

HOUSE BILL 165

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Greg Nibert

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

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

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

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

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

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

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

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

22 (5) unspent contributions to a candidate;

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

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

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

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

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

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

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1 shall be considered a tax for the purpose of the Tax
2 Administration Act;
3 (12) Alternative Fuel Tax Act;
4 (13) Cigarette Tax Act;
5 (14) Estate Tax Act;
6 (15) Railroad Car Company Tax Act;
7 (16) Investment Credit Act, rural job tax
8 credit, Laboratory Partnership with Small Business Tax Credit
9 Act, Technology Jobs and Research and Development Tax Credit
10 Act, Film Production Tax Credit Act, Affordable Housing Tax
11 Credit Act and high-wage jobs tax credit;
12 (17) Corporate Income and Franchise Tax Act;
13 (18) Uniform Division of Income for Tax
14 Purposes Act;
15 (19) Multistate Tax Compact;
16 (20) Tobacco Products Tax Act;
17 (21) the telecommunications relay service
18 surcharge imposed by Section 63-9F-11 NMSA 1978, which
19 surcharge shall be considered a tax for the purposes of the Tax
20 Administration Act;
21 (22) the Insurance Premium Tax Act;
22 (23) the Health Care Quality Surcharge Act;
23 and
24 (24) the Cannabis Tax Act;
25 B. the administration and enforcement of the

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

- 3 (1) Resources Excise Tax Act;
- 4 (2) Severance Tax Act;
- 5 (3) any severance surtax;
- 6 (4) Oil and Gas Severance Tax Act;
- 7 (5) Oil and Gas Conservation Tax Act;
- 8 (6) Oil and Gas Emergency School Tax Act;
- 9 (7) Oil and Gas Ad Valorem Production Tax Act;
- 10 (8) Natural Gas Processors Tax Act;
- 11 (9) Oil and Gas Production Equipment Ad
12 Valorem Tax Act;
- 13 (10) Copper Production Ad Valorem Tax Act;
- 14 (11) any advance payment required to be made
15 by any act specified in this subsection, which advance payment
16 shall be considered a tax for the purposes of the Tax
17 Administration Act;
- 18 (12) Enhanced Oil Recovery Act;
- 19 (13) Natural Gas and Crude Oil Production
20 Incentive Act; and
- 21 (14) intergovernmental production tax credit
22 and intergovernmental production equipment tax credit;

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

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1 (1) Weight Distance Tax Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (5) "domicile" means:

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

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

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

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

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

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

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

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

10 (A) includes:

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

13 (ii) the following if for use or
14 redemption only within the game or platform or another
15 electronic game or electronic gaming platform:

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

18 (II) digital codes; and

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

20 (i) permits to be redeemed for use
21 outside a game or platform for:

22 (I) money; or

23 (II) goods or services that have
24 more than minimal value; or

25 (ii) otherwise monetizes for use outside

1 a game or platform;

2 (10) "gift card":

3 (A) means a stored-value card:

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

5 (ii) that may be decreased in value only
6 by redemption for merchandise, goods or services; and

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

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

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

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

23 (13) "loyalty card" means a record given without
24 direct monetary consideration pursuant to an award, reward,
25 benefit, loyalty, incentive, rebate or promotional program that

1 may be used or redeemed only to obtain goods or services or a
2 discount on goods or services. The term does not include a
3 record that may be redeemed for money or otherwise monetized by
4 the issuer;

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

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

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

19 (B) for the extraction, production or sale of
20 minerals, including a net revenue interest, royalty, overriding
21 royalty, extraction payment and production payment; and

22 (C) pursuant to an agreement or option,
23 including a joint-operating agreement, unit agreement, pooling
24 agreement and farm-out agreement;

25 (16) "money order" means a payment order for a

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1 specified amount of money. The term includes an express money
2 order and a personal money order on which the remitter is the
3 purchaser;

4 (17) "municipal bond" means a bond or evidence of
5 indebtedness issued by a municipality or other political
6 subdivision of a state;

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

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

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

24 (A) a depositor, for a deposit;

25 (B) a beneficiary, for a trust other than a

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1 deposit in trust;

2 (C) a creditor, claimant or payee, for other
3 property; and

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

6 (21) "payroll card" means a record that evidences a
7 payroll-card account as defined in Regulation E, 12 C.F.R. Part
8 1005, as amended;

9 (22) "person" means an individual, estate, business
10 association, public corporation, government or governmental
11 subdivision, agency or instrumentality or other legal entity;

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

17 (A) includes all income from or increments to
18 the property;

19 (B) includes property referred to as or
20 evidenced by:

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

23 (ii) a credit balance, customer's
24 overpayment, stored-value card, security deposit, refund,
25 credit memorandum, unpaid wage, unused ticket for which the

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1 issuer has an obligation to provide a refund, mineral proceeds
2 or unidentified remittance;

3 (iii) a security except for:

4 (I) a worthless security; or

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

10 (iv) a bond, debenture, note or other
11 evidence of indebtedness;

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

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

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

22 (C) does not include:

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

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1 (ii) game-related digital content; or

2 (iii) a loyalty card;

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

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

12 (26) "security" means:

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

15 (B) a security entitlement as defined in
16 Section 55-8-102 NMSA 1978, including a customer security
17 account held by a registered broker-dealer, to the extent the
18 financial assets held in the security account are not:

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

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

23 or

24 (iii) specifically indorsed to the
25 person; or

1 (C) an equity interest in a business
2 association not included in Paragraph (A) or (B) of this
3 subsection;

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

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

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

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

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

18 (A) includes:

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

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

25 (B) does not include a loyalty card or game-

1 related digital content;

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

5 (A) transmission of communications or
6 information;

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

9 (C) provision of sewage or septic services or
10 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 to
25 read:

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1 "7-8B-103. [NEW MATERIAL] FOREIGN TRANSACTIONS.--The
2 Revised Uniform 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 to
15 read:

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

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

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

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

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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 of
5 the date the bond matures or is called or the obligation to pay
6 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 the
12 card or deposit or the owner's last indication of interest in
13 the card or deposit, except a deposit that is automatically
14 renewable is deemed matured on its initial date of maturity
15 unless the apparent owner consented in a record on file with
16 the holder to renewal at or about the time of the renewal;

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

20 (7) an amount owed by an insurance company on a
21 life or endowment insurance policy or an annuity contract that
22 has matured or terminated, three years after the obligation to
23 pay arose pursuant to the terms of the policy or contract or,
24 if a policy or contract for which an amount is owed on proof of
25 death has not matured by proof of the death of the insured or

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1 annuitant, as follows:

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

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

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

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

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

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

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

25 (11) wages, commissions, bonuses or reimbursements

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1 to which an employee is entitled or other compensation for
2 personal services, other than amounts held in a payroll card,
3 one year after the amount becomes payable;

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

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

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

14 "7-8B-202. [NEW MATERIAL] WHEN TAX-DEFERRED RETIREMENT
15 ACCOUNT PRESUMED ABANDONED.--

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

21 (1) the later of the following dates:

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

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1 United States postal service; or

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

6 (2) the earlier of the following dates:

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

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

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

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

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

25 (c) If the holder does not send communications to

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

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

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

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

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

22 (1) except as in Paragraph (2) of this
23 subsection, the date a second consecutive communication to
24 contact the apparent owner sent by first class United States
25 mail is returned to the holder undelivered;

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

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

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

9 "7-8B-203. [NEW MATERIAL] WHEN OTHER TAX-DEFERRED ACCOUNT
10 PRESUMED ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, and
11 except for property described in Section 7-8B-202 NMSA 1978 and
12 property held in a plan described in Section 529A of the
13 federal Internal Revenue Code of 1986, as amended, property
14 held in an account or plan, including a health savings account,
15 that qualifies for tax deferral pursuant to the income tax laws
16 of the United States is presumed abandoned if it is unclaimed
17 by the apparent owner three years after the earlier of:

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

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

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

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1 "7-8B-204. [NEW MATERIAL] WHEN CUSTODIAL ACCOUNT FOR
2 MINOR PRESUMED ABANDONED.--

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

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

14 (2) if the second communication is sent later
15 than thirty days after the date the first communication is
16 returned undelivered, the date the first communication was
17 returned undelivered; or

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

23 (b) If the holder does not send communications to
24 the custodian of the minor on whose behalf an account described
25 in Subsection (a) of this section was opened by first class

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1 United States mail, the holder shall attempt to confirm the
2 custodian's interest in the property by sending the custodian
3 an electronic mail communication within two years after the
4 custodian's last indication of interest in the property.

5 However, the holder shall promptly attempt to contact the
6 custodian by first class United States mail if:

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

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

13 (3) the custodian does not respond to the
14 electronic mail communication within thirty days after the
15 communication was sent.

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

20 (1) the date a second consecutive
21 communication to contact the custodian by first class United
22 States mail is returned to the holder undelivered by the United
23 states postal Service; or

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

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

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

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

15 (1) expiration of the lease or rental period for
16 the box; or

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

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

24 "7-8B-206. [NEW MATERIAL] WHEN STORED-VALUE CARD PRESUMED
25 ABANDONED.--

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

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

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

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

11 (b) The amount presumed abandoned in a stored-value
12 card is the net card value at the time it is presumed
13 abandoned."

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

16 "7-8B-207. [NEW MATERIAL] WHEN GIFT CARD PRESUMED
17 ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, a gift card
18 is presumed abandoned if it is unclaimed by the apparent owner
19 five years after the later of the date of purchase or its most
20 recent use, but if redeemable in merchandise only, the amount
21 abandoned is deemed to be sixty percent of the card's current
22 face value."

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

25 "7-8B-208. [NEW MATERIAL] WHEN SECURITY PRESUMED

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1 ABANDONED.--

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

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

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

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

21 (1) the holder does not have information
22 needed to send the apparent owner an electronic mail
23 communication or the holder believes that the apparent owner's
24 electronic mail address in the holder's records is not valid;

25 (2) the holder receives notification that the

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1 electronic mail communication was not received; or

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

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

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

12 "7-8B-209. [NEW MATERIAL] WHEN RELATED PROPERTY PRESUMED
13 ABANDONED.--At and after the time property is presumed
14 abandoned pursuant to the Revised Uniform Unclaimed Property
15 Act, any other property right or interest accrued or accruing
16 from the property and not previously presumed abandoned is also
17 presumed abandoned."

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

20 "7-8B-210. [NEW MATERIAL] INDICATION OF APPARENT OWNER
21 INTEREST IN PROPERTY.--

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

24 (1) the date the property is presumed
25 abandoned pursuant to Sections 7-8B-201 through 7-8B-211 NMSA

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1 1978; or

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

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

7 (1) a record communicated by the apparent
8 owner to the holder or agent of the holder concerning the
9 property or the account in which the property is held;

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

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

20 (4) activity directed by an apparent owner in
21 the account in which the property is held, including accessing
22 the account or information concerning the account, or a
23 direction by the apparent owner to increase, decrease or
24 otherwise change the amount or type of property held in the
25 account;

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

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

8 (7) any other action by the apparent owner
9 that reasonably demonstrates to the holder that the apparent
10 owner knows that the property exists.

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

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

20 (e) If the insured dies or the insured or
21 beneficiary of an insurance policy otherwise becomes entitled
22 to the proceeds before depletion of the cash surrender value of
23 the policy by operation of an automatic-premium-loan provision
24 or other nonforfeiture provision contained in the policy, the
25 operation does not prevent the policy from maturing or

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1 terminating."

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

4 "7-8B-211. [NEW MATERIAL] KNOWLEDGE OF DEATH OF INSURED
5 OR ANNUITANT.--

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

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

17 (1) the company receives a death certificate
18 or court order determining that the insured or annuitant has
19 died;

20 (2) due diligence, performed as required
21 pursuant to New Mexico law to maintain contact with the insured
22 or annuitant or determine whether the insured or annuitant has
23 died, validates the death of the insured or annuitant;

24 (3) the company conducts a comparison for any
25 purpose between a death master file and the names of some or

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1 all of the company's insureds or annuitants, finds a match
2 that provides notice that the insured or annuitant has died and
3 validates the death;

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

11 (5) the company:

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

17 (B) validates the death of the insured
18 or annuitant.

19 (c) The following rules apply pursuant to this
20 section:

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

25 (A) law of New Mexico other than the

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1 Revised Uniform Unclaimed Property Act;

2 (B) a rule or policy adopted by the
3 superintendent of insurance; or

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

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

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

19 (4) if no provision in New Mexico law
20 establishes a time for validation of a death of an insured or
21 annuitant, the insurance company shall make a good faith effort
22 using other available records and information to validate the
23 death and document the effort taken not later than ninety days
24 after the insurance company has notice of the death.

25 (d) The Revised Uniform Unclaimed Property Act does

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1 not affect the determination of the extent to which an
2 insurance company before the effective date of that act had
3 knowledge of the death of an insured or annuitant or was
4 required to conduct a death-master-file comparison to determine
5 whether amounts owed by the company on a life or endowment
6 insurance policy or annuity contract were presumed abandoned or
7 unclaimed."

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

10 "7-8B-212. [NEW MATERIAL] DEPOSIT ACCOUNT FOR PROCEEDS OF
11 INSURANCE POLICY OR ANNUITY CONTRACT.--If proceeds payable
12 pursuant to a life or endowment insurance policy or annuity
13 contract are deposited into an account with check or draft-
14 writing privileges for the beneficiary of the policy or
15 contract and, pursuant to a supplementary contract not
16 involving annuity benefits other than death benefits, the
17 proceeds are retained by the insurance company or the financial
18 organization where the account is held, the policy or contract
19 includes the assets in the account."

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

22 "7-8B-301. [NEW MATERIAL] ADDRESS OF APPARENT OWNER TO
23 ESTABLISH PRIORITY.--In Sections 7-8B-301 through 7-8B-307 NMSA
24 1978, the following rules apply:

25 (1) The last known address of an apparent owner is

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1 any description, code or other indication of the location of
2 the apparent owner that identifies the state, even if the
3 description, code or indication of location is not sufficient
4 to direct the delivery of first class United States mail to the
5 apparent owner.

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

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

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

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

24 "7-8B-302. [NEW MATERIAL] ADDRESS OF APPARENT OWNER IN
25 NEW MEXICO.--The administrator may take custody of property

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1 that is presumed abandoned, whether located in New Mexico,
2 another state or a foreign country if:

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

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

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

11 "7-8B-303. [NEW MATERIAL] IF RECORDS SHOW MULTIPLE
12 ADDRESSES OF APPARENT OWNER.--

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

19 (b) If it appears from records of the holder that
20 the most recently recorded address of the apparent owner
21 pursuant to Subsection (a) of this section is a temporary
22 address and New Mexico is the state of the next most recently
23 recorded address that is not a temporary address, the
24 administrator may take custody of the property presumed
25 abandoned."

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

3 "7-8B-304. [NEW MATERIAL] HOLDER DOMICILED IN NEW
4 MEXICO.--

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

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

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

20 (b) Property is not subject to custody of the
21 administrator pursuant to Subsection (a) of this section if the
22 property is specifically exempt from custodial taking pursuant
23 to the law of New Mexico or the state or foreign country of the
24 last known address of the apparent owner.

25 (c) If a holder's state of domicile has changed

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1 since the time property was presumed abandoned, the holder's
2 state of domicile in this section is deemed to be the state
3 where the holder was domiciled at the time the property was
4 presumed abandoned."

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

7 "7-8B-305. [NEW MATERIAL] CUSTODY IF TRANSACTION TOOK
8 PLACE IN NEW MEXICO.--Except as provided in Section 7-8B-302,
9 7-8B-303 or 7-8B-304 NMSA 1978, the administrator may take
10 custody of property presumed abandoned whether located in New
11 Mexico or another state if:

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

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

20 (3) the last known address of the apparent owner or
21 other person entitled to the property is unknown or in a state
22 that does not provide for the custodial taking of the property,
23 except that if the property is specifically exempt from
24 custodial taking pursuant to the law of the state of the last
25 known address, the property is not subject to the custody of

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1 the administrator."

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

4 "7-8B-306. [NEW MATERIAL] TRAVELER'S CHECK, MONEY ORDER
5 OR SIMILAR INSTRUMENT.--The administrator may take custody of
6 sums payable on a traveler's check, money order or similar
7 instrument presumed abandoned to the extent permissible
8 pursuant to 12 U.S.C. Sections 2501 through 2503, as amended."

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

11 "7-8B-307. [NEW MATERIAL] BURDEN OF PROOF TO ESTABLISH
12 ADMINISTRATOR'S RIGHT TO CUSTODY.--If the administrator asserts
13 a right to custody of unclaimed property, the administrator has
14 the burden to prove:

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

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

21 "7-8B-401. [NEW MATERIAL] REPORT REQUIRED BY HOLDER.--

- 22 (a) A holder of property presumed abandoned and
23 subject to the custody of the administrator shall report in a
24 record to the administrator concerning the property. A holder
25 of more than twenty-five properties presumed abandoned shall

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1 report the properties in an electronic medium and in a format
2 determined by the administrator to be compatible with computer
3 programming and equipment used by the administrator for
4 processing.

5 (b) A holder may contract with a third party to
6 make the report required pursuant to Subsection (a) of this
7 section.

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

11 (1) to the administrator for the complete,
12 accurate and timely reporting of property presumed abandoned;
13 and

14 (2) for paying or delivering to the
15 administrator property described in the report.

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

24 (e) The holder of property presumed abandoned shall
25 file with the report an affidavit stating that the holder has

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1 complied with Section 7-8B-501 NMSA 1978."

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

4 "7-8B-402. [NEW MATERIAL] CONTENT OF REPORT.--

5 (a) The report required pursuant to Section
6 7-8B-401 NMSA 1978 shall:

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

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

14 (3) describe the property;

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

21 (5) for an amount held or owing pursuant to a
22 life or endowment insurance policy or annuity contract, contain
23 the name and last known address of the insured, annuitant or
24 other apparent owner of the policy or contract and of the
25 beneficiary;

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

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

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

10 (9) identify property that is a non-freely
11 transferable security and explain why it is a non-freely
12 transferable security; and

13 (10) contain other information the
14 administrator prescribes by rule.

15 (b) A report pursuant to Section 7-8B-401 NMSA 1978
16 may include in the aggregate items valued under fifty dollars
17 (\$50.00) each. If the report includes items in the aggregate
18 valued under fifty dollars (\$50.00) each, the administrator may
19 not require the holder to provide the name and address of an
20 apparent owner of an item unless the information is necessary
21 to verify or process a claim in progress by the apparent owner.

22 (c) A report pursuant to Section 7-8B-401 NMSA 1978
23 may include personal information as defined in Subsection (a)
24 of Section 7-8B-1401 NMSA 1978 about the apparent owner or the
25 apparent owner's property to the extent not otherwise

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1 prohibited by federal law.

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

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

11 "7-8B-403. [NEW MATERIAL] WHEN REPORT TO BE FILED.--

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

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

21 (c) Before the date for filing the report pursuant
22 to Section 7-8B-401 NMSA 1978, the holder of property presumed
23 abandoned may request the administrator to extend the time for
24 filing. The administrator may grant an extension. If the
25 extension is granted, the holder may pay or make a partial

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1 payment of the amount the holder estimates ultimately will be
2 due. The payment or partial payment terminates accrual of
3 interest on the amount paid."

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

6 "7-8B-404. [NEW MATERIAL] RETENTION OF RECORDS BY
7 HOLDER.--A holder required to file a report pursuant to Section
8 7-8B-401 NMSA 1978 shall retain records for ten years after the
9 later of the date the report was filed or the last date a
10 timely report was due to be filed, unless a shorter period is
11 provided by rule of the administrator. The holder may satisfy
12 the requirement to retain records pursuant to this section
13 through an agent. The records shall contain:

14 (1) the information required to be included in the
15 report;

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

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

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

21 (5) if the holder sells, issues or provides to
22 others for sale or issue in New Mexico traveler's checks, money
23 orders or similar instruments, other than third-party bank
24 checks, on which the holder is directly liable, a record of the
25 instruments while they remain outstanding indicating the state

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1 and date of issue."

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

4 "7-8B-405. [NEW MATERIAL] PROPERTY REPORTABLE AND PAYABLE
5 OR DELIVERABLE ABSENT OWNER DEMAND.--Property is reportable and
6 payable or deliverable pursuant to the Revised Uniform
7 Unclaimed Property Act even if the owner fails to make demand
8 or present an instrument or document otherwise required to
9 obtain payment."

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

12 "7-8B-406. [NEW MATERIAL] EXERCISE OF DUE DILIGENCE--
13 LIABILITY--NOTICE.--

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

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1 upon payment or delivery of the property to the administrator,
2 interest at the annual rate of interest computed as provided in
3 Subsection B of Section 7-1-67 NMSA 1978 on the value of the
4 intangible property, such interest running from the date
5 commencing after the first year in which the property remained
6 unclaimed to the date of payment or delivery.

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

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

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

20 (c) Publication as required in Subsection (b) of
21 this section consists of publication in a newspaper of general
22 circulation in the county of this state in which is located the
23 last known address of the apparent owner, or if no address is
24 listed or the address is outside the state, in a newspaper
25 published in the county in which the holder of the property has

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1 the holder's principal place of business within the state. The
2 notice shall be published at least once a week for two
3 consecutive weeks and shall be entitled:
4 "NOTICE OF THE NAME OF A PERSON APPEARING TO BE THE OWNER OF
5 ABANDONED PROPERTY".

6 (d) The published notice shall contain:

7 (1) the name and last known address, if any,
8 of the person entitled to notice as specified in this section;

9 (2) a statement that information concerning
10 the unclaimed property may be obtained from the holder of the
11 property;

12 (3) the name and address of the holder of the
13 property; and

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

22 (e) The provisions of this section shall not apply
23 to the United States or any agency or instrumentality of the
24 United States or to the state of New Mexico or any agency or
25 political subdivision of the state.

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

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

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

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

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

21 (2) the value of the property is fifty dollars
22 (\$50.00) or more.

23 (b) If an apparent owner has consented to receive
24 electronic mail delivery from the holder, the holder shall send
25 the notice described in Subsection (a) of this section both by

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1 first class United States mail to the apparent owner's last
2 known mailing address and by electronic mail, unless the holder
3 believes that the apparent owner's electronic mail address is
4 invalid."

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

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

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

16 (b) The notice pursuant to Section 7-8B-501 NMSA
17 1978 shall:

18 (1) identify the nature and, except for
19 property that does not have a fixed value, the value of the
20 property that is the subject of the notice;

21 (2) state that the property will be turned
22 over to the administrator;

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

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

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

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

9 "7-8B-503. [NEW MATERIAL] NOTICE BY ADMINISTRATOR.--

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

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

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

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1 electronic mail address of the apparent owner is known to the
2 administrator instead of by first class United States mail; or

3 (2) send the notice to the apparent owner's
4 electronic mail address if the administrator does not have a
5 valid United States mail address for an apparent owner but has
6 an electronic mail address that the administrator does not know
7 to be invalid.

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

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

19 (2) the email address of the administrator;

20 (3) the telephone number and physical mailing
21 address of the administrator;

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

25 (5) a statement providing information about

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1 the property and that the return to the property's owner is
2 available to a person having a legal or beneficial interest in
3 the property, upon request to the administrator.

4 (d) In addition to giving notice pursuant to
5 Subsection (b) of this section, the administrator may use other
6 printed publication, telecommunication, the internet or other
7 media to inform the public of the existence of unclaimed
8 property held by the administrator."

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

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

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

25 "7-8B-601. [NEW MATERIAL] DEFINITION OF GOOD FAITH.--In
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1 Sections 7-8B-601 through 7-8B-610 NMSA 1978, payment or
2 delivery of property is made in good faith if a holder:

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

7 (2) made payment or delivery:

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

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

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

15 "7-8B-602. [NEW MATERIAL] DORMANCY CHARGE.--

16 (a) A holder may deduct a dormancy charge from
17 property required to be paid or delivered to the administrator
18 if:

19 (1) a valid contract in a record between the
20 holder and the apparent owner authorizes imposition of the
21 charge for the apparent owner's failure to claim the property
22 within a specified time; and

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

25 (b) The amount of the deduction pursuant to

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1 Subsection (a) of this section is limited to an amount that is
2 not unconscionable considering all relevant factors, including
3 the marginal transactional costs incurred by the holder in
4 maintaining the apparent owner's property and any services
5 received by the apparent owner."

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

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

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

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

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

25 (d) If property reported to the administrator

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1 pursuant to Section 7-8B-401 NMSA 1978 is a security, the
2 administrator may:

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

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

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

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

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

25 (h) A holder is not required to deliver to the

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1 administrator a security identified by the holder as a
2 non-freely transferable security. If the administrator or
3 holder determines that a security is no longer a non-freely
4 transferable security, the holder shall deliver the security on
5 the next regular date prescribed for delivery of securities
6 pursuant to the Revised Uniform Unclaimed Property Act. The
7 holder shall make a determination annually whether a security
8 identified in a report filed pursuant to Section 7-8B-401 NMSA
9 1978 as a non-freely transferable security is no longer a
10 non-freely transferable security."

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

13 "7-8B-604. [NEW MATERIAL] EFFECT OF PAYMENT OR DELIVERY
14 OF PROPERTY TO ADMINISTRATOR.--

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

24 (b) New Mexico shall defend and indemnify a holder
25 against liability on a claim against the holder resulting from

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1 the payment or delivery of property to the administrator made
2 in good faith and after the holder substantially complied with
3 Sections 7-8B-501 and 7-8B-502 NMSA 1978."

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

6 "7-8B-605. [NEW MATERIAL] RECOVERY OF PROPERTY BY HOLDER
7 FROM ADMINISTRATOR.--

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

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

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

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

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

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

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

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

25 (f) If a holder pays or delivers property to the

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

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

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

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

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1 holder from the proceeds remaining after deducting the expense
2 incurred by the administrator in selling the property."

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

5 "7-8B-607. [NEW MATERIAL] CREDITING INCOME OR GAIN TO
6 OWNER'S 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. [NEW MATERIAL] ADMINISTRATOR'S OPTIONS AS TO
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1 CUSTODY.--

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

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

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

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

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

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

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

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

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1 of the request, the administrator is deemed to consent to the
2 payment or delivery of the property and the payment or delivery
3 is considered to have been made in good 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. [NEW MATERIAL] DISPOSITION OF PROPERTY HAVING
10 NO 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 property
15 will exceed the value of the property, the administrator may
16 return the property to the holder or destroy or otherwise
17 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 this
22 section, except for intentional misconduct or malfeasance."

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

25 "7-8B-610. [NEW MATERIAL] PERIODS OF LIMITATION AND

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1 REPOSE.--

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

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

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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 the
4 public of:

5 (1) the date of the sale; and

6 (2) a reasonable description of the property.

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

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

12 (2) on the internet; or

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

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

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

25 SECTION 48. A new Section 7-8B-702 NMSA 1978 is enacted

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1 to read:

2 "7-8B-702. [NEW MATERIAL] DISPOSAL OF SECURITIES.--

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

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

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

15 "7-8B-703. [NEW MATERIAL] RECOVERY OF SECURITIES OR VALUE
16 BY OWNER.--

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

- 23 (1) replacement of the security; or
24 (2) the market value of the security at the
25 time the claim is filed, plus dividends, interest and other

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1 increments on the security up to the time the claim is paid.

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

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

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

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

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

20 "7-8B-704. [NEW MATERIAL] PURCHASER OWNS PROPERTY AFTER
21 SALE.--A purchaser of property at a sale conducted by the
22 administrator pursuant to the Revised Uniform Unclaimed
23 Property Act takes the property free of all claims of the
24 owner, a previous holder or a person claiming through the owner
25 or holder. The administrator shall execute documents necessary

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1 to complete the transfer of ownership to the purchaser."

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

4 "7-8B-705. [NEW MATERIAL] MILITARY MEDAL OR DECORATION.--

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

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

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

17 (2) the agency that awarded the medal or
18 decoration; or

19 (3) a governmental entity.

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

23 SECTION 52. A new Section 7-8B-801 NMSA 1978 is enacted
24 to read:

25 "7-8B-801. [NEW MATERIAL] DEPOSIT OF FUNDS BY

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

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

20 "7-8B-802. [NEW MATERIAL] ADMINISTRATOR TO RETAIN RECORDS
21 OF PROPERTY.--The administrator shall:

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

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

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

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

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

13 "7-8B-803. [NEW MATERIAL] EXPENSES AND SERVICE CHARGES OF
14 ADMINISTRATOR.--Before making a deposit of funds received
15 pursuant to the Revised Uniform Unclaimed Property Act to the
16 general fund, the administrator may deduct:

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

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

23 (3) reasonable service charges; and

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

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

3 "7-8B-804. [NEW MATERIAL] ADMINISTRATOR HOLDS PROPERTY AS
4 CUSTODIAN FOR OWNER.--Property received by the administrator
5 pursuant to the Revised Uniform Unclaimed Property Act is held
6 in custody for the benefit of the owner and is not owned by New
7 Mexico."

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

10 "7-8B-901. [NEW MATERIAL] CLAIM OF ANOTHER STATE TO
11 RECOVER PROPERTY.--

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

16 (1) report and pay or deliver the property to
17 the other state; or

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

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

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

25 "7-8B-902. [NEW MATERIAL] WHEN PROPERTY SUBJECT TO

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1 RECOVERY BY ANOTHER STATE.--

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

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

9 (A) the other state establishes that the
10 last known address of the apparent owner or other person
11 entitled to the property was in the other state; or

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

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

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

25 (4) the property:

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

5 (B) pursuant to the law of the other
6 state, has become subject to a claim by the other state of
7 abandonment.

8 (b) A claim by another state to recover property
9 pursuant to this section shall be presented in a form
10 prescribed by the administrator, unless the administrator
11 waives presentation of the form.

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

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

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

24 "7-8B-903. [NEW MATERIAL] CLAIM FOR PROPERTY BY PERSON
25 CLAIMING TO BE OWNER.--

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

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

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

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

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

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

18 "7-8B-904. [NEW MATERIAL] WHEN ADMINISTRATOR MUST HONOR
19 CLAIM FOR PROPERTY.--

20 (a) The administrator shall pay or deliver property
21 to a claimant pursuant to Subsection (a) of Section 7-8B-903
22 NMSA 1978 if the administrator receives evidence sufficient to
23 establish to the satisfaction of the administrator that the
24 claimant is the owner of the property.

25 (b) Not later than ninety days after a claim is

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1 filed pursuant to Subsection (a) of Section 7-8B-903 NMSA 1978,
2 the administrator shall allow or deny the claim and give the
3 claimant notice in a record of the decision.

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

6 (1) the administrator shall inform the
7 claimant of the reason for the denial and specify what
8 additional evidence, if any, is required for the claim to be
9 allowed;

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

13 (3) the administrator shall consider an
14 amended claim filed pursuant to Paragraph (2) of this
15 subsection as an initial claim.

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

20 SECTION 60. A new Section 7-8B-905 NMSA 1978 is enacted
21 to read:

22 "7-8B-905. [NEW MATERIAL] ALLOWANCE OF CLAIM FOR
23 PROPERTY.--

24 (a) Not later than thirty days after a claim is
25 allowed pursuant to Subsection (b) of Section 7-8B-904 NMSA

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1 1978, the administrator shall pay or deliver to the owner the
2 property or pay to the owner the net proceeds of a sale of the
3 property, together with income or gain to which the owner is
4 entitled pursuant to Section 7-8B-607 NMSA 1978. On request of
5 the owner, the administrator may sell or liquidate a security
6 and pay the net proceeds to the owner, even if the security had
7 been held by the administrator for less than three years or the
8 administrator has not complied with the notice requirements
9 pursuant to Section 7-8B-702 NMSA 1978.

10 (b) Property held pursuant to the Revised Uniform
11 Unclaimed Property Act by the administrator is subject to a
12 claim for the payment of an enforceable debt the owner owes in
13 this state for:

14 (1) child support arrearages, including child
15 support collection costs and child support arrearages that are
16 combined with maintenance;

17 (2) a civil or criminal fine or penalty, court
18 costs, a surcharge or restitution imposed by a final court
19 judgment; or

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

22 (c) Before delivery or payment to an owner pursuant
23 to Subsection (a) of this section of property or payment to the
24 owner of net proceeds of a sale of the property, the
25 administrator first shall apply the property or net proceeds to

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1 a debt pursuant to Subsection (b) of this section that the
2 administrator determines is owed by the owner. The
3 administrator shall pay the amount to the appropriate state
4 agency and notify the owner of the payment.

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

16 SECTION 61. A new Section 7-8B-906 NMSA 1978 is enacted
17 to read:

18 "7-8B-906. [NEW MATERIAL] APPEAL--ACTION TO ESTABLISH
19 CLAIM.--

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

23 (b) A person whose claim has not been acted upon
24 within ninety days after its filing may maintain an original
25 action to establish the claim in the district court for the

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1 first judicial district, naming the administrator as a
2 defendant.

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

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

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

15 (1) state whether the person is holding property
16 reportable pursuant to the Revised Uniform Unclaimed Property
17 Act;

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

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

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

25 SECTION 63. A new Section 7-8B-1002 NMSA 1978 is enacted

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1 to read:

2 "7-8B-1002. [NEW MATERIAL] EXAMINATION OF RECORDS TO
3 DETERMINE COMPLIANCE.--The administrator, at reasonable times
4 and on reasonable notice, may:

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

10 (2) issue an administrative subpoena requiring the
11 person or agent of the person to make records available for
12 examination; and

13 (3) bring an action seeking judicial enforcement of
14 the subpoena."

15 SECTION 64. A new Section 7-8B-1003 NMSA 1978 is enacted
16 to read:

17 "7-8B-1003. [NEW MATERIAL] RULES FOR CONDUCTING
18 EXAMINATION.--

19 (a) The administrator shall adopt rules governing
20 procedures and standards for an examination pursuant to Section
21 7-8B-1002 NMSA 1978, including rules for use of an estimation,
22 extrapolation and statistical sampling in conducting an
23 examination.

24 (b) An examination pursuant to Section 7-8B-1002
25 NMSA 1978 shall be performed pursuant to rules adopted pursuant

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1 to Subsection (a) of this section and with generally accepted
2 examination practices and standards applicable to an unclaimed
3 property examination.

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

9 (1) the examination shall include a review of
10 the person's records;

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

14 (3) the person conducting the examination
15 shall consider the evidence presented in good faith by the
16 person subject to the examination in preparing the findings of
17 the examination pursuant to Section 7-8B-1007 NMSA 1978."

18 SECTION 65. A new Section 7-8B-1004 NMSA 1978 is enacted
19 to read:

20 "7-8B-1004. [NEW MATERIAL] RECORDS OBTAINED IN
21 EXAMINATION.--Records obtained and records, including work
22 papers, compiled by the administrator in the course of
23 conducting an examination pursuant to Section 7-8B-1002 NMSA
24 1978:

25 (1) are subject to the confidentiality and security

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1 provisions of Sections 7-8B-1401 through 7-8B-1408 NMSA 1978
2 and are not public records;

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

6 (3) may be used in a joint examination conducted
7 with another state, the United States, a foreign country or
8 subordinate unit of a foreign country or any other governmental
9 entity if the governmental entity conducting the examination is
10 legally bound to maintain the confidentiality and security of
11 information obtained from a person subject to examination in a
12 manner substantially equivalent to Sections 7-8B-1401 through
13 7-8B-1408 NMSA 1978;

14 (4) shall be disclosed, on request, to the person
15 that administers the unclaimed property law of another state
16 for that state's use in circumstances equivalent to
17 circumstances described in Sections 7-8B-1001 through 7-8B-1012
18 NMSA 1978, if the other state is required to maintain the
19 confidentiality and security of information obtained in a
20 manner substantially equivalent to Sections 7-8B-1401 through
21 7-8B-1408 NMSA 1978;

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

25 (6) shall be produced by the administrator on

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1 request of the person subject to the examination in an
2 administrative or judicial proceeding relating to the
3 property."

4 SECTION 66. A new Section 7-8B-1005 NMSA 1978 is enacted
5 to read:

6 "7-8B-1005. [NEW MATERIAL] EVIDENCE OF UNPAID DEBT OR
7 UNDISCHARGED OBLIGATION.--

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

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

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

21 (1) issued as an unaccepted offer in
22 settlement of an unliquidated amount;

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

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1 (3) issued to a party affiliated with the
2 issuer;

3 (4) paid, satisfied or discharged;

4 (5) issued in error;

5 (6) issued without consideration;

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

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

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

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

18 SECTION 67. A new Section 7-8B-1006 NMSA 1978 is enacted
19 to read:

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

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1 administrator, including extrapolation and use of statistical
2 sampling when appropriate and necessary, consistent with
3 examination procedures and standards adopted pursuant to
4 Subsection (a) of Section 7-8B-1003 NMSA 1978 and in accordance
5 with Subsection (b) of Section 7-8B-1003 NMSA 1978."

6 SECTION 68. A new Section 7-8B-1007 NMSA 1978 is enacted
7 to read:

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

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

22 SECTION 69. A new Section 7-8B-1008 NMSA 1978 is enacted
23 to read:

24 "7-8B-1008. [NEW MATERIAL] COMPLAINT TO ADMINISTRATOR
25 ABOUT CONDUCT OF PERSON CONDUCTING EXAMINATION.--

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1 (a) If a person subject to examination under
2 Section 7-8B-1002 NMSA 1978 believes the person conducting the
3 examination has made an unreasonable or unauthorized request or
4 is not proceeding expeditiously to complete the examination,
5 the person in a record may request an informal conference with
6 the administrator.

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

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

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

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1 SECTION 70. A new Section 7-8B-1009 NMSA 1978 is enacted
2 to read:

3 "7-8B-1009. [NEW MATERIAL] ADMINISTRATOR'S CONTRACT WITH
4 ANOTHER TO CONDUCT EXAMINATION--

5 (a) In this section:

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

10 (2) "related to the administrator" refers to
11 an individual who is:

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

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

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

20 D. any individual residing in the
21 administrator's household.

22 (b) The administrator may contract with a person to
23 conduct an examination pursuant to Sections 7-8B-1001 through
24 7-8B-1012 NMSA 1978.

25 (c) If the person with which the administrator

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1 contracts pursuant to Subsection (b) of this section is:

2 (1) an individual, the individual may not be
3 related to the administrator; or

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

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

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

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

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

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

24 SECTION 71. A new Section 7-8B-1010 NMSA 1978 is enacted
25 to read:

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1 "7-8B-1010. [NEW MATERIAL] LIMIT ON FUTURE EMPLOYMENT.--
2 The administrator or an individual employed by the
3 administrator who participates in, recommends or approves the
4 award of a contract pursuant to Subsection (b) of Section
5 7-8B-1009 NMSA 1978 on or after the effective date of the
6 Revised Uniform Unclaimed Property Act may not be employed by,
7 contracted with or compensated in any capacity by the
8 contractor or an affiliate of the contractor for two years
9 after the latest of participation in, recommendation of or
10 approval of the award or conclusion of the contract."

11 SECTION 72. A new Section 7-8B-1011 NMSA 1978 is enacted
12 to read:

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

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

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

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

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

5 (i) a state employee; and

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

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

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

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

23 (A) were denied;

24 (B) were allowed; and

25 (C) are pending; and

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1 (5) the total amount deposited into the tax
2 administration suspense fund pursuant to Section 7-8B-801 NMSA
3 1978.

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

7 SECTION 73. A new Section 7-8B-1012 NMSA 1978 is enacted
8 to read:

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

18 SECTION 74. A new Section 7-8B-1101 NMSA 1978 is enacted
19 to read:

20 "7-8B-1101. [NEW MATERIAL] INFORMAL CONFERENCE.--

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

1 employee to act on behalf of the administrator.

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

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

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

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

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

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

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

25 (7) the administrator shall issue a decision

1 in a record and provide a copy of the record to the putative
2 holder and examiner not later than thirty days after the
3 conference ends.

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

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

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

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

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

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

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

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

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

20 SECTION 75. A new Section 7-8B-1102 NMSA 1978 is enacted
21 to read:

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

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1 NMSA 1978."

2 SECTION 76. A new Section 7-8B-1103 NMSA 1978 is enacted
3 to read:

4 "7-8B-1103. [NEW MATERIAL] ADMINISTRATIVE REVIEW.--

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

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

19 SECTION 77. A new Section 7-8B-1104 NMSA 1978 is enacted
20 to read:

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

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

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

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

9 SECTION 78. A new Section 7-8B-1201 NMSA 1978 is enacted
10 to read:

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

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

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

24 SECTION 79. A new Section 7-8B-1202 NMSA 1978 is enacted
25 to read:

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

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

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

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

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

19 SECTION 80. A new Section 7-8B-1203 NMSA 1978 is enacted
20 to read:

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

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

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

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

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

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

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1 property recovered in the action.

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

8 SECTION 81. A new Section 7-8B-1204 NMSA 1978 is enacted
9 to read:

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

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

20 (b) Except as otherwise provided in Section
21 7-8B-1205 NMSA 1978 or Section 7-8B-1206 NMSA 1978, the
22 administrator may require a holder that fails to report, pay or
23 deliver property within the time prescribed by the Revised
24 Uniform Unclaimed Property Act, or fails to perform another
25 duty imposed by that act, to pay to the administrator, in

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1 addition to interest included pursuant to Subsection (a) of
2 this section, a civil penalty of two hundred dollars (\$200) for
3 each day the report, payment or delivery is withheld, or the
4 duty is not performed, up to a cumulative maximum amount of
5 five thousand dollars (\$5,000)."

6 SECTION 82. A new Section 7-8B-1205 NMSA 1978 is enacted
7 to read:

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

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

24 (b) If a holder makes a fraudulent report pursuant
25 to the Revised Uniform Unclaimed Property Act, the

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

9 SECTION 83. A new Section 7-8B-1206 NMSA 1978 is enacted
10 to read:

11 "7-8B-1206. [NEW MATERIAL] WAIVER OF INTEREST AND
12 PENALTY.--The administrator:

13 (1) may waive, in whole or in part, interest
14 pursuant to Subsection (a) of Section 7-8B-1204 NMSA 1978 and
15 penalties pursuant to Subsection (b) of Section 7-8B-1204 NMSA
16 1978 or Section 7-8B-1205 NMSA 1978; and

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

21 SECTION 84. A new Section 7-8B-1301 NMSA 1978 is enacted
22 to read:

23 "7-8B-1301. [NEW MATERIAL] WHEN AGREEMENT TO LOCATE
24 PROPERTY ENFORCEABLE.--An agreement by an apparent owner and
25 another person, the primary purpose of which is to locate,

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1 deliver, recover or assist in the location, delivery or
2 recovery of property held by the administrator, is enforceable
3 only if the agreement:

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

6 (2) is signed by or on behalf of the apparent
7 owner; and

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

12 SECTION 85. A new Section 7-8B-1302 NMSA 1978 is enacted
13 to read:

14 "7-8B-1302. [NEW MATERIAL] WHEN AGREEMENT TO LOCATE
15 PROPERTY VOID.--

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

21 (b) If a provision in an agreement described in
22 Subsection (a) of this section applies to mineral proceeds for
23 which compensation is to be paid to the other person based in
24 whole or in part on a part of the underlying minerals or
25 mineral proceeds not then presumed abandoned, the provision is

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1 void regardless of when the agreement was entered into.

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

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

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

22 SECTION 86. A new Section 7-8B-1303 NMSA 1978 is enacted
23 to read:

24 "7-8B-1303. [NEW MATERIAL] RIGHT OF AGENT OF APPARENT
25 OWNER TO RECOVER PROPERTY HELD BY ADMINISTRATOR.--

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

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

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

16 SECTION 87. A new Section 7-8B-1401 NMSA 1978 is enacted
17 to read:

18 "7-8B-1401. [NEW MATERIAL] DEFINITIONS--APPLICABILITY.--

19 (a) In Sections 7-8B-1401 through 7-8B-1408 NMSA
20 1978, "personal information" means:

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

24 (A) social security number or other
25 government-issued number or identifier;

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- 1 (B) date of birth;
2 (C) home or physical address;
3 (D) electronic mail address or other
4 online contact information or internet provider address;
5 (E) financial account number or credit
6 or debit card number;
7 (F) biometric data, health or medical
8 data or insurance information; or
9 (G) passwords or other credentials that
10 permit access to an online or other account;

11 (2) personally identifiable financial or
12 insurance information, including nonpublic personal information
13 defined by applicable federal law; and

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

20 (b) A provision of Sections 7-8B-1401 through
21 7-8B-1408 NMSA 1978 that applies to the administrator or the
22 administrator's records applies to an administrator's agent."

23 SECTION 88. A new Section 7-8B-1402 NMSA 1978 is enacted
24 to read:

25 "7-8B-1402. [NEW MATERIAL] CONFIDENTIAL INFORMATION.--

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

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

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

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

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

21 SECTION 89. A new Section 7-8B-1403 NMSA 1978 is enacted
22 to read:

23 "7-8B-1403. [NEW MATERIAL] WHEN CONFIDENTIAL INFORMATION
24 MAY BE DISCLOSED.--

25 (a) When reasonably necessary to enforce or

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1 implement the Revised Uniform Unclaimed Property Act, the
2 administrator may disclose confidential information concerning
3 property held by the administrator or the administrator's agent
4 only to:

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

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

14 (3) another department or agency of New Mexico
15 or the United States;

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

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

25 (b) Except as otherwise provided in Subsection (a)

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

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

18 SECTION 90. A new Section 7-8B-1404 NMSA 1978 is enacted
19 to read:

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

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

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

6 SECTION 91. A new Section 7-8B-1405 NMSA 1978 is enacted
7 to read:

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

15 SECTION 92. A new Section 7-8B-1406 NMSA 1978 is enacted
16 to read:

17 "7-8B-1406. [NEW MATERIAL] SECURITY OF INFORMATION.--

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

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

25 (1) implement administrative, technical and

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

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

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

13 (c) The administrator:

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

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

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

25 (e) The administrator and the administrator's agent

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1 shall in a secure manner return or destroy all confidential
2 information no longer reasonably needed pursuant to the Revised
3 Uniform Unclaimed Property Act."

4 SECTION 93. A new Section 7-8B-1407 NMSA 1978 is enacted
5 to read:

6 "7-8B-1407. ~~[NEW MATERIAL]~~ SECURITY BREACH.--

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

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

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

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

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

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

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1 confidential information was supplied by the holder.

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

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

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

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

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

13 SECTION 94. A new Section 7-8B-1408 NMSA 1978 is enacted
14 to read:

15 "7-8B-1408. [NEW MATERIAL] INDEMNIFICATION FOR
16 BREACH.--

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

24 (1) any claim or action and

25 (2) a liability, obligation, loss, damage,

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1 cost, fee, penalty, fine, settlement, charge or other expense,
2 including reasonable attorney fees and costs, established by
3 the claim or action.

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

11 (1) the administrator not less frequently than
12 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 (e)
16 of Section 7-8B-1406 NMSA 1978."

17 SECTION 95. A new Section 7-8B-1501 NMSA 1978 is enacted
18 to read:

19 "7-8B-1501. [NEW MATERIAL] 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 96. A new Section 7-8B-1502 NMSA 1978 is enacted
25 to read:

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

9 SECTION 97. A new Section 7-8B-1503 NMSA 1978 is enacted
10 to read:

11 "7-8B-1503. [NEW MATERIAL] TRANSITIONAL PROVISION.--

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

20 (b) The Revised Uniform Unclaimed Property Act does
21 not relieve a holder of a duty that arose before the effective
22 date of that act to report, pay or deliver property. Subject
23 to Subsections (a) and (b) of Section 7-8B-610 NMSA 1978, a
24 holder that did not comply with the law governing unclaimed
25 property before the effective date of the Revised Uniform

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1 Unclaimed Property Act is subject to applicable provisions for
2 enforcement and penalties in effect before the effective date
3 of that act."

4 SECTION 98. Section 7-38-71 NMSA 1978 (being Laws 1973,
5 Chapter 258, Section 111, as amended) is amended to read:

6 "7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF
7 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 department
18 for use, subject to appropriation by the legislature, by the
19 department in administration of the Property Tax Code;

20 (3) third, that portion equal to the
21 delinquent taxes due shall be remitted by the department to the
22 appropriate county treasurer for distribution by the treasurer
23 to the governmental units in accordance with the law and the
24 regulations of the department of finance and administration;
25 and

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1 (4) the balance shall be paid to the former
2 owner of the property sold or to any other person designated by
3 order directed to the department by a court of competent
4 jurisdiction, provided that the department may first apply all
5 or any portion of the balance to be paid against the amount of
6 any property tax, including any penalty and interest related
7 thereto, owed by the person to whom the balance would otherwise
8 be paid.

9 B. As a condition precedent to payment of the
10 balance of the sale amount received to the former owner of the
11 property, the department may require any person claiming to be
12 entitled to that payment to present sufficient evidence of
13 proof of former ownership of the property to the department.
14 The department shall adopt regulations providing for the
15 procedures to be followed by persons claiming sale proceeds as
16 former owners in those instances where conflicting claims exist
17 or the department requires proof of ownership.

18 C. If no person claims the balance of sale
19 proceeds, whether the property was sold under the provisions of
20 the Property Tax Code or prior law, as the former owner of the
21 property within two years of the date of the sale and after a
22 reasonable search to determine the former owner is made by the
23 department and no former owner is found, the balance of the
24 sale proceeds shall be considered abandoned property and
25 deposited in accordance with the provisions of the Revised

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1 Uniform Unclaimed Property Act.

2 D. If the balance of proceeds from the sale after
3 paying a higher priority claim under Subsection A of this
4 section is insufficient to pay all of the next priority claim,
5 then the complete balance shall be applied to that next
6 priority claim as partial payment."

7 SECTION 99. Section 34-6-38 NMSA 1978 (being Laws 1968,
8 Chapter 69, Section 40) is amended to read:

9 "34-6-38. FINANCE--DISPOSITION OF UNCLAIMED MONEY.--When
10 money is held in the court clerk trust account and the person
11 entitled to it does not make claim within six years from the
12 date when it became payable, the money is presumed abandoned
13 and shall be disposed of in the manner provided in the Revised
14 Uniform [~~Disposition of~~] Unclaimed Property Act."

15 SECTION 100. Section 37-1-3 NMSA 1978 (being Laws 1880,
16 Chapter 5, Section 3, as amended) is amended to read:

17 "37-1-3. NOTES--WRITTEN INSTRUMENTS--PERIOD OF
18 LIMITATION--COMPUTATION OF PERIOD.--

19 A. Actions founded upon any bond, promissory note,
20 bill of exchange or other contract in writing shall be brought
21 within six years.

22 If the payee of any bond, promissory note, bill of
23 exchange or other contract in writing enters into any contract
24 or agreement in writing to defer the payment thereof, or
25 contracts or agrees not to assert any claim against the payor

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1 or against the assets of the payor until the happening of some
2 contingency, the time during the period from the execution of
3 the contract or agreement and the happening of the contingency
4 shall not be included in computing the six-year period of
5 limitation provided in this subsection.

6 B. Actions against any banking or financial
7 organization subject to the provisions of the Revised Uniform
8 Unclaimed Property Act [~~(1995)~~] founded upon a bill of exchange
9 shall be brought within ten years.

10 C. Actions founded upon a traveler's check shall be
11 brought within fifteen years."

12 SECTION 101. Section 45-3-914 NMSA 1978 (being Laws
13 1975, Chapter 257, Section 3-914, as amended) is amended to
14 read:

15 "45-3-914. DISPOSITION OF UNCLAIMED ASSETS.--If an heir,
16 devisee or claimant cannot be found, the personal
17 representative shall distribute the share of the missing person
18 to [~~his~~] the missing person's conservator, if any. Otherwise,
19 the personal representative shall sell the share of the missing
20 person and distribute the proceeds to the [~~state treasurer~~]
21 administrator as prescribed by the Revised Uniform Unclaimed
22 Property Act."

23 SECTION 102. Section 58-10-110 NMSA 1978 (being Laws
24 1971, Chapter 242, Section 10) is amended to read:

25 "58-10-110. SPECIAL REMEDIES FOR NONPAYMENT OF RENT.--

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1 A. If the rental due on a safe deposit box has not
2 been paid for one year, the lessor may send a notice by
3 certified or registered mail to the lessee's last known address
4 stating that the safe deposit box will be opened and its
5 contents stored at the lessee's expense unless payment of
6 rental due is made within thirty days. If the rental is not
7 paid within thirty days from the mailing of the notice, the box
8 may be opened in the presence of an officer of the lessor and
9 of a notary public who is not a director, officer, employee or
10 stockholder of the lessor. The contents shall be sealed in a
11 package by the notary public who shall write on the outside the
12 lessee's name and the date the box was opened. The notary
13 public shall execute a certificate reciting the lessee's name,
14 the date the box was opened and a list of its contents. The
15 certificate shall be included in the package and a copy of it
16 sent by certified or registered mail to the lessee's last known
17 address. The package shall then be placed in the general
18 vaults of the lessor at a rental not exceeding the rental
19 previously charged for the box.

20 B. If the contents of the box are not claimed
21 within the time prescribed by the Revised Uniform [~~Disposition~~
22 ~~of~~] Unclaimed Property Act, they shall be disposed of as
23 provided in that act. Upon sale of the contents, the lessor
24 shall be reimbursed for the accrued rental and storage charges
25 from the sale proceeds."

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1 SECTION 103. Section 58-11-47 NMSA 1978 (being Laws
2 1987, Chapter 311, Section 47) is amended to read:

3 "58-11-47. DORMANT ACCOUNTS.--

4 A. If there has been no activity in a share or
5 deposit account for one year, except for the posting of
6 dividends or interest, the credit union may impose a reasonable
7 maintenance fee as provided in the bylaws.

8 B. Any account presumed abandoned shall be disposed
9 of in accordance with the Revised Uniform [~~Disposition of~~]
10 Unclaimed Property Act."

11 SECTION 104. Section 58-11A-6 NMSA 1978 (being Laws
12 1991, Chapter 51, Section 26) is amended to read:

13 "58-11A-6. SPECIAL REMEDIES FOR NONPAYMENT OF RENT.--

14 A. Unless otherwise provided in a written
15 agreement, if the rental due on a safe deposit box has not been
16 paid for six months, the [~~lessor~~] credit union may send a
17 notice by certified or registered mail to the last known
18 address of the lessee stating that the safe deposit box will be
19 opened and its contents stored at the expense of the lessee
20 unless payment is made within thirty days. If the rental is
21 not paid within thirty days from the mailing of the notice, the
22 safe deposit box may be opened in the presence of an executive
23 officer of the [~~lessor~~] credit union and of a notary public.
24 The contents of the box shall be sealed in a package by the
25 notary public who shall write on the outside the name of the

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1 lessee and the date of the opening. The notary public shall
2 execute a certificate reciting the name of the lessee, the date
3 of the opening of the safe deposit box and a list of its
4 contents. The certificate shall be included in the package and
5 a copy of the certificate shall be sent by registered mail to
6 the last known address of the lessee. The package shall then
7 be placed in the general vaults of the [~~lessor~~] credit union at
8 a rental not exceeding the rental charged for the safe deposit
9 box.

10 B. If the contents of the safe deposit box are not
11 claimed within the time prescribed by the Revised Uniform
12 Unclaimed Property Act, they shall be disposed of as provided
13 in that act."

14 SECTION 105. Section 58-11A-7 NMSA 1978 (being Laws
15 1991, Chapter 51, Section 27) is amended to read:

16 "58-11A-7. DISPOSITION OF CONTENTS OF SAFE DEPOSIT BOX
17 WHEN A CREDIT UNION IS LIQUIDATED--DUTY OF CONSERVATOR.--

18 A. In the event a credit union is liquidated or
19 placed under conservatorship by the director, as authorized by
20 Subsection [~~F~~] L of Section 58-11-3 NMSA 1978 [~~of the Credit~~
21 ~~Union Regulatory Act~~], the conservator or receiver shall send a
22 notice by certified or registered mail to the last known
23 address of the lessee stating that the safe deposit box will be
24 opened and its contents stored at the expense of the lessee
25 unless claimed within thirty days. If the contents are not

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1 claimed within thirty days from the mailing of the notice, the
2 safe deposit box may be opened in the presence of an agent of
3 the conservator or receiver and of a notary public. The
4 contents shall be sealed in a package by the notary public who
5 shall write on the outside the name of the lessee and the date
6 of the opening. The notary public shall execute a certificate
7 reciting the name of the lessee, the date of the opening of the
8 safe deposit box and a list of its contents. The certificate
9 shall be included in the package, and a copy of the certificate
10 shall be sent by registered mail to the last known address of
11 the lessee. The conservator or receiver shall then provide for
12 storage of the package at a rental not exceeding the rental
13 previously charged for the safe deposit box.

14 B. If the package is not claimed, it will be
15 disposed of as provided in the Revised Uniform Unclaimed
16 Property Act."

17 SECTION 106. Section 58-12-7 NMSA 1978 (being Laws 1973,
18 Chapter 114, Section 7, as amended) is amended to read:

19 "58-12-7. CORPORATION--POWERS AND DUTIES OF THE BOARD.--

20 A. To the extent authorized by the [~~commissioner~~]
21 director or any supervisory agency, the board may review the
22 financial condition of any member as it relates to share
23 insurance and, after the review, submit a report of the review
24 to the [~~commissioner~~] director and the supervisory agency
25 accompanied [~~with~~] by the recommendations of the board.

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1 B. Upon request of the board, the [~~commissioner~~]
2 director or the supervisory agency may furnish to the board
3 such factual information in [~~his or its~~] the director's or
4 supervisory agency's possession as the [~~commissioner~~] director
5 or the supervisory agency may deem to be of assistance to the
6 corporation in determining the financial condition of any
7 member.

8 C. If the board determines that a special
9 examination and audit, including a current appraisal of the
10 assets, of any member would be in the interests of its
11 shareholders or in the interest of the sound and effective
12 operation of the corporation, the board, by a vote of at least
13 two-thirds of its directors, may request the [~~commissioner~~]
14 director or any supervisory agency to provide for a special
15 examination, audit and appraisal. If the [~~commissioner~~]
16 director or any supervisory agency determines the examination,
17 audit and appraisal advisable, [~~he or it~~] the director or
18 supervisory agency shall provide for an examination, together
19 with a current appraisal of the member's assets by a qualified
20 person, and the board may furnish to the [~~commissioner~~]
21 director or any supervisory agency [~~such~~] evidence of current
22 values of any or all of [~~such~~] the member's assets that it
23 considers material to the appraisal.

24 D. After receiving the reports of the examination and
25 appraisal, the [~~commissioner~~] director or any supervisory

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1 agency shall furnish copies of the reports to the board and to
2 the member [~~copies of the reports~~]. The board [~~shall have~~] has
3 authority to make recommendations to any member designed to
4 correct practices or policies of the member in conducting its
5 business, including loan or dividend policies, [~~which~~] that the
6 board considers unsafe or unsound or [~~having a tendency to~~]
7 that would impair the financial condition of the member. If
8 [~~such~~] the member fails to follow [~~such~~] the recommendations,
9 the board shall give notice to the [~~commissioner~~] director and
10 any supervisory agency.

11 E. If it appears to the board that [~~such~~] practices
12 or policies of a member have impaired or are likely to impair
13 the solvency of the member or are unreasonably increasing the
14 insurance risk of the corporation with respect to the member,
15 [~~they~~] it shall include a statement to this effect, together
16 with a report of the facts and circumstances, in the notice to
17 the [~~commissioner~~] director and the supervisory agency. If the
18 [~~commissioner~~] director or the supervisory agency determines
19 from the report, notice and from other available information
20 that the member is in unsafe or unsound condition to transact
21 the business for which it was created, [~~then~~] the
22 [~~commissioner~~] director or the supervisory agency may so
23 certify to the corporation. Nothing [~~contained~~] in this
24 section shall be construed to abridge any power conferred upon
25 the [~~commissioner~~] director or supervisory agency by any law.

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1 F. Whenever it appears to the [~~commissioner~~] director
2 or the supervisory agency that it is inadvisable or inexpedient
3 for any member to continue to transact the business for which
4 it is organized without receiving assistance, [~~he or it~~] the
5 director or supervisory agency may, in [~~his or its~~] the
6 director's or supervisory agency's discretion, notify the
7 board, and [~~thereupon~~] the board may take any action it
8 considers necessary to reduce risk or avert a threatened loss
9 to the corporation [~~and~~]. Notwithstanding any other provision
10 of law, the board may require a merger or consolidation of
11 [~~such~~] the member with other financial institutions or may
12 facilitate the sale of assets of [~~such~~] the member to and the
13 assumption of its liabilities by one or more members or other
14 financial institutions. The board may, with the approval of
15 the [~~commissioner~~] director or supervisory agency, do any of
16 the following:

17 (1) purchase from [~~such~~] the member any
18 equitable or other interest in its assets at book value or at
19 some other value mutually agreed upon by [~~such~~] the member and
20 the board, notwithstanding that either of [~~such~~] the values may
21 exceed the market value of the assets so purchased, and upon
22 such terms and conditions as the board may determine;

23 (2) make loans to [~~such~~] the member [~~and~~] upon
24 such terms and conditions as the board may determine;

25 (3) pay to the member, in accordance with an

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1 agreement entered into between the member and the corporation,
2 an amount not in excess of the difference between the book
3 value of some or all of its assets and the fair value as
4 determined by the agreement, in consideration for which [~~such~~]
5 the member shall agree to write down the assets to the fair
6 value and to pay over to the corporation so much of any net
7 proceeds realized from the sale or other disposition of the
8 assets as are in excess of the fair value, the payment to be
9 made in such amounts, at such times and upon such terms and
10 conditions as the board may determine. Any amount paid by the
11 corporation to [~~such~~] the member and the agreement of the
12 member to repay the excess shall constitute liabilities of the
13 member only to the extent of any such excess from time to time
14 actually realized; or

15 (4) deposit a sum of money into the reserve
16 accounts of the member in accordance with an agreement entered
17 into between the member and the corporation. [~~such~~] The member
18 [~~being hereby~~] is authorized and empowered, notwithstanding any
19 other provision of law, to repay the amount to the corporation
20 at such time [~~or times~~] and in such manner as the agreement may
21 prescribe, provided that any such payment made by the
22 corporation to the member and any agreement of the member to
23 repay [~~the same~~] it shall constitute liabilities of the member
24 only to the extent provided by the agreement. The member, by
25 vote of at least two-thirds of its directors, may take any

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1 action necessary or advisable to enable it to carry out any or
2 all provisions of this section.

3 G. At any time after ten years from the date
4 financial assistance has been granted to a member under any
5 provision of this section, any unpaid balance may be
6 compromised or settled for cash payment or other consideration
7 as the board and the member, with the approval of the
8 [~~commissioner~~] director and supervisory agency, may agree upon.
9 Upon [~~such~~] compromise or settlement, the member shall be
10 released and discharged from any further obligation to repay
11 the unpaid balance of [~~such~~] financial assistance except to the
12 extent provided by [~~such~~] the agreement.

13 H. If a member authorized by a vote of at least two-
14 thirds of the member's directors chooses to be liquidated, the
15 corporation shall be fully authorized to proceed with the
16 liquidation, merger or consolidation of the member.

17 I. Whenever it appears to the [~~commissioner~~] director
18 or the supervisory agency that any member is in unsound or
19 unsafe condition to transact the business for which it is
20 organized, the [~~commissioner~~] director or the supervisory
21 agency may so certify to the board [~~and~~]. Upon receipt of the
22 certificate, the board shall, by notice in writing to the
23 [~~commissioner~~] director, supervisory agency and to the member,
24 take possession and control of the property and the business of
25 the member and operate the business of the member subject to

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1 such rules and regulations as the [~~commissioner~~] director or
2 supervisory agency may prescribe until the member resumes
3 business or until its affairs are finally liquidated. While
4 operating [~~such~~] the business, the corporation may pay to the
5 member out of the [~~share insurance~~] fund such sums as the board
6 considers necessary for the protection of the member's
7 shareholders and depositors and may order these sums to be
8 repaid when no longer required for that purpose or may purchase
9 assets from the member to effect the purposes of the Credit
10 Union Share Insurance Corporation Act on such terms and
11 conditions and at such valuations as the board may determine.

12 J. At any time after the board has taken over the
13 control, possession and operation of any member, [~~they~~] it may,
14 with the approval of the [~~commissioner~~] director or supervisory
15 agency, turn back the control, possession and operation to the
16 member. The member may resume business free from any control
17 by the corporation subject to such conditions as the
18 [~~commissioner~~] director or supervisory agency may approve. The
19 board shall not turn back the control, possession and operation
20 of any member until there has been repaid into the [~~share~~
21 ~~insurance~~] fund all sums paid out from the fund to the member
22 or its shareholders or depositors or until security for
23 repayment is received [~~which~~] that is satisfactory to the
24 board.

25 K. The board may, and at the request of the

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1 ~~[commissioner]~~ director or supervisory agency shall, at any
2 time after ~~[they have]~~ it has taken over the control,
3 possession and operation of any member, discontinue the
4 business of the member and proceed to liquidate its affairs.
5 The corporation shall in ~~[such]~~ that event pay to the
6 shareholders and depositors of ~~[such]~~ the member the full
7 amount of their shares or deposits permitted by law at the date
8 of the discontinuance of the business of the member with
9 interest from the last dividend date to the date of
10 discontinuance at such rate, not exceeding three percent, as
11 the board ~~[shall determine]~~ determines. The payments shall be
12 made as soon as possible after the date of discontinuance. For
13 ~~[such]~~ this purpose, the board shall use, in addition to the
14 assets of the member, such sums as may be required from the
15 ~~[share insurance]~~ fund. In case of liquidation, the
16 corporation shall be subject to such rules and regulations as
17 may be prescribed by the ~~[commissioner]~~ director or the
18 supervisory agency. Rules and regulations prescribed by the
19 ~~[commissioner shall]~~ director apply only to the liquidation of
20 New Mexico-chartered credit unions. In the event of the
21 liquidation of a member chartered in a state other than New
22 Mexico, the corporation shall be subject only to ~~[such]~~ rules
23 and regulations prescribed by the applicable supervisory
24 agency. The corporation shall take steps to collect all debts
25 due and claims belonging to ~~[such]~~ those members, ~~[and]~~ may

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1 sell or compound all bad or doubtful debts and may sell all or
2 any part of the real or personal property or other assets of
3 the member on such terms and conditions and at such valuation
4 as the board [~~shall determine, and~~] determines. The
5 corporation may itself be the purchaser at any or all [~~such~~] of
6 the sales. To execute and perform the powers and duties
7 conferred upon the corporation, it may, in the name of any such
8 member, prosecute and defend all suits and other legal
9 proceedings and may, in the name of the member, execute,
10 acknowledge and deliver all deeds, assignments, leases and
11 other instruments necessary and proper to effectuate any sale
12 of real or personal property or other assets. Any deed or
13 other instrument executed pursuant to the authority [~~hereby~~]
14 given in this section shall be valid and effectual for all
15 purposes to the same extent as though executed by the officers
16 of the member by authority of its board of directors. The
17 compensation of employees, counsel and other assistants
18 employed by the board to liquidate the affairs of any member
19 under this section and all expenses incurred in connection with
20 the liquidation of any such member shall be fixed by the
21 directors of the corporation. The officers of the corporation
22 and any other persons employed by its directors to liquidate
23 the affairs of any member under this section shall give bond to
24 the directors of the corporation for the faithful performance
25 of their duties in relation to [~~such~~] the liquidation in such

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1 amount and with such surety [~~or sureties~~] as the [~~commissioner~~]
2 director or supervisory agency may approve. The persons
3 appointed for the purpose of liquidating the affairs of any
4 such member shall be subject to all the penalties to which
5 agents appointed by the [~~commissioner~~] director or supervisory
6 agency for the purpose of liquidating the affairs of a member
7 are [~~now or may hereafter be~~] subject. All accounts for which
8 no claimant can be found after six years following the
9 discontinuance of the business of any such member shall be
10 disposed of in accordance with the Revised Uniform [~~Disposition~~
11 ~~of~~] Unclaimed Property Act.

12 L. With the approval of the [~~commissioner~~] director
13 or supervisory agency and subject to such rules and regulations
14 as [~~he or it~~] the director or supervisory agency may prescribe,
15 the board may appoint conservators or agents to assist it in
16 the operation, management and liquidation of assets purchased
17 or otherwise acquired from members by the corporation. The
18 original location of the assets purchased or otherwise acquired
19 shall determine whether [~~such~~] rules and regulations may be
20 prescribed by the [~~commissioner~~] director or supervisory
21 agency. Certificates of appointment of [~~such~~] conservators and
22 agents shall be filed with the [~~commissioner~~] director or
23 supervisory agency. Notwithstanding any other provisions of
24 law, all members are [~~hereby~~] authorized to act as [~~such~~]
25 conservators and agents and to exercise the powers and perform

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1 the duties contemplated by this section.

2 M. The corporation may exercise all the powers,
3 rights and franchises of any member, the control, possession
4 and operation of which has been taken over by the corporation.
5 Notwithstanding any other provisions of law:

6 (1) with the approval of the [~~commissioner~~]
7 director or supervisory agency, any member may advance or loan
8 upon, or purchase, the whole or any part of the assets of any
9 other member [~~which~~] that is in possession of the corporation
10 or [~~which~~] that has been the subject of a notice from the
11 [~~commissioner~~] director or supervisory agency to the
12 corporation as provided [~~herein~~] in this section, at such
13 valuations and upon such terms and conditions as [~~such member~~
14 ~~or~~] the members, by authorization of their boards of directors,
15 may agree upon. The member making such an advance, loan or
16 purchase, for the purpose of effecting [~~the same~~] it, may
17 assume and agree to pay the whole or any part of the share,
18 deposit and other liabilities of [~~such~~] the other member,
19 subject to such terms and conditions and subject to such
20 adjustments as may be approved by the [~~commissioner~~] director
21 or supervisory agency; and

22 (2) with the approval of the [~~commissioner~~]
23 director or the supervisory agency, any member may advance or
24 loan upon, or purchase, the whole or any part of the assets
25 acquired or held by the corporation and may participate in such

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1 an advance, loan or purchase with one or more other members, at
2 such valuation and upon such terms and conditions as the
3 corporation and [~~such member or~~] the members, with
4 authorization of their boards of directors, may agree upon.
5 With like approval, the corporation may do any and all things
6 and may take any and all action [~~which~~] that the board
7 considers necessary or advisable to give effect to this
8 paragraph; provided that the approval of the [~~commissioner~~]
9 director or supervisory agency [~~shall~~] is not [~~be~~] required in
10 the case of the purchase [~~hereunder~~] under this section by a
11 member from the corporation of any mortgage for a sum equal to
12 the unpaid balance thereof."

13 SECTION 107. Section 59A-16-7.1 NMSA 1978 (being Laws
14 2013, Chapter 100, Section 1) is amended to read:

15 "59A-16-7.1. UNCLAIMED LIFE INSURANCE BENEFITS.--

16 A. As used in this section:

17 (1) "contract" means an annuity contract but
18 excludes annuity contracts used to fund employment-based
19 retirement plans or programs in which the insurer is not
20 committed by the terms of the annuity contract to pay a death
21 benefit to the beneficiaries of specific plan participants;

22 (2) "death master file" means the federal social
23 security administration's death master file or another database
24 or service for determining that a person has died and that is
25 at least as comprehensive as the federal social security

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1 administration's death master file;

2 (3) "match" means a search of a death master
3 file that results in a match of the social security number or
4 the name and date of birth of an insured, annuity owner or
5 retained asset account holder; and

6 (4) "policy" means a policy or certificate of
7 life insurance that provides a death benefit, but excludes
8 policies or certificates of credit life or accidental death
9 insurance, policies or certificates of life insurance used to
10 fund a preneed funeral contract or funeral prearrangement and
11 policies or certificates of life insurance that provide a death
12 benefit pursuant to an employee benefit plan that are:

13 (a) subject to the federal Employee
14 Retirement Income Security Act of 1974, as amended; or

15 (b) under a federal employee benefit
16 program.

17 B. At least twice a year, an insurer shall crosscheck
18 its insureds' in-force life insurance policies and retained-
19 asset accounts against a death master file to identify
20 potential matches. For each potential match, within ninety
21 days, the insurer shall:

22 (1) make and document a good faith effort to
23 confirm the death of the insured or retained-asset account
24 holder by using other available records and information;

25 (2) determine whether the applicable policy or

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1 contract provides for the payment of a death benefit. If the
2 payment of a death benefit is required, the insurer shall:

3 (a) make and document a good faith effort to
4 locate the beneficiary or beneficiaries; and

5 (b) provide to the beneficiary or
6 beneficiaries the appropriate claim forms or instructions for
7 making a claim, including the need to provide an official death
8 certificate if required by the policy or contract; and

9 (3) in the case of group life insurance, confirm
10 the possible death of an insured; provided that the insurer
11 maintains at least the following information about those
12 covered under a policy or certificate:

13 (a) social security number, or name and date
14 of birth;

15 (b) beneficiary designation information;

16 (c) coverage eligibility;

17 (d) benefit amount; and

18 (e) premium payment status.

19 C. To the extent permitted by law, an insurer may
20 disclose the minimum information about the insured or the
21 beneficiary that is necessary to locate a beneficiary or
22 another person entitled to receive a payment of the claims
23 proceeds to a person whom the insurer reasonably believes could
24 assist the insurer in locating the beneficiary or another
25 person entitled to receive a payment of the claims proceeds.

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1 An insurer or its service provider shall not charge an insured,
2 an account holder or a beneficiary for a search or confirmation
3 conducted pursuant to this subsection.

4 D. The benefits from a life insurance policy or a
5 retained asset account, plus any applicable accrued interest,
6 shall be payable pursuant to the terms of the contract or, if
7 applicable, in accordance with probate law. If the proper
8 recipients of a life insurance policy or a retained asset
9 account cannot be found, the benefits shall escheat to New
10 Mexico as unclaimed property pursuant to the Revised Uniform
11 Unclaimed Property Act [~~(1995)~~]. Upon the expiration of the
12 statutory time period for escheat, an insurer shall notify the
13 taxation and revenue department that a life insurance policy
14 beneficiary or retained asset account holder has not submitted
15 a claim with the insurer and the insurer has complied with the
16 provisions of Subsection B of this section and has been unable
17 to contact the retained asset account holder, beneficiary or
18 beneficiaries. Upon notifying the taxation and revenue
19 department, the insurer shall submit the unclaimed life
20 insurance benefits or unclaimed retained asset accounts, plus
21 any applicable accrued interest, to the taxation and revenue
22 department pursuant to the Revised Uniform Unclaimed Property
23 Act [~~(1995)~~].

24 E. To assist the superintendent in identifying lost
25 policies, by July 1, 2016, an insurer that has never conducted

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1 a crosscheck of its insureds' policies and contracts issued
2 prior to July 1, 2013 against a death master file for the
3 purpose of identifying deceased insureds shall provide to the
4 superintendent a list of all policies and contracts in force
5 and issued in New Mexico.

6 F. For an insurer that has never conducted a
7 crosscheck of its insureds' policies and contracts against a
8 death master file for the purpose of identifying deceased
9 insureds, the provisions of this section shall apply only to
10 policies and contracts issued and delivered in New Mexico on or
11 after July 1, 2013."

12 SECTION 108. REPEAL.--Sections 7-8A-1 through 7-8A-31
13 NMSA 1978 (being Laws 1997, Chapter 25, Sections 1 through 10;
14 Laws 1990, Chapter 98, Section 1; and Laws 1997, Chapter 25,
15 Sections 11 through 31, as amended) are repealed.

16 SECTION 109. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is January 1, 2024.