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**ENGROSSED SUBSTITUTE SENATE BILL 5702**

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

**By** Senate Ways & Means (originally sponsored by Senators Keiser, Honeyford, Frockt, and Pedersen)

AN ACT Relating to improving state funding for school construction, modernization, and asset preservation; amending RCW 28A.525.025, 28A.525.020, 28A.525.090, 28A.525.058, and 28A.525.310; adding a new chapter to Title 28A RCW; creating new sections; recodifying RCW 28A.525.020, 28A.525.025, 28A.525.058, 28A.525.070, 28A.525.080, 28A.525.090, and 28A.525.310; repealing RCW 28A.525.010, 28A.525.030, 28A.525.040, 28A.525.050, 28A.525.055, 28A.525.060, 28A.525.095, 28A.525.161, 28A.525.162, 28A.525.164, 28A.525.166, 28A.525.168, 28A.525.170, 28A.525.172, 28A.525.174, 28A.525.176, 28A.525.178, 28A.525.180, 28A.525.190, and 28A.525.200; providing effective dates; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature finds that local school districts design, build, own, and manage public school facilities. The Washington state Constitution provides two ways to fund construction of public school facilities. First, the state Constitution provides the means for school districts to levy taxes and issue bonds to finance school construction. Article VII, section 2 of the state Constitution authorizes school districts to collect capital levies to support the construction, remodeling, or modernization of school facilities. In addition, Article VIII, section 6 of the state Constitution authorizes school districts to incur debt up to eleven and one-half percent of the total assessed value of taxable property for school construction. Article VII, section 2 of the state Constitution authorizes school districts to issue general obligation bonds for these capital purposes. Second, Article IX, section 3 of the state Constitution establishes the common school construction fund and dedicates revenues derived from school and state trust lands and earnings of the permanent common school fund to funding common school construction. In addition to these constitutional means for local school districts to finance construction of school facilities, the legislature provides further state financial assistance through appropriations that support the state school construction assistance grant program established in this chapter. This state grant program is not intended to replace the financing provisions established in the state Constitution, but rather to provide state assistance that supplements the constitutional financing provisions. The state grant program helps finance new school capacity to accommodate enrollment growth and to modernize, renew, and replace existing schools while respecting local decisions and control by locally elected school boards.

(2) The legislature also finds that the state school construction assistance grant program established in this chapter is not fully specified in state law, and does not recognize the design, size, quality, and costs of schools that support the kinds of teaching and learning expected in effective public schools. The program also does not adequately support small rural school districts with little local property tax capacity to adequately build and modernize school facilities. The program's assistance for modernizing school facilities does not support a schedule of building systems renewal that optimizes asset preservation.

(3)(a) The legislature intends to improve state financial assistance for school construction over the next several state fiscal biennia.

(b) Immediate improvements are intended to: (i) Align space allocations for elementary school facility grants with calculation made for the K-3 class-size reduction grants so the benefits of the K-3 grants are not negated by obsolete space allocations; (ii) reduce the gap between the actual cost of construction of school facilities and the estimated costs assumed in the omnibus capital appropriations act; (iii) simplify and fully describe in state law the school construction assistance program; (iv) improve state assistance for small rural school districts with poor capacity to raise local funds for school facilities; and (v) expand membership and clarify the responsibilities of the citizens advisory committee specified in RCW 28A.525.025 (as recodified by this act).

(c) Longer range improvements are intended to: (i) Continue to revise space allocation and construction costs funding assumptions to provide state support that more accurately reflects the design and cost of affordable and effective schools; (ii) align state financial support with principles of asset preservation; and (iii) require periodic review of the school construction assistance program to evaluate how it is supporting the construction and renewal of affordable and effective public schools.

**PART I**

**EXPANDED CITIZENS ADVISORY COMMITTEE WITH**

**NEW MEMBERS AND RESPONSIBILITIES**

**Sec.**  RCW 28A.525.025 and 2006 c 263 s 308 are each amended to read as follows:

(1) To maintain citizen oversight on issues pertaining to school facilities and funding for school construction and modernization, a school facilities citizen advisory ((~~panel~~)) committee shall be created and supported by the ((~~state board of education~~)) office of the superintendent of public instruction. The ((~~panel~~)) committee shall advise and make recommendations to the superintendent of public instruction, the governor, and the legislature regarding school facilities, funding for school construction, joint planning and financing of educational facilities, facility plans and programs for nonhigh school districts, and determinations of remote and necessary schools.

(2) The membership of the school facilities citizen advisory ((~~panel~~)) committee shall be as follows:

(a) One member of the state board of education, appointed by the state board of education;

(b) Two school district directors representing school districts of various sizes and geographic locations, who are appointed by the ((~~state board of education~~)) superintendent of public instruction and selected from a list of five names submitted ((~~to the board~~)) by the Washington state school directors' association; ((~~and~~))

(c) Two school district administrators who are appointed by the superintendent of public instruction and selected from a list of five names submitted by the Washington association of school administrators; and

(d) Four additional citizen members appointed by the ((~~state board of education~~)) governor who have experience with concerns for student educational outcomes, school performance and accountability, school design, and school construction and asset preservation.

(3) Members of the ((~~panel~~)) committee shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) ((~~In addition to~~)) The school facilities citizen advisory ((~~panel, the superintendent of public instruction~~)) committee may select a chair from among its members, and determine how the committee will operate. The school facilities citizen advisory committee may convene ((~~a~~)) technical advisory work groups ((~~including representatives from~~)) with expertise in local school ((~~business officers~~)) financial management, building and construction contracting ((~~and trade organizations~~)), architecture and engineering ((~~organizations~~)), and other ((~~organizations with expertise in~~)) disciplines regarding school facilities. The office of the superintendent of public instruction must provide administrative and technical support to the committee.

(5)(a) The committee must prepare a biennial report to the governor and appropriate committees of the legislature that summarizes the condition of Washington public schools and recent school construction activities.

(b) The report on school condition must be based on the inventory and condition of schools (ICOS) system maintained by local school districts and the office of the superintendent of public instruction. The report must identify school districts with incomplete inventory and condition of schools data.

(c) The report on recent school construction activities must include an analysis of school construction costs that describes major components of typical school construction costs and what contributes to school construction costs beyond expected cost ranges. The February 2017 educational service district 112 K-12 capital facilities cost study will serve as a key consideration and reference in the development of the committee report on school construction costs. The report must include recommendations for changes to state financial assistance for school construction that reflect an average of actual school construction costs.

(d) The report must be submitted in electronic form by September 1st in even-numbered years.

(e) The committee must evaluate the effect of student circulation space in older school buildings on the eligible school facility space. The committee must recommend adjustments to reduce the effect of student circulation space in older school buildings to the eligible school facility space to the joint legislative task force created in section 501 of this act.

(f) The committee may also provide other periodic reports, including reports about how school design and quality influence student performance.

(g) The committee must submit an interim report by July 1, 2018, to the joint legislative task force created in section 501 of this act.

**PART II**

**DEFINE FIVE PROGRAM COMPONENTS OF THE**

**SCHOOL CONSTRUCTION ASSISTANCE PROGRAM**

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affordable and effective public schools" means school buildings that can be expanded and are flexible to meet the requirements of an increasing school population and a changing educational program.

(2) "Construction cost allowance" means an amount per gross square feet that is established by fiscal year in the omnibus capital appropriations act.

(3) "Contract" means an interagency agreement entered into between the office of the superintendent of public instruction and a school district receiving: A modernization grant under section 205 of this act; a grant for preservation and renewal of school facilities under section 206 of this act; an enrollment growth grant under section 207 of this act; or a small, rural district modernization grant under section 208 of this act.

(4) "District students," "pupil," or "pupils" means the headcount enrollment submitted by the district under rules established by the office of the superintendent of public instruction and adjusted as provided in section 202 of this act.

(5) "Eligible school facility space" includes all gross square feet of school facilities excluding:

(a) Space that has been constructed for educational and community activities from grants received from nonstate funds. Nonstate funds as used in this subsection means all funds except funds provided by the state or federal government for the purposes identified in this chapter;

(b) Schools that have been replaced with new construction funded in part by modernization grants;

(c) Portable classrooms installed before 1990; and

(d) Specialized multidistrict facilities such as skill centers.

(6) "Preschool students with disabilities" means children of preschool age who have developmental disabilities who are entitled to services under RCW 28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district.

(7) "School facility" means a facility owned by a Washington public school district that is used to conduct educational programs for students. School facility does not include facilities that house district administrative offices, transportation facilities, athletic stadiums and fields, or centralized food service and maintenance facilities not part of a school facility. School facility does include physical education facilities and playgrounds.

(8) "Soft cost allowance" means a percentage of construction cost allowance to cover project costs in addition to construction costs, including architectural and engineering services, permits, furnishings and equipment, sales tax on all project costs, construction management services, value engineering services, constructability review, building commissioning, impact fees, and other costs directly related to the school facility construction project. Project costs excluded from soft cost allowance include land acquisition and any allocation of district administrative costs. The soft cost allowance is established in the omnibus capital appropriations act.

(9) "Space allocation" means an amount of gross square feet per student that is established in the omnibus capital appropriations act.

(10) "State funding assistance percentage" means the ratio of the school district's total assessed property values per pupil divided by the ratio of the statewide total assessed property values per pupil subtracted from three, and then divided by three plus the ratio of the school district's total assessed property values per pupil divided by the ratio of the statewide total assessed property values: PROVIDED, That the minimum state funding assistance percentage must be twenty percent.

(11) "Under-housed students" and "over-housed students" refers to a comparison of the projected district student enrollment six school years from the date of application for a school construction assistance grant with the number of students who can be housed in school facilities based on the applicable space allocation, determined in accordance with section 203 of this act.

NEW SECTION. **Sec.**  The headcount enrollment of district students or pupils must be adjusted to:

(1) Exclude the count of total students residing outside the school district who are enrolled in district alternative learning experience courses under RCW 28A.232.010. In lieu of the exclusion in this subsection (1), a district may submit an alternative calculation for excluding students enrolled in alternative learning experience courses. The alternative calculation must show the student headcount use of district classroom facilities on a regular basis for a reasonable duration by out-of-district alternative learning experience students subtracted by the headcount of in-district alternative learning experience students not using district classroom facilities on a regular basis for a reasonable duration. The alternative calculation must be submitted in a form approved by the office of the superintendent of public instruction. The office of the superintendent of public instruction must develop rules to define "regular basis" and "reasonable duration";

(2) For districts that have been designated as serving high school districts under RCW 28A.540.110, exclude from enrollment count students residing in the nonhigh district if the student is enrolled in any grade level not offered by the nonhigh district;

(3) Increase the enrollment count in nonhigh school districts by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district;

(4) Multiply by one-half the number of preschool students with disabilities included in the enrollment count; and

(5) Count as one headcount student, kindergarten students included in the enrollment count, regardless of whether the student is a full-time or half-time student.

NEW SECTION. **Sec.**  (1) For projected district student enrollment purposes:

(a) Over-housed students exists when the projected number of students is less than the number who can be housed in existing eligible school facility space; and

(b) Under-housed students exists when the projected number of students exceeds the number who can be housed in existing eligible school facility space.

(2) The office of the superintendent of public instruction must consult with the caseload forecast council staff in the development or modification of methods and data used to project the districts' number of students.

NEW SECTION. **Sec.**  (1) The school construction assistance program includes the components in this section.

(2) Pre-2017 school construction assistance program. For school construction assistance program grants awarded before the effective date of this section, the rules, policies, funding formula, and other requirements are those established in law, rules, and budget assumptions within the omnibus capital appropriations act prior to and including the 2015-2017 fiscal biennium.

(3) School modernization school construction assistance program. Section 205 of this act describes the school construction assistance program for modernization of school facilities constructed or modernized and accepted as complete by school board of directors before January 1, 1994.

(4) School preservation and renewal school construction assistance program. Section 206 of this act describes the school construction assistance program for modernization of school facilities constructed or modernized and accepted as complete by school board of directors on or after January 1, 1994.

(5) Enrollment growth school construction assistance program. Section 207 of this act describes the school construction assistance program for districts with enrollment growth that requires additional classroom capacity.

(6) Small rural district school construction assistance program. Section 208 of this act describes the school construction assistance program for districts with enrollments that are less than or equal to one thousand students.

NEW SECTION. **Sec.**  (1) School construction assistance program grants for modernization of school facilities constructed or modernized and accepted as complete by school boards of directors before January 1, 1994, must be determined in accordance with this section.

(2) Eligibility. Modernization grants are for school facilities that are older than thirty years from the date they were constructed or last modernized with state financial support and that require major building systems repair or replacement with an estimated cost that exceeds forty percent of the estimated value of the facility. Modernization grants may be used for new construction to replace a school facility that requires major building systems repair or replacement but this replacement does not change the calculation of the modernization grant. The school facility that is replaced must not be reused as a school facility unless district student enrollment growth justifies the added space, and then only after the facility has been modernized to acceptable standards. Modernization for the reuse of a closed school facility may be eligible for a modernization grant under this section if applicable rules are met.

(3) Grant calculation. Modernization grants are calculated by multiplying the eligible square feet by the applicable construction cost allowance with the addition of the soft cost allowance and multiplying the resulting product by the district's state funding assistance percentage. Eligible square feet for a modernization grant is the eligible school facility space of the school facility or facilities for which modernization grants are sought minus the number of over-housed students in the applicable grades multiplied by the applicable space allocation per student. If the district has under-housed students, the eligible square feet can be increased by the number of unhoused students in the applicable grades multiplied by the space allocation per student, as long as the district's plan will increase the square footage of the facility or facilities being modernized. In calculating modernization grants, all variables set by the omnibus capital appropriations act must be used for the fiscal years in which the grant awards are made.

(4) Disbursement of grant funds and reporting requirements. The office of the superintendent of public instruction must execute a contract with school districts receiving modernization grants. The contract must not be executed until the district has identified available sources of local funds sufficient to complete the approved project considering the amount of the state grant. The contract must include provisions for disbursing state funds proportionate to eligible project costs incurred multiplied by the state funding assistance percentage. When a district has used local funds for costs eligible for state fund reimbursement under a modernization grant, if the state funds are not applied to eligible modernization project costs, use of the state funds must comply with the requirements of the applicable source of local funds. The contract must specify reporting requirements from the district, which must include updating all pertinent information in the inventory and condition of schools system and submitting a final project report as specified by the office of the superintendent of public instruction in consultation with the school facilities citizens advisory committee created in RCW 28A.525.025 (as recodified by this act).

NEW SECTION. **Sec.**  (1) School construction assistance program grants for preservation and renewal of school facilities constructed or modernized and accepted as complete by school boards of directors after January 1, 1994, must be determined in accordance with this section.

(2) Eligibility. Preservation and renewal grants are for replacement or renewal of school facility major building systems that have reached their expected life. The definitions of major building systems and their expected lives must be developed and recommended by the school facilities citizens advisory committee created in RCW 28A.525.025 (as recodified by this act). The committee must recommend initial definitions and expected reliable building systems expected life cycles in a report to the joint legislative task force created in section 501 of this act by July 1, 2018. Recommendations must: (a) Provide incentives to school districts to provide effective building system preventative maintenance programs; (b) maximize long-term value from state and local investment in school facilities; and (c) provide affordable and effective public schools.

(3) Grant calculation. Preservation and renewal grants are calculated by multiplying the cost to renew or replace the major building system by the district's state funding assistance percentage. This amount must then be reduced by the percent of over-housed students divided by total students at the applicable grade levels if that percentage exceeds twenty-five percent. The cost of this renewal or replacement must be within an established cost range set in the omnibus capital appropriations act. By July 1, 2018, the school facilities citizens advisory committee created in RCW 28A.525.025 (as recodified by this act) must recommend initial cost ranges for renewal or replacement of major building systems in a report to the joint legislative task force created in section 501 of this act. In calculating preservation and renewal grants, all variables set by the omnibus capital appropriations act must be used for the fiscal years in which the grant awards are made. The joint legislative task force created in section 501 of this act shall evaluate how declining enrollment may prevent school districts from qualifying for preservation and renewal grants and recommend measures to enable these school districts to qualify for preservation and renewal grants.

(4) Disbursement of grant funds and reporting requirements. The office of the superintendent of public instruction must execute a contract with school districts receiving preservation and renewal grants. The contract must not be executed until the district has identified available sources of local funds sufficient to complete the approved project considering the amount of the state grant. The contract must include provisions for disbursing state funds proportionate to eligible project costs incurred multiplied by the state funding assistance percentage. When a district has used local funds for costs eligible for state fund reimbursement under a preservation and renewal grant, if the state funds are not applied to eligible preservation and renewal project costs, use of the state funds must comply with the requirements of the applicable source of local funds. The contract must specify reporting requirements from the district, which must include updating all pertinent information in the inventory and condition of schools system and submitting a final project report as specified by the office of the superintendent of public instruction in consultation with the school facilities citizens advisory committee specified in RCW 28A.525.025 (as recodified by this act).

(5) The office of the superintendent of public instruction must not solicit grant applications from school districts for preservation and renewal grants until funds for such grants have been appropriated in the omnibus capital appropriations act. The legislature does not intend to fund these grants until after receipt of the report by the joint legislative task force created in section 501 of this act.

NEW SECTION. **Sec.**  (1) School construction assistance program grants for enrollment growth must be determined in accordance with this section.

(2) Eligibility. Enrollment growth grants are for school districts with under-housed students.

(3) Grant calculation. Enrollment growth grants are calculated by multiplying the number of under-housed students in the applicable grades by the space allocation and then multiplying the resulting product by the applicable construction cost allowance with the addition of the soft cost allowance and multiplying the resulting product by the district's state funding assistance percentage. Eligible square feet for an enrollment growth grant can be increased by the eligible school facility space contained in portable classrooms if the facility funded with an enrollment growth grant will replace those portable classrooms and result in the removal of those portable classrooms. In calculating enrollment growth grants, all variables set by the omnibus capital appropriations act must be used for the fiscal years in which the grant awards are made.

(4) Disbursement of grant funds and reporting requirements. The office of the superintendent of public instruction must execute a contract with school districts receiving enrollment growth grants. The contract must not be executed until the district has identified available sources of local funds sufficient to complete the approved project considering the amount of the state grant. The contract must include provisions for disbursing state funds proportionate to eligible project costs incurred multiplied by the state funding assistance percentage. When a district has used local funds for costs eligible for state fund reimbursement under a modernization grant, if the state funds are not applied to eligible modernization project costs, use of the state funds must comply with the requirements of the applicable source of local funds. The contract must specify reporting requirements from the district, which must include updating all pertinent information in the inventory and condition of schools system and submitting a final project report as specified by the office of the superintendent of public instruction in consultation with the school facilities citizens advisory committee specified in RCW 28A.525.025 (as recodified by this act).

NEW SECTION. **Sec.**  (1) School construction assistance program grants for small, rural districts must be determined in accordance with this section.

(2) Eligibility. Small, rural district modernization grants are for school districts with enrollments that are less than or equal to one thousand students. For school districts that, because of low assessed property values or high indebtedness, are not eligible for school construction assistance program modernization grants, the joint legislative task force established in section 501 of this act shall recommend measures for those school districts to become eligible in the small, rural district school construction assistance program. Districts with incomplete information in the inventory and condition of schools data system are not eligible to apply.

(3) Prioritized grants and advisory committee.

(a) The small, rural district school modernization program must propose a list of prioritized grants by September 1st of even-numbered years. The superintendent of public instruction must appoint an advisory committee to prioritize applications for small, rural school districts. Committee members must have experience in financing, managing, repairing, and improving school facilities in small, rural districts but must not be involved in a small, rural modernization program request for the biennium under consideration. The office of the superintendent of public instruction must provide administrative and staff support to the committee. The committee must review and rank applications in the three-step process in this subsection (3).

(b) Step one must involve a simplified application from interested districts with a brief statement of the school condition, its deficiencies, student enrollment, student achievement measures, and financial limitations of the district. The advisory committee created in (a) of this subsection must identify a preliminary list of school districts with the most serious building deficiencies, the most limited financial capacity, and the greatest student opportunity gaps given the condition of school facilities.

(c) After identifying the list of school districts under (b) of this subsection, the advisory committee created in (a) of this subsection and the office of superintendent of public instruction must offer technical assistance to the districts on the list to develop affordable and effective proposals to resolve the most serious building deficiencies.

(d) After offering technical assistance under (c) of this subsection, the advisory committee created in (a) of this subsection must evaluate final applications from the school districts on the first list interested in pursuing a grant. The advisory committee must submit a prioritized list of grants to the superintendent of public instruction and the governor. The list must prioritize applications to achieve the greatest improvement of school facilities, in the districts with the most limited financial capacity, for projects that are likely to improve student health, safety, and academic performance for the largest number of students for the amount of state grant support. The advisory committee must develop specific criteria to achieve the prioritization. The submitted prioritized list must describe the project, the proposed state funding level, and the estimated total project cost including other funding and in-kind resources. The list must also indicate student achievement measures that will be used to evaluate the benefits of the project. The superintendent of public instruction and the governor may determine the level of funding in their omnibus capital appropriations act requests to support small, rural school district grants, but their funding requests must follow the prioritized list prepared by the advisory committee unless new information determines that a specific project is no longer viable as proposed.

(4) Disbursement of grant funds and reporting requirements. The office of the superintendent of public instruction must execute a contract with school districts receiving small, rural school modernization grants. The contract must not be executed until the district has identified available local and other resources sufficient to complete the approved project considering the amount of the state grant. The contract must include provisions for disbursing state funds for eligible project costs incurred. When a district has used local funds for costs eligible for state fund reimbursement under a small, rural modernization grant, if the state funds are not applied to eligible project costs, use of the state funds must comply with the requirements of the applicable source of local funds. The contract must specify reporting requirements from the district, which must include updating all pertinent information in the inventory and condition of schools system and submitting a final project report as specified by the office of the superintendent of public instruction in consultation with the school facilities citizens advisory committee specified in RCW 28A.525.025 (as recodified by this act).

**PART III**

**ADMINISTRATIVE REQUIREMENTS AND AUTHORITIES FOR THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

**Sec.**  RCW 28A.525.020 and 2006 c 263 s 301 are each amended to read as follows:

The office of the superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory ((~~panel~~)) committee, shall have the power and duty ((~~(1)~~)) to ((~~prescribe rules governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever such action is advisable; (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance and/or to prorate allotments among such districts in conformity with applicable procedures and rules~~)):

(1) Establish rules, application materials, contracts, monitoring and reporting requirements, and all other necessary administrative processes necessary for the implementation of this chapter in conformity with the requirements and assumptions in the omnibus capital appropriations act necessary to fund the grant programs described in this chapter; and

(2) Develop and update a manual to inform and guide local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school facilities for the common schools, which must include, but not be limited to:

(a) The requirements and calculations for grants provided by this chapter;

(b) Suggested procedures for conducting a school facilities planning program, including standards for selection and development of school sites and the design and construction of affordable and effective school facilities; and

(c) A description of an effective school facilities maintenance program that achieves the purposes of asset preservation and supports the health, safety, and educational progress of pupils.

**Sec.**  RCW 28A.525.090 and 2009 c 129 s 4 are each amended to read as follows:

(1) The superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory ((~~panel~~)) committee, shall adopt rules for appropriate use of the following construction management techniques: Value engineering, constructibility review, building commissioning, and construction management. Rules adopted under this section shall:

(a) Define each technique as it applies to school buildings;

(b) Describe the scope of work for each technique;

(c) Define the timing for implementing each technique in the construction process;

(d) Determine the appropriate size of projects for the use of each technique; and

(e) Determine standards for qualification and performance for each technique.

(2) ((~~Except as provided in rules adopted under subsection (1)(d) of this section, in allocating state moneys provided under this chapter, the superintendent of public instruction shall include in funding for each project, at the state funding assistance percentage, the cost of each of the construction management techniques listed in subsection (1) of this section.~~

~~(3) When assigning priority and allocating state funds for construction of common school facilities, the superintendent shall consider the adequacy of the construction management techniques used by a district and the compliance with the rules adopted under subsection (1) of this section.~~

~~(4)~~)) Except as provided in rules adopted under subsection (1)(d) of this section, the construction management techniques in subsection (1) of this section shall be used on each project submitted for approval by the superintendent.

((~~(5)~~)) (3)(a) School districts applying for state funding assistance for school facilities shall:

(i) Cause value engineering, constructibility review, and building commissioning to be performed by contract with a professional firm specializing in those construction management techniques; and

(ii) Contract or employ personnel to perform professional construction management.

(b) All recommendations from the value engineering and constructibility review construction techniques for a school project shall be presented to the school district's board of directors for acceptance or rejection. If the board of directors rejects a recommendation it shall provide a statement explaining the reasons for rejecting the recommendation and include the statement in the application for state funding assistance to the superintendent of public instruction.

((~~(6)~~)) (4) The office of the superintendent of public instruction shall provide:

(a) An information and training program for school districts on the use of the construction management techniques; and

(b) Consulting services to districts on the benefits and best uses of these construction management techniques.

**PART IV**

**UPDATE TO K-3 GRANT PROGRAM**

**Sec.**  RCW 28A.525.058 and 2015 3rd sp.s. c 41 s 201 are each amended to read as follows:

(1) The K-3 class size reduction construction grant pilot program must be administered by the office of the superintendent of public instruction within the provisions of this section. Grants must be calculated and awarded based on the following four steps:

(a) Step 1: A verified count of necessary added classrooms in a district applying for a grant must be completed by the district and verified by the Washington State University extension energy office. The count of necessary added classrooms must be calculated in accordance with the following requirements:

(i) An inventory of all classrooms in all elementary schools in the district applying for the grant must be completed.

(ii) For purposes of this section, elementary school is any district school facility containing students in kindergarten through fifth grade or sixth grade. All classrooms include any room in an elementary school in a permanent or portable structure that is in use as a classroom or that could be used as a classroom if one of the following conditions are met:

(A) A classroom in a permanent building was designed as a classroom at the time the school was constructed or was subsequently added as part of a modernization or renovation.

(B) A classroom in a portable building installed after 1992 and that meets the building code requirements for use as a classroom without requiring repairs or renovations that exceed fifty thousand dollars.

The count of all district classrooms must also include all planned elementary school classrooms in projects approved at the "D6" stage or later of the school construction assistance program. This inventory of classrooms must be entered in the inventory and condition of school system maintained by the office of the superintendent of public instruction.

(iii) A count of available classrooms in each elementary school in a district must be completed. Available classrooms include all classrooms inventoried in (a)(i) of this subsection minus:

(A) Classrooms in elementary schools that are regularly used for students in grades seventh or higher;

(B) Classrooms in elementary schools that are regularly used for prekindergarten students participating in special education programs;

(C) Classrooms in elementary schools that are regularly used for prekindergarten students not participating in special education programs if such use started prior to July 14, 2015;

(D) Seventy-five percent of classrooms in elementary schools that are regularly used for kindergarten through sixth grade students participating in special education programs or that are regularly used for English language learner programs;

(E) Fifty percent of classrooms in elementary schools that are regularly used for students in gifted and talented education;

(F) Fifty percent of classrooms in elementary schools that are regularly used for laboratory space, music, or art if such regular use exceeds fifty percent of school hours in the average week.

(iv) A calculation of needed classrooms must be completed. The number of needed classrooms is calculated by dividing the number of students in each grade in the most recent final October head count by the average class size objectives for the 2017-18 school year enumerated in RCW 28A.150.260 in effect as of October 31, 2014. Students residing outside the school district who are enrolled in alternative learning experience courses under RCW 28A.232.010 must be excluded from the count of total pupils. In lieu of the exclusion in this subsection, a district may submit an alternative calculation for excluding students enrolled in alternative learning experience courses. The alternative calculation must show the student head count use of district classroom facilities on a regular basis for a reasonable duration by out-of-district alternative learning experience students subtracted by the head count of in-district alternative learning experience students not using district classroom facilities on a regular basis for a reasonable duration. The alternative calculation must be submitted in a form approved by the office of the superintendent of public instruction. The office of the superintendent of public instruction must develop rules to define "regular basis" and "reasonable duration." If the calculation of needed classrooms for fourth and fifth grade students using the average class size ratios in RCW 28A.150.260 is less than the actual number of classrooms regularly used for fourth and fifth grade students, the actual number of fourth and fifth grade classrooms may be used to calculate the total needed classrooms.

(v) A calculation of necessary added classrooms must be completed for each school district applying for a grant. Necessary added classrooms are calculated by subtracting the available school district classrooms from the school district needed classrooms.

(b) Step 2: A determination must be made whether the number of necessary added classrooms is sufficient to justify constructing a new school or modernizing a previously closed school, or whether the number of necessary added classrooms can be provided with the addition of modular classrooms or increasing the number of classrooms in a planned school approved at the "D6" stage of the school construction assistance program.

(i) If the number of necessary added classrooms is twelve or greater, the presumption is a new school is required. For this purpose a new school means a newly constructed school, an addition of twelve or more classrooms to an existing school, or modernization of a previously closed school. A school district may choose to locate any necessary added classrooms among existing school facilities.

(ii) If the number of necessary added classrooms is less than twelve, the presumption is the added classrooms can be provided with the addition of modular classrooms or by increasing the number of classrooms in a planned school approved at the "D6" stage of the school construction assistance program. A school district may choose to provide necessary added classrooms with modular classrooms or construct new classrooms or modernize existing school buildings to create additional classrooms.

(c) Step 3: A calculation of the grant amount a school district is eligible for must be determined.

(i) Grants for necessary added classrooms that can be provided with the addition of modular classrooms must not exceed two hundred ten thousand dollars multiplied by the number of necessary added classrooms multiplied by the state matching ratio defined in (c)(iii) of this subsection.

(ii) Grants for necessary added classrooms that must be provided with a new school or modernization of an existing school building must not exceed six hundred fifteen thousand eighty-three dollars multiplied by the number of necessary added classrooms multiplied by the state matching ratio defined in (c)(iii) of this subsection.

(iii) The state matching ratio for use in this section only is the computed state ((~~ratio defined in RCW 28A.525.166~~)) funding assistance percentage plus twenty percent of the percent of district head count eligible and enrolled in the free and reduced school lunch program.

(iv) Grants may not exceed the total project cost for providing the necessary added classrooms multiplied by the state matching ratio defined in (c)(iii) of this subsection.

(v) The amounts in (c)(i) and (ii) of this subsection must be increased for the fiscal year of the grant award by the same percentage increase as the school construction assistance program construction cost allocation is increased from fiscal year 2014 as authorized in the omnibus capital appropriations act.

(d) Step 4: Grant funds must be awarded and disbursed in accordance with the following requirements:

(i) A determination that the school district is ready to begin the project or projects to provide the necessary added classrooms must be made. To be determined ready, a district must:

(A) Have had classrooms inventoried in (a)(i) of this subsection;

(B) Certify that the required local funds are authorized to complete the project;

(C) Have an available site or sites for the project; and

(D) Demonstrate that additional classrooms will achieve progress towards the average class size objectives for the 2017-18 school year enumerated in RCW 28A.150.260 in effect as of October 31, 2014, and all-day kindergarten as funded pursuant to RCW 28A.150.315.

(ii) The office of financial management must approve allotments prior to issuing grant award letters. The office of the superintendent of public instruction must submit documentation to the office of financial management to justify the project grant award, including steps taken to verify counts and calculations, in requesting allotment approval.

(iii) Grant funds may be disbursed only after the required local match has been fully expended.

(2) If grant applications for the K-3 class size reduction construction grant pilot program exceed available funding, the office of the superintendent of public instruction must prioritize grant awards based on the following criteria in the following order of importance:

(a) Districts that applied for and were eligible to receive a grant from the 2015-2017 K-3 grant appropriation, but did not receive a grant due to lack of state funds. Such districts must only update the information in their previous application to be considered for a grant;

(b) Applicants with high necessary added classrooms to available classrooms ratio in kindergarten through third grades;

((~~(b)~~)) (c) Applicants with high student to teacher ratios in kindergarten through third grades;

((~~(c)~~)) (d) Applicants with high percentages of students who are eligible and enrolled in the free and reduced-price meals program; and

((~~(d)~~)) (e) Applicants that have not raised capital funds through levies or bonds in the prior ten-year period.

(3) The superintendent of public instruction must report annually on the grants awarded and school district applicants. The report must include (a) grant amounts and the status of all awarded grants by school district; (b) data documenting actual class size reductions and all-day kindergarten achieved in school districts that have received grants provided under this section; (c) a list of school districts that applied for grants during the current and previous fiscal years with estimates of necessary added classrooms; and (d) any other information relevant to the pilot program. Beginning in 2015, the report must be submitted to the office of financial management and the appropriate committees of the legislature by December 1st.

(4) This section expires July 1, ((~~2017~~)) 2021.

**PART V**

**MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  JOINT LEGISLATIVE TASK FORCE ON IMPROVING STATE FUNDING FOR SCHOOL CONSTRUCTION. (1) The joint legislative task force on improving state funding for school construction is established. The task force must recommend improvements to state financial assistance to be implemented over the next several fiscal biennia.

(2) The task force must consider the findings and recommendations of the school facilities citizen advisory committee, established in section 101 of this act, and other information about the history of state assistance to help local school districts design, build, and maintain public schools in order to make recommendations on improvements in how that state assistance is provided.

(3)(a) The joint legislative task force on improving state funding for school construction consists of eight members, two members each, one from each major caucus, from the house of representatives committees on capital budget and on education, appointed by the majority and minority leaders of the two major caucuses of the house of representatives, and two members each, one from each major caucus, from the senate committees on ways and means and on early learning and K-12 education, appointed by the majority and minority leaders of the two major caucuses of the senate.

(b) The task force shall select a chair from among its membership.

(c) Staff support for the task force must be provided by the house of representatives office of program research and senate committee services.

(d) The office of the superintendent of public instruction and the office of financial management shall cooperate with the task force and maintain liaison representatives.

(e) The task force shall coordinate with the appropriate standing committees of the legislature and may consult with other interested parties, as may be appropriate, for technical advice and assistance.

(4) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(6) The task force must report its findings and recommendations to the appropriate committees of the legislature by December 1, 2018.

(7) This section expires June 30, 2019.

**Sec.**  RCW 28A.525.310 and 1999 c 386 s 2 are each amended to read as follows:

The board of directors of any school district may use the proceeds of ((~~voter-approved bonds,~~)) voter-approved levies((~~, state allocations for financial assistance,~~)) or other funds available to the district for: (1) Payment of an installment purchase contract for school plant facilities; or (2) payments under any financing lease the term of which is ten years or longer and that contains an option by the school district to purchase the leased property for nominal consideration. The authority granted by this section for the use of moneys from such sources is in addition to, and not in limitation of, any other authority provided by law, and the proceeds of voter-approved ((~~bonds or~~)) tax levies may be used for such payments to the full extent allowed by Article VII, section 2 of the state Constitution.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 28A.525.010 (Statement of intent) and 1969 ex.s. c 223 s 28A.47.050;

(2)RCW 28A.525.030 (Modernization of existing school facilities) and 2006 c 263 s 302, 1995 c 77 s 23, 1980 c 154 s 17, & 1969 ex.s. c 223 s 28A.47.073;

(3)RCW 28A.525.040 (Portable buildings or classrooms) and 2009 c 129 s 3 & 1969 ex.s. c 223 s 28A.47.075;

(4)RCW 28A.525.050 (Applications for aid—Recommendations) and 2006 c 263 s 303 & 1969 ex.s. c 223 s 28A.47.080;

(5)RCW 28A.525.055 (Eligibility for state assistance for new construction—Inventory assessment exclusions—Rules) and 2016 c 159 s 1, 2006 c 263 s 304, & 1994 c 219 s 11;

(6)RCW 28A.525.060 (Manual—Contents—Preparation and revision) and 1990 c 33 s 431, 1979 c 141 s 36, & 1969 ex.s. c 223 s 28A.47.090;

(7)RCW 28A.525.095 (Condensed compliance reports—Second-class districts) and 2011 c 45 s 39;

(8)RCW 28A.525.161 (School construction assistance calculations for shared or colocated facilities—Rules) and 2012 c 245 s 1;

(9)RCW 28A.525.162 (Allotment of appropriations for school plant facilities—Local school district participation—Computing state funding assistance—Rules) and 2013 2nd sp.s. c 18 s 513, 2012 c 244 s 2, 2009 c 129 s 5, 2006 c 263 s 309, 1995 c 77 s 24, 1990 c 33 s 455, 1989 c 321 s 1, 1980 c 154 s 18, 1974 ex.s. c 56 s 1, 1970 ex.s. c 42 s 5, & 1969 ex.s. c 244 s 2;

(10)RCW 28A.525.164 (Allotment of appropriations for school plant facilities—Duties of superintendent of public instruction) and 2006 c 263 s 310, 1990 c 33 s 456, 1989 c 321 s 2, 1974 ex.s. c 56 s 2, & 1969 ex.s. c 244 s 3;

(11)RCW 28A.525.166 (Allotment of appropriations for school plant facilities—Computation of state aid for school plant project) and 2015 3rd sp.s. c 3 s 7018, 2013 2nd sp.s. c 18 s 514, & 2012 c 244 s 3;

(12)RCW 28A.525.168 (Allotment of appropriations for school plant facilities—Use of taxable valuation and state funding assistance percentage in determining eligibility) and 2009 c 129 s 7, 2006 c 263 s 312, 1990 c 33 s 458, & 1969 ex.s. c 244 s 5;

(13)RCW 28A.525.170 (Allotment of appropriations for school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district) and 2006 c 263 s 313, 1990 c 33 s 459, 1974 ex.s. c 56 s 4, & 1969 ex.s. c 244 s 6;

(14)RCW 28A.525.172 (Allotment of appropriations for school plant facilities—Application by district for state assistance—Studies and surveys by the superintendent of public instruction) and 2006 c 263 s 314 & 1969 ex.s. c 244 s 7;

(15)RCW 28A.525.174 (Allotment of appropriations for school plant facilities—Manual, other materials to guide and provide information to district) and 2006 c 263 s 315, 1990 c 33 s 460, 1979 c 141 s 39, 1974 ex.s. c 56 s 5, & 1969 ex.s. c 244 s 8;

(16)RCW 28A.525.176 (Allotment of appropriations for school plant facilities—Consultatory and advisory service from the superintendent of public instruction) and 2006 c 263 s 316, 1990 c 33 s 461, 1974 ex.s. c 56 s 6, & 1969 ex.s. c 244 s 9;

(17)RCW 28A.525.178 (Allotment of appropriations for school plant facilities—Modifiable basic or standard plans for school buildings) and 2006 c 263 s 317, 1990 c 33 s 462, 1974 ex.s. c 56 s 7, & 1969 ex.s. c 244 s 10;

(18)RCW 28A.525.180 (Allotment of appropriations for school plant facilities—Reduction of appropriation for receipt of federal funds) and 2006 c 263 s 318, 1990 c 33 s 463, 1974 ex.s. c 56 s 8, & 1969 ex.s. c 244 s 11;

(19)RCW 28A.525.190 (Prioritizing construction of common school facilities) and 2006 c 263 s 319 & 1975 1st ex.s. c 98 s 2; and

(20)RCW 28A.525.200 (Allocation and distribution of funds for school plant facilities governed by chapter) and 2015 1st sp.s. c 4 s 24, 2006 c 263 s 320, 1990 c 33 s 465, 1985 c 136 s 2, & 1977 ex.s. c 227 s 1.

NEW SECTION. **Sec.**  RCW 28A.525.020, 28A.525.025, 28A.525.058, 28A.525.070, 28A.525.080, 28A.525.090, and 28A.525.310 are each recodified as sections in the new chapter created in section 505 of this act.

NEW SECTION. **Sec.**  Sections 1 and 201 through 208 of this act constitute a new chapter in Title 28A RCW to be named state assistance for school construction.

NEW SECTION. **Sec.**  This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Section 501 of this act takes effect July 1, 2018.

NEW SECTION. **Sec.**  Section 401 of 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 June 30, 2017.

NEW SECTION. **Sec.**  Except for sections 401 and 501 of this act, 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 July 1, 2017.

**--- END ---**