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How Washington uses the power of the purse to bribe and control state and local governments

Hon. Ernest Istook
Former U.S. Congressman
Political Science Lecturer, Utah Valley University

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Those who wonder why the central government dominates all domestic policies in the United States, at the expense of federalism principles and our Constitution's 10th Amendment, should simply follow the money.

Understanding begins where George Orwell's dystopian classic, **1984**, ends. The protagonist, Winston Smith, ends his lifetime of struggling within a totalitarian society with these chilling words:

> ". . . it was all right, everything was all right, the struggle was finished. He had won the victory over himself. He loved Big Brother."

Those words sum up what has decimated principles of federalism. Big Brother has bought love with a torrent of money that the federal government channels to state and local governments to buy their obedience. The result goes beyond bribing them to do things Washington's way. Many of these influenced players now also love Big Brother.

Through over 1,100 programs, Washington provides one-fourth of all state and local government revenue

Once upon a time, the notion that state and local governments should depend on Washington for their funding was controversial. Today it is the new normal.

Each year the federal government provides $645-billion in federal funds to state and local governments: $573-billion to states and $73-billion to communities. This constitutes 24.7% (so call it 25%) of their combined general revenues, as calculated by the U.S. Census Bureau.[1] Funds flow to all 50 states, plus over 90,000 local governments, the Census reports. For local governments it was 5% of their general revenue; for state governments it was 34.7% (although some of that was then passed-through to communities). These figures are from 2011, which is the most-recent year calculated; the Census Bureau more recently has discontinued annual updates.

This $645-billion is collected from the people living in those states and communities—or borrowed—and then distributed with strings and restrictions attached.

Governors, mayors, legislators, city councilors, and agency heads constantly trek to the White House, Congress, and federal departments with their hands out. As The CATO Institute's Chris Edwards writes, "Today there are more than 1,100 different federal aid programs for the states, with each program having its own rules and regulations. The system is a complicated mess, and it is getting worse all the time."[2] As he adds, this aid to states and localities is the third-largest item in the federal budget, after Social Security and national defense.

George Mason University law professor Michael S. Greve writes that, "With very few exceptions (such as tax collection, Social Security, and Medicare), virtually all federal domestic programs are administered by state and local governments, often under one of over 1,100 federal funding statutes (such as Medicaid or NCLB). Since its inception under the New Deal, this "cooperative" federalism has proven stupendously successful in doing what it was supposed to do: expand government at all levels." He adds that these programs are "run through waivers, edicts, and transfers payments that are barely distinguishable from bribes."[3]

States have surrendered their authority in order to collect federal dollars

Those who receive the bribes love Big Brother because he is also their Sugar Daddy. State and local governments, with their agencies and departments, have become an army that marches on Washington to keep this spigot open. They protest loudly whenever anyone dares to talk about spending less on any of these 1,100 programs. Last year when Community Development Block Grants were considered for reduction, media widely reported how mayors gathered in Washington, DC, to protest.[4] The mayors do this virtually every year.

Not only does this happen with community development and public housing; it also occurs with Medicaid, medical education, public education, transportation, universities, sewer systems, job training, environmental protection, disaster relief, water treatment plants and more. You name it and state and local governments depend on Washington for it. And so they dance to Washington's tune, complying with the policies, the strings and the red tape.

This homogenizes the political environments for state and local governments just as surely as franchise businesses create a look of sameness along many roads and highways. The "laboratory of the states" is lost. (This resembles the monotony captured in the 1993 film, "Demolition Man," when Sylvester Stallone's character learns that by 2032, "All restaurants are Taco Bell.")

The phenomenon means that states and localities are reducing their Constitutional powers by selling them for money. And the national government thereby buys expansions of its own power. The power of the purse enables it to do indirectly what it cannot do directly.

Sold off are the powers reserved by the 10th Amendment to the Constitution: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Sometimes this sale is willing; others it is coerced. The result is the same.

On the other side of these transactions, the limits on national authority are enlarged. The power of the purse is used to compel states to adopt practices or laws that Congress could not dictate by law, but which Congress can induce with money.

A classic example was the national 55-miles-per-hour speed limit. Enacted in 1974, it did not establish a universal speed limit, for which federal authority was questionable. However, it required states to create that limit or else lose billions of dollars in federal highway funds. The limit remained until 1995.

In similar fashion, Congress in 1984 directed states to adopt a uniform drinking-age requirement of 21, or else lose large amounts of highway funding. South Dakota challenged the blackmail, but the Supreme Court by 7-2 ruled it was not a 10th Amendment violation because Congress was simply exercising its right to control federal spending. It was deemed not to be unduly coercive because all federal funds were not withheld, but only 5%.[5]

The limits of coercion have remained vague, but in 2012 the Supreme Court ruled that the Affordable Care Act ("Obamacare") went too far by seeking to withhold all existing Medicaid funding from a state unless it expanded its Medicaid program.[6] This was held "unduly coercive" despite promises that Washington for several years would pay 100% or 90% of the expansion costs.

The boundaries of coercion remain fuzzy. But often that makes no difference because state and local officials willingly accept the federal mandates as they eagerly accept the federal money.

The lack of a federal balanced budget requirement is at the root of local and state dependence on federal dollars

It's never a surprise that people like giveaways. But the origin of these is found in a fundamental difference between the national government and all the smaller units. There is no requirement for the federal government to balance its budget. But every state except Vermont has a constitutional mandate to balance their budget.[7] And as the National League of Cities reports, state laws most often require cities to balance their budgets as well.[8] Yes, some jurisdictions use gimmicks to try to evade these, but those requirements naturally cause them to gravitate to the seemingly-unlimited ability of the federal government to borrow money and give it to them.

Obviously, this buys local support and votes for Senators, Members of Congress, and Presidential candidates.

Some money flows through formulas, such as those based on population, or the elaborate formulas for distribution highway trust fund money (which is all gone, so Congress now distributes general revenues for transportation projects). Some money is based on supposedly-competitive grants, which are always versatile enough to allow political friends to become winners of those grants. The Congressional Research Service identifies six different types of available grants, with the most federal strings attached to "project categorical grants" over which "federal administrators have a high degree of control over who receives" these, but lesser ability to restrict so-called block grants.[9]

Then there are special opportunities, such as what was called the "stimulus funding" in 2009, which approved $274-billion for state and local governments in grants, contracts and loans, stretched over a 6-year period.[10]

Everybody calculates things a little bit differently. The Congressional Budget Office in March of 2013 pegged the state/local grants as being $293-billion a year for health; $114-billion for income security (which others may label as welfare); $89-billion for education; $61-billion for transportation; and $50-billion for "other."[11] CBO never labels this money as bribery, but does note that "federal policymakers turn to intergovernmental grants to encourage state and local governments to adopt federal policy priorities."

State and local priorities get skewed and distorted

To quote the Borg, “Resistance is futile.” Everybody gets assimilated and becomes homogenized, with all levels of government becoming little Washington’s which offer programs according to federal dictates instead of local prioritizing. This is akin to how franchises businesses and chain stores drive out the local mom and pop small businesses. CBO calculates that federal outlays for these transfer payments have doubled since the 1960’s.[12]

All these 1,100 programs become a favor factory, a grab bag of political influence. The analysis by the Congressional Research Service describes the players: Congressional party leaders; committee chairs; ranking members; the White House; Cabinet officers and department and agency heads; the National Governors Association; the National League of Cities; the U.S. Conference of Mayors and National Association of Counties. And a multitude of other interest groups. All are interested in one of the biggest pots of money in Washington.

The phenomenon is exaggerated in certain states. Mississippi depends on federal money for 45% of its budget, Louisiana for 43% and Tennessee for 41%. At the other end, North Dakota and Alaska settle in at about 20% each.[13]

What does this do for federalism? Priorities are changed to follow the money, especially causing Medicaid to be the 800-pound gorilla in all state budgets, because it provides the highest rate of federal matching dollars.

A Heritage Foundation report summarized the challenge:

> “. . . states are gradually losing the ability to implement innovative fiscal policies, such as tax cuts, and meet state priorities, such as education and health care, effectively. The nature of the state–federal spending programs also creates a permanent fiscal interdependency, fiscally tying the states and the federal government together for the long haul. Even a concerted political effort to pursue an innovative fiscal strategy at the state level will run into mounting problems with federally sponsored spending mandates.[14]

Turn down “free money”? “That would be crazy!”

State and local officials bemoan Washington’s red tape, but they covet Washington’s money. And if they dare reject it—as some governors have done with Obamacare/Affordable Care Act expansion of Medicaid—they are routinely condemned for rejecting "free" federal money and hurting the poor.

The left-leaning Slate website magazine is typical, with an article last year titled, "States Are Turning Down an Insane Amount of Free Money by Refusing to Expand Medicaid." As one paragraph reads, ". . . there are still 24 states that have rejected the [Obamacare] law's expansion of Medicaid, which is of course almost entirely paid for by the federal government. In a recent report, the Robert Wood Johnson Foundation and Urban Institute found that those lawmakers are leaving a total of $423.6 billion on the table over the next 10 years. . . . Florida is missing out on the most, forgoing a total of $66.1 billion, followed by Texas, which is turning down $65.1 billion. This is a picture of states where elected officials have chosen to cut off their noses in order to spite their faces."

Because the largest pot of federal pass-through money is Medicaid and related health care funds, the medical community becomes quite active in pressuring governors to say yes to federal largesse.

That issue is playing out in Utah right now. Governor Gary Herbert, a staunch promoter of federalism, has put forth a plan to tweak the system and claim federal dollars for Medicaid expansion, which he calls Utah Access Plus. But the governor has put the monkey right back on the backs of the health care interests who demand the federal money. To secure $50-million for state matching funds (to match $450-million in federal money), Herbert's plan would increase the annual licensing fees of Utah's 8,000 physicians by $700 apiece. And significantly larger licensing fees for hospitals, clinics, etc. The health care providers are screaming about that.

That encapsulates the conundrum for supporters of federalism. Too often they want the federal dollars, but with no strings attached. Yet those are inseparable.

"Strings-free" money ended when federal revenue-sharing was terminated

States and cities would like to revert back to the era of federal revenue-sharing and its no-string-attached funds. Richard Nixon was persuaded to start the program as part of his effort to win campaign backers among mayors and governors, especially New York's Governor Nelson Rockefeller.[15] As printed in The New York Times:

> “In the first week of October, 39,000 cities, counties, towns, villages and other communities across the county received checks from the Treasury, some as small as $201. The biggest -$41,957,530 - went to New York City. With these checks, the program of Federal revenue-sharing came to an end, 14 years and $85 billion after it began.”

Ultimately, Ronald Reagan prevailed in a large national political fight to shut down the revenue-sharing program. Reagan disagreed with the notion of borrowing money so the U.S. Treasury could write checks to states and cities. Another successful argument was that cities had started using the money as a crutch for recurring expenses, such as police protection, rather than for one-time capital projects.

But as revenue-sharing ended, grant programs expanded in its place and brought new restrictions from Washington on how this money would be spent. That expansion of the federal funds pipeline also brought an unintended consequence of freeing up local and state funds that were then devoted to often-obscene levels of retirement funds for public workers, and related irresponsibility with union contracts and compensation. (In fairness, some of that abuse existed also in the revenue-sharing era.)

Justifications are offered, but it’s still federal blackmail or bribery

State and local governments also justify depending on Washington for funds because the level of federal taxes has made it more difficult to assess taxes at other levels. And their funding base has been jeopardized by federal failure to enact reforms such as streamlined sales taxes on remote sales.

Policy bribery and distortion continue so long as federal funds remain a huge source for local and state governments. After the 2014 elections, former Senator James Buckley wrote to advise the incoming Congress that “they should consider a reform that would achieve a broader range of benefits than any other they might embrace: dismantling the more than 1,100 grants-in-aid programs that spend one-sixth of the federal budget on matters that are the exclusive business of state and local governments.”[16]

As Buckley wrote, “Their direct cost has grown, according to the federal budget, to an estimated $640.8 billion in 2015 from $24.1 billion in 1970. Their indirect costs, however, go far beyond those numbers both in terms of dollars wasted and the profound distortions they have brought about in how we govern ourselves. Because the grants come with detailed federal directives, they deprive state and local officials of the flexibility to meet their own responsibilities in the most effective ways, and undermine their citizens' ability to ensure that their taxes will be used to meet their priorities rather than those of distant federal regulators. The irony is that the money the states and local governments receive from Washington is derived either from federal taxes paid by residents of the states or from the sale of bonds that their children will have to redeem."

Solutions

Decades of shifting power to Washington, DC, will never end without structural and cultural changes. These include:

Adoption of a federal balanced budget amendment. So long as the federal government can borrow endlessly to be all things to all people, there will be no political necessity to prioritize nor to free state and local governments from their financial dependence.

Changing the perception of federal grants. Federal bureaucracies churn out an endless stream of announcements—echoed by press releases from elected officials—bragging that a federal grant will bring millions of dollars to a state or a locality. These often provide political advantage to local officials, such as the billions provided for so-called "Mayor's summer jobs program." Local media usually treat federal funding announcements as "good news" stories. Until there is a counter-force to this, the public will too rarely make the connection between local benefit and runaway federal spending. The pushback by several governors against Obamacare's Medicaid expansion (and its ultimate cost to state budgets) is an example of the intensive communications effort necessary to change perceptions.

Reversing the myth of savings. Advocates frequently claim tremendous savings from passing funds down to state and local governments to operate federal programs. Numerous audits and oversight studies question this concept, especially because spending "free" money divorces a jurisdiction from full accountability. The collapse of "state-run" exchanges for Obamacare is a classic example. A Heritage Foundation assessment of the 16 states which established these exchanges (as did the District of Columbia) shows four have switched-over to the federal exchange due to immense losses (Hawaii, Nevada, New Mexico and Oregon); two had to be "shutdown or rebuilt" (Maryland and Massachusetts); and three are considering shutdown or total reconstruction (Colorado, Minnesota and Vermont).[17]

Conclusion

Changing the political culture at all levels of government is a daunting task, but the effort is underway and is necessary.

The bullying of Washington is not the sole root cause. Local and state governments have acquiesced in exchange for money. They must be willing to forego the lure of "free" money. They also must recognize that the $645-billion they receive each year is a huge contributor to the annual deficit and the accumulated national debt.

The cause of federalism faces a decision point: In their rightful insistence that the federal government cease its dictatorial ways, will proponents also renounce the billions that accompany the controls. Or will they be seduced by Big Brother's big pocketbook?[18]

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[1] U.S. Census Bureau, State and Local Government Finances Summary: 2011, op. cit.

[2] "Fiscal Federalism," by Chris Edwards, The CATO Institute, June 2013, at http://www.downsizinggovernment.org/fiscal-federalism (accessed October 13, 2015)

[3] "The Rise of Executive Federalism," by Michael S. Greve, Real Clear Politics, May 26, 2015, at http://www.realclearpolicy.com/blog/2015/05/26/the_rise_of_executive_federalism_1305.html (accessed October 13, 2015)

[4] "Mayors Rally to Defend Block Grant Funding," GOVERNING magazine, March 18, 2014, at http://www.governing.com/news/headlines/gov-mayors-rally-to-defend-block-grant-funding.html (accessed October 13, 2015)

[5] *South Dakota v. Dole*, 483 U.S. 203 (1987)

[6] *NFIB v. Sibelius*, 567 U.S. ___ (2012), 132 S.Ct 2566 (2012)

[7] "State Balanced Budget Requirements," National Conference of State Legislators, at http://www.ncsl.org/research/fiscal-policy/state-balanced-budget-requirements.aspx (accessed October 13, 2015)

[8] "Public Budgets," National League of Cities, at http://www.nlc.org/build-skills-and-networks/resources/cities-101/city-finances/public-budgets (accessed October 13, 2015)

[9] "Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues," Congressional Research Service, R40638, March 5, 2015, available online at https://www.fas.org/sgp/crs/misc/R40638.pdf (accessed October 13, 2015)

[10] "Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues," op. cit.

[11] "Outlays in 2011 for Federal Grants to State and Local Governments," Congressional Budget Office, March 2013, at http://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/43967_FederalGrants.pdf (accessed October 13, 2015)

[12] "Outlays in 2011 for Federal Grants to State and Local Governments," Congressional Budget Office, op. cit.

[13] Chart compiled by State Budget Solutions from Census Bureau data, at http://www.statebudgetsolutions.org/publications/detail/new-data-reveals-amount-of-federal-aid-to-states-in-2012 (accessed October 13, 2015):

Rank	State	% General Revenue from Federal Government	Total Revenue from Federal Government (in thousands)
1	Mississippi	45.35%	$7,725,294
2	Louisiana	43.95%	$11,136,334
3	Tennessee	41.02%	$11,198,575
4	South Dakota	40.85%	$1,630,220
5	Missouri	39.42%	$10,440,927
6	Montana	38.46%	$2,202,444
7	Georgia	38.06%	$13,794,726
8	Arizona	38.04%	$10,394,549
9	New Mexico	36.61%	$5,171,367
10	Maine	36.50%	$2,883,526
11	Alabama	36.50%	$8,112,509
12	Oregon	36.09%	$7,830,552
13	Wyoming	36.00%	$2,213,249
14	Kentucky	35.69%	$8,056,691
15	Oklahoma	35.54%	$7,363,043
16	Idaho	34.90%	$2,479,094
17	Ohio	34.88%	$20,687,909
18	Vermont	34.79%	$1,904,382
19	West Virginia	34.71%	$4,267,399
20	Texas	34.51%	$37,310,756
21	Arkansas	34.47%	$5,900,988
22	Nebraska	34.34%	$3,141,413
23	Rhode Island	33.96%	$2,310,656
24	Michigan	33.74%	$17,849,942
25	Iowa	33.27%	$6,073,376
26	North Carolina	33.24%	$15,192,577
27	Indiana	32.96%	$10,441,125
28	New York	32.78%	$48,698,785
29	South Carolina	32.45%	$6,892,660
30	Florida	32.08%	$22,850,620
31	Utah	31.61%	$4,481,494
32	Pennsylvania	30.63%	$20,481,434
33	Maryland	30.25%	$10,031,017
34	New Hampshire	29.00%	$1,693,289
35	Colorado	28.85%	$6,310,538
36	Massachusetts	28.81%	$12,920,153
37	Washington	28.59%	$9,743,127
38	Wisconsin	28.19%	$8,855,079

39	Minnesota	28.13%	$9,608,018
40	California	27.17%	$54,145,284
41	Kansas	26.95%	$4,061,217
42	New Jersey	26.25%	$13,412,759
43	Illinois	25.66%	$15,646,844
44	Nevada	25.48%	$2,798,426
45	Delaware	24.46%	$1,814,112
46	Connecticut	23.61%	$5,781,844
47	Hawaii	23.55%	$2,352,114
48	Virginia	23.53%	$9,278,113
49	North Dakota	20.49%	$1,750,134
50	Alaska	19.97%	$2,860,509

[14] "Federal Funds and State Fiscal Independence," by Sven R. Larson, The Heritage Foundation, May 2008, at http://www.heritage.org/research/reports/2008/05/federal-funds-and-state-fiscal-independence (accessed October 13, 2015)

[15] "Federal Revenue-Sharing: Born 1972. Died 1986. R.I.P.," *New York Times*, October 10, 1986, at http://www.nytimes.com/1986/10/10/opinion/federal-revenue-sharing-born-1972-died-1986-rip.html (accessed October 13, 2015)

[16] "How Congress Bribes States to Give Up Power," James L. Buckley, *The Wall Street Journal*, December 25, 2014, available online at http://www.wsj.com/articles/james-l-buckley-how-congress-bribes-states-to-give-up-power-1419541292

(accessed October 13, 2015)

[17] "How State Exchanges Are Faring Under Obamacare," The Heritage Foundation, June 8, 2015, at http://dailysignal.com/2015/06/08/how-the-16-state-exchanges-are-faring-under-obamacare/ (accessed October 13, 2015)

[18] See also "Management of Federal Grants to State and Local Goverments," General Accountability Office http://www.gao.gov/key_issues/management_of_federal_grants_to_state_local/issue_summary