

HOUSE BILL 232

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

INTRODUCED BY

Sheryl Williams Stapleton

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

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1 enacted to read:

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

4 A. "certified technician" means a person who is:

5 (1) certified by an industry-recognized
6 organization to perform testing, adjusting and balancing of
7 heating, ventilation and air conditioning systems; or

8 (2) certified through a certification body
9 accredited by the American national standards institute to
10 perform indoor air quality ventilation assessments of heating,
11 ventilation and air conditioning systems;

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

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

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

25 E. "qualified testing and adjusting personnel"

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1 means:

2 (1) a certified technician; or

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

5 F. "school district" includes charter schools;

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

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

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

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

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

24 B. A ventilation program grant may be used to
25 assess, test and adjust a public school's mechanical

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1 ventilation system and, if necessary or cost-effective, to
2 repair, upgrade or replace the existing heating, ventilation
3 and air conditioning system or install a stand-alone mechanical
4 ventilation system. Allowable expenses include ventilation
5 assessments and reports, ventilation verification assessments
6 and reports, general maintenance, reading and adjustment of
7 ventilation rates, filter replacement to meet a minimum
8 efficiency reporting value of at least thirteen, carbon dioxide
9 monitor installation and whole-system installation or
10 replacement. Portable filtration and air cleaners shall be
11 considered for funding only if the existing heating,
12 ventilation and air conditioning infrastructure cannot provide
13 minimum filtration and ventilation requirements or, as
14 recommended by a mechanical engineer, as a supplemental
15 enhancement to the permanent heating ventilation and air
16 conditioning infrastructure when the desired indoor air quality
17 cannot be achieved with the mechanical ventilation system or
18 there are concerns with outdoor air contaminants such as those
19 created by wildfires and pollution. Subject to the amount of
20 money in the fund, the department may award a grant to make a
21 heating, ventilation and air conditioning system more energy
22 efficient.

23 C. School districts may apply for a ventilation
24 program grant to help defray the cost of mechanical ventilation
25 system projects. Applications shall be on forms provided by

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1 the department and shall include all information required by
2 the department. The department may request a school district
3 to resubmit an application that does not include the
4 information the department needs to evaluate the application.

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

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

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

24 G. The department shall give priority to:

25 (1) school districts that do not have local

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1 resources to improve public school mechanical ventilation
2 systems or to match a grant from the public school capital
3 outlay council for building system repair, renovation or
4 replacement;

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

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

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

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

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

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

21 A. The "public school ventilation improvement fund"
22 is created as a nonreverting fund in the state treasury. The
23 fund consists of federal grants, state appropriations, gifts,
24 grants and donations. The fund shall be administered by the
25 department, and money in the fund is appropriated to the

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1 department to provide grants to school districts as provided in
2 the Public School Ventilation Improvement Act and rules
3 promulgated in accordance with that act. Expenditures from the
4 fund shall be by warrant of the secretary of finance and
5 administration pursuant to vouchers signed by the secretary of
6 public education or the secretary's authorized representative.

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

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

16 "[NEW MATERIAL] ASSESSMENTS.--

17 A. The ventilation assessment required to apply for
18 a grant shall be performed by a certified technician or a
19 mechanical engineer. If an assessment is performed by a
20 certified technician, the assessment report shall be reviewed
21 by a mechanical engineer. The ventilation assessment shall
22 verify whether the existing mechanical ventilation system is
23 operating in accordance with design parameters, meets the
24 requirements of the New Mexico Mechanical Code and follows the
25 recommendations of the American society of heating,

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1 refrigerating and air conditioning engineers for ventilation
2 needs during the coronavirus disease 2019 pandemic. The
3 assessment report shall include appropriate corrective actions
4 needed for the mechanical ventilation system or the heating,
5 ventilation and air conditioning infrastructure, including
6 carbon dioxide monitoring, additional maintenance, repairs,
7 upgrades or replacement.

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

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

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

18 (3) a copy of the procurement documents; and

19 (4) documentation of:

20 (a) initial operating ventilation rate
21 verifications;

22 (b) adjustments, repairs, upgrades or
23 replacements;

24 (c) final operating conditions,
25 including the minimum efficiency reporting value of the

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1 filtration system and verified ventilation and exhaust rates
2 for classrooms, auditoriums, gymnasiums, restrooms, offices and
3 other occupied spaces;

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

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

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

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