



Joint Legislative Council's Report of
the Study Committee on the Investment and
Use of the School Trust Funds

[2019 Assembly Bills 48 and 49]

March 12, 2019

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STUDY COMMITTEE ON THE INVESTMENT AND USE OF THE SCHOOL TRUST FUNDS

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PART I

KEY PROVISIONS OF JOINT LEGISLATIVE COUNCIL RECOMMENDATIONS

The Joint Legislative Council introduced the following bills in the 2019-20 session of the Legislature.

2019 ASSEMBLY BILL 48, RELATING TO PROMISSORY NOTES OF CERTAIN PUBLIC BODIES

2019 Assembly Bill 48 increases the permissible term for a promissory note issued by a municipality. With certain exceptions, current law generally requires that a promissory note issued by a municipality be repaid within 10 years after the date of issuance. Under the bill, a promissory note issued by a municipality for any public purpose must be repaid within 20 years after the original date of the note.

2019 ASSEMBLY BILL 49, RELATING TO THE AUTHORITY OF THE BOARD OF COMMISSIONERS OF PUBLIC LANDS TO DELEGATE AUTHORITY TO INVEST TRUST FUND MONEYS AND MAKING AN APPROPRIATION

2019 Assembly Bill 49 authorizes the Board of Commissioners of Public Land (BCPL) to contract with the State of Wisconsin Investment Board (SWIB) to invest school trust fund moneys. If the BCPL enters into such a contract, then SWIB may be compensated as provided for in the contract, and SWIB may invest the moneys in accordance with the standard that applies to SWIB's investment of the other funds under its management. This standard requires that SWIB: (a) manage the moneys as would a prudent person acting in a similar situation; (b) adequately diversify investments; and (c) administer trust fund moneys for the purpose of ensuring the fulfillment of the purpose of each trust fund, at a reasonable cost.

RECOMMENDATION – INVESTMENT OF THE SCHOOL TRUST FUNDS

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

- Appreciates the importance of the school trust funds to fund beneficiaries.
- Supports the goal of ensuring intergenerational equity through increasing the returns on the funds.
- Recognizes the value of recent legislative changes relating to the investment of the funds.
- Acknowledges that implementation of these changes is ongoing.

- Recommends that the Legislature further study issues relating to the investment of the funds, in consultation with beneficiary groups, once information on the results of the changes becomes available for study.

PART II

COMMITTEE ACTIVITY

ASSIGNMENT

The Joint Legislative Council established the Study Committee on the Investment and Use of the School Trust Funds and appointed the chairperson by an April 9, 2018 mail ballot. **Appendix 2** identifies the membership of the Joint Legislative Council at the time the mail ballot was approved. The committee was directed to review the statutes governing the investment of the trust funds administered by the BCPL, including the loan programs administered by the BCPL, to assess whether current statutes adequately ensure the effective investment and appropriate use of the proceeds of the trust funds, and to recommend legislation for necessary changes.

Membership of the study committee was appointed by a June 4, 2018 mail ballot. The final committee membership consisted of two representatives, two senators, and five public members. A list of committee members is included as **Appendix 3** to this report.

SUMMARY OF MEETINGS

The committee held five meetings on the following dates:

- August 16, 2018.
- September 5, 2018.
- October 11, 2018.
- November 14, 2018.
- December 6, 2018.

At the August 16, 2018 meeting, the committee heard testimony from several invited speakers. First, **Jonathan Barry, executive secretary, and Tom German, deputy secretary, BCPL**, provided an overview of the history of the BCPL and the school trust funds. They explained the BCPL's current policy for investing the school trust funds, and they discussed how the BCPL loan program is administered. They then answered committee members' questions regarding how the BCPL makes lending decisions, how it is audited, and how it makes investment decisions.

The committee then heard a panel presentation from the following representatives of the **Wisconsin Educational Media and Technology Association (WEMTA)**: **Kay Benning, director of library services, Elmbrook Schools; Tony Spence, chief information officer, Muskego-Norway School District; Micki Uppena, library media specialist, Lancaster Community Schools; and Janet Vraney, library media specialist, Green Bay Public Schools.** The panel members took turns discussing how public school libraries use the distributions they receive from the Common School Fund (CSF),

providing examples of the types of purchases libraries make with the funds and noting that, in many cases, distributions from the CSF are the only source of funding provided to school libraries. The panel members explained that WEMTA members' top concern is ensuring that the distribution amounts remain consistent from year to year, and they generally prioritize consistency over maximizing the overall return of the CSF. The panel members generally suggested that the committee focus on identifying and collecting all of the constitutionally required CSF deposits rather than changing the current BCPL loan program or the permissible uses of the CSF distributions.

The WEMTA presentation was followed by a panel presentation from the following local government representatives: **Robert Scott, finance director, City of Brookfield; Allen Buechel, county executive, Fond du Lac County; and Lester Lewis, town chair, Town of Molitor.** The panel members generally agreed that the BCPL loan program is an important financial tool for local governments for a variety of reasons. They stated that the program encourages responsible stewardship of taxpayer funds because it offers loans with a simple application, no fees, and prepayment options. The panel members also noted that the BCPL loan program provides local governments with access to financing when there are limited or even no other options, perhaps because the amount to be borrowed is too small or during economic downturns. Mr. Scott explained that access to easy financing options is especially important for small local governments with limited staff and a lack of audited financial statements. Mr. Lewis provided examples of projects that towns have financed using the BCPL loan program, and Mr. Buechel provided examples of how Fond du Lac County has used the program.

State Treasurer Matt Adamczyk explained his goal of increasing distributions to schools by improving the rate of return achieved by the school trust funds. He provided the committee with information on returns achieved by SWIB and the Minnesota Permanent School Fund, and he stated that the BCPL's return does not compare favorably. He also provided the committee with information on specific loans and expressed concerns about the prudence of certain of the loans. Finally, he expressed concern about the extent to which the BCPL loan program competes with private sector lenders.

The committee then heard a panel presentation from the following school board and school district administration representatives: **Doug Mering, vice president, Baraboo School Board; Brian Krey, business manager, and Jon Novak, business manager emeritus, River Valley School District; Todd Carlson, superintendent, Gillett School District; and Keith Brightman, director of finance and operations, Menomonee Falls School District.** Mr. Mering initiated the panel presentation, noting that the Baraboo School Board is strongly in support of the current investment structure of the school trust funds and dedication of the CSF for library use. Mr. Krey and Mr. Carlson agreed that the CSF distribution is vital for school district operations as a dedicated, consistent resource for school libraries. Mr. Brightman and Mr. Novak explained how school districts benefit as borrowers from the BCPL loan program.

Finally, **Secretary of State Douglas La Follette** discussed his experience serving as a commissioner on the BCPL for over 30 years. He described the responsibility of the BCPL as increasing the value of the school trust funds and taking care of the lands that remained under the control of the BCPL. He explained that, over the past few years, the BCPL has had more funds than are necessary for making loans to local governments, so the commissioners have had staff buy and

sell bonds so as to increase the value of the school trust funds. He also noted that as revenue from unclaimed property, fines, and forfeitures has decreased, staff have had to find other ways to increase the fund values, including by investing in instruments that generate capital gains.

The September 5, 2018 meeting began with presentations by representatives of the Commonfund Institute and SWIB. First, **Cathleen Rittereiser, executive director, Commonfund Institute**, provided the committee with an overview of the history of endowment fund management practices, noting that what it means to make prudent investment decisions on behalf of beneficiaries has changed over time. In general, practice that favored conservative, low-risk investment fell out of favor as the growth rate of fixed income assets failed to keep pace with rises in inflation and the value, in real terms, of endowments decreased. In summary, Ms. Rittereiser emphasized that overly cautious investment is not prudent; rather, trustees should invest funds according to the endowment model, which favors investing in a diversified portfolio that balances the need for some liquidity in order to make distributions in the present with an emphasis on equities for long-term growth at a rate greater than inflation.

Then, **Rochelle Klaskin, interim executive director and chief legal counsel, and William Ford, legislative advisor, SWIB**, provided the committee with an overview of SWIB's operations. Ms. Klaskin explained that SWIB currently manages over \$116 billion divided between the Wisconsin Retirement System (WRS), the State Investment Fund, and six other separately managed funds. Each fund is individually managed and maintained as a separate account, with investments made according to the purpose of each fund. SWIB manages these funds both internally and via contract with external managers. SWIB decides whether to manage funds internally or externally based upon the cost of management. Costs are charged directly to the investment income of the particular managed fund. In general, internal management costs less than external management, but SWIB's capacity to manage funds internally is limited.

In response to questions from committee members, Ms. Klaskin explained that, if given the responsibility to manage the school trust funds, SWIB would invest the funds according to the applicable investment policy, but could not guarantee a certain rate of return. She also noted that the purposes and restrictions of the WRS core fund differ from those of the school trust funds, and, therefore, one cannot make an analogous comparison between only the rates of return of each of the funds. Ms. Klaskin explained that SWIB has no infrastructure to manage a loan program as is currently managed by the BCPL and that, if SWIB were to be delegated the responsibility to manage the school trust funds, SWIB would likely contract with an external manager.

Next, **Jon Turke, director – government relations, Wisconsin Bankers Association (WBA)**, requested that the Legislature review all of the state lending programs because the WBA believes that the state should be a lender only of last resort. He explained that, with regard to the BCPL loan program specifically, although banks do sometimes lose loans to the BCPL program, there are also circumstances under which the private sector is not even consulted to bid on a project. He added that banks are active members of their communities and are often small businesses that want to be involved with their schools and municipalities. As an example, **Jeff Gruetzmacher, senior vice president, Royal Bank**, explained that his bank is active in municipal lending and is often able to provide better terms than the BCPL loan program. However, he believes that local banks lose loans to the BCPL because municipalities do not always check with local banks first. He agreed that the

BCPL should not be in direct competition with the private financial sector. Mr. Gruetzmacher added that his bank did not reduce municipal lending during the recent credit crisis, his bank does not impose a minimum loan amount, and, from his perspective, there may be fewer actual banks available to municipalities in certain parts of the state, but not fewer lending options.

The committee then heard a panel presentation regarding economic development from the following local government representatives: **Mike VanLanen, chairman, Dave Cerny, economic development coordinator, Town of Scott, and Patrick Schloss, community development manager, City of West Allis.** The panel members provided the committee with examples of how their communities used the BCPL loan program to partially finance economic development projects. In general, the panel members agreed that they seek financing from private sources, including banks and the bond market, when appropriate for specific purposes, but that they also find the BCPL loan program to be incredibly valuable. They noted that a bank loan application is typically much longer and more complicated than the BCPL loan program application.

Phil Cosson, senior municipal advisor/director, Ehlers, Inc., explained how public finance municipal advisors, like Ehlers, Inc., assist municipalities in structuring and issuing debt so as to avoid spikes in tax rates. He noted that such advisors are bound by certain rules under which they owe municipal clients a duty of care. In meeting its obligations to clients, Ehlers, Inc., reviews all financial options for a particular project and will recommend use of the BCPL loan program, which it strongly supports, when appropriate.

In response to questions from committee members, Mr. Cosson noted that access to capital during the credit crisis was limited, making the BCPL loan program a great option for municipalities at that time. He also explained that, as a result of recent federal tax reform, the tax break for advance refunding of bonds, another form of prepayment, is no longer available, so the prepayment without penalty option under the BCPL loan program has become even more important to municipalities. He stated that if the BCPL loan program were to be eliminated, then municipalities, especially small communities, will face increased risk and reduced security when seeking financing, which will ultimately increase the cost of financing.

Finally, the committee learned how the University of Wisconsin (UW) benefits from the school trust funds. **Sean Nelson, vice president for finance, UW System,** explained that the UW System benefits from the following three of the four school trust funds: (a) the Normal School Fund (NSF); (b) the University Fund; and (c) the Agricultural College Fund. He noted that only about one percent of the amount held in trust by the BCPL benefits the UW System and of that amount, approximately fifty-eight percent goes to environmental programs at UW-Stevens Point. He explained that distributions from the NSF are used to fund the Nelson Institute for Environmental Studies at UW-Madison, the sustainable management degree program at UW-Extension, the environmental program at UW-Stevens Point, and merit scholarships. However, there were insufficient funds distributed in fiscal year 2017-18 to fund any merit scholarships.

Brian Sloss, associate dean for outreach and extension, College of Natural Resources, UW-Stevens Point, provided details about how UW-Stevens Point uses the funds it receives from the NSF. In general, the funds are used to support programming in K-12 environmental education leadership

and natural resource management programming. UW-Stevens Point makes an effort to ensure that its programming provides resources and education on a statewide basis.

Following the presentations, Chair Katsma opened committee discussion by explaining that he sees benefits to the BCPL loan program and no longer wishes to eliminate it. However, he stated that he sees room for change and improvement, so he hoped to frame committee discussion according to the following three topics: (a) making changes to the existing BCPL loan program; (b) legislative changes to facilitate delegation of school trust fund investment responsibility to SWIB; and (c) providing guidance regarding the investment of the school trust funds. At Chair Katsma's request, Zach Ramirez, Legislative Council staff, explained the BCPL's and SWIB's investment authority under current law.

Committee members expressed interest in various topics for potential legislation, including the following: (a) facilitating implementation of the endowment model of investing; (b) requiring that the BCPL be the lender of last resort to municipalities and any other steps to reduce the perception that the BCPL is unfairly competing with the private financial sector; (c) eliminating or reducing statutory limits imposed upon banks that are not imposed upon the BCPL, such as the maximum term of a loan and mandatory forms; and (d) identifying whether the BCPL is receiving all of the unclaimed property, fines, and forfeitures to which the CSF is constitutionally entitled. Chair Katsma directed committee staff to prepare an options memorandum for the next committee meeting to facilitate committee discussion and assist members in narrowing options for legislative action.

At the October 11, 2018 meeting, **Chris Anton, manager of investments, Idaho Endowment Fund Investment Board**, discussed the history of Idaho's endowment reform. Like Wisconsin, the Idaho school trust funds were originally established in and controlled by its constitution. Mr. Anton discussed the ways in which the Idaho Constitution was amended, described the current structure of Idaho's endowment assets, and explained how the assets are managed, including investment and distribution practices.

Next, **Michael Wagner, assistant deputy secretary, and Erin Egan, director, Tax Operations Bureau, Department of Revenue (DOR)**, explained how DOR administers the unclaimed property program and how the program interacts with the BCPL and the CSF. He described how the agency uses tax records to match unclaimed property with taxpayer information and automatically return the property to owners. He also explained what types of property commonly become "unclaimed" and how such property is transferred to DOR. Upon receipt, DOR engages in several steps to advertise unclaimed property so as to return as much property to owners as possible. Property that is not returned to its owner is liquidated on a regular schedule, which varies depending upon the property type. Because there is no statute of limitations on claiming unclaimed property, DOR maintains a cash reserve account to ensure that claims can be paid if submitted to DOR. Funds in excess of the reserve amount are paid to the BCPL for deposit in the CSF. Beginning in April of 2018, DOR and the BCPL agreed to an arrangement under which DOR will gradually decrease the amount held in reserve to \$30 million by fiscal year 2021, thus directing more funds for deposit in the CSF, on average.

Susan Gary, Orlando J. and Marian H. Hollis Professor of Law, University of Oregon, explained the evolving history of the standards of prudence governing the investment of trusts and endowments. She described the development of the Uniform Prudent Management of Institutional Funds Act (UPMIFA) and the Uniform Principal and Income Act (UPAIA). She explained that if a trust or endowment is prohibited from using capital gains to make distribution payments, then investment decisions may be based on generating income rather than on creating value for the portfolio. Professor Gary stated that the UPAIA and the Uniform Fiduciary Principal and Income Act were developed to give trustees the flexibility needed for them to invest for the best total return while still being able to make distributions to current beneficiaries. She explained that each of the uniform acts serve as the default rules that apply unless overridden by another governing source, such as a constitutional provision or trust document.

In response to questions from committee members, Professor Gary provided the following: (a) that investing too much in fixed income could be a violation of the prudence standard, unless the choice to invest in fixed income is based on a more restrictive governing source, such as the Wisconsin Constitution; (b) that the prudent investor standard does require pursuing total return investing, unless an applicable governing standard prohibits a trustee from engaging in total return investing; (c) that the uniform acts give trustees flexibility to adjust trust fund moneys between principal and income in order to ensure that investment decisions are not influenced by the traditional distinctions between “income” and other proceeds from investment; and (d) that investing prudently entails ensuring that investment risks are appropriate for the particular beneficiaries.

Mark Ready, professor and chair, Department of Finance, Investments, and Banking, UW-Madison, described his role in the development of the BCPL investment policy as that of a sounding board. He attended a few meetings and provided his general opinion of the asset allocation contained within the investment policy based on the information provided to him by the BCPL. He noted that he did not do any analysis of specific investments.

Professor Ready then explained that the asset allocation of a portfolio should be developed with the risk tolerance of the beneficiary as a primary focus. He noted that his understanding is that the beneficiaries of the CSF are very reliant upon consistent distributions and are, therefore, very risk averse. With that in mind, he said he would recommend a portfolio with lower risk, which requires less investment in things like equities and more investment in things like fixed income instruments. Professor Ready stated that the loan program is an unusual tool, but one that offers extra return to the CSF relative to the risk of the actual investment. He noted that the loans are extremely low-risk because the BCPL has the authority to intercept a municipality’s state aid in the event of nonpayment, but prices the loans at a rate that is competitive with the private financial industry. It was his understanding that smaller municipalities tend to take advantage of the loan program more than larger municipalities and, to the extent that they do, he sees evidence that there must be at least some benefit of the program to municipalities.

Following the presentations, Chair Katsma opened committee discussion by requesting that each member share his or her reflections on the issues before the study committee. Committee members expressed a variety of opinions, but reached consensus on the issue of giving private financial institutions more flexibility in lending to municipalities. By committee motion, Legislative

Council staff was directed to develop a bill draft that repeals the 10-year limit on municipal loans from private lenders.

At Chair Katsma's request, Mr. Ramirez then described additional options for committee action, including: (a) recommending statutory changes to accommodate certain practices that the BCPL has undertaken since 2015, such as withholding income from distribution in smoothing accounts; (b) recommending statutory changes to grant the BCPL flexibility in investing and distributing moneys to the fullest extent permitted by the Wisconsin Constitution; and (c) recommending constitutional changes related to authorizing the BCPL to invest and distribute funds in accordance with the endowment model.

At committee member request, Rachel Snyder, Legislative Council staff, provided the committee with a brief overview of the content contained in LC Study Committee Memorandum, *Topics for Committee Discussion*, regarding fines, forfeitures, and civil asset forfeiture. Chair Katsma then directed committee discussion back to investment-related options, and committee members discussed questions that they each had for the BCPL staff. The committee reached consensus to request the BCPL staff to present at the November meeting on all sections of the Legislative Council options memorandum, except for the section regarding the loan program. The committee also reached consensus to direct Legislative Council staff to provide further information about the credit enhancement program used by Idaho.

The November 14, 2018 meeting began with a discussion of LRB-0438/P1, but, at the request of committee members, a vote on the bill draft was delayed until the next meeting. Mr. Ramirez provided an overview of and committee members discussed LC Study Committee Memorandum, *Overview of Other States' Constitutional Requirements Regarding the Principal and Income of School Trust Funds*. Mr. Ramirez also provided an overview of the current Wisconsin statutory and constitutional requirements regarding investment and distribution of the school trust funds.

The committee then heard a presentation by the following members of the BCPL staff: **Jonathan Barry, secretary, Tom German, deputy secretary, and Richard Sneider, chief investment officer**. Staff members explained the development process of the BCPL's investment policy, noting that it was created with the needs of the beneficiaries and legal constraints in mind. In general, the staff stated they did not see a need to modify the current statutes or the Wisconsin Constitution; rather, staff would prefer that the current investment policy, which first went into effect in 2016, be given time to work before any statutory or constitutional changes are made. Staff noted that the approach taken under the investment policy is cautious in order to ensure predictable income for beneficiaries and, absent a constitutional change, the policy will likely continue to contain a relatively low-risk asset allocation. The BCPL staff also pointed out that the smoothing accounts are nearly full and that they anticipate increased distributions to beneficiaries in the future.

Following the presentation, committee members discussed a letter received from Attorney General Brad Schimel and a variety of options for potential legislation. Committee members requested that Legislative Council staff produce individual bill drafts that address the following topics for consideration at the next meeting:

- Codifying the BCPL's current practices relating to investments, the use of smoothing accounts, and distribution from the CSF.

- Amending the Wisconsin Constitution to allow for distribution from the principal of the school trust funds.
- Limiting the use of school trust fund loans for pass-through incentives to private developers.
- Authorizing SWIB to invest the school trust funds in accordance with its general investment guidelines if the BCPL would ever delegate investment authority to SWIB.

At the December 6, 2018 meeting, the committee reviewed and discussed the following bill drafts:

- LRB-0438/1, relating to promissory notes of certain public bodies.
- LRB-0848/2, relating to the authority of the BCPL to delegate authority to invest trust fund moneys.
- LRB-0972/1, relating to management of school trust funds.
- LRB-0878/1, relating to prohibited trust fund loans.
- LRB-0847/1, relating to applications for school trust fund loans.
- LRB-0818/1, relating to the assets of and distributions from the school fund and the assets of and distributions from the university fund.

The committee unanimously voted to approve LRB-0438/1 and LRB-0848/2. Following committee discussion on the topic of statutorily authorizing the BCPL's current investment and distribution practices, a vote to approve LRB-0972/1 failed. A motion to approve LRB-0878/1 was made, but, following discussion questioning the purpose of the bill, a vote was not called. LRB-0847/1 was withdrawn from consideration per committee member request. The committee discussed LRB-0818/1, a resolution proposing to amend the Wisconsin Constitution, but could not reach consensus. Instead, committee members requested that Legislative Council staff draft a recommendation to the Legislature in support of giving the BCPL time to implement its current investment practices, of increased returns for beneficiaries, and of additional legislative study in the future, with the engagement of beneficiaries. In response, Mr. Ramirez and Ms. Snyder drafted a recommendation regarding the investment of the school trust funds. Following review of the draft language, the committee unanimously approved the recommendation.

PART III

RECOMMENDATIONS INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

This Part of the report provides background information on, and a description of, the bills as recommended by the Study Committee on the Investment and Use of the School Trust Funds and introduced by the Joint Legislative Council.

2019 ASSEMBLY BILL 48

Background

A municipality, generally defined as a public body that is authorized to levy a tax and to borrow money and issue obligations to repay the money out of public funds or revenues, may borrow money and issue municipal obligations for specific purposes. A municipality may issue a bond for any public purpose project, which is a project involving the acquisition, leasing, planning, design, construction, development, extension, enlargement, renovation, rebuilding, repair, or improvement of land, waters, property, highways, buildings, equipment, or facilities. A municipality may issue a promissory note for any public purpose, which is the performance of any municipal power or duty.

A municipality may borrow money from the BCPL by executing a “certificate of indebtedness,” which is distinct from a bond or promissory note. The BCPL may loan money through certificates of indebtedness for the purposes for which municipal bonds or notes may be issued or for other purposes “authorized by law.”

Current law requires a bond to be repaid within 20 years, and requires that, with several exceptions, a promissory note be repaid within 10 years after the original date of the note. It is the BCPL's practice to loan funds through certificates of indebtedness for up to 10 years if the money is to be used for a public purpose and for up to 20 years if the money is to be used for a public purpose project.

Description

Assembly Bill 48 increases the permissible term for a promissory note. Under the bill, a promissory note issued by a municipality for any public purpose must be repaid within 20 years after the original date of the note.

2019 ASSEMBLY BILL 49

Background

Current law generally authorizes the BCPL to invest the Common, Normal, University, and Agricultural College Funds (“school trust funds”) in any type of investment, as long as it invests “with the care an ordinary prudent person in a like position would exercise under similar circumstances” in accordance with the standard of conduct for investing an institutional fund. Under current law, the BCPL is authorized to delegate to SWIB the authority to invest part or all of the moneys belonging to the school trust funds. However, SWIB may invest the moneys only in fixed income investments or in funds that invest only in fixed income instruments.

Description

Under the bill, the BCPL may contract with SWIB to invest school trust fund moneys, SWIB may be compensated as provided for in the contract, and SWIB may invest the moneys in accordance with the standard that applies to SWIB's investment of the other funds under its management. This standard requires that SWIB: (a) manage the moneys as would a prudent person acting in a similar situation; (b) adequately diversify investments; and (c) administer trust fund moneys for the purpose of ensuring the fulfillment of the purpose of each trust fund, at a reasonable cost.

COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES

The following recommendations were introduced by the Joint Legislative Council in the 2019-20 session of the Legislature after being recommended by the Study Committee on the Investment and Use of the School Trust Funds.

STUDY COMMITTEE VOTE

On December 6, 2018, the study committee voted to recommend the following bill drafts to the Joint Legislative Council for introduction in the 2019-20 session of the Legislature. The vote on the bill drafts were as follows:

- LRB-0438/1, relating to promissory notes of certain public bodies, passed by a vote of Ayes, 9 (Reps. Katsma and Vruwink; Sens. Stroebel and Taylor; and Public Members Bannigan, Derr, Eager, Merkes, and O'Malley); and Noes, 0.
- LRB-0848/2, relating to the authority of the Board of Commissioners of Public Lands to delegate authority to invest trust fund moneys, passed by a vote of Ayes, 9 (Reps. Katsma and Vruwink; Sens. Stroebel and Taylor; and Public Members Bannigan, Derr, Eager, Merkes, and O'Malley); and Noes, 0.

JOINT LEGISLATIVE COUNCIL VOTE

At its February 13, 2018 meeting, the Joint Legislative Council voted as follows on the recommendations of the study committee:

*Sen. Marklein moved, seconded by Sen. Miller, that **LRB-0438/1** be approved for introduction by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 20 (Sens. Roth, Erpenbach, Fitzgerald, Jacque, Marklein, Miller, Olsen, Risser, and Shilling; and Reps. Brooks, August, Ballweg, Billings, Hesselbein, Hintz, Nygren, Spiros, Steineke, Taylor, and Vos); Noes, 0; and Absent, 2 (Sens. Darling and Petrowski). [LRB-0438/1 was introduced as 2019 Assembly Bill 48.]*

*Sen. Marklein moved, seconded by Sen. Jacque, that **LRB-0848/2** be approved for introduction by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 20 (Sens. Roth, Erpenbach, Fitzgerald, Jacque, Marklein, Miller, Olsen, Risser, and Shilling; and Reps. Brooks, August, Ballweg, Billings, Hesselbein, Hintz, Nygren, Spiros, Steineke, Taylor, and Vos); Noes, 0; and Absent, 2 (Sens. Darling and Petrowski). [LRB-0848/2 was introduced as 2019 Assembly Bill 49.]*

JOINT LEGISLATIVE COUNCIL

<u>SENATE MEMBERS</u>	<u>ASSEMBLY MEMBERS</u>
Roger Roth, Co-Chair Senate President Appleton	Robert Brooks, Co-Chair Assistant Majority Leader Saukville
Alberta Darling JFC Co-Chair River Hills	Tyler August Speaker Pro Tempore Lake Geneva
Scott Fitzgerald Majority Leader Juneau	Joan Ballweg Markesan
Howard Marklein President Pro Tempore Spring Green	Peter Barca Kenosha
Mark Miller Monona	Dianne Hesselbein Assistant Minority Leader Middleton
Terry Moulton Chippewa Falls	Gordon Hintz Minority Leader Oshkosh
Jerry Petrowski Marathon	John Nygren JFC Co-Chair Marinette
Fred A. Risser Madison	John Spiros Marshfield
Jennifer Shilling Minority Leader La Crosse	Jim Steineke Majority Leader Kaukauna
Lena Taylor JFC Ranking Minority Member Milwaukee	Chris Taylor JFC Ranking Minority Member Madison
Van Wanggaard Racine	Robin Vos Speaker Rochester

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 senators and 5 representatives appointed as are members of standing committees.

Committee List

**STUDY COMMITTEE ON THE INVESTMENT AND USE OF
THE SCHOOL TRUST FUNDS**

Chair Terry Katsma , Representative 705 Erie Avenue Oostburg, WI 53070	Vice Chair Lena Taylor , Senator 1518 West Capitol Milwaukee, WI 53206
Kim Bannigan 516 Kent Road Poynette, WI 53955	Jerry Derr 1595 County Hwy. V Columbus, WI 53925
Stephen Eager 228 West Main Street Evansville, WI 53536	Don Merkes , Mayor City of Menasha 100 Main Street, Suite 200 Menasha, WI 54952
Steve O'Malley 213 Pearl Street, #1 La Crosse, WI 54601	Duey Stroebel , Senator 2428 Covered Bridge Road Saukville, WI 53080
Don Vruwink , Representative 24 West Ash Lane Milton, WI 53563	

STUDY ASSIGNMENT: The Study Committee is directed to 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 BCPL. The committee shall assess whether current statutes adequately ensure the effective investment and appropriate use of the proceeds of the funds, and recommend legislation for necessary changes.

9 MEMBERS: 2 Representatives; 2 Senators; and 5 Public Members.

LEGISLATIVE COUNCIL STAFF: Rachel Snyder and Zach Ramirez, Staff Attorneys; and Julie Learned, Support Staff.

COMMITTEE MATERIALS LIST

[Copies of documents are available at www.legis.wisconsin.gov/lc]

August 16, 2018 Meeting

- Staff Brief 2018-05, *Study Committee on the Investment and Use of the School Trust Funds* (August 7, 2018)
- *State of Wisconsin Board of Commissioners of Public Lands School Trust Fund Investment Policy Statements* (November 1, 2016)
- LC Study Committee Memorandum, *Current Outstanding Balances of School Trust Fund Loans* (August 14, 2018)
- WEMTA Presentation, *The Common School Fund, Strong School Libraries Make Strong Students* (August 16, 2018)
- Presentation by Matt Adamczyk, State Treasurer
- Statement Before the Legislative Council Study Committee on the Investment and Use of the School Trust Funds by Jonathan Barry, Executive Secretary, BCPL (August 16, 2018)
- PowerPoint Presentation by the Board of Commissioners of Public Lands Staff (August 16, 2018)
- Presentation from Doug Mering, Baraboo School Board (August 16, 2018)
- Letter, from Brian Krey and Jon Novak, River Valley School District (August 16, 2018)

September 5, 2018 Meeting

- Letter, from Bryan McCormick, Council on Library and Network Development Chair, to Representative Terry Katsma, Chair, all members of the Study Committee, and Governor Scott Walker (August 20, 2018)
- Testimony of the Wisconsin Bankers Association (September 5, 2018)
- Presentation from Cathleen M. Rittreiser, Executive Director, Commonfund Institute, *The Evolution of Endowment Investment and Oversight Practices* (August 2018)
- Presentation from Patrick Schloss, Community Development Manager, City of West Allis (September 5, 2018)
- Presentation from the State of Wisconsin Investment Board (September 5, 2018)

- Presentation from the University of Wisconsin System, *School Trust Funds* (September 5, 2018)

October 11, 2018 Meeting

- LC Study Committee Memorandum, *Topics for Committee Discussion* (October 4, 2018)
- Presentation by Chris Anton, Manager of Investments, Idaho Endowment Fund Investment Board, *State of Idaho - Governance of Land Trust Assets*
- Presentation by Susan Gary, Orlando J. and Marian H. Hollis Professor of Law, University of Oregon, *The Evolving Prudent Investor Standard and UPMIFA's Rule of Construction for Spending "Income"*
- PowerPoint Presentation from Mike Wagner, Assistant Deputy Secretary, and Erin Egan, Tax Operations Bureau Director, Department of Revenue

November 14, 2018 Meeting

- LC Study Committee Memorandum, *Overview of Other States' Constitutional Requirements Regarding the Principal and Income of School Trust Funds* (November 7, 2018)
- Attachment, *Legislative Council Study Committee on the Investment and Use of the School Trust Funds, Overview of Other States' Constitutional Requirements Regarding School Trust Funds*
- LRB-0438/P1, relating to promissory notes of certain public bodies.
- Balance Sheet, submitted by the Board of Commissioners of Public Lands
- Letter, to Representative Katsma and Senator Taylor, from Attorney General Brad Schimel, regarding BCPL (November 13, 2018)
- Presentation, submitted by Richard Sneider, CFA, CIPM, Chief Investment Officer, BCPL (November 14, 2018)
- Memorandum, from Janet Vraney, Legislative Chair of WEMTA, *Items for Committee Consideration* (November 14, 2018)

December 6, 2018 Meeting

- LRB-0438/1, relating to promissory notes of certain public bodies
- LRB-0818/1, relating to the assets of and distributions from the school fund and the assets of and distributions from the university fund (first consideration)
- LRB-0847/1, relating to applications for school trust fund loans

- LRB-0848/2, relating to the authority of the Board of Commissioners of Public Lands to delegate authority to invest trust fund moneys and making an appropriation
- LRB-0878/1, relating to prohibited state trust fund loans
- LRB-0972/1, relating to management of school trust funds and making an appropriation

Recommendations to the Joint Legislative Council

- LRB-0438/1, relating to promissory notes of certain public bodies
- LRB-0848/2, relating to the authority of the Board of Commissioners of Public Lands to delegate authority to invest trust fund moneys
- Recommendation: Investment of the School Trust Funds

Joint Legislative Council Recommendation to the 2019-20 Legislature

- 2019 Assembly Bill 48
- 2019 Assembly Bill 49
- Joint Legislative Council's Report of the Study Committee on the Investment and Use of the School Trust Funds JLCR-2019-04