

AN ACT
RELATING TO TAXATION; PROVIDING AN ADDITIONAL METHOD OF
PAYMENT WHEN A STATE AGENCY OWES MONEY TO A TAXPAYER;
DECLARING AN EMERGENCY.

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

Section 1. A new section of the Tax Administration Act
is enacted to read:

"PAYMENT WHEN STATE AGENCY OWES TAXPAYER.--

A. When a taxpayer is owed money, including late payment charges pursuant to Section 13-1-158 NMSA 1978, by a state agency, the taxpayer may assign the obligation to the department for payment of taxes owed to the state. When an account meeting the requirements of this section is assigned to the department pursuant to the provisions of this section, the department shall present the assignment to the department of finance and administration. Within five business days following the presentation, the department of finance and administration shall cause an amount sufficient to discharge the amount of the account to be transferred or paid from the appropriate account or fund into the appropriate account or fund of the department, unless the secretary of finance and administration finds that the amount owed has been paid or had been disputed prior to presentation by the department and the dispute remains unresolved.

B. The assignment shall constitute an acceptable method of payment of taxes as of the date the assignment is received by the department. The assignment shall be for the entire amount owed to the taxpayer by the state agency, and,

if the amount is more than the tax liability, the excess may be claimed as a refund by the taxpayer or, in the discretion of the secretary, may be credited to the account of the taxpayer. The assignment may be tendered as payment only if the taxes for which payment is being made constitute at least seventy-five percent of the amount assigned.

C. Assignment shall be in a form acceptable to the department and shall include a copy of the invoice submitted to the state agency and a sworn statement that the money is owed the taxpayer on work accepted by the state agency, the agency does not dispute the amount owed and the account is more than thirty days past due.

D. Assigning an account payable that the taxpayer knows or should know is disputed by the state agency shall constitute payment of taxes with a bad check.

E. For the purposes of this section, common law liens are not included in money owed."

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
