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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/11

SPONSOR Stewart LAST UPDATED 02/10/11 HB 145/aHEC

SHORT TITLE High Performance School Buildings Act SB \_\_\_\_\_

ANALYST Hoffmann

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI	n/a	

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	\$10.0	\$50.0	\$50.0	\$110.0	Recurring	EMNRD General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)

Public Education Department (PED)

Public School Facilities Authority (PSFA)

### SUMMARY

#### Synopsis of House Education Committee Amendment

The House Education Committee Amendment to House Bill 145 deletes “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” as a part of the definition of “high performance technology.”

#### Synopsis of Original Bill

House Bill 145 would create the “High Performance School Buildings Act” which would authorize the Public Schools Capital Outlay Council (PSCOC) to establish a process through

which a school district could apply for a grant to fund the acquisition and installation of high performance technology in its facilities. High performance technology is defined as technology that is designed to reduce energy or water consumption or operating costs, or provides a renewable energy source.

The bill would create the high performance schools initiative grant fund in the State Treasury. The fund is to consist of appropriations, income from investment of the fund, proceeds from the sale of tax bonds and general obligation bonds as well as gifts and other money accruing to the fund. Other than the bond proceeds, the balances in the fund will be non-reverting. The money in the fund is appropriated to the PSCOC for the purpose of making grants to school districts pursuant to the Act. Balances in the fund may be appropriated to the Public Schools Facilities Authority and the Energy and Minerals Department for expenditures necessary to administer the provisions of the Act. Unexpended balances of such appropriations shall revert to the fund.

House Bill 145 would provide that the grants it authorizes shall not reduce the amount of a grant awarded pursuant to the Public School Capital Outlay Act and shall be excluded when calculating setoffs pursuant to Section 5 of the Public School Capital Outlay Act.

The bill gives audit authority to the Energy and Minerals Department for purposes of accurately measuring the energy cost savings realized from high performance technology installations with grant money, and to ensure that the grants are expended only for the purposes given.

The bill gives the PSCOC rulemaking authority and requires annual reporting to the governor and the legislature on activities taken pursuant to the Act.

## **FISCAL IMPLICATIONS**

Except for severance tax bond proceeds and general obligation bond proceeds required to revert, balances in the high performance schools initiative fund at the end of a fiscal year would not revert to any other fund and are considered non-reverting.

The EMNRD comments that House Bill 145 bill requires that EMNRD assess school districts' energy cost savings and the cost-effectiveness ratios, as well as to assess the performance of public school buildings' energy improvements. Complying with this mandate will require EMNRD Energy Conservation and Management Division (ECMD) to develop and implement a program to accomplish that objective. That development and the program itself will both require a continuing expenditure of staff time. In addition, HB 145 allows General Fund appropriations to the PSCOC, for award to school districts meeting requirements established through the program. However, funding for energy auditing costs is not included. These operating and appropriation impacts to the General Fund will be offset by the benefits of utility bill savings in the school districts.

The PED states this program could offer great benefits to school districts. This program would address issues to lower utility costs, reduce water and ultimately reduce operating costs for a school district which in turn would mean more operational funding that stays directly in the classroom. This new program could be potentially funded from severance tax bonds. According to the capital outlay information presented by the LFC, the severance tax bond net capacity for FY11 is approximately \$237.8 million.

## **SIGNIFICANT ISSUES**

The EMNRD states that House Bill 145 builds on previous initiatives. One initiative was the establishment of the High Performance (HiP) Schools Task Force in 2006, with representatives from the Public Schools Capital Outlay Task Force, Public School Facilities Authority, EMNRD, Legislative Council Service, and others. The HiP Schools Task Force selected schools in Hurley, Las Cruces, Rio Rancho, Farmington, Gallup, and Portales to be designed and built or renovated to achieve a 50% energy reduction over comparable school buildings, among other goals. Results of these projects show that the energy reduction target can be met and that increased initial costs will be offset with utility bill savings during operations of the buildings.

Another initiative was established by Senate Bill 200 enacted in 2010, which requires that a new building, addition, or renovation that is financed with any State funding shall be designed and constructed to achieve a minimum delivered energy performance standard of 50 percent or less of the national average energy consumption for that type of building, and attain the ENERGY STAR qualification set forth by the US Environmental Protection Agency.

The Construction Industries Division (CID) of the Regulation and Licensing Department inspects all public school construction funded and overseen by the Public Schools Capital Outlay Council and would do so on construction funded by this grant program as well. The rules promulgated by the PSCOC and administration of the Act should be required to be consistent with the requirements of the New Mexico building codes and standards.

The RLD expressed concern the construction funded by the Act could increase the number of inspections performed by CID resulting in the need for additional funding for the Division.

## **PERFORMANCE IMPLICATIONS**

The EMNRD finds that House Bill 145 draws upon the strengths of both the PSCOC and EMNRD-ECMD, in setting up a grants distribution process through the former and an energy assessment process through the latter.

## **ADMINISTRATIVE IMPLICATIONS**

According to EMNRD, House Bill 145 impacts EMNRD-ECMD by creating a new program without allocating an operating budget for implementation. The cost to EMNRD-ECMD's operating budget, a General Fund impact, is estimated to be \$50.0 annually, beginning in FY12. Program development costs of \$10.0 are estimated as the impact to the FY11 operating budget to set up the program, which is due to commence in July 2011. In addition, EMNRD-ECMD is faced with having to identify and secure funding for conducting energy audits. Despite the current impact, EMNRD-ECMD would give this utility bill slashing program for the schools high priority and establish the program with current budget and staff. However, if state funding remains flat or is reduced over current funding, there will by necessity be reductions or elimination in other existing state programs for clean energy.

## **OTHER SUBSTANTIVE ISSUES**

The EMNRD notes that with sixty million square feet of conditioned space, K-12 public school buildings in New Mexico are one of the largest building sectors in the state. House Bill 145

helps position the state and the school districts to significantly increase investments in high performance energy technologies that can help meet both student performance and energy efficiency goals. While no appropriations are included with the bill, establishment of a high performance schools initiative grant fund is an important first step.

**ALTERNATIVES**

The PSFA proposes that current state law, i.e., Public Building Energy Efficiency Standards (Section 15-3-36 NMSA 1978), may achieve the same intention and results as House Bill 145.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The PSFA comments that there would be no impact from not enacting this bill. Schools will continue to upgrade their existing buildings through renovations that support high performance technologies required, through existing Public Building Energy Efficiency Standards. The potential funding sources for these initiatives will continue to be available through EMNRD, utility companies, performance contracts and federal fund when available.

JCH/bym