

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR  
2 SENATE BILL 344

3 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

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10 AN ACT

11 RELATING TO TAXATION; REQUIRING ELECTRONIC FILING OF  
12 WITHHOLDING INFORMATION RETURNS BY CERTAIN EMPLOYERS AND PAYORS  
13 FOR VARIOUS AGENCIES; IMPOSING PENALTIES; AMENDING AND ENACTING  
14 SECTIONS OF THE NMSA 1978.

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

17 Section 1. A new section of the Withholding Tax Act is  
18 enacted to read:

19 "[NEW MATERIAL] WITHHOLDING INFORMATION RETURN--ELECTRONIC  
20 FILING--DEPARTMENT-APPROVED ELECTRONIC MEDIUM--PENALTY.--

21 A. An employer or payor that has more than fifty  
22 employees or payees shall ensure that each quarterly  
23 withholding information return required pursuant to the  
24 Withholding Tax Act is filed with the department using a  
25 department-approved electronic medium.

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1           B. An employer or payor shall pay to the department  
2 a penalty in an amount not to exceed two hundred dollars (\$200)  
3 for each quarterly withholding information return filed in  
4 violation of this section."

5           Section 2. A new section of the Withholding Tax Act is  
6 enacted to read:

7           "[NEW MATERIAL] WITHHOLDING INFORMATION RETURN REQUIRED--  
8 PENALTY.--

9           A. Except for employers or payors that by  
10 regulation of the secretary of taxation and revenue adopted  
11 pursuant to Subsection D of this section file an annual  
12 statement of withholding for each employee or payee, an  
13 employer or payor that is not required to file an unemployment  
14 insurance tax form with the labor department shall file  
15 quarterly a withholding information return with the department  
16 on or before the last day of the month following the close of  
17 the calendar quarter.

18           B. The quarterly withholding information return  
19 required by this section shall contain all information required  
20 by the department, including:

- 21                   (1) each employee's or payee's social security  
22 number;
- 23                   (2) each employee's or payee's name;
- 24                   (3) each employee's or payee's gross wages,  
25 pensions or annuity payments;

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1 (4) each employee's or payee's state income  
2 tax withheld; and

3 (5) the workers' compensation fees due on  
4 behalf of each employee or payee.

5 C. Failure to file the quarterly withholding  
6 information return by the due date will result in a penalty in  
7 the amount of fifty dollars (\$50.00).

8 D. The secretary of taxation and revenue, by  
9 regulation and on a form prescribed by the department, may  
10 allow for the submission of an annual statement of withholding  
11 for each employee or payee rather than a quarterly withholding  
12 information return by an employer or a payor that is not  
13 required to file an unemployment insurance tax form with the  
14 labor department, that has fifty or fewer employees or payees  
15 and that is not required to electronically file withholding  
16 information returns using a department-approved electronic  
17 medium pursuant to the Withholding Tax Act.

18 E. As used in this section, "payee" means an  
19 individual to whom a payor is making a pension or annuity  
20 payment."

21 Section 3. Section 7-3-7 NMSA 1978 (being Laws 1961,  
22 Chapter 243, Section 8, as amended) is amended to read:

23 "7-3-7. STATEMENTS OF WITHHOLDING.--

24 A. Except for employers required to file quarterly  
25 withholding information returns pursuant the Withholding Tax

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1 Act or required to file a wage and contribution report to the  
2 labor department pursuant to Section 51-1-12 NMSA 1978, every  
3 employer shall file an annual statement of withholding for each  
4 employee. [~~This~~] The statement shall be in a form prescribed  
5 by the department and shall be filed with the department on or  
6 before the last day of February of the year following that for  
7 which the statement is made. It shall include the total  
8 compensation paid the employee and the total amount of tax  
9 withheld for the calendar year or portion of a calendar year if  
10 the employee has worked less than a full calendar year.

11 B. Except for payors who file the quarterly  
12 withholding information returns pursuant to the Withholding Tax  
13 Act, every payor shall file an annual statement of withholding  
14 for each individual from whom some portion of a pension or an  
15 annuity has been deducted and withheld by that payor. [~~This~~]  
16 The statement shall be in a form prescribed by the department  
17 and shall be filed with the department on or before the last  
18 day of February of the year following that for which the  
19 statement is made. It shall include the total amount of  
20 pension or annuity paid to the individual and the amount of tax  
21 withheld for the calendar year.

22 C. Every person required to deduct and withhold tax  
23 from a payment of winnings that are subject to withholding  
24 shall file an annual statement of withholding for each wagerer  
25 from whom some portion of a payment of winnings has been

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1 deducted and withheld by that person. [~~This~~] The statement  
 2 shall be in a form prescribed by the department and shall be  
 3 filed with the department on or before the last day of February  
 4 of the year following that for which the statement is made. It  
 5 shall include the total amount of winnings paid to the  
 6 individual and the amount of tax withheld for the calendar  
 7 year. The department may also require any person who is  
 8 required to submit an information return to the internal  
 9 revenue service regarding the winnings of another person to  
 10 submit copies of the return to the department."

11 Section 4. EFFECTIVE DATE.--The effective date of the  
 12 provisions of this act is January 1, 2008.

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