

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6409

Chapter 27, Laws of 2010

(partial veto)

61st Legislature
2010 1st Special Session

WASHINGTON OPPORTUNITY PATHWAYS ACCOUNT

EFFECTIVE DATE: 07/13/10

Passed by the Senate March 16, 2010
YEAS 32 NAYS 10

BRAD OWEN

President of the Senate

Passed by the House April 12, 2010
YEAS 55 NAYS 42

FRANK CHOPP

Speaker of the House of Representatives

Approved April 23, 2010, 1:57 p.m., with
the exception of Section 7 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **ENGROSSED SECOND
SUBSTITUTE SENATE BILL 6409** as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 23, 2010

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6409

Passed Legislature - 2010 1st Special Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kastama, Rockefeller, Shin, and Kohl-Welles)

READ FIRST TIME 02/24/10.

1 AN ACT Relating to creating the Washington opportunity pathways
2 account; reenacting and amending RCW 67.70.240, 67.70.340, and
3 43.135.045; adding a new section to chapter 28B.76 RCW; and creating
4 new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that institutions of
7 higher education are key to the future employment opportunities of
8 Washington citizens and to the economic well-being of the state. The
9 legislature finds that the recruitment of entrepreneurial researchers
10 at institutions of higher education and the formation of research
11 innovation teams will further enhance faculty recruitment and economic
12 development. The legislature further finds that current financial aid
13 and early childhood education programs are underfunded and subject to
14 the unpredictability of the state budget. It is the intent of the
15 legislature to direct lottery account moneys toward the Washington
16 opportunity pathways account and that those funds stabilize and
17 increase existing resources for the recruitment of entrepreneurial
18 researchers, innovation partnership zones and research teams, early
19 childhood education, opportunity grants, educational opportunity

1 grants, get ready for math and science scholarships, passport to
2 college promise scholarships, college bound scholarships, the state
3 work study program, the state need grant, Washington scholars awards,
4 the Washington award for vocational excellence, and Washington promise
5 scholarships. It is also the intent of the legislature to continue
6 funding the education construction fund by redirecting a portion of
7 general state revenues to that fund.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.76 RCW
9 to read as follows:

10 The Washington opportunity pathways account is created in the state
11 treasury. Expenditures from the account may be used only for programs
12 in chapter 28B.12 RCW (state work-study), chapter 28B.50 RCW
13 (opportunity grant), RCW 28B.76.660 (Washington scholars award), RCW
14 28B.76.670 (Washington award for vocational excellence), chapter 28B.92
15 RCW (state need grant program), chapter 28B.101 RCW (educational
16 opportunity grant), chapter 28B.105 RCW (GET ready for math and science
17 scholarship), chapter 28B.117 RCW (passport to college promise),
18 chapter 28B.118 RCW (college bound scholarship), chapter 28B.119 RCW
19 (Washington promise scholarship), chapter 43.215 RCW (early childhood
20 education and assistance program), and RCW 43.330.280 (recruitment of
21 entrepreneurial researchers, innovation partnership zones and research
22 teams).

23 **Sec. 3.** RCW 67.70.240 and 2009 c 500 s 11 and 2009 c 479 s 44 are
24 each reenacted and amended to read as follows:

25 The moneys in the state lottery account shall be used only:

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

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

31 (3) For purposes of making deposits into the education construction
32 fund created in RCW 43.135.045 and the Washington opportunity pathways
33 account created in section 2 of this act. On and after July 1,
34 ((2004)) 2010, all deposits not otherwise obligated under this section
35 shall be placed in the ((education-construction-fund)) Washington
36 opportunity pathways account. Moneys in the state lottery account

1 deposited in the (~~education construction fund~~) Washington opportunity
2 pathways account are included in "general state revenues" under RCW
3 39.42.070;

4 (4) For distribution to a county for the purpose of paying the
5 principal and interest payments on bonds issued by the county to
6 construct a baseball stadium, as defined in RCW 82.14.0485, including
7 reasonably necessary preconstruction costs. Three million dollars
8 shall be distributed under this subsection during calendar year 1996.
9 During subsequent years, such distributions shall equal the prior
10 year's distributions increased by four percent. Distributions under
11 this subsection shall cease when the bonds issued for the construction
12 of the baseball stadium are retired, but not more than twenty years
13 after the tax under RCW 82.14.0485 is first imposed;

14 (5) For distribution to the stadium and exhibition center account,
15 created in RCW 43.99N.060. Subject to the conditions of RCW
16 43.99N.070, six million dollars shall be distributed under this
17 subsection during the calendar year 1998. During subsequent years,
18 such distribution shall equal the prior year's distributions increased
19 by four percent. No distribution may be made under this subsection
20 after December 31, 1999, unless the conditions for issuance of the
21 bonds under RCW 43.99N.020(2) are met. Distributions under this
22 subsection shall cease when the bonds are retired, but not later than
23 December 31, 2020;

24 (6) For the purchase and promotion of lottery games and game-
25 related services; and

26 (7) For the payment of agent compensation.

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

31 **Sec. 4.** RCW 67.70.340 and 2009 c 576 s 2 and 2009 c 479 s 45 are
32 each reenacted and amended to read as follows:

33 (1) The legislature recognizes that creating a shared game lottery
34 could result in less revenue being raised by the existing state lottery
35 ticket sales. The legislature further recognizes that the fund most
36 impacted by this potential event is the (~~education construction~~)
37 Washington opportunity pathways account. Therefore, it is the intent

1 of the legislature to use some of the proceeds from the shared game
2 lottery to make up the difference that the potential state lottery
3 revenue loss would have on the (~~education-construction~~) Washington
4 opportunity pathways account. The legislature further intends to use
5 some of the proceeds from the shared game lottery to fund programs and
6 services related to problem and pathological gambling.

7 (2) The (~~education-construction~~) Washington opportunity pathways
8 account is expected to receive one hundred two million dollars annually
9 from state lottery games other than the shared game lottery. For
10 fiscal year (~~2003~~) 2011 and thereafter, if the amount of lottery
11 revenues earmarked for the (~~education-construction~~) Washington
12 opportunity pathways account is less than one hundred two million
13 dollars, the commission, after making the transfer required under
14 subsection (3) of this section, must transfer sufficient moneys from
15 revenues derived from the shared game lottery into the (~~education~~
16 ~~construction~~) Washington opportunity pathways account to bring the
17 total revenue up to one hundred two million dollars.

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

26 (b) In fiscal year 2006, the percentage to be transferred to the
27 problem gambling account is one-tenth of one percent. In fiscal year
28 2007 and subsequent fiscal years, the percentage to be transferred to
29 the problem gambling account is thirteen one-hundredths of one percent.

30 (4) The commission shall transfer the remaining net revenues, if
31 any, derived from the shared game lottery "Powerball" authorized in RCW
32 67.70.044(1) after the transfers pursuant to this section into the
33 state general fund for the student achievement program under RCW
34 28A.505.220.

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

1 **Sec. 5.** RCW 43.135.045 and 2009 c 564 s 939 and 2009 c 479 s 37
2 are each reenacted and amended to read as follows:

3 The education construction fund is hereby created in the state
4 treasury.

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

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

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

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

28 NEW SECTION. **Sec. 6.** In consultation with independent experts and
29 in collaboration with the higher education coordinating board, the
30 state lottery commission shall upon the effective date of this section
31 develop and begin implementation of a strategy and plan for actively
32 marketing the state lottery as an essential contributor to Washington's
33 opportunity pathways. The commission shall report to the economic
34 development, higher education, and commerce committees of the
35 legislature on the key messages, components, performance objectives,
36 and anticipated revenue impacts of the strategy by September 1, 2010,
37 and by December 1, 2010.

1 ***NEW SECTION.** Sec. 7. The joint legislative audit and review
2 committee shall conduct a review of marketing and vendor expenditures
3 and incentive payment programs at the state lottery commission to
4 identify cost savings and efficiencies to maximize contributions to
5 beneficiaries under this act. This review shall include examination of
6 the following:

7 (1) The expenditures at the state lottery commission related to
8 marketing and vendors compared with ticket sales. This review shall
9 include an analysis of: Marketing expenses for fiscal years 2005 to
10 2010 and the impact on ticket sales; the impact to sales of tickets
11 from the change in lottery beneficiaries provided in this act from the
12 education construction fund to the Washington opportunity pathways
13 account; and the competitive bidding process for vendors in Washington.
14 In its final report on this subject, due to the legislature by November
15 2010, the joint legislative audit and review committee shall provide:
16 A description of the competitive contracting processes for marketing
17 services and vendors, and any marketing programs or expenditures funded
18 through the lottery administrative account; an all-state survey of
19 marketing and vendor contractors for other state lotteries;
20 identification of whether there are duplicative or unproductive
21 marketing activities; identification of whether savings may occur from
22 changing vendors; and an analysis of marketing expenses and ticket
23 sales for fiscal year 2000 through the months of fiscal year 2011 for
24 which data are available.

25 (2) The incentive payment program for employees at the state
26 lottery commission. This review shall include an analysis of the
27 state's laws, policies, procedures, and practices as they relate to
28 incentive payments. In its final report on this subject, due to the
29 legislature by November 2010, the joint legislative audit and review
30 committee shall provide: A description of how the incentive payment
31 program at the state lottery commission operates, and comparison to
32 **best practices for outcome-based performance payments.**

**Sec. 7 was vetoed. See message at end of chapter.*

Passed by the Senate March 16, 2010.

Passed by the House April 12, 2010.

Approved by the Governor April 23, 2010, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 23, 2010.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 7,
Engrossed Second Substitute Senate Bill 6409 entitled:

"AN ACT Relating to creating the Washington opportunity pathways account."

This bill creates the Washington Opportunity Pathways Account and directs that beginning in Fiscal Year 2011 net revenues from in-state lottery games that are not otherwise dedicated will be placed in this new account.

Section 7 of this bill requires costly consultation and studies of areas of lottery operations that already receive significant oversight. The section directs the Joint Legislative Audit and Review Committee (JLARC) to study the marketing and vendor expenditures and incentive payment programs of the Commission by November 1, 2010. The estimated costs of the studies are not funded in the budget. In addition, the Executive Committee of JLARC has requested this section be vetoed and that the study take place next biennium. I agree with the need for the study and request the committee to include it in their future planning.

For these reasons I have vetoed Section 7 of Engrossed Second Substitute Senate Bill 6409.

With the exception of Section 7 of Engrossed Second Substitute Senate Bill 6409 is approved."