
HOUSE BILL 2797

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Dunshee, MacEwen, Stanford, Kochmar, Stonier, Young, Riccelli, Zeiger, Haigh, Magendanz, Fitzgibbon, Dahlquist, Morrell, Smith, Lytton, DeBolt, Seaquist, Wilcox, Freeman, Walkinshaw, Ryu, Tarleton, Hargrove, Jinkins, Appleton, Kagi, Tharinger, Sells, Goodman, Fey, Sullivan, Bergquist, Pollet, Senn, Moscoso, Springer, Habib, Blake, Ormsby, Reykdal, Van De Wege, Roberts, S. Hunt, Carlyle, Farrell, Green, and Hudgins

Read first time 02/26/14. Referred to Committee on Capital Budget.

1 AN ACT Relating to funding all-day kindergarten and early
2 elementary class size reduction facility needs with lottery revenues;
3 amending RCW 67.70.230, 67.70.044, 28B.76.526, 67.70.240, 67.70.340,
4 and 67.70.040; adding a new chapter to Title 43 RCW; creating new
5 sections; and declaring an emergency.

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

7 **PART I**

8 **INTENT**

9 NEW SECTION. **Sec. 101.** The legislature finds that school
10 districts are strapped for the physical space to meet education funding
11 reforms as provided in chapter 548, Laws of 2009 (Engrossed Substitute
12 House Bill No. 2261) and chapter 236, Laws of 2010 (Substitute House
13 Bill No. 2776), as interpreted in *McCleary v. State*, related to all-day
14 kindergarten and K-3 class size reduction. The legislature further
15 finds that a program of near-term state grants without a local match
16 requirement will assist school districts to provide these new programs
17 by the scheduled full implementation date of the 2017-18 school year.
18 The legislature further finds that school districts will need

1 flexibility in determining the most appropriate construction method to
2 accommodate the additional classroom space, including permanent
3 construction, modular construction, or portables. The legislature
4 further finds that the use of lottery revenues for common schools is
5 consistent with the construction objectives of chapter 3, Laws of 2001
6 (Initiative Measure No. 728). Therefore, it is the intent of the
7 legislature to authorize seven hundred million dollars in lottery
8 revenue bonds for grants to school districts to support the physical
9 capacity required for statewide implementation of all-day kindergarten
10 and K-3 class size reduction beginning with the 2015-2017 fiscal
11 biennium.

12
13

PART II
BOND AUTHORIZATION

14 NEW SECTION. **Sec. 201.** LOTTERY REVENUE BONDS AUTHORIZED. (1) For
15 the purpose of providing needed construction assistance to support
16 all-day kindergarten and K-3 class size reduction, the state finance
17 committee is authorized to issue a total of seven hundred seven million
18 dollars of lottery revenue bonds, or as much thereof as may be
19 required, payable from the Washington opportunity pathways account
20 revenues under RCW 28B.76.526, which consist of net lottery revenues
21 deposited in the lottery account created in RCW 67.70.230, and net
22 shared game lottery revenues deposited in the shared game lottery
23 account in RCW 67.70.044, as such revenues are defined in section 202
24 of this act, to finance these projects and all costs incidental
25 thereto.

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

30 (3) The state finance committee may determine and include in any
31 resolution authorizing the issuance of any bonds authorized by this
32 section and sections 202 through 207 of this act such terms,
33 provisions, covenants, and conditions as it may deem appropriate in
34 order to assist with the marketing and sale of the bonds, confer rights
35 upon the owners of bonds, and safeguard rights of the owners of bonds,
36 including, among other things:

1 (a) Provisions that the bonds shall be payable solely from and
2 secured solely by the Washington opportunity pathways account revenues
3 under RCW 28B.76.526, which consist of net lottery revenues received in
4 the lottery account under RCW 67.70.230 and net shared game lottery
5 revenues received by the shared game lottery account in RCW 67.70.044,
6 as such revenues are defined in section 202 of this act;

7 (b) The conditions that must be satisfied prior to the issuance of
8 any additional bonds that are to be payable from and secured by the
9 Washington opportunity pathways account revenues, which consist of net
10 lottery revenues received in the lottery account and net shared game
11 lottery revenues received by the shared game lottery account in RCW
12 67.70.044, as such revenues are defined in section 202 of this act, on
13 equal basis with previously issued and outstanding bonds payable from
14 the net lottery revenues and net shared game lottery revenues;

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

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

19 NEW SECTION. **Sec. 202.** WASHINGTON OPPORTUNITY PATHWAYS
20 ACCOUNT/LOTTERY REVENUES PLEDGED TO BONDS. (1) Each bond issued under
21 the authority of this section and sections 201 and 203 through 207 of
22 this act shall distinctly state that payment or redemption of the bond
23 and payment of the interest and any premium thereon is payable solely
24 from and secured solely by a pledge of the Washington opportunity
25 pathways account revenues under RCW 28B.76.526, which consist of net
26 lottery revenues received in the lottery account established in RCW
27 67.70.230 and net shared game lottery revenues received in the shared
28 game lottery account in RCW 67.70.044 and is not a general obligation
29 of the state to which the full faith and credit of the state is
30 pledged. The legislature covenants to appropriate the Washington
31 opportunity pathways account revenues pledged to the payment of the
32 bonds issued under this section and sections 201 and 203 through 207 of
33 this act. The legislature further agrees for the benefit of the owners
34 of outstanding bonds issued by the state under this section and
35 sections 201 and 203 through 207 of this act to continue in effect and
36 not to impair the operation of the state lottery as authorized in
37 chapter 67.70 RCW for the payment and security of the bonds. The state

1 finance committee shall include this pledge and agreement of the state
2 to owners of any bonds issued under this section and sections 201 and
3 203 through 207 of this act. The owner of any bond or the trustee for
4 the owner of any of the bonds may by mandamus or other appropriate
5 proceeding require the transfer and payment of pledged revenues as
6 directed in this section.

7 (2) For purposes of this section and sections 201 and 203 through
8 209 of this act:

9 (a) "Washington opportunity pathways account revenues" means all
10 revenues of the Washington opportunity pathways account in RCW
11 28B.76.526 including, but not limited to, net lottery revenues and net
12 shared revenues;

13 (b) "Net lottery revenues" means all revenues deposited in the
14 lottery account, excluding the following distributions under RCW
15 67.70.240: Payment of prizes under RCW 67.70.240(1)(a) other than
16 unclaimed prizes under RCW 67.70.190; deposits made by the lottery
17 commission in the reserve account and lottery administrative account
18 under RCW 67.70.240(1)(b); amounts obligated under RCW 67.70.240(1)(d);
19 purchase and promotion of games and services under RCW 67.70.240(1)(e);
20 and payments to agents under RCW 67.70.240(1)(f); and

21 (c) "Net shared game lottery revenues" means all moneys deposited
22 in the shared game lottery account in RCW 67.70.044 excluding direct
23 expenses of the shared game.

24 **Sec. 203.** RCW 67.70.230 and 2010 1st sp.s. c 37 s 941 are each
25 amended to read as follows:

26 NET LOTTERY REVENUES PLEDGED TO BONDS. There is hereby created and
27 established a separate account, to be known as the state lottery
28 account. Such account shall be managed, maintained, and controlled by
29 the commission and shall consist of all revenues received from the sale
30 of lottery tickets or shares, and all other moneys credited or
31 transferred thereto from any other fund or source pursuant to law. The
32 account shall be a separate account outside the state treasury. No
33 appropriation is required to permit expenditures and payment of
34 obligations from the account. (~~During the 2009-2011 fiscal biennium,~~
35 ~~the legislature may transfer from the state lottery account to the~~
36 ~~education legacy trust account such amounts as reflect the excess fund~~
37 ~~balance of the account.)) As set forth in section 202 of this act, net~~

1 lottery revenues are pledged to principal and interest payments on
2 bonds issued under section 201 of this act, including any required
3 reserves as provided in the bond proceedings, and must be transferred
4 for this purpose by the state treasurer into the Washington opportunity
5 pathways account in RCW 28B.76.526.

6 **Sec. 204.** RCW 67.70.044 and 2010 1st sp.s. c 37 s 940 are each
7 amended to read as follows:

8 NET SHARED GAME LOTTERY REVENUES PLEDGED TO BONDS. (1) Pursuant to
9 RCW 67.70.040(1)(a), the commission may enter into the multistate
10 agreement establishing a shared game lottery known as "The Big Game,"
11 that was entered into by party state lotteries in August 1996 and
12 subsequently amended and a shared game lottery known as "Powerball."

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

23 (3) As set forth in section 202 of this act, net shared game
24 lottery revenues deposited in the shared game lottery account are
25 pledged to principal and interest payments on bonds issued under
26 section 201 of this act, including any required reserves as provided in
27 the bond proceedings, and must be transferred for this purpose by the
28 state treasurer into the Washington opportunity pathways account in RCW
29 28B.76.526.

30 NEW SECTION. **Sec. 205.** BOND PROCEEDS DEPOSITED INTO EDUCATION
31 CONSTRUCTION REVENUE BOND PROCEEDS ACCOUNT. The proceeds from the sale
32 of bonds authorized in section 201 of this act shall be deposited in
33 the education construction revenue bond proceeds account hereby created
34 in the state treasury. Moneys in the account may be spent only after
35 appropriation and only for the purposes stated in section 201 of this
36 act. The state treasurer may establish subaccounts in the account for

1 the purpose of segregating bond proceeds, including separate
2 subaccounts for segregating proceeds of tax-exempt bonds and taxable
3 bonds.

4 **Sec. 206.** RCW 28B.76.526 and 2010 1st sp.s. c 27 s 2 are each
5 amended to read as follows:

6 WASHINGTON OPPORTUNITY PATHWAYS ACCOUNT/LOTTERY REVENUES PLEDGED TO
7 BONDS. (1) The Washington opportunity pathways account is created in
8 the state treasury. Revenues to the account consist of net lottery
9 revenues as defined in section 202 of this act that are deposited in
10 the account pursuant to RCW 67.70.240, net shared game lottery revenues
11 as defined in section 202 of this act that are deposited in the account
12 pursuant to RCW 67.70.044, and any other amounts transferred to or
13 deposited in the account by the legislature.

14 (2) As set forth in sections 202, 208, and 209 of this act, net
15 lottery revenues and net shared game lottery revenues deposited in the
16 account are pledged to principal and interest payments on bonds issued
17 under section 201 of this act, including any required reserves as
18 provided in the bond proceedings. The state finance committee shall,
19 on or before June 30th of each year, certify to the state treasurer the
20 amount required for principal and interest on the bonds, as any
21 required reserve in accordance with the bond proceedings. Such
22 payments take priority over any other expenditures from the account.
23 Before any other expenditures may be made from the account, moneys in
24 the account must be expended on or before the applicable payment date
25 for debt service in the amount certified by the state finance
26 committee. The state finance committee may provide that a special
27 subaccount be created in the account to serve as a reserve fund.

28 (3) After satisfaction of debt service payments under subsection
29 (2) of this section, other expenditures from the account may be used
30 only for programs in chapter 28B.12 RCW (state work-study), chapter
31 28B.50 RCW (opportunity grant), RCW 28B.76.660 (Washington scholars
32 award), RCW 28B.76.670 (Washington award for vocational excellence),
33 chapter 28B.92 RCW (state need grant program), chapter 28B.101 RCW
34 (educational opportunity grant), chapter 28B.105 RCW (GET ready for
35 math and science scholarship), chapter 28B.117 RCW (passport to college
36 promise), chapter 28B.118 RCW (college bound scholarship), chapter
37 28B.119 RCW (Washington promise scholarship), chapter 43.215 RCW (early

1 childhood education and assistance program), and RCW 43.330.280
2 (recruitment of entrepreneurial researchers, innovation partnership
3 zones and research teams).

4 NEW SECTION. **Sec. 207.** DEBT SERVICE PAID FROM WASHINGTON
5 OPPORTUNITY PATHWAYS ACCOUNT. On each date on which any principal and
6 interest payment is due on bonds issued for the purposes of section 201
7 of this act, the state treasurer shall withdraw from the Washington
8 opportunity pathways account an amount equal to the amount certified by
9 the state finance committee to be due on the payment date.

10 **Sec. 208.** RCW 67.70.240 and 2013 c 136 s 1 are each amended to
11 read as follows:

12 DISTRIBUTION OF LOTTERY REVENUES. (1) The moneys in the state
13 lottery account may be used only:

14 (a) For the payment of prizes to the holders of winning lottery
15 tickets or shares;

16 (b) For purposes of making deposits into the reserve account
17 created by RCW 67.70.250 and into the lottery administrative account
18 created by RCW 67.70.260;

19 (c) (~~For purposes of making deposits into the Washington~~
20 ~~opportunity pathways account created in RCW 28B.76.526. Moneys in the~~
21 ~~state lottery account deposited in the Washington opportunity pathways~~
22 ~~account are included in "general state revenues" under RCW 39.42.070;~~)
23 For deposits in the Washington opportunity pathways account for
24 purposes of debt service payments and any required reserve on bonds
25 issued under section 201 of this act and for other authorized purposes
26 of the account after such payments are made;

27 (d) For distribution to the stadium and exhibition center account,
28 created in RCW 43.99N.060. Subject to the conditions of RCW
29 43.99N.070, six million dollars must be distributed under this
30 subsection during the calendar year 1998. During subsequent years,
31 such distribution must equal the prior year's distributions increased
32 by four percent. No distribution may be made under this subsection
33 after December 31, 1999, unless the conditions for issuance of the
34 bonds under RCW 43.99N.020(2) are met. Distributions under this
35 subsection must cease when the bonds are retired, but not later than
36 December 31, 2020;

1 (e) For the purchase and promotion of lottery games and game-
2 related services; and

3 (f) For the payment of agent compensation.

4 (2) The office of financial management shall require the allotment
5 of all expenses paid from the account and shall report to the ways and
6 means committees of the senate and house of representatives any changes
7 in the allotments.

8 **Sec. 209.** RCW 67.70.340 and 2012 1st sp.s. c 10 s 6 are each
9 amended to read as follows:

10 DISTRIBUTION OF SHARED GAME REVENUES. (1) ~~((The legislature
11 recognizes that creating a shared game lottery could result in less
12 revenue being raised by the existing state lottery ticket sales. The
13 legislature further recognizes that the fund most impacted by this
14 potential event is the Washington opportunity pathways account.
15 Therefore, it is the intent of the legislature to use some of the
16 proceeds from the shared game lottery to make up the difference that
17 the potential state lottery revenue loss would have on the Washington
18 opportunity pathways account. The legislature further intends to use
19 some of the proceeds from the shared game lottery to fund programs and
20 services related to problem and pathological gambling.~~

21 ~~(2) The Washington opportunity pathways account is expected to
22 receive one hundred two million dollars annually from state lottery
23 games other than the shared game lottery. For fiscal year 2011 and
24 thereafter, if the amount of lottery revenues earmarked for the
25 Washington opportunity pathways account is less than one hundred two
26 million dollars, the commission, after making the transfer required
27 under subsection (3) of this section, must transfer sufficient moneys
28 from revenues derived from the shared game lottery into the Washington
29 opportunity pathways account to bring the total revenue up to one
30 hundred two million dollars.~~

31 ~~(3)) If at any time the amount available to be transferred from
32 the state lottery account in RCW 67.70.240 to the Washington
33 opportunity pathways account pursuant to section 207 of this act is
34 insufficient to satisfy the amount certified under RCW 28B.76.526, then
35 before the commission may make any transfers under this section the
36 treasurer must transfer net shared game lottery revenues from the~~

1 shared game lottery account to the Washington opportunity pathways
2 account.

3 (a) The commission shall transfer, from revenue derived from the
4 shared game lottery, to the problem gambling account created in RCW
5 43.20A.892, an amount equal to the percentage specified in (b) of this
6 subsection of net receipts. For purposes of this subsection, "net
7 receipts" means the difference between (i) revenue received from the
8 sale of lottery tickets or shares and revenue received from the sale of
9 shared game lottery tickets or shares; and (ii) the sum of payments
10 made to winners.

11 (b) In fiscal year 2006, the percentage to be transferred to the
12 problem gambling account is one-tenth of one percent. In fiscal year
13 2007 and subsequent fiscal years, the percentage to be transferred to
14 the problem gambling account is thirteen one-hundredths of one percent.

15 ~~((+4))~~ (2) The commission shall transfer the remaining net
16 revenues, if any, derived from the shared game lottery "Powerball"
17 authorized in RCW 67.70.044(1) after the transfers pursuant to this
18 section into the state general fund for support for the program of
19 basic education under RCW 28A.150.200.

20 ~~((+5))~~ (3) The remaining net revenues, if any, in the shared game
21 lottery account after the transfers pursuant to this section shall be
22 deposited into the Washington opportunity pathways account.

23 **Sec. 210.** RCW 67.70.040 and 2006 c 290 s 3 are each amended to
24 read as follows:

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

27 (1) To adopt rules governing the establishment and operation of a
28 state lottery as it deems necessary and desirable in order that such a
29 lottery be initiated at the earliest feasible and practicable time, and
30 in order that such lottery produce the maximum amount of net revenues
31 for the state consonant with the dignity of the state and the general
32 welfare of the people. Such rules shall include, but shall not be
33 limited to, the following:

34 (a) The type of lottery to be conducted which may include the
35 selling of tickets or shares, but such tickets or shares may not be
36 sold over the internet. The use of electronic or mechanical devices or
37 video terminals which allow for individual play against such devices or

1 terminals shall be prohibited. An affirmative vote of sixty percent of
2 both houses of the legislature is required before offering any game
3 allowing or requiring a player to become eligible for a prize or to
4 otherwise play any portion of the game by interacting with any device
5 or terminal involving digital, video, or other electronic
6 representations of any game of chance, including scratch tickets, pull-
7 tabs, bingo, poker or other cards, dice, roulette, keno, or slot
8 machines. Approval of the legislature shall be required before
9 entering any agreement with other state lotteries to conduct shared
10 games;

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

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

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

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

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

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

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

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

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

34 (k) The apportionment of the total revenues accruing from the sale
35 of lottery tickets or shares and from all other sources among: (i) The
36 payment of prizes to the holders of winning tickets or shares, which
37 shall not be less than forty-five percent of the gross annual revenue
38 from such lottery, (ii) transfers to the lottery administrative account

1 created by RCW 67.70.260, ((and)) (iii) ((transfer to the state's
2 general fund. Transfers to the state general fund shall be made in
3 compliance with RCW 43.01.050)) transfers of net lottery revenues and
4 net shared game lottery revenues to the Washington opportunity pathways
5 account as required by sections 202 through 204, 206, and 207 of this
6 act, and (iv) transfers established in RCW 67.70.240 and 67.70.340;

7 (1) Such other matters necessary or desirable for the efficient and
8 economical operation and administration of the lottery and for the
9 convenience of the purchasers of tickets or shares and the holders of
10 winning tickets or shares.

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

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

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

19 **PART III**
20 **GRANT PROGRAM**

21 NEW SECTION. Sec. 301. SUPERINTENDENT OF PUBLIC INSTRUCTION--
22 GRANT PROGRAM PREPARATION. (1) The legislature intends to provide
23 funding in the 2015-2017 fiscal biennium for grants to school districts
24 to address the physical capacity required for statewide implementation
25 of all-day kindergarten and K-3 class size reduction.

26 (2) The office of the superintendent of public instruction shall
27 establish a plan for grant allocations that considers the following
28 criteria: Public schools must demonstrate the existence of unhoused K-
29 3 students based on a ninety square feet student space allocation per
30 enrolled student in a public school.

31 (3)(a) The office of the superintendent of public instruction may
32 award grants to school districts for the following types of projects:
33 (i) Projects to modernize existing building space; (ii) projects to
34 build permanent instructional space; (iii) the purchase and
35 installation of modular facilities; and (iv) the purchase and
36 installation of portable facilities.

1 (b) For the purposes of this subsection:

2 (i) "Modular facility" means a factory-built structure, whether a
3 total building or a room, which is either wholly manufactured or is in
4 substantial part manufactured at an off-site location to be wholly or
5 partially assembled on-site. Modular facility does not include mobile
6 homes or manufactured homes as defined in RCW 46.04.302; and

7 (ii) "Portable facility" means any factory-built structure,
8 transportable in one or more sections, which requires a chassis to be
9 transported, and is designed to be used as an educational space with or
10 without a permanent foundation when connected to the required
11 utilities. The structure must be trailerable and capable of being
12 demounted and relocated to other locations as needs arise.

13 (4) One hundred percent of the project costs are eligible for
14 grants under this section.

15 (5) Grants must be awarded solely for instructional space used by
16 K-3 students.

17 (6) Subject to the approval of the office of the superintendent of
18 public instruction, grant awards to a school district under this
19 section for a project at an identified public school may be reallocated
20 for use at another public school, including reopening an existing
21 school building within the district if the school can demonstrate it is
22 unable to build permanent space, or install a modular or portable
23 facility at the identified school.

24 (7) The office of the superintendent of public instruction shall
25 develop rules to implement the grant program authorized under this
26 section.

27 (8) The office of the superintendent of public instruction shall
28 provide a report to the appropriate policy and fiscal committees of the
29 legislature by December 1, 2014, describing: Estimated need for
30 additional classrooms to address all-day kindergarten and K-3 class
31 size reduction by school; implementation timelines; and proposed rules.

32 **PART IV**
33 **MISCELLANEOUS**

34 NEW SECTION. **Sec. 401.** CODIFICATION. Sections 201, 202, 205, and
35 207 of this act constitute a new chapter in Title 43 RCW.

1 NEW SECTION. **Sec. 402.** EFFECTIVE DATE. This act is necessary for
2 the immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and takes effect immediately.

--- END ---