

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 232

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

---

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

---

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE PUBLIC SCHOOL  
VENTILATION IMPROVEMENT ACT; SEC→~~CREATING A CAPITAL IMPROVEMENT  
PROGRAM FOR PUBLIC SCHOOL VENTILATION SYSTEMS; CREATING A FUND;  
PROVIDING FOR APPLICATIONS FROM AND GRANTS TO~~←SEC  
SEC→REQUIRING←SEC 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.

.219965.1AIC March 11, 2021 (4:48pm)

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

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 enacted to read:

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

A. "certified assessor" means:

- (1) a certified technician; or
- (2) a person who is certified to perform

ventilation assessments of heating, ventilation and air conditioning systems through a certification body accredited by the American national standards institute;

B. "certified technician" means a person who is certified as a testing and balancing technician by an accredited organization; provided that the accreditor of the certification organization is approved by the construction industries commission;

~~SEC → G. "fund" means the public school ventilation improvement fund;~~ ← SEC

SEC → D. ← SEC SEC → C. ← SEC "mechanical engineer" means a professional engineer licensed as a mechanical engineer by

underscored material = new  
[bracketed material] = delete  
Amendments: new = → bold, blue, highlight ←  
delete = → bold, red, highlight, strikethrough ←

the state board of licensure for professional engineers and professional surveyors SEC→**and who has professional experience with heating, ventilation and air conditioning systems**←SEC ;

SEC→**E.**←SEC SEC→**D.**←SEC "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 cleaning and filtration devices and mechanically operated windows;

SEC→**F.**←SEC SEC→**E.**←SEC "school district" includes charter schools; SEC→**and**←SEC

SEC→**G.**←SEC SEC→**F.**←SEC "skilled and trained construction workforce" means a workforce in which at least forty percent of the workers are graduates of SEC→~~a registered apprenticeship program in New Mexico~~←SEC SEC→**or registered in and attending an apprenticeship program registered with the workforce solutions department or one to which the department has granted reciprocal approval**←SEC for the applicable construction occupation SEC→~~, and~~←SEC SEC→**.**←SEC

SEC→~~H. "ventilation program" means the public school ventilation improvement program.~~←SEC

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

.219965.1AIC March 11, 2021 (4:48pm)

underscored material = new  
 [bracketed material] = delete  
 Amendments: new = →bold, blue, highlight←  
 delete = →bold, red, highlight, strikethrough←

~~"[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 test, adjust and balance 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 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, whole-system installation or replacement and final ventilation verification reports. 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~~

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

~~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 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 conducted by a certified assessor or a mechanical engineer and 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. If the school district has not had such~~

.219965.1AIC March 11, 2021 (4:48pm)

~~ventilation assessments, the department shall pay the cost of ventilation assessments from the five percent set-aside from the fund.~~

~~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:~~

~~(1) ventilation assessments of the mechanical ventilation system were performed by a certified assessor or a mechanical engineer; and~~

~~(2) construction work on the mechanical ventilation system, whether paid in full or in part by the grant, shall be performed by a contractor who employs a skilled~~

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

~~and trained construction workforce and who is in compliance with the Construction Industries Licensing Act and rules promulgated in accordance with that act.~~

~~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 and to pay the cost of ventilation assessments for~~

.219965.1AIC March 11, 2021 (4:48pm)

~~grant applications, as necessary. The cost of ventilation verification assessments shall be paid from a school district's grant award.~~

~~C. If state funds are used to make a grant to a school district or a state-chartered charter school, the state's share of the total cost shall be calculated pursuant to the methodology in Subsection B of Section 22-24-5 NMSA 1978."~~ ←SEC

SECTION SEC→5. ←SEC SEC→3. ←SEC A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] ASSESSMENTS--VENTILATION VERIFICATION REPORTS.--

A. The SEC→department shall require all school districts to undertake a ←SEC ventilation assessment SEC→required to apply for a grant shall be ←SEC performed by a certified assessor or a mechanical engineer. If an assessment is performed by a certified assessor, 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 ventilation assessment for a heating, ventilation and air

underscoring material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight←  
delete = →bold, red, highlight, strikethrough←

conditioning system shall include:

- (1) testing for maximum filter efficiency;
  - (2) measurements of outside air rate;
  - (3) verification of operation of ventilation components;
  - (4) measurement of all air distribution inlets and outlets;
  - (5) verification of unit operation and that required maintenance has been performed;
  - (6) verification of control sequences;
  - (7) verification of carbon dioxide sensors;
- and
- (8) collection of field data for the installation of mechanical ventilation if none exists.

B. The assessment report from the mechanical engineer shall include appropriate corrective actions needed for the mechanical ventilation system or the heating, ventilation and air conditioning infrastructure, including installation of appropriate filters, installation of carbon dioxide sensors and additional maintenance, repairs, upgrades or replacement.

**SEC→C. The department shall require all school districts to make the appropriate corrective actions identified in the ventilation assessment required by the Public School Ventilation Improvement Act. These corrective actions shall**

.219965.1AIC March 11, 2021 (4:48pm)

include testing, adjusting and balancing the public school mechanical ventilation system and, if necessary or cost-effective, shall include repairs, upgrades or replacement of the existing heating, ventilation and air conditioning system or the installation of a stand-alone mechanical ventilation system. The corrective actions identified in the ventilation assessment may include 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 or whole-system installation or replacement. Portable filtration and air cleaners shall be used 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.

D. School districts shall ensure that all work required by the ventilation assessment is performed using a skilled and trained construction workforce that is in compliance with the Construction Industries Licensing Act and rules promulgated in accordance with that act. The public

underscored material = new  
[bracketed material] = delete  
Amendments: new = →bold, blue, highlight↔  
delete = →bold, red, highlight, strikethrough↔

school facilities authority shall work in consultation with the department and the construction industries division of the regulation and licensing department to ensure the assessments and construction required by the Public School Ventilation Improvement Act meet all standards and requirements. ←SEC

SEC → ~~C.~~ ←SEC SEC → ~~E.~~ ←SEC Upon completion of work SEC → ~~funded by a grant pursuant to the Public School Ventilation Improvement Act~~ ←SEC SEC → identified by the ventilation assessment ←SEC, 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 assessors, certified technicians, mechanical engineers, contractors and the 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,

.219965.1AIC March 11, 2021 (4:48pm)

underscoring material = new  
 [bracketed material] = delete  
 Amendments: new = → bold, blue, highlight ←  
 delete = → bold, red, highlight, strikethrough ←

including the minimum efficiency reporting value of the 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 certified technicians or mechanical engineers and that all repairs, upgrades or replacements were performed by a contractor who ~~SEC~~**employs**~~SEC~~ ~~SEC~~**uses**~~SEC~~ a skilled and trained construction workforce and who is in compliance with the Construction Industries Licensing Act and rules promulgated in accordance with that act.

~~SEC~~**D.**~~SEC~~ ~~SEC~~**F.**~~SEC~~ The ventilation assessment and the ventilation verification reports are public documents and shall be available to the public upon request."

SECTION ~~SEC~~**6.**~~SEC~~ ~~SEC~~**4.**~~SEC~~ EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

underscored material = new  
[bracketed material] = delete  
Amendments: new = **bold, blue, highlight**  
delete = **bold, red, highlight, strikethrough**