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HOUSE BILL 681

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Nick L. Salazar

AN ACT

RELATING TO HEALTH; REQUIRING A PERMIT FROM THE DEPARTMENT OF  
HEALTH TO SELL CERTAIN FOOD OR DRINK IN PUBLIC SCHOOLS;  
CREATING A FUND; MAKING AN APPROPRIATION.

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

Section 1. PUBLIC SCHOOL FOOD AND DRINK VENDOR PERMIT  
REQUIRED--STUDENT WELLNESS FUND CREATED.--

A. Except as provided in Subsection D of this  
section, a person shall not offer food or drink for sale in a  
public school without a valid public school food and drink  
vendor permit for that school. A school district or public  
school shall not enter into any agreement or otherwise allow a  
person to offer food or drink for sale in a public school  
unless that person has a valid public school food and drink  
vendor permit for that school.

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1                   B. Public school food and drink vendor permits  
2 shall be issued by the department of health and shall be valid  
3 from the date issued through the following June 30. The  
4 department shall impose the following fees for the permits:

5                   (1) seven hundred fifty dollars (\$750) for a  
6 permit to sell food or drink in a public school facility that  
7 includes a high school;

8                   (2) five hundred dollars (\$500) for a permit  
9 to sell food or drink in a public school facility that does not  
10 include a high school but includes a middle school; and

11                   (3) two hundred fifty dollars (\$250) for a  
12 permit to sell food or drink in a public school facility that  
13 contains only an elementary school.

14                   C. The requirement for a public school food and  
15 drink vendor permit applies to:

16                   (1) each person who owns or leases one or more  
17 vending machines that are placed in a public school for the  
18 purpose of dispensing food or drink; and

19                   (2) unless exempted pursuant to Subsection D  
20 of this section, each person who operates a location in a  
21 public school, other than a vending machine, from which food or  
22 drink is sold.

23                   D. The requirement for a public school food and  
24 drink vendor permit does not apply to:

25                   (1) a person selling food or beverage as part

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1 of a school meal program that meets guidelines established by  
2 the United States department of agriculture; or

3 (2) a nonprofit organization temporarily  
4 selling food or drink from a location other than a vending  
5 machine.

6 E. Receipts from the issuance of public school food  
7 and drink vendor permits shall be deposited by the department  
8 of health into the "student wellness fund", hereby created in  
9 the state treasury. Earnings from investment of the student  
10 wellness fund shall be credited to the fund. Money in the  
11 student wellness fund is subject to appropriation by the  
12 legislature for school-based health centers and child nutrition  
13 and wellness education activities. Any unexpended or  
14 unencumbered balance remaining at the end of a fiscal year  
15 shall not revert. Disbursements from the student wellness fund  
16 shall be made upon warrants drawn by the secretary of finance  
17 and administration pursuant to vouchers signed by the secretary  
18 of health.

19 F. The secretary of health and the secretary of  
20 public education shall jointly promulgate such rules as are  
21 necessary to carry out the provisions of this section,  
22 including procedures for an application process for schools to  
23 apply for grants from the student wellness fund.

24 Section 2. TEMPORARY PROVISION--EXISTING VENDING MACHINE  
25 CONTRACTS.--

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