

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3319

By: Lindley

4  
5  
6 AS INTRODUCED

7 An Act relating to public buildings and public works;  
8 creating the High Performance Green Buildings Act;  
9 providing legislative findings; stating legislative  
10 intent; defining terms; directing certain agencies to  
11 use certain standard; directing Department of Central  
12 Services to issue guidelines; providing for  
13 codification; and providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 301 of Title 61, unless there is  
17 created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "High  
19 Performance Green Buildings Act of 2008".

20 SECTION 2. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 302 of Title 61, unless there is  
22 created a duplication in numbering, reads as follows:

23 A. The Legislature finds that public buildings can be built and  
24 renovated using high-performance methods that save money, improve  
school performance, and make workers more productive. High-

1 performance public buildings are proven to increase student test  
2 scores, reduce worker absenteeism, and cut energy and utility costs.

3 B. It is the intent of the Legislature that state-owned  
4 buildings and schools be improved by adopting recognized standards  
5 for high-performance public buildings and allowing flexible methods  
6 and choices in how to achieve those standards. The Legislature also  
7 intends that public agencies and public school districts shall  
8 document costs and savings to monitor this program and ensure that  
9 economic, community, and environmental goals are achieved each year  
10 and that an independent performance review be conducted to evaluate  
11 this program and determine the extent to which the results intended  
12 by the High Performance Green Buildings Act are being met.

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 303 of Title 61, unless there is  
15 created a duplication in numbering, reads as follows:

16 As used in this section, unless the context clearly requires  
17 otherwise:

18 1. "Department" means the Department of Central Services;

19 2. "High-performance public buildings" means public buildings  
20 designed, constructed, and certified to a standard required by the  
21 High Performance Green Buildings Act;

22 3. "Institutions of higher education" means the state  
23 universities, the regional universities, the community colleges, and  
24 the technical colleges;

1 4. "LEED silver standard" means the United States green  
2 building council leadership in energy and environmental design green  
3 building rating standard, referred to as the silver standard;

4 5. a. "Major facility project" means:

5 (1) a construction project larger than five thousand  
6 (5,000) gross square feet of occupied or  
7 conditioned space, or

8 (2) a building renovation project when the cost is  
9 greater than fifty percent (50%) of the assessed  
10 value and the project is larger than five  
11 thousand (5,000) gross square feet of occupied or  
12 conditioned space.

13 b. "Major facility project" does not include:

14 (1) projects for which the Department, public school  
15 district, or other applicable agency and the  
16 design team determine the LEED silver standard or  
17 the state sustainable school design protocol to  
18 not be practicable, or

19 (2) transmitter buildings, pumping stations,  
20 hospitals, research facilities primarily used for  
21 sponsored laboratory experimentation, laboratory  
22 research, or laboratory training in research  
23 methods, or other similar building types as  
24 determined by the Department. When the LEED

1 silver standard is determined to not be  
2 practicable for a project, then it must be  
3 determined if any LEED standard is practicable  
4 for the project. If LEED standards or the state  
5 sustainable school design protocol are not  
6 followed for the project, the public school  
7 district or public agency shall report these  
8 reasons to the Department;

9 6. "Public agency" means every state office, officer, board,  
10 commission, committee, bureau, department, and public higher  
11 education institution;

12 7. "Public school district" means all free schools supported by  
13 public taxation; and

14 8. "Oklahoma sustainable school design protocol" means the  
15 school design protocol and related information developed by the  
16 State Board of Education and the Office of the Superintendent of  
17 Public Instruction, in conjunction with school districts.

18 SECTION 4. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 304 of Title 61, unless there is  
20 created a duplication in numbering, reads as follows:

21 A. All major facility projects of public agencies receiving any  
22 funding in a state capital budget, or projects financed through a  
23 financing contract, shall be designed, constructed, and certified to  
24 at least the LEED silver standard. This subsection applies to major

1 facility projects that have not entered the design phase prior to  
2 November 1, 2008, and to the extent appropriate LEED silver  
3 standards exist for that type of building or facility.

4 B. All major facility projects of any entity other than a  
5 public agency or public school district receiving any funding in a  
6 state capital budget must be designed, constructed, and certified to  
7 at least the LEED silver standard. This subsection applies to major  
8 facility projects that have not entered the grant application  
9 process prior to November 1, 2008, and to the extent appropriate  
10 LEED silver standards exist for that type of building or facility.

11 C. 1. Public agencies, under this section, shall monitor and  
12 document ongoing operating savings resulting from major facility  
13 projects designed, constructed, and certified as required under this  
14 section.

15 2. Public agencies, under this section, shall report annually  
16 to the Department on major facility projects and operating savings.

17 D. The Department shall consolidate the reports required in  
18 subsection C of this section into one report and report to the  
19 Governor and Legislature by September 1 of each even-numbered year  
20 beginning in 2010 and ending in 2020. In its report, the Department  
21 shall also report on the implementation of the High Performance  
22 Green Buildings Act, including reasons why the LEED standard was not  
23 used as required by subparagraph b of paragraph 5 of Section 3 of  
24 the High Performance Green Buildings Act. The Department shall make

1 recommendations regarding the ongoing implementation of the High  
2 Performance Green Buildings Act, including a discussion of  
3 incentives and disincentives related to implementing the High  
4 Performance Green Buildings Act.

5 SECTION 5. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 305 of Title 61, unless there is  
7 created a duplication in numbering, reads as follows:

8 A. All major facility projects of public school districts  
9 receiving any funding in a state capital budget shall be designed  
10 and constructed to at least the LEED silver standard or the Oklahoma  
11 sustainable school design protocol. To the extent appropriate LEED  
12 silver or Oklahoma sustainable school design protocol standards  
13 exist for the type of building or facility, this subsection applies  
14 to major facility projects that have not received project approval  
15 from the Superintendent of Public Instruction prior to:

- 16 1. July 1, 2009, for volunteering school districts;
- 17 2. July 1, 2010, for class one school districts; and
- 18 3. July 1, 2011, for class two school districts.

19 B. Public school districts under this section shall:

- 20 1. Monitor and document appropriate operating benefits and  
21 savings resulting from major facility projects designed and  
22 constructed as required under this section for a minimum of five (5)  
23 years following local board acceptance of a project receiving state  
24 funding; and

1           2. Report annually to the Superintendent of Public Instruction.  
2 The form and content of each report must be mutually developed by  
3 the Office of the Superintendent of Public Instruction in  
4 consultation with school districts.

5           C. The Superintendent of Public Instruction shall consolidate  
6 the reports required in paragraph 2 of subsection B of this section  
7 into one report and report to the Governor and Legislature by  
8 September 1 of each even-numbered year beginning in 2010 and ending  
9 in 2020. In its report, the Superintendent of Public Instruction  
10 shall also report on the implementation of the High Performance  
11 Green Buildings Act, including reasons why the LEED standard or  
12 Oklahoma sustainable school design protocol was not used as required  
13 by subparagraph b of paragraph 5 of Section 3 of the High  
14 Performance Green Buildings Act. The Superintendent of Public  
15 Instruction shall make recommendations regarding the ongoing  
16 implementation of the High Performance Green Buildings Act,  
17 including a discussion of incentives and disincentives related to  
18 implementing the High Performance Green Buildings Act.

19           D. The State Board of Education, in consultation with the  
20 Superintendent of Public Instruction, shall develop and issue  
21 guidelines for administering the High Performance Green Buildings  
22 Act for public school districts. The purpose of the guidelines is  
23 to define a procedure and method for employing and verifying  
24

1 compliance with the LEED silver standard or the Oklahoma sustainable  
2 school design protocol.

3 E. The Superintendent of Public Instruction shall utilize a  
4 high-performance buildings advisory committee comprised of affected  
5 public schools, the State Board of Education, the Superintendent of  
6 Public Instruction, the Department, and others at the Superintendent  
7 of Public Instruction's discretion to provide advice on implementing  
8 the High Performance Green Buildings Act. Among other duties, the  
9 advisory committee shall make recommendations regarding an education  
10 and training process and an ongoing evaluation or feedback process  
11 to help the Superintendent of Public Instruction and the State Board  
12 of Education implement the High Performance Green Buildings Act.

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 306 of Title 61, unless there is  
15 created a duplication in numbering, reads as follows:

16 On or before January 1, 2012, the Department shall summarize the  
17 reports submitted under subsection D of Section 4 and subsection C  
18 of Section 5 of the High Performance Green Buildings Act and submit  
19 the individual reports to the legislative committees on capital  
20 budget and ways and means for review of the program's performance  
21 and consideration of any changes that may be needed to adapt the  
22 program to any new or modified standards for high-performance  
23 buildings that meet the intent of the High Performance Green  
24 Buildings Act.

1           SECTION 7.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 307 of Title 61, unless there is  
3 created a duplication in numbering, reads as follows:

4           A.   1.   The Department, in consultation with affected public  
5 agencies, shall develop and issue guidelines for administering the  
6 High Performance Green Buildings Act for public agencies. The  
7 purpose of the guidelines is to define a procedure and method for  
8 employing and verifying activities necessary for certification to at  
9 least the LEED silver standard for major facility projects.

10           2.   The Department and the Office of the Superintendent of  
11 Public Instruction shall procure architecture and engineering  
12 services.

13           3.   Major facility projects designed to meet standards  
14 identified in the High Performance Green Buildings Act must include  
15 building commissioning as a critical savings part of the  
16 construction process. This process includes input from the project  
17 design and construction teams and the project ownership  
18 representatives.

19           4.   As provided in the request for proposals for construction  
20 services, the operating agency shall hold a preproposal conference  
21 for prospective bidders to discuss compliance with and achievement  
22 of standards identified in the High Performance Green Buildings Act  
23 for prospective respondents.

24

1        B. The Department shall create a high-performance buildings  
2 advisory committee comprised of representatives from the design and  
3 construction industry involved in public works contracting,  
4 personnel from the affected public agencies responsible for  
5 overseeing public works projects, the State Board of Education, the  
6 Office of the Superintendent of Public Instruction, and others at  
7 the Department's discretion to provide advice on implementing the  
8 High Performance Green Buildings Act. Among other duties, the  
9 advisory committee shall make recommendations regarding an education  
10 and training process and an ongoing evaluation or feedback process  
11 to help the Department implement the High Performance Green  
12 Buildings Act.

13        C. The Department and the State Board of Education shall adopt  
14 rules to implement this section.

15        SECTION 8.        NEW LAW        A new section of law to be codified  
16 in the Oklahoma Statutes as Section 308 of Title 61, unless there is  
17 created a duplication in numbering, reads as follows:

18        A. In adopting implementation rules, the State Board of  
19 Education, in consultation with the Department of Central Services,  
20 shall review and modify the current requirement for an energy  
21 conservation report review by the Department of Central Services.

22        B. In adopting implementation rules, the State Board of  
23 Education, in consultation with the Superintendent of Public  
24 Instruction shall:

1 1. Review and modify the current requirements for value  
2 engineering, constructability review, and building commissioning;

3 2. Review private and public utility providers' capacity and  
4 financial and technical assistance programs for affected public  
5 school districts to monitor and report utility consumption for  
6 purposes of reporting to the Superintendent of Public Instruction as  
7 provided in Section 4 of the High Performance Green Buildings Act;  
8 and

9 3. Coordinate with the Department of Central Services, the  
10 State Board of Health, federal agencies, and other affected agencies  
11 as appropriate in their consideration of rules to implement this  
12 section.

13 SECTION 9. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 309 of Title 61, unless there is  
15 created a duplication in numbering, reads as follows:

16 Institutions of higher education shall comply with high-  
17 performance public building requirements under Sections 1, 2, 3 and  
18 6 of the High Performance Green Buildings Act.

19 SECTION 10. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 310 of Title 61, unless there is  
21 created a duplication in numbering, reads as follows:

22 Public school districts shall comply with high-performance  
23 public building requirements under Sections 2, 4, 6 and 7 of the  
24 High Performance Green Buildings Act.

1 SECTION 11. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 311 of Title 61, unless there is  
3 created a duplication in numbering, reads as follows:

4 A member of the design or construction team shall not be held  
5 liable for the failure of a major facility project to meet the LEED  
6 silver standard or other LEED standard established for the project  
7 as long as a good-faith attempt was made to achieve the LEED silver  
8 standard set for the project.

9 SECTION 12. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 312 of Title 61, unless there is  
11 created a duplication in numbering, reads as follows:

12 It is the intent and an established goal of the LEED program as  
13 authored by the United States Green Building Council to increase  
14 demand for building materials and products that are extracted and  
15 manufactured locally, thereby reducing the environmental impacts and  
16 supporting the local economy. Therefore, it is the intent of the  
17 Legislature to emphasize this defined goal and establish a priority  
18 to use Oklahoma-based resources, building materials, products,  
19 industries, manufacturers, and other businesses to provide economic  
20 development for the state and to meet the objectives of the High  
21 Performance Green Buildings Act.

22 SECTION 13. This act shall become effective November 1, 2008.  
23

24 51-2-9028 LRB 01/07/08