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HOUSE BILL 768

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

INTRODUCED BY

W. Ken Martinez

AN ACT

**RELATING TO COMMERCIAL LAW; ENACTING THE UNIFORM ARBITRATION
ACT; ESTABLISHING STANDARDS FOR ARBITRATION PROCEEDINGS;
REPEALING SECTIONS OF THE NMSA 1978.**

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

Section 1. SHORT TITLE--DEFINITIONS.--

**(a) The provisions of this act may be cited as the
"Uniform Arbitration Act".**

(b) As used in the Uniform Arbitration Act:

**(1) "arbitration organization" means an
association, agency, board, commission or other entity that is
neutral and initiates, sponsors or administers an arbitration
proceeding or is involved in the appointment of an arbitrator;**

**(2) "arbitrator" means an individual
appointed to render an award, alone or with others, in a**

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1 controversy that is subject to an agreement to arbitrate;

2 (3) "court" means a court of competent
3 jurisdiction in this state;

4 (4) "knowledge" means actual knowledge;

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

11 (6) "record" means information that is
12 inscribed on a tangible medium or that is stored in an
13 electronic or other medium and is retrievable in perceivable
14 form.

15 Section 2. NOTICE. --

16 (a) Except as otherwise provided in the Uniform
17 Arbitration Act, a person gives notice to another person by
18 taking action that is reasonably necessary to inform the other
19 person in ordinary course, whether or not the other person
20 acquires knowledge of the notice.

21 (b) A person has notice if the person has
22 knowledge of the notice or has received notice.

23 (c) A person receives notice when it comes to the
24 person's attention or the notice is delivered at the person's
25 place of residence or place of business, or at another

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1 location held out by the person as a place of delivery of such
2 communications.

3 Section 3. WHEN THE UNIFORM ARBITRATION APPLIES. --

4 (a) The Uniform Arbitration Act governs an
5 agreement to arbitrate made on or after the effective date of
6 that act.

7 (b) The Uniform Arbitration Act governs an
8 agreement to arbitrate made before the effective date of that
9 act if all the parties to the agreement or to the arbitration
10 proceeding so agree in a record.

11 Section 4. EFFECT OF AGREEMENT TO ARBITRATE--NONWAIVABLE
12 PROVISIONS. --

13 (a) Except as otherwise provided in Subsections
14 (b) and (c), a party to an agreement to arbitrate or to an
15 arbitration proceeding may waive or the parties may vary the
16 effect of the requirements of the Uniform Arbitration Act to
17 the extent permitted by law.

18 (b) Before a controversy arises that is subject to
19 an agreement to arbitrate, a party to the agreement may not:

20 (1) waive or agree to vary the effect of the
21 requirements of Section 5(a), 6(a), 8, 17(a), 17(b), 26 or 28;

22 (2) agree to unreasonably restrict the right
23 under Section 9 to notice of the initiation of an arbitration
24 proceeding;

25 (3) agree to unreasonably restrict the right

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1 under Section 12 to disclosure of any facts by a neutral
2 arbitrator; or

3 (4) waive the right under Section 16 of a
4 party to an agreement to arbitrate to be represented by a
5 lawyer at any proceeding or hearing under the Uniform
6 Arbitration Act, but an employer and a labor organization may
7 waive the right to representation by a lawyer in a labor
8 arbitration.

9 (c) A party to an agreement to arbitrate or
10 arbitration proceeding may not waive or the parties may not
11 vary the effect of the requirements of this section or Section
12 3(a), 7, 14, 18, 20(d) or (e), 22, 23, 24, 25(a) or (b), 29,
13 30, 31 or 32.

14 Section 5. APPLICATION FOR JUDICIAL RELIEF. --

15 (a) Except as otherwise provided in Section 28, an
16 application for judicial relief under the Uniform Arbitration
17 Act must be made by motion to the court and heard in the
18 manner provided by law or rule of court for making and hearing
19 motions.

20 (b) Unless a civil action involving the agreement
21 to arbitrate is pending, notice of an initial motion to the
22 court under the Uniform Arbitration Act must be served in the
23 manner provided by law for the service of a summons in a civil
24 action. Otherwise, notice of the motion must be given in the
25 manner provided by law or rule of court for serving motions in

1 pending cases.

2 Section 6. VALIDITY OF AGREEMENT TO ARBITRATE. --

3 (a) An agreement contained in a record to submit
4 to arbitration any existing or subsequent controversy arising
5 between the parties to the agreement is valid, enforceable and
6 irrevocable except upon a ground that exists at law or in
7 equity for the revocation of a contract.

8 (b) The court shall decide whether an agreement to
9 arbitrate exists or a controversy is subject to an agreement
10 to arbitrate.

11 (c) An arbitrator shall decide whether a condition
12 precedent to arbitrability has been fulfilled and whether a
13 contract containing a valid agreement to arbitrate is
14 enforceable.

15 (d) If a party to a judicial proceeding challenges
16 the existence of, or claims that a controversy is not subject
17 to an agreement to arbitrate, the arbitration proceeding may
18 continue pending final resolution of the issue by the court,
19 unless the court otherwise orders.

20 Section 7. MOTION TO COMPEL OR STAY ARBITRATION. --

21 (a) On motion of a person showing an agreement to
22 arbitrate and alleging another person's refusal to arbitrate
23 pursuant to the agreement:

24 (1) if the refusing party does not appear or
25 does not oppose the motion, the court shall order the parties

1 to arbitrate; and

2 (2) if the refusing party opposes the motion,
3 the court shall proceed summarily to decide the issue and
4 order the parties to arbitrate unless it finds that there is
5 no enforceable agreement to arbitrate.

6 (b) On motion of a person alleging that an
7 arbitration proceeding has been initiated or threatened but
8 that there is no agreement to arbitrate, the court shall
9 proceed summarily to decide the issue. If the court finds
10 that there is an enforceable agreement to arbitrate, it shall
11 order the parties to arbitrate.

12 (c) If the court finds that there is no
13 enforceable agreement, it may not pursuant to Subsection (a)
14 or (b) order the parties to arbitrate.

15 (d) The court may not refuse to order arbitration
16 because the claim subject to arbitration lacks merit or
17 grounds for the claim have not been established.

18 (e) If a proceeding involving a claim referable to
19 arbitration under an alleged agreement to arbitrate is pending
20 in court, a motion under this section must be made in that
21 court. Otherwise, a motion under this section may be made in
22 any court as provided in Section 27.

23 (f) If a party makes a motion to the court to
24 order arbitration, the court on just terms shall stay any
25 judicial proceeding that involves a claim alleged to be

1 subject to the arbitration until the court renders a final
2 decision under this section.

3 (g) If the court orders arbitration, the court on
4 just terms shall stay any judicial proceeding that involves a
5 claim subject to the arbitration. If a claim subject to the
6 arbitration is severable, the court may limit the stay to that
7 claim.

8 Section 8. PROVISIONAL REMEDIES. --

9 (a) Before an arbitrator is appointed and is
10 authorized and able to act, the court, upon motion of a party
11 to an arbitration proceeding and for good cause shown, may
12 enter an order for provisional remedies to protect the
13 effectiveness of the arbitration proceeding to the same extent
14 and under the same conditions as if the controversy were the
15 subject of a civil action.

16 (b) After an arbitrator is appointed and is
17 authorized and able to act:

18 (1) the arbitrator may issue such orders for
19 provisional remedies, including interim awards, as the
20 arbitrator finds necessary to protect the effectiveness of the
21 arbitration proceeding and to promote the fair and expeditious
22 resolution of the controversy, to the same extent and under
23 the same conditions as if the controversy were the subject of
24 a civil action; and

25 (2) a party to an arbitration proceeding may

1 move the court for a provisional remedy only if the matter is
2 urgent and the arbitrator is not able to act timely or the
3 arbitrator cannot provide an adequate remedy.

4 (c) A party does not waive a right of arbitration
5 by making a motion under Subsection (a) or (b).

6 Section 9. INITIATION OF ARBITRATION. --

7 (a) A person initiates an arbitration proceeding
8 by giving notice in a record to the other parties to the
9 agreement to arbitrate in the agreed manner between the
10 parties or, in the absence of agreement, by certified or
11 registered mail, return receipt requested and obtained, or by
12 service as authorized for the commencement of a civil action.
13 The notice must describe the nature of the controversy and the
14 remedy sought.

15 (b) Unless a person objects for lack or
16 insufficiency of notice under Section 15(c) not later than the
17 beginning of the arbitration hearing, the person by appearing
18 at the hearing waives any objection to lack of or
19 insufficiency of notice.

20 Section 10. CONSOLIDATION OF SEPARATE ARBITRATION
21 PROCEEDINGS. --

22 (a) Except as otherwise provided in Subsection
23 (c), upon motion of a party to an agreement to arbitrate or to
24 an arbitration proceeding, the court may order consolidation
25 of separate arbitration proceedings as to all or some of the

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1 claims if:

2 (1) there are separate agreements to
3 arbitrate or separate arbitration proceedings between the same
4 persons or one of them is a party to a separate agreement to
5 arbitrate or a separate arbitration proceeding with a third
6 person;

7 (2) the claims subject to the agreements to
8 arbitrate arise in substantial part from the same transaction
9 or series of related transactions;

10 (3) the existence of a common issue of law or
11 fact creates the possibility of conflicting decisions in the
12 separate arbitration proceedings; and

13 (4) prejudice resulting from a failure to
14 consolidate is not outweighed by the risk of undue delay or
15 prejudice to the rights of or hardship to parties opposing
16 consolidation.

17 (b) The court may order consolidation of separate
18 arbitration proceedings as to some claims and allow other
19 claims to be resolved in separate arbitration proceedings.

20 (c) The court may not order consolidation of the
21 claims of a party to an agreement to arbitrate if the
22 agreement prohibits consolidation.

23 Section 11. APPOINTMENT OF ARBITRATOR--SERVICE AS A
24 NEUTRAL ARBITRATOR. --

25 (a) If the parties to an agreement to arbitrate

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1 agree on a method for appointing an arbitrator, that method
2 must be followed unless the method fails. If the parties have
3 not agreed on a method, the agreed method fails or an
4 arbitrator appointed fails or is unable to act and a successor
5 has not been appointed, the court, on motion of a party to the
6 arbitration proceeding, shall appoint the arbitrator. An
7 arbitrator so appointed has all the powers of an arbitrator
8 designated in the agreement to arbitrate or appointed pursuant
9 to the agreed method.

10 (b) An individual who has a known, direct and
11 material interest in the outcome of the arbitration proceeding
12 or a known, existing and substantial relationship with a party
13 may not serve as an arbitrator required by an agreement to be
14 neutral.

15 Section 12. DISCLOSURE BY ARBITRATOR. --

16 (a) Before accepting appointment, an individual
17 who is requested to serve as an arbitrator, after making a
18 reasonable inquiry, shall disclose to all parties to the
19 agreement to arbitrate and arbitration proceeding and to any
20 other arbitrators any known facts that a reasonable person
21 would consider likely to affect the impartiality of the
22 arbitrator in the arbitration proceeding, including:

23 (1) a financial or personal interest in the
24 outcome of the arbitration proceeding; and

25 (2) an existing or past relationship with any

1 of the parties to the agreement to arbitrate or the
2 arbitration proceeding, their counsel or representatives, a
3 witness or other arbitrators.

4 (b) An arbitrator has a continuing obligation to
5 disclose to all parties to the agreement to arbitrate and
6 arbitration proceeding and to any other arbitrators any facts
7 that the arbitrator learns after accepting appointment which a
8 reasonable person would consider likely to affect the
9 impartiality of the arbitrator. If an arbitrator discloses a
10 fact required by Subsection (a) or (b) to be disclosed and a
11 party timely objects to the appointment or continued service
12 of the arbitrator based upon the fact disclosed, the objection
13 may be a ground under Section 23(a)(2) for vacating an award
14 made by the arbitrator.

15 (c) If the arbitrator did not disclose a fact as
16 required by Subsection (a) or (b), upon timely objection by a
17 party, the court under Section 23(a)(2) may vacate an award.

18 (d) An arbitrator appointed as a neutral
19 arbitrator who does not disclose a known, direct and material
20 interest in the outcome of the arbitration proceeding or a
21 known, existing and substantial relationship with a party is
22 presumed to act with evident partiality under Section
23 23(a)(2).

24 (e) If the parties to an arbitration proceeding
25 agree to the procedures of an arbitration organization or any

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1 other procedures for challenges to arbitrators before an award
2 is made, substantial compliance with those procedures is a
3 condition precedent to a motion to vacate an award on that
4 ground under Section 23(a)(2).

5 Section 13. ACTION BY MAJORITY.--If there is more than
6 one arbitrator, the powers of an arbitrator must be exercised
7 by a majority of the arbitrators, but all of them shall
8 conduct the hearing under Section 15(c).

9 Section 14. IMMUNITY OF ARBITRATOR--COMPETENCY TO
10 TESTIFY--ATTORNEY'S FEES AND COSTS.--

11 (a) An arbitrator or an arbitration organization
12 acting in that capacity is immune from civil liability to the
13 same extent as a judge of a court of this state acting in a
14 judicial capacity.

15 (b) The immunity afforded by this section
16 supplements any immunity under other law.

17 (c) The failure of an arbitrator to make a
18 disclosure required by Section 12 does not cause any loss of
19 immunity under this section.

20 (d) In a judicial, administrative or similar
21 proceeding, an arbitrator or representative of an arbitration
22 organization is not competent to testify, and may not be
23 required to produce records as to any statement, conduct,
24 decision or ruling occurring during the arbitration
25 proceeding, to the same extent as a judge of a court of this

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1 state acting in a judicial capacity. This subsection does not
2 apply:

3 (1) to the extent necessary to determine the
4 claim of an arbitrator, arbitration organization or
5 representative of the arbitration organization against a party
6 to the arbitration proceeding; or

7 (2) to a hearing on a motion to vacate an
8 award under Section 23(a)(1) or (2) if the movant establishes
9 prima facie that a ground for vacating the award exists.

10 (e) If a person commences a civil action against
11 an arbitrator, arbitration organization or representative of
12 an arbitration organization arising from the services of the
13 arbitrator, organization or representative or if a person
14 seeks to compel an arbitrator or a representative of an
15 arbitration organization to testify or produce records in
16 violation of Subsection (d), and the court decides that the
17 arbitrator, arbitration organization or representative of an
18 arbitration organization is immune from civil liability or
19 that the arbitrator or representative of the organization is
20 not competent to testify, the court shall award to the
21 arbitrator, organization or representative reasonable
22 attorney's fees and other reasonable expenses of litigation.

23 Section 15. ARBITRATION PROCESS. --

24 (a) An arbitrator may conduct an arbitration in
25 such manner as the arbitrator considers appropriate for a fair

1 and expeditious disposition of the proceeding. The authority
2 conferred upon the arbitrator includes the power to hold
3 conferences with the parties to the arbitration proceeding
4 before the hearing and, among other matters, determine the
5 admissibility, relevance, materiality and weight of any
6 evidence.

7 (b) An arbitrator may decide a request for summary
8 disposition of a claim or particular issue:

- 9 (1) if all interested parties agree; or
10 (2) upon request of one party to the
11 arbitration proceeding, if that party gives notice to all
12 other parties to the proceeding and the other parties have a
13 reasonable opportunity to respond.

14 (c) If an arbitrator orders a hearing, the
15 arbitrator shall set a time and place and give notice of the
16 hearing not less than five days before the hearing begins.
17 Unless a party to the arbitration proceeding makes an
18 objection to lack or insufficiency of notice not later than
19 the beginning of the hearing, the party's appearance at the
20 hearing waives the objection. Upon request of a party to the
21 arbitration proceeding and for good cause shown, or upon the
22 arbitrator's own initiative, the arbitrator may adjourn the
23 hearing from time to time as necessary, but may not postpone
24 the hearing to a time later than that fixed by the agreement
25 to arbitrate for making the award unless the parties to the

1 arbitration proceeding consent to a later date. The
2 arbitrator may hear and decide the controversy upon the
3 evidence produced although a party who was duly notified of
4 the arbitration proceeding did not appear. The court, on
5 request, may direct the arbitrator to conduct the hearing
6 promptly and render a timely decision.

7 (d) At a hearing under Subsection (c), a party to
8 the arbitration proceeding has a right to be heard, to present
9 evidence material to the controversy and to cross-examine
10 witnesses appearing at the hearing.

11 (e) If an arbitrator ceases or is unable to act
12 during the arbitration proceeding, a replacement arbitrator
13 must be appointed in accordance with Section 11 to continue
14 the proceeding and to resolve the controversy.

15 Section 16. REPRESENTATION BY LAWYER.--A party to an
16 arbitration proceeding may be represented by a lawyer.

17 Section 17. WITNESSES--SUBPOENAS--DEPOSITIONS--
18 DISCOVERY.--

19 (a) An arbitrator may issue a subpoena for the
20 attendance of a witness and for the production of records and
21 other evidence at any hearing and may administer oaths. A
22 subpoena must be served in the manner for service of subpoenas
23 in a civil action and, upon motion to the court by a party to
24 the arbitration proceeding or the arbitrator, enforced in the
25 manner for enforcement of subpoenas in a civil action.

1 (b) In order to make the proceedings fair,
2 expeditious and cost effective, upon request of a party to or
3 a witness in an arbitration proceeding, an arbitrator may
4 permit a deposition of any witness to be taken for use as
5 evidence at the hearing, including a witness who cannot be
6 subpoenaed for or is unable to attend a hearing. The
7 arbitrator shall determine the conditions under which the
8 deposition is taken.

9 (c) An arbitrator may permit such discovery as the
10 arbitrator decides is appropriate in the circumstances, taking
11 into account the needs of the parties to the arbitration
12 proceeding and other affected persons and the desirability of
13 making the proceeding fair, expeditious and cost effective.

14 (d) If an arbitrator permits discovery under
15 Subsection (c), the arbitrator may order a party to the
16 arbitration proceeding to comply with the arbitrator's
17 discovery-related orders, issue subpoenas for the attendance
18 of a witness and for the production of records and other
19 evidence at a discovery proceeding and take action against a
20 noncomplying party to the extent a court could if the
21 controversy were the subject of a civil action in this state.

22 (e) An arbitrator may issue a protective order to
23 prevent the disclosure of privileged information, confidential
24 information, trade secrets and other information protected
25 from disclosure to the extent a court could if the controversy

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1 were the subject of a civil action in this state.

2 (f) All laws compelling a person under subpoena to
3 testify and all fees for attending a judicial proceeding, a
4 deposition or a discovery proceeding as a witness apply to an
5 arbitration proceeding as if the controversy were the subject
6 of a civil action in this state.

7 (g) The court may enforce a subpoena or discovery-
8 related order for the attendance of a witness within this
9 state and for the production of records and other evidence
10 issued by an arbitrator in connection with an arbitration
11 proceeding in another state upon conditions determined by the
12 court so as to make the arbitration proceeding fair,
13 expeditious and cost effective. A subpoena or discovery-
14 related order issued by an arbitrator in another state must be
15 served in the manner provided by law for service of subpoenas
16 in a civil action in this state and, upon motion to the court
17 by a party to the arbitration proceeding or the arbitrator,
18 enforced in the manner provided by law for enforcement of
19 subpoenas in a civil action in this state.

20 Section 18. JUDICIAL ENFORCEMENT OF PRE-AWARD RULING BY
21 ARBITRATOR. --If an arbitrator makes a pre-award ruling in
22 favor of a party to the arbitration proceeding, the party may
23 request the arbitrator to incorporate the ruling into an award
24 under Section 19. A prevailing party may make a motion to the
25 court for an expedited order to confirm the award under

1 Section 22, in which case the court shall summarily decide the
2 motion. The court shall issue an order to confirm the award
3 unless the court vacates, modifies or corrects the award under
4 Section 23 or 24.

5 Section 19. AWARD. --

6 (a) An arbitrator shall make a record of an award.
7 The record must be signed or otherwise authenticated by any
8 arbitrator who concurs with the award. The arbitrator or the
9 arbitration organization shall give notice of the award,
10 including a copy of the award, to each party to the
11 arbitration proceeding.

12 (b) An award must be made within the time
13 specified by the agreement to arbitrate or, if not specified
14 therein, within the time ordered by the court. The court may
15 extend or the parties to the arbitration proceeding may agree
16 in a record to extend the time. The court or the parties may
17 do so within or after the time specified or ordered. A party
18 waives any objection that an award was not timely made unless
19 the party gives notice of the objection to the arbitrator
20 before receiving notice of the award.

21 Section 20. CHANGE OF AWARD BY ARBITRATOR. --

22 (a) On motion to an arbitrator by a party to an
23 arbitration proceeding, the arbitrator may modify or correct
24 an award:

25 (1) upon a ground stated in Section 24(a)(1)

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1 or (3);

2 (2) because the arbitrator has not made a
3 final and definite award upon a claim submitted by the parties
4 to the arbitration proceeding; or

5 (3) to clarify the award.

6 (b) A motion under Subsection (a) must be made and
7 notice given to all parties within twenty days after the
8 movant receives notice of the award.

9 (c) A party to the arbitration proceeding must
10 give notice of any objection to the motion within ten days
11 after receipt of the notice.

12 (d) If a motion to the court is pending under
13 Section 22, 23 or 24, the court may submit the claim to the
14 arbitrator to consider whether to modify or correct the award:

15 (1) upon a ground stated in Section 24(a)(1)
16 or (3);

17 (2) because the arbitrator has not made a
18 final and definite award upon a claim submitted by the parties
19 to the arbitration proceeding; or

20 (3) to clarify the award.

21 (e) An award modified or corrected pursuant to
22 this section is subject to Sections 19(a), 22, 23 and 24.

23 Section 21. REMEDIES--FEES AND EXPENSES OF ARBITRATION
24 PROCEEDING.--

25 (a) An arbitrator may award punitive damages or

1 other exemplary relief if such an award is authorized by law
2 in a civil action involving the same claim and the evidence
3 produced at the hearing justifies the award under the legal
4 standards otherwise applicable to the claim.

5 (b) An arbitrator may award reasonable attorney's
6 fees and other reasonable expenses of arbitration if such an
7 award is authorized by law in a civil action involving the
8 same claim or by the agreement of the parties to the
9 arbitration proceeding.

10 (c) As to all remedies other than those authorized
11 by Subsections (a) and (b), an arbitrator may order such
12 remedies as the arbitrator considers just and appropriate
13 under the circumstances of the arbitration proceeding. The
14 fact that such a remedy could not or would not be granted by
15 the court is not a ground for refusing to confirm an award
16 under Section 22 or for vacating an award under Section 23.

17 (d) An arbitrator's expenses and fees, together
18 with other expenses, must be paid as provided in the award.

19 (e) If an arbitrator awards punitive damages or
20 other exemplary relief under Subsection (a), the arbitrator
21 shall specify in the award the basis in fact justifying and
22 the basis in law authorizing the award and state separately
23 the amount of the punitive damages or other exemplary relief.

24 Section 22. CONFIRMATION OF AWARD. --After a party to an
25 arbitration proceeding receives notice of an award, the party

1 may make a motion to the court for an order confirming the
2 award at which time the court shall issue a confirming order
3 unless the award is modified or corrected pursuant to Section
4 20 or 24 or is vacated pursuant to Section 23.

5 Section 23. VACATING AWARD. --

6 (a) Upon motion to the court by a party to an
7 arbitration proceeding, the court shall vacate an award made
8 in the arbitration proceeding if:

9 (1) the award was procured by corruption,
10 fraud or other undue means;

11 (2) there was:

12 (A) evident partiality by an arbitrator
13 appointed as a neutral arbitrator;

14 (B) corruption by an arbitrator; or

15 (C) misconduct by an arbitrator

16 prejudicing the rights of a party to the arbitration
17 proceeding;

18 (3) an arbitrator refused to postpone the
19 hearing upon showing of sufficient cause for postponement,
20 refused to consider evidence material to the controversy or
21 otherwise conducted the hearing contrary to Section 15, so as
22 to prejudice substantially the rights of a party to the
23 arbitration proceeding;

24 (4) an arbitrator exceeded the arbitrator's
25 powers;

1 (5) there was no agreement to arbitrate,
2 unless the person participated in the arbitration proceeding
3 without raising the objection under Section 15(c) not later
4 than the beginning of the arbitration hearing; or

5 (6) the arbitration was conducted without
6 proper notice of the initiation of an arbitration as required
7 in Section 9 so as to prejudice substantially the rights of a
8 party to the arbitration proceeding.

9 (b) A motion under this section must be filed
10 within ninety days after the movant receives notice of the
11 award pursuant to Section 19 or within ninety days after the
12 movant receives notice of a modified or corrected award
13 pursuant to Section 20, unless the movant alleges that the
14 award was procured by corruption, fraud or other undue means,
15 in which case the motion must be made within ninety days after
16 the ground is known or by the exercise of reasonable care
17 would have been known by the movant.

18 (c) If the court vacates an award on a ground
19 other than that set forth in Subsection (a)(5), it may order a
20 rehearing. If the award is vacated on a ground stated in
21 Subsection (a)(1) or (2), the rehearing must be before a new
22 arbitrator. If the award is vacated on a ground stated in
23 Subsection (a)(3), (4) or (6), the rehearing may be before the
24 arbitrator who made the award or the arbitrator's successor.
25 The arbitrator must render the decision in the rehearing

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1 within the same time as that provided in Section 19(b) for an
2 award. If the court denies a motion to vacate an award, it
3 shall confirm the award unless a motion to modify or correct
4 the award is pending.

5 Section 24. MODIFICATION OR CORRECTION OF AWARD. --

6 (a) Upon motion made within ninety days after the
7 movant receives notice of the award pursuant to Section 19 or
8 within ninety days after the movant receives notice of a
9 modified or corrected award pursuant to Section 20, the court
10 shall modify or correct the award if:

11 (1) there was an evident mathematical
12 miscalculation or an evident mistake in the description of a
13 person, thing or property referred to in the award;

14 (2) the arbitrator has made an award on a
15 claim not submitted to the arbitrator and the award may be
16 corrected without affecting the merits of the decision upon
17 the claims submitted; or

18 (3) the award is imperfect in a matter of
19 form not affecting the merits of the decision on the claims
20 submitted.

21 (b) If a motion made under Subsection (a) is
22 granted, the court shall modify or correct and confirm the
23 award as modified or corrected. Otherwise, unless a motion to
24 vacate is pending, the court shall confirm the award. A
25 motion to modify or correct an award pursuant to this section

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1 may be joined with a motion to vacate the award.

2 Section 25. JUDGMENT ON AWARD--ATTORNEY' S FEES AND
3 LITIGATION EXPENSES. --

4 (a) Upon granting an order confirming, vacating
5 without directing a rehearing, modifying or correcting an
6 award, the court shall enter a judgment in conformity
7 therewith. The judgment may be recorded, docketed and
8 enforced as any other judgment in a civil action.

9 (b) A court may allow reasonable costs of the
10 motion and subsequent judicial proceedings.

11 (c) On application of a prevailing party to a
12 contested judicial proceeding under Section 22, 23 or 24, the
13 court may add reasonable attorney's fees and other reasonable
14 expenses of litigation incurred in a judicial proceeding after
15 the award is made to a judgment confirming, vacating without
16 directing a rehearing, modifying or correcting an award.

17 Section 26. JURISDICTION. --

18 (a) A court of this state having jurisdiction over
19 the controversy and the parties may enforce an agreement to
20 arbitrate.

21 (b) An agreement to arbitrate providing for
22 arbitration in this state confers exclusive jurisdiction on
23 the court to enter judgment on an award under the Uniform
24 Arbitration Act.

25 Section 27. VENUE. -- A motion pursuant to Section 5 must

1 be made in the court of the county in which the agreement to
2 arbitrate specifies the arbitration hearing is to be held or,
3 if the hearing has been held, in the court of the county in
4 which it was held. Otherwise, the motion may be made in the
5 court of any county in which an adverse party resides or has a
6 place of business or, if no adverse party has a residence or
7 place of business in this state, in the court of any county in
8 this state. All subsequent motions must be made in the court
9 hearing the initial motion unless the court otherwise directs.

10 Section 28. APPEALS. --

11 (a) An appeal may be taken from:

12 (1) an order denying a motion to compel
13 arbitration;

14 (2) an order granting a motion to stay
15 arbitration;

16 (3) an order confirming or denying
17 confirmation of an award;

18 (4) an order modifying or correcting an
19 award;

20 (5) an order vacating an award without
21 directing a rehearing; or

22 (6) a final judgment entered pursuant to the
23 Uniform Arbitration Act.

24 (b) An appeal under this section must be taken as
25 from an order or a judgment in a civil action.

underscored material = new
[bracketed material] = delete

1 Section 29. UNIFORMITY OF APPLICATION AND
2 CONSTRUCTION. --In applying and construing the Uniform
3 Arbitration Act, consideration must be given to the need to
4 promote uniformity of the law with respect to its subject
5 matter among states that enact it.

6 Section 30. RELATIONSHIP TO ELECTRONIC SIGNATURES IN
7 GLOBAL AND NATIONAL COMMERCE ACT. --The provisions of the
8 Uniform Arbitration Act governing the legal effect, validity
9 and enforceability of electronic records or electronic
10 signatures and of contracts performed with the use of such
11 records or signatures conform to the requirements of Section
12 102 of the Electronic Signatures in Global and National
13 Commerce Act.

14 Section 31. SAVING CLAUSE. --The Uniform Arbitration Act
15 does not affect an action or proceeding commenced or right
16 accrued before that act takes effect, subject to Section 3 of
17 that act.

18 Section 32. REPEAL. --Sections 44-7-1 through 44-7-22
19 NMSA 1978 (being Laws 1971, Chapter 168, Sections 1 through
20 23) are repealed.

21 Section 33. EFFECTIVE DATE. --The effective date of the
22 provisions of this act is July 1, 2001.