



Federal Affairs Subcommittee MEETING PACKET

**Tuesday, September 20, 2011
Webster Hall
1:30 PM – 3:30 PM**

**Dean Cannon
Speaker**

**Scott Plakon
Chair**

The Florida House of Representatives

State Affairs Committee

Federal Affairs Subcommittee

**Dean Cannon
Speaker**

**Clay Ford
Chair**

AGENDA

September 20, 2011

1:30 PM – 3:30 PM

Webster Hall (212 Knott Building)

Call to Order

Opening Remarks by Chair Ford

Introductions of Members

Presentations:

- An Introduction to Federalism
George Levesque, General Counsel
Florida House of Representatives
- Overview of Federal Deficit Reduction Efforts and the Potential Impact on Florida
Amy Baker, Coordinator
Legislative Office of Economic and Demographic Research

Closing Comments by Chair Ford

Adjournment

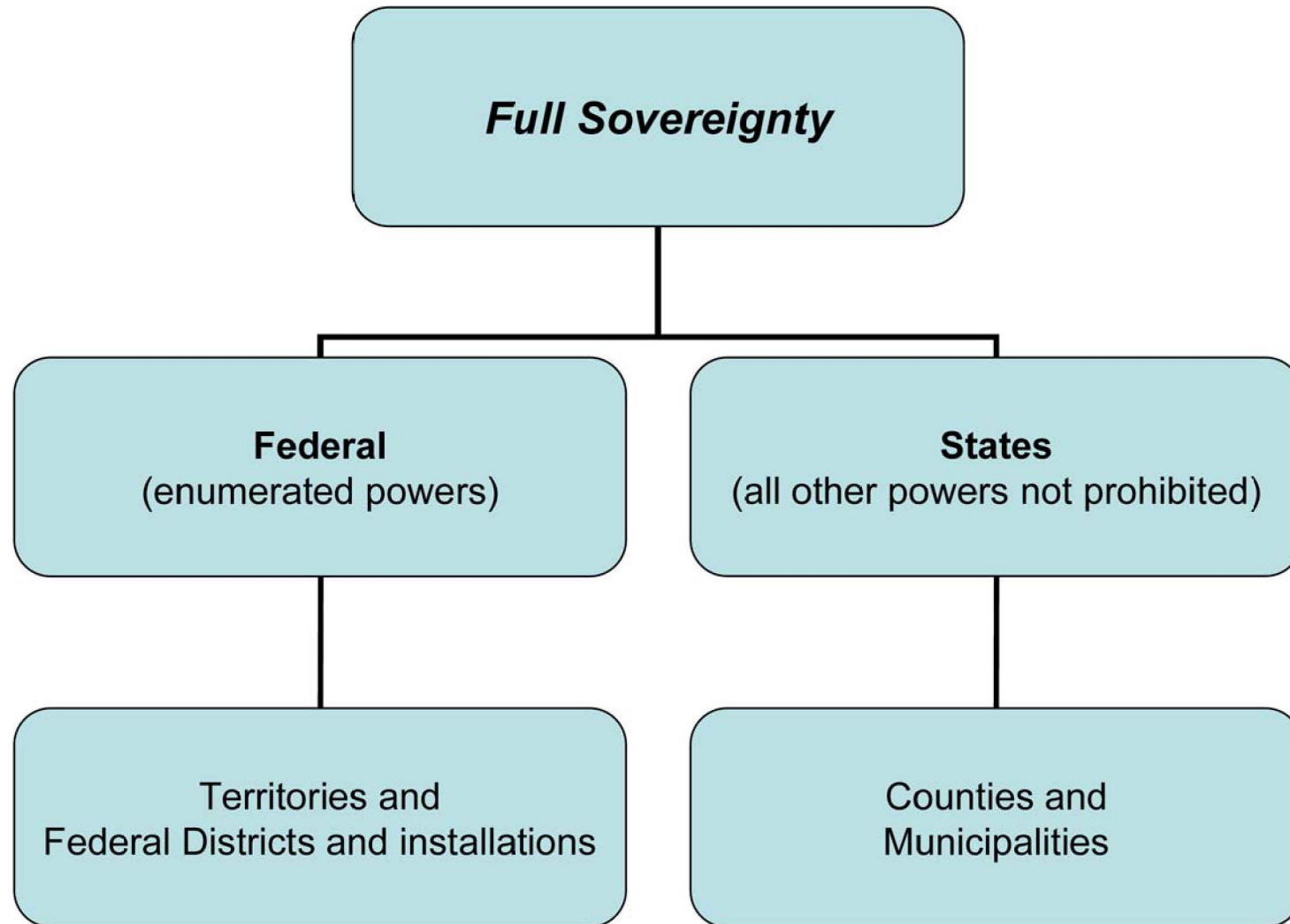
FLORIDA HOUSE OF REPRESENTATIVES Federal Affairs Subcommittee

An Introduction to Federalism
September 20, 2011

What is Federalism?

- "Federalism" is the process by which two or more governments share powers over the same geographic area.
- Dual federalism is the concept of shared power where the Federal Government and State Governments are co-sovereigns, each supreme in its own sphere.
- Cooperative federalism is the concept that the Federal, State and Local Governments work together to govern and share authority.

United States Federalism



Origins of the United States Constitution

- The Period: 1787
 - The United States had just ended a war with England in 1783.
 - The 13 States were joined together loosely under the Articles of Confederation.
 - The Articles of Confederation were extremely weak with respect to creating a central government that fostered unity among the States.

Origins of the United States Constitution

- A Constitutional Convention was suggested for the purposes of revising the Articles of Confederation.
- The Constitutional Convention met from May 25, 1787 to September 17, 1787 in Philadelphia.
- The Convention's work product did not revise the Articles of Confederation, but created a new Federal Government upon ratification of the United States Constitution by the States.

Some Key Features of the United States Constitution

- Art. I, 1, limits the grant of legislative power to Congress.
“All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.”
- Art. I, 8, outlines the enumerated powers of Congress
- Congress’s enumerated powers include but are not limited to:
 - Taxing Powers
 - Spending Powers
 - Necessary & Proper Clause
 - Commerce Clause

Some Key Features of the United States Constitution

- Art. I, 10, provides limitations on states' powers.
- States may not:
 - Enter into treaties, alliances or confederations
 - Grant letters of marque or reprisal
 - Coin money
 - Pass bills of attainder, ex post facto laws or laws impairing contracts
 - Grant titles of nobility
 - Impose duties on imports or exports or keep an army without Congress's consent

Some Key Features of the United States Constitution

- Art. VI – Supremacy Clause:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

The Bill Of Rights

- Twelve amendments were proposed by Congress in 1789.
- The Bill of Rights refers to the first 10 amendments to the United States Constitution that were ratified by the States.
- Opposed by some of the Framers as either unnecessary or a dangerous addition.
- Highlight the ongoing tensions between the Federal Government and the States.

The Bill Of Rights

- This tension may be best manifested in the Ninth and Tenth Amendments.
- The Ninth Amendment:

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”
- The Tenth Amendment:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

History of Conflict: The Necessary & Proper Clause

- AKA, the Elastic Clause: expanding federal powers
- “Congress shall have the Power . . . To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.”
- Congress has implied powers that allow it to carry out its express powers. *M’Culloch v. Maryland*, 17 U.S. 316 (1819)
- However, the Federal Government may not compel the States to implement, by legislation or executive action, federal regulatory programs in carrying out its powers. *Printz v. U.S.*, 521 U.S. 898 (1997).

History of Conflict: The Commerce Clause

- Tortured history of expanding and contracting Federal power.
- First applied by the United States Supreme Court in *Gibbons v. Ogden*, 22 U.S. 1 (1824), finding the absolute authority of Congress to regulate interstate commerce.
- Until the mid-1930's, the Commerce Clause was interpreted narrowly, significantly limiting the Federal Government's power over intrastate activities. See e.g., *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936); and *Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935).

History of Conflict: The Commerce Clause

- These restrictions were gradually eroded with the New Deal-era decisions like *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937); *United States v. Darby*, 312 U.S. 100 (1941); and *Wickard v. Filburn*, 317 U.S. 111 (1942).
- This trend expanding Federal power continued until 1995 when the Court, for the first time in over 50 years, struck down a statute enacted under the commerce clause in *United States v. Lopez*, 514 U.S. 549 (1995).

The Conflict Continues: The Commerce Clause

- Recent Commerce Clause cases:
 - *United State v. Morrison*, 529 U.S. 598 (2000), limited Congress's power to enact civil remedies which were not related to the regulation of activity that substantially affected interstate commerce.
 - *Gonzales v. Raich*, 545 U.S. 1 (2005), upheld Congress's power to regulate purely local activities that have a substantial effect on interstate commerce.

History of Conflict:

Other Examples of Sovereign Conflicts

- Congress may not abrogate a state's eleventh amendment immunity from suit under its Article I powers. *Seminole Tribe v. Florida*, 517 U.S. 44 (1996).
- However, Congress may do so under the Fourteenth Amendment and its enforcement powers. *Fitzpatrick v. Bitzer*, 427 U.S. 445(1976).

Closing Thoughts

- “Although the Constitution grants broad powers to Congress, our federalism requires that Congress treat the States in a manner consistent with their status as residuary sovereigns and joint participants in the governance of the Nation.” *Alden v. Maine*, 527 U.S. 706 (1999).
- One of federalism's chief virtues, of course, is that it promotes innovation by allowing for the possibility that “a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.” *New State Ice Co. v. Liebmann*, 285 U.S. 262 (1932) (Brandeis, J., dissenting).

Amy Baker, Coordinator
Office of Economic and Demographic Research

The Budget Control Act & Federal Deficit Reduction

September 20, 2011

Presented by:



The Florida Legislature
Office of Economic and
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Setting the Stage

- For the most part, public debt has tended to grow consistently, across all economic conditions.
- Without active intervention, public debt is expected to rise over the next decades as the population ages into the retirement years of the baby boomers and health care costs rise. The projected borrowing levels and associated interest payments under current law lead to a level of debt that is unsustainable.
- Debt-to-GDP ratio is the most widely accepted measure. Its future size is affected by two components: increase in the overall debt level and increase in economic growth.

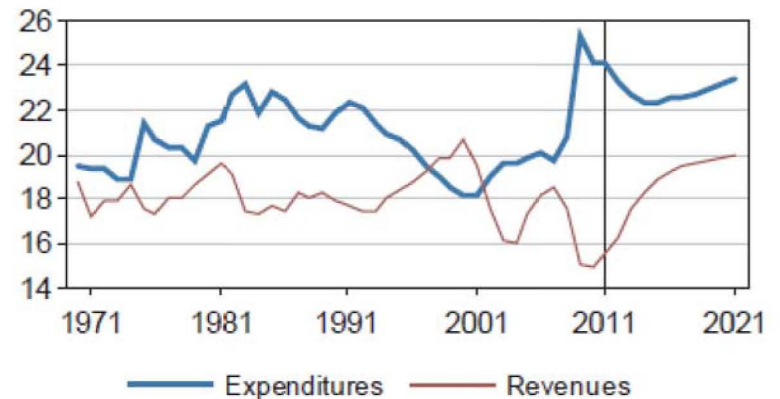


Size of the Problem: Deficit

- In August, the year-to-date **federal budget deficit** (the cash difference between receipts and spending within a fiscal year) stood at \$1,234.1 billion, \$25.5 billion lower than last year.
- Global Insight expects the deficit to come in at \$1.3 trillion for the entire 2011 federal fiscal year (8.5% of GDP), similar to the 2010 federal fiscal year.
- The Congressional Budget Office expects the deficit to fall to 6.2% of GDP in 2012 and to 3.2% in 2012, and then fluctuate between 1.0% and 1.6% of GDP from 2014 through 2021.

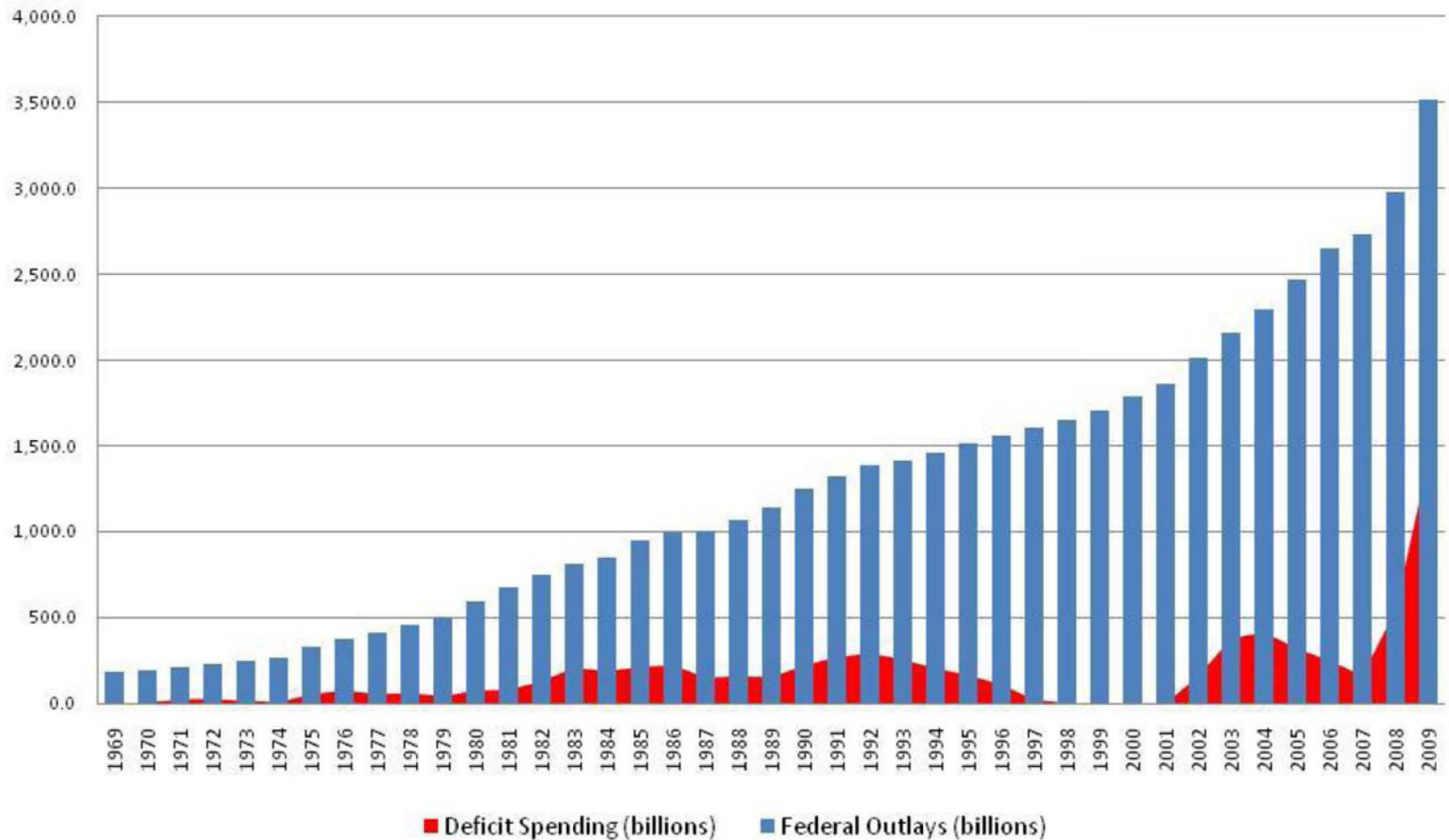
Federal Budget Gap

(Percent of GDP, fiscal years, unified budget)



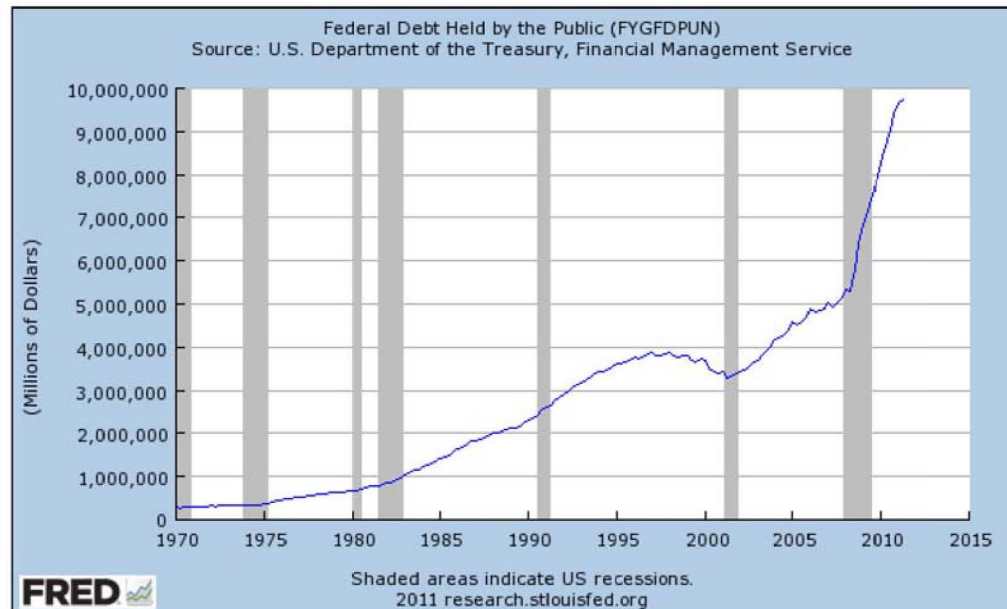
Graph from Global Insight

Deficit Spending Compared to Federal Budget

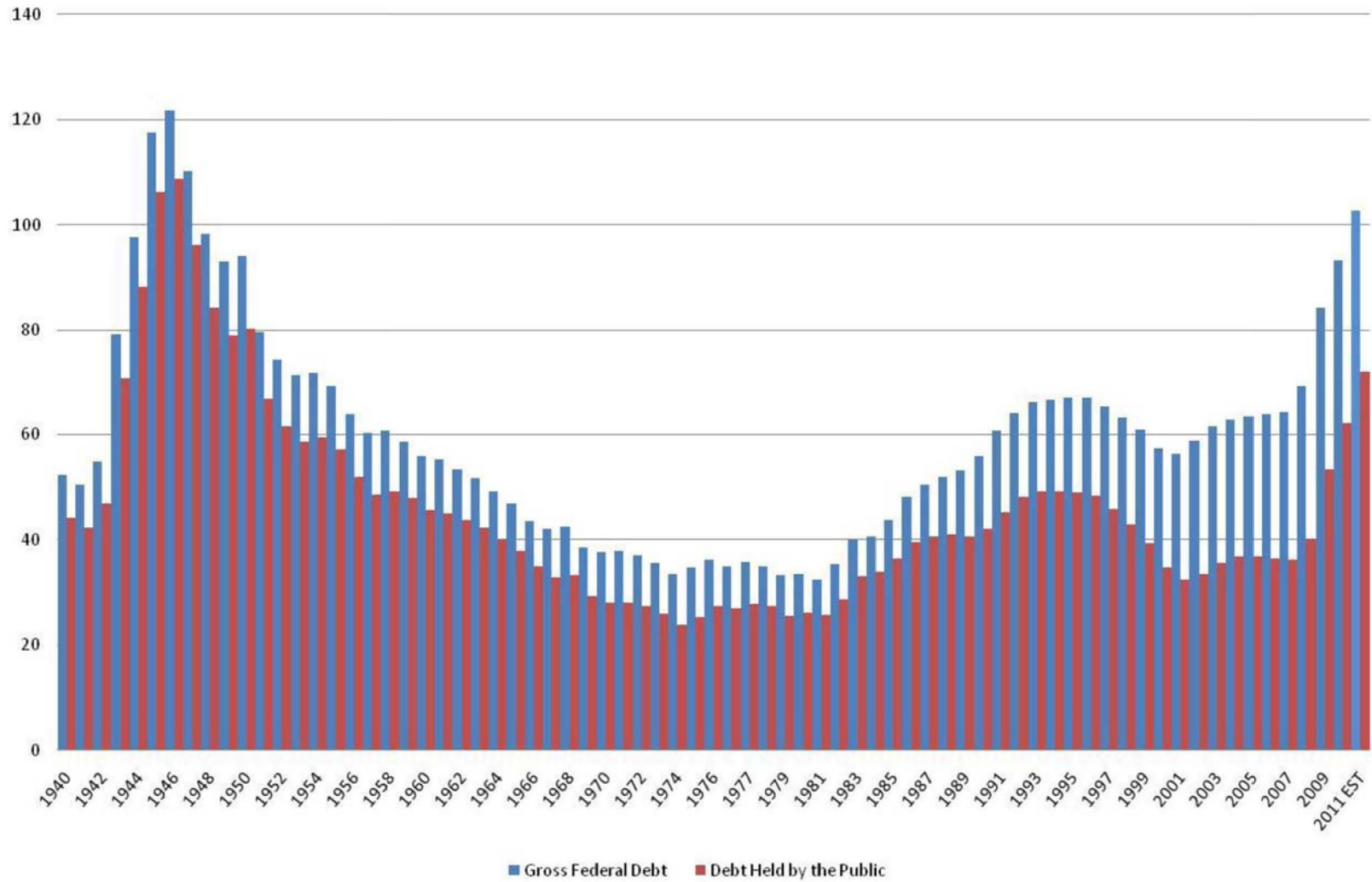


Size of the Problem: Debt

- As of September 9, 2011, the gross debt was \$14.71 trillion, of which \$10.07 trillion was held by the public and \$4.64 trillion was held in accounts administered by the federal government (called intragovernmental holdings). Gross debt was 98% of GDP, and the debt held by the public was 67% of GDP.
- Usually, the financial markets pay the most attention to debt held by the public.
- Under CBO's current-law baseline, debt held by the public is projected to fall from 67 percent of GDP this year to 61 percent by 2021. However, stabilizing the debt at that level would leave it larger than in any year between 1953 and 2009.



Debt as Percentage of Gross Domestic Product

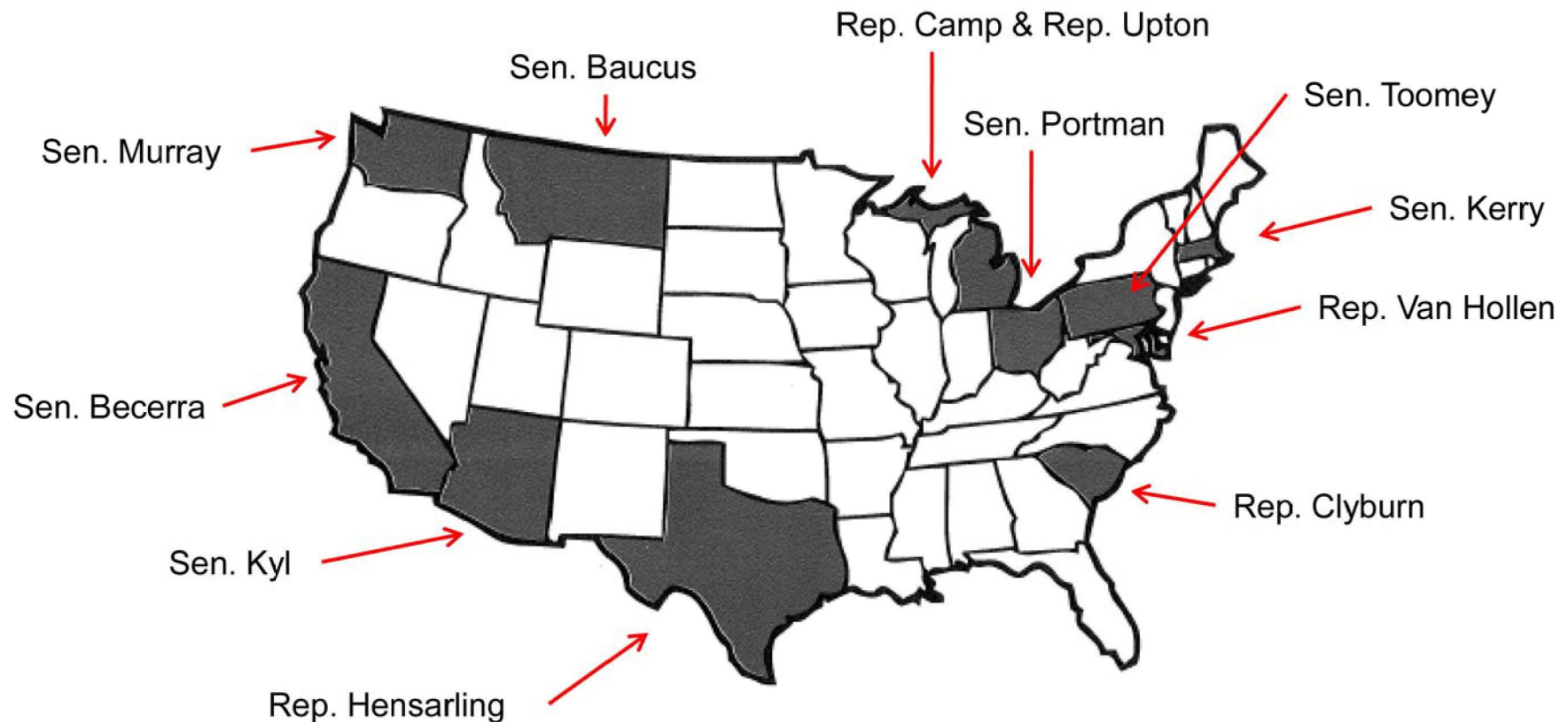


The Budget Control Act

- Immediately enacted 10-year discretionary spending caps generating approximately \$917 billion in deficit reduction in defense and non-defense spending.
- Bipartisan committee process charged with identifying an additional \$1.5 trillion in deficit reduction over the next 10 years. If this outcome comes to pass, there would be a total of \$2.4 trillion in deficit reduction over 10 years from the two components acting in concert.
- If the committee or Congress fails to adopt at least \$1.2 trillion in a deficit reduction package (including an allowance for interest savings), an enforcement mechanism scaled to ensure an additional \$1.2 trillion in spending reductions kicks in—falling equally on defense and non-defense spending.

Supercommittee Members

Joint Select Committee on Deficit Reduction: 12 members, evenly divided between Democrats and Republicans in the House and Senate. No members are from Florida.



Key Dates

- **November 23:** Draft of \$1.5 trillion deficit reduction plan is due
 - Simple Majority, meaning at least one member of the other party must agree.
- **December 23:** Congress must approve the deficit reduction plan to avoid automatic sequester provisions.
 - Simple Majority, without amendment or filibuster.
- **January 2013:** Automatic sequester takes effect if no agreement is reached. The sequester would be divided evenly between defense and non-defense spending, and would exempt Social Security, Medicaid, unemployment insurance, certain programs for low-income families, and civilian and military retirement. In addition, any cuts to Medicare would be capped at 2% and limited to the provider side. An adjustment is also made for natural disaster or emergency funding. The cuts would come from areas such as infrastructure, education, and defense.

Supercommittee Options

- Cut spending (non-entitlement or entitlement)
- Reform the tax code (revenue neutral or not)
- Restructure entitlement programs like Medicare and Medicaid which are increasing as a share of GDP
- Raise taxes or other forms of revenue
- Close loopholes or reduce reductions
- Other Issues: Economic growth proposals like initiatives designed to increase job creation or bring about deregulation

Status

- **September 8:** President Obama urged the Supercommittee to cut more than the required \$1.5 trillion to pay for the \$447 billion jobs plan.
- **September 14:** 25 fiscally conservative House Democrats known as the “Blue Dog Coalition” urged the Supercommittee to cut more than the required \$1.5 trillion.
- **September 15:** 36 Senators from both parties urged the Supercommittee to cut more than the required \$1.5 trillion.
- **September 19:** President Obama called for entitlement cuts, tax increases and war savings to reduce government spending by more than \$3 trillion over the next 10 years.

Issues to Watch

- New unfunded mandates for state and local governments, cost-shifting between federal programs and state programs, or increased financial participation requirements for federal programs.
- Twofold impact from the loss of federal funding:
 - (1) directly to state programs and initiatives; and
 - (2) Indirectly through the loss of federal procurement contracts currently going to Florida businesses.
- While many of the larger federal funding programs that benefit Florida are exempt from the sequester, it is possible that the state could be better off with a supercommittee product than with the sequester.

Vulnerability --- Cost-Shifting

(Direct or Indirect)

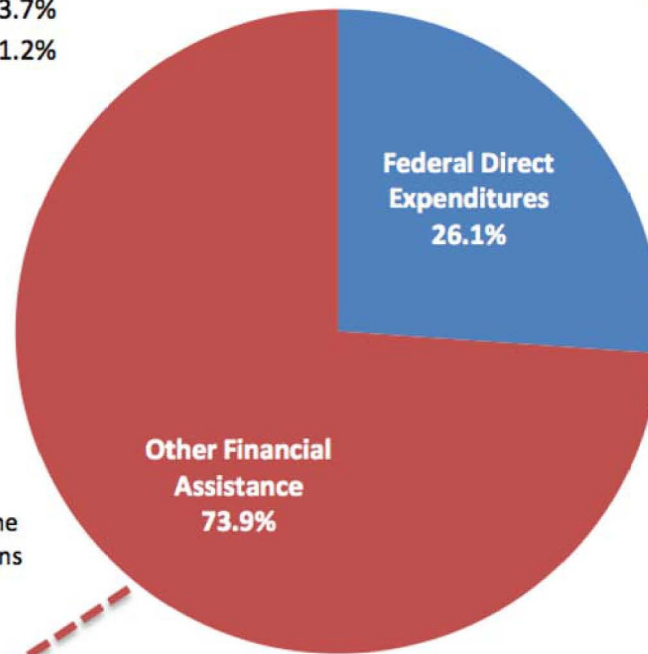
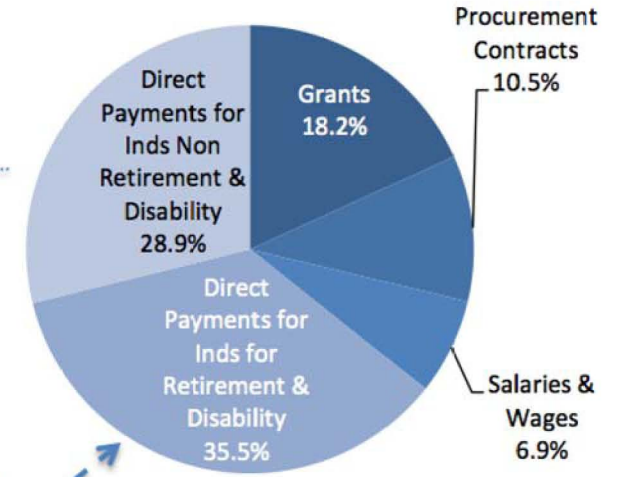
- Federal direct expenditures were equal to 26.1% of the Florida's real gross domestic product in 2009. They totaled \$176 billion or \$9,477 per capita. For the portion that passes directly through state government, federal dollars comprised 41.2% of the state's total receipts.
- Direct payments for individuals for retirement and disability constituted the largest category of federal direct expenditure. This category includes Social Security payments, federal retirement and disability payments, and veterans' benefits. Florida's direct payments for retirement and disability accounted for 36 percent of the state's total federal direct expenditures. Florida had the 2nd largest expenditure total of the fifty states and ranked 7th on a per capita basis, both rankings unchanged from 2008.
- Direct Payments for Individuals Other Than for Retirement and Disability represented the second largest category. These payments to Florida totaled \$50.7 billion, or \$2,733 per capita, and accounted for 29 percent of total direct expenditures to the state. Included are Medicare Benefits, Excess Earned Income Tax Credits, Unemployment Compensation, Supplemental Nutrition Assistance Program, Housing Assistance, and Agricultural Assistance.

Federal Funding to Florida - 2009

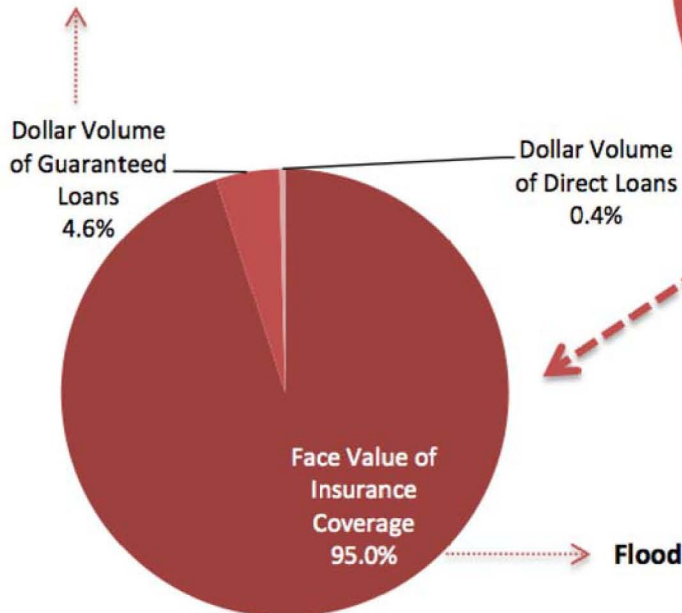
Medicare

Excess Earned Income Tax Credits	6.5%
Unemployment Compensation	6.7%
Supplemental Nutrition Assistance Program	5.9%
Housing Assistance	1.0%
Agricultural Assistance	0.6%
Federal Employees Life & Health Ins	2.6%
Student Financial Assistance	3.7%
Other	1.2%

71.8%



Mortgage Ins for Homes 54.1%



Flood Insurance 99.1%

Social Security Payments

Social Security Payments	79.3%
Federal Retirement and Disability Payments	13.5%
Veterans Benefits	5.6%
Other	1.6%

Top County Recipients

Florida's Federal Direct Expenditures by County (Excluding Leon)						
Federal Fiscal Year 2009						
County	Retirement & Disability	Other Direct Payments	Grants	Procurement Contracts	Salaries & Wages	Total
	TOP 10	TOP 10	TOP 6	TOP 6	Top 3	TOP 10
Brevard	2,534,752,000	1,104,380,000	509,233,000	2,582,090,000	579,690,000	7,310,144,000
Broward	4,251,798,000	4,865,072,000	1,475,033,000	592,567,000	606,772,000	11,791,242,000
Duval	2,747,260,000	1,844,542,000	1,408,696,000	1,145,579,000	1,282,972,000	8,429,050,000
Hillsborough	3,306,757,000	2,072,803,000	1,827,446,000	1,622,659,000	1,523,629,000	10,353,295,000
Lee	2,260,548,000	1,185,167,000	390,710,000	43,794,000	183,702,000	4,063,921,000
Miami-Dade	5,194,609,000	1,193,444,000	2,018,070,000	796,289,000	1,701,614,000	10,904,027,000
Orange	2,525,992,000	1,624,006,000	1,066,597,000	3,071,111,000	739,256,000	9,026,962,000
Palm Beach	4,343,308,000	3,612,886,000	972,917,000	2,202,921,000	499,867,000	11,631,898,000
Pasco	1,617,743,000	1,254,771,000	275,162,000	24,095,000	80,280,000	3,252,052,000
Pinellas	3,923,094,000	3,219,523,000	1,007,929,000	1,129,291,000	681,097,000	9,960,934,000
Sarasota	2,083,977,000	1,234,761,000	291,355,000	176,685,000	124,249,000	3,911,027,000
Volusia	2,081,542,000	1,268,798,000	424,631,000	215,796,000	116,448,000	4,107,215,000
Statewide	\$ 62,292,180,000	\$ 50,665,923,000	\$ 31,979,435,000	\$ 18,530,929,000	\$ 12,215,459,000	\$ 175,683,926,000

Vulnerability --- Private Sector

In Federal Fiscal Year 2008, 13,294 Florida businesses received nearly \$16 billion in federal contracts. The vast majority of this money was defense-related. In 2009, contracts awarded by the Department of Defense accounted for 77 percent of total procurement contracts awarded to Florida.

- The sequester provisions of the Budget Control Act would trigger an additional \$500 billion in defense budget cuts from 2013 to 2021. This is on top of the \$350 billion on already put in place as part of the original agreement.
- While only a few of the defense contracts that benefit Florida go to companies actually headquartered in Florida, they are still important to employment and the state's GDP.

Pennsylvania and Texas Have Similar Federal Funding Profiles to Florida

States' Percentage Share of Federal Direct Expenditures by Category
Federal Fiscal Year 2009

State	Population	Total Direct Expenditures	Direct Payments: Retirement	Direct Payments: Other	Grants	Procurement Contracts	Salaries and Wages
Arizona	2.2%	2.0%	2.1%	1.6%	2.0%	2.7%	1.7%
California	12.1%	11.0%	9.4%	10.7%	12.6%	13.2%	8.6%
Florida	6.1%	5.6%	7.2%	6.7%	4.4%	3.5%	4.5%
Maryland	1.9%	2.9%	2.1%	1.9%	1.6%	6.6%	4.8%
Massachusetts	2.2%	2.7%	2.0%	2.7%	3.1%	3.6%	1.6%
Michigan	3.3%	2.9%	3.5%	3.5%	2.9%	1.8%	1.6%
Montana	0.3%	0.3%	0.4%	0.4%	0.4%	0.1%	0.4%
Ohio	3.8%	3.4%	3.9%	4.4%	3.5%	1.7%	2.4%
Pennsylvania	4.1%	4.3%	4.8%	5.3%	3.8%	3.5%	3.0%
South Carolina	1.5%	1.5%	1.8%	1.4%	1.3%	1.6%	1.4%
Texas	8.1%	7.2%	6.7%	6.6%	7.7%	7.5%	8.9%
Washington	2.2%	2.1%	2.3%	1.7%	2.1%	1.8%	3.4%

States' Percentage Share of Federal Grant Expenditures by Agency

State	Agriculture	Commerce	CNCS	CPB	Defense	Education	EAC	Energy	EPA	EEOC	HHS
Florida	5.0%	3.2%	4.8%	6.1%	3.7%	5.0%	7.7%	2.0%	2.4%	3.5%	4.2%
Pennsylvania	3.2%	2.2%	4.8%	3.1%	10.3%	3.3%	6.4%	3.5%	3.2%	9.4%	4.4%
Texas	9.5%	4.0%	0.2%	4.8%	0.8%	8.1%	< 0.1%	2.7%	6.9%	2.9%	6.3%

State	HS	HUD	Interior	Justice	Labor	NFAH	NRC	SSA	SJI	DOT	Treasury	VA
Florida	5.3%	4.2%	0.9%	5.4%	3.6%	4.0%	2.7%	4.4%	4.6%	3.8%	5.6%	3.3%
Pennsylvania	2.2%	4.7%	1.2%	4.0%	3.9%	3.5%	10.7%	2.0%	0.2%	4.2%	0.4%	4.5%
Texas	12.9%	4.1%	1.5%	6.8%	6.3%	6.0%	7.1%	9.7%	-	6.8%	14.4%	3.5%

Note: The abbreviations used above stand for the following agencies: ARC - Appalachian Regional Commission; CNCS - Corporation for National and Community Service; CPB - Corporation for Public Broadcasting; EAC - Election Assistance Commission; EPA - Environmental Protection Agency; EEOC - Equal Employment Opportunity Commission; HHS - Department of Health and Human Services; HS - Department of Homeland Security; HUD - Department of Housing and Urban Development; NFAH - National Foundation of the Arts and the Humanities; NRC - Neighborhood Reinvestment Corporation; SSA - Social Security Administration; SJI - State Justice Institute; TVA - Tennessee Valley Authority; DOT - Department of Transportation; VA - Department of Veterans Affairs.