

LFC Requester:	Hilla, Emily
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 1/29/24
Bill No: SB 201

Sponsor: Sen. Steven P. Neville
Short Transportation Regulation
Title: _____

Agency Name and Code AOC
Number: 218
Person Writing Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The following SB 210 amendments will impact the courts:

- SB 210 amends Section 65-2A-3 NMSA 1978, within the Motor Carrier Act, to permit a person aggrieved by a final decision of the Department of Transportation (hereinafter “department”) issued pursuant to the Motor Carrier Act to appeal to the district court, rather than the supreme court, pursuant to Section 39-3.1.1 NMSA 1978 within 30 days of the final decision.
- SB 210 amends Section 67-3-6.2 NMSA 1978 to provide that the department or authorized representative has the right to inspect the books, papers and records of railway companies, transportation network companies or motor carriers doing business in the state relating to any matter pending before or being investigated by the department.

SB 201 repeals Sections 67-3-6.3 through 67-3-6.5 NMSA 1978, each of which carry an effective date of July 1, 2024.

The effective date of the Act is July 1, 2024.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions, for interfering with an inspection of records. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) Senate Bill 201 amends the Motor Carrier Act (Act) in a number of ways including changing the manner in which appeals are brought under the Act. Pertinent to the Supreme Court, SB 201 amends the Act so that appeals of adverse decisions of the Department of Transportation (Department) are to be brought to the district court under NMSA 1978, Section 39-3-1.1, rather than directly to the Supreme Court. The proposed legislation amends the Act so that appeals will be brought to the district court rather than

directly to the Supreme Court and will bring uniformity to the appellate process for the reasons outlined below.

First, the Supreme Court is New Mexico's Court of final resort and hears only a limited number of direct appeals mandated by the statute or the Constitution, preferring to have a developed record and the benefit of the review of the Court of Appeals. The Supreme Court has mandatory jurisdiction to hear direct appeals of the following cases: (1) cases where a sentence of life or death may be imposed, including interlocutory appeals in such cases, (2) State's appeal from grants of writs of habeas corpus, and (3) direct appeals from the Public Regulation Commission (PRC). Moving jurisdiction over these direct appeals to the district court is consistent with the Court's limited jurisdiction over direct appeals.

Second, while the PRC was the administrative body charged with hearing disputes and issuing orders under the Motor Carrier Act, in 2023 these powers and duties were transferred to the Department. The Department and not the PRC is now the body charged with hearing disputes under the Act and issuing final appealable decisions. While the Supreme Court does continue to hear administrative appeals in utility cases from the PRC, the majority of administrative appeals are brought before the district court under NMSA 1978, Section 39-3-1.1 and Rule 1-074 NMRA. Although the Supreme Court's appellate authority has been provided by 65-2A-35, with appeals no longer coming from the PRC, it makes less sense for these administrative appeals to be brought directly before the Supreme Court of New Mexico.

Finally, these types of appeals rarely come before the Court. As the Court has limited resources, does not typically hear direct administrative appeals outside of PRC utility appeals, district courts do typically hear administrative appeals, and there is a dearth of these cases that come before the Court, the district court is better suited to hear direct appeals under the Motor Carrier Act.

- 2) SB 210 amends Section 65-2A-35 NMSA 1978 to permit a person aggrieved by a final decision of the department issued pursuant to the Motor Carrier Act to appeal to the district court pursuant to Section 39-3.1.1 NMSA 1978 within 30 days of the final decision, rather than appeal to the supreme court. With regard to an appeal to the district court from a lower court such as the Magistrate or Metropolitan Court, the courts have noted that appeals to a district court must occur in the same county as the original lower court. In the case of an appeal of a decision from the department, while there is no lower court from which to determine the county the appeal to the district court must occur in, there is no guidance in the amended Section 65-2A-35 NMSA 1978 as to in which county the appeal to the district court must be filed.

Under Section 67-3-6.1(F) NMSA 1978, the department is required to seek enforcement of a decision involving a failure or refusal of a person to comply with a department decision within specified timeframes, in the district court, and the enforcement hearing is required to be held on an expedited basis.

- 3) SB 210 amends Section 67-3-6.2 NMSA 1978 to provide that the department or authorized representative has the right to inspect the books, papers and records of railway companies, transportation network companies or motor carriers doing business in the state relating to any matter pending before or being investigated by the department. Section 67-3-6.2 NMSA 1978 provides a misdemeanor penalty for any officer, agent or

employee of a company or corporation or any person in charge of books, papers and records who refuses to permit examination or who conceals, destroys or mutilates or attempts to conceal, destroy or mutilate any such books, papers or records or remove the same beyond the limits of the state for preventing examination, upon conviction. The misdemeanor penalty specified is a fine not to exceed \$500 or imprisonment in the county jail for not more than 6 months.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See "Fiscal Implications," above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS