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**SUBSTITUTE HOUSE BILL 1044**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Capital Budget (originally sponsored by Representatives McEntire, Graham, Couture, Sandlin, Walsh, Rude, Caldier, and Santos)

READ FIRST TIME 02/22/23.

1 AN ACT Relating to capital financial assistance to small school  
2 districts with demonstrated funding challenges; amending RCW  
3 28A.525.159; adding a new section to chapter 28A.525 RCW; and  
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to create a new  
7 grant program through which small, financially distressed school  
8 districts that generally do not participate in the current school  
9 construction assistance program will be able to get the necessary  
10 funds to modernize or rebuild their school buildings.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.525  
12 RCW to read as follows:

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

16 (2) Applicant eligibility criteria. Subject to subsection (4) of  
17 this section, only school districts that have a student headcount  
18 enrollment of 1,000 students or fewer are eligible for grants under  
19 this section.

20 (3) Project eligibility criteria.

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

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

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

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

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

1 (6) Required grant list.

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

13 (b) The superintendent of public instruction and the governor may  
14 determine the level of funding in their omnibus capital  
15 appropriations act requests to support grants under this section, but  
16 their funding requests must follow the prioritized list prepared by  
17 the advisory committee unless new information determines that a  
18 specific project is no longer viable as proposed.

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

33 (8) Construction grant requirements and prioritization.

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

1 (b) Subject to the availability of amounts appropriated for this  
2 specific purpose, the advisory committee must prioritize applications  
3 from school districts based on the total number of points awarded  
4 under this subsection. The total number of points awarded to an  
5 application may not exceed 100 points and must be awarded according  
6 to the following criteria:

7 (i) Remaining school district debt capacity. For the purposes of  
8 grant prioritization under this section, remaining school district  
9 debt capacity must be determined pursuant to RCW 39.36.020.  
10 Applications must be awarded no more than 45 points related to debt  
11 capacity under this subsection (8)(b)(i) and the number of points  
12 awarded related to remaining debt capacity must be calculated as  
13 follows:

14 (A) Twenty-five points must be multiplied by the quotient of the  
15 applying school district's remaining debt capacity divided by the  
16 average remaining debt capacity of school districts statewide  
17 subtracted from .49, and then the result of the foregoing must be  
18 divided by .49 plus the applying school district's remaining debt  
19 capacity divided by the average remaining debt capacity of school  
20 districts statewide. A school district may not receive a score of  
21 less than zero under this subsection (8)(b)(i)(A).

22 Debt Capacity Scoring Percentage

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23  $(.49 - \text{School district's remaining debt capacity}) \div \text{Average remaining debt capacity of school districts}$   
24  $\text{statewide}$

25 25 Points X---

26  $(.49 + \text{School district's remaining debt}$   
27  $\text{capacity}) \div \text{Average remaining debt capacity of school districts}$   
 $\text{statewide}$

28 (B) The advisory committee may award no more than 20 additional  
29 points to an application for a construction grant based on the  
30 severity of the applying school district's financial constraints.  
31 Applying school districts shall submit brief statements describing  
32 financial constraints as part of the construction grant application  
33 process.

34 (ii) Facility condition. Applications must be awarded no more  
35 than 40 points related to facility conditions under this subsection  
36 (8)(b)(ii). The advisory committee, in consultation with the office  
37 of the superintendent of public instruction, shall create and apply a  
38 formula for awarding points under this subsection (8)(b)(ii) related

1 to facility condition. This formula must prioritize grant  
2 applications from school districts with the most significant building  
3 deficiencies within the application pool. The office of the  
4 superintendent of public instruction shall provide facility condition  
5 data to the advisory committee related to each application.

6 (iii) District enrollment. Applications shall be awarded no more  
7 than 15 points related to district enrollment under this subsection  
8 (8)(b)(iii) and the number of points awarded must be calculated as  
9 follows: 15 points must be multiplied by the quotient of the applying  
10 school district's headcount enrollment divided by the average school  
11 district headcount enrollment statewide subtracted from .32, and then  
12 the result of the foregoing must be divided by .32 plus the applying  
13 school district's headcount enrollment divided by the average school  
14 district headcount enrollment statewide. A school district may not  
15 receive a score of less than zero under this subsection (8)(b)(iii).

16 Enrollment Scoring Percentage

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17  $(.32 - \text{School district's enrollment}) \div \text{Average school district enrollment statewide}$

18 15 Points X---

19  $(.32 + \text{School district's enrollment}) \div \text{Average school district enrollment statewide}$

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

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

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

33 (b) To the extent that the district share requirement under (a)  
34 of this subsection would, at the time of application, require the  
35 estimated school district property tax rate increment associated with  
36 the grant to exceed a threshold of \$1.75 per \$1,000 of assessed  
37 property value, the office of the superintendent of public

1 instruction must reduce the required district share to achieve an  
2 estimated property tax rate equal to this threshold.

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

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

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

36 (12) Disbursement of grant funds and reporting requirements. The  
37 office of the superintendent of public instruction must award grants  
38 under this section to school districts. The grants must not be  
39 awarded until the recipient has identified available local and other  
40 resources sufficient to complete the approved project considering the

1 amount of state grant funding. The grant must specify reporting  
2 requirements for the district and must include:

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

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

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

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

15 **Sec. 3.** RCW 28A.525.159 and 2020 c 299 s 1 are each amended to  
16 read as follows:

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

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

31 (3) The office of the superintendent of public instruction must  
32 assist eligible school districts and state-tribal education compact  
33 schools that are interested in applying for a small school district  
34 modernization grant under this section by providing technical  
35 assistance and planning grants within appropriations for this  
36 purpose. Districts and state-tribal education compact schools seeking  
37 planning grants must provide a brief statement of the school  
38 condition, its deficiencies, student enrollment, student achievement  
39 measures, and financial limitations of the district or state-tribal

1 education compact school. If applications for planning grants exceed  
2 funds available, the office of the superintendent of public  
3 instruction may prioritize the recipients of planning grants in order  
4 to help districts and state-tribal education compact schools with the  
5 most serious apparent building deficiencies, and the most limited  
6 financial capacity.

7 (4) Prioritized construction grants and advisory committee.

8 (a) The superintendent of public instruction must propose a list  
9 of prioritized grants to the governor by September 1st of even-  
10 numbered years. The superintendent of public instruction must appoint  
11 an advisory committee to separately prioritize applications from  
12 small school districts and state-tribal education compact schools and  
13 from financially distressed school districts for grants under section  
14 2 of this act. Committee members must have experience in financing,  
15 managing, repairing, and improving school facilities in small school  
16 districts or state-tribal education compact schools but must not be  
17 involved in (~~a small school district modernization program~~) grant  
18 request under this section or section 2 of this act for the biennium  
19 under consideration. The office of the superintendent of public  
20 instruction must provide administrative and staff support to the  
21 (~~advisory~~) advisory committee and coordinate activities to  
22 minimize costs to the extent practicable. The office of the  
23 superintendent of public instruction in consultation with the  
24 advisory committee must design a grant application process with  
25 specific criteria for prioritizing grant requests.

26 (b) The advisory committee created in (a) of this subsection must  
27 evaluate final applications from eligible school districts and state-  
28 tribal education compact schools. The advisory committee must submit  
29 a prioritized list of grants to the superintendent of public  
30 instruction. The list must prioritize applications to achieve the  
31 greatest improvement of school facilities, in the districts and  
32 state-tribal education compact schools with the most limited  
33 financial capacity, for projects that are likely to improve student  
34 health, safety, and academic performance for the largest number of  
35 students for the amount of state grant support. The advisory  
36 committee must develop specific criteria to achieve the  
37 prioritization. The submitted prioritized list must describe the  
38 project, the proposed state funding level, and the estimated total  
39 project cost including other funding and in-kind resources. The list  
40 must also indicate student achievement measures that will be used to



1 evaluate the benefits of the project. The superintendent of public  
2 instruction and the governor may determine the level of funding in  
3 their omnibus capital appropriations act requests to support small  
4 school district modernization grants, but their funding requests must  
5 follow the prioritized list prepared by the advisory committee unless  
6 new information determines that a specific project is no longer  
7 viable as proposed.

8 (5) Coordination with the school construction assistance program.

9 (a) The full administrative and procedural process of school  
10 construction assistance program funding under RCW 28A.525.162 through  
11 28A.525.180 may be streamlined by the office of the superintendent of  
12 public instruction in order to coordinate eligible school  
13 construction assistance program funding with the small school  
14 district modernization grants. Such coordination must ensure that  
15 total state funding from both grants does not exceed total project  
16 costs minus available local resources.

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

26 (6) Disbursement of grant funds and reporting requirements. The  
27 office of the superintendent of public instruction must award grants  
28 to school districts and state-tribal education compact schools. The  
29 grant must not be awarded until the district or state-tribal  
30 education compact school has identified available local and other  
31 resources sufficient to complete the approved project considering the  
32 amount of the state grant. The grant must specify reporting  
33 requirements from the district or state-tribal education compact  
34 school, which must include updating all pertinent information in the  
35 inventory and condition of schools data system and submitting a final  
36 project report as specified by the office of the superintendent of  
37 public instruction in consultation with the school facilities

1 ((~~citizens~~[citizen])) citizen advisory panel specified in RCW  
2 28A.525.025.

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