

HOUSE BILL 864

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Robert M. Burpo

AN ACT

RELATING TO TAXATION; SEQUESTERING CERTAIN TAX PAYMENTS UNTIL
RISK OF LITIGATION HAS ENDED; GRANTING AUTHORITY TO THE
SECRETARY OF TAXATION AND REVENUE TO ADJUST DISTRIBUTIONS OF
OIL AND GAS REVENUES; AMENDING CERTAIN SECTIONS OF THE TAX
ADMINISTRATION ACT.

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

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

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

A. All money received by the department with
respect to laws administered under the provisions of the Tax
Administration Act shall be deposited with the state treasurer
before the close of the next succeeding business day after
receipt of the money, except that for 1989 and every

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1 subsequent year, money received with respect to the Income Tax
2 Act during the period starting with the fifth day prior to the
3 due date for payment of income tax for the year and ending on
4 the tenth day following that due date shall be deposited
5 before the close of the tenth business day after receipt of
6 the money.

7 B. Money received or disbursed by the department
8 shall be accounted for by the department as required by law or
9 regulation of the secretary of finance and administration.

10 C. Disbursements for tax credits, tax rebates,
11 refunds, the payment of interest, the payment of fees charged
12 by attorneys or collection agencies for collection of accounts
13 as agent for the department, attorney fees and costs awarded
14 by a court or hearing officer, as the result of oil and gas
15 litigation, the payment of credit card service charges on
16 payments of taxes by use of credit cards, distributions and
17 transfers shall be made by the department of finance and
18 administration upon request and certification of their
19 appropriateness by the secretary or the secretary's delegate.
20 There are hereby created in the state treasury the "tax
21 administration suspense fund", the "extraction taxes suspense
22 fund" and the "workers' compensation collections suspense
23 fund" for the purpose of making the disbursements authorized
24 by the Tax Administration Act.

25 D. All revenues collected or received by the

1 department pursuant to the provisions of the taxes and tax
2 acts administered under Subsection A of Section 7-1-2 NMSA
3 1978 shall be credited to the tax administration suspense fund
4 and are appropriated for the purpose of making the
5 disbursements authorized under this section or otherwise
6 authorized or required by law to be made from the tax
7 administration suspense fund.

8 E. All revenues collected or received by the
9 department pursuant to the taxes or tax acts administered
10 under Subsection B of Section 7-1-2 NMSA 1978 [~~other than~~
11 ~~amounts required to be credited to the oil and gas protested~~
12 ~~payments suspense fund~~] shall be credited to the extraction
13 taxes suspense fund and are appropriated for the purpose of
14 making the disbursements authorized under this section or
15 otherwise authorized or required by law to be made from the
16 extraction taxes suspense fund.

17 F. All revenues collected or received by the
18 department pursuant to the taxes or tax acts administered
19 under Subsection C of Section 7-1-2 NMSA 1978 may be credited
20 to the tax administration suspense fund, unless otherwise
21 directed by law to be credited to another fund or agency, and
22 are appropriated for the purpose of making disbursements
23 authorized under this section or otherwise authorized or
24 required by law.

25 G. All revenues collected or received by the

1 department pursuant to the provisions of Section 52-5-19 NMSA
2 1978 shall be credited to the workers' compensation
3 collections suspense fund and are appropriated for the purpose
4 of making the disbursements authorized under this section or
5 otherwise authorized or required by law to be made from the
6 workers' compensation collections suspense fund.

7 H. Disbursements to cover expenditures of the
8 department shall be made only upon approval of the secretary
9 or the secretary's delegate.

10 I. Miscellaneous receipts from charges made by the
11 department to defray expenses pursuant to the provisions of
12 Section ~~[7-1-5]~~ 9-11-6.2 NMSA 1978 and similar charges are
13 appropriated to the department for its use.

14 J. From the tax administration suspense fund,
15 there may be disbursed each month amounts approved by the
16 secretary or the secretary's delegate necessary to maintain a
17 fund hereby created and to be known as the "income tax
18 suspense fund". The income tax suspense fund shall be used
19 for the payment of income tax refunds."

20 Section 2. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
21 Chapter 65, Section 6) is amended to read:

22 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
23 SUSPENSE FUND-- DISTRIBUTION. --

24 A. Except as provided in Subsection B of this
25 section, after the necessary disbursements have been made from

1 the extraction taxes suspense fund, the money remaining in the
2 suspense fund as of the last day of the month shall be
3 identified by tax source and distributed or transferred in
4 accordance with the provisions of Sections 7-1-6.21 through
5 7-1-6.23 NMSA 1978. After the necessary distributions and
6 transfers, any balance, except for remittances unidentified as
7 to source or disposition, shall be transferred to the general
8 fund.

9 B. Payments on assessments issued by the
10 department pursuant to the Oil and Gas Conservation Tax Act,
11 the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
12 Valorem Production Tax Act and the Oil and Gas Production
13 Equipment Ad Valorem Tax Act shall be held in the extraction
14 taxes suspense fund until the secretary determines that there
15 is no substantial risk of protest or other litigation,
16 whereupon after the necessary disbursements have been made
17 from the extraction taxes suspense fund, the money remaining
18 in the suspense fund as of the last day of the month
19 attributed to these payments shall be identified by tax source
20 and distributed or transferred in accordance with the
21 provisions of Sections 7-1-6.21 through 7-1-6.23 NMSA 1978.
22 After the necessary distributions and transfers, any balance,
23 except for remittance unidentified as to source or
24 disposition, shall be transferred to the general fund."