PSHB 2792

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

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

PART I

BOND AUTHORIZATION

NEW SECTION. Sec. 101. LOTTERY REVENUE BONDS AUTHORIZED. (1) For the purpose of providing needed construction assistance and modernization of public schools and higher education institutions, urgent repairs, energy efficiency improvements, and equipment and laboratory upgrades to support education and workforce training programs in high demand fields, the state finance committee is authorized to issue a total of one hundred fifty-six million dollars of lottery revenue bonds, or as much thereof as may be required, payable from 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 defined in section 102
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 102 through 107 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 net lottery revenues received in the lottery
account under RCW 67.70.230 and net shared game lottery revenues
received by the shared game lottery account in RCW 67.70.044, as such
revenues are defined in section 102 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 net
lottery revenues received in the lottery account and net shared game
lottery revenues received by the shared game lottery account in RCW
67.70.044, as such revenues are defined in section 102 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 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. 102. LOTTERY NET REVENUES PLEDGED TO BONDS.
(1) Each bond issued under the authority of this section and sections
101 and 103 through 107 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
net lottery revenues received in the lottery account established in RCW
67.70.230 and net shared game lottery revenues received in the shared
1 67.70.044 and is not a general obligation
2 game lottery account in RCW 67.70.044 and is not a general obligation
3 of the state to which the full faith and credit of the state is
4 pledged. The legislature covenants to appropriate the net lottery
5 revenues and net shared game lottery revenues pledged to the payment of
6 the bonds issued under this section and sections 101 and 103 through
7 107 of this act. The legislature further agrees for the benefit of the
8 owners of outstanding bonds issued by the state under this section and
9 sections 101 and 103 through 107 of this act to continue in effect and
10 not to impair the operation of the state lottery as authorized in
11 chapter 67.70 RCW for payment of the bonds. The state finance
12 committee shall include this pledge and agreement of the state to
13 owners of any bonds issued under this section and sections 101 and 103
14 through 107 of this act. The owner of any bond or the trustee for the
15 owner of any of the bonds may by mandamus or other appropriate
16 proceeding require the transfer and payment of pledged revenues as
17 directed in this section.
18 (2) For purposes of sections 101 through 107 of this act, "net
19 lottery revenues" means all revenues deposited in the lottery account,
20 excluding the following distributions under RCW 67.70.240: Payment of
21 prizes under RCW 67.70.240(1) other than unclaimed prizes under RCW
22 67.70.190; deposits made by the commission in the reserve account and
23 lottery administrative account under RCW 67.70.240(2); amounts
24 obligated under RCW 67.70.240(5); purchase and promotion of games and
25 services under RCW 67.70.240(7); and payments to agents under RCW
26 67.70.240(8). For purposes of sections 101 through 107 of this act,
27 "net shared game lottery revenues" means all moneys deposited in the
28 shared game lottery account in RCW 67.70.044 excluding direct expenses
29 of the shared games.

Sec. 103. RCW 67.70.230 and 2010 1st sp.s. c 37 s 941 are each
31 amended to read as follows:
32 LOTTERY NET REVENUES PLEDGED. There is hereby created and
33 established a separate account, to be known as the state lottery
34 account. Such account shall be managed, maintained, and controlled by
35 the commission and shall consist of all revenues received from the sale
36 of lottery tickets or shares, and all other moneys credited or
37 transferred thereto from any other fund or source pursuant to law. The
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 102 of this act, net lottery revenues are pledged to principal and interest payments on bonds issued under section 101 of this act, including any required reserve, and must be transferred for this purpose by the state treasurer into the education construction revenue bond retirement account created in section 106 of this act.

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

(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 102 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 101 of this act, including any required reserve and must be transferred for this purpose by the state treasurer into the education construction revenue bond retirement account in section 106 of this act.
NEW SECTION.  Sec. 105.  BOND PROCEEDS DEPOSITED INTO EDUCATION CONSTRUCTION REVENUE BOND PROCEEDS ACCOUNT. The proceeds from the sale of bonds authorized in section 101 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 101 of this act. 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.

NEW SECTION.  Sec. 106.  EDUCATION CONSTRUCTION REVENUE BOND RETIREMENT ACCOUNT CREATED FOR DEBT SERVICE PAYMENTS. The education construction revenue bond retirement account is hereby created in the state treasury. Moneys in the account must be used only for the payment of principal and interest on bonds authorized in section 101 of this act. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal and interest on the bonds. 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 on the bonds in accordance with the bond proceedings.

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

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

DISTRIBUTION OF LOTTERY REVENUES. The moneys in the state lottery account shall be used only:
For the payment of prizes to the holders of winning lottery tickets or shares;

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;

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

On and after July 1, 2010, all deposits not otherwise obligated under this section shall be placed in the Washington opportunity pathways account (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 distribution to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs. Three million dollars shall be distributed under this subsection during calendar year 1996. During subsequent years, such distributions shall equal the prior year's distributions increased by four percent. Distributions under this subsection shall cease when the bonds issued for the construction of the baseball stadium are retired, but not more than twenty years after the tax under RCW 82.14.0485 is first imposed);

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 shall be distributed under this subsection during the calendar year 1998. During subsequent years, such distribution shall 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 shall cease when the bonds are retired, but not later than December 31, 2020;

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

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

(8) For the payment of agent compensation.

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

DISTRIBUTION OF SHARED GAME REVENUES. (1) If amounts transferred from the state lottery account in RCW 67.70.240 to the education construction revenue bond retirement account pursuant to section 107 of this act are insufficient to satisfy the amount certified under section 106 of this act, 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 education construction revenue bond retirement account in the amount required to satisfy the deficiency.

(2) 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
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.

(4) 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.

(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.

(5) 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 the student achievement program under RCW 28A.505.220.

(6) 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. 110. 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 education construction revenue bond retirement account as required by sections 102 through 104, 106, and 107 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.

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

TRANSFER FROM EDUCATION CONSTRUCTION FUND TO OPPORTUNITY PATHWAYS
ACCOUNT (OPERATING BUDGET HOLD-HARMLESS). The education construction fund is hereby created in the state treasury.

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

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

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

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

PART II

APPROPRIATIONS--EDUCATION CONSTRUCTION AND EQUIPMENT

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

Energy Efficiency Grants For Higher Education (91000242)

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

(1) The appropriation is provided solely for grants to public higher education institutions for operational cost savings improvements to higher education facilities and related projects that result in energy and operational cost savings. Related projects are those
projects that must be completed in order for the energy efficiency improvements to be effective. Grants may also be used for loan interest payments over the term of a loan.

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

(3) For the purposes of this section:

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

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

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

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

(e) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.
(f) "Public facilities" means buildings, building components, and major equipment or systems owned by public higher education institutions.

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

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

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

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

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

(i) A description of the energy equipment and improvements; and
(ii) A description of the energy and operational cost savings.

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

(7) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of enterprise services energy savings performance contracting project guidelines; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of enterprise services through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of enterprise services through a request for qualifications, a licensed engineer that is a certified energy manager, or a project resource conservation manager.
To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

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

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

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

Appropriation:

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

NEW SECTION. Sec. 202. FOR THE OFFICE OF FINANCIAL MANAGEMENT
Aerospace and Manufacturing Training Equipment Pool (91000003)

Appropriation:

Education Construction Revenue Bond Proceeds
Account--State . . . . . . . . . . . . . . . . . . . . . . . . . . $2,265,000
Prior Biennia (Expenditures) . . . . . . . . . . . . . . . . . . . . $0
Future Biennia (Projected Costs) . . . . . . . . . . . . . . . . $0
TOTAL . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . $2,265,000
NEW SECTION.  Sec. 203. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Energy Efficiency Grants for K-12 Schools (91000017)

Appropriation:
Education Construction Revenue Bond Proceeds
Account--State ........................................ $40,000,000
Prior Biennia (Expenditures) ............................... $0
Future Biennia (Projected Costs) ......................... $0
TOTAL .................................................. $40,000,000

NEW SECTION.  Sec. 204. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Urgent Repair Grant Program (91000016)

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

(1) The appropriation is provided solely for nonrecurring costs associated with school facility repairs and renovations necessary for unforeseen health and safety needs.

(2) The office of the superintendent of public instruction, after consulting with maintenance and operations administrators of school districts, shall develop criteria for providing funding for specific projects to stay within the appropriation level provided in this section. The criteria must include, but are not limited to, the following: (a) Limiting district applications to one hundred thousand dollars; (b) limiting districts eligible to receive the grant to only once every other biennium; and (c) requiring any district receiving funding provided in this section to demonstrate a consistent commitment to addressing school facilities needs.

Appropriation:
Education Construction Revenue Bond Proceeds
Account--State ........................................ $10,000,000
Prior Biennia (Expenditures) ............................... $0
Future Biennia (Projected Costs) ......................... $0
TOTAL .................................................. $10,000,000

NEW SECTION.  Sec. 205. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
INSTRUCTION
Distressed Schools (91000018)

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

Appropriation:
Education Construction Revenue Bond Proceeds
Account--State ......................... $16,000,000

Prior Biennia (Expenditures) ................ $0
Future Biennia (Projected Costs) ........... $0
TOTAL ........................................ $16,000,000

NEW SECTION. Sec. 206. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Puget Sound Skills Center (30000017)

Appropriation:
Education Construction Revenue Bond Proceeds
Account--State ......................... $1,500,000

Prior Biennia (Expenditures) ................ $0
Future Biennia (Projected Costs) ........... $21,400,000
TOTAL ........................................ $22,900,000

NEW SECTION. Sec. 207. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
Grant County Branch Campus of Wenatchee Valley Skills Center (30000091)

Appropriation:
Education Construction Revenue Bond Proceeds
Account--State ......................... $19,408,000

Prior Biennia (Expenditures) ................ $0
Future Biennia (Projected Costs) ........... $9,488,000
TOTAL ........................................ $28,896,000

Sec. 208. 2011 1st sp.s. c 49 s 5013 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

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

Appropriation:
State Building Construction Account--State ........... $1,169,000
Education Construction Revenue Bond Proceeds
Account--State ......................................... $10,500,000
Subtotal Appropriation ................................. $11,669,000
Prior Biennia (Expenditures) .......................... $0
Future Biennia (Projected Costs) .................... (($11,739,000))

Subtotal ................................................ (($12,908,000))

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

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Pierce County Skills Center (20084856)

Reappropriation:
School Construction and Skill Centers Building
Account--State ......................................... $2,087,000
Appropriation:
State Building Construction Account--State ........... $7,100,000
Education Construction Revenue Bond Proceeds
Account--State ......................................... $4,800,000
Subtotal Appropriation ................................. $11,900,000
Prior Biennia (Expenditures) .......................... $9,949,000
Future Biennia (Projected Costs) .................... (($10,772,000))

Subtotal ................................................ (($29,908,000))

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

FOR THE STATE SCHOOL FOR THE BLIND

General Campus Preservation (30000018)

Appropriation:
Charitable, Educational, Penal and Reformatory
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**Sec. 211.** 2011 1st sp.s. c 48 s 5007 (uncodified) is amended to read as follows:

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

Minor Public Works (30000013)

Appropriation:

Charitable, Educational, Penal and Reformatory Institutions Account--State ($536,000)

**Education Construction Revenue Bond Proceeds**

Account--State $536,000

Subtotal Appropriation $536,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $3,811,000

**TOTAL** $4,347,000

**NEW SECTION.** **Sec. 212.** FOR THE WASHINGTON STATE UNIVERSITY

High-Tech Education Equipment (91000020)

Appropriation:

Education Construction Revenue Bond Proceeds

Account--State $1,821,000

Prior Biennia (Expenditures) $0

Future Biennia (Projected Costs) $0

**TOTAL** $1,821,000

**NEW SECTION.** **Sec. 213.** FOR THE WASHINGTON STATE UNIVERSITY

Washington State University Spokane - Riverpoint Biomedical and Health Sciences (20162953)
Appropriation:

Education Construction Revenue Bond Proceeds

Account--State ................................. $1,166,000

Prior Biennia (Expenditures) ......................... $0
Future Biennia (Projected Costs) ...................... $0

TOTAL .............................................. $1,166,000

NEW SECTION. Sec. 214. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Equipment Pool (91000035)

Appropriation:

Education Construction Revenue Bond Proceeds

Account--State ................................. $18,164,000

Prior Biennia (Expenditures) ......................... $0
Future Biennia (Projected Costs) ...................... $0

TOTAL .............................................. $18,164,000

NEW SECTION. Sec. 215. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic College: College Instruction Center (30000122)

Appropriation:

Education Construction Revenue Bond Proceeds

Account--State ................................. $3,624,000

Prior Biennia (Expenditures) ......................... $0
Future Biennia (Projected Costs) ...................... $51,079,000

TOTAL .............................................. $54,703,000

PART III

STATE TREASURER TRANSFERS

NEW SECTION. Sec. 301. FOR THE STATE TREASURER--TRANSFERS

Public Works Assistance Account: For Transfer to the opportunity pathways account, $8,600,000 for fiscal year 2013 .......... $8,600,000
NEW SECTION. Sec. 401. (1) Allotments for appropriations in this act shall be provided in accordance with expedited capital project review requirements adopted by the office of financial management.

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

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

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

(b) Minor works appropriations shall not be used for, among other things: Studies, except for technical or engineering reviews or designs that lead directly to and support a project on the same minor works list; planning; design outside the scope of work on a minor works list; moveable, temporary, and traditionally funded operating equipment not in compliance with the equipment criteria established by the office of financial management; software not dedicated to control of a
specialized system; moving expenses; land or facility acquisition; or to supplement funding for projects with funding shortfalls unless expressly authorized elsewhere in this act. The office of financial management may make an exception to the limitations described in this subsection (2)(b) for exigent circumstances after notifying the legislative fiscal committees and waiting ten days for comments by the legislature regarding the proposed exception.

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

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

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

(2) The office of financial management may find that an amount is in excess of the amount required for the completion of a project only if: (a) The project as defined in the notes to the budget document is substantially complete and there are funds remaining; or (b) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be
completed within the biennium for less than the amount appropriated in this act.

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

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

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

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

(3) To the extent feasible, agencies are directed to accelerate expenditure rates at their current level of permanent employees and shall use contracted design and construction services wherever necessary to meet the goals of this section.
NEW SECTION. Sec. 405. State agencies, including institutions of higher education, shall allot and report full-time equivalent staff for capital projects in a manner comparable to staff reporting for operating expenditures.

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

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

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

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

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

(2) One-half of one percent of moneys appropriated in this act for original construction or any major renovation or remodel work exceeding two hundred thousand dollars by colleges or universities may be expended for the purposes of RCW 28B.10.027. The Washington state arts commission may combine the proceeds from individual projects in order to fund larger works of art or mobile art displays in consultation with the board of regents or trustees.
(3) At least eighty-five percent of the moneys spent by the Washington state arts commission during the 2011-2013 biennium for the purposes of RCW 28A.335.210, 28B.10.027, and 43.17.200 must be expended solely for direct acquisition of works of art. The commission may use up to $100,000 of this amount to conserve or maintain existing pieces in the state art collection pursuant to chapter 36, Laws of 2005.

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

The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. For the 2007-2009 biennium, moneys in the account may be used for grants for projects identified in section 138, chapter 488, Laws of 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund. During the 2011-2013 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund, the water pollution control revolving account, the opportunity pathways account, and the drinking water assistance account such amounts as reflect the excess fund balance of the account.
NEW SECTION.  Sec. 410. CODIFICATION. Sections 101, 102, and 105 through 107 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION.  Sec. 411. 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.
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