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AN ACT

RELATING TO WATER; ESTABLISHING THE SAFE DRINKING WATER TESTING FUND; INCREASING FEES; PROVIDING FOR DUTIES OF THE TAXATION AND REVENUE DEPARTMENT; REQUIRING REPORTING AND WATER TESTING.

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

SECTION 1. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended by Laws 2019, Chapter 47, Section 1 and by Laws 2019, Chapter 53, Section 10 and also by Laws 2019, Chapter 270, Section 1) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act;
- (4) Gross Receipts and Compensating Tax Act, Interstate Telecommunications Gross Receipts Tax Act and Leased Vehicle Gross Receipts Tax Act;
- (5) Liquor Excise Tax Act;
- (6) Local Liquor Excise Tax Act;

1 (7) any municipal local option gross
2 receipts tax or municipal compensating tax;
3 (8) any county local option gross receipts
4 tax or county compensating tax;
5 (9) Special Fuels Supplier Tax Act;
6 (10) Gasoline Tax Act;
7 (11) petroleum products loading fee, which
8 fee shall be considered a tax for the purpose of the Tax
9 Administration Act;
10 (12) Alternative Fuel Tax Act;
11 (13) Cigarette Tax Act;
12 (14) Estate Tax Act;
13 (15) Railroad Car Company Tax Act;
14 (16) Investment Credit Act, rural job tax
15 credit, Laboratory Partnership with Small Business Tax Credit
16 Act, Technology Jobs and Research and Development Tax Credit
17 Act, Film Production Tax Credit Act, Affordable Housing Tax
18 Credit Act and high-wage jobs tax credit;
19 (17) Corporate Income and Franchise Tax Act;
20 (18) Uniform Division of Income for Tax
21 Purposes Act;
22 (19) Multistate Tax Compact;
23 (20) Tobacco Products Tax Act;
24 (21) the telecommunications relay service
25 surcharge imposed by Section 63-9F-11 NMSA 1978, which

1 surcharge shall be considered a tax for the purposes of the
2 Tax Administration Act;

3 (22) the Insurance Premium Tax Act; and

4 (23) the Health Care Quality Surcharge Act;

5 B. the administration and enforcement of the
6 following taxes, surtaxes, advanced payments or tax acts as
7 they now exist or may hereafter be amended:

8 (1) Resources Excise Tax Act;

9 (2) Severance Tax Act;

10 (3) any severance surtax;

11 (4) Oil and Gas Severance Tax Act;

12 (5) Oil and Gas Conservation Tax Act;

13 (6) Oil and Gas Emergency School Tax Act;

14 (7) Oil and Gas Ad Valorem Production Tax
15 Act;

16 (8) Natural Gas Processors Tax Act;

17 (9) Oil and Gas Production Equipment Ad
18 Valorem Tax Act;

19 (10) Copper Production Ad Valorem Tax Act;

20 (11) any advance payment required to be made
21 by any act specified in this subsection, which advance
22 payment shall be considered a tax for the purposes of the Tax
23 Administration Act;

24 (12) Enhanced Oil Recovery Act;

25 (13) Natural Gas and Crude Oil Production

1 Incentive Act; and

2 (14) intergovernmental production tax credit
3 and intergovernmental production equipment tax credit;

4 C. the administration and enforcement of the
5 following taxes, surcharges, fees or acts as they now exist
6 or may hereafter be amended:

7 (1) Weight Distance Tax Act;

8 (2) the workers' compensation fee authorized
9 by Section 52-5-19 NMSA 1978, which fee shall be considered a
10 tax for purposes of the Tax Administration Act;

11 (3) Uniform Unclaimed Property Act (1995);

12 (4) 911 emergency surcharge and the network
13 and database surcharge, which surcharges shall be considered
14 taxes for purposes of the Tax Administration Act;

15 (5) the solid waste assessment fee
16 authorized by the Solid Waste Act, which fee shall be
17 considered a tax for purposes of the Tax Administration Act;

18 (6) the safe drinking water testing fee
19 imposed by Section 74-1-13 NMSA 1978, which fee shall be
20 considered a tax for the purposes of the Tax Administration
21 Act; and

22 (7) the gaming tax imposed pursuant to the
23 Gaming Control Act; and

24 D. the administration and enforcement of all other
25 laws, with respect to which the department is charged with

1 responsibilities pursuant to the Tax Administration Act, but
2 only to the extent that the other laws do not conflict with
3 the Tax Administration Act."

4 SECTION 2. Section 74-1-13 NMSA 1978 (being Laws 1993,
5 Chapter 317, Section 2, as amended) is amended to read:

6 "74-1-13. SAFE DRINKING WATER TESTING FUND--IMPOSITION
7 OF FEES--DEFINITIONS.--

8 A. There is imposed on every person who operates a
9 public water supply system a safe drinking water testing fee
10 in an amount equal to five cents (\$.05) per thousand gallons
11 of water produced.

12 B. The "safe drinking water testing fund" is
13 created in the state treasury and shall be administered by
14 the department. The fund shall consist of fees collected
15 pursuant to this section. Balances in the fund at the end of
16 any fiscal year shall not revert to the general fund but
17 shall accrue to the credit of the fund. Earnings on the fund
18 shall be credited to the fund.

19 C. Money in the safe drinking water testing fund
20 is appropriated to the department for administration of a
21 public water supply program to:

22 (1) test public water supplies for the
23 contaminants required to be tested for drinking water,
24 pursuant to the provisions of the federal Safe Drinking Water
25 Act and rules promulgated by the department pursuant to the

1 Environmental Improvement Act, and collect chemical
2 compliance samples as required by those provisions of the
3 federal act or state rules;

4 (2) perform vulnerability assessments that
5 will be used to assess a public water supply's susceptibility
6 to those contaminants; and

7 (3) implement requirements of the Utility
8 Operators Certification Act and provide training for all
9 public water supply operators.

10 D. The taxation and revenue department shall
11 provide by rule for the manner and form of collection of the
12 safe drinking water testing fee. All safe drinking water
13 testing fees collected by the taxation and revenue
14 department, less the administrative fee withheld pursuant to
15 Section 7-1-6.41 NMSA 1978, shall be deposited in the safe
16 drinking water testing fund.

17 E. The fee imposed by this section shall be
18 administered in accordance with the provisions of the Tax
19 Administration Act and shall be paid to the taxation and
20 revenue department by each person who operates a public water
21 supply system in the manner required by the taxation and
22 revenue department on or before the twenty-fifth day of the
23 month following the month in which the water is produced.

24 F. Each operator of a public water supply system
25 shall register and comply with the provisions of Section

1 7-1-12 NMSA 1978 and furnish such information as may be
2 required by the taxation and revenue department.

3 G. The department shall compile a list of the
4 contaminants that require testing pursuant to Paragraph (1)
5 of Subsection C of this section. The list shall be compiled
6 no less than once every twelve months and include the
7 contaminants that will be tested in the subsequent twelve
8 months. The department shall establish by rule procedures to
9 compile the list and to determine which contaminants that
10 require testing will be tested in the subsequent twelve
11 months. The determination of which contaminants will be
12 tested shall include consideration of the availability of
13 funds in the safe drinking water testing fund, the needs of
14 the public water supplies being tested for additional
15 contaminants and public health and safety.

16 H. By November 1 of each year, the department
17 shall prepare and make available to the public an annual
18 summary of safe drinking water testing fund revenue and
19 expenditures for the prior fiscal year.

20 I. The department shall not use the safe drinking
21 water testing fund to cover sampling and analysis services
22 for increased sampling or testing required of a public water
23 supply system as a result of violations of the federal Safe
24 Drinking Water Act or rules promulgated by the department
25 pursuant to the Environmental Improvement Act.

1 J. If sampling or analysis services are limited or
2 discontinued pursuant to Subsection I of this section, the
3 public water supply system shall be responsible for the
4 collection, analysis and payment of those samples and
5 providing the results of the analysis to the department in
6 accordance with the federal Safe Drinking Water Act and rules
7 promulgated by the department pursuant to the Environmental
8 Improvement Act.

9 K. As used in this section:

10 (1) "person" means any individual or legal
11 entity and also means, to the extent permitted by law, any
12 federal, state or other governmental unit or subdivision or
13 an agency, department or instrumentality thereof; and

14 (2) "public water supply system" means a
15 system that provides piped water to the public for human
16 consumption and that has at least fifteen service connections
17 or regularly services an average of at least twenty-five
18 individuals at least sixty days per year."

19 SECTION 3. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2021. _____