Democracy and Agency



Restoring accountability in Wisconsin government

By Mark Lisheron

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Citizens say they want accountable and transparent government, and politicians say they agree. Yet Wisconsin's state government frequently falls short of delivering it.

This chapter, based on research and reporting published by the Badger Institute, argues that some of Wisconsin's most important recent failures of accountability share a common feature: Power has increasingly shifted away from the Legislature and toward governors, agencies, courts and other institutions that operate further from direct democratic control.

Key points and policy recommendations include:

- Across regulation, budgeting, workplace policy and federal spending, important decisions have increasingly been made by governors, agencies and courts rather than by the branch of government most directly accountable to the public: the Legislature.
- The state Supreme Court's decision in the 2025 Evers v. Marklein case weakened the Joint Committee for Review of Administrative Rules and diminished a legislative check on agency rulemaking that had existed for roughly 60 years. Wisconsin should complete the constitutional amendment process to re-empower the JCRAR and restore an important legislative check on the regulatory process.
- Wisconsin has one of the most extensive partial veto powers in the United States. This gives governors the power to essentially rewrite, rather than simply approve or reject, legislation. The state should use the constitutional amendment process to substantially curtail the partial veto. Lawmakers have twice approved a proposed constitutional amendment that would prohibit governors from using the partial veto to create or increase taxes and fees. The question now goes to voters in November.
- Emergency-era telework practices in state government have remained in place post-pandemic without basic documentation, productivity analysis or legislative review. Given evidence that hybrid work, not fully remote work, has become the mainstream model in the broader economy, Wisconsin should default toward requiring state employees to work in the office at least some of the time, while requiring agencies to justify and disclose any broader telework arrangements under standards identified by the Legislative Audit Bureau.
- Federal funds represent the largest category of public spending in Wisconsin operating outside normal legislative oversight. The Legislature should require regular Department of Administration reporting on federal spending, should expand audit authority to include outcomes rather than only compliance, and should revisit legislative involvement in federal fund allocation.
- These reforms would not solve every problem of public trust, but they would move Wisconsin in the right direction by reasserting a basic democratic principle: In a representative government, the most important public decisions should be made, or at least clearly supervised, by the elected branch closest to the people.

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Introduction

Politicians recognize that citizens view accountable and transparent government as vital for American democracy and so speak about these principles frequently. Unfortunately, many Americans are losing confidence that the actions of their elected officials are aligned with these words.

Polls for at least two decades suggest strongly that people believe their elected officials are failing them. Marquette University Law School in December 2025 found that nearly a fifth of the people responding to its nationwide poll said they never trust the government.[1] Another 61 percent were willing to say they trusted the government only some of the time. A poll done about the same time by the Pew Research Center found that only 2 percent trusted the government "just about always" and 15 percent "most of the time." Trust in government, Pew concluded, is near the lowest it has been since polling began nearly 70 years ago.[2]

In Wisconsin there is compelling recent evidence that these concerns are justified. In April 2022, after we had launched an investigation that became a series, "Tracking the Trillions,"[3] we ran a story predicting the staggering amount of fraud in COVID-19 federal spending we are seeing years later in Minnesota and California. The story's headline said there was a "Dire need of accountability."[4] Four years later, "dire" isn't too strong a word.

This chapter, based on research and reporting over the past several years published by the Badger Institute, argues that in Wisconsin some of the most important recent failures of accountability share a common feature: power has increasingly shifted away from the Legislature and toward governors, agencies, and other institutions that operate further from direct democratic control. It also identifies practical opportunities for reform.

Recent developments in Wisconsin

State supreme court has weakened legislative oversight of regulation

In 1966, a Democrat-controlled Assembly and a Republican-controlled Senate, together with Republican Gov. Warren Knowles, created the Joint Committee for Review of Administrative Rules (JCRAR) to strengthen legislative oversight of agency rulemaking and to help prevent unelected regulators from expanding the reach of state government without clear approval from elected lawmakers. The committee was designed

to address concerns that regulations created by agency heads were increasingly competing for attention with laws written and proposed by elected representatives. More specifically, it gave legislators a formal process by which to object to, delay, or seek changes to regulations. For 60 years, the JCRAR served as a useful check on agency rulemaking and helped ensure legislative input to the regulatory process.

However, in its 2025 Evers vs. Marklein decision, widely dubbed "Marklein II," the state Supreme Court narrowly ruled in favor of Gov. Tony Evers in his argument that the JCRAR held too much power that should be in the hands of the executive branch. The court's decision essentially neutered the JCRAR and greatly expanded agencies' ability to enact new regulations without legislative input.[5]

The reaction among the minority on the court was disbelief.

"Nowhere in the constitution did the people of Wisconsin consent to be governed by rules imposed by the administrative state rather than laws passed by their elected representatives," dissenting Justice Rebecca Bradley wrote.

Bureaucrats didn't wait long to take advantage. The Wisconsin Department of Agriculture, Trade and Consumer Protection served up a regulatory increase in licensing fees for livestock markets from $420 to $7,430, until bad publicity from the Badger Institute and other media outlets prompted its withdrawal.[6]

"I think they faced some backlash," state Rep. Adam Neylon, a Pewaukee Republican and co-chair of the JCRAR, told the Badger Institute in April, eight months after the fee hike was abandoned. "The public took notice of what happens when you take the Rules Committee oversight out of the equation."

The state Supreme Court's JCRAR decision exacerbates a problem of regulatory overreach that already was evident prior to the ruling. There are more than 165,000 regulations in the Wisconsin Administrative Code, second to Illinois in the Midwest and 13th in the country.[7] Given extensive evidence that overregulation can undermine economic growth, the lack of legislative oversight of agency activity is an economic problem for Wisconsin as well as a problem for democratic accountability.

For both of these sets of reasons, prior the Supreme Court ruling, Neylon and other Republican legislators introduced a package of regulatory reform bills that came to be known as the "Red Tape Reset."

The lawmakers cited research estimating that if the state reduced its regulations by 20 percent, it would add $32 billion in economic growth over a decade. A 40 percent reduction could mean $68 billion over the same period. This is consistent with research from other states. One analysis published in Governing magazine estimated that Virginia's regulatory reform resulted in savings estimated at $1.4 billion.[8] Idaho has saved tens of millions of dollars by passing its own Red Tape Reduction Act in 2019.[9] Arizona and Ohio lawmakers passed their own cost-saving versions.

However, Evers vetoed the Red Tape Reset package on March 20, 2026. Far from seeing regulatory reform as liberating for the public, Evers argued that the package's increased legislative oversight would interfere with unelected bureaucrats doing what his veto message[10] termed as "the People's Work."

State Rep. Daniel Knodl, R-Germantown, a member of the state's Assembly Committee on Government Operations, Accountability and Transparency, has described the combined effect of the Supreme Court's decision on the JCRAR and the veto of the Red Tape Reset bills as a continuation of pre-existing trends. He asserts the Legislature has been "ceding authority for decades." He spoke in stark terms about the implications of the most recent developments: "Now we have a Supreme Court that is dialing back even more of our authority. Quite frankly, we're on a path of irrelevance as a legislature."

Legislators have begun the process of attempting to reassert their authority over the regulatory process. In February 2026, both houses passed Assembly Joint Resolution 133,[11] a constitutional amendment that would essentially override the Evers vs. Marklein decision and restore the legislative check on agency rulemaking. To come into force, the resolution must pass again in the next legislative session and then be approved by voters in a referendum.

The limits of the Red Tape reset package, as well as the fact it was ultimately vetoed by Evers, illustrates the urgency of such a constitutional amendment to restore a functioning and effective JCRAR. Completing the process of bringing that amendment into force is the best way for the state government and Wisconsinites to help restore appropriate legislative



involvement in rulemaking and to prevent further overregulation from undermining the state's economic prospects.

Expansive partial veto power

One of the most concerning issues related to democratic accountability and the erosion of legislative control of the policy process is Wisconsin's partial veto power. The governor's office was granted the power in 1930, when Wisconsin's constitution was amended to allow the executive to veto budget bills "in whole or in part."

Legal scholars frequently identify the partial veto as a mechanism by which governors can essentially rewrite legislation. This runs counter to the customary American understanding that the head of an executive branch either approves or rejects laws as they are passed by the legislative branch. By discarding crucial words, clauses and numbers, Wisconsin's governors can effectively change bills that they sign so that approved measures do not reflect what legislators intended.

Many states have partial vetoes, but Wisconsin's is one of the, if not *the,* broadest in the United States. Unlike many states where governors can generally eliminate or reduce spending items, Wisconsin's governors are able to strike words, numbers and punctuation from appropriation bills in ways that fundamentally change the meaning of laws, spending amounts that were never approved by the Legislature. The Wisconsin Legislative Reference Bureau has described Wisconsin's partial veto as one of the most extensive in the nation.[12]

That broad authority has been used freely by Democratic and Republican governors. Republican Tommy Thompson issued 457 partial vetoes. Democrat Patrick Lucey was the first to remove numbers and words to countermand a legislative initiative by $20 million.

A particularly egregious use occurred in 2023, when Evers used his veto to turn a temporary, two-year increase in school district revenue limits into a series of annual increases that will continue until the year 2425. The absurdity of this action is expressed in the nickname it has been given, the "Vampire Veto."[13]

There is clear action that Wisconsin can take to help address this problem, and that action already is in motion. In March, the Legislature approved, for the second consecutive session, a constitutional amendment to greatly reduce the scope of the partial veto. The proposal, Senate Joint Resolution 116, now will go to voters in a referendum, asking whether they want "to prohibit the governor, in exercising his or her partial veto authority, from creating or increasing or authorizing the creation or increase of any tax or fee."[14]

This would not end all possible abuses of the partial veto. The "Vampire Veto" for instance, would still be possible. However, it would be a major reduction in Wisconsin governors' uniquely expansive partial veto power — if approved by voters, one that cannot be vetoed by the governor.

Telework adoption without accountability or oversight in state government

The pattern of executive branch decision-making without legislative input that has weakened regulatory accountability has shaped how Wisconsin's state workforce now operates.

An investigation by the Badger Institute in April 2025 indicated that as many as half of Wisconsin's 29,000 state employees worked remotely all the time, with at least 10,000 more working at least some of the time from home.[15]

The Legislative Audit Bureau, in a December 2023 report, said bluntly that nearly three years after workers were sent home because of COVID-19, no one in state government could say how well it was working out.[16]

Agency heads didn't know where their employees were at any given time during the week and had documented none of it. The Audit Bureau recommended wholesale documenting of the work, proof of remote work agreements, and an overall review of office space requirements. Sixteen months later, those recommendations have largely been ignored, and agency heads couldn't tell the chair of an accountability and transparency committee much of anything.

"What we've learned is what was an emergency situation just became permanent, with no framework in place for telework," state Rep. Amanda Nedweski, R-Pleasant Prairie, chair of the Assembly Committee on Government Operations, Accountability and Transparency (GOAT), told the Badger Institute. "There has been no productivity analysis, no data to support telework. From the agencies we've talked to, they can't tell where an employee is on any given day."

That absence of accountability is especially striking because full-time remote work is no longer the norm for most employers with experience managing remote-capable jobs. Some remote work can be effective, and hybrid arrangements can help with productivity and employee recruitment.

But evidence increasingly points toward hybrid work, not fully remote work, as the mainstream model. Pew Research Center found that among workers who are not fully remote, 75 percent say their employer requires them to be in person a certain number of days per week or month, up from 63 percent in early 2023. Pew also found that among hybrid workers, only 24 percent would choose to work from home all the time, while 72 percent would choose a hybrid arrangement.[17]

The state therefore should not simply allow emergency-era full-time remote work to harden into permanent practice. Its default position should be that employees work in the office at least some of the time, unless agencies can justify a different arrangement through clear documentation, productivity analysis, and legislative review.

Nedweski's Assembly Bill 39, to send all state employees working remotely back to their agencies' offices, was one response.[18] Nedweski made clear she was not an opponent of remote work but

pointed out that even left-leaning states like Minnesota and California were recalling their employees to the office. The bill passed narrowly in the Assembly and Senate but was vetoed by Evers on Halloween 2025.

The veto left in place an arrangement that even the state's own auditors have described as undocumented and unmonitored. The specific question of how state employees should work is one on which reasonable people will disagree. But given the evidence that hybrid work, not fully remote work, has become the mainstream model, Wisconsin should default toward requiring state employees to work in the office at least some of the time, while requiring agencies to justify and disclose any broader telework arrangements under standards already identified by the Legislative Audit Bureau.

Wisconsin's accountability gap for use of federal funds

The largest category of public spending in Wisconsin that operates outside normal legislative oversight is federal funds. The Legislative Audit Bureau reports that the state administered $18.2 billion in federal funds in 2024-25, including $1.2 billion from the American Rescue Plan Act passed more than five years earlier.[19] Wisconsin received $2.5 billion from ARPA in total, the second trillion-dollar COVID-19 emergency bill and follow-up to the CARES Act. Authority over how this money is allocated and spent rests almost entirely with the executive branch's Department of Administration, with the Legislature playing essentially no role.

The accountability backstop that would ordinarily exist for spending of this scale, the Legislative Audit Bureau, is statutorily limited in what it can assess. State Auditor Joe Chrisman made this clear to the Legislative Audit Committee: The bureau is required by the state Single Audit Act to conduct a "comprehensive audit of federal programs," but it "does not assess how state agencies performed when administering programs or the results achieved by the programs administered." The bureau questioned $2.6 million of ARPA funds in its most recent audit, not because the money was stolen or squandered, but because the state Department of Health Services failed to follow a spending category guideline. In one of its pandemic spending reports, the bureau itself suggested the Legislature could change state law to require the Department of Administration to periodically report on its federal spending.[20] To date, no such bill has been introduced.

The Department of Administration has repeatedly flouted attempts to obtain basic information about how federal funds have been allocated. Chairs of the Legislative Audit Committee have several times admonished the department for dragging its feet in providing such basic information. The Badger Institute's own lawful requests for government records involving spending and personnel decisions have also been routinely ignored over the past several years. Basic information about how federal funds have been allocated has been extremely difficult to obtain outside the governor's office and the Department of Administration.

The consequences of this accountability vacuum are visible in how the money actually has been spent. As of December 2025, nearly five years after the $2.5 billion was committed to Wisconsin, $260.7 million, or 10.3 percent of the total, still had not been spent, according to documents obtained by the Badger Institute. The Department of Administration allocated $80.8 million for unemployment insurance modernization, but $30 million remained unspent. A program called the Keeping Kids Safe & Putting Families First Initiative was created with a $15 million allocation, but none of it had been touched. The Wisconsin Office of Violence Prevention received $10.7 million for some unknown reason but apparently had not needed it. Over those five years, the state of Wisconsin earned more than $148 million in interest on the idle funds. The Department of Administration has refused to share with the Audit Committee what it intends to do with that interest — although, like the entire allocation, it is public money.[21]

Badger Institute investigations have detailed tens of millions of dollars of ARPA spending on soccer stadiums, a railroad museum, and dozens of other projects that had nothing to do with a health emergency. The federal government repeatedly pushed back the deadline for spending ARPA money, most recently to Dec. 31, 2026, three and a half years after it declared the pandemic over.

The Legislature attempted to claim a meaningful role in this spending and was denied one. The Badger Institute helped lead an effort for voters to change the state constitution to give elected officials in the legislative branch some say in how and why federal funds are distributed in the state. State voters, following Evers' lead, rejected the amendment and chose to allow the governor sole discretion over federal spending. The result is the arrangement that exists now: a single executive department, accountable to no other branch of government, deciding how billions of federal dollars flow through Wisconsin.

As the Badger Institute argued in "Federal Grant$tanding," federal grants often undermine local control and fall into a space where almost no one in either Washington or Madison feels accountable.[22] The federalism concern and the accountability concern are closely related: When a single executive department decides how federal money is spent without legislative oversight or outcome-based audit, neither the state's elected representatives nor its citizens have any meaningful way to evaluate the choices being made.

There are three reforms that would meaningfully close this gap.

First, the Legislature should adopt the Legislative Audit Bureau's own recommendation and pass a statute requiring the Department of Administration to periodically report on federal spending, providing the basic transparency that other categories of state spending are already subject to.

Second, the Legislative Audit Bureau's mandate should be expanded beyond process review to include outcome assessment of federal programs, so that the state's audit function can answer not

just whether money was spent according to guidelines but whether it achieved anything.

Third, the question of legislative authority over federal funds allocation, which voters rejected in its previous form, should be revisited, possibly through a more limited amendment that requires legislative consultation rather than full approval, or through statutory mechanisms that achieve a similar result.

Federal money is public money. Wisconsin's current arrangement leaves no one accountable for how it is spent.

Conclusion

Citizens say they want accountable and transparent government. Politicians say they agree. Yet as this chapter shows, Wisconsin's state government frequently falls short of delivering it. Across regulation, budgeting, workplace policy and federal spending, important decisions have increasingly been made by governors, agencies and courts rather than by the branch of government most directly accountable to the public: the Legislature.

This is not simply a matter of partisan disagreement or policy preference. It is a matter of whether major public decisions are being made through processes that are transparent and subject to democratic control. When unelected regulators can impose rules with diminished legislative oversight, when governors can rewrite spending bills with a veto rather than just approving or rejecting them, when emergency workplace arrangements become permanent without documentation or review, and when billions of federal dollars flow with almost no legislative control or outcome-based scrutiny, democratic accountability is weakened.

Wisconsin lawmakers have several practical opportunities to begin the process of improving accountability in state government.

- Complete the constitutional amendment process to restore a meaningful legislative check on agency rulemaking. The Legislature has already passed Assembly Joint Resolution 133 to respond to the Supreme Court's decision in Evers v. Marklein. It should pass the measure again in the next session and send it to voters.

- Persuade voters to approve in November the constitutional amendment limiting the governor's partial veto power. Senate Joint Resolution 116 would not eliminate every abuse of the partial veto, but it would be a significant step toward curbing one of the broadest and most distortive veto authorities in the country.

- Require documented, reviewable telework policies for state employees. Emergency practices adopted during COVID should not become permanent without basic documentation, productivity analysis and legislative review. If agencies want to maintain remote or hybrid arrangements, they should be required to justify them openly and under standards already identified by the Legislative Audit Bureau.
- Require regular legislative reporting on federal funds. The Legislature should adopt the Audit Bureau's

own recommendation and require the Department of Administration to periodically report how federal funds are being allocated and spent.

- Expand audit authority surrounding federal funds to include outcomes, not just compliance. Wisconsin's current audit framework can identify whether money was spent according to technical rules, but not whether programs worked. That is not enough for spending on the scale of recent federal transfers.

- Revisit legislative involvement in federal fund allocation. Whether through a narrower constitutional amendment, a consultation requirement, or statutory reforms, lawmakers should not accept a system in which billions of public dollars can be directed by a single executive department with no meaningful legislative role.

These reforms would not solve every problem of public trust. They would, however, move Wisconsin in the right direction by reasserting a basic democratic principle: In a representative government, the most important public decisions should be made, or at least clearly supervised, by the elected branch closest to the people.

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Mark Lisheron is a contributing journalist of the Badger Institute. He is one of the founders of The Texas Monitor, a small government, free market news website based in Austin. Over a more than 40-year career in journalism, 30 of them in newspapers, Lisheron was nominated three times for the Pulitzer Prize.

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