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Role of federal government debated in races

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In 1787, the Continental Congress -- a weak, often gridlocked body operating under the rules that required unanimous agreement on laws -- enacted its second major bill making education a national priority.

The Northwest Ordinance established a government for the territory that would become Ohio, Indiana, Illinois, Michigan and Wisconsin. In it, Congress decreed that "religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

Congress also provided a way to build public schools when it earmarked money from the sale of 640 acres out of every township.

U.S. Rep. Todd Akin, the Republican nominee for U.S. Senate, has made his strong opposition to a federal role in education part of his effort to unseat Democratic Sen. Claire McCaskill.

"I think the federal government should be out of the education business," Akin told reporters in Sedalia last week.

McCaskill does not question the federal authority to act on education issues.

The 1787 law promoting education recognized that informed voters make the best decisions, said Dana Goldstein, a fellow with the nonpartisan New America Foundation. She is writing a history of teaching in the United States.

"Democracy requires an educated citizenry," she said. "If you are supposed to have an educated citizenry, you have to have schools."

The bill passed while the Constitutional Convention met in Philadelphia. That document does not mention education, and neither have any amendments.

The argument against federal authority in education is based on the 10th Amendment to the Constitution, which reserves powers not specifically given to the federal government to the states and the people.

Andrew Coulson, a senior fellow with the libertarian Cato Institute, argues that there is no federal authority for education programs and testified to Congress that the programs in place don't do much good.

He said he wouldn't oppose an amendment granting the power. "Our founding documents do not empower the federal government to do any of the things it is doing in funding schools," he said.

But the courts have never agreed with that argument, said Carl Kaestle, professor of history and education at Brown University. He has written extensively on the history of education in the United States.

Supreme Court cases from the 1930s and 1940s, upholding federal power in a number of areas, used the Constitution's preamble, which proclaims that the government is to "promote the general welfare," to overcome 10th Amendment objections, Kaestle said.

"It's not unconstitutional until the court says so, and legal experts say you don't have a chance of winning that argument," he said.

There are numerous early examples of national legislation on education -- the Morrill Land Grant Act of 1862 is perhaps the best known. Conservative objections to federal efforts, however, began in earnest in the mid-20th century. It has roots in court decisions outlawing segregation and school prayer, Kaestle said, and grew as federal law demanded that schools meet national achievement standards or face financial penalties.

The first modern legislation that sought to bring federal direction to curriculum and achievement goals was the National Defense Education Act of 1958. It was passed by a Congress stunned by the launch of the first space satellite, the Sputnik, by the Soviet Union. In those Cold War days, science was a battleground.

"I would characterize the National Defense Education Act as the federal government getting its feet wet in the history of meddling in the classroom," Coulson said. "It didn't jump in with both feet until the Great Society programs and the big federal education programs."

The main target of conservatives has been the U.S. Department of Education, created in 1979 under President Jimmy Carter.

In the 1980 election, Ronald Reagan vowed to eliminate the department but ended up strengthening its role. Its power has increased since that time and was expanded in a number of new areas by the No Child Left Behind law passed under President George W. Bush.

Most of the federal school funds move through a law called Title I, which targets extra help for school districts with large numbers of underprivileged students. "It

takes extra dollars to educate the neediest students, and the federal government was acknowledging that," Goldstein said.

The objections to a federal role in public schools are based on worries that local control of schools is slipping away, Kaestle said. Whether the federal government should be involved in education is a political decision, not a constitutional issue, he said.

"We have a deep, deep tradition of local control and state control of education," he said. "The idea of local control of elected districts and the state right to regulate education created a very durable model."

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