



Legislative Post Audit Performance Audit Report Highlights

Highlights

Federal Funds: Evaluating State Spending Required by Federally Funded Programs

Report Highlights

December 2015 • R-15-016

Summary of Legislator Concerns

Legislators have expressed concern that Kansas' federally funded programs might contain provisions that require additional state spending, which could potentially be challenged given the Supreme Court's ruling in *NFIB v. Sebelius* (2012).

Background Information

The federal government provides both monetary and nonmonetary support for state programs in a number of areas including education, transportation, health care, and social services.

- Monetary grants distribute federal funds to state agencies for certain activities that can have broad or narrow purposes.
- Nonmonetary grants provide goods or services to state agencies rather than funds.

Agencies can pass monetary and nonmonetary grants through to other state agencies or local governments that expend the funds.

QUESTION 1: Does Kansas' Participation in Federally Funded Programs Create Significant Unfunded Obligations for State Agencies?

- In recent years, Kansas Agencies spent about \$5 billion annually in monetary and nonmonetary support from the federal government for more than 500 programs.
- Federally funded programs will require Kansas agencies to spend an estimated \$2 billion on cost-sharing obligations in fiscal year 2016.
 - These programs generally require one of two types of cost-sharing:
 - Matching requirements compel the state to pay for a certain percentage of a program's costs and helps ensure the state participates financially in programs that directly benefit Kansans.
 - Maintenance-of-effort requirements compel the state to maintain a certain level of non-federal funding or services and helps ensure federal funds are used to augment, rather than replace, state funds.
 - State agencies can use a variety of funding sources to satisfy cost-sharing obligations, including state general funds and fee funds.
 - Data compiled by the Kansas Legislative Research Department shows Kansas' portion of cost sharing will be about \$2 billion in fiscal year 2016.
 - This is only an estimate of the cost-sharing obligations and does not include information for all federally funded programs in Kansas.
 - Beyond cost-sharing obligations, we did not identify any significant unfunded mandates.
- Federally funded programs typically impose administrative requirements on state agencies, although most of these can be paid for with program funds.
 - State agencies are required to file numerous reports with federal agencies, monitor program performance, develop program policies and a state plan, and maintain accounting systems and other records necessary to operate the state plan.
 - The federal Office of Management and Budget has established guidelines that generally permit state agencies to use federal funds to pay for these administrative obligations.
 - We selected nine programs with large federal expenditures to review, and state and federal officials with those programs told us the significant administrative obligations were either paid for with federal funds or counted toward the state's cost-sharing obligations.

- Federally funded programs often include conditions on how state agencies can spend federal funds.
 - The federal government prohibits states from using federal funds for certain costs, such as alcoholic beverages and fines.
 - Many federally funded programs limit the amount of federal funds agencies can spend on administrative activities.
 - Some federally funded programs require agencies to use a portion of the federal funds for a particular purpose, a practice known as “earmarking.”
- Most programs have penalty or repayment clauses if state agencies fail to meet program requirements, although the terms vary depending on the program.
 - In recent years, Kansas has been assessed penalties or required to repay funds for failing to meet federal requirements.
- The federal government has tied some national policy objectives to federal funds, and states’ efforts to challenge those policies have had mixed results.
 - We identified several national policies tied to state-operated programs for education, health care, and transportation, but they do not appear to have resulted in significant costs to the state.
 - States’ efforts to challenge national policies have had mixed results.
 - States successfully challenged a provision of the Patient Protection and Affordable Care Act as described at right.
 - On the other hand, states were unsuccessful in challenging the No Child Left Behind Act and federal drinking age requirements.

In the U.S. Supreme Court case NFIB v. Sebelius (2012), states successfully challenged a provision of the Patient Protection and Affordable Care Act that required states to expand the scope of Medicaid or risk losing all federal program funds. The Court determined this was coercive.

SUMMARY OF RECOMMENDATIONS

- This report contains no recommendations.

AGENCY RESPONSE

- We provided copies of the report to six state agencies involved with the nine programs we selected for our review. None of the agencies submitted a formal response.

HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

Legislative Division of
Post Audit

800 SW Jackson Street
Suite 1200
Topeka, Kansas 66612-2212
Telephone (785) 296-3792
Fax: (785) 296-4482
Website:
<http://www.ksipa.org/>

Scott Frank
Legislative Post Auditor

For more information on this
audit report, please contact
Kristen Rottinghaus
(785) 296-3792
Kristen.Rottinghaus@pa.ks.gov