
ENGROSSED SUBSTITUTE SENATE BILL 5895

State of Washington 63rd Legislature 2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hill and Hargrove)

READ FIRST TIME 04/05/13.

AN ACT Relating to education funding; amending RCW 43.135.025, 82.45.100, 82.16.020, 82.18.040, 67.70.190, 28A.525.010, 28A.525.020, 28A.515.320, 39.42.140, and 84.52.067; reenacting and amending RCW 82.45.060 and 43.135.045; adding a new section to chapter 28A.150 RCW; adding a new section to chapter 82.08 RCW; creating new sections; providing effective dates; providing an expiration date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 PART I

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10 STATE EXPENDITURE LIMIT

NEW SECTION. Sec. 100. The legislature recognizes that it is the paramount duty of the state under Article IX of the state Constitution to provide for the education of the citizens of the state. The state supreme court ruled the legislature has not provided adequate state funding from dependable and regular sources to comply with the paramount duty. It is the intent of the legislature, therefore, through section 101 of this act to modify the state expenditure limit to ensure a limit is placed on the remainder of state government

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- 1 expenditures that will enable the state to commit an increasing
- 2 proportion of state tax dollars and the state budget to the education
- 3 of our citizens in fulfillment of the state's paramount duty.

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- 4 **Sec. 101.** RCW 43.135.025 and 2009 c 479 s 35 are each amended to read as follows:
 - (1) The state shall not expend from the general fund <u>or related</u> <u>fund</u> during any fiscal year state moneys in excess of the state expenditure limit established under this chapter.
- 9 (2) Except pursuant to a declaration of emergency under RCW ((43.135.035)) 43.135.034 or pursuant to an appropriation under RCW 10 11 43.135.045(2), the state treasurer shall not issue or redeem any check, 12 warrant, or voucher that will result in a state general fund or related 13 fund expenditure for any fiscal year in excess of the state expenditure limit established under this chapter. A violation of this subsection 14 constitutes a violation of RCW 43.88.290 and shall subject the state 15 16 treasurer to the penalties provided in RCW 43.88.300. After July 1, 2015, and prior to July 1, 2023, the state expenditure limit 17
- established by this section does not apply to:

 (a) State allocations to school districts and educational service
- 20 <u>districts;</u>
 21 (b) Appropriations to the state's institutions of higher education
- 21 (b) Appropriations to the state's institutions of higher education 22 or appropriations to state student financial aid programs;
- (c) Appropriations for the early learning program under RCW
 43.215.141 and 43.215.142 and other licensed child care programs under
 chapter 43.215 RCW that promote positive child outcomes through
 curriculum, learning, and training;
- 27 (d) The costs of court rulings imposing new state costs issued 28 after July 1, 2015, and prior to July 1, 2023;
- (e) Expenditures of extraordinary revenue growth, as defined in
 Article 7, section 12 of the state Constitution, to the extent that the
 extraordinary revenue growth is not deposited to the budget
 stabilization account; or
- 33 (f) The cost of extraordinary growth in the caseloads of state
 34 entitlement programs to the extent that total biennial entitlement
 35 caseload costs exceed by one-third the average biennial percentage
 36 growth over the prior five fiscal biennia, not including the cost of

new entitlements or the expansion of existing entitlements after
January 1, 2013, or the expansion of medicaid eligibility under the
federal affordable care act.

The exceptions established in (a) through (f) of this subsection shall be calculated by the state expenditure limit committee.

- (3) The state expenditure limit for any fiscal year shall be the previous fiscal year's state expenditure limit increased by a percentage rate that equals the fiscal growth factor.
- (4)(a) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, ((2009)) 2013, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund((,-the-public-safety-and education account, the health services account, the violence reduction and drug enforcement account, the student achievement fund, the water quality-account,-and-the-equal-justice-subaccount,-not-including federal funds,)) and related funds for the fiscal year beginning July 1, ((2008)) 2012, plus the fiscal growth factor.
- (b) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 2015, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund and related funds plus the fiscal growth factor, excluding expenditures for the purposes of subsection (2)(a), (b), and (c) of this section.
- (c) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 2023, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund and related funds for the fiscal year beginning July 1, 2022, plus the fiscal growth factor, including expenditures for the purposes of subsection (2)(a) through (f) of this section.
- (5) A state expenditure limit committee is established for the purpose of determining and adjusting the state expenditure limit as provided in this chapter. The members of the state expenditure limit committee are the director of financial management, the attorney general or the attorney general's designee, and the chairs and ranking minority members of the senate committee on ways and means and the house of representatives committee on ways and means. All actions of the state expenditure limit committee taken pursuant to this chapter require an affirmative vote of at least four members.

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- (6) Each November, the state expenditure limit committee shall adjust the expenditure limit for the preceding fiscal year based on actual expenditures and known changes in the fiscal growth factor and then project an expenditure limit for the next two fiscal years. If, by November 30th, the state expenditure limit committee has not adopted the expenditure limit adjustment and projected expenditure limit as provided in subsection (5) of this section, the attorney general or his or her designee shall adjust or project the expenditure limit, as necessary.
- 10 (7)(a) "Fiscal growth factor," after July 1, 2015, and prior to
 11 July 1, 2023, means the average of the sum of inflation and population
 12 change for each of the prior three fiscal years.
- 13 <u>(b) "Inflation" means the percentage change in the implicit price</u>
 14 <u>deflator for the United States for each fiscal year as published by the</u>
 15 <u>federal bureau of labor statistics.</u>
- 16 <u>(c) "Population change" means the percentage change in state</u>
 17 population for each fiscal year as reported by the office of financial
 18 management.
- 19 (d) "Fiscal growth factor," prior to July 1, 2015, and after July 20 1, 2023, means the average growth in state personal income for the 21 prior ten fiscal years.
 - (8) "General fund" means the state general fund and related funds.
- 23 <u>(9) "Related funds" means the Washington opportunity pathways</u> 24 account and the education legacy trust account.

25 PART II

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EDUCATION LEGACY TRUST ACCOUNT

NEW SECTION. Sec. 200. Article IX of the Washington state Constitution states that it is the paramount duty of the state to make ample provision for the education of all children residing within its borders. The legislature finds that the proliferation of special dedicated funds and diversions of state revenues for purposes other than this paramount duty erodes the state's financial capacity to fulfill this constitutional duty. The legislature intends to meet this constitutional duty, in part, by reprioritizing some of these diverted state resources to the paramount duty.

NEW SECTION. Sec. 201. A new section is added to chapter 28A.150 1 2 RCW to read as follows:

- (1) Beginning July 1, 2013, and ending June 30, 2023, the office of financial management must annually calculate the state general fund expenditures that would have been expended that fiscal year under RCW 28A.400.205, 28B.50.465, and 28B.50.468, as they existed prior to their repeal by chapter . . . (Substitute Senate Bill No. 5194), Laws of Annually, for each fiscal year subject to this section, the office of financial management shall notify the state treasurer and the fiscal committees of the legislature the amount calculated under this On the last working day of the fiscal year, the state treasurer must transfer such amount from the general fund to the education legacy trust account created in RCW 83.100.230.
- 14 (2) If Substitute Senate Bill No. 5194 (educational compensation) is not enacted by June 30, 2013, this section shall not take effect. 15
 - (3) This section expires July 1, 2023.

17 PART II A

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REAL ESTATE EXCISE TAX

Sec. 210. RCW 82.45.060 and 2011 1st sp.s. c 50 s 975 and 2011 1st 20 sp.s. c 48 s 7035 are each reenacted and amended to read as follows:

There is imposed an excise tax upon each sale of real property at the rate of one and twenty-eight one-hundredths percent of the selling price. An amount equal to ((six and one-tenth)) two percent of the proceeds of this tax to the state treasurer must be deposited in the public works assistance account created in RCW 43.155.050((+ PROVIDED, That-during-the-fiscal-year-2011,-six-and-one-tenth-percent-of-the proceeds of this tax must be deposited in the general fund for general purpose - expenditures)), and an amount equal to four and one-tenth percent must be deposited in the education legacy trust account created in RCW 83.100.230. Except as otherwise provided in this section, an amount equal to one and six-tenths percent of the proceeds of this tax to the state treasurer must be deposited in the city-county assistance account created in RCW 43.08.290. ((During-the-2011-2013-fiscal biennium, -1.546-percent-of-the-proceeds-of-this-tax-to-the-state treasurer must be deposited in the city-county assistance account.))

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Sec. 211. RCW 82.45.100 and 2010 1st sp.s. c 23 s 211 are each 2 amended to read as follows:

- (1) Payment of the tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within one month thereafter will bear interest from the time of sale until the date of payment.
- (a) Interest imposed before January 1, 1999, is computed at the rate of one percent per month.
- (b) Interest imposed after December 31, 1998, is computed on a monthly basis at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year. The department must provide written notification to the county treasurers of the variable rate on or before December 1st of the year preceding the calendar year in which the rate applies.
- (2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer or the department of revenue, as the case may be, within one month of the date due, there is assessed a penalty of five percent of the amount of the tax; if the tax is not received within two months of the date due, there will be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within three months of the date due, there will be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection is collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.
- (3) If the tax imposed under this chapter is not received by the due date, the transferee is personally liable for the tax, along with any interest as provided in subsection (1) of this section, unless an instrument evidencing the sale is recorded in the official real property records of the county in which the property conveyed is located.
- (4) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department must assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. The

- department must notify the taxpayer by mail, or electronically as 1 2 provided in RCW 82.32.135, of the additional amount and the same becomes due and must be paid within thirty days from the date of the 3 notice, or within such further time as the department may provide. 4
 - (5) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of:
 - (a) Fraud or misrepresentation of a material fact by the taxpayer;
- 8 (b) A failure by the taxpayer to record documentation of a sale or 9 otherwise report the sale to the county treasurer; or
 - (c) A failure of the transferor or transferee to report the sale under RCW 82.45.090(2).
- 12 (6) Penalties collected on taxes due under this chapter under 13 subsection (2) of this section and RCW 82.32.090 (2) through (8) must 14 be deposited in the ((housing trust fund as described in chapter 43.185 15 RCW)) education legacy trust account created in RCW 83.100.230.

16 PART II B 17 PUBLIC UTILITY TAX

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18 Sec. 220. RCW 82.16.020 and 2011 1st sp.s. c 48 s 7033 are each 19 amended to read as follows:

- (1) There is levied and ((there shall be)) collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax ((shall be)) is equal to the gross income of the business, multiplied by the rate set out after the business, as follows:
- (a) Express, sewerage collection, and telegraph businesses: Three and six-tenths percent;
- (b) Light and power business: Three and sixty-two one-hundredths 27 percent;
 - (c) Gas distribution business: Three and six-tenths percent;
 - (d) Urban transportation business: Six-tenths of one percent;
 - (e) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;
 - (f) Motor transportation, railroad, railroad car, and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent;
 - (g) Water distribution business: Four and seven-tenths percent.

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- (2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.
- (3) Twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses and sixty percent of the moneys collected under subsection (1) of this section on sewerage collection businesses ((shall)) must be deposited in the ((public works assistance account created in RCW 43.155.050: PROVIDED, That during the fiscal year 2011, twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses and sixty percent of the moneys collected under subsection (1) of this section businesses must be deposited in the general fund for general purpose expenditures)) education legacy trust account created in RCW 83.100.230.

15 PART II C

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SOLID WASTE COLLECTION TAX

- Sec. 230. RCW 82.18.040 and 2012 2nd sp.s. c 5 s 2 are each amended to read as follows:
- (1) Taxes collected under this chapter must be held in trust until paid to the state. Except as otherwise provided in this subsection (1), taxes received by the state must be deposited in the ((public works assistance account created in RCW 43.155.050)) education legacy trust account created in RCW 83.100.230. For the period beginning July 1, 2011, and ending June 30, 2015, taxes received by the state under this chapter must be deposited in the general fund for general purpose expenditures. For fiscal years 2016, 2017, and 2018, one-half of the taxes received by the state under this chapter must be deposited in the general fund for general purpose expenditures and the remainder deposited in the ((public-works-assistance)) education legacy trust account <u>created in RCW 83.100.230</u>. Any person collecting the tax who appropriates or converts the tax collected is guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. If a taxpayer fails to pay the tax imposed by this chapter to the person charged with collection of the tax and the person charged with collection fails to pay the tax to the

department, the department may, in its discretion, proceed directly against the taxpayer for collection of the tax.

- (2) The tax is due from the taxpayer within twenty-five days from the date the taxpayer is billed by the person collecting the tax.
- (3) The tax is due from the person collecting the tax at the end of the tax period in which the tax is received from the taxpayer. If the taxpayer remits only a portion of the total amount billed for taxes, consideration, and related charges, the amount remitted must be applied first to payment of the solid waste collection tax and this tax has priority over all other claims to the amount remitted.

11 PART II D

12 UNCLAIMED STATE LOTTERY PRIZES

Sec. 240. RCW 67.70.190 and 2009 c 564 s 949 are each amended to 14 read as follows:

Unclaimed prizes ((shall)) must be retained in the state lottery account for the person entitled thereto for one hundred eighty days after the drawing in which the prize is won, or after the official end of the game for instant prizes. If no claim is made for the prize within this time, all rights to the prize ((shall-be)) are extinguished, and the prize ((shall be retained in the state lottery fund for further use as prizes, except that one third of all unclaimed prize money shall be deposited in the economic development strategic reserve account created in RCW 43.330.250)) amount must be transferred to the education legacy trust account created in RCW 83.100.230.

((On July 1, 2009, June 30, 2010, and June 30, 2011, all unclaimed prize money retained in the state lottery fund [account] in excess of three million dollars, excluding amounts distributed to the economic development strategic reserve account, shall be transferred into the state general fund.))

30 PART II E

31 SALES TAX FROM REMOTE SELLERS

- NEW SECTION. Sec. 250. A new section is added to chapter 82.08 RCW to read as follows:
- 34 (1) If either contingency in RCW 82.08.050(12) occurs, the

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department, in consultation with the economic and revenue forecast work group created in RCW 82.33.040, must annually estimate the anticipated net increase in state sales tax revenues resulting from remote sellers collecting and remitting sales tax on retail sales to buyers located in this state.

- (2) Annually, beginning in the fiscal year during which either of the contingencies in RCW 82.08.050(12) occurred, the department must notify the state treasurer of the estimated amount determined under subsection (1) of this section for that fiscal year. On the last working day of the fiscal year, the state treasurer must transfer such amount from the general fund to the education legacy trust account created in RCW 83.100.230.
- 13 (3) For purposes of this section, "net increase" means the increase
 14 in state sales tax revenues received by the state resulting from remote
 15 sellers collecting and remitting sales tax on retail sales to buyers
 16 located in this state, which must reflect any vendor compensation the
 17 state is required to provide sellers as a condition to requiring remote
 18 sellers to collect sales tax on sales to Washington consumers.

19 PART III

20 SCHOOL CONSTRUCTION

Sec. 300. RCW 28A.525.010 and 1969 ex.s. c 223 s 28A.47.050 are 22 each amended to read as follows:

It is hereby declared to be the intent of the legislature that the following provisions be enacted for the purpose of establishing and providing for the operation of a program of state assistance to school districts in providing school plant facilities. It is also the intent of the legislature that first priority for the state's general obligation bond capacity must be for capital budget appropriations necessary to support this state assistance program to assist school districts in the construction and ownership of local school plant facilities. By fully funding the state assistance program under this chapter with state general obligation bonds, the cash receipts to the common school construction account, minus any amounts necessary for debt service payments for reimbursable bonds, may be used for operating budget appropriations for the common schools as allowed in Article IX, section 3 of the state Constitution.

1 **Sec. 301.** RCW 28A.525.020 and 2006 c 263 s 301 are each amended to 2 read as follows:

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The superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall have the power and duty (1) to prescribe rules governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever such action is advisable; (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance ((and/or-to prorate allotments among such districts in conformity with applicable procedures - and -rules)) and to request any necessary supplemental appropriations for inclusion in the governor's supplemental capital budget request. The governor must review the technical accuracy of that supplemental budget request and include sufficient general obligation __bonds __from __within __available __capacity, __including reprioritizing existing bond appropriations if necessary, in the governor's budget submittal to the legislature to fully fund the required state assistance.

Sec. 302. RCW 28A.515.320 and 1996 c 186 s 503 are each amended to read as follows:

The common school construction fund is to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: (1) Those proceeds derived from sale or appropriation of timber and other crops from school and state land other than those granted for specific purposes; (2) the interest accruing on the permanent common school fund less the allocations to the state treasurer's service ((account [fund])) fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund; (3) all moneys received by the state from the United States under the provisions of section 191, Title 30,

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United States Code, Annotated, and under section 810, chapter 12, Title 1 16, (Conservation), United States Code, Annotated, except moneys 2 received before June 30, 2001, and when thirty megawatts of geothermal 3 power is certified as commercially available by the receiving utilities 4 5 and the department of ((community, trade, and economic development)) commerce, eighty percent of such moneys, under the Geothermal Steam Act 6 7 of 1970 pursuant to RCW 43.140.030; and (4) such other sources as the legislature may direct. That portion of the common school construction 8 9 fund derived from interest on the permanent common school fund may be 10 used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools. 11

The interest accruing on the permanent common school fund less the allocations to the state treasurer's service fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenues accruing thereto pursuant to subsection (2) of this section prior to July 1, 1967, shall be exclusively applied to the current use of the common schools.

To the extent that the moneys in the common school construction fund are in excess of the amount necessary to allow fulfillment of the purpose of said fund, the excess shall be available for deposit to the credit of the permanent common school fund or available for the current use of the common schools, as the legislature may direct. Any money from the common school construction fund which is made available for the current use of the common schools shall be restored to the fund by appropriation, including interest income ((foregone - [forgone])) forgone, before the end of the next fiscal biennium following such use only to the extent that other funds appropriated and available for fully funding the school construction assistance program under chapter 28A.525 RCW are insufficient.

- 31 **Sec. 303.** RCW 43.135.045 and 2012 2nd sp.s. c 5 s 1 and 2012 1st sp.s. c 10 s 5 are each reenacted and amended to read as follows:
- 33 The education construction fund is hereby created in the state 34 treasury.
- 35 (1) Funds may be appropriated from the education construction fund 36 exclusively for common school construction or higher education 37 construction. ((During the 2007-2009 fiscal biennium, funds may also

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- be used for higher education facilities preservation and maintenance.

 During the 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the education construction fund to the state general fund such amounts as reflect the excess fund balance of the fund.))
- (2) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection must result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and does not affect any subsequent fiscal period.
- (((3)-After July-1, 2010, the state treasurer must transfer one hundred-two-million-dollars-from-the-general-fund-to-the-education construction fund by June 30th of each year. However, the transfers may not take place in the fiscal biennium ending June 30, 2015.))

16 PART IV

17 STATE DEBT LIMIT

- NEW SECTION. Sec. 400. It is the intent of the legislature by sections 401 and 402 of this act to meet its obligation to fund the common school system of the state by reducing future debt service payments by the state.
- **Sec. 401.** RCW 39.42.140 and 2011 1st sp.s. c 46 s 3 are each amended to read as follows:

The state finance committee must recommend a working debt limit for purposes of budget development for various purpose capital bond appropriations. Nothing in this section shall in any manner affect the validity of indebtedness incurred in compliance with the provisions of Article VIII, section 1 of the state Constitution. The working debt limit must be updated periodically following forecasts of the economic and revenue forecast council. The governor and legislature must develop capital bond budgets within the most recent recommended working debt limit. The working debt limit must be lower than the state constitutional debt limit in order to reserve capacity under the constitutional limit for emergencies and economic uncertainties. In order to begin to accomplish the objectives of stabilizing debt

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capacity and reducing the debt service burden on the operating budget, 1 2 the state finance committee must recommend working debt limits of eight and one-half percent from July 1, 2015, to and including June 30, 2017; 3 4

eight and one-quarter percent from July 1, 2017, to and including June

- 30, 2019; eight percent from July 1, 2019, to and including June 30, 5
- ((2021)) 2034; seven and three-quarters percent from July 1, ((2021))6
- 7 2034, and thereafter. The state finance committee may recommend
- modified working debt limits in response to extraordinary economic 8
- conditions. The state finance committee is authorized to reduce or 9
- delay the issuance of bonds if an issuance would result in exceeding 10
- 11 the recommended working debt limit.
- 12 **Sec. 402.** RCW 84.52.067 and 2009 c 479 s 73 are each amended to read as follows: 13
- All property taxes levied by the state for the support of common 14
- 15 schools shall be paid into ((the general fund of)) the state treasury
- 16 as provided in RCW 84.56.280. Beginning on the effective date of this
- section through June 30, 2018, one-half shall be paid into the general 17
- fund and one-half shall be paid into the education legacy trust account 18
- for the purposes of RCW 83.100.230. Beginning July 1, 2018, all 19
- 20 property taxes levied by the state for the support of common schools
- 21 shall be paid into the education legacy trust account for the purposes
- 22 of RCW 83.100.230.

23 PART V

24 MISCELLANEOUS

- NEW SECTION. Sec. 500. If any provision of this act or its 25 application to any person or circumstance is held invalid, the 26 27 remainder of the act or the application of the provision to other
- 28 persons or circumstances is not affected.
- NEW SECTION. Sec. 501. (1) Except as otherwise provided in this 29
- section, this act is necessary for the immediate preservation of the 30
- public peace, health, or safety, or support of the state government and 31
- its existing public institutions, and takes effect July 1, 2013. 32
- 33 (2) Section 220 of this act is necessary for the immediate

- 1 preservation of the public peace, health, or safety, or support of the
- 2 state government and its existing public institutions, and takes effect
- 3 June 30, 2013.

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