

AN ACT

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RELATING TO TRANSPORTATION; CORRECTING THE NAME OF THE STATE
TRANSPORTATION COMMISSION IN STATUTE; CHANGING THE NAME OF THE
STATE HIGHWAY AND TRANSPORTATION DEPARTMENT AND THE SECRETARY OF
HIGHWAY AND TRANSPORTATION; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 3-33-10 NMSA 1978 (being Laws 1977, Chapter 325,
Section 4) is amended to read:

"3-33-10. IMPROVEMENT DISTRICT--LIMITATIONS ON POWERS OF
MUNICIPALITY WITH RESPECT TO STREET OR RIGHT OF WAY UNDER
JURISDICTION OF STATE TRANSPORTATION COMMISSION.--The municipality shall
not construct improvements authorized by Section 3-33-3 NMSA 1978 on or through
any street or right of way under the jurisdiction of the state transportation commission
unless it receives prior written approval from the state transportation commission to
undertake such improvements."

Section 2. Section 4-55A-6 NMSA 1978 (being Laws 1980, Chapter 91,
Section 6) is amended to read:

"4-55A-6. IMPROVEMENT DISTRICT--LIMITATIONS ON POWERS OF
COUNTY WITH RESPECT TO STREET OR RIGHT OF WAY UNDER JURISDICTION
OF STATE TRANSPORTATION COMMISSION.--The county shall not construct
improvements on or through any street or right of way under the jurisdiction of the
state transportation commission unless it receives prior written approval from the state
transportation commission to undertake such improvements."

Section 3. Section 13-6-2.1 NMSA 1978 (being Laws 1989, Chapter 380,
Section 1, as amended) is amended to read:

"13-6-2.1. SALES, TRADES OR LEASES--BOARD OF FINANCE APPROVAL.--

A. Except as provided in Section 13-6-3 NMSA 1978, for state agencies, any sale, trade or lease for a period of more than five years of real property belonging to a state agency, local public body or school district or any sale, trade or lease of such real property for a consideration of more than twenty-five thousand dollars (\$25,000) shall not be valid unless it is approved prior to its effective date by the state board of finance.

B. The provisions of this section shall not be applicable as to those institutions specifically enumerated in Article 12, Section 11 of the constitution of New Mexico, the state land office or the state transportation commission."

Section 4. Section 13-6-3 NMSA 1978 (being Laws 1961, Chapter 41, Section 1, as amended) is amended to read:

"13-6-3. SALE, TRADE OR LEASE OF REAL PROPERTY BY STATE AGENCIES--APPROVAL OF LEGISLATURE--EXCEPTIONS.--

A. Any sale, trade or lease for a period exceeding twenty-five years in duration of real property belonging to any state agency, which sale, trade or lease shall be for a consideration of one hundred thousand dollars (\$100,000) or more, shall be subject to the ratification and approval of the state legislature prior to the sale, trade or lease becoming effective. The provision specified in Section 13-6-2 NMSA 1978 requiring approval of the state budget division of the department of finance and administration as a prerequisite to consummating such sales or dispositions of realty shall not be applicable in instances wherein the consideration for the sale, trade or

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lease shall be for a consideration of one hundred thousand dollars (\$100,000) or more and wherein a state agency not specifically excepted by Subsection B of this section is a contracting party, and, in every such instance, the legislature shall specify its approval prior to the sale, trade or lease becoming effective.

B. The provisions of this section shall not be applicable as to those institutions specifically enumerated in Article 12, Section 11 of the constitution of New Mexico, the state land office or the state transportation commission."

Section 5. Section 63-3-37 NMSA 1978 (being Laws 1929, Chapter 97, Section 3, as amended) is amended to read:

"63-3-37. SEPARATION OF GRADE CROSSING--DETERMINATION--COST.-- Whenever a state, county, municipal or other street or highway, including a highway that may be designated as a part of the federal aid highway system, which may be constructed or reconstructed in such manner that it crosses or intersects any railroad, the state transportation commission, or other governing body, may, if in its opinion it is practicable and reasonably necessary for the protection of the traveling public, separate the grades at such crossing and, if unable to agree with the railroad as to the grade separation and the method of accomplishing the separation, may apply to the district court of the county in which the separation is located by verified petition praying for the separation of grades at the crossing and shall accompany the petition with plans and specifications of the proposed grade separation. The procedure on the petition shall be the same as in ordinary civil action. If the court determines in such proceeding that the grade separation is practicable and reasonably necessary for the protection of the traveling public over the highway, it shall order the grade separation

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to be made, either in accordance with the plans and specifications filed with the petition
or in accordance with such modification of the plans and specifications as the court
determines to be proper, and upon condition that the then existing grade crossing shall
be closed to all forms of street or highway traffic upon the completion of the grade
separation. The orders of court in such proceedings shall be enforced in the same
manner as decrees in equity. When any separation of grades is made either by
agreement or by court order, the railroad company shall pay not to exceed ten percent
of the cost between the grade separation limits, provided that the then existing grade
crossing shall be closed to all forms of street or highway traffic upon the completion of
the grade separation and provided that where funds are made available for such
purposes under the provisions of the act of congress known as 23 USCA 101 et seq.,
as amended and supplemented, the participation of the railroad company in the cost of
construction and maintenance of any grade separation structure and the approaches
thereto shall be in conformity with and subject to the provisions of that act. In cases
where two or more railroads are located in such proximity to each other as to be
involved in any single separation of grades, the portion of the cost of the grade
separation shall be apportioned between the railroads either by agreement or in such
manner as may be just by order of court in such proceeding. Whenever the plans and
specifications for a grade separation, as finally fixed by agreement or order of court,
provide for raising or lowering the grade of the railroad tracks, the cost shall be
included in the cost of the grade separation."

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Section 6. Section 63-3-38 NMSA 1978 (being Laws 1929, Chapter 97,
Section 4) is amended to read:

"63-3-38. MAINTENANCE OF GRADE CROSSING.--After construction of every

grade separation, the state transportation commission shall maintain the highway roadbed and the structures supporting it and the railroad shall maintain its roadway and track and the structures supporting them."

Section 7. Section 66-1-4.16 NMSA 1978 (being Laws 1990, Chapter 120, Section 17, as amended) is amended to read:

"66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "safety glazing materials" means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they are cracked and broken;

B. "safety zone" means the area or space officially set apart within a highway for the exclusive use of pedestrians and that is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

C. "school bus" means any motor vehicle operating under the authority of the state board of education or private school or parochial school interests that is used to transport children, students or teachers to and from schools or to and from any school activity, but not including any vehicle:

(1) operated by a common carrier, subject to and meeting all requirements of the public regulation commission but not used exclusively for the transportation of pupils;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the public regulation commission

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but is not used exclusively for the transportation of pupils; or

(3) operated as a per capita feeder as defined in Section 22-16-6 NMSA 1978;

D. "seal" means the official seal of the taxation and revenue department as designated by the secretary;

E. "secretary" means the secretary of taxation and revenue, and, except for the purposes of Sections 66-2-3 and 66-2-12 NMSA 1978, also includes the deputy secretary and any division director delegated by the secretary;

F. "semitrailer" means any vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some significant part of its weight and that of its load rests upon or is carried by another vehicle;

G. "sidewalk" means that portion of street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians;

H. "slow-moving vehicle" means any vehicle that is ordinarily moved, operated or driven at a speed less than twenty-five miles per hour;

I. "solid tire" means every tire of rubber or other resilient material that does not depend upon compressed air for the support of the load;

J. "special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including but not limited to farm tractors, road construction or maintenance machinery, ditch-digging apparatus, well-boring

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apparatus and concrete mixers;

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K. "specially constructed vehicle" means every vehicle of a type required to be registered under the Motor Vehicle Code not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction;

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L. "state" means any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada;

M. "state highway" means any public highway that has been designated as a state highway by the legislature, the state transportation commission or the secretary of transportation;

N. "stop", when required, means complete cessation from movement;

O. "stop, stopping or standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal;

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

Q. "subsequent offender" means a person who was previously a first offender and who again, under state law, federal law or municipal ordinance, has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any drug that rendered him incapable of safely driving a motor vehicle, regardless of whether the person's sentence was suspended or deferred; and

R. "suspension" means that a person's driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn." H
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Section 8. Section 66-3-836 NMSA 1978 (being Laws 1978, Chapter 35, Section 142) is amended to read: 8
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"66-3-836. STANDARDS FOR LIGHTS ON SNOW-REMOVAL EQUIPMENT.-- 9
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A. The state transportation commission shall adopt standards and specifications applicable to headlamps, clearance lamps, identification and other lamps on snow-removal equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by Sections 66-3-801 through 66-3-887 NMSA 1978. The standards and specifications may permit the use of flashing lights for purposes of identifications on snow-removal equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and, so far as possible, conform with those approved by the American association of state highway officials. 8

B. It is unlawful to operate any snow-removal equipment on any highway unless the lamps on the equipment comply with and are lighted when and as required by the standards and specifications adopted as provided in this section."

Section 9. Section 66-3-847 NMSA 1978 (being Laws 1978, Chapter 35, Section 153) is amended to read:

"66-3-847. RESTRICTIONS AS TO TIRE EQUIPMENT.--

A. When the use thereof is permitted, every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one-inch thick above the edge of the flange of the entire periphery.

B. A person shall not operate or move on a highway a motor vehicle,

trailer or semitrailer having any metal tire in contact with the roadway except that for the purposes of the Motor Vehicle Code, a snow tire with metal studs designed to increase traction on ice or snow shall not be considered a metal tire.

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C. No tire on a vehicle moved on a highway shall have on its periphery any block, flange, cleat or spike or any other protuberance of any material other than rubber that projects beyond the tread of the traction surface of the tire except that it shall be permissible to use farm machinery with tires having protuberances that will not injure the highway and except also that it shall be permissible to use tire chains of reasonable proportions or snow tires with metal studs designed to increase traction on ice or snow upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid.

D. The state transportation commission and local authorities, in their respective jurisdictions, may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under the Motor Vehicle Code.

E. A vehicle equipped with solid rubber or cushion tires shall not be permitted upon any highway of this state without special permission first being granted by the state transportation commission or the local authority having jurisdiction over the highway affected, and in no event may any such vehicle be operated at a speed in excess of that specified by law."

Section 10. Section 66-7-9 NMSA 1978 (being Laws 1978, Chapter 35, Section 379, as amended) is amended to read:

"66-7-9. POWERS OF LOCAL AUTHORITIES.--

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A. The provisions of the Motor Vehicle Code shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from:

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(1) regulating the standing or parking of vehicles;

(2) regulating traffic by means of police officers or traffic-control signals;

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(3) regulating or prohibiting processions or assemblages on the highways;

(4) designating particular highways as one-way highways and requiring that all vehicles thereon be moved in one specific direction;

(5) regulating the speed of vehicles in public parks;

(6) designating any highway as a through highway and requiring that all vehicles stop before entering or crossing it or designating any intersection as a stop intersection or a yield intersection and requiring all vehicles to stop or yield at one or more entrances to the intersection;

(7) restricting the use of highways as authorized in the Motor Vehicle Code;

(8) regulating the operation of bicycles and requiring their registration and licensing, including the requirement of a registration fee;

(9) regulating or prohibiting the turning of vehicles, or specified types of vehicles, at intersections;

(10) altering the maximum speed limits as authorized in the Motor Vehicle Code;

(11) adopting other traffic regulations as specifically authorized
by the Motor Vehicle Code;

(12) regulating the operation of snowmobiles on public lands,
waters and property under their jurisdiction and on streets and highways within their
boundaries by resolution or ordinance of their governing bodies and by giving
appropriate notice, if such regulation is not inconsistent with the provisions of Sections
66-9-1 through 66-9-13 NMSA 1978; or

(13) regulating the operation of golf carts on public lands and
property under their jurisdiction and on streets and roads within their boundaries by
resolution or ordinance of their governing bodies and requiring their registration and
licensing, including the payment of a registration fee; provided, the resolution or
ordinance shall:

(a) not permit operation of a golf cart on any state
highway;

(b) require that the golf cart be in compliance with
Section 66-3-887 NMSA 1978; and

(c) not be inconsistent with the provisions of Sections
66-3-1001 through 66-3-1016 NMSA 1978.

B. No local authority shall erect or maintain any stop sign or traffic-
control signal at any location so as to require the traffic on any state highway to stop or
yield before entering or crossing any intersecting highway unless approval in writing
has first been obtained from the state transportation commission.

C. No ordinance or regulation enacted under Paragraph (4), (5), (6),
(7) or (10) of Subsection A of this section shall be effective until signs giving notice of

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the local traffic regulations are posted upon or at the entrances to the highway or part thereof affected as may be most appropriate."

Section 11. Section 66-7-101 NMSA 1978 (being Laws 1978, Chapter 35, Section 381) is amended to read:

"66-7-101. STATE TRANSPORTATION COMMISSION TO ADOPT SIGN MANUAL.--The state transportation commission shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of Chapter 66, Article 7 NMSA 1978 for use upon highways within this state. The uniform system shall correlate with and so far as possible conform to the system then current as approved by the American association of state highway officials."

Section 12. Section 66-7-102 NMSA 1978 (being Laws 1978, Chapter 35, Section 382) is amended to read:

"66-7-102. STATE TRANSPORTATION COMMISSION TO SIGN ALL STATE HIGHWAYS.--

A. The state transportation commission shall place and maintain such traffic-control devices, conforming to its manual and specifications, upon all state highways as it deems necessary to indicate and to carry out the provisions of Chapter 66, Article 7 NMSA 1978 or to regulate, warn or guide traffic.

B. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the state transportation commission except by permission of the commission."

Section 13. Section 66-7-102.1 NMSA 1978 (being Laws 1989, Chapter 320, Section 7) is amended to read:

"66-7-102.1. STATE TRANSPORTATION COMMISSION--SPEED LIMIT

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SIGNS.--The state transportation commission shall erect billboard-size signs at entry points into New Mexico on interstate and major state highways, warning and informing motorists of New Mexico speed limits, the fines for speeding in New Mexico and New Mexico's commitment to enforce its speed limits."

Section 14. Section 66-7-304 NMSA 1978 (being Laws 1978, Chapter 35, Section 408) is amended to read:

"66-7-304. COUNTY ROADS--AUTHORITY TO REGULATE SPEED LIMITS.--

A. The board of county commissioners of a county may alter and establish speed limits lower than those established by law on county roads within its county, provided that:

(1) the speed limit is deemed to be reasonable and safe under local conditions on the basis of an engineering survey and traffic investigation;

(2) the alteration of a speed limit is approved by the state transportation commission; and

(3) the county posts speed limit signs that conform to the specifications as set forth in the manual adopted by the state transportation commission before enforcing the speed limit.

B. As used in this section, "county roads" means any streets, roads or highways built and maintained by the county or the control of which has been given to the county by the state transportation commission."

Section 15. Section 66-7-305 NMSA 1978 (being Laws 1978, Chapter 35, Section 409) is amended to read:

"66-7-305. MINIMUM SPEED REGULATION.--

A. A person shall not drive a motor vehicle at such a slow speed as to

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impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or to be in compliance with law.

B. Whenever the state transportation commission or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the commission or the local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or to be in compliance with law; provided that local authorities in municipalities of more than one hundred thousand population may prohibit vehicles that by virtue of weight or design are slow moving on local arterials during peak hours of traffic."

Section 16. Section 66-7-306 NMSA 1978 (being Laws 1978, Chapter 35, Section 410) is amended to read:

"66-7-306. SPECIAL SPEED LIMITATIONS.--

A. Subject to the requirements of Section 66-3-847 NMSA 1978, no person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than ten miles per hour.

B. A person shall not drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed that is greater than the maximum speed that can be maintained with safety to the bridge or structure when such structure is signposted as provided in this section.

C. The state transportation commission upon request from a local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that the

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structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under the Motor Vehicle Code, the commission shall determine and declare the maximum speed of vehicles that the structure can withstand and shall cause or permit suitable signs stating the maximum speed to be erected and maintained at a minimum distance of three hundred feet before each end of the structure.

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D. Upon the trial of a person charged with a violation of this section, proof of determination of the maximum speed by the state transportation commission and the existence of suitable signs constitutes conclusive evidence of the maximum speed that can be maintained with safety to the bridge or structure."

Section 17. Section 66-7-315 NMSA 1978 (being Laws 1978, Chapter 35, Section 419) is amended to read:

"66-7-315. NO-PASSING ZONES.--

A. The state transportation commission and local authorities may determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left of the roadway would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones. When the signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions of the signs or markings.

B. Where signs or markings are in place to define a no-passing zone as set forth in Subsection A of this section, no driver shall at any time drive on the left side of the roadway within the no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length.

C. This section does not apply under the conditions described in Paragraph (2) of Subsection A of Section 66-7-308 NMSA 1978 or to the driver of a vehicle turning left into or from an alley, private road or driveway."

Section 18. Section 66-7-316 NMSA 1978 (being Laws 1978, Chapter 35, Section 420) is amended to read:

"66-7-316. ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS.--

A. The state transportation commission may designate any highway or any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice of that designation.

B. Upon a roadway designated and signposted for one-way traffic, a vehicle shall be driven only in the direction designated.

C. A vehicle passing around a rotary traffic island shall be driven only to the right of the island."

Section 19. Section 66-7-321 NMSA 1978 (being Laws 1953, Chapter 139, Section 75, as amended) is amended to read:

"66-7-321. RESTRICTIONS ON USE OF CONTROLLED-ACCESS ROADWAY.-

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A. The state transportation commission, by resolution or order entered in its minutes, and local authorities, by ordinance, may regulate or prohibit the use of any controlled-access roadway within their respective jurisdictions by any class or kind of traffic that is found to be incompatible with the normal and safe movement of traffic.

B. The state transportation commission or the local authority adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access roadway on which the prohibitions are applicable, and, when in

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place, no person shall disobey the restrictions stated on the devices."

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Section 20. Section 66-7-336 NMSA 1978 (being Laws 1953, Chapter 139, Section 89.1, as amended) is amended to read:

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"66-7-336. SCHOOL CROSSINGS.--

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A. Crosswalks may be established over highways abutting a school or the grounds adjacent to a school, and all children crossing the highways shall be required to do so within the marked crosswalks. The state transportation commission, with respect to state highways, and local authorities, with respect to streets under their jurisdiction, with advice of the local superintendent of schools, shall establish and mark or cause to be marked these highway crossings.

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B. Crosswalks over highways not abutting school grounds may be established by the state transportation commission, with respect to state highways, and by local authorities, with respect to streets under their jurisdiction, with advice of the local superintendent of schools and after adequate assurance has been given that proper safety precautions will be maintained pursuant to regulations of the state transportation commission and of the local authorities. Responsibility for maintaining the crossing will be with the appropriate county or municipality wherein the school is located.

C. At all school crossings except as provided in this section, appropriate signs shall be provided as prescribed by the state transportation commission or local authorities within their respective jurisdictions, indicating the crossings and regulating traffic movement within the school zones.

D. School crossings are not required to be specially posted when they are located at:

(1) a signalized intersection;
(2) an intersection where traffic is controlled by a stop sign; or
(3) a point where a pedestrian tunnel or overhead crossing is provided."

Section 21. Section 66-7-342 NMSA 1978 (being Laws 1978, Chapter 35, Section 446) is amended to read:

"66-7-342. ALL VEHICLES MUST STOP AT CERTAIN RAILROAD GRADE CROSSINGS.--The state transportation commission and local authorities with the approval of the state transportation commission are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs at those crossings. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall proceed only upon exercising due care."

Section 22. Section 66-7-345 NMSA 1978 (being Laws 1965, Chapter 91, Section 3) is amended to read:

"66-7-345. AUTHORITY TO DESIGNATE THROUGH HIGHWAYS AND STOP AND YIELD INTERSECTIONS.--

A. The state transportation commission, with reference to state and county highways, and local authorities, with reference to other highways under their jurisdiction, may designate through highways and erect stop signs or yield signs at specified entrances thereto or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to the intersection.

B. Preferential right of way at an intersection may be indicated by stop

signs or yield signs as authorized in the Motor Vehicle Code.

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C. Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway before entering the intersection.

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D. The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway."

Section 23. Section 66-7-413 NMSA 1978 (being Laws 1978, Chapter 35, Section 484, as amended) is amended to read:

"66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

A. The department and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on any highway under the jurisdiction of the state transportation commission or local authorities. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route to be traversed, the type of load to be

transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection to any peace officer. It is a misdemeanor for any person to violate any of the conditions or terms of the special permit.

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B. The department shall charge and collect, when the movement consists of any load of a width of twenty feet or greater for a distance of five miles or more, the sum of three hundred dollars (\$300) a day or fraction thereof to defray the cost of state or local police escort. The permit issued and the fee charged shall be based upon the entire movement at one time requiring police escort and not upon the number of vehicles involved.

C. The department shall promulgate regulations in accordance with the State Rules Act pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier himself and for escort vehicles provided by a private business in this state.

(1) If a motor carrier provides his own escort vehicles and personnel, the department shall not charge an escort fee but shall provide the motor carrier escort personnel with a copy of applicable regulations and shall inspect the escort vehicles for the safety equipment required by the regulations. If the escort vehicles and personnel meet the requirements set forth in the regulations and if the motor carrier holds a valid certificate of public convenience and necessity or permit, as applicable, issued pursuant to Chapter 65, Article 2 NMSA 1978, the department shall

issue the special permit.

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(2) If the escort service is a private business, the business shall have applied to the public regulation commission for and been issued a permit or certificate to operate as a contract or common motor carrier pursuant to Chapter 65, Article 2 NMSA 1978. The public regulation commission shall supply copies of applicable regulations to the business by mail and shall supply additional copies upon request. If the escort vehicles and personnel meet the requirements set forth in the regulations and if the escort service holds a certificate, the special permit shall be issued and the department shall not charge an escort fee.

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(3) The movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraphs (1) and (2) of this subsection is subject to department authority and inspection at all times.

(4) The department of transportation shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of manufactured homes without an escort. After making that determination, the department of transportation shall hold public hearings in the area of the state affected by the determination, after which it may adopt regulations designating those four-lane highways as being safe for the operation or movement of manufactured homes without an escort. If any portion of such a four-lane highway lies within the boundaries of a municipality, the department of transportation, after obtaining the approval of the municipal governing body, shall include such portions in its regulations.

D. Except for the movement of manufactured homes, special permits

may be issued for a single vehicle or combination of vehicles by the department for a period not to exceed one year for a fee of sixty dollars (\$60.00). The permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon and may include a provision for excessive weight if the operation is to be within the vicinity of a municipality.

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E. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued for a single vehicle for a fee of fifteen dollars (\$15.00).

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F. If the vehicle for which a permit is issued under this section is a manufactured home, the department or local highway authority issuing the permit shall furnish the following information to the property tax division of the department, which shall then forward the information:

(1) to the county assessor of any county from which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to if within the same county, the name of the owner of the manufactured home and the identification and registration numbers of the manufactured home;

(2) to the county assessor of any county in this state to which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home and the registration and identification numbers of the manufactured home; and

(3) to the owner of a manufactured home having a destination in this state, notification that the information required in Paragraphs (1) and (2) of this subsection is being given to the respective county assessors and that manufactured

homes are subject to property taxation.

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G. Except as provided in Subsection H of this section, if the movement of a manufactured home originates in this state, no permit shall be issued under Subsection F of this section until the owner of the manufactured home or his authorized agent obtains and presents to the department proof that a certificate has been issued by the county assessor or treasurer of the county in which the manufactured home movement originates showing that either:

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(1) all property taxes due or to become due on the manufactured home for the current tax year or any past tax years have been paid, except for manufactured homes located on an Indian reservation; or

(2) no liability for property taxes on the manufactured home exists for the current tax year or any past tax years, except for manufactured homes located on an Indian reservation.

H. The movement of a manufactured home from the lot or business location of a manufactured home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection G of this section if the manufactured home movement originates from the lot or business location of the dealer and the manufactured home was part of his inventory prior to the sale to the owner-purchaser; however, the movement of a manufactured home by a dealer or his authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to the requirements of Subsection G of this section whether the destination is the business location of a dealer or some other destination.

I. No permit shall be issued under this section for movement of a manufactured home whose width exceeds eighteen feet with no more than a six-inch

roof overhang on the left side or twelve inches on the right side in addition to the eighteen-foot width of the manufactured home. Manufactured homes exceeding the limitations of this section shall only be moved on dollies placed on the front and the rear of the structure.

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J. The secretary may by regulation provide for movers of manufactured homes to self-issue permits for certain sizes of manufactured homes over specific routes; however, in no case may the cost of each permit be less than fifteen dollars (\$15.00).

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K. The secretary may provide by regulation for dealers of implements of husbandry to self-issue permits for the movement of certain sizes of implements of husbandry from the lot or business location of the dealer over specific routes with specific escort requirements, if necessary, to a destination designated by an owner-purchaser or for purposes of a working demonstration on the property of a proposed owner-purchaser. The department shall charge a fee for each self-issued permit not to exceed fifteen dollars (\$15.00).

L. Any private motor carrier requesting an oversize or overweight permit shall provide proof of insurance in at least the following amounts:

(1) bodily injury liability, providing:

(a) fifty thousand dollars (\$50,000) for each person;

and

(b) one hundred thousand dollars (\$100,000) for each

accident; and

(2) property damage liability, providing twenty-five thousand dollars (\$25,000) for each accident.

M. Any common motor carrier requesting an oversize permit shall produce a copy of a form "e" or other acceptable evidence that the common motor carrier maintains the insurance minimums prescribed by the public regulation commission."

Section 24. Section 66-7-415 NMSA 1978 (being Laws 1955, Chapter 37, Section 12, as amended) is amended to read:

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

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

B. The local authority enacting an ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any street affected, and the ordinance or resolution shall not be effective unless and until such signs are erected and maintained and notice thereof given in writing to the nearest officer or employee of the motor transportation division of the department of public safety authorized to issue special permits.

C. The state transportation commission shall likewise have authority, as granted to local authorities in Subsections A and B of this section, to determine by resolution and to impose restrictions as to the size and weight of vehicles operated upon any highways under the jurisdiction of the commission, and such restrictions shall

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be effective on and after the passage of a resolution and when signs giving notice thereof are erected upon the highway or portion of any highway affected by such resolution. The commission shall deliver a copy of all restrictions adopted by it to the motor transportation division of the department of public safety."

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Section 25. Section 67-2-4 NMSA 1978 (being Laws 1929, Chapter 77, Section 1, as amended) is amended to read:

"67-2-4. DEFINITIONS.--As used in Chapter 67 NMSA 1978:

A. "state highway" shall include any highway declared to be a state highway by an act of the legislature or designated as such by the state highway engineer;

B. "department" means the department of transportation; and

C. "secretary" means the secretary of transportation."

Section 26. Section 67-3-1 NMSA 1978 (being Laws 1935, Chapter 44, Section 1, as amended) is amended to read:

"67-3-1. REIMBURSEMENT OF STATE TRANSPORTATION

COMMISSIONERS.--The members of the state transportation commission shall receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance."

Section 27. Section 67-3-2 NMSA 1978 (being Laws 1967, Chapter 266, Section 1, as amended) is amended to read:

"67-3-2. STATE TRANSPORTATION COMMISSIONERS--NUMBER--
APPOINTMENT--POWERS--TERM OF OFFICE--BOND.--

A. The state transportation commission shall consist of six members to be appointed by the governor with the advice and consent of the senate.

B. State transportation commissioners shall be appointed for staggered terms of six years each commencing on January 1 so that the terms of not more than two commissioners expire on December 31 of each even-numbered year. Any vacancy shall be filled by appointment by the governor with the approval of the senate for the remainder of the unexpired term.

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C. Each of the members, in order to qualify as such, shall take the usual oath and execute in favor of the state a surety company bond in a form approved by the attorney general in the amount of twenty-five thousand dollars (\$25,000) conditioned upon the faithful performance of his duties. No more than four of the appointed commissioners shall belong to the same political party.

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D. The state transportation commission shall have the power to determine all matters of policy for the department."

Section 28. Section 67-3-3 NMSA 1978 (being Laws 1967, Chapter 266, Section 2, as amended) is amended to read:

"67-3-3. STATE TRANSPORTATION COMMISSION DISTRICTS--ONE MEMBER APPOINTED FROM EACH DISTRICT--RESIDENCE REQUIREMENTS.--

A. There are created six state transportation commission districts as follows:

(1) district 1, which shall be composed of the counties of Socorro, Grant, Sierra, Dona Ana, Luna and Hidalgo;

(2) district 2, which shall be composed of the counties of Lea, Eddy, Chaves, Roosevelt, Curry, DeBaca, Lincoln and Otero;

(3) district 3, which shall be composed of the counties of Bernalillo and Valencia and, in Sandoval county, all of townships twelve and thirteen

north, ranges one, two, three, four, five and six east and all of townships fourteen, fifteen and sixteen north, ranges four, five and six east;

(4) district 4, which shall be composed of the counties of Colfax, Union, Mora, Harding, San Miguel, Quay and Guadalupe;

(5) district 5, which shall be composed of the counties of San Juan, Rio Arriba, Taos, Santa Fe, Torrance and Los Alamos; and

(6) district 6, which shall be composed of the counties of Catron, Cibola, McKinley and all of Sandoval county excluding all of townships twelve and thirteen north, ranges one, two, three, four, five and six east and all of townships fourteen, fifteen and sixteen north, ranges four, five and six east.

B. The legislature, in the event of the creation of any new county, shall attach the new county to any of the above districts to which the new county may be contiguous.

C. One member of the state transportation commission shall be appointed from each of the six state transportation commission districts, and the member shall reside in the district from which he is appointed. Change of residence of a state transportation commissioner to a place outside the highway district from which he was appointed shall automatically terminate the term of that commissioner.

Section 29. Section 67-3-6 NMSA 1978 (being Laws 1967, Chapter 266, Section 5, as amended) is amended to read:

"67-3-6. CREATION OF DEPARTMENT OF TRANSPORTATION.--A department of government within the executive branch to be known as the "department of transportation" is established. Except for the powers expressly granted to the state transportation commissioners in Chapter 67, Article 3 NMSA 1978, the department

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shall exercise all the power, authority and duty granted to the state transportation commission in Chapter 67 NMSA 1978. All references contained in the NMSA 1978, as amended, and which refer to the "state transportation commission" or "commissioners" shall, wherever appropriate, be construed to refer to or to mean the department as designated in this section."

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Section 30. Section 67-3-7 NMSA 1978 (being Laws 1967, Chapter 266, Section 6, as amended) is amended to read:

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"67-3-7. SECRETARY OF TRANSPORTATION--APPOINTMENT--
QUALIFICATIONS--BOND.--

A. The department shall be under the control of an executive officer to be known as the "secretary". The secretary shall have all powers necessary for the efficient management of the department. Except for the powers expressly granted to the state transportation commission by Sections 67-3-5, 67-3-7 and 67-3-23 NMSA 1978 and by Section 67-3-2 NMSA 1978, the secretary shall have all powers granted by law to the state transportation commission or the state transportation commissioners.

B. The secretary shall devote his entire time to his duties and shall receive an annual salary set by the commission. A secretary, during his period of service, shall not hold any other office under the laws of this state or of the United States."

Section 31. Section 67-3-8 NMSA 1978 (being Laws 1967, Chapter 266, Section 7, as amended by Laws 1987, Chapter 344, Section 1 and also by Laws 1987, Chapter 345, Section 1) is amended to read:

"67-3-8. POWERS AND DUTIES OF SECRETARY.--The secretary shall:

- A. serve as the chief staff officer of the state transportation commission and shall be responsible to the commission for the operations and management of the work of the department;
- B. organize the department in such a manner as to properly conduct the work of the department;
- C. establish six highway construction districts with the approval of the state transportation commission. The secretary shall designate a district engineer in each construction district to supervise and manage the operations of the district. The district engineer shall be a professional engineer. The authority and responsibility for the actual construction for all construction projects within the district shall be delegated to the district engineer. District engineers shall attend state transportation commission meetings;
- D. in accordance with the provisions of the Personnel Act, employ such assistants and employees as may be required for the efficient operation of the department, each of whom shall possess all the qualifications that may be prescribed for such position; provided that, notwithstanding the provisions of the Personnel Act, no more than five division directors shall be covered by and subject to the Personnel Act; and
- E. observe, administer and enforce the provisions of law now existing or hereafter enacted that pertain to the state highways, the state transportation commission or the department."

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Section 32. Section 67-3-10 NMSA 1978 (being Laws 1917, Chapter 38, Section 6) is amended to read:

"67-3-10. MEETINGS--OATHS--SEAL--POLICY.--It is the duty of the state

transportation commission to hold meetings at such times and for such periods as it
deems essential to the proper carrying out of the provisions of Chapter 67 NMSA
1978. The members shall have power to administer oaths, and the commission shall
have a common seal. It is the duty of the commission to consider and determine at its
meetings all questions relating to the general policy of the commission and the conduct
of the work in general; to receive and consider, at such times as it may elect, the
annual report of the secretary; and to act in all matters relating to the
recommendations, reports and such other matters as it finds advisable to submit to the
governor or to the legislature; provided, however, that any reports or information shall
be furnished to the governor by the commission upon his request."

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Section 33. Section 67-3-11 NMSA 1978 (being Laws 1917, Chapter 38,
Section 20) is amended to read:

"67-3-11. RULE-MAKING POWER.--The state transportation commission is
hereby authorized to make all rules and regulations as may be necessary to carry out
the provisions of Chapter 67 NMSA 1978."

Section 34. Section 67-3-12 NMSA 1978 (being Laws 1929, Chapter 110,
Section 1) is amended to read:

"67-3-12. POWERS AND DUTIES.--In addition to the powers now conferred
upon it by law, the state transportation commission shall have the power and authority
to:

A. declare abandoned and to close to public traffic all grade crossings
of railroads by state highways in cases where grade separations or other adequate
crossings are substituted therefor or where such grade crossings become
unnecessary to the public convenience by reason of changes in highway locations;

B. offer and upon compliance with the conditions of such offer to pay rewards for information leading to the arrest and conviction of offenders in cases of theft, defacement or destruction of markers or highway signs, lights or other warning devices placed upon or along highways of this state under the supervision of the state transportation commission and for information leading to the arrest and conviction of offenders or for the return of property in case of theft or unlawful damaging of property under the control of the commission. All such rewards when paid shall be paid from the state road fund upon voucher drawn by the state highway engineer or other authorized officer or agent of the department;

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C. prescribe by rules and regulations the conditions under which pipelines, telephone, telegraph and electric transmission lines and ditches may be hereafter placed along, across, over or under all public highways in this state and to forcibly remove or cause to be removed any such pipelines, telephone, telegraph or electric transmission lines or ditches which may hereafter be placed along, across, over or under such public highways in violation of such rules and regulations;

D. employ an attorney to assist and advise the state transportation commission and all of the employees and agents thereof in the discharge of their duties and to appear and represent the interests of the commission or its employees in any case before any court or tribunal in which the official duties, powers, rights or privileges of the commission or any of its employees or agents may be involved or affected and to pay such attorney the reasonable value of his services out of the state road fund;

E. bring and maintain in the name of the state all actions and proceedings deemed necessary by the state transportation commission for the

condemnation of rights of way for public highways or for the removal or condemnation of buildings or other improvements that encroach in whole or part upon the rights of way of public highways or for the condemnation of gravel pits or other deposits of materials or supplies suitable for the construction of public highways.

The attorney general of New Mexico shall appear in and prosecute all such cases on behalf of the state upon request of the state transportation commission. All such proceedings shall be conducted in the same manner as other cases for the condemnation of real property. The damages assessed in proceedings brought under the provisions of this section shall be paid out of the state road fund from money furnished for that purpose by cooperative agreement between the state, federal government and the county within which the condemned property is situate or any such governmental bodies or out of money furnished for the construction of the highway in connection with which the condemnation is had, by the county in which the condemned property is situate; provided, however, that if no such money is available, the damages shall be advanced on behalf of said counties out of their money in the state road fund and the state treasurer shall thereafter reimburse the state road fund for the money advanced out of the next installment of money from motor vehicle license fees accruing to the road fund of the county for which such funds were so advanced; and

F. designate in its discretion one of its employees as acting secretary to act at all times when the secretary is absent from the state capital. The acting secretary, when designated, has the right and is hereby given authority at all times when the secretary is absent from the state capital to sign all federal project statements, federal project agreements and federal vouchers with the same force and

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effect as if signed by the secretary in person, and the certificate of the acting secretary
attached to any federal project statement, federal project agreement or federal
voucher to the effect that the secretary was absent from the state capital at the time
that the same was so signed by the acting secretary shall be conclusive evidence of
the truth of such fact. The acting secretary may also be vested by the state
transportation commission with power and authority to act for the secretary in such
other matters as the state transportation commission may determine."

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Section 35. Section 67-3-14 NMSA 1978 (being Laws 1912, Chapter 54, Section 2, as amended) is amended to read:

"67-3-14. STATE TRANSPORTATION COMMISSION--POWERS AND DUTIES--ROAD FUNDS.--

A. The state transportation commission has charge of all policy matters pertaining to the expenditure of the state road fund in the construction, improvement and maintenance of state highways and bridges in the state.

B. The state transportation commission may also make rules and regulations governing the method of construction, improvement and maintenance of state highways and bridges and compel compliance with the laws, rules and regulations relating to state highways and bridges. The commission shall have no duty to maintain or supervise the maintenance of roads that are not designated state highways or bridges.

C. The secretary shall have authority to expend state road funds and use state forces and equipment in an amount not to exceed ten thousand dollars (\$10,000) for the purpose of restoring and preserving the public safety and welfare in any emergency involving a threat of injury to lives or property within areas under the

control of the state or local governmental bodies."

Section 36. Section 67-3-17 NMSA 1978 (being Laws 1967, Chapter 20, Section 2) is amended to read:

"67-3-17. SNOW REMOVAL FROM DESIGNATED SKIING AREA PARKING FACILITIES.--The state transportation commission is hereby authorized and empowered to remove any snow that it deems to be an obstacle to the parking of motor vehicles at any parking area that serves a skiing area. If the parking area is on lands owned by or leased from the state, municipal, county or federal government, the cost of snow removal shall be borne by the state as in the case of road maintenance. If the parking facilities are on private lands, the person in control of the skiing area shall be liable for the payment of such sum, not less than actual cost, as the state transportation commission decides to be the reasonable value of such snow removal. For the purposes of this section, the phrase "skiing area" shall mean any lands or areas used for the sport of skiing and recognized by the tourism department as a tourist attraction."

Section 37. Section 67-3-19 NMSA 1978 (being Laws 1967, Chapter 165, Section 1) is amended to read:

"67-3-19. DUTY TO REPAIR AND MAINTAIN STATE PARK ROADS, BRIDGES AND PARKING AREAS.--It is the duty of the state transportation commission to repair and maintain the public roads and highways that provide access to state park and recreation areas and to repair and maintain all roads, bridges and parking areas within the boundaries of the state park and recreation areas that will best serve the needs of the general public."

Section 38. Section 67-3-20 NMSA 1978 (being Laws 1909, Chapter 42,

Section 5, as amended) is amended to read:

"67-3-20. EL CAMINO REAL--SUPERVISION AND CONTROL.-- The system of highways established by Sections 67-9-2 through 67-9-5 NMSA 1978 shall be under the supervision and control of the state transportation commission, and it shall carry out the provisions at such time as in its judgment is proper."

Section 39. Section 67-3-22 NMSA 1978 (being Laws 1909, Chapter 42, Section 9, as amended) is amended to read:

"67-3-22. STATE TRANSPORTATION COMMISSION--ANNUAL REPORT.--The state transportation commission shall, on or before the first day of January of each year, make a report to the governor of all business transacted by the commission up to and including the thirtieth day of November, showing an itemized statement of money received and disbursed."

Section 40. Section 67-3-23 NMSA 1978 (being Laws 1977, Chapter 251, Section 5, as amended) is amended to read:

"67-3-23. SECRETARY OF TRANSPORTATION--APPOINTMENT.--The governor shall appoint a secretary of transportation, with the approval of the state transportation commission and subject to the advice and consent of the senate. The secretary shall be in general charge of the work of the commission and be its active executive representative and shall serve as the representative of the department on the executive cabinet as provided for in the Executive Reorganization Act. The secretary shall take the usual oath and execute in favor of the state a bond in the sum of fifty thousand dollars (\$50,000), of like character, with like sureties and for like purposes, to be approved and filed as prescribed in the Surety Bond Act. The premium of the bond shall be paid out of the state road fund."

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Section 41. Section 67-3-24 NMSA 1978 (being Laws 1917, Chapter 38,
Section 5) is amended to read:
"67-3-24. EMPLOYEES--APPOINTMENT --COMPENSATION.--The secretary,
with the consent and approval of the state transportation commission, may appoint and
fix the compensation of assistant engineers and clerks and employ such other help as
may be necessary to the proper conduct of the work of the commission under the
provisions of Chapter 67 NMSA 1978. All appointees on entering upon their duties
shall first take the prescribed oath of office if so required by the commission."

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Section 42. Section 67-3-26 NMSA 1978 (being Laws 1917, Chapter 38,
Section 7, as amended) is amended to read:

"67-3-26. DUTIES OF SECRETARY--DISBURSEMENT OF STATE ROAD
FUND.--The secretary shall have charge of all records of the state transportation
commission; shall keep a record of all proceedings and orders pertaining to the
business of his office and of the state transportation commission; and shall keep on file
copies of all plans, specifications and estimates prepared by his office. He shall cause
to be made and kept in his office a general highway plan of the state. He shall prepare
or cause to be prepared or call upon the county surveyor or the county highway
superintendent to furnish a map showing all of the main highways of the several
counties of the state and shall, under the direction of the state transportation
commission, select and designate the highways that should comprise a system of state
roads, which shall, as nearly as practicable, be such as will best serve the traffic needs
and develop the resources of the state. Upon its adoption by the state transportation
commission, the system of state roads so designated shall be improved as soon

thereafter as practicable under the provisions of Chapter 67 NMSA 1978 and such other provisions as the legislature may enact therefor. The system of state roads so designated may be changed or added to from time to time by the secretary subject to the approval of the state transportation commission. The secretary shall collect information with reference to the mileage, character and condition of the highways and bridges in the several counties of the state and shall investigate and determine the methods of road construction and maintenance best adapted to the various sections of the state, having due regard to topography, natural conditions, the availability of road building materials, the prevailing traffic conditions and the ability of the counties to meet the cost of building and maintaining roads and bridges therein. He may, at all reasonable times, be consulted by county and other officials having authority over highways and bridges relative to any question affecting such highways and bridges, and he may in like manner call on county road officials and county surveyors for any information or maps relative to the location, character and condition of the highways and bridges within their jurisdiction or control. Any such official who fails to supply such information when so called upon is guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100). He shall determine the character of and have supervision over the construction, repair and maintenance of all state roads and bridges improved under the provisions of Chapter 67 NMSA 1978 and shall prepare or approve all plans and specifications and estimates therefor. He shall report the proceedings of his office annually to the state transportation commission at such time as it may designate. All money in the state road fund shall be expended only upon itemized vouchers approved by the secretary, filed with the department of finance and administration, and warrants

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drawn by the secretary of finance and administration upon the state treasurer."

Section 43. Section 67-3-29 NMSA 1978 (being Laws 1973, Chapter 143, Section 1) is amended to read:

"67-3-29. DEPARTMENT PERSONNEL--COUNTY AND MUNICIPAL ROAD TECHNICAL ASSISTANCE.--The state transportation commission may establish and maintain within the department qualified technical personnel including engineers, designers and survey crews to assist counties and municipalities in the engineering, design and other technical aspects of county and municipal road projects."

Section 44. Section 67-3-30 NMSA 1978 (being Laws 1929, Chapter 100, Section 3) is amended to read:

"67-3-30. COUNTIES AUTHORIZED TO CONTRACT WITH COMMISSION--INSUFFICIENT FUNDS--EXEMPTION FROM BATEMAN ACT.--The boards of county commissioners of the respective counties of this state are hereby authorized to enter into cooperative agreements with the state transportation commission in accordance with the provisions of Sections 67-3-28 and 67-3-30 NMSA 1978. An agreement shall bind the state and a county becoming a party thereto and shall not be invalidated by reason of the fact that a participating county may not have or collect during the current year sufficient money to pay the indebtedness of said county incurred under such contract for said current year. A contract shall be exempted from the provisions of Section 6-6-11 NMSA 1978."

Section 45. Section 67-3-31 NMSA 1978 (being Laws 1917, Chapter 38, Section 8) is amended to read:

"67-3-31. COUNTY ROADS--IMPROVEMENT OR CONSTRUCTION--STATE

AID--DUTIES OF STATE HIGHWAY ENGINEER.--Whenever the board of county commissioners of any county desires that any main traveled road or roads in such county included among those adopted by the state transportation commission as a system of state roads shall be improved or constructed under the provisions of Chapter 67 NMSA 1978, written application shall be made by the board of county commissioners to the secretary for such improvement or construction and for state aid therefor. If the board of county commissioners of any county fails to apply for state aid during the year for which such aid is available, that county shall thereby forfeit its right to its portion of state aid for that year, and the funds apportioned to that county for the year shall remain in and be a part of the state road fund for the succeeding year. If upon receipt of such application the state transportation commission is satisfied, after investigation, that the proposed improvement should be made or undertaken and that the county will be able to pay its portion of the cost and that state funds will be available to pay the state's portion of the cost, it may approve the same and undertake such work of improvement in accordance with the provisions of Chapter 67 NMSA 1978. The secretary or one of his assistants shall proceed to view the road or part thereof proposed to be improved and make all surveys, plans, specifications and estimates of cost for its construction out of such materials as may be decided upon by the secretary; provided, that whenever in the judgment of the state transportation commission it is desirable to proceed with the improvement of any road in the system of state roads, for the improvement of which the county commissioners of the county in which the same is located shall have failed or declined to make application as provided in this section, it is lawful for the secretary to proceed with the improvement of any such road without application from the board of county commissioners and to pay the

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entire cost of such improvement from the portion of the state road fund made available under the provisions of Chapter 67 NMSA 1978 for expenditure wholly within the discretion of the state transportation commission and from the state apportionment of funds under the act of congress referred to in Section 67-3-33 NMSA 1978."

Section 46. Section 67-3-32 NMSA 1978 (being Laws 1983, Chapter 38, Section 1, as amended) is amended to read:

"67-3-32. COOPERATIVE AGREEMENTS--PREFERENCE.--In entering into cooperative agreements pursuant to Section 67-3-28 NMSA 1978, the state transportation commission shall give preference to political subdivisions of this state if the subdivision contributes an amount equal to at least twenty-five percent of the project cost."

Section 47. Section 67-3-33 NMSA 1978 (being Laws 1917, Chapter 38, Section 19, as amended) is amended to read:

"67-3-33. ASSENT TO FEDERAL RURAL POST ROAD ACTS--PLEDGE OF STATE'S GOOD FAITH--EXPENDITURES.--The legislature of New Mexico hereby assents to the provisions of the act of congress approved July 11, 1916 entitled "an act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes", 39 U. S. Statutes at Large, page three hundred fifty-five, and all acts amendatory thereof and supplementary thereto, and the legislature of New Mexico hereby assents to the provisions of the act of congress approved November 9, 1921 entitled "an act to amend the act entitled 'an act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes', approved July eleven, nineteen hundred and sixteen as

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amended and supplemented and for all other purposes", 42 U. S. Statutes at Large, page two hundred twelve and all acts amendatory thereof and supplementary thereto. The state transportation commission is hereby authorized to enter into all contracts and agreements with the United States government relating to the construction and maintenance of rural post roads under the provisions of the said acts of congress, to submit such scheme or program of construction and maintenance as may be required by the secretary of agriculture and to do all other things necessary fully to carry out the cooperation contemplated and provided by the acts. The good faith of the state is hereby pledged to make available funds sufficient to equal the sum apportioned to the state by or under the United States government during each of the five years for which federal funds are appropriated by the acts, to maintain the roads constructed under the provision of the acts and to make adequate provision for carrying out such maintenance. All money accruing to the state road fund and available for expenditure in the construction and maintenance of highways and all federal funds apportioned to this state under the acts of congress shall be expended upon the highways comprising the system of state roads provided for by Chapter 67 NMSA 1978."

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Section 48. Section 67-3-34 NMSA 1978 (being Laws 1925, Chapter 18, Section 1) is amended to read:

"67-3-34. FEDERAL AID ROAD PROJECT--DOCUMENT EXECUTION.--

Whenever a federal aid road project has been approved by the state transportation commission, the secretary is hereby authorized to execute and sign for and on behalf of the commission the project agreement and modifications thereof and all required documents in connection with such project. The agreements, modifications and documents so executed and signed shall be binding upon the state and upon the

department to the same extent as if they had been signed by every member of the
commission."

Section 49. Section 67-3-35 NMSA 1978 (being Laws 1925, Chapter 18,
Section 2) is amended to read:

"67-3-35. AUDITOR--APPOINTMENT--DUTIES--BOND.--The secretary, by and
with the approval of the state transportation commission, may appoint some suitable
person who shall be authorized to sign the name of said engineer to all vouchers as he
designates from time to time in writing for the disbursement of funds. The appointee
shall take the oath of office required of other employees of the department and shall
execute in favor of the state a surety company bond in the sum of fifty thousand dollars
(\$50,000), subject to approval of the state transportation commission, conditional for
the faithful performance of his duties, the premium of the bond to be paid out of the
state road fund."

Section 50. Section 67-3-36 NMSA 1978 (being Laws 1963, Chapter 249,
Section 1) is amended to read:

"67-3-36. ACQUISITION OF RIGHTS OF WAY--DUTY OF COUNTY AND
DISTRICT ATTORNEY.--Except as provided in Section 67-3-37 NMSA 1978, the rights
of way deemed necessary by the state transportation commission for highways
constructed or reconstructed under the supervision of the state transportation
commission shall be acquired by the county through which such highways shall or do
pass by donation, agreement, exchange, by the exercise of the power of eminent
domain or otherwise, in the manner provided by law for acquiring property or property
rights for public uses. It is the duty of the district attorney for the county wherein such
property or property rights are situate to commence and prosecute an action to

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acquire all such property or property rights upon request of the board of county commissioners or the state transportation commission."

Section 51. Section 67-3-37 NMSA 1978 (being Laws 1963, Chapter 249, Section 2) is amended to read:

"67-3-37. ACQUISITION OF RIGHTS OF WAY FOR INTERSTATE SYSTEM-- PRIMARY SYSTEM--SECONDARY SYSTEM--PAYMENT.--

A. In the acquisition of property or property rights deemed necessary by the state transportation commission for construction or reconstruction of the national system of interstate and defense highways, more commonly known as the "federal aid interstate system", the "federal aid primary system" and the "federal aid secondary system", the state transportation commission shall, at its costs, acquire the property or property rights directly, by either donation, agreement, exchange, condemnation or otherwise, without recourse to the county.

B. The secretary is authorized to make full payment directly to the owner or party having an interest in the property or property interests involved, in the manner prescribed by law, or may reimburse the county for the actual costs."

Section 52. Section 67-3-38 NMSA 1978 (being Laws 1963, Chapter 249, Section 3) is amended to read:

"67-3-38. ACTION BY STATE TRANSPORTATION COMMISSION.--When the state transportation commission secures property or property rights required for the construction or reconstruction of the federal aid interstate system, the federal aid primary system or the federal aid secondary system, it is the duty of the district attorney for the county wherein such property or property rights are situate to aid and assist the state transportation commission in all matters pertaining thereto and to be

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present and assist at any trial involving the property or property rights required upon written request of the secretary or the head of the legal section of the department."

Section 53. Section 67-3-40 NMSA 1978 (being Laws 1919, Chapter 99, Section 13) is amended to read:

"67-3-40. CONTROL OF STATE HIGHWAYS--MAINTENANCE COSTS.--The state transportation commission shall have full control over all roads designated by the commission as state highways or created as state highways by acts of the legislature. The costs of maintenance thereof shall be paid by the state, provided, that if at any time the money in the state road fund available for improvement or maintenance of all such state highways in the state shall not be sufficient for such purposes, the state transportation commission shall certify to the respective boards of county commissioners the certain sections of the highways in the counties, proportionately to such deficiency, which shall be improved and maintained wholly by the respective counties until sufficient funds are provided in the state road fund to enable the state to take over and maintain them as state highways."

Section 54. Section 67-3-41 NMSA 1978 (being Laws 1917, Chapter 38, Section 14) is amended to read:

"67-3-41. HIGHWAY MAINTENANCE CONTRACTS WITH COUNTIES--FAILURE OF COUNTY TO MAINTAIN--UTILITY LINES.--All state highways constructed and improved under the provisions of Chapter 67 NMSA 1978 shall be maintained by the state transportation commission, but not more than fifty percent of the cost of such maintenance shall be paid by the state and not less than fifty percent shall be paid by the counties. The state transportation commission may, however, contract with the board of county commissioners of any county to maintain any state highway or

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highways therein in accordance with standards prescribed by the secretary and
subject to supervision and inspection by him, and if the board of county commissioners
of any county so contracting to maintain such highways shall fail, neglect or refuse
properly to execute such work of maintenance, the secretary, after reasonable notice,
may have such work of maintenance done and charge the county's portion of the cost
to the allotment due the county from the state road fund for the year in which work is
done. No pipe lines, poles or telephone or electric transmission lines or railways,
authorized to be placed on or along roads constructed or improved under the
provisions of Chapter 67 NMSA 1978 shall be located except in accordance with rules
and regulations prescribed therefor by the state transportation commission."

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Section 55. Section 67-3-42 NMSA 1978 (being Laws 1917, Chapter 38,
Section 13) is amended to read:

"67-3-42. BRIDGES CONSIDERED PART OF HIGHWAY.--For the purposes of
Chapter 67 NMSA 1978, necessary bridges, culverts and other appertaining structures
on any highway shall be considered a part of such highway. Not more than fifty
percent of the cost of all construction or improvement of highways, under the
provisions of Chapter 67 NMSA 1978, shall be paid by the state and not less than fifty
percent by the county in which such work is done, except where such work is done by
the state transportation commission without the use of county funds."

Section 56. Section 67-3-46 NMSA 1978 (being Laws 1939, Chapter 91,
Section 1) is amended to read:

"67-3-46. RENTAL OF EQUIPMENT --BIDS NOT REQUIRED IN
EMERGENCIES--BID PROCEDURE--RESTRICTIONS.--In cases of emergency where a
state highway is rendered impassable for vehicular traffic by reason of fire, flood, storm

or any other unusual condition and when it is necessary to take emergency action to reestablish the highway to a condition to render it passable to traffic, and equipment owned by the state transportation commission suitable for such purpose is not immediately available, the secretary, subject to approval of the state transportation commission, may rent equipment for such purpose at a reasonable rental rate without advertising for bids. In all other cases, the secretary shall advertise for bids before renting equipment and shall rent such equipment from the party submitting the lowest satisfactory bid. Such advertisement for bids shall be in accordance with such rules as may be adopted therefor by the state transportation commission, and bids shall be on such forms and in such manner and accompanied by such guarantee as may be prescribed by the commission."

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Section 57. Section 67-3-49 NMSA 1978 (being Laws 1929, Chapter 108, Section 1, as amended) is amended to read:

"67-3-49. CLAIMS OF HIGHWAY CONTRACTOR'S CREDITORS--STATE HIGHWAY SUSPENSE FUND.--Whenever, after the completion of any contract for the construction, repair or maintenance of any public highway under the supervision of the state transportation commission and the final acceptance of the work done thereunder, there now is or hereafter may be funds in a sum of less than five hundred dollars (\$500) remaining in the hands of the state treasurer, properly payable under said contract, and claims of alleged creditors of such contractor have been filed with the state transportation commission against such funds, then, and at the election of the state transportation commission and upon an appropriate voucher issued by the proper officer of said commission specifying the project number of such contract and the name of such contractor and the names of all creditors who have filed such claims

with said commission and the amounts of all claims so filed, the secretary of finance and administration shall issue a warrant for the transfer of the full amount of said fund to a special account to be known as the "state highway suspense fund" and shall specify upon his records the amount of money so transferred, the project number of said contract, the name of said contractor and the names and amounts of the claims of such creditors. Upon receipt of such warrant, the state treasurer shall transfer such funds to the state highway suspense fund in accordance with said warrant."

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Section 58. Section 67-3-50 NMSA 1978 (being Laws 1929, Chapter 108, Section 2) is amended to read:

"67-3-50. ACCOUNT CLOSING--NONLIABILITY.--Upon transfer of the funds as provided in Section 67-3-49 NMSA 1978, the state transportation commission shall close its book of account upon such project and shall have no further responsibility in connection with such fund or with the payment of the balance of money remaining to the credit of said contractor upon said contract."

Section 59. Section 67-3-54 NMSA 1978 (being Laws 1943, Chapter 7, Section 1) is amended to read:

"67-3-54. FLIGHT STRIPS, AIRPORT AND ACCESS ROADS--CONTRACTS WITH FEDERAL GOVERNMENT --SECRETARY.--The state transportation commission is hereby authorized to enter into and make agreements with the federal government, or any agency, bureau or commission thereof, providing for the construction and maintenance of flight strips for the landing and launching of aircraft adjacent to or in the vicinity of public highways, for the construction and maintenance of airports or the construction and maintenance of access roads to flight strips, airports, bombing ranges, target ranges, federal reservations or to any industry or location deemed

necessary to the war effort. Whenever a project for the construction and maintenance of a flight strip, an airport or an access road has been approved by the state transportation commission, the secretary is hereby authorized to execute and sign on behalf of the commission the project agreement and modifications thereof and all other documents in connection with such project. Such agreements, modifications thereof and documents, when so executed and signed, shall be binding upon the state to the same extent as if they had been signed by every member of the state transportation commission."

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Section 60. Section 67-3-55 NMSA 1978 (being Laws 1943, Chapter 7, Section 2) is amended to read:

"67-3-55. FLIGHT STRIPS, AIRPORTS AND ACCESS ROADS--BIDDING PROCEDURES--BOND.--The state transportation commission may construct, reconstruct or maintain any flight strips, any airport or access road by work done with its own forces. In all other cases, it is the duty of the secretary to let the work on contract, after taking bids therefor, subject to the approval of the state transportation commission. The taking of bids therefor shall be in accordance with such rules as may be adopted by the commission. The secretary may reject any or all bids if they are unbalanced or for any other good cause, but otherwise he shall award the contract to the lowest responsible bidder. The successful bidder shall be required to furnish satisfactory bond in such amount as may be determined by the state transportation commission pledged to the faithful performance by the bidder of the terms of his contract."

Section 61. Section 67-3-56 NMSA 1978 (being Laws 1943, Chapter 7, Section 3, as amended) is amended to read:

"67-3-56. STATE TRANSPORTATION COMMISSION--POWER TO ACQUIRE LAND FOR FLIGHT STRIP, AIRPORT OR ACCESS THERETO.--The state transportation commission is hereby authorized and empowered to acquire by purchase, condemnation, gift or easement any and all lands or property necessary for the construction, maintenance and use of a flight strip for the landing or launching of aircraft adjacent to or in the vicinity of a public highway, for the construction, maintenance and use of an airport, or any access road. The secretary is authorized to issue his voucher for the payment to the owner of any or all lands required for such purpose in the sum agreed upon with such owners or as may be determined by appraisal and, when presented with such voucher by the secretary, it is the duty of the secretary of finance and administration to issue a warrant in such amount, and the state treasurer shall pay the same out of the state road fund."

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Section 62. Section 67-3-57 NMSA 1978 (being Laws 1947, Chapter 118, Section 1) is amended to read:

"67-3-57. ANNUAL APPROPRIATION--PURPOSES.--There is hereby appropriated for each of the thirty-fifth and thirty-sixth fiscal years the sum of nineteen million dollars (\$19,000,000) or so much thereof as is necessary for the purpose of carrying out the provisions of the laws relating to the issue, sale and payment of state highway debentures and the interest thereon; for the construction, maintenance and improvement of public highways under the direction of the state transportation commission; for the purchase of equipment therefor; for cooperation with the United States in the construction of roads under the federal aid road law and other laws; and for the payment of salaries and other expenses incurred by the state transportation commission pursuant to law.

The appropriations shall be paid only out of the money in the state treasury to the credit of the state road fund and that may be placed to the credit of said fund, special road funds and funds from time to time set aside for the payment of the principal of and interest on state highway debentures and money received by the state treasurer from allotments of appropriations by congress for road construction or other purposes, from sales of state highway debentures, from special road tax levies and other money provided by law to be expended under the direction of the state transportation commission."

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Section 63. Section 67-3-58 NMSA 1978 (being Laws 1947, Chapter 118, Section 2) is amended to read:

"67-3-58. ALLOTMENT OF APPROPRIATION.--From the money appropriated in Section 67-3-57 NMSA 1978, the state treasurer shall set aside each month out of the funds prescribed by law for the payment thereof a sufficient sum to pay the interest accrued each month on each series of state highway debentures then outstanding and, during the twelve months next preceding the maturity of each series of such debentures, he shall set aside from said funds sufficient money to provide for the payment of the principal thereof at maturity. The money so set aside shall be disbursed by the state treasurer only for the payment of the principal and interest of the series of the state highway debentures for which the money is set aside. The remainder of the money appropriated in Section 67-3-57 NMSA 1978 shall be disbursed upon the order of the state transportation commission or its duly authorized agent in the manner provided by law for disbursement of money in the state road fund."

Section 64. Section 67-3-59.1 NMSA 1978 (being Laws 1989, Chapter 157,

Section 1, as amended) is amended to read:

"67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--
LIMITS--APPROVAL--COUPONS.--

A. In order to provide funds to finance state highway projects, including state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation, the state transportation commission is authorized, subject to the limitations of this section, to issue bonds from time to time, payable from federal funds not otherwise obligated that are paid into the state road fund and the proceeds of the collection of taxes and fees that are required by law to be paid into the state road fund and not otherwise pledged solely to the payment of outstanding bonds and debentures.

B. Except as provided in Subsections C and D of this section, the total aggregate outstanding principal amount of bonds issued from time to time pursuant to this section, secured by or payable from federal funds not otherwise obligated that are paid into the state road fund and the proceeds from the collection of taxes and fees required by law to be paid into the state road fund, shall not, without additional authorization of the state legislature, exceed one hundred fifty million dollars (\$150,000,000) at any given time, subject to the following provisions:

(1) the total aggregate outstanding principal amount of bonds issued for state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation shall not exceed one hundred million dollars (\$100,000,000); and

(2) the total aggregate outstanding principal amount of bonds issued for state highway projects other than state highway projects that are required

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for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation shall not exceed fifty million dollars (\$50,000,000).

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C. Upon specific authorization and appropriation by the legislature, and subject to the limitations of Subsection D of this section, an additional amount of bonds may be issued pursuant to this section for state highway projects, to be secured by or payable from taxes or fees required by law to be paid into the state road fund and federal funds not otherwise obligated that are paid into the state road fund, and, as applicable, taxes or fees required by law to be paid into the highway infrastructure fund, as follows:

(1) an aggregate outstanding principal amount of bonds, not to exceed six hundred twenty-four million dollars (\$624,000,000), for major highway infrastructure projects for which the department has, prior to January 1, 1998, submitted or initiated the process of submitting a plan to the federal highway administration for innovative financing pursuant to 23 USCA Sections 122 and 307;

(2) an aggregate outstanding principal amount of bonds, not to exceed one hundred million dollars (\$100,000,000), for state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement; and

(3) an aggregate outstanding principal amount of bonds, not to exceed four hundred million dollars (\$400,000,000), for other state highway projects.

D. The total amount of bonds that may be issued by the state transportation commission for state highway projects pursuant to Subsection C of this section shall not exceed a total aggregate outstanding principal amount of:

- (1) three hundred million dollars (\$300,000,000) prior to July 1, 1999;
- (2) six hundred million dollars (\$600,000,000) from July 1, 1999 through June 30, 2000;
- (3) nine hundred million dollars (\$900,000,000) from July 1, 2000 through June 30, 2001; and
- (4) one billion one hundred twenty-four million dollars (\$1,124,000,000) after June 30, 2001.

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E. The state transportation commission may issue bonds to refund other bonds issued pursuant to this section by exchange or current or advance refunding.

F. Each series of bonds shall have a maturity of no more than twenty-five years from the date of issuance. The state transportation commission shall determine all other terms, covenants and conditions of the bonds; provided that the bonds shall not be issued pursuant to this section unless the state board of finance approves the issuance of the bonds and the principal amount of and interest rate or maximum net effective interest rate on the bonds.

G. The bonds shall be executed with the manual or facsimile signature of the chairman of the state transportation commission, countersigned by the state treasurer and attested to by the secretary of the state transportation commission, with the seal of the state transportation commission imprinted or otherwise affixed to the bonds.

H. Proceeds of the bonds may be used to pay expenses incurred in the preparation, issuance and sale of the bonds and, together with the earnings on the

proceeds of the bonds, may be used to pay rebate, penalty, interest and other obligations relating to the bonds and the proceeds of the bonds under the Internal Revenue Code of 1986, as amended.

I. The bonds may be sold at a public or negotiated sale at, above or below par or through the New Mexico finance authority. A negotiated sale shall be made with one or more investment bankers whose services are obtained through a competitive proposal process. For any sale, the state transportation commission or the New Mexico finance authority shall also procure the services of any financial advisor or bond counsel through a competitive proposal process. If sold at public sale, a notice of the time and place of sale shall be published in a newspaper of general circulation in the state, and in any other newspaper determined in the resolution authorizing the issuance of the bonds, once each week for two consecutive weeks prior to the date of sale. The bonds may be purchased by the state treasurer or state investment officer.

J. This section is full authority for the issuance and sale of the bonds, and the bonds shall not be invalid for any irregularity or defect in the proceedings for their issuance and sale and shall be incontestable in the hands of bona fide purchasers or holders of the bond for value.

K. The bonds shall be legal investments for a person or board charged with the investment of public funds and may be accepted as security for a deposit of public money and, with the interest thereon, are exempt from taxation by the state and a political subdivision or agency of the state.

L. Any law authorizing the imposition or distribution of taxes or fees paid into the state road fund or the highway infrastructure fund or that affects those

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taxes and fees shall not be amended or repealed or otherwise directly or indirectly modified so as to impair outstanding bonds secured by a pledge of revenues from those taxes and fees paid into the state road fund or the highway infrastructure fund, unless the bonds have been discharged in full or provisions have been made for a full discharge. In addition, while any bonds issued by the state transportation commission pursuant to the provisions of this section remain outstanding, the powers or duties of the commission shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holder of such bonds.

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M. In contracting for state highway projects to be paid in whole or in part with proceeds of bonds authorized by this section, the department shall require that any sand, gravel, caliche or similar material needed for the project shall, if practicable, be mined from state lands. Each contract shall provide that the contractor notify the commissioner of public lands of the need for the material and that, through lease or purchase, the material shall be mined from state lands if:

- (1) the material needed is available from state lands in the vicinity of the project;
- (2) the commissioner determines that the lease or purchase is in the best interest of the state land trust beneficiaries; and
- (3) the cost to the contractor for the material, including the costs of transportation, is competitive with other available material from non-state lands.

N. Bonds issued pursuant to this section shall be paid solely from federal funds not otherwise obligated and taxes and fees deposited into the state road fund and, as applicable, the highway infrastructure fund, and shall not constitute a

general obligation of the state."

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Section 65. Section 67-3-60 NMSA 1978 (being Laws 1963, Chapter 114, Section 1, as amended) is amended to read:

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"67-3-60. BYPASSES AND RELOCATION PROJECTS--EXPENDITURE OF HIGHWAY FUNDS--PURPOSE.--The purpose of Sections 67-3-60 and 67-3-61 NMSA 1978 is to foster and insure the correlation of state highway construction programs closely affecting smaller municipalities and unincorporated communities with the future economic growth, livelihood, development, safety and general welfare of the communities by limiting the use of public funds for the construction of highway bypasses or relocation projects diverting traffic and commerce from existing state highway routes through the communities in accordance with the provisions of all existing agreements between a municipality or county and the state transportation commission relating to obtaining the consent of the municipality or county pursuant to the provisions of Section 67-3-61 NMSA 1978."

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Section 66. Section 67-3-61 NMSA 1978 (being Laws 1963, Chapter 114, Section 2, as amended) is amended to read:

"67-3-61. LIMITATION OF EXPENDITURES OF HIGHWAY FUNDS FOR CONSTRUCTION OF HIGHWAY BYPASSES.--No expenditure or contract for the expenditure of state public funds for purposes of construction of highway bypasses or highway relocation projects diverting public motor vehicle travel from a previously existing highway route shall be made that violates the provisions of an existing agreement between a municipality or county and the state transportation commission relating to obtaining the consent of the municipality or county pursuant to the provisions of this section. An existing agreement between a municipality or county and

the state transportation commission may be amended or revised by mutual consent of the parties to the agreement. Once authority is given by the governing authority and the state transportation commission has affirmatively acted in reliance upon the expressed approval, public funds may be expended and contracts executed despite subsequent withdrawal of approval by the governing authority."

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Section 67. Section 67-3-63 NMSA 1978 (being Laws 1973, Chapter 21, Section 2) is amended to read:

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"67-3-63. CONSTRUCTION AND MAINTENANCE OF FOOTPATHS, BICYCLE LANES AND BRIDLE PATHS--EXPENDITURE OF FUNDS AUTHORIZED.--

A. The state transportation commission is authorized to expend as necessary matching state road funds and federal aid highway funds administered by the department for the construction and maintenance of footpaths, bridle paths or bicycle lanes along and across state, county and municipal roads, streets or highways.

B. In administering Sections 67-3-62 and 67-3-63 NMSA 1978, the state transportation commission shall promulgate regulations setting forth guidelines by which the state transportation commission shall determine whether the establishment of any proposed bicycle lanes, footpaths or bridle paths is contrary to public safety or the cost thereof is disproportionate to the need or probable usage within the meaning of Section 67-3-62 NMSA 1978. The commission shall recommend construction standards for footpaths, bicycle lanes and bridle paths and shall provide a uniform system of signs that shall apply to all such paths or lanes under the jurisdiction of the commission and all counties and municipalities. The commission may restrict the use of footpaths, bicycle lanes or bridle paths under its jurisdiction to pedestrian, equestrian or nonmotorized vehicle use.

C. As used in this section, "bicycle lane" means a publicly owned and maintained paved path, way or trail designated and signed as a bicycle route, and "bridle path" includes equestrian trails or ways.

D. In the event that any of the provisions of this section or of Section 67-3-62 NMSA 1978 conflict with provisions of federal law or regulations relating to highway construction funds and such conflict jeopardizes the receipt of funds by the state, then the conflicting provisions of the specified sections of state law shall be suspended and not effective."

Section 68. Section 67-3-70 NMSA 1978 (being Laws 1975, Chapter 343, Section 4, as amended) is amended to read:

"67-3-70. USE OF APPROPRIATED FUNDS.--The department may expend such portion of its appropriated funds as it deems necessary to effectuate the purposes of the Public Mass Transportation Act."

Section 69. Section 67-3-72 NMSA 1978 (being Laws 1997, Chapter 52, Section 2) is amended to read:

"67-3-72. TRANSPORTATION BONDS.--

A. The state transportation commission may determine that interest or necessity demands the issuance of revenue bonds to finance the development and construction of transportation systems and may by resolution make and issue revenue bonds that shall be known as "transportation bonds". The bonds shall be payable solely out of the net income to be derived from the operation of the project, and the commission shall pledge irrevocably such income to the payment of those bonds. The bonds shall not become a general obligation of the state or a political subdivision of the state.

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B. The proceeds from the sale of transportation bonds shall be used solely for the purpose for which the bonds were issued.

C. Transportation bonds shall not be issued pursuant to this section unless the state board of finance approves the issuance of the bonds, the principal amount of the bonds and the maximum net effective interest rate on the bonds."

Section 70. Section 67-3-73 NMSA 1978 (being Laws 1997, Chapter 52, Section 3) is amended to read:

"67-3-73. TRANSPORTATION BONDS--TERMS.--Transportation bonds issued by the state transportation commission:

A. shall be payable at such times as the commission may provide;

B. may be subject to prior redemption at the commission's option at such time and upon such terms and conditions, with or without payment of premiums, as may be provided in the resolution of the commission;

C. may mature at any time not exceeding fifty years after the date of issuance;

D. may be serial in form and maturity and may consist of one bond payable at one time or in installments or may be in such other form as may be determined by the commission;

E. shall be sold for cash at, above or below par and at the effective interest rate approved by the state board of finance; and

F. may be sold at a public or private sale."

Section 71. Section 67-3-74 NMSA 1978 (being Laws 1997, Chapter 52, Section 4) is amended to read:

"67-3-74. REFUNDING BONDS.--

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A. Transportation bonds issued pursuant to the provisions of Section 67-3-72 NMSA 1978 that are outstanding may be refunded at any time by the state transportation commission upon:

(1) the adoption of a resolution providing for the issuance of refunding bonds; and

(2) the issuance of the refunding bonds in an amount the commission determines is necessary to refund:

(a) the principal of the transportation bonds;

(b) all unpaid accrued and unaccrued interest on transportation bonds to the normal maturity date or to selected prior redemption dates of the bonds;

(c) any redemption premiums; and

(d) all estimated costs, including any commission cost, incidental to the issuance of the refunding bonds, as may be determined by the commission.

B. The principal amount of the refunding bonds may be equal to, less than or greater than the principal amount of the bonds so refunded.

C. A refunding may be effected, whether the bonds to be refunded have then matured or thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded or by exchange of the refunding bonds for the bonds to be refunded; provided that the bonds to be refunded shall not be canceled without the consent of the holders to surrender their bonds for payment or exchange prior to the date on which they are payable or if they are called for redemption prior to the date on which they are by their

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terms subject to redemption.

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D. The refunding bonds issued pursuant to this section shall be payable solely from the revenues out of which transportation bonds may be payable or solely from those amounts derived from an escrow as provided in this section, including amounts derived from the investment of refunding bond proceeds and other legally available amounts also provided in this section or from any combination of those sources.

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E. Proceeds of refunding bonds shall either be applied immediately to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and exercises trust powers. The escrowed proceeds may be invested in short-term securities, long-term securities or both."

Section 72. Section 67-3-75 NMSA 1978 (being Laws 1997, Chapter 52, Section 5) is amended to read:

"67-3-75. TRANSPORTATION BONDS ELIGIBLE FOR INVESTMENT.--Transportation bonds issued by the state transportation commission are securities in which public officers and public bodies of this state and its political subdivisions and insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. The bonds are securities that may properly and legally be deposited with and be received by a state or political subdivision officer for which the deposit of bonds or obligations of the state is authorized by law. Bonds shall not be eligible for investment or deposit by or with the state or its political subdivisions unless they have been rated AA or higher by an independent nationally recognized bond rating service based solely

on the security of the bonds as an investment without resort to a collateral guarantee."

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Section 73. Section 67-3-76 NMSA 1978 (being Laws 1997, Chapter 52, Section 6) is amended to read:

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"67-3-76. TRANSPORTATION BONDS--EXEMPTION FROM TAXATION.--The construction, operation and maintenance of a transportation project by the state transportation commission shall constitute the performance of an essential governmental function. As such, the income from the transportation bonds issued pursuant to Chapter 67, Article 3 NMSA 1978 shall at all times be free from taxation by the state and by its political subdivisions."

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Section 74. Section 67-4-4 NMSA 1978 (being Laws 1921, Chapter 135, Section 2, as amended) is amended to read:

"67-4-4. COUNTY ROAD CONTRACTS WITH STATE TRANSPORTATION COMMISSION.--The board of county commissioners of any county in this state may enter into a contract with the state transportation commission by which all or any part of the work of construction and maintenance of county roads and bridges and the purchasing of equipment, materials and supplies shall be under the direction and control of the state transportation commission and subject to the limitations of Sections 67-4-3 through 67-4-16 NMSA 1978, and such board of county commissioners shall draw warrants payable out of the county road and bridge fund to pay for the same, upon itemized vouchers or estimates certified by the secretary.

In the event a county has inadequate equipment and machinery to grade and maintain county roads, upon request by the board of county commissioners and at such times as state equipment and machinery are available in the vicinity and not in use for state purposes, the state transportation commission is authorized to furnish the

required equipment and machinery with the operators and personnel required to perform such work in consideration of the actual cost of the gasoline, oil and wages of such operators and personnel involved in the work performed."

Section 75. Section 67-4-7 NMSA 1978 (being Laws 1921, Chapter 135, Section 5) is amended to read:

"67-4-7. DISBURSEMENTS FROM ROAD FUND--STATE TRANSPORTATION COMMISSION PLAN.--In those counties where the state transportation commission plan is adopted, the county road and bridge funds shall only be paid out upon itemized bills or estimates rendered and approved by the secretary or his assistant showing in detail the time, place and character of work done or the supplies or materials purchased and received for county road and bridge purposes by warrants drawn by the board of county commissioners on the county road and bridge fund."

Section 76. Section 67-4-10 NMSA 1978 (being Laws 1921, Chapter 135, Section 9) is amended to read:

"67-4-10. BUDGET CONTENTS--LIMITATIONS.--The budget provided for in Section 67-4-9 NMSA 1978 shall provide for engineering, supervision, superintending, automobile travel expenses and other overhead expenses and for the compensation of county road superintendents in counties where the county road superintendent plan is adopted, for such overhead and other expenses of the state transportation commission in counties where the state transportation commission contract plan is adopted and for the compensation of road supervisors where the road supervisor plan is adopted. The total expenditures for all the foregoing purposes in any one fiscal year shall not exceed ten percent of the total county road and bridge budget up to and including fifty thousand dollars (\$50,000) and five percent of the budget in excess of

fifty thousand dollars (\$50,000) and up to and including seventy-five thousand dollars (\$75,000) and two and one-half percent of the budget in excess of seventy-five thousand dollars (\$75,000)."

Section 77. Section 67-4-12 NMSA 1978 (being Laws 1921, Chapter 135, Section 11, as amended) is amended to read:

"67-4-12. RIGHTS OF WAY--ROAD LOCATION CHANGES.--

A. Rights of way deemed necessary by the board of county commissioners for new roads or changes in location in roads shall be acquired by the board of county commissioners by donation by the owner, by payment of a price agreed upon by the owner and the board of county commissioners or by the exercise of the power of eminent domain in the manner provided by law for acquiring property for public use. No change of location of any portion of a state highway or road construction with federal or state aid shall be made without the approval of the state transportation commission.

B. Future rights of way may be designated without immediate acquisition if:

(1) the changes in the county highway map due to designation of a future right of way are posted at the county courthouse of the respective county;

(2) persons who may be adversely affected are notified of the future right of way designation and the estimated period of time that may elapse before acquisition;

(3) a hearing is provided for all interested persons; and

(4) the county highway map, as amended, is filed with the state transportation commission."

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Section 78. Section 67-4-13 NMSA 1978 (being Laws 1921, Chapter 135,
Section 12) is amended to read:
"67-4-13. ROAD MAINTENANCE--INSUFFICIENCY OF STATE
FUNDS.--All county roads and bridges shall be maintained at the expense of the
respective counties. All roads, and bridges upon roads, that have been declared to be
a state highway by acts of the legislature or resolution of the state transportation
commission shall be maintained at the expense of the state, provided, that whenever
there are not sufficient funds available in the state road fund for maintenance of all
state highway mileage in any county, the state transportation commission shall certify
to the board of county commissioners of the county the sections of highways that it is
unable to maintain at state expense, and these sections shall thereafter be maintained
at the expense of the county until such time as there are state funds available to
maintain them."

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Section 79. Section 67-8-13 NMSA 1978 (being Laws 1939, Chapter 30,
Section 2) is amended to read:
"67-8-13. WIRING ADJOINING HIGHWAY STRUCTURES--PERMIT REQUIRED--
APPLICATION.--It is unlawful for any person, company or corporation to place or cause
to be placed any conduit, wires or cables across, upon, attached to or upon the
highway right of way parallel to and within twenty-five feet of any state highway bridge
or structure except pursuant to a permit obtained from the state transportation
commission and upon compliance with reasonable conditions and requirements
specified in such permit. The state transportation commission is authorized and
empowered to prepare application and permit forms for such purposes."

Section 80. Section 67-8-16 NMSA 1978 (being Laws 1959, Chapter 310,

Section 2) is amended to read:

"67-8-16. DEFINITIONS.--As used in Sections 67-8-15 through 67-8-21 NMSA 1978:

A. "utility" means publicly, privately and cooperatively owned utilities, without distinction, for the rendition of water, electric power, sanitary sewer, storm sewer, steam, fuel gas, telephone or telegraph service through a system of pipes or wires devoted to public utility service;

B. "cost of relocation" means the entire amount paid properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility;

C. "commission" means the state transportation commission;

D. "public highway" means any state highway or other public way in this state, including extensions thereof within urban areas, constructed in whole or in part with state aid and shall include any incorporated or related physical facilities for the handling of traffic and the right of way;

E. "relocation" means any horizontal or vertical movement of utility facilities intact and any protective measures taken or, where found by the commission to be necessary, the construction of new or additional facilities, with or without contemporaneous removal and salvage of old facilities, in this state including in any case adjustment or protection of connecting off-highway utility lines to the extent necessary;

F. " federal-aid highways" means all roads constructed in whole or in part with federal aid and includes the "interstate system", the "primary system" and the "secondary system" in this state as designated by the commission; and

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G. "urban area" means an area in this state including and adjacent to a municipality or other urban place having a population of five thousand or more, as determined by the latest available federal census, within reasonable boundaries fixed by the commission."

Section 81. Section 67-9-6 NMSA 1978 (being Laws 1913, Chapter 25, Section 1, as amended) is amended to read:

"67-9-6. SURVEY FOR WESTERN EXTENSION OF CAMINO REAL.-- The state transportation commission is hereby authorized to cause a survey to be made for the purpose of determining the most feasible route for the establishment and location of a western extension of El Camino Real from a point at or near the town of Los Lunas in the county of Valencia, running thence in a northwesterly direction to the Indian town of Laguna; thence passing through or near the towns of Cubero, Grants, or San Rafael and Blue Water, in the county of Valencia and Fort Wingate and Gallup in the county of McKinley to a point on the boundary line between New Mexico and Arizona near the town of St. Michaels.

The commission is further authorized and directed to select, locate and lay out the western extension."

Section 82. Section 67-11-2 NMSA 1978 (being Laws 1957, Chapter 234, Section 2) is amended to read:

"67-11-2. AUTHORITY OF STATE TRANSPORTATION COMMISSION.--The state transportation commission is authorized and directed to do those things essential to plan, acquire by reasonable purchase or condemnation and construct a section or a part of a state or federally designated highway as a freeway or controlled access highway or to make any existing state or federally designated highway a freeway or a

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controlled-access highway."

Section 83. Section 67-11-3 NMSA 1978 (being Laws 1957, Chapter 234, Section 3) is amended to read:

"67-11-3. AGREEMENT TO REROUTE STREETS OR COUNTY HIGHWAYS.--

The state transportation commission is authorized and directed to enter into an agreement with the authority exercising jurisdiction over the street or highway and, in accordance with the terms of this agreement, when essential, to close any street or highway or to reroute such street or highway over and under or to reroute to a connection with the freeway or controlled-access highway."

Section 84. Section 67-11-5 NMSA 1978 (being Laws 1957, Chapter 234, Section 5) is amended to read:

"67-11-5. ACQUISITION OF PROPERTY AND PROPERTY RIGHTS.--For the purposes of Chapter 67, Article 11 NMSA 1978, the state transportation commission alone or in agreement with any county, city, town or village may acquire private or public property and property rights for controlled-access facilities and service roads, including rights of access, air, view and light, by purchase or condemnation in the same manner as such units are authorized by law to acquire such property or property rights in connection with highways and streets within their respective jurisdictions. All property rights acquired under the provisions of Chapter 67, Article 11 NMSA 1978 shall be in fee simple except, in circumstances where fee simple cannot be obtained, an appropriate easement in perpetuity shall be acceptable. In connection with the acquisition of property or property rights for any controlled-access facility or portion thereof or service road in connection therewith, the state transportation commission, alone or in agreement with any county, city, town or village highway authority may, in

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its discretion, acquire an entire lot, block or tract of land if, by so doing, the interests of the public will be best served even though the entire lot, block or tract is not immediately needed for the right of way proper."

Section 85. Section 67-11-9 NMSA 1978 (being Laws 1957, Chapter 234, Section 9) is amended to read:

"67-11-9. LOCAL SERVICE ROADS.--Commercial enterprises or activities shall not be conducted, permitted or authorized on publicly owned land or land leased by the state, county, city, town or village highway authorities or by any other governmental agency for the purpose of providing goods and services to the users of the controlled-access facilities, and gasoline service stations or other commercial establishments shall not be built on the property acquired for or in connection with the controlled-access facilities. However, in connection with the development of any controlled-access facility, the state, county, city, town or village highway authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain and vacate local service roads and streets or to designate as local service roads and street any existing road or street in such manner as to facilitate the establishment and operation of competitive gasoline service stations and other commercial enterprises on private property abutting the service roads and streets. The state transportation commission is authorized to exercise jurisdiction over service roads and streets in the same manner as is authorized over controlled-access facilities under the terms of Chapter 67, Article 11 NMSA 1978. Such local service roads and streets shall be of appropriate design and shall be separated from the controlled-access facility proper by means of all devices designated as necessary or desirable by the proper authority."

Section 86. Section 67-12-2 NMSA 1978 (being Laws 1966, Chapter 65,

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Section 2, as amended) is amended to read:

"67-12-2. DEFINITIONS.--As used in the Highway Beautification Act:

A. "interstate system" means that portion of the national system of interstate and defense highways located within this state as may now or hereafter be officially so designated by the commission and approved pursuant to Title 23, United States Code;

B. "primary system" means that portion of connected main highways located within this state as may now or hereafter be officially so designated by the commission and approved pursuant to Title 23, United States Code;

C. "commission" means the state transportation commission;

D. "outdoor advertising" means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard or other object that is designed, intended or used to advertise or inform, any part of which is located within six hundred sixty feet of the nearest edge of the right of way and is visible from the main-traveled way of the interstate or primary systems or those located beyond six hundred sixty feet of the right of way, located outside of urban areas, visible from the main-traveled way of the system and erected with the purpose of their message being read from such main-traveled way;

E. "safety rest area" means a site established and maintained by or under public supervision or control for the convenience of the traveling public within or adjacent to the right of way of the interstate or primary systems;

F. "information center" means a site established and maintained at a safety rest area for the purpose of informing the public of places of interest within the state and providing other information the commission considers desirable;

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G. "junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled or wrecked automobiles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material;

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H. "automobile graveyard" means any establishment or place of business maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts;

I. "junkyard" means any establishment or place of business maintained, used or operated for storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard, any portion of which is located within one thousand feet of the nearest edge of the right of way of the interstate or primary systems, and it includes garbage dumps and sanitary fills; and

J. "urban area" means an area including and adjacent to a municipality or other urban place having a population of five thousand or more, as determined by the latest available federal census, within boundaries to be fixed by the commission, subject to any necessary approval by any federal agency, department or personnel."

Section 87. Section 67-12-4 NMSA 1978 (being Laws 1966, Chapter 65, Section 4, as amended by Laws 1975, Chapter 174, Section 1 and also by Laws 1975, Chapter 193, Section 2) is amended to read:

"67-12-4. OUTDOOR ADVERTISING PROHIBITED--EXCEPTIONS.--

A. Outdoor advertising shall not be erected or maintained except:

(1) directional and other official signs and notices authorized or required by law, including, but not limited to, signs and notices pertaining to houses of worship, natural wonders and scenic and historic attractions;

(2) signs, displays and devices advertising the sale or lease of

property upon which they are located;

(3) signs, displays and devices advertising activities conducted on the property upon which they are located, provided that the bisection of a parcel of land by a highway right-of-way acquisition shall not in itself be construed as converting the property into more than one parcel;

(4) signs, displays and devices located in areas which are zoned as industrial or commercial under authority of law;

(5) signs, displays and devices located within six hundred sixty feet of the nearest edge of the right of way, in unzoned industrial or commercial areas as defined by regulations promulgated by the commission, provided that no area shall be considered to be an unzoned commercial or industrial area unless and until a regulation defining the area as unzoned commercial or industrial is promulgated by the commission; and

(6) signs lawfully in existence on October 22, 1965, determined by the commission, subject to any necessary federal approval, to be landmark signs of historic or artistic significance worthy of preservation including signs on farm structures or natural surfaces.

B. All outdoor advertising shall conform with standards and specifications, shall bear permits and have paid therefor permit fees, as required by the Highway Beautification Act and regulations promulgated pursuant thereto or authorized thereby, except that permits shall not be required or fees paid for outdoor advertising included in Paragraphs (1), (2) and (3) of Subsection A of this section.

C. Notwithstanding this section, any outdoor advertising that was lawfully in existence on the effective date of the Highway Beautification Act and has continued

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to so exist may remain in place until the outdoor advertising is acquired by the commission or condemnation in relation thereto is commenced by the commission, whichever first occurs, but only if and so long as all provisions of Subsection B of this section are complied with."

Section 88. Section 67-13-16 NMSA 1978 (being Laws 1973, Chapter 17, Section 16) is amended to read:

"67-13-16. APPLICATION OF ACT.--Nothing in the Scenic Highway Zoning Act shall be construed to derogate from any powers of the state transportation commission under the Highway Beautification Act or the powers of the commission relating to the construction, repair or maintenance of highways or to require any act or omission on the part of the commission that is inconsistent with federal or state laws, regulations or policies. Nothing in the Scenic Highway Zoning Act shall be construed so as to affect or limit in any way any nonconforming use in existence on the effective date of the Scenic Highway Zoning Act or any ordinance adopted pursuant thereto."

Section 89. Section 67-14-3 NMSA 1978 (being Laws 1977, Chapter 66, Section 3) is amended to read:

"67-14-3. EXEMPTION PROCEDURES.--The state transportation commission, upon receipt of a declaration, petition, resolution, certified copy of an ordinance or other clear direction from a board of county commissioners or governing body of a municipality, provided that such resolution is not in conflict with an existing statute or ordinance, that removal of motorist services directional signs would cause an economic hardship in a defined area, shall forward such declaration, resolution or finding to the secretary for inclusion as a defined hardship area qualifying for exemption pursuant to 23 U.S.C. 131(o). Any such declaration or resolution submitted to the state

transportation commission shall further find that such motorist services directional signs provide directional information about goods and services in the interest of the traveling public and shall request the retention in such specified areas by the state of such directional motorist services signs as defined in Sections 67-14-1 through 67-14-3 NMSA 1978. The state transportation commission shall thereupon comply with all regulations issued by the federal highway administration necessary for application for the exemption provided in 23 U.S.C. 131(o), provided such motorist services directional signs were lawfully erected under state law at the time of their erection and were in existence on May 5, 1976. Any costs incurred by the state transportation commission in complying with the requirements of this section may be passed on to the appropriate petitioners or the owners of the signs seeking exemption."

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Section 90. Section 70-3-9 NMSA 1978 (being Laws 1921, Chapter 22, Section 3) is amended to read:

"70-3-9. PIPELINE HIGHWAY USE FORMS.--The state transportation commission shall cause to be prepared the necessary blank forms for carrying out the provisions of Sections 70-3-7 through 70-3-9 NMSA 1978."

Section 91. Section 72-5-34 NMSA 1978 (being Laws 1959, Chapter 191, Section 1) is amended to read:

"72-5-34. STATE TRANSPORTATION COMMISSION--CHANGE OF WATER USE--APPLICATION, NOTICE AND HEARING.--Whenever the state transportation commission makes application to the state engineer for a change of location of use, a change of method of use, change of point of diversion, advance withdrawals or withdrawals of accrued unused waters of any water right, whether such water right be for surface, subsurface, artesian or underground waters and whether or not either the

location of the changed use or the location of the point of diversion or both be within or
without the boundaries of any declared underground water basin or irrigation or
conservancy district, and whatever the manner of acquisition of such water right, and
such water right is to be used for the construction, reconstruction, maintenance or
repair of public roads, streets, highways and airports, the state engineer may authorize
such change of location of use, change of method of use, change of point of diversion,
advance withdrawals or withdrawals of accrued unused water after publication and
hearing as provided in Section 72-12-3 NMSA 1978, when in the opinion of the state
engineer such change of location of use, method of use, point of diversion, advance
withdrawals or withdrawals of accrued unused water will not be detrimental to the other
holders of valid water rights."

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Section 92. Section 72-5-35 NMSA 1978 (being Laws 1959, Chapter 191,
Section 2) is amended to read:

"72-5-35. STATE TRANSPORTATION COMMISSION--ADVANCE WATER
WITHDRAWAL.--The state engineer may authorize the state transportation
commission, holding any artesian or underground water right for the construction,
reconstruction, maintenance or repair of public roads, streets, highways and airports,
to make withdrawals of water in advance of the accrual of such water in such amounts
as the state engineer may determine will not be detrimental to the other holders of
valid water rights, but in no case shall such advance withdrawals exceed an amount
equal to five times the annual amount of the water right actually held by the
withdrawing holder."

Section 93. Section 72-5-36 NMSA 1978 (being Laws 1959, Chapter 191,
Section 3) is amended to read:

"72-5-36. STATE TRANSPORTATION COMMISSION--UNUSED WATER ACCRUAL--WITHDRAWAL RATE--ACCOUNTING.--The state engineer may permit the state transportation commission, when it is engaged in the construction, reconstruction, maintenance or repair of public roads, streets, highways and airports, to accrue unused water under one or more artesian or underground water rights for such length of time not to exceed five years as he may deem reasonable and permit the state transportation commission to withdraw such accrued water within such period of time as it may be required, but not at a rate that will be detrimental to the holders of other valid water rights. The state engineer shall require the state transportation commission holding any water right and desirous of proceeding under the authorization of Sections 72-5-34 through 72-5-38 NMSA 1978 to file periodic accountings of accruals and withdrawals by basins or districts in such form, on such dates and at such intervals as the state engineer shall designate."

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Section 94. Section 72-5-37 NMSA 1978 (being Laws 1959, Chapter 191, Section 4) is amended to read:

"72-5-37. STATE TRANSPORTATION COMMISSION--TRANSFER OF WATER RIGHTS TO UNUSED WATER--REVERSION.--If the state transportation commission, holding any water rights to be used for the construction, reconstruction, maintenance or repair of public roads, streets, highways and airports, transfers ownership of all of its water rights in one basin under which there has been an accrual of unused water, any accrued unused water shall lapse and revert to unappropriated water and the right to such water shall not pass on such transfer. If a partial water right or one of several water rights within a declared underground basin or irrigation or conservancy district is transferred, the accrued unused water, if any, shall not pass to the transferee but may

be moved in accordance with the provisions of Section 72-5-34 NMSA 1978 to the point of diversion of a water right retained by the state transportation commission within the same basin but not to exceed five times the annual amount of the water right retained."

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Section 95. Section 74-4A-1 NMSA 1978 (being Laws 1979, Chapter 377, Section 1, as amended) is amended to read:

"74-4A-1. RADIOACTIVE MATERIAL TRANSPORT--CONDITIONS.--

A. The environmental improvement board shall have exclusive authority to promulgate regulations prescribing the conditions for transport of radioactive material on the highways. Such conditions shall include the conditions of transport that the environmental improvement board finds necessary to protect the health, safety and welfare of the citizens of the state. Except as specifically preempted by federal law, the state transportation commission shall have the exclusive authority within New Mexico to designate highway routes for the transport of radioactive material. Any rule or regulation adopted by the environmental improvement board that designates highway routes for the transport of radioactive material and that was in effect prior to March 1, 1991 is deemed null and void. The state transportation commission shall incorporate into the record and consider in the initial designation of routes for the transport of radioactive material the evidentiary record from the environmental improvement board public hearings held for the purpose of receiving public comment regarding the designation of routes for the transport of radioactive material.

B. For the purposes of this section, "radioactive material" means a material or combination of materials that spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries

per gram of material, and in which the radioactivity is essentially uniformly distributed,
are not considered to be radioactive materials. "Radioactive material" includes but is
not limited to:

(1) materials associated with the operation and decommissioning of
nuclear reactors and the supporting fuel cycle;

(2) industrial radioisotope sources;

(3) radioactive materials used in nuclear medicine;

(4) radioactive materials used for research, education or training;

and

(5) radioactive wastes;

but does not include radioactive material the regulation of which has been specifically
preempted by federal law.

C. The department of environment shall have the authority to impose
fines not to exceed one thousand dollars (\$1,000) as set by regulation of the
environmental improvement board for a violation of the board's regulations pertaining
to the transport of radioactive materials.

D. Nothing in this section shall be construed to alter the obligation of the
state under the April 3, 1974 agreement between the state and the atomic energy
commission for the discontinuance of certain commission regulatory authority and
responsibility."

Section 96. Section 76-7-15 NMSA 1978 (being Laws 1959, Chapter 243,
Section 15) is amended to read:

"76-7-15. NOTICE TO LAND OCCUPIERS OF CONTROL MEASURES--
INSPECTION OF PROPERTY--FAILURE TO COMPLY WITH ORDER.--

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A. The chairman of the board of county commissioners governing the noxious weed control district shall give written notice to each land occupier within the district informing him of the control measures that are in effect on his land and all other necessary information to enable the land occupier to carry out the measures.

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B. It is the duty of each land occupier to comply with the control measures prescribed by the governing body and the responsibility of the appropriate county officials to comply with the control measures determined by the governing body in order to effectuate noxious weed control measures on rights of way of all public roads and other public lands within the district.

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C. The governing body of the district, if it deems advisable, may appoint an inspector to serve as an officer of the governing body. The inspector shall have the right to enter upon any land within the district to determine whether control measures are necessary and to determine whether control measures prescribed by the governing body are being carried out.

D. If it is found that a land owner or occupier is not complying with the governing body's directions, the governing body shall give him written notice ordering him to comply within a stated time. If he fails to comply with the order, the governing body may file a suit for a mandatory injunction in the district court of the county in which the land is situated to compel him to comply with the order. Any land owner or occupier against whom an injunction is issued shall, upon a finding of the court that the land owner or occupier unreasonably refused to comply with the governing body's order and that the control measures are appropriate, be liable for all costs of the suit and for a reasonable attorney fee to be fixed by the court. The court shall upon a proper determination issue an injunction ordering compliance with the governing

body's directions.

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E. Any adjoining land owner to a county or state road situated within the noxious weed control district may petition the governing body of the district to spray or take weed control measures of noxious weed growing upon adjoining rights of way. Upon determination by the governing body that the control measures requested are necessary, the governing body shall order appropriate action to be taken to control noxious weeds. If the lands or rights of way are under the control of the department of transportation, the governing body shall first make formal application to the state transportation commission requesting the department of transportation to perform the necessary control measures. If the department of transportation fails or refuses to take appropriate action, the governing body of the district shall perform the necessary work with district facilities. In the event sufficient funds are not available to finance the control measures by the district, upon the rights of way, the adjoining land owner or occupier shall be authorized by the governing body to take appropriate action, and he shall be reimbursed from funds of the district as soon as sufficient funds become available. The governing body shall petition the department of transportation for reimbursement of necessary and actual expenses of the noxious weed control measures taken upon the state highway rights of way or lands."

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Section 97. TEMPORARY PROVISION--REFERENCES IN LAW.--All reference in law to the state highway commission shall be deemed to be references to the state transportation commission. All references in law to the state highway and transportation department shall be deemed to references to the department of transportation. All references in law to the secretary of highway and transportation shall be deemed to be references to the secretary of transportation.

Section 98. EFFECTIVE DATE.--The effective date of the provisions of this act
is July 1, ~~2001~~ ²⁰⁰².