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HOUSE BILL 589

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

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO INSURANCE; AMENDING THE RETIREE HEALTH CARE ACT TO INCLUDE FORMER LEGISLATORS AND FORMER MEMBERS OF CERTAIN BOARDS; AMENDING THE PUBLIC SCHOOL INSURANCE AUTHORITY ACT TO INCLUDE LEGISLATORS AND PRIVATE SCHOOLS; CHANGING PROVISIONS AFFECTING SCHOOL BOARD MEMBERS IN THE PUBLIC SCHOOL INSURANCE AUTHORITY ACT; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990, Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS. -- As used in the Retiree Health Care Act:

A. "active employee" means an employee of a public institution or any other public employer participating in either the Educational Retirement Act, the Public Employees

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1 Retirement Act, the Judicial Retirement Act, the Magistrate  
2 Retirement Act or the Public Employees Retirement Reciprocity  
3 Act or an employee of an independent public employer;

4 B. "authority" means the retiree health care  
5 authority created pursuant to the Retiree Health Care Act;

6 C. "basic plan of benefits" means only those  
7 coverages generally associated with a medical plan of  
8 benefits;

9 D. "board" means the board of the retiree health  
10 care authority;

11 E. "current retiree" means an eligible retiree who  
12 is receiving a disability or normal retirement benefit under  
13 the Educational Retirement Act, the Public Employees  
14 Retirement Act, the Judicial Retirement Act, the Magistrate  
15 Retirement Act, the Public Employees Retirement Reciprocity  
16 Act or the retirement program of an independent public  
17 employer on or before July 1, 1990;

18 F. "eligible dependent" means a person obtaining  
19 retiree health care coverage based upon that person's  
20 relationship to an eligible retiree as follows:

- 21 (1) a spouse;
- 22 (2) an unmarried child under the age of  
23 nineteen who is:
  - 24 (a) a natural child;
  - 25 (b) a legally adopted child;

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1 (c) a stepchild living in the same  
2 household who is primarily dependent on the eligible retiree  
3 for maintenance and support;

4 (d) a child for whom the eligible  
5 retiree is the legal guardian and who is primarily dependent  
6 on the eligible retiree for maintenance and support, as long  
7 as evidence of the guardianship is evidenced in a court order  
8 or decree; or

9 (e) a foster child living in the same  
10 household;

11 (3) a child described in Subparagraphs (a)  
12 through (e) of Paragraph (2) of this subsection who is between  
13 the ages of nineteen and twenty-five and is a full-time  
14 student at an accredited educational institution; provided  
15 that "full-time student" shall be a student enrolled in and  
16 taking twelve or more semester hours or its equivalent contact  
17 hours in primary, secondary, undergraduate or vocational  
18 school or a student enrolled in and taking nine or more  
19 semester hours or its equivalent contact hours in graduate  
20 school;

21 (4) a dependent child over nineteen who is  
22 wholly dependent on the eligible retiree for maintenance and  
23 support and who is incapable of self-sustaining employment by  
24 reason of mental retardation or physical handicap; provided  
25 that proof of incapacity and dependency shall be provided

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1 within thirty-one days after the child reaches the limiting  
2 age and at such times thereafter as may be required by the  
3 board;

4 (5) a surviving spouse defined as follows:

5 (a) "surviving spouse" means the spouse  
6 to whom a retiree was married at the time of death; or

7 (b) "surviving spouse" means the spouse  
8 to whom a deceased vested active employee was married at the  
9 time of death; or

10 (6) a surviving dependent child who is the  
11 dependent child of a deceased eligible retiree whose other  
12 parent is also deceased;

13 G. "eligible employer" means either:

14 (1) a "retirement system employer", which  
15 means an institution of higher education, a school district or  
16 other entity participating in the public school insurance  
17 authority, a state agency, state court, magistrate court,  
18 municipality, county or public entity, each of which is  
19 affiliated under or covered by the Educational Retirement Act,  
20 the Public Employees Retirement Act, the Judicial Retirement  
21 Act, the Magistrate Retirement Act or the Public Employees  
22 Retirement Reciprocity Act; or

23 (2) an "independent public employer", which  
24 means a municipality, county or public entity that is not a  
25 retirement system employer;

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H. "eligible retiree" means:

(1) a "nonsalaried eligible participating entity governing authority member", [~~who is~~] which means a person who is not a retiree and who:

(a) has served without salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act and is certified to be such by the executive director of the public school insurance authority;

(b) has maintained group health insurance coverage through that member's governing authority if such group health insurance coverage was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program [~~under~~] pursuant to the Retiree Health Care Act prior to July 1, 1993; or

(d) if a person eligible [~~under~~] pursuant to Subparagraph (a) of this paragraph applies before August 1, 1993 to the authority to participate in the program, then he will be eligible to participate notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph;

(2) a "salaried eligible participating entity governing authority member", [~~who is~~] which means a person who is not a retiree and who:

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1 (a) has served with salary as a member  
2 of the governing authority of an employer eligible to  
3 participate in the benefits of the Retiree Health Care Act;

4 (b) has maintained group health  
5 insurance through that member's governing authority, if such  
6 group health insurance was available and offered to the member  
7 during the member's service as a member of the governing  
8 authority; and

9 (c) was participating in the group  
10 health insurance program [~~under~~] pursuant to the Retiree  
11 Health Care Act prior to July 1, 1993; or

12 (d) if a person eligible [~~under~~]  
13 pursuant to Subparagraph (a) of this paragraph applies before  
14 August 1, 1993 to the authority to participate in the program,  
15 then he will be eligible to participate notwithstanding the  
16 provisions of Subparagraphs (b) and (c) of this paragraph;  
17 [~~or~~]

18 (3) an "eligible participating retiree", [~~who~~  
19 ~~is~~] which means a person who:

20 (a) falls within the definition of a  
21 retiree, has made contributions to the fund for at least five  
22 years prior to retirement and whose eligible employer during  
23 that period of time made contributions as a participant in the  
24 Retiree Health Care Act on the person's behalf, unless that  
25 person retires on or before July 1, 1995, in which event the

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1 time period required for employee and employer contributions  
2 shall become the period of time between July 1, 1990 and the  
3 date of retirement, and who is certified to be a retiree by  
4 the educational retirement director, the executive secretary  
5 of the public employees retirement board or the governing  
6 authority of an independent public employer;

7 (b) falls within the definition of a  
8 retiree, retired prior to July 1, 1990 and is certified to be  
9 a retiree by the educational retirement director, the  
10 executive secretary of the public employees retirement  
11 association or the governing authority [ ~~or~~ ] of an independent  
12 public employer; but this paragraph does not include a retiree  
13 who was an employee of an eligible employer who exercised the  
14 option not to be a participating employer pursuant to the  
15 Retiree Health Care Act and did not after January 1, 1993  
16 elect to become a participating employer; unless the retiree:  
17 1) retired on or before June 30, 1990; and 2) at the time of  
18 retirement did not have a retirement health plan or retirement  
19 health insurance coverage available from his employer; or

20 (c) is a retiree who: 1) was at the  
21 time of retirement an employee of an eligible employer who  
22 exercised the option not to be a participating employer  
23 pursuant to the Retiree Health Care Act, but which eligible  
24 employer subsequently elected after January 1, 1993 to become  
25 a participating employer; 2) has made contributions to the

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1 fund for at least five years prior to retirement and whose  
2 eligible employer during that period of time made  
3 contributions as a participant in the Retiree Health Care Act  
4 on the person's behalf, unless that person retires less than  
5 five years after the date participation begins, in which event  
6 the time period required for employee and employer  
7 contributions shall become the period of time between the date  
8 participation begins and the date of retirement; and 3) is  
9 certified to be a retiree by the educational retirement  
10 director, the executive secretary of the public employees  
11 retirement board or the governing authority of an independent  
12 public employer;

13 (4) a "legislative member", which means a  
14 person who is not a retiree and who served as a member of the  
15 New Mexico legislature for at least four years but is no  
16 longer a member of the legislature and is certified to be a  
17 former member by the legislative council service; or

18 (5) a "former salaried or nonsalaried  
19 eligible participating entity governing authority member",  
20 which means a person who is not a retiree and who served with  
21 or without salary as a member of the governing authority of a  
22 participating entity for at least four years but is no longer  
23 a member of the governing authority and is certified to be a  
24 former member by the chief executive officer of the eligible  
25 participating entity;

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1 I. "fund" means the retiree health care fund;  
2 J. "group health insurance" means coverage that  
3 includes but is not limited to life insurance, accidental  
4 death and dismemberment, hospital care and benefits, surgical  
5 care and treatment, medical care and treatment, dental care,  
6 eye care, obstetrical benefits, prescribed drugs, medicines  
7 and prosthetic devices, medicare supplement, medicare  
8 carveout, medicare coordination and other benefits, supplies  
9 and services through the vehicles of indemnity coverages,  
10 health maintenance organizations, preferred provider  
11 organizations and other health care delivery systems as  
12 provided by the Retiree Health Care Act and other coverages  
13 considered by the board to be advisable;

14 K. "ineligible dependents" include but are not  
15 limited to:

16 (1) those dependents created by common law  
17 relationships;

18 (2) dependents while in active military  
19 service;

20 (3) parents, aunts, uncles, brothers,  
21 sisters, grandchildren and other family members left in the  
22 care of an eligible retiree without evidence of legal  
23 guardianship; and

24 (4) anyone not specifically referred to as an  
25 eligible dependent pursuant to the rules and regulations

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1 adopted by the board;

2 L. "participating employee" means an employee of a  
3 participating employer, which employee has not been excluded  
4 from participation in the Retiree Health Care Act pursuant to  
5 Section 10-7C-10 NMSA 1978;

6 M "participating employer" means an eligible  
7 employer who has satisfied the conditions for participating in  
8 the benefits of the Retiree Health Care Act, including the  
9 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and  
10 Subsection D or E [~~or G~~] of Section 10-7C-9 NMSA 1978, as  
11 applicable;

12 N. "public entity" means a flood control  
13 authority, economic development district, council of  
14 governments, regional housing authority, conservancy district  
15 or other special district or special purpose government; and

16 O. "retiree" means a person who:

17 (1) is receiving:

18 (a) a disability or normal retirement  
19 benefit or survivor's benefit [~~under~~] pursuant to the  
20 Educational Retirement Act;

21 (b) a disability or normal retirement  
22 benefit or survivor's benefit pursuant to the Public Employees  
23 Retirement Act, the Judicial Retirement Act, the Magistrate  
24 Retirement Act or the Public Employees Retirement Reciprocity  
25 Act; or

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1 (c) a disability or normal retirement  
2 benefit or survivor's benefit pursuant to the retirement  
3 program of an independent public employer to which that  
4 employer has made periodic contributions; or

5 (2) is not receiving a survivor's benefit but  
6 is the eligible dependent of a person who received a  
7 disability or normal retirement benefit pursuant to the  
8 Educational Retirement Act, the Public Employees Retirement  
9 Act, the Judicial Retirement Act, the Magistrate Retirement  
10 Act or the Public Employees Retirement Reciprocity Act. "

11 Section 2. Section 10-7C-13 NMSA 1978 (being Laws 1990,  
12 Chapter 6, Section 13, as amended) is amended to read:

13 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE PLANS. --

14 A. Each eligible retiree shall pay a monthly  
15 premium for the basic plan in an amount set by the board not  
16 to exceed the sum of fifty dollars (\$50.00) plus the amount,  
17 if any, of the compounded annual increases authorized by the  
18 board, which increases shall not exceed three percent in any  
19 fiscal year. In addition to the monthly premium for the basic  
20 plan, each current retiree and nonsalaried eligible  
21 participating entity governing authority member who becomes an  
22 eligible retiree shall also pay monthly an additional  
23 participation fee set by the board. That fee shall be five  
24 dollars (\$5.00) plus the amount, if any, of the compounded  
25 annual increases authorized by the board, which increases

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1 shall not exceed three percent in any fiscal year. A  
2 legislative member or former salaried or nonsalaried eligible  
3 participating entity governing authority member shall pay  
4 monthly an amount equal to one-twelfth of the cost allocation  
5 by the board to the member of the claims and administrative  
6 costs of the selected plan. The additional monthly  
7 participation fee paid by the current retirees, legislative  
8 members and nonsalaried eligible participating entity  
9 governing authority members who become eligible retirees shall  
10 be a consideration and a condition for being permitted to  
11 participate in the Retiree Health Care Act. Eligible  
12 dependents shall pay monthly premiums in amounts that with  
13 other money appropriated to the fund shall cover the cost of  
14 the basic plan for the eligible dependents.

15 B. Eligible retirees and eligible dependents shall  
16 pay monthly premiums to cover the cost of the optional plans  
17 that they elect to receive, and the board shall adopt rules  
18 for the collection of additional premiums from eligible  
19 retirees and eligible dependents participating in the optional  
20 plans. An eligible retiree or eligible dependent may  
21 authorize the authority in writing to deduct the amount of  
22 these premiums from the monthly annuity payments, if  
23 applicable.

24 C. The participating employers, active employees  
25 and retirees are responsible for the financial viability of

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1 the program. The overall financial viability is not an  
2 additional financial obligation of the state."

3 Section 3. Section 22-2-6.2 NMSA 1978 (being Laws 1986,  
4 Chapter 94, Section 2) is amended to read:

5 "22-2-6.2. PURPOSE OF ACT. --The purpose of the Public  
6 School Insurance Authority Act is to provide comprehensive  
7 core insurance programs for all participating private or  
8 public schools, charter schools, school board members, [~~school~~  
9 ~~board retirees~~] legislators and public school employees and  
10 retirees by expanding the pool of subscribers to maximize  
11 cost-containment opportunities for required insurance  
12 coverage."

13 Section 4. Section 22-2-6.3 NMSA 1978 (being Laws 1986,  
14 Chapter 94, Section 3, as amended) is amended to read:

15 "22-2-6.3. DEFINITIONS. --As used in the Public School  
16 Insurance Authority Act:

17 A. "authority" means the public school insurance  
18 authority;

19 B. "board" means the board of directors of the  
20 public school insurance authority;

21 C. "director" means the director of the [~~public~~  
22 ~~school insurance~~] authority;

23 D. "educational entities" means state educational  
24 institutions as enumerated in Article 12, Section 11 of the  
25 constitution of New Mexico and other [~~state diploma~~] diploma-

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1 granting, degree-granting and certificate-granting elementary,  
2 secondary and post-secondary educational institutions;

3 E. "fund" means the public school insurance fund;

4 F. "group health insurance" means coverage [~~which~~]  
5 that includes but is not limited to life insurance, accidental  
6 death and dismemberment, medical care and treatment, dental  
7 care, eye care and other coverages as determined by the  
8 authority;

9 G. "legislator" means a person certified by the  
10 legislative council service to be a member of the New Mexico  
11 legislature;

12 [~~G.~~] H. "risk-related coverage" means coverage  
13 [~~which~~] that includes but is not limited to property and  
14 casualty, general liability, auto and fleet, [~~workmen's~~]  
15 workers' compensation and other casualty insurance; [~~and~~]

16 I. "school board member" means a person serving as  
17 a member of the governing board of a school district and  
18 certified to be a member by the superintendent of that school  
19 district; and

20 [~~H.~~] J. "school district" means a school district  
21 as defined in Subsection [J] K of Section 22-1-2 NMSA 1978,  
22 excluding any school district with a student enrollment in  
23 excess of sixty thousand students. "

24 Section 5. Section 22-2-6.5 NMSA 1978 (being Laws 1986,  
25 Chapter 94, Section 5, as amended) is amended to read:

. 126401. 2

1 "22-2-6. 5. BOARD CREATED- - MEMBERSHIP- - DUTIES. - -

2 A. There is created the "board of directors of the  
3 public school insurance authority". The board shall be  
4 composed of [~~nine~~] eleven members, consisting of the  
5 following:

6 (1) one member to be selected by the state  
7 board [~~of education~~];

8 (2) one school business official to be  
9 selected by the New Mexico school administrators;

10 (3) one board member of the New Mexico school  
11 boards association to be selected by the association;

12 (4) one superintendent to be selected by the  
13 New Mexico superintendents' association;

14 (5) three members to be selected by the New  
15 Mexico national education association and the New Mexico  
16 federation of teachers with the intent that representation be  
17 proportional to their respective membership, provided that  
18 each of these three members be currently employed as public  
19 school teachers employed by participating entities;

20 (6) one member to be selected by the board  
21 from lists submitted by the participating educational  
22 entities; and

23 (7) three members to be appointed by and  
24 serve at the pleasure of the governor. Such members shall not  
25 be employed by or on behalf of or be contracting with an

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1 employer participating in or eligible to participate in the  
2 [~~public school insurance~~] authority.

3 B. Each member of the board shall serve at the  
4 pleasure of the party by which he has been appointed for a  
5 term not to exceed three years. Any board member who has been  
6 appointed and who misses four meetings of the board during a  
7 fiscal year shall be replaced and shall forfeit his position  
8 on the board, and his replacement shall be made by the  
9 organization affected. The board shall set minimum terms of  
10 appointment and shall elect from its membership a president,  
11 vice president and secretary.

12 C. The board has the authority to hire a director  
13 and appoint such other officers and employees as it may deem  
14 necessary and has the authority to contract with consultants  
15 or other professional persons or firms as may be necessary to  
16 carry out the provisions of the Public School Insurance  
17 Authority Act. The board has the authority to provide for its  
18 full- and part-time employees, as it deems necessary, employee  
19 benefits insurance on the same basis as a member public school  
20 district may provide such employee benefits. In addition, the  
21 board has the authority to provide to members of the board and  
22 the employees risk coverages of the same scope and limitations  
23 as are allowed its member school districts to be provided to  
24 their local school boards. The board has the authority to  
25 provide employees an irrevocable option of qualifying for

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1 coverage [~~under~~] pursuant to either the Educational Retirement  
2 Act or the Public Employees Retirement Act.

3 D. The members of the board shall receive per diem  
4 and mileage as provided in the Per Diem and Mileage Act, but  
5 shall receive no other compensation, perquisite or allowance."

6 Section 6. Section 22-2-6.7 NMSA 1978 (being Laws 1986,  
7 Chapter 94, Section 7, as amended) is amended to read:

8 "22-2-6.7. AUTHORITY--DUTIES.--In order to effectuate  
9 the purposes of the Public School Insurance Authority Act, the  
10 authority has the power to:

11 A. employ the services of the state fiscal agent  
12 or select its own fiscal agent pursuant to regulations adopted  
13 by the board; provided that for the purposes of disbursing all  
14 money other than that in the fund, the secretary of finance  
15 and administration shall be the fiscal agent for the  
16 authority;

17 B. enter into professional services and consulting  
18 contracts or agreements as necessary;

19 C. collect, provide for the investment of and  
20 disburse money in the fund;

21 D. collect all current and historical claims and  
22 financial information necessary for effective procurement of  
23 lines of insurance coverage;

24 E. promulgate necessary rules [~~regulations~~] and  
25 procedures for implementation of the Public School Insurance

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1 Authority Act;

2 F. negotiate new insurance policies covering  
3 additional or lesser benefits as determined appropriate by the  
4 authority, but the authority shall maintain all coverage  
5 levels required by federal and state law for each  
6 participating member. In the event it is practical to wholly  
7 self-insure a particular line of coverage, the authority may  
8 do so;

9 G. procure lines of insurance coverage in  
10 compliance with the provisions of the Health Care Purchasing  
11 Act and the competitive sealed proposal process of the  
12 Procurement Code; provided that any group medical insurance  
13 plan offered pursuant to this section shall include effective  
14 cost-containment measures to control the growth of health care  
15 costs. The board shall report annually by September 1 to  
16 appropriate interim legislative committees on the  
17 effectiveness of the cost-containment measures required by  
18 this subsection;

19 H. purchase, renovate, equip and furnish a  
20 building for the board;

21 I. determine annually the monthly premiums for  
22 health care benefits coverage for legislators and school board  
23 members that shall be an amount equal to one-twelfth of the  
24 annual prevailing employer and employee contribution  
25 percentage; and

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1                                    J. establish a central purchasing office to  
2 perform all procurement of goods and services. "

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 March 2, 1999

7  
8 Mr. Speaker:

9  
10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
11 been referred

12  
13 HOUSE BILL 589

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

- 17 1. On page 13, line 9, after "and" insert "private or".,

18  
19 and thence referred to the APPROPRIATIONS AND FINANCE  
20 COMMITTEE.

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HBIC/HB 589

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4  
5 Respectfully submitted,

8 \_\_\_\_\_  
9 Debbie A. Rodella, Vice  
10 Chairwoman

12 Adopted \_\_\_\_\_  
13 (Chief Clerk)

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

15 Date \_\_\_\_\_

17 The roll call vote was 7 For 0 Against

18 Yes: 7

19 Excused: Kissner, Lutz, Mohorovic, J. Taylor, T. Taylor

20 Absent: None

22 127475.1

23 J:\99BillSWP\H0589

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1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3  
4 March 4, 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 589, as amended

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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21 Max Coll, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 3 Against

Yes: 10

No: Buffett, Parsons, Pearce

Excused: Garcia, Marquardt, Picraux, Wallace

Absent: None

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

March 11, 1999

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
whom has been referred

HOUSE BILL 589, as amended

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

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Roman M. Maes, Chairman

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, McKibben, Rawson, Robinson

Absent: None

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underscored material = new  
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