

1 SENATE BILL 237

2 56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

3 INTRODUCED BY

4 Greg Nibert and Joseph Cervantes

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10 AN ACT

11 RELATING TO UNCLAIMED PROPERTY; ENACTING THE REVISED UNIFORM
12 UNCLAIMED PROPERTY ACT; REPEALING THE UNIFORM UNCLAIMED
13 PROPERTY ACT (1995); MAKING CONFORMING AMENDMENTS TO OTHER
14 SECTIONS OF THE NMSA 1978.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 1-19A-10 NMSA 1978 (being Laws 2003,
18 Chapter 14, Section 10, as amended) is amended to read:

19 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

20 A. There is created in the state treasury the
21 "public election fund" solely for the purposes of:

22 (1) financing the election campaigns of
23 certified candidates for covered offices;

24 (2) paying administrative and enforcement
25 costs of the Voter Action Act; and

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1 (3) carrying out all other specified
2 provisions of the Voter Action Act.

3 B. The state treasurer shall invest the funds as
4 other state funds are invested, and all income derived from the
5 fund shall be credited directly to the fund. Remaining
6 balances at the end of a fiscal year shall remain in the fund
7 and not revert to the general fund.

8 C. Money received from the following sources shall
9 be deposited directly into the fund:

10 (1) qualifying contributions that have been
11 submitted to the secretary;

12 (2) any recurring balance of unspent fund
13 money distributed to a certified candidate who does not remain
14 a candidate through the primary or general election period for
15 which the money was distributed;

16 (3) money that remains unspent or unencumbered
17 by a certified candidate following the date of the primary
18 election;

19 (4) money that remains unspent or unencumbered
20 by a certified candidate following the date of the general
21 election;

22 (5) unspent contributions to a candidate;

23 (6) money distributed to the fund from funds
24 received pursuant to the Revised Uniform Unclaimed Property Act
25 [~~(1995)~~]; and

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1 (7) money appropriated by the legislature or
2 as otherwise provided by law."

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

5 "7-1-2. APPLICABILITY.--The Tax Administration Act
6 applies to and governs:

7 A. the administration and enforcement of the
8 following taxes or tax acts as they now exist or may hereafter
9 be amended:

- 10 (1) Income Tax Act;
- 11 (2) Withholding Tax Act;
- 12 (3) Oil and Gas Proceeds and Pass-Through
13 Entity Withholding Tax Act;
- 14 (4) Gross Receipts and Compensating Tax Act,
15 Interstate Telecommunications Gross Receipts Tax Act and Leased
16 Vehicle Gross Receipts Tax Act;
- 17 (5) Liquor Excise Tax Act;
- 18 (6) Local Liquor Excise Tax Act;
- 19 (7) any municipal local option gross receipts
20 tax or municipal compensating tax;
- 21 (8) any county local option gross receipts tax
22 or county compensating tax;
- 23 (9) Special Fuels Supplier Tax Act;
- 24 (10) Gasoline Tax Act;
- 25 (11) petroleum products loading fee, which fee

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1 shall be considered a tax for the purpose of the Tax
2 Administration Act;

3 (12) Alternative Fuel Tax Act;

4 (13) Cigarette Tax Act;

5 (14) Estate Tax Act;

6 (15) Railroad Car Company Tax Act;

7 (16) Investment Credit Act, rural job tax
8 credit, Laboratory Partnership with Small Business Tax Credit
9 Act, Technology Jobs and Research and Development Tax Credit
10 Act, Film Production Tax Credit Act, Affordable Housing Tax
11 Credit Act and high-wage jobs tax credit;

12 (17) Corporate Income and Franchise Tax Act;

13 (18) Uniform Division of Income for Tax
14 Purposes Act;

15 (19) Multistate Tax Compact;

16 (20) Tobacco Products Tax Act;

17 (21) the telecommunications relay service
18 surcharge imposed by Section 63-9F-11 NMSA 1978, which
19 surcharge shall be considered a tax for the purposes of the Tax
20 Administration Act;

21 (22) the Insurance Premium Tax Act;

22 (23) the Health Care Quality Surcharge Act;

23 and

24 (24) the Cannabis Tax Act;

25 B. the administration and enforcement of the

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1 following taxes, surtaxes, advanced payments or tax acts as
2 they now exist or may hereafter be amended:

- 3 (1) Resources Excise Tax Act;
- 4 (2) Severance Tax Act;
- 5 (3) any severance surtax;
- 6 (4) Oil and Gas Severance Tax Act;
- 7 (5) Oil and Gas Conservation Tax Act;
- 8 (6) Oil and Gas Emergency School Tax Act;
- 9 (7) Oil and Gas Ad Valorem Production Tax Act;
- 10 (8) Natural Gas Processors Tax Act;
- 11 (9) Oil and Gas Production Equipment Ad

12 Valorem Tax Act;

- 13 (10) Copper Production Ad Valorem Tax Act;
- 14 (11) any advance payment required to be made
15 by any act specified in this subsection, which advance payment
16 shall be considered a tax for the purposes of the Tax
17 Administration Act;

- 18 (12) Enhanced Oil Recovery Act;
- 19 (13) Natural Gas and Crude Oil Production
20 Incentive Act; and

- 21 (14) intergovernmental production tax credit
22 and intergovernmental production equipment tax credit;

23 C. the administration and enforcement of the
24 following taxes, surcharges, fees or acts as they now exist or
25 may hereafter be amended:

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1 (1) Weight Distance Tax Act;
2 (2) the workers' compensation fee authorized
3 by Section 52-5-19 NMSA 1978, which fee shall be considered a
4 tax for purposes of the Tax Administration Act;

5 (3) Revised Uniform Unclaimed Property Act
6 [~~(1995)~~];

7 (4) 911 emergency surcharge and the network
8 and database surcharge, which surcharges shall be considered
9 taxes for purposes of the Tax Administration Act;

10 (5) the solid waste assessment fee authorized
11 by the Solid Waste Act, which fee shall be considered a tax for
12 purposes of the Tax Administration Act;

13 (6) the water conservation fee imposed by
14 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
15 for the purposes of the Tax Administration Act; and

16 (7) the gaming tax imposed pursuant to the
17 Gaming Control Act; and

18 D. the administration and enforcement of all other
19 laws, with respect to which the department is charged with
20 responsibilities pursuant to the Tax Administration Act, but
21 only to the extent that the other laws do not conflict with the
22 Tax Administration Act."

23 SECTION 3. Section 7-1-6.58 NMSA 1978 (being Laws 2007
24 (1st S.S.), Chapter 2, Section 8) is amended to read:

25 "7-1-6.58. DISTRIBUTION--PUBLIC ELECTION FUND.--A

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1 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
2 made to the public election fund from the amount deposited
3 pursuant to the provisions of [~~Section 7-8A-13 NMSA 1978~~]
4 Section 7-8B-801 NMSA 1978 in the amount of one hundred
5 thousand dollars (\$100,000) per month during fiscal year 2008
6 and subsequent fiscal years."

7 SECTION 4. A new Section 7-8B-101 NMSA 1978 is enacted to
8 read:

9 "7-8B-101. [NEW MATERIAL] SHORT TITLE.--Chapter 7,
10 Article 8B NMSA 1978 may be cited as the "Revised Uniform
11 Unclaimed Property Act"."

12 SECTION 5. A new Section 7-8B-102 NMSA 1978 is enacted to
13 read:

14 "7-8B-102. [NEW MATERIAL] DEFINITIONS.--As used in the
15 Revised Uniform Unclaimed Property Act:

16 (1) "administrator" means the taxation and revenue
17 department, the secretary of taxation and revenue or any
18 employee of the department who exercises authority lawfully
19 delegated to that employee by the secretary;

20 (2) "apparent owner" means a person whose name
21 appears on the records of a holder as the owner of property
22 held, issued or owing by the holder;

23 (3) "business association" means a corporation,
24 joint stock company, investment company other than an
25 investment company registered pursuant to the federal

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1 Investment Company Act of 1940, as amended, partnership,
2 unincorporated association, joint venture, limited liability
3 company, business trust, trust company, land bank, safe deposit
4 company, safekeeping depository, financial organization,
5 insurance company, federally chartered entity, utility, sole
6 proprietorship or other business entity, whether or not for
7 profit;

8 (4) "confidential information" means records,
9 reports and information that are confidential pursuant to
10 Section 7-8B-1402 NMSA 1978;

11 (5) "domicile" means:

12 (A) for a corporation, the state of its
13 incorporation;

14 (B) for a business association whose formation
15 requires a filing with a state, other than a corporation, the
16 state of its filing;

17 (C) for a federally chartered entity or an
18 investment company registered pursuant to the federal
19 Investment Company Act of 1940, as amended, the state of its
20 charter; and

21 (D) for any other holder, the state of its
22 principal place of business;

23 (6) "electronic" means relating to technology
24 having electrical, digital, magnetic, wireless, optical,
25 electromagnetic or similar capabilities;

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1 (7) "electronic mail" means a communication by
2 electronic means that is automatically retained and stored and
3 may be readily accessed or retrieved;

4 (8) "financial organization" means a savings and
5 loan association, building and loan association, savings bank,
6 industrial bank, bank, banking organization or credit union;

7 (9) "financial organization loyalty card" means a
8 record given with or without direct monetary consideration
9 under an award, reward, benefit, loyalty, incentive, rebate or
10 promotional program established by a financial organization for
11 the purpose of rewarding a relationship with the sponsoring
12 entity, and includes a record that may be redeemed for money or
13 otherwise monetized by the issuer;

14 (10) "game-related digital content" means digital
15 content that exists only in an electronic game or electronic
16 gaming platform. The term:

17 (A) includes:

18 (i) game-play currency such as a virtual
19 wallet, even if denominated in United States currency; and

20 (ii) the following if for use or
21 redemption only within the game or platform or another
22 electronic game or electronic gaming platform:

23 (I) points sometimes referred to as
24 gems, tokens, gold and similar names; and

25 (II) digital codes; and

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1 (B) does not include an item that the issuer:

2 (i) permits to be redeemed for use

3 outside a game or platform for:

4 (I) money; or

5 (II) goods or services that have

6 more than minimal value; or

7 (ii) otherwise monetizes for use outside

8 a game or platform;

9 (11) "gift card":

10 (A) means a stored-value card:

11 (i) the value of which does not expire;

12 (ii) that may be decreased in value only

13 by redemption for merchandise, goods or services; and

14 (iii) that, unless required by law, may

15 not be redeemed for or converted into money or otherwise

16 monetized by the issuer; and

17 (B) includes a prepaid commercial mobile radio

18 service, in accordance with federal law;

19 (12) "holder" means a person obligated to hold for

20 the account of, or to deliver or pay to, the owner property

21 subject to the Revised Uniform Unclaimed Property Act;

22 (13) "insurance company" means an association,

23 corporation or fraternal or mutual-benefit organization,

24 whether or not for profit, engaged in the business of providing

25 life endowments, annuities or insurance, including accident,

1 burial, casualty, credit life, contract performance, dental,
2 disability, fidelity, fire, health, hospitalization, illness,
3 life, malpractice, marine, mortgage, surety, wage protection
4 and workers' compensation insurance;

5 (14) "loyalty card" means a record given without
6 direct monetary consideration pursuant to an award, reward,
7 benefit, loyalty, incentive, rebate or promotional program that
8 may be used or redeemed only to obtain goods or services or a
9 discount on goods or services, and does not include a financial
10 organization loyalty card or record that may be redeemed for
11 money or otherwise monetized by the issuer;

12 (15) "mineral" means gas, oil, coal, oil shale,
13 other gaseous liquid or solid hydrocarbon, cement material,
14 sand and gravel, road material, building stone, chemical raw
15 material, gemstone, fissionable and nonfissionable ores,
16 colloidal and other clay, steam and other geothermal resources
17 and any other substance defined as a mineral by law of New
18 Mexico other than the Revised Uniform Unclaimed Property Act;

19 (16) "mineral proceeds" means an amount payable for
20 extraction, production or sale of minerals or, on the
21 abandonment of the amount, an amount that becomes payable after
22 abandonment. The term includes an amount payable:

23 (A) for the acquisition and retention of a
24 mineral lease, including a bonus, royalty, compensatory
25 royalty, shut-in royalty, minimum royalty and delay rental;

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1 (B) for the extraction, production or sale of
2 minerals, including a net revenue interest, royalty, overriding
3 royalty, extraction payment and production payment; and

4 (C) pursuant to an agreement or option,
5 including a joint-operating agreement, unit agreement, pooling
6 agreement and farm-out agreement;

7 (17) "money order" means a payment order for a
8 specified amount of money. The term includes an express money
9 order and a personal money order on which the remitter is the
10 purchaser;

11 (18) "municipal bond" means a bond or evidence of
12 indebtedness issued by a municipality or other political
13 subdivision of a state;

14 (19) "net card value" means the original purchase
15 price or original issued value of a stored-value card, plus
16 amounts added to the original price or value, minus amounts
17 used and any service charge, fee or dormancy charge permitted
18 by law;

19 (20) "non-freely transferable security" means a
20 security that cannot be delivered to the administrator by the
21 depository trust and clearing corporation or similar custodian
22 of securities providing post-trade clearing and settlement
23 services to financial markets or cannot be delivered because
24 there is no agent to effect transfer. The term includes a
25 worthless security;

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1 (21) "owner" means a person that has a legal,
2 beneficial or equitable interest in property subject to the
3 Revised Uniform Unclaimed Property Act or the person's legal
4 representative when acting on behalf of the owner. The term
5 includes:

6 (A) a depositor, for a deposit;

7 (B) a beneficiary, for a trust other than a
8 deposit in trust;

9 (C) a creditor, claimant or payee, for other
10 property; and

11 (D) the lawful bearer of a record that may be
12 used to obtain money, a reward or a thing of value;

13 (22) "payroll card" means a record that evidences a
14 payroll-card account as defined in Regulation E, 12 C.F.R. Part
15 1005, as amended;

16 (23) "person" means an individual, estate, business
17 association, public corporation, government or governmental
18 subdivision, agency or instrumentality or other legal entity;

19 (24) "property" means tangible property described
20 in Section 7-8B-205 NMSA 1978 or a fixed and certain interest
21 in intangible property held, issued or owed in the course of a
22 holder's business or by a government, governmental subdivision,
23 agency or instrumentality. The term:

24 (A) includes all income from or increments to
25 the property;

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1 (B) includes property referred to as or
2 evidenced by:

3 (i) money, virtual currency, interest or
4 a dividend, check, draft, deposit or payroll card;

5 (ii) a credit balance, customer's
6 overpayment, stored-value card, security deposit, refund,
7 credit memorandum, unpaid wage, unused ticket for which the
8 issuer has an obligation to provide a refund, mineral proceeds
9 or unidentified remittance;

10 (iii) a security except for:

11 (I) a worthless security; or

12 (II) a security that is subject to
13 a lien, legal hold or restriction evidenced on the records of
14 the holder or imposed by operation of law, if the lien, legal
15 hold or restriction restricts the holder's or owner's ability
16 to receive, transfer, sell or otherwise negotiate the security;

17 (iv) a bond, debenture, note or other
18 evidence of indebtedness;

19 (v) money deposited to redeem a
20 security, make a distribution or pay a dividend;

21 (vi) an amount due and payable pursuant
22 to an annuity contract or insurance policy; and

23 (vii) an amount distributable from a
24 trust or custodial fund established pursuant to a plan to
25 provide health, welfare, pension, vacation, severance,

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1 retirement, death, stock purchase, profit-sharing, employee-
2 savings, supplemental-unemployment insurance or a similar
3 benefit; and

4 (C) does not include:

5 (i) property held in a plan described in
6 Section 529A of the federal Internal Revenue Code of 1986, as
7 amended;

8 (ii) game-related digital content; or

9 (iii) a loyalty card or financial
10 organization loyalty card;

11 (25) "putative holder" means a person believed by
12 the administrator to be a holder, until the person pays or
13 delivers to the administrator property subject to the Revised
14 Uniform Unclaimed Property Act or the administrator or a court
15 makes a final determination that the person is or is not a
16 holder;

17 (26) "record" means information that is inscribed
18 on a tangible medium or that is stored in an electronic or
19 other medium and is retrievable in perceivable form;

20 (27) "security" means:

21 (A) except as otherwise provided in Section
22 55-8-103 NMSA 1978, an obligation of an issuer or a share,
23 participation or other interest in an issuer or in property or
24 an enterprise of an issuer:

25 (i) that is represented by a security

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1 certificate in bearer or registered form or the transfer of
2 which may be registered upon books maintained for that purpose
3 by or on behalf of the issuer;

4 (ii) that is one of a class or series or
5 by its terms is divisible into a class or series of shares,
6 participations, interests or obligations; and

7 (iii) that:

8 (I) is, or is of a type, dealt in
9 or traded on securities exchanges or securities markets; or

10 (II) is a medium for investment and
11 by its terms expressly provides that it is a security governed
12 by this article;

13 (B) a security entitlement, including a
14 customer security account held by a registered broker-dealer,
15 to the extent the financial assets held in the security account
16 are not:

17 (i) registered on the books of the
18 issuer in the name of the person for which the broker-dealer
19 holds the assets;

20 (ii) payable to the order of the person;

21 or

22 (iii) specifically indorsed to the
23 person; or

24 (C) an equity interest in a business
25 association not included in Paragraph (A) or (B) of this

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1 subsection;

2 (28) "security entitlement" means the rights and
3 property interest of an entitlement holder with respect to a
4 financial asset specified in Chapter 55, Article 8, Part 5 NMSA
5 1978;

6 (29) "sign" means, with present intent to
7 authenticate or adopt a record:

8 (A) to execute or adopt a tangible symbol; or

9 (B) to attach to or logically associate with
10 the record an electronic symbol, sound or process;

11 (30) "state" means a state of the United States,
12 the District of Columbia, the Commonwealth of Puerto Rico, the
13 United States Virgin Islands or any territory or insular
14 possession subject to the jurisdiction of the United States;

15 (31) "stored-value card" means a record evidencing
16 a promise made for consideration by the seller or issuer of the
17 record that goods, services or money will be provided to the
18 owner of the record to the value or amount shown in the record.

19 The term:

20 (A) includes:

21 (i) a record that contains or consists
22 of a microprocessor chip, magnetic strip or other means for the
23 storage of information that is prefunded and whose value or
24 amount is decreased upon each use and increased by payment of
25 additional consideration; and

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1 (ii) a gift card and payroll card; and
2 (B) does not include a loyalty card, financial
3 organization loyalty card or game-related digital content;

4 (32) "utility" means a person that owns or operates
5 for public use a plant, equipment, real property, franchise or
6 license for the following public services:

7 (A) transmission of communications or
8 information;

9 (B) production, storage, transmission, sale,
10 delivery or furnishing of electricity, water, steam or gas; or

11 (C) provision of sewage or septic services or
12 trash, garbage or recycling disposal;

13 (33) "virtual currency" means a digital
14 representation of value used as a medium of exchange, unit of
15 account or store of value that does not have legal tender
16 status recognized by the United States. The term does not
17 include:

18 (A) the software or protocols governing the
19 transfer of the digital representation of value;

20 (B) game-related digital content; or

21 (C) a loyalty card, financial organization
22 loyalty card or gift card; and

23 (34) "worthless security" means a security whose
24 cost of liquidation and delivery to the administrator would
25 exceed the value of the security on the date a report is due

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1 pursuant to the Revised Uniform Unclaimed Property Act."

2 SECTION 6. A new Section 7-8B-103 NMSA 1978 is enacted to
3 read:

4 "7-8B-103. [NEW MATERIAL] FOREIGN TRANSACTIONS.--The
5 Revised Uniform Unclaimed Property Act does not apply to:

6 (1) property held, due and owing in a foreign
7 country and arising out of a foreign transaction;

8 (2) funds in a member's share account in a credit
9 union if the bylaws of the credit union provide for unclaimed
10 funds to be used for educational or charitable uses; and

11 (3) patronage capital or other tangible ownership
12 interest in a rural electric cooperative, a telephone
13 cooperative, a water cooperative or an agricultural
14 cooperative, if the bylaws of the cooperative provide for
15 unclaimed patronage capital to be used for educational
16 scholarships or other charitable uses."

17 SECTION 7. A new Section 7-8B-104 NMSA 1978 is enacted to
18 read:

19 "7-8B-104. [NEW MATERIAL] RULEMAKING.--The administrator
20 may adopt, pursuant to the State Rules Act, rules to implement
21 and administer the Revised Uniform Unclaimed Property Act."

22 SECTION 8. A new Section 7-8B-201 NMSA 1978 is enacted to
23 read:

24 "7-8B-201. [NEW MATERIAL] WHEN PROPERTY ASSUMED
25 ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, the

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1 following property is presumed abandoned if it is unclaimed by
2 the apparent owner during the period specified below:

3 (1) a traveler's check, fifteen years after
4 issuance;

5 (2) a money order, seven years after issuance;

6 (3) a state or municipal bond, bearer bond or
7 original-issue-discount bond, three years after the earliest of
8 the date the bond matures or is called or the obligation to pay
9 the principal of the bond arises;

10 (4) a debt of a business association, three years
11 after the obligation to pay arises;

12 (5) a payroll card or demand, savings or time
13 deposit, including a deposit that is automatically renewable,
14 three years after the later of maturity, if applicable, of the
15 card or deposit or the owner's last indication of interest in
16 the card or deposit, except a deposit that is automatically
17 renewable is deemed matured on its initial date of maturity
18 unless the apparent owner consented in a record on file with
19 the holder to renewal at or about the time of the renewal;

20 (6) money or a credit owed to a customer as a
21 result of a retail business transaction, three years after the
22 obligation arose;

23 (7) an amount owed by an insurance company on a
24 life or endowment insurance policy or an annuity contract that
25 has matured or terminated, three years after the obligation to

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1 pay arose pursuant to the terms of the policy or contract or,
2 if a policy or contract for which an amount is owed on proof of
3 death has not matured by proof of the death of the insured or
4 annuitant, as follows:

5 (A) with respect to an amount owed on a life
6 or endowment insurance policy, three years after the earlier of
7 the date:

8 (i) the insurance company has knowledge
9 of the death of the insured; or

10 (ii) the insured has attained, or would
11 have attained if living, the limiting age pursuant to the
12 mortality table on which the reserve for the policy is based;
13 and

14 (B) with respect to an amount owed on an
15 annuity contract, three years after the date the insurance
16 company has knowledge of the death of the annuitant;

17 (8) property distributable by a business
18 association in the course of dissolution, one year after the
19 property becomes distributable;

20 (9) property held by a court, including property
21 received as proceeds of a class action, one year after the
22 property becomes distributable;

23 (10) property held by a government or governmental
24 subdivision, agency or instrumentality, including municipal
25 bond interest and unredeemed principal pursuant to the

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1 administration of a paying agent or indenture trustee, one year
2 after the property becomes distributable;

3 (11) wages, commissions, bonuses or reimbursements
4 to which an employee is entitled or other compensation for
5 personal services, other than amounts held in a payroll card,
6 one year after the amount becomes payable;

7 (12) a deposit or refund owed to a subscriber by a
8 utility, one year after the deposit or refund becomes payable;
9 and

10 (13) property not specified in this section or
11 Sections 7-8B-202 through 7-8B-207 NMSA 1978, the earlier of
12 three years after the owner first has a right to demand the
13 property or the obligation to pay or distribute the property
14 arises."

15 SECTION 9. A new Section 7-8B-202 NMSA 1978 is enacted to
16 read:

17 "7-8B-202. [NEW MATERIAL] WHEN TAX-DEFERRED RETIREMENT
18 ACCOUNT PRESUMED ABANDONED.--

19 (a) Subject to Section 7-8B-210 NMSA 1978, property
20 held in a pension account or retirement account that qualifies
21 for tax deferral pursuant to the income tax laws of the United
22 States is presumed abandoned if it is unclaimed by the apparent
23 owner three years after:

24 (1) the later of the following dates:

25 (A) except as in Subparagraph (B) of

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1 this paragraph, the date a second consecutive communication
2 sent by the holder by first class United States mail to the
3 apparent owner is returned to the holder undelivered by the
4 United States postal service; or

5 (B) if the second communication is sent
6 later than thirty days after the date the first communication
7 is returned undelivered, the date the first communication was
8 returned undelivered by the United States postal service; or

9 (2) the earlier of the following dates:

10 (A) the date the apparent owner reaches
11 the age when the federal Internal Revenue Code of 1986, as
12 amended, requires a minimum distribution from the account, if
13 determinable by the holder; or

14 (B) if the federal Internal Revenue Code
15 of 1986, as amended, requires distribution to avoid a tax
16 penalty, two years after the date the holder:

17 (i) receives confirmation of the
18 death of the apparent owner in the ordinary course of its
19 business; or

20 (ii) confirms the death of the
21 apparent owner pursuant to Subsection (b) of this section.

22 (b) If a holder in the ordinary course of its
23 business receives notice or an indication of the death of an
24 apparent owner and Paragraph (2) of Subsection (a) of this
25 section applies, the holder shall attempt not later than ninety

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1 days after receipt of the notice or indication to confirm
2 whether the apparent owner is deceased.

3 (c) If the holder does not send communications to
4 the apparent owner of an account described in Subsection (a) of
5 this section by first class United States mail, the holder
6 shall attempt to confirm the apparent owner's interest in the
7 property by sending the apparent owner an electronic mail
8 communication not later than two years after the apparent
9 owner's last indication of interest in the property. However,
10 the holder shall promptly attempt to contact the apparent owner
11 by first class United States mail if:

12 (1) the holder does not have information
13 needed to send the apparent owner an electronic mail
14 communication or the holder believes that the apparent owner's
15 electronic mail address in the holder's records is not valid;

16 (2) the holder receives notification that the
17 electronic mail communication was not received; or

18 (3) the apparent owner does not respond to the
19 electronic mail communication not later than thirty days after
20 the communication was sent.

21 (d) If first class United States mail sent pursuant
22 to Subsection (c) of this section is returned to the holder
23 undelivered by the United States postal service, the property
24 is presumed abandoned three years after the later of:

25 (1) except as in Paragraph (2) of this

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1 subsection, the date a second consecutive communication to
2 contact the apparent owner sent by first class United States
3 mail is returned to the holder undelivered;

4 (2) if the second communication is sent later
5 than thirty days after the date the first communication is
6 returned undelivered, the date the first communication was
7 returned undelivered; or

8 (3) the date established by Paragraph (2) of
9 Subsection (a) of this section."

10 SECTION 10. A new Section 7-8B-203 NMSA 1978 is enacted
11 to read:

12 "7-8B-203. [NEW MATERIAL] WHEN OTHER TAX-DEFERRED ACCOUNT
13 PRESUMED ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, and
14 except for property described in Section 7-8B-202 NMSA 1978 and
15 property held in a plan described in Section 529A of the
16 federal Internal Revenue Code of 1986, as amended, property
17 held in an account or plan, including a health savings account,
18 that qualifies for tax deferral pursuant to the income tax laws
19 of the United States is presumed abandoned if it is unclaimed
20 by the apparent owner three years after the earlier of:

21 (1) the date, if determinable by the holder,
22 specified in the income tax laws and regulations of the United
23 States by which distribution of the property shall begin to
24 avoid a tax penalty, with no distribution having been made; or

25 (2) thirty years after the date the account was

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1 opened."

2 SECTION 11. A new Section 7-8B-204 NMSA 1978 is enacted
3 to read:

4 "7-8B-204. [NEW MATERIAL] WHEN CUSTODIAL ACCOUNT FOR
5 MINOR PRESUMED ABANDONED.--

6 (a) Subject to Section 7-8B-210 NMSA 1978, property
7 held in an account established pursuant to the Uniform Gifts to
8 Minors Act or the Uniform Transfers to Minors Act is presumed
9 abandoned if it is unclaimed by or on behalf of the minor on
10 whose behalf the account was opened three years after the later
11 of:

12 (1) except as in Paragraph (2) of this
13 subsection, the date a second consecutive communication sent by
14 the holder by first class United States mail to the custodian
15 of the minor on whose behalf the account was opened is returned
16 undelivered to the holder by the United States postal service;

17 (2) if the second communication is sent later
18 than thirty days after the date the first communication is
19 returned undelivered, the date the first communication was
20 returned undelivered; or

21 (3) the date on which the custodian is
22 required to transfer the property to the minor or the minor's
23 estate in accordance with the Uniform Gifts to Minors Act or
24 the Uniform Transfers to Minors Act of the state in which the
25 account was opened.

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1 (b) If the holder does not send communications to
2 the custodian of the minor on whose behalf an account described
3 in Subsection (a) of this section was opened by first class
4 United States mail, the holder shall attempt to confirm the
5 custodian's interest in the property by sending the custodian
6 an electronic mail communication within two years after the
7 custodian's last indication of interest in the property.
8 However, the holder shall promptly attempt to contact the
9 custodian by first class United States mail if:

10 (1) the holder does not have information
11 needed to send the custodian an electronic mail communication
12 or the holder believes that the custodian's electronic mail
13 address in the holder's records is not valid;

14 (2) the holder receives notification that the
15 electronic mail communication was not received; or

16 (3) the custodian does not respond to the
17 electronic mail communication within thirty days after the
18 communication was sent.

19 (c) If first class United States mail sent pursuant
20 to Subsection (b) of this section is returned undelivered to
21 the holder by the United States postal service, the property is
22 presumed abandoned three years after the later of:

23 (1) the date a second consecutive
24 communication to contact the custodian by first class United
25 States mail is returned to the holder undelivered by the United

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1 states postal Service; or

2 (2) the date established by Paragraph (3) of
3 Subsection (a) of this section.

4 (d) When the property in the account described in
5 Subsection (a) of this section is transferred to the minor on
6 whose behalf an account was opened or to the minor's estate,
7 the property in the account is no longer subject to this
8 section."

9 SECTION 12. A new Section 7-8B-205 NMSA 1978 is enacted
10 to read:

11 "7-8B-205. [NEW MATERIAL] WHEN CONTENTS OF SAFE DEPOSIT
12 BOX PRESUMED ABANDONED.--Tangible property held in a safe
13 deposit box and proceeds from a sale of the property by the
14 holder permitted by law of New Mexico other than the Revised
15 Uniform Unclaimed Property Act are presumed abandoned if the
16 property remains unclaimed by the apparent owner five years
17 after the earlier of the:

18 (1) expiration of the lease or rental period for
19 the box; or

20 (2) earliest date when the lessor of the box is
21 authorized by law of New Mexico other than the Revised Uniform
22 Unclaimed Property Act to enter the box and remove or dispose
23 of the contents without consent or authorization of the
24 lessee."

25 SECTION 13. A new Section 7-8B-206 NMSA 1978 is enacted

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1 to read:

2 "7-8B-206. [NEW MATERIAL] WHEN STORED-VALUE CARD PRESUMED
3 ABANDONED.--

4 (a) Subject to Section 7-8B-210 NMSA 1978, the net
5 card value of a stored-value card, other than a payroll card or
6 a gift card, is presumed abandoned on the latest of three years
7 after:

8 (1) December 31 of the year in which the card
9 is issued or additional funds are deposited into the card;

10 (2) the most recent indication of interest in
11 the card by the apparent owner; or

12 (3) a verification or review of the balance by
13 or on behalf of the apparent owner.

14 (b) The amount presumed abandoned in a stored-value
15 card is the net card value at the time it is presumed
16 abandoned."

17 SECTION 14. A new Section 7-8B-207 NMSA 1978 is enacted
18 to read:

19 "7-8B-207. [NEW MATERIAL] WHEN GIFT CARD PRESUMED
20 ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, a gift card
21 is presumed abandoned if it is unclaimed by the apparent owner
22 five years after the later of the date of purchase or its most
23 recent use, but if redeemable in merchandise only, the amount
24 abandoned is deemed to be sixty percent of the card's current
25 face value."

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1 SECTION 15. A new Section 7-8B-208 NMSA 1978 is enacted
2 to read:

3 "7-8B-208. [NEW MATERIAL] WHEN SECURITY PRESUMED
4 ABANDONED.--

5 (a) Subject to Section 7-8B-210 NMSA 1978, a
6 security is presumed abandoned three years after:

7 (1) the date a second consecutive
8 communication sent by the holder by first class United States
9 mail to the apparent owner is returned to the holder
10 undelivered by the United States postal service; or

11 (2) if the second communication is made later
12 than thirty days after the first communication is returned, the
13 date the first communication is returned undelivered to the
14 holder by the United States postal service.

15 (b) If the holder does not send communications to
16 the apparent owner of a security by first class United States
17 mail, the holder shall attempt to confirm the apparent owner's
18 interest in the security by sending the apparent owner an
19 electronic mail communication not later than two years after
20 the apparent owner's last indication of interest in the
21 security. However, the holder shall promptly attempt to
22 contact the apparent owner by first class United States mail
23 if:

24 (1) the holder does not have information
25 needed to send the apparent owner an electronic mail

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1 communication or the holder believes that the apparent owner's
2 electronic mail address in the holder's records is not valid;

3 (2) the holder receives notification that the
4 electronic mail communication was not received; or

5 (3) the apparent owner does not respond to the
6 electronic mail communication within thirty days after the
7 communication was sent.

8 (c) If first class United States mail sent pursuant
9 to Subsection (b) of this section is returned to the holder
10 undelivered by the United States postal service, the security
11 is presumed abandoned three years after the date the mail is
12 returned."

13 SECTION 16. A new Section 7-8B-209 NMSA 1978 is enacted
14 to read:

15 "7-8B-209. [NEW MATERIAL] WHEN RELATED PROPERTY PRESUMED
16 ABANDONED.--At and after the time property is presumed
17 abandoned pursuant to the Revised Uniform Unclaimed Property
18 Act, any other property right or interest accrued or accruing
19 from the property and not previously presumed abandoned is also
20 presumed abandoned."

21 SECTION 17. A new Section 7-8B-210 NMSA 1978 is enacted
22 to read:

23 "7-8B-210. [NEW MATERIAL] INDICATION OF APPARENT OWNER
24 INTEREST IN PROPERTY.--

25 (a) The period after which property is presumed

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1 abandoned is measured from the later of:

2 (1) the date the property is presumed
3 abandoned pursuant to Sections 7-8B-201 through 7-8B-211 NMSA
4 1978; or

5 (2) the latest indication of interest by the
6 apparent owner in the property.

7 (b) Pursuant to the Revised Uniform Unclaimed
8 Property Act, an indication of an apparent owner's interest in
9 property includes:

10 (1) a record communicated by the apparent
11 owner to the holder or agent of the holder concerning the
12 property or the account in which the property is held;

13 (2) an oral communication by the apparent
14 owner to the holder or agent of the holder concerning the
15 property or the account in which the property is held, if the
16 holder or its agent contemporaneously makes and preserves a
17 record of the fact of the apparent owner's communication;

18 (3) presentment of a check or other instrument
19 of payment of a dividend, interest payment or other
20 distribution, or evidence of receipt of a distribution made by
21 electronic or similar means, with respect to an account,
22 underlying security or interest in a business association;

23 (4) activity directed by an apparent owner in
24 the account in which the property is held, including accessing
25 the account or information concerning the account, or a

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1 direction by the apparent owner to increase, decrease or
2 otherwise change the amount or type of property held in the
3 account;

4 (5) a deposit into or withdrawal from an
5 account at a financial organization, including an automatic
6 deposit or withdrawal previously authorized by the apparent
7 owner other than an automatic reinvestment of dividends or
8 interest;

9 (6) subject to Subsection (e) of this section,
10 payment of a premium on an insurance policy; and

11 (7) any other action by the apparent owner
12 that reasonably demonstrates to the holder that the apparent
13 owner knows that the property exists.

14 (c) An action by an agent or other representative
15 of an apparent owner, other than the holder acting as the
16 apparent owner's agent, is presumed to be an action on behalf
17 of the apparent owner.

18 (d) A communication with an apparent owner by a
19 person other than the holder or the holder's representative is
20 not an indication of interest in the property by the apparent
21 owner unless a record of the communication evidences the
22 apparent owner's knowledge of a right to the property.

23 (e) If the insured dies or the insured or
24 beneficiary of an insurance policy otherwise becomes entitled
25 to the proceeds before depletion of the cash surrender value of

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1 the policy by operation of an automatic-premium-loan provision
2 or other nonforfeiture provision contained in the policy, the
3 operation does not prevent the policy from maturing or
4 terminating."

5 SECTION 18. A new Section 7-8B-211 NMSA 1978 is enacted
6 to read:

7 "7-8B-211. [NEW MATERIAL] KNOWLEDGE OF DEATH OF INSURED
8 OR ANNUITANT.--

9 (a) In this section, "death master file" means the
10 United States social security administration death master file
11 or other database or service that is at least as comprehensive
12 as the United States social security administration death
13 master file for determining that an individual reportedly has
14 died.

15 (b) With respect to a life or endowment insurance
16 policy or annuity contract for which an amount is owed on proof
17 of death, but which has not matured by proof of death of the
18 insured or annuitant, the company has knowledge of the death of
19 an insured or annuitant when:

20 (1) the company receives a death certificate
21 or court order determining that the insured or annuitant has
22 died;

23 (2) due diligence, performed as required
24 pursuant to New Mexico law to maintain contact with the insured
25 or annuitant or determine whether the insured or annuitant has

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1 died, validates the death of the insured or annuitant;

2 (3) the company conducts a comparison for any
3 purpose between a death master file and the names of some or
4 all of the company's insureds or annuitants, finds a match
5 that provides notice that the insured or annuitant has died and
6 validates the death;

7 (4) the administrator or the administrator's
8 agent conducts a comparison for the purpose of finding matches
9 during an examination conducted pursuant to Sections 7-8B-1001
10 through 7-8B-1012 NMSA 1978 between a death master file and the
11 names of some or all of the company's insureds or annuitants,
12 finds a match that provides notice that the insured or
13 annuitant has died and the company validates the death; or

14 (5) the company:

15 (A) receives notice of the death of the
16 insured or annuitant from an administrator, beneficiary, policy
17 owner, relative of the insured or trustee or from a personal
18 representative or other legal representative of the insured's
19 or annuitant's estate; and

20 (B) validates the death of the insured
21 or annuitant.

22 (c) The following rules apply pursuant to this
23 section:

24 (1) a death-master-file match pursuant to
25 Paragraph (3) or (4) of Subsection (b) of this section occurs

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1 if the criteria for an exact or partial match are satisfied as
2 provided by:

3 (A) a law of New Mexico other than the
4 Revised Uniform Unclaimed Property Act;

5 (B) a rule or policy adopted by the
6 superintendent of insurance; or

7 (C) absent a law, rule or policy
8 pursuant to Subparagraph (A) or (B) of this paragraph,
9 standards in the national conference of insurance legislators'
10 "Model Unclaimed Life Insurance Benefits Act", as published in
11 2014;

12 (2) the death-master-file match does not
13 constitute proof of death for the purpose of submission to an
14 insurance company of a claim by a beneficiary, annuitant or
15 owner of the policy or contract for an amount due pursuant to
16 an insurance policy or annuity contract;

17 (3) the death-master-file match or validation
18 of the insured's or annuitant's death does not alter the
19 requirements for a beneficiary, annuitant or owner of the
20 policy or contract to make a claim to receive proceeds pursuant
21 to the terms of the policy or contract; and

22 (4) if no provision in New Mexico law
23 establishes a time for validation of a death of an insured or
24 annuitant, the insurance company shall make a good faith effort
25 using other available records and information to validate the

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1 death and document the effort taken not later than ninety days
2 after the insurance company has notice of the death.

3 (d) The Revised Uniform Unclaimed Property Act does
4 not affect the determination of the extent to which an
5 insurance company before the effective date of that act had
6 knowledge of the death of an insured or annuitant or was
7 required to conduct a death-master-file comparison to determine
8 whether amounts owed by the company on a life or endowment
9 insurance policy or annuity contract were presumed abandoned or
10 unclaimed."

11 SECTION 19. A new Section 7-8B-212 NMSA 1978 is enacted
12 to read:

13 "7-8B-212. [NEW MATERIAL] DEPOSIT ACCOUNT FOR PROCEEDS OF
14 INSURANCE POLICY OR ANNUITY CONTRACT.--If proceeds payable
15 pursuant to a life or endowment insurance policy or annuity
16 contract are deposited into an account with check or draft-
17 writing privileges for the beneficiary of the policy or
18 contract and, pursuant to a supplementary contract not
19 involving annuity benefits other than death benefits, the
20 proceeds are retained by the insurance company or the financial
21 organization where the account is held, the policy or contract
22 includes the assets in the account."

23 SECTION 20. A new Section 7-8B-301 NMSA 1978 is enacted
24 to read:

25 "7-8B-301. [NEW MATERIAL] ADDRESS OF APPARENT OWNER TO
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1 ESTABLISH PRIORITY.--In Sections 7-8B-301 through 7-8B-307 NMSA
2 1978, the following rules apply:

3 (1) The last known address of an apparent owner is
4 any description, code or other indication of the location of
5 the apparent owner that identifies the state, even if the
6 description, code or indication of location is not sufficient
7 to direct the delivery of first class United States mail to the
8 apparent owner.

9 (2) If the United States postal code associated
10 with the apparent owner is for a post office located in New
11 Mexico, New Mexico is deemed to be the state of the last known
12 address of the apparent owner unless other records associated
13 with the apparent owner specifically identify the physical
14 address of the apparent owner to be in another state.

15 (3) If the address pursuant to Subsection (2) of
16 this section is in another state, the other state is deemed to
17 be the state of the last known address of the apparent owner.

18 (4) The address of the apparent owner of a life or
19 endowment insurance policy or annuity contract or its proceeds
20 is presumed to be the address of the insured or annuitant if a
21 person other than the insured or annuitant is entitled to the
22 amount owed pursuant to the policy or contract and the address
23 of the other person is not known by the insurance company and
24 cannot be determined pursuant to Section 7-8B-302 NMSA 1978."

25 SECTION 21. A new Section 7-8B-302 NMSA 1978 is enacted

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1 to read:

2 "7-8B-302. [NEW MATERIAL] ADDRESS OF APPARENT OWNER IN
3 NEW MEXICO.--The administrator may take custody of property
4 that is presumed abandoned, whether located in New Mexico,
5 another state or a foreign country, if:

6 (1) the last known address of the apparent owner in
7 the records of the holder is in New Mexico; or

8 (2) the records of the holder do not reflect the
9 identity or last known address of the apparent owner, but the
10 administrator has determined that the last known address of the
11 apparent owner is in New Mexico."

12 SECTION 22. A new Section 7-8B-303 NMSA 1978 is enacted
13 to read:

14 "7-8B-303. [NEW MATERIAL] IF RECORDS SHOW MULTIPLE
15 ADDRESSES OF APPARENT OWNER.--

16 (a) Except as provided in Subsection (b) of this
17 section, if records of a holder reflect multiple addresses for
18 an apparent owner and New Mexico is the state of the most
19 recently recorded address, the administrator may take custody
20 of property presumed abandoned, whether located in New Mexico
21 or another state.

22 (b) If it appears from records of the holder that
23 the most recently recorded address of the apparent owner
24 pursuant to Subsection (a) of this section is a temporary
25 address and New Mexico is the state of the next most recently

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1 recorded address that is not a temporary address, the
2 administrator may take custody of the property presumed
3 abandoned."

4 SECTION 23. A new Section 7-8B-304 NMSA 1978 is enacted
5 to read:

6 "7-8B-304. [NEW MATERIAL] HOLDER DOMICILED IN NEW
7 MEXICO.--

8 (a) Except as provided in Subsection (b) of this
9 section or Section 7-8B-302 or 7-8B-303 NMSA 1978, the
10 administrator may take custody of property presumed abandoned,
11 whether located in New Mexico, another state or a foreign
12 country, if the holder is domiciled in New Mexico, is New
13 Mexico or a governmental subdivision, agency or instrumentality
14 of New Mexico and:

15 (1) another state or foreign country is not
16 entitled to the property because there is no last known address
17 of the apparent owner or other person entitled to the property
18 in the records of the holder; or

19 (2) the state or foreign country of the last
20 known address of the apparent owner or other person entitled to
21 the property does not provide for custodial taking of the
22 property.

23 (b) Property is not subject to custody of the
24 administrator pursuant to Subsection (a) of this section if the
25 property is specifically exempt from custodial taking pursuant

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1 to the law of New Mexico or the state or foreign country of the
2 last known address of the apparent owner.

3 (c) If a holder's state of domicile has changed
4 since the time property was presumed abandoned, the holder's
5 state of domicile in this section is deemed to be the state
6 where the holder was domiciled at the time the property was
7 presumed abandoned."

8 SECTION 24. A new Section 7-8B-305 NMSA 1978 is enacted
9 to read:

10 "7-8B-305. [NEW MATERIAL] CUSTODY IF TRANSACTION TOOK
11 PLACE IN NEW MEXICO.--Except as provided in Section 7-8B-302,
12 7-8B-303 or 7-8B-304 NMSA 1978, the administrator may take
13 custody of property presumed abandoned whether located in New
14 Mexico or another state if:

15 (1) the transaction out of which the property arose
16 took place in New Mexico;

17 (2) the holder is domiciled in a state that does
18 not provide for the custodial taking of the property, except
19 that if the property is specifically exempt from custodial
20 taking pursuant to the law of the state of the holder's
21 domicile, the property is not subject to the custody of the
22 administrator; and

23 (3) the last known address of the apparent owner or
24 other person entitled to the property is unknown or in a state
25 that does not provide for the custodial taking of the property,

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1 except that if the property is specifically exempt from
2 custodial taking pursuant to the law of the state of the last
3 known address, the property is not subject to the custody of
4 the administrator."

5 SECTION 25. A new Section 7-8B-306 NMSA 1978 is enacted
6 to read:

7 "7-8B-306. [NEW MATERIAL] TRAVELER'S CHECK, MONEY ORDER
8 OR SIMILAR INSTRUMENT.--The administrator may take custody of
9 sums payable on a traveler's check, money order or similar
10 instrument presumed abandoned to the extent permissible
11 pursuant to 12 U.S.C. Sections 2501 through 2503, as amended."

12 SECTION 26. A new Section 7-8B-307 NMSA 1978 is enacted
13 to read:

14 "7-8B-307. [NEW MATERIAL] BURDEN OF PROOF TO ESTABLISH
15 ADMINISTRATOR'S RIGHT TO CUSTODY.--If the administrator asserts
16 a right to custody of unclaimed property, the administrator has
17 the burden to prove:

- 18 (1) the existence and amount of the property;
19 (2) that the property is presumed abandoned; and
20 (3) that the property is subject to the custody of
21 the administrator."

22 SECTION 27. A new Section 7-8B-401 NMSA 1978 is enacted
23 to read:

24 "7-8B-401. [NEW MATERIAL] REPORT REQUIRED BY HOLDER.--

- 25 (a) A holder of property presumed abandoned and

1 subject to the custody of the administrator shall report in a
2 record to the administrator concerning the property. A holder
3 of more than twenty-five properties presumed abandoned shall
4 report the properties in an electronic medium and in a format
5 determined by the administrator to be compatible with computer
6 programming and equipment used by the administrator for
7 processing.

8 (b) A holder may contract with a third party to
9 make the report required pursuant to Subsection (a) of this
10 section.

11 (c) Whether or not a holder contracts with a third
12 party pursuant to Subsection (b) of this section, the holder is
13 responsible:

14 (1) to the administrator for the complete,
15 accurate and timely reporting of property presumed abandoned;
16 and

17 (2) for paying or delivering to the
18 administrator property described in the report.

19 (d) Before the date for filing the report, the
20 holder of property presumed abandoned may request the
21 administrator to extend the time for filing the report. The
22 administrator may grant the extension for good cause. The
23 holder, upon receipt of the extension, may make an interim
24 payment on the amount the holder estimates will ultimately be
25 due, which terminates the accrual of additional interest on the

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1 amount paid.

2 (e) The holder of property presumed abandoned shall
3 file with the report an affidavit stating that the holder has
4 complied with Section 7-8B-501 NMSA 1978."

5 SECTION 28. A new Section 7-8B-402 NMSA 1978 is enacted
6 to read:

7 "7-8B-402. [NEW MATERIAL] CONTENT OF REPORT.--

8 (a) The report required pursuant to Section
9 7-8B-401 NMSA 1978 shall:

10 (1) be signed by or on behalf of the holder
11 and verified as to its completeness and accuracy;

12 (2) if filed electronically, be in a secure
13 format approved by the administrator that protects confidential
14 information of the apparent owner in the same manner as
15 required of the administrator and the administrator's agent
16 pursuant to Sections 7-8B-1401 through 7-8B-1408 NMSA 1978;

17 (3) describe the property;

18 (4) except for a traveler's check, money order
19 or similar instrument, contain the name, if known, last known
20 address, if known, and social security number or taxpayer
21 identification number, if known or readily ascertainable, of
22 the apparent owner of property with a value of fifty dollars
23 (\$50.00) or more;

24 (5) for an amount held or owing pursuant to a
25 life or endowment insurance policy or annuity contract, contain

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1 the name and last known address of the insured, annuitant or
2 other apparent owner of the policy or contract and of the
3 beneficiary;

4 (6) for property held in or removed from a
5 safe deposit box, indicate the location of the property, where
6 it may be inspected by the administrator and any amounts owed
7 to the holder pursuant to Section 7-8B-606 NMSA 1978;

8 (7) contain the commencement date for
9 determining abandonment pursuant to Sections 7-8B-201 through
10 7-8B-212 NMSA 1978;

11 (8) state that the holder has complied with
12 the notice requirements of Section 7-8B-501 NMSA 1978;

13 (9) identify property that is a non-freely
14 transferable security and explain why it is a non-freely
15 transferable security; and

16 (10) contain other information the
17 administrator prescribes by rule.

18 (b) A report pursuant to Section 7-8B-401 NMSA 1978
19 may include in the aggregate items valued under fifty dollars
20 (\$50.00) each. If the report includes items in the aggregate
21 valued under fifty dollars (\$50.00) each, the administrator may
22 not require the holder to provide the name and address of an
23 apparent owner of an item unless the information is necessary
24 to verify or process a claim in progress by the apparent owner.

25 (c) A report pursuant to Section 7-8B-401 NMSA 1978

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1 may include personal information as defined in Subsection (a)
2 of Section 7-8B-1401 NMSA 1978 about the apparent owner or the
3 apparent owner's property to the extent not otherwise
4 prohibited by federal law.

5 (d) If a holder has changed its name while holding
6 property presumed abandoned or is a successor to another person
7 that previously held the property for the apparent owner, the
8 holder shall include in the report pursuant to Section 7-8B-401
9 NMSA 1978 its former name or the name of the previous holder,
10 if any, and the known name and address of each previous holder
11 of the property."

12 SECTION 29. A new Section 7-8B-403 NMSA 1978 is enacted
13 to read:

14 "7-8B-403. [NEW MATERIAL] WHEN REPORT TO BE FILED.--

15 (a) Except as otherwise provided in Subsection (b)
16 of this section and subject to Subsection (c) of this section,
17 the report pursuant to Section 7-8B-401 NMSA 1978 shall be
18 filed before November 1 of each year and cover the twelve
19 months preceding July 1 of that year.

20 (b) Subject to Subsection (c) of this section, the
21 report pursuant to Section 7-8B-401 NMSA 1978 to be filed by an
22 insurance company shall be filed before May 1 of each year for
23 the immediately preceding calendar year.

24 (c) Before the date for filing the report pursuant
25 to Section 7-8B-401 NMSA 1978, the holder of property presumed

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1 abandoned may request the administrator to extend the time for
2 filing. The administrator may grant an extension. If the
3 extension is granted, the holder may pay or make a partial
4 payment of the amount the holder estimates ultimately will be
5 due. The payment or partial payment terminates accrual of
6 interest on the amount paid."

7 SECTION 30. A new Section 7-8B-404 NMSA 1978 is enacted
8 to read:

9 "7-8B-404. [NEW MATERIAL] RETENTION OF RECORDS BY
10 HOLDER.--A holder required to file a report pursuant to Section
11 7-8B-401 NMSA 1978 shall retain records for ten years after the
12 later of the date the report was filed or the last date a
13 timely report was due to be filed, unless a shorter period is
14 provided by rule of the administrator. The holder may satisfy
15 the requirement to retain records pursuant to this section
16 through an agent. The records shall contain:

17 (1) the information required to be included in the
18 report;

19 (2) the date, place and nature of the circumstances
20 that gave rise to the property right;

21 (3) the amount or value of the property;

22 (4) the last address of the apparent owner, if
23 known to the holder; and

24 (5) if the holder sells, issues or provides to
25 others for sale or issue in New Mexico traveler's checks, money

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1 orders or similar instruments, other than third-party bank
2 checks, on which the holder is directly liable, a record of the
3 instruments while they remain outstanding indicating the state
4 and date of issue."

5 SECTION 31. A new Section 7-8B-405 NMSA 1978 is enacted
6 to read:

7 "7-8B-405. [NEW MATERIAL] PROPERTY REPORTABLE AND PAYABLE
8 OR DELIVERABLE ABSENT OWNER DEMAND.--Property is reportable and
9 payable or deliverable pursuant to the Revised Uniform
10 Unclaimed Property Act even if the owner fails to make demand
11 or present an instrument or document otherwise required to
12 obtain payment."

13 SECTION 32. A new Section 7-8B-406 NMSA 1978 is enacted
14 to read:

15 "7-8B-406. [NEW MATERIAL] EXERCISE OF DUE DILIGENCE--
16 LIABILITY--NOTICE.--

17 (a) Notwithstanding any other provisions of the
18 Revised Uniform Unclaimed Property Act, the holder of unclaimed
19 intangible property in the form of checks in payment of royalty
20 interests, working interests or other interests payable out of
21 oil and gas production with a value of fifty dollars (\$50.00)
22 or more who fails to exercise due diligence in attempting to
23 locate the apparent owner of such property during the running
24 of the period specified under Section 7-8B-201 NMSA 1978
25 constituting a presumption of abandonment of such intangible

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1 property is subject to payment to the owner if such property is
2 successfully claimed within the time specified by the Revised
3 Uniform Unclaimed Property Act or to the state of New Mexico
4 upon payment or delivery of the property to the administrator,
5 interest at the annual rate of interest computed as provided in
6 Subsection B of Section 7-1-67 NMSA 1978 on the value of the
7 intangible property, such interest running from the date
8 commencing after the first year in which the property remained
9 unclaimed to the date of payment or delivery.

10 (b) Proof of the exercise of due diligence to
11 locate the apparent owner shall be:

12 (1) evidence of written notice mailed to the
13 last known address of the apparent owner; and

14 (2) proof of publication of notice to the
15 apparent owner made between the end of the first year in which
16 the property remained unclaimed and the end of the third year
17 in which the property remained unclaimed. The publication of
18 the notice required by this subsection for property presumed to
19 be abandoned under the provisions of Section 7-8B-201 NMSA 1978
20 shall be made at least thirty days, but not more than ninety
21 days, prior to the due date on which the report of abandoned
22 property is required to be filed.

23 (c) Publication as required in Subsection (b) of
24 this section consists of publication in a newspaper of general
25 circulation in the county of this state in which is located the

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1 last known address of the apparent owner, or if no address is
2 listed or the address is outside the state, in a newspaper
3 published in the county in which the holder of the property has
4 the holder's principal place of business within the state. The
5 notice shall be published at least once a week for two
6 consecutive weeks and shall be entitled:

7 "NOTICE OF THE NAME OF A PERSON APPEARING TO BE THE OWNER OF
8 ABANDONED PROPERTY".

9 (d) The published notice shall contain:

10 (1) the name and last known municipality of
11 the person entitled to notice as specified in this section;

12 (2) a statement that information concerning
13 the unclaimed property may be obtained from the holder of the
14 property;

15 (3) the name and address of the holder of the
16 property; and

17 (4) a statement that if proof of claim is not
18 presented by the owner to the holder and the owner's right to
19 receive the property is not established to the holder's
20 satisfaction before the expiration of the period specified by
21 the Revised Uniform Unclaimed Property Act for the presumption
22 of abandonment, the intangible property will be placed in the
23 custody of the state of New Mexico and subject to escheat to
24 the general fund of the state.

25 (e) The provisions of this section shall not apply

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1 to the United States or any agency or instrumentality of the
2 United States or to the state of New Mexico or any agency or
3 political subdivision of the state.

4 (f) Any holder of property that has been presumed
5 to be abandoned for more than three years as of January 1, 1990
6 shall not be presumed to be negligent by the failure to publish
7 a notice in a newspaper of general circulation as required by
8 this section."

9 SECTION 33. A new Section 7-8B-501 NMSA 1978 is enacted
10 to read:

11 "7-8B-501. [NEW MATERIAL] NOTICE TO APPARENT OWNER BY
12 HOLDER.--

13 (a) Subject to Subsection (b) of this section, the
14 holder of property presumed abandoned shall send to the
15 apparent owner notice by first class United States mail that
16 complies with Section 7-8B-502 NMSA 1978 in a format acceptable
17 to the administrator not more than one hundred eighty days nor
18 less than sixty days before filing the report pursuant to
19 Section 7-8B-401 NMSA 1978 if:

20 (1) the holder has in its records an address
21 for the apparent owner that the holder's records do not
22 disclose to be invalid and is sufficient to direct the delivery
23 of first class United States mail to the apparent owner; and

24 (2) the value of the property is fifty dollars
25 (\$50.00) or more.

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1 (b) If an apparent owner has consented to receive
2 electronic mail delivery from the holder, the holder shall send
3 the notice described in Subsection (a) of this section both by
4 first class United States mail to the apparent owner's last
5 known mailing address and by electronic mail, unless the holder
6 believes that the apparent owner's electronic mail address is
7 invalid."

8 SECTION 34. A new Section 7-8B-502 NMSA 1978 is enacted
9 to read:

10 "7-8B-502. [NEW MATERIAL] CONTENTS OF NOTICE BY
11 HOLDER.--

12 (a) Notice pursuant to Section 7-8B-501 NMSA 1978
13 shall contain a heading that reads substantially as follows:
14 "Notice. The state of New Mexico requires us to notify you
15 that your property may be transferred to the custody of the New
16 Mexico unclaimed property administrator if you do not contact
17 us before (insert date that is thirty days after the date of
18 this notice).".

19 (b) The notice pursuant to Section 7-8B-501 NMSA
20 1978 shall:

21 (1) identify the nature and, except for
22 property that does not have a fixed value, the value of the
23 property that is the subject of the notice;

24 (2) state that the property will be turned
25 over to the administrator;

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1 (3) state that after the property is turned
2 over to the administrator, an apparent owner that seeks return
3 of the property shall file a claim with the administrator;

4 (4) state that property that is not legal
5 tender of the United States may be sold by the administrator;
6 and

7 (5) provide instructions that the apparent
8 owner shall follow to prevent the holder from reporting and
9 paying or delivering the property to the administrator."

10 SECTION 35. A new Section 7-8B-503 NMSA 1978 is enacted
11 to read:

12 "7-8B-503. [NEW MATERIAL] NOTICE BY ADMINISTRATOR.--

13 (a) The administrator shall give notice to an
14 apparent owner that property presumed abandoned and that
15 appears to be owned by the apparent owner is held by the
16 administrator pursuant to the Revised Uniform Unclaimed
17 Property Act.

18 (b) The administrator shall publish a notice not
19 later than November 30 of each year in which abandoned property
20 has been paid or delivered to the administrator. The notice
21 shall be published in a newspaper of general circulation in
22 each county of this state. The advertisement must be in a form
23 that, in the judgment of the administrator, is likely to
24 attract the attention of the general public. The advertisement
25 shall contain:

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1 (1) the website on which to search for
2 information about abandoned properties;

3 (2) the email address of the administrator;

4 (3) the telephone number and physical mailing
5 address of the administrator;

6 (4) a statement explaining that property of
7 the owner is presumed to be abandoned and has been taken into
8 the protective custody of the administrator; and

9 (5) a statement providing information about
10 the property and that the return to the property's owner is
11 available to a person having a legal or beneficial interest in
12 the property, upon request to the administrator.

13 (c) In addition to giving notice pursuant to
14 Subsection (b) of this section, the administrator may use other
15 printed publication, telecommunication, the internet or other
16 media to inform the public of the existence of unclaimed
17 property held by the administrator."

18 SECTION 36. A new Section 7-8B-504 NMSA 1978 is enacted
19 to read:

20 "7-8B-504. [NEW MATERIAL] COOPERATION AMONG STATE
21 OFFICERS AND AGENCIES TO LOCATE APPARENT OWNER.--Unless
22 prohibited by law of New Mexico other than the Revised Uniform
23 Unclaimed Property Act, on request of the administrator, each
24 officer, agency, board, commission, division and department of
25 New Mexico, any body politic and corporate created by this

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1 state for a public purpose and each political subdivision of
2 this state shall make its books and records available to the
3 administrator and cooperate with the administrator to determine
4 the current address of an apparent owner of property held by
5 the administrator pursuant to the Revised Uniform Unclaimed
6 Property Act."

7 SECTION 37. A new Section 7-8B-601 NMSA 1978 is enacted
8 to read:

9 "7-8B-601. [NEW MATERIAL] DEFINITION OF GOOD FAITH.--In
10 Sections 7-8B-601 through 7-8B-610 NMSA 1978, payment or
11 delivery of property is made in good faith if a holder:

12 (1) had a reasonable basis for believing, based on
13 the facts then known, that the property was required or
14 permitted to be paid or delivered to the administrator pursuant
15 to the Revised Uniform Unclaimed Property Act; or

16 (2) made payment or delivery:

17 (A) in response to a demand by the
18 administrator or administrator's agent; or

19 (B) pursuant to a guidance or ruling issued by
20 the administrator that the holder reasonably believed required
21 or permitted the property to be paid or delivered."

22 SECTION 38. A new Section 7-8B-602 NMSA 1978 is enacted
23 to read:

24 "7-8B-602. [NEW MATERIAL] DORMANCY CHARGE.--

25 (a) A holder may deduct a dormancy charge from

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1 property required to be paid or delivered to the administrator
2 if:

3 (1) a valid contract in a record between the
4 holder and the apparent owner authorizes imposition of the
5 charge for the apparent owner's failure to claim the property
6 within a specified time; and

7 (2) the holder regularly imposes the charge
8 and regularly does not reverse or otherwise cancel the charge.

9 (b) The amount of the deduction pursuant to
10 Subsection (a) of this section is limited to an amount that is
11 not unconscionable considering all relevant factors, including
12 the marginal transactional costs incurred by the holder in
13 maintaining the apparent owner's property and any services
14 received by the apparent owner."

15 SECTION 39. A new Section 7-8B-603 NMSA 1978 is enacted
16 to read:

17 "7-8B-603. [NEW MATERIAL] PAYMENT OR DELIVERY OF PROPERTY
18 TO ADMINISTRATOR.--

19 (a) Except as otherwise provided in this section,
20 on filing a report pursuant to Section 7-8B-401 NMSA 1978, the
21 holder shall pay or deliver to the administrator the property
22 described in the report.

23 (b) If property in a report pursuant to Section
24 7-8B-401 NMSA 1978 is an automatically renewable deposit and a
25 penalty or forfeiture in the payment of interest would result

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1 from paying the deposit to the administrator at the time of the
2 report, the date for payment of the property to the
3 administrator is extended until a penalty or forfeiture no
4 longer would result from payment, if the holder informs the
5 administrator of the extended date.

6 (c) Tangible property in a safe deposit box may not
7 be delivered to the administrator until one hundred twenty days
8 after filing the report pursuant to Section 7-8B-401 NMSA 1978.

9 (d) If property reported to the administrator
10 pursuant to Section 7-8B-401 NMSA 1978 is a security, the
11 administrator may:

12 (1) make an endorsement, instruction or
13 entitlement order on behalf of the apparent owner to invoke the
14 duty of the issuer, its transfer agent or the securities
15 intermediary to transfer the security; or

16 (2) dispose of the security pursuant to
17 Section 7-8B-701 NMSA 1978.

18 (e) If the holder of property reported to the
19 administrator pursuant to Section 7-8B-401 NMSA 1978 is the
20 issuer of a certificated security, the administrator may obtain
21 a replacement certificate in physical or book-entry form
22 pursuant to Section 55-8-405 NMSA 1978. An indemnity bond is
23 not required.

24 (f) The administrator shall establish procedures
25 for the registration, issuance, method of delivery, transfer

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1 and maintenance of securities delivered to the administrator by
2 a holder.

3 (g) An issuer, holder and transfer agent or other
4 person acting pursuant to this section pursuant to instructions
5 of and on behalf of the issuer or holder is not liable to the
6 apparent owner for, and shall be indemnified by the state
7 against, a claim arising with respect to property after the
8 property has been delivered to the administrator.

9 (h) A holder is not required to deliver to the
10 administrator a security identified by the holder as a
11 non-freely transferable security. If the administrator or
12 holder determines that a security is no longer a non-freely
13 transferable security, the holder shall deliver the security on
14 the next regular date prescribed for delivery of securities
15 pursuant to the Revised Uniform Unclaimed Property Act. The
16 holder shall make a determination annually whether a security
17 identified in a report filed pursuant to Section 7-8B-401 NMSA
18 1978 as a non-freely transferable security is no longer a
19 non-freely transferable security."

20 SECTION 40. A new Section 7-8B-604 NMSA 1978 is enacted
21 to read:

22 "7-8B-604. [NEW MATERIAL] EFFECT OF PAYMENT OR DELIVERY
23 OF PROPERTY TO ADMINISTRATOR.--

24 (a) On payment or delivery of property to the
25 administrator pursuant to the Revised Uniform Unclaimed

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1 Property Act, the administrator as agent for the state assumes
2 custody and responsibility for safekeeping the property. A
3 holder that pays or delivers property to the administrator in
4 good faith and substantially complies with Sections 7-8B-501
5 and 7-8B-502 NMSA 1978 is relieved of liability arising
6 thereafter with respect to payment or delivery of the property
7 to the administrator.

8 (b) New Mexico shall defend and indemnify a holder
9 against liability on a claim against the holder resulting from
10 the payment or delivery of property to the administrator made
11 in good faith and after the holder substantially complied with
12 Sections 7-8B-501 and 7-8B-502 NMSA 1978."

13 SECTION 41. A new Section 7-8B-605 NMSA 1978 is enacted
14 to read:

15 "7-8B-605. [NEW MATERIAL] RECOVERY OF PROPERTY BY HOLDER
16 FROM ADMINISTRATOR.--

17 (a) In this section, payment or delivery is made in
18 "good faith" if:

19 (1) payment or delivery was made in a
20 reasonable attempt to comply with the Revised Uniform Unclaimed
21 Property Act;

22 (2) the holder was not then in breach of a
23 fiduciary obligation with respect to the property and had a
24 reasonable basis for believing, based on the facts then known,
25 that the property was presumed abandoned; and

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1 (3) there is no showing that the records under
2 which the payment or delivery was made did not meet reasonable
3 commercial standards of practice.

4 (b) Upon payment or delivery of property to the
5 administrator, the state assumes custody and responsibility for
6 the safekeeping of the property. A holder that pays or
7 delivers property to the administrator in good faith is
8 relieved of all liability arising thereafter with respect to
9 the property.

10 (c) A holder that has paid money to the
11 administrator pursuant to the Revised Uniform Unclaimed
12 Property Act may subsequently make payment to a person
13 reasonably appearing to the holder to be entitled to payment.
14 Upon a filing by the holder of proof of payment and proof that
15 the payee was entitled to the payment, the administrator shall
16 promptly reimburse the holder for the payment without imposing
17 a fee or other charge. If reimbursement is sought for a
18 payment made on a negotiable instrument, including a traveler's
19 check or money order, the holder must be reimbursed upon filing
20 proof that the instrument was duly presented and that payment
21 was made to a person that reasonably appeared to be entitled to
22 payment. The holder must be reimbursed for payment made even
23 if the payment was made to a person whose claim was barred
24 under Subsection (a) of Section 7-8B-610 NMSA 1978.

25 (d) A holder that has delivered property other than

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1 money to the administrator pursuant to the Revised Uniform
2 Unclaimed Property Act may reclaim the property if it is still
3 in the possession of the administrator, without paying any fee
4 or other charge, upon filing proof that the apparent owner has
5 claimed the property from the holder.

6 (e) The administrator may accept a holder's
7 affidavit as sufficient proof of the holder's right to recover
8 money and property under this section.

9 (f) If a holder pays or delivers property to the
10 administrator in good faith and thereafter another person
11 claims the property from the holder or another state claims the
12 money or property under its laws relating to escheat or
13 abandoned or unclaimed property, the administrator, upon
14 written notice of the claim, shall defend the holder against
15 the claim and indemnify the holder against any liability on the
16 claim resulting from payment or delivery of the property to the
17 administrator.

18 (g) Property removed from a safe deposit box or
19 other safekeeping depository is received by the administrator
20 subject to the holder's right to be reimbursed for the cost of
21 the opening and to any valid lien or contract providing for the
22 holder to be reimbursed for unpaid rent or storage charges.
23 The administrator shall reimburse the holder out of the
24 proceeds remaining after deducting the expense incurred by the
25 administrator in selling the property."

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1 SECTION 42. A new Section 7-8B-606 NMSA 1978 is enacted
2 to read:

3 "7-8B-606. [NEW MATERIAL] PROPERTY REMOVED FROM SAFE
4 DEPOSIT BOX.--Property removed from a safe deposit box and
5 delivered to the administrator pursuant to the Revised Uniform
6 Unclaimed Property Act is subject to the holder's right to
7 reimbursement for the cost of opening the box and a lien or
8 contract providing reimbursement to the holder for unpaid rent
9 charges for the box. The administrator shall reimburse the
10 holder from the proceeds remaining after deducting the expense
11 incurred by the administrator in selling the property."

12 SECTION 43. A new Section 7-8B-607 NMSA 1978 is enacted
13 to read:

14 "7-8B-607. [NEW MATERIAL] CREDITING INCOME OR GAIN TO
15 OWNER'S ACCOUNT.--

16 (a) If property other than money is delivered to
17 the administrator, the owner is entitled to receive from the
18 administrator income or gain realized or accrued on the
19 property before the property is sold. If the property was an
20 interest-bearing demand, savings or time deposit, the
21 administrator shall pay interest at the lesser of the rate of
22 five percent or the rate the property earned while in the
23 possession of the holder. Interest begins to accrue when the
24 property is delivered to the administrator and ends on the
25 earlier of the expiration of ten years after its delivery or

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1 the date on which payment is made to the owner.

2 (b) Interest on interest-bearing property is not
3 payable pursuant to this section for any period before the
4 effective date of the Revised Uniform Unclaimed Property Act,
5 unless authorized by the Uniform Unclaimed Property Act
6 (1995)."

7 SECTION 44. A new Section 7-8B-608 NMSA 1978 is enacted
8 to read:

9 "7-8B-608. [NEW MATERIAL] ADMINISTRATOR'S OPTIONS AS TO
10 CUSTODY.--

11 (a) The administrator may decline to take custody
12 of property reported pursuant to Section 7-8B-401 NMSA 1978 if
13 the administrator determines that:

14 (1) the property has a value less than the
15 estimated expenses of notice and sale of the property; or

16 (2) taking custody of the property would be
17 unlawful.

18 (b) A holder may pay or deliver property to the
19 administrator before the property is presumed abandoned
20 pursuant to the Revised Uniform Unclaimed Property Act if the
21 holder:

22 (1) sends the apparent owner of the property
23 notice required by Section 7-8B-501 NMSA 1978 and provides the
24 administrator evidence of the holder's compliance with this
25 paragraph;

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1 (2) includes with the payment or delivery a
2 report regarding the property conforming to Section 7-8B-402
3 NMSA 1978; and

4 (3) first obtains the administrator's consent
5 in a record to accept payment or delivery.

6 (c) A holder's request for the administrator's
7 consent pursuant to Paragraph (3) of Subsection (b) of this
8 section shall be in a record. If the administrator fails to
9 respond to the request not later than thirty days after receipt
10 of the request, the administrator is deemed to consent to the
11 payment or delivery of the property and the payment or delivery
12 is considered to have been made in good faith.

13 (d) On payment or delivery of property pursuant to
14 Subsection (b) of this section, the property is presumed
15 abandoned."

16 SECTION 45. A new Section 7-8B-609 NMSA 1978 is enacted
17 to read:

18 "7-8B-609. [NEW MATERIAL] DISPOSITION OF PROPERTY HAVING
19 NO SUBSTANTIAL VALUE--IMMUNITY FROM LIABILITY.--

20 (a) If the administrator takes custody of property
21 delivered pursuant to the Revised Uniform Unclaimed Property
22 Act and later determines that the property has no substantial
23 commercial value or that the cost of disposing of the property
24 will exceed the value of the property, the administrator may
25 return the property to the holder or destroy or otherwise

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1 dispose of the property.

2 (b) An action or proceeding may not be commenced
3 against the state; an agency of the state; the administrator;
4 another officer, employee or agent of the state; or a holder
5 for or because of an act of the administrator pursuant to this
6 section, except for intentional misconduct or malfeasance."

7 SECTION 46. A new Section 7-8B-610 NMSA 1978 is enacted
8 to read:

9 "7-8B-610. [NEW MATERIAL] PERIODS OF LIMITATION AND
10 REPOSE.--

11 (a) Expiration, before, on or after the effective
12 date of the Revised Uniform Unclaimed Property Act, of a period
13 of limitation on an owner's right to receive or recover
14 property, whether specified by contract, statute or court
15 order, does not prevent the property from being presumed
16 abandoned or affect the duty of a holder pursuant to that act
17 to file a report or pay or deliver property to the
18 administrator.

19 (b) The administrator may not commence an action or
20 proceeding to enforce the Revised Uniform Unclaimed Property
21 Act with respect to the reporting, payment or delivery of
22 property more than ten years after the holder filed a
23 non-fraudulent report pursuant to Section 7-8B-401 NMSA with
24 the administrator. The parties may agree in a record to extend
25 the limitation in this subsection.

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1 (c) The administrator may not commence an action,
2 proceeding or examination with respect to a duty of a holder
3 pursuant to the Revised Uniform Unclaimed Property Act more
4 than ten years after the duty arose."

5 SECTION 47. A new Section 7-8B-701 NMSA 1978 is enacted
6 to read:

7 "7-8B-701. [NEW MATERIAL] PUBLIC SALE OF ABANDONED
8 PROPERTY.--

9 A. Except as otherwise provided in this section,
10 the administrator, within three years after the receipt of
11 abandoned property, shall sell it to the highest bidder at
12 public sale at a location in this state or by any reasonable
13 method that in the judgment of the administrator affords the
14 most favorable market for the property. The administrator may
15 decline the highest bid and re-offer the property for sale if
16 the administrator considers the bid to be insufficient. The
17 administrator need not offer the property for sale if the
18 administrator considers that the probable cost of sale will
19 exceed the proceeds of the sale. A sale held under this
20 section must be preceded by a single publication of notice at
21 least three weeks before sale in a newspaper of general
22 circulation in the county in which the property is to be sold.

23 B. Securities listed on an established stock
24 exchange must be sold at prices prevailing on the exchange at
25 the time of sale. Other securities may be sold over the

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1 counter at prices prevailing at the time of sale or by any
2 reasonable method selected by the administrator. If securities
3 are sold by the administrator before the expiration of three
4 years after their delivery to the administrator, a person
5 making a claim under the Revised Uniform Unclaimed Property Act
6 before the end of the three-year period is entitled to the
7 proceeds of the sale of the securities or the market value of
8 the securities at the time the claim is made, whichever is
9 greater, plus dividends, interest and other increments thereon
10 up to the time the claim is made, less any deduction for
11 expenses of sale. A person making a claim under the Revised
12 Uniform Unclaimed Property Act after the expiration of the
13 three-year period is entitled to receive the securities
14 delivered to the administrator by the holder, if they still
15 remain in the custody of the administrator, or the net proceeds
16 received from sale and is not entitled to receive any
17 appreciation in the value of the property occurring after
18 delivery to the administrator except in a case of intentional
19 misconduct or malfeasance by the administrator.

20 C. A purchaser of property at a sale conducted by
21 the administrator pursuant to the Revised Uniform Unclaimed
22 Property Act takes the property free of all claims of the owner
23 or previous holder and of all persons claiming through or under
24 them. The administrator shall execute all documents necessary
25 to complete the transfer of ownership."

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1 SECTION 48. A new Section 7-8B-702 NMSA 1978 is enacted
2 to read:

3 "7-8B-702. [NEW MATERIAL] PURCHASER OWNS PROPERTY AFTER
4 SALE.--A purchaser of property at a sale conducted by the
5 administrator pursuant to the Revised Uniform Unclaimed
6 Property Act takes the property free of all claims of the
7 owner, a previous holder or a person claiming through the owner
8 or holder. The administrator shall execute documents necessary
9 to complete the transfer of ownership to the purchaser."

10 SECTION 49. A new Section 7-8B-703 NMSA 1978 is enacted
11 to read:

12 "7-8B-703. [NEW MATERIAL] MILITARY MEDAL OR DECORATION.--

13 (a) The administrator may not sell a medal or
14 decoration awarded for military service in the armed forces of
15 the United States.

16 (b) The administrator, with the consent of the
17 respective organization pursuant to Paragraph (1) of this
18 subsection, agency under Paragraph (2) of this subsection or
19 entity under Paragraph (3) of this subsection, may deliver a
20 medal or decoration described in Subsection (a) of this section
21 to be held in custody for the owner, to:

22 (1) a military veterans organization qualified
23 under Paragraph (19) of Subsection (c) of Section 501 of the
24 federal Internal Revenue Code of 1986, as amended;

25 (2) the agency that awarded the medal or

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1 decoration; or

2 (3) a governmental entity.

3 (c) On delivery pursuant to Subsection (b) of this
4 section, the administrator is not responsible for safekeeping
5 the medal or decoration."

6 SECTION 50. A new Section 7-8B-801 NMSA 1978 is enacted
7 to read:

8 "7-8B-801. [NEW MATERIAL] DEPOSIT OF FUNDS BY
9 ADMINISTRATOR.--Except as otherwise provided by this section,
10 the administrator shall promptly deposit in the tax
11 administration suspense fund for distribution pursuant to the
12 provisions of the Tax Administration Act all money received
13 under the Revised Uniform Unclaimed Property Act, including the
14 proceeds from the sale of abandoned property under Section
15 7-8B-701 NMSA 1978. The administrator shall retain in the
16 unclaimed property fund at least one hundred thousand dollars
17 (\$100,000) for the purposes of the Revised Uniform Unclaimed
18 Property Act, from which the administrator shall pay claims
19 duly allowed. The administrator shall record the name and last
20 known address of each person appearing from the holders'
21 reports to be entitled to the property and the name and last
22 known address of each insured person or annuitant and
23 beneficiary and with respect to each policy or annuity listed
24 in the report of an insurance company, its number, the name of
25 the company and the amount due."

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1 SECTION 51. A new Section 7-8B-802 NMSA 1978 is enacted
2 to read:

3 "7-8B-802. [NEW MATERIAL] ADMINISTRATOR TO RETAIN RECORDS
4 OF PROPERTY.--The administrator shall:

5 (1) record and retain the name and last known
6 address of each person shown on a report filed pursuant to
7 Section 7-8B-401 NMSA 1978 to be the apparent owner of property
8 delivered to the administrator;

9 (2) record and retain the name and last known
10 address of each insured or annuitant and beneficiary shown on
11 the report;

12 (3) for each policy of insurance or annuity
13 contract listed in the report of an insurance company, record
14 and retain the policy or account number, the name of the
15 company and the amount due or paid; and

16 (4) for each apparent owner listed in the report,
17 record and retain the name of the holder that filed the report
18 and the amount due or paid."

19 SECTION 52. A new Section 7-8B-803 NMSA 1978 is enacted
20 to read:

21 "7-8B-803. [NEW MATERIAL] EXPENSES AND SERVICE CHARGES OF
22 ADMINISTRATOR.--Before making a deposit of funds received
23 pursuant to the Revised Uniform Unclaimed Property Act to the
24 tax administration suspense fund, the administrator may deduct:

25 (1) expenses of disposition of property delivered

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1 to the administrator pursuant to the Revised Uniform Unclaimed
2 Property Act;

3 (2) costs of mailing and publication in connection
4 with property delivered to the administrator pursuant to the
5 Revised Uniform Unclaimed Property Act;

6 (3) reasonable service charges; and

7 (4) expenses incurred in examining records of or
8 collecting property from a putative holder or holder."

9 SECTION 53. A new Section 7-8B-804 NMSA 1978 is enacted
10 to read:

11 "7-8B-804. [NEW MATERIAL] ADMINISTRATOR HOLDS PROPERTY AS
12 CUSTODIAN FOR OWNER.--Property received by the administrator
13 pursuant to the Revised Uniform Unclaimed Property Act is held
14 in custody for the benefit of the owner and is not owned by New
15 Mexico."

16 SECTION 54. A new Section 7-8B-901 NMSA 1978 is enacted
17 to read:

18 "7-8B-901. [NEW MATERIAL] CLAIM OF ANOTHER STATE TO
19 RECOVER PROPERTY.--

20 (a) If the administrator knows that property held
21 by the administrator pursuant to the Revised Uniform Unclaimed
22 Property Act is subject to a superior claim of another state,
23 the administrator shall:

24 (1) report and pay or deliver the property to
25 the other state; or

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1 (2) return the property to the holder so that
2 the holder may pay or deliver the property to the other state.

3 (b) The administrator is not required to enter into
4 an agreement to transfer property to the other state pursuant
5 to Subsection (a) of this section."

6 SECTION 55. A new Section 7-8B-902 NMSA 1978 is enacted
7 to read:

8 "7-8B-902. [NEW MATERIAL] WHEN PROPERTY SUBJECT TO
9 RECOVERY BY ANOTHER STATE.--

10 (a) Property held pursuant to the Revised Uniform
11 Unclaimed Property Act by the administrator is subject to the
12 right of another state to take custody of the property if:

13 (1) the property was paid or delivered to the
14 administrator because the records of the holder did not reflect
15 a last known address in the other state of the apparent owner
16 and:

17 (A) the other state establishes that the
18 last known address of the apparent owner or other person
19 entitled to the property was in the other state; or

20 (B) pursuant to the law of the other
21 state, the property has become subject to a claim by the other
22 state of abandonment;

23 (2) the records of the holder did not
24 accurately identify the owner of the property, the last known
25 address of the owner was in another state and, pursuant to the

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1 law of the other state, the property has become subject to a
2 claim by the other state of abandonment;

3 (3) the property was subject to the custody of
4 the administrator of this state pursuant to Section 7-8B-305
5 NMSA 1978 and, pursuant to the law of the state of domicile of
6 the holder, the property has become subject to a claim by the
7 state of domicile of the holder of abandonment; or

8 (4) the property:

9 (A) is a sum payable on a traveler's
10 check, money order or similar instrument that was purchased in
11 the other state and delivered to the administrator pursuant to
12 Section 7-8B-306 NMSA 1978; and

13 (B) pursuant to the law of the other
14 state, has become subject to a claim by the other state of
15 abandonment.

16 (b) A claim by another state to recover property
17 pursuant to this section shall be presented in a form
18 prescribed by the administrator, unless the administrator
19 waives presentation of the form.

20 (c) The administrator shall decide a claim pursuant
21 to this section not later than ninety days after it is
22 presented. If the administrator determines that the other
23 state is entitled pursuant to Subsection (a) of this section to
24 custody of the property, the administrator shall allow the
25 claim and pay or deliver the property to the other state.

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1 (d) The administrator may require another state,
2 before recovering property pursuant to this section, to agree
3 to indemnify New Mexico and its agents, officers and employees
4 against any liability on a claim to the property."

5 SECTION 56. A new Section 7-8B-903 NMSA 1978 is enacted
6 to read:

7 "7-8B-903. [NEW MATERIAL] CLAIM FOR PROPERTY BY PERSON
8 CLAIMING TO BE OWNER.--

9 (a) A person claiming to be the owner of property
10 held pursuant to the Revised Uniform Unclaimed Property Act by
11 the administrator may file a claim for the property on a form
12 prescribed by the administrator. The claimant shall verify the
13 claim as to its completeness and accuracy.

14 (b) The administrator may waive the requirement in
15 Subsection (a) of this section and may pay or deliver property
16 directly to a person if:

17 (1) the person receiving the property or
18 payment is shown to be the apparent owner included on a report
19 filed pursuant to Section 7-8B-401 NMSA 1978;

20 (2) the administrator reasonably believes the
21 person is entitled to receive the property or payment; and

22 (3) the property has a value of less than two
23 hundred fifty dollars (\$250)."

24 SECTION 57. A new Section 7-8B-904 NMSA 1978 is enacted
25 to read:

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1 "7-8B-904. [NEW MATERIAL] WHEN ADMINISTRATOR MUST HONOR
2 CLAIM FOR PROPERTY.--

3 (a) The administrator shall pay or deliver property
4 to a claimant pursuant to Subsection (a) of Section 7-8B-903
5 NMSA 1978 if the administrator receives evidence sufficient to
6 establish to the satisfaction of the administrator that the
7 claimant is the owner of the property.

8 (b) Not later than ninety days after a claim is
9 filed pursuant to Subsection (a) of Section 7-8B-903 NMSA 1978,
10 the administrator shall allow or deny the claim and give the
11 claimant notice in a record of the decision.

12 (c) If the claim is denied pursuant to Subsection
13 (b) of this section:

14 (1) the administrator shall inform the
15 claimant of the reason for the denial and specify what
16 additional evidence, if any, is required for the claim to be
17 allowed;

18 (2) the claimant may file an amended claim
19 with the administrator or commence an action pursuant to
20 Section 7-8B-906 NMSA 1978; and

21 (3) the administrator shall consider an
22 amended claim filed pursuant to Paragraph (2) of this
23 subsection as an initial claim.

24 (d) If the administrator does not take action on a
25 claim during the ninety-day period following the filing of a

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1 claim pursuant to Subsection (a) of Section 7-8B-903 NMSA 1978,
2 the claim is deemed denied."

3 SECTION 58. A new Section 7-8B-905 NMSA 1978 is enacted
4 to read:

5 "7-8B-905. [NEW MATERIAL] ALLOWANCE OF CLAIM FOR
6 PROPERTY.--

7 (a) Not later than thirty days after a claim is
8 allowed pursuant to Subsection (b) of Section 7-8B-904 NMSA
9 1978, the administrator shall pay or deliver to the owner the
10 property or pay to the owner the net proceeds of a sale of the
11 property, together with income or gain to which the owner is
12 entitled pursuant to Section 7-8B-607 NMSA 1978. On request of
13 the owner, the administrator may sell or liquidate a security
14 and pay the net proceeds to the owner, even if the security had
15 been held by the administrator for less than three years or the
16 administrator has not complied with the notice requirements
17 pursuant to Section 7-8B-701 NMSA 1978.

18 (b) Property held pursuant to the Revised Uniform
19 Unclaimed Property Act by the administrator is subject to a
20 claim for the payment of an enforceable debt the owner owes in
21 this state for:

22 (1) child support arrearages, including child
23 support collection costs and child support arrearages that are
24 combined with maintenance;

25 (2) a civil or criminal fine or penalty, court

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1 costs, a surcharge or restitution imposed by a final court
2 judgment; or

3 (3) state taxes, penalties and interest that
4 have been determined to be delinquent.

5 (c) Before delivery or payment to an owner pursuant
6 to Subsection (a) of this section of property or payment to the
7 owner of net proceeds of a sale of the property, the
8 administrator first shall apply the property or net proceeds to
9 a debt pursuant to Subsection (b) of this section that the
10 administrator determines is owed by the owner. The
11 administrator shall pay the amount to the appropriate state
12 agency and notify the owner of the payment.

13 (d) The administrator may make periodic inquiries
14 of state agencies in the absence of a claim filed pursuant to
15 Section 7-8B-903 NMSA 1978 to determine whether an apparent
16 owner included in the unclaimed property records of this state
17 have enforceable debts described in Subsection (b) of this
18 section. The administrator first shall apply the property or
19 net proceeds of a sale of property held by the administrator to
20 a debt pursuant to Subsection (b) of this section of an
21 apparent owner that appears in the records of the administrator
22 and deliver the amount to the appropriate state agency. The
23 administrator shall notify the apparent owner of the payment."

24 **SECTION 59.** A new Section 7-8B-906 NMSA 1978 is enacted
25 to read:

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1 "7-8B-906. [NEW MATERIAL] APPEAL--ACTION TO ESTABLISH
2 CLAIM.--

3 (a) A person aggrieved by a decision of the
4 administrator may file an appeal pursuant to the provisions of
5 Section 39-3-1.1 NMSA 1978.

6 (b) A person whose claim has not been acted upon
7 within ninety days after its filing may maintain an original
8 action to establish the claim in the district court for the
9 first judicial district, naming the administrator as a
10 defendant.

11 (c) If the aggrieved person establishes the claim
12 in an action against the administrator, the court may award the
13 claimant reasonable attorney fees."

14 SECTION 60. A new Section 7-8B-1001 NMSA 1978 is enacted
15 to read:

16 "7-8B-1001. [NEW MATERIAL] VERIFIED REPORT OF
17 PROPERTY.--If a person does not file a report required by
18 Section 7-8B-401 NMSA 1978 or the administrator believes that a
19 person may have filed an inaccurate, incomplete or false
20 report, the administrator may require the person to file a
21 verified report in a form prescribed by the administrator. The
22 verified report shall:

23 (1) state whether the person is holding property
24 reportable pursuant to the Revised Uniform Unclaimed Property
25 Act;

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1 (2) describe property not previously reported or
2 about which the administrator has inquired;

3 (3) specifically identify property described
4 pursuant to Paragraph (2) of this subsection about which there
5 is a dispute whether it is reportable pursuant to the Revised
6 Uniform Unclaimed Property Act; and

7 (4) state the amount or value of the property."

8 SECTION 61. A new Section 7-8B-1002 NMSA 1978 is enacted
9 to read:

10 "7-8B-1002. [NEW MATERIAL] EXAMINATION OF RECORDS TO
11 DETERMINE COMPLIANCE.--The administrator, at reasonable times
12 and on reasonable notice, may:

13 (1) examine the records of a person, including
14 examination of appropriate records in the possession of an
15 agent of the person under examination, if the records are
16 reasonably necessary to determine whether the person has
17 complied with the Revised Uniform Unclaimed Property Act;

18 (2) issue an administrative subpoena requiring the
19 person or agent of the person to make records available for
20 examination; and

21 (3) bring an action seeking judicial enforcement of
22 the subpoena."

23 SECTION 62. A new Section 7-8B-1002.1 NMSA 1978 is
24 enacted to read:

25 "7-8B-1002.1. [NEW MATERIAL] EXAMINATION OF FEDERALLY

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1 INSURED, STATE-REGULATED FINANCIAL ORGANIZATIONS.--

2 (a) Notwithstanding the provisions of Section
3 7-8B-1002 NMSA 1978, for any financial organization whose
4 deposits are federally insured and for which the financial
5 institutions division of the regulation and licensing
6 department is the primary regulator, the administrator may
7 request that the financial institutions division examine that
8 financial organization if the administrator has consulted with
9 the director of the financial institutions division and the
10 division has not conducted an examination of the financial
11 organization for compliance with the Revised Uniform Unclaimed
12 Property Act within the past five years.

13 (b) Notwithstanding Subsection (a) of this section,
14 the administrator may, at reasonable times and upon reasonable
15 notice:

16 (1) request that the financial institutions
17 division of the regulation and licensing department examine the
18 records of a financial organization whose deposits are
19 federally insured and for which the financial institutions
20 division is the primary regulator, if the administrator has
21 reasonable grounds to believe that the financial organization
22 has failed to comply with the Revised Uniform Unclaimed
23 Property Act; and

24 (2) adopt rules that describe conditions under
25 which the administrator may have reason to believe that a

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1 financial institution is not in compliance with the Revised
2 Uniform Unclaimed Property Act.

3 (c) An examination pursuant to Subsection (a) or
4 (b) of this section shall be governed by Sections 7-8B-1001
5 through 7-8B-1104 NMSA 1978.

6 (d) Nothing in this section shall be construed to
7 limit the authority of the financial institutions division to
8 examine financial organizations."

9 SECTION 63. A new Section 7-8B-1003 NMSA 1978 is enacted
10 to read:

11 "7-8B-1003. [NEW MATERIAL] RULES FOR CONDUCTING
12 EXAMINATION.--

13 (a) The administrator shall adopt rules governing
14 procedures and standards for an examination pursuant to Section
15 7-8B-1002 or 7-8B-1002.1 NMSA 1978, including rules based on
16 national standards, which may reference any standards
17 promulgated by the national association of unclaimed property
18 administrators.

19 (b) An examination pursuant to Section 7-8B-1002
20 NMSA 1978 shall be performed pursuant to rules adopted pursuant
21 to Subsection (a) of this section and with generally accepted
22 examination practices and standards applicable to an unclaimed
23 property examination.

24 (c) If a person subject to examination pursuant to
25 Section 7-8B-1002 NMSA 1978 has filed the reports required

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1 pursuant to Section 7-8B-401 NMSA 1978 and Section 7-8B-1001
2 NMSA 1978 and has retained the records required by Section
3 7-8B-404 NMSA 1978, the following rules apply:

4 (1) the examination shall include a review of
5 the person's records;

6 (2) the examination may not be based on an
7 estimate unless the person expressly consents in a record to
8 the use of an estimate; and

9 (3) the person conducting the examination
10 shall consider the evidence presented in good faith by the
11 person subject to the examination in preparing the findings of
12 the examination pursuant to Section 7-8B-1007 NMSA 1978."

13 SECTION 64. A new Section 7-8B-1004 NMSA 1978 is enacted
14 to read:

15 "7-8B-1004. [NEW MATERIAL] RECORDS OBTAINED IN
16 EXAMINATION.--Records obtained and records, including work
17 papers, compiled by the administrator in the course of
18 conducting an examination pursuant to Section 7-8B-1002 or
19 7-8B-1002.1 NMSA 1978 or received from the financial
20 institutions division of the regulation and licensing
21 department pursuant to Section 7-8B-1002.1 NMSA 1978:

22 (1) are subject to the confidentiality and security
23 provisions of Sections 7-8B-1401 through 7-8B-1408 NMSA 1978
24 and are exempt from disclosure pursuant to the Inspection of
25 Public Records Act;

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1 (2) may be used by the administrator in an action
2 to collect property or otherwise enforce the Revised Uniform
3 Unclaimed Property Act;

4 (3) may be used in a joint examination conducted
5 with another state, the United States, a foreign country or
6 subordinate unit of a foreign country or any other governmental
7 entity if the governmental entity conducting the examination is
8 legally bound to maintain the confidentiality and security of
9 information obtained from a person subject to examination in a
10 manner substantially equivalent to Sections 7-8B-1401 through
11 7-8B-1408 NMSA 1978;

12 (4) shall be disclosed, on request, to the person
13 that administers the unclaimed property law of another state
14 for that state's use in circumstances equivalent to
15 circumstances described in Sections 7-8B-1001 through 7-8B-1012
16 NMSA 1978, if the other state is required to maintain the
17 confidentiality and security of information obtained in a
18 manner substantially equivalent to Sections 7-8B-1401 through
19 7-8B-1408 NMSA 1978;

20 (5) shall be produced by the administrator pursuant
21 to an administrative or judicial subpoena or administrative or
22 court order; and

23 (6) shall be produced by the administrator on
24 request of the person subject to the examination in an
25 administrative or judicial proceeding relating to the

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1 property."

2 SECTION 65. A new Section 7-8B-1005 NMSA 1978 is enacted
3 to read:

4 "7-8B-1005. [NEW MATERIAL] EVIDENCE OF UNPAID DEBT OR
5 UNDISCHARGED OBLIGATION.--

6 (a) A record of a putative holder showing an unpaid
7 debt or undischarged obligation is prima facie evidence of the
8 debt or obligation.

9 (b) A putative holder may establish by a
10 preponderance of the evidence that there is no unpaid debt or
11 undischarged obligation for a debt or obligation described in
12 Subsection (a) of this section or that the debt or obligation
13 was not, or no longer is, a fixed and certain obligation of the
14 putative holder.

15 (c) A putative holder may overcome prima facie
16 evidence pursuant to Subsection (a) of this section by
17 establishing by a preponderance of the evidence that a check,
18 draft or similar instrument was:

19 (1) issued as an unaccepted offer in
20 settlement of an unliquidated amount;

21 (2) issued but later was replaced with another
22 instrument because the earlier instrument was lost or contained
23 an error that was corrected;

24 (3) issued to a party affiliated with the
25 issuer;

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- 1 (4) paid, satisfied or discharged;
2 (5) issued in error;
3 (6) issued without consideration;
4 (7) issued but there was a failure of
5 consideration;

6 (8) voided not later than ninety days after
7 issuance for a valid business reason set forth in a
8 contemporaneous record; or

9 (9) issued but not delivered to the
10 third-party payee for a sufficient reason recorded within a
11 reasonable time after issuance.

12 (d) In asserting a defense pursuant to this
13 section, a putative holder may present evidence of a course of
14 dealing between the putative holder and the apparent owner or
15 of custom and practice."

16 SECTION 66. A new Section 7-8B-1006 NMSA 1978 is enacted
17 to read:

18 "7-8B-1006. [NEW MATERIAL] FAILURE OF PERSON EXAMINED TO
19 RETAIN RECORDS.--If a person subject to examination pursuant to
20 Section 7-8B-1002 NMSA 1978 does not retain the records
21 required by Section 7-8B-404 NMSA 1978, the administrator may
22 determine the value of property due using a reasonable method
23 of estimation based on all information available to the
24 administrator, including extrapolation and use of statistical
25 sampling when appropriate and necessary, consistent with

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1 examination procedures and standards adopted pursuant to
2 Subsection (a) of Section 7-8B-1003 NMSA 1978 and in accordance
3 with Subsection (b) of Section 7-8B-1003 NMSA 1978."

4 SECTION 67. A new Section 7-8B-1007 NMSA 1978 is enacted
5 to read:

6 "7-8B-1007. [NEW MATERIAL] REPORT TO PERSON WHOSE
7 RECORDS WERE EXAMINED.--At the conclusion of an examination
8 pursuant to Section 7-8B-1002 NMSA 1978, the administrator
9 shall provide to the person whose records were examined a
10 complete and unredacted examination report that specifies:

- 11 (1) the work performed;
- 12 (2) the property types reviewed;
- 13 (3) the methodology of any estimation technique,
14 extrapolation or statistical sampling used in conducting the
15 examination;
- 16 (4) each calculation showing the value of property
17 determined to be due; and
- 18 (5) the findings of the person conducting the
19 examination."

20 SECTION 68. A new Section 7-8B-1008 NMSA 1978 is enacted
21 to read:

22 "7-8B-1008. [NEW MATERIAL] COMPLAINT TO ADMINISTRATOR
23 ABOUT CONDUCT OF PERSON CONDUCTING EXAMINATION.--

24 (a) If a person subject to examination under
25 Section 7-8B-1002 NMSA 1978 believes the person conducting the

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1 examination has made an unreasonable or unauthorized request or
2 is not proceeding expeditiously to complete the examination,
3 the person in a record may request an informal conference with
4 the administrator.

5 (b) If a person in a record requests an informal
6 conference with the administrator, the administrator shall hold
7 the informal conference not later than thirty days after
8 receiving the request. For good cause, and after notice in a
9 record to the person requesting an informal conference, the
10 administrator may extend the time for the holding of an
11 informal conference. The administrator may hold the informal
12 conference in person, by telephone or by electronic means.

13 (c) If an informal conference is held under
14 Subsection (b) of this section not later than thirty days after
15 the conference ends, the administrator shall provide a response
16 to the person that requested the conference.

17 (d) The administrator may deny a request for an
18 informal conference under this section if the administrator
19 reasonably believes that the request was made in bad faith or
20 primarily to delay the examination. If the administrator
21 denies a request for an informal conference, the denial shall
22 be in a record provided to the person requesting the informal
23 conference."

24 SECTION 69. A new Section 7-8B-1009 NMSA 1978 is enacted
25 to read:

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1 "7-8B-1009. [NEW MATERIAL] ADMINISTRATOR'S CONTRACT WITH
2 ANOTHER TO CONDUCT EXAMINATION.--

3 (a) In this section:

4 (1) "administrator" means the secretary of
5 taxation and revenue or any employee of the taxation and
6 revenue department who exercises authority lawfully delegated
7 to that employee by the secretary; and

8 (2) "related to the administrator" refers to
9 an individual who is:

10 A. the administrator's spouse, partner
11 in a civil union, domestic partner or reciprocal beneficiary;

12 B. the administrator's child, stepchild,
13 grandchild, parent, stepparent, sibling, step-sibling, half-
14 sibling, aunt, uncle, niece or nephew;

15 C. a spouse, partner in a civil union,
16 domestic partner or reciprocal beneficiary of an individual
17 pursuant to Subparagraph B of this paragraph; or

18 D. any individual residing in the
19 administrator's household.

20 (b) The administrator may contract with a person to
21 conduct an examination pursuant to Sections 7-8B-1001 through
22 7-8B-1012 NMSA 1978.

23 (c) If the person with which the administrator
24 contracts pursuant to Subsection (b) of this section is:

25 (1) an individual, the individual may not be

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1 related to the administrator; or

2 (2) a business entity, the entity may not be
3 owned in whole or in part by the administrator or an individual
4 related to the administrator.

5 (d) If the administrator contracts with a person
6 pursuant to Subsection (b) of this section:

7 (1) the contract may provide for compensation
8 of the person based on a fixed fee, hourly fee or contingent
9 fee;

10 (2) a contingent fee arrangement may not
11 provide for a payment that exceeds eleven percent of the amount
12 or value of property paid or delivered as a result of the
13 examination; and

14 (3) on request by a person subject to
15 examination by a contractor, the administrator shall deliver to
16 the person a complete and unredacted copy of the contract and
17 any contract between the contractor and a person employed or
18 engaged by the contractor to conduct the examination.

19 (e) A contract pursuant to Subsection (b) of this
20 section is subject to public disclosure without redaction
21 pursuant to the Inspection of Public Records Act."

22 SECTION 70. A new Section 7-8B-1010 NMSA 1978 is enacted
23 to read:

24 "7-8B-1010. [NEW MATERIAL] LIMIT ON FUTURE EMPLOYMENT.--
25 Except as otherwise provided in the Governmental Conduct Act,

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1 the administrator or an individual employed by the
2 administrator who participates in, recommends or approves the
3 award of a contract pursuant to Subsection (b) of Section
4 7-8B-1009 NMSA 1978 on or after the effective date of the
5 Revised Uniform Unclaimed Property Act may not be employed by,
6 contracted with or compensated in any capacity by the
7 contractor or an affiliate of the contractor for two years
8 after the latest of participation in, recommendation of or
9 approval of the award or conclusion of the contract."

10 SECTION 71. A new Section 7-8B-1011 NMSA 1978 is enacted
11 to read:

12 "7-8B-1011. [NEW MATERIAL] REPORT BY ADMINISTRATOR TO
13 STATE OFFICIAL.--

14 (a) Not later than three months after the end of
15 the fiscal year, the administrator shall compile and submit a
16 report to the governor, state treasurer and library at the
17 legislative council service. The report shall contain the
18 following information about property presumed abandoned for the
19 preceding fiscal year for the state:

20 (1) the total amount and value of all property
21 paid or delivered pursuant to the Revised Uniform Unclaimed
22 Property Act to the administrator, separated into:

23 (A) the part voluntarily paid or
24 delivered; and

25 (B) the part paid or delivered as a

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1 result of an examination pursuant to Section 7-8B-1002 NMSA
2 1978, separated into the part recovered as a result of an
3 examination conducted by:

4 (i) a state employee; and

5 (ii) a contractor pursuant to

6 Section 7-8B-1009 NMSA 1978;

7 (2) the name of and amount paid to each
8 contractor pursuant to Section 7-8B-1009 NMSA 1978 and the
9 percentage the total compensation paid to all contractors
10 pursuant to that section bears to the total amount paid or
11 delivered to the administrator as a result of all examinations
12 performed pursuant to that section;

13 (3) the total amount and value of all property
14 paid or delivered by the administrator to persons that made
15 claims for property held by the administrator pursuant to the
16 Revised Uniform Unclaimed Property Act and the percentage the
17 total payments made and value of property delivered to
18 claimants bears to the total amounts paid and value delivered
19 to the administrator;

20 (4) the total amount of claims made by persons
21 claiming to be owners that:

22 (A) were denied;

23 (B) were allowed; and

24 (C) are pending; and

25 (5) the total amount deposited into the tax

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1 administration suspense fund pursuant to Section 7-8B-801 NMSA
2 1978.

3 (b) The report pursuant to Subsection (a) of this
4 section is a public record subject to public disclosure without
5 redaction pursuant to the Inspection of Public Records Act."

6 SECTION 72. A new Section 7-8B-1012 NMSA 1978 is enacted
7 to read:

8 "7-8B-1012. [NEW MATERIAL] DETERMINATION OF LIABILITY
9 FOR UNREPORTED REPORTABLE PROPERTY.--If the administrator
10 determines from an examination conducted pursuant to Section
11 7-8B-1002 NMSA 1978 that a putative holder failed or refused to
12 pay or deliver to the administrator property that is reportable
13 pursuant to the Revised Uniform Unclaimed Property Act, the
14 administrator shall issue a determination of the putative
15 holder's liability to pay or deliver and give notice in a
16 record to the putative holder of the determination."

17 SECTION 73. A new Section 7-8B-1101 NMSA 1978 is enacted
18 to read:

19 "7-8B-1101. [NEW MATERIAL] INFORMAL CONFERENCE.--

20 (a) Not later than thirty days after receipt of a
21 notice pursuant to Section 7-8B-1012 NMSA 1978, the putative
22 holder may request an informal conference with the
23 administrator to review the determination. Except as otherwise
24 provided in this section, the administrator may designate an
25 employee to act on behalf of the administrator.

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1 (b) If a putative holder makes a timely request
2 pursuant to Subsection (a) of this section for an informal
3 conference:

4 (1) not later than thirty days after the date
5 of the request, the administrator shall set the time and place
6 of the conference;

7 (2) the administrator shall give the putative
8 holder notice in a record of the time and place of the
9 conference;

10 (3) the conference may be held in person, by
11 telephone or by electronic means, as determined by the
12 administrator;

13 (4) the request tolls the ninety day period
14 pursuant to Sections 7-8B-1103 and 7-8B-1104 NMSA 1978 until
15 notice of a decision pursuant to Paragraph (7) of this
16 subsection has been given to the putative holder or the
17 putative holder withdraws the request for the conference;

18 (5) the conference may be postponed, adjourned
19 and reconvened as the administrator determines appropriate;

20 (6) the administrator or administrator's
21 designee with the approval of the administrator may modify a
22 determination made pursuant to Section 7-8B-1012 NMSA 1978 or
23 withdraw the determination; and

24 (7) the administrator shall issue a decision
25 in a record and provide a copy of the record to the putative

1 holder and examiner not later than thirty days after the
2 conference ends.

3 (c) A decision pursuant to Paragraph (7) of
4 Subsection (b) of this section is not a final decision subject
5 to Section 39-3-1.1 NMSA 1978. A conference pursuant to
6 Subsection (b) of this section is not a hearing on the matter
7 subject to Section 39-3-1.1 NMSA 1978. An oath is not required
8 and rules of evidence do not apply in the conference.

9 (d) At a conference pursuant to Subsection (b) of
10 this section, the putative holder shall be given an opportunity
11 to confer informally with the administrator and the person that
12 examined the records of the putative holder to:

13 (1) discuss the determination made pursuant to
14 Section 7-8B-1012 NMSA 1978; and

15 (2) present any issue concerning the validity
16 of the determination.

17 (e) If the administrator fails to act within the
18 period prescribed in Paragraph (1) or (7) of Subsection (b) of
19 this section, the failure does not affect a right of the
20 administrator, except that interest does not accrue on the
21 amount for which the putative holder was determined to be
22 liable pursuant to Section 7-8B-1012 NMSA 1978 during the
23 period in which the administrator failed to act until the
24 earlier of:

25 (1) the date pursuant to Section 7-8B-1103

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1 NMSA 1978 the putative holder initiates administrative review
2 or files an action pursuant to Section 7-8B-1104 NMSA 1978; or

3 (2) ninety days after the putative holder
4 received notice of the administrator's determination pursuant
5 to Section 7-8B-1012 NMSA 1978 if no review was initiated
6 pursuant to Section 7-8B-1103 NMSA 1978 and no action was filed
7 pursuant to Section 7-8B-1104 NMSA 1978.

8 (f) The administrator may hold an informal
9 conference with a putative holder about a determination
10 pursuant to Section 7-8B-1012 NMSA 1978 without a request at
11 any time before the putative holder initiates administrative
12 review pursuant to Section 7-8B-1103 NMSA 1978 or files an
13 action pursuant to Section 7-8B-1104 NMSA 1978.

14 (g) Interest and penalties pursuant to Section
15 7-8B-1204 NMSA 1978 continue to accrue on property not
16 reported, paid or delivered as required by the Revised Uniform
17 Unclaimed Property Act after the initiation, and during the
18 pendency, of an informal conference pursuant to this section."

19 SECTION 74. A new Section 7-8B-1102 NMSA 1978 is enacted
20 to read:

21 "7-8B-1102. [NEW MATERIAL] REVIEW OF ADMINISTRATOR'S
22 DETERMINATION.--A putative holder may seek relief from a
23 determination pursuant to Section 7-8B-1012 NMSA 1978 by filing
24 a claim with the administrator pursuant to Section 7-8B-1103
25 NMSA 1978."

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1 SECTION 75. A new Section 7-8B-1103 NMSA 1978 is enacted
2 to read:

3 "7-8B-1103. [NEW MATERIAL] ADMINISTRATIVE REVIEW.--

4 (a) Not later than ninety days after receiving
5 notice of the administrator's determination pursuant to Section
6 7-8B-1012 NMSA 1978, a putative holder may file a claim on a
7 form prescribed by the administrator and verified by the
8 putative holder for review of the administrator's
9 determination.

10 (b) Within ninety days after a claim is filed, the
11 administrator shall allow or deny the claim and give written
12 notice of the decision to the putative holder. If the claim is
13 denied, the administrator shall inform the putative holder of
14 the reasons for the denial and specify what additional evidence
15 is required before the claim will be allowed. The putative
16 holder may then file a new claim with the administrator or
17 maintain an action under Section 7-8B-906 NMSA 1978."

18 SECTION 76. A new Section 7-8B-1104 NMSA 1978 is enacted
19 to read:

20 "7-8B-1104. [NEW MATERIAL] APPEAL--ACTION TO ESTABLISH
21 CLAIM.--

22 (a) A claimant aggrieved by a decision of the
23 administrator may file an appeal pursuant to the provisions of
24 Section 39-3-1.1 NMSA 1978.

25 (b) A claimant whose claim has not been acted upon

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1 within ninety days after its filing may maintain an original
2 action to establish the claim in the district court for the
3 first judicial district, naming the administrator as a
4 defendant.

5 (c) If the putative holder establishes the claim in
6 an action against the administrator, the court may award the
7 claimant reasonable attorney fees."

8 SECTION 77. A new Section 7-8B-1201 NMSA 1978 is enacted
9 to read:

10 "7-8B-1201. [NEW MATERIAL] JUDICIAL ACTION TO ENFORCE
11 LIABILITY.--

12 (a) If a determination pursuant to Section
13 7-8B-1012 NMSA 1978 becomes final and is not subject to
14 administrative or judicial review, the administrator may
15 commence an action in the district or in an appropriate court
16 of another state to enforce the determination and secure
17 payment or delivery of past due, unpaid or undelivered
18 property.

19 (b) In an action pursuant to Subsection (a) of this
20 section, if no court in New Mexico has jurisdiction over the
21 defendant, the administrator may commence an action in any
22 court having jurisdiction over the defendant."

23 SECTION 78. A new Section 7-8B-1202 NMSA 1978 is enacted
24 to read:

25 "7-8B-1202. [NEW MATERIAL] INTERSTATE AND INTERNATIONAL
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1 AGREEMENT--COOPERATION.--

2 (a) Subject to Subsection (b) of this section, the
3 administrator may:

4 (1) exchange information with another state or
5 foreign country relating to property presumed abandoned or
6 relating to the possible existence of property presumed
7 abandoned; and

8 (2) authorize in a record another state or
9 foreign country or a person acting on behalf of the other state
10 or country to examine its records of a putative holder as
11 provided in Sections 7-8B-1401 through 7-8B-1408 NMSA 1978.

12 (b) An exchange or examination pursuant to
13 Subsection (a) of this section may be done only if the state or
14 foreign country has confidentiality and security requirements
15 substantially equivalent to those in Sections 7-8B-1401 through
16 7-8B-1408 NMSA 1978 or agrees in a record to be bound by state
17 and federal privacy and data security laws."

18 SECTION 79. A new Section 7-8B-1203 NMSA 1978 is enacted
19 to read:

20 "7-8B-1203. [NEW MATERIAL] ACTION INVOLVING ANOTHER
21 STATE OR FOREIGN COUNTRY.--

22 (a) The administrator may join another state or
23 foreign country to examine and seek enforcement of the Revised
24 Uniform Unclaimed Property Act against a putative holder.

25 (b) On request of another state or foreign country,

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1 the attorney general may commence an action on behalf of the
2 other state or country to enforce in New Mexico the law of the
3 other state or country against a putative holder subject to a
4 claim by the other state or country, if the other state or
5 country agrees to pay costs, including reasonable attorney fees
6 and expenses, incurred by the attorney general in the action.

7 (c) The administrator may request the official
8 authorized to enforce the unclaimed property law of another
9 state or foreign country to commence an action to recover
10 property in the other state or country on behalf of the
11 administrator. New Mexico shall pay the costs, including
12 reasonable attorney fees and expenses, incurred by the other
13 state or foreign country in an action pursuant to this
14 subsection.

15 (d) The administrator may pursue an action on
16 behalf of this state to recover property subject to the Revised
17 Uniform Unclaimed Property Act but delivered to the custody of
18 another state if the administrator believes the property is
19 subject to the custody of the administrator.

20 (e) The administrator may retain an attorney in New
21 Mexico, another state or a foreign country to commence an
22 action to recover property on behalf of the administrator and
23 may agree to pay attorney fees based in whole or in part on a
24 fixed fee, hourly fee or a percentage of the amount or value of
25 property recovered in the action.

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1 (f) Expenses incurred by New Mexico in an action
2 pursuant to this section may be paid from property received
3 pursuant to the Revised Uniform Unclaimed Property Act or the
4 net proceeds of the property. Expenses paid to recover
5 property may not be deducted from the amount that is subject to
6 a claim pursuant to that act by the owner."

7 SECTION 80. A new Section 7-8B-1204 NMSA 1978 is enacted
8 to read:

9 "7-8B-1204. [NEW MATERIAL] INTEREST AND PENALTY FOR
10 FAILURE TO ACT IN TIMELY MANNER--.

11 (a) A holder that fails to report, pay or deliver
12 property within the time prescribed by the Revised Uniform
13 Unclaimed Property Act shall pay to the administrator interest
14 at the annual rate set forth in Section 7-1-67 NMSA 1978 on
15 delinquent taxes on the property or value of the property from
16 the date the property should have been reported, paid or
17 delivered to the administrator until the date reported, paid or
18 delivered.

19 (b) Except as otherwise provided in Section
20 7-8B-1205 or 7-8B-1206 NMSA 1978, the administrator may require
21 a holder that fails to report, pay or deliver property within
22 the time prescribed by the Revised Uniform Unclaimed Property
23 Act, or fails to perform another duty imposed by that act, to
24 pay to the administrator, in addition to interest included
25 pursuant to Subsection (a) of this section, a civil penalty of
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1 two hundred dollars (\$200) for each day the report, payment or
2 delivery is withheld, or the duty is not performed, up to a
3 cumulative maximum amount of five thousand dollars (\$5,000)."

4 SECTION 81. A new Section 7-8B-1205 NMSA 1978 is enacted
5 to read:

6 "7-8B-1205. ~~[NEW MATERIAL]~~ OTHER CIVIL PENALTIES.--

7 (a) If a holder enters into a contract or other
8 arrangement for the purpose of evading an obligation pursuant
9 to the Revised Uniform Unclaimed Property Act or otherwise
10 willfully fails to report, pay or deliver property required by
11 that act or to perform another duty imposed on the holder
12 pursuant to that act, the administrator may require the holder
13 to pay the administrator, in addition to interest as provided
14 in Subsection (a) of Section 7-8B-1204 NMSA 1978, a civil
15 penalty of one thousand dollars (\$1,000) for each day the
16 obligation is evaded or the report, payment or delivery is not
17 made or the duty is not performed, up to a cumulative maximum
18 amount of twenty-five thousand dollars (\$25,000), plus twenty-
19 five percent of the amount or value of property that should
20 have been but was not reported, paid or delivered as a result
21 of the evasion or failure to perform.

22 (b) If a holder makes a fraudulent report pursuant
23 to the Revised Uniform Unclaimed Property Act, the
24 administrator may require the holder to pay to the
25 administrator, in addition to interest pursuant to Subsection

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1 (a) of this section, a civil penalty of one thousand dollars
2 (\$1,000) for each day from the date the report was made until
3 corrected, up to a cumulative maximum of twenty-five thousand
4 dollars (\$25,000), plus twenty-five percent of the amount or
5 value of any property that should have been reported but was
6 not included in the report or was underreported."

7 SECTION 82. A new Section 7-8B-1206 NMSA 1978 is enacted
8 to read:

9 "7-8B-1206. [NEW MATERIAL] WAIVER OF INTEREST AND
10 PENALTY.--The administrator:

11 (1) may waive, in whole or in part, interest
12 pursuant to Subsection (a) of Section 7-8B-1204 NMSA 1978 and
13 penalties pursuant to Subsection (b) of Section 7-8B-1204 NMSA
14 1978 or Section 7-8B-1205 NMSA 1978; and

15 (2) shall waive a penalty pursuant to Subsection
16 (b) of Section 7-8B-1204 NMSA 1978 if the administrator
17 determines that the holder acted in good faith and without
18 negligence."

19 SECTION 83. A new Section 7-8B-1301 NMSA 1978 is enacted
20 to read:

21 "7-8B-1301. [NEW MATERIAL] AGREEMENT TO LOCATE
22 PROPERTY--WHEN ENFORCEABLE--LOCATOR--CLAIM--REQUIREMENTS.--

23 (1) An agreement by an apparent owner and another
24 person, the primary purpose of which is to locate, deliver,
25 recover or assist in the location, delivery or recovery of

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1 property held by the administrator, is enforceable only if the
2 agreement:

3 (A) is in a record that clearly states the
4 nature of the property and the services to be provided;

5 (B) is signed by or on behalf of the apparent
6 owner; and

7 (C) states the amount or value of the property
8 reasonably expected to be recovered, computed before and after
9 a fee or other compensation to be paid to the person has been
10 deducted.

11 (2) A person who enters an agreement with an
12 apparent owner pursuant to Subsection (1) of this section may
13 be cited as a "locator".

14 (3) A person shall not enter or attempt to enter an
15 agreement with an apparent owner pursuant to Subsection (1) of
16 this section unless the person:

17 (A) is a private investigator licensed
18 pursuant to the Private Investigations Act;

19 (B) registers with the department as a
20 locator; and

21 (C) registers with the secretary of state as a
22 foreign corporation, foreign limited liability company or
23 foreign limited partnership authorized to transact business in
24 New Mexico, if the person is a corporation, limited liability
25 company or limited partnership domiciled in a state other than

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1 New Mexico.

2 (4) A locator shall not charge a fee greater than
3 ten percent of the value of the apparent owner's property
4 pursuant to Paragraph (C) of Subsection (1) of this section.

5 (5) A locator who files a claim with the
6 administrator on behalf of an apparent owner shall include:

7 (A) the complete agreement stating the
8 specific assets acquired;

9 (B) the purchase price; and

10 (C) conditions or representation relating to
11 the property; and

12 (D) the fee structure based on the percentage
13 of the recovered funds."

14 SECTION 84. A new Section 7-8B-1302 NMSA 1978 is enacted
15 to read:

16 "7-8B-1302. [NEW MATERIAL] WHEN AGREEMENT TO LOCATE
17 PROPERTY VOID.--

18 (a) Subject to Subsection (b) of this section, an
19 agreement pursuant to Section 7-8B-1301 NMSA 1978 is void if it
20 is entered into during the period beginning on the date the
21 property was paid or delivered by a holder to the administrator
22 and ending forty-eight months after the payment or delivery.

23 (b) If a provision in an agreement described in
24 Subsection (a) of this section applies to mineral proceeds for
25 which compensation is to be paid to the other person based in

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1 whole or in part on a part of the underlying minerals or
2 mineral proceeds not then presumed abandoned, the provision is
3 void regardless of when the agreement was entered into.

4 (c) An agreement pursuant to Subsection (a) of this
5 section that provides for compensation in an amount that is
6 unconscionable is unenforceable except by the apparent owner.
7 An apparent owner that believes the compensation the apparent
8 owner has agreed to pay is unconscionable or the administrator,
9 acting on behalf of an apparent owner, or both, may file an
10 action in district court to reduce the compensation to the
11 maximum amount that is not unconscionable. On the final
12 determination of an action filed pursuant to this subsection,
13 the district court may, on application, award the owner its
14 reasonable attorney fees, costs and expenses of litigation.

15 (d) An apparent owner or the administrator may
16 assert that an agreement described in this section is void on a
17 ground other than it provides for payment of unconscionable
18 compensation.

19 (e) This section does not apply to an apparent
20 owner's agreement with an attorney to pursue a claim for
21 recovery of specifically identified property held by the
22 administrator or to contest the administrator's denial of a
23 claim for recovery of the property."

24 **SECTION 85.** A new Section 7-8B-1303 NMSA 1978 is enacted
25 to read:

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1 "7-8B-1303. [NEW MATERIAL] RIGHT OF AGENT OF APPARENT
2 OWNER TO RECOVER PROPERTY HELD BY ADMINISTRATOR.--

3 (a) An apparent owner that contracts with another
4 person to locate, deliver, recover or assist in the location,
5 delivery or recovery of property of the apparent owner that is
6 held by the administrator may designate the person as the agent
7 of the apparent owner. The designation shall be in a record
8 signed by the apparent owner.

9 (b) The administrator shall give the agent of the
10 apparent owner all information concerning the property that the
11 apparent owner is entitled to receive, including information
12 that otherwise is confidential information pursuant to Section
13 7-8B-1402 NMSA 1978.

14 (c) If authorized by the apparent owner, the agent
15 of the apparent owner may bring an action against the
16 administrator on behalf of and in the name of the apparent
17 owner."

18 SECTION 86. A new Section 7-8B-1401 NMSA 1978 is enacted
19 to read:

20 "7-8B-1401. [NEW MATERIAL] DEFINITIONS--APPLICABILITY.--

21 (a) In Sections 7-8B-1401 through 7-8B-1408 NMSA
22 1978, "personal information" means:

23 (1) information that identifies or reasonably
24 can be used to identify an individual, such as first and last
25 name in combination with the individual's:

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- 1 (A) social security number or other
2 government-issued number or identifier;
- 3 (B) date of birth;
- 4 (C) home or physical address;
- 5 (D) electronic mail address or other
6 online contact information or internet provider address;
- 7 (E) financial account number or credit
8 or debit card number;
- 9 (F) biometric data, health or medical
10 data or insurance information; or
- 11 (G) passwords or other credentials that
12 permit access to an online or other account;
- 13 (2) personally identifiable financial or
14 insurance information, including nonpublic personal information
15 defined by applicable federal law; and
- 16 (3) any combination of data that, if accessed,
17 disclosed, modified or destroyed without authorization of the
18 owner of the data or if lost or misused, would require notice
19 or reporting pursuant to state and federal privacy and data
20 security law, whether or not the administrator or the
21 administrator's agent is subject to the law.
- 22 (b) A provision of Sections 7-8B-1401 through
23 7-8B-1408 NMSA 1978 that applies to the administrator or the
24 administrator's records applies to an administrator's agent."

25 SECTION 87. A new Section 7-8B-1402 NMSA 1978 is enacted

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1 to read:

2 "7-8B-1402. [NEW MATERIAL] CONFIDENTIAL INFORMATION.--

3 (a) Except as otherwise provided in the Revised
4 Uniform Unclaimed Property Act, the following are confidential
5 and exempt from public inspection or disclosure:

6 (1) records of the administrator and the
7 administrator's agent related to the administration of the
8 Revised Uniform Unclaimed Property Act;

9 (2) reports and records of a holder in the
10 possession of the administrator or the administrator's agent;
11 and

12 (3) personal information and other information
13 derived or otherwise obtained by or communicated to the
14 administrator or the administrator's agent from an examination
15 pursuant to the Revised Uniform Unclaimed Property Act of the
16 records of a person.

17 (b) A record or other information that is
18 confidential pursuant to the laws of New Mexico other than the
19 Revised Uniform Unclaimed Property Act, another state or the
20 United States continues to be confidential when disclosed or
21 delivered pursuant to that act to the administrator or
22 administrator's agent."

23 SECTION 88. A new Section 7-8B-1403 NMSA 1978 is enacted
24 to read:

25 "7-8B-1403. [NEW MATERIAL] WHEN CONFIDENTIAL INFORMATION
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1 MAY BE DISCLOSED.--

2 (a) When reasonably necessary to enforce or
3 implement the Revised Uniform Unclaimed Property Act, the
4 administrator may disclose confidential information concerning
5 property held by the administrator or the administrator's agent
6 only to:

7 (1) an apparent owner or the apparent owner's
8 personal representative, attorney, other legal representative,
9 relative or agent designated pursuant to Section 7-8B-1303 NMSA
10 1978 to have the information;

11 (2) the personal representative, other legal
12 representative, relative of a deceased apparent owner, agent
13 designated pursuant to Section 7-8B-1303 NMSA 1978 by the
14 deceased apparent owner or a person entitled to inherit from
15 the deceased apparent owner;

16 (3) another department or agency of New Mexico
17 or the United States;

18 (4) the person that administers the unclaimed
19 property law of another state, if the other state accords
20 substantially reciprocal privileges to the administrator of New
21 Mexico if the other state is required to maintain the
22 confidentiality and security of information obtained in a
23 manner substantially equivalent to Sections 7-8B-1401 through
24 7-8B-1408 NMSA 1978;

25 (5) a person subject to an examination as

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1 required by Subsection (6) of Section 7-8B-1004 NMSA 1978.

2 (b) Except as otherwise provided in Subsection (a)
3 of Section 7-8B-1402 NMSA 1978, the administrator shall include
4 on the website or in the database required by Paragraph (2) of
5 Subsection (c) of Section 7-8B-503 NMSA 1978 the name of each
6 apparent owner of property held by the administrator. The
7 administrator may include in published notices, printed
8 publications, telecommunications, the internet or other media
9 and on the website or in the database additional information
10 concerning the apparent owner's property if the administrator
11 believes that the information will assist in identifying and
12 returning property to the owner and does not disclose personal
13 information except the home or physical address of an apparent
14 owner.

15 (c) The administrator and the administrator's agent
16 may not use confidential information provided to them or in
17 their possession except as expressly authorized by the Revised
18 Uniform Unclaimed Property Act or required by law other than
19 that act."

20 SECTION 89. A new Section 7-8B-1404 NMSA 1978 is enacted
21 to read:

22 "7-8B-1404. [NEW MATERIAL] CONFIDENTIALITY AGREEMENT.--A
23 person to be examined pursuant to Section 7-8B-1002 NMSA 1978
24 may require, as a condition of disclosure of the records of the
25 person to be examined, that each person having access to the

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1 records disclosed in the examination execute and deliver to the
2 person to be examined a confidentiality agreement that:

3 (1) is in a form that is reasonably satisfactory to
4 the administrator; and

5 (2) requires the person having access to the
6 records to comply with the provisions of Sections 7-8B-1401
7 through 7-8B-1408 NMSA 1978 applicable to the person."

8 SECTION 90. A new Section 7-8B-1405 NMSA 1978 is enacted
9 to read:

10 "7-8B-1405. [NEW MATERIAL] NO CONFIDENTIAL INFORMATION
11 IN NOTICE.--Except as otherwise provided in Sections 7-8B-501
12 and 7-8B-502 NMSA 1978, a holder is not required pursuant to
13 Sections 7-8B-1401 through 7-8B-1408 NMSA 1978 to include
14 confidential information in a notice the holder is required to
15 provide to an apparent owner pursuant to the Revised Uniform
16 Unclaimed Property Act."

17 SECTION 91. A new Section 7-8B-1406 NMSA 1978 is enacted
18 to read:

19 "7-8B-1406. [NEW MATERIAL] SECURITY OF INFORMATION.--

20 (a) If a holder is required to include confidential
21 information in a report to the administrator, the information
22 shall be provided by a secure means.

23 (b) If confidential information in a record is
24 provided to and maintained by the administrator or
25 administrator's agent as required by the Revised Uniform

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1 Unclaimed Property Act, the administrator or agent shall:

2 (1) implement administrative, technical and
3 physical safeguards to protect the security, confidentiality
4 and integrity of the information required by state and federal
5 privacy and data security law, whether or not the administrator
6 or the administrator's agent is subject to the law;

7 (2) protect against reasonably anticipated
8 threats or hazards to the security, confidentiality or
9 integrity of the information; and

10 (3) protect against unauthorized access to or
11 use of the information that could result in substantial harm or
12 inconvenience to a holder or the holder's customers, including
13 insureds, annuitants and policy or contract owners and their
14 beneficiaries.

15 (c) The administrator:

16 (1) after notice and comment, shall adopt and
17 implement a security plan that identifies and assesses
18 reasonably foreseeable internal and external risks to
19 confidential information in the administrator's possession and
20 seeks to mitigate the risks; and

21 (2) shall ensure that an administrator's agent
22 adopts and implements a similar plan with respect to
23 confidential information in the agent's possession.

24 (d) The administrator and the administrator's agent
25 shall educate and train their employees regarding the plan

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1 adopted pursuant to Subsection (c) of this section.

2 (e) The administrator and the administrator's agent
3 shall in a secure manner return or destroy all confidential
4 information no longer reasonably needed pursuant to the Revised
5 Uniform Unclaimed Property Act."

6 SECTION 92. A new Section 7-8B-1407 NMSA 1978 is enacted
7 to read:

8 "7-8B-1407. [NEW MATERIAL] SECURITY BREACH.--

9 (a) Except to the extent prohibited by law other
10 than the Revised Uniform Unclaimed Property Act, the
11 administrator or administrator's agent shall notify a holder as
12 soon as practicable of:

13 (1) a suspected loss, misuse or unauthorized
14 access, disclosure, modification or destruction of confidential
15 information obtained from the holder in the possession of the
16 administrator or an administrator's agent; and

17 (2) any interference with operations in any
18 system hosting or housing confidential information that:

19 (A) compromises the security,
20 confidentiality or integrity of the information; or

21 (B) creates a substantial risk of
22 identity fraud or theft.

23 (b) Except as necessary to inform an insurer,
24 attorney, investigator or others as required by law, the
25 administrator and an administrator's agent may not disclose,

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1 without the express consent in a record of the holder, an event
2 described in Subsection (a) of this section to a person whose
3 confidential information was supplied by the holder.

4 (c) If an event described in Subsection (a) of this
5 section occurs, the administrator and the administrator's agent
6 shall:

7 (1) take action necessary for the holder to
8 understand and minimize the effect of the event and determine
9 its scope; and

10 (2) cooperate with the holder with respect to:

11 (A) any notification required by law
12 concerning a data or other security breach; and

13 (B) a regulatory inquiry, litigation or
14 similar action."

15 SECTION 93. A new Section 7-8B-1408 NMSA 1978 is enacted
16 to read:

17 "7-8B-1408. [NEW MATERIAL] INDEMNIFICATION FOR
18 BREACH.--

19 (a) If a claim is made or action commenced arising
20 out of an event described in Subsection (a) of Section
21 7-8B-1407 NMSA 1978 relating to confidential information
22 possessed by an administrator's agent, the administrator's
23 agent shall indemnify, defend and hold harmless a holder and
24 the holder's affiliates, officers, directors, employees and
25 agents as to:

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1 (1) any claim or action; and
2 (2) a liability, obligation, loss, damage,
3 cost, fee, penalty, fine, settlement, charge or other expense,
4 including reasonable attorney fees and costs, established by
5 the claim or action.

6 (b) The administrator shall require an
7 administrator's agent that will receive confidential
8 information required pursuant to the Revised Uniform Unclaimed
9 Property Act to maintain adequate insurance for indemnification
10 obligations of the administrator's agent pursuant to Subsection
11 (a) of this section. The agent required to maintain the
12 insurance shall provide evidence of the insurance to:

13 (1) the administrator not less frequently than
14 annually; and

15 (2) the holder on commencement of an
16 examination and annually thereafter until all confidential
17 information is returned or destroyed pursuant to Subsection (e)
18 of Section 7-8B-1406 NMSA 1978."

19 SECTION 94. A new Section 7-8B-1501 NMSA 1978 is enacted
20 to read:

21 "7-8B-1501. [NEW MATERIAL] UNIFORMITY OF APPLICATION AND
22 CONSTRUCTION.--In applying and construing the Revised Uniform
23 Unclaimed Property Act, consideration shall be given to the
24 need to promote uniformity of the law with respect to its
25 subject matter among states that enact that act."

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1 SECTION 95. A new Section 7-8B-1502 NMSA 1978 is enacted
2 to read:

3 "7-8B-1502. [NEW MATERIAL] RELATION TO ELECTRONIC
4 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Revised
5 Uniform Unclaimed Property Act modifies, limits or supersedes
6 the federal Electronic Signatures in Global and National
7 Commerce Act, as amended, but does not modify, limit or
8 supersede 15 U.S.C. Section 7001(c), or authorize electronic
9 delivery of any of the notices described in 15 U.S.C. Section
10 7003(b)."

11 SECTION 96. A new Section 7-8B-1503 NMSA 1978 is enacted
12 to read:

13 "7-8B-1503. [NEW MATERIAL] TRANSITIONAL PROVISION.--

14 (a) An initial report filed pursuant to the Revised
15 Uniform Unclaimed Property Act for property that was not
16 required to be reported before the effective date of that act,
17 but that is required to be reported pursuant to that act, shall
18 include all items of property that would have been presumed
19 abandoned during the ten-year period preceding the effective
20 date of the Revised Uniform Unclaimed Property Act as if that
21 act had been in effect during that period.

22 (b) The Revised Uniform Unclaimed Property Act does
23 not relieve a holder of a duty that arose before the effective
24 date of that act to report, pay or deliver property. Subject
25 to Subsections (a) and (b) of Section 7-8B-610 NMSA 1978, a
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1 holder that did not comply with the law governing unclaimed
2 property before the effective date of the Revised Uniform
3 Unclaimed Property Act is subject to applicable provisions for
4 enforcement and penalties in effect before the effective date
5 of that act."

6 SECTION 97. Section 7-38-71 NMSA 1978 (being Laws 1973,
7 Chapter 258, Section 111, as amended) is amended to read:

8 "7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF
9 PROPERTY.--

10 A. Money received by the department from the sale
11 of real or personal property for delinquent property taxes
12 shall be deposited in a suspense fund and distributed as
13 follows:

14 (1) first, that portion equal to the costs
15 shall be retained by the department for use, subject to
16 appropriation by the legislature, in administration of the
17 Property Tax Code;

18 (2) second, that portion equal to the
19 penalties and interest due shall be retained by the department
20 for use, subject to appropriation by the legislature, by the
21 department in administration of the Property Tax Code;

22 (3) third, that portion equal to the
23 delinquent taxes due shall be remitted by the department to the
24 appropriate county treasurer for distribution by the treasurer
25 to the governmental units in accordance with the law and the

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1 regulations of the department of finance and administration;
2 and

3 (4) the balance shall be paid to the former
4 owner of the property sold or to any other person designated by
5 order directed to the department by a court of competent
6 jurisdiction, provided that the department may first apply all
7 or any portion of the balance to be paid against the amount of
8 any property tax, including any penalty and interest related
9 thereto, owed by the person to whom the balance would otherwise
10 be paid.

11 B. As a condition precedent to payment of the
12 balance of the sale amount received to the former owner of the
13 property, the department may require any person claiming to be
14 entitled to that payment to present sufficient evidence of
15 proof of former ownership of the property to the department.
16 The department shall adopt regulations providing for the
17 procedures to be followed by persons claiming sale proceeds as
18 former owners in those instances where conflicting claims exist
19 or the department requires proof of ownership.

20 C. If no person claims the balance of sale
21 proceeds, whether the property was sold under the provisions of
22 the Property Tax Code or prior law, as the former owner of the
23 property within two years of the date of the sale and after a
24 reasonable search to determine the former owner is made by the
25 department and no former owner is found, the balance of the

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1 sale proceeds shall be considered abandoned property and
2 deposited in accordance with the provisions of the Revised
3 Uniform Unclaimed Property Act.

4 D. If the balance of proceeds from the sale after
5 paying a higher priority claim under Subsection A of this
6 section is insufficient to pay all of the next priority claim,
7 then the complete balance shall be applied to that next
8 priority claim as partial payment."

9 SECTION 98. Section 34-6-38 NMSA 1978 (being Laws 1968,
10 Chapter 69, Section 40) is amended to read:

11 "34-6-38. FINANCE--DISPOSITION OF UNCLAIMED MONEY.--When
12 money is held in the court clerk trust account and the person
13 entitled to it does not make claim within six years from the
14 date when it became payable, the money is presumed abandoned
15 and shall be disposed of in the manner provided in the Revised
16 Uniform [~~Disposition of~~] Unclaimed Property Act."

17 SECTION 99. Section 37-1-3 NMSA 1978 (being Laws 1880,
18 Chapter 5, Section 3, as amended) is amended to read:

19 "37-1-3. NOTES--WRITTEN INSTRUMENTS--PERIOD OF
20 LIMITATION--COMPUTATION OF PERIOD.--

21 A. Actions founded upon any bond, promissory note,
22 bill of exchange or other contract in writing shall be brought
23 within six years.

24 If the payee of any bond, promissory note, bill of
25 exchange or other contract in writing enters into any contract

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1 or agreement in writing to defer the payment thereof, or
2 contracts or agrees not to assert any claim against the payor
3 or against the assets of the payor until the happening of some
4 contingency, the time during the period from the execution of
5 the contract or agreement and the happening of the contingency
6 shall not be included in computing the six-year period of
7 limitation provided in this subsection.

8 B. Actions against any banking or financial
9 organization subject to the provisions of the Revised Uniform
10 Unclaimed Property Act [~~(1995)~~] founded upon a bill of exchange
11 shall be brought within ten years.

12 C. Actions founded upon a traveler's check shall be
13 brought within fifteen years."

14 SECTION 100. Section 45-3-914 NMSA 1978 (being Laws
15 1975, Chapter 257, Section 3-914, as amended) is amended to
16 read:

17 "45-3-914. DISPOSITION OF UNCLAIMED ASSETS.--If an heir,
18 devisee or claimant cannot be found, the personal
19 representative shall distribute the share of the missing person
20 to [~~his~~] the missing person's conservator, if any. Otherwise,
21 the personal representative shall sell the share of the missing
22 person and distribute the proceeds to the [~~state treasurer~~]
23 administrator as prescribed by the Revised Uniform Unclaimed
24 Property Act."

25 SECTION 101. Section 58-10-110 NMSA 1978 (being Laws

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1 1971, Chapter 242, Section 10) is amended to read:

2 "58-10-110. SPECIAL REMEDIES FOR NONPAYMENT OF RENT.--

3 A. If the rental due on a safe deposit box has not
4 been paid for one year, the lessor may send a notice by
5 certified or registered mail to the lessee's last known address
6 stating that the safe deposit box will be opened and its
7 contents stored at the lessee's expense unless payment of
8 rental due is made within thirty days. If the rental is not
9 paid within thirty days from the mailing of the notice, the box
10 may be opened in the presence of an officer of the lessor and
11 of a notary public who is not a director, officer, employee or
12 stockholder of the lessor. The contents shall be sealed in a
13 package by the notary public who shall write on the outside the
14 lessee's name and the date the box was opened. The notary
15 public shall execute a certificate reciting the lessee's name,
16 the date the box was opened and a list of its contents. The
17 certificate shall be included in the package and a copy of it
18 sent by certified or registered mail to the lessee's last known
19 address. The package shall then be placed in the general
20 vaults of the lessor at a rental not exceeding the rental
21 previously charged for the box.

22 B. If the contents of the box are not claimed
23 within the time prescribed by the Revised Uniform [~~Disposition~~
24 ~~of~~] Unclaimed Property Act, they shall be disposed of as
25 provided in that act. Upon sale of the contents, the lessor

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1 shall be reimbursed for the accrued rental and storage charges
2 from the sale proceeds."

3 SECTION 102. Section 58-11-47 NMSA 1978 (being Laws
4 1987, Chapter 311, Section 47) is amended to read:

5 "58-11-47. DORMANT ACCOUNTS.--

6 A. If there has been no activity in a share or
7 deposit account for one year, except for the posting of
8 dividends or interest, the credit union may impose a reasonable
9 maintenance fee as provided in the bylaws.

10 B. Any account presumed abandoned shall be disposed
11 of in accordance with the Revised Uniform [~~Disposition of~~]
12 Unclaimed Property Act."

13 SECTION 103. Section 58-11A-6 NMSA 1978 (being Laws
14 1991, Chapter 51, Section 26) is amended to read:

15 "58-11A-6. SPECIAL REMEDIES FOR NONPAYMENT OF RENT.--

16 A. Unless otherwise provided in a written
17 agreement, if the rental due on a safe deposit box has not been
18 paid for six months, the [~~lessor~~] credit union may send a
19 notice by certified or registered mail to the last known
20 address of the lessee stating that the safe deposit box will be
21 opened and its contents stored at the expense of the lessee
22 unless payment is made within thirty days. If the rental is
23 not paid within thirty days from the mailing of the notice, the
24 safe deposit box may be opened in the presence of an executive
25 officer of the [~~lessor~~] credit union and of a notary public.

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1 The contents of the box shall be sealed in a package by the
2 notary public who shall write on the outside the name of the
3 lessee and the date of the opening. The notary public shall
4 execute a certificate reciting the name of the lessee, the date
5 of the opening of the safe deposit box and a list of its
6 contents. The certificate shall be included in the package and
7 a copy of the certificate shall be sent by registered mail to
8 the last known address of the lessee. The package shall then
9 be placed in the general vaults of the ~~[lessor]~~ credit union at
10 a rental not exceeding the rental charged for the safe deposit
11 box.

12 B. If the contents of the safe deposit box are not
13 claimed within the time prescribed by the Revised Uniform
14 Unclaimed Property Act, they shall be disposed of as provided
15 in that act."

16 SECTION 104. Section 58-11A-7 NMSA 1978 (being Laws
17 1991, Chapter 51, Section 27) is amended to read:

18 "58-11A-7. DISPOSITION OF CONTENTS OF SAFE DEPOSIT BOX
19 WHEN A CREDIT UNION IS LIQUIDATED--DUTY OF CONSERVATOR.--

20 A. In the event a credit union is liquidated or
21 placed under conservatorship by the director, as authorized by
22 Subsection ~~[F]~~ L of Section 58-11-3 NMSA 1978 ~~[of the Credit~~
23 ~~Union Regulatory Act]~~, the conservator or receiver shall send a
24 notice by certified or registered mail to the last known
25 address of the lessee stating that the safe deposit box will be

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1 opened and its contents stored at the expense of the lessee
2 unless claimed within thirty days. If the contents are not
3 claimed within thirty days from the mailing of the notice, the
4 safe deposit box may be opened in the presence of an agent of
5 the conservator or receiver and of a notary public. The
6 contents shall be sealed in a package by the notary public who
7 shall write on the outside the name of the lessee and the date
8 of the opening. The notary public shall execute a certificate
9 reciting the name of the lessee, the date of the opening of the
10 safe deposit box and a list of its contents. The certificate
11 shall be included in the package, and a copy of the certificate
12 shall be sent by registered mail to the last known address of
13 the lessee. The conservator or receiver shall then provide for
14 storage of the package at a rental not exceeding the rental
15 previously charged for the safe deposit box.

16 B. If the package is not claimed, it will be
17 disposed of as provided in the Revised Uniform Unclaimed
18 Property Act."

19 SECTION 105. Section 58-12-7 NMSA 1978 (being Laws 1973,
20 Chapter 114, Section 7, as amended) is amended to read:

21 "58-12-7. CORPORATION--POWERS AND DUTIES OF THE BOARD.--

22 A. To the extent authorized by the [~~commissioner~~]
23 director or any supervisory agency, the board may review the
24 financial condition of any member as it relates to share
25 insurance and, after the review, submit a report of the review

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1 to the [~~commissioner~~] director and the supervisory agency
2 accompanied [~~with~~] by the recommendations of the board.

3 B. Upon request of the board, the [~~commissioner~~]
4 director or the supervisory agency may furnish to the board
5 such factual information in [~~his or its~~] the director's or
6 supervisory agency's possession as the [~~commissioner~~] director
7 or the supervisory agency may deem to be of assistance to the
8 corporation in determining the financial condition of any
9 member.

10 C. If the board determines that a special
11 examination and audit, including a current appraisal of the
12 assets, of any member would be in the interests of its
13 shareholders or in the interest of the sound and effective
14 operation of the corporation, the board, by a vote of at least
15 two-thirds of its directors, may request the [~~commissioner~~]
16 director or any supervisory agency to provide for a special
17 examination, audit and appraisal. If the [~~commissioner~~]
18 director or any supervisory agency determines the examination,
19 audit and appraisal advisable, [~~he or it~~] the director or
20 supervisory agency shall provide for an examination, together
21 with a current appraisal of the member's assets by a qualified
22 person, and the board may furnish to the [~~commissioner~~]
23 director or any supervisory agency [~~such~~] evidence of current
24 values of any or all of [~~such~~] the member's assets that it
25 considers material to the appraisal.

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1 D. After receiving the reports of the examination and
2 appraisal, the [~~commissioner~~] director or any supervisory
3 agency shall furnish copies of the reports to the board and to
4 the member [~~copies of the reports~~]. The board [~~shall have~~] has
5 authority to make recommendations to any member designed to
6 correct practices or policies of the member in conducting its
7 business, including loan or dividend policies, [~~which~~] that the
8 board considers unsafe or unsound or [~~having a tendency to~~]
9 that would impair the financial condition of the member. If
10 [~~such~~] the member fails to follow [~~such~~] the recommendations,
11 the board shall give notice to the [~~commissioner~~] director and
12 any supervisory agency.

13 E. If it appears to the board that [~~such~~] practices
14 or policies of a member have impaired or are likely to impair
15 the solvency of the member or are unreasonably increasing the
16 insurance risk of the corporation with respect to the member,
17 [~~they~~] it shall include a statement to this effect, together
18 with a report of the facts and circumstances, in the notice to
19 the [~~commissioner~~] director and the supervisory agency. If the
20 [~~commissioner~~] director or the supervisory agency determines
21 from the report, notice and from other available information
22 that the member is in unsafe or unsound condition to transact
23 the business for which it was created, [~~then~~] the
24 [~~commissioner~~] director or the supervisory agency may so
25 certify to the corporation. Nothing [~~contained~~] in this

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1 section shall be construed to abridge any power conferred upon
2 the [~~commissioner~~] director or supervisory agency by any law.

3 F. Whenever it appears to the [~~commissioner~~] director
4 or the supervisory agency that it is inadvisable or inexpedient
5 for any member to continue to transact the business for which
6 it is organized without receiving assistance, [~~he or it~~] the
7 director or supervisory agency may, in [~~his or its~~] the
8 director's or supervisory agency's discretion, notify the
9 board, and [~~thereupon~~] the board may take any action it
10 considers necessary to reduce risk or avert a threatened loss
11 to the corporation [~~and~~]. Notwithstanding any other provision
12 of law, the board may require a merger or consolidation of
13 [~~such~~] the member with other financial institutions or may
14 facilitate the sale of assets of [~~such~~] the member to and the
15 assumption of its liabilities by one or more members or other
16 financial institutions. The board may, with the approval of
17 the [~~commissioner~~] director or supervisory agency, do any of
18 the following:

19 (1) purchase from [~~such~~] the member any
20 equitable or other interest in its assets at book value or at
21 some other value mutually agreed upon by [~~such~~] the member and
22 the board, notwithstanding that either of [~~such~~] the values may
23 exceed the market value of the assets so purchased, and upon
24 such terms and conditions as the board may determine;

25 (2) make loans to [~~such~~] the member [~~and~~] upon

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1 such terms and conditions as the board may determine;

2 (3) pay to the member, in accordance with an
3 agreement entered into between the member and the corporation,
4 an amount not in excess of the difference between the book
5 value of some or all of its assets and the fair value as
6 determined by the agreement, in consideration for which [~~such~~]
7 the member shall agree to write down the assets to the fair
8 value and to pay over to the corporation so much of any net
9 proceeds realized from the sale or other disposition of the
10 assets as are in excess of the fair value, the payment to be
11 made in such amounts, at such times and upon such terms and
12 conditions as the board may determine. Any amount paid by the
13 corporation to [~~such~~] the member and the agreement of the
14 member to repay the excess shall constitute liabilities of the
15 member only to the extent of any such excess from time to time
16 actually realized; or

17 (4) deposit a sum of money into the reserve
18 accounts of the member in accordance with an agreement entered
19 into between the member and the corporation. [~~such~~] The member
20 [~~being hereby~~] is authorized and empowered, notwithstanding any
21 other provision of law, to repay the amount to the corporation
22 at such time [~~or times~~] and in such manner as the agreement may
23 prescribe, provided that any such payment made by the
24 corporation to the member and any agreement of the member to
25 repay [~~the same~~] it shall constitute liabilities of the member

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1 only to the extent provided by the agreement. The member, by
2 vote of at least two-thirds of its directors, may take any
3 action necessary or advisable to enable it to carry out any or
4 all provisions of this section.

5 G. At any time after ten years from the date
6 financial assistance has been granted to a member under any
7 provision of this section, any unpaid balance may be
8 compromised or settled for cash payment or other consideration
9 as the board and the member, with the approval of the
10 [~~commissioner~~] director and supervisory agency, may agree upon.
11 Upon [~~such~~] compromise or settlement, the member shall be
12 released and discharged from any further obligation to repay
13 the unpaid balance of [~~such~~] financial assistance except to the
14 extent provided by [~~such~~] the agreement.

15 H. If a member authorized by a vote of at least two-
16 thirds of the member's directors chooses to be liquidated, the
17 corporation shall be fully authorized to proceed with the
18 liquidation, merger or consolidation of the member.

19 I. Whenever it appears to the [~~commissioner~~] director
20 or the supervisory agency that any member is in unsound or
21 unsafe condition to transact the business for which it is
22 organized, the [~~commissioner~~] director or the supervisory
23 agency may so certify to the board [~~and~~]. Upon receipt of the
24 certificate, the board shall, by notice in writing to the
25 [~~commissioner~~] director, supervisory agency and to the member,

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1 take possession and control of the property and the business of
2 the member and operate the business of the member subject to
3 such rules and regulations as the [~~commissioner~~] director or
4 supervisory agency may prescribe until the member resumes
5 business or until its affairs are finally liquidated. While
6 operating [~~such~~] the business, the corporation may pay to the
7 member out of the [~~share insurance~~] fund such sums as the board
8 considers necessary for the protection of the member's
9 shareholders and depositors and may order these sums to be
10 repaid when no longer required for that purpose or may purchase
11 assets from the member to effect the purposes of the Credit
12 Union Share Insurance Corporation Act on such terms and
13 conditions and at such valuations as the board may determine.

14 J. At any time after the board has taken over the
15 control, possession and operation of any member, [~~they~~] it may,
16 with the approval of the [~~commissioner~~] director or supervisory
17 agency, turn back the control, possession and operation to the
18 member. The member may resume business free from any control
19 by the corporation subject to such conditions as the
20 [~~commissioner~~] director or supervisory agency may approve. The
21 board shall not turn back the control, possession and operation
22 of any member until there has been repaid into the [~~share~~
23 ~~insurance~~] fund all sums paid out from the fund to the member
24 or its shareholders or depositors or until security for
25 repayment is received [~~which~~] that is satisfactory to the

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1 board.

2 K. The board may, and at the request of the
3 [~~commissioner~~] director or supervisory agency shall, at any
4 time after [~~they have~~] it has taken over the control,
5 possession and operation of any member, discontinue the
6 business of the member and proceed to liquidate its affairs.
7 The corporation shall in [~~such~~] that event pay to the
8 shareholders and depositors of [~~such~~] the member the full
9 amount of their shares or deposits permitted by law at the date
10 of the discontinuance of the business of the member with
11 interest from the last dividend date to the date of
12 discontinuance at such rate, not exceeding three percent, as
13 the board [~~shall determine~~] determines. The payments shall be
14 made as soon as possible after the date of discontinuance. For
15 [~~such~~] this purpose, the board shall use, in addition to the
16 assets of the member, such sums as may be required from the
17 [~~share insurance~~] fund. In case of liquidation, the
18 corporation shall be subject to such rules and regulations as
19 may be prescribed by the [~~commissioner~~] director or the
20 supervisory agency. Rules and regulations prescribed by the
21 [~~commissioner shall~~] director apply only to the liquidation of
22 New Mexico-chartered credit unions. In the event of the
23 liquidation of a member chartered in a state other than New
24 Mexico, the corporation shall be subject only to [~~such~~] rules
25 and regulations prescribed by the applicable supervisory

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1 agency. The corporation shall take steps to collect all debts
2 due and claims belonging to ~~[such]~~ those members, ~~[and]~~ may
3 sell or compound all bad or doubtful debts and may sell all or
4 any part of the real or personal property or other assets of
5 the member on such terms and conditions and at such valuation
6 as the board ~~[shall determine, and]~~ determines. The
7 corporation may itself be the purchaser at any or all ~~[such]~~ of
8 the sales. To execute and perform the powers and duties
9 conferred upon the corporation, it may, in the name of any such
10 member, prosecute and defend all suits and other legal
11 proceedings and may, in the name of the member, execute,
12 acknowledge and deliver all deeds, assignments, leases and
13 other instruments necessary and proper to effectuate any sale
14 of real or personal property or other assets. Any deed or
15 other instrument executed pursuant to the authority ~~[hereby]~~
16 given in this section shall be valid and effectual for all
17 purposes to the same extent as though executed by the officers
18 of the member by authority of its board of directors. The
19 compensation of employees, counsel and other assistants
20 employed by the board to liquidate the affairs of any member
21 under this section and all expenses incurred in connection with
22 the liquidation of any such member shall be fixed by the
23 directors of the corporation. The officers of the corporation
24 and any other persons employed by its directors to liquidate
25 the affairs of any member under this section shall give bond to

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1 the directors of the corporation for the faithful performance
2 of their duties in relation to ~~[such]~~ the liquidation in such
3 amount and with such surety ~~[or sureties]~~ as the ~~[commissioner]~~
4 director or supervisory agency may approve. The persons
5 appointed for the purpose of liquidating the affairs of any
6 such member shall be subject to all the penalties to which
7 agents appointed by the ~~[commissioner]~~ director or supervisory
8 agency for the purpose of liquidating the affairs of a member
9 are ~~[now or may hereafter be]~~ subject. All accounts for which
10 no claimant can be found after six years following the
11 discontinuance of the business of any such member shall be
12 disposed of in accordance with the Revised Uniform ~~[Disposition~~
13 ~~of]~~ Unclaimed Property Act.

14 L. With the approval of the ~~[commissioner]~~ director
15 or supervisory agency and subject to such rules and regulations
16 as ~~[he or it]~~ the director or supervisory agency may prescribe,
17 the board may appoint conservators or agents to assist it in
18 the operation, management and liquidation of assets purchased
19 or otherwise acquired from members by the corporation. The
20 original location of the assets purchased or otherwise acquired
21 shall determine whether ~~[such]~~ rules and regulations may be
22 prescribed by the ~~[commissioner]~~ director or supervisory
23 agency. Certificates of appointment of ~~[such]~~ conservators and
24 agents shall be filed with the ~~[commissioner]~~ director or
25 supervisory agency. Notwithstanding any other provisions of

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1 law, all members are [~~hereby~~] authorized to act as [~~such~~]
2 conservators and agents and to exercise the powers and perform
3 the duties contemplated by this section.

4 M. The corporation may exercise all the powers,
5 rights and franchises of any member, the control, possession
6 and operation of which has been taken over by the corporation.
7 Notwithstanding any other provisions of law:

8 (1) with the approval of the [~~commissioner~~]
9 director or supervisory agency, any member may advance or loan
10 upon, or purchase, the whole or any part of the assets of any
11 other member [~~which~~] that is in possession of the corporation
12 or [~~which~~] that has been the subject of a notice from the
13 [~~commissioner~~] director or supervisory agency to the
14 corporation as provided [~~herein~~] in this section, at such
15 valuations and upon such terms and conditions as [~~such member~~
16 ~~or~~] the members, by authorization of their boards of directors,
17 may agree upon. The member making such an advance, loan or
18 purchase, for the purpose of effecting [~~the same~~] it, may
19 assume and agree to pay the whole or any part of the share,
20 deposit and other liabilities of [~~such~~] the other member,
21 subject to such terms and conditions and subject to such
22 adjustments as may be approved by the [~~commissioner~~] director
23 or supervisory agency; and

24 (2) with the approval of the [~~commissioner~~]
25 director or the supervisory agency, any member may advance or

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1 loan upon, or purchase, the whole or any part of the assets
2 acquired or held by the corporation and may participate in such
3 an advance, loan or purchase with one or more other members, at
4 such valuation and upon such terms and conditions as the
5 corporation and [~~such member or~~] the members, with
6 authorization of their boards of directors, may agree upon.
7 With like approval, the corporation may do any and all things
8 and may take any and all action [~~which~~] that the board
9 considers necessary or advisable to give effect to this
10 paragraph; provided that the approval of the [~~commissioner~~]
11 director or supervisory agency [~~shall~~] is not [~~be~~] required in
12 the case of the purchase [~~hereunder~~] under this section by a
13 member from the corporation of any mortgage for a sum equal to
14 the unpaid balance thereof."

15 SECTION 106. Section 59A-16-7.1 NMSA 1978 (being Laws
16 2013, Chapter 100, Section 1) is amended to read:

17 "59A-16-7.1. UNCLAIMED LIFE INSURANCE BENEFITS.--

18 A. As used in this section:

19 (1) "contract" means an annuity contract but
20 excludes annuity contracts used to fund employment-based
21 retirement plans or programs in which the insurer is not
22 committed by the terms of the annuity contract to pay a death
23 benefit to the beneficiaries of specific plan participants;

24 (2) "death master file" means the federal social
25 security administration's death master file or another database

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1 or service for determining that a person has died and that is
2 at least as comprehensive as the federal social security
3 administration's death master file;

4 (3) "match" means a search of a death master
5 file that results in a match of the social security number or
6 the name and date of birth of an insured, annuity owner or
7 retained asset account holder; and

8 (4) "policy" means a policy or certificate of
9 life insurance that provides a death benefit, but excludes
10 policies or certificates of credit life or accidental death
11 insurance, policies or certificates of life insurance used to
12 fund a preneed funeral contract or funeral prearrangement and
13 policies or certificates of life insurance that provide a death
14 benefit pursuant to an employee benefit plan that are:

15 (a) subject to the federal Employee
16 Retirement Income Security Act of 1974, as amended; or

17 (b) under a federal employee benefit
18 program.

19 B. At least twice a year, an insurer shall crosscheck
20 its insureds' in-force life insurance policies and retained-
21 asset accounts against a death master file to identify
22 potential matches. For each potential match, within ninety
23 days, the insurer shall:

24 (1) make and document a good faith effort to
25 confirm the death of the insured or retained-asset account

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1 holder by using other available records and information;

2 (2) determine whether the applicable policy or
3 contract provides for the payment of a death benefit. If the
4 payment of a death benefit is required, the insurer shall:

5 (a) make and document a good faith effort to
6 locate the beneficiary or beneficiaries; and

7 (b) provide to the beneficiary or
8 beneficiaries the appropriate claim forms or instructions for
9 making a claim, including the need to provide an official death
10 certificate if required by the policy or contract; and

11 (3) in the case of group life insurance, confirm
12 the possible death of an insured; provided that the insurer
13 maintains at least the following information about those
14 covered under a policy or certificate:

15 (a) social security number, or name and date
16 of birth;

17 (b) beneficiary designation information;

18 (c) coverage eligibility;

19 (d) benefit amount; and

20 (e) premium payment status.

21 C. To the extent permitted by law, an insurer may
22 disclose the minimum information about the insured or the
23 beneficiary that is necessary to locate a beneficiary or
24 another person entitled to receive a payment of the claims
25 proceeds to a person whom the insurer reasonably believes could

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1 assist the insurer in locating the beneficiary or another
2 person entitled to receive a payment of the claims proceeds.
3 An insurer or its service provider shall not charge an insured,
4 an account holder or a beneficiary for a search or confirmation
5 conducted pursuant to this subsection.

6 D. The benefits from a life insurance policy or a
7 retained asset account, plus any applicable accrued interest,
8 shall be payable pursuant to the terms of the contract or, if
9 applicable, in accordance with probate law. If the proper
10 recipients of a life insurance policy or a retained asset
11 account cannot be found, the benefits shall escheat to New
12 Mexico as unclaimed property pursuant to the Revised Uniform
13 Unclaimed Property Act [~~(1995)~~]. Upon the expiration of the
14 statutory time period for escheat, an insurer shall notify the
15 taxation and revenue department that a life insurance policy
16 beneficiary or retained asset account holder has not submitted
17 a claim with the insurer and the insurer has complied with the
18 provisions of Subsection B of this section and has been unable
19 to contact the retained asset account holder, beneficiary or
20 beneficiaries. Upon notifying the taxation and revenue
21 department, the insurer shall submit the unclaimed life
22 insurance benefits or unclaimed retained asset accounts, plus
23 any applicable accrued interest, to the taxation and revenue
24 department pursuant to the Revised Uniform Unclaimed Property
25 Act [~~(1995)~~].

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1 E. To assist the superintendent in identifying lost
2 policies, by July 1, 2016, an insurer that has never conducted
3 a crosscheck of its insureds' policies and contracts issued
4 prior to July 1, 2013 against a death master file for the
5 purpose of identifying deceased insureds shall provide to the
6 superintendent a list of all policies and contracts in force
7 and issued in New Mexico.

8 F. For an insurer that has never conducted a
9 crosscheck of its insureds' policies and contracts against a
10 death master file for the purpose of identifying deceased
11 insureds, the provisions of this section shall apply only to
12 policies and contracts issued and delivered in New Mexico on or
13 after July 1, 2013."

14 **SECTION 107. REPEAL.**--Sections 7-8A-1 through 7-8A-31
15 NMSA 1978 (being Laws 1997, Chapter 25, Sections 1 through 10;
16 Laws 1990, Chapter 98, Section 1; and Laws 1997, Chapter 25,
17 Sections 11 through 31, as amended) are repealed.

18 **SECTION 108. APPLICABILITY.**--The provisions of Section 69
19 of this act apply to contracts entered into on or after January
20 1, 2026.

21 **SECTION 109. EFFECTIVE DATE.**--The effective date of the
22 provisions of this act is January 1, 2026.