

**Chapter 28A.515 RCW
COMMON SCHOOL CONSTRUCTION FUND**

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RCW 28A.515.010 Condensed compliance reports—Second-class districts. Any compliance reporting requirements as a result of laws in this chapter that apply to second-class districts may be submitted in accordance with RCW 28A.330.250. [2011 c 45 s 37.]

Conflict with federal requirements—2011 c 45: See note following RCW 28A.330.250.

RCW 28A.515.300 Permanent common school fund—Sources—Use. (1)
The principal of the common school fund as the same existed on June 30, 1965, shall remain permanent and irreducible. The said fund shall consist of the principal amount thereof existing on June 30, 1965, and such additions thereto as may be derived after June 30, 1965, from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of stone, minerals or property other than timber and other crops from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating stone, minerals or property other than timber and other crops from school and state lands other than those granted for specific purposes, and all moneys other than rental, recovered from persons trespassing on said lands; five percent of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be, granted to the state for the support of common schools and such other funds as may be provided by legislative enactment.

(2) Consistent with Article XVI, section 5 and Article IX, sections 3 and 5 of the state Constitution, the state investment board may invest the fund as authorized in RCW 28A.515.330. [2007 c 505 s 2; 1969 ex.s. c 223 s 28A.40.010. Prior: 1967 c 29 s 1; 1909 c 97 p 320 s 1; RRS s 4932; prior: 1897 c 118 s 109; 1890 p 373 s 50; 1886 p

20 s 57, part; Code 1881 s 3210, part; 1873 p 421 s 1. Formerly RCW 28A.40.010, 28.40.010.]

Intent—Finding—2007 c 505: See note following RCW 28A.515.330.

*Banks and trust companies, liquidation and winding up
dividends unclaimed deposited in: RCW 30A.44.150,
30A.44.180.
personal property, proceeds deposited in: RCW 30A.44.220.*

*Enlargement of, legislature may provide: State Constitution Art. 9 s 3
(Amendment 43).*

Escheated estates deposited in: RCW 11.08.210.

*Game and game fish lands
payments to in lieu of property taxes: RCW 77.12.203.
withdrawn from lease, payment of amount of lease into: RCW
77.12.360.*

*Interest deposited in current state school fund used for current
expenses: State Constitution Art. 9 s 3 (Amendment 43).*

*Investment of permanent common school fund: State Constitution Art. 16
s 5 (Amendment 44).*

*Lands set aside and permanent funds established: Enabling act ss 10
through 25.*

*Losses occasioned by default, fraud, etc., to become permanent debt
against state: State Constitution Art. 9 s 5.*

*Permanent and irreducible: State Constitution Art. 9 s 3 (Amendment
43), RCW 28A.515.300.*

*Safe deposit box contents
rent unpaid, sale, proceeds deposited in: RCW 22.28.040.
unclaimed after liquidation and winding up of bank or trust
company, proceeds from sale deposited in: RCW 30A.44.220.*

School district funds: RCW 28A.320.330.

*State land
acquired, lease and sale of, disposition of proceeds: RCW
79.10.030.
withdrawn for game purposes, payment of amount of lease
into: RCW 77.12.360.*

RCW 28A.515.310 Certain losses to permanent common school fund or other state educational funds as funded debt against state. All losses to the permanent common school or any other state educational fund, which shall be occasioned by defalcation, mismanagement or fraud of the agents or officers controlling or managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the

particular fund sustaining such loss, upon which not less than six percent annual interest shall be paid. [1969 ex.s. c 223 s 28A.40.020. Prior: 1909 c 97 p 321 s 2; RRS s 4933; prior: 1897 c 118 s 110, part; 1890 p 373 s 51, part. Formerly RCW 28A.40.020, 28.40.020.]

RCW 28A.515.320 Common school construction fund—Sources—Use—Excess moneys in, availability, repayment. 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 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, United States Code, Annotated, and under section 810, chapter 12, Title 16, (Conservation), United States Code, Annotated, except moneys received before June 30, 2001, and when thirty megawatts of geothermal power is certified as commercially available by the receiving utilities and the department of commerce, eighty percent of such moneys, under the Geothermal Steam Act 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 fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

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 forgone, before the end of the next fiscal biennium following such use. [2023 c 470 s 2006; 1996 c 186 s 503; 1991 sp.s. c 13 s 58; 1991 c 76 s 2; 1981 c 158 s 6; 1981 c 4 s 1; 1980 c 6 s 1; 1969 ex.s. c 223 s 28A.40.100. Prior: 1967 c 29 s 3. Formerly RCW 28A.40.100, 28.40.100.]

***Reviser's note:** RCW 43.140.030 was repealed by 2013 c 274 s 9.

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1981 c 4: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 4 s 10.]

Severability—1980 c 6: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 6 s 8.]

Current state school fund—Abolished—Moneys transferred: RCW 43.79.425.

RCW 28A.515.330 Permanent common school fund—Allowable investments—Irreducible principal. The state investment board may invest the permanent common school fund in various types of allowable investments in order to achieve a balance of long-term growth and current income, when consistent with the best interest of the state and the permanent common school fund, and in conformance with RCW 43.84.150. The state treasurer shall calculate the irreducible principal amount of the fund in accordance with the state Constitution and state law. The irreducible principal shall not include investment gains on the principal, and the fund may retain or distribute income and investment earnings in order to achieve the appropriate balance between growth and income. [2007 c 505 s 3.]

Intent—Finding—2007 c 505: "Consistent with Article XVI, section 5 and Article IX, sections 3 and 5 of the state Constitution, it is the intent of the legislature to clarify state law to permit the permanent common school fund to be invested in equities when such investment is in the best interest of the state and the permanent common school fund.

A 1999 opinion of the attorney general concluded that the constitutional language does not prohibit investment of the permanent common school fund, as long as the investment is authorized by law and is consistent with applicable trust principles. This opinion further reasoned that the constitutional phrase "permanent and irreducible" bars the legislature from abolishing the fund or expending its principal for purposes other than those for which the fund was established, but does not prohibit the legislature from specifying permissible investments, particularly in light of Article IX, section 5 of the state Constitution, which specifies that only losses resulting from "defalcation, mismanagement or fraud" constitute state debts to the permanent common school fund.

The legislature finds that permanent fund common school fund income as a percentage of total school construction budgets has declined while school construction budgets have grown, and that other state revenues have filled the gap between income from state lands and the total school construction budget. For this reason, the fund may

tolerate higher risk and volatility in favor of growth, and therefore a balance of long-term growth and current income is in the best interest of the state and the fund's beneficiaries. The legislature recognizes that by investing in equities, the value of the permanent fund may fluctuate over time due to market changes even if no disposition of the fund principal is made.

It is the intent of the legislature to clarify state law to permit equity investment of the permanent common school fund even if there is a decline in the value of the permanent fund due to market changes. The legislature recognizes that the irreducible portion of the principal amount in the permanent fund must be held in perpetuity for the benefit of the fund and future generations, and that only the earnings from the permanent fund may be appropriated to the common school construction fund." [2007 c 505 s 1.]