

FEDERAL **GRANT\$TANDING**

How federal grants
are depriving us
of our money,
liberty and trust
in government —
and what we can
do about it

The Badger Institute's Project for 21st Century Federalism



“The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce”...

The powers reserved to the states “will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties and properties of the people, and the internal order, improvement, and prosperity of the State.”

— *James Madison in Federalist 45*

“I honestly wondered if I was actually elected governor or just branch manager of the state of Nebraska for the federal government.”

— *Former Democratic Nebraska Gov. Ben Nelson, who as a U.S. senator was later accused of negotiating the “Cornhusker Kickback” that directed even more federal Medicaid money to his state and made the problem worse*

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INTRODUCTION

Just a note about where we write from, and for whom.

We write from the states, and from the middle of them, both in size and geography.

We write for the pragmatists who live in them far from the East Coast law schools that debate theoretical high-minded theories of “cooperative federalism” and “uncooperative federalism” and “polyphonic federalism” and “partisan federalism” and a gazillion other federalisms, including one that is oxymoronically now called the “new nationalism.”

We’re not dismissive of those efforts — well, not completely. Some of the push and pull of the federalism debate must take place in our courtrooms among lawyers and professors who specialize in constitutional issues. We go no further in that sphere than to say that we do agree with some lawyers, especially our friends at the Wisconsin Institute for Law & Liberty who set forth a view of “competitive federalism” under which federal and state governments are carefully delineated and limited.

As you will see in Part 1, we also believe in the Constitution — including the Tenth Amendment that so succinctly reasserts the founders’ oft-stated federalist intentions.

What we mostly believe in, however, is the necessity of determining whether and how things work for the people who live far from the nation’s capital and don’t spend undue amounts of time parsing legal decisions, Americans who have to deal with federal overreach rather than ruminate about it. We believe in a federalism that worries less about allegiances to governments than it does to the promise of individual liberty, that is, how people in Wisconsin or Wyoming or West Virginia actually live their

lives from one day to the next.

Out here, the fact is, most people say they have lost trust and confidence in our governments — and all you have to do is listen

to them to know it’s largely because our national and state bureaucracies overlap and confuse things in ways never envisioned by the founders. We are being coerced and manipulated through the cynical use of federal grants-in-aid, money transferred by the federal government to state or local governments to fund specific programs.

While we have to leave it to the jurists and cloistered theoreticians to determine when and where that is unconstitutional, we hope the pragmatists in both Washington and Madison, and in other state capitals, listen to the voices of the

We hope the pragmatists in both Washington and Madison, and other state capitals, listen to the voices of the people.

people. It's the folks in Milwaukee and Madison and Mosinee, and in thousands of other cities and towns, who have to deal with the loss of their money, independence and self-respect stemming from an intrusive national government that seems increasingly to have no bounds.

We aren't the first to point out that the federal government is using massive amounts of money through grants-in-aid to coerce states and their residents into compliance. We aren't even the first to focus on grants-in-aid to state and local governments as the crux of the debilitating, inexorable expansion of national power.

But we are the first, from what we

can tell, to write so extensively from the schoolhouses and statehouses (one in particular in a city named after the "Father of the Constitution") and streets where most of us live our lives.

As you will see in the coming pages, there is widespread agreement out here that things are badly out of balance. A reassertion of true federalism — the devolution of national control and the re-establishment of state interests and individual liberties — is the only solution.



Mike Nichols

Badger Institute president

PART 1

“A Jillion People” and How Coercion Works

(The extent of a problem the founders could not foresee)

An ironic honor

James Madison had barely been buried in 1836 when territorial leaders named the place that would become the capital of Wisconsin after him. But one need only look at the local street signs to know it was more than just the common custom of naming places posthumously after deceased presidents that prompted the choice.

Were the “Father of the Constitution” to rise from his Virginia grave and today walk the streets of the Wisconsin city that honored him, he would recognize the names of virtually all of the main avenues and roads. Dozens of them around the Capitol building — including Hamilton and Washington, Langdon and Mifflin, Morris and Pinckney and Wilson and Carroll and King — were named after the men who attended the Constitutional Convention alongside Madison in 1787.¹

Madison the man would immediately realize that Madison the city, at least around the Capitol, is quite literally an everlasting commemoration of the U.S. Constitution and most of the 39 men who signed it in Philadelphia.

Were he, on the other hand, to walk inside the state Capitol at the center of it all, witness the workings of the budget, see how policy is made and why, ascertain just how deeply the state government has

become intertwined with and dependent on the federal government, he might feel less than honored.

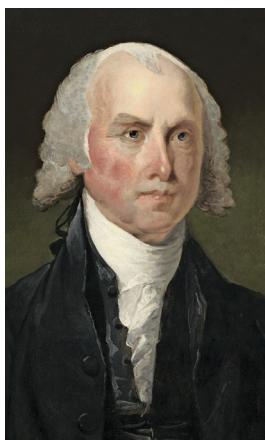
The Capitol at the heart of Madison the city, after all, contravenes so much of what Madison the man — and the rest of the framers of the Constitution — believed about the delineation of state and national governments.

NATIONAL VS. STATE GOVERNMENTS

Had Madison lived to witness the naming of this city so far from the seat of national power, it’s likely he initially would have taken considerable comfort from the fact that settlers out here in the hinterlands chose to commemorate the Constitution at all.

One of the principal concerns of those who opposed ratification, after all, was that it would be a threat to the states, which were supposed to be the repositories of primary political power. Without the states protecting individual liberties and assuring that the power to govern in our republic comes directly from the people, detractors feared, the distant and intrusive national government would extend its tentacles into all facets of life.

Alexander Hamilton and James Madison were both nationalists to be sure, at least in the context of the times. They,



James Madison,
“Father of the
Constitution”

after all, were the authors of a Constitution forged in reaction to what Jay Cost calls “the miserable experiences of the 1780s — an impotent national Congress combined with selfish and often illiberal states.”² America was doomed under the mere Articles of Confederation. Hamilton was explicit in Federalist 6 about the dangers of “independent, unconnected sovereignties” that he thought might devolve into violent conflict.

Fearing unconnected sovereignties, however, should not be confused with fearing a balance between national and state power. Madison in particular was careful to build in extensive safeguards for the states. Writing as Publius in the Federalist Papers, he countered fears of national overreach with unmitigated assurances that the states would have powers later codified in the Tenth Amendment.

“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,” famously reads that part of the Bill of Rights.

The Federalist Papers were not dia-



The Capitol at the heart of Madison contravenes so much of what James Madison believed about the delineation of state and national governments.

ries; they were public arguments, the equivalent of 18th century op-eds that appeared first in the newspapers of New York. They were not a venue for expressions of doubt or rumination. But the authors — Hamilton, Madison and at times John Jay — seemed utterly convinced that the purview of the states would remain separate and apart.

Hamilton, a firm believer in the “splendor of the national government,” doubted ambitious national politicians would even care enough about mundane matters of state and local interest to attempt to usurp their power.

He did recognize the “wantonness and lust of domination” inherent in many politicians. But even “allowing the utmost latitude to the love of power which any reasonable man can require, I confess I am at a loss to discover what temptation the persons intrusted with the administration of the general government could ever feel to divest the States of (their) authorities,” he wrote in Federalist 17.

The exercise would be “troublesome” and “nugatory” and “contribute nothing to the dignity, to the importance, or to the

splendor of the national government,” he believed.

In any case, Hamilton assured readers in Federalist 17 that it would “always be far more easy for the State governments to encroach upon the national authorities” than vice versa.

Madison, much more the adherent of decentralized power, wholeheartedly agreed.

In Federalist 45, he wrote that state governments “will have the advantage” over the federal government “whether we compare them in respect to the immediate dependence of the one on the other; to the weight of personal influence which each side will possess; to the powers respectively vested in them; to the pre-dilection and probable support of the people; to the disposition and faculty of resisting and frustrating the measures of each other.”

“The State governments may be regarded as constituent and essential parts of the federal government; whilst the latter is nowise essential to the operation or organization of the former,” Madison continued.

This book reaffirms the wisdom of the founding fathers’ federalist vision. Government is more responsive, accountable, efficient and variegated in a way that accommodates all the diversity of America and all our individual foibles, ambitions

and proclivities when it is closer to the people.

This book also illustrates, unfortunately, in one concrete and essential way — the federal grants-in-aid system — how that vision has failed to endure and what the very real consequences of that failure are.

GRANTS-IN-AID

There are many types of direct federal spending and assistance to individuals and programs throughout the United States, including contracts, direct entitlements and a wide variety of grants. This book focuses exclusively on one type of spending: grants-in-aid — grants that flow directly from federal coffers to state and local governments.

Such grants sent from Washington have risen from just \$7 billion in 1960 to an estimated \$728 billion in 2018.³ The system has grown so quickly and so large that most states today get about one-third of their revenues from the federal government.

Overspending is one concern. The Congressional Budget Office now projects that federal debt held by the public will reach 96 percent of gross domestic product (or \$29 trillion) by 2028 — the largest percentage since 1946.⁴

There are obviously other categories of spending, though, that are much larger than grants-in-aid. So concern about debt

What is a grant-in-aid?

A grant-in-aid is the transfer of money from the federal government to a state or local government to fund a specific project or program.

The money comes from federal income tax revenue. The grant does not have to be repaid, but it does have to be spent according to the federal government’s guidelines.

constitutes only one of the reasons we focus on this particular type of federal spending.

We focus on monetary cost, to be sure. But the ever-expanding grants-in-aid system illustrates just how deeply dependent states, including Wisconsin, are on the federal government in other ways as well.

This book demonstrates how the federal government exercises an influence over the lives of Americans that is increasingly personal, and it details how the federal government effectively frustrates the desires and abilities — indeed, the independence and liberties — of so many state residents, no matter their political bent.

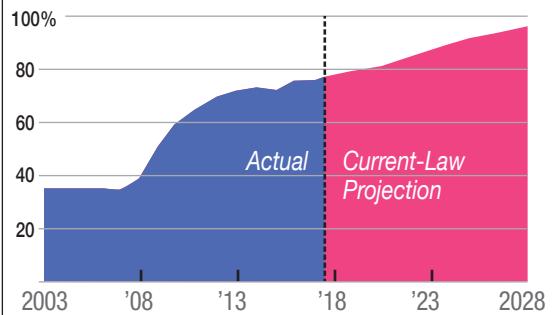
And for what reason?

Wisconsinites paid over \$53 billion in taxes to the federal government in 2017 alone, according to the Internal Revenue Service Data Book. Some of that money stays in Washington, D.C., or is spent outside the country. And money that does flow back to the states does so in many ways: directly to people receiving federal entitlement payments such as Medicare, Social Security, unemployment compensation or food stamps; salaries and wages of federal employees paid directly by the federal government; federal purchases of services or goods such as military equipment (procurement); and grants.

There are, in turn, many types of grants, including grants to universities and grants to non-governmental organizations. But a big chunk of money takes the form of grants sent right back to state governments and local governments for

Federal debt held by the public

Percentage of GDP



Source: Congressional Budget Office

everything from road building to educating our kids to child care to housing. There are scores and scores of such grant programs and, as you'll see, there are two more bureaucracies — one at the state level and another at the local government level — that also have been constructed to make sure the "federal" money arrives and is directed back to the same places that sent it to Washington in the first place.

Politicians love these grants. Those in the nation's capital get to claim they are helping constituents (i.e., voters) back home; and politicians back home get to brag about securing federal money to build the latest road or elevator or building.

Our goal here is not to look at the issue from the perch that is Washington, D.C. Nor is this merely a theoretical or academic examination of constitutional issues. Quite the opposite. Using Madison the city as our platform, we write from the states' view and with the knowledge

that the frustration and discontent we've found in Wisconsin exists in the other states as well.

This book vividly illustrates from the state perspective just how far the country has strayed from the vision of the founding fathers. James Madison had an essential vision that the states would retain powers numerous, distinct and indefinite. The city named after him, ironically, fundamentally undermines that vision. But it goes much further than that.

It shows in concrete ways that federal dollars and influence are undermining local decisions, accountability and innovation, driving up costs for taxpayers, creating confusing and nonsensical bureaucratic overlap, transferring authority to unelected bureaucrats instead of elected officials who are accountable to the people, and fostering a culture of unrealistic and illogical expectations.

There has been much written over the years about constitutional issues that set parameters for grants to the states. That is a starting point, and a necessary framework. We indulge in some of that. It's important to remember what the Federalists and Anti-federalists both thought at the time the Constitution was debated and ratified. But our real goal here is not to show why federalism mattered as a concept in 1789; it's to show why it

matters today, why true federalism will improve both our wallets and our lives.

We want to start to change the mindset in this country that federal money is "free." And we have proposed straightforward solutions that can help restore both state control and the confidence of citizens in their governments.

We want to start to change the mindset in this country that federal money is "free."

Right now, as you will see in the chapters to come, citizens' trust and confidence in government — especially the federal government — is at a historical low point. Most Americans who live far from the nation's capital no longer believe in our leaders or their ability to govern. Madison and Hamilton would be deeply concerned about the ramifications of that loss of faith for our representative democracy and likely surprised by their own lack of prescience.

We have only to look at their words and love of this country — and compare those words to the comments and attitudes of citizens in 2018 — to realize that.

¹ "Madison's Streets," Wisconsin State Journal (Dec. 21, 1888), wisconsinhistory.org/Records/Newspaper/BA15174. And "Origins of Madison Street Names," Wisconsin Historical Society, wisconsinhistory.org/Records/Article/CS304

² Jay Cost, *The Price of Greatness: Alexander Hamilton, James Madison, and the Creation of American Oligarchy* (Basic Books, 2018).

³ Robert Jay Dilger, "Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues," Congressional Research Service (May 7, 2018), fas.org/sgp/crs/misc/R40638.pdf

⁴ The Budget and Economic Outlook: 2018-2028, Congressional Budget Office (April 9, 2018), www.cbo.gov/publication/53651

A troubling loss of trust in our government and our leaders

Much is being lost out here in the states: money, the ability to innovate, fairness, accountability, time to pursue what is important and meaningful. There is one pervasive loss among Americans, however, that likely would disturb the authors of the U.S. Constitution more than any other: our collective loss of trust and confidence in government.

In 2015, the percentage of Americans who said they have a great deal of trust and confidence in the federal govern-

ment when it comes to handling domestic problems hit an all-time low — just 4 percent, according to Gallup.¹ (By 2017, perhaps due to a strengthening economy, it had inched up to 5 percent.) All told, only 45 percent of Americans currently have at least a fair amount of trust and confidence in the federal government, Gallup found.

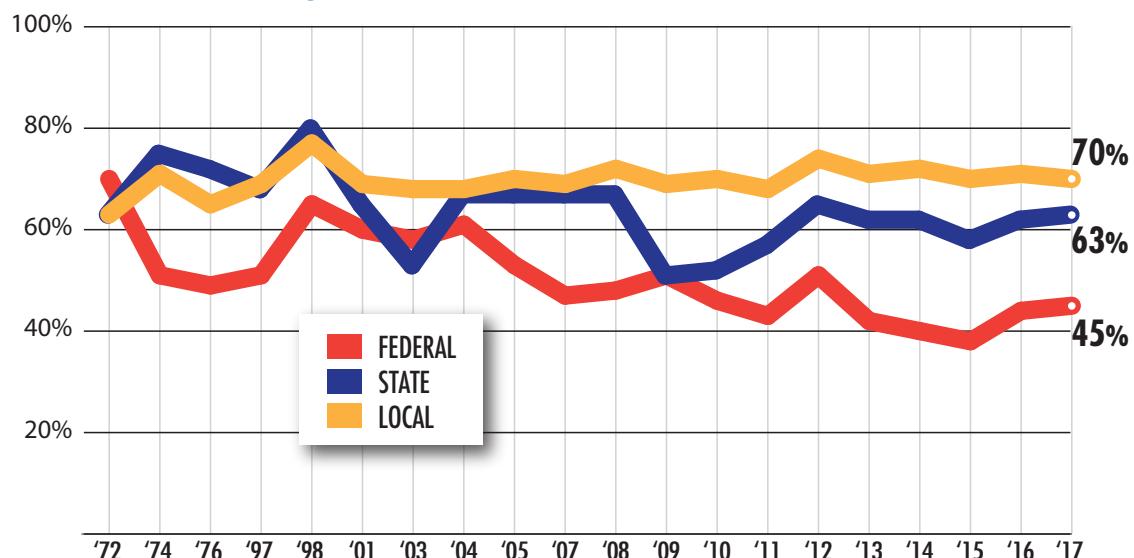
And that's the good news.

Asked “how much of the time do you think you can trust government in

Trust in government: Gallup results over the years

Only 45 percent of Americans have at least a fair amount of trust in the federal government to handle domestic problems. Trust in state government is only slightly higher, while trust in local government is the highest.

► How much trust and confidence do you have in your federal, state and local government?



Washington to do what is right?” only 2 percent of Americans said “just about always,” and only 17 percent said “most of the time” in 2010, the last time Gallup asked that question.

Perhaps most troubling, a majority of Americans in 2017 said they think “quite a few” of the people running the government are “crooked.” Collectively, we think we’re being cheated by many of the leaders of our country. Many of us believe that our leaders are corrupt — in other words, in it for themselves, representing their own interests rather than ours. There is a troubling disconnect between the people and the leaders, a sure sign of an unhealthy republic.

Faith in state governments is somewhat, but only somewhat, higher. Just 63 percent of Americans currently have a fair amount or a great deal of trust and confidence in their state government, according to Gallup.

Alexander Hamilton would not be surprised that Americans favor state government over the national one. Because state governments were the ones the founders foresaw dealing with citizens’ “personal interests and familiar concerns,” it followed in Hamilton’s mind

that Americans would favor governments closer to home.

In Federalist 17, he argued that “upon the same principle that a man is more attached to his family than to his neighborhood, to his neighborhood than to the community at large, the people of

each State would be apt to feel a stronger bias towards their local governments than towards the government of the Union.”

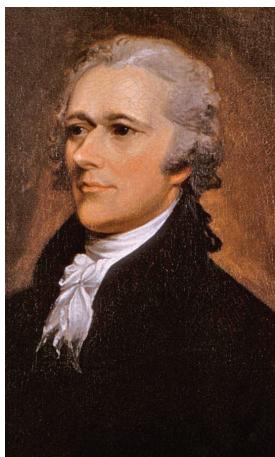
That bias in favor of and attachment to what is closest makes the argument for “subsidiarity” — the hierarchy of responsibility that begins with our obligation to manage our own lives and care for our families

and communities — logical and natural.

We tend to care most about the same things over which we have the most impact and for

which we have the most responsibility, those things closest to us. That’s true in life, and it’s true in government.

Put another way by Hamilton in Federalist 17, “It is that which, being the immediate and visible guardian of life and property, having its benefits and its terrors in constant activity before the public eye, regulating all those personal interests and familiar concerns to which the sensibility of individuals is more



“It may be laid down as a general rule that (the people’s) confidence in and obedience to a government will commonly be proportioned to the goodness or badness of its administration.”

— *Alexander Hamilton in Federalist 27*

immediately awake, contributes, more than any other circumstance, to impressing upon the minds of the people, affections, esteem, and reverence towards the government.”

Here, though, is the rub.

While state and local governments certainly continue to have more support than the federal variety, none of them secures anything close to Hamilton’s notion of “affections, esteem and reverence.”

After all, only 20 percent of Americans currently have a great deal of trust and confidence in their state government, and the percentage who have a great deal of trust and confidence in their local government is only slightly higher at 23 percent. The distrust of the federal government that stems from distance, from the impersonal monolithic and inflexible, has infected the view of state and local governments as well, and no wonder. As you shall see, they are often one and the same.

SOURCE OF THE DISTRUST

There is little doubt that the founding fathers would have found this lack of faith in all levels of government to be a fundamental threat.

“No government could long subsist without the confidence of the people,” noted James Wilson, one of the signers of the Constitution who, like so many others, has a street named after him in Madison.

The so-called Anti-federalist who

wrote under the pseudonym of The Federal Farmer, now widely thought to have been Melancton Smith, put it similarly.

“The great object of a free people must be so to form their government and laws, and so to administer them, as to create a confidence in, and respect for the laws; and thereby induce the sensible and virtuous part of the community to declare in favor of the laws, and to support them without an expensive military force,” wrote the man believed to be Smith, who initially argued against James Madison and Hamilton but eventually voted for ratification.

It’s clear where the founding fathers thought that confidence must originate. Hamilton posited in Federalist 27 that the continued confidence of the people in its government is dependent on the good administration of government.

“It may be laid down as a general rule that (the people’s) confidence in and obedience to a government will commonly be proportioned to the goodness or badness of its administration,” he wrote.

Two hundred and 30 years later, Gallup does not try to ascertain why Americans have lost trust and confidence in government, but Hamilton’s observation about the link between confidence and “goodness or badness” seems impossible to refute. We simply do not see our governments or those who run them as good or well-administered. The polls reflect that.

Yet Hamilton seems to have erred on

his corollary that “obedience to a government” is, like confidence, also proportioned to goodness or badness. There is enormous conflict in this country, enough so that in the summer of 2018 most Americans surveyed by Rasmussen said they fear political violence was coming from opponents of President Donald Trump’s policies; nearly a third said they believe a civil war will occur within five years.²

A COMPLIANT CITIZENRY

Still, while Americans have largely lost confidence, we remain a generally obedient populace. For all the vituperative mudslinging that occurs on social media, the vast majority of Americans do not take seriously talk of secession or nullification. Most protest is still aimed at changing laws rather than ignoring them. Most Americans, while at turns deeply concerned about the state of the republic, do respect and adhere to state and federal laws.

We are a generally dissatisfied citizenry but for now at least a fundamentally compliant one, even when it comes to the federal government in which we have little faith, regardless of whether a Democrat or Republican is in power.

Why? What is it other than good government, which most Americans believe

does not exist, that causes us to remain obedient? What was it that the founders did not foresee?

Hamilton, Madison and the other founding fathers could not have foreseen the widespread use of federal largesse both to individuals and to state and local governments. They could not have foreseen the ability of national leaders to grandstand, to buy support and obedience through grants and favors, through direct patronage rather than through good government.

It is not that they didn’t understand the power of patronage, as we will see; it is more that they didn’t foresee the ability and motivation of federal politicians to use that corrupting tool to further their own interests at the state level.

Americans see it today. In a Pew survey of 6,000 Americans in 2015, just 22 percent

said they thought that most elected officials put the interests of the country ahead of their own; 74 percent said they believe politicians put their own interests ahead of the nation’s.³ In sum, most Americans think our leaders are good at gaining attention and benefits for themselves, at grandstanding, but not very good at governing.

Though they certainly would recognize the concept, the founding fathers



“No government could long subsist without the confidence of the people.”

— James Wilson, one of the signers of the Constitution

would not be familiar with the term “grandstanding,” a word not widely used until well into the 1800s. Perhaps the first reference in any mainstream publication to a “Grand Stand” at a horse race wasn’t until 1834 in *New York Sporting Magazine*, according to the Old English Dictionary. The use of the gerund — grandstanding — wasn’t popularized until much later.

It wasn’t until perhaps the middle of the 20th century that the term was used as a common pejorative. In July 1948, for instance, *The Saturday Evening Post* described a general as “a blunderer; a grandstander; a bull in a china shop; a trouble causer.”

‘GRANTSTANDING’ IS BROAD AND DEEP

We use the term — and our neologism, “grantstanding” — in the pejorative sense as well, a way of describing politicians who seek applause and adulation (and, of course, votes) from their audience.

As you will see, the extent of this “grantstanding” is much broader and deeper than almost anyone knows, as are the consequences. In the absence of good government, it is this grantstanding, this purposeful bribing of the citizens and leaders of the states, that engenders the support of the people. And it forms an attachment to government that is much more tenuous and fragile than what was so long ago envisioned.

We might still, for now at least, be a

largely obedient people. But the obedience that Hamilton envisioned is based too often on dependency and coercion and far too infrequently on respect — and that is not firm ground for a lasting democracy.

We will save most of our specific conclusions and recommendations for the pages ahead and the summary at the end. But our fundamental finding is simple: There is tremendous “disquietude” and “repugnance,” to borrow terms used in the Federalist Papers, among the people. And one of the primary reasons is that the flow of “federal” money that for so long has increased politicians’ popularity is also undermining their credibility and ultimately the great experiment that is America. At the same time, that money is in essence buying a very tenuous and brittle obedience that can last only as long as the grants do and is, in the meantime, costing the states and their residents dearly.

Madison was confident, we know from Federalist 46, that if the federal government did “not possess the confidence of the people,” its “schemes of usurpation will be easily defeated by the State governments, who will be supported by the people.”

As it is, neither government has much confidence or support — just the ability to buy obedience through the bribery of federal money, including grants-in-aid. Our fundamental recommendations: Try to limit the amount of money the federal government has to offer, and illustrate

how accepting that money is self-defeating to the states and the people who live in them.

If tax dollars taken by the federal government were left in Wisconsin and the other states to begin with, not used to fund bloated bureaucracies at all levels of government, there would be more available for educating our children, paving our roads and assisting the needy at the local level — and doing so in a much more efficient and sensible way.

Collecting fewer taxes in Wisconsin and reducing the amount sent to Washington and then sent back would in one fell swoop eliminate the need for thousands of auditors, accountants and other bureaucrats and put millions of dollars in the hands of elected local and state officials, not to mention the pockets of taxpayers.

We can regain what's been lost: money, time, fairness, the ability to innovate and help our communities and our families, faith in ourselves and our abilities, and trust and confidence in our leaders.

There is much that can be done to begin the process of reform in Washington, as you will see. But the states and the people themselves can begin the process by demanding transparency, publicizing exactly what it is we get along with federal money: increased costs and regulations, illogical decision-making, loss of leadership and representation, and almost no focus on whether these grant

programs are really accomplishing their objectives.

Madison, in Federalist 46, opined that the new national government would be “ disinclined to invade the rights of the individual states, or the prerogatives of their governments.”

He was wrong as you shall see in the pages ahead.

He also, however, allowed for the possibility that he might be wrong. Part of the reason the founding fathers believed in a strong national government was that, as Madison also wrote in Federalist 46, they were certain the states would push back in concert if the federal government tried to “extend its power beyond the due limits.”

He was confident that “ambitious encroachments of the federal government” on the states would alarm more than just a single state or a few states only. He envisioned a “general alarm.”

Wisconsin is but one state. We hope this book serves as part of the alarm needed to enlist other states in what should be, in Madison’s words, a “common cause.”

¹ Trust in Government, Gallup, news.gallup.com/poll/5392/trust-government.aspx

² 31% Think U.S. Civil War Likely Soon, Rasmussen Reports (June 27, 2018), www.rasmussenreports.com/public_content/politics/general_politics/june_2018/31_think_u_s_civil_war_likelySoon

³ Perceptions of elected officials and the role of money in politics, Pew Research Center (Nov. 23, 2015), www.people-press.org/2015/11/23/6-perceptions-of-elected-officials-and-the-role-of-money-in-politics/

The use of federal grants has exploded over time

For most of our nation's history, federal grants were seldom used.

The first were land grants, given by the cash-poor central government to states to help finance transportation systems. In 1823, Ohio received a federal land grant of 60,000 acres along the Maumee Road, then used it to raise revenue to improve the road. Land later was granted to Wisconsin to build canals and improve river navigation.

The birth of the modern grants-in-aid system occurred in 1879 with passage of the Federal Act to Promote the Education of the Blind, which appropriated \$250,000 for the purchase of teaching materials. A second federal cash grant of \$15,000 was authorized by the Hatch Act of 1887 to establish agricultural experiment stations. In 1888, an annual grant of \$25,000 was appropriated to care for disabled veterans in state hospitals.

Initially, federal oversight and regulations were minimal. But Congress eventually concluded it had an obligation to ensure that the funds were spent appropriately and began to attach rules and requirements. For example, in 1889, states were required to match federal funding for the care of disabled veterans or lose the funding. In 1895, expendi-

tures authorized by the Hatch Act required annual audits.

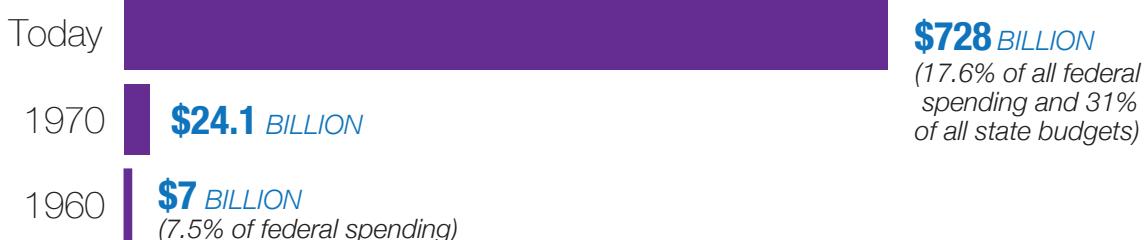
For many decades, the number of grants to states was relatively small. In 1902, there were only five grants totaling \$7 million, according to the Office of Management and Budget. Federal largesse, though, grew sharply with the ratification of the Sixteenth Amendment, which allowed Congress to collect taxes on income and start doling out grants in the form of cash rather than land. Grants to the states increased from \$12 million in 1913 when the amendment was ratified to \$118 million just nine years later.

For decades thereafter, the number and size of federal grants increased in times of crisis, with the Great Depression and with World War II — and eventually federal politicians came to realize they could use the grants as a primary tool for implementing policy in the states. Grants skyrocketed in the 1960s when President Lyndon Johnson made them a focal point of his War on Poverty.

In the ensuing decades, the number of grants doubled, tripled and quadrupled. Through it all, there has been only one serious effort, by President Ronald Reagan in the 1980s, to stem the tide. But

Today, the number of grants has skyrocketed to such a point that no one even counts them.

Growth of grants-in-aid in U.S.



when Reagan left office, he took with him the will to limit federal largesse.

By 2000, grant expenditures totaled more than \$285 billion, almost half of that dedicated to health care, primarily Medicaid. Under President Barack Obama, grants-in-aid and their accompanying regulations and oversight spiked under the American Recovery and Reinvestment Act, from \$444 billion in 2008 to over \$608 billion two years later.

The numbers receded somewhat after that but soared again under Obama's Affordable Care Act. Today, the number of grants has skyrocketed to such a point that no one even counts them — although one government circular estimates that state and local governments are eligible to apply for about 1,600 of them.

CONGRESS DIVERTS ITS FOCUS

Part of the impetus for this book came from James L. Buckley's "Saving Congress from Itself: Emancipating the States and Empowering Their People."

When Buckley, a former U.S. senator and retired judge, wrote his book, grants-

in-aid had risen from \$24 billion in 1970 to an estimated \$641 billion in 2015.

He, too, was concerned about cost. But he also noted that such programs "absorb major portions of congressional time, thereby diverting Congress from its core national responsibilities" and diverting its attention to the "constitutional concerns of the states." It had become eminently clear that Alexander Hamilton had a significant blind spot when he confessed his inability to imagine what temptation the "persons intrusted with the administration of the general government could ever feel to divest the States of (their) authorities."

We share Buckley's concern about the diversion of federal attention from national prerogatives. But our concern here in the hinterlands approaches the problem from a different perspective. The states themselves have lost control and even interest in much that was once intended to be their exclusive bailiwick.

Today, indelible federal fingerprints can be seen all over our state — from our roads to our schools to our environment to how we care for the poorest

among us. In place after place, Wisconsin has ceded control to federal politicians and, worse yet, unelected bureaucrats in Washington.

We have allowed the federal government to determine how we get from one place to another, how our children are taught and disciplined, how local com-

munities develop. Federal regulators have even attempted, without congressional approval, to insert themselves into local zoning laws.

You will see in the pages ahead that the federal government's takeover of the states is far broader and deeper than most Americans realize.

The extent of the problem in just one state — and the massive administrative bureaucracy

The name of the Badger State's big job-training agency is the Wisconsin Department of Workforce Development. But with the federal government issuing the paychecks for almost three-fourths of the department's employees, perhaps the United States Department of Workforce Development is more accurate.

Fully 73 percent of the department's 1,603 workers are paid with federal funds, part of a slow takeover of that "state" agency.

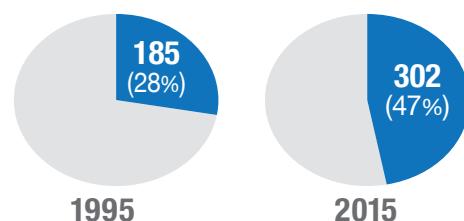
The story is the same in other departments.

- Nearly 49 percent of full-time-equivalent employees (FTEs) at the Department of Public Instruction are paid with federal funds.¹
- At the Department of Children and Families, 48 percent are paid with federal funds.²
- At the Department of Transportation, it's 25 percent.³
- At the Department of Health Services, 20 percent.⁴
- At the Department of Natural Resources, 19 percent.⁵

The federalization of Madison is not surprising in some areas such as the University of Wisconsin System, which boasts of trying to maximize federal grants for research, or at the Department of Health Services, where the rise in Medicaid costs

Federal funding of DPI 1995-2015

Wisconsin Department of Public Instruction FTE employees
paid by federal government



is well-known. But there also has been an inexorable and less overt growth of federally paid jobs throughout much of the rest of state government.

By the turn of the century in 2000, there were already well over 4,000 FTEs in state government (not counting the UW System) paid with federal dollars, according to budget documents examined by the Badger Institute. Today, there are over 5,000 — an increase that translates into tens of millions of dollars of additional annual spending over just the past 20 years.

Some of that money is used to deliver services or build infrastructure, but a hefty chunk is used to pay "state employees" whose primary role is to make sure that rules are followed, audits are completed and paperwork is processed. Their workdays are spent not on improving delivery

Wisconsin Department	Total FTEs	FTEs paid by feds	% federal employees	Department budgets	Agency's federal dollars	% paid by feds
Health Services	6,176.89	1,253.45	0.20	\$23,933,789,300	\$12,197,710,700	0.51
Workforce Development	1,603.05	1,166.18	0.73	\$709,647,300	\$406,747,600	0.57
Transportation	3,242.11	822.82	0.25	\$6,069,418,900	\$1,776,898,700	0.29
Natural Resources	2,499.60	466.84	0.19	\$1,096,064,500	\$162,635,000	0.15
Children & Families	783.16	376.93	0.48	\$2,563,578,500	\$1,395,870,500	0.54
Military Affairs	489.30	362.35	0.74	\$227,296,900	\$145,413,600	0.64
Public Instruction	642.00	312.84	0.49	\$14,220,327,000	\$1,758,688,900	0.12
Agriculture	627.90	83.77	0.13	\$192,285,100	\$21,108,800	0.11
Administration	1,470.42	60.15	0.04	\$1,160,186,800	\$279,750,700	0.24
Justice	683.14	38.73	0.06	\$267,984,300	\$46,494,100	0.17

FTE = full-time equivalent

Source: Legislative Fiscal Bureau

of services to the poor, sick and needy or enhancing children’s education but on making sure rules set in Washington are followed and records are assiduously kept by the recipients of those dollars at the state and local level.

As one educator told the Badger Institute, there are “a jillion people … just checking boxes.”

BLOATED BUREAUCRACY

Our analysis of six of the most federalized Wisconsin departments — Workforce Development, Children and Families, Transportation, Health Services, Natural Resources and Public Instruction — found that over 1,100 of their federally paid employees, or 29 percent, are engaged in administrative work. Those employees average over \$79,300 a year in salary and benefits, a total of almost \$89 million.

The Department of Workforce Development, again, is a good example. DWD has over 200 federally paid employees, and about 20 percent of those are in jobs that appear to simply administer the flow of federal dollars and to check who does what for which federal program.

Just reading the titles and job descriptions can be stultifying. In its Unemployment Insurance Division, for instance, the agency uses federal funds to pay for an administrative rules coordinator who drafts administrative rules that are submitted to the so-called Rules Clearinghouse, which then prepares reports on all proposed administrative rules that are used to implement or interpret statutory provisions. The Rules Clearinghouse, in turn, advises legislative committees on oversight of the administrative rule-making process.

Other state agencies have similarly sounding, Orwellian names and huge numbers of people working in them.

For instance, about one-third of the federal FTEs in the Department of Children and Families — averaging over \$73,400 per year in salary and benefits — work in administration.

Descriptions of what each does in places such as the Bureau of Program Integrity in the department's Division of Early Care and Education can be mind-numbingly similar. Just one of them: "Coordinate the review and analysis of federal regulations and state statutes to determine the need for administrative rules, manual materials and other materials." In that bureau alone, about 40 staffers work in jobs that appear to be purely administrative.

The massive bureaucracy of federally paid administrators permeates almost

every area of state government.

At the Department of Natural Resources, about 140 of its federally paid workers, or 29 percent, work in administrative or support jobs. Over 40 work in information systems or information management. Another dozen work as policy/program analysts or administrators, six as accountants and seven in the legal shop. Five work in the real estate section and four in the payroll and personnel departments. There is even a federally paid employee in the visitor services office. That position is federally funded, a spokesperson explained, because people, mail or documents that cross that desk sometimes involve federally funded programs.

You no longer have to travel to Washington, D.C., to witness the federal government at work, it seems — just swing by a state office in Madison. You'll have

Busywork for local schools

There was a massive increase in federal funding of schools through the American Recovery and Reinvestment Act of 2009 under President Barack Obama.

"Spend money as fast as you can" was the message school officials heard, said Steve Mann, business manager of the Cumberland School District in Barron County. "But then they required rules and guidelines. So by the time the program ended, there were more rules and guidelines in place."

With more and more guidelines comes the need for more and more staff.

Of the 451 local school officials who responded to a 2017 Badger Institute survey,

56 said their district was forced to hire additional staff to keep up with the administration of federal grants.

Another 85 officials said they would hire more staff if their district could afford to. And many of those who said they manage grants with current staff complained it often meant overtime, less interaction with students and added stress for office employees.

"We are constantly checking regulations and changes in regulations," said Butternut School District Superintendent Joe Zirngibl in Ashland County. "My staff puts in lots of overtime to compensate for the extra time necessary to do the reporting."

a decent shot at seeing federal employees in many of the major departments you walk into — though if you really hope to increase your chances, you might want to enter one in particular.

FEDS TAKE OVER EDUCATION

The state Department of Public Instruction, which oversees the education of Wisconsin's children, is actually an extension of the federal government. This is not hyperbole. Nearly half (49 percent) of DPI employees, 313 workers, are federally paid — up from just 185 in 1995.

Over the past two decades, federal aid to DPI has grown twice as fast as the agency's budget — and much of that federal money is spent on administration and bureaucracy rather than bettering the lives and minds of Wisconsin's children.

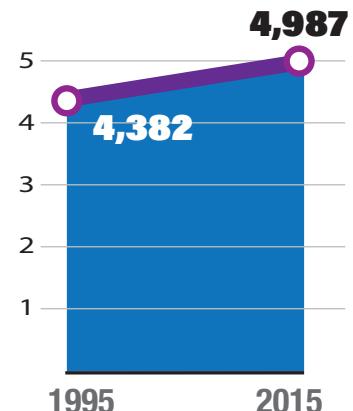
Almost half of those 313 workers, in fact, appear to be performing purely administrative duties rather than anything directly affecting what happens in the state's classrooms. That includes accountants, grant specialists, administrators, attorneys and human resources personnel.

All of this costs taxpayers massive amounts of money. The federal government grants \$878 million annually to Wisconsin public schools through DPI. Of that, DPI takes \$54 million to process those funds, a sort of shipping and handling charge to taxpayers.

Ted Neitzke, former superintendent of the West Bend School District in Washington County and now head of a regional education agency, said the paperwork to

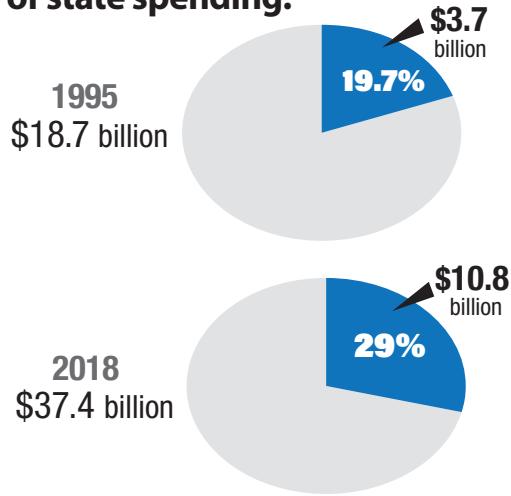
The federalization of Wisconsin state government

State workers* paid by feds:



*Measured as Full-Time Equivalents

Federal revenue as a percentage of state spending:



administer federal education grants in Wisconsin is overwhelming.

"DPI — they got a jillion people working there that are just checking boxes," he said. "The paperwork — it needs to be checked 52 ways to Sunday. I can't even imagine how many personnel they have

whose sole job is just checking boxes.”

Agency spokesman Tom McCarthy acknowledged the growing presence of the federal government in local education.

“There has been an increase in federal dollars and positions to oversee their expenditure over the past 20 years. The department’s (state) general purpose revenue-backed positions were reduced over the same time period by a similar amount,” he wrote in an email.

“The federal government,” McCarthy continued, “in both Republican and Democratic hands, has asked states that accept funding to implement programs in accordance with the laws passed by Congress.”

TEACHERS VS. ADMINISTRATORS

Teachers are not the ones who have benefited from all of this federal largesse. In fact, over the past decade, average public school teacher pay declined 2 percent, while overall public school spending climbed 27 percent, according to Robert Holland, a senior fellow for education policy with the Heartland Institute.

“The most glaring disconnect is during these years, school administrators were growing the ranks of their non-teaching staff by 45 percent,” he wrote in a May 2018 op-ed.⁶

Holland continued, “The increase in

non-teaching staff is in large part due to the impact of federal education laws ... which specify the compliance hoops through which school districts and universities must jump to receive federal aid. To qualify, these education institutions must hire compliance specialists — battalions of them — to be sure reams of paperwork are complete to Washington’s satisfaction.”

Their workdays are spent not on improving delivery of services to the poor, sick and needy or enhancing children’s education but on making sure rules set in Washington are followed.

not compliance-driven,” he said.

It’s an inefficient system designed to give power to Washington and to diffuse accountability, Neitzke said. “You send them a dollar; they (Washington) send you 30 cents back. It’s an ancient, antiquated process.”

Some state agencies, to be fair, are attempting to stem the tide of federal interference.

The Department of Workforce Development conducted a review of programs and federal mandates and then “requested relief from requirements that unnecessarily add cost to taxpayers and impact our commitment to making state government more efficient, effective and accountable to the citizens of Wisconsin,” said spokes-

man John Dipko. Changes would help streamline data reporting and relax some reporting requirements to allow more innovation by the state.

Judging from the Obama administration's School Improvement Grants program, such local innovation is sorely needed.

The administration was hailed initially for the program that spent \$7 billion — the largest federal investment ever targeted to failing schools — to help needy students in low-performing schools over five years. Unfortunately, the program had no discernible effect on test scores, graduation rates or college enrollment, a federal study published in 2017 found.⁷

"We're talking about millions of kids who are assigned to these failing schools, and we just spent several billion dollars promising them things were going to get better," Andy Smarick, a resident fellow at

the American Enterprise Institute, told *The Washington Post*.⁸ "Think of what all that money could have been spent on instead."

1 There are 642 FTEs in the Department of Public Instruction, 312.4 of whom are federally paid, according to a Badger Institute analysis.

2 There are 783 FTEs in the Department of Children and Families, 377 of whom are paid federally paid.

3 There are 3,494 FTEs in the Department of Transportation, 824 of whom are federally paid, largely because of massive federal highway funding. DOT's total budget is over \$6 billion, 29 percent from federal funds.

4 There are 6,177 FTEs in the Department of Health Services, 1,253 of whom are federally paid. The agency has nine major departments staffed by federally paid employees: Public Health, Medicaid Services, Care and Treatment Services, Quality Assurance, the Secretary's Office, Enterprise Services, Office of Legal Counsel, Office of Policy Initiative & Budget and Office of Inspector General.

5 There are 2,499 FTEs in the Department of Natural Resources, 467 of whom are federally paid.

6 Robert Holland, "Bureaucracy devours funds that could support teaching," Deseret News (May 22, 2018).

7 Federal School Improvement Grant Program Had No Significant Impact on Student Achievement, American Institutes for Research (Jan. 19, 2017).

8 Emma Brown, "Obama administration spent billions to fix failing schools, and it didn't work," The Washington Post (Jan. 19, 2017).

All across America, the federal government dominates

James Madison and Alexander Hamilton would be stunned at the size of our national government in comparison to the governments of the states — and that is not mere speculation.

In Federalist 45, titled “The Alleged Danger from the Powers of the Union to the State Governments Considered,”

Madison assured readers that “the number of individuals employed under the Constitution of the United States will be much smaller than the number employed under the particular States.”

He also bluntly predicted that “the component parts of the State governments will in no instance be indebted for their appointment to the direct agency of the federal government.”

He was flat-out wrong in one instance and, depending how one counts, arguably quite wrong in the other.

Measured solely by jobs, the reach and size of the federal government is immense. There are over 2,741,000 full-time-equivalent (FTE) direct employees of the federal government in the United States, according to 2018 Congressional Research Service statistics that exclude uniformed military personnel.¹

But that is only a fraction of the story.

Paul C. Light, in a 2017 paper he wrote for The Volcker Alliance titled

“The True Size of Government,” estimated that there are also 1,583,000 FTE federal “grant employees” scattered throughout America, most of them working for nonprofits and state and local governments.² That brings the total number of federal employees to over 4,324,000.

There are over 10,000 federal employees disguised as state employees in Wisconsin alone.

If we also count “federal contract employees,” active-duty military and postal service workers, Light puts the total federal workforce at 9.1 million.

Meanwhile, Governing.com, using 2016 data, put the total number of FTE state government workers at 4,360,635.³ But that’s just a starting point that can be both added to and subtracted from.

Some of those 4.36 million “state employees” are actually paid with federal dollars and could arguably be counted as federal rather than state workers.

WISCONSIN'S NUMBERS

The Badger State is a good example of how and why.

Wisconsin was said to have over 72,000 state employees in the Governing analysis. By 2018, the number was 70,413, according to the state itself. A Badger Institute analysis determined that the full-time equivalent of 10,507

of those Wisconsin “state employees,” including employees of the University of Wisconsin System, were paid with federal dollars.

There are, in other words, arguably over 10,000 federal employees disguised as state employees in Wisconsin alone. If Wisconsin, an average-sized state, is typical, there are likely over a half-million “state employees” throughout America who are actually paid by the federal government. That reduces the total number of actual state employees in the

country to less than 4 million.

At the same time — as is the case with the federal government — state governments often pay the salaries of both some contracted workers and many workers in other levels of government, though it’s difficult to compile accurate numbers, particularly in Wisconsin.

The Badger State, for instance, funnels a lot of state tax dollars in the form of “shared revenue” to local governments and schools. A very large but unknown number of local government employees,

'Mandatory' spending for feds

There are all kinds of federal grants to state and local governments, schools, nonprofits and individuals and for all kinds of programs that have to do with education, transportation, agriculture, the environment, health and more.

The term “grants,” however, can be misleading, giving the impression that the money is granted time and again.

While that may be true for some grants, the payment of the bulk of federal grants-in-aid constitutes mandatory spending by the federal government that is the result of permanent or multi-year legislation. Thus, the grants become available automatically each year without additional legislative action.

There are all sorts of mandatory spending programs, including child nutrition, family support, adoption and foster care, child care and social services. But the biggest ones are entitlements such as Social Security and Medicare, which are federal

programs, and Medicaid, which is still at least technically a state program.

Spending on Medicaid alone is expected to top \$450 billion in 2020, up from \$301 billion in 2014, if current policies continue, according to the Congressional Budget Office. By 2025, it’s expected to top \$588 billion.

Outlays for Medicaid and other health-related spending such as Medicare and Obamacare’s health care exchanges and other subsidies could make up nearly half of federal mandatory spending by 2025, the CBO estimates. That means further enlarging the federal deficit and comprising an ever-larger percentage of the national economy.

Discretionary grants, in the meantime, include those to help educate disabled and disadvantaged children, and for transportation, housing and public safety. They are enacted through annual appropriations.

as a result, could be counted as “state employees” as well.

Interestingly, Governing.com puts the total number of local government employees (not counting schools) in the United States at just under 5 million, based on 2015 data⁴ — meaning there are about 9 million state and local government employees in this country, almost the same number of federal employees that Light comes up with.

Madison would have found the addition of local government employees in the calculations to be enlightening. In fact, one paragraph in Federalist 45 suggests he was considering local officials — or as he calls them, “county, corporation, and town officers” — among the “state” employees who “must exceed, beyond all proportion, both in number and influence, those of every description who will be employed in the administration of the federal system.”

As you can see, determining who is employed by which government — federal, state or local — is quite subjective (part of the point of this book). And the difficulty of determining, for instance, how many contractors are employed by state governments makes it impossible to irrefutably disprove Madison’s contention that “the number of individuals

employed under the Constitution of the United States will be much smaller than the number employed under the particular States.”

At the same time, it’s fair to conclude that he would be surprised by how large both have become.

More importantly, he was plainly wrong about the more significant point.

He stated in Federalist 46, titled “The Influence of the State and Federal Governments Compared,” that the “members of the federal (government) will be more dependent on the members of the State” than vice versa. And he argued, in Federalist 45, that the federal government “is nowise essential to the operation or organization” of the state government — a proposition that would be a little difficult to defend in the current age, where 30 percent of state budget revenues typically come from federal coffers.

1 Julie Jennings and Jared C. Nagel, “Federal Workforce Statistics Sources: OPM and OMB,” Congressional Research Service (January 2018).

2 Paul C. Light, “The True Size of Government,” The Volcker Alliance (Oct. 5, 2017)

3 Governing.com, “State Government Employment: Totals By Job Type: 1960-2016,” <http://www.governing.com/gov-data/public-workforce-salaries/state-government-employment-by-agency-job-type-current-historical-data.html>

4 Governing.com, “Local Government Employment and Payroll By State,” <http://www.governing.com/gov-data/public-workforce-salaries/local-government-employment-public-payroll-by-state.html>

Coerced obedience

While the founding fathers emphasized that no government could long exist without the confidence of the people, and that confidence would be dependent on good administration, they were also political realists who acknowledged that the spoils of government — jobs and paychecks — could play a big part in cementing allegiances.

Indeed, James Madison seemed to equate paychecks quite literally with gifts.

In Federalist 46, he bluntly stated his belief that “into the administration” of state governments “a greater number of individuals will expect to rise” and “from the gift of these a greater number of offices and emoluments will flow.”

He recognized that employment encumbers one to whatever entity pays one’s salary. And, absent the occasional government employee who manages to exert no effort or influence over any issue, person or object throughout the course of a career, an employee is bound to do the bidding of whatever government pays for his porridge. The authors of the Constitution knew the power of patronage.

As we’ve seen, however, they erred in thinking that most offices and emoluments would flow from local governments rather than the national one. The functions of state and federal governments are no longer apportioned the way that Madison and

the other founders intended. Now, many of the people most closely associated with our domestic and personal interests, including teachers, answer first to whoever essentially issues their paychecks — the federal government — rather than to the parents of the children entrusted to their care.

“Although special education teachers and administrators are theoretically local employees, their salaries are largely paid with federal funds and their loyalties tend to follow accordingly,” observed James L. Buckley in “Saving Congress from Itself:

Emancipating the States and Empowering Their People.”

This is surely true — though far from the entire story. There are other, less personal motivations for remaining obedient to the federal government as well, some of which are well-intended and altruistic.

Local politicians and bureaucrats don’t act merely out of self-preservation or fear of conflict. They don’t just follow federal prerogatives and directives because they are indebted to federal paymasters.

They follow along because it is always harder and more uncomfortable to cut a program and the people in it than allow the program, however unsuccessful or even harmful, to continue if money is not seen as an issue. They follow along because it’s exceedingly difficult to change rules and procedures set somewhere off in a building

*The authors of
the Constitution
knew the power
of patronage.*

with a locked entry in Washington, D.C. They follow along because the programs are often better than nothing. There are people who rely on them.

Local politicians and bureaucrats, in the end, see themselves as having no choice. They are, in essence, coerced.

U.S. Supreme Court Justices Antonin Scalia, Anthony Kennedy, Clarence Thomas and Samuel Alito in 2012 pinpointed the practical difficulty of turning down federal grants in *National Federation of Independent Business v. Sebelius* — the so-called Obamacare case:

“When a heavy federal tax is levied to support a federal program that offers large grants to the States, States may, as a practical matter, be unable to refuse to participate in the federal program and to substitute a state alternative. Even if the State believes that the federal program is ineffective and inefficient, withdrawal would likely force the State to impose a huge tax increase on its residents, and this new state tax would come on top of the federal taxes already paid by residents to support subsidies to participating States.”¹

The justices found that the Medicaid expansion foisted upon states by the Affordable Care Act (Medicaid, unlike Medicare, is a state program) was unconstitutionally coercive under the Constitution’s Spending Clause.² Some governors, as a result, turned down the federal money that would have come with a “full” Medicaid expansion, a decision that in Wisconsin was politically unpopular.³

It’s not just state and local politicians, after all, who want the money. There are a lot of special interests that clamor for and benefit from federal funding as well.

It’s a willing pas de deux, but one participant is decidedly taking the lead while the other is following along because he or she sees no other choice and can’t find a way out of the duet that, as we shall see in the coming pages, is more than just awkward. The subservient partner is well-compensated but miserable — the makings of a very unhappy marriage.

¹ Supreme Court of the United States, *National Federation of Independent Business et al. v. Sebelius*, IV, Page 28.

² The U.S. Constitution’s Spending Clause (Article 1, Section 8) empowers Congress to collect taxes and other revenues “to pay the Debts and provide for the common Defence and general Welfare of the United States.” The U.S. Supreme Court pointed out in a seminal 1936 case, *United States v. Butler*, that James Madison thought that the phrase “general welfare” was one that “amounted to no more than a reference to the other powers enumerated” in the Constitution, while Alexander Hamilton “maintained the clause confers a power separate and distinct from those later enumerated.”

For years, Congress and the Supreme Court adopted an essentially Hamiltonian interpretation of the Spending Clause – i.e., expansive and unchecked federal spending powers. The court took a different stance in *National Federation of Independent Business v. Sebelius*. Chief Justice John Roberts wrote that the Affordable Care Act’s attempt to coerce states into expanding Medicaid was an unconstitutional violation of the Spending Clause because the federal government threatened states with the loss of their existing Medicaid funding if they declined to comply. He went so far as to call the federal financial inducement a “gun to the head” of the states. The Medicaid expansion, a majority of the justices found, unconstitutionally undermined the status of the states as independent sovereigns and, by vesting too much power in the central government, was an affront to states’ rights, individual liberty and political accountability.

Justice Ruth Bader Ginsburg, who was not in the majority, noted that Roberts found an exercise of Congress’ spending power unconstitutionally coercive for the first time ever and predicted that Spending Clause challenges likely would arrive at the court in the wake of the decision. In essence, it now appears that challenges to at least some federal grants-in-aid, based on the theory that they violate the Spending Clause, might have legal merit.

³ Marquette Law School Poll, Oct. 23-26, 2014, Question 25. Approximately 60 percent of Wisconsinites polled said Wisconsin should have accepted the federal funds and the expansion, while 25 percent said the state should have rejected the federal funds for the expansion.

PART 2

All That We've Lost

(Why federal grants aren't free, and the art of Grant\$tanding)

Federal grants system leads to all manner of loss

We now know the general extent of the federal takeover of state governments and have seen both some of the monetary costs and the loss of local discretion. But costs and losses to the states, to Americans who live far from the nation's capital and to democracy itself as envisioned by the founding fathers goes much deeper.

This part of the book goes into much greater detail regarding all the ways federal money is far from free.

As you'll see in the coming chapters, the grants-in-aid system robs us of our time, our money and our ability to innovate, to make ourselves and our communities better — and it does so because we have almost no ability to hold politicians or bureaucrats accountable.

The grants-in-aid system has meant a loss of representation at every level of government, as our elected officials are hamstrung by regulations they didn't create and their constituents didn't vote for. More and more power has been handed to an unelected bureaucracy, which politicians find easy to blame when it proves ineffective.

The system harms those it was meant to

help: the poor, the sick, those in need of an education so they can pursue the American Dream — and it does so by minimizing and sometimes eliminating the role and power of the states.

James Madison believed in a “compound republic of America,” as he wrote in Federalist 51. The “power surrendered by the people,” he wrote, “is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments.” He made it clear that a national government is essential to securing the “weaker individual” against the “violence of the stronger.”

But Madison also made it clear that the states were to be defenders of liberty and property.

“The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people,” he wrote in Federalist 45.

Madison was not the only defender of a relatively strong national government who, nevertheless, saw the states in that light.

Fisher Ames, defending the Constitution in Massachusetts, said that the state

The grants-in-aid system has meant a loss of representation at every level of government as our elected officials are hamstrung by regulations they didn't make and their constituents didn't vote for.

governments “represent the wishes, and feelings, and local interests of the people. They are the safeguard and ornament of the Constitution; they will protract the period of our liberties; they will afford a shelter against the abuse of power, and will be the natural avengers of our violated rights.”

The so-called Anti-Federalists, those who argued against too strong a national government, against Alexander Hamilton and often against Madison as well, were even more forceful on the point.

“The Anti-Federalists’ defense of federalism and of the primacy of the states rested on their belief that there was an inherent connection between the states and the preservation of individual liberty, which is the end of any legitimate government,” wrote Herbert Storing in “What the Anti-federalists Were For: The Political Thought of the Opponents of the Constitution.”¹

Liberty is a capacious word, often used and rarely defined. But it was clear to the authors of the Constitution what it was and what it wasn’t.

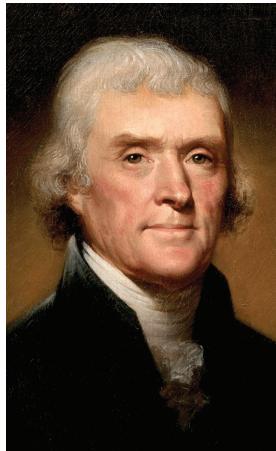
“Of Liberty then I would say that, in the whole plenitude of its extent, it is unobstructed action according to our will,” wrote Thomas Jefferson in 1819. “But

rightful liberty is unobstructed action according to our will, within the limits drawn around us by the equal rights of others. I do not add ‘within the limits of the law’; because law is often but the tyrant’s will, and always so when it violates the right of an individual.”

The modern understanding of the term “liberty” — the state of being free from oppressive restrictions or requirements without impingement upon the rights of others — is similar and widely understood. Less apparent: the multitude of ways that individuals can lose the liberty to act how they deem best for themselves and their communities. Today, federal usurpation of state and local powers has many illiberal ill-effects, one of which is overtaxation to fund illogical costs of the grants-in-aid system.

But, as you will see in the pages ahead, there are many other onerous impacts that obstruct actions which individuals would like the latitude to take for their own or their community’s betterment.

Grants-in-aid are far from free. In fact, their many costs directly threaten the durability of the American experiment.



Thomas Jefferson

¹ Herbert Storing, “What the Anti-federalists Were For: The Political Thought of the Opponents of the Constitution,” Page 15.

Loss of local control

Through grants-in-aid, the federal government inserts itself into everything from environmental issues to research on aging, wetland management, hunter safety, water quality, nutrition and health issues, crime victim assistance, land acquisition and gang resistance — to name just a few ostensibly “national” policy areas that often seem to have very little to do with national interests at all.

Perhaps nowhere, however, is the federal influence on local concerns as great as it is in education — part of the reason we’ve focused so much on education in the Badger Institute’s Project for 21st Century Federalism.

All across the small towns and cities of the Midwest, teachers and administrators feel set upon by far-away overseers in Washington, D.C. The government employees on the front lines adhere to the rules because they have no choice. But many see the rules as nonsensical and chafe at sometimes absurd restrictions.

Just one example: Federal rules prohibit special education students from riding on buses with non-special education students, requiring districts to operate duplicative bus routes, said Drew Niehans, business manager of the Weyauwega-Fremont School District in Waupaca County.

“This not only limits our routes but will also not always be in the best interest of

the (special education) students as it will isolate them,” he said.

Niehans was one of hundreds of school officials — teachers, administrators and school board members — who responded to a series of Badger Institute surveys in 2017 and 2018 asking them about how federal involvement in their schools affects them and their students.

The predominant opinion: Giving more flexibility to local educators and parents would help schools operate more efficiently and effectively — and it would be better for the students.

“There’s no room for thinking outside the box.”

— Susan Jarvis, business manager
of the Salem School District

“Leaving major decisions up to local school boards who know and understand their commu-

nities and the needs of the community is the most important ingredient in allowing schools to function efficiently and effectively,” said one school board member, who did not give permission in the survey to use her name.

“TRUST the local school boards to make appropriate decisions for their communities!” wrote another school board member. “We are the ones in direct contact, living in community with our teachers, students and their parents. We are the ones available and accountable for the results of our policies.”

“We need the freedom to address our local needs in the way our communities desire rather than fulfilling regulations

and requirements that often are designed for heavily populated areas with vastly different demographics,” another school board member responded.

Federal involvement in the operations of local schools reduces innovation and accountability, officials said.

Among administrators, 83 percent said it is at least “likely” there would be more innovation in schools if they had more discretion over how federal funds are spent. Most of those respondents (50 percent of the total) said it would be “much more likely.” Eighty-one percent, in the meantime, said accountability would improve or stay the same.

Teachers largely agreed: 52 percent outside Milwaukee Public Schools and 49 percent in MPS said there would be more innovation if they had more discretion over how federal funds are spent; 20 percent said there would be at least the same amount. More than 59 percent said accountability would improve or stay the same.

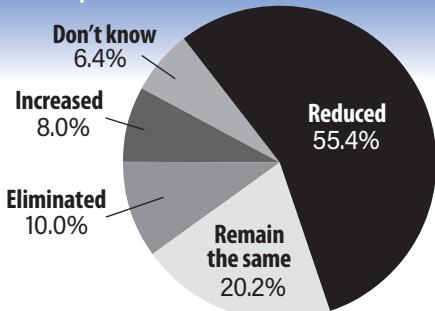
The Badger Institute surveys were conducted via email through Survey Monkey. Questions were multiple choice, but respondents could comment. Some respondents were contacted by phone or email for follow-up interviews. Answers were anonymous unless respondents gave their permission to be identified. The full surveys can be found in the Appendix of this book.

“There is no room for thinking outside of the box,” said Susan Jarvis, business manager of the Salem School District in

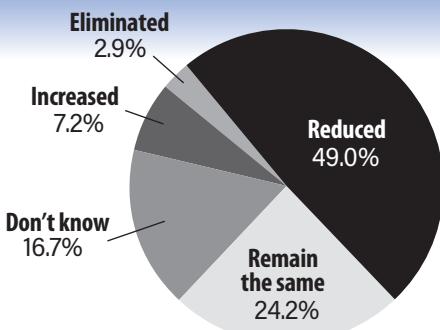
Too much federal involvement

► *Should the federal government's role in education be:*

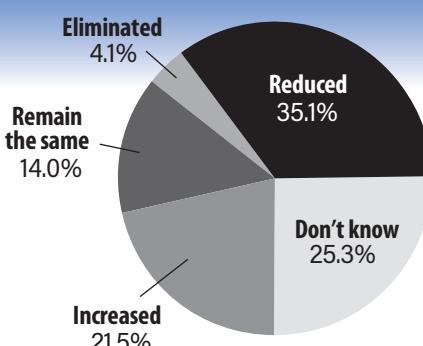
451 Administrators & school board members responded:



347 Non-Milwaukee Public Schools teachers responded:



316 MPS teachers responded:



Source: Badger Institute surveys

Kenosha County. “We would like some autonomy to determine the best way to educate our students according to their needs and their individual personalities so they can receive the best possible education.”

Time and again, local teachers and administrators lamented the loss of self-determination. Frustration is palpable.

“There really is not a lot of trust between what the federal government is asking me to do and the way I do it,” said Cory Stoutner, a middle and high school special education teacher in the Gilmanton School District in Buffalo County.

“I have to do a lot of paperwork and spend time testing my kids instead of teaching my kids. And if I do not see progress, then I have to have meetings.

“The government has given me a license, but do they trust me to educate the students? I must be doing a good job, I haven’t been fired yet, but I have to do something a certain way or fill out all this paperwork and testing, testing and more testing because I have to prove the kids are learning their times tables,” Stoutner said.

There is widespread agreement that Washington’s involvement in local schools has increased dramatically in recent years. More and more educators are making decisions based not on what’s best for students but on what best satisfies federal bureaucrats.

In one Badger Institute survey, about 60

percent of superintendents, school board members and business managers agreed with the statement that “restrictions on how federal funds are spent harmfully distort the decisions that local school officials make on behalf of their students.”

In another survey, 56 percent of teachers outside of Milwaukee Public Schools

felt the same. In MPS, special education teachers who deal with federal paperwork were even more negative toward federal intrusion in their jobs, with 70 percent

saying it distorts their decision-making.

It’s “overwhelming to write and carry out (a federally required student learning plan) without shortchanging students of one-on-one service time — especially when we have large (20-plus) caseloads,” one MPS high school teacher commented.

LOOSEN THE CONTROLS

The restrictions and hoops are not incidental, and the discontent is not confined to a few malcontents.

In the survey of administrators and school board members, three-fourths said there were too many restrictions on how local districts can spend federal funds. Two-thirds rated federal reporting requirements as extremely or very time-consuming.

“Federal regulations are extremely time-consuming for the little amount of funding we receive,” one superintendent responded.

“Federal regulations are extremely time-consuming for the little amount of funding we receive.”

—A Wisconsin school superintendent responding to survey

Jeff Kasuboski, superintendent of the Wautoma Area School District in Waushara County, would like to revamp his after-school program so students could volunteer and spend time with what he calls an “untapped resource” — senior citizens.

He is not the only one who thinks there would be value in that.

In “The Vanishing American Adult,” U.S. Sen. Ben Sasse (R-Neb.) wrote trenchantly of “helping our kids flee their generational ghettos” as a way of “helping them wrestle with the great teacher that is mortality.” He advocated for more interaction — any interaction really — between strictly age-segregated kids and senior citizens who can provide some wisdom while benefiting themselves.

Yet the federal government actually prevents that from occurring. Because the coordinator of Wautoma’s after-school program, which is partially financed with federal dollars, spends nearly half her time administering all of the district’s federal grants, she doesn’t have time to take on that project.

That’s a shame, but not the only one. Even more than interaction with senior citizens, students need time with their teachers. Paperwork is depriving them of that essential contact.

Many teachers said they must stay late after the school day or take work home to complete federal paperwork. Almost

60 percent said federal paperwork takes teachers and staff away from students and the classroom. Among MPS special education teachers, it was 70 percent.

“Government should not be making decisions on what goes on at our level,” said a teacher from the Unified School District of Antigo in Langlade County. “They have no idea what we do in the classroom on a daily basis. It is so frustrating, as they have no idea what is best for kids.”

Much of the problem is the propensity of government regulations to grow. It’s automatic, reflexive and unthinking. But there is also a basic distrust. Teachers become teachers to teach, not for money. Yet we don’t trust them to do that — and there’s no evidence the distrustful approach is working. In fact, evidence suggests that educational outcomes have declined as federal involvement in schools has increased.¹

“If teachers are allowed to practice our craft, of course within research-based parameters, we could reach more students on a deeper level,” one Appleton teacher commented. “Constant standardized testing and lack of flexibility and creativity is harming our inner city students.”

Sometimes, in fact, the harm from federal interference is actually physical — as you will see in the next chapter.

¹ Kyla Calvert Mason, “Wisconsin Fourth-Graders Lose Ground On National Reading,” Wisconsin Public Radio (April 10, 2018), www.wpr.org/wisconsin-fourth-graders-lose-ground-national-reading-exam.



ROBERT HELF ILLUSTRATION

Loss of discipline

Students regularly just walk out of Jennifer's classroom without permission.

It's a consequence, says the special education teacher in the Milwaukee Public Schools, of disciplinary rules that seek to reduce the number of suspensions but are extremely disruptive and

sometimes even put teachers and students at risk.

"In previous years, a student leaving the classroom and running around the hallways was rare. Now, it happens every day," Jennifer, who asked not to be named, told the Badger Institute. "I have seen leaving the classroom for the

first time become a teacher-managed behavior (vs. office-managed behavior). Previously, if a student left the classroom, it was an automatic write-up” that could lead to suspension.

The changes are a consequence of an Obama administration effort to reduce the number of student suspensions nationwide by using the lure of federal funding to induce local schools to change their policies.

This suspend-as-a-last-resort policy mirrors a shift by schools across the country from tough zero-tolerance to a far less punitive approach that tries to keep students, especially minority kids, in school under the belief that children can’t learn if they’re not in the classroom.

Critics counter that the other kids, the ones who want to learn and whose futures are dependent upon it, can’t succeed if the troublemakers have free rein.

NEW RELAXED APPROACH

The new approach began in 2008 when the Obama administration launched an effort to reduce the number of suspensions and arrests of students, the so-called school-to-prison pipeline. At the time, nationally, three black students were suspended for every white student. One theory that emerged to explain the racial disparity was that teachers have a subconscious bias that stereotypes black males as “dangerous.”

That same year, MPS — where 55 percent of students are African-American — earned the dubious distinction

of posting the highest suspension rate of any large urban school district, according to the advocacy group Council of Great City Schools. Nearly half of all MPS ninth-graders were suspended at least once in 2008.

Called Positive Behavioral Interventions and Supports, or PBIS, the more relaxed approach emphasizes teaching students what behavior is expected rather than meting out punishment after bad behavior. Teachers, so the concept goes, tell students the rules — be respectful, be responsible — and what kind of behavior is expected, then reward positive behavior with praise. The training begins in pre-kindergarten, where the lessons supposedly imprint better.

LOSS OF FUNDS THREATENED

In 2014, President Barack Obama’s Secretary of Education Arne Duncan and Attorney General Eric Holder gave the policy a boost when they issued new discipline guidelines “strongly recommending that the nation’s schools use law enforcement measures and out-of-school suspensions as a last resort.”¹ The guidelines came with threats of defunding for districts that refused to fully comply — and promises of lots more money for those that did.

From 2011 through 2016, MPS received just over \$2 million in Coordinated Early Intervention Services grants to fund PBIS, according to federal grant records. In 2018, the program is funded by almost \$750,000 in grants and gen-

eral revenue funding, according to MPS spokeswoman Denise Callaway.

The funding prompted more than 50 major districts nationwide — including Milwaukee, Madison and Racine — to adopt the program.

Unfortunately, in just the first year after the directive, schools across the country saw more than 160,000 physical attacks on teachers. Under PBIS, teachers reported students cursing, punching, kicking and even biting teachers daily, making classrooms unsafe. Administrators and teachers complained.

“Utter chaos,” one Madison teacher, who struggles every day to get his students seated after the bell rings, told the Badger Institute. “It feels like the inmates are running the institution.”

On the positive side, things could have been worse. They were, in fact, elsewhere in the country.

BROWARD COUNTY

In Broward County, Fla., site of the February 2018 mass shooting at Marjory Stoneman Douglas High School in Parkland, the district received tens of millions of dollars in federal funding beginning in 2011 to implement the program, according to author Paul Sperry.²

“Broward County adopted a lenient disciplinary policy similar to those

adopted by many other districts under pressure from the Obama administration to reduce racial ‘disparities’ in suspensions and expulsions,” Peter Kirsanow of the U.S. Commission on Civil Rights in Washington, told Sperry.²

“In many of these districts, the drive to ‘get our numbers right’ has produced disastrous results, with startling increases in both the number and severity of disciplinary offenses, including assaults and beatings of teachers and students.”

Accused Parkland shooter

Nikolas Cruz, a former student at Marjory Stoneman Douglas, passed a background check and purchased the murder weapon despite committing a string of offenses, some of them criminal.

That’s because the federal policy implemented by the Broward County School District diverted Cruz to counseling and other supposed remedies rather than law enforcement.

“He had a clean record, so alarm bells didn’t go off when they looked him up in the (gun registry) system,” an FBI agent told Paul Sperry. “He probably wouldn’t have been able to buy the murder weapon if the school had referred him to law enforcement.”

The end result was that Broward County officials failed to intervene with Cruz not because of a mistake or an



“In many of these districts, the drive to ‘get our numbers right’ has produced disastrous results.”

— Peter Kirsanow,
U.S. Commission on Civil Rights

oversight but because of a deliberate federal policy put into place and actively promoted by local officials to obtain additional money and kudos from Washington. Law enforcement failed to respond to dozens of complaints and warnings about Cruz because not responding to such complaints was the official policy.³

SUSPENSIONS REDUCED

The policy change indeed had a dramatic effect on suspensions in Wisconsin. In the first five years, MPS slashed its suspensions 48 percent, from 26,309 in the 2007-'08 school year to 13,641 in 2012-'13. The Racine Unified School District saw an immediate drop of more than 30 percent.

But the racial disparities persisted at MPS. In the 2015-'16 school year, black students made up over 53 percent of the MPS student body but 80 percent of its suspensions and 87 percent of its expulsions, according to state Department of Public Instruction data, the *Milwaukee Journal Sentinel* reported.⁴

In fact, following a three-year federal investigation, MPS in January 2018 entered into an agreement with the U.S. Department of Education's Office of Civil Rights to resolve a complaint that the district discriminated against black students in suspensions and other disciplinary actions. Under the agreement, MPS "must improve its monitoring and data collection, better

train staff, update its disciplinary policies and develop early identification and intervention strategies for students at risk for behavioral problems," the newspaper reported.

Similar declines occurred nationwide, but skeptics suspect some schools have fudged numbers to make their suspension statistics look better. For instance:

- In Baltimore, principals and teachers who kept suspension numbers down were offered cash bonuses. The Baltimore teachers union chief blasted the bonuses, warning that physical abuse incidents — an automatic suspension — were going unreported as a result, putting teachers in danger.
- In Minneapolis, then-Superintendent Bernadeia Johnson announced her office would review any suspension that involved a black, Hispanic or Native American student — setting off cries of reverse discrimination.
- At MPS, one longtime teacher said a colleague authorized 20 suspensions on a day when the principal was away. The paperwork went to district headquarters, and every suspension was promptly thrown out.

"Suspensions are down because we're under pressure to keep the numbers down," a Madison teacher said. "It's very frustrating. You have to hit a teacher or draw blood with a kid to get suspended these days."

Jennifer, the MPS special education teacher, agrees.

“Principals are afraid to give out appropriate responses to egregious behaviors because they are facing pressure to keep suspensions down. The level of behavior at my school has plummeted dramatically,” she said.

A HIGH COST

Similar concerns are being voiced all across the state.

“I fear that we are driving the gifted and talented middle-of-the road kids out of our schools and into neighboring districts or private schools,” one Madison teacher told the Badger Institute. “Schools where teachers can teach and send a disruptive student out of the class.”

“Good kids are leaving the district because they’re being bullied and mistreated. And teachers feel more demoralized, feel that they’re not being listened to,” another teacher said.

The policy also has affected academic performance.

The Wisconsin Institute for Law & Liberty looked at seven years of data from more than 2,000 Wisconsin public schools to gauge the effect of PBIS on test scores and suspension rates.⁵

It found math and reading proficiency was lower among schools that implemented PBIS. The negative effect was strongest in suburban and rural schools.

In Milwaukee, there were negative effects on proficiency in English/language arts.

“While the Obama administration may have been well-intentioned in their advocacy for PBIS, they usurped local authority by pushing this one-size-fits-all discipline policy on school districts across the country,” study co-author Will Flanders said. “This study shows that while these policies may have accomplished their goal in decreasing suspensions among African-American students, the policies appear to have unintended consequences on the education climate.”

U.S. Education Secretary Betsy DeVos, as of this writing, is considering repealing the policy.⁶ And for good reason.

¹ Dear Colleague Letter: Nondiscriminatory Administration of School Discipline, from the U.S. Department of Justice, Civil Rights Division, and the U.S. Department of Education, Office of Civil Rights (Jan. 8, 2014), 2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf

² Paul Sperry, “Behind Cruz’s Florida Rampage, Obama’s School-Lenienty Policy,” RealClearInvestigations (March 1, 2018), realclearinvestigations.com/articles/2018/02/28/obama_administration_school_discipline_policy_and_the_parkland_shooting.html

³ Richard A. Oppel Jr., Serge F. Kovaleski, Patricia Mazzei and Adam Goldman, “Tipster’s Warning to F.B.I. on Florida Shooting Suspect: ‘I Know He’s Going to Explode,’” The New York Times (Feb. 28, 2018).

⁴ Annysa Johnson, “MPS agrees to settle U.S. civil rights complaint over discipline of black students,” Milwaukee Journal Sentinel (Jan. 17, 2018).

⁵ Cameron Sholty, “WILL Study: Obama-era Education Department policy hurts Wisconsin Students,” Wisconsin Institute for Law & Liberty (Jan. 23, 2018).

⁶ Michelle Hackman, “DeVos Hears Arguments on Obama-Era School Discipline,” The Wall Street Journal (April 4, 2018).

Loss of street smarts

The Milwaukee streetcar, a.k.a. The Hop, will soon be plying downtown streets and over time, proponents say, will expand into nearby neighborhoods and link different parts of a burgeoning metropolis, drawing millennials and old-timers alike with a new energy and verve.

That's the vision anyway.

Not many believe it. Asked in a 2017 Marquette Law School poll whether the \$128 million streetcar will be worth the investment, only 28 percent of Milwaukeeans said they think the streetcar will deliver the economic benefits supporters have promised.¹

Support is surprisingly low considering there is very little local money involved — at least upfront.

The City of Milwaukee, largely due to pension obligations, is strapped for cash, and there's virtually no possibility even the most masochistic local elected officials will try to use local tax dollars for the largely unpopular project.

Of the \$128 million, more than \$69

million is instead coming from the federal government in the form of a Federal Highway Administration Congestion Mitigation and Air Quality Improvement (CMAQ) Program grant. The rest — \$59 million — is coming from three tax incremental financing (TIF) districts that will divert property tax revenue from these areas over 19 years to pay the streetcar's capital costs.

Operating costs are estimated to be about \$3.5 million annually, but another federal Transportation Generating Economic Recovery (TIGER) grant will pay 80 percent of the first 18 months of those costs. Potawatomi Hotel & Casino,

in the meantime, will fund what the city hopes will be almost 600,000 free rides for the first year.

Supporters of the streetcar say it will spawn economic development.

"This downtown investment makes a Milwaukee streetcar system logical, sensible and affordable. The streetcar will serve, accelerate and enhance that development and bring it to more neighbor-



ALLEN FREDRICKSON PHOTO

More than \$69 million in federal grant money is being used to build Milwaukee's streetcar.

hoods,” the Milwaukee streetcar website says.

It’s a common argument.

Dozens of American cities have built or are looking to build streetcar systems, hoping to replicate the economic development that Portland, Ore., has seen along its routes.

“Streetcars can, with their retro look and measured pace, promote businesses as much as they get people from Point A to Point B,” Obama-era FTA administrator Therese McMillan has blogged.²

“They offer potential to spur new development, often in areas that had been economically flat-lining, adding to the character of downtown neighborhoods.”

Critics have a different perspective.

As Milwaukee Ald. Bob Donovan, a leading critic of the streetcar, put it, “I think in the long run we’re going to be paying dearly for this. The maintenance cost, the operational cost, we don’t know necessarily where that money is going to come from.”³

Ironically, Portland’s system, considered the first of the modern streetcars and a model for other cities, began with no federal money in 2001 at a cost of \$103.1 million. No federal funds were used until 2009, when \$79 million was awarded to help pay for an extension.

Today, the Portland system consists of 7.35 miles of track, built at a total cost of \$251.5 million. It costs about \$5.7 million a year to operate, with only about \$1.2 million covered by fares, advertising and other revenue.

In the meantime, there is a good argument that the boom along Portland’s streetcar routes occurred because the city spent local tax dollars improving roads, adding street furniture or otherwise improving the area.

All in all, enthusiasm for streetcars in some cities has cooled due to design issues, cost overruns, the need for local financing and the realization that economic development along routes often requires costly contributions from the cities.

Cities that have scrapped plans for streetcars or their extensions include Arlington, Va., Fort Lauderdale, Fla., and Seattle.

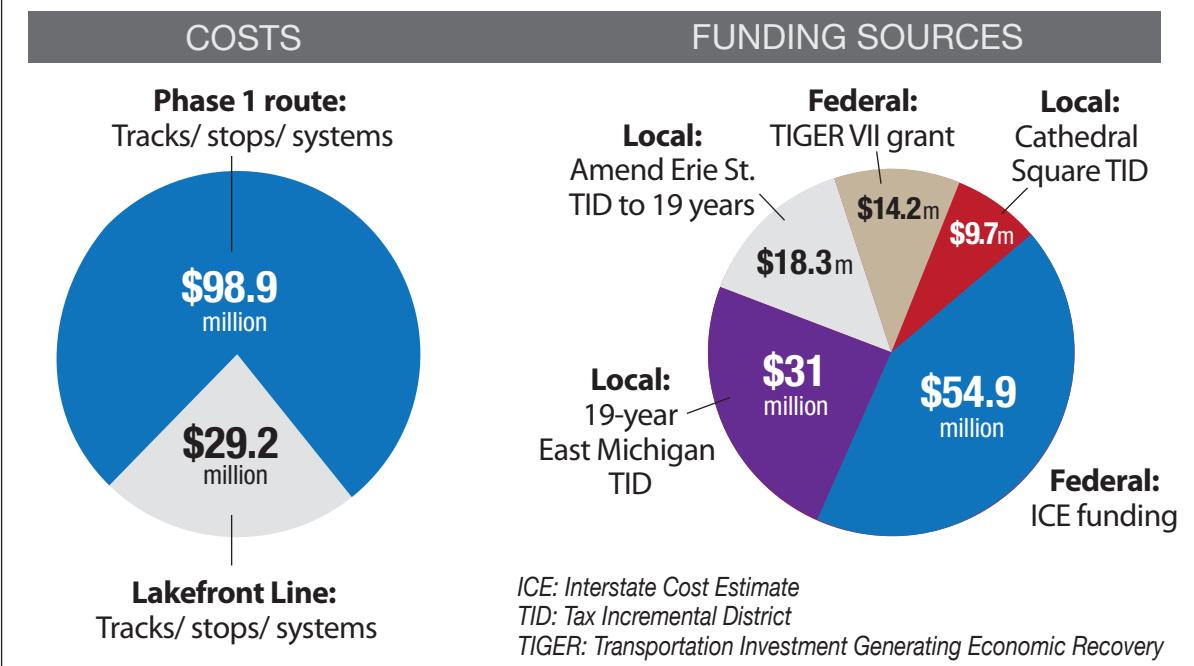
Budget overruns and operations snafus plague Cincinnati’s 18-month-old system.

In Detroit, officials predicted ridership of 5,000 to 8,000 per day for the federal grant-funded QLine. When rides were free from May to October of 2017, they came close. Over 4,300 riders used the line on average every day. Then, officials started charging \$1.50. Ridership plummeted to an average of 2,700 people from November 2017 through March 2018 — proving the difficulty of trying to charge for something everyone thought was free.

There is, though, an even bigger problem. A streetcar that travels only a few miles along a fixed route makes little sense unless it can be extended into nearby neighborhoods. But the poor financial condition of Milwaukee government means that can’t realistically happen

Funding sources for Milwaukee's streetcar project

Capital construction cost: **\$128.1 million**



Source: themilwaukeestreetcar.com

without federal funding — and applications for grants to fund the next planned extension north from St. Paul Avenue to Fiserv Forum, the new Milwaukee Bucks arena on Juneau Avenue, have failed twice already.

Other proposed extensions include going west to Marquette University, north to Brady Street and to Bronzeville, and south through the Third Ward and Walker's Point. But all those are unfunded as well.

If city officials are worried, they're not showing it.

"While we obviously had hoped to receive this grant, we're going to con-

tinue to work to get federal funding for this important route extension," Ghassan Korban, Milwaukee Department of Public Works commissioner, told the *Milwaukee Business Journal* in March 2018 after losing out on a \$20 million grant that would have paid for the extension to the new arena.⁴

"We're very optimistic that with operations of the streetcar starting later this year, we'll be in a strong position to get a federal investment to expand the benefits of the streetcar to more Milwaukee neighborhoods and residents," he said.

Perhaps — although there are still big questions about the future and lots of

questions, too, about decisions that were made in the past.

THE KINDNESS OF STRANGERS — OR NOT

Just why, for starters, federal grants should be used to fund a hyper-local streetcar isn't much, if at all, publicly discussed.

Robert W. Poole, founder of the Reason Foundation, points out in his book, "Rethinking America's Highways," that CMAQ grants originated as part of the Intermodal Surface Transportation Efficiency Act (ISTEA) in the early 1990s.

A variety of federal grants that were originally part of the ISTEAct legislation now fund everything from "traffic calming" projects to bike paths.

"All of this illustrates the loss of national purpose and focus in the federal transportation program as it now exists," writes Poole.⁵ "When legislation in 1956 expanded the federal government's role in transportation to create the Interstate System, the Interstates were clearly a national project with national benefits in fostering interstate commerce."

"Traffic calming in Tampa and Boise or bike paths in Buffalo and Phoenix do not provide national benefits."

A HISTORY LESSON

Whatever happens in the future, another truth is already evident. Decisions made because of federal funding are almost impossible to unravel and can

easily lead to other questionable decisions down the road.

The Couture — a long-awaited \$122 million, 44-story apartment building that will house the eastern terminus of the Lakefront Line — is an example.

Supporters of the streetcar point to the possibility of The Couture as further proof of the project's impact on economic development. But a close look at the history of the project and its site points to another lesson altogether.

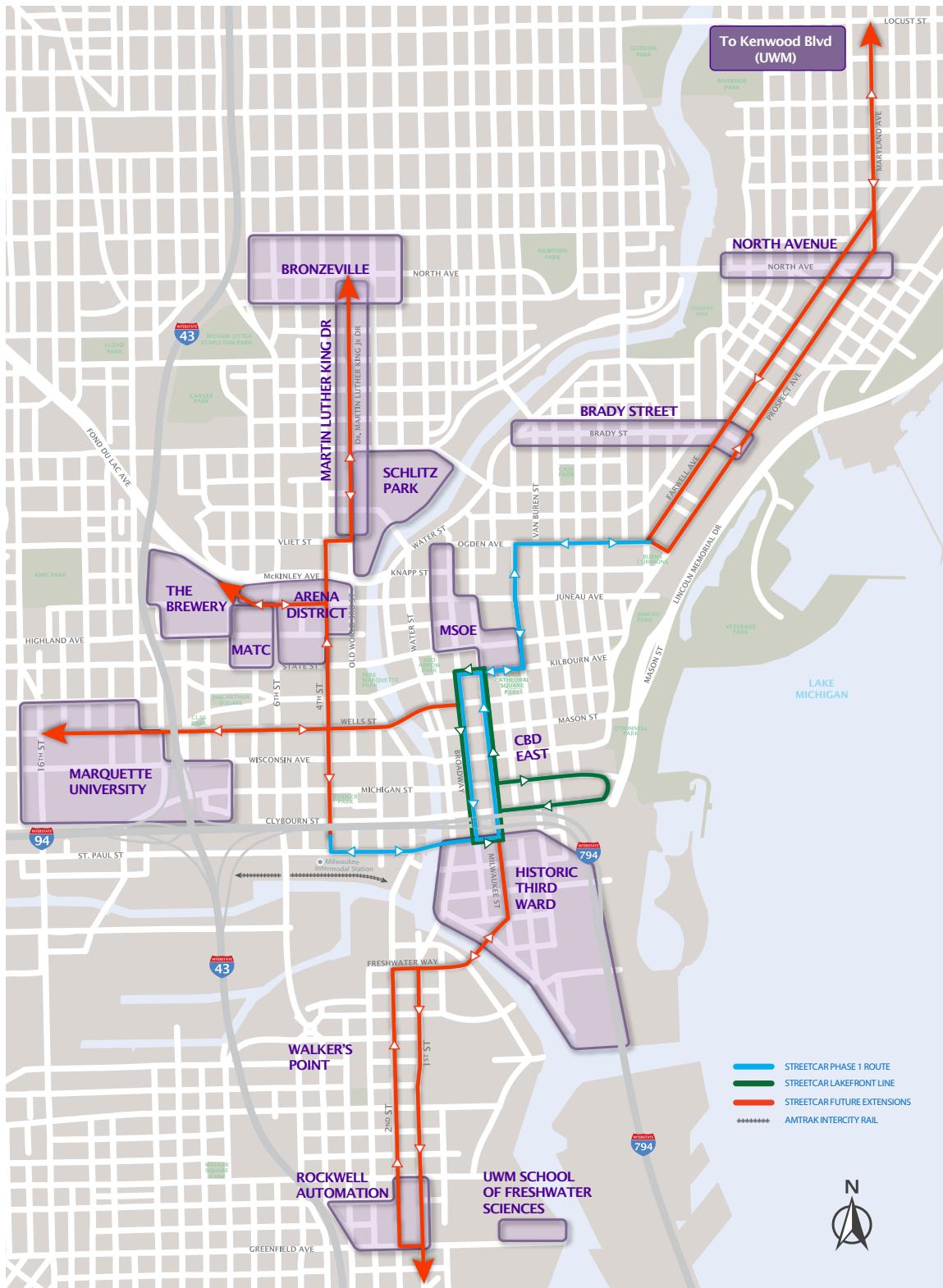
The Couture is expected to be built on the former site of what is widely acknowledged to be one of the city's most colossal, federally funded white elephants — the Downtown Transit Center.⁶

The center would not have been built without federal funds used to purchase the valuable lakefront property in the 1970s for an I-794 interchange.

When the interchange failed to materialize, planners shifted gears. They used \$10 million in federal tax dollars to build the center at 909 E. Michigan St. as part of the \$27.5 million Northwest Corridor project.

The Northwest Corridor Project, like so many programs funded with federal money, was well-intentioned. The goal was to connect inner city workers to northwest side employers. But, like the interchange plan, it was fatally flawed. The transit center site is along the lakefront in the far southeastern corner of downtown, far from where inner city residents live or, for the most part, work.

Very few people ever used the tran-



sit center. Instead of becoming a busy transportation hub, it became a white elephant on some of the most valuable property in Wisconsin, an over-engineered restroom stop and break room for Milwaukee County Transit System drivers just a stone's throw from Lake Michigan.

Kenneth Yunker, former executive director of the Southeastern Wisconsin Re-

gional Planning Commission, said building the center was mostly the feds' idea. What the county needed, said Yunker, who was assistant director of SEWRPC at the time, was a bus-marshalling garage, where buses could park while waiting to take commuters home. Federal Transit Administration officials said they could fund the center but insisted that it include a waiting room for commuters.

Why are feds building bike paths?

The federal government funds interstate highway construction because those roads facilitate interstate commerce and clearly benefit the nation. National interests are a little more difficult to ascertain when it comes to federally funded bike paths and nature trails that have a purely local benefit.

So why did the federal government see fit to issue a \$25 million Nonmotorized Transportation Pilot Program¹ grant to Sheboygan County — one of four places in the country to get the grant in 2005?

The intent of the program was to “develop a network of non-motorized transportation facilities that connect neighborhoods, retail centers, schools, recreation amenities and employment centers and will allow people to change the way they choose to move around through their daily lives,” the county said.

According to the Sheboygan Press, by March 2016, “the program … funded projects in nearly every village and city in the county, including 14 miles of sidewalks, 60 miles of bike lanes and routes, more than 16 miles of multi-use paths and over 22

miles of paved shoulders.”

In addition, the program funded the conversion of a dilapidated rail line through Sheboygan into a bike trail, installed a paved trail alongside one of the city’s major thoroughfares, paved shoulders in a rural community and rebuilt a ragged street on the city’s north side.

Why are taxpayers in Shreveport paying for bike paths in Sheboygan?

Because someone in Washington, D.C., decided it’s a national priority “to spur more people to travel on foot or bicycle,” as the *Sheboygan Press* reported.

Aaron Brault, Sheboygan County’s planning director, said in a news release: “The way we move ourselves about and transportation as a whole is quickly changing in our country. The investments Sheboygan County has been a part of only sets us up for continued success.”

Meaning continued federal spending to pay for parochial interests that satisfy a larger agenda.

¹ fhwa.dot.gov/environment/bicycle_pedestrian/ntpp

“Everyone who was involved with it knew it would never work as a downtown transit center,” Yunker said in an interview. “It was a transit center in name only. It was a bus-marshalling center the FTA was willing to fund but only if it included a waiting room.”

The transit center sat empty for a quarter-century until the county agreed to sell it to Rick Barrett (no relation to the mayor), The Couture’s developer, for \$500,000. Only there was a catch.

The site was appraised at \$8.9 million and, because it was developed using federal money, the deal needed the approval of the FTA. Without FTA approval, the county would have had to have paid back to the federal government the difference between the sale price and the appraised value — about \$8.4 million.

The FTA did approve the sale, but only on the condition the site be used for “another (transportation) capital project” — the streetcar.

Ergo, there is a valid argument that adding the streetcar made The Couture development possible, but only because earlier poor decisions motivated by “free” federal money made other private development there in decades past impossible — and resulted in a situation wherein private development could not easily occur without having to pay back federal money that should not have been spent in the first place.

The only way to avoid paying the federal government back, at the same time,

was extending the streetcar — surely, no matter what one thinks of the deal, not the smartest way to reach a decision.

As of this writing, Couture developer Barrett has yet to receive loan guarantees from the U.S. Department of Housing and Urban Development for his luxury apartment complex. That poses the possibility that the project’s construction will begin later than expected, threatening the timetable for completion of the streetcar’s Lakefront Line.

But city officials say they have an undisclosed “backup plan” to finish the line with or without The Couture’s completion. Meanwhile, streetcar tracks end suddenly on east Michigan and Clybourn streets — unjoined.

“If we don’t have some connection there, we basically have two long rail sidings,” Milwaukee Ald. Robert Bauman told the *Milwaukee Journal Sentinel*. The Lakefront Line tracks are unusable without that connection.

1 Marquette University Law School Poll (Oct. 24, 2017), law.marquette.edu/poll/2017/10/24/new-poll-shows-milwaukee-areas-divided-feelings-on-foxconn-views-on-other-topics-as-marquette-law-school-launches-expanded-public-policy-program/

2 Keith Lang, “Feds tout Charlotte streetcar as transportation cliff nears,” The Hill (July 14, 2015), thehill.com/policy/transportation/247870-feds-tout-charlotte-streetcar-as-transportation-cliff-nears

3 Molly Dill, “Who’s going to ride the streetcar?” Biz Times (April 16, 2018), www.biztimes.com/2018/ideas/economic-development/whos-going-to-ride-the-streetcar/

4 Sean Ryan, “Streetcars rolling into Milwaukee March 26, testing to follow,” Milwaukee Business Journal (March 16, 2018).

5 Robert W. Poole, *Rethinking America’s Highways* (The University of Chicago Press, 2018), Page 48.

6 Dan Benson, “The Federal Grant to Nowhere,” Badger Institute magazine (Spring 2016), badgerinstitute.org/WIInterest/Spring2016/wispring2016benson.pdf

Loss of money

Direct spending through the grants-in-aid system is expected to reach \$728 billion in 2018 — but that's just the tip of the proverbial iceberg. That number doesn't include all the administrative costs spread out through the bureaucratic maze in Washington, D.C., and it doesn't include the full extent of the spending of state and local tax dollars necessitated by the acceptance of the federal grants.

At the federal level, the bureaucracy required to administer grants-in-aid is equal to about 10 percent of the total amount awarded, which would be almost \$73 billion in 2018, estimated Chris Edwards, director of tax policy studies at the Cato Institute and editor of downsizinggovern-ment.org.

But that is just federal spending.

In a 2010 study from George Mason University, economists found that every dollar received through a federal grant stimulates a permanent increase in state and local taxes or fees of 33 to 42 cents.¹

In another study published in 2015, Eric Fruits of Portland State University reviewed 40 years' worth of federal grants to states and found that for every dollar received through federal grants, it cost state and local taxpayers nationwide on average about 82 cents in additional

taxes and fees.²

For Wisconsin taxpayers, it's even more — \$1.34 per federal dollar, Fruits found. Depending on whose estimate one accepts, the true monetary cost of the entire grants-in-aid system is somewhere between \$1 trillion and \$1.5 trillion.

It's impossible to get an exact tally because almost no one thinks about the ancillary costs. At the state and local level, for instance, the City of Milwaukee has been turned down three times by the feds to help fund the operations and expansion of its new streetcar system. Each application requires untold hours of work by a cadre of city officials.

"There are enormous amounts of time wasted in applying for these grants every year, and they often don't even get them," Edwards said. "How many person-years have been wasted by school districts competing for grants they've never received?"

It's the same story for myriad state agencies and school districts, which often employ people at higher-than-average salaries just to chase more grant money.

A Badger Institute survey of Wisconsin school superintendents, school board

**"How many man-years
have been wasted by
school districts competing
for grants they've
never received?"**

— *Chris Edwards of the Cato Institute*

members and business managers found that over 12 percent of the districts had hired personnel specifically to apply for and manage their federal grants. Such personnel do not come cheap. The West Allis-West Milwaukee School District, for instance, hired a grants administrator at a annual salary of \$116,000.

Another 19 percent of school districts said they would hire someone if they

could afford to do so but instead rely on their current staff to handle the burden, diverting them from other duties and often requiring them to be paid overtime.

Getting a handle on exact costs is difficult, then — although at least a portion of them are quantifiable.

A request for information from Wisconsin school districts by the Badger Institute found, for instance, that districts

Decision-making distorted, costs inflated

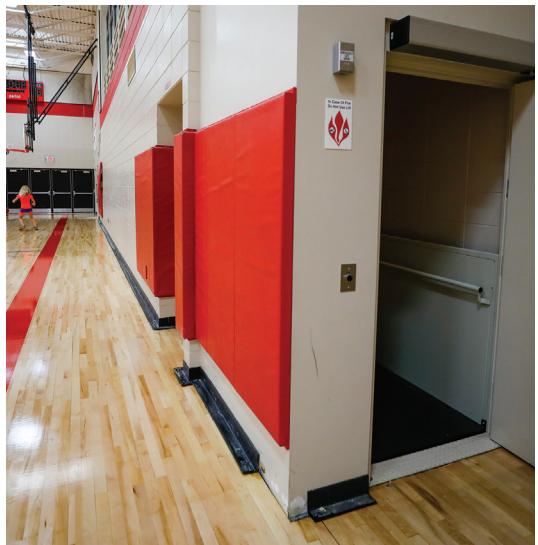
In 2011, Oostburg School District officials in Sheboygan County spent nearly \$60,000 to build an elevator in its middle school that nobody wanted or needed.

They built it to satisfy bureaucrats in Washington, D.C., who otherwise would have cut the district's federal funding for special education.

The school currently has no students or staff using wheelchairs, and there is handicapped access elsewhere in the building — so nobody really needs or uses the elevator except occasionally when a grandparent or someone in a wheelchair enters the school through a nearby entrance after hours to watch a basketball or volleyball game.

"We would not have put (the elevator) in without the required use of the money, as it is only used for after-school activities, and the cost would not have allowed us to do it otherwise," district business manager Kristin DeBruine said. "That simply just doesn't make sense at all."

Even more galling is the fact that the waste and illogic stem from good and honest attempts to do the right thing and save tax-



JEFFREY PHELPS PHOTO

The Oostburg School District installed an elevator in its middle school to avoid a reduction in federal funding.

payer dollars after the passage of Act 10.

As most Wisconsinites know, the 2011 law curtailed collective bargaining for most public employees. Up until then, many school districts used the union-affiliated WEA Trust for its health insurance — a costly option that was good for the union but usually terrible

have millions of dollars tied up each year by federal “maintenance of effort” and matching regulations that require them to spend a certain amount of money to continue receiving federal funds.

MAINTENANCE OF EFFORT COSTS

Maintenance of effort, or MOE, is the federal requirement that local gov-

ernments continue to spend at least the same amount of local or state tax dollars year after year or face a loss of federal funding.

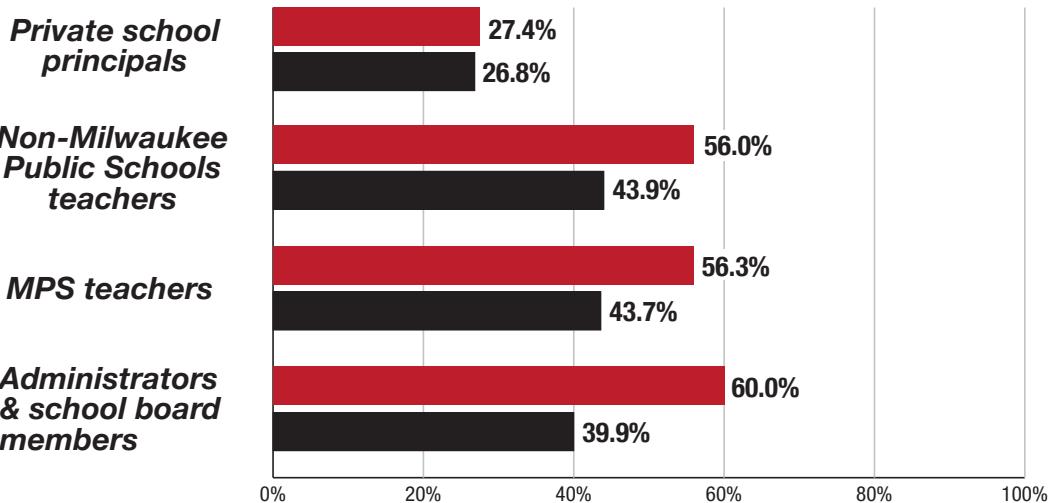
Matching requirements apply when the federal government provides funding for a project and the state or local entity is required to match that amount on a percentage basis.

MOE and matching costs can be ex-

Feds distort local school decisions

Wisconsin educators say that federal involvement in their schools distorts their decision-making. When asked which comes closer to their view:

- **Funding harmfully distorts decisions that teachers and school officials make on behalf of students.**
- **Funding helps ensure teachers and school officials attend to the best interests of students.**



Source: Badger Institute surveys

for taxpayers.

After Act 10, about a third of Wisconsin school districts switched insurers in just the first year, according to news reports. One estimate put the savings for districts statewide

at over \$404 million.

Oostburg was able to greatly reduce expenses in its special education fund by negotiating lower-cost health insurance for teachers. But there was a big federally →

ceedingly high.

Among the most federalized Wisconsin departments — Transportation, Natural Resources, Workforce Development, Health Services and Children and Families — nearly \$5 billion in state funds are tied up cumulatively each year to meet federal matching and MOE requirements, according to state budget records.

induced problem. Federal regulators saw the district's savings as a cut in program spending, even though services were not reduced.

Since special education is partially paid for with federal dollars, districts are required by MOE rules to maintain the same level of local spending from year to year. Any reduction in local spending triggers a cut in federal aid. So local school administrators are coerced into finding ways to spend money that make little or no sense.

Oostburg was not alone.

School districts could have conceivably saved millions of dollars more if not for running afoul of federal rules and facing a choice between spending that money or having their federal funding cut.

Some district enacted the cuts anyway.

The tiny Spooner School District in Washburn County reduced special education spending by \$160,000, almost exclusively due to health insurance savings. That caused its federal funding to be cut by \$30,000 the following year.

"We did not change our delivery of (special education services). We just saved money on employee costs," said Michael

MOE and matching rules affect local governments on a massive scale as well.

Research by the Badger Institute found that of the 196 Wisconsin public school districts that responded to a request for information in the summer of 2017, more than \$1.35 billion in local school funds were collectively tied up in the 2015-'16 school year to meet federal requirements. Milwaukee Public Schools

Markgren, who was the district's business manager at the time.

Although the unions and many teachers hate it, Act 10 was a godsend for most districts and for taxpayers.

When some teachers retired following Act 10, many districts saved money by replacing them with younger teachers earning less. One such district was the Mount Horeb Area School District in Dane County, which — rather than face federal funding cuts — spent the savings on lower-priority needs such as supplies.

"It's a waste because if you haven't cut services, then you just have to find things to buy where you could've better reallocated to a different area," said Wayne Anderson, Mount Horeb's superintendent at the time.

The red tape has some districts wondering whether they should accept federal money at all.

"There should be a warning sticker or something that lets you know if you accept this money, it's going to cost you this much," said Kieth Kriewaldt, administrator for the Erin School District in Washington County.

alone was forced to commit \$145 million that year to meet the requirements.

With 424 public school districts in Wisconsin, the statewide total could be \$3 billion or more of funds tied up by federal funding commitments.

MOE requirements are “seen at the federal level as a way to make sure that federal funds aren’t displacing state and local funds,” said John DeBacher, director of public library development for the state Department of Public Instruction.

Critics say, however, that MOE rules commit districts to continually spend large amounts of money, whether necessary or not, restricting their ability to address changing circumstances and priorities.

“We tend to budget money just to meet MOE rather than spending it in the most effective, efficient manner,” Penny Boileau, administrator for the Brighton #1 School District in Kansasville in Kenosha County, told the Badger Institute. “We should be able to prove we are meeting the needs of our students by some other means rather than by comparing funding spent in one year compared to the next year.”

Many federal grants carry MOE requirements, including those for libraries and school lunch programs. But the biggest MOE commitment among schools

is to the Individuals with Disabilities Education Act (IDEA), which funds services for disabled students.

Jeff Kasuboski, superintendent of the Wautoma School District in Waushara County, lamented the federal rules that mandate spending.

“What is so terribly ridiculous is that maintenance of effort tells you that you must spend at least as much, if not more, on special education as you did the previous year. Who are they to dictate how much money we spend? It’s absolutely ridiculous. If you find a cheaper way to do it, why wouldn’t you?” he asked.

MOE rules are a way of getting the state and local school districts to spend their money on priorities set in Washington, critics say.

“One of the problems with the federal government being involved in education is they tell you to maintain certain levels of spending,” said state Rep. Jeremy Thiesfeldt (R-Fond du Lac), chairman of the Assembly Education Committee and a former teacher.

“But if you have a down year, if you cut back on your dollars, then you’re not going to get your (federal) money. But if they cut back, you still have to maintain your spending,” he said.

MOE restrictions also don’t recognize savings in areas that don’t affect ser-

**“Who are they (the feds)
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— *Jeff Kasuboski, Wautoma School
District superintendent*

vices, local officials say. For instance, school districts around the state saved millions in health insurance costs following the passage of Act 10 in 2011. But those savings were seen as reductions in services by federal auditors, who forced districts to spend the savings or have their federal funding cut.

1 Russell S. Sobel and George R. Crowley, Mercatus on Policy: Ratcheting Taxes, Mercatus Center, George Mason University (October 2010), mercatus.org/system/files/Do%20Intergovernmental%20Grants.MoP_Sobel_.10.25.pdf

2 Eric Fruits, "Impact of Federal Transfers on State and Local Own Source Spending," ResearchGate (November 2015), [researchgate.net/publication/284159917_Impact_of_Federal_Transfers_on_State_and_Local_Own_Source_Spending](https://www.researchgate.net/publication/284159917_Impact_of_Federal_Transfers_on_State_and_Local_Own_Source_Spending)

Loss of time

Holly Ashton used to be a teacher, but she gave it up because she loves her students.

Between preparing federally mandated education plans for her 4- and 5-year-old special-needs students and traveling around Wisconsin for federally mandated training, she couldn't spend the amount of time with her charges that she felt they deserved.

"I love working with the kids," she told the Badger Institute. "The amount of paperwork I had to do (as a teacher) was really cumbersome. It took me away from the kids."

She tried to do what a lot of teachers do — stay later after school and bring work home. But she has two special-needs children of her own and is a foster mom.

So Ashton gave up teaching and all the paperwork and training that comes with it to become a classroom aide. The result is lower pay, less prestige and less job security, but it enabled her to spend more time with the special education students at Mountain Bay Elementary School in the D.C. Everest Area School District in Marathon County.

There has been a rapid growth in administrators throughout government as a result of federal grants-in-aid, as we noted



JILL MABRY PHOTO

Federal paperwork added so much to Holly Ashton's workload that she gave up teaching to become a teacher's aide in the D.C. Everest Area School District.

earlier in this book. But there also has been a significant increase in the amount of administrative work that non-administrators, including teachers, have to do.

In the end, it consumes an enormous amount of time and costs them their effectiveness.

"The training hours are not necessarily conducive to your work hours and especially in special education. It's hard to find someone to help you cover (the hours when you're required to do something other than teach)," Ashton said. "And sometimes it's hard to find training that is relevant,

Title 1 grants

The U.S. Department of Education estimated in 2008 that it takes 7.8 million hours of work for state and local education agencies to comply with Title I grant regulations. That was up from 2.9 million hours in 2003.



Early childhood and special education teacher Sheila Noordzy has her hands full teaching a class of 18 young children in the Chequamegon School District.

ANNA MARIA HANSEN PHOTO

especially to special ed.”

Many other Wisconsin teachers feel the same way about the federal paperwork requirements and said it’s why some are leaving the profession, according to a Badger Institute statewide survey.

“I wholeheartedly believe that the large amount of paperwork and the other non-teaching parts of education are causing great teachers to leave the profession,” a teacher from Prairie Farm School District in Barron County said in the survey.

Teachers and school administrators are passionate about their students and resentful of administrative work that takes time away from them, surveys conducted in 2017 and 2018 show.

“I love my job working with special

education students,” a teacher from St. Croix Falls School District in Polk County wrote. “But there is so much paperwork it is hard to keep track of everything. I will continue to work on paperwork outside of school so that I can have more time to teach students at school. Students are the priority.”

OVERWORKED AND OVERTIME

Jill Davis, a special education teacher in the Potosi School District in Grant County, often comes in on weekends to complete paperwork and prepare for the week’s lessons so she can work with students undistracted on school days.

“I come in early every day to meet my students as they get off the bus. I feel that’s important,” Davis said. “My favorite part of my job is being with kids — fully with the kids — and being able to focus on the teaching aspect. Just being present with the kids.”

Some teachers said they feel that com-



For more

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plying with federal rules is now their primary directive.

“Special education has become more of a focus on completing paperwork for accountability and less about actually teaching the students and meeting their needs,” a teacher from Whitehall School District in Trempealeau County commented.

“Administrators take the stand that ‘paperwork has to be completed, so have your (teaching aides) work with the students, and you do the paperwork.’ This is not why I became a teacher. I want to teach,” the teacher said.

“I wonder how parents would react if they knew that I was the one teaching

Federal audits duplicative, don't measure outcomes

If an entity receives more than \$750,000 in federal grant dollars annually — an amount that appears to have been chosen at random — it must submit to what's called a Single Audit.

In Wisconsin alone every year, hundreds of government agencies, school districts and nonprofit organizations undergo the annual exercise many consider expensive, burdensome and pointless.

Getting a handle on just how expensive is difficult. A request for information by the Badger Institute in 2016 to just school districts found that of the 105 districts that provided the information, they paid out a combined \$807,726.

In general, it costs a smaller district from \$1,500 to several thousand dollars to hire auditors, school officials said. In larger districts, the audit can cost tens of thousands of dollars or more if auditors uncover what federal bureaucrats consider to be a problem.

The cumulative cost is in the millions of dollars — a sum that many of those closest to the process say results in little of value.

In the Cedarburg School District in Ozaukee County, for instance, an auditor sampled records for 40 children with a va-

riety of disabilities whose bus trips are paid for by the federal government. The audit reported two students whose parents, for privacy reasons, did not consent for the district to bill Medicaid. Failing to check that box cost the district \$17,266 in local tax dollars.

The bureaucratic burden is “pretty hefty. A lot of district officials wonder if the juice is worth the squeeze,” said Cedarburg Director of Pupil Services Ted Noll.

The audits are also costly timewise, officials said.

For instance, grants that support professional development for teachers require recording the teacher's training or educational activity, details on the substitute filling in while the teacher is training and a record of where the substitute worked and for how long.

Even for large districts, the level of record-keeping required for programs can be a strain.

The West Allis-West Milwaukee School District in Milwaukee County, for instance, is the state's 12th-largest district with more than 9,500 students, 1,200 employees and a budget of \$123 million. It spends less than \$25,000 in grant aid from the →

their kids (so teachers can get their paperwork in)," one classroom aide in Ozaukee County said.

Sheila Noordzy has no aide to help her. She is an early childhood and special education teacher in the Chequamegon School District in Park Falls in Price County. She works at least 54 hours a

U.S. Department of Transportation for its buses, but it has to maintain an avalanche of records accounting for each child who rides a bus.

That has district officials wondering if the administration of the program is worth the money the district receives, said Director of Business Services Andy Chromy.

"There are some items that I think are (bureaucratic overkill) for sure. Transportation is one of them," he said.

DUPLICATIVE AUDITS?

Audits exist for a reason — oversight. But school districts in Wisconsin already perform a state-required "regular" audit of its finances that officials say could easily incorporate federal grants. The Single Audit can be especially irksome, some say, because, while it focuses on specific federal grant expenditures, it's often redundant.

Susan Jarvis, business manager of the Salem School District in Kenosha County, called the state's regular audit more thorough than the federal one.

"It's pretty much duplicative" of the regular audit, said Patrick Rau, administrator of the Bonduel School District in Shawano County. "There's not a significant difference" between the two.

week, including each night at home or at school on weekends, she said.

"Last year, I actually spent all but five days from the beginning of school — including weekends and holidays — at school or at home prepping," she said.

That often meant her teenage son drove her to school on weekends because they

Kathy Gursalski, assistant director of the state Department of Public Instruction team that helps oversee the auditing, disagreed. "They're not duplicative at all. Single Audit delves into compliance of federal grants."

But regular audits can and sometimes do delve into how federal grant monies are spent, even when a Single Audit is not required, especially under new guidelines that give more responsibility to the state for follow-up, Gursalski conceded. That added responsibility includes DPI staffers following up with districts midyear and making on-site visits, if necessary, to ensure progress is being made on problems identified in their most recent audit.

OUTCOMES NOT MEASURED

Part of the irony of the federal grants-in-aid system is that a grant program can be "successful" even if it doesn't accomplish what it was designed to do.

For instance, Title I is the largest federal grant program for education, meant to provide funds to students in disadvantaged schools. But a U.S. News & World Report study found that some of the biggest beneficiaries of Title I money are among the wealthiest school districts.¹

had only one car.

She oversees a class of 18 children, one of whom is non-verbal and requires special technological assistance to communicate. Another of her students has cancer, which requires special cleanliness measures.

“It’s a juggling act. You get to the point

Sometimes, the programs have morphed into something other than what they were originally intended to be. Sometimes politicians don’t care as much about outcomes as the perception they are doing something of value for voters. Sometimes, there’s just disagreement at the federal level about the purpose.

For instance, the Academic Competitive Grant program assists low-income students who want to pursue science, engineering, math or languages studies.² The program is often attacked, however, by politicians because the grants are awarded on a competitive basis and require that the student demonstrate an aptitude in the subject area by getting good grades.

Everyone agrees that federal grants must be scrutinized or audited in some way. The problem with the current method is that audits often point out problems that are either inconsequential or can’t be rectified and don’t focus on whether they are meeting original objectives.

For instance, the 2015 audit of the Fort Atkinson School District in Jefferson County was the third in a row that found the district did not keep adequate time sheets for staffers whose salaries were paid with federal grants.

where you do what you can and not worry about the rest, which is real sad and real hard,” she said. “I’ve been a teacher for 31 years, and each year it gets harder and harder.”

More than half of the teachers surveyed said they would spend more time in class with students if they were re-

Federal officials, in the meantime, seem to have concluded, by exempting districts that receive less than \$750,000 that — at least for smaller districts — local oversight is more effective than trying to monitor everything from Washington, D.C.

Office of Management and Budget officials did provide a rationale for the change, if not the \$750,000 threshold. They said it would help reduce paperwork. But they also provided a defense to charges that the change would result in a lack of oversight. Oversight and accountability actually would increase, they said, because the new rules also include mandates requiring states to more rigorously follow up with agencies whose audits expose problems — all of which begs a fundamental question:

If the feds think the state (and, by extension, local school officials) can do a better job of regulating how small districts spend federal dollars, why not go all the way and relieve Wisconsin schools — small, medium and large — and the DPI of the federal burden altogether?

1 Lauren Camera, “Title I and Inequality,” U.S. News & World Report (June 1, 2016), usnews.com/news/title-i

2 Neal McCluskey, “The Folly of Federal Policy,” Cato Institute (March 28, 2006), cato.org/publications/commentary/folly-federal-policy

lied of paperwork duties. They also said doing so would allow them more time to prepare lessons and spend time with their families.

BUSYWORK OVER STUDENTS

Nationally, the Department of Education estimated that it takes 7.8 million hours of work for state and local education agencies to comply with Title I grant regulations alone.¹

Special education teachers singled out preparing Individualized Education Programs (IEPs) — the personal learning plans for students with disabilities mandated by the federal Individuals with Disabilities Education Act — for consuming much of their time.

“My greatest personal waste of time is the new IEP forms,” said a teacher from the New Holstein School District in Manitowoc County. “I still have the same great relationships I’ve always had with my (students’) parents. I am still documenting and conscientiously teaching my students the same way, but I am just now being forced to spend hours filling out more forms that do not benefit me or my students.”

Ashton, the D.C. Everest aide, said an IEP can take her 20 hours or more to complete for each student. “At least that,” she said. “Just getting it started can be ridiculous.”

“I have high-needs students who need

100 percent of my attention,” said Cory Stoutner, a middle and high school special education teacher in the Gilmanton School District in Buffalo County. “I see a lot of redundancies (in the IEP), and I’m asked to justify why I am teaching the student who struggles with what two plus two is. The parents know (that the student has problems), and everyone knows this, but I have to explain it and justify it and prove it with data.

“I’m looking at hours, many hours, of evaluation and mountains of paperwork. It takes away from students. And time away from my own family,” Stoutner said.

Mary Musil, a reading teacher to disadvantaged students in the Waupaca School District, said when she was in special education a few years ago, she had to “stay late to 6 or 7 p.m. or come in on weekends to complete the appropriate paperwork needed for each student. ... My energy was consumed by the paperwork and all the rules that needed to be focused on.

“Let me teach. Not waste my time on killing trees.”

“Students would greatly benefit from teachers spending more time teaching,” responded a Milwaukee Public Schools middle school teacher. “Eliminate paperwork that no one reads!”

¹ Marie Gryphon and David Salisbury, “Escaping IDEA” Freeing Parents, Teachers and Students Through Deregulation and Choice,” Cato Institute (July 2002).

Loss of equality

Playing the card game Uno with special education students isn't usually among a principal's normal duties. But for Julieane Cook of St. Martini Lutheran School on Milwaukee's south side, these "sensory breaks" — where she and students play board games, practice social skills and work on occupational therapy — are a vital part of the children's routines.

Because St. Martini cannot hire enough special education teachers and none are forthcoming from Milwaukee Public Schools, which oversees federal funding for special education programs, Cook takes time away from her administrative duties to work twice a day with six to eight special education students.

"I'm also coaching all the teachers as much as I can to provide (special education) support," Cook said.

The situation at St. Martini points to what private school principals said is the inequitable allocation of resources to disadvantaged and disabled schoolchildren — a situation affecting potentially thousands of Wisconsin children who attend private schools and are legally entitled to those services.

The students qualify for the funding, primarily Title 1 and Individuals with Disabilities Education Act money, for var-

"It feels like a big huge bureaucracy we're not familiar with."

— *Meghan Smyth, director of education at Madison Community Montessori School*



JEFFREY PHELPS PHOTO

Julieane Cook, principal of St. Martini Lutheran School in Milwaukee, takes time from her administrative duties to work with six to eight special education students twice a day.

ious reasons. Some children are placed in private schools by public agencies because the private school may offer services not available at the public school. In other instances, federal law requires that eligible students in private schools receive "ser-

vices or other benefits that are equitable to those provided to eligible public school children, their teachers, and their families."

But many private school principals surveyed by the Badger Institute said the system is not working and may even be detrimental to their students. About 62 percent said federal regulations sometimes prevent their students from receiving



St. Martini
Principal Julieane Cook plays Uno with a student during a "sensory break," in which she and special education students play board games, practice social skills and work on occupational therapy.

JEFFREY PHELPS PHOTO

services they need; 43 percent said some students who are legally entitled to those services are not receiving them.

PROCESS PROBLEM

Under federal law, private schools do not directly receive federal funding. Rather, funding for disadvantaged and disabled students who attend private schools flows through the "local education agency," or LEA, a public school district or group of districts in which the private school is located.

That means, in most cases, special education teachers and others who work under federal programs are employees of the public school district and overseen by public school officials, not the private

school. Private school officials may have little say over when or how often a special education or Title I teacher visits their schools.

"It would be nice if we could just deal with our funds directly," said Denise Ring, principal at Aquinas Schools in La Crosse. In dealing with federal funding, she said, school officials often feel as though they're "bothering someone" for more information on the amount or cost of services.

Over 28 percent of principals in the 2018 survey complained that their current public school district makes it difficult for them to access federally funded services for their students; 70 percent indicated they had experienced difficulty in the past.

Asked why:

- Over 16 percent said, "We are a religious school and public school officials think federal funds should not or cannot be used to serve our children and teachers."
- Another 16 percent said, "Public school



For more

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officials don't want to share the federal funds they receive."

- Another 9 percent said, "Public school officials are ignorant about our right to 'timely and meaningful consultation,'" citing federal law.

"It is the students with the greatest needs that suffer," said Jean Vander Heiden, principal of All Saints Grade School in Denmark in Brown County.

BETTER COMMUNICATION NEEDED

While most survey respondents said they generally are satisfied with their relationship with the local public school district, the vast majority — nearly 82 percent — said private schools need more flexibility and control over how their students and teachers are served by these programs.

In the survey, 58 percent of principals said the public school district oversees

the federally funded staff who work in their school, while 30 percent said private school officials are allowed to do so under the auspices of the public school district. Twelve percent said they use a third party contracted by the public school district.

"It feels like a big huge bureaucracy we're not familiar with," said Meghan Smyth, director of education at Madison Community Montessori School in Middleton in Dane County. "There seems to be an assumption that every family that attends a private school is well-off and has access to outside services, but that's not the case."

Lauren Beckmann, principal of St. Robert's Grade School in Shorewood in Milwaukee County, said the federal funding system leaves some children out.

"I understand the formula and limits to funding, but it feels like it's not in the best interest of our students," she said.

Loss of innovation

Automated vehicles capable of navigating without a human behind the wheel are no longer some sort of futuristic fantasy.

Most automobile manufacturers in the world and several technology companies including Apple, Google and Microsoft are focused on building the hardware and/or software for automated vehicles (AVs).

In Arizona, Google's Waymo is testing a self-driving ride-hailing service using Chrysler Pacifica minivans. Waymo is also partnering with Jaguar Land Rover to buy 20,000 electric, I-Pace SUVs for its planned driverless taxi service.

In Boston in 2017, nuTonomy and Lyft launched self-driving ride-hailing services. In Las Vegas, Keolis Commuter Services, along with the American Automobile Association and the city, launched an electric shuttle pilot project.

As much of the world moves toward a 21st century, millennial-enticing mode of transportation that is sure to give cities a highly sought-after cultural cache, Milwaukee is building a downtown streetcar — only because it has loads of federal funding.

Absent that funding, city officials would have to be more creative and more forward-looking. They would, in sum, have to innovate and make sure they were proceeding in a way that would have the support of local taxpayers. Or rely more heavily on private innovation behind rev-

olutionary companies like Uber or Lyft or Bird — the scooter-sharing company that in mid-2018 was incredibly popular in Milwaukee.

Until, at the behest of local politicians, the company took its scooters off the streets for at least a short time.

We've already examined what Milwaukee is getting with its streetcar. But what about what it won't get?

STREETCARS: THEIR HISTORY; THEY'RE HISTORY

Streetcars in Milwaukee are the exact opposite of forward-looking or innovative. There was an extensive network of them in the city from the late 19th century until the late 1950s, when they were torn out to make room for buses.

Little about them has changed since then. They move on fixed routes, and they're almost no one's primary mode of transportation. Streetcars don't serve traditional transit users. They are designed for folks with cars, known as "choice riders," not commuters without cars, known as "transit-dependent riders."

Supporters, as a result, often argue that streetcars will be a tourist draw or the sort of cultural amenity that lures or keeps upscale urbanites downtown. But even that argument — perhaps the most persuasive — now appears flawed. One need only browse through the popular press to see the fascination with automated vehicles.

While millennials — many of whom are shunning car ownership and driver's licenses — may be amused by the novelty of a streetcar, they are infatuated with a bus that drives itself.

THE BENEFITS OF AUTOMATED VEHICLES

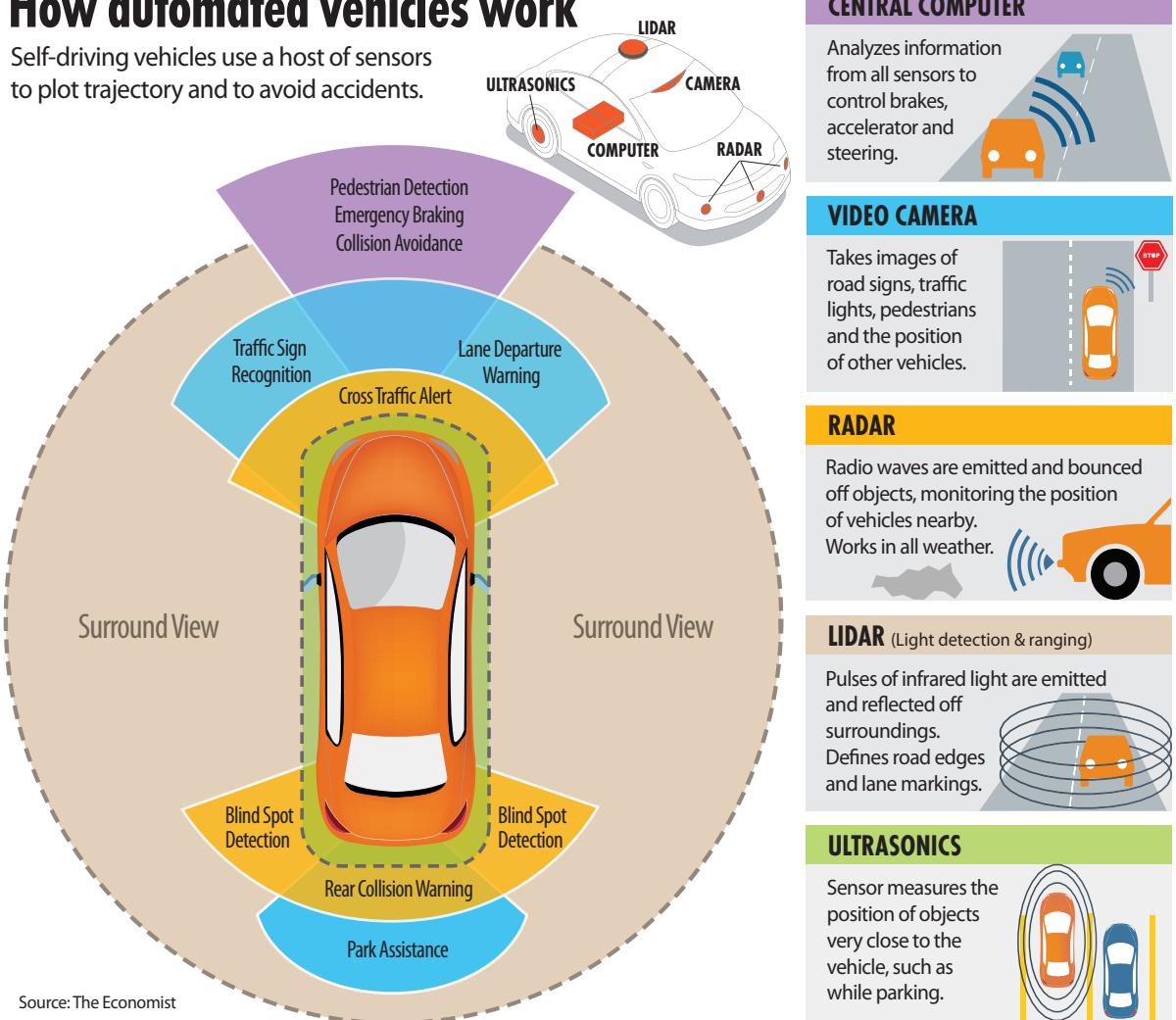
As occasional crashes prove, AVs are still in the developmental phase. Pro-

totype vehicles cannot navigate rain or snow; machines have difficulty knowing when it is safe to cross a double yellow line and can have trouble seeing a pedestrian attempting to cross the road. But the bigger, longer view — looking ahead to the next 30 or 50 years that Milwaukee will likely have a streetcar — is as as sanguine as it is inevitable:

- According to the National Highway

How automated vehicles work

Self-driving vehicles use a host of sensors to plot trajectory and to avoid accidents.



Innovation in schools could be unleashed

Sometimes, it's just common sense that suffers.

When a van used for transporting special education students in the Pulaski Community School District near Green Bay had piled on the miles and was due to be replaced, district officials thought the practical thing would be to reuse the van for lower-priority purposes, such as hauling athletic equipment and making deliveries between buildings.

But because the van was purchased under the federal Individuals with Disabilities Education Act (IDEA), it could not be used for any other purpose. If the district did that, it would face a reduction in federal funding. So it had to sell the van and replace the vehicle with a new, more expensive van.

"It's probably not the most efficient way if we have a piece of equipment that still has some useful life, but because of the complexities of those federal funds, it's easier to sell them than repurpose them in the district," said Bec Kurzynski, Pulaski superintendent.

Sometimes, what suffers is the ability to truly innovate.

As noted earlier in this book, more than 80 percent of administrators and school board members surveyed statewide by the Badger Institute said if the federal role in education was reduced, innovation likely would increase.

Innovation in schools, after all, is just the ability to tailor strategies to individual kids or unique groups of kids that do not exist elsewhere.

"When legislators get involved in making the decisions of what an educator can and cannot do for the students, it limits the educational

plan and therefore limits the outcome," said Susan Jarvis, business manager of the Salem School District in Kenosha County.

School board members agreed.

"More direct funding with limited regulation will spur much more innovation and be much more helpful than any harm caused by the small minority of districts that will try to exploit it," wrote one school board member, commenting on the desire by the feds for close oversight.

Matt Spets, assistant superintendent for the Howard-Suamico School District in Brown County, concurred: "I can guarantee that if restrictions were shifted, we would be much more innovative."

Teachers agreed that returning the reins to local districts would help.

"Each district and its needs are unique to them," one teacher told the Badger Institute. "We should be able to decide how best to use the federal money to serve our students."

"Instead of worrying about data and treating students as a number, let educated staff find ways to reach the students in their schools so that they can become productive citizens," one Milwaukee Public Schools teacher commented.

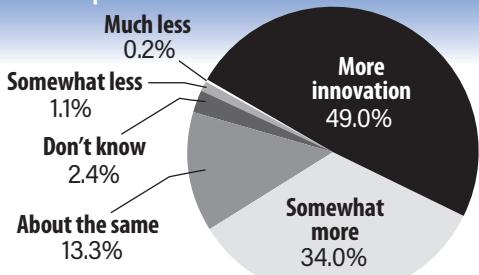
Almost 38 percent of teachers outside MPS said their attempts to innovate in the past have been thwarted by federal regulations. In MPS, 31 percent said the same.

"The government is not really in tune with what the districts need. Each community is really different. It comes down to providing an education for children that works for them," said former teacher Holly Ashton, now a classroom aide in the D.C. Everest Area School District.

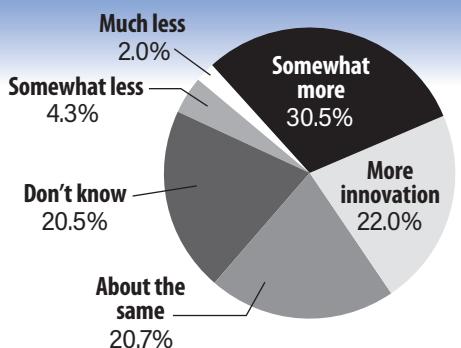
Innovation tied to local control

If local school officials had more discretion over how federal funds were spent, would there be more or less innovation in meeting the needs of students?

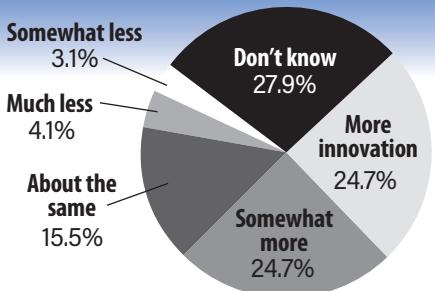
451 Administrators & school board members responded:



347 Non-Milwaukee Public Schools teachers responded:



316 MPS teachers responded:



Source: Badger Institute surveys

Traffic Safety Administration, automated vehicles will reduce accidents by up to 80 percent, saving 30,000 lives per year.

- Because they can communicate with each other, automated vehicles can follow more closely together. Traffic engineers have found that “connected vehicle technology,” in fact, could increase roadway capacity by 300 percent, significantly reducing congestion.
- Automated vehicles will provide greater independence to individuals who cannot drive, including the young, the elderly and the disabled.
- Finally, automated vehicles will save taxpayers a lot of money because one of the biggest costs in transit — 75 percent — is employees.

As noted in an earlier chapter, residents of southeastern Wisconsin are skeptical that a streetcar line in downtown Milwaukee will deliver the economic benefits that supporters expect, a Marquette University Law School Poll found in October 2017.¹ Sixty-nine percent say the streetcar is too expensive and won’t produce the economic benefits touted.

Milwaukee residents apparently realize that their leaders should be embracing innovation and bold thinking — not pricey, antiquated streetcars that few likely will ride. The city’s planners, if they’re truly interested in making Milwaukee more vibrant and attractive, should let the market drive innovation.

But thanks to the lure of federal funding, local officials don't have to care if their decisions make sense. They have no need to innovate, little incentive to even help innovative companies like Bird flourish. So Milwaukeeans are getting streetcars — just like their great-great-grandfathers and great-great-

grandmothers got over 100 years ago. At least until they're torn out again.

This chapter is based on an article by Baruch Feigenbaum published in the Badger Institute's magazine, Diggings. Feigenbaum is assistant director of transportation policy at the Reason Foundation.

¹ Marquette Law School Poll (Oct. 24, 2017), Law.marquette.edu/poll/2017/10/24/new-poll-shows-milwaukee-areas-divided-feelings-on-foxconn-views-on-other-topics-as-marquette-law-school-launches-expanded-public-policy-program/

Loss of accountability

Americans have more faith in each other than we do in our politicians.

Asked “how much trust and confidence do you have in general in the men and women in political life in this country who either hold or are running for public office,” less than half (48 percent) of respondents to the Gallup poll in the fall of 2017 said at least a fair amount.¹

Asked “how much trust and confidence do you have in the American people as a whole when it comes to making judgments under our democratic system about the issues facing our country,” almost two-thirds (62 percent) said at least a fair amount.

Positive responses to both questions have dropped sharply in the past two decades, and the cause is unclear. The dominance of hyper-critical and often vituperative, ill-informed individuals expressing themselves on social media may be largely responsible in both instances.

Still, there is evidence that just as Americans have more faith in those who run governments closest to the people, there is more trust and confidence in each other

than there is in those among us who aspire to office. Those who administer government programs, it follows, must be held accountable. Accountability, common sense dictates, is much easier at the local level.

Educators surveyed by the Badger Institute concur.

“I believe that our local control and local administration team can decide best where funds are needed,” said Bec Kurzynske, superintendent of the Pulaski Community School District near Green Bay.

“And then it’s up to our taxpayers to make sure we’re using those dollars in a way that’s appropriate and hold us accountable. We pride ourselves in being accountable. Sometimes the government sees a need for accountability, but sometimes that creates operational inefficiencies. I’m proud that our school board holds us accountable, because

I’m a taxpayer, too,” she added.

Hundreds of Wisconsin administrators, school board members and teachers who responded to Badger Institute surveys agreed.

Among administrators, 81 percent said

GAO finds flaws

The Government Accountability Office and federal inspectors general have reported on a variety of management challenges involving federal grants to state and local governments, many of which can be grouped into categories:

- **A lack of appropriate metrics to measure performance.**
- **Uncoordinated grant program creation that results in duplication, funding overlap and lack of collaboration.**
- **Internal control weaknesses that make it difficult to assure effective use of funds.**

Source: GAO 2012 Report to Congressional Requesters on Grants to State and Local Governments, An Overview of Federal Funding Levels and Selected Challenges

accountability would improve, or at least stay the same, if local officials had more discretion over how federal dollars are spent in local schools. And more than 75 percent of superintendents agreed with the statement that federal regulations “do very little to support the necessary oversight and accountability of public schools.”

“There’s no accountability” under the current system, said a school board member from the Waupaca School District. “The part I find concerning is that half of our state’s (education bureaucracy) is spent administering federal grants, which is a total waste of time and money. I just don’t see it as being very effective. I don’t see that as a way of improving federal education. It’s more government mandating what you do through the whole money carrot. There would be much more accountability if local school officials had more discretion over how federal funds were spent.”

Among teachers around the state, more than 59 percent responded that accountability would improve or stay the same if local school officials had more discretion over how federal funds are spent. Less than 11 percent said accountability would decrease.

Milwaukee Public Schools special education teachers felt the same — 58 percent said there would be more accountability or at least the same level if there was more local control. Only 10 percent felt accountability would suffer.

Accountability and federal role

 If local school officials had more discretion over how federal funds were spent, would there be more or less accountability to parents and taxpayers?

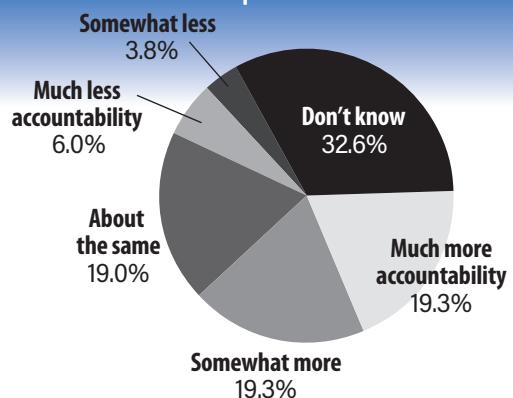
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THE PUBLIC'S RIGHT TO KNOW

Even when there is accountability, it is often not timely.

In 2016, the Badger Institute reported that a U.S. Department of Housing and Urban Development audit discovered that the St. Croix Chippewa tribe in northwestern Wisconsin misused \$2.3 million in HUD grants meant to help impoverished tribal members find decent housing.

The 2015 audit found that:

- More than \$776,000 in back rent was owed the tribe and probably never would be collected.
- The tribe's Housing Authority awarded \$308,000 to contractors without following rules on how vendors are evaluated and selected.
- Eighty percent of the authority's tenant case files did not have the required income recertification information needed for a tenant to qualify for rent-subsidized housing.

The audit also uncovered a mystery — \$85,000 in loans, allegedly from a defunct state program, were made by Housing Authority officials to themselves without proper oversight.

HUD didn't seem to care until the Badger Institute called.

Some of the same findings had been made in a 2014 audit, apparently with no effort to follow up by HUD. Then, after a Badger Institute article detailed the findings and we sought an explanation, HUD assigned a team to review the audit and produced a report months later.² Even then, the report was unavailable to the public

except through a Freedom of Information Act request, the federal law that requires agencies to make records available "promptly."

Then, it took nearly another year to actually obtain the report. That's par for the course, said Bill Lueders, president of the Wisconsin Freedom of Information Council.

"Federal agencies have over time adopted a culture of contempt for the public's right to know," he said. "They (federal agencies) don't make handling records requests a priority, they don't do it well and nobody holds them accountable."

If the money had come directly or exclusively out of the pockets of local residents and taxpayers, it's a good bet there would have been more scrutiny and promptness. In housing, as in education, the notion that misspent federal money is of less concern than misspent local money creates widespread waste and, sometimes, fraud.

"If we had more control over monetary support, we would have a better idea of where the money is going and how it is spent," said Sheila Noordzy, an early childhood special education teacher in the Chequamegon School District in Park Falls in Price County.

DIFFICULTY IN GETTING INFORMATION

The accountability problem is not simply with the federal government, however. State and local governments have become so dependent upon and intertwined with the federal government that even informa-

tion from local units of government about the influence of federal dollars on their operations can be difficult to obtain.

An example: About \$824 million flows through the Wisconsin Department of Public Instruction annually to local school districts in the form of federal grants for Title I for disadvantaged students, Individuals with Disabilities Education Act for special education, school lunches, teacher training, busing and other programs. DPI consumes another \$54 million or so to pay for the administration of those funds.

Nearly all of the state's school districts also employ staff and hire outside accountants and consultants to work under federal programs to try to ensure that federal regulations are followed.

But little or no data exists for that cumulative cost at the local level. It's difficult to ascertain numbers of federally compensated local government employees, their salaries, local matching and maintenance of effort requirements or how much is paid to outside contractors to comply with federal audit requirements.

In the summer of 2017, the Badger Institute sent a request for information to superintendents in all 424 public school districts in Wisconsin seeking such information.

While many districts promptly provided answers, many couldn't or even refused to do so. Or they demanded an exorbitant amount of money to produce information that should be readily available to the public. A \$50 per hour charge

seemed the commonly accepted fee among districts, approximately the hourly wage of the districts' high-salaried business managers.

"Charging \$350 for information on how tax dollars are spent makes it virtually impossible for school district parents and taxpayers to get information," said one former superintendent, who asked not to be identified.

One school business manager who did provide the information said employee records are coded to indicate the source of funds that pay their salaries and benefits, including federal grants. He was incredulous that other districts claimed they could not provide salary information regarding school staff paid with federal dollars.

Some districts said the information did not exist and that neither staff nor school boards knew the details of how federal funding affected their districts.

"We don't keep an inventory of (federal) grants," a lawyer with one large northeastern Wisconsin school district said.

Devolving control and responsibility to lower levels of government is essential, but is meaningless without more transparency and the ability of regular citizens to get information about federal and state spending and programs and outcomes. And right now that is often impossible.

¹ Trust in Government, Gallup, news.gallup.com/poll/5392/trust-government.aspx

² Dave Daley, "While poverty persists for St. Croix Chippewa, tribe officials misuse federal funds, audit shows," Badger Institute (Sept. 15, 2016), badgerinstitute.org/Commentary/While-poverty-persists-for-St-Croix-Chippewa-tribe-officials-misuse-federal-funds-audit-shows.htm

Loss of awareness and transparency

The takeover of state government by politicians and bureaucrats in Washington, D.C., has moved so relentlessly and swiftly forward in recent decades that it is often difficult to tell the difference between the two — even for government employees themselves.

Government workers in Madison receive checks labeled “State of Wisconsin,” but many are surprised to learn that the source of the funds that pay their mortgages and buy their groceries is the U.S. Treasury.

“I have no idea what you’re talking about,” said John Jorgensen, aeronautics team leader at the Wisconsin Department of Natural Resources, when asked whether he knew that some of his pilots are paid with federal dollars, according to information obtained by the Badger Institute. “They don’t (work on federal programs).”

In fact, nearly one of every five DNR employees — measured as full-time equivalents — gets 100 percent of his or her salary and benefits from the federal government. Statewide, 5,023 people (not including those working in the UW System) — or almost 15 percent of all state

FTE employees — are in effect employees of the federal government, and many have no idea why.

“On (fire) detection flights, we might fly over Nicolet (National Forest) and we might see smoke, but we call it in to our dispatcher and that’s about it. We are not contracted to do that (by the federal government),” Jorgensen said in an interview.

Does he see any connection between his team and the feds? “I don’t know the answer to that. If I did, I’d tell you,” he said.

Jorgensen is far from alone.

Michael Groth is the DNR’s automotive shop supervisor at the Black River Falls Fleet Shop. He “manages the department’s heavy truck and equipment repair shop” as well as the road service maintenance and repair program for the agency’s heavy trucks

and equipment. His salary is funded entirely by the federal government, according to information provided by the DNR.

“I’ve never worked on a federal vehicle that I’m aware of,” Groth said. None of his mechanics have, either, he said. “We just work on state vehicles.”

Groth said he approves time sheets for



his mechanics and has never seen any reference to federal programs.

One of those mechanics, John Winscher, an automotive equipment technician, was also surprised to learn that his salary was paid entirely with federal funds, according to DNR records.

"No, I'm only paid by the state," he said. "As far as I know, my pay is all from the state, but I could be wrong on that."

Dale Anhalt, an automotive equipment technician master for the DNR, said he might have worked on a federal vehicle "a few years ago," but he has not done any other work related to the federal government since and is not paid with federal dollars, despite what DNR records show.

RECEPTIONIST AND MAILROOM WORKER

"I'm not aware that I'm paid with federal dollars," said Sandra Ritchey, an operations associate in the Wisconsin Department of Children and Families in Madison, whose job is to "act as the main receptionist" and "serve as the front-door contact for the public, media, government officials" and others, according to her job description.

Department records show that 40

percent of Ritchey's wages are paid with federal money. That's because she also enters data for families in the federal foster care program, Title IV-E, according to an email from DCF spokesman Joe Scialfa.

"Public adoptions program can either be funded by federal Title IV-E dollars or by state non-IV-E dollars but cannot be funded by both," he wrote. "Additionally, the federal government has laws regarding adoption assistance, foster care and other child welfare programs as a condition for federal funding. ... Precise data entry is critical in determining the eligibility of an adoptive parent

to receive adoption assistance funded by federal dollars and to be sure that Wisconsin is complying with the various federal laws that oversee adoption and interstate placement of children in foster care."

Similarly, at the state Department of Public Instruction, Maria Butters was the shipping and mailing supervisor, overseeing the agency's mailroom, reception area, copy center, telephone system, supply management and vehicle fleet, according to her job description. She managed a staff of three. About 25 percent of her job was supervising part-time special needs students who work in



the mailroom.

For that, her salary was fully paid by the federal government, even though there's no reference to federal programs in the job description.

Butters has since taken another position at DPI, spokesman Tom McCarthy said, but that position is also federally funded because it requires working with disabled students and handling communications that often involve federal programs.

Some employees said they knew that the federal government funds some salaries but didn't think they were in that group.

"Boy ... I'm a state employee, so I'm not aware," said Edward Culhane, an advanced communications specialist at the DNR who writes news releases and organizes public meetings in northeastern Wisconsin. "I know that DNR does have federal funding obviously in programs run by the state, but I don't know anything about that. As far as I know, my salary is paid for by the state."

Culhane's job description notes that he interacts with "grant authorities." But besides that, there is no mention of working with a specific federal program, even though half his salary is paid by the federal government.

Even those who know that they are

paid with federal dollars aren't sure why.

"Working with the budget that involves federal funds, I'm aware that I'm paid with federal funds just from the nature of my job," said William Christianson, a budget and policy analyst in Madison for the DNR.

But how his job directly connects with federal programs and why he's paid with federal money, he said he doesn't know.

Some of the state's highest-ranking and highest-paid staffers are paid from federal coffers.

About half the \$90,000 salary of DPI's top lawyer, Ryan Nilsestuen,

is paid by the feds. A time sheet from 2018 cited work on the federal Title I program, which aids disadvantaged K-12 students, and other unspecified federal programs.

His time sheet does not specify what he did under those programs. But generally "as our chief legal counsel, he consults with agency staff on questions related to federal requirements. During that time, he bills federal funding strings," DPI spokesman McCarthy said.

At the DNR, six of the eight employees in the department's main human resources office in Madison are paid at least partially with federal money. Many of them are "human resources



representatives,” whose main duty is to “provide comprehensive staffing services to program managers and hiring supervisors,” not work directly with any federal program.

FEDERAL INDIRECT’

Knowing exactly where federal money is coming from to pay state employees is often a mystery, and tracking the money to its source can be extremely difficult, if not impossible.

For instance, an open records request to the DNR asking for the names of the federal programs funding 15 employees was returned with only one program specifically named. The others were labeled “federal indirect,” a catch-all phrase indicating that federal money was passed through the state to the employee.

Federal indirect is “the statutory reference to the use and receipt of federal indirect funds for administrative purposes,” a DNR spokesperson explained in an email. “Positions that are budgeted to a federal indirect appropriation are not attributed to any federal program(s) or grant(s) in particular. Instead, federal indirect applies to virtually all of the Department’s federal grants.”

The fact that so many state employees are unaware of their federal connection raises the suspicion that almost any job that can be related to a federal program will be assigned to that program. The motive? To procure as much federal money as possible.

One federal program that funds some

positions in the Department of Children and Families is the Child Support Incentives Fund. The program, created in 1996, awards additional federal money to states based on their effectiveness in key areas of their child support programs. The idea is that the incentive program will encourage states to operate more effective programs and then invest those payments back into the child support program.

Yet, according to a 2011 Government Accountability Office report, most states were not using these incentives for “family first” policies, as required. Rather, they often use them to pay salaries to avoid layoffs during tight budgets.

Several state officials “confirmed that they were using the reinstated incentive match funds to sustain program operations and avoid layoffs during tight state budget climates,” the report said.

The federal reach has expanded before our very eyes, yet, like the proverbial frog in a boiling pot, we have failed to notice.

“The extent of this federal influence is often hidden behind state and local agencies, which function like field offices of the central government,” wrote Stanley Kurtz, a senior fellow at the Ethics and Public Policy Center.¹ “In consequence, federal intrusion on state policy often needs no defense, because the public has no idea it’s happening.”

And now we know that neither do many of the “state employees” themselves.

¹ Stanley Kurtz, “The Politics of the Administrative State,” National Review (Jan. 8 2018), nationalreview.com/corner/politics-administrative-state-mcgroarty-robbins-tuttle/

The art of Grant\$tanding

So, why does a system continue to thrive that is so expensive, so wasteful and duplicative, so lacking in accountability and transparency and common sense?

Politicians of all stripes in every state, and especially in Washington, D.C., find the system politically advantageous. It allows them to “grant\$tand.”

Put another way, time and again, all across America, an utterly uncritical and increasingly short-staffed media is used by federal, state and local politicians to brag about securing a new federal grant

that unwitting voters are led to believe is a good thing, a panacea for one problem or another – or a least a freebie that does no harm.

Just one example: On Aug. 24, 2018, WXOW.com in La Crosse Wisconsin, ran a story quoting one of the state’s U.S. senators, the local congressman and the city’s mayor lauding a \$1.25 million federal grant for new buses.

The story¹, little more than a rehash of a press release, noted that money was flowing to the city “to purchase new

low-emission buses.”

Through a release, the story continued, Senator Tammy Baldwin and Congressman Ron Kind announced the grant, which comes from the US Department of Transportation’s “Low or No Emission Competitive Program.”

“Public transportation is one of the most vital components of a 21st century infrastructure network to ensure people can travel safely to their jobs, schools and throughout the community. Investing in innovative transit solutions will positively benefit our society, en-

vironment and economy,” said Senator Baldwin. “This federal funding will help cut emissions, support critical public transportation upgrades and enhance the quality of life for La Crosse residents and families.”

“Replacing La Crosse’s aging city buses with clean transportation will save money for taxpayers while also moving us towards a sustainable future,” said Rep. Ron Kind. “I am glad to partner with Senator Baldwin in announcing this exciting grant, and look forward to the



Ready to take federal taxpayers for a ride?

implementation of these important improvements for the city of La Crosse and the Municipal Transit Utility.”

Money will be used to purchase new electric buses and charging stations for the MTU.

“...these buses meet a critical need for modernizing our fleet and will help us further reduce our City’s carbon footprint and save taxpayer dollars,” said Mayor Tim Kabat. “La Crosse greatly appreciates the work and assistance of Senator Tammy Baldwin and Congressman Ron Kind on this grant award, which highlights our strong federal-local partnership. Much credit also goes to our MTU board and our staff for putting together such a strong application.”

There’s no better way for an incumbent to gain glowing, free media coverage, in sum, than announcing a new grant that is, at best, utterly commonplace.

The press release put out by Sen. Baldwin on Aug. 24, in fact, was the third one from her office that month extolling the senator’s role in securing federal funds. Just the day before, for instance, she had issued a release touting her role in securing \$10.4 million for a Regional Aircraft Rescue and Firefighting (ARFF) Training Center in Appleton.²

She’s far from alone, to be sure. A review of several months of press releases coming out of the office of the other U.S. senator from Wisconsin, Ron Johnson, turned up no similar sorts of releases. But bragging about securing federal

money is generally a familiar, bipartisan, time-consuming and self-congratulatory hobby in congressional offices.

A ‘MONUMENTAL’ INVESTMENT

There was nothing special about the La Crosse grant. In fact, the very same day the La Crosse grant was announced, the U.S. Department of Transportation announced over \$83 million in other similar grants around the country – a total of 52 projects in 41 states.

In many, if not virtually all of those areas, voters were courted by politicians, mostly Democrats but occasionally a Republican, over and over again bragging about bringing home federal grant dollars.

On Aug. 23, one day earlier, Democratic Sen. Sherrod Brown of Ohio announced that he had “pushed for investment” and “fought for funds” for the same “low-emission electric buses.” Rhode Island’s Democratic Sen. Jack Reed issued a release stating that “Reed Delivers \$1.5 Million . . . for New Electric Buses.”

On August 27 in New Jersey, Senators Bob Menendez and Cory Booker, along with Congressman Donald Norcross, announced the City of Camden was getting \$1.5 million for the buses and recharging facilities.

In New York, Republican Congressman Tom Reed issued a release calling his area’s receipt of a \$2.29 million grant from the same program “monumental.”

In Illinois, Democratic Congressman Dan Lipinski was more ambitious. He took credit on Aug. 27 for “adding a provision to the last long-term transportation bill, known as the FAST Act, that created the Low and No Emission Program the (Chicago Transit Authority)” is now receiving money from.

Such releases are never-ending, it seems. In Massachusetts alone on Aug. 24, the state’s two senators and no less than eight U.S. representatives issued a joint release extolling the virtues of a different, \$21 million federal transportation grant.

Realizing, perhaps, there is a limit to the efficacy of self-congratulation, they took turns congratulating each other.

Sen. Elizabeth Warren said she was “glad to work with the other members of the congressional delegation to help secure these critical infrastructure grants.”

Congressman James McGovern said he was “proud of the work that our Congressional Delegation has done to secure this important investment in our future.” Congressman Stephen F. Lynch thanked “Senators Warren and Markey as well as our hard working members of the Massachusetts Delegation in securing these much needed transportation grants.”

Congressman Bill Keating promised

he would “continue to work with my colleagues in Congress to ensure that these ventures have the support that they need.”

No doubt.

And these were just some of the politicians who issued releases on one day regarding one grant in one state.

That very same day, the Trump Administration also got in on the act.

A 2013 study found that 36% of Senate press releases explicitly claimed credit for an appropriation. After routine honorary releases, the most prominent topic for Senate press releases was announcements concerning transportation grants.

“Communities across America will benefit from these investments in their transportation infrastructure,” U.S. Transportation Secretary Elaine L. Chao was quoted as saying about the low-emission bus grants.³

“FTA is proud to partner with transit providers across the country to support their transit priorities. The participation from our local partners shows a dedication to improving access to jobs and opportunities,” chimed in FTA Acting Administrator K. Jane Williams.⁴

There were similar, easily findable releases regarding the same low-emission bus program from politicians in New Mexico, Michigan, New Hampshire, Maine and Oregon – almost all of them Democrats.

In a 2016 report analyzing the role of U.S. senators in the allocation of federal grants, published in Legislative Studies

Quarterly, researchers noted that “Senators expend considerable energy and resources both pursuing localized spending for their home states and actively claiming credit for it with their constituents.” They cited a 2013 study that found that “36% of Senate press releases explicitly claimed credit for an appropriation. Moreover, after routine honorary releases, the most prominent topic for Senate press releases was announcements concerning transportation grants.”⁵

The authors added that they chose to focus on the political influence of federal grants because it was “the category of spending most amenable to pork-barreling.”

POLITICALLY EXPEDIENT

Turning down such grants, it is true, would be politically dicey.

“The public perception of turning down what the public believes is ‘free money’ is an even bigger problem than taking the money,” said Jeremy Struss, business manager for the small Swallow

School District in Waukesha County.

Threaten to reduce federal grant expenditures and the special interests rise up in protest while the politicians run, afraid of attack ads come re-election time.

Residents of every other state are receiving the grants, goes the thinking, so we’re entitled as well.

As you’ll see in Part Three, there’s little reason to hope the politicians and government bureaucrats are going to stop clamoring and bragging anytime soon. In fact, you’ll see, the problem is only getting worse.

1 WXOW.com, <http://www.wxow.com/story/38957998/2018/08/24/feds-award-12-million-to-la-crosse-for-new-buses>

2 Tammy Baldwin, United States Senator for Wisconsin, <https://www.baldwin.senate.gov/press-releases/baldwin-announces-grant-for-appleton-airport>

3 Federal Transit Administration, <https://www.transit.dot.gov/about/news/FY18-Low-No-Project-Selections>

4 Federal Transit Administration, <https://www.transit.dot.gov/about/news/FY18-Low-No-Project-Selections>

5 Dino P. Christenson, Douglas L. Kriner, Andrew Reeves, All the President’s Senators: Presidential Copartisans and the Allocation of Federal Grants, *Legislative Studies Quarterly* (2016), <http://people.bu.edu/dinopc/papers/senatorsgrants.pdf>

PART 3

The Road Back — and Forward

(The essential problem, why it's getting worse and what to do about it)



ROBERT HELF ILLUSTRATION

States make matters worse by shamelessly chasing federal money

The Constitution was seen as barring direct federal spending on local activities. The grants-in-aid system is a convenient end run around that ban.

Supporters of the system say that grants are not forced on the states — and they have a point. Technically, states do not have to accept the grants. In reality, grants can be exceedingly difficult to turn down.

“Over time, the American public has become increasingly accepting of government activism in domestic affairs generally, and of federal government activism in particular,” wrote Robert Jay Dilger with the Congressional Research Service.¹

As a result, Dilger said, “the federal

intergovernmental system of governance has been characterized by many as becoming increasingly centralized and coercive, with the federal government using federal grants, federal mandates, and federal preemption of state authority to expand its influence in many policy areas previously viewed as being primarily state and local government responsibilities.”

Whether federal intervention solves problems is beside the point. The demand is that politicians “do something,” and they are happy to oblige. Pity the poor politician, in fact, who proposes cutting wasteful, duplicative or plain useless programs.

There have been attempts:

- The Great Lakes Restoration Initiative, launched by the Obama administration in 2010, spends \$300 million a year funneling hundreds of federal grants to the eight Great Lakes states to clean up harbors, keep out invasive fish species and restore fish and wildlife habitat. A 2013 Government Accountability Office report said the program needed to do a better job of measuring its progress and to link long-term objectives to clear benchmarks of progress.

The initiative also was seen as largely duplicative of other federal and state programs. President Donald Trump in his first year proposed cutting the program, but reaction was swift and strong. Even fiscal hawks such as U.S. Rep. Glenn Grothman (R-Wis.), who had called for stiff budget cuts, relented. The Great Lakes initiative is “a nice program for Wisconsin,” Grothman confessed in an interview with the Badger Institute.

- For two years, the Trump administration tried to mothball the Advanced Research Projects Agency-Energy (ARPA-E), a grant program that “advances high-potential, high-impact energy technologies” that are too early for private-sector use. Trump budget-cutters argued that if the program benefits private industry, private industry should fund it instead of the government. Yet last year, the Republican-led Congress voted to increase its funding.²
- Community Development Block Grants

from the Department of Housing and Urban Development are widely used. About \$10 billion per year goes to villages, cities and counties to pay for such hyper-local purposes as sidewalks, sewers, street lights and other projects of no national interest.

In a 2017 article titled “The federal program that can’t be killed — or fixed,” Politico found that CDBG spending is disbursed with little regard to actual “need” or “fairness.”³ The report said, “Community development block grants rely on outdated, 1970s formulas that have increasingly shuttled dollars to wealthy places like Newton, Mass., while other locales in need, such as Compton, Calif., go wanting.”

STATES LOVE FEDERAL MONEY

Pervasive as the federal takeover of state governments has become, it’s only getting worse — and for an obvious reason: States love federal money. They are addicted to it, and they use increasingly sophisticated strategies to get more and more of it.

“This practice of cost shifting has produced a dynamic characteristic of modern American federalism: an intensifying competition between states to shift costs to federal taxpayers,” wrote Chris Pope, a senior fellow at the Manhattan Institute, in *National Review*.⁴

“The major responsibilities of state governments (education, Medicaid, transportation, social services) involve opportunities to claim federal funds, and

so the art of state government has largely become an effort to find increasingly creative ways of expanding expenditures by making such claims. ... When states can pressure the federal government into picking up most of the cost of infrastructure projects, there should be little surprise that states propose ‘bridges to nowhere,’ ” he wrote.

As opportunities for states to claim federal money become more prevalent, so do sophisticated strategies to secure more and more federal dollars.

One key strategy is to use private con-

tractors promising to capture more federal dollars through “revenue maximization.” Their proposition: Deploy state-of-the-art technology to squeeze every available dollar out of federal coffers.

The high-tech services that private contractors offer can sound like techno-babble, with terms such as predictive analytics, data mining and the innovative but questionable random moment sampling (RMS) — a controversial way to measure the amount of time employees say they are working on a given program.

Random moment sampling has been

Wisconsin fares poorly among states

For every \$10 that Wisconsinites pay to the federal government, the state gets back about \$8 to \$9, depending on who’s counting and when.¹

Wisconsinites do not fare well on this score compared to other states that receive copious amounts of federal money — but grants (and the sub-category of grants-in-aid to state and local governments) are just a small part of the story.

There are four categories in the federal flow of money, a total of approximately \$3.4 trillion, that ends up back in the states:

- Direct payments to individuals, such as Social Security, Medicare, food stamps
- Grants to governments, universities and non-governmental entities (Medicaid is the biggest)
- Procurement — e.g., defense contracts
- Salaries/wages of directly paid federal workers

Such federal spending “traceable to the states” averages \$10,567 per capita in the United States as a whole. Wisconsin, which receives \$8,838 per capita, ranks 49th out of 51 (including the District of Columbia), according to the Council of State Governments.² The highest recipient is D.C. at \$82,508, and the highest among the states is Virginia at \$17,052. Only Illinois and Utah are lower than Wisconsin.

Another way to look at it: Wisconsin has 1.8 percent of the U.S. population but gets only 1.5 percent of the federal money that flows back to the states in one way or another.

Some states do particularly well in certain categories. For instance, Virginia, Maryland, Hawaii and Alaska get larger amounts in salaries. Alabama and West Virginia get more than most in direct payments to individuals. Connecticut,

used in the Badger State for over 15 years.

A Virginia company called Maximus introduced it to the state in 2002 to monitor how much time Milwaukee County employees work on various programs largely funded by the federal government. Maximus is an enormous and controversial entity that manages government health and social service programs and has more than 18,000 employees worldwide.

In random moment sampling, Maximus emails a sample of government workers to ask what they are working on at that

moment. Each worker responds by checking off a program in a drop-down box.

RMS relies on the employee to truthfully answer the query. The state then tabulates the data from the sample pool and determines what percentage of workers are working on what specific federal program during a three-month period. It then factors in the wages of workers in the pool and makes a reimbursement claim to the federal government for that work.

In other words, the system uses self-reporting to determine how many people are at their desks and claiming that they

Virginia and Maryland get a lot of procurement contracts. Wisconsin fares poorly in comparison to other states in every category, including grants.

The Badger State received \$1,645 per capita in federal grants, including but not limited to grants-in-aid to state and local governments, in 2015 — 37th in the country, according to the Council of State Governments.

Grants-in-aid to state and local governments in Wisconsin amount to at least \$10.8 billion, according to the Center for Budget and Policy Priorities.

For years, many have clamored for Wisconsin officials to do a better job of getting the Badger State's "fair share" from federal coffers. But that is unlikely to occur for a variety of reasons. States with significant natural resources extracted from public lands, such as Alaska and New Mexico, will always fare well. States with poorer populations receiving government assistance also do well — as

do states that siphon off larger shares of federal Medicaid money.

If the federal grant system were re-engineered, or done away with altogether, Wisconsin would be one of the most obvious beneficiaries. More money would stay in-state to pay for our own schools, our own roads and our own welfare — and would save us the shipping, handling and bureaucratic costs of the present system.

Our belief is that all states would benefit, however, regardless of how much federal money flows back to them right now. The only real loser: the District of Columbia.

¹ For every dollar paid to the federal government by Wisconsin residents, the state receives 82 cents, 39th lowest in the country, according to a Tax Foundation study in 2006. Key Policy Data also looked at this issue in 2013 and determined that for every dollar Wisconsin contributes to federal coffers, the state gets 91 cents back, keypolicydata.com/government/federal-taxes-and-spending

² State Policy Reports, Volume 35, Joint Issue 15-16, August 2017, page 4.

are working on a specific program rather than goofing around, watching YouTube or emailing bad jokes to friends. The results are then used to funnel money to the states.

Advocates of random moment sampling say that, if implemented correctly, the methodology is 95 percent accurate, plus or minus 2 percent, and is quicker and less burdensome than 100 percent time reporting. But what RMS tries to measure is merely whether employees are spending time on a task, not whether the task is achieving a specific result.

Emphasis is not on achieving outcomes and solving problems but on inputs — how much time is being spent on efforts that may or may not be achieving anything of value.

Perhaps not surprisingly, the approach has resulted in inappropriate claims for federal money.

The Wisconsin Department of Children and Families has used RMS since 2008 and has never been asked to return any grant funds due to the methodology, according to agency spokesman Joe Scialfa. Other states, however, have not been so lucky. In fact, federal auditors have charged eight states with improperly billing Medicaid using invalid RMS models.

In 2017, U.S. Health and Human Services Department inspectors charged

that Mississippi submitted \$42 million in improper Medicaid claims using invalid RMS models. Inspectors reported finding in the samples duplicate employee names, improperly documented work schedules and sampling that included holidays, when employees were not working.

Other states claiming millions of dollars in improper Medicaid reimbursements because of statistically invalid RMS include Alabama, Arizona, Kansas, Massachusetts, Missouri, North Carolina and Ohio. And Texas is on the hook for \$58 million following a federal audit. The case involved another private contractor offering revenue-maximization services and RMS expertise, Public Consulting Group (PCG) of Boston.

Concerns with revenue maximization extend well beyond the use of RMS.

Massachusetts was criticized for “Medicaid money laundering,” when the state used gimmicks to divert federal funds to the state treasury. In Missouri, a private contractor advised state officials to shift welfare recipients to federal disability rolls to save state tax dollars. In Maryland, foster care agencies, using recommendations from a private contractor on how to rake in more dollars, stripped foster kids of Social Security survivor and disability benefits and used

Federal auditors are finding revenue-maximization services are little more than a computer-driven, high-tech flimflam that ends with states being forced to pay back millions and the needy lost in the shuffle.

the funds to balance agency budgets.

In too many cases, federal auditors are finding, revenue-maximization services are little more than a computer-driven, high-tech flimflam that ends with states being forced to pay back millions and the needy lost in the shuffle.

TARGETING KIDS

Daniel Hatcher, a University of Baltimore law professor, encountered a chilling revenue-maximization method firsthand when he represented two foster children in cases heard in the Baltimore courts in 2011.

One was a boy, Alex, placed in foster care when he was 12. The Baltimore County Department of Social Services applied for Alex's Social Security survivor benefits after his father died, Hatcher said. But the agency did not tell Alex it was applying for the benefits, ostensibly on his behalf. And when the payments came in, the agency kept all of the money, much of it for their own uses that had nothing to do with Alex.

Seeing dollar signs, the agency then hired Maximus to develop recommendations on how to do more of the same — maximize claims of Social Security survivor and disability benefits by using foster children, Hatcher said.

They could do it because a child pulled out of a welfare home and put into foster care comes “with money attached,” Hatcher told the Badger Institute. He ticked off the multiple federal funds available to a foster child: Social Security

survivor benefits if a parent has died, Supplemental Security Income if a disability can be found, veterans assistance if a parent died in the military and even child support payments.

In “The Poverty Industry,” Hatcher’s 2016 book on how social service agencies are shortchanging the needy just to bring in more revenue, he cited an assessment that Maximus provided to the Maryland Department of Human Resources in 2013:



Hatcher

“We will be looking for children with identifiable physical or mental disabilities,” making foster children a “revenue-generating mechanism.”

In his research, Hatcher also uncovered a chilling pitch that PCG made to Kentucky officials in 2010: “All likely foster care candidates are scored and triaged for SSI application. We then track the results of those applications … and incorporate this information back into our system to modify our analyses and better target potentially eligible children.”

PCG viewed children in foster care simply as “revenue sources on a conveyer belt,” Hatcher said. Too often, the federal funds wrung out of a foster child case do not go to help the child but are diverted to state coffers or the profits of private contractors, he added.

The company defended its practices. “PCG is proud of our success in ensuring that our several state clients through-

out the country, and the many constituents they serve, secure full access to the federal program benefits to and for which they are entitled and eligible, as prescribed by regulation and law. These federal programs are complex and challenging for states to navigate, and services such as those provided by PCG help states to be reimbursed for critical services delivered to their most fragile populations,” a company representative said.

MEDICAID IN WISCONSIN

While Wisconsin has not reported any issues with RMS, the relentless search for federal money has resulted in overreach and hand-slapping.

In 2013, federal auditors admonished the Wisconsin Department of Health Services for filing unallowable Medicaid reimbursement claims using a methodology developed by Maximus.

That methodology increased the state’s Medicaid reimbursement by more than \$18 million in the first year alone, the audit noted. The problem: The methodology “used estimates that it could not adequately support.”

Of \$41 million the state claimed for mental health services, federal auditors disallowed \$39 million. In one two-year period, auditors found that the state had improperly claimed \$19 out of every \$20 in bills submitted.

Under Maximus’ contract with Wisconsin, the firm was paid 9 percent of any increased federal payments to the state for

those mental health services. Not surprisingly, the state’s recovery of federal Medicaid dollars shot up dramatically — \$67 million over a nine-year period. Maximus raked in \$3.4 million in fees.

Ultimately, the feds told Wisconsin to pay back \$22.8 million — more than half the \$39 million in claims federal auditors disallowed.

Maximus declined to comment but — like other revenue-maximization services — it exists for a reason. Its business model, its very existence, relies on the fact that state governments operate massive and complicated programs funded by the federal government.

Instead of states using the best and most efficient ways to spend a predetermined amount of federal grant dollars, as in a block grant award, they submit reimbursement claims for the work of state employees. That reimbursement system offers the potential for virtually unlimited claims — and abuse — and very little discussion of whether programs are working as intended.

¹ Robert Jay Dilger, “Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues,” Congressional Research Service (May 7, 2018), fas.org/sgp/crs/misc/R40638.pdf

² Megan Geuss, “Trump really wants to kill ARPA-E; federal agency says that’s folly,” Ars Technica (March 14, 2018), arstechnica.com/tech-policy/2018/03/why-shouldnt-trump-kill-advanced-energy-funding-arpa-e-makes-its-case/

³ Lorraine Woellert, “The federal program that can’t be killed – or fixed,” Politico (July 8, 2017), politico.com/interactives/2017/hud-community-development-block-grants-can-be-killed-or-fixed

⁴ Chris Pope, “Degenerate Federalism,” National Review (May 10, 2018), nationalreview.com/magazine/2018/05/28/amazon-hq2-cities-shifting-cost-federal-government

The crux of the problem

It was in Federalist 51 that James Madison famously and succinctly summarized the need for checks and balances: “Ambition must be made to counteract ambition.”

“In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself,” he added.

The solution was not just a separation of the judicial, executive and legislative branches; it was establishment of the “double security” of state and national governments.

“In the compound republic of America, the power surrendered by the people is first divided between two distinct governments,” wrote Madison, “and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.”

In Federalist 46, he was even more explicit.

“The federal and State governments are in fact but different agents of trustees of the people, constituted with different powers and designed for different purposes.”

Our basic problem 230 years later is

that the national and state governments are far too often no longer distinct, no longer constituted with different powers and purposes. They are intertwined and amorphous and unable and unwilling to act as checks or counterweights.

Our system of checks and balances has deteriorated, and the result is both a danger to our system of government and to individual liberty. The amorphousness of our state and federal governments are, perhaps, most vividly illustrated by the “state employees” who don’t even know that they are actually federal employees.

The cynic might see a positive in this. The less knowledge an employee has of the fact the federal government is paying his

or her salary, the less artificial attachment exists. But ignorance is as troubling as patronage when it comes to forming attachments to and respect for government, whichever one it might be.

GOVERNMENTS MELD INTO ONE

Instead of two distinct and respected governments, we increasingly have one — and respect is not the common sentiment. The founding fathers thought one would put pressure on the other, hold it in check, but that can’t happen when they are one and the same.

The national and state governments are far too often no longer distinct, no longer constituted with different powers and purposes.

Our belief at the Badger Institute is that time is getting short. The national and state governments already have become so intermingled that many of the people who work in them don't even know the difference. Many other state employees, it follows, likely have no idea which federal grant program they work for — which is not surprising. The grants-in-aid system has become so vast that the government essentially has stopped counting how many grant programs even exist.

The Congressional Research Service reported that there were about 608 or 633 individual grant programs in 1995, depending on which agency was doing the counting.¹ A more recent search by the CRS indicated that state and local governments, U.S. territories and federally recognized tribal governments are eligible to apply for 1,595 federal grants, but that didn't include grants to nonprofits, individuals and others.

Grants-in-aid account for a huge portion of federal spending — an estimated \$728 billion in 2018, more than any sector of the federal budget after Social Security and national defense — and about 30 percent of Wisconsin's budget, to help pay

State and local governments, U.S. territories and tribal governments are eligible to apply for 1,595 federal grants, according to the Congressional Research Service.



for everything from Medicaid to schools to roads. But even expert researchers find it difficult to track what's going on.

"Businesses produce audited financial statements, and their products are usually in the public realm for everyone to

see," the Cato Institute's Chris Edwards wrote.²

"Ironically, private organizations are often more transparent and easier to monitor than public ones."

State governments today still have more of the trust and confidence of Americans than their federal counterparts, but there has been a slow deterioration of sentiments there as well.

It's worth looking again at the founding fathers' comments in the Federalist Papers to ascertain why this might be.

Because the state governments were the ones the founders foresaw dealing with citizens' "personal interests and familiar concerns," it followed logically in Alexander Hamilton's mind that Americans would favor governments closer to home.

In Federalist 17, he argued that "upon the same principle that a man is more attached to his family than to his neighborhood, to his neighborhood than to the community at large, the people of each State would be apt to feel a stronger bias towards their local governments than

towards the government of the Union.”

Put another way, “It is that which, being the immediate and visible guardian of life and property, having its benefits and its terrors in constant activity before the public eye, regulating all those personal interests and familiar concerns to which the sensibility of individuals is more immediately awake, contributes, more than any other circumstance, to impressing upon the minds of the people, affections, esteem, and reverence towards the government,” Hamilton wrote.

‘UNATTACHMENT’ GROWS

As federal overreach has usurped the role of our state and local governments, we have become “unattached,” to borrow Hamilton’s phrase from Federalist 17, from not only our “government of the Union” but also from our local government and even our neighborhood.

Much of the attachment we have to our neighborhoods and local governments, after all, comes from the ability to have a say in what transpires there, from the natural human desire to make a difference and have an influence on things that matter to us as both individuals and members of a community.

Gallup polling suggests that most Americans believe it is impossible to have meaningful, positive influence in Washington because the federal government so rarely does what is right. As federal usurpation of state and local governments grows, distrust of the federal government is starting to extend to state and local gov-

ernments as well.

State governments today are too often no longer these “visible guardians of life and property,” nor are their activities regularly and plainly before the public eye. They are more distant, more detached, more like the federal government because in so many ways that is exactly what they are.

Yes, Hamilton and Madison were nationalists. But not in the way we think of the term today. They were nationalists because they worried about the anarchy and vulnerability that would stem from completely disconnected states. The states, individual states acting in their own interest, had the power at the time they wrote — too much of it.

Writing in the late 18th century, when the country was still governed by the Articles of Confederation, they had every reason to believe that the states would “have the advantage” over the national government in everything from “immediate dependence of the one on the other; to the weight of personal influence which each side will possess; to the powers respectively vested in them; to the predilection and probable support of the people; to the disposition and faculty of resisting and frustrating the measures of each other.”

They were correct at the time in assuring skeptics that the federal government was “nowise essential to the operation or organization” of the state governments.

After all, at the time that they wrote, the national government had no general taxing power. It could only borrow, or sell

lands, or requisition the states for money that the states could not be compelled to — and often didn't — contribute.

The situation back then was exactly the opposite of what it is today. The federal government was dependent on the states for funding rather than the other way around. U.S. senators themselves, meanwhile, initially were appointed by state legislatures rather than directly elected by the people, so they were indebted to state governments for both their jobs *and* the money needed to actually do them.

STATES' ABDICATION

The pendulum needed to swing, and it did — entirely too far. States have become beggars and sycophants and have abdicated their own responsibilities.

The grants-in-aid system “is just a political ploy to reduce responsibility for people who are blowing taxpayer money,” said Cato’s Edwards. “The entire purpose is political — to give politicians credit for spending and reduce political responsibility and give politicians at all three levels of government more talking points.”

All three levels of government are able to boast of helping the poor or take responsibility for a new streetcar or low-emission buses or brag about copious amounts of money being used to educate kids — except that there is precious little way of knowing whether most federal grants are actually achieving their objective. Most of the bureaucracy is not there to measure outcomes. It exists to make

sure the money is funneled out and the rules are followed.

We’ve focused on Wisconsin, but Wisconsin is not unique. What’s happening in the Badger State “seems to be a microcosm of duplication and waste in the federal system,” said Edwards.

“I’ve been looking at this for a decade. There is no economic or practical purpose for the entire system. … The purpose of the federal government to subsidize housing or education is to give politicians talking points on how they are helping the citizens. But it doesn’t help citizens; it actually reduces responsibility. Whenever there are screw ups, fraud or waste, politicians can blame the bureaucrats. It’s a brilliant system.”

The federal funding, and control, of state government has steadily increased, constituting an ever-greater part of state budgets. Meanwhile, the number and percentage of state workers who are paid by and working for Washington, D.C., continue to grow — doing the bidding of unelected, unseen and largely unaccountable bureaucrats, not the citizens of Wisconsin, for whom they ostensibly work.

States, lured by the prospect of “free” federal money, have increasingly become branch offices of Washington — or, even worse, indistinguishable from the federal government itself.

As former Democratic Nebraska Gov. Ben Nelson once put it, “I honestly wondered if I was actually elected governor or just branch manager of the state of Nebraska for the federal government.”

Nelson, it's worth pointing out, didn't just articulate the problem; he exemplified it.

Years after he said that, Nelson became a U.S. senator who engaged in a shameful example of big-dollar favor-trading. In a deal that became known as the "Cornhusker Kickback," he agreed to vote for Obamacare if then-Senate Majority Leader Harry Reid would give Nebraska an additional \$100 million in Medicaid funding. The deal fell apart when other senators found out about it, but Nelson did help pass Obamacare.

Medicaid is the largest grant-in-aid and perhaps the most scrutinized elsewhere.

But as we mentioned earlier, the federal government has used money and grants to insert itself into everything from local environmental issues to nutrition and health issues to crime and justice issues to myriad other seemingly local concerns. We've focused in this book mostly on education and transportation in the hope that we and others will have the time and resources to investigate other areas more thoroughly in the near future. But what we've found already is enough to, we hope, raise both awareness and hackles.

Our public schools cannot operate any longer without navigating a maze of federal regulations and restrictions that do nothing to improve our children's minds or manners. Illogical decisions, we point out, are also being made on transportation and housing. Innovation is stifled. Time is wasted. Efforts are duplicated. Accountability is often nonexistent.

Far from being "free" money, federal aid is anything but. And once the money starts flowing through myriad federal grants available, it's almost impossible to turn off the spigot. In fact, it seems destined to run faster and faster. The pressure is tremendous. Political preening is the pump.

Under the current system of states scrambling for federal dollars based on claims using random moment sampling or data mining of potential grant recipients, those closest to the people have to wonder if America can ever both rein in the ever-growing federal deficit and responsibly alleviate true need.

It appears Milton Friedman was right when he said, "There is nothing as permanent as a temporary federal grant."

Yet it is clear that the eventual costs of continuing apace, the incessant growth of federal debt, the loss of time and money and American ingenuity, the cost in dollars at the state and local level, the greatly diminished trust and confidence, the loss of liberty — which is really just the ability to live a purposeful life in whatever way one chooses without government interference — is threatening the dual system of governance that the founding fathers envisioned.

The system has to be disentangled.
But how exactly?

¹ Robert Jay Dilger, "Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues," Congressional Research Service (May 7, 2018), fas.org/sgp/crs/misc/R40638.pdf

² Chris Edwards, "Bureaucratic Failure in the Federal Government," Downsizing the Federal Government (Sept. 1, 2015), downsizinggovernment.org/bureaucratic-failure

Conclusions and recommendations

We see this book as a starting point, an initial expression and reflection of the “repugnance” and “disquietude,” to borrow a few words from James Madison’s Federalist 46, that permeates Americans’ feelings about government nowadays.

We know that we are just scratching the surface of a deeply rooted problem. But our hope is that this articulation will prompt others to express their concerns as well, that the states — both their governments and their citizens — will begin to reconsider the clamor for federal money, that our federal leaders will begin to once again respect the independence of the states that is so essential to our dual system of governance.

James L. Buckley, in “Saving Congress from Itself: Emancipating the States and Empowering Their People,” concisely identified the primary constitutional issue.

The Supreme Court has “emasculated federalism to the point where there is virtually no exercise of federal power that the Court will deem unconstitutional,” he wrote. The primary concern: the Spending Clause that gives Congress the ability to collect taxes and other revenues “to pay the Debts and provide for the common Defence and general Welfare of the United States.”

The “mischief,” he pointed out, lies in expansive interpretations of “general Welfare.”

Those of us convinced that true federalism is the answer to much of what ails the country can hope that the courts return to the intent of the founders, and the decision in National Federation of Independent Business v. Sebelius may provide some openings for re-examination.

This book is not a legal brief, however. It is fodder, we hope, not for jurists so much as for legislators and the people they represent, both in the state capitals and in Washington, D.C.

It is also, frankly, a call to arms of sorts.

In Federalist 46, Madison wrote about the advantage that states would have in defeating the “encroachments” of the federal government. While he was perhaps overly optimistic that “means of opposition” would be “powerful and at hand,” he did lay out an essential framework of what those means could be: the “disquietude” and “repugnance” of the people and “perhaps” even “a refusal to cooperate,” the “frowns” of leaders of the states and “the embarrassments created by legislative devices” at the state level.

The Badger Institute’s surveys and interviews show there is more disquietude and repugnance out here in the hinterlands than politicians in either Washington or Madison realize. The flow of money that for so long has increased politicians’ popularity is also slowly undermining their credibility. Fortunately, reform, while difficult, is possible.

ACTION STEPS: IN WASHINGTON

Solution: Cut federal spending on grants-in-aid

If tax dollars taken by the federal government were left in Wisconsin and the other states to begin with, not used to fund bloated bureaucracies, there would be more funds available for educating our children, paving our roads and assisting the needy at the local level. The intent of so many of the grant programs is good and the need is real, but the method is flawed and too often counterproductive.

Collecting fewer taxes in Wisconsin and reducing the amount sent to Washington and then sent back would in one fell swoop eliminate the need for thousands of auditors, accountants and other bureaucrats and put millions of dollars in the hands of elected local and state officials, not to mention the pockets of taxpayers. One can only imagine the positive effects on the overall economy and on state and federal budgets.

“If the activities funded by federal grants are useful,” Neal McCluskey of the Cato Institute wrote in 2016, “then state and local governments should fund them themselves, and that way the nation’s taxpayers would be saved the costs of hiring well-paid administrators at the federal level.”¹

Solution: Eliminate or scale back the Department of Education

The United States didn’t have a stand-alone Department of Education until 1980. Canada still doesn’t have one.

“Canada provides an interesting comparison,” said McCluskey. “Like the United States, Canada is a high-income federation with an advanced economy, yet it has no federal department of education. Public education in Canada is almost solely a concern of provincial and local governments.”²

As we were finishing this book, the Trump administration proposed merging the departments of Education and Labor to focus more effectively on workforce issues. While we did not ask educators about that option in our statewide surveys, we did find widespread support for scaling back the Department of Education, which now has over 4,400 employees and a budget of \$68 billion.

Among school administrators and school board members in Wisconsin, more than 65 percent of those who responded to a Badger Institute survey in the summer of 2017 said the federal role in education should be reduced or eliminated. In a separate survey conducted later that year, almost 53 percent of teachers who responded said the federal role in local education should be reduced or eliminated.

“I would like to see the federal government out of education completely,” said a central Wisconsin school board member. “We send our money to Washington to give bureaucrats a job, only to have them send a smaller allotment back to us.”

“Eliminate the Department of Education,” the superintendent of a large suburban district in southeastern Wisconsin told us. “It has not benefited public education.”

“The (U.S.) Constitution gives the federal government no role in education,” said one Milwaukee Public Schools teacher. “Except for areas controlled by the 14th Amendment (i.e., discrimination), the federal government should get out of education.”

Solution: Increase the use of block grants with fewer strings attached

Block grants, which come with only general provisions as to how they can be used, can replace myriad categorical grants, which have far stricter and specific provisions on the way money is to be spent. Categorical grants lend themselves to high levels of bureaucratic oversight as well as lobbying from those who seek support for their pet causes.

Grants are “channeled through hundreds of offices. And hundreds and hundreds of lobbyists descend on Washington to fight for all the little slices of that \$660 billion (in federal grants),” said Chris Edwards of the Cato Institute. “It would be much harder for a lobbyist to fend off budget cuts” if funds were awarded in large lump sums to states as block grants.

At the same time, block grants should be awarded solely for programs with a clear national purpose.

Solution: Take full advantage of ESSA

The Every Student Succeeds Act (ESSA) signed by President Barack Obama in 2015 was meant to give more

flexibility to educators at the state and local level, and some states have taken advantage of it.

In Tennessee, districts can use funds to create innovative models within a district to address low-performing schools. Florida offers incentives to successful charter operators to open facilities in areas with low-performing public schools, giving parents more choices. New Mexico wants to close failing schools and reopen them as charters.

Wisconsin’s plan, which was developed under Department of Public Instruction Superintendent Tony Evers introduced no sweeping reforms.

“ESSA has been a missed opportunity for Wisconsin, a state struggling with low-performing public schools and the widest racial achievement gap in the country,” wrote C.J. Szafir and Libby Sobic of the Wisconsin Institute for Law & Liberty in a 2017 *Wall Street Journal* op-ed.³

While most state plans, including Wisconsin’s, have been approved by Education Secretary Betsy DeVos’ office, at this writing, state officials still have the opportunity to tweak their plans through the implementation process.

Solution: Reform Title 1

Title I provides aid to low-income students and is the federal government’s single largest K-12 budgetary expense. It touches most schools and school systems, hindering local decisions about how to allocate resources and staff schools.

“Maintenance of effort” requirements

and “time and effort” documentation rules can force schools to hire staff they don’t need, assign kids to ineffective programs just to satisfy auditors or spend thousands of hours managing paperwork instead of planning lessons and teaching.

Currently, the amount of Title I funding, the largest Title program, is assigned to a school based on its percentage of low-income students. Instead, dollars should be “portable,” a system where funding accompanies the individual student regardless of which school he or she attends. This “financial backpack” option was proposed for ESSA but was removed before its passage in December 2015.

Portability proponents say it would reduce state and district-level administrative burdens, fix school funding inequities caused by Title I regulations and create competitive incentives for schools to better serve kids.⁴

ACTION STEPS: IN MADISON (AND OTHER STATE CAPITALS)

Plenty of cynics doubt that reform is possible.

“Block granting federal money could occur,” said Cato’s McCluskey. “But it is politically unlikely — too many people get too much money from categorical programs they want to protect,” he said. “Even if block granting were to be enacted, it would likely eventually disintegrate, with politicians over time creating new categorical programs to show how much they care about specific things they like.”

Part of the solution, then, must be to remove the motivation for “grantstanding,” to change the mindset that federal money is free and eliminate the impetus for politicians to hand out “free stuff” to receptive voters.

Solution: Increase transparency

States must do more to provide information to legislators and voters that illustrates the true costs — financial and otherwise — of federal grants. Measures to accomplish that, sometimes known as “Financial Ready” bills, have been established in Utah and Idaho.

At the time of this book’s writing, two Wisconsin legislators — state Sen. Duey Stroebel (R-Cedarburg) and state Rep. Dale Kooyenga (R-Brookfield) — had introduced legislation that would mandate reports on grants’ costs to the state and require the governor to sign off on a proposal before funds are received.

The bills “would be the first such legislation in the nation to require transparency on the cost and coercive effects of federal grants to taxpayers,” Kooyenga said. They would empower the state attorney general to sue the federal government and challenge a grant’s conditions.

Similar models have been proposed by Erin Tuttle and her co-authors, Emmett McGroarty and Jane Robbins, in “Deconstructing the Administrative State.”⁵

“It would require state and local agencies applying for major grants to give a heads-up to the governor and the state

equivalent of the Office of Management and Budget of certain critical aspects of accepting the grant (for example, a cost/benefit analysis, compliance mandates and effects on state and local policy). The agency would have to obtain the governor's consent before proceeding with the grant application," Tuttle wrote.

The model policy also would empower governors to prohibit smaller grants. And all grant applications would have to be recorded on a public database so that taxpayers and legislators are kept informed.

"Knowing the short- and long-term costs of grants up front, as this model requires, can stave off any unforeseen budgetary shortfalls for which state legislatures are often left holding the bag," Tuttle said.

Local governments — school districts, cities, villages and counties — could set up similar requirements.

A key strategy to limit the coercive influences of federal grants must be to make the process and the repercussions more transparent.

Solution: REINS

Wisconsin is in the lead nationally on another legislative initiative — the Regulations from the Executive in Need of Scrutiny Act, or REINS, which can help constrain bureaucratic overreach, including the effect of federal grants. It was signed into law by Gov. Scott Walker in August 2017 and is modeled on a proposed federal law with the same name.

The Wisconsin law is the first REINS Act to take effect at the state level. It requires legislation be passed to authorize any administrative rule that has compliance or implementation costs of \$10 million or more over a two-year period. The federal version of the law, which the House has passed several times but has not passed the Senate, sets a threshold of \$100 million.

Solution: Demand metrics that measure outcomes

Some states are seeing the downside of the emphasis on federal dollars over the quality of their social programs. The Texas Department of Family and Protective Services noted in a 2014 report that the agency needed "to ensure that the focus is on outcomes, not revenue maximization."

In one state at least, there is an effort to halt the odious trend of monetizing children in need. Legislators in Maryland have sponsored bills that require disability and survivor benefits actually be used to help children in foster care. But the larger systemic issues remain.

Solution: Create a separate private school LEA

Private school students with disabilities are entitled to federal support through Title I, the Individuals with Disabilities Education Act and other programs. But private schools are dependent on their local public school district, also known as a Local Education Agency (LEA), to receive those services, often leading to

complaints about a lack of responsiveness or communication.

Justin Moralez, Wisconsin director for the American Federation for Children, said creating a separate LEA to oversee federal funding of programs in private schools would not mean more direct funding for private schools but would allow for a more streamlined approach, better communication and more control.

“Instead of running through the pipeline of the public school district,” Moralez said, private schools would receive the money they’re entitled to directly from their own LEA.

Solution: A constitutional opening

There is ample motivation at this moment for change among Americans of all political persuasions. Conservatives are concerned about federal debt and the growth of bureaucracy, about centralized government and lack of accountability. But they are not the only ones.

“(I)f progressives can simply look outside the Beltway, they will find that they still have access to one of the most powerful weapons in politics: federalism,” wrote Heather K. Gerken, a constitutional and election law professor at Yale Law School. “(F)ederalism is a neutral and powerful tool for change, not an intrinsically conservative quirk of U.S. government.”⁶

Typically the mantra of conservatives, federalism is indeed a solution increasingly embraced by all Americans regard-

less of their politics. There are eat-local, shop-local and even brew-local movements across the country. Polls show that Americans also favor a govern-local approach to solving many of the nation’s problems.

Many liberal social causes have advanced initially at the local level. Meanwhile, conservative populists wary of government interference are receptive to arguments for devolution.

“The administrative state is already a populist rallying cry, even if not by that name,” wrote Stanley Kurtz, a senior fellow at the Ethics and Public Policy Center in Washington, D.C. “If some regulatory decisions still play out behind the scenes, the public has spotted the problem. Voters understand they’re being cut out of the loop by unaccountable bureaucrats, and they’re angry about it. . . . The foundation-stones of a populist war over the administrative state have been laid.”

Money is the other major driver. As noted early in this book, federal debt is ever-rising, and taxpayers are unhappy with state and local taxation and spending levels as well.

James Madison argued that “the people” must be “the primary control on government.” The people must step up and speak, and it must be with selflessness, because turning down federal money will hurt, at least initially. America needs to rediscover the value and necessity of abstemiousness, and sacrifice has to be shared or it will not be at all.

Madison's vision of distinct governments was brilliant but not enduring. The federal government controls the states, and there is no pushback, no real opposing check on national ambitions. The affection that citizens naturally would have for responsive, well-administered government closest to the people has largely dissipated. We have lost faith and trust, and that is the first step toward losing our democracy altogether.

We already have lost much of our money and time and liberty. We must devolve power back to the states before we lose the original promise of America as well.

Madison saw so much of the future. He saw the necessity of states with constitutional authority. He saw the opportunity for individual states working alone to preserve individual liberty. But he also, in the end, saw them working in concert to push back on the national government.

In Federalist 46, he wrote that “ambitious encroachments of the federal government” on the states would be met with opposition of more than just a single state or a few states only.

There “would be signals of general alarm. Every government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted.”

We hope this small book constitutes a first step.

¹ Neal McCluskey, “Cutting Federal Aid for K-12 Education,” Downsizing the Federal Government (April 21, 2016), downsizinggovernment.org/education/k-12-education-subsidies

² Ibid.

³ C.J. Szafir and Libby Sobic, “Wisconsin Educrats Have a Proposal – but It’s Dull and Conventional,” The Wall Street Journal (Aug. 18, 2017).

⁴ Tyler Koteskey, “Title I funding portability is key to ESEA reform,” The Hill (July 9, 2015), thehill.com/blogs/congress-blog/education/247300-title-i-funding-portability-is-key-to-esea-reform

⁵ Emmett McGroarty, Jane Robbins and Erin Tuttle, Deconstructing the Administrative State (2017).

⁶ Heather K. Gerken and Joshua Revesz, “Progressive Federalism: A User’s Guide,” Democracy, A Journal of Ideas (Spring No. 44), democracy-journal.org/magazine/44/progressive-federalism-a-users-guide/

CONTRIBUTORS



Dan Benson, editor of the Badger Institute's Project for 21st Century Federalism, has been an award-winning reporter and editor for over 30 years in California and Wisconsin, including lengthy stints with the Milwaukee Sentinel, Milwaukee Journal Sentinel, Sheboygan Press and Gannett Wisconsin. A native of Iowa and a graduate of Iowa State University, Benson has lived for over 25 years with his wife, Vicki, in Port Washington, where they reared their four children.



Dave Daley, reporter for the Project for 21st Century Federalism, has been a reporter for over 30 years at newspapers in Rockford, Ill., Dayton, Ohio, and Minneapolis. He covered the state Capitol in Madison for The Milwaukee Journal and legal affairs in Milwaukee for the Milwaukee Journal Sentinel. Daley, who served as a combat infantryman in Vietnam, lives on a small farm outside Waterford with his wife, Ann, and their teenage son.



Julie Grace recently completed an internship with the Badger Institute, working on the Project for 21st Century Federalism and other projects. She graduated in May 2018 with a master's degree in communication from Marquette University and a year earlier earned bachelor's degrees in journalism and political science from Marquette. In August of 2018, she began working as a Policy and Communications Advisor in the office of Wisconsin Lt. Gov. Rebecca Kleefisch.



Mike Nichols is president of the Badger Institute. From 2009 to 2013, he was a senior fellow at the institute, syndicated newspaper columnist and communications consultant. A graduate of Boston College and the University of Chicago, Nichols is also the author of "The Waking," a mystery published by HarperCollins, and "Just a Few Sleeps Away," a work of nonfiction focusing on the aftermath of the 9/11 terrorist attacks. He spent almost 20 years as an award-winning reporter and columnist for newspapers in Illinois and for the Milwaukee Journal Sentinel, where he often wrote about Wisconsin policy, politics and people. Nichols lives in Milwaukee with his wife, Jane. They have three children.

APPENDIX

School Board Members and Business Managers – Aggregated

Conducted July-August 2017

The Badger Institute sent survey invitations to 2,460 superintendents, school board members and business managers in all 424 Wisconsin public school districts to get their opinions on federal funding of local schools. Of 382 superintendents contacted, 119 (31 percent) completed the survey. Of 1,862 school board members, 258 (14 percent) completed the survey. Of 216 business managers, 74 (34 percent) completed the survey. All told, 451 of the 2,460 officials completed the survey, an 18 percent response rate.

The survey was conducted through Survey Monkey and sent via email. The questions were multiple choice, but respondents were given the opportunity to comment. Their answers and comments were anonymous unless the respondents gave permission for their names and titles to be published. Some respondents were contacted by phone or email for follow-up questions. To access the survey, respondents had to answer the first question. Not all who did so completed the survey. Only completed surveys were counted in the results.

1. All districts, as you know, rely upon a mix of funds from local/state and federal sources. (For our purposes, federal funds include those awarded directly to the district and those that flow through the state.) First, we'd like to know more about how your local school board oversees the various kinds of education funds spent in your district. In your view, does the school board pay very close attention, somewhat close attention or very little attention to the allocation of state/local funds?

Answer choices	Response Percentage	Responses
Very close attention	57.43%	259
Somewhat close attention	33.70%	152
Very little attention	8.65%	39
Don't know	0.22%	1
Total		451

2. What about funds received from the federal government? In your view, does the school board pay very close attention, somewhat close attention or very little attention to the allocation of funds received from the federal government?

Answer choices	Response percentage	Responses
Very close attention	38.80%	175
Somewhat close attention	43.46%	196
Very little attention	17.52%	79
Don't know	0.22%	1
Total		451

3. As you know, all school funds come with various reporting requirements and accompanying paperwork. We're wondering what impact these requirements have on teachers and staff. Let's start with the reporting requirements associated with state/local funds. Is satisfying state/local reporting requirements extremely, very, somewhat or not especially time-consuming?

Answer choices	Response percentage	Responses
Extremely time-consuming	19.07%	86
Very time-consuming	34.37%	155
Somewhat time-consuming	31.71%	143
Not especially time-consuming	6.65%	30
Don't know	8.20%	37
Total		451

4. What about those reporting requirements associated with federal funds? Are the requirements from the federal government extremely, very, somewhat or not especially time-consuming?

Answer choices	Response percentage	Responses
Extremely time-consuming	25.94%	117
Very time-consuming	39.25%	177
Somewhat time-consuming	23.95%	108
Not especially time-consuming	1.77%	8
Don't know	9.09%	41
Total		451

5. And what about the following two statements about reporting requirements from the federal government? Which comes closer to your view?

Answer choices	Response percentage	Responses
Federal government reporting requirements are critical for ensuring the necessary oversight and accountability of public schools.	40.80%	184
Federal government reporting requirements do very little to support the necessary oversight and accountability of public schools.	59.20%	267
Total		451

6. Which of the following statements most closely matches your district's experience in dealing with the reporting requirements for federal education funds?

Answer choices	Response percentage	Responses
Federal reporting requirements are so complex, contain so much red tape and compliance penalties are so onerous, the district has had to hire additional and/or expert staff to manage federal grant programs and oversee their implementation.	12.42%	56
Despite the challenges of satisfying federal reporting requirements, the district's regular business staff have been able to manage federal grant programs and their implementation.	68.74%	310
Budget constraints do not allow us to add staff to help manage federal grants, but we would do so if funds were available.	18.85%	85
Total		451

7. Which of the following statements comes closer to your view about the accompanying paperwork from the federal government?

Answer choices	Response percentage	Responses
Paperwork associated with federal education funding too often takes teachers and other staff away from the classroom and otherwise working with students.	59.42%	268
Paperwork associated with federal education funding does not disrupt the efforts of teachers and staff working with students.	40.58%	183
Total		451

8. As you know, federal grant programs require training of local school staff. About how many staff hours would you say your district personnel spend in federal grant program training per year?

Answer choices	Response percentage	Responses
Less than 20 hours	16.19%	73
20+ hours	21.06%	95
50+ hours	14.63%	66
100+ hours	7.32%	33
150+ hours	2.00%	9
200+ hours	2.00%	9
300+ hours	1.55%	7
400+ hours	0%	0
500+ hours	0.22%	1
Don't know	35.03%	158
Total		451

9. As you know, education funds also come with various restrictions on how the money is spent. Let's again start with local/state funds. In your view, are there a lot, some or not many restrictions imposed from outside the district on how local/state education money is spent in your district?

Answer choices	Response percentage	Responses
A lot of restrictions	16.22%	137
Some restrictions	56.76%	242
Not many restrictions	27.03%	45
Don't know	0%	27
Total		451

10. What about the federal government? In your view, does the federal government place a lot, some or not many restrictions on how education money is spent in your district?

Answer choices	Response percentage	Responses
A lot of restrictions	56.76%	256
Some restrictions	34.59%	156
Not many restrictions	2.22%	10
Don't know	6.43%	29
Total		451

11. In general and in your estimation, are federal funds for education often, sometimes, rarely or never wasted?

Answer choices	Response percentage	Responses
Often	2.66%	12
Sometimes	21.73%	98
Rarely	36.36%	164
Never	33.48%	151
Don't know	5.76%	26
Total		451

12. We're also interested in your views about accountability. In your view, is the way that federal funds are spent always, often, sometimes, hardly ever or never accountable to parents and taxpayers?

Answer choices	Response percentage	Responses
Always	24.17%	109
Often	27.49%	124
Sometimes	25.50%	115
Hardly ever	13.30%	60
Never	3.33%	15
Don't know	6.21%	28
Total		451

13. We also would like to know what you think would happen if spending restrictions on federal funds were relaxed. If local school officials had more discretion over how federal funds were spent, what do you think would happen to unnecessary or wasteful spending?

Answer choices	Response percentage	Responses
Wasteful spending would increase a great deal.	2.88%	13
Increase somewhat	14.41%	65
Neither increase nor decrease	31.71%	143
Decrease somewhat	14.19%	64
Decrease a great deal	11.53%	52
Don't know	5.54%	25
Total		451

14. What about accountability? If local school officials had more discretion over how federal funds were spent, do you think there would be much more, somewhat more, about the same, somewhat less or much less accountability in how federal funds are spent than there is now?

Answer choices	Response percentage	Responses
There would be much more accountability.	11.09%	50
Somewhat more	19.73%	89
About the same	50.11%	226
Somewhat less	10.86%	49
Much less accountability	3.33%	15
Don't know	4.88%	22
Total		451

15. What about innovation? If local school officials had more discretion over how federal funds are spent, do you think there would be much more, somewhat more, about the same, somewhat less or much less likely that your district would implement innovative ideas to improve your district and improve education for your students?

Answer choices	Response percentage	Responses
Much more likely	49.00%	221
Somewhat more likely	33.92%	153
About the same	13.30%	60
Somewhat less likely	1.11%	5
Much less likely	0.22%	1
Don't know	2.44%	11
Total		451

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16. Which of the following statements comes closer to your view?

Answer choices	Response percentage	Responses
Restrictions on how federal funds are spent harmfully distort the decisions that local school officials make on behalf of their students.	60.09%	271
Restrictions on how federal funds are spent help ensure that local school officials attend to the best interests of their students.	39.91%	180
Total		451

17. All things considered, do you think there are too many, about the right number or too few restrictions on how local districts can spend funds received from the federal government?

Answer choices	Response percentage	Responses
Too many restrictions	72.28%	326
About the right number	19.96%	90
Too few restrictions	0.67%	3
Don't know	7.10%	32
Total		451

18. Currently, about what percentage of local/state funds are used for direct instructional purposes, as distinct from strictly administrative, operational or support purposes?

Answer choices	Response percentage	Responses
0% - 10%	2.44%	11
11% - 20%	4.88%	22
21% - 30%	3.33%	15
31% - 40%	3.33%	15
41% - 50%	2.66%	12
51% - 60%	7.54%	34
61% - 70%	8.65%	39
71% - 80%	15.96%	72
81% - 90%	13.08%	59
91% - 100%	9.31%	42
Don't know	28.82%	130
Total		451

19. What about federal funds? About what percentage of funds from the federal government are used for direct instructional purposes?

Answer choices	Response percentage	Responses
0% - 10%	10.86%	49
11% - 20%	6.65%	30
21% - 30%	3.99%	18
31% - 40%	1.55%	7
41% - 50%	2.66%	12
51% - 60%	3.10%	14
61% - 70%	4.66%	21
71% - 80%	9.53%	43
81% - 90%	10.20%	46
91% - 100%	16.63%	75
Don't know	30.16%	136
Total		451

20. If local school officials had more discretion over how federal funds were spent, would more funds be allocated toward any of the following areas, or would spending priorities remain the same? (Check all that apply.)

Answer choices	Response percentage	Responses
Teachers and classroom instruction	68.51%	309
Support services	38.36%	173
Administration	4.21%	19
Operations	17.29%	78
Capital improvements	20.84%	94
Spending priorities would not change.	17.29%	78
Don't know	8.65%	39
Total		451

21. We're wondering what you think about how effectively federal funds are spent in categories tracked by the federal government. Let's start with money spent on instruction. In your view, are federal funds meant for the classroom (educating children, training and supporting teachers) in local schools always, often, sometimes, hardly ever or never spent in ways that effectively educate children?

Answer choices	Response percentage	Responses
Always	33.92%	153
Often	37.92%	171
Sometimes	18.85%	85
Hardly ever	1.77%	8
Never	0.22%	1
Don't know	7.32%	33
Total		451

22. What about federal funds used for non-classroom purposes, such as food service and transportation? Are these funds always, often, sometimes, hardly ever or never spent in ways that efficiently provide services to children?

Answer choices	Response percentage	Responses
Always	39.02%	176
Often	36.36%	164
Sometimes	14.63%	66
Hardly ever	2.66%	12
Never	0.67%	3
Don't know	6.65%	30
Total		451

23. What about federal funds spent on administration? Are these funds always, often, sometimes, hardly ever or never spent in ways that effectively contribute to the efficient and smooth operation of your district?

Answer choices	Response percentage	Responses
Always	27.05%	122
Often	29.27%	132
Sometimes	19.96%	90
Hardly ever	7.32%	33
Never	2.00%	9
Don't know	14.41%	65
Total		451

24. Let's now think about federal involvement in education generally – funding, regulations, restrictions, and the like. In your view, federal involvement in local education should be:

Answer choices	Response percentage	Responses
Increased	7.98%	36
Remain the same	20.18%	91
Reduced	55.43%	250
Eliminated	9.98%	45
Don't know	6.43%	29
Total		451

25. Now we just have a few questions about your school district. Approximately how many students are in your district?

Answer choices	Response percentage	Responses
Fewer than 500	26.16%	118
501 - 1,000	26.61%	120
1,001 - 2,000	25.06%	113
2,001 - 3,000	7.54%	34
More than 3,000	13.53%	61
Don't know	1.11%	5
Total		451

26. What grade levels are offered in the public schools in your district? (Check all that apply.)

Answer choices	Response percentage	Responses
Pre-Kindergarten	95.57%	431
Elementary school grades	96.67%	436
Middle school grades	96.23%	434
High school grades	90.47%	408
Don't know	1.11%	5
Total		451

27. Would you describe your district as urban, suburban or rural?

Answer choices	Response percentage	Responses
Urban	5.76%	26
Suburban	15.30%	69
Rural	77.83%	351
Don't know	1.11%	5
Total		451

Badger Institute Survey of Teachers**Conducted Nov. 7-Dec. 8, 2017**

The Badger Institute sent survey invitations to 4,318 teachers and other school staff who were reported by the Wisconsin Department of Public Instruction to work under federally funded programs in public school districts throughout the state. Only completed surveys from 347 teachers and teaching aides confirmed to be working directly with students and confirmed to be paid at least partially with federal funds were counted in the results. Teachers in Milwaukee Public Schools were not surveyed because the Badger Institute was not granted access.

1. To begin, we'd like to know a little about the job you do. Are you full time or part time?

Answer choices	Responses	
Full time	92.22%	320
Part time	7.78%	27
Total		347

2. Are you a teacher, counselor/social worker, aide, administrator or something else?

Answer choices	Responses	
Teacher	72.05%	250
Aide	19.88%	69
Other (please specify)	8.07%	28
Total		347

3. We're also wondering about your general job satisfaction. How satisfied are you with your current job?

Answer choices	Responses	
Extremely satisfied	32.85%	114
Somewhat satisfied	50.72%	176
Somewhat dissatisfied	12.10%	42
Extremely dissatisfied	4.32%	15
Total		347

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4. What would make your job more satisfying? (Check all that apply.)

Answer choices	Responses	
More money	65.24%	214
Fewer work hours	11.89%	39
Less paperwork and regulations to follow	50.61%	166
More productive and collaborative meetings	33.54%	110
Fewer meetings	20.43%	67
Stronger community/parent support	28.35%	93
Increased student engagement	22.56%	74
Smaller class sizes	22.26%	73
Other (please specify)	24.70%	81
Total respondents		328

5. And what about the job satisfaction of your colleagues? How satisfied would you say your colleagues are in their current jobs?

Answer choices	Responses	
Extremely satisfied	9.83%	34
Somewhat satisfied	63.58%	220
Somewhat dissatisfied	21.68%	75
Extremely dissatisfied	4.91%	17
Total		346

6. What, in your view, would make their jobs more satisfying? (Check all that apply.)

Answer choices	Responses	
More money	63.72%	209
Fewer work hours	19.51%	64
Less paperwork and regulations to follow	60.37%	198
More productive and collaborative meetings	33.54%	110
Fewer meetings	36.89%	121
Stronger community/parent support	35.37%	116
Increased student engagement	29.88%	98
Smaller class sizes	37.80%	124
Other (please specify)	17.07%	56
Total respondents		328

7. You are asked to do many things. We're interested in how much time you spend on them. In a typical week, how many hours, on average, do you spend on the following tasks (include a number from 0 to 40, or more, for each category)?

Only those respondents who identified as a "full-time teacher" are included in this answer.

Answer choices	Average hours/week	Responses
In-class teaching	27.80	330
Grading	3.20	285
Meeting with fellow teachers and administrators	4.06	324
Meeting with parents	1.80	296
Paperwork, training and other tasks associated with government grant programs	7.06	314
Other	8.07	188
Total	51.99	240

8. We often hear that there is a lot of paperwork and other duties associated with federal funding of schools. If you no longer had to complete the paperwork, training and other administrative tasks associated with federal government grants, what would you do with the time that became available to you? (Check all that apply.)

Answer choices	Responses
Work in the classroom and tutor students	56.20% 195
Prepare lesson plans	52.16% 181
Acquire additional training, education or otherwise better myself as a teacher/staff person	45.24% 157
Spend more time outside the school with family and friends	44.38% 154
Nothing would change	2.59% 9
I have no paperwork requirements or non-classroom duties related to government grants	13.54% 47
Don't know	7.20% 25
Other (please specify)	6.34% 22
Total	347

113 / FEDERAL GRANT\$STANDING: Badger Institute

9. Now we're interested in how you think funds from the federal government are utilized. If local school officials had more discretion over how these federal funds were spent, do you think there would much more, somewhat more, about the same, somewhat less or much less accountability to parents and taxpayers than there is now?

Answer choices	Responses	
There would be much more accountability	9.51%	33
Somewhat more	18.16%	63
About the same	31.70%	110
Somewhat less	5.19%	18
Much less accountability	5.76%	20
Don't know	29.68%	103
Total		347

10. If local school officials had more discretion over how federal funds were spent, do you think there would be much more, somewhat more, about the same, somewhat less or much less innovation in meeting the needs of students than there is now?

Answer choices	Responses	
There would be much more innovation	21.90%	76
Somewhat more	30.55%	106
About the same	20.75%	72
Somewhat less	4.32%	15
Much less innovation	2.02%	7
Don't know	20.46%	71
Total		347

11. Speaking of innovation, have you ever wanted to try an innovative approach to your job but were prevented from doing so by federal rules and regulations?

Answer choices	Responses	
Yes	35.45%	123
No	39.48%	137
Don't know	25.07%	87
Total		347

12. Have new, innovative ideas about how to approach your job or meet the needs of children ever been directed to the local level from the federal government?

Answer choices	Responses	
Yes	21.04%	73
No	22.19%	77
Don't know	56.77%	197
Total		347

13. Which of the following statements comes closer to what you think about federal paperwork and training requirements?

Answer choices	Responses	
Federal paperwork and training requirements hinder me from meeting the educational needs of students.	42.07%	146
Federal paperwork and training requirements help me stay focused on the educational needs of students.	20.17%	70
I don't deal with federal paperwork.	37.75%	131
Total		347

14. And how about these two statements regarding the effect of federal regulations? Which comes closer to your view?

Answer choices	Responses	
Federal regulations over school funding harmfully distort decisions teachers and local school officials make on behalf of their students.	56.07%	194
Federal regulations over school funding help ensure teachers and local school officials attend to the best interests of their students.	43.93%	152
Total		346

115 / FEDERAL GRANT\$TANDING: Badger Institute

15. In your view, the federal government's role in local education should be:

Answer choices	Responses	
Substantially increased	2.02%	7
Increased	5.19%	18
Remain the same	24.21%	84
Reduced	34.29%	119
Substantially reduced	14.70%	51
Eliminated	2.88%	10
Don't know	16.71%	58
Total		347

16. Now we'd like to know a little about yourself and the school district where you work. How many years have you been a teacher/school staff member?

Answer choices	Responses	
1-4 years	10.95%	38
5-9 years	17.58%	61
10-19 years	34.01%	118
20+ years	37.46%	130
Total		347

17. How many years have you worked in your current school district?

Answer choices	Responses	
1-4 years	19.36%	67
5-9 years	26.88%	93
10-19 years	35.55%	123
20+ years	18.21%	63
Total		346

18. What grade levels do you teach/counsel?

Answer choices	Responses	
Pre-K/Kindergarten	15.90%	55
Elementary	45.38%	157
Middle school	14.74%	51
High school	19.65%	68
I don't teach/counsel	4.34%	15
Total		346

19. Would you describe your district as urban, suburban or rural?

Answer choices	Responses	
Urban	17.29%	60
Suburban	23.05%	80
Rural	59.65%	207
Total		347

20. How many students attend school in your district?

Answer choices	Responses	
Less than 1,000	38.33%	133
1,000-2,500	24.78%	86
2,501-5,000	9.22%	32
5,001-10,000	10.66%	37
More than 10,000	10.37%	36
Don't know	6.63%	23
Total		347

117 / FEDERAL GRANTSTANDING: Badger Institute

Badger Institute Survey of Private School Administrators Conducted Jan. 22-Feb. 19, 2018

The Badger Institute sent survey invitations to 562 private school principals or administrators statewide. Of those, 164 completed the survey, a 29 percent response rate.

**1. Aside from food and transportation, which federally funded services do your students or teachers receive?
(Check all that apply.)**

Answer choices	Responses	
Title I (disadvantaged students)	68.29%	112
Title II (teacher quality)	86.59%	142
Title III (English language learners)	17.07%	28
Title IV (21st Century Schools)	20.12%	33
Title V (innovative programs, gifted students)	0.61%	1
IDEA (disabled students)	17.68%	29
Supplemental Education Services (i.e., after-school programs)	1.83%	3
Other (please specify)	11.59%	19
Total respondents		164

2. How many students are enrolled in your school?

Answer choices	Responses	
Less than 250	78.05%	128
251-500	17.68%	29
501-1,000	4.27%	7
1,001-2,000	0%	0
More than 2,000	0%	0
Total		164

3. What percentage of students in your school receives federally funded services other than food service or transportation?

Answer choices	Responses	
0-5%	52.44%	86
6-10%	22.56%	37
11-20%	7.93%	13
21-30%	6.10%	10
31-50%	5.49%	9
More than 50%	5.49%	9
Total		164

4. Do you believe all your students who are legally entitled to receive federally funded services are receiving those services?

Answer choices	Responses	
Yes	56.71%	93
No	43.29%	71
Total		164

5. If no, what percentage of your total enrollment is entitled to receive services but is not receiving them?

Answer choices	Responses	
1-5%	18.90%	31
6-10%	12.80%	21
11-20%	4.27%	7
21-30%	4.88%	8
31-40%	2.44%	4
41-50%	0%	0
More than 50%	1.22%	2
All students in our school who are entitled to services are receiving those services.	55.49%	91
Total		164

119 / FEDERAL GRANT\$ANDING: Badger Institute

6. Who chooses federally funded staff who work in your school?

Answer choices	Responses	
We do under the auspices of the public school district	27.44%	45
The public school district	59.15%	97
A third party contracted by the public school district	13.41%	22
Total		164

7. Who oversees federally funded staff who work in your school?

Answer choices	Responses	
We do under the auspices of the public school district	29.88%	49
The public school district	57.93%	95
A third party contracted by the public school district	12.20%	20
Total		164

8. Are you satisfied with the timeliness of the funding of federally funded services to your students and teachers?

Answer choices	Responses	
Yes	76.22%	125
No	23.78%	39
Total		164

9. Overall, are you satisfied with the federally funded services provided to your students and teachers?

Answer choices	Responses	
Yes	68.29%	112
No	31.71%	52
Total		164

10. Does your public school district make it easy or difficult for you to access federally funded services for your students?

Answer choices	Responses	
Extremely easy	5.49%	9
Easy	65.85%	108
Difficult	25.61%	42
Extremely difficult	3.05%	5
Total		164

11. Does your public school district make it easy or difficult for you to access federally funded Title II professional development services for your teachers?

Answer choices	Responses	
Extremely easy	11.59%	19
Easy	58.54%	96
Difficult	25.61%	42
Extremely difficult	4.27%	7
Total		164

12. If accessing federally funded services is difficult, why do you think that is? (Check all that apply.)

Answer choices	Responses	
Public school officials are ignorant about our right to “timely and meaningful consultation.”	8.54%	14
Public school officials don’t want to share the federal funds they receive.	16.46%	27
Public school officials don’t think we want or care to participate.	5.49%	9
We are a religious school, and public school officials think federal funds should not or cannot be used to serve our children and teachers.	16.46%	27
It is not difficult.	55.49%	91
Other	23.17%	38
Total respondents		164

121 / FEDERAL GRANT\$ANDING: Badger Institute

13. Do federal regulations sometimes prevent your students from receiving the services they need in the way you desire?

Answer choices	Responses	
Yes	62.20%	102
No	37.80%	62
Total		164

14. Do you think at least some, a lot or no federal grant money is wasted for reasons beyond your control?

Answer choices	Responses	
At least some	72.56%	119
A lot	13.41%	22
None	14.02%	23
Total		164

15. Which of the following statements comes closer to what you think about federal paperwork and training requirements?

Answer choices	Responses	
Federal paperwork, regulations and training requirements help teachers and officials at our school stay focused on the educational needs of students.	14.63%	24
Federal paperwork, regulations and training requirements hinder teachers and officials at our school from meeting the educational needs of students.	43.29%	71
Federal regulations have little or no effect on our school.	42.07%	69
Total		164

16. Which of the following statements comes closer to your view about the effect of federal regulations?

Answer choices	Responses	
Federal regulations regarding school funding harmfully distort decisions our teachers and school officials make on behalf of our students.	27.44%	45
Federal regulations regarding school funding help ensure our teachers and school officials attend to the best interests of our students.	26.83%	44
Federal regulations have little or no effect on our school.	45.73%	75
Total		164

17. Which statement most closely reflects your view?

Answer choices	Responses	
Private schools need more flexibility and control over how their students and teachers are served by federally funded programs.	81.71%	134
The current system, in which money generally flows through the state and local public school districts, is logical and effective and serves our students and teachers well.	18.29%	30
Total		164

18. Should the federal government's role in education be:

Answer choices	Responses	
Expanded	6.71%	11
Stay the same	18.29%	30
Reduced	49.39%	81
Eliminated	9.76%	16
Don't know	15.85%	26
Total		164

123 / FEDERAL GRANT\$ANDING: Badger Institute

19. Now we'd like to know a little bit about yourself and your school. Did you previously work in a public school?

Answer choices	Responses	
Yes, as a teacher	22.56%	37
Yes, as an administrator	6.71%	11
Yes, as both a teacher and administrator	6.71%	11
No	64.02%	105
Total		164

20. If you did work in a public school, did your experience with the federal government's role in public education have anything to do with why you now work in a private school?

Answer choices	Responses	
Yes	8.54%	14
No	24.39%	40
I did not previously work in a public school.	67.07%	110
Total		164

21. What grade levels are included in your school? (Check all that apply.)

Answer choices	Responses	
Pre-kindergarten	76.22%	125
Elementary	85.37%	140
Middle school	80.49%	132
High school	21.95%	36
Total respondents		164

22. Is your school religious or secular?

Answer choices	Responses	
Religious	92.07%	151
Secular	7.93%	13
Total		164

23. What is the setting of your school?

Answer choices	Responses	
Rural	31.10%	51
Suburban	39.63%	65
Urban	29.27%	48
Total		164

Badger Institute Survey of Milwaukee Public Schools Teachers
Conducted February 2018

The Badger Institute sent survey invitations to 1,112 special education teachers in Milwaukee Public Schools. Of those, 316 completed the survey, a 28 percent response rate.

1. To begin, do you know whether you are paid at least partially with federal funds?

Answer choices	Responses	
Yes, I am	32.85%	136
No, I am not	0%	0
I'm not sure	67.15%	278
Total		414

2. We'd like to know a little about the job you do. Are you full time or part time?

Answer choices	Responses	
Full time	87.66%	277
Part time	12.44%	39
Total		316

3. Are you a teacher, aide or something else?

Answer choices	Responses	
Teacher	39.87%	126
Aide	43.99%	139
Other (please specify)	16.14%	51
Total		316

4. We're also wondering about your general job satisfaction. How satisfied are you with your current job?

Answer choices	Responses	
Extremely satisfied	25.63%	81
Somewhat satisfied	52.22%	165
Somewhat dissatisfied	15.82%	50
Extremely dissatisfied	6.33%	20
Total		316

5. What would make your job more satisfying? (Check all that apply.)

Answer choices	Responses	
More money	83.23%	263
Fewer work hours	10.76%	34
Less paperwork and regulations to follow	31.65%	100
More productive and collaborative meetings	27.85%	88
Fewer meetings	26.27%	83
Stronger community/parent support	50%	158
Increased student engagement	29.11%	92
Smaller class sizes	38.61%	122
Other (please specify)	23.73%	75
Total		316

6. And what about the job satisfaction of your colleagues? How satisfied would you say your colleagues are in their current jobs?

Answer choices	Responses	
Extremely satisfied	8.23%	26
Somewhat satisfied	51.58%	163
Somewhat dissatisfied	29.11%	92
Extremely dissatisfied	11.08%	35
Total		316

7. What, in your view, would make their jobs more satisfying? (Check all that apply.)

Answer choices	Responses	
More money	72.47%	229
Fewer work hours	14.87%	47
Less paperwork and regulations to follow	56.33%	178
More productive and collaborative meetings	34.81%	110
Fewer meetings	42.09%	133
Stronger community/parent support	53.16%	168
Increased student engagement	37.03%	117
Smaller class sizes	56.96%	180
Total		316

8. You are asked to do many things. We're interested in how much time you spend on them. In a typical week, how many hours, on average, do you spend on the following tasks?

Only those respondents who identified as working "full time" are included in this answer.

Answer choices	Average Hours/Week	Responses
In-class teaching	17.5 hours	277
Grading	4 hours	205
Meeting with fellow teachers and administrators	4.5 hours	223
Meeting with parents	1.5 hours	205
Paperwork, training and other tasks associated with government grant programs	8 hours	199
Other	7.5 hours	101
Total individual responses	43 hours	316

9. We often hear that there is a lot of paperwork and other duties associated with federal funding of schools. If you no longer had to complete the paperwork, training and other administrative tasks associated with federal government grants and programs, what would you do with the additional time that became available to you? (Check all that apply.)

Answer choices	Responses
Work in the classroom and tutor students	53.80%
Prepare lesson plans	42.41%
Acquire additional training, education or otherwise better myself as a teacher/staff person	37.97%
Spend more time outside the school with family and friends	26.90%
Nothing would change	2.53%
I have no paperwork requirements or non-classroom duties related to federal grants and programs	21.20%
Don't know	13.29%
Total individual responses	316

10. Now we're interested in how you think funds from the federal government are utilized. If local school officials had more discretion over how these federal funds were spent, do you think there would much more, somewhat more, about the same, somewhat less or much less accountability to parents and taxpayers than there is now?

Answer choices	Responses	
There would be much more accountability	19.30%	61
Somewhat more	19.30%	61
About the same	18.99%	60
Somewhat less	3.80%	12
Much less accountability	6.01%	19
Don't know	32.59%	103
Total		316

11. If local school officials had more discretion over how federal funds were spent, do you think there would much more, somewhat more, about the same, somewhat less or much less innovation in meeting the needs of students than there is now?

Answer choices	Responses	
There would be much more innovation	24.68%	78
Somewhat more	24.68%	78
About the same	15.51%	49
Somewhat less	3.16%	10
Much less innovation	4.11%	13
Don't know	27.85%	88
Total		316

12. Speaking of innovation, have you ever wanted to try an innovative approach to your job but were prevented from doing so by federal rules and regulations?

Answer choices	Responses	
Yes	31.01%	98
No	30.70%	97
Don't know	38.29%	121
Total		316

13. Have new, innovative ideas about how to approach your job or meet the needs of children ever been directed to the local level from the federal government?

Answer choices	Responses	
Yes	21.84%	69
No	19.62%	62
Don't know	58.54%	185
Total		316

14. Which of the following statements comes closer to what you think about federal paperwork and training requirements?

Answer choices	Responses	
Federal paperwork and training requirements hinder me from meeting the educational needs of students.	30.38%	96
Federal paperwork and training requirements help me stay focused on the educational needs of students.	12.97%	41
I don't deal with federal paperwork.	56.65%	179
Total		316

15. And how about these two statements regarding the effect of federal regulations? Which comes closer to your view?

Answer choices	Responses	
Federal regulations over school funding harmfully distort decisions teachers and local school officials make on behalf of their students.	56.33%	178
Federal regulations over school funding help ensure teachers and local school officials attend to the best interests of their students.	43.67%	138
Total		316

16. In your view, the federal government's role in local education should be:

Answer choices	Responses	
Substantially increased	11.71%	37
Increased	9.81%	31
Remain the same	13.92%	44
Reduced	22.47%	71
Substantially reduced	12.66%	40
Eliminated	4.11%	13
Don't know	25.32%	80
Total		316

17. Now we'd like to know a little about yourself. How many years have you been a teacher/school staff member?

Answer choices	Responses	
1-4 years	10.44%	33
5-9 years	18.35%	58
10-19 years	34.18%	108
20+ years	37.03%	117
Total		316

18. How many years have you worked in your current school?

Answer choices	Responses	
1-4 years	30.06%	95
5-9 years	33.54%	106
10-19 years	23.42%	74
20+ years	12.97%	41
Total		316

19. What grade levels do you teach?

Answer choices	Responses	
Pre-K/Kindergarten	11.71%	37
Elementary	28.48%	90
Middle school	12.34%	39
High School	31.01%	98
I don't teach	16.46%	52
Total		316

PRAISE FOR "FEDERAL GRANT\$TANDING"

"Liberals and conservatives alike value community, local control, diversity, and quality services, but the rise in federal grants to states centralizes power in a faraway capital, raises costs, undermines accountability, and sows distrust in government. The Badger Institute provides a superb account of the harm that the \$700 billion system does to sound government in Wisconsin, and they dig up eye-opening examples of inherent waste. The book is chock full of unique data and survey information, but the findings are applicable to every state in the nation. The Badger scholars are right that it is time for D.C. policymakers to rein in the costly federal aid system."

— Chris Edwards, Cato Institute

EXCERPTS

The Badger Institute's surveys and interviews show there is more disquietude and repugnance, to borrow a few words from James Madison, out here in the hinterlands than politicians in either Washington or Madison realize. The flow of federal money that for so long has increased politicians' popularity is also slowly undermining their credibility.

The price of continuing apace – the incessant growth of federal debt, the loss of time and money and ingenuity at the state and local level, diminished trust in our leaders — is threatening the dual system of governance that the founding fathers envisioned.

Fortunately, reform, while difficult, is possible.

We hope this small book will prompt others to express their concerns as well, that the states and their citizens will reconsider the clamor for federal money, that our federal leaders will begin to once again respect the independence of the states that is so essential to our democracy — indeed, to America's future.



The Badger Institute, formerly the Wisconsin Policy Research Institute, is a nonpartisan, not-for-profit institute established in 1987 working to engage and energize Wisconsinites and others in discussions and timely action on key public policy issues critical to the state's future, growth and prosperity. The institute is guided by a belief that competitive free markets, limited government, private initiative and personal responsibility are essential to our democratic way of life.