

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 769

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

INTRODUCED BY

Debbie A. Rodella

AN ACT

RELATING TO EDUCATION; AUTHORIZING SCHOOL DISTRICTS TO CONDUCT
DRUG TESTING OF SCHOOL EMPLOYEES.

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

Section 1. A new section of the Public School Code is
enacted to read:

" NEW MATERIAL DRUG TESTING OF SCHOOL EMPLOYEES. - -

A. School districts may develop policies and
procedures to conduct urinalysis testing of any school
employee if there is a reasonable suspicion that the employee
is using or is under the influence of drugs while on school
property or in the performance of his duties. The policies
developed by the local school district shall include
procedures for an employee contesting the results of the drug
test, rehabilitation programs for the employee, a pre-

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 termination hearing for the employee, the termination of an
2 employee who refuses to take a drug test based on reasonable
3 suspicion and the termination of an employee whose drug test
4 results are positive.

5 B. A drug test shall be limited to controlled
6 substances as defined in Sections 30-31-6 through 30-31-10
7 NMSA 1978. A test for any other substance or medical
8 condition shall not be allowed pursuant to this section.

9 C. A drug test may be conducted only by a third
10 party. A school employee shall be required to disclose to the
11 third party the use of only those medications that may affect
12 the result of the drug test. The third party shall keep the
13 disclosure confidential and shall not disclose the use of the
14 medications or any medical conditions that the third party has
15 knowledge of to the school district or to any other party.

16 D. Results from a drug test conducted pursuant to
17 this section shall be given only to a school district official
18 designated for that purpose by the local school board and they
19 shall be admissible only for the purposes of the school
20 district related to personnel actions pursuant to the policies
21 adopted under Subsection A of this act and pursuant to Chapter
22 22, Article 10 NMSA 1978. "

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 March 8, 1999

7
8 Mr. Speaker:

9
10 Your EDUCATION COMMITTEE, to whom has been referred

11
12 HOUSE BILL 769

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17 1. On page 1, line 25, after the first comma insert
18 "maintaining the privacy of the employee,".

19
20 2. On page 2, line 1, strike the first "termination"
21 and insert in lieu thereof "removal from employment" and
22 strike the second "termination" and insert in lieu thereof
23 "removal from employment".

24
25 3. On page 2, line 3, strike "termination" and insert
in lieu thereof "removal from employment".

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/HB 769

Page 4

4. On page 2, line 7, after "or" insert "for any".

5. On page 2, line 10, before the period insert "who is not a law enforcement agency or a person or organization employed by a law enforcement agency".

6. On page 2, lines 10 through 12, strike the sentence beginning with "A".

7. On page 2, line 13, strike "disclosure" and insert in lieu thereof "results" and after "confidential" insert a period and strike the remainder of the sentence beginning with "and".

8. On page 2, line 22, strike the quotation mark and insert in lieu thereof "Records and any related information shall be privileged and shall not be disclosed to a person not directly involved in an employment decision affecting the specific school employee or applicant for school employment. ".

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/HB 769

Page 5

9. On page 2, between lines 22 and 23, insert the following new section:

"E. In the event the local school board removes any licensed school employee from employment for violating that local district's drug testing policy, the local school board shall notify the department of education of the identity of the removed licensed employee and provide copies of all removal documents, including the drug test results, if any, on which that board based its decision for removal. Any such drug test results shall be admissible at any hearing conducted by the department of education against the licensed employee's state educator's license. All documents received by the department of education relating to removal of a licensed school employee for violation of a local board's drug testing policy, shall not be considered a public record as defined in Subsection E of Section 14-2-5 NMSA 1978. In addition to a licensed employee's rights pursuant to Section 22-2-1, Subsection G of Section 22-2-2 and Section 22-10-22 NMSA 1978, any action by the department of education or the state board of education to revoke, suspend or deny the renewal of a licensed employee's license, based on violation of a local district's drug testing policy, shall be conducted at forums not open to the

. 127747. 1

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/HB 769

Page 6

general public. Any such meetings or deliberations shall be
exempted from the open meeting provisions of Sections 10-15-
1 through 10-15-4 NMSA 1978."",

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Rick Miera, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

underscoring material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HEC/HB 769

Page 7

4 The roll call vote was 15 For 0 Against

5 Yes: 15

6 Excused: Stapleton

7 Absent: None

8

9

10 128703. 1

11 J:\99Bill\SWP\H0769

12

13

14

15

16

17

18

19

20

21

22

23

24

25

. 127747. 1

underscored material = new
[bracketed material] = delete