



MEMO

November 14, 2018

To: Legislative Council Study Committee on the Investment and Use of the School Trust Funds
From: Janet Vraney, Legislative Chair of the Wisconsin Educational Media & Technology Association (legislative@wemta.org)
Subject: Items for Committee Consideration

This memo outlines the Wisconsin Educational Media & Technology Association's (WEMTA) position on several of the proposals being considered by the Legislative Council Study Committee on the Investment and Use of the School Trust Funds. The Board of Commissioners of Public Lands (BCPL) and the Common School Fund are incredibly important to WEMTA and our members. As you know, the Common School Fund is the only dedicated source of state funding for K-12 school libraries in Wisconsin; in many districts, it is the only funding available for the school library program. Any changes to BCPL or the Common School Fund would directly impact school libraries and the roughly 860,000 public school students they benefit.

As the primary beneficiaries of the Common School Fund, we submit the following comments for your consideration.

Common School Fund Investment Strategy

Amending the State Constitution: WEMTA opposes amending the state constitution to modify the investment strategy or distribution requirements for the Common School Fund. The Common School Fund consistently provides strong, stable returns to school libraries. In addition, the BCPL has taken action in recent years to align the Fund's investment strategy with the Prudent Investor Standard and created a smoothing fund to ensure ongoing stability of the Common School Fund disbursements. WEMTA does not believe there are any issues with the current Common School Fund investment strategy that would rise to the high threshold of justifying a change to our state constitution. Even if the Legislature successfully passed legislation recommending that the state constitution be amended to change the Fund's operations, there is no guarantee that Wisconsin voters would approve the change. Instead of beginning the years-long process of amending our state constitution, WEMTA recommends that the Committee codify current BCPL practices in state statute.

Prudent Investor Standard: WEMTA believes that BCPL's investment strategy for the Common School Fund is appropriate and aligns with the Prudent Investor Standard. Therefore, WEMTA does not believe that legislation is needed at this time to further modify the BCPL's investment policies. BCPL has worked collaboratively with WEMTA in recent years to ensure that the current investment strategy meets our needs. This has included the creation of a smoothing

fund. As a result of BCPL's sound stewardship, Common School Fund distributions have increased without sacrificing stability.

The Committee has heard testimony from several trust fund investment experts who have provided background on the Prudent Investor Standard and the Uniform Prudent Management of Institutional Funds Act. These standards direct the individuals charged with overseeing an endowment or trust to set investment/spending policies that are "prudent for the uses, benefits, purposes, and duration for which the endowment fund is established." Professor Susan N. Gary testified that the "fundamental purposes of the fund" should guide investment policy. She told the Committee that "the determination based on how much risk the Fund can bare really relates directly to the purposes." Professor Mark Ready testified that the investment policy should consider the risk tolerance of the beneficiary. As WEMTA testified to the Committee in August, school libraries want a reliable and consistent distribution from the Common School Fund and oppose moving toward a riskier investment strategy.

The Common School Fund is the only dedicated source of state K-12 school library funding in Wisconsin and, in many districts, it is the only funding the school library receives. Less predictable funding would be devastating to our school libraries. We believe the BCPL is investing the Common School Fund in a manner that reflects our needs as a beneficiary and adheres to the purposes of the Fund. WEMTA supports the continuation of the current BCPL investment strategy.

Transferring the Common School Fund to SWIB: WEMTA opposes the proposal to transfer the investment of the Common School Fund to the State of Wisconsin Investment Board (SWIB). Representatives from SWIB testified to the Committee that they could not guarantee a higher (or any) return for the Common School Fund because they "live and die" by the market cycle. They also indicated that if the Common School Fund were transferred to their agency that it would likely be managed externally. This would result in significantly higher administrative costs to the Common School Fund. Since SWIB has testified that they cannot guarantee a higher return for the Common School Fund and that they would not internally manage the Fund, WEMTA does not see a compelling reason to transfer the Fund to SWIB.

Fines, Forfeitures and Escheats

Revenues from Fines, Forfeitures and Escheats: Article X, Section 2 of the Wisconsin State Constitution requires:

"...all moneys and the clear proceeds of all property that may accrue to the state by forfeiture or escheat; and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys arising from any grant to the state where the purposes of such grant are not specified... shall be set apart as a separate fund to be called 'the school fund.'"

As BCPL testified to this Committee, revenue from fines and forfeitures have fallen in recent years. This Committee has expressed an interest in maximizing the funding received by our school libraries. Changes to the Common School Fund's key revenue streams directly impact its earnings, which are distributed to our public school libraries.

WEMTA supports efforts to strengthen reporting and auditing requirements to ensure that the Common School Fund is receiving all required deposits of fines and forfeitures. In addition, WEMTA requests that the Committee examine if the Common School Fund is receiving all

constitutionally required deposits through a Legislative Audit Bureau audit of the revenue streams that should be going into the Fund.

WEMTA believes that there are other types of revenues that are substantively similar to fines and forfeitures but are not going into the Common School Fund because they are called something else. For example, surcharges and discretionary settlement money paid to the state by corporations for violations do not appear to be going into the Common School Fund. Yet these types of fines and forfeitures appear to meet the definitions laid out in Article X, Section 2 of the State Constitution. Volkswagen was recently required to pay a large settlement to the state for violating the federal Clean Air Act, a portion of which was for discretionary purposes. While the nature of this settlement seems substantially similar to a fine or forfeiture, none of the discretionary funds were deposited into the Common School Fund. Wisconsin also continues to receive revenue from Tobacco Settlement payments. Again, WEMTA does not believe any of these funds have been deposited into the Common School Fund.

Unclaimed Property Program: There has not been any formal evaluation of the Unclaimed Property Fund since it was transferred from the Office of State Treasurer to DOR in the 2013-15 state budget. WEMTA supports an evaluation of the Unclaimed Property program's effectiveness since being transferred to DOR. WEMTA also supports requiring that interest earned on the balance retained by DOR to satisfy future claims be deposited directly into the Common School Fund income account every month rather than going into the general fund.

BCPL Trust Fund Loan Program

BCPL Loan Program: WEMTA is strongly opposed to the elimination of the BCPL Trust Fund Loan Program. The loan program is a win-win for Wisconsin communities and school libraries. As the Committee has heard throughout the past few months, BCPL loans have helped fund critical economic development and infrastructure projects throughout Wisconsin. These loans have also helped construct public libraries in communities throughout the state. Interest from BCPL loans goes into the Common School Fund to provide materials to our school libraries. Eliminating or narrowing the scope of the Trust Fund Loan Program would have a negative financial impact on the Common School Fund.

Conclusion

Wisconsin has a unique program overseen by the Board of Commissioners of Public Lands, which operates at no expense to Wisconsin taxpayers and gives much back. As the primary beneficiary of the Common School Fund, WEMTA and its members support the current structure and operation of the BCPL and its trust funds. WEMTA supports efforts to codify current BCPL investment practice in state statute. In addition, WEMTA supports initiatives that examine and ensure that the BCPL and the Common School Fund are receiving all constitutionally required deposits.

