

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 145a

50th Legislature, 1st Session, 2011

Tracking Number: .183577.2

Short Title: High Performance School Buildings Act

Sponsor(s): Representative Mimi Stewart and Others

Analyst: Peter B. van Moorsel

Date: February 15, 2011

AS AMENDED

The House Education Committee amendment:

- **removes a reference to the United States Green Building Council’s Leadership in Energy and Environmental Design green building rating system;**
- **changes the definition of “fund” from the “Green Initiative Grant Fund” to the “High Performance Initiative Grant Fund”; and**
- **makes a technical correction by replacing appearances of “SETOFF” with OFFSET.”**

Original Bill Summary:

HB 145 creates the *High Performance School Buildings Act*, which creates a grant program for school districts and provides a framework for expending state resources toward the purchase and installation of cost-effective high performance technologies in existing school facilities.

Among its provisions, the act would:

- Require the Public School Capital Outlay Council (PSCOC) to:
 - establish a high performance schools initiative, and to promulgate rules to carry out the provisions of the *High Performance School Buildings Act*;
 - after a public hearing and to the extent that money is available in the fund for such purposes, to make grants to school districts on the established priority basis; and
 - no later than December 1 of each year, to submit a report to the Governor and to the Legislature summarizing activities conducted pursuant to the *High Performance School Buildings Act* during the preceding fiscal year. The report must include the amount, recipient, and purpose of all grants awarded; the amount, recipient, and purpose of all other expenditures from the fund; the results of all audits conducted; and the total of all energy cost savings realized.
- Require a school district desiring a grant for the purpose of acquiring and installing high performance technology in one or more of its existing facilities to submit an application to the PSCOC that includes:

- a description of its existing facilities and the amounts and costs of energy and water currently consumed;
 - a description of the proposed high performance technology for which the school district desires the grant;
 - a description of the amount and source of any additional funds that will be available to the school district for the acquisition and installation of the proposed high performance technology;
 - the school district's estimates of the energy cost savings and the cost-effectiveness ratio that will result from the proposed high performance technology as well as a detailed explanation of the methodology used to calculate the estimates;
 - a timeline showing the district's estimate of the time period between the award of the grant and the date that energy cost savings will begin to be realized; and
 - such other information as is required by PSCOC rule.
- Require that the Energy, Minerals & Natural Resources Department (EMNRD):
 - verify the school district's estimates of energy cost savings and the cost-effectiveness ratio; or
 - if it is unable to verify the estimates of the school district, calculate its own estimates and submit those to the Public School Facilities Authority (PSFA) and the PSCOC; and
 - to conduct audits to accurately measure the energy cost savings realized from high performance technologies acquired and installed with grants awarded pursuant to the *High Performance School Buildings Act*.
- Require the PSFA to:
 - assess each application and rank it with similar applications pursuant to a methodology established by PSCOC rule that considers:
 - the estimated energy cost savings that will be realized by the implementation of high performance technology;
 - the estimated cost-effectiveness ratio of high performance technology; provided that no grant shall be given for the implementation of a high performance technology unless the estimated cost-effectiveness ratio is equal to or greater than one;
 - the amount of non-state funds that will be utilized in the implementation of the high performance technology;
 - the time frame within which a high performance technology will be installed and operational;
 - ensures that small school districts will have the same opportunity to apply for and receive a grant as the larger school districts;
 - ensure that grants will be awarded to districts in all geographic areas of the state; and
 - ensures that grant awards will not conflict with districts' five-year facilities plans; and
 - conduct audits to ensure that grants are expended only for the purposes for which they were given.

- Create the “high performance schools initiative grant fund” in the state treasury.
- Provide that the fund is non-reverting except for the severance tax bond proceeds required to revert to the severance tax bonding fund and general obligation bond proceeds required to revert to a bond retirement fund.
- Provide that money in the fund is appropriated to the PSCOC for the purpose of making grants to school districts to acquire and install high performance technologies pursuant to the *High Performance School Buildings Act*; and that balances in the fund may be annually appropriated to PSFA and EMNRD for expenditures necessary to administer the provisions of the *High Performance School Buildings Act*.
- Provide that grants received by a school district pursuant to the *High Performance School Buildings Act* do not contribute to a legislative offset provided for in the *Public School Capital Outlay Act*.

Fiscal Impact:

HB 145 does not contain an appropriation.

The EMNRD analysis of HB 145 notes that:

- The department’s Energy Conservation and Management Division (ECMD) will need to develop and implement a program to comply with the requirement that EMNRD assess school districts’ energy cost savings, the cost-effectiveness ratios, and the performance of public school buildings’ energy improvements, and will require a continuing expenditure of staff time.
- However, these costs may be offset by the benefits of utility bill savings in the school districts.

Fiscal Issues:

In its analysis of HB 145, PSFA notes that, although a funding source is not specified, if funds to be used for this initiative were taken from the Public School Capital Outlay Fund (PSCOF) this would reduce funding available for existing PSCOF initiatives,” adding that currently “About \$125 million per year is required to keep New Mexico’s average public school Facility Condition Index (FCI)¹ constant.

Technical Issues:

Page 2, lines 6 and 7 of HB 145 define “fund” as the Green Schools Initiative Grant Fund, however, the fund that is created in the bill is called the “High Performance Schools Initiative Grant Fund.”

¹ PSFA provides the following example to illustrate the Facility Condition Index – if a building costs \$100,000 and has an FCI of 37 percent, that building needs \$37,000 in repairs; therefore, lower FCIs are better.

Substantive Issues:

According to the Public Education Department analysis of HB 145, the new program established by HB 145 could assist districts in acquiring high performance technologies, including:

- insulation of the building structure or systems within the building;
- storm windows or doors, caulking or weather-stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption;
- automated or computerized energy or water control systems;
- heating, ventilating, or air conditioning system modifications or replacements;
- replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system;
- energy or water recovery systems;
- on-site photovoltaics, solar heating and cooling systems, or other renewable energy systems;
- cogeneration or combined heat and power systems that produce steam, chilled water or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings; or
- any other measure that would lead to a silver rating or higher according to the United States green building council's leadership in energy and environmental design green building rating system.

PSFA reports that measurement and verification of performance could require capturing utility use data via utility companies, adding that it may be overly burdensome for building owners/occupants to capture a sufficient level of data to manage the program and assess program results.

Background:

Similar legislation was enacted in 2010 that required that a new building, selected building addition or selected building renovation that is financed to any extent with legislative appropriations of state general fund revenues, severance tax bond proceeds, supplemental severance tax bond proceeds or state general obligation bond proceeds shall be designed and constructed to attain the energy star qualification of the United States environmental protection agency, or an alternative, equivalent standard specified by rule of the department.

Currently, the *Public School Capital Outlay Act* requires the PSCOC to establish criteria to be used in public school capital outlay projects that receive grant assistance. In establishing the criteria, the PSCOC must consider:

- the potential use of more durable construction materials that may reduce long-term operating costs;
- concepts that promote efficient but flexible utilization of space; and
- any other financing or construction concept that may maximize the dollar effect of the state grant assistance.

According to the US Environmental Protection Agency (EPA), in the United States, buildings account for:

- 39 percent of total energy use;
- 12 percent of the total water consumption;
- 68 percent of total electricity consumption; and
- 38 percent of the carbon dioxide emissions.

Also according to the EPA, green or sustainable buildings are designed to reduce the overall impact of the built environment on human health and the natural environment by:

- efficiently using energy, water, and other resources;
- protecting occupant health and improving employee productivity; and
- reducing waste, pollution, and environmental degradation.

The EPA reports that the potential environmental and economic benefits of green building can include:

- enhanced and protected biodiversity and ecosystems;
- improved air and water quality;
- reduced operating costs;
- improved occupant productivity; and
- optimized life-cycle economic performance.

The EPA further states that green or sustainable construction methods can be integrated into buildings at any stage, from design and construction, to renovation and deconstruction. The EPA adds, however, that the most significant benefits can be obtained if the design and construction team takes an integrated approach from the earliest stages of a building project.

In January 2006, Governor Richardson signed Executive Order 2006-001, “State of New Mexico Energy Efficient Green Building Standards for State Buildings,” which, among other initiatives convened a “Public Schools Clean Energy Task Force” that was charged with making “recommendations to implement aggressive energy efficiency measures in all existing school buildings and in the construction of all new schools and school renovations, including adopting the same efficiency standards established for executive branch agencies in this order.”

The task force generated the following definition for high performance schools:

High Performance Schools provide the best educational building environment possible while striving to wisely use resources, including money, land, energy, water, and materials. The following components are required for high performance schools:

- energy efficiency;
- indoor environmental quality, including:
 - healthy (non-toxic) materials and finishes;
 - thermal comfort and control;

- acoustical clarity and performance; and
- quality daylighting;

- water conservation;
- appropriate site selection and protection;
- design that enhances the unique aspects of the site, community, and culture;
- resource efficiency: functional to meet educational needs of intended occupants, as well as flexible to meet future uses; and
- appropriate use of regional, recycled, and renewable materials.

Related Bills:

None as of February 8, 2011.