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AN ACT

RELATING TO ENVIRONMENTAL IMPROVEMENT; CREATING THE ENVIRONMENTAL HEALTH FUND; PROVIDING THAT THE ENVIRONMENTAL HEALTH FUND MAY BE USED FOR REGULATION OF LIQUID WASTE, WATER RECREATION FACILITIES, FOOD SERVICE SANITATION AND HEMP; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. A new section of the Environmental Improvement Act is enacted to read:

"ENVIRONMENTAL HEALTH FUND--CREATED.--

A. The "environmental health fund" is created in the state treasury. The fund consists of fees collected from the regulation of on-site liquid waste systems and water recreation facilities pursuant to the Environmental Improvement Act, food establishments pursuant to the Food Service Sanitation Act and hemp pursuant to the Hemp Manufacturing Act. Money in the fund is subject to appropriation by the legislature to the department for the administration of regulations pertaining to liquid waste, water recreation facilities, food service sanitation and hemp. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or the secretary of environment's designee. Any unexpended or

1 unencumbered balance in the environmental health fund
2 remaining at the end of any fiscal year shall not revert to
3 the general fund.

4 B. Up to two hundred thousand dollars (\$200,000)
5 from unexpended and unencumbered money in the environmental
6 health fund may be transferred to the liquid waste disposal
7 system assistance fund on an annual basis."

8 SECTION 2. Section 25-1-5 NMSA 1978 (being Laws 1977,
9 Chapter 309, Section 5, as amended) is amended to read:

10 "25-1-5. OPTIONAL POWERS.--

11 A. The board may establish a system of grading
12 food service establishments for the purpose of certifying
13 compliance with the Food Service Sanitation Act and
14 regulations requiring food service establishments to display
15 in a designated manner a grade as notice of compliance to the
16 public. Such regulations shall include provisions for the
17 revocation and reinstatement of the permit that are
18 consistent with due process of law.

19 B. The board shall establish a schedule of fees
20 for the issuance and renewal of permits issued by the
21 division under the Food Service Sanitation Act. The board
22 shall set the schedule of fees so that no fee established by
23 such schedule shall be less than one hundred dollars (\$100)
24 or more than two hundred dollars (\$200) annually for a food
25 service establishment with not more than a twenty-five-dollar

1 (\$25.00) incremental increase per fiscal year. The board
2 shall establish a separate schedule of fees not to exceed
3 twenty-five dollars (\$25.00) per single event or celebration
4 per temporary food service establishment. Fees shall be
5 waived for all temporary non-potentially hazardous food
6 service operations, for any temporary food service
7 establishment operating no more than two calendar days in any
8 calendar month and for any food service establishment that
9 provides food to the general public at no charge. Fees
10 collected for the issuance and renewal of permits pursuant to
11 the Food Service Sanitation Act shall be deposited in the
12 environmental health fund."

13 SECTION 3. Section 74-1-8 NMSA 1978 (being Laws 1971,
14 Chapter 277, Section 11, as amended by Laws 2000, Chapter 86,
15 Section 2 and also by Laws 2000, Chapter 96, Section 2) is
16 amended to read:

17 "74-1-8. BOARD--DUTIES.--

18 A. The board is responsible for environmental
19 management and consumer protection. In that respect, the
20 board shall promulgate rules and standards in the following
21 areas:

22 (1) food protection;

23 (2) water supply, including a capacity
24 development program to assist water systems in acquiring and
25 maintaining technical, managerial and financial capacity in

1 accordance with Section 1420 of the federal Safe Drinking
2 Water Act of 1974 and rules authorizing imposition of
3 administrative penalties for enforcement;

4 (3) liquid waste, including exclusive
5 authority to establish on-site liquid waste system fees that
6 are no more than the average charged by the contiguous states
7 to New Mexico for similar permits and services and to
8 implement and administer an inspection and permitting program
9 for on-site liquid waste systems;

10 (4) air quality management as provided in
11 the Air Quality Control Act;

12 (5) radiation control and establishment of
13 license and registration and other related fees not to exceed
14 fees charged by the United States nuclear regulatory
15 commission for similar licenses as provided in the Radiation
16 Protection Act;

17 (6) noise control;

18 (7) nuisance abatement;

19 (8) vector control;

20 (9) occupational health and safety as
21 provided in the Occupational Health and Safety Act;

22 (10) sanitation of public swimming pools and
23 public baths;

24 (11) plumbing, drainage, ventilation and
25 sanitation of public buildings in the interest of public

1 health;

2 (12) medical radiation, health and safety
3 certification and standards for radiologic technologists as
4 provided in the Medical Imaging and Radiation Therapy Health
5 and Safety Act;

6 (13) hazardous wastes and underground
7 storage tanks as provided in the Hazardous Waste Act; and

8 (14) solid waste as provided in the Solid
9 Waste Act.

10 B. Nothing in Subsection A of this section imposes
11 requirements for the approval of subdivision plats in
12 addition to those required elsewhere by law. Nothing in
13 Subsection A of this section preempts the authority of any
14 political subdivision to approve subdivision plats.

15 C. Administrative penalties collected pursuant to
16 Paragraph (2) of Subsection A of this section shall be
17 deposited in the water conservation fund.

18 D. On-site liquid waste system fees shall be
19 deposited in the environmental health fund.

20 E. Radiation license and registration and other
21 related fees shall be deposited in the radiation protection
22 fund."

23 **SECTION 4.** Section 74-1-15.1 NMSA 1978 (being Laws
24 2009, Chapter 203, Section 1) is amended to read:

25 "74-1-15.1. LIQUID WASTE DISPOSAL SYSTEM ASSISTANCE

1 FUND--CREATED--PURPOSE.--

2 A. The "liquid waste disposal system assistance
3 fund" is created in the state treasury. The department shall
4 administer the fund. The fund may be composed of
5 appropriations and transfers of money earned from investment
6 of the fund and otherwise accruing to the fund and transfers
7 of money from the environmental health fund not to exceed two
8 hundred thousand dollars (\$200,000) from the unexpended
9 balance in the fund. Balances remaining in the fund at the
10 end of a fiscal year shall remain to the credit of the fund.
11 Disbursements from the fund shall be drawn on warrant of the
12 secretary of finance and administration pursuant to vouchers
13 signed by the secretary of environment or the secretary's
14 authorized representative. Money in the fund is appropriated
15 to the department for the sole purpose of assisting indigent
16 individuals or households that qualify for funding to
17 accomplish one of the following purposes where there is a
18 real or potential negative impact to public health or water
19 quality from on-site liquid waste disposal system effluent:

20 (1) to pay for a liquid waste disposal
21 system to replace a cesspool or other failed or improper on-
22 site liquid waste disposal system;

23 (2) to purchase, install or maintain an
24 advanced treatment system as required by the Environmental
25 Improvement Act or regulations issued pursuant to that act;

1 (3) to pay for the decommissioning and
2 removal of a cesspool or other failed or improper on-site
3 liquid waste disposal system; or

4 (4) to pay for all or a portion of the
5 connection fees in order to connect an individual or
6 household to a centralized wastewater collection and
7 treatment system.

8 B. Construction activities sponsored by the fund
9 shall be performed by licensed contractors selected through
10 competitive bid by the department and shall be managed by the
11 department.

12 C. No more than five percent of the fund shall be
13 used by the department on an annual basis to pay for the
14 department costs associated with management and
15 implementation of fund activities.

16 D. As used in this section:

17 (1) "advanced treatment system" means an
18 on-site liquid wastewater treatment system that removes a
19 greater amount of contaminants than is accomplished by a
20 primary treatment system;

21 (2) "connection fee" means the fee paid
22 directly to a public water or wastewater system or other
23 wastewater management organization and does not include other
24 fees, such as legal fees, related to connecting an individual
25 or household to a centralized wastewater collection and

1 treatment system; and

2 (3) "indigent individuals or households"
3 means individuals or households whose annual incomes do not
4 exceed the federal poverty guidelines."

5 SECTION 5. Section 74-1-16 NMSA 1978 (being Laws 2003,
6 Chapter 335, Section 1) is amended to read:

7 "74-1-16. WATER RECREATION FACILITIES--FEE
8 IMPOSITION.--The board may assess an annual fee not to exceed
9 one hundred fifty dollars (\$150) on the owner or operator of
10 a public swimming pool, public spa or other public water
11 recreation facility to defray the cost of administering and
12 enforcing rules adopted in accordance with the Environmental
13 Improvement Act pertaining to public water recreation
14 facilities. The fee shall be based on the size of the public
15 water recreation facility. Fees collected pursuant to this
16 section shall be deposited in the environmental health fund."

17 SECTION 6. Section 76-24-8 NMSA 1978 (being Laws 2019,
18 Chapter 116, Section 6) is amended to read:

19 "76-24-8. HEMP MANUFACTURERS--PERMITS--RULES--
20 REQUIREMENTS.--

21 A. The department of environment shall issue
22 permits pursuant to rules issued under Subsection C of this
23 section to extract, process or engage in other manufacturing
24 activities regarding hemp, including manufacturing
25 intermediate hemp-derived products and hemp finished

1 products.

2 B. A person shall not extract, process or engage
3 in other manufacturing activities regarding hemp, including
4 manufacturing intermediate hemp-derived products and hemp
5 finished products without a permit issued by the department
6 of environment or a license issued pursuant to Subsection C
7 of Section 76-24-10 NMSA 1978.

8 C. The department of environment shall adopt rules
9 that include:

10 (1) procedures for the issuance, denial,
11 renewal, suspension and revocation of a permit issued by the
12 department of environment to manufacture hemp products,
13 including permit terms and procedures for appeal of a denial,
14 suspension or revocation that include notice and opportunity
15 for a hearing;

16 (2) qualifications for permitting that
17 include health, sanitation, safety and security;

18 (3) proficiency standards and requirements
19 for storage, recordkeeping and inspections;

20 (4) requiring, and providing a process for,
21 the use or disposal of hemp-derived material containing THC
22 levels of more than three-tenths percent; and

23 (5) fees not to exceed the lesser of one
24 thousand dollars (\$1,000) or the cost of administration of a
25 permit issued pursuant to this section.

1 D. A hemp manufacturer that produces intermediate
2 hemp-derived products or hemp finished products intended for
3 human consumption by eating or drinking are subject to the
4 provisions of the Food Service Sanitation Act and the New
5 Mexico Food Act.

6 E. Hemp finished products produced by a hemp
7 manufacturer holding a permit issued pursuant to this section
8 shall not be deemed adulterated as that term is used in the
9 Food Service Sanitation Act and the New Mexico Food Act.

10 F. Fees collected pursuant to this section shall
11 be deposited in the environmental health fund.

12 G. A permit issued pursuant to this section does
13 not relieve the holder of the permit of the responsibility to
14 obtain other licenses or permits as required by law."

15 **SECTION 7. TEMPORARY PROVISION.**--On the effective date
16 of this act, unexpended and unencumbered balances in the food
17 service sanitation fund, the liquid waste fund and the water
18 recreation facilities fund shall be transferred to the
19 environmental health fund.

20 **SECTION 8. REPEAL.**--Sections 25-1-5.1 and 74-1-15 NMSA
21 1978 (being Laws 1993, Chapter 100, Section 5 and Laws 2000,
22 Chapter 96, Section 3, as amended) are repealed. _____