# States CP

## 1NC Shells

### 1NC

#### The fifty states and relevant sub-national territories should (INSERT MANDATES OF PLAN)

#### The counterplan solves better than the plan. States alone promote innovation and accountability---the perm’s overlapping mandates fail.

Chopin, Labor & Employment Law Department Associate, 13

[Lindsey H., Loyola Law Review, “Untangling Public School Governance: A Proposal To End Meaningless Federal Reform And Streamline Control In State Education Agencies”, <http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/loyolr59&type=Image&id=421>, p. 442-447, 7/10/17, KW]

In abandoning the current system of fad reforms, it must be accepted that "large-scale educational reform is unlikely in the absence of an institutional center to shape policy, aggregate interests, and control and channel conflict." 245 This realization begs the question: Where should this institutional center be placed? Three options exist: (1) the federal government, (2) local schools, or (3) states. This Comment proposes that the states become centers of education reform that work directly with the local schools to propel constructive change. History has taught us that extensive local control was fragmented and unreliable, and the modern failure of increased federal intervention should make us wary of complete federal control. 246 Furthermore, it has become clear that overlapping governance by multiple bodies creates a confusing and unaccountable system. 247 With a cooperative of state and local control, led by strong state institutional centers, this proposal has the potential to create a balanced system in which real reform can occur. Section IV(A) will outline the proposed changes and why those changes will create a better chance for useful reform. Section IV(B) will then address and rebut possible challenges to this proposal, including why the federal government and local schools should not be centers of reform, and how the federal government will be removed from reform. A. The Case for the States In 1973, the Supreme Court of the United States noted that Education, perhaps even more than welfare assistance, presents a myriad of "intractable economic, social, and even [\*443] philosophical problems." The very complexity of the problems of financing and managing a statewide public school system suggests that "there will be more than one constitutionally permissible method of solving them,' and that, within the limits of rationality, "the [State] legislature's efforts to tackle the problems" should be entitled to respect. 248 Despite this sage advice, the federal government persisted in trying to control education. It is time for the power struggle to come to an end, and for states to take control of the complex endeavor of regulating public education. Section IV(A)(1) will discuss this Comment's proposed changes to state education agencies, and Section IV(A)(2) will analyze why this proposal would succeed. 1. Proposed Changes to State Education Agencies This Section does not suggest another bureaucratic structure, but rather suggests learning-centric bodies that facilitate the education process. Under this proposal, systemic changes to the current system would be necessary. State education agencies would not be mere paper-pushers who dole out funds; they would be involved in the learning and reform process. This would require a massive expansion of state education boards to include enough experts to cover all schools. State education agencies would serve a proactive and reactive regulatory function. Their regulation will be proactive in terms of funding. All funds raised for education should be deposited into the state agency. The state will then adequately and equitably disburse these funds to ensure that poorer districts are not short-changed. 249 The reactive regulatory function of the proposed agency would be charged with monitoring the progress of local schools. As is currently the case, data would be kept on all schools concerning test scores, dropout rates, suspension rates, etc. However, rather than using the data to enforce an arbitrary scheme of winners and losers, the proposed state agency would [\*444] simply be there to ensure upward movement and provide support to those schools that stagnate or decline. This regulation may be achieved, in part, by an overhauled system of professional development. For many, the notion of professional development conjures images of overworked teachers, excited to have an afternoon off from teaching, eating Danishes and discussing new methods of instruction in the school library. 250 The professional development espoused by this proposal differs in that it does not flatly present new strategies for the curious teacher to try on her own, but consists of "mutual education for teachers [that serves as] a lever for reorganizing schools and districts in response to (ever more refined) diagnoses of their shortcomings." 251 This type of professional development consists of master teachers working with other teachers to determine what needs to be fixed and how to fix it. 252 Data would be used to inform change instead of to determine who wins or loses. This proposal maintains that this type of gradual, flexible, and informed change that is a result of ground-level educators and state-level experts working together is the best method by which to improve achievement in all schools. 253 For example, imagine the following: in the ABC Local School District, achievement across schools varies. The lowest performing school has a passing rate of only thirteen percent on the state exam; the highest performing school enjoys a ninety percent rate. Two years after working with master teachers to improve both schools, the thirteen percent school has climbed to fifty percent and the ninety percent school has climbed to ninety-four percent. Under the restrictive programs with arbitrary cut-offs for "success," both schools could be in trouble. The fifty percent school would likely still be considered to be failing because only half of its students passed the state exam. The other school could be in trouble for only gaining four percent on [\*445] the exams. Under this Comment's proposal, neither school would face sanctions. Although it would be ideal to see a school with a thirteen percent proficiency rate move to 100 percent in two years, it is unlikely. Under this proposal, so long as the thirteen percent school was moving upwards, towards a goal of 100 percent, its doors would stay open and it would continue to receive funding, perhaps more funding than other schools. Conversely, the school with the ninety percent proficiency rate would need to progress differently. Obviously, such a school will not be able to jump five percent a year like a lower achieving school could because the school will only be doing fine-tuning. As part of their reactive function, the state education agency would be responsible for tracking this data and making adjustments and interventions where necessary by collaborating with the school and its teachers. Because upward movement will be the focus rather than timelines and thresholds for success, the pressure on local schools can be alleviated and real progress can be made. 2. Why This Structure Will Work Centering education governance in the states will create a balance that local and federal governance has yet to find. States are small enough to respond to local needs, yet large enough to have the resources to respond to those needs. They can respond through a continuation of their current programs, the innovation of new programs, or by looking to other states for guidance. Further, states are small enough to oversee their classrooms, and to partner with the teachers in order to get to the root of their local problems. This Section explores these attributes. Section IV(A)(2)(a) will discuss local solutions for local problems; Section IV(A)(2)(b) will detail the continuation of successful solutions; Section IV(A)(2)(c) will introduce the innovation of new solutions; and Section IV(A)(2)(d) will present a combination of Top and Bottom Down Reform. a. Local Solutions for Local Problems This proposal calls for people to end their reliance on a "Big Idea." 254 As noted earlier, the same reform that fails on a large [\*446] scale may prove successful on a small scale. Under this proposal, all reforms would be imposed on a fairly small scale with close monitoring and tailoring. For example, despite the general finding that charter schools are not the cure-all that many claim them to be, charter schools do have positive effects in some locales. 255 Most notably, in Louisiana, a state whose failures in public education were highlighted nationally after Hurricane Katrina, charter schools actually showed statistically significant growth in both reading and math scores. 256 The growth shown by these charters was significantly more promising than in other states. 257 Thus, Louisiana may want to continue researching this option for reform in some areas. Conversely, Ohio, which showed statistically significant declines in achievement in charter schools, may want to consider other avenues. 258 Regardless of the reform, this proposal allows local solutions. b. Continuation of Successful Solutions As noted earlier, expansive federal oversight can force states to replace successful programs with non-specialized and un-researched federal reforms. This would not happen under the proposed system because the federal government is out of the equation. Rather than scrambling to meet new mandates, states can continue the programs they have and use funds that would be spent on innovating completely new reforms to tweak current systems that are doing well or show promise of future success. Such attention to detail and persistence in implementation is not possible under the federal timeline for reform. c. Innovation of New Solutions As noted earlier, the federal government does not have the resources to enforce and monitor its reforms in a meaningful way. 259 Under federal reform, situations like Jane's useless Smartboard in the hypothetical in the Introduction often arise. The federal government provides money for a certain purpose, like innovation through technology, and the school must find a way to use that technology within the confines of the mandate and can make decisions that are forced and illogical, such as [\*447] purchasing Smartboards. Because implementation is lacking and funding is insufficient, the forced innovations fail, as did the Smartboard innovation, where the boards were purchased but not integrated. It seems more effective to spend resources on developing successful innovations that are needed rather than prescribed. Before the federal reforms tied state education agencies up in red tape, states had begun to innovate their own solutions. 260 Under the most recent federal mandates, this innovation has been both stifled (in the case of NCLB) and rushed (in the case of RTF). The hallmarks of federal reform are limited funding and implementation by the carrot and stick approach. 261 Thus, under the federal system there must be winners and losers, those who pass and those who fail. The lines that divide these categories are completely arbitrary, and in the case of NCLB, have led schools to take drastic measures to meet arbitrary goals. 262 Under the proposed system, arbitrary federal goals would be removed, thus freeing states to innovate at a calm, thoughtful pace. For years, the federal government has assumed that states have the capacity to innovate, as evidenced by their skeletal reforms. This proposal allows states the chance to do exactly that.

## States Good/Fed Bad

### Social Capital/Parent Buy In

#### Federalizing education strips social capital from education enforcers---makes follow-through at the school-level less likely

Mills, NYU law professor, 2012

(Robert, “Educational Innovation And The Law: The Case For Educational Federalism: Protecting Educational Policy From The National Government's Diseconomies Of Scale,” *87 Notre Dame L. Rev. 1941*, Lexis)

A. Three Advantages of Subnational Democracy For Mobilizing Support for Education

Consider three advantages of subnational democracy in mobilizing support for education - bonding social capital, home-value capitalization, and ideological sorting. Each of these advantages suggests that subnational government ought to play a lead (although not an exclusive) role in raising revenue for, and regulating the content of, education.

1. Bonding Social Capital and Subnational Democracy

Increasing the size of a community tends to increase its demographic and ideological heterogeneity, and there are reasons to believe that heterogeneity can impede cooperation by reducing what Robert Putnam has termed "bonding social capital." 37 "Bonding social capital" refers to the capacity of like-minded persons to cooperate with each other in collective action tasks requiring high degrees of trust and reciprocity. 38 Putnam has defended the claim that social [\*1957] heterogeneity decreases the capacity of citizens to cooperate, because people who think alike will tend to trust each other more than people who have ideological, religious, or cultural differences, 39 a contention that, despite being hotly controverted, has found support from other researchers measuring the capacity of citizens to unite for civic projects or interact with each other in political activities. 40 Despite the controversy that Putnam's claim has generated, the claim that ideological diversity impedes political cooperation is hardly novel, dating at least from James Madison's Federalist No. 10.

Regarding education in particular, there is some historical support for the claim that communities with lower levels of ethnocultural, ideological, and income diversity have found it easier to raise revenue for educational investments. Claudia Goldin and Laurence Katz found that school districts' voters were more likely to embrace the massive investment in high schools during the early twentieth century if they were more economically and ethnoculturally homogenous. 41 Likewise Marion Orr found that inter-racial distrust distracted Baltimore schools from their educational mission. 42

Households with children tend to have many opportunities for social and political interaction, simply because children draw parents into social networks of sports leagues, parent-teacher associations, and more informal school activities. As William Fischel notes, these networks can be used to participate in public life, as households with children [\*1958] come to know and trust each other as a result of their other interactions in school-based networks. 43 But Fischel also notes that the social capital created by these networks is "community-specific": it is most effective within the local jurisdictions in which the network of "social capitalists" is concentrated. 44 Learning how to divide up time and talking points with one's neighbors helps a lot at the school board's microphone, because the neighbors are all physically concentrated within the jurisdiction of the school board. Those skills will not, however, help a lot with coordinating a campaign to influence a congressional committee chair residing in another state. 45

Elevating educational policymaking to the federal level, therefore, strips households with children of their most valuable political asset - their social capital derived from their local networks. As the relevant constituency increases in size, those personal networks become less politically useful: they are replaced by media that create connections between strangers - mass mail alerts, email blasts, blog posts, newsletters, television advertisements, etc. Because these mass-mobilizing devices cost money and require expertise in mass communication, groups with expertise in fundraising will have a comparative advantage over households with children. In effect, the change in level of government also changes relative to political power, placing households with children on turf where their skills and in-person networks are least relevant and where fundraising skills are most relevant. 46

By suggesting that households with children will do better subnationally rather than nationally, I do not mean to suggest that smaller jurisdictions are always "closer to the people." On issues where the costs of acquiring information are very high, there might be scale economies in communication that outweigh the advantages of cheap access to local political networks. For constituencies that are unaware or uninterested in the relevant policies, the advantages of a large and heterogeneous political ecology - a diverse national media with dozens of websites, high levels of television coverage, nationally competitive political parties, a plethora of competing interest groups, etc. - may promote political participation far more effectively than the ease of showing up at a hearing in person. Because national political [\*1959] processes tend to be more salient than subnational processes, the former might actually be "closer to the people" than the latter whenever public consciousness of or interest in political issues is low. 47

But the peculiar characteristic of stably governed households with children is that their high stakes in educational policymaking already tend to make them well-informed about educational policy disputes, without the aid of a dense and heterogeneous interest group and media environment. The marginal gains in issue-salience from elevating educational issues to the national level will, therefore, likely be small, while the loss of access to the relevant decision-makers is large. If one accepts the argument in Part I that these households deserve special deference on their educational decisions, then it also follows that subnational politics ought to receive special primacy on educational policy-making, because subnational politics tend to give more weight to the political strengths of stably governed households.

#### Social capital is the key determinant of education policy success

O’Day, American Institutes for Research, Institute Fellow and California Collaborative on District Reform, Founder and Chair, and Smith, Carnegie Foundation for the Advancement of Teaching, Senior Scholar and U.S. Department of Education, former Acting Deputy Secretary, 2016

[Jennifer and Marshall, 2016, American Institutes for Research, “Equality and Quality in U.S. Education: Systemic Problems, Systemic Solutions”, <http://www.air.org/sites/default/files/downloads/report/Equality-Quality-Education-EPC-September-2016.pdf>, Accessed 7-10-17, AZG]

Implementation is a social process. Effective implementation requires activating relationships among people, groups, and organizations (social capital)—not just once but repeatedly and continually. In high-poverty contexts, staff turnover and a lack of trust often impede the development of the strong relationships needed to make evidence-based practices work and to foster individual and organizational learning. Attempts to ensure implementation and the spread of effective practices through administrative mandates do little to solve the problem as they too often lead to superficial compliance without deep understanding or committed action. Lesson Two: Piecemeal Reforms Leave Systemic Contributors Untouched Many of these implementation challenges persist because isolated and piecemeal reforms seldom address the underlying systemic contributors to the targeted situation or inequity. Moreover, incoherence and instability in the policy environment make it difficult to identify and change these contributing conditions. Superintendents, school boards, and legislators come and go—often with great frequency—whereas disparities in resources and practices go on, bolstered by institutionalized structures and beliefs. On the ground, schools in high-poverty neighborhoods lack the information, trust, and capacity they need to examine their practices and results over time and are pulled in multiple and conflicting directions by the mixed messages they receive. High-stakes testing and rigid accountability measures can compound these issues and have the effect of drawing attention to avoiding consequences for adults rather than ensuring progress for students.

#### Federal mandates makes parents believe they have less choice--depletes parent buy-in---lowers educational outcomes

Pinder 10 - Associate Professor, John Marshall Law School, Atlanta, Georgia; former program attorney, Office of the General Counsel, U.S. Department of Education. B.A., Smith College; J.D., New York University School of Law; LL.M., Georgetown University Law Center (Kamina, “Federal Demand and Local Choice: Safeguarding the Notion of Federalism in Education Law and Policy, *39 J.L. & Educ. 1*, Lexis)

Professor Heise suggests control of educational policy should be given to the level of government that pays the associated costs and asserts that by decoupling funding and policy, NCLB dilutes voting citizens' influence. 182 Connecting policy to funding may serve to protect federalist interests in most instances, but as states and the federal government increasingly fund education, they are presented with a danger in connecting funding to control. Although poor districts do not have the fiscal resources necessary to provide basic educational needs, much less innovative educational programs, 183 there is value in allowing the local voter to have input in local education policy rather than imposing it from the federal level. Evidence supports the claim that the less input parents have on their children's educational choices, the less successful the educational experience. 184 Interestingly, at least part of that parental input may be attributable to spending; parents who are disconnected from school spending are less likely to be interested in assessing schools' educational value. 185

### Tailoring/Innovation

#### The counterplan alone promotes SEA leadership—which promotes state innovation---the plan and perm tradeoff by shifting SEA resources towards compliance with federal regulations, and undercutting SEA trend-setting

---the impact is achievement gaps

Weiss and McGuinn 16 - \*consultant to organizations on education programs, technologies, and policy, and former chief of staff to U.S. Secretary of Education Arne Duncan, \*\*PhD, Professor of Political Science and Education at Drew University and Senior Research Specialist, Consortium for Policy Research in Education (Joanne and Patrick, “The Evolving Role of the State Education Agency in the Era of ESSA: Past, Present, and Uncertain Future,” http://www.aspendrl.org/portal/browse/DocumentDetail?documentId=2958&download&admin=2958%7C1917288972)

\*\*\*SEA = State Education Agencies

Under the Every Student Succeeds Act (ESSA), states have considerably more flexibility and authority in K-12 education than they had under the previous federal education law, No Child Left Behind (NCLB). And with this increased power comes the increased responsibility to support the improvement of educational outcomes for every student in the state. Leaders at the helm of state education agencies (SEAs) therefore find themselves in a moment of both great change and great opportunity, as many agencies move away from a predominant focus on compliance with federal regulations and programmatically dictated uses of funds, and toward a broader focus on supporting districts and schools. For many advocates of low-performing students, it is also a moment of potential peril if states fail to embrace their new responsibilities and work hard to improve educational opportunity and outcomes. As the definition of – and responsibility for – success changes in this new environment, the roles of the SEA [State Education Agencies] deserve reconsideration. There is no “correct” set of roles for the SEA [State Education Agencies], no consistent answer to the question of which activities a state agency should – or should not – engage in. Each SEA [State Education Agencies] is starting from a different place along a change management continuum, and each has different educational strengths and assets to build upon, different needs to address, and a unique set of laws to follow and traditions to respect. ESSA presents fewer federal mandates, which opens the door to state creativity and innovation. But having fewer mandates also raises questions about state capacity and removes the political cover that was, until recently, provided by federal rules. With this reduction in federal direction and oversight, the onus to define and implement a vision for the state’s educational future will rest almost entirely with the state’s educational leadership. And while leading change is done by a few, it is work that can be undone by many. States therefore should be very deliberate in fostering conditions within the state that are conducive to educational improvement and consistent with the state’s vision — building statewide understanding of the problems, support for the proposed solutions, and pressure to perform at higher levels. This will not be easy. Driving educational change from the state capitol all the way down to the classroom is extraordinarily difficult. For reforms to succeed, state policy changes must change district practice, district practices must change the behavior of principals and teachers, and school-level changes must deliver improved student performance.1 As a result, the vigor and effectiveness of SEAs [State Education Agencies] — and their ability to support local districts — will be critical, particularly as states now have more discretion over education policy in the wake of ESSA. But state commitment alone may not be sufficient, for, as many scholars have noted, states suffer from a “capacity gap” that undermines their ability to monitor and enforce policy mandates and provide technical guidance to districts. States must acknowledge the SEA’s [State Education Agencies] critical role in the ESSA era and fund them accordingly so they have adequate resources to do this work. For their part, SEAs [State Education Agencies] will need to reorganize themselves and prioritize their functions to adapt to the new demands being placed on them. As they do so, they will need to identify areas of comparative advantage and economies of scale — where the state can do something better and/or more efficiently than districts. If we are to close the country’s longstanding racial and socioeconomic achievement gaps and address concerns about the nation’s overall educational performance, states and SEAs [State Education Agencies] will increasingly need to lead the effort.

#### State action solves the aff – spurs decentralized innovation and a race to the top – the plan’s top-down action crushes federalism

Evers, research fellow at the Hoover Institution, 14

(Williamson, “How the Common Core Suppresses Competitive Federalism”, http://educationnext.org/common-core-suppresses-competitive-federalism/)

The insight of competitive federalism is that fifty-one state school boards are better than a single federal Executive-branch office. Fifteen-thousand local school boards are better than either fifty-one state school boards or a single federal office. As political scientist Thomas Dye puts it, “intergovernmental competition” was seen by the Founders as an “auxiliary precaution” against the “monopoly abuse of power by a single centralized government.” Competitive federalism encourages innovation, allows movement between jurisdictions that enhances liberty, and permits a better match between policies and voter preferences. Common Core’s national uniformity runs counter to competitive federalism. Let’s turn to Alexis de Tocqueville, the most famous observer of American society in our history and see what he can tell us about national education standards. Tocqueville is famous for his portrait of nineteenth-century America and his philosophic insights on why the American society has flourished—and also where it might go wrong. It is worth reminding ourselves what some of Tocqueville’s insights were. Once we do, we can consider the current nationalization of K-12 public-school curriculum, with Tocqueville’s insights in mind. One of Tocqueville’s major insights was that Americans have benefited from popular participation in the large number of churches, charities, clubs, and voluntary associations in our country, as well as in state and local governments, which stand between the individual and the national government in Washington, D.C. In essence, Tocqueville believed that the civic health of America depended on popular participation in entities like associations to create and maintain religious, private, or charter schools, as well as in local authorities like school districts with fully-empowered schools boards. Such activity fosters civic virtue and “habits of the heart” and encourages everyday citizens to take on necessary social tasks that in pre-modern society lowly subjects were not allowed to undertake, but were instead the duty of the aristocracy. When Tocqueville described nineteenth-century American society he spoke, for example, of township school committees that were deeply rooted in their local communities. In those days, state control of local public education took the form of an annual report sent by the township committee to the state capital. There was no national control. Large sums (much of it taxed from laborers and farmers) were spent by these school committees, and their efforts reflected, Tocqueville thought, a widespread American desire to provide basic schooling as a route to opportunity and advancement. He admired the fact that in self-activating America, one might easily chance upon farmers, who had not waited for official permission from above, but were putting aside their plows “to deliberate upon the project of a public school.” At the same time, Tocqueville observed in European countries that activities like schooling that had formerly been part of the work of guilds, churches, municipalities, and the like were being taken over by the national government of those countries. Tocqueville feared that if either Americans neglected their participation in associations or local governments or Europeans lost their intermediate entities to the national governments, the tendency would be toward a loss of a liberty and a surrender to a soft despotism. In Democracy in America, Tocqueville described how in Europe “the prerogatives of the central power” were increasing every day and making the individual “weaker, more subordinate, and more precarious.”Once, he said, there had been “secondary powers” that represented local interests and administered local matters. Local judiciaries, local privileges, the freedoms of towns, provincial autonomy, local charities—all were gone or going. The national central government, he wrote, “no longer puts up with an intermediary between it and the citizens.” Tocqueville said that, in Europe, education, like charity, “has become a national affair.” The national government receives or even takes “the child from the arms of his mother” and turns the child over to “the agents” of the national government. In nineteenth-century Europe, the national governments already were infusing sentiments in the young and supplying their ideas. “Uniformity reigns” in education, Tocqueville said. Intellectual diversity was disappearing. He feared that both Europe and America were moving toward “centralization” and “despotism.” Tocqueville believed that in non-aristocratic societies (like America), there is strong potential for the national government to become immense and influential, standing above the citizens, not just as a mighty and coercive power, but also as a guardian and tutor. Tocqueville maintained that religion (as a moral anchor) as well as involvement in local government (such as school districts) and voluntary organizations could help America counter the tendency toward tyranny. Joseph Califano, President Jimmy Carter’s Health, Education and Welfare Secretary, articulated Tocqueville-style concerns about a centralization of schooling: “Any set of test questions that the federal government prescribed should surely be suspect as a first step toward a national curriculum. … [Carried to its full extent,] national control of curriculum is a form of national control of ideas.” Unless Common Core is stopped, its officials will dismantle what remains of state and local decision-making on classroom lessons and replace it with a new system of national tests and a national curriculum. This policy is Tocqueville’s nightmare: As in Europe, education “has become a national affair” and Common Core is the vehicle for imposing in America a one-size-fits-all centralization like that administered by the National Ministry of Education in France. Federalism, including horizontal inter-jurisdictional competition, allows policies better matched to needs and preferences of voters. It allows individuals and families to “vote with their feet”—to move to jurisdictions that they like, where the authorities don’t act counter to their liberties and preferences. Competitive federalism allows experimentation by alternative jurisdictions. One state can try one policy, while another state tries something else. This is why it is called the “laboratory of democracy.” This feature of federalism is what brought Massachusetts, Indiana, California and several other states to have the outstanding curriculum-content standards that they had before the Common Core. This is the feature of federalism that facilitates an exit strategy from Common Core: It allows states that are leaving Common Core to repeal and replace the national curriculum-content standards with outstanding pre-Common Core state standards. This can be done on an interim basis, while those states design their own replacement standards for the long run. Then the rivalry that takes place under competitive federalism will go back to work to the benefit of teachers, students, and everyone who wants a well-educated citizenry—and also everyone who wants to have the freedoms that are protected by the U.S. Constitution’s Madisonian system of federalism.

### Backlash

#### states will *backlash* to the plan’s federal intervention – guarantees noncompliance

Vergari, PhD, Professor @ Albany, 10

(Sandra, “Safeguarding Federalism in Education Policy in Canada and the United States”, Publius (2010) 40 (3): 534-557)

Subnational governments use a variety of means to protect their interests and “safeguard federalism” (Nugent 2009). As discussed later, state resistance to federal education policy and implementation approaches that are less than faithful to policy purposes are salient examples of safeguarding federalism in the United States. In Canada, despite subnational adoption of some similar education policies, some jurisdictions prefer policy diversity on curriculum and accountability matters. Participation in regional curriculum consortia initiatives is voluntary, and Saskatchewan and Yukon have modified centrally defined curricula in accordance with local values and priorities (Ben Jaafar and Anderson 2007). Under federalism, “it can be difficult to create, monitor, and enforce cooperative agreements, especially when states have incentives to shirk, as they often do, and unless there is a body with real enforcement powers” (Rom 2006: 233). In Canada, CMEC fulfills a national coordinating role, but lacks enforcement power. The ability of the United States federal government to enforce its education policies is hampered by politics, capacity limitations, and concerns that withholding funds punishes children who need the aid. Thus, states and school districts can often alter the original shape of federal education policy (Cross 2004; Fuhrman 2004; Superfine 2005; Vergari 2007). In both Canada and the United States, there has been some movement toward national education policy over the past two decades. In Canada, these dynamics have occurred in the absence of federal activism. In the United States, presidents and education department secretaries use the “bully pulpit” and the federal government can exercise its power of the purse to support national education policy. In both countries, there are also political, economic, and cultural factors that inhibit development of national policy.

### Monitoring Reqiurements

#### Federal monitoring requirements overstretch SEAs

Unger et. al 8 (Chris Unger, Brett Lane, Elisabeth Cutler, Saeyun Lee, Joye Whitney, Elise Arruda, and Martin Silva, Brown University: The Education Alliance, “How Can State Education Agencies Support District Improvement? A Conversation Amongst Educational Leaders, Researchers, and Policy Actors” https://www.brown.edu/academics/education-alliance/sites/brown.edu.academics.education-alliance/files/publications/Symposium.pdf)

There is a growing body of research, confirmed by our own practical experience working with states and districts across the eastern seaboard, that the system of public education is fragmented and lacks cohesiveness. There is no entity to “blame” for this fragmentation. The fact that the fragmentation exists suggests that there is an opportunity to dramatically improve the system of public education by fostering coherence and aligning structures and processes within and across levels of the system. What do we mean by and see as evidence of the lack of cohesiveness? With the government’s new expectation that states develop an effective “state system of support” for improved teaching and learning, we see state education agencies striving to provide support to schools, yet struggling to balance and negotiate these support efforts with federal requirements to monitor districts and schools for compliance; we see state officials struggling to find time to meet and constructively discuss how they can provide support to districts; we see districts and schools writing and submitting multiple plans for improvement to different state-level offices; we see schools and districts responding to what they perceive as contradictory policies and regulations; we see schools in which teachers continue to teach in isolation, and in which special education students or the growing numbers of English Language Learners are still spoken of as “others”; and we see communities whose confidence in their local schools and districts has greatly diminished. At the same time, we recognize that there are many state, district, and local school leaders, principals and teachers who are, in the midst of this new era of accountability, doing their best to find ways to more effectively support the opportunities and achievement of the students under their wing. And many of these passionate and expert educational leaders are providing excellent examples of how to build leadership capacity and increase coherence across the education system. We are also finding that educational leaders and other members within and across each level of the system—federal, state, district, and school—each bring their own perspective on what ails the system. These differences in perspectives are unfortunately exacerbated due to the lack of opportunities for cross-role groups to collectively: (1) identify the central challenges facing them, and (2) consider and pursue the strategies and resources that will truly effect change for the better. If our system of public education is to flourish and move towards its goal of providing a high quality education for all students, then the knowledge and perspectives of leaders from each level of the system must be heard, valued, and collectively considered. In order to develop a meaningful assessment of schools’ and districts’ needs and provide the types and intensity of support required to address those needs, professionals and stakeholders at all levels of the system need to learn from each other. When forums and “dedicated space” for targeted conversations among individuals within and across the system is provided, there is an opportunity to share assumptions and issues, problem solve around a core issue or outcome, respond to changing circumstances, and reconcile policies and strategies. From such conversations could come efforts to work together more synergistically and harmoniously—in a word, coherently—in a way that leads to dramatic inroads into the common and specific challenges that are faced by schools and districts.

#### Federal auditing requirements undermine SEA effectiveness

Hanna, Center for American Progress, Senior Education Policy Analyst, Morrow, Sidley Austin, LLP, associate, and Rozen, Sidley Austin, LLP, associate, 2014

[Robert, Jeffrey, and Marci, 6-13-14, Center for American Progress, “Cutting Red Tape: Overcoming State Bureaucracies to Develop High-Performing State Education Agencies”, https://www.scribd.com/document/228848393/Cutting-Red-Tape-Overcoming-State-Bureaucracies-to-Develop-High-Performing-State-Education-Agencies, page 17, Accessed 7-11-17, AZG]

1. Federal policymakers should improve, modify, and streamline compliance monitoring and reporting requirements. Federal policymakers should make it a priority to help make SEAs world-class places to work. A primary obstacle to state-level organizational reform is federal education requirements and auditing. State leaders acknowledge that the fear of consequences from a bad audit motivates their approach to agency leadership. This fear is real, but federal policymakers should improve how they monitor the activities of SEAs. There is no consensus among analysts about which rules should stay and which should go, but it is clear that some could be improved.72 Consider, for example, a solution proposed by CAP and its partners to the supplement-not-supplant requirement mentioned earlier in this paper. CAP and others have suggested that states and districts should be able to take a more comprehensive approach in order to meet this requirement. Specifically, district leaders should only need to show that they have distributed state and local funds to Title I and non-Title I schools in the same way instead of the current requirement: testing whether individual costs would have been made in the absence of federal funding.73 This could significantly reduce administrative burden for state leaders, as they would not have to monitor compliance at such a minute level.74

#### Resource prioritization is key to SEA success

Haglund, Achievement School District, General Counsel and Chief Operating Officer, 2016

[Rich, 3-7-16, RealClear Education, “SEA as Portfolio Manager: Strategic Leadership that Leverages Local-Level Expertise”, <http://www.realcleareducation.com/articles/2016/03/17/sea_as_portfolio_manage_1274.html>, Accessed 7-11-17, AZG]

“Our role as leaders is to set the stage, not perform on it,” Harvard Business School Professor Linda Hill explained in a September 2014 TED talk on leadership for innovation. The innovative leaders Hill studied didn’t try to solve every problem themselves; instead, they began to see the people at the bottom of their organizational pyramids—the people closest to their customers—as the source of innovation. The SEA as Portfolio ManagerThis approach can be powerful for state education agencies (SEAs). By enabling those “closest to the customers”—in this case, educators who work with students every day—to unleash their insights about what works, SEAs can be more efficient and find more effective, innovative ways to support schools and students.This is why I encourage state education leaders to think of their SEA as a portfolio manager – a comparison not as radical as it may seem. Financial portfolio managers oversee their clients’ investment options, and SEAs manage families’ education options. Financial portfolio managers help safeguard their clients’ financial futures, and SEAs help set the vision and provide the resources to prepare all students for life after graduation. In most cases, both leave the ultimate decisions for how to achieve these ends up to the people they serve. The Center for Reinventing Public Education has adopted this analogy and helped school systems across the country implement what they call a “portfolio strategy” with seven components aimed at giving families the educational options and freedom to choose what’s best for their children. It also empowers principals to decide what’s best for their schools. Schools must still meet performance standards, but in essence, this model relinquishes some decision making power to those who are closest to the students. Tools to Reframe the SEA’s Role The portfolio manager approach underlines the critical importance for SEAs to be thoughtful and strategic about entrusting districts and schools with certain responsibilities. To help state leaders do this, the Aspen Institute Education & Society Program recently developed a concise discussion guide, Roles and Responsibilities of the State Education Agency. It invites leaders to consider their current legal and political context to determine the essential functions of their SEA, what other activities it may want to be engaged in, and—perhaps most helpfully—which functions SEAs should stop (or never start) doing. Thankfully, many changes to an SEA’s work—or changes to how responsibilities are distributed among an SEA, LEAs (including districts as well as non-traditional operators, and their schools) won’t require legal modifications. It’s quite likely, however, that policies and procedures must be modified to support the SEA’s role as a “steerer” instead of a “rower,” as David Osborne and Ted Gaebler have described the role in Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector. The recent passage of the Every Student Succeeds Act is a perfect opportunity for SEAs to reexamine how they steer education policy as they gain greater flexibility and autonomy; although it may be tempting continue rowing, SEAs can act as a portfolio manager and empower local leaders to take the oars.Lessons from Tennessee When Tennessee revised its math, language arts, and science curriculum standards a few years ago, the SEA used grant money to provide training for all teachers in the state, because the new standards affected all teachers. But the SEA didn’t actually conduct the training--teachers did, while the SEA facilitated the training—finding venues, communicating opportunities, and providing materials and help for teachers who led the sessions. Because state leaders resisted the impulse to do everything, and let school operators and educators handle those activities they were best equipped to take on, the training was a success: According to a state evaluation, the trainings had significant positive effects on teachers’ instruction and students’ learning. It’s also important to note that the SEA strategically staffed and sequenced this initiative without cutting corners on cost or dosage. For states considering a similar initiative without additional grant funding like Tennessee had, the SEA must prioritize resources, reallocating funding from other, less effective uses to support this new strand of work.SEAs have a powerful opportunity to reexamine their role and find creative new ways to empower local leadership. They should, as Hill put it, “create the space where everybody's slices of genius can be unleashed and harnessed, and turned into works of collective genius.” Collective genius is exactly what we need to prepare all students for success in college and careers. It’s up to SEAs review their approach, be deliberate and strategic about their roles, and tap into what might be their richest resource of all—educators in the classroom.

### Watered Down

#### Federal policies are watered down because too many divergent view points—dooms implementation

Chopin, Labor & Employment Law Department Associate, 13

[Lindsey H., Loyola Law Review, “Untangling Public School Governance: A Proposal To End Meaningless Federal Reform And Streamline Control In State Education Agencies”, <http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/loyolr59&type=Image&id=421>, p. 442-447, 7/10/17, KW]

1. The Exoskeleton of Policy

On a broad level, one that is much broader than education policy alone, ambitious federal policies are often difficult to implement because there is a large gap between the theory of the policy and the actual ability to put the theory into practice. 196 There are many reasons for this gap, one being that the policy put forth by the federal government must pay the "political price of passage." 197 This price consists of two components - attractiveness and flexibility - and ultimately weakens the strength of the policy. Policy may be considered attractive for many reasons, such as the perceived level of impact it will have and the speed at which it is enacted. 198 Therefore, once the public perceives a "crisis," politicians have to react quickly for their actions to have high appeal. The result is that their policy often rests more on rhetoric and hope, than on actual research itself. 199 Moreover, their proposed solution must generally be wide-reaching and hard-hitting, even if common sense indicates that it will be too difficult to enact or that failure is likely. 200 Economic research has shown that the further a policy stretches from standard procedure, the more likely it is to fail or have perverse side effects; thus, these types of reforms, although attractive, will likely have a high failure rate. 201 When failure occurs, the policy must be reformed, which creates a vicious cycle of policy after policy. 202 Section III(B)(1)(a) explores this method of "rapid fire reform" and why it is not suited to govern educational policy. Second, because legislation must pass through a Congress composed of members with vastly different viewpoints and agendas, policies must be flexible enough to please representatives of all fifty states. As seen in the recent [\*434] congressional impasses, this type of agreement is not easily reached, and the policies suffer as a result. 203 With every concession of flexibility comes a chance for failure, and the result is a set of regulations with no substance or enforcement potential. 204 Even if the initial policies or goals were sound, the policies will likely never make any real, widespread change. 205 Section III(B)(1)(b) will explore the difficulty in implementing these innovations.

## Solvency Toolbox

### Spill Up

#### No solvency deficits – state action spills up to federal policy

McGovern, J.D., New York University School of Law, 11

(Shannon, “A NEW MODEL FOR STATES AS LABORATORIES FOR REFORM: HOW FEDERALISM INFORMS EDUCATION POLICY”, http://www.nyulawreview.org/sites/default/files/pdf/NYULawReview-86-5-McGovern.pdf)

Manna observes that federal policy makers can “expand the federal education agenda by borrowing strength from state governments. . . . Frequently, this borrowing has coalesced with federal education initiatives designed to build capacity at lower levels of government.”162 Originally, ESEA built up state education authorities, creating “a continuing source of bureaucratic capacity from which future federal policy makers could borrow.”163 The history of NCLB lends further support to this processual reading. President Bush’s proposal came on the heels of a decade-long adequacy movement across many states as well as a law in his home state of Texas that tied accountability to high-stakes testing.164 To achieve its twin goals for education reform—global competiveness and equality of opportunity—any federal program undertaking education reform must recognize the crucial role of states in building up capacity at both levels of government to develop, test, and implement specific initiatives. Manna’s political science perspective complements and elucidates Schapiro’s overarching theory of polyphonic federalism. Conceived in such terms, the symbiotic, capacity-building relationship between the federal and state governments is a manifestation of overlapping sources of authority from codependent sovereigns. It also promotes the “innovati[on] and resilien[ce]”165 that is a centerpiece of Schapiro’s normative analysis.

#### It’s empirically proven

Conley, professor of Educational Methodology, Policy, and Leadership @ Oregon, 3

(David, “Who Governs Our Schools?: Changing Roles and Responsibilities”, google books)

Goertz (2001a) asserts that “the success of this new generation of federal education policies depends, however, upon the willingness of states and lo- calities to enact policies that reflect federal objectives.” Federal policy is at once both an expression of state policies and an expansion of them. Almost everything contained in the sweeping ESEA reauthorization of 2001 has been attempted by some states, and some of the major provisions seek mainly to extend policies already largely in place in most states. This is the nature of the American federal system: to learn from state experimentation as the basis for national policy. Federal education policy has not followed this model until recently because it was concerned with equity issues that local school dis- tricts had ignored. Instituting equity policy often put the federal government in conﬂict with states and school districts. With the shift to educational ex- cellence, national initiatives align more closely with state priorities and draw increasingly from states’ experience and their successful practices. For this reason, current extensions of federal power are more readily accepted by the general public and generate less controversy.

### Spill Up – International Law

#### State Courts can easily be modeled- empirics

Kalb 11- Johanna Loyola University New Orleans College of Law (“Human Rights Treaties in State Courts: The International Prospects of State Constitutionalism after Medellín”, http://www.pennstatelawreview.org/115/4/115%20Penn%20St.%20L.%20Rev.%201051.pdf)

A second way that the soft law approach appears in state court cases is when the court is modeling the practice adopted by other courts in a particular type of case. The clearest example of this path comes in the death penalty context. In Roper v. Simmons, 68 the Supreme Court controversially considered international treaty law and comparative law sources in reaching its conclusion that the Eighth Amendment bars the imposition of the death penalty on juveniles.69 In so doing, the Supreme Court was actually following the lead of the Missouri courts, which had relied on these same sources in making their original determination.70 Since that decision, litigants have raised treaty law norms in other Eighth Amendment claims and, following the Supreme Court’s lead, some state courts have been willing to consider these sources. For example, in People v. Pratcher, 71 a California appellate court considered a challenge by a juvenile defendant to the constitutionality of a 50-year sentence.72 Citing Roper, Pratcher argued that there is an international consensus against sentencing minors to life imprisonment.73 The court considered the international sources, with particular emphasis on the Convention on the Rights of the Child, but determined that the lack of legislative or judicial consensus in the United States against lengthy sentences for juveniles was dispositive.74 Although the defendant’s claim was ultimately rejected, the court did adopt the Supreme Court’s method of considering the treaty’s guarantees and its level of acceptance in the international community as a potentially persuasive argument.75 States also model other state courts’ treatment of these instruments, even without federal mediation. For example, in Bott v. DeLand, 76 the Utah Supreme Court held that a prisoner may recover damages under the Utah Constitution if the prisoner can show either deliberate indifference or unnecessary abuse.77 In determining the meaning of “unnecessary abuse,” the court looked to and relied upon Justice Linde’s decision in Sterling v. Cupp. 78 The court noted the grounding of the Oregon court’s decision in the “internationally accepted standards of humane treatment as articulated in the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, and the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1995.”79 These two types of opinions represent a small subset of the already small pool of state court decisions referencing international human rights treaties. Despite their rarity, these decisions are powerful because of the norms they establish and the way in which these norms are then transmitted vertically and horizontally among state and federal courts. The conditions under which these decisions have occurred suggest a strategy for maximizing the occurrence of this phenomenon. Given that individual jurists appear to play a key role in incorporating these instruments into state court decisions, more attention should perhaps be paid to identifying them. The judicial philosophies of the U.S. Supreme Court are well-known—and the particular leanings of the federal circuits are certainly considered by advocates seeking a friendly forum for particular rights-related claims. These cases suggest that similar attention should be paid to understanding state courts, despite the additional complexity of doing so. Given that the jurists who have used international or comparative human rights law tend to also seem (at least in some cases) to be advocates of independent state constitutionalism, states with established primacy or interstitial methods of state constitutional interpretation80 will likely include some judges or justices who are receptive to these types of claims. Additionally, there may be personal or professional characteristics shared by those judges and justices that predict a greater openness or comfort with these types of claims.81 Even a single jurist, such as Justice Peters in Moore, may be responsive to treaty-based arguments and find ways to incorporate these norms into the conversation. And once the arguments are present in one state’s jurisprudence, they may then become more persuasive to other courts at the state and federal level.

### Intl Perception

#### States are perceived as representing the U.S. internationally

Robinson, Yale University PoliSci Professor 7 (Nick Robinson, 5-14-2007, "Citizens Not Subjects: U.S. Foreign Relations Law and the Decentralization of Foreign Policy," Date Accessed: 7/10/17, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2031935>) lr

State and local governments are arguably seen as representing the U.S. government abroad in a more official capacity than U.S. non-state actors. The governments of these localities are democratically elected and so it is more likely that they will be seen as acting on behalf of the American people. Additionally, the federal government generally has a greater ability to control the actions of these localities than non-state actors. Therefore, there is a greater chance that nonintervention by the federal government to stop offensive activity will be seen as federal endorsement of such activity. Such logic though should caution against court intervention in these cases rather than encourage it. If localities' actions damage U.S. foreign policy interests, the federal government can easily preempt the state or local policies in question. Further, with the world's increased interconnectedness, it is more likely that if a foreign government takes offense to a locality's policy it can discriminate between the policy of the locality and the policy of the federal government. n155

#### Subnational education decisions are internationally recognized---local experimentation is valued overseas

Robinson, Yale University PoliSci Professor 7 (Nick Robinson, 5-14-2007, "Citizens Not Subjects: U.S. Foreign Relations Law and the Decentralization of Foreign Policy," Date Accessed: 7/10/17, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2031935>) lr

Even something as seemingly innocuous as the choice of a textbook by a school board can have far reaching international implications. In April of 2005, thousands of protesters marched in Chinese cities angered by the Japanese government’s approval of textbooks that were perceived by many in China as glossing over the atrocities Japan committed in China during World War II.251 Although this was a Japanese national government decision made in the context of deep historical animosity between the two nations, in the United States this decision would be made on the state and local level. The traditional domains of localities are becoming of greater international concern. Many of these areas of regulation are at the heart of state and local governance. Local decisions in these areas allow citizens to more fully shape their lives, create a nation-wide system of policy experimentation, and provide a check on federal and international power. The internationalization of trade, human rights, and environmental commitments means, however, that many of these core functions of localities are coming under new scrutiny and threat. These state and local policies could be struck down by U.S. courts under the dormant foreign relations clause, heightened legislative or executive preemption (depending on what steps the executive or legislative branches have taken to occupy the field), or even the dormant foreign commerce clause. Such judicial intervention could severely and, quite possibly, unnecessarily constrain the ability of localities to express core values in the name of a united “one voice” in foreign policy.

## Adv Solvency

### Competitiveness

#### State action’s key to bolstering competitiveness – Canada proves decentralization is comparatively better

Evers, Hoover Institution, Research Fellow and former Assistant Secretary for the Office of Planning, Evaluation and Policy Development in the Department of Education, 2014

[Williamson, 9-8-14, EducationNext, “How the Common Core Suppresses Competitive Federalism”, <http://educationnext.org/common-core-suppresses-competitive-federalism/>, Accessed 7-11-17, AZG]

Now, I want to turn to the closely related matter of competitive federalism. Competitive federalism is horizontal competition among jurisdictions. We know that it works in education at the inter-district level. Economist Caroline Hoxby studied metropolitan areas with many school districts (like Boston) vs. metropolitan areas contained within one large district (like Miami or Los Angeles). She found that student performance is better in areas with competing multiple districts, where parents at the same income level can move—at the margin—from one locality to another nearby, in search of a better education for their children. We have seen competitive federalism work in education at the inter-state level. Back in the 1950s, Mississippi and North Carolina were at the same low level. Over the years, North Carolina tried a number of educational experiments and moved well ahead of Mississippi. We have likewise seen Massachusetts move up over the years from mediocre to stellar (though under Common Core, Massachusetts is sinking back again). We know that national standards are not needed for success in international comparisons. Back in the 1970s, the United States and Canada were both in the middling, mediocre ranks internationally. Both countries are rather similar in culture and level of commercial and industrial development. The United States has continued to wallow in mediocrity, even as we centralize K-12 education. Yet Canada (which has more competitive federalism in education than the United States and has no Ministry of Education in its central government) has climbed into the ranks of advanced nations in academic performance. Why is this important? Because one of the pillars of the case for national curriculum-content standards is that they are necessary for individuals to succeed in a global marketplace and that all top-performing countries have them. The case of Canada refutes that.

## Funding Mechs

### Marijuana

#### Legalizing marijuana across the states will solve the state budgets – zero deficit in 9 years and the fed fails

Koslow 16 (Tyler Koslow is a Brooklyn-based freelance writer with an intensive focus on technology, social justice, health and fitness, politics, and current events. He has an English-Creative Writing degree from The University of Central Florida; “Cannabis By The Numbers: How Much Money Will States Bring in From Marijuana in 2016?” Merry Jane; May 17, 2016; https://merryjane.com/news/cannabis-by-the-numbers-how-much-money-will-states-bring-in-from-marijuana-in-2016)

Nationwide marijuana legalization could produce up to $28 billion in yearly tax revenue a new study found.¶ It’s been a pretty promising start for the marijuana industry across the United States. ¶ We’re almost halfway through 2016, and marijuana tax collections in Colorado and Washington have exceeded initial estimates.¶ For instance, Colorado's cannabis industry brought in more than $270 million in the first quarter of 2016 alone.¶ New analysis from the Tax Foundation found nationwide legalization of marijuana could generate up to $28 billion in tax revenues for federal, state, and local governments.¶ That includes $7 billion in federal revenue, $5.5 billion from business taxes, and $1.5 billion from income and payroll taxes, the report outlined. ¶ Colorado's recreational marijuana industry has longtime been the poster child for pot profit. As Washington and Oregon chime in to flaunt tax revenue from marijuana sales, there’s a great chance that other states will start to follow suit.¶ Alaska and the District of Columbia, where marijuana has been fully legalized for recreational purposes, are also showing strong signs for a profitable year in its new, but fast growing cannabis industry.¶ Washington¶ Washington state is planning for exponential growth in tax revenue coming from its booming business. ¶ According to Bloomberg, the state expects to pull in $154.6 million in taxes alone, which they expect to eventually exceed $1 billion after four years.Last year alone, dispensaries in Washington sold an estimated $257 million worth of marijuana-related products.OregonOregon is also seeing positive effects since recreational legalization. The Beaver State has projected the market is worth nearly $300 million.In January, Oregon began collecting a 25% tax from recreational marijuana sales. In one month alone, marijuana sales from the state's 309 dispensaries were projected to bring in roughly $14 million.The newly implemented sales tax has assumedly made the state of Oregon extremely pleased, considering that over the month of February they reported a tax revenue of $3.48 million.These cannabis sales aren’t just filling the pockets of the growers and government either, in some states they are helping a worthy cause. For instance in Oregon, 40% of state tax revenue goes toward education, while another 20% is set to help with mental health and drug services. Additonally close to 2,200 jobs will be created in the industry during 2016.District of Columbia The numbers from the District of Columbia are a bit tougher to crunch as the legalization of recreational use there has been met with some criticism and a lot of obstacles.Although private recreational use was fully legalized back in February 2015, hopeful retailers have been prevented from opening up shop due to blockage from the government, while the legal purchase of cannabis remains not permitted.This has led to a massive amount of street sales, which are generally quite hard to keep track of.Locally-based grow operations like Alternative Solutions, which is one of seven facilities in Washington DC authorized to grow marijuana, are starting to see life in this relatively small market, and in three harvests since November 2015, they’ve brought in a revenue of $700,000.California It also seems that new legal framework in California—such as the state’s newly signed Medical Marijuana Regulation and Safety Act (MMRSA)—is helping their medical cannabis industry blossom as well. One California-based cannabis-focused agriculture company called Terra Tech saw a revenue growth of 103% in the first quarter of 2016 alone, bringing in a total revenue of $1.5 million so far this year.The state of California, which is set to vote on a ballot to fully legalize recreational use in November, is truly the cream of the cannabis crop. Last year, medical dispensaries in California sold a whopping $2.7 billion worth of marijuana-related products, which accounted for almost half of the country’s legal sales.At this point, for California, it seems that legalization of recreational use is not a matter of ‘if’ but rather ‘when’, as laws slowly become more lax and growers continue to build pot farms in the northern part of state.Full legalization of recreational use in California would be the true game-changer for the industry. The Drug Policy Alliance estimates that, if California fully legalized and taxed marijuana, they would bring in an annual revenue of $1.4 billion dollars on its own.National MarketThe overall US market is set to expand quite handsomely this year, as a recent report by New Frontier and ArcView Market Research projected the country’s overall marijuana market to reach $7.1 billion by the end of 2016.Looking further into the future, the Marijuana Business Daily estimtes that the US cannabis industry could be worth $44 billion annually by 2020.As for the handful of cannabis-related stocks, such as the UK-based GW Pharmaceuticals or Insys Therapeutics, there seems to be an opportunity for profitable investment, as both stocks have shown a steady upward climb as of late.But it’s important to note that the marijuana stock market can still be extremely volatile, especially as the federal government continues to push back against the efforts for full legalization.As profitable as the marijuana industry has become across the United States, there are still hundreds of pounds and millions of dollars worth of pot being confiscated by the police on a daily basis around the country.Last year alone, the DEA destroyed approximately $18 million worth a marijuana plants, which—surprise, surprise—costs federal taxpayers about $950,000.All the while, states that have medicinally legalized marijuana, such as Michigan, have already seen dozens of dispensary raids to start off 2016.So, although things are looking optimistic for the marijuana industry overall, it’s important to stay precarious about the continuing drug busts, dispensary raids, and the federal government’s refusal to acknowledge the fact that almost half of the states in the United States have either legalized medicinal or recreational use of marijuana.

## Area Solvency

### Ag

#### Empirics prove Agricultural Education reform needs to avoid the one-size-fits-all approach of the federal government – States key to school-community linkages

Davis et al, IFPRI, Developing Local Extension Capacity, Project Director, 07

(Kristin, Javier Ekboir, Wendmsyamregne Mekasha, Cosmas M.O. Ochieng, David J. Spielman and Elias Zerfu, “Strengthening Agricultural Education and Training in Sub-Saharan Africa from an Innovation Systems Perspective “, p 13, VB) \*AET stands for Agriculture Education and Training\*

Reform calls such as this seek a realignment of visions and mandates in AET systems, changes in the cultures of AET organizations, and enhanced innovative capabilities among AET professionals and practitioners. Indeed, these reform calls are consistent with proven successes in AET system development in South Korea during the early decades of its industrialization program (Amsden 1989; Chang 1994). Thus, Vandenbosch (2006) calls for more relevant and effective AET models that are responsive to changing demands in labor markets (such as combining school-based learning with apprenticeship training) and closer school–community linkages (such as transforming educational institutions into multifunctional community learning centers). He also calls for diversification of funding to increase longterm sustainability, more investment in training and resources for educators, and more effective monitoring and evaluation systems (including action research approaches) to better analyze AET outcomes and achievements. Eicher (2006) adds to these types of reform recommendations by drawing on experiences beyond Africa to share lessons for improving formal AET in the region. His recommendations include the need to avoid a “one-size-fits-all” approach to system design and structure, and to maintain a long-term, multigenerational time horizon for AET system building. More practically, he identifies a need to mobilize and sustain greater political support for continuous investment in AET, design incentives that attract and retain trained professionals, explore alternative cost-effective training modalities (such as sandwich programs with foreign universities), and invest in graduate (particularly at the M.Sc. level) programs to strengthen AET research.

### Bathrooms –

#### States can interpret federal law and avoid federal overreach -

Danilova, AP, education reporter, and Gurman, AP, federal law enforcement reporter, 2017

[Maria and Sadie, 2-22-17, the Salt Lake Tribune, “States to decide on transgender students’ protections”, <http://www.sltrib.com/home/4971151-155/source-administration-to-lift-transgender-bathroom>, Accessed 7-11-17, AZG]

Washington • Transgender students on Wednesday lost federal protections that allowed them to use school restrooms and locker rooms matching their gender identities. The administration came down on the side of states' rights, lifting Obama-era federal guidelines that had been characterized by Republicans as an example of overreach. Without the Obama directive, it will be up to states and school districts to interpret federal anti-discrimination law and determine whether students should have access to restrooms in accordance with their expressed gender identity and not just their biological sex. "This is an issue best solved at the state and local level," Education Secretary Betsy DeVos said. Anti-bullying safeguards would not be affected by the change, according to the letter. "All schools must ensure that all students, including LGBT students, are able to learn and thrive in a safe environment," it said. It was not clear what immediate impact the change would have on schools, as a federal judge in Texas put a temporary hold on the Obama guidance soon after it was issued — after 13 states sued. Even without that hold, the guidance carried no force of law. But transgender-rights advocates say it was useful and necessary to protect students from discrimination. Opponents argued it was federal overreach and violated the safety and privacy of other students. The White House said "returning power to the states paves the way for an open and inclusive process to take place at the local level with input from parents, students, teachers and administrators." Transgender-rights groups say federal law will still prohibit discrimination against students based on their gender or sexual orientation. Still, they say lifting the Obama directive puts children in harm's way. "Reversing this guidance tells trans kids that it's OK with the Trump administration and the Department of Education for them to be abused and harassed at school for being trans," said American Federation of Teachers President Randi Weingarten. Conservatives hailed the change, saying the Obama directives were illegal and violated the rights of fixed-gender students, especially girls who did not feel safe changing clothes or using restrooms next to anatomical males. "Our daughters should never be forced to share private, intimate spaces with male classmates, even if those young men are struggling with these issues," said Vicki Wilson, a member of Students and Parents for Privacy. "It violates their right to privacy and harms their dignity." The Church of Jesus Christ of Latter-day Saints joined other religious groups in an amicus brief to the U.S. Supreme Court opposing the Obama administration's directive allowing transgender students to use restrooms that match their gender identity. The Utah-based faith argued that such policies are best left to Congress and statehouses. The Obama administration's guidance was based on its determination that Title IX, the federal law prohibiting sex discrimination in education, also applies to gender identity. The guidance did not sufficiently explain its interpretation of that law, Attorney General Jeff Sessions said in a statement. "Congress, state legislatures and local governments are in a position to adopt appropriate policies or laws addressing this issue," he said. Legal experts said the change in position could impact pending court cases involving the federal sex discrimination law, including a case to be heard by the Supreme Court in March involving Gavin Grimm, a transgender teen who was denied bathroom access in Virginia. Fifteen states have explicit protections for transgender students in their state laws, and many individual school districts in other states have adopted policies that cover such students on the basis of their gender identity, said Sarah Warbelow, legal director of the Human Rights Campaign. Just one state, North Carolina, has enacted a law restricting access to restrooms in government-owned buildings to the sex that appears on a person's birth certificate. Lawmakers in more than 10 states are considering similar legislation, according to the National Conference of State Legislatures.

#### There’s precedence and only states action avoids circumvention – 25 states have or are considering the counterplan

Brown, Washington Post, reporter, and Balingit, Washington Post, education reporter, 2017

[Emma and Moriah, 2-23-17, Washington Post, “Trump’s withdrawal of guidance on transgender student rights leaves bathroom questions up to schools and states”, <https://www.washingtonpost.com/local/education/trumps-withdrawal-of-guidance-on-transgender-student-rights-leaves-bathroom-questions-up-to-schools-and-states/2017/02/23/f91e0c22-f9d2-11e6-9845-576c69081518_story.html?utm_term=.6fb9620e25e7>, Accessed 7-11-17, AZG]

Fourteen states and the District of Columbia have laws that give explicit protections to transgender students, according to the Human Rights Campaign. Eleven other states are considering legislation to create restroom restrictions for transgender people, including schoolchildren. Some would penalize schools that violate those restrictions.

About 40 percent of schoolchildren are in districts that explicitly protect transgender students, according to an estimate from the National Center for Transgender Equality. In many of those places, policies will remain the same.

“Our schools have to be safe and inclusive places if we want our kids to learn and be successful,” said Emma Garrett Nelson, spokeswoman for Tulsa Public Schools.

At Atherton High in Louisville, a site-based council developed a policy giving transgender students access to the bathrooms of their choice three years ago. That meant the school complied with Obama’s guidance as soon as it was issued.

“Our policy has not changed, and I wouldn’t foresee it changing regardless of any change in the guidance document,” said Thomas Aberli, the school’s principal at the time.

Obama’s guidance drew legal challenges from several states, leaving schools uncertain of their obligations and hesitant to wade into such a fraught issue. The uncertainty deepened in August, when a federal judge temporarily prohibited the Education Department from enforcing the guidance nationwide.

Amy Adams, the mother of a transgender girl in Stafford County, Va., said school officials continued to bar her daughter from the girls’ bathroom even after the Obama action, saying they were waiting on a ruling from the Supreme Court. Her daughter had briefly used the girls’ bathroom in elementary school until other parents protested. That put the Adams family in the middle of a public fight that inspired a state legislator to propose a bill to fine transgender people for using public bathrooms — including those in schools — that do not correspond to their “anatomical sex.” The bill was unsuccessful.

Adams said that the Obama administration’s action last year had given her hope.

“When you live in a state like Virginia, which has no state protections, where you can be fired or denied housing based on if you are LGBTQ, where some lawmakers have specifically targeted your child, or if you live in a school district that has denied your child equal access, the feeling was relief, because our kids were finally seen,” Adams said.

But after the Trump administration’s shift, Adams said, she no longer has the federal backing for her efforts to persuade school officials to allow her daughter to use the girls’ bathroom.

In Utah’s largest school system, the Alpine School District, the Obama guidance enraged some board members, who viewed it as federal overreach. The district never changed its practice of accommodating transgender students on a “case by case” basis — allowing them to use bathrooms designated for single users, for instance — said board member JoDee Sundberg. She said that to her knowledge, no transgender students had sought to use student bathrooms that align with their gender identity.

“We felt that all of our students’ needs are being served,” said Sundberg. “We don’t take our direction from Washington … We will do what’s best for our community, the culture in our community and the students in our community.”

With Trump’s action, school districts that had passed bathroom restrictions in conflict with the Obama guidance no longer face the possibility of losing federal funding.

Last year, community members in rural Grayson County, Va., grew fearful that students and visitors to schools would pretend to be transgender to gain access to bathrooms and locker rooms of the opposite sex to take video or assault students. In response, the school board passed a policy requiring students to use bathrooms according to the sex on their birth certificate, defying the Obama guidance.

### CTE – Mechanism

#### States solve credit transfer issues

The National Association of State Directors of Career Technical Education Consortium, group of heads of CTE programs, 2013

[NASDCTEc, 2013, NASDCTEc, “The State of Career Technical Education An Analysis of State CTE Standards”, <https://careertech.org/sites/default/files/State-CTE-Standards-ReportFINAL.pdf>, Accessed 7-11-17, AZG]

Fill the Postsecondary CTE Standards Gap The economic forecasts project that the majority of careers will require some type of postsecondary credential or degree.18 While states have continued to make progress in building collaboration across secondary and postsecondary CTE programs, there is much work still be done in this area. Most notably, the absence of state-approved postsecondary CTE standards in most states makes this learner level alignment a significant challenge. To achieve the desired systemic alignment, progress will need to be made toward common standards within states, and ideally across states. Further, the lack of common postsecondary CTE standards makes credit transfer agreements between secondary and postsecondary institutions and among postsecondary institutions an ongoing challenge. While many states have devised ‘work arounds,’ including some statewide articulation and common course numbering systems, many students earn college credit in high school that has limited value in the postsecondary space beyond a single institution of higher education. Having a truly aligned set of secondary and postsecondary CTE standards would provide a common framework to more easily accomplish these goals. Implementation of Standards with Fidelity States have significant responsibility for monitoring the quality of CTE programs, even in local control environments. This monitoring is how most states determine whether locals are implementing state-approved standards with fidelity. However, there is a wide range in how states actually use program evaluation as a lever for ensuring quality and consistency across programs. It is often hard to tell, even in states that have required state-approved standards, how well those standards are being implemented in classrooms across the state. Improved monitoring and reporting procedures are needed to tell if standards are being implemented with fidelity. Continued Progress on Programs of Study States have made significant progress in the development and implementation of programs of study, but not enough to allow programs of study to transform CTE instruction for students. Programs of study require a non-duplicative sequence of academic and technical standards across secondary and postsecondary education, the model on which the CCTC were built, yet very few states actually base their programs of study on aligned state standards. Programs of study are a powerful tool for preparing students for the career of their choice, but only if they are rigorous and offer students the opportunity to experience postsecondary learning and earn a meaningful credential or degree. Implementation of the Common Career Technical Core When the CCTC were developed, it was intentionally done to support the goal of transitioning to a delivery system of programs of study. And while many states have a high degree of alignment to the Career Ready Practices, the implementation of such standards requires a different approach – shifting of content employability or career development standards – to practice standards that are embraced and implemented at every grade level, with increasing complexity. States will be faced with the decision, in partnership with their employer and community stakeholders, of how to interpret the alignment results, what actions to take and if they want to move toward adoption of the CCTC. Many will have to decide if they want to incorporate a set of broader CCTC Career Cluster and Career Pathway standards, alongside of or in place of existing state or industry standards that are narrower in focus. In any case, the CCTC offer a strong anchor to states’ standards and programs of study.

#### The states can solve all barriers to CTE programs without the spending

CCSSO 16 (The Council of Chief State School Officers is a nonpartisan, nationwide, nonprofit organization of public officials who head departments of elementary and secondary education in the states, the District of Columbia, the Department of Defense Education Activity, and five U.S. extra-state jurisdictions. CCSSO provides leadership, advocacy, and technical assistance on major educational issues. The Council seeks member consensus on major educational issues and expresses their views to civic and professional organizations, federal agencies, Congress, and the public. In partnership with Advance CTE: State Leaders Connecting Learning to Work is the longest-standing national non-profit that represents State Directors and state leaders responsible for secondary, postsecondary and adult Career Technical Education (CTE) across all 50 states and U.S. territories. Established in 1920, Advance CTE supports visionary state leadership, cultivates best practices and speaks with a collective voice on national policy to promote academic and technical excellence that ensures a career-ready workforce. This resource was developed through the New Skills for Youth initiative, a partnership of the Council of Chief State School Officers, Advance CTE and the Education Strategy Group, generously funded by JPMorgan Chase & Co. This resource was developed in partnership with the Center on Great Teachers & Leaders at the American Institutes for Research, which provided research design and analytic support. “The State of Career Technical Education Increasing Access to Industry Experts in High Schools” CCSSO and Advance CTE; December 2016; file:///Users/lance/Downloads/State\_of\_CTE\_Industry\_Experts\_2016.pdf - LK)

As interest in Career TechnicalEducation (CTE) continues to grow, theneed for experts qualified to help ensurestudents gain the real-world experiencesthey need for success increases as well.Individuals with industry expertise providea perspective to students that traditionalacademic teachers may be unable to do, andcan also help students explore and connectwith particular career opportunities.A scan of headlines across the countryreveals that states and local districts areconcerned about the shortage of qualifiedCTE teachers, but beyond that anecdotalevidence, there is little known about the sizeof this shortage or how states are addressingit, particularly when it comes to examiningstate policies beyond standard alternativecertification policies.Advance CTE, in partnership with theCenter on Great Teachers and Leaders atAmerican Institutes for Research, conducteda survey of 47 State CTE Directors andanother survey of 260 local CTE teachersand administrators from across 26 statesto learn more about strategies to increaseaccess to industry experts in high schools.Some of the key findings include: This issue is a key priority across theboard—98 percent of State Directorsstated that increasing access to industryexperts in high schools is a key priorityarea today, and 100 percent stated thatit will be an increasingly large priorityin the future; Ninety-one percent of states havealternative certification policies in place,the most common strategy being usedto address this challenge, but ongoingshortages indicate these policies aloneare an insufficient solution; States are increasingly expanding theirstrategies for bringing experts into theclassroom, but results are mixed or notyet proven; The most significant barriers for statesand districts are geography, low industryawareness, lack of funding for increasedteacher salaries and other incentives,and limited data on how many studentscurrently have or lack access to industryexperts; and There is a communications andawareness gap between states anddistricts, particularly in how each viewsthe role of the other in addressing thischallenge.Based on those findings, Advance CTEidentified a set of recommendations for howstate leaders can approach this issue in adeliberate and coordinated way. Specifically,state leaders can begin by: Expanding certification policies tofacilitate part-time and co-teachinglicenses in addition to full-timealternative certification; Formalizing agreements withpostsecondary institutions that dedicatepostsecondary faculty with industryexpertise to teach dual enrollmentprograms; Developing and championing programsand initiatives that create clearopportunities for industry experts tofill non-instructional roles, including asmentors and career coaches; Engaging with employers to increase theirawareness of these opportunities; and Using all of these strategies in a cohesiveand coordinated way as a comprehensivestrategy.

### Deseg – Potential Planks

#### -- impose disparate impact regulations on K-12 educational institutions receiving federal and/or financial assistance, including a presumption against a school system's choice to assign students in a way that would lead to racial isolation, where non-isolating steps are available

#### -- enforce non-compliance by bolstering efforts of state departments of justice

#### --provide all necessary funding to K-12 educational institutions with the purpose of closing the achievement gap for minority students

### Deseg – Funding Key

#### Funding is the ultimate concern to combat inter-school desegregation – states solve it [aff author, possibly]

**Black, 10** --- Associate Professor of Law and Director, Education Rights Center, Howard University School of Law (March 2010, Derek, William and Mary Law Review, “UNLOCKING THE POWER OF STATE CONSTITUTIONS WITH EQUAL PROTECTION: THE FIRST STEP TOWARD EDUCATION AS A FEDERALLY PROTECTED RIGHT,” 51 Wm. & Mary L. Rev. 1343, Lexis-Nexis Academic)

School quality and student achievement, rather than money, must be our primary concern in evaluating education, but money is far from irrelevant to school quality and student achievement. Critics of school funding reform regularly charge that school funding increases are often squandered and fail to produce tangible results. (45) Based on these historic critiques, even the Rodriguez Court assumed that money and educational quality are disconnected. (46) This premise, however, has been undermined by more recent evidence and scrutiny. Michael Rebell, reviewing cases since Rodriguez, finds that no state court addressing the issue has ever found that money does not affect educational opportunities. (47) Most poignantly, after evaluating the evidence on both sides of an adequacy case at trial, one conservative judge wrote, "Only a fool would find that money does not matter in education." (48) Rob Greenwald analyzed thirty-eight different studies regarding the relationship between money and educational outcomes and found that positive student outcomes correlate with higher per pupil spending. (49) New Jersey, where the supreme court has forced the state to direct additional funding to low performing school districts, provides an excellent example. Between 1999 and 2007, a period of major finance reform in New Jersey, the overall student scores on the statewide fourth grade mathematics assessment rose twenty-six points, with the greatest increases occurring in those school districts receiving supplemental funding. (50) Moreover, "the achievement gap between those districts and the rest of the state declined by more than one-third." (51) Gordon MacInnes attributes the closing of the achievement gap to districts' ability to focus new financial resources on early childhood education and reading. (52) New Jersey is not alone. Kansas, Kentucky, Massachusetts, and New York have made similar gains in conjunction with school funding litigation and reform. (53) In particular, studies show that access to core inputs such as high quality teachers, early reading programs, and tutoring have a significant impact on student achievement. (54) But the ability of low performing and high minority school districts to secure these services is entirely dependent on money. (55) For instance, school districts that serve these student populations would need to provide salaries anywhere from around 50 to 100 percent higher than they currently offer to attract and retain high quality teachers. (56) Thus, money necessarily determines the quality of instruction that many students receive. And when states have created inequalities in these respects for low-income, minority, or rural children, state supreme courts have consistently found these students have been deprived of their constitutional right to a basic quality education. (57) Rebell succinctly makes the point by saying "money matters," and rhetorically adds that, if money did not matter, parents would not move to the suburbs and spend high amounts of money per pupil, nor would others pull their children from public schools and spend even larger sums in private schools. (58)

### Deseg – Fed Fails

#### Federal enforcement is a joke – durable fiat doesn’t solve because even when the DOJ is instructed to enforce an order lack of will, monitoring, distribution of knowledge, and local apathy all thump

Hannah-Jones 14 – Nikole, American investigative journalist known for her coverage of civil rights in the United States, “School Districts Still Face Fights—and Confusion—on Integration,” The Atlantic, 5/2/14, https://www.theatlantic.com/education/archive/2014/05/lack-of-order-the-erosion-of-a-once-great-force-for-integration/361563/

For decades, federal desegregation orders were a potent force against Jim Crow laws in the South, helping to make the region's educational systems the most integrated in the country. Federal judges, often facing death threats and violence, issued hundreds of court orders that set out specific plans and timetables to ensure the elimination of racial segregation. Federal agencies then aggressively used the authority of the courts to monitor hostile school systems, wielding the power of the 1964 Civil Rights Act to deny federal dollars to districts that refused to desegregate. The pace of the change wrought by the federal courts was breathtaking. In 1963, about 1 percent of black children in the South attended school with white children. By the early 1970s, the South had been remade—fully 90 percent of black children attended desegregated schools. Court orders proved most successful in the South, but were also used in an attempt to combat de facto segregation in schools across the country, from New York to Michigan to Arizona. Today, this once-powerful force is in considerable disarray. A ProPublica examination shows that officials in scores of school districts do not know the status of their desegregation orders, have never read them, or erroneously believe that orders have been ended. In many cases, orders have gone unmonitored, sometimes for decades, by the federal agencies charged with enforcing them. At the height of the country's integration efforts, there were some 750 school districts across the country known to be under desegregation orders. Today, court orders remain active in more than 300 districts. In some cases, that's because judges have determined that schools have not met their mandate to eliminate segregation. But some federal courts don't even know how many desegregation orders still exist on their dockets. With increasing frequency, federal judges are releasing districts from court oversight even where segregation prevails, at times taking the lack of action in cases as evidence that the problems have been resolved. Desegregation orders were meant to guarantee black and Latino children the right to an equal education. They addressed a range of issues, including the diversity of teaching staff, racial balance in schools, curriculum, discipline and facilities. The orders uniquely empower parents to fight actions by school districts that might lead to greater segregation or inequality. In districts under court order — having been found in violation of the constitutional rights of black children — parents do not have to prove intent, only that black students could be harmed. Since the 1990s, the Supreme Court has sharply curtailed the power of parents to challenge racial inequities in schools. Districts not under court orders are largely prohibited from considering race to balance schools. And parents in these districts must show that school officials are intentionally discriminating when they make decisions that adversely affect black and Latino students. And so, as desegregation orders are ignored, forgotten, or lifted, black parents are losing the ability to effectively challenge school inequality. Over the course of months, ProPublica has compiled the nation's most comprehensive and accurate data on active desegregation orders. We used legal databases and academic studies and contacted more than 160 school districts across the country. This effort uncovered confusion, neglect and inaction. For example, the lawyer for the school district in Hollandale, Mississippi, said he didn't know if the desegregation order that had long ago been imposed on the district was still in effect. "I haven't looked at anything or researched it. I've never read the order," the lawyer, Bennie Richard, said. The order is, in fact, in place, but it has been 30 years since the school district submitted the required reports detailing its efforts at furthering integration. In Washington, Georgia, court records show the school system remains under a federal mandate to desegregate. This was news to the district's lawyer, who, in an interview, told ProPublica the order had been lifted in 2000. The U.S. Justice Department provided ProPublica with its list of active desegregation orders, but even this data was a bit off: At least two orders on it had ended and a few more are in dispute. The department would not allow its officials to be interviewed for this article. And it refused to respond to a dozen written questions concerning how it monitors, enforces, and litigates desegregation cases. A department spokeswoman sent a one-paragraph response that said the department will "continue to use all tools available to ensure equal educational opportunities for all students." The U.S. Department of Education, whose Office of Civil Rights also is charged with monitoring desegregation efforts, would not allow its officials to be interviewed. The agency initially refused to provide a list of desegregation plans that it oversees, saying in an email that "students and communities feel sensitivity" about being categorized by race and by the fact that their schools remain "subject to ongoing legal oversight regarding desegregation obligations." A few days later, after ProPublica said it would push for the information, the press secretary for Education Secretary Arne Duncan said the agency could provide a list, but required time because officials needed to "do some final checks on our end to be sure everything is correct." Two weeks later, ProPublica has not yet received the list. Wendy Parker, a former Justice Department lawyer who now teaches at Wake Forest University School of Law, said she found the general confusion about the orders "stunning." The superintendent of the Yancey County Schools in North Carolina, for instance, asserted that a court order had never been imposed on its schools. But court records at the federal archives in Atlanta show not only was Yancey County placed under a desegregation order in 1960, but the order remains in force. In response to additional questioning, the district's lawyer, Donny Laws, said the district was placed under court order but that, "I can safely tell you that's the first time it's been mentioned in Yancey County in 45 to 50 years." Some school officials interviewed by ProPublica said they had been frustrated in their attempts to simply determine the status of any ongoing federal oversight. A school board lawyer for Warren County, North Carolina, said he contacted the federal courthouse in Raleigh to see whether that district's court order had ended, but said court officials told him the records had been shipped to the federal archives, and thus they couldn't give him an answer. The lawyer asked ProPublica to send him the court records if we found them. We did find the archived case docket for Warren County and it appears the order remains active. But confirming the status of desegregation orders is not easily done. The bulk of orders predate the Internet, so many can't be found online. Across the country, original court orders and their underlying records have been destroyed by fire, shipped to a central archive center, or lost in the dusty parchment graveyards of courthouse basements. Some orders have lain dormant for so long that everyone involved, including judges and lawyers, are either retired or dead. The federal government was not a party to all of these cases, many of which originated with civil rights organizations. In some instances, these agencies, too, have not closely monitored districts' progress. The desegregation order for St. Martin Parish in Louisiana sat idle for more than 30 years. In 2010, a federal judge who was cleaning up his roster of old desegregation cases determined the order had ended in 1976. But the judge soon heard from the Justice Department, which insisted that the order was operative and necessary. The St. Martin Parish school board disagreed. "The Clerk of Court in Shreveport couldn't even find all of the records," said Jack Burson, the board's attorney. "I've been in law practice for 49 years, and I've never seen a silent case sort of resurrect." For now, the order remains active. The parties are waiting for an appellate-court ruling. Brian K. Landsberg, a law professor at The University of the Pacific, who worked as a Justice Department civil rights lawyer in the late '60s, said he was dismayed by the lack of action. "This is not the way it's supposed to work," Landsberg said. "It is the job of both the school district and the civil rights division to monitor these cases. There is an obligation of the law enforcement agencies to enforce these orders." \*\*\* Fred Gray was once a driving force behind the effective use of federal desegregation orders. Sitting in his Tuskegee, Alabama, law office—located along the dilapidated downtown circle that bears his name—Gray, 83, recently explained how as a child he had made a secret vow to become a lawyer and to then "destroy everything segregated" in his state. At the time, no Alabama law school admitted black students, so Gray headed north to Ohio to earn his degree. Then, in 1955, at age 24, he took his first case, that of a teenager named Claudette Colvin who had challenged Alabama's segregated buses months before Rosa Parks. Gray went on to represent Parks, as well as Dr. Martin Luther King, Jr., and helped to banish segregation on buses and to ensure voting and other rights for black Americans. But the fight for fair and integrated schools proved longer and harder, much to the consternation of black parents eager for their children to realize the promise of the landmark Brown v. Board of Education case in which the Supreme Court struck down the doctrine of separate but equal schools. By 1963, for example, Alabama schools remained utterly segregated. That year, Gray sued the Macon County Board of Education. The case wound up before U.S. District Court Judge Frank Minis Johnson, Jr. His rulings in favor of civil rights had led to death threats, cross burnings on his lawn, and the firebombing of his mother's home. Not surprisingly, Johnson ordered Macon County schools to desegregate. Ultimately, Johnson served on a three-judge panel that granted Gray's subsequent petition to place the entire state of Alabama under federal order to desegregate its schools and universities. The orders had real muscle, for the federal government had recently been authorized to withhold money from school districts that resisted integration. "After the Civil Rights Act, if you didn't comply you would actually lose aid and still be sued by the Department of Justice," said Gary Orfield, co-director of The Civil Rights Project at UCLA. "And the Department of Justice never lost." At the time, no one knew how long the orders would or should last, but it was clear from the outset that their potential to bring about change was entirely contingent on the willingness of officials to enforce them. By the 1980s, the will to do this was buckling under what some civil-rights experts call integration fatigue. President Ronald Reagan, upon taking office in 1981, immediately cut federal financial support for desegregation efforts. The head of the Justice Department's civil rights division under Reagan, William Bradford Reynolds, said the department would not "compel children who do not want to choose to have an integrated education to have one." Reagan's Justice Department worked to curtail and end court orders. The trend continued and accelerated dramatically under George W. Bush. The ideological shift had implications even for those school districts that remained under order to sustain or improve their integration efforts. The power of orders withered for lack attention and regular enforcement. Wendy Parker, the former Justice Department lawyer now at Wake Forest, examined just how much of an afterthought many of the country's standing desegregation orders had become. Parker studied all the written school desegregation opinions from 1992 to 2002, figuring that such opinions would reflect meaningful activity in the cases. Though hundreds of desegregation orders remained active, Parker could find published opinions for cases in just 53 school districts. Federal judges once wielded the considerable power bestowed on them by the nation's highest court to oversee school desegregation. The high court even empowered them to write desegregation plans themselves if necessary. But Parker concluded that contemporary judges have largely left school districts to police themselves. This was the case in Buncombe County, N.C. Even though a judge had never dismissed the local school district's 1965 desegregation order, the lawyer for the Buncombe schools essentially called the order moot this year because of "the passage of time." In emails, the lawyer, Chris Campbell, told ProPublica the district had been ordered to eliminate a policy of sending its black students to a black high school operated in another district, which it had long ago done. "There has been no further court action and no plan to take further action by the school district since the issues were resolved nearly 50 years ago," he wrote. But it's hard to know if the district has been fully compliant, as Campbell does not have a copy of the desegregation order and neither does the federal court or its archives. However, an entry on an archived copy of the case's court docket makes it appear that the district was at the very least mandated to desegregate its teaching staff as well. Campbell declined to answer questions about how he knew what was required without a copy of the order or to specifically address the teaching staff issue. In Alabama, where the entire state was once under order to desegregate schools, two federal judges in the late 1990s decided to do something about the dozens of desegregation orders that had become dormant in their part of the state. The life stories of the two judges—Myron Thompson and William Harold Albritton III, both of whom are still on the bench—could not be more different. Albritton came from three generations of lawyers and had attended all-white schools in Andalusia, Alabama. His father had strongly opposed Judge Johnson's civil rights rulings. Thompson attended all-black schools in Macon County and knew the students involved in the case that led Johnson to order the entire state desegregated. Thompson's stepfather was a field secretary for the NAACP. If the school districts under court order were totally desegregated, Albritton said in an interview in his chambers last fall, it was time to return control to the local school boards. "And if they weren't," he said, "it was time for them to get with it and get that way after 25 years." Albritton said he and Thompson split up the cases in their region, called in all the parties to determine what the remaining issues were, and then worked towards a way of solving them. Albritton said the process was hampered by the fact that many districts didn't realize they were still under court orders. But Thompson and Albritton did not simply accept claims by the school districts that they'd met their obligations. They assigned a magistrate judge to work closely with the parties to address racial disparities. Before dismissing the orders, they made sure the districts worked—often over the course of years—to address inequities across a range of issues, including the disproportionate placement of black children in special education. "I wanted to look at the statistics, I wanted to look at discipline, I wanted to look at all these factors," said Thompson. "I was calling status conferences every three to four months, and I would have them file status reports and we would talk." "I was unwilling to just sign off on them," he said. Still, Thompson often wonders how much of an impact his hands-on approach had on integration in the long run. He invoked William Faulkner and said that it was better to have tried than to have done nothing. "Faulkner said 'between grief and nothing, I'd rather have grief,''' he said. Other judges have not been nearly as rigorous in overseeing active desegregation orders. Parker found that when cases come before the courts, judges almost always rule against the interests of minority students seeking greater integration. In 2000, a judge released the Gadsden, Alabama, school district from its desegregation order, even though court records show the district still operated a 90-percent black high school, hadn't adopted any specific policies to address segregation, and had refused to consider removing the name of Ku Klux Klan founder Nathan Bedford Forrest from one of its schools. Among other things, the district had been ordered to develop a multicultural curriculum, hire more minority teachers, increase access to advanced courses for black students, and eliminate curriculum disparities between schools. According to court records, U.S. District Court Judge William Acker said he had considered ordering the district to do more to comply with its court order, but decided against it because it would "only invite another dispute." He said the district had "done a pretty good job of meeting the standards it agreed to." He offered that the "level of cooperation, open mindedness and acceptance" in Gadsden "beats by a mile" the situations in Northern Ireland and Kosovo. Acker did not respond to an interview request. An appellate court overturned Acker, and ultimately the district agreed to an extensive settlement agreement that led to the termination of the district's order in 2005. Rulings by lower courts with the most direct supervision of desegregation orders, Parker said, have generally been discouraging. "The court still requires a commitment to the elimination of vestiges of discrimination that are caused by the defendant and can be practically addressed. Yet the district courts have ignored this responsibility," Parker wrote in her study. "Today courts are willing to accept lingering segregation that the Supreme Court's jurisprudence prohibits."

### A2: State courts fail

#### States should offer equal funding per student at all schools in the state. State legislatures are best.

Davis 14 (Daniel. | “HOW TO REFORM SCHOOL FINANCING IN ILLINOIS,” Education Law & Policy – Final Paper, Loyola University Chicago. <http://www.luc.edu/media/lucedu/law/centers/childlaw/childed/pdfs/2014studentpapers/Davis.pdf> )

Educational funding reform should start by establishing a meaningful Foundation Level for schools. At present, Illinois has a Foundation Level of $6,119, a level that has not changed since 2009. While the EFAB has recently recommended a Foundation Level increase to $8,672, EFAB’s recommendations have not been incorporated into the state’s budget. Instead, because of the state’s financial condition, the governor and general assembly refuse to increase the Foundation Level. As stated in its recent report, “While EFAB recognizes the dire financial position of the State of Illinois, the lack of adequate funding for basic education is a failure of the state’s moral and fiduciary responsibilities.”41 The governor and general assembly should not be able to determine the Foundation Level by assessing what funds remain in the state’s coffers. Instead, the EFAB, or another non-partisan group of experts should determine a meaningful Foundation Level for schools. After a meaningful Foundation Level has been determined, the state should be required to fully fund its obligation and ensure that all schools in the state receive Foundation Level funding. As previously discussed, the state currently fails to fully fund its obligation to meet the Foundation Level of $6,119. Instead of ensuring that all schools receive this modest level of funding, the state prorates its obligation and pays schools only 89% of what they are owed. This practice cannot continue. Prorating payments based on the state’s financial situation produces an unreliable and inadequate funding stream. Schools must reliably receive the money promised by the State of Illinois. Setting a meaningful Foundation Level and requiring Illinois to fully fund its obligations to schools will dramatically improve public education in the State of Illinois. It would also avoid the political landmines that killed so many past proposals. CONCLUSION Instead of expending considerable political capital on proposals that are destined to fail, the Illinois General Assembly should ensure that all public schools receive sufficient funds to provide an adequate education to Illinois students. In a truly egalitarian system, an equal share of nothing is nothing. Once a realistic funding baseline is established, and enough money is flowing into the public education system, the legislature can introduce new proposals aimed at equalizing public school funding in the State of Illinois. If adequately funding all public education in Illinois fails to become a reality, the current depressed condition of the state will not improve. While creditors view Illinois as a risky investment, Illinois must view public education as a safe investment in its present and its future. An investment requires funding. Meaningful reform starts with funding.

#### The counterplan should not be held to historical failures of state courts – shortcomings due to a lack of precisely targeted, judicially manageable remedies are not applicable to the CP

Reynolds 9. Laurie, Professor of Law @ U of Illinois College, “Full State Funding Of Education As A State Constitutional Imperative”, 60 Hastings L.J. 749

Taken together, the long-term ineffectiveness of the legislative response combines with the recent evidence of judicial withdrawal to dampen enthusiasm about the future course of school finance litigation. On the surface, these two phenomena may appear unrelated, but I posit here that both result in part from plaintiffs' failure to seek a precisely targeted, judicially manageable declaration and remedy. With regard to the lack of legislative sustainability, failing to seek the invalidation of the local property tax means that judicial decrees leave in place the structure that will once again guarantee a reemergence of the system declared unconstitutional. No matter how massive the legislative funding increase, if the local property tax remains a source of school funding, the state legislature will never move beyond playing catch up. Its efforts will [\*767] perhaps smooth out the rough edges of the state's funding allocation or eliminate the most glaring unfairness produced by its school finance statute, but it will not correct the structural inequality inherent in the local property tax system. Similarly, the phenomenon of judicial weariness may also reflect the plaintiffs' decision to eschew a narrow doctrinal declaration. If a court concludes that its only role in the case is the micromanagement of difficult questions of educational policy that it feels ill-equipped to handle, it may choose to forego judicial involvement altogether. It seems, then, that at least some responsibility for the disappointing results lies in the structure of the original lawsuits and their wide-ranging claims that would involve the court in the dispute about the meaning of the state's constitutional duty to provide education. In an earlier article, I suggested that the uniformity of taxation clause could be used to raise a doctrinal challenge to school finance statutes. This principle provides a narrow basis of judicial decision with a clear identification of the source of the statute's unconstitutionality, establishes the straightforward requirement of full state funding of education, and transfers the responsibility for determining a constitutional education spending formula to the state legislature. Thus, it removes the court from the debates over educational policy and how the state can best allocate its limited resources to implement that policy. In the next Part I elaborate on how that argument could be the catalyst for overhaul of school funding formulas without requiring the court to immerse itself in the "Stygian swamp" so feared by some state courts.

### Disabilities – mech

#### CP Text: ­­­Congress should

Devolve responsibility for special education to the states,

Eliminate federal regulations determined by the United States Secretary of Education to waste resources, and

Refuse to turn the Individuals with Disabilities in Education Act (IDEA) into an entitlement for state governments.

The fifty state governments should. [\_\_\_\_\_\_\_\_]

Gryphon 3 (Marie, Senior Fellow with the Center for Legal Policy at the Federalist Society. | *Cato Handbook for Congress* Ch. 29: Special Education. <https://object.cato.org/sites/cato.org/files/serials/files/cato-handbook-policymakers/2003/9/hb108-29.pdf> )//tbrooks

Congress should…

● devolve responsibility for special education to the states,

● eliminate federal regulations that waste resources and pit parents against teachers, and

● refuse to turn the Individuals with Disabilities in Education Act into an entitlement for state governments.

#### Special education should be devolved to the states – lowers costs and less red tape.

Gryphon 3 (Marie, Senior Fellow with the Center for Legal Policy at the Federalist Society. | *Cato Handbook for Congress* Ch. 29: Special Education. <https://object.cato.org/sites/cato.org/files/serials/files/cato-handbook-policymakers/2003/9/hb108-29.pdf> )

The battle between parents and schools over each child’s educational plan must end with a decisive victory for parents in the form of portable benefits. Special education should be reformed to allow parents to control how their child’s educational dollars are spent in the public or private school of their choice. Choice-based reform would improve educational outcomes by allowing parents to choose their child’s very best option, and successful schools would be those that served parents and children well. Accompanied by massive deregulation, thoughtful choice-based reform will free teachers to teach and allow funds currently wasted on administration to be returned to the classroom. Devolution of all responsibility for special education to the states would be optimal. If complete devolution is not immediately possible, Congress should amend IDEA to allow states to opt into a reformed special education system, which would eliminate the failed dispute resolution model entirely in favor of a state-administered, largely state-funded system based on parental choice. A state would opt into the program by creating a matrix of disability categories and monetary contributions designed to represent the total average cost of both general and special services required to educate a child in each category of disability. The state would then create a menu of special education services no less comprehensive than those currently available in each school district and their estimated cost per child per hour or per semester, as appropriate. Parents in a reformed special education system would find themselves transformed from combatants into customers. Instead of fighting each year over educational programming, parents would be invited to their local school to select from the menu of available special services with the advice of special educators or anyone else the parent felt was appropriate, up to the amount of the child’s defined monetary contribution under the matrix. Or the parent could take his or her child’s total educational allowance to a private school of choice. Because parental choice would replace negotiation as the method of determining a child’s educational plan, Congress should exempt states opting into a reformed system from all of the IEP and due process requirements of IDEA, and they should no longer be subject to civil suit under the act. The sole remaining potential dispute in a reforming state would be the accuracy of a child’s diagnosis and, accordingly, the size of his or her monetary contribution. Congress should ask those states to create rules for genuinely independent binding arbitration of disputes related to the diagnosis of a child covered by IDEA. The end result for a state opting for reform would be a state-administered, largely state-funded portable benefits plan that would avoid IDEA’s worst problems.

### Disabilities – 1NC

#### States aren’t just sufficient – but necessary to solve

Defur 2 – Sharon H. from the School of Education, College of William and Mary, “Education Reform, High-Stakes Assessment, and Students with Disabilities,” REMEDIAL AND SPECIAL EDUCATION Volume 23, Number 4, July/August 2002, pages 203-211

DISABILITY POLICY AND EDUCATIONAL REFORM Concurrent with general educational reform initiatives, national policies addressing the education of students with disabilities changed. Special education policies of the 1970s focused on educational access and equality for students with disabilities. Without question, these policies reformed how public schools included students with disabilities in their programs. In retrospect, a free, appropriate public education was defined as attendance in public schools. Accountability in special education was defined for students and based in Individualized Education Programs (IEPs). In spite of remarkable changes over this past quarter-century, special education reform efforts have fallen short of universally improving the achievement outcomes of all students with disabilities in a substantial way. In response to these findings, the 1997 amendments to the Individuals with Disabilities Education Act (IDEA ’97) asserted that the educational progress of students with disabilities had been limited by low academic expectations that in turn narrowed student access to the general curriculum. Furthermore, IDEA ’97 indicated that participation in state accountability systems (assessment) was the key to increasing participation in the general curriculum and raising the academic expectations for all students with disabilities. Most recently, the Office of Special Education (OSEP) of the U.S. Department of Education issued a policy memorandum that offered interpretation of the IDEA ’97 requirements regarding participation in state assessments (August, 2000). This policy memo stated that exemption from the state assessment program for students with disabilities was no longer an option; in fact, to do so violated a student’s civil rights. Students with disabilities should participate in the state assessment system (as defined by the state’s accountability system under the Improving America’s Schools Act [USDOE, 2000]), with or without modifications, or in the state alternate assessment. (Other articles in this special series provide thorough discussion regarding these emerging policy dilemmas.) Figure 1 illustrates two assumptions regarding intended consequences underlying the inclusion of students with disabilities in high-stakes educational reform efforts and state accountability systems. IDEA ’97, and several educational researchers (McDonnell, McLaughlin, & Morrison, 1997), asserted that participation in state educational reform efforts is paramount to the establishment of high expectations. Research has consistently shown that increased student achievement correlates with high expectations of teachers (Arroyo, Rhoad, & Drew, 1999; G. M. Johnson, 1998; WhartonMcDonald, Pressley, & Hampston, 1998). Following this logic, raising expectations should lead to increased access to the general curriculum, increased participation in the state assessment system, and higher individual student achievement levels. These strategies are believed to help students with disabilities achieve essential skills tied to state curriculum standards that are consistent with those of their peers without disabilities. The second assumption is that assessment data will be used to make improved individual instructional program decisions. In theory, these data-based decisions then influence teaching methods and curriculum, which in turn lead to enhanced educational opportunities. As a result, students with disabilities will achieve academic—as well as nonacademic— success. The expectation is that success translates to improved postschool outcomes for students with disabilities.

#### States empirically are effective actors for disability reform

Shyyan et al 15 – Vitaliy, Research Associate at the National Center on Educational Outcomes, “2014 Survey of States: Initiatives, Trends, and Accomplishments,” National Association of State Directors of Special Education, National Center on Educational Outcomes, accessed via proquest

This report summarizes the fourteenth survey of states by the National Center on Educational Outcomes (NCEO) at the University of Minnesota. Results are presented for the 50 regular states and eight of the 11 unique states. The purpose of this report is to provide a snapshot of the new initiatives, trends, accomplishments, and emerging issues during this important period of education reform as states documented the academic achievement of students with disabilities. Key findings include: (1) Most states supported teachers by implementing college- and career-ready standards for all students, including students with disabilities; (2) Many states participated in general, alternate, and English language proficiency assessment consortia; (3) More than half of the states indicated that they disaggregated assessment results by primary disability category for the purpose of examining trends or reporting assessment results for students with disabilities; (4) More than half of the states reported studying validity of results for accessibility features and accommodations using data collected during assessments; (5) More than three-quarters of states reported a need for technology-related investments for the majority of districts in their states in order to improve the participation of students with disabilities in instructional activities and assessments. The types of investments most frequently cited as needed were additional devices and improved bandwidth or capacity for Internet connectivity; (6) More than three-quarters of the states considered universal design during test conceptualization and construction; (7) More than half of the states reported including data for all students with disabilities in their evaluation system for general education teachers; (8) More than half of the states reported that they required students with disabilities to meet exactly the same state requirements as other students to receive a standard diploma; (9) Seven states offered end-of-course alternate assessments based on AA-AAS; and (10) More than half of the states disaggregated assessment results for English language learners with disabilities. States were cognizant of the benefits of inclusive assessment and accountability systems, and continued to improve assessment design, participation, accessibility and accommodations policies, monitoring practices, and data reporting. States also identified key areas of need for technical assistance to facilitate the implementation of next generation assessments. "Implications of ESEA Graduation Rate Accountability" is appended.

### Military Recruiters

#### States have been successful in limiting recruitments and education parents before – Washington proves

Hagopian, University of Washington, Associate Professor of Health Services, and Barker, Assistant Professor in the Laboratory of Cell Physiology and Immunology at Rockefeller University, 2015

[Amy and Kathy, Am J Public Health, “Should We End Military Recruiting in High Schools as a Matter of Child Protection and Public Health?”, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3000735/>, 7/12/17, KW]

The Seattle school board took up the issue over the summer of 2005, and members of the board worked with us and with veteran and student activist groups to revise citywide rules on recruitment. There were two rounds of changes, during which several policies were modified. Recruiter visits were limited to one per semester, visits were to be announced in advance, and military recruiters were no longer free to roam through the school building. Counterrecruiters were to be invited when the military was on-site to provide information on the enlistment contract, the realities of military life, and alternatives to the military for funding college. Although these new policies represented some of the most restrictive recruitment policies on record in the United States, their effect was limited to the Seattle public school district. We took the project to the state PTA, hoping to raise statewide interest. Recruitment practices are far more aggressive in rural and low-income suburban areas than they are in liberal Seattle. We had two unsuccessful attempts to persuade the state PTA to engage on this issue. Finally, on October 6 at the 2007 Washington State PTA Legislative Assembly, the body voted (153 to 78) to amend its platform to limit military access to high school students by encouraging the state office of superintendent of public instruction to help schools conduct better parent education on how the military may contact children.

### Natives – 1NC

#### States are key to reform and comparatively more significant actors in native education policy

Meza 2015 --- Legal and Policy Director at the Utah Diné Bikéyah, a nonprofit working on indigenous community support. (Nizhone Meza, 3-1-2015, “Indian Education: Maintaining Tribal Sovereignty Through Native American Culture and Language Preservation,” Brigham Young University Education and Law Journal, Issue 1, Article 12. http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1365&context=elj)

IV. CURRENT STATE OF INDIAN EDUCATION Native American students continue to perform at a much lower rate than the general population.41 It is estimated that 81 percent of Indian students read below grade level.42 In 2005, it was estimated that only 50.6 percent of Native American students graduated from high school.43 Furthermore, American Indians and Alaska Native students have significantly lower than average scores “on both the math and verbal portions of the Scholastic Aptitude Test (SAT)” and are the least likely ethnic group to attend college.44 American Indian Education policy can no longer be limited to the federal level. The 2010 Census revealed that about 70 percent of the American Indian and Alaska Native population now live in metropolitan areas.45 About 90 percent of all American Indian and Alaska Native students attend regular public schools with only 7 percent attending schools administered by the United States Bureau of Indian Affairs. As a result, state education policy impacts the education of Native American and Alaska Native students more than federal policy. The influence of United States Indian Education policy on the independent sovereign states is limited and dependent on each individual state and its state school board’s understanding of federal funds that are intended to benefit the American Indian and Alaska Native student. As a result, there are sporadic effects on Indian education. Tribal sovereignty is indirectly being affected by the education of the future generation. There are an estimated 209 indigenous languages still spoken in America with 562 recognized sovereign tribal nations in the United States.47 A recent survey48 by the National Indian Education Study (NIES) showed that a higher percentage of students at Bureau of Indian Education (BIE) schools reported having more knowledge of their American Indian/Alaska Native history than in low-density public schools.49 Children are the tribes’ most vital resource to tribal sovereignty, but without student success in education and the foundational knowledge of culture and language, tribal governments may be left ill prepared. V. THE FUTURE OF INDIAN EDUCATION The future of Indian Education remains unknown. However, the preservation of culture and language is beginning to be recognized federally and by a few states as an indirect means to improve the state of Indian Education. Proposed federal legislation includes financial support for preserving American Indian cultures and languages. State support varies between individual states as well as discrepancies of program implementation among individual school districts within the same state. When all major players influencing the education of Native American students work together, the state of Indian education has the potential to make a dramatic turn. A. Continued Support for Culture and Language Preservation 1. H.R. 5 – Student Success Act The recently proposed Student Success Act contains many provisions that indirectly preserve tribal sovereignty by restoring traditional culture and language to Indian Education. The bill would revise the current Title VII Indian Education program and consolidate federal funds designated for special populations.50 The Student Success Act would add activities that could be supported by grants such as Native American language immersion programs and Native American language restoration programs.51 However, the pending Student Success Act has garnered mixed reactions. While the House passed the bill with amendments, H.R. 5 only has a 20 percent chance of passing the Senate.52 As of the date of this publication, the bill remains in Senate Committee.53 2. BUILD Act The Building upon Unique Indian Learning and Development Act (BUILD) would expand programs for Native American schools to encourage learning in the children’s Native language and culture and would direct the Comptroller General to conduct research on culture and language to identify the factors that improve education and health outcomes.54 B. Encourage State Support of Culture and Language Preservation With the growing urban population of Native American students subject to state regulations and local school boards, the responsibility for Indian Education no longer lies solely with the federal government.55 States and local entities carry a responsibility for the education of Native American students.56 In Meyers v. Board of Education, a U.S. District Court concluded “that each of the governmental entities involved . . . has an obligation to see that the [Native American students] receive appropriate educational opportunities.”57 Arguably, this includes providing educational opportunities that meet the unique needs of Native American students including aspects of traditional culture and language. 1. Cultural Awareness a. General curriculum. The general curriculum should include the historical perspective of the American Indians.58 Success stories of prominent American Indian figures should be acknowledged and celebrated. American Indian students should be able to stand tall and be proud of their culture, language and heritage. All students should know that American Indians are not historical artifacts or just figures of the past but are contributing members of society today. b. Implementation of Title VII programs. Title VII Indian Education programs should be implemented in all public schools serving Native American students. Such programs build a student’s cultural foundation and connections to the tribe, thereby preserving the tribe’s most vital resource and ultimately, tribal sovereignty. Public school districts are not required to have Title VII Indian Education programs because such programs run on federal grants. However, such programs can have a profound impact in the lives of students that not only contribute to student educational success but preserve a student’s connection to his culture and his tribe. An example of this impact comes from the small community of Spanish Fork, Utah. The high school graduation rate for Native American students in the district was only 37 percent in 1998.59 It was noted that students were unsure of society and because “their cultural influence was no longer part of the classroom, Native American students felt out of place.”60 The high school’s American Indian student graduation rate has tripled since the implementation of the Title VII Indian Education program by the district.61 Traditional songs and dances helped students remember where they came from as they discovered who they were.62 The graduation rate climbed to 92 percent within four years and has not dropped below 80 percent since then.63 Students were able to transcend expectations by making connections from their heritage to the lessons in their textbooks.64 2. Language Preservation There are a few states that have recognized the importance of the tribal sovereigns within their borders and have enacted legislation that supports cultural and language preservation. One impressive example of state legislation concerning the preservation of Native American culture is Montana’s Indian Education for All.65 “The Indian Education for All is Montana’s constitutionally required program that teaches Native American culture in classes throughout the public school system.”66 Additionally, in 2013, a bill that preserves Montana’s several Native American languages was approved in the Senate and headed to the House. It was noted that for some tribes in Montana, there were “only a few remaining speakers of their native tongues.”67 The bill and funding for this pilot program was approved and taken from the Indian Education for All budget with a hope that future funding would be from the general state treasury.68 The pilot program provides funding for the tribes to “develop writings, audio-visual programs, story-telling, language classes and other languagepreservation steps . . . .”69 One lawmaker who participated in an Indian language class said, “It was amazing for me to learn about how the happiness and health of the people within [an Indian tribe were] directly correlated to the tribe knowing their history and their language.”70 The foreign language requirement for many schools is an opportunity for students to learn a different language. For the Native American student, it could be an opportunity to connect to the past and cultural roots of who they are. Connecting to the past helps propel individuals into the future with a vision of who they can become. Building students’ self-confidence and self-esteem would result by allowing Native languages to meet the foreign language requirement. North Carolina recently passed a bill that allows the Cherokee language to satisfy its state-mandated high school foreign language requirements.71 The mere fact that Native Languages are important enough to count as a graduation requirement builds the view of the importance of the Native culture and therefore builds the individual student’s identity. Many more states should seriously consider following North Carolina’s example **by allowing Native languages to meet the foreign language requirement for high school graduation.**

### Natives – 2NC

#### States are better and have authority over native education --- federal government control empirically fails

McCoy 2k --- Staff Attorney at Native American Rights Fund. (“INDIAN EDUCATION LEGAL SUPPORT PROJECT”, <http://www.narf.org/wordpress/wp-content/uploads/2015/01/purple.pdf)>

3. The Transfer to State Control As early as 1917, the Commissioner of Indian Affairs was of the view that state public schools, not the federal government, should meet most of the Indians’ educational needs. This view was driven largely by economic and assimilationist goals. Federal law and policy began to reduce the federal role in Indian education. Then, in 1928, the federal Indian school system was among the aspects of federal Indian policy that were harshly criticized in the widely received “The Problem of Indian Administration” (also known as “The Meriam Report”). And justifiably so, for the conditions at the many of the schools – especially the off-reservation boarding schools – were physically and emotionally damaging to Indian students. -22- This prompted the transfer of the primary responsibility for the formal education of American Indians from the federal government to the states. “Integrating American Indian children into the public school system became the BIA’s educational policy from the 1930's (sic) to the 1970's (sic).” Raymond Cross, American Indian Education: The Terror of History and the Nation’s Debt to the Indian People, 21 U.Ark. Little Rock L. Rev. 941, 960 (1999). Many of the federal boarding and day schools were closed; other school properties were conveyed to the states. In exchange for educating Indians, the states insisted on federal funding. The Johnson O’Malley Act of 1934, 25 U.S.C. §§ 452-458e authorized the Secretary of the Interior to contract with states for, among other things, the education of Indians. The Impact Aid Law of 1950, Pub. L. No. 81-874, authorized federal payments to public school that serve children residing on Indian trust lands that are exempt from state property taxation. With the exception of some remaining federal Indian schools, the federal role in Indian education became primarily financial. Control of education standards, policies, and teaching methods for American Indians was vested in the states.

#### Even the federal government suggests states take the lead

McCoy 2000 --- Staff Attorney at Native American Rights Fund. (“INDIAN EDUCATION LEGAL SUPPORT PROJECT”, [http://www.narf.org/wordpress/wp-content/uploads/2015/01/purple.pdf)](http://www.narf.org/wordpress/wp-content/uploads/2015/01/purple.pdf)%20%20%20E)

The Need is Evident but Affirmative Steps Must Be Taken Indian tribes are sovereign governments just as their state and federal counterparts. Many federal reports and some federal and state laws have focused on Indian education problems. Some reports and laws have pointed out the need to increase the role of tribal governments to address the problems. But instead of requiring active tribal government involvement, most federal and state education programs and processes circumvent tribal governments and maintain non-Indian federal and state government control over the intent, goals, approaches, funding, staffing, and curriculum for Indian education. And there are no effective programs to establish tribal education codes or operate tribal education departments. The three sovereign governments in this country have a major stake in Indian education. Common sense dictates that tribal governments have the most at stake because it involves their children, their most precious resource, and their future for perpetuating tribes. Some progress has been made because of Indian education programs, Indian parent committees, Indian school boards, and tribally-controlled colleges. Some progress has been made through a measured amount of tribal control and input under laws that include the Indian Education Act of 1988, the Indian Self-Determination and Education Assistance Act of 1975, the Elementary and Secondary Education Act of 1965, and the Impact Aid Laws of 1950. Conclusion More direct tribal control of Indian education is needed, and more direct control is the next logical step for many tribes. Federal reports and recommendations call for partnerships between tribes and state schools, tribal approval of state education plans, and tribal education codes, plans, and standards. Tribal control of education is a fact of life in a small number of tribes and more tribal communities want to assume this control. But tribes have been denied this opportunity and responsibility and have been "out of the loop" for decision-making and accountability. For Indian education to succeed, federal and state governments must allow tribes the opportunity to regain control and make decisions, be accountable, and help shape their children's future and their own future as tribes. NARF intends to ensure that tribes gain the legal control over education that they deserve as sovereign governments and that they must have for Indian education success.

### School Lunches – 1NC

#### States solve---avoid the pitfalls of centralization and account for local tastes

Orr, Research Fellow at The Heritage Foundation 3-10 (Robert Orr, 3-10-2017, "National School Lunch Nutrition Standards Were A Mistake," Niskanen Center, Date Accessed: 7/11/17, <https://niskanencenter.org/blog/nutrition_standards/>) lr

With a new administration, observers anticipate that current school meal standards will be relaxed. This makes sense. The Healthy Hunger-Free Kids Act of 2010 (HHFKA) turned previously broad school meal standards into a set of detailed nutritional guidelines. We all want children to be healthier, but it is far from clear that these regulations have been successful in achieving this.

Instead, national nutrition standards for school meals appear to have increased costs and decreased student satisfaction, leading over one million students to drop out of the program. Decentralizing nutritional standards to states, as countries like Canada do, would go a long way towards recognizing the uncertainties of nutritional science and accommodating local tastes.

NUTRITIONAL STANDARDS HAVE FAILED TO REDUCE OBESITY

Michelle Obama’s “Let’s Move!” initiative was one of the key drivers behind the addition of significantly stricter meal regulations under the HHFKA. The former First Lady’s public health campaign aimed to reverse the decades-long trend of rising child obesity in America. Obesity is linked to a multitude of health risks such as type 2 diabetes and heart disease, and the law’s stricter regulations were justified specifically on these grounds. The regulations are often remarkably specific, encompassing everything from ranges of acceptable calories and sodium content to an outright ban on white bread. They are also highly detailed, going as far as instituting weekly minimum servings of subcategories of vegetables (dark greens, legumes, starchy, etc).

Unfortunately, the drafters of the law forgot to consider whether the meals they were designing would taste any good. Children across the country rejected the new meals upon rollout because the food tasted bad. They even expressed their disgust by posting images of their meals on twitter with the hashtag #ThanksMichelleObama. The combination of increased compliance costs and millions fewer children in the program has gone on to place a significant strain on school meal administrators. Despite these failures, it is still conceivable that national meal regulations could be beneficial on net for encouraging healthier eating. However, there is good reason to believe that the law’s predicted health benefits have failed to materialize. Judged in terms of its own metric of success—reducing childhood obesity—the law appears to have failed. Derek Grills of Walden University wrote an entire dissertation on the issue and found no relationship between a school’s compliance with the regulations and childhood obesity. As he writes in his conclusion,

The HHFKA was passed before completion of any large-scale, longitudinal studies on the efficacy of school nutrition policy to affect high school obesity. While there are significant limitations to this study, the absence of a significant improvement in high school obesity rates between 2007 and 2012 for states with at least some compliance suggests the limitations of using federal policy affect high school obesity rates. The fact that a significant number of school boards have affirmatively opted-out of the HHFKA mandates highlights the risks of using a one-size fit all federal approach to a complex phenomenon.

NUTRITIONAL STANDARDS LOCK IN UNSETTLED SCIENCE

Of course, obesity rates are just one metric with which to measure the standard’s success. However, the case for national standards improving other health outcomes, such as diabetes or heart disease, is for the moment purely speculative. Proponents of the law like to tout a number of studies finding increased blood serum vitamin concentrations, but if that is the goal, it would have been far more effective in terms of both cost and delivery to simply distribute multivitamins to school children.

Nutrition is an area where humility is a must. Many of the law’s specifications extend beyond the realm of settled science. The field of nutritional science is constantly evolving, with practitioners offering near constant tweaks and revisions to their previous recommendations. As a result, some of the meal regulations already look misguided, less than a decade after their enactment.

Consider the law’s ban on serving whole fat milk in schools. At the time, this rule was seen as a way of combating obesity through reducing fat consumption by children. But in the few years since, studies have called this provision into question, pointing out that a reduction in consumption of milk fat, which is composed of healthy fatty acids such as omega-3s, may simply be substituted by children for less healthy alternatives such as sugars. The standardization of unsettled science illustrates the folly of nationalized meal regulations.

ONE SIZE DOES NOT FIT ALL

The politicians involved in drafting these regulations also forgot to consider how their one-size-fits-all approach would impact local tastes. For instance, the ban on traditional tortillas prompted students in heavily-Hispanic New Mexico to throw out government-mandated whole-wheat alternatives in large quantities. Offending locals tastes, as in this case, has contributed to declines in precipitation and additional difficulties for local administrators. The incapability of accommodating local tastes has been among the biggest failures of our nationalized school meal standards, and in a country as as diverse as the United States, it makes little sense for Arizona and Maine to share the exact same meal standards.

A simple rule of thumb is that children throw out foods that they don’t like. Recent studies quantifying plate waste in school lunches found that the new meal standards have led to greater amounts of fruits and vegetables being thrown into the garbage. This finding is backed up by studies of the regulation’s impact conducted by the Government Accountability Office, as well as the School Nutrition Association, representing school meal providers across the country. Even in schools where waste has not increased, the amount of food going to waste in school cafeterias is not insubstantial. In fact, most studies find that between 50 and 90 percent of served vegetables ultimately ended up in garbage.

Since the regulation, millions of children have dropped out of the National School Lunch Program entirely. One study (often pointed to by advocates of stricter school lunch regulations) found the regulations led to greater nutrient consumption and decreasing waste in low-income schools. Yet, a closer look reveals that the study’s student sample shrank from 502 to 373 in the two year period following implementation, meaning the supposed gains were largely driven by a self-selection bias as many students cease participating.

GIVE STATES CONTROL OF SCHOOL MEALS

To escape adverse effects of the meal regulations, some schools have pulled out of the National School Lunch Program entirely, as well. Speaking to a local reporter in Madison, Connecticut, Jean Fitzgerald, the Board Chair for a school district that left the program earlier this year explained: “While the intentions of the NSLP are good, we believe the imposed nutritional constraints prevent us from improving the culinary and financial aspects of our food service program.” She added that, “The Madison Public Schools remain committed to providing wholesome, nutritious meals to our students at reasonable prices.” Sadly, the loss of federal funding that comes with leaving the NSLP is too costly for most school districts.

A better tact would be to return regulatory authority over school meals to state governments, as is done in Australia and Canada. Across our northern border, school meal policies are set by provincial officials. This approach makes sense in a multicultural democracy such as Canada, where what works in the country’s English speaking interior may be unacceptable in Francophone Quebec. For cultural minorities that are often concentrated geographically, ensuring that meal standards accommodate local tastes is far easier to organize at the local level.

In summary, the one-size-fits-all approach to school meals has been a disappointment on multiple levels. The touted child obesity reductions have thus far failed to materialize. Not only is there is no evidence that strictly regulating school lunches has been an effective tool in the fight against child obesity, but the food taste so bad that millions of children have dropped out of the program entirely, including those in low-income households. Current requirements are simply too inflexible, and cause unintended consequences for many school districts. It doesn’t have to be this way. Countries such as Canada and Australia have operated decentralized school meal regulation with great success. The U.S. should follow their example.

### School Lunches – Fed Fails

#### Centralization is inefficient---the CP solves comparatively better

Orr, UMD School of Public Policy dean, 16 (Robert Orr, 12-7-2016, "The National School Lunch Program Is Broken," Niskanen Center, <https://niskanencenter.org/blog/no-free-lunch/>) lr

The Healthy and Hunger Free Kids Act of 2010 (HHFKA) enacted various changes to the National School Lunch Program (NSLP), including significantly stricter regulations on what foods may be served, and increases to the number of eligible children through Community Eligibility Criteria. As Congress gears up to amend and reauthorize child nutrition programs some time early next year, the time is right to evaluate the impact of these changes.

By looking at trends in both administrative and survey data it is clear that the law’s enactment has meant the NSLP serves fewer children with the greatest need, while subsidizing a substantially greater number of middle and upper income students. At the same time, the new nutritional requirements have made school lunches unpalatable to the point where students are increasingly choosing to opt-out of school meals altogether. Due to this and the deterioration in targeting, the program now costs taxpayers more than ever while doing less than ever to meet its goals.

The NSLP is a case study in the inefficiency of in-kind federal programs and the micromanaging bureaucracies that come with them. As we recommend in Toward a Universal Child Benefit, simply giving parents cash is a superior means of promoting child health and well-being, and could be paid for by consolidating less effective programs like the NSLP.

NO SUCH THING AS A FREE LUNCH

Federal administrative data since the passage of the HHFKA suggests that the law has had a major impact on the dynamics of the NSLP. According to spending and participation figures from the OMB and USDA respectively, federal spending has historically sloped upward with the number of program participants. However, since the law’s passage, costs have continued to rise, despite the fact that the total number of students in the program declined. In fiscal year 2015, the NSLP served 30.5 million participants. That’s 1.3 million fewer participants than the program’s 2010 recession peak, and 100,000 fewer than in 2007, before the recession.

Participation in the Nation School Lunch Program has dropped while costs continue to rise.

These declines in participation have been the sharpest among students who pay the full-price for a school lunch. The NSLP employs a three-tiered reimbursement structure whereby students receive meals either for free, at a reduced price, or at full price. How much a child pays depends on its family’s income and participation in other government programs, such as SNAP. Decline in the number of full-paying participants was expected at the outset of the Great Recession, as more children became eligible for federal subsidies. However, the number of students paying for lunches did not rise again as incomes recovered. In fact, the number of paid lunches continued to fall.

Fewer children are paying for meals following the new nutrition guidelines.

Healthy and Hunger Free Kids Act of 2010 appears to be the culprit of this collapse. The legislation significantly altered the NSLP reimbursement structure with the creation of the Community Eligibility Provision. Under this provision, schools may offer free lunch to all students and receive federal reimbursement based on their identified student percentage (ISP). This figure is tabulated via federal statistics such as participation in SNAP or TANF. A school with an ISP of 40% or more may forego the collection of household applications and provide free meals to all students.

The federal government reimburses eligible schools by multiplying their ISP by 1.6 at the “free-lunch” rate. This implies that the federal government subsidizes 100% of meals at schools with an ISP of 62.5%. Schools that do not qualify for 100% reimbursement must make up any cost difference through administrative savings in other areas, such as paperwork reduction. The intent of this provision was to increase participation among low-income students, while reducing the administrative load on both parents and school staff. However, this provision also potentially enables millions of middle and upper income students to receive a taxpayer funded lunch.

Community Eligibility

The Current Population Survey (CPS) provides some indications of the Community Eligibility Provision’s true impact. This survey asks questions regarding family characteristics such as income and size, as well as whether children are receiving a free or reduced price lunch through the NSLP. During the period in which the Community Eligibility Provision was phased-in, the number of children who receiving a subsidized school lunch who were required to pay full price in prior years skyrocketed. The implication of this finding is that the Community Eligibility Provision gave millions of middle and upper-income students a free school lunch.

It is important to note that the Current Population Survey suffers from a number of notable limitations when it comes to analyzing school lunch participation. The survey asks parents their income annual income, rather than monthly income. This can be problematic as income certifications are often based upon the family’s income in the previous month. The survey also doesn’t identify children that are not attending school as well as leaving out children without families. Finally, estimates from the CPS are weighted on calendar years, as opposed to the federal government’s fiscal year, meaning direct comparisons between the two overlap imperfectly.

While individual figures derived from the CPS may slightly overestimate or underestimate the size of specific populations, the trends identified in this analysis are consistent with those found in government administrative data.

If millions of previously ineligible students began receiving free lunches through Community Eligibility Provision, then what accounts for the overall decline in participation? The other major change to school meal programs as a result of the Healthy and Hunger Free Kids Act of 2010 was the creation of stricter regulations on what foods may be served in schools, including mandated ranges on sodium and calories, as well as restrictions on what grains may be served. These rigid requirements been controversial since their rollout in 2012, with over a million children dropping out of the program entirely and school lunch providers reporting difficulty with compliance.

This conclusion is backed up by a study of the regulation’s impact conducted by the Government Accountability Office as well as the School Nutrition Association, representing school meal providers across the county. If children don’t like the food being served, they won’t eat it. There is strong reason to believe that stricter meal standards have had the unfortunate consequence of prompting children from needy families to opt-out of the program.

Despite the Community Eligibility Provision offering free lunch to millions more students, estimates from the Current Population Survey show an increasing number of children opting not to participate in the National School Lunch Program. As of 2015, the total number of children bringing lunch from home reached an all time high.

CONCLUSION

As a result of the Healthy and Hunger Free Kids Act (HHFKA) of 2010, the National School Lunch Program costs more, is less targeted on the poor, and has reduced student satisfaction to the point where many in need are opting out. The program needlessly subsidizes middle and upper-income children, while forcing schools to produce meals so unpalatable that many children, including those the program has deemed in actual need, have chosen to bring lunch from home instead.

The unintended consequences of centralized school lunch regulation suggest a need to rethink our approach to school meals in favor a more decentralized approach. Weakening the Community Eligibility Provision and returning regulation of school meals to local authorities would be an excellent start.

#### Devolving to the states solve—the funds come from the same tax base, but states only have incentive to crack down on fraud if they’re in charge of the money—that turns aff solvency

Edwards, 16 – director of tax policy studies at Cato (Chris, 5/26. “Food Subsidies.” https://www.downsizinggovernment.org/agriculture/food-subsidies)

The following sections discuss the food stamp, school breakfast and lunch, and women, infants, and children (WIC) programs. These federal programs should be abolished, and each state should determine appropriate policies for its own residents. Some states may decide to fund existing food subsidies, while others may choose less costly approaches to providing aid. Devolving responsibilities to the states would result in more innovative approaches to helping people in need.

Food Stamps

The food stamp program aids lower-income families in purchasing food products at grocery stores, convenience stores, and other retail outlets. The program's official name is the Supplemental Nutrition Assistance Program (SNAP), and it will cost federal taxpayers $78 billion in 2016.2

There are 46 million food stamp recipients.3 The maximum monthly benefit in 2016 for a household of four is $649.4 Eligibility for food stamps is based on a recipient's level of assets and income, with the basic gross income cutoff set at 130 percent of the poverty level. However, nearly all states have expanded eligibility beyond the basic limits with various types of "categorical eligibility."5 Citizens and most legal noncitizens are eligible for the program.6

The first food stamp program was temporary, running from 1939 to 1943.7 The program issued stamps that could be used to purchase food that the USDA deemed surplus. After the temporary program ended, there were numerous attempts in subsequent years to reestablish a federal food stamp program.

Congress passed legislation authorizing food stamps in 1959, but the Eisenhower administration did not implement a program. The Kennedy administration initiated various food stamp pilot programs. Then the Johnson administration proposed making food stamps permanent, and Congress followed through with the Food Stamp Act of 1964. The new program had the dual goals of "improved levels of nutrition" and "strengthening the agricultural economy."8

The food stamp program was expanded during the 1970s, and the number of recipients soared from 4 million in 1970 to 21 million in 1980.9 Some restraints were added to the program during the 1980s in an effort to control rising costs. As a believer in federalism, President Ronald Reagan proposed that the food stamp program be transferred to state governments, but that reform was not enacted.

In 1996 Congress reformed the nation's main welfare program (now called Temporary Assistance for Needy Families) by turning it into a block grant for the states. The food stamp program was not substantially changed by the 1996 law, but as a side effect of declining welfare caseloads the number of food stamp recipients fell from 27 million in 1995 to 17 million by 2000.10

The 2002 farm bill reversed course and made changes that increased the costs of the food stamp program. The bill expanded eligibility to noncitizens, increased benefits for large families, and made administrative changes to make it easier to claim benefits.

The food stamp program ballooned in size during the George W. Bush and Barack Obama administrations. The number of recipients rose from 17 million in 2000 to 46 million by 2015.11 The program's cost quadrupled from $18 billion in 2000 to $78 billion in 2016.12

The food stamp program is run jointly by the USDA and state governments. Federal taxpayers pay for the program's benefits, but they share the program's administrative costs with state taxpayers. Food stamp administration costs about $9 billion a year.13 That means that about $9 billion of the "benefits" of the program go to government bureaucracies, not to low-income families. Those administrative costs are equal to about 13 percent of the value of food stamps distributed.14

Food stamp administration is expensive because officials need to keep detailed and up-to-date files on 46 million recipients. Caseworkers need to meet with or phone each recipient on his or her first application and to recertify the benefits for each recipient every year. Because food stamps are means-tested welfare benefits, administrators need to keep records on each recipient's income, expenses, assets, living arrangements, and other personal data.

Fraud and abuse have long been problems with food stamps. State officials are supposed to keep track of millions of individual recipients and verify that their information is accurate. And to prevent illegal trafficking, federal officials are supposed to keep tabs on the 259,000 retailers across the nation that deal in food stamps.15

The food stamp program has spawned a black market as recipients exchange their government benefits for cash. Law-breaking retailers have typically offered 50 cents on the dollar for food stamps. Thus an individual needing $100 in cash would go to a crooked retailer and get the cash in return for a $200 charge to his electronic food stamp card. The amount of such trafficking appears to have fallen in recent years, and the government claims that the rate of food stamp overpayments is only about 3 percent of total benefits, or about $2 billion annually.16

Are overpayments really that low? The overpayment rates for other large benefit programs are much higher — for the earned income tax credit the rate is more than 20 percent. With food stamps, the federal government is responsible for retailer fraud, but there are apparently only about 100 inspectors covering the 259,000 SNAP retailers.17 Investigations have found that about 10 percent of SNAP retailers are engaged in trafficking.18

State governments are supposed to weed out fraud by recipients, but it is difficult for them to keep track of the income and eligibility status of 46 million people. Some experts are skeptical that the mispayment rate is as low as claimed because the federal government does not have good data on recipient fraud within the states.19

Another concern with the food stamp program stems from the change in America's low-income population over time. Social conditions are vastly improved since the food stamp program was created. Today, just 5.6 percent of U.S. households report one or more episodes a year during which food intake is reduced due to a lack of resources, which is called "very low food security."20 Harvard University's Robert Paarlberg notes that on any typical day less than 1 percent of households face this situation.21 By contrast, about 18 percent of U.S. households receive food stamps.22

The main food-related health problem for the low-income population today is not hunger, but obesity.23 Welfare scholar Douglas Besharov argues, "Today, instead of hunger, the central nutritional problem facing the poor, indeed all Americans, is not too little food, but rather too much — or at least too many calories."24 Today, 70 percent of American adults are "overweight" or "obese," up from 56 percent in the late 1980s.25 On average, people with lower incomes are more overweight and more obese than people with higher incomes.26 Children age 6 to 11 in low-income families are almost twice as likely to be obese than children in high-income families.27 In general, low-income Americans are suffering not from too little food, but from too much of the wrong kinds of food. 28

Food stamps can be used to purchase just about any edible item in grocery and convenience stores other than alcohol, vitamins, and hot food. In its guidelines, the USDA lists the few food items that are not allowed, and then essentially says that anything else goes, including "soft drinks, candy, cookies, snack crackers, and ice cream."29 It is likely that many billions of taxpayer dollars for food stamps are being spent on junk food.

How much? We do not know because the government will not release detailed data on food stamp spending. The public pays the cost of the $78 billion food stamp program, but the government will not tell the public know how their tax dollars are being spent.

Leaders of the Association of Health Care Journalists argue that the government should provide information on what products food stamps buy and at which retailers food stamps are spent.30 The association argues that the program's secrecy "runs contrary to President Obama's promise of government transparency, and stands in sharp contrast with practices at other federal agencies….With any federal program, but especially one as large as SNAP, records should be public unless there is a compelling reason to hide them."31

In 2015 the USDA did release a study showing that 40 percent of food stamp recipients were obese compared to 32 percent of low-income individuals not on food stamps.32 Both adults and children in food stamp families are more obese than other Americans.

The USDA has also found that food stamp recipients scored lower on a "healthy eating index" than other individuals with low incomes, and also individuals with higher incomes.33 Food stamp recipients are less likely to consume whole grains and raw vegetables, and are more likely to consume regular soda than other people.34 So it is ironic that the SNAP program is called a "nutrition" program.

Some policymakers and health experts favor prohibiting junk food purchases with food stamps, and there are efforts in some states to do that. An advantage of banning junk food in SNAP is that it would reduce demand for the program, and thus reduce taxpayer costs. If policymakers decided that food stamps could only be used to buy items such as fresh vegetables, fewer people would use the program, which would be a good thing.

The way to reform the food stamp program is to end federal involvement and transfer the full funding and administration to the states. Each state could decide to provide benefits either more or less generous than current benefits, and each state could decide whether or not taxpayers should subsidize "soft drinks, candy, cookies, snack crackers, and ice cream."

School Breakfast and Lunch

The federal government funds school lunch and breakfast programs at about 100,000 public schools and nonprofit private schools across the nation. The lunch program covers 31 million children, while the breakfast program covers 14 million children.35 The two programs, which provide free and reduced-price meals, will cost $22 billion in 2016.36 School lunch and breakfast benefits are available without regard to immigration status.37

The programs had their origins in the Federal Surplus Commodities Corporation established in 1935. That entity distributed "surplus" meat, dairy, and grain products to the needy, including children in schools. An official history of the school lunch program says that farm policies of the 1930s aimed "to remove price-depressing surplus foods from the market," and that "many needy school children could not afford to pay for lunches."38 Apparently it did not occur to the historian, or to policymakers in the 1930s, that some children could not afford lunches because the government was pushing up food prices by restricting supply.

The official history describes how, prior to the 1930s, local governments and private charities in city after city provided food aid to their schools. However, "aid from federal sources became inevitable" because local governments "could not provide the funds necessary to carry the increasing load."39 But that justification for federal intervention makes no sense. The federal government has no funds of its own — it gets all of its money from taxes paid by people who live in local communities.

The modern school lunch program dates to the National School Lunch Act of 1946. The program covered 7 million children in its first year and was expanded to 22 million children by 1970. The number of recipients was trimmed during the 1980s, but has risen since the 1990s. Congress began the school breakfast program as a pilot program in 1966 and made it permanent in 1975. Congress added an after-school snack program in 1998.

The school lunch and breakfast programs are not just for low-income families. Any child at participating schools is allowed to receive meals under the programs. Families with incomes below 130 percent of the poverty level receive free meals, while those between 130 and 185 percent of the poverty level receive reduced-price meals. Families above 185 percent pay "full price," but that price is also subsidized to an extent. In 2015, 65 percent of the meals were free, 7 percent were reduced price, and 28 percent were full price.40

Like the food stamp program, the school breakfast and lunch programs were designed to reduce hunger. But the low-income population has changed over the decades, and excess weight and obesity have become serious problems among children. The school lunch and breakfast programs may contribute to the weight problems experienced by young people from low-income families.

The school lunch and breakfast programs are subject to widespread fraud and abuse. The official rate of improper payments for the school lunch program is 16 percent, while the rate for the breakfast program is 25 percent.41 Local governments do relatively little verification of recipient eligibility, and so large shares of free and reduced-price meals are taken improperly by families with incomes above the cutoff levels.

No proof of income, such as a paystub or W-2 form, is needed for school lunch applications, and federal rules restrict school districts from an upfront verification of eligibility.42 But when federal auditors have examined samples of applications in detail, they find that about half require downward adjustments in benefit levels because incomes are misreported.43 The USDA Inspector General has recommended that applicants provide proof of income, which would be a basic check on abuse.44

A pattern of abuse by teachers and officials discovered in the Chicago Public Schools (CPS) is indicative of the problems. The Chicago Tribune reported:

At the West Side school, more than a dozen CPS and city employees had submitted false applications for free or reduced-price lunches, according to James Sullivan, Chicago Public Schools' inspector general. The alleged offenders included teachers, teachers assistants, district employees, a security officer and two people in law enforcement, some of them earning six-figure salaries.

The findings led Sullivan to conclude in his report that the National School Lunch Program, meant to provide basic nutrition to needy students, was "ripe for fraud and abuse" because of layers of bureaucracy, incentives for high enrollment, and minimal checks and balances.

School districts reap rewards for enrolling as many students as possible in the lunch program, in part because those numbers help determine funding tied to poverty levels. At the same time, federal law allows school officials to vet only a fraction of the lunch applications they receive — in the case of CPS, fewer than 1 percent."45

Other articles suggest similar sorts of abuses across the country.46 Local governments have incentives to maximize the number of program recipients, and so reducing abuse is not a priority for them. In effect, the school lunch and breakfast programs operate largely on the "honor system," as the Tribune story noted. Sadly, the honor system is not good enough these days when so many people are willing to swindle government programs.

Congress should end the school lunch and breakfast programs. If state and local governments wanted to take over the programs and fund them, they could do so. The states would have a stronger incentive to limit the abuse if it was their own taxpayer money that they were spending.

### School Lunches – Tailoring

#### The CP enables tailored school meals that respond to the needs of individual communities—federal one-size-fits-all policies disrespect parents and school officials

Sheffield, 17 – focuses on welfare, marriage and family, and education as policy analyst in the DeVos Center for Religion & Civil Society at The Heritage Foundation (Rachel, 1/4. “3 Steps Lawmakers Could Take to Roll Back Government Control of School Lunches.” http://dailysignal.com/2017/01/04/3-steps-lawmakers-could-take-to-roll-back-government-control-of-school-lunches/)

Congress should now take the opportunity to create child nutrition policy that rolls back the big-government policies currently in place, even if it means doing so before a reauthorization bill is considered.

Congress can and should work to undo three particularly problematic provisions from the 2010 law: prohibitive government school meal standards, the community eligibility provision (which expanded free meals for students), and the Summer Electronic Benefit Transfer program (a de facto expansion of the food stamps program).

School Nutrition Standards

The Healthy, Hunger-Free Kids Act instituted extremely prescriptive school meal standards, disrespecting both local school officials and parents. It set forth calorie limits, strict nutrient requirements, and portion size restrictions.

For example, children under this law are required to take fruits and vegetables, even if they don’t want them, and schools are told what types and colors of vegetables they must serve, as well as the type and amount of milk they are allowed to provide to students. The result has been public outcry, more waste in school cafeterias, and increased costs for schools.

Policymakers should end this federal overreach into school cafeterias by rolling back these heavy-handed standards and allowing school districts to develop their own standards. This would allow local officials to tailor school meals to the needs of their communities and better respond to the demands of parents and students.

Community Eligibility Provision

The community eligibility provision, also part of the Healthy, Hunger-Free Kids Act, tries to expand welfare to middle-class and wealthy families. It inappropriately expands free meals to all students regardless of family income. Essentially, it’s a backdoor approach to universal school meals.

No longer does a child need to be low-income to receive free meals. Under this provision, if 40 percent of students in a school, group of schools, or school district are identified as eligible for free meals because they receive benefits from another means-tested welfare program like food stamps, then all students can receive free meals.

Moreover, by being able to group wealthy schools with high-poverty schools when calculating the threshold for eligibility, some schools could provide free meals to all students even if there’s s not a single child in that school who is low-income.

Congress should stop allowing a means-tested welfare program to be distorted so much that the federal government no longer has to assess the “means” of families. It should eliminate the community eligibility provision and bring common sense back to school meal programs.

Only low-income students should be able to receive free or reduced-price lunches, as was the case before this indefensible provision was added to the law. Doing so would restore integrity to school meal programs by ensuring that this welfare program serves those in need instead of simply transferring taxpayer money to those who don’t need assistance.

Summer Electronic Benefit Transfer Program

The Summer Electronic Benefit Transfer program is a pilot program that provides low-income families with funds via a debit card to pay for food during the summer months when children are out of school.

Proponents claim that this program is necessary to ensure that children are fed when they are on summer vacation. The House and Senate child nutrition bills would have either continued this pilot program or made it permanent.

Another government food assistance program is not the answer. Funding for child nutrition has doubled since 1990 (in constant dollars) and the federal government already operates about a dozen food assistance programs, including a summer food program for children.

The Summer Electronic Benefit Transfer program is, in essence, a de facto expansion of the food stamps program rather than a child nutrition program—both provide households a debit card in order to purchase food, allowing both children and adults to receive the benefits.

Policymakers should end this program rather than permanently adding it to the long list of federal food assistance programs.

Serious child nutrition reauthorization would address these deeply flawed policies. Congress should steer away from the failed policies of the Healthy, Hunger-Free Kids Act and toward policies that respect parents and local leaders, avoid extending the welfare state to middle-class and wealthy families, and do not add to the already massive means-tested welfare system.

#### No warrants for federal control—states can adapt standards to meet local needs

Baskt, Research Fellow at The Heritage Foundation 14 (Daren Bakst, Sep 16th, 2014 , "Parents, not bureaucrats, should decide what kids eat," Heritage Foundation, <http://www.heritage.org/education/commentary/parents-not-bureaucrats-should-decide-what-kids-eat>) lr

The assumption underlying these new standards is that the federal government must control nutritional policy in the schools because parents can’t be trusted to teach their children how to make dietary choices that meet their unique needs.

Proponents claim that parents need help because they can’t ensure their kids are eating properly at school. Of course, parents can’t know every single thing that their children eat at school, but this doesn’t mean parents haven’t provided their children with the necessary knowledge to make informed choices. Even assuming that schools need to limit food choices, this doesn’t justify federal control.

Parents concerned about the food provided to their children at school are much better off going to local officials to address these issues. They will generally get the chance to meet with the officials and have their voices heard.

Parents aren’t going to get very far trying to convince D.C. bureaucrats about their specific concerns. Local officials who would like to help have their hands tied with these new standards because they don’t have the necessary flexibility to address many concerns.

If the new standards provided greater flexibility to states and local authorities, it would help officials better meet the needs of their students and empower parents by giving them a greater say in the food provided through meal programs.

The federal standards have encountered a lot of criticism from nutrition officials as well as students. The independent Government Accountability Office surveyed state nutrition officials and found that local school food authorities had a slew of real-world concerns about the lunch standards, ranging from “increased plate waste” — bureaucrat speak for uneaten food — to the costs of meeting the new federal dietary code.

The School Nutrition Association has echoed these concerns. The National School Board Association cautioned, “School boards cannot ignore the higher costs and operational issues created by the rigid mandates of the Healthy, Hunger-Free Kids Act.” The mandates are so excessive that some schools have reportedly raided their teaching budgets to cover the extra costs.

Worse, students are disgusted by the food provided to them. According to the GAO report, students in one district held a three-week boycott against school lunches. Students are posting their anger over the program using Twitter at “#ThanksMichelle.”

The first lady and other proponents of the standards have turned a deaf ear to the complaints. They’ve even opposed giving some financially struggling schools a one-year reprieve from complying with the standards. Nothing, it seems, not even the mounting evidence of the program’s failure, will be allowed to slow its implementation.

And that’s a shame. Washington always hungers for power, but these federal meal standards aren’t fit for public consumption. They need to be scrapped.

### School Lunches – Solves Waste

#### State nutrition programs solve budget shortfalls

Edwards, Cato Institute Tax Policy Studies Director 16 (Chris Edwards, 5-26-2016, "Food Subsidies," Downsizing the Federal Government, <https://www.downsizinggovernment.org/agriculture/food-subsidies>) lr

School districts reap rewards for enrolling as many students as possible in the lunch program, in part because those numbers help determine funding tied to poverty levels. At the same time, federal law allows school officials to vet only a fraction of the lunch applications they receive — in the case of CPS, fewer than 1 percent."45

Other articles suggest similar sorts of abuses across the country.46 Local governments have incentives to maximize the number of program recipients, and so reducing abuse is not a priority for them. In effect, the school lunch and breakfast programs operate largely on the "honor system," as the Tribune story noted. Sadly, the honor system is not good enough these days when so many people are willing to swindle government programs.

Congress should end the school lunch and breakfast programs. If state and local governments wanted to take over the programs and fund them, they could do so. The states would have a stronger incentive to limit the abuse if it was their own taxpayer money that they were spending.

### Title I – Fed Fails

#### States can do whatever they want with Title I Funds making It impossible to ensure it serves low income students and diversity issues

Hinson 15 (Elizabeth K. Hinson, Mainstreaming Equality in Federal Budgeting: Addressing Educational Inequities With Regard to the States, 20 Mich. J. Race & L. 377 [2015])

Congress required that ESEA maintain a balance between federal power and local responsibility in order to pass both houses in a post-Brown political environment. Yet for decades since, this concept of local control has undermined the very intent of the Congressional legislation and has at the same time justified the wide disparities caused by local property taxes. State high courts that have invalidated property-tax finance systems properly held that expenditure disparities create wealth-based differences in educational opportunities. While the legislative responses to these decisions have given poor districts more revenue in order to reduce spending variations and enrich educational programs, some of the modified funding formulas do not ensure that substantive change will occur due to other obstacles at the local level Title I’s provision for state coordination to serve disadvantaged populations has little force of its own because even if states have the resources for such coordination, their participation is at their own election.193 The statute does not mandate that states receiving Title I funds use those funds to serve low-income students in specific ways, but rather, the statute permits various uses for the funds and uses general terms such as “provide services.”194 In many cases, states work at different capacities in terms of implementing the systems required to enforce the federal legislation. Again, these frustrations often go to inadequate funding and insufficient human resources. Due to tensions over local control, other state education agencies are still reluctant to intrude too much in local schools, even lowperforming ones.195 A new approach is required to combat the paralysis of poverty originally targeted by Title I legislation in 1965. However, the United States must reevaluate its definition of poverty and acknowledge that poverty in the United States is intricately linked to disadvantage as it relates to race and class and other discriminatory systems.196 A federal mainstreaming equality school funding scheme will create a moral imperative and mission at the federal level. The funding scheme will contribute the lion’s share of funding to those schools serving students categorized as disadvantaged. States will receive weighted funds based on this disadvantage, of which one consideration would be interstate disparities. To ensure fair interstate disbursement federal funds should be disbursed within states based on each individual schools’ assessed disadvantage rather than disadvantage by school district due to the extreme disparities which often exist within districts. This method will require school districts to change their budgeting methods. Instead of reporting district spending based on district averages and average per pupil expenditures, school districts will report actual spending for each school. As a result, targeted federal funds will arrive not at schools with already rich resources, such as veteran and high-paid teachers, but in the accounts of the most needy institutions. Through the implementation of a mainstreaming school funding scheme based on layered disadvantage and its multiplicative effects, long-time disparities between public schools in the United States may at last be countered and corrected.

### STEM – 1NC

#### States are best at reforming STEM education --- comparative ev

Lips, Senior Policy Analyst and McNeill, Senior Associate Fellow at the Heritage Foundation 9 (Dan Lips, 2-17-2009, "A New Approach to Improving Science, Technology, Engineering, and Math Education," Heritage Foundation, Date Accessed: 7/11/17, <http://www.heritage.org/education/report/new-approach-improving-science-technology-engineering-and-math-education>) lr

On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvest­ment Act of 2009--the $787 billion legislative pack­age hailed as an "economic stimulus." The legislation includes $2.5 billion in additional federal funding for the National Science Foundation, including new funding for science, technology, engineering, and math (STEM) education programs.[1] This legislation continues recent federal efforts, including the America COMPETES Act of 2007, to increase federal support for STEM education initiatives. Unfortunately, experience of the past 50 years sug­gests that such federal initiatives are unlikely to solve the fundamental problem of American underperfor­mance in STEM education--the limited number of students who complete elementary and secondary school with the skills and knowledge to pursue STEM coursework in higher education and succeed in many parts of the workforce. The American education sys­tem is supposed to be a pipeline that prepares chil­dren in elementary and secondary school to pursue opportunities in post-secondary education and in the workforce. It is well known that this pipeline is leaky--that millions of children pass through their K-12 years without receiving a quality education. Too many students drop out and, all too often, those who do earn a high school degree lack the academic qualifications to succeed in STEM fields in college or in the workforce. Improving learning in STEM education should remain a priority for American policymakers. For stu­dents, succeeding in K-12 STEM classes will open the door to future opportunities in higher educa­tion, and in the workforce. Also, ensuring that the next generation of American workers has adequate skills and training in critical areas is vital to America's national security and economic competitiveness. If the United States lacks the tools to combat aggressors, America's future is at risk. Wars are won partly with superior technologies--and America's survival depends on its ability to maintain an advantage over its enemies. U.S. scientists and engineers work every day to develop new tools to protect Americans from terrorism, such as lasers and explosives-detection devices. Tackling pressing global problems--from energy security to vulnera­ble cyber infrastructure--will require the intellec­tual curiosity and creativity of STEM-educated individuals. Given the importance of addressing these needs, policymakers should recognize the need for a new approach to STEM education in America. Instead of continuing to pursue elusive federal solutions, national and state policymakers should recognize the need for systemic K-12 education reforms at the state and local levels. Aggressive reform is the most promising strategy for fixing the leaky pipe­line in STEM education and for increasing the pop­ulation of American students prepared to pursue these fields in college and beyond. State policy­makers and the private sector should support reforms that allow greater innovation to improve STEM education, including new school models, providing incentives for teacher excellence, and supporting other initiatives to promote learning in STEM fields. The Broken Pipeline The systemic problems in U.S. public elementary and secondary schools are well known.[2] Millions of children continue to pass through American public schools without basic math and reading skills. Long-term measurements, such as national test scores and graduation rates, have remained flat despite significant increases in government spend­ing. In many large cities, fewer than half of all stu­dents even graduate from high school. On the 2005 National Assessment of Educational Progress science test, 46 percent of 12th-graders scored "below basic."[3] On the NAEP math exam, 39 percent of 12th-graders scored below basic--suggesting that nearly half of all high school seniors cannot answer basic algebra and geometry questions.[4] These eval­uations found that few students were excelling. In science, only 29 percent of 12th-graders scored "proficient" and only 3 percent scored "advanced." The performance in math was similarly dismal: 35 percent "proficient"; 5 percent "advanced." The performance of American students in science and mathematics compared to students in other countries is also concerning. The percentage of Amer­ican college students earning degrees in STEM fields lags behind students in China, India, Japan, Russia, Mexico, and even the Middle East.[5] The 2007 Trends in International Mathematics and Science Study (TIMSS) report revealed that students in a number of developed countries and economic competitors were outperforming U.S. students, particularly in the percentage of students excelling in science.[6] The End of the STEM Pipeline. Policymakers and analysts concerned about American students' low achievement in STEM fields often focus on the end of the pipeline--the percentage of American college students earning degrees in STEM fields and the population of the workforce prepared for science, technology, engineering, and math profes­sions. But the situation does not look much better as students continue to higher education. The Govern­ment Accountability Office (GAO) reported in 2006 that the percentage of U.S. post-secondary students earning degrees in STEM fields has fallen over the past decade--from 32 percent in 1995 to 27 per­cent in 2004.[7] A closer examination of the statistics shows that the number of degrees earned by college students in STEM fields has essentially remained flat during this period, since the college-student population as a whole increased during that period. In addition, an estimated one-third of these STEM degrees were awarded to students from abroad. Moreover, the declining percentage of STEM degrees earned has occurred during a period when the number of jobs in STEM fields has grown. The GAO reports that overall employment in STEM fields grew by 23 percent between 1993 and 2004, compared to growth of 17 percent in non-STEM fields. If these trends continue, American students may be less prepared to compete for jobs in STEM fields than students with degrees from other coun­tries. As the National Science Foundation reports, the percentage of students earning STEM degrees in other countries is already higher than in the United States.[8] STEM: A National Security and Economic Priority The bleak outlook for America's collective STEM abilities is a cause for concern. A STEM-educated workforce can help America gain a competitive edge in the global markets. For instance, America's ascent to economic superpower status began during the Industrial Revolution. The new products and processes that came out of this period of innovation sig­nificantly expanded America's economy, created jobs, and gave the U.S. an advantage against foreign competitors. The value of a STEM-educated work­force does not diminish in hard economic times. In fact, in the current economic climate, it is increasingly more important that the U.S. produce new and innovative technologies that will expand and create new markets and add more jobs. Not Just Economics. The shortage of STEM workers is not only an economic problem. Amer­ica's ability to produce a STEM-educated workforce has a direct effect on national security. The U.S. has enjoyed its status as the dominant scientific power ­for many decades. But as the economies of China and India have expanded, this position has fallen dramatically. A 2005 study by the National Bureau of Economic Research indicated that China will produce more "scientific and engineering doctorates than the U.S. by 2010."[9] The decrease in America's STEM expertise was stressed in a Defense Science Board report in 2008, which addressed the coming shortage of nuclear-deterrence know-how. The report cited the importance of this knowledge, noting that "no threat can put the nation's existence at risk as quickly and chillingly as nuclear weap­ons." The report also emphasized that "a significant part of the workforce in the national laboratories and production facilities are at or near retirement age"--and that there simply are not enough stu­dents going into STEM fields to fill the void.[10] Those who underestimate the impact of a STEM-educated work force on a nation's security need only look at America's cyber security problem. For­eign intelligence efforts increasingly rely on cyber tools to collect sensitive U.S. technology and eco­nomic information.[11] One of the major culprits is China--a country that has made cyber warfare one of its major espionage tools. China's People's Liberation Army (PLA) organized its first cyber warfare unit in 2003. Its mission: to target foreign com­puter network operations. In 2006, Chinese intelli­gence agencies covertly attacked at least four separate U.S. government computer networks. In June 2007, 150 computers in the $1.75 billion computer network at the U.S. Department of Homeland Security were quietly penetrated by pro­grams that sent an unknown quantity of informa­tion to a Chinese-language Web site. In the same month of June 2007, Chinese military hackers cir­cumvented one of the Defense Department's com­puter networks. The skills necessary for China to engage in this type of cyber warfare are a direct result of the ingenuity of STEM-educated Chinese citizens. The new technologies and techniques America needs to combat these types of attacks depend on America's ability to produce citizens with superior STEM skills. The STEM Education Crisis: Fifty Years and Counting The most recent alarm highlighting the crisis in STEM education sounded in 2007 with the publication of Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Eco­nomic Future--a report by the Committee on Pros­pering in the Global Economy of the 21st Century, a distinguished group of national leaders including Defense Secretary Robert Gates.[12] The report examined the changing trends in the world's labor force and highlighted the need to implement a series of reforms to improve the nation's economic competitiveness. The committee's first recommendation was to implement a new strategy for improving K-12 science and math education. Rising Above the Gathering Storm energized sup­port for the Bush Administration's American Competitiveness Initiative, aimed at strengthening U.S. education by improving math, science, and foreign language education,and spurred support for new congressional action, including the 2007 America COMPETES Act--legislation that authorized new programs and funding for federal STEM pro­grams.[13] The U.S. Department of Education's in­volvement in STEM fields was greatly expanded, including a new federal program to train 70,000 new teachers to teach Advanced Placement or Inter­national Baccalaureate courses. The act also autho­rized the U.S. Education Department to provide additional teacher training in STEM fields and to encourage students pursuing STEM majors to obtain teaching certification. The department and other federal agencies are also charged with providing additional funds and resources to help schools develop and implement new programs and strategies to promote learning in STEM fields. But those with a historical perspective on the STEM education crisis recognize the Gathering Storm report as only the latest in a series of national warnings about the crisis in STEM education and the continuing failure of Washington-centric educational policies that have done little to address the rampant under-education of America's children. In fact, the language of the report was similar to the words of President Dwight Eisenhower in 1958 as he signed into law the National Defense Education Act (NDEA), which was passed in part as a response to the growing concern about American security and competitiveness in the wake of the Soviet Union's launch of the Sputnik satellite.[14] Eisen­hower called the legislation "an emergency under­taking" for a temporary federal initiative to "strengthen our American system of education so that it can meet the broad and increasing demands imposed upon it by considerations of basic national security."[15] The NDEA included new benefits for college students and federal support for elementary and secondary schools to improve science, math, and foreign language instruction. It also provided a foundation for future federal support of post-secondary and K-12 education. During the 1960s, the federal education budget grew, including the cre­ation of the U.S. Department of Education. But the crisis in America's schools persisted. In 1983, the National Commission on Excellence in Education published the seminal report A Nation at Risk, highlighting the calamity that exists in the nation's education system: Our nation is at risk. Our once unchallenged preeminence in commerce, industry, science, and technological innovation is being over­taken by competitors throughout the world. This report is concerned with only one of the many causes and dimensions of the prob­lem, but it is the one that undergirds American prosperity, security, and civility.... What was unimaginable a generation ago has begun to occur--others are matching and surpassing our educational attainments. If an unfriendly foreign power had attempted to impose on America the mediocre educa­tional performance that exists today, we might well have viewed it as an act of war.[16] The report highlighted American students' poor performance in math and science. It also called for aggressive education reforms and a greater focus on standards and testing.[17] But despite ever more spending by the federal and state governments, little has changed. The deteriorating quality of American education--particularly in STEM fields--continued to be a priority under subsequent Administrations. In 1989, President George H. W. Bush convened a national summit of governors, including then-Gov­ernor Bill Clinton, designed to forge a national con­sensus on the need for education reform. The summit was premised on the belief that improving education was a key to ensuring American economic competitiveness. Among the goals established at the summit was that "U.S. students will be first in the world in mathematics and science achievement."[18] President Clinton would also highlight the need to improve STEM education. Recent Federal STEM Initiatives. Since 2005, Congress has enacted legislation that has changed and expanded the federal government's intervention in STEM education. The Deficit Reduction Act of 2005 included provisions to provide new college scholarships for qualifying students who pursue coursework in mathematics, technology, engineering, critical foreign languages, and in physical, life, and computer sciences. But in 2006, the GAO reported that that the federal government has provided little information about the effectiveness of these programs and urged more evaluation and coordination.[19] The GAO emphasized that the federal government had spent nearly $4 billion on more than 200 STEM programs in 2004.[20] It also stated thA2: "Although evaluations had been done or were underway for about half of these programs, little is known about the extent to which most STEM programs are achieving their desired results."[21] The GAO's conclusion in congressional testimony was that it was "important to know the extent to which existing STEM education programs are appropriately targeted and making the best use of available federal resources--in other words, these programs must be evaluated--and a comprehensive evaluation of federal programs is currently nonexistent."[22] Despite this recommendation for reform, the federal government continues to expand federal STEM programs. In fact, President Barack Obama has signaled an interest in continuing the focus on STEM education. As a Senator, he sponsored the Enhancing Science, Technology, Engineering, and Mathematics Educa­tion Act of 2008--legislation that would have reformed federal STEM education programs and encouraged new STEM initiatives at the state level (it was never enacted into law).[23] At the time, Sen­ator Obama said: "We must ensure our nation remains a global leader in scientific advancement and technology innovation, and that begins with strengthening America's schools. Our students deserve the education and skills they need to compete in today's global economy and to understand the increasingly complex issues that face our democracy, and we must do everything we can to provide them with the resources and curriculum they need to succeed." STEM Funding in the American Recovery and Reinvestment Act of 2009. During his short time in office, President Obama has already approved legislation that would extend federal funding for STEM education programs. The American Recovery and Reinvestment Act continues on the same path: providing even more federal funding for STEM edu­cation programs. The act features $2.5 billion in new funding for the National Science Foundation (NSF), including initiatives for STEM education and requires that $100 million of that $2.5 billion be used for the NSF's Education and Human Resources Department, whose stated mission is to "achieve excellence in U.S. science, technology, engineering and mathematics (STEM) education."[24] These funds will likely be used to support teacher training and research to improve math and science instruc­tion. The additional funding for NSF can be used on other projects, some of which may include support for STEM education, such as by funding STEM programs at higher education institutions. Unfortu­nately, years of federal support for STEM education programs have failed to prepare American students to enter STEM fields. A New Way Forward Even though the government has spent billions of dollars on massive federal programs aimed at tackling the STEM problem over the past 50 years, the problem persists. Experience has shown that the most recent federal STEM initiatives, including the funding increases in the American Recovery and Reinvestment Act, are unlikely to be the solution. The importance of improving STEM education for national security and economic competitiveness should force federal policymakers to evaluate whether the current policies are likely to solve the problem and fix the leaky pipeline. A can­did assessment of the current approach would find that it has failed to do so. The solution to the STEM problem will not be found in the halls of Congress. Success will not be found in a litany of federal policy initiatives or increased spending. What is needed is a major transformation in this country's approach to education, beginning at the state and local level: State leaders should embrace systemic educa­tion reforms to improve student learning. Fixing the broken pipeline in STEM education will require fixing the overall quality of public educa­tion in America. States and localities are best positioned to implement the kinds of sweeping education reforms that change public school governance to encourage improvement. The state of Florida offers a blueprint. for sys­temic education reform that is improving stu­dent learning Over the past decade, Florida has gone further than most states in reforming the governance of its public school systems. Before the No Child Left Behind Act created federal requirements for state testing, Florida was hold­ing schools accountable for results by testing students annually and grading public schools based on their performance on state tests. Florida has also gone further than other states in offering parents public- and private-school choice. In addition, Florida has implemented other education reforms, such as ending social promotion by requiring students to master read­ing before advancing to the fourth grade, improving reading instruction, and reforming how teachers are hired and compensated. This aggressive approach to reform has led to significant improvement in student achievement. Since these reforms began in 1999, Flor­ida's students have made dramatic progress on the annual National Assessment of Educational Progress, a reliable indicator of student learn­ing.[25] States across the country should imple­ment similar aggressive reforms to improve the public education. Strengthening the overall quality of public schools through these types of reforms is the most important step to fix the bro­ken pipeline to ensure that more children are able to succeed in STEM classes. State and local policymakers and school leaders should enact new policies to improve teacher quality in STEM fields. One focus of systemic reform to improve STEM education should be to strengthen teacher quality and effectiveness. Teacher quality is an important factor in deter­mining students' classroom performance.[26] Public schools in the United States traditionally pay teachers based on seniority and academic credentials--an approach that does not account for the significant differencesbetweenSTEM coursework and labor market demands. The first action that policymakers should perform, there­fore, is to implement policies to reform teacher compensation, such as allowing STEM teachers to receive higher salaries than teachers of other subjects.[27] This is particularly necessary since those who are qualified to be STEM teachers may be in greater demand in professional fields beyond education than other teachers.[28] Second, states and school systems should open up new pathways for qualified professionals to become school teachers, which would be partic­ularly beneficial for increasing the pool of effec­tive STEM teachers. Policymakers are increasingly enacting alternative teacher certification pro­grams, which allow qualified professionals to train to become school teachers without completing traditional teacher certification requirements.[29] States and school districts should facilitate alternative teacher certification to encourage talented professionals to pursue teaching with a particular focus on teachers prepared for STEM fields. Third, policymakers and school leaders should implement policies like performance-based pay to create new incentives to promote excellence in teaching and student learning. An attractive alternative approach to encouraging greater participation in "Advanced Placement" (AP) coursework would be to provide incentives and bonuses to encourage more students to take-- and pass--AP exams. Since 1996, the Dallas school system has been providing financial incentives to students who take and pass AP exams. Their teachers, too, can receive financial bonuses when their students pass these exams. The program has led to a dramatic increase in the number of students who pass AP exams, especially among minorities.[30] A similar state­wide program in Florida has also led to dramatic increases in students who pass the AP exams.[31] This incentive-based approach to achieving quality teaching and learning should be applied to STEM education. States and localities should encourage new school models. Another focus of state-level sys­temic reforms should be to facilitate school-wide innovation and the creation of new schools that focus on STEM education. One promising education reform trend in recent decades has been the growth of charter schools. Charter schools are public schools that are free of many of the traditional regulations governing traditional public schools--including the aspect that parents can choose these schools even if they are not in the designated school district. Today, there are more than 1.4 million students attending more than 4,500 public charter schools in 40 states and the District of Columbia.[32] A key difference between charter schools and traditional schools is that charters grant school leaders the authority and autonomy to define a school's instructional mission and to use the school's resources for that mission. Heads of charter schools, for instance, have the authority to hire and fire their teachers. Charter school success stories highlight how innovation and effective leadership in schools can improve opportunities for students and help fix the broken pipeline in STEM education. KIPP Academy public schools are widely recognized as one of the most successful charter school models. There are currently 66 KIPP schools serving 16,000 students across the country.[33] KIPP schools traditionally serve low-income students, and have a track record of lift­ing students' academic achievement. The KIPP 2009 Report Card shows that students who entered KIPP schools in fifth grade scored only in the 40th percentile on the national math test. After four years, these same students scored in the 82nd percentile.[34] The private sector should support and foster innovative solutions to improving STEM edu­cation. The private and non-profit sector can support STEM education by implementing part­nerships with schools and other initiatives. One promising private initiative is Project Lead the Way--a non-profit organization that is working to give middle and high school students instruc­tion and experience in science and engineering. The purpose of this instruction is to increase the number of students who pursue engineering or technology programs in college. During the 2008-2009 school year, 500,000 students will take part in Project Lead the Way instruction. Project Lead the Way is an example of a private-sector initiative that has evolved from the need to fix the broken pipeline of STEM education. The private sector does not need to wait for federal and state government action to address the STEM education crisis. Congress should increase the number of H-1B visas to close the education gap. Currently, the law permits only 65,000 H-1B visas to be granted each fiscal year. H-1B visas are reserved for those foreigners who have a specialized skill and at least a college degree. Many of these appli­cants are highly skilled in STEM fields. Admit­ting such a low number of these highly qualified workers contributes to America's STEM problem and hurts high-tech industries by pushing the smartest people around the world to work in competing countries like China. In fact, some U.S. companies are so desperate for workers, that they have moved certain branches to Can­ada and Mexico where immigration laws are friendlier. This was the case for Microsoft, which in 2008 decided to open a branch in Vancouver in order to hire 150 engineers who were not for­tunate enough to obtain an H-1B visa to work in the U.S.[35] A survey by the National Foundation for American Policy found that 65 percent of high-tech companies employed people outside the United States because workers were unable to obtain an H-1B visa.[36] Congress should return the cap to its previous amount of 195,000.[37] The cap should also be flexible enough to respond to the needs of the marketplace. By increasing the H-1B cap, Con­gress would allow companies to fill vital posi­tions and to expand within the United States-- keeping companies from outsourcing work or moving overseas. This would also allow companies to engage in more innovation and produce better and new technologies, contributing to a brighter and more secure economic future for all Americans. Congress should resist new efforts to expand federal programs, including those that sup­port STEM education, and instead focus on reforming existing federal programs to encourage state and local innovation. Federal policymakers should review the effectiveness of current STEM education programs and termi­nate those programs they find to be ineffective or unnecessary. Moreover, federal policymakers should reform major federal education programs like No Child Left Behind to facilitate reform and innovation at the state level.[38] Conclusion For more than 50 years, American political, business, military, and academic leadershave emphasized the economic and national security reasons for improving STEM education. Yet after a half century, American students continue to underperform in sci­ence, technology, engineering, and math. Instead of focusing on federal solutions and increased spend­ing for national STEM programs, policymakers and the private sector should refocus attention on sys­temic education reforms at the state, local, and school levels to fix the broken pipeline and dramat­ically increase the number of students who are able to succeed in STEM fields at school and in the workforce. These reforms should include a full spectrum of education reforms--from more choice and autonomy for parents and school leaders to encouraging new school innovation and changing how teachers are hired and compensated. These reforms must include initiatives aimed at improving teacher quality--from changes in compensation structures to alternative certification programs. Finally, America must begin to involve the private sector in educa­tion and seek out new and innovative school models that will allow for greater specialization in STEM coursework.

### STEM – Feds Fail

#### States are key to STEM education --- provide unique flexibility that facilitates implementation

Burke, Director, Center for Education Policy in the Institute for Family, Community, and Opportunity and McNeill, Senior Associate Fellow at the Heritage Foundation 11 (Lindsey Burke and Jena Baker McNeill, January 5th, 2011, "“Educate to Innovate”: How the Obama Plan for STEM Education Falls Short," Heritage Foundation, Date Accessed: 7/11/17, <http://www.heritage.org/education/report/educate-innovate-how-the-obama-plan-stem-education-falls-short>) lr

Abstract: President Obama’s Educate to Innovate initiative has provided billions in additional federal funding for science, technology, engineering, and mathematics (STEM) education programs across the country. The Administration’s recognition of the importance of STEM education— for global competitiveness as well as for national security—is good and important. But the past 50 years suggest that federal initiatives are unlikely to solve the fundamental problem of American underperformance in STEM education. Heritage Foundation education and national security analysts explain that, though Educate to Innovate is intended to raise the U.S. “from the middle to the top of the pack in science and math,” the federal program’s onesize-fits-all approach fails to remedy the underlying problems of academic performance and does not plug the leaky pipeline in the American education system. In the 1950s and 1960s, Sputnik and the space race inspired a generation of Americans to pursue education and careers in science and technology. Half a century later, American students are now ranked 22nd and 31st among their peers throughout the world in science and math, respectively. Students in the United States, once a leader in science, technology, engineering, and mathematics (STEM), are now outperformed by students from Liechtenstein, Slovenia, Estonia, and Hungary, among others.1 In 1983, the National Commission on Excellence in Education published “A Nation at Risk,” a national study that highlighted the unacceptable state of the American education system: Talking Points • Half a century after the Space Race, American students are now ranked 22nd and 31st among their peers throughout the world in science and math, respectively. • The Obama Administration’s Educate to Innovate campaign falls short of its goal of increasing American students’ science, technology, engineering, and math (STEM) proficiency because it fails to address the underlying problems that plague the current educational system. • In order to increase STEM proficiency, the Obama Administration should limit, not increase, federal influence over education, and afford state and local policymakers flexibility with their federal education dollars in order to better target resources to those areas most in need. Access to STEM courses can be expanded with the proliferation of high-quality virtual education programs. • A STEM-educated workforce is vital to the security and the prosperity of the U.S. as industry and government increasingly demand highly trained STEM professionals to compete in the global market. No. 2504 page 2 January 5, 2011 Our nation is at risk. Our once unchallenged preeminence in commerce, industry, science, and technological innovation is being overtaken by competitors throughout the world. This report is concerned with only one of the many causes and dimensions of the problem, but it is the one that undergirds American prosperity, security, and civility.... What was unimaginable a generation ago has begun to occur—others are matching and surpassing our educational attainments. If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war.212 More than two decades later, in 2010, the National Academies of Science, Engineering and Medicine published “Rising Above the Gathering Storm, Revisited: Rapidly Approaching Category 5,” which built on the findings of their 2005 “Gathering Storm” report. Notably, the report warns that, “Today, for the first time in history, America’s younger generation is less well-educated than its parents.”3 Attempting to counter the faltering academic standing of American students and seeking to elevate them “from the middle to the top of the pack in science and math,” the Obama Administration announced its Educate to Innovate initiative in November 2009.4 The program, while touted as an effort to enhance STEM education, falls short of achieving this goal because it fails to address the underlying problems that plague the current educational system. The Obama Administration should limit, not increase, federal influence over education, and afford state and local policymakers flexibility with their federal education dollars in order to better target resources to those areas most in need. For their part, state and local policymakers should: • Promote alternative and flexible means to certify new teachers; • Create an environment favorable to online education to allow more students to have access to quality STEM education; • Link teacher pay to performance to help recruit and retain qualified teachers; and • Reform the traditional public school structure to promote school choice. Educate to Innovate President Barack Obama’s Educate to Innovate campaign is touted as a collaborative effort between the federal government, the private sector, and the non-profit and research communities to raise the standing of American students in science and math through commitments of time, money, and volunteering. The program strives to increase STEM literacy, enhance teaching quality, and expand educational and career opportunities for America’s youth. When the program was first announced in November 2009, the participating organizations offered a financial and in-kind commitment of more than $260 million. Taxpayer obligations for the federal government’s portion of Educate to Innovate add to that total. Additionally, five public–private partnerships were announced, as well as commitments by key societal and private-sector leaders to mobilize resources for STEM education, innovation, and awareness.5 These partnerships and commitments are: • Time Warner Cable’s “Connect a Million Minds” (CAMM), which pledges to connect children to after-school STEM programs and activities in their area; • Discovery Communications’ “Be the Future” will broadcast dedicated science programming to more than 99 million homes and offer interactive science education to approximately 60,000 schools; • Sesame Street’s “Early STEM Literacy” commits to a two-year focus on STEM subjects; • National Lab Day will promote hands-on learning with 100,000 teachers and 10 million students over the next four years, and foster communities of collaboration between volunteers, students, and educators in STEM education. These initiatives will then culminate in a nationally recognized day centered on science activities; • The National STEM Video Game Challenge promotes the design and creation of STEMrelated video games; • The annual White House Science Fair will bring the winners of science fairs from across the nation to the White House to showcase their STEM creations and innovation; and • Sally Ride, first female astronaut, Craig Barrett, former Intel chairman, Ursula Burns, CEO of XEROX, and Glenn Britt, CEO of Eastman Kodak, committed to foster interest and support for STEM education among American corporations and philanthropists.6 In January 2010, President Obama announced the continuance of the program, highlighting the half-billion-dollar financial commitment from the Administration’s partners. This expansion includes an added commitment of $250 million in financial and in-kind support, and a promise by 75 of the nation’s largest public universities to train 10,000 new teachers by 2015. The program expansion also included further public–private partnerships intended to facilitate the training of new STEM educators, including the launch of Intel’s Science and Math Teachers Initiative and the PBS Innovative Educators Challenge, as well as the expansion of the National Math and Science Initiative’s UTeach program and Woodrow Wilson Teaching Fellowships in math and science. Furthermore, the President called on 200,000 federal government employees working in the fields of science and engineering to volunteer to work with educators in order to foster enhanced STEM education.7 A More Fundamental Problem When President Obama announced his Administration’s plan to enhance STEM education, he affirmed that “we know that the nation that outeducates us today will out-compete us tomorrow.”8 The President’s plan to enhance STEM education, much like similar efforts in the past to improve education through short-term bursts with federal dollars, falls short of the dramatic changes needed in the educational system to truly fill the gap. The need to improve STEM education in the United States is no recent revelation. Over the past 50 years, American leaders have repeatedly discussed the need to enhance STEM education. Yet, despite increasing federal efforts and spending, U.S. students continue to under-perform in STEM subjects. In 2007, for instance, the America COMPETES Act created new federal funding for STEMeducation. The act included the creation of a new federal initiative to train 70,000 new teachers in Advanced Placement and International Baccalaureate courses, as well as initiatives intended to provide existing teachers with STEM training and to encourage university students pursuing STEM degrees to concurrently obtain teaching certifications. Despite these efforts, there remains a major shortage of qualified STEM teachers throughout the nation—and American students continue to perform worse than their peers in STEM subjects.9 Encouraging the private sector to get involved in the education of tomorrow’s workforce can align the education of today with the skills needed for tomorrow. Using creative approaches to tackle learning challenges is certainly a concept that should be embraced. The problem with the President’s approach, however, is that the root of America’s STEM education deficit is much more fundamental than the problems addressed by the President’s initiatives. The American K–12 education system is meant to function as a pipeline that prepares students for higher education and careers. But with an average annual dropout rate of close to 10 percent, there is little doubt that this pipeline has sprung a leak.10 Even many of those who do graduate with a high school diploma lack the knowledge and skillbase to succeed in the STEM field. In the United States today, just 73 percent of freshmen entering high school will graduate within four years, and those who do are often not adequately prepared for higher education and careers in STEM fields.11 Too many students are not making it through the leaky pipeline of the American education system with the skills they need to succeed. The reasons for their underperformance stems from a number of problems: A One-Size-Fits-All Approach. Despite increasing federal control over the American education system over the past 50 years, educational achievement across the country has continued to deteriorate.12 A large part of the problem is that the federal focus centers on a one-size-fits-all approach. Most recently, this approach is part of the Obama Administration’s efforts to impose national education standards and tests on states. This is a significant federal overreach into states’ educational decision-making authority, and will likely result in the standardization of mediocrity, rather than a minimum benchmark for competency in math and English.13 Applying a blanket approach to education reform undermines innovation in STEM education, increasing conformity at the expense of meeting the diverse needs of students and parents. Recruiting Quality Teachers. The Educate to Innovate initiative increases Department of Education grants to train teachers in the STEM fields by $10 million, and lauds a promise by 75 of the nation’s largest public universities to train 10,000 new teachers by 2015. But in pledging to train 10,000 new teachers over the next five years, public universities will be training just 2,500 more teachers in the STEM fields than are currently being trained. This means that each of the 75 schools will train just six new teachers per year.14 A major impediment to improving STEM education in the public school system, however, is the ability of schools to recruit quality teachers in the field. The average salary for K–12 teachers in the 2006–2007 school year was $51,000, 86 percent of the yearly salary of occupations requiring similar education.15 More than half of the workers in science and engineering fields earned a salary of $70,600 or more in 2007.16 Students graduating from college with STEM degrees recognize that they can earn more in non-teaching professions and are shying away from careers in education. The Business Higher-Education Forum estimates that by 2015 there will be a shortage of 283,000 science and education teachers in secondary education alone.17 Concurrently, barriers also exist discouraging those who are currently in STEM professions from becoming teachers. Individuals with a professional background in STEM have the potential to be outstanding teachers because of their in-depth understanding of the subjects and practical experience. In many cases, however, these individuals face difficulties in obtaining teaching certifications, in terms of time, cost, and prohibitions imposed, often from federal policymakers. Fixating on the Traditional School Model. While alternative education programs have long been in development, the American education system has continued to fixate on the traditional school model. Alternative education programs offer much promise for fostering innovation in education across the country. Online or virtual learning programs, for example, allow a break from the traditional model in which educational opportunity is tied to one’s zip code and enables students to gain access to the best teachers regardless of where they are located. In 2009, the U.S. Department of Education conducted a meta-analysis of online-learning studies and concluded that “students who took all or part of their class online performed modestly better, on average, than those taking the same course through traditional face-to-face instruction.”18 Online-learning options are growing rapidly and present an effective new medium for STEM education. As of 2009, 45 states had some form of onlinelearning program, with more than one million students enrolled in courses online.19 Plugging the Leaky Pipe This leaky pipeline is perpetuated as students, ill-prepared by a faltering educational system, face significant challenges in pursuing STEM education in post-secondary school. While the absolute number of students attaining STEM degrees more than doubled between 1960 and 2000, the number of students attending college increased. The percentage of students obtaining STEM degrees has, thus, held relatively constant around 17 percent for the past several decades. In the 2002–2003 school year, for example, of the approximately 2.5 million degrees awarded, 16.7 percent of bachelor’s degrees, 12.9 percent of master’s degrees, and 34.8 percent of doctoral degrees were in a STEM field. In comparison, roughly equal numbers of bachelor’s degrees were awarded in STEM as were awarded in business, and twice as many business master’s degrees were awarded. Only at the doctoral level do STEM degrees exceed most other fields.20 Despite the low number of STEM degrees awarded, demand for STEM professionals is growing. The Government Accountability Office (GAO) reports that between 1993 and 2004, employment in STEM fields grew by 23 percent, while overall employment in non-STEM fields grew by only 17 percent.21 Furthermore, in 2010, the National Science Foundation reported that “the S&E [science and engineering] workforce has shown sustained growth for over a half a century, and growth is projected to continue in the future.” The same National Science Foundation report also estimated that the average annual growth rate for the science and engineering workforce is 6.2 percent, compared to 1.6 percent for the overall U.S. workforce. While the current economic recession has strained employment opportunities, the need for STEM remains strong and is a means to foster innovation in national security and industry, as well as promote job growth in research and development and related areas. The current educational system, however, continually fails to prepare students for a post-secondary STEM curriculum. This means that America needs a real solution to the challenges in STEM education, one that develops and fosters interest in the subjects from an early age and builds a strong base of STEM-educated citizens throughout the United States. In order to achieve this goal, federal and state policymakers should work toward genuine education reform that empowers parents to choose a school that best meets the needs of their children. Data demonstrate that the one-size-fits-all federal efforts to improve STEM education have simply fallen short in educating America’s children in science, technology, engineering, and mathematics. Educate to Innovate is another broad scheme that will spend taxpayer dollars without getting to the root cause of deficiencies in the K–12 education system. In order to plug the leaky pipeline of STEM education, states should: • Seek alternative and flexible means to certify new teachers. Too many science and math teachers do not have a degree in the subjects they teach. STEM majors have the potential to serve as high-quality science and math teachers; however, the rigor of such courses of study makes it difficult for these students to concurrently pursue minors or certificates in education. Traditional education degrees or certificate programs have a high cost in both time and money. Alternative certification programs, however, offer a low-cost, time-efficient means of training greater numbers of quality STEM professionals to enter the teaching field. Organizations such as the American Board for Certification of Teacher Excellence (ABCTE) offer increasing appeal to both potential new teachers and schools seeking to hire these excellent teachers. Last year, ABCTE provided 219 new teachers with certificates, up from 144 in 2008. The cost of this program is a mere $1,995, while a traditional university degree could cost on average $28,080 at a public four-year university, or upwards of $105,092 at a private university.22 Candidates for an ABCTE certificate need only to hold a bachelor’s degree, pass a background check, and pass teaching-knowledge and subject-area exams, with most completing the program in less than a year. ABCTE certification is already accepted as a teaching qualification in Florida, Idaho, Mississippi, Missouri, New Hampshire, Pennsylvania, South Carolina, Utah, and Oklahoma.23 While alternative teacher-certification skeptics have argued that such programs are not as rigorous, research has shown these concerns to be unfounded.24 ABCTE reports that only 40 percent of its candidates are able to complete their rigorous program, highlighting its quality and merits.25 Nevertheless, traditional four-year universities are also stepping up in forming programs to encourage and enable STEM majors to pursue teaching after graduation. The University of Texas at Austin’s UTeach program, for example, offers students the opportunity to obtain a STEM degree and a teaching certificate concurrently.26 The University of Texas is now graduating 70 science and math teachers per year with a 70 percent retention rate compared to the 50 percent national retention rate.27 Following on the UTeach example, 13 other universities, including the University of California at Berkeley, have begun similar programs as part of the National Science and Mathematics Initiative (NSMI).28 • Encourage greater access to online classes and programs. In recent history, the quality of education available to a student has largely been determined by zip code. Online education programs, however, provide quality STEM education to students regardless of geography. Approximately 1 million students, or 2 percent of U.S. K–12 students, already participate in online education, with 27 states offering statewide virtual schools and 24 states plus the District of Columbia allowing students to attend these schools full-time.29 Across the nation, there is a great variety of online or virtual learning programs. Many offer supplementary education, presenting students the opportunity to take classes not offered at their schools (whether an upper-level Advance Placement (AP) class or basic physics) or offering a hybrid education to enhance in-class instruction. Others offer full-time programs or cyber charter schools where students “attend” all of their classes online. These programs may be either publicly run, under state, school district, or charter authority, or privately run, as the for-profit education industry now accounts for roughly 10 percent of the education market.30 Another added benefit to online education is the ability to customize programs to student needs and allow students to work at their own pace. For STEM education and beyond, virtual learning programs address teacher shortages. Students are able to take a chemistry class from the best instructors online, countering the fact that many school districts have trouble finding qualified STEM teachers. Some online programs even offer virtual chemistry or biology laboratories. • Link pay to performance. Teachers’ salaries have long been based on seniority and credentials, completely ignoring market influence and teacher efficacy. To help recruit and maintain qualified teachers, school districts should link pay to performance. For STEM teachers or those with degrees or professional experience in the field, higher salaries are more prevalent in industry than in the teaching profession. Recognizing this market demand, employers may need to offer STEM teachers better compensation. Providing bonuses for those teachers who are successful in recruiting more students to enroll and pass AP courses in the STEM fields could attract and retain high-quality teachers.31 In Florida, a state leader in education reform, the One Florida program offers $50 in sta funding to teachers for each of their students who pass an AP exam, up to $2,000 a year.32 • Empower parents with school choice. Millions of students across the country are trapped in low-quality, government-assigned public schools. School choice, however, offers parents the opportunity to choose schools for their children that offer better opportunities that meet their children’s needs. Last year, 23 private-school-choice programs in 15 states and the District of Columbia offered varying degrees of school choice options to 190,000 of the nation’s students. These programs not only provide better educational opportunities, but force schools to have greater accountability to students and their families through competition. In addition, 40 states and the District of Columbia permit charter schools, and 46 states have publicschool-choice options.33 In the case of public-school choice, a key component has been the availability of “backpack funding,” or allowing funding to follow a student to a public school of choice. Such mobile funding also offers great potential for the future of online education, such that students could be able to use either a portion of their educational funding for supplemental virtual education or all of their educational funding for full-time programs. A Nation at Risk A STEM-educated workforce is vital to the security and the prosperity of the U.S. as industry and government increasingly demand highly trained STEM professionals to compete in the global market, and look to science and technology to help stay one step ahead of national security threats. The United States must not allow itself to continue to be outcompeted in science, technology, engineering, and mathematics. While the Administration’s Educate to Innovate initiative is intended to raise the U.S. “from the middle to the top of the pack in science and math,” this one-size-fits-all, federal approach fails to remedy the underlying problems of academic performance and does not plug the leaky pipeline in the American education system.

#### Federal government efforts alone fail

McNeill, Senior Associate Fellow at the Heritage Foundation et al 9 (Ethel Machi, an independent researcher, drafted this report. Jena Baker McNeill is Policy Analyst for Homeland Security in the Douglas and Sarah Allison Center for Foreign Policy Studies, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies; Jennifer A. Marshall is Director of Domestic Policy Studies; Dan Lips is Senior Policy Analyst in Education in the Domestic Policy Studies Department; and James Jay Carafano, Ph.D., is Assistant Director of the Kathryn and Shelby Cullom Davis Institute for International Studies and Senior Research Fellow for National Security and Homeland Security in the Douglas and Sarah Allison Center for Foreign Policy Studies, at The Heritage Foundation. June 16, 2009, Date Accessed: 7/11/17, <http://files.eric.ed.gov/fulltext/ED505842.pdf>) lr

The Federal Government Cannot Solve the STEM Crisis Alone. Decades of engagement show that the federal government is incapable of adequately resolving crises in education. Federal money is quickly thrown at the problem and there is often little or no accountability for how it is spent. New programs and spending are often more symbolic than substantive. The resulting “solution” is not something that benefits the country, but fits the desires of the most effective lobbyists. America needs a real solution to today’s STEM crisis. There are no shortcuts to solving the problem. Solving the STEM-education crisis will require making significant changes in the elementary and secondary education system to improve learning opportunities for all children from kindergarten through high school in order to prepare more students to succeed in STEM coursework.

### STEM – AT Trump deficit

#### Despite uncertainty, Trump policies may support STEM and lacks prez powers to be devastating

Powell, Scientifc American writer 16 (Devin Powell, 12-5-2016, "Trump's First 100 Days: Science Education and Schools," Scientific American, Date Accessed: 7/11/17, <https://www.scientificamerican.com/article/trumps-first-100-days-science-education-and-schools/>) lr

But there are limits to presidential power. Trump said in an interview in 2015 that he might “cut” the U.S. Department of Education. Such a move would require Congress, and that body has consistently increased funding to the department since Pres. Jimmy Carter elevated it to cabinet-level status in 1979. The new administration will also have no official say over what is taught in the classroom. Consider Trump’s oft-repeated pledge to “end” the Common Core, a set of standards for math and English developed by state leaders (not by the federal government, as is often believed). The U.S. Constitution does not grant the president—nor Congress—the ability to set education standards. Each state makes its own decision. Recent legislation, the Every Student Succeeds Act (ESSA), further restricts the federal government from even trying to influence a state’s decision—as Obama did with his $4.35-billion Race to the Top Fund, which favored Common Core states when awarding federal grants. ESSA shields state adoption of the Next Generation Science Standards from federal meddling; released in 2013 by a coalition of states and scientific organizations, these research-based standards have so far been adopted by 17 states. If the Trump administration has any influence on curricula, it could well be via the antiscience rhetoric of its inner circle. Pence has publicly supported the teaching of creationism. Myron Ebell, head of transitioning the U.S. Environmental Protection Agency and director of the Center of Energy and Environment at the Competitive Enterprise Institute, is a vocal climate change skeptic. So is Trump, who tweeted in 2012 “the concept of climate change was created by and for the Chinese.” (The Chinese have corrected him.) Science education advocates warn the legitimization of such nonscientific views at the highest levels of government could trickle down to local policies. Education boards in several states, such as Louisiana and Texas, have already been battling over how evolution and climate change should be taught, as have state legislatures considering bills that would allow teachers to treat these subjects as controversial. Nearly all of this legislation has emerged in states that were won by Trump. “We see 10 to 12 of the bills every year, and their intent is clearly to give teachers cover to teach nonscience in science classrooms,” says Ann Reid, executive director of the National Center for Science Education (NCSE). “None have passed recently, but there’s a danger that the people introducing these bills and school boards trying to change standards will be emboldened.” According to Reid, NCSE surveys suggest that many teachers avoid teaching evolution and climate change, concerned that parents will complain. She predicts community pressure around these issues will only increase. Just as White House rhetoric could influence what is taught in classrooms, silence on STEM or other education issues like diversity could also have an impact, cautions Quincy Brown, program director for STEM Education Research at the American Association for the Advancement of Science. She highlighted Obama’s 2011 State of the Union call to train 100,000 new STEM teachers; the coalition of public, private and nonprofit organizations that formed in response, 100Kin10, reported that 30,000 new teachers have been trained to date. “These kinds of initiatives motivate the educational community,” Brown says. “If messages like that are not coming from the top, I wonder whether there will be a shift in priorities.” Even Trump’s views on seemingly unrelated issues could affect STEM education. He has called for restrictions on H-1B visas, which allow companies in the U.S. to hire temporary workers from abroad for specialized positions that are hard to fill. But revenue from these visas, amounting to $1 billion, is the sole source of funding for a technical skills training program for domestic workers run by the U.S. Department of Labor as well as a STEM scholarship program for students that is administered by the National Science Foundation. Amidst the uncertainty, some remain hopeful that the federal government will continue its support STEM education. Trump has said he will cap student loans, an issue popular with Democrats. And his plan for his first 100 days in office pledges support for vocational and technical schools. “This could be an area of overlap between Trump and Obama,” says Jon Miller, director of the International Center for the Advancement of Scientific Literacy at the University of Michigan. “They both embrace community colleges.” Hoping to influence policy, a group of organizations representing science teachers has reached out to the new administration. “We have been in contact with the transition team,” says David Evans, executive director of the National Science Teachers Association. “We have laid out a paper highlighting the importance of STEM education for the workforce priorities they have.”

### STEM – AT flexibility deficit

#### Job standards are already uniform

The Atlantic 13– a News outlet(“A New National Education Imperative”, 10-9-13, The Atlantic, http://www.theatlantic.com/sponsored/chevron-stem/new-national-education-imperative/29/)

With such a wide application of these technical skills, the nationwide job market for STEM skills provides fertile terrain for job applicants of all backgrounds. The skills necessary to take advantage of these available jobs are standardized across the country, and “do not differ from state to state,” according to Michael Cohen, President of Achieve – an independent, bipartisan, non-profit organization that advises states on a variety of academic matters.

### Vaccines

#### Counterplan solves – Vaccinations are a state responsibility

Grady, New York Times reporter 15 (Denise Grady, 2-16-2015, "Vaccinations Are States’ Call," New York Times, Date Accessed: 7/11/17, <https://www.nytimes.com/2015/02/17/health/vaccinations-are-states-call.html>) lr

Can the government go further? Can officials require that citizens receive vaccines? The answer, legal experts say, is yes. The authority to require vaccination belongs to the states. “Each individual state really has complete power,” Mr. Gostin said. There is a common misconception that the federal government controls vaccination, he added. But federal authority applies only with matters of national concern, such as border crossings or immigration. States generally follow recommendations made by the Centers for Disease Control and Prevention. All 50 states require that children receive a certain schedule of vaccinations before they start preschool or school unless the child has a medical condition — like an immune disorder or cancer — that would make vaccination risky. This type of legal requirement is indirect: It does not compel vaccination but makes it condition for entering school. In theory, Mr. Gostin said, states could require vaccination itself.

### Vaccines – defense of uniformity

#### States should adopt a uniform vaccination law.

Lobo 16 (James, Joined Ropes & Gray in 2016 as an associate in the corporate department. During law school, James served as an articles editor of the Boston College Law Review and a judicial intern for Justice Mary Thomas Sullivan on the Massachusetts Appeals Court. Prior to law school, James taught fifth grade reading and writing in Miami, Florida. | “Vindicating the Vaccine: Injecting Strength into Mandatory School Vaccination Requirements to Safeguard the Public Health” in *Boston College Law Review* vol. 57 no. 1, 28 January 2016. <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3483&context=bclr> )//tbrooks

An alternative to encouraging states to strengthen their own existing vaccination requirements is to create a model or uniform law, which states could adopt.219 This section proposes a model law based on the New York vaccination requirements and practices, described in section B, above, which utilizes a genuine and sincere requirement. 220 A model law would standardize vaccination policy and protect the country from an interstate epidemic.221 A uniform health law is not unprecedented.222 In response to the terrorist attacks of September 11, 2001, a team from the Centers for Law and the Public’s Health from Johns Hopkins and Georgetown Universities drafted a uniform health law called the Model State Emergency Health Powers Act (“MSEHPA”).223 The goal of MSEHPA is to grant power to state and local governments during health emergencies in order to effectively manage the threat, including provisions that allow state officials to vaccinate individuals in order to protect them from, and repress the spread of, contagious diseases. 224 Currently, thirty-eight states and the District of Columbia have adopted some portions of the Act in their legislation.225 MSEHPA could serve as a good model for a uniform health statute that addresses non-emergency situations, which state legislatures could adopt. 226 State adoption of independently created standards or model laws has seen varying degrees of success in other contexts besides health, particularly in areas such as commercial and criminal law. 227 The area of public health (and in particular vaccination) presents a compelling case for a uniform set of regulations: like commerce and criminal activity, vaccine-preventable diseases do not halt at state lines, and uniformity among the inoculation laws across the entire country would ensure their efficacy by preventing certain states’ lax vaccination laws from rendering residents of other states susceptible to disease. 228 There are a few drawbacks to the uniform law method.229 First, some—or even many or all—state legislatures may decline to adopt the model vaccination law, which would defeat the purpose.230 Second, if state legislatures did adopt the law, but substantively changed it before enacting it, then each state would have varying versions of the original model, effectively reverting the country to the current system.231 Regardless of these challenges, a model law presents a compromise between relying on states to independently remodel their own laws, and allowing current, inadequate laws to remain the same. 232

## Answers to Answers

### A2: Race to Bottom

#### Race to the bottom is empirically denied – studies prove – AND, countervailing pressure solves

Evers, Hoover Institution research fellow 14 (Williamson Evers, 9-8-2014, "How the Common Core Suppresses Competitive Federalism," Education Next, Date Accessed: 7/11/17, <http://educationnext.org/common-core-suppresses-competitive-federalism/>) lr

Central to the thinking (and rhetoric) of the advocates of Common Core on education reform was the idea that state performance standards were already on a downward slide and that, without nationalization, standards would inexorably continue on a “race to the bottom.” The name given to the Obama administration’s signature school reform effort, the Race to the Top program (RttT), reflects this belief. The idea is that to prevent states from following their supposed natural dynamic of a race to the bottom, the federal government needs to step in and lead a race to the top. I would disagree. While providers of public education certainly face the temptation to do what might look like taking the easy way out by letting academic standards slip, there is also countervailing pressure in the direction of higher standards (especially, as long as there are competing standards in other states). If policymakers and education officials let content standards slip, low standards will damage the state’s reputation for having a trained workforce. Such a drop in standards will even damage the policymakers’ own reputations. In 2007, the Thomas B. Fordham Institute looked empirically at state performance standards over time in a study called The Proficiency Illusion. The study showed that while states had a variety of performance standards (as would be expected in a federal system), the supposed “race to the bottom” was not happening. The proponents of the Common Core wrong in their claims that state performance standards were inevitably and everywhere on a downward slide. Why is this important? Because the other case for national curriculum-content standards is that without nationalization there will be a race to bottom and that only national standards can reverse a supposedly already-existing “race to the bottom.” But the facts refute this. This topples the other principal argument for national standards.

### AT feds block the CP

#### Feds won’t block the CP---the current administration wants a hands off, states-first approach to education

Jacob 17 (Brian A. Jacob Nonresident Senior Fellow - Economic Studies, Center on Children and Families, “How the U.S. Department of Education can foster education reform in the era of Trump and ESSA” Brookings, 2/2/17. https://www.brookings.edu/research/how-the-u-s-department-of-education-can-foster-education-reform-in-the-era-of-trump-and-essa/)

The current administration has vowed to leave education matters up to the states, continuing a movement started with the Every Student Succeeds Act (ESSA), which dramatically limited the federal government’s role in school accountability. While greater local control certainly has some benefits, it risks exacerbating the massive disparities in educational performance across states that already exists. In 2015, there was almost a 30 percentile point difference in 4th grade math proficiency rates between the top and bottom states, only some of which can be explained by state-level social and economic factors. The massive disparity in progress is perhaps even more disturbing. Between 2003 and 2015, student proficiency rates grew by over 40 percent in some states, while remaining flat or even declining in other states. The Department of Education (DoED) should take steps to highlight these disparities by identifying the lowest performing states and providing information on the status and progress of all states on a variety of educational metrics. The DoED might also provide modest funding and technical assistance to help demographically similar states work together to improve their public education systems. On the campaign trail, President Trump often called for giving more discretion over education policy to states and localities, critiquing Common Core and what he viewed as other instances of federal overreach. In her recent confirmation hearing, President Trump’s nominee for Education Secretary—Betsy DeVos—repeatedly argued for leaving education matters up to the states. And this desire for local control is not limited to the current administration. In 2015, Congress passed the Every Student Succeeds Act (ESSA) with strong bipartisan support. This legislation replaced the No Child Left Behind (NCLB) system of school accountability with a more narrowly tailored and flexible approach to school reform. Instead of requiring all schools to meet annual performance targets, ESSA requires states to focus on a small set of low-performing schools and gives them considerable latitude to design the interventions they deem appropriate. In discussing ESSA, chair of the Senate Education Committee Lamar Alexander claimed, “The department was in effect acting as a national school board for the 42 states with waivers—100,000 schools. The states were doing fine until the federal government stuck its nose into it…So it was important to get the balls back in the hands of the people who really should have it.”[i] But the evidence suggests that not all states are doing fine. Indeed, there are massive disparities across states in terms of current student performance, and these differences are not merely a factor of the social and economic conditions in the state. All states have been actively engaged in efforts to turnaround failing schools, but the effectiveness of such efforts has varied dramatically across jurisdictions. Public education will (and should) always be driven predominantly by local actors—teachers, administrators, school board members, and state legislators. Even under NCLB, states and districts had a mostly unfettered ability to run schools as they saw fit. But with autonomy comes the potential for greater disparity, as more capable, focused, and well-resourced states pull even further ahead of those with less capacity, fewer resources, and greater political dysfunction.

### AT stimulus / bba’s solvency deficit

#### Balanced budget requirements don’t prevent state deficit spending

Louis M. Imbeau and François Pétry 2004 -Louis Imbeau is the author of multiple books and he got his Ph.D. in political science from Northwestern, he is also a professor of political science at Laval University, Francois Petry is also an author, a professor of political science at Laval University and he got his Ph.D. from Texas (*Politics, Institutions, and Fiscal Policy: Deficits and Surpluses in Federated States,* Book)

Despite the evidence that balanced budget requirements inhibit state deficit spending (and, ultimately, debt levels), a number of studies fail to find such an effect. Controlling for a series of political, economic, and institutional variables, several scholars find that balanced budget provisions are not a significant pre- dictor of either state government expenditure or state debt levels (Merrifield, 2000; Abrams and Dougan, 1986; Clingermayer and Wood, 1995). Speculation about the apparent paradox that balanced budget requirements do not curb deficit spending focuses on two explanations. First, politicians working within such constraints circumvent the budget process through off-budget deficit spending (Nice, 1991; Bunch, 1991). Another possibility concerns the role of endogeneity. States with more stringent balanced budget requirements may be more ideologically conservative (see Nice, 1986), or they may have instituted them in response to increased levels of debt or in reaction to a state government with a penchant for overspending (Abrams and Dougan, 1986; Poterba, 1996). It is important to note that these studies did not explicitly control for the presence of deficit carryover limitations and that the bulk of the evidence indicates that such provisions discourage deficit spending by forcing states to recognize budgetary shortfalls from the previous year in next year's budget (Alt and Lowry, 1994). Along with balanced budget requirements, limits on taxing and spending are another tool states use to enforce fiscal responsibility. These limitations were passed in a number of states in response to the taxpayer revolts of the 1970s and 1980s. They are not exactly anti-deficit laws because they are designed to limit total state revenue rather than shrink the gap between revenues and expenditures (Poterba, 1996). By and large, such limitations have been shown to reduce the growth in taxes, revenues, and expenditures (Crain and Miller, 1990; Poterba, 1994; Reuben, 1995). However, such taxing and spending limitations may have a deleterious effect on overall state debt. In an effort to bypass such limitations, state political leaders may turn to borrowing in order to finance government projects, thereby increasing the state's debt obligation. Evidence is mixed as to the effect of such limitations. The funding for increased state spending may come from non-guaranteed debt, which is not generally subject to constitutional or statutory limitations (Nice, 1991). Other scholars have found that taxing and spending limitations are positively related to state debt levels (Clingermayer and Wood, 1995).

#### Deficits are legal, and when they aren’t they just go off-books

Sanders, Atlas Society Director of Student Programs 10 (Nicole Sanders, December 01, 2010, "America's Deficit Culture," The Atlas Society, Date Accessed: 7/10/17, <https://atlassociety.org/commentary/commentary-blog/4244-america-s-deficit-culture>) lr

A NATION OF DEFICIT SPENDERS There’s nothing wrong with debt. In fact, without debt, we’d be far poorer and more miserable. Borrowing money for productive uses allows people to create new wealth and pay interest to lenders. Capitalism and economic growth couldn’t happen without it. We need borrowing to be able to provide insurance and grease the workings of world markets for goods and services. We also need borrowing to smooth out patterns in life-cycle earnings: borrow to buy a house or get an education when you are young, save for retirement as you age. But the U.S. has followed a generation-long slide into a deficit culture of constant borrowing. Visible yearly deficits are a ritual in practically every legislature and state house where they are allowed. Off-the-books deficits are the norm where formal deficits are forbidden by law. Governments also have unfunded liabilities for Social Security, Medicare, and employee pensions that beggar the mind.

#### States deficit spend routinely

NCSL 99 (National Conference of State Legislatures, 12 April 1999"State Balanced Budget Requirements," National Conference of State Legislatures, Date Accessed: 7/10/17, http://www.ncsl.org/research/fiscal-policy/state-balanced-budget-requirements.aspx) lr

Practice State balanced-budget rules are not as rigid as those recommended for the federal government in the early 1990s, which would have forbidden total expenditures above total revenues in any year and would have prohibited new borrowing. By this standard, states routinely run deficits because they borrow to finance capital expenditures. But this does not violate state balanced-budget requirements. Nor does rolling deficits in operating funds forward from one fiscal year to another, if a state constitution permits the practice.

### AT economic decline turns CP

#### Educational funding is resilient and shielded from economic turn downs – it also inevitably takes priority in budget decisions which takes out the link

Guthrie, PhD from Stanford University and Peng 10 (James Guthrie and Arthur Peng, 2010, "The Phony Funding Crisis," Education Next, Date Accessed: 7/10/17, <http://educationnext.org/the-phony-funding-crisis/>) lr

Chicken Little is alive and seemingly employed as a finance analyst or reporter for an education interest group. If one relies on newspaper headlines for education funding information, one might conclude that America’s schools suffer from a perpetual fiscal crisis, every year perched precariously on the brink of financial ruin, never knowing whether there will be sufficient funding to continue operating. Budgetary shortfalls, school district bankruptcies, teacher and administrator layoffs, hiring and salary freezes, pension system defaults, shorter school years, ever-larger classes, faculty furloughs, fewer course electives, reduced field trips, foregone or curtailed athletics, outdated textbooks, teachers having to make do with fewer supplies, cuts in school maintenance, and other tales of fiscal woe inevitably captivate the news media, particularly during the late-spring and summer budget and appropriations seasons. Yet somehow, as the budget-planning cycle concludes and schools open their doors in the late summer and fall, virtually all classrooms have instructors, teachers receive their paychecks and use their health plans, athletic teams play, and textbooks are distributed. Regrettably, this story is seldom accorded the same media attention as are the prospects of budget reductions and teacher layoffs. For a variety of reasons, from one year to the next, schools almost always have more real revenue for each of their enrolled students. For the past hundred years, with rare and short exceptions and after controlling for inflation, public schools have had both more money and more employees per student in each succeeding year. Teacher salaries have increased more than 42 percent in constant dollars over the past half century, while educators’ working conditions, health plans, and retirement arrangements have become ever more commodious. Moreover, school-related revenues and employment levels have increased even when the economy (as measured by Gross Domestic Product or GDP) turned down, unlike what typically happens in sectors such as manufacturing and retail sales, where recessions trigger cutbacks in personnel and profits. Now, local school funding is apparently more secure than ever before. For the first time in history, the federal government has assumed a dramatic new school-funding role, that of banker of last resort, providing stopgap revenues to the nation’s schools during economic downturns. The Obama administration’s unprecedented injection of billions in federal funding for schools likely ensures that education’s resource cushion will continue for at least the current downturn and possibly for much longer. The notion that the federal government should serve as a fiscal flywheel for schools would have come as a major surprise to lawmakers even during the 1960s’ high point of federal funding for schools. A Bigger (and Brighter) Backdrop It is true that occasionally school districts become insolvent and states have to step in and take over. California had a string of costly and highly visible instances in the recent past, with the state having to elbow locally elected school boards aside and install all-powerful administrative overseers in large districts such as Oakland and Richmond. Detroit is the poster child for similar activity in the Midwest (see sidebar). School district insolvencies are rare and most often the result of administrative or school board mismanagement and malfeasance, rather than from the consequence of diminished revenues and systematic budget cuts. Another Detroit Deficit A century ago the Detroit Public Schools were among the nation’s leading educational institutions; they now teeter on the edge of oblivion. Enrollments have dwindled to 93,000, roughly half of their 2001 level, as parents have moved or enrolled their children in charter schools. Only 58 percent of enrollees graduate from high school; only 25 percent of 9th graders graduate four years later. Student standardized test scores are among the lowest in Michigan. A Council of Great City Schools report found deficiencies in instruction, data, accounting—the list goes on. The district has 100 vacant schools on its property rolls. The FBI has targeted a school district payroll manager for allegedly embezzling $400,000. When Detroit school employees were asked to pick up paychecks in person, 257 checks were never claimed, presumably made out to ghost employees. A recent audit found staggering waste, from unused vehicles and electronic equipment to health coverage costs for ineligible dependents. In 2002, the Detroit Public Schools had a $103.6 million surplus. Now the district faces a deficit of $259 million and is contemplating filing for bankruptcy protection, a rare occurrence in the history of American public education. More than 2,000 layoffs and 29 school closures have done little to narrow the gap. The district is scheduled to receive $149 million in federal stimulus funds, but only $11 million of this can go toward reducing the deficit. Nationally, America’s school-district revenues have long been on an upward trajectory (see Figure 1). Since 1929, per-pupil spending has declined only four times and significantly only twice, once during the Great Depression and once in the midst of World War II. There have been 11 periods during which GDP declined but mean total real per-pupil revenues still increased. The number of employees, teachers, administrators, and others has continually increased for four decades, except for the early 1980s period of declining enrollment and recession. And pupil-teacher ratios have fallen by almost 50 percent due to investments in class-size reduction and an increase in the number of teachers who are not assigned to full classrooms (see Figure 2). How Is Education So Well Protected during Recessions? Public schools have long been remarkably insulated from economic downturns. This becomes particularly clear when we compare employment trends in different economic sectors. Figure 3 displays historical (1972–2008) employment information in nine sectors: construction, finance, government, information, manufacturing, professional and business services, retail trade, transportation, and warehousing. Employment levels reflect economic conditions and, except for government (which includes elementary and secondary education), employment levels fluctuate with the economy and the historical trend is modestly upward. Contrast this picture with the much steeper upward slopes in education employment shown in Figure 2. Unlike other employment sectors, education is protected from the direct effects of economic ups and downs by an interlocking and reciprocally reinforcing set of politically constructed conditions. Among these conditions are 1) education’s privileged legal status in most state constitutions; 2) schooling’s uniquely decentralized operation and diffuse revenue-generation structure; 3) local political dynamics and institutions that foster a favorable fiscal environment for public schools; 4) a multitiered structure for funding schools with complicated intergovernmental funding incentives and reliance on inelastic tax sources, such as property taxes at the local level. Almost no other economic endeavor enjoys such a spectrum of insulating conditions. Constitutional Privilege. The United States Constitution is silent regarding education and schooling. This omission, taken in tandem with the Tenth Amendment’s reservation of unspecified powers to states and the people, and state-level constitutional provisions, renders education principally a state function. Moreover, state constitutions explicitly assume responsibility for provision of schooling. State constitutional education clauses are generally of three kinds. They assign the legislature a responsibility for provision of an education system that is 1) “Thorough and Efficient,” 2) “General and Uniform,” or 3) the legislature’s “Paramount Duty.” The precise language of the state constitution is not as important as the explicit specification of the state’s responsibility for providing education. Criminal justice, transportation, recreation, indigent care, economic development, commercial regulation, and even public safety are not privileged to the same degree. A state can decide to pursue or abolish numerous areas of government responsibility, such as support for prisons, highways, parks, and colleges, or welfare payments. It cannot decide to abandon its K–12 school system. Indeed, several states even have constitutional provisions that prevent less being spent on education in any one year than in a prior year. Many state courts have made clear that education takes priority when it comes to appropriating funds. Adequacy cases decided in favor of plaintiffs in numerous states, such as Campbell County v. Wyoming, have emphasized that the state has a unique obligation to fund schools at high levels, even if other parts of the budget must suffer. Decentralized Operation. No modern nation has an education system that is more decentralized or multitiered than the United States. The consequence is that American school systems are buffered structurally and politically against resource competition with other state and local governmental services. Conceived in the colonial period and evolving well into the 21st century, public education in the United States has relied on 50 distinct state systems that, in turn, delegate selected dimensions of operational authority to more than 13,000 local school districts. The majority of these local districts have property taxing authority; the rest rely on county or municipal governments to generate their share of local revenue. Local school districts are overseen by boards of education. Most of these, 80 percent, are made up of elected members. The remainder of the boards are appointed by mayors, city councils, or other elected authorities. Regardless of membership selection procedures, these boards place education in a privileged position relative to those publicly provided services that depend on general governments for resources and must compete with other services for their share.

### AT states fail deficit

#### All their solvency deficits apply equally to them because state’s implement the aff

Kravic, JD from Santa Clara University School of Law and Junge, JD from American University, Washington College of Law 11 (Sheara and Melissa, “Federal compliance works against education policy goals," July 28, 2011, Date Accessed: 7/10/17, <https://www.aei.org/publication/federal-compliance-works-against-education-policy-goals/>) lr

While the federal government spends billions of dollars every year on federal education programs, federal policymakers and education advocates often lament that these programs do not achieve their intended results–specifically, increasing student academic achievement. To address this problem, policymakers and advocates typically debate the merits and drawbacks of broad federal education policies and various educational approaches, **without examining** the underlying federal compliance framework that directly impacts whether and how these policies can be carried out by states and school districts. Reforming little-known and little-understood federal compliance rules could lead to far better educational outcomes than broad changes in federal policy alone. Addressing these rules will improve conditions so schools and school districts can successfully implement programs that will raise student achievement. Key points in this Outlook: Federal fiscal compliance rules can stifle innovation and hinder federal education programs from achieving their goals. States have authority and responsibility over how federal education programs are implemented and must repay federal money if districts spend funds incorrectly; thus, states often impose more restrictive rules than federal law requires. Congress and education policymakers should clarify and streamline these compliance requirements so schools can focus less on compliance and more on raising student achievement. Policymakers’ discussions of “regulatory reform” often overlook fiscal and administrative compliance requirements that impact the day-to-day implementation of federal programs. This happens for two reasons. First, these compliance rules, by themselves, appear to be far removed from traditional education policy discussions, until one considers how they stifle effective programs. Second, states and districts are reluctant to raise questions or concerns about these requirements because they do not want to bring additional scrutiny to themselves. In this environment, it is critical for federal policymakers and education advocates to closely examine compliance rules and understand how they unintentionally hinder good program implementation. In this Outlook, we provide examples of how the current compliance framework is often disconnected from larger federal policy goals and–perhaps more importantly–can get in the way of states and districts trying to implement solutions that would lead to improved educational outcomes.

### AT modeling deficit – states solve

#### The counterplan creates cascading norms---those are perceived internationally

Robinson 7 – JD @ Yale (Nick, “Citizens Not Subjects: U.S. Foreign Relations Law and the Decentralization of Foreign Policy,” Akron Law Review, Lexis)

States have also urged the United States to sign and ratify international agreements. For example, several state governments have passed resolutions in support of the Convention on the Elimination of Discrimination Against Women (CEDAW).324 Often state and local action arises out of dissatisfaction with the perceived inadequacy or incorrectness of a federal policy towards a foreign policy issue. Catherine Powell calls the impact of state and local laws on national foreign policy “dialogic federalism.”325 She argues that enough local ordinances can create a norm cascade that affects federal policy.326 The U.S. federal sanctions against South Africa passed by Congress over President Reagan’s veto in 1986 were arguably in part a result of just such a norm cascade created by anti-apartheid resolutions and laws at the state and local level.327 In many ways, it is the mobilization of citizens around, more than the passage of a resolution or act on a foreign policy issue that leads to a norm cascade which changes federal policy. The effort required to convince legislators and their fellow citizens to support a locality’s official action gives citizens a tangible and reachable local goal to focus their efforts on. This helps organize constituencies locally that can develop into a national coalition. For example, someone who has worked continuously to garner support for a local divestment initiative on Sudan is also more likely to call their Congressperson to urge them to pass the Darfur Accountability Act. Norm cascades created by localities’ actions do not only impact the policy they are directed at, but have a wider impact as well. For instance, the South Africa or Sudan divestment campaigns can be seen as national human rights moments. These are moments in which a segment of the American public becomes unusually organized to promote a human rights-based foreign policy goal. Most voters remain generally unaware of how U.S. foreign policy implicates human rights in other countries. Further, most voters do not base their vote on foreign policy human rights issues. The signal given by these human rights moments, however, creates an environment in which sympathetic legislators and policymakers can prioritize human rights concerns in other areas of foreign policy, knowing there is a constituency that generally supports this type of action.

### AT modeling deficit – fed fails

#### International modeling doesn’t make sense – it’s difficult to compare trends and apply them to different systems

Lastra-Anadón and Peterson 2012

(Carlos Xabel, research fellow at the Program on Education Policy and Governance at Harvard University, Paul E., Henry Lee Shattuck Professor of Government, Director of the Program on Education Policy and Governance at Harvard University, Senior Fellow at the Hoover Institution at Stanford University, Senior Editor of Education Next, Previously: director of the Center for American Political Studies at Harvard University and of the Governmental Studies Program at the Brookings Institution, Ph. D. in political science at the University of Chicago, Member of the American Academy of Arts and Sciences and the National Academy of Education, author of “Saving Schools: From Horace Mann to Virtual Learning,” “School Choice International: Exploring public private partnerships,” Editor of: “School Money Trials: The Legal Pursuit of Educational Adequacy,” “Reforming Education in Florida: A Study Prepared by the Koret Task Force on K-12 Education,” “The Education Gap: Vouchers and Urban Schools,” “Generational Change: Closing the Test Score Gap,” “No Child Left Behind? The Politics and Practice of School Accountability,” “The Future of School Choice,” “Our Schools and our Future,” “City Limits The Urban Underclass,” “Price of Federalism Welfare Magnets,” “The New American Democracy,” awarded the Martha Derthick Best Book Award for The Price of Federalism, Member of the independent review panel advising the Department of Education’s evaluation of the No Child Left Behind law, Member of the Hoover Institution’s Koret Task Force of K-12 Education at Stanford University, “The International Experience: What U.S. schools can and cannot learn from other countries,” Vol. 12, No. 1, <http://educationnext.org/the-international-experience/>)

It is tempting to undertake an in-depth study of those places that are performing at the highest levels—China’s Shanghai province, Korea, Finland, Singapore, Japan, the Netherlands, and Canada, for example. But a proper comparison requires that one contrast what successful countries do with the mistakes made by the less successful ones. International comparisons should look at information from all countries and adjust for factors that affect student performance, even though such rigorous studies typically face their own challenges, including collecting the requisite data. Moreover, countries are different across so many dimensions (from the political system to the cultural prestige of the teaching profession) that it is typically difficult to attribute differences between countries to any specific factors. For these reasons, learning from international experience can be a bit like reading tea leaves: People are tempted to see in the patterns whatever they think they should see. But for all the hazards associated with drawing on international experience, the greatest risk lies in ignoring such information altogether. Steadfastly insisting that the United States is unique and that nothing is to be learned from other lands might appeal to those on the campaign trail. But it is a perilous course of action for those who wish to understand—and improve—the state of American education. If nothing else, reflection on international experience encourages one to think more carefully about practices and proposals at home. It is not so much specific answers that come from conversing with educators from around the world, as it is gaining some intellectual humility. Such conversations provide opportunities to learn the multiple ways in which common questions are posed and answered, and to consider how policies that have proved successful elsewhere might be adapted to the unique context of U.S. education.

### AT data deficit

#### State data collection interstate compacts are comparatively superior to the federal DOE – responsive to local conditions, only problem is funding

Gross and Hill 16 --- Research Director at the Center on Reinventing Public Education at the University of

Washington Bothell, Ph.D., Education Policy Studies. (Betheny Gross and Paul T. Hill, 6/1, “The State Role in K–12 Education: From Issuing Mandates to Experimentation”, http://harvardlpr.com/wp-content/uploads/2016/06/10.2\_2\_GrossHill.pdf)

6. HOW STATES CAN GATHER EVIDENCE AND SHARE RESULTS Despite unending controversy over its role and warrant for existence, USDOE seems equipped to manage and fund the aggregation and use of data from state and local experiments. The USDOE’s Institute for Educational Sciences (IES), for example, is a comprehensive center that provides funding for research on a wide range of educational priorities. IES also funds Regional Education Labs that provide research and analysis capacity to multi-state geographic regions. These labs operate with a mandate to evaluate state and district policies and to aggregate and disseminate this research throughout the region. In addition, the USDOE has funded a system of Comprehensive Centers, including five special content centers and fifteen geographically-organized regional centers. The USDOE charges Content Centers with synthesizing the latest research and policy thinking in their respective domains, including Capacity and Productivity, College and Career Readiness, Early Learning, Teachers and Leaders, Innovations in Learning, School Turnaround, and Standards and Assessments. These Content Centers then funnel what they learn to states via the Regional Centers, which work directly with state agency staff to design and implement educational policy.114 Alternatives to these USDOE analysis and dissemination networks might include interstate compacts. To some extent, such groups already exist. The Council of Chief State School Officers (CCSSO)115 and the Education Commission of the States,116 for example, are long-standing organizations that provide research syntheses on a variety of state policy concerns. More recently, a consortium of state agency chiefs formed the Innovation Lab Network117 as a subgroup within CCSSO to pursue a collective effort to design new accountability and assessment methods, among other projects. Innovation Lab Network members, including New Hampshire and Kentucky, have stepped forward to pilot new methods in their own states.118 Of course, the analytic capacity to support democratic experimentalism can come from the federal government, interstate consortia, or both. Indeed, both approaches offer complementary advantages and disadvantages. The USDOE is highly resourced and has historically allocated significant resources to its research arm, IES. For fiscal year 2016, the federal government appropriated $68 billion of discretionary funding to the USDOE with almost $620 million to IES.119 Department leadership and management, however, are often distant from the day-to-day issues in public school systems, making it difficult for them to judge the most pressing priorities facing states, districts, and schools.120 Likewise, USDOE has a history of operating prescriptive grant programs and enforcement processes, and has been staffed largely with those purposes in mind, rather than supporting democratic experimentalism.121 Still, if the enactment of ESSA moves the USDOE away from centralized program administration, it could play an important role in promoting and sustaining democratic experimentalism. A cross-state consortium might more credibly claim a commitment to evidence-based improvement. Unlike the USDOE, current state leaders are often active participants in these networks, providing the consortium with a direct connection to those who are sorting through the challenges of educational policy in their local context. CCSSO, for example, regularly convenes state leaders to engage in dialogue on salient policy issues from across the country. The Innovation Lab Network provides a forum for self-selected states committed to piloting innovative policy solutions to share and learn from others’ experiences.122 At the same time, these organizations often do not have ready access to government funds and would either have to gain stable foundation support or depend on states’ contributions. These sources of support could prove too small and unstable to be the sole source of analytic capacity for the nation. They could, however, provide early proving grounds for small-scale experiments and a forum for state leaders to share new knowledge and innovation.

#### States solve data – they have the resources and capabilities

Carson, J.D. from Virginia University School of Law et al. 10 (Rebecca Carson, Elizabeth Laird Elizabeth Gaines, and Thaddeus Ferber, “Linking Data across Agencies: States That Are Making It Work,” Data Quality Campaign, March 2010, Date Accessed: 7/10/17, <http://forumfyi.org/files/States.That.Are.Making.It.Work.pdf>) lr

Now that a growing number of states have the technical capacity to collect, share, link and analyze longitudinal data within and across multiple systems and agencies, governors, legislators, boards and agency heads must work collaboratively to define common goals and create a single vision that spans the various sectors and systems to ensure data are linked for a clear purpose and not simply for “data’s sake.” Rather than leading with the abstract goal of “aligning cross-agency data systems,” progress will be expedited by prioritizing key policy questions to inform which data are linked and for what purposes, such as: u To what degree does participation in early childhood programs increase kindergarten readiness? Are these gains sustained through 3rd grade? u What indicators provide early warning that students are at risk of dropping out? On track for college and career readiness? u How many high school graduates require remediation in their first year of postsecondary education? u Which industries employ the majority of our state’s high school and college graduates? State Examples The Massachusetts Child and Youth Readiness Cabinet, jointly chaired by the secretary of education and the secretary of health and human services, developed a strategic plan for its statewide integrated data sharing system. The project vision incorporates three parts: (1) a dropout early warning, identification and intervention system to target at-risk youth; (2) a readiness passport to chronicle a child’s educational experiences and other services and supports that can follow that child anywhere; and (3) a school support coordinator/readiness coach responsible for using these tools to intervene. To meet the governor of Minnesota’s goal of connecting the K–12 and postsecondary systems, the state worked through the P–16 Education Partnership, a voluntary advisory group tasked with improving student transitions from P–12 to postsecondary education and creating a common vision for P–20 data sharing. The full P–16 Education Partnership, including private and public postsecondary systems, teachers unions, the Career College Association, and the Minnesota Department of Education, defined a clear vision and determined the questions that this data sharing would answer. The P–16 Student Identification System Working Group was developed to help determine which P–12 and higher education data should be collected and potentially shared to provide these answers and fulfill this vision. To drive the design of its longitudinal data system, South Carolina identified key questions by first conducting a landscape review of existing questions from a variety of sources (e.g., National Center for Education Statistics, various state stakeholder groups and state legislation) and then prioritizing the resulting list of almost 400 questions to narrow it down to six critical questions based on the ease and availability to access the data needed to answer them. The South Carolina team then built and enhanced its data system with this set of six questions as the primary driver. Staff from the New Mexico Office of Education Accountability developed the notion of “killer questions” in conjunction with several other states to describe the key policy questions that come up over and over again across districts and states when confronted with quality data. In an effort to begin to identify and prioritize these “killer questions,” New Mexico developed a template to help categorize its policy questions and to then develop the corresponding data and political questions it would need to answer to help solve a given policy problem. n Ensure data systems are interoperable within and across agencies and sectors by adopting common data standards, definitions and language. States currently have multiple data systems that often were built in silos and have been used primarily for accountability and compliance reporting within individual sectors. As a result, state agencies have established data standards, definitions and language in isolation or by adopting sector-specific standards to meet their unique collection and reporting needs without ensuring data can be linked across systems and, if a state priority, across state lines. But students are mobile, moving between schools and grade spans and from state to state, and states must be able to link data across traditional boundaries to answer questions such as “Where do our students go after high school, and were they adequately prepared?” Common data standards are essential to creating interoperability, which makes data sharing among districts, between districts and states, and within and among agencies and states more efficient. The lack of common data definitions and technical specifications not only limits the ability of data analysis and use to inform critical questions but also makes linking data across multiple systems costly and inefficient and inhibits the development of new tools and services. Without commonly agreed-to voluntary data standards, vendors are forced to tailor products to each system or state’s specifications, increasing time and costs.

#### States are improving data sharing – it’s just a question of exchanging info

Carson, J.D. from Virginia University School of Law et al. 10 (Rebecca Carson, Elizabeth Laird Elizabeth Gaines, and Thaddeus Ferber, “Linking Data across Agencies: States That Are Making It Work,” Data Quality Campaign, March 2010, Date Accessed: 7/10/17, <http://forumfyi.org/files/States.That.Are.Making.It.Work.pdf>) lr

For policymakers, educators, parents and students to have the information they need to improve student and system performance, states must ensure that as they build and enhance state K–12 longitudinal data systems, they also continue building linkages to exchange and use information across early childhood, postsecondary and the workforce (P–20/workforce) and with other critical agencies, such as health, social services and criminal justice systems (crossagency), to answer key policy questions. This issue brief captures the current status of states’ ability to link data across agencies, the opportunities and challenges they face, and how leading states are breaking down silos to ensure data follow individual students over time to improve success. It also describes processes states can use in developing and implementing their cross-agency data sharing efforts. This brief is co-authored by the Data Quality Campaign (DQC) and the Forum for Youth Investment, whose research on interagency collaborations, including children’s cabinets, was leveraged to illustrate how agencies can work together to implement a single vision for data sharing, especially between education and social services.

## Perms

### A2: PDB – Preemption

#### It links to federalism – federal action *crowds out* state policies

[Aaron, 3/1/13, Brigham Young University Education and Law Journal, “Educational Federalism: A New Case for Reduced Federal Involvement in K-12 Education”, http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1333&context=elj, Volume 2013, No. 2, p. 284-285, 7/9/17, KW]

However, when the federal government legislates or regulates in a given field, it necessarily constrains the ability of states to legislate in that same field.23 In the field of education, the ability of courts to protect the rights of children is dependent on the ability of legislatures freely to react to courts. As such, anything that constrains state legislatures also constrains state courts and upsets this valuable political dynamic created by the interaction of state legislatures and state courts. An expansive federal role in educational policymaking is normatively undesirable when it threatens to interfere with this political dynamic. This dynamic receives scant attention in the literature described above. However, mindfulness of this dynamic is crucial to the proper placement of the educational policymaking and regulatory epicenter.

#### That means the CP gets invalidated

Buys, law professor @ SIU, 12

(Cindy, “Movsesian v. Victoria Versicherung and the Scope of the President's Foreign Affairs Power to Preempt Words”, 32 N. Ill. U. L. Rev. 205)

PREEMPTION DOCTRINE "A fundamental principle of the Constitution is that Congress has the power to preempt state law." 15 Preemption may be express or implied. 16 Express preemption occurs when Congress's command is explicitly stated in the statute's language or is implicit in the statute's structure and purpose. 17 Implied preemption takes two forms: field preemption and conflict preemption. 18 Courts will find field preemption to exist when the federal government has so thoroughly regulated the entire field that there is no room left for states to act. 19 Courts will find conflict preemption to exist when both the federal and state governments have regulated in a particular area and it is impossible for a private party to comply with both federal and state law. 20 But even in the absence of a direct conflict, implied conflict preemption exists where the state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." 21 Field preemption was found to exist in Hines v. Davidowitz, where the federal government exercised its power to preempt state law by way of its [\*209] formal law-making powers. 22 In that case, the State of Pennsylvania created a law regulating the registration of aliens. 23 The federal government already had in place a comprehensive integrated scheme for the registration of aliens. 24 The Supreme Court held that when the federal government exercises its power over foreign affairs, including the making of rules relating to immigration and naturalization, its legislative acts are supreme over state laws pursuant to the Supremacy Clause in Article VI of the Constitution. 25 Thus, the state no longer had any right to legislate in this field of law, even if its legislation could be interpreted to act in harmony with the federal government's. 26 The Court suggested that great international harm "may arise from real or imagined wrongs to another's subjects inflicted, or permitted, by a government." 27 Therefore, the whole nation stands to suffer from missteps by the state and even harmonious legislation should be preempted if the federal government has comprehensively legislated in the area. 28 Accordingly, the Supreme Court held that the Pennsylvania Alien Registration Act was preempted by the Federal Alien Registration Act of 1940. 29

#### Our ‘states better’ arguments are not captured by the perm---the plan constrains state innovation and interferes with effective state enforcement

Lawson, University of Michigan, Law School, JD, 2013

[Aaron, 3-1-2013, Brigham Young University, “Educational Federalism: A New Case for Reduced Federal Involvement in K-12 Education”, <http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1333&context=elj>, Accessed 7-9-17, AZG]

For the purpose of this Comment, what is important about these programs is not what they contain, but the fact that they represent a much larger role for the federal government in education. A growing body of legal scholarship argues that an increased role for the federal government in education is a normatively desirable development. One scholar, for instance, argues that limited state bureaucratic capabilities, which she asserts have developed compliance functions at the expense of true policy expertise, counsel in favor of an increased federal role. 12 Likewise, Professor Kimberly Jenkins Robinson, who served in the General Counsel's office at the U.S. Department [\*283] of Education, 13 noting the persistence of interstate educational disparities since Brown v. Board of Education, 14 argues that an increased federal role in education is necessary because history teaches that states are incapable, on their own, of addressing disparities in educational opportunity. 15 Another scholar argues that the central role education has always held in our society necessitates recognition of education as a judicially-enforceable fundamental right. 16 Similarly, Goodwin Liu, recently appointed to the California Supreme Court, argues that the very text of the Fourteenth Amendment and the concept of national citizenship at least authorizes, if not compels, the creation of a "common set of educational expectations for meaningful national citizenship." 17 However, increased federal involvement in education is worrisome for other reasons, explored below. This Comment pushes back on scholarship that supports federal solutions for the nation's education issues and argues that countervailing considerations militate in favor of less federal involvement in education. Every state constitution, in contrast with the Federal Constitution, contains some guarantee of education. 18 State [\*284] courts split into two groups on how to give effect to these guarantees: (1) by evaluating education policy under Equal Protection by declaring education a fundamental right or by treating wealth as a suspect classification, 19 or (2) by evaluating education policies under a framework of educational adequacy. 20 In either case, these clauses establish substantive educational guarantees on the state level that do not exist at the federal level and provide the courts with a role in ensuring the fulfillment of these guarantees. 21 These clauses also help to create a valuable political dynamic, which has inured to the benefit of children. As part of this political dynamic, courts define the contours of these affirmative guarantees, and the legislature fulfills its own constitutional duty by legislating between those boundaries. 22 However, when the federal government legislates or regulates in a given field, it necessarily constrains the ability of states to legislate in that same field. 23 In the field of education, the ability of courts to protect the rights of children is dependent on the ability of legislatures freely to react to courts. As such, anything that constrains state legislatures also constrains state courts and upsets this valuable political [\*285] dynamic created by the interaction of state legislatures and state courts. An expansive federal role in educational policymaking is normatively undesirable when it threatens to interfere with this political dynamic. This dynamic receives scant attention in the literature described above. However, mindfulness of this dynamic is crucial to the proper placement of the educational policymaking and regulatory epicenter. Constraints on state legislatures would not be as problematic if the federal government had proven itself adept at guaranteeing adequate educational opportunity for all students. However, RTTT and NCLB have, in some cases, proven remarkably unhelpful for poor and minority students. 24 These negative outcomes, of course, are not guaranteed. However, the fact that federal involvement in education has produced undesirable outcomes for poor and minority students should cause policymakers to reexamine whether it is most desirable for the federal government to play such a significant role in education. This Comment argues that it is not. Using policies adopted in New York State in response to RTTT as an example, this Comment argues that the federal government should step aside to the extent necessary to allow state courts more flexibility to protect the substantive educational rights of poor and minority children. Specifically, where federal constitutional rights are not at issue, federal involvement in education should be minimized to the point that state courts have an unrestrained ability to protect the educational needs of, and ensure adequate educational opportunity for, each state's children. 25 This Comment does not argue for an end to all education policymaking at the [\*286] federal level. Rather, it argues that the functioning of the state's court-legislature dynamic should act as a limitation on the policies enacted at the federal level. The educational rights of poor and minority children in particular may be more efficiently safeguarded by putting the power in the hands of state courts and legislatures, whereas recent federal programs have taken that ability from the states in a way that may be detrimental to the nation's youth. In particular, the expansion of the federal presence in the education arena has changed policymaking dramatically. Federal policy will be off limits to the remedial powers of state courts and legislatures, limiting the array of options they have when seeking to enforce constitutional guarantees of education. Unless state courts prove themselves unwilling and unable to deal with the structural problems created by educational policies, the federal government should assume a role that leaves sufficient space for state courts to operate.

### A2: PDB – Overlap Bad

#### The perm’s overlapping mandates devastate enforcement---this is a DA to the plan alone, since education is historically a state domain

Schapiro 9 – Professor of Law @ Emory U (Robert, “Polyphonic Federalism: Toward the Protection of Fundamental Rights,” p. 170-171)

When the United States Supreme Court has sought to justify dividing state and federal realms, it has concentrated less on problems of uniformity and finality and more on potential issues of accountability. Indeed, concerns for accountability appear in both the Commerce Clause and the anti-commandeering branches of the Court's federalism jurisprudence. Members of the Court have asserted that the failure to protect a realm of state autonomy creates confusion among the citizenry. The overlap of state and federal authority prevents citizens from understanding where ultimate responsibility lies. When citizens object to government policies, should they direct their ire at their state capital or at Washington, D.C.? Justices have asserted that this blurring of lines of accountability becomes particularly acute with regard to areas that traditionally have been subject primarily to state rather than federal regulation, such as family law, education, and crime. In these fields, citizens expect that states will retain ultimate control. Federal regulation in these areas presents a substantial danger of confusing citizens and undermining governmental accountability.

#### Rule-layering makes compliance confusing and indeterminate

Junge and Krvaric, both attorneys and cofounders of Federal Education Group, 2011

[Melissa and Sheara, July 2011, American Enterprise Institute, “Federal compliance works against education policy goals”, <https://www.aei.org/publication/federal-compliance-works-against-education-policy-goals/>, Accessed 7-10-17, AZG]

Under this structure, the state has wide-reaching authority and responsibility over how federal education programs are implemented[1] and is legally responsible for ensuring that school districts comply with all federal requirements.[2] This grants states the authority to impose additional rules on districts on top of what federal law requires–including the authority to restrict how districts use federal funds, even for things otherwise permissible under federal law. In other words, federal law sets the “floor” of what can be done with program funds, but states have the authority to be more restrictive. This multilayered approach to compliance makes it challenging for state and local leaders to determine how federal funds can be spent in their state. For example, ED issues guidance to explain the federal statutes and regulations that govern federal education programs. This helps states, districts, schools, and their auditors understand what generally can and cannot be done with funds in a given federal program, but it is not legally binding like a law or regulation. While federal guidance reflects ED’s current thinking about a program, it is only a starting point for determining how a specific state, district, or school can spend federal money. This is because ED’s guidance does not reflect any additional requirements states may choose to impose on their districts. Legally, once a state imposes a rule on a federal program, even if the rule is more stringent than federal law, school districts are legally bound to follow the rule as a condition of receiving federal funds from the state. Thus, what is permitted under federal law or encouraged by ED’s guidance may not be permitted in a particular state. Similarly, what is permitted in one state may not be in another. This creates substantial variability in the way federal programs are implemented across the country. Layering multiple levels of rules onto federal programs also makes it hard for state, district, and school leaders to tease out: What is actually required by federal law; Whether more stringent state-level policies regarding how federal funds can be spent are intentional, or whether they reflect historical administrative practices, or even occasionally a misunderstanding of federal requirements; and Whether and how federal funds could be deployed in a different or more effective way. This presents a variety of challenges for those responsible for implementing federal education programs at the state, district, and school levels. For example, states face the challenge of unraveling what rules apply when. The parameters of federal legal requirements can be unclear; additionally, ED and states have latitude to interpret the meaning of the statutory requirements in certain circumstances. Thus, states encounter situations where a rule is applied one way in one federal education program but differently in another, or where the same rule is applied differently by different federal oversight entities. In some cases, ED gives different advice on the same compliance rule when providing technical assistance to states. [Districts] often have the least authority in determining how federal funds are spent and the least access to federal and state policymakers. In an environment where standards vary, states may feel compelled to “lock down” federal funds to minimize exposure to noncompliance findings and may inadvertently impose more restrictive rules than federal law requires. This is because states are legally responsible for repaying money in a state-administered program if a district spends funds incorrectly. The confusion regarding the baseline federal requirements makes it challenging for state education leaders to reduce state-imposed red tape on federal funds, or to use federal funds to implement innovative programs.

#### Confusing signals undermine district-level compliance

O’Day, American Institutes for Research, Institute Fellow and California Collaborative on District Reform, Founder and Chair, and Smith, Carnegie Foundation for the Advancement of Teaching, Senior Scholar and U.S. Department of Education, former Acting Deputy Secretary, 2016

[Jennifer and Marshall, 2016, American Institutes for Research, “Equality and Quality in U.S. Education: Systemic Problems, Systemic Solutions”, <http://www.air.org/sites/default/files/downloads/report/Equality-Quality-Education-EPC-September-2016.pdf>, Accessed 7-10-17, AZG]

The State Role. The states’ constitutionally enabled role in education—embracing everything from governance, finance, and curriculum to supporting, enhancing, and monitoring quality in education—is in practice shared with districts. But states typically create the legislative and regulatory framework that guides districts and make decisions about content and performance standards, teacher certification, accountability, assessments, and data collection. States also oversee both federal and state programs for protected categories of students and create the framework for school finance. This system works to some degree and for some students, but for more than a century, it has perpetuated well-documented discrimination against students from low-income families and students of color. To move resolutely toward the goal of equal opportunity for all, states must develop, maintain, and improve well-functioning education systems for all schools and students throughout the state. If the system is dysfunctional, the least advantaged among us will suffer the most. To shore up the documented racial- and poverty-related gaps in finance, teacher preparedness, and other resources, states could take on four broad roles or tasks: „ Establishing a vision, standards, and priorities. Adopting and supporting implementation of a new generation of standards and assessments and aligning them to policies pushing in the same direction in curriculum development, educator training, and accountability are vital to successful education reform. Equally important is ensuring that local districts receive consistent signals from system leaders and that state leaders exhibit a steadfast commitment to improvement.

### A2: PDB – Duplication

#### It's a DA to the aff and the perm

Marshall, Institute for Family, Community & Opportunity, Vice President, 2011

[Jennifer, 3-15-11, Heritage Foundation, “Effects of the Federal Role and Intervention in Education”, <http://www.heritage.org/testimony/effects-the-federal-role-and-intervention-education>, Accessed 7-10-17, AZG]

This multiplication of programs means multiple applications, monitoring of program notices, and program reporting. This increases administrative overhead and erodes coherent, school-level strategic leadership based on the needs of individual students. No Child Left Behind (NCLB) is the most significant of the federal laws affecting K-12 education. Programs funded under NCLB constituted $25 billion in 2010. NCLB includes more than 50 programs under 10 titles, running more than 600 pages. NCLB is the eighth reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA). The original ESEA included just five titles and 32 pages. In 2006, the Office of Management and Budget found that No Child Left Behind cost states an additional 7 million hours in paperwork at a cost of $141 million.[[3]](http://www2.heritage.org/research/testimony/2011/03/effects-of-the-federal-role-and-intervention-in-education#_ftn3) Federal Prescription Increased through “Systemic Reform” Between 1965 and the mid-1990s, the federal role in education focused on compensatory and categorical aid, aiming to supplement resources for specific student populations (e.g., low-income or English language learners) or categorical purposes. In the mid-1990s, the federal role expanded beyond these specific interventions to leveraging system-wide education reform from Washington. This systemic or comprehensive reform seeks to influence all aspects of the public school system to produce change in all public schools by working top-down from Washington, D.C. No area of education policy is off limits from federal oversight and federal regulation in this model, opening the door to ever-deeper encroachments into and ever-wider compliance demands on local schools. For example, No Child Left Behind prescribes in great detail the measurement of student progress on a specified testing regimen for all schools and all students. Each state must complete a “Consolidated State Application Accountability Workbook” to explain in great detail how it will meet the law’s prescriptive requirements for judging student progress.[[4]](http://www2.heritage.org/research/testimony/2011/03/effects-of-the-federal-role-and-intervention-in-education#_ftn4) Most states’ completed “accountability workbooks” run around 50 pages long, though some are much longer. For example, Georgia’s is 95 pages and Florida’s is 128 pages. Accountability is important, but we also need to ask, accountability to whom and for what? The accountability prescribed by No Child Left Behind focuses on fine-tuned aggregate calculations that are most useful for bureaucrats to chart school-wide, district-wide, or state-wide progress—information that is useful for the application of federal carrots and sticks. Calculations like “safe harbor” to account for differences in progress among groups are not the kinds of information that empower parents. On the other hand, that kind of detail does absorb countless hours of bureaucratic explanation and compliance calculations on the part of schools, districts, and states. That’s characteristic of federal intervention as whole: it is distracting because of the many compliance burdens it puts on states and localities, but it is also detracts from proper accountability to those who have the most at stake in education, parents and other taxpayers.

#### Funding shortages wreck solvency---devastates low-income outcomes, and causes larger class sizes

Robinson, University of Richmond, School of Law, Professor, 2016

[Kimberly, 2016, Stanford Law and Policy Review, “No Quick Fix for Excellence and Equity: the Virtues of Incremental Shifts in Educational Federalism”, <http://heinonline.org/HOL/Page?handle=hein.journals/stanlp27&div=10&g_sent=1&collection=journals>, Accessed 7-10-17, AZG]

Before turning to this analysis, it is worth noting that in focusing on the need for reforming school funding systems, I build upon the research that finds that money spent well matters for student outcomes. 40 In my recent book coedited with Professor Charles J. Ogletree, Jr. we note that the school finance debate has largely moved beyond questioning whether money matters to a consensus that money spent well does, in fact, matter. 41 Further evidence that money matters is presented in a 2016 study finding that when children from low-income families are provided with lower pupil-to-teacher ratios and a more equitable distribution of staffing, they experience better academic outcomes and exhibit a smaller gap in achievement with their more affluent peers. 42 This study also found that greater spending leads to smaller class sizes. 43 Other research indicating that money spent well matters can be found in a study by C. Kirabo Jackson and his associates published by the National Bureau of Economic Research. The study found that although we find small effects for children from affluent families, for low-income children, a 10% increase in per pupil spending each year for all 12 years of public school is associated with 0.46 additional years of completed education, 9.6% higher earnings, and a 6.1 percentage point reduction in the annual incidence of adult poverty. The results imply that a 25% increase in per pupil spending throughout one's school years could eliminate the average attainment gaps between children from low-income … and nonpoor families… 44 [\*209] Further research also confirms the positive effect of increased funding for obtaining particular resources and student outcomes. 45 In addition, a compelling body of research indicates that states that have implemented substantial changes to the distribution and/or level of education funding typically observe significant improvements in student achievement. 46

#### Federal duplication siphons vital resources from students

Marshall 11 (Jennifer Marshall, Heritage, “Effects of the Federal Role and Intervention in Education” 3/15/11, Jennifer A. Marshall is Director of Domestic Policy Studies, at The Heritage Foundation. http://www.heritage.org/testimony/effects-the-federal-role-and-intervention-education) GG

The administrative set-asides and red tape associated with federal programs diminishes education dollars as they pass through multiple layers of bureaucracy. The federal Department of Education has spent the past three decades taxing states, running that money through the Washington bureaucracy, and sending it back to states and school districts. But for 30 years, this spending cycle has failed to improve education. A dollar gleaned from state taxpayers and sent to the federal Department of Education is then sent, through complex funding formulas or grant programs (see the Title I discussion above), back to state education agencies. SEAs in turn send that money to local education agencies, which in turn send that money to individual schools. Each step along the way diminishes the funds available to local schools as a result of administrative set-asides and other spending. By one 1998 estimate, between just 65 to 70 cents of every dollar makes its way to the classroom.[19] A 1999 GAO study of 10 specific federal programs found that by the time a “federal” dollar reached a local school district, between 1 to 17 percent of the funding had been drained on administration. GAO found that “Overall, 94 percent of the federal education funds received by the states for these 10 programs [studied] was distributed to local agencies such as school districts. If the $7.3 billion appropriation for the Title I program is excluded, the overall percentage of funds states allocated to local agencies drops to 86 percent.”[20] The same 1999 GAO report found that “too much federal funding may be spent on administration and that school personnel are incurring ‘hidden’ administrative costs as they spend time fulfilling administrative requirements related to applying for, monitoring, and reporting on federal funds.”[21] The report noted the difficulty in determining what constitutes administrative activities because “what is considered administration varies from program to program.”[22] Even the federal funds that reach school districts are not immune from the administrative compliance burden. Reports from school districts provide real-life examples of the administrative burden felt from heavy-handed federal regulations. A Fairfax County, Virginia, school district, for example, noted: “The school division lengthened the standard teacher contract from 194 days to 195 just to allow for extra [NCLB] training time. The cost of setting aside a single day to train the roughly 14,000 teachers in the division on the law’s complex requirements is equivalent to the cost of hiring 72 additional teachers. The law also affects paraprofessionals: an extra day’s training equates to the cost of hiring about ten additional instructional assistants. There are roughly 1,000 administrators who require training as well. A day’s training represents the cost for four additional assistant principals. Thus, each day out of the year that is set aside to explain the law results in a missed opportunity to assign 86 instructional personnel year-round to interface directly with the community’s children and work directly to address their academic needs.”[23] The administrative compliance burden siphons resources that should be directed to students. Moreover, it is unclear whether the reports required of states are always used in a meaningful way by the U.S. Department of Education. During a lecture delivered in April, 2007 at the Heritage Foundation, then Rep. Pete Hoekstra (R-Mich.) recalled his visits to the U.S. Department of Education as chairman of a House subcommittee on oversight and investigations: “We'd knock on doors, asking, ‘Do any of you read the reports? Who reads these reports and this paperwork that comes back from the states, and who issues these rules and regulations? Have you ever been to Colorado? Is there anybody here from Michigan?’ — you'd have to go through the building for a while before you'd find somebody —‘And is anybody here from the Second Congressional District of Michigan?’ No, but they're putting together all these mandates and requirements without knowing the parents, kids, school boards, or the economic conditions of the people that they're writing all these rules and regulations for.”

#### Large class size means higher racial discrepancy in education and higher rates of criminal behavior, teen pregnancy, and school dropout.

Jerkins 15 (Morgan, Graduated from Princeton University with an AB in Comparative Literature. | “Too Many Kids: School districts are packing more and more students into classrooms—and that’s pushing teachers out” in *The Atlantic*, 1 July 2015. <https://www.theatlantic.com/education/archive/2015/07/too-many-kids/397451/> )//tbrooks

Research shows how much of an impact small class sizes can have on kids’ achievement. In the [mid-1980s](http://www.centerforpubliceducation.org/Main-Menu/Organizing-a-school/Class-size-and-student-achievement-At-a-glance/Class-size-and-student-achievement-Research-review.html), the Tennessee government commissioned Project STAR (Student-Teacher Achievement Ratio) to gauge the effect of class size on individual student progress statewide. It found that for grades kindergarten through three, class sizes of 18 students per teacher or fewer produced the greatest benefits, especially for minority and low-income students. Because [teachers](http://www.classsizematters.org/wp-content/uploads/2014/02/207632499-Pb-Class-Size.pdf) could spend less time on classroom management and more time on instruction, the project concluded, they were able to engage more with the students, which in turn boosted their engagement in the learning material. Furthermore, a study last year out of the National Education Policy Center found that small class-size ratios are linked with positive life [outcomes](http://www.classsizematters.org/wp-content/uploads/2014/02/207632499-Pb-Class-Size.pdf), such as less “juvenile criminal behavior,” lower teenage pregnancy rates, and higher high-school graduation and college-enrollment rates. A paper published in the American Journal of Public Health [concluded that](http://www.classsizematters.org/wp-content/uploads/2014/02/207632499-Pb-Class-Size.pdf) reduced class sizes, particularly in earlier grades, correlate with health-care savings and an additional two years of life. Reduced class sizes can also play a key role in shrinking the academic differences between students of color and their white peers. [According](http://dataspace.princeton.edu/jspui/bitstream/88435/dsp01w66343627/1/451.pdf) to the Princeton University researchers Alan B. Krueger and Diane M. Whitmore, average test scores for black students in small classes increased by as many as 10 percentile points, versus about 4 percentile points for white students. In 1996, the Public Policy Institute of California [released](http://www.ppic.org/main/publication.asp?i=155) a report on schools in a handful of large districts in the state, which stated that an additional 15 percent of students exceeded the national median in math, while another 18 percent exceeded the median for reading, when class sizes were reduced by a third. The National Assessment of Educational Progress has [found](http://www.psychologicalscience.org/journals/pspi/pdf/pspi2_1.pdf?origin=p) similar evidence of the pronounced impact small classes can have on disadvantaged children, particularly those with less-educated parents.

### A2: PDB – innovation

#### State control is comparatively better than the federal government – responds to local needs, better recourses, and accountability standards

Gregory, Loyola University of Chicago, JD, and Kaufman, Loyola University of Chicago, School of Law, Professor, 2010

[Erin and Michael, Spring 2010, Loyola University of Chicago, “EDUCATION AND FEDERALISM: THE ROLE FOR THE FEDERAL GOVERNMENT IN EDUCATION REFORM”, <http://www.luc.edu/media/lucedu/law/centers/childlaw/childed/pdfs/2010studentpapers/Erin_Gregory.pdf>, Accessed 7-11-17, AZG]

States provide ideal laboratories for devising solutions to waning educational achievements. Even strong proponents of national control over education recognize that individual states are in the best position to determine what incentives or disincentives will most effectively accomplish academic improvement within that district.21 On several occasions, the Supreme Court has also noted that states are in a unique position to deal with the challenges presented by undertaking to provide education to its citizens.22 Now, perhaps more than ever, the United States must take advantage of its unique political structure and tap into local resources to respond to this growing and significant problem. The strongest advantage of permitting states and especially local governments to control education is that each entity will be able to develop programs that are responsive to individual needs.23 As Justice Powell remarked, “No area of social concern stand stop profit more from a multiplicity of viewpoints and from a diversity of approaches than does public education.”24 The problems affecting educational achievement vary from state to state and from district to district. Not only are local school districts in the best position to assess and respond to these problems, they are also in the best position to develop a curriculum tailored to the unique needs of their community. Because the problems are often individualized, the solution must be as well. Similarly, the majority of funding for education comes from state and local sources.25 Although the federal role in funding education has increased in recent years, schools are still primarily funded by the communities in which they are located. Community members are much more likely to be invested in the success of their schools if they are also directly invested in the schools through tax dollars. Shifting more control over schools to the federal government while still leaving state and local governments with the responsibility to fund schools will only produce frustration and hinder innovation. On a different level, parents should be able to control the education of their children through participation in local school programs and boards without federal officials dictating curriculum requirements.As the federal government’s role in controlling education increases, the opportunity for parents to have input into and participate meaningfully in their children’s education decreases. As Justice Stevens pointed out in Mergens, from an ethical standpoint the wishes of parents regarding their children’s education should be respected. Officials responsible for the school system can better be held accountable at the local Level as well. When the responsibility for education’s success is delegated to a group of local community members, not only are they in the best position to determine the needs of their specific community but the community is also able to remove or replace officials whom they feel have been unresponsive to their needs. While members of Congress are also subject to political accountability, it is much more difficult to hold Congress accountable for the failure of individual, local schools. Parents and communities must have recourse to change directions when their school system has failed their students. As the federal government has taken on a more active role in regulating education, the power struggle between state or local governments and the federal government has grown. For example, prior to the passage of NCLB, Connecticut developed a system of assessment which included multiple choice questions as well as short answer and essay questions in the areas of reading, writing and mathematics.26 Connecticut’s program also made significant accommodations for special education students and students for whom English was not their primary language.27 Although the state’s education system is not without its short comings specifically the District Court referenced an NAACP report indicating that Connecticut had not successfullyremedieda“poortonon-poorachievementgap,”Connecticutstudentsareamong the highest achieving students in the country.28 Following the passage of NCLB, Connecticut requested a waiver of the NCLB requirement to administer a yearly assessment test, arguing that their current form of assessment was superior.29 The waiver was denied and Connecticut filed suit challenging several provisions of NCLB.30 While Connecticut v. Spellings provides an interesting look into the shortcomings of NCLB and the judicial response to these challenges, this case importantly highlights the problems with the current federal stance toward education.31 Connecticut has developed a system by which to measure student achievement but its efforts to improve an already successful school system are hindered by the imposition of federal requirements. Rather than discouraging different approaches, the federal government should encourage states like Connecticut to build upon already successful programs.

=

#### One size fits all fails

O’Day, American Institutes for Research, Institute Fellow and California Collaborative on District Reform, Founder and Chair, and Smith, Carnegie Foundation for the Advancement of Teaching, Senior Scholar and U.S. Department of Education, former Acting Deputy Secretary, 2016

[Jennifer and Marshall, 2016, American Institutes for Research, “Equality and Quality in U.S. Education: Systemic Problems, Systemic Solutions”, <http://www.air.org/sites/default/files/downloads/report/Equality-Quality-Education-EPC-September-2016.pdf>, Accessed 7-10-17, AZG]

Decades of implementation research have yielded a panoply of lessons. Three are integral to making a more equitable education system operational. Context matters. Differences in educational histories; in the makeup of both adult and student populations; and in cultures, conditions, structures, and resources across systems can influence the ways that local actors interpret and act on any given reform or intervention. Attempts to constrain variation in local action by emphasizing fidelity, scripted instructional programs, and compliance to one-size-fits all policies do not solve the problem and may even be counterproductive because they often inhibit professional judgment and responsiveness to individual student and local system needs.

### A2: PDCP

#### The federal government doesn’t include the states

Committee Reports 104th Congress (1995-1996)

House Report 104-081 - Part 1

http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp104&sid=cp104WKeId&refer=&r\_n=hr081p1.104&item=&&&sel=TOC\_849926&

1. The term `United States' means the Federal Government of the United States, consisting of the legislative branch, the judicial branch, and the executive branch thereof, and each and every department, agency, or instrumentality of any such branch, including the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, any office, commission, bureau, or other administrative subdivision or creature thereof, and the governments of the territories and possessions of the United –States.

## Theory

### Theory – state education good

#### State education is good

Shober, Lawrence University Department of Government 10 (Arnold F., "Splintered Accountability State Governance and Education Reform," State University of New York Press, p. 7, Date Accessed: 7/10/17, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwjS6-iA0f_UAhUN0WMKHSubBEMQFggtMAA&url=https%3A%2F%2Fwww.researchgate.net%2Ffile.PostFileLoader.html%3Fid%3D567ae7f7614325f5548b457c%26assetKey%3DAS%253A309891711864832%25401450895349083&usg=AFQjCNGM3zkaNvVGEuGvFLcVKETk4Tcc5g>) lr

Beyond their role as administrators, states have a special position in federal politics that makes them a valuable site for the study of American public policy and bureaucracy generally. Not only do they share substantial governing characteristics with the federal government, but they have unique informational and political advantages over both school districts and the federal government. Further, federalism endows state-level bureaucracies (as opposed to state government generally) with leverage over local governments and perhaps over state legislatures as well. These will be detailed in turn.

### Theory – AT no lit

#### 50 state fiat is a real process in the context of education reform --- NGA provides a forum

Theobald, Temple University President and Malen, College of Education Education Policy Professor 13 (Theobald, Neil D., and Betty Malen, eds. Balancing local control and state responsibility for K-12 education. Routledge, 2013, Date Accessed: 7/10/17, <https://books.google.com/books?hl=en&lr=&id=USCOAQAAQBAJ&oi=fnd&pg=PP1&dq=Balancing+Local+Control+and+State+Responsibility+for+K-12+Education&ots=LQWlVYO4Pc&sig=Nf-pMzzeacje-_culD2anaxqaqM#v=snippet&q=%22Another%20factor%20in%20the%20increasing%20power%20of%20state%20governments%22&f=false>) lr

THE GROWTH OF THE INTERGOVERNMENTAL LORRY Another factor in the increasing power of state governments is the intergovernmental lobby and related organizations. Throughout most of American history, state governments operated in relative isolation from each other. The "Good-time Char-lie" governors and part-time legislators of the past lacked the time and resources—and perhaps the inclination—to cooperate with each other to push for specific policy agendas in many states at the same time. **Recent decades,** however, **have seen the growth of "intergovernmental'. lobbying groups that permit state governments to work together to influence state** and national **policy**. Three especially influential groups of this type are the National Governors. Association (NGA), the National Conference of State Legislatures, and the Council of State Governments. These organizations facilitate the exchange of information among state leaders and provide a vehicle both for **coordinating state policy change** and lobbying in Washington (Bowman and Kearney 1986). The activities of the NGA illustrate how the intergovernmental lobby works. The NGA.s head-quarters are in Washington, D. C. where it had ninety staff members in 1996. These professionals were divided into been branches: state service, research, and lobbying. Every year the NGA holds a conference for governors where up-to-date information on new state policy initiatives is exchanged and governors can talk and plan. **The NGA has been especially interested in education policy**; in fact, **its first study of a key state policy area**, conducted in 1986, **focused on education** (Beyle 1996; Fowler 2000). , . The work of the intergovernmental lobby in education policy is greatly enhanced by the Education Commission of the States (ECS). This organization is a policy network that the National Governors’ Conference set up in 1966. Its headquarters are in Denver, and both the federal government and foundations finance it. Every year it convenes a national meeting on education policy which state school superintendents, governors, state legislators, and other top leaders attend. There they are briefed on the latest ideas in education policy and hear reports about the successor failure of policies in various states. The ECS also has an ambitious research agenda and publishes reports on the status of various education policies in the **50 states** (Fowler, Press). Since effective organization is a major source of power, the development of the intergovernmental lobby has further enhanced the power of state governments. **Working collaborative-ly through these organizations, the states have been able to advance** multifaceted policy agenda, including **education re-form, with considerable success.**

#### 50 State interstate compacts have empirically happened

**MECC 10 –** Military Education Child Coalition 2010 (May 13, “The Interstate Compact on Educational Opportunity for Military Children”, http://www.militarychild.org/the-interstate-compact-on-educational-opportunity-for-military-children-see)

**All 50 states have signed the Interstate Compact on Educational Opportunity for Military Children**. The goal of the compact is to replace the widely varying policies affecting transitioning military students. **The compact leverages consistency:**  - **It uses a comprehensive approach that provides a consistent policy in every school district and in every state that chooses to join. -** The compact addresses key educational transition issues encountered by military families including enrollment, placement, attendance, eligibility and graduation. - Children of active duty members of the uniformed services, National Guard and Reserve on active duty orders, and members or veterans who are medically discharged or retired for one year are eligible for assistance under the compact.

#### All 50 States should adopt new STEM standards --- empirically more feasible and flexible

Scientific American Online 12 (August 2012, Date Accessed: 7/10/17, "U.S. Should Adopt Higher Standards for Science Education," Scientific American, <https://www.scientificamerican.com/article/us-should-adopt-higher-science-education-standards/>) lr

Americans have grown accustomed to bad news about student performance in math and science. On a 2009 study administered by the Organization for Economic Co-operation and Development, 15-year-olds in the U.S. placed 23rd in science and 31st in math out of 65 countries. On last year's Nation's Report Card assessments, only one third of eighth graders qualified as proficient in math or science. Those general statistics tell only a piece of the story, however. There are pockets of excellence across the U.S. where student achievement is world-beating. Massachusetts eighth graders outscored their peers from every global region included, except Singapore and Taiwan, on an international science assessment in 2007. Eighth graders from Minnesota, the only other U.S. state tested, did almost as well. What do Massachusetts and Minnesota have in common? They each have **science standards that set a high bar** for what students are expected to learn at each grade level. Such standards form the scaffolding on which educators write curricula and teachers plan lessons, and many **experts** believe them to be closely linked with student achievement. Unfortunately, the quality of most state science standards is “mediocre to awful,” in the words of one recent report from the Thomas B. Fordham Institute, an education think tank in Washington, D.C. Several states present evolution as unsettled science—“according to many scientists, biological evolution occurs through natural selection,” say New York State's standards. Wishy-washiness is also creeping into the way schools teach climate change, as some parents pressure teachers to “balance” the conclusions of the majority of scientists against the claims of a tiny but vocal clan of skeptics. We can't have a scientifically literate populace if schools are going to tap-dance around such fundamentals. Now a group of 26 states has collaborated with several organizations on ambitious new standards, known as the Next Generation Science Standards, that **all 50 states**, plus the District of Columbia, will be able to adopt starting early next year. The first draft, released in May, explicitly included evolution and climate change. A second draft will be available for comment this fall. The standards are based on recommendations from the National Research Council and were funded in part by the Carnegie Corporation of New York. In addition to tackling shortcomings such as those mentioned above, they put new emphasis on engineering, which is crucial to our country's economic competitiveness, and stress the process of science as much as the content. Any system of education standards has potential downsides. Mandate too much, and kids will grow bored or overwhelmed and teachers will lose autonomy. **But these new standards have already won over important potential critics.** Carolyn Wallace, a science education researcher at Indiana State University and a former high school science teacher who believes **many standards systems are too “authoritarian**,” says the Next Generation standards leave room for teachers to be more **creative** in how they present material to kids. She does worry that the standards impose more than can reasonably be taught in one school year. Hers is a serious concern that the standards developers should address. There is little doubt that these standards will require more classroom time to be devoted to science—and that is good. Harold Pratt, a former president of the National Science Teachers Association, says that in elementary school, science has often been squeezed out entirely by the reading and math requirements of the No Child Left Behind law. Many states currently require only two years of science, and California governor Jerry Brown recently proposed cutting that to just one. Accommodating the Next Generation standards would probably require three. Although these science standards are too new for politicians to have weighed in on them, the general movement toward common standards has bipartisan support. In a contentious election year, the idea that our kids deserve a world-class science education should be one issue we can all agree on.

#### States should adopt a uniform vaccination law.

Lobo 16 (James, Joined Ropes & Gray in 2016 as an associate in the corporate department. During law school, James served as an articles editor of the Boston College Law Review and a judicial intern for Justice Mary Thomas Sullivan on the Massachusetts Appeals Court. Prior to law school, James taught fifth grade reading and writing in Miami, Florida. | “Vindicating the Vaccine: Injecting Strength into Mandatory School Vaccination Requirements to Safeguard the Public Health” in *Boston College Law Review* vol. 57 no. 1, 28 January 2016. <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3483&context=bclr> )//tbrooks

An alternative to encouraging states to strengthen their own existing vaccination requirements is to create a model or uniform law, which states could adopt.219 This section proposes a model law based on the New York vaccination requirements and practices, described in section B, above, which utilizes a genuine and sincere requirement. 220 A model law would standardize vaccination policy and protect the country from an interstate epidemic.221 A uniform health law is not unprecedented.222 In response to the terrorist attacks of September 11, 2001, a team from the Centers for Law and the Public’s Health from Johns Hopkins and Georgetown Universities drafted a uniform health law called the Model State Emergency Health Powers Act (“MSEHPA”).223 The goal of MSEHPA is to grant power to state and local governments during health emergencies in order to effectively manage the threat, including provisions that allow state officials to vaccinate individuals in order to protect them from, and repress the spread of, contagious diseases. 224 Currently, thirty-eight states and the District of Columbia have adopted some portions of the Act in their legislation.225 MSEHPA could serve as a good model for a uniform health statute that addresses non-emergency situations, which state legislatures could adopt. 226 State adoption of independently created standards or model laws has seen varying degrees of success in other contexts besides health, particularly in areas such as commercial and criminal law. 227 The area of public health (and in particular vaccination) presents a compelling case for a uniform set of regulations: like commerce and criminal activity, vaccine-preventable diseases do not halt at state lines, and uniformity among the inoculation laws across the entire country would ensure their efficacy by preventing certain states’ lax vaccination laws from rendering residents of other states susceptible to disease. 228 There are a few drawbacks to the uniform law method.229 First, some—or even many or all—state legislatures may decline to adopt the model vaccination law, which would defeat the purpose.230 Second, if state legislatures did adopt the law, but substantively changed it before enacting it, then each state would have varying versions of the original model, effectively reverting the country to the current system.231 Regardless of these challenges, a model law presents a compromise between relying on states to independently remodel their own laws, and allowing current, inadequate laws to remain the same. 232

## Net Benefits

### Avoids Politics

#### Subnational education reform avoids Congressional polarization

Mills, New York University, Department of Law, Professor of Law, 12

(Robert, “The Case for Educational Federalism: Protecting Educational Policy from the National Government's Diseconomies of Scale”, pg 1959 – 1960, Accessed 7-10-17, VB)

2. Capitalization and Subnational Democracy

Caregivers in charge of households with children are a minority of voters. 48 Political institutions that enable them to acquire allies among the childless, therefore, are important for such households' political success. Tying the values of residential real estate to the quality of local schools is one way for these households to acquire such allies. Local school districts funded by ad valorem property taxes imposed on structures within the district tie together home values and school quality, giving childless homeowners an incentive to vote for increased school spending. School quality affects home values, because potential homebuyers are well-informed about local governments' policies to improve local school quality and shun markets that lack amenities like schools. To avoid driving away potential buyers from the local market, local "home voters" carefully monitor local governments' decisions even when those voters do not directly consume the services produced by local governments. Thus, childless couples are driven by capitalization of educational decisions into home values [\*1960] to care about the quality of local public schools even though they do not care about the welfare of other people's children. 49 The key to capitalization, however, is decentralization of school finance. The benefits of improvements financed by extra tax effort must be available only to those home buyers who purchase structures to which that extra tax liability attaches. If one could attend the schools without buying the home, then only the cost of the tax effort, not the benefit of the expenditures, would be capitalized into the value of the homes, significantly eroding the incentive of those homes' owners to lobby for higher school taxes. That capitalization can induce support for educational expenditures in a decentralized system of school finance is suggested by the rapid expansion of age-graded schools and high schools between 1870 and 1925. This expansion represented a massive increase in school expenditures - the second-largest in the nation's history - because high schools cost far more than one-room mixed-aged schoolhouses. 50 As William Fischel has demonstrated, voters' willingness to shoulder these costs was rooted in the desire to protect their property values. Far from being a "top-down" imposition by professional educators on rural voters, the decision to consolidate school districts required local referenda controlled by local voters who approved the consolidations out of fear that their jurisdictions would be bypassed by home buyers migrating to cities in search of better educational opportunity. 51 The need to cater to a mobile population also drove voters to adopt uniform curricular standards so that the children of new migrants arriving in September could pick up their schooling where they left off in June. 52 In effect, local action produced national curricular uniformity and massive educational expenditures, driven by what Fischel calls "the persuasion of property." 53 How willing would the childless be to pay for other people's children in the absence of capitalization? There has been a fierce debate over whether capitalization is necessary to induce voters to support [\*1961] school spending. 54 There is, however, significant evidence that capitalization can provide important motivation for elderly voters to cast favorable votes for school spending. 55 In light of the evidence of generational competition in the allocation of public sector resources, 56 it seems reasonable not to test one's luck with elderly voters' altruism but instead to provide maximum incentives for the childless to support educational expenditures. Decentralization of school finance is one such incentive. 3. Ideological sorting and subnational government Education policy is divisive, touching on ethnoculturally sensitive issues of language and religion. The ideological "heat" generated by these issues can either paralyze the national political process in an ethnoculturally heterogeneous nation or result in the marginalization of cultural minorities. Unsurprisingly, federal regimes with histories of linguistic or religious conflict - Canada, Switzerland, and Germany - devolve educational issues to subnational governments where each demographic group constitutes a local majority. 57 Such subnational [\*1962] "sorting" of different groups' favored policies in subnational enclaves has the normative appeal of pluralism: by giving each group some share of subnational power, ideological sorting satisfies a sense of fair representation of each point of view that a single national resolution of the divisive issue might offend. 58 This normatively attractive vision of cultural pluralism helps explain why education and family law were reserved for subnational decision-making in the United States by the end of the 19th century. There is a tendency in legal scholarship to implicitly disparage American localism on family matters as the product of racism and sexism. 59 While this view has substantial historical justification, the explanation ignores another basis for the nineteenth century ideology of localism on family matters - cultural pluralism. Within the Democratic Party, a motley coalition of culturally peripheral groups joined the Southerners in espousing a vision of cultural pluralism against what they took to be a culturally imperialistic agenda of New England evangelicals to impose moral uniformity on the nation. This coalition included not only Southern white supremacists but also backswoodsmen who wanted to hunt on Sunday, Catholics who wanted to send their children to parochial school, Irish city dwellers who wanted to socialize with their Tammany ward captain at the local saloon, and German Lutherans who liked their beer. 60 The "Yankee" evangelicals' agenda against which this coalition fought certainly included anti-patriarchal elements: Evangelicals relied heavily on the mobilization of Christian mothers to purge the household of male violence and male lack of personal self-control. 61 But the program was also an exceptionally intrusive and nativist effort to suppress cultural diversity in the name of social control, an effort that included not only the [\*1963] goals of racial equality and women's suffrage but also bans on parochial education of children, use of foreign language in schools, polygamous marriage, drinking of alcohol, smoking of tobacco, dueling, gambling, and obscene literature while promoting Sabbath observance. 62 Liberation of the freedmen from Southern oppression was part of a larger agenda for liberating all non-protestant minorities from the oppression and social isolation allegedly resulting from Catholic superstition, the German language, gambling, alcohol, and other sins against family values and national Protestant unity. 63 The various cultural minorities resisting this evangelical program could not be united by any substantive theory of the household or privacy: white Southerners had no love for Catholic parochial schools, and German Lutherans in the Midwest were relatively indifferent to Jim Crow. Instead, the Democratic Party held the coalition together with the rhetoric of decentralizing "domestic matters" in the name of cultural pluralism. 64 Regarding education in particular, this Democratic program of decentralization of family matters began in earnest as early as 1842, when Northern Democrats had used the rhetoric of "local control" in educational matters to pass the 1842 Maclay Act in New York. 65 Decentralization became the standard Democratic method of accommodating Catholic demands for power over schools, enabling them to satisfy Catholics' desire to control hiring and curriculum where they were numerically dominant while avoiding the accusation that Democrats favored "papist" schools. 66 Appealing to this anti-Yankee coalition, the Democratic Party used this slogan of local control over "domestic affairs" to defeat Republican efforts to promote [\*1964] racial equality in schools, defeating federal bills providing financial aid for schools between 1870 and 1872 67 and stripping Charles Sumner's Civil Rights bill of its provisions barring segregation in education in 1874. 68 The Southerners returned the Northern Catholics' support on race issues in 1875 by helping the Catholics defeat Republicans' proposed constitutional amendments that would have barred public aid to religious schools or societies. 69 Uniting the Democrats was not (merely) white supremacy but hostility to what was perceived as the Yankees' "aggressive didacticism" in family affairs. 70 As one Democratic opponent of the Blaine amendment declaimed, his state did not want "New England and other states to dictate to her what her schools shall be or what her taxes shall be, and least of all what her religion shall be." 71 Southern Protestants might not have loved Catholics, but both hated the "Yankee" reformer even more than they disliked each other. Republicans' program of federal regulation of schools for the sake of racial, religious, and linguistic integration turned out to be a consistent political loser, destroying the Republican Party in the South, 72 alienating German Lutherans in the Midwest, 73 and galvanizing [\*1965] Catholics everywhere to become passionately loyal Democratic voters. By the 1890s, Republican strategists had had enough: William McKinley assiduously avoided any discussion of culturally divisive racial, ethnic, or religious issues in his 1896 Presidential campaign. 74 Republicans and Democrats alike accepted the principle so thoroughly that, by 1904, Justice Holmes, a Civil War veteran and nationalist, could, in dissenting from the majority's broad reading of congressional powers in Northern Securities v. United States, 75 invoke the prospect of "Congress['s] … regulating … marriage and divorce" as the ultimate constitutional absurdum that commerce clause doctrine ought to avoid. 76 In sum, there was more to the nineteenth century rhetoric of local control over family affairs than white supremacy or patriarchy (although both prejudices motivated Catholics and Southerners deploying such rhetoric). As with other culturally heterogeneous federal regimes, the United States also adopted devolution of family matters in the late nineteenth century as a way of fostering cultural pluralism on issues that were culturally and religiously sensitive to ethnocultural minorities. The normative appeal of such subnational "ideological sorting" obviously depends on the ideologies being sorted. If the disputed question is the basic status of a group of persons as equal citizens, [\*1966] then devolution will not likely be regarded as a morally justified settlement: the jurisdictional divisions of subnational borders will not stop citizens in one jurisdiction from sympathizing with the sufferings of minorities in other regions, and their outrage will likely overwhelm any legalistic limits on national power. 77 Few would applaud federalism for the sake of safeguarding pluralism about Jim Crow. Over some range of issues, however, difference of opinion does not implicate the essential equality of citizens: the Democratic Party's policy of devolving authority to subnational jurisdictions over the regulation of alcoholic beverages and aid to parochial schools, for instance, did not lead to an acrimonious culture war, and it extended equal concern and respect to both sides of the cultural divide. Education and family law present many similar issues - i.e., matters that are religiously or culturally sensitive enough for devolution to advance pluralism but sufficiently remote from oppression as to present small risk of affront to democratic equality. 78 It is natural, then, to preserve subnational jurisdiction over family life as a general matter, while making exceptions for national intervention when subnational jurisdictions behave oppressively towards vulnerable groups - in effect, keeping the baby without the bathwater. B. When Should There Be a Federal Role in Education? Supplying National Public Goods and Removing Barriers to Subnational Political Participation Given the efficacy of subnational government in supplying education subnationally, what role should the federal government play? Conventional federalism theory suggests two national functions - supplying national public goods and removing barriers to subnational political participation. As I shall suggest in Part II, the former is much easier for the national government to accomplish than the latter. [\*1967] 1. Supplying National Public Goods That the national government has a role to play in supplying national public educational goods has been recognized at least since the federal government created the United States Military Academy at West Point in 1802. A national public good is simply a good the benefits of which transcend subnational boundaries such that no single unit of subnational government - a household, township, municipality, county, or state - has sufficient incentive to produce the benefit in sufficient quantity. 79 Military technology like engineering is an obvious example: fearful that the nation would be dependent on foreign engineers for its military needs, Jefferson created the West Point Academy despite his general philosophy of limiting federal power. The private market for engineering services would not likely motivate parents or school districts to finance human capital in the arcana of civil engineering in sufficient quantity to supply the army's military need, simply because those needs reflect the non-excludable benefits of domestic defense that no private market actor can capture. It is easy enough mutatis mutandis to justify many other national educational programs that subsidize national public goods under-supplied by subnational government. Whenever the benefits of an educational program exceed the boundaries of a state, there is a theoretical case for a federal grant program to encourage state production of the program. The boundary-crossing benefits of a program are not merely the result of the program's inherent characteristics but also the constitutional ground rules that prohibit state interference with the movement of goods and persons across state lines. Take, for example, unemployment insurance and aid to indigent households more generally. Because states are prohibited from excluding or taxing goods manufactured in other states, states cannot easily charge their own manufacturers with the costs of unemployment insurance for fear that those businesses will be put out of business by non-resident firms constitutionally immune from such charges but nevertheless importing cheap goods into the state. Fear of such competition from Southern states deterred Northern states from offering unemployment insurance programs despite then-Governor Franklin Roosevelt's efforts to organize cooperative action among the states. 80 Precisely such worries about the interstate mobility of capital led the U.S. Supreme Court to uphold the Social Security Act's unemployment insurance program in [\*1968] Steward Machine Co. v. Davis. 81 Thus, subsidies for unemployment insurance are a national public good, because the benefits of income smoothing transcend the boundaries of any single state. Likewise, redistribution of wealth to insure a national minimum of income for U.S. citizens constitutes a national public good, because, given the constitutionally guaranteed mobility of indigent citizens, 82 any single state's efforts to supply such a national minimum will encourage other states to export their indigent households to the generous state. 83 Subsidizing education is an especially attractive mechanism for redistributing income, because educational subsidies avoid the perception of moral hazard that dampens well-heeled citizens' willingness to part with their own cash to insure a national welfare minimum. Federal aid for free school lunch, Head Start pre-kindergarten childcare, and aid under the ESEA program are all examples of such federal aid for indigent households, justified by the national scope of redistributive programs' benefits, a scope insured by interstate mobility of indigency. These familiar general points regarding redistribution of wealth apply with special force to education: subnational governments are notoriously unreliable agents of indigent households when providing educational services, because the usual devices that induce constituents to lobby for educational improvement - capitalization of schools into home values and school-based social networks of child-rearing households - fail where indigent households are concerned. Capitalization fails, because attracting indigent homebuyers generally does not improve "homevoters'" home values. 84 School-based networks fail whenever indigency erodes the bonding social capital that allows other households to dominate the educational process. It is a familiar point that such social capital is closely related to educational attainment and reduced by crime. Single parents are also much less capable of networking to advance their children's interests. Given that crime, single parenthood, and lack of a high school diploma are [\*1969] closely correlated with indigency, it is no surprise that indigent households do not make superlative monitors of their educational providers. That the federal government would intervene to supplement and control educational services in jurisdictions containing a high percentage of indigent households, therefore, would seem to follow naturally from the logic of educational federalism. This is analogous to the logic described in Part I.B above that leads the subnational government to intervene when the internal governance of the household itself collapses as a result of poverty, low educational attainment, divorce, etc. Just as such households are not such reliable providers of childcare that the state can easily defer to their judgments about education, so too, jurisdictions dominated by such households are unlikely to be reliable providers of educational services. 2. Democratization of Subnational Governments The national government also has a role to play in democratizing subnational governments, because the reliability of subnational governments depends entirely on their responsiveness to popular demand. This is true both broadly as a matter of popular sovereignty, constitutionally (as a matter of Article IV, section 4), and narrowly as a matter of using federalism to advance children's welfare. Oligarchical governments - for instance, Alabama's government between 1901 and 1946, when it was dominated by the "Big Mules" of local industry and the timberland owners - may tend to under-supply local public goods to protect their interests from taxation. 85 Likewise, deep ethnocultural hostilities may lead a majority coalition to freeze out a minority, consequently undersupplying local public goods to that minority because of its lack of political power. There is a familiar justification for the national government to play in ending such minority cartels over subnational government: because the national government will be controlled by a different and more heterogeneous coalition of interests than any single state, the oligarchical state's dominant group will not be able, in theory, to stymie national legislation democratizing that state's political process. [\*1970] Likewise, there may be certain economies of scale in political participation: national politics have more developed media, more competitive political parties, and more visible political figures. These scale economies may allow national leaders to highlight and eliminate political abuses at the subnational level that could pass unspotted if left to the exclusive attention of subnational officials. There are numerous familiar and less obvious examples of the federal government's playing such a democratizing role in subnational government. The obvious examples include the Guarantee Clause of Article IV of the U.S. Constitution, 86 the Fifteenth, Nineteenth, Twenty-fourth, and Twenty-sixth Amendments, and the Voting Rights Act 87 and the Motor Voter Act. 88 The less obvious examples include federal prosecutions of subnational officials' corrupt actions under federal statutes like the Mail Fraud Act 89 and the Hobbs Act, 90 prosecutions best justified by the low salience of much subnational politics and consequent need for an outside authority to highlight violations of the subnational jurisdiction's own ethical standards. 91 The federal role in desegregating schools and insuring equal access to education for racial minorities is the obvious education-specific example of such democratization. From Brown v. Board of Education 92 to Title VI of the 1964 Civil Rights Act, 93 the federal government's major role in education has been in insuring an end to racial isolation, segregation, and denial of equal educational opportunity, justified implicitly by the subnational governments' lack of trustworthiness in pursuing these goals. III. Overcoming Diseconomies of Scale in Federal Educational Reform There is no doubt that, both as a matter of law and political theory, the federal government appropriately plays some sort of role in educational policy. As explained below in Part III.A, however, scale diseconomies threaten to stymie federal policy's effectiveness. The size and heterogeneity of congressional districts make it difficult for [\*1971] stably governed households to use their school-based networks to lobby for adequate school revenue in Congress. Federal investments in education, financed from nationally uniform taxes, are not capitalized into home values, depriving the federal government of the power to mobilize childless households on behalf of educational investments. Stripped of these special advantages of capitalization and social capital, the federal government's policies can also be paralyzed [stifled] by ideological polarization in Congress resulting from a culturally heterogeneous nation, polarization that is mitigated by ideological sorting at the subnational level. All of these diseconomies become exacerbated when the beneficiaries of the federal program already lack the social networks used by stably governed households to monitor educational providers. For such beneficiaries, misuse of federal funds is invisible: they are poor enforcers of federal mandates through either politics or litigation.

#### State policy is incremental, which avoids partisan scrutiny – the plan’s sweeping, national action gets put under the spotlight

Corrales, Amherst College, Professor of Political Science and PhD in Political Science, 99

(Javier, “The Politics of Education Reform: Bolstering the Supply and Demand; Overcoming Institutional Blocks”, pg 20-21, Accessed 7-10-17, VB)

/CORRALES.PDF)

Argument: Haddad (1994) argues that education reforms that follow a more gradual, step-by-step approach (“incremental”) tend to encounter fewer political difficulties than more comprehensive, sweeping reforms (“synoptic”). According to Haddad, a narrow scope allows officials to test the acceptance of the reforms and is less likely to provoke the mobilization of cost bearers. A piecemeal approach avoids the national spotlight and keeps to a minimum the number of cost-bearers.