

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2211

2005 SENATE EDUCATION

SB 2211

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2211

Senate Education Committee

☐ Conference Committee

Hearing Date 1/26/05

Tape Number	Side A	Side B	Meter #
1	x		1645-2250
Committee Clerk Signature <i>Patty Wilkins</i>			

**Minutes: Relating to guaranteed energy savings contracts in public.**

**Senator Layton Freborg**, Chairman called the meeting to order on SB 2211

**Testimony in support of the Bill:**

**Senator Grindberg** : State Senator from district 41 in Fargo, introduced the bill. In favor of this bill and said we may be wondering why this bill is in this committee. When approached to sponsor this bill, In my conversations with officials at the State College of Science and Dickinson State University, center performance contract of energy savings, it seemed to make sense to view the option to extending the ten yr. term to fifteen yr. to spread the operating costs over a longer period of time for such activity. Mr. Schmidt who spoke to you before, during the ventilation bill, could give you some examples of the work that they do to help reduce costs spread over a longer term.

**Perry Schmidt** : We are in the process performing a guaranteed energy savings programs at about 20 different institutions throughout the state of ND. There are about 7 or 8 colleges and

universities where we'd have projects under way. A handful of school districts, state hospital in Jamestown, also the correctional center. What we suggested is to extend the term, the allowable from 10 to 15 years, this doesn't mean that each of these projects in the future would go out to 15 years but it would provide the flexibility for each of the agencies, to take a look at the recommendations for energy efficiency improvement and then determine the scope of work that they want to accomplish in how long of the period of time to finance it. When you look at the work that our company has done as part of these programs, we implemented about 15 million dollars for energy conservation improvement, just in the agencies or facilities that I had mentioned, had they had the option to extend these out to 15 years, and assuming that they would, that would have amounted to another 7 million dollars of additional work that could have been done. That work would be additional energy conservation measures that might have had a little bit longer pay back, to pay back in excessive ten yrs. an example might be a back up generator, we did that at DSU. That generator because of the program with MDU the payback extended to twelve yrs. rate had been restructured so that they drop under ten, but what some of the agencies, where the payback will extend beyond ten it will give them the flexibility to install some of those efficiency upgrades that have a little bit longer.

**Mary Wahl :** From the ND council of Educational Leaders, stood in support of this bill of allowing this extra five yrs. as an option for a local board, to be able to do these kinds of improvements, as you have heard me say repeatedly there is never a surplus of money. This will allow for the option of taking a look at the money they have available, taking a look at the project they may want to complete as you give them some additional time. So that they may spread the

• Page 3

Senate Education Committee

Bill/Resolution Number SB 2211

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payments out, and maybe even to the job in a larger form than if the ten .yr. requirement were in place.

**Testimony in opposition of the Bill:**

No opposition

**Senator Freborg** : closed the hearing on SB 2211

Senator G. Lee , Made a motion for a do pass, Seconded By, Senator Erbele

There was no further discussion

There, being no other discussion roll call vote was taken. vote: 5 yea, 0 nay, 1 absent

Senator Erbele, will carry the bill.

The meeting was adjourned.

Date: 1/26/05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2211**

Senate SENATE EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Sen Lee Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG	✓		SENATOR SEYMOUR	✓	
V-CH- SENATOR G. LEE	✓		SENATOR TAYLOR		
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Sen Erbele

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 26, 2005 12:36 p.m.

**Module No: SR-17-1088**  
**Carrier: Erbele**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2211: Education Committee (Sen. Freborg, Chairman) recommends DO PASS**  
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2211 was placed on the  
Eleventh order on the calendar.

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2211



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2211

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-1-05

Tape Number	Side A	Side B	Meter #
2	x		4.8-20.9
Committee Clerk Signature <i>Jody Renke</i>			

Minutes:

**Chairman Keiser:** Opened the hearing on SB 2211.

**Senator Grindberg:** Appeared in support of bill and also was a sponsor. this bill basically does one thing, moves the term of performance contracts from 10 years to 15 years.

**Perry Schmidt, Energy Services Group:** Appeared in support of bill, and provided a written statement (SEE ATTACHED TESTIMONY). Probably the biggest benefit of this bill is the flexibility for agencies to get more work accomplished instead of require that they do programs or projects in a 15 year term but it gives them the flexibility to go beyond 10 year, the second benefit is that in ND you are fortunate compared to other states, in ND your utility rates are relatively low, and so some of the common energy efficiency improvements that get done in other states where the utility rates are higher, is that the pay backs been extended. The third advantage is that a lot of the agencies that we have worked with in ND, have taken advantage of those projects that have relatively quick pay back.

**Chairman Keiser:** From an energy standing perspective, just from a policy perspective 10 years return on an investment seems reasonable, 15 years doesn't seem as reasonable, we are really stretching, in 15 years time the technology will change so dramatically, that by extending the 15 years we might be eliminating the possibility of a significant adjustment at the end of a 10 year period, that would result in more savings. This bill allows them to be locked in a 15 year.

**Jack McDonald, Energy Education, Inc.:** Appeared in support of the bill and provided a written statement with amendments (SEE ATTACHED TESTIMONY).

No opposition.

**Representative Ruby:** I move to **ADOPT** amendments for SB 2211.

**Representative Ekstrom:** **SECOND** the motion to **ADOPT** amendments.

Motion carried.

**Representative Nottestad:** I move a **DO PASS** as **AMENDED** on SB 2211.

**Representative Dietrich:** **SECOND** the **DO PASS** as **AMENDED**.

Motion carried. **VOTE: 13-YES 0-NO 1-ABSENT (DOSCH).**

**Representative Amerman will carry the bill on the floor.**

Hearing closed.

Roll Call Vote #: 1 Date: 3-1-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2211

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt Amendments

Motion Made By Rep. Ruby Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	A				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 13 No 0

Absent (1) Rep. Dosch

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 2 Date: 3-1-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2211

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50314.0101 .0200

Action Taken Do Pass As Amended

Motion Made By Rep. Nottestad Seconded By Rep. Dietrich

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	A				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) 13 No 0

Absent (1) Rep. Dosch

Floor Assignment Rep. Amerman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
March 2, 2005 2:57 p.m.

Module No: HR-38-4008  
Carrier: Amerman  
Insert LC: 50314.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**SB 2211: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2211 was placed on the Sixth order on the calendar.

Page 1, line 22, overstrike "A" and insert immediately thereafter "If the contract involves facility alteration or real property improvement, a"

Renumber accordingly

2005 TESTIMONY

SB 2211



## Senate Bill No. 2211

*Same given to House*

### ***Legislative Proposal Modifying Energy Savings Contracts***

#### **Proposal - Length of Contract Changed from 10 Years to 15 Years**

A straightforward legislative revision to the energy efficiency project statute (Century Code 48-05-11) that would increase the allowed savings/funding term from 10 years to 15 years:

- This allows for more energy savings projects to go forward that would not be possible under a 10-year payback.
- Allows flexibility for governmental units. This does not require a 15-year payback but allows projects to be structured with a 15-year term or less.
- Gives flexibility to state and local government entities to leverage additional savings term to address deferred maintenance issues.

No opponents known. Various municipality associations have been contacted – School Board Association, League of Cities, Association of Counties, North Dakota State University, North Dakota State Hospital, North Dakota State Penitentiary, North Dakota Facilities Management, Department of Transportation and they all support this legislative change.

#### **Question/Answer**

##### ***What are energy efficiency projects?***

Energy efficiency projects are projects to install energy conservation upgrades such as new lighting and heating/cooling systems in facilities. No upfront cash is required for the upgrades as they are paid from the energy costs savings over a specific term (currently 10 year maximum). The entity receives the full benefit of lower energy costs and budget savings after the facility upgrades have been paid.

##### ***Are governmental units and taxpayers at financial risk with these projects?***

On the contrary, these projects result in budget savings due to the lower energy costs. The contract requires that the energy services companies guarantee that there will be sufficient energy savings that are redirected to cover the costs of the upgrades and financing.

##### ***Is it not better to have shorter payment term so that the taxpayers realize energy savings sooner?***

The statute allows flexibility so that a shorter term can be used if that governmental unit desires it. The projects can be structured so that there are some actual budget savings from day 1. However, a longer term allows for more projects to go forward that would not be possible with a shorter term. For example, a governmental unit may want to have a backup emergency generator system included in a project. The backup emergency generator may only have a 13-year payback. By extending the term to 15 years the governmental unit could include the backup emergency generator which would not only generate significant energy savings, but would also provide the governmental unit with a full backup emergency generator for their campus/facilities in the event of a storm or other disaster.

January 2005

March 1, 2005

HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE SB 2211
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REPRESENTATIVE KEISER AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of Energy Education, Inc., an energy conservation company located in Wichita Falls, TX, that helps school districts in 45 other states save money. Your favorable consideration of our proposed amendment would make North Dakota the 46<sup>th</sup> state.

Attached to my testimony is a letter from the company's chief operating officer that explains what the company does and why it is requesting this amendment. Basically it helps school districts save energy dollars that can then be re-directed toward educational purposes through educational and training programs.

Because of the company's approach, which emphasizes training and practices, and that does not involve the sale or purchase of any equipment or similar capital expenditures, it is not required to post a performance bond in the 45 states in which it now operates. However, North Dakota's statute is a bit different and would seem to require this bond, even though the services the company provides are not the type performance bonds are designed to cover.

Therefore, we respectfully request you adopt our proposed amendment and then give this bill a do pass.

If you have any questions, I'd be glad to try and answer them. Thank you for your time and consideration.

PROPOSED AMENDMENTS TO SENATE BILL 2211

On page 1, line 23, after "contract" insert "if the contract involves facility alteration or real property improvement"

Renumber accordingly





# ENERGY EDUCATION, INC.

ENERGY MANAGEMENT CONSULTING

940.767.1500 / P.O. Box 780 / Wichita Falls Texas 76307 / F 940.767.1547 / [EnergyEducation.com](http://EnergyEducation.com)

Energy Education uses human resources to save financial and natural resources for your school district and your community.

February 25, 2005

Rep. George Keiser  
Chairman, House Industry Business & Labor Committee  
North Dakota House of Representatives

Chairman Keiser and Committee Members:

My name is John Bernard. I am the Chief Operating Officer of Energy Education, Inc., a company founded 19 years ago in Wichita Falls, Texas, to help school districts across the country save money and conserve energy. Energy Education, Inc. develops and implements customized energy conservation programs that enable public school districts to redirect the energy dollars they save to educational opportunities and resources. We are proud of our track record, which has enabled over 650 school districts nationwide to save over one billion dollars since the company's inception.

These programs provide a no-risk opportunity for achieving substantial savings with no capital expenditure. Energy Education, Inc. is the only people-based energy management company with a proven 19-year record of helping public school districts save substantial educational dollars through sound energy management.

Energy Education, Inc. maintains leadership in school energy conservation through its environmental, engineering and management experts' extensive knowledge and the integrity of its unique program, which has strict measurability and accountability guideposts.

Our company develops and assists school districts in implementing educational and training programs that result in energy conservation and savings. We do not sell, alter or install any hardware or similar so-called "hard" equipment items. We do not sell or make any real property improvements.

Because of this unique approach, our program is not required in the 45 other states in which we operate to post a performance bond. The statutory laws in these other states that do require performance bonds for certain types of energy conservation programs typically do not include professional consulting services which do not involve any capital expenditures.

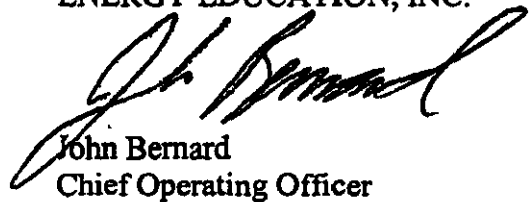
However, the North Dakota definition includes the word "training" without defining what training means and, because of the broad use of this term in our vernacular, could be construed

as being applicable to us. We don't believe a performance bond is designed to cover our type of services, just as it would not be designed to cover professional CPA or legal services. It hasn't in the other states in which we work, so we are asking for an amendment so that North Dakota's law matches the other state laws in this regard. It would make our operations more uniform around the country and would enable us to more easily serve clients at the lowest possible cost in North Dakota.

Thank you for your favorable consideration of our proposed amendment.

Sincerely,

ENERGY EDUCATION, INC.



John Bernard  
Chief Operating Officer



American Association of School Administrators

June 7, 2004

William S. Spears  
Energy Education, Inc  
PO Box 780  
Wichita Falls, TX 76307

Dear Bill:

Congratulations on Energy Education's recent milestone: your 600<sup>th</sup> client!

Helping public schools save funds for education through energy conservation is an invaluable service. In today's unprecedented school funding crisis, school districts need to direct their limited financial resources toward direct classroom services as much as possible. Districts need the comprehensive, people-oriented program created by Energy Education.

Again and again, I talk with superintendents who tell me that using your program is a wise and financially sound decision for their districts.

Cordially,

Dr. Paul D. Houston  
Executive Director  
American Association of School Administrators