HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 232

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

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
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;

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

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

E. "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;
F. "school district" includes charter schools;
G. "skilled and trained construction workforce"
means a workforce in which at least forty 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 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 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 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 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
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."

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

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

A. The ventilation assessment required to apply for
a grant shall be performed by a certified assessor or a
mechanical engineer. If an assessment is performed by a
HEC/HB 232

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 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.

C. Upon completion of work funded by a grant pursuant to the Public School Ventilation Improvement Act, 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, 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 employs 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.

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

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