SENATE BILL 437

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

INTRODUCED BY

Cisco McSorley

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO COURTS; EXTENDING THE PERIOD OF TIME FOR A PARTY
TO FILE AN APPLICATION FOR AN INTERLOCUTORY APPEAL; REMOVING
THE DEADLINE FOR COURT ACTION ON APPLICATION FOR AN
INTERLOCUTORY APPEAL; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 39-3-4 NMSA 1978 (being Laws 1971,
Chapter 40, Section 1) is amended to read:

"39-3-4. INTERLOCUTORY ORDER APPEALS FROM DISTRICT
COURT.--

A. In any civil action or special statutory
proceeding in the district court, when the district judge
makes an interlocutory order or decision which does not
practically dispose of the merits of the action and he
believes the order or decision involves a controlling question

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1   of law as to which there is substantial ground for difference

2   of opinion and that an immediate appeal from the order or

3   decision may materially advance the ultimate termination of

4   the litigation, he shall so state in writing in the order or

5   decision.

6   B.   The supreme court or court of appeals has

7   jurisdiction over an appeal from such an interlocutory order

8   or decision, as appellate jurisdiction may be vested in

9   [these] those courts.   Within [ten] fifteen days after entry

10   of the order or decision, any party aggrieved may file with

11   the clerk of the supreme court or court of appeals an

12   application for an order allowing an appeal, accompanied by a

13   copy of the interlocutory order or decision.   [If an

14   application has not been acted upon within twenty days, it

15   shall be deemed denied.]

16   C.   Application under this section for an order

17   allowing appeal does not stay proceedings in the district

18   court unless so ordered by the district judge or a judge or

19   justice of the court to which application is made."

20   Section 2.   EFFECTIVE DATE.--The effective date of the

21   provisions of this act is July 1, 1999.
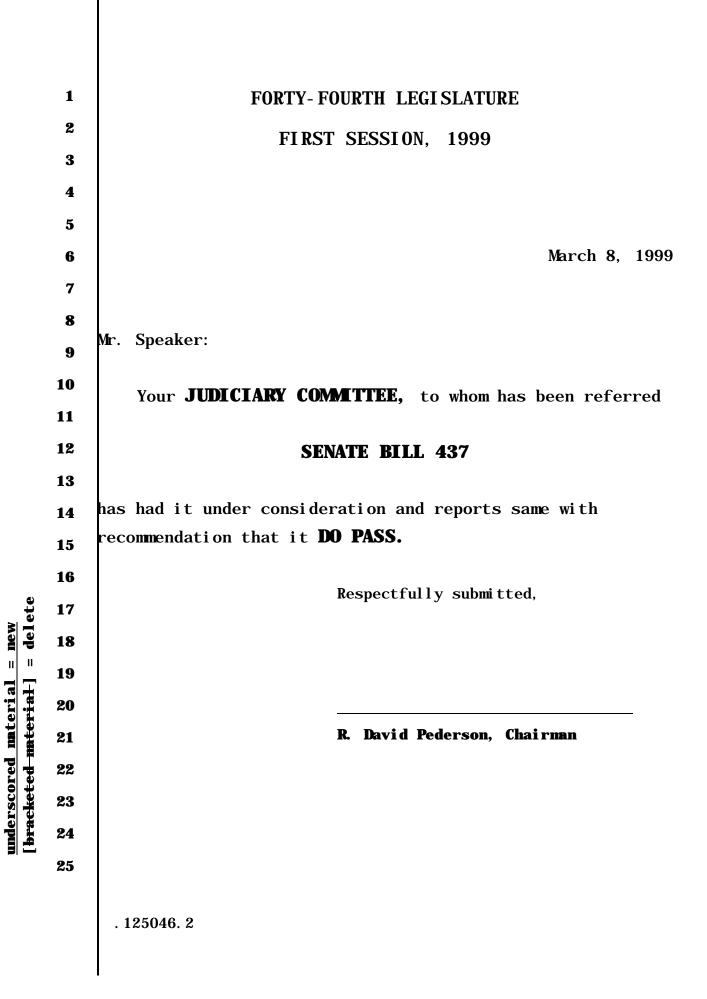
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FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

February 17, 1999

Mr. President:

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

SENATE BILL 437

has had it under consideration and reports same with

recommendation that it **DO PASS**.

Respectfully submitted,

_____

Cisco McSorley, Vice Chairman

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Adopted_____ Not

Adopted_____

              (Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was __5__ For __0__ Against

Yes: 5

No: None

Excused: Sanchez, Stockard, Tsosie

Absent: None

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FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

March 8, 1999

Mr. Speaker:

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

SENATE BILL 437

has had it under consideration and reports same with

recommendation that it **DO PASS.**

Respectfully submitted,

_____

R. David Pederson, Chairman

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

                         Date _____

The roll call vote was __7__ For __0__ Against

Yes: 7

Excused: Godbey, Luna, T. Taylor, Thompson, Sanchez

Absent: None

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