| 1        | SENATE BILL 210   |
|----------|---|
| 2        | 44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999  |
| 3        | INTRODUCED BY   |
| 4        | Phillip A. Griego   |
| 5        |   |
| 6        |   |
| 7        |   |
| 8        |   |
| 9<br>10  |   |
| 10       | AN ACT  |
| 11       | RELATING TO THE PUBLIC BUILDING ENERGY EFFICIENCY AND WATER   |
| 12       | CONSERVATION ACT; PROVIDING THAT OPERATING COST SAVINGS MAY BE                                      |
| 13       | USED TO PAY GUARANTEED UTILITY SAVINGS CONTRACTS; PROVIDING THAT                                    |
| 14       | SPECIAL FUNDS OF INSTITUTIONS MAY BE PLEDGED FOR PAYMENTS.  |
| 15       |   |
| 16       | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:  |
| 17       | Section 1. Section 6-23-3 NMSA 1978 (being Laws 1993, Chapter 231, Section 3, as                    |
| 18       | amended) is amended to read:  |
| 19       | "6-23-3. ENERGY EFFICIENCY AND WATER CONSERVATION CONTRACTS   |
| 20       | AUTHORIZEDENERGY OR WATER SAVINGS GUARANTEE REQUIRED  |
| 21       | A. A governmental unit may enter into a guaranteed utility savings contract                         |
| 22       | with a qualified provider to reduce energy, water or conservation-related operating costs if, after |
| 23       | review of the utility efficiency proposal from the qualified provider, the governmental unit finds  |
| 24<br>25 | that:   |
| 25       | (1) the amount the governmental unit would spend on the energy or                                   |
|          | water conservation measures, or both, recommended in the proposal is not likely to exceed the       |
|          |   |

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| 1        | amount to be saved in energy and conservation-related operational costs over ten years from the     |
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| 2        | date of installation if the recommendations in the proposal were followed; and                      |
| 3        | (2) the qualified provider can provide a written guarantee that the                                 |
| 4        | energy, water or conservation-related operating cost savings will meet or exceed the costs of the   |
| 5        | system.   |
| 6        | B. A guaranteed utility savings contract shall include a written guarantee from                     |
| 7        | the qualified provider that annual savings shall meet or exceed the cost of the energy or water     |
| 8        | conservation measures, or both.   |
| 9        | C. A guaranteed utility savings contract may extend beyond the fiscal year in                       |
| 10       | which it becomes effective and may provide for payments over a period of time not to exceed ten     |
| 11       | years; provided, however, [such payments shall be made only from] only special funds                |
| 12       | authorized [for that purpose] pursuant to the Public Building Energy Efficiency and Water           |
| 13       | Conservation Act or other law shall be pledged for the payments.                                    |
| 14       | D. A governmental unit may enter into an installment payment contract or                            |
| 15       | lease-purchase agreement for the purchase and installation of energy or water conservation          |
| 16       | measures, or both, pursuant to a guaranteed utility savings contract, but only in accordance with   |
| 17       | the provisions of the Public Building Energy Efficiency and Water Conservation Act.                 |
| 18       | E. A governmental unit may enter into a utility savings contract pursuant to                        |
| 19       | Section 13-1-129 NMSA 1978 in accordance with the provisions of the Public Building Energy          |
| 20<br>21 | Efficiency and Water Conservation [Efficiency] Act."  |
| 21       | Section 2. Section 6-23-6.1 NMSA 1978 (being Laws 1997, Chapter 42, Section 7) is                   |
| 22<br>22 | amended to read:  |
| 23<br>24 | "6-23-6.1. REPORTING AND RETENTION OF UTILITY COST SAVINGS FOR                                      |
| 24<br>25 | STATE AGENCIES  |
| 25       | A. A state agency entering into a guaranteed utility savings contract with a                        |
|          | qualified provider shall, no later than thirty days after the close of the fiscal year, furnish the |
|          |   |

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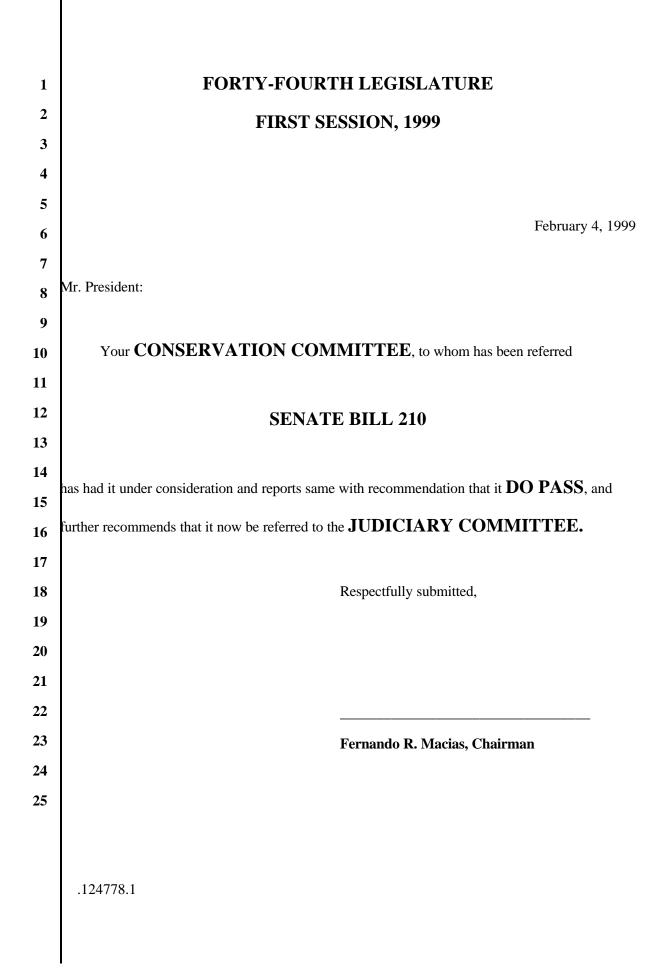
1 energy, minerals and natural resources department a consumption and savings report, in a 2 format established jointly by that department and the department of finance and administration, 3 which estimates any cost savings resulting from the implementation of the guaranteed utility 4 savings contract during the fiscal year. The report shall include: 5 (1) the name or description of each facility or major utility system 6 covered by the report; 7 (2) utility account numbers; 8 (3) a record of monthly consumption of water, energy by fuel type, or 9 both; and 10 (4) a record of monthly per-unit cost of water, energy by fuel type, or 11 both. 12 B. If the consumption and savings report for a state agency shows a utility or 13 conservation-related operating cost savings at the end of the fiscal year that resulted from 14 implementation of a guaranteed utility savings contract and causes an unexpended and 15 unencumbered balance in the agency's utility line item, [the department of finance and 16 administration shall carry forward] the dollar amount of the energy, water or conservation-17 related operating cost savings shall be carried over as a reserved designated fund balance to the 18 subsequent fiscal year. 19 C. Beginning the year after the utility cost savings and conservation-related 20 operating cost savings measures are implemented, and until any alternative financing for a 21 guaranteed utility savings contract is repaid, or for a period of no more than ten years, 22 whichever is less, all utility budgets and appropriations for the state agency shall be based on: 23 (1) the energy or water consumption levels, or both, before the energy 24 or water conservation measures were implemented; 25 (2) the same allowance for escalation or decrease of utility costs given state agencies that did not participate in a guaranteed utility savings contract; and

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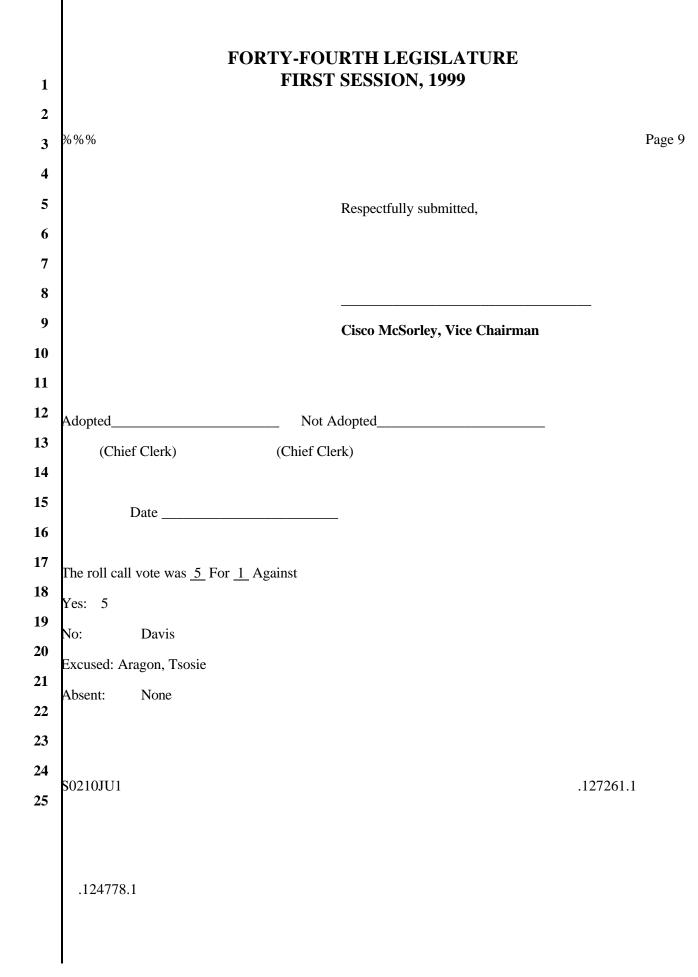
| 1  | (3) any adjustments for acquisitions, expansions, sale or disposition of                           |  |  |
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| 2  | state agency facilities.   |  |  |
| 3  | D. At the end of the repayment period for the guaranteed utility savings                           |  |  |
| 4  | contract, or ten years, whichever is less, new budgets or appropriations for utilities shall again |  |  |
| 5  | be based upon actual utility consumption.  |  |  |
| 6  | E. Upon carryover of the dollar amount of energy, water or conservation-                           |  |  |
| 7  | related operating cost savings as a reserved designated fund balance to the subsequent fiscal      |  |  |
| 8  | year, state agencies may submit a budget adjustment request to use those funds. Upon the           |  |  |
| 9  | approval of the budget adjustment request, the funds are appropriated for the following            |  |  |
| 10 | purposes:  |  |  |
| 11 | (1) up to one hundred percent of the funds may be used for additional                              |  |  |
| 12 | energy or water conservation measures, or both, or for payment of guaranteed utility savings       |  |  |
| 13 | contracts; and   |  |  |
| 14 | (2) after encumbrances for additional energy or water conservation                                 |  |  |
| 15 | measures, or both, have been made, up to fifty percent of the remaining funds may be used for      |  |  |
| 16 | purposes consistent with the duties and responsibilities assigned to the state agency, while the   |  |  |
| 17 | remaining funds shall revert to the general fund.  |  |  |
| 18 | F. For the purposes of this section, "state agency" means an agency, institution                   |  |  |
| 19 | or instrumentality of the state of New Mexico eligible to receive income from lands granted for    |  |  |
| 20 | the use of certain institutions and deposited in income funds pursuant to Section 19-1-17 NMSA     |  |  |
| 21 | 1978. "State agency" does not include a municipality, county or school district."                  |  |  |
| 22 | Section 3. Section 6-23-10 NMSA 1978 (being Laws 1993, Chapter 231, Section 10,                    |  |  |
| 23 | as amended) is amended to read:  |  |  |
| 24 | "6-23-10. STATE INSTITUTIONS AND BUILDINGSUSE OF CERTAIN   |  |  |
| 25 | REVENUES AUTHORIZEDIncome from lands granted for the use of certain institutions                   |  |  |
|    | and public buildings and deposited in income funds for such institutions and buildings pursuant    |  |  |
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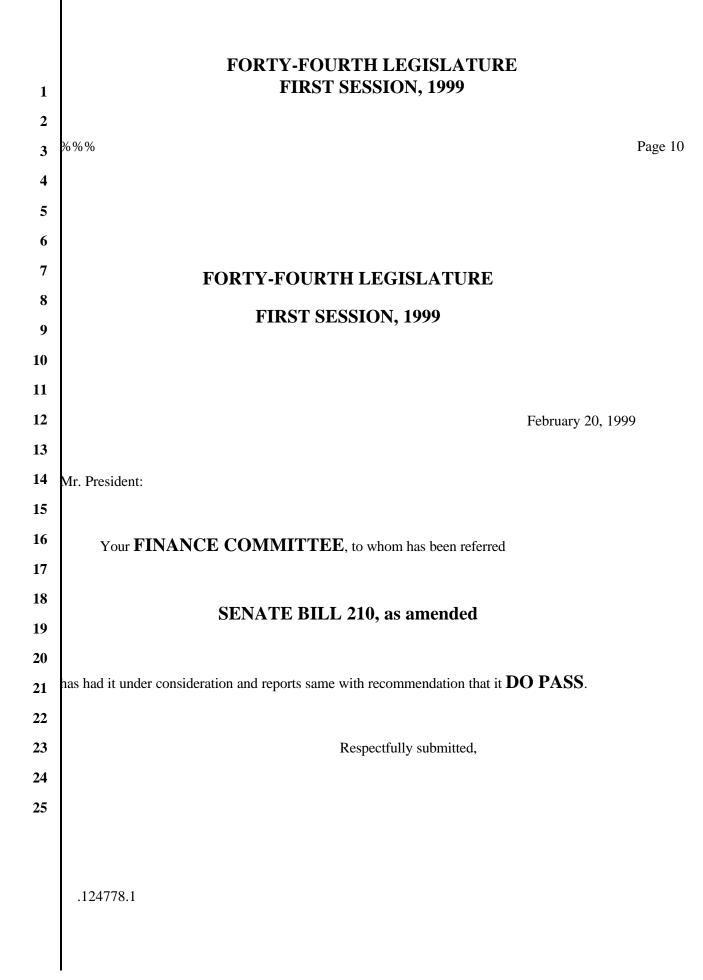
| 2<br>3<br>4<br>5<br>6<br>7<br>8<br>9<br>10<br>11<br>12<br>13 | pledged for payments pursuant to any guaranteed utility savings contract or related lease-<br>purchase agreement or installment payment contract pursuant to the Public Building Energy<br>Efficiency and Water Conservation Act. Any money so appropriated shall be deposited in a<br>special fund or account of the institution or fund and that revenue and no other revenue shall be |
|--|--|
| 4<br>5<br>6<br>7<br>8<br>9<br>10<br>11<br>12                 | Efficiency and Water Conservation Act. Any money so appropriated shall be deposited in a   |
| 5<br>6<br>7<br>8<br>9<br>10<br>11<br>12                      |  |
| 6<br>7<br>8<br>9<br>10<br>11<br>12                           | special fund or account of the institution or fund and that revenue and no other revenue shall be  |
| 7<br>8<br>9<br>10<br>11<br>12                                |  |
| 8<br>9<br>10<br>11<br>12                                     | used to make such payments pursuant to the Public Building Energy Efficiency and Water   |
| 9<br>10<br>11<br>12  | Conservation Act."   |
| 10<br>11<br>12   | - 5 -  |
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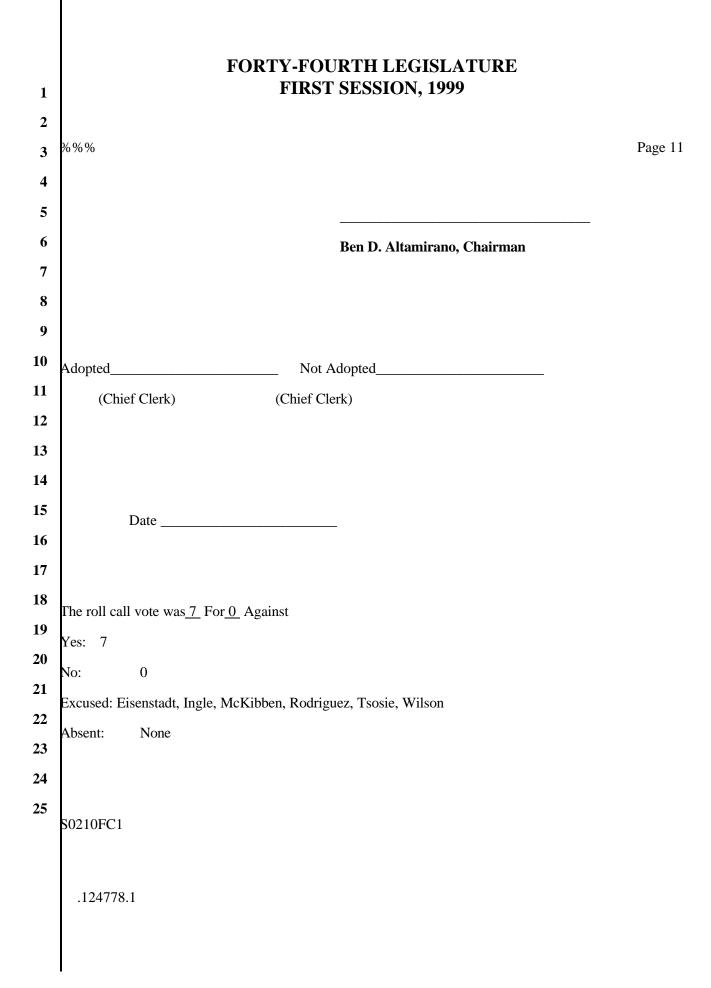


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|    | (Chief Clerk) (Chief Clerk)                          |    |
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| 3  | Date   |    |
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| 5  |  |    |
| 6  | The roll call vote was <u>7</u> For <u>0</u> Against |    |
| 7  | Yes: 7   |    |
| 8  | No: None   |    |
| 9  | Excused: Eisenstadt, Vernon, Macias                  |    |
| 10 | Absent: None   |    |
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|          | FORTY-FOURTH LEGISLATURE  |
|----------|---|
| 1        | FIRST SESSION, 1999 SB 210/a  |
| 2        |   |
| 3        | February 15, 1999   |
| 4        |   |
|          | Mr. President:  |
| 6        |   |
| 7        | Your JUDICIARY COMMITTEE, to whom has been referred   |
| 8        |   |
| 9        | SENATE BILL 210   |
| 10<br>11 | SENALE DILL 210   |
| 10       |   |
| 12       | has had it under consideration and reports same with recommendation that it <b>DO PASS</b> ,  |
| 13<br>14 | amended as follows:   |
| 14       |   |
| 15<br>16 | 1. On page 5, line 13, strike the period and the rest of the line and strike line 14 through  |
| 10       | 'appropriated".   |
| 18       |   |
| 10<br>19 | 2. On page 5, line 21, after "both," insert "or for payment of guaranteed utility savings     |
|          | contracts".   |
| 21       |   |
| 22       | 3. On page 6, lines 21 and 22, strike "used to make such" and insert in lieu thereof "pledged |
| 23       | for".,  |
| 24       |   |
|          | and thence referred to the <b>FINANCE COMMITTEE</b> .   |
|          |   |
|          |   |
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| 1        | FORTY-FOURTH LEGISLATURE   |
|----------|--|
| 2        | FIRST SESSION, 1999  |
| 3        |  |
| 4        |  |
| 5        |  |
| 6        | March 5, 1999  |
| 7        |  |
| 8        | Mr. Speaker:   |
|          | wii. Speaker.  |
| 10<br>11 | Your ENERGY AND NATURAL RESOURCES COMMITTEE, to  |
| 11       | whom has been referred   |
| 12       |  |
| 14       | SENATE BILL 210, as amended  |
| 15       |  |
| 16       | has had it under consideration and reports same with recommendation that it <b>DO PASS</b> , |
| 17       | and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.                             |
| 18       |  |
| 19       | Respectfully submitted,  |
| 20       |  |
| 21       |  |
| 22       |  |
| 23       |  |
| 24       | James Roger Madalena, Chairman   |
| 25       |  |
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|                       |  | RST SESSION, 1999 |  |
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| Adopted               | Not Adopte                               | ed                |  |
|                       | (Chief Clerk)                            | (Chief Clerk)     |  |
|                       |  |                   |  |
|                       |  | Date              |  |
| The roll cel          | l vote was <u>6</u> For <u>0</u> Against |                   |  |
| l në foli cal<br>les: | 6 For <u>0</u> Against                   |                   |  |
|                       | Garcia, Martinez, Picraux                | , Stewart         |  |
| Absent:               | None                                     |                   |  |
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| :\99BillsWP\S         | 50210                                    |                   |  |
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