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# MARK BORN

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STATE REPRESENTATIVE • 39<sup>TH</sup> ASSEMBLY DISTRICT

## **Testimony on Assembly Bill 149** *Assembly Committee on Constitution and Ethics* *March 10, 2021*

Chairman Wichgers and members of the Assembly Committee on Constitution and Ethics.

Thank you for allowing me to speak in favor of Assembly Bill 149, relating to legislative oversight of federal COVID-19 funds. This bill is a reintroduction of a key provision which was originally included in the COVID-19 relief bill that was vetoed by the Governor.

As we all know, nearly everyone in Wisconsin has been impacted by COVID-19 in one way or another. Unfortunately, some have lost friends and loved ones, while others saw businesses they have spent their whole life building up slip away. In response to the pandemic, the federal government has passed multiple rounds of financial relief to assist states, local governments, businesses and families recover from the past year. Simply put, this legislation will ensure that our constituents, those most impacted by the pandemic, will have a say in how billions of dollars in new federal funds will be spent by the state in response to the COVID-19 pandemic through their elected Representatives and Senators.

The legislation before you today isn't creating a new process and shouldn't be unfamiliar. The bill includes similar oversight measures and is modeled after legislation passed by the Democrat-controlled Wisconsin legislature in 2009 which required Joint Committee on Finance (JFC) oversight of funds the state received from the American Recovery and Reinvestment Act, a federal stimulus package. This proposal does differ however, in that it only requires the plan be submitted to JFC through the passive review process, a process the committee uses quite frequently. The 2009 legislation required JFC to meet on the expenditure plan submitted by the Governor.

The State of Wisconsin has already received \$2 billion in discretionary federal assistance in response to the COVID-19 pandemic, of which the Governor has had almost complete control. Now, under new legislation being passed by Congress, Wisconsin is estimated to receive an additional \$5.3 billion in state and local discretionary federal funds. The residents of Wisconsin who have been so heavily impacted by COVID-19 deserve to have a voice through their elected representatives in how these funds are spent. These funds will have a direct impact on our local communities, school districts, businesses, and more.

A proposal of this nature is not only not new to Wisconsin, but several other states throughout the country either already have similar measures in place or have pursued similar measures since the COVID-19 pandemic began.

The citizens of Wisconsin deserve to have their voices heard through their elected Representatives and Senators in the Legislature in determining how billions of new dollars are spent, which is exactly what we're requesting with this legislation.

Thank you for your consideration. I am happy to take any questions.



# DEVIN LEMAHIEU

## STATE SENATOR

### Assembly Committee on Constitution and Ethics Testimony on Assembly Bill 149 March 10, 2021

Chair and Members:

Thank you for hearing testimony on Assembly Bill 149, the "Truth in Spending Act".

With the passage of the Congressional "American Rescue Plan Act of 2021" Wisconsin is projected to receive \$5.5 billion in federal funds. To put that into perspective, the total spending increase in our last 2-year budget was \$4.26 billion. The new \$5.5 billion one-time federal money could be in the hands of one person with no budget, no spending plan, and no state legislative input.

Under current law, the Governor can receive and direct federal funds sent to the state. Our oversight legislation increases the Legislature's role in the expenditure of the latest COVID-19 relief funds by requiring the Governor to simply submit a plan to the Joint Finance Committee (JFC) for passive review. This passive review process allows for quick approval of spending but also allows the Legislature to provide valuable input on behalf our constituents all while keeping a transparent record.

We're simply asking the Governor to include others in the decision-making process. We want more input, not less. More sunshine, less darkness. We're asking the Governor for 'Truth in Spending'.

The legislation before us today is modeled closely after the language that Democrats approved to allow JFC to provide oversight in the distribution of funds from the 2009 federal Stimulus Package.

Other states have also pursued similar measures or already have oversight laws in place. West Virginia, Arkansas, Colorado and Kansas have recently passed or pursued legislation that gives some legislative oversight over COVID relief funds.

In 12 states, the executive branch may receive but cannot spend unanticipated federal funds without prior authorization or subsequent legislative approval. In six states, the executive and legislative branch sit together on a board to share decision-making on unanticipated federal funds. Additionally, there have been other states that may not have been required to, but chose to include the legislature. These states include Alaska, Idaho, Maine, Mississippi and Tennessee.

Our oversight plan ensures quick delivery of needed relief while balancing the long-term health of our people and our state's future. This plan gives the people of Wisconsin the input and transparency they deserve.

Thank you for your time and consideration.



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# ROBIN J. VOS

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SPEAKER OF THE WISCONSIN STATE ASSEMBLY

**Testimony on Assembly Bill 149  
Assembly Committee on Constitution and Ethics  
March 10, 2021**

Thank you Chair Wichgers and members of the Assembly Committee on Constitution and Ethics for holding a hearing today on Assembly Bill 149, the Truth in Spending Act.

This bill is a reintroduction of a provision from Assembly Bill 1, the COVID relief bill, which the Governor ultimately vetoed. However, with the billions of more dollars estimated to come to Wisconsin through the \$1.9 trillion American Rescue Plan that was passed by the U.S. House this afternoon, it is now more important than ever for Wisconsinites to have a voice through their elected representative in how these federal dollars are spent.

This idea is not new and should not be surprising. In 2009, the Democratic-controlled legislature passed legislation that required Joint Finance Committee oversight over funds the state received from the American Recovery and Reinvestment Act of 2009, the federal stimulus package. This bill, modeled closely after the language passed by Democrats in 2009, puts similar oversight measures in place. However, rather than *requiring* the Joint Finance Committee to meet on the expenditure plan submitted by the Governor, as the Democrats originally supported in 2009, this bill simply requires the plan be submitted to the Joint Finance Committee through the passive review process.

Not only is there historical precedent for this this action in our own state, but other legislatures throughout the country have pursued measures to reign in powers of the executive in order to have more of a say in the distribution of COVID-related funds. Additionally, other states already had measures in place related to legislative oversight of unanticipated federal funds. Even more so, there are governors who may not have been required to involve the legislature in the distribution of COVID relief funds, but chose to in the spirit of cooperation during these unprecedented times.

These future federal dollars will have significant and direct impacts on our families, schools, businesses, and communities. This common sense legislation will provide a more transparent process for the distribution of these funds and will allow the citizens of our state to have a voice in the process.

I ask the committee to join me in supporting the inclusion of the legislature, a co-equal branch, in the future distribution of billions in federal relief funds. Billions of taxpayer dollars simply should not be in the hands of a single person.



March 10, 2021  
Assembly Committee on Constitution and Ethics  
Public Hearing: Assembly Bill 149

Chairman Wichgers and Members of the Committee:

Thank you for the opportunity to submit our testimony in support of Assembly Bill 149 – indeed a record of our frustrations in trying to determine how billions of tax dollars are actually being spent in this state – to the Committee on Constitution and Ethics.

We think today in particular this committee is aptly named.

The issue before you is truly one of fidelity to the constitution and ethics – that is, the constitutional primacy of state governments to control their own destinies rather than act as mere rubber stamps and pass-throughs for federal money and policy.

In other words, the basic right of citizens to know how their government is spending their money, whether it is being done responsibly and ethically.

There can be no assurance of ethics without transparency. There can be no true federalism – no true governance at the state level – without legislative review of billions of dollars in spending.

Every two years in the state budget process, the Governor proposes, and the Legislature approves tens of billions of dollars in spending of federal dollars that come to Wisconsin. In the 2019-21 budget, a total of \$23 billion from Washington was directed by this process. These procedures ensure transparency and approval of dozens of elected officials who are held accountable by the voters. This system works well regardless of who occupies the governorship or which party controls the Legislature.

In sharp contrast, the federal money coming in response to the COVID-19 crisis is directed by a single elected official, largely out of view of the public and with no accountability.

For months, Gov. Evers' staff issued press releases to announce each new funding distribution initiative, and the legacy media turned their stenography into stories in newspapers and on television. This is no way to maintain a robust account of how billions of our tax dollars are being spent.

Where, exactly, did the Cares Act money go and to whom and how did those receiving it spend it? Unfortunately, the average citizen or even a fully staffed think tank such as our own cannot fully answer these questions.

Our investigators resorted to requests made under the Wisconsin Open Records Law. We can tell you, for example, that Gov. Evers signed off on 1,164 grants totaling \$190 million to city and county governments. We can tell you to the penny who got what. But without making a second round of records requests of each and one of those local governments, the public has no idea on what Dane County spent its 53 separate grants or what Milwaukee County bought with its \$11.7 million.

Under this unilateral arrangement, the job of informing the public can not be done in any timely way. The Badger Institute began asking for spending breakdowns in the late Spring of 2020 and was told the information simply wasn't

available. It took until November 11, 2020, for the state to comply with our request for a breakdown of cultural organization grants, representing just \$15 million of the \$2 billion handed out.

And when Gov. Evers used his discretionary authority to increase supplemental childcare spending from \$30 million to \$80 million last summer, we filed a records request. After a month, we asked about the status of the request. We are still waiting for a response.

This is no way of conducting an open and honest government. AB 149 makes a small first step in ensuring that a plan would be submitted to the Legislature for approval and, if any objections arose, questions could be asked and plans adjusted. We wish more could be done to ensure timely information is delivered to the public in an open manner, but this bill would ensure that more elected officials are able to weigh in and make decisions on the front end.

According to Governor Evers' spokesman, Britt Cudaback, he intends to veto Assembly Bill 149:

"Wisconsinites can't afford to wait around for the Legislature, and that's why the governor will continue working to save lives, put shots in arms, and get resources and relief out as fast as he can, just as he has since the beginning of this pandemic."

This is quite a statement. It's hard to imagine that the governor would not have time for the state's duly elected representatives to consider in a deliberative fashion the dissemination of billions of dollars in federal funds. The 14-day passive review process with the Joint Finance Committee in this bill should not be a hurdle too high when it comes to spending billions in taxpayer dollars. Especially when, as of December 15, Gov. Evers had yet to distribute \$635.9 million or nearly a third of the original Cares Act sum.

Nearly \$2 billion came to the state under the CARES Act and another \$3.2 billion will be headed our way in the latest round of funding. Thousands of Wisconsinites have been hurt by the lockdowns and government restrictions. It's paramount that this money goes to those who need it most. With all the questions that still exist nearly a year after the first round of funding, a thoughtful, coherent plan to get this money distributed needs to be established in the full light of day with the involvement of the public.

From his own press releases it is clear that far from hustling relief into a disabled economy, the governor, as late as December, was struggling to find places to spend the federal monies. As late as October, the governor was soliciting bids for grants from hospitals, health and emergency care groups.

Our research has found that federal money directed to the states can increase costs, expand the administrative bureaucracy, undermine state and local control, create perverse incentives and stifle innovation, among other things. The Founders' vision of a balance between national and state power is eroded by growing federal involvement in state issues. Outside of this discussion, we would encourage you as legislators to consider alternatives to federal funds that often leave Wisconsinites worse off.

But for now, the primary issue is accountability. As the U.S. House of Representatives is voting to approve the latest round of stimulus spending, the Wisconsin Legislature needs to act quickly to adjust how we will handle the next round of federal funding. If the Governor and his team are honest about wanting an open and fair administration, he will work in a collaborative manner with the Legislature and approve Assembly 149.

Thank you for your consideration.

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March 10, 2021

Chairman Wichgers and members of the Assembly Committee on Constitution and Ethics,

Wisconsin has received billions of federal dollars over the past year in response to the COVID-19 pandemic. Many of these dollars were directed by Congress to be allocated by the governor. Unfortunately for Wisconsin taxpayers and families, that means Governor Evers can direct (or not) these funds without any accountability to the state legislature or voters. Assembly Bill 149 is an important proposal to ensure that any future federal dollars for pandemic relief allocated to the Governor's office will receive prompt attention from both the executive and legislative branches of state government.

The state has already received \$2.0 billion in stimulus funding under the federal CARES Act and is expected to receive billions more in the latest round of stimulus. While the Department of Administration has developed a dashboard displaying CARES Act funding allocations, this tool fails to keep the public adequately informed on how and when this money has actually been spent. Having greater legislative input can also help ensure that these funds are spent in a manner that does not create long-term, ongoing fiscal obligations to the state.

In 2009, legislative Democrats recognized the importance of having both the legislative and executive branches involved in the allocation of federal stimulus funds by passing similar legislation that required Joint Finance oversight.

A prime example for why AB 149 is a necessary proposal today is the delay of the Governor's Emergency Education Relief (GEER) funds by Governor Evers in 2020.

The first allocation of federal funding to Governor Evers was a result of the CARES Act, which included the Governor's Emergency Education Relief (GEER) fund. Governor Evers received over \$46 million in GEER funds that could be allocated to institutions of higher education, K-12 public schools, and other education-related entities.<sup>1</sup>

Unfortunately, these funds were delayed in getting to Wisconsin schools. Other governors worked quickly to complete the necessary paperwork to the U.S. Department of Education to receive the grant of these funds, while Governor Evers submitted his paperwork in late May 2020<sup>2</sup>. Many other states, including Alaska, California, Louisiana, Maine, Michigan, and Oklahoma, completed the process weeks, if not a month, before Governor Evers.<sup>3</sup>

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<sup>1</sup> US Department of Education, CARES Act Governor's Emergency Education Relief Fund, state allocations table, <https://oese.ed.gov/files/2020/04/GEER-Fund-State-Allocations-Table.pdf>

<sup>2</sup> US Department of Education Certificate and Agreement for Funding under Education Stabilization Fund Program Governor's Emergency Education Relief Fund, Wisconsin, dated May 28, 2020, <https://oese.ed.gov/files/2020/06/WI-GEER-Certification-and-Agreement-5-28-20.pdf>

<sup>3</sup> US Department of Education, GEER Awards, <https://oese.ed.gov/offices/education-stabilization-fund/governors-emergency-education-relief-fund/geer-certifications-agreements/>



Even after the paperwork was submitted, the GEER funds were further delayed by the Governor. Governor Evers didn't announce the allocation of these federal funds until June 17, 2020<sup>4</sup>. Then, after the Governor's announcement of the funds, the GEER applications were not available to local districts until October 2020.<sup>5</sup> Ultimately, this was a delay of nearly five months for much needed federal dollars.

In addition to the lack of timeliness, Governor Evers and his administration focused these funds only for public school students<sup>6</sup>, ignoring the immense need of support for students in all sectors across the state. Other states, like Oklahoma Governor Stitt<sup>7</sup>, funded education initiatives to help families from all sectors of schools who were impacted by the pandemic. In April 2020, WILL also published a report on how Governor Evers could use the funding to benefit K-12 students across the state, including literacy programs, stipends for teachers, and support for schools in all sectors, including private and public charter.<sup>8</sup>

To ensure that history does not repeat itself, AB 149 will bring much-needed transparency to Governor Evers' allocation of future pandemic-related federal dollars. Wisconsin should join the growing number of states that have passed similar legislation that provides greater oversight of these key decisions.

Thank you,

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<sup>4</sup> Governor Evers Press Release, June 17, 2020, "Gov. Evers announces more than \$80 million in COVID-19 financial assistance to K-12 schools and higher education institutions," <https://content.govdelivery.com/accounts/WIGOV/bulletins/2913a7e>

<sup>5</sup> Department of Public Instruction, GEER funds, "GEER Grant applications for LEAs became available in WISEgrants on October 15, 2020. The grant performance period is 7/1/20-9/30/22." <https://dpi.wi.gov/cares/governors-emergency-education-relief-geer-grant-program>

<sup>6</sup> Governor Evers list of 155 school districts who received GEER funds. [https://content.govdelivery.com/attachments/WIGOV\\_2020/07/22/file\\_attachments/1501040/GEER%20Breakout.pdf](https://content.govdelivery.com/attachments/WIGOV_2020/07/22/file_attachments/1501040/GEER%20Breakout.pdf)

<sup>7</sup> Governor Stitt Press Release, July 17, 2020, "Governor Stitt announces \$30 million education allocation plan," [https://www.governor.ok.gov/articles/press\\_releases/governor-stitt-announces--30-million-education](https://www.governor.ok.gov/articles/press_releases/governor-stitt-announces--30-million-education)

<sup>8</sup> Sobiech, Szafir, "How Wisconsin should spend its CARES K-12 Funding," April 2020, <https://www.will-law.org/wp-content/uploads/2020/12/cares20act20memo20-204.6.20.pdf>