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HOUSE BILL 371

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

R. David Pederson

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING AN EQUITABLE
SCHEDULE OF SENTENCING FOR CRIMINAL OFFENSES INVOLVING THEFT;
AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 30-16-1 NMSA 1978 (being Laws 1963,
Chapter 303, Section 16-1, as amended) is amended to read:

"30-16-1. LARCENY. --

A. Larceny consists of the stealing of anything of
value which belongs to another.

B. Whoever commits larceny when the value of the
property stolen is one hundred dollars (\$100) or less is
guilty of a petty misdemeanor.

C. Whoever commits larceny when the value of the
property stolen is over one hundred dollars (\$100) but not

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1 more than [~~two hundred fifty dollars (\$250)~~] one thousand
2 dollars (\$1,000) is guilty of a misdemeanor.

3 D. Whoever commits larceny when the value of the
4 property stolen is over [~~two hundred fifty dollars (\$250)~~] one
5 thousand dollars (\$1,000) but not more than two thousand five
6 hundred dollars (\$2,500) is guilty of a fourth degree felony.

7 E. Whoever commits larceny when the value of the
8 property stolen is over two thousand five hundred dollars
9 (\$2,500) but not more than twenty thousand dollars (\$20,000)
10 is guilty of a third degree felony.

11 F. Whoever commits larceny when the value of the
12 property stolen is over twenty thousand dollars (\$20,000) is
13 guilty of a second degree felony.

14 G. Whoever commits larceny when the property of
15 value stolen is livestock is guilty of a third degree felony
16 regardless of its value.

17 H. Whoever commits larceny when the property of
18 value stolen is a firearm is guilty of a fourth degree felony
19 when its value is less than two thousand five hundred dollars
20 (\$2,500). "

21 Section 2. Section 30-16-6 NMSA 1978 (being Laws 1963,
22 Chapter 303, Section 16-6, as amended) is amended to read:

23 "30-16-6. FRAUD. --

24 A. Fraud consists of the intentional
25 misappropriation or taking of anything of value which belongs

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1 to another by means of fraudulent conduct, practices or
2 representations.

3 B. Whoever commits fraud when the value of the
4 property misappropriated or taken is one hundred dollars
5 (\$100) or less is guilty of a petty misdemeanor.

6 C. Whoever commits fraud when the value of the
7 property misappropriated or taken is over one hundred dollars
8 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
9 one thousand dollars (\$1,000) is guilty of a misdemeanor.

10 D. Whoever commits fraud when the value of the
11 property misappropriated or taken is over [~~two hundred fifty~~
12 ~~dollars (\$250)~~] one thousand dollars \$1,000 but not more than
13 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) is
14 guilty of a fourth degree felony.

15 [~~Whoever commits fraud when the property misappropriated~~
16 ~~or taken is a firearm is guilty of a fourth degree felony.~~]

17 E. Whoever commits fraud when the value of the
18 property misappropriated or taken is over [~~twenty-five~~] two
19 thousand five hundred dollars (\$2,500) but not more than
20 twenty thousand dollars (\$20,000) is guilty of a third degree
21 felony.

22 F. Whoever commits fraud when the value of the
23 property misappropriated or taken exceeds twenty thousand
24 dollars (\$20,000) is guilty of a second degree felony.

25 G. Whoever commits fraud when the property

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1 misappropriated or taken is a firearm is guilty of a fourth
2 degree felony when its value is less than two thousand five
3 hundred dollars (\$2,500). "

4 Section 3. Section 30-16-7 NMSA 1978 (being Laws 1971,
5 Chapter 282, Section 1, as amended) is amended to read:

6 "30-16-7. UNLAWFUL DEALING IN FEDERAL FOOD COUPONS OR
7 WIC CHECKS. --

8 A. Unlawful dealing in federal food coupons or WIC
9 checks consists of a person buying, selling, trading,
10 bartering or possessing food coupons or WIC checks issued by
11 the United States department of agriculture with the intent to
12 obtain an economic benefit to which he is not entitled under
13 the rules and regulations of the human services department
14 pertaining to the food stamp program or of the [~~health and~~
15 ~~environment~~] department of health pertaining to the special
16 supplemental food program for women, infants and children.

17 B. Whoever commits unlawful dealing in federal
18 food coupons or WIC checks when the value of the food coupons
19 or WIC checks involved is one hundred dollars (\$100) or less
20 is guilty of a petty misdemeanor.

21 C. Whoever commits unlawful dealing in federal
22 food coupons or WIC checks when the value of the food coupons
23 or WIC checks involved is over one hundred dollars (\$100) but
24 not more than [~~two hundred fifty dollars (\$250)~~] one thousand
25 dollars (\$1,000) is guilty of a misdemeanor.

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1 D. Whoever commits unlawful dealing in federal
2 food coupons or WIC checks when the value of the food coupons
3 or WIC checks involved is over [~~two hundred fifty dollars~~
4 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than
5 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) is
6 guilty of a fourth degree felony.

7 E. Whoever commits unlawful dealing in federal
8 food coupons or WIC checks when the value of the food coupons
9 or WIC checks involved is over [~~twenty-five~~] two thousand five
10 hundred dollars (\$2,500) but not more than twenty thousand
11 dollars (\$20,000) is guilty of a third degree felony.

12 F. Whoever commits unlawful dealing in federal
13 food coupons or WIC checks when the value of the food coupons
14 or WIC checks involved exceeds twenty thousand dollars
15 (\$20,000) is guilty of a second degree felony. "

16 Section 4. Section 30-16-8 NMSA 1978 (being Laws 1963,
17 Chapter 303, Section 16-7, as amended) is amended to read:

18 "30-16-8. EMBEZZLEMENT. --

19 A. Embezzlement consists of the embezzling or
20 converting to his own use of anything of value, with which he
21 has been entrusted, with fraudulent intent to deprive the
22 owner thereof. Each separate incident of embezzlement or
23 conversion constitutes a separate and distinct offense.

24 B. Whoever commits embezzlement when the value of
25 the thing embezzled or converted is one hundred dollars (\$100)

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1 or less is guilty of a petty misdemeanor.

2 C. Whoever commits embezzlement when the value of
3 the thing embezzled or converted is over one hundred dollars
4 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
5 one thousand dollars (\$1,000) is guilty of a misdemeanor.

6 D. Whoever commits embezzlement when the value of
7 the thing embezzled or converted is over [~~two hundred fifty~~
8 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
9 than two thousand five hundred dollars (\$2,500) is guilty of a
10 fourth degree felony.

11 E. Whoever commits embezzlement when the value of
12 the thing embezzled or converted is over two thousand five
13 hundred dollars (\$2,500) but not more than twenty thousand
14 dollars (\$20,000) is guilty of a third degree felony.

15 F. Whoever commits embezzlement when the value of
16 the thing embezzled or converted exceeds twenty thousand
17 dollars (\$20,000) is guilty of a second degree felony. "

18 Section 5. Section 30-16-11 NMSA 1978 (being Laws 1963,
19 Chapter 303, Section 16-11, as amended) is amended to read:

20 "30-16-11. RECEIVING STOLEN PROPERTY--PENALTIES.--

21 A. Receiving stolen property means intentionally
22 to receive, retain or dispose of stolen property knowing that
23 it has been stolen or believing it has been stolen, unless the
24 property is received, retained or disposed of with intent to
25 restore it to the owner.

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1 B. The requisite knowledge or belief that property
2 has been stolen is presumed in the case of a dealer who:

3 (1) is found in possession or control of
4 property stolen from two or more persons on separate
5 occasions;

6 (2) acquires stolen property for a
7 consideration which the dealer knows is far below the
8 property's reasonable value. A dealer shall be presumed to
9 know the fair market value of the property in which he deals;
10 or

11 (3) is found in possession or control of five
12 or more items of property stolen within one year prior to the
13 time of the incident charged pursuant to this section.

14 C. For the purposes of this section:

15 (1) "dealer" means a person in the business
16 of buying or selling goods or commercial merchandise; and

17 (2) "stolen property" means any property
18 acquired by theft, larceny, fraud, embezzlement, robbery or
19 armed robbery.

20 D. Whoever commits receiving stolen property when
21 the value of the property is one hundred dollars (\$100) or
22 less is guilty of a petty misdemeanor.

23 E. Whoever commits receiving stolen property when
24 the value of the property is over one hundred dollars (\$100)
25 but not more than [~~two hundred fifty dollars (\$250)~~] one

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1 thousand dollars (\$1,000) is guilty of a misdemeanor.

2 F. Whoever commits receiving stolen property when
3 the value of the property is over [~~two hundred fifty dollars~~
4 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two
5 thousand five hundred dollars (\$2,500) is guilty of a fourth
6 degree felony.

7 G. Whoever commits receiving stolen property when
8 the value of the property is over two thousand five hundred
9 dollars (\$2,500) but not more than twenty thousand dollars
10 (\$20,000) is guilty of a third degree felony.

11 H. Whoever commits receiving stolen property when
12 the value of the property exceeds twenty thousand dollars
13 (\$20,000) is guilty of a second degree felony.

14 I. Whoever commits receiving stolen property when
15 the property is a firearm is guilty of a fourth degree felony
16 when its value is less than two thousand five hundred dollars
17 (\$2,500). "

18 Section 6. Section 30-16-13 NMSA 1978 (being Laws 1963,
19 Chapter 303, Section 16-13) is amended to read:

20 "30-16-13. CHEATING A MACHINE OR DEVICE. --

21 A. Cheating a machine or device consists of any
22 person, with intent to defraud, attempting to operate or
23 causing to be operated any automatic vending machine, parking
24 meter, coin-box telephone or any machine or [~~receptable~~]
25 receptacle designed to receive lawful money of the United

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1 States in connection with the sale, use or enjoyment of
2 property or service by means of any slug or by any false,
3 counterfeited, mutilated, sweated or foreign coin or by any
4 means, method, trick or device.

5 B. Whoever commits cheating a machine or device
6 when the value of the property or service is one hundred
7 dollars (\$100) or less is guilty of a petty misdemeanor.

8 C. Whoever commits cheating a machine or device
9 when the value of the property or service is over one hundred
10 dollars (\$100) but not more than one thousand dollars (\$1,000)
11 is guilty of a misdemeanor.

12 D. Whoever commits cheating a machine or device
13 when the value of the property or service is over one thousand
14 dollars (\$1,000) but not more than two thousand five hundred
15 dollars (\$2,500) is guilty of a fourth degree felony.

16 E. Whoever commits cheating a machine or device
17 when the value of the property or service is over two thousand
18 five hundred dollars (\$2,500) but not more than twenty
19 thousand dollars (\$20,000) is guilty of a third degree felony.

20 F. Whoever commits cheating a machine or device
21 when the value of the property or service is over twenty
22 thousand dollars (\$20,000) is guilty of a second degree
23 felony. "

24 Section 7. Section 30-16-16 NMSA 1978 (being Laws 1963,
25 Chapter 303, Section 16-16, as amended) is amended to read:

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1 "30-16-16. FALSELY OBTAINING SERVICES OR
2 ACCOMMODATIONS-- PROBABLE CAUSE-- IMMUNITY-- PENALTY. --

3 A. Falsely obtaining services or accommodations
4 consists of any person obtaining service, food, entertainment
5 or accommodations without paying with the intent to cheat or
6 defraud the owner or person supplying such service, food,
7 entertainment or accommodations.

8 B. Any law enforcement officer may arrest without
9 warrant any person he has probable cause for believing has
10 committed the crime of falsely obtaining services or
11 accommodations as defined in this section. Any merchant,
12 owner or proprietor who causes such an arrest shall not be
13 criminally or civilly liable if he has actual knowledge that
14 the person so arrested has committed the crime of falsely
15 obtaining services or accommodations.

16 C. Whoever commits falsely obtaining services or
17 accommodations when the value of the service, food,
18 entertainment or accommodations furnished is:

19 (1) less than one hundred dollars (\$100) is
20 guilty of a petty misdemeanor;

21 (2) more than one hundred dollars (\$100) but
22 not more than [~~two hundred fifty dollars (\$250)~~] one thousand
23 dollars (\$1,000) is guilty of a misdemeanor;

24 (3) more than [~~two hundred fifty dollars~~
25 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two

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1 thousand five hundred dollars (\$2,500) is guilty of a fourth
2 degree felony;

3 (4) more than two thousand five hundred
4 dollars (\$2,500) but not more than twenty thousand dollars
5 (\$20,000) is guilty of a third degree felony; and

6 (5) more than twenty thousand dollars
7 (\$20,000) is guilty of a second degree felony. "

8 Section 8. Section 30-16-20 NMSA 1978 (being Laws 1965,
9 Chapter 5, Section 2, as amended) is amended to read:

10 "30-16-20. CRIME OF SHOPLIFTING CREATED. --

11 A. Shoplifting consists of any one or more of the
12 following acts:

13 (1) willfully taking possession of any
14 merchandise with the intention of converting it without paying
15 for it;

16 (2) willfully concealing any merchandise with
17 the intention of converting it without paying for it;

18 (3) willfully altering any label, price tag
19 or marking upon any merchandise with the intention of
20 depriving the merchant of all or some part of the value of it;
21 or

22 (4) willfully transferring any merchandise
23 from the container in or on which it is displayed to any other
24 container with the intention of depriving the merchant of all
25 or some part of the value of it.

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1 B. Whoever commits shoplifting when the value of
2 the merchandise shoplifted:

3 (1) is one hundred dollars (\$100) or less is
4 guilty of a petty misdemeanor;

5 (2) is more than one hundred dollars (\$100)
6 but not more than [~~two hundred fifty dollars (\$250)~~] one
7 thousand dollars (\$1,000) is guilty of a misdemeanor;

8 (3) is more than [~~two hundred fifty dollars~~
9 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two
10 thousand five hundred dollars (\$2,500) is guilty of a fourth
11 degree felony;

12 (4) is more than two thousand five hundred
13 dollars (\$2,500) but not more than twenty thousand dollars
14 (\$20,000) is guilty of a third degree felony; or

15 (5) is more than twenty thousand dollars
16 (\$20,000) is guilty of a second degree felony.

17 C. Any individual charged with a violation of this
18 section shall not be charged with a separate or additional
19 offense arising out of the same transaction. "

20 Section 9. Section 30-16-33 NMSA 1978 (being Laws 1971,
21 Chapter 239, Section 9) is amended to read:

22 "30-16-33. FRAUDULENT USE OF CREDIT CARDS. --

23 A. [~~A person is guilty of a fourth degree felony~~
24 ~~if, with intent to defraud, he uses to obtain anything of~~
25 ~~value]~~ Fraudulent use of a credit card consists of a person

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1 obtaining anything of value, with intent to defraud, by using:

2 (1) a credit card obtained in violation of
3 Sections [~~40A-16-24 through 40A-16-38 NMSA 1953; or~~] 30-16-25
4 through 30-16-38 NMSA 1978;

5 (2) a credit card which is invalid, expired
6 or revoked; [~~or~~]

7 (3) a credit card while fraudulently
8 representing that he is the cardholder named on the credit
9 card or an authorized agent or representative of the
10 cardholder named on the credit card; or

11 (4) a credit card issued in the name of
12 another without the consent of the person to whom the card has
13 been issued.

14 [~~B. If the value of all things of value obtained~~
15 ~~by any person from one or more merchants, an issuer or a~~
16 ~~participating party, in violation of this section exceeds~~
17 ~~three hundred dollars (\$300) in any consecutive six months~~
18 ~~period, then the offense of the violator is a third degree~~
19 ~~felony.]~~

20 B. Whoever commits fraudulent use of a credit card
21 when the value of the property or service is one hundred
22 dollars (\$100) or less is guilty of a petty misdemeanor.

23 C. Whoever commits fraudulent use of a credit card
24 when the value of the property or service is over one hundred
25 dollars (\$100) but not more than one thousand dollars (\$1,000)

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1 is guilty of a misdemeanor.

2 D. Whoever commits fraudulent use of a credit card
3 when the value of the property or service is over one thousand
4 dollars (\$1,000) but not more than two thousand five hundred
5 dollars (\$2,500) is guilty of a fourth degree felony.

6 E. Whoever commits fraudulent use of a credit card
7 when the value of the property or service is over two thousand
8 five hundred dollars (\$2,500) but not more than twenty
9 thousand dollars (\$20,000) is guilty of a third degree felony.

10 F. Whoever commits fraudulent use of a credit card
11 when the value of the property or service is over twenty
12 thousand dollars (\$20,000) is guilty of a second degree
13 felony. "

14 Section 10. Section 30-16-36 NMSA 1978 (being Laws 1971,
15 Chapter 239, Section 12) is amended to read:

16 "30-16-36. RECEIPT OF PROPERTY OBTAINED IN VIOLATION OF
17 ACT.--Any person who receives the money, goods, services or
18 anything else of value obtained in violation of Section
19 [~~40A-16-33 NMSA 1953~~] 30-16-33 NMSA 1978, and who knows or has
20 reason to believe that it was so obtained, violates this
21 section. The degree of the offense is determined as follows:

22 A. if the value of all things of value obtained
23 from any person [~~or persons~~] in violation of this section is
24 one hundred dollars (\$100) or less in any consecutive [~~six~~
25 ~~months~~] six-month period, then the offense is a petty

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1 misdemeanor;

2 B. if the value of all things of value obtained
3 from any person [~~or persons~~] in violation of this section is
4 more than one hundred dollars (\$100) but [~~less than three~~
5 ~~hundred dollars (\$300) in any consecutive six months period,~~
6 ~~then the offense is a fourth degree felony;~~

7 C. ~~if the value of all things of value obtained~~
8 ~~from any person or persons in violation of this section is~~
9 ~~three hundred dollars (\$300) or more in any consecutive six~~
10 ~~months period, then the offense is a third degree felony]~~ not
11 more than one thousand dollars (\$1,000) in any consecutive
12 six-month period, then the offense is a misdemeanor;

13 C. if the value of all things of value obtained
14 from any person in violation of this section is more than one
15 thousand dollars (\$1,000) but not more than two thousand five
16 hundred dollars (\$2,500) in any consecutive six-month period,
17 then the offense is a fourth degree felony;

18 D. if the value of all things of value obtained
19 from any person in violation of this section is more than two
20 thousand five hundred dollars (\$2,500) but not more than
21 twenty thousand dollars (\$20,000) in any consecutive six-month
22 period, then the offense is a third degree felony; or

23 E. if the value of all things of value obtained
24 from any person in violation of this section is more than
25 twenty thousand dollars (\$20,000) in any consecutive six-month

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1 period, then the offense is a second degree felony. "

2 Section 11. Section 30-16-39 NMSA 1978 (being Laws 1972,
3 Chapter 23, Section 1, as amended) is amended to read:

4 "30-16-39. FRAUDULENT ACTS TO OBTAIN OR RETAIN
5 POSSESSION OF RENTED OR LEASED VEHICLE OR OTHER PERSONAL
6 PROPERTY--PENALTY. --Any person who rents or leases a vehicle
7 or other personal property and obtains or retains possession
8 of it by means of any false or fraudulent representation,
9 fraudulent concealment, false pretense or personation, trick,
10 artifice or device, including but not limited to a false
11 representation as to his name, residence, employment or
12 operator's license is guilty:

13 A. of a [~~fourth degree felony~~] petty misdemeanor
14 if the property [~~is a~~] or vehicle [~~or~~] has a value [~~in excess~~]
15 of one hundred dollars (\$100) or less;

16 B. of a [~~petty~~] misdemeanor if the property [~~is~~
17 ~~not a~~] or vehicle [~~and~~] has a value of over one hundred
18 dollars (\$100) [~~or less~~] but not more than one thousand
19 dollars (\$1,000);

20 C. of a fourth degree felony if the property or
21 vehicle has a value of over one thousand dollars (\$1,000) but
22 not more than two thousand five hundred dollars (\$2,500);

23 D. of a third degree felony if the property or
24 vehicle has a value of over two thousand five hundred dollars
25 (\$2,500) but not more than twenty thousand dollars (\$20,000);

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1 and

2 E. of a second degree felony if the property or
3 vehicle has a value of over twenty thousand dollars
4 (\$20,000). "

5 Section 12. Section 30-16-40 NMSA 1978 (being Laws 1973,
6 Chapter 154, Section 1, as amended) is amended to read:

7 "30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE
8 OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION. --

9 A. Any person who, after leasing a vehicle or
10 other personal property under a written agreement which
11 provides for the return of the vehicle or personal property to
12 a particular place at a particular time and who, with intent
13 to defraud the lessor of the vehicle or personal property,
14 fails to return the vehicle or personal property to the place
15 within the time specified, is guilty of a:

16 [~~(1) of a petty misdemeanor if the property~~
17 ~~is not a vehicle and has a value of one hundred dollars (\$100)~~
18 ~~or less;~~

19 ~~(2) of a fourth degree felony if the property~~
20 ~~is not a vehicle and has a value of more than one hundred~~
21 ~~dollars (\$100) but less than two thousand five hundred dollars~~
22 ~~(\$2,500);~~

23 ~~(3) of a fourth degree felony if the vehicle~~
24 ~~has a value of less than two thousand five hundred dollars~~
25 ~~(\$2,500); and~~

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1 ~~(4) of a third degree felony if the property~~
2 ~~or vehicle has a value of two thousand five hundred dollars~~
3 ~~(\$2,500) or more.]~~

4 (1) petty misdemeanor if the property or
5 vehicle has a value of one hundred dollars (\$100) or less;

6 (2) misdemeanor if the property or vehicle
7 has a value of over one hundred dollars (\$100) but not more
8 than one thousand dollars (\$1,000);

9 (3) fourth degree felony if the property or
10 vehicle has a value of over one thousand dollars (\$1,000) but
11 not more than two thousand five hundred dollars (\$2,500);

12 (4) third degree felony if the property or
13 vehicle has a value of over two thousand five hundred dollars
14 (\$2,500) but not more than twenty thousand dollars (\$20,000);
15 and

16 (5) second degree felony if the property or
17 vehicle has a value of over twenty thousand dollars (\$20,000).

18 B. Failure of the lessee to return the vehicle or
19 personal property to the place specified within seventy-two
20 hours after mailing to him by certified mail at his address
21 shown on the leasing agreement a written demand to return the
22 vehicle or personal property shall raise a rebuttable
23 presumption that the failure to return the vehicle or personal
24 property was with intent to defraud. "

25 Section 13. Section 30-36-5 NMSA 1978 (being Laws 1965,
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1 Chapter 114, Section 1) is amended to read:

2 "30-36-5. PENALTY. -- Any person violating Section
3 [~~40-49-4 New Mexico Statutes Annotated, 1953 Compilation~~]
4 30-36-4 NMSA 1978 shall be punished as follows:

5 A. when the amount of the check, draft or order or
6 the total amount of the checks, drafts or orders [~~are for more~~
7 ~~than one dollar (\$1.00) but less than twenty-five dollars~~
8 ~~(\$25.00), imprisonment in the county jail for a term of not~~
9 ~~more than thirty days or a fine of not more than one hundred~~
10 ~~dollars (\$100), or both such imprisonment and fine]~~ is one
11 hundred dollars (\$100) or less, the person is guilty of a
12 petty misdemeanor;

13 B. when the amount of the check, draft or order or
14 the total amount of the checks, drafts or orders [~~are for~~
15 ~~twenty-five dollars (\$25.00) or more, imprisonment in the~~
16 ~~penitentiary for a term of not less than one year nor more~~
17 ~~than three years or the payment of a fine of not more than one~~
18 ~~thousand dollars (\$1,000) or both such imprisonment and fine]~~ is over one hundred dollars (\$100) but not more than two
19 hundred fifty dollars (\$250), the person is guilty of a
20 misdemeanor;

21 C. when the amount of the check, draft or order or
22 the total amount of the checks, drafts or orders is over two
23 hundred fifty dollars (\$250) but not more than two thousand
24 five hundred dollars (\$2,500), the person is guilty of a
25

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1 fourth degree felony;

2 D. when the amount of the check, draft or order or
3 the total amount of the checks, drafts or orders is over two
4 thousand five hundred dollars (\$2,500) but not more than
5 twenty thousand dollars (\$20,000), the person is guilty of a
6 third degree felony; and

7 E. when the amount of the check, draft or order or
8 the total amount of the checks, drafts or orders is over
9 twenty thousand dollars (\$20,000), the person is guilty of a
10 second degree felony. "

11 Section 14. Section 30-50-4 NMSA 1978 (being Laws 1995,
12 Chapter 37, Section 4) is amended to read:

13 "30-50-4. FRAUDULENT TELEMARKETING--PENALTIES. --Any
14 person who knowingly and willfully engages in telemarketing to
15 or from a telephone located in New Mexico with the intent to
16 embezzle or to obtain money, property or any thing of value by
17 fraudulent pretenses, representations or promises in the
18 course of a telephone communication, when:

19 A. the money, property or thing has a value of
20 [~~less than two hundred fifty dollars (\$250)~~] one hundred
21 dollars (\$100) or less, is guilty of a petty misdemeanor and
22 shall be sentenced pursuant to the provisions of Section
23 31-19-1 NMSA 1978;

24 B. the money, property or thing has a value of
25 [~~two hundred fifty dollars (\$250) or more but less than two~~

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1 ~~thousand five hundred dollars (\$2,500)]~~ more than one hundred
2 dollars (\$100) but not more than one thousand dollars
3 (\$1,000), is guilty of a [fourth degree felony] misdemeanor
4 and shall be sentenced pursuant to the provisions of Section
5 ~~[31-18-15]~~ 31-19-1 NMSA 1978;

6 C. the money, property or thing has a value of
7 ~~[two thousand five hundred dollars (\$2,500) or more but less~~
8 ~~than twenty thousand dollars (\$20,000)]~~ more than one thousand
9 dollars (\$1,000) but not more than two thousand five hundred
10 dollars (\$2,500), is guilty of a [third] fourth degree felony
11 and shall be sentenced pursuant to the provisions of Section
12 31-18-15 NMSA 1978; [or]

13 D. the money, property or thing has a value of
14 more than two thousand five hundred dollars (\$2,500) but not
15 more than twenty thousand dollars (\$20,000), is guilty of a
16 third degree felony and shall be sentenced pursuant to the
17 provisions of Section 31-18-15 NMSA 1978; or

18 ~~[D.]~~ E. the money, property or thing has a value
19 of twenty thousand dollars (\$20,000) or more, is guilty of a
20 second degree felony and shall be sentenced pursuant to the
21 provisions of Section 31-18-15 NMSA 1978. "

22 Section 15. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 February 19, 1999

7
8 Mr. Speaker:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 HOUSE BILL 371

13
14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that

16 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL
17 371

18
19 DO PASS.
20
21
22
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 371

Page 23

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Luna, Sanchez

Absent: None

J:\99Billswp\H0371

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR

HOUSE BILL 371

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING AN EQUITABLE
SCHEDULE OF SENTENCING FOR CERTAIN CRIMINAL OFFENSES; AMENDING
SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-1-73 NMSA 1978 (being Laws 1965,
Chapter 248, Section 74, as amended) is amended to read:

"7-1-73. FALSE STATEMENT AND FRAUD. --

A. Any individual or person who:

~~[A.]~~ (1) willfully makes and subscribes any
return, statement or other document that contains or is
verified by a written declaration that it is true and correct
as to every material matter and that the individual or person
does not believe to be true and correct as to every material
matter;

~~[B.]~~ (2) files any return electronically,
knowing the information in the return is not true and correct
as to every material matter; or

1 [C.] (3) with intent to evade or defeat the
2 payment or collection of any tax, or, knowing that the
3 probable consequences of the person's act will be to evade or
4 defeat the payment or collection of any tax, removes, conceals
5 or releases any property on which levy is authorized or that
6 is liable for payment of tax under the provisions of Section
7 7-1-61 NMSA 1978, or aids in accomplishing or causes the
8 accomplishment of any of the foregoing is guilty of ~~[a felony
and, upon conviction thereof, shall be fined not more than
five thousand dollars (\$5,000) or imprisoned not less than six
months or more than three years, or both, together with costs
of prosecution]~~ tax fraud.

9 B. Whoever commits tax fraud when the amount of
10 the tax owed is one hundred dollars (\$100) or less is guilty
11 of a petty misdemeanor and shall be sentenced pursuant to the
12 provisions of Section 31-19-1 NMSA 1978.

13 C. Whoever commits tax fraud when the amount of
14 the tax owed is over one hundred dollars (\$100) but not more
15 than one thousand dollars (\$1,000) is guilty of a misdemeanor
16 and shall be sentenced pursuant to the provisions of Section
17 31-19-1 NMSA 1978.

18 D. Whoever commits tax fraud when the amount of the
19 tax owed is over one thousand dollars (\$1,000) but not more
20 than two thousand five hundred dollars (\$2,500) is guilty of a
21 fourth degree felony and shall be sentenced pursuant to the
22 provisions of Section 31-18-15 NMSA 1978.

23 E. Whoever commits tax fraud when the amount of
24 the tax owed is over two thousand five hundred dollars
25 (\$2,500) but not more than twenty thousand dollars (\$20,000)
is guilty of a third degree felony and shall be sentenced
pursuant to the provisions of Section 31-18-15 NMSA 1978.

F. Whoever commits tax fraud when the amount of

1 the tax owed is over twenty thousand dollars (\$20,000) is
2 guilty of a second degree felony and shall be sentenced
3 pursuant to the provisions of Section 31-18-15 NMSA 1978.

4 G. In addition to the fines imposed pursuant to
5 this section, a person who commits tax fraud shall pay the
6 costs of the prosecution of his case. "

7 Section 2. Section 30-15-1 NMSA 1978 (being Laws 1963,
8 Chapter 303, Section 15-1) is amended to read:

9 "30-15-1. CRIMINAL DAMAGE TO PROPERTY. --

10 A. Criminal damage to property consists of
11 intentionally damaging any real or personal property of
12 another without the consent of the owner of the property.

13 B. Whoever commits criminal damage to property [is
14 guilty of a petty misdemeanor, except that when the damage to
15 the property amounts to more than one thousand dollars
16 (\$1,000), he is guilty of a fourth degree felony] when the
17 damage to the property is one hundred dollars (\$100) or less
18 is guilty of a petty misdemeanor.

19 C. Whoever commits criminal damage to property
20 when the damage to the property is over one hundred dollars
21 (\$100) but not more than one thousand dollars (\$1,000) is
22 guilty of a misdemeanor.

23 D. Whoever commits criminal damage to property
24 when the damage to the property is over one thousand dollars
25 (\$1,000) but not more than two thousand five hundred dollars
(\$2,500) is guilty of a fourth degree felony.

E. Whoever commits criminal damage to property
when the damage to the property is over two thousand five

1 hundred dollars (\$2,500) but not more than twenty thousand
2 dollars (\$20,000) is guilty of a third degree felony.

3 F. Whoever commits criminal damage to property
4 when the damage to the property is over twenty thousand
5 dollars (\$20,000) is guilty of a second degree felony. "

6 Section 3. Section 30-15-4 NMSA 1978 (being Laws 1963,
7 Chapter 303, Section 15-3, as amended) is amended to read:

8 "30-15-4. DESECRATION OF A CHURCH. --

9 A. Desecration of a church consists of willfully,
10 maliciously and intentionally defacing a church or any portion
11 [thereof] of it.

12 B. Whoever commits desecration of a church [is
13 guilty of a misdemeanor, except that when the damage to the
14 church amounts to more than one thousand dollars (\$1,000), he
15 is guilty of a fourth degree felony] when the damage to the
16 church is one hundred dollars (\$100) or less is guilty of a
17 petty misdemeanor.

18 C. Whoever commits desecration of a church when
19 the damage to the church is over one hundred dollars (\$100)
20 but not more than one thousand dollars (\$1,000) is guilty of a
21 misdemeanor.

22 D. Whoever commits desecration of a church when
23 the damage to the church is over one thousand dollars (\$1,000)
24 but not more than two thousand five hundred dollars (\$2,500)
25 is guilty of a fourth degree felony.

E. Whoever commits desecration of a church when
the damage to the church is over two thousand five hundred
dollars (\$2,500) but not more than twenty thousand dollars

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1 (\$20,000) is guilty of a third degree felony.

2 F. Whoever commits desecration of a church when
3 the damage to the church is over twenty thousand dollars
4 (\$20,000) is guilty of a second degree felony. "

5 Section 4. Section 30-16-1 NMSA 1978 (being Laws 1963,
6 Chapter 303, Section 16-1, as amended) is amended to read:

7 "30-16-1. LARCENY. --

8 A. Larceny consists of the stealing of anything of
9 value which belongs to another.

10 B. Whoever commits larceny when the value of the
11 property stolen is one hundred dollars (\$100) or less is
12 guilty of a petty misdemeanor.

13 C. Whoever commits larceny when the value of the
14 property stolen is over one hundred dollars (\$100) but not
15 more than [~~two hundred fifty dollars (\$250)~~] one thousand
16 dollars (\$1,000) is guilty of a misdemeanor.

17 D. Whoever commits larceny when the value of the
18 property stolen is over [~~two hundred fifty dollars (\$250)~~] one
19 thousand dollars (\$1,000) but not more than two thousand five
20 hundred dollars (\$2,500) is guilty of a fourth degree felony.

21 E. Whoever commits larceny when the value of the
22 property stolen is over two thousand five hundred dollars
23 (\$2,500) but not more than twenty thousand dollars (\$20,000)
24 is guilty of a third degree felony.

25 F. Whoever commits larceny when the value of the
property stolen is over twenty thousand dollars (\$20,000) is
guilty of a second degree felony.

G. Whoever commits larceny when the property of

underscored material = new
[bracketed material] = delete

1 value stolen is livestock is guilty of a third degree felony
2 regardless of its value.

3 H. Whoever commits larceny when the property of
4 value stolen is a firearm is guilty of a fourth degree felony
5 when its value is less than two thousand five hundred dollars
6 (\$2,500). "

7 Section 5. Section 30-16-6 NMSA 1978 (being Laws 1963,
8 Chapter 303, Section 16-6, as amended) is amended to read:

9 "30-16-6. FRAUD. --

10 A. Fraud consists of the intentional
11 misappropriation or taking of anything of value which belongs
12 to another by means of fraudulent conduct, practices or
13 representations.

14 B. Whoever commits fraud when the value of the
15 property misappropriated or taken is one hundred dollars
16 (\$100) or less is guilty of a petty misdemeanor.

17 C. Whoever commits fraud when the value of the
18 property misappropriated or taken is over one hundred dollars
19 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
20 one thousand dollars (\$1,000) is guilty of a misdemeanor.

21 D. Whoever commits fraud when the value of the
22 property misappropriated or taken is over [~~two hundred fifty
23 dollars (\$250)~~] one thousand dollars \$1,000 but not more than
24 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) is
25 guilty of a fourth degree felony.

~~[Whoever commits fraud when the property misappropriated
or taken is a firearm is guilty of a fourth degree felony.]~~

E. Whoever commits fraud when the value of the

underscored material = new
[bracketed material] = delete

1 property misappropriated or taken is over [~~twenty-five~~] two
2 thousand five hundred dollars (\$2,500) but not more than
3 twenty thousand dollars (\$20,000) is guilty of a third degree
4 felony.

5 F. Whoever commits fraud when the value of the
6 property misappropriated or taken exceeds twenty thousand
7 dollars (\$20,000) is guilty of a second degree felony.

8 G. Whoever commits fraud when the property
9 misappropriated or taken is a firearm is guilty of a fourth
10 degree felony when its value is less than two thousand five
11 hundred dollars (\$2,500). "

12 Section 6. Section 30-16-7 NMSA 1978 (being Laws 1971,
13 Chapter 282, Section 1, as amended) is amended to read:

14 "30-16-7. UNLAWFUL DEALING IN FEDERAL FOOD COUPONS OR
15 WIC CHECKS. --

16 A. Unlawful dealing in federal food coupons or WIC
17 checks consists of a person buying, selling, trading,
18 bartering or possessing food coupons or WIC checks issued by
19 the United States department of agriculture with the intent to
20 obtain an economic benefit to which he is not entitled under
21 the rules and regulations of the human services department
22 pertaining to the food stamp program or of the [~~health and~~
23 ~~environment~~] department of health pertaining to the special
24 supplemental food program for women, infants and children.

25 B. Whoever commits unlawful dealing in federal
26 food coupons or WIC checks when the value of the food coupons
27 or WIC checks involved is one hundred dollars (\$100) or less
28 is guilty of a petty misdemeanor.

underscored material = new
[bracketed material] = delete

1 C. Whoever commits unlawful dealing in federal
2 food coupons or WIC checks when the value of the food coupons
3 or WIC checks involved is over one hundred dollars (\$100) but
4 not more than [~~two hundred fifty dollars (\$250)~~] one thousand
5 dollars (\$1,000) is guilty of a misdemeanor.

6 D. Whoever commits unlawful dealing in federal
7 food coupons or WIC checks when the value of the food coupons
8 or WIC checks involved is over [~~two hundred fifty dollars~~
9 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than
10 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) is
11 guilty of a fourth degree felony.

12 E. Whoever commits unlawful dealing in federal
13 food coupons or WIC checks when the value of the food coupons
14 or WIC checks involved is over [~~twenty-five~~] two thousand five
15 hundred dollars (\$2,500) but not more than twenty thousand
16 dollars (\$20,000) is guilty of a third degree felony.

17 F. Whoever commits unlawful dealing in federal
18 food coupons or WIC checks when the value of the food coupons
19 or WIC checks involved exceeds twenty thousand dollars
20 (\$20,000) is guilty of a second degree felony."

21 Section 7. Section 30-16-8 NMSA 1978 (being Laws 1963,
22 Chapter 303, Section 16-7, as amended) is amended to read:

23 "30-16-8. EMBEZZLEMENT. --

24 A. Embezzlement consists of the embezzling or
25 converting to his own use of anything of value, with which he
has been entrusted, with fraudulent intent to deprive the
owner thereof. Each separate incident of embezzlement or
conversion constitutes a separate and distinct offense.

underscored material = new
[bracketed material] = delete

1 B. Whoever commits embezzlement when the value of
2 the thing embezzled or converted is one hundred dollars (\$100)
3 or less is guilty of a petty misdemeanor.

4 C. Whoever commits embezzlement when the value of
5 the thing embezzled or converted is over one hundred dollars
6 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
one thousand dollars (\$1,000) is guilty of a misdemeanor.

7 D. Whoever commits embezzlement when the value of
8 the thing embezzled or converted is over [~~two hundred fifty~~
9 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
10 than two thousand five hundred dollars (\$2,500) is guilty of a
11 fourth degree felony.

12 E. Whoever commits embezzlement when the value of
13 the thing embezzled or converted is over two thousand five
14 hundred dollars (\$2,500) but not more than twenty thousand
15 dollars (\$20,000) is guilty of a third degree felony.

16 F. Whoever commits embezzlement when the value of
17 the thing embezzled or converted exceeds twenty thousand
18 dollars (\$20,000) is guilty of a second degree felony."

19 Section 8. Section 30-16-11 NMSA 1978 (being Laws 1963,
20 Chapter 303, Section 16-11, as amended) is amended to read:

21 "30-16-11. RECEIVING STOLEN PROPERTY--PENALTIES.--

22 A. Receiving stolen property means intentionally
23 to receive, retain or dispose of stolen property knowing that
24 it has been stolen or believing it has been stolen, unless the
25 property is received, retained or disposed of with intent to
restore it to the owner.

 B. The requisite knowledge or belief that property

underscored material = new
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1 has been stolen is presumed in the case of a dealer who:

2 (1) is found in possession or control of
3 property stolen from two or more persons on separate
4 occasions;

5 (2) acquires stolen property for a
6 consideration which the dealer knows is far below the
7 property's reasonable value. A dealer shall be presumed to
8 know the fair market value of the property in which he deals;
9 or

10 (3) is found in possession or control of five
11 or more items of property stolen within one year prior to the
12 time of the incident charged pursuant to this section.

13 C. For the purposes of this section:

14 (1) "dealer" means a person in the business
15 of buying or selling goods or commercial merchandise; and

16 (2) "stolen property" means any property
17 acquired by theft, larceny, fraud, embezzlement, robbery or
18 armed robbery.

19 D. Whoever commits receiving stolen property when
20 the value of the property is one hundred dollars (\$100) or
21 less is guilty of a petty misdemeanor.

22 E. Whoever commits receiving stolen property when
23 the value of the property is over one hundred dollars (\$100)
24 but not more than [~~two hundred fifty dollars (\$250)~~] one
25 thousand dollars (\$1,000) is guilty of a misdemeanor.

26 F. Whoever commits receiving stolen property when
27 the value of the property is over [~~two hundred fifty dollars~~
28 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two

underscored material = new
[bracketed material] = delete

1 thousand five hundred dollars (\$2,500) is guilty of a fourth
2 degree felony.

3 G. Whoever commits receiving stolen property when
4 the value of the property is over two thousand five hundred
5 dollars (\$2,500) but not more than twenty thousand dollars
6 (\$20,000) is guilty of a third degree felony.

7 H. Whoever commits receiving stolen property when
8 the value of the property exceeds twenty thousand dollars
9 (\$20,000) is guilty of a second degree felony.

10 I. Whoever commits receiving stolen property when
11 the property is a firearm is guilty of a fourth degree felony
12 when its value is less than two thousand five hundred dollars
13 (\$2,500). "

14 Section 9. Section 30-16-13 NMSA 1978 (being Laws 1963,
15 Chapter 303, Section 16-13) is amended to read:

16 "30-16-13. CHEATING A MACHINE OR DEVICE. --

17 A. Cheating a machine or device consists of any
18 person, with intent to defraud, attempting to operate or
19 causing to be operated any automatic vending machine, parking
20 meter, coin-box telephone or any machine or [~~receptable~~]
21 receptacle designed to receive lawful money of the United
22 States in connection with the sale, use or enjoyment of
23 property or service by means of any slug or by any false,
24 counterfeited, mutilated, sweated or foreign coin or by any
25 means, method, trick or device.

26 B. Whoever commits cheating a machine or device
27 when the value of the property or service is one hundred
28 dollars (\$100) or less is guilty of a petty misdemeanor.

1 C. Whoever commits cheating a machine or device
2 when the value of the property or service is over one hundred
3 dollars (\$100) but not more than one thousand dollars (\$1,000)
4 is guilty of a misdemeanor.

5 D. Whoever commits cheating a machine or device
6 when the value of the property or service is over one thousand
7 dollars (\$1,000) but not more than two thousand five hundred
8 dollars (\$2,500) is guilty of a fourth degree felony.

9 E. Whoever commits cheating a machine or device
10 when the value of the property or service is over two thousand
11 five hundred dollars (\$2,500) but not more than twenty
12 thousand dollars (\$20,000) is guilty of a third degree felony.

13 F. Whoever commits cheating a machine or device
14 when the value of the property or service is over twenty
15 thousand dollars (\$20,000) is guilty of a second degree
16 felony. "

17 Section 10. Section 30-16-16 NMSA 1978 (being Laws 1963,
18 Chapter 303, Section 16-16, as amended) is amended to read:

19 "30-16-16. FALSELY OBTAINING SERVICES OR
20 ACCOMMODATIONS-- PROBABLE CAUSE-- IMMUNITY-- PENALTY. --

21 A. Falsely obtaining services or accommodations
22 consists of any person obtaining service, food, entertainment
23 or accommodations without paying with the intent to cheat or
24 defraud the owner or person supplying such service, food,
25 entertainment or accommodations.

B. Any law enforcement officer may arrest without
warrant any person he has probable cause for believing has
committed the crime of falsely obtaining services or

underscored material = new
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1 accommodations as defined in this section. Any merchant,
2 owner or proprietor who causes such an arrest shall not be
3 criminally or civilly liable if he has actual knowledge that
4 the person so arrested has committed the crime of falsely
obtaining services or accommodations.

5 C. Whoever commits falsely obtaining services or
6 accommodations when the value of the service, food,
7 entertainment or accommodations furnished is:

8 (1) less than one hundred dollars (\$100) is
9 guilty of a petty misdemeanor;

10 (2) more than one hundred dollars (\$100) but
11 not more than [~~two hundred fifty dollars (\$250)~~] one thousand
12 dollars (\$1,000) is guilty of a misdemeanor;

13 (3) more than [~~two hundred fifty dollars~~
14 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two
15 thousand five hundred dollars (\$2,500) is guilty of a fourth
degree felony;

16 (4) more than two thousand five hundred
17 dollars (\$2,500) but not more than twenty thousand dollars
18 (\$20,000) is guilty of a third degree felony; and

19 (5) more than twenty thousand dollars
20 (\$20,000) is guilty of a second degree felony."

21 Section 11. Section 30-16-18 NMSA 1978 (being Laws 1963,
Chapter 303, Section 16-18, as amended) is amended to read:

22 "30-16-18. IMPROPER SALE, DISPOSAL, REMOVAL OR
23 CONCEALING OF ENCUMBERED PROPERTY. --

24 A. Improper sale, disposal, removal or concealing
25 of encumbered property consists of any person knowingly, and

1 with intent to defraud, selling, transferring, removing or
 2 concealing, or in any manner disposing of, any personal
 3 property upon which a security interest, chattel mortgage or
 4 other lien or encumbrance has attached or been retained,
 5 without the written consent of the holder of such security
 6 interest, chattel mortgage, conditional sales contract, lien
 or encumbrance.

7 B. Any broker, dealer or any agent, buyer or
 8 seller who receives any remuneration whatsoever for transfer
 9 of equity or arranges the assumption of any loan on a mobile
 10 home or recreational vehicle [~~which~~] that has a lien filed
 11 upon [~~such~~] the vehicle with the motor vehicle division of the
 12 [~~transportation~~] taxation and revenue department [~~must~~] shall
 13 obtain written consent from the lien holder approving
 14 transferee's assumption of transferor's obligation to the lien
 15 holder within ten days of [~~such~~] the transaction before [~~such~~]
 16 the transaction is entered into, provided that the lien
 17 holder's written consent shall not unreasonably be withheld.
 18 Failure to do so constitutes an improper sale, disposal or
 19 removal or concealment of encumbered property [~~which~~] that is
 20 punishable as a petty misdemeanor.

21 C. Whoever commits improper sale, disposal,
 22 removal or concealing of encumbered property [~~where~~] when the
 23 value of [~~such~~] the property is one hundred dollars (\$100) or
 24 less is guilty of a petty misdemeanor.

25 D. Whoever commits improper sale, disposal,
 removal or concealing of encumbered property [~~where~~] when the
 value of [~~such~~] the property is over one hundred dollars

1 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
2 one thousand dollars (\$1,000) is guilty of a misdemeanor.

3 E. Whoever commits improper sale, disposal,
4 removal or concealing of encumbered property [~~where~~] when the
5 value of [~~such~~] the property is over [~~two hundred fifty~~
6 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
7 than [~~twenty-five hundred dollars (\$2,500)~~] two thousand five
8 hundred dollars (\$2,500) is guilty of a fourth degree felony.

9 F. Whoever commits improper sale, disposal,
10 removal or concealing of encumbered property [~~where~~] when the
11 value of [~~such~~] the property is over [~~twenty-five hundred~~
12 ~~dollars (\$2,500)~~] two thousand five hundred dollars (\$2,500)
13 but not more than twenty thousand dollars (\$20,000) is guilty
14 of a third degree felony.

15 G. Whoever commits improper sale, disposal,
16 removal or concealing of encumbered property [~~where~~] when the
17 value of [~~such~~] the property exceeds twenty [~~thousand~~] thousand
18 dollars (\$20,000) is guilty of a second degree felony."

19 Section 12. Section 30-16-20 NMSA 1978 (being Laws 1965,
20 Chapter 5, Section 2, as amended) is amended to read:

21 "30-16-20. CRIME OF SHOPLIFTING CREATED. --

22 A. Shoplifting consists of any one or more of the
23 following acts:

24 (1) willfully taking possession of any
25 merchandise with the intention of converting it without paying
for it;

(2) willfully concealing any merchandise with
the intention of converting it without paying for it;

1 (3) willfully altering any label, price tag
2 or marking upon any merchandise with the intention of
3 depriving the merchant of all or some part of the value of it;
4 or

5 (4) willfully transferring any merchandise
6 from the container in or on which it is displayed to any other
7 container with the intention of depriving the merchant of all
8 or some part of the value of it.

9 B. Whoever commits shoplifting when the value of
10 the merchandise shoplifted:

11 (1) is one hundred dollars (\$100) or less is
12 guilty of a petty misdemeanor;

13 (2) is more than one hundred dollars (\$100)
14 but not more than [~~two hundred fifty dollars (\$250)~~] one
15 thousand dollars (\$1,000) is guilty of a misdemeanor;

16 (3) is more than [~~two hundred fifty dollars~~
17 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two
18 thousand five hundred dollars (\$2,500) is guilty of a fourth
19 degree felony;

20 (4) is more than two thousand five hundred
21 dollars (\$2,500) but not more than twenty thousand dollars
22 (\$20,000) is guilty of a third degree felony; or

23 (5) is more than twenty thousand dollars
24 (\$20,000) is guilty of a second degree felony.

25 C. Any individual charged with a violation of this
section shall not be charged with a separate or additional
offense arising out of the same transaction."

Section 13. Section 30-16-33 NMSA 1978 (being Laws 1971,

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1 Chapter 239, Section 9) is amended to read:

2 "30-16-33. FRAUDULENT USE OF CREDIT CARDS. --

3 A. ~~[A person is guilty of a fourth degree felony~~
4 ~~if, with intent to defraud, he uses to obtain anything of~~
5 ~~value]~~ Fraudulent use of a credit card consists of a person
6 obtaining anything of value, with intent to defraud, by using:

7 (1) a credit card obtained in violation of
8 Sections ~~[40A-16-24 through 40A-16-38 NMSA 1953; or]~~ 30-16-25
9 through 30-16-38 NMSA 1978;

10 (2) a credit card which is invalid, expired
11 or revoked; ~~[or]~~

12 (3) a credit card while fraudulently
13 representing that he is the cardholder named on the credit
14 card or an authorized agent or representative of the
15 cardholder named on the credit card; or

16 (4) a credit card issued in the name of
17 another without the consent of the person to whom the card has
18 been issued.

19 ~~[B. If the value of all things of value obtained~~
20 ~~by any person from one or more merchants, an issuer or a~~
21 ~~participating party, in violation of this section exceeds~~
22 ~~three hundred dollars (\$300) in any consecutive six months~~
23 ~~period, then the offense of the violator is a third degree~~
24 ~~felony.]~~

25 B. Whoever commits fraudulent use of a credit card
26 when the value of the property or service is one hundred
27 dollars (\$100) or less is guilty of a petty misdemeanor.

28 C. Whoever commits fraudulent use of a credit card

1 when the value of the property or service is over one hundred
2 dollars (\$100) but not more than one thousand dollars (\$1,000)
3 is guilty of a misdemeanor.

4 D. Whoever commits fraudulent use of a credit card
5 when the value of the property or service is over one thousand
6 dollars (\$1,000) but not more than two thousand five hundred
7 dollars (\$2,500) is guilty of a fourth degree felony.

8 E. Whoever commits fraudulent use of a credit card
9 when the value of the property or service is over two thousand
10 five hundred dollars (\$2,500) but not more than twenty
11 thousand dollars (\$20,000) is guilty of a third degree felony.

12 F. Whoever commits fraudulent use of a credit card
13 when the value of the property or service is over twenty
14 thousand dollars (\$20,000) is guilty of a second degree
15 felony. "

16 Section 14. Section 30-16-34 NMSA 1978 (being Laws 1971,
17 Chapter 239, Section 10) is amended to read:

18 "30-16-34. FRAUDULENT ACTS BY MERCHANTS OR THEIR
19 EMPLOYEES. --

20 A. Any merchant or the employee of any merchant
21 [~~is guilty of a fourth degree felony~~] commits fraud if, with
22 intent to defraud, he furnishes or allows to be furnished
23 anything of value upon presentation of a credit card obtained
24 or retained in violation of Sections [~~40A-16-24 through~~
25 ~~40A-16-38 NMSA 1953~~] 30-16-25 through 30-16-38 NMSA 1978, or
fraudulently made or embossed or fraudulently signed or a
credit card [~~which~~] that he knows is invalid, expired or
revoked or a credit card presented by a person whom he knows

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1 is not the cardholder named on the credit card or an
2 authorized agent or representative of the cardholder named on
3 the credit card. If the value of anything furnished by a
4 merchant, or by an employee of a merchant, in violation of
5 this section [~~exceeds three hundred dollars (\$300), in any~~
6 ~~consecutive six months period, then the offense is a third~~
7 ~~degree felony~~]:

8 (1) is one hundred dollars (\$100) or less in
9 any consecutive six-month period, the offense is a petty
10 misdeemeanor;

11 (2) is more than one hundred dollars (\$100)
12 but not more than one thousand dollars (\$1,000) in any
13 consecutive six-month period, the offense is a misdemeanor;

14 (3) is more than one thousand dollars
15 (\$1,000) but not more than two thousand five hundred dollars
16 (\$2,500) in any consecutive six-month period, the offense is a
17 fourth degree felony;

18 (4) is more than two thousand five hundred
19 dollars (\$2,500) but not more than twenty thousand dollars
20 (\$20,000) in any consecutive six-month period, the offense is
21 a third degree felony; or

22 (5) is more than twenty thousand dollars
23 (\$20,000) in any consecutive six-month period, the offense is
24 a second degree felony.

25 B. Any merchant or the employee of any merchant
[is guilty of a fourth degree felony] commits fraud if, with
intent to defraud, he fails to furnish anything of value
[which] that he represents in writing to the issuer or to a

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1 participating party that he has furnished on a credit card or
 2 cards of the issuer. If the difference between the value of
 3 anything actually furnished to any person [~~or persons~~] and the
 4 value represented by the merchant to the issuer or
 5 participating party [~~exceeds three hundred dollars (\$300) in~~
 6 ~~any consecutive six months period, then the offense is a third~~
 7 ~~degree felony~~]:

8 (1) is one hundred dollars (\$100) or less in
 9 any consecutive six-month period, the offense is a petty
 10 misdeemeanor;

11 (2) is more than one hundred dollars (\$100)
 12 but not more than one thousand dollars (\$1,000) in any
 13 consecutive six-month period, the offense is a misdemeanor;

14 (3) is more than one thousand dollars
 15 (\$1,000) but not more than two thousand five hundred dollars
 16 (\$2,500) in any consecutive six-month period, the offense is a
 17 fourth degree felony;

18 (4) is more than two thousand five hundred
 19 dollars (\$2,500) but not more than twenty thousand dollars
 20 (\$20,000) in any consecutive six-month period, the offense is
 21 a third degree felony; or

22 (5) is more than twenty thousand dollars
 23 (\$20,000) in any consecutive six-month period, the offense is
 24 a second degree felony."

25 Section 15. Section 30-16-36 NMSA 1978 (being Laws 1971,
 Chapter 239, Section 12) is amended to read:

"30-16-36. RECEIPT OF PROPERTY OBTAINED IN VIOLATION OF
 ACT.--Any person who receives the money, goods, services or

1 anything else of value obtained in violation of Section
2 [~~40A-16-33 NMSA 1953~~] 30-16-33 NMSA 1978, and who knows or has
3 reason to believe that it was so obtained, violates this
4 section. The degree of the offense is determined as follows:

5 A. if the value of all things of value obtained
6 from any person [~~or persons~~] in violation of this section is
7 one hundred dollars (\$100) or less in any consecutive [~~six~~
8 ~~months~~] six-month period, then the offense is a petty
9 misdemeanor;

10 B. if the value of all things of value obtained
11 from any person [~~or persons~~] in violation of this section is
12 more than one hundred dollars (\$100) but [~~less than three~~
13 ~~hundred dollars (\$300) in any consecutive six months period,~~
14 ~~then the offense is a fourth degree felony;~~

15 C. ~~if the value of all things of value obtained~~
16 ~~from any person or persons in violation of this section is~~
17 ~~three hundred dollars (\$300) or more in any consecutive six~~
18 ~~months period, then the offense is a third degree felony]~~ not
19 more than one thousand dollars (\$1,000) in any consecutive
20 six-month period, then the offense is a misdemeanor;

21 C. if the value of all things of value obtained
22 from any person in violation of this section is more than one
23 thousand dollars (\$1,000) but not more than two thousand five
24 hundred dollars (\$2,500) in any consecutive six-month period,
25 then the offense is a fourth degree felony;

D. if the value of all things of value obtained
from any person in violation of this section is more than two
thousand five hundred dollars (\$2,500) but not more than

1 twenty thousand dollars (\$20,000) in any consecutive six-month
2 period, then the offense is a third degree felony; or

3 E. if the value of all things of value obtained
4 from any person in violation of this section is more than
5 twenty thousand dollars (\$20,000) in any consecutive six-month
6 period, then the offense is a second degree felony. "

7 Section 16. Section 30-16-39 NMSA 1978 (being Laws 1972,
8 Chapter 23, Section 1, as amended) is amended to read:

9 "30-16-39. FRAUDULENT ACTS TO OBTAIN OR RETAIN
10 POSSESSION OF RENTED OR LEASED VEHICLE OR OTHER PERSONAL
11 PROPERTY--PENALTY. --Any person who rents or leases a vehicle
12 or other personal property and obtains or retains possession
13 of it by means of any false or fraudulent representation,
14 fraudulent concealment, false pretense or personation, trick,
15 artifice or device, including but not limited to a false
16 representation as to his name, residence, employment or
17 operator's license is guilty:

18 A. of a [~~fourth degree felony~~] petty misdemeanor
19 if the property [~~is a~~] or vehicle [~~or~~] has a value [~~in excess~~]
20 of one hundred dollars (\$100) or less;

21 B. of a [~~petty~~] misdemeanor if the property [~~is~~
22 ~~not a~~] or vehicle [~~and~~] has a value of over one hundred
23 dollars (\$100) [~~or less~~] but not more than one thousand
24 dollars (\$1,000);

25 C. of a fourth degree felony if the property or
vehicle has a value of over one thousand dollars (\$1,000) but
not more than two thousand five hundred dollars (\$2,500);

D. of a third degree felony if the property or

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1 vehicle has a value of over two thousand five hundred dollars
2 (\$2,500) but not more than twenty thousand dollars (\$20,000);
3 and

4 E. of a second degree felony if the property or
5 vehicle has a value of over twenty thousand dollars
6 (\$20,000). "

7 Section 17. Section 30-16-40 NMSA 1978 (being Laws 1973,
8 Chapter 154, Section 1, as amended) is amended to read:

9 "30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE
10 OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION. --

11 A. Any person who, after leasing a vehicle or
12 other personal property under a written agreement which
13 provides for the return of the vehicle or personal property to
14 a particular place at a particular time and who, with intent
15 to defraud the lessor of the vehicle or personal property,
16 fails to return the vehicle or personal property to the place
17 within the time specified, is guilty of a:

18 ~~[(1) of a petty misdemeanor if the property~~
19 ~~is not a vehicle and has a value of one hundred dollars (\$100)~~
20 ~~or less;~~

21 ~~(2) of a fourth degree felony if the property~~
22 ~~is not a vehicle and has a value of more than one hundred~~
23 ~~dollars (\$100) but less than two thousand five hundred dollars~~
24 ~~(\$2,500);~~

25 ~~(3) of a fourth degree felony if the vehicle~~
26 ~~has a value of less than two thousand five hundred dollars~~
27 ~~(\$2,500); and~~

28 ~~(4) of a third degree felony if the property~~

1 ~~or vehicle has a value of two thousand five hundred dollars~~
2 ~~(\$2,500) or more]~~

3 (1) petty misdemeanor if the property or
4 vehicle has a value of one hundred dollars (\$100) or less;

5 (2) misdemeanor if the property or vehicle
6 has a value of over one hundred dollars (\$100) but not more
7 than one thousand dollars (\$1,000);

8 (3) fourth degree felony if the property or
9 vehicle has a value of over one thousand dollars (\$1,000) but
10 not more than two thousand five hundred dollars (\$2,500);

11 (4) third degree felony if the property or
12 vehicle has a value of over two thousand five hundred dollars
13 (\$2,500) but not more than twenty thousand dollars (\$20,000);
14 and

15 (5) second degree felony if the property or
16 vehicle has a value of over twenty thousand dollars (\$20,000).

17 B. Failure of the lessee to return the vehicle or
18 personal property to the place specified within seventy-two
19 hours after mailing to him by certified mail at his address
20 shown on the leasing agreement a written demand to return the
21 vehicle or personal property shall raise a rebuttable
22 presumption that the failure to return the vehicle or personal
23 property was with intent to defraud. "

24 Section 18. Section 30-17-5 NMSA 1978 (being Laws 1970,
25 Chapter 39, Section 1) is amended to read:

"30-17-5. ARSON AND NEGLIGENT ARSON. --

A. Arson consists of maliciously or willfully
starting a fire or causing an explosion with the purpose of

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1 destroying or damaging any building, occupied structure or
2 property of another, or bridge, utility line, fence or sign;
3 or with the purpose of destroying or damaging any property,
4 whether the person's own or another's, to collect insurance
5 for such loss.

6 (1) Whoever commits arson when the value of
7 the thing destroyed or damaged is one hundred dollars (\$100)
8 or less is guilty of a petty misdemeanor.

9 (2) Whoever commits arson when the value of
10 the thing destroyed or damaged is over one hundred dollars
11 (\$100) but not more than one thousand dollars (\$1,000) is
12 guilty of a [~~fourth degree felony~~] misdemeanor.

13 (3) Whoever commits arson when the value of
14 the thing destroyed or damaged [~~exceeds one thousand dollars~~
15 ~~(\$1,000) is guilty of a third degree felony~~] is over one
16 thousand dollars (\$1,000) but not more than two thousand five
17 hundred dollars (\$2,500) is guilty of a fourth degree felony.

18 (4) Whoever commits arson when the value of
19 the thing destroyed or damaged is over two thousand five
20 hundred dollars (\$2,500) but not more than twenty thousand
21 dollars (\$20,000) is guilty of a third degree felony.

22 (5) Whoever commits arson when the value of
23 the thing destroyed or damaged is over twenty thousand dollars
24 (\$20,000) is guilty of a second degree felony.

25 B. Negligent arson consists of recklessly starting
a fire or causing an explosion, whether on the person's
property or another's, and thereby directly causing the death
or bodily injury of another; or damaging or destroying a

1 building or occupied structure of another.

2 Whoever commits negligent arson is guilty of a fourth
3 degree felony.

4 C. As used in this section, "occupied structure"
5 includes a boat, trailer, car, airplane, structure or place
6 adapted for the transportation or storage of property or for
7 overnight accommodations of persons or for carrying on
8 business therein, whether or not a person is actually
9 present. "

10 Section 19. Section 30-33-13 NMSA 1978 (being Laws 1963,
11 Chapter 49, Section 2, as amended) is amended to read:

12 "30-33-13. CRIME TO PROCURE OR TO ATTEMPT TO PROCURE
13 TELECOMMUNICATIONS SERVICE WITHOUT PAYING CHARGE-- CRIME TO
14 MAKE, POSSESS, SELL, GIVE OR TRANSFER CERTAIN DEVICES FOR
15 CERTAIN PURPOSES-- PENALTY. --

16 A. It is unlawful for any person, with intent to
17 defraud any person, firm or corporation, to obtain or to
18 attempt to obtain any telecommunications service without
19 paying the lawful charge, in whole or in part, by any of the
20 following means:

21 (1) charging [~~sueh~~] the service to an
22 existing telephone number or credit card number without the
23 authority of the subscriber thereto, or the legitimate holder
24 thereof;

25 (2) charging [~~sueh~~] the service to a
nonexistent, false, fictitious or counterfeit telephone number
or credit card number or to a suspended, terminated, expired,
canceled or revoked telephone number or credit card number;

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1 (3) rearranging, tampering with or making
2 electrical, acoustical, induction or other connection with any
3 facilities or equipment;

4 (4) using a code, prearranged scheme or other
5 stratagem or device whereby [~~said~~] the person in effect sends
6 or receives information; or

7 (5) using any other contrivance, device or
8 means to avoid payment of the lawful charges, in whole or in
9 part, for [~~such~~] the service.

10 This subsection shall apply when [~~said telecommunication~~]
11 the telecommunications service either originates or
12 terminates, or both, in this state or when charges for [~~said~~]
13 the service would have been billable in normal course by the
14 public utility providing [~~such~~] the service in this state but
15 for the fact that [~~said~~] the service was obtained or attempted
16 to be obtained by one or more of the means set forth
17 [~~hereinabove~~] in this subsection.

18 Whoever violates this subsection when the charges for the
19 [~~telecommunication~~] telecommunications service obtained or
20 attempted to be obtained are one hundred dollars (\$100) or
21 less is guilty of a petty misdemeanor.

22 Whoever violates this subsection when the charges for the
23 [~~telecommunication~~] telecommunications service obtained or
24 attempted to be obtained are more than one hundred dollars
25 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
one thousand dollars (\$1,000) is guilty of a misdemeanor.

Whoever violates this subsection when the charges for
the [~~telecommunication~~] telecommunications service obtained or

1 attempted to be obtained are more than [~~two hundred fifty~~
 2 ~~dollars (\$250)~~ one thousand dollars (\$1,000) but not more
 3 than [~~twenty five hundred dollars (\$2,500)~~ two thousand five
 4 hundred dollars (\$2,500) is guilty of fourth degree felony.

5 Whoever violates this subsection when the charges for the
 6 [~~telecommunication~~] telecommunications service obtained or
 7 attempted to be obtained are more than [~~twenty five hundred~~
 8 ~~dollars (\$2,500)~~ two thousand five hundred dollars (\$2,500)
 9 but not more than twenty thousand dollars (\$20,000) is guilty
 of a third degree felony.

10 Whoever violates this subsection when the charges for the
 11 [~~telecommunication~~] telecommunications service obtained or
 12 attempted to be obtained exceed twenty thousand dollars
 13 (\$20,000) is guilty of a second degree felony.

14 B. It is unlawful for any person under
 15 circumstances evidencing an intent to use or employ any
 16 instrument, apparatus, equipment or device described in
 17 Paragraph (1) of this subsection or to allow the same to be
 18 used or employed for the purpose described in Paragraph (1) of
 19 this subsection or knowing or having reason to believe that
 20 the same is intended to be so used or that the plans and
 21 instructions described in Paragraph (2) of this subsection are
 intended to be used for making or assembling such instrument,
 apparatus, equipment or device:

22 (1) to make or possess any instrument,
 23 apparatus, equipment or device designed, adapted or [~~which~~]
 24 that can be used either:

25 (a) to obtain [~~telecommunication~~]

1 telecommunications service in violation of Subsection A of
2 this section; or

3 (b) to conceal or to assist another to
4 conceal from any supplier of [~~telecommunication~~]
5 telecommunications service or from any lawful authority the
6 existence or place of origin or of destination of any
7 [~~telecommunication~~] telecommunications service; or

8 (2) to sell, give or otherwise transfer to
9 another or to offer or advertise for sale any instrument,
10 apparatus, equipment or device described in Paragraph (1) of
11 this subsection or plans or instructions for making or
12 assembling the same.

13 Whoever violates this subsection is guilty of a
14 misdemeanor, unless [~~such~~] the person has previously been
15 convicted of such crime or of an offense under the laws of
16 another state or of the United States [~~which~~] that would have
17 been an offense under this subsection if committed in this
18 state, in which case [~~such~~] the person is guilty of a fourth
19 degree felony. "

20 Section 20. Section 30-36-5 NMSA 1978 (being Laws 1965,
21 Chapter 114, Section 1) is amended to read:

22 "30-36-5. PENALTY. -- Any person violating Section
23 [~~40-49-4 New Mexico Statutes Annotated, 1953 Compilation~~]
24 30-36-4 NMSA 1978 shall be punished as follows:

25 A. when the amount of the check, draft or order or
the total amount of the checks, drafts or orders [~~are for more~~
~~than one dollar (\$1.00) but less than twenty five dollars~~
~~(\$25.00), imprisonment in the county jail for a term of not~~

1 ~~more than thirty days or a fine of not more than one hundred~~
 2 ~~dollars (\$100), or both such imprisonment and fine] is one~~
 3 hundred dollars (\$100) or less, the person is guilty of a
 4 petty misdemeanor;

5 B. when the amount of the check, draft or order or
 6 the total amount of the checks, drafts or orders [~~are for~~
 7 ~~twenty-five dollars (\$25.00) or more, imprisonment in the~~
 8 ~~penitentiary for a term of not less than one year nor more~~
 9 ~~than three years or the payment of a fine of not more than one~~
 10 ~~thousand dollars (\$1,000) or both such imprisonment and fine]~~
 11 is over one hundred dollars (\$100) but not more than two
 12 hundred fifty dollars (\$250), the person is guilty of a
 13 misdemeanor;

14 C. when the amount of the check, draft or order or
 15 the total amount of the checks, drafts or orders is over two
 16 hundred fifty dollars (\$250) but not more than two thousand
 17 five hundred dollars (\$2,500), the person is guilty of a
 18 fourth degree felony;

19 D. when the amount of the check, draft or order or
 20 the total amount of the checks, drafts or orders is over two
 21 thousand five hundred dollars (\$2,500) but not more than
 22 twenty thousand dollars (\$20,000), the person is guilty of a
 23 third degree felony; and

24 E. when the amount of the check, draft or order or
 25 the total amount of the checks, drafts or orders is over
 26 twenty thousand dollars (\$20,000), the person is guilty of a
 27 second degree felony."

Section 21. Section 30-40-1 NMSA 1978 (being Laws 1979,

1 Chapter 170, Section 1, as amended) is amended to read:

2 "30-40-1. FAILING TO DISCLOSE FACTS OR CHANGE OF
3 CIRCUMSTANCES TO OBTAIN PUBLIC ASSISTANCE. --

4 A. Failing to disclose facts or change of
5 circumstances to obtain public assistance consists of any
6 person knowingly failing to disclose any material facts known
7 to be necessary to determine eligibility for public assistance
8 or knowingly failing to disclose a change in circumstances for
9 the purpose of obtaining or continuing to receive public
10 assistance to which he is not entitled or in amounts greater
11 than that to which he is entitled.

12 B. Whoever commits failing to disclose facts or
13 change of circumstances to obtain public assistance when the
14 value of the assistance wrongfully received is one hundred
15 dollars (\$100) or less in any twelve consecutive months is
16 guilty of a petty misdemeanor.

17 C. Whoever commits failing to disclose facts or
18 change of circumstances to obtain public assistance when the
19 value of the assistance wrongfully received is more than one
20 hundred dollars (\$100) but not more than [~~two hundred fifty~~
21 ~~dollars (\$250)~~] one thousand dollars (\$1,000) in any twelve
22 consecutive months is guilty of a misdemeanor.

23 D. Whoever commits failing to disclose facts or
24 change of circumstances to obtain public assistance when the
25 value of the assistance wrongfully received is more than [~~two~~
~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000)
but not more than two thousand five hundred dollars (\$2,500)
in any twelve consecutive months is guilty of a fourth degree

1 felony.

2 E. Whoever commits failing to disclose facts or
3 change of circumstances to obtain public assistance when the
4 value of the assistance wrongfully received is more than two
5 thousand five hundred dollars (\$2,500) but not more than
6 twenty thousand dollars (\$20,000) is guilty of a third degree
7 felony.

8 F. Whoever commits failing to disclose facts or
9 change of circumstances to obtain public assistance when the
10 value of the assistance wrongfully received exceeds twenty
11 thousand dollars (\$20,000) is guilty of a second degree
12 felony."

13 Section 22. Section 30-40-2 NMSA 1978 (being Laws 1979,
14 Chapter 170, Section 2, as amended) is amended to read:

15 "30-40-2. UNLAWFUL USE OF FOOD STAMP IDENTIFICATION CARD
16 OR MEDICAL IDENTIFICATION CARD. --

17 A. Unlawful use of food stamp identification card
18 or medical identification card consists of the use of a food
19 stamp or medical identification card by any person to whom it
20 has not been issued, or who is not an authorized
21 representative of such a person, for a food stamp allotment.

22 B. Whoever commits unlawful use of food stamp
23 identification card or medical identification card when the
24 value of the food stamps or medical services wrongfully
25 received is one hundred dollars (\$100) or less is guilty of a
petty misdemeanor.

C. Whoever commits unlawful use of food stamp
identification card or medical identification card when the

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1 value of the food stamps or medical services wrongfully
2 received is more than one hundred dollars (\$100) but not more
3 than [~~two hundred fifty dollars (\$250)~~] one thousand dollars
4 (\$1,000) is guilty of a misdemeanor.

5 D. Whoever commits unlawful use of food stamp
6 identification card or medical identification card when the
7 value of the food stamps or medical services wrongfully
8 received is more than [~~two hundred fifty dollars (\$250)~~] one
9 thousand dollars (\$1,000) but not more than two thousand five
hundred dollars (\$2,500) is guilty of a fourth degree felony.

10 E. Whoever commits unlawful use of food stamp
11 identification card or medical identification card when the
12 value of the food stamps or medical services wrongfully
13 received is more than two thousand five hundred dollars
14 (\$2,500) but not more than twenty thousand dollars (\$20,000)
is guilty of a third degree felony.

15 F. Whoever commits unlawful use of food stamp
16 identification card or medical identification card when the
17 value of the food stamps or medical services wrongfully
18 received exceeds twenty thousand dollars (\$20,000) is guilty
19 of a second degree felony.

20 G. For the purpose of this section, the value of
21 the medical assistance received is the amount paid by the
22 human services department for medical services received
through use of the card."

23 Section 23. Section 30-40-3 NMSA 1978 (being Laws 1979,
24 Chapter 170, Section 3, as amended) is amended to read:

25 "30-40-3. MISAPPROPRIATING PUBLIC ASSISTANCE. --

1 A. Misappropriating public assistance consists of
 2 any public officer or public employee fraudulently
 3 misappropriating, attempting to misappropriate or aiding and
 4 abetting in the misappropriation of food stamp coupons, WIC
 5 checks pertaining to the special supplemental food program for
 6 women, infants and children administered by the department of
 7 health ~~[and environment department]~~, food stamp or medical
 8 identification cards, public assistance benefits or funds
 9 received in exchange for food stamp coupons.

10 B. Whoever commits misappropriating public
 11 assistance when the value of the thing misappropriated is one
 12 hundred dollars (\$100) or less is guilty of a petty
 13 misdemeanor.

14 C. Whoever commits misappropriating public
 15 assistance when the value of the thing misappropriated is more
 16 than one hundred dollars (\$100) but not more than ~~[two hundred~~
 17 ~~fifty dollars (\$250)]~~ one thousand dollars (\$1,000) is guilty
 18 of a misdemeanor.

19 D. Whoever commits misappropriating public
 20 assistance when the value of the thing misappropriated is more
 21 than ~~[two hundred fifty dollars (\$250)]~~ one thousand dollars
 22 (\$1,000) but not more than two thousand five hundred dollars
 23 (\$2,500) is guilty of a fourth degree felony.

24 E. Whoever commits misappropriating public
 25 assistance when the value of the thing misappropriated is more
 than two thousand five hundred dollars (\$2,500) but not more
 than twenty thousand dollars (\$20,000) is guilty of a third
 degree felony.

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1 F. Whoever commits misappropriating public
2 assistance when the value of the thing misappropriated exceeds
3 twenty thousand dollars (\$20,000) is guilty of a second degree
4 felony.

5 G. Whoever commits misappropriating public
6 assistance when the item misappropriated is a food stamp or
7 medical identification card is guilty of a fourth degree
8 felony."

9 Section 24. Section 30-40-6 NMSA 1978 (being Laws 1979,
10 Chapter 170, Section 6, as amended) is amended to read:

11 "30-40-6. FAILURE TO REIMBURSE THE DEPARTMENT UPON
12 RECEIPT OF THIRD PARTY PAYMENT. --

13 A. Failure to reimburse the human services
14 department upon receipt of third party payment consists of
15 [~~knowingly~~] knowing failure by a medicaid provider to
16 reimburse the human services department or the department's
17 fiscal agent the amount of payment received from the
18 department for services when the provider receives payment for
19 the same services from any third party.

20 B. A medicaid provider who commits failure to
21 reimburse the department upon receipt of third party payment
22 when the value of the payment made by the department is one
23 hundred dollars (\$100) or less is guilty of a petty
24 misdemeanor.

25 C. A medicaid provider who commits failure to
reimburse the department upon receipt of third party payment
when the value of the payment made by the department is more
than one hundred dollars (\$100) but not more than [~~two hundred~~

1 ~~fifty dollars (\$250)]~~ one thousand dollars (\$1,000) is guilty
2 of a misdemeanor.

3 D. A medicaid provider who commits failure to
4 reimburse the department upon receipt of third party payment
5 when the value of the payment made by the department is more
6 than [~~two hundred fifty dollars (\$250)]~~ one thousand dollars
7 (\$1,000) but not more than two thousand five hundred dollars
8 (\$2,500) is guilty of a fourth degree felony.

9 E. A medicaid provider who commits failure to
10 reimburse the department upon receipt of third party payment
11 when the value of the payment made by the department is more
12 than two thousand five hundred dollars (\$2,500) but not more
13 than twenty thousand dollars (\$20,000) is guilty of a third
14 degree felony.

15 F. A medicaid provider who commits failure to
16 reimburse the department upon receipt of third party payment
17 when the value of the payment made by the department exceeds
18 twenty thousand dollars (\$20,000) is guilty of a second degree
19 felony. "

20 Section 25. Section 30-45-3 NMSA 1978 (being Laws 1989,
21 Chapter 215, Section 3) is amended to read:

22 "30-45-3. COMPUTER ACCESS WITH INTENT TO DEFRAUD OR
23 EMBEZZLE. --Any person who knowingly and willfully accesses or
24 causes to be accessed any computer, computer system, computer
25 network or any part thereof with the intent to obtain, by
means of embezzlement or false or fraudulent pretenses,
representations or promises, money, property or anything of
value, [~~where]~~ when:

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1 A. the money, property or other thing has a value
2 of one hundred dollars (\$100) or less, is guilty of a petty
3 misdemeanor and shall be sentenced pursuant to the provisions
4 of Section 31-19-1 NMSA 1978;

5 B. the money, property or other thing has a value
6 of more than one hundred dollars (\$100) but not more than [~~two~~
7 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000),
8 is guilty of a misdemeanor and shall be sentenced pursuant to
9 the provisions of Section 31-19-1 NMSA 1978;

10 C. the money, property or other thing has a value
11 of more than [~~two hundred fifty dollars (\$250)~~] one thousand
12 dollars (\$1,000) but not more than two thousand five hundred
13 dollars (\$2,500), is guilty of a fourth degree felony and
14 shall be sentenced pursuant to the provisions of Section
15 31-18-15 NMSA 1978;

16 D. the money, property or other thing has a value
17 of more than two thousand five hundred dollars (\$2,500) but
18 not more than twenty thousand dollars (\$20,000), is guilty of
19 a third degree felony and shall be sentenced pursuant to the
20 provisions of Section 31-18-15 NMSA 1978; or

21 E. the money, property or other thing has a value
22 of more than twenty thousand dollars (\$20,000), is guilty of a
23 second degree felony and shall be sentenced pursuant to the
24 provisions of Section 31-18-15 NMSA 1978. "

25 Section 26. Section 30-45-4 NMSA 1978 (being Laws 1989,
Chapter 215, Section 4) is amended to read:

"30-45-4. COMPUTER ABUSE. -- Any person who knowingly,
willfully and without authorization, or having obtained

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1 authorization:

2 A. directly or indirectly alters, changes, damages,
3 disrupts or destroys any computer, computer network, computer
4 property, computer service or computer system, [where] when:

5 (1) the damage to the computer property or
6 computer service has a value of one hundred dollars (\$100) or
7 less, is guilty of a petty misdemeanor and shall be sentenced
8 pursuant to the provisions of Section 31-19-1 NMSA 1978 ;

9 (2) the damage to the computer property or
10 computer service has a value of more than one hundred dollars
11 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
12 one thousand dollars (\$1,000), is guilty of a misdemeanor and
13 shall be sentenced pursuant to the provisions of Section
14 31-19-1 NMSA 1978;

15 (3) the damage to the computer property or
16 computer service has a value of more than [~~two hundred fifty~~
17 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
18 than two thousand five hundred dollars (\$2,500), is guilty of
19 a fourth degree felony and shall be sentenced pursuant to the
20 provisions of Section 31-18-15 NMSA 1978;

21 (4) the damage to the computer property or
22 computer service has a value of more than two thousand five
23 hundred dollars (\$2,500) but not more than twenty thousand
24 dollars (\$20,000), is guilty of a third degree felony and
25 shall be sentenced pursuant to the provisions of Section
31-18-15 NMSA 1978; or

(5) the damage to the computer property or
computer service has a value of more than twenty thousand

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1 dollars (\$20,000), is guilty of a second degree felony and
2 shall be sentenced pursuant to the provisions of Section
3 31-18-15 NMSA 1978; or

4 B. directly or indirectly introduces or causes to be
5 introduced data [~~which~~] that the person knows to be false into
6 a computer, computer system, computer network, computer
7 software, computer program, database or any part thereof with
8 the intent of harming the property or financial interests or
9 rights of any person is guilty of a fourth degree felony and
10 shall be sentenced pursuant to the provisions of Section
11 31-18-15 NMSA 1978. "

12 Section 27. Section 30-45-5 NMSA 1978 (being Laws 1989,
13 Chapter 215, Section 5) is amended to read:

14 "30-45-5. UNAUTHORIZED COMPUTER USE. --Any person who
15 knowingly, willfully and without authorization, or having
16 obtained authorization, uses the opportunity [~~such~~] the
17 authorization provides for purposes to which the authorization
18 does not extend, directly or indirectly accesses, uses, takes,
19 transfers, conceals, obtains, copies or retains possession of
20 any computer, computer network, computer property, computer
21 service, computer system or any part thereof, [~~where~~] when:

22 A. the damage to the computer property or computer
23 service has a value of one hundred dollars (\$100) or less, is
24 guilty of a petty misdemeanor and shall be sentenced pursuant
25 to the provisions of Section 31-19-1 NMSA 1978;

B. the damage to the computer property or computer
service has a value of more than one hundred dollars (\$100)
but not more than [~~two hundred fifty dollars (\$250)-~~] one

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1 thousand dollars (\$1,000), is guilty of a misdemeanor and
2 shall be sentenced pursuant to the provisions of Section
3 31-19-1 NMSA 1978;

4 C. the damage to the computer property or computer
5 service has a value of more than [~~two hundred fifty dollars~~
6 ~~(\$250)~~] one thousand dollars \$1,000 but not more than two
7 thousand five hundred dollars (\$2,500), is guilty of a fourth
8 degree felony and shall be sentenced pursuant to the
9 provisions of Section 31-18-15 NMSA 1978;

10 D. the damage to the computer property or computer
11 service has a value of more than two thousand five hundred
12 dollars (\$2,500) but not more than twenty thousand dollars
13 (\$20,000), is guilty of a third degree felony and shall be
14 sentenced pursuant to the provisions of Section 31-18-15 NMSA
15 1978; or

16 E. the damage to the computer property or computer
17 service has a value of more than twenty thousand dollars
18 (\$20,000), is guilty of a second degree felony and shall be
19 sentenced pursuant to the provisions of Section 31-18-15 NMSA
20 1978. "

21 Section 28. Section 30-47-6 NMSA 1978 (being Laws 1990,
22 Chapter 55, Section 6) is amended to read:

23 "30-47-6. EXPLOITATION--CRIMINAL PENALTIES. --

24 A. Exploitation of a resident's property consists of
25 the act or process, performed intentionally, knowingly or
recklessly, of using a resident's property for another
person's profit, advantage or benefit without legal
entitlement to do so.

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1 B. Whoever commits exploitation of a resident's
2 property when the value of the property exploited is one
3 hundred dollars (\$100) or less is guilty of a petty
4 misdemeanor and upon conviction shall be sentenced pursuant to
5 the provisions of [~~Subsection B of~~] Section 31-19-1 NMSA 1978.

6 C. Whoever commits exploitation of a resident's
7 property when the value of the property exploited is over one
8 hundred dollars (\$100) but not more than [~~two hundred fifty~~
9 ~~dollars (\$250)~~] one thousand dollars (\$1,000) is guilty of a
10 misdemeanor and upon conviction shall be sentenced pursuant to
11 the provisions of [~~Subsection A of~~] Section 31-19-1 NMSA 1978.

12 D. Whoever commits exploitation of a resident's
13 property when the value of the property exploited is over [~~two~~
14 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000)
15 but not more than two thousand five hundred dollars (\$2,500)
16 is guilty of a fourth degree felony and upon conviction shall
17 be sentenced pursuant to the provisions of Section 31-18-15
18 NMSA 1978.

19 E. Whoever commits exploitation of a resident's
20 property when the value of the property exploited is over two
21 thousand five hundred dollars (\$2,500) but not more than
22 twenty thousand dollars (\$20,000) is guilty of a third degree
23 felony and upon conviction shall be sentenced pursuant to the
24 provisions of Section 31-18-15 NMSA 1978.

25 F. Whoever commits exploitation of a resident's
property when the value of the property exploited is over
twenty thousand dollars (\$20,000) is guilty of a second degree
felony and upon conviction shall be sentenced pursuant to the

1 provisions of Section 31-18-15 NMSA 1978. "

2 Section 29. Section 30-50-4 NMSA 1978 (being Laws 1995,
3 Chapter 37, Section 4) is amended to read:

4 "30-50-4. FRAUDULENT TELEMARKETING--PENALTIES. -- Any
5 person who knowingly and willfully engages in telemarketing to
6 or from a telephone located in New Mexico with the intent to
7 embezzle or to obtain money, property or any thing of value by
8 fraudulent pretenses, representations or promises in the
9 course of a telephone communication, when:

10 A. the money, property or thing has a value of [~~less~~
11 ~~than two hundred fifty dollars (\$250)~~] one hundred dollars
12 (\$100) or less, is guilty of a petty misdemeanor and shall be
13 sentenced pursuant to the provisions of Section 31-19-1 NMSA
14 1978;

15 B. the money, property or thing has a value of [~~two~~
16 ~~hundred fifty dollars (\$250) or more but less than two~~
17 ~~thousand five hundred dollars (\$2,500)~~] more than one hundred
18 dollars (\$100) but not more than one thousand dollars
19 (\$1,000), is guilty of a [~~fourth degree felony~~] misdemeanor
20 and shall be sentenced pursuant to the provisions of Section
21 [~~31-18-15~~] 31-19-1 NMSA 1978;

22 C. the money, property or thing has a value of [~~two~~
23 ~~thousand five hundred dollars (\$2,500) or more but less than~~
24 ~~twenty thousand dollars (\$20,000)~~] more than one thousand
25 dollars (\$1,000) but not more than two thousand five hundred
dollars (\$2,500), is guilty of a [~~third~~] fourth degree felony
and shall be sentenced pursuant to the provisions of Section
31-18-15 NMSA 1978; [~~or~~]

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1 D. the money, property or thing has a value of more
2 than two thousand five hundred dollars (\$2,500) but not more
3 than twenty thousand dollars (\$20,000), is guilty of a third
4 degree felony and shall be sentenced pursuant to the
5 provisions of Section 31-18-15 NMSA 1978; or

6 ~~[D.]~~ E. the money, property or thing has a value of
7 twenty thousand dollars (\$20,000) or more, is guilty of a
8 second degree felony and shall be sentenced pursuant to the
9 provisions of Section 31-18-15 NMSA 1978. "

10 Section 30. EFFECTIVE DATE. --The effective date of the
11 provisions of this act is July 1, 1999.

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FORTY- FOURTH LEGI SLATURE
FIRST SESSI ON, 1999

March 17, 1999

Mr. Presi dent:

Your JUDI CIARY COMMI TTEE, to whom has been referred

HOUSE JUDI CIARY COMMI TTEE SUBSTI TUTE FOR
HOUSE BILL 371

has had it under consideration and reports same with
recomm~~endation~~ that it DO PASS.

Respectfully submi tted,

Michael S. Sanchez, Chai rman

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HJC/HB 371

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, Stockard

Absent: None

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HJC/HB 371

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Adopted _____ Not

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, Stockard

Absent: None

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underscored material = new
[bracketed material] = delete