1	HOUSE BILL 215
2	44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999
3	INTRODUCED BY
4	Dani ce R. Pi craux
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9	
10	AN ACT
11	RELATING TO EDUCATION; PROVIDING ADDITIONAL DUE PROCESS
12	TERMINATION PROCEDURES FOR PUBLIC POST-SECONDARY EDUCATIONAL
13	INSTITUTION FACULTY AND STAFF.
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
16	Section 1. Section 21-1-7 NMSA 1978 (being Laws 1897,
17	Chapter 72, Section 5, as amended) is amended to read:
18	"21-1-7. REMOVAL OF FACULTY <u>AND STAFF</u> MEMBERS
19	COMPENSATION OF SECRETARY AND TREASURER RESTRICTED
20	<u>A.</u> No member of the faculty <u>or staff</u> of any
21	[state] public post-secondary educational institution shall be
22	removed [during the term for which he is elected or appointed]
23	except for just cause, following notice and an opportunity for
24	a hearing [under] <u>pursuant to</u> rules adopted by the board of
25	regents [of his] <u>or governing board of the public post-</u>
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<u>secondary educational</u> institution.

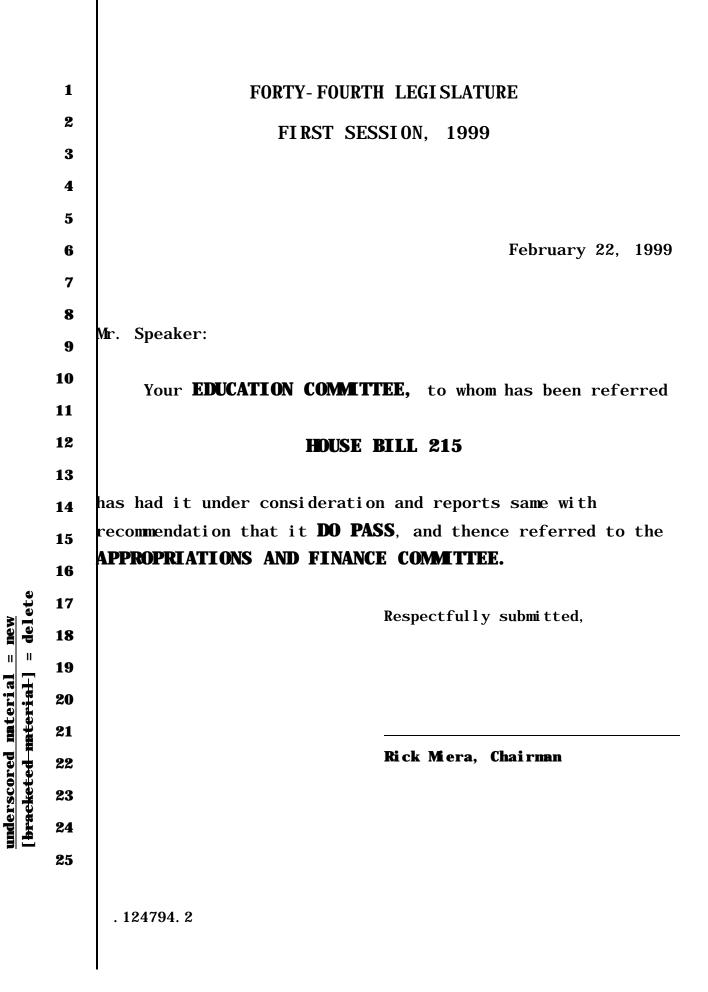
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1	<u>secondary educationar</u> institution.
2	B. In addition to policies and procedures adopted
3	by the board of regents or governing board of each public
4	post-secondary educational institution, the following minimum
5	requirements shall be included in the rules regarding
6	termination procedures for faculty and staff:
7	(1) faculty or staff members shall receive
8	written notice of termination that shall include:
9	(a) reasons for the recommendation to
10	terminate; and
11	(b) notice of the faculty or staff
12	member's right to a hearing within a specified time before an
13	independent body of the public post-secondary educational
14	<u>institution;</u>
15	(2) after receiving notice of intent to
16	terminate, the faculty or staff member may request a hearing
17	that includes the following requirements before an independent
18	body of the public post-secondary educational institution:
19	(a) the hearing shall be held within a
20	specified time from the date of the notice of termination;
21	(b) discovery shall be allowed prior to
22	the hearing, and evidence may be presented at the hearing;
23	(c) the public post-secondary
24	educational institution shall have the burden of proving by a
25	preponderance of the evidence that at the time of the notice
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1	of intent to recommend discharge, the public post-secondary
2	educational institution had just cause to discharge the
3	faculty or staff member; and
4	(d) the independent body of the public
5	post-secondary educational institution shall render its
6	decision within a specified time upon the conclusion of the
7	<u>discharge hearing; and</u>
8	(3) faculty or staff members may appeal the
9	decision of the independent body of the public post-secondary
10	educational institution before an independent arbitrator at a
11	de novo hearing that includes the following requirements:
12	<u>(a) the hearing shall be held within a</u>
13	reasonable time from the date of the notice of appeal to the
14	public post-secondary educational institution;
15	(b) discovery shall be allowed prior to
16	the hearing, and evidence may be presented at the hearing;
17	(c) the independent arbitrator shall
18	uphold the independent body of the public post-secondary
19	educational institution's decision only if it is proven by a
20	preponderance of the evidence that at the time the notice of
21	termination was served on the faculty or staff member the
22	public post-secondary educational institution had just cause
23	to terminate the faculty or staff member;
24	(d) the sole remedies available shall
25	be reinstatement or payment of compensation reinstated in
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1	full, subject to any additional compensation allowed other
2	employees of like qualifications and experience employed by
3	the public post-secondary educational institution and
4	including reimbursement for compensation during the entire
5	period for which compensation was terminated, or both, less an
6	offset for any compensation received by the employee during
7	the period the compensation was terminated;
8	(e) the decision of the independent
9	arbitrator shall be final and binding on both parties and
10	shall be nonappealable except where the decision was procured
11	by corruption, fraud, deception or collusion, in which case it
12	may be appealed to the court of appeals by filing a notice of
13	appeal as provided by the New Mexico Rules of Appellate
14	<u>Procedure; and</u>
15	(f) each party shall bear its own costs
16	and expenses incurred by the appeal to the independent
17	<u>arbitrator.</u>
18	<u>C.</u> No secretary or treasurer of [any state] <u>a</u>
19	<u>public post-secondary</u> educational institution except those
20	supported in whole or in part by United States appropriation
21	shall receive any compensation as secretary or treasurer."
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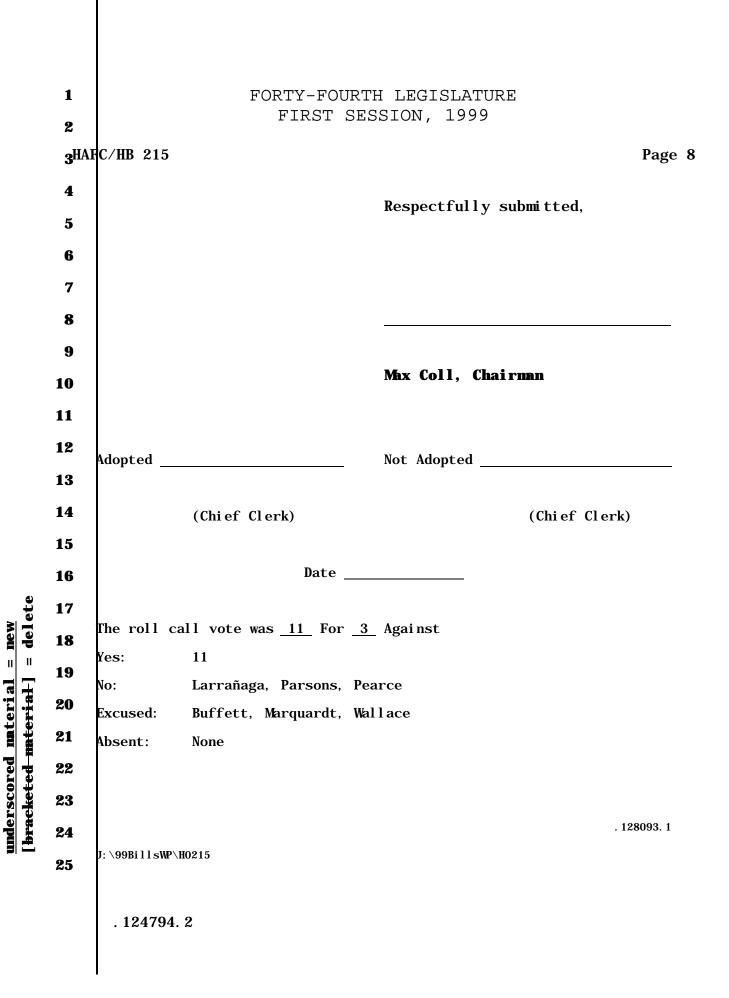
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		10	The roll ca	ll vote w	as <u>8</u> Fo	r <u>5</u> A	gai nst					
		11	Yes:	8								
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1	FORTY- FOURTH LEGI SLATURE
2	FIRST SESSION, 1999
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4	Esharama 20 1000
5	February 26, 1999
6	
7	Mr. Speaker:
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9	Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10	whom has been referred
11	HOUSE BILL 215
12	
13	has had it under consideration and reports same with
14	recommendation that it DO PASS , amended as follows:
15	
16	1. On page 4, line 14, strike "and".
17	2. On page 4, line 17, strike the period and insert in
18	Lieu thereof "; and".
19	
20	3. On page 4, between lines 17 and 18, insert the
21	following new paragraph:
22	
23	"(g) the costs of the arbitrator shall be shared
24	equally between the parties.".
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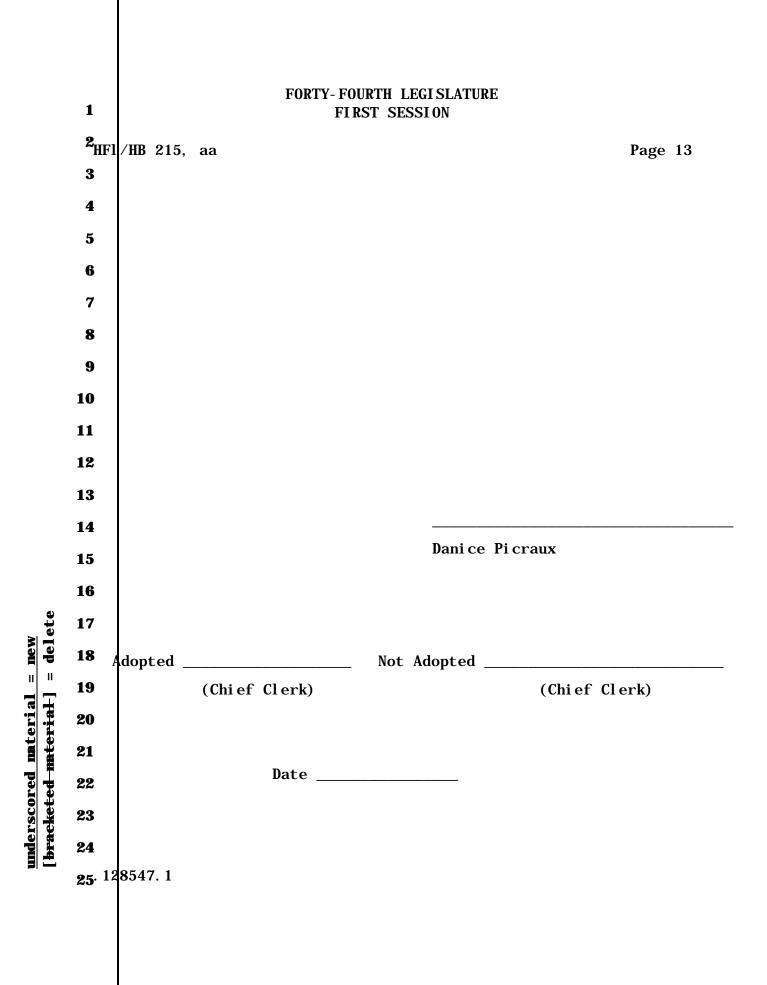
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1	FORTY- FOURTH LEGI SLATURE
2	FIRST SESSION
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	March 9 1000
4	March 3, 1999
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6	HOUSE FLOOR AMENDMENT number to HOUSE BILL 215, as amended
7	
8	Amendment sponsored by Representative Danice Picraux
9	
10	
11	1. On page 1, line 13, strike "FACULTY AND STAFF" and insert in
12	lieu thereof "EMPLOYEES".
13	
14	2. On page 1, line 18, strike "FACULTY AND STAFF MEMBERS" and
i 15	insert in lieu thereof "EMPLOYEES".
16	
	3. On page 1, line 20, strike "member of the faculty or staff"
	and insert in lieu thereof "employee".
18	4 On more 1 line 99 stuile "memored" and incomt in lieu
19	4. On page 1, line 22, strike "removed" and insert in lieu thereof "discharged or terminated from employment,".
20	thereof discharged of terminated from emproyment, .
21	5. On page 4, line 21, after the period strike the quotation
22	mark.
23	
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	1	FORTY-FOURTH LEGISLATURE FIRST SESSION
	2 _{HF}	l/HB 215, aa Page 12
	3	6. On page 4, between lines 21 and 22, insert the following new
	4	subsecti on:
	5	
	6	"D. As used in this section:
	7	(1) "amployee" means a regular full time faculty or
	8	(1) "employee" means a regular, full-time faculty or nonmanagerial or nonsupervisory staff member who has been rehired for
	9	a second consecutive calendar year with a public post-secondary
	10	institution or a regular part-time faculty or nonmanagerial or
	11	nonsupervisory staff member with two or more years of service with a
	12	public post-secondary institution;
	13	
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	16	
<u>new</u> del ete	17	(2) "discharge" means the act of severing the
	18	employment relationship with an employee prior to the end of an
al = F] =	19	employee's term of employment; and
eri.	20	
	21	(3) "terminate" means the act of not rehiring an
bred Fed	22	employee for the ensuing year or, in the case of an employee who is not issued a written contract, the act of severing the employment
underscored mterial [bracketed mterial]	23	relationship with the employee. "".
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			FORTY-FOURTH LEGISLATURE FIRST SESSION
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		4	FORTY-FOURTH LEGISLATURE FIRST SESSION, 1999
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		6	
		7	March 11, 1999
		8	
		9	Mr. President:
		10	
		11	Your EDUCATION COMMITTEE, to whom has been referred
		12	HOUSE BILL 215, as amended
		13	
		14	has had it under consideration and reports same with recommendation
		15	that it DO PASS, and thence referred to the JUDICIARY
		16	COMMITTEE.
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		18	Respectfully submitted,
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red	Ē	22	Cynthia Nava, Chairman
rsco	cket	23	
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		7	The roll	call vote was <u>5</u> For <u>1</u>	Agai nst			
		8	Yes:	5				
		3	No:	Boitano				
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