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SENATE BILL 111

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO WORKERS' COMPENSATION; AMENDING THE TAX  
ADMINISTRATION ACT TO INCLUDE ADMINISTRATION OF THE UNINSURED  
EMPLOYERS' FEES; AMENDING THE WORKERS' COMPENSATION FUND ACT TO  
PROVIDE FOR DISTRIBUTION OF REVENUES TO THE UNINSURED  
EMPLOYERS' FUND; PROVIDING FOR EXCEPTIONS TO CONFIDENTIALITY  
PURSUANT TO TAX ADMINISTRATION; RECONCILING MULTIPLE AMENDMENTS  
TO THE SAME SECTION OF LAW IN LAWS 2003.

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

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

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

A. the administration and enforcement of the  
following taxes or tax acts as they now exist or may hereafter

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1 be amended:

2 (1) Income Tax Act;

3 (2) Withholding Tax Act;

4 (3) Venture Capital Investment Act;

5 (4) Gross Receipts and Compensating Tax Act

6 and any state gross receipts tax;

7 (5) Liquor Excise Tax Act;

8 (6) Local Liquor Excise Tax Act;

9 (7) any municipal local option gross receipts  
10 tax;

11 (8) any county local option gross receipts  
12 tax;

13 (9) Special Fuels Supplier Tax Act;

14 (10) Gasoline Tax Act;

15 (11) petroleum products loading fee, which fee  
16 shall be considered a tax for the purpose of the Tax  
17 Administration Act;

18 (12) Alternative Fuel Tax Act;

19 (13) Cigarette Tax Act;

20 (14) Estate Tax Act;

21 (15) Railroad Car Company Tax Act;

22 (16) Investment Credit Act, Capital Equipment  
23 Tax Credit Act, rural job tax credit, Laboratory Partnership  
24 with Small Business Tax Credit Act and Technology Jobs Tax  
25 Credit Act;

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- 1 (17) Corporate Income and Franchise Tax Act;  
2 (18) Uniform Division of Income for Tax  
3 Purposes Act;  
4 (19) Multistate Tax Compact;  
5 (20) Tobacco Products Tax Act; and  
6 (21) the telecommunications relay service  
7 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
8 surcharge shall be considered a tax for the purposes of the Tax  
9 Administration Act;

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

- 13 (1) Resources Excise Tax Act;  
14 (2) Severance Tax Act;  
15 (3) any severance surtax;  
16 (4) Oil and Gas Severance Tax Act;  
17 (5) Oil and Gas Conservation Tax Act;  
18 (6) Oil and Gas Emergency School Tax Act;  
19 (7) Oil and Gas Ad Valorem Production Tax Act;  
20 (8) Natural Gas Processors Tax Act;  
21 (9) Oil and Gas Production Equipment Ad  
22 Valorem Tax Act;  
23 (10) Copper Production Ad Valorem Tax Act;  
24 (11) any advance payment required to be made  
25 by any act specified in this subsection, which advance payment

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

3 (12) Enhanced Oil Recovery Act;

4 (13) Natural Gas and Crude Oil Production  
5 Incentive Act; and

6 (14) intergovernmental production tax credit  
7 and intergovernmental production equipment tax credit;

8 C. the administration and enforcement of the  
9 following taxes, surcharges, fees or acts as they now exist or  
10 may hereafter be amended:

11 (1) Weight Distance Tax Act;

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

15 (3) Uniform Unclaimed Property Act;

16 (4) 911 emergency surcharge and the network  
17 and database surcharge, which surcharges shall be considered  
18 taxes for purposes of the Tax Administration Act;

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

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

25 (7) the gaming tax imposed pursuant to the

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1 Gaming Control Act; and

2 (8) the uninsured employers' fees authorized  
3 by Section 52-1-9.1 NMSA 1978, which fees shall be considered  
4 taxes for purposes of the Tax Administration Act; and

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

10 Section 2. A new section of the Tax Administration Act is  
11 enacted to read:

12 "[NEW MATERIAL] UNINSURED EMPLOYERS' FUND-- DISTRIBUTION. --  
13 A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
14 made to the uninsured employers' fund of all amounts designated  
15 as contributions to that fund under the provisions of Section  
16 52-1-9.1 NMSA 1978. "

17 Section 3. Section 7-1-8 NMSA 1978 (being Laws 1965,  
18 Chapter 248, Section 13, as amended by Laws 2003, Chapter 398,  
19 Section 5 and by Laws 2003, Chapter 439, Section 1) is amended  
20 to read:

21 "7-1-8. CONFIDENTIALITY OF RETURNS AND OTHER  
22 INFORMATION. --It is unlawful for an employee of the department  
23 or a former employee of the department to reveal to an  
24 individual other than another employee of the department  
25 information contained in the return of a taxpayer made pursuant

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1 to a law subject to administration and enforcement under the  
2 provisions of the Tax Administration Act or any other  
3 information about a taxpayer acquired as a result of his  
4 employment by the department and not available from public  
5 sources, except:

6 A. to an authorized representative of another  
7 state; provided that the receiving state has entered into a  
8 written agreement with the department to use the information  
9 for tax purposes only and that the receiving state has enacted  
10 a confidentiality statute similar to this section to which the  
11 representative is subject;

12 B. to a representative of the secretary of the  
13 treasury or the secretary's delegate pursuant to the terms of a  
14 reciprocal agreement entered into with the federal government  
15 for exchange of the information;

16 C. to the multistate tax commission or its  
17 authorized representative; provided that the information is  
18 used for tax purposes only and is disclosed by the multistate  
19 tax commission only to states that have met the requirements of  
20 Subsection A of this section;

21 D. to a district court, an appellate court or a  
22 federal court:

23 (1) in response to an order thereof in an  
24 action relating to taxes to which the state is a party and in  
25 which the information sought is about a taxpayer who is party

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1 to the action and is material to the inquiry, in which case  
2 only that information may be required to be produced in court  
3 and admitted in evidence subject to court order protecting the  
4 confidentiality of the information and no more;

5 (2) in an action in which the department is  
6 attempting to enforce an act with which the department is  
7 charged or to collect a tax; or

8 (3) in any matter in which the department is a  
9 party and the taxpayer has put his own liability for taxes at  
10 issue, in which case only that information regarding the  
11 taxpayer who is party to the action may be produced, but this  
12 shall not prevent the disclosure of department policy or  
13 interpretation of law arising from circumstances of a taxpayer  
14 who is not a party;

15 E. to the taxpayer or to the taxpayer's authorized  
16 representative; provided, however, that nothing in this  
17 subsection shall be construed to require any employee to  
18 testify in a judicial proceeding except as provided in  
19 Subsection D of this section;

20 F. information obtained through the administration  
21 of a law not subject to administration and enforcement under  
22 the provisions of the Tax Administration Act to the extent that  
23 release of that information is not otherwise prohibited by law;

24 G. in a manner, for statistical purposes, that the  
25 information revealed is not identified as applicable to an

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1 individual taxpayer;

2 H. with reference to information concerning the tax  
3 on tobacco imposed by Sections 7-12-1 through 7-12-13 and  
4 Sections 7-12-15 and 7-12-17 NMSA 1978 to a committee of the  
5 legislature for a valid legislative purpose or to the attorney  
6 general for purposes of Section 6-4-13 NMSA 1978 and the master  
7 settlement agreement defined in Section 6-4-12 NMSA 1978;

8 I. to a transferee, assignee, buyer or lessor of a  
9 liquor license, the amount and basis of an unpaid assessment of  
10 tax for which his transferor, assignor, seller or lessee is  
11 liable;

12 J. to a purchaser of a business as provided in  
13 Sections 7-1-61 through 7-1-63 NMSA 1978, the amount and basis  
14 of an unpaid assessment of tax for which the purchaser's seller  
15 is liable;

16 K. to a municipality of this state upon its request  
17 for a period specified by that municipality within the twelve  
18 months preceding the request for the information by that  
19 municipality:

20 (1) the names, taxpayer identification numbers  
21 and addresses of registered gross receipts taxpayers reporting  
22 gross receipts for that municipality under the Gross Receipts  
23 and Compensating Tax Act or a local option gross receipts tax  
24 imposed by that municipality. The department may also release  
25 the information described in this paragraph quarterly or upon

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1 such other periodic basis as the secretary and the municipality  
2 may agree; and

3 (2) information indicating whether persons  
4 shown on a list of businesses located within that municipality  
5 furnished by the municipality have reported gross receipts to  
6 the department but have not reported gross receipts for that  
7 municipality under the Gross Receipts and Compensating Tax Act  
8 or a local option gross receipts tax imposed by that  
9 municipality.

10 The employees of municipalities receiving information as  
11 provided in this subsection shall be subject to the penalty  
12 contained in Section 7-1-76 NMSA 1978 if that information is  
13 revealed to individuals other than other employees of the  
14 municipality in question or the department;

15 L. to the commissioner of public lands for use in  
16 auditing that pertains to rentals, royalties, fees and other  
17 payments due the state under land sale, land lease or other  
18 land use contracts; the commissioner of public lands and  
19 employees of the commissioner are subject to the same  
20 provisions regarding confidentiality of information as  
21 employees of the department;

22 M the department shall furnish, upon request by  
23 the child support enforcement division of the human services  
24 department, the last known address with date of all names  
25 certified to the department as being absent parents of children

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1 receiving public financial assistance. The child support  
2 enforcement division personnel shall use such information only  
3 for the purpose of enforcing the support liability of the  
4 absent parents and shall not use the information or disclose it  
5 for any other purpose; the child support enforcement division  
6 and its employees are subject to the provisions of this section  
7 with respect to any information acquired from the department;

8 N. with respect to the tax on gasoline imposed by  
9 the Gasoline Tax Act, the department shall make available for  
10 public inspection at monthly intervals a report covering the  
11 number of gallons of gasoline and ethanol blended fuels  
12 received and deducted, and the amount of tax paid by each  
13 person required to file a gasoline tax return or pay gasoline  
14 tax in the state of New Mexico;

15 O. the identity of a rack operator, importer,  
16 blender, supplier or distributor and the number of gallons  
17 reported on returns required under the Gasoline Tax Act,  
18 Special Fuels Supplier Tax Act or Alternative Fuel Tax Act to a  
19 rack operator, importer, blender, distributor or supplier, but  
20 only when it is necessary to enable the department to carry out  
21 its duties under the Gasoline Tax Act, the Special Fuels  
22 Supplier Tax Act or the Alternative Fuel Tax Act;

23 P. the department shall release upon request only  
24 the names and addresses of all gasoline or special fuel  
25 distributors, wholesalers and retailers to the New Mexico

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1 department of agriculture, the employees of which are thereby  
2 subject to the penalty contained in Section 7-1-76 NMSA 1978 if  
3 that information is revealed to individuals other than  
4 employees of either the New Mexico department of agriculture or  
5 the department;

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

11 R. upon request of a municipality or county of this  
12 state, the department shall permit officials or employees of  
13 the municipality or county to inspect the records of the  
14 department pertaining to an increase or decrease to a  
15 distribution or transfer made pursuant to Section 7-1-6.15 NMSA  
16 1978 for the purpose of reviewing the basis for the increase or  
17 decrease. The municipal or county officials or employees  
18 receiving information provided in this subsection shall not  
19 reveal that information to any person other than another  
20 employee of the municipality or the county, the department or a  
21 district court, an appellate court or a federal court in a  
22 proceeding relating to a disputed distribution and in which  
23 both the state and the municipality or county are parties.  
24 Information provided pursuant to provisions of this subsection  
25 that is revealed other than as provided in this subsection

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1 shall subject the person revealing the information to the  
2 penalties contained in Section 7-1-76 NMSA 1978;

3 S. to a county of this state that has in effect a  
4 local option gross receipts tax imposed by the county upon its  
5 request for a period specified by that county within the twelve  
6 months preceding the request for the information by that  
7 county:

8 (1) the names, taxpayer identification numbers  
9 and addresses of registered gross receipts taxpayers reporting  
10 gross receipts either for that county in the case of a local  
11 option gross receipts tax imposed on a countywide basis or only  
12 for the areas of that county outside of any incorporated  
13 municipalities within that county in the case of a county local  
14 option gross receipts tax imposed only in areas of the county  
15 outside of any incorporated municipalities. The department may  
16 also release the information described in this paragraph  
17 quarterly or upon such other periodic basis as the secretary  
18 and the county may agree;

19 (2) in the case of a local option gross  
20 receipts tax imposed by a county on a countywide basis,  
21 information indicating whether persons shown on a list of  
22 businesses located within the county furnished by the county  
23 have reported gross receipts to the department but have not  
24 reported gross receipts for that county under the Gross  
25 Receipts and Compensating Tax Act or a local option gross

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1 receipts tax imposed by that county on a countywide basis; and  
2 (3) in the case of a local option gross  
3 receipts tax imposed by a county only on persons engaging in  
4 business in that area of the county outside of incorporated  
5 municipalities, information indicating whether persons on a  
6 list of businesses located in that county outside of the  
7 incorporated municipalities but within that county furnished by  
8 the county have reported gross receipts to the department but  
9 have not reported gross receipts for that county outside of the  
10 incorporated municipalities within that county under the Gross  
11 Receipts and Compensating Tax Act or a local option gross  
12 receipts tax imposed by the county only on persons engaging in  
13 business in that county outside of the incorporated  
14 municipalities.

15 The officers and employees of counties receiving  
16 information as provided in this subsection shall be subject to  
17 the penalty contained in Section 7-1-76 NMSA 1978 if the  
18 information is revealed to individuals other than other  
19 officers or employees of the county in question or the  
20 department;

21 T. to authorized representatives of an Indian  
22 nation, tribe or pueblo, the territory of which is located  
23 wholly or partially within New Mexico, pursuant to the terms of  
24 a reciprocal agreement entered into with the Indian nation,  
25 tribe or pueblo for the exchange of that information for tax

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1 purposes only; provided that the Indian nation, tribe or pueblo  
2 has enacted a confidentiality statute similar to this section;

3 U. information with respect to the taxes or tax  
4 acts administered pursuant to Subsection B of Section 7-1-2  
5 NMSA 1978, except that:

6 (1) information for or relating to a period  
7 prior to July 1, 1985 with respect to Sections 7-25-1 through  
8 7-25-9 and 7-26-1 through 7-26-8 NMSA 1978 may be released only  
9 to a committee of the legislature for a valid legislative  
10 purpose;

11 (2) except as provided in Paragraph (3) of  
12 this subsection, contracts and other agreements between the  
13 taxpayer and other parties and the proprietary information  
14 contained in those contracts and agreements shall not be  
15 released without the consent of all parties to the contract or  
16 agreement; and

17 (3) audit workpapers and the proprietary  
18 information contained in the workpapers shall not be released  
19 except to:

20 (a) the minerals management service of  
21 the United States department of the interior, if production  
22 occurred on federal land;

23 (b) a person having a legal interest in  
24 the property that is subject to the audit;

25 (c) a purchaser of products severed from

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1 a property subject to the audit; or

2 (d) the authorized representative of any  
3 of the persons in Subparagraphs (a) through (c) of this  
4 paragraph. This paragraph does not prohibit the release of  
5 proprietary information contained in the workpapers that is  
6 also available from returns or from other sources not subject  
7 to the provisions of this section;

8 V. information with respect to the taxes, surtaxes,  
9 advance payments or tax acts administered pursuant to  
10 Subsection C of Section 7-1-2 NMSA 1978;

11 W. to the public regulation commission, information  
12 with respect to the Corporate Income and Franchise Tax Act  
13 required to enable the commission to carry out its duties;

14 X. to the state racing commission, information with  
15 respect to the state, municipal and county gross receipts taxes  
16 paid by [~~race tracks~~] racetracks;

17 Y. upon request of a corporation authorized to be  
18 formed under the Educational Assistance Act, the department  
19 shall furnish the last known address and the date of that  
20 address of every person certified to the department as an  
21 absent obligor of an educational debt due and owed to the  
22 corporation or that the corporation has lawfully contracted to  
23 collect. The corporation and its officers and employees shall  
24 use that information only to enforce the educational debt  
25 obligation of the absent obligors and shall not disclose that

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1 information or use it for any other purpose;

2 Z. a decision and order made by a hearing officer  
3 pursuant to Section 7-1-24 NMSA 1978 with respect to a protest  
4 filed with the secretary on or after July 1, 1993;

5 AA. information required by a provision of the Tax  
6 Administration Act to be made available to the public by the  
7 department;

8 BB. upon request by the Bernalillo county  
9 metropolitan court, the department shall furnish the last known  
10 address and the date of that address for every person the court  
11 certifies to the department as a person who owes fines, fees or  
12 costs to the court or who has failed to appear pursuant to a  
13 court order or a promise to appear;

14 CC. upon request by a magistrate court, the  
15 department shall furnish the last known address and the date of  
16 that address for every person the court certifies to the  
17 department as a person who owes fines, fees or costs to the  
18 court or who has failed to appear pursuant to a court order or  
19 a promise to appear;

20 DD. to the national tax administration agencies of  
21 Mexico and Canada, provided the agency receiving the  
22 information has entered into a written agreement with the  
23 department to use the information for tax purposes only and is  
24 subject to a confidentiality statute similar to this section;

25 EE. to a district attorney, a state district court



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1 grand jury or federal grand jury for an investigation of or  
2 proceeding related to an alleged criminal violation of the tax  
3 laws;

4 FF. to a third party subject to a subpoena or levy  
5 issued pursuant to the provisions of the Tax Administration  
6 Act, the identity of the taxpayer involved, the taxes or tax  
7 acts involved and the nature of the proceeding; [~~and~~]

8 GG. to the gaming control board, tax returns of  
9 license applicants and their affiliates as defined in  
10 Subsection E of Section 60-2E-14 NMSA 1978;

11 HH. any written ruling on questions of evidence or  
12 procedure made by a hearing officer pursuant to Section 7-1-24  
13 NMSA 1978; provided that the name and identification number of  
14 the taxpayer requesting the ruling shall not be provided; and

15 II. to representatives of the workers' compensation  
16 administration, authorized by the director of the workers'  
17 compensation administration for this purpose, to facilitate the  
18 identification of taxpayers that are delinquent or noncompliant  
19 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA  
20 1978. "

21 Section 4. Section 52-1-9.1 NMSA 1978 (being Laws 2003,  
22 Chapter 258, Section 1) is amended to read:

23 "52-1-9.1. UNINSURED EMPLOYERS' FUND--WORKERS'  
24 COMPENSATION ADMINISTRATION--ADDITIONAL DUTIES. --

25 A. The "uninsured employers' fund" is created in

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1 the state treasury. The fund shall be administered by the  
2 workers' compensation administration as a separate account.  
3 The administration shall adopt rules to administer the fund  
4 pursuant to the provisions of this section.

5 B. The fund shall consist of uninsured employers'  
6 fees pursuant to this section and all income derived from  
7 investment of the fund. Each New Mexico employer or his  
8 insurance carrier shall quarterly pay an uninsured employers'  
9 fee to the workers' compensation administration amounting to a  
10 percentage established by the administration, not to exceed one  
11 percent, of the money paid out during that quarter as  
12 compensation benefits and medical benefits, exclusive of  
13 attorney fees and related benefits. The fund shall also  
14 consist of any other money appropriated, distributed or  
15 otherwise allocated to the fund for the purpose of this  
16 section. Notwithstanding any other provision of law, any  
17 penalties or interest collected by the taxation and revenue  
18 department pursuant to the provisions of the Workers'  
19 Compensation Act shall be deposited in the fund.

20 C. The workers' compensation administration shall  
21 adopt rules for the assessment of the uninsured employers'  
22 fees. The rate shall be determined once before the end of each  
23 fiscal year by the workers' compensation administration so as  
24 to provide a sufficient income to meet payments from the fund  
25 for the next fiscal year; provided that for the first fiscal

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1 year the percentage shall be one-half percent. The uninsured  
2 employers' fees shall be collected and deposited to the credit  
3 of the uninsured employers' fund by the taxation and revenue  
4 department in the same manner as for the workers' compensation  
5 administration fund created pursuant to Section 52-5-19 NMSA  
6 1978. The uninsured employers' fees authorized in this section  
7 shall be administered and enforced by the taxation and revenue  
8 department pursuant to the provisions of the Tax Administration  
9 Act.

10 D. Money in the fund is appropriated to the  
11 workers' compensation administration to pay workers  
12 compensation benefits to a person entitled to the benefits when  
13 that person's employer has failed to maintain workers'  
14 compensation coverage because of fraud, misconduct or other  
15 failure to insure or otherwise make compensation payments. For  
16 purposes of this subsection, a worker who has affirmatively  
17 elected not to accept the provisions of the Workers'  
18 Compensation Act shall not be eligible for payment of workers'  
19 compensation from the uninsured employers' fund. The director  
20 may pay reasonable costs of administering the uninsured  
21 employers' fund from the fund, but money in the fund shall not  
22 be used for administrative costs unrelated to the fund or any  
23 activity of the workers' compensation administration other than  
24 as provided in this section. The superintendent of insurance  
25 shall examine and audit the fund pursuant to the provisions of

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1 Chapter 59A, Article 4 NMSA 1978.

2 E. The director may authorize payments to a person  
3 from the uninsured employers' fund if the injury or cause of  
4 incapacity occurs in New Mexico and would be compensable under  
5 the Workers' Compensation Act.

6 F. The uninsured employers' fund, by subrogation,  
7 has all the rights, powers and benefits of the employee or the  
8 employee's dependents against the employer failing to make the  
9 compensation payments.

10 G. The uninsured employers' fund, subject to  
11 approval of the director, shall discharge its obligations by  
12 contracting with an independent adjusting company that is  
13 licensed and principally located in New Mexico as prescribed by  
14 Section 59A-13-11 NMSA 1978 or Chapter 59A, Article 12A NMSA  
15 1978.

16 H. For the purpose of ensuring the health, safety  
17 and welfare of the public, the director or a workers'  
18 compensation judge shall:

19 (1) order the uninsured employer to reimburse  
20 the uninsured employers' fund for all benefits paid to or on  
21 behalf of an injured employee by the uninsured employers' fund  
22 along with interest, costs and ~~attorneys~~ attorney fees; and

23 (2) impose a penalty against the uninsured  
24 employer of not less than fifteen percent nor more than fifty  
25 percent of the value of the total award in connection with the

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1 claim that shall be paid into the uninsured employers' fund.

2 I. The liability of the state, the workers'  
3 compensation administration and the state treasurer, with  
4 respect to payment of any compensation benefits, expenses, fees  
5 or disbursement properly chargeable against the uninsured  
6 employers' fund, is limited to the assets in the uninsured  
7 employers' fund, and they are not otherwise liable for any  
8 payment.

9 J. The uninsured employers' fund shall be  
10 considered a payor of last resort within the workers'  
11 compensation system. No other payor liable for payments under  
12 the Workers' Compensation Act shall have its liabilities  
13 affected or discharged by payments from the uninsured  
14 employers' fund. Any payments to workers paid by the uninsured  
15 employers' fund shall be subject to subrogation and  
16 apportionment to the same extent as payments to an injured  
17 worker from a third party tortfeasor.

18 K. In any claim against an employer by the  
19 uninsured employers' fund, or by or on behalf of the employee  
20 to whom or to whose dependents compensation and other benefits  
21 are paid or payable from the uninsured employers' fund, the  
22 burden of proof is on the employer or other party in interest  
23 objecting to the claim. The claim is presumed to be valid up  
24 to the full amount of workers' compensation benefits paid to  
25 the employee or the employee's dependents. This subsection

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1 applies whether the claim is filed in court or in an  
2 adjudicative proceeding under the authority of the workers'  
3 compensation administration.

4 L. Nothing in this section shall be construed to  
5 extend exclusive remedy protection pursuant to Section 52-1-6  
6 or 52-1-9 NMSA 1978 to any employer whose injured worker is  
7 paid by the uninsured employers' fund.

8 M Nothing in this section shall be construed to  
9 supersede Section 52-5-10 NMSA 1978. "