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AN ACT

RELATING TO UNCLAIMED PROPERTY; ENACTING THE REVISED UNIFORM UNCLAIMED PROPERTY ACT; REPEALING THE UNIFORM UNCLAIMED PROPERTY ACT; MAKING CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE NMSA 1978.

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

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

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

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

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

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

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

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

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

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

3 (2) any recurring balance of unspent fund
4 money distributed to a certified candidate who does not
5 remain a candidate through the primary or general election
6 period for which the money was distributed;

7 (3) money that remains unspent or
8 unencumbered by a certified candidate following the date of
9 the primary election;

10 (4) money that remains unspent or
11 unencumbered by a certified candidate following the date of
12 the general election;

13 (5) unspent contributions to a candidate;

14 (6) money distributed to the fund from funds
15 received pursuant to the Revised Uniform Unclaimed Property
16 Act; and

17 (7) money appropriated by the legislature or
18 as otherwise provided by law."

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

21 "7-1-2. APPLICABILITY.--The Tax Administration Act
22 applies to and governs:

23 A. the administration and enforcement of the
24 following taxes or tax acts as they now exist or may
25 hereafter be amended:

- 1 (1) Income Tax Act;
- 2 (2) Withholding Tax Act;
- 3 (3) Oil and Gas Proceeds and Pass-Through
- 4 Entity Withholding Tax Act;
- 5 (4) Gross Receipts and Compensating Tax Act,
- 6 Interstate Telecommunications Gross Receipts Tax Act and
- 7 Leased Vehicle Gross Receipts Tax Act;
- 8 (5) Liquor Excise Tax Act;
- 9 (6) Local Liquor Excise Tax Act;
- 10 (7) any municipal local option gross
- 11 receipts tax or municipal compensating tax;
- 12 (8) any county local option gross receipts
- 13 tax or county compensating tax;
- 14 (9) Special Fuels Supplier Tax Act;
- 15 (10) Gasoline Tax Act;
- 16 (11) petroleum products loading fee, which
- 17 fee shall be considered a tax for the purpose of the Tax
- 18 Administration Act;
- 19 (12) Alternative Fuel Tax Act;
- 20 (13) Cigarette Tax Act;
- 21 (14) Estate Tax Act;
- 22 (15) Railroad Car Company Tax Act;
- 23 (16) Investment Credit Act, rural job tax
- 24 credit, Laboratory Partnership with Small Business Tax Credit
- 25 Act, Technology Jobs and Research and Development Tax Credit

1 Act, Film Production Tax Credit Act, Affordable Housing Tax
2 Credit Act and high-wage jobs tax credit;

3 (17) Corporate Income and Franchise Tax Act;

4 (18) Uniform Division of Income for Tax
5 Purposes Act;

6 (19) Multistate Tax Compact;

7 (20) Tobacco Products Tax Act;

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

12 (22) the Insurance Premium Tax Act;

13 (23) the Health Care Quality Surcharge Act;
14 and

15 (24) the Cannabis Tax Act;

16 B. the administration and enforcement of the
17 following taxes, surtaxes, advanced payments or tax acts as
18 they now exist or may hereafter be amended:

19 (1) Resources Excise Tax Act;

20 (2) Severance Tax Act;

21 (3) any severance surtax;

22 (4) Oil and Gas Severance Tax Act;

23 (5) Oil and Gas Conservation Tax Act;

24 (6) Oil and Gas Emergency School Tax Act;

25 (7) Oil and Gas Ad Valorem Production Tax

1 Act;

2 (8) Natural Gas Processors Tax Act;

3 (9) Oil and Gas Production Equipment Ad
4 Valorem Tax Act;

5 (10) Copper Production Ad Valorem Tax Act;

6 (11) any advance payment required to be made
7 by any act specified in this subsection, which advance
8 payment shall be considered a tax for the purposes of the Tax
9 Administration Act;

10 (12) Enhanced Oil Recovery Act;

11 (13) Natural Gas and Crude Oil Production
12 Incentive Act; and

13 (14) intergovernmental production tax credit
14 and intergovernmental production equipment tax credit;

15 C. the administration and enforcement of the
16 following taxes, surcharges, fees or acts as they now exist
17 or may hereafter be amended:

18 (1) Weight Distance Tax Act;

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

22 (3) Revised Uniform Unclaimed Property Act;

23 (4) 911 emergency surcharge and the network
24 and database surcharge, which surcharges shall be considered
25 taxes for purposes of the Tax Administration Act;

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

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

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

9 D. the administration and enforcement of all other
10 laws, with respect to which the department is charged with
11 responsibilities pursuant to the Tax Administration Act, but
12 only to the extent that the other laws do not conflict with
13 the Tax Administration Act."

14 SECTION 3. Section 7-1-6.58 NMSA 1978 (being Laws 2007
15 (1st S.S.), Chapter 2, Section 8) is amended to read:

16 "7-1-6.58. DISTRIBUTION--PUBLIC ELECTION FUND.--A
17 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
18 made to the public election fund from the amount deposited
19 pursuant to the provisions of Section 7-8B-801 NMSA 1978 in
20 the amount of one hundred thousand dollars (\$100,000) per
21 month during fiscal year 2008 and subsequent fiscal years."

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

24 "7-8B-101. SHORT TITLE.--Chapter 7, Article 8B NMSA
25 1978 may be cited as the "Revised Uniform Unclaimed Property

1 Act".

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

4 "7-8B-102. DEFINITIONS.--As used in the Revised Uniform
5 Unclaimed Property Act:

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

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

13 (3) "business association" means a corporation,
14 joint stock company, investment company other than an
15 investment company registered pursuant to the federal
16 Investment Company Act of 1940, as amended, partnership,
17 unincorporated association, joint venture, limited liability
18 company, business trust, trust company, land bank, safe
19 deposit company, safekeeping depository, financial
20 organization, insurance company, federally chartered entity,
21 utility, sole proprietorship or other business entity,
22 whether or not for profit;

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

1 (5) "domicile" means:

2 (A) for a corporation, the state of its
3 incorporation;

4 (B) for a business association whose
5 formation requires a filing with a state, other than a
6 corporation, the state of its filing;

7 (C) for a federally chartered entity or an
8 investment company registered pursuant to the federal
9 Investment Company Act of 1940, as amended, the state of its
10 charter; and

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

13 (6) "electronic" means relating to technology
14 having electrical, digital, magnetic, wireless, optical,
15 electromagnetic or similar capabilities;

16 (7) "electronic mail" means a communication by
17 electronic means that is automatically retained and stored
18 and may be readily accessed or retrieved;

19 (8) "financial organization" means a savings and
20 loan association, building and loan association, savings
21 bank, industrial bank, bank, banking organization or credit
22 union;

23 (9) "game-related digital content" means digital
24 content that exists only in an electronic game or electronic
25 gaming platform. The term:

1 (A) includes:

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

5 (ii) the following if for use or
6 redemption only within the game or platform or another
7 electronic game or electronic gaming platform:

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

10 (II) digital codes; and

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

13 (i) permits to be redeemed for use
14 outside a game or platform for:

15 (I) money; or

16 (II) goods or services that have
17 more than minimal value; or

18 (ii) otherwise monetizes for use
19 outside a game or platform;

20 (10) "gift card":

21 (A) means a stored-value card:

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

23 (ii) that may be decreased in value

24 only by redemption for merchandise, goods or services; and

25 (iii) that, unless required by law, may
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1 not be redeemed for or converted into money or otherwise
2 monetized by the issuer; and

3 (B) includes a prepaid commercial mobile
4 radio service, as defined in 47 C.F.R. 20.3, as amended;

5 (11) "holder" means a person obligated to hold for
6 the account of, or to deliver or pay to, the owner property
7 subject to the Revised Uniform Unclaimed Property Act;

8 (12) "insurance company" means an association,
9 corporation or fraternal or mutual-benefit organization,
10 whether or not for profit, engaged in the business of
11 providing life endowments, annuities or insurance, including
12 accident, burial, casualty, credit life, contract
13 performance, dental, disability, fidelity, fire, health,
14 hospitalization, illness, life, malpractice, marine,
15 mortgage, surety, wage protection and workers' compensation
16 insurance;

17 (13) "loyalty card" means a record given without
18 direct monetary consideration pursuant to an award, reward,
19 benefit, loyalty, incentive, rebate or promotional program
20 that may be used or redeemed only to obtain goods or services
21 or a discount on goods or services. The term does not
22 include a record that may be redeemed for money or otherwise
23 monetized by the issuer;

24 (14) "mineral" means gas, oil, coal, oil shale,
25 other gaseous liquid or solid hydrocarbon, cement material,

1 sand and gravel, road material, building stone, chemical raw
2 material, gemstone, fissionable and nonfissionable ores,
3 colloidal and other clay, steam and other geothermal
4 resources and any other substance defined as a mineral by law
5 of New Mexico other than the Revised Uniform Unclaimed
6 Property Act;

7 (15) "mineral proceeds" means an amount payable
8 for extraction, production or sale of minerals or, on the
9 abandonment of the amount, an amount that becomes payable
10 after abandonment. The term includes an amount payable:

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

14 (B) for the extraction, production or sale
15 of minerals, including a net revenue interest, royalty,
16 overriding royalty, extraction payment and production
17 payment; and

18 (C) pursuant to an agreement or option,
19 including a joint-operating agreement, unit agreement,
20 pooling agreement and farm-out agreement;

21 (16) "money order" means a payment order for a
22 specified amount of money. The term includes an express
23 money order and a personal money order on which the remitter
24 is the purchaser;

25 (17) "municipal bond" means a bond or evidence of

1 indebtedness issued by a municipality or other political
2 subdivision of a state;

3 (18) "net card value" means the original purchase
4 price or original issued value of a stored-value card, plus
5 amounts added to the original price or value, minus amounts
6 used and any service charge, fee or dormancy charge permitted
7 by law;

8 (19) "non-freely transferable security" means a
9 security that cannot be delivered to the administrator by the
10 depository trust and clearing corporation or similar
11 custodian of securities providing post-trade clearing and
12 settlement services to financial markets or cannot be
13 delivered because there is no agent to effect transfer. The
14 term includes a worthless security;

15 (20) "owner" means a person that has a legal,
16 beneficial or equitable interest in property subject to the
17 Revised Uniform Unclaimed Property Act or the person's legal
18 representative when acting on behalf of the owner. The term
19 includes:

20 (A) a depositor, for a deposit;

21 (B) a beneficiary, for a trust other than a
22 deposit in trust;

23 (C) a creditor, claimant or payee, for other
24 property; and

25 (D) the lawful bearer of a record that may

1 be used to obtain money, a reward or a thing of value;

2 (21) "payroll card" means a record that evidences
3 a payroll-card account as defined in Regulation E, 12 C.F.R.
4 Part 1005, as amended;

5 (22) "person" means an individual, estate,
6 business association, public corporation, government or
7 governmental subdivision, agency or instrumentality or other
8 legal entity;

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

14 (A) includes all income from or increments
15 to the property;

16 (B) includes property referred to as or
17 evidenced by:

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

20 (ii) a credit balance, customer's
21 overpayment, stored-value card, security deposit, refund,
22 credit memorandum, unpaid wage, unused ticket for which the
23 issuer has an obligation to provide a refund, mineral
24 proceeds or unidentified remittance;

25 (iii) a security except for:

1 (I) a worthless security; or
2 (II) a security that is subject
3 to a lien, legal hold or restriction evidenced on the records
4 of the holder or imposed by operation of law, if the lien,
5 legal hold or restriction restricts the holder's or owner's
6 ability to receive, transfer, sell or otherwise negotiate the
7 security;

8 (iv) a bond, debenture, note or other
9 evidence of indebtedness;

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

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

14 (vii) an amount distributable from a
15 trust or custodial fund established pursuant to a plan to
16 provide health, welfare, pension, vacation, severance,
17 retirement, death, stock purchase, profit-sharing,
18 employee-savings, supplemental-unemployment insurance or a
19 similar benefit; and

20 (C) does not include:

21 (i) property held in a plan described
22 in Section 529A of the federal Internal Revenue Code of 1986,
23 as amended;

24 (ii) game-related digital content; or

25 (iii) a loyalty card;

1 (24) "putative holder" means a person believed by
2 the administrator to be a holder, until the person pays or
3 delivers to the administrator property subject to the Revised
4 Uniform Unclaimed Property Act or the administrator or a
5 court makes a final determination that the person is or is
6 not a holder;

7 (25) "record" means information that is inscribed
8 on a tangible medium or that is stored in an electronic or
9 other medium and is retrievable in perceivable form;

10 (26) "security" means:

11 (A) a security as defined in Section
12 55-8-102 NMSA 1978;

13 (B) a security entitlement as defined in
14 Section 55-8-102 NMSA 1978, including a customer security
15 account held by a registered broker-dealer, to the extent the
16 financial assets held in the security account 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
21 person; 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

1 subsection;

2 (27) "sign" means, with present intent to
3 authenticate or adopt a record:

4 (A) to execute or adopt a tangible symbol;
5 or

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

8 (28) "state" means a state of the United States,
9 the District of Columbia, the Commonwealth of Puerto Rico,
10 the United States Virgin Islands or any territory or insular
11 possession subject to the jurisdiction of the United States;

12 (29) "stored-value card" means a record evidencing
13 a promise made for consideration by the seller or issuer of
14 the record that goods, services or money will be provided to
15 the owner of the record to the value or amount shown in the
16 record. The term:

17 (A) includes:

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

23 (ii) a gift card and payroll card; and

24 (B) does not include a loyalty card or game-
25 related digital content;

1 (30) "utility" means a person that owns or
2 operates for public use a plant, equipment, real property,
3 franchise or license for the following public services:

4 (A) transmission of communications or
5 information;

6 (B) production, storage, transmission, sale,
7 delivery or furnishing of electricity, water, steam or gas;
8 or

9 (C) provision of sewage or septic services
10 or trash, garbage or recycling disposal;

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

16 (A) the software or protocols governing the
17 transfer of the digital representation of value;

18 (B) game-related digital content; or

19 (C) a loyalty card or gift card; and

20 (32) "worthless security" means a security whose
21 cost of liquidation and delivery to the administrator would
22 exceed the value of the security on the date a report is due
23 pursuant to the Revised Uniform Unclaimed Property Act."

24 **SECTION 6.** A new Section 7-8B-103 NMSA 1978 is enacted
25 to read:

1 "7-8B-103. FOREIGN TRANSACTIONS.--The Revised Uniform
2 Unclaimed Property Act does not apply to:

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

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

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

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

16 "7-8B-104. RULEMAKING.--The administrator may adopt,
17 pursuant to the State Rules Act, rules to implement and
18 administer the Revised Uniform Unclaimed Property Act."

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

21 "7-8B-201. WHEN PROPERTY ASSUMED ABANDONED.--Subject to
22 Section 7-8B-210 NMSA 1978, the following property is
23 presumed abandoned if it is unclaimed by the apparent owner
24 during the period specified below:

25 (1) a traveler's check, fifteen years after

1 issuance;

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

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

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

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

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

21 (7) an amount owed by an insurance company on a
22 life or endowment insurance policy or an annuity contract
23 that has matured or terminated, three years after the
24 obligation to pay arose pursuant to the terms of the policy
25 or contract or, if a policy or contract for which an amount

1 is owed on proof of death has not matured by proof of the
2 death of the insured or annuitant, as follows:

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

6 (i) the insurance company has knowledge
7 of the death of the insured; or

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

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

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

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

21 (10) property held by a government or governmental
22 subdivision, agency or instrumentality, including municipal
23 bond interest and unredeemed principal pursuant to the
24 administration of a paying agent or indenture trustee, one
25 year after the property becomes distributable;

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

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

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

13 **SECTION 9.** A new Section 7-8B-202 NMSA 1978 is enacted
14 to read:

15 "7-8B-202. WHEN TAX-DEFERRED RETIREMENT ACCOUNT
16 PRESUMED ABANDONED.--

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

22 (1) the later of the following dates:

23 (A) except as in Subparagraph (B) of
24 this paragraph, the date a second consecutive communication
25 sent by the holder by first class United States mail to the

1 apparent owner is returned to the holder undelivered by the
2 United States postal service; or

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

7 (2) the earlier of the following dates:

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

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

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

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

20 (b) If a holder in the ordinary course of its
21 business receives notice or an indication of the death of an
22 apparent owner and Paragraph (2) of Subsection (a) of this
23 section applies, the holder shall attempt not later than
24 ninety days after receipt of the notice or indication to
25 confirm whether the apparent owner is deceased.

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

8 However, the holder shall promptly attempt to contact the
9 apparent owner by first class United States mail if:

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

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

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

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

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

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
5 later than thirty days after the date the first communication
6 is 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. WHEN OTHER TAX-DEFERRED ACCOUNT PRESUMED
13 ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, and except
14 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
18 account, that qualifies for tax deferral pursuant to the
19 income tax laws of the United States is presumed abandoned if
20 it is unclaimed by the apparent owner three years after the
21 earlier of:

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

1 been made; or

2 (2) thirty years after the date the account was
3 opened."

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

6 "7-8B-204. WHEN CUSTODIAL ACCOUNT FOR MINOR PRESUMED
7 ABANDONED.--

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

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

20 (2) if the second communication is sent
21 later than thirty days after the date the first communication
22 is returned undelivered, the date the first communication was
23 returned undelivered; or

24 (3) the date on which the custodian is
25 required to transfer the property to the minor or the minor's

1 estate in accordance with the Uniform Gifts to Minors Act or
2 the Uniform Transfers to Minors Act of the state in which the
3 account was opened.

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

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

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

19 (3) the custodian does not respond to the
20 electronic mail communication within thirty days after the
21 communication was sent.

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

1 the later of:

2 (1) the date a second consecutive
3 communication to contact the custodian by first class United
4 States mail is returned to the holder undelivered by the
5 United states postal Service; or

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

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

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

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

22 (1) expiration of the lease or rental period for
23 the box; or

24 (2) earliest date when the lessor of the box is
25 authorized by law of New Mexico other than the Revised

1 Uniform Unclaimed Property Act to enter the box and remove or
2 dispose of the contents without consent or authorization of
3 the lessee."

4 SECTION 13. A new Section 7-8B-206 NMSA 1978 is enacted
5 to read:

6 "7-8B-206. WHEN STORED-VALUE CARD PRESUMED ABANDONED.--

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

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

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

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

18 (b) The amount presumed abandoned in a
19 stored-value card is the net card value at the time it is
20 presumed abandoned."

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

23 "7-8B-207. WHEN GIFT CARD PRESUMED ABANDONED.--Subject
24 to Section 7-8B-210 NMSA 1978, a gift card is presumed
25 abandoned if it is unclaimed by the apparent owner five years

1 after the later of the date of purchase or its most recent
2 use, but if redeemable in merchandise only, the amount
3 abandoned is deemed to be sixty percent of the card's current
4 face value."

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

7 "7-8B-208. WHEN SECURITY PRESUMED ABANDONED.--

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

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

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

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

1 to contact the apparent owner by first class United States
2 mail if:

3 (1) the holder does not have information
4 needed to send the apparent owner an electronic mail
5 communication or the holder believes that the apparent
6 owner's electronic mail address in the holder's records is
7 not valid;

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

10 (3) the apparent owner does not respond to
11 the electronic mail communication within thirty days after
12 the communication was sent.

13 (c) If first class United States mail sent
14 pursuant to Subsection (b) of this section is returned to the
15 holder undelivered by the United States postal service, the
16 security is presumed abandoned three years after the date the
17 mail is returned."

18 **SECTION 16.** A new Section 7-8B-209 NMSA 1978 is enacted
19 to read:

20 "7-8B-209. WHEN RELATED PROPERTY PRESUMED ABANDONED.--
21 At and after the time property is presumed abandoned pursuant
22 to the Revised Uniform Unclaimed Property Act, any other
23 property right or interest accrued or accruing from the
24 property and not previously presumed abandoned is also
25 presumed abandoned."

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

3 "7-8B-210. INDICATION OF APPARENT OWNER INTEREST IN
4 PROPERTY.--

5 (a) The period after which property is presumed
6 abandoned is measured from the later of:

7 (1) the date the property is presumed
8 abandoned pursuant to Sections 7-8B-201 through 7-8B-211 NMSA
9 1978; or

10 (2) the latest indication of interest by the
11 apparent owner in the property.

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

15 (1) a record communicated by the apparent
16 owner to the holder or agent of the holder concerning the
17 property or the account in which the property is held;

18 (2) an oral communication by the apparent
19 owner to the holder or agent of the holder concerning the
20 property or the account in which the property is held, if the
21 holder or its agent contemporaneously makes and preserves a
22 record of the fact of the apparent owner's communication;

23 (3) presentment of a check or other
24 instrument of payment of a dividend, interest payment or
25 other distribution, or evidence of receipt of a distribution

1 made by electronic or similar means, with respect to an
2 account, underlying security or interest in a business
3 association;

4 (4) activity directed by an apparent owner
5 in the account in which the property is held, including
6 accessing the account or information concerning the account,
7 or a direction by the apparent owner to increase, decrease or
8 otherwise change the amount or type of property held in the
9 account;

10 (5) a deposit into or withdrawal from an
11 account at a financial organization, including an automatic
12 deposit or withdrawal previously authorized by the apparent
13 owner other than an automatic reinvestment of dividends or
14 interest;

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

17 (7) any other action by the apparent owner
18 that reasonably demonstrates to the holder that the apparent
19 owner knows that the property exists.

20 (c) An action by an agent or other representative
21 of an apparent owner, other than the holder acting as the
22 apparent owner's agent, is presumed to be an action on behalf
23 of the apparent owner.

24 (d) A communication with an apparent owner by a
25 person other than the holder or the holder's representative

1 is not an indication of interest in the property by the
2 apparent owner unless a record of the communication evidences
3 the apparent owner's knowledge of a right to the property.

4 (e) If the insured dies or the insured or
5 beneficiary of an insurance policy otherwise becomes entitled
6 to the proceeds before depletion of the cash surrender value
7 of the policy by operation of an automatic-premium-loan
8 provision or other nonforfeiture provision contained in the
9 policy, the operation does not prevent the policy from
10 maturing or terminating."

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

13 "7-8B-211. KNOWLEDGE OF DEATH OF INSURED OR
14 ANNUITANT.--

15 (a) In this section, "death master file" means the
16 United States social security administration death master
17 file or other database or service that is at least as
18 comprehensive as the United States social security
19 administration death master file for determining that an
20 individual reportedly has died.

21 (b) With respect to a life or endowment insurance
22 policy or annuity contract for which an amount is owed on
23 proof of death, but which has not matured by proof of death
24 of the insured or annuitant, the company has knowledge of the
25 death of an insured or annuitant when:

1 (1) the company receives a death certificate
2 or court order determining that the insured or annuitant has
3 died;

4 (2) due diligence, performed as required
5 pursuant to New Mexico law to maintain contact with the
6 insured or annuitant or determine whether the insured or
7 annuitant has died, validates the death of the insured or
8 annuitant;

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

14 (4) the administrator or the administrator's
15 agent conducts a comparison for the purpose of finding
16 matches during an examination conducted pursuant to Sections
17 7-8B-1001 through 7-8B-1012 NMSA 1978 between a death master
18 file and the names of some or all of the company's insureds
19 or annuitants, finds a match that provides notice that the
20 insured or annuitant has died and the company validates the
21 death; or

22 (5) the company:

23 (A) receives notice of the death of the
24 insured or annuitant from an administrator, beneficiary,
25 policy owner, relative of the insured or trustee or from a

1 personal representative or other legal representative of the
2 insured's or annuitant's estate; and

3 (B) validates the death of the insured
4 or annuitant.

5 (c) The following rules apply pursuant to this
6 section:

7 (1) a death-master-file match pursuant to
8 Paragraph (3) or (4) of Subsection (b) of this section occurs
9 if the criteria for an exact or partial match are satisfied
10 as provided by:

11 (A) law of New Mexico other than the
12 Revised Uniform Unclaimed Property Act;

13 (B) a rule or policy adopted by the
14 superintendent of insurance; or

15 (C) absent a law, rule or policy
16 pursuant to Subparagraph (A) or (B) of this paragraph,
17 standards in the national conference of insurance
18 legislators' "Model Unclaimed Life Insurance Benefits Act",
19 as published in 2014;

20 (2) the death-master-file match does not
21 constitute proof of death for the purpose of submission to an
22 insurance company of a claim by a beneficiary, annuitant or
23 owner of the policy or contract for an amount due pursuant to
24 an insurance policy or annuity contract;

25 (3) the death-master-file match or

1 validation of the insured's or annuitant's death does not
2 alter the requirements for a beneficiary, annuitant or owner
3 of the policy or contract to make a claim to receive proceeds
4 pursuant to the terms of the policy or contract; and

5 (4) if no provision in New Mexico law
6 establishes a time for validation of a death of an insured or
7 annuitant, the insurance company shall make a good faith
8 effort using other available records and information to
9 validate the death and document the effort taken not later
10 than ninety days after the insurance company has notice of
11 the death.

12 (d) The Revised Uniform Unclaimed Property Act
13 does not affect the determination of the extent to which an
14 insurance company before the effective date of that act had
15 knowledge of the death of an insured or annuitant or was
16 required to conduct a death-master-file comparison to
17 determine whether amounts owed by the company on a life or
18 endowment insurance policy or annuity contract were presumed
19 abandoned or unclaimed."

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

22 "7-8B-212. DEPOSIT ACCOUNT FOR PROCEEDS OF INSURANCE
23 POLICY OR ANNUITY CONTRACT.--If proceeds payable pursuant to
24 a life or endowment insurance policy or annuity contract are
25 deposited into an account with check or draft-writing

1 privileges for the beneficiary of the policy or contract and,
2 pursuant to a supplementary contract not involving annuity
3 benefits other than death benefits, the proceeds are retained
4 by the insurance company or the financial organization where
5 the account is held, the policy or contract includes the
6 assets in the account."

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

9 "7-8B-301. ADDRESS OF APPARENT OWNER TO ESTABLISH
10 PRIORITY.--In Sections 7-8B-301 through 7-8B-307 NMSA 1978,
11 the following rules apply:

12 (1) The last known address of an apparent owner is
13 any description, code or other indication of the location of
14 the apparent owner that identifies the state, even if the
15 description, code or indication of location is not sufficient
16 to direct the delivery of first class United States mail to
17 the apparent owner.

18 (2) If the United States postal code associated
19 with the apparent owner is for a post office located in New
20 Mexico, New Mexico is deemed to be the state of the last
21 known address of the apparent owner unless other records
22 associated with the apparent owner specifically identify the
23 physical address of the apparent owner to be in another
24 state.

25 (3) If the address pursuant to Subsection (2) of

1 this section is in another state, the other state is deemed
2 to be the state of the last known address of the apparent
3 owner.

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

12 SECTION 21. A new Section 7-8B-302 NMSA 1978 is enacted
13 to read:

14 "7-8B-302. ADDRESS OF APPARENT OWNER IN NEW MEXICO.--
15 The administrator may take custody of property that is
16 presumed abandoned, whether located in New Mexico, another
17 state or a foreign country if:

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

20 (2) the records of the holder do not reflect the
21 identity or last known address of the apparent owner, but the
22 administrator has determined that the last known address of
23 the apparent owner is in New Mexico."

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

1 "7-8B-303. IF RECORDS SHOW MULTIPLE ADDRESSES OF
2 APPARENT OWNER.--

3 (a) Except as provided in Subsection (b) of this
4 section, if records of a holder reflect multiple addresses
5 for an apparent owner and New Mexico is the state of the most
6 recently recorded address, the administrator may take custody
7 of property presumed abandoned, whether located in New Mexico
8 or another state.

9 (b) If it appears from records of the holder that
10 the most recently recorded address of the apparent owner
11 pursuant to Subsection (a) of this section is a temporary
12 address and New Mexico is the state of the next most recently
13 recorded address that is not a temporary address, the
14 administrator may take custody of the property presumed
15 abandoned."

16 **SECTION 23.** A new Section 7-8B-304 NMSA 1978 is enacted
17 to read:

18 "7-8B-304. HOLDER DOMICILED IN NEW MEXICO.--

19 (a) Except as provided in Subsection (b) of this
20 section or Section 7-8B-302 or 7-8B-303 NMSA 1978, the
21 administrator may take custody of property presumed
22 abandoned, whether located in New Mexico, another state or a
23 foreign country, if the holder is domiciled in New Mexico, is
24 New Mexico or a governmental subdivision, agency or
25 instrumentality of New Mexico and:

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

5 (2) the state or foreign country of the last
6 known address of the apparent owner or other person entitled
7 to the property does not provide for custodial taking of the
8 property.

9 (b) Property is not subject to custody of the
10 administrator pursuant to Subsection (a) of this section if
11 the property is specifically exempt from custodial taking
12 pursuant to the law of New Mexico or the state or foreign
13 country of the last known address of the apparent owner.

14 (c) If a holder's state of domicile has changed
15 since the time property was presumed abandoned, the holder's
16 state of domicile in this section is deemed to be the state
17 where the holder was domiciled at the time the property was
18 presumed abandoned."

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

21 "7-8B-305. CUSTODY IF TRANSACTION TOOK PLACE IN NEW
22 MEXICO.--Except as provided in Section 7-8B-302, 7-8B-303 or
23 7-8B-304 NMSA 1978, the administrator may take custody of
24 property presumed abandoned whether located in New Mexico or
25 another state if:

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

3 (2) the holder is domiciled in a state that does
4 not provide for the custodial taking of the property, except
5 that if the property is specifically exempt from custodial
6 taking pursuant to the law of the state of the holder's
7 domicile, the property is not subject to the custody of the
8 administrator; and

9 (3) the last known address of the apparent owner
10 or other person entitled to the property is unknown or in a
11 state that does not provide for the custodial taking of the
12 property, except that if the property is specifically exempt
13 from custodial taking pursuant to the law of the state of the
14 last known address, the property is not subject to the
15 custody of the administrator."

16 **SECTION 25.** A new Section 7-8B-306 NMSA 1978 is enacted
17 to read:

18 "7-8B-306. TRAVELER'S CHECK, MONEY ORDER OR SIMILAR
19 INSTRUMENT.--The administrator may take custody of sums
20 payable on a traveler's check, money order or similar
21 instrument presumed abandoned to the extent permissible
22 pursuant to 12 U.S.C. Sections 2501 through 2503, as
23 amended."

24 **SECTION 26.** A new Section 7-8B-307 NMSA 1978 is enacted
25 to read:

1 "7-8B-307. BURDEN OF PROOF TO ESTABLISH ADMINISTRATOR'S
2 RIGHT TO CUSTODY.--If the administrator asserts a right to
3 custody of unclaimed property, the administrator has the
4 burden to prove:

5 (1) the existence and amount of the property;
6 (2) that the property is presumed abandoned; and
7 (3) that the property is subject to the custody of
8 the administrator."

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

11 "7-8B-401. REPORT REQUIRED BY HOLDER.--

12 (a) A holder of property presumed abandoned and
13 subject to the custody of the administrator shall report in a
14 record to the administrator concerning the property. A
15 holder of more than twenty-five properties presumed abandoned
16 shall report the properties in an electronic medium and in a
17 format determined by the administrator to be compatible with
18 computer programming and equipment used by the administrator
19 for processing.

20 (b) A holder may contract with a third party to
21 make the report required pursuant to Subsection (a) of this
22 section.

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

1 (1) to the administrator for the complete,
2 accurate and timely reporting of property presumed abandoned;
3 and

4 (2) for paying or delivering to the
5 administrator property described in the report.

6 (d) Before the date for filing the report, the
7 holder of property presumed abandoned may request the
8 administrator to extend the time for filing the report. The
9 administrator may grant the extension for good cause. The
10 holder, upon receipt of the extension, may make an interim
11 payment on the amount the holder estimates will ultimately be
12 due, which terminates the accrual of additional interest on
13 the amount paid.

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

17 **SECTION 28.** A new Section 7-8B-402 NMSA 1978 is enacted
18 to read:

19 "7-8B-402. CONTENT OF REPORT.--

20 (a) The report required pursuant to Section
21 7-8B-401 NMSA 1978 shall:

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

24 (2) if filed electronically, be in a secure
25 format approved by the administrator that protects

1 confidential information of the apparent owner in the same
2 manner as required of the administrator and the
3 administrator's agent pursuant to Sections 7-8B-1401 through
4 7-8B-1408 NMSA 1978;

5 (3) describe the property;

6 (4) except for a traveler's check, money
7 order or similar instrument, contain the name, if known, last
8 known address, if known, and social security number or
9 taxpayer identification number, if known or readily
10 ascertainable, of the apparent owner of property with a value
11 of fifty dollars (\$50.00) or more;

12 (5) for an amount held or owing pursuant to
13 a life or endowment insurance policy or annuity contract,
14 contain the name and last known address of the insured,
15 annuitant or other apparent owner of the policy or contract
16 and of the beneficiary;

17 (6) for property held in or removed from a
18 safe-deposit box, indicate the location of the property,
19 where it may be inspected by the administrator and any
20 amounts owed to the holder pursuant to Section 7-8B-606 NMSA
21 1978;

22 (7) contain the commencement date for
23 determining abandonment pursuant to Sections 7-8B-201 through
24 7-8B-212 NMSA 1978;

25 (8) state that the holder has complied with

1 the notice requirements of Section 7-8B-501 NMSA 1978;

2 (9) identify property that is a non-freely
3 transferable security and explain why it is a non-freely
4 transferable security; and

5 (10) contain other information the
6 administrator prescribes by rule.

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

15 (c) A report pursuant to Section 7-8B-401 NMSA
16 1978 may include personal information as defined in
17 Subsection (a) of Section 7-8B-1401 NMSA 1978 about the
18 apparent owner or the apparent owner's property to the extent
19 not otherwise prohibited by federal law.

20 (d) If a holder has changed its name while holding
21 property presumed abandoned or is a successor to another
22 person that previously held the property for the apparent
23 owner, the holder shall include in the report pursuant to
24 Section 7-8B-401 NMSA 1978 its former name or the name of the
25 previous holder, if any, and the known name and address of

1 each previous holder of the property."

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

4 "7-8B-403. WHEN REPORT TO BE FILED.--

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

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

14 (c) Before the date for filing the report pursuant
15 to Section 7-8B-401 NMSA 1978, the holder of property
16 presumed abandoned may request the administrator to extend
17 the time for filing. The administrator may grant an
18 extension. If the extension is granted, the holder may pay
19 or make a partial payment of the amount the holder estimates
20 ultimately will be due. The payment or partial payment
21 terminates accrual of interest on the amount paid."

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

24 "7-8B-404. RETENTION OF RECORDS BY HOLDER.--A holder
25 required to file a report pursuant to Section 7-8B-401 NMSA

1 1978 shall retain records for ten years after the later of
2 the date the report was filed or the last date a timely
3 report was due to be filed, unless a shorter period is
4 provided by rule of the administrator. The holder may
5 satisfy the requirement to retain records pursuant to this
6 section through an agent. The records shall contain:

7 (1) the information required to be included in the
8 report;

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

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

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

14 (5) if the holder sells, issues or provides to
15 others for sale or issue in New Mexico traveler's checks,
16 money orders or similar instruments, other than third-party
17 bank checks, on which the holder is directly liable, a record
18 of the instruments while they remain outstanding indicating
19 the state and date of issue."

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

22 "7-8B-405. PROPERTY REPORTABLE AND PAYABLE OR
23 DELIVERABLE ABSENT OWNER DEMAND.--Property is reportable and
24 payable or deliverable pursuant to the Revised Uniform
25 Unclaimed Property Act even if the owner fails to make demand

1 or present an instrument or document otherwise required to
2 obtain payment."

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

5 "7-8B-406. EXERCISE OF DUE DILIGENCE--LIABILITY--
6 NOTICE.--

7 (a) Notwithstanding any other provisions of the
8 Revised Uniform Unclaimed Property Act, the holder of
9 unclaimed intangible property in the form of checks in
10 payment of royalty interests, working interests or other
11 interests payable out of oil and gas production with a value
12 of fifty dollars (\$50.00) or more who fails to exercise due
13 diligence in attempting to locate the apparent owner of such
14 property during the running of the period specified under
15 Section 7-8B-201 NMSA 1978 constituting a presumption of
16 abandonment of such intangible property is subject to payment
17 to the owner if such property is successfully claimed within
18 the time specified by the Revised Uniform Unclaimed Property
19 Act or to the state of New Mexico upon payment or delivery of
20 the property to the administrator, interest at the annual
21 rate of interest computed as provided in Subsection B of
22 Section 7-1-67 NMSA 1978 on the value of the intangible
23 property, such interest running from the date commencing
24 after the first year in which the property remained unclaimed
25 to the date of payment or delivery.

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

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

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

15 (c) Publication as required in Subsection (b) of
16 this section consists of publication in a newspaper of
17 general circulation in the county of this state in which is
18 located the last known address of the apparent owner, or if
19 no address is listed or the address is outside the state, in
20 a newspaper published in the county in which the holder of
21 the property has the holder's principal place of business
22 within the state. The notice shall be published at least
23 once a week for two consecutive weeks and shall be entitled:
24 "NOTICE OF THE NAME OF A PERSON APPEARING TO BE THE OWNER OF
25 ABANDONED PROPERTY".

1 (d) The published notice shall contain:

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

4 (2) a statement that information concerning
5 the unclaimed property may be obtained from the holder of the
6 property;

7 (3) the name and address of the holder of
8 the property; and

9 (4) a statement that if proof of claim is
10 not presented by the owner to the holder and the owner's
11 right to receive the property is not established to the
12 holder's satisfaction before the expiration of the period
13 specified by the Revised Uniform Unclaimed Property Act for
14 the presumption of abandonment, the intangible property will
15 be placed in the custody of the state of New Mexico and
16 subject to escheat to the general fund of the state.

17 (e) The provisions of this section shall not apply
18 to the United States or any agency or instrumentality of the
19 United States or to the state of New Mexico or any agency or
20 political subdivision of the state.

21 (f) Any holder of property that has been presumed
22 to be abandoned for more than three years as of January 1,
23 1990 shall not be presumed to be negligent by the failure to
24 publish a notice in a newspaper of general circulation as
25 required by this section."

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

3 "7-8B-501. NOTICE TO APPARENT OWNER BY HOLDER.--

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

11 (1) the holder has in its records an address
12 for the apparent owner that the holder's records do not
13 disclose to be invalid and is sufficient to direct the
14 delivery of first class United States mail to the apparent
15 owner; and

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

18 (b) If an apparent owner has consented to receive
19 electronic mail delivery from the holder, the holder shall
20 send the notice described in Subsection (a) of this section
21 both by first class United States mail to the apparent
22 owner's last known mailing address and by electronic mail,
23 unless the holder believes that the apparent owner's
24 electronic mail address is invalid."

25 SECTION 34. A new Section 7-8B-502 NMSA 1978 is enacted HB 165/a
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1 to read:

2 "7-8B-502. CONTENTS OF NOTICE BY HOLDER.--

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

10 (b) The notice pursuant to Section 7-8B-501 NMSA
11 1978 shall:

12 (1) identify the nature and, except for
13 property that does not have a fixed value, the value of the
14 property that is the subject of the notice;

15 (2) state that the property will be turned
16 over to the administrator;

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

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

24 (5) provide instructions that the apparent
25 owner shall follow to prevent the holder from reporting and

1 paying or delivering the property to the administrator."

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

4 "7-8B-503. NOTICE BY ADMINISTRATOR.--

5 (a) The administrator shall give notice to an
6 apparent owner that property presumed abandoned and that
7 appears to be owned by the apparent owner is held by the
8 administrator pursuant to the Revised Uniform Unclaimed
9 Property Act.

10 (b) In providing notice pursuant to Subsection (a)
11 of this section, the administrator shall:

12 (1) except as otherwise provided in
13 Paragraph (2) of this subsection, send written notice by
14 first class United States mail to each apparent owner of
15 property valued at fifty dollars (\$50.00) or more held by the
16 administrator, unless the administrator determines that a
17 mailing by first class United States mail would not be
18 received by the apparent owner, and in the case of a security
19 held in an account for which the apparent owner had consented
20 to receiving electronic mail from the holder, send notice by
21 electronic mail if the electronic mail address of the
22 apparent owner is known to the administrator instead of by
23 first class United States mail; or

24 (2) send the notice to the apparent owner's
25 electronic mail address if the administrator does not have a

1 valid United States mail address for an apparent owner but
2 has an electronic mail address that the administrator does
3 not know to be invalid.

4 (c) In addition to the notice pursuant to
5 Subsection (b) of this section, the administrator shall
6 publish a notice not later than November 30 of each year in
7 which abandoned property has been paid or delivered to the
8 administrator. The notice shall be published in a newspaper
9 of general circulation in each county of this state. The
10 advertisement must be in a form that, in the judgment of the
11 administrator, is likely to attract the attention of the
12 general public. The advertisement shall contain:

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

15 (2) the email address of the administrator;

16 (3) the telephone number and physical
17 mailing address of the administrator;

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

21 (5) a statement providing information about
22 the property and that the return to the property's owner is
23 available to a person having a legal or beneficial interest
24 in the property, upon request to the administrator.

25 (d) In addition to giving notice pursuant to

1 Subsection (b) of this section, the administrator may use
2 other printed publication, telecommunication, the internet or
3 other media to inform the public of the existence of
4 unclaimed property held by the administrator."

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

7 "7-8B-504. COOPERATION AMONG STATE OFFICERS AND
8 AGENCIES TO LOCATE APPARENT OWNER.--Unless prohibited by law
9 of New Mexico other than the Revised Uniform Unclaimed
10 Property Act, on request of the administrator, each officer,
11 agency, board, commission, division and department of New
12 Mexico, any body politic and corporate created by this state
13 for a public purpose and each political subdivision of this
14 state shall make its books and records available to the
15 administrator and cooperate with the administrator to
16 determine the current address of an apparent owner of
17 property held by the administrator pursuant to the Revised
18 Uniform Unclaimed Property Act."

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

21 "7-8B-601. DEFINITION OF GOOD FAITH.--In Sections
22 7-8B-601 through 7-8B-610 NMSA 1978, payment or delivery of
23 property is made in good faith if a holder:

24 (1) had a reasonable basis for believing, based on
25 the facts then known, that the property was required or

1 permitted to be paid or delivered to the administrator
2 pursuant to the Revised Uniform Unclaimed Property Act; or

3 (2) made payment or delivery:

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

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

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

11 "7-8B-602. DORMANCY CHARGE.--

12 (a) A holder may deduct a dormancy charge from
13 property required to be paid or delivered to the
14 administrator if:

15 (1) a valid contract in a record between the
16 holder and the apparent owner authorizes imposition of the
17 charge for the apparent owner's failure to claim the property
18 within a specified time; and

19 (2) the holder regularly imposes the charge
20 and regularly does not reverse or otherwise cancel the
21 charge.

22 (b) The amount of the deduction pursuant to
23 Subsection (a) of this section is limited to an amount that
24 is not unconscionable considering all relevant factors,
25 including the marginal transactional costs incurred by the

1 holder in maintaining the apparent owner's property and any
2 services received by the apparent owner."

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

5 "7-8B-603. PAYMENT OR DELIVERY OF PROPERTY TO
6 ADMINISTRATOR.--

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

11 (b) If property in a report pursuant to Section
12 7-8B-401 NMSA 1978 is an automatically renewable deposit and
13 a penalty or forfeiture in the payment of interest would
14 result from paying the deposit to the administrator at the
15 time of the report, the date for payment of the property to
16 the administrator is extended until a penalty or forfeiture
17 no longer would result from payment, if the holder informs
18 the administrator of the extended date.

19 (c) Tangible property in a safe-deposit box may
20 not be delivered to the administrator until one hundred
21 twenty days after filing the report pursuant to Section
22 7-8B-401 NMSA 1978.

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

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

5 (2) dispose of the security pursuant to
6 Section 7-8B-702 NMSA 1978.

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

13 (f) The administrator shall establish procedures
14 for the registration, issuance, method of delivery, transfer
15 and maintenance of securities delivered to the administrator
16 by a holder.

17 (g) An issuer, holder and transfer agent or other
18 person acting pursuant to this section pursuant to
19 instructions of and on behalf of the issuer or holder is not
20 liable to the apparent owner for, and shall be indemnified by
21 the state against, a claim arising with respect to property
22 after the property has been delivered to the administrator.

23 (h) A holder is not required to deliver to the
24 administrator a security identified by the holder as a
25 non-freely transferable security. If the administrator or

1 holder determines that a security is no longer a non-freely
2 transferable security, the holder shall deliver the security
3 on the next regular date prescribed for delivery of
4 securities pursuant to the Revised Uniform Unclaimed Property
5 Act. The holder shall make a determination annually whether
6 a security identified in a report filed pursuant to Section
7 7-8B-401 NMSA 1978 as a non-freely transferable security is
8 no longer a non-freely transferable security."

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

11 "7-8B-604. EFFECT OF PAYMENT OR DELIVERY OF PROPERTY TO
12 ADMINISTRATOR.--

13 (a) On payment or delivery of property to the
14 administrator pursuant to the Revised Uniform Unclaimed
15 Property Act, the administrator as agent for the state
16 assumes custody and responsibility for safekeeping the
17 property. A holder that pays or delivers property to the
18 administrator in good faith and substantially complies with
19 Sections 7-8B-501 and 7-8B-502 NMSA 1978 is relieved of
20 liability arising thereafter with respect to payment or
21 delivery of the property to the administrator.

22 (b) New Mexico shall defend and indemnify a holder
23 against liability on a claim against the holder resulting
24 from the payment or delivery of property to the administrator
25 made in good faith and after the holder substantially

1 complied with Sections 7-8B-501 and 7-8B-502 NMSA 1978."

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

4 "7-8B-605. RECOVERY OF PROPERTY BY HOLDER FROM
5 ADMINISTRATOR.--

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

8 (1) payment or delivery was made in a
9 reasonable attempt to comply with the Revised Uniform
10 Unclaimed Property Act;

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

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

18 (b) Upon payment or delivery of property to the
19 administrator, the state assumes custody and responsibility
20 for the safekeeping of the property. A holder that pays or
21 delivers property to the administrator in good faith is
22 relieved of all liability arising thereafter with respect to
23 the property.

24 (c) A holder that has paid money to the
25 administrator pursuant to the Revised Uniform Unclaimed

1 Property Act may subsequently make payment to a person
2 reasonably appearing to the holder to be entitled to payment.
3 Upon a filing by the holder of proof of payment and proof
4 that the payee was entitled to the payment, the administrator
5 shall promptly reimburse the holder for the payment without
6 imposing a fee or other charge. If reimbursement is sought
7 for a payment made on a negotiable instrument, including a
8 traveler's check or money order, the holder must be
9 reimbursed upon filing proof that the instrument was duly
10 presented and that payment was made to a person that
11 reasonably appeared to be entitled to payment. The holder
12 must be reimbursed for payment made even if the payment was
13 made to a person whose claim was barred under Subsection (a)
14 of Section 7-8B-610 NMSA 1978.

15 (d) A holder that has delivered property other
16 than money to the administrator pursuant to the Revised
17 Uniform Unclaimed Property Act may reclaim the property if it
18 is still in the possession of the administrator, without
19 paying any fee or other charge, upon filing proof that the
20 apparent owner has claimed the property from the holder.

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

24 (f) If a holder pays or delivers property to the
25 administrator in good faith and thereafter another person

1 claims the property from the holder or another state claims
2 the money or property under its laws relating to escheat or
3 abandoned or unclaimed property, the administrator, upon
4 written notice of the claim, shall defend the holder against
5 the claim and indemnify the holder against any liability on
6 the claim resulting from payment or delivery of the property
7 to the administrator.

8 (g) Property removed from a safe deposit box or
9 other safekeeping depository is received by the administrator
10 subject to the holder's right to be reimbursed for the cost
11 of the opening and to any valid lien or contract providing
12 for the holder to be reimbursed for unpaid rent or storage
13 charges. The administrator shall reimburse the holder out of
14 the proceeds remaining after deducting the expense incurred
15 by the administrator in selling the property."

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

18 "7-8B-606. PROPERTY REMOVED FROM SAFE-DEPOSIT BOX.--
19 Property removed from a safe-deposit box and delivered to the
20 administrator pursuant to the Revised Uniform Unclaimed
21 Property Act is subject to the holder's right to
22 reimbursement for the cost of opening the box and a lien or
23 contract providing reimbursement to the holder for unpaid
24 rent charges for the box. The administrator shall reimburse
25 the holder from the proceeds remaining after deducting the

1 expense incurred by the administrator in selling the
2 property."

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

5 "7-8B-607. CREDITING INCOME OR GAIN TO OWNER'S
6 ACCOUNT.--

7 (a) If property other than money is delivered to
8 the administrator, the owner is entitled to receive from the
9 administrator income or gain realized or accrued on the
10 property before the property is sold. If the property was an
11 interest-bearing demand, savings or time deposit, the
12 administrator shall pay interest at the lesser of the rate of
13 five percent or the rate the property earned while in the
14 possession of the holder. Interest begins to accrue when the
15 property is delivered to the administrator and ends on the
16 earlier of the expiration of ten years after its delivery or
17 the date on which payment is made to the owner.

18 (b) Interest on interest-bearing property is not
19 payable pursuant to this section for any period before the
20 effective date of the Revised Uniform Unclaimed Property Act,
21 unless authorized by the Uniform Unclaimed Property Act
22 (1995)."

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

25 "7-8B-608. ADMINISTRATOR'S OPTIONS AS TO CUSTODY.--

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

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

6 (2) taking custody of the property would be
7 unlawful.

8 (b) A holder may pay or deliver property to the
9 administrator before the property is presumed abandoned
10 pursuant to the Revised Uniform Unclaimed Property Act if the
11 holder:

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

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

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

21 (c) A holder's request for the administrator's
22 consent pursuant to Paragraph (3) of Subsection (b) of this
23 section shall be in a record. If the administrator fails to
24 respond to the request not later than thirty days after
25 receipt of the request, the administrator is deemed to

1 consent to the payment or delivery of the property and the
2 payment or delivery is considered to have been made in good
3 faith.

4 (d) On payment or delivery of property pursuant to
5 Subsection (b) of this section, the property is presumed
6 abandoned."

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

9 "7-8B-609. DISPOSITION OF PROPERTY HAVING NO
10 SUBSTANTIAL VALUE--IMMUNITY FROM LIABILITY.--

11 (a) If the administrator takes custody of property
12 delivered pursuant to the Revised Uniform Unclaimed Property
13 Act and later determines that the property has no substantial
14 commercial value or that the cost of disposing of the
15 property will exceed the value of the property, the
16 administrator may return the property to the holder or
17 destroy or otherwise dispose of the property.

18 (b) An action or proceeding may not be commenced
19 against the state; an agency of the state; the administrator;
20 another officer, employee or agent of the state; or a holder
21 for or because of an act of the administrator pursuant to
22 this section, except for intentional misconduct or
23 malfeasance."

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

1 "7-8B-610. PERIODS OF LIMITATION AND REPOSE.--

2 (a) Expiration, before, on or after the effective
3 date of the Revised Uniform Unclaimed Property Act, of a
4 period of limitation on an owner's right to receive or
5 recover property, whether specified by contract, statute or
6 court order, does not prevent the property from being
7 presumed abandoned or affect the duty of a holder pursuant to
8 that act to file a report or pay or deliver property to the
9 administrator.

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

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

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

23 "7-8B-701. PUBLIC SALE OF PROPERTY.--

24 (a) Subject to Section 7-8B-702 NMSA 1978, not
25 earlier than three years after receipt of property presumed

1 abandoned, the administrator may sell the property.

2 (b) Before selling property pursuant to Subsection
3 (a) of this section, the administrator shall give notice to
4 the public of:

5 (1) the date of the sale; and

6 (2) a reasonable description of the
7 property.

8 (c) A sale pursuant to Subsection (a) of this
9 section shall be to the highest bidder:

10 (1) at public sale at a location in this
11 state that the administrator determines to be the most
12 favorable market for the property;

13 (2) on the internet; or

14 (3) on another forum the administrator
15 determines is likely to yield the highest net proceeds of
16 sale.

17 (d) The administrator may decline the highest bid
18 at a sale pursuant to this section and reoffer the property
19 for sale if the administrator determines the highest bid is
20 insufficient.

21 (e) If a sale held pursuant to this section is to
22 be conducted other than on the internet, the administrator
23 shall publish at least one notice of the sale, at least three
24 weeks but not more than five weeks before the sale, in a
25 newspaper of general circulation in the county in which the

1 property is sold."

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

4 "7-8B-702. DISPOSAL OF SECURITIES.--

5 (a) The administrator may not sell or otherwise
6 liquidate a security until three years after the
7 administrator receives the security and gives the apparent
8 owner notice pursuant to Section 7-8B-503 NMSA 1978 that the
9 administrator holds the security.

10 (b) The administrator may not sell a security
11 listed on an established stock exchange for less than the
12 price prevailing on the exchange at the time of sale. The
13 administrator may sell a security not listed on an
14 established exchange by any commercially reasonable method."

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

17 "7-8B-703. RECOVERY OF SECURITIES OR VALUE BY OWNER.--

18 (a) If the administrator sells a security before
19 the expiration of six years after delivery of the security to
20 the administrator, an apparent owner that files a valid claim
21 pursuant to the Revised Uniform Unclaimed Property Act of
22 ownership of the security before the six-year period expires
23 is entitled, at the option of the administrator, to receive:

24 (1) replacement of the security; or

25 (2) the market value of the security at the

1 time the claim is filed, plus dividends, interest and other
2 increments on the security up to the time the claim is paid.

3 (b) Replacement of the security or calculation of
4 market value pursuant to Subsection (a) of this section shall
5 take into account a stock split, reverse stock split, stock
6 dividend or similar corporate action.

7 (c) A person that makes a valid claim pursuant to
8 the Revised Uniform Unclaimed Property Act of ownership of a
9 security after expiration of six years after delivery of the
10 security to the administrator is entitled to receive:

11 (1) the security the holder delivered to the
12 administrator, if it is in the custody of the administrator,
13 plus dividends, interest and other increments on the security
14 up to the time the administrator delivers the security to the
15 person; or

16 (2) the net proceeds of the sale of the
17 security, plus dividends, interest and other increments on
18 the security up to the time the security was sold."

19 **SECTION 50.** A new Section 7-8B-704 NMSA 1978 is enacted
20 to read:

21 "7-8B-704. PURCHASER OWNS PROPERTY AFTER SALE.--A
22 purchaser of property at a sale conducted by the
23 administrator pursuant to the Revised Uniform Unclaimed
24 Property Act takes the property free of all claims of the
25 owner, a previous holder or a person claiming through the

1 owner or holder. The administrator shall execute documents
2 necessary to complete the transfer of ownership to the
3 purchaser."

4 SECTION 51. A new Section 7-8B-705 NMSA 1978 is enacted
5 to read:

6 "7-8B-705. MILITARY MEDAL OR DECORATION.--

7 (a) The administrator may not sell a medal or
8 decoration awarded for military service in the armed forces
9 of the United States.

10 (b) The administrator, with the consent of the
11 respective organization pursuant to Paragraph (1) of this
12 subsection, agency under Paragraph (2) of this subsection or
13 entity under Paragraph (3) of this subsection, may deliver a
14 medal or decoration described in Subsection (a) of this
15 section to be held in custody for the owner, to:

16 (1) a military veterans organization
17 qualified under Paragraph (19) of Subsection (c) of Section
18 501 of the federal Internal Revenue Code of 1986, as amended;

19 (2) the agency that awarded the medal or
20 decoration; or

21 (3) a governmental entity.

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

25 SECTION 52. A new Section 7-8B-801 NMSA 1978 is enacted

1 to read:

2 "7-8B-801. DEPOSIT OF FUNDS BY ADMINISTRATOR.--Except
3 as otherwise provided by this section, the administrator
4 shall promptly deposit in the tax administration suspense
5 fund for distribution pursuant to the provisions of the Tax
6 Administration Act all money received under the Revised
7 Uniform Unclaimed Property Act, including the proceeds from
8 the sale of abandoned property under Section 7-8B-701 NMSA
9 1978. The administrator shall retain in the unclaimed
10 property fund at least one hundred thousand dollars
11 (\$100,000) for the purposes of the Revised Uniform Unclaimed
12 Property Act, from which the administrator shall pay claims
13 duly allowed. The administrator shall record the name and
14 last known address of each person appearing from the holders'
15 reports to be entitled to the property and the name and last
16 known address of each insured person or annuitant and
17 beneficiary and with respect to each policy or annuity listed
18 in the report of an insurance company, its number, the name
19 of the company and the amount due."

20 SECTION 53. A new Section 7-8B-802 NMSA 1978 is enacted
21 to read:

22 "7-8B-802. ADMINISTRATOR TO RETAIN RECORDS OF
23 PROPERTY.--The administrator shall:

24 (1) record and retain the name and last known
25 address of each person shown on a report filed pursuant to

1 Section 7-8B-401 NMSA 1978 to be the apparent owner of
2 property delivered to the administrator;

3 (2) record and retain the name and last known
4 address of each insured or annuitant and beneficiary shown on
5 the report;

6 (3) for each policy of insurance or annuity
7 contract listed in the report of an insurance company, record
8 and retain the policy or account number, the name of the
9 company and the amount due or paid; and

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

13 SECTION 54. A new Section 7-8B-803 NMSA 1978 is enacted
14 to read:

15 "7-8B-803. EXPENSES AND SERVICE CHARGES OF
16 ADMINISTRATOR.--Before making a deposit of funds received
17 pursuant to the Revised Uniform Unclaimed Property Act to the
18 general fund, the administrator may deduct:

19 (1) expenses of disposition of property delivered
20 to the administrator pursuant to the Revised Uniform
21 Unclaimed Property Act;

22 (2) costs of mailing and publication in connection
23 with property delivered to the administrator pursuant to the
24 Revised Uniform Unclaimed Property Act;

25 (3) reasonable service charges; and

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

3 SECTION 55. A new Section 7-8B-804 NMSA 1978 is enacted
4 to read:

5 "7-8B-804. ADMINISTRATOR HOLDS PROPERTY AS CUSTODIAN
6 FOR OWNER.--Property received by the administrator pursuant
7 to the Revised Uniform Unclaimed Property Act is held in
8 custody for the benefit of the owner and is not owned by New
9 Mexico."

10 SECTION 56. A new Section 7-8B-901 NMSA 1978 is enacted
11 to read:

12 "7-8B-901. CLAIM OF ANOTHER STATE TO RECOVER
13 PROPERTY.--

14 (a) If the administrator knows that property held
15 by the administrator pursuant to the Revised Uniform
16 Unclaimed Property Act is subject to a superior claim of
17 another state, the administrator shall:

18 (1) report and pay or deliver the property
19 to the other state; or

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

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

1 SECTION 57. A new Section 7-8B-902 NMSA 1978 is enacted
2 to read:

3 "7-8B-902. WHEN PROPERTY SUBJECT TO RECOVERY BY ANOTHER
4 STATE.--

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

8 (1) the property was paid or delivered to
9 the administrator because the records of the holder did not
10 reflect a last known address in the other state of the
11 apparent owner and:

12 (A) the other state establishes that
13 the last known address of the apparent owner or other person
14 entitled to the property was in the other state; or

15 (B) pursuant to the law of the other
16 state, the property has become subject to a claim by the
17 other state of abandonment;

18 (2) the records of the holder did not
19 accurately identify the owner of the property, the last known
20 address of the owner was in another state and, pursuant to
21 the law of the other state, the property has become subject
22 to a claim by the other state of abandonment;

23 (3) the property was subject to the custody
24 of the administrator of this state pursuant to Section
25 7-8B-305 NMSA 1978 and, pursuant to the law of the state of

1 domicile of the holder, the property has become subject to a
2 claim by the state of domicile of the holder of abandonment;
3 or

4 (4) the property:

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

9 (B) pursuant to the law of the other
10 state, has become subject to a claim by the other state of
11 abandonment.

12 (b) A claim by another state to recover property
13 pursuant to this section shall be presented in a form
14 prescribed by the administrator, unless the administrator
15 waives presentation of the form.

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

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

1 SECTION 58. A new Section 7-8B-903 NMSA 1978 is enacted
2 to read:

3 "7-8B-903. CLAIM FOR PROPERTY BY PERSON CLAIMING TO BE
4 OWNER.--

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

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

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

16 (2) the administrator reasonably believes
17 the person is entitled to receive the property or payment;
18 and

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

21 SECTION 59. A new Section 7-8B-904 NMSA 1978 is
22 enacted to read:

23 "7-8B-904. WHEN ADMINISTRATOR MUST HONOR CLAIM FOR
24 PROPERTY.--

25 (a) The administrator shall pay or deliver

1 property to a claimant pursuant to Subsection (a) of Section
2 7-8B-903 NMSA 1978 if the administrator receives evidence
3 sufficient to establish to the satisfaction of the
4 administrator that the claimant is the owner of the property.

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

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

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

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

18 (3) the administrator shall consider an
19 amended claim filed pursuant to Paragraph (2) of this
20 subsection as an initial claim.

21 (d) If the administrator does not take action on
22 a claim during the ninety-day period following the filing of
23 a claim pursuant to Subsection (a) of Section 7-8B-903 NMSA
24 1978, the claim is deemed denied."

25 **SECTION 60.** A new Section 7-8B-905 NMSA 1978 is

1 enacted to read:

2 "7-8B-905. ALLOWANCE OF CLAIM FOR PROPERTY.--

3 (a) Not later than thirty days after a claim is
4 allowed pursuant to Subsection (b) of Section 7-8B-904 NMSA
5 1978, the administrator shall pay or deliver to the owner the
6 property or pay to the owner the net proceeds of a sale of
7 the property, together with income or gain to which the owner
8 is entitled pursuant to Section 7-8B-607 NMSA 1978. On
9 request of the owner, the administrator may sell or liquidate
10 a security and pay the net proceeds to the owner, even if the
11 security had been held by the administrator for less than
12 three years or the administrator has not complied with the
13 notice requirements pursuant to Section 7-8B-702 NMSA 1978.

14 (b) Property held pursuant to the Revised Uniform
15 Unclaimed Property Act by the administrator is subject to a
16 claim for the payment of an enforceable debt the owner owes
17 in this state for:

18 (1) child support arrearages, including
19 child support collection costs and child support arrearages
20 that are combined with maintenance;

21 (2) a civil or criminal fine or penalty,
22 court costs, a surcharge or restitution imposed by a final
23 court judgment; or

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

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

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

21 **SECTION 61.** A new Section 7-8B-906 NMSA 1978 is
22 enacted to read:

23 "7-8B-906. APPEAL--ACTION TO ESTABLISH CLAIM.--

24 (a) A person aggrieved by a decision of the
25 administrator may file an appeal pursuant to the provisions

1 of Section 39-3-1.1 NMSA 1978.

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

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

10 **SECTION 62.** A new Section 7-8B-1001 NMSA 1978 is
11 enacted to read:

12 "7-8B-1001. VERIFIED REPORT OF PROPERTY.--If a person
13 does not file a report required by Section 7-8B-401 NMSA 1978
14 or the administrator believes that a person may have filed an
15 inaccurate, incomplete or false report, the administrator may
16 require the person to file a verified report in a form
17 prescribed by the administrator. The verified report shall:

18 (1) state whether the person is holding property
19 reportable pursuant to the Revised Uniform Unclaimed Property
20 Act;

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

23 (3) specifically identify property described
24 pursuant to Paragraph (2) of this subsection about which
25 there is a dispute whether it is reportable pursuant to the

1 Revised Uniform Unclaimed Property Act; and

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

3 SECTION 63. A new Section 7-8B-1002 NMSA 1978 is
4 enacted to read:

5 "7-8B-1002. EXAMINATION OF RECORDS TO DETERMINE
6 COMPLIANCE.--The administrator, at reasonable times and on
7 reasonable notice, may:

8 (1) examine the records of a person, including
9 examination of appropriate records in the possession of an
10 agent of the person under examination, if the records are
11 reasonably necessary to determine whether the person has
12 complied with the Revised Uniform Unclaimed Property Act;

13 (2) issue an administrative subpoena requiring
14 the person or agent of the person to make records available
15 for examination; and

16 (3) bring an action seeking judicial enforcement
17 of the subpoena."

18 SECTION 64. A new Section 7-8B-1002.1 NMSA 1978 is
19 enacted to read:

20 "7-8B-1002.1 EXAMINATION OF FEDERALLY INSURED, STATE-
21 REGULATED FINANCIAL ORGANIZATIONS.--

22 A. Notwithstanding the provisions of Section
23 7-8B-1002 NMSA 1978, for any financial organization whose
24 deposits are federally insured and for which the financial
25 institutions division of the regulation and licensing

1 department is the primary regulator, the administrator shall
2 not examine that financial organization unless the
3 administrator has consulted with the director of the
4 financial institutions division and the division has not
5 conducted an examination of the financial organization for
6 compliance with the Revised Uniform Unclaimed Property Act
7 within the past five years. The director of the financial
8 institutions division shall furnish to the administrator, for
9 each such examination relating to the financial
10 organization's compliance with the Revised Uniform Unclaimed
11 Property Act within the past five years, the records obtained
12 and records, including work papers, compiled, relating to
13 compliance with that act. The records are confidential and
14 are not public records. The director of the financial
15 institutions division may waive in a record the provisions of
16 this subsection in order to permit the administrator to
17 examine one or more of these federally insured,
18 state-regulated financial organizations for compliance with
19 the Revised Uniform Unclaimed Property Act.

20 B. Notwithstanding Subsection A of this section,
21 the administrator may, at reasonable times and upon
22 reasonable notice:

23 (1) examine the records of a financial
24 organization whose deposits are federally insured and for
25 which the financial institutions division of the regulation

1 and licensing department is the primary regulator, if the
2 administrator has reasonable grounds to believe that the
3 financial organization has failed to comply with the Revised
4 Uniform Unclaimed Property Act; and

5 (2) adopt rules that describe conditions
6 under which the administrator may have reason to believe that
7 a financial institution is not in compliance with the Revised
8 Uniform Unclaimed Property Act.

9 C. An examination by the administrator pursuant
10 to Subsection A or B of this section shall be governed by
11 Sections 7-8B-1001 through 7-8B-1104 NMSA 1978.

12 D. Nothing in this section shall be construed to
13 limit the administrator's authority under the Revised Uniform
14 Unclaimed Property Act to examine financial organizations
15 that do not have deposits, whose deposits are not federally
16 insured or for which the financial institutions division of
17 the regulation and licensing department is not the primary
18 regulator. Further, nothing in this section shall be
19 construed to limit the authority of the financial
20 institutions division to examine financial organizations."

21 **SECTION 65.** A new Section 7-8B-1003 NMSA 1978 is
22 enacted to read:

23 "7-8B-1003. RULES FOR CONDUCTING EXAMINATION.--

24 (a) The administrator shall adopt rules governing
25 procedures and standards for an examination pursuant to

1 Section 7-8B-1002 or 7-8B-1002.1 NMSA 1978, including rules
2 based on national standards, which may reference any
3 standards promulgated by the national association of
4 unclaimed property administrators.

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

10 (c) If a person subject to examination pursuant
11 to Section 7-8B-1002 NMSA 1978 has filed the reports required
12 pursuant to Section 7-8B-401 NMSA 1978 and Section 7-8B-1001
13 NMSA 1978 and has retained the records required by Section
14 7-8B-404 NMSA 1978, the following rules apply:

15 (1) the examination shall include a review
16 of the person's records;

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

20 (3) the person conducting the examination
21 shall consider the evidence presented in good faith by the
22 person subject to the examination in preparing the findings
23 of the examination pursuant to Section 7-8B-1007 NMSA 1978."

24 **SECTION 66.** A new Section 7-8B-1004 NMSA 1978 is
25 enacted to read:

1 "7-8B-1004. RECORDS OBTAINED IN EXAMINATION.--Records
2 obtained and records, including work papers, compiled by the
3 administrator in the course of conducting an examination
4 pursuant to Section 7-8B-1002 or 7-8B-1002.1 NMSA 1978 or
5 received from the financial institutions division of the
6 regulation and licensing department pursuant to Subsection A
7 of Section 7-8B-1002.1 NMSA 1978:

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

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

15 (3) may be used in a joint examination conducted
16 with another state, the United States, a foreign country or
17 subordinate unit of a foreign country or any other
18 governmental entity if the governmental entity conducting the
19 examination is legally bound to maintain the confidentiality
20 and security of information obtained from a person subject to
21 examination in a manner substantially equivalent to Sections
22 7-8B-1401 through 7-8B-1408 NMSA 1978;

23 (4) shall be disclosed, on request, to the person
24 that administers the unclaimed property law of another state
25 for that state's use in circumstances equivalent to

1 circumstances described in Sections 7-8B-1001 through
2 7-8B-1012 NMSA 1978, if the other state is required to
3 maintain the confidentiality and security of information
4 obtained in a manner substantially equivalent to Sections
5 7-8B-1401 through 7-8B-1408 NMSA 1978;

6 (5) shall be produced by the administrator
7 pursuant to an administrative or judicial subpoena or
8 administrative or court order; and

9 (6) shall be produced by the administrator on
10 request of the person subject to the examination in an
11 administrative or judicial proceeding relating to the
12 property."

13 **SECTION 67.** A new Section 7-8B-1005 NMSA 1978 is
14 enacted to read:

15 "7-8B-1005. EVIDENCE OF UNPAID DEBT OR UNDISCHARGED
16 OBLIGATION.--

17 (a) A record of a putative holder showing an
18 unpaid debt or undischarged obligation is prima facie
19 evidence of the debt or obligation.

20 (b) A putative holder may establish by a
21 preponderance of the evidence that there is no unpaid debt or
22 undischarged obligation for a debt or obligation described in
23 Subsection (a) of this section or that the debt or obligation
24 was not, or no longer is, a fixed and certain obligation of
25 the putative holder.

1 (c) A putative holder may overcome prima facie
2 evidence pursuant to Subsection (a) of this section by
3 establishing by a preponderance of the evidence that a check,
4 draft or similar instrument was:

5 (1) issued as an unaccepted offer in
6 settlement of an unliquidated amount;

7 (2) issued but later was replaced with
8 another instrument because the earlier instrument was lost or
9 contained an error that was corrected;

10 (3) issued to a party affiliated with the
11 issuer;

12 (4) paid, satisfied or discharged;

13 (5) issued in error;

14 (6) issued without consideration;

15 (7) issued but there was a failure of
16 consideration;

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

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

23 (d) In asserting a defense pursuant to this
24 section, a putative holder may present evidence of a course
25 of dealing between the putative holder and the apparent owner

1 or of custom and practice."

2 SECTION 68. A new Section 7-8B-1006 NMSA 1978 is
3 enacted to read:

4 "7-8B-1006. FAILURE OF PERSON EXAMINED TO RETAIN
5 RECORDS.--If a person subject to examination pursuant to
6 Section 7-8B-1002 NMSA 1978 does not retain the records
7 required by Section 7-8B-404 NMSA 1978, the administrator may
8 determine the value of property due using a reasonable method
9 of estimation based on all information available to the
10 administrator, including extrapolation and use of statistical
11 sampling when appropriate and necessary, consistent with
12 examination procedures and standards adopted pursuant to
13 Subsection (a) of Section 7-8B-1003 NMSA 1978 and in
14 accordance with Subsection (b) of Section 7-8B-1003 NMSA
15 1978."

16 SECTION 69. A new Section 7-8B-1007 NMSA 1978 is
17 enacted to read:

18 "7-8B-1007. REPORT TO PERSON WHOSE RECORDS WERE
19 EXAMINED.--At the conclusion of an examination pursuant to
20 Section 7-8B-1002 NMSA 1978, the administrator shall provide
21 to the person whose records were examined a complete and
22 unredacted examination report that specifies:

- 23 (1) the work performed;
- 24 (2) the property types reviewed;
- 25 (3) the methodology of any estimation technique,

1 extrapolation or statistical sampling used in conducting the
2 examination;

3 (4) each calculation showing the value of
4 property determined to be due; and

5 (5) the findings of the person conducting the
6 examination."

7 **SECTION 70.** A new Section 7-8B-1008 NMSA 1978 is
8 enacted to read:

9 "7-8B-1008. COMPLAINT TO ADMINISTRATOR ABOUT CONDUCT
10 OF PERSON CONDUCTING EXAMINATION.--

11 (a) If a person subject to examination under
12 Section 7-8B-1002 NMSA 1978 believes the person conducting
13 the examination has made an unreasonable or unauthorized
14 request or is not proceeding expeditiously to complete the
15 examination, the person in a record may request an informal
16 conference with the administrator.

17 (b) If a person in a record requests an informal
18 conference with the administrator, the administrator shall
19 hold the informal conference not later than thirty days after
20 receiving the request. For good cause, and after notice in a
21 record to the person requesting an informal conference, the
22 administrator may extend the time for the holding of an
23 informal conference. The administrator may hold the informal
24 conference in person, by telephone or by electronic means.

25 (c) If an informal conference is held under

1 Subsection (b) of this section not later than thirty days
2 after the conference ends, the administrator shall provide a
3 response to the person that requested the conference.

4 (d) The administrator may deny a request for an
5 informal conference under this section if the administrator
6 reasonably believes that the request was made in bad faith or
7 primarily to delay the examination. If the administrator
8 denies a request for an informal conference, the denial shall
9 be in a record provided to the person requesting the informal
10 conference."

11 **SECTION 71.** A new Section 7-8B-1009 NMSA 1978 is
12 enacted to read:

13 "7-8B-1009. ADMINISTRATOR'S CONTRACT WITH ANOTHER TO
14 CONDUCT EXAMINATION.--

15 (a) In this section:

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

20 (2) "related to the administrator" refers
21 to an individual who is:

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

24 B. the administrator's child,
25 stepchild, grandchild, parent, stepparent, sibling,

1 step-sibling, half-sibling, aunt, uncle, niece or nephew;

2 C. a spouse, partner in a civil union,
3 domestic partner or reciprocal beneficiary of an individual
4 pursuant to Subparagraph B of this paragraph; or

5 D. any individual residing in the
6 administrator's household.

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

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

12 (1) an individual, the individual may not
13 be related to the administrator; or

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

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

19 (1) the contract may provide for
20 compensation of the person based on a fixed fee, hourly fee
21 or contingent fee;

22 (2) a contingent fee arrangement may not
23 provide for a payment that exceeds ten percent of the amount
24 or value of property paid or delivered as a result of the
25 examination; and

1 (3) on request by a person subject to
2 examination by a contractor, the administrator shall deliver
3 to the person a complete and unredacted copy of the contract
4 and any contract between the contractor and a person employed
5 or engaged by the contractor to conduct the examination.

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

9 **SECTION 72.** A new Section 7-8B-1010 NMSA 1978 is
10 enacted to read:

11 "7-8B-1010. LIMIT ON FUTURE EMPLOYMENT.--The
12 administrator or an individual employed by the administrator
13 who participates in, recommends or approves the award of a
14 contract pursuant to Subsection (b) of Section 7-8B-1009 NMSA
15 1978 on or after the effective date of the Revised Uniform
16 Unclaimed Property Act may not be employed by, contracted
17 with or compensated in any capacity by the contractor or an
18 affiliate of the contractor for two years after the latest of
19 participation in, recommendation of or approval of the award
20 or conclusion of the contract."

21 **SECTION 73.** A new Section 7-8B-1011 NMSA 1978 is
22 enacted to read:

23 "7-8B-1011. REPORT BY ADMINISTRATOR TO STATE
24 OFFICIAL.--

25 (a) Not later than three months after the end of

1 the fiscal year, the administrator shall compile and submit a
2 report to the governor, state treasurer and library at the
3 legislative council service. The report shall contain the
4 following information about property presumed abandoned for
5 the preceding fiscal year for the state:

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

9 (A) the part voluntarily paid or
10 delivered; and

11 (B) the part paid or delivered as a
12 result of an examination pursuant to Section 7-8B-1002 NMSA
13 1978, separated into the part recovered as a result of an
14 examination conducted by:

15 (i) a state employee; and

16 (ii) a contractor pursuant to
17 Section 7-8B-1009 NMSA 1978;

18 (2) the name of and amount paid to each
19 contractor pursuant to Section 7-8B-1009 NMSA 1978 and the
20 percentage the total compensation paid to all contractors
21 pursuant to that section bears to the total amount paid or
22 delivered to the administrator as a result of all
23 examinations performed pursuant to that section;

24 (3) the total amount and value of all
25 property paid or delivered by the administrator to persons

1 that made claims for property held by the administrator
2 pursuant to the Revised Uniform Unclaimed Property Act and
3 the percentage the total payments made and value of property
4 delivered to claimants bears to the total amounts paid and
5 value delivered to the administrator;

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

8 (A) were denied;

9 (B) were allowed; and

10 (C) are pending; and

11 (5) the total amount deposited into the tax
12 administration suspense fund pursuant to Section 7-8B-801
13 NMSA 1978.

14 (b) The report pursuant to Subsection (a) of this
15 section is a public record subject to public disclosure
16 without redaction pursuant to the Inspection of Public
17 Records Act."

18 **SECTION 74.** A new Section 7-8B-1012 NMSA 1978 is
19 enacted to read:

20 "7-8B-1012. DETERMINATION OF LIABILITY FOR UNREPORTED
21 REPORTABLE PROPERTY.--If the administrator determines from an
22 examination conducted pursuant to Section 7-8B-1002 NMSA 1978
23 that a putative holder failed or refused to pay or deliver to
24 the administrator property that is reportable pursuant to the
25 Revised Uniform Unclaimed Property Act, the administrator

1 shall issue a determination of the putative holder's
2 liability to pay or deliver and give notice in a record to
3 the putative holder of the determination."

4 SECTION 75. A new Section 7-8B-1101 NMSA 1978 is
5 enacted to read:

6 "7-8B-1101. INFORMAL CONFERENCE.--

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

13 (b) If a putative holder makes a timely request
14 pursuant to Subsection (a) of this section for an informal
15 conference:

16 (1) not later than thirty days after the
17 date of the request, the administrator shall set the time and
18 place of the conference;

19 (2) the administrator shall give the
20 putative holder notice in a record of the time and place of
21 the conference;

22 (3) the conference may be held in person,
23 by telephone or by electronic means, as determined by the
24 administrator;

25 (4) the request tolls the ninety day period

1 pursuant to Sections 7-8B-1103 and 7-8B-1104 NMSA 1978 until
2 notice of a decision pursuant to Paragraph (7) of this
3 subsection has been given to the putative holder or the
4 putative holder withdraws the request for the conference;

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

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

12 (7) the administrator shall issue a
13 decision in a record and provide a copy of the record to the
14 putative holder and examiner not later than thirty days after
15 the conference ends.

16 (c) A decision pursuant to Paragraph (7) of
17 Subsection (b) of this section is not a final decision
18 subject to Section 39-3-1.1 NMSA 1978. A conference pursuant
19 to Subsection (b) of this section is not a hearing on the
20 matter subject to Section 39-3-1.1 NMSA 1978. An oath is not
21 required and rules of evidence do not apply in the
22 conference.

23 (d) At a conference pursuant to Subsection (b) of
24 this section, the putative holder shall be given an
25 opportunity to confer informally with the administrator and

1 the person that examined the records of the putative holder
2 to:

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

5 (2) present any issue concerning the
6 validity of the determination.

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

15 (1) the date pursuant to Section 7-8B-1103
16 NMSA 1978 the putative holder initiates administrative review
17 or files an action pursuant to Section 7-8B-1104 NMSA 1978;
18 or

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

24 (f) The administrator may hold an informal
25 conference with a putative holder about a determination

1 pursuant to Section 7-8B-1012 NMSA 1978 without a request at
2 any time before the putative holder initiates administrative
3 review pursuant to Section 7-8B-1103 NMSA 1978 or files an
4 action pursuant to Section 7-8B-1104 NMSA 1978.

5 (g) Interest and penalties pursuant to Section
6 7-8B-1204 NMSA 1978 continue to accrue on property not
7 reported, paid or delivered as required by the Revised
8 Uniform Unclaimed Property Act after the initiation, and
9 during the pendency, of an informal conference pursuant to
10 this section."

11 **SECTION 76.** A new Section 7-8B-1102 NMSA 1978 is
12 enacted to read:

13 "7-8B-1102. REVIEW OF ADMINISTRATOR'S DETERMINATION.--
14 A putative holder may seek relief from a determination
15 pursuant to Section 7-8B-1012 NMSA 1978 by filing a claim
16 with the administrator pursuant to Section 7-8B-1103 NMSA
17 1978."

18 **SECTION 77.** A new Section 7-8B-1103 NMSA 1978 is
19 enacted to read:

20 "7-8B-1103. ADMINISTRATIVE REVIEW.--

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

1 determination.

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

11 SECTION 78. A new Section 7-8B-1104 NMSA 1978 is
12 enacted to read:

13 "7-8B-1104. APPEAL--ACTION TO ESTABLISH CLAIM.--

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

17 (b) A claimant whose claim has not been acted
18 upon within ninety days after its filing may maintain an
19 original action to establish the claim in the district court
20 for the first judicial district, naming the administrator as
21 a defendant.

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

25 SECTION 79. A new Section 7-8B-1201 NMSA 1978 is

1 enacted to read:

2 "7-8B-1201. JUDICIAL ACTION TO ENFORCE LIABILITY.--

3 (a) If a determination pursuant to Section
4 7-8B-1012 NMSA 1978 becomes final and is not subject to
5 administrative or judicial review, the administrator may
6 commence an action in the district or in an appropriate court
7 of another state to enforce the determination and secure
8 payment or delivery of past due, unpaid or undelivered
9 property.

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

14 SECTION 80. A new Section 7-8B-1202 NMSA 1978 is
15 enacted to read:

16 "7-8B-1202. INTERSTATE AND INTERNATIONAL AGREEMENT--
17 COOPERATION.--

18 (a) Subject to Subsection (b) of this section,
19 the administrator may:

20 (1) exchange information with another state
21 or foreign country relating to property presumed abandoned or
22 relating to the possible existence of property presumed
23 abandoned; and

24 (2) authorize in a record another state or
25 foreign country or a person acting on behalf of the other

1 state or country to examine its records of a putative holder
2 as provided in Sections 7-8B-1401 through 7-8B-1408 NMSA
3 1978.

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

11 **SECTION 81.** A new Section 7-8B-1203 NMSA 1978 is
12 enacted to read:

13 "7-8B-1203. ACTION INVOLVING ANOTHER STATE OR FOREIGN
14 COUNTRY.--

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

19 (b) On request of another state or foreign
20 country, the attorney general may commence an action on
21 behalf of the other state or country to enforce in New Mexico
22 the law of the other state or country against a putative
23 holder subject to a claim by the other state or country, if
24 the other state or country agrees to pay costs, including
25 reasonable attorney fees and expenses, incurred by the

1 attorney general in the action.

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

10 (d) The administrator may pursue an action on
11 behalf of this state to recover property subject to the
12 Revised Uniform Unclaimed Property Act but delivered to the
13 custody of another state if the administrator believes the
14 property is subject to the custody of the administrator.

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

21 (f) Expenses incurred by New Mexico in an action
22 pursuant to this section may be paid from property received
23 pursuant to the Revised Uniform Unclaimed Property Act or the
24 net proceeds of the property. Expenses paid to recover
25 property may not be deducted from the amount that is subject

1 to a claim pursuant to that act by the owner."

2 SECTION 82. A new Section 7-8B-1204 NMSA 1978 is
3 enacted to read:

4 "7-8B-1204. INTEREST AND PENALTY FOR FAILURE TO ACT IN
5 TIMELY MANNER.--

6 (a) A holder that fails to report, pay or deliver
7 property within the time prescribed by the Revised Uniform
8 Unclaimed Property Act shall pay to the administrator
9 interest at the annual rate set forth in Section 7-1-67 NMSA
10 1978 on delinquent taxes on the property or value of the
11 property from the date the property should have been
12 reported, paid or delivered to the administrator until the
13 date reported, paid or delivered.

14 (b) Except as otherwise provided in Section
15 7-8B-1205 NMSA 1978 or Section 7-8B-1206 NMSA 1978, the
16 administrator may require a holder that fails to report, pay
17 or deliver property within the time prescribed by the Revised
18 Uniform Unclaimed Property Act, or fails to perform another
19 duty imposed by that act, to pay to the administrator, in
20 addition to interest included pursuant to Subsection (a) of
21 this section, a civil penalty of two hundred dollars (\$200)
22 for each day the report, payment or delivery is withheld, or
23 the duty is not performed, up to a cumulative maximum amount
24 of five thousand dollars (\$5,000)."

25 SECTION 83. A new Section 7-8B-1205 NMSA 1978 is

1 enacted to read:

2 "7-8B-1205. OTHER CIVIL PENALTIES.--

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

18 (b) If a holder makes a fraudulent report
19 pursuant to the Revised Uniform Unclaimed Property Act, the
20 administrator may require the holder to pay to the
21 administrator, in addition to interest pursuant to Subsection
22 (a) of this section, a civil penalty of one thousand dollars
23 (\$1,000) for each day from the date the report was made until
24 corrected, up to a cumulative maximum of twenty-five thousand
25 dollars (\$25,000), plus twenty-five percent of the amount or

1 value of any property that should have been reported but was
2 not included in the report or was underreported."

3 SECTION 84. A new Section 7-8B-1206 NMSA 1978 is
4 enacted to read:

5 "7-8B-1206. WAIVER OF INTEREST AND PENALTY.--The
6 administrator:

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

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

15 SECTION 85. A new Section 7-8B-1301 NMSA 1978 is
16 enacted to read:

17 "7-8B-1301. WHEN AGREEMENT TO LOCATE PROPERTY
18 ENFORCEABLE.--An agreement by an apparent owner and another
19 person, the primary purpose of which is to locate, deliver,
20 recover or assist in the location, delivery or recovery of
21 property held by the administrator, is enforceable only if
22 the agreement:

23 (1) is in a record that clearly states the nature
24 of the property and the services to be provided;

25 (2) is signed by or on behalf of the apparent

1 owner; and

2 (3) states the amount or value of the property
3 reasonably expected to be recovered, computed before and
4 after a fee or other compensation to be paid to the person
5 has been deducted."

6 SECTION 86. A new Section 7-8B-1302 NMSA 1978 is
7 enacted to read:

8 "7-8B-1302. WHEN AGREEMENT TO LOCATE PROPERTY VOID.--

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

15 (b) If a provision in an agreement described in
16 Subsection (a) of this section applies to mineral proceeds
17 for which compensation is to be paid to the other person
18 based in whole or in part on a part of the underlying
19 minerals or mineral proceeds not then presumed abandoned, the
20 provision is void regardless of when the agreement was
21 entered into.

22 (c) An agreement pursuant to Subsection (a) of
23 this section that provides for compensation in an amount that
24 is unconscionable is unenforceable except by the apparent
25 owner. An apparent owner that believes the compensation the

1 apparent owner has agreed to pay is unconscionable or the
2 administrator, acting on behalf of an apparent owner, or
3 both, may file an action in district court to reduce the
4 compensation to the maximum amount that is not
5 unconscionable. On the final determination of an action
6 filed pursuant to this subsection, the district court may, on
7 application, award the owner its reasonable attorney fees,
8 costs and expenses of litigation.

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

13 (e) This section does not apply to an apparent
14 owner's agreement with an attorney to pursue a claim for
15 recovery of specifically identified property held by the
16 administrator or to contest the administrator's denial of a
17 claim for recovery of the property."

18 **SECTION 87.** A new Section 7-8B-1303 NMSA 1978 is
19 enacted to read:

20 "7-8B-1303. RIGHT OF AGENT OF APPARENT OWNER TO
21 RECOVER PROPERTY HELD BY ADMINISTRATOR.--

22 (a) An apparent owner that contracts with another
23 person to locate, deliver, recover or assist in the location,
24 delivery or recovery of property of the apparent owner that
25 is held by the administrator may designate the person as the

1 agent of the apparent owner. The designation shall be in a
2 record signed by the apparent owner.

3 (b) The administrator shall give the agent of the
4 apparent owner all information concerning the property that
5 the apparent owner is entitled to receive, including
6 information that otherwise is confidential information
7 pursuant to Section 7-8B-1402 NMSA 1978.

8 (c) If authorized by the apparent owner, the
9 agent of the apparent owner may bring an action against the
10 administrator on behalf of and in the name of the apparent
11 owner."

12 **SECTION 88.** A new Section 7-8B-1401 NMSA 1978 is
13 enacted to read:

14 "7-8B-1401. DEFINITIONS--APPLICABILITY.--

15 (a) In Sections 7-8B-1401 through 7-8B-1408 NMSA
16 1978, "personal information" means:

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

20 (A) social security number or other
21 government-issued number or identifier;

22 (B) date of birth;

23 (C) home or physical address;

24 (D) electronic mail address or other
25 online contact information or internet provider address;

1 (E) financial account number or credit
2 or debit card number;

3 (F) biometric data, health or medical
4 data or insurance information; or

5 (G) passwords or other credentials
6 that permit access to an online or other account;

7 (2) personally identifiable financial or
8 insurance information, including nonpublic personal
9 information defined by applicable federal law; and

10 (3) any combination of data that, if
11 accessed, disclosed, modified or destroyed without
12 authorization of the owner of the data or if lost or misused,
13 would require notice or reporting pursuant to state and
14 federal privacy and data security law, whether or not the
15 administrator or the administrator's agent is subject to the
16 law.

17 (b) A provision of Sections 7-8B-1401 through
18 7-8B-1408 NMSA 1978 that applies to the administrator or the
19 administrator's records applies to an administrator's agent."

20 **SECTION 89.** A new Section 7-8B-1402 NMSA 1978 is
21 enacted to read:

22 "7-8B-1402. CONFIDENTIAL INFORMATION.--

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

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

4 (2) reports and records of a holder in the
5 possession of the administrator or the administrator's agent;
6 and

7 (3) personal information and other
8 information derived or otherwise obtained by or communicated
9 to the administrator or the administrator's agent from an
10 examination pursuant to the Revised Uniform Unclaimed
11 Property Act of the records of a person.

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

18 **SECTION 90.** A new Section 7-8B-1403 NMSA 1978 is
19 enacted to read:

20 "7-8B-1403. WHEN CONFIDENTIAL INFORMATION MAY BE
21 DISCLOSED.--

22 (a) When reasonably necessary to enforce or
23 implement the Revised Uniform Unclaimed Property Act, the
24 administrator may disclose confidential information
25 concerning property held by the administrator or the

1 administrator's agent only to:

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

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

11 (3) another department or agency of New
12 Mexico or the United States;

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

20 (5) a person subject to an examination as
21 required by Subsection (6) of Section 7-8B-1004 NMSA 1978.

22 (b) Except as otherwise provided in Subsection
23 (a) of Section 7-8B-1402 NMSA 1978, the administrator shall
24 include on the website or in the database required by

25 Paragraph (2) of Subsection (c) of Section 7-8B-503 NMSA 1978

1 the name of each apparent owner of property held by the
2 administrator. The administrator may include in published
3 notices, printed publications, telecommunications, the
4 internet or other media and on the website or in the database
5 additional information concerning the apparent owner's
6 property if the administrator believes that the information
7 will assist in identifying and returning property to the
8 owner and does not disclose personal information except the
9 home or physical address of an apparent owner.

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

15 **SECTION 91.** A new Section 7-8B-1404 NMSA 1978 is
16 enacted to read:

17 "7-8B-1404. CONFIDENTIALITY AGREEMENT.--A person to be
18 examined pursuant to Section 7-8B-1002 NMSA 1978 may require,
19 as a condition of disclosure of the records of the person to
20 be examined, that each person having access to the records
21 disclosed in the examination execute and deliver to the
22 person to be examined a confidentiality agreement that:

23 (1) is in a form that is reasonably satisfactory
24 to the administrator; and

25 (2) requires the person having access to the

1 records to comply with the provisions of Sections 7-8B-1401
2 through 7-8B-1408 NMSA 1978 applicable to the person."

3 SECTION 92. A new Section 7-8B-1405 NMSA 1978 is
4 enacted to read:

5 "7-8B-1405. NO CONFIDENTIAL INFORMATION IN NOTICE.--
6 Except as otherwise provided in Sections 7-8B-501 and
7 7-8B-502 NMSA 1978, a holder is not required pursuant to
8 Sections 7-8B-1401 through 7-8B-1408 NMSA 1978 to include
9 confidential information in a notice the holder is required
10 to provide to an apparent owner pursuant to the Revised
11 Uniform Unclaimed Property Act."

12 SECTION 93. A new Section 7-8B-1406 NMSA 1978 is
13 enacted to read:

14 "7-8B-1406. SECURITY OF INFORMATION.--

15 (a) If a holder is required to include
16 confidential information in a report to the administrator,
17 the information shall be provided by a secure means.

18 (b) If confidential information in a record is
19 provided to and maintained by the administrator or
20 administrator's agent as required by the Revised Uniform
21 Unclaimed Property Act, the administrator or agent shall:

22 (1) implement administrative, technical and
23 physical safeguards to protect the security, confidentiality
24 and integrity of the information required by state and
25 federal privacy and data security law, whether or not the

1 administrator or the administrator's agent is subject to the
2 law;

3 (2) protect against reasonably anticipated
4 threats or hazards to the security, confidentiality or
5 integrity of the information; and

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

11 (c) The administrator:

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

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

20 (d) The administrator and the administrator's
21 agent shall educate and train their employees regarding the
22 plan adopted pursuant to Subsection (c) of this section.

23 (e) The administrator and the administrator's
24 agent shall in a secure manner return or destroy all
25 confidential information no longer reasonably needed pursuant

1 to the Revised Uniform Unclaimed Property Act."

2 SECTION 94. A new Section 7-8B-1407 NMSA 1978 is
3 enacted to read:

4 "7-8B-1407. SECURITY BREACH.--

5 (a) Except to the extent prohibited by law other
6 than the Revised Uniform Unclaimed Property Act, the
7 administrator or administrator's agent shall notify a holder
8 as soon as practicable of:

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

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

16 (A) compromises the security,
17 confidentiality or integrity of the information; or

18 (B) creates a substantial risk of
19 identity fraud or theft.

20 (b) Except as necessary to inform an insurer,
21 attorney, investigator or others as required by law, the
22 administrator and an administrator's agent may not disclose,
23 without the express consent in a record of the holder, an
24 event described in Subsection (a) of this section to a person
25 whose confidential information was supplied by the holder.

1 (c) If an event described in Subsection (a) of
2 this section occurs, the administrator and the
3 administrator's agent shall:

4 (1) take action necessary for the holder to
5 understand and minimize the effect of the event and determine
6 its scope; and

7 (2) cooperate with the holder with respect
8 to:

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

11 (B) a regulatory inquiry, litigation
12 or similar action."

13 **SECTION 95.** A new Section 7-8B-1408 NMSA 1978 is
14 enacted to read:

15 "7-8B-1408. INDEMNIFICATION FOR BREACH.--

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

23 (1) any claim or action and

24 (2) a liability, obligation, loss, damage,
25 cost, fee, penalty, fine, settlement, charge or other

1 expense, including reasonable attorney fees and costs,
2 established by the claim or action.

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

11 (1) the administrator not less frequently
12 than annually; and

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

17 **SECTION 96.** A new Section 7-8B-1501 NMSA 1978 is
18 enacted to read:

19 "7-8B-1501. UNIFORMITY OF APPLICATION AND
20 CONSTRUCTION.--In applying and construing the Revised Uniform
21 Unclaimed Property Act, consideration shall be given to the
22 need to promote uniformity of the law with respect to its
23 subject matter among states that enact that act."

24 **SECTION 97.** A new Section 7-8B-1502 NMSA 1978 is
25 enacted to read:

1 "7-8B-1502. RELATION TO ELECTRONIC SIGNATURES IN
2 GLOBAL AND NATIONAL COMMERCE ACT.--The Revised Uniform
3 Unclaimed Property Act modifies, limits or supersedes the
4 federal Electronic Signatures in Global and National Commerce
5 Act, as amended, but does not modify, limit or supersede 15
6 U.S.C. Section 7001(c), or authorize electronic delivery of
7 any of the notices described in 15 U.S.C. Section 7003(b)."

8 SECTION 98. A new Section 7-8B-1503 NMSA 1978 is
9 enacted to read:

10 "7-8B-1503. TRANSITIONAL PROVISION.--

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

19 (b) The Revised Uniform Unclaimed Property Act
20 does not relieve a holder of a duty that arose before the
21 effective date of that act to report, pay or deliver
22 property. Subject to Subsections (a) and (b) of Section
23 7-8B-610 NMSA 1978, a holder that did not comply with the law
24 governing unclaimed property before the effective date of the
25 Revised Uniform Unclaimed Property Act is subject to

1 applicable provisions for enforcement and penalties in effect
2 before the effective date of that act."

3 SECTION 99. Section 7-38-71 NMSA 1978 (being Laws
4 1973, Chapter 258, Section 111, as amended) is amended to
5 read:

6 "7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE
7 OF PROPERTY.--

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

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

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

21 (3) third, that portion equal to the
22 delinquent taxes due shall be remitted by the department to
23 the appropriate county treasurer for distribution by the
24 treasurer to the governmental units in accordance with the
25 law and the regulations of the department of finance and

1 administration; and

2 (4) the balance shall be paid to the former
3 owner of the property sold or to any other person designated
4 by order directed to the department by a court of competent
5 jurisdiction, provided that the department may first apply
6 all or any portion of the balance to be paid against the
7 amount of any property tax, including any penalty and
8 interest related thereto, owed by the person to whom the
9 balance would otherwise be paid.

10 B. As a condition precedent to payment of the
11 balance of the sale amount received to the former owner of
12 the property, the department may require any person claiming
13 to be entitled to that payment to present sufficient evidence
14 of proof of former ownership of the property to the
15 department. The department shall adopt regulations providing
16 for the procedures to be followed by persons claiming sale
17 proceeds as former owners in those instances where
18 conflicting claims exist or the department requires proof of
19 ownership.

20 C. If no person claims the balance of sale
21 proceeds, whether the property was sold under the provisions
22 of the Property Tax Code or prior law, as the former owner of
23 the property within two years of the date of the sale and
24 after a reasonable search to determine the former owner is
25 made by the department and no former owner is found, the

1 balance of the sale proceeds shall be considered abandoned
2 property and deposited in accordance with the provisions of
3 the Revised 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
7 claim, then the complete balance shall be applied to that
8 next priority claim as partial payment."

9 SECTION 100. Section 34-6-38 NMSA 1978 (being Laws
10 1968, Chapter 69, Section 40) is amended to read:

11 "34-6-38. FINANCE--DISPOSITION OF UNCLAIMED MONEY.--
12 When money is held in the court clerk trust account and the
13 person entitled to it does not make claim within six years
14 from the date when it became payable, the money is presumed
15 abandoned and shall be disposed of in the manner provided in
16 the Revised Uniform Unclaimed Property Act."

17 SECTION 101. Section 37-1-3 NMSA 1978 (being Laws
18 1880, 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
22 note, bill of exchange or other contract in writing shall be
23 brought within six years.

24 If the payee of any bond, promissory note, bill of
25 exchange or other contract in writing enters into any

1 contract or agreement in writing to defer the payment
2 thereof, or contracts or agrees not to assert any claim
3 against the payor or against the assets of the payor until
4 the happening of some contingency, the time during the period
5 from the execution of the contract or agreement and the
6 happening of the contingency shall not be included in
7 computing the six-year period of limitation provided in this
8 subsection.

9 B. Actions against any banking or financial
10 organization subject to the provisions of the Revised Uniform
11 Unclaimed Property Act founded upon a bill of exchange shall
12 be brought within ten years.

13 C. Actions founded upon a traveler's check shall
14 be brought within fifteen years."

15 SECTION 102. Section 45-3-914 NMSA 1978 (being Laws
16 1975, Chapter 257, Section 3-914, as amended) is amended to
17 read:

18 "45-3-914. DISPOSITION OF UNCLAIMED ASSETS.--If an
19 heir, devisee or claimant cannot be found, the personal
20 representative shall distribute the share of the missing
21 person to the missing person's conservator, if any.
22 Otherwise, the personal representative shall sell the share
23 of the missing person and distribute the proceeds to the
24 administrator as prescribed by the Revised Uniform Unclaimed
25 Property Act."

1 **SECTION 103.** Section 58-10-110 NMSA 1978 (being Laws
2 1971, Chapter 242, Section 10) is amended to read:

3 "58-10-110. SPECIAL REMEDIES FOR NONPAYMENT OF RENT.--

4 A. If the rental due on a safe deposit box has
5 not been paid for one year, the lessor may send a notice by
6 certified or registered mail to the lessee's last known
7 address stating that the safe deposit box will be opened and
8 its contents stored at the lessee's expense unless payment of
9 rental due is made within thirty days. If the rental is not
10 paid within thirty days from the mailing of the notice, the
11 box may be opened in the presence of an officer of the lessor
12 and of a notary public who is not a director, officer,
13 employee or stockholder of the lessor. The contents shall be
14 sealed in a package by the notary public who shall write on
15 the outside the lessee's name and the date the box was
16 opened. The notary public shall execute a certificate
17 reciting the lessee's name, the date the box was opened and a
18 list of its contents. The certificate shall be included in
19 the package and a copy of it sent by certified or registered
20 mail to the lessee's last known address. The package shall
21 then be placed in the general vaults of the lessor at a
22 rental not exceeding the rental previously charged for the
23 box.

24 B. If the contents of the box are not claimed
25 within the time prescribed by the Revised Uniform Unclaimed

1 Property Act, they shall be disposed of as provided in that
2 act. Upon sale of the contents, the lessor shall be
3 reimbursed for the accrued rental and storage charges from
4 the sale proceeds."

5 SECTION 104. Section 58-11-47 NMSA 1978 (being Laws
6 1987, Chapter 311, Section 47) is amended to read:

7 "58-11-47. DORMANT ACCOUNTS.--

8 A. If there has been no activity in a share or
9 deposit account for one year, except for the posting of
10 dividends or interest, the credit union may impose a
11 reasonable maintenance fee as provided in the bylaws.

12 B. Any account presumed abandoned shall be
13 disposed of in accordance with the Revised Uniform Unclaimed
14 Property Act."

15 SECTION 105. Section 58-11A-6 NMSA 1978 (being Laws
16 1991, Chapter 51, Section 26) is amended to read:

17 "58-11A-6. SPECIAL REMEDIES FOR NONPAYMENT OF RENT.--

18 A. Unless otherwise provided in a written
19 agreement, if the rental due on a safe deposit box has not
20 been paid for six months, the credit union may send a notice
21 by certified or registered mail to the last known address of
22 the lessee stating that the safe deposit box will be opened
23 and its contents stored at the expense of the lessee unless
24 payment is made within thirty days. If the rental is not
25 paid within thirty days from the mailing of the notice, the

1 safe deposit box may be opened in the presence of an
2 executive officer of the credit union and of a notary public.
3 The contents of the box shall be sealed in a package by the
4 notary public who shall write on the outside the name of the
5 lessee and the date of the opening. The notary public shall
6 execute a certificate reciting the name of the lessee, the
7 date of the opening of the safe deposit box and a list of its
8 contents. The certificate shall be included in the package
9 and a copy of the certificate shall be sent by registered
10 mail to the last known address of the lessee. The package
11 shall then be placed in the general vaults of the credit
12 union at a rental not exceeding the rental charged for the
13 safe deposit box.

14 B. If the contents of the safe deposit box are
15 not claimed within the time prescribed by the Revised Uniform
16 Unclaimed Property Act, they shall be disposed of as provided
17 in that act."

18 SECTION 106. Section 58-11A-7 NMSA 1978 (being Laws
19 1991, Chapter 51, Section 27) is amended to read:

20 "58-11A-7. DISPOSITION OF CONTENTS OF SAFE DEPOSIT BOX
21 WHEN A CREDIT UNION IS LIQUIDATED--DUTY OF CONSERVATOR.--

22 A. In the event a credit union is liquidated or
23 placed under conservatorship by the director, as authorized
24 by Subsection L of Section 58-11-3 NMSA 1978, the conservator
25 or receiver shall send a notice by certified or registered

1 mail to the last known address of the lessee stating that the
2 safe deposit box will be opened and its contents stored at
3 the expense of the lessee unless claimed within thirty days.
4 If the contents are not claimed within thirty days from the
5 mailing of the notice, the safe deposit box may be opened in
6 the presence of an agent of the conservator or receiver and
7 of a notary public. The contents shall be sealed in a
8 package by the notary public who shall write on the outside
9 the name of the lessee and the date of the opening. The
10 notary public shall execute a certificate reciting the name
11 of the lessee, the date of the opening of the safe deposit
12 box and a list of its contents. The certificate shall be
13 included in the package, and a copy of the certificate shall
14 be sent by registered mail to the last known address of the
15 lessee. The conservator or receiver shall then provide for
16 storage of the package at a rental not exceeding the rental
17 previously charged for the safe deposit box.

18 B. If the package is not claimed, it will be
19 disposed of as provided in the Revised Uniform Unclaimed
20 Property Act."

21 SECTION 107. Section 58-12-7 NMSA 1978 (being Laws
22 1973, Chapter 114, Section 7, as amended) is amended to read:

23 "58-12-7. CORPORATION--POWERS AND DUTIES OF THE
24 BOARD.--

25 A. To the extent authorized by the director or

1 any supervisory agency, the board may review the financial
2 condition of any member as it relates to share insurance and,
3 after the review, submit a report of the review to the
4 director and the supervisory agency accompanied by the
5 recommendations of the board.

6 B. Upon request of the board, the director or the
7 supervisory agency may furnish to the board such factual
8 information in the director's or supervisory agency's
9 possession as the director or the supervisory agency may deem
10 to be of assistance to the corporation in determining the
11 financial condition of any member.

12 C. If the board determines that a special
13 examination and audit, including a current appraisal of the
14 assets, of any member would be in the interests of its
15 shareholders or in the interest of the sound and effective
16 operation of the corporation, the board, by a vote of at
17 least two-thirds of its directors, may request the director
18 or any supervisory agency to provide for a special
19 examination, audit and appraisal. If the director or any
20 supervisory agency determines the examination, audit and
21 appraisal advisable, the director or supervisory agency shall
22 provide for an examination, together with a current appraisal
23 of the member's assets by a qualified person, and the board
24 may furnish to the director or any supervisory agency
25 evidence of current values of any or all of the member's

1 assets that it considers material to the appraisal.

2 D. After receiving the reports of the examination
3 and appraisal, the director or any supervisory agency shall
4 furnish copies of the reports to the board and to the member.
5 The board has authority to make recommendations to any member
6 designed to correct practices or policies of the member in
7 conducting its business, including loan or dividend policies,
8 that the board considers unsafe or unsound or that would
9 impair the financial condition of the member. If the member
10 fails to follow the recommendations, the board shall give
11 notice to the director and any supervisory agency.

12 E. If it appears to the board that practices or
13 policies of a member have impaired or are likely to impair
14 the solvency of the member or are unreasonably increasing the
15 insurance risk of the corporation with respect to the member,
16 it shall include a statement to this effect, together with a
17 report of the facts and circumstances, in the notice to the
18 director and the supervisory agency. If the director or the
19 supervisory agency determines from the report, notice and
20 from other available information that the member is in unsafe
21 or unsound condition to transact the business for which it
22 was created, the director or the supervisory agency may so
23 certify to the corporation. Nothing in this section shall be
24 construed to abridge any power conferred upon the director or
25 supervisory agency by any law.

1 F. Whenever it appears to the director or the
2 supervisory agency that it is inadvisable or inexpedient for
3 any member to continue to transact the business for which it
4 is organized without receiving assistance, the director or
5 supervisory agency may, in the director's or supervisory
6 agency's discretion, notify the board, and the board may take
7 any action it considers necessary to reduce risk or avert a
8 threatened loss to the corporation. Notwithstanding any
9 other provision of law, the board may require a merger or
10 consolidation of the member with other financial institutions
11 or may facilitate the sale of assets of the member to and the
12 assumption of its liabilities by one or more members or other
13 financial institutions. The board may, with the approval of
14 the director or supervisory agency, do any of the following:

15 (1) purchase from the member any equitable or
16 other interest in its assets at book value or at some other
17 value mutually agreed upon by the member and the board,
18 notwithstanding that either of the values may exceed the
19 market value of the assets so purchased, and upon such terms
20 and conditions as the board may determine;

21 (2) make loans to the member upon such terms
22 and conditions as the board may determine;

23 (3) pay to the member, in accordance with an
24 agreement entered into between the member and the
25 corporation, an amount not in excess of the difference

1 between the book value of some or all of its assets and the
2 fair value as determined by the agreement, in consideration
3 for which the member shall agree to write down the assets to
4 the fair value and to pay over to the corporation so much of
5 any net proceeds realized from the sale or other disposition
6 of the assets as are in excess of the fair value, the payment
7 to be made in such amounts, at such times and upon such terms
8 and conditions as the board may determine. Any amount paid
9 by the corporation to the member and the agreement of the
10 member to repay the excess shall constitute liabilities of
11 the member only to the extent of any such excess from time to
12 time actually realized; or

13 (4) deposit a sum of money into the reserve
14 accounts of the member in accordance with an agreement
15 entered into between the member and the corporation. The
16 member is authorized and empowered, notwithstanding any other
17 provision of law, to repay the amount to the corporation at
18 such time and in such manner as the agreement may prescribe,
19 provided that any such payment made by the corporation to the
20 member and any agreement of the member to repay it shall
21 constitute liabilities of the member only to the extent
22 provided by the agreement. The member, by vote of at least
23 two-thirds of its directors, may take any action necessary or
24 advisable to enable it to carry out any or all provisions of
25 this section.

1 G. At any time after ten years from the date
2 financial assistance has been granted to a member under any
3 provision of this section, any unpaid balance may be
4 compromised or settled for cash payment or other
5 consideration as the board and the member, with the approval
6 of the director and supervisory agency, may agree upon. Upon
7 compromise or settlement, the member shall be released and
8 discharged from any further obligation to repay the unpaid
9 balance of financial assistance except to the extent provided
10 by the agreement.

11 H. If a member authorized by a vote of at least
12 two-thirds of the member's directors chooses to be
13 liquidated, the corporation shall be fully authorized to
14 proceed with the liquidation, merger or consolidation of the
15 member.

16 I. Whenever it appears to the director or the
17 supervisory agency that any member is in unsound or unsafe
18 condition to transact the business for which it is organized,
19 the director or the supervisory agency may so certify to the
20 board. Upon receipt of the certificate, the board shall, by
21 notice in writing to the director, supervisory agency and to
22 the member, take possession and control of the property and
23 the business of the member and operate the business of the
24 member subject to such rules and regulations as the director
25 or supervisory agency may prescribe until the member resumes

1 business or until its affairs are finally liquidated. While
2 operating the business, the corporation may pay to the member
3 out of the fund such sums as the board considers necessary
4 for the protection of the member's shareholders and
5 depositors and may order these sums to be repaid when no
6 longer required for that purpose or may purchase assets from
7 the member to effect the purposes of the Credit Union Share
8 Insurance Corporation Act on such terms and conditions and at
9 such valuations as the board may determine.

10 J. At any time after the board has taken over the
11 control, possession and operation of any member, it may, with
12 the approval of the director or supervisory agency, turn back
13 the control, possession and operation to the member. The
14 member may resume business free from any control by the
15 corporation subject to such conditions as the director or
16 supervisory agency may approve. The board shall not turn
17 back the control, possession and operation of any member
18 until there has been repaid into the fund all sums paid out
19 from the fund to the member or its shareholders or depositors
20 or until security for repayment is received that is
21 satisfactory to the board.

22 K. The board may, and at the request of the
23 director or supervisory agency shall, at any time after it
24 has taken over the control, possession and operation of any
25 member, discontinue the business of the member and proceed to

1 liquidate its affairs. The corporation shall in that event
2 pay to the shareholders and depositors of the member the full
3 amount of their shares or deposits permitted by law at the
4 date of the discontinuance of the business of the member with
5 interest from the last dividend date to the date of
6 discontinuance at such rate, not exceeding three percent, as
7 the board determines. The payments shall be made as soon as
8 possible after the date of discontinuance. For this purpose,
9 the board shall use, in addition to the assets of the member,
10 such sums as may be required from the fund. In case of
11 liquidation, the corporation shall be subject to such rules
12 and regulations as may be prescribed by the director or the
13 supervisory agency. Rules and regulations prescribed by the
14 director apply only to the liquidation of New Mexico-
15 chartered credit unions. In the event of the liquidation of
16 a member chartered in a state other than New Mexico, the
17 corporation shall be subject only to rules and regulations
18 prescribed by the applicable supervisory agency. The
19 corporation shall take steps to collect all debts due and
20 claims belonging to those members, may sell or compound all
21 bad or doubtful debts and may sell all or any part of the
22 real or personal property or other assets of the member on
23 such terms and conditions and at such valuation as the board
24 determines. The corporation may itself be the purchaser at
25 any or all of the sales. To execute and perform the powers

1 and duties conferred upon the corporation, it may, in the
2 name of any such member, prosecute and defend all suits and
3 other legal proceedings and may, in the name of the member,
4 execute, acknowledge and deliver all deeds, assignments,
5 leases and other instruments necessary and proper to
6 effectuate any sale of real or personal property or other
7 assets. Any deed or other instrument executed pursuant to
8 the authority given in this section shall be valid and
9 effectual for all purposes to the same extent as though
10 executed by the officers of the member by authority of its
11 board of directors. The compensation of employees, counsel
12 and other assistants employed by the board to liquidate the
13 affairs of any member under this section and all expenses
14 incurred in connection with the liquidation of any such
15 member shall be fixed by the directors of the corporation.
16 The officers of the corporation and any other persons
17 employed by its directors to liquidate the affairs of any
18 member under this section shall give bond to the directors of
19 the corporation for the faithful performance of their duties
20 in relation to the liquidation in such amount and with such
21 surety as the director or supervisory agency may approve.
22 The persons appointed for the purpose of liquidating the
23 affairs of any such member shall be subject to all the
24 penalties to which agents appointed by the director or
25 supervisory agency for the purpose of liquidating the affairs

1 of a member are subject. All accounts for which no claimant
2 can be found after six years following the discontinuance of
3 the business of any such member shall be disposed of in
4 accordance with the Revised Uniform Unclaimed Property Act.

5 L. With the approval of the director or supervisory
6 agency and subject to such rules and regulations as the
7 director or supervisory agency may prescribe, the board may
8 appoint conservators or agents to assist it in the operation,
9 management and liquidation of assets purchased or otherwise
10 acquired from members by the corporation. The original
11 location of the assets purchased or otherwise acquired shall
12 determine whether rules and regulations may be prescribed by
13 the director or supervisory agency. Certificates of
14 appointment of conservators and agents shall be filed with
15 the director or supervisory agency. Notwithstanding any
16 other provisions of law, all members are authorized to act as
17 conservators and agents and to exercise the powers and
18 perform the duties contemplated by this section.

19 M. The corporation may exercise all the powers,
20 rights and franchises of any member, the control, possession
21 and operation of which has been taken over by the
22 corporation. Notwithstanding any other provisions of law:

23 (1) with the approval of the director or
24 supervisory agency, any member may advance or loan upon, or
25 purchase, the whole or any part of the assets of any other

1 member that is in possession of the corporation or that has
2 been the subject of a notice from the director or supervisory
3 agency to the corporation as provided in this section, at
4 such valuations and upon such terms and conditions as the
5 members, by authorization of their boards of directors, may
6 agree upon. The member making such an advance, loan or
7 purchase, for the purpose of effecting it, may assume and
8 agree to pay the whole or any part of the share, deposit and
9 other liabilities of the other member, subject to such terms
10 and conditions and subject to such adjustments as may be
11 approved by the director or supervisory agency; and

12 (2) with the approval of the director or the
13 supervisory agency, any member may advance or loan upon, or
14 purchase, the whole or any part of the assets acquired or
15 held by the corporation and may participate in such an
16 advance, loan or purchase with one or more other members, at
17 such valuation and upon such terms and conditions as the
18 corporation and the members, with authorization of their
19 boards of directors, may agree upon. With like approval, the
20 corporation may do any and all things and may take any and
21 all action that the board considers necessary or advisable to
22 give effect to this paragraph; provided that the approval of
23 the director or supervisory agency is not required in the
24 case of the purchase under this section by a member from the
25 corporation of any mortgage for a sum equal to the unpaid

1 balance thereof."

2 SECTION 108. Section 59A-16-7.1 NMSA 1978 (being Laws
3 2013, Chapter 100, Section 1) is amended to read:

4 "59A-16-7.1. UNCLAIMED LIFE INSURANCE BENEFITS.--

5 A. As used in this section:

6 (1) "contract" means an annuity contract but
7 excludes annuity contracts used to fund employment-based
8 retirement plans or programs in which the insurer is not
9 committed by the terms of the annuity contract to pay a death
10 benefit to the beneficiaries of specific plan participants;

11 (2) "death master file" means the federal
12 social security administration's death master file or another
13 database or service for determining that a person has died
14 and that is at least as comprehensive as the federal social
15 security administration's death master file;

16 (3) "match" means a search of a death master
17 file that results in a match of the social security number or
18 the name and date of birth of an insured, annuity owner or
19 retained asset account holder; and

20 (4) "policy" means a policy or certificate of
21 life insurance that provides a death benefit, but excludes
22 policies or certificates of credit life or accidental death
23 insurance, policies or certificates of life insurance used to
24 fund a preneed funeral contract or funeral prearrangement and
25 policies or certificates of life insurance that provide a

1 death benefit pursuant to an employee benefit plan that are:

2 (a) subject to the federal Employee
3 Retirement Income Security Act of 1974, as amended; or

4 (b) under a federal employee benefit
5 program.

6 B. At least twice a year, an insurer shall
7 crosscheck its insureds' in-force life insurance policies and
8 retained-asset accounts against a death master file to
9 identify potential matches. For each potential match, within
10 ninety days, the insurer shall:

11 (1) make and document a good faith effort to
12 confirm the death of the insured or retained-asset account
13 holder by using other available records and information;

14 (2) determine whether the applicable policy or
15 contract provides for the payment of a death benefit. If the
16 payment of a death benefit is required, the insurer shall:

17 (a) make and document a good faith effort
18 to locate the beneficiary or beneficiaries; and

19 (b) provide to the beneficiary or
20 beneficiaries the appropriate claim forms or instructions for
21 making a claim, including the need to provide an official
22 death certificate if required by the policy or contract; and

23 (3) in the case of group life insurance,
24 confirm the possible death of an insured; provided that the
25 insurer maintains at least the following information about

1 those covered under a policy or certificate:

- 2 (a) social security number, or name and
- 3 date of birth;
- 4 (b) beneficiary designation information;
- 5 (c) coverage eligibility;
- 6 (d) benefit amount; and
- 7 (e) premium payment status.

8 C. To the extent permitted by law, an insurer may
9 disclose the minimum information about the insured or the
10 beneficiary that is necessary to locate a beneficiary or
11 another person entitled to receive a payment of the claims
12 proceeds to a person whom the insurer reasonably believes
13 could assist the insurer in locating the beneficiary or
14 another person entitled to receive a payment of the claims
15 proceeds. An insurer or its service provider shall not
16 charge an insured, an account holder or a beneficiary for a
17 search or confirmation conducted pursuant to this subsection.

18 D. The benefits from a life insurance policy or a
19 retained asset account, plus any applicable accrued interest,
20 shall be payable pursuant to the terms of the contract or, if
21 applicable, in accordance with probate law. If the proper
22 recipients of a life insurance policy or a retained asset
23 account cannot be found, the benefits shall escheat to New
24 Mexico as unclaimed property pursuant to the Revised Uniform
25 Unclaimed Property Act. Upon the expiration of the statutory

1 time period for escheat, an insurer shall notify the taxation
2 and revenue department that a life insurance policy
3 beneficiary or retained asset account holder has not
4 submitted a claim with the insurer and the insurer has
5 complied with the provisions of Subsection B of this section
6 and has been unable to contact the retained asset account
7 holder, beneficiary or beneficiaries. Upon notifying the
8 taxation and revenue department, the insurer shall submit the
9 unclaimed life insurance benefits or unclaimed retained asset
10 accounts, plus any applicable accrued interest, to the
11 taxation and revenue department pursuant to the Revised
12 Uniform Unclaimed Property Act.

13 E. To assist the superintendent in identifying lost
14 policies, by July 1, 2016, an insurer that has never
15 conducted a crosscheck of its insureds' policies and
16 contracts issued prior to July 1, 2013 against a death master
17 file for the purpose of identifying deceased insureds shall
18 provide to the superintendent a list of all policies and
19 contracts in force and issued in New Mexico.

20 F. For an insurer that has never conducted a
21 crosscheck of its insureds' policies and contracts against a
22 death master file for the purpose of identifying deceased
23 insureds, the provisions of this section shall apply only to
24 policies and contracts issued and delivered in New Mexico on
25 or after July 1, 2013."

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SECTION 109. REPEAL.--Sections 7-8A-1 through 7-8A-31
NMSA 1978 (being Laws 1997, Chapter 25, Sections 1 through
10; Laws 1990, Chapter 98, Section 1; and Laws 1997, Chapter
25, Sections 11 through 31, as amended) are repealed.

SECTION 110. EFFECTIVE DATE.--The effective date of the
provisions of this act is January 1, 2024. _____