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SENATE BILL 301

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO THE DEPARTMENT OF PUBLIC SAFETY; REORGANIZING THE DEPARTMENT OF PUBLIC SAFETY; PLACING THE SPECIAL INVESTIGATIONS DIVISION, THE TRAINING AND RECRUITING DIVISION AND THE MOTOR TRANSPORTATION DIVISION UNDER THE NEW MEXICO STATE POLICE 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 as follows]~~ the following divisions:

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

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

10           "9-19-6. SECRETARY--DUTIES AND GENERAL POWERS.--

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

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

23                   (1) except as otherwise provided in the  
24 Department of Public Safety Act, exercise general supervisory  
25 and appointing authority over all department employees, subject

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1 to any applicable personnel laws and regulations [~~provided that~~  
2 ~~the secretary shall not reduce positions for the seventy-sixth~~  
3 ~~fiscal year budgeted in the General Appropriation Act of 1987~~  
4 ~~except for cause, by attrition or by occurrence of a vacancy~~];

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

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

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

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

24 (6) conduct research and studies that will  
25 improve the operation of the department and examine other

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1 entities and functions of state government related to public  
2 safety for purposes of possible transfer to the department;

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

8 (8) prepare an annual budget of the  
9 department;

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

12 (a) minimize or eliminate duplication of  
13 services and jurisdictional conflicts;

14 (b) coordinate activities and resolve  
15 problems of mutual concern; and

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

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

25 (11) appoint the director of the New Mexico

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1 law enforcement academy, subject to the approval of the New  
2 Mexico law enforcement academy board;

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

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

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

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

23 E. The secretary may make and adopt such reasonable  
24 and procedural rules and regulations as may be necessary to  
25 carry out the duties of the department and its divisions. No

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

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

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

24 "9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND  
25 DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

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

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

21 The New Mexico state police division shall also include:

22                   ~~[G.]~~ (1) the special investigations ~~[division]~~  
23 unit, which shall consist of the enforcement personnel of the  
24 ~~[department of alcoholic beverage control]~~ former special  
25 investigations division and such other personnel as may be

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1 assigned by the secretary or by the governor pursuant to an  
2 executive order as authorized in the Department of Public  
3 Safety Act. The ~~[division]~~ unit is responsible for the  
4 enforcement of the New Mexico Bingo and Raffle Act and the  
5 Liquor Control Act;

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

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

17 ~~[D.]~~ C. The technical support division shall  
18 consist of functions such as ~~[communications]~~ crime laboratory  
19 and records.

20 ~~[E.]~~ ~~The training and recruiting division shall~~  
21 ~~consist of the personnel of the New Mexico law enforcement~~  
22 ~~academy, the New Mexico state police training division and all~~  
23 ~~other training personnel and functions of the department as the~~  
24 ~~secretary may transfer to this division.~~

25 ~~F.]~~ D. The administrative services division shall

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1 consist of the administrative services [~~and services divisions~~  
2 ~~of the New Mexico state police and those administrative support~~  
3 ~~personnel of the other existing departments, divisions or~~  
4 ~~offices]~~ as the secretary deems necessary.

5 E. The information technology division shall  
6 consist of such functions as computer and technology support as  
7 the secretary deems necessary."

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

10 "29-2-1.1. DEFINITIONS.--As used in Chapter 29 NMSA 1978:

11 A. "chief" or "chief of the state police" means the  
12 director of the New Mexico state police division of the  
13 department;

14 B. "commission" means the public safety advisory  
15 commission;

16 C. "department" means the department of public  
17 safety;

18 D. "member of the New Mexico state police" means a  
19 commissioned officer of the New Mexico state police;

20 E. "New Mexico law enforcement academy" or  
21 "academy" means [~~a bureau~~] the section of the training and  
22 recruiting bureau of the New Mexico state police division of  
23 the department of public safety established pursuant to the Law  
24 Enforcement Training Act;

25 F. "New Mexico state police" means the New Mexico

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1 state police division of the department; and

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

4 H.] G. "secretary" means the secretary of public  
5 safety."

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

8 "29-2-3. NEW MEXICO STATE POLICE--ORGANIZATION.--The New  
9 Mexico state police shall consist of a chief and such  
10 [~~patrolmen~~] patrol officers, sergeants, lieutenants and  
11 captains as the [~~New Mexico state police board~~] secretary may  
12 deem advisable within the limits of the funds appropriated for  
13 the New Mexico state police; provided [~~however~~] that the number  
14 of captains, lieutenants and sergeants shall not exceed twenty-  
15 five percent of the total number of the police, exclusive of  
16 the chief; but this requirement shall not be interpreted so as  
17 to require the demotion of any member of the previous state  
18 police division [~~of the criminal justice department~~], the  
19 former motor transportation division, the former special  
20 investigations division or the former training and recruiting  
21 division."

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

24 "29-2-4. APPOINTMENTS--REMOVAL.--The chief of the New  
25 Mexico state police shall be appointed by the [~~New Mexico state~~

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1 ~~police board]~~ secretary. All [~~patrolmen~~] patrol officers and  
2 other officers and all civilian employees shall be appointed by  
3 the chief."

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

6 "29-2-4.1. RULES [~~AND REGULATIONS~~].--The [~~New Mexico~~  
7 ~~state police board]~~ secretary shall promulgate rules [~~and~~  
8 ~~regulations~~] governing employment and operating practices and  
9 related matters for employees of the New Mexico state police."

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

12 "29-2-6. QUALIFICATIONS OF MEMBERS.--

13 A. Members of the New Mexico state police, except  
14 the chief, shall:

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

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

19 (3) except as otherwise provided in Subsection  
20 B of this section, at the time of their appointment, have  
21 completed at least sixty hours of college credit or have had  
22 two years of military or law enforcement service, except those  
23 members of the former motor transportation division, the former  
24 special investigations division and the former training and  
25 recruiting division;

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

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

7 B. Notwithstanding the requirement of Paragraph (3)  
8 of Subsection A of this section, the chief may appoint a member  
9 of the New Mexico state police who has at least thirty hours of  
10 college credit, and the chief shall determine an appropriate  
11 time period after appointment for the member to complete the  
12 additional thirty hours of college credit required. This  
13 provision shall not apply to members of the former motor  
14 transportation division, the former special investigations  
15 division and the former training and recruiting division.

16 C. A person shall not be commissioned a member of  
17 the New Mexico state police who is related by blood or marriage  
18 within the fourth degree to a member of the public safety  
19 advisory commission."

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

22 "29-2-7. COMMISSIONED OFFICERS--APPLICATION--PROCEDURE.--  
23 The New Mexico state police shall cause all applicants for the  
24 position of commissioned officer to submit a written detailed  
25 application on [~~such~~] forms as the [~~board~~] secretary shall

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1 prescribe, and the [~~board~~] secretary shall cause an  
2 investigation to be made of all applicants, subsequent to their  
3 taking the examination [~~hereinafter~~] referred to in Section  
4 29-2-8 NMSA 1978, for the purpose of determining the moral  
5 character, general reputation and fitness of any applicant.  
6 [~~and. Any such~~] An applicant who is found unfit as a result of  
7 [~~such~~] the investigation shall be disqualified for employment.  
8 The [~~board~~] secretary shall by rule prescribe the physical  
9 qualifications of applicants and shall require each applicant  
10 to submit to a physical examination by [~~such~~] doctors as the  
11 [~~board~~] secretary shall designate. [~~and. Any~~] An applicant  
12 who does not meet the physical requirements prescribed by the  
13 [~~board~~] secretary shall be disqualified for employment.  
14 Inasmuch as laws have been enacted providing for retirement,  
15 disability and life insurance funds for members of the New  
16 Mexico state police, it is the intention of the legislature  
17 that no applicants will be appointed who are in such physical  
18 condition that the cost of such protection will thereby be  
19 increased."

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

22 "29-2-8. NEW MEXICO STATE POLICE--COMMISSIONED OFFICERS--  
23 EXAMINATION.--The New Mexico state police shall conduct a  
24 written examination of all applicants for the position of  
25 commissioned officer for the purpose of determining their

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1 mental qualifications and knowledge of the laws of New Mexico  
2 and their ability to render assistance in case of accidents  
3 upon the public highways [~~and~~]. No applicant shall be  
4 appointed a member of the New Mexico state police, other than  
5 the chief, until [~~he shall have~~] the applicant has passed  
6 [~~such~~] the written examination with a grade of not less than  
7 seventy-two percent. This section shall not apply to members  
8 of the former motor transportation division, the former special  
9 investigations division or the former training and recruiting  
10 division."

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

13 "29-2-9. PROBATIONARY PERIOD--LENGTH--PERMANENT  
14 COMMISSION--SALARY.--

15 A. All new appointments as members of the New  
16 Mexico state police shall be for a probationary period of two  
17 years. During [~~such~~] the probationary period, [~~such~~] the new  
18 members may be removed or suspended at the discretion of the  
19 chief [~~of the New Mexico state police~~]. At the end of two  
20 years of satisfactory service and upon recommendation of the  
21 chief and with concurrence of the [~~New Mexico state police~~  
22 ~~board~~] secretary, the appointee may receive a permanent  
23 commission as a member of the New Mexico state police.

24 However, the probationary period may be extended beyond a two-  
25 year period upon the recommendation of the chief with the

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1 concurrence of the ~~[board]~~ secretary. This subsection shall  
2 not apply to the members of the former motor transportation  
3 division, the former special investigations division or the  
4 former training and recruiting division. Members who are on  
5 probation on July 1, 2014 shall complete the probationary  
6 period under which they were hired.

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

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

12 "29-2-10. PROMOTIONS.--All promotions in the New Mexico  
13 state police to the rank of sergeant shall be made after  
14 written examinations ~~[provided, however, that on such~~  
15 ~~examination for the rank of sergeant, the record of the party~~  
16 ~~seeking promotion as a member of the New Mexico state police~~  
17 ~~and his length of service shall be given a weight of forty~~  
18 ~~percent in such examination]~~. All promotions above the rank of  
19 sergeant shall be made by the chief after concurrence and  
20 approval by the ~~[New Mexico state police board]~~ secretary. The  
21 ranks of sergeant, lieutenant and captain shall be permanent  
22 unless established as an exempt rank by the chief with the  
23 concurrence of the ~~[board]~~ secretary. All promotions above the  
24 rank of captain are by executive appointment of the chief with  
25 concurrence of the ~~[board]~~ secretary, and ~~[such]~~ those persons

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1 shall serve at the pleasure of the chief with the concurrence  
2 of the [~~board~~] secretary."

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

5 "29-2-12. OATH.--All members of the New Mexico state  
6 police and the [~~New Mexico state police board~~] secretary shall  
7 take the oath of office required of all state officials."

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

10 "29-2-14. UNAUTHORIZED WEARING OF UNIFORM OR BADGE--  
11 UNAUTHORIZED MARKING OF MOTOR VEHICLE--PENALTY.--

12 A. Unauthorized wearing of uniform or badge  
13 consists of the wearing or requiring the wearing, without  
14 authorization by the [~~New Mexico state police board~~] secretary,  
15 of a uniform or badge or both whose material, color or design,  
16 or any combination of them, is such that the wearer appears to  
17 be a member of the New Mexico state police.

18 B. Unauthorized marking of motor vehicle consists  
19 of the marking, using, possessing or owning or requiring the  
20 marking or using, without authorization by the [~~board~~]  
21 secretary, of a motor vehicle whose insignia, color or  
22 equipment, or any combination of them, is such that the motor  
23 vehicle appears to be a New Mexico state police motor vehicle.

24 C. Whoever commits unauthorized wearing of uniform  
25 or badge or unauthorized marking of motor vehicle is guilty of

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1 a petty misdemeanor."

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

4 "29-2-16. STATE POLICE SCHOOL--COMPENSATION.--

5 A. Before entering upon ~~[his]~~ the appointee's  
6 duties, every appointee to the New Mexico state police shall be  
7 required to attend ~~[for a period of at least ninety days]~~ a  
8 school of instruction approved by the ~~[New Mexico state police~~  
9 ~~board]~~ secretary. A uniform course of instruction shall be  
10 given all trainees governing the operation, maintenance and  
11 temporary roadside repair of motor vehicles, the laws of the  
12 state ~~[which]~~ that the appointee may be called on to enforce  
13 and other instruction as the ~~[New Mexico state police board]~~  
14 secretary may require. Attendance at the school or other  
15 course of instruction as may be prescribed renders the person  
16 attending subject to the control of the New Mexico state police  
17 during attendance.

18 B. The ~~[board]~~ secretary may, within the budgetary  
19 means of the New Mexico state police, allow subsistence and  
20 compensation for trainees attending the school of instruction  
21 at the New Mexico state police headquarters or elsewhere. The  
22 compensation allowed for each trainee, excluding room and board  
23 for a thirty-day period, shall be in the amount set by the  
24 legislature in the general ~~[appropriations]~~ appropriation act.

25 C. This section shall not apply to members of the

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1 former motor transportation division, the former special  
2 investigations division or the former training and recruiting  
3 division."

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

6 "29-2-18. STATE POLICE CHIEF AND OTHER MEMBERS--POWERS  
7 AND DUTIES.--

8 A. The chief and other members of the New Mexico  
9 state police, ~~[who]~~ when duly commissioned and sworn under the  
10 provisions of Sections 29-2-1 through 29-2-29 NMSA 1978, shall  
11 have the following powers and ~~[shall perform the following~~  
12 ~~duties:~~

13 ~~A. they]~~ shall be:

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

17 ~~[B. they shall be]~~

18 (2) ex-officio deputies and agents of all the  
19 officers and departments of the taxation and revenue department  
20 and of the officers and departments within the state charged  
21 with the registration of motor vehicles, the issuance of  
22 licenses to operators of motor vehicles and of the officers and  
23 departments of the state charged with the regulation and  
24 control of motor vehicles operated upon the public highways for  
25 hire in the transportation of either passengers or property;

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1 and

2 [G. ~~they shall be~~]

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

5 ~~D.~~] B. Upon request of any officer or agency of the  
6 state charged with the duty of enforcing any law of the state  
7 that is made to the [~~New Mexico state police board~~] secretary,  
8 one or more members of the New Mexico state police may be  
9 temporarily designated specifically to enforce the provisions  
10 of such law."

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

13 "29-2-19. CHIEF--QUALIFICATIONS--REMOVAL.--

14 A. The chief is the executive officer of the New  
15 Mexico state police and [~~shall be~~] is subject to the control,  
16 supervision and direction of the [~~New Mexico state police~~  
17 ~~board. He shall~~] secretary. The appointee, at the time of  
18 [~~his~~] appointment as chief by the [~~board~~] secretary, shall have  
19 been a member of the New Mexico state police holding a  
20 permanent commission for ten continuous years immediately prior  
21 to [~~his~~] the appointment and shall have served not less than  
22 three years in a supervisory capacity [~~and said~~]. Appointment  
23 shall be made with the consent of the senate.

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

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

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

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

8 "29-2-20. DISTRICTS.--The New Mexico state police chief,  
9 subject to the control of the [~~New Mexico state police board~~]  
10 secretary, may divide the state into districts and may  
11 designate home stations for the members of the New Mexico state  
12 police."

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

15 "29-2-22. RULEMAKING POWER--RULES TO ESTABLISH STANDARDS  
16 OF CONDUCT.--The [~~New Mexico state police board shall have~~]  
17 secretary has authority to make and promulgate rules and  
18 regulations for the purpose of carrying out the provisions of  
19 Sections 29-2-1 through 29-2-29 NMSA 1978. The [~~New Mexico~~  
20 ~~state police board~~] secretary shall establish by rules, from  
21 time to time, standards of conduct for members of the New  
22 Mexico state police, and a copy [~~thereof~~] of the rules shall be  
23 delivered to each [~~such~~] member and displayed at each station  
24 of the department. [~~Such~~] The rules shall be filed pursuant to  
25 the State Rules Act."

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

3           "29-2-24. WAIVER.--The provisions of Sections 29-2-6  
4 through 29-2-8 NMSA 1978 may be waived by the [~~unanimous vote~~  
5 ~~of all members of the New Mexico state police board~~] secretary  
6 with regard to plainclothes [~~men~~] or special investigators and  
7 other employees not regularly uniformed."

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

10          "29-2-25. ACCIDENT REPORTS.--When any member of the New  
11 Mexico state police [~~shall investigate~~] investigates a motor  
12 vehicle accident, [~~he~~] the member shall make a written report  
13 of [~~his~~] the findings on appropriate forms furnished by the New  
14 Mexico state police, the original of which report [~~and of all~~  
15 ~~reports of motor vehicle accidents heretofore made~~] shall be  
16 filed in the office of the New Mexico state police and shall be  
17 furnished to any person upon written application accompanied by  
18 a fee as set by the [~~New Mexico state police board~~] secretary  
19 for the [~~photostat~~] photocopy of each surface of all documents  
20 comprising a report."

21          SECTION 22. Section 29-7-4 NMSA 1978 (being Laws 1969,  
22 Chapter 264, Section 6, as amended) is amended to read:

23          "29-7-4. POWERS AND DUTIES OF BOARD.--The board shall:  
24                 [A. ~~approve or disapprove the appointment of the~~  
25 ~~director by the secretary;~~

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1           ~~B.~~ A. develop and implement a planned program of:

2                   (1) basic law enforcement training and  
3 in-service law enforcement training, a portion of which may be  
4 conducted on a regional basis; and

5                   (2) basic telecommunicator training and  
6 in-service telecommunicator training, as provided in the Public  
7 Safety Telecommunicator Training Act, a portion of which may be  
8 conducted on a regional basis;

9           ~~G.~~ B. prescribe qualifications for instructors  
10 and prescribe courses of instruction for:

11                   (1) basic law enforcement training and  
12 in-service law enforcement training; and

13                   (2) basic telecommunicator training and  
14 in-service telecommunicator training, as provided in the Public  
15 Safety Telecommunicator Training Act;

16           ~~D.~~ C. report annually to the governor;

17           ~~E.~~ D. in its discretion, accept donations,  
18 contributions, grants or gifts from whatever source for the  
19 benefit of the academy, which donations, contributions, grants  
20 or gifts are appropriated for the use of the academy;

21           ~~F.~~ E. adopt, publish and file, in accordance with  
22 the provisions of the State Rules Act, all regulations and  
23 rules concerning the operation of the academy and the  
24 implementation and enforcement of the provisions of the Law  
25 Enforcement Training Act and the Public Safety Telecommunicator

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1 Training Act;

2 [G-] F. issue, grant, deny, renew, suspend or  
3 revoke a:

4 (1) peace officer's certification for any  
5 cause set forth in the provisions of the Law Enforcement  
6 Training Act; and

7 (2) telecommunicator's certification for any  
8 just cause set forth in the Public Safety Telecommunicator  
9 Training Act;

10 [H-] G. administer oaths, subpoena persons and take  
11 testimony on any matter within the board's jurisdiction; and

12 [I-] H. perform all other acts appropriate to the  
13 development and operation of the academy."

14 SECTION 23. Section 29-7-6.1 NMSA 1978 (being Laws 1993,  
15 Chapter 255, Section 7) is amended to read:

16 "29-7-6.1. COUNTY SHERIFFS--TRAINING REQUIREMENT.--

17 A. Every county sheriff, except sheriffs who have  
18 previously been awarded a certificate attesting to completion  
19 of a basic law enforcement training program, shall participate  
20 in and complete an administrative law enforcement training  
21 program no later than twelve months after the date [he] the  
22 sheriff assumes office as a county sheriff.

23 B. The director of the training and recruiting  
24 [division] bureau of the department of public safety shall  
25 establish the administrative law enforcement training program

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1 for county sheriffs, subject to review and approval by the  
2 executive committee of the sheriff's affiliate of the New  
3 Mexico association of counties.

4 C. A county sheriff's per diem, mileage and tuition  
5 expenses attributed to attendance at the administrative law  
6 enforcement training shall be paid for by the governing body of  
7 the county served by that sheriff."

8 SECTION 24. Section 29-7-12 NMSA 1978 (being Laws 1981,  
9 Chapter 114, Section 12, as amended) is amended to read:

10 "29-7-12. CHARGES--FUND CREATED--USE.--

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

24 B. The training and recruiting [~~division~~] bureau of  
25 the department of public safety may charge state agencies and

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1 institutions, local public bodies, New Mexico Indian tribes and  
2 pueblos and federal agencies and shall charge civilian  
3 participants for the cost of providing advanced training  
4 programs, which charges shall be specified in a tuition and fee  
5 schedule promulgated by the New Mexico law enforcement academy  
6 board and shall not exceed the actual cost of providing the  
7 training programs.

8 C. The training and recruiting ~~[division]~~ bureau of  
9 the department of public safety may charge for the rental or  
10 other use of the academy's facility, personnel and equipment,  
11 which charges shall be specified in a tuition and fee schedule  
12 promulgated by the New Mexico law enforcement academy board and  
13 shall not exceed the actual cost of the facility, personnel or  
14 equipment.

15 D. The "law enforcement training and recruiting  
16 fund" is created in the state treasury. Money received by the  
17 training and recruiting ~~[division]~~ bureau of the department of  
18 public safety for activities specified in this section shall be  
19 deposited in the fund. The department of public safety shall  
20 administer the fund, and money in the fund is appropriated to  
21 the ~~[division]~~ bureau to offset the operational costs of the  
22 ~~[division. Unexpended or unencumbered balances in the fund~~  
23 ~~shall revert to the general fund at the end of a fiscal year]~~  
24 bureau. The money in the fund shall be nonreverting. Money  
25 shall be expended on warrants issued by the secretary of

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1 finance and administration upon vouchers signed by the  
2 secretary of public safety or [~~his~~] the secretary of public  
3 safety's authorized representative.

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

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

9 "60-3A-1. SHORT TITLE.--Chapter 60, Articles 3A, [~~4B, 4C~~]  
10 5A, 6A, 6B, 6C, 6E, 7A, 7B and 8A [~~of Chapter 60~~] NMSA 1978 may  
11 be cited as the "Liquor Control Act"."

12 SECTION 26. Section 60-3A-3 NMSA 1978 (being Laws 1981,  
13 Chapter 39, Section 3, as amended) is amended to read:

14 "60-3A-3. DEFINITIONS.--As used in the Liquor Control  
15 Act:

16 A. "alcoholic beverages" means distilled or  
17 rectified spirits, potable alcohol, brandy, whiskey, rum, gin  
18 and aromatic bitters bearing the federal internal revenue strip  
19 stamps or any similar alcoholic beverage, including blended or  
20 fermented beverages, dilutions or mixtures of one or more of  
21 the foregoing containing more than one-half percent alcohol,  
22 but excluding medicinal bitters;

23 B. "beer" means an alcoholic beverage obtained by  
24 the fermentation of any infusion or decoction of barley, malt  
25 and hops or other cereals in water, and includes porter, beer,

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1 ale and stout;

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

4 D. "club" means:

5 (1) any nonprofit group, including an  
6 auxiliary or subsidiary group, organized and operated under the  
7 laws of this state, with a membership of not less than fifty  
8 members who pay membership dues at the rate of not less than  
9 five dollars (\$5.00) per year and who, under the constitution  
10 and bylaws of the club, have all voting rights and full  
11 membership privileges, and which group is the owner, lessee or  
12 occupant of premises used exclusively for club purposes and  
13 which group the director finds:

14 (a) is operated solely for recreation,  
15 social, patriotic, political, benevolent or athletic purposes;  
16 and

17 (b) has been granted an exemption by the  
18 United States from the payment of the federal income tax as a  
19 club under the provisions of Section 501(a) of the Internal  
20 Revenue Code of 1986, as amended, or, if the applicant has not  
21 operated as a club for a sufficient time to be eligible for the  
22 income tax exemption, it must execute and file with the  
23 director a sworn letter of intent declaring that it will, in  
24 good faith, apply for an income tax exemption as soon as it is  
25 eligible; or

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

8 E. "commission" means the secretary of public  
9 safety when the term is used in reference to the enforcement  
10 and investigatory provisions of the Liquor Control Act and  
11 means the superintendent of regulation and licensing when the  
12 term is used in reference to the licensing provisions of the  
13 Liquor Control Act;

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

22 G. "director" means the [~~director~~] chief of the  
23 [~~special investigations~~] New Mexico state police division of  
24 the department of public safety when the term is used in  
25 reference to the enforcement and investigatory provisions of

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1 the Liquor Control Act and means the director of the alcohol  
2 and gaming division of the regulation and licensing department  
3 when the term is used in reference to the licensing provisions  
4 of the Liquor Control Act;

5 H. "dispenser" means a person licensed under the  
6 provisions of the Liquor Control Act selling, offering for sale  
7 or having in the person's possession with the intent to sell  
8 alcoholic beverages both by the drink for consumption on the  
9 licensed premises and in unbroken packages for consumption and  
10 not for resale off the licensed premises;

11 I. "distiller" means a person engaged in  
12 manufacturing spirituous liquors;

13 J. "golf course" means a tract of land and  
14 facilities used for playing golf and other recreational  
15 activities that includes tees, fairways, greens, hazards,  
16 putting greens, driving ranges, recreational facilities,  
17 patios, pro shops, cart paths and public and private roads that  
18 are located within the tract of land;

19 K. "governing body" means the board of county  
20 commissioners of a county or the city council or city  
21 commissioners of a municipality;

22 L. "hotel" means an establishment or complex having  
23 a resident of New Mexico as a proprietor or manager and where,  
24 in consideration of payment, meals and lodging are regularly  
25 furnished to the general public. The establishment or complex

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1 must maintain for the use of its guests a minimum of twenty-  
2 five sleeping rooms;

3 M. "licensed premises" means the contiguous areas  
4 or areas connected by indoor passageways of a structure and the  
5 outside dining, recreation and lounge areas of the structure  
6 and the grounds and vineyards of a structure that is a winery  
7 that are under the direct control of the licensee and from  
8 which the licensee is authorized to sell, serve or allow the  
9 consumption of alcoholic beverages under the provisions of its  
10 license; provided that in the case of a restaurant, "licensed  
11 premises" includes a restaurant that has operated continuously  
12 in two separate structures since July 1, 1987 and that is  
13 located in a local option district that has voted to disapprove  
14 the transfer of liquor licenses into that local option  
15 district, hotel, golf course or racetrack and all public and  
16 private rooms, facilities and areas in which alcoholic  
17 beverages are sold or served in the customary operating  
18 procedures of the restaurant, hotel, golf course or racetrack.  
19 "Licensed premises" also includes rural dispenser licenses  
20 located in the unincorporated areas of a county with a  
21 population of less than thirty thousand, located in buildings  
22 in existence as of January 1, 2012, that are within one hundred  
23 fifty feet of one another and that are under the direct control  
24 of the license holder;

25 N. "local option district" means a county that has

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1 voted to approve the sale, serving or public consumption of  
2 alcoholic beverages, or an incorporated municipality that falls  
3 within a county that has voted to approve the sale, serving or  
4 public consumption of alcoholic beverages, or an incorporated  
5 municipality of over five thousand population that has  
6 independently voted to approve the sale, serving or public  
7 consumption of alcoholic beverages under the terms of the  
8 Liquor Control Act or any former act;

9 O. "manufacturer" means a distiller, rectifier,  
10 brewer or winer;

11 P. "minor" means a person under twenty-one years of  
12 age;

13 Q. "package" means an immediate container of  
14 alcoholic beverages that is filled or packed by a manufacturer  
15 or wine bottler for sale by the manufacturer or wine bottler to  
16 wholesalers;

17 R. "person" means an individual, corporation, firm,  
18 partnership, copartnership, association or other legal entity;

19 S. "rectifier" means a person who blends, mixes or  
20 distills alcohol with other liquids or substances for the  
21 purpose of making an alcoholic beverage for the purpose of sale  
22 other than to the consumer by the drink, and includes all  
23 bottlers of spirituous liquors;

24 T. "restaurant" means an establishment having a New  
25 Mexico resident as a proprietor or manager that is held out to

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1 the public as a place where meals are prepared and served  
2 primarily for on-premises consumption to the general public in  
3 consideration of payment and that has a dining room, a kitchen  
4 and the employees necessary for preparing, cooking and serving  
5 meals; provided that "restaurant" does not include  
6 establishments as defined in rules promulgated by the director  
7 serving only hamburgers, sandwiches, salads and other fast  
8 foods;

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

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

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

21 X. "wine" includes the words "fruit juices" and  
22 means alcoholic beverages obtained by the fermentation of the  
23 natural sugar contained in fruit or other agricultural  
24 products, with or without the addition of sugar or other  
25 products, that do not contain less than one-half percent nor

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1 more than twenty-one percent alcohol by volume;

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

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

7 AA. "winer" means a winegrower; and

8 BB. "winery" means a facility in which a winegrower  
9 manufactures and stores wine."

10 SECTION 27. Section 60-4B-4.1 NMSA 1978 (being Laws 1993,  
11 Chapter 329, Section 1) is recompiled as Section 60-3A-6.1 NMSA  
12 1978 and is amended to read:

13 "60-3A-6.1. LOCAL LAW ENFORCEMENT--DEPARTMENT OF PUBLIC  
14 SAFETY--REPORTING REQUIREMENTS--AUTHORITY TO REQUEST  
15 INVESTIGATIONS.--

16 A. Within thirty days following the date of  
17 issuance of a citation pursuant to the provisions of the Liquor  
18 Control Act, the department of public safety or the law  
19 enforcement agency of a municipality or county shall report  
20 alleged violations of that act to the alcohol and gaming  
21 division of the regulation and licensing department.

22 B. The director of the alcohol and gaming division  
23 of the regulation and licensing department may request the  
24 investigators [~~of the special investigations division~~] of the  
25 department of public safety to investigate licensees or

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1 activities that the director has reasonable cause to believe  
2 are in violation of the Liquor Control Act."

3 SECTION 28. Section 60-4B-7 NMSA 1978 (being Laws 1981,  
4 Chapter 39, Section 10) is recompiled as Section 60-3A-6.2 NMSA  
5 1978 and is amended to read:

6 "60-3A-6.2. REPORT TO THE GOVERNOR.--The [~~director~~] chief  
7 of the New Mexico state police shall make a biennial report to  
8 the governor concerning the status of the department."

9 SECTION 29. Section 60-4B-4 NMSA 1978 (being Laws 1981,  
10 Chapter 39, Section 7) is recompiled as Section 60-3A-8.1 NMSA  
11 1978 and is amended to read:

12 "60-3A-8.1. INVESTIGATIVE AUTHORITY AND POWERS.--

13 A. For the purpose of enforcing the provisions of  
14 the Liquor Control Act, the director is authorized to examine  
15 and to require the production of [~~any~~] pertinent records,  
16 books, information or evidence, to require the presence of any  
17 person and to require [~~him~~] the person to testify under oath  
18 concerning the subject matter of the inquiry and to make a  
19 permanent record of the proceedings.

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

23 C. Any subpoena issued by the director shall state  
24 with reasonable certainty the nature of the evidence required  
25 to be produced, the time and place of the hearing, the nature

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1 of the inquiry or investigation and the consequences of failure  
2 to obey the subpoena, and shall bear the seal of the department  
3 and be attested to by the director.

4 D. After service of a subpoena upon ~~[him]~~ a person,  
5 if ~~[any]~~ a person neglects or refuses to appear or produce  
6 records or other evidence in response to the subpoena or  
7 neglects or refuses to give testimony, as required, the  
8 director may invoke the aid of the New Mexico district courts  
9 in the enforcement of the subpoena. In appropriate cases, the  
10 court shall issue its order requiring the person to appear and  
11 testify or produce ~~[his]~~ the person's books or records and may,  
12 upon failure of the person to comply with the order, punish the  
13 person for contempt.

14 E. The director may exchange identification records  
15 and information with law enforcement agencies for official use.  
16 ~~[Any]~~ Identification records received from the United States  
17 department of justice, including identification records based  
18 on fingerprints, shall be used only to effectuate the licensing  
19 purposes and provisions of the Liquor Control Act. The  
20 department shall not disseminate such information except to  
21 other law enforcement agencies for official use only.

22 F. For the purposes of this section, "director"  
23 means the director of the alcohol and gaming division of the  
24 regulation and licensing department."

25 SECTION 30. Section 65-1-2 NMSA 1978 (being Laws 1978,

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1 Chapter 19, Section 1, as amended) is amended to read:

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

4 A. "combination" means any connected assemblage of  
5 a motor vehicle and one or more semitrailers, trailers or  
6 semitrailers converted to trailers by means of a converter  
7 gear;

8 B. "combination gross vehicle weight" means the sum  
9 total of the gross vehicle weights of all units of a  
10 combination;

11 C. "commercial motor carrier vehicle" means a self-  
12 propelled or towed vehicle, other than special mobile  
13 equipment, used on public highways in commerce to transport  
14 passengers or property when the vehicle:

15 (1) is operated interstate and has a gross  
16 vehicle weight rating or gross combination weight rating, or  
17 gross vehicle weight or gross combination weight, of four  
18 thousand five hundred thirty-six kilograms, or ten thousand one  
19 pounds or more; or is operated only in intrastate commerce and  
20 has a gross vehicle weight rating or gross combination weight  
21 rating, or gross vehicle weight or gross combination weight, of  
22 twenty-six thousand one or more pounds;

23 (2) is designed or used to transport more than  
24 eight passengers, including the driver, and is used to  
25 transport passengers for compensation;

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

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

7 D. "converter gear" means any assemblage of one or  
8 more axles with a fifth wheel mounted thereon, designed for use  
9 in a combination to support the front end of a semitrailer but  
10 not permanently attached thereto. A "converter gear" shall not  
11 be considered a vehicle as that term is used in Chapter 66 NMSA  
12 1978, but its weight [~~attributable thereto~~] shall be included  
13 in declared gross weight;

14 E. "declared gross weight" means maximum gross  
15 vehicle weight or combination gross vehicle weight at which a  
16 vehicle or combination will be operated during the registration  
17 period as declared by the registrant for registration and fee  
18 purposes. The vehicle or combination shall have only one  
19 "declared gross weight" for all operating considerations;

20 F. "department", without modification, means the  
21 department of public safety, the secretary of public safety or  
22 any employee of the department exercising authority lawfully  
23 delegated to that employee by the secretary;

24 G. "director" means the secretary;

25 H. "division" means the [~~motor transportation~~] New

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1 Mexico state police division of the department;

2 I. "evidence of registration" means documentation  
3 issued by the taxation and revenue department identifying a  
4 motor carrier vehicle as being registered with New Mexico or  
5 documentation issued by another state pursuant to the terms of  
6 a multistate agreement on registration of vehicles to which  
7 this state is a party identifying a motor carrier vehicle as  
8 being registered with that state; provided that evidence of  
9 payment of the weight distance tax and permits obtained under  
10 either the Special Fuels Supplier Tax Act or Trip Tax Act are  
11 not "evidence of registration";

12 J. "field enforcement" or "in the field" means  
13 patrolling of the highway, stopping of commercial motor carrier  
14 vehicles or establishing ports of entry and roadblocks for the  
15 purpose of checking motor carriers and includes similar  
16 activities;

17 K. "freight trailer" means any trailer, semitrailer  
18 or pole trailer drawn by a truck tractor or road tractor and  
19 any trailer, semitrailer or pole trailer drawn by a truck that  
20 has a gross vehicle weight of more than twenty-six thousand  
21 pounds, but the term does not include house trailers, trailers  
22 of less than one-ton carrying capacity used to transport  
23 animals or fertilizer trailers of less than three thousand five  
24 hundred pounds empty weight;

25 L. "gross vehicle weight" means the weight of a

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1 vehicle without load plus the weight of any load thereon;

2 M. "motor carrier" means any person that owns,  
3 controls, operates or manages any motor vehicle with gross  
4 vehicle weight of twelve thousand pounds or more that is used  
5 to transport persons or property on the public highways of this  
6 state;

7 N. "motor vehicle" means any vehicle or device that  
8 is propelled by an internal combustion engine or electric motor  
9 power that is used or may be used on the public highways for  
10 the purpose of transporting persons or property and includes  
11 any connected trailer or semitrailer;

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

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

25 Q. "properly registered" means bearing the lawfully

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1 issued and currently valid evidence of registration of this or  
2 another jurisdiction, regardless of the owner's residence,  
3 except in those cases where the evidence has been procured by  
4 misrepresentation or fraud;

5 R. "public highway" means every way or place  
6 generally open to the use of the public as a matter of right  
7 for the purpose of vehicular travel, even though it may be  
8 temporarily closed or restricted for the purpose of  
9 construction, maintenance, repair or reconstruction;

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

14 T. "state" or "jurisdiction" means a state,  
15 territory or possession of the United States, the District of  
16 Columbia, the commonwealth of Puerto Rico, a foreign country or  
17 a state or province of a foreign country; and

18 U. "utility trailer" means any trailer, semitrailer  
19 or pole trailer and includes house trailers that exceed neither  
20 eight feet in width nor forty feet in length, but does not  
21 include freight trailers, trailers of less than one-ton  
22 carrying capacity used to transport animals or fertilizer  
23 trailers of less than three thousand five hundred pounds empty  
24 weight."

25 SECTION 31. Section 65-1-35 NMSA 1978 (being Laws 1967,  
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underscored material = new  
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1 Chapter 97, Section 44, as amended) is amended to read:

2 "65-1-35. DUPLICATE RECORDS.--If the [~~motor~~  
3 ~~transportation]~~ New Mexico state police division in carrying  
4 out any of the powers and duties granted or imposed on it by  
5 the Motor Transportation Act needs duplicates of any records  
6 not transferred to it by [~~this]~~ that act, all departments,  
7 agencies and commissions of this state shall, upon request,  
8 make the records available to the division for copying."

9 SECTION 32. Section 66-1-4.2 NMSA 1978 (being Laws 1990,  
10 Chapter 120, Section 3, as amended) is amended to read:

11 "66-1-4.2. DEFINITIONS.--As used in the Motor Vehicle  
12 Code:

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

16 B. "bureau" means the traffic safety bureau of the  
17 [~~state highway and]~~ department of transportation [~~department~~];

18 C. "bus" means every motor vehicle designed and  
19 used for the transportation of persons and every motor vehicle,  
20 other than a taxicab, designed and used for the transportation  
21 of persons for compensation; and

22 D. "business district" means the territory  
23 contiguous to and including a highway when within any three  
24 hundred feet along the highway there are buildings in use for  
25 business or industrial purposes, including but not limited to

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1 hotels, banks or office buildings, railroad stations and public  
2 buildings that occupy at least fifty percent of the frontage on  
3 one side or fifty percent of the frontage collectively on both  
4 sides of the highway."

5 SECTION 33. Section 66-3-302 NMSA 1978 (being Laws 1978,  
6 Chapter 35, Section 78, as amended) is amended to read:

7 "66-3-302. CARAVAN FEE.--

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

19 (1) a valid New Mexico registration plate;  
20 (2) a valid dealer's plate issued by the  
21 department;

22 (3) a special permit for the use of the  
23 highways of this state for the transportation of the vehicle in  
24 the manner in which the vehicle is being transported, which has  
25 first been obtained and the fee paid as specified in this

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1 section; or

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

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

25 C. A caravan fee shall not apply to the

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1 transportation of vehicles carried on another vehicle for the  
2 operation of which a weight distance tax is paid, nor shall the  
3 vehicle transported be required to carry a registration plate  
4 or temporary transportation permits. The [~~motor transportation~~  
5 ~~and the~~] New Mexico state police [~~divisions~~] division of the  
6 department of public safety [~~are~~] is authorized to impound any  
7 vehicle transported in violation of the Motor Transportation  
8 Act until a proper permit has been secured and any fine levied  
9 has been paid."

10 SECTION 34. Section 66-7-314 NMSA 1978 (being Laws 1978,  
11 Chapter 35, Section 418, as amended) is amended to read:

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

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

23 "66-7-505. ADVISORY COMMITTEE--CREATION--MEMBERS--  
24 TERMS.--

25 A. There is created a five-member advisory

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1 committee to the bureau. The chief is, ex officio, the chair  
2 and a voting member of the committee. The governor shall  
3 appoint three members, to terms coterminous with the governor's  
4 tenure, who shall have the following qualifications:

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

7 (2) one member who is representative of the  
8 school bus transportation function of the public education  
9 department; and

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

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

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

20 "66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES  
21 AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES.--

22 A. A police officer with the [~~motor transportation~~  
23 ~~division or the~~] New Mexico state police division of the  
24 department of public safety, having reason to believe that the  
25 weight of a vehicle and load is unlawful, may require the

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1 driver to stop and submit to weighing of the vehicle and load  
2 by means of either portable or stationary scales and may  
3 require the vehicle to be driven to the nearest scales approved  
4 by the department of public safety if the scales are within  
5 five miles.

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

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

25 D. A shipper or a person loading the vehicle who

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

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

8 WEIGHT OF EXCESS	
9 LOAD IN POUNDS	AMOUNT OF FINE
10 1 to 3,000	fifty dollars (\$50.00)
11 3,001 to 4,000	eighty dollars (\$80.00)
12 4,001 to 5,000	one hundred dollars (\$100)
13 5,001 to 6,000	one hundred fifty dollars (\$150)
14 6,001 to 7,000	two hundred fifty dollars (\$250)
15 7,001 to 8,000	three hundred fifty dollars (\$350)
16 8,001 to 9,000	four hundred dollars (\$400)
17 9,001 to 10,000	five hundred dollars (\$500)
18 over 10,000	seven hundred dollars (\$700)."

19 SECTION 37. Section 66-7-412 NMSA 1978 (being Laws 1959,  
20 Chapter 247, Section 1, as amended) is amended to read:

21 "66-7-412. SPECIAL FARM PERMITS.--The [~~motor~~  
22 ~~transportation~~] New Mexico state police division of the  
23 department of public safety shall have the authority to issue  
24 special permits at all ports of entry where registration  
25 stations or places where inspection and registration services

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1 are maintained by the [~~motor transportation~~] New Mexico state  
2 police division to all implements of husbandry using the  
3 highways, including farm tractors, and to the instrumentalities  
4 or vehicles that may be carrying the implements of husbandry,  
5 including farm tractors, when the securing of these permits is  
6 required by law."

7 SECTION 38. Section 66-7-413.2 NMSA 1978 (being Laws  
8 1989, Chapter 291, Section 1, as amended) is amended to read:

9 "66-7-413.2. ENGINEERING INVESTIGATIONS FOR VEHICLES IN  
10 EXCESS OF ONE HUNDRED SEVENTY THOUSAND POUNDS.--

11 A. All vehicles with a gross vehicle weight in  
12 excess of one hundred seventy thousand pounds shall require a  
13 special permit as provided for in Section 66-7-413 NMSA 1978,  
14 and no such permit shall be issued unless:

15 (1) an engineering investigation and review  
16 have been conducted to:

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

20 (b) establish whether the move could be  
21 made without visible or documented damages to any private  
22 facilities along the road upon which the move is to be made;  
23 and

24 (c) estimate the cost for any necessary  
25 modifications the move may cause; and

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1 (2) when required, the applicant has submitted  
2 to the [~~motor transportation~~] New Mexico state police division  
3 of the department of public safety and the local highway  
4 authorities all pertinent information requested of the  
5 applicant by the [~~motor transportation~~] New Mexico state police  
6 division [~~of the department of public safety~~]. If the  
7 submitted data [~~is~~] are not acceptable to the [~~state highway~~  
8 ~~and~~] department of transportation [~~department~~], the applicant  
9 will be advised by the [~~motor transportation~~] New Mexico state  
10 police division [~~of the department of public safety~~] that  
11 engineering investigations will be conducted by the [~~state~~  
12 ~~highway and~~] department of transportation [~~department~~], and the  
13 cost incurred by the [~~state highway and~~] department of  
14 transportation [~~department~~] will be paid by the applicant as an  
15 added cost to [~~his~~] the permit fee.

16 B. The [~~motor transportation~~] New Mexico state  
17 police division [~~of the department of public safety~~] shall  
18 adopt the necessary rules and regulations for the development  
19 of data for an investigation to determine whether to issue any  
20 special permit pursuant to Section 66-7-413 NMSA 1978.

21 C. The applicant or the applicant's employer shall  
22 pay the costs for any modifications to the road, bridges or  
23 private facilities along the road that the [~~motor~~  
24 ~~transportation~~] New Mexico state police division [~~of the~~  
25 ~~department of public safety~~] has determined are necessary for

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1 the issuance of the special permit and the costs for any  
2 damages to the road or bridges that are the result of the move  
3 and the fault of the mover and not the ~~[motor transportation]~~  
4 New Mexico state police division ~~[of the department of public~~  
5 ~~safety]~~.

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

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

15 **SECTION 39.** Section 66-7-413.4 NMSA 1978 (being Laws  
16 2001, Chapter 20, Section 2, as amended) is amended to read:

17 "66-7-413.4. PERMITS FOR EXCESSIVE WEIGHT.--

18 A. In addition to the authority granted in Section  
19 66-7-413 NMSA 1978, the ~~[motor transportation]~~ New Mexico state  
20 police division of the department of public safety may issue  
21 special permits authorizing an increase of up to twenty-five  
22 percent in axle weight for liquid hauling tank vehicles  
23 whenever the liquid hauling tank vehicles would have to haul  
24 less than a full tank under the maximum weights authorized in  
25 ~~[Section]~~ Sections 66-7-409 and 66-7-410 NMSA 1978. A special

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1 permit under this section may be issued for a single trip or  
2 for a year. The fee for the permits shall be thirty-five  
3 dollars (\$35.00) for a single-trip permit and one hundred  
4 twenty dollars (\$120) for an annual permit. Revenue from the  
5 permit fee shall be used to build, maintain, repair or  
6 reconstruct the highways and bridges of this state. Revenue  
7 from the permit shall be collected for the department of  
8 transportation and transferred to the state road fund.

9 B. The special permits authorized by this section  
10 shall not be valid for transportation of excessive weights on  
11 the interstate system as currently defined in federal law or as  
12 that system may be defined in the future. A special permit  
13 issued pursuant to this section shall not be valid for gross  
14 vehicle weights in excess of eighty-six thousand four hundred  
15 pounds or for a combination vehicle.

16 C. If the federal highway administration of the  
17 United States department of transportation gives official  
18 notice that money will be withheld or that this section  
19 violates the grandfather provision of 23 USCA 127, the  
20 secretary may withdraw all special permits and discontinue  
21 issuance of all special permits authorized in this section  
22 until such time that final determination is made. If the final  
23 determination allows the state to issue the special permits  
24 without sanction of funds or weight tables, the secretary shall  
25 reissue the special permits previously withdrawn and make the

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1 special permits available pursuant to this section."

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

4 "66-7-415. WHEN THE STATE TRANSPORTATION COMMISSION OR  
5 LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS.--

6 A. Local authorities, with respect to streets under  
7 their jurisdiction, may also, by ordinance or resolution,  
8 prohibit the operation of trucks or other commercial vehicles  
9 or may impose limitations as to [~~the~~] size or weight [~~thereof~~]  
10 on designated streets in areas that are primarily residential,  
11 which prohibitions and limitations shall be designated by  
12 appropriate signs placed on [~~such~~] the street.

13 B. The local authority enacting an ordinance or  
14 resolution shall erect or cause to be erected and maintained  
15 signs designating the provisions of the ordinance or resolution  
16 at each end of that portion of [~~any~~] the street affected, and  
17 the ordinance or resolution shall not be effective [~~unless and~~]  
18 until [~~such~~] signs are erected and maintained and notice  
19 [~~thereof~~] given in writing to the nearest officer or employee  
20 of the [~~motor transportation~~] New Mexico state police division  
21 of the department of public safety authorized to issue special  
22 permits.

23 C. The state transportation commission shall  
24 likewise have authority, as granted to local authorities in  
25 Subsections A and B of this section, to determine by resolution

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1 and to impose restrictions as to the size and weight of  
2 vehicles operated upon any highways under the jurisdiction of  
3 the commission, and such restrictions shall be effective [~~on~~  
4 ~~and after~~] upon the passage of a resolution and when signs  
5 giving notice thereof are erected upon the highway or portion  
6 of any highway affected by [~~such~~] the resolution. The  
7 commission shall deliver a copy of all restrictions adopted by  
8 it to the [~~motor transportation~~] New Mexico state police  
9 division of the department of public safety."

10 SECTION 41. TEMPORARY PROVISIONS--TRANSFER OF PERSONNEL,  
11 PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July 1, 2014:

12 A. all personnel, appropriations, money, records,  
13 equipment, supplies and other property of the special  
14 investigations, training and recruiting and motor  
15 transportation divisions of the department of public safety  
16 shall be transferred to the New Mexico state police division of  
17 the department of public safety;

18 B. all contracts of the special investigations,  
19 training and recruiting and motor transportation divisions of  
20 the department of public safety shall be binding and effective  
21 on the New Mexico state police division of the department of  
22 public safety; and

23 C. all references in law to the special  
24 investigations, training and recruiting or motor transportation  
25 division of the department of public safety shall be deemed to

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1 refer to the New Mexico state police division of the department  
2 of public safety.

3 SECTION 42. REPEAL.--Sections 29-7-5.1, 60-4B-1, 60-4B-2,  
4 65-1-7 and 65-1-38 through 65-1-45 NMSA 1978 (being Laws 1979,  
5 Chapter 202, Section 45, Laws 1981, Chapter 39, Sections 4 and  
6 5, Laws 1998 (1st S.S.), Chapter 10, Section 6 and Laws 2007,  
7 Chapter 54, Sections 1 through 8, as amended) are repealed.

8 SECTION 43. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2014.