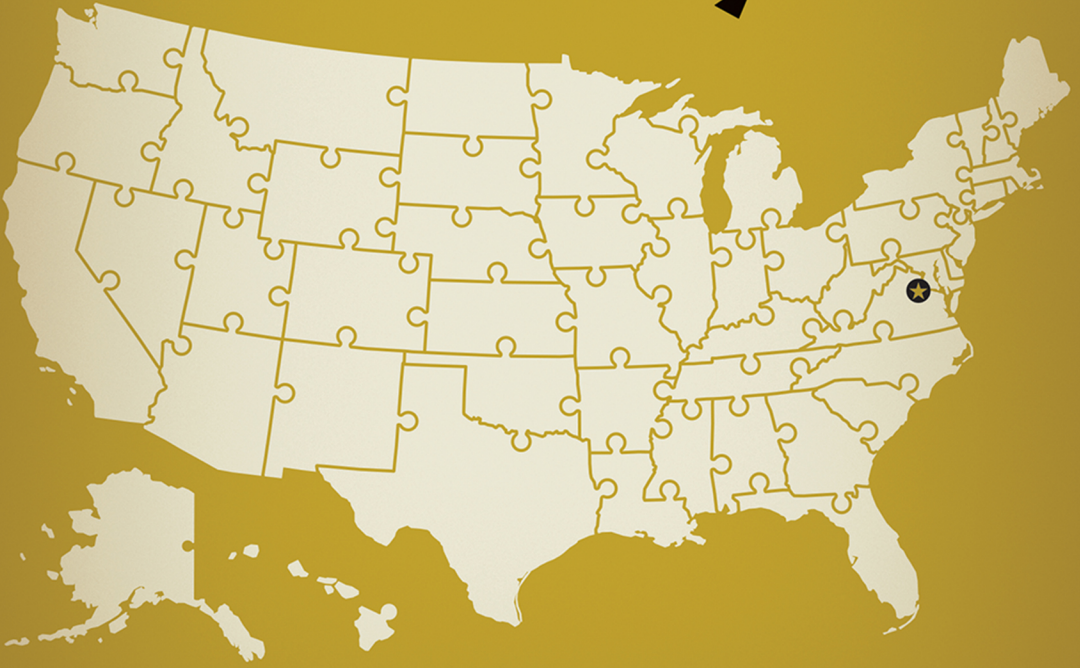


Perspectives on Political and Economic Governance

# American Federalism Today



EDITED BY

MICHAEL J. BOSKIN

## Governor Jeb Bush

Introduced by Condoleezza Rice

**SECRETARY CONDOLEEZZA RICE:** I have the honor of introducing—although, as people often say, he really needs no introduction—my good friend and colleague Jeb Bush, the two-term, highly successful governor of the state of Florida. What I'd like to say about Jeb and his time in Florida is that one of the things that made you successful is that there's an enduring character to the issues that you undertook that are still characteristic of the state of Florida today. I'm going to focus on one in particular, because we worked together quite a bit on it, and that's the state of education in the United States. As you know, the federal government has really a minimal role in education. But in fact, the education system is highly decentralized in the United States. Many of the most important decisions—Paul Peterson could tell you about many of the most important decisions—might even be taken at the level of the Board of Education.

And yet our states have been innovators. They have been laboratories for improving education, particularly for underserved kids. One of the vehicles for doing that has been to be very aggressive about parental choice and the opportunity for parents to have a say, particularly parents who don't have the means, in how their kids are going to be educated. Jeb and his team at Excel in Education, which I cochaired for a little while for Jeb, continue to do that hard work. They've come to Hoover conferences about this topic, and they continue to do that hard work with the states, helping states to propose legislation, helping states to actually get legislation through. Jeb started that by leading as the governor of Florida. And Florida is, to this day, still one of the most successful states when it comes to education. Jeb, it's great to have you here to talk about whatever you'd like, but you're the embodiment of successful federalism. And so I'm delighted to have a chance to introduce you.

**GOV. JEB BUSH:** Thank you, Condi. One quick question since Condi's here. One quick point I didn't realize—behind me is a picture of me painted by my brother. I'm not bragging about me, I'm bragging about my brother. He actually painted a picture that looks a hell of a lot better than me, just for the record.

**MICHAEL J. BOSKIN:** Rick [Eric] Hanushek, one of our true leaders in the economics of education, has done a tremendous amount of work and probably is the leader in thinking and generating estimates of the harm done by the school lockdowns during COVID. He's going to ask you a couple of questions and then we'll throw it open for the general audience. So, Rick, over to you.

**ERIC A. HANUSHEK:** Governor, it's wonderful to have you here. I thought it'd be useful to start more generally than Condi did, and talk outside of education because I always view the governor as caught in between the federal government, working with the federal government and with the local government. And I suspect that the challenges of working with the federal government first differ by particular areas, and your opinions on what worked and what was possible and what wasn't. And then, turning the other way, you have to work with all the local people on a variety of areas. And so leaving out education for the minute—we'll get to education—but could you talk more broadly about federalism from the governor who's caught in between these two layers of government?

**BUSH:** Sure. First of all, one of those charts warmed my heart where Florida was at the lowest per capita state employees. That was the best news I've heard so far. Probably, if you added state and local government public employees, it might've been a little bit higher. But I think we've proven here you don't have to have a large bureaucracy to implement policies. You have to advocate policy first. And so I would say where the federal government didn't intervene was where we had the most success, education probably being the primary place that was the case. And where they either through regulation—principally through regulation—and also through spending where the money was attached to a lot of rules, it was harder. So we don't have a department of labor anymore. We have a workforce board. They modernized the name, but basically we have a Bureaucracy for Workforce Development.

It gets most of its money from the federal government. There are a myriad of rules related to how they operate. And I can remember when I was

governor, I went into the Department of Labor because they were kind of angry that I got elected, I think, and started walking around the halls and asking people what they did and actually did more work than that. And more than half of the people working there were complying with rules imposed by Washington. And interestingly, probably the other half, a significant part of the other half were imposing rules on local and state government as well as the not-for-profit groups that were getting the money. And similarly, Department of Education, even though we got 10 percent of our money, or no more than that. Half the building, the tallest building when I got elected in Tallahassee, Florida, the Department of Education building, was there to comply with all the rules. So across the spectrum of government, states love the fact they can get the money, but it's very frustrating to accept the rules when you're trying to innovate. You're taking the money and you're not trying to change how you deliver the services. I guess it's okay. You fill out the forms, you get the money, there's not any accountability, and off you go.

We went to a community-based care model for our child welfare system. We were the first state to do that. That was pretty complicated for Washington because you had to combine federal fundings, pockets of money had to be merged together. And we said, "Look. Give us that flexibility and hold us to account. Give us the accountability measures and we'll meet them." It took a long while to get that done.

Emergency response is another place where, particularly when things go bad, Washington feels compelled to be in the forefront and they're really not set up to lead. Disaster response is set up at the local and state level to respond, and Washington writes a big check. But they want to get much more engaged when there's big public pressure. I mean, gosh, I mean almost every area of government there was a conflict. And then as it relates to how we dealt with local governments, if the mayor of Miami-Dade County was here instead of me, they would probably complain similarly to how I'm complaining about Washington. There is this natural tendency. What's happening more now, I don't know if it's in other states, is preempting local governments' discretion, particularly in the big urban areas with more liberal attitudes.

The preemption model is becoming really prevalent where you say, "You can't do this because we don't like what you're trying to do," as it relates to ordinances. But other than that, there's a pretty good relationship. Frankly, we have the benefit of both having balanced budgets requirements, which separates us from Washington. I think Condi's right, and others that mentioned this.

You almost by nature, because at the end of the fiscal year have to balance a budget, there is more consensus. It's required or you don't get out of town, and then the pressures mount. We're going through this in Washington today. Even with a trillion-and-a-half budget deficit they can't even do their budget, or they don't do a budget. They just wait, and then they threaten to close the system down. No state has that problem. No state has that issue. We have to do it.

**HANUSHEK:** Thanks very much. Let's talk a little bit about what Condi mentioned. I think when you were governor, the education in Florida really jumped forward. And you can still see it in the data, but not as strongly. You see that things have slipped. And the question is, how do you try to institutionalize things as opposed to having Jeb Bush make sure it happens?

**BUSH:** Well, first, I don't think we've slipped. We haven't shown progress. We've kind of flatlined, which I'm not happy about. Success is never final, reform's never complete. You have to constantly be pushing. Leadership matters in all this, and our reforms have eroded a bit. I think the main thing is the slight erosion of our accountability system. When we had a chance to raise "cut scores" on our end-of-year tests, we either lowered them or they remained the same.

One of the measurements—Eric, you know so well—is the difference between what is considered proficiency for the NAEP [National Assessment of Educational Progress] test and what states have as proficiency for their reading and math tests. We used to be closer to the NAEP tests and now we're not. And I think that's one place where, if Governor DeSantis wanted to see progress in reading gains and math gains, raising the bar up and having accountability around that would really matter. But I'm proud of what Florida's done.

I mean, we still lead the way as it relates to early literacy. We've got a lot of work to do as it relates to raising standards and raising expectations. We were fiftieth out of fifty for high school graduation. Now we're above the national average. But frankly, getting a high school degree, a diploma right now, is not a really good measurement. It should be college and career readiness. And there we're probably in the middle of the pack or maybe lower. So there's a lot of work that could be done for sure.

**HANUSHEK:** One of the arguments that's traditionally made about federalism is that states are sort of laboratories for experimentation. And I think that



this argument has largely come out of welfare reform, where we had a federal welfare policy and we allowed Wisconsin and other states to do something different, and then we learned from them and so forth.

But that's not what the situation is in education. And the question is, I know that your foundation has worked very hard, and when you meet again in November it's going to continue this, of trying to push ideas across states. But do you see in various areas where states learn from each other and actually progress, and are there mechanisms that promote learning across states?

**BUSH:** Absolutely. And I'm proud of the work the foundation is doing. We have working groups for ESAs [education savings accounts], working groups for early childhood literacy, working groups for the digital divide and the moneys that are coming down to make sure that the underserved areas have access to high-speed broadband. And on the workforce issue, we are advocating the idea of moving high schools toward career *and* college readiness. States are eager to pass laws. The challenge is, how do you implement these laws? ESAs are particularly incredibly complex, and so we've become the subject matter experts on how to implement these things.

We have many partners that are advocating for these policies, but I think we disproportionately do the implementation work. So one of the things that I think makes federalism so successful is, this is kind of an informal compact. States want to learn from each other, and we're one of the forums in which they do that. But there are also all sorts of compacts as it relates to environmental policy, water policy, etc. Apparently there's a compact that Secretary of State Rice signed for Montana and North Dakota. Transportation compacts. The federalist system works if there is a lot of cooperation.

A hurricane hits Florida, and we have probably fifty different utility companies coordinated by the states in which they operate to come down and it's reimbursed. That compact is incredibly effective. Our country wouldn't get back on track if we didn't have it. So we're seeing—I'll give you the best example that's garnered attention. Even the *New York Times* is writing about it, and ABC News, the so-called Mississippi Miracle.

They took the Florida example of training teachers on the science of reading, eliminating three cueing, focusing on phonics, eliminating social promotion in third grade, starting the strategies at kindergarten, not at the beginning of third grade, and they had dramatic progress. They went from fifty out of fifty to twenty-first in the NAEP test, I think, in five years. And they continue to show that progress.

And during COVID, I think they were the only state or one of two or three states that didn't have the big drops. So there's an example. So what's happening now? The team that implemented the Mississippi work is now working for ExcelinEd [the Foundation for Excellence in Education] and goes to places like Oregon, California, and other states to learn from Mississippi.

We probably have fifteen states that now have seen what Florida did, what Mississippi did, and what other states are beginning to do, and realized that there is a strategy. East Palo Alto, I just read, without the state's involvement or messing with them, implemented a similar kind of strategy. They saw significant gains in reading for low-income kids right here in your neighborhood.

**HANUSHEK:** Yes, I think everybody recognizes now, "Thank God we're not Mississippi." But they in fact have done quite well. The question is whether it continues when [former state superintendent of education] Carey Wright has retired and—

**BUSH:** It will. They're proud. They're proud of it. She got her replacement in place, and we work with them, continue to work with them. The previous governor was the leader of this and the lieutenant governor is now the governor. Nothing like success to ensure continued progress.

**HANUSHEK:** Let me, before we open it up to other people, push you a little in a slightly different direction. Florida's right in the center of immigration issues and getting streams of immigrants coming in, while the federal government is having different policies and inability to make any national policies. Could you speak a little bit about how federalism works in that area?

**BUSH:** It's possible. I wrote a book with Clint Bolick, I think he's the head of the supreme court in Arizona still, called *Immigration Wars*. One of our ideas was to have states create their own immigration policies, which there is constitutional leeway in that regard. So if a state wants to be restrictionist, they could do that. If a state saw a real need to be able to have workers come in legally and maybe go back as a guest worker program or come legally and work, they should have that right to do. That's not done as much. And immigration, here's another place where federalism hasn't worked.

I suggested to Janet Reno when I was governor and she was attorney general that she should deputize state law enforcement officers to extend the reach of what was then called the Border Patrol. There were two border control

officers north of Miami, Fort Lauderdale and Fort Pierce. It's about a 150-, 120-mile coastline. There was a ton of people coming in. I said, "Look. When we apprehend someone who's here illegally and has committed a crime, we have to give them to the federal agents and they have to be released if they're not adjudicated. And you don't have the capability of doing that. Why don't you train our folks and in effect deputize them?" That would be the ultimate positive federalist system.

She rejected it out of hand. I'm not sure what the legal reason is because I believe that this could have been done. Our lawyers said it could have been done. It's this question of not being able to cooperate, not being able to share power, not being able to give up power. So one of the places I think if states were interested in enforcing immigration laws, they should have the right I think with a well-trained law enforcement team to be able to do it. So it's both the enforcement side as well as creating an economic strategy where I see this happening. It is so depressing to me.

This is one of our incredible strengths as a country to be able to have a diverse dynamic country where people come in legally, and they pursue their dreams with a vengeance, and they create opportunities for everybody. We can't get past this hyperventilated, hyperpartisan approach to immigration because we can't enforce our borders. And then it becomes a question of who wins politically rather than how the country could win. So you hit a sore spot for me. I'm really so disappointed. This has been going on for way too long for us to . . . We should get to a consensus on this as quick as we can.

**BOSKIN:** Jeb, I have a couple of questions. One is just more or less informational. One of the interesting things that's been going on lately has been reciprocity agreements for occupational licensure for a wide range of occupations across states that enhance labor mobility. And it's especially important for low-middle-income workers in a variety of occupations. It's really not talking about cardiac surgeons. So I'm just wondering where Florida stands in that regard, and are you aware of that? Have they been moving in that direction too? Did you do any of that?

**BUSH:** We did some. In fact, we created universal reciprocity for teachers. If you were licensed in Idaho and you wanted to move to Florida, you would get a license. And we lessened all of the input-driven certifications to get a permanent certification. That was quite helpful because we were growing, sixty thousand students a year, and we had teacher shortages, and our schools



of education weren't working as well as they could have to deliver teachers. So that's a place where we did it.

The occupational license areas in a state like Florida, it makes all the sense in the world to do it. Where you come into the challenge is the hairdressers' commission or whatever. They get a license and they think that's the most important thing to defend, and so you have all these special interests that fight against it. We've had some success, but it's not been universal.

I've seen other states have been more aggressive in this and I think that's more than appropriate. I mean, I can't tell if an interior designer that gets certified in Utah, I'm not sure that the variation would be significant enough to be unable to work in Florida. I just think this is kind of a stupid way to create protectionism. Actually, it's not a stupid way, it's an effective way to create protectionism.

**BOSKIN:** Let me just ask another question. So thinking about political parties and their views about federalism, there was a movement some years ago—Paul Ryan was very influential in this—which was to block-grant a lot more authority to states with far fewer restrictions, which of course is something like the welfare reform model.

And he in particular was going to want to lead with Medicaid. We've moved in the other direction a little bit. So I'm just wondering what your views are and if you have any suggestions for those of us who would like to see some clarity and some improvement in that regard, whether there's anything you might propose.

**BUSH:** We did have a Medicaid reform idea that fit what you're describing. We got a waiver from the forty-three administration [of President George W. Bush]. It was a waiver for just Jacksonville and Fort Lauderdale. But in return for creating flexibility on how we went about implementing our Medicaid program—part of which was to say that Medicaid beneficiaries would have a choice, they wouldn't be assigned a managed care plan or fee-for-service Medicaid, they would have choices—we said, in return for flexibility in structuring the reform plan, we would accept a version of a defined contribution plan. We accepted a run rate of spending growth that was probably one-third of what the historical run rate was. So I think one of the things that people talk about for block grants—and I'm all for them—is the flexibility to try different things. But sometimes they forget about the part of some degree of

accountability. In the case of Medicaid it's to make sure that you have better healthcare outcomes and you do it at a lower cost.

Because if you can prove that, then the beauty of federalism is that that idea then can be replicated in other parts of the country. If you don't have any accountability and you're getting your money without proving that it creates a better result, that's just getting more money.

A place where this would be a home run would be early childhood work. I think, as I recall, there's like fifteen different early childhood literacy, early childhood programs. Four or five years ago the amount of money spent was \$24 billion. My guess is probably \$80 billion now. Who knows?

I mean the amount of money spent in Washington is incredible. But assume it's \$50 billion, and you have all these different programs, have all these different rules, and the money goes down to the states for implementation. The states create a bureaucracy around that money and it finally gets into the sector that's dealing with this. Wouldn't it be better to have a block grant in return for having better outcomes where you measure it to assure the kids come to kindergarten basically ready to take on the K-3 work? The savings are enormous because you have all the bureaucrats that no longer are really necessary.

And in return for eliminating those jobs, you're creating real-world accountability. That kind of approach I think in a world that was less static and more dynamic, you would see that more often than not. The final thing I'd say is, Democrats like federalism when Republicans are in charge of DC. Republicans like federalism when anybody's in charge of DC. So one of the things that I think would be really kind of interesting would be to liberate Gavin Newsom and the California legislature to do whatever they want. Sorry about that, guys. And then compare that to states like Florida, or Texas, or you name your favorite state, and see what works. I'm pretty sure I know what will work, and I think we need to politically at least have that conversation. But the federal government needs to step back and allow that to happen.

Final thing I'd say about this whole issue of shifting power: it's not just money, it's the rulemaking process as well. States need more delegated authority as it relates to water, air quality, environmental policy across the board, transportation policy. We have a very thorough bottom-up transportation program that's thoroughly vetted from the local level, to the regional, to the state level. Those plans should be funded rather than have earmarks come down because a DC politician thinks it's cool to cut a ribbon.

The federal money should be matching these ideas, and I would trust fifty work plans like that over one imposed from up above. Ask [Secretary of Energy] Jennifer Granholm about her transportation policy where she's got a suburban gasoline advance person holding her battery charge spot so when she shows up with her NPR reporter, there's a space for her. These things, they don't work as well. I just promise you, local and state governments across the country aren't perfect, but they seem to be better than Washington.

**BOSKIN:** What a great idea.

**HANUSHEK:** Let me just pick up for a second on when you were talking about accountability with grant programs. There seems to be a question in education of what are the standards for accountability? And that's been something that's been discussed from NCLB [No Child Left Behind] through ESSA [Every Student Succeeds Act]. And as I remember, if I'm not mistaken, you had some disagreements with NCLB when that came into effect.

This was sort of an awkward disagreement at that time, I guess. Can you talk a little bit more about how you established the accountability standards in something like education where people don't live in Mississippi all their lives, half of them move to California?

**BUSH:** Yeah. So my disagreement with No Child Left Behind wasn't the idea of accountability. It's that our accountability system I thought was deeper and better in effect. The problem with No Child Left Behind's accountability system was, at the end of whatever the reauthorization time was, every child in every subgroup had to be proficient, which meant that every school failed. And if you want to have accountability, [former Florida governor] LeRoy Collins said that if you're leading a state and you're going out the port on your ship, you don't want to go past the horizon because no one will follow you.

And that's exactly what happened. The accountability system wasn't as robust because it became irrelevant in some ways. So my critique was that we had a system that worked better. So the answer might be [to] create minimum expectations, because many states had no accountability. The beauty of No Child Left Behind is that it forced states that didn't want to have accountability to create their own, which I thought was a good thing.

But don't impose a single standard. Treat it like: I'm in business now. When you're investing in and looking at helping businesses, you create a vision, you

create a strategy, and as you implement the strategy, you hold everybody to account. It's not detailed, top-down accountability. There are transparent, broad expectations, and Washington's not really good at that.

**RICE:** Jeb, this is not a political question, I promise you. But I'm going to frame it in the following way. If you were asking people on a debate stage who want to be president of the United States, and let's exclude governors from this because they would know the answer, what would you ask them about, "If you are president of the United States, how should you think about federalism? How should you promote federalism?"

Because the tendency is, particularly if you are a lifetime Washington politician, which a lot of the people on that stage are, to fundamentally not understand the states. Would you just tell them to go back and read the Constitution or what would you say?

**BUSH:** Well, that would be healthy for all of us, I think, in this stage of life. But I think you have to frame it in a positive way. I mean, I don't know what the question would be. But the benefits of federalism are there for people to see. There are states that are doing really interesting things. They should be allowed to do it.

It's become a cliché that power that is closer to home is more respected. We have a real disengagement right now. People don't believe our institutions work. I think some of the polling you saw, you guys in the papers saw that people believe that the local government and state government response to COVID was better.

You try to find intersections of good policy and good politics, and this is one of them. Shifting power back to the states if you're a progressive and you live in a state that would implement progressive policies, you got to like it. And similarly, if you're a reform-minded conservative and you're in a state where you can implement it, you're going to like that a lot more than what goes on in Washington.

I would say the question would have to be, you probably would say, "Why don't you support that," rather than . . . Everybody says they support it, but then specifically, what would you do? This is how I'd do it: "Give me three examples of how you would shift power back to the states as it relates to rule-making and spending."

**RICE:** That'd be good. We'll pass that one on to the moderators.

**BUSH:** Yeah, you're right. I don't know who's moderating, but that would be a good one. Vivek [Ramaswamy] will say he wants to eliminate the FBI. He'll do it by executive order. That dude ought to be reading the Constitution.

**THOMAS NECHYBA:** Governor, we spoke with Mitch Daniels a few hours ago, and he indicated that he saw what a lot of our papers are dealing with—that there's a fiscal cliff coming up at the federal level, and at some point the dam's going to break and something's going to have to happen.

He said one of his hopes was that at that point we would get a chance to revisit federalism and who is responsible for what and things would be handed to the states. My question has two parts. One is, do you agree, do you see that opportunity in this impending potential crisis? Secondly, how would the states, if this truly became a way to hand back responsibilities to states, how would states actually go about funding additional responsibilities if those were handed to them by the federal government?

**BUSH:** Well, I would hope that if Washington was going to get out of the spending business, it would be phased out over time to give the states the time necessary to adjust.

My experience was, we ended up with a AAA bond rating and cash reserves equaled 25 percent of general revenue. We cut the state government employee base by thirteen thousand out of a number of maybe one hundred thousand. We had these cuts over an eight-year period, and we still increased funding for the most vulnerable.

I think if Washington said we have a crisis, we can no longer provide support for Medicaid or block grants for transportation, that would create a huge problem for states. Because similarly, this is going to create an economic problem. And at least in the states that I'm aware of, growing economies create growing resources, growing revenue. So if you have a declining economy and a shrinking Washington, that'd be a huge problem. And I'm not as optimistic that the natural impulse would be, "Okay, let the states do it." But if they did, a lot of states would have to change their behaviors and become massively reform minded. They'd have to say, "Can I do this for 25 percent less and have a better outcome?"

To me, that would be a great reason to get back in the governor's business, but I'm not sure if everybody else would jump for joy on that.

Can I make one more point? The focus, it seems, is principally on spending. I think where the federal government's encroachment has gotten pretty



insidious is on rulemaking and regulations. And for the United States to grow again, we need to build again.

I see a really dangerous situation where we're indebteding ourselves massively for these top-down programs as it relates to the infrastructure program and other things that have been appropriated over the last couple of years. And we're not going to be able to get a permit to mine lithium or to refine. We're creating this agenda and then we don't have the ability to be dynamically creating the solution or taking advantage of the opportunity.

So part of federalism, I think, has to be shifting rulemaking powers back to the states. It used to be they're almost completely the jurisdiction of the states and now the states are just small partners. And that would be, to me, one of the most important things to do because we've got to start building things. In order to build things, you've got to get permits. In order to get permits, you've got to streamline this process that is mind-numbing. You can't build a bridge, you can't build a refinery. There're serious problems that can be fixed with federalism at its core.

