

After a grueling legislative session ending with cliffhanging approval of a budget bill, educators often say, "I wish they would just give us the money and leave us alone." Politicians, on the other hand, declare—usually quietly in an election year—"The state has responsibility for American education. The constitution and the legislature created the state and local boards of education; isn't it appropriate to ask how the money is spent and to decide where it is going to be used?" As with most debate topics, both sides have a point. And in the symbiotic governance of education, educators and lawmakers, no matter how far apart they stand, eventually need each other.

In recent years state legislatures have been paying close attention to the fiscal details of education, especially the reauthorization of federal money. They are also more concerned with the outcomes of education. A decade ago this was called accountability, but today we hear terms such as fiscal oversight, competency testing, and expenditure priorities. State legislatures are writing more legislation to deal with the day-to-day operation of schools; legislators say the events of the last decade have forced them into this position. They cite single-interest lobbying groups; federal legislation dealing with due process, equal education opportunity, and the rights of minorities and women; the collective bargaining process; and school finance court cases and constitutional amendments as reasons for writing specific legislation.

In the mid-1960s, federal monies were used by state education departments to expand their role and implement new federal thrusts in American education. Usually, federal money was the add-on part of the budget; the legislature, in many instances, didn't know how much extra money came into the state or where it was spent. In recent years legislatures have been trying to change that. In fiscal 1979, 20 to 30 percent of most state budgets came from federal

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State legislatures deal with major school issues—everything from money and legal matters to declining enrollments and the energy crunch, and a lot in between.

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STATE LEGISLATURES AND THE SCHOOLS

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aid. Along with the federal money came problems of federal priorities taking precedence over state and local priorities, state governments finding a shortage of money to provide matching grants, duplication of federal programs, and lack of coordination between federal and state programs. Complaints from local school districts to federal agencies and state legislatures set the stage for so-called "fiscal oversight." The National Conference of State Legislatures estimates that in 1978-79 alone, 26 state legislatures attempted to increase their control of federal funds. Sixteen of the 26 did initiate improved control mechanisms, and the other 24 states will no doubt increase their efforts.

The National Conference of State Legislatures has issued *A Legislator's Guide to Oversight of Federal Funds* (1980) with 15 recommendations for control of federal moneys. Recommendations calling for tracking the flow of funds, new accounting procedures, itemized lists of matching funds vs. federal funds, and legislative approval of grant applications and state plans all appear to educators as ways to meddle with the day-to-day operation of schools.

Legislators, on the other hand, counter that new programs started under the auspices of federal funds are often dropped or only partially funded after a year or two. When legislators are asked by local and state agencies to pick up the pieces and they refuse, they find themselves cast as the villains. Rather than being asked to dig up more money to provide matching funds or continuation of funds after the fact, they would prefer to be involved from the start.

The fiscal situation in most states swings back and forth between concern over a shortage of funds and long debates over the allocation of surplus money. States are finding that the surplus moneys don't go far enough and that more is needed for sudden emergencies. In California, for instance, the immediate effect of Proposition 13 was, to a certain extent, modified by the use of surplus moneys. Fiscal issues are always of central importance. Legislatures are passing bills ensuring that legislation requiring appropriations is based on sound financial impact data and that funds are or will be available. In 1979 the Maine legislature enacted a law calling for all new bills to in-

clude a fiscal impact statement. Florida passed a bill in 1979 calling for a study of the cost of the educational delivery system and the development of a new finance index. The mood in some states has evolved into "no new laws until the present ones are funded and operative."

Balance Among Competing Forces

More and more, state legislatures find themselves balancing the power among competing forces within the state. Collective bargaining is one of the focal issues over which school boards are pitted against teacher associations, each trying to gain some advantage by legislative mandate. In states without collective bargaining laws, the drive has been to establish a legislative foundation under activities currently in place. In states that have collective bargaining laws, fine tuning and changing provisions goes on constantly. There is a growing interest, too, in limiting or modifying the use of collective bargaining. Many state legislators feel that local school districts have bargained away too many items and that the pendulum needs to swing back, giving more control to local school boards. Teacher associations disagree with this point of view and will continue to drive for legislative modifications in their favor.

New issues continue to crop up in this balance-of-power struggle within each state. In the 1980 legislative session a new approach to student discipline was introduced in Washington and in Minnesota with bills giving teachers the power to suspend students without principal veto. Classroom teachers would gain more control over their own affairs with this type of bill, but school board and administrator organizations see it as eroding their power. The legislature is caught in the middle, trying to balance out the two forces.

At the postsecondary level, control over preparation of teachers, the teacher certification process, and in-service training of existing teachers is an emerging issue. In 1979, the Hawaii legislature called for a study of the number of people being trained as teachers who were not teaching. The implication is that teacher training institutions have not cut back on the number of teachers or administrators they train. Legislators feel they have to balance need

against existing resources. In Kansas, the legislature looked at postsecondary operations by conducting an interim study on faculty staffing and loads. Iowa did a similar study a few years back. Kentucky passed a resolution calling for a study of the low incidence of rural Kentucky students being admitted to professional schools within the state.

Occasionally, legislators are called on to reinterpret existing rules used by boards. A 1979 Oregon law requires any public body meeting by conference telephone to publicize the fact in advance and provide a place where the public can listen in. The same year, Rhode Island enacted a law prohibiting commissions, including those with legislators as members, from meeting during the hours in which the general assembly was in session.

Legislation Directed Toward Current Problems

Energy, inflation, and declining enrollments are examples of a new generation of problems facing education. Energy-related costs have been the subject of many bills enacted recently and will probably continue to be the subject of legislation in the next few years. Energy life-cycle costs of new buildings, school transportation fuel costs and buses exempted from budget lids and freezes, and studies of new school year calendars calling for shorter summer vacations and longer winter vacations have all been touched by state legislation.

Declining enrollments have been the subject of a broad spectrum of legislation. Some states have altered school finance formulas to include a safety valve so that the amount of money allocated to school districts will not decrease immediately, giving districts more time to plan for declining enrollments. Similar kinds of legislation will no doubt be used at the postsecondary level in the next few years. Some of the related areas include training school administrators to handle the shortage of students and the surplus of buildings and teachers, early retirement programs for teachers, incentive retirement programs, legislation calling for the use of school buildings by outside groups, and provisions for local school boards to lease and rent school buildings.

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Sometimes day-to-day news events take on political overtones as state legislators find an area where a bill will yield great political benefit with a small price tag. A few years back legislation was enacted to pay for the college education of the children of personnel missing in action in the Vietnam War. Nearly every state passed such legislation within one or two years. Sometimes legislation is directed to a very specific situation, not with a solution in mind but with a concern at heart. The Chowchilla bus hijacking incident in California resulted in legislation calling for school districts to monitor bus routes and schedules and to notify law enforcement agencies when a bus was unreasonably overdue. In 1980, Governor Brown signed a law that repealed that provision.

Special Interest Legislation

Each legislative session seems to bring on more bills aimed at very specific and unique situations. Undoubtedly, this is the result of specialized lobbying forces deciding to spend more money at the state rather than the federal level. In the 1980 session, for example, legislatures in over a dozen states debated the teaching of "scientific creationism" as a result of pressure from national organizations combining forces with local religious groups. Lobbyists in Delaware brought about passage of a law that prohibits calling parents to school for a conference if it conflicts with their work schedule. Georgia and other states enacted legislation for hunter safety programs and several states have legislated new course requirements in consumer economics or free enterprise. Humane societies and other groups have pushed for legislation dealing with treatment of live animals. Minnesota enacted a law in 1979 providing military recruiters access to the public schools.

Special interest legislation doesn't always have a big impact on local school districts and postsecondary institutions, but the potential for a movement such as scientific creationism to sweep from state to state is always present. The failed legislation in each state is probably the best source of information on the new special interest lobbying forces that are gathering momentum. Studies conducted between legislative ses-

sions by education committees of legislatures are another source.

A Look Ahead

Future legislation must continue to address the fiscal problems facing education and the states. Special problems of the 1980s will center on the Proposition 13-type initiatives, budget caps and lids, and various controls on spending at a time of double-digit inflation, spiraling energy-related costs, and declining enrollments. Voters appear to be moving away from enactment of Proposition 13-type mandates, but the overriding issue will be rising costs and fewer students. The current recession, its length and depth, will have a great effect on short-term revenues. A couple of states had to make major budget reallocations in mid-1980 because tax revenues were falling behind original estimates. Oregon called a special legislative session to handle this problem and Iowa's governor, Robert Ray, gave a special midsession budget message to the legislature as a result of declining revenues.

On the program side, federal mandates will continue to consume legislators' and educators' time. PL 94-142, the Education for All Handicapped Children Act, will be the subject of implementation and refinement for years to come. The student minimum competency testing movement probably has reached the saturation point for legislative mandates, but the issue will stay alive for the next several sessions as implementation problems are identified. To a certain extent, mandated competency testing is at the crossroads. The courts will play a key role. If student class action suits such as those in Florida and North Carolina are upheld, it could scale down the use of statewide tests for high school graduation. On the other hand, if the courts uphold the state boards and legislatures by saying it is their assigned constitutional duty to provide an adequate education for elementary and secondary students and that part of this duty is the assignment of education standards, then the minimum competency testing movement will undoubtedly grow. The key event may be the appeal of the Florida court case in the Fifth Circuit Court of Appeals.

Teacher competency testing ap-

pears to be coming on rapidly and roadblocks to this movement are not immediately evident. The U.S. Supreme Court decisions which upheld the use of the National Teacher Examinations in South Carolina and the Duke Power Company case upholding the use of employee tests if they are related to the job at hand will all contribute to the use of teacher competency tests. Some people feel it's logical to assume the courts will uphold the use of teacher tests in reading, writing, and arithmetic since teaching these subjects is a primary function of the school. The only counterforce will probably be the lobbying power of teacher organizations. But any strong position against such testing could be interpreted by the public as an endorsement of incompetent teachers.

Another subject drawing mixed readings on the legislative screen is "truth in testing." While New York did enact the LaValle Bill and several other states have bills pending, the issue is not moving as quickly as some people predicted a year ago.

The growth of nonpublic schools, especially those connected with the Fundamentalist church movement, seems to be fed by a general dissatisfaction with public schools. Some of the ideas fueling this movement could surface at the legislative level. Efforts by parents to teach their children at home instead of sending them to school and court suits and legislation calling for all nonpublic schools to be free of state control are signs that this issue is growing in importance. Many people expect variations of the voucher plan and more legislation aimed at giving financial and other aid to nonpublic schools. Lobbying power in this area is growing rapidly.

In the 1980s state legislatures will increasingly serve as the traffic cops of American education. The events contributing to this move to state-level decision making all appear to be locked in place. Only a major shift in public opinion or massive cooperation between existing special interest lobbying forces could alter the trend. ■

Reference

A Legislator's Guide to Oversight of Federal Funds. Denver, Colo.: National Conference of State Legislatures, 1980.

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