

By: Representative Nettles

To: Judiciary A

HOUSE BILL NO. 369

1 AN ACT TO PROVIDE FOR THE TESTING OF ALL ELECTED OFFICIALS OF  
 2 THE STATE FOR UNLAWFUL DRUG USE; TO PROVIDE THAT THE BUREAU OF  
 3 NARCOTICS, IN CONJUNCTION WITH THE STATE BOARD OF HEALTH, SHALL  
 4 ESTABLISH AND ADMINISTER A TESTING PROGRAM TO ACCOMPLISH THE  
 5 REQUIREMENTS OF THIS ACT; TO PROVIDE FOR REMOVAL FROM OFFICE; TO  
 6 PROVIDE FOR FILLING VACANCIES IN OFFICE RESULTING FROM REMOVAL;  
 7 TO AMEND SECTION 41-29-111, MISSISSIPPI CODE OF 1972, TO PROVIDE  
 8 THAT THE BUREAU OF NARCOTICS AND THE STATE BOARD OF HEALTH SHALL  
 9 COOPERATE IN ADMINISTERING THE TESTING PROGRAM; AND FOR RELATED  
 10 PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. (1) Every elected official of the state and its  
 13 political subdivisions shall be tested annually to determine  
 14 whether unlawful drugs are present in the system of such person.  
 15 The Bureau of Narcotics, in conjunction with the State Board of  
 16 Health, shall establish and administer a testing program with such  
 17 standards and procedures as deemed necessary to accomplish the  
 18 requirements of this section. For the purposes of this section,  
 19 "elected officials of the state" shall include all persons elected  
 20 to any political office of the state or its political  
 21 subdivisions.

22 (2) All testing required pursuant to this section shall be  
 23 performed at the Mississippi Crime Laboratory or at a laboratory  
 24 approved by the Director of the Mississippi Crime Laboratory.

25 (3) The results of such testing shall be disclosed only to  
 26 the Commissioner of Public Safety. The test results of the  
 27 Commissioner of Public Safety shall be disclosed only to the  
 28 Secretary of State.

29 (4) Each individual tested shall pay a reasonable fee to  
 30 defray the costs of the testing, which payment may be paid through  
 31 a payroll deduction.



32           (5) Any elected official whose test results are positive  
33 regarding the presence of unlawful drugs in such elected  
34 official's system shall be removed from office and the vacancy in  
35 such office shall be filled in the manner prescribed by law.

36           SECTION 2. Section 41-29-111, Mississippi Code of 1972, is  
37 amended as follows:

38           41-29-111. The bureau shall administer this article and  
39 shall work in conjunction and cooperation with the State Board of  
40 Pharmacy, county and municipal law enforcement agencies, the  
41 district and county attorneys, the Office of the Attorney General  
42 and the Mississippi Highway Safety Patrol. The State Board of  
43 Health shall work with the bureau in an advisory capacity and  
44 shall be responsible for recommending to the Legislature the  
45 appropriate schedule for all substances to be scheduled or  
46 rescheduled in Sections 41-29-113 through 41-29-121. In making a  
47 recommendation regarding a substance, the board shall consider the  
48 following:

- 49           (a) (1) The actual or relative potential for abuse;  
50                       (2) The scientific evidence of its pharmacological  
51 effect, if known;  
52                       (3) The state of current scientific knowledge  
53 regarding the substance;  
54                       (4) The history and current pattern of abuse;  
55                       (5) The scope, duration and significance of abuse;  
56                       (6) The risk to the public health;  
57                       (7) The potential of the substance to produce  
58 psychic or physiological dependence liability; and  
59                       (8) Whether the substance is an immediate  
60 precursor of a substance already controlled under this article.

61           (b) After considering the factors enumerated in  
62 paragraph (a), the board shall make findings with respect thereto  
63 and issue a recommendation to control the substance if it finds  
64 the substance has a potential for abuse.



65 (c) If the board designates a substance as an immediate  
66 precursor, substances which are precursors of the controlled  
67 precursor shall not be recommended for control solely because they  
68 are precursors of the controlled precursor.

69 (d) If any substance is designated, rescheduled, or  
70 deleted as a controlled substance under federal law and notice  
71 thereof is given to the board, it shall recommend the control of  
72 the substance under this article at the next session of the  
73 Legislature.

74 (e) Authority to control under this article does not  
75 extend to distilled spirits, wine, malt beverages, or tobacco as  
76 those terms are defined or used in the Local Option Alcoholic  
77 Beverage Control Law, being Sections 67-1-1 through 67-1-91, and  
78 the Tobacco Tax Law of 1934, being Sections 27-69-1 through  
79 27-69-77. It is the intent of the Legislature of the State of  
80 Mississippi that the bureau shall concentrate its efforts and  
81 resources on the enforcement of the Uniform Controlled Substances  
82 Law with respect to illicit narcotic and drug traffic in the  
83 state.

84 The controlled substances listed in the schedules in Sections  
85 41-29-113 through 41-29-121 are included by whatever official,  
86 common, usual, chemical or trade name designated.

87 (f) The board shall recommend the exclusion of any  
88 nonnarcotic substance from a schedule if such substance may, under  
89 the Federal Food, Drug and Cosmetic Act and the laws of this  
90 state, be lawfully sold over the counter without a prescription.

91 The bureau and the board shall cooperate in the  
92 administration of the testing program for the presence of unlawful  
93 drugs in elected officials of the state as provided for in Section  
94 1 of this act.

95 SECTION 3. This act shall take effect and be in force from  
96 and after July 1, 2001.

