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**HOUSE BILL 1044**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives McEntire, Graham, Couture, Sandlin, Walsh, Rude, Caldier, and Santos

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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; creating a  
4 new section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that many school  
7 districts in the state are unable to access state funding for school  
8 construction, whether due to a lack of bond capacity or because the  
9 property tax increase of a bond measure would be a difficult burden.  
10 Often, the buildings operated by these school districts are the  
11 district's only elementary school, middle school, or high school,  
12 putting greater pressure on the need for a safe, up-to-date, long-  
13 lasting school building in which students can thrive. The legislature  
14 further finds that the state must do more to fund school buildings  
15 that are adequate to provide an equitable learning environment for  
16 all students in Washington, regardless of where they live. Therefore,  
17 the legislature intends to create a new grant program through which  
18 small school districts that are generally unable to participate in  
19 the current school construction funding program will be able to get  
20 the necessary funds to modernize or rebuild their school buildings.

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

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

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

10       (3) Project eligibility criteria.

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

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

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

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

9 (6) Required grant list.

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

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

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

1 (8) Construction grant requirements and prioritization.

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

9 (b) Subject to the availability of amounts appropriated for this  
10 specific purpose, the advisory committee must prioritize applications  
11 from school districts based on the total number of points awarded  
12 under this subsection. The total number of points awarded to an  
13 application may not exceed 100 points and must be awarded according  
14 to the following criteria:

15 (i) Remaining school district debt capacity. For the purposes of  
16 grant prioritization under this section, remaining school district  
17 debt capacity must be determined pursuant to RCW 39.36.020.  
18 Applications must be awarded no more than 45 points related to debt  
19 capacity under this subsection (8)(b)(i) and the number of points  
20 awarded related to remaining debt capacity must be calculated as  
21 follows:

22 (A) Twenty-five points must be multiplied by the quotient of the  
23 applying school district's remaining debt capacity divided by the  
24 average remaining debt capacity of school districts statewide  
25 subtracted from .49, and then the result of the foregoing must be  
26 divided by .49 plus the applying school district's remaining debt  
27 capacity divided by the average remaining debt capacity of school  
28 districts statewide. A school district may not receive a score of  
29 less than zero under this subsection (8)(b)(i)(A).

30 Debt Capacity Scoring Percentage

31 
$$\frac{(.49 - \text{School district's remaining debt capacity})}{\text{Average remaining debt capacity of school districts statewide}}$$

32 25 Points X---

33 
$$\frac{(.49 + \text{School district's remaining debt capacity})}{\text{Average remaining debt capacity of school districts statewide}}$$

34 (B) The advisory committee may award no more than 20 additional  
35 points to an application for a construction grant based on the  
36 severity of the applying school district's financial constraints.  
37  
38

1 Applying school districts shall submit brief statements describing  
2 financial constraints as part of the construction grant application  
3 process.

4 (ii) Facility condition. Applications must be awarded no more  
5 than 40 points related to facility conditions under this subsection  
6 (8)(b)(ii). The advisory committee, in consultation with the office  
7 of the superintendent of public instruction, shall create and apply a  
8 formula for awarding points under this subsection (8)(b)(ii) related  
9 to facility condition. This formula must prioritize grant  
10 applications from school districts with the most significant building  
11 deficiencies within the application pool. The office of the  
12 superintendent of public instruction shall provide facility condition  
13 data to the advisory committee related to each application.

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

24

Enrollment Scoring Percentage	
25	$(.32 - \text{School district's enrollment}) \div \text{Average school district enrollment statewide}$
26	15 Points X---
27	$(.32 + \text{School district's enrollment}) \div \text{Average school district enrollment statewide}$

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

33 (10) Coordination with the school construction assistance program  
34 and local cost share. A grant awarded under this section must be  
35 coordinated with the school construction assistance program provided  
36 by RCW 28A.525.162 through 28A.525.180. In awarding a grant under  
37 this section, the office of the superintendent of public instruction  
38 must ensure that total state funding from a grant under this section

1 and a school construction assistance program grant does not exceed  
2 total project costs minus available local resources. School districts  
3 that receive grants under this section may use the grant to fund the  
4 required local funding equal to or greater than the difference  
5 between the total approved project cost and the amount of state  
6 funding assistance computed provided by RCW 28A.525.162 through  
7 28A.525.180. School districts coordinating grants provided in this  
8 section with school construction assistance program funding are  
9 required to contribute not less than 30 percent of a project's total  
10 cost from local resources.

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

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

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

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

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

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

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

35 (2) Eligibility. School districts and state-tribal education  
36 compact schools with enrollments that are less than or equal to one  
37 thousand students are eligible for small school district  
38 modernization grants. The advisory committee specified in subsection  
39 (4)(a) of this section may recommend amendments to the eligibility

1 threshold as they learn more about the characteristics of school  
2 districts and state-tribal education compact schools that are unable  
3 to modernize their aging school facilities. Districts with incomplete  
4 information in the inventory and condition of schools data system are  
5 not eligible to apply for construction grants but may apply for  
6 planning grants.

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

22 (4) Prioritized construction grants and advisory committee.

23 (a) The superintendent of public instruction must propose a list  
24 of prioritized grants to the governor by September 1st of even-  
25 numbered years. The superintendent of public instruction must appoint  
26 an advisory committee to separately prioritize applications from  
27 small school districts and state-tribal education compact schools and  
28 from financially distressed school districts for grants under section  
29 2 of this act. Committee members must have experience in financing,  
30 managing, repairing, and improving school facilities in small school  
31 districts or state-tribal education compact schools but must not be  
32 involved in (~~a small school district modernization program~~) grant  
33 request under this section or section 2 of this act for the biennium  
34 under consideration. The office of the superintendent of public  
35 instruction must provide administrative and staff support to the  
36 (~~{advisory}~~) advisory committee and coordinate activities to  
37 minimize costs to the extent practicable. The office of the  
38 superintendent of public instruction in consultation with the  
39 advisory committee must design a grant application process with  
40 specific criteria for prioritizing grant requests.

1 (b) The advisory committee created in (a) of this subsection must  
2 evaluate final applications from eligible school districts and state-  
3 tribal education compact schools. The advisory committee must submit  
4 a prioritized list of grants to the superintendent of public  
5 instruction. The list must prioritize applications to achieve the  
6 greatest improvement of school facilities, in the districts and  
7 state-tribal education compact schools with the most limited  
8 financial capacity, for projects that are likely to improve student  
9 health, safety, and academic performance for the largest number of  
10 students for the amount of state grant support. The advisory  
11 committee must develop specific criteria to achieve the  
12 prioritization. The submitted prioritized list must describe the  
13 project, the proposed state funding level, and the estimated total  
14 project cost including other funding and in-kind resources. The list  
15 must also indicate student achievement measures that will be used to  
16 evaluate the benefits of the project. The superintendent of public  
17 instruction and the governor may determine the level of funding in  
18 their omnibus capital appropriations act requests to support small  
19 school district modernization grants, but their funding requests must  
20 follow the prioritized list prepared by the advisory committee unless  
21 new information determines that a specific project is no longer  
22 viable as proposed.

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

24 (a) The full administrative and procedural process of school  
25 construction assistance program funding under RCW 28A.525.162 through  
26 28A.525.180 may be streamlined by the office of the superintendent of  
27 public instruction in order to coordinate eligible school  
28 construction assistance program funding with the small school  
29 district modernization grants. Such coordination must ensure that  
30 total state funding from both grants does not exceed total project  
31 costs minus available local resources.

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

1           (6) Disbursement of grant funds and reporting requirements. The  
2 office of the superintendent of public instruction must award grants  
3 to school districts and state-tribal education compact schools. The  
4 grant must not be awarded until the district or state-tribal  
5 education compact school has identified available local and other  
6 resources sufficient to complete the approved project considering the  
7 amount of the state grant. The grant must specify reporting  
8 requirements from the district or state-tribal education compact  
9 school, which must include updating all pertinent information in the  
10 inventory and condition of schools data system and submitting a final  
11 project report as specified by the office of the superintendent of  
12 public instruction in consultation with the school facilities  
13 ((~~citizens~~—[~~citizen~~])) citizen advisory panel specified in RCW  
14 28A.525.025.

15           NEW SECTION.   **Sec. 4.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of  
17 the state government and its existing public institutions, and takes  
18 effect immediately.

--- END ---