

中央與地方的權限劃分與財政負擔 ——全民健保補助費分擔問題暨 釋字第五五〇號解釋研析

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本文以 2002 年間因台北市政府欠繳全民健康保險費補助款所引發的憲法爭議為中心，探討中央與地方權限劃分與財政負擔的問題，並兼評司法院大法官釋字第五五〇號解釋的意旨。文中首先鋪陳中央與地方財政分擔的基礎理論，其著重點在於任務與財政聯結原則（所謂「權錢合一原則」）的探討與建構，並從德國法的觀察，嘗試建立系爭問題的違憲審查基準。其次，剖析全民健保費補助款分擔規定的合憲性問題。在思考層次上，先論地方分擔健保費用是否違憲的問題，再論由地方分擔健保費用的額度及比例是否違憲的問題。前一層次的探討，又有兩個分析脈絡，一是從全民健保事項的任務歸屬著手；二是從全民健保費補助款的法律性質著手。後一層次則以平等原則及憲法保障地方財政自主的意旨，作為審查的準據。總結研究，本文認為，地方在全民健保事務上分擔保險費的補助款，固然造成財政支出上的負擔，惟社會福利既屬地方自治事項，且攸關國民基本需求的維持，則由地方攤付部分費用，尚不致構成違憲，至於地方財政窘困的問題，理應從財政收入及調整的方向著手，非能以地方歲入逐年減少為由，而扭曲費用分擔的基本原則。此外，如何全盤檢討現有健保財務制度，擬具一套具體可行的開源節流措施，才是全民健保能否成為我國社會安全體系堅實一環的關鍵所在。

關鍵詞：全民健康保險、保險費補助款、地方自治、財政自主、任務與財政聯結原則、平等原則

**On the Division of Powers and
Financial Burden between the Central and
Local Government**
—An Inquiry about the Share of Subsidy for
Premium and a Critical Review of the Council
of Grand Justices' *Interpretation No. 550*

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ABSTRACT

This article tries to provide a critical review of the division of powers and the financial burden between the central and local governments. It focuses on the constitutional controversy which resulted from Taipei city government's arrears of the subsidy for premium, and examines of the Council of Grand Justices' *Interpretation No. 550*.

Section I introduces the fundamental theories of financial burden between the central and local governments, especially the principle of the connection between duty and finance, and tries to build the judicial review standards for this subject. Section II clarifies the constitutionality of the rules requiring that local governments contribute to the subsidy for the premium. Section III provides the criteria for review based on the equal protection principle and the self-governing financial power which is protected by the constitutional system. The article supposes it's not unconstitutional to request that local governments bear partial premiums since local governments have the duty to realize social welfare, which is closely related to the maintenance of people's basic demands. Besides, the key point lies in how to make a thorough examination of the current insurance financial system and draft a set of effective programs to open more sources of income and cut expenses.

Key Words: national health insurance, the subsidy for premium, local self-government, self-governing financial power, the principle of connection between duty and finance, the equal protection principle.