

**SHB 1106 - H AMD 325**

By Representative Stokesbary

WITHDRAWN 04/02/2015

1 On page 203, after line 35, insert the following:

2 "NEW SECTION. **Sec. 733. FOR THE OFFICE OF FINANCIAL MANAGEMENT--**  
3 **GFS TRANSFER AND ALLOTMENT REDUCTION TO ADDRESS REVENUES FROM TAXATION**  
4 **OF OUT-OF-STATE SELLERS.**

5	General Fund--State Appropriation (FY 2016) . . . .	\$38,900,000
6	General Fund--State Appropriation (FY 2017) . . . .	\$46,300,000
7	TOTAL APPROPRIATION	\$85,200,000

8 The appropriations in this section are subject to the following  
9 conditions and limitations:

10 (1) The legislature recognizes the risk that statutory changes to  
11 the nexus on which the state collects sales and use taxes and business  
12 and occupation taxes from out-of-state sellers are likely to result in  
13 litigation. This risk casts doubt on the state's ability to fully  
14 collect the revenues to the education legacy trust account that are  
15 assumed in this appropriations act, so the legislature intends to  
16 ensure that the account has resources to support these appropriations.  
17 In addition, the state will incur attorneys' fees in defending the  
18 legislation.

19 (2) The appropriations in this section are provided solely for  
20 expenditure into the education legacy trust account, subject to the  
21 terms of this section.

22 (3) Of the amounts appropriated in Parts I through IV of this act  
23 from the state general fund, the office of financial management shall  
24 uniformly reduce allotments of each appropriation to achieve total  
25 reductions of \$39,150,000 in fiscal year 2016 and \$46,550,000 in  
26 fiscal year 2017. These amounts must be placed in reserve status and  
27 must remain unexpended. These amounts are equal to the education

1 legacy trust account revenues assumed from sections 901 through 908 of  
2 House Bill No. 2224, along with an additional \$500,000 for attorneys'  
3 fees incurred in defending the legislation.

4 (4) If in a final judgment not subject to appeal a court of  
5 competent jurisdiction rules that the state may collect the taxes in  
6 sections 901 through 908 of Substitute House Bill No. 2224, then:

7 (a) The office of financial management must release the amounts in  
8 subsection (3) of this section from reserve status.

9 (b) The treasurer shall transfer \$86,200,000 from the education  
10 legacy trust account to the general fund.

11 (c) If the state was enjoined from collecting the taxes in  
12 sections 901 through 908 of Substitute House Bill No. 2224 at any time  
13 before the final ruling, the amounts in (4)(a) and (4)(b) of this  
14 section must be adjusted in proportion to the amount that the state is  
15 projected to collect in the remaining portion of the biennium after  
16 the ruling."

17  
18 Renumber remaining sections and correct internal references  
19 accordingly.

20 Correct the title.

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EFFECT: A total of \$85.2 million is transferred from the  
General Fund--State (GFS) to the Education Legacy Trust Account  
(ELTA). This amount is equal to the assumed 2015-17 revenues to the  
ELTA that are attributable to the "nexus" provisions of HB 2224,  
which allow the state to collect sales/use and B&O taxes from out-  
of-state sellers.

The Office of Financial Management must uniformly reduce allotments  
from GFS appropriations in specified parts of the budget by  
\$85,700,000 and must place these amounts in reserve status--that is,  
suspend the agencies' authorization to spend these amounts. The  
affected parts of the budget are agencies with appropriations in

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parts I through IV of the bill: General government, human services, natural resources, and operating budget transportation appropriations. This amount equals the \$85.2 million GFS transfer to the ELTA in this amendment plus an addition \$250,000 each year for assumed attorneys' fees.

If a court upholds the provisions of HB 2224 that change the nexus provisions for sales and use and B&O taxes from out of state sellers, then OFM must release those amounts from reserve status, and the Treasurer must transfer \$86.2 million back into the GFS from the ELTA. If the state was enjoined from collecting the nexus taxes before they were ultimately upheld, the restored allotments and the transfer must be adjusted in proportion to the taxes the state is estimated to collect in the remaining portion of the biennium.

FISCAL IMPACT:

GFS expenditures are reduced by \$85,700,000. GFS resources are reduced by \$85,200,000 due to the transfer from the GFS to the ELTA. ELTA resources are increased by \$85,200,000.

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