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FISCAL IMPACT REPORT

ORIGINAL DATE 1/19/16

SPONSOR Lundstrom LAST UPDATED 1/22/16 HB 15

SHORT TITLE Scenic Byways Program SB _____

ANALYST Clark

APPROPRIATION (dollars in thousands)

Appropriation					Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18	FY19	FY20		
	\$500.0	\$500.0	\$500.0	\$500.0	Recurring	General fund

Parenthesis () indicate expenditure decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			Minimal		Recurring	General fund

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From
Tourism Department

SUMMARY

Synopsis of Bill

House Bill 15 appropriates \$500 thousand from the general fund to the Tourism Department for administration and operation of the scenic byways program to be administered by the state tourism region boards.

FISCAL IMPLICATIONS

The appropriation of \$500 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2017 shall revert to the general fund.

The appropriation is deemed recurring because once the partnership with DOT is reestablished, it is expected to continue until terminated by either party.

There would be a minimal impact on the agency's operating budget to administer the program.

SIGNIFICANT ISSUES

The Tourism Department reports it ceased its involvement in the scenic byways program, officially administered solely by the New Mexico Department of Transportation (NMDOT), and terminated its joint powers agreement with NMDOT in 2013.

To carry out the provisions of this bill, the Tourism Department may need to form a new agreement with NMDOT to avoid potential conflict or duplication of the program. However, NMDOT reports this should not impact its own scenic byway operations.

ADMINISTRATIVE IMPLICATIONS

There would be a minimal administrative impact.

OTHER SUBSTANTIVE ISSUES

NMDOT previously provided the following information to LFC regarding its scenic byways program.

Originally created by congress through the funding and authorization bill ISTEA (1991), the National Scenic Byways program was intended to foster economic development through furnishing the upfront capital costs associated with developing transportation related tourist amenities throughout the United States. Subsequent funding allocations were made through SAFETEA-LU (2005), however MAP-21 (2012) effectively ended the program. Throughout the life of the Byways program numerous scenic drives throughout the Land of Enchantment have been embellished. These projects showcase the intrinsic scenic, historical and cultural qualities of our state while adding to its economic well-being.

Today, the Transportation Planning and Safety division manages remaining contracts from funding allocations made under SAFETEA-LU. While no new grants are being awarded under the Scenic Byways program, a few of the programs eligibilities have been rolled into the Transportation Alternatives Program (TAP). Among these are activities such as the construction of turnouts, overlooks and viewing areas as well as some facilities to promote non-motorized travel. Some other changes under MAP-21 include that non-profits can no longer be lead of expenditures on Scenic Byways projects but must partner with a local government.

Shaffer, Gregory, DFA

From: Shaffer, Gregory, DFA
Sent: Thursday, September 19, 2013 5:55 PM
To: Clifford, Tom, DFA
Subject: JPA Termination Agreement: Route 66 Commemorative Plates

Secretary Clifford,

This concerns a JPA Termination Agreement between the New Mexico Department of Transportation (DOT), the New Mexico Tourism Department (Tourism), and the New Mexico Taxation and Revenue Department (TRD). The JPA Termination Agreement would terminate a Fiscal Year 2007 JPA between the parties. I see no legal issues with the proposed JPA Termination Agreement and, therefore, recommend you approve it.

What did the Fiscal Year 2007 JPA being terminated do? It authorized TRD to transfer to Tourism \$25 of the fee charged for the issuance of special route 66 commemorative registration plates, pursuant to Section 66-3-424.8 NMSA 1978. Tourism agreed to use the funds in accordance with the statute: namely, "the revitalization and preservation of historic route 66 in New Mexico pursuant to the national scenic byways program." Section 66-3-424.8(C)(2) NMSA 1978. (The portion of the fee appropriated for the revitalization and preservation of historic route 66 is referred to throughout the remainder of this emails as the "Revitalization/Preservation Revenue". The remainder of the fee is "retained by and is appropriated to [TRD] to defray the cost of making and issuing the special registration plate with route 66 logo". Section 66-3-424.8(C)(1) NMSA 1978.)

Why was the Fiscal Year 2007 JPA necessary? Section 66-3-424.8(C)(1) NMSA 1978 appropriates the Revitalization/Preservation Revenue to DOT. The JPA was the mechanism through which DOT made the Revitalization/Preservation Revenue available to Tourism.

What happens to the Revitalization/Preservation Revenue if the JPA Termination Agreement is approved? TRD will send the money to DOT, who will use it for "the revitalization and preservation of historic route 66 in New Mexico pursuant to the national scenic byways program." Section 66-3-424.8(C)(2) NMSA 1978.

Does DOT have the budget authority to expend the commemorative registration plate revenue? Yes. Section 66-3-424.8(C)(2) NMSA 1978 appropriates the money to DOT.

* * *

Let me know if you desire any additional analysis.

Thank you.

Greg

Gregory S. Shaffer, General Counsel
Department of Finance and Administration
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Santa Fe NM 87501
Tele: 505.827.3639
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Email: GregoryS.Shaffer@state.nm.us

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AUG 05 2013

JPA TERMINATION AGREEMENT

DFA
OFFICE OF THE SECRETARY

This **TERMINATION** agreement is made by and between the New Mexico Department of Transportation ("Transportation"), the New Mexico Tourism Department ("Tourism"), and the New Mexico Department of Taxation and Revenue ("Taxation and Revenue") and is effective on the date of last signature, below. Collectively, Transportation, Tourism, and Taxation and Revenue are referred to as "the Parties."

Whereas, the Parties entered a Joint Powers Agreement on March 12, 2007, also termed "Contract No. 00728," which is attached, to "facilitate the transfer of revenues distributed from the Motor Vehicle Division sale of standardized registration plates with a logo commemorating Route 66," pursuant to NMSA 1978, § 11-1-1 (the "JPA");

Whereas, the JPA provided that it would "be effective so long as the parties deem it an appropriate program"; and

Whereas, the Parties no longer deem the JPA an appropriate program because Tourism is no longer a participant in the Route 66 commemorative license plate or "Scenic Byways" program;

Therefore, be it resolved that the JPA is hereby terminated as provided below.

- I. Tourism will return all revenues received from Taxation and Revenue that have not been used for the purposes contemplated under the JPA, twenty-three thousand, eight hundred forty-five dollars and thirty-nine cents, \$23,845.39, to Taxation and Revenue by the end of Fiscal Year 2013;
- II. Taxation and Revenue shall cease transferring the proceeds of the Route 66 commemorative license plate program to Tourism; and
- III. Transportation shall receive this allocation of revenue and continue administering the program.

In witness thereof, the Parties evidence their agreement to terminate the JPA by signing below:

NEW MEXICO DEPARTMENT OF TRANSPORTATION

[Signature] Date: 7/13/13

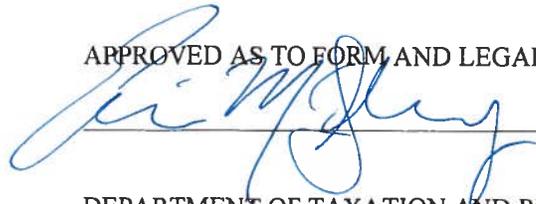
APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION OFFICE OF GENERAL COUNSEL

Gynda A. Chert Date: 7-31-13

NEW MEXICO TOURISM DEPARTMENT

[Signature] Date: 6-28-13
Cabinet Secretary

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Date: 6/27/2013

DEPARTMENT OF TAXATION AND REVENUE /



Date: 7/11/13

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Date: 7/10/13

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION



Date: 9/20/13

*** TX REPORT ***

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BILL RICHARDSON
GOVERNOR

State of New Mexico
Department of Finance & Administration
180 Bataan Memorial Building
Santa Fe, New Mexico 87501
Phone: (505) 827-4985
Fax: (505) 827-4984

Katherine Miller
Cabinet Secretary

Fax Transmittal

To: Kacee
Tourism Dep't

Date: 2/23/07
Time: _____

Fax No. 827-7402

From: Greg/Michael
DFA

Pages: _____

Message: _____

Contract No. J00728

Vendor No. 0000000750

Project No. _____

Control No. _____

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FEB 18 2007

OFFICE OF THE SECRETARY

JOINT POWERS AGREEMENT
BETWEEN THE DEPARTMENT OF TRANSPORTATION,
THE TOURISM DEPARTMENT
AND THE DEPARTMENT OF TAXATION AND REVENUE

THIS AGREEMENT is made and entered into this _____ day of _____, 2007, between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION**, herein referred to as "**NMDOT**," and the **NEW MEXICO TOURISM DEPARTMENT**, herein referred to as "**TOURISM**" and the **NEW MEXICO DEPARTMENT OF TAXATION AND REVENUE**, herein referred to as "**TAXATION AND REVENUE**."

WITNESSETH:

Whereas, pursuant to Section 66-3-424.8 et seq. NMSA 1978, the Motor Vehicle Division shall issue a standardized special registration plate with a logo commemorating Route 66, attached as Exhibit "A" and made part of this Agreement; and,

Whereas, an annual fee of thirty five dollars in addition to the regular motor vehicle registration fees shall be paid for the commemorative plate; and,

Whereas, twenty five dollars of the additional fee shall be distributed to and is appropriated to the NMDOT for the purpose of funding the revitalization and preservation of historic route 66 in New Mexico pursuant to the National Scenic Byways Programs; and,

Whereas, since the enactment of Section 66-3-424.8 et seq., NMSA 1978, in 2003, management of the Scenic Byways Program was moved to the Tourism Department; and,

Whereas, the NMDOT acknowledges that TOURISM, as part of management of the Scenic Byways Program is committed to the revitalization and preservation of historic route 66 and intends to provide funding for this purpose using the revenues from the sale of the commemorative license plate.

Now Therefore, in consideration of the covenants contained herein and pursuant to the New Mexico Joint Powers Agreement Act, NMSA 1978, Sections 11-1-1 to 11-1-7, as amended, the Parties Agree As Follows:

SECTION ONE: PURPOSE

The NMDOT, TOURISM and TAXATION AND REVENUE enter into this Agreement to facilitate transfer of revenues distributed from the Motor Vehicle Division sale of the standardized special registration plate with a logo commemorating Route 66, Pursuant to Section 11-1-1, NMSA 1978, the parties wish to authorize each other to exercise their respective powers to facilitate the efficient distribution of the proceeds from the sale of these commemorative plates so that the funds can be used for their intended purpose. This Agreement shall specify and delineate the responsibilities of the parties hereto.

SECTION TWO: PROGRAM DESCRIPTION

The National Scenic Byways program is a merit-based grant program funded through federal transportation legislation and administered by the states. The National Scenic Byways program under TOURISM is committed to the revitalization and preservation of historic route 66 in New Mexico.

SECTION THREE: TAXATION AND REVENUE SHALL

1. Through the Motor Vehicle Division collect thirty seven dollars (\$37.00) per motor vehicle registration as an additional fee for the Route 66 commemorative plate.
2. Keep twelve dollars (\$12.00) from the thirty seven dollars (\$37.00) additional fee for processing and handling.
3. On behalf of NMDOT, distribute twenty five dollars (\$25.00) from the additional fee directly to TOURISM for the purpose of funding the revitalization and preservation of historic route 66 in New Mexico pursuant to the National Scenic Byways program.

4. Provide NMDOT an accounting record of the amount distributed to TOURISM on a quarterly basis.

SECTION FOUR: TOURISM SHALL

1. Designate a contact person, and hereby does designate its Scenic Byways Program Manager, to coordinate with NMDOT and TAXATION AND REVENUE.
2. Commit all distributions from this fund to the revitalization and preservation of historic route 66 in New Mexico.
3. Retain all records related to this distribution and make them available to NMDOT for audit purposes during business hours.

SECTION FIVE: NMDOT SHALL

1. Designate a contact person to coordinate with TOURISM and TAXATION AND REVENUE.
2. Maintain and accounting of funds distributed to TOURISM from the sale of historic route 66 commemorative license plates.
3. Authorize TAXATION AND REVENUE to distribute collected fees on NMDOT's behalf directly to TOURISM.

SECTION SIX: THIRD PARTY BENEFICIARY CLAUSE

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public, or any member thereof, a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit for wrongful death, bodily and/or personal injury to person, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

SECTION SEVEN: DISBURSEMENT AND UNEXPENDED FUNDS

All funds under this Agreement are from the proceeds of the Route 66 commemorative license plate program. No funds are committed by the NMDOT for any purposes related to the program, either administrative or any other costs. The parties do not foresee that there will be any unexpended funds.

SECTION EIGHT: TERM

This Agreement shall not become effective until signed by the parties hereto and approved by the Department of Finance and Administration. This Agreement shall be effective so long as the parties deem it an appropriate program.

SECTION NINE: TRAVEL AND PER DIEM

The NMDOT shall not pay direct and separate travel or per diem under this Agreement. All direct costs of travel, per diem, or living expenses for TOURISM staff shall be the sole responsibility of TOURISM.

SECTION TEN: ASSIGNMENT

TOURISM shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement.

SECTION ELEVEN: RECORDS AND AUDIT

All parties agree to maintain books, documents, papers, accounting records, and other evidence pertaining to costs incurred and revenues received, and to make such materials available at their respective offices at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment for inspection by the State Auditor.

SECTION TWELVE: NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NMDOT, TOURISM or the TAXATION AND REVENUE arising from the performance of this Agreement apart from that set forth in New Mexico Tort Claims Act, Sections 41-4-1, et seq., NMSA 1978, as amended.

SECTION THIRTEEN: EQUAL OPPORTUNITY COMPLIANCE

All parties agrees to abide by all Federal and State Laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, all parties agree to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this

Agreement. If one party is found to be not in compliance with these requirements during the life of this Agreement, the party agrees to take appropriate steps to correct these deficiencies.

SECTION FOURTEEN: APPROPRIATIONS AND AUTHORIZATIONS

The NMDOT is expressly not committed to expend any funds for the commemorative license plate program. Any costs incurred by TOURISM for the purpose of funding the revitalization and preservation of historic route 66 in New Mexico pursuant to the National Scenic Byways programs are not eligible for reimbursement from the NMDOT.

SECTION FIFTEEN: CONFIDENTIALITY

Any confidential information provided to or developed in the performance of this Agreement shall be kept confidential as required by applicable state and federal laws and regulations and shall not be made available to any individual or organization without the prior written approval of the NMDOT, TOURISM and TAXATION AND REVENUE.

SECTION SIXTEEN: PRODUCT OF SERVICES: COPYRIGHT

All materials developed or acquired by TOURISM shall become the property of the State of New Mexico. Nothing produced in whole or in part by TOURISM under this Agreement, shall be the subject of an application for copyright by or on behalf of TOURISM. However, it is understood that some of the materials utilized in this Project have previously been copyrighted by TOURISM.

SECTION SEVENTEEN: RELEASE

Within the terms and limitations of the New Mexico Tort Claims Act, TOURISM releases the NMDOT, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement. TOURISM agrees not to purport to bind the NMDOT to any obligation not assumed herein by TOURISM, unless the NMDOT has given express written authority to do so and then only within the strict limits of that authority.

SECTION EIGHTEEN: TERMS OF THIS AGREEMENT

The terms of this Agreement are lawful and performance of all duties and obligations herein shall conform with and do not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

SECTION NINETEEN: SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings among the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

SECTION TWENTY: APPLICABLE LAW

This Agreement shall be governed by the laws of the State of New Mexico.

SECTION TWENTY-ONE: EXECUTION OF AGREEMENT

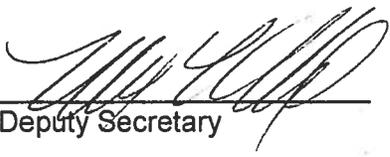
This Agreement shall not take effect until executed by the parties hereto and approved by the Department of Finance and Administration, pursuant to NMSA 1978, Section 11-1-3, as amended.

SECTION TWENTY-TWO: AMENDMENT

This Agreement shall not be altered, modified, or amended except by an instrument in writing and executed by the parties hereto.

In Witness Whereof, the parties have set their hands and seals this day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: 
Deputy Secretary

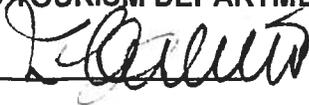
Date: 4/23/07

APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION OFFICE OF GENERAL COUNSEL

By: 
Assistant General Counsel

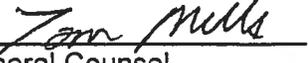
Date: 1-18-07

NEW MEXICO TOURISM DEPARTMENT

By: 
Secretary

Date: 1/19/07

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY LEGAL COUNSEL FOR THE
NEW MEXICO TOURISM DEPARTMENT**

By: 
General Counsel

Date: 1-19-07

NEW MEXICO DEPARTMENT OF TAXATION AND REVENUE

By: 
Secretary

Date: 2/4/07

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY LEGAL COUNSEL FOR THE
NEW MEXICO DEPARTMENT OF TAXATION AND REVENUE**

By: 
General Counsel

Date: 2/9/07

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

By: _____
Secretary

Date: _____

D. A fee of twenty-five dollars (\$25.00), which shall be in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for a New Mexico member of the fraternal order of police.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing a special registration plate for a New Mexico member of the fraternal order of police.

F. The amount of the fee collected pursuant to this section less any amount distributed pursuant to Subsection E of this section shall be deposited in the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978.

G. The secretary shall approve the final logo design for the special registration plates for New Mexico members of the fraternal order of police.

H. When a person holding a special plate ceases to be a New Mexico member of the fraternal order of police, he shall immediately remove the plate from the vehicle and return it to the secretary, at which time it shall be exchanged for a regular registration plate.

History: 1978 Comp., § 66-3-424.1, enacted by Laws 2003, ch. 177, § 2.

66-3-424.6. Special wildlife artwork registration plates; procedures; fee.

A. The department shall establish and issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 featuring artwork of New Mexico wildlife for any private motor vehicle except a motorcycle. The department shall adopt procedures for application for and issuance of the special wildlife artwork registration plates.

B. The director of the department of game and fish shall designate a "share with wildlife" logo design committee that shall recommend to the director the color and design of the special wildlife artwork logo. The director in cooperation with the secretary shall determine the design of the special wildlife artwork logo. No personalized or vanity design variation of the special wildlife artwork registration plates shall be issued.

C. For a fee of twenty-five dollars (\$25.00), which shall be in addition to the regular motor vehicle registration fees, an owner of a motor vehicle may apply for the issuance of a special wildlife artwork registration plate. The owner of a motor vehicle shall annually for the plate and pay the twenty-five

(1) ten dollars (\$10.00) of the initial fee collected shall be retained by the division and is appropriated to the division to defray the cost of making and issuing special registration plates for wildlife artwork; and

(2) fifteen dollars (\$15.00) of the initial fee and the entire renewal fee collected shall be distributed to the share with wildlife program of the game protection fund.

History: 1978 Comp., § 66-3-424.1, enacted by Laws 2003, ch. 178, § 2; 2004, ch. 59, § 9.

66-3-424.7. Registration plates for members of the civil air patrol, New Mexico wing.

A. The department shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is a member of the civil air patrol, New Mexico wing upon the submission by the person of proof satisfactory to the department that he is a member of the civil air patrol, New Mexico wing. Such proof shall include the submission of a signed consent form from the civil air patrol, New Mexico wing.

B. A person shall not represent himself to be a member of the civil air patrol, New Mexico wing if that person is, in fact, not a member of the civil air patrol, New Mexico wing. The secretary shall determine what constitutes satisfactory proof that a person is a member of the civil air patrol, New Mexico wing.

C. A person who violates the provisions of Subsection B of this section is guilty of a petty misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

D. A fee of twenty-five dollars (\$25.00), which shall be in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for a member of the civil air patrol, New Mexico wing.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing special registration plates for members of the civil air patrol, New Mexico wing. The remaining fifteen dollars (\$15.00) shall be deposited in the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978.

F. The secretary shall approve the final logo design for the special registration plates for members of the civil air patrol, New Mexico wing in accordance

66-3-424.8. Special route 66 commemorative registration plate.

A. The division shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 commemorating route 66.

B. For a fee of thirty-five dollars (\$35.00), which shall be in addition to the regular motor vehicle registration fees, the owner of a vehicle may apply for issuance of a special route 66 commemorative registration plate. The owner shall apply and pay the fee each year to retain and renew the special route 66 commemorative registration plate.

C. Revenue from the additional fee for a special route 66 commemorative registration plate shall be distributed as follows:

(1) ten dollars (\$10.00) of the additional fee collected shall be retained by and is appropriated to the department to defray the cost of making and issuing the special registration plate with route 66 logo; and

(2) twenty-five dollars (\$25.00) of the additional fee shall be distributed to and is appropriated to the state highway and transportation department for the purpose of funding the revitalization and preservation of historic route 66 in New Mexico pursuant to the national scenic byways program.

History: 1978 Comp., § 66-3-424.1, enacted by Laws 2003, ch. 180, § 2.

66-3-424.9. Standardized special registration plate for retired firefighters.

A. The division shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient is a person who is a retired New Mexico firefighter upon submission by the person of proof satisfactory to the division that the person has retired from active employment as a firefighter.

B. A person shall not represent himself to be a retired New Mexico firefighter if he is not in fact a retired New Mexico firefighter. The secretary shall determine what constitutes proof of previous active employment as a firefighter and proof of retirement.

C. A person who violates the provisions of Subsection B of this section is guilty of a petty misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

D. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for