

FORTY-SIXTH LEGISLATURE
FIRST SESSION

February 3, 2003

SENATE FLOOR AMENDMENT number ___1___ to SENATE BILL 167, as amended

Amendment sponsored by Senator Timothy Z. Jennings

1. Strike Senate Finance Committee Amendment 4.

2. On page 1, line 12, strike the period and insert in lieu thereof: "; CHANGING REQUIREMENTS FOR PAYMENT OF INTEREST ON CERTAIN REFUNDS. ".

3. On page 1, between lines 14 and 15, insert the following new section:

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

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

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

B. Interest payable on overpayments of tax shall be paid at the rate of fifteen percent a year, computed on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, that rate shall be applied to amounts due under the compact or other agreement.

C. Unless otherwise provided by this section, interest on an overpayment not arising from an assessment by the department shall be paid from the date the claim for refund was made until a date preceding by not more than thirty days the date on which the amount thereof is credited or refunded to any person; interest on an overpayment arising from an assessment by the department shall be paid from the date overpayment was made until a date preceding by not more than thirty days the date on which the amount thereof is

FORTY-SIXTH LEGISLATURE
FIRST SESSION

SF1/SB 167, aa

Page 2

credited or refunded to any person.

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

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

(2) the credit or refund is made within [~~seventy-five~~]:

(a) fifty-five days of the date of the claim for refund of [~~(a)~~] income tax, pursuant to either the Income Tax Act or the Corporate Income and Franchise Tax Act for the tax year immediately preceding the tax year in which the claim is made; or

(b) seventy-five days of the date of the claim for refund of gasoline tax to users of gasoline off the highways;

(3) the credit or refund is made within one hundred twenty days of the date of the claim for refund of income tax, pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act, for any tax year more than one year prior to the year in which the claim is made;

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

(5) the credit or refund is made within sixty days of the date of the claim for refund of any tax other than income tax; or

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

FORTY-SIXTH LEGISLATURE
FIRST SESSION

SF1/SB 167, aa

Page 3

E. Nothing in this section shall be construed to require the payment of interest upon interest."

4. Renumber succeeding sections accordingly.

5. On page 12, between lines 18 and 19, insert the following new section:

"Section 7. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 1 of this act is July 1, 2003.

B. The effective date of the provisions of Section 3 of this act is January 1, 2004.

C. The effective date of the provisions of Section 4 of this act is January 1, 2005.

D. The effective date of the provisions of Section 5 of this act is January 1, 2006."

Timothy Z. Jennings

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____