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SENATE BILL 331

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Roman M. Maes III

AN ACT

RELATING TO BUSINESS ENTITIES; MODERNIZING THE LAWS REGULATING
CORPORATIONS, LIMITED LIABILITY COMPANIES AND COOPERATIVE
ASSOCIATIONS; ENACTING THE FOREIGN BUSINESS TRUST REGISTRATION
ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA
1978.

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

Section 1. Section 3-29-1 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-28-1) is amended to read:

"3-29-1. SANITARY PROJECTS ACT--SHORT TITLE. -- [~~Sections
14-28-1 through 14-28-19 New Mexico Statutes Annotated, 1953
Compilation~~] Chapter 3, Article 29 NMSA 1978 may be cited as
the "Sanitary Projects Act". "

Section 2. Section 3-29-16 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-28-16) is amended to read:

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1 "3-29-16. CERTIFICATE OF ASSOCIATION. -- The members of an
2 association shall execute a certificate setting forth:

3 A. the name of the association;

4 B. the name of the incorporators;

5 C. the location of ~~[its]~~ the principal office of
6 the association in this state;

7 D. the objects and purposes of the association;

8 E. the address of the initial registered office of
9 the association and the name of the initial registered agent
10 at that address;

11 ~~[E.]~~ F. the amount of capital stock and number and
12 denomination of the shares or, if the incorporators do not
13 desire to issue shares of stock, the plan and manner of
14 acquiring membership and of providing funds or means for the
15 acquisition, construction, improvement and maintenance of its
16 work and for its necessary expenses;

17 ~~[F.]~~ G. the period, if any, delimited for the
18 duration of the association; and

19 ~~[G.]~~ H. the number and manner of electing the
20 board of directors of ~~[said]~~ the association ~~[and]~~.

21 ~~[H.]~~ The certificate or any amendment thereof made as
22 provided in Section ~~[14-28-19 New Mexico Statutes Annotated,~~
23 ~~1953 Compilation]~~ 3-29-19 NMSA 1978 may also contain any
24 provisions not inconsistent with the Sanitary Projects Act or
25 other law of this state which the incorporators may choose to

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1 insert for the regulation and conduct of the business and
2 affairs of the association. There ~~[will]~~ shall accompany each
3 certificate a list of the names of all members of the
4 association, ~~[said]~~ the list to also show the total number of
5 members of the association and the total number of dwelling
6 units which can be served if the project is completed."

7 Section 3. Section 3-29-17 NMSA 1978 (being Laws 1965,
8 Chapter 300, Section 14-28-17) is amended to read:

9 "3-29-17. FILING OF CERTIFICATE. -- ~~[Said]~~ The certificate
10 of association shall be acknowledged as required for deeds of
11 real estate and shall be filed in the office of the ~~[state~~
12 ~~corporation]~~ public regulation commission ~~[and]~~. A copy
13 ~~[thereof]~~ of the certificate, duly certified by the commission
14 or county clerk, shall be evidence in all courts and places."

15 Section 4. A new section of the Sanitary Projects Act is
16 enacted to read:

17 "[NEW MATERIAL] REGISTERED OFFICE AND REGISTERED AGENT. --
18 An association shall have and continuously maintain in the
19 state:

20 A. a registered office, which may be the same as
21 its principal office; and

22 B. a registered agent that may be:

23 (1) an individual resident in the state whose
24 business office is identical with the registered office of the
25 association;

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1 (2) a for-profit or not-for-profit domestic
2 corporation having an office identical with the registered
3 office of the association; or

4 (3) a for-profit or not-for-profit foreign
5 corporation authorized to transact business or conduct affairs
6 in New Mexico and having an office identical with the
7 registered office of the corporation. "

8 Section 5. A new section of the Sanitary Projects Act is
9 enacted to read:

10 "[NEW MATERIAL] CHANGE OF REGISTERED OFFICE OR REGISTERED
11 AGENT. --

12 A. An association may change its registered office
13 or its registered agent, or both, by filing in the office of
14 the public regulation commission a statement that includes:

- 15 (1) the name of the association;
16 (2) the address of its registered office;
17 (3) if the address of the association's
18 registered office is changed, the address to which the
19 registered office is changed;
- 20 (4) the name of its registered agent;
21 (5) if the association's registered agent is
22 changed:

23 (a) the name of its successor
24 registered agent; and

25 (b) if the successor registered agent

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1 is an individual, a statement executed by the successor
2 registered agent acknowledging his acceptance of the
3 appointment by the filing association as its registered agent;
4 or

5 (c) if the successor registered agent
6 is a corporation, an affidavit executed by the president or
7 vice president of the corporation in which the officer
8 acknowledges the corporation's acceptance of the appointment
9 by the filing association as its registered agent;

10 (6) a statement that the address of the
11 association's registered office and the address of the office
12 of its registered agent, as changed, will be identical; and

13 (7) a statement that the change was
14 authorized by resolution duly adopted by its board of
15 directors.

16 B. The statement made pursuant to the provisions
17 of Subsection A of this section shall be executed by the
18 association by any two members and delivered to the public
19 regulation commission. If the commission finds that the
20 statement conforms to the provisions of the Sanitary Projects
21 Act, it shall file the statement in the office of the
22 commission. The change of address of the registered office,
23 or the appointment of a new registered agent, or both, shall
24 become effective upon filing of the statement required by this
25 section.

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1 C. A registered agent of an association may resign
2 as agent upon filing a written notice thereof, executed in
3 duplicate, with the public regulation commission. The
4 commission shall mail a copy immediately to the association in
5 care of an officer, who is not the resigning registered agent,
6 at the address of the officer as shown by the most recent
7 annual report of the association. The appointment of the
8 agent shall terminate upon the expiration of thirty days after
9 receipt of the notice by the commission. "

10 Section 6. A new section of the Sanitary Projects Act is
11 enacted to read:

12 "[NEW MATERIAL] SERVICE OF PROCESS ON ASSOCIATION. --The
13 registered agent appointed by an association shall be an agent
14 of the association upon whom any process, notice or demand
15 required or permitted by law to be served upon the association
16 may be served. Nothing in this section limits or affects the
17 right for process, notice or demand to be served upon an
18 association in any other manner permitted by law. "

19 Section 7. A new section of the Sanitary Projects Act is
20 enacted to read:

21 "[NEW MATERIAL] ANNUAL REPORT. --

22 A. An association shall file, within the time
23 prescribed by the Sanitary Projects Act, on forms prescribed
24 and furnished by the public regulation commission to the
25 association not less than thirty days prior to the date the

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1 report is due, an annual report setting forth:

2 (1) the name of the association and the state
3 or country under the laws of which it is incorporated;

4 (2) the address of the registered office of
5 the association in the state and the name of its registered
6 agent in this state at that address;

7 (3) a brief statement of the character of the
8 affairs that the association is actually conducting; and

9 (4) the names and respective addresses of the
10 directors and officers of the association.

11 B. The report shall be signed and sworn to by any
12 two of the members of the association. If the association is
13 in the hands of a receiver or trustee, the report shall be
14 executed on behalf of the association by the receiver or
15 trustee. A copy of the report shall be maintained at the
16 association's principal place of business as contained in the
17 report and shall be made available to the general public for
18 inspection during regular business hours. "

19 Section 8. A new section of the Sanitary Projects Act is
20 enacted to read:

21 "[NEW MATERIAL] FILING OF ANNUAL REPORT--SUPPLEMENTAL
22 REPORT-- EXTENSION OF TIME--PENALTY. --

23 A. The annual report of the association shall be
24 delivered to the public regulation commission on or before the
25 fifteenth day of the fifth month following the end of its

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1 taxable year.

2 B. A supplemental report shall be filed by the
3 association with the public regulation commission, if, within
4 thirty days after the filing of the annual report required
5 under the Sanitary Projects Act, a change is made in:

6 (1) the name of the association;

7 (2) the mailing address, street address or
8 the geographical location of the association's registered
9 office in this state and the name of the agent upon whom
10 process against the association may be served; or

11 (3) the character of the association's
12 business and its principal place of business within or without
13 the state.

14 C. Proof to the satisfaction of the public
15 regulation commission that, prior to the due date of any
16 report required by Subsections A or B of this section, the
17 report was deposited in the United States mail in a sealed
18 envelope, properly addressed, with postage prepaid, shall be
19 deemed compliance with the requirements of this section. If
20 the commission finds that the report conforms to the
21 requirements of the Sanitary Projects Act, it shall file the
22 report. If the commission finds that it does not conform, it
23 shall promptly return the report to the association for any
24 necessary corrections. The penalties prescribed for failure
25 to file the report within the time provided shall not apply if

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1 the report is corrected to conform to the requirements of the
2 Sanitary Projects Act and returned to the commission within
3 thirty days from the date on which it was mailed to the
4 association by the commission.

5 D. The public regulation commission may, upon
6 application by the association and for good cause shown,
7 extend, for no more than a total of twelve months, the date on
8 which any return required by the provisions of the Sanitary
9 Projects Act must be filed or the date on which the payment of
10 any fee is required. The commission shall, when an extension
11 of time has been granted an association under the United
12 States Internal Revenue Code of 1986 for the time in which to
13 file a return, grant the association the same extension of
14 time to file the required return and to pay the required fees,
15 provided that a copy of the approved federal extension of time
16 is attached to the association's report, and provided further
17 that no such extension shall prevent the accrual of interest
18 as otherwise provided by law.

19 E. Nothing contained in this section prevents the
20 collection of a fee or penalty due upon the failure of an
21 association to submit the required report.

22 F. No annual or supplemental report required to be
23 filed under this section shall be deemed to have been filed if
24 the fees accompanying the report have been paid by check, and
25 the check is dishonored upon presentation.

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1 G. An association that fails or refuses to file a
2 report for a year within the time prescribed by the Sanitary
3 Projects Act is subject to a penalty of ten dollars (\$10.00)
4 to be assessed by the public regulation commission. "

5 Section 9. Section 53-2-1 NMSA 1978 (being Laws 1975,
6 Chapter 65, Section 1, as amended) is amended to read:

7 "53-2-1. FEES OF ~~[STATE CORPORATION]~~ PUBLIC REGULATION
8 COMMISSION. --

9 A. For filing documents and issuing certificates,
10 the ~~[state corporation]~~ public regulation commission shall
11 charge and collect for:

12 (1) filing articles of incorporation and
13 issuing a certificate of incorporation, a fee of one dollar
14 (\$1.00) for each one thousand shares of the total amount of
15 authorized shares, but in no case less than one hundred
16 dollars (\$100) or more than one thousand dollars (\$1,000);

17 (2) filing articles of amendment and issuing
18 a certificate of amendment increasing the total amount of
19 authorized shares or filing restated articles of incorporation
20 and issuing a restated certificate of incorporation increasing
21 the total amount of authorized shares, a fee equal to the
22 difference between the fee computed at the rate set forth in
23 Paragraph (1) of this subsection upon the total amount of
24 authorized shares, including the proposed increase, and the
25 fee computed at the rate set forth in Paragraph (1) of this

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1 subsection upon the total amount of authorized shares,
2 excluding the proposed increase, but in no case less than one
3 hundred dollars (\$100) or more than one thousand dollars
4 (\$1,000);

5 (3) filing articles of amendment and issuing
6 a certificate of amendment not involving an increase in the
7 total amount of authorized shares or filing restated articles
8 of incorporation and issuing a restated certificate of
9 incorporation not involving an increase in the total amount of
10 authorized shares, a fee of one hundred dollars (\$100);

11 (4) filing articles of merger, consolidation
12 or exchange and issuing a certificate of merger or
13 consolidation or exchange, a fee equal to the difference
14 between the fee computed at the rate set forth in Paragraph
15 (1) of this subsection upon the total amount of authorized
16 shares in the articles of merger or consolidation in excess of
17 the total amount of authorized shares of the corporations
18 merged or consolidated or upon the amount of the shares
19 exchanged, but in no case less than two hundred dollars (\$200)
20 or more than one thousand dollars (\$1,000);

21 (5) filing an application to reserve a
22 corporate name or filing a notice of transfer of a reserved
23 corporate name, a fee of twenty-five dollars (\$25.00);

24 (6) filing a statement of a change of address
25 of the registered office or change of the registered agent, or

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1 both, a fee of twenty-five dollars (\$25.00);

2 (7) filing a statement of the establishment
3 of a series of shares, a fee of one hundred dollars (\$100);

4 (8) filing a statement of reduction of
5 authorized shares, a fee of one hundred dollars (\$100);

6 (9) filing a statement of intent to dissolve,
7 a statement of revocation of voluntary dissolution proceedings
8 or articles of dissolution, a fee of fifty dollars (\$50.00);

9 (10) filing an application of a foreign
10 corporation for an amended certificate of authority to
11 transact business in this state and issuing an amended
12 certificate of authority, a fee of fifty dollars (\$50.00);

13 (11) filing a copy of articles of ~~merger~~ or
14 conversion of a foreign corporation holding a certificate of
15 authority to transact business in this state not increasing
16 the total amount of authorized shares, a fee of two hundred
17 dollars (\$200);

18 (12) filing an application for a certificate
19 of authority of a foreign corporation and issuing to it a
20 certificate of authority, a fee of one dollar (\$1.00) for each
21 one thousand shares of the total number of authorized shares
22 represented in this state, but in no case less than two
23 hundred dollars (\$200) or more than one thousand dollars
24 (\$1,000);

25 (13) filing articles of ~~merger~~ or

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1 consolidation increasing the total amount of authorized shares
2 which the surviving or new corporation is authorized to issue
3 in excess of the aggregate number of shares which the merging
4 or consolidating domestic and foreign corporations authorized
5 to transact business in this state had authority to issue, a
6 fee of one dollar (\$1.00) for each one thousand shares of the
7 increase in the total amount of authorized shares represented
8 in this state, but in no case less than two hundred dollars
9 (\$200) or more than one thousand dollars (\$1,000);

10 (14) filing an application for withdrawal of
11 a foreign corporation and issuing a certificate of withdrawal,
12 a fee of fifty dollars (\$50.00);

13 (15) filing a corporate report and filing a
14 supplemental report, a fee of twenty-five dollars (\$25.00);

15 (16) filing any other statement, corrected
16 document or report of a domestic or foreign corporation, a fee
17 of twenty-five dollars (\$25.00);

18 (17) issuing a certificate of good standing
19 and compliance, a fee of fifty dollars (\$50.00); and

20 (18) issuing a letter of reinstatement of a
21 domestic or foreign corporation, a fee of one hundred dollars
22 (\$100).

23 B. The [~~state corporation~~] public
24 regulation commission shall also charge and collect for
25 furnishing copies of any document, instrument or paper

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1 relating to a corporation a fee of one dollar (\$1.00) per
2 page, but in no case less than ten dollars (\$10.00). In
3 addition, a fee of twenty-five dollars (\$25.00) shall be paid
4 in each instance where the commission provides the copies of
5 the document to be certified.

6 C. As used in this section:

7 (1) "total amount of authorized shares" means
8 all shares of stock the corporation is authorized to issue;
9 and

10 (2) "number of authorized shares represented
11 in this state" means the proportion of a corporation's total
12 amount of authorized shares that the sum of the value of its
13 property located in this state and the gross amount of
14 business transacted by it or from places of business in this
15 state bears to the sum of the value of all of its property,
16 wherever located, and the gross amount of its business,
17 wherever transacted, as determined from information contained
18 in its application for a certificate of authority to transact
19 business in this state.

20 D. The [~~state corporation~~] public regulation
21 commission shall also charge and collect fees, according to a
22 fee schedule approved by the department of finance and
23 administration, for the provision of services requested by
24 persons, agencies and entities dealing with the commission.

25 E. The public regulation commission may adopt

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1 rules establishing reasonable fees for the following services
2 rendered in connection with a service required or permitted to
3 be rendered pursuant to a provision of Chapter 53 NMSA 1978:

4 (1) an expedited service; or

5 (2) the handling of checks, drafts, credit or
6 debit cards or other means of payment upon adoption of rules
7 authorizing their use, for which sufficient funds are not on
8 deposit. "

9 Section 10. Section 53-2-3 NMSA 1978 (being Laws 1905,
10 Chapter 79, Section 120, as amended) is amended to read:

11 "53-2-3. DISPOSITION OF FEES. -- ~~[SEC. 121.]~~ The ~~[state~~
12 ~~corporation]~~ public regulation commission shall turn over to
13 the state treasurer the fees collected under the provisions of
14 this article in the manner required by law. ~~[provided, that]~~
15 The ~~[state corporation]~~ commission ~~[shall]~~ is not ~~[be held]~~
16 responsible for ~~[any]~~ a fraudulent or worthless check, draft,
17 warrant, ~~[or]~~ order or other means of payment accepted by it
18 in good faith for the payment of ~~[any]~~ a fee or on behalf of
19 ~~[any]~~ a corporation, but it shall be permitted to deduct
20 ~~[such]~~ the fee ~~[or fees]~~ from ~~[moneys in its hands to be~~
21 ~~covered]~~ money held by it to be paid into the state treasury.
22 If ~~[such]~~ a fraudulent or worthless check, draft, warrant or
23 order is not made good ~~[forthwith]~~ immediately, it ~~[shall be~~
24 ~~and is hereby made]~~ is the duty of the attorney general, as
25 soon as the facts are made known to him, to institute suit

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1 against the corporation and, if sent by the incorporators its
2 incorporators [~~or directors~~] in the name of the state for the
3 recovery of the amount of [~~such~~] the check, draft, warrant,
4 [~~or~~] order other means of payment, and [~~the~~] protest fees and
5 costs of [~~said actions~~] the action shall be assessed against
6 the defendant [~~or defendants as the may be~~]. "

7 Section 11. Section 53-2-4 NMSA 1978 (being Laws 1905,
8 Chapter 79, Section 123, as amended) is amended to read:

9 "53-2-4. CORPORATIONS--COMPILATION.--The [~~state~~
10 ~~corporation~~] public regulation commission shall [~~annually~~]
11 compile annually from the records of its office a complete
12 list, in alphabetical order, of the original and amended
13 certificates of incorporation filed during the preceding year,
14 together with the location of the principal office in this
15 state of [~~each in this state~~] the corporations affected, the
16 name of the agent in charge [~~thereof~~], the amount of the
17 authorized capital stock, the amount of stock with which
18 business is to be commenced, the date of filing the
19 certificate and the period for which the corporation is to
20 continue. "

21 Section 12. Section 53-2-8 NMSA 1978 (being Laws 1905,
22 Chapter 79, Section 23, as amended) is amended to read:

23 "53-2-8. NO STOCKHOLDER'S LIABILITY--SEPARATE CLASS OF
24 CORPORATION.--No stockholder's liability for unpaid stock
25 shall attach to [~~any~~] stock issued by [~~any~~] a corporation

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1 ~~[under the terms of]~~ pursuant to this section if, at the time
2 of filing the certificate of incorporation, a separate
3 certificate is signed and executed in the same manner ~~[that]~~
4 as the certificate of incorporation ~~[is filed]~~, declaring that
5 there ~~[shall be]~~ is no stockholder's liability on account of
6 ~~[any]~~ stock issued, and is filed in the office of the ~~[state~~
7 ~~corporation]~~ public regulation commission together with the
8 certificate of incorporation. ~~[and likewise]~~ The separate
9 certificate shall be certified and recorded in the office of
10 the county clerk, and both the certificate of incorporation
11 ~~[together with]~~ and the ~~[declaration]~~ certificate of
12 nonliability of stockholders ~~[is]~~ shall be published as
13 provided in this section. This section does not apply to any
14 of the provisions for the issuance of stock and fixing
15 liability and the means of enforcing liability upon the same
16 contained in any other law, but is a separate provision
17 creating a separate class of corporations. Each corporation
18 taking advantage of the provisions of this section ~~must~~ add to
19 its corporate name in the certificate of incorporation, in
20 every other certificate, report or record required by law and
21 in every contract or other corporate instrument, the words "no
22 stockholder's liability". No corporation shall be organized
23 under this section after December 31, 1967. "

24 Section 13. A new section of Chapter 53, Article 2 NMSA
25 1978 is enacted to read:

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1 " [NEW MATERIAL] ELECTRONIC FILING AND CERTIFICATION OF
2 DOCUMENTS-- USE OF ELECTRONIC PAYMENT OF FEES. --

3 A. The public regulation commission may adopt
4 rules permitting the electronic filing of documents, including
5 original documents, and the certification of electronically
6 filed documents when filing or certification is required or
7 permitted pursuant to a provision of Chapter 53 NMSA 1978.
8 The rules shall provide for the appropriate treatment of
9 electronic filings for the purposes of satisfying requirements
10 for original documents or copies and shall provide the
11 requirements for signature with respect to electronic filings.
12 As used in this section "electronic filing" means filing by
13 facsimile, email or other electronic transmission. If the
14 commission accepts the filing of a document by electronic
15 transmission, it may accept for filing a document containing a
16 copy of a signature, however made.

17 B. The public regulation commission may accept a
18 credit or debit card, in lieu of cash or check, or other means
19 of payment specified in its rules, as payment of a fee
20 pursuant to a provision of Chapter 53 NMSA 1978. The
21 commission shall determine those credit or debit cards or
22 other means of payment that may be accepted for payment. "

23 Section 14. A new section of Chapter 53, Article 4 NMSA
24 1978 is enacted to read:

25 " [NEW MATERIAL] SHORT TITLE. -- Chapter 53, Article 4 NMSA

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1 1978 may be cited as the "Cooperative Association Act". "

2 Section 15. Section 53-4-5 NMSA 1978 (being Laws 1939,
3 Chapter 164, Section 5, as amended by Laws 1993, Chapter 311,
4 Section 3 and also by Laws 1993, Chapter 318, Section 1) is
5 amended to read:

6 "53-4-5. ARTICLES OF INCORPORATION-- CONTENTS. -- Articles
7 of incorporation shall be signed by each of the incorporators
8 and acknowledged by at least three of them, if natural
9 persons, and by the presidents and the secretaries, if
10 associations, before an officer authorized to take
11 acknowledgments. Within the limitations set forth in [~~Chapter~~
12 ~~53, Article 4 NMSA 1978~~] the Cooperative Association Act, the
13 articles shall contain:

14 A. a statement as to the purpose for which the
15 association is formed;

16 B. the name of the association, which shall
17 include the word "cooperative";

18 C. the term of existence of the association, which
19 may be perpetual;

20 D. the location and address of the principal
21 office of the association;

22 E. the names and addresses of the incorporators of
23 the association;

24 F. the names and addresses of the directors who
25 [~~shall~~] will manage the affairs of the association for the

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1 first year, unless sooner changed by the members;

2 G. a statement of whether the association is
3 organized with or without shares and the number of shares or
4 memberships subscribed for;

5 H. if the association organized with shares, the
6 amount of authorized capital, the number and types of shares
7 and the par value thereof, which may be placed at any figure,
8 and the rights, preferences and restrictions of each type of
9 share;

10 I. the minimum number of shares of the
11 association that ~~[must]~~ shall be owned in order to qualify for
12 membership;

13 J. the maximum amount or percentage of capital of
14 the association that may be owned or controlled by any member;
15 [~~and~~]

16 K. the method by which any surplus, upon
17 dissolution of the association, shall be distributed in
18 conformity with the requirements of [~~Section 53-4-36 NMSA~~
19 ~~1978~~] the Cooperative Association Act for division of such
20 surplus; and

21 L. the address of the initial registered office of
22 the association and the name of the initial registered agent
23 at that address.

24 The articles may also contain any other provisions not
25 inconsistent with [~~Chapter 53, Article 4 NMSA 1978~~] the

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1 Cooperative Association Act. "

2 Section 16. Section 53-4-6 NMSA 1978 (being Laws 1939,
3 Chapter 164, Section 6, as amended) is amended to read:

4 "53-4-6. ARTICLES OF INCORPORATION--FILING--
5 RECORDATION--FEES.--The articles of incorporation of the
6 association shall be filed with the [~~state corporation~~] public
7 regulation commission together with a fee of fifty dollars
8 (\$50.00) and shall be recorded with the county clerk of the
9 county where the principal office of the association is
10 located for a fee of one dollar (\$1.00). "

11 Section 17. Section 53-4-7 NMSA 1978 (being Laws 1939,
12 Chapter 164, Section 7, as amended) is amended to read:

13 "53-4-7. ARTICLES OF INCORPORATION--AMENDMENTS--FEE.--

14 A. Amendments to the articles of incorporation may
15 be proposed by a two-thirds' vote of the board of directors or
16 by petition of one-tenth of the association's members. Notice
17 of the meeting to consider the amendment shall be sent by the
18 secretary at least thirty days in advance [~~thereof~~] to each
19 member at his last known address, accompanied by the full text
20 of the proposal and by that part of the articles to be
21 amended. Two-thirds of the members voting may adopt the
22 amendment and, when verified by the president and
23 the secretary, it shall be filed with the [~~state corporation~~]
24 public regulation commission within thirty days of its
25 adoption, and a fee of twenty-five dollars (\$25.00) shall be

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1 paid.

2 B. If the amendment is to alter the preferences of
3 outstanding shares of any type or to authorize the issuance of
4 shares having preferences superior to outstanding shares of
5 any type, the vote of two-thirds of the members owning the
6 outstanding shares affected by the change shall also be
7 required for the adoption of the amendment.

8 C. The amount of capital and the number and par
9 value of shares may be diminished or increased by amendment of
10 the articles, but the capital shall not be diminished below
11 the amount of paid-up capital existing at the time of
12 amendment. "

13 Section 18. Section 53-4-34 NMSA 1978 (being Laws 1939,
14 Chapter 164, Section 34, as amended) is amended to read:

15 "53-4-34. ANNUAL REPORT. --

16 A. ~~Every~~ An association shall, annually within
17 sixty days of the close of its operations for that year, make
18 a report of its condition sworn to by the president and
19 the secretary, which report shall be filed with the [~~state~~
20 ~~corporation~~] public regulation commission. The report shall
21 state:

22 (1) the name and principal address of the
23 association;

24 (2) the names and addresses of the officers
25 and directors and the name and address of [~~its~~] the initial

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1 registered agent and registered office of the association;

2 (3) the amount and nature of [~~its~~] the
3 association's authorized, subscribed and paid-in capital, the
4 number of its shareholders, the par value of its shares and
5 the rate at which any interest-dividends have been paid. For
6 nonshare associations, the annual report shall state the total
7 number of members, the number admitted or withdrawn during the
8 year and the amount of membership fees received; and

9 (4) the receipts, expenditures, assets and
10 liabilities of the association.

11 B. A copy of [~~this~~] the report required pursuant
12 to Subsection A of this section shall be kept on file at the
13 principal office of the association.

14 [~~B.—Any~~] C. A person who [~~subscribes~~] signs or
15 [~~makes oath to such~~] verifies a report [~~containing~~] required
16 pursuant to Subsection A of this section that contains a false
17 statement, known to [~~the~~] that person to be false, shall upon
18 conviction [~~thereof~~] be fined not exceeding five hundred
19 dollars (\$500) or imprisoned not exceeding one year, or both.

20 [~~C.—~~] D. Every association shall pay an annual fee
21 of ten dollars (\$10.00) upon filing the report.

22 E. A supplemental report shall be filed with the
23 public regulation commission within thirty days if, after
24 filing of the annual report, a change is made in:

25 (1) the mailing address, street address,

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1 rural route number, box number, or the geographical location
2 of its registered office in this state;

3 (2) the name of the agent at the address of
4 the registered office upon whom process against the
5 association may be served; or

6 (3) the name or address of any of the
7 directors or officers of the association or the date when term
8 of office expires."

9 Section 19. Section 53-4-35 NMSA 1978 (being Laws 1939,
10 Chapter 164, Section 35) is amended to read:

11 "53-4-35. NOTICE OF DELINQUENT REPORTS--FORFEITURES--
12 REINSTATEMENT.--If an association fails to make [~~such~~] a
13 report within the required period of [~~60~~] sixty days, the
14 [~~state corporation~~] public regulation commission [~~of New~~
15 ~~Mexico~~] shall, within [~~60~~] sixty days from the expiration of
16 [~~said~~] the period, send [~~such~~] the association a registered
17 letter, directed to its principal office, stating the
18 delinquency and its consequences. If the association fails to
19 file the report within [~~60~~] sixty days from the mailing of
20 such notice, the [~~state corporation~~] commission shall notify
21 it by registered letter that its corporate rights stand
22 forfeited, shall remove its name from [~~their~~] its list of live
23 corporations and notify the attorney general, who shall cause
24 its affairs to be wound up. If, within [~~60~~] sixty days from
25 such forfeiture, the association [~~shall file~~] files the report

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1 and [pay] pays a penalty of ten dollars (\$10.00) and all
2 actual expenses of any suit begun to wind it up, the
3 [~~corporation~~] commission shall set aside [~~such~~] the
4 forfeiture, [~~such~~] the suit shall be dismissed and the
5 association shall be reinstated to its former rights and legal
6 status. "

7 Section 20. Section 53-4-37 NMSA 1978 (being Laws 1939,
8 Chapter 164, Section 37) is amended to read:

9 "53-4-37. USE OF NAME "COOPERATIVE"--PENALTY.--

10 A. Only the following entities are entitled to use
11 the term "cooperative" or an abbreviation or derivation of
12 that term as part of their business names or to represent
13 themselves as conducting business on a cooperative basis:

14 (1) associations organized [~~hereunder~~]
15 pursuant to the Cooperative Association Act;

16 (2) groups organized on a cooperative basis
17 [~~under~~] pursuant to any other law of this state; and

18 (3) foreign corporations authorized to do
19 business in this state on a cooperative basis [~~under this~~]
20 pursuant to the Cooperative Association Act or any other law
21 of this state [~~shall be entitled to use the term "cooperative"~~
22 ~~or any abbreviation or derivation thereof as part of their~~
23 ~~business name or to represent themselves, in their advertising~~
24 ~~or otherwise, as conducting business on a cooperative basis].~~

25 B. Any person, firm or corporation violating the

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1 ~~[above provision]~~ provisions of Subsection A of this section
2 shall be guilty of a misdemeanor, ~~[and]~~ punishable by a fine
3 of not more than ~~[\$200.00]~~ two hundred dollars (\$200), and the
4 attorney general or any aggrieved individual or association or
5 group organized on a cooperative basis may sue to enjoin an
6 alleged violation of this section.

7 C. Should the courts or the attorney general or
8 the ~~[state corporation]~~ public regulation commission decide
9 that any person, firm or corporation, using the name
10 "cooperative" prior to these provisions and not organized on a
11 cooperative basis, is entitled to continue in such use, any
12 such business shall always place immediately after its name,
13 the words "does not comply with the cooperative laws of New
14 Mexico" in the same kind of type and in letters not less than
15 two-thirds as large as those used in the term "cooperative". "

16 Section 21. Section 53-4-40 NMSA 1978 (being Laws 1939,
17 Chapter 164, Section 40) is amended to read:

18 "53-4-40. EXISTING COOPERATIVE CORPORATIONS. -- ~~[Any]~~ A
19 group incorporated under another law of this state and
20 operating on a cooperative basis may elect by a vote of two-
21 thirds of the members voting to secure the benefits of and be
22 bound by ~~[these]~~ the provisions of the Cooperative Association
23 Act and shall ~~[thereupon]~~ amend ~~[such of]~~ its articles and
24 bylaws ~~[as are]~~ not in conformity with ~~[these]~~ those
25 provisions. A certified copy of the amended articles shall be

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1 filed with the [~~corporation~~] public regulation commission and
2 a fee of twenty-five dollars (\$25.00) shall be paid. "

3 Section 22. Section 53-4-41 NMSA 1978 (being Laws 1939,
4 Chapter 164, Section 41) is amended to read:

5 "53-4-41. FOREIGN CORPORATIONS. -- A foreign corporation
6 operating on a cooperative basis and complying with the
7 applicable laws of the state [~~wherein~~] in which it is
8 organized [~~shall be~~] is entitled to receive from the
9 [~~corporation~~] public regulation commission a certificate
10 authorizing it to do business in this state as a foreign
11 cooperative corporation. "

12 Section 23. A new section of the Cooperative Association
13 Act is enacted to read:

14 "[NEW MATERIAL] REGISTERED OFFICE AND REGISTERED AGENT. --
15 An association shall have and continuously maintain in New
16 Mexico:

17 A. a registered office, which may be the same as
18 its principal office; and

19 B. a registered agent that may be:

20 (1) an individual resident in the state whose
21 business office is identical with the registered office of the
22 association;

23 (2) a for-profit or not-for-profit domestic
24 corporation having an office identical with the registered
25 office of the association; or

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1 (3) a for-profit or not-for-profit foreign
2 corporation authorized to transact business or conduct affairs
3 in New Mexico and having an office identical with the
4 registered office of the corporation. "

5 Section 24. A new section of the Cooperative Association
6 Act is enacted to read:

7 " [NEW MATERIAL] CHANGE OF REGISTERED OFFICE OR REGISTERED
8 AGENT. --

9 A. An association may change its registered office
10 or its registered agent, or both, by filing in the office of
11 the public regulation commission a statement that includes:

12 (1) the name of the association;

13 (2) the address of the association's
14 registered office;

15 (3) if the address of its registered office
16 is changed, the address to which the registered office is
17 changed;

18 (4) the name of the association's registered
19 agent;

20 (5) if the association's registered agent is
21 changed:

22 (a) the name of its successor
23 registered agent; and

24 (b) if the successor registered agent
25 is an individual, an affidavit executed by the successor

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1 registered agent in which he acknowledges his acceptance of
2 the appointment by the filing association as its registered
3 agent; or

4 (c) if the successor registered agent
5 is a corporation, an affidavit executed by the president or
6 vice president of the corporation in which the officer
7 acknowledges the corporation's acceptance of the appointment
8 by the filing association as its registered agent;

9 (6) a statement that the address of the
10 association's registered office and the address of the office
11 of its registered agent, as changed, will be identical; and

12 (7) a statement that the change was
13 authorized by resolution duly adopted by the association's
14 board of directors.

15 B. The statement made pursuant to the provisions
16 of Subsection A of this section shall be executed by the
17 association by any two members and delivered to the public
18 regulation commission. If the commission finds that the
19 statement conforms to the provisions of the Cooperative
20 Association Act, it shall file the statement in the office of
21 the commission. The change of address of the registered
22 office, or the appointment of a new registered agent, or both,
23 shall become effective upon filing of the statement required
24 by this section.

25 C. A registered agent of an association may resign

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1 as agent upon filing a written notice thereof, executed in
2 duplicate, with the public regulation commission. The
3 commission shall mail a copy immediately to the association in
4 care of an officer, who is not the resigning registered agent,
5 at the address of the officer as shown by the most recent
6 annual report of the association. The appointment of the
7 agent shall terminate upon the expiration of thirty days after
8 receipt of the notice by the commission. "

9 Section 25. A new section of the Cooperative Association
10 Act is enacted to read:

11 "[NEW MATERIAL] SERVICE OF PROCESS ON ASSOCIATION. --The
12 registered agent appointed by an association shall be an agent
13 of the association upon whom any process, notice or demand
14 required or permitted by law to be served upon the association
15 may be served. Nothing in this section limits or affects the
16 right for process, notice or demand to be served upon an
17 association in any other manner permitted by law. "

18 Section 26. A new section of the Corporate Reports Act
19 is enacted to read:

20 "[NEW MATERIAL] CANCELED CORPORATIONS STRICKEN FROM
21 PUBLIC REGULATION COMMISSION FILES. --A domestic corporation
22 whose certificate of incorporation has been canceled by the
23 public regulation commission pursuant to Section 53-5-7 NMSA
24 1978 shall be stricken from the files of the commission
25 without further proceedings. A foreign corporation whose

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1 certificate of authority to do business in the state has been
2 canceled by the commission pursuant to Section 53-5-7 NMSA
3 1978 shall be stricken from the files of the commission
4 without further proceedings. "

5 Section 27. Section 53-5-2 NMSA 1978 (being Laws 1978,
6 Chapter 9, Section 1, as amended) is amended to read:

7 "53-5-2. CORPORATE AND SUPPLEMENTAL REPORTS. --

8 A. Pursuant to rules [~~and regulations which the~~
9 ~~state corporation~~] that the public regulation commission
10 [~~shall adopt in order~~] adopts to implement this section,
11 [~~every~~] a domestic or foreign corporation [~~which~~] that is not
12 exempted shall file in the office of the [~~state corporation~~]
13 commission within thirty days after the date on which its
14 certificate of incorporation or its certificate of authority,
15 as the case may be, is issued by the commission, and
16 [~~biannually~~] biennially thereafter on or before the fifteenth
17 day of the third month following the end of its taxable year,
18 a corporate report in the form prescribed and furnished to the
19 corporation not less than thirty days prior to such reporting
20 date, by the commission, and signed and sworn to by the
21 chairman of the board, president, vice president, secretary,
22 principal accounting officer or authorized agent of the
23 corporation, showing among other information prescribed by the
24 commi ssi on:

25 (1) the current status of:

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(a) the name of the corporation;
(b) the mailing address and 1) street address if within a municipality; or 2) rural route number and box number, or the geographical location, using well-known landmarks, if outside a municipality, of ~~[its]~~ the corporation's registered office in this state and the name of the agent upon whom process against the corporation may be served;

(c) the names and addresses of all the directors and officers of the corporation and when the term of office of each expires;

(d) ~~[the character of its business and]~~ the address of ~~[its]~~ the corporation's principal place of business within the state and, if a foreign corporation, the address of its registered office in the state or country under the laws of which it is incorporated and the principal office of the corporation, if different from the registered office; and

(e) the date for the next annual meeting of the shareholders for the election of directors; and

(2) the corporation's taxpayer identification number issued by the revenue processing division of the taxation and revenue department.

B. When the ~~[state corporation]~~ public regulation commission receives a report required to be filed by a

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1 corporation under the Corporate Reports Act, it shall
2 determine if the report conforms to the requirements of this
3 section. If the commission finds that the report conforms, it
4 shall be filed. If the commission finds that the report does
5 not conform, it shall promptly return the report to the
6 corporation for any necessary corrections, in which event the
7 penalties prescribed in the Corporate Reports Act for failure
8 to file the report in the time provided shall not apply if the
9 report is corrected and returned to the commission within
10 thirty days from the date on which it was mailed to the
11 corporation by the commission.

12 C. The [~~state corporation~~] public regulation
13 commission may refuse to file a corporate report or a
14 supplemental report received from a corporation which has not
15 paid all fees, including penalties and interest due and
16 payable to the commission at the time of filing. However, if
17 the corporation and the commission are engaged in any
18 adversary proceeding over the assessment of any fees or
19 franchise taxes, the commission shall file the report of the
20 corporation upon its submission to the commission.

21 D. A supplemental report shall be filed with the
22 [~~state corporation~~] public regulation commission within thirty
23 days if, after the filing of the corporate report required
24 under the Corporate Reports Act, a change is made in:

25 [~~(1) the name of the corporation;~~

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1 ~~(2)~~ (1) the mailing address, street address,
2 rural route number, box number or the geographical location of
3 its registered office in this state and the name of the agent
4 upon whom process against the corporation may be served;

5 ~~(3)~~ (2) the name or address of any of the
6 directors or officers of the corporation or the date when the
7 term of office of each expires; or

8 ~~(4) the character of its business and~~ (3)
9 its principal place of business within or without the state. "

10 Section 28. Section 53-5-3 NMSA 1978 (being Laws 1959,
11 Chapter 181, Section 3) is amended to read:

12 "53-5-3. ~~[CORPORATION]~~ PUBLIC REGULATION COMMISSION TO
13 SUPPLY DEFINITIONS. -- The ~~[corporation]~~ public regulation
14 commission shall prepare and make available with appropriate
15 corporate report forms a list of definitions of corporate and
16 financial terms used in the annual corporate reports. "

17 Section 29. Section 53-5-6 NMSA 1978 (being Laws 1959,
18 Chapter 181, Section 6, as amended) is amended to read:

19 "53-5-6. APPLICATION FOR PERIOD OF EXTENSION. --

20 A. ~~[Any]~~ A corporation may, upon application to
21 the ~~[state corporation]~~ public regulation commission by the
22 date upon which a report is required to be filed under the
23 Corporate Reports Act, petition the commission for an
24 extension of time in which to file the required report.

25 B. For good cause shown, the ~~[state corporation]~~

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1 public regulation commission may [~~for good cause shown~~] extend
2 [~~in favor of a corporation subject to the Corporate Reports~~
3 ~~Act~~] for no more than a total of twelve months the date on
4 which any return required by the provisions of the Corporate
5 Reports Act must be filed or the date on which the payment of
6 any fee is required [~~but~~] for a specific corporation subject
7 to the Corporate Reports Act. No extension shall prevent the
8 accrual of interest as otherwise provided by law.

9 C. The [~~state corporation~~] public regulation
10 commission shall, when an extension of time has been granted a
11 corporation under the United States Internal Revenue Code of
12 1986 for the time in which to file a return, grant the
13 corporation the same extension of time to file the required
14 return and to pay the required fees and tax [~~provided that~~] if
15 a copy of the approved federal extension of time is attached
16 to the corporation's annual report. [~~and provided further~~
17 ~~that~~] No [~~such~~] extension of time granted shall prevent the
18 accrual of interest as otherwise provided by law.

19 D. Nothing contained in this section shall prevent
20 the collection of any tax, penalty or interest due upon the
21 failure of any corporation to submit the required report. "

22 Section 30. Section 53-5-7 NMSA 1978 (being Laws 1959,
23 Chapter 181, Section 7, as amended) is amended to read:

24 "53-5-7. FAILURE TO FILE CORPORATE REPORTS--PENALTY.--

25 A. Every domestic corporation required to file an

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1 annual corporate report, as provided in the Corporate Reports
2 Act, [~~which~~] that fails to submit the report within the time
3 prescribed for any reporting period shall incur a civil
4 penalty of one hundred dollars (\$100) in addition to the fee
5 for filing the report, such civil penalty to be paid upon
6 filing the report. Sixty days after written notice of failure
7 to file a report has been mailed to its registered agent and
8 also to the principal office of the corporation as shown in
9 the last corporate report filed with the public regulation
10 commission, the corporation shall have its certificate of
11 incorporation canceled by the commission without further
12 proceedings, unless the report is filed and all fees,
13 franchise taxes, penalties and interest are paid within that
14 sixty-day period.

15 B. [~~Every~~] A foreign corporation required to file
16 an annual corporate report [~~as provided in the Corporate~~
17 ~~Reports Act, which~~] that fails to submit the report within the
18 time prescribed for any reporting period shall incur a civil
19 penalty of one hundred dollars (\$100) in addition to the fee
20 for filing the report. [~~such~~] The civil penalty [~~to~~] shall be
21 paid upon filing the report. Sixty days after written notice
22 of failure to file a report has been mailed to [~~its~~] a
23 corporation's registered agent and also either to the
24 principal office of the corporation in the state or country
25 under the laws of which it is incorporated or to the principal

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1 office of the corporation as each address is shown in the last
2 corporate report filed with the [~~state corporation~~] public
3 regulation commission, the corporation shall have its
4 certificate of authority to do business in this state canceled
5 by the commission without further proceedings, unless the
6 report is filed and all fees, franchise taxes, penalties and
7 interest are paid within that sixty-day period. Nothing in
8 this section [~~however shall be construed as authorizing~~]
9 authorizes a forfeiture of the right or privilege of engaging
10 in interstate commerce.

11 C. Every domestic or foreign corporation not
12 exempted from filing a supplemental report, as provided in the
13 Corporate Reports Act, [~~which~~] that fails to submit the
14 required report within the time prescribed for any reporting
15 period shall incur a civil penalty of one hundred dollars
16 (\$100) in addition to the fee for filing the report, such
17 civil penalty to be paid upon filing the report.

18 D. Any order of the public regulation commission
19 may be appealed to the district court of Santa Fe county
20 within sixty days of the date it was issued by the commission.

21 E. If any report required under the Corporate
22 Reports Act is mailed, the [~~state corporation~~] public
23 regulation commission shall allow three additional days when
24 considering the postmark as the date of submission when
25 determining if a filing is timely. "

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1 Section 31. Section 53-5-8 NMSA 1978 (being Laws 1959,
2 Chapter 181, Section 8, as amended) is amended to read:

3 "53-5-8. [~~STATE CORPORATION~~] PUBLIC REGULATION
4 COMMISSION MAY FURNISH FORMS-- RELEASE OF INFORMATION--
5 PENALTY. --

6 A. The [~~state corporation~~] public regulation
7 commission may, upon application, furnish the necessary blank
8 forms used in the preparation of the annual corporate reports.

9 B. The public regulation commission shall provide
10 pursuant to the provisions of the Public Records Act for the
11 retention, storage and destruction of annual corporate reports
12 filed with the commission.

13 C. Information obtained from reports filed
14 pursuant to the provisions of the Corporate Reports Act shall
15 be made available to interested persons during proper hours,
16 except that data contained in Paragraph (2) of Subsection [B]
17 A of Section [~~51-21-2 NMSA 1953~~] 53-5-2 NMSA 1978 shall not be
18 released unless in statistical form classified to prevent
19 identification of particular corporations.

20 D. All reports required under the Corporate
21 Reports Act may be used as evidence at any trial or hearing of
22 the public regulation commission.

23 E. All reports required under the Corporate
24 Reports Act shall be made available to the [~~bureau of~~] revenue
25 processing division of the taxation and revenue department

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1 upon written request and the [~~bureau~~] revenue processing
2 division shall be subject to the same restrictions upon
3 revealing the information as are imposed by this section upon
4 the public regulation commission.

5 F. Any other state agency or department or United
6 States agency or department upon written request to the [~~state~~
7 ~~corporation~~] public regulation commission may examine reports
8 filed with the commission upon a showing that the corporate
9 reports sought to be examined are germane to an investigation
10 being conducted by the petitioning agency or department, and
11 any information revealed is subject to Subsection G of this
12 section [~~concerning the release of such information contrary~~
13 ~~to law by any person in the requesting agency or department~~].

14 G. Any person who releases information contrary to
15 the provisions of this section is guilty of a misdemeanor and
16 upon conviction shall be punished by a fine of not more than
17 one thousand dollars (\$1,000) nor less than one hundred
18 dollars (\$100) or by imprisonment in the county jail not more
19 than ninety days nor less than thirty days or by both fine and
20 imprisonment in the discretion of the judge. "

21 Section 32. Section 53-5-9 NMSA 1978 (being Laws 1959,
22 Chapter 181, Section 9, as amended) is amended to read:

23 "53-5-9. DORMANT CORPORATIONS--STATEMENT IN LIEU OF
24 [~~ANNUAL~~] CORPORATE REPORT. --

25 A. Whenever [~~any~~] a corporation is no longer

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1 engaged in active business in this state or in carrying out
2 the purposes of its incorporation, [~~any~~] two of its
3 shareholders, directors or officers may unite in signing a
4 statement to that effect; the statement shall be filed with
5 the public regulation commission in lieu of the required
6 corporate report. Upon the filing of this statement and the
7 payment of all fees, franchise taxes, penalties and interest,
8 the [~~state corporation~~] commission [~~shall be~~] is authorized to
9 strike the name of the corporation from the list of active
10 corporations in this state; but this action shall not be
11 construed in any sense as a formal dissolution of the
12 corporation [~~nor shall~~] and the corporation shall not be
13 relieved thereby from any outstanding obligation. [~~Any~~] A
14 dormant corporation [~~in this class~~] may be fully revived by
15 the resumption of active business and the filing of a
16 corporate report [~~by the provision of this section~~].

17 B. [~~Any~~] A dormant corporation [~~in this class~~] may
18 continue [~~in this class~~] in dormant status by filing a
19 statement of renewal every five years to the effect that it is
20 not engaged in active business in this state [~~nor~~] and is not
21 carrying [~~and~~] out the purposes of its incorporation. Sixty
22 days after written notice of failure to file a statement of
23 renewal has been mailed to its registered agent and also to
24 the principal office of the corporation as shown in the last
25 corporate report filed with the commission, the corporation

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1 shall have its certificate of incorporation or authority
2 canceled by the commission without further proceedings unless
3 the statement of renewal is filed and all fees are paid within
4 that sixty-day period. "

5 Section 33. Section 53-6-12 NMSA 1978 (being Laws 1963,
6 Chapter 16, Section 12) is amended to read:

7 "53-6-12. ~~DISQUALIFICATION--DISSOLUTION.~~ -- If any
8 officer, shareholder, agent or employee of a professional
9 corporation who has been rendering professional service to the
10 public becomes legally disqualified to render the professional
11 service within this state, or is elected to a public office
12 that, pursuant to existing law, is a restriction or limitation
13 upon rendering of a professional service, or accepts
14 employment that, pursuant to existing law, places restriction
15 or limitations upon his continued rendering of the
16 professional service, he shall sever all employment with, and
17 financial interest in, the professional corporation forthwith.
18 A professional corporation's failure to require compliance
19 with this ~~[provision]~~ section shall constitute a ground for
20 the forfeiture of its articles of incorporation and its
21 dissolution. When a professional corporation's failure to
22 comply with this section is brought to the attention of the
23 ~~[state corporation]~~ public regulation commission, the
24 commission shall certify to the attorney general that fact for
25 appropriate action to dissolve the professional corporation. "

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1 Section 34. Section 53-7-35 NMSA 1978 (being Laws 1983,
2 Chapter 312, Section 18) is amended to read:

3 "53-7-35. AMENDMENT OF ARTICLES OF INCORPORATION. --

4 A. The articles of incorporation may be amended by
5 the votes of the stockholders and the members, voting
6 separately by classes, and the amendments shall require
7 approval of two-thirds of the votes of the stockholders and
8 two-thirds of the votes of the members. [~~provided that~~] No
9 amendment of the articles of incorporation [~~which~~] that is
10 inconsistent with the general purposes expressed in the
11 Business Development Corporation Act [~~which~~] authorizes any
12 additional class of capital stock to be issued or [~~which~~]
13 eliminates or curtails the right of the director of the
14 financial institutions division of the [~~commerce and industry~~]
15 regulation and licensing department to examine the corporation
16 or the obligation of the corporation to make reports as
17 provided in Section [~~22 of the Business Development~~
18 ~~Corporation Act~~] 53-7-39 NMSA 1978 shall be made [~~and provided~~
19 ~~further that~~]. No amendment of the articles of incorporation
20 [~~which~~] that increases the obligation of a member to make
21 loans to the corporation or makes any change in the principal
22 amount, interest rate, maturity date or in the security or
23 credit position of any outstanding loan of a member to the
24 corporation shall be made without the consent of each member
25 affected by the amendment.

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1 B. Within thirty days after any meeting at which
2 an amendment of the articles of incorporation has been
3 adopted, the articles of amendment, setting forth the
4 amendment and the adoption of it, shall be signed and sworn to
5 by the president, the treasurer and a majority of the
6 directors. The articles of amendment shall be submitted to
7 the director of the financial institutions division, who shall
8 examine the amendment. If the director of the financial
9 institutions division finds that the amendment conforms to the
10 requirements of the Business Development Corporation Act, he
11 shall so certify and endorse his approval on the articles of
12 amendment. The articles of amendment shall be filed in the
13 office of the ~~[state corporation]~~ public regulation
14 commission. No amendment shall take effect until the articles
15 of amendment have been filed."

16 Section 35. Section 53-7-36 NMSA 1978 (being Laws 1983,
17 Chapter 312, Section 19) is amended to read:

18 "53-7-36. LEGISLATIVE AMENDMENTS--IMPLEMENTATION. --
19 Within sixty days after the effective date of any legislative
20 amendment to the Business Development Corporation Act, the
21 stockholders and the members of the corporation shall vote to
22 modify the articles of incorporation pursuant to the amendment
23 at a meeting duly called for that purpose. The purpose of the
24 vote shall be solely to determine whether any member may be
25 allowed to withdraw. If ~~[such]~~ the amendment to the articles

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1 of incorporation is not approved by at least two-thirds of the
2 votes of the stockholders and two-thirds of the votes of the
3 members, any member voting against approval of the amendment
4 [~~to the articles of incorporation~~] has the right to withdraw
5 from membership. Within thirty days after a meeting at which
6 [~~such an~~] the amendment to the articles of incorporation has
7 been voted on, a certificate signed and sworn to by the
8 recording officer of the corporation, setting forth the action
9 taken at the meeting with respect to the amendment and each
10 member's vote, shall be filed in the office of the [~~state~~
11 ~~corporation~~] public regulation commission and the office of
12 the financial institutions division. "

13 Section 36. Section 53-7-39 NMSA 1978 (being Laws 1983,
14 Chapter 312, Section 22) is amended to read:

15 "53-7-39. ANNUAL REPORT-- OTHER INFORMATION. -- The
16 corporation shall be subject to the examination of the
17 director of the financial institutions division. The
18 corporation shall make reports of its condition not less than
19 annually to the director of the financial institutions
20 division and to the [~~state corporation~~] public regulation
21 commission, and the corporation shall furnish such other
22 information as may from time to time be required by the
23 director of the financial institutions division. "

24 Section 37. Section 53-8-18 NMSA 1978 (being Laws 1975,
25 Chapter 217, Section 18) is amended to read:

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1 "53-8-18. NUMBER AND ELECTION OF DIRECTORS. --

2 A. The number of directors of a corporation shall
3 be not less than three. Subject to ~~[such]~~ that limitation,
4 the number of directors shall be fixed by, or determined in
5 the manner provided in, the articles of incorporation or the
6 bylaws, except [as to] that the number of the first board of
7 directors ~~[which number]~~ shall be fixed by the articles of
8 incorporation. The number of directors may be increased or
9 decreased from time to time by amendment to, or in the manner
10 provided in, the articles of incorporation or the bylaws,
11 unless the articles of incorporation provide that a change in
12 the number of directors shall be made only by amendment of the
13 articles of incorporation. No decrease in number shall have
14 the effect of shortening the term of any incumbent director.
15 ~~[In the absence of a bylaw fixing]~~ If the number of directors
16 is not fixed by, or determined in a manner provided in, the
17 articles of incorporation or the bylaws, the number shall be
18 the same as that stated in the articles of incorporation.

19 B. The directors constituting the first board of
20 directors shall be named in the articles of incorporation and
21 shall hold office until the first annual election of directors
22 or for such other period as may be specified in the articles
23 of incorporation or the bylaws. Thereafter, directors shall
24 be elected or appointed in the manner and for the terms
25 provided in the articles of incorporation or the bylaws. In

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1 the absence of a provision fixing the term of office, the term
2 of office of a director shall be one year.

3 C. Directors may be divided into classes and the
4 terms of office of the several classes need not be uniform.
5 Each director shall hold office for the term for which he is
6 elected or appointed and until his successor [~~shall have been~~]
7 is elected or appointed and qualified.

8 D. A director may be removed from office pursuant
9 to any procedure [~~therefor~~] provided in the articles of
10 incorporation or the bylaws. "

11 Section 38. Section 53-8-54 NMSA 1978 (being Laws 1975,
12 Chapter 217, Section 54) is amended to read:

13 "53-8-54. ISSUANCE OF CERTIFICATE OF REVOCATION. --

14 A. Upon revoking any certificate of incorporation,
15 the [~~corporation~~] commission shall:

- 16 (1) issue a certificate of revocation in
17 duplicate;
18 (2) file one of the certificates in its
19 office; and
20 (3) mail to the corporation at its registered
21 office a notice of the revocation accompanied by one of the
22 certificates.

23 B. Upon the issuance of a certificate of
24 revocation, the authority of the corporation to conduct
25 affairs in New Mexico ceases.

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1 C. A corporation administratively revoked under
2 Section 53-8-53 NMSA 1978 may apply to the commission for
3 reinstatement within two years after the effective date of
4 revocation. The application shall:

5 (1) recite the name of the corporation and
6 the effective date of its administrative revocation;

7 (2) state that the ground or grounds for
8 revocation either did not exist or have been eliminated; and

9 (3) state that the corporation's name
10 satisfies the requirements of Section 53-8-7 NMSA 1978.

11 D. If the commission determines that the
12 application contains the information required by Subsection C
13 of this section and that the information is correct, it shall
14 cancel the certificate of revocation and prepare a certificate
15 of reinstatement that recites its determination and the
16 effective date of reinstatement, file the original of the
17 certificate and serve a copy on the corporation.

18 E. When the reinstatement is effective, it relates
19 back to and takes effect as of the effective date of the
20 administrative revocation and the corporation resumes carrying
21 on its business as if the administrative revocation had never
22 occurred. "

23 Section 39. Section 53-8-83 NMSA 1978 (being Laws 1975,
24 Chapter 217, Section 83, as amended) is amended to read:

25 "53-8-83. FILING OF ANNUAL REPORT--INITIAL REPORT--

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1 SUPPLEMENTAL REPORT-- EXTENSION OF TIME. --

2 A. The annual report of a domestic or foreign
3 corporation shall be delivered to the ~~[corporation]~~ commission
4 on or before the fifteenth day of the fifth month following
5 the end of its taxable year, except that the first annual
6 report of a domestic or foreign corporation shall be filed
7 within thirty days of the date on which its certificate of
8 incorporation or its certificate of authority ~~[as the case may~~
9 ~~be]~~ was issued by the ~~[corporation]~~ commission.

10 B. A supplemental report shall be filed with the
11 commission within thirty days if, after the filing of the
12 annual report required under the Nonprofit Corporation Act, a
13 change is made in:

14 (1) the name of the corporation;
15 (2) the mailing address, street address or
16 the geographical location of ~~[its]~~ the corporation's
17 registered office in this state and the name of the agent upon
18 whom process against the corporation may be served;

19 (3) the name or address of any of the
20 directors or officers of the corporation or the date when the
21 term of office of each expires; or

22 (4) the ~~[character of its business and its]~~
23 corporation's principal place of business within or without
24 the state.

25 C. Proof to the satisfaction of the commission

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1 that prior to the due date of any report required by
2 Subsection A or B of this section the report was deposited in
3 the United States mail in a sealed envelope, properly
4 addressed, with postage prepaid, shall be deemed compliance
5 with the requirements of this section. If the commission
6 finds that the report conforms to the requirements of the
7 Nonprofit Corporation Act, it shall file the same. If the
8 commission finds that it does not so conform, it shall
9 promptly return the report to the corporation for any
10 necessary corrections, in which event the penalties prescribed
11 for failure to file the report within the time provided shall
12 not apply, if the report is corrected to conform to the
13 requirements of the Nonprofit Corporation Act and returned to
14 the commission within thirty days from the date on which it
15 was mailed to the corporation by the commission.

16 D. [~~The commission may~~] Upon application by [~~the~~
17 ~~nonprofit~~] a corporation and for good cause shown, the
18 commission may extend, for no more than a total of twelve
19 months, the date on which [~~any~~] a return required by the
20 provisions of the Nonprofit Corporation Act ~~must~~ be filed or
21 the date on which the payment of any fee is required, but no
22 extension shall prevent the accrual of interest as otherwise
23 provided by law. The commission shall, when an extension of
24 time has been granted a nonprofit corporation under the United
25 States Internal Revenue Code of 1986 for the time in which to

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1 file a return, grant the corporation the same extension of
2 time to file the required return and to pay the required fees
3 [~~provided that~~] if a copy of the approved federal extension of
4 time is attached to the corporation's report [~~and provided~~
5 ~~further that no such~~]. An extension shall not prevent the
6 accrual of interest as otherwise provided by law.

7 E. Nothing [~~contained~~] in this section [~~shall~~
8 ~~prevent~~] prevents the collection of [~~any~~] a fee or penalty [~~or~~
9 ~~interest~~] due upon the failure of any corporation to submit
10 the required report.

11 F. No annual or supplemental report required to be
12 filed under this section shall be deemed to have been filed if
13 the fees accompanying the report have been paid by check and
14 [~~which~~] the check is dishonored upon presentation. "

15 Section 40. Section 53-11-1 NMSA 1978 (being Laws 1967,
16 Chapter 81, Section 1, as amended) is amended to read:

17 "53-11-1. SHORT TITLE. -- [Sections 53-11-1 through
18 53-18-12 NMSA 1978 is the general corporation law of New
19 Mexico and] Chapter 53, Articles 11 through 18 NMSA 1978 may
20 be cited as the "Business Corporation Act". "

21 Section 41. Section 53-11-2 NMSA 1978 (being Laws 1967,
22 Chapter 81, Section 2, as amended) is amended to read:

23 "53-11-2. DEFINITIONS. -- As used in the Business
24 Corporation Act, unless the text otherwise requires:

25 A. "corporation" or "domestic corporation" means a

1 corporation for profit subject to the provisions of the
2 Business Corporation Act, except a foreign corporation;

3 B. "foreign corporation" means a corporation for
4 profit organized under laws other than the laws of this state
5 for a purpose for which a corporation may be organized under
6 the Business Corporation Act;

7 C. "articles of incorporation" means the original
8 or restated articles of incorporation or articles of
9 consolidation and all amendments thereto, including articles
10 of merger;

11 D. "shares" means the units into which the
12 proprietary interests in a corporation are divided;

13 E. "subscriber" means one who subscribes for
14 shares in a corporation, whether before or after
15 incorporation;

16 F. "shareholder" means one who is a holder of
17 record of shares in a corporation;

18 G. "authorized shares" means the shares of all
19 classes which the corporation is authorized to issue;

20 H. "annual report" means the corporate report
21 required by the Corporate Reports Act;

22 I. "distribution" means a direct or indirect
23 transfer of money or other property (except its own shares) or
24 incurrence of indebtedness, by a corporation to or for the
25 benefit of any of its shareholders in respect of any of its

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1 shares, whether by dividend or by purchase redemption or other
2 acquisition of its shares, or otherwise;

3 J. "franchise tax" means the franchise tax imposed
4 by the Corporate Income and Franchise Tax Act;

5 K. "fees" means the fees imposed by Section 53-2-1
6 NMSA 1978;

7 L. "commission" means the public regulation
8 commission or its delegate;

9 M. "address" means:

10 (1) the mailing address and the street
11 address, if within a municipality; or

12 (2) the mailing address and a rural route
13 number and box number, if any, or the geographical location,
14 using well-known landmarks, if outside a municipality; and

15 [~~N. "duplicate original" means a document that is~~
16 ~~signed or executed in duplicate;~~

17 ~~θ.] N. "delivery" means:~~

18 (1) if personally served, the date on which
19 the documentation is received by the corporations bureau of
20 the commission; and

21 (2) if mailed, the date of the postmark plus
22 three days, upon proof thereof by the party delivering the
23 documentation [and

24 ~~P. "person" includes individuals, partnerships,~~
25 ~~corporations and other associations]. "~~

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1 Section 42. Section 53-11-5 NMSA 1978 (being Laws 1967,
2 Chapter 81, Section 5, as amended) is amended to read:

3 "53-11-5. POWER OF CORPORATION TO ACQUIRE ITS OWN
4 SHARES. --

5 A. As used in this section, "treasury shares"
6 means shares of a corporation issued and subsequently acquired
7 by the corporation but that have not been restored to the
8 status of unissued shares.

9 ~~[A.]~~ B. A corporation [shall have] has the power
10 to [acquire] purchase, redeem, receive, take or otherwise
11 acquire, own and hold, sell, lend, exchange, transfer or
12 otherwise dispose of and to pledge, use and otherwise deal in
13 and with its own shares. [All of its own shares acquired by a
14 corporation shall, upon acquisition, constitute authorized but
15 unissued shares, unless the articles of incorporation provide
16 that they shall not be reissued, in which case the authorized
17 shares shall be reduced by the number of shares acquired.]

18 C. Treasury shares do not carry voting rights or
19 participate in distributions, may not be counted as
20 outstanding shares for any purpose and may not be counted as
21 assets of the corporation for the purpose of computing the
22 amount available for distributions. Unless the articles of
23 incorporation provide otherwise, treasury shares may be
24 retired and restored to the status of authorized and unissued
25 shares without an amendment to the articles of incorporation

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1 or may be disposed of for such consideration as the board of
2 directors may determine.

3 D. This section does not limit the right of a
4 corporation to vote its shares held by it in a fiduciary
5 capacity.

6 E. If the articles of incorporation provide that
7 treasury shares that are retired shall not be reissued, the
8 authorized shares shall be reduced by the number of treasury
9 shares retired.

10 ~~[B.]~~ F. If the number of authorized shares is
11 reduced by ~~[an acquisition]~~ a retirement of treasury shares,
12 the corporation shall, on or before the time for filing its
13 next corporate report under the Corporate Reports Act with the
14 commission, file a statement of reduction showing the
15 reduction in the authorized shares. The statement of
16 reduction shall be executed by the corporation by an officer
17 of the corporation and ~~[verified by the officer signing such~~
18 statement, and] shall set forth:

- 19 (1) the name of the corporation;
20 (2) the number of ~~[acquired]~~ authorized
21 shares reduced, itemized by classes and series; and
22 (3) the aggregate number of authorized
23 shares, itemized by classes and series, after giving effect to
24 such reduction. "

25 Section 43. Section 53-11-12 NMSA 1978 (being Laws 1967,

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1 Chapter 252, Section 3) is amended to read:

2 "53-11-12. FAILURE TO APPOINT AND MAINTAIN REGISTERED
3 AGENT--PENALTY--REINSTATEMENT. --

4 A. If [~~any~~] a corporation fails for a period of
5 thirty days to appoint and maintain a registered agent in this
6 state or has failed for thirty days after change of its
7 registered office or registered agent to file in the office of
8 the commission a statement of the change, the commission shall
9 notify the corporation of its delinquency by certified letter
10 to the corporation's principal office. If the delinquency is
11 not corrected within [~~thirty~~] sixty days from the date the
12 letter is [~~transmitted~~] mailed, the commission [~~may commence~~
13 ~~proceedings to strike the names and records of the delinquent~~
14 ~~corporation from the files of the commission after proceedings~~
15 ~~held pursuant to the terms of this section.~~ The commission
16 shall issue a notice of dissolution and setting a date for
17 hearing. Service of process and notice of proceedings shall
18 be by certified mail to the principal place of business of the
19 corporation. Any order of the commission may be appealed to
20 the district court of Santa Fe county New Mexico within sixty
21 days of the date it was issued by the commission] shall issue
22 a certificate of revocation that recites the grounds for
23 revocation and its effective date.

24 B. A corporation administratively revoked pursuant
25 to this section may apply to the commission for reinstatement

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1 within two years after the effective date of revocation. The
2 application shall:

3 (1) recite the name of the corporation and
4 the effective date of its administrative revocation;

5 (2) state that the ground or grounds for
6 revocation either did not exist or have been eliminated; and

7 (3) state that the corporation's name
8 satisfies the requirements of Section 53-11-7 NMSA 1978.

9 C. If the commission determines that the
10 application contains the information required by Subsection B
11 of this section and that the information is correct, it shall
12 cancel the certificate of revocation and prepare a certificate
13 of reinstatement that recites its determination and the
14 effective date of reinstatement, file the original of the
15 certificate and serve a copy on the corporation.

16 D. When the reinstatement is effective, it relates
17 back to and takes effect as of the effective date of the
18 administrative revocation and the corporation resumes carrying
19 on its business as if the administrative revocation had never
20 occurred. "

21 Section 44. Section 53-11-13 NMSA 1978 (being Laws 1967,
22 Chapter 81, Section 12, as amended) is amended to read:

23 "53-11-13. CHANGE OF REGISTERED OFFICE OR REGISTERED
24 AGENT. --

25 A. A corporation may change its registered office

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1 or change its registered agent, or both, upon filing in the
2 office of the commission a statement setting forth:

3 (1) the name of the corporation;

4 (2) the address of its ~~[then]~~ registered
5 office;

6 (3) if the address of its registered office
7 is to be changed, the address to which the registered office
8 is to be changed;

9 (4) the name of its ~~[then]~~ registered agent;

10 (5) if its registered agent is to be changed:

11 (a) the name of its successor
12 registered agent; and

13 (b) ~~[an affidavit]~~ a statement executed
14 by the successor registered agent ~~[in which he acknowledges]~~
15 acknowledging his acceptance of the appointment by the filing
16 corporation as its registered agent, if the agent is an
17 individual, or ~~[an affidavit]~~ a statement executed by ~~[the~~
18 ~~president or vice president]~~ an authorized officer of a
19 corporation ~~[which]~~ that is the successor registered agent in
20 which the officer acknowledges the corporation's acceptance of
21 the appointment by the filing corporation as its registered
22 agent, if the agent is a corporation; and

23 (6) that the address of its registered office
24 and the address of the business office of its registered
25 agent, as changed, will be identical.

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1 B. The statement shall be executed by the
2 corporation by ~~[its president or a vice president, and~~
3 ~~verified by him]~~ an authorized officer and delivered to the
4 commission. If the commission finds that the statement
5 conforms to the provisions of the Business Corporation Act, it
6 shall file the statement in its office, and, upon such filing,
7 the change of address of the registered office or the
8 appointment of a new registered agent, or both, as the case
9 may be, becomes effective, and, upon filing, fulfills the
10 requirement to file a supplemental report under Section
11 ~~[51-21-5 NMSA 1953]~~ 53-5-5 NMSA 1978.

12 C. Any registered agent of a corporation may
13 resign ~~[as such agent]~~ upon filing a written notice ~~[thereof,~~
14 ~~executed in duplicate]~~ of resignation with the commission
15 ~~[which]~~. The commission shall ~~[forthwith]~~ mail a copy
16 ~~[thereof]~~ immediately to the corporation at its principal
17 place of business as shown on the records of the commission.
18 The appointment of ~~[such]~~ the resigning agent shall terminate
19 upon the expiration of thirty days after receipt of the notice
20 by the commission.

21 D. If a registered agent changes his ~~[or its]~~
22 business address to another place within the same county, he
23 ~~[or it]~~ may change ~~[such]~~ the address and the address of the
24 registered office of any corporation of which he ~~[or it]~~ is
25 the registered agent by filing a statement as required by this

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1 section except that it need be signed only by the registered
2 agent and need not be responsive to Paragraph (5) of
3 Subsection A of this section and [~~must~~] shall recite that a
4 copy of the statement has been mailed to the corporation. "

5 Section 45. Section 53-11-19 NMSA 1978 (being laws 1967,
6 Chapter 81, Section 18, as amended) is repealed and a new
7 Section 53-11-19 is enacted to read:

8 "53-11-19. [NEW MATERIAL] PAYMENT FOR SHARES. --

9 A. The board of directors may authorize shares to
10 be issued for consideration consisting of tangible or
11 intangible property or benefit to the corporation, including
12 cash, promissory notes, services performed, contracts for
13 services to be performed or other securities of the
14 corporation.

15 B. Before the corporation issues shares, the board
16 of directors shall determine that the consideration received
17 or to be received for shares to be issued is adequate. That
18 determination by the board of directors is conclusive insofar
19 as the adequacy of consideration for the issuance of shares
20 relates to whether the shares are validly issued, fully paid
21 and nonassessable.

22 C. When the corporation receives the consideration
23 for which the board of directors authorized the issuance of
24 shares, the shares issued therefor are fully paid and
25 nonassessable.

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1 D. The corporation may place in escrow shares
2 issued for a contract for future services or benefits or a
3 promissory note, or make other arrangements to restrict the
4 transfer of the shares, and may credit distributions in
5 respect of the shares against their purchase price, until the
6 services are performed, the note is paid or the benefits
7 received. If the services are not performed, the note is not
8 paid or the benefits are not received, the shares escrowed or
9 restricted and the distributions credited may be canceled in
10 whole or part. "

11 Section 46. Section 53-11-20 NMSA 1978 (being Laws 1967,
12 Chapter 81, Section 19, as amended) is amended to read:

13 "53-11-20. STOCK RIGHTS AND OPTIONS. --Subject to any
14 provisions in respect thereof set forth in its articles of
15 incorporation, a corporation may create and issue, whether or
16 not in connection with the issuance and sale of any of its
17 shares or other securities, rights or options entitling the
18 holders thereof to purchase from the corporation shares of any
19 class or classes. Such rights or options shall be evidenced
20 in the manner approved by the board of directors and, subject
21 to the provisions of the articles of incorporation, shall set
22 forth the terms upon which, the time or times within which and
23 the price or prices at which the shares may be purchased from
24 the corporation upon the exercise of any such right or option.

25 [~~Unless otherwise provided in the articles of incorporation,~~

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1 ~~if the rights or options have been or are to be issued to~~
2 ~~directors, officers or employees as such of the corporation or~~
3 ~~of any subsidiary thereof, and not to the shareholders~~
4 ~~generally, their issuance shall be approved or ratified by the~~
5 ~~affirmative vote of the holders of a majority of the shares~~
6 ~~entitled to vote thereon or shall be authorized by and~~
7 ~~consistent with a plan approved or ratified by such a vote of~~
8 ~~shareholders.]~~ In the absence of fraud in the transaction,
9 the judgment of the board of directors as to the adequacy of
10 the consideration received for the rights or options is
11 conclusive. "

12 Section 47. Section 53-11-28 NMSA 1978 (being Laws 1967,
13 Chapter 81, Section 27, as amended) is amended to read:

14 "53-11-28. MEETINGS OF SHAREHOLDERS. --

15 A. Meetings of shareholders may be held at any
16 place within or without this state in accordance with the
17 bylaws. If no other place is designated in, or fixed in
18 accordance with, the bylaws, meetings shall be held at the
19 [~~registered office~~] principal place of business of the
20 corporation.

21 B. An annual meeting of the shareholders shall be
22 held at the time designated in or fixed in accordance with the
23 bylaws. If the annual meeting is not held within any
24 thirteen-month period, the district court may, on the
25 application of any shareholder, order a meeting to be held.

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1 C. Special meetings of the shareholders may be
2 called by the board of directors, the holders of not less than
3 one-tenth of all the shares entitled to vote at the meeting or
4 such other persons as may be authorized in the articles of
5 incorporation or the bylaws. "

6 Section 48. Section 53-11-33 NMSA 1978 (being Laws 1967,
7 Chapter 81, Section 32, as amended) is amended to read:

8 "53-11-33. VOTING OF SHARES. --

9 A. Each outstanding share, regardless of class,
10 shall be entitled to one vote on each matter submitted to a
11 vote at a meeting of shareholders, except as otherwise
12 provided in the articles of incorporation. If the articles of
13 incorporation provide for more or less than one vote for any
14 share, on any matter, every reference in the Business
15 Corporation Act to a majority or other proportion of shares
16 shall refer to such a majority or other proportion of votes
17 entitled to be cast. The articles of incorporation may grant,
18 either absolutely or conditionally to the holders of bonds,
19 debentures or other obligations of the corporation the power
20 to vote on specified matters, including the election of
21 directors, and this right shall not be terminated except upon
22 written assent of the holders of a majority in aggregate face
23 amount of the bonds or debentures.

24 B. Shares held by another corporation, domestic or
25 foreign, if a majority of the shares entitled to vote for the

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1 election of directors of the other corporation is held by the
2 corporation, shall not be voted at any meeting or counted in
3 determining the total number of outstanding shares at any
4 given time.

5 C. The articles of incorporation may provide that
6 at each election for directors every shareholder entitled to
7 vote at the election has the right to vote, in person or by
8 proxy, the number of shares owned by him for as many persons
9 as there are directors to be elected and for whose election he
10 has a right to vote, or to cumulate his votes by giving one
11 candidate as many votes as the number of such directors
12 multiplied by the number of his shares shall equal, or by
13 distributing such votes on the same principle among any number
14 of the candidates. A statement in the articles of
15 incorporation that cumulative voting exists is sufficient to
16 confer such right.

17 D. Shares standing in the name of another
18 corporation, domestic or foreign, may be voted by the officer,
19 agent or proxy as the bylaws of the other corporation may
20 prescribe, or, in the absence of such provisions, as the board
21 of directors of the other corporation may determine.

22 E. Shares held by an administrator, executor,
23 guardian or conservator may be voted by him, either in person
24 or by proxy, without a transfer of the shares into his name.
25 Shares standing in the name of a trustee, or a custodian for a

1 minor, may be voted by him, either in person or by proxy, but
2 only after a transfer of the shares into his name.

3 F. A shareholder may vote either in person or by
4 proxy executed in writing by the shareholder or by his duly
5 authorized attorney in fact. No proxy shall be valid after
6 eleven months from the date of its execution, unless otherwise
7 provided in the proxy.

8 G. Shares standing in the name of a receiver or
9 bankruptcy trustee may be voted by the receiver or bankruptcy
10 trustee, and shares held by or under the control of a receiver
11 or bankruptcy trustee may be voted by him without the transfer
12 thereof into his name if authority so to do is contained in an
13 appropriate order of the court by which the receiver or
14 bankruptcy trustee was appointed.

15 H. A shareholder whose shares are pledged may vote
16 the shares until the shares have been transferred into the
17 name of the pledgee, and thereafter the pledgee may vote the
18 shares so transferred.

19 I. Shares standing in the name of a partnership
20 may be voted by any partner, and shares standing in the name
21 of a limited partnership may be voted by any general partner.

22 J. Shares standing in the name of a person as life
23 tenant may be voted by him, either in person or by proxy.

24 K. From the date on which written notice of
25 redemption of redeemable shares has been mailed to the holders

1 thereof and a sum sufficient to redeem the shares has been
2 deposited with a bank or trust company with irrevocable
3 instruction and authority to pay the redemption price to the
4 holders thereof upon surrender of certificates therefor, the
5 shares shall not be entitled to vote on any matter and shall
6 not be deemed to be outstanding shares.

7 L. Without limiting the manner in which a
8 shareholder may authorize another person or persons to act for
9 the shareholder as proxy pursuant to Subsection F of this
10 section, the following shall constitute valid means by which a
11 shareholder may grant that authority:

12 (1) a shareholder may execute a writing
13 authorizing another person or persons to act for that
14 shareholder as proxy, and execution may be by the shareholder
15 or the shareholder's authorized officer, director, employee or
16 agent signing the writing or causing the person's signature to
17 be affixed to the writing by any reasonable means, including
18 by facsimile signature;

19 (2) a shareholder may authorize another
20 person or persons to act for that shareholder as proxy by
21 transmitting or authorizing the transmission of a telegram,
22 cablegram, facsimile transmission, email or other means of
23 electronic transmission to the person who will be the holder
24 of the proxy or to a proxy solicitation firm, proxy support
25 service organization or like agent duly authorized by the

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1 person who will be the holder of the proxy to receive the
2 transmission; provided that the electronic transmission shall
3 either set forth, or be submitted with information from which
4 it can be determined, that the electronic transmission was
5 authorized by the shareholder. If it is determined that an
6 electronic transmission is valid, the inspector, or if there
7 is no inspector, the person making that determination, shall
8 specify the information upon which he relied.

9 M A copy, facsimile telecommunication or other
10 reliable reproduction of the writing or transmission created
11 pursuant to Subsection L of this section may be substituted or
12 used in lieu of the original writing or transmission for any
13 purpose for which the original writing or transmission could
14 be used, if that copy, facsimile telecommunication or other
15 reproduction is a complete reproduction of the entire original
16 writing or transmission."

17 Section 49. Section 53-11-37 NMSA 1978 (being Laws 1967,
18 Chapter 81, Section 36) is amended to read:

19 "53-11-37. CLASSIFICATION OF DIRECTORS. --When the board
20 of directors consists of [~~nine~~] two or more members, in lieu
21 of electing the whole number of directors annually, the
22 articles of incorporation may provide that the directors be
23 divided into either two or three classes, each class to be as
24 nearly equal in number as possible, the term of office of
25 directors of the first class to expire at the first annual

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1 meeting of shareholders after their election, that of the
2 second class to expire at the second annual meeting after
3 their election and that of the third class, if any, to expire
4 at the third annual meeting after their election. At each
5 annual meeting after the classification, the number of
6 directors equal to the number of the class whose term expires
7 at the time of the meeting shall be elected to hold office
8 until the second succeeding annual meeting, if there are two
9 classes, or until the third succeeding annual meeting, if
10 there are three classes. No classification of directors shall
11 be effective prior to the first annual meeting of
12 shareholders. "

13 Section 50. Section 53-11-39 NMSA 1978 (being Laws 1967,
14 Chapter 81, Section 38, as amended) is amended to read:

15 "53-11-39. REMOVAL OF DIRECTORS. --

16 A. At a meeting of shareholders called expressly
17 for that purpose, directors may be removed in the manner
18 provided in this section. ~~[Any]~~ Except as provided in
19 Subsection D of this section, a director or the entire board
20 of directors may be removed, with or without cause, by a vote
21 of the holders of a majority of the shares then entitled to
22 vote at an election of directors.

23 B. In the case of a corporation having cumulative
24 voting, if less than the entire board is to be removed, no one
25 of the directors may be removed if the votes cast against his

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1 removal would be sufficient to elect him if then cumulatively
2 voted at an election of the entire board of directors, or, if
3 there are classes of directors, at an election of the class of
4 directors of which he is a part.

5 C. Whenever the holders of the shares of any class
6 are entitled to elect one or more directors by the provisions
7 of the articles of incorporation, the provisions of this
8 section apply, in respect to the removal of a director or
9 directors so elected, to the vote of the holders of the
10 outstanding shares of that class and not to the vote of the
11 outstanding shares as a whole.

12 D. Unless the articles of incorporation provide
13 otherwise, in the case of a corporation whose board is
14 classified as provided in Section 53-11-37 NMSA 1978,
15 shareholders may remove directors only for cause. "

16 Section 51. Section 53-12-2 NMSA 1978 (being laws 1967,
17 Chapter 81, Section 50, as amended) is repealed and a new
18 Section 53-12-2 NMSA 1978 is enacted to read:

19 "53-12-2. [NEW MATERIAL] ARTICLES OF INCORPORATION. --

20 A. The articles of incorporation shall set forth:
21 (1) the name of the corporation;
22 (2) the number of shares the corporation is
23 authorized to issue;
24 (3) the street address of the corporation's
25 initial registered office and the name of its initial

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1 registered agent at that office; and

2 (4) the name and address of each
3 incorporator.

4 B. The articles of incorporation may set forth:

5 (1) the names and addresses of the
6 individuals who are to serve as the initial directors;

7 (2) provisions not inconsistent with law
8 regarding:

9 (a) the purpose or purposes for which
10 the corporation is organized;

11 (b) managing the business and
12 regulating the affairs of the corporation;

13 (c) defining, limiting and regulating
14 the powers of the corporation, its board of directors and
15 shareholders;

16 (d) a par value for authorized shares
17 or classes of shares; and

18 (e) the imposition of personal
19 liability on shareholders for the debts of the corporation to
20 a specified extent and upon specified conditions;

21 (3) a provision that is required or permitted
22 to be set forth in the bylaws pursuant to the Business
23 Corporation Act;

24 (4) a provision eliminating or limiting the
25 liability of a director to the corporation or its shareholders

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1 for money damages for any action taken, or any failure to take
2 any action, as a director, except liability for:

3 (a) the amount of a financial benefit
4 received by a director to which he is not entitled;

5 (b) an intentional infliction of harm
6 on the corporation or the shareholders;

7 (c) a violation of Section 53-11-46
8 NMSA 1978; or

9 (d) an intentional violation of
10 criminal law; and

11 (5) a provision permitting or making
12 obligatory indemnification of a director for liability as
13 provided in Section 53-11-4.1 NMSA 1978 to any person for any
14 action taken, or any failure to take any action, as a
15 director, except liability for:

16 (a) receipt of a financial benefit to
17 which he is not entitled;

18 (b) an intentional infliction of harm
19 on the corporation or its shareholders;

20 (c) a violation of Section 53-11-46
21 NMSA 1978; or

22 (d) an intentional violation of
23 criminal law.

24 C. The articles of incorporation need not set
25 forth any of the corporate powers enumerated in the Business

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1 Corporation Act. "

2 Section 52. Section 53-12-3 NMSA 1978 (being Laws 1967,
3 Chapter 81, Section 51, as amended) is amended to read:

4 "53-12-3. FILING OF ARTICLES OF INCORPORATION. --

5 A. [~~Duplicate originals~~] An original of the
6 articles of incorporation together with a copy, which may be
7 signed, photocopied or conformed, and [~~an affidavit~~] a
8 statement executed by the designated registered agent [~~in~~
9 ~~which he acknowledges~~] acknowledging his acceptance of the
10 appointment by the filing corporation as its registered agent,
11 if the agent is an individual, or [~~an affidavit~~] a statement
12 executed by [~~the president or vice president~~] an authorized
13 officer of a corporation [~~which~~] that is the designated
14 registered agent in which the officer acknowledges the
15 corporation's acceptance of the appointment by the filing
16 corporation as its registered agent, if the agent is a
17 corporation, shall be delivered to the commission. If the
18 commission finds that the articles of incorporation and the
19 [~~affidavit~~] statement conform to law, it shall, when all fees
20 and franchise taxes have been paid:

21 (1) endorse on [~~each of the duplicate~~
22 ~~originals~~] the original and copy the word "filed" and the
23 month, day and year of the filing thereof;

24 (2) file [~~one of~~] the [~~duplicate originals~~]
25 original and the [~~affidavit~~] statement in its office; and

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1 (3) issue a certificate of incorporation to
2 which it shall affix the [~~other duplicate original~~] file-
3 stamped copy.

4 B. The certificate of incorporation, together with
5 the [~~duplicate original~~] file-stamped copy of the articles of
6 incorporation affixed [~~thereto by the commission~~] to it shall
7 be returned by the commission to the incorporators or their
8 representative. "

9 Section 53. Section 53-13-3 NMSA 1978 (being Laws 1967,
10 Chapter 81, Section 57, as amended) is amended to read:

11 "53-13-3. CLASS VOTING ON AMENDMENTS. -- The holders of
12 the outstanding shares of a class may vote as a class upon a
13 proposed amendment, whether or not entitled to vote thereon by
14 the provisions of the articles of incorporation, if the
15 amendment would:

16 [~~A. increase or decrease the aggregate number of~~
17 ~~authorized shares of the class;~~

18 B.] A. effect an exchange, reclassification or
19 cancellation of all or part of the shares or the class;

20 [~~C.~~] B. effect an exchange or create a right of
21 exchange of all or any part of the shares of another class
22 into the shares of the class;

23 [~~D.~~] C. change the designations, preferences,
24 limitations or relative rights of the shares of the class;

25 [~~E.~~] D. change the shares of the class into the

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1 same or a different number of shares of the same class or
2 another class;

3 ~~[F.]~~ E. create a new class of shares having rights
4 and preferences prior and superior to the shares of the class
5 or increase the rights and preferences or the number of
6 authorized shares of any class having rights and preferences
7 prior or superior to the shares of the class;

8 ~~[G.]~~ F. in the case of a preferred or special
9 class of shares, divide the shares of the class into series
10 and fix and determine the designation of the series and the
11 variations in the relative rights and preferences between the
12 shares of the series or authorize the board of directors to do
13 so;

14 ~~[H.]~~ G. limit or deny the existing preemptive
15 rights of the shares of the class; or

16 ~~[I.]~~ H. cancel or otherwise affect dividends on
17 the shares of the class which have accrued but have not been
18 declared. "

19 Section 54. Section 53-13-4 NMSA 1978 (being Laws 1967,
20 Chapter 81, Section 58, as amended) is amended to read:

21 "53-13-4. ARTICLES OF AMENDMENT. --The articles of
22 amendment shall be executed [~~in duplicate~~] by the corporation
23 by [~~its chairman of the board, president or a vice president~~
24 ~~and by its secretary or an assistant secretary and verified by~~
25 ~~one of the officers signing the articles~~] an authorized

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1 officer and shall set forth:

2 A. the name of the corporation;

3 B. the amendment [~~so~~] adopted;

4 C. the date of the adoption of the amendment by
5 the shareholders or by the board of directors where no shares
6 have been issued;

7 D. the number of shares outstanding and the number
8 of shares entitled to vote [~~thereon~~] on the amendment and, if
9 the shares of any class are entitled to vote [~~thereon~~] on it
10 as a class, the designation and number of outstanding shares
11 entitled to vote [~~thereon~~] of each class;

12 E. the number of shares voted for and against the
13 amendment, respectively, and, if the shares of any class are
14 entitled to vote [~~thereon~~] on the amendment as a class, the
15 number of shares of each class voted for and against the
16 amendment, respectively, or if no shares have been issued, a
17 statement to that effect; and

18 F. if the amendment provides for an exchange,
19 reclassification or cancellation of issued shares and if the
20 manner in which [~~they~~] the action shall be effected is not set
21 forth in the amendment, then a statement of the manner in
22 which [~~they~~] it shall be effected. "

23 Section 55. Section 53-13-7 NMSA 1978 (being Laws 1975,
24 Chapter 64, Section 32, as amended) is amended to read:

25 "53-13-7. RESTATED ARTICLES OF INCORPORATION. --

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1 A. A domestic corporation may at any time restate
2 its articles of incorporation, as [~~theretofore~~] amended, by a
3 resolution adopted by the board of directors.

4 B. Upon the adoption of such resolution, restated
5 articles of incorporation shall be executed [~~in duplicate~~] by
6 the corporation by [~~its president or a vice president and by~~
7 ~~its secretary or assistant secretary and verified by one of~~
8 ~~the officers signing the articles~~] an authorized officer and
9 shall set forth all of the operative provisions of the
10 articles of incorporation as [~~theretofore~~] amended together
11 with a statement that the restated articles of incorporation
12 correctly set forth without change the corresponding
13 provisions of the articles of incorporation as [~~theretofore~~]
14 amended and that the restated articles of incorporation
15 supersede the original articles of incorporation and all
16 previous amendments [~~thereto~~].

17 C. [~~Duplicate originals~~] The original of the
18 restated articles of incorporation together with a copy, which
19 may be signed, photocopied or conformed, shall be delivered to
20 the commission. If the commission finds that the restated
21 articles of incorporation conform to law, it shall, when all
22 fees have been paid:

23 (1) endorse on [~~each of the duplicate~~
24 ~~originals~~] the original and a copy the word "filed" and the
25 month, day and year of the filing;

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1 (2) file ~~[one of the duplicate originals]~~ the
2 original in its office; and

3 (3) issue a restated certificate of
4 incorporation to which it shall affix the ~~[other duplicate~~
5 ~~original]~~ file-stamped copy.

6 D. The restated certificate of incorporation,
7 together with the ~~[duplicate original]~~ file-stamped copy of
8 the restated articles of incorporation affixed ~~[thereto by the~~
9 ~~commission]~~ to it shall be returned by the commission to the
10 corporation or its representative. Unless the commission
11 disapproves pursuant to Subsection A of Section 53-18-2 NMSA
12 1978, upon delivery of the restated articles of incorporation
13 to the commission, the restated articles of incorporation
14 shall become effective and shall supersede the original
15 articles of incorporation and all previous amendments
16 ~~[thereto]~~. "

17 Section 56. Section 53-13-8 NMSA 1978 (being Laws 1967,
18 Chapter 81, Section 62, as amended) is amended to read:

19 "53-13-8. AMENDMENT OF ARTICLES OF INCORPORATION IN
20 REORGANIZATION PROCEEDINGS. --

21 A. Whenever a plan of reorganization of a
22 corporation has been confirmed by decree or order of a court
23 of competent jurisdiction in proceedings for the
24 reorganization of the corporation, pursuant to the provisions
25 of any applicable statute of the United States relating to

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1 reorganizations of corporations, the articles of incorporation
2 of the corporation may be amended in the manner provided in
3 this section in as many respects as necessary to carry out the
4 plan and put it into effect, so long as the articles of
5 incorporation as amended contain only ~~[such]~~ those provisions
6 ~~[as might]~~ that may be lawfully contained in original articles
7 of incorporation at the time of making the amendment. ~~[In~~
8 ~~particular and without limitation upon general power of~~
9 ~~amendment]~~ The articles of incorporation may be amended for
10 ~~[such]~~ the foregoing purpose to:

- 11 (1) change the corporate name, period of
12 duration or corporate purposes of the corporation;
- 13 (2) repeal, alter or amend the bylaws of the
14 corporation;
- 15 (3) change the aggregate number of shares or
16 shares of any class ~~[which]~~ that the corporation has authority
17 to issue;
- 18 (4) change the preferences, limitations and
19 relative rights in respect of all or any part of the shares of
20 the corporation and classify, reclassify or cancel all or any
21 part ~~[thereof]~~ of the shares, whether issued or unissued;
- 22 (5) authorize the issuance of bonds,
23 debentures or other obligations of the corporation, whether or
24 not convertible into shares of any class or bearing warrants
25 or other evidences of optional rights to purchase or subscribe

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1 for shares of any class, and fix the terms and conditions
2 thereof; and

3 (6) constitute or reconstitute and classify
4 or reclassify the board of directors of the corporation and
5 appoint directors and officers in place of, or in addition to,
6 all or any of the directors or officers then in office.

7 B. Amendments to the articles of incorporation
8 pursuant to this section shall be made in the following
9 manner:

10 (1) articles of amendment approved by decree
11 or order of court shall be executed [~~and verified in~~
12 ~~duplicate~~] by the person the court designates or appoints for
13 the purpose and shall set forth the name of the corporation,
14 the amendments of the articles of incorporation approved by
15 the court, the date of the decree or order approving the
16 articles of amendment, the title of the proceedings in which
17 the decree or order was entered and a statement that the
18 decree or order was entered by a court having jurisdiction of
19 the proceedings for the reorganization of the corporation
20 pursuant to the provisions of an applicable statute of the
21 United States;

22 (2) [~~duplicate originals~~] an original of the
23 articles of amendment together with a copy, which may be
24 signed, photocopied or conformed, shall be delivered to the
25 commission. If the commission finds that the articles of

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1 amendment conform to law, it shall, when all fees have been
2 paid:

3 (a) endorse on [~~each of the duplicate~~
4 ~~originals~~] the original and copy the word "filed" and the
5 month, day and year of the filing;

6 (b) file [~~one of the duplicate~~
7 ~~originals~~] the original in its office; and

8 (c) issue a certificate of amendment to
9 which it shall affix the [~~other duplicate original~~] file-
10 stamped copy; and

11 (3) the certificate of amendment, together
12 with the [~~duplicate original~~] file-stamped copy of the
13 articles of amendment affixed [~~thereto by the commission~~] to
14 it shall be returned by the commission to the corporation or
15 its representative. Unless the commission disapproves
16 pursuant to Subsection A of Section 53-18-2 NMSA 1978, the
17 amendment shall become effective upon delivery of the articles
18 of amendment to the commission or on [~~such~~] a later date, not
19 more than thirty days subsequent to the delivery [~~thereof~~] of
20 the articles to the commission, as shall be provided for in
21 the articles of amendment without any action thereon by the
22 directors or shareholders of the corporation and with the same
23 effect as if the amendments had been adopted by unanimous
24 action of the directors and shareholders of the corporation. "

25 Section 57. Section 53-14-4 NMSA 1978 (being Laws 1967,

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1 Chapter 81, Section 71, as amended) is amended to read:

2 "53-14-4. ARTICLES OF MERGER, CONSOLIDATION OR
3 EXCHANGE. - -

4 A. Upon receiving the approvals required by
5 Sections 53-14-1, 53-14-2 and 53-14-3 NMSA 1978, articles of
6 merger or articles of consolidation shall be executed [~~in~~
7 ~~duplicate~~] by each corporation by [~~its chairman of the board,~~
8 ~~president or a vice president and by its secretary or an~~
9 ~~assistant secretary and verified by one of the officers of~~
10 ~~each corporation signing the articles~~] an authorized officer
11 and shall set forth:

12 (1) the plan of merger or the plan of
13 consolidation;

14 (2) as to each corporation, either:

15 (a) the number of shares outstanding,
16 and, if the shares of any class are entitled to vote as a
17 class, the designation and number of outstanding shares of
18 each such class; or

19 (b) a statement that the vote of
20 shareholders is not required by virtue of Subsection D of
21 Section 53-14-3 NMSA 1978;

22 (3) as to each corporation the approval of
23 whose shareholders is required, the number of shares voted for
24 and against the plan, respectively, and, if the shares of any
25 class are entitled to vote as a class, the number of shares of

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1 each such class voted for and against the plan, respectively;
2 and

3 (4) as to the acquiring corporation in a plan
4 of exchange, a statement that the adoption plan and
5 performance of its terms were duly approved by its board of
6 directors and such other requisite corporate action, if any,
7 as may be required of it.

8 B. [~~Duplicate originals~~] The original of the
9 articles of merger, consolidation or exchange together with a
10 copy, which may be signed, photocopied or conformed, shall be
11 delivered to the commission. If the commission finds that the
12 articles conform to law, it shall, when all fees have been
13 paid:

14 (1) endorse on [~~each of the duplicate~~
15 ~~originals~~] the original and copy the word "filed" and the
16 month, day and year of the filing;

17 (2) file [~~one of the duplicate originals~~] the
18 original in its office; and

19 (3) issue a certificate of merger,
20 consolidation or exchange to which it shall affix the [~~other~~
21 ~~duplicate original~~] file-stamped copy.

22 C. The certificate of merger, consolidation or
23 exchange, together with the [~~duplicate original~~] file-stamped
24 copy of the articles affixed [~~thereto by the commission~~] to it
25 shall be returned by the commission to the surviving, new or

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1 acquiring corporation [~~as the case may be~~] or its
2 representative. "

3 Section 58. Section 53-14-5 NMSA 1978 (being Laws 1967,
4 Chapter 81, Section 72, as amended) is amended to read:

5 "53-14-5. MERGER OF SUBSIDIARY CORPORATION. --

6 A. Any corporation owning at least ninety percent
7 of the outstanding shares of each class of another corporation
8 may merge the other corporation into itself without approval
9 by a vote of the shareholders of either corporation. Its
10 board of directors shall by resolution approve a plan of
11 merger setting forth:

12 (1) the name of the subsidiary corporation
13 and the name of the corporation owning at least ninety percent
14 of its shares, which is hereinafter designated as the
15 "surviving corporation"; and

16 (2) the manner and basis of converting the
17 shares of the subsidiary corporation into shares, obligations
18 or other securities of the surviving corporation or of any
19 other corporation or, in whole or in part, into cash or other
20 property.

21 B. A copy of the plan of merger shall be mailed to
22 each shareholder of record of the subsidiary corporation.

23 C. Articles of merger shall be executed [~~in~~
24 ~~duplicate~~] by the surviving corporation by [~~its president or a~~
25 ~~vice president and by its secretary or an assistant secretary~~

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1 ~~and verified by one of its officers signing the articles]~~ an
2 authorized officer and shall set forth:

3 (1) the plan of merger;

4 (2) the number of outstanding shares of each
5 class of the subsidiary corporation and the number of such
6 shares of each class owned by the surviving corporation; and

7 (3) the date of the mailing to shareholders
8 of the subsidiary corporation of a copy of the plan of merger.

9 D. On and after the thirtieth day after the
10 mailing of a copy of the plan of merger to shareholders of the
11 subsidiary corporation or upon the waiver ~~[thereof]~~ of the
12 mailing requirement by the holders of all outstanding shares,
13 ~~[duplicate originals]~~ an original of the articles of merger
14 together with a copy, which may be signed, photocopied or
15 conformed, shall be delivered to the commission. If the
16 commission finds that the articles conform to law, it shall,
17 when all fees have been paid:

18 (1) endorse on ~~[each of the duplicate~~
19 ~~originals]~~ the original and copy the word "filed" and the
20 month, day and year of the filing;

21 (2) file ~~[one of the duplicate originals]~~ the
22 original in its office; and

23 (3) issue a certificate of merger to which it
24 shall affix the ~~[other duplicate original]~~ file-stamped copy.

25 E. The certificate of merger, together with the

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1 ~~[duplicate original of the articles of merger]~~ file-stamped
2 copy affixed ~~[thereto by the commission]~~ to it shall be
3 returned by the commission to the surviving corporation or its
4 representative. "

5 Section 59. Section 53-16-1 NMSA 1978 (being Laws 1967,
6 Chapter 81, Section 79, as amended) is amended to read:

7 "53-16-1. VOLUNTARY DISSOLUTION BY INCORPORATORS. -- A
8 corporation ~~[which]~~ that has not commenced business and
9 ~~[which]~~ has not issued any shares may be voluntarily dissolved
10 by its incorporators ~~[at any time]~~ in the following manner:

11 A. articles of dissolution shall be executed ~~[in~~
12 ~~duplicate]~~ by a majority of the incorporators ~~[and verified by~~
13 ~~them]~~ and shall set forth:

- 14 (1) the name of the corporation;
- 15 (2) the date of issuance of its certificate
16 of incorporation;
- 17 (3) that none of its shares has been issued;
- 18 (4) that the corporation has not commenced
19 business;
- 20 (5) that the amount, if any, actually paid in
21 on subscriptions for its shares, less any part thereof
22 disbursed for necessary expenses, has been returned to those
23 entitled thereto;
- 24 (6) that no debts of the corporation remain
25 unpaid; and

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1 (7) that a majority of the incorporators
2 elect that the corporation be dissolved;

3 B. [~~duplicate originals~~] the original of the
4 articles of dissolution together with a copy, which may be
5 signed, photocopied or conformed, shall be delivered to the
6 commission. If the commission finds that the articles of
7 dissolution conform to law and that the corporation has
8 complied with the Tax Administration Act and has paid all
9 contributions required by the Unemployment Compensation Law,
10 it shall, when all fees and franchise taxes have been paid:

11 (1) endorse on [~~each of the duplicate~~
12 ~~originals~~] the original and copy the word "filed" and the
13 month, day and year of the filing;

14 (2) file [~~one of the duplicate originals~~] the
15 original in its office; and

16 (3) issue a certificate of dissolution to
17 which it shall affix the [~~other duplicate original~~] file-
18 stamped copy; and

19 C. the certificate of dissolution, together with
20 the [~~duplicate original~~] file-stamped copy of the articles of
21 dissolution affixed [~~thereto by the commission~~] to it shall be
22 returned by the commission to the incorporators or their
23 representative. Upon the issuance of the certificate of
24 dissolution by the commission the existence of the corporation
25 shall cease. "

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1 Section 60. Section 53-16-2 NMSA 1978 (being Laws 1967,
2 Chapter 81, Section 80) is amended to read:

3 "53-16-2. VOLUNTARY DISSOLUTION BY CONSENT OF
4 SHAREHOLDERS.--A corporation may be voluntarily dissolved by
5 the written consent of all of its shareholders. Upon the
6 execution of [~~such~~] the written consent, a statement of intent
7 to dissolve shall be executed [~~in duplicate~~] by the
8 corporation by [~~its president or a vice president and by its~~
9 ~~secretary or an assistant secretary and verified by one of the~~
10 ~~officers signing the statement~~] an authorized officer, which
11 statement shall set forth:

- 12 A. the name of the corporation;
13 B. the names and respective addresses of its
14 officers;
15 C. the names and respective addresses of its
16 directors;
17 D. a copy of the written consent signed by all
18 shareholders of the corporation; and
19 E. a statement that [~~such~~] the written consent has
20 been signed by all shareholders of the corporation or signed
21 in their names by their attorneys in fact [~~thereunto duly~~]
22 authorized to consent on their behalf."

23 Section 61. Section 53-16-3 NMSA 1978 (being Laws 1967,
24 Chapter 81, Section 81, as amended) is amended to read:

25 "53-16-3. VOLUNTARY DISSOLUTION BY ACT OF CORPORATION.--

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1 A corporation may be dissolved by the act of the corporation,
2 when authorized in the following manner:

3 A. the board of directors shall adopt a resolution
4 recommending that the corporation be dissolved and directing
5 that the question of dissolution be submitted to a vote at a
6 meeting of shareholders, which may be either an annual or a
7 special meeting;

8 B. written notice shall be given to each
9 shareholder of record entitled to vote at the meeting within
10 the time and in the manner provided in the Business
11 Corporation Act for the giving of notice of meetings of
12 shareholders and, whether the meeting is an annual or special
13 meeting, shall state that the purpose, or one of the purposes,
14 of the meeting is to consider the advisability of dissolving
15 the corporation;

16 C. at the meeting, a vote of shareholders entitled
17 to vote shall be taken on a resolution to dissolve the
18 corporation, and the resolution shall be adopted upon
19 receiving the affirmative vote of the holders of a majority of
20 the shares of the corporation entitled to vote [~~thereon~~] on
21 the resolution, unless any class of shares is entitled to vote
22 [~~thereon~~] on it as a class, in which event the resolution
23 shall be adopted upon receiving the affirmative vote of the
24 holders of a majority of the shares of each class of shares
25 entitled to vote [~~thereon~~] on it as a class and of the total

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1 shares entitled to vote [~~thereon~~] on the resolution; and

2 D. upon the adoption of the resolution, a
3 statement of intent to dissolve shall be executed [~~in~~
4 ~~duplicate~~] by the corporation by [~~its president or a vice~~
5 ~~president and by its secretary or an assistant secretary and~~
6 ~~verified by one of the officers signing the statement~~] an
7 authorized officer, which statement shall set forth:

8 (1) the name of the corporation;

9 (2) the names and respective addresses of its
10 officers;

11 (3) the names and respective addresses of its
12 directors;

13 (4) a copy of the resolution adopted by the
14 shareholders authorizing the dissolution of the corporation;

15 (5) the number of shares outstanding and, if
16 the shares of any class are entitled to vote as a class, the
17 designation and number of outstanding shares of each such
18 class; and

19 (6) the number of shares voted for and
20 against the resolution, respectively, and, if the shares of
21 any class are entitled to vote as a class, the number of
22 shares of each such class for and against the resolution,
23 respectively. "

24 Section 62. Section 53-16-7 NMSA 1978 (being Laws 1967,
25 Chapter 81, Section 85) is amended to read:

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1 "53-16-7. REVOCATION OF VOLUNTARY DISSOLUTION
2 PROCEEDINGS BY CONSENT OF SHAREHOLDERS. --By the written
3 consent of all of its shareholders, a corporation may, at any
4 time prior to the issuance of a certificate of dissolution by
5 the commission, revoke voluntary dissolution proceedings
6 [~~theretofore taken, in the following manner~~]. Upon the
7 execution of [~~such~~] the written consent, a statement of
8 revocation of voluntary dissolution proceedings shall be
9 executed [~~in duplicate~~] by the corporation by [~~its president~~
10 ~~or a vice president and by its secretary or an assistant~~
11 ~~secretary and verified by one of the officers signing the~~
12 ~~statement~~] an authorized officer, which statement shall set
13 forth:

- 14 A. the name of the corporation;
- 15 B. the names and respective addresses of its
16 officers;
- 17 C. the names and respective addresses of its
18 directors;
- 19 D. a copy of the written consent signed by all
20 shareholders of the corporation revoking the voluntary
21 dissolution proceedings; and
- 22 E. that the written consent has been signed by all
23 shareholders of the corporation or signed in their names by
24 their authorized attorneys [~~thereunto duly authorized~~]. "

25 Section 63. Section 53-16-8 NMSA 1978 (being Laws 1967,

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1 Chapter 81, Section 86, as amended) is amended to read:

2 "53-16-8. REVOCATION OF VOLUNTARY DISSOLUTION
3 PROCEEDINGS BY ACT OF CORPORATION. --By the act of the
4 corporation, a corporation may, at any time prior to the
5 issuance of a certificate of dissolution by the commission,
6 revoke voluntary dissolution proceedings [~~theretofore~~] taken,
7 in the following manner:

8 A. the board of directors shall adopt a resolution
9 recommending that the voluntary dissolution proceedings be
10 revoked and directing that the question of revocation be
11 submitted to a vote at a special meeting of shareholders;

12 B. written notice stating that the purpose or one
13 of the purposes of the meeting is to consider the advisability
14 of revoking the voluntary dissolution proceedings shall be
15 given to each shareholder of record entitled to vote at the
16 meeting within the time and in the manner provided in the
17 Business Corporation Act for the giving of notice of special
18 meetings of shareholders;

19 C. at the meeting, a vote of the shareholders
20 entitled to vote shall be taken on a resolution to revoke the
21 voluntary dissolution proceedings, which shall require for its
22 adoption the affirmative vote of the holders of a majority of
23 the shares entitled to vote thereon; and

24 D. upon the adoption of the resolution, a
25 statement of revocation of voluntary dissolution proceedings

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1 shall be executed [~~in duplicate~~] by the corporation by [~~its~~
2 ~~president or a vice president and by its secretary or an~~
3 ~~assistant secretary and verified by one of the officers~~
4 ~~signing the statement~~] an authorized officer, which statement
5 shall set forth:

- 6 (1) the name of the corporation;
- 7 (2) the names and respective addresses of its
8 officers;
- 9 (3) the names and respective addresses of its
10 directors;
- 11 (4) a copy of the resolution adopted by the
12 shareholders revoking the voluntary dissolution proceedings;
- 13 (5) the number of shares outstanding; and
- 14 (6) the number of shares voted for and
15 against the resolution, respectively. "

16 Section 64. Section 53-16-9 NMSA 1978 (being Laws 1967,
17 Chapter 81, Section 87) is amended to read:

18 "53-16-9. FILING STATEMENT OF REVOCATION OF VOLUNTARY
19 DISSOLUTION PROCEEDINGS. -- [~~Duplicate originals~~] An original of
20 the statement of revocation of voluntary dissolution
21 proceedings, whether by consent of shareholders or by act of
22 the corporation, together with a copy, which may be signed,
23 photocopied or conformed, shall be delivered to the
24 commission. If the commission finds that the statement
25 conforms to law, it shall, when all fees and franchise taxes

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1 have been paid:

2 A. endorse on [~~each of the duplicate originals~~]
3 the original and copy the word "filed" and the month, day and
4 year of the filing;

5 B. file [~~one of the duplicate originals~~] the
6 original in its office; and

7 C. return the [~~other duplicate original~~] the file-
8 stamped copy to the corporation or its representative."

9 Section 65. Section 53-16-11 NMSA 1978 (being Laws 1967,
10 Chapter 81, Section 89) is amended to read:

11 "53-16-11. ARTICLES OF DISSOLUTION. -- If voluntary
12 dissolution proceedings have not been revoked, then, when all
13 debts, liabilities and obligations of the corporation have
14 been paid and discharged or adequate provision has been made
15 therefor and all of the remaining property and assets of the
16 corporation have been distributed to its shareholders,
17 articles of dissolution shall be executed [~~in duplicate~~] by
18 the corporation by [~~its president or a vice president and by~~
19 ~~its secretary or an assistant secretary and verified by one of~~
20 ~~the officers signing the statement~~] an authorized officer,
21 which statement shall set forth:

22 A. the name of the corporation;

23 B. that the commission has [~~theretofore~~]
24 previously filed a statement of intent to dissolve the
25 corporation and the date on which the statement was filed;

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1 C. that all debts, obligations and liabilities of
2 the corporation have been paid and discharged or that adequate
3 provision has been made therefor;

4 D. that all the remaining property and assets of
5 the corporation have been distributed among its shareholders
6 in accordance with their respective rights and interests; and

7 E. that there are no suits pending against the
8 corporation in any court or that adequate provision has been
9 made for the satisfaction of any [~~judgement~~] judgment, order
10 or decree [~~which~~] that may be entered against it in any
11 pending suit. "

12 Section 66. Section 53-16-12 NMSA 1978 (being Laws 1967,
13 Chapter 81, Section 90) is amended to read:

14 "53-16-12. FILING OF ARTICLES OF DISSOLUTION. --

15 A. [~~Duplicate originals~~] An original of articles
16 of dissolution together with a copy, which may be signed,
17 photocopied or conformed shall be delivered to the commission.
18 If the commission finds that the articles of dissolution
19 conform to law and that the corporation has complied with the
20 Tax Administration Act and has paid all contributions required
21 by the Unemployment Compensation Law, it shall, when all fees
22 and franchise taxes have been paid:

23 (1) endorse on [~~each of the duplicate~~
24 ~~originals~~] the original and copy the word "filed" and the
25 month, day and year of the filing;

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1 (2) file ~~[one of the duplicate originals]~~ the
2 original in its office; and

3 (3) issue a certificate of dissolution to
4 which it shall affix the ~~[other duplicate original]~~ file-
5 stamped copy.

6 B. The certificate of dissolution, together with
7 the ~~[duplicate original]~~ file-stamped copy of the articles of
8 dissolution affixed ~~[thereto by the commission]~~ to it shall be
9 returned by the commission to the representative of the
10 dissolved corporation. Upon the issuance of the certificate
11 of dissolution, the existence of the corporation shall cease,
12 except for the purpose of suits, other proceedings and
13 appropriate corporate action by shareholders, directors and
14 officers as provided in the Business Corporation Act. "

15 Section 67. Section 53-17-5 NMSA 1978 (being Laws 1967,
16 Chapter 81, Section 107, as amended) is amended to read:

17 "53-17-5. APPLICATION FOR CERTIFICATE OF AUTHORITY. --

18 A. A foreign corporation, in order to procure a
19 certificate of authority to transact business in this state,
20 shall make application ~~[therefor]~~ to the commission, which
21 application shall set forth:

22 (1) the name of the corporation and the state
23 or country under the laws of which it is incorporated;

24 (2) if the name of the corporation does not
25 contain the word "corporation", "company", "incorporated" or

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1 "limited" or does not contain an abbreviation of one of these
2 words, the name of the corporation with the word or
3 abbreviation which it elects to add thereto for use in this
4 state;

5 (3) the date of incorporation and the period
6 of duration of the corporation;

7 (4) the address of the [~~principal~~]
8 registered office of the corporation in the state or country
9 under the laws of which it is incorporated and the address of
10 the principal office of the corporation, if different;

11 (5) the address of the proposed registered
12 office of the corporation in this state and the name of its
13 proposed registered agent in this state at such address;

14 (6) the purpose of the corporation [~~which~~]
15 that it proposes to pursue in the transaction of business in
16 this state;

17 (7) the names and respective addresses of the
18 directors and officers of the corporation who have consented
19 to serve;

20 (8) a statement of the aggregate number of
21 shares [~~which~~] that the corporation has authority to issue,
22 itemized by classes and by series, if any, within a class;

23 (9) a statement of the aggregate number of
24 issued shares, itemized by class and by series, if any, within
25 each class;

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1 (10) an estimate expressed in dollars of:

2 (a) the gross amount of business which
3 will be transacted by it during its current fiscal year at or
4 from places of business located in the state;

5 (b) the gross amount of business
6 ~~[which]~~ that will be transacted by it during ~~[such]~~ its
7 current fiscal year, wherever transacted;

8 (c) the value of all property to be
9 owned by it and located in the state during ~~[such]~~ its current
10 fiscal year; and

11 (d) the value of all property to be
12 owned by it during ~~[such]~~ its current fiscal year, wherever
13 located; and

14 (11) additional information necessary or
15 appropriate in order to enable the commission to determine
16 whether the corporation is entitled to a certificate of
17 authority to transact business in this state and to determine
18 and assess the fees and franchise taxes payable.

19 B. The application shall be made on forms
20 prescribed by the commission and shall be executed [~~in~~
21 ~~duplicate~~] by the corporation by [~~its president or vice~~
22 ~~president and by its secretary or an assistant secretary and~~
23 ~~verified by one of the officers signing the application~~] an
24 authorized officer. "

25 Section 68. Section 53-17-6 NMSA 1978 (being Laws 1967,

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1 Chapter 81, Section 108, as amended) is amended to read:

2 "53-17-6. FILING OF APPLICATION FOR CERTIFICATE OF
3 AUTHORITY. - -

4 A. ~~[Duplicate originals]~~ A corporation applying
5 for a certificate of authority shall deliver to the
6 commission:

7 (1) an original of the application of the
8 corporation for a certificate of authority together with a
9 copy, which may be signed, photocopied or conformed;

10 (2) a certificate of good standing and
11 compliance issued by the appropriate official of the state or
12 country under the laws of which the corporation is
13 incorporated, current within thirty days and which has not
14 expired at the time of receipt by the commission; and [an
15 affidavit]

16 (3) a statement executed by the designated
17 registered agent ~~[in which he acknowledges]~~ acknowledging his
18 acceptance of the appointment by the filing corporation as its
19 registered agent, if the agent is an individual, or ~~[an~~
20 affidavit] a statement executed by ~~[the president or vice~~
21 president] an authorized officer of a corporation ~~[which]~~ that
22 is the designated registered agent in which the officer
23 acknowledges the corporation's acceptance of the appointment
24 by the filing corporation as its registered agent, if the
25 agent is a corporation ~~[shall be delivered to the commission].~~

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1 B. If the commission finds that the application
2 and the ~~[affidavit]~~ statement conform to law, it shall, when
3 all fees have been paid:

4 (1) endorse on ~~[each of]~~ the ~~[documents]~~
5 original and copy the word "filed" and the month, day and year
6 of the filing;

7 (2) file in its office ~~[one of]~~ the
8 ~~[duplicate originals]~~ original of the application, the
9 ~~[affidavit]~~ statement and the copy of the articles of
10 incorporation and amendments thereto; and

11 (3) issue a certificate of authority to
12 transact business in this state to which it shall affix the
13 ~~[other duplicate original application]~~ file-stamped copy.

14 C. The certificate of authority, together with the
15 ~~[duplicate original]~~ file-stamped copy of the application
16 affixed ~~[thereto by the commission]~~ to it shall be returned by
17 the commission to the corporation or its representative. "

18 Section 69. Section 53-17-10 NMSA 1978 (being Laws 1967,
19 Chapter 81, Section 111, as amended) is amended to read:

20 "53-17-10. CHANGE OF REGISTERED OFFICE OR REGISTERED
21 AGENT OF FOREIGN CORPORATION. --

22 A. A foreign corporation authorized to transact
23 business in this state may change its registered office or
24 change its registered agent, or both, upon filing in the
25 office of the commission a statement setting forth:

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- 1 (1) the name of the corporation;
- 2 (2) the address of its ~~[then]~~ registered
- 3 office;
- 4 (3) if the address of its registered office
- 5 is changed, the address to which the registered office is to
- 6 be changed;
- 7 (4) the name of its ~~[then]~~ registered agent;
- 8 (5) if its registered agent is changed:
 - 9 (a) the name of its successor
 - 10 registered agent; and
 - 11 (b) ~~[an affidavit]~~ a statement executed
 - 12 by the successor registered agent ~~[in which he acknowledges]~~
 - 13 acknowledging his acceptance of the appointment by the filing
 - 14 corporation as its registered agent, if the agent is an
 - 15 individual, or ~~[an affidavit]~~ a statement executed by ~~[the~~
 - 16 ~~president or vice president]~~ an authorized officer of a
 - 17 corporation ~~[which]~~ that is the successor registered agent in
 - 18 which the officer acknowledges the corporation's acceptance of
 - 19 the appointment by the filing corporation as its registered
 - 20 agent, if the agent is a corporation; and
 - 21 (6) that the address of its registered office
 - 22 and the address of the business office of its registered
 - 23 agent, as changed, will be identical.

24 B. The statement shall be executed by the

25 corporation by ~~[its president or a vice president and verified~~

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1 ~~by him]~~ an authorized officer and delivered to the commission.
2 If the commission finds that the statement conforms to the
3 provisions of the Business Corporation Act, it shall file the
4 statement in its office, and upon the filing, the change of
5 address of the registered office or the appointment of a new
6 registered agent, or both, [~~as the case may be~~] shall become
7 effective.

8 C. [~~Any~~] A registered agent of a foreign
9 corporation may resign as agent upon filing a written notice
10 [~~thereof, executed in duplicate~~] of resignation with the
11 commission, which shall [~~forthwith~~] mail immediately a copy
12 [~~thereof~~] of it to the corporation at its principal office in
13 the state or country under the laws of which it is
14 incorporated. The appointment of the agent shall terminate
15 upon the expiration of thirty days after receipt of the notice
16 by the commission.

17 D. If a registered agent changes his [~~or its~~]
18 business address to another place within the same county, he
19 [~~or it~~] may change the address and the address of the
20 registered office of any corporations of which he [~~or it~~] is
21 a registered agent by filing a statement as required [~~above~~]
22 in Subsection A of this section, except that it need be signed
23 only by the registered agent and need not be responsive to
24 Paragraph (5) of [~~Subsection A of this section~~] that
25 subsection and must recite that a copy of the statement has

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1 been mailed to each corporation. "

2 Section 70. Section 53-17-13 NMSA 1978 (being Laws 1967,
3 Chapter 81, Section 114, as amended) is amended to read:

4 "53-17-13. MERGER OR CONVERSION OF FOREIGN CORPORATION
5 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE. -- Whenever a
6 foreign corporation authorized to transact business in this
7 state is a party to a statutory merger or conversion permitted
8 by the laws of the state or country under the laws of which it
9 is incorporated, it shall, within thirty days after the merger
10 or conversion becomes effective, file with the commission a
11 copy of the articles of merger or conversion duly
12 authenticated by the proper officer of the state or country
13 under the laws of which the statutory merger or conversion was
14 effected. It is not necessary for the corporation to procure
15 either a new or amended certificate of authority to transact
16 business in this state unless the name of the corporation is
17 changed thereby or unless the corporation desires to pursue in
18 this state other or additional purposes than those which it is
19 then authorized to transact in this state or unless the
20 surviving corporation is to transact business in New Mexico
21 but has not procured a certificate of authority to transact
22 business in this state. "

23 Section 71. Section 53-17-15 NMSA 1978 (being Laws 1967,
24 Chapter 81, Section 116, as amended) is amended to read:

25 "53-17-15. WITHDRAWAL OF FOREIGN CORPORATION. --

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1 A. A foreign corporation authorized to transact
2 business in this state may withdraw from this state upon
3 procuring from the commission a certificate of withdrawal. In
4 order to procure the certificate of withdrawal, the foreign
5 corporation shall deliver to the commission an application for
6 withdrawal, which shall set forth:

7 (1) the name of the corporation and the state
8 or country under the laws of which it is incorporated;

9 (2) a statement that the corporation is not
10 transacting business in this state;

11 (3) a statement that the corporation
12 surrenders its authority to transact business in this state;

13 (4) a statement that the corporation revokes
14 the authority of its registered agent in this state to accept
15 service of process and consents that service of process in any
16 action, suit or proceeding based upon any cause of action
17 arising in this state during the time the corporation was
18 authorized to transact business in this state may thereafter
19 be made on the corporation by service thereof on the secretary
20 of state;

21 (5) an address to which the secretary of
22 state may mail a copy of any process against the corporation
23 that may be served on it;

24 (6) a statement of the aggregate number of
25 shares ~~[which]~~ that the corporation has authority to issue,

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1 itemized by class and by series, if any, within each class, as
2 of the date of the application;

3 (7) a statement of the aggregate number of
4 issued shares, itemized by class and by series, if any, within
5 each class, as of the date of the application; and

6 (8) additional information as necessary or
7 appropriate in order to enable the commission to determine and
8 assess any unpaid fees or franchise taxes payable by the
9 foreign corporation.

10 B. The application for withdrawal shall be made on
11 forms prescribed by the commission and shall be executed by
12 the corporation by [~~its president or a vice president and by~~
13 ~~its secretary or an assistant secretary and verified by one of~~
14 ~~the officers signing the application~~] an authorized
15 officer or, if the corporation is in the hands of a receiver
16 or trustee, shall be executed on behalf of the corporation by
17 the receiver or trustee [~~and verified by him~~]. "

18 Section 72. Section 53-17-16 NMSA 1978 (being Laws 1967,
19 Chapter 81, Section 117) is amended to read:

20 "53-17-16. FILING OF APPLICATION FOR WITHDRAWAL. --

21 A. [~~Duplicate originals~~] An original of an
22 application for withdrawal together with a copy, which may be
23 signed, photocopied or conformed, shall be delivered to the
24 commission. If the commission finds that the application
25 conforms to the provisions of the Business Corporation Act and

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1 that the corporation has complied with the Tax Administration
2 Act and has paid all contributions required by the
3 Unemployment Compensation Law, it shall, when all fees and
4 franchise taxes have been paid:

5 (1) endorse on [~~each of the duplicate~~
6 ~~originals~~] the original and copy the word "filed" and the
7 month, day and year of the filing;

8 (2) file [~~one of the duplicate originals~~] the
9 original in its office; and

10 (3) issue a certificate of withdrawal to
11 which it shall affix the [~~other duplicate original~~] file-
12 stamped copy.

13 B. The certificate of withdrawal, together with
14 the [~~duplicate original~~] file-stamped copy of the application
15 for withdrawal affixed [~~thereto by the commission~~] to it shall
16 be returned by the commission to the corporation or its
17 representative. Upon the issuance of the certificate of
18 withdrawal, the authority of the corporation to transact
19 business in this state shall cease. "

20 Section 73. Section 53-17-18 NMSA 1978 (being Laws 1967,
21 Chapter 81, Section 119, as amended) is amended to read:

22 "53-17-18. ISSUANCE OF CERTIFICATE OF REVOCATION--
23 REINSTATEMENT. --

24 A. Upon revoking any certificate of authority, the
25 commi ssi on shall:

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1 (1) issue a certificate of revocation in
2 triplicate;
3 (2) file one of the certificates in its
4 office; and
5 (3) mail a notice of revocation accompanied
6 by one of the certificates to the corporation at its
7 registered office in this state and also either to its
8 principal office in the state or country under the laws of
9 which it is incorporated or to the principal office of the
10 corporation at the addresses as shown in the last annual
11 report filed with the commission [~~a notice of the revocation~~
12 ~~accompanied by one of the certificates~~].

13 B. Upon the issuance of the certificate of
14 revocation, the authority of the corporation to transact
15 business in this state shall cease.

16 C. A corporation administratively revoked under
17 Section 53-17-17 NMSA 1978 may apply to the commission for
18 reinstatement within two years afer the effective date of
19 revocation. The application shall:

20 (1) recite the name of the corporation and
21 the effective date of its administrative revocation;

22 (2) state that the ground or grounds for
23 revocation either did not exist or have been eliminated; and

24 (3) state that the corporation name satisfies
25 the requirements of Section 53-17-3 NMSA 1978.

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1 D. If the commission determines that the
2 application contains the information required by Subsection C
3 of this section and that the information is correct, it shall
4 cancel the certificate of revocation and prepare a certificate
5 of reinstatement that recites its determination and the
6 effective date of reinstatement, file the original of the
7 certificate and serve a copy on the corporation.

8 E. When the reinstatement is effective, it relates
9 back to and takes effect as of the effective date of the
10 administrative revocation and the corporation resumes carrying
11 on its business as if the administrative revocation had never
12 occurred. "

13 Section 74. A new section of the Limited Liability
14 Company Act is enacted to read:

15 "[NEW MATERIAL] ADMINISTRATIVE REVOCATION. --A limited
16 liability company may be revoked by the commission if:

17 A. the limited liability company has failed to
18 appoint and maintain a registered agent as required by the
19 Limited Liability Company Act; or

20 B. the limited liability company has failed, after
21 change of its registered office or registered agent, to file
22 in the office of the commission a statement of the change as
23 required by the Limited Liability Company Act. "

24 Section 75. A new section of the Limited Liability
25 Company Act is enacted to read:

1 " [NEW MATERIAL] REINSTATEMENT FOLLOWING ADMINISTRATIVE
2 REVOCATION. --

3 A. A limited liability company administratively
4 revoked pursuant to the Limited Liability Company Act may
5 apply to the commission for reinstatement within two years
6 after the effective date of revocation. The application must:

7 (1) recite the name of the limited liability
8 company and the effective date of its administrative
9 revocation;

10 (2) state that the ground or grounds for
11 revocation either did not exist or have been eliminated; and

12 (3) state that the limited liability
13 company's name satisfies the requirements of Section 53-19-3
14 NMSA 1978.

15 B. If the commission determines that the
16 application contains the information required by Subsection A
17 of this section and that the information is correct, it shall
18 cancel the certificate of revocation and prepare a certificate
19 of reinstatement that recites its determination and the
20 effective date of reinstatement, file the original of the
21 certificate and serve a copy on the limited liability company.

22 C. When the reinstatement is effective, it relates
23 back to and takes effect as of the effective date of the
24 administrative revocation and the limited liability company
25 resumes carrying on its business as if the administrative

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1 revocation had never occurred. "

2 Section 76. Section 53-19-48 NMSA 1978 (being Laws 1993,
3 Chapter 280, Section 48) is amended to read:

4 "53-19-48. REGISTRATION. -- Before transacting business in
5 New Mexico, a foreign limited liability company shall register
6 with the commission by submitting an original signed
7 application for registration as a foreign limited liability
8 company, together with a duplicate copy that may be ~~[either]~~ a
9 signed, photocopied or ~~[confirmed]~~ conformed copy, executed by
10 a person with authority to do so under the laws of the state
11 or other jurisdiction of its organization and an original
12 certificate of good standing and compliance issued by the
13 appropriate official of the state or jurisdiction under the
14 laws of which the organization is organized, current within
15 thirty days and that has not expired at time of receipt by the
16 commission. The application shall set forth:

17 A. the name of the foreign limited liability
18 company and, if different, the name under which it proposes to
19 transact business in New Mexico;

20 B. the state or other jurisdiction where the
21 foreign limited liability company was organized and the date
22 of its organization;

23 C. the name and address of a registered agent for
24 service of process, which agent meets the requirements of
25 Section ~~[5 of the Limited Liability Company Act]~~ 53-19-5 NMSA

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1 1978, whose original, signed affidavit, together with a
2 duplicate copy, to the effect that such person accepts
3 designation as the registered agent of the foreign limited
4 liability company shall be submitted with the application;

5 D. a statement that the secretary of state is
6 appointed the agent of the foreign limited liability company
7 for service of process if no agent has been appointed or, if
8 appointed, the agent's authority has been revoked or the agent
9 cannot be found or served in the exercise of reasonable
10 diligence;

11 E. the address of the office required to be
12 maintained in the state or other jurisdiction of its
13 organization by the laws of that state or jurisdiction or, if
14 not so required, of the principal office of the foreign
15 limited liability company;

16 F. a statement that the foreign limited liability
17 company is a foreign limited liability company as defined in
18 Section [~~2 of the Limited Liability Company Act~~] 53-19-2 NMSA
19 1978; and

20 G. the identity of persons in whom management of
21 the foreign limited liability company is vested. "

22 Section 77. Section 53-19-51 NMSA 1978 (being Laws 1993,
23 Chapter 280, Section 51) is amended to read:

24 "53-19-51. [~~AMENDMENTS~~] AMENDED CERTIFICATE OF
25 REGISTRATION. --

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1 A. The application for registration of a foreign
2 limited liability company may be amended by filing [~~articles~~
3 ~~of amendment~~] an amended certificate of registration with the
4 commission signed by a person with authority to do so under
5 the laws of the state or other jurisdiction of its
6 organization. The [~~articles of amendment~~] application for an
7 amended certificate of registration shall set forth:

8 (1) the name of the foreign limited liability
9 company;

10 (2) the date the original application for
11 registration was filed; and

12 (3) the amendment to the application for
13 registration.

14 B. The application for registration may be amended
15 in any way, so long as the application for registration as
16 amended contains only provisions that, at the time of the
17 amendment, may be lawfully contained in an application for
18 registration.

19 C. An application for registration shall be
20 amended to reflect any change in the identity of the persons
21 in whom management of the foreign limited liability company is
22 vested.

23 D. The requirements in respect to the form and
24 contents of the application for amended certificate of
25 registration, the manner of its execution, the filing of an

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1 original and copy with the commission, the issuance of an
2 amended certificate of registration and the effect thereof,
3 shall be the same as in the case of an original application
4 for a certificate of registration. In addition to these
5 requirements, the application shall be accompanied by an
6 authenticated copy of the amended articles of organization."

7 Section 78. Section 53-19-60 NMSA 1978 (being Laws 1995,
8 Chapter 213, Section 8) is amended to read:

9 "53-19-60. CONVERSIONS AND MERGERS--CONVERSION OF
10 CORPORATION, PARTNERSHIP [ØF] OR LIMITED PARTNERSHIP TO
11 LIMITED LIABILITY COMPANY. --

12 A. A corporation, partnership or limited
13 partnership may be converted to a limited liability company
14 pursuant to this section.

15 B. The terms and conditions of a conversion of a
16 corporation, partnership or limited partnership to a limited
17 liability company [~~must~~] shall be approved [~~by all of the~~
18 ~~partners or by a number or percentage of the partners required~~
19 ~~for conversion in the partnership agreement~~] in the manner
20 provided for by the document, instrument, agreement or other
21 writing governing the internal affairs of the corporation,
22 partnership or limited partnership or, in the absence of such
23 a provision, by all of the shareholders or partners, as the
24 case may be.

25 C. An agreement of conversion [~~must~~] shall set

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1 forth the terms and conditions of the conversion of the
2 [~~partners'~~] owners' interests in the converting entity into
3 interests in the converted [~~limited liability company~~] entity
4 or the cash or other consideration to be paid or delivered as
5 a result of the conversion of the [~~partners'~~] owners'
6 interests or a combination of these.

7 D. After a conversion is approved under Subsection
8 B of this section, the corporation, partnership or limited
9 partnership being converted shall file articles of
10 organization with the commission that satisfy the requirements
11 of Section 53-19-8 NMSA 1978 and that also contain:

12 (1) a statement that the corporation or
13 partnership was converted to a limited liability company from
14 a corporation, partnership or limited partnership;

15 (2) its former name;

16 (3) a statement of the number of votes cast
17 by the shareholders or partners entitled to vote for and
18 against the conversion and, if the vote is less than
19 unanimous, the number or percentage required to approve the
20 conversion under Subsection B of this section; and

21 (4) in the case of a corporation or a limited
22 partnership, a statement that the certificate of incorporation
23 or certificate of limited partnership is to be canceled as of
24 the date the conversion takes effect.

25 E. In the case of a corporation or a limited

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1 partnership, the filing of articles of organization under
2 Subsection D of this section cancels its certificate of
3 incorporation or certificate of limited partnership as of the
4 date the conversion took effect.

5 F. A conversion takes effect when articles of
6 organization are filed with the commission or at any later
7 date specified in the articles of organization.

8 G. A general partner who becomes a member of a
9 limited liability company as a result of a conversion remains
10 liable as a partner for an obligation incurred by the
11 partnership or limited partnership before the conversion takes
12 effect.

13 H. A general partner's liability for all
14 obligations of the limited liability company incurred after
15 the conversion takes effect is that of a member of the
16 company. A limited partner who becomes a member as a result
17 of a conversion remains liable only to the extent the limited
18 partner was liable for an obligation incurred by the limited
19 partnership before the conversion [~~takes~~] took effect."

20 Section 79. A new section of the Limited Liability
21 Company Act, Section 53-19-60.1 NMSA 1978, is enacted to read:

22 "53-19-60.1. [NEW MATERIAL] CONVERSIONS AND MERGERS--
23 CONVERSION OF LIMITED LIABILITY COMPANY TO CORPORATION,
24 PARTNERSHIP OR LIMITED PARTNERSHIP.--

25 A. A limited liability company may be converted to

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1 a corporation, partnership or limited partnership pursuant to
2 this section.

3 B. The terms and conditions of a conversion of a
4 limited liability company to a corporation, partnership or
5 limited partnership shall be approved by all of the members or
6 by a number or percentage of the members or managers required
7 for conversion in the operating agreement.

8 C. An agreement of conversion shall set forth the
9 terms and conditions of the conversion of the members'
10 interest in the limited liability company into interests in
11 the corporation, partnership or limited partnership or the
12 cash or other consideration to be paid or delivered as a
13 result of the conversion of the members' interests, or a
14 combination of these.

15 D. After a conversion is approved under Subsection
16 B of this section, the limited liability company shall file
17 with the commission, if the converted entity is a partnership,
18 a statement containing the items set forth below, if the
19 converted entity is a corporation, articles of incorporation
20 and a statement containing the items set forth below and if
21 the converted entity is a limited partnership, a certificate
22 of limited partnership and a statement containing the items
23 set forth below:

24 (1) a statement that the corporation,
25 partnership or limited partnership was converted from a

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1 limited liability company;

2 (2) the former name of the limited liability
3 company;

4 (3) a statement of the number of votes cast
5 by the members or managers entitled to vote for and against
6 the conversion and, if the vote is other than a unanimous vote
7 of the members, the number or percentage of members or
8 managers required to approve the conversion under Subsection B
9 of this section; and

10 (4) a statement that the articles of
11 organization of the limited liability company are to be
12 canceled as of the date the conversion takes effect.

13 E. The filing of articles of incorporation for a
14 corporation, a statement for a partnership or a certificate of
15 limited partnership for a limited partnership resulting from a
16 conversion pursuant to this section, cancels the articles of
17 organization of the limited liability company as of the date
18 the conversion takes effect.

19 F. A conversion takes effect when articles of
20 incorporation, a certificate of limited partnership or
21 statement required if the converted entity is a partnership,
22 are filed with the commission or at any later date specified
23 in the filed document. "

24 Section 80. Section 53-19-61 NMSA 1978 (being Laws 1995,
25 Chapter 213, Section 9) is amended to read:

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1 "53-19-61. CONVERSIONS AND MERGERS--EFFECT OF
2 CONVERSION.--

3 A. A corporation, partnership, limited liability
4 company or limited partnership that has been converted
5 pursuant to Section 53-19-60 or 53-19-60.1 NMSA 1978 is for
6 all purposes the same entity that existed before the
7 conversion.

8 B. When a conversion takes effect:

9 (1) all property owned by the converting
10 [~~partnership or limited partnership~~] entity is vested in the
11 [~~limited liability company~~] converted entity;

12 (2) all debts, liabilities and other
13 obligations of the converting [~~partnership or limited~~
14 ~~partnership~~] entity continue as obligations of the [~~limited~~
15 ~~liability company~~] converted entity;

16 (3) an action or proceeding pending by or
17 against the converting [~~partnership or limited partnership~~]
18 entity may be continued as if the conversion had not occurred;

19 (4) except as prohibited by other law, all of
20 the rights, privileges, immunities, powers and purposes of the
21 converting [~~partnership or limited partnership~~] entity are
22 vested in the [~~limited liability company~~] converted entity;
23 and

24 (5) except as otherwise provided in the
25 agreement of conversion under Subsection C of Section 53-19-60

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1 NMSA 1978, all of the [~~partners~~] owners of the converting
2 [~~partnership~~] entity continue as [~~members~~] owners of the
3 [~~limited liability company~~] converted entity. "

4 Section 81. Section 53-19-63 NMSA 1978 (being Laws 1993,
5 Chapter 280, Section 63, as amended) is amended to read:

6 "53-19-63. FILING, SERVICE AND COPYING FEES. -- The
7 commission shall charge and collect:

8 A. for filing the original articles of
9 organization and issuing a certificate of organization, a fee
10 of fifty dollars (\$50.00);

11 B. for filing amended or restated articles of
12 merger and issuing a certificate of amended or restated
13 articles, a fee of fifty dollars (\$50.00);

14 C. for filing articles of merger, conversion or
15 consolidation and issuing a certificate of consolidation, a
16 fee of one hundred dollars (\$100);

17 D. for filing articles of dissolution or
18 revocation of dissolution, a fee of twenty-five dollars
19 (\$25.00);

20 E. for issuing a certificate for any purpose not
21 otherwise specified, a fee of twenty-five dollars (\$25.00);

22 F. for furnishing written information on any
23 limited liability company, a fee of twenty-five dollars
24 (\$25.00);

25 G. for providing from the commission's records any

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1 document or instrument, a fee of one dollar (\$1.00) per page,
2 but in one case less than ten dollars (\$10.00), and a fee of
3 twenty-five dollars (\$25.00) for certification of documents or
4 instruments;

5 H. for accepting an application for reservation of
6 a name or for filing a notice of the transfer of any name
7 reservation, a fee of twenty dollars (\$20.00);

8 I. for filing a statement of change of address of
9 registered office or registered agent, or both, a fee of
10 twenty dollars (\$20.00);

11 J. for issuing a registration to a foreign limited
12 liability company, a fee of one hundred dollars (\$100);

13 K. for filing an amendment of the registration of
14 a foreign limited liability company, a fee of fifty dollars
15 (\$50.00); and

16 L. for filing an application for cancellation of
17 registration of a foreign limited liability company and
18 issuing a certificate of cancellation, a fee of twenty-five
19 dollars (\$25.00). "

20 Section 82. Section 73-5-2 NMSA 1978 (being Laws 1909,
21 Chapter 76, Section 2, as amended) is amended to read:

22 "73-5-2. CERTIFICATE OF ORGANIZATION--CONTENTS. -- [SEC-
23 2-] [They] The incorporators of a water users' association
24 shall execute a certificate setting forth:

25 [F-] A. the name of the association. No name

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1 shall be assumed ~~[which]~~ that is in use by another association
2 or corporation in this state, or so nearly similar as to lead
3 to uncertainty or confusion;

4 ~~[II.]~~ B. the names of the incorporators;

5 ~~[III.]~~ C. the location of ~~[its]~~ the association's
6 principal office in this state;

7 ~~[IV.]~~ D. the objects and purposes of the
8 association, the county or counties in which its operations
9 are to be carried on and the general description of the lands
10 to be irrigated and the reservoirs, canals, ditches or works
11 to be constructed, enlarged, combined or used under the
12 management of the association;

13 ~~[V.]~~ E. the amount of capital stock and number and
14 denomination of the shares, or if the incorporators do not
15 desire to issue shares of stock, the plan and manner of
16 acquiring membership and of providing funds or means for the
17 acquisition, construction, improvement and maintenance of its
18 works and for its necessary expenses;

19 ~~[VI.]~~ F. the period if any limited for the
20 duration of the association;

21 ~~[VII.]~~ G. the number and manner of electing the
22 board of directors, trustees or governing board of ~~[said]~~ the
23 association, and may name the persons who shall serve as such
24 for the first three months or until their successors are
25 elected and qualified;

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1 H. the address of its initial registered office
2 and the name of its initial registered agent at that address;
3 and

4 ~~[VIII.] I. [the certificate or any amendment~~
5 ~~thereof made as in this chapter provided may also contain]~~ any
6 provision, not inconsistent with [~~this~~] Chapter 73, Article 5
7 NMSA 1978 or other law of this state, which the incorporators
8 may choose to insert for the regulation and conduct of the
9 business and affairs of the association, extending its
10 membership, enlarging or changing the scope of its operations,
11 creating and enforcing a lien upon the lands, reservoirs,
12 canals, ditches, works and water rights of the association or
13 its members for the cost of acquisition, construction, repair,
14 improvement and maintenance of reservoirs, canals, ditches and
15 other works, collecting the necessary funds for expenses and
16 purposes of the association, defining or limiting its powers
17 and for its dissolution and the distribution or other
18 disposition of its property. "

19 Section 83. [NEW MATERIAL] SHORT TITLE. -- Sections 83
20 through 98 of this act may be cited as the "Foreign Business
21 Trust Registration Act".

22 Section 84. [NEW MATERIAL] CERTIFICATE OF AUTHORITY--
23 NECESSITY TO OBTAIN TO TRANSACT BUSINESS-- WHAT CONSTITUTES NOT
24 TRANSACTING BUSINESS. --

25 A. A foreign business trust shall not transact

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1 business in this state unless it first obtains a certificate
2 of authority from the public regulation commission. A foreign
3 business trust is not entitled to obtain a certificate of
4 authority to transact a business in this state that it is not
5 permitted to transact in the state or country in which it was
6 created.

7 B. The following activities do not constitute
8 transacting business within the meaning of Subsection A of
9 this section:

10 (1) maintaining, defending or effecting the
11 settlement of an action, suit or administrative or arbitration
12 proceeding, or effecting the settlement of claims or disputes;

13 (2) maintaining bank accounts;

14 (3) maintaining offices or agencies for the
15 transfer, exchange and registration of its securities, or
16 appointing and maintaining trustees or depositories with
17 relation to its securities;

18 (4) soliciting or procuring orders when the
19 orders require acceptance outside of this state before
20 becoming binding contracts;

21 (5) transacting business in interstate
22 commerce;

23 (6) holding meetings of the board of trustees
24 or holders of beneficial interest or carrying on other
25 activities concerning internal affairs;

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1 (7) selling through independent contractors;

2 (8) creating or procuring indebtedness,

3 mortgages and security interests in real and personal

4 property;

5 (9) conducting an isolated transaction that

6 is completed within a period of thirty days and not in the

7 course of a number of repeated transactions of a similar

8 nature;

9 (10) securing or collecting debts or

10 enforcing mortgages and security interests in property

11 securing the debts; or

12 (11) owning without more, real or personal

13 property.

14 Section 85. [NEW MATERIAL] NAME OF FOREIGN BUSINESS

15 TRUST. --

16 A. The name of a foreign business trust set forth

17 in its certificate of trust shall be distinguishable from the

18 name shown in the records of the public regulation commission

19 of any corporation, limited partnership, limited liability

20 company, investment trust or limited liability partnership

21 reserved, registered, formed or organized under the laws of

22 New Mexico or qualified to do business or registered as a

23 foreign corporation, foreign limited partnership, foreign

24 limited liability company, foreign investment trust or foreign

25 limited liability partnership in New Mexico; except that a

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1 foreign business trust may register under any name that is not
2 distinguishable from the name shown in the records of the
3 commission of a domestic or foreign corporation, limited
4 partnership, limited liability company, investment trust or
5 limited liability partnership reserved, registered, formed or
6 organized under the laws of New Mexico if the foreign business
7 trust has the written consent of the other entity to use the
8 name and if the written consent is filed with the commission.

9 B. The name of a foreign business trust set forth
10 in its certificate of trust may contain the name of a
11 beneficial owner, a trustee or any other person.

12 C. The name of a foreign business trust set forth
13 in its certificate of trust may contain the following words:
14 "company", "association", "club", "foundation", "fund",
15 "institute", "society", "union", "syndicate", "limited" or
16 "trust" or abbreviations of similar import.

17 D. The exclusive right to the use of a name may be
18 reserved by a foreign business trust in accordance with the
19 Business Corporation Act.

20 Section 86. [NEW MATERIAL] PROHIBITED CHANGE OF NAME--
21 PENALTIES.--If a foreign business trust authorized to transact
22 business in this state changes its name to one under which a
23 certificate of authority would not be granted to it on
24 application therefor, the certificate of authority of the
25 foreign business trust shall be suspended, and it shall not

1 thereafter transact business in this state until it changes
2 its name to a name that is available to it under the laws of
3 this state and obtains a certificate of correction or
4 amendment.

5 Section 87. [NEW MATERIAL] APPLICATION FOR CERTIFICATE
6 OF AUTHORITY. --

7 A. A foreign business trust, in order to obtain a
8 certificate of authority to transact business in this state,
9 shall make application to the public regulation commission.

10 The application shall set forth:

11 (1) the name of the foreign business trust
12 and, if different, the name under which it proposes to
13 transact business in this state;

14 (2) the date of declaration of trust;

15 (3) the address of the principal office of
16 the foreign business trust in the state or country under the
17 laws of which it is organized;

18 (4) the address of the registered office of
19 the foreign business trust in this state, the name of its
20 registered agent in this state at that address and an
21 acceptance of the appointment signed by the agent appointed;
22 and

23 (5) the purposes of the foreign business
24 trust that it proposes to pursue in the transaction of
25 business in this state.

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1 B. The application shall be made on forms
2 prescribed and furnished by the public regulation commission
3 and shall be executed by a person with authority to do so
4 under the laws of the state or jurisdiction of its formation.

5 C. A foreign business trust shall deliver with the
6 completed application a certificate of existence, or a
7 document of similar import, duly authenticated by the
8 secretary of state or other official having custody of trust
9 records in the state or jurisdiction under whose law it is
10 created.

11 Section 88. [NEW MATERIAL] ISSUANCE OF CERTIFICATE OF
12 AUTHORITY. --

13 A. If the public regulation commission finds that
14 the application for a certificate of authority meets the
15 requirements of the Foreign Business Trust Registration Act
16 and the requisite fees have been paid, it shall:

17 (1) endorse on the original the word "filed"
18 and the month, day and year of the filing;

19 (2) file in its office the original of the
20 application; and

21 (3) issue a certificate of authority to
22 transact business in this state to which it shall affix a copy
23 of the application.

24 B. The certificate of authority, together with a
25 copy of the application affixed to it, shall be returned by

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1 the public regulation commission to the business trust or its
2 representative.

3 Section 89. [NEW MATERIAL] CHANGES AND AMENDMENTS. --If a
4 statement in the application for certificate of authority of a
5 foreign business trust was false when made or any arrangements
6 or other facts described have changed, making the application
7 inaccurate in any respect, the foreign business trust shall
8 promptly file with the public regulation commission a
9 certificate, signed by an authorized person, correcting the
10 statement, together with the fee required by Section 98 of the
11 Foreign Business Trust Registration Act.

12 Section 90. [NEW MATERIAL] REGISTERED OFFICE AND
13 REGISTERED AGENT--REQUIREMENT OF MAINTENANCE IN STATE. --A
14 foreign business trust authorized to transact business in this
15 state shall have and continuously maintain in this state:

16 A. a registered office, which may be the same as
17 its place of business in this state; and

18 B. a registered agent, which may be either an
19 individual resident in this state whose business office is
20 identical with the registered office, or a domestic or foreign
21 corporation, limited partnership, limited liability company,
22 limited liability partnership or investment trust authorized
23 to transact business in this state, having a business office
24 identical with the registered office of the foreign business
25 trust.

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1 Section 91. ~~[NEW MATERIAL]~~ REGISTERED OFFICE AND
2 REGISTERED AGENT-- CHANGE-- RESIGNATION OF REGISTERED AGENT. --

3 A. A foreign business trust authorized to transact
4 business in this state may change its registered office or
5 change its registered agent, or both, upon filing with the
6 public regulation commission a statement setting forth:

- 7 (1) the name of the foreign business trust;
- 8 (2) the address of the its registered office;
- 9 (3) if the address of its registered office
10 is changed, the address to which it is to be changed;
- 11 (4) the name of the foreign business trust's
12 registered agent;
- 13 (5) if its registered agent is changed, the
14 name of the successor registered agent;
- 15 (6) a statement that the address of its
16 registered office and the address of the business office of
17 its registered agent, as changed, will be identical; and
- 18 (7) that the change was authorized by
19 resolution duly adopted by its trustees.

20 B. The statement shall be executed by the foreign
21 business trust by an authorized person and delivered to the
22 public regulation commission. If the commission finds that
23 the statement meets the requirements of this section, it shall
24 file the statement, and when filed the change of address of
25 the registered office, or the appointment of the new

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1 registered agent, or both, shall become effective. A
2 registered agent of a foreign business trust may resign as
3 registered agent by filing a written notice of resignation
4 with the commission, and the commission shall mail immediately
5 a copy of the notice to the foreign business trust at its
6 principal office in the state or country under the laws of
7 which it is organized. The appointment of the agent
8 terminates upon the expiration of thirty days after receipt of
9 the notice by the commission.

10 Section 92. [NEW MATERIAL] SERVICE OF PROCESS. --

11 A. The registered agent appointed by a foreign
12 business trust authorized to transact business in this state
13 shall be an agent of the foreign business trust upon whom may
14 be served any process, notice or demand required or permitted
15 by law to be served upon the foreign business trust.

16 B. A foreign business trust may be served by
17 registered or certified mail, return receipt requested,
18 addressed to a trustee of the foreign business trust at its
19 principal office shown on its application for a certificate of
20 authority if the foreign business trust:

21 (1) has no registered agent or its registered
22 agent cannot be served with reasonable diligence;

23 (2) has withdrawn from transacting business
24 in New Mexico; or

25 (3) has had its certificate of authority

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1 revoked.

2 C. Service is perfected under Subsection B of this
3 section at the earliest of:

4 (1) the date the foreign business trust
5 receives the mail;

6 (2) the date shown on the return receipt, if
7 signed on behalf of the foreign business trust; or

8 (3) five days after its deposit in the United
9 States mail, if mailed postpaid and correctly addressed.

10 D. This section does not prescribe the only means,
11 or necessarily the required means, of serving a foreign
12 business trust described in Subsection B of this section.

13 Section 93. [NEW MATERIAL] CERTIFICATE OF WITHDRAWAL--
14 APPLICATION AND FILING. --

15 A. A foreign business trust authorized to transact
16 business in this state may withdraw from this state upon
17 obtaining from the public regulation commission a certificate
18 of withdrawal. To obtain the certificate, the foreign
19 business trust shall deliver to the commission an application
20 for withdrawal. The application shall set forth:

21 (1) the name of the foreign business and the
22 state or country under the laws of which it is organized;

23 (2) that the foreign business trust is not
24 transacting business in this state;

25 (3) that the foreign business trust

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1 surrenders its authority to transact business in this state;

2 (4) that the foreign business trust revokes
3 the authority of its registered agent in this state to accept
4 service of process and consents that service of process in any
5 action, suit or proceeding based on a cause of action arising
6 in this state during the time the foreign business trust was
7 authorized to transact business in this state may thereafter
8 be made on the foreign business trust by service on the
9 secretary of state;

10 (5) an address to which the secretary of
11 state may mail a copy of any process against the foreign
12 business trust served on the secretary of state;

13 (6) a commitment to notify the commission in
14 the future of any change in its mailing address; and

15 (7) additional information necessary or
16 appropriate to enable the commission to determine and assess
17 any unpaid fees or taxes payable by the foreign business
18 trust.

19 B. The application for withdrawal shall be made on
20 forms prescribed and furnished by the public regulation
21 commission and shall be executed by the trust by an authorized
22 person, or if the foreign business trust is in the hands of a
23 receiver or trustee, by the receiver or trustee.

24 Section 94. [NEW MATERIAL] CERTIFICATE OF WITHDRAWAL--
25 ISSUANCE. --

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1 A. An application of a foreign business trust for
2 withdrawal shall be delivered to the public regulation
3 commission. If the commission finds that the application
4 meets the requirements of the Foreign Business Trust
5 Registration Act, when all fees and taxes prescribed by law
6 have been paid it shall:

7 (1) endorse on the application the word
8 "filed" and the month, day and year of the filing;

9 (2) file the application in its office; and

10 (3) issue a certificate of withdrawal.

11 B. The certificate of withdrawal, together with a
12 copy of the application for withdrawal affixed thereto by the
13 public regulation commission, shall be returned to the foreign
14 business trust or its representative. Upon the issuance of
15 the certificate of withdrawal, the authority of the foreign
16 business trust to transact business in this state shall cease.

17 Section 95. [NEW MATERIAL] CERTIFICATE OF AUTHORITY--
18 REVOCATION-- CAUSES. --

19 A. The certificate of authority of a foreign
20 business trust to transact business in this state may be
21 revoked by the public regulation commission pursuant to this
22 section when:

23 (1) the foreign business trust has failed to
24 pay any fees prescribed by law when they become due and
25 payable;

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underscored material = new
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1 (2) the foreign business trust has failed to
2 appoint and maintain a registered agent in this state;

3 (3) the foreign business trust has failed,
4 after change of its registered office or registered agent, to
5 file with the commission a statement of the change as required
6 by law; or

7 (4) a misrepresentation has been made of any
8 material matter in an application, report, affidavit or other
9 document submitted by such foreign business trust pursuant to
10 law.

11 B. No certificate of authority of a foreign
12 business trust shall be revoked by the public regulation
13 commission unless:

14 (1) it has given the foreign business trust
15 not less than sixty days' prior notice of revocation by mail
16 addressed to its registered office in this state; and

17 (2) the foreign business trust prior to
18 revocation fails to pay fees or taxes owed, file the required
19 statement of change of registered agent or registered office
20 or correct the misrepresentation.

21 Section 96. [NEW MATERIAL] CERTIFICATE OF AUTHORITY--
22 REVOCATION PROCEDURE. --

23 A. Upon revoking a certificate of authority of a
24 foreign business trust, the public regulation commission
25 shall:

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1 (1) issue a certificate of revocation in
2 duplicate;

3 (2) file one of the certificates in its
4 office; and

5 (3) mail to the foreign business trust at its
6 registered office in this state a notice of the revocation
7 accompanied by the other certificate.

8 B. Upon issuance of the certificate of revocation,
9 the authority of the foreign business trust to transact
10 business in this state ceases.

11 Section 97. [NEW MATERIAL] CONSEQUENCES OF TRANSACTING
12 BUSINESS WITHOUT AUTHORITY. --

13 A. A foreign business trust transacting business
14 in this state without a certificate of authority may not
15 maintain a proceeding in any court in this state until it
16 obtains a certificate of authority.

17 B. The successor to a foreign business trust that
18 transacted business in this state without a certificate of
19 authority and the assignee of a cause of action arising out of
20 that business may not maintain a proceeding based on that
21 cause of action in any court in this state until the foreign
22 business trust or its successor obtains a certificate of
23 authority.

24 C. A court may stay a proceeding commenced by a
25 foreign business trust, its successor or assignee until it

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1 determines whether the foreign business trust or its successor
2 requires a certificate of authority. If it so determines, the
3 court may further stay a proceeding until the foreign business
4 trust or its successor obtains a certificate.

5 D. A foreign business trust is liable for a civil
6 penalty of ten dollars (\$10.00) for each day, but not to
7 exceed a total of one thousand dollars (\$1,000) for each year
8 it transacts business in this state without a certificate of
9 authority. The attorney general may enforce the civil
10 liability imposed pursuant to this subsection.

11 E. The failure of a foreign business trust to
12 obtain a certificate of authority does not impair the validity
13 of any contract or act of the foreign business trust or
14 prevent it from defending any action, suit or proceeding in
15 any court of this state.

16 Section 98. [NEW MATERIAL] FEES. --The public regulation
17 commission shall charge and collect from a foreign business
18 trust for:

19 A. filing a statement of change of address of
20 registered office or change of registered agent, or both,
21 twenty-five dollars (\$25.00);

22 B. filing an application of a foreign business
23 trust for a certificate of authority to transact business in
24 this state and issuing a certificate of authority, two hundred
25 fifty dollars (\$250);

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1 C. filing a certificate of correction or amendment
2 of a foreign business trust authorized to transact business in
3 this state, fifty dollars (\$50.00);

4 D. filing an application for withdrawal of a
5 foreign business trust and issuing a certificate of
6 withdrawal, twenty-five dollars (\$25.00);

7 E. filing any other statement of a foreign
8 business trust, twenty-five dollars (\$25.00); and

9 F. for furnishing a certified copy of any
10 document, instrument or paper relating to a foreign business
11 trust, one dollar (\$1.00) per page and ten dollars (\$10.00)
12 for the certificate and affixing the seal thereto.

13 Section 99. TEMPORARY PROVISION--LAWS APPLICABLE TO
14 FOREIGN BUSINESS TRUST PREVIOUSLY TRANSACTING BUSINESS IN THIS
15 STATE. --

16 A. Foreign business trusts that are transacting
17 business in this state at the time the Foreign Business Trust
18 Registration Act takes effect, for a purpose or purposes for
19 which a foreign business trust might secure authority under
20 that law, shall, subject to the limitations set forth in their
21 respective certificates of authority, be entitled to the
22 rights and privileges applicable to foreign business trusts
23 obtaining certificates of authority to transact business and
24 shall be subject to the limitations, restrictions, liabilities
25 and duties prescribed in that act for foreign business trusts

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1 obtaining certificates of authority to transact business in
2 this state.

3 B. Within one year from the effective date of the
4 Foreign Business Trust Registration Act, foreign business
5 trusts transacting business within the state at the time of
6 the effective date of that act shall secure a certificate of
7 authority or be subject to the penalties, restrictions and
8 limitations provided in the act.

9 Section 100. EFFECTIVE DATE. -- The effective date of the
10 provisions of this act is July 1, 2001.