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SENATE BILL 210

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Phillip A. Griego

AN ACT

RELATING TO THE PUBLIC BUILDING ENERGY EFFICIENCY AND WATER
CONSERVATION ACT; PROVIDING THAT OPERATING COST SAVINGS MAY BE
USED TO PAY GUARANTEED UTILITY SAVINGS CONTRACTS; PROVIDING THAT
SPECIAL FUNDS OF INSTITUTIONS MAY BE PLEDGED FOR PAYMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-23-3 NMSA 1978 (being Laws 1993, Chapter 231, Section 3, as amended) is amended to read:

"6-23-3. ENERGY EFFICIENCY AND WATER CONSERVATION CONTRACTS
AUTHORIZED--ENERGY OR WATER SAVINGS GUARANTEE REQUIRED.--

A. A governmental unit may enter into a guaranteed utility savings contract with a qualified provider to reduce energy, water or conservation-related operating costs if, after review of the utility efficiency proposal from the qualified provider, the governmental unit finds that:

(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
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 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 amended to read:

23 "6-23-6.1. REPORTING AND RETENTION OF UTILITY COST SAVINGS FOR
24 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
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 BUILDINGS--USE OF CERTAIN
25 REVENUES AUTHORIZED.--Income 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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1 to Section 19-1-17 NMSA 1978 and special funds of institutions may be appropriated and
2 pledged for payments pursuant to any guaranteed utility savings contract or related lease-
3 purchase agreement or installment payment contract pursuant to the Public Building Energy
4 Efficiency and Water Conservation Act. Any money so appropriated shall be deposited in a
5 special fund or account of the institution or fund and that revenue and no other revenue shall be
6 used to make such payments pursuant to the Public Building Energy Efficiency and Water
7 Conservation Act."

1 **FORTY-FOURTH LEGISLATURE**

2 **FIRST SESSION, 1999**

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6 February 4, 1999

7
8 Mr. President:

9
10 Your **CONSERVATION COMMITTEE**, to whom has been referred

11
12 **SENATE BILL 210**

13
14 has had it under consideration and reports same with recommendation that it **DO PASS**, and
15 further recommends that it now be referred to the **JUDICIARY COMMITTEE**.
16

17
18 Respectfully submitted,

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22 _____
23 **Fernando R. Macias, Chairman**
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: None

Excused: Eisenstadt, Vernon, Macias

Absent: None

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FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

SB 210/a

February 15, 1999

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

SENATE BILL 210

has had it under consideration and reports same with recommendation that it **DO PASS**,

amended as follows:

1. On page 5, line 13, strike the period and the rest of the line and strike line 14 through "appropriated".

2. On page 5, line 21, after "both," insert "or for payment of guaranteed utility savings contracts".

3. On page 6, lines 21 and 22, strike "used to make such" and insert in lieu thereof "pledged for".

and thence referred to the **FINANCE COMMITTEE**.

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**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

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Respectfully submitted,

Cisco McSorley, Vice Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 1 Against

Yes: 5

No: Davis

Excused: Aragon, Tsosie

Absent: None

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**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

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**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

February 20, 1999

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

SENATE BILL 210, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**.

Respectfully submitted,

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**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

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Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Eisenstadt, Ingle, McKibben, Rodriguez, Tsosie, Wilson

Absent: None

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 5, 1999
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9 Mr. Speaker:

10 Your **ENERGY AND NATURAL RESOURCES COMMITTEE**, to
11 whom has been referred
12

13 **SENATE BILL 210, as amended**
14

15 has had it under consideration and reports same with recommendation that it **DO PASS**,
16 and thence referred to the **APPROPRIATIONS AND FINANCE**
17 **COMMITTEE.**

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19 Respectfully submitted,
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23 _____
24 **James Roger Madalena, Chairman**
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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

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5 Adopted _____ Not Adopted _____
6 (Chief Clerk) (Chief Clerk)
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8 Date _____

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10 The roll call vote was 6 For 0 Against
11 Yes: 6
12 Excused: Garcia, Martinez, Picraux, Stewart
13 Absent: None

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