

Chapter 1

Federalism as Creative Politics

Assembly Member: You should have been here last week, Glenn, if you wanted to learn how we create revenue policy in New York. One of my environmentalist friends made a statement about our nickel deposits on bottles and how great this was. So then, I don't know, Smedlap stands up and says, "Hey, what happens to the deposits nobody claims?" Good question, and it turns out none of us knew, so of course a third guy gets up and says, "Let's have the vendors remit their unclaimed deposits to the state. It'll be a revenue source." So then I get up and say, "If you're gonna do that, let's make it a dime," like I believe you have in Michigan. And then I get one-upped by someone who says, "We pay a buck for a coke in the city, so let's make the deposit a quarter," and to that this Republican from out on the island says, "At that sort of a deposit welfare mothers will be out getting bottles to bring in and make cash income so we ought to cut the AFDC grant if we're going to do it," and he says, "Now we've got a jobs program here." Then a Democrat gets up and says, "If we must cut spending on welfare, then we must get some real money out of the bottle scam . . . so let's make the deposits a dollar," and then another guy screams, "A buck—you make it a buck, and it's so lucrative not only will there be no unremitted deposits, but the mafia will be driving over to Pennsylvania (where there's no deposit) and collecting all the bottles and drinking all the soda they can to ring the state dry on our buck-per-bottle law." It was outrageous.

GB: So what happened?

Assembly Member: Well, once you mention the Mafia—one of my colleagues got up and said we were defaming Italians, so we dropped the whole thing. Hey, I'm Italian, I loved it—that's how we work around here. I love it, only in New York, pal.

This illustration, although humorous, illustrates quite a bit about the spirit of federal politics. The legislator's comments reveal the state government's need, apparently dire, for obscure revenue sources. The recycling program itself indicates legislators' concerns about providing a public good such as a cleaner environment. The comments about Michigan indicate an awareness of policy diffusion among states. The comments about the connections between recycling and welfare and jobs programs reveal elected officials' policy linkages, which can be creative. Finally, the comments about Pennsylvania's lack of a "bottle bill" indicate New Yorkers' worries that although a policy might initially appear good for the Empire State, its interaction with other states' policies, or lack thereof, could portend unintended negative consequences.

This book asks two questions central to the understanding of federal politics and political representation in federal systems. First, how do relationships among political institutions alter the politics and collective decisions that involve cooperative or competitive endeavors among different governments? Second, how does the public sector's responsibility for the provision of nonexclusionary public goods—from clean air to roads to education to health services—change federal politics?

Federalism changes politics. The structures and arrangements among political institutions change the incentives and constraints individual politicians face when developing public policy (Chubb 1985). Yet few scholars have investigated how elected representatives respond to these objective, or structural, changes in policy parameters. On a more subjective level, federalism changes the issues politicians face and the views voters hold about various programs and policies. National politics spill into state politics. Local politics bubble up to the state level, forcing state legislators to contend with issues they had not foreseen or sought and sometimes do not welcome.

Federalism changes politics within political institutions. Federal financing, funding formulas, regulations, and court rulings influence from above the agendas and collective decisions of state legislatures. From below, demands from and the resource limits of municipalities and local governments alter the agendas and decisions made by locally elected state representatives. Legislatures may consider a response but fail to agree on an alternative; they may agree on a response that only symbolically addresses a problem emanating from another level of government; or they may attempt to act only to find changing national or local politics preclude their responses. Sometimes, however, the legislature and other state

elected officials will agree on a major policy alternative as a response and enact it, as Michigan did with education finance reform or Tennessee did with Medicaid.

Scholars (Peterson 1981; Chubb 1985) have presented models of federalism focusing on the structures and purposes of federalism. Although these models describe the structure of federal politics and the purposes of federal policies, they provide less information about how actors in political institutions view federal politics on a day-to-day basis and about how elected representatives use the avenues federalism creates. I present a model that offers important new insights into how intergovernmental relationships create and change politics, how the structural relationships among governments influence elected officials' thinking about policy alternatives, and how these changes in thinking affect both the politics observed and the policies governments produce. I also consider how legislators' views about the scope of program benefits, their inclusiveness in providing public benefits, and their responses to incentives to assist particular constituencies translate into collective decisions to determine mixes of public goods, particular benefits, and tax systems.

Federal politics are creative politics. The structural arrangements among governments and the more informal, often competitive, relationships among subnational governments create new politics that would not exist in centralized or unitary governments. Institutional arrangements allow for debates about how to provide goods and services, and federalism frames these debates differently than would centralized or unitary governments. The relationships among governments create competitions not just across equivalent governments but among government levels, as elected officials claim credit for popular programs, shift blame for unpopular policies, and avoid responsibility for financing them with taxes.

Federalism changes the provision of public goods by creating a desire among officeholders to claim credit for programs and their benefits and to avoid responsibility for imposing taxes. These incentives and constraints frame several questions for political science. How do representatives define public goods? How do elected representatives decide which government should provide which goods, how should these goods be financed, and how should benefits flow? The critical point about public goods is that they are nonexclusionary. In federal systems, the nonexclusive nature of public goods complicates governing because elected officials seek credit for the benefits from public goods while avoiding responsibility for the taxes that finance them. Also, subnational elected representatives attempt

to exclude their public-goods' benefits from citizens outside their jurisdictions yet are only too happy to export the tax burdens necessary to finance these goods.

Economists have paid considerable attention to public goods (Samuelson 1954; Buchanan 1968). Because demand for public goods is derived differently than demand for private or exclusionary goods, governments better provide an economically efficient level of public goods than do private markets (Gramlich 1990). But economists have not investigated how public goods "firms"—governments and their ostensible managers, elected officials—approach their task. What do politicians consider exclusionary goods best provided privately and what do they consider public goods? Many government programs provide benefits that are neither strictly private goods nor public, nonexclusionary goods. Thus a good deal of gray area exists inside and outside legislative chambers about what government should provide and how.

State legislators spend considerable time determining, debating, and evaluating the prices and price systems for both public goods and particular benefits programs. These price systems are taxes. State legislators spend considerable energy discerning whether the public will accept these price (tax) systems and attempting to connect specific taxes with specific government programs and benefits.

To understand how federal structural arrangements and the nonexclusionary nature of public goods change subnational politics, I focus on the collective decisions of legislatures in four policy areas—taxes, economic development, education finance, and Medicaid.

Taxes are fundamental to government operations of any sort (Levi 1987). All state governments face the same federal tax system and its structural constraints and incentives, yet a great deal of variance persists among state tax systems and the changes in them during the 1990s. Also, states create localities and in many cases design and shape local tax parameters. The relationship of state systems to the federal system and states' responsibility for defining local tax options, if not the tax systems themselves, offer substantial reasons to investigate how states respond to national and local tax politics.

Economic development efforts have become a second universal among the states, and these efforts illustrate the horizontal competition that has developed in the U.S. federal system (Eisinger 1988; Peterson 1981; Dye 1990). While scholars have done much to identify policies and

estimate their efficacy, I examine them to illustrate how state legislatures can choose either a “public goods” or a “particular benefits” approach to achieve the same outcome—an improved economy.

The later chapters focus on education financing and health care, respectively. These policy contrasts illustrate several points germane to the investigation of how institutional arrangements and perceptions about public goods create subnational politics and influence policy choices. In the case of education, legislators sought to change financing to preserve public support for a program, primary and secondary education, they perceived as having broad political support at both the elite and mass levels. In the case of Medicaid, legislators sought to fix inequities in the exclusive nature of the program (i.e., providing benefits only to unemployed parents and their dependents) and to incrementally reestablish general support for public-health programs. Also, the chapter on education financing investigates fiscal and political arrangements between states and localities. The Medicaid chapter presents an analysis of interactions between states and the federal government.

Although the primary units of analysis are the legislatures’ collective decisions, I present considerable data about representatives’ individual positions and policy preferences. I do so to establish a better foundation for understanding the legislatures’ collective decisions and to offer readers a means to see how individual positions mapped onto the collective decisions and how those positions were translated via the policy process.

With respect to legislators’ positions for specific policy alternatives, I attempted to determine the legislators’ ideal policies for any given issue and then sought explanations as to why each legislator supported one viable alternative over another. What principles guide state legislators’ decisions about financing their governments? How does federalism affect state politics and policies? These governing principles and positions provide the foundation for understanding legislatures’ policy decisions.

After establishing both the policy background and the explanations legislators offered for their individual positions, I turn to the primary unit of analysis—the collective policy decisions of legislatures. Legislators’ perceptions of the program, their governing principles, and their responses to intergovernmental politics interacted with institutional politics, their state constitutions, policy histories, and opportunities for citizen and interest-group influence on the policy process to produce the policy changes and failed attempts at policy changes on which I focus in the policy chapters.

Research Methods

To acquire adequate data on legislators' individual positions and their collective decisions, I conducted case studies of eleven state legislatures during 1994 and 1995. The issues with which I was concerned included taxes, economic development, education, and health care. I consider a case to be a "state issue." I consider all of the states dealing with tax policy and economic development in chapters 4 and 5. In chapter 6, which examines school financing, I present cases from Massachusetts, Vermont, New Jersey, Michigan, Mississippi, Colorado, and Oregon. To a lesser extent I provide supporting information about school finance from New York and Florida, although in neither state was school finance reform a central issue. I examine Florida, Tennessee, Vermont, Washington, Oregon, and Colorado in chapter 7, which deals with health care and Medicaid.

I conducted open-ended interviews with 123 state legislators. In addition, I interviewed several dozen legislative staffers, state lobbyists, local officials, and political activists. The interviews focused on taxes in every state and to varying degrees on education financing, economic development, health care, and government mandates. The interviews yielded an understanding of legislators' perceptions about both their representative roles in the federal system and their individual positions on various state policies particularly germane to the interest in federal politics. The interviews collectively explained policy outcomes and decisions in specific states for specific issues.

Representatives acted as informants for decisions their legislatures either made or were in the process of making from 1992 through 1994. Based on the initial criteria that a state consider changing its income, sales, business, or property taxes during that period, nineteen states were considered as potential case-study states. I selected eleven to provide geographic and political variance in the cases as well as the capability of investigating different outcomes in the process.

Had I focused on a single state or case, the interviews with legislators might have been more numerous within a single state, but I could not have generalized about legislatures' collective decisions. By using a range of cases and by collecting both primary and secondary evidence, I offer an analysis with greater external validity.

By going to the states, I achieved far more depth using interviews and primary-source data collection than aggregated outcome data allows. The interviews demonstrated the consistent presence of the six governing prin-

ciples outlined in chapter 3. To corroborate the interview data, I collected materials to confirm and contrast the information supplied by the legislators. These sources included interviews with lobbyists, staff, and journalists as well as source documents such as bills, committee reports, administrative memoranda, and budget briefings.

The case studies strengthen the assessment of the relationship between federalism and legislators' positions, and they illuminate how federalism and public goods change legislatures' collective decisions. By conducting individual interviews, I could better ascertain a legislator's most preferred policy and contrast it with the policy alternatives considered by a legislature or the final roll-call vote on a single alternative. Moreover, I can estimate a spectrum of possible positions and ideal policy preferences among legislators across states for different policies. Roll-call analyses would not provide this latitude.

With respect to the generalizability of the case studies, I have provided sufficient breadth with respect to who was interviewed and among the fifty states to conclude that the basic principles and politics observed can be generalized beyond the specific cases. Legislators' emphasis among the principles they use in formulating positions and in responding to federal-state and state-local policy proposals comport across several states for any given issue and across the issue areas. For example, concerns about revenue dependability surfaced in discussions about taxes, Medicaid reform, and local school financing.¹ Readers with an interest in the case-study methodology may wish to read appendix A.

Overview

In the next chapter, I present a model of representation embedded in federalism that explicitly incorporates the nonexclusionary nature of public goods in the representation calculus. This model enables the understanding both of how relationships among governments influence representatives' thinking and of how the nonexclusionary nature of public goods leads to variations in state politics and federal policies. I elaborate on the independent variables, the structure and relationships produced by federalism and the nature of public goods, and the dependent variables—legislatures' collective decisions about their own programs that affect and are affected by other governments' programs and their decisions about inter-governmental programs.

In chapter 3, I outline representatives' individual governing principles,

which are invoked in deciding which policy alternative to support and how to explain that decision. Representatives emphasized different principles for different issues and placed varying amounts of emphasis on the various principles across issues and states.

Beyond chapter 3, I examine different policy issues confronting state representatives and analyze how different principles and political contexts have led to different outcomes. I have attempted to present a fairly complete picture of each policy and its representation consequences among states without presenting so many details as to make comparisons unwieldy. In chapters 4 and 5, I examine state tax and development efforts, which offer insights into the competitions among states as well as the most basic of public-goods positions (the income-distribution and tax burdens) within the case states.

In chapter 4, “Read Our Lips: No New (Income) Taxes,” I discuss the symbolism of federal income taxes and how citizens’ disdain for those taxes has constrained legislators’ efforts to enact state income taxes even when legislators perceive income taxes to provide the most appropriate means of funding state programs. This chapter demonstrates that in addition to the structural relationships among government, politics flow and citizen responses to policy changes at one level of government affect the politics and policy alternatives for a second level.

In chapter 5, “Tax and Spend or Spending Taxes—Economic Development Policy,” I examine the differences among states in pursuing economic development. Many states offer tax incentives to potential employers, but the substance of these incentives and who bears their costs vary. Other states emphasize providing public goods such as roads and education to foster economic development. Consequently, comparing state strategies offers insights into how federalism generally shapes subnational politics, and, more specifically, how the politics of providing public goods shapes economic development policy choices.

In chapter 6, I consider state and local representation trade-offs by examining education financing in Vermont, Michigan, Oregon, New Jersey, Mississippi, and Massachusetts. Many state representatives have supported assumptions of funding responsibility for primary and secondary education because of inequities in local tax bases, a perceived regressivity in property taxes, and their conviction that the state could better access and distribute funds than could localities. This chapter illustrates that legislators use federalism not simply to shift costs, claim credit, and avoid

blame. They endeavor equitably to finance and produce services for their constituents. Several factors limit legislators' choices about which taxes to enact when assuming a local responsibility. The linkages as a state-local issue and the differences in how a public good is provided matter, as do constitutional definitions and representatives' perceptions about public goods and how to finance them.

Chapter 7 shifts the focus to national-state representation, with an examination of Medicaid policy. I draw on interviews from Tennessee, Florida, Colorado, Oregon, Vermont, and Washington to discuss how legislators worked to resolve their states' Medicaid crises, save state dollars, and provide more equitable health-care coverage for low-income individuals. The failure of Medicaid to retain political support coupled with the escalating cost of the program forced Democrats and Republicans to find ways both to save money and to broaden the distribution of benefits. In several states, these changes involved altering the benefits offered from reimbursements for health services rendered to state subsidies for insurance policies or health-maintenance organization memberships.

In chapter 8, I synthesize the evidence from the previous chapters to present a picture of representation in a modern federal system.² I analyze the differences in policy alternatives and outcomes across the four issues considered in chapters 4 through 7, and I consider how the different political and institutional aspects of each state influenced the differences observed across states. I find that public goods are indeed an important element of federal politics and that much of these politics center on the variance among legislators about what policy areas provide public goods and how governments should best provide them.

The conclusions illustrate that federalism should be studied from the perspective of subnational as well as national governments. To predict responses to national initiatives, it is necessary to understand how different political, economic, and financial contexts shape subnational representatives' responses. Once these contexts are understood, it is easier to predict the range of responses likely for a given national policy initiative. To make such predictions, it is important to understand that the most nebulous areas for legislators at any level of government involve policy in which both taxes and services either increase or decrease together. Most legislators know that increasing taxes and cutting services will evoke a negative response from voters, while decreasing taxes and increasing services will evoke a positive response. The difficulty for legislators tran-

spires when they face choices in which services and taxes shift concomitantly and in the same direction. Chapter 2 provides a detailed consideration of this metric of policy change and representation, along with detailed discussions outlining the avenues of politics created by the incentives and constraints in federal arrangements and the role of public goods in federal systems.