

HB 2797 - H AMD 815

By Representative Dunshee

WITHDRAWN 03/04/2014

1 Strike everything after the enacting clause and insert the
2 following:

3 **"PART I**

4 **INTENT**

5 NEW SECTION. **Sec. 101.** The legislature finds that school
6 districts are strapped for the physical space to meet education funding
7 reforms as provided in chapter 548, Laws of 2009 (Engrossed Substitute
8 House Bill No. 2261) and chapter 236, Laws of 2010 (Substitute House
9 Bill No. 2776), as interpreted in *McCleary v. State*, related to all-day
10 kindergarten and K-3 class size reduction. The legislature further
11 finds that a program of near-term state grants without a local match
12 requirement will assist school districts to provide these new programs
13 by the scheduled full implementation date of the 2017-18 school year.
14 The legislature further finds that school districts will need
15 flexibility in determining the most appropriate construction method to
16 accommodate the additional classroom space, including permanent
17 construction, modular construction, or portables. The legislature
18 further finds that the use of lottery revenues for common schools is
19 consistent with the construction objectives of chapter 3, Laws of 2001
20 (Initiative Measure No. 728). Therefore, it is the intent of the
21 legislature to authorize seven hundred million dollars in lottery
22 revenue bonds for grants to school districts to support the physical
23 capacity required for statewide implementation of all-day kindergarten
24 and K-3 class size reduction beginning with the 2015-2017 fiscal
25 biennium.

26 **PART II**

27 **BOND AUTHORIZATION**

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 202.** WASHINGTON OPPORTUNITY PATHWAYS

2 ACCOUNT/LOTTERY REVENUES PLEDGED TO BONDS. (1) Each bond issued under
3 the authority of this section and sections 201 and 203 through 207 of
4 this act shall distinctly state that payment or redemption of the bond
5 and payment of the interest and any premium thereon is payable solely
6 from and secured solely by a pledge of the Washington opportunity
7 pathways account revenues under RCW 28B.76.526, which consist of net
8 lottery revenues received in the lottery account established in RCW
9 67.70.230 and net shared game lottery revenues received in the shared
10 game lottery account in RCW 67.70.044 and is not a general obligation
11 of the state to which the full faith and credit of the state is
12 pledged. The legislature covenants to appropriate the Washington
13 opportunity pathways account revenues pledged to the payment of the
14 bonds issued under this section and sections 201 and 203 through 207 of
15 this act. The legislature further agrees for the benefit of the owners
16 of outstanding bonds issued by the state under this section and
17 sections 201 and 203 through 207 of this act to continue in effect and
18 not to impair the operation of the state lottery as authorized in
19 chapter 67.70 RCW for the payment and security of the bonds. The state
20 finance committee shall include this pledge and agreement of the state
21 to owners of any bonds issued under this section and sections 201 and
22 203 through 207 of this act. The owner of any bond or the trustee for
23 the owner of any of the bonds may by mandamus or other appropriate
24 proceeding require the transfer and payment of pledged revenues as
25 directed in this section.

26 (2) For purposes of this section and sections 201 and 203 through
27 209 of this act:

28 (a) "Washington opportunity pathways account revenues" means all
29 revenues of the Washington opportunity pathways account in RCW
30 28B.76.526 including, but not limited to, net lottery revenues and net
31 shared game lottery revenues;

32 (b) "Net lottery revenues" means all revenues deposited in the
33 lottery account, excluding revenues used to make the following
34 distributions under RCW 67.70.240: Payment of prizes under RCW
35 67.70.240(1)(a) other than unclaimed prizes under RCW 67.70.190;
36 deposits made by the lottery commission in the reserve account and
37 lottery administrative account under RCW 67.70.240(1)(b); amounts

1 obligated under RCW 67.70.240(1)(d); amounts used for the purchase and
2 promotion of games and services under RCW 67.70.240(1)(e); and payments
3 to agents under RCW 67.70.240(1)(f); and

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

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

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

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

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

33 (2) The shared game lottery account is created as a separate
34 account outside the state treasury. The account is managed,
35 maintained, and controlled by the commission and consists of all
36 revenues received from the sale of shared game lottery tickets or

1 shares, and all other moneys credited or transferred to it from any
2 other fund or source under law. The account is allotted according to
3 chapter 43.88 RCW. (~~During the 2009-2011 fiscal biennium, the~~
4 ~~legislature may transfer from the shared game lottery account to the~~
5 ~~education legacy trust account such amounts as reflect the excess fund~~
6 ~~balance of the account.))~~

7 (3) As set forth in section 202 of this act, net shared game
8 lottery revenues deposited in the shared game lottery account are
9 pledged to principal and interest payments on bonds issued under
10 section 201 of this act, including any required reserves as provided in
11 the bond proceedings, and must be transferred for this purpose by the
12 state treasurer into the Washington opportunity pathways account in RCW
13 28B.76.526.

14 NEW SECTION. Sec. 205. BOND PROCEEDS DEPOSITED INTO EDUCATION
15 CONSTRUCTION REVENUE BOND PROCEEDS ACCOUNT. The proceeds from the sale
16 of bonds authorized in section 201 of this act shall be deposited in
17 the education construction revenue bond proceeds account hereby created
18 in the state treasury. Moneys in the account may be spent only after
19 appropriation and only for the purposes stated in section 201 of this
20 act, for the payment of bond anticipation notes or other interim
21 financing, if any, capitalizing interest on the bonds, and payment of
22 expenses incurred in the sale and issuance of the bonds, including
23 underwriter compensation. The state treasurer may establish
24 subaccounts in the account for the purpose of segregating bond
25 proceeds, including separate subaccounts for segregating proceeds of
26 tax-exempt bonds and taxable bonds.

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

29 WASHINGTON OPPORTUNITY PATHWAYS ACCOUNT; PRIORITY PLEDGE OF
30 REVENUES TO BONDS. (1) The Washington opportunity pathways account is
31 created in the state treasury. Deposits to the account must include
32 net lottery revenues as defined in section 202 of this act that are
33 required to be deposited in the account pursuant to RCW 67.70.230, net
34 shared game lottery revenues as defined in section 202 of this act that
35 are required to be deposited in the account pursuant to RCW 67.70.044,

1 and any other amounts directed by the legislature to be transferred to
2 or deposited in the account.

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

21 (3) After applicable debt service requirements and debt service
22 reserve requirements for bonds issued under section 201 of this act
23 have been satisfied or provided for pursuant to subsection (2) of this
24 section, other expenditures from the account may be used only for
25 programs in chapter 28B.12 RCW (state work-study), chapter 28B.50 RCW
26 (opportunity grant), RCW 28B.76.660 (Washington scholars award), RCW
27 28B.76.670 (Washington award for vocational excellence), chapter 28B.92
28 RCW (state need grant program), chapter 28B.101 RCW (educational
29 opportunity grant), chapter 28B.105 RCW (GET ready for math and science
30 scholarship), chapter 28B.117 RCW (passport to college promise),
31 chapter 28B.118 RCW (college bound scholarship), chapter 28B.119 RCW
32 (Washington promise scholarship), chapter 43.215 RCW (early childhood
33 education and assistance program), and RCW 43.330.280 (recruitment of
34 entrepreneurial researchers, innovation partnership zones and research
35 teams).

36 NEW SECTION. Sec. 207. RETIREMENT OF BONDS. (1) The nondebt-

1 limit bond retirement account shall be used for the payment of
2 principal of and interest on the bonds authorized in section 201 of
3 this act.

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

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

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

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

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

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

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

33 (d) For distribution to the stadium and exhibition center account,
34 created in RCW 43.99N.060. Subject to the conditions of RCW
35 43.99N.070, six million dollars must be distributed under this
36 subsection during the calendar year 1998. During subsequent years,
37 such distribution must equal the prior year's distributions increased

1 by four percent. No distribution may be made under this subsection
2 after December 31, 1999, unless the conditions for issuance of the
3 bonds under RCW 43.99N.020(2) are met. Distributions under this
4 subsection must cease when the bonds are retired, but not later than
5 December 31, 2020;

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

8 (f) For the payment of agent compensation.

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

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

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

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

36 ~~(3)) If at any time the amount available to be transferred from
37 the state lottery account in RCW 67.70.240 to the Washington~~

1 opportunity pathways account pursuant to section 207 of this act is
2 insufficient to satisfy the amount certified under RCW 28B.76.526, then
3 before the commission may make any transfers under this section the
4 treasurer must transfer net shared game lottery revenues from the
5 shared game lottery account to the Washington opportunity pathways
6 account.

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

15 (b) In fiscal year 2006, the percentage to be transferred to the
16 problem gambling account is one-tenth of one percent. In fiscal year
17 2007 and subsequent fiscal years, the percentage to be transferred to
18 the problem gambling account is thirteen one-hundredths of one percent.

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

24 ~~((+5))~~ (3) The remaining net revenues, if any, in the shared game
25 lottery account after the transfers pursuant to this section shall be
26 deposited into the Washington opportunity pathways account.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **PART III**
25 **GRANT PROGRAM**

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

31 (2) The office of the superintendent of public instruction shall
32 establish a plan for grant allocations that considers the following
33 criteria: Public schools must demonstrate the existence of unhoused K-
34 3 students based on a ninety square feet student space allocation per
35 enrolled student in a public school.

1 (3)(a) The office of the superintendent of public instruction may
2 award grants to school districts for the following types of projects:
3 (i) Projects to modernize existing building space; (ii) projects to
4 build permanent instructional space; (iii) the purchase and
5 installation of modular facilities; and (iv) the purchase and
6 installation of portable facilities.

7 (b) For the purposes of this subsection:

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

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

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

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

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

30 (7) The office of the superintendent of public instruction shall
31 develop rules to implement the grant program authorized under this
32 section.

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

