HOUSE BILL 232

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE PUBLIC SCHOOL
VENTILATION IMPROVEMENT ACT; CREATING A CAPITAL IMPROVEMENT
PROGRAM FOR PUBLIC SCHOOL VENTILATION SYSTEMS; CREATING A FUND;
PROVIDING FOR APPLICATIONS FROM AND GRANTS TO SCHOOL DISTRICTS
AND CHARTER SCHOOLS TO IMPROVE MECHANICAL VENTILATION SYSTEMS
IN PUBLIC SCHOOLS FOR THE HEALTH AND SAFETY OF STUDENTS AND
SCHOOL PERSONNEL DURING THE CORONAVIRUS DISEASE 2019 PANDEMIC;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Public School Ventilation Improvement Act"."

SECTION 2. A new section of the Public School Code is

.218884.2
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Public School
Ventilation Improvement Act:

A. "certified technician" means a person who is:
   (1) certified by an industry-recognized
   organization to perform testing, adjusting and balancing of
   heating, ventilation and air conditioning systems; or
   (2) certified through a certification body
   accredited by the American national standards institute to
   perform indoor air quality ventilation assessments of heating,
   ventilation and air conditioning systems;

B. "fund" means the public school ventilation
improvement fund;

C. "mechanical engineer" means a professional
engineer licensed as a mechanical engineer by the state board
of licensure for professional engineers and professional
surveyors;

D. "mechanical ventilation system" means a building
ventilation system provided by mechanically powered, permanent
equipment such as motor-driven fans and blowers, and includes
carbon dioxide monitoring; provided, however, "mechanical
ventilation system" does not include devices such as wind-
driven turbine ventilators, portable air filtration and
 cleaning devices or mechanically operated windows;

E. "qualified testing and adjusting personnel"
means:

(1) a certified technician; or

(2) a skilled and trained construction workforce under the supervision of a certified technician;

F. "school district" includes charter schools;

G. "skilled and trained construction workforce" means a workforce in which at least seventy percent of the workers are graduates of a registered apprenticeship program in New Mexico for the applicable construction occupation; and

H. "ventilation program" means the public school ventilation improvement program."

SECTION 3. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] VENTILATION PROGRAM--CREATED--AWARDS.--

A. The "public school ventilation improvement program" is created in the department to award "ventilation program grants" to school districts for mechanical ventilation system improvement projects in public schools, including, if necessary, installation of carbon dioxide monitors on an otherwise adequate existing mechanical ventilation system. The department shall promulgate rules to carry out the provisions of the Public School Ventilation Improvement Act. Rules shall be promulgated no later than October 1, 2021.

B. A ventilation program grant may be used to assess, test and adjust a public school's mechanical
ventilation system and, if necessary or cost-effective, to
repair, upgrade or replace the existing heating, ventilation
and air conditioning system or install a stand-alone mechanical
ventilation system. Allowable expenses include ventilation
assessments and reports, ventilation verification assessments
and reports, general maintenance, reading and adjustment of
ventilation rates, filter replacement to meet a minimum
efficiency reporting value of at least thirteen, carbon dioxide
monitor installation and whole-system installation or
replacement. Portable filtration and air cleaners shall be
considered for funding only if the existing heating,
ventilation and air conditioning infrastructure cannot provide
minimum filtration and ventilation requirements or, as
recommended by a mechanical engineer, as a supplemental
enhancement to the permanent heating ventilation and air
conditioning infrastructure when the desired indoor air quality
cannot be achieved with the mechanical ventilation system or
there are concerns with outdoor air contaminants such as those
created by wildfires and pollution. Subject to the amount of
money in the fund, the department may award a grant to make a
heating, ventilation and air conditioning system more energy
efficient.

C. School districts may apply for a ventilation
program grant to help defray the cost of mechanical ventilation
system projects. Applications shall be on forms provided by
the department and shall include all information required by the department. The department may request a school district to resubmit an application that does not include the information the department needs to evaluate the application.

D. Grant awards shall be based on a ventilation assessment that includes an assessment of necessary repairs, upgrades or replacement and an estimate of the cost of those improvements to make the mechanical ventilation system meet a minimum efficiency reporting value of at least thirteen.

E. When applying for a grant, a school district may rely on ventilation assessments done by or for the public school facilities authority when the school district applied for building system improvements or public school capital outlay funding or ventilation assessments done by or for the public school facilities authority or the department related to making public schools safe during the coronavirus disease 2019 pandemic. If the school district has not had such ventilation assessments, the department shall reimburse the school district from the fund for the cost of ventilation assessments done for the ventilation program grant application.

F. Grants may be used to reimburse a school district for mechanical ventilation system capital improvements that were contracted and performed after August 1, 2020.

G. The department shall give priority to:

(1) school districts that do not have local
resources to improve public school mechanical ventilation
systems or to match a grant from the public school capital
outlay council for building system repair, renovation or
replacement;

(2) projects that are crucial to the reopening
of a public school; and

(3) projects required for health and safety of
students and school personnel before grants for projects to
improve systems for cost savings.

H. In accepting a grant pursuant to this section,
the grantee warrants that construction work on the mechanical
ventilation system, whether paid in full or in part by the
grant, shall be performed by a skilled and trained workforce.

I. Any unexpended or unencumbered balance of a
grant award to a school district remaining at the end of the
project shall revert to the fund."

SECTION 4. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] PUBLIC SCHOOL VENTILATION IMPROVEMENT
FUND--CREATED--USES."

A. The "public school ventilation improvement fund"
is created as a nonreverting fund in the state treasury. The
fund consists of federal grants, state appropriations, gifts,
grants and donations. The fund shall be administered by the
department, and money in the fund is appropriated to the
department to provide grants to school districts as provided in
the Public School Ventilation Improvement Act and rules
promulgated in accordance with that act. Expenditures from the
fund shall be by warrant of the secretary of finance and
administration pursuant to vouchers signed by the secretary of
public education or the secretary's authorized representative.

B. The department may expend up to five percent of
the fund each year to administer the ventilation program,
including providing technical assistance and support to
grantees. The cost of ventilation assessments for grant
applications shall be paid from the five percent set-aside; the
cost of ventilation verification assessments shall be paid from
a school district's grant award."

SECTION 5. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] ASSESSMENTS.--

A. The ventilation assessment required to apply for
a grant shall be performed by a certified technician or a
mechanical engineer. If an assessment is performed by a
certified technician, the assessment report shall be reviewed
by a mechanical engineer. The ventilation assessment shall
verify whether the existing mechanical ventilation system is
operating in accordance with design parameters, meets the
requirements of the New Mexico Mechanical Code and follows the
recommendations of the American society of heating,
refrigerating and air conditioning engineers for ventilation
needs during the coronavirus disease 2019 pandemic. The
assessment report shall include appropriate corrective actions
needed for the mechanical ventilation system or the heating,
ventilation and air conditioning infrastructure, including
carbon dioxide monitoring, additional maintenance, repairs,
upgrades or replacement.

B. Upon completion of work funded by a grant
pursuant to this section, the school district shall submit a
ventilation verification report to the department. The report
shall include:

(1) the name and address of the public school
and the person preparing and certifying the report;

(2) the name and address of the certified
technicians, mechanical engineers, contractors and skilled and
trained construction workforce who performed assessments or
construction and copies of certifications and licenses;

(3) a copy of the procurement documents; and

(4) documentation of:

(a) initial operating ventilation rate
verifications;

(b) adjustments, repairs, upgrades or
replacements;

(c) final operating conditions,
including the minimum efficiency reporting value of the
.21884.2
filtration system and verified ventilation and exhaust rates
for classrooms, auditoriums, gymnasiums, restrooms, offices and
other occupied spaces;

(d) verification of carbon dioxide
monitors, including make and model of the monitors; and

(e) verification that all work has been
tested and adjusted by qualified testing and adjusting
personnel and that all repairs, upgrades or replacements were
performed by a contractor using a skilled and trained
workforce.

C. The ventilation assessment and the ventilation
verification reports are public documents and shall be
available to the public upon request."

SECTION 6. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2021.