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HOUSE BILL 215

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

INTRODUCED BY

Dani ce R. Pi craux

AN ACT

RELATING TO EDUCATION; PROVIDING ADDITIONAL DUE PROCESS  
TERMINATION PROCEDURES FOR PUBLIC POST-SECONDARY EDUCATIONAL  
INSTITUTION FACULTY AND STAFF.

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

Section 1. Section 21-1-7 NMSA 1978 (being Laws 1897,  
Chapter 72, Section 5, as amended) is amended to read:

"21-1-7. REMOVAL OF FACULTY AND STAFF MEMBERS--  
COMPENSATION OF SECRETARY AND TREASURER RESTRICTED.--

A. No member of the faculty or staff of any  
[state] public post-secondary educational institution shall be  
removed [~~during the term for which he is elected or appointed~~]  
except for just cause, following notice and an opportunity for  
a hearing [~~under~~] pursuant to rules adopted by the board of  
regents [~~of his~~] or governing board of the public post-

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1 secondary educational 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 institution;

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 discharge hearing; and

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 (a) the hearing shall be held within a  
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 Procedure; and

15 (f) each party shall bear its own costs  
16 and expenses incurred by the appeal to the independent  
17 arbitrator.

18 C. No secretary or treasurer of [~~any state~~] a  
19 public post-secondary educational institution except those  
20 supported in whole or in part by United States appropriation  
21 shall receive any compensation as secretary or treasurer. "

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
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6 February 22, 1999  
7

8 Mr. Speaker:  
9

10 Your EDUCATION COMMITTEE, to whom has been referred  
11

12 HOUSE BILL 215  
13

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

17 Respectfully submitted,  
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22 Rick Miera, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HEC/HB 215

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 5 Against

Yes: 8

No: Blanton, Dana, Hamilton, Macko, Williams

Excused: Burpo, Marquardt, Miera

Absent: None

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1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3  
4 February 26, 1999

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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  
18 2. On page 4, line 17, strike the period and insert in  
19 lieu thereof "; and".

20  
21 3. On page 4, between lines 17 and 18, insert the  
22 following new paragraph:

23 "(g) the costs of the arbitrator shall be shared  
24 equally between the parties."

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HAF/ HB 215

Page 8

Respectfully submitted,

Max Coll, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 3 Against

Yes: 11

No: Larrañaga, Parsons, Pearce

Excused: Buffett, Marquardt, Wallace

Absent: None

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION

March 3, 1999

HOUSE FLOOR AMENDMENT number \_\_\_\_\_ to HOUSE BILL 215, as amended

Amendment sponsored by Representative Danice Picraux

1. On page 1, line 13, strike "FACULTY AND STAFF" and insert in lieu thereof "EMPLOYEES".

2. On page 1, line 18, strike "FACULTY AND STAFF MEMBERS" and insert in lieu thereof "EMPLOYEES".

3. On page 1, line 20, strike "member of the faculty or staff" and insert in lieu thereof "employee".

4. On page 1, line 22, strike "removed" and insert in lieu thereof "discharged or terminated from employment, ".

5. On page 4, line 21, after the period strike the quotation mark.

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION

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HF1/ HB 215, aa

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6. On page 4, between lines 21 and 22, insert the following new subsection:

"D. As used in this section:

(1) "employee" means a regular, full-time faculty or nonmanagerial or nonsupervisory staff member who has been rehired for a second consecutive calendar year with a public post-secondary institution or a regular part-time faculty or nonmanagerial or nonsupervisory staff member with two or more years of service with a public post-secondary institution;

(2) "discharge" means the act of severing the employment relationship with an employee prior to the end of an employee's term of employment; and

(3) "terminate" means the act of not rehiring an 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 relationship with the employee. "".

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION

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\_\_\_\_\_  
Danice Picraux

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

March 11, 1999

Mr. President:

Your EDUCATION COMMITTEE, to whom has been referred

HOUSE BILL 215, as amended

has had it under consideration and reports same with recommendation  
that it DO PASS, and thence referred to the JUDICIARY  
COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Cynthia Nava, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION

1 HF1/ HB 215, aa

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2 (Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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7 The roll call vote was 5 For 1 Against

8 Yes: 5

9 No: Boitano

10 Excused: Adair, Duran, Gorham, Jennings

11 Absent: None

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