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HOUSE BILL 604

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

INTRODUCED BY

Terry Marquardt

AN ACT

RELATING TO HEALTH; CHANGING THE WAY THE DEPARTMENT OF HEALTH PROVIDES BEHAVIORAL HEALTH SERVICES; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] BEHAVIORAL HEALTH SERVICES-- POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH. -- Subject to appropriation, the department of health shall:

A. contract for behavioral health services, including mental health, alcoholism and other substance abuse services;

B. establish standards for the delivery of behavioral health services, including quality management and improvement, performance measures, accessibility and availability of services, utilization management,

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1 credentialing and recredentialing, rights and responsibilities
2 of providers, preventive behavioral health services, clinical
3 treatment and evaluation and the documentation and
4 confidentiality of client records;

5 C. establish criteria for determining individual
6 eligibility for behavioral health services; and

7 D. maintain a management information system in
8 accordance with standards for reporting clinical and fiscal
9 information.

10 Section 2. [NEW MATERIAL] CONTRACT ELIGIBILITY. -- The
11 department of health may enter into contracts for behavioral
12 health services with municipalities, counties, tribal or
13 pueblo governments or organizations, regional provider service
14 networks or private nonprofit or for-profit corporations
15 authorized to do business in New Mexico.

16 Section 3. [NEW MATERIAL] RULES. -- The department of
17 health shall adopt rules pursuant to the State Rules Act and
18 the Department of Health Act to implement the provision of
19 behavioral health services.

20 Section 4. Section 27-5-4 NMSA 1978 (being Laws 1965,
21 Chapter 234, Section 4, as amended) is amended to read:

22 "27-5-4. DEFINITIONS. -- As used in the Indigent Hospital
23 and County Health Care Act:

24 A. "ambulance provider" or "ambulance service"
25 means a specialized carrier based within the state authorized

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1 under provisions and subject to limitations as provided in
2 individual carrier certificates issued by the [~~state~~
3 ~~corporation~~] public regulation commission to transport persons
4 alive, dead or dying en route by means of ambulance service.
5 The rates and charges established by [~~state corporation~~]
6 public regulation commission tariff shall govern as to
7 allowable cost. Also included are air ambulance services
8 approved by the board. The air ambulance service charges
9 shall be filed and approved pursuant to Subsection D of
10 Section 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

11 B. "board" means a county indigent hospital and
12 county health care board;

13 C. "indigent patient" means a person to whom an
14 ambulance service, a hospital or a health care provider has
15 provided medical care, ambulance transportation or health care
16 services and who can normally support himself and his
17 dependents on present income and liquid assets available to
18 him but, taking into consideration this income and those
19 assets and his requirement for other necessities of life for
20 himself and his dependents, is unable to pay the cost of the
21 ambulance transportation or medical care administered or both.
22 If provided by resolution of a board, it shall not include any
23 person whose annual income together with his spouse's annual
24 income totals an amount that is fifty percent greater than the
25 per capita personal income for New Mexico as shown for the

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1 most recent year available in the survey of current business
2 published by the United States department of commerce. Every
3 board that has a balance remaining in the fund at the end of a
4 given fiscal year shall consider and may adopt at the first
5 meeting of the succeeding fiscal year a resolution increasing
6 the standard for indigency. The term "indigent patient"
7 includes a minor who has received ambulance transportation or
8 medical care or both and whose parent or the person having
9 custody of that minor would qualify as an indigent patient if
10 transported by ambulance or admitted to a hospital for care or
11 treated by a health care provider or all three;

12 D. "hospital" means any general or limited
13 hospital licensed by the department of health, whether
14 nonprofit or owned by a political subdivision, and may include
15 by resolution of a board the following health facilities if
16 licensed or, in the case of out-of-state hospitals, approved,
17 by the department of health:

18 (1) for-profit hospitals;
19 (2) state-owned hospitals; or
20 (3) licensed out-of-state hospitals where
21 treatment provided is necessary for the proper care of an
22 indigent patient when that care is not available in an in-
23 state hospital;

24 E. "cost" means all allowable ambulance
25 transportation costs, medical care costs or costs of providing

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1 health care services, to the extent determined by resolution
2 of a board, for an indigent patient. Allowable costs shall be
3 determined in accordance with a uniform system of accounting
4 and cost analysis as determined by regulation of a board,
5 which includes cost of ancillary services but shall not
6 include the cost of servicing long-term indebtedness of a
7 hospital, health care provider or ambulance service;

8 F. "fund" means a county indigent hospital claims
9 fund;

10 G. "medicaid eligible" means a person who is
11 eligible for medical assistance from the department;

12 H. "county" means any county except a class A
13 county with a county hospital operated and maintained pursuant
14 to a lease with a state educational institution named in
15 Article 12, Section 11 of the constitution of New Mexico;

16 I. "department" means the human services
17 department;

18 J. "sole community provider hospital" means a
19 hospital that is a sole community provider hospital under the
20 provisions of the federal medicare guidelines established in
21 42 C.F.R. 412.92 pursuant to Title 18 of the federal Social
22 Security Act;

23 K. "drug rehabilitation center" means an agency of
24 local government, a state agency, a private nonprofit entity
25 or combination thereof that operates drug abuse rehabilitation

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1 programs that meet the standards and requirements [~~pursuant to~~
2 ~~the Drug Abuse Act~~] set by the department of health;

3 L. "alcohol rehabilitation center" means an agency
4 of local government, a state agency, a private nonprofit
5 entity or combination thereof that operates alcohol abuse
6 rehabilitation programs that meet the standards set by the
7 department of health [~~pursuant to the Alcoholism and Alcohol~~
8 ~~Abuse Prevention, Screening and Treatment Act~~];

9 M "mental health center" means a not-for-profit
10 center that provides outpatient mental health services that
11 meet the standards set by the department of health [~~pursuant~~
12 ~~to the Community Mental Health Act~~];

13 N. "health care provider" means:
14 (1) a nursing home;
15 (2) an in-state home health agency;
16 (3) an in-state licensed hospice;
17 (4) a community-based health program operated
18 by a political subdivision of the state or other nonprofit
19 health organization that provides prenatal care delivered by
20 New Mexico licensed, certified or registered health care
21 practitioners;

22 (5) a community-based health program operated
23 by a political subdivision of the state or other nonprofit
24 health care organization that provides primary care delivered
25 by New Mexico licensed, certified or registered health care

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1 practitioners;

2 (6) a drug rehabilitation center;

3 (7) an alcohol rehabilitation center; or

4 (8) a mental health center;

5 0. "health care services" means all treatment and
6 services designed to promote improved health in the county
7 indigent population, including primary care, prenatal care,
8 dental care, provision of prescription drugs, preventive care
9 or health outreach services, to the extent determined by
10 resolution of the board; and

11 P. "planning" means the development of a
12 countywide or multicounty health plan to improve and fund
13 health services in the county based on the county's needs
14 assessment and inventory of existing services and resources
15 and which demonstrates coordination between the county and
16 state and local health planning efforts. "

17 Section 5. Section 43-3-10 NMSA 1978 (being Laws 1985,
18 Chapter 185, Section 3, as amended) is amended to read:

19 "43-3-10. DEFINITIONS. --As used in [~~the Alcoholism and~~
20 ~~Alcohol Abuse Prevention, Screening and Treatment Act~~

21 A. ~~"aftercare" means the monitoring and~~
22 ~~continuation of treatment and the rendering of other~~
23 ~~rehabilitative services in the community to a patient~~
24 ~~following a period of inpatient treatment in order to help the~~
25 ~~patient maintain and continue his recovery;]~~ Chapter 43,

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1 Article 3 NMSA 1978:

2 [B.] A. "board" means the board of county
3 commissioners of a county;

4 [C.] B. "department" means the department of
5 health;

6 [D.] ~~"detoxification program" means a residential~~
7 ~~program which provides physical care, education and counseling~~
8 ~~to persons who enter the program physically dependent on~~
9 ~~alcohol, to whom the program then offers the services~~
10 ~~necessary to provide for their health and safety during the~~
11 ~~process of physical withdrawal from alcohol dependence and to~~
12 ~~motivate the persons to accept further treatment for~~
13 ~~alcoholism as appropriate to their cases;~~

14 [E.] C. "DWI program" means a community program
15 specifically designed to provide treatment, aftercare or
16 prevention of or education regarding driving while under the
17 influence of alcohol or drugs;

18 [F.] D. "incarceration and treatment facility"
19 means a minimum security detention facility that provides a
20 DWI program;

21 [G.] ~~"long-term rehabilitation program" means a~~
22 ~~residential program offering individualized habilitative or~~
23 ~~rehabilitative programming to chronic alcoholics, ordinarily~~
24 ~~involving a residential stay of forty-five days or more, the~~
25 ~~object of which is to equip the alcoholic to establish a~~

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1 ~~sober, productive life in the community and to assist the~~
2 ~~alcoholic in establishing such a life;~~

3 H. ~~"outpatient program" means a program offering~~
4 ~~counseling, education, consultative and related services to~~
5 ~~alcohol abusers, alcoholics, families and other parties in the~~
6 ~~community who are not resident in an alcoholism treatment~~
7 ~~program;~~

8 I.] E. "planning council" means a county DWI
9 planning council;

10 [J. ~~"prevention program" means any program which~~
11 ~~has as its objective the amelioration of conditions known to~~
12 ~~motivate excessive or abusive use of alcohol and other drugs~~
13 ~~or to increase the ability of the individual to resist~~
14 ~~pressures from other people to use or abuse alcohol and other~~
15 ~~drugs, through such techniques as affective education, values~~
16 ~~clarification, saying no to peer pressure, recreational~~
17 ~~alternatives to substance abuse and wilderness experience;~~

18 K.] F. "screening program" means a program that
19 provides screening or examination by alcoholism treatment
20 professionals of persons charged with or convicted of driving
21 while intoxicated or other offenses to determine whether the
22 [individual] person is:

23 (1) physically dependent on alcohol and thus
24 suffering from the disease of alcoholism;

25 (2) an alcohol abuser who has not yet

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1 developed the alcoholism disease syndrome but has an
2 entrenched pattern of pathological use of alcohol and social
3 or occupational impairment in function from alcohol abuse; or

4 (3) neither an alcoholic nor an alcohol
5 abuser such that alcoholism treatment is not necessary;
6 and that provides referral or recommendation of such persons
7 to the most appropriate treatment;

8 [~~L. "short-term rehabilitation program" means a~~
9 ~~residential program offering an organized counseling and~~
10 ~~educational curriculum for the treatment of alcoholism,~~
11 ~~ordinarily involving a residential stay of forty-five days or~~
12 ~~less and serving the needs of persons from a region of the~~
13 ~~state;~~] and

14 [~~M.] G. "statewide [~~alcoholism~~] substance abuse~~
15 ~~services plan" means the comprehensive plan for a statewide~~
16 ~~services network developed by the department that documents~~
17 ~~the extent of New Mexico's [~~alcoholism~~] substance abuse~~
18 ~~problem and statewide needs for prevention, screening,~~
19 ~~detoxification, short-term and long-term rehabilitation,~~
20 ~~outpatient programs and DWI programs. The plan shall be based~~
21 ~~on the continuum of care concept of a comprehensive~~
22 ~~[~~alcoholism~~] prevention and treatment system."~~

23 Section 6. Section 43-3-11 NMSA 1978 (being Laws 1985,
24 Chapter 185, Section 4, as amended) is amended to read:

25 "43-3-11. POWERS AND DUTIES OF THE DEPARTMENT. --

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A. The department shall adopt rules to provide for:

(1) minimum standards of service for ~~[prevention programs, screening programs, detoxification programs, short-term rehabilitation programs, long-term rehabilitation programs, outpatient programs and]~~ DWI programs ~~[which]~~ that contract for funds ~~[under the provisions of the Alcoholism and Alcohol Abuse Prevention, Screening and Treatment Act]~~ pursuant to the department's behavioral health services rules; provided that ~~[such]~~ rules adopted pursuant to this section shall, before adoption, have been presented to all interested parties in a public hearing;

(2) the format and guidelines for county DWI plans and the criteria for evaluating them;

~~[(3) procedures and forms for applying for a contract for funds pursuant to the Alcoholism and Alcohol Abuse Prevention, Screening and Treatment Act;~~

~~(4) procedures for review and recommendations of such applications by the secretary of health;~~

~~(5) procedures for ensuring compliance with standards of service by contractors receiving funds under the Alcoholism and Alcohol Abuse Prevention, Screening and Treatment Act;]~~ and

~~[(6)]~~ (3) procedures for reporting of programmatic and financial information necessary to evaluate

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1 the effectiveness of programs funded [~~through the provisions~~
2 ~~of the Alcoholism and Alcohol Abuse Prevention, Screening and~~
3 ~~Treatment Act~~]. Evaluation of program effectiveness shall
4 include an analysis of outcome-based measures and the impact
5 of the programs on the incidence of driving while under the
6 influence of intoxicating liquor or drugs and shall be
7 reported to the legislature annually.

8 ~~[B. Rules adopted by the department shall become~~
9 ~~effective when filed according to the State Rules Act.~~

10 ~~C.]~~ B. The department shall provide technical
11 assistance and training to assist each county as needed in
12 developing its DWI plan.

13 ~~[D.]~~ C. The department shall review the impact of
14 the programs on the reduction of the incidence of driving
15 while under the influence of intoxicating liquor or drugs,
16 approve county DWI plans and incorporate these plans into the
17 statewide alcoholism services plan in accordance with Section
18 43-3-13 NMSA 1978.

19 ~~[E. The department is authorized to enter into~~
20 ~~contracts to provide services and programs consistent with the~~
21 ~~priorities set forth in the statewide alcoholism services~~
22 ~~plan, subject to the availability of appropriations for that~~
23 ~~purpose.~~

24 ~~F. In awarding contract funds, the department~~
25 ~~shall emphasize development of statewide prevention and early~~

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1 ~~intervention programming and shall work with other state~~
2 ~~agencies and local school boards and administrations to~~
3 ~~encourage the development of prevention, education and early~~
4 ~~intervention programs involving the schools.~~

5 ~~G.]~~ D. Any screening programs funded pursuant to
6 the [~~Alcoholism and Alcohol Abuse Prevention, Screening and~~
7 ~~Treatment Act~~] behavioral health services rules shall be
8 established in collaboration with the district, magistrate,
9 metropolitan and municipal courts to be served by the
10 screening program. Whenever feasible, the screening program
11 shall not be provided by an alcoholism treatment program
12 serving the judicial districts involved in order to avoid
13 conflict of interest in recommending that offenders enter
14 treatment. "

15 Section 7. Section 43-3-13 NMSA 1978 (being Laws 1985,
16 Chapter 185, Section 6, as amended) is amended to read:

17 "43-3-13. STATEWIDE [~~ALCOHOLISM~~] SUBSTANCE ABUSE
18 SERVICES PLAN. --

19 A. The department shall develop and update
20 annually prior to August 30 a statewide [~~alcoholism~~] substance
21 abuse services plan that documents the extent of New Mexico's
22 [~~alcoholism~~] substance abuse problem. The plan shall describe
23 the effectiveness of existing services and shall document
24 needs based on a statewide assessment that reflects local
25 planning, concerns and priorities.

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1 B. The department shall annually invite comment
2 and review of the [~~alcoholism~~] substance abuse services plan
3 for a period of no less than thirty days prior to its
4 publication.

5 C. The department shall make decisions concerning
6 proposed [~~alcoholism and alcohol~~] substance abuse programs
7 consistent with the priorities and service system concepts
8 contained in the current statewide [~~alcoholism~~] substance
9 abuse services plan. "

10 Section 8. Section 59A-47-35 NMSA 1978 (being Laws 1984,
11 Chapter 127, Section 879.34) is amended to read:

12 "59A-47-35. ALCOHOL DEPENDENCY COVERAGE. --

13 A. Each health care plan that delivers or issues
14 for delivery in this state a group contract providing for
15 health care expense payments on a service benefit basis or an
16 indemnity benefit basis or both shall offer and make available
17 benefits for the necessary care and treatment of alcohol
18 dependency. Such benefits shall:

19 (1) be subject to annual deductibles and
20 coinsurance consistent with those imposed on other benefits
21 within the same contract;

22 (2) provide no less than thirty days
23 necessary care and treatment in an alcohol dependency
24 treatment center and thirty outpatient visits for alcohol
25 dependency treatment; and

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1 (3) be offered for benefit periods of no more
2 than one year and may be limited to a lifetime maximum of no
3 less than two benefit periods.

4 Such offer of benefits shall be subject to the rights of
5 the group contract holder to reject the coverage or to select
6 any alternative level of benefits if that right is offered by
7 or negotiated with that health care plan.

8 B. For purposes of this section, "alcohol
9 dependency treatment center" means a facility that contracts
10 with the health care plan and [~~which~~] that provides a program
11 for the treatment of alcohol dependency pursuant to a written
12 treatment plan approved and monitored by a physician or
13 meeting the quality standards of the [~~substance abuse bureau~~
14 ~~of the behavioral health services division of the health and~~
15 ~~environment~~] department of health and which facility also:

16 (1) is affiliated with a hospital under a
17 contractual agreement with an established system for patient
18 referral;

19 (2) is accredited as such a facility by the
20 joint commission on accreditation of hospitals; or

21 (3) meets at least the minimum standards
22 adopted by the [~~substance abuse bureau pursuant to Section~~
23 ~~43-3-4 NMSA 1978 for treatment of alcoholism in regional~~
24 ~~treatment centers as defined in Section 43-3-3 NMSA 1978~~]
25 department of health.

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1 C. This section applies to contracts delivered or
2 issued for delivery or renewed, extended or amended in this
3 state on or after July 1, 1983 or upon expiration of a
4 collective bargaining agreement applicable to a particular
5 contract holder, whichever is later; provided that this
6 section does not apply to blanket, short-term travel,
7 accident-only, limited or specified disease, individual
8 conversion contracts or contracts designed for issuance to
9 persons eligible for coverage under Title [XVIII] 18 of the
10 Social Security Act, known as medicare, or any other similar
11 coverage under state or federal governmental plans. With
12 respect to any contract forms approved by the [~~department of~~]
13 insurance division prior to the effective date of this
14 section, an insurer is authorized to comply with this section
15 by the use of endorsements or riders, provided such
16 endorsements or riders are approved by the [~~department of~~]
17 insurance division as being in compliance with this section
18 and applicable provisions of the Insurance Code.

19 D. If an organization offering group health
20 benefits to its members makes more than one health care plan
21 or health insurance plan policy available to its members on a
22 member option basis, the organization shall not require
23 alcohol dependency coverage from one health care plan or
24 health insurer without requiring the same level of alcohol
25 dependency coverage for all other health care plans or health

1 insurance policies that the organization makes available to
2 its members. "

3 Section 9. TEMPORARY PROVISION--RECOMPILATION.--Section
4 26-2-4.1 NMSA 1978 (being Laws 1987, Chapter 265, Section 5,
5 as amended) is recompiled as Section 9-7-17 NMSA 1978.

6 Section 10. REPEAL.--Sections 23-7-1 through 23-7-12,
7 26-2-1 through 26-2-4, 26-2-5 through 26-2-14, 43-3-8, 43-3-9
8 and 43-3-12 NMSA 1978 (being Laws 1973, Chapter 378, Section
9 1, Laws 1975, Chapter 104, Sections 1 through 11, Laws 1971,
10 Chapter 244, Sections 1 through 12, Laws 1971, Chapter 296,
11 Section 1, Laws 1972, Chapter 10, Section 1 and Laws 1985,
12 Chapter 185, Sections 1, 2 and 5, as amended) are repealed.

13 Section 11. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 1999.

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 February 23, 1999

7
8 Mr. Speaker:

9
10 Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to
11 whom has been referred

12
13 HOUSE BILL 604

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

18 Respectfully submitted,

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22 _____
23 James G. Taylor, Chairman
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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HGUAC/HB 604

Page 19

4 Adopted _____ Not Adopted _____

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6 (Chi ef Clerk)

(Chi ef Clerk)

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8 Date _____

9
10 The roll call vote was 7 For 0 Against

11 Yes: 7

12 Excused: None

13 Absent: None

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15 J: \99BillSWP\H0604

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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4 March 8, 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 604
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:
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16 1. On page 2, line 12, after the second comma, insert
17 "state institutions of higher education".

18 2. On page 12, line 17, strike "alcoholism" and insert
19 in lieu thereof "substance abuse".
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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 Page 23

4 Respectfully submitted,
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10 Max Coll, Chairman

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12 Adopted _____

12 Not Adopted _____

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14 (Chief Clerk)

14 (Chief Clerk)

15
16 Date _____

17 The roll call vote was 15 For 0 Against

18 Yes: 15

19 Excused: Townsend, Watchman

20 Absent: None
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24 J: \99BillsWP\H0604
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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

March 15, 1999

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been
referred

HOUSE BILL 604, as amended

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

Respectfully submitted,

Shannon Robinson, 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: Boitano, Stockard, Smith

Absent: None

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