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### **Federalism: Constraints on Education Finance**

Educators should not be driven by dollars. In an ideal world, the legitimate needs of educators and their human service partners would be fully funded. Policy makers would understand that well-educated and nurtured children are the nation's most important spending priority. But this is not an ideal world. Government budgets at all levels are declining and Congress is making significant reductions in spending for education and related services.

How do federal and state constitutions, laws, and court decisions affect the ability of states to reform the ways they finance education and other children's services? What are the effects of these constraints on revenue and expenditures? How do they provide incentive for reform as well as impose barriers?

Federalism is the principle that some policy matters fall under the authority of the local or state governments and others under the authority of the national government. The U.S. government delivers and finances services using these three tiers of government. Financing for all three levels are controlled by statutory or constitutional constraints. The U.S. Constitution defines power and limitations to the national government. It further states that any powers not specified in the constitution and not illegal to states, are powers of the state, residual power<sup>1</sup>. Finally local governments are puppets of the state and must follow the regulations and limitations set by the state unless otherwise expressed by the state. For example, the distribution of welfare money was controlled by Congress until recent years when Congress transferred authority of welfare reform over to the state.

Aside from the immediate control of the higher government, State and local governments have various limitations and constraints that influence policy reform and fiscal financing. These include the state's political culture and history, the amount of resources available, the amount of debt that needs to be paid off per year, and limitations on the capacity of debt amounting per year for funding highways, schools and prisons and the like. These types of limits may and commonly involve a requirement that the voters specifically approve the borrowing or dollar limit on debt that can be outstanding<sup>2</sup>. State and local governments face spending mandates issued by higher levels of government on lower levels of government. Mandates are like the operating restrictions that government place on private industry to regulate areas such as workplace safety and environmental

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<sup>1</sup> Mikesell L. John, *Fiscal Administration: Analysis and Applications for the Public Sector*, 6<sup>th</sup> ed. (Orlando, FL: Wadsworth Publishers, 2003).

<sup>2</sup> Mikesell, *Fiscal Administration*.

quality<sup>3</sup>. Above all, state and local governments are faced with caps on spending for a fiscal year. And lastly, without question there are legal constraints instituted by the State or National Constitutions.

California has many constraints and limitations placed on education financing. These have developed in various ways. Many have come about by votes from citizens, by state court decisions and by federal and state constitutions.

California's constitution does not allow state government to relinquish to local authorities its ultimate responsibility to provide a free and equitable public education. This fact requires the development of a governance and financing structure that distributes specific responsibilities between state and local government consistent with constitutional court decisions. California's school finance has become much more complicated over the past thirty years. And although a major limitation is the extent of desired education and human services partnering, in order to support each other, there are legal limits. These are defined in large part by the California and U.S. constitutions, the Serrano decision, Proposition 13, Proposition 98 and the Butt decision.

The basis of all constraints and limitations on education financing created in the past thirty years have been brought about by two simple statements in the Federal and California State Constitutions. California's constitution promises a free public school system and the equal protection clause of the U.S. constitution requires that states deliver their promise on equal terms to all persons.

Prior to 1979 public education was funded almost entirely by property tax revenue. There was a great discrepancy between areas with high property values and areas with low property values. Despite aid granted to the low property value areas by the government, the free education promised by the state and federal constitution was delivered at varying levels of quality. In 1968 a parent by the name of John Serrano pursued a legal claim that these varying levels of funding violated the state's constitutional provisions guaranteeing equal protection of the law<sup>4</sup>. Essentially the court ordered that the property wealth related disparities be reduced to an insignificant amount per average daily attendance.

In the early 1970's Californians approved Proposition 13, which cut property taxes by an average of 60 percent and set a maximum property tax rate of 1 percent. This resulted in an increase in the amount of funding generated from the California general fund and a dramatic reduction in the amount provided by local property taxes to meet the same revenue limit.

Over time, the education community grew concerned with the lack of stability in education funding from year to year. Proposition 98 was passed in 1988 assigning K-12

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<sup>3</sup> Mikesell, *Fiscal Administration*.

<sup>4</sup> Jon Coupal, "California Commentary: Proposition 13 Anniversary Results in Telling a Myth," *Howard Jarvis Taxpayers Association*, week of August 18, 2003, <http://www.hjta.org/calcommentary029.htm>

education and community colleges a constitutionally protected portion of the state budget by guaranteeing a minimum level of funding<sup>5</sup>.

Finally after the Richmond Unified School District in the Bay Area threatened to close school six weeks early due to the financial hardships, the Butt decision found that the state itself bears the ultimate authority and responsibility to ensure that its district based system of common school provides basic equality of educational opportunity<sup>6</sup>. By establishing the state's responsibility to provide education freely and equally without exception for any actions by local officials, this case eliminated the possibility of total local control. Since the state bears the fundamental responsibility for keeping schools open on essentially the same basis for all pupils, local districts are inherently subsidiary to the State.

In the past few weeks, education leaders and district superintendents have been furious about Governor Schwarzeneggers plan to gut funding guarantees that have protected schools for more than a decade<sup>7</sup>.

A year ago, Governor Schwarzenegger worked out a deal with educators through which schools and community colleges would forgo \$2 billion in tax revenues that they were entitled to under the state constitution in return for the funds being returned this year and a promise to protect schools against further cuts. Proposition 98 allows the state to hold back school funding when revenues are down, with the requirement of paying back the money. Schwarzenegger also agreed not to tamper with Proposition 98, which guarantees schools and community colleges more than 40 percent of any new state revenues.

The Governor proposes spending a 4.2 percent increase from last year on education. This increase is only the adjustment made for the year that will only cover cost-of-living adjustments and new enrollment. This adjustment is made every year to cover the cost of these two areas, therefore he is not granting education anything new. To make matters worse, he wants to withhold the \$2 billion owed to schools from last year along with the funds owed to schools for this year under the voter approved Prop. 98. And renegeing on his previous promise Schwarzenegger is also expected to propose a state constitutional amendment to alter Proposition 98.

Although Proposition 98 allows funds to be held and repaid at a later time, the Governor should not be making unrealistic promises to the community. Because the Governor is the ultimate authority within the State of California, what comes out of his mouth is taken seriously and announcing that he will replace the funds this year that he withheld last year was taken seriously by educators.

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<sup>5</sup> "A Primer on Proposition 98," *EdSource Online*, October 1996,  
[http://www.edsource.org/pub\\_edfct\\_prop98.cfm](http://www.edsource.org/pub_edfct_prop98.cfm)

<sup>6</sup> California First Amendment Coalition, <http://www.cfac.org/CaseLaw/Cases/Butt.html>

<sup>7</sup> Duke Helfand & Joel Rubin, "Educators Warn of Plan's Dire Impact," *Los Angeles Times*, January 7, 2005.

Because of the many constraints and limitations that the State government faces in developing a fiscal budget, the State of California may be in debt to the State's public school system for many years to come. Each year Education is guaranteed a certain amount of money dependent on new state revenues. If these monies are not paid yearly, like the Governor has done, the money due will increase and the next year the State will owe education more according to Proposition 98. If the funding owed for one year cannot be paid, it is less that likely that in the following year the owed amount from the previous year and from the current year will be able to be delivered.

There is a fiscal crisis and it is evident that everyone in public education understands that, but at some point prioritization has to be enforced. Education is on the edge right now and cannot bear any more reductions in funding. California, a state abundant with resources, is slowly falling behind the rest of the United States in education. If education is not given priority now California is no longer going to be competitive to other states, which can be detrimental to the California economy.

California's elementary school enrollments have grown steadily in the past 20 years. Even as the trend slows, high schools will continue to expand for several years. These students are so ethnically diverse that no one group is in the majority and nearly a quarter of them are learning English as their second language. Without a properly funded education system, California, as diverse as it is, will lose its beauty and respect for the State that it is.

It makes sense for the Federal government to leave the responsibility of education to the State, since the State knows well what is at hand and what is needed for the State to grow in the area of education. In California, an individual's education is held highly on the totem pole when entering the working world. It is ironic that the Governor, the head of our State is placing restrictions on education and limiting the resources that the education system has to work with.

It is unfortunate that although the people and the education community knows first hand the struggles to maintain quality education available to all children and have approved Proposition 98, which is suppose to provide further funding to education the California, the Governor still has the "last word" in the distribution of these guaranteed funds.

Federalism is often viewed in two aspects. First as a mere device of bureaucratic organization or as protection of states' rights. Secondly, and in contrast to the first view, federalism is viewed as a constitutional constraint on government, without it the national and state governments will routinely succumb to interest group entreaties to wipe out jurisdictional competition. In this view, federalism as a result forces states in particular to compete for citizens business, talents and assets. Increased economic complexity makes it more important to carve a vast commons into smaller more manageable units.

In terms of fiscal financing, it is important for the responsibility of funding education to be provided at the State level rather than at the Federal level, since the state

should know where it is lacking resources and where resources can be sacrificed for a time period. Local control is ideal in education funding, but such ideal would require an unlimited amount of money, because each district is always going to find ways in which their schools need improvement.

I do not believe that the Governor will let education funding fall behind in the long run, but small sacrifices now will always alleviate the pressures and problems in the future. It is unfortunate that although the state seems to be giving the people control on how money is spent, and their views and ideas are being heard, for example, the passage of Proposition 13 and Proposition 98, in the end no matter how they vote, the Governor has the last say.