1	SENATE BILL 440				
2	44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 199				
3	INTRODUCED BY				
4	Cisco McSorley				
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10	AN ACT				
11	RELATING TO DISPUTE RESOLUTION; ENACTING THE ALTERNATIVE				
12	DISPUTE RESOLUTION ACT; PRESCRIBING POWERS AND DUTIES.				
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14	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:				
15	Section 1. SHORT TITLEThis act may be cited as the				
16	"Alternative Dispute Resolution Act".				
17	Section 2. PURPOSEThe purpose of the Alternative				
18	Dispute Resolution Act is to resolve public disputes through				
19	methods of building consensus that are efficient, flexible,				
20	creative and comprehensive."				
21	Section 3. DEFINITIONSAs used in the Alternative				
22	Dispute Resolution Act:				
23	A. "agency" means the state of New Mexico, any of				
24	its branches, agencies, departments, boards, instrumentalities,				
25	institutions, political subdivisions of the state and their				
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agencies, instrumentalities and institutions and all water and natural gas associations organized pursuant to Chapter 3, Article 28 NMSA 1978;

"alternative dispute resolution" means a 4 B. 5 process other than litigation used to resolve disputes, including mediation, facilitation, regulatory negotiation, 6 7 fact-finding, conciliation, mini-trials, early neutral 8 evaluation and policy dialogues;

"convenor" means a person or agency that helps C. parties decide whether alternative dispute resolution is appropriate and that encourages parties to use alternative dispute resolution in a dispute;

"coordinator" means a person appointed by an D. agency who promotes the use of alternative dispute resolution;

"neutral" means a person who provides services E. as a mediator, facilitator, fact-finder or conciliator or who aids parties to resolve disputes; and

"public dispute" means a dispute that involves F. the public interest and the determination of rights, obligations and privileges of persons and agencies.

AUTHORI ZATI ON- - AGREEMENTS- - COSTS- -Section 4. **COORDI NATORS- - NEUTRALS. - -**

An agency is authorized to use alternative A. dispute resolution to resolve a dispute, issue or controversy in which the agency is involved. An agency may use

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alternative dispute resolution in all areas of their
operations, programs and functions, including formal and
informal adjudications, rulemakings, enforcement actions,
permitting, certification, licensing, policy development,
contract administration and other work place disputes.

B. An agency shall employ voluntary procedures to be used at the agency's discretion or at the request of another person. A decision by an agency whether to employ alternative dispute resolution shall not be subject to judicial review.

C. An agency shall consider using alternative dispute resolution if:

(1) the nature of the controversy appears to be suited to alternative dispute resolution through consensus building; and

(2) the parties with a substantial interest in the conflict are identifiable and appear willing to use alternative dispute resolution either by direct participation or through a representative.

D. An agency that chooses to use alternative dispute resolution shall enter into an agreement that:

(1) provides for the appointment of neutrals, consultants or experts;

(2) extends any limitation periods applicable to the commencement or conclusion of formal administrative or .126018.1

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judicial proceedings; and

2 (3) establishes rules for the alternative
3 dispute resolution.

E. The agreement may be included in an enforcement order, stipulation, contract, permit or other document entered into or issued by an agency to assist in the resolution of future disputes. The agreement shall not require an agency to take any action that is inconsistent or contrary to any state law or rule.

F. An agency may pay the costs necessary to
achieve the objectives of the Alternative Dispute Resolution
Act, including reasonable fees for:

13 (1) training; 14 (2)policy review; (3) system design; 15 16 evaluation: (4) technical and expert assistance; and 17 (5) 18 the use of neutrals. (6)

G. An agency may appoint a coordinator who shall:

(1) make recommendations to the agency's
 executive staff on issues and disputes that are suitable for
 alternative dispute resolution;

(2) analyze the agency's enabling statutes and rules to determine whether they contain impediments to the use of alternative dispute resolution and suggest any

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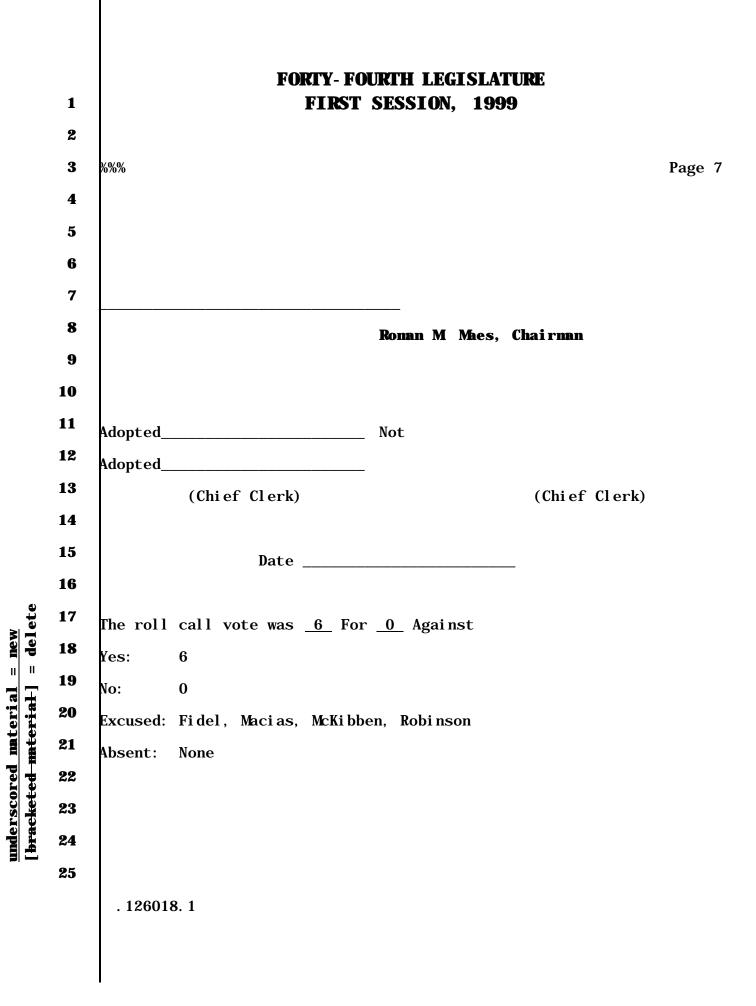
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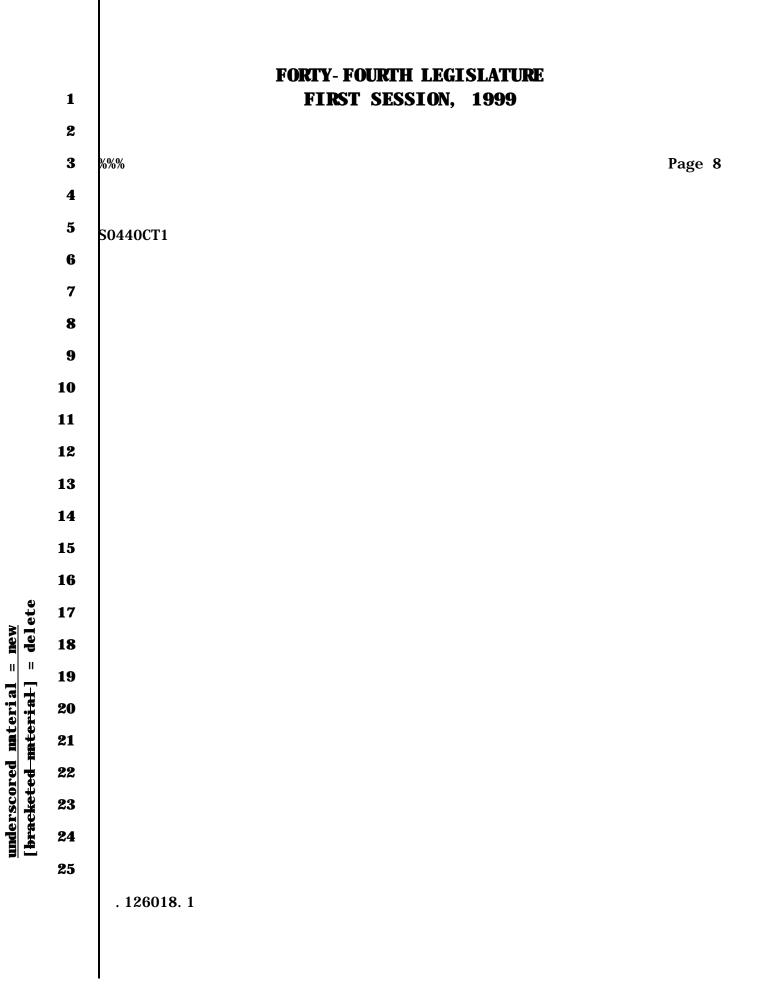
1 modifications; monitor the agency's use of alternative 2 (3) dispute resolution; 3 arrange for training of agency staff in 4 (4) alternative dispute resolution practices; and 5 (5) provide information about the agency's 6 7 alternative dispute resolution practices to staff and to the public. 8 A neutral shall be selected and shall serve at 9 H. 10 the will of the parties of an alternative dispute resolution. 11 The parties shall agree how to provide Ι. 12 compensation to a neutral. A neutral shall have no official. financial or 13 J. 14 personal conflict of interest with any issue or party in controversy unless the conflict of interest is fully disclosed 15 16 in writing to all of the parties and all parties agree that 17 the neutral may continue to serve. 18 - 5 -19 20 21 22 23 24 25 . 126018. 1

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1	FORTY-FOURTH LEGISLATURE SB 440/a			
2	FIRST SESSION, 1999			
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6	February 16, 1999			
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8	Mr. President:			
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10	Your CORPORATIONS & TRANSPORTATION COMMITTEE, to			
11	whom has been referred			
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13	SENATE BILL 440			
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15	has had it under consideration and reports same with			
16	recommendation that it DO PASS , amended as follows:			
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18	1. On page 4, line 10, strike "An agency may" and insert			
19	"The parties involved shall".,			
20	The parties Theored Sharr .,			
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22	and thence referred to the JUDICIARY COMMITTEE.			
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24	Respectfully submitted,			
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		12	March 10, 1999
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	te	17	Your JUDICIARY COMMITTEE , to whom has been referred
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	11	19	SENATE BILL 440, as anended
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