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SENATE BILL 594  
43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997  
INTRODUCED BY  
SHANNON ROBINSON

AN ACT

RELATING TO CREDIT UNIONS; MAKING CHANGES IN THE PROVISIONS OF  
THE CREDIT UNION REGULATORY ACT, INCLUDING CHANGING ITS SHORT  
TITLE; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978;  
REPEALING LAWS 1987, CHAPTER 311, SECTION 68.

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

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

"58-11-1. SHORT TITLE. -- ~~[Section 1 through 65 of this act]~~  
Chapter 58, Article 11 NMSA 1978 may be cited as the "Credit  
Union ~~[Regulatory]~~ Act". "

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

"58-11-2. DEFINITIONS. -- As used in the Credit Union  
~~[Regulatory]~~ Act:

Underscored material = new  
[bracketed material] = delete

1           A. "board member" means a member of the board of  
2 directors of a credit union;

3           B. "capital" means share accounts, membership  
4 shares, reserves and undivided earnings;

5           C. "credit union" means a cooperative, nonprofit,  
6 financial institution organized under or subject to the Credit  
7 Union [~~Regulatory~~] Act for the purposes of encouraging thrift  
8 among its members, creating a source of credit at fair and  
9 reasonable rates of interest and providing an opportunity for  
10 its members to use and control their own money on a democratic  
11 basis in order to improve their economic and social condition;

12           D. "deposit account" means a balance held by a  
13 credit union and established by a person in accordance with  
14 standards specified by the credit union, including balances  
15 designated as deposits, deposit certificates, checking accounts  
16 or other names. Ownership of a deposit account does not confer  
17 membership or voting rights and does not represent an interest  
18 in the capital of the credit union upon dissolution or  
19 conversion to another type of institution;

20           E. "director" means the director of the financial  
21 institutions division of the regulation and licensing  
22 department;

23           F. "division" means the financial institutions  
24 division of the regulation and licensing department;

25           G. "executive officer" means any person [~~other than~~

1 ~~a member of the board of directors who performs duties in~~ who  
2 is responsible for the management of the credit union as  
3 provided in the bylaws of the credit union and includes the  
4 chief executive officer, the president, ~~[any]~~ a vice president,  
5 the credit union manager, ~~[any]~~ an assistant manager or ~~[any]~~ a  
6 person who is assigned and performs the management duties  
7 appropriate to those offices;

8 H. "governmental unit" means any board, agency,  
9 department, authority, instrumentality or other unit or  
10 organization of the United States, this state or any political  
11 subdivision thereof;

12 I. "immediate family" ~~[includes]~~ means persons  
13 related by blood or marriage as well as foster and adopted  
14 children;

15 J. "insolvent" means the condition that results when  
16 the cash value of assets is less than the liabilities and  
17 members' share and deposit accounts;

18 K. "insuring organization" means the national credit  
19 union administration or any other insurer which has been  
20 approved by the director to provide aid and financial assistance  
21 to credit unions that are in the process of liquidation or are  
22 incurring financial difficulty in order that the share and  
23 deposit accounts in credit unions shall be protected or  
24 guaranteed against loss without limit or up to a specified level  
25 for each account;

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1 L. "membership share" means a balance held by a  
2 credit union and established by a member in accordance with  
3 standards specified by the credit union. Each member may own  
4 only one membership share. Ownership of a membership share  
5 represents an interest in the capital of the credit union upon  
6 dissolution or conversion to another type of institution;

7 M "organization" means any corporation,  
8 association, partnership, society, firm, syndicate, trust or  
9 other legal entity;

10 N. "person" means any individual, organization or  
11 governmental unit;

12 O. "risk assets" means all assets [~~except:-~~  
13 (1) ~~cash on hand;~~  
14 (2) ~~deposits or shares in federally insured~~  
15 ~~banks, savings and loan associations and credit unions;~~  
16 (3) ~~assets which are insured by, fully~~  
17 ~~guaranteed as to principal and interest by or due from the~~  
18 ~~United States or an agency thereof, this state or any political~~  
19 ~~subdivision thereof, the federal national mortgage association~~  
20 ~~or the government national mortgage association;~~  
21 (4) ~~loans to other credit unions;~~  
22 (5) ~~loans to students insured under the~~  
23 ~~provisions of Title IV, part B of the Higher Education Act of~~  
24 ~~1965 (20 U. S. C. 1701 et seq.) or similar insurance programs of~~  
25 ~~this state;~~

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1                   ~~(6) loans that are fully or partially insured~~  
2 ~~or guaranteed by the United States, this state or any agency of~~  
3 ~~either;~~

4                   ~~(7) common trust investments which deal in~~  
5 ~~investments authorized by rules, regulations or the Credit Union~~  
6 ~~Regulatory Act;~~

7                   ~~(8) prepaid expenses;~~

8                   ~~(9) accrued interest on nonrisk investments;~~

9                   ~~(10) furniture and equipment less depreciation;~~

10                  ~~(11) land and buildings less depreciation;~~

11                  ~~(12) loans fully secured by a pledge of shares~~  
12 ~~in the lending credit union, equal to and maintained to at least~~  
13 ~~the amount of the loan outstanding;~~

14                  ~~(13) loans which are purchased from liquidating~~  
15 ~~credit unions and guaranteed by the national credit union~~  
16 ~~administration;~~

17                  ~~(14) national credit union share insurance fund~~  
18 ~~guaranty accounts established with the authorization of the~~  
19 ~~national credit union administration under the authority of~~  
20 ~~Section 208(a)(1) of the Federal Credit Union Act; and~~

21                  ~~(15) investments in shares of the national~~  
22 ~~credit union administration central liquidity facility] of the~~  
23 ~~credit union except those exempted by the director by~~  
24 ~~regulation; [and]~~

25                  P. "service facility" means any building, machine or

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[bracketed material] = delete

1 device, whether mechanical, electronic or otherwise, that is  
2 operated or maintained, in whole or in part, to provide services  
3 to members; and

4 [P-] Q. "share account" means a balance held by a  
5 credit union and established by a member in accordance with  
6 standards specified by the credit union, including balances  
7 designated as shares, share certificates, share draft accounts  
8 or other similar names. Ownership of a share account confers  
9 membership and voting rights and represents an interest in the  
10 capital of the credit union upon dissolution or conversion to  
11 another type of institution."

12 Section 3. Section 58-11-3 NMSA 1978 (being Laws 1987,  
13 Chapter 311, Section 3, as amended) is amended to read:

14 "58-11-3. SUPERVISION AND REGULATION. --

15 A. The director shall be responsible for the  
16 supervision and regulation of credit unions organized under the  
17 Credit Union [Regulatory] Act or previously organized under the  
18 Credit Union Act.

19 B. The director may delegate to any officer or  
20 employee of the division the power to perform any of his duties,  
21 except those authorized under Subsection D, E, F, G, H, I, J,  
22 [K-or] L or M of this section.

23 C. The director may prescribe rules or regulations  
24 to implement any provision of the Credit Union [Regulatory] Act  
25 and to define any term not defined in that act. Such rules or

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1 regulations shall serve to foster and maintain an effective  
2 level of credit union services and the security of member  
3 accounts. Prior to establishment of ~~[any]~~ a rule or regulation,  
4 the director shall give written notice to all credit unions  
5 affected by the terms and general contents of ~~[any]~~ a proposed  
6 rule or regulation. The director may hold a public hearing to  
7 consider whether to adopt a proposed rule or regulation. If  
8 within twenty days after ~~[such]~~ the notice is given at least two  
9 credit unions ~~[so]~~ request a public hearing ~~[with]~~, it shall be  
10 held ~~[with respect to the proposal]~~ to consider whether to adopt  
11 the proposed rule or regulation. The director shall conduct any  
12 hearing held to consider a proposed rule or regulation.

13 D. The director may require a credit union to  
14 establish or activate the use of membership shares when it is  
15 deemed necessary for the safety and soundness of that credit  
16 union.

17 ~~[D-]~~ E. The director may restrict withdrawals from  
18 share accounts or deposit accounts or both from any credit union  
19 when he finds circumstances make that restriction necessary for  
20 the proper protection of shareholders or depositors.

21 ~~[E-]~~ F. The director may, after providing at least  
22 thirty days' prior notice and a hearing, issue cease and desist  
23 orders whenever it appears to him upon competent and substantial  
24 evidence that a credit union is engaged or has engaged in an  
25 unsafe or unsound practice or is violating or has violated a

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1 material provision of the credit union's bylaws, any law, rule  
2 or regulation or any condition imposed in writing by the  
3 director or any written agreement made with the director.

4 [F-] G. The director may remove from office and  
5 prohibit from further participation in any manner in the conduct  
6 of the affairs of a credit union any board member, executive  
7 officer or committee member if the director determines that the  
8 board member, executive officer or committee member:

9 (1) has violated any law, rule, regulation or  
10 final cease and desist order;

11 (2) has engaged or participated in an unsafe or  
12 unsound practice in connection with the credit union; or

13 (3) has committed or engaged in any act,  
14 omission or practice that constitutes a breach of such party's  
15 fiduciary responsibility, and:

16 (a) the credit union has suffered or will  
17 probably suffer financial loss or other damage;

18 (b) the interest of the credit union's  
19 members have been or could be prejudiced; or

20 (c) such party has received financial  
21 gain or other benefit by reason of such violation, practice or  
22 breach, and: 1) involves personal dishonesty on the part of such  
23 party; or 2) demonstrates such party's unfitness to serve as a  
24 board member, executive officer or committee member or to  
25 otherwise participate in the conduct of the affairs of a credit



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1 union.

2 [G-] H. Whenever the director makes the  
3 determination to remove any board member, executive officer or  
4 committee member from office or to prohibit any further  
5 participation by the person in the conduct of the affairs of the  
6 credit union, he shall give notice of his intention in writing,  
7 stating the grounds for such removal or prohibition from  
8 participation and providing for a hearing no earlier than thirty  
9 days or later than sixty days after such notice has been served  
10 on the board member, executive officer or committee member.

11 [H-] I. If the director determines that, pending the  
12 hearing for removal or prohibition from participating in the  
13 conduct of the affairs of the credit union, it is in the best  
14 interest of the credit union, he may suspend the board member,  
15 executive officer or committee member. Any suspension order  
16 shall be in writing and shall become effective upon service.

17 [I-] J. Unless a suspension order is stayed by a  
18 district court in the judicial district where the principal  
19 office of the credit union is located or in the first judicial  
20 district court of the state of New Mexico within ten days after  
21 the service of [~~such~~] the order on the party suspended, it shall  
22 remain in force [~~and effect~~] until a final order is issued after  
23 the hearing for removal. The district courts named in this  
24 paragraph shall have jurisdiction to stay such suspension or  
25 prohibition.

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1           ~~[J-]~~ K. The director has the power to subpoena  
2 witnesses, compel their attendance, require the production of  
3 evidence, administer oaths and examine any person under oath in  
4 connection with any subject relating to a duty imposed upon or a  
5 power vested in the director.

6           ~~[K-]~~ L. If it appears that any credit union has  
7 willfully violated the Credit Union ~~[Regulatory]~~ Act or its  
8 bylaws or is operating in an unsafe and unsound manner, the  
9 director may issue an order temporarily suspending the credit  
10 union's operations. The following provisions shall then apply:

11                   (1) the board of directors of the credit union  
12 shall be given notice by certified mail of such suspension,  
13 which notice shall include a list of the reasons for such  
14 suspension and a list of the specific violation of the Credit  
15 Union ~~[Regulatory]~~ Act or the credit union's bylaws, if any.  
16 The director shall also notify the insuring organization of the  
17 credit union of any such suspension;

18                   (2) upon receipt of such suspension notice, the  
19 credit union shall cease all operations except those authorized  
20 by the director. The board of directors shall then file with  
21 the director a reply to the suspension notice and may request a  
22 hearing to present a plan of corrective actions proposed if the  
23 board desires to continue operations. The board may request  
24 that the credit union be declared insolvent and a liquidating  
25 agent be appointed;

1                   (3) upon receipt from the suspended credit  
2 union of evidence that the conditions causing the order of  
3 suspension have been corrected, the director may revoke the  
4 suspension notice, permit the credit union to resume normal  
5 operations and notify the insuring organization of such action;

6                   (4) if the director, after issuing notice of  
7 suspension and providing for a hearing, rejects the credit  
8 union's plan to continue operations, he may issue a notice of  
9 involuntary liquidation and appoint a liquidating agent. The  
10 credit union, within thirty days of issuance of ~~[such]~~ the  
11 notice, may apply to the court of appeals for an order to stay  
12 execution of such action;

13                   (5) if within the suspension period the credit  
14 union fails to answer the suspension notice or request a  
15 hearing, the director may then revoke the credit union's  
16 charter, appoint a liquidating agent and liquidate the credit  
17 union; and

18                   (6) in the event of liquidation, the assets of  
19 the credit union or the proceeds from any disposition of the  
20 assets shall be applied and distributed in the following  
21 sequence:

- 22                                   (a) costs and expenses of liquidation;  
23                                   (b) secured creditors up to the value of  
24 their collateral;  
25                                   (c) wages due the employees of the credit

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1 union;

2 (d) costs and expenses incurred by  
3 creditors in successfully opposing the release of the credit  
4 union from certain debts as allowed by the director or  
5 liquidating agent;

6 (e) taxes owed to the United States or  
7 any other governmental units;

8 (f) debts owed to the United States or  
9 other governmental units;

10 (g) general creditors, secured creditors  
11 to the extent their claims exceed the value of their collateral  
12 and owners of deposit accounts to the extent such accounts are  
13 uninsured; and

14 (h) members, to the extent of uninsured  
15 share accounts and the organization that insured the accounts of  
16 the credit union.

17 [~~L-~~] M. The director has the following authority  
18 with respect to the liquidation or conservatorship of any credit  
19 union:

20 (1) the director may, at his sole discretion  
21 and without notice, appoint himself, the insuring organization  
22 or any other person as conservator to immediately take  
23 possession and control of the business and assets of any credit  
24 union in any case in which the director determines that such  
25 action is necessary to conserve the assets of the credit union

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1 or to protect the interests of the members of that credit union.  
2 Any credit union may, by a resolution of its board of directors,  
3 consent to any such action by the director;

4 (2) not later than ten days after the date of  
5 which the director or his designee takes possession and control  
6 of the business and assets of a credit union pursuant to  
7 Paragraph (1) of this subsection, the credit union may apply to  
8 the court of appeals for an order requiring the director to show  
9 cause why he or his designee should not be enjoined from  
10 continuing such possession and control;

11 (3) except as provided in Paragraph (2) of this  
12 subsection, the director or his designee may maintain possession  
13 and control of the business and assets of the credit union and  
14 may operate the credit union until such time as:

15 (a) the director permits the credit union  
16 to continue business, subject to such terms and conditions as he  
17 imposes; or

18 (b) the credit union is liquidated in  
19 accordance with this section;

20 (4) the director may appoint such agents as he  
21 considers necessary in order to assist in carrying out the  
22 duties of the conservator under this section; and

23 (5) all expenses incurred by the director in  
24 exercising his authority under this section with respect to the  
25 liquidation or conservatorship of any credit union shall be paid

1 out of the assets of that credit union."

2 Section 4. Section 58-11-5 NMSA 1978 (being Laws 1987,  
3 Chapter 311, Section 5, as amended) is amended to read:

4 "58-11-5. EXAMINATIONS--SUPERVISION FEES.--

5 A. The director shall examine or cause to be  
6 examined each credit union. A credit union and any of its board  
7 members, executive officers, agents and employees shall give the  
8 director or his representatives full access to all books,  
9 papers, securities, records and other desired sources of  
10 information under their control.

11 B. A copy of the report of any such examination  
12 shall be forwarded to the board of directors of the credit union  
13 examined within thirty days after completion of the report. The  
14 report shall contain comments relative to the management of the  
15 affairs of the credit union and its general financial condition.  
16 The board of directors shall meet to consider matters contained  
17 in the report and shall respond to the director in writing,  
18 acknowledging receipt of the report and setting forth corrective  
19 measures taken or contemplated with respect to any adverse  
20 comments by the examiner.

21 C. In lieu of examination, the director may accept  
22 an audit report of the condition of a credit union, conducted by  
23 a certified public accountant or other qualified person or firm  
24 approved by the director. The cost of the audit shall be borne  
25 by the credit union.

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1 D. Each credit union shall annually pay to the  
 2 director a supervision fee in accordance with the following  
 3 schedule:

4 If the credit union's

5 total assets are--	6 The fee is--				
7 Over	8 But Not Over	9 This Amount	10 Plus	11 Per	12 Of Excess Over
13 - 0-	14 49, 999	15 400. 00			
16 50, 000	17 100, 000	18 400. 00	19 1. 7227	20 1, 000	21 50, 000
22 100, 001	23 250, 000	24 400. 00	25 1. 1021	1, 000	100, 000
26 250, 001	27 500, 000	28 400. 00	0. 9095	1, 000	250, 000
29 500, 001	30 1, 000, 000	31 575. 13	0. 5136	1, 000	500, 000
32 1, 000, 001	33 2, 000, 000	34 833. 42	0. 3959	1, 000	1, 000, 000
35 2, 000, 001	36 5, 000, 000	37 1, 226. 04	0. 3470	1, 000	2, 000, 000
38 5, 000, 001	39 20, 000, 000	40 2, 267. 21	0. 1800	1, 000	5, 000, 000
41 20, 000, 001	42 50, 000, 000	43 4, 898. 96	0. 1680	1, 000	20, 000, 000
44 50, 000, 001	45 100, 000, 000	46 9, 854. 85	0. 1551	1, 000	50, 000, 000
47 100, 000, 001		48 17, 642. 07	0. 1423	1, 000	100, 000, 000

49 ~~[plus one hundred dollars (\$100) for each branch office in~~  
 50 ~~operation].~~ The supervision fee shall be calculated as of  
 51 December 31. The fee shall be paid on or before the March 1  
 52 following the asset computation. For failure to pay the  
 53 supervision fee when due, unless excused for cause by the  
 54 director, the credit union shall pay to the division fifty  
 55 dollars (\$50.00) for each day of its delinquency. The director

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1 may prescribe lower supervision fees by regulation and in  
2 determining those fees, he may use criteria other than the total  
3 assets of the credit union paying the fee.

4 E. If at any time the director deems it necessary to  
5 examine a credit union more than once in any calendar year and  
6 if the credit union is determined to have violated the Credit  
7 Union Act or other state laws or federal laws or regulations  
8 the credit union shall pay to the director reimbursement of the  
9 actual costs of that examination or those examinations. "

10 Section 5. Section 58-11-9 NMSA 1978 (being Laws 1987,  
11 Chapter 311, Section 9, as amended) is amended to read:

12 "58-11-9. CONFLICTS OF INTEREST. -- No officer or employee  
13 of the division having supervisory authority over credit unions  
14 shall be a member, executive officer, director, attorney or  
15 employee of any credit union incorporated under or subject to  
16 the provisions of the Credit Union [Regulatory] Act; receive,  
17 directly or indirectly, any payment of gratuity from any such  
18 credit union; or be indebted to or engage in the negotiation of  
19 loans for others with any such credit union. "

20 Section 6. Section 58-11-10 NMSA 1978 (being Laws 1987,  
21 Chapter 311, Section 10) is amended to read:

22 "58-11-10. FORMATION OF CREDIT UNION. --

23 A. Any seven or more residents of this state of legal  
24 age [who] that share the common bond referred to in Section [21  
25 ~~of the Credit Union Regulatory Act]~~ 58-11-21 NMSA 1978 may



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1 organize a credit union and become charter members thereof by  
2 complying with this section.

3 B. The organizers shall prepare, adopt and execute in  
4 triplicate articles of organization and agree to the terms  
5 thereof. The articles shall state:

6 (1) the credit union's name and the location of  
7 the proposed credit union's principal place of business;

8 (2) that the existence of the credit union shall  
9 be perpetual; ~~[and]~~

10 (3) the names and addresses of the organizers  
11 ~~[and the number of shares subscribed to by each]; and~~

12 (4) that each member shall subscribe to one share  
13 of the credit union.

14 C. The organizers shall prepare, adopt and execute in  
15 duplicate bylaws consistent with the Credit Union ~~[Regulatory]~~  
16 Act for the general governance of the credit union.

17 D. The organizers shall select at least five persons  
18 who are eligible for membership and who agree to become members  
19 and serve on the board of directors and at least three other  
20 persons who are eligible for membership and who agree to become  
21 members and serve on the supervisory committee. The persons  
22 selected to serve on the board of directors and supervisory  
23 committee shall execute an agreement to serve in these  
24 capacities until the first annual meeting or until the election  
25 of their respective successors, whichever is later.

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[bracketed material] = delete

1           E. The organizers shall forward the triplicate  
2 articles of organization, the duplicate bylaws and the  
3 agreements to serve to the director who shall act upon the  
4 application within sixty days. The director shall issue a  
5 certificate of approval if the articles and bylaws are in  
6 conformity with applicable provisions of the Credit Union  
7 [~~Regulatory~~] Act and he is satisfied that:

8           (1) the characteristics of the common bond set  
9 forth in the proposed bylaws are favorable to the economic  
10 viability of the proposed credit union;

11           (2) the reputation and character of the initial  
12 board of directors and supervisory committee provide assurance  
13 that the credit union's affairs will be properly administered;  
14 and

15           (3) the share and deposit insurance requirements  
16 of Section [~~48 of the Credit Union Regulatory Act~~] 58-11-48 NMSA  
17 1978 will be met.

18           F. The following [~~providers~~] provisions apply to  
19 issuance and denial of certificate:

20           (1) if the director issues a certificate of  
21 approval, he shall return a copy of the bylaws to the organizers  
22 and, upon payment of the required fee, file the triplicate  
23 originals of the articles of organization with the state  
24 corporation commission; and

25           (2) if the director denies a certificate of

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1 approval, he shall notify the organizers and set forth his  
2 reasons for the denial. The [~~incorporators~~] organizers may  
3 appeal his decision to the court of appeals within thirty days  
4 after receipt of the notice of denial.

5 G. The organizers shall not transact any credit union  
6 business until a certificate of approval has been received and  
7 shall accept no payments on shares or deposit until insurance of  
8 accounts has been obtained as provided by Section [~~48 of the~~  
9 ~~Credit Union Regulatory Act~~] 58-11-48 NMSA 1978.

10 H. Any credit union, the articles of organization of  
11 which have been approved by the director, shall commence  
12 business within six months after satisfactory proof has been  
13 filed with the director showing that insurance of share and  
14 deposit accounts has been obtained. Upon showing of good cause  
15 for failure to commence business within this time, the director  
16 may grant a reasonable extension to overcome the reason for  
17 delay. Failure to commence business as required in this section  
18 or failure to obtain insurance of accounts within one year from  
19 the date of approval of the articles of organization constitutes  
20 grounds for forfeiture of the credit union's articles of  
21 organization. "

22 Section 7. Section 58-11-11 NMSA 1978 (being Laws 1987,  
23 Chapter 311, Section 11) is amended to read:

24 "58-11-11. FORMS OF ARTICLES AND BYLAWS.--In order to  
25 simplify the organization of credit unions, the director shall

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1 cause to be prepared model articles of organization and bylaws,  
2 consistent with the Credit Union [Regulatory] Act, which may be  
3 used by credit union organizers for their guidance. Such  
4 articles of organization and bylaws shall be available to  
5 persons desiring to organize a credit union."

6 Section 8. Section 58-11-13 NMSA 1978 (being Laws 1987,  
7 Chapter 311, Section 13) is amended to read:

8 "58-11-13. USE OF NAME EXCLUSIVE. --

9 A. The name of every credit union organized under or  
10 subject to the Credit Union [Regulatory] Act shall include the  
11 phrase "credit union". No credit union shall adopt a name  
12 either identical to the name of any other credit union doing  
13 business in this state or so similar to the name of any other  
14 credit union doing business in this state as to be misleading or  
15 to cause confusion.

16 B. No person other than a credit union organized under  
17 or subject to the Credit Union [Regulatory] Act, the Federal  
18 Credit Union Act or a credit union authorized to do business in  
19 this state under Section [~~16 of the Credit Union Regulatory Act~~]  
20 58-11-16 NMSA 1978, an association of credit unions or an  
21 organization, corporation or association whose membership or  
22 ownership is primarily limited to credit unions or credit union  
23 organizations shall use a name or title containing the phrase  
24 "credit union" or any derivation thereof, represent itself as a  
25 credit union or conduct business as a credit union.

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[bracketed material] = delete

1 C. Violation of this section [~~constitutes~~] is a fourth  
2 degree felony.

3 D. The director may petition the district court of  
4 Santa Fe county to enjoin a violation of this section. "

5 Section 9. Section 58-11-14 NMSA 1978 (being Laws 1987,  
6 Chapter 311, Section 14) is amended to read:

7 "58-11-14. OFFICE FACILITIES. --

8 A. A credit union may change its principal place of  
9 business within this state upon thirty days notice to the  
10 director.

11 B. A credit union may [~~maintain other~~] provide  
12 services through service facilities [~~including automated~~  
13 ~~terminals pursuant to the Remote Financial Service Unit Act, at~~  
14 ~~locations other than its principal office upon approval by the~~  
15 ~~director. The maintenance of such facilities must be reasonably~~  
16 ~~necessary to furnish service to its members~~].

17 C. A credit union may [~~join~~] individually or in  
18 conjunction with [~~one or more~~] other credit unions or other  
19 financial organizations [~~in the operation of~~] operate or  
20 maintain automated terminals or other service facilities. "

21 Section 10. Section 58-11-15 NMSA 1978 (being Laws 1987,  
22 Chapter 311, Section 15) is amended to read:

23 "58-11-15. FISCAL YEAR. --The fiscal year of each credit  
24 union organized under or subject to the Credit Union  
25 [~~Regulatory~~] Act shall end on the last day of December. "

Underscored material = new  
[bracketed material] = delete

1           Section 11. Section 58-11-16 NMSA 1978 (being Laws 1987,  
2 Chapter 311, Section 16) is amended to read:

3           "58-11-16. OUT-OF-STATE CREDIT UNIONS. -- A credit union  
4 organized under the laws of another state or territory of the  
5 United States may conduct business as a credit union in this  
6 state with the approval of the director. Before granting the  
7 approval, the supervisory authority of such credit union shall  
8 certify that the out-of-state credit union:

9           A. is a credit union organized under laws similar to  
10 the Credit Union [Regulatory] Act;

11           B. is financially solvent;

12           C. has account insurance approved for credit unions  
13 incorporated under or subject to the Credit Union [Regulatory]  
14 Act; and

15           D. needs to conduct business in this state to  
16 adequately serve its members in this state. "

17           Section 12. Section 58-11-17 NMSA 1978 (being Laws 1987,  
18 Chapter 311, Section 17) is amended to read:

19           "58-11-17. DOING BUSINESS OUTSIDE THIS STATE. -- A credit  
20 union organized under or subject to the Credit Union  
21 [Regulatory] Act may do business outside this state, provided  
22 that it is legal for it to do so in the foreign state or  
23 territory involved. If the director deems it necessary [~~the~~  
24 ~~examination of out-of-state offices of those credit unions~~] to  
25 conduct an examination of the out-of-state office of a credit

Underscored material = new  
[bracketed material] = delete

1 union, the actual expenses of the [~~exami-nations~~] exami-nation  
2 shall be paid by the credit union examined if the director  
3 determines it has violated the provisions of the Credit Union  
4 Act or other state laws or federal laws or regulations "

5 Section 13. Section 58-11-18 NMSA 1978 (being Laws 1987,  
6 Chapter 311, Section 18) is amended to read:

7 "58-11-18. POWERS OF CREDIT UNIONS. --In addition to the  
8 powers authorized elsewhere in the Credit Union [~~Regulatory~~]  
9 Act, a credit union may:

- 10 A. enter into contracts of any nature;
- 11 B. sue and be sued;
- 12 C. adopt, use and display a corporate seal;
- 13 D. acquire, lease, hold, assign, pledge, hypothecate,  
14 sell and discount or otherwise dispose of property or assets,  
15 either in whole or in part, necessary or incidental to its  
16 operations;
- 17 E. lend funds to members;
- 18 F. borrow from any source, provided that a credit  
19 union [~~must~~] shall have prior approval of the director before  
20 borrowing in excess of an aggregate of fifty percent of its  
21 capital;
- 22 G. purchase the assets of another credit union,  
23 subject to the approval of the director;
- 24 H. offer various financial services approved by the  
25 director;

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[bracketed material] = delete

1 I. hold membership in other credit unions organized  
2 under the Credit Union [Regulatory] Act, the Federal Credit  
3 Union Act or other acts and in associations and organizations  
4 controlled by or fostering the interests of credit unions,  
5 including a central liquidity facility organized under state or  
6 federal law;

7 J. engage in activities and programs as requested by  
8 any governmental unit; [and]

9 K. act as fiscal agent and receive payments on deposit  
10 accounts from a governmental unit; and

11 L. sell or offer to sell insurance to the same extent  
12 allowed by law to other state chartered lending institutions."

13 Section 14. Section 58-11-19 NMSA 1978 (being Laws 1987,  
14 Chapter 311, Section 19) is amended to read:

15 "58-11-19. INCIDENTAL POWERS. --A credit union may exercise  
16 all incidental powers that are convenient, suitable or necessary  
17 to enable it to carry out its purposes as provided in ~~the~~ its  
18 bylaws. "

19 Section 15. Section 58-11-20 NMSA 1978 (being Laws 1987,  
20 Chapter 311, Section 20) is amended to read:

21 "58-11-20. ADVANTAGEOUS FEDERAL POWERS. --In addition to  
22 other powers provided for the director and for credit unions  
23 organized under or subject to the Credit Union [Regulatory] Act  
24 and notwithstanding any law to the contrary, the director may  
25 adopt such rules and regulations as he deems necessary and



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[bracketed material] = delete

1 proper, granting to state credit unions any of the powers and  
2 authority that federal credit unions are or may hereafter be  
3 authorized, empowered, permitted or otherwise allowed to  
4 exercise under federal statutes, rules or regulations. "

5 Section 16. Section 58-11-22 NMSA 1978 (being Laws 1987,  
6 Chapter 311, Section 22, as amended) is amended to read:

7 "58-11-22. CENTRAL CREDIT UNIONS. --Central credit unions  
8 may be organized under the Credit Union ~~Regulatory~~ Act, and  
9 such credit unions organized under prior law are subject to that  
10 act. In addition to the members referred to in Section 58-11-21  
11 NMSA 1978, the membership of a central credit union may include:

12 A. executive officers, board members, committee  
13 members and employees of credit unions organized under any  
14 credit union act or the executive officers, directors and  
15 employees of an employer with insufficient numbers or with  
16 executive officers, directors and employees who do not desire to  
17 form or conduct the affairs of a separate credit union;

18 B. persons in the field of membership of liquidated  
19 credit unions ~~[which]~~ that have entered into or are about to  
20 enter into voluntary or involuntary liquidation proceedings; and

21 C. members of the immediate families of members  
22 qualified pursuant to Subsection A or B of this section. "

23 Section 17. Section 58-11-23 NMSA 1978 (being Laws 1987,  
24 Chapter 311, Section 23) is amended to read:

25 "58-11-23. OTHER CREDIT UNIONS. --Any credit union

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1 organized under or subject to the Credit Union ~~Regulatory~~ Act  
2 may accept as a member any other credit union organized under or  
3 subject to that act or any other act. "

4 Section 18. Section 58-11-24 NMSA 1978 (being Laws 1987,  
5 Chapter 311, Section 24) is amended to read:

6 "58-11-24. MEMBER ELIGIBILITY. -- ~~Members who cease to be~~  
7 eligible for membership in a credit union for reasons other than  
8 expulsion may be permitted to retain their membership in the  
9 credit ~~[unions]~~ union, subject to any restrictions which may be  
10 established by the ~~[board of directors]~~ bylaws. "

11 Section 19. Section 58-11-27 NMSA 1978 (being Laws 1987,  
12 Chapter 311, Section 27) is amended to read:

13 "58-11-27. DIRECTION OF AFFAIRS. --

14 A. A credit union shall be directed by a board of  
15 directors consisting of an odd number of members, as provided in  
16 the bylaws, but not less than five in number, to be elected  
17 annually by and from the members. The election shall be held at  
18 the annual meeting or in such other manner as the bylaws  
19 provide. All members of the board shall hold office for such  
20 terms as the bylaws provide.

21 B. The ~~[board of directors shall appoint or the]~~  
22 members shall elect [whichever is] as prescribed in the bylaws a  
23 supervisory committee of not less than three ~~[persons]~~ members  
24 at ~~[the organization meeting held within thirty days following]~~  
25 each annual election for ~~[such]~~ the terms ~~[as]~~ the bylaws

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1 provide.

2 C. ~~[The board of directors shall appoint or the~~  
3 ~~members shall elect a credit committee consisting of an odd~~  
4 ~~number not less than three, for such terms as the bylaws~~  
5 ~~provide. If a credit committee is not appointed or elected, it~~  
6 ~~shall be the duty of the board of directors or a credit manager~~  
7 ~~appointed by the board to assume the duties of the credit~~  
8 ~~committee hereinafter specified. If a credit manager is~~  
9 ~~appointed, he shall serve at the pleasure and under the~~  
10 ~~direction and supervision of the board of directors]~~ The board  
11 of directors may delegate any or all of its authority to extend  
12 credit, including the determination of interest rates, to one or  
13 more committees or an executive officer provided that such  
14 person is not a member of the board. A committee may consist of  
15 one or more members."

16 Section 20. Section 58-11-29 NMSA 1978 (being Laws 1987,  
17 Chapter 311, Section 29) is amended to read:

18 "58-11-29. VACANCIES. --The board of directors of a credit  
19 union shall fill any vacancies occurring in the board until  
20 successors elected at the next annual election have qualified.  
21 If more than fifty percent of the board positions become vacant  
22 at any one time, a special meeting of the members shall be  
23 called to fill all vacancies. ~~[The board shall also fill~~  
24 ~~vacancies in the credit committee, if any.]~~ The supervisory  
25 committee shall fill all vacancies in its own membership as they

Underscored material = new  
[bracketed material] = delete

1 occur. If all of the supervisory committee positions become  
2 vacant at any one time, the board of directors shall fill all  
3 vacancies, and those appointed members may serve until the next  
4 election. The board shall fill vacancies occurring on all other  
5 committees. "

6 Section 21. Section 58-11-30 NMSA 1978 (being Laws 1987,  
7 Chapter 311, Section 30, as amended) is amended to read:

8 "58-11-30. COMPENSATION OF OFFICIALS. --No board or  
9 committee member may be compensated for [hi-s] services performed  
10 in the regular course of duties pertaining to that board or  
11 committee position. Notwithstanding any provision of the Credit  
12 Union Act to the contrary, board or committee members may be  
13 compensated for those services provided to the credit union  
14 while temporarily serving in an additional capacity other than  
15 as a board or committee member. Reasonable life, health,  
16 accident and similar insurance protection shall not be  
17 considered compensation to a board or committee member. Board  
18 and committee members may be reimbursed for reasonable and  
19 necessary expenses incidental to the performance of official  
20 business of the credit union, provided that such expenses are  
21 documented. "

22 Section 22. Section 58-11-31 NMSA 1978 (being Laws 1987,  
23 Chapter 311, Section 31, as amended) is amended to read:

24 "58-11-31. CONFLICTS OF INTEREST. --No board member,  
25 committee member, executive officer, agent or employee of a

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1 credit union shall in any manner, directly or indirectly,  
2 participate in the deliberation upon or the determination of any  
3 question affecting his pecuniary interest, the pecuniary  
4 interest of his parents, children or siblings or spouses of any  
5 of those individuals or the pecuniary interest of any  
6 organization, other than the credit union, in which he is  
7 directly or indirectly interested. "

8 Section 23. Section 58-11-32 NMSA 1978 (being Laws 1987,  
9 Chapter 311, Section 32, as amended) is amended to read:

10 "58-11-32. OFFICERS. --

11 A. At ~~[its organization]~~ an organizational meeting  
12 held within thirty days following each annual election, the  
13 board of directors shall elect from its own number a chairman, a  
14 vice chairman and a secretary. It shall also elect any other  
15 board officers that are specified in the bylaws.

16 B. The terms of the board officers shall be one year  
17 or until their successors are chosen and have been duly  
18 qualified.

19 C. The duties of the board officers shall be  
20 prescribed in the bylaws.

21 D. ~~[The board of directors shall appoint a general~~  
22 ~~manager of the credit union to be in active charge of its~~  
23 ~~operations.]~~ The board of directors shall employ, elect or  
24 appoint an executive officer of the credit union who shall be  
25 responsible for credit union operations. The executive officer

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1 may be a member of the board of directors if not receiving paid  
2 compensation as executive officer, but may not be an officer of  
3 the board of directors. The executive officer will serve at the  
4 pleasure of the board of directors.

5 E. The board of directors may provide for other  
6 executive officers and prescribe their duties and authority in  
7 the bylaws.

8 F. Notwithstanding any other provisions of the Credit  
9 Union [~~Regulatory~~] Act, a credit union may use any titles it  
10 chooses for the officials holding the positions described in  
11 this section, provided those titles are not misleading. "

12 Section 24. Section 58-11-33 NMSA 1978 (being Laws 1987,  
13 Chapter 311, Section 33) is amended to read:

14 "58-11-33. AUTHORITY AND RESPONSIBILITY OF BOARD  
15 MEMBERS. --The board of directors shall have the authority and  
16 responsibility for providing the general direction of the  
17 business affairs, funds and records of the credit union. In  
18 addition to all other powers authorized in the Credit Union Act,  
19 the board of directors may:

20 A. limit the dollar amount of share and deposit  
21 accounts which may be owned by a member, provided such  
22 limitations shall equally apply to all members; and

23 B. authorize the credit union to contribute funds to  
24 any nonprofit civic, charitable, educational, research or  
25 service organization."

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1 Section 25. Section 58-11-36 NMSA 1978 (being Laws 1987,  
2 Chapter 311, Section 36, as amended) is amended to read:

3 "58-11-36. DUTIES OF BOARD MEMBERS. -- ~~It shall be the duty~~  
4 ~~of]~~

5 A. The board of directors ~~[to]~~ shall:

6 ~~[A.]~~ (1) act upon applications for membership or to  
7 appoint one or more membership officers to approve applications  
8 for membership under such conditions as the board prescribes. A  
9 record of the actions taken by a membership officer shall be  
10 made available in writing to the board of directors for  
11 inspection. A person denied membership ~~[by a membership~~  
12 ~~officer]~~ may appeal the denial to the board, and the person  
13 shall be informed ~~[by the membership officer]~~ of that right of  
14 appeal in writing by the credit union

15 ~~[B.]~~ (2) authorize and require the purchase of  
16 adequate fidelity coverage as it determines to be necessary for  
17 the board members, committee members, executive officers or  
18 employees of the credit union ~~[The director may, by rule,~~  
19 ~~regulation or order, establish which credit union personnel~~  
20 ~~shall be covered by a fidelity bond and in what amounts]~~ with  
21 documentation made available to the director about who is  
22 covered;

23 ~~[C.]~~ (3) authorize and determine from time to time the  
24 interest rates ~~[which]~~ that shall be charged on ~~[loans]~~  
25 extensions of credit to members and authorize any interest

Underscored material = new  
[bracketed material] = delete

1       refunds on ~~[such classes of loans and]~~ extensions of credit  
2       under ~~[such]~~ the conditions ~~[as]~~ the board prescribes;

3               ~~[D.]~~ (4) establish written policies with respect to  
4       the terms and conditions for granting ~~[of]~~ loans and the  
5       ~~[extending of lines]~~ extension of credit, including the maximum  
6       amount ~~[which]~~ that may be ~~[loaned]~~ provided to any one member;

7               ~~[E.]~~ (5) declare dividends on share accounts and  
8       membership shares in the manner and form as provided in the  
9       bylaws, which dividends shall not exceed the credit union's net  
10       earnings, including undivided earnings ~~[and determine the~~  
11       ~~interest rates which shall be paid on deposit accounts;~~

12               ~~F. if deemed desirable, limit the dollar amount of~~  
13       ~~share and deposit accounts which may be owned by a member,~~  
14       ~~provided any such limitation shall apply equally to all~~  
15       ~~members];~~

16               ~~[G.]~~ (6) have charge of the investment of funds,  
17       except that the board may designate an investment committee or  
18       investment officer under written investment policies established  
19       by the board;

20               ~~[H.]~~ (7) authorize the employment of persons to carry  
21       on the business of the credit union and ~~[fix]~~ establish the  
22       compensation of the ~~[general manager]~~ executive officer;

23               ~~[I.]~~ (8) approve an annual operating budget for the  
24       credit union;

25               ~~[J.]~~ (9) authorize the conveyance of property;



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1           ~~[K. authorize contributions to any nonprofit civic,~~  
2           ~~charitable or service organization;~~

3           ~~L.]~~ (10) [designate] authorize the designation of  
4           depositories for the operating funds of the credit union;

5           ~~[M.]~~ (11) appoint any ~~[special]~~ committees deemed  
6           necessary; and

7           ~~[N.]~~ (12) perform such other duties as the members  
8           from time to time direct and perform or authorize any action not  
9           inconsistent with the Credit Union ~~[Regulatory]~~ Act and not  
10          specifically reserved by the bylaws to the members.

11          B. Any member of the supervisory committee or of any  
12          other committee established for the purposes of extending credit  
13          may be temporarily suspended or removed by the board of  
14          directors by a two-thirds vote of the board of directors at a  
15          meeting in which a quorum is present for failure to perform  
16          those duties in accordance with the Credit Union Act, the  
17          articles of organization or the bylaws and for no other reason.  
18          The suspension or removal of a supervisory committee member  
19          shall be acted upon by the members at a meeting to be held not  
20          less than seven or more than twenty-one days after such  
21          suspension or removal. "

22          Section 26. Section 58-11-38 NMSA 1978 (being Laws 1987,  
23          Chapter 311, Section 38, as amended) is amended to read:

24          "58-11-38. SUPERVISORY COMMITTEE. --

25                 A. The supervisory committee shall make or cause to be

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1 made by a certified public accountant or other qualified person  
2 or firm a comprehensive annual audit of the books and affairs of  
3 the credit union. It shall submit a report of each annual audit  
4 to the board of directors and make the report available to the  
5 ~~[division]~~ director, and a summary of the report shall be  
6 presented to the members at the next annual meeting of the  
7 credit union.

8 B. The supervisory committee shall make or cause to be  
9 made such supplementary audits, examinations and verifications  
10 of members' share and loan accounts as it deems necessary or as  
11 are required by the board of directors and submit reports of  
12 those audits to the board of directors. A complete verification  
13 of members' share and loan accounts shall be performed at least  
14 once every two years in accordance with standards established by  
15 the director.

16 C. The supervisory committee by a two-thirds vote of  
17 the entire committee may in its sole discretion suspend ~~[any]~~  
18 ~~[member of the credit committee]~~ a person authorized to extend  
19 credit if the person is not a paid employee of the credit union  
20 and shall report ~~[such]~~ the action to the board of directors for  
21 appropriate action. Paid employees of the credit union that are  
22 authorized to extend credit may be suspended for any reason but  
23 only by the executive officer of the credit union

24 D. The supervisory committee by a two-thirds vote of  
25 the entire committee may suspend any member of the board of

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[bracketed material] = delete

1 directors until the next members' meeting, which shall be held  
2 not less than seven or more than twenty-one days after such  
3 suspension. At that meeting, the suspension shall be acted upon  
4 by the members and the board member removed from or restored to  
5 his position.

6 ~~[E. Any member of the supervisory committee or of the~~  
7 ~~credit committee may be suspended or removed by the board of~~  
8 ~~directors by a two-thirds vote of those present for failure to~~  
9 ~~perform his duties in accordance with the Credit Union~~  
10 ~~Regulatory Act, the articles of organization or the bylaws and~~  
11 ~~for no other reason. That suspension or removal of a~~  
12 ~~supervisory committee member shall be acted upon by the members~~  
13 ~~at a meeting to be held not less than seven or more than twenty-~~  
14 ~~one days after such suspension or removal.~~

15 F.] E. The supervisory committee by a majority vote  
16 may call a special meeting of the members to consider any  
17 violation or potential violation of the Credit Union  
18 [Regulatory] Act, the credit union's articles of organization or  
19 bylaws or any practice of the credit union deemed by the  
20 supervisory committee to be unsafe, unsound or unauthorized.  
21 The bylaws shall prescribe the manner in which a special meeting  
22 of the members may be called by the members or by the board of  
23 directors. "

24 Section 27. Section 58-11-39 NMSA 1978 (being Laws 1987,  
25 Chapter 311, Section 39) is amended to read:

1 "58-11-39. MEMBERS' ACCOUNTS. --

2 A. The bylaws of a credit union ~~[shall]~~ may require  
3 the members to subscribe to and make payments on membership  
4 shares.

5 B. Share accounts, membership shares and deposit  
6 accounts shall be subscribed to and paid for in such manner as  
7 the bylaws prescribe.

8 C. The par value of shares and membership shares shall  
9 be as prescribed in the bylaws.

10 D. Membership shares may not be pledged as security on  
11 any ~~[loan]~~ extension of credit."

12 Section 28. Section 58-11-40 NMSA 1978 (being Laws 1987,  
13 Chapter 311, Section 40) is amended to read:

14 "58-11-40. DIVIDENDS AND INTEREST. --

15 A. ~~[At intervals and for periods, the board of~~  
16 ~~directors may authorize]~~ Periodically, and after provision for  
17 the required reserves, the board of directors may declare,  
18 dividends to be paid on share accounts and membership shares.  
19 Dividends may be paid from the credit union's undivided  
20 earnings; provided, no such payment shall result in or increase  
21 a debit balance in the undivided earnings account.

22 B. Dividends may be paid at various rates with due  
23 regard to the conditions that pertain to each type of account,  
24 such as minimum balance, notice and time requirements.

25 C. Dividends need not be paid on membership shares,

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1 but if such a dividend is paid, it shall be added to the  
2 membership share held by each member.

3 D. A credit union may receive payments on deposit  
4 accounts from its members and other credit unions subject to  
5 such terms, rates and conditions as the board of directors  
6 establishes.

7 E. Interest may be paid on deposit accounts at various  
8 rates with due regard to the conditions that pertain to each  
9 type of account, such as minimum balance, notice and time  
10 requirements. "

11 Section 29. Section 58-11-43 NMSA 1978 (being Laws 1987,  
12 Chapter 311, Section 43) is amended to read:

13 "58-11-43. JOINT ACCOUNTS. --

14 A. A member may designate any person to own a share  
15 account or deposit account [~~with him~~] in joint tenancy with the  
16 right of survivorship, as a tenant in common or under any other  
17 form of joint ownership permitted by law, but no co-owner,  
18 unless also a member in his own right, shall be permitted to  
19 vote, obtain loans, hold office or be required to pay a  
20 membership fee.

21 B. Payment of part or all of those accounts to any of  
22 the co-owners shall, to the extent of such payment, discharge  
23 the liability to all unless the account agreement contains a  
24 prohibition. "

25 Section 30. Section 58-11-44 NMSA 1978 (being Laws 1987,

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[bracketed material] = delete

1 Chapter 311, Section 44, as amended) is amended to read:

2 "58-11-44. TRUST ACCOUNTS. --

3 A. Share accounts and deposit accounts may be owned by  
4 a member in trust for a beneficiary or owned by a non-member in  
5 trust for a beneficiary who is a member.

6 B. Beneficiaries may be minors, but no beneficiary,  
7 unless a credit union member [~~in his own right~~], shall be  
8 permitted to vote, obtain loans, hold office or be required to  
9 pay a membership fee.

10 C. Payment of part or all of a trust account to the  
11 party in whose name the account is held shall, to the extent of  
12 that payment, discharge the liability of the credit union to  
13 that party and to the beneficiary, and the credit union shall be  
14 under no obligation to see to the application of that payment.

15 D. In the event of the death of the party who owns a  
16 trust account, if the credit union has been given no other  
17 written notice of the existence or terms of any trust and has  
18 not received a court order as to disposition of the account,  
19 account funds and any dividends or interest thereon shall be  
20 paid to the beneficiary. "

21 Section 31. Section 58-11-46 NMSA 1978 (being Laws 1987,  
22 Chapter 311, Section 46) is amended to read:

23 "58-11-46. LIENS. -- A credit union shall have a lien on the  
24 membership shares, share accounts and deposit accounts and  
25 accumulated dividends and interest of a [~~member in his~~] member's

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1 individual, joint or trust account for any sum owed the credit  
2 union from that member or for any ~~[loan]~~ extension of credit  
3 endorsed or guaranteed by him. A credit union may refuse to  
4 allow withdrawals and shall have a right of immediate set-off  
5 with respect to every such account. The ~~[credit committee,~~  
6 ~~credit manager or loan officer]~~ board of directors or any person  
7 or committee to which it has delegated the authority to extend  
8 credit may waive the credit union's rights to a lien, to  
9 immediate set-off, to restrict withdrawals or to any combination  
10 of those rights with respect to any share or deposit account or  
11 groups of those accounts."

12 Section 32. Section 58-11-48 NMSA 1978 (being Laws 1987,  
13 Chapter 311, Section 48) is amended to read:

14 "58-11-48. SHARE AND DEPOSIT INSURANCE. --

15 A. Before the organizers of a credit union submit the  
16 organizational documents to the director under Section ~~[10 of~~  
17 ~~the Credit Union Regulatory Act]~~ 58-11-10 NMSA 1978, they shall  
18 apply for insurance of share accounts and deposit accounts by  
19 the national credit union ~~[administration]~~ administration's  
20 share insurance fund or, alternatively, for insurance from an  
21 insuring organization approved by the director. Any membership  
22 share issued by a credit union shall be excluded from the  
23 requirement for insurance.

24 B. A credit union ~~[which]~~ that has been denied or has  
25 lost its ~~commitment~~ for that insurance or ~~[which]~~ that has been

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[bracketed material] = delete

1 notified of cancellation of that insurance shall within thirty  
2 days commence steps to either liquidate or merge with an insured  
3 credit union.

4 C. No credit union shall commence business unless such  
5 credit union has obtained insurance of its share accounts and  
6 deposit accounts.

7 D. The director shall make available reports of  
8 condition and examination findings to the national credit union  
9 administration or to the appropriate insuring organization and  
10 may accept any report of examination made on behalf of such  
11 organization. "

12 Section 33. Section 58-11-49 NMSA 1978 (being Laws 1987,  
13 Chapter 311, Section 49, as amended) is amended to read:

14 "58-11-49. LOAN POLICIES. --

15 A. A credit union may [~~lend~~] extend credit to members  
16 for such purposes and upon such conditions as the bylaws may  
17 provide.

18 B. The interest rates on [~~loans~~] extensions of credit  
19 shall be authorized and determined by the board of directors  
20 [~~subject to the provisions of Sections 56-8-11.1 and 56-8-11.2~~  
21 ~~NMSA 1978~~] or any person or committee to which it has delegated  
22 that authority.

23 C. A credit union may assess charges to members, in  
24 accordance with the bylaws, for failure to meet their  
25 obligations to the credit union in a timely manner.



Underscored material = new  
[bracketed material] = delete

1           D. Except as provided in Subsection H of this section,  
2 every application for ~~[a loan]~~ an extension of credit and every  
3 approved extension of credit shall be made in writing ~~[upon a~~  
4 ~~form prescribed by the board of directors. Each loan shall be~~  
5 ~~evidenced by a written document]~~ in a standard format consistent  
6 with the extension of credit policies approved by the board of  
7 directors.

8           E. No loan shall be made to any member in an aggregate  
9 amount in excess of ten percent of the credit union's total  
10 assets as determined by the director.

11           F. Security, within the meaning of the Credit Union  
12 [~~Regulatory~~] Act, may include, without limitation because of  
13 enumeration, the endorsement of a note by a surety or guarantor,  
14 assignment of an interest in real or personal property or any  
15 other collateral deemed acceptable by the board of directors.  
16 The types of security acceptable shall be determined by the  
17 written [~~lending~~] policies established by the board of directors  
18 [~~under~~] pursuant to Section 58-11-36 NMSA 1978.

19           G. A member may receive ~~[a loan]~~ an extension of  
20 credit in installments or in one sum and may pay the whole or  
21 any part ~~[of his loan]~~ on any day on which the office of the  
22 credit union is open for business.

23           H. Upon written application by a member, the [~~credit~~  
24 ~~committee, credit manager or loan officer]~~ board of directors or  
25 any person or committee to which it has delegated authority to

Underscored material = new  
[bracketed material] = delete

1 extend credit may approve a self-replenishing line of credit,  
2 and [~~loan~~] advances may be granted to the member within the  
3 limit of such line of credit. Whenever a line of credit has  
4 been approved, no additional credit application is required as  
5 long as the aggregate indebtedness does not exceed the approved  
6 limit; provided, however, each line of credit shall be reviewed  
7 in accordance with the credit union's [~~loan~~] policy governing  
8 extensions of credit.

9 I. A credit union may participate in [~~loans~~]  
10 extensions of credit to credit union members jointly with other  
11 credit unions or other financial organizations pursuant to  
12 written policies established by the board of directors. A  
13 credit union which originates such [~~a loan~~] an extension shall  
14 retain an interest of at least ten percent of the face amount of  
15 the [~~loan~~] extension of credit.

16 J. A credit union may:

17 (1) participate in any guaranteed loan program of  
18 the federal government or of this state under the terms and  
19 conditions specified by the law under which such a program is  
20 provided; and

21 (2) purchase the conditional sales contracts,  
22 notes and similar instruments of its members.

23 K. A credit union may make [~~loans~~] an extension of  
24 credit to any of its executive officers, board members and  
25 members of its supervisory and [~~credit~~] other committees,

Underscored material = new  
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1 provided that:

2 (1) the ~~[loan]~~ extension of credit complies with  
3 all lawful requirements under the Credit Union ~~[Regulatory]~~ Act  
4 with respect to loans to other members, ~~[and]~~ is not on terms  
5 more favorable than those extended to other borrowers and is in  
6 compliance with loan policies established by the board for other  
7 borrowers;

8 (2) the following provisions have been met:

9 (a) the ~~[loan]~~ extension of credit is  
10 approved by ~~[the credit committee, credit manager or loan~~  
11 ~~officer and by the board of directors after the submission to~~  
12 ~~them of a detailed current financial statement or loan~~  
13 ~~application form signed by the applicant; and]~~ the board of  
14 directors or any person or committee to which it has delegated  
15 authority to extend credit;

16 (b) the applicant takes no part in the  
17 consideration of his application and does not attend any  
18 committee or board meeting while his application is under  
19 consideration; and

20 (3) if the aggregate extension of credit to the  
21 applicant, including the extension applied for and excluding  
22 share or deposit secured loans, exceeds twenty thousand dollars  
23 (\$20,000), the extension of credit must be approved by the board  
24 of directors after submission by the applicant of a completed  
25 application, including a detailed current financial statement of

Underscored material = new  
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1 the applicant.

2 L. A credit union may permit executive officers, board  
3 members and members of its committees to act as co-makers,  
4 guarantors or endorsers of loans to other members subject to the  
5 requirements of Subsection K of this section.

6 [~~L.~~] M. A credit union may permit executive officers,  
7 board members and members of its [~~supervisory and credit~~]  
8 committees to act as co-makers, guarantors or endorsers of  
9 [~~loans~~] extensions of credit to other members, subject to the  
10 requirements of Subsection K of this section. "

11 Section 34. Section 58-11-53 NMSA 1978 (being Laws 1987,  
12 Chapter 311, Section 53, as amended) is amended to read:

13 "58-11-53. MONEY-TYPE INSTRUMENTS. --A credit union may  
14 collect, receive and disburse money in connection with the  
15 providing of negotiable checks, money orders, travelers checks  
16 and other money-type instruments for its members and the  
17 providing of services through service facilities, including  
18 automated terminal machines and for such other purposes as may  
19 provide benefit or convenience to its members. A credit union  
20 may charge reasonable fees for those services. "

21 Section 35. Section 58-11-56 NMSA 1978 (being Laws 1987,  
22 Chapter 311, Section 56, as amended) is amended to read:

23 "58-11-56. INVESTMENTS. --Funds not required to satisfy  
24 member [~~loan~~] demands for extensions of credit may be invested  
25 in:

1           A. securities, obligations or other instruments of or  
2 issued by or fully guaranteed as to principal and interest by  
3 the United States or any agency of the United States or in any  
4 trust investing solely, directly or indirectly in the same;

5           B. securities, obligations or other instruments of  
6 this state or any political subdivision of this state;

7           C. deposits or other accounts of state or federally  
8 chartered financial institutions the accounts of which are  
9 insured by an agency of the United States;

10          D. loans or extensions of credit to or shares or  
11 deposits of other credit unions, central credit unions or  
12 corporate credit unions, the accounts of which are insured by  
13 the national credit union administration's share insurance fund;

14          E. deposits in, loans to or shares of any federal  
15 reserve bank or of any central liquidity facility established  
16 under federal law;

17          F. shares, stocks, loans or extensions of credit to or  
18 other obligations of any organization, corporation or  
19 association providing services which are associated with the  
20 general purposes of the credit union or which engages in  
21 activities incidental to the operations of a credit union.  
22 Those investments in the aggregate shall not exceed five percent  
23 of the credit union's capital;

24          G. shares of a cooperative society organized under the  
25 laws of this state or of the laws of the United States in a

Underscored material = new  
[bracketed material] = delete

1 total amount not exceeding ten percent of the capital of the  
2 credit union, subject to prior approval by the director; ~~and]~~

3 H. fixed assets, not to exceed six percent of the  
4 credit union's capital and deposits, unless with the written  
5 approval of the director. For the purpose of this subsection,  
6 "fixed assets" means structures, land, computer hardware and  
7 software and heating and cooling equipment that are affixed to  
8 the premises; and

9 I. investments or activities that the director  
10 determines are a part of or incidental to the operations of a  
11 credit union notwithstanding any provision to the contrary in  
12 the Credit Union Act. "

13 Section 36. Section 58-11-57 NMSA 1978 (being Laws 1987,  
14 Chapter 311, Section 57, as amended) is amended to read:

15 "58-11-57. RESERVE REQUIREMENTS. --

16 A. Immediately before the payment of dividends and at  
17 the end of each accounting period, the gross earnings of a  
18 credit union shall be determined. From this amount, there shall  
19 be set aside as a regular reserve in accordance with the  
20 following schedule:

21 (1) a credit union in operation for more than  
22 four years and having assets of five hundred thousand dollars  
23 (\$500,000) or more shall set aside ten percent of gross income  
24 until the regular reserve equals four percent of the total risk  
25 assets, then five percent of gross income until the regular

Underscored material = new  
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1 reserve equals six percent of the total risk assets;

2 (2) a credit union in operation less than four  
3 years or having assets of less than five hundred thousand  
4 dollars (\$500,000) shall set aside ten percent of gross income  
5 until the regular reserve equals seven and one-half percent of  
6 the total risk assets, then five percent of gross income until  
7 the regular reserve equals ten percent of the total risk assets;  
8 and

9 (3) whenever the regular reserve falls below the  
10 stated percent of total risk assets, it shall be replenished by  
11 regular contributions in [~~such~~] those amounts as [~~may~~]  
12 determined by the director to be needed to maintain the stated  
13 reserve requirements.

14 B. When the regular reserve is not established as  
15 required and dividends are paid by a credit union, the director  
16 may suspend the operation of the credit union or take other  
17 appropriate lawful action until the reserve requirements are  
18 met.

19 C. The director may decrease or waive entirely the  
20 reserve requirements for an individual credit union in one or  
21 more accounting periods when in his judgment such action is  
22 necessary or desirable.

23 D. The regular reserve shall belong to the credit  
24 union and shall be used to meet losses on loans and other risk  
25 assets, including the principal, and to meet such other classes

Underscored material = new  
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1 of losses as are approved by the director. The reserve shall  
2 not be distributed except on liquidation of the credit union or  
3 in accordance with a plan approved by the director.

4 E. Any one-time or periodic membership fees  
5 established by the board of directors shall be credited, after  
6 payment of organization expenses, to a reserve for contingencies  
7 account, undivided earnings or regular reserve. "

8 Section 37. Section 58-11-58 NMSA 1978 (being Laws 1987,  
9 Chapter 311, Section 58) is amended to read:

10 "58-11-58. DISSOLUTION. --

11 A. A credit union may elect to dissolve voluntarily  
12 and liquidate its affairs in the manner prescribed in this  
13 section.

14 B. If it decides to begin the procedure, the board of  
15 directors shall adopt a resolution recommending the credit union  
16 be dissolved voluntarily and directing that the question of  
17 liquidation be submitted to the members.

18 C. Within ten days after the board of directors  
19 decides to submit the questions of liquidation to the members,  
20 the chairman of the board or [~~president~~] executive officer shall  
21 notify the director and the insuring organization in writing,  
22 setting forth the reasons for the proposed liquidation. Within  
23 ten days after such notice, a special meeting of the members  
24 shall be called to vote on whether [~~or not~~] to liquidate the  
25 credit union. Within ten days after the members act on the



Underscored material = new  
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1 question of liquidation, the chairman of the board or  
2 [~~president~~] executive officer shall notify the director and the  
3 insuring organization in writing as to the action of the members  
4 on the proposal.

5 D. When the board of directors decides to submit the  
6 question of liquidation to the members, payments on, withdrawal  
7 of and making any transfer of share and deposit accounts to  
8 loans and interest, making investments of any kind and granting  
9 loans may be restricted or suspended pending action by members  
10 on the proposal to liquidate. On approval by the members of the  
11 proposal, all business transactions shall be permanently  
12 discontinued. Necessary expenses of operations shall, however,  
13 continue to be paid on authorization of the board of directors  
14 or liquidating agent during the period of liquidation.

15 E. For a credit union to enter voluntary liquidation,  
16 approval by a majority of the members in writing or by a two-  
17 thirds majority of the members present at a meeting of the  
18 members is required. When authorization for liquidation is to  
19 be obtained at a meeting of the members, notice in writing shall  
20 be given to each member, by first class mail, at least ten days  
21 prior to that meeting.

22 F. A liquidating credit union shall continue in  
23 existence for the purpose of discharging its debts, collecting  
24 on loans and distributing its assets and doing all acts required  
25 in order to wind up its business and it may sue and be sued for

Underscored material = new  
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1 the purpose of enforcing those debts and obligations until its  
2 affairs are fully concluded.

3 G. The board of directors or the liquidating agent  
4 shall distribute the assets of the credit union or the proceeds  
5 of any disposition of the assets in the sequence described in  
6 Section [~~3 of the Credit Union Regulatory Act~~] 58-11-3 NMSA  
7 1978.

8 H. When the board of directors or the liquidating  
9 agent determines that all assets from which there is a  
10 reasonable expectancy of recovery have been liquidated and  
11 distributed as set forth in this section, they shall execute a  
12 certificate of dissolution on a form prescribed by the director  
13 and file the same, together with all pertinent books and records  
14 of the liquidating credit union, with the director, whereupon  
15 the credit union shall be dissolved. "

16 Section 38. Section 58-11-59 NMSA 1978 (being Laws 1987,  
17 Chapter 311, Section 59, as amended) is amended to read:

18 "58-11-59. MERGER OF CREDIT UNIONS. --

19 A. A credit union organized under or subject to the  
20 Credit Union [~~Regulatory~~] Act may, with the approval of the  
21 director and regardless of common bond, merge with one or more  
22 other credit unions subject to that act, the laws of another  
23 state or territory of the United States or the laws of the  
24 United States.

25 B. When two or more credit unions merge, they shall

Underscored material = new  
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1 either designate one ~~[of them]~~ credit union as the continuing  
2 credit union or they shall structure a totally new credit union  
3 and designate it as the new credit union. If the latter  
4 procedure is followed, the new credit union shall be organized  
5 under Section 58-11-10 NMSA 1978. All participating credit  
6 unions other than the continuing credit union shall be  
7 designated as merging credit unions.

8 C. Any merger of credit unions shall be done according  
9 to a plan of merger. After approval by the boards of directors  
10 of all participating credit unions, the plan shall be submitted  
11 to the director for preliminary approval. If the plan includes  
12 the creation of a new credit union, all documents required by  
13 Section 58-11-10 NMSA 1978 shall be submitted as part of the  
14 plan. In addition, each participating credit union shall  
15 submit:

16 (1) the time and place of the meeting of the  
17 board of directors at which the plan was agreed upon;

18 (2) the vote of the board of directors in favor  
19 of the adoption of the plan; and

20 (3) a copy of the resolution or other action by  
21 which the plan was agreed upon.

22 The director shall grant preliminary approval if the plan  
23 has been properly approved by each board of directors and if the  
24 documentation required to form a new credit union, if any,  
25 complies with Section 58-11-10 NMSA 1978.

Underscored material = new  
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1           D. After the director grants preliminary approval,  
2 each merging credit union shall, unless waived by the director,  
3 conduct a membership vote on its participation in the plan. The  
4 vote shall be conducted either at a special membership meeting  
5 called for that purpose or by mail ballot. If a majority of the  
6 members voting approve the plan, the credit union shall submit a  
7 record of that fact to the director, indicating the vote by  
8 which the members approved the plan and either the time and  
9 place of the membership meeting or the mailing date and closing  
10 date of the mail ballot.

11           E. The director may waive the membership vote  
12 described in Subsection D of this section in the case of a given  
13 credit union if he determines that it is in the best interests  
14 of the membership or that the credit union is insolvent or in  
15 imminent danger of becoming insolvent.

16           F. The director shall grant final approval of the plan  
17 of merger after determining that the requirements of Subsection  
18 D of this section in the case of each merging credit union have  
19 been met. If the plan of merger includes the creation of a new  
20 credit union, the director shall approve the organization of the  
21 new credit union under Section 58-11-10 NMSA 1978 as part of the  
22 approval of the plan of merger. The director shall notify all  
23 participating credit unions of the approval of the plan.

24           G. Upon final approval of the plan by the director,  
25 all property, property rights and members' interests in each

Underscored material = new  
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1 merging credit union shall vest in the continuing or new credit  
2 union, as applicable, without deed, endorsement or other  
3 instrument of transfer, and all debts, obligations and  
4 liabilities of each merging credit union shall be deemed to have  
5 been assumed by the continuing or new credit union. The rights  
6 and privileges of the members of each participating credit union  
7 shall remain intact; however, if a person is a member of more  
8 than one of the participating credit unions, that person shall  
9 be entitled to only a single set of membership rights in the  
10 continuing or new credit union.

11 H. If the continuing or new credit union is chartered  
12 by another state or territory of the United States, it shall be  
13 subject to the requirement of Section 58-11-16 NMSA 1978.

14 I. Notwithstanding any other provision of law, the  
15 director may authorize a merger or consolidation of a credit  
16 union [~~which~~] that is insolvent or is in danger of insolvency  
17 with any other credit union or may authorize a credit union to  
18 purchase any of the assets of or assume any of the liabilities  
19 of any other credit union [~~which~~] that is insolvent or in danger  
20 of insolvency if the director is satisfied that:

21 (1) an emergency requiring expeditious action  
22 exists with respect to that other credit union;

23 (2) other alternatives are not reasonably  
24 available; and

25 (3) the public interest would best be served by

Underscored material = new  
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1 approval by that merger, consolidation, purchase or assumption.

2 J. Notwithstanding any other provision of law, the  
3 director may authorize an institution whose deposits or accounts  
4 are insured by an agency of the federal government to purchase  
5 any of the assets of or assume any of the liabilities of a  
6 credit union which is insolvent or in danger of insolvency,  
7 except that prior to exercising this authority, the director  
8 shall attempt to effect a merger or consolidation with, or  
9 purchase and assumption by, another credit union as provided in  
10 Subsection I of this section.

11 For purposes of the authority contained in this subsection,  
12 insured share and deposit accounts of the credit union may, upon  
13 consummation of the purchase and assumption, be converted to  
14 insured deposits or other comparable accounts in the acquiring  
15 institution. "

16 Section 39. Section 58-11-61 NMSA 1978 (being Laws 1987,  
17 Chapter 311, Section 61) is amended to read:

18 "58-11-61. TAXATION. --

19 A. A credit union organized under or subject to the  
20 Credit Union [Regulatory] Act is exempt from taxation to the  
21 extent that a credit union chartered under federal law is  
22 exempt.

23 B. The shares of a credit union shall not be subject  
24 to stock transfer taxes, either when issued or when transferred  
25 from one member to another.

Underscored material = new  
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1 C. The participation by a credit union in any  
2 government program providing unemployment, social security, old  
3 age pension or other benefits shall not be deemed a waiver of  
4 the tax exemptions [~~hereby~~] granted by this section. "

5 Section 40. Section 58-11-64 NMSA 1978 (being Laws 1987,  
6 Chapter 311, Section 64) is amended to read:

7 "58-11-64. PAYMENT FROM ACCOUNT OF DECEASED MEMBER. --  
8 Notwithstanding any other law or regulation upon receiving a  
9 certified copy of a death certificate and an affidavit from the  
10 person applying for money stating that a member is dead and the  
11 affiant is a surviving spouse or next of kin and that the entire  
12 amount that the applicant wishes to withdraw does not exceed the  
13 sum of two thousand dollars (\$2,000), the credit union may pay  
14 to the affiant the amount so held by the credit union, not in  
15 excess of two thousand dollars (\$2,000), and the affiant's  
16 receipt shall release the credit union from all liability  
17 thereof. "

18 Section 41. REPEAL. -- Sections 58-11-34 and 58-11-37 NMSA  
19 1978 (being Laws 1987, Chapter 311, Sections 34 and 37, as  
20 amended) are repealed.

21 Section 42. REPEAL. -- Laws 1987, Chapter 311, Section 68 is  
22 repealed.

23 Section 43. EFFECTIVE DATE. -- The effective date of the  
24 provisions of this act is July 1, 1997.

1 FORTY-THIRD LEGISLATURE  
2 FIRST SESSION, 1997  
3  
4  
5

6 February 13, 1997  
7

8 Mr. President:  
9

10 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
11 whom has been referred  
12

13 SENATE BILL 594  
14

15 has had it under consideration and reports same with recommendation  
16 that it DO PASS, and thence referred to the FINANCE  
17 COMMITTEE.  
18

19  
20 Respectfully submitted,  
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24 \_\_\_\_\_  
25 Roman M. Maes, III, Chairman



Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

No: None

Excused: McKibben, Maes

Absent: None

S0594CT1

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FORTY-THIRD LEGISLATURE

FIRST SESSION

February 21, 1997

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 594

Amendment sponsored by Senator Shannon Robinson

1. On page 21, line 7, strike "OFFICE" and insert in lieu thereof "SERVICE".

2. On page 44, liens 2 through 5, strike Subsection L in its entirety.

3. Reletter the succeeding subsection accordingly.

FORTY-THIRD LEGISLATURE  
FIRST SESSION

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SF1/SB 594

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\_\_\_\_\_  
Shannon Robinson

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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**State of New Mexico**  
**House of Representatives**

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**FORTY-THIRD LEGISLATURE**  
**FIRST SESSION, 1997**

March 11, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
been referred

SENATE BILL 594, as amended

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
CONSUMER AND PUBLIC AFFAIRS COMMITTEE.

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HBI C/SB 594

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Respectfully submitted,

\_\_\_\_\_  
Fred Luna, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)  
(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Alwin, Getty, Olguin

Absent: None

M \S0594

Underscored material = new  
[bracketed material] = delete