

# 2019-20

# LEGISLATOR'S GUIDE to the Issues

## Controlling Federal Funds

### The Issue

In addition to the large share of state appropriations that come from federal funds—around 33%, or \$72 billion, of appropriations in the 2018-19 budget—the federal government uses conditional federal grants to deputize state and local governments to perform tasks beyond the authority of the federal government. Unlike federal funds accounted for in the state budget, this money goes directly from the federal government to local governments, with no real opportunity for oversight by or accountability to the state Legislature.

As states have begun to push back on the conditions attached to federal grants and even reject some grants on policy grounds, the federal government increasingly looks to strike deals directly with local governments, thus subverting the policy decisions made by state legislatures. Federal funds sent directly from the federal government to political subdivisions of the state have all of the problems associated with federal funds in the state budget—such as less financial stability and diminished state and local autonomy over policymaking—as well as their own set of problems, related to a lack of transparency in how these funds are authorized for receipt within the state. While we can at least refer to the percentage of the state budget attributable to federal funds, there is no reliable repository of data on federal funds given directly to local governments.

It can be incredibly difficult to track such deals (to say nothing of preventing them) because legislators currently have no formal mechanisms to gain awareness of attempted federal/local circumventions of state policy decisions. In spite of the efforts of transparency advocates like Adam Andrzejewski, whose Open-TheBooks project provides “the world’s largest private repository of public spending,” the highly decentralized nature of federal appropriations makes providing a full account of these funds next to impossible without the establishment of a comprehensive system for reporting and reviewing, at the state level, federal funds received by political subdivisions of the state.

The federal government’s deteriorating fiscal condition makes reductions in federal funds to state and local governments inevitable and imminent. Utah, a leader in the “Financial Ready” movement, has been developing contingency plans for scenarios in which 5% and 25% of federal funds to the state are suddenly cut off, in order to prepare itself for such reductions. Given these concerns, unaccounted-for federal funds to political subdivisions put the state in a precarious financial situation on two fronts.

First, when federal funds to local governments are cut, local governments often turn to the state to backfill their losses. So under the current system of no oversight, any reduction in federal funds given directly to political subdivisions would increase their need of state support.

Second, since any reduction of federal funds to political subdivisions would also imply reductions of federal funds in the state budget as well, such a call for more support would come at precisely the time when the state budget is least able to accommodate such requests. Indeed, such a scenario would require a Texas version of Utah’s Financial Ready contingency plans. But without an accurate picture of federal funds—one that includes federal funds to political subdivisions of the state—the Legislature will remain incapable of preparing a comprehensive contingency plan for the increasing possibility of severe reductions in federal support for state and local governments.

### The Facts

- Federal funds account for 33%, or \$72 billion, of appropriations in the 2018-19 Texas budget.
- In spite of the work of transparency advocates, to date there remains no reliable estimation quantifying the extent of federal fund appropriations to political subdivisions of the state of Texas, either in total or as a percentage of total appropriations by political subdivisions.

### Recommendations

- **Reporting Federal Funds to Political Subdivisions of the State.** Require all political subdivisions in Texas to report to a state fiscal entity in real time all federal funds received directly from the federal government and didn’t go through a state agency. Political subdivisions should also identify the purpose of those funds, whether the subdivision is required to match such funds, and what funds are used for such matching. This state fiscal entity would produce an annual report detailing, at a minimum, the amount, duration, purpose, matching, and policy conditions attached to such funds.
- **State Oversight of Federal Funds to Political Subdivisions of the State.** Establish a system of state oversight for federal funds given to political subdivisions of the state. Such a system of oversight would empower state-level officials to reject federal funds found to be incompatible with existing state law, the Texas Constitution, or the Tenth Amendment to the U.S. Constitution. We recommend the following design for such a system:
  - If a political subdivision receives grant funds directly from the federal government (as opposed to funds passed through by a state agency), those funds should be placed in escrow until completion of a state review process.
  - During such a review process, a political subdivision would submit information on the grant to the state fiscal entity described above. The grant information provided should include, at a minimum, the amount, duration, purpose, and policy conditions attached to such funds.

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- Once the state fiscal entity receives the grant information from the political subdivision, it should be given 10 business days to complete an analysis of the grant. As part of this analysis, the state fiscal entity would request from the office of the attorney general a review of the compatibility of the grant's policy conditions with existing state law, the Texas Constitution, and the Tenth Amendment to the U.S. Constitution.
- Once the state fiscal entity completes this grant analysis, it would transmit the analysis to a panel of designated state elected officials, who would have 10 business days to register an objection to the political subdivision's receipt of the grant funds.
- If an objection by the LBB is raised within the 10 business days, the grant funds would remain in escrow until either the objection is withdrawn or the political subdivision returns the grant funds. The locality may appeal the objection to the LBB. If no objection is raised within the 10 business days, the grant would be considered approved and the political subdivision could then immediately spend the funds for their intended purpose.

## Resources

[“About Us,”](#) OpenTheBooks (2016).

*Federal Receipts Reporting and Plan of Potential 5% and 25% Federal Receipts Reductions*, Utah Department of Administrative Services, Division of Finance (2014).

[Summary of the Conference Report for Senate Bill 1](#), Legislative Budget Board (May 2017).

