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HOUSE BILL 829

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY  
Peter Wirth

AN ACT

RELATING TO PROBATE; ENACTING THE UNIFORM ESTATE TAX  
APPORTIONMENT ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF  
THE UNIFORM PROBATE CODE.

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

Section 1. Section 45-3-102 NMSA 1978 (being Laws 1975,  
Chapter 257, Section 3-102, as amended) is amended to read:

"45-3-102. NECESSITY OF ORDER OF PROBATE FOR  
WILL.--Except as provided in [~~Section~~] Sections 45-3-1201,  
45-3-1205 and 45-3-1301 NMSA 1978, to be effective to prove the  
transfer of any property or to nominate a personal  
representative, a will must be declared to be valid by an order  
of informal probate by the probate court or an adjudication of  
probate by the district court."

Section 2. Section 45-6-101 NMSA 1978 (being Laws 1992,  
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1 Chapter 66, Section 17) is amended to read:

2 "45-6-101. NONPROBATE TRANSFERS ON DEATH.--~~[A.]~~ A  
3 provision for a nonprobate transfer on death in an insurance  
4 policy, contract of employment, bond, mortgage, promissory  
5 note, certificated or uncertificated security, account  
6 agreement, custodial agreement, deposit agreement, compensation  
7 plan, pension plan, individual retirement plan, employee  
8 benefit plan, trust, conveyance, deed of gift, marital property  
9 agreement or other written instrument of a similar nature is  
10 nontestamentary. This ~~[subsection]~~ section includes a written  
11 provision that:

12 [~~(1)~~] A. money or other benefits due to, controlled  
13 by or owned by a decedent before death must be paid after the  
14 decedent's death to a person whom the decedent designates  
15 either in the instrument or in a separate writing, including a  
16 will, executed either before or at the same time as the  
17 instrument, or later;

18 [~~(2)~~] B. money due or to become due under the  
19 instrument ceases to be payable in the event of death of the  
20 promisee or the promisor before payment or demand; or

21 [~~(3)~~] C. any property controlled by or owned by the  
22 decedent before death ~~[which]~~ that is the subject of the  
23 instrument passes to a person the decedent designates either in  
24 the instrument or in a separate writing, including a will,  
25 executed either before or at the same time as the instrument,

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1 or later.

2 ~~[B. This section does not limit rights of creditors~~  
3 ~~under other laws of this state.]"~~

4 Section 3. A new section of the Uniform Probate Code,  
5 Section 45-6-102 NMSA 1978, is enacted to read:

6 "45-6-102. [NEW MATERIAL] LIABILITY OF NONPROBATE  
7 TRANSFEREES FOR CREDITOR CLAIMS AND STATUTORY ALLOWANCES.--

8 A. In this section, "nonprobate transfer" means a  
9 valid transfer effective at death, other than a transfer of a  
10 survivorship interest in a joint tenancy of real estate, by a  
11 transferor whose last domicile was in this state to the extent  
12 that the transferor immediately before death had power, acting  
13 alone, to prevent the transfer by revocation or withdrawal and  
14 instead to use the property for the benefit of the transferor  
15 or apply it to discharge claims against the transferor's  
16 probate estate.

17 B. Except as otherwise provided by statute, a  
18 transferee of a nonprobate transfer is subject to liability to  
19 any probate estate of the decedent for allowed claims against  
20 the decedent's probate estate and statutory allowances to the  
21 decedent's spouse and children to the extent the estate is  
22 insufficient to satisfy those claims and allowances. The  
23 liability of a nonprobate transferee may not exceed the value  
24 of nonprobate transfers received or controlled by that  
25 transferee.

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1 C. Nonprobate transferees are liable for the  
2 insufficiency described in Subsection B of this section in the  
3 following order of priority:

4 (1) a transferee designated in the decedent's  
5 will or any other governing instrument, as provided in the  
6 instrument;

7 (2) the trustee of a trust serving as the  
8 principal nonprobate instrument in the decedent's estate plan  
9 as shown by its designation as devisee of the decedent's  
10 residuary estate or by other facts or circumstances, to the  
11 extent of the value of the nonprobate transfer received or  
12 controlled; and

13 (3) other nonprobate transferees, in  
14 proportion to the values received.

15 D. Unless otherwise provided by the trust  
16 instrument, interests of beneficiaries in all trusts incurring  
17 liabilities under this section abate as necessary to satisfy  
18 the liability, as if all of the trust instruments were a single  
19 will and the interests were devised under it.

20 E. A provision made in one instrument may direct  
21 the apportionment of the liability among the nonprobate  
22 transferees taking under that or any other governing  
23 instrument. If a provision in one instrument conflicts with a  
24 provision in another, the later one prevails.

25 F. Upon due notice to a nonprobate transferee, the

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1 liability imposed by this section is enforceable in proceedings  
2 in this state, whether or not the transferee is located in this  
3 state.

4 G. A proceeding under this section may not be  
5 commenced unless the personal representative of the decedent's  
6 estate has received a written demand for the proceeding from  
7 the surviving spouse or a child, to the extent that statutory  
8 allowances are affected, or a creditor. If the personal  
9 representative declines or fails to commence a proceeding after  
10 demand, a person making demand may commence the proceeding in  
11 the name of the decedent's estate, at the expense of the person  
12 making the demand and not of the estate. A personal  
13 representative who declines in good faith to commence a  
14 requested proceeding incurs no personal liability for  
15 declining.

16 H. A proceeding under this section must be  
17 commenced within one year after the decedent's death, but a  
18 proceeding on behalf of a creditor whose claim was allowed  
19 after proceedings challenging disallowance of the claim may be  
20 commenced within sixty days after final allowance of the claim.

21 I. Unless a written notice asserting that a  
22 decedent's probate estate is nonexistent or insufficient to pay  
23 allowed claims and statutory allowances has been received from  
24 the decedent's personal representative, the following rules  
25 apply:

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1 (1) payment or delivery of assets by a  
2 financial institution, registrar or other obligor to a  
3 nonprobate transferee in accordance with the terms of the  
4 governing instrument controlling the transfer releases the  
5 obligor from all claims for amounts paid or assets delivered;  
6 and

7 (2) a trustee receiving or controlling a  
8 nonprobate transfer is released from liability under this  
9 section with respect to any assets distributed to the trust's  
10 beneficiaries. Each beneficiary to the extent of the  
11 distribution received becomes liable for the amount of the  
12 trustee's liability attributable to assets received by the  
13 beneficiary."

14 Section 4. Section 45-6-309 NMSA 1978 (being Laws 1992,  
15 Chapter 66, Section 45) is amended to read:

16 "45-6-309. NONTESTAMENTARY TRANSFER ON DEATH.--~~[A.]~~ A  
17 transfer on death resulting from a registration in beneficiary  
18 form is effective by reason of the contract regarding the  
19 registration between the owner and the registering entity and  
20 Sections 45-6-301 through 45-6-311 NMSA 1978 and is not  
21 testamentary.

22 ~~[B. Sections 45-6-301 through 45-6-311 NMSA 1978 do~~  
23 ~~not limit the rights of creditors of security owners against~~  
24 ~~beneficiaries and other transferees under other laws of this~~  
25 ~~state.]"~~

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1 Section 5. A new section of the Uniform Probate Code,  
2 Part 9A, is enacted to read:

3 "[NEW MATERIAL] SHORT TITLE.--Sections 5 through 17 of  
4 this act may be cited as the "Uniform Estate Tax Apportionment  
5 Act".

6 Section 6. A new section of the Uniform Probate Code,  
7 Part 9A, is enacted to read:

8 "[NEW MATERIAL] DEFINITIONS.--As used in the Uniform  
9 Estate Tax Apportionment Act:

10 A. "apportionable estate" means the value of the  
11 gross estate as finally determined for purposes of the estate  
12 tax to be apportioned reduced by:

13 (1) any claim or expense allowable as a  
14 deduction for purposes of the tax;

15 (2) the value of any interest in property  
16 that, for purposes of the tax, qualifies for a marital or  
17 charitable deduction or otherwise is deductible or is exempt;  
18 and

19 (3) any amount added to the decedent's gross  
20 estate because of a gift tax on transfers made before death;

21 B. "estate tax" means a federal, state or foreign  
22 tax imposed because of the death of an individual and interest  
23 and penalties associated with the tax. The term does not  
24 include an inheritance tax, income tax or generation-skipping  
25 transfer tax other than a generation-skipping transfer tax

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1 incurred on a direct skip taking effect at death;

2 C. "gross estate" means, with respect to an estate  
3 tax, all interests in property subject to the tax;

4 D. "person" means an individual, corporation,  
5 business trust, estate, trust, partnership, limited liability  
6 company, association, joint venture, public corporation,  
7 government, governmental subdivision, agency or  
8 instrumentality, or any other legal or commercial entity;

9 E. "ratable" means apportioned or allocated pro  
10 rata according to the relative values of interests to which the  
11 term is to be applied. "Ratably" has a corresponding meaning;

12 F. "time-limited interest" means an interest in  
13 property which terminates on a lapse of time or on the  
14 occurrence or nonoccurrence of an event or which is subject to  
15 the exercise of discretion that could transfer a beneficial  
16 interest to another person. The term does not include a  
17 cotenancy unless the cotenancy itself is a time-limited  
18 interest; and

19 G. "value" means, with respect to an interest in  
20 property, fair market value as finally determined for purposes  
21 of the estate tax that is to be apportioned, reduced by any  
22 outstanding debt secured by the interest without reduction for  
23 taxes paid or required to be paid or for any special valuation  
24 adjustment."

25 Section 7. A new section of the Uniform Probate Code,

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1 Part 9A, is enacted to read:

2 "[NEW MATERIAL] APPORTIONMENT BY WILL OR OTHER DISPOSITIVE  
3 INSTRUMENT.--

4 A. Except as otherwise provided in Subsection C of  
5 this section, the following rules apply:

6 (1) to the extent that a provision of a  
7 decedent's will expressly and unambiguously directs the  
8 apportionment of an estate tax, the tax must be apportioned  
9 accordingly;

10 (2) any portion of an estate tax not  
11 apportioned pursuant to Paragraph (1) of this subsection must  
12 be apportioned in accordance with any provision of a revocable  
13 trust of which the decedent was the settlor that expressly and  
14 unambiguously directs the apportionment of an estate tax. If  
15 conflicting apportionment provisions appear in two or more  
16 revocable trust instruments, the provision in the most recently  
17 dated instrument prevails. For purposes of this paragraph:

18 (a) a trust is revocable if it was  
19 revocable immediately after the trust instrument was executed,  
20 even if the trust subsequently becomes irrevocable; and

21 (b) the date of an amendment to a  
22 revocable trust instrument is the date of the amended  
23 instrument only if the amendment contains an apportionment  
24 provision; and

25 (3) if any portion of an estate tax is not

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1 apporportioned pursuant to Paragraph (1) or (2) of this  
2 subsection, and a provision in any other dispositive instrument  
3 expressly and unambiguously directs that any interest in the  
4 property disposed of by the instrument is or is not to be  
5 applied to the payment of the estate tax attributable to the  
6 interest disposed of by the instrument, the provision controls  
7 the apportionment of the tax to that interest.

8 B. Subject to Subsection C of this section, and  
9 unless the decedent expressly and unambiguously directs the  
10 contrary, the following rules apply:

11 (1) if an apportionment provision directs that  
12 a person receiving an interest in property under an instrument  
13 is to be exonerated from the responsibility to pay an estate  
14 tax that would otherwise be apportioned to the interest:

15 (a) the tax attributable to the  
16 exonerated interest must be apportioned among the other persons  
17 receiving interests passing under the instrument; or

18 (b) if the values of the other interests  
19 are less than the tax attributable to the exonerated interest,  
20 the deficiency must be apportioned ratably among the other  
21 persons receiving interests in the apportionable estate that  
22 are not exonerated from apportionment of the tax;

23 (2) if an apportionment provision directs that  
24 an estate tax is to be apportioned to an interest in property a  
25 portion of which qualifies for a marital or charitable

1 deduction, the estate tax must first be apportioned ratably  
2 among the holders of the portion that does not qualify for a  
3 marital or charitable deduction and then apportioned ratably  
4 among the holders of the deductible portion to the extent that  
5 the value of the nondeductible portion is insufficient;

6 (3) except as otherwise provided in Paragraph  
7 (4) of this subsection, if an apportionment provision directs  
8 that an estate tax be apportioned to property in which one or  
9 more time-limited interests exist, other than interests in  
10 specified property under Section 11 of this act, the tax must  
11 be apportioned to the principal of that property, regardless of  
12 the deductibility of some of the interests in that property;  
13 and

14 (4) if an apportionment provision directs that  
15 an estate tax is to be apportioned to the holders of interests  
16 in property in which one or more time-limited interests exist  
17 and a charity has an interest that otherwise qualifies for an  
18 estate tax charitable deduction, the tax must first be  
19 apportioned, to the extent feasible, to interests in property  
20 that have not been distributed to the persons entitled to  
21 receive the interests.

22 C. A provision that apportions an estate tax is  
23 ineffective to the extent that it increases the tax apportioned  
24 to a person having an interest in the gross estate over which  
25 the decedent had no power to transfer immediately before the

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1 decedent executed the instrument in which the apportionment  
2 direction was made. For purposes of this subsection, a  
3 testamentary power of appointment is a power to transfer the  
4 property that is subject to the power."

5 Section 8. A new section of the Uniform Probate Code,  
6 Part 9A, is enacted to read:

7 "[NEW MATERIAL] STATUTORY APPORTIONMENT OF ESTATE TAXES.--

8 To the extent that apportionment of an estate tax is not  
9 controlled by an instrument described in Section 7 of this act  
10 and except as otherwise provided in Sections 10 and 11 of this  
11 act, the following rules apply:

12 A. subject to Subsections B, C and D of this  
13 section, the estate tax is apportioned ratably to each person  
14 that has an interest in the apportionable estate;

15 B. a generation-skipping transfer tax incurred on a  
16 direct skip taking effect at death is charged to the person to  
17 which the interest in property is transferred;

18 C. if property is included in the decedent's gross  
19 estate because of Section 2044 of the federal Internal Revenue  
20 Code of 1986 or any similar estate tax provision, the  
21 difference between the total estate tax for which the  
22 decedent's estate is liable and the amount of estate tax for  
23 which the decedent's estate would have been liable if the  
24 property had not been included in the decedent's gross estate  
25 is apportioned ratably among the holders of interests in the

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1 property. The balance of the tax, if any, is apportioned  
2 ratably to each other person having an interest in the  
3 apportionable estate; and

4 D. except as otherwise provided in Paragraph (4) of  
5 Subsection B of Section 7 of this act and except as to property  
6 to which Section 11 of this act applies, an estate tax  
7 apportioned to persons holding interests in property subject to  
8 a time-limited interest must be apportioned, without further  
9 apportionment, to the principal of that property."

10 Section 9. A new section of the Uniform Probate Code,  
11 Part 9A, is enacted to read:

12 "[NEW MATERIAL] CREDITS AND DEFERRALS.--Except as  
13 otherwise provided in Sections 10 and 11 of this act, the  
14 following rules apply to credits and deferrals of estate taxes:

15 A. a credit resulting from the payment of gift  
16 taxes or from estate taxes paid on property previously taxed  
17 inures ratably to the benefit of all persons to which the  
18 estate tax is apportioned;

19 B. a credit for state or foreign estate taxes  
20 inures ratably to the benefit of all persons to which the  
21 estate tax is apportioned, except that the amount of a credit  
22 for a state or foreign tax paid by a beneficiary of the  
23 property on which the state or foreign tax was imposed,  
24 directly or by a charge against the property, inures to the  
25 benefit of the beneficiary; and

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1 C. if payment of a portion of an estate tax is  
2 deferred because of the inclusion in the gross estate of a  
3 particular interest in property, the benefit of the deferral  
4 inures ratably to the persons to which the estate tax  
5 attributable to the interest is apportioned. The burden of any  
6 interest charges incurred on a deferral of taxes and the  
7 benefit of any tax deduction associated with the accrual or  
8 payment of the interest charge is allocated ratably among the  
9 persons receiving an interest in the property."

10 Section 10. A new section of the Uniform Probate Code,  
11 Part 9A, is enacted to read:

12 "[NEW MATERIAL] INSULATED PROPERTY--ADVANCEMENT OF TAX.--

13 A. In this section:

14 (1) "advanced fraction" means a fraction that  
15 has as its numerator the amount of the advanced tax and as its  
16 denominator the value of the interests in insulated property to  
17 which that tax is attributable;

18 (2) "advanced tax" means the aggregate amount  
19 of estate tax attributable to interests in insulated property  
20 that is required to be advanced by uninsulated holders under  
21 Subsection C of this section;

22 (3) "insulated property" means property  
23 subject to a time-limited interest that is included in the  
24 apportionable estate but is unavailable for payment of an  
25 estate tax because of impossibility or impracticability;

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1 (4) "uninsulated holder" means a person who  
2 has an interest in uninsulated property; and

3 (5) "uninsulated property" means property  
4 included in the apportionable estate other than insulated  
5 property.

6 B. If an estate tax is to be advanced pursuant to  
7 Subsection C of this section by persons holding interests in  
8 uninsulated property subject to a time-limited interest other  
9 than property to which Section 11 of this act applies, the tax  
10 must be advanced, without further apportionment, from the  
11 principal of the uninsulated property.

12 C. Subject to Subsections B and D of Section 13 of  
13 this act, an estate tax attributable to interests in insulated  
14 property must be advanced ratably by uninsulated holders. If  
15 the value of an interest in uninsulated property is less than  
16 the amount of estate taxes otherwise required to be advanced by  
17 the holder of that interest, the deficiency must be advanced  
18 ratably by the persons holding interests in properties that are  
19 excluded from the apportionable estate under Paragraph (2) of  
20 Subsection A of Section 6 of this act as if those interests  
21 were in uninsulated property.

22 D. A court having jurisdiction to determine the  
23 apportionment of an estate tax may require a beneficiary of an  
24 interest in insulated property to pay all or part of the estate  
25 tax otherwise apportioned to the interest if the court finds

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1 that it would be substantially more equitable for that  
2 beneficiary to bear the tax liability personally than for that  
3 part of the tax to be advanced by uninsulated holders.

4 E. When a distribution of insulated property is  
5 made, each uninsulated holder may recover from the distributee  
6 a ratable portion of the advanced fraction of the property  
7 distributed. To the extent that undistributed insulated  
8 property ceases to be insulated, each uninsulated holder may  
9 recover from the property a ratable portion of the advanced  
10 fraction of the total undistributed property.

11 F. Upon a distribution of insulated property for  
12 which, pursuant to Subsection D of this section, the  
13 distributee becomes obligated to make a payment to uninsulated  
14 holders, a court may award an uninsulated holder a recordable  
15 lien on the distributee's property to secure the distributee's  
16 obligation to that uninsulated holder."

17 Section 11. A new section of the Uniform Probate Code,  
18 Part 9A, is enacted to read:

19 "[NEW MATERIAL] APPORTIONMENT AND RECAPTURE OF SPECIAL  
20 ELECTIVE BENEFITS.--

21 A. In this section:

22 (1) "special elective benefit" means a  
23 reduction in an estate tax obtained by an election for:

24 (a) a reduced valuation of specified  
25 property that is included in the gross estate;

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1 (b) a deduction from the gross estate,  
2 other than a marital or charitable deduction, allowed for  
3 specified property; or

4 (c) an exclusion from the gross estate  
5 of specified property; and

6 (2) "specified property" means property for  
7 which an election has been made for a special elective benefit.

8 B. If an election is made for one or more special  
9 elective benefits, an initial apportionment of a hypothetical  
10 estate tax must be computed as if no election for any of those  
11 benefits had been made. The aggregate reduction in estate tax  
12 resulting from all elections made must be allocated among  
13 holders of interests in the specified property in the  
14 proportion that the amount of deduction, reduced valuation or  
15 exclusion attributable to each holder's interest bears to the  
16 aggregate amount of deductions, reduced valuations and  
17 exclusions obtained by the decedent's estate from the  
18 elections. If the estate tax initially apportioned to the  
19 holder of an interest in specified property is reduced to zero,  
20 any excess amount of reduction reduces ratably the estate tax  
21 apportioned to other persons that receive interests in the  
22 apportionable estate.

23 C. An additional estate tax imposed to recapture  
24 all or part of a special elective benefit must be charged to  
25 the persons that are liable for the additional tax under the

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1 law providing for the recapture."

2 Section 12. A new section of the Uniform Probate Code,  
3 Part 9A, is enacted to read:

4 "[NEW MATERIAL] SECURING PAYMENT OF ESTATE TAX FROM  
5 PROPERTY IN POSSESSION OF FIDUCIARY.--

6 A. A fiduciary may defer a distribution of property  
7 until the fiduciary is satisfied that adequate provision for  
8 payment of the estate tax has been made.

9 B. A fiduciary may withhold from a distributee an  
10 amount equal to the amount of estate tax apportioned to an  
11 interest of the distributee.

12 C. As a condition to a distribution, a fiduciary  
13 may require the distributee to provide a bond or other security  
14 for the portion of the estate tax apportioned to the  
15 distributee."

16 Section 13. A new section of the Uniform Probate Code,  
17 Part 9A, is enacted to read:

18 "[NEW MATERIAL] COLLECTION OF ESTATE TAX BY FIDUCIARY.--

19 A. A fiduciary responsible for payment of an estate  
20 tax may collect from any person the tax apportioned to and the  
21 tax required to be advanced by the person.

22 B. Except as otherwise provided in Section 10 of  
23 this act, any estate tax due from a person that cannot be  
24 collected from the person may be collected by the fiduciary  
25 from other persons in the following order of priority:

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1 (1) any person having an interest in the  
2 apportionable estate that is not exonerated from the tax;

3 (2) any other person having an interest in the  
4 apportionable estate; and

5 (3) any person having an interest in the gross  
6 estate.

7 C. A domiciliary fiduciary may recover from an  
8 ancillary personal representative the estate tax apportioned to  
9 the property controlled by the ancillary personal  
10 representative.

11 D. The total tax collected from a person pursuant  
12 to the Uniform Estate Tax Apportionment Act may not exceed the  
13 value of the person's interest."

14 Section 14. A new section of the Uniform Probate Code,  
15 Part 9A, is enacted to read:

16 "[NEW MATERIAL] RIGHT OF REIMBURSEMENT.--

17 A. A person required under Section 13 of this act  
18 to pay an estate tax greater than the amount due from the  
19 person under Section 7 or 8 of this act has a right to  
20 reimbursement from another person to the extent that the other  
21 person has not paid the tax required by Section 7 or 8 of this  
22 act and a right to reimbursement ratably from other persons to  
23 the extent that each has not contributed a portion of the  
24 amount collected under Subsection B of Section 13 of this act.

25 B. A fiduciary may enforce the right of

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1 reimbursement under Subsection A of this section on behalf of  
2 the person that is entitled to the reimbursement and shall take  
3 reasonable steps to do so if requested by the person."

4 Section 15. A new section of the Uniform Probate Code,  
5 Part 9A, is enacted to read:"

6 "[NEW MATERIAL] ACTION TO DETERMINE OR ENFORCE ACT.--A  
7 fiduciary, transferee or beneficiary of the gross estate may  
8 maintain an action for declaratory judgment to have a court  
9 determine and enforce the Uniform Estate Tax Apportionment  
10 Act."

11 Section 16. A new section of the Uniform Probate Code,  
12 Part 9A, is enacted to read:

13 "[NEW MATERIAL] UNIFORMITY OF APPLICATION AND  
14 CONSTRUCTION.--In applying and construing the Uniform Estate  
15 Tax Apportionment Act, consideration must be given to the need  
16 to promote uniformity of the law with respect to its subject  
17 matter among states that enact it."

18 Section 17. A new section of the Uniform Probate Code is  
19 enacted to read:

20 "[NEW MATERIAL] SEVERABILITY.--If any part or application  
21 of the Uniform Estate Tax Apportionment Act is held invalid,  
22 the remainder or its application to other situations or persons  
23 shall not be affected."

24 Section 18. REPEAL.--Sections 45-3-916 and 45-6-215 NMSA  
25 1978 (being Laws 1975, Chapter 257, Section 3-916 and Laws

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1 1992, Chapter 66, Section 28, as amended) are repealed.

2 Section 19. APPLICABILITY.--

3 A. Sections 7 through 11 of this act do not apply  
4 to the estate of a decedent who dies on or within three years  
5 after the effective date of the Uniform Estate Tax  
6 Apportionment Act, nor to the estate of a decedent who dies  
7 more than three years after the effective date of the Uniform  
8 Estate Tax Apportionment Act if the decedent continuously  
9 lacked testamentary capacity from the expiration of the  
10 three-year period until the date of death.

11 B. For the estate of a decedent who dies on or  
12 after the effective date of the Uniform Estate Tax  
13 Apportionment Act to which Sections 7 through 11 of this act do  
14 not apply, estate taxes must be apportioned pursuant to the law  
15 in effect immediately before the effective date of the Uniform  
16 Estate Tax Apportionment Act.

17 Section 20. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2005.