The Legislature of the State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 3

SENATE FLOOR SUBSTITUTE FOR

SENATE BILL 95

Introduced by
CHAPTER 3

AN ACT

RELATING TO THE DEPARTMENT OF PUBLIC SAFETY; REORGANIZING THE DEPARTMENT OF PUBLIC SAFETY; PLACING THE SPECIAL INVESTIGATIONS DIVISION AND THE MOTOR TRANSPORTATION DIVISION UNDER THE NEW MEXICO STATE POLICE DIVISION; CHANGING THE NAME OF THE TRAINING AND RECRUITING DIVISION TO THE NEW MEXICO LAW ENFORCEMENT ACADEMY; AMENDING THE DEFINITION OF "STATE POLICE MEMBER" IN THE PUBLIC EMPLOYEES RETIREMENT ACT; RECONCILING PENALTIES.

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

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

"9-19-4. DEPARTMENT ESTABLISHED.--There is created in the executive branch the "department of public safety". The department shall be a cabinet department and shall consist of, but not be limited to:

A. the New Mexico state police division;
B. the New Mexico law enforcement academy;
C. the technical support division;
D. the administrative services division; and
E. the information technology division."

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

"9-19-6. SECRETARY--DUTIES AND GENERAL POWERS.--
A. The secretary is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged.

E. To perform the secretary's duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

(1) except as otherwise provided in the Department of Public Safety Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the secretary deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available
appropriations and applicable laws, employ and fix the
compensation of those persons necessary to discharge the
secretary's duties;

(5) take administrative action by issuing
orders and instructions, not inconsistent with the law, to
assure implementation of and compliance with the provisions
of law with the administration or execution of which the
secretary is responsible and to enforce those orders and
instructions by appropriate administrative action in the
court;

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

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

(8) prepare an annual budget of the
department;

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

(a) minimize or eliminate duplication
of services and jurisdictional conflicts;
(b) coordinate activities and resolve problems of mutual concern; and

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

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

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

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

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

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

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

E. The secretary may make and adopt such
reasonable and procedural rules and regulations as may be
necessary to carry out the duties of the department and its
divisions. No rule or regulation promulgated by the director
of any division in carrying out the functions and duties of
the division shall be effective until approved by the
secretary unless otherwise provided by statute. Nothing in
this section erodes or changes the powers and duties of the
law enforcement academy board as set forth in Sections 29-7-3
and 29-7-4 NMSA 1978. Unless otherwise provided by statute,
no regulation affecting any person or agency outside the
department shall be adopted, amended or repealed without a
public hearing on the proposed action before the secretary or
a hearing officer designated by the secretary. The public
hearing shall be held in Santa Fe unless otherwise permitted
by statute. Notice of the subject matter of the regulation,
the action proposed to be taken, the time and place of the
hearing, the manner in which interested persons may present
their views and the method by which copies of the proposed
regulation, proposed amendment or repeal of an existing
regulation may be obtained shall be published once at least
thirty days prior to the hearing date in a newspaper of
general circulation in the state and mailed at least thirty
days prior to the hearing date to all persons who have made a
written request for advance notice of hearing.

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

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

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

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

E. The New Mexico state police division shall consist of the commissioned officers and civilian personnel of the New Mexico state police and such other personnel as may be assigned by the secretary or by the governor pursuant to an executive order as authorized in the Department of Public Safety Act. The New Mexico state police division shall also include:

(1) the special investigations unit, which shall consist of the enforcement personnel of the former special investigations division and civilian personnel as may be assigned by the secretary or by the governor pursuant to an executive order as authorized in the Department of Public Safety Act. The unit is responsible for the enforcement of the New Mexico Bingo and Raffle Act and the Liquor Control Act;

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

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

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

C. The New Mexico law enforcement academy shall
consist of personnel of the New Mexico law enforcement
academy and such other functions as the secretary may
transfer to it.

D. The technical support division shall consist of
functions such as crime laboratory and records.

E. The administrative services division shall
consist of the administrative services as the secretary deems
necessary.

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

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

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

A. "chief" or "chief of the state police" means

the director of the New Mexico state police division of the
department;

E. "commission" means the public safety advisory commission;

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

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

E. "New Mexico law enforcement academy" or "academy" means a division of the department established pursuant to the Law Enforcement Training Act;

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

G. "secretary" means the secretary of public safety."

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

"29-2-3. NEW MEXICO STATE POLICE--ORGANIZATION.--The New Mexico state police shall consist of a chief and such patrol officers, sergeants, lieutenants and captains as the secretary may deem advisable within the limits of the funds appropriated for the New Mexico state police; provided that the number of captains, lieutenants and sergeants shall not
exceed twenty-five percent of the total number of the police, exclusive of the chief; but this requirement shall not be interpreted so as to require the demotion of any member of the previous state police division, the former motor transportation division or the former special investigations division."

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

"29-2-4. APPOINTMENTS--REMOVAL.--The chief of the New Mexico state police shall be appointed by the secretary. All patrol officers and other officers and all civilian employees shall be appointed by the chief."

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

"29-2-4.1. RULES.--The secretary shall promulgate rules governing employment and operating practices and related matters for employees of the New Mexico state police."

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

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

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

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

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

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

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

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

B. Notwithstanding the requirement of Paragraph (3) of Subsection A of this section, the chief may appoint a member of the New Mexico state police who has at least thirty hours of college credit, and the chief shall determine an appropriate time period after appointment for the member to complete the additional thirty hours of college credit required. This provision shall not apply to officers who are certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division.
SECTION 9. Section 29-2-7 NMSA 1978 (being Laws 1941, Chapter 147, Section 7, as amended) is amended to read:

"29-2-7. COMMISSIONED OFFICERS--APPLICATION--PROCEDURE.--The New Mexico state police shall cause all applicants for the position of commissioned officer to submit a written detailed application on forms as the secretary shall prescribe, and the secretary shall cause an investigation to be made of all applicants, subsequent to their taking the examination referred to in Section 29-2-8 NMSA 1978, for the purpose of determining the moral character, general reputation and fitness of any applicant. An applicant who is found unfit as a result of the investigation shall be disqualified for employment. The secretary shall by rule prescribe the physical qualifications of applicants and shall require each applicant to submit to a physical examination by doctors as the secretary shall designate. An applicant who does not meet the physical requirements prescribed by the secretary shall be disqualified for employment. Inasmuch as laws have been enacted providing for retirement, disability and life insurance funds for members of the New Mexico state police, it is the intention of the legislature that no applicants will be appointed who are in such physical condition that the cost of such protection will thereby be increased."

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

"29-2-3. NEW MEXICO STATE POLICE--COMMISSIONED OFFICERS--EXAMINATION.--The New Mexico state police shall conduct a written examination of all applicants for the position of commissioned officer for the purpose of determining their mental qualifications and knowledge of the laws of New Mexico and their ability to render assistance in case of accidents upon the public highways. No applicant shall be appointed a member of the New Mexico state police, other than the chief, until the applicant has passed the written examination with a grade of not less than seventy-two percent. This section shall not apply to officers who are certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division."

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

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

A. All new appointments as members of the New Mexico state police shall be for a probationary period of two years. During the probationary period, the new members may be removed or suspended at the discretion of the chief. At the end of two years of satisfactory service and upon recommendation of the chief and with concurrence of the
secretary, the appointee may receive a permanent commission as a member of the New Mexico state police. However, the probationary period may be extended beyond a two-year period upon the recommendation of the chief with the concurrence of the secretary. This subsection shall not apply to officers who are certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division. Members who are on probation on July 1, 2015 shall complete the probationary period under which they were hired.

B. The salaries of all members of the New Mexico state police, probationary and permanent, and that of the chief shall be fixed by the secretary."

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

"29-2-10. PROMOTIONS.--All promotions in the New Mexico state police to the rank of sergeant shall be made after written examinations. All promotions above the rank of sergeant shall be made by the chief after concurrence and approval by the secretary. The ranks of sergeant, lieutenant and captain shall be permanent unless established as an exempt rank by the chief with the concurrence of the secretary. All promotions above the rank of captain are by executive appointment of the chief with concurrence of the secretary, and those persons shall serve at the pleasure of
the chief with the concurrence of the secretary."

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

"29-2-12. OATH.--All members of the New Mexico state police and the secretary shall take the oath of office required of all state officials."

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

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

A. Unauthorized wearing of uniform or badge consists of the wearing or requiring the wearing, without authorization by the secretary, of a uniform or badge or both whose material, color or design, or any combination of them, is such that the wearer appears to be a member of the New Mexico state police.

B. Unauthorized marking of motor vehicle consists of the marking, using, possessing or owning or requiring the marking or using, without authorization by the secretary, of a motor vehicle whose insignia, color or equipment, or any combination of them, is such that the motor vehicle appears to be a New Mexico state police motor vehicle.

C. Whoever commits unauthorized wearing of uniform or badge or unauthorized marking of motor vehicle is guilty of a petty misdemeanor."
SECTION 15. Section 29-2-16 NMSA 1978 (being Laws 1941, Chapter 147, Section 15, as amended) is amended to read:

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

A. Before entering upon the appointee's duties, every appointee to the New Mexico state police shall be required to attend a school of instruction approved by the secretary. A uniform course of instruction shall be given all trainees governing the operation, maintenance and temporary roadside repair of motor vehicles, the laws of the state that the appointee may be called on to enforce and other instruction as the secretary may require. Attendance at the school or other course of instruction as may be prescribed renders the person attending subject to the control of the New Mexico state police during attendance.

B. The secretary may, within the budgetary means of the New Mexico state police, allow subsistence and compensation for trainees attending the school of instruction at the New Mexico state police headquarters or elsewhere.

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

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

"29-2-18. STATE POLICE CHIEF AND OTHER MEMBERS--POWERS AND DUTIES.--
A. The chief and other members of the New Mexico state police, when duly commissioned and sworn under the provisions of Sections 29-2-1 through 29-2-29 NMSA 1978, shall have the following powers and shall be:

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

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

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

B. Upon request of any officer or agency of the state charged with the duty of enforcing any law of the state that is made to the secretary, one or more members of the New Mexico state police may be temporarily designated specifically to enforce the provisions of such law.

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

A. The chief is the executive officer of the New Mexico state police and is subject to the control, supervision and direction of the secretary. The appointee, at the time of appointment as chief by the secretary, shall have been a member of the New Mexico state police holding a permanent commission for ten continuous years immediately prior to the appointment and shall have served not less than three years in a supervisory capacity. Appointment shall be made with the consent of the senate.

B. The chief shall serve at the pleasure of the secretary.

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

D. The chief shall maintain an office in Santa Fe in such quarters as are provided by the New Mexico state police for that purpose."

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

"29-2-20. DISTRICTS.--The New Mexico state police chief, subject to the control of the secretary, may divide the state into districts and may designate home stations for the members of the New Mexico state police."

SECTION 19. Section 29-2-22 NMSA 1978 (being Laws 1941, Chapter 147, Section 21, as amended) is amended to read:
"29-2-22. RULEMAKING POWER--RULES TO ESTABLISH
STANDARDS OF CONDUCT.--The secretary has authority to make
and promulgate rules and regulations for the purpose of
carrying out the provisions of Sections 29-2-1 through
29-2-29 NMSA 1978. The secretary shall establish by rules,
from time to time, standards of conduct for members of the
New Mexico state police, and a copy of the rules shall be
delivered to each member and displayed at each station of the
department. The rules shall be filed pursuant to the State
Rules Act."

SECTION 20. Section 29-2-24 NMSA 1978 (being Laws 1941,
Chapter 147, Section 25, as amended) is amended to read:
"29-2-24. WAIVER.--The provisions of Sections 29-2-6
through 29-2-8 NMSA 1978 may be waived by the secretary with
regard to plainclothes or special investigators and other
employees not regularly uniformed."

SECTION 21. Section 29-2-25 NMSA 1978 (being Laws 1947,
Chapter 38, Section 1, as amended) is amended to read:
"29-2-25. ACCIDENT REPORTS.--When any member of the
New Mexico state police investigates a motor vehicle
accident, the member shall make a written report of the
findings on appropriate forms furnished by the New Mexico
state police, the original of which report shall be filed in
the office of the New Mexico state police and shall be
furnished to any person upon written application accompanied
by a fee as set by the secretary for the photocopy of each
surface of all documents comprising a report."

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

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

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

B. The academy shall be controlled and supervised
by policy set by the board. The board shall be composed of
the attorney general, who shall serve automatically by reason
of office and serve as chair of the board, and eight members
who are qualified electors to be appointed by the governor
and confirmed by the senate. An appointed board member shall
serve and have all of the duties, responsibilities and
authority of that office during the period prior to the final
action by the senate in confirming or rejecting the
appointment.

C. Appointments to the board shall be for terms of
four years or less made in such manner that the terms of not
more than two members expire on July 1 of each year. At all
times, the board shall have represented on it, as members,
one municipal police chief, one sheriff, one state police
officer, one attorney who is currently employed in a district
attorney's office, one certified police chief of a New Mexico
Indian tribe or pueblo, one certified New Mexico police
officer holding the rank of sergeant or below and two

citizen-at-large members, neither of whom shall be a police

citizen-at-large members, neither of whom shall be a police

officer or retired police officer or have familial or

officer or retired police officer or have familial or

financial connections to a police officer or any agency or

financial connections to a police officer or any agency or

department for which a police officer works. Vacancies shall

department for which a police officer works. Vacancies shall

be filled by the governor for the unexpired term.

be filled by the governor for the unexpired term.

D. Members of the board shall receive, for their

D. Members of the board shall receive, for their

service as members of the board, per diem and mileage as

service as members of the board, per diem and mileage as

provided in the Per Diem and Mileage Act."

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SECTION 23. Section 29-7-5.1 NMSA 1978 (being Laws

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1979, Chapter 202, Section 45, as amended) is amended to

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read:

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"29-7-5.1. REMOVAL OF DIRECTOR.--The director may be

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removed by the board in accordance with the procedures

removed by the board in accordance with the procedures

provided in Section 29-2-11 NMSA 1978 for removal of members

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of the New Mexico state police holding permanent commissions.

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In the case of removal proceedings for the director under

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that section, "commission", as used in Subsections C and D of

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Section 29-2-11 NMSA 1978, shall be construed to mean the

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New Mexico law enforcement academy board."

New Mexico law enforcement academy board."

SECTION 24. Section 29-7-6.1 NMSA 1978 (being Laws

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1993, Chapter 255, Section 7) is amended to read:

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

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

A. Every county sheriff, except sheriffs who have

A. Every county sheriff, except sheriffs who have

previously been awarded a certificate attesting to completion
of a basic law enforcement training program, shall
participate in and complete an administrative law enforcement
training program no later than twelve months after the date
the sheriff assumes office as a county sheriff.

B. The director shall establish the administrative
law enforcement training program for county sheriffs, subject
to review and approval by the executive committee of the
sheriff's affiliate of the New Mexico association of
counties.

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

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

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

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

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

C. "board" means the New Mexico law enforcement
academy board;
D. "conviction" means an adjudication of guilt or a plea of no contest and includes convictions that are suspended or deferred;

E. "director" means the director of the division;

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

G. "in-service law enforcement training" means a course of instruction required of all certified peace officers and designed to train and equip all police officers in the state with specific law enforcement skills and to ensure the continuing development of all police officers in the state. The training and instruction shall be kept current and may be conducted on a regional basis at the discretion of the director;

H. "police officer" means any commissioned employee of a law enforcement agency that is part of or administered by the state or any political subdivision of the state, and includes any employee of a missile range civilian police department who is a graduate of a recognized certified regional law enforcement training facility and who is currently certifiable by the academy, which employee is responsible for the prevention and detection of crime or the enforcement of the penal, or traffic or highway laws of this state. The term specifically includes deputy sheriffs.

Sheriffs are eligible to attend the academy and are eligible...
to receive certification as provided in the Law Enforcement Training Act. As used in this subsection, "commissioned" means an employee of a law enforcement agency who is authorized by a sheriff or chief of police to apprehend, arrest and bring before the court all violators within the state; and

I. "certified regional law enforcement training facility" means a law enforcement training facility within the state certified by the director, with the approval of the academy's board of directors, that offers basic law enforcement training and in-service law enforcement training that is comparable to or exceeds the standards of the programs of the academy."

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

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

A. The division shall not charge local public bodies or New Mexico Indian tribes or pueblos for any expenses associated with providing basic law enforcement training programs to applicants for certification seeking commission pursuant to the provisions of the Law Enforcement Training Act. The division may charge state agencies and institutions and federal agencies and shall charge civilian participants for the cost of providing basic law enforcement training programs, which charges shall be specified in a tuition and
fee schedule promulgated by the board and shall not exceed the
actual cost of providing the training programs.

E. The division may charge state agencies and
institutions, local public bodies, New Mexico Indian tribes
and pueblos and federal agencies and shall charge civilian
participants for the cost of providing advanced training
programs, which charges shall be specified in a tuition and
fee schedule promulgated by the board and shall not exceed the
actual cost of providing the training programs.

C. The division may charge for the rental or other
use of the academy's facility, personnel and equipment, which
charges shall be specified in a tuition and fee schedule
promulgated by the board and shall not exceed the actual cost
of the facility, personnel or equipment.

D. The "law enforcement training and recruiting
fund" is created in the state treasury. Money received by the
division for activities specified in this section shall be
deposited in the fund. The department of public safety shall
administer the fund, and money in the fund is appropriated to
the division to offset the operational costs of the division.
Money in the fund shall be nonreverting. Money shall be
expended on warrants issued by the secretary of finance and
administration upon vouchers signed by the secretary of public
safety or the secretary of public safety's authorized
representative.
E. As used in this section, "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions."

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

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

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

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

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

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

C. "brewer" means a person who owns or operates a business for the manufacture of beer;
D. "club" means:

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

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

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

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

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

F. "department" means the New Mexico state police
division of the department of public safety when the term is
used in reference to the enforcement and investigatory
provisions of the Liquor Control Act and means the director of
the alcohol and gaming division of the regulation and
licensing department when the term is used in reference to the
licensing provisions of the Liquor Control Act;

G. "director" means the chief of the New Mexico
state police division of the department of public safety when
the term is used in reference to the enforcement and
investigatory provisions of the Liquor Control Act and means
the director of the alcohol and gaming division of the
regulation and licensing department when the term is used in
reference to the licensing provisions of the Liquor Control
Act;
H. "dispenser" means a person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages for consumption and not for resale off the licensed premises;

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

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

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

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

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

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

Q. "manufacturer" means a distiller, rectifier,
brewer or winer;

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

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

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

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

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

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

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

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

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

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

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

AA. "winer" means a winegrower; and

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

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

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

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

B. The director of the alcohol and gaming division
of the regulation and licensing department may request the
investigators of the department of public safety to
investigate licensees or activities that the director has
reasonable cause to believe are in violation of the Liquor
Control Act."

SECTION 30. Section 60-4B-4 NMSA 1978 (being Laws 1981, SF/SH 95
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Chapter 39, Section 7) is recompiled as Section 60-3A-8.1 NMSA 1978 and is amended to read:

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

A. For the purpose of enforcing the provisions of the Liquor Control Act, the director is authorized to examine and to require the production of pertinent records, books, information or evidence, to require the presence of any person and to require the person to testify under oath concerning the subject matter of the inquiry and to make a permanent record of the proceedings.

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

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

D. After service of a subpoena upon a person, if the person neglects or refuses to appear or produce records or other evidence in response to the subpoena or neglects or refuses to give testimony, as required, the director may invoke the aid of the New Mexico district courts in the enforcement of the subpoena. In appropriate cases, the court...
shall issue its order requiring the person to appear and
testify or produce the person's books or records and may, upon
failure of the person to comply with the order, punish the
person for contempt.

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

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

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

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

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

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

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combination;

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

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

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

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

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

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

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

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

   G. "director" means the secretary;

   H. "division" means the New Mexico state police division of the department;

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

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

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

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

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

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

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

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

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

R. "public 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;

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

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

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

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

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

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

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

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

B. "bureau" means the traffic safety bureau of the department of transportation;

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

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

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

"66-3-302. CARAVAN FEE.--
A. A person or an employee, agent or representative of that person shall not use the highways of New Mexico for the transportation of any vehicle, regardless of whether the vehicle is registered in another state or whether the vehicle is transported on its own wheels or on another vehicle or by being drawn or towed behind another, if the vehicle is transported by any person or the agents or employees of that person engaged in the business of transporting vehicles or if the vehicle is being transported for the purpose of delivery to any purchaser of the vehicle on a sale or contract of sale previously made, unless the vehicle carries:

(1) a valid New Mexico registration plate;

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

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

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

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

C. A caravan fee shall not apply to the
transportation of vehicles carried on another vehicle for the
operation of which a weight distance tax is paid, nor shall
the vehicle transported be required to carry a registration
plate or temporary transportation permits. The New Mexico
state police division of the department of public safety is
authorized to impound any vehicle transported in violation of
the Motor Transportation Act until a proper permit has been
secured and any fine levied has been paid."

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

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

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

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

A. A police officer with the New Mexico state
police division of the department of public safety, having
reason to believe that the weight of a vehicle and load is
unlawful, may require the driver to stop and submit to
weighing of the vehicle and load by means of either portable
or stationary scales and may require the vehicle to be driven
to the nearest scales approved by the department of public
safety if the scales are within five miles. A police officer
shall not require a driver to weigh a vehicle on a private scale.

B. When a police officer with the New Mexico state police division of the department of public safety or a transportation inspector, upon weighing a vehicle or combination, determines that the gross vehicle weight or combination gross vehicle weight exceeds the maximum authorized by Sections 66-7-409 and 66-7-410 NMSA 1978, the officer or inspector shall require the driver or owner of the vehicle or combination to unload that portion of the load necessary to decrease the gross vehicle weight or combination gross vehicle weight to the authorized maximum.

C. A driver of a vehicle who fails or refuses to stop and submit the vehicle and load to weighing or who fails or refuses, when directed by a duly authorized police officer with the New Mexico state police division of the department of public safety or a transportation inspector, upon a weighing of the vehicle, to unload the vehicle and otherwise comply with the provisions of this section is guilty of a misdemeanor.

D. A shipper or a person loading the vehicle who intentionally overloads a vehicle that the shipper or person has reason to believe will travel in that condition upon a public highway is guilty of a misdemeanor and shall be fined in accordance with Section 66-8-116.1 NMSA 1978.
E. In all cases of violations of weight limitations, the penalties shall be assessed and imposed in accordance with Section 66-8-116.1 NMSA 1978."

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

"66-7-412. SPECIAL FARM PERMITS.--The New Mexico state police division of the department of public safety shall have the authority to issue special permits at all ports of entry where registration stations or places where inspection and registration services are maintained by the New Mexico state police division to all implements of husbandry using the highways, including farm tractors, and to the instrumentalities or vehicles that may be carrying the implements of husbandry, including farm tractors, when the securing of these permits is required by law."

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

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

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

1) an engineering investigation and review have been conducted to:
(a) establish whether the move could be made without visible or documented damages to the portion of road or bridges upon which the move is to be made; 

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

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

(2) when required, the applicant has submitted to the New Mexico state police division of the department of public safety and the local highway authorities all pertinent information requested of the applicant by the New Mexico state police division. If the submitted data are not acceptable to the department of transportation, the applicant will be advised by the New Mexico state police division that engineering investigations will be conducted by the department of transportation, and the cost incurred by the department of transportation will be paid by the applicant as an added cost to the permit fee.

R. The New Mexico state police division shall adopt the necessary rules and regulations for the development of data for an investigation to determine whether to issue any special permit pursuant to Section 66-7-413 NMSA 1978.

C. The applicant or the applicant's employer shall
pay the costs for any modifications to the road, bridges or private facilities along the road that the New Mexico state police division has determined are necessary for the issuance of the special permit and the costs for any damages to the road or bridges that are the result of the move and the fault of the mover and not the New Mexico state police division.

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

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

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

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

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

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

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

SECTION 40. 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 size or weight on designated streets in areas that are primarily residential, which prohibitions and limitations shall be designated by appropriate signs placed on the 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 the street affected, and the ordinance or resolution shall not be effective until signs are erected and maintained and notice given in writing to the nearest officer or employee of the New Mexico state police 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 be effective upon the passage of a resolution and when signs giving notice thereof are erected upon the highway or portion of any highway affected by the resolution. The commission shall deliver a copy of all restrictions adopted by it to the New Mexico state police division of the department of public safety."

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

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

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

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

(2) one member who is representative of the school bus transportation function of the public education department; and
(3) one member who is representative of the
New Mexico state police division of the department of public
safety.

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

SECTION 42. Section 10-11-2 NMSA 1978 (being Laws 1987,
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees
Retirement Act:

A. "accumulated member contributions" means the
amounts deducted from the salary of a member and credited to
the member's individual account, together with interest, if
any, credited to that account;

B. "affiliated public employer" means the state
and any public employer affiliated with the association as
provided in the Public Employees Retirement Act, but does not
include an employer pursuant to the Magistrate Retirement Act,
the Judicial Retirement Act or the Educational Retirement Act;

C. "association" means the public employees
retirement association established under the Public Employees
Retirement Act;

D. "disability retired member" means a retired
member who is receiving a pension pursuant to the disability retirement provisions of the Public Employees Retirement Act;

E. "disability retirement pension" means the pension paid pursuant to the disability retirement provisions of the Public Employees Retirement Act;

F. "educational retirement system" means that retirement system provided for in the Educational Retirement Act;

G. "employee" means any employee of an affiliated public employer;

H. "federal social security program" means that program or those programs created and administered pursuant to the act of congress approved August 14, 1935, Chapter 531, 49 Stat. 620, as that act may be amended;

I. "final average salary" means the final average salary calculated in accordance with the provisions of the applicable coverage plan;

J. "form of payment" means the applicable form of payment of a pension provided for in Section 10-11-117 NMSA 1978;

K. "former member" means a person who was previously employed by an affiliated public employer, who has terminated that employment and who has received a refund of member contributions;

L. "fund" means the funds included under the
Public Employees Retirement Act;

N. "member" means a currently employed, contributing employee of an affiliated public employer, or a person who has been but is not currently employed by an affiliated public employer, who has not retired and who has not received a refund of member contributions; "member" also includes the following:

(1) "adult correctional officer member"
means a member who is employed as an adult correctional officer or an adult correctional officer specialist by a state correctional facility of the corrections department or its successor agency;

(2) "juvenile correctional officer member"
means a member who is employed as a juvenile correctional officer by the children, youth and families department or its successor agency;

(3) "municipal detention officer member"
means a member who is employed by an affiliated public employer other than the state and who has inmate custodial responsibilities at a facility used for the confinement of persons charged with or convicted of a violation of a law or ordinance;

(4) "municipal fire member" means any member who is employed as a full-time nonvolunteer firefighter by an affiliated public employer and who has taken the oath
prescribed for firefighters;

(5) "municipal police member" means any member who is employed as a police officer by an affiliated public employer, other than the state, and who has taken the oath prescribed for police officers; and

(6) "state police member" means a member who is an officer of the New Mexico state police and who has taken the oath prescribed for such officers, except that a state police member shall not include a member who is an officer of the New Mexico state police division and who was certified and commissioned as of June 30, 2015 in the former motor transportation division or the former special investigations division of the department of public safety;

N. "membership" means membership in the association;

O. "pension" means a series of monthly payments to a retired member or survivor beneficiary as provided in the Public Employees Retirement Act;

P. "public employer" means the state, any municipality, city, county, metropolitan arroyo flood control authority, economic development district, regional housing authority, soil and water conservation district, entity created pursuant to a joint powers agreement, council of government, conservancy district, irrigation district, water and sanitation district, water district and metropolitan water
board, including the boards, departments, bureaus and agencies
of a public employer, so long as these entities fall within
the meaning of governmental plan as that term is used in
Section 414(d) of the Internal Revenue Code of 1986, as
amended;

Q. "refund beneficiary" means a person designated
by the member, in writing, in the form prescribed by the
association, as the person who would be refunded the member's
accumulated member contributions payable if the member dies
and no survivor pension is payable or who would receive the
difference between pension paid and accumulated member
contributions if the retired member dies before receiving in
pension payments the amount of the accumulated member
contributions;

R. "retire" means to:

(1) terminate employment with all employers
covered by any state system or the educational retirement
system; and

(2) receive a pension from a state system or
the educational retirement system;

S. "retired member" means a person who has met all
requirements for retirement and who is receiving a pension
from the fund;

T. "retirement board" means the retirement board
provided for in the Public Employees Retirement Act;
U. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered an affiliated public employer. "Salary" shall not include overtime pay, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary for Public Employees Retirement Act purposes. Salary in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount that was allowed to be taken into account under the state retirement system acts in effect on July 1, 1993. For purposes of this subsection, "eligible employee" means an individual who was a member of a state system before the first plan year beginning after December 31, 1995;

V. "state system" means the retirement programs provided for in the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

W. "state retirement system acts" means collectively the Public Employees Retirement Act, the Magistrate Retirement Act, the Judicial Retirement Act and the
Volunteer Firefighters Retirement Act; and

X. "survivor beneficiary" means a person who receives a pension or who has been designated to be paid a pension as a result of the death of a member or retired member."

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

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

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

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

SECTION 44. TEMPORARY PROVISIONS--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On
July 1, 2015:

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

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

C. all references in law to the training and recruiting division of the department of public safety shall be deemed to refer to the New Mexico law enforcement academy of the department of public safety.

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

SECTION 46. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.
John A. Sánchez, President
Senate

Lenore M. Naranjo, Chief Clerk
Senate

Don L. Tripp, Speaker
House of Representatives

Denise Greenlaw Ramonas, Chief Clerk
House of Representatives

Approved by me this 20th day of March, 2015

Governor Susana Martinez
State of New Mexico