**1044-S AMS WM S2984.1 - NOT FOR FLOOR USE**

**SHB 1044** - S COMM AMD

By Committee on Ways & Means

**ADOPTED 04/11/2023**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature intends to create a new grant program through which small, financially distressed school districts that generally do not participate in the current school construction assistance program will be able to get the necessary funds to modernize or rebuild their school buildings.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.525 RCW to read as follows:

(1) Supplementary modernization and new construction grants and planning grants for financially distressed school districts must be awarded and determined in accordance with this section.

(2) Applicant eligibility criteria. Subject to subsection (4) of this section, only school districts that meet the following criteria are eligible for grants under this section:

(a) School districts that have a student headcount enrollment of 1,000 or fewer students; or

(b) School districts that have a student headcount enrollment of 3,000 or fewer students that meet the following additional criteria:

(i) The school district is located in an educational service district with rural communities that experience prohibitive access to skill centers or other workforce development facilities or programs;

(ii) The school district has been unable to secure voter approval to issue bonds for capital purposes in the prior 25 years and has had at least three bond measures rejected by voters in consecutive years during that 25-year period; and

(iii) The school district has instructional buildings that do not meet structural, capacity, environmental, or emergency requirements.

(3) Project eligibility criteria.

(a) Projects funded under this section must meet the following conditions: (i) Projects must comprehensively modernize or replace instructional buildings that are at least 30 years old and that are recorded as poor or unsatisfactory condition by the office of the superintendent of public instruction; and (ii) projects must not exceed 110 percent of the statewide average cost per square foot for new construction or modernization, as applicable, and as estimated by the advisory committee and approved by the office of the superintendent of public instruction.

(b) To meet the project eligibility criteria for comprehensive modernization specified under (a) of this subsection, projects must correct critical physical deficiencies and essential safety concerns, including: (i) Seismic vulnerabilities; (ii) failing or broken building and site systems; (iii) deficiencies of infrastructure and components; (iv) barriers to program accessibility; (v) deteriorated exterior conditions; and (vi) deficiencies in interior classroom spaces. Project approaches may include modernizing, repairing, reconfiguring, or replacing existing buildings, constructing new buildings, and upgrading deteriorated and outdated site infrastructure.

(c) School districts applying for a grant under this section must submit separate applications for each individual school.

(4) Other eligibility criteria. School districts with incomplete or outdated building inventories, natural hazard assessments, and condition information as required by the office of the superintendent of public instruction are not eligible to apply for construction grants under this section but may apply for planning grants. Building inventory and condition information must be provided by an independent consultant certified by the office of the superintendent of public instruction. A seismic building assessment must be conducted by an engineer licensed as a structural engineer in Washington state.

(5) Eligible use of grants. A grant awarded pursuant to this section may only be used for the following purposes: (a) The collection of the required information in subsection (4) of this section; (b) all predesign and design costs including value engineering and constructability review; and (c) all related costs associated with the project except school district administration costs as determined by the office of the superintendent of public instruction.

(6) Required grant list.

(a) The superintendent of public instruction must propose a list of prioritized planning and construction grants pursuant to this section for school districts meeting the eligibility requirements established in subsection (2) of this section to the governor by September 1st of even-numbered years, beginning on September 1, 2024. This list must include: (i) A description of the proposed project; (ii) the proposed planning grant amount, when applicable; (iii) the proposed construction grant amount, when applicable; (iv) the anticipated school construction assistance program amount; (v) the anticipated local share of project cost; and (vi) the estimated total project cost.

(b) The superintendent of public instruction and the governor may determine the level of funding in their omnibus capital appropriations act requests to support grants under this section, 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.

(7) Planning grant requirements and prioritization. Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must assist eligible school districts that are interested in applying for a construction grant under this section by providing technical assistance and planning grants. School districts seeking planning grants under this section must provide a brief statement describing existing school conditions, building system and site deficiencies, current and five-year projected student headcount enrollment, student achievement measures, and financial constraints. If applications for planning grants exceed funds available, the office of the superintendent of public instruction may prioritize planning grant requests with primary consideration given to school district financial capacity and facility conditions.

(8) Construction grant requirements and prioritization.

(a) School districts applying for a construction grant under this section must have received and completed a planning grant under subsection (7) of this section or have completed construction documents including drawings, specifications, total project cost estimates, contract and procurement requirements, and other materials required by the advisory committee, as part of the construction grant application process.

(b) Subject to the availability of amounts appropriated for this specific purpose, the advisory committee must prioritize applications from school districts with the lowest remaining debt capacity, most significant building deficiencies, and lowest head count enrollment. The advisory committee may weigh these factors as appropriate given the pool of applicants and the extent each factor deviates from the statewide average.

(9) Eligibility and prioritization recommendations. The advisory committee may propose changes to the eligibility threshold and grant application prioritization criteria to the legislature as they learn more about the characteristics of school districts that are unable to replace or modernize their aging school facilities.

(10) Share of project costs. School districts receiving a grant under this section must provide a district share in accordance with the following requirements:

(a) Except as provided for under (b) and (c) of this subsection, to receive a grant under this section a school district must provide, for each grant awarded, a district share of project cost equal to at least 50 percent of the district's remaining debt capacity pursuant to RCW 39.36.020.

(b) To the extent that the district share requirement under (a) of this subsection would, at the time of application, require the estimated school district property tax rate increment associated with the grant to exceed a threshold of $1.75 per $1,000 of assessed property value, the office of the superintendent of public instruction must reduce the required district share to achieve an estimated property tax rate equal to this threshold.

(c) A school district may use federal funding, other nonstate grant funding, and private donations to pay for its share under this subsection. When calculating a district's share requirement under (a) of this subsection, the superintendent of public instruction must reduce the district's required share in a manner directly proportionate to the amount of nonstate and nonschool district funding provided to support the state grant.

(d) To determine the property tax rate threshold under (b) of this subsection, the office of the superintendent of public instruction must calculate the property tax rate increment associated with the grant based on the estimated annualized debt service costs for general obligation bonds issued with an average maturity of no less than 20 years and the interest rate for state of Washington general obligation bonds issued most closely to the date of application for the grant.

(11) Coordination with the school construction assistance program and local cost share. To the extent that a school district awarded a grant under this section is also eligible for funding under the school construction assistance program provided by RCW 28A.525.162 through 28A.525.180, the office of the superintendent of public instruction must coordinate grant funding between the programs and ensure that total state funding from a grant under this section and a school construction assistance program grant does not exceed total project costs minus the school district's share calculated under subsection (10) of this section. School districts that receive grants under this section may use the grant to fund the required local funding equal to or greater than the difference between the total approved project cost and the amount of state funding assistance computed provided by RCW 28A.525.162 through 28A.525.180. However, school districts coordinating grants provided in this section with school construction assistance program funding are required to contribute not less than the school district's required share as calculated under subsection (10) of this section.

(12) Disbursement of grant funds and reporting requirements. The office of the superintendent of public instruction must award grants under this section to school districts. The grants must not be awarded until the recipient has identified available local and other resources sufficient to complete the approved project considering the amount of state grant funding. The grant must specify reporting requirements for the district and must include:

(a) Updating all school inventory and condition data considered necessary by the office of the superintendent of public instruction;

(b) Submitting a final project report as specified by the office of the superintendent of public instruction in consultation with the advisory committee and approved by the school facilities citizen advisory panel created under RCW 28A.525.025; and

(c) Implementing and maintaining an asset preservation program for the facility receiving grant funding as required by the office of the superintendent of public instruction's asset preservation program.

(13) For the purposes of this section, "advisory committee" means the advisory committee created under RCW 28A.525.159.

**Sec.**  RCW 28A.525.159 and 2020 c 299 s 1 are each amended to read as follows:

(1) School construction assistance program grants for small school districts and state-tribal education compact schools must be determined in accordance with this section.

(2) Eligibility. School districts and state-tribal education compact schools with enrollments that are less than or equal to one thousand students are eligible for small school district modernization grants. The advisory committee specified in subsection (4)(a) of this section may recommend amendments to the eligibility threshold as they learn more about the characteristics of school districts and state-tribal education compact schools that are unable to modernize their aging school facilities. Districts with incomplete information in the inventory and condition of schools data system are not eligible to apply for construction grants but may apply for planning grants.

(3) The office of the superintendent of public instruction must assist eligible school districts and state-tribal education compact schools that are interested in applying for a small school district modernization grant under this section by providing technical assistance and planning grants within appropriations for this purpose. Districts and state-tribal education compact schools seeking planning grants must provide a brief statement of the school condition, its deficiencies, student enrollment, student achievement measures, and financial limitations of the district or state-tribal education compact school. If applications for planning grants exceed funds available, the office of the superintendent of public instruction may prioritize the recipients of planning grants in order to help districts and state-tribal education compact schools with the most serious apparent building deficiencies, and the most limited financial capacity.

(4) Prioritized construction grants and advisory committee.

(a) The superintendent of public instruction must propose a list of prioritized grants to the governor by September 1st of even-numbered years. The superintendent of public instruction must appoint an advisory committee to separately prioritize applications from small school districts and state-tribal education compact schools and from financially distressed school districts for grants under section 2 of this act. Committee members must have experience in financing, managing, repairing, and improving school facilities in small school districts or state-tribal education compact schools but must not be involved in ((~~a small school district modernization program~~)) grant request under this section or section 2 of this act for the biennium under consideration. The office of the superintendent of public instruction must provide administrative and staff support to the ((~~[advisory]~~)) advisory committee and coordinate activities to minimize costs to the extent practicable. The office of the superintendent of public instruction in consultation with the advisory committee must design a grant application process with specific criteria for prioritizing grant requests.

(b) The advisory committee created in (a) of this subsection must evaluate final applications from eligible school districts and state-tribal education compact schools. The advisory committee must submit a prioritized list of grants to the superintendent of public instruction. The list must prioritize applications to achieve the greatest improvement of school facilities, in the districts and state-tribal education compact schools 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 school district modernization 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.

(5) Coordination with the school construction assistance program.

(a) The full administrative and procedural process of school construction assistance program funding under RCW 28A.525.162 through 28A.525.180 may be streamlined by the office of the superintendent of public instruction in order to coordinate eligible school construction assistance program funding with the small school district modernization grants. Such coordination must ensure that total state funding from both grants does not exceed total project costs minus available local resources.

(b) Projects seeking small school district modernization grants must meet the requirements for a school construction assistance program grant except for the following: (i) The estimated cost of the project may be less than forty percent of the estimated replacement value of the facility, and (ii) local funding assistance percentage requirements of the school construction assistance program do not apply. However, available district and state-tribal education compact school resources are considered in prioritizing small school district modernization grants.

(6) Disbursement of grant funds and reporting requirements. The office of the superintendent of public instruction must award grants to school districts and state-tribal education compact schools. The grant must not be awarded until the district or state-tribal education compact school has identified available local and other resources sufficient to complete the approved project considering the amount of the state grant. The grant must specify reporting requirements from the district or state-tribal education compact school, which must include updating all pertinent information in the inventory and condition of schools data 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 [citizen]~~)) citizen advisory panel specified in RCW 28A.525.025.

**Sec.**  RCW 28A.515.320 and 1996 c 186 s 503 are each amended to read as follows:

(1) The common school construction fund is to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: ((~~(1)~~)) (a) Those proceeds derived from sale or appropriation of timber and other crops from school and state land other than those granted for specific purposes; ((~~(2)~~)) (b) the interest accruing on the permanent common school fund less the allocations to the state treasurer's service ((~~account [fund]~~)) fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund; ((~~(3)~~)) (c) all moneys received by the state from the United States under the provisions of section 191, Title 30, ((~~United States Code~~)) U.S.C., Annotated, and under section 810, chapter 12, Title 16, (Conservation), ((~~United States Code~~)) U.S.C., Annotated, except moneys received before June 30, 2001, and when ((~~thirty~~)) 30 megawatts of geothermal power is certified as commercially available by the receiving utilities and the department of ((~~community, trade, and economic development~~)) commerce, ((~~eighty~~)) 80 percent of such moneys, under the Geothermal Steam Act of 1970 pursuant to former RCW 43.140.030; and ((~~(4)~~)) (d) such other sources as the legislature may direct. That portion of the common school construction fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

(2) The interest accruing on the permanent common school fund less the allocations to the state treasurer's service fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenues accruing thereto pursuant to subsection ((~~(2)~~)) (1)(b) of this section prior to July 1, 1967, shall be exclusively applied to the current use of the common schools.

(3) To the extent that the moneys in the common school construction fund are in excess of the amount necessary to allow fulfillment of the purpose of said fund, the excess shall be available for deposit to the credit of the permanent common school fund or available for the current use of the common schools, as the legislature may direct. Any money from the common school construction fund which is made available for the current use of the common schools shall be restored to the fund by appropriation, including interest income ((~~foregone [forgone]~~)) forgone, before the end of the next fiscal biennium following such use.

(4) Appropriations for the small school districts project prioritized list submitted under RCW 28A.525.159 are the first priority of appropriations from the common school construction fund, after payment of principal and interest on the bonds authorized in RCW 28A.527.040 from that portion of the common school construction fund derived from interest on the permanent common school fund. Appropriations from the common school construction fund must be prioritized as follows, as fund balance allows:

(a) Beginning with appropriations enacted for the 2025-2027 fiscal biennium, no less than $60,000,000 of new appropriations in the biennial capital budget must be used to fund the small school districts project prioritized list, and any remaining amounts in the common school construction fund may be appropriated for other common school construction purposes.

(b) Beginning with appropriations enacted for the 2027-2029 fiscal biennium, no less than $70,000,000 of new appropriations in the biennial capital budget must be used to fund the small school districts project prioritized list, and any remaining amounts in the common school construction fund may be appropriated for other common school construction purposes.

(c) Beginning with appropriations enacted for the 2029-2031 fiscal biennium and each biennium thereafter, no less than $80,000,000 of new appropriations in the biennial capital budget must be used to fund the small school districts project prioritized list, and any remaining amounts in the common school construction fund may be appropriated for other common school construction purposes."

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On page 1, line 2 of the title, after "challenges;" strike the remainder of the title and insert "amending RCW 28A.525.159 and 28A.515.320; adding a new section to chapter 28A.525 RCW; and creating a new section."

EFFECT: (1) Expands eligibility to participate in the grant program to include school districts with a student headcount enrollment of 3,000 or fewer students that meet the following additional criteria:

(a) The school district is located in an educational service district with rural communities that experience prohibitive access to skill centers or other workforce development facilities or programs;

(b) The school district has been unable to secure voter approval to issue bonds for capital purposes in the prior 25 years and has had at least three bond measures rejected by voters in consecutive years during that 25-year period; and

(c) The school district has instructional buildings that do not meet structural, capacity, environmental, or emergency requirements.

(2) Eliminates the 100-point scoring scale used by the advisory committee to prioritize construction grant applications, including the related equations used to assign points based on certain criteria. Removes references to the scoring system throughout the bill language.

(3) Directs the advisory committee to prioritize those school districts with the lowest remaining debt capacity, most significant building deficiencies, and lowest head count enrollment. Allows the advisory committee to weigh such factors as appropriate given the pool of applicants and the extent each factor deviates from the statewide average.

(4) Makes the prioritized project list of the Small School District Modernization Grant Program the first priority of the Common School Construction Fund after payment of principal and interest for skill center bonds.

(5) Starting in 2025-27, no less than $60 million in new appropriations in the capital budget must be used to fund the small school district prioritized list, and any remaining amounts in the common school construction fund may be appropriated for other common school construction purposes. This amount increases to $70 million in 2027-29 and increases to $80 million in 2029-31 and every biennium thereafter.