

1 HOUSE BILL 494

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXPAYERS; CREATING THE TAXPAYERS' RIGHTS ADVOCATE  
12 OFFICE ACT; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO  
13 REVEAL CERTAIN TAX RETURN INFORMATION TO THE TAXPAYERS' RIGHTS  
14 ADVOCATE; CLARIFYING WHAT IS A COMPLETED CLAIM FOR A TAX  
15 REFUND; ALLOWING A TAXPAYER TO DEMONSTRATE THAT A FAILURE TO  
16 PAY TAXES WAS WITHOUT INTENT TO EVADE OR DEFEAT A TAX;  
17 REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO CONVENE A  
18 MEETING WITH INTERESTED PARTIES TO MAKE RECOMMENDATIONS TO  
19 INCREASE FAIRNESS AND EFFICIENCY IN ADMINISTERING NEW MEXICO'S  
20 TAX LAWS; TRANSFERRING FUNDS FROM THE TAXATION AND REVENUE  
21 DEPARTMENT TO THE OFFICE OF THE TAXPAYERS' RIGHTS ADVOCATE.

22  
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

24 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
25 through 6 of this act may be cited as the "Taxpayers' Rights

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1 Advocate Office Act".

2 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
3 Taxpayers' Rights Advocate Office Act:

4 A. "department" means the taxation and revenue  
5 department; and

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

9 SECTION 3. [NEW MATERIAL] OFFICE OF THE TAXPAYERS' RIGHTS  
10 ADVOCATE CREATED.--

11 A. The "office of the taxpayers' rights advocate"  
12 is created and is administratively attached pursuant to Section  
13 9-1-7 NMSA 1978 to the department of finance and  
14 administration.

15 B. The head of the office of the taxpayers' rights  
16 advocate is the "taxpayers' rights advocate", who shall be  
17 appointed by the governor for a term of six years subject to  
18 confirmation by the senate. The taxpayers' rights advocate  
19 shall be removed only for malfeasance, misfeasance or abuse of  
20 office.

21 C. The taxpayers' rights advocate shall be a person  
22 with experience in state and local taxation.

23 D. The taxpayers' rights advocate or the taxpayers'  
24 rights advocate's designee shall be responsible for  
25 coordinating resolution of taxpayer complaints and problems,

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1 including taxpayer complaints regarding unsatisfactory  
2 treatment of taxpayers by department employees.

3 E. The taxpayers' rights advocate or the taxpayers'  
4 rights advocate's designee shall give highest priority to  
5 taking prompt and appropriate action, including staying  
6 actions, where taxpayers have suffered or will suffer  
7 irreparable loss as the result of department action.  
8 Applicable statutes of limitation shall be tolled during the  
9 pendency of a stay. Any penalties and interest that would  
10 otherwise accrue shall not be affected by the granting of a  
11 stay.

12 SECTION 4. [NEW MATERIAL] ADMINISTRATIVE REVIEW OF  
13 DEPARTMENT--RELIEF OF INCORRECTLY, ERRONEOUSLY OR ILLEGALLY  
14 MADE ASSESSMENTS.--

15 A. The taxpayers' rights advocate shall establish  
16 procedures for an independent administrative review of  
17 department actions for a taxpayer with an unpaid tax or lien  
18 that requests such a review. The taxpayer shall be entitled to  
19 only one review with respect to the taxable period to which the  
20 unpaid tax or lien relates. The taxpayers' rights advocate  
21 conducting the independent administrative review shall obtain  
22 verification that the requirements of any applicable law or  
23 administrative procedures have been met by the department.

24 B. If any part of an assessment is determined by  
25 the taxpayers' rights advocate to have been incorrectly,

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1 erroneously or illegally made, the taxpayers' rights advocate  
2 shall direct the department, and the department shall comply,  
3 to abate the assessment pursuant to the procedures provided by  
4 Section 7-1-28 NMSA 1978."

5 SECTION 5. [NEW MATERIAL] EDUCATION AND INFORMATION  
6 PROGRAM.--

7 A. The taxpayers' rights advocate shall develop and  
8 implement a taxpayer education and information program that  
9 shall, at a minimum:

10 (1) identify forms, procedures, rules or laws  
11 that may be confusing or lead to taxpayer and department  
12 errors; and

13 (2) take appropriate action, including  
14 recommending remedial legislation to improve the items  
15 described in Paragraph (1) of this subsection.

16 B. The education and information program shall  
17 include, at a minimum:

18 (1) communication with taxpayer or industry  
19 groups that explains in simplified terms the most common errors  
20 made by the taxpayers or industry group and how those errors  
21 may be avoided or corrected;

22 (2) participation in small business seminars  
23 and similar programs organized by state and local agencies;

24 (3) revision of taxpayer educational materials  
25 currently produced by the department to explain in simplified

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1 terms the most common errors made by taxpayers and how those  
2 errors may be avoided or corrected; and

3 (4) implementation of a continuing education  
4 program for audit personnel to include the application of new  
5 legislation to minimize recurrent taxpayer noncompliance or  
6 inconsistency of administration.

7 SECTION 6. [NEW MATERIAL] REPORT TO LEGISLATIVE  
8 COMMITTEE--AUDIT PROCESS ANALYSIS.--

9 A. The taxpayers' rights advocate, with support  
10 from the department as requested, shall annually perform a  
11 systematic identification of areas of recurrent taxpayer  
12 noncompliance and shall report findings to an appropriate  
13 interim legislative committee on or before November 1 of each  
14 year.

15 B. As part of the identification process described  
16 in Subsection A of this section, the taxpayers' rights advocate  
17 shall:

18 (1) compile and analyze sample data from the  
19 audit process, including, for the taxpayer that was audited:

- 20 (a) the statute or rule violated;  
21 (b) the amount of tax involved;  
22 (c) the industry or business engaged in  
23 by the taxpayer;  
24 (d) the number of years covered in the  
25 audit period; and

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1 (e) whether professional tax preparation  
2 assistance was utilized by the taxpayer; and

3 (2) conduct an annual hearing before the  
4 secretary where industry representatives and individual  
5 taxpayers may present their proposals on changes to taxation  
6 statutes that may further facilitate achievement of the  
7 legislative purposes.

8 C. The taxpayers' rights advocate shall include in  
9 a report recommendations for improving taxpayer compliance and  
10 for more efficient and fair administration of tax laws,  
11 including:

12 (1) changes to statutes, rules or forms and  
13 instructions;

14 (2) improvement of training of department  
15 personnel;

16 (3) improvement of taxpayer communication and  
17 education; and

18 (4) improved enforcement activities.

19 D. The taxpayers' rights advocate shall include in  
20 a report a summary of cases where relief was granted pursuant  
21 to Section 4 of the Taxpayers' Rights Advocate Office Act,  
22 including the nature of the error or delay, and the steps taken  
23 by the department to remedy systemic issues that caused the  
24 error or delay.

25 SECTION 7. Section 7-1-8.2 NMSA 1978 (being Laws 2009,

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1 Chapter 243, Section 4) is amended to read:

2 "7-1-8.2. INFORMATION REQUIRED TO BE REVEALED.--

3 A. The department shall:

4 (1) furnish returns and return information  
5 required by a provision of the Tax Administration Act to be  
6 made available to the public by the department;

7 (2) answer all inquiries concerning whether a  
8 person is or is not a registered taxpayer for tax programs that  
9 require registration, but nothing in this subsection shall be  
10 construed to allow the department to answer inquiries  
11 concerning whether a person has filed a tax return;

12 (3) furnish, upon request for inspection by a  
13 member of the public pursuant to:

14 (a) Section 7-1-28 or Section 7-1-29  
15 NMSA 1978, the taxpayer name, abatement, refund or credit  
16 amount, tax program or business tax credit and the date the  
17 abatement, refund or credit was issued; and

18 (b) Section 7-1-21 NMSA 1978, the  
19 installment agreement; [~~and~~]

20 (4) with respect to the tax on gasoline  
21 imposed by the Gasoline Tax Act, make available for public  
22 inspection at monthly intervals a report covering the number of  
23 gallons of gasoline and ethanol blended fuels received and  
24 deducted and the amount of tax paid by each person required to  
25 file a gasoline tax return or pay gasoline tax in the state of

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1 New Mexico; and

2 (5) furnish, on request of the taxpayers'  
3 rights advocate, returns and return information to the  
4 taxpayers' rights advocate to carry out the purposes of the  
5 Taxpayers' Rights Advocate Office Act.

6 B. Nothing in this section shall be construed to  
7 require the release of information that would violate an  
8 agreement between the state and the federal internal revenue  
9 service for sharing of information or any provision or rule of  
10 the federal Internal Revenue Code to which a state is subject."

11 SECTION 8. Section 7-1-26 NMSA 1978 (being Laws 1965,  
12 Chapter 248, Section 28, as amended) is amended to read:

13 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE  
14 OR REFUND.--

15 A. A person who believes that an amount of tax has  
16 been paid by or withheld from that person in excess of that for  
17 which the person was liable, who has been denied any credit or  
18 rebate claimed or who claims a prior right to property in the  
19 possession of the department pursuant to a levy made under  
20 authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim  
21 a refund by directing to the secretary, within the time limited  
22 by the provisions of Subsections D and E of this section, a  
23 written claim for refund. Except as provided in Subsection I  
24 of this section, a refund claim shall include:

25 (1) the taxpayer's name, address and

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1 identification number;

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

5 (3) the sum of money or other property being  
6 claimed;

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

9 (5) a brief statement of the facts and the law  
10 on which the claim is based, which may be referred to as the  
11 "basis for the refund".

12 B. The secretary or the secretary's delegate may  
13 allow the claim in whole or in part or may deny the claim.

14 (1) If the claim is denied in whole or in part  
15 in writing, no claim may be refiled with respect to that which  
16 was denied, but the person, within ninety days after either the  
17 mailing or delivery of the denial of all or any part of the  
18 claim, may elect to pursue one, but not more than one, of the  
19 remedies in Subsection C of this section.

20 (2) If the department has neither granted nor  
21 denied any portion of a claim for refund within one hundred  
22 twenty days of the date the claim was mailed or delivered to  
23 the department, the person may refile it within the time limits  
24 set forth in Subsection D of this section or may within ninety  
25 days elect to pursue one, but only one, of the remedies in

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1 Subsection C of this section. After the expiration of the two  
2 hundred ten days from the date the claim was mailed or  
3 delivered to the department, the department may not approve or  
4 disapprove the claim unless the person has pursued one of the  
5 remedies under Subsection C of this section.

6 C. A person may elect to pursue no more than one of  
7 the remedies in Paragraphs (1) and (2) of this subsection. A  
8 person who timely pursues more than one remedy shall be deemed  
9 to have elected the first remedy invoked. The person may:

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

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

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

21 (c) demanding the refund to the taxpayer  
22 of that amount or that property; and

23 (d) reciting the facts of the claim for  
24 refund; or

25 (2) commence a civil action in the district

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

11 D. Except as otherwise provided in Subsection E of  
12 this section, no credit or refund of any amount may be allowed  
13 or made to any person unless as the result of a claim made by  
14 that person as provided in this section:

15 (1) within three years of the end of the  
16 calendar year in which:

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

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

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1 School Tax Act, the Oil and Gas Ad Valorem Production Tax Act  
2 or the Natural Gas Processors Tax Act;

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

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

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

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

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1 of the mailing of final audit findings to the taxpayer or the  
2 date a proceeding is begun in court by the department with  
3 respect to the same tax and the same period;

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

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

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

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1 tax under Section 7-13-17 NMSA 1978 unless the refund is  
2 claimed within six months of the date of purchase of the  
3 gasoline and the gasoline has been used at the time the claim  
4 for refund is made.

5 F. If as a result of an audit by the department or  
6 a managed audit covering multiple periods an overpayment of tax  
7 is found in any period under the audit, that overpayment may be  
8 credited against an underpayment of the same tax found in  
9 another period under audit pursuant to Section 7-1-29 NMSA  
10 1978, provided that the taxpayer files a claim for refund for  
11 the overpayments identified in the audit.

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

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

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

12           J. On receipt of a written claim for refund, the  
13 department shall, in a timely manner, review the claim and  
14 determine if the written claim is completed. A completed  
15 written claim for refund includes all of the information  
16 required by Subsection A of this section. If the department  
17 determines that the written claim is completed, the department  
18 shall process the written claim in a timely manner. If the  
19 department determines that the written claim is not completed,  
20 the department shall promptly notify the claimant that the  
21 claim is incomplete and identify the missing information. A  
22 written claim shall be considered complete when the claimant  
23 provides the information that the department identifies as  
24 missing. A completed written claim is timely if it is  
25 transmitted, delivered or mailed to the department prior to the

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1 time limitations in Subsections D and E of this section."

2 SECTION 9. Section 7-1-69 NMSA 1978 (being Laws 1965,  
3 Chapter 248, Section 70, as amended) is amended to read:

4 "7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A  
5 RETURN.--

6 A. Except as provided in Subsection C of this  
7 section, in the case of failure due to negligence or disregard  
8 of department rules and regulations, but without intent to  
9 evade or defeat a tax, to pay when due the amount of tax  
10 required to be paid, to pay in accordance with the provisions  
11 of Section 7-1-13.1 NMSA 1978 when required to do so or to file  
12 by the date required a return regardless of whether a tax is  
13 due, there shall be added to the amount assessed a penalty in  
14 an amount equal to the greater of:

15 (1) two percent per month or any fraction of a  
16 month from the date the tax was due multiplied by the amount of  
17 tax due but not paid, not to exceed twenty percent of the tax  
18 due but not paid;

19 (2) two percent per month or any fraction of a  
20 month from the date the return was required to be filed  
21 multiplied by the tax liability established in the late return,  
22 not to exceed twenty percent of the tax liability established  
23 in the late return; or

24 (3) a minimum of five dollars (\$5.00), but the  
25 five-dollar (\$5.00) minimum penalty shall not apply to taxes

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1 levied under the Income Tax Act or taxes administered by the  
2 department pursuant to Subsection B of Section 7-1-2 NMSA 1978.

3 B. No penalty shall be assessed against a taxpayer  
4 if the failure to pay an amount of tax when due results from a  
5 mistake of law made in good faith and on reasonable grounds.

6 C. If a different penalty is specified in a compact  
7 or other interstate agreement to which New Mexico is a party,  
8 the penalty provided in the compact or other interstate  
9 agreement shall be applied to amounts due under the compact or  
10 other interstate agreement at the rate and in the manner  
11 prescribed by the compact or other interstate agreement.

12 D. In the case of failure, with willful intent to  
13 evade or defeat a tax, to pay when due the amount of tax  
14 required to be paid, there shall be added to the amount fifty  
15 percent of the tax or a minimum of twenty-five dollars  
16 (\$25.00), whichever is greater, as penalty.

17 E. If demand is made for payment of a tax,  
18 including penalty imposed pursuant to this section, and if the  
19 tax is paid within ten days after the date of such demand, no  
20 penalty shall be imposed for the period after the date of the  
21 demand with respect to the amount paid.

22 F. If a taxpayer makes electronic payment of a tax  
23 but the payment does not include all of the information  
24 required by the department pursuant to the provisions of  
25 Section 7-1-13.1 NMSA 1978 and if the department does not

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1 receive the required information within five business days from  
2 the later of the date a request by the department for that  
3 information is received by the taxpayer or the due date, the  
4 taxpayer shall be subject to a penalty of two percent per month  
5 or any fraction of a month from the fifth day following the  
6 date the request is received. If a penalty is imposed under  
7 Subsection A of this section with respect to the same  
8 transaction for the same period, no penalty shall be imposed  
9 under this subsection.

10 G. No penalty shall be imposed on:

11 (1) tax due in excess of tax paid in  
12 accordance with an approved estimated basis pursuant to Section  
13 7-1-10 NMSA 1978;

14 (2) tax due as the result of a managed audit;  
15 or

16 (3) tax that is deemed paid by crediting  
17 overpayments found in an audit or managed audit of multiple  
18 periods pursuant to Section 7-1-29 NMSA 1978.

19 H. Evidence of the following shall prove that a  
20 taxpayer's failure to pay when due the amount of tax required  
21 to be paid was without intent to evade or defeat a tax:

22 (1) the taxpayer demonstrates that the  
23 taxpayer was relying on guidance provided by a department  
24 employee;

25 (2) the taxpayer, due to disability, injury or

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1 prolonged illness, was unable to prepare a return and make  
2 payment and was unable to procure the services of another  
3 person to prepare a return because of the injury or illness;

4 (3) the taxpayer shows that physical damage to  
5 the taxpayer's records or place of business caused a delay in  
6 filing a return or making a payment;

7 (4) the taxpayer proves that the failure to  
8 pay tax or to file a return was caused by reasonable reliance  
9 on the advice of tax counsel or an accountant as to the  
10 taxpayer's liability after full disclosure of all relevant  
11 facts;

12 (5) the taxpayer, within twelve months of the  
13 filing of a return by the original due date or by the extended  
14 due date and without action of the secretary or delegate, files  
15 an amended return reflecting tax due or additional tax due and  
16 full payment of any tax due accompanies the amended return;

17 (6) with regard to income and corporate income  
18 tax returns, the federal internal revenue service abated the  
19 federal penalty originally assessed for the same or similar  
20 reason as the New Mexico penalty;

21 (7) with regard to oil and gas tax returns,  
22 the taxpayer received final approval from the appropriate  
23 government agency of the taxpayer's participation in production  
24 from a state or federal property and pays all oil and gas taxes  
25 due on production from the property attributable to the

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1 taxpayer no later than the twenty-fifth day of the second month  
2 following the month in which the approval is received;

3 (8) with regard to an out-of-state business,  
4 if, in good faith, doubt existed as to whether the state had  
5 jurisdiction over the business and the business's transactions  
6 for reporting periods for which tax is due; or

7 (9) with regard to a business locating in New  
8 Mexico for the first time, if a taxpayer is able to demonstrate  
9 that the taxpayer made a reasonable effort to determine whether  
10 the taxpayer's receipts were subject to the gross receipts tax.

11 I. As used in this section, "oil and gas tax  
12 return" means a return reporting tax due with respect to oil,  
13 natural gas, liquid hydrocarbons, carbon dioxide, helium or  
14 nonhydrocarbon gas pursuant to the Oil and Gas Severance Tax  
15 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas  
16 Emergency School Tax Act, the Oil and Gas Ad Valorem Production  
17 Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas  
18 Production Equipment Ad Valorem Tax Act."

19 **SECTION 10.** A new section of the Tax Administration Act  
20 is enacted to read:

21 "[NEW MATERIAL] EMPLOYEE EVALUATIONS.--

22 A. The department shall develop and implement a  
23 program that will evaluate an individual employee's performance  
24 with respect to the employee's contact with taxpayers. The  
25 development and implementation of the program shall be

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1 coordinated with the taxpayers' rights advocate.

2 B. Revenue collected or assessed by the department  
3 shall not be used for any of the following:

4 (1) to evaluate individual officers or  
5 employees; or

6 (2) to impose or suggest production quotas or  
7 goals.

8 C. The department shall annually certify by letter  
9 to the legislature that revenue collected or assessed is not  
10 used in a manner prohibited by Subsection B of this section."

11 SECTION 11. A new section of the Tax Administration Act  
12 is enacted to read:

13 "[NEW MATERIAL] COMMUNITY INPUT.--At least once per year,  
14 the department shall convene a meeting and shall invite members  
15 of the community that include members of the state bar of New  
16 Mexico, the New Mexico society of certified public accountants,  
17 the taxpayers' rights advocate and other interested taxpayer-  
18 oriented parties. At each meeting, invitees shall make  
19 recommendations intended to increase fairness and efficiency in  
20 the department's administration of New Mexico's tax laws.  
21 Within thirty days of the meeting, the department shall prepare  
22 a report summarizing the recommendations and the department's  
23 responses to the recommendations and provide copies of the  
24 report to the invited members and the appropriate interim  
25 legislative committees."

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1           **SECTION 12. TEMPORARY PROVISION--TRANSFER TO PAY**

2       ADMINISTRATIVE COSTS OF THE OFFICE OF THE TAXPAYERS' RIGHTS  
3       ADVOCATE.--For fiscal year 2018, two hundred thousand dollars  
4       (\$200,000) is transferred from the contractual services and  
5       other categories of the taxation and revenue department to the  
6       office of the taxpayers' rights advocate to pay administrative  
7       costs of that office.

8           **SECTION 13. EFFECTIVE DATE.**--The effective date of the  
9       provisions of this act is July 1, 2017.

underscored material = new  
[bracketed material] = delete