

1 SENATE BILL 420

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO ENERGY; REQUIRING A GOVERNMENTAL UNIT TO ENTER INTO  
12 A GUARANTEED UTILITY SAVINGS CONTRACT TO CONDUCT ENERGY AUDITS  
13 OF BUILDINGS IF THAT WOULD RESULT IN A SAVINGS OR NO NET COST  
14 INCREASE.

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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,  
18 Chapter 231, Section 3, as amended) is amended to read:

19 "6-23-3. GUARANTEED UTILITY SAVINGS CONTRACTS  
20 AUTHORIZED--ENERGY OR WATER SAVINGS GUARANTEE REQUIRED.--

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

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1 (1) the amount the governmental unit would  
2 spend on the energy or water conservation measures recommended  
3 in the proposal is not likely to exceed the cumulative amount  
4 of utility cost savings and conservation-related cost savings  
5 of all energy or water conservation measures in the proposal  
6 over twenty-five years or over a period not to exceed the  
7 expected useful life of the most durable measure in the  
8 proposal, whichever period of time is less, from the date of  
9 installation if the recommendations in the proposal were  
10 followed. The normal periodic repair and replacement of  
11 components of an energy or water conservation measure that are  
12 required after the measure is installed or completed shall not  
13 be considered in the amount a governmental unit would spend on  
14 the energy or water conservation measure for purposes of this  
15 paragraph; and

16 (2) the qualified provider can provide a  
17 written guarantee that the utility cost savings and  
18 conservation-related cost savings will meet or exceed the costs  
19 of the conservation measures.

20 B. A guaranteed utility savings contract shall  
21 include:

22 (1) a written guarantee from the qualified  
23 provider that annual utility cost savings and conservation-  
24 related cost savings shall meet or exceed the cost of the  
25 conservation measures; and

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1 (2) a requirement that the qualified provider  
2 maintain a direct financial relationship with the governmental  
3 unit, irrespective of the source of financing for the energy or  
4 water conservation measures to be implemented.

5 C. A guaranteed utility savings contract may extend  
6 beyond the fiscal year in which it becomes effective and may  
7 provide for payments over a period of time not to exceed  
8 twenty-five years or the expected useful life of the most  
9 durable energy or water conservation measure in the contract,  
10 whichever period of time is less; provided, however, only  
11 utility cost savings, conservation-related cost savings  
12 and special funds authorized pursuant to the Public Facility  
13 Energy Efficiency and Water Conservation Act or other law shall  
14 be pledged for the payments.

15 D. A governmental unit may enter into an  
16 installment payment contract or lease-purchase agreement for  
17 the purchase and installation of energy or water conservation  
18 measures pursuant to a guaranteed utility savings contract, but  
19 only in accordance with the provisions of the Public Facility  
20 Energy Efficiency and Water Conservation Act and Section  
21 13-1-150 NMSA 1978.

22 E. A governmental unit may enter into a guaranteed  
23 utility savings contract pursuant to Section 13-1-129 NMSA 1978  
24 in accordance with the provisions of the Public Facility Energy  
25 Efficiency and Water Conservation Act."

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