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Tom German, *Acting Executive Secretary*

## AGENDA

September 1, 2015

2:00 P.M.

Board of Commissioners of Public Lands  
101 E. Wilson Street, 2<sup>nd</sup> Floor  
Madison, Wisconsin

### Routine Business:

- 1) Call to Order
- 2) Approve Minutes – August 19, 2015 (Attachment)
- 3) Approve Loans (Attachment)

### Old Business:

- 4) Discuss Report on Common School Fund Revenue and Unclaimed Property (Attachments)
  - Potential Board Vote regarding request for Audit of:
    - Office of Commissioner of Insurance fines and forfeitures; and
    - Unclaimed Property Program Revenue and Expenses

### New Business:

- 5) Discuss Candidate(s) for Executive Secretary Position
- 6) Discuss and Vote on Out of State Travel
  - 2015 Schwab Impact Conference

### Routine Business:

- 7) Future Agenda Items
- 8) Acting Executive Secretary's Report
- 9) Adjourn

### AUDIO ACCESS INFORMATION

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Toll Free Number: **(888) 291-0079**  
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**BOARD MEETING  
SEPTEMBER 1, 2015**

**AGENDA ITEM 2  
APPROVE MINUTES**

Attached for approval are the minutes from the August 19, 2015, board meeting.

Board Meeting Minutes  
August 19, 2015

Present were:

- |  |  |
|--|--|
| Doug La Follette, Commissioner         | Secretary of State                     |
| Matt Adamczyk, Commissioner            | State Treasurer                        |
| Brad Schimel, Board Chair              | Attorney General                       |
| Tom German, Acting Executive Secretary | Board of Commissioners of Public Lands |
| Vicki Halverson, Office Manager        | Board of Commissioners of Public Lands |
| Denise Nechvatal, Accountant           | Board of Commissioners of Public Lands |
| Richard Sneider, Loan Analyst          | Board of Commissioners of Public Lands |
| Randy Bixby, Land Records Archivist    | Board of Commissioners of Public Lands |
| John Schwarzmann, Forestry Supervisor  | Board of Commissioners of Public Lands |

**ITEM 1. CALL TO ORDER**

Board Chair Schimel called the meeting to order.

Commissioner La Follette commended Richard Sneider for his work in selling bonds and earning an additional \$44,000 for the Trust Funds.

**ITEM 2. APPROVE MINUTES – AUGUST 5, 2015**

**MOTION:** Commissioner La Follette moved to approve the minutes; Board Chair Schimel seconded the motion.

**DISCUSSION:** None.

**VOTE:** The motion passed 3-0.

**ITEM 3. APPROVE LOANS**

Board Chair Schimel asked if the loans had been reviewed for public purpose. Acting Executive Secretary German confirmed they had.

<u>Municipality</u>	<u>Municipal Type</u>	<u>Loan Type</u>	<u>Loan Amount</u>
1. Elkhart Lake-Glenbeulah Sheboygan County Application #: 02016041 Purpose: Finance district-wide HVAC project	School Rate: 3.00% Term: 5 years	General Obligation	\$900,000.00
2. Orfordville Rock County Application #: 02016042 Purpose: Finance village hall remodeling project	Village Rate: 3.75% Term: 19 years	General Obligation	\$850,000.00
3. Random Lake Sheboygan County Application #: 02016040 Purpose: Finance street and recreational facilities projects	Village Rate: 3.00% Term: 5 years	General Obligation	\$565,000.00

4. Ripon	School	General Obligation	\$900,000.00
Fond Du Lac, Green Lake and Winnebago Counties	Rate: 3.25%		
Application #: 02016039	Term: 10 years		
Purpose: Finance school building remodeling/addition			
	<b>TOTAL</b>		<b>\$3,215,000.00</b>

**MOTION:** Commissioner La Follette moved to approve the loans; Board Chair Schimel seconded the motion.

**DISCUSSION:** None.

**VOTE:** The motion passed 3-0.

**ITEM 4. DISCUSS COMMON SCHOOL FUND REVENUE AND UNCLAIMED PROPERTY REPORT**

Acting Executive Secretary German said staff had prepared a report at the request of Commissioner La Follette that detailed the various major revenue inflows to the Common School Fund. He said the data was not sufficient enough to determine if the Fund is receiving all the money that should be deposited into it.

Commissioner La Follette said it was troubling to him that deposits from the Commissioner of Insurance and Unclaimed Property were down substantially. He asked Commissioner Adamczyk how many staff was employed at the State Treasurer’s Office. Commissioner Adamczyk replied, “I don’t have anybody currently working for me but myself,” and noted that it was important that the Board work with the Department of Revenue to ensure that BCPL receives the correct amount of Unclaimed Property each year. Commissioner La Follette thanked him for answering his question. Commissioner La Follette said he was told that Commissioner Adamczyk had hired three LTEs (limited term employees) but whoever told him that must have been mistaken, and he was glad to have that clarified.

**MOTION:** Commissioner La Follette moved that the Board ask the Legislative Audit Bureau to conduct a performance audit of: 1) the activities involving fines and forfeitures from the Office of Commissioner of Insurance for the past four years, and 2) the activities involving the Unclaimed Property Program, all revenues and expenses for the program for the last two years to ensure that it’s been administered in compliance with the State Constitution, including an accounting of all the hours spent by the State Treasurer and his staff and what activities those hours involved.

Board Chair Schimel said the public notice for the Board meeting only included a discussion of the topic so the Board could not vote on the motion. Commissioner La Follette requested that his motion be added to the next Board meeting agenda. Board Chair Schimel acknowledged Commissioner La Follette’s request and instructed staff to include the item on the next Board meeting agenda.

**ITEM 5. PROPOSED LAND BANK PURCHASE (P1502 – CONNOR/WISCONSIN TIMBER ASSOCIATES)**

Acting Executive Secretary German said that Mr. Connor offered to sell two 80-acre parcels to the BCPL. The 160 acres are contiguous to a substantial block of School Trust Lands in Forest County. He said that the Board’s purchase of the property would provide permanent, legal access to an 80-acre block of School Trust Lands that was disconnected from the larger block; provide a good road network to the Trust Lands; and provide high-quality timber that could be harvested in the next seven years. He added that the U.S. Forest Service (USFS) was proposing a land trade with BCPL that would add another 80 acres of land that lies between the two Connor parcels. Because of the way the Connor parcels and the proposed USFS land exchange parcels would block with the existing Trust Lands, management efficiencies and timber revenues would increase.

Commissioner Adamczyk said he did not support purchasing land, believed the purchase was a terrible investment, and questioned the need for acquiring the property. He said that the land proposed in the USFS exchange would “connect” the Board’s other land so purchasing the Connor property was unnecessary. Commissioner Adamczyk asserted that the Land Bank funds could be invested and the Board would make a better return on that investment. Board Chair Schimel asked if the USFS exchange would resolve the permanent, legal access issue. Acting Executive Secretary German replied that it would not because the road shown on the map was a private road that crossed the Connor property before crossing the USFS property and the 80-acre BCPL parcel.

**MOTION:** Commissioner La Follette moved to approve the purchase; Board Chair Schimel seconded the motion so the Board could continue the discussion.

**DISCUSSION:** Commissioner Adamczyk said he would work to abolish Land Bank Authority and asked where in the State Constitution it directs the Board to purchase land. Board Chair Schimel replied that it was their responsibility to ensure that the assets managed by the Board remain valuable. He believed it was constitutionally legitimate for the Board to enhance the value of the Trust Lands.

Commissioner Adamczyk again questioned the rationale for purchasing 160 acres of property to increase the value of 80 acres. He asserted that those funds could be invested in bonds or loans. He also asked if the 80 acres had ever been offered for sale. Acting Executive Secretary German replied that the property had not been offered for sale because of the access limitations. He also noted that the market value of the 80 acres would increase if BCPL obtained permanent, legal access through this purchase.

**VOTE:** Commissioner La Follette voted aye; Board Chair Schimel and Commissioner Adamczyk voted no. The motion failed 2-1.

#### **ITEM 6. DISCUSS INTERIM INVESTMENT STRATEGIES WHILE TRANSITIONING TO PRUDENT INVESTOR STANDARDS**

Acting Executive Secretary German said the Governor had signed the bill that would expand the BCPL’s investment authority in accordance with the Prudent Investor Standard. He and staff would be writing guidelines on how to implement those standards so potential investments would be in compliance with the legislation. Board Chair Schimel asked if additional staff would be required to ensure that due diligence was conducted on investments under the new standards. Mr. German replied that no additional staff was required at this time. He said that funds would not be invested in investments if staff was unable to conduct the necessary due diligence.

#### **ITEM 7. EXPENSE OVER \$5,000**

Board Chair Schimel explained that he had approved an expense totaling \$6,800 for an appraisal on School Trust Lands, which staff will offer via sealed bid sale.

#### **ITEM 8. DISCUSS LTE FORESTER INTERN**

Board Chair Schimel said two limited term employees (LTE) in the District Office had recently resigned. He gave his approval for staff to hire one LTE to assist staff with fall timber sale preparation.

#### **ITEM 9. FUTURE AGENDA ITEMS**

Board Chair Schimel said that Commissioner La Follette’s motion relating to the Common School Fund audit would be added to the next board meeting agenda.

## ITEM 10. EXECUTIVE SECRETARY'S REPORT

Acting Executive Secretary German reiterated what he had reported under Item 6 above. Board Chair Schimel said that a member of Joint Finance had contacted him the week prior and expressed their appreciation for the efforts and knowledge that Tom (German) and Rich (Sneider) had provided during the Arena Project.

## ITEM 11. ADJOURN

**MOTION:** Board Chair Schimel move to adjourn; Commissioner Adamczyk seconded the motion.

The meeting adjourned at approximately 2:40 PM.



Thomas P. German, Acting Executive Secretary

These minutes have been prepared from a recording of the meeting. The summaries have not been transcribed verbatim.  
Link to audio recording: [ftp://doafpt1380.wi.gov/doadocs/BCPL/2015-08-19\\_BCPL-BoardMtgRecording.mp3](ftp://doafpt1380.wi.gov/doadocs/BCPL/2015-08-19_BCPL-BoardMtgRecording.mp3)

**BOARD MEETING  
SEPTEMBER 1, 2015**

**AGENDA ITEM 3  
APPROVE LOANS**

Municipality	Municipal Type	Loan Type	Loan Amount
1. Albany Green County Application #: 02016051 Purpose: Finance capital projects	Village Rate: 3.25% Term: 8 years	General Obligation	\$200,000.00
2. Cumberland Barron County Application #: 02016044 Purpose: Finance sanitary sewer projects	City Rate: 3.00% Term: 5 years	General Obligation	\$52,000.00
3. Fairwater Fond Du Lac County Application #: 02016043 Purpose: Finance fire truck	Village Rate: 3.00% Term: 5 years	General Obligation	\$75,000.00
4. Hartland-Lakeside J3 Waukesha County Application #: 02016054 Purpose: Refinance 2005 Refunding Bonds	School Rate: 2.50% Term: 1 years	General Obligation	\$1,205,000.00
5. Kekoskee Dodge County Application #: 02016053 Purpose: Finance sewer project	Village Rate: 2.50% Term: 2 years	General Obligation	\$200,000.00
6. La Crosse La Crosse County Application #: 02016059 Purpose: Refinance solid waste bonds, series 2006A	County Rate: 4.00% Term: 10 years	Utility Revenue	\$5,475,000.00
7. Maxville Buffalo County Application #: 02016058 Purpose: Finance road project	Town Rate: 2.50% Term: 2 years	General Obligation	\$50,000.00
8. Pewaukee Waukesha County Application #: 02016052 Purpose: Finance property acquisition	Village Rate: 3.75% Term: 20 years	General Obligation	\$528,800.00

Municipality	Municipal Type	Loan Type	Loan Amount
9. Pewaukee Waukesha County Application #: 02016055 Purpose: Finance blighted property remediation	Village Rate: 3.75% Term: 20 years	General Obligation	\$200,000.00
10. Verona Dane County Application #: 02016057 Purpose: Finance TID #6 project	City Rate: 3.25% Term: 10 years	General Obligation	\$700,000.00
11. Wausau Marathon County Application #: 02016056 Purpose: Finance utility improvements	City Rate: 3.25% Term: 10 years	General Obligation	\$4,000,000.00
12. Woodville St Croix County Application #: 02016045 Purpose: Finance street and park projects, build salt shed	Village Rate: 3.75% Term: 20 years	General Obligation	\$429,677.00
13. Woodville St Croix County Application #: 02016046 Purpose: Finance TID #3 projects	Village Rate: 3.25% Term: 8 years	General Obligation	\$224,239.00
14. Woodville St Croix County Application #: 02016047 Purpose: Finance TID #4 projects	Village Rate: 3.75% Term: 18 years	General Obligation	\$177,500.00
15. Woodville St Croix County Application #: 02016048 Purpose: Refinance BCPL loan #2014086.02	Village Rate: 3.75% Term: 19 years	General Obligation	\$108,766.74
16. Woodville St Croix County Application #: 02016049 Purpose: Refinance BCPL loan #2014086.01	Village Rate: 3.75% Term: 18 years	General Obligation	\$474,252.10
<b>TOTAL</b>			<b>\$14,100,234.84</b>

**BOARD MEETING  
SEPTEMBER 1, 2015**

**AGENDA ITEM 4  
DISCUSS COMMON SCHOOL FUND REVENUE AND  
UNCLAIMED PROPERTY REPORT**

*NOTE: This agenda item is slightly different than what was included in the August 19, 2015, board packet. Specifically, a Proposed Motion and accompanying exhibit have been added per the request of Commissioner La Follette.*

Article X Section 2 of the Wisconsin Constitution requires that, "...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 deposited in the Common School Fund.

In FY2015 fees, fines, forfeitures and other revenues deposited in the Common School Fund reached their lowest level in the last 20 years. Attached Exhibit A lists the top twelve traditional sources of revenues and shows the annual amount added to Common School Fund principal over the last five fiscal years for each of these sources. Several sources show a significant downward trend:

- 1. Insurance violation fines** have dropped significantly in recent years. BCPL staff members have not noticed any statutory amendments which could account for such change in revenue. Informal inquiries to the Office of the Commissioner of Insurance have not provided any further insights.
- 2. Nursing home fines** collected by DHFS declined significantly after 2011. This corresponds to the enactment of 2011 Wisconsin Act 70, which changed the way nursing home fines and forfeitures were assessed and collected in Wisconsin. Up to that point, most fines and forfeitures were assessed pursuant to state law and the collections deposited in the Common School Fund. However, under the new law, DHS could not assess a state fine if the violating nursing home could also be fined pursuant to federal law. DHS filed a fiscal note in that bill estimating that fines deposited in the Common School Fund would decline by approximately \$1.5 million per year.
- 3. The attached chart (Exhibit B) shows wide variations on DOJ fines and forfeitures** deposited in the Common School Fund. However, part of the explanation may be due to the way the data is provided to BCPL. While BCPL receives data from DOJ on cases where forfeiture money flows through DOJ, BCPL staff members have discovered that not all DOJ actions are included here. Sometimes DOJ forfeiture actions are collected through the circuit courts and that money is reflected in a different category. (Please see 'Other forfeitures' below, item 5.)

- 4. Traffic forfeitures** deposited in the Common School Fund have declined steadily. Some of this decline is due to the establishment of additional municipal courts throughout the state. Law enforcement may choose to prosecute traffic citations in either a state/county circuit court or in a local municipal court. In state/county circuit courts, the Common School Fund receives a portion (usually \$15) of the base fine. In municipal courts, the Common School Fund receives no part of any traffic forfeiture collected.

The total dollar amount of a typical traffic citation has increased substantially over the years. However, most of the increase is due to the addition of other fees and surcharges rather than an increase in the base fine. Until 1941, Wisconsin law provided that 90% of motor vehicle violation fines were deposited in the Common School Fund. That year, the legislature changed the percentage to 50% and that percentage has remained in effect for the base fine ever since. In the 1972 case State v. Anderson, the Wisconsin Supreme Court affirmed the legislature's right to change the percentage of the fine retained by the collecting county since the legislature had the power to define the "clear proceeds" of fines as long as the amount going to the Common School Fund was not considered "nominal." The court did not define "nominal." Rather than reduce the Common School Fund's share of the base fine any further, the legislature has added a host of other fees and surcharges to the typical traffic fine. The Common School Fund's amount of \$15 represents less than 10% of the typical total traffic citation amount.

- 5. Other forfeitures and penalties collected in Circuit Courts** have also generally declined over the years. (FY2014 was an anomaly as DOJ obtained a significant settlement that year in a case that involved a forfeiture of over \$4 million for Medicaid Drug Pricing violations.) The reason for the overall general decline in revenues from this source is not clear.
- 6. Unclaimed property** deposited in the Common School Fund has had significant swings from one year to the next. Significant increases in unclaimed property deposits often resulted from the demutualization of insurance companies or mutual savings banks. During the demutualization process, policy owners or account holders would become shareholders of the company. However, the new company did not always have current contact information on the new shareholders. As a result, those shares became unclaimed property held by the State Treasurer. After a statutory holding period, the shares were sold with proceeds deposited into the Common School Fund.

Annual administrative costs are paid from proceeds of the unclaimed property program and are therefore a direct expense to the Common School Fund. Prior to 2013, the unclaimed property program was administered by the Office of the State Treasurer ("OST"). OST would estimate the amount needed for anticipated claims and program expenses and then forward any surplus amounts to the Common School Fund.

Starting in FY2014, the Department of Revenue (“DOR”) assumed responsibility for administering the unclaimed property program. However, as the OST maintained responsibility for collaborating with DOR on promotion of the program, both the DOR expenses of administering the program and all of OST’s expenses are paid out of unclaimed property. Program expenses for the previous three years are as follows:

	FY 2014	FY2013	FY2012
OST Expenses	\$573,100	\$3,665,551	\$3,044,406
DOR Admin Expenses	\$2,973,949		
Total Admin Expenses	\$3,547,049	\$3,665,551	\$3,044,406

FY2015 expenses not yet available

In 2014, DOR executed an MOU with BCPL outlining the procedure for determining the amount of unclaimed property that would be deposited in the Common School Fund each year. However, we were advised by a telephone call on July 31, 2015, that the amount of unclaimed property to be deposited in FY2016 would be less than \$10 million and that DOR could not use the formula they had previously devised. We have not yet received any additional details.

In June 2008, the Legislative Audit Bureau (LAB) issued a report on the Unclaimed Property Program. However, the report did not include a full audit of the program and there does not appear to be any record of an actual audit in modern history of any of the sources of revenue for Common School Fund.

In summation, there have been significant changes in the amounts of various fines and forfeitures deposited in the Common School Fund. Data currently provided to BCPL is insufficient for BCPL staff members to verify that the proper amounts are being reported and deposited into the Common School Fund. The Commissioners may wish to ask LAB for an audit of certain or all of the entities charged with depositing fines, forfeitures and other moneys in the Common School Fund in order to verify that the proper amounts are being deposited into the Fund in accordance with the State Constitution.

Attachments:

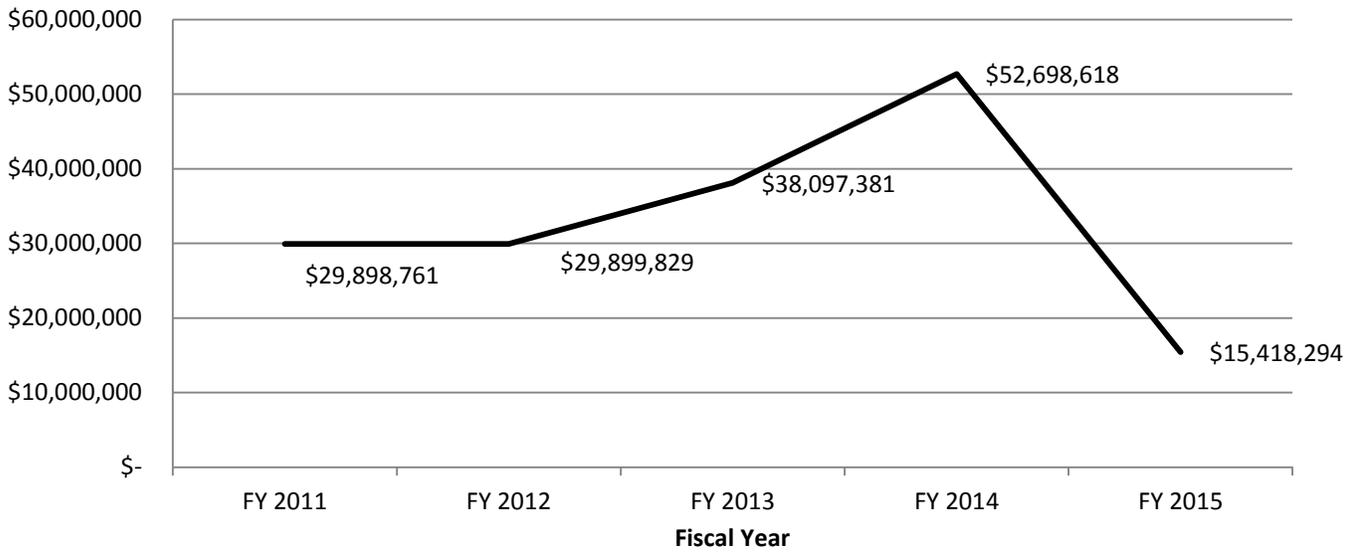
- *Exhibit A - Analysis of Major Sources of Principal Additions to Common School Fund Spreadsheet*
- *Exhibit B - Common School Fund Principal Additions Graphs*
- *Proposed Motion*
- *Memo from Bob Lang, Legislative Fiscal Bureau Director, to Joint Committee on Finance dated May 28, 2013*

**Board of Commissioners of Public Lands**  
**Analysis of Major Sources of Principal Additions to Common School Fund**

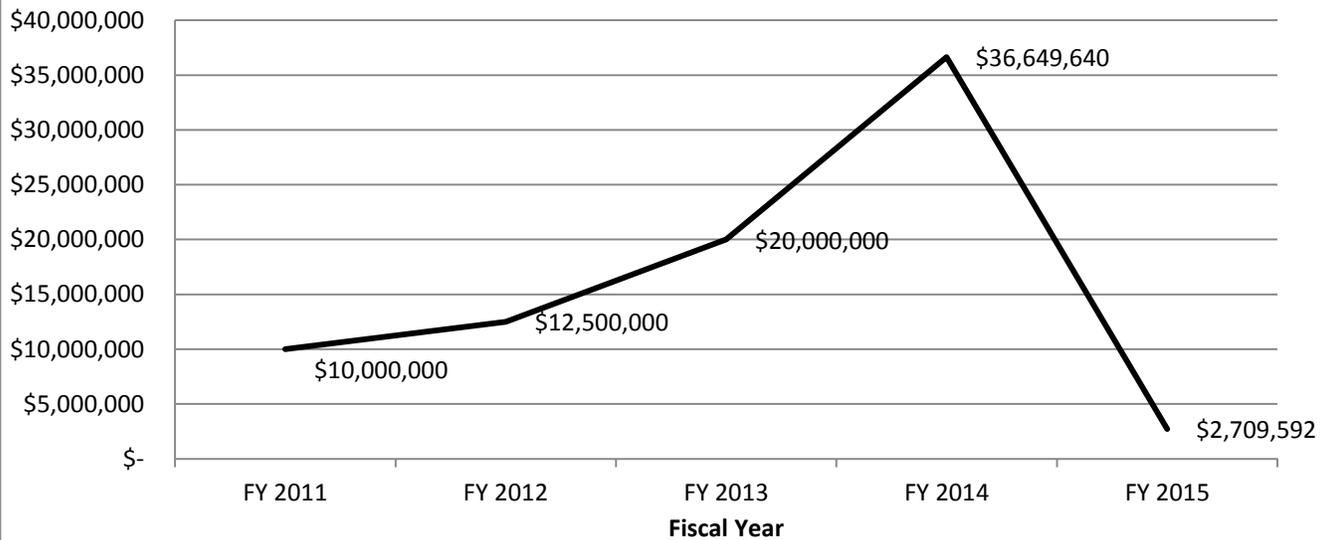
Agency - Revenue Type	FY 2015		FY 2014		FY 2013		FY 2012		FY 2011		5 year average	
	Collections	Percent of Total										
BCPL												
Timber Sales	\$ 45,433	0.3%	\$ 107,483	0.2%	\$ 8,386	0.0%	\$ 7,094	0.0%	\$ 25,988	0.1%	\$ 38,877	0.1%
Confiscated Equipment	71,806	0.5%	80,353	0.2%	51,714	0.1%	52,219	0.2%	47,712	0.2%	60,761	0.2%
Controlled Substance Cash Forf	82,622	0.5%	83,089	0.2%	118,660	0.3%	86,186	0.3%	58,110	0.2%	85,733	0.3%
Commissioner of Insurance												
Insurance Violations	83,230	0.5%	593,881	1.1%	2,324,594	6.1%	1,378,308	4.6%	1,962,187	6.6%	1,268,440	3.8%
Dept of Regulation & Lic.												
Licensing Violations	64,170	0.4%	38,339	0.1%	88,553	0.2%	119,264	0.4%	129,830	0.4%	88,031	0.3%
Dept of Health and Family Services												
DHFS collections	1,293,459	8.4%	765,196	1.5%	1,102,436	2.9%	1,190,699	4.0%	2,282,000	7.6%	1,326,758	4.0%
Dept of Justice												
Fines & Forfeitures	34,356	0.2%	213,050	0.4%	2,386,261	6.3%	1,960	0.0%	357,447	1.2%	598,615	1.8%
Elections Board												
Campaign Finance Violations	9,871	0.1%	23,519	0.0%	20,497	0.1%	55,125	0.2%	204,861	0.7%	62,774	0.2%
County Circuit Courts												
Overweight Vehicles (Chap. 348)	435,888	2.8%	341,774	0.6%	349,691	0.9%	306,996	1.0%	329,828	1.1%	352,836	1.1%
Traffic Violations (Chap. 341-347, 349, 351)	6,037,352	39.2%	6,249,085	11.9%	7,063,423	18.5%	7,233,902	24.2%	7,725,593	25.8%	6,861,871	20.7%
Other Forfeitures & Penalties	4,434,529	28.8%	8,689,497	16.5%	4,566,573	12.0%	4,906,328	16.4%	6,703,273	22.4%	5,860,040	17.6%
Unclaimed Property	2,709,592	17.6%	36,649,640	69.5%	20,000,000	52.5%	12,500,000	41.8%	10,000,000	33.4%	16,371,847	49.3%
<b>Total Revenue Common School</b>	<b>\$ 15,418,294</b>		<b>\$ 52,698,618</b>		<b>\$ 38,097,381</b>		<b>\$ 29,899,829</b>		<b>\$ 29,898,761</b>		<b>\$ 33,202,576</b>	

*Please note: Only major sources of principal are presented in detail. The total per year is the grand total including all additions to principal annually.*

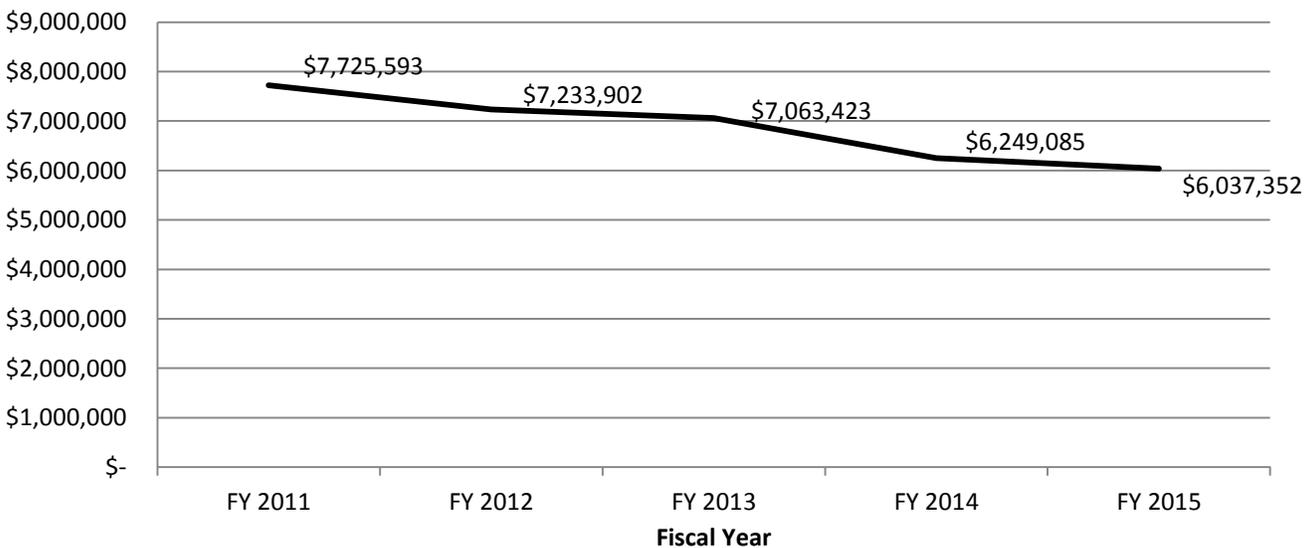
### Total Common School Fund Principal Additions



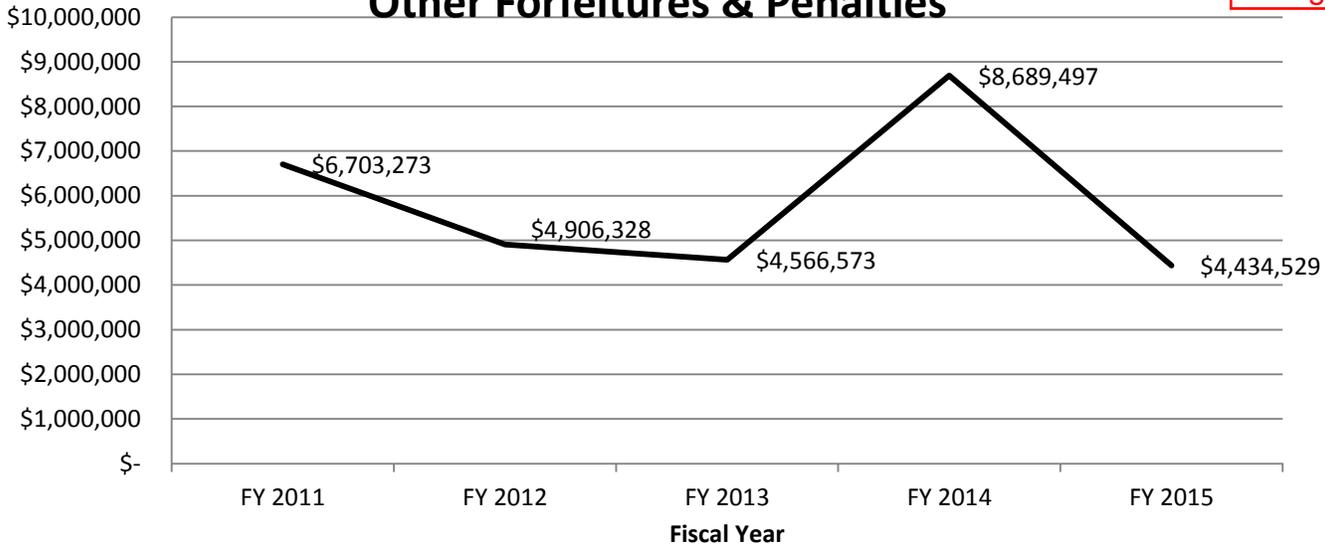
### Unclaimed Property



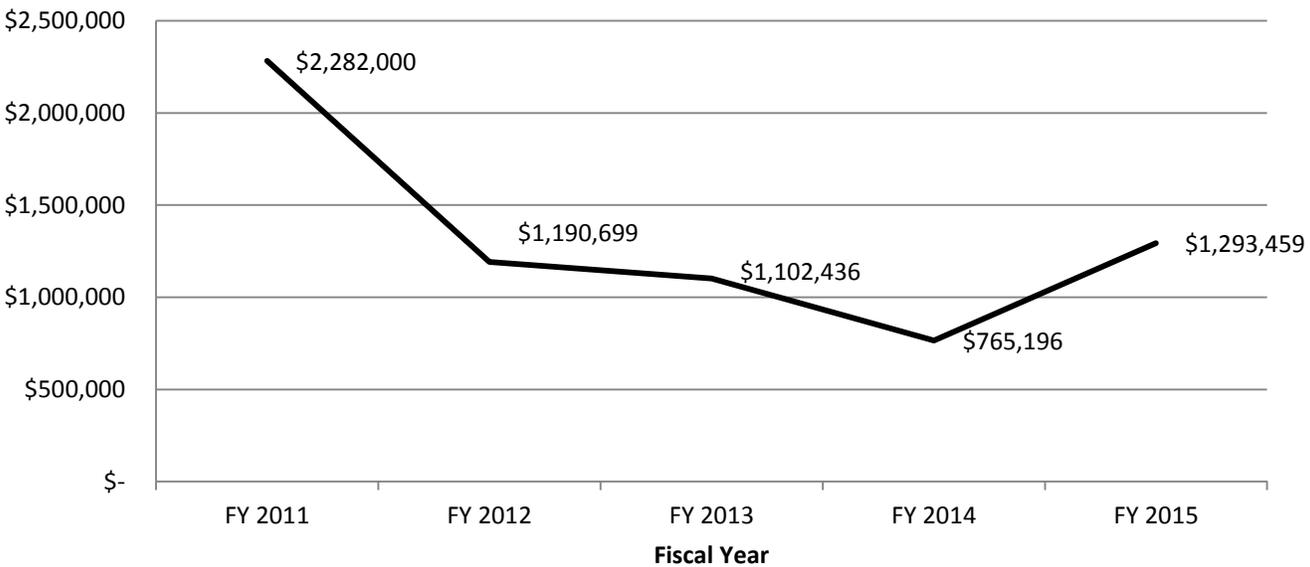
### Traffic Violations (Chap. 341-347, 349, 351)



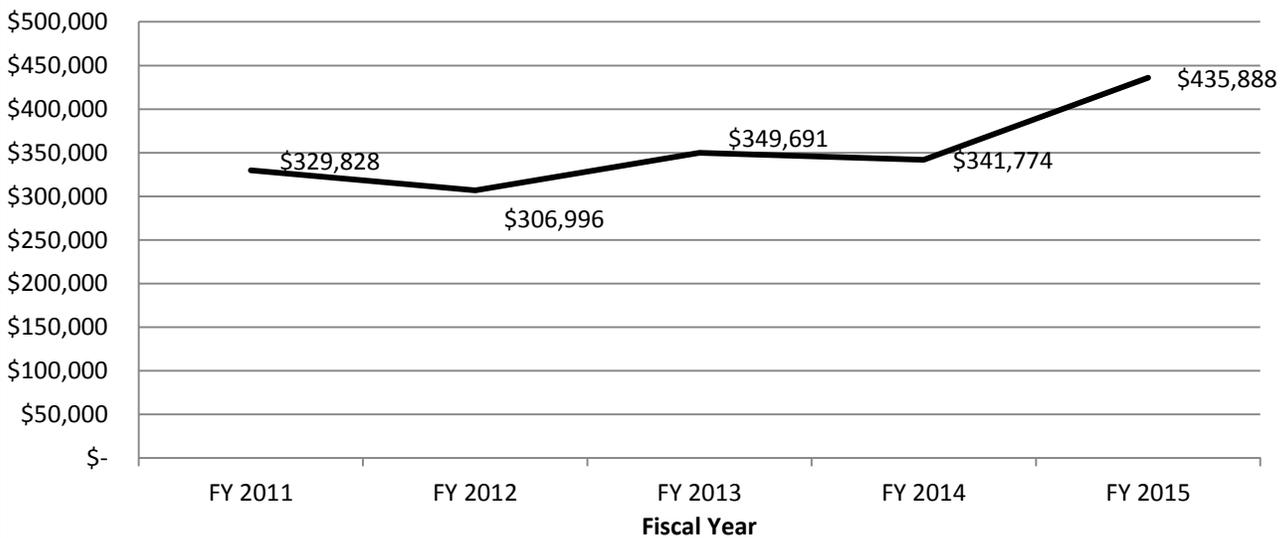
### County Circuit Courts Other Forfeitures & Penalties



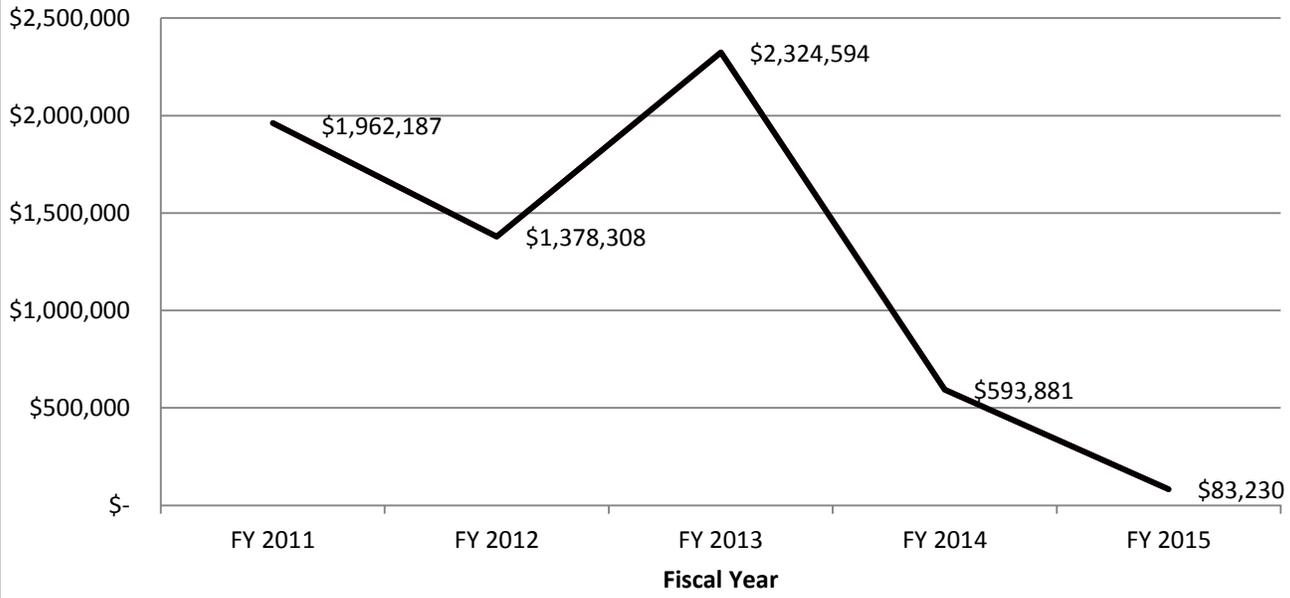
### DHFS Collections



### Overweight Vehicles (Chap. 348)



### Insurance Violations



**BOARD MEETING  
SEPTEMBER 1, 2015**

**AGENDA ITEM 4  
DISCUSS COMMON SCHOOL FUND REVENUE AND  
UNCLAIMED PROPERTY REPORT**

**PROPOSED MOTION**

Commissioner La Follette proposes the following motion:

The Board of Commissioner of Public Lands requests that the Legislative Audit Bureau conduct a performance audit of:

- the activities involving fines and forfeitures from the Office of the Commissioner of Insurance for the past four years; and
- the activities involving the Unclaimed Property Program, all revenues and expenses of the program for the last two years to ensure that it has been administered in compliance with the state constitution including an accounting of all the hours spent by the State Treasurer and his staff and what activities these hours involved.



## Legislative Fiscal Bureau

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Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

Item 4  
Attachment  
Page 1 of 2

May 28, 2013

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Unclaimed Property Program Transfer to the Department of Revenue

This memorandum provides information relating to the transfer of the unclaimed property program from the Office of State Treasurer to the Department of Revenue (DOR) under Motion #230 (attached), adopted by the Committee on Wednesday, May 15. Currently, base funding for the unclaimed property program administrative expenses appropriation is \$4,861,100 PR annually, funded from unclaimed property program revenue. The program is authorized 9.95 PR positions. Under AB 40, the appropriation is funded \$4,874,600 PR in 2013-14 and \$4,877,600 PR in 2014-15 and 9.95 PR positions annually. Program revenue from unclaimed property is the only funding source for the Office of State Treasurer.

Motion #230 provides \$4,329,800 PR in 2013-14 and \$4,332,800 PR in 2014-15 and 5.95 PR positions annually to DOR for the transfer of the administration of the unclaimed property program from the Office of State Treasurer. An annual PR appropriation would be newly created within DOR for this purpose. In addition, the motion specifies that the incumbent employees currently occupying the 5.95 positions would be transferred and any employment rights and status that the employees currently have at the Office of State Treasurer be retained.

Further, under the motion, the appropriation from which the Treasurer is currently funded would remain intact, with reduced expenditure authority of \$544,800 PR and 4.0 PR positions annually (including the State Treasurer and Deputy State Treasurer). The motion renames the appropriation to be the administrative expenses appropriation. The 4.0 PR positions in the Office of State Treasurer would continue to be funded from unclaimed property program revenue.

In relation to the source of funding for the Treasurer, the Board of Commissioners of Public Lands and staff attorneys at the Legislative Reference Bureau have raised concerns regarding the continued use of unclaimed property program revenue to fund the Treasurer. Specifically, Article X Section 2 of the Constitution requires that unclaimed property proceeds (the clear proceeds of all

property that accrues to the state by forfeiture or escheat) be deposited in the Common School Fund. Although state statute permits the use of unclaimed property program revenue to defray expenses associated with the administration of the program, a complete transfer of all administrative duties relating to the program would disconnect the Office from this purpose and prohibit the continued use of the program revenue by the Treasurer for constitutional reasons. Further, the 4.0 PR positions that would remain with the Treasurer under the motion have experience conducting outreach efforts for the program.

Legislative attorneys have advised that in order to achieve the goal of the motion using the current revenues from the unclaimed property program to fund the operations of the Office of the State Treasurer and to conform to constitutional requirements, the duties of the State Treasurer would need to be modified to *require that the Treasurer provide services related to the promotion of the unclaimed property program in consultation with the Secretary of DOR*. To accomplish the Committee's intent under Motion #230, and to address the issue raised in this memorandum, the language that will be included in the Committee's substitute amendment will be drafted to contain the language in italics shown above.

If you have any questions about this memorandum, please contact me.

RJ/lb  
Attachment