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DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE BILL NO. 270

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO FREE PUBLIC SCHOOLS.

1 WHEREAS, the average age of a Delaware school is 58 years old, and school districts face the growing challenge  
2 of maintaining our educational facilities in a manner that enables educators to meet the needs of 21<sup>st</sup> century learners; and

3 WHEREAS, facilities in disrepair and indoor air quality problems affect teaching and learning, student and staff  
4 health, day-to-day building operations, and the long-range fiscal health of the entire educational organization; and

5 WHEREAS, facilities in disrepair and indoor air quality issues arise at all educational levels, from pre-  
6 kindergarten to secondary, and at all sites, from classrooms to administrative offices; and

7 WHEREAS, routine as well as unexpected maintenance demands arise, and every school district must proactively  
8 develop and implement a plan for addressing these inevitabilities; and

9 WHEREAS, the cost of construction per square foot has risen from \$175 per square foot in 2003 to \$308 per  
10 square foot in 2020; and

11 WHEREAS, Delaware school districts have reported \$1.1 billion dollars in minor capital improvement needs  
12 statewide; and

13 WHEREAS, the Delaware capital budget appropriation for minor capital investments in FY 2022 is only \$15  
14 million divided among 19 school districts and 23 charter schools; and

15 WHEREAS, not every school district can raise the required 40% match in local funds to spend the appropriation;  
16 and

17 WHEREAS, Delaware school districts individually perform internal assessments that vary from district to district  
18 in scope, timing, and content; and

19 WHEREAS, assessment, reporting, and prevention-planning for facilities and indoor air quality contribute to a  
20 district's instructional effectiveness and financial well-being, improve the cleanliness, orderliness, and safety of district

21 facilities, reduce the operational costs and life-cycle cost of a building, help staff identify facility priorities proactively  
22 rather than reactively, and extend the useful life of buildings; and

23 WHEREAS, currently no statewide facility assessment or indoor air quality standards exist for our school districts  
24 to assess and report maintenance issues in a systematic manner.

25 NOW, THEREFORE:

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

27 Section 1. Amend Chapter 23, Title 14 of the Delaware Code by making deletions as shown by strike through and  
28 insertions as shown by underline as follows and by redesignating accordingly:

29 §2301. Definitions.

30 As used in this chapter:

31 (1) “District” means a reorganized school district.

32 (2) “Evaluation Detail Component” is a site inspection template and assessment system that allows for individual  
33 district comment, incorporated within the Facilities Evaluation Instrument, used to evaluate the areas of a school  
34 on a category by category basis.

35 (3) “Facilities Evaluation Instrument” means a document developed by the Department of Education that includes  
36 the Evaluation Detail Component and the Standard of Good Repair that is used to determine whether a school  
37 facility is in good repair. The Facilities Evaluation Instrument may not require capital improvements beyond the  
38 standards to which the facility was designed and constructed.

39 (24) “School board” means a board of education of a reorganized school district.

40 (5) “School facilities” means any permanent building, portable building or structure, or commercial space owned,  
41 rented, operated, or leased by boards of education, including donated space, used as a classroom or for child care  
42 or any other space for education services including classrooms, cafeterias, staff lounges, staff offices, auditoriums,  
43 gymnasiums, or libraries.

44 (6) “Standard of Good Repair” means that part of the Facilities Evaluation Instrument which outlines the school  
45 facility systems and components, as specified in this section, that should be considered in the inspection of a  
46 school facility to ensure that it is maintained in a manner that assures it is clean, safe, and functional.

47 §2307. School Building Maintenance Standards.

48 (a) On or before January 1, 2024, the Department of Education shall develop the Facilities Evaluation Instrument  
49 and inspection cycle in consultation with experts in school facilities maintenance, district superintendents, the Delaware

50 State Education Association, and the Delaware Association of State Administrators during the development of the Facilities  
51 Evaluation Instrument.

52 (b) The Facilities Evaluation Instrument is used to determine if a school facility is in good repair. The Facilities  
53 Evaluation Instrument must be designed to identify areas of a school site that are in need of repair based upon a thorough  
54 inspection of the site. The Facilities Evaluation Instrument must include a Standard of Good Repair and an Evaluation  
55 Detail Component.

56 (c) The Standard of Good Repair must include the following facility categories and provide a description of a  
57 minimum standard of good repair for various facility categories:

58 (1) Gas leaks.

59 (2) Mechanical systems.

60 (3) Sewer.

61 (4) Interior surfaces.

62 (5) Overall cleanliness.

63 (6) Pest or vermin infestation.

64 (7) Electrical (interior and exterior).

65 (8) Restrooms.

66 (9) Sinks and fountains (inside and outside).

67 (10) Water quality.

68 (11) Fire safety.

69 (12) Hazardous materials (interior and exterior).

70 (13) Structural damage.

71 (14) Roofs (observed from the ground, inside and outside the building).

72 (15) Windows, doors, gates, and fences (interior and exterior).

73 (16) Visible mold or mildew.

74 (d) The Evaluation Detail Component must be designed to allow for the determination of the scope of conditions  
75 across the school campus. In evaluating each area or space, the user should review each of the categories identified in the  
76 Standard of Good Repair and make a determination of whether a particular area is in good repair.

77 (e) A school district may contract out inspection services.

78 (f) Each school district shall annually present the completed inspection findings and assessments at a public school  
79 board meeting.

80 (g) By May 1<sup>st</sup> of each year, the superintendent will submit a report of facility inspection findings and a board-  
81 approved repair and maintenance plan to the Department of Education, the chairs of the Bond Committee, the chairs of the  
82 House and Senate Education Committees, the Director of the Office of Management and Budget, and the Controller  
83 General.

84 Section 2. Amend Chapter 43, Title 14 of the Delaware Code by making deletions as shown by making deletions  
85 as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

86 CHAPTER 43. ~~Healthy Schools Indoor Environment Portal.~~ Healthy Schools Indoor Environment Standards and Portal.

87 § 4301. Definitions.

88 As used in this chapter:

89 (1) “Acceptable indoor air quality” means air quality as defined in Standard 62.1 as updated or amended.

90 (2) “HVAC system” means the equipment, distribution network, and terminals that provide, either collectively or  
91 individually, heating, ventilation, or air conditioning to a building.

92 (4~~3~~) “Indoor environment” means the overall potential health factors within a specific school, including air quality,  
93 mold levels, and other potentially harmful toxins.

94 (4) “Occupational Safety and Health Administration” (OSHA) refers to the federal agency created under the  
95 Occupational Safety and Health Act of 1970 to ensure safe and healthful working conditions for workers by setting  
96 and enforcing standards and by providing training, outreach, education, and assistance.

97 (5) “Routine indoor air monitoring program” means testing procedures, testing protocols, and testing frequency  
98 established by the Division of Public Health in accordance with this chapter.

99 (6) “School activity hours” means any time of day in which students or school personnel occupy school facilities  
100 throughout the year.

101 (7) “Standard 62.1” means the American National Standards Institute/American Society of Heating, Refrigerating  
102 and Air-conditioning Engineers Standard 62.1 as updated or amended entitled “Ventilation for Acceptable Indoor  
103 Air Quality.”

104 § 4302. School Temperature and Humidity Standards and Air Quality Monitoring in Public Schools.

105 (a) On or before January 1, 2024, the Division of Public Health, in consultation with Delaware school districts,  
106 shall establish a mandatory public school temperature range and a mandatory public school humidity range. The Division of  
107 Public Health must take into consideration recommendations provided by OSHA and industry best practices, such as  
108 Standard 62.1 for air quality. The Division of Public Health shall make such standards available via its website.

109 (b) On or before January 1, 2024, the Division of Public Health shall establish a routine indoor air quality

110 monitoring program. The Division of Public health must take into consideration indoor air quality recommendations  
111 provided by OSHA and industry best practices, such as Standard 62.1. The program must be developed by individuals with  
112 expertise in indoor air quality and industry professionals having detailed knowledge and experience with Standard 62.1 and  
113 must be developed in consultation with Delaware school districts.

114 (c) The Division of Public Health shall review and update, if necessary, the routine indoor air monitoring program  
115 at least every 3 years to ensure the efficacy of the program.

116 § 4303. Public School Indoor Air Quality.

117 (a) Local boards of education are responsible for maintaining their HVAC systems in a manner to maintain  
118 indoor air quality in school facilities during school activity hours in accordance with standards adopted by the Division of  
119 Public Health pursuant to § 4302 of this title.

120 (b)(1) On or before January 1, 2025, each local board of education must develop, for each school facility, a plan of  
121 implementation of the routine indoor air quality monitoring program established by the Division of Public Health.

122 (2) A local board of education may transfer execution of their routine indoor air monitoring program to  
123 certified contractors hired by the district with approval of the Division of Public Health. School districts retain legal  
124 and fiscal responsibility for compliance with the provisions of this section.

125 (c) Local and regional boards of education must be in full compliance with their routine indoor air quality  
126 monitoring program by May 1, 2025.

127 (1) A local and regional board of education that has made substantial efforts towards reaching full  
128 compliance but is unable to be in full compliance by May 1, 2025, may petition the Secretary of Education for an  
129 extension to be in full compliance. The petition must include:

130 a. Details of the efforts taken towards reaching full compliance with their routine indoor air  
131 monitoring program.

132 b. What must still be completed to reach full compliance with their routine indoor air monitoring  
133 program.

134 c. When it is expected that they will be full compliance with their routine indoor air monitoring  
135 program.

136 (2) The granting of such extension is at the discretion of the Secretary of Education.

137 (3) If a petition for an extension is filed under this subsection because a local district has previously  
138 requested a certificate of necessity from the Secretary of Education to address an element of noncompliance with

139 the district's routine indoor air monitoring program and that certificate of necessity was denied, the extension  
140 under this subsection will be automatically granted.

141 (d) On or before January 1, 2024, the Division of Public Health shall establish reporting requirements for local  
142 and regional boards of education to ensure the routine indoor air quality monitoring program is in effect at their school  
143 facilities during school activity hours.

144 (e) On or before January 1, 2024, the Division of Public Health shall establish a contractor certification  
145 program for public school indoor air quality services.

146 (f) Local and regional boards of education entering into contracts for indoor air quality remediation may do so  
147 only with contractors certified by the Division of Public Health to provide public school indoor air quality services, under  
148 subsection (e) of this section.

149 § 4304. Procedures for Indoor Air Quality Complaints in Public Schools.

150 (a) On or before May 1, 2025, each school district superintendent shall do all of the following:

151 (1) Designate an individual within each school district to be responsible for receiving indoor air quality  
152 complaints and for reporting such complaints to the superintendent.

153 (2) Make available on the district's website the procedure for any party to file such a complaint with the  
154 designated individual.

155 (b) Complaints received by the school district must be reported to the school board at the next regularly scheduled  
156 meeting.

157 (c) Indoor air quality complaints filed under subsection (a) of this section must be investigated by the local board  
158 of education.

159 ~~§4302.~~ § 4305. Collaboration with local school districts.

160 The Division of Public Health and the Department of Education shall collaborate with local school districts to  
161 identify information and technical resources to guide schools in improving the indoor environment based on the  
162 requirements of this chapter.

163 ~~§4303.~~ § 4306. Indoor environment portal.

164 The Division of Public Health shall provide technical expertise and information that are consistent with the  
165 requirements of this chapter to support to local school districts in addressing indoor environment concerns by establishing  
166 via an information portal on the Delaware Health and Social Services website.

167 ~~§ 4304.~~ §4307. Notification to school districts.

168 The Department of Education shall provide notification to local school districts of the newly created portal at least

169 once per school year.

170 ~~§ 4305.~~ § 4308. Access to the Division of Public Health.

171 Every public school within a local school district shall post the contact number for the Division of Public Health in  
172 a location for public display.

173 ~~§ 4306.~~ § 4309. Cooperation with the Division of Public Health.

174 The Division of Public Health ~~shall have~~ has the authority to make unannounced visits to any public school within  
175 a local school district for the purpose of complying with this chapter. No public school official ~~shall~~ may attempt to prohibit  
176 any unannounced visit by the Division of Public Health when acting pursuant to this chapter.

#### SYNOPSIS

This Act establishes an evaluation and assessment system created by the Department of Education to determine whether a school facility is in good repair to assure that school facilities are clean, safe, and functional for staff and students. This Act also requires the Division of Public Health to establish a routine indoor air quality monitoring program and temperature and humidity standards for schools that is published on the Department of Health and Social Services website via an information portal. It further requires the Division of Public Health to create a contractor certification program for indoor air quality services that will allow schools to contract with properly trained and certified contractors when indoor air quality remediation is necessary in a school facility and it provides procedures for receiving and reporting indoor air quality complaints in schools.

Author: Senator Hansen