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Date: January 14, 2020
To: Senate Committee on Government Operations, Technology and Consumer Protection
From: Representative Terry Katsma
Re: Assembly Bill 49—a recommendation from the 2018 Legislative Council Study Committee on the Investment and Use of the School Trust Funds

Dear Chairman Stroebel and committee members,

Thank you for convening today to consider Assembly Bill (AB) 49—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 49.

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



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proceeds from those sales for the benefit of common (public K-12) schools and a state university. 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, for most of Wisconsin's history, the Legislature permitted the BCPL to invest assets only in a few specific, conservative investments. In the late 1990s and early 2000s, BCPL budget requests included proposals for modifying the statutes to expand the permissible types of investments and for allowing the BCPL to consult with the State of Wisconsin Investment Board (SWIB), who today manages approximately \$110 billion, in making investment decisions. In 2005, the Legislature amended the statutes to authorize the BCPL to delegate to SWIB authority to invest the funds—but the BCPL's range of permissible investments remained limited and, significantly, SWIB was authorized only to invest these monies in very conservative fixed-income instruments.

In 2015, the Legislature changed its longstanding policy and significantly expanded the BCPL's authority to invest the school trust funds. The Legislature repealed the references to specific permissible investments and instead provided that the BCPL must invest the funds in accordance with more general standards for investing institutional funds. As a result, the BCPL has much greater latitude today than it had for most of its history to make prudent decisions to balance its duties to preserve trust fund capital while maximizing the funds' earnings.

However, the 2018 study committee learned that the 2015 statute change failed to update the tool created in 2005. Under current law if, for whatever set of reasons, the BCPL wished to delegate the management of some assets to SWIB, then SWIB would still be bound by provisions that severely limit the acceptable investment instruments—provisions that, given the Legislature's 2015 action, have become obsolete.

The study committee unanimously recommended that this barrier is unnecessary today. AB 49 does *not* compel the BCPL to delegate any of the funds under its care to any other caretaker. AB 49 *does* clearly provide that the BCPL may enter into a contract with SWIB to invest school trust fund monies; that SWIB may be compensated by the BCPL for providing such a service; and that SWIB may invest such monies according to the same standards that apply to the rest of the monies under SWIB's management. This proposal improves upon an existing tool that BCPL may use to maximize earnings for the funds' beneficiaries—an update that was, perhaps, overlooked when the Legislature expanded the BCPL's investment authority in 2015.

Thank you for your time and consideration of AB 49.