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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO THE DEPARTMENT OF PUBLIC SAFETY; REORGANIZING THE DEPARTMENT OF PUBLIC SAFETY; PLACING THE SPECIAL INVESTIGATIONS DIVISION AND THE MOTOR TRANSPORTATION DIVISION UNDER THE NEW MEXICO STATE POLICE DIVISION; CHANGING THE NAME OF THE TRAINING AND RECRUITING DIVISION TO THE NEW MEXICO LAW ENFORCEMENT ACADEMY DIVISION.

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

SECTION 1. Section 9-19-4 NMSA 1978 (being Laws 1987, Chapter 254, Section 4, as amended) is amended to read:

"9-19-4. DEPARTMENT ESTABLISHED.--There is created in the executive branch the "department of public safety". The department shall be a cabinet department and shall consist of, but not be limited to, ~~[five program divisions, an administrative division and an information technology division~~

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1 ~~as follows]~~ the following divisions:

- 2 A. the New Mexico state police division;
- 3 ~~[B. the special investigations division;~~
- 4 ~~C. the training and recruiting division]~~
- 5 B. the New Mexico law enforcement academy division;
- 6 ~~[D.]~~ C. the technical support division;
- 7 ~~[E.]~~ D. the administrative services division;
- 8 ~~[F. the motor transportation division]~~ and
- 9 ~~[G.]~~ E. the information technology division."

10 SECTION 2. Section 9-19-6 NMSA 1978 (being Laws 1987,  
11 Chapter 254, Section 6, as amended) is amended to read:

12 "9-19-6. SECRETARY--DUTIES AND GENERAL POWERS.--

13 A. The secretary is responsible to the governor for  
14 the operation of the department. It is ~~[his]~~ the secretary's  
15 duty to manage all operations of the department and to  
16 administer and enforce the laws with which ~~[he]~~ the secretary  
17 or the department is charged.

18 B. To perform ~~[his]~~ the secretary's duties, the  
19 secretary has every power expressly enumerated in the laws,  
20 whether granted to the secretary or the department or any  
21 division of the department, except where authority conferred  
22 upon any division is explicitly exempted from the secretary's  
23 authority by statute. In accordance with these provisions, the  
24 secretary shall:

- 25 (1) except as otherwise provided in the

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1 Department of Public Safety Act, exercise general supervisory  
2 and appointing authority over all department employees, subject  
3 to any applicable personnel laws and regulations [~~provided that~~  
4 ~~the secretary shall not reduce positions for the seventy-sixth~~  
5 ~~fiscal year budgeted in the General Appropriation Act of 1987~~  
6 ~~except for cause, by attrition or by occurrence of a vacancy~~];

7 (2) delegate authority to subordinates as [~~he~~]  
8 the secretary deems necessary and appropriate, clearly  
9 delineating such delegated authority and the limitations  
10 thereto;

11 (3) organize the department into those  
12 organizational units [~~he~~] the secretary deems will enable it to  
13 function most efficiently, subject to any provisions of law  
14 requiring or establishing specific organizational units;

15 (4) within the limitations of available  
16 appropriations and applicable laws, employ and fix the  
17 compensation of those persons necessary to discharge [~~his~~] the  
18 secretary's duties;

19 (5) take administrative action by issuing  
20 orders and instructions, not inconsistent with the law, to  
21 assure implementation of and compliance with the provisions of  
22 law with the administration or execution of which [~~he~~] the  
23 secretary is responsible and to enforce those orders and  
24 instructions by appropriate administrative action [~~or actions~~]  
25 in the court;

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1 (6) conduct research and studies that will  
2 improve the operation of the department and examine other  
3 entities and functions of state government related to public  
4 safety for purposes of possible transfer to the department;

5 (7) provide courses of instruction and  
6 practical training for employees of the department and other  
7 persons involved in the administration of programs with the  
8 objective of improving the operations and efficiency of  
9 administration;

10 (8) prepare an annual budget of the  
11 department;

12 (9) provide cooperation, at the request of  
13 heads of administratively attached agencies, in order to:

14 (a) minimize or eliminate duplication of  
15 services and jurisdictional conflicts;

16 (b) coordinate activities and resolve  
17 problems of mutual concern; and

18 (c) resolve by agreement the manner and  
19 extent to which the department shall provide budgeting,  
20 recordkeeping and related clerical assistance to  
21 administratively attached agencies, if any;

22 (10) appoint, with the governor's consent, for  
23 each division, a director. These appointed positions are  
24 exempt from the provisions of the Personnel Act. Persons  
25 appointed to these positions shall serve at the pleasure of the

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1 secretary;

2 (11) appoint the director of the New Mexico  
3 law enforcement academy, subject to the approval of the New  
4 Mexico law enforcement academy board;

5 (12) give bond in the penal sum of twenty-five  
6 thousand dollars (\$25,000) and require directors to each give  
7 bond in the penal sum of ten thousand dollars (\$10,000),  
8 conditioned upon the faithful performance of duties as provided  
9 in the Surety Bond Act, with the department paying the cost of  
10 such bonds; and

11 (13) require performance bonds of such  
12 employees and officers as ~~he~~ the secretary deems necessary as  
13 provided in the Surety Bond Act, with the department paying the  
14 costs of such bonds.

15 C. The secretary may apply for and receive, with  
16 the governor's approval, in the name of the department, any  
17 public or private funds, including but not limited to United  
18 States government funds, available to the department to carry  
19 out its programs, duties or services.

20 D. Where functions of departments overlap or a  
21 function assigned to one department could better be performed  
22 by another department, the secretary may recommend appropriate  
23 legislation to the next session of the legislature for its  
24 approval.

25 E. The secretary may make and adopt such reasonable

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1 and procedural rules and regulations as may be necessary to  
2 carry out the duties of the department and its divisions. No  
3 rule or regulation promulgated by the director of any division  
4 in carrying out the functions and duties of the division shall  
5 be effective until approved by the secretary unless otherwise  
6 provided by statute. Unless otherwise provided by statute, no  
7 regulation affecting any person or agency outside the  
8 department shall be adopted, amended or repealed without a  
9 public hearing on the proposed action before the secretary or a  
10 hearing officer designated by ~~[him]~~ the secretary. The public  
11 hearing shall be held in Santa Fe unless otherwise permitted by  
12 statute. Notice of the subject matter of the regulation, the  
13 action proposed to be taken, the time and place of the hearing,  
14 the manner in which interested persons may present their views  
15 and the method by which copies of the proposed regulation,  
16 proposed amendment or repeal of an existing regulation may be  
17 obtained shall be published once at least thirty days prior to  
18 the hearing date in a newspaper of general circulation in the  
19 state and mailed at least thirty days prior to the hearing date  
20 to all persons who have made a written request for advance  
21 notice of hearing.

22 F. All rules and regulations shall be filed in  
23 accordance with the State Rules Act."

24 SECTION 3. Section 9-19-7 NMSA 1978 (being Laws 1987,  
25 Chapter 254, Section 7, as amended) is amended to read:

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1 "9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND  
2 DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

3 A. The organizational units of the department and  
4 the officers of those units specified by law shall have all the  
5 powers and duties enumerated in the specific laws involved.  
6 However, the carrying out of those powers and duties shall be  
7 subject to the direction and supervision of the secretary, who  
8 shall retain the final decision-making authority and  
9 responsibility for the administration of any such laws as  
10 provided in Subsection B of Section 9-19-6 NMSA 1978. The  
11 department shall have access to all records, data and  
12 information of other state departments, agencies and  
13 institutions, including its own organizational units, not  
14 specifically held confidential by law.

15 B. The New Mexico state police division shall  
16 consist of the commissioned officers and civilian personnel  
17 [~~including all communications equipment operators~~] of the New  
18 Mexico state police [~~uniform division and the commissioned~~  
19 ~~officers and civilian personnel of the New Mexico state police~~  
20 ~~criminal division~~] and such other personnel as may be assigned  
21 by the secretary or by the governor pursuant to an executive  
22 order as authorized in the Department of Public Safety Act.  
23 The New Mexico state police division shall also include:

24 [~~G.~~] (1) the special investigations [~~division~~]  
25 unit, which shall consist of the enforcement personnel of the

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1 ~~[department of alcoholic beverage control]~~ former special  
2 investigations division and ~~[such other]~~ civilian personnel as  
3 may be assigned by the secretary or by the governor pursuant to  
4 an executive order as authorized in the Department of Public  
5 Safety Act. The ~~[division]~~ unit is responsible for the  
6 enforcement of the New Mexico Bingo and Raffle Act and the  
7 Liquor Control Act;

8 (2) the training and recruiting bureau, which  
9 shall consist of the personnel of the New Mexico state police  
10 training division and all civilian personnel and functions of  
11 the department as the secretary may transfer to this bureau;

12 (3) the motor transportation police bureau,  
13 which shall consist of the enforcement and civilian personnel  
14 of the former motor transportation division. The bureau is  
15 responsible for enforcing the Motor Carrier Act, the Motor  
16 Transportation Act, the Motor Vehicle Code and the Criminal  
17 Code; and

18 (4) civilian employees of the former motor  
19 transportation division or the former special investigations  
20 division who shall be subject to the provisions of the  
21 Personnel Act.

22 C. The New Mexico law enforcement academy division  
23 shall consist of the New Mexico law enforcement academy and  
24 such other functions as the secretary may transfer to this  
25 division.

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1           D. The technical support division shall consist of  
2 functions such as [~~communications~~] crime laboratory and  
3 records.

4           ~~[E. The training and recruiting division shall~~  
5 ~~consist of the personnel of the New Mexico law enforcement~~  
6 ~~academy, the New Mexico state police training division and all~~  
7 ~~other training personnel and functions of the department as the~~  
8 ~~secretary may transfer to this division.~~

9           ~~F.]~~ E. The administrative services division shall  
10 consist of the administrative services [~~and services divisions~~  
11 ~~of the New Mexico state police and those administrative support~~  
12 ~~personnel of the other existing departments, divisions or~~  
13 ~~offices]~~ as the secretary deems necessary.

14           F. The information technology division shall  
15 consist of such functions as computer and technology support as  
16 the secretary deems necessary."

17           SECTION 4. Section 29-2-1.1 NMSA 1978 (being Laws 1987,  
18 Chapter 254, Section 18, as amended) is amended to read:

19           "29-2-1.1. DEFINITIONS.--As used in Chapter 29 NMSA 1978:

20           A. "chief" or "chief of the state police" means the  
21 director of the New Mexico state police division of the  
22 department;

23           B. "commission" means the public safety advisory  
24 commission;

25           C. "department" means the department of public

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1 safety;

2 D. "member of the New Mexico state police" means a  
3 commissioned officer of the New Mexico state police, including  
4 an officer who is certified and commissioned as of June 30,  
5 2015 in the former motor transportation division or the former  
6 special investigations division;

7 E. "New Mexico law enforcement academy" or  
8 "academy" means a [~~bureau of the training and recruiting~~]  
9 division of the department [~~of public safety~~] established  
10 pursuant to the Law Enforcement Training Act;

11 F. "New Mexico state police" means the New Mexico  
12 state police division of the department; and

13 [~~G. "New Mexico state police board" or "board"~~  
14 ~~means the secretary of public safety; and~~

15 H.] G. "secretary" means the secretary of public  
16 safety."

17 SECTION 5. Section 29-2-3 NMSA 1978 (being Laws 1941,  
18 Chapter 147, Section 3, as amended) is amended to read:

19 "29-2-3. NEW MEXICO STATE POLICE--ORGANIZATION.--The New  
20 Mexico state police shall consist of a chief and such  
21 [~~patrolmen~~] patrol officers, sergeants, lieutenants and  
22 captains as the [~~New Mexico state police board~~] secretary may  
23 deem advisable within the limits of the funds appropriated for  
24 the New Mexico state police; provided [~~however~~] that the number  
25 of captains, lieutenants and sergeants shall not exceed twenty-

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1 five percent of the total number of the police, exclusive of  
2 the chief; but this requirement shall not be interpreted so as  
3 to require the demotion of any member of the previous state  
4 police division, [~~of the criminal justice department~~] the  
5 former motor transportation division, the former special  
6 investigations division or the former training and recruiting  
7 division."

8 SECTION 6. Section 29-2-4 NMSA 1978 (being Laws 1941,  
9 Chapter 147, Section 4, as amended) is amended to read:

10 "29-2-4. APPOINTMENTS--REMOVAL.--The chief of the New  
11 Mexico state police shall be appointed by the [~~New Mexico state~~  
12 ~~police board~~] secretary. All [~~patrolmen~~] patrol officers and  
13 other officers and all civilian employees shall be appointed by  
14 the chief."

15 SECTION 7. Section 29-2-4.1 NMSA 1978 (being Laws 1979,  
16 Chapter 202, Section 16) is amended to read:

17 "29-2-4.1. RULES [~~AND REGULATIONS~~].--The [~~New Mexico~~  
18 ~~state police board~~] secretary shall promulgate rules [~~and~~  
19 ~~regulations~~] governing employment and operating practices and  
20 related matters for employees of the New Mexico state police."

21 SECTION 8. Section 29-2-6 NMSA 1978 (being Laws 1941,  
22 Chapter 147, Section 6, as amended) is amended to read:

23 "29-2-6. QUALIFICATIONS OF MEMBERS.--

24 A. Members of the New Mexico state police, except  
25 the chief, shall:

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1 (1) at the time of their appointment, be  
2 citizens of the United States;

3 (2) at the time of their appointment, have  
4 reached twenty-one years of age;

5 (3) except as otherwise provided in Subsection  
6 B of this section, at the time of their appointment, have  
7 completed at least sixty hours of college credit or have had  
8 two years of military or law enforcement service. This  
9 requirement shall not apply to officers who are certified and  
10 commissioned as of June 30, 2015 in the former motor  
11 transportation division or the former special investigations  
12 division;

13 (4) be of good moral character and not have  
14 been convicted of a felony or infamous crime in the courts of  
15 this state or other state or any country or in the federal  
16 courts; and

17 (5) pass a physical examination that the New  
18 Mexico state police may require.

19 B. Notwithstanding the requirement of Paragraph (3)  
20 of Subsection A of this section, the chief may appoint a member  
21 of the New Mexico state police who has at least thirty hours of  
22 college credit, and the chief shall determine an appropriate  
23 time period after appointment for the member to complete the  
24 additional thirty hours of college credit required. This  
25 provision shall not apply to officers who are certified and

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1 commissioned as of June 30, 2015 in the former motor  
2 transportation division or the former special investigations  
3 division.

4 ~~[G. A person shall not be commissioned a member of~~  
5 ~~the New Mexico state police who is related by blood or marriage~~  
6 ~~within the fourth degree to a member of the public safety~~  
7 ~~advisory commission.]"~~

8 SECTION 9. Section 29-2-7 NMSA 1978 (being Laws 1941,  
9 Chapter 147, Section 7, as amended) is amended to read:

10 "29-2-7. COMMISSIONED OFFICERS--APPLICATION--PROCEDURE.--  
11 The New Mexico state police shall cause all applicants for the  
12 position of commissioned officer to submit a written detailed  
13 application on [~~such~~] forms as the [~~board~~] secretary shall  
14 prescribe, and the [~~board~~] secretary shall cause an  
15 investigation to be made of all applicants, subsequent to their  
16 taking the examination [~~hereinafter~~] referred to in Section  
17 29-2-8 NMSA 1978, for the purpose of determining the moral  
18 character, general reputation and fitness of any applicant.  
19 [~~and. Any such~~] An applicant who is found unfit as a result of  
20 [~~such~~] the investigation shall be disqualified for employment.  
21 The [~~board~~] secretary shall by rule prescribe the physical  
22 qualifications of applicants and shall require each applicant  
23 to submit to a physical examination by [~~such~~] doctors as the  
24 [~~board~~] secretary shall designate. [~~and. Any~~] An applicant  
25 who does not meet the physical requirements prescribed by the

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1 [board] secretary shall be disqualified for employment.  
2 Inasmuch as laws have been enacted providing for retirement,  
3 disability and life insurance funds for members of the New  
4 Mexico state police, it is the intention of the legislature  
5 that no applicants will be appointed who are in such physical  
6 condition that the cost of such protection will thereby be  
7 increased."

8 SECTION 10. Section 29-2-8 NMSA 1978 (being Laws 1941,  
9 Chapter 147, Section 8, as amended) is amended to read:

10 "29-2-8. NEW MEXICO STATE POLICE--COMMISSIONED OFFICERS--  
11 EXAMINATION.--The New Mexico state police shall conduct a  
12 written examination of all applicants for the position of  
13 commissioned officer for the purpose of determining their  
14 mental qualifications and knowledge of the laws of New Mexico  
15 and their ability to render assistance in case of accidents  
16 upon the public highways [~~and~~]. No applicant shall be  
17 appointed a member of the New Mexico state police, other than  
18 the chief, until [~~he shall have~~] the applicant has passed  
19 [~~such~~] the written examination with a grade of not less than  
20 seventy-two percent. This section shall not apply to officers  
21 who are certified and commissioned as of June 30, 2015 in the  
22 former motor transportation division, the former special  
23 investigations division or the former training and recruiting  
24 division."

25 SECTION 11. Section 29-2-9 NMSA 1978 (being Laws 1941,  
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1 Chapter 147, Section 9, as amended) is amended to read:

2 "29-2-9. PROBATIONARY PERIOD--LENGTH--PERMANENT  
3 COMMISSION--SALARY.--

4 A. All new appointments as members of the New  
5 Mexico state police shall be for a probationary period of two  
6 years. During ~~[such]~~ the probationary period, ~~[such]~~ the new  
7 members may be removed or suspended at the discretion of the  
8 chief ~~[of the New Mexico state police]~~. At the end of two  
9 years of satisfactory service and upon recommendation of the  
10 chief and with concurrence of the ~~[New Mexico state police~~  
11 ~~board]~~ secretary, the appointee may receive a permanent  
12 commission as a member of the New Mexico state police.  
13 However, the probationary period may be extended beyond a two-  
14 year period upon the recommendation of the chief with the  
15 concurrence of the ~~[board]~~ secretary. This subsection shall  
16 not apply to officers who are certified and commissioned as of  
17 June 30, 2015 in the former motor transportation division or  
18 the former special investigations division. Members who are on  
19 probation on July 1, 2015 shall complete the probationary  
20 period under which they were hired.

21 B. The salaries of all members of the New Mexico  
22 state police, probationary and permanent, and that of the chief  
23 shall be fixed by the ~~[board]~~ secretary."

24 SECTION 12. Section 29-2-10 NMSA 1978 (being Laws 1941,  
25 Chapter 147, Section 10, as amended) is amended to read:

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1 "29-2-10. PROMOTIONS.--All promotions in the New Mexico  
2 state police to the rank of sergeant shall be made after  
3 written examinations [~~provided, however, that on such~~  
4 ~~examination for the rank of sergeant, the record of the party~~  
5 ~~seeking promotion as a member of the New Mexico state police~~  
6 ~~and his length of service shall be given a weight of forty~~  
7 ~~percent in such examination~~]. All promotions above the rank of  
8 sergeant shall be made by the chief after concurrence and  
9 approval by the [~~New Mexico state police board~~] secretary. The  
10 ranks of sergeant, lieutenant and captain shall be permanent  
11 unless established as an exempt rank by the chief with the  
12 concurrence of the [~~board~~] secretary. All promotions above the  
13 rank of captain are by executive appointment of the chief with  
14 concurrence of the [~~board~~] secretary, and [~~such~~] those persons  
15 shall serve at the pleasure of the chief with the concurrence  
16 of the [~~board~~] secretary."

17 SECTION 13. Section 29-2-12 NMSA 1978 (being Laws 1941,  
18 Chapter 147, Section 12, as amended) is amended to read:

19 "29-2-12. OATH.--All members of the New Mexico state  
20 police and the [~~New Mexico state police board~~] secretary shall  
21 take the oath of office required of all state officials."

22 SECTION 14. Section 29-2-14 NMSA 1978 (being Laws 1971,  
23 Chapter 87, Section 1, as amended) is amended to read:

24 "29-2-14. UNAUTHORIZED WEARING OF UNIFORM OR BADGE--  
25 UNAUTHORIZED MARKING OF MOTOR VEHICLE--PENALTY.--

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1           A. Unauthorized wearing of uniform or badge  
2 consists of the wearing or requiring the wearing, without  
3 authorization by the [~~New Mexico state police board~~] secretary,  
4 of a uniform or badge or both whose material, color or design,  
5 or any combination of them, is such that the wearer appears to  
6 be a member of the New Mexico state police.

7           B. Unauthorized marking of motor vehicle consists  
8 of the marking, using, possessing or owning or requiring the  
9 marking or using, without authorization by the [~~board~~]  
10 secretary, of a motor vehicle whose insignia, color or  
11 equipment, or any combination of them, is such that the motor  
12 vehicle appears to be a New Mexico state police motor vehicle.

13           C. Whoever commits unauthorized wearing of uniform  
14 or badge or unauthorized marking of motor vehicle is guilty of  
15 a petty misdemeanor."

16           SECTION 15. Section 29-2-16 NMSA 1978 (being Laws 1941,  
17 Chapter 147, Section 15, as amended) is amended to read:

18           "29-2-16. STATE POLICE SCHOOL--COMPENSATION.--

19           A. Before entering upon [~~his~~] the appointee's  
20 duties, every appointee to the New Mexico state police shall be  
21 required to attend [~~for a period of at least ninety days~~] a  
22 school of instruction approved by the [~~New Mexico state police~~  
23 ~~board~~] secretary. A uniform course of instruction shall be  
24 given all trainees governing the operation, maintenance and  
25 temporary roadside repair of motor vehicles, the laws of the

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1 state ~~[which]~~ that the appointee may be called on to enforce  
2 and other instruction as the ~~[New Mexico state police board]~~  
3 secretary may require. Attendance at the school or other  
4 course of instruction as may be prescribed renders the person  
5 attending subject to the control of the New Mexico state police  
6 during attendance.

7 B. The ~~[board]~~ secretary may, within the budgetary  
8 means of the New Mexico state police, allow subsistence and  
9 compensation for trainees attending the school of instruction  
10 at the New Mexico state police headquarters or elsewhere. ~~[The~~  
11 ~~compensation allowed for each trainee, excluding room and board~~  
12 ~~for a thirty-day period, shall be in the amount set by the~~  
13 ~~legislature in the general appropriations act.]~~

14 C. This section shall not apply to members of the  
15 former motor transportation division or the former special  
16 investigations division."

17 SECTION 16. Section 29-2-18 NMSA 1978 (being Laws 1941,  
18 Chapter 147, Section 17, as amended) is amended to read:

19 "29-2-18. STATE POLICE CHIEF AND OTHER MEMBERS--POWERS  
20 AND DUTIES.--

21 A. The chief and other members of the New Mexico  
22 state police, ~~[who]~~ when duly commissioned and sworn under the  
23 provisions of Sections 29-2-1 through 29-2-29 NMSA 1978, shall  
24 have the following powers and ~~[shall perform the following~~  
25 ~~duties:~~

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1           A. ~~they~~] shall be:

2                   (1) conservators of the peace within the state  
3 with full power to apprehend, arrest and bring before the  
4 proper court all law violators within the state;

5           [B. ~~they shall be~~]

6                   (2) ex-officio deputies and agents of all the  
7 officers and departments of the taxation and revenue department  
8 and of the officers and departments within the state charged  
9 with the registration of motor vehicles, the issuance of  
10 licenses to operators of motor vehicles and of the officers and  
11 departments of the state charged with the regulation and  
12 control of motor vehicles operated upon the public highways for  
13 hire in the transportation of either passengers or property;  
14 and

15           [G. ~~they shall be~~]

16                   (3) charged with the enforcement of all laws  
17 of New Mexico regulating the use of highways. [~~and~~

18           D.] B. Upon request of any officer or agency of the  
19 state charged with the duty of enforcing any law of the state  
20 that is made to the [~~New Mexico state police board~~] secretary,  
21 one or more members of the New Mexico state police may be  
22 temporarily designated specifically to enforce the provisions  
23 of such law."

24           SECTION 17. Section 29-2-19 NMSA 1978 (being Laws 1977,  
25 Chapter 257, Section 34, as amended) is amended to read:

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1 "29-2-19. CHIEF--QUALIFICATIONS--REMOVAL.--

2 A. The chief is the executive officer of the New  
3 Mexico state police and ~~[shall be]~~ is subject to the control,  
4 supervision and direction of the ~~[New Mexico state police~~  
5 ~~board. He shall]~~ secretary. The appointee, at the time of  
6 ~~[his]~~ appointment as chief by the ~~[board]~~ secretary, shall have  
7 been a member of the New Mexico state police holding a  
8 permanent commission for ten continuous years immediately prior  
9 to ~~[his]~~ the appointment and shall have served not less than  
10 three years in a supervisory capacity ~~[and said]~~. Appointment  
11 shall be made with the consent of the senate.

12 B. The chief shall serve at the pleasure of the  
13 ~~[New Mexico state police board]~~ secretary.

14 C. The seniority and retirement rating of the chief  
15 shall be continuous as for any other member.

16 D. The chief shall maintain ~~[his]~~ an office in  
17 Santa Fe in such quarters as are provided by the New Mexico  
18 state police for that purpose."

19 SECTION 18. Section 29-2-20 NMSA 1978 (being Laws 1941,  
20 Chapter 147, Section 19, as amended) is amended to read:

21 "29-2-20. DISTRICTS.--The New Mexico state police chief,  
22 subject to the control of the ~~[New Mexico state police board]~~  
23 secretary, may divide the state into districts and may  
24 designate home stations for the members of the New Mexico state  
25 police."

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1           SECTION 19. Section 29-2-22 NMSA 1978 (being Laws 1941,  
2 Chapter 147, Section 21, as amended) is amended to read:

3           "29-2-22. RULEMAKING POWER--RULES TO ESTABLISH STANDARDS  
4 OF CONDUCT.--The [~~New Mexico state police board shall have~~]  
5 secretary has authority to make and promulgate rules and  
6 regulations for the purpose of carrying out the provisions of  
7 Sections 29-2-1 through 29-2-29 NMSA 1978. The [~~New Mexico~~  
8 ~~state police board~~] secretary shall establish by rules, from  
9 time to time, standards of conduct for members of the New  
10 Mexico state police, and a copy [~~thereof~~] of the rules shall be  
11 delivered to each [~~such~~] member and displayed at each station  
12 of the department. [~~Such~~] The rules shall be filed pursuant to  
13 the State Rules Act."

14           SECTION 20. Section 29-2-24 NMSA 1978 (being Laws 1941,  
15 Chapter 147, Section 25, as amended) is amended to read:

16           "29-2-24. WAIVER.--The provisions of Sections 29-2-6  
17 through 29-2-8 NMSA 1978 may be waived by the [~~unanimous vote~~  
18 ~~of all members of the New Mexico state police board~~] secretary  
19 with regard to plainclothes [~~men~~] or special investigators and  
20 other employees not regularly uniformed."

21           SECTION 21. Section 29-2-25 NMSA 1978 (being Laws 1947,  
22 Chapter 38, Section 1, as amended) is amended to read:

23           "29-2-25. ACCIDENT REPORTS.--When any member of the New  
24 Mexico state police [~~shall investigate~~] investigates a motor  
25 vehicle accident, [~~he~~] the member shall make a written report

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1 of [~~his~~] the findings on appropriate forms furnished by the New  
2 Mexico state police, the original of which report [~~and of all~~  
3 ~~reports of motor vehicle accidents heretofore made~~] shall be  
4 filed in the office of the New Mexico state police and shall be  
5 furnished to any person upon written application accompanied by  
6 a fee as set by the [~~New Mexico state police board~~] secretary  
7 for the [~~photostat~~] photocopy of each surface of all documents  
8 comprising a report."

9 SECTION 22. Section 29-7-3 NMSA 1978 (being Laws 1979,  
10 Chapter 202, Section 42, as amended) is amended to read:

11 "29-7-3. NEW MEXICO LAW ENFORCEMENT ACADEMY BOARD.--

12 A. There is created the "New Mexico law enforcement  
13 academy board".

14 B. The academy shall be controlled and supervised  
15 by policy set by the board. The board shall be composed of the  
16 attorney general, who shall serve automatically by reason of  
17 [~~his~~] office and serve as [~~chairman~~] chair of the board, and  
18 six members who are qualified electors to be appointed by the  
19 governor and confirmed by the senate. An appointed board  
20 member shall serve and have all of the duties, responsibilities  
21 and authority of that office during the period prior to the  
22 final action by the senate in confirming or rejecting the  
23 appointment.

24 C. [~~On or before July 1, 1994, the governor shall~~  
25 ~~increase the number of members on the board to eight by~~

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1 ~~appointing two additional members. The seventh member of the~~  
2 ~~board shall be a citizen-at-large member whose term shall end~~  
3 ~~on July 1, 1996. The eighth member of the board shall be a~~  
4 ~~police officer who is a New Mexico certified police officer,~~  
5 ~~holding the rank of sergeant or below at the time of his~~  
6 ~~appointment, and whose term shall end on July 1, 1996 or sooner~~  
7 ~~if he retires or is deactivated from duty for longer than~~  
8 ~~thirty days.]~~ Appointments to the board shall be for terms of  
9 four years or less made in such manner that the terms of not  
10 more than two members expire on July 1 of each year. At all  
11 times, the board shall have represented on it, as members, one  
12 municipal police chief, one sheriff, one state police officer,  
13 one ~~[district]~~ attorney who is currently employed in a district  
14 attorney's office, one certified police chief of a New Mexico  
15 Indian tribe or pueblo, one certified New Mexico police officer  
16 holding the rank of sergeant or below and two citizen-at-large  
17 members. Vacancies shall be filled by the governor for the  
18 unexpired term.

19 D. Members of the board shall receive, for their  
20 service as members of the board, per diem and mileage as  
21 provided in the Per Diem and Mileage Act."

22 SECTION 23. Section 29-7-5.1 NMSA 1978 (being Laws 1979,  
23 Chapter 202, Section 45, as amended) is amended to read:

24 "29-7-5.1. REMOVAL OF DIRECTOR.--The director may be  
25 removed by the board in accordance with the procedures provided

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1 in Section 29-2-11 NMSA 1978 for removal of members of the New  
2 Mexico state police holding permanent commissions. In the case  
3 of removal proceedings for the director under that section,  
4 [~~the words "New Mexico state police board" or "board"~~]  
5 "commission", as used in Subsections C and D of Section 29-2-11  
6 NMSA 1978, shall be construed to mean the New Mexico law  
7 enforcement academy board."

8 SECTION 24. Section 29-7-6.1 NMSA 1978 (being Laws 1993,  
9 Chapter 255, Section 7) is amended to read:

10 "29-7-6.1. COUNTY SHERIFFS--TRAINING REQUIREMENT.--

11 A. Every county sheriff, except sheriffs who have  
12 previously been awarded a certificate attesting to completion  
13 of a basic law enforcement training program, shall participate  
14 in and complete an administrative law enforcement training  
15 program no later than twelve months after the date [~~he~~] the  
16 sheriff assumes office as a county sheriff.

17 B. The director [~~of the training and recruiting~~  
18 ~~division of the department of public safety~~] shall establish  
19 the administrative law enforcement training program for county  
20 sheriffs, subject to review and approval by the executive  
21 committee of the sheriff's affiliate of the New Mexico  
22 association of counties.

23 C. A county sheriff's per diem, mileage and tuition  
24 expenses attributed to attendance at the administrative law  
25 enforcement training shall be paid for by the governing body of

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1 the county served by that sheriff."

2 SECTION 25. Section 29-7-7 NMSA 1978 (being Laws 1981,  
3 Chapter 114, Section 6, as amended) is amended to read:

4 "29-7-7. DEFINITIONS.--For the purpose of the Law  
5 Enforcement Training Act:

6 A. "academy" means the New Mexico law enforcement  
7 academy;

8 B. "basic law enforcement training" means a course  
9 consisting of not less than four hundred hours of instruction  
10 in basic law enforcement training as required by the Law  
11 Enforcement Training Act;

12 C. "board" means the New Mexico law enforcement  
13 academy board;

14 D. "conviction" means an adjudication of guilt or a  
15 plea of no contest and includes convictions that are suspended  
16 or deferred;

17 E. "director" means the director of the [~~academy~~]  
18 division;

19 F. "division" means the New Mexico law enforcement  
20 academy division of the department of public safety;

21 [~~F-~~] G. "in-service law enforcement training" means  
22 a course of instruction required of all certified peace  
23 officers and designed to train and equip all police officers in  
24 the state with specific law enforcement skills and to ensure  
25 the continuing development of all police officers in the state.

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1 The training and instruction shall be kept current and may be  
2 conducted on a regional basis at the discretion of the  
3 director;

4           [~~G.~~] H. "police officer" means any commissioned  
5 employee of a law enforcement agency that is part of or  
6 administered by the state or any political subdivision of the  
7 state, and includes any employee of a missile range civilian  
8 police department who is a graduate of a recognized certified  
9 regional law enforcement training facility and who is currently  
10 certifiable by the [~~New Mexico law enforcement~~] academy, which  
11 employee is responsible for the prevention and detection of  
12 crime or the enforcement of the penal, or traffic or highway  
13 laws of this state. The term specifically includes deputy  
14 sheriffs. Sheriffs are eligible to attend the academy and are  
15 eligible to receive certification as provided in the Law  
16 Enforcement Training Act. As used in this subsection,  
17 "commissioned" means an employee of a law enforcement agency  
18 who is authorized by a sheriff or chief of police to apprehend,  
19 arrest and bring before the court all violators within the  
20 state; and

21           [~~H.~~] I. "certified regional law enforcement  
22 training facility" means a law enforcement training facility  
23 within the state certified by the director, with the approval  
24 of the academy's board of directors, that offers basic law  
25 enforcement training and in-service law enforcement training

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1 that is comparable to or exceeds the standards of the  
2 programs of the academy."

3 SECTION 26. Section 29-7-12 NMSA 1978 (being Laws 1981,  
4 Chapter 114, Section 12, as amended) is amended to read:

5 "29-7-12. CHARGES--FUND CREATED--USE.--

6 A. The [~~training and recruiting~~] division [~~of the~~  
7 ~~department of public safety~~] shall not charge local public  
8 bodies [~~and~~] or New Mexico Indian tribes [~~and~~] or pueblos for  
9 any expenses associated with providing basic law enforcement  
10 training programs to applicants for certification seeking  
11 commission pursuant to the provisions of the Law Enforcement  
12 Training Act. The division may charge state agencies and  
13 institutions and federal agencies and shall charge civilian  
14 participants for the cost of providing basic law enforcement  
15 training programs, which charges shall be specified in a  
16 tuition and fee schedule promulgated by the [~~New Mexico law~~  
17 ~~enforcement academy~~] board and shall not exceed the actual  
18 cost of providing the training programs.

19 B. The [~~training and recruiting~~] division may  
20 charge state agencies and institutions, local public bodies,  
21 New Mexico Indian tribes and pueblos and federal agencies and  
22 shall charge civilian participants for the cost of providing  
23 advanced training programs, which charges shall be specified  
24 in a tuition and fee schedule promulgated by the [~~New Mexico~~  
25 ~~law enforcement academy~~] board and shall not exceed the

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1 actual cost of providing the training programs.

2 C. The [~~training and recruiting~~] division may  
3 charge for the rental or other use of the academy's facility,  
4 personnel and equipment, which charges shall be specified in  
5 a tuition and fee schedule promulgated by the [~~New Mexico law~~  
6 ~~enforcement academy~~] board and shall not exceed the actual  
7 cost of the facility, personnel or equipment.

8 D. The "law enforcement training and recruiting  
9 fund" is created in the state treasury. Money received by  
10 the [~~training and recruiting~~] division for activities  
11 specified in this section shall be deposited in the fund.  
12 The department of public safety shall administer the fund,  
13 and money in the fund is appropriated to the division to  
14 offset the operational costs of the division. [~~Unexpended or~~  
15 ~~unencumbered balances in the fund shall revert to the general~~  
16 ~~fund at the end of a fiscal year.~~] Money in the fund shall  
17 be nonreverting. Money shall be expended on warrants issued  
18 by the secretary of finance and administration upon vouchers  
19 signed by the secretary of public safety or [~~his~~] the  
20 secretary of public safety's authorized representative.

21 E. As used in this section, "local public body"  
22 means all political subdivisions of the state and their  
23 agencies, instrumentalities and institutions."

24 SECTION 27. Section 60-3A-1 NMSA 1978 (being Laws 1981,  
25 Chapter 39, Section 1, as amended) is amended to read:

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1 "60-3A-1. SHORT TITLE.--Chapter 60, Articles 3A, [~~4B,~~  
2 ~~4C]~~ 5A, 6A, 6B, 6C, 6E, 7A, 7B and 8A [~~of Chapter 60~~] NMSA  
3 1978 may be cited as the "Liquor Control Act"."

4 SECTION 28. Section 60-3A-3 NMSA 1978 (being Laws 1981,  
5 Chapter 39, Section 3, as amended) is amended to read:

6 "60-3A-3. DEFINITIONS.--As used in the Liquor Control  
7 Act:

8 A. "alcoholic beverages" means distilled or  
9 rectified spirits, potable alcohol, brandy, whiskey, rum, gin  
10 and aromatic bitters bearing the federal internal revenue  
11 strip stamps or any similar alcoholic beverage, including  
12 blended or fermented beverages, dilutions or mixtures of one  
13 or more of the foregoing containing more than one-half  
14 percent alcohol, but excluding medicinal bitters;

15 B. "beer" means an alcoholic beverage obtained by  
16 the fermentation of any infusion or decoction of barley, malt  
17 and hops or other cereals in water, and includes porter,  
18 beer, ale and stout;

19 C. "brewer" means a person who owns or operates a  
20 business for the manufacture of beer;

21 D. "club" means:

22 (1) any nonprofit group, including an  
23 auxiliary or subsidiary group, organized and operated under  
24 the laws of this state, with a membership of not less than  
25 fifty members who pay membership dues at the rate of not less

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1 than five dollars (\$5.00) per year and who, under the  
2 constitution and bylaws of the club, have all voting rights  
3 and full membership privileges, and which group is the owner,  
4 lessee or occupant of premises used exclusively for club  
5 purposes and which group the director finds:

6 (a) is operated solely for recreation,  
7 social, patriotic, political, benevolent or athletic  
8 purposes; and

9 (b) has been granted an exemption by  
10 the United States from the payment of the federal income tax  
11 as a club under the provisions of Section 501(a) of the  
12 Internal Revenue Code of 1986, as amended, or, if the  
13 applicant has not operated as a club for a sufficient time to  
14 be eligible for the income tax exemption, it must execute and  
15 file with the director a sworn letter of intent declaring  
16 that it will, in good faith, apply for an income tax  
17 exemption as soon as it is eligible; or

18 (2) an airline passenger membership club  
19 operated by an air common carrier that maintains or operates  
20 a clubroom at an international airport terminal. As used in  
21 this paragraph, "air common carrier" means a person engaged  
22 in regularly scheduled air transportation between fixed  
23 termini under a certificate of public convenience and  
24 necessity issued by the federal aviation administration;

25 E. "commission" means the secretary of public

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1 safety when the term is used in reference to the enforcement  
2 and investigatory provisions of the Liquor Control Act and  
3 means the superintendent of regulation and licensing when the  
4 term is used in reference to the licensing provisions of the  
5 Liquor Control Act;

6 F. "department" means the [~~special~~  
7 ~~investigations~~] New Mexico state police division of the  
8 department of public safety when the term is used in  
9 reference to the enforcement and investigatory provisions of  
10 the Liquor Control Act and means the director of the alcohol  
11 and gaming division of the regulation and licensing  
12 department when the term is used in reference to the  
13 licensing provisions of the Liquor Control Act;

14 G. "director" means the [~~director~~] chief of the  
15 [~~special investigations~~] New Mexico state police division of  
16 the department of public safety when the term is used in  
17 reference to the enforcement and investigatory provisions of  
18 the Liquor Control Act and means the director of the alcohol  
19 and gaming division of the regulation and licensing  
20 department when the term is used in reference to the  
21 licensing provisions of the Liquor Control Act;

22 H. "dispenser" means a person licensed under the  
23 provisions of the Liquor Control Act selling, offering for  
24 sale or having in the person's possession with the intent to  
25 sell alcoholic beverages both by the drink for consumption on

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1 the licensed premises and in unbroken packages for  
2 consumption and not for resale off the licensed premises;

3 I. "distiller" means a person engaged in  
4 manufacturing spirituous liquors;

5 J. "golf course" means a tract of land and  
6 facilities used for playing golf and other recreational  
7 activities that includes tees, fairways, greens, hazards,  
8 putting greens, driving ranges, recreational facilities,  
9 patios, pro shops, cart paths and public and private roads  
10 that are located within the tract of land;

11 K. "governing body" means the board of county  
12 commissioners of a county or the city council or city  
13 commissioners of a municipality;

14 L. "hotel" means an establishment or complex  
15 having a resident of New Mexico as a proprietor or manager  
16 and where, in consideration of payment, meals and lodging are  
17 regularly furnished to the general public. The establishment  
18 or complex must maintain for the use of its guests a minimum  
19 of twenty-five sleeping rooms;

20 M. "licensed premises" means the contiguous areas  
21 or areas connected by indoor passageways of a structure and  
22 the outside dining, recreation and lounge areas of the  
23 structure and the grounds and vineyards of a structure that  
24 is a winery that are under the direct control of the licensee  
25 and from which the licensee is authorized to sell, serve or

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1 allow the consumption of alcoholic beverages under the  
2 provisions of its license; provided that in the case of a  
3 restaurant, "licensed premises" includes a restaurant that  
4 has operated continuously in two separate structures since  
5 July 1, 1987 and that is located in a local option district  
6 that has voted to disapprove the transfer of liquor licenses  
7 into that local option district, hotel, golf course or  
8 racetrack and all public and private rooms, facilities and  
9 areas in which alcoholic beverages are sold or served in the  
10 customary operating procedures of the restaurant, hotel, golf  
11 course or racetrack. "Licensed premises" also includes rural  
12 dispenser licenses located in the unincorporated areas of a  
13 county with a population of less than thirty thousand,  
14 located in buildings in existence as of January 1, 2012, that  
15 are within one hundred fifty feet of one another and that are  
16 under the direct control of the license holder;

17 N. "local option district" means a county that  
18 has voted to approve the sale, serving or public consumption  
19 of alcoholic beverages, or an incorporated municipality that  
20 falls within a county that has voted to approve the sale,  
21 serving or public consumption of alcoholic beverages, or an  
22 incorporated municipality of over five thousand population  
23 that has independently voted to approve the sale, serving or  
24 public consumption of alcoholic beverages under the terms of  
25 the Liquor Control Act or any former act;

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1           O. "manufacturer" means a distiller, rectifier,  
2 brewer or winer;

3           P. "minor" means a person under twenty-one years  
4 of age;

5           Q. "package" means an immediate container of  
6 alcoholic beverages that is filled or packed by a  
7 manufacturer or wine bottler for sale by the manufacturer or  
8 wine bottler to wholesalers;

9           R. "person" means an individual, corporation,  
10 firm, partnership, copartnership, association or other legal  
11 entity;

12           S. "rectifier" means a person who blends, mixes  
13 or distills alcohol with other liquids or substances for the  
14 purpose of making an alcoholic beverage for the purpose of  
15 sale other than to the consumer by the drink, and includes  
16 all bottlers of spirituous liquors;

17           T. "restaurant" means an establishment having a  
18 New Mexico resident as a proprietor or manager that is held  
19 out to the public as a place where meals are prepared and  
20 served primarily for on-premises consumption to the general  
21 public in consideration of payment and that has a dining  
22 room, a kitchen and the employees necessary for preparing,  
23 cooking and serving meals; provided that "restaurant" does  
24 not include establishments as defined in rules promulgated by  
25 the director serving only hamburgers, sandwiches, salads and

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1 other fast foods;

2 U. "retailer" means a person licensed under the  
3 provisions of the Liquor Control Act selling, offering for  
4 sale or having in the person's possession with the intent to  
5 sell alcoholic beverages in unbroken packages for consumption  
6 and not for resale off the licensed premises;

7 V. "spirituous liquors" means alcoholic beverages  
8 as defined in Subsection A of this section except fermented  
9 beverages such as wine, beer and ale;

10 W. "wholesaler" means a person whose place of  
11 business is located in New Mexico and who sells, offers for  
12 sale or possesses for the purpose of sale any alcoholic  
13 beverages for resale by the purchaser;

14 X. "wine" includes the words "fruit juices" and  
15 means alcoholic beverages obtained by the fermentation of the  
16 natural sugar contained in fruit or other agricultural  
17 products, with or without the addition of sugar or other  
18 products, that do not contain less than one-half percent nor  
19 more than twenty-one percent alcohol by volume;

20 Y. "wine bottler" means a New Mexico wholesaler  
21 who is licensed to sell wine at wholesale for resale only and  
22 who buys wine in bulk and bottles it for wholesale resale;

23 Z. "winegrower" means a person who owns or  
24 operates a business for the manufacture of wine;

25 AA. "winer" means a winegrower; and

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1 BB. "winery" means a facility in which a  
2 winegrower manufactures and stores wine."

3 SECTION 29. Section 60-4B-4.1 NMSA 1978 (being Laws  
4 1993, Chapter 329, Section 1) is recompiled as Section  
5 60-3A-6.1 NMSA 1978 and is amended to read:

6 "60-3A-6.1. LOCAL LAW ENFORCEMENT--DEPARTMENT OF PUBLIC  
7 SAFETY--REPORTING REQUIREMENTS--AUTHORITY TO REQUEST  
8 INVESTIGATIONS.--

9 A. Within thirty days following the date of  
10 issuance of a citation pursuant to the provisions of the  
11 Liquor Control Act, the department of public safety or the  
12 law enforcement agency of a municipality or county shall  
13 report alleged violations of that act to the alcohol and  
14 gaming division of the regulation and licensing department.

15 B. The director of the alcohol and gaming  
16 division of the regulation and licensing department may  
17 request the investigators [~~of the special investigations~~  
18 ~~division~~] of the department of public safety to investigate  
19 licensees or activities that the director has reasonable  
20 cause to believe are in violation of the Liquor Control Act."

21 SECTION 30. Section 60-4B-4 NMSA 1978 (being Laws 1981,  
22 Chapter 39, Section 7) is recompiled as Section 60-3A-8.1  
23 NMSA 1978 and is amended to read:

24 "60-3A-8.1. INVESTIGATIVE AUTHORITY AND POWERS.--

25 A. For the purpose of enforcing the provisions of  
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1 the Liquor Control Act, the director is authorized to examine  
2 and to require the production of [~~any~~] pertinent records,  
3 books, information or evidence, to require the presence of  
4 any person and to require [~~him~~] the person to testify under  
5 oath concerning the subject matter of the inquiry and to make  
6 a permanent record of the proceedings.

7 B. The director is vested with the power to issue  
8 subpoenas. In no case shall a subpoena be made returnable  
9 less than five days from the date of service.

10 C. Any subpoena issued by the director shall  
11 state with reasonable certainty the nature of the evidence  
12 required to be produced, the time and place of the hearing,  
13 the nature of the inquiry or investigation and the  
14 consequences of failure to obey the subpoena, and shall bear  
15 the seal of the department and be attested to by the  
16 director.

17 D. After service of a subpoena upon [~~him~~] a  
18 person, if [~~any~~] the person neglects or refuses to appear or  
19 produce records or other evidence in response to the subpoena  
20 or neglects or refuses to give testimony, as required, the  
21 director may invoke the aid of the New Mexico district courts  
22 in the enforcement of the subpoena. In appropriate cases,  
23 the court shall issue its order requiring the person to  
24 appear and testify or produce [~~his~~] the person's books or  
25 records and may, upon failure of the person to comply with

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1 the order, punish the person for contempt.

2 E. The director may exchange identification  
3 records and information with law enforcement agencies for  
4 official use. ~~Any~~ Identification records received from the  
5 United States department of justice, including identification  
6 records based on fingerprints, shall be used only to  
7 effectuate the licensing purposes and provisions of the  
8 Liquor Control Act. The department shall not disseminate  
9 such information except to other law enforcement agencies for  
10 official use only.

11 F. For the purposes of this section, "director"  
12 means the director of the alcohol and gaming division of the  
13 regulation and licensing department."

14 SECTION 31. Section 65-1-2 NMSA 1978 (being Laws 1978,  
15 Chapter 19, Section 1, as amended) is amended to read:

16 "65-1-2. DEFINITIONS.--As used in the Motor  
17 Transportation Act:

18 A. "combination" means any connected assemblage  
19 of a motor vehicle and one or more semitrailers, trailers or  
20 semitrailers converted to trailers by means of a converter  
21 gear;

22 B. "combination gross vehicle weight" means the  
23 sum total of the gross vehicle weights of all units of a  
24 combination;

25 C. "commercial motor carrier vehicle" means a

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1 self-propelled or towed vehicle, other than special mobile  
2 equipment, used on public highways in commerce to transport  
3 passengers or property when the vehicle:

4 (1) is operated interstate and has a gross  
5 vehicle weight rating or gross combination weight rating, or  
6 gross vehicle weight or gross combination weight, of four  
7 thousand five hundred thirty-six kilograms, or ten thousand  
8 one pounds or more; or is operated only in intrastate  
9 commerce and has a gross vehicle weight rating or gross  
10 combination weight rating, or gross vehicle weight or gross  
11 combination weight, of twenty-six thousand one or more  
12 pounds;

13 (2) is designed or used to transport more  
14 than eight passengers, including the driver, and is used to  
15 transport passengers for compensation;

16 (3) is designed or used to transport more  
17 than fifteen passengers, including the driver, and is not  
18 used to transport passengers for compensation; or

19 (4) is used to transport hazardous materials  
20 of the type or quantity requiring placarding under rules  
21 prescribed by applicable federal or state law;

22 D. "converter gear" means any assemblage of one  
23 or more axles with a fifth wheel mounted thereon, designed  
24 for use in a combination to support the front end of a  
25 semitrailer but not permanently attached thereto. A

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1 "converter gear" shall not be considered a vehicle as that  
2 term is used in Chapter 66 NMSA 1978, but its weight  
3 [~~attributable thereto~~] shall be included in declared gross  
4 weight;

5 E. "declared gross weight" means maximum gross  
6 vehicle weight or combination gross vehicle weight at which a  
7 vehicle or combination will be operated during the  
8 registration period as declared by the registrant for  
9 registration and fee purposes. The vehicle or combination  
10 shall have only one "declared gross weight" for all operating  
11 considerations;

12 F. "department", without modification, means the  
13 department of public safety, the secretary of public safety  
14 or any employee of the department exercising authority  
15 lawfully delegated to that employee by the secretary;

16 G. "director" means the secretary;

17 H. "division" means the [~~motor transportation~~]  
18 New Mexico state police division of the department;

19 I. "evidence of registration" means documentation  
20 issued by the taxation and revenue department identifying a  
21 motor carrier vehicle as being registered with New Mexico or  
22 documentation issued by another state pursuant to the terms  
23 of a multistate agreement on registration of vehicles to  
24 which this state is a party identifying a motor carrier  
25 vehicle as being registered with that state; provided that

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1 evidence of payment of the weight distance tax and permits  
2 obtained under either the Special Fuels Supplier Tax Act or  
3 Trip Tax Act are not "evidence of registration";

4 J. "field enforcement" or "in the field" means  
5 patrolling of the highway, stopping of commercial motor  
6 carrier vehicles or establishing ports of entry and  
7 roadblocks for the purpose of checking motor carriers and  
8 includes similar activities;

9 K. "freight trailer" means any trailer,  
10 semitrailer or pole trailer drawn by a truck tractor or road  
11 tractor and any trailer, semitrailer or pole trailer drawn by  
12 a truck that has a gross vehicle weight of more than twenty-  
13 six thousand pounds, but the term does not include house  
14 trailers, trailers of less than one-ton carrying capacity  
15 used to transport animals or fertilizer trailers of less than  
16 three thousand five hundred pounds empty weight;

17 L. "gross vehicle weight" means the weight of a  
18 vehicle without load plus the weight of any load thereon;

19 M. "motor carrier" means any person that owns,  
20 controls, operates or manages any motor vehicle with gross  
21 vehicle weight of twelve thousand pounds or more that is used  
22 to transport persons or property on the public highways of  
23 this state;

24 N. "motor vehicle" means any vehicle or device  
25 that is propelled by an internal combustion engine or

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1 electric motor power that is used or may be used on the  
2 public highways for the purpose of transporting persons or  
3 property and includes any connected trailer or semitrailer;

4 O. "one-way rental fleet" means two or more  
5 vehicles each having a gross vehicle weight of under twenty-  
6 six thousand one pounds and rented to the public without a  
7 driver;

8 P. "person" means any individual, estate, trust,  
9 receiver, cooperative association, club, corporation,  
10 company, firm, partnership, joint venture, syndicate or other  
11 association; "person" also means, to the extent permitted by  
12 law, any federal, state or other governmental unit or  
13 subdivision or an agency, department or instrumentality  
14 [~~thereof~~]; "person" also includes an officer or employee of a  
15 corporation, a member or employee of a partnership or any  
16 individual who, as such, is under a duty to perform any act  
17 in respect of which a violation occurs;

18 Q. "properly registered" means bearing the  
19 lawfully issued and currently valid evidence of registration  
20 of this or another jurisdiction, regardless of the owner's  
21 residence, except in those cases where the evidence has been  
22 procured by misrepresentation or fraud;

23 R. "public highway" means every way or place  
24 generally open to the use of the public as a matter of right  
25 for the purpose of vehicular travel, even though it may be

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1 temporarily closed or restricted for the purpose of  
2 construction, maintenance, repair or reconstruction;

3 S. "secretary" means the secretary of public  
4 safety and, except for the purposes of Section 65-1-33 NMSA  
5 1978, also includes ~~[the]~~ a deputy secretary and any division  
6 director delegated by the secretary;

7 T. "state" or "jurisdiction" means a state,  
8 territory or possession of the United States, the District of  
9 Columbia, the commonwealth of Puerto Rico, a foreign country  
10 or a state or province of a foreign country; and

11 U. "utility trailer" means any trailer,  
12 semitrailer or pole trailer and includes house trailers that  
13 exceed neither eight feet in width nor forty feet in length,  
14 but does not include freight trailers, trailers of less than  
15 one-ton carrying capacity used to transport animals or  
16 fertilizer trailers of less than three thousand five hundred  
17 pounds empty weight."

18 **SECTION 32.** Section 65-1-35 NMSA 1978 (being Laws 1967,  
19 Chapter 97, Section 44, as amended) is amended to read:

20 "65-1-35. DUPLICATE RECORDS.--If the ~~[motor~~  
21 ~~transportation]~~ New Mexico state police division in carrying  
22 out any of the powers and duties granted or imposed on it by  
23 the Motor Transportation Act needs duplicates of any records  
24 not transferred to it by ~~[this]~~ that act, all departments,  
25 agencies and commissions of this state shall, upon request,

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1 make the records available to the division for copying."

2 SECTION 33. Section 66-1-4.2 NMSA 1978 (being Laws  
3 1990, Chapter 120, Section 3, as amended) is amended to read:

4 "66-1-4.2. DEFINITIONS.--As used in the Motor Vehicle  
5 Code:

6 A. "bicycle" means every device propelled by  
7 human power upon which any person may ride, having two tandem  
8 wheels, except scooters and similar devices;

9 B. "bureau" means the traffic safety bureau of  
10 the [~~state highway and~~] department of transportation  
11 [~~department~~];

12 C. "bus" means every motor vehicle designed and  
13 used for the transportation of persons and every motor  
14 vehicle, other than a taxicab, designed and used for the  
15 transportation of persons for compensation; and

16 D. "business district" means the territory  
17 contiguous to and including a highway when within any three  
18 hundred feet along the highway there are buildings in use for  
19 business or industrial purposes, including but not limited to  
20 hotels, banks or office buildings, railroad stations and  
21 public buildings that occupy at least fifty percent of the  
22 frontage on one side or fifty percent of the frontage  
23 collectively on both sides of the highway."

24 SECTION 34. Section 66-3-302 NMSA 1978 (being Laws  
25 1978, Chapter 35, Section 78, as amended) is amended to read:

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1 "66-3-302. CARAVAN FEE.--

2 A. A person or an employee, agent or  
3 representative of that person shall not use the highways of  
4 New Mexico for the transportation of any vehicle, regardless  
5 of whether the vehicle is registered in another state or  
6 whether the vehicle is transported on its own wheels or on  
7 another vehicle or by being drawn or towed behind another, if  
8 the vehicle is transported by any person or the agents or  
9 employees of that person engaged in the business of  
10 transporting vehicles or if the vehicle is being transported  
11 for the purpose of delivery to any purchaser of the vehicle  
12 on a sale or contract of sale previously made, unless the  
13 vehicle carries:

14 (1) a valid New Mexico registration plate;

15 (2) a valid dealer's plate issued by the  
16 department;

17 (3) a special permit for the use of the  
18 highways of this state for the transportation of the vehicle  
19 in the manner in which the vehicle is being transported,  
20 which has first been obtained and the fee paid as specified  
21 in this section; or

22 (4) a valid temporary transportation permit  
23 issued under Subsection B of Section 66-3-6 NMSA 1978.

24 B. Special permits for the use of the highways of  
25 this state for the transportation of such vehicles shall be

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1 issued by the department of public safety upon application on  
2 the form prescribed by the department of public safety and  
3 upon payment of a fee of ten dollars (\$10.00) for each  
4 vehicle transported by use of its own power and a fee of  
5 seven dollars (\$7.00) for each vehicle carried in or on  
6 another vehicle or towed or drawn by another vehicle and not  
7 transported in whole or in part by the use of its own power.  
8 A fee imposed pursuant to this section may be referred to as  
9 a "caravan fee". Every permit shall show upon its face the  
10 registration number assigned to each vehicle, the name and  
11 address of the owner, the manner of transportation authorized  
12 and a description of the vehicle registered, including the  
13 engine number. The permit shall be carried at all times by  
14 the person in charge of the vehicle. A suitable tag or  
15 placard for each vehicle may be issued by the department of  
16 public safety and, if issued, shall be at all times displayed  
17 on each vehicle being transported. The permit, tag or  
18 placard shall not be used upon or in connection with the  
19 transportation of any vehicle other than the one for which  
20 the permit, tag or placard is issued.

21 C. A caravan fee shall not apply to the  
22 transportation of vehicles carried on another vehicle for the  
23 operation of which a weight distance tax is paid, nor shall  
24 the vehicle transported be required to carry a registration  
25 plate or temporary transportation permits. The ~~motor~~

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1 ~~transportation and the~~] New Mexico state police [~~divisions~~  
2 division of the department of public safety [~~are~~] is  
3 authorized to impound any vehicle transported in violation of  
4 the Motor Transportation Act until a proper permit has been  
5 secured and any fine levied has been paid."

6 SECTION 35. Section 66-7-314 NMSA 1978 (being Laws  
7 1978, Chapter 35, Section 418, as amended) is amended to  
8 read:

9 "66-7-314. MOVEMENT OF HAZARDOUS VEHICLE--ESCORT MAY BE  
10 REQUIRED.--When, in the judgment of the [~~motor~~  
11 ~~transportation~~] New Mexico state police division of the  
12 department of public safety or local authorities with respect  
13 to highways under their jurisdiction, the movement of any  
14 vehicle is deemed a hazard to traffic upon a highway over  
15 which the vehicle is to travel, the granting of permission  
16 for the movement of the vehicle may be conditioned upon a  
17 special escort accompanying the hazardous vehicle."

18 SECTION 36. Section 66-7-411 NMSA 1978 (being Laws  
19 1978, Chapter 35, Section 482, as amended) is amended to  
20 read:

21 "66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES  
22 AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES.--

23 A. A police officer with the [~~motor~~  
24 ~~transportation division or the~~] New Mexico state police  
25 division of the department of public safety, having reason to  
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1 believe that the weight of a vehicle and load is unlawful,  
2 may require the driver to stop and submit to weighing of the  
3 vehicle and load by means of either portable or stationary  
4 scales and may require the vehicle to be driven to the  
5 nearest scales approved by the department of public safety if  
6 the scales are within five miles.

7 B. When a police officer with the [~~motor~~  
8 ~~transportation division or the~~] New Mexico state police  
9 division of the department of public safety or a  
10 transportation inspector, upon weighing a vehicle or  
11 combination, determines that the gross vehicle weight or  
12 combination gross vehicle weight exceeds the maximum  
13 authorized by Sections 66-7-409 and 66-7-410 NMSA 1978, the  
14 officer or inspector shall require the driver or owner of the  
15 vehicle or combination to unload that portion of the load  
16 necessary to decrease the gross vehicle weight or combination  
17 gross vehicle weight to the authorized maximum.

18 C. A driver of a vehicle who fails or refuses to  
19 stop and submit the vehicle and load to weighing or who fails  
20 or refuses, when directed by a duly authorized police officer  
21 with the [~~motor transportation division or the~~] New Mexico  
22 state police division of the department of public safety or a  
23 transportation inspector, upon a weighing of the vehicle, to  
24 unload the vehicle and otherwise comply with the provisions  
25 of this section is guilty of a misdemeanor.

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1 D. A shipper or a person loading the vehicle who  
2 intentionally overloads a vehicle that the shipper or person  
3 has reason to believe will travel in that condition upon a  
4 public highway is guilty of a misdemeanor and shall be fined  
5 in accordance with Subsection E of this section.

6 E. In all cases of violations of weight  
7 limitations, the penalties shall be assessed and imposed in  
8 accordance with the following schedule:

9 WEIGHT OF EXCESS

10 LOAD IN POUNDS

AMOUNT OF FINE

|                    |   |
|--------------------|---|
| 11 1 to 3,000      | fifty dollars (\$50.00)                               |
| 12 3,001 to 4,000  | eighty dollars (\$80.00)                              |
| 13 4,001 to 5,000  | <del>[one hundred dollars (\$100)]</del> <u>one</u>   |
| 14                 | <u>hundred fifty dollars (\$150)</u>                  |
| 15 5,001 to 6,000  | <del>[one hundred fifty dollars (\$150)]</del>        |
| 16                 | <u>two hundred fifty dollars (\$250)</u>              |
| 17 6,001 to 7,000  | <del>[two hundred fifty dollars (\$250)]</del>        |
| 18                 | <u>four hundred dollars (\$400)</u>                   |
| 19 7,001 to 8,000  | <del>[three hundred fifty dollars</del>               |
| 20                 | <del>(\$350)]</del> <u>five hundred fifty dollars</u> |
| 21                 | <u>(\$550)</u>  |
| 22 8,001 to 9,000  | <del>[four hundred dollars (\$400)]</del>             |
| 23                 | <u>seven hundred dollars (\$700)</u>                  |
| 24 9,001 to 10,000 | <del>[five hundred dollars (\$500)]</del>             |
| 25                 | <u>eight hundred fifty dollars (\$850)</u>            |



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1 (a) establish whether the move could  
2 be made without visible or documented damages to the portion  
3 of road or bridges upon which the move is to be made;

4 (b) establish whether the move could  
5 be made without visible or documented damages to any private  
6 facilities along the road upon which the move is to be made;  
7 and

8 (c) estimate the cost for any  
9 necessary modifications the move may cause; and

10 (2) when required, the applicant has  
11 submitted to the [~~motor transportation~~] New Mexico state  
12 police division of the department of public safety and the  
13 local highway authorities all pertinent information requested  
14 of the applicant by the [~~motor transportation~~] New Mexico  
15 state police division [~~of the department of public safety~~].  
16 If the submitted data [~~is~~] are not acceptable to the [~~state~~  
17 ~~highway and~~] department of transportation [~~department~~], the  
18 applicant will be advised by the [~~motor transportation~~] New  
19 Mexico state police division [~~of the department of public~~  
20 ~~safety~~] that engineering investigations will be conducted by  
21 the [~~state highway and~~] department of transportation  
22 [~~department~~], and the cost incurred by the [~~state highway~~  
23 ~~and~~] department of transportation [~~department~~] will be paid  
24 by the applicant as an added cost to [~~his~~] the permit fee.

25 B. The [~~motor transportation~~] New Mexico state

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1 police division [~~of the department of public safety~~] shall  
2 adopt the necessary rules and regulations for the development  
3 of data for an investigation to determine whether to issue  
4 any special permit pursuant to Section 66-7-413 NMSA 1978.

5 C. The applicant or the applicant's employer  
6 shall pay the costs for any modifications to the road,  
7 bridges or private facilities along the road that the [~~motor~~  
8 ~~transportation~~] New Mexico state police division [~~of the~~  
9 ~~department of public safety~~] has determined are necessary for  
10 the issuance of the special permit and the costs for any  
11 damages to the road or bridges that are the result of the  
12 move and the fault of the mover and not the [~~motor~~  
13 ~~transportation~~] New Mexico state police division [~~of the~~  
14 ~~department of public safety~~].

15 D. Any person who violates the provisions of  
16 Subsection A of this section [~~shall be~~] is guilty of a  
17 misdemeanor and shall be punished by a fine of not more than  
18 one thousand dollars (\$1,000) or imprisonment for a definite  
19 term not to exceed six months, or both.

20 E. Nothing contained in this section shall limit  
21 in any manner the authority of the state, a county, a  
22 municipality or a political subdivision [~~thereof~~] to collect  
23 damages for any unlawful use of highways as provided by law."

24 **SECTION 39.** Section 66-7-413.4 NMSA 1978 (being Laws  
25 2001, Chapter 20, Section 2, as amended) is amended to read:

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1 "66-7-413.4. PERMITS FOR EXCESSIVE WEIGHT.--

2 A. In addition to the authority granted in  
3 Section 66-7-413 NMSA 1978, the [~~motor transportation~~] New  
4 Mexico state police division of the department of public  
5 safety may issue special permits authorizing an increase of  
6 up to twenty-five percent in axle weight for liquid hauling  
7 tank vehicles whenever the liquid hauling tank vehicles would  
8 have to haul less than a full tank under the maximum weights  
9 authorized in [~~Section~~] Sections 66-7-409 and 66-7-410 NMSA  
10 1978. A special permit under this section may be issued for  
11 a single trip or for a year. The fee for the permits shall  
12 be thirty-five dollars (\$35.00) for a single-trip permit and  
13 one hundred twenty dollars (\$120) for an annual permit.  
14 Revenue from the permit fee shall be used to build, maintain,  
15 repair or reconstruct the highways and bridges of this state.  
16 Revenue from the permit shall be collected for the department  
17 of transportation and transferred to the state road fund.

18 B. The special permits authorized by this section  
19 shall not be valid for transportation of excessive weights on  
20 the interstate system as currently defined in federal law or  
21 as that system may be defined in the future. A special  
22 permit issued pursuant to this section shall not be valid for  
23 gross vehicle weights in excess of eighty-six thousand four  
24 hundred pounds or for a combination vehicle.

25 C. If the federal highway administration of the  
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1 United States department of transportation gives official  
2 notice that money will be withheld or that this section  
3 violates the grandfather provision of 23 USCA 127, the  
4 secretary may withdraw all special permits and discontinue  
5 issuance of all special permits authorized in this section  
6 until such time that final determination is made. If the  
7 final determination allows the state to issue the special  
8 permits without sanction of funds or weight tables, the  
9 secretary shall reissue the special permits previously  
10 withdrawn and make the special permits available pursuant to  
11 this section."

12 SECTION 40. Section 66-7-415 NMSA 1978 (being Laws  
13 1955, Chapter 37, Section 12, as amended) is amended to read:

14 "66-7-415. WHEN THE STATE TRANSPORTATION COMMISSION OR  
15 LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS.--

16 A. Local authorities, with respect to streets  
17 under their jurisdiction, may also, by ordinance or  
18 resolution, prohibit the operation of trucks or other  
19 commercial vehicles or may impose limitations as to [~~the~~  
20 size or weight [~~thereof~~] on designated streets in areas that  
21 are primarily residential, which prohibitions and limitations  
22 shall be designated by appropriate signs placed on [~~such~~] the  
23 street.

24 B. The local authority enacting an ordinance or  
25 resolution shall erect or cause to be erected and maintained

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1 signs designating the provisions of the ordinance or  
2 resolution at each end of that portion of [~~any~~] the street  
3 affected, and the ordinance or resolution shall not be  
4 effective [~~unless and~~] until [~~such~~] signs are erected and  
5 maintained and notice [~~thereof~~] given in writing to the  
6 nearest officer or employee of the [~~motor transportation~~] New  
7 Mexico state police division of the department of public  
8 safety authorized to issue special permits.

9 C. The state transportation commission shall  
10 likewise have authority, as granted to local authorities in  
11 Subsections A and B of this section, to determine by  
12 resolution and to impose restrictions as to the size and  
13 weight of vehicles operated upon any highways under the  
14 jurisdiction of the commission, and such restrictions shall  
15 be effective [~~on and after~~] upon the passage of a resolution  
16 and when signs giving notice thereof are erected upon the  
17 highway or portion of any highway affected by [~~such~~] the  
18 resolution. The commission shall deliver a copy of all  
19 restrictions adopted by it to the [~~motor transportation~~] New  
20 Mexico state police division of the department of public  
21 safety."

22 SECTION 41. Section 66-7-505 NMSA 1978 (being Laws  
23 1978, Chapter 35, Section 492, as amended) is amended to  
24 read:

25 "66-7-505. ADVISORY COMMITTEE--CREATION--MEMBERS--  
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1 TERMS.--

2 A. There is created a five-member advisory  
3 committee to the bureau. The chief is, ex officio, the chair  
4 and a voting member of the committee. The governor shall  
5 appoint three members, to terms coterminous with the  
6 governor's tenure, who shall have the following  
7 qualifications:

8 (1) one member who is representative of the  
9 law enforcement agencies of this state;

10 (2) one member who is representative of the  
11 school bus transportation function of the public education  
12 department; and

13 (3) one member who is representative of the  
14 ~~[motor transportation]~~ New Mexico state police division of  
15 the department of public safety.

16 B. Appointees who are public officers or public  
17 employees shall be compensated for attendance at meetings  
18 according to the Per Diem and Mileage Act. Appointees who  
19 are not public officers or employees shall be compensated for  
20 attendance at meetings in commensurate amount."

21 SECTION 42. TEMPORARY PROVISIONS--TRANSFER OF  
22 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On  
23 July 1, 2015:

24 A. all personnel, appropriations, money, records,  
25 equipment, supplies and other property of the special

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1 investigations and motor transportation divisions of the  
2 department of public safety shall be transferred to the New  
3 Mexico state police division of the department of public  
4 safety;

5 B. all contracts pertaining to the special  
6 investigations and motor transportation divisions of the  
7 department of public safety shall be binding and effective on  
8 the department of public safety; and

9 C. all references in law to the special  
10 investigations or motor transportation division of the  
11 department of public safety shall be deemed to refer to the  
12 New Mexico state police division of the department of public  
13 safety.

14 SECTION 43. TEMPORARY PROVISIONS--TRANSFER OF  
15 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On  
16 July 1, 2015:

17 A. all personnel, appropriations, money, records,  
18 equipment, supplies and other property of the training and  
19 recruiting division of the department of public safety shall  
20 be transferred to the New Mexico law enforcement academy  
21 division of the department of public safety;

22 B. all contracts pertaining to the training and  
23 recruiting division of the department of public safety shall  
24 be binding and effective on the New Mexico law enforcement  
25 academy division of the department of public safety; and

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