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SENATE BILL 840

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO TELECOMMUNICATIONS; AUTHORIZING CERTAIN GOVERNMENTAL
UNITS TO ENTER INTO TELECOMMUNICATIONS SAVINGS CONTRACTS;
CREATING A FUND; PROVIDING POWERS AND DUTIES; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section. 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 9 of this act may be cited as the "Public
Telecommunications Consolidation Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the
Public Telecommunications Consolidation Act:

A. "governmental unit" means an agency, institution
or instrumentality of the state; a municipality; a county; or a
school district;

B. "guaranteed telecommunications savings contract"

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1 means a contract for the evaluation and recommendation of
2 telecommunications consolidation measures and for the
3 implementation of one or more of those measures, and which
4 contract provides that all payments, except obligations on
5 termination of the contract before its expiration, are to be
6 made over time and the savings are guaranteed to the extent
7 necessary to make the payments for the telecommunications
8 consolidation measures;

9 C. "qualified provider" means a person or business
10 experienced in the design, implementation and installation of
11 telecommunications consolidation measures and who meets the
12 experience qualifications developed by the general services
13 department; and

14 D. "telecommunications consolidation measure" means
15 a training program or facility alteration designed to reduce
16 operating costs and may include voice, data, video, networking,
17 long distance rates and other functions, including security
18 alarm, environmental controls and landscape controls.

19 Section 3. [NEW MATERIAL] TELECOMMUNICATIONS SAVINGS
20 CONTRACTS AUTHORIZED-- GUARANTEE REQUIRED. --

21 A. A governmental unit may enter into a guaranteed
22 telecommunications savings contract with a qualified provider to
23 reduce operating costs if, after review of the proposal from the
24 qualified provider, the governmental unit finds that:

25 (1) the amount the governmental unit would

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1 spend on the telecommunications consolidation measures
2 recommended in the proposal is not likely to exceed the amount
3 to be saved in operational costs over ten years from the date of
4 installation if the recommendations in the proposal were
5 followed; and

6 (2) the qualified provider can provide a
7 written guarantee that the operating cost savings will meet or
8 exceed the costs of the system.

9 B. A guaranteed telecommunications savings contract
10 shall include a written guarantee from the qualified provider
11 that annual savings shall meet or exceed the cost of the
12 telecommunications consolidation measures.

13 C. A governmental unit may enter into an installment
14 payment contract or lease-purchase agreement for the purchase
15 and installation of telecommunications consolidation measures
16 pursuant to a guaranteed telecommunications savings contract,
17 but only in accordance with the provisions of the Public
18 Telecommunications Consolidation Act.

19 Section 4. [NEW MATERIAL] GUARANTEED TELECOMMUNICATIONS
20 SAVINGS CONTRACT--PERFORMANCE BOND REQUIRED.--No governmental
21 unit shall enter into a guaranteed telecommunications savings
22 contract unless a performance bond that meets the requirements
23 of this section is delivered by the qualified provider to the
24 governmental unit and the bond becomes binding on the parties
25 upon the execution of the contract. The qualified provider

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1 shall provide a performance bond satisfactory to the
2 governmental unit and its approving agency executed by a surety
3 company authorized to do business in this state and approved by
4 the state board of finance. The bond shall be in an amount
5 equal to the amount of the guarantee given by the qualified
6 provider in the guaranteed telecommunications savings contract.

7 Section 5. [NEW MATERIAL] CONTRACT APPROVAL REQUIRED. --

8 A. No governmental unit shall enter into a
9 guaranteed telecommunications savings contract with a qualified
10 provider or any installment payment contract or lease-purchase
11 agreement pursuant to that contract, unless the contracts and
12 agreements are reviewed and approved as follows:

13 (1) for school districts, by the superintendent
14 of public instruction;

15 (2) for agencies, institutions and
16 instrumentalities of the state, by the secretary of general
17 services; and

18 (3) for municipalities and counties, by the
19 secretary of finance and administration.

20 B. The approval required under this section shall be
21 given upon a determination that the contracts and agreements
22 comply with the provisions of the Public Telecommunications
23 Consolidation Act and other applicable law and after review of
24 the governmental unit's budget and revenue sources.

25 Section 6. [NEW MATERIAL] CONTRACTS AND AGREEMENTS NOT A

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1 GENERAL OBLIGATION OF THE GOVERNMENTAL UNIT. -- Payment
2 obligations of a governmental unit pursuant to a guaranteed
3 telecommunications savings contract with a qualified provider
4 and any installment payment contract or lease-purchase agreement
5 pursuant to a guaranteed telecommunications savings contract are
6 not general obligations of the governmental unit and are
7 collectible only from revenues pledged for that purpose.

8 Section 7. [NEW MATERIAL] PUBLIC SCHOOL
9 TELECOMMUNICATIONS CONSOLIDATION FUND CREATED--USE. --

10 A. The "public school telecommunications
11 consolidation fund" is created as a special fund in the state
12 treasury. The fund shall consist of money transferred to the
13 fund, from year to year, from the income of the permanent fund
14 and land income of which the common schools are the beneficiary.
15 No other money from any school district or state source shall be
16 deposited or paid into the public school telecommunications
17 consolidation fund.

18 B. Annually, after the calculation of the state
19 equalization guarantee distributions has been made, the
20 superintendent of public instruction shall determine the sum of
21 the deductions made in the state equalization guarantee
22 distributions of school districts pursuant to Paragraph (6) of
23 Subsection D of Section 22-8-25 NMSA 1978 and shall certify that
24 amount to the secretary of finance and administration. Income
25 from the permanent fund and land income of which the common

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1 schools are the beneficiary equal to that amount shall be
2 transferred from the common school current fund to the public
3 school telecommunications consolidation fund.

4 C. Money in the public school telecommunications
5 consolidation fund is appropriated to the state department of
6 public education solely for the purpose of disbursing money to
7 school districts to make payments pursuant to any guaranteed
8 telecommunications savings contract between the school district
9 and a qualified provider or any installment contract or lease-
10 purchase agreement for the purchase and installation of
11 telecommunications consolidation measures pursuant to that
12 guaranteed telecommunications savings contract.

13 D. Disbursements from the public school
14 telecommunications consolidation fund shall be made only to
15 school districts and only upon certification by the
16 superintendent of public instruction that the disbursement is
17 for a payment authorized by the Public Telecommunications
18 Consolidation Act.

19 E. The superintendent of public instruction shall
20 submit to the legislative finance committee prior to each
21 regular legislative session a list of school districts proposing
22 to enter into approved guaranteed telecommunications savings
23 contracts in the succeeding fiscal year. The list shall include
24 information on the amount of the school district's proposed
25 annual payments and specific amounts that utility and

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1 operational budget items are guaranteed to be reduced to achieve
2 the savings to make the payments.

3 F. Any unexpended or unencumbered balance remaining
4 in the public school telecommunications consolidation fund at
5 the end of any fiscal year shall be transferred to the public
6 school fund.

7 Section 8. [NEW MATERIAL] MUNICIPALITIES--USE OF CERTAIN
8 REVENUES AUTHORIZED.--Upon adoption of an ordinance by an
9 affirmative vote of a majority of the members of the governing
10 body at any regular or special meeting of the governing body
11 called for that purpose, a municipality may pledge any or all
12 revenues not otherwise pledged or obligated from gross receipts
13 taxes received by the municipality pursuant to Sections 7-1-6.4
14 and 7-1-6.12 NMSA 1978 for payments pursuant to a guaranteed
15 telecommunications savings contract with a qualified provider
16 and any installment payment contract or lease-purchase agreement
17 pursuant to that guaranteed telecommunications savings contract.
18 The ordinance shall declare the necessity for the guaranteed
19 telecommunications savings contract and related contracts or
20 agreements and shall designate the source of the pledged
21 revenues. Revenues pledged for such contract payments shall be
22 deposited in a special fund, and the municipality shall not use
23 any other revenues to make such payments. At the end of each
24 fiscal year, any money remaining in the special fund after
25 payment obligations are met may be transferred to any other fund

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1 of the municipality.

2 Section 9. [NEW MATERIAL] COUNTIES--USE OF CERTAIN
3 REVENUES AUTHORIZED.--Upon adoption of an ordinance by an
4 affirmative vote of a majority of the members of the board of
5 county commissioners at any regular or special meeting of the
6 board called for that purpose, a county may pledge any or all of
7 the revenue not otherwise pledged or obligated from the first
8 one-eighth of one percent increment and of one-half of the
9 revenue from the third one-eighth of one percent increment of
10 the county gross receipts tax transferred to the county pursuant
11 to Section 7-1-6.13 NMSA 1978 and any or all of the revenue from
12 the distribution related to the first one-eighth of one percent
13 increment made pursuant to Section 7-1-6.16 NMSA 1978 for the
14 purpose of making payments pursuant to a guaranteed
15 telecommunications savings contract with a qualified provider or
16 any installment payment contract or lease-purchase agreement
17 pursuant to that guaranteed telecommunications savings contract.
18 The ordinance shall declare the necessity for the guaranteed
19 telecommunications savings contract and related contracts or
20 agreements and shall designate the source of the pledged
21 revenues. Any revenues pledged for such contract payments shall
22 be deposited in a special fund, and the county shall not use any
23 other county or state revenue to make such payments. At the end
24 of each fiscal year, any money remaining in the special fund
25 after the payment obligations are met may be transferred to any

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1 other fund of the county.

2 Section 10. Section 6-6-12 NMSA 1978 (being Laws 1968,
3 Chapter 72, Section 8, as amended) is amended to read:

4 "6-6-12. EXEMPTIONS FROM BATEMAN ACT. -- Insurance contracts
5 not exceeding five years, lease-purchase agreements, lease
6 agreements, contracts providing for the operation or provision
7 and operation of a jail by an independent contractor entered
8 into by a local public body set out in Section 6-6-11 NMSA 1978,
9 [and] guaranteed energy savings contracts and installment
10 payment contracts or lease-purchase agreements pursuant to
11 guaranteed energy savings contracts and guaranteed
12 telecommunications savings contracts and installments payment
13 contracts or lease-purchase agreements pursuant to guaranteed
14 telecommunications savings contracts are exempt from the
15 provisions of Section 6-6-11 NMSA 1978, and such contracts,
16 lease-purchase agreements, lease agreements and jail contracts
17 are declared not to constitute the creation of debt. "

18 Section 11. Section 13-1-139 NMSA 1978 (being Laws 1984,
19 Chapter 65, Section 112, as amended) is amended to read:

20 "13-1-139. COST OR PRICING DATA NOT REQUIRED. -- The cost or
21 pricing data relating to the award of a contract shall not be
22 required when:

- 23 A. the procurement is based on competitive sealed
24 bid;
25 B. the contract price is based on established

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1 catalogue prices or market prices;

2 C. the contract price is set by law or regulation;

3 D. the contract is for professional services; ~~[or]~~

4 E. the contract is awarded pursuant to the Public
5 Building Energy Efficiency Act; or

6 F. the contract is awarded pursuant to the Public
7 Telecommunications Consolidation Act."

8 Section 12. Section 13-1-150 NMSA 1978 (being Laws 1984,
9 Chapter 65, Section 123, as amended by Laws 1993, Chapter 225,
10 Section 1 and also by Laws 1993, Chapter 231, Section 13) is
11 amended to read:

12 "13-1-150. MULTI-TERM CONTRACTS--SPECIFIED PERIOD.--A
13 multi-term contract for items of tangible personal property,
14 construction or services except for professional services, in an
15 amount under twenty-five thousand dollars (\$25,000), may be
16 entered into for any period of time deemed to be in the best
17 interests of the state agency or a local public body not to
18 exceed four years; provided that the term of the contract and
19 conditions of renewal or extension, if any, are included in the
20 specifications and funds are available for the first fiscal
21 period at the time of contracting. If the amount of the
22 contract is twenty-five thousand dollars (\$25,000) or more, the
23 term shall not exceed eight years, including all extensions and
24 renewals, except that for any such contract entered into
25 pursuant to the Public Building Energy Efficiency Act or the

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1 Public Telecommunications Consolidation Act, the term shall not
2 exceed ten years, including all extensions and renewals.

3 Payment and performance obligations for succeeding fiscal
4 periods shall be subject to the availability and appropriation
5 of funds [~~therefore~~] therefor. A contract for professional
6 services, except for services required to support or operate
7 federally certified medicaid, financial assistance and child
8 support enforcement management information or payment systems,
9 may not exceed a term of four years, including all extensions
10 and renewals, except that a multi-term contract for the services
11 of trustees, escrow agents, registrars, paying agents, letter of
12 credit issuers and other forms of credit enhancement and other
13 similar services, excluding bond attorneys, underwriters and
14 financial advisors with regard to the issuance, sale and
15 delivery of public securities, may be for the life of the
16 securities or as long as the securities remain outstanding. "

17 Section 13. Section 22-8-25 NMSA 1978 (being Laws 1981,
18 Chapter 176, Section 5, as amended by Laws 1993, Chapter 226,
19 Section 23 and also by Laws 1993, Chapter 231, Section 14) is
20 amended to read:

21 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
22 DEFINITIONS-- DETERMINATION OF AMOUNT. --

23 A. The state equalization guarantee distribution is
24 that amount of money distributed to each school district to
25 ensure that the school district's operating revenue, including

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1 its local and federal revenues as defined in this section, is at
2 least equal to the school district's program cost.

3 B. "Local revenue", as used in this section, means
4 ninety-five percent of receipts to the school district derived
5 from that amount produced by a school district property tax
6 applied at the rate of fifty cents (\$.50) to each one thousand
7 dollars (\$1,000) of net taxable value of property allocated to
8 the school district and to the assessed value of products
9 severed and sold in the school district as determined under the
10 Oil and Gas Ad Valorem Production Tax Act and upon the assessed
11 value of equipment in the school district as determined under
12 the Oil and Gas Production Equipment Ad Valorem Tax Act.

13 C. "Federal revenue", as used in this section, means
14 ninety-five percent of receipts to the school district,
15 excluding amounts ~~[which]~~ that, if taken into account in the
16 computation of the state equalization guarantee distribution,
17 result, under federal law or regulations, in a reduction in or
18 elimination of federal school funding otherwise receivable by
19 the school district, derived from the following:

20 (1) the school district's share of forest
21 reserve funds distributed in accordance with Section 22-8-33
22 NMSA 1978; and

23 (2) grants from the federal government as
24 assistance to those areas affected by federal activity
25 authorized in accordance with Sections 236 through 240 of Title

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1 20 of the United States Code (commonly known as "PL 874 funds")
2 or an amount equal to the revenue the district was entitled to
3 receive if no application was made for such funds but deducting
4 from those grants the additional amounts to which school
5 districts would be entitled because of the provisions of
6 Subparagraph (D) of Paragraph (2) of Subsection (d) of Section
7 238 of Title 20 of the United States Code.

8 D. To determine the amount of the state equalization
9 guarantee distribution, the state superintendent shall:

10 (1) calculate the number of program units to
11 which each school district is entitled using the membership of
12 the fortieth day of the school year, except for school districts
13 with a MEM of [200] two hundred or less where the number of
14 program units shall be calculated on the fortieth day membership
15 of either the prior year or the current year, whichever is
16 greater, for all programs except special education, which shall
17 be calculated by using the membership on December 1 of the
18 school year; or

19 (2) calculate the number of program units to
20 which a school district operating under an approved [~~year-round~~]
21 variable school calendar is entitled using the membership on an
22 appropriate date established by the state board;

23 (3) using the results of the calculations in
24 Paragraph (1) or (2) of this subsection and the instructional
25 staff training and experience index from the October report of

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1 the prior school year, establish a total program cost of the
2 school district;

3 (4) calculate the local and federal revenues as
4 defined in this section;

5 (5) deduct the sum of the calculations made in
6 Paragraph (4) of this subsection from the program cost
7 established in Paragraph (3) of this subsection; and

8 (6) deduct the total amount of guaranteed
9 energy savings contract payments and guaranteed
10 telecommunications savings contract payments that the state
11 superintendent determines will be made to the school district
12 from the public school energy efficiency fund and the public
13 school telecommunications consolidation fund during the fiscal
14 year for which the state equalization guarantee distribution is
15 being computed.

16 E. The amount of the state equalization guarantee
17 distribution to which a school district is entitled is the
18 balance remaining after the deductions made in Paragraphs (5)
19 and (6) of Subsection D of this section.

20 F. The state equalization guarantee distribution
21 shall be distributed prior to June 30 of each fiscal year. The
22 calculation shall be based on the local and federal revenues
23 specified in this section received from June 1 of the previous
24 fiscal year through May 31 of the fiscal year for which the
25 state equalization guarantee distribution is being computed. In

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1 the event that a district has received more state equalization
2 guarantee funds than its entitlement, a refund shall be made by
3 the district to the state general fund.

4 G. Notwithstanding the methods of calculating the
5 state equalization guarantee distribution in this section and
6 Laws 1974, Chapter 8, Section 22, if a school district received
7 funds under Section 2391 of Title 42 USCA and if the federal
8 government takes into consideration grants authorized by
9 Sections 236 through 240 of Title 20 of the United States Code
10 and all other revenues available to the school district in
11 determining the level of federal support for the school district
12 for the sixty-fourth and succeeding fiscal years, the state
13 equalization guarantee distribution for school districts
14 receiving funds under this subsection shall be computed as
15 follows:

16	fiscal year program cost		prior fiscal year
17	excluding special education		state equalization
18	for the year for which the	x	guarantee distribution
19	state equalization guarantee		excluding special
20	<u>distribution is being computed</u>		education
21	prior fiscal year program cost		
22	excluding special education		
23	plus special education funding in accordance with Paragraphs (1)		
24	or (2) and (3) of Subsection D of this section and Section		
25	22-8-21 NMSA 1978 plus an amount that would be produced by		

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1 applying a rate of eight dollars forty-two and one-half cents
2 (\$8.425) to each one thousand dollars (\$1,000) of net taxable
3 value of property as defined in the Property Tax Code for
4 property taxation purposes in the school district and to each
5 one thousand dollars (\$1,000) of the assessed value of products
6 severed and sold in the school district as determined under the
7 Oil and Gas Ad Valorem Production Tax Act and upon the assessed
8 value of equipment in the school district as determined under
9 the Oil and Gas Production Equipment Ad Valorem Tax Act and then
10 reduced by the total amount of guaranteed energy savings
11 contract payments and guaranteed telecommunications savings
12 contract payments, if any, that the state superintendent
13 determines will be made to the school district from the public
14 school energy efficiency fund and the public school
15 telecommunications consolidation fund during the fiscal year for
16 which the state equalization guarantee distribution is being
17 computed, equals the fiscal year state equalization guarantee
18 distribution for the year for which the state equalization
19 guarantee distribution is being computed.

20 If at any time grants from the federal government as
21 assistance to those areas affected by federal activity
22 authorized in accordance with Sections 236 through 240 of Title
23 20 of the United States Code (commonly known as "PL 874 funds")
24 are reduced or are no longer available, the state equalization
25 guarantee distribution shall be computed by the formula

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1 contained in this subsection plus an increase by fifty percent
2 of the amount the prior year's PL 874 funds exceed PL 874 funds
3 for the year for which the state equalization guarantee
4 distribution is being computed. "

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1 FORTY-THIRD LEGISLATURE

HB 840/a

2 FIRST SESSION, 1997

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6 March 19, 1997

7
8 Mr. President:

9
10 Your FINANCE COMMITTEE, to whom has been referred

11
12 HOUSE BILL 840, as amended

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17
18 1. Strike House Appropriations and Finance Committee

19 Amendment 1.

20
21 2. On page 1, lines 16 and 17, strike "Eight hundred ten
22 thousand dollars (\$810,000) is appropriated from the general fund"
23 and insert in lieu thereof:

24
25 "Five hundred seventy thousand dollars (\$570,000) is appropriated
from the unexpended and unencumbered balances of the legislative
council service remaining from the appropriation for session

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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expenses authorized in Subsections B, D, F and H of Section 2 of Chapter 1 of Laws 1995 and Subsections B, D, G and H of Section 2 of Chapter 1 of Laws 1996".

3. On page 1, line 19, after "system" strike the remainder of the line, strike all of lines 20 and 21 and strike line 22 through the semicolon.

4. On page 1, line 23, strike "; and" and insert in lieu thereof a comma.

5. On page 2, strike all of line 1, strike line 2 through the period and insert in lieu thereof:

", other communications applications and limited upgrades and replacements to internal systems for the legislative council service, the legislative education study committee, the legislative finance committee, the house of representatives and the senate. "

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Respectfully submitted,

Ben D. Altamirano, Chairman

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

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Carraro, Eisenstadt, Ingle, Lyons, McKibben

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Absent: None

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