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HOUSE BILL 408

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Carl Trujillo

AN ACT

RELATING TO TAX ADMINISTRATION; AMENDING DEFINITIONS IN THE TAX ADMINISTRATION ACT; MAKING CHANGES TO SECTIONS OF LAW RELATING TO DISPUTING TAX LIABILITIES; CLARIFYING THAT THE MEANING OF "TAX" MEANS AMOUNT OF TAX DUE AND PENALTIES AND INTEREST; PROVIDING THAT NO INTEREST ON A CLAIM FOR REFUND OF AN OVERPAID TAX SHALL BE PAID UNLESS A COMPLETE CLAIM IS FILED WITHIN A SPECIFIED AMOUNT OF TIME; CONFORMING SECTIONS OF LAW IN THE NMSA 1978; REPEALING LAWS 2009, CHAPTER 241, SECTION 1 AND LAWS 2009, CHAPTER 242, SECTION 2.

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

SECTION 1. Section 6-21-6.7 NMSA 1978 (being Laws 2003, Chapter 341, Section 5, as amended) is amended to read:

"6-21-6.7. CREDIT ENHANCEMENT ACCOUNT CREATED--USE OF ACCOUNT--RELEASE OF MONEY TO THE GENERAL FUND.--

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1 A. The "credit enhancement account" is created as a
2 separate account within the authority for use only as provided
3 in this section.

4 B. All cigarette tax proceeds distributed each
5 month to the authority pursuant to Subsection [G] E of Section
6 7-1-6.11 NMSA 1978 shall be deposited in the credit enhancement
7 account.

8 C. Amounts deposited in the credit enhancement
9 account may be pledged irrevocably as additional security for
10 the payment of the principal, interest, premiums and expenses
11 on bonds issued by the authority for:

12 (1) designing, constructing, equipping and
13 furnishing additions and improvements to the university of New
14 Mexico hospital and the comprehensive cancer [~~research and~~
15 ~~treatment~~] center at the university of New Mexico health
16 sciences center; and

17 (2) land acquisition and the planning,
18 designing, construction and equipping of department of health
19 facilities or improvements to such facilities.

20 D. The authority shall determine monthly upon
21 receipt of cigarette tax proceeds if the individual amounts of
22 cigarette tax proceeds distributed pursuant to Subsection [E] C
23 or Subsection [F] D, respectively, of Section 7-1-6.11 NMSA
24 1978 are sufficient to meet the monthly amount required for
25 immediate payment or designation for payment of principal,

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1 interest, premiums and expenses on bonds additionally secured
2 by the credit enhancement account. Any insufficient amount
3 shall be paid immediately from the credit enhancement account.
4 A payment from the credit enhancement account shall be
5 reimbursed in succeeding months from the individual amount of
6 cigarette tax proceeds distributed pursuant to Subsection [E] C
7 or Subsection [F] D, as applicable, of Section 7-1-6.11 NMSA
8 1978 in excess of the amount required for immediate payment or
9 designation for payment of principal, interest, premiums and
10 expenses on bonds. All money in the credit enhancement account
11 in excess of the monthly amount required for immediate payment
12 or designation for payment of principal, interest, premiums and
13 expenses on bonds shall be transferred monthly by the authority
14 to the general fund.

15 E. Upon payment of all principal, interest,
16 premiums and expenses on bonds additionally secured by a pledge
17 of amounts deposited in the credit enhancement account, the
18 authority shall certify to the secretary of taxation and
19 revenue that all obligations for bonds have been fully
20 discharged and shall direct the secretary of taxation and
21 revenue and the state treasurer to cease distributing cigarette
22 tax proceeds to the authority pursuant to Subsection [G] E of
23 Section 7-1-6.11 NMSA 1978 and to distribute those cigarette
24 tax proceeds to the general fund.

25 F. Any law authorizing the imposition, collection

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1 or distribution of the cigarette tax or that affects the
2 cigarette tax shall not be amended, repealed or otherwise
3 directly or indirectly modified so as to impair or reduce debt
4 service coverage for any outstanding revenue bonds that may be
5 secured by a pledge of those cigarette tax proceeds distributed
6 to the credit enhancement account, unless the revenue bonds
7 have been discharged in full or provisions have been made for a
8 full discharge."

9 SECTION 2. Section 6-21-6.10 NMSA 1978 (being Laws 2005,
10 Chapter 58, Section 1, as amended) is amended to read:

11 "6-21-6.10. NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--
12 PURPOSE--APPROPRIATION.--

13 A. The authority may issue and sell revenue bonds
14 in compliance with the New Mexico Finance Authority Act in an
15 amount not exceeding two million five hundred thousand dollars
16 (\$2,500,000) for the behavioral health capital fund to make
17 loans to eligible entities for capital projects pursuant to the
18 Behavioral Health Capital Funding Act.

19 B. The net proceeds from the sale of the bonds are
20 appropriated to the behavioral health capital fund for the
21 purposes described in Subsection A of this section.

22 C. The cigarette tax proceeds distributed to the
23 authority pursuant to Subsection [D] B of Section 7-1-6.11 NMSA
24 1978:

25 (1) are appropriated to the authority to be

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1 pledged irrevocably for the payment of the principal, interest,
2 premiums and related expenses on the bonds and for payment of
3 the expenses incurred by the authority related to the issuance,
4 sale and administration of the bonds; and

5 (2) shall be deposited in a separate fund or
6 account of the authority; provided that money in the separate
7 fund or account in excess of the amount necessary for payment
8 of principal and interest on the bonds and necessary reserves
9 or sinking funds may be transferred to any other account of the
10 authority and used for purposes of the New Mexico Finance
11 Authority Act.

12 D. The authority may issue and sell revenue bonds
13 in compliance with the New Mexico Finance Authority Act in an
14 amount not to exceed five million dollars (\$5,000,000) for
15 acquiring land for and planning, designing, constructing and
16 equipping department of health facilities or improvements to
17 those facilities, upon certification from the secretary of
18 health that such projects are needed. The costs associated
19 with issuing the bonds shall be paid from the net proceeds from
20 the sale of the bonds, and the remainder is appropriated to the
21 facilities management division of the general services
22 department for the projects certified pursuant to this
23 subsection.

24 E. The cigarette tax proceeds distributed to the
25 authority pursuant to Subsection [F] D of Section 7-1-6.11 NMSA

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1 1978:

2 (1) are appropriated to the authority to be
3 pledged irrevocably for the payment of the principal, interest,
4 premiums and related expenses of the bonds and for payment of
5 the expenses incurred by the authority related to the issuance,
6 sale and administration of the bonds; and

7 (2) shall be deposited in a separate fund or
8 account of the authority.

9 F. Any law authorizing the imposition, collection
10 or distribution of the cigarette tax or that affects the
11 cigarette tax shall not be amended, repealed or otherwise
12 directly or indirectly modified so as to impair or reduce debt
13 service coverage for any outstanding revenue bonds that may be
14 secured by a pledge of those cigarette tax revenues, unless the
15 revenue bonds have been discharged in full or provisions have
16 been made for a full discharge.

17 G. The authority may secure the revenue bonds
18 issued pursuant to this section by a pledge of money in the
19 public project revolving fund with a lien priority on the money
20 in the public project revolving fund as determined by the
21 authority."

22 SECTION 3. Section 6-22-2 NMSA 1978 (being Laws 1992,
23 Chapter 105, Section 2) is amended to read:

24 "6-22-2. DEFINITIONS.--As used in the State Aid Intercept
25 Act:

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1 A. "default" means the actual nonpayment of
2 principal or interest on a local revenue bond when payment is
3 scheduled by the indenture relating the local revenue bond;

4 B. "local government" means a municipality or
5 county;

6 C. "local revenue bond" means a bond issued after
7 July 1, 1992 pursuant to Sections 3-33-1 through 3-33-43 NMSA
8 1978 or Chapter 4, Article 62 NMSA 1978;

9 D. "qualified local revenue bond" means a local
10 revenue bond for which a state distributions intercept
11 authorization has been granted pursuant to this section;

12 E. "secretary" means the secretary of finance and
13 administration; and

14 F. "state distributions" means any or all of the
15 funds distributed to local governments pursuant to [~~Section~~]
16 Sections 7-1-6.4 and 7-1-6.9 [~~and Subsection B of Section~~
17 ~~7-1-6.11~~] NMSA 1978."

18 SECTION 4. Section 7-1-3 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 3, as amended) is amended to read:

20 "7-1-3. DEFINITIONS.--Unless the context clearly
21 indicates a different meaning, the definitions of words and
22 phrases as they are stated in this section are to be used, and
23 whenever in the Tax Administration Act these words and phrases
24 appear, the singular includes the plural and the plural
25 includes the singular:

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1 A. "automated clearinghouse transaction" means an
2 electronic credit or debit transmitted through an automated
3 clearinghouse payable to the state treasurer and deposited with
4 the fiscal agent of New Mexico;

5 B. "department" means the taxation and revenue
6 department, the secretary or any employee of the department
7 exercising authority lawfully delegated to that employee by the
8 secretary;

9 C. "electronic payment" means a payment made by
10 automated clearinghouse deposit, any funds wire transfer system
11 or a credit card, debit card or electronic cash transaction
12 through the internet;

13 D. "employee of the department" means any employee
14 of the department, including the secretary, or any person
15 acting as agent or authorized to represent or perform services
16 for the department in any capacity with respect to any law made
17 subject to administration and enforcement under the provisions
18 of the Tax Administration Act;

19 E. "financial institution" means any state or
20 federally chartered, federally insured depository institution;

21 F. "hearing officer" means a person who has been
22 designated by the chief hearing officer to serve as a hearing
23 officer and who is:

- 24 (1) the chief hearing officer;
- 25 (2) an employee of the administrative hearings

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1 office; or

2 (3) a contractor of the administrative
3 hearings office;

4 G. "Internal Revenue Code" means the Internal
5 Revenue Code of 1986, as that code may be amended or its
6 sections renumbered;

7 H. "levy" means the lawful power, hereby invested
8 in the secretary, to take into possession or to require the
9 present or future surrender to the secretary or the secretary's
10 delegate of any property or rights to property belonging to a
11 delinquent taxpayer;

12 I. "local option gross receipts tax" means a tax
13 authorized to be imposed by a county or municipality upon the
14 taxpayer's gross receipts, as that term is defined in the Gross
15 Receipts and Compensating Tax Act, and required to be collected
16 by the department at the same time and in the same manner as
17 the gross receipts tax; "local option gross receipts tax"
18 includes the taxes imposed pursuant to the Municipal Local
19 Option Gross Receipts Taxes Act, Supplemental Municipal Gross
20 Receipts Tax Act, County Local Option Gross Receipts Taxes Act,
21 Local Hospital Gross Receipts Tax Act and County Correctional
22 Facility Gross Receipts Tax Act and such other acts as may be
23 enacted authorizing counties or municipalities to impose taxes
24 on gross receipts, which taxes are to be collected by the
25 department in the same time and in the same manner as it

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1 collects the gross receipts tax;

2 J. "managed audit" means a review and analysis
3 conducted by a taxpayer under an agreement with the department
4 to determine the taxpayer's compliance with a tax administered
5 pursuant to the Tax Administration Act and the presentation of
6 the results to the department for assessment of tax found to be
7 due;

8 K. "net receipts" means the total amount of money
9 paid by taxpayers to the department in a month pursuant to a
10 tax or tax act less any refunds disbursed in that month with
11 respect to that tax or tax act;

12 L. "overpayment" means an amount paid, pursuant to
13 any law subject to administration and enforcement under the
14 provisions of the Tax Administration Act, by a person to the
15 department or withheld from the person in excess of tax due
16 from the person to the state at the time of the payment or at
17 the time the amount withheld is credited against tax due;

18 M. "paid" includes the term "paid over";

19 N. "pay" includes the term "pay over";

20 O. "payment" includes the term "payment over";

21 P. "person" means any individual, estate, trust,
22 receiver, cooperative association, club, corporation, company,
23 firm, partnership, limited liability company, limited liability
24 partnership, joint venture, syndicate, other association or
25 gas, water or electric utility owned or operated by a county or

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1 municipality; "person" also means, to the extent permitted by
2 law, a federal, state or other governmental unit or
3 subdivision, or an agency, department or instrumentality
4 thereof; and "person", as used in Sections 7-1-72 through
5 7-1-74 NMSA 1978, also includes an officer or employee of a
6 corporation, a member or employee of a partnership or any
7 individual who, as such, is under a duty to perform any act in
8 respect of which a violation occurs;

9 Q. "property" means property or rights to property;

10 R. "property or rights to property" means any
11 tangible property, real or personal, or any intangible property
12 of a taxpayer;

13 S. "return" means any tax or information return,
14 application or form, declaration of estimated tax or claim for
15 refund, including any amendments or supplements to the return,
16 required or permitted pursuant to a law subject to
17 administration and enforcement pursuant to the Tax
18 Administration Act and filed with the secretary or the
19 secretary's delegate by or on behalf of any person;

20 T. "return information" means a taxpayer's name,
21 address, government-issued identification number and other
22 identifying information; any information contained in or
23 derived from a taxpayer's return; any information with respect
24 to any actual or possible administrative or legal action by an
25 employee of the department concerning a taxpayer's return, such

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1 as audits, managed audits, denial of credits or refunds,
2 assessments of tax, penalty or interest, protests of
3 assessments or denial of refunds or credits, levies or liens;
4 or any other information with respect to a taxpayer's return or
5 tax liability that was not obtained from public sources or that
6 was created by an employee of the department; but "return
7 information" does not include statistical data or other
8 information that cannot be associated with or directly or
9 indirectly identify a particular taxpayer;

10 U. "secretary" means the secretary of taxation and
11 revenue and, except for purposes of Subsection B of Section
12 7-1-4 NMSA 1978, also includes the deputy secretary or a
13 division director or deputy division director delegated by the
14 secretary;

15 V. "secretary or the secretary's delegate" means
16 the secretary or any employee of the department exercising
17 authority lawfully delegated to that employee by the secretary;

18 W. "security" means money, property or rights to
19 property or a surety bond;

20 X. "state" means any state of the United States,
21 the District of Columbia, the commonwealth of Puerto Rico and
22 any territory or possession of the United States;

23 Y. "tax" means the total amount of each tax imposed
24 and required to be paid, withheld and paid or collected and
25 paid under provision of any law made subject to administration

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1 and enforcement according to the provisions of the Tax
2 Administration Act, [~~and, unless the context otherwise~~
3 ~~requires, includes~~] including the amount of any interest or
4 civil penalty relating thereto; "tax" also means any amount of
5 any abatement of tax made or any credit, rebate or refund paid
6 or credited by the department under any law subject to
7 administration and enforcement under the provisions of the Tax
8 Administration Act to any person contrary to law, [~~and~~
9 ~~includes, unless the context requires otherwise~~] including the
10 amount of any interest or civil penalty relating thereto;

11 Z. "tax return preparer" means a person who
12 prepares for others for compensation or who employs one or more
13 persons to prepare for others for compensation any return of
14 income tax, a substantial portion of any return of income tax,
15 any claim for refund with respect to income tax or a
16 substantial portion of any claim for refund with respect to
17 income tax; provided that a person shall not be a "tax return
18 preparer" merely because such person:

19 (1) furnishes typing, reproducing or other
20 mechanical assistance;

21 (2) is an employee who prepares an income tax
22 return or claim for refund with respect to an income tax return
23 of the employer, or of an officer or employee of the employer,
24 by whom the person is regularly and continuously employed; or

25 (3) prepares as a trustee or other fiduciary

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1 an income tax return or claim for refund with respect to income
2 tax for any person; and

3 AA. "taxpayer" means a person liable for payment of
4 any tax; a person responsible for withholding and payment or
5 for collection and payment of any tax; a person to whom an
6 assessment has been made, if the assessment remains unabated or
7 the amount thereof has not been paid; or a person who entered
8 into a special agreement pursuant to Section 7-1-21.1 NMSA 1978
9 to assume the liability of gross receipts tax or governmental
10 gross receipts tax of another person and the special agreement
11 was approved by the secretary pursuant to the Tax
12 Administration Act."

13 SECTION 5. Section 7-1-4.1 NMSA 1978 (being Laws 2003,
14 Chapter 398, Section 1) is amended to read:

15 "7-1-4.1. NEW MEXICO TAXPAYER BILL OF RIGHTS CREATED--
16 PURPOSE.--The "New Mexico Taxpayer Bill of Rights" is created.
17 It is the purpose of the New Mexico Taxpayer Bill of Rights to:

18 A. ensure that the rights of New Mexico taxpayers
19 are adequately safeguarded and protected during the assessment,
20 collection and enforcement of any tax administered by the
21 department pursuant to the Tax Administration Act;

22 B. ensure that the taxpayer is treated with dignity
23 and respect; and

24 C. provide brief but comprehensive statements that
25 explain in simple, nontechnical terms the rights of taxpayers

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1 as set forth in Section [~~2 of this 2003 act~~] 7-1-4.2 NMSA
2 1978."

3 SECTION 6. Section 7-1-4.2 NMSA 1978 (being Laws 2003,
4 Chapter 398, Section 2, as amended) is amended to read:

5 "7-1-4.2. NEW MEXICO TAXPAYER BILL OF RIGHTS.--The rights
6 afforded New Mexico taxpayers during the assessment, collection
7 and enforcement of any tax administered by the department as
8 set forth in the Tax Administration Act include:

9 A. the right to available public information and
10 prompt and courteous tax assistance;

11 B. the right to be represented or advised by
12 counsel or other qualified representatives at any time in
13 administrative interactions with the department in accordance
14 with the provisions of Section 7-1-24 NMSA 1978 or the
15 administrative hearings office in accordance with the
16 provisions of the Administrative Hearings Office Act;

17 C. the right to have audits, inspections of records
18 and meetings conducted at a reasonable time and place in
19 accordance with the provisions of Section 7-1-11 NMSA 1978;

20 D. the right to have the department conduct its
21 audits in a timely and expeditious manner and be entitled to
22 the tolling of interest as provided in the Tax Administration
23 Act;

24 E. the right to obtain nontechnical information
25 that explains the procedures, remedies and rights available

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1 during audit, protest, appeals and collection proceedings
2 pursuant to the Tax Administration Act;

3 F. the right to be provided with an explanation of
4 the results of and the basis for audits, assessments or denials
5 of refunds that identify any amount of tax, interest or penalty
6 due;

7 G. the right to seek review, through formal or
8 informal proceedings, of any findings or adverse decisions
9 relating to determinations during audit or protest procedures
10 in accordance with the provisions of Section 7-1-24 NMSA 1978
11 and the Administrative Hearings Office Act;

12 H. the right to have the taxpayer's tax information
13 kept confidential unless otherwise specified by law, in
14 accordance with ~~[Section]~~ Sections 7-1-8 through 7-1-8.11 NMSA
15 1978;

16 I. the right to abatement of an assessment of taxes
17 determined to have been incorrectly, erroneously or illegally
18 made, as provided in Section 7-1-28 NMSA 1978 and the right to
19 seek a compromise of an asserted tax liability by obtaining a
20 written determination of liability or nonliability when the
21 secretary in good faith is in doubt of the liability as
22 provided in Section 7-1-20 NMSA 1978;

23 J. upon receipt of a tax assessment, the right to
24 be informed clearly that if the assessment is not paid,
25 secured, protested or otherwise provided for in accordance with

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1 the provisions of Section 7-1-16 NMSA 1978, the taxpayer will
2 be a delinquent taxpayer and, upon notice of delinquency, the
3 right to timely notice of any collection actions that will
4 require sale or seizure of the taxpayer's property in
5 accordance with the provisions of the Tax Administration Act;
6 and

7 K. the right to procedures for payment of tax
8 obligations by installment payment agreements, in accordance
9 with Section 7-1-21 NMSA 1978."

10 SECTION 7. Section 7-1-6 NMSA 1978 (being Laws 1978,
11 Chapter 55, Section 1, as amended) is amended to read:

12 "7-1-6. RECEIPTS--DISBURSEMENTS--FUNDS CREATED.--

13 A. All money received by the department with
14 respect to laws administered pursuant to the provisions of the
15 Tax Administration Act shall be deposited with the state
16 treasurer before the close of the next succeeding business day
17 after receipt of the money, except that for 1989 and every
18 subsequent year, money received with respect to the Income Tax
19 Act during the period starting with the fifth day prior to the
20 due date for payment of income tax for the year and ending on
21 the tenth day following that due date shall be deposited before
22 the close of the tenth business day after receipt of the money.

23 B. Money received or disbursed by the department
24 shall be accounted for by the department as required by law or
25 regulation of the secretary of finance and administration.

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1 C. Disbursements for tax credits, tax rebates,
2 refunds, the payment of interest, the payment of fees charged
3 by attorneys or collection agencies for collection of accounts
4 as agent for the department, attorney fees and costs awarded by
5 a court or hearing officer, as the result of oil and gas
6 litigation, the payment of credit card service charges on
7 payments of taxes by use of credit cards, distributions and
8 transfers shall be made by the department of finance and
9 administration upon request and certification of their
10 appropriateness by the secretary or the secretary's delegate.

11 D. There are hereby created in the state treasury
12 the "tax administration suspense fund", the "extraction taxes
13 suspense fund" and the "workers' compensation collections
14 suspense fund" for the purpose of making the disbursements
15 authorized by the Tax Administration Act.

16 E. All revenues collected or received by the
17 department pursuant to the provisions of the taxes and tax acts
18 set forth in Subsection A of Section 7-1-2 NMSA 1978 and,
19 through June 30, 2009, federal funds from the temporary
20 assistance for needy families program pursuant to an agreement
21 that the department and the human services department may enter
22 into for the payment of tax refunds, tax rebates and tax
23 credits to low-income families with dependent children
24 otherwise authorized by state and federal law shall be credited
25 to the tax administration suspense fund and are appropriated

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1 for the purpose of making the disbursements authorized in this
2 section or otherwise authorized or required by law to be made
3 from the tax administration suspense fund.

4 F. All revenues collected or received by the
5 department pursuant to the taxes or tax acts set forth in
6 Subsection B of Section 7-1-2 NMSA 1978 shall be credited to
7 the extraction taxes suspense fund and are appropriated for the
8 purpose of making the disbursements authorized in this section
9 or otherwise authorized or required by law to be made from the
10 extraction taxes suspense fund.

11 G. All revenues collected or received by the
12 department pursuant to the taxes or tax acts set forth in
13 Subsection C of Section 7-1-2 NMSA 1978 may be credited to the
14 tax administration suspense fund, unless otherwise directed by
15 law to be credited to another fund or agency, and are
16 appropriated for the purpose of making disbursements authorized
17 in this section or otherwise authorized or required by law.

18 H. All revenues collected or received by the
19 department pursuant to the provisions of Section 52-5-19 NMSA
20 1978 shall be credited to the workers' compensation collections
21 suspense fund and are appropriated for the purpose of making
22 the disbursements authorized in this section or otherwise
23 authorized or required by law to be made from the workers'
24 compensation collections suspense fund.

25 I. Disbursements to cover expenditures of the

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1 department shall be made only upon approval of the secretary or
2 the secretary's delegate.

3 J. Miscellaneous receipts from charges made by the
4 department to defray expenses pursuant to the provisions of
5 Section [~~9-11-6.2~~] 9-11-6.1 NMSA 1978 and similar charges are
6 appropriated to the department for its use.

7 K. From the tax administration suspense fund, there
8 may be disbursed each month amounts approved by the secretary
9 or the secretary's delegate necessary to maintain a fund hereby
10 created and to be known as the "income tax suspense fund". The
11 income tax suspense fund shall be used for the payment of
12 income tax refunds."

13 SECTION 8. Section 7-1-6.9 NMSA 1978 (being Laws 1991,
14 Chapter 9, Section 11, as amended) is amended to read:

15 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
16 MUNICIPALITIES AND COUNTIES.--

17 A. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made in an amount equal to ten and thirty-eight
19 hundredths percent of the net receipts attributable to the
20 taxes, exclusive of penalties and interest, imposed by the
21 Gasoline Tax Act.

22 B. [~~Except as provided in Subsection D of this~~
23 ~~section~~] The amount determined in Subsection A of this section
24 shall be distributed as follows:

25 (1) ninety percent of the amount shall be paid

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1 to the treasurers of municipalities and H class counties in the
2 proportion that the taxable motor fuel sales in each of the
3 municipalities and H class counties bears to the aggregate
4 taxable motor fuel sales in all of these municipalities and H
5 class counties; and

6 (2) ten percent of the amount shall be paid to
7 the treasurers of the counties, including H class counties, in
8 the proportion that the taxable motor fuel sales outside of
9 incorporated municipalities in each of the counties bears to
10 the aggregate taxable motor fuel sales outside of incorporated
11 municipalities in all of the counties.

12 C. Except as provided in Subsection D of this
13 section, this distribution shall be paid into a separate road
14 fund in the municipal treasury or county road fund for
15 expenditure only for construction, reconstruction, resurfacing
16 or other improvement or maintenance of public roads, streets,
17 alleys or bridges, including right-of-way and materials
18 acquisition. Money distributed pursuant to this section may be
19 used by a municipality or county to provide matching funds for
20 projects subject to cooperative agreements entered into with
21 the [~~state highway and~~] department of transportation
22 [~~department~~] pursuant to Section 67-3-28 NMSA 1978. Any
23 municipality or H class county that has created or that creates
24 a "street improvement fund" to which gasoline tax revenues or
25 distributions are irrevocably pledged under Sections 3-34-1

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1 through 3-34-4 NMSA 1978 or that has pledged all or a portion
2 of gasoline tax revenues or distributions to the payment of
3 bonds shall receive its proportion of the distribution of
4 revenues under this section impressed with and subject to these
5 pledges.

6 D. This distribution may be paid into a separate
7 road fund or the general fund of the municipality or county if
8 the municipality has a population less than three thousand or
9 the county has a population less than four thousand."

10 SECTION 9. Section 7-1-6.11 NMSA 1978 (being Laws 1983,
11 Chapter 211, Section 16, as amended) is amended to read:

12 "7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

13 [~~E-~~] A. A distribution pursuant to Section 7-1-6.1
14 NMSA 1978 shall be made to the comprehensive cancer [~~research~~
15 ~~and treatment~~] center at the university of New Mexico health
16 sciences center in an amount equal to eighty-three hundredths
17 percent of the net receipts, exclusive of penalties and
18 interest, attributable to the cigarette tax.

19 [~~D-~~] B. A distribution pursuant to Section 7-1-6.1
20 NMSA 1978 shall be made to the New Mexico finance authority in
21 an amount equal to one and twenty-five hundredths percent of
22 the net receipts, exclusive of penalties and interest,
23 attributable to the cigarette tax.

24 [~~E-~~] C. A distribution pursuant to Section 7-1-6.1
25 NMSA 1978 in an amount equal to eight and eighty-nine

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1 hundredths percent of the net receipts, exclusive of penalties
2 and interest, attributable to the cigarette tax, shall be made,
3 on behalf of and for the benefit of the university of New
4 Mexico health sciences center, to the New Mexico finance
5 authority.

6 ~~[F-]~~ D. A distribution pursuant to Section 7-1-6.1
7 NMSA 1978 in an amount equal to three and seventy-four
8 hundredths percent of the net receipts, exclusive of penalties
9 and interest, attributable to the cigarette tax shall be made
10 to the New Mexico finance authority for land acquisition and
11 the planning, designing, construction and equipping of
12 department of health facilities or improvements to such
13 facilities.

14 ~~[G-]~~ E. A distribution pursuant to Section 7-1-6.1
15 NMSA 1978 in an amount equal to nine and seventy-seven
16 hundredths percent of the net receipts, exclusive of penalties
17 and interest, attributable to the cigarette tax shall be made
18 to the New Mexico finance authority for deposit in the credit
19 enhancement account created in the authority.

20 ~~[H-]~~ F. A distribution pursuant to Section 7-1-6.1
21 NMSA 1978 in an amount equal to sixty-two hundredths percent of
22 the net receipts, exclusive of penalties and interest,
23 attributable to the cigarette tax shall be made, on behalf of
24 and for the benefit of the rural county cancer treatment fund,
25 to the New Mexico finance authority."

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1 SECTION 10. Section 7-1-6.24 NMSA 1978 (being Laws 1987,
2 Chapter 265, Section 3) is amended to read:

3 "7-1-6.24. DISTRIBUTION--SUBSTANCE ABUSE EDUCATION
4 FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
5 shall be made to the substance abuse education fund of the
6 amounts designated pursuant to Section [~~7-2-28~~] 7-2-30 NMSA
7 1978 as contributions to that fund."

8 SECTION 11. Section 7-1-6.26 NMSA 1978 (being Laws 1987,
9 Chapter 347, Section 11, as amended) is amended to read:

10 "7-1-6.26. COUNTY GOVERNMENT ROAD FUND--DISTRIBUTION.--

11 A. For the purposes of this section, "distributable
12 amount" means the amount in the county government road fund as
13 of the last day of any month for which a distribution is
14 required to be made pursuant to this section in excess of the
15 balance in that fund as of the last day of the preceding month
16 after reduction for any required distributions for the
17 preceding month.

18 B. The secretary of [~~highway and~~] transportation
19 shall determine and certify on or before [~~July 1, 1987 and on~~
20 ~~or before~~] July 1 of each [~~subsequent~~] year the total miles of
21 public roads maintained by each county pursuant to Section
22 66-6-23 NMSA 1978. For the purposes of this subsection, if the
23 certified mileage of public roads maintained by a county is
24 less than four hundred miles, the state treasurer shall
25 increase the number of miles of public roads maintained by that

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1 county by fifty percent and revise the total miles of public
2 roads maintained by all counties accordingly. Except as
3 provided otherwise in Subsection D of this section, each county
4 shall receive an amount equal to its proportionate share of
5 miles of public roads maintained, as the number of miles for
6 the county may have been revised pursuant to this subsection,
7 to the total miles of public roads maintained by all counties,
8 as that total may have been revised pursuant to this
9 subsection, times fifty percent of the distributable amount in
10 the county government road fund.

11 C. Except as provided otherwise in Subsection D of
12 this section, each county shall receive a share of fifty
13 percent of the distributable amount in the county government
14 road fund as determined in this subsection. The amount for
15 each county shall be the greater of:

16 (1) twenty-one cents (\$.21) multiplied by the
17 county's population as shown by the most recent federal
18 decennial census; or

19 (2) the proportionate share that the taxable
20 gallons of gasoline reported for that county for the preceding
21 fiscal year bear to the total taxable gallons of gasoline for
22 all counties in the preceding fiscal year, as determined by the
23 department, multiplied by fifty percent of the distributable
24 amount in the county government road fund.

25 If the sum of the amounts to be distributed pursuant to

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1 Paragraphs (1) and (2) of this subsection exceeds fifty percent
2 of the distributable amount in the county government road fund,
3 the excess shall be eliminated by multiplying the amount
4 determined in Paragraphs (1) and (2) of this subsection for
5 each county by a fraction, the numerator of which is fifty
6 percent of the distributable amount in the county government
7 road fund, and the denominator of which is the sum of amounts
8 determined for all counties in Paragraphs (1) and (2) of this
9 subsection.

10 D. If the distribution for a class A county or for
11 an H class county determined pursuant to Subsections B and C of
12 this section exceeds an amount equal to one-twelfth of the
13 product of the total taxable gallons of gasoline reported for
14 the county for the preceding fiscal year times one cent (\$.01),
15 the distribution for that county shall be reduced to an amount
16 equal to one-twelfth of the product of the total taxable
17 gallons of gasoline reported for the county for the preceding
18 fiscal year times one cent (\$.01). Any amount of the reduction
19 shall be shared among the counties whose distribution has not
20 been reduced pursuant to this subsection in the ratio of the
21 amounts computed in Subsections B and C of this section.

22 E. If a county has not made the required mileage
23 certification pursuant to Section 67-3-28.3 NMSA 1978 [~~by May~~
24 ~~1, 1988, and~~] by April 1 of every year [~~thereafter~~] of the year
25 for which distribution is being made, the secretary of [~~highway~~

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1 and] transportation shall estimate the mileage maintained by
2 those counties for the purpose of making distribution to all
3 counties, and the amount calculated to be distributed each
4 month to those counties not certifying mileage shall be reduced
5 by one-third each month for that fiscal year and that amount
6 not distributed to those counties shall be distributed equally
7 to all counties that have certified mileages.

8 F. Distributions made to counties pursuant to this
9 section shall be deposited in the county road fund to be used
10 for the construction, reconstruction, resurfacing or other
11 improvement or maintenance of the public roads and bridges in
12 the county, including right-of-way and materials acquisition.
13 Money distributed pursuant to this section may be used by the
14 county to provide matching funds for projects subject to
15 cooperative agreements entered into with the [~~state highway~~
16 and] department of transportation [~~department~~] pursuant to
17 Section 67-3-28 NMSA 1978."

18 SECTION 12. Section 7-1-6.32 NMSA 1978 (being Laws 1990,
19 Chapter 99, Section 44, as amended) is amended to read:

20 "7-1-6.32. DISTRIBUTION--SOLID WASTE ASSESSMENT FEE.--A
21 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
22 made to the solid waste facility grant fund of the net receipts
23 attributable to the solid waste assessment fee authorized under
24 the Solid Waste Act less any administrative fee withheld
25 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978."

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1 SECTION 13. Section 7-1-6.33 NMSA 1978 (being Laws 1991,
2 Chapter 212, Section 15) is amended to read:

3 "7-1-6.33. DISTRIBUTION TO COUNTY-SUPPORTED MEDICAID
4 FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
5 shall be made to the county-supported medicaid fund of the net
6 receipts attributable to the taxes imposed pursuant to [~~the~~
7 ~~County Health Care Gross Receipts Tax Act~~] 7-20E-18 NMSA 1978."

8 SECTION 14. Section 7-1-6.41 NMSA 1978 (being Laws 1997,
9 Chapter 125, Section 1) is amended to read:

10 "7-1-6.41. ADMINISTRATIVE FEE IMPOSED--APPROPRIATION.--

11 A. The [~~taxation and revenue~~] department is
12 directed to withhold an administrative fee of three percent of
13 the net amount to be distributed under the provisions of:

- 14 (1) Section 7-1-6.32 NMSA 1978;
- 15 (2) Section 66-12-20 NMSA 1978; and
- 16 (3) Section 74-1-13 NMSA 1978.

17 B. The administrative fee to be withheld pursuant
18 to Subsection A of this section shall be withheld on
19 distributions made on or after July 1, 1997 and shall continue
20 until the earlier of December 31, 2006 or the date on which the
21 New Mexico finance authority certifies to the [~~taxation and~~
22 ~~revenue~~] department that all obligations for bonds issued
23 pursuant to [~~Section 12 of this 1997 act~~] Laws 1997, Chapter
24 125, Section 12 have been fully discharged and directs the
25 department to cease distributing money to the authority

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1 pursuant to this section. At the end of a fiscal year, the
2 unexpended balances of the fees collected pursuant to this
3 subsection shall not revert to the general fund but shall be
4 retained by the department, subject to appropriation by the
5 legislature, to carry out the purposes of the Tax
6 Administration Act.

7 C. The [~~taxation and revenue~~] department is
8 directed to withhold an additional administrative fee at the
9 following percentage of the net amount to be distributed
10 pursuant to the following provisions of law:

11 (1) two percent of the net amount to be
12 distributed pursuant to Section 7-1-6.12 NMSA 1978; and

13 (2) six-tenths of one percent of the net
14 amount to be distributed pursuant to Section 7-1-6.13 NMSA
15 1978.

16 D. The administrative fee to be withheld under
17 Subsection C of this section shall be withheld on distributions
18 made on or after July 1, 1997 and shall continue until the
19 earlier of July 1, 2000 or the date on which the New Mexico
20 finance authority certifies to the [~~taxation and revenue~~]
21 department that all obligations for bonds issued pursuant to
22 [~~Section 12 of this 1997 act~~] Laws 1997, Chapter 125, Section
23 12 have been fully discharged and directs the department to
24 cease distributing money to the authority pursuant to this
25 section. At the end of a fiscal year, the unexpended balances

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1 of the fees collected pursuant to this subsection shall not
2 revert to the general fund but shall be retained by the
3 department, subject to appropriation by the legislature, to
4 carry out the purposes of the Tax Administration Act.

5 E. The administrative fee to be withheld by the
6 [~~taxation and revenue~~] department under [~~Section~~] Sections
7 7-1-6.12 and 7-1-6.13 NMSA 1978 shall be set at three percent
8 of the net amount to be distributed pursuant to the provisions
9 of those sections.

10 F. The administrative fee to be withheld under
11 Subsection E of this section shall be withheld on distributions
12 made on or after July 1, 2000 and shall continue until the
13 earlier of December 31, 2006 or the date on which the New
14 Mexico finance authority certifies to the [~~taxation and~~
15 ~~revenue~~] department that all obligations for bonds issued
16 pursuant to [~~Section 12 of this 1997 act~~] Laws 1997, Chapter
17 125, Section 12 have been fully discharged and directs the
18 department to cease distributing money to the authority
19 pursuant to this section. [~~After the department has been~~
20 ~~directed by the authority to cease distributing money to the~~
21 ~~authority pursuant to this section, the administrative fee~~
22 ~~shall be remitted to the state treasurer for deposit in the~~
23 ~~state general fund each month~~] At the end of a fiscal year, the
24 unexpended balances of the fees collected pursuant to this
25 section shall not revert to the general fund but shall be

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1 retained by the department, subject to appropriation by the
2 legislature, to carry out the purposes of the Tax
3 Administration Act.

4 G. The administrative fee shall be distributed
5 monthly to the New Mexico finance authority to be pledged
6 irrevocably for the payment of principal, interest and any
7 expenses or obligations related to the bonds issued by the
8 authority to finance the taxation and revenue information
9 management systems project."

10 SECTION 15. Section 7-1-6.48 NMSA 1978 (being Laws 2005,
11 Chapter 56, Section 1) is amended to read:

12 "7-1-6.48. DISTRIBUTION--CONTRIBUTIONS TO DEPARTMENT OF
13 HEALTH--AMYOTROPHIC LATERAL SCLEROSIS RESEARCH.--A distribution
14 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the
15 amyotrophic lateral sclerosis research fund in an amount equal
16 to the money designated pursuant to [~~the Income Tax Act~~]
17 Section 7-2-30.1 NMSA 1978 as contributions to the amyotrophic
18 lateral sclerosis research fund."

19 SECTION 16. Section 7-1-6.49 NMSA 1978 (being Laws 2005,
20 Chapter 87, Section 1) is amended to read:

21 "7-1-6.49. DISTRIBUTION--CONTRIBUTIONS TO THE STATE PARKS
22 DIVISION.--A distribution pursuant to Section 7-1-6.1 NMSA 1978
23 shall be made to the energy, minerals and natural resources
24 department in an amount equal to the money designated pursuant
25 to [~~the Income Tax Act~~] Section 7-2-30.2 NMSA 1978 as

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1 contributions to the state parks division of the energy,
2 minerals and natural resources department for the kids in parks
3 education program. The energy, minerals and natural resources
4 department shall remit the amount designated for the state
5 parks division to the state parks division for expenditure for
6 the kids in parks education program."

7 SECTION 17. Section 7-1-6.50 NMSA 1978 (being Laws 2005,
8 Chapter 220, Section 1, as amended) is amended to read:

9 "7-1-6.50. DISTRIBUTION--CONTRIBUTIONS FOR NATIONAL GUARD
10 MEMBER AND FAMILY ASSISTANCE.--A distribution pursuant to
11 Section 7-1-6.1 NMSA 1978 shall be made to the department of
12 military affairs in an amount equal to the money designated
13 pursuant to [~~the Income Tax Act~~] Section 7-2-30.3 NMSA 1978 as
14 contributions for assistance to members of the New Mexico
15 national guard deployed overseas for a period of thirty or more
16 consecutive days and to their families. The department of
17 military affairs shall deposit the money in a temporary
18 suspense account for distribution to members of the New Mexico
19 national guard and to their families."

20 SECTION 18. Section 7-1-6.59 NMSA 1978 (being Laws 2009,
21 Chapter 175, Section 1) is amended to read:

22 "7-1-6.59. DISTRIBUTION--VETERANS MEMORIAL OPERATION,
23 MAINTENANCE AND IMPROVEMENT.--A distribution pursuant to
24 Section 7-1-6.1 NMSA 1978 shall be made to the state parks
25 division of the energy, minerals and natural resources

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1 department in an amount equal to the money designated pursuant
2 to [~~the Income Tax Act~~] Section 7-2-30.4 NMSA 1978 as
3 contributions to the state parks division of the energy,
4 minerals and natural resources department for the operation,
5 maintenance and improvement of the Vietnam veterans memorial
6 state park near Angel Fire, New Mexico."

7 SECTION 19. Section 7-1-8 NMSA 1978 (being Laws 1965,
8 Chapter 248, Section 13, as amended by Laws 2009, Chapter 241,
9 Section 1 and by Laws 2009, Chapter 242, Section 2 and also by
10 Laws 2009, Chapter 243, Section 2) is amended to read:

11 "7-1-8. CONFIDENTIALITY OF RETURNS AND OTHER
12 INFORMATION.--

13 A. It is unlawful for any person other than the
14 taxpayer to reveal to any other person the taxpayer's return or
15 return information, except as provided in Sections 7-1-8.1
16 through [~~7-1-8.10~~] 7-1-8.11 NMSA 1978.

17 B. A return or return information revealed under
18 Sections 7-1-8.1 through [~~7-1-8.10~~] 7-1-8.11 NMSA 1978:

19 (1) may only be revealed to a person
20 specifically authorized to receive the return or return
21 information and the employees, directors, officers and agents
22 of such person whose official duties or duties in the course of
23 their employment require the return or return information and
24 to an employee of the department;

25 (2) may only be revealed for the authorized

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1 purpose and only to the extent necessary to perform that
2 authorized purpose;

3 (3) shall at all times be protected from being
4 revealed to an unauthorized person by physical, electronic or
5 any other safeguards specified by directive by the secretary;
6 and

7 (4) shall be returned to the secretary or the
8 secretary's delegate or destroyed as soon as it is no longer
9 required for the authorized purpose.

10 C. If any provision of Sections 7-1-8.1 through
11 [~~7-1-8.10~~] 7-1-8.11 NMSA 1978 requires that a return or return
12 information will only be revealed pursuant to a written
13 agreement between a person and the department, the written
14 agreement shall:

15 (1) list the name and position of any official
16 or employee of the person to whom a return or return
17 information is authorized to be revealed under the provision;

18 (2) describe the specific purpose for which
19 the return or return information is to be used;

20 (3) describe the procedures and safeguards the
21 person has in place to ensure that the requirements of
22 Subsection B of this section are met; and

23 (4) provide for reimbursement to the
24 department for all costs incurred by the department in
25 supplying the returns or return information to, and

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1 administering the agreement with, the person.

2 D. A return or return information that is lawfully
3 made public by an employee of the department or any other
4 person, or that is made public by the taxpayer, is not subject
5 to the provisions of this section once it is made public."

6 SECTION 20. Section 7-1-8.8 NMSA 1978 (being Laws 2009,
7 Chapter 243, Section 10, as amended) is amended to read:

8 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE
9 AGENCIES.--An employee of the department may reveal to:

10 A. a committee of the legislature for a valid
11 legislative purpose, return information concerning any tax or
12 fee imposed pursuant to the Cigarette Tax Act;

13 B. the attorney general, return information
14 acquired pursuant to the Cigarette Tax Act for purposes of
15 Section 6-4-13 NMSA 1978 and the master settlement agreement
16 defined in Section 6-4-12 NMSA 1978;

17 C. the commissioner of public lands, return
18 information for use in auditing that pertains to rentals,
19 royalties, fees and other payments due the state under land
20 sale, land lease or other land use contracts;

21 D. the secretary of human services or the
22 secretary's delegate under a written agreement with the
23 department, the last known address with date of all names
24 certified to the department as being absent parents of children
25 receiving public financial assistance, but only for the purpose

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1 of enforcing the support liability of the absent parents by the
2 child support enforcement division or any successor
3 organizational unit;

4 E. the department of information technology, by
5 electronic media, a database updated quarterly that contains
6 the names, addresses, county of address and taxpayer
7 identification numbers of New Mexico personal income tax
8 filers, but only for the purpose of producing the random jury
9 list for the selection of petit or grand jurors for the state
10 courts pursuant to Section 38-5-3 NMSA 1978;

11 F. the state courts, the random jury lists produced
12 by the department of information technology under Subsection E
13 of this section;

14 G. the director of the New Mexico department of
15 agriculture or the director's authorized representative, upon
16 request of the director or representative, the names and
17 addresses of all gasoline or special fuel distributors,
18 wholesalers and retailers;

19 H. the public regulation commission, return
20 information with respect to the Corporate Income and Franchise
21 Tax Act required to enable the commission to carry out its
22 duties;

23 I. the state racing commission, return information
24 with respect to the state, municipal and county gross receipts
25 taxes paid by racetracks;

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1 J. the gaming control board, tax returns of license
2 applicants and their affiliates as provided in Subsection E of
3 Section 60-2E-14 NMSA 1978;

4 K. the director of the workers' compensation
5 administration or to the director's representatives authorized
6 for this purpose, return information to facilitate the
7 identification of taxpayers that are delinquent or noncompliant
8 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA
9 1978;

10 L. the secretary of workforce solutions or the
11 secretary's delegate, return information for use in enforcement
12 of unemployment insurance collections pursuant to the terms of
13 a written reciprocal agreement entered into by the department
14 with the secretary of workforce solutions for exchange of
15 information; ~~and~~

16 M. the New Mexico finance authority, information
17 with respect to the amount of municipal and county gross
18 receipts taxes collected by municipalities and counties
19 pursuant to any local option municipal or county gross receipts
20 taxes imposed, and information with respect to the amount of
21 governmental gross receipts taxes paid by every agency,
22 institution, instrumentality or political subdivision of the
23 state pursuant to Section 7-9-4.3 NMSA 1978; and

24 N. the secretary of human services or the
25 secretary's delegate; provided that a person who receives the

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1 confidential return information on behalf of the human services
2 department shall not reveal the information and shall be
3 subject to the penalties in Section 7-1-76 NMSA 1978 if the
4 person fails to maintain the confidentiality required:

5 (1) that return information needed for reports
6 required to be made to the federal government concerning the
7 use of federal funds for low-income working families; and

8 (2) the names and addresses of low-income
9 taxpayers for the limited purpose of outreach to those
10 taxpayers; provided that the human services department shall
11 pay the department for expenses incurred by the department to
12 derive the information requested by the human services
13 department if the information requested is not readily
14 available in reports for which the department's information
15 systems are programmed."

16 SECTION 21. A new section of the Tax Administration Act,
17 Section 7-1-8.11 NMSA 1978, is enacted to read:

18 "7-1-8.11. [NEW MATERIAL] INFORMATION THAT MAY BE
19 REVEALED TO A WATER AND SANITATION DISTRICT.--

20 A. An employee of the department may reveal to the
21 officials and employees of a water and sanitation district of
22 this state that has in effect a water and sanitation gross
23 receipts tax imposed by the water and sanitation district upon
24 its request for a period specified by that water and sanitation
25 district within the twelve months preceding the request for the

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1 information by those officials and employees:

2 (1) the names, taxpayer identification numbers
3 and addresses of registered gross receipts taxpayers reporting
4 gross receipts for that water and sanitation district; the
5 department may also release the information described in this
6 paragraph quarterly or upon any other periodic basis to which
7 the secretary and the district agree; and

8 (2) information indicating whether the persons
9 shown on a list of businesses within the water and sanitation
10 district have reported gross receipts to the department but
11 have not reported gross receipts for that water and sanitation
12 district.

13 B. The officials and employees of water and
14 sanitation districts receiving information as provided in this
15 section shall be subject to the confidentiality provisions of
16 Section 7-1-8 NMSA 1978 and the penalty provisions of Section
17 7-1-76 NMSA 1978."

18 SECTION 22. Section 7-1-11 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 16, as amended) is amended to read:

20 "7-1-11. INSPECTION OF BOOKS OF TAXPAYERS--CREDENTIALS.--

21 A. To determine the correct amount of tax due, the
22 department shall cause the records and books of account of
23 taxpayers to be inspected or audited at such times as the
24 department deems necessary for the effective execution of the
25 department's responsibilities.

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1 B. Auditors and other officials of the department
2 designated by the secretary are authorized to request and
3 require the production for examination of the records and books
4 of account of a taxpayer. Auditors and officials of the
5 department designated by the secretary shall be furnished with
6 credentials identifying them as such, which they shall display
7 to any taxpayer whose books are sought to be examined.

8 C. Taxpayers shall upon request make their records
9 and books of account available for inspection at reasonable
10 hours to the secretary or the secretary's delegate who presents
11 proper identification to the taxpayer.

12 D. If the taxpayer's records and books of account
13 do not exist or are insufficient to determine the taxpayer's
14 tax liability, if any, the department may use any reasonable
15 method of estimating the tax liability, including but not
16 limited to using information about similar persons, businesses
17 or industries to estimate the taxpayer's liability.

18 E. The secretary or the secretary's delegate shall
19 develop and maintain written audit policies and procedures for
20 all audit programs in which the department routinely conducts
21 field audits of taxpayers, including policies and procedures
22 concerning audit notification, scheduling, records that may be
23 examined, analysis that may be done, sampling procedures,
24 gathering information or evidence from third parties, policies
25 concerning the rights of taxpayers under audit and related

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1 matters. Department audit policies and procedures shall be
2 made available to a person who requests them, at a reasonable
3 charge to defray the cost of preparing and distributing those
4 policies and procedures.

5 F. Nothing in this section shall be construed to
6 require the department to provide [~~information that is~~
7 ~~confidential pursuant to Section 7-1-8 NMSA 1978, nor shall the~~
8 ~~department be required to provide information concerning how~~
9 ~~taxpayers are selected for audit] the following:~~

10 (1) information that is confidential pursuant
11 to Section 7-1-8 NMSA 1978; or

12 (2) information concerning how taxpayers are
13 selected for audit, including the use of:

- 14 (a) data analytics;
15 (b) data mining;
16 (c) a scoring model;
17 (d) methods, techniques and methodology;
18 (e) internal controls; and
19 (f) metadata used to detect fraud and
20 noncompliance.

21 G. For purposes of this section:

22 (1) "data analytics" means the science of
23 examining data with the purpose of drawing conclusions about
24 the information;

25 (2) "data mining" means the process of

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1 analyzing data from different perspectives and summarizing it
2 into useful information by collecting data into data sets for
3 the purpose of discovering patterns;

4 (3) "scoring model" means a predictive model
5 that can predict the chance of occurring of a fact and its
6 occurrence;

7 (4) "methods, techniques and methodology"
8 means a systematic way to accomplish a tactic, qualitative or
9 quantitative component of research and the use of a specific
10 method;

11 (5) "internal controls" means a process of
12 assuring achievement of an organization's objectives in
13 operational effectiveness and efficiency, reliable financial
14 reporting and compliance with laws, regulations and policies;
15 and

16 (6) "metadata" means data that provides
17 information about other data."

18 SECTION 23. Section 7-1-12.2 NMSA 1978 (being Laws 1985,
19 Chapter 65, Section 13, as amended) is amended to read:

20 "7-1-12.2. NOTICE OF IDENTIFICATION NUMBER ASSIGNED--
21 OPERATOR MAY REQUEST IDENTIFICATION NUMBER.--The department
22 shall inform each operator of a production unit [~~by mail~~] as to
23 the identification number or symbol assigned to such production
24 unit. Such number or symbol may be changed or revised and
25 information regarding such change or revision shall likewise be

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1 given the operator [~~by mail~~]. In the creation of a new
2 production unit or in the event of a change of ownership or
3 revision in a production unit, the operator may request the
4 department to assign a new identification number or symbol, and
5 the department shall notify the operator of the identification
6 number or symbol to be used."

7 SECTION 24. Section 7-1-23 NMSA 1978 (being Laws 1965,
8 Chapter 248, Section 25, as amended) is amended to read:

9 "7-1-23. DISPUTING LIABILITIES--ELECTION OF REMEDIES.--
10 Any taxpayer must elect to dispute the taxpayer's liability for
11 the payment of taxes either by protesting the assessment
12 thereof as provided in Section 7-1-24 NMSA 1978 without making
13 payment of the disputed tax liability or by claiming a refund
14 thereof as provided in Section 7-1-26 NMSA 1978 after making
15 payment of the disputed tax liability. The pursuit of one of
16 the two remedies described herein constitutes an unconditional
17 waiver of the right to pursue the other."

18 SECTION 25. Section 7-1-24 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 26, as amended) is amended to read:

20 "7-1-24. DISPUTING LIABILITIES--ADMINISTRATIVE PROTEST.--

21 A. A taxpayer may dispute:

22 (1) the assessment to the taxpayer of any
23 amount of tax;

24 (2) the application to the taxpayer of any
25 provision of the Tax Administration Act except the issuance of

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1 a subpoena or summons; or

2 (3) the denial of or failure either to allow
3 or to deny a:

4 (a) credit or rebate; or

5 (b) claim for refund made in accordance
6 with Section 7-1-26 NMSA 1978.

7 B. The taxpayer may dispute a matter described in
8 Subsection A of this section by filing with the secretary a
9 written protest. Every protest shall identify the taxpayer and
10 the tax credit, rebate, property or provision of the Tax
11 Administration Act involved and state the grounds for the
12 taxpayer's protest and the affirmative relief requested. The
13 statement of grounds for protest shall specify individual
14 grounds upon which the protest is based and ~~[a summary~~
15 ~~statement of the]~~ evidence ~~[if any, expected to be produced]~~
16 supporting each ground asserted; provided that the taxpayer may
17 supplement the statement at any time prior to ten days before
18 the hearing conducted on the protest pursuant to the provisions
19 of the Administrative Hearings Office Act or, if a scheduling
20 order has been issued, in accordance with the scheduling order.
21 The secretary may, in appropriate cases, provide for an
22 informal conference before a hearing of the protest is set by
23 the administrative hearings office or before acting on a claim
24 for refund.

25 C. In the case of an assessment of tax by the

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1 department, a protest may be filed without making payment of
2 the amount assessed; provided that, if only a portion of the
3 assessment is in dispute, any unprotested amounts of tax,
4 interest or penalty shall be paid, or, if applicable, an
5 installment agreement pursuant to Section 7-1-21 NMSA 1978
6 shall be entered into for the unprotested amounts, on or before
7 the due date for the protest.

8 [G-] D. A protest by a taxpayer shall be filed
9 within ninety days of the date of the mailing to or service
10 upon the taxpayer by the department of the notice of assessment
11 or other peremptory notice or demand, the date of mailing or
12 filing a return, the date of the application to the taxpayer of
13 the applicable provision of the Tax Administration Act, the
14 date of denial of a claim pursuant to Section 7-1-26 NMSA 1978
15 or the last date upon which the department was required to take
16 action on the claim but failed to take action.

17 E. If a protest to a notice of assessment is not
18 filed within the time required:

19 (1) the amount of tax determined to be due
20 becomes final;

21 (2) the taxpayer is deemed to have waived and
22 abandoned the right to question the amount of tax determined to
23 be due, unless the taxpayer pays the tax and claims a refund of
24 the tax pursuant to Section 7-1-26 NMSA 1978; and

25 (3) the secretary may proceed to enforce

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1 collection of any tax if the taxpayer is delinquent within the
2 meaning of Section 7-1-16 NMSA 1978.

3 F. The fact that the department did not mail the
4 assessment or other peremptory notice or demand by certified or
5 registered mail or otherwise demand and receive acknowledgment
6 of receipt by the taxpayer shall not be deemed to demonstrate
7 the taxpayer's inability to protest within the required time.

8 ~~[D-]~~ G. No proceedings other than those to enforce
9 collection of an amount assessed as tax and to protect the
10 interest of the state by injunction, as provided in Sections
11 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56 and 7-1-58 NMSA
12 1978, are stayed by timely filing of a protest pursuant to the
13 provisions of this section.

14 ~~[E-]~~ H. Nothing in this section shall be construed
15 to authorize a criminal proceeding or to authorize an
16 administrative protest of the issuance of a subpoena or
17 summons."

18 **SECTION 26.** Section 7-1-26 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 28, as amended) is amended to read:

20 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE
21 OR REFUND.--

22 A. A person who believes that an amount of tax has
23 been paid by or withheld from that person in excess of that for
24 which the person was liable, who has been denied any credit or
25 rebate claimed or who claims a prior right to property in the

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1 possession of the department pursuant to a levy made under
2 authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim
3 a refund by directing to the secretary, within the time limited
4 by the provisions of Subsections [D] E and [E] F of this
5 section, a written claim for refund. At the time the written
6 claim is submitted, except as provided in Subsection [F] J of
7 this section, a refund claim shall include:

8 (1) the taxpayer's name, address and
9 identification number;

10 (2) the type of tax for which a refund is
11 being claimed, the credit or rebate denied or the property
12 levied upon;

13 (3) the sum of money or other property being
14 claimed;

15 (4) with respect to refund, the period for
16 which overpayment was made; and

17 (5) a brief statement of the facts and the law
18 on which the claim is based, which may be referred to as the
19 "basis for the refund", which shall include documentation that
20 substantiates the written claim and supports the taxpayer's
21 basis for the refund.

22 B. If the department requests additional relevant
23 documentation from a taxpayer who has submitted a claim for
24 refund, the claim for refund will not be considered complete
25 until the taxpayer provides the requested documentation. The

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1 provisions of Paragraph (2) of Subsection C of this section and
2 of Section 7-1-68 NMSA 1978 do not apply until a refund claim
3 is complete.

4 [B-] C. The secretary or the secretary's delegate
5 may allow the claim in whole or in part or may deny the claim.

6 If the:

7 (1) [~~If the~~] claim is denied in whole or in
8 part in writing, no claim may be refiled with respect to that
9 which was denied, but the person, within ninety days after
10 either the mailing or delivery of the denial of all or any part
11 of the claim, may elect to pursue one, but not more than one,
12 of the remedies in Subsection [G] D of this section; and

13 (2) [~~If the~~] department has neither granted
14 nor denied any portion of a complete claim for refund within
15 one hundred [~~twenty days of the date the claim was mailed or~~
16 ~~delivered to the department, the person may refile it within~~
17 ~~the time limits set forth in Subsection D of this section or~~
18 ~~may within ninety days elect to pursue one, but only one, of~~
19 ~~the remedies in Subsection C of this section. After the~~
20 ~~expiration of the two hundred ten days from the date the claim~~
21 ~~was mailed or delivered to the department, the department may~~
22 ~~not approve or disapprove the claim unless the person has~~
23 ~~pursued one of the remedies under Subsection C of this section]~~
24 eighty days of the date the claim was mailed or otherwise
25 delivered to the department, the person may elect to treat the

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1 claim as denied and elect to pursue one, and not more than one,
2 of the remedies provided in Subsection D of this section.

3 ~~[G-]~~ D. A person may elect to pursue no more than
4 one of the remedies in Paragraphs (1) and (2) of this
5 subsection. A person who timely pursues more than one remedy
6 shall be deemed to have elected the first remedy invoked. The
7 person may:

8 (1) direct to the secretary, pursuant to the
9 provisions of Section 7-1-24 NMSA 1978, a written protest that
10 shall set forth:

11 (a) the circumstances of: 1) an alleged
12 overpayment; 2) a denied credit; 3) a denied rebate; or 4) a
13 denial of a prior right to property levied upon by the
14 department;

15 (b) an allegation that, because of that
16 overpayment or denial, the state is indebted to the taxpayer
17 for a specified amount, including any allowed interest, or for
18 the property;

19 (c) demanding the refund to the taxpayer
20 of that amount or that property; and

21 (d) reciting the facts of the claim for
22 refund; or

23 (2) commence a civil action in the district
24 court for Santa Fe county by filing a complaint setting forth
25 the circumstance of the claimed overpayment, denied credit or

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1 rebate or denial of a prior right to property levied upon by
2 the department alleging that on account thereof the state is
3 indebted to the plaintiff in the amount or property stated,
4 together with any interest allowable, demanding the refund to
5 the plaintiff of that amount or property and reciting the facts
6 of the claim for refund. The plaintiff or the secretary may
7 appeal from any final decision or order of the district court
8 to the court of appeals.

9 ~~[D-]~~ E. Except as otherwise provided in Subsection
10 ~~[E]~~ F of this section, no credit or refund of any amount may be
11 allowed or made to any person unless as the result of a claim
12 made by that person as provided in this section:

13 (1) within three years of the end of the
14 calendar year in which:

15 (a) the payment was originally due or
16 the overpayment resulted from an assessment by the department
17 pursuant to Section 7-1-17 NMSA 1978, whichever is later;

18 (b) the final determination of value
19 occurs with respect to any overpayment that resulted from a
20 disapproval by any agency of the United States or the state of
21 New Mexico or any court of increase in value of a product
22 subject to taxation under the Oil and Gas Severance Tax Act,
23 the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency
24 School Tax Act, the Oil and Gas Ad Valorem Production Tax Act
25 or the Natural Gas Processors Tax Act;

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1 (c) property was levied upon pursuant to
2 the provisions of the Tax Administration Act; or

3 (d) an overpayment of New Mexico tax
4 resulted from: 1) an internal revenue service audit adjustment
5 or a federal refund paid due to an adjustment of an audit by
6 the internal revenue service or an amended federal return; or
7 2) making a change to a federal return for which federal
8 approval is required by the Internal Revenue Code;

9 (2) when an amount of a claim for credit under
10 the provisions of the Investment Credit Act, Laboratory
11 Partnership with Small Business Tax Credit Act or Technology
12 Jobs and Research and Development Tax Credit Act or for the
13 rural job tax credit pursuant to Section 7-2E-1.1 NMSA 1978 or
14 similar credit has been denied, the taxpayer may claim a refund
15 of the credit no later than one year after the date of the
16 denial;

17 (3) when a taxpayer under audit by the
18 department has signed a waiver of the limitation on assessments
19 on or after July 1, 1993 pursuant to Subsection F of Section
20 7-1-18 NMSA 1978, the taxpayer may file a claim for refund of
21 the same tax paid for the same period for which the waiver was
22 given, until a date one year after the later of the date of the
23 mailing of an assessment issued pursuant to the audit, the date
24 of the mailing of final audit findings to the taxpayer or the
25 date a proceeding is begun in court by the department with

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1 respect to the same tax and the same period;

2 (4) if the payment of an amount of tax was not
3 made within three years of the end of the calendar year in
4 which the original due date of the tax or date of the
5 assessment of the department occurred, a claim for refund of
6 that amount of tax can be made within one year of the date on
7 which the tax was paid; or

8 (5) when a taxpayer has been assessed a tax on
9 or after July 1, 1993 under Subsection B, C or D of Section
10 7-1-18 NMSA 1978 and when the assessment applies to a period
11 ending at least three years prior to the beginning of the year
12 in which the assessment was made, the taxpayer may claim a
13 refund for the same tax for the period of the assessment or for
14 any period following that period within one year of the date of
15 the assessment unless a longer period for claiming a refund is
16 provided in this section.

17 [~~E.~~] F. No credit or refund shall be allowed or
18 made to any person claiming a refund of gasoline tax under
19 Section 7-13-11 NMSA 1978 unless notice of the destruction of
20 the gasoline was given to the department within thirty days of
21 the actual destruction and the claim for refund is made within
22 six months of the date of destruction. No credit or refund
23 shall be allowed or made to any person claiming a refund of
24 gasoline tax under Section 7-13-17 NMSA 1978 unless the refund
25 is claimed within six months of the date of purchase of the

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1 gasoline and the gasoline has been used at the time the claim
2 for refund is made.

3 ~~[F.]~~ G. If as a result of an audit by the
4 department or a managed audit covering multiple periods an
5 overpayment of tax is found in any period under the audit, that
6 overpayment may be credited against an underpayment of the same
7 tax found in another period under audit pursuant to Section
8 7-1-29 NMSA 1978, provided that the taxpayer files a claim for
9 refund for the overpayments identified in the audit.

10 ~~[G.]~~ H. Any refund of tax paid under any tax or tax
11 act administered under Subsection B of Section 7-1-2 NMSA 1978
12 may be made, at the discretion of the department, in the form
13 of credit against future tax payments if future tax liabilities
14 in an amount at least equal to the credit amount reasonably may
15 be expected to become due.

16 ~~[H.]~~ I. For the purposes of this section, "oil and
17 gas tax return" means a return reporting tax due with respect
18 to oil, natural gas, liquid hydrocarbons, carbon dioxide,
19 helium or nonhydrocarbon gas pursuant to the Oil and Gas
20 Severance Tax Act, the Oil and Gas Conservation Tax Act, the
21 Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
22 Valorem Production Tax Act, the Natural Gas Processors Tax Act
23 or the Oil and Gas Production Equipment Ad Valorem Tax Act.

24 ~~[I.]~~ J. The filing of a fully completed original
25 income tax return, corporate income tax return, corporate

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1 income and franchise tax return, estate tax return or special
2 fuel excise tax return that shows a balance due the taxpayer or
3 a fully completed amended income tax return, an amended
4 corporate income tax return, an amended corporate income and
5 franchise tax return, an amended estate tax return, an amended
6 special fuel excise tax return or an amended oil and gas tax
7 return that shows a lesser tax liability than the original
8 return constitutes the filing of a claim for refund for the
9 difference in tax due shown on the original and amended
10 returns."

11 SECTION 27. Section 7-1-29 NMSA 1978 (being Laws 1965,
12 Chapter 248, Section 31, as amended) is amended to read:

13 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

14 A. In response to a claim for refund, credit or
15 rebate made as provided in Section 7-1-26 NMSA 1978, but before
16 a court acquires jurisdiction of the matter, the secretary or
17 the secretary's delegate may authorize payment to a person in
18 the amount of the ~~[creditor]~~ credit or rebate claimed or refund
19 an overpayment of tax determined by the secretary or the
20 secretary's delegate to have been erroneously made by the
21 person, together with allowable interest. A payment of a
22 credit rebate claimed or a refund of tax and interest
23 erroneously paid amounting to twenty thousand dollars (\$20,000)
24 or more shall be made with the prior approval of the attorney
25 general, except that the secretary or the secretary's delegate

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1 may make refunds with respect to the Oil and Gas Severance Tax
2 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
3 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
4 Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas
5 Production Equipment Ad Valorem Tax Act, Section 7-13-17 NMSA
6 1978 and the Cigarette Tax Act without the prior approval of
7 the attorney general regardless of the amount.

8 B. Pursuant to the final order of the district
9 court, the court of appeals, the supreme court of New Mexico or
10 a federal court, from which order, appeal or review is not
11 successfully taken, adjudging that a person has properly
12 claimed a credit or rebate or made an overpayment of tax, the
13 secretary shall authorize the payment to the person of the
14 amount thereof.

15 C. In the discretion of the secretary, any amount
16 of credit or rebate to be paid or tax to be refunded may be
17 offset against any amount of tax for which the person due to
18 receive the credit, rebate payment or refund is liable. The
19 secretary or the secretary's delegate shall give notice to the
20 taxpayer that the credit, rebate payment or refund will be made
21 in this manner, and the taxpayer shall be entitled to interest
22 pursuant to Section 7-1-68 NMSA 1978 until the tax liability is
23 credited with the credit, rebate or refund amount.

24 D. In an audit by the department or a managed audit
25 covering multiple reporting periods in which both underpayments

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1 and overpayments of a tax have been made in different reporting
2 periods, the department shall credit the tax overpayments
3 against the underpayments, provided that the taxpayer files a
4 claim for refund of the overpayments. An overpayment shall be
5 applied as a credit first to the earliest underpayment and then
6 to succeeding underpayments. An underpayment of tax to which
7 an overpayment is credited pursuant to this section shall be
8 deemed paid in the period in which the overpayment was made or
9 the period to which the overpayment was credited against an
10 underpayment, whichever is later. If the overpayments credited
11 pursuant to this section exceed the underpayments of a tax, the
12 amount of the net overpayment for the periods covered in the
13 audit shall be refunded to the taxpayer.

14 E. When a taxpayer makes a payment identified to a
15 particular return or assessment, and the department determines
16 that the payment exceeds the amount due pursuant to that return
17 or assessment, the secretary may apply the excess to the
18 taxpayer's other liabilities pursuant to the tax acts to which
19 the return or assessment applies, without requiring the
20 taxpayer to file a claim for a refund. The liability to which
21 an overpayment is applied pursuant to this section shall be
22 deemed paid in the period in which the overpayment was made or
23 the period to which the overpayment was applied, whichever is
24 later.

25 F. If the department determines, upon review of an

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1 original or amended income tax return, corporate income and
2 franchise tax return, estate tax return, special fuels excise
3 tax return or oil and gas tax return, that there has been an
4 overpayment of tax for the taxable period to which the return
5 or amended return relates in excess of the amount due to be
6 refunded to the taxpayer pursuant to the provisions of
7 Subsection [~~F~~] J of Section 7-1-26 NMSA 1978, the department
8 may refund that excess amount to the taxpayer without requiring
9 the taxpayer to file a refund claim.

10 G. Records of refunds and credits made in excess of
11 ten thousand dollars (\$10,000) shall be available for
12 inspection by the public. The department shall keep such
13 records for a minimum of three years from the date of the
14 refund or credit.

15 H. In response to a timely refund claim pursuant to
16 Section 7-1-26 NMSA 1978 and notwithstanding any other
17 provision of the Tax Administration Act, the secretary or the
18 secretary's delegate may refund or credit a portion of an
19 assessment of tax paid, including applicable penalties and
20 interest representing the amount of tax previously paid by
21 another person on behalf of the taxpayer on the same
22 transaction, provided that the requirements of equitable
23 recoupment are met. For purposes of this subsection, the
24 refund claim may be filed by the taxpayer to whom the
25 assessment was issued or by another person who claims to have

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1 previously paid the tax on behalf of the taxpayer. Prior to
2 granting the refund or credit, the secretary may require a
3 waiver of all rights to claim a refund or credit of the tax
4 previously paid by another person paying a tax on behalf of the
5 taxpayer."

6 SECTION 28. Section 7-1-61 NMSA 1978 (being Laws 1965,
7 Chapter 248, Section 62, as amended) is amended to read:

8 "7-1-61. DUTY OF SUCCESSOR IN BUSINESS.--

9 A. As used in Sections 7-1-61 through [~~7-1-64~~]
10 7-1-63 NMSA 1978, "tax" means the amount of tax due, including
11 penalties and interest, imposed by provisions of the taxes or
12 tax acts set forth in Subsections A and B of Section 7-1-2 NMSA
13 1978, except the Income Tax Act.

14 B. The tangible and intangible property used in any
15 business remains subject to liability for payment of the tax
16 due on account of that business to the extent stated herein,
17 even though the business changes hands.

18 C. If any person liable for any amount of tax from
19 operating a business transfers that business to a successor,
20 the successor shall place in a trust account sufficient money
21 from the purchase price or other source to cover such amount of
22 tax until the secretary or secretary's delegate issues a
23 certificate stating that no amount is due, or the successor
24 shall pay over the amount due to the department upon proper
25 demand for, or assessment of, that amount due by the

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1 secretary."

2 SECTION 29. Section 7-1-68 NMSA 1978 (being Laws 1965,
3 Chapter 248, Section 69, as amended) is amended to read:

4 "7-1-68. INTEREST ON OVERPAYMENTS.--

5 A. As provided in this section, interest shall be
6 allowed and paid on the amount of tax overpaid by a person that
7 is subsequently refunded or credited to that person.

8 B. Interest on overpayments of tax shall accrue and
9 be paid at the underpayment rate established pursuant to
10 Section 6621 of the Internal Revenue Code, computed on a daily
11 basis; provided that if a different rate is specified by a
12 compact or other interstate agreement to which New Mexico is a
13 party, that rate shall apply to amounts due under the compact
14 or other agreement.

15 C. Unless otherwise provided by this section,
16 interest on an overpayment not arising from an assessment by
17 the department shall be paid from the date of the claim for
18 refund until a date preceding by not more than thirty days the
19 date of the credit or refund to any person; and interest on an
20 overpayment arising from an assessment by the department shall
21 be paid from the date of overpayment until a date preceding by
22 not more than thirty days the date of the credit or refund to
23 any person.

24 D. No interest shall be allowed or paid with
25 respect to an amount credited or refunded if:

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1 (1) the amount of interest due is less than
2 one dollar (\$1.00);

3 (2) the credit or refund is made within:

4 (a) fifty-five days of the date of the
5 complete claim for refund of income tax, pursuant to either the
6 Income Tax Act or the Corporate Income and Franchise Tax Act
7 for the tax year immediately preceding the tax year in which
8 the claim is made;

9 (b) sixty days of the date of the
10 complete claim for refund of any tax not provided for in this
11 paragraph;

12 (c) seventy-five days of the date of the
13 complete claim for refund of gasoline tax to users of gasoline
14 off the highways;

15 (d) one hundred twenty days of the date
16 of the complete claim for refund of tax imposed pursuant to the
17 Resources Excise Tax Act, the Severance Tax Act, the Oil and
18 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
19 the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
20 Valorem Production Tax Act, the Natural Gas Processors Tax Act
21 or the Oil and Gas Production Equipment Ad Valorem Tax Act; or

22 (e) one hundred twenty days of the date
23 of the complete claim for refund of income tax, pursuant to the
24 Income Tax Act or the Corporate Income and Franchise Tax Act,
25 for any tax year more than one year prior to the year in which

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1 the claim is made;

2 (3) Sections 6611(f) and 6611(g) of the
3 Internal Revenue Code, as those sections may be amended or
4 renumbered, prohibit payment of interest for federal income tax
5 purposes;

6 (4) the credit results from overpayments found
7 in an audit of multiple reporting periods and applied to
8 underpayments found in that audit or refunded as a net
9 overpayment to the taxpayer pursuant to Section 7-1-29 NMSA
10 1978;

11 (5) the department applies the credit or
12 refund to an intercept program, to the taxpayer's estimated
13 payment prior to the due date for the estimated payment or to
14 offset prior liabilities of the taxpayer pursuant to Subsection
15 E of Section 7-1-29 NMSA 1978;

16 (6) the credit or refund results from
17 overpayments the department finds pursuant to Subsection F of
18 Section 7-1-29 NMSA 1978 that exceed the refund claimed by the
19 taxpayer on the return; or

20 (7) the refund results from a tax credit
21 pursuant to the Investment Credit Act, Laboratory Partnership
22 with Small Business Tax Credit Act, Technology Jobs and
23 Research and Development Tax Credit Act, Film Production Tax
24 Credit Act, Affordable Housing Tax Credit Act or a rural job
25 tax credit or high-wage jobs tax credit.

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