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SENATE BILL 784

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

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE.

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

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 10, 1999
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8 Mr. President:
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10 Your WAYS & MEANS COMMITTEE, to whom has been referred
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12 SENATE BILL 784
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14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that
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18 SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
19 SENATE BILL 784
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21 DO PASS, and further recommends that it now be referred to the
22 COMMITTEES' COMMITTEE.
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25 Respectfully submitted,

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Carlos R. Cisneros, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Carraro, Duran, Jennings, Kidd

Absent: None

S0784WM1

SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
SENATE BILL 784

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

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
CREATING THE DEPUTY SECRETARY FOR NUTRITION IN THE DEPARTMENT
OF HEALTH; CREATING A COUNCIL; PROVIDING POWERS AND DUTIES;
CREATING A FUND; INTERDICTING CERTAIN DELETERIOUS AND HARMFUL
SUBSTANCES TO PROTECT NEW MEXICO'S FOOD SUPPLY; MAKING AN
APPROPRIATION.

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

Section 1. A new section of the Department of Health Act
is enacted to read:

"[NEW MATERIAL] PURPOSE. --The purpose of creating a
deputy secretary for nutrition in the department of health is
to create a position that will work to improve the quality of
food grown or produced in, imported into New Mexico or
exported from New Mexico, to control or label additives to

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food that are deleterious, harmful, genetically altered or irradiated, as well as to identify and investigate processes that when applied to foods are harmful."

1 Section 2. A new section of the Department of Health Act
2 is enacted to read:

3 "[NEW MATERIAL] DEFINITIONS.--As used in Sections 1
4 through 8 of this 1999 act:

- 5 A. "council" means the nutrition council;
- 6 B. "department" means the department of health; and
- 7 C. "deputy secretary" means the deputy secretary
8 for nutrition in the department."

9 Section 3. A new section of the Department of Health Act
10 is enacted to read:

11 "[NEW MATERIAL] DEPUTY SECRETARY FOR NUTRITION--
12 APPOINTMENT.--The "deputy secretary for nutrition" is created
13 in the department. He shall be appointed by the governor with
14 the advice and consent of the senate, and he shall serve at
15 the pleasure of the governor."

16 Section 4. A new section of the Department of Health Act
17 is enacted to read:

18 "[NEW MATERIAL] DEPUTY SECRETARY FOR NUTRITION-- DUTIES.--

19 A. The deputy secretary shall, at the direction of
20 the secretary of health:

- 21 (1) take administrative action by issuing
22 orders and instructions, not inconsistent with the law, to
23 assure implementation of and compliance with the provisions of
24 law relating to nutrition for which administration or
25 execution the deputy secretary is responsible and to enforce

1 those orders and instructions by appropriate administrative
2 action in the courts;

3 (2) conduct research and studies that will
4 improve the operations of the department relating to nutrition
5 programs and the provision of nutrition services to the
6 citizens of the state;

7 (3) provide courses of instruction and
8 practical training for employees of the department and other
9 persons involved in the administration of nutrition programs
10 with the objective of improving the operations and efficiency
11 of administration;

12 (4) prepare an annual budget for the nutrition
13 programs; and

14 (5) convene the council and seek its advice,
15 recommendations and assistance as the deputy secretary deems
16 appropriate.

17 B. The deputy secretary may:

18 (1) apply for and receive, with the governor's
19 or the secretary of health's approval, in the name of the
20 department any public or private funds, including United
21 States government funds, available to the department to carry
22 out its nutrition programs, duties or services; and

23 (2) make and adopt such reasonable and
24 procedural rules as may be necessary to carry out the duties
25 related to nutrition programs. No rule promulgated by the

1 deputy secretary shall be effective until approved by the
 2 secretary of health unless otherwise provided by statute.
 3 Unless otherwise provided by statute, no rule affecting any
 4 person or agency outside the department shall be adopted,
 5 amended or repealed without a public hearing on the proposed
 6 action before the deputy secretary or a hearing officer
 7 designated by him. The public hearing shall be held in Santa
 8 Fe unless otherwise permitted by statute. Notice of the
 9 subject matter of the rule, the action proposed to be taken,
 10 the time and place of the hearing, the manner in which
 11 interested persons may present their views and the method by
 12 which copies of the proposed rule, proposed amendment or
 13 repeal of an existing rule may be obtained shall be published
 14 once at least thirty days prior to the hearing date in a
 15 newspaper of general circulation and mailed at least thirty
 16 days prior to the hearing date to all persons who have made a
 17 written request for advance notice of hearing. All rules
 18 shall be filed in accordance with the State Rules Act. "

19 Section 5. A new section of the Department of Health Act
 20 is enacted to read:

21 "[NEW MATERIAL] EXAMINATION AND INTERDICTION TO PROTECT
 22 FOOD SUPPLY.--The department, in order to protect the quality
 23 of New Mexico's food supply, shall:

24 A. examine New Mexico's food and food supply and
 25 recommend to the legislature annually foods and food processes

1 that should be interdicted or clearly labeled because of
2 deleterious compounds, carcinogens, irradiation or genetic
3 alteration;

4 B. recommend to the legislature annually pesticides,
5 herbicides, carcinogens and other deleterious and harmful
6 substances and toxic and potentially toxic compounds that
7 should be banned from or clearly identified in all food grown
8 in, sold in or imported into New Mexico;

9 C. in coordination with the New Mexico department of
10 agriculture, inspect any food production facility, grocery
11 store, feed lot or growing field to obtain samples for
12 testing; and

13 D. recommend to the attorney general that lawsuits
14 be brought against food polluters if illness or other damages
15 result from human ingestion, and provide the attorney general
16 with medical, biochemical and toxicological evidence and
17 precedents to support the recommended lawsuits. "

18 Section 6. A new section of the Department of Health Act
19 is enacted to read:

20 "[NEW MATERIAL] FOOD AND NUTRITION STANDARDS. --The
21 department, in conjunction with the attorney general's office,
22 shall investigate the state's ability to create a higher
23 standard for nutrition in New Mexico than that established by
24 the United States food and drug administration or the United
25 States department of agriculture. If the department and the

1 attorney general agree that New Mexico may implement a higher
2 standard for nutrition, the department, upon recommendation of
3 the council, shall establish a higher standard. "

4 Section 7. A new section of the Department of Health Act
5 is enacted to read:

6 "[NEW MATERIAL] FUND CREATED. --The "nutrition fund" is
7 created in the state treasury. The fund shall consist of
8 appropriations, gifts, grants, donations, bequests and
9 settlements and awards from court cases filed in the name of
10 the state against food polluters. The fund shall be
11 administered by the department. Money in the fund is subject
12 to appropriation by the legislature. Expenditures shall be
13 made on warrant of the secretary of finance and administration
14 on vouchers signed by the deputy secretary or his designated
15 representative. In order to free the department's nutrition
16 programs from any and all influences by corporations and their
17 lobby groups, all gifts and contributions to the fund shall be
18 scrutinized by the council. "

19 Section 8. A new section of the Department of Health Act
20 is enacted to read:

21 "[NEW MATERIAL] ADVISORY NUTRITION COUNCIL--CREATED--
22 MEMBERSHIP--POWERS AND DUTIES. --

23 A. The "nutrition council" is created as an advisory
24 council to the department. The council is composed of the
25 following members:

underscored material = new
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1 (1) the assistant attorney general for consumer
2 protection or his designee;

3 (2) the deputy secretary or his designee;

4 (3) the superintendent of public instruction or
5 his designee;

6 (4) the following members appointed by the
7 governor, who serve at the pleasure of the governor:

8 (a) one pediatrician;

9 (b) one oncologist;

10 (c) one cardiologist;

11 (d) one toxicologist;

12 (e) one doctorate-level biochemist and
13 nutritionist;

14 (f) one farmer; and

15 (g) one public member who is appointed on
16 the basis of active involvement in the area of nutrition.

17 B. Members of the council who are not paid by
18 taxpayer funds may receive per diem and mileage expenses
19 pursuant to the Per Diem and Mileage Act, but shall receive no
20 other compensation, perquisite or allowance.

21 C. The council shall annually elect a chairman and
22 vice chairman. The council shall meet at the call of the
23 chairman or a majority of the members.

24 D. The council shall:

25 (1) review the decisions of the deputy

1 secretary on matters of nutrition, including what constitutes
2 "deleterious and harmful", "toxic and potentially toxic",
3 "carcinogenic", "genetically altered" and "irradiated food",
4 in addition to advising the department on areas of concern,
5 such as diabetes on the Indian pueblos and reservations and
6 induced hyperactivity and attention deficit disorders in
7 children resulting from their ingestion of monosodium
8 glutamate and exitotoxins, and others areas deemed important
9 for department focus;

10 (2) make recommendations on ways and means to
11 improve nutrition in New Mexico;

12 (3) assist the department in developing and
13 disseminating educational materials on nutrition and on toxic
14 and potentially toxic additives to foods;

15 (4) through the department, advise all public
16 school districts on the development of nutrition courses that
17 are grade specific and, in coordination with the
18 superintendent of public instruction, require particular texts
19 in the field of nutrition, preventive cardiology, preventive
20 oncology and preventive toxicology for New Mexico secondary
21 school students;

22 (5) develop a nutrition questionnaire to be
23 sent to every student in New Mexico that will be used by the
24 department to build a nutrition database; and

25 (6) investigate the quality of public school

1 lunch programs on a district-by-district basis and, upon a
2 finding that a program contains deleterious and harmful
3 additives, shall recommend to the superintendent of public
4 instruction that the use of those additives be discontinued
5 and the sources of food for the school lunch programs be
6 improved. "

7 Section 9. APPROPRIATION. --Two hundred fifty thousand
8 dollars (\$250,000) is appropriated from the general fund to
9 the department of health for expenditure in fiscal year 2000
10 for the purpose of carrying out the provisions of this 1999
11 act. Any unexpended or unencumbered balance remaining at the
12 end of fiscal year 2000 shall revert to the general fund.

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FORTY- FOURTH LEGI SLATURE
FIRST SESSI ON, 1999

March 11, 1999

Mr. Presi dent:

Your COMMI TTEES' COMMI TTEE, to whom has been referred

SENATE WAYS AND MEANS COMMI TTEE SUBSTITUTE FOR
SENATE BILL 784

has had it under consideration and reports same WITHOUT
RECOMMENDATI ON, and further recom mends that it now be referred to
the CONSERVATION COMMI TTEE, thence to the FINANCE
COMMI TTEE.

Respectfully submi tted,

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SWMC/SB 784

FORTY-SECOND LEGISLATURE
SECOND SESSION

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KEYBOARD(TYPE SLUGS)

Page 14

Manny M. Aragon, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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SB 784/a

6 March 15, 1999
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8 Mr. President:
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10 Your FINANCE COMMITTEE, to whom has been referred
11

12 SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
13 SENATE BILL 784
14
15

16 has had it under consideration and reports same with recommendation
17 that it DO PASS, amended as follows:
18

19 1. On page 1, line 15, strike the semicolon, insert a period and
20 strike the remainder of the line and strike all of line 16.
21

22 2. On page 9, strike lines 11 through 16 and insert in lieu
23 thereof the following.
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SWMC/SB 784

FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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SFC/SB 784

Page 16

"Section 9. EFFECTIVE DATE. -- The effective date of this 1999 act
is July 1, 2000."

Respectfully submitted,

Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

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SFC/SB 784

Page 17

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Campos, Ingle, McKibben, Smith, Tsosie, Fidel

Absent: None

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SWMC/SB 784

**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

SFC/SB 784

Page 18

**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 24, 1999

**SENATE FLOOR AMENDMENT number _____ to SENATE WAYS & MEANS
COMMITTEE SUBSTITUTE FOR
SENATE BILL 784, as
amended**

AMENDMENT sponsored by SENATOR DAVIS

- 1. On page 5, line 16, strike "; and" and insert in lieu thereof**

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SFC/SB 784

Page 19

a period and closing quotation mark.

2. On page 5, line 17, strike lines 17 through 21.

Senator William F. Davis

Adopted _____

Not Adopted _____

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SWMC/SB 784

**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

SFC/SB 784

Page 20

(Chief Clerk)

(Chief Clerk)

Date _____

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SWMC/SB 784

**FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 19, 1999

Mr. Speaker:

**Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to
whom has been referred**

**SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
SENATE BILL 784, as amended**

**has had it under consideration and reports same with
recommendation that it DO NOT PASS.**

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HGUAC/SWMC/SB 784a

Page 31

4 Respectfully submitted,

8 _____
9 James G. Taylor, Chairman

11 Adopted _____ Not Adopted _____
12 (Chief Clerk) (Chief Clerk)

14 Date _____

16 The roll call vote was 6 For 0 Against

17 Yes: 6

18 Excused: Abeyta

19 Absent: None

21 J:\99BillSWP\S0784

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[bracketed material] = delete