



LESSON 8

FISCAL AND REGULATORY FEDERALISM

UNIT 1

Constitutional Underpinnings of the U.S. Government (≈10%)

THE NATIONAL BUDGET AS A TOOL OF FEDERALISM

"THE CARROT" AND "THE STICK"

- To use a common metaphor, the national government uses the need for fiscal assistance as both a carrot and a stick.
- The carrot is the federal dollars needed by the state, which come in the form of grants-in-aid.
 - As citizens' needs expand, the states look to the national government to assist in meeting the financial aspects of fulfilling those needs.
- **Fiscal federalism = the carrot**
- The stick comes in the form of regulation and compliance with federal mandates to receive the money or to continue to obtain grants-in-aid.
 - Regulations such as minimum wage, speed limits, and handicap accessibility are examples of "sticks," or mandates, that states must comply with to receive the national funds.
- **Regulatory federalism = the stick**

FISCAL FEDERALISM ("THE CARROT")

- Fiscal federalism is the model of spending, taxing, and providing grants in the federal government system.
- The national government's primary means of influencing state governments is giving money to states in the form of grants-in-aid (or grants).
- Since World War II, states have come to rely heavily on federal money.
- Likewise, the national government has also relied on the states to administer some federal policies, a practice called fiscal federalism.
- The nation's leaders originally designed them to help fund agriculture, land grant colleges, and farm-related education.
- They grew to encompass many other types of funding such as public housing, urban development, and school lunch programs.

WHAT ARE FEDERAL GRANTS?

- Federal revenue given to state and local governments to establish minimum national standards in important areas (air quality, water quality)

PURPOSE OF FEDERAL GRANTS

- To equalize resources among the states (both rich and poor)
- To attack national problems, yet minimize the growth of federal agencies (reduces growth of federal bureaucracy >> federal government simply provides money to states and has states run the programs - under federal guidelines, of course)

TYPES OF FEDERAL GRANTS

- CATEGORICAL GRANTS
 - Congress appropriates funds for specific purposes (e.g. roads, airports, housing, bilingual education)
 - States don't have to accept these, but if they do they must comply with federal standards >> weakens the power of state governors and legislators
- BLOCK GRANTS
 - Granted to support a collection of general programs (e.g. transportation, urban development, education) >> more state leeway in spending of the money = few federal restrictions
 - Associate these with 104th and 105th *Republican* Congress and devolution of power back to states
- PROJECT GRANTS
 - Money states apply for by submitting specific project proposals
- FORMULA GRANTS
 - Money given to states according to a mathematical formula

THE POLITICS OF FEDERAL GRANTS

- Arguments about what constitutes desirable public policy, where power should be located, and who will gain or lose by the various types of grants
- Iron triangles or issue networks: interest groups, congressional committees, and federal bureaucrats form forces and are effective in protecting programs
- The battle over the appropriate level of government to control the funds tends to be cyclical
- Democrats have generally favored greater funding, but with more "strings" associated with categorical grants.
- Republicans have generally favored less funding, but with fewer "strings" associated with block grants. Welfare is an example of this?
 - End of entitlement status of AFDC and federal guarantee of welfare checks with passage in 1996 of Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Act of 1996).
 - Welfare block grants therefore replaced the welfare categorical grants.
 - Even as a block grant, the Welfare Reform Act involved federal "strings."
 - No federal funds go to recipients who have not worked within 2 years.
 - No federal funds go to recipients who have received federal money >5 years.
 - States must spend at least 75% of what they had previously spent on welfare – this to avoid the "race to the bottom."

REGULATORY FEDERALISM ("THE STICK")

- One way for Congress to pass mandates is to impose regulations and standards on state and local governments.
- In the past, Congress has forced state governments to meet certain federal guidelines. This is known as regulatory federalism.

FEDERAL MANDATES

- Mandate: a federal order imposed upon states. Examples:
 - Americans with Disabilities Act (governors and mayors don't like because of costs to remodel)
 - Various environmental acts (e.g. Clean Air Act, Clean Water Act).
 - Individuals with Disabilities Education Act.
- Purposes: to meet a goal of the federal government.
- Impact upon the states:
 - Financial burdens, especially with unfunded mandates (e.g. ADA has imposed large costs upon states as they make "reasonable accommodations" for the disabled).
 - State complaints about federal heavy-handedness (e.g. if a state does not devise a plan and pay for the requirements of the Clean Air Act of 1990, the federal government will impose its own plan upon the state).

- State complaints about federal blackmail (e.g. if a state doesn't comply with the Clean Air Act standards, federal funds can be withheld in other programs).
- State complaints that federal government is altering the nature of federalism with its excessive power.
- Republican response to mandates:
 - Unfunded Mandates Reform Act of 1995 (part of Contract with America) restricted future unfunded mandates.
 - Required CBO to analyze impact of unfunded mandates on states.
 - Requires separate congressional vote on bills that impose unfunded mandates.
 - This is another example of the Devolution Revolution associated with the 104th Congress.

NEW TECHNIQUES OF FEDERAL CONTROL

- These four techniques fall under the category of unfunded mandates
- DIRECT ORDERS
 - State or local government must act under the threat of criminal or civil penalties
 - Equal Employment Opportunity Act (1972) – bars job discrimination by state and local governments on the basis of race, color, religion, sex, and national origin.
 - Pits the legal authority of Congress against the constitutional rights of the states.
- CROSS-CUTTING REQUIREMENTS
 - Conditions on one grant extended to all federally-supported activities
 - Requirements imposed on virtually all grants to further various national social and economic policies.
 - Title VI of the Civil Rights Act (1964) – no person in the U.S. shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program receiving federal assistance.
 - Title IX of the Education Amendments (1972) – prohibited sex discrimination in educational institutions receiving federal aid.
 - Davis-Bacon Act – construction projects receiving federal monies must pay union-scale or "prevailing" wages, even if less expensive labor is available.
 - The federal government will force states to follow the law through the Civil Rights Act and if the state doesn't, it risks losing money on all federally funded projects
- CROSS-OVER SANCTIONS
 - Permit the use of federal dollars in one program to influence state and local policy in another
 - Failure to comply with the requirements of one program can result in reduced or terminated funds from another program that was separately authorized and separately begun.
 - Federal highway aid and minimum drinking age of 21
- PARTIAL PREEMPTION
 - Federal law establishes basic policies but requires states to administer them usually without any federal funds
 - Clean Air Act of 1990
 - Total preemption: national governments power under the supremacy and commerce clauses to preempt conflicting state and local activity.
 - Some programs give states an option not to participate, but if a state chooses not to do so, the national government steps in and runs the program.

FREE RESPONSE QUESTION (FRQ) REVIEW

1. The framers of the United States Constitution created a federal system.
 - (a) Define federalism.
 - (b) Select each of the following and explain how each has been used to increase the power of the federal government.
 - Categorical grants
 - Federal mandates
 - (c) Explain how block grants have been used to increase the power of the states relative to the federal government.

2. The power of the federal government relative to the power of the states has increased since the ratification of the Constitution.
 - (a) Explain how one of the following has increased the power of the federal government relative to the power of the state governments.
 - Americans with Disabilities Act
 - Civil Rights Act of 1964
 - Clean Air Act

3. A tool that the United States Congress has used to get the states to follow their wishes is the mandate.
 - (a) Define unfunded mandates.
 - (b) Explain why unfunded mandates are problematic to the states.

MULTIPLE CHOICE (MC) REVIEW

1. A _____ grant is a large grant to a state by the federal government with only general spending guidelines.
(A) block
(B) business
(C) commerce
(D) credit
(E) federal
2. The _____ Mandates Reform Act of 1995 prevented Congress from passing costly federal programs without a debate about how to fund them.
(A) Cost
(B) Commercial
(C) Funded
(D) Saving
(E) Unfunded
3. _____ grants typically allocate federal dollars based on a specific purpose and have more strings attached.
(A) Block
(B) Categorical
(C) Commerce
(D) Federal
(E) Unified
4. What is a mandate?
(A) An order from the federal government requiring the states to take a certain action.
(B) An order from a state government requiring a federal action.
(C) An order from the federal government prohibiting the states to take a certain action.
(D) An order from a state government prohibiting a federal action.
(E) An order requiring joint state and federal action.
5. New federalism would seem to favor which type of government grant?
(A) block grants
(B) business grants
(C) categorical grants
(D) programmatic requests
(E) unfunded mandates
6. The No Child Left Behind Act is an example of a(n) _____.
(A) block grant
(B) business grant
(C) categorical grant
(D) programmatic request
(E) unfunded mandate
7. Which is an example of a federal mandate?
(A) Congress passes a law requiring all nuclear power plants to revise and strengthen their safety protocols.
(B) Congress passes a law requiring all states to adopt a sex offender registry system categorizing offenders based on conviction, not future threat.
(C) The Environmental Protection Agency sends money to Louisiana to help with cleanup from the gulf oil spill.
(D) The Nevada legislature passes a law requiring all public school teachers to spend twenty hours per week preparing students for the state achievement test.
(E) The Supreme Court upholds a federal law requiring all citizens to wear a seatbelt while operating a motor vehicle.
8. Which of the following is an example of a categorical grant?
(A) Funds provided by Congress to the states for education generally.
(B) Funds provided by Congress to the states for substance abuse prevention.
(C) Funds provided by Congress to the states for transportation infrastructure.
(D) Funds provided by Congress to the states to enhance science instruction in a low-income area.
(E) Funds provided by Congress to the states to promote the physical health of citizens.