

The federal government continued to provide “ingredients” in the form of **block grants** to the states. But unlike the highly regulated grants-in-aid that funded Great Society programs, block grants left states free to decide how best to spend the money they received. One of the requirements imposed on state welfare programs was that they limit the time a person could receive federally funded welfare payments to five years.

The Impact of the Supreme Court on Devolution

Since power began shifting back to the states in the late 20th century, the Supreme Court has made a series of decisions that contributed to devolution. One of the first involved the Gun-Free School Zones Act of 1990, a law passed by Congress that banned firearm possession around public schools. In 1992, Alfonso Lopez, Jr., a high school student in Texas, was convicted of violating the law after taking a gun to school. Lopez appealed his conviction on the grounds that Congress lacked the power to regulate gun possession in schools.

In *United States v. Lopez* (1995), the Supreme Court agreed with Lopez and voted 5–4 to strike down the 1990 act as an unconstitutional expansion of federal power. Speaking for the Court, Chief Justice William Rehnquist reasoned that upholding this law would “convert congressional authority under the Commerce Clause to a general police power of the sort retained by the States.”

The Supreme Court also limited federal power in *United States v. Morrison* (2000), a case involving a federal law that gave victims of gender-motivated crimes the right to sue in federal courts. In another split decision, the Court ruled that Congress did not have the authority to enact this law.

However, if the past is any guide, federalism will continue to evolve. In recent years, federal power has expanded in some areas. For example, President Bush signed the No Child Left Behind Act of 2001 into law. Under this act, states must provide students with qualified teachers and administer annual standardized tests in federally funded schools. Furthermore, in 2005 the Court upheld a federal law that limited marijuana usage in *Gonzales v. Raich*. In 2012, this federal law was challenged again when two states legalized recreational marijuana.

In some cases, the Court helped define what

the national government can and cannot do. For instance, Congress passed the Affordable Care Act of 2010, which required Americans to buy health insurance. Those who refused would have to pay a penalty. The Supreme Court upheld most provisions of the act in *National Federation of Independent Business v. Sebelius* (2012), but declared the act “constitutional in part and unconstitutional in part.” Chief Justice John Roberts, the deciding vote in this case, found that the federal mandate was constitutional because of Congress’s power to impose taxes, not because of the Commerce Clause, as the government argued. The Court’s decision to reject the government’s argument may limit federal power in the long run, and power will continue to shift between the states and the national government.

6.4 State Governments in a Federal System

Strange things were going on in Texas in 2003. State troopers were scouring the state looking for lost legislators. The missing lawmakers were not in any danger. Instead, they were hiding out in Ardmore, Oklahoma, and later in Albuquerque, New Mexico, in an effort to stall a vote in their state legislature. The activities of state governments do not usually get much coverage in the news. But the case of the runaway Texas lawmakers made headlines across the nation.

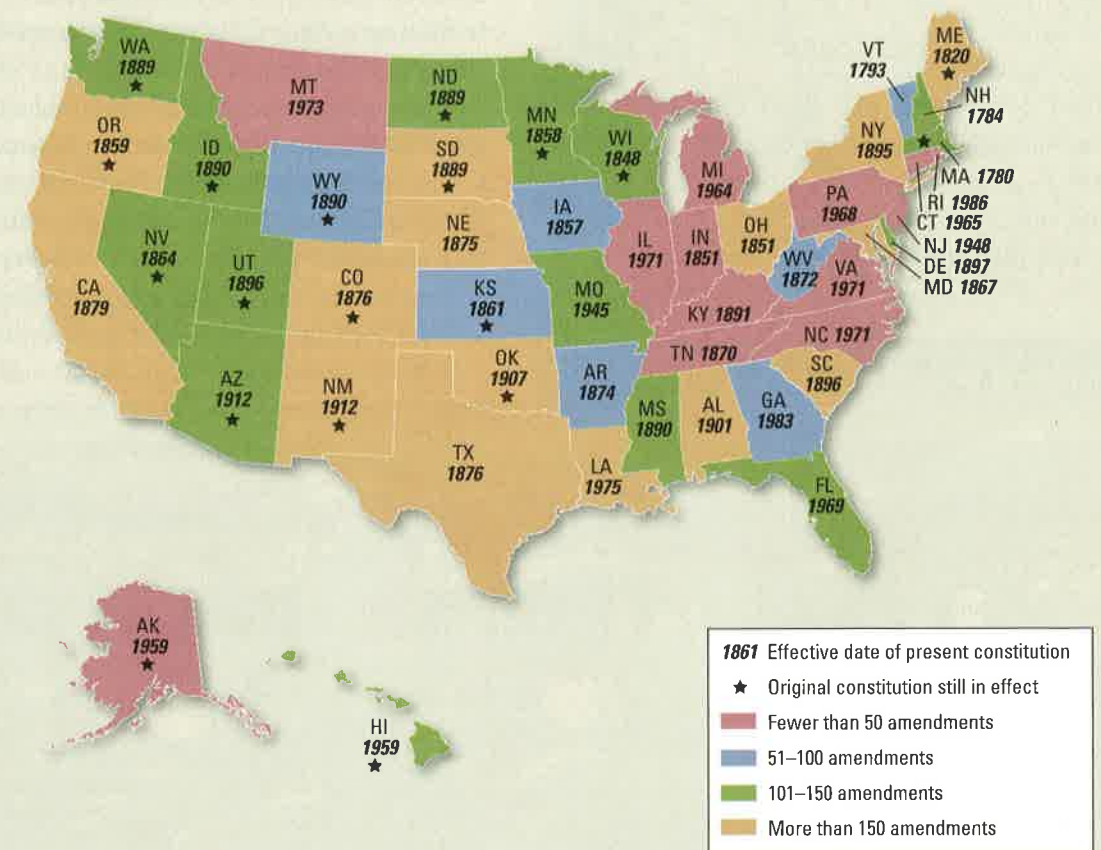
State Constitutions: Long and Much Amended

The missing Texas lawmakers were using a provision in their state constitution to keep the legislature from voting on a bill they opposed. The constitution of Texas, like that of most states, requires a **quorum** to be present for the legislature to vote on bills. A quorum is a fixed number of people, often a majority, who must be present for an organization to conduct business. The purpose of a quorum is to prevent an unrepresentative minority from taking action in the name of the full organization.

The U.S. Constitution requires every state constitution to support “a republican form of government.” Beyond that stipulation, each state is free to organize its government as its citizens choose. Nebraska, for instance, is the only state with

State Constitutions and Amendments

Nineteen states today are still governed by their original constitutions. In contrast, Louisiana holds the record for change, with 11 constitutions. Vermont has the shortest constitution with around 8,500 words. Alabama’s constitution, on the other hand, has more than 350,000 words.



a unicameral state legislature. Alabama, unlike other states, allows for “local amendments” to its constitution. These amendments apply only to the local areas that approve them.

In contrast to the U.S. Constitution, state constitutions tend to change frequently. Most states have adopted entirely new constitutions at least once, if not several times. Today, only five states still rely on constitutions written before 1850. This map shows when each state adopted its present-day constitution.

The map also shows that states tend to amend their constitutions relatively often. A majority of states have amended their constitutions at least 100 times. In Texas, voters were asked to approve 19

constitutional amendments during a single election. One of the amendments simply allowed towns to donate old firefighting equipment to charities. At the national level, such an issue would have been settled by an act of Congress.

Because of their many amendments, state constitutions tend to be much longer than the U.S. Constitution. The U.S. Constitution has only about 7,400 words, compared with an average of around 36,000 for state constitutions. Alabama boasts the longest constitution of all—with more than 760 amendments.

State constitutions are usually amended in one of two ways. The legislature may propose an amendment, which is then submitted to voters for approval.

About three-fourths of amendments proposed by legislatures win voter approval. Or citizens can petition for a public vote on a proposed amendment through the initiative process. About half of the amendments proposed by citizen initiatives are enacted by voters.

The Role of State Legislatures: Laws, Budgets, and Redistricting

Like the U.S. Congress, state legislatures are responsible for enacting laws, levying taxes, and creating budgets. In all states, lawmakers are elected by popular vote. Some states elect citizen legislatures, whose members meet only a few weeks per year.

Other states elect professional legislatures, whose members meet almost year-round.

State lawmakers act on a wide range of issues. For example, they enact laws that create state parks, establish graduation requirements for high school students, and regulate business activities within the state. They also pass tax laws and draw up budgets to fund everything from state prisons to community colleges.

State lawmakers are also responsible for **apportionment**, or the distribution of seats in the U.S. House of Representatives and in state legislatures. The U.S. Constitution apportions seats in the House of Representatives to the states based on population.

But Congress does not have the power to say how those seats should be distributed within a state. That decision is left up to each state.

For much of our history, state legislatures varied in how they approached apportionment. Often, lawmakers tried to draw district boundaries to benefit themselves or other members of their party, a practice known as **gerrymandering**. The term gerrymander was coined in 1811 to describe a salamander-shaped legislative district in Massachusetts. Elbridge Gerry, the governor of Massachusetts, had created the oddly shaped district to help members of his party.

In addition to gerrymandering, some state legislatures favored voters in small towns and rural areas by basing legislative districts on factors other than population. People in cities complained that legislatures dominated by rural lawmakers failed to deal with urban problems. But there was little they could do to force state legislatures to apportion seats differently.

Frustration with this situation prompted a group of citizens, led by Charles Baker, to sue Tennessee's secretary of state, Joe Carr, in 1959. At issue was the failure of the Tennessee legislature to adjust the state's legislative districts since 1901. During that time, many rural families had migrated to cities.

As a result of the legislature's inaction, Baker's urban district had ten times as many residents as some rural districts had. Baker claimed that this imbalance violated his Fourteenth Amendment right to "equal protection under the laws." He asked the court to prevent Carr and other state officials from holding elections in Tennessee until district lines were redrawn.

Baker v. Carr reached the Supreme Court in 1961. In the past, the Court had treated **redistricting**, or the redrawing of voting districts to reflect population changes, as a political question. As such, it was up to state legislatures, not federal courts, to decide when and how redistricting should take place. After months of deliberation, however, the Court rejected this position. In 1962, it decided that legislative apportionment was a question for state and federal courts to consider.

The impact of this decision was immediate and far-reaching. Within a year, 36 states were involved in lawsuits over their apportionment of legislative seats. A number of these cases, including *Reynolds v. Sims*,



This 1812 cartoon shows the salamander-like shape of a Massachusetts legislative district created by Governor Elbridge Gerry. Since then, the term gerrymandering has come to mean the drawing of district boundaries in a way that favors one political party or elected official over another.

came before the Supreme Court in 1964. Speaking for the Court, Chief Justice Earl Warren wrote,

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests . . . A citizen, a qualified voter, is no more nor no less so because he lives in the city or on the farm. This is the clear and strong command of our Constitution's Equal Protection Clause. This is an essential part of the concept of a government of laws and not men.

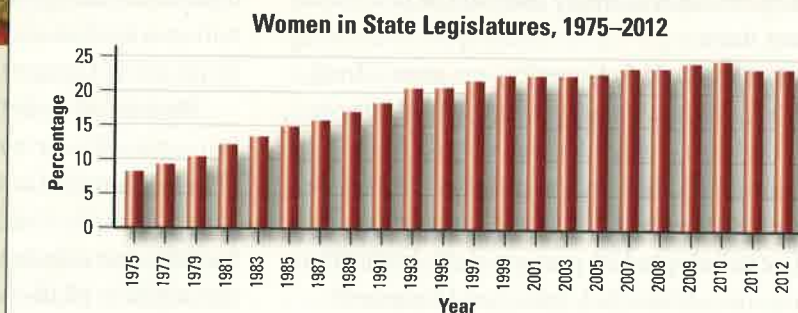
As a result of this decision, state legislatures across the country were forced to redraw their legislative districts following the principle of "one person, one vote."

Today, redistricting is done every ten years after the Census Bureau reports the results of the national census. A few states have turned over the task of redrawing district lines based on census data to an independent commission. In most states, however, redistricting is still done by lawmakers.

The Rise of Women in State Legislatures



The number of women legislators has grown steadily since 1975. By 2012, a total of 1,749 women were serving in state legislatures across the country. Colorado led the nation with 40 percent of its legislative seats occupied by women. South Carolina lagged with only 10 percent.



Source: Center for American Women and Politics, www.cawp.rutgers.edu.

The redistricting process is often divisive. The Texas lawmakers who fled the state in 2003 did so to block action on a redistricting bill they saw as unfair to their party. They did not have enough votes to defeat the bill. Instead, they tried to keep the legislature from voting at all by preventing a quorum from appearing at the statehouse. Redistricting continues to be a concern in Texas. When district lines were redrawn after the 2010 census, the issue was brought to the Supreme Court. In some states, however, arguments of redistricting can get even more intense.

When fists flew in the Illinois legislature in 1981, it was not over policy. It was about politics: the politics of redistricting.

That's no surprise. Redistricting is the political equivalent of moving the left field fence for a right-handed hitter. By changing the boundaries, redistricting helps some, hurts others—and leaves just about everyone else scrambling.

—Jack Quinn, Donald J. Simon, and Jonathan B. Sallet, “Redrawing the Districts, Changing the Rules,” *Washington Post National Weekly Edition*, April 1, 1991

Arizona Governor Jan Brewer



Jan Brewer became Arizona's governor in 2009. Her legislative agenda has pushed to increase the state's economic competitiveness, reform education, improve government efficiency, and challenge the authority of the federal government.

Governor Brewer's 2012 Agenda

Economic Development

- simplify tax code to aid small businesses
- promote tourism and trade by building interstate highway from Phoenix to Las Vegas
- support unemployed and underemployed adults transitioning into new careers

Education

- implement rigorous school standards
- increase parent involvement in K–12 education
- administer performance-based funding for higher education institutions

Effective State Government

- modernize State personnel system
- create a Government Transformation Office to improve government efficiency

Public Safety

- provide health services for mentally ill individuals
- improve training of child protection service officials
- improve efficiency of abuse hotline

Federalism

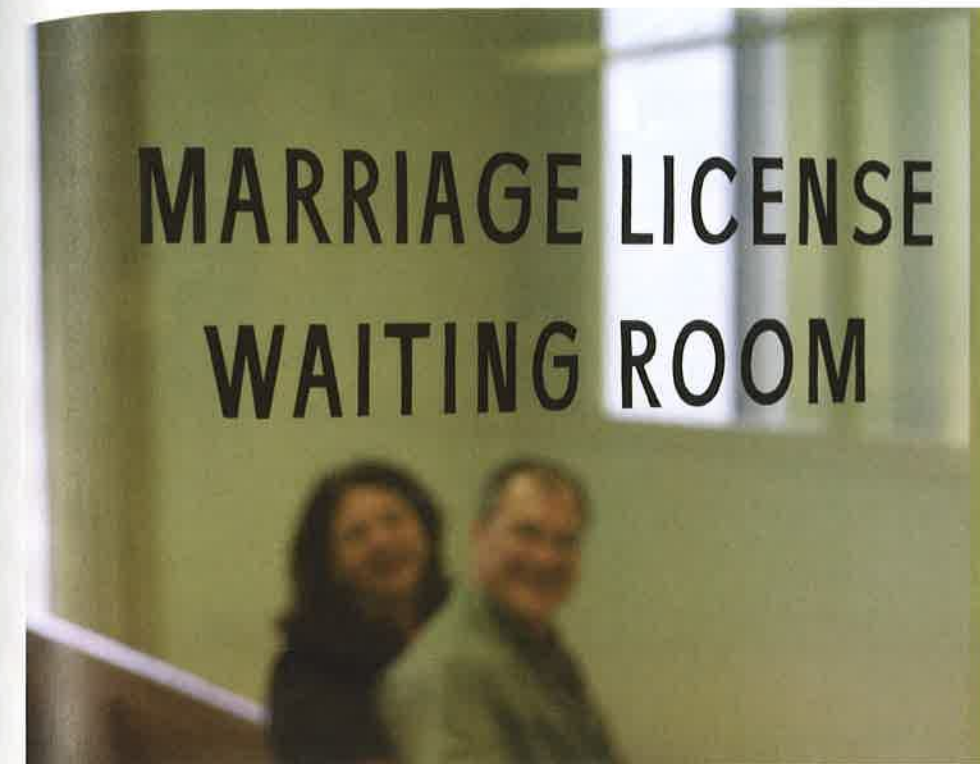
- support immigration reform bill Arizona SB 1070 in Supreme Court case
- oppose federal health care law
- push the federal government to restore forests in Arizona

The Role of State Governors: Managing the Executive Branch

State governors are usually the best-known public officials in their state. In all states, governors are elected by popular vote. Almost all serve four-year terms. In many states, they are limited to just two terms. After serving as governor, the majority return to private life. But some view the governorship as a training ground for higher office. About half of all U.S. presidents were governors first.

The most important task of a state governor is to manage the executive branch of his or her state government. In addition, most governors have the power to

- help establish the legislature's agenda.
- prepare the state budget.
- veto bills and budgets approved by the legislature.
- appoint state officials.
- grant pardons or reduce a criminal's sentence.
- command the state National Guard.
- issue executive orders.



An executive order is an order issued to a government agency to accomplish a specific task or carry out a specific policy. Governors differ in how they use their power. For example, as governor of Arizona, Jan Brewer issued executive orders that called for the creation of task forces to study problems such as the economy and education.

At times, governors take actions that put them at odds with the federal government. In 2010, for instance, Brewer authorized the training of law enforcers to carry out Arizona S.B. 1070, a controversial bill that allowed police to arrest people suspected of being illegal aliens without a warrant if they do not carry proof of legal residency. However, in *Arizona v. United States* (2012), the Court determined that states do not have the authority to arrest illegal aliens.

Governors may also serve as ambassadors for their state and play a major role in promoting its economic development. As governor of Washington, Chris Gregoire led trade missions to countries in Europe and Asia. When announcing a trade mission to India in 2012, Gregoire explained, “This is our opportunity to get out in front, and make sure that consumers and businesses in India are aware of the quality items produced in Washington state.”

There are many types of courts. Municipal courts deal with issues such as divorce and adoptions. County courts deal with criminal trials and lawsuits. They may also handle legal documents such as marriage licenses.

The Role of State Court Systems: Settling Legal Disputes

If you ever have a reason to go to court, you will probably deal with your state court system. The vast majority of legal cases in the United States are handled at the state and local level. Only cases that have a bearing on federal law are heard in federal courts.

There are two main kinds of courts in state judicial systems: trial courts and appeals courts. Trial courts handle most cases that affect the daily lives of citizens. Appeals courts handle cases that are appealed, or requested to be reviewed in order to reverse the decision of a trial court. In general, appeals center on questions involving interpretation of the law.

In most states, there are two levels of trial courts. At the lower level, municipal courts deal with traffic tickets, adoptions, divorces, and minor violations of the law. Small claims courts settle disputes involving small amounts of money—usually less than \$5,000. Most participants in small claims cases act as their own attorneys.

At the higher level, trial courts—with names such as superior court, county court, and district court—deal with major criminal cases and lawsuits. These are the trials usually shown in movies and television dramas.