defer to Congress. The role of the President as Chief of State and Head of the Executive Branch is therefore paramount in policy-making and co-ordination at the national level.

Local officials lobby state legislatures and agencies, just as state and local officials lobby Congress and federal agencies. But in addition, states have cabinet-level departments of local affairs or of community development, which oversee matters such as local taxation. The responsibilities and authority of these departments varies among states, depending on how each state's constitution, statutes, and political traditions deal with state-local issues.

What is often missing in this complex system is a voice for broad, multi-disciplinary approaches to public policy issues. The National Governors' Association, the National Conference of State Legislatures, and similar organisations became important voices for broad policy initiatives in the 1980s, when states and localities were being particularly innovative. The National Governors' Association for example, lobbied for welfare reform, education reform, federal tax reform, and reduction of the federal budget deficit. However, many of the expert staff of these associations are supported by grants from specialised federal agencies, which may limit the energy devoted to broad multi-agency issues.

The reality concerning most aspects of service delivery is fragmentation. There are numerous, separate and often narrowly defined programmes and policies emanating from federal departments with little possibility of co-ordination amongst them. In addition lines of authority may be blurred and goals may be overlapping if not contradictory.

Formal and informal mechanisms

Aside from Congress, there are few other formal mechanisms of co-ordination or consultation bodies and most are weak. Federal law established an Advisory Commission on Intergovernmental Relations (ACIR) in 1959, and 25 states have established their own ACIRs to address state-local issues. In the 1970s, the federal ACIR was well-staffed and conducted many highly-regarded studies. However, as federal grants for state and local programmes have been cut back and intergovernmental tensions have increased, ACIR lost both support from state officials and then most of its funding from Congress. It will cease to exist after 1996.

One method of formally responding to problems confronting several states, but not requiring national uniformity or intervention other than congressional approval, is the interstate compact. And, within states, there are somewhat stronger mechanisms for vertical intergovernmental co-ordination as states have clearer constitutional authority to shape the structure and activities of local governments. Horizontal co-ordination of state-wide matters, however, is generally less well developed.

Lacking strong formal administrative mechanisms for inter-governmental co-ordination, state and local officials are often active lobbyists at the federal level. Lobbying higher levels of government is one of the major responsibilities of many state and local elected officials. In addition to acting individually, state and local officials work through associations of state and local officials. Virtually every kind of state official, elected and career, from governors to directors of drug treatment programmes, has an association with an office in Washington, D.C. These Washington representatives work closely with professional groups, Congressional staff, and federal agencies which operate programmes of interest to their members.

In many metropolitan regions there are active efforts to organise informal regional collaborative activities, often joining business leaders, local elected officials, university leaders, top agency managers and others to promote economic development and sometimes to seek ways to improve conditions in poor inner-city neighbourhoods.

2.2 *Financial management*

Sources of revenue

Different levels of government rely on different sources of funds. Table 3 gives a sample of some of the various sources of revenue for both state and local governments. Both the federal government and most states rely heavily on individual and corporate income taxes, and the table shows that the average state gets slightly less than one-fifth of its revenue from the federal government. Many states and localities also levy sales taxes and jealously guard against any suggestions that the federal government might levy a sales or value-added tax. Local governments rely heavily on taxes on the value of real and personal property. In 1960, 15 per cent of all state and local expenditures came from federal grants. This figure rose to 28 per cent in 1980 and stood at 23 per cent in 1995.

The federal government also provides some financial assistance directly to local governments. However, such aid declined sharply in the 1980s, as the Reagan Administration sought to reduce all grants and in particular those going to local governments. As a result, local governments now rely much more heavily on state than federal grants. At the same time, state and local governments were mandated new responsibilities by the federal government without equivalent financial support. Complaints of excessive burdens grew until, early in 1995, the Unfunded Mandates Reform Act was passed. This requires the Congressional Budget Office to analyse the costs of any proposed mandates on state and local governments in an attempt to restore equilibrium to the relationships between federal, state and local governments.

Table 3, which follows, shows the pattern of state and local revenue sources in 1992. It demonstrates the importance of tax revenues to sub-national levels of government -- particularly sales and income taxes at the state level and property tax at the local level.

Table 3. Sources of state and local government revenues (fiscal year 1992)

| | \$US million | percentage |
|---|----------------|--------------|
| STATE GOVERNMENT | 329 296 | 44.3 |
| Taxes | | |
| <i>of which:</i> sales | 162 989 | |
| income | 126 799 | |
| property | 6 689 | |
| others | 32 820 | |
| Revenue from federal government | 159 068 | 21.4 |
| Insurance trust revenue | 129 663 | 17.5 |
| Charges and miscellaneous general revenue | 107 552 | 14.5 |
| Revenue from local government | 10 861 | 1.5 |
| Utility and liquor store revenue | 6 579 | 0.8 |
| Total: | 743 018 | 100.0 |
| LOCAL GOVERNMENT | | |
| Taxes | 227 099 | 35.1 |
| <i>of which:</i> property | 171 723 | |
| sales | 33 429 | |
| income | 12 591 | |
| others | 9.357 | |
| Revenue from federal government | 20 141 | 3.1 |
| Revenue from state government | 195 845 | 30.2 |
| Charges and miscellaneous general revenue | 130 169 | 20.1 |
| Utility and liquor store revenue | 55.962 | 8.6 |
| Insurance trust revenue | 18 296 | 2.8 |
| Total: | 647 514 | 100.1 |

Source: US Bureau of the Census, *Government Finances, 1991-1992*.

Expenditure responsibilities

Total government expenditures grew from about one fourth of GDP in 1955 to one third in 1975. They have remained stable at that level since then. The federal share of total government spending has also remained stable, at about 70 per cent, since 1955 -- despite major demographic changes and programme development.

The federal budget is far larger than state and local budgets, totalling about 30 per cent more than all states and localities taken together. However, federal spending is heavily dominated by defence, transfer payments to the elderly and other individuals, and financing of the national debt. Setting these amounts aside, states and localities account for roughly 88 per cent of all government purchases of goods and services. States and localities spent over \$925 billion in 1987, of which federal financial grants-in-aid

accounted for about \$115 billion. Other federal financial aid, including tax subsidies, loans and loan guarantees totalled nearly \$50 billion at that time. Main expenditure patterns in 1993 are summarised in Table 4.

Table 4. Composition of government spending, by level and function, 1993

(Percentage of non-interest expenditures)

| FEDERAL GOVERNMENT | |
|--|--------------|
| National defence | 26.6 |
| Social security | 23.4 |
| Medicare | 13.2 |
| Veterans benefits and services, welfare and social services, and housing subsidies | 9.0 |
| Civilian and military retirement | 4.9 |
| Other | 22.9 |
| Total: | 100.0 |
| STATE AND LOCAL GOVERNMENT | |
| Education | 37.5 |
| Medicaid | 15.9 |
| Welfare and social services | 8.0 |
| Highways | 7.5 |
| Police and fire protection | 6.2 |
| Corrections | 3.7 |
| Water , sewerage, and sanitation | 1.5 |
| Other | 19.6 |
| Total | 99.9 |

Notes: Data are on a national income and product accounts (NIPA) basis, and are as published in the Survey of Current Business, September 1994.

Federal grants-in-aid to state and local governments are not included in federal government expenditures.

Source: Department of Commerce.

Balance between discretion and control

In addition to providing financial assistance to local governments, states have the constitutional authority to place a variety of limits on local government finance, such as controls on local government spending; limits on property taxes (which are an important local government revenue source); limits on expenditures; debt limits; referendum requirements; maximum duration of bonds; interest ceilings; and caps on revenues from all sources. These state-imposed constraints are often more important to local governments than state financial aid.

Equalisation schemes: Richer communities can raise more revenue and afford better public schools and other services than poorer communities, and most states have adopted school finance equalisation measures as part of their subsidies to public schools. However, federal courts have found many state equalisation schemes to be unfair and unconstitutional.

Balance between global and specific federal transfers: A declining percentage of transfers are “project grants”, with which federal officials can decide which state or locality submits the most attractive proposal and which give federal officials a great degree of discretion in shaping state and local activities.

A much larger volume of funds flows as “formula grants”, where the amount provided to each state is established by a statutory formula. With formula grants, federal agencies can require states and localities to submit plans for the use of these funds, but there is little discretion in the amount of the grant. This should reduce federal leverage over states and localities but almost 90 per cent of total federal formula grants are for narrow “categorical” purposes, the remainder being “block” grants which allow more discretion to states and localities. There is active negotiation between levels of government about the terms of grants, but the leverage of states and localities is limited by the narrow purposes of categorical grants. There is much current debate on how the policy-making role for programmes receiving federal financing should be shared between the federal, state and local governments (see section 3.2).

Federal aid: Total federal aid to states declined slightly during the first years of the Reagan Administration but more recently has reached historically high levels. Federal aid to state and local governments comprises grants, loans and tax subsidies. Table 5 shows the breakdown of federal grants by function from 1960 to 1995. In 1995, federal grant outlays totalled \$225 billion, those for loans and guarantees totalled \$0.2 billion and tax provisions for state and local governments are estimated to be \$75.2 billion in 1996. The most noticeable increases since 1960 have come in the areas of transportation; education, training, employment, and social services; health; and income security. Recent increases have come primarily in grants which are passed on to individuals, especially for medical care for the poor. Medicaid is the largest grant programme -- its estimated outlays in 1997 will be \$105.6 billion. It, and some welfare programmes, are jointly financed by the federal and state governments but administered by the states. In 1980, aid to individuals comprised about 40 per cent of federal grants; this figure rose to over 60 per cent in 1995. About a quarter of federal grants to states and localities are for capital projects (e.g., construction of highways and sewage treatment plants). Social service programmes, including education, and job training, account for most of the remaining 30 per cent. The effect of the shift from programme grants to aid to individuals is that state and local governments have less discretion in how federal funds are spent. However, states have sought waivers from federal agencies to allow greater flexibility in the design of social service programmes, and the Clinton Administration has sharply increased the number of approved waivers.

**Table 5. Trends in federal grants to state and local governments
by function (1960, 1970, 1980, 1990, 1995)**

(Outlays; US\$ billions)

| | 1960 | 1970 | 1980 | 1990 | 1995 |
|--|------------|-------------|-------------|--------------|--------------|
| Natural resources and environment | 0.1 | 0.4 | 5.4 | 3.7 | 4.1 |
| Agriculture | 0.2 | 0.6 | 0.6 | 1.3 | 0.8 |
| Transportation | 3.0 | 4.6 | 13.0 | 19.2 | 25.8 |
| Community and regional development | 0.1 | 1.8 | 6.5 | 5.0 | 7.2 |
| Education, training, employment, and social services | 0.5 | 6.4 | 21.9 | 23.4 | 34.1 |
| Health | 0.2 | 3.8 | 15.8 | 43.9 | 93.6 |
| Income security | 2.6 | 5.8 | 18.5 | 35.2 | 55.1 |
| General government | 0.2 | 0.5 | 8.6 | 2.3 | 2.2 |
| Other | (1) | 0.1 | 1.2 | 1.4 | 2.0 |
| TOTAL | 7.0 | 24.1 | 91.4 | 135.3 | 225.0 |

1. \$50 million or less.

Source: Analytical perspectives.

State aid: The largest form of state grants is for aid to local schools. The methods of distributing assistance among local units may involve returning revenues to jurisdictions in proportion to the amount raised in each, or they may be allocated according to complex equalising formulae similar to those used in federal grants. In many instances, states have elected to assume full responsibility for financing and providing certain services rather than sharing costs or providing grants for local governments. Some municipalities have also been able to shift some functions to the state level. Examples include public health, public welfare, municipal courts, pollution abatement, property tax assessment standards, building codes and land use regulations.

2.3 *Performance management*

Mechanisms

In the 1980s, several reforms at the federal level required increased oversight and tighter control of public spending, at all levels of government. States and local governments were the first to experiment with performance “benchmarks” and other indicators of whether public programmes were achieving their intended impact on incomes, employment, or the quality of life (see “Quality standards”).

Although a few federal agencies experimented with performance management on their own initiative, it was the 1990 Chief Financial Officers Act, the Clinton Administration's National Performance Review, and the Government Performance and Results Act of 1993 which put this issue on the agenda for all federal agencies.

For federal agencies which are direct providers of service, such as veterans' hospitals and customs, implementing performance management systems will be relatively straightforward. A much larger number of federal agencies operate through grants to states and localities or through a complex system of shared regulatory responsibilities. For these agencies, performance management will be much more difficult to design and operate. Programme “re-inventions” which devolve responsibilities from the federal level to states and localities have often left open the question of which level of government has responsibilities for matters such as audits.

The Government Performance and Results Act, 1993, was in part inspired by the comprehensive system of performance management and budgeting used by the city of Sunnyvale, California. Sunnyvale's performance management and budget system evolved out of a more rudimentary effort to link budget with performance in the early 1970's. That initial attempt used the traditional line-item budget, shown under a set of programme performance goals. In 1977 the city began a serious effort to recast the system into a new format, with its hierarchy of goals, objectives and tasks. The general plan which is a long term policy document (20 years) covering each of the 24 areas of city services and forming the blueprint for what type of community the city would like to become over the next two decades, was made meaningful. The long-term performance system was also extended and made more sophisticated through a Ten-Year Resource Allocation Plan, a Two-Year Performance Budget, and Management Achievement Plans. The pay-for-performance system was developed, and these were all linked into a comprehensive Planning and Management system. The system works and in recent years a citizen satisfaction survey has shown that 93 per cent of Sunnyvale residents rated overall city services as “good” or “excellent”.

Quality standards

In December 1994, a ground-breaking agreement was made between federal and state and local officials from Oregon. They signed a memorandum of understanding to undertake the "Oregon Option" -- a framework for a long-range demonstration project in which Oregon officials and the federal government will identify the benchmarks and strategies for improved delivery of services involving federal, state, and local agencies. The agreement commits the signatories to test an outcomes-based approach and create a new federal-state-local partnership that could serve as a model for improvements nation-wide. Benchmarks are now being used in Oregon as critical indicators about the economy, the quality of life, and the welfare of citizens. They track where the State (or county) stands and how it measures up to its target goals over a specified number of years (e.g. 1995, 2000, 2010) and oblige Oregon and its localities to measure what they do by agreed-upon standards.

2.4 Human resource management*Statutory distinctions*

Most full-time federal employees are career civil servants, protected by merit protection systems. However, at topmost levels of most United States agencies there are more political appointees than in most other OECD countries.

States and most larger localities have merit protection systems which are broadly similar to the federal system but which vary somewhat in quality. They are required to establish such systems for a large part of their workforce, and most have developed systems that encompass virtually all employees.

Table 6 shows the evolution of civilian employment by level of government. It demonstrates firstly that in 1992 some 60 per cent of civilian employees were in local governments and a quarter in state governments; and secondly that, since 1980, the numbers of civilian employees in federal, state and local governments have grown by 5, 18 and 14 per cent respectively. Most of the federal growth was in defence and the Postal Service. The growth trend has been reversed since 1993, with a federal work force reduction of almost 10 per cent between then and the end of 1995.

Table 6. Civilian employment by level of government (1980, 1985, 1990-1992)

| | (number of persons, full-time and part-time) | | | | |
|--------------------|--|-------------------|-------------------|-------------------|-------------------|
| | 1980 | 1985 | 1990 | 1991 | 1992 |
| Federal government | 2 898 000 | 3 021 000 | 3 105 000 | 3 103 000 | 3 047 000 |
| State governments | 3 753 000 | 3 984 000 | 4 503 000 | 4 521 000 | 4 595 000 |
| Local governments: | 9 562 000 | 9 685 000 | 10 762 000 | 10 930 000 | 11 103 000 |
| Counties | 1 853 000 | 1 891 000 | 2 167 000 | 2 196 000 | 2 253 000 |
| Cities | 2 561 000 | 2 467 000 | 2 642 000 | 2 662 000 | 2 665 000 |
| Townships | 394 000 | 392 000 | 418 000 | 415 000 | 424 000 |
| School districts | 4 270 000 | 4 416 000 | 4 950 000 | 5 045 000 | 5 134 000 |
| Special districts | 484 000 | 519 000 | 585 000 | 612 000 | 627 000 |
| TOTAL | 16 213 000 | 16 690 000 | 18 370 000 | 18 554 000 | 18 745 000 |

Source: *Public Management Developments: Update 1995*, OECD, 1995.

Managerial autonomy

Personnel management at all levels of government is divided among legislatures, central personnel agencies, and personnel offices within operating agencies. Staffing levels are generally set by legislatures, whilst other aspects of personnel management are controlled by central personnel offices. However, in two-thirds of the states, more employees perform personnel duties in line agencies than in the primary jurisdiction. Texas vests personnel management with line agencies, and California has two centralised personnel offices.

Wide variations within and among states and localities, makes generalisation about salary levels, structures, and responsibilities rather difficult. In general, federal salaries are higher than comparable state and local salaries. State and local elected officials usually earn considerably less than the career federal programme managers whom they meet in the course of negotiations over grants and mandates.

At all levels of government, there is increasing dissatisfaction with centrally administered human resources programmes which are perceived as too inflexible and unresponsive to diverse agency cultures. The Clinton Administration's National Performance Review (NPR), calls for significant changes in the management of human resources within the Executive Branch of the federal government. The major thrust is to deregulate human resources management, decentralise authority to line managers at the operating level, and streamline processes to reduce the cost of administration of the human resources system. NPR also proposed increased investments in employee skills and information technology.

In the 1980s, virtually every state has reformed its civil service system in some way, and recently 33 of the 50 were simultaneously working on reform proposals similar to those of the NPR.

Many state and local governments are heavily unionised, and more than 40 per cent of the American public sector work force is covered by collective bargaining contracts that stipulate employment terms. Some states restrict the right of public employees to strike. Unions are important political forces in many localities, and associations of public school teachers are powerful in many states.

In the 1990s, many states and localities, as well as private employers, are contracting out a larger portion of their work. This is often strongly opposed by unions but favoured by governmental managers as a way of down-sizing the workforce and creating greater efficiency by freeing managers from civil service rules.

2.5 *Regulatory management and reform*

The states have constitutional authority to issue laws and regulations in areas not pre-empted by federal law. The federal government also delegates authority to the states to implement many federal regulatory programs, often on a cost-sharing basis. Municipalities and local governments, such as counties, are creations of the states, and typically have regulatory and legal authorities of their own.

The federal government has adopted policies of reducing federal regulation on the states, and of devolving regulatory authority to state and local governments whenever possible. As in other federal governments, however, the United States has experienced dramatic and increasing centralisation of regulatory power, despite this power sharing between the states and the federal government.

In the 1960s and 1970s, for the first time in the nation's history, federal mandates and regulations began to rival grants and subsidies in importance as federal tools for influencing the behaviour of state and local governments. Complaints grew of cumulative burdens, excessive costs, confusion, and delays caused by federal regulations. Efforts to reform the regulatory process to grant relief to state and local governments began in the late 1970s, in part because the courts had begun to rule against the application of some federal regulations to state governments, and in part because the president and the Congress began to pay more attention to the issue. Several laws were enacted to improve federal regulatory discipline, including the Paperwork Reduction Act of 1980; the Regulatory Flexibility Act of 1980, which required regulatory agencies to minimise regulatory burdens on small governments; and the State and Local Government Cost Estimate Act of 1981, which required the Congress to estimate, prior to enactment, costs of significant legislation on state and local governments.

Despite numerous attempts to reduce regulatory burdens on state and local governments, however, the weight of new intergovernmental regulatory legislation increased in the 1980s. Federalism was explicitly affirmed as a regulatory principle in 1987, when President Reagan ordered that regulations should pre-empt state authority only if pre-emption was required by Congress or necessary to address a problem of national scope. The order required agencies to perform federalism assessments on rules that would have a substantial effect on sub-national governments, and to submit these assessments to OMB through the regulatory review process. Nevertheless, the number of new federal laws imposing significant new burdens on state governments or pre-empting state authority increased in the 1980s relative to the 1970s.

In addition, the federal government has regulated the activities of states themselves, mandating large new burdens and costs that state and local governments are hard-pressed to finance. In this context, the Unfunded Mandates Reform Act was enacted in early 1995 with the intent of restricting the ability of the Congress to impose costly mandates on states, localities and tribal governments (see also section 2.2). The legislation also requires federal agencies to assess the qualitative and quantitative costs and benefits of any proposed regulatory action that would result in annual expenditure of \$100 million or more by sub-national governments or the private sector. Agencies must identify and consider a reasonable number of regulatory alternatives and from these alternatives select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the proposed rule -- or explain their decisions if a different action is adopted

Of separate concern is the substantial volume of regulations issued by the states themselves. Like the federal government, state governments are regulating more. It was observed in 1990 (Bowers) that "this increased rule-making activity threatens to rival, or even replace, state legislatures as the principal source of new laws emanating from state government".

Federal regulatory reform does not affect state regulations, and little has been done to co-ordinate federal regulations with those of the states. Many of the states, however, have employed some form of executive review to oversee their own regulatory agencies. The California Office of Administrative Law, for example, reviews all proposed rules. If it rejects a rule, the rule cannot become effective unless the state regulatory agency persuades the governor (the elected head of the state) to reverse the decision. In three other states, rules cannot become effective unless a governor approves them. Over 40 states provide for advance clearance of proposed rules by the state attorney general.

The federal government is also an important financial and economic regulator. Most federal programmes for social regulation, e.g., environmental quality and industrial health and safety, are

implemented and augmented by states. Local governments also are regulators, being for example the primary source of land use regulation in most states.

3. Trends in redistributing authority across levels of government

3.1 *Evolving tendencies*

Since its founding, the history of the United States has been one of quickening, almost relentless extension of the scope of the activity of federal agencies and courts. However, the expansion of the scope of federal activity has not resulted in a coherent system of service delivery. At each level of government, responsibilities are further divided. The roles and responsibilities for providing public services are, therefore, exceedingly complex and diverse. Authority is widely dispersed. As a result, service delivery is more than decentralised — it is fragmented.

The roots of fragmentation can be traced back to the first years of the republic, in the late 18th century. The United States first emerged as a confederation of separate colonies, which had been settled by different religious and ethnic groups and had somewhat different political and cultural traditions. When they joined to form a nation, they insisted on preserving state traditions and responsibilities. As other states were formed, they brought their own distinctive political cultures and patterns of state-local relations.

By the late 1970s, the relationships between levels of government had become so complex and fragmented that the Advisory Commission on Inter-governmental Relations proclaimed a “crisis of competence and confidence” in the American federal system. At the same time the decentralisation of authority which fosters complexity was seen by some as an important source of strength, flexibility and diversity. The fact that since the mid-1950s the share of total government spending by state and local governments has remained at around 30 per cent is seen as testimony to the stability of the system through a period of unprecedented change.

In 1980, President Reagan proclaimed in his first inaugural address that he would redress the balance between the federal government on one hand and states and localities on the other. This rhetoric echoed the views of the Advisory Commission on Intergovernmental Relations. But most observers interpreted the call for a “new federalism” as an excuse to advance Reagan's substantive objectives of deregulation and reduced governmental interventionism. It was also viewed as a means of reducing federal domestic spending. Reagan and the National Governors' Association tried to negotiate a “sorting out” of governmental activities through a process of “swap/turnback”. This involved the federal government taking on the costs of Medicaid and food stamps (social programmes and medical care for the poor) while states took over the AFDC federal programme (Aid to Families with Dependent Children) over a 10-year period; and localities gradually assuming community and economic development, and some other transportation and other “local” programmes. Congress prevented most of these cuts from being made. Republican presidents proposed cuts and few new interventionist programmes, while the Democrat-controlled Congress managed to fend off the cuts but could not push through many new large-scale spending programmes.

Instead of a clarification of roles among the levels of government, two other shifts took place over the past fifteen years. The first shift was that states and local governments seized the leadership in

many policy areas as well as on management issues. The second shift was the rapid increase of federal mandates on state and local governments, which resulted in the 1995 legislation on unfunded mandates.

3.2 *The current debate*

In the 1990s, an economic slowdown and the increasing weight of federal mandates squeezed both state and local budgets. State experimentation continued, often in the form of asking for waivers of federal requirements to permit experimentation with prevention and cost-cutting initiatives. In recent years, therefore, many states and local governments have been well ahead of the federal government in experimenting with administrative and organisational reforms, such as privatisation, administrative simplification, and public-private partnerships. The waiver process (requests by state, local or tribal governments to tailor federal programmes to meet local needs) can, however, be costly, complex and time-consuming.

President Clinton came to national office after a career both as a governor and as an advocate for new federal initiatives in welfare reform, education, and technology development. His administration has sought to work in partnership with state and local governments, and has granted waivers for state and local policy experimentation. The Clinton Administration's National Performance Review endorsed the concept of "empowerment" of states and localities as a way of unravelling complex programme requirements and allowing programme managers, front-line workers, and community leaders to redesign programmes around performance objectives, such as changes in income, employment, or quality of life.

These efforts to allow greater flexibility to states and localities have not, however, resulted in greater harmony between levels of government. Instead, the parallel explosion of federal mandates has led to increased inter-governmental tension. In sum, the mid-1990s find the United States with an array of public services that remains very fragmented and complex, with blurred lines of authority and goals which overlap. The reasons for federal leadership in the past may have lost some of their force, but states and localities are both resisting federal leadership and displaying significant leadership themselves. On the other hand, such a decentralised federal system encourages the diversity which can be seen as a strength of the system, despite the enormous complexity which it also brings.

The current debate centres largely on whether to convert existing programmes into block grants and on how much discretion to allow states in determining how those grants should be used. The Clinton Administration strongly supports enhancing the role of states and localities in policy making. In many areas—job training, community development, and welfare, for example -- enhanced flexibility for states and local communities is considered likely to yield better results. But this enhanced flexibility must be provided in a way that protects the national interest. The federal government view is that as it has a significant role in financing programmes, it also should have some role in policy in order to ensure accountability. On the one hand, the federal government can influence the pattern of state spending more easily. It is precisely the federal government's desire to influence patterns of state spending that justifies a federal role at all. On the other hand, if the substitution of federal for local funding leads to less diligent monitoring by taxpayers, the money may not be well spent. Federal actions can impose costs on the states, and the federal government may spend state money more readily than funds raised through federal taxes.

The Clinton Administration has put forward a new approach to federal grants:

- The federal government would provide states and local governments with greatly enhanced flexibility: funds from numerous programmes would be consolidated, and regulations would be pared back.
- Accountability would be ensured not by restrictions on the use of funds but by performance measures. Programmes that live up to their stated goals could receive more funding.
- Individuals benefiting from government programmes would also be given as much discretion as possible to choose how those funds should be spent, reducing the possibility that they would be spent unwisely.

In mid-1996, after much debate, Congress passed a welfare reform bill that converts current federal spending into block grants, ends the federal entitlement to welfare benefits, and shifts many responsibilities to the states.

3.3 *Driving forces*

Political factors: The evolution to a more complex and fragmented situation did not lead to a major national debate about the roles of different levels of government in the delivery of public services. Federalism has not been a high-profile political issue since the 19th century Civil War. The attitudes of voters and politicians towards the respective roles of various levels of government have been shaped by their substantive policy goals, rather than their views of the appropriate scope of federal, state, or local authority. It is not uncommon for politicians to use the rhetoric of decentralisation, state's rights, or local self-determination to argue against a federal initiative in a policy area where they oppose a government action, and then for the same politicians to speak of overriding national concerns which require federal action on another issue.

Financial issues: In 1993, state and local officials protested against “unfunded federal mandates”. This state-local uprising is not seamless. States have used their constitutional authority over local policy and local taxes to transfer fiscal burdens to local governments. Furthermore, local governments, reluctant to take on new responsibilities, have often ceded authority over costly programmes to special districts which have been created to provide specific services, such as wastewater treatment, local transportation, or solid waste disposal.

It is difficult to predict where this movement will go. The federal budget deficit has recently been reduced and currently (FY 1996) stands at \$118 billion, but this still puts limits on the ability of any federal administration to reduce the budget pressures on states and localities. The current intention of both the Congress and the President, however, is to bring the federal budget into balance by the year 2002.

Economic and social forces: Beyond the immediate issues of budgets and mandates, there are deeper questions about the future federal role in American policy. The scope of federal activity has usually expanded as federal officials mobilise to fight a war, deal with national economic issues, or promote social equity. With the end of the Cold War, the first reason for federal interventionism is substantially changed. It is now difficult to make the case that federal spending on science, transportation or education is necessary to protect against a foreign military threat. The landscape has also changed with respect to the federal role in economic issues as the American economy becomes more integrated into the global economy. This poses new challenges to federal policy-makers. Nations can prosper by upgrading

UNITED STATES

the skills of their workforces, but in the United States, it is states and localities, not the federal government, which have traditionally financed and provided the policy direction for most education and workforce policy.