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Date: March 11, 2020
To: Senate Committee on Agriculture, Revenue and Financial Institutions
From: Representative Terry Katsma
Re: Assembly Bill 48—a recommendation from the 2018 Legislative Council Study Committee on the Investment and Use of the School Trust Funds

Dear Chairman Marklein and committee members,

Thank you for convening today to consider Assembly Bill (AB) 48—a proposal that was unanimously advanced to the Legislature by the bipartisan 2018 Legislative Council Study Committee on the Investment and Use of the School Trust Funds.

It was my privilege to serve during fall 2018 as the chairman of this study committee. I extend my thanks and my deep appreciation to study committee vice-chair Senator Lena Taylor; to legislator committee members Senator Duey Stroebel and Representative Don Vruwink; and to citizen committee members Ms. Kim Bannigan, Mr. Jerry Derr, Mr. Stephen Eager, Mr. Don Merkes and Mr. Steve O'Malley. Every committee member brought valuable insight to this project and unique expertise that enriched our conversations, and every member gave generously of his or her time to bring our study to fruition. I also extend special thanks to Legislative Council staff attorney Rachel Snyder and former Legislative Council staff attorney Zach Ramirez; on countless occasions, we study committee members were served well—and, frankly, were impressed—by their tireless efforts on our behalf and their many insightful suggestions. In fact, I have drawn heavily on the research that they provided to the study committee in the explanation of the bill that I am providing in this testimony.

The study committee was assigned to review the statutes governing the investment of the trust funds administered by the Board of Commissioners of Public Lands (BCPL); to assess whether current statutes adequately ensure the effective investment and appropriate use of the proceeds of the funds; and to recommend legislation for necessary changes. The report that the study committee presented to the Joint Legislative Council in February 2019 summarized the testimony sought and received by the study committee from a diverse group of stakeholders and subject-matter experts. The report also summarized the study committee's deliberations and presented three recommendations for action—one of which is now before this committee as AB 48.

The BCPL is comprised of the Secretary of State, the State Treasurer and the Attorney General. It was established under the Wisconsin Constitution for the purposes of (1) selling lands that were granted by the federal government to Wisconsin and (2) investing and managing the proceeds from those sales for the benefit of common (public K-12) schools and a state university.



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The BCPL holds in trust the proceeds from the sale of school trust lands as well as those lands that have not been sold; BCPL generates revenue by investing the principal of these trust funds, and the net profits are distributed annually to public school districts and the University of Wisconsin. Total assets under management by the BCPL today include approximately \$1.1 billion in combined fund principal plus approximately 75,000 acres of trust lands.

During the course of our review in fall 2018, the study committee learned that the Legislature has taken several approaches over the years regarding the investment of the trust funds. Briefly: the 1849 statutes required the BCPL to invest the funds by making loans to private individuals, but this program proved too risky and incurred significant losses. It is in this context that the Legislature acted several times during the 1860s through the 1880s to direct the BCPL to invest the funds instead in state-issued bonds, loans to Wisconsin school districts and loans to local governments. Evidence from the period suggests that the Legislature's goals were primarily to protect the funds' principal against further losses and to end the practice of maintaining large uninvested fund balances available to loan when desired by the Legislature. For most of Wisconsin's history, the statutes generally prohibited the BCPL from investing the trust funds other than by lending to local governments or purchasing certain types of government bonds; although the Legislature has recently changed course and enabled the BCPL to significantly expand its investment activity, the local government loan program continues to comprise approximately half of the BCPL's investment activity.

The study committee also learned that, in the present day, private lenders may have an interest in offering financial products such as loans to local governments; the committee considered at some length whether and to what extent the BCPL's loan program competes against private industry. The study committee learned that, in some instances, the BCPL offers loans to municipalities with a repayment term of up to 20 years; however, the statutes generally prohibit financial institutions from offering loans to municipalities that have a repayment term of greater than 10 years. The study committee unanimously proposed increasing the 10-year restriction on private lenders to 20 years, on par with the BCPL's program—a proposal that is before this committee today as AB 48. I expect that this move would increase opportunities for local governments to find the best possible prices for the financial products they seek, and I expect that private lenders would also enjoy new opportunities to compete for business in our communities.

Thank you for your time and consideration of AB 48.