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HOUSE BILL 859

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Robert M. Burpo

AN ACT

**RELATING TO PUBLIC OFFICIALS; ENACTING THE PUBLIC OFFICIAL
DRUG TEST ACT; PROVIDING FOR DRUG TESTS FOR CERTAIN PUBLIC
OFFICIALS; MAKING AN APPROPRIATION.**

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

Section 1. SHORT TITLE. -- This act may be cited as the
"Public Official Drug Test Act".

Section 2. DEFINITIONS. -- As used in the Public Official
Drug Test Act:

A. "department" means the department of health;

B. "drug" means marijuana, cocaine, opiates,
phencyclidine and amphetamines; a metabolite of any of those
drugs; or any nonprescription substance containing those
drugs; and

C. "public official" means the governor, the

underscored material = new
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1 lieutenant governor, the secretary of state, the attorney
2 general, members of the legislature and candidates for any of
3 those offices.

4 Section 3. MANDATORY DRUG TESTING--DISCLOSURE OF
5 RESULTS--APPEAL. --

6 A. Once during each regular session of the
7 legislature and once during July or August of each even-
8 numbered year, each public official shall submit to a drug
9 test administered by the department or by an independent
10 laboratory under the direction of the department. At the
11 discretion of the public official, the tests may be conducted
12 at the department, or at the home or place of employment of
13 the public official.

14 B. One copy of the results of the drug test shall
15 be forwarded to the public official and one copy shall be kept
16 by the department as a public record.

17 C. Within thirty days of being advised of a
18 positive result, a public official may appeal the result to
19 the district court for the county of Santa Fe. After
20 reviewing the evidence, including the chain of custody of the
21 sample and any proffered medical history or explanation, the
22 court may:

23 (1) issue an opinion as to the reliability of
24 the test;

25 (2) order a retest of any remaining portion

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1 of the sample; or

2 (3) order that the public official submit to
3 another test.

4 Section 4. TEST REFUSAL OR ALTERATION OF SAMPLE-- FINE. --

5 A. A public official shall not refuse to submit to
6 a test required by Section 3 of the Public Official Drug Test
7 Act, shall not alter a sample and shall not take any other
8 action intended to defraud or confuse the results of a test
9 required by that act.

10 B. If a public official violates the provisions of
11 Subsection A of this section, the department of health may
12 fine the public official in an amount not greater than one
13 hundred dollars (\$100) for each violation.

14 Section 5. APPROPRIATION. --Thirty thousand dollars
15 (\$30,000) is appropriated from the general fund to the
16 department of health for expenditure in fiscal year 2002 to
17 carry out the provisions of the Public Official Drug Test Act.
18 Any unexpended or unencumbered balance remaining at the end of
19 fiscal year 2002 shall revert to the general fund.