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**HOUSE BILL 1517**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representative MacEwen

AN ACT Relating to funding school construction for common schools with lottery revenues; amending RCW 67.70.230, 67.70.044, 28B.76.526, 67.70.240, 67.70.340, and 67.70.040; adding a new chapter to Title 43 RCW; creating new sections; and declaring an emergency.

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

**PART I**

**INTENT**

NEW SECTION. **Sec.**  The legislature finds that school districts are strapped for the physical space to meet education funding reforms. The legislature further finds that the use of lottery revenues for common schools is appropriate. Therefore, it is the intent of the legislature to authorize seven hundred million dollars in lottery revenue bonds for grants to school districts to support school facility needs at common schools beginning with the 2017-2019 fiscal biennium.

**PART II**

**BOND AUTHORIZATION**

NEW SECTION. **Sec.**  LOTTERY REVENUE BONDS AUTHORIZED. (1) For the purpose of providing needed construction assistance to support school facility needs at common schools, the state finance committee is authorized to issue a total of seven hundred seven million dollars of lottery revenue bonds, or as much thereof as may be required, payable from the Washington opportunity pathways account revenues under RCW 28B.76.526, which consist of net lottery revenues deposited in the lottery account created in RCW 67.70.230, and net shared game lottery revenues deposited in the shared game lottery account in RCW 67.70.044, as such revenues are defined in section 202 of this act, to finance these projects and all costs incidental thereto.

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

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

(a) Provisions that the bonds shall be payable solely from and secured solely by the Washington opportunity pathways account revenues under RCW 28B.76.526, as such revenues are defined in section 202 of this act;

(b) The conditions that must be satisfied prior to the issuance of any additional bonds that are to be payable from and secured by the Washington opportunity pathways account revenues, as such revenues are defined in section 202 of this act, on equal basis with previously issued and outstanding bonds payable from the net lottery revenues and net shared game lottery revenues;

(c) Provisions regarding debt service reserves and credit enhancement; and

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

NEW SECTION. **Sec.**  WASHINGTON OPPORTUNITY PATHWAYS ACCOUNT/LOTTERY REVENUES PLEDGED TO BONDS. (1) Each bond issued under the authority of this section and sections 201 and 203 through 207 of this act shall distinctly state that payment or redemption of the bond and payment of the interest and any premium thereon is payable solely from and secured solely by a pledge of the Washington opportunity pathways account revenues under RCW 28B.76.526, which consist of net lottery revenues received in the lottery account established in RCW 67.70.230 and net shared game lottery revenues received in the shared game lottery account in RCW 67.70.044 and is not a general obligation of the state to which the full faith and credit of the state is pledged. The legislature covenants to appropriate the Washington opportunity pathways account revenues pledged to the payment of the bonds issued under this section and sections 201 and 203 through 207 of this act. The legislature further agrees for the benefit of the owners of outstanding bonds issued by the state under this section and sections 201 and 203 through 207 of this act to continue in effect and not to impair the operation of the state lottery as authorized in chapter 67.70 RCW for the payment and security of the bonds. The state finance committee shall include this pledge and agreement of the state to owners of any bonds issued under this section and sections 201 and 203 through 207 of this act. The owner of any bond or the trustee for the owner of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of pledged revenues as directed in this section.

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

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

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

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

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

NET LOTTERY REVENUES PLEDGED TO BONDS. There is hereby created and established a separate account, to be known as the state lottery account. Such account shall be managed, maintained, and controlled by the commission and shall consist of all revenues received from the sale of lottery tickets or shares, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. The account shall be a separate account outside the state treasury. No appropriation is required to permit expenditures and payment of obligations from the account. ((~~During the 2009-2011 fiscal biennium, the legislature may transfer from the state lottery account to the education legacy trust account such amounts as reflect the excess fund balance of the account.~~)) As set forth in section 202 of this act, net lottery revenues are pledged to principal and interest payments on bonds issued under section 201 of this act, including any required reserves as provided in the bond proceedings, and must be transferred for this purpose by the state treasurer into the Washington opportunity pathways account in RCW 28B.76.526.

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

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

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

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

NEW SECTION. **Sec.**  BOND PROCEEDS DEPOSITED INTO EDUCATION CONSTRUCTION REVENUE BOND PROCEEDS ACCOUNT. The proceeds from the sale of bonds authorized in section 201 of this act shall be deposited in the education construction revenue bond proceeds account hereby created in the state treasury. Moneys in the account may be spent only after appropriation and only for the purposes stated in section 201 of this act, for the payment of bond anticipation notes or other interim financing, if any, capitalizing interest on the bonds, and payment of expenses incurred in the sale and issuance of the bonds, including underwriter compensation. The state treasurer may establish subaccounts in the account for the purpose of segregating bond proceeds, including separate subaccounts for segregating proceeds of tax-exempt bonds and taxable bonds.

**Sec.**  RCW 28B.76.526 and 2016 c 241 s 201 are each amended to read as follows:

(1) The Washington opportunity pathways account is created in the state treasury. Deposits to the account must include net lottery revenues as defined in section 202 of this act that are required to be deposited in the account pursuant to RCW 67.70.230, net shared game lottery revenues as defined in section 202 of this act that are required to be deposited in the account pursuant to RCW 67.70.044, and any other amounts directed by the legislature to be transferred to or deposited in the account.

(2) As set forth in sections 202, 208, and 209 of this act, net lottery revenues and net shared game lottery revenues deposited in the account are pledged to principal and interest payments on bonds issued under section 201 of this act, including any required reserves as provided in the bond proceedings. This pledge of Washington opportunity pathways account revenues to pay and secure bonds issued under section 201 of this act takes priority over the use of Washington opportunity pathways account revenues to make any other expenditures from the account for any other purpose. Before any other expenditures may be made from the account, moneys in the account must have been expended or set aside on or before the applicable payment date for debt service requirements and debt service reserve requirements of the bonds issued under section 201 of this act in the amounts certified from time to time by the state finance committee pursuant to section 207 of this act. The state finance committee in the bond proceedings may provide for the establishment of a special subaccount in the account to serve as a debt service reserve fund for bonds issued under section 201 of this act.

(3) After applicable debt service requirements and debt service reserve requirements for bonds issued under section 201 of this act have been satisfied or provided for pursuant to subsection (2) of this section, other expenditures from the account may be used only for programs in chapter 28A.710 RCW (charter schools), chapter 28B.12 RCW (state work-study), chapter 28B.50 RCW (opportunity grant), RCW 28B.76.660 (Washington scholars award), RCW 28B.76.670 (Washington award for vocational excellence), chapter 28B.92 RCW (state need grant program), chapter 28B.105 RCW (GET ready for math and science scholarship), chapter 28B.117 RCW (passport to college promise), chapter 28B.118 RCW (college bound scholarship), chapter 28B.119 RCW (Washington promise scholarship), and chapter 43.215 RCW (early childhood education and assistance program).

NEW SECTION. **Sec.**  RETIREMENT OF BONDS. (1) The nondebt-limit bond retirement account shall be used for the payment of principal of and interest on the bonds authorized in section 201 of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest payments on the bonds and the amounts, if any, required for the funding or replenishment of any debt service reserve fund for the bonds in accordance with the bond proceedings.

(3) On each date on which any principal and interest payment is due on bonds or on which any amount is required for the funding or replenishment of any debt service reserve fund for bonds issued for the purposes of section 201 of this act, the state treasurer shall withdraw from the Washington opportunity pathways account an amount equal to the amount certified by the state finance committee to be due or required on such date.

**Sec.**  RCW 67.70.240 and 2015 3rd sp.s. c 31 s 2 are each amended to read as follows:

(1) The moneys in the state lottery account may be used only:

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

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

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

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

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

(f) For the payment of agent compensation; and

(g) For distribution to the gambling revolving fund, created in RCW 9.46.100, in amounts specified in the omnibus appropriations act. To meet the cash flow needs of both agencies, the director of the state lottery and the director of the Washington state gambling commission may determine the timing of the distribution, which may include incremental distributions over the course of the fiscal year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among: (i) The payment of prizes to the holders of winning tickets or shares, which shall not be less than forty-five percent of the gross annual revenue from such lottery, (ii) transfers to the lottery administrative account created by RCW 67.70.260, ((~~and~~)) (iii) ((~~transfer to the state's general fund. Transfers to the state general fund shall be made in compliance with RCW 43.01.050~~)) transfers of net lottery revenues and net shared game lottery revenues to the Washington opportunity pathways account as required by sections 202 through 204, 206, and 207 of this act, and (iv) transfers established in RCW 67.70.240 and 67.70.340;

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

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

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

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

NEW SECTION. **Sec.**  ANALYSIS OF FINANCING STRUCTURE. (1) The state finance committee and the office of financial management must conduct an objective analysis of the most effective financing structure for the lottery revenue bonds authorized in section 201 of this act.

(2) In conducting the objective analysis, the state finance committee and the office of financial management must review data, information, and analysis from multiple sources, including consultation with a minimum of five firms with expertise in helping state and local governments organize and manage a wide variety of financing structures, including revenue bonds.

(3) The objective analysis must consider and rate options designed to:

(a) Maximize the amount of bond proceeds available to address school facility needs at common schools;

(b) Leverage lottery revenues in a manner that would cause the bonds to be rated at the highest investment grade possible;

(c) Achieve the lowest cost of issuance; and

(d) Strengthen the issuance and its marketability to investors by considering terms of borrowing such as maturity, debt service reserves, coverage ratios, legal covenants, and other credit enhancements.

(4) The state finance committee and the office of financial management shall provide a report to the legislature by December 1, 2017, that includes the options considered and recommendations on the preferred financing structure for the lottery revenue bonds.

**PART III**

**MISCELLANEOUS**

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

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

**--- END ---**