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**HOUSE BILL 2792**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By Representatives Dunshee and Jinkins**

Read first time 02/22/12. Referred to Committee on Capital Budget.

1 AN ACT Relating to funding education construction with lottery  
2 revenues; amending RCW 67.70.230, 67.70.044, 67.70.240, 67.70.340,  
3 67.70.040, 43.135.045, and 43.155.050; amending 2011 1st sp.s. c 49 ss  
4 5013 and 5003 (uncodified); amending 2011 1st sp.s. c 48 ss 5006 and  
5 5007 (uncodified); adding a new chapter to Title 43 RCW; creating new  
6 sections; making appropriations; and declaring an emergency.

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

8 **PART I**  
9 **BOND AUTHORIZATION**

10 NEW SECTION. **Sec. 101.** LOTTERY REVENUE BONDS AUTHORIZED. (1) For  
11 the purpose of providing needed construction assistance and  
12 modernization of public schools and higher education institutions,  
13 urgent repairs, energy efficiency improvements, and equipment and  
14 laboratory upgrades to support education and workforce training  
15 programs in high demand fields, the state finance committee is  
16 authorized to issue a total of one hundred fifty-six million dollars of  
17 lottery revenue bonds, or as much thereof as may be required, payable  
18 from net lottery revenues deposited in the lottery account created in

1 RCW 67.70.230, and net shared game lottery revenues deposited in the  
2 shared game lottery account in RCW 67.70.044, as defined in section 102  
3 of this act, to finance these projects and all costs incidental  
4 thereto.

5 (2) Bonds authorized in this section may be sold at such price as  
6 the state finance committee shall determine. No bonds authorized in  
7 this section may be offered for sale without prior legislative  
8 appropriation of the net proceeds of the sale of the bonds.

9 (3) The state finance committee may determine and include in any  
10 resolution authorizing the issuance of any bonds authorized by this  
11 section and sections 102 through 107 of this act such terms,  
12 provisions, covenants, and conditions as it may deem appropriate in  
13 order to assist with the marketing and sale of the bonds, confer rights  
14 upon the owners of bonds, and safeguard rights of the owners of bonds,  
15 including, among other things:

16 (a) Provisions that the bonds shall be payable solely from and  
17 secured solely by the net lottery revenues received in the lottery  
18 account under RCW 67.70.230 and net shared game lottery revenues  
19 received by the shared game lottery account in RCW 67.70.044, as such  
20 revenues are defined in section 102 of this act;

21 (b) The conditions that must be satisfied prior to the issuance of  
22 any additional bonds that are to be payable from and secured by the net  
23 lottery revenues received in the lottery account and net shared game  
24 lottery revenues received by the shared game lottery account in RCW  
25 67.70.044, as such revenues are defined in section 102 of this act, on  
26 equal basis with previously issued and outstanding bonds payable from  
27 the net lottery revenues and net shared game lottery revenues;

28 (c) Provisions regarding reserves and credit enhancement; and

29 (d) Whether bonds may be issued as tax-exempt bonds or must be  
30 issued as taxable bonds under the applicable provisions of the federal  
31 internal revenue code.

32 NEW SECTION. **Sec. 102.** LOTTERY NET REVENUES PLEDGED TO BONDS.

33 (1) Each bond issued under the authority of this section and sections  
34 101 and 103 through 107 of this act shall distinctly state that payment  
35 or redemption of the bond and payment of the interest and any premium  
36 thereon is payable solely from and secured solely by a pledge of the  
37 net lottery revenues received in the lottery account established in RCW

1 67.70.230 and net shared game lottery revenues received in the shared  
2 game lottery account in RCW 67.70.044 and is not a general obligation  
3 of the state to which the full faith and credit of the state is  
4 pledged. The legislature covenants to appropriate the net lottery  
5 revenues and net shared game lottery revenues pledged to the payment of  
6 the bonds issued under this section and sections 101 and 103 through  
7 107 of this act. The legislature further agrees for the benefit of the  
8 owners of outstanding bonds issued by the state under this section and  
9 sections 101 and 103 through 107 of this act to continue in effect and  
10 not to impair the operation of the state lottery as authorized in  
11 chapter 67.70 RCW for payment of the bonds. The state finance  
12 committee shall include this pledge and agreement of the state to  
13 owners of any bonds issued under this section and sections 101 and 103  
14 through 107 of this act. The owner of any bond or the trustee for the  
15 owner of any of the bonds may by mandamus or other appropriate  
16 proceeding require the transfer and payment of pledged revenues as  
17 directed in this section.

18 (2) For purposes of sections 101 through 107 of this act, "net  
19 lottery revenues" means all revenues deposited in the lottery account,  
20 excluding the following distributions under RCW 67.70.240: Payment of  
21 prizes under RCW 67.70.240(1) other than unclaimed prizes under RCW  
22 67.70.190; deposits made by the commission in the reserve account and  
23 lottery administrative account under RCW 67.70.240(2); amounts  
24 obligated under RCW 67.70.240(5); purchase and promotion of games and  
25 services under RCW 67.70.240(7); and payments to agents under RCW  
26 67.70.240(8). For purposes of sections 101 through 107 of this act,  
27 "net shared game lottery revenues" means all moneys deposited in the  
28 shared game lottery account in RCW 67.70.044 excluding direct expenses  
29 of the shared games.

30 **Sec. 103.** RCW 67.70.230 and 2010 1st sp.s. c 37 s 941 are each  
31 amended to read as follows:

32 LOTTERY NET REVENUES PLEDGED. There is hereby created and  
33 established a separate account, to be known as the state lottery  
34 account. Such account shall be managed, maintained, and controlled by  
35 the commission and shall consist of all revenues received from the sale  
36 of lottery tickets or shares, and all other moneys credited or  
37 transferred thereto from any other fund or source pursuant to law. The

1 account shall be a separate account outside the state treasury. No  
2 appropriation is required to permit expenditures and payment of  
3 obligations from the account. (~~During the 2009-2011 fiscal biennium,~~  
4 ~~the legislature may transfer from the state lottery account to the~~  
5 ~~education legacy trust account such amounts as reflect the excess fund~~  
6 ~~balance of the account.)) As set forth in section 102 of this act, net  
7 lottery revenues are pledged to principal and interest payments on  
8 bonds issued under section 101 of this act, including any required  
9 reserve, and must be transferred for this purpose by the state  
10 treasurer into the education construction revenue bond retirement  
11 account created in section 106 of this act.~~

12 **Sec. 104.** RCW 67.70.044 and 2010 1st sp.s. c 37 s 940 are each  
13 amended to read as follows:

14 (1) Pursuant to RCW 67.70.040(1)(a), the commission may enter into  
15 the multistate agreement establishing a shared game lottery known as  
16 "The Big Game," that was entered into by party state lotteries in  
17 August 1996 and subsequently amended and a shared game lottery known as  
18 "Powerball."

19 (2) The shared game lottery account is created as a separate  
20 account outside the state treasury. The account is managed,  
21 maintained, and controlled by the commission and consists of all  
22 revenues received from the sale of shared game lottery tickets or  
23 shares, and all other moneys credited or transferred to it from any  
24 other fund or source under law. The account is allotted according to  
25 chapter 43.88 RCW. (~~During the 2009-2011 fiscal biennium, the~~  
26 ~~legislature may transfer from the shared game lottery account to the~~  
27 ~~education legacy trust account such amounts as reflect the excess fund~~  
28 ~~balance of the account.))~~

29 (3) As set forth in section 102 of this act, net shared game  
30 lottery revenues deposited in the shared game lottery account are  
31 pledged to principal and interest payments on bonds issued under  
32 section 101 of this act, including any required reserve and must be  
33 transferred for this purpose by the state treasurer into the education  
34 construction revenue bond retirement account in section 106 of this  
35 act.

1           NEW SECTION.   **Sec. 105.**   BOND PROCEEDS DEPOSITED INTO EDUCATION  
2 CONSTRUCTION REVENUE BOND PROCEEDS ACCOUNT. The proceeds from the sale  
3 of bonds authorized in section 101 of this act shall be deposited in  
4 the education construction revenue bond proceeds account hereby created  
5 in the state treasury. Moneys in the account may be spent only after  
6 appropriation and only for the purposes stated in section 101 of this  
7 act. The state treasurer may establish subaccounts in the account for  
8 the purpose of segregating bond proceeds, including separate  
9 subaccounts for segregating proceeds of tax-exempt bonds and taxable  
10 bonds.

11           NEW SECTION.   **Sec. 106.**   EDUCATION CONSTRUCTION REVENUE BOND  
12 RETIREMENT ACCOUNT CREATED FOR DEBT SERVICE PAYMENTS. The education  
13 construction revenue bond retirement account is hereby created in the  
14 state treasury. Moneys in the account must be used only for the  
15 payment of principal and interest on bonds authorized in section 101 of  
16 this act. The state finance committee may provide that special  
17 subaccounts be created in the account to facilitate payment of the  
18 principal and interest on the bonds. The state finance committee  
19 shall, on or before June 30th of each year, certify to the state  
20 treasurer the amount required for principal and interest on the bonds  
21 in accordance with the bond proceedings.

22           NEW SECTION.   **Sec. 107.**   DEBT SERVICE TRANSFER FROM LOTTERY ACCOUNT  
23 TO BOND RETIREMENT ACCOUNT. On each date on which any principal and  
24 interest payment is due on bonds issued for the purposes of section 101  
25 of this act, the state treasurer shall withdraw from the state lottery  
26 account in RCW 67.70.230 and the shared game lottery account in RCW  
27 67.70.044 and deposit in the education construction revenue bond  
28 retirement account in section 106 of this act an amount equal to the  
29 amount certified by the state finance committee to be due on the  
30 payment date.

31           **Sec. 108.**   RCW 67.70.240 and 2011 c 352 s 3 are each amended to  
32 read as follows:

33           DISTRIBUTION OF LOTTERY REVENUES. The moneys in the state lottery  
34 account shall be used only:

1 (1) For the payment of prizes to the holders of winning lottery  
2 tickets or shares;

3 (2) For purposes of making deposits into the reserve account  
4 created by RCW 67.70.250 and into the lottery administrative account  
5 created by RCW 67.70.260;

6 (3) ~~((For purposes of making deposits into the education  
7 construction fund created in RCW 43.135.045 and the Washington  
8 opportunity pathways account created in RCW 28B.76.526.))~~ For transfer  
9 to the education construction revenue bond retirement account in  
10 section 106 of this act for purposes of debt service payments and any  
11 required reserve on bonds issued under section 101 of this act.  
12 Distributions under this subsection must be made prior to distributions  
13 under subsections (4) and (6) of this section. Distributions under  
14 this subsection shall cease when all bonds issued under section 101 of  
15 this act are retired or legally defeased;

16 (4) On and after July 1, 2010, all deposits not otherwise obligated  
17 under this section shall be placed in the Washington opportunity  
18 pathways account(~~(. Moneys in the state lottery account deposited in  
19 the Washington opportunity pathways account are included in "general  
20 state revenues" under RCW 39.42.070))~~);

21 ~~((4) For distribution to a county for the purpose of paying the  
22 principal and interest payments on bonds issued by the county to  
23 construct a baseball stadium, as defined in RCW 82.14.0485, including  
24 reasonably necessary preconstruction costs. Three million dollars  
25 shall be distributed under this subsection during calendar year 1996.  
26 During subsequent years, such distributions shall equal the prior  
27 year's distributions increased by four percent. Distributions under  
28 this subsection shall cease when the bonds issued for the construction  
29 of the baseball stadium are retired, but not more than twenty years  
30 after the tax under RCW 82.14.0485 is first imposed;))~~

31 (5) For distribution to the stadium and exhibition center account,  
32 created in RCW 43.99N.060. Subject to the conditions of RCW  
33 43.99N.070, six million dollars shall be distributed under this  
34 subsection during the calendar year 1998. During subsequent years,  
35 such distribution shall equal the prior year's distributions increased  
36 by four percent. No distribution may be made under this subsection  
37 after December 31, 1999, unless the conditions for issuance of the

1 bonds under RCW 43.99N.020(2) are met. Distributions under this  
2 subsection shall cease when the bonds are retired, but not later than  
3 December 31, 2020;

4 (6) For transfer to the veterans innovations program account. The  
5 net revenues received from the sale of the annual Veteran's Day lottery  
6 raffle conducted under RCW 67.70.500 must be deposited into the  
7 veterans innovations program account created in RCW 43.60A.185 for  
8 purposes of serving veterans and their families. For purposes under  
9 this subsection, "net revenues" means all revenues received from the  
10 sale of veteran lottery raffle tickets less the sum of the amount paid  
11 out in prizes and the actual administration expenses of the lottery  
12 solely related to the veteran lottery raffle;

13 (7) For the purchase and promotion of lottery games and game-  
14 related services; and

15 (8) For the payment of agent compensation.

16 The office of financial management shall require the allotment of  
17 all expenses paid from the account and shall report to the ways and  
18 means committees of the senate and house of representatives any changes  
19 in the allotments.

20 **Sec. 109.** RCW 67.70.340 and 2010 1st sp.s. c 27 s 4 are each  
21 amended to read as follows:

22 DISTRIBUTION OF SHARED GAME REVENUES. (1) If amounts transferred  
23 from the state lottery account in RCW 67.70.240 to the education  
24 construction revenue bond retirement account pursuant to section 107 of  
25 this act are insufficient to satisfy the amount certified under section  
26 106 of this act, then before the commission may make any transfers  
27 under this section the treasurer must transfer net shared game lottery  
28 revenues from the shared game lottery account to the education  
29 construction revenue bond retirement account in the amount required to  
30 satisfy the deficiency.

31 (2) The legislature recognizes that creating a shared game lottery  
32 could result in less revenue being raised by the existing state lottery  
33 ticket sales. The legislature further recognizes that the fund most  
34 impacted by this potential event is the Washington opportunity pathways  
35 account. Therefore, it is the intent of the legislature to use some of  
36 the proceeds from the shared game lottery to make up the difference  
37 that the potential state lottery revenue loss would have on the

1 Washington opportunity pathways account. The legislature further  
2 intends to use some of the proceeds from the shared game lottery to  
3 fund programs and services related to problem and pathological  
4 gambling.

5 ~~((+2))~~ (3) The Washington opportunity pathways account is expected  
6 to receive one hundred two million dollars annually from state lottery  
7 games other than the shared game lottery. For fiscal year 2011 and  
8 thereafter, if the amount of lottery revenues earmarked for the  
9 Washington opportunity pathways account is less than one hundred two  
10 million dollars, the commission, after making the transfer required  
11 under subsection ~~((+3))~~ (4) of this section, must transfer sufficient  
12 moneys from revenues derived from the shared game lottery into the  
13 Washington opportunity pathways account to bring the total revenue up  
14 to one hundred two million dollars.

15 ~~((+3))~~ (4)(a) The commission shall transfer, from revenue derived  
16 from the shared game lottery, to the problem gambling account created  
17 in RCW 43.20A.892, an amount equal to the percentage specified in (b)  
18 of this subsection of net receipts. For purposes of this subsection,  
19 "net receipts" means the difference between (i) revenue received from  
20 the sale of lottery tickets or shares and revenue received from the  
21 sale of shared game lottery tickets or shares; and (ii) the sum of  
22 payments made to winners.

23 (b) In fiscal year 2006, the percentage to be transferred to the  
24 problem gambling account is one-tenth of one percent. In fiscal year  
25 2007 and subsequent fiscal years, the percentage to be transferred to  
26 the problem gambling account is thirteen one-hundredths of one percent.

27 ~~((+4))~~ (5) The commission shall transfer the remaining net  
28 revenues, if any, derived from the shared game lottery "Powerball"  
29 authorized in RCW 67.70.044(1) after the transfers pursuant to this  
30 section into the state general fund for the student achievement program  
31 under RCW 28A.505.220.

32 ~~((+5))~~ (6) The remaining net revenues, if any, in the shared game  
33 lottery account after the transfers pursuant to this section shall be  
34 deposited into the Washington opportunity pathways account.

35 **Sec. 110.** RCW 67.70.040 and 2006 c 290 s 3 are each amended to  
36 read as follows:



1           LOTTERY COMMISSION DUTIES. The commission shall have the power,  
2 and it shall be its duty:

3           (1) To adopt rules governing the establishment and operation of a  
4 state lottery as it deems necessary and desirable in order that such a  
5 lottery be initiated at the earliest feasible and practicable time, and  
6 in order that such lottery produce the maximum amount of net revenues  
7 for the state consonant with the dignity of the state and the general  
8 welfare of the people. Such rules shall include, but shall not be  
9 limited to, the following:

10           (a) The type of lottery to be conducted which may include the  
11 selling of tickets or shares, but such tickets or shares may not be  
12 sold over the internet. The use of electronic or mechanical devices or  
13 video terminals which allow for individual play against such devices or  
14 terminals shall be prohibited. An affirmative vote of sixty percent of  
15 both houses of the legislature is required before offering any game  
16 allowing or requiring a player to become eligible for a prize or to  
17 otherwise play any portion of the game by interacting with any device  
18 or terminal involving digital, video, or other electronic  
19 representations of any game of chance, including scratch tickets, pull-  
20 tabs, bingo, poker or other cards, dice, roulette, keno, or slot  
21 machines. Approval of the legislature shall be required before  
22 entering any agreement with other state lotteries to conduct shared  
23 games;

24           (b) The price, or prices, of tickets or shares in the lottery;

25           (c) The numbers and sizes of the prizes on the winning tickets or  
26 shares;

27           (d) The manner of selecting the winning tickets or shares, except  
28 as limited by (a) of this subsection;

29           (e) The manner and time of payment of prizes to the holder of  
30 winning tickets or shares which, at the director's option, may be paid  
31 in lump sum amounts or installments over a period of years;

32           (f) The frequency of the drawings or selections of winning tickets  
33 or shares. Approval of the legislature is required before conducting  
34 any online game in which the drawing or selection of winning tickets  
35 occurs more frequently than once every twenty-four hours;

36           (g) Without limit as to number, the type or types of locations at  
37 which tickets or shares may be sold;

1 (h) The method to be used in selling tickets or shares, except as  
2 limited by (a) of this subsection;

3 (i) The licensing of agents to sell or distribute tickets or  
4 shares, except that a person under the age of eighteen shall not be  
5 licensed as an agent;

6 (j) The manner and amount of compensation, if any, to be paid  
7 licensed sales agents necessary to provide for the adequate  
8 availability of tickets or shares to prospective buyers and for the  
9 convenience of the public;

10 (k) The apportionment of the total revenues accruing from the sale  
11 of lottery tickets or shares and from all other sources among: (i) The  
12 payment of prizes to the holders of winning tickets or shares, which  
13 shall not be less than forty-five percent of the gross annual revenue  
14 from such lottery, (ii) transfers to the lottery administrative account  
15 created by RCW 67.70.260, ~~((and))~~ (iii) ~~((transfer to the state's  
16 general fund. Transfers to the state general fund shall be made in  
17 compliance with RCW 43.01.050))~~ transfers of net lottery revenues and  
18 net shared game lottery revenues to the education construction revenue  
19 bond retirement account as required by sections 102 through 104, 106,  
20 and 107 of this act, and (iv) transfers established in RCW 67.70.240  
21 and 67.70.340;

22 (1) Such other matters necessary or desirable for the efficient and  
23 economical operation and administration of the lottery and for the  
24 convenience of the purchasers of tickets or shares and the holders of  
25 winning tickets or shares.

26 (2) To ensure that in each place authorized to sell lottery tickets  
27 or shares, on the back of the ticket or share, and in any advertising  
28 or promotion there shall be conspicuously displayed an estimate of the  
29 probability of purchasing a winning ticket.

30 (3) To amend, repeal, or supplement any such rules from time to  
31 time as it deems necessary or desirable.

32 (4) To advise and make recommendations to the director for the  
33 operation and administration of the lottery.

34 **Sec. 111.** RCW 43.135.045 and 2011 1st sp.s. c 50 s 950 are each  
35 amended to read as follows:

36 TRANSFER FROM EDUCATION CONSTRUCTION FUND TO OPPORTUNITY PATHWAYS

1 ACCOUNT (OPERATING BUDGET HOLD-HARMLESS). The education construction  
2 fund is hereby created in the state treasury.

3 (1) Funds may be appropriated from the education construction fund  
4 exclusively for common school construction or higher education  
5 construction. (~~During the 2007-2009 fiscal biennium, funds may also~~  
6 ~~be used for higher education facilities preservation and maintenance.~~)  
7 During the 2009-2011 and 2011-2013 fiscal biennia, the legislature may  
8 transfer from the education construction fund to the state general fund  
9 such amounts as reflect the excess fund balance of the fund.

10 (2) Funds may be appropriated for any other purpose only if  
11 approved by a two-thirds vote of each house of the legislature and if  
12 approved by a vote of the people at the next general election. An  
13 appropriation approved by the people under this subsection shall result  
14 in an adjustment to the state expenditure limit only for the fiscal  
15 period for which the appropriation is made and shall not affect any  
16 subsequent fiscal period.

17 (3) Funds for the student achievement program in RCW 28A.505.210  
18 and 28A.505.220 shall be appropriated to the superintendent of public  
19 instruction strictly for distribution to school districts to meet the  
20 provisions set out in the student achievement act. Allocations shall  
21 be made on an equal per full-time equivalent student basis to each  
22 school district.

23 (4) After July 1, 2010, the state treasurer shall transfer one  
24 hundred two million dollars from the general fund to the education  
25 construction fund by June 30th of each year.

26 (5) After July 1, 2013, the state treasurer shall transfer eleven  
27 million dollars from the education construction fund to the opportunity  
28 pathways account in RCW 28B.76.526 by June 30th of each year.

29 **PART II**

30 **APPROPRIATIONS--EDUCATION CONSTRUCTION AND EQUIPMENT**

31 NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF COMMERCE

32 Energy Efficiency Grants For Higher Education (91000242)

33 The appropriation in this section is subject to the following  
34 conditions and limitations:

35 (1) The appropriation is provided solely for grants to public  
36 higher education institutions for operational cost savings improvements

1 to higher education facilities and related projects that result in  
2 energy and operational cost savings. Related projects are those  
3 projects that must be completed in order for the energy efficiency  
4 improvements to be effective. Grants may also be used for loan  
5 interest payments over the term of a loan.

6 (2) The community services and housing division within the  
7 department of commerce, in consultation with the department of  
8 enterprise services, and the Washington State University energy program  
9 shall establish a competitive process to solicit and evaluate  
10 applications from public higher education institutions. Final grant  
11 awards shall be determined by the department of commerce.

12 (3) For the purposes of this section:

13 (a) "Cost-effectiveness" means that the present value to the higher  
14 education institution of the energy reasonably expected to be saved or  
15 produced by a facility, activity, measure, or piece of equipment over  
16 its useful life, including any compensation received from a utility or  
17 the Bonneville power administration, is greater than the net present  
18 value of the costs of implementing, maintaining, and operating such  
19 facility, activity, measure, or piece of equipment over its useful  
20 life, when discounted at the cost of public borrowing.

21 (b) "Energy equipment" means energy management systems and any  
22 equipment, materials, or supplies that are expected, upon installation,  
23 to reduce the energy use or energy cost of an existing building or  
24 facility, and the services associated with the equipment, materials, or  
25 supplies, including, but not limited to, design, engineering,  
26 financing, installation, project management, guarantees, operations,  
27 and maintenance. Reduction in energy use or energy cost may also  
28 include reductions in the use or cost of water, wastewater, or solid  
29 waste.

30 (c) "Energy cost savings" means savings realized in expenses for  
31 energy use and expenses associated with water, wastewater, or solid  
32 waste systems.

33 (d) "Energy savings performance contracting" means the process  
34 authorized by chapter 39.35C RCW by which a company contracts with a  
35 public agency to conduct energy audits and guarantee energy savings  
36 from energy efficiency.

37 (e) "Operational cost savings" means savings realized from parts,

1 service fees, capital renewal costs, and other measurable annual  
2 expenses to maintain and repair systems. This definition does not mean  
3 labor savings related to existing facility staff.

4 (f) "Public facilities" means buildings, building components, and  
5 major equipment or systems owned by public higher education  
6 institutions.

7 (4) Grants must be awarded in competitive rounds, based on demand  
8 and capacity.

9 (5) In order to be eligible for energy efficiency grants under this  
10 section, applicants must complete an investment grade audit, or an  
11 equivalent, prior to submitting an application for funding.

12 (6) Within each competitive round, projects must be weighted and  
13 prioritized based on the following criteria and in the following order:

14 (a) Leverage ratio: In each round, the higher the leverage ratio  
15 of nonstate funding sources to state grant, the higher the project  
16 ranking.

17 (b) Energy savings: In each round, the higher the energy savings,  
18 the higher the project ranking. Applicants must submit documentation  
19 that demonstrates energy and operational cost savings resulting from  
20 the installation of the energy equipment and improvements. The energy  
21 savings analysis shall be performed by a licensed engineer, and the  
22 documentation must include, but is not limited to, the following:

23 (i) A description of the energy equipment and improvements; and

24 (ii) A description of the energy and operational cost savings.

25 (c) Expediency of expenditure: Project readiness to spend funds  
26 must be prioritized so that the legislative intent to expend funds  
27 quickly is met.

28 (7) Projects that do not use energy savings performance contracting  
29 must: (a) Verify energy and operational cost savings for ten years or  
30 until the energy and operational costs savings pay for the project,  
31 whichever is shorter; (b) follow the department of enterprise services  
32 energy savings performance contracting project guidelines; and (c)  
33 employ a licensed engineer for the energy audit and construction. The  
34 department of commerce may require third-party verification of savings  
35 if a project is not implemented by an energy savings performance  
36 contractor selected by the department of enterprise services through  
37 the request of qualifications process. Third-party verification must  
38 be conducted either by an energy savings performance contractor

1 selected by the department of enterprise services through a request for  
2 qualifications, a licensed engineer that is a certified energy manager,  
3 or a project resource conservation manager.

4 (8) To intensify competition, the department of commerce may only  
5 award funds to the top eighty-five percent of projects applying in a  
6 round until the department of commerce determines a final round is  
7 appropriate. Projects that do not receive a grant award in one round  
8 may reapply in subsequent rounds.

9 (9) Grant amounts awarded to each project must allow for the  
10 maximum number of projects funded with the greatest energy and cost  
11 benefit.

12 (10) The department of commerce may charge projects administrative  
13 fees and may pay the department of enterprise services, and the  
14 Washington State University energy program administration fees in an  
15 amount determined through a memorandum of understanding.

16 (11) The department of commerce and the department of enterprise  
17 services must submit a joint report to the appropriate committees of  
18 the legislature and the office of financial management on the timing  
19 and use of the grant funds, program administrative function, compliance  
20 with apprenticeship utilization requirements in RCW 39.04.320,  
21 compliance with prevailing wage requirements, and administration fees  
22 by the end of each fiscal year, until the funds are fully expended and  
23 all savings verification requirements are fulfilled.

24 Appropriation:

25	Education Construction Revenue Bond Proceeds	
26	Account--State . . . . .	\$25,000,000
27	Prior Biennia (Expenditures) . . . . .	.\$0
28	Future Biennia (Projected Costs) . . . . .	\$0
29	TOTAL . . . . .	\$25,000,000

30 **NEW SECTION. Sec. 202. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

31 Aerospace and Manufacturing Training Equipment Pool (91000003)

32 Appropriation:

33	Education Construction Revenue Bond Proceeds	
34	Account--State . . . . .	\$2,265,000
35	Prior Biennia (Expenditures) . . . . .	.\$0
36	Future Biennia (Projected Costs) . . . . .	\$0

1 TOTAL . . . . . \$2,265,000

2 NEW SECTION. **Sec. 203. FOR THE SUPERINTENDENT OF PUBLIC**  
3 **INSTRUCTION**

4 Energy Efficiency Grants for K-12 Schools (91000017)

5 Appropriation:

6 Education Construction Revenue Bond Proceeds  
7 Account--State . . . . . \$40,000,000  
8 Prior Biennia (Expenditures) . . . . . \$0  
9 Future Biennia (Projected Costs) . . . . . \$0  
10 TOTAL . . . . . \$40,000,000

11 NEW SECTION. **Sec. 204. FOR THE SUPERINTENDENT OF PUBLIC**  
12 **INSTRUCTION**

13 Urgent Repair Grant Program (91000016)

14 Appropriation:

15 Education Construction Revenue Bond Proceeds  
16 Account--State . . . . . \$10,000,000  
17 Prior Biennia (Expenditures) . . . . . \$0  
18 Future Biennia (Projected Costs) . . . . . \$0  
19 TOTAL . . . . . \$10,000,000

20 NEW SECTION. **Sec. 205. FOR THE SUPERINTENDENT OF PUBLIC**  
21 **INSTRUCTION**

22 Distressed Schools (91000018)

23 The appropriation in this section is subject to the following  
24 conditions and limitations: \$6,000,000 of the appropriation in this  
25 section is provided solely for updating existing classrooms at John  
26 Marshall, Boren, and Van Asselt schools in the Seattle school district.

27 Appropriation:

28 Education Construction Revenue Bond Proceeds  
29 Account--State . . . . . \$16,000,000  
30 Prior Biennia (Expenditures) . . . . . \$0  
31 Future Biennia (Projected Costs) . . . . . \$0  
32 TOTAL . . . . . \$16,000,000

1        NEW SECTION.        **Sec. 206.**        **FOR THE SUPERINTENDENT OF PUBLIC**  
2 **INSTRUCTION**

3        Puget Sound Skills Center (30000017)

4        Appropriation:

5        Education Construction Revenue Bond Proceeds

6            Account--State . . . . . \$2,100,000

7        Prior Biennia (Expenditures) . . . . . \$0

8        Future Biennia (Projected Costs) . . . . . \$20,800,000

9            TOTAL . . . . . \$22,900,000

10       NEW SECTION.        **Sec. 207.**        **FOR THE SUPERINTENDENT OF PUBLIC**  
11 **INSTRUCTION**

12       Grant County Branch Campus of Wenatchee Valley Skills Center  
13 (30000091)

14       Appropriation:

15       Education Construction Revenue Bond Proceeds

16            Account--State . . . . . \$18,843,000

17       Prior Biennia (Expenditures) . . . . . \$0

18       Future Biennia (Projected Costs) . . . . . \$8,430,000

19            TOTAL . . . . . \$27,273,000

20       **Sec. 208.** 2011 1st sp.s. c 49 s 5013 (uncodified) is amended to  
21 read as follows:

22       SEA-Tech Branch Campus of Tri-Tech Skills Center (30000078)

23       Appropriation:

24       State Building Construction Account--State . . . . . \$1,169,000

25       Education Construction Revenue Bond Proceeds

26            Account--State . . . . . \$11,739,000

27            Subtotal Appropriation . . . . . \$12,908,000

28       Prior Biennia (Expenditures) . . . . . \$0

29       Future Biennia (Projected Costs) . . . . . (~~(\$11,739,000)~~)

30            \$0

31            TOTAL . . . . . \$12,908,000

32       **Sec. 209.** 2011 1st sp.s. c 49 s 5003 (uncodified) is amended to  
33 read as follows:



1	Pierce County Skills Center (20084856)	
2	Reappropriation:	
3	School Construction and Skill Centers Building	
4	Account--State . . . . .	\$2,087,000
5	Appropriation:	
6	State Building Construction Account--State . . . . .	\$7,100,000
7	<u>Education Construction Revenue Bond Proceeds</u>	
8	<u>Account--State . . . . .</u>	<u>\$4,800,000</u>
9	<u>Subtotal Appropriation . . . . .</u>	<u>\$11,900,000</u>
10	Prior Biennia (Expenditures) . . . . .	\$9,949,000
11	Future Biennia (Projected Costs) . . . . .	<del>(\$10,772,000)</del>
12		<u>\$11,900,000</u>
13	TOTAL . . . . .	<del>(\$29,908,000)</del>
14		<u>\$35,836,000</u>

15 **Sec. 210.** 2011 1st sp.s. c 48 s 5006 (uncodified) is amended to  
16 read as follows:

17 **FOR THE STATE SCHOOL FOR THE BLIND**

18 General Campus Preservation (30000018)

19	Appropriation:	
20	Charitable, Educational, Penal and Reformatory	
21	Institutions Account--State . . . . .	<del>(\$550,000)</del>
22		<u>\$0</u>
23	<u>Education Construction Revenue Bond Proceeds</u>	
24	<u>Account--State . . . . .</u>	<u>\$550,000</u>
25	<u>Subtotal Appropriation . . . . .</u>	<u>\$550,000</u>
26	Prior Biennia (Expenditures) . . . . .	.\$0
27	Future Biennia (Projected Costs) . . . . .	\$2,557,000
28	TOTAL . . . . .	\$3,107,000

29 **Sec. 211.** 2011 1st sp.s. c 48 s 5007 (uncodified) is amended to  
30 read as follows:

31 **FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING**  
32 **LOSS**

33 Minor Public Works (30000013)

34	Appropriation:	
35	Charitable, Educational, Penal and Reformatory	



**PART IV**  
**MISCELLANEOUS**

1  
2  
3       NEW SECTION.   **Sec. 401.** (1) Allotments for appropriations in this  
4 act shall be provided in accordance with expedited capital project  
5 review requirements adopted by the office of financial management.

6       (2) Each project is defined as proposed in the legislative budget  
7 notes or in the governor's budget document.

8       NEW SECTION.   **Sec. 402.** (1) To ensure minor works appropriations  
9 are carried out in accordance with legislative intent, funds  
10 appropriated in this act shall not be allotted until project lists are  
11 on file at the office of financial management, the house of  
12 representatives capital budget committee, and the senate ways and means  
13 committee. All projects must meet the criteria included in subsection  
14 (2)(a) of this section. Revisions to the lists must be filed with the  
15 office of financial management, the house of representatives capital  
16 budget committee, and the senate ways and means committee and include  
17 an explanation of variances from the prior lists before funds may be  
18 expended on the revisions.

19       (2)(a) Minor works projects are single line appropriations that  
20 include multiple projects of a similar nature and that are valued  
21 between \$25,000 and \$1,000,000 each, with the exception of higher  
22 education minor works projects that may be valued up to \$2,000,000.  
23 These projects can generally be completed within two years of the  
24 appropriation with the funding provided. Agencies are prohibited from  
25 including projects on their minor works lists that are a phase of a  
26 larger project, and that if combined over a continuous period of time,  
27 would exceed \$1,000,000, or \$2,000,000 for higher education minor works  
28 projects. Improvements for accessibility in compliance with the  
29 Americans with disabilities act may be included in any of the above  
30 minor works categories.

31       (b) Minor works appropriations shall not be used for, among other  
32 things: Studies, except for technical or engineering reviews or  
33 designs that lead directly to and support a project on the same minor  
34 works list; planning; design outside the scope of work on a minor works  
35 list; moveable, temporary, and traditionally funded operating equipment  
36 not in compliance with the equipment criteria established by the office  
37 of financial management; software not dedicated to control of a

1 specialized system; moving expenses; land or facility acquisition; or  
2 to supplement funding for projects with funding shortfalls unless  
3 expressly authorized elsewhere in this act. The office of financial  
4 management may make an exception to the limitations described in this  
5 subsection (2)(b) for exigent circumstances after notifying the  
6 legislative fiscal committees and waiting ten days for comments by the  
7 legislature regarding the proposed exception.

8 (c) Minor works preservation projects may include program  
9 improvements of no more than twenty-five percent of the individual  
10 minor works preservation project cost.

11 (3) It is generally not the intent of the legislature to make  
12 future appropriations for capital expenditures or for maintenance and  
13 operating expenses for an acquisition project or a significant  
14 expansion project that is initiated through the minor works process and  
15 therefore does not receive a policy and fiscal analysis by the  
16 legislature. Minor works projects are intended to be one-time  
17 expenditures that do not require future state resources to complete.

18 NEW SECTION. **Sec. 403.** (1) The office of financial management may  
19 authorize a transfer of appropriation authority provided for a capital  
20 project that is in excess of the amount required for the completion of  
21 such project to another capital project for which the appropriation is  
22 insufficient. No such transfer may be used to expand the capacity of  
23 any facility beyond that intended in making the appropriation. Such  
24 transfers may be effected only between capital appropriations to a  
25 specific department, commission, agency, or institution of higher  
26 education and only between capital projects that are funded from the  
27 same fund or account. No transfers may occur between projects to local  
28 government agencies except where the grants are provided within a  
29 single omnibus appropriation and where such transfers are specifically  
30 authorized by the implementing statutes that govern the grants.

31 (2) The office of financial management may find that an amount is  
32 in excess of the amount required for the completion of a project only  
33 if: (a) The project as defined in the notes to the budget document is  
34 substantially complete and there are funds remaining; or (b) bids have  
35 been let on a project and it appears to a substantial certainty that  
36 the project as defined in the notes to the budget document can be

1 completed within the biennium for less than the amount appropriated in  
2 this act.

3 (3) For the purposes of this section, the intent is that each  
4 project be defined as proposed to the legislature in the governor's  
5 budget document, unless it clearly appears from the legislative history  
6 that the legislature intended to define the scope of a project in a  
7 different way.

8 (4) The office of financial management shall report any transfer  
9 effected under this section to the house of representatives capital  
10 budget committee, the senate ways and means committee, and the  
11 legislative evaluation and accountability program committee, at least  
12 thirty days before the date the transfer is effected. The office of  
13 financial management shall report all emergency or smaller transfers  
14 within thirty days from the date of transfer. The governor's capital  
15 budget request following any transfer shall reflect that transfer in  
16 the affected agency.

17 NEW SECTION. **Sec. 404.** (1) It is expected that projects be ready  
18 to proceed in a timely manner depending on the type or phase of the  
19 project or program that is the subject of the appropriation in this  
20 act. Except for major projects that customarily may take more than two  
21 biennia to complete from predesign to the end of construction, or large  
22 infrastructure grant or loan programs supporting projects that often  
23 take more than two biennia to complete, the legislature generally does  
24 not intend to reappropriate funds more than once, particularly for  
25 smaller grant programs, local/community projects, and minor works.

26 (2) Agencies shall expedite the expenditure of reappropriations and  
27 appropriations in this act in order to: (a) Rehabilitate  
28 infrastructure resources; (b) accelerate environmental rehabilitation  
29 and restoration projects for the improvement of the state's natural  
30 environment; (c) reduce additional costs associated with acquisition  
31 and construction inflationary pressures; and (d) provide additional  
32 employment opportunities associated with capital expenditures.

33 (3) To the extent feasible, agencies are directed to accelerate  
34 expenditure rates at their current level of permanent employees and  
35 shall use contracted design and construction services wherever  
36 necessary to meet the goals of this section.

1        NEW SECTION.    **Sec. 405.**    State agencies, including institutions of  
2 higher education, shall allot and report full-time equivalent staff for  
3 capital projects in a manner comparable to staff reporting for  
4 operating expenditures.

5        NEW SECTION.    **Sec. 406.**    Executive Order No. 05-05, archaeological  
6 and cultural resources, was issued effective November 10, 2005.  
7 Agencies and higher education institutions shall comply with the  
8 requirements set forth in this executive order.

9        NEW SECTION.    **Sec. 407.**    (1) Unless otherwise stated, for all  
10 appropriations under this act that require a match of nonstate money or  
11 in-kind contributions, the following requirement, consistent with RCW  
12 43.88.150, shall apply: Expenditures of state money shall be timed so  
13 that the state share of project expenditures never exceeds the intended  
14 state share of total project costs.

15        (2) Provision of the full amount of required matching funds is not  
16 required to permit the expenditure of capital budget appropriations for  
17 phased projects if a proportional amount of the required matching funds  
18 is provided for each distinct, identifiable phase of the project.

19        NEW SECTION.    **Sec. 408.**    **FOR THE ARTS COMMISSION--ART WORK**  
20 **ALLOWANCE POOLING**

21        (1) One-half of one percent of moneys appropriated in this act for  
22 original construction of school plant facilities may be expended for  
23 the purposes of RCW 28A.335.210. The Washington state arts commission  
24 may combine the proceeds from individual projects in order to fund  
25 larger works of art or mobile art displays in consultation with the  
26 superintendent of public instruction and representatives of school  
27 district boards.

28        (2) One-half of one percent of moneys appropriated in this act for  
29 original construction or any major renovation or remodel work exceeding  
30 two hundred thousand dollars by colleges or universities may be  
31 expended for the purposes of RCW 28B.10.027. The Washington state arts  
32 commission may combine the proceeds from individual projects in order  
33 to fund larger works of art or mobile art displays in consultation with  
34 the board of regents or trustees.

1 (3) At least eighty-five percent of the moneys spent by the  
2 Washington state arts commission during the 2011-2013 biennium for the  
3 purposes of RCW 28A.335.210, 28B.10.027, and 43.17.200 must be expended  
4 solely for direct acquisition of works of art. The commission may use  
5 up to \$100,000 of this amount to conserve or maintain existing pieces  
6 in the state art collection pursuant to chapter 36, Laws of 2005.

7 **Sec. 409.** RCW 43.155.050 and 2011 1st sp.s. c 50 s 951 are each  
8 amended to read as follows:

9 The public works assistance account is hereby established in the  
10 state treasury. Money may be placed in the public works assistance  
11 account from the proceeds of bonds when authorized by the legislature  
12 or from any other lawful source. Money in the public works assistance  
13 account shall be used to make loans and to give financial guarantees to  
14 local governments for public works projects. Moneys in the account may  
15 also be appropriated to provide for state match requirements under  
16 federal law for projects and activities conducted and financed by the  
17 board under the drinking water assistance account. Not more than  
18 fifteen percent of the biennial capital budget appropriation to the  
19 public works board from this account may be expended or obligated for  
20 preconstruction loans, emergency loans, or loans for capital facility  
21 planning under this chapter; of this amount, not more than ten percent  
22 of the biennial capital budget appropriation may be expended for  
23 emergency loans and not more than one percent of the biennial capital  
24 budget appropriation may be expended for capital facility planning  
25 loans. For the 2007-2009 biennium, moneys in the account may be used  
26 for grants for projects identified in section 138, chapter 488, Laws of  
27 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011  
28 fiscal biennium, sums in the public works assistance account may be  
29 used for the water pollution control revolving fund program match in  
30 section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-  
31 2011 fiscal biennium, the legislature may transfer from the job  
32 development fund to the general fund such amounts as reflect the excess  
33 fund balance of the fund. During the 2011-2013 fiscal biennium, the  
34 legislature may transfer from the public works assistance account to  
35 the general fund, the water pollution control revolving account, the  
36 opportunity pathways account, and the drinking water assistance account  
37 such amounts as reflect the excess fund balance of the account.

1        NEW SECTION.   **Sec. 410.**   CODIFICATION.   Sections 101, 102, and 105  
2   through 107 of this act constitute a new chapter in Title 43 RCW.

3        NEW SECTION.   **Sec. 411.**   EFFECTIVE DATE.   This act is necessary for  
4   the immediate preservation of the public peace, health, or safety, or  
5   support of the state government and its existing public institutions,  
6   and takes effect immediately.



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