【연구논문】

The Federalist Voter: Education Finance Reform in California

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> It has been observed that a pure democracy if it were practicable would be the most perfect government. ...The ancient democracies in which the people themselves deliberated never possessed one good feature of government. Their very character was tyranny; their figure deformity.
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> \- Alexander Hamilton (1788)

> Every man, and every body of men on earth, possesses the right of self-government. ...It is the people, to whom all authority belongs. ...The hand of the people has proved that government to be the strongest of which every man feels himself a part.
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> \- Thomas Jefferson (1801)

1. Introduction

Hamilton and Jefferson found tyranny in different places. Hamilton stood in staunch opposition to the "utopia" that was the pure, direct democracy of the "ignorant" masses. Jefferson, on the other hand, felt that pure democracy was preferable to representative government, which could be no better than a monarchy. While Jefferson's position was generally considered to be dangerous at the time, and Hamilton's caution would be woven into the Constitution, the tables have since turned, and greater voter participation in governance in the form of direct democracy has garnered significant standing in contemporary America. While the pairing of direct democracy and federalism would surely strike most of the founders as antithetical, the modern-day voter no longer appears to be phased by the juxtaposition that has now come to be regarded as central to good governance in the federal state. This conventional assumption in the literature on direct democracy is contradicted by the most prominently cited example of its success: California, whose dire fiscal situation suggests that direct democracy, may be the culprit, not the savior. This paper offers a repudiation of the conventional wisdom, and illustrates that direct democracy is in fact responsible for creating fiscal pressures at both the state and municipal levels that alter the federal balance of power.

This paper explores the development of education finance reform in California through an examination of the narrative told by prominent ballot measures from the period of 1978 to 2012. During this period, drastic changes in the way education was funded not only altered California's ability to appropriate sufficient funds for education year after year, but also its ability to meet its other responsibilities.

Education finance reform was not the initiative of stoic legislators but rather voters. Empowered by the tools of direct democracy, voters went to the polls and decided on bills ranging from tax limitations to education finance. While the intentions and competency of voters is often questioned by social scientists (Cronin 60-89 & Elkin 385-402), what is of particular interest is how direct voter participation in formulating state and local fiscal policy, or "ballot box budgeting," has worked to unduly hinder the California General Fund and to place mounting barriers against future attempts to reform already hamstrung education finance goals. These fiscal aspects are not solely limited to the capacity of the state to properly meet its obligations; more importantly, there are repercussions for the intergovernmental relations inherent in a federal state. This fact points to the overarching reality that direct democracy does not just have implications on the state and local level but on the federal, or national, level as well. So the question is: does direct democracy have a salubrious effect, as is the predominant view in the literature, or in fact a deleterious one?

(1) A Model of Federalism

This paper employs researcher Jenna Bednar's *Model of Federalism* [*The Robust Federation: Principles of Design* (2009)], which presents several theoretical models of a well-functioning federal state as an aid in understanding the nature of California's fiscal reliance on the federal government.

The simplest and clearest sub-model is the Triangle of Federalism, which conveys the principal opportunistic actions in a federal state. It is taken as axiomatic that government bodies and actors, like people, are self-interested and seek to maximize benefits while minimizing costs. The federal government, which lies at the top of the triangle, may fail to meet its obligations; however, the act of opportunism most commonly associated with it is encroachment, where it acts opportunistically to supersede or fill the vacuum of authority held or left by the states and municipalities. Conversely, states constitute the triangle's base. These actors tend to partake in two different kinds of opportunism: shirking, where a state fails to meet obligations to its constituents or to fulfill its agreed-upon role within the federal state; and burden shifting, where opportunistic behavior exports externalities to neighboring states.

Bednar presents another sub-model that ties into the previous one that she refers to as the "Safeguards of Federalism". The model involves complementarity, which she asserts makes federal states robust. These safeguards are traditionally pigeonholed into five primary categories: intergovernmental retaliation, structural safeguards, popular safeguards, political safeguards and judicial safeguards. Robust federal states are generally considered to possess the latter four in abundance and in overlap. Perhaps the most important aspect of this model is illustrating how opportunistic behavior is sanctioned (and thus discouraged). In a state where intergovernmental retaliation is the only "safeguard," there is abundant latitude for non-compliance while opportunistic behavior prevails. Only when punishment is triggered by flagrant violations must the offending state bear the full cost of intergovernmental retaliation, i.e. war. However, with the addition of one or more safeguards, more egregious transgressions are minimized by the establishment of earlier triggering sanctions directly related to the degree of opportunism. Essentially, this allows for minor opportunism while simultaneously providing for a functioning federal whole.

Historically speaking, California lacked a strong civil society[1) (Allswang) that, if had existed, would have assisted in the formation of strong structural safeguards. However, distrust in governmental institutions prevailed, and in an attempt to compensate for ineffective government, greater power was given to its fledgling voter population. The situation in California in the late 19th and early 20th century is indicative of an insufficient mild structural safeguard, where increasing opportunism by the corrupt legislature yielded higher utility despite receiving mild punishments (voting for new representatives frequently just brings more of the same). The Progressivist movement sought to combat the utility of non-compliance by the legislature and successfully pushed for the popular safeguard to become more easily and frequently triggered; birthing direct democracy's expanded popular safeguard into being.

2. The Narrative of Ballot Measures

(1) Not Your Typical Tax Revolt, Proposition 13

Proposition 13 is considered to be the tipping point that set off the tax revolt not only in California, but also led to a series of successful tax reduction and limited government oriented ballot measures across the nation (Beito). While tax revolts have not been a particularly unique phenomenon in the United States, there is still much debate over what initiated the wave of Californian voter

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1) Due to its relatively recent statehood.

dissatisfaction in the late 1970s. However, the predominating hypothesis championed by economics researcher William Fischel posits that the success of Prop 13 is the result of feedback effects stemming from the court ruling *Serrano v. Priest (1971) (Serrano 1); and* (*Serrano II) (1976).*[2] He speculates that the passage of radical legislation such as Prop 13 cannot be properly explained by voter habits alone because of the surprisingly large margin of passage, almost 2 to 1, but also because similar tax limitation bills failed to pass in 1972 and 1968, both of which were rejected by a 2 to 1 margin (*Serrano* & Proposition 13).

The arrangement that was being challenged in *Serrano* (*I)* was one of school district funding. Education during this time was a wholly local matter; school districts were funded directly through local property taxes. However, the problem seen with the arrangement was that poorer municipalities, even those with higher property tax rates, could not afford to provide the same level of education funding richer municipalities could at lower tax rates, in effect unduly favoring the wealthy. The court ruled in 1971 (*Serrano I*) that the existing state funding was inadequate to bridge the divide between districts and offer equal opportunity of education to all California children, which the court felt was a fundamental constitutional right (New York State Archives).

The legislature took up the mantel of *Serrano* immediately after the ruling and passed the Property Tax Relief Act of 1972 (PTRA). The new legislation essentially retained the pre-*Serrano* arrangement

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2) For detractors see Stark and Zasloff.

of funding education through property taxes, but changed the primary actor. Seeking to equalize spending among the districts, the new law placed a limit on the amount of revenue a school district could raise through local property tax, siphoning off excess revenue to poorer districts and it also created foundation programs where local funding would be supplemented by state aid (Karst); essentially breaking the connection between local property taxes and local school spending (Fischel). Arguably, the most important aspect of *Serrano (I)* was it minimized the role local governments had traditionally played, as their revenues were requisitioned to support statewide equalization payments as the pendulum shifted to the state, it encroached on municipal powers.

In 1976, *Serrano II* was reaffirmed and stated that the original response by the legislature to *Serrano I* was inadequate and consequently further mandated that the legislature must reduce funding disparities between districts to less than $100 per student. In 1977, in compliance with that ruling, the legislature passed California Assembly Bill 65 (AB 65) mandating the statewide implementation of financial equalization of the California school system. The revenue limits authorized by AB 65 essentially drove up property taxes statewide, combining local property tax and statewide funding (coming from property tax) with any excess local tax revenue (Weston) serving to raise the direct funding needed to meet the mandated ruling.

During this same period the 1973-75 recession hit the housing marking harshly. High interest rates during the recession, coincided with rocketing population growth and an insatiable market for new housing that would lead to a series of countless reassessments of property taxes on rising home prices. Increased state government spending became increasingly reliant on income tax revenue and in some cities property taxes became so high many Californians could not afford to stay in their homes. Californians' discontent with rising property taxes was not lost on legislators. As the "People's Initiative to Limit Property Taxation"[3] a proposed initiative to limit property taxes started to gain traction, garnering over one million valid signatures to put it on the June 1978 ballot, the momentum jolted the legislature into action, which then in turn passed the Property Tax Relief Act of 1978,[4] which along with Proposition 8 would appear on the same ballot in June. The scope of Proposition 8 was rather modest if placed in comparison with Proposition 13, and was largely favored by liberal core constituents (Allswang 106-110). The principle difference between Proposition 8 and Proposition 13 was that Proposition 8 applied to all property tax except for that portion which went to education while Proposition 13, on the other hand, was designed specifically to target the increased income tax routing from education funding (Fischel). Fischel notes that school districts that were most affected by increased property taxes because of *Serrano* and AB 65 voted in a greater percentage for Proposition 13 (535-538). Proposition 13 was passed into law by 65% of voters (receiving a majority of support from both Democrats and Republicans) while Proposition 8 failed to pass, receiving only 47%.

3) Known less formally as the "Jarvis-Gann Amendment".
4) Known primarily by its sponsor Sen. Philip Behr as the Behr Bill.

(2) The Unintended Consequences

Essentially, Prop 13 prohibited ad valorem tax on real property from exceeding 1% of the value of any property and also restricted the increase of assessed value to 2% per annum or less and prohibited reassessment of property values without a change in ownership. Prop 13 also required that California state tax increases be approved by a two-thirds vote of the legislature and that local taxes initiatives be approved by two-thirds of the voters. Proposition 62 further amended this requirement in 1986 by establishing new requirements of a two-thirds plurality by either the governing body or the voters for the adoption of new or increased taxes by local agencies. Both these measures would serve to make future efforts to raise taxes to support education funding harder to achieve, even as voters came to recognize their education system was underfunded.

The passage of Prop 13 had an immediate effect on California's budget. Prior to its passage, there was at least a 7 to 8 billion dollar surplus in the General Fund, however as a result of the precipitous drop in local revenues from the 1% property tax increase limit, the subsequent years were spent burning away the surplus to underpin municipal budgets. In total, it is estimated that Prop 13 saved voters, or starved the state of nearly $528 billion USD (Howard Jarvis Taxpayers Association).

Prop 13 had a devastating although not immediate effect on education in California. The use of the aforementioned state budget surplus kept local school districts afloat in the years following and worked for a time to allay fears that the educational system would unduly suffer. It can be reasoned though that while many Californians expected to see consequences from the passage of Prop 13, possibly some loss of state and local government services, this concern in the end did not hold a deep sway for voters concerned about keeping their homes (Martin, KPBS).

Eventually, the growth of the General Fund, which had previously experienced an average annual growth of about 15%, could no longer keep up with yearly demands since anticipated future tax income was far short of that which was projected pre-Prop 13 (California Department of Finance). In addition, the state government's overall contribution to education funding declined because the state's obligation to fund school district equalization was done through property tax receipts, which was encumbered by the 1% limit on annual property tax increases. While local municipalities could no longer issue bonds to support education funding,[5] local governments became predominantly reliant on their ever-shrinking portion of California's stagnating General Fund, which failed to maintain consistent growth; oscillating between -15% to 15% on any given year (California Department of Finance). Prop 13 had the ultimate effect of neutering the mandates of *Serrano* and AB 65, making them nearly impossible to fund; the redistribution effects of the progressive legislation were short lived. Whether intended or not, Prop 13 had the rapid effect of stripping education funding from the local domain, thrusting the woefully incapable state finances into the position of principal guarantor.

It was not just only the source of funding that changed. School

5) Because bonds are serviced by property tax receipts.

finance reform brought about a perceived reduction in quality as well. By 1985 state budget surplus payments to municipalities had run dry and the effect of limiting property taxes finally began to take its toll, which in turn, began a trend of per pupil spending reductions, diminishing from around $400 USD above the national average (Carroll). 1985 also marked the year California's per pupil funding began to fall below the national average (Chapman 16). In comparison to the 1960s, when California was consistently ranked as one of the best states nationally in several measures of student and school performance, the 1980s saw the significant decline of California's standings in those statistics. By the 1990s California would rank near the bottom in terms of per pupil spending, $600 USD below the national average by 2000 (Carroll). In the face of these reductions, school districts chose to hire fewer teachers, which resulted in a dramatic increase in the pupil-teacher ratio, which had a negative effect on the quality of education in California public schools (Sonstelie).

The change in the quality of the educational system was not lost on voters and it became clear that state and local governments possessed no administrative remedy to address problems in the failing education system and earlier judicial rulings that favored educational equity were preempted by ballot measures. By the late 1980s voters had perceived a transgression by the state government, and initiative campaigns to fix the education problem were underway. While five initiative attempts at education finance reform did not make it onto the final ballots between 1980 and 1984, the electorate's appetite for election funding reform was sufficiently whetted to place Proposition 98, a K-14 funding bill, on the 1988 November ballot.

(3) The Unfunded Mandates

Proposition 98,[6] a combined constitutional amendment and state statute, amended the California Constitution to mandate a minimum level of education funding from the general fund and set the minimum floor for education spending at 39% of General Fund tax revenues. Part of the logic behind Prop 98 was that by increasing the percentage mandated on education spending, the total amount of education funding would increase as well, due to an increasingly larger General Fund engendered by natural population growth and a growing economy (Legislative Analyst's Office). While the focus was an ever increasing and stable source for education funding, the constraints of the requirement became readily apparent: as the percentage of spending on education increased, the absence of new taxes or increased revenue created a situation where there was less money for other state expenditures (Chapman 16-17).

Legislators and administrators found this basic formula too restricting and sought to ease the severity of the mandate through Prop 111 in 1990, which was met with voter approval. Prop 111 was primarily framed not as a tax hike but as a means to reduce severe highway congestion. The most visible aspects of the act included a tax increase on truck weight fees and a 5¢ hike to the state's fuel tax; it also included some less prominent measures that served to alter the conditions of Prop 98. More importantly, Prop 111 altered the way the Gann Limit[7] was calculated, and affected the way the minimum

6) Known officially as the "Classroom Instructional Improvement and Accountability Act."

funding guarantee created by Prop 98 worked. It also added two additional formulas for the calculation of education funding appropriations.[8] Prop 111 also inserted a clause that allows for at least a one-year suspension of guaranteed education funding.[9]

Since the new, rather complex appropriation formulas take several factors into account, they are liable to changes throughout the year, and consequently the minimum guarantee of education funding fluctuates. To meet the mandates of the preceding years, it is the responsibility of the Governor to provide additional funds. However, it is interesting to note that because of changes to ERAF (Educational Revenue Augmentation Fund) property taxes in the early '90s the actual percentage of General Fund revenues set for education is closer to 34% rather than the mandated 40% (Chapman 16-17).

While Prop 98 was passed in reaction to the dire fiscal consequences Prop 13 had on the budget, in retrospect it did little to improve the education-funding problem in California. Chapman remarks that, "Prop 98 has acted as more of a ceiling than a floor" (16). In fact, it limited more than expanded funding. For example, if the legislature decided to provide education funding above the minimum guarantee, that additional fund must be factored into account for the next year's

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7) Placed limits on the growth in appropriations made by state and local governments. Also mandated that in state and local governments must return tax revenue to taxpayers if the annual amount exceeds the appropriation for that year. An addendum to the tax reduction measures begun by Prop 13.

8) One to be utilized during years of strong earnings while the other during years of slow or negative growth. Since the passage of Prop 111, the original 39% minimum formula has not been utilized.

9) Thus far, the legislature has suspended the minimum guarantee for funding only once, during the 2004 – 2005 budget year.

budget. Basically, the good will of legislators on any one-year's budget would become a permanent obligation for the next. Budgetary fights ensued in the legislature not over how to meet the necessary funding, but to see how little they could fund it. During times of economic downturn, the budgetary minimum worked to hamper state services not only in education, but also in various domains of state responsibility.

Prop 98 and 111 continued the earlier trend of moving power away from localities and towards the state government. As Prop 13 limited funding sources, school funding underwent further centralization under Prop 98 and 111, almost being completely managed at the state level. During this period local governments became secondary actors, merely recipients of state largess.

Authors such as Sonstelie and Brunner argue that Prop 98 was a conscious choice by voters to spend less on education. They argue that voters weighed the possibilities of higher taxes necessary to funding against the benefit of better schools. While it is reasonable to say that voters are innately conscious of their perceived tax burden when they vote, ballot measures such as Prop 98 offer a different route to voters. Because the visibility of potential taxes is not evident, voters may not be conscious of the connection to future obligatory spending. Bills with unfunded mandates do allow voters to express their best intentions and serves to represent their collective equitable will. However, the California experience has given credence to the idea that voters may inherently support such measures that increase services while offering limited or absent means of funding (i.e. an unfunded mandate[10)]) over measures that would unduly burden them fiscally. What is important about Prop 98 is not the intention of voters to improve education; it is that they, and also the creators of the legislation, did not fully understand the consequences to the state budget of setting the minimum-funding guarantee. Even by amending the bill through Prop 111, the formulas have worked to hamper education funding rather than expanding it.

(4) Attempting to Alter the Balance

The early 1990s were a difficult time for the state of education funding. Accompanied by slow economic growth and consequent stagnation in the General Fund, per pupil education funding in California continued to drop. On the legal side, school finance cases throughout the country struck down *Serrano* based rulings, with judicial rulings asserting that equity should not be the concern for state funding; rather that funding must also be adequate (Adams Jr.). While this contributed to the growing debate on what form school finance reform should take, aside from bond funding it would not be until the 2000s that voter awareness of the need to redo education finance reform hit a critical level. During the 1990s the refunding of education by the federal government, beginning with Clinton's Educate America Act of 1993 did much to dampen concern over the ability of the system to adequately support itself. Accordingly, federal block grants to California and localities increased substantially during this period.

In 1998 the first non-bond education related bill appeared on the

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10) While Prop 111 could not be characterized as an unfunded mandate as could Prop 98, the way Prop 111 was marketed and whom it targeted (trucking industry) offered great appeal to voters.

June ballot, however Proposition 223 was clearly an anti-education bill. It sought to limit the amount of funding any one school district could spend on administrative costs. Most importantly the limited government backers of Prop 223 wanted to link improvements in school performance with school funding, failure to meet that bar would result in funding cuts and penalties fees. Because Prop 223 was not guised as part of the greater tax revolt, but rather a direct attempt to diminish the quality of education, it suffered a resounding defeat.

In 2002, riding on the gamble of Arnold Schwarzenegger's entrance into politics, Proposition 49, the first non-bond related pro-education bill made its debut and was passed by a margin of 56.7%. Prop 49 did not just increase state obligations for before-and-after school programs but it also specifically targeted school districts with disproportionately low-income students. Most importantly, Prop 49 mandated that funding not come from monies already guaranteed under Prop 98[11] and that education funding must receive priority in the event of growth in General Fund expenditures.

Prop 49 could certainly be considered an unfunded mandate, as the bill provided no additional means of funding the measure. While afterschool funding is not the largest of state education obligations the fact that Prop 49 prevents the reduction of funding without voter approval has essentially created an autopilot funding provision, which has resulted in significant growth in state funding of before-and-after school programs (Graves). However, this increased funding must come from somewhere, and non-K-14 education funding has been

11) In sum, Prop 49 created an additional $455 million USD of funding obligations per annum.

what has suffered, with $1.2 billion USD less in funding for childcare and preschool programs in 2012 than in 2002.

Unlike Prop 49, Prop 88 in 2006 linked increases in taxes directly to school funding. Supporters of Prop 88 sought to place a $50 tax on most parcels[12] of land. While the provision would have guaranteed that any other government program would not be adversely affected by the new mandated funding, the raising of funds through property taxation did not sit well with voters and Prop 88 was soundly defeated with 76.6% of the vote. Supporters of the bill noted that California then ranked among the lowest in per-pupil funding in all of the states and the only way to address this disparity was to raise taxes. However, anti-tax crusaders and limited government activists still held great sway even among Democrat constituencies. Opponents argued against giving greater means for the state to control education and asserted that powers should be devolved back to the local governments.

2012 marked the last and most recent of the attempts to reform education finance. A total of two bills offering similar prescriptions for higher taxes appeared on the ballot. Proposition 30 passed while Proposition 38 failed. What accounts for the passage of one pro-education bill and the failure of the other? Although both propositions were designed to support education through the levying of taxes, they did so in remarkably different ways.

Proposition 30, titled *Temporary Taxes to Fund Education Act* increased the personal income tax rate for annual incomes exceeding

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12) Any unit of real property in the state that currently receives a separate local property tax bill.

$250,000 and the California state sales tax by 0.25%, bringing it to 7.5%. While Prop 30 clearly connected an increased tax rate (and thus revenue) with supporting education it was marketed to appeal to middle and low-income voters.[13] Similar to campaigns for sin taxes on tobacco and alcohol, supporters of the bill sought to assuage concerns that the average voter would bear any additional personal tax burden.

On the other hand Proposition 38, titled the *State Income Tax Increase to Support Public Education Act*, also would have increased income tax rates to fund education. Unlike Prop 30, Prop 38 would have raised the income tax rate on most Californians. The backers of Prop 38 were unable to characterize the bill as only targeting wealthy individuals as Prop 30 did. Prop 38 suffered a hard defeat after being characterized as the "Middle Class Tax Hike Bill", receiving only 28.7% of the vote in favor. The nature of the tax burden imposed on voters can likely be attributed as the primary reason for Prop 30's failure. While passages of pro-education bills are largely supported, undue broad taxation in the voters' mind may lend itself to fiscal level-headedness taking the front seat.

The tax, and thus revenue limiting effects of Prop 13 and 98 culminated with a generalized state-level economic collapse occurring during the period of national economic turmoil known as the "Great Recession", beginning in 2007 and ending in mid-2009, which resulted in pushing the state's General Fund into disrepair. Governor Jerry Brown proposed in his California State Budget for 2012-2013 a

13) Even though it applied to some people who had earnings below the million-dollar mark, it was marketed as the "millionaire tax".

$6 billion USD budget cut for education funding in an attempt to bring the state out of deficit spending. The passage of Prop 30 and the estimated $6 billion in additional revenue negated that planned education cut and the education budget remained intact for those years.

Californian voters' practice of ballot box budgeting over the last three decades has created many feedback effects that both voters and experts did not fully anticipate. As was the case in Prop 98, when voters passed Prop 49 (2002), a pro-education bill that was crafted with the best intentions, they sought to increase the quality of education in their state. These bills however have been held hostage to a voters' sense of personal tax burden. Supporting tax bills that would clearly fund education with no strings attached or without embedded complicated formulas would clearly be the best method of creating a quality and well funded education system. However, voters do not necessarily support measures with broad public benefit or interest; rather, they vote in a manner reflective of self-preservation. Not linking increases in taxes with necessary revenue appeals to voters. If they do not see a direct personal burden, following the logic of rational choice it makes sense voters would want to maximize their personal benefit while simultaneously benefiting from a supposed increase in quality of services.

The effect of the ballot measures covered at the state level has served to aggrandize the state role in education in California. Education policy and funding obligations (aside from bonds) are currently almost entirely a state responsibility. As these ballot measures have worked to make it difficult for California not only to meet its education obligations but all state obligations as well, in order to adequately fund education California has become exceedingly reliant on federal grant funding.

(5) Bond Finance Practice in California

The practice of bond issuance to finance government is likely the least understood fiscal responsibility entrusted to voters. In California, the practice of putting bond issuances up to a public vote in support of various programs and proposals essentially allows the government to take on new public debt (of course, it is assumed the voter understands that they will be paying back the face value of the bonds plus interest through tax revenues). Nevertheless, even while lacking appropriate knowledge voters are faced with approving these measures at the state and local levels nearly every election cycle. This has been common practice since the initiation of direct democracy in 1911. Between 1914 and 2012, 183 bond bills have appeared before voters on the California ballot; of those, slightly over a quarter of them (49) have been related to education funding, sporting an 81.6% passage rate as opposed to the slightly lower average passing rate of 71% for non-education bond bills (Public Policy Institute of California).

Before 1962, bond bills in California were passed by a simple majority of the Legislature until the State Constitution was further amended to require a supermajority by the Legislature before being brought to voters for passage by a simple majority (Legislative Analyst’s Office 834). In the 1960s, the conditions of repayment and the requirements for passage of bond bills were tightened, which resulted in a slight lull in the number of bond bills. However, the need for increased funding as California's population continued to skyrocket resulted in a greater willingness to turn to borrowing as an option to fill tightened budgetary constraints in the 1980s. After the passage of the new supermajority requirement, various attempts began to alter this arrangement, but only in regards to education related bills, seeking to relax the requirement needed for passage. Proposition 4 (1966) and Proposition 9 (1972) both sought to lower the requirement, with the latter passed, allowing for a simple majority for bond bills that allocate funding to public school buildings deemed unsafe for occupancy (UC Hastings Law Library).

As of 2014, the state government possessed $148 billion USD in general obligation bonds approved by voter initiatives and propositions (California State Treasurer's Office). Of that amount, $128 billion USD, or roughly 86%, is to be paid for out of the General Fund. As a result of Prop 98 (1988), a minimum of 39% and an actual percentage of 50% of the General Fund must be spent on education and of the total General Fund-obligated debt authorized by voters, 43% is earmarked for spending on education from kindergarten through post-secondary levels. However, when looking at outstanding bond bills, bonds currently being serviced through the General Fund, a greater percentage (53% or $45 billion USD of the $75 billion USD) is servicing education debt. Between 2008 and 2012, the percentage of the General Fund used to service existing bond debt steadily increased from 5.52% to 7.81%. Both the voter authorized amount and the long-term outstanding bonds are non-self liquidating. This is important in that the state issues bonds for consumption, i.e. for the administration of education, and do not work towards their eventual repayment. As these bonds continue to stay on the books as additional future bonds that are issued to fund California municipalities' growing needs, the ability of municipal and state government to service extant and future bonds has not increased in a comparable manner, which places a steadily growing reliance on the federal government to fill this fiscal responsibility vacuum.

While much research focuses on the bond role of the state, it is important to remember it is not the states' sole prerogative; municipalities issue bonds as well. Before Prop 13 in 1978, the state role in funding local school districts was limited although was somewhat increased in the prior two years as a result of legislation in accordance with *Serrano v. Priest (1971) (Serrano 1); and (Serrano II) (1976)*. As it was during the adoption of the common school model in the 19th century, the aggrandizement of state roles before the 1970s was largely structural rather than fiscal (Rury 175-213). As local school districts had the primary responsibility for funding, they would frequently issue general obligation bonds as a means of meeting spending obligations. However, Prop 13 changed local school districts' ability to pay back their bond indebtedness through the levying of property taxes, since it was now limited to 1% of assessed valuation (Allswang), choking off important local revenue streams. The sixteen state-level education-related bond bills approved between the passage of Proposition 13 in 1978 and Proposition 39 in 2000 generated tens of billions of dollars for local districts, helping to stem the loss of important revenue. Nevertheless, because state-level bond bills only needed to receive a simple majority for passage (once out of the legislature) and local-level bond bill were subject to the 67%

supermajority public vote passage requirement, the state government was able to wrestle authority away from local governments, particularly in their ability to administer, refurbish and authorize educational facilities.

The central role Sacramento played was somewhat lessened in 1986 with the passage of Proposition 46, which allows municipal governments and local school districts to increase the property tax rate above the 1% ceiling as limited by Prop 13 if only for the purpose of paying off newly issued general obligation bonds and also for the purpose of improvement of land or buildings (school facilities). Prop 46 also generated some state-level fiscal concerns where districts that do adopt increased tax rates would become subject to greater deductions and need greater tax relief from the state government. While the ability for local governments to issue bonds was restored, the supermajority restriction still limited its use (Kemerer).

Proposition 170 (1993) sought to alter this arrangement by lowering the passage requirement for school facility bond measures to a simple majority and to allow property tax to exceed the 1% rate for all school bond measures. Met with a loss, the following year, Proposition 1B (1994) appeared on the ballot as an effort to make it easier to pay back bond bills that happened to pass the supermajority threshold. Aside from being a bond issuance bill, it also provided for the appropriate of General Fund revenue to pay of bonds (UC Hastings Law Library), however this measure also failed to meet voter approval.

The failure of this movement would not be redressed until 2000 when this arrangement was successfully challenged by the passage of

Proposition 39. Prop 39 amended the California constitution (Official California Legislative Information) to allow for a new passage threshold of 55% for local elections on bonds related to school facilities (Kemerer). Many tax-conscious voters opposed Proposition 39 for fear that it might add a further blow to the 1% income tax ceiling (Howard Jarvis Taxpayers Association). However, concerns over the inadequacy of Californian schools likely buoyed Prop 39 to passage. The passage of Prop 39 made it significantly easier for municipalities to generate funding for school administration and maintenance. While institutional barriers preventing the return of local level responsibilities to the pre-1978 level were still in place, the influx of fresh funding, though an obligation that needed to be paid off later, managed to reinvigorate municipal support in meeting its fiscal responsibilities. To better understand the ease with which bond bills would pass after Proposition 39, one need only look at passage rates for local-level school bond bills pre- and post-2000: 80% on average following its passage. Prior to 2000, only 60% of local education bond bills passed. Highlighting the importance of Prop 39's passage, of 162 local school bond issues presented to California voters in 2008, 85.9%, or 140, passed (Coleman). However, if that election cycle had been subject to the earlier 67% requirement, 18 bills that would have added $2.3 billion USD in new borrowing would not have met the former threshold for passage.

Referring back to the state-level use of bonds during this period, it can be noticed that, since 1986, the California State Legislature has been funding educational facilities through a mix of state general obligation bonds, local school district revenues, and developer fees;

after this point, the amount of state bonds for funding school construction increased substantially. According to the Public Policy Institute of California, bond-funding measures approved in elections during the 1980s averaged $685 million (in constant 2008 USD). In contrast, measures approved during the 2000s have averaged $5.15 billion – a nearly 635% increase (Public Policy Institute of California). In the recession that began in 2008-2009, California froze spending of most of the funding provided by voter and/or legislature-approved bonds due to the state's sudden inability to sell new bonds and to the drain on the state's monetary reserves that would have occurred had bond spending continued unabated. In school FY 09 (2008-2009), at the very height of the Great Recession, thirty-one states declared fiscal emergencies resulting from local and state revenue shortfalls totaling over $13 billion USD. Subsequently, the federal government stepped in to help, passing the State Fiscal Stabilization Fund (SFSF) in March of 2010. The state requests totaled over $33 billion USD for both K-12 and higher education. California was no exception – its budget deficit for K-12 education amounted to nearly $3.5 billion USD for FY 09. Indeed, California's reliance on federal funding to shore up its education budget was never as acute as it was during this period. It has been estimated that without ARRA stabilization funding, which ultimately restored budget equilibrium, over 6,300 schoolteachers in Los Angeles alone would have been furloughed without pay due to municipal and state education budget shortfalls (U.S. Department of Education, Report by the Domestic Policy Council).

It is reasonable to believe that since California is one of the most populous states it would receive a greater proportion of federal assistance dollars than other, less populated states. And indeed, the data bears this assumption out; moreover, it shows that not only did California receive a higher percentage of federal funding than the remaining states' average, it received even more funding proportionally than other large population states. On the other hand, Texas, while also a recipient of federal monies, received surprisingly little federal assistance, totaling only $6.4 billion USD in 2009 (American Recovery and Reinvestment Act Database & Holloway). There, local political units that strongly oppose federal assistance prevented municipal and state government agencies (which, in comparison to California, have limited responsibilities to begin with) from favoring a greater federal role. A notable example of a state that has assumed the mantle of providing (and financing) a progressive statewide education system is New York, which, as illustrated in the data set, did not need to request any federal funding during the Great Recession. While it is hard to say decisively, the converse nature of direct voter participation in California and New York vis-a-vis education finance does suggest that there are some underlying, structural reasons for the differing degrees of federal intervention in that domain.

Essentially, the practice of bond issuance has made California more susceptible to fluctuations in its budget as well as downturns in the economy. As the recession made abundantly clear, relying on bonds as a significant source of education financing is an inherently flawed strategy. This trend has been driven largely by voters, who generally have remained blissfully unaware of the pitfalls their state and local governments will likely face in repaying future debt, and who are for the most part willing to support their educational institutions given that their perceived individual financial burden is low. This is not to say, however, that running up debt is necessarily a bad thing; indeed, it may be that the renewed interest in issuing local bonds that took hold during the past decade has had a mostly salubrious effect, as it has begun to reverse the strong trend towards centralization in California by reverting fiscal tools to local governments. These benefits notwithstanding, carrying heavy debt does nevertheless create at least some fiscal weakness, and that in turn may invite greater federal budgetary participation.

3. Fiscal Federalism

In examining the trend of education funding in the United States as a whole, two concurrent trends are readily apparent. Firstly, since the inception of the Elementary and Secondary Education Act (ESEA) in 1965, the federal role in funding education has greatly expanded. Aside from programs such as Head Start, the federal government does not administer education; rather, it utilizes lower-level governments to administer funding, with states and local governments being the principal actors. The federal government experienced an increase in expenditure funding on education until the mid 1970s. As proponents of limited government obtained key policy-making positions not only in state but in federal government as well, funding in the 1980s became stagnant. However, changes in the national ethos led to the election of administrations more responsive to funding requests, bringing about a two-decade period of rapidly increasing federal funding. The other trend was the coopting of responsibility for education from local entities by state governments. While education had originally been a purely local responsibility, the typical state now splits its funding obligations nearly equally between the state and local levels. The two periods of growth in the federal budget are also apparent, with the Johnson-Nixon and Bush-Obama years clearly indicated by an increased share of federal revenue (U.S. Department of Education) (Rury 198). In comparison to the combined sum of federal, state and local funding, the federal government represented and still continues to represent the smallest portion of the amount. However, since federal budgeting is not subject to the same constraints state and local governments are, federal education funding comprises an important source of support for these lower institutions as the possibility exists their proximal sources of funding may be altered or become insufficient. In the 2008-2009 California education budget, 13% of funding came from the federal government, 57.4% from the state government and 28.8% from local governments (National Center for Education Statistics). While California occupies the upper end on the federal reliance continuum, education finance is nevertheless still considerably more centralized than the national average, suggesting that state and federal roles in education are not necessarily inversely proportional in nature, meaning that an involved state government does not preclude the need for federal intervention.

Long-term trends in California are also apparent in regards to the share of education funding. The data illustrates where the state began to adopt greater responsibilities as a result of *Serrano* (National Education Association). By 1980 the effects of Prop 13 were readily apparent, showing a complete reversal in the role of guarantor, with an average change in local (60% - 20%) and state (35% - 70%) funding. It is clear vanishing local property taxes severely constrained local governments in their ability to fund education. The period of financial difficulty in obtaining education funding from the state during the mid 1990s is illustrated by a dip in funding. While several education bills in the 2000s sought to change the dynamic, they did little to alter the overall formula. In addition, the restored ability of localities did not necessarily mean that local governments would increase their funding burden, but rather it allowed them to meet their existing obligations.

While the data does not illustrate a major increase in the percentage of education funding originating from the federal government, it nevertheless illustrates the high share of funding through the last two decades. In addition, the trends in federal funding are also present, though slightly harder to decipher. This is because the changes in federal funding are represented by smaller percentages (though no less important or significant); the peak in funding during the Democrat controlled congress in the beginning of the Clinton administration, the implementation of *No Child Left Behind* and the increased federal funding during the Great Recession can clearly be discerned. However, What the reader may not fully capture is the importance of the dispersed nature of federal funds. A large portion of federal funding arrives in the form of block grants or goes directly to municipalities; these bodies consistently rely on this funding in the event state or local bodies shirk on their responsibilities. This federal funding in most circumstances is not just going to prop-up local budgets but also to disadvantaged school districts, which desperately need aid. Consequently aggregated data fails to capture any changes in internal distribution as a result of compensatory aid.

(1) Observing the Expanded Popular Safeguard

While much of this paper has been to explore the narrative of education finance reform, in some ways this paper is also a thought-experiment on how the expanded popular safeguard works. The popular safeguard is essentially the will of the electorate. Steadfast supporters of direct democracy assert that by expanding voters' ability to sanction, the expanded popular safeguard would essentially become a complementary safeguard that makes government more responsive.

The expanded popular safeguard does work well to punish perceived institutional incompetence or inaction. When it seems that legislators are not properly representing their constituencies, initiatives campaigns are launched in a heartbeat. While institutional barriers such as signature drives and sufficient funds to run a PR campaign limit the frequency of its use, the use of the initiative nevertheless has continued to enjoy a heyday. In fact, the ease by which the expanded popular safeguard can be triggered in and of itself poses a problem. In this light, the frequently triggering and strong punishment it delivers to governing bodies like the legislature, local councils and other offices serves to make it more difficult for these institutions to function. While it is true that the expanded popular safeguard provides incentives for the legislature to offer bills that assuage voter concerns over a controversial or difficult issues it also provides cause for the legislatures to avoid difficult topics or to refer politically liable bills to the public for a vote. In California, the frequent use of the expanded popular safeguard has created a voter population sensitive to perceived transgressions in state and local governance. The focus of Californian voters on personal tax burdens suggests continued problems stemming from a mal-developed civil society. This continued distrust has affected a bipartisan collection of voters, and has helped to maintain the distrust in state institutions.

When the expanded popular safeguard itself transgresses, the compl ementarity of the federal model should work to hedge against the opportunism of ballot measures that are too far reaching. Judicial review has generally filled this role. While the court is active in monitoring infractions on federal and state constitutional law (The Rose Institute of State and Local Government), radical ballot measures that would never have passed a legislative vote can still be constitutional. While ultimately, the courts struck down parts of Prop 13, the most important aspects of the act remained on the books.

Apart from judicial review what safeguards exist to counter the opportunism of the expanded popular safeguard? The legislature makes a poor counterweight to the expanded popular safeguard. This is because most ballot measures have provisions that prevent the legislature from overturning the people's verdict. The popular safeguard itself can provide a check on itself, but the vote requirement to overturn a law already passed by a previous election's voters is usually too high of a threshold. The California example has illustrated that while voters have passed some laws, such as Prop 98, with the best of intentions, the unanticipated feedback effects that have made the co-existence of education funding and maintaining other government funding obligations exceedingly precarious. Attempts to bypass, thwart or overturn aspects of the original bill have proved unsuccessful because of the high bar set for the legislature and for voters.

Political safeguards on the other hand work to enhance the frequency of popular safeguards to trigger. By appealing to voter drives and working up their core constituencies, political parties have utilized ideology to drive the success of many ballot initiatives. The expanded popular safeguard not only reduces the complementarity Bednar described in her model of safeguards but also fiscal accountability. The judicial safeguards only work well for preventing certain kinds of opportunism but, unfortunately, do not impede voters' ability to practice mild to medium levels of opportunism vis-a-vis transgression. Accordingly, it is important to note that the rudimentary popular safeguard is a more tempered and moderate version of the people's will. While voters are not able to directly craft laws, their indirect hedging against institutional actors can create a powerful counterbalance - one that is not too harsh and does not punish too frequently. While the framers of the Constitution were not perfect, they did worry about the potentially excessive power of factions and sought to create veto points between the will of the people and the executors of government. While the primary trend has been to largely alleviate these pressure points, by allowing for the direct election of senators and increasing enfranchisement, the expanded popular safeguard places the collective voter in the position of executor of government - as opposed to the original system, which was devised not just to prevent governmental tyranny, but also to prevent popular tyranny (Griffin).

4. Conclusion

While direct democracy clearly has many desirable effects on American society, including increased community engagement, heightened transparency, greater governance and issue awareness by voters, all essential aspects of a robust democracy; there is little evidence to suggest that direct democracy has a positive effect on a state's ability to manage its budget. This is not because voters are spiteful or antagonistic, but rather because they are self-interested, and therefore vote in such a manner. This is not necessarily compatible with effective governance. The institution of direct democracy in the case of California has been a contributing factor in creating fiscal pressures at both the state and municipal levels resulting in an ongoing alteration in the balance of power in the federal state; with the consequential effect of making state and local governments more reliant on the federal government.

In California, direct democracy allowed for the passage of laws that limited the ability of local governments to fund education. The *Serrano* ruling shifted the court towards state centralization of education administration in the name of equalization payments. The state government began to encroach on local responsibilities; at the same time, because local funds were being diverted away, local governments began to shirk on their obligations. The passage of Prop 13 amplified this trend ten-fold. Without revenue from property taxes or the ability to service bonds, education finance became aggrandized by the state. However, the increased responsibilities created by the passage of Prop 98 and Prop 49 caused an increased strain on the state budget in supporting its obligations. Unable to fully book expenditure obligations for various domains, the state implemented measures to sidestep the mandates for minimum funding and became increasingly reliant on the federal government to hole up the education funding responsibility it did not want. The state shirked on its obligations and became increasingly ensnared in the purse strings attached to block aid money coming from the federal government. This increased reliance served to increase the negotiating ability of the federal government to steer monies towards school districts targeted for compensatory improvement. Slowly, the federal government has encroached on the state administration of education, supporting compliance with the national education policy. Finally, while municipalities regained the ability to issue debt to fund education, this ability for already underfunded districts did little to lessen reliance on the state, in fact it served to help create federal encroachment on the local level as larger cities became better able to play horse-trading games of Washington against Sacramento.

This paper has bridged a connection between increased fiscal reliance and direct democracy. In the case of California, ballot budgeting has unmistakably created severe fiscal problems in the state. With a particular focus on education, it is evident that attempts to increase the quality of education through direct democracy has not only had the opposite effect of diminishing the prospects of a quality education system but has had far reaching effects on all parts of the Californian budget. The problem with ballot box budgeting stems in large part from questionable voter competence in understanding what they are voting for and an overriding, keen awareness of their tax burden.

While most voters do not advocate for limited government, the basic idea that people want more but also want to pay less is apparent. This rational choice has been one of the driving factors behind state finance driven by direct democracy. While the last thing on the minds of California voters was to effectively increase the federal role while usurping power away from their local governments, direct democracy in California has accomplished just that.

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Abstract

The Federalist Voter: Education Finance Reform in California

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The literature on direct democracy presents a false assumption that its institutions create good governance. A study on education finance reform in California (1978-2012) illustrates the paucity of support for this assertion. This paper shows that voter-determined fiscal policy had not only crippled the California budget but also reduced the quality of public education. The externalities caused by state and municipal fiscal tribulations altered the balance of power in California regarding the responsibility for education finance. Before 1978 this was largely a local matter; feedback effects caused by voter trends in supporting lower taxes and education funding centralized the state role by controlling expenditures, while diminishing the state's ability to meet its basic obligations - resulting in increased reliance on federal block grants and direct to local funding. While voters do not vote with federalism in mind, the results of their actions increased federal encroachment into state and local education.

Key Words
California, education finance, direct democracy, federalism, state and municipal governance