

Legislative Council Staff Brief

Study Committee on the Investment and Use of the School Trust Funds

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INTRODUCTION

The Study Committee on the Investment and Use of the School Trust Funds was directed to do the following: (a) review the statutes governing the investment of the trust funds administered by the Board of Commissioners of Public Lands (BCPL), including the loan programs administered by the BCPL; (b) assess whether current statutes adequately ensure the effective investment and appropriate use of the proceeds of the funds; and (c) recommend legislation for necessary changes.

This Staff Brief provides background information on the following topics:

- **Part I** describes the BCPL and the school trust funds.
- **Part II** describes the investment of the funds.
- **Part III** describes the loan program administered by the BCPL.
- **Part IV** describes how the proceeds of the funds are used, and provides background information on school and library funding and university funding.

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PART I – THE BCPL AND THE SCHOOL TRUST FUNDS

THE BOARD OF COMMISSIONERS OF PUBLIC LANDS

The BCPL is comprised of the Secretary of State, the State Treasurer, and the Attorney General who, collectively, appoint an executive secretary. The executive secretary, in turn, appoints a deputy. Currently, the BCPL operates with 11 to 13 staff members, including the executive and deputy secretaries (the number of staff can fluctuate due to “limited-term employment”), in two offices located in Madison and Lake Tomahawk.

The BCPL was established under the Wisconsin Constitution to sell certain land granted to Wisconsin by the federal government and to invest and manage the proceeds from those sales for the benefit of common (public K-12) schools and a state university. The Wisconsin Constitution authorizes the BCPL to “execute a good and sufficient conveyance” of school trust lands and to “withhold from sale any portion of such lands when they shall deem it expedient.”¹

The BCPL holds in trust both the proceeds from the sale of school trust lands and those school trust lands that have not been sold. Certain revenue generated from the school trust funds and the school trust lands is distributed each year to public school districts and to the University of Wisconsin (UW) System. The BCPL generates revenue by investing the principal of the school trust funds, including in the form of loans to local units of government, and by engaging in timberland management activities on school trust lands.² As discussed in detail below, the BCPL manages the following four trust funds:

Table 1: School Trust Fund Summary

Trust Fund	Beneficiary	Principal*	Trust Lands*	Distributions*
Common School	Public school districts	\$1.1 billion	6,070 acres	\$37.5 million
Normal School	UW System	\$27.7 million	69,680 acres	\$495,000
University	UW System	\$234,129	37 acres	\$7,266
Agricultural College	UW System	\$305,281	0 acres	\$10,600

* As of June 30, 2018 (fiscal year 2018). These numbers have not yet been finalized by the State Controller’s Office and are, therefore, subject to change.

¹ s. 24.55, Stats; Wis. Const. art. X, ss. 7 and 8.

² The BCPL also manages a collection of land records, administers a submerged logging program for the benefit of American Indian tribes and bands, and facilitates the payment of federal flood control aid to counties. Because these activities do not directly relate to the management and use of the school trust funds, they are beyond the scope of this Staff Brief.

SCHOOL TRUST FUNDS

The Wisconsin Constitution provides for the establishment of a “school fund” and of a “university fund.” State statutes subdivide the “school fund” into the Common School Fund and the Normal School Fund and separately establish the Agricultural College Fund. State statutes also direct that certain lands and moneys be held by each of those three trust funds and by the University Fund.³

Historical Background

The Wisconsin school trust funds were generally established with the proceeds from the sale of lands granted to the state by the federal government. The origin of what eventually became the school trust funds can be traced back to the Land Ordinance of 1785 and the Northwest Ordinance of 1787, which, among other things, provided for the surveying of certain lands and the reservation of the 16th section of each township for the purpose of supporting schools.⁴ Subsequently, it became congressional practice to grant the 16th section of each township within a state to the state upon its admission to the Union.⁵

In 1838, Congress granted two townships of land to the Wisconsin Territory for the purpose of supporting a “seminary of learning,” which eventually became the University of Wisconsin.⁶ In 1841, Congress granted an additional 500,000 acres to each state upon its admission to the Union for the purpose of supporting internal improvements, which the state would later direct to the Common School Fund.⁷ In 1846, Congress adopted an enabling act which authorized the Wisconsin Territory to form a government and adopt a constitution so as to be admitted to the Union. In that act, Congress reaffirmed the grants of land made in support of the university and in support of schools.⁸ Thus, when Wisconsin was admitted to the Union in 1848, following its adoption of a constitution, the state took title to land that became the principal of the Common School Fund and the University Fund.

In 1854, Congress granted an additional two townships to the state in support of a university, which was added to the University Fund.⁹ Subsequently, in 1862, Congress granted 240,000 acres to the state under the Morrill Act in support of the agricultural and mechanic arts, the proceeds from the sale of which were used to establish the Agricultural College Fund.¹⁰ Finally, in 1865, the Wisconsin Legislature directed that a portion of land granted to the state under the Swamp Land

³ Wis. Const. art. X, ss. 2, 5, 6, and 8; ss. 24.76 to 24.82, Stats.

⁴ Land Ordinance of 1785, May 20, 1785; Northwest Ordinance, July 13, 1787.

⁵ It has been claimed that the Ohio Enabling Act of 1803, in which Congress granted to the state the 16th section of each township for the purpose of supporting schools, became the precedent for future educational land grants upon a state’s admission to the Union. [Payson Jackson Treat, *The National Land System* 272 (1910).]

⁶ 5 Stat. 244, 25 Cong. Ch. 110.

⁷ 5 Stat. 453, 27 Cong. Ch. 16.

⁸ 9 Stat. 56, 29 Cong. Ch. 89.

⁹ 10 Stat. 597, 33 Cong. Ch. 3.

¹⁰ 12 Stat. 503, 37 Cong. Ch. 130.

Act of 1850 be used to establish the Normal School Fund, which generally supported teacher training schools.¹¹ The details of each of the four existing school trust funds are discussed below.

Common School Fund

Under the Wisconsin Constitution, the following must be deposited as principal into the Common School Fund:

- The proceeds of all lands granted to the state by the United States for educational purposes, except for those lands granted for the purposes of a university.
- The 500,000 acres of land granted to the state by an act of Congress approved on September 4, 1841.
- The five percent of the net proceeds of the public lands to which the state was entitled upon its admission to the Union.
- All moneys and the clear proceeds of all property that may accrue to the state by forfeiture or escheat.
- The clear proceeds of all fines collected in the several counties for any breach of the penal laws.
- All moneys arising from any grant to the state where the purposes of such grant are not specified.¹²

As discussed above, pursuant to two separate acts of Congress, Wisconsin took title to 1,466,731 acres when it became a state in 1848, which, under the Wisconsin Constitution, were attributed to the Common School Fund. An additional grant of 238,891 acres was added to the fund under an 1849 act of the Wisconsin Legislature which authorized the BCPL to, under certain circumstances, take title to land used as security for loans issued from the fund. Collectively, the total land granted to the state under these three acts amounted to 1,705,622 acres.¹³ The principal of the Common School Fund was originally established from the proceeds of the sale of most of that land.

The principal of the Common School Fund has continued to grow over the years because of deposits from land sales, timber revenue, and the additional deposits required under both the Wisconsin Constitution and under state statutes. For example, in many circumstances, state law authorizes administrative agencies to enforce state law by imposing financial forfeitures for regulatory violations and requires that such forfeitures be deposited into the Common School Fund.¹⁴ State law also authorizes administrative agencies and law enforcement officials to confiscate certain property, and, if certain conditions are met, to sell such property and deposit a

¹¹ 9 Stat. 519, 31 Cong., Ch. 84; Ch. 537, Laws of 1865.

¹² Wis. Const. art. X, s. 2.

¹³ Ch. 212, Laws of 1849; John Callahan, *The Common School, University and Normal School Funds*, in Wisconsin Blue Book (1925-1926).

¹⁴ For example, the Department of Agriculture, Trade, and Consumer Protection may assess a forfeiture of up to \$5,000, in certain circumstances, for an individual's failure to provide required information regarding fuel sales. Any such forfeiture must be deposited into the Common School Fund. [s. 100.60, Stats.]

portion of the proceeds into the Common School Fund.¹⁵ In addition, certain unclaimed property, including the property of an individual who dies without heirs, escheats to the state, meaning that ownership of the property reverts to the state, and the proceeds from the sale of such property are deposited into the Common School Fund.

As of June 30, 2018, the Common School Fund was comprised of about \$1.1 billion in principal and 6,070 acres of land. Approximately \$35.7 million of income and interest earned on those amounts was distributed to school districts in fiscal year 2018.

Normal School Fund

The Wisconsin Constitution requires that any remainder leftover from the support of common schools be appropriated for the purpose of supporting normal schools. As discussed above, Wisconsin was granted title to almost four million acres of swamp and overflowed lands under the Swamp Land Act of 1850. In 1865, the Legislature determined that one half of the swamp and overflowed lands granted to the state by Congress was not necessary for drainage purposes. Rather, the Legislature deemed such land to have been granted to the state without a specific purpose and, therefore, under the Wisconsin Constitution, to be attributed to the Common School Fund. The Legislature then deemed that portion of the land and the proceeds from the sale of the land unnecessary for the support of common schools and, therefore, used the proceeds and the land that had not yet been sold to establish the Normal School Fund.¹⁶ As discussed in **Part IV**, the UW System became the successor of the normal schools under the former Wisconsin State University System and is, therefore, the current beneficiary of distributions from the Normal School Fund.¹⁷

The principal of the Normal School Fund grows with deposits from land sales and timber revenue. As of June 30, 2018, the Normal School Fund was comprised of about \$27.7 million in principal and 69,680 acres of land. Approximately \$495,000 of income and interest earned on those amounts was distributed to the UW System in fiscal year 2018. As discussed below, under state land bank legislation from 2005, the BCPL may use a portion of the income from this fund to consolidate its land holdings into larger more productive parcels.

University Fund

The Wisconsin Constitution requires that the Legislature establish a “university fund” with the proceeds from the sale of land granted to the state by Congress for the purpose of supporting a state university. In two separate acts, one in 1838 and one in 1854, Congress granted to Wisconsin four full townships, or 144 sections of land amounting to 91,979 acres, for a state university.¹⁸ Most of these lands were sold shortly after the state took title and the proceeds were used to establish the principal of the University Fund. State law provides no mechanism for adding funds to the principal, so the principal amount has not grown; however, as discussed in **Part II**, beginning in fiscal

¹⁵ For example, impounded vehicles may be sold after a certain period of time has expired. Any portion of the proceeds that remain after specific expenses have been paid is to be deposited into the Common School Fund. [s. 344.185, Stats.]

¹⁶ See Ch. 537, Laws of 1865, available at: <https://docs.legis.wisconsin.gov/1865/related/acts/537.pdf>.

¹⁷ Wis. Const. art. X, s. 2, cl. 2.; ss. 24.145, 24.79, and 24.80, Stats.

¹⁸ John Callahan, *The Common School, University and Normal School Funds*, in Wisconsin Blue Book (1925-1926).

year 2018, the BCPL will add to the principal of the fund in accordance with its newly adopted investment policy.¹⁹

As of June 30, 2018, the University Fund was comprised of about \$234,129 in principal and 37 acres of land. Approximately \$7,266 of income and interest earned on those amounts was distributed to the UW System in fiscal year 2018.

Agricultural College Fund

State statutes provide for the establishment of an Agricultural College Fund, comprised of the proceeds from the sale of 240,000 acres granted by Congress to the state in 1862 under the Morrill Act.²⁰ The income and interest from the fund are distributed for the “benefit of agricultural and the mechanic arts.” [s. 24.82, Stats.] As is true for the University Fund, discussed above, state law provides no mechanism for adding funds to the principal of the Agricultural College Fund. Thus, the principal amount of the fund has not grown; however, as discussed in **Part II**, beginning in fiscal year 2018, the BCPL will add to the principal of the fund in accordance with its newly adopted investment policy.

As of June 30, 2018, the balance of the Agricultural College Fund was \$305,281. Approximately \$10,600 of income and interest earned on that amount was distributed to the UW System in fiscal year 2018. The BCPL no longer holds any land in trust as part of the Agricultural College Fund.

SCHOOL TRUST LANDS

As of June 30, 2018, the BCPL held approximately 75,787 acres of land in trust for the benefit of schools. The BCPL generates revenue by selling and leasing school trust lands, and by harvesting timber from school trust lands. All school trust lands are public lands, which are open to the public for a variety of recreational uses.

Timber Management

The BCPL may grant leases for various uses of school trust lands and may sell from those lands “such timber as the board shall find necessary to prevent future loss or damage.” State law requires that all sales of live timber from the school trust lands “be on a selective cutting basis in line with federal forest practices.” State law also requires that, to the extent applicable, the leases of school trust land and timber sales be conducted in conformance with ch. 26, Stats., which controls Department of Natural Resources forestry practices on state park and state forest lands.²¹

The BCPL manages its forestry program using 15-year comprehensive plans, which include details regarding the harvest of timber for sale; inventory, monitoring, and planting schedules; and information about water features, wetlands, rare species, and past management practices. BCPL staff conduct a forest inventory on about 8% to 10% of school trust lands each year, which is used

¹⁹ Wis. Const. art. X, s. 6; s. 24.81, Stats.

²⁰ John Callahan, *The Common School, University and Normal School Funds*, in Wisconsin Blue Book (1925-1926).

²¹ s. 24.39 (1), Stats.

to develop the comprehensive management plans. The BCPL also plants trees on school trust lands when natural regeneration is insufficient. According to the BCPL, its timber harvests are used to: (a) maintain existing forest types; (b) encourage conversion to a forest type more adapted to existing site conditions; and (c) enhance the timber value of residual trees for future harvests. The BCPL offers timber for sale via a sealed bid process and harvests approximately 80% of its annual timber growth.

As discussed above, most of the remaining lands held in trust by the BCPL are part of the Common School Fund and the Normal School Fund. Timber revenue for the Common School Fund was \$50,273 in fiscal year 2017. There was no timber revenue in fiscal year 2018. Because only 6,070 acres are held in trust for the Common School Fund, timber is not harvested from those acres on an annual basis. Timber revenue for the Normal School Fund was \$127,309 in fiscal year 2017 and was \$524,216 in fiscal year 2018.

Land Bank Transactions

In general, the BCPL is permitted to hold land in trust and to manage such land so as to generate revenue. Historically, however, the BCPL has not been authorized to purchase land, even as a form of investment. After decades of school trust land sales, the BCPL has been left with an inventory of land comprised of small tracts scattered throughout the state that are, as a result, often unproductive and inaccessible. In 2005, the Legislature enacted legislation that authorized the BCPL to engage in a very limited practice of buying and selling land so as to consolidate its land holdings into fewer, larger tracts in an effort to make the land held in trust more productive or accessible to the public.

Under 2005 Wisconsin Act 352, the BCPL was required to establish an account in each of the trust funds for the deposit of the proceeds from the sale of public lands. BCPL may then use those funds for the purchase of land in this state if all of the following conditions apply:

- The land is within a consolidation area approved by the BCPL.
- The total acreage of public lands managed by the BCPL does not exceed the total acreage of public lands managed by the BCPL as of May 3, 2006, which was 77,844 acres.
- The BCPL determines that the purchase of land will improve timberland management, address forest fragmentation, or increase public access to land.
- The funds used for the purchase are derived from the sale of public lands made on or after May 3, 2006.²²

²² ss. 24.605 and 24.61 (2) (cm), Stats.

PART II – INVESTMENT OF THE FUNDS

The BCPL is the trustee of the school trust funds and cannot be relieved of its trustee powers or duties, other than through an amendment to the Wisconsin Constitution.²³ As the trustee, the BCPL is subject to common law fiduciary duties, including: (a) demonstrating undivided loyalty to the beneficiaries; (b) delegating trustee duties to other parties only when reasonable; (c) exercising reasonable care and skill in managing the trust; (d) preserving trust property; and (e) making trust property productive.²⁴

The Wisconsin Constitution reserves a role for legislative authority by stating that the BCPL “shall invest all moneys arising from the...funds, in such manner as the legislature shall provide.”²⁵ However, the Legislature may only provide for investment that is in harmony with the BCPL’s fiduciary duties to the beneficiaries of the funds.²⁶ Among other conditions, this means that the investment must take into consideration the need to ensure that the investments yield the distributions needed to meet the needs of current beneficiaries, while preserving the funds for future beneficiaries. The Wisconsin Constitution also prohibits the Legislature and the BCPL from using the principal of the funds to make distributions.

HISTORICAL BACKGROUND ON THE INVESTMENT OF THE FUNDS

Over the past 170 years, the Legislature has taken varied approaches regarding the investment of the trust funds. In certain instances, the Legislature has mandated that the BCPL engage in certain investments, while in other instances it has provided general direction and investment options. The investment of the funds has been the subject of several attorney general opinions, as well as one Wisconsin Supreme Court case, in which the court found that certain of the Legislature’s investment directions violated the fiduciary duties required by the Wisconsin Constitution.

At the outset of BCPL’s management of the funds, the 1849 statutes required the BCPL to invest the funds by loaning them to private individuals residing in counties where the trust lands had been sold.²⁷ A legislative investigation in 1856 concluded that the funds had incurred significant losses due to mismanagement of the program.²⁸ The BCPL itself reported in 1860 and 1864 that the program was, by its very design, too risky and was anticipated to continue to cause the funds to lose

²³ Wis. Const. art. X, s. 7.

²⁴ *Restatement (Second) of Trusts* (1959) and *Restatement (Third)* (1990).

²⁵ Wis. Const. art. X, s. 8.

²⁶ *State ex rel. Owen v. Donald*, 160 Wis. 21, 67.

²⁷ 1849 Revised Statutes, Ch. 24.

²⁸ Report of the Joint Select Committee of the Senate and Assembly Appointed to Investigate the Office of the State Treasurer, the Secretary of State, and School and University Land Commissioners, and to Carry Such Examination Back to the Commencement of Our State Government. Reported to the Legislature at Its Adjourned Session September 12, 1856. Senate Journal, 1856, Appendix. Accessed at: https://books.google.com/books?id=Ti1FAAAAYAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.

money.²⁹ The BCPL appears to have ceased issuing loans to private individuals by 1864, although BCPL's statutory authority to issue such loans was not repealed until 1881.³⁰

The investment of the trust funds was first expanded in 1862, when the Legislature directed the BCPL "to invest, in preference to all other loans and investments, the principal of the school fund" in bonds issued by the state.³¹ The bonds were primarily used to fund efforts related to the Civil War, construction of the State Capitol building, and a hospital.³²

The BCPL first made loans to school districts in 1870, pursuant to special acts of the Legislature directing the BCPL to make loans to specific school districts.³³ In 1871, the Legislature gave the BCPL general authority to issue loans to "any school district in the state, for the purpose of erecting school buildings, and for no other purpose."³⁴ In supporting the legislation, the Governor's message to the Legislature described the lending policy by stating, "It is safe, because the loan is made upon perfectly good security, the State reserves the power to compel payment according to contract, and it enables the people to use their educational funds for educational purposes. It is a great improvement on the original plan of loaning to individuals for purposes of private speculation, too often upon doubtful security."³⁵

The BCPL first made investments with municipalities in the early 1870s, pursuant to special acts of the Legislature directing the BCPL to make loans to and purchase bonds issued by certain municipalities for specific projects.³⁶ In 1881, the Legislature gave the BCPL general authority to issue loans to any town, village, city, or county.³⁷ The Governor's message to the Legislature stated that the goal of the legislation was to standardize the process of lending to municipalities and to end the practice of maintaining large uninvested balances in the funds for the purpose of having funds available to loan when desired by the Legislature.³⁸ In 1882, the Legislature gave the BCPL general

²⁹ Annual Report of the Commissioners of School and University Lands of the State of Wisconsin for the Fiscal Year Ending September 30, 1860, pp. 57-59. Annual Report of the Commissioners of School and University Lands of the State of Wisconsin for the Fiscal Year Ending September 30, 1864, pp. 4-5.

³⁰ Annual Report of the Commissioners of School and University Lands of the State of Wisconsin for the Fiscal Year Ending September 30, 1864, pp. 4-5. Ch. 167, Laws of 1881.

³¹ Ch. 89, Laws of 1862.

³² John Callahan, *The Common School, University and Normal School Funds*, Wisconsin Blue Book (1925-1926).

³³ Governor's Message to the Legislature, January 12, 1871. Journal of Proceedings of the Twenty-Fourth Annual Session of the Wisconsin Legislature for 1871. Accessed at:

https://books.google.com/books?id=D7trAAAAMAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.

³⁴ Ch. 42, Laws of 1871.

³⁵ Governor's Message to the Legislature, January 12, 1871. Journal of Proceedings of the Twenty-Fourth Annual Session of the Wisconsin Legislature for 1871. Accessed at:

https://books.google.com/books?id=D7trAAAAMAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false.

³⁶ See e.g., Chs. 118 and 145, Laws of 1872; Ch. 186, Laws of 1874; Ch. 128, Laws of 1875; and Chs. 107, 144, and 197, Laws of 1876.

³⁷ Ch. 167, Laws of 1881.

³⁸ Governor's Message to the Legislature, January 13, 1881. Journal of Proceedings of the Thirty-Fourth Annual Session of the Wisconsin Legislature for 1881. Accessed at:

https://books.google.com/books?id=OUItAQAAAMAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q=loans&f=false.

authority to invest in bonds issued by any Wisconsin town, city, or county.³⁹ Subsequent changes generally entailed adding to the list of government entities in whose bonds the BCPL was permitted to invest.

In 1927, the Legislature formed an interim study committee to evaluate the investment of all state trust funds, including the school trust funds.⁴⁰ The committee requested an opinion from the Attorney General regarding how far the Legislature may go in controlling the investment of the school funds.⁴¹ The Attorney General reported to the committee that “not only does the legislature lack power to give investment of the school funds to any other agency than the Commissioner of Public Lands, but these commissioners, also, may not of their own accord turn the investment of these funds over to any central investment department or officer that the legislature may create.”⁴² As a result, the study committee did not pursue authorizing or mandating the BCPL to delegate investment responsibility to another entity.

The study committee did evaluate whether to expand or further limit the types of investments in which the school and other trust funds could be invested, but recommended that no changes be made. The committee reported that the statutory list of investments was “not unreasonably restricted,” while being “safe.”⁴³

During the subsequent decades, the statutes continued to prohibit the BCPL from investing the trust funds other than by lending to local governments or purchasing the bonds of certain specified government entities.⁴⁴

RECENT LEGISLATION REGARDING THE INVESTMENT OF THE FUNDS

During the late 1990s and early 2000s, the BCPL’s budget requests included proposals for modifying the statutes to expand the types of investments in which the BCPL may invest, and

³⁹ Ch. 82, Laws of 1883. The related Governor’s message states only that the commissioners had requested that the statutes be amended to give “a wider field for the investment of the trust funds” and that the subject “demands serious attention,” see Governor’s Message to the Legislature, January 11, 1883. Journal of Proceedings of the Thirty-Sixth Session of the Wisconsin Legislature for 1883. Accessed at: https://books.google.com/books?id=gD0tAQAAAMAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q=investment&f=false.

⁴⁰ 1927 Joint Resolution No. 68.

⁴¹ Report of the 1927 Interim Committee on Trust Fund Investments, p. 9, April 1929. Accessed at: https://books.google.com/books?id=3Hc7AAAAMAAJ&pg=PA5&lpg=PA5&dq=1927+interim+legislative+committee+on+the+investment+of+the+school+trust+fund&source=bl&ots=f8WBYSk_e8&sig=P7ay_qxwTBoAl-IVSWZwQUxqROQ&hl=en&sa=X&ved=0ahUKEwiGta-S_bfcAhUk3IMKHcUYCogQ6AEIPTAE#v=onepage&q=1927%20interim%20legislative%20committee%20on%20the%20investment%20of%20the%20school%20trust%20fund&f=false.

⁴² Report of the 1927 Interim Committee on Trust Fund Investments, p. 9; 17 Op. Att’y Gen. 526 (1928).

⁴³ Report of the 1927 Interim Committee on Trust Fund Investments, p. 31.

⁴⁴ The statutes authorized BCPL to purchase: U.S. bonds; securities issued under the farm loan act or the farm credit act; bonds, notes, or other instruments of indebtedness issued by Wisconsin local governments; bonds issued by a local exposition district, local professional baseball park district, local professional football stadium district, or local cultural arts district; bonds of the UW Hospitals and Clinics Authority; bonds of the Wisconsin Aerospace Authority; or financial institution accounts insured by a deposit insurance corporation. [s. 24.61 (2), Stats., 2013-14 Statutes.]

authorizing the BCPL to consult with the State of Wisconsin Investment Board (SWIB) in making investment decisions. The BCPL explained that broader investment authority was needed because low interest rates were impeding the BCPL's ability to obtain a reasonable return from the loan program and government bonds.⁴⁵

In 2005, the statutes were amended to authorize the BCPL to delegate to SWIB authority to invest the funds, although the BCPL's range of permissible investments remained limited and SWIB was only authorized to invest in fixed income investments.⁴⁶

In 2015, the Legislature substantially expanded the BCPL's investment authority by repealing the references to specific permissible investments and instead providing that the BCPL must invest the funds in accordance with the general standards governing the management and investment of institutional funds, which include:

- Managing and investing the funds in good faith and with the care an ordinary prudent person in a like position would exercise under similar circumstances, while making appropriate use of any special skills or expertise.
- Considering the funds' purposes and the need to make distributions and preserve capital.
- Incurring only appropriate and reasonable costs.
- Making a reasonable effort to verify relevant facts.
- Investing through an overall strategy consisting of suitable risk and return objectives.
- Diversifying the investments, while considering all relevant factors, including economic conditions, inflation, and deflation.⁴⁷

Following the legislative changes in 2015, the BCPL has retained authority to delegate investment of the funds to SWIB; however, SWIB remains subject to the restriction that it may only invest the school trust funds in fixed-income investments.⁴⁸

2016 BCPL INVESTMENT POLICY

In 2016, pursuant to its expanded investment authority, the BCPL, in consultation with faculty from the UW-Madison Business School adopted a comprehensive investment policy setting forth investment objectives, guidelines, and practices. The central components of the BCPL's investment policy are the creation of: (a) targets for the amount of annual distributions to be provided to the beneficiaries of each fund; (b) targets for the percentage of each fund's principal to be invested in each asset class; (c) smoothing accounts from which distributions will be made in

⁴⁵ See BCPL Biennial Reports for 2003-05, 2001-03, 1999-2001, and 1997-99.

⁴⁶ 2005 Wisconsin Act 25.

⁴⁷ 2015 Wisconsin Act 60; ss. 24.61 (2) (b) and 112.11 (3), Stats.

⁴⁸ s. 24.61 (2) (c), Stats.

years in which investment earnings are insufficient to meet the distribution targets; and (d) a strategy of growing the principal of each fund by reinvesting capital gains.⁴⁹

Distribution Targets

The investment policy sets distribution targets that are intended to appropriately address the needs of the fund beneficiaries. Because the BCPL concluded that the UW System is not dependent on annual distributions from the University or Agricultural College Funds, the policy does not set distribution targets for these funds. Rather, the policy calls for investing in a manner that will grow the principal of these funds, thereby making larger distributions in future years possible. Distribution targets for the Common and Normal School Funds are shown in the table below.

Table 2: Distribution Targets

Fund	Distribution Target Amount	
	Initial	After Smoothing Accounts are Funded
Common School	Equal to 3.25% of principal balance	Equal to 5-year average of net earnings
Normal School	Equal to 1.5% of principal balance	Equal to 5-year average of net earnings
University	Not applicable	Not applicable
Ag. College	Not applicable	Not applicable

Asset Allocation Targets

The investment policy establishes “asset allocation targets” (i.e., a percentage of each fund’s principal to be invested in each asset class) that are intended to yield short-term earnings sufficient to support targeted annual distributions, and long-term gains sufficient to grow the fund principals, while maintaining the appropriate risk exposure.

Because the policy concludes that the UW System’s operations are not dependent on receiving annual distributions from the University and Agricultural College Funds, these funds will be invested in investments focused on long-term capital gains (such as mutual funds and exchange traded funds), for the purpose of growing the fund balances and maximizing potential distributions in the future.

⁴⁹ State of Wisconsin Board of Commissioners of Public Lands School Trust Fund Investment Policy Statements: An Investment Management Framework for State of Wisconsin School Trust Funds, including the Common School Fund, the Normal School Fund, the Agricultural College Fund, and the University Fund, approved November 1, 2016.

Under the policy, the Common and Normal School Funds will be invested as shown in the table below. The Normal School Fund will remain invested in fixed income investments because timber revenue is anticipated to provide sufficient principal growth, and annual income is needed to fund the cost of timber management.

Table 3: Asset Allocation Targets

Asset Class	Allocation Target	
	Common School Fund	Normal School Fund
BCPL Trust Fund Loans	40%	45%
State & Municipal Bonds	25%	45%
Farm Credit (Agency Bonds)	10%	10%
Investment Grade Corporate Bonds	0%	0%
Cash	2%	0%
Public Equities	15%	0%
Real Estate	5%	0%
Venture Capital	3%	0%

Capping the percentage of each fund invested in the loan program may be complicated by the fact that demand for BCPL loans by local governments and school districts may, at times, exceed the target asset allocation for the loans. Rather than refusing to issue new loans, the policy states that the BCPL will instead consider making room for new loans by selling some of its existing loans to other creditors. Because the loan yields are higher than would be expected in the open market for the loans' level of default risk, the BCPL anticipates that other creditors may be interested in purchasing the loans.⁵⁰ Revenue from the sale of loans held for more than one year will be used to grow the fund principal amounts, while revenue from sales of loans held for one year or less will be used to make annual distributions.⁵¹ As discussed in more detail in **Part III**, the BCPL has had authority to sell its loans since 1989, but has never done so.

Smoothing Accounts

The investment policy calls for the creation of smoothing accounts, which will be used to fund annual distributions in years when investment income is insufficient to fully fund the distributions. With the planned transition away from exclusive use of fixed income investments, the annual income from investments will be less predictable. Because the Wisconsin Constitution prohibits paying distributions from the principal of the funds, any income shortfalls must be covered through the use of reserve funds, such as those provided by the smoothing accounts.

To fund the smoothing accounts in an amount equal to 50% of the targeted annual distribution for the Common School Fund and 60% of the targeted annual distribution for the Normal School Fund, investment income above the targeted distribution amounts will be added to the smoothing accounts until the accounts are fully funded.⁵²

⁵⁰ BCPL Board Meeting Minutes, January 19, 2016, "Analysis of Trust Fund Program Yields."

⁵¹ BCPL Investment Policy, p. 17.

⁵² BCPL Investment Policy, p. 14.

Strategy of Growing Fund Principal

As discussed in **Part I**, because investment earnings have been annually distributed, rather than added to the principal of the funds, the principal of the funds has only grown through external additions, such as fines, forfeitures, and timber revenue. Because the University and Agricultural College Funds do not receive any external additions, their fund principal amounts have not grown, thereby losing value in real terms, due to inflation.

In order to facilitate the growth of the principal of the funds, the investment policy provides that, beginning in fiscal year 2018, long-term capital gains (gains on the sale of assets held for longer than one year) will be added to the principal of each fund at the time earned.⁵³ As discussed earlier in this section, principal growth will also be pursued through investing in assets intended to generate capital gains and selling loans to other creditors.

⁵³ BCPL Investment Policy, pp. 15-16.

PART III – THE LOAN PROGRAM

The BCPL may make both “general obligation loans” secured by the general taxing authority of a local governmental entity, and “revenue obligation loans” secured by the revenues generated by a specific project, such as a tax increment finance project.⁵⁴ In entering into loans, the BCPL and local government must comply with statutes prescribing the: (a) entities eligible to receive a loan; (b) purposes for which loan proceeds may be disbursed and used; (c) permissible loan terms; (d) application contents and procedures; and (e) payment and collection requirements.

GOVERNMENT ENTITIES ELIGIBLE FOR A LOAN

The BCPL may loan money to a town, village, city, county, school or technical college district, or to one of 11 other types of governmental entities specified by statute.⁵⁵ Of loans currently outstanding, the following amounts were lent to the following types of government entities.

Table 4: Outstanding Loans by Borrower Type

Government Entity Type	Total Loan Amount	Percentage of Total
Cities	\$190.6 million	30.2%
School Districts	\$159.4 million	25.3%
Villages	\$119.2 million	18.9%
Towns	\$89.1 million	14.1%
Counties	\$58.1 million	9.2%
Sanitary Districts	\$7.6 million	1.2%
Lake Districts	\$6.0 million	0.9%
Federate Library Systems	\$151,000	<0.1%
Total	\$630.1 million	

PURPOSES FOR WHICH LOAN PROCEEDS MAY BE USED

The purposes for which loan proceeds may be used depend on the type of government entity receiving the loan. School districts may use loan proceeds for: (a) operation and maintenance of schools; (b) construction and remodeling of school buildings; (c) refinancing any indebtedness incurred for a lawful purpose; (d) purchasing sites for future school buildings; (e) purchasing transportation vehicles and garages; (f) purchasing school and playground equipment; (g) funding

⁵⁴ s. 24.60 (1w) and (2m), Stats.

⁵⁵ Including: a cooperative educational service agency or a consortium of two or more educational institutions for expenses relating to conducting a distance education program; a public inland lake protection and rehabilitation district; a town sanitary district, metropolitan sewerage district, metropolitan sewerage system, or joint sewerage system; a federated library system; a drainage district; a local professional park district; and a local exposition district created for the purpose of developing a sports and entertainment arena. [s. 24.61 (3), Stats.]

any project undertaken for a public purpose; or (h) financing unfunded prior service pension liabilities.⁵⁶

Municipalities may use 10-year and shorter loans for any municipal function, including operations and maintenance. They may use longer-termed loans only to finance or refinance “public purpose projects” which are projects involving “the acquisition, leasing, planning, design, construction, development, extension, enlargement, renovation, rebuilding, repair or improvement of land, waters, property, highways, buildings, equipment or facilities.”⁵⁷

Certain local government units may only use loans for certain limited purposes. For example, a cooperative educational service agency may only use loan proceeds for expenses relating to conducting a distance education program, and a local exposition district may only use them to finance costs related to the construction of sports and entertainment facilities.⁵⁸

From 2008 through 2017, loans were disbursed for the purposes listed in the table below.⁵⁹

Table 5: Loans Disbursed 2008-17 by Purpose

Purpose	Total Loan Disbursements 2008-2017	
	Amount	Percentage of Total
Buildings and Infrastructure	\$544.5 million	43.3%
Refinancing Debt	\$310.3 million	24.7%
Economic Development	\$220.9 million	17.6%
Refinancing Pension Liability	\$102.8 million	8.2%
Capital Equipment and Vehicles	\$72.4 million	5.8%
Operations	\$7.7 million	0.6%
Total	\$1.3 billion	

LOAN TERMS

The statutes require the BCPL to charge at least 2% interest on all loans, and generally provide a maximum loan term of 20 years for general obligation loans and 30 years for revenue obligation loans.⁶⁰ In practice, the BCPL sets interest rates for general obligation loans based on the term of the loan. Currently, the interest rate for a general obligation loan is 4% for a term of two to five years, 4.25% for a term of six to 10 years, and 4.5% for a term of 11 to 20 years. The BCPL sets the interest rate for any particular revenue obligation loan based on its analysis of the specific risks involved in the project anticipated to generate the revenue that will be used to pay the loan.⁶¹

⁵⁶ ss. 24.61 (3) (a), 67.04, and 67.12, Stats.

⁵⁷ ss. 24.61 (3), 67.04, and 67.12 (12), Stats.

⁵⁸ s. 24.61 (3), Stats.

⁵⁹ BCPL Loan Disbursement Report. Accessed at:

<http://bcpl.wisconsin.gov/section.asp?linkid=1438&locid=145>.

⁶⁰ s. 24.63 (2) and (3), Stats.

⁶¹ BCPL website, accessed at:

<http://bcpl.wisconsin.gov/category.asp?linkcatid=3811&linkid=1438&locid=145>.

The maximum allowable principal amount of a loan depends on the financial status of the borrowing school district or municipality. Generally, the BCPL may not issue a general obligation loan in an amount that, together with all other indebtedness of the municipality or school district, exceeds 5% of the valuation of its taxable property. It may not issue a revenue obligation loan for a tax increment finance project in an amount such that the associated annual payments of principal and interest would exceed 80% of the shared revenue payments received in the year before the application date.⁶²

Of loans currently outstanding, the largest loan was for \$16.4 million and the smallest was for \$6,475. As shown in the table below, the largest number of loans are for amounts between \$100,000 and \$500,000.

Table 6: Outstanding Loans by Loan Amount

Loan Amount	Number of Loans	Percentage of Total
\$10,000 or less	10	0.8%
\$10,000 - \$50,000	138	11.3%
\$50,000 - \$100,000	191	15.6%
\$100,000 - \$500,000	603	49.2%
\$500,000 - \$1 million	174	14.2%
\$1 million - \$5 million	95	7.8%
\$5 million - \$10 million	7	0.6%
Over \$10 million	7	0.6%
Total	1,225	

APPLICATION CONTENTS AND PROCEDURES

All applications for loans must specify the amount of money required, the purpose for which the proceeds will be used, and the time and terms of repayment. An application for a general obligation loan must also include proof of the valuation of all taxable property within the municipality, and an accounting of all existing indebtedness of the applicant. An application for a revenue obligation loan must include a statement of the revenue or tax increments that the applicant anticipates receiving from the project, and proof of the amount of annual shared revenue payments that the applicant receives.⁶³

All loan applications must be accompanied by proof that the applicant has fulfilled the statutory requirements that govern the process by which an applicant's governing body or electors must authorize the applicant to apply for the loan.⁶⁴

The process required depends on the type of government entity seeking to apply for a loan. For a town, village, or city, a loan application must be authorized by a majority vote of the respective

⁶² s. 24.63 (1) and (2s), Stats.

⁶³ s. 24.66 (1), Stats.

⁶⁴ s. 24.66 (1), Stats.

governing body.⁶⁵ For a county, an affirmative vote of 3/4ths of its supervisors may be required in certain instances.⁶⁶ Generally, for most school districts, a loan may be approved by the board, without elector approval, if the BCPL loan, in aggregate with all other outstanding debt contracted without elector approval is \$1 million or less.⁶⁷ Otherwise, loans with a term of more than 10 years must be approved by a majority of electors at an annual or special district meeting. And, loans with a term of 10 years or less may be approved using the same process, or a school district may instead choose to issue a public notice that its governing body has voted to apply for a loan, and if a petition to call a referendum is not submitted within 30 days, proceed with the application.⁶⁸ A school district must hold a referendum if it will need to increase its revenue limit in order to make payments on a loan of any term length.⁶⁹

All general obligation loan applications must also be accompanied by proof that the applicant has levied upon all taxable property a tax sufficient to pay the principal and interest on the loan.⁷⁰

PAYMENT AND COLLECTION

Annually by October 1, the BCPL must submit to each borrower a statement of the amount due on the loan for that year. For general obligation loans, that amount must then be added to the municipal or school district levy as a separately stated item.

Payments for both general and revenue obligation loans are due annually within 15 days after March 15. Borrowers may prepay amounts in advance of their due dates, if the payments are made between January 1 and September 1 of each year.⁷¹

If a municipality or school district fails to make the required payment, the Department of Administration (DOA) or the State Superintendent must withhold from any state payments or state school aid payments, respectively, the amount owed and submit it to the BCPL.⁷²

SALES OF LOANS TO OTHER CREDITORS

Since 1989, the statutes have authorized the BCPL to sell its loans to any other person, including another trust or an investment vehicle created for the purpose of attracting private investment capital.⁷³ According to agency records from that era, the idea was proposed and promoted by private financial institutions interested in purchasing the loans.⁷⁴ In signing the act, the Governor partially vetoed a provision that would have authorized BCPL to use the proceeds of

⁶⁵ s. 24.66 (2), Stats.

⁶⁶ s. 67.045, Stats.

⁶⁷ ss. 24.66 (3) (c) and 67.12 (12) (e) 2g., Stats.

⁶⁸ s. 24.66 (3), Stats.

⁶⁹ s. 121.91 (4) (c) 2., Stats.

⁷⁰ s. 24.66 (5), Stats.

⁷¹ s. 24.63 (4), Stats.

⁷² ss. 24.70 and 24.71, Stats.

⁷³ 1989 Act 31; s. 24.69, Stats.; BCPL Board Meeting Agenda and Minutes – January 19, 2016. Item 5, pp. 2-3, “Analysis of Trust Fund Loan Program Yields.”

⁷⁴ BCPL Annual Report for 1985 (p. ii), 1986 (p. 2), 1987 (p. 3), and 1988 (p. 2).

the sale to issue new loans. In doing so, the Governor stated, "Providing the authority for the reloan of the proceeds would allow for the creation of a large state-operated municipal bond bank to finance conventional municipal projects..." and such a step was not called for because "[p]rivate sector lenders [were] effectively meeting the need for financing municipal projects...."⁷⁵

Before selling any loan, the BCPL must refer the terms of the proposed sale to SWIB for its recommendations. If the BCPL sells a loan, it may continue to administer the loan, may exercise its state aid intercept powers to collect amounts owed, and may commit itself to repurchasing a loan upon the occurrence of an event specified in the contract, such as a default.⁷⁶

According to BCPL staff, the BCPL has never exercised its authority to sell loans.

⁷⁵ Governor's Veto Message for 1989 Act 31, as recorded in the Senate Journal for August 9, 1989.

⁷⁶ s. 24.69, Stats.

PART IV – SCHOOL DISTRICT AND UNIVERSITY FUNDING AND USE OF TRUST FUND PROCEEDS

COMMON SCHOOL FUND

As previously discussed, the Wisconsin Constitution requires that the proceeds from the Common School Fund be distributed for the benefit of the state public schools. State statutes require that the proceeds be distributed to school districts and generally used for the support of school libraries. The distribution from the Common School Fund is the only source of state aid specifically designated for the support of school libraries and, as discussed below, is a form of aid that does not factor into a school district’s revenue limit.

Distribution and Use of Common School Fund Proceeds

Distribution of the Funds

By October 15 of each year, each school district must certify to the Department of Public Instruction (DPI) the number of people between the ages of four and 20 who resided within the district on the preceding June 30. Annually, the BCPL provides DPI with an estimate of the amount of funds that will be available for distribution from the Common School Fund. By January 10 of each year, DPI must apportion the estimated amount of funds for distribution to school districts in proportion to the number of residents reported to DPI by school districts. DPI must certify the apportionment to DOA and must notify each school district of the estimated distribution amounts.

State statutes require that DOA distribute library aid in one payment to each school district on or before May 1 of each year. State statutes also require that the actual amount to be distributed is based on how much funding is available from the Common School Fund as of April 15 of each year.⁷⁷ In practice, however, the funds from the BCPL are distributed to school districts based on the amount of the estimate provided by the BCPL in January. To the extent that there is more available for distribution at the time distributions are made, the amount is retained by the BCPL and included as part of the estimated distribution the next year. In 2018, the BCPL distributed \$35.7 million in library aid to Wisconsin school districts.⁷⁸

Use of the Funds

The Wisconsin Constitution requires that income from the Common School Fund be distributed for “the support and maintenance of common schools, in each school district, and the purchase of suitable libraries and apparatus therefor.” State statutes direct more specifically how the funds may be used. Since 2001, the Legislature has taken steps to expand the purposes for which the funds may be expended.⁷⁹

⁷⁷ s. 43.70, Stats.

⁷⁸ See the Appendix.

⁷⁹ Wis. Const. art. X, s. 2, cl. 1 and s. 5.

Under prior law, the statutes provided that the funds could be used only for the purchase of library books and other instructional materials for school libraries. In 2001, the Legislature provided that distributions from the Common School Fund could also be used to purchase instructional materials from the Wisconsin State Historical Society for use in teaching Wisconsin history.⁸⁰ In 2007, the Legislature provided that up to 25% of the funds could be used to purchase school library computers and related software if the school board consults with the person who supervises the school district's libraries and the computers and software are housed in the school library, and, in 2011, the Legislature repealed the 25% limit.⁸¹

Thus, under current law, the statutes direct that the proceeds from the Common School Fund may be expended for the purpose of purchasing books and other instructional materials for public school libraries, including computers and related software under certain circumstances, and for the purchase of instructional materials from the Wisconsin State Historical Society for use in teaching Wisconsin history.⁸²

School library aid is considered a form of categorical aid, meaning that the funds received by a school district do not factor into the school district's revenue limit. The state appropriation for school library aid is funded entirely by the proceeds from the Common School Fund. No other state aid is provided specifically for the purpose of funding public school libraries.

Public School District Establishment and Funding

The Wisconsin Constitution requires the Legislature to establish public school districts that are as "nearly uniform as practicable" and that provide schools that are "free and without charge for tuition to all children between the ages of 4 and 20 years." The Wisconsin Supreme Court has interpreted this provision to guarantee all pupils access to a sound basic education, but not to require that every pupil receive identical amounts of state funding.⁸³

The Wisconsin Constitution establishes certain fundamental aspects of school finance; however, state statutes establish most aspects of the modern school funding system. State aid is generally distributed to school districts in the following three forms: (a) general aid; (b) categorical aid; and (c) tax credits.⁸⁴

General Aids

The majority of state aid to school districts is provided from the general school aids appropriation. The largest portion of general aid, called equalization aid, is distributed according to a funding formula. Under the formula, the allocation of state equalization aid to school districts is generally based upon pupil enrollment and the value of property within each school district. Under current law, school districts with low property values receive more state equalization aid, while

⁸⁰ 2001 Wisconsin Act 16.

⁸¹ 2007 Wisconsin Act 20; 2011 Wisconsin Act 105.

⁸² ss. 24.78 and 43.70 (3), Stats.

⁸³ Wis. Const. art. X, s. 3; *Vincent v. Voight*, 2000 WI 93, ¶3.

⁸⁴ For a more detailed explanation of public school funding, see Legislative Fiscal Bureau, *State Aid to School Districts*, Informational Paper 24 (Jan. 2017); and Legislative Fiscal Bureau, *State Property Tax Credits*, Informational Paper 21 (Jan. 2017), available at https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2017.

school districts with high property values receive less, and sometimes even no, state equalization aid.

Under Wisconsin law, each school district may annually raise a specific amount of revenue per pupil through a combination of general state aid, including equalization aid,⁸⁵ and local property taxes. This amount is called the “revenue limit.” Generally, for a school district that is at its revenue limit, an increase in general state aid must be followed by a corresponding reduction in the school district’s local levy so as to not exceed the revenue limit. The reverse is also true. Therefore, a school district that is at its revenue limit that experiences a decrease in general state aid may generally increase its local levy so as to raise funds up to the amount of the revenue limit.⁸⁶

Categorical Aids and Tax Credits

The state also provides funding to school districts in the form of categorical aids and via the school levy tax and first dollar credits, none of which are factored into a school district’s revenue limit. In general, categorical aids are funds that are designated for a particular purpose and are commonly distributed to eligible school districts by formula or by grant. As discussed above, school library aid from the Common School Fund is a categorical aid. Other examples of categorical aids include special education aid, per pupil aid, sparsity aid, pupil transportation aid, and grants for robotics league participation, four-year old kindergarten programs, and teacher peer review and mentoring.

The school levy tax and first dollar credits are used to subsidize public schools by providing property tax relief. The state distributes funds for the credits directly to municipalities. In turn, municipalities reduce eligible property taxpayers’ bills by a proportional amount. In general, the school levy tax credit reduces the tax on all assessed property within a municipality. The first dollar credit reduces the tax on real estate parcels on which improvements are located.⁸⁷

NORMAL SCHOOL, UNIVERSITY, AND AGRICULTURAL COLLEGE FUNDS

The proceeds from the Normal School, University, and Agricultural College Funds are distributed for the benefit of the state university. Statutes specifically direct the purposes for which the UW System may expend the funds from the Normal School Fund. As discussed below, a portion of the UW System budget is supported by state funding, but the portion of the UW System budget supported by the school trust funds is small.

Distribution and Use of Normal School, University, and Agricultural College Fund Proceeds

As discussed below, the UW System is the successor of the state normal schools under the former Wisconsin State University System, and is, therefore, the current beneficiary of distributions

⁸⁵ Integration aid, special adjustment aid, and high poverty aid are also classified as general aid and are, therefore, subject to revenue limits.

⁸⁶ ss. 121.07 and 121.91, Stats.

⁸⁷ s. 79.10, Stats.

from the Normal School Fund. Under state law, income derived from the Normal School Fund is annually distributed to the UW System for the following purposes:

- \$100,000 for need-based grants to students of underrepresented groups who enroll in the Nelson Institute for Environmental Studies at UW-Madison.
- \$100,000 in scholarships to students enrolled in the sustainable management degree program through UW-Extension.
- \$300,000 to UW-Stevens Point for environmental programs.
- The balance is awarded annually to Wisconsin high school graduates in the form of Wisconsin Merit scholarships.⁸⁸

In fiscal year 2018, the BCPL distributed \$495,000 to the UW System from the Normal School Fund.

The Wisconsin Constitution requires that the Legislature appropriate the interest earned from the University Fund for the support of the state university.⁸⁹ In fiscal year 2018, the BCPL distributed \$7,266 to the UW System from the University Fund.

Statutes require that the income and interest from the Agricultural College Fund be distributed for the “benefit of agricultural and the mechanic arts.”⁹⁰ In fiscal year 2018, the BCPL distributed \$10,600 to the UW System from the Agricultural College Fund.

UW System Establishment and Funding

The Wisconsin Constitution requires the Legislature to provide for “the establishment of a state university at or near the seat of state government, and for connecting with the same from time to time, such colleges in different parts of the state as the interests of education may require.”⁹¹ Before 1971, state-funded institutions of higher education were separated into two systems: the University of Wisconsin and the Wisconsin State University System.

The University of Wisconsin, the original land-grant university, was established in Madison in 1849, but grew over time to also include campuses in Milwaukee, Green Bay, and Parkside and to include several freshman-sophomore centers and the UW-Extension. Separately, beginning with an act of the Legislature in 1857, the Wisconsin State University System was established as a system of normal schools to train teachers. The original normal school was established in Platteville in 1866, but the system grew over time to include nine four-year institutions and four freshman-sophomore branch campuses.⁹²

⁸⁸ ss. 20.285 (1) (rm) and 36.49, Stats.

⁸⁹ Wis. Const. art. X, s. 6.

⁹⁰ s. 24.82, Stats.

⁹¹ Wis. Const. art. X, s. 6.

⁹² For more information about the history of the UW System, see Legislative Fiscal Bureau, *University of Wisconsin System Overview*, Informational Paper 32 (Jan. 2017), available at https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2017 and see <https://www.wisconsin.edu/about-the-uw-system/>.

The two university systems were merged in 1971 under a single Board of Regents. As merged, the UW System was comprised of 13 four-year institutions, 14 two-year institutions, and the UW-Extension, which had offices in each county. The UW System is undergoing a restructuring, whereby, as of July 1, 2018, the existing 13 two-year institutions⁹³ are affiliated as branch campuses of seven of the four-year institutions and the functions of the UW-Extension are divided between UW-Madison and UW System Administration.⁹⁴

The UW System currently has an operating budget of approximately \$6 billion, about half of which is supported with federal funds and student tuition payments. State funding, in the form of general purpose revenue (GPR), is the third-largest piece of the UW System budget, amounting to approximately \$1 billion split between general program operations and debt service.⁹⁵ In addition to the GPR funding, funds from the school trust funds are distributed to the UW System on an annual basis, as discussed above.

⁹³ The campus at Medford was closed in 1981. [1981 Wisconsin Act 20, s. 2053 (2).]

⁹⁴ For a press release on the restructuring and an outline, see <https://www.wisconsin.edu/news/archive/uw-system-restructuring-is-given-seal-of-approval-by-the-higher-learning-commission/>.

⁹⁵ For more information about the UW System budget, see Legislative Fiscal Bureau, *University of Wisconsin System Overview*, Informational Paper 32 (Jan. 2017), available at: https://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2017; and see the 2017-18 UW System operating budget, available at https://www.wisconsin.edu/budget-planning/download/budget_documents/annual_budget_documents/2017-18-Annual-Budget.pdf.

2018 BCPL Common School Fund Earnings Distribution

\$35.7 Million
Public School Library Aid

2018 BCPL EARNINGS DISTRIBUTION

\$35.7 million in Common School Fund library aid to be distributed in 2018. The Common School Fund was established by Wisconsin's founders in Article 10 of the State Constitution as a permanent school trust fund. By investing in community projects throughout the state through the State Trust Fund Loan Program, the Board of Commissioners of Public Lands generates earnings for the Common School Fund that are distributed annually to public school libraries. These monies are the sole source of state funding for public school libraries. For many school districts this is the only money available to them for library materials including books, newspapers and periodicals, web-based resources, and computer hardware and software.

A

Abbotsford, \$27,466
Adams-Friendship Area,
\$66,141
Albany, \$14,050
Algoma, \$29,947
Alma, \$7,826
Alma Center, \$26,801
Almond-Bancroft, \$17,827
Altoona, \$63,907
Amery, \$62,335
Antigo, \$99,353
Appleton Area, \$666,411
Arcadia, \$46,865
Argyle, \$11,452
Arrowhead UHS, \$82,217
Ashland, \$83,003
Ashwaubenon, \$98,897
Athens, \$33,419
Auburndale, \$34,325
Augusta, \$36,773

B

Baldwin-Woodville Area,
\$64,541
Bangor, \$28,191
Baraboo, \$128,448
Barneveld, \$15,652
Barron Area, \$57,440
Bayfield, \$17,012
Beaver Dam, \$150,294
Beecher-Dunbar-Pembine,
\$9,881
Belleville, \$35,111
Belmont Community, \$13,325
Beloit, \$283,667
Beloit Turner, \$46,986
Benton, \$9,790
Berlin Area, \$65,840
Big Foot UHS, \$28,252
Birchwood, \$8,370
Black Hawk, \$14,715
Black River Falls, \$68,747
Blair-Taylor, \$30,095
Bloomer, \$50,158
Bonduel, \$31,001
Boscobel, \$33,207
Bowler, \$15,440
Boyceville Community,
\$30,337
Brighton #1, \$2,659
Brillion, \$32,724
Bristol #1, \$23,810
Brodhead, \$40,066

Brown Deer, \$62,909
Bruce, \$19,368
Burlington Area, \$137,694
Buttemut, \$7,866

C

Cadott Community, \$33,570
Cambria-Friesland, \$15,168
Cambridge, \$30,085
Cameron, \$29,884
Campbellsport, \$59,979
Cashton, \$41,789
Cassville, \$8,521
Cedar Grove-Belgium Area,
\$40,489
Cedarburg, \$118,779
Central/Westosha UHS,
\$60,522
Chequamegon, \$28,040
Chetek-Weyerhaeuser,
\$40,187
Chilton, \$52,092
Chippewa Falls Area,
\$233,508
Clayton, \$12,509
Clear Lake, \$33,479
Clinton Community, \$38,876
Clintonville, \$58,075
Cochrane-Fountain City,
\$26,681
Colby, \$46,442
Coleman, \$28,071
Colfax, \$30,188
Columbus, \$53,271
Cornell, \$19,550
Crandon, \$32,240
Crivitz, \$27,587
Cuba City, \$34,386
Cudahy, \$98,594
Cumberland, \$33,177

D-F

D C Everest Area, \$231,846
Darlington Community,
\$28,554
De Soto Area, \$21,755
Deerfield Community, \$28,040
Deforest Area, \$130,774
Delavan-Darien, \$103,912
Denmark, \$59,132
Depere, \$177,869
Dodgeland, \$33,509
Dodgville, \$51,548
Dover #1, \$3,868
Drummond, \$15,078

Durand-Arkansaw, \$43,813
East Troy Community,
\$67,835
Eau Claire Area, \$418,853
Edgar, \$24,747
Edgerton, \$66,143
Elcho, \$13,023
Eleva-Strum, \$21,635
Elk Mound Area, \$42,423
Elkhart Lake-Glenbeulah,
\$20,124
Elkhorn Area, \$112,312
Ellsworth Community, \$68,892
Elmbrook, \$329,988
Elmwood, \$15,894
Erin, \$9,367
Evansville Community,
\$71,702
Fall Creek, \$25,955
Fall River, \$21,907
Fennimore Community,
\$31,364
Flambeau, \$26,530
Florence, \$15,863
Fond Du Lac, \$264,147
Fontana J8, \$7,131
Fort Atkinson, \$98,836
Fox Point J2, \$26,711
Franklin Public, \$169,723
Frederic, \$20,758
Freedom Area, \$73,032
Friess Lake, \$4,925

G-J

Gale-Etrick-Trempealeau,
\$56,111
Geneva J4, \$3,656
Genoa City J2, \$22,360
Gemantown, \$154,887
Gibraltar Area, \$22,722
Gillett, \$20,426
Gilman, \$16,860
Gilmanton, \$7,312
Glendale-River Hills, \$35,262
Glenwood City, \$25,986
Goodman-Armstrong, \$3,777
Grafton, \$99,501
Granton Area, \$16,921
Grantsburg, \$30,004
Green Bay Area, \$1,035,589
Green Lake, \$10,394
Greendale, \$89,288
Greenfield, \$120,622
Greenwood, \$24,717

Gresham, \$10,999
Hamilton, \$184,075
Hartford J1, \$76,688
Hartford UHS, \$70,584
Hartland-Lakeside J3,
\$45,082
Hayward Community, \$74,633
Herman-Neosho-Rubicon,
\$12,781
Highland, \$10,122
Hilbert, \$20,879
Hillsboro, \$36,259
Holmen, \$168,544
Horicon, \$38,264
Hortonville, \$157,546
Howards Grove, \$41,275
Howard-Suamico, \$214,110
Hudson, \$230,457
Hurley, \$21,786
Hustisford, \$21,514
Independence, \$14,534
Iola-Scandinavia, \$26,771
Iowa-Grant, \$24,928
Ithaca, \$13,778
Janesville, \$400,632
Jefferson, \$84,816
Johnson Creek, \$29,551
Juda, \$9,216

K-L

Kaukauna Area, \$148,330
Kenosha, \$920,315
Kettle Moraine, \$130,382
Kewaskum, \$74,059
Kewaunee, \$39,794
Kickapoo Area, \$24,505
Kiel Area, \$52,515
Kimberly Area, \$184,982
Kohler, \$23,236
Lac Du Flambeau #1, \$18,281
Lacrosse, \$291,372
Ladysmith, \$31,213
Lafarge, \$17,465
Lake Country, \$11,119
Lake Geneva J1, \$78,984
Lake Geneva-Genoa UHS,
\$60,432
Lake Holcombe, \$12,026
Lake Mills Area, \$53,935
Lakeland UHS, \$34,235
Lancaster Community,
\$41,154
Laona, \$8,189
Lena, \$17,555



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Linn J4, \$3,324
Linn J6, \$3,082
Little Chute Area, \$52,817
Lodi, \$58,981
Lomira, \$39,583
Loyal, \$31,455
Luck, \$18,311
Luxemburg-Casco, \$79,921

M

Madison Metropolitan,
\$896,294
Manawa, \$30,790
Manitowoc, \$239,219
Maple, \$47,922
Maple Dale-Indian Hill,
\$17,223
Marathon City, \$29,612
Marinette, \$84,181
Marion, \$22,481
Markesan, \$56,655
Marshall, \$42,484
Marshfield, \$165,885
Mauston, \$61,882
Mayville, \$51,065
Mcfarland, \$90,707
Medford Area, \$87,082
Mellen, \$11,240
Melrose-Mindoro, \$30,820
Menasha, \$142,135
Menominee Indian, \$41,063
Menomonee Falls, \$158,180
Menomonie Area, \$130,835
Mequon-Thiensville, \$133,041
Mercer, \$6,013
Merrill Area, \$115,032
Merton Community, \$27,648
Middleton-Cross Plains,
\$264,570
Milton, \$141,773
Milwaukee, \$4,732,921
Mineral Point, \$26,862
Minocqua J1, \$18,462
Mishicot, \$31,817
Mondovi, \$31,485
Monona Grove, \$131,711
Monroe, \$67,324
Montello, \$31,606
Monticello, \$12,479
Mosinee, \$71,038
Mount Horeb Area, \$93,941
Mukwonago, \$177,005
Muskego-Norway, \$217,222

N

Necedah Area, \$27,889
Neenah, \$295,934
Neillsville, \$38,797
Nekoosa, \$51,004
New Auburn, \$11,452
New Berlin, \$162,350
New Glarus, \$33,812
New Holstein, \$52,696
New Lisbon, \$25,653
New London, \$105,363
New Richmond, \$122,556
Niagara, \$11,482
Nicolet UHS, \$55,990
Norris, \$906

North Cape, \$6,708
North Crawford, \$17,827
North Fond Du Lac, \$59,193
North Lake, \$10,183
North Lakeland, \$4,381
Northern Ozaukee, \$35,715
Northland Pines, \$45,747
Northwood, \$13,386
Norwalk-Ontario-Wilton,
\$24,868
Norway J7, \$3,082

O-P

Oak Creek-Franklin, \$214,835
Oakfield, \$20,940
Oconomowoc Area, \$229,762
Oconto, \$38,797
Oconto Falls, \$81,039
Omro, \$52,968
Onalaska, \$108,838
Oostburg, \$42,332
Oregon, \$134,068
Osceola, \$66,354
Oshkosh Area, \$412,417
Osseo-Fairchild, \$42,393
Owen-Withee, \$28,222
Palmyra-Eagle Area, \$43,481
Pardeeville Area, \$57,350
Paris J1, \$5,741
Parkview, \$36,622
Pecatonica Area, \$20,577
Pepin Area, \$9,155
Peshigo, \$40,006
Pewaukee, \$107,115
Phelps, \$5,560
Phillips, \$28,675
Pittsville, \$22,571
Platteville, \$52,938
Plum City, \$12,691
Plymouth, \$95,815
Port Edwards, \$15,531
Port Washington-Saukville,
\$114,548
Portage Community, \$86,659
Potosi, \$13,355
Poynette, \$41,789
Prairie Du Chien Area,
\$44,840
Prairie Farm, \$10,636
Prentice, \$18,009
Prescott, \$50,612
Princeton, \$16,891
Pulaski Community, \$135,579

R-S

Racine, \$858,494
Randall J1, \$19,973
Randolph, \$25,502
Random Lake, \$33,932
Raymond #14, \$12,177
Reedsburg, \$102,432
Reedsville, \$33,842
Rhineland, \$99,954
Rib Lake, \$18,976
Rice Lake Area, \$90,738
Richfield J1, \$10,636
Richland, \$74,573
Richmond, \$13,476
Rio Community, \$16,770

Ripon Area, \$59,676
River Falls, \$126,000
River Ridge, \$22,390
River Valley, \$54,812
Riverdale, \$26,167
Rosendale-Brandon, \$37,619
Rosholt, \$19,399
Royall, \$26,620
Saint Croix Central, \$56,564
Saint Croix Falls, \$40,701
Saint Francis, \$42,000
Salem, \$34,567
Sauk Prairie, \$106,571
Seneca, \$12,358
Sevastopol, \$23,327
Seymour Community, \$91,735
Sharon J11, \$7,917
Shawano, \$100,528
Sheboygan Area, \$395,224
Sheboygan Falls, \$64,873
Shell Lake, \$22,027
Shiocton, \$28,675
Shorewood, \$70,343
Shullsburg, \$13,567
Silver Lake J1, \$14,957
Siren, \$17,827
Slinger, \$108,505
Solon Springs, \$13,748
Somerset, \$61,006
South Milwaukee, \$116,029
South Shore, \$8,551
Southern Door County,
\$42,846
Southwestern Wisconsin,
\$26,227
Sparta Area, \$114,458
Spencer, \$32,754
Spooner, \$55,446
Spring Valley, \$28,947
Stanley-Boyd Area, \$47,862
Stevens Point Area, \$314,608
Stockbridge, \$10,062
Stone Bank School District,
\$10,153
Stoughton Area, \$117,298
Stratford, \$37,800
Sturgeon Bay, \$53,905
Sun Prairie Area, \$295,451
Superior, \$166,731
Suring, \$17,042
Swallow, \$15,561

T-V

Thorp, \$31,364
Three Lakes, \$20,124
Tigerton, \$9,609
Tomah Area, \$130,805
Tomahawk, \$40,066
Tomorrow River, \$36,984
Trevor-Wilmet Consolidated,
\$14,715
Tri-County Area, \$26,107
Turtle Lake, \$17,374
Twin Lakes #4, \$12,902
Two Rivers, \$45,414
Union Grove J1, \$20,668
Union Grove UHS, \$38,616
Unity, \$44,659
Valders Area, \$40,701

Verona Area, \$195,346
Viroqua Area, \$57,531

W-Y

Wabeno Area, \$19,278
Walworth J1, \$17,042
Washburn, \$18,945
Washington, \$2,991
Washington-Caldwell, \$5,499
Waterford Graded, \$46,230
Waterford UHS, \$43,330
Waterloo, \$33,600
Watertown, \$172,593
Waukesha, \$538,477
Waunakee Community,
\$137,633
Waupaca, \$88,744
Waupun, \$73,334
Wausau, \$310,287
Wausaukee, \$20,094
Wautoma Area, \$52,394
Wauwatosa, \$327,903
Wauzeka-Steuben, \$10,394
Webster, \$25,381
West Allis, \$371,867
West Bend, \$293,426
West Depere, \$131,832
West Salem, \$69,466
Westby Area, \$49,373
Westfield, \$40,127
Weston, \$19,308
Weyauwega-Fremont,
\$34,446
Wheatland J1, \$17,072
White Lake, \$7,040
Whitefish Bay, \$117,117
Whitehall, \$37,377
Whitewater, \$65,931
Whitnall, \$76,204
Wild Rose, \$19,580
Williams Bay, \$20,063
Wilmot UHS, \$56,202
Winneconne Community,
\$60,160
Winter, \$9,548
Wisconsin Dells, \$63,937
Wisconsin Heights, \$31,938
Wisconsin Rapids, \$235,895
Wittenberg-Biramwood,
\$48,678
Wonewoc-Union Center,
\$18,341
Woodruff J1, \$13,899
Wrightstown Community,
\$51,427
Yorkville J2, \$12,026