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HOUSE BILL 270

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO MOTOR VEHICLES; CREATING THE MOTOR TRANSPORTATION DEPARTMENT; TRANSFERRING THE MOTOR TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY, INCLUDING THE POWERS AND PERSONNEL TO ADMINISTER AND ENFORCE THE MOTOR TRANSPORTATION ACT AND OTHER PROVISIONS OF LAW RELATING TO MOTOR CARRIERS, TO THE MOTOR TRANSPORTATION DEPARTMENT; PROVIDING FOR THE ORGANIZATION, POWERS AND ADMINISTRATION OF THE HIGHWAY PATROL DIVISION; REQUIRING RULEMAKING; CREATING CRIMINAL OFFENSES REGARDING AND PROVIDING PENALTIES FOR MISUSE OF A HIGHWAY PATROL DIVISION UNIFORM, BADGE OR VEHICLE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1

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1 through 10 of this act may be cited as the "Motor
2 Transportation Department Act".

3 Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the
4 Motor Transportation Department Act is to establish a single,
5 unified department to efficiently administer and enforce laws
6 and exercise functions concerning commercial vehicle safety and
7 operation.

8 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
9 Motor Transportation Department Act:

10 A. "department" means the motor transportation
11 department; and

12 B. "secretary" means the secretary of motor
13 transportation.

14 Section 4. [NEW MATERIAL] DEPARTMENT CREATED.--The "motor
15 transportation department" is created in the executive branch.
16 The department is a cabinet department and consists of an
17 administrative division, an information and technology division
18 and two program divisions as follows:

19 A. the highway patrol division; and

20 B. the ports of entry division.

21 Section 5. [NEW MATERIAL] SECRETARY--APPOINTMENT.--

22 A. The administrative head of the department is the
23 "secretary of motor transportation". The secretary is
24 appointed by the governor with the consent of the senate and
25 serves in the executive cabinet.

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1 B. The appointed secretary serves and has all the
2 duties, responsibilities and authority of that office during
3 the period of time prior to final action by the senate
4 confirming or rejecting the appointment.

5 Section 6. [NEW MATERIAL] DIVISION DIRECTORS.--The
6 secretary shall appoint, with the approval of the governor,
7 directors of the divisions established within the department.
8 Division directors are exempt from the Personnel Act.

9 Section 7. [NEW MATERIAL] STAFFING--ORGANIZATION.--The
10 secretary shall make recommendations to the first session of
11 the forty-ninth legislature on the required staffing levels for
12 the department. The secretary shall organize the department so
13 that it focuses on public safety and commercial vehicle safety.

14 Section 8. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
15 POWERS.--

16 A. The secretary is responsible to the governor for
17 the operation of the department. It is the secretary's duty to
18 manage all operations of the department and to administer and
19 enforce the laws with which the secretary or the department is
20 charged.

21 B. To perform these duties, the secretary has every
22 power expressly enumerated in the laws, whether granted to the
23 secretary or the department or any division of the department,
24 except where authority conferred upon any division is
25 explicitly exempted from the secretary's authority by statute.

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1 In accordance with these provisions, the secretary shall:

2 (1) except as otherwise provided in the Motor
3 Transportation Department Act, exercise general supervisory and
4 appointing authority over all department employees, subject to
5 any applicable personnel laws and regulations;

6 (2) delegate authority to subordinates as the
7 secretary deems necessary and appropriate, clearly delineating
8 the limitations of authority;

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

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

17 (5) take administrative action by issuing
18 orders and instructions, consistent with law, to ensure
19 compliance with the provisions of the Motor Transportation
20 Department Act, and enforce those orders and instructions by
21 appropriate administrative action in the courts;

22 (6) conduct research that will improve the
23 operation of the department and the provision of services to
24 the residents of the state;

25 (7) provide courses of instruction and

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1 practical training for employees of the department and for
2 other persons involved in the administration of programs in the
3 department with the objective of improving the operation and
4 efficiency of administration;

5 (8) prepare an annual budget for the
6 department;

7 (9) cooperate with administratively attached
8 agencies and adjunct agencies to:

9 (a) minimize or eliminate duplication of
10 services and jurisdictional conflicts;

11 (b) coordinate activities and resolve
12 problems of mutual concern; and

13 (c) resolve by agreement the manner and
14 extent to which the department shall provide budgeting, record
15 keeping and related clerical assistance to administratively
16 attached agencies;

17 (10) give bond in the penal sum of twenty-five
18 thousand dollars (\$25,000) and require directors to each give
19 bond in the penal sum of ten thousand dollars (\$10,000)
20 conditioned upon the faithful performance of duties as provided
21 in the Surety Bond Act. The department shall pay the costs of
22 these bonds; and

23 (11) require performance bonds of department
24 employees and officers as the secretary deems necessary as
25 provided in the Surety Bond Act. The department shall pay the

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1 costs of these bonds.

2 C. With the governor's approval and in the name of
3 the department, the secretary may apply for and receive public
4 or private funds, including United States government funds,
5 available to the department to carry out its programs, duties
6 or services.

7 D. When functions of departments are duplicated or
8 a function assigned to one department could be performed better
9 by another department, the secretary may recommend remedial
10 legislation to the next session of the legislature for its
11 approval.

12 E. The secretary may issue reasonable procedural
13 rules necessary to carry out the duties of the department. No
14 rule promulgated by the director of any division in carrying
15 out the functions and duties of the division shall be effective
16 until approved by the secretary, unless otherwise provided by
17 statute. Unless otherwise provided by statute, no rule
18 affecting any person or agency outside the department shall be
19 adopted, amended or repealed without a public hearing on the
20 proposed action before the secretary or a hearing officer
21 designated by the secretary. The public hearing shall be held
22 in Santa Fe unless otherwise permitted by statute. Notice of
23 the subject matter of the rule, the action proposed, the time
24 and place of the hearing, the manner in which interested
25 persons may present their views and the method by which copies

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1 of the proposed rule, amendment or repeal of an existing rule
2 may be obtained shall be published once at least thirty days
3 prior to the hearing date in a newspaper of general circulation
4 and mailed at least thirty days prior to the hearing date to
5 all persons who have made a written request for advance notice
6 of the hearing. Rules shall be filed in accordance with the
7 State Rules Act.

8 Section 9. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
9 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
10 INFORMATION.--Those organizational units of the department and
11 the officers of those units specified by law shall have all of
12 the powers and duties enumerated in the specific laws involved.
13 However, the carrying out of those powers and duties shall be
14 subject to the direction and supervision of the secretary, who
15 shall retain the final decision-making authority and
16 responsibility for the administration of any laws as provided
17 in the Motor Transportation Department Act. The department
18 shall have access to all records, data and information of other
19 state departments, agencies and institutions, including its own
20 organizational units, not specifically held confidential by
21 law.

22 Section 10. [NEW MATERIAL] ADVISORY COMMITTEES.--

23 A. The secretary may create advisory committees.
24 As used in this section, "advisory" means furnishing advice,
25 gathering information, making recommendations and performing

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1 other activities as may be instructed or delegated and as may
2 be necessary to fulfill advisory functions or to comply with
3 federal or private funding requirements. Advisory committee
4 duties do not extend to administering a program or function or
5 setting policy unless specified by law. Advisory committees
6 shall be appointed in accordance with the provisions of the
7 Executive Reorganization Act.

8 B. Members of advisory committees appointed under
9 the authority of this section shall be reimbursed for per diem
10 and mileage as provided in the Per Diem and Mileage Act and
11 shall receive no other compensation, perquisite or allowance.

12 Section 11. Section 7-15A-12 NMSA 1978 (being Laws 2003
13 (1st S.S.), Chapter 3, Section 6) is amended to read:

14 "7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION PERMITS--
15 SUSPENSION AND RENEWAL.--

16 A. An operator of a motor vehicle registered in
17 this state and subject to the weight distance tax shall display
18 a weight distance tax identification permit issued for that
19 vehicle to an enforcement officer of the motor transportation
20 department [~~of public safety~~] upon demand of that [~~employee~~]
21 officer and when the vehicle passes through a port of entry.

22 B. The department may suspend or decline to renew a
23 weight distance tax identification permit for a motor vehicle
24 if the owner or operator of the vehicle does not comply with
25 the provisions of the Weight Distance Tax Act."

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1 Section 12. Section 9-19-4 NMSA 1978 (being Laws 1987,
2 Chapter 254, Section 4, as amended) is amended to read:

3 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the
4 executive branch the "department of public safety". The
5 department shall be a cabinet department and shall consist of,
6 but not be limited to, [~~five~~] four program divisions, an
7 administrative division and an information technology division
8 as follows:

- 9 A. the New Mexico state police division;
10 B. the special investigations division;
11 C. the training and recruiting division;
12 D. the technical and emergency support division;
13 E. the administrative services division; and
14 ~~[F. the motor transportation division; and~~
15 ~~G.]~~ F. the information technology division."

16 Section 13. Section 65-1-2 NMSA 1978 (being Laws 1978,
17 Chapter 19, Section 1, as amended) is amended to read:

18 "65-1-2. DEFINITIONS.--As used in the Motor
19 Transportation Act:

- 20 A. "chief" means the director of the division;
21 ~~[A.]~~ B. "combination" means any connected
22 assemblage of a motor vehicle and one or more semitrailers,
23 trailers or semitrailers converted to trailers by means of a
24 converter gear;
25 ~~[B.]~~ C. "combination gross vehicle weight" means

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1 the sum total of the gross vehicle weights of all units of a
2 combination;

3 ~~[G.]~~ D. "commercial motor carrier vehicle" means a
4 self-propelled or towed vehicle, other than special mobile
5 equipment, used on public highways in commerce to transport
6 passengers or property when the vehicle:

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

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

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

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

24 ~~[D.]~~ E. "converter gear" means any assemblage of
25 one or more axles with a fifth wheel mounted ~~[thereon]~~ designed

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1 for use in a combination to support the front end of a
2 semitrailer, but not be permanently attached [~~thereto~~]. A
3 "converter gear" shall not be considered a vehicle as that term
4 is used in Chapter 66 NMSA 1978, but its weight [~~attributable~~
5 ~~thereto~~] shall be included in declared gross weight;

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

12 [F.] G. "department", without modification, means
13 the motor transportation department [~~of public safety~~], the
14 secretary of [~~public safety~~] motor transportation or any
15 employee of the department exercising authority lawfully
16 delegated to that employee by the secretary;

17 [G.] H. "director" means the secretary;

18 [H.] I. "division" means the [~~motor transportation~~]
19 highway patrol division of the department;

20 [I.] J. "evidence of registration" means
21 documentation issued by the [~~taxation and revenue~~] department
22 identifying a motor carrier vehicle as being registered with
23 New Mexico or documentation issued by another state pursuant to
24 the terms of a multistate agreement on registration of vehicles
25 to which this state is a party identifying a motor carrier

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1 vehicle as being registered with that state; provided that
2 evidence of payment of the weight distance tax and permits
3 obtained under either the Special Fuels Supplier Tax Act or
4 Trip Tax Act are not "evidence of registration";

5 ~~[J.]~~ K. "field enforcement" or "in the field" means
6 patrolling of the highway, stopping of commercial motor carrier
7 vehicles or establishing ports of entry and roadblocks for the
8 purpose of checking motor carriers and includes similar
9 activities;

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

18 ~~[L.]~~ M. "gross vehicle weight" means the weight of
19 a vehicle without load plus the weight of ~~[any]~~ a load;
20 ~~[thereon];~~

21 ~~M.]~~ N. "motor carrier" means ~~[any]~~ a person ~~[that]~~
22 who owns, controls, operates or manages ~~[any]~~ a motor vehicle
23 with gross vehicle weight of twelve thousand pounds or more
24 that is used to transport persons or property on the public
25 highways of this state;

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1 ~~[N-]~~ O. "motor vehicle" means ~~[any]~~ a vehicle or
2 device that is propelled by an internal combustion engine or
3 electric motor power that is used or may be used on the public
4 highways for the purpose of transporting persons or property
5 and includes any connected trailer or semitrailer;

6 P. "officer" means a commissioned officer of the
7 division;

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

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

21 ~~[Q-]~~ S. "properly registered" means bearing the
22 lawfully issued and currently valid evidence of registration of
23 this or another jurisdiction, regardless of the owner's
24 residence, except in those cases where the evidence has been
25 procured by misrepresentation or fraud;

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1 [~~R-~~] T. "public highway" means every way or place
2 generally open to the use of the public as a matter of right
3 for the purpose of vehicular travel, even though it may be
4 temporarily closed or restricted for the purpose of
5 construction, maintenance, repair or reconstruction;

6 [~~S-~~] U. "secretary" means the secretary of [~~public~~
7 ~~safety~~] motor transportation and, except for the purposes of
8 Section 65-1-33 NMSA 1978, also includes [~~the~~] a deputy
9 secretary and any division director delegated by the secretary;

10 [~~F-~~] V. "state" or "jurisdiction" means a state,
11 territory or possession of the United States, the District of
12 Columbia, the commonwealth of Puerto Rico, a foreign country or
13 a state or province of a foreign country; and

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

21 Section 14. A new section of the Motor Transportation Act
22 is enacted to read:

23 "[NEW MATERIAL] HIGHWAY PATROL DIVISION--ORGANIZATION.--
24 The division shall consist of a chief, deputy chief, major,
25 captains, lieutenants, sergeants, officers and noncommissioned

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1 personnel according to the Personnel Act within the limits of
2 the funds appropriated for the division."

3 Section 15. A new section of the Motor Transportation Act
4 is enacted to read:

5 "[NEW MATERIAL] APPOINTMENTS--REMOVAL.--The secretary
6 shall appoint the chief. The chief shall serve at the pleasure
7 of the secretary. The chief is the executive officer of the
8 division and shall be subject to the control, supervision and
9 direction of the secretary. Officers and civilian employees of
10 the division shall be appointed by the chief according to rules
11 adopted pursuant to the Personnel Act."

12 Section 16. A new section of the Motor Transportation Act
13 is enacted to read:

14 "[NEW MATERIAL] QUALIFICATIONS OF AN OFFICER.--An officer,
15 except the chief, shall:

16 A. at the time of the officer's appointment, be a
17 citizen of the United States and at least twenty-one years of
18 age;

19 B. be of good moral character and not have been
20 convicted of a felony or an infamous crime in a court of a
21 county, this state or another state or in a federal court;

22 C. pass a physical examination and any other
23 examination the department may require; and

24 D. hold a high school diploma or the equivalent."

25 Section 17. A new section of the Motor Transportation Act

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1 is enacted to read:

2 "[NEW MATERIAL] CHIEF AND OTHER OFFICERS--POWERS AND
3 DUTIES.--The chief and other officers shall be:

4 A. peace officers in the performance of their
5 duties with full power to apprehend, arrest and bring before
6 the proper court law violators within the state and authority
7 to enforce the Motor Carrier Act, the Motor Transportation Act,
8 the Motor Vehicle Code and the Criminal Code; and

9 B. ex-officio deputies and agents of the officers
10 of the taxation and revenue department and of the officers and
11 departments within the state charged with registration of motor
12 vehicles and the issuance of licenses to operators of motor
13 vehicles."

14 Section 18. A new section of the Motor Transportation Act
15 is enacted to read:

16 "[NEW MATERIAL] COMMISSIONS--SALARY.--

17 A. The chief shall commission officers.

18 B. Salary for officers shall be determined pursuant
19 to the Personnel Act."

20 Section 19. A new section of the Motor Transportation Act
21 is enacted to read:

22 "[NEW MATERIAL] UNIFORM AND BADGES--UNIFORM ALLOWANCE TO
23 BE SET BY SECRETARY.--The secretary shall provide and issue to
24 each officer a suitable and distinctive uniform and an
25 appropriate badge, which shall contain in plain legible letters

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1 the words "Highway Patrol Officer". Officers shall wear the
2 prescribed uniform and badge when on duty, except when directed
3 differently by the chief, the secretary or the governor. A
4 uniform allowance shall be established by the secretary and
5 allowed in addition to an officer's and a noncommissioned
6 uniformed employee's salary and shall be paid according to
7 department policy."

8 Section 20. A new section of the Motor Transportation Act
9 is enacted to read:

10 "[NEW MATERIAL] UNAUTHORIZED WEARING OF UNIFORM OR BADGE--
11 UNAUTHORIZED MARKING OF MOTOR VEHICLE--PENALTY.--

12 A. Unauthorized wearing of an officer's uniform or
13 badge consists of wearing or requiring the wearing, without the
14 authorization of the chief, of a uniform or badge whose
15 material, color or design causes the wearer to appear to be an
16 officer.

17 B. Unauthorized marking of a division motor vehicle
18 consists of marking, using, possessing or owning or requiring
19 the marking or using, without the authorization of the chief,
20 of a motor vehicle whose insignia, color or equipment causes
21 the motor vehicle to appear to be a division motor vehicle.

22 C. A person who commits unauthorized wearing of an
23 officer's uniform or badge pursuant to Subsection A of this
24 section or unauthorized marking of a division motor vehicle
25 pursuant to Subsection B of this section is guilty of a petty

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1 misdemeanor and shall be sentenced pursuant to Section 31-19-1
2 NMSA 1978."

3 Section 21. Section 65-2A-4 NMSA 1978 (being Laws 2003,
4 Chapter 359, Section 4) is amended to read:

5 "65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

6 A. In accordance with the Motor Carrier Act, the
7 commission shall:

8 (1) issue operating authorities for a motor
9 carrier operating in New Mexico;

10 (2) establish minimum requirements for
11 financial responsibility for a motor carrier;

12 (3) establish safety requirements for
13 intrastate motor carrier motor vehicles and drivers subject to
14 the jurisdiction of the commission, provided that the safety
15 requirements shall not be inconsistent with or more stringent
16 than applicable federal safety standards;

17 (4) establish reasonable requirements with
18 respect to continuous and adequate service to be provided under
19 an operating authority;

20 (5) regulate the rates of intrastate common
21 motor carriers of persons and household goods and towing
22 services performing nonconsensual tows, including rates for
23 storing household goods and motor vehicles;

24 (6) determine matters of public convenience
25 and necessity relating to motor carriers;

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1 (7) subpoena witnesses and records, enforce
2 its subpoenas through a court and, through the court, seek a
3 remedy for contempt;

4 (8) hold a public hearing specific to a
5 protest or request that has been filed timely in opposition to
6 or in consideration of an application; and

7 (9) adopt rules, issue orders and conduct
8 activities necessary to implement and enforce the Motor Carrier
9 Act.

10 B. The commission may:

11 (1) designate inspectors ~~[who may]~~ to inspect
12 the records of a motor carrier subject to the Motor Carrier Act
13 and who shall have the powers of peace officers in the state's
14 political subdivisions with respect to a law or rule that the
15 commission is empowered to enforce pursuant to Section 65-1-6
16 NMSA 1978, excluding the enforcement authority granted to the
17 motor transportation ~~[division of the]~~ department ~~[of public~~
18 ~~safety]~~;

19 (2) institute civil actions in the district
20 court of Santa Fe county in its own name to enforce the Motor
21 Carrier Act, its orders and rules, and in the name of the state
22 to recover assessments of administrative fines;

23 (3) ~~[from time to time]~~ modify the type of
24 service, territory, terms, conditions and limitations of
25 operating authorities previously issued, and change or rescind

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1 rates previously adopted as needed; and

2 (4) adopt rules to implement these powers."

3 Section 22. Section 65-2A-19 NMSA 1978 (being Laws 2003,
4 Chapter 359, Section 19) is amended to read:

5 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
6 DRIVERS USED IN COMPENSATED TRANSPORTATION.--

7 A. A motor carrier shall provide safe and adequate
8 service, equipment and facilities for the rendition of
9 transportation services in this state.

10 B. The commission shall prescribe safety
11 requirements for drivers and for motor vehicles weighing
12 twenty-six thousand pounds or less or carrying fifteen or fewer
13 persons, including the driver, used by intrastate motor
14 carriers operating in this state. The commission may prescribe
15 additional requirements related to safety, including driver
16 safety training programs, vehicle preventive maintenance
17 programs, inquiries regarding the safety of the motor vehicles
18 and drivers employed by a motor carrier, and the
19 appropriateness of the motor vehicles and equipment for the
20 transportation services to be provided by the motor carrier.

21 C. A commuter service shall certify that it has a
22 program providing for an initial drug test for a person seeking
23 to be a commuter service driver. The program shall use
24 reasonable collection and analysis procedures to ensure
25 accurate results, require testing only for substances

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1 controlled by federal regulation of commercial motor carriers
2 and ensure the confidentiality of the test results and medical
3 information obtained.

4 D. The motor transportation [~~division of the~~
5 department [~~of public safety~~] may immediately order, without
6 notice or a public hearing, a motor vehicle to be taken out of
7 service for violation of a federal or state law or rule
8 relating to safety if the violation would endanger the public
9 health or safety."

10 Section 23. Section 65-2A-27 NMSA 1978 (being Laws 2003,
11 Chapter 359, Section 27) is amended to read:

12 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR
13 AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

14 A. The commission shall immediately suspend,
15 without notice or a public hearing, the operating authority of
16 a motor carrier for failure to continuously maintain the forms
17 and amounts of financial responsibility prescribed by
18 commission rule.

19 B. The commission may immediately suspend, without
20 notice or a public hearing, the operating authority of a motor
21 carrier for violation of a safety requirement of the Motor
22 Carrier Act, the commission's rules or the rules of the motor
23 transportation [~~division of the~~] department [~~of public safety~~],
24 if the violation endangers the public health or safety.

25 C. The commission may, upon complaint or the

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1 commission's own initiative and after notice and a public
2 hearing, if required, order involuntary suspension, revocation
3 or amendment, in whole or in part, of an operating authority
4 for failure to:

5 (1) comply with a provision of the Motor
6 Carrier Act;

7 (2) comply with a lawful order or rule of the
8 commission;

9 (3) comply with a term, condition or
10 limitation of an operating authority; or

11 (4) render reasonably continuous and adequate
12 service under a certificate or permit.

13 D. The commission may approve an application for
14 reinstatement of an operating authority following involuntary
15 suspension if it finds, after notice and public hearing
16 requirements are met, that:

17 (1) the reasons for the involuntary suspension
18 no longer pertain; and

19 (2) the owner of the operating authority is
20 fit, willing and able to provide the authorized transportation
21 services and to comply with the Motor Carrier Act and the rules
22 of the commission."

23 Section 24. Section 65-2A-29 NMSA 1978 (being Laws 2003,
24 Chapter 359, Section 29) is amended to read:

25 "65-2A-29. REPORTS AND RECORDS.--

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1 A. The commission shall establish reasonable
2 requirements with respect to reports, records and uniform
3 systems of accounts and preservation of records for motor
4 carriers.

5 B. The commission may require a motor carrier
6 owning operating authority from the commission to prepare and
7 transmit to the commission an annual report of its operations.
8 The report shall be in the form, contain specific information,
9 including financial information, and be due on a date as the
10 commission may by rule require. Financial data filed by motor
11 carriers in annual reports shall not be made available for
12 inspection by the public.

13 C. The commission or its employees or duly
14 authorized agents shall, at all times, have access to:

15 (1) land, buildings, improvements to real
16 property and equipment of motor carriers used in connection
17 with their operations; and

18 (2) records kept by motor carriers.

19 D. The commission may, by order, require a motor
20 carrier subject to the Motor Carrier Act, or its officers or
21 agents, to produce within this state at such reasonable time
22 and place as it may designate, original or certified copies of
23 records regardless of where they are kept by the motor carrier
24 when their production is pertinent to a matter before the
25 commission, in order that the commission may examine them.

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1 E. The motor transportation [~~division of the~~
2 department [~~of public safety~~] shall furnish to the commission
3 all information needed or required by the commission to carry
4 out its responsibilities when the information is obtainable
5 only through field enforcement."

6 Section 25. Section 66-1-4.17 NMSA 1978 (being Laws 1990,
7 Chapter 120, Section 18, as amended by Laws 2003, Chapter 141,
8 Section 1 and by Laws 2003, Chapter 164, Section 3) is amended
9 to read:

10 "66-1-4.17. DEFINITIONS.--As used in the Motor Vehicle
11 Code:

12 A. "tank vehicle" means a motor vehicle that is
13 designed to transport any liquid or gaseous material within a
14 tank that is either permanently or temporarily attached to the
15 vehicle or the chassis and that has either a gross vehicle
16 weight rating of twenty-six thousand one or more pounds or is
17 used in the transportation of hazardous materials requiring
18 placarding of the vehicle under applicable law;

19 B. "taxicab" means a motor vehicle used for hire in
20 the transportation of persons, having a normal seating capacity
21 of not more than seven persons;

22 C. "through highway" means every highway or portion
23 [~~thereof~~] of a highway at the entrance to which vehicular
24 traffic from intersecting highways is required by law to stop
25 before entering or crossing it when stop signs are erected as

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1 provided in the Motor Vehicle Code;

2 D. "title service company" means a person, other
3 than the department, an agent of the department, a licensed
4 dealer or the motor transportation [~~division of the~~] department
5 [~~of public safety~~], who for consideration issues temporary
6 registration plates or prepares and submits to the department
7 on behalf of others applications for registration of or title
8 to motor vehicles;

9 E. "traffic" means pedestrians, ridden or herded
10 animals, vehicles and other conveyances either singly or
11 together using any highway for purposes of travel;

12 F. "traffic-control signal" means any device,
13 whether manually, electrically or mechanically operated, by
14 which traffic is alternately directed to stop and to proceed;

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

18 H. "trailer" means any vehicle without motive
19 power, designed for carrying persons or property and for being
20 drawn by a motor vehicle, and so constructed that no
21 significant part of its weight rests upon the towing vehicle;

22 I. "transportation inspector" means an employee of
23 the motor transportation [~~division of the~~] department [~~of~~
24 ~~public safety~~] who has been certified by the [~~director of the~~
25 ~~division~~] secretary of motor transportation to enter upon and

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1 perform inspections of motor carriers' vehicles in operation;

2 J. "transporter of manufactured homes" means a
3 commercial motor vehicle operation engaged in the business of
4 transporting manufactured homes from the manufacturer's
5 location to the first dealer's location. A "transporter of
6 manufactured homes" may or may not be associated with or
7 affiliated with a particular manufacturer or dealer;

8 K. "travel trailer" means a trailer with a camping
9 body and includes recreational travel trailers and camping
10 trailers;

11 L. "trial court" means the magistrate, municipal or
12 district court that tries the case concerning an alleged
13 violation of a provision of the Motor Vehicle Code;

14 [~~E.~~] M. "tribal court" means a court created by a
15 tribe or a court of Indian offense created by the United States
16 secretary of the interior;

17 [~~M.~~] N. "tribe" means an Indian nation, tribe or
18 pueblo located wholly or partially in New Mexico;

19 [~~N.~~] O. "truck" means every motor vehicle designed,
20 used or maintained primarily for the transportation of
21 property;

22 [~~Ø.~~] P. "truck camper" means a camping body
23 designed to be loaded onto, or affixed to, the bed or chassis
24 of a truck. A camping body, when combined with a truck or
25 truck cab and chassis, even though not attached permanently,

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1 becomes a part of the motor vehicle, and together they are a
2 recreational unit to be known as a "truck camper"; there are
3 three general types of truck campers:

4 (1) "slide-in camper" means a camping body
5 designed to be loaded onto and unloaded from the bed of a
6 pickup truck;

7 (2) "chassis-mount camper" means a camping
8 body designed to be affixed to a truck cab and chassis; and

9 (3) "pickup cover" or "camper shell" means a
10 camping body designed to provide an all-weather protective
11 enclosure over the bed of a pickup truck and to be affixed
12 [~~thereto~~] to the pickup truck; and

13 [P-] Q. "truck tractor" means every motor vehicle
14 designed and used primarily for drawing other vehicles and not
15 so constructed as to carry a load other than a part of the
16 weight of the vehicle and load so drawn."

17 Section 26. Section 66-7-411 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 482, as amended) is amended to read:

19 "66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES
20 AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES.--

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

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1 of the vehicle and load by means of either portable or
2 stationary scales and may require the vehicle to be driven to
3 the nearest scales approved by the motor transportation
4 department [~~of public safety~~] if the scales are within five
5 miles.

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

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

25 D. [~~Any~~] A shipper or any other person loading

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

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

9 WEIGHT OF EXCESS	
10 LOAD IN POUNDS	AMOUNT OF FINE
11 1 to 3,000	twenty-five dollars (\$25.00)
12 3,001 to 4,000	forty dollars (\$40.00)
13 4,001 to 5,000	seventy-five dollars (\$75.00)
14 5,001 to 6,000	one hundred twenty-five dollars (\$125)
15 6,001 to 7,000	two hundred dollars (\$200)
16 7,001 to 8,000	two hundred seventy-five dollars (\$275)
17 8,001 to 9,000	three hundred fifty dollars (\$350)
18 9,001 to 10,000	four hundred twenty-five dollars (\$425)
19 over 10,000	five hundred dollars (\$500)."

20 Section 27. Section 66-7-412 NMSA 1978 (being Laws 1959,
21 Chapter 247, Section 1, as amended) is amended to read:

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

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

7 Section 28. Section 66-7-413 NMSA 1978 (being Laws 1978,
8 Chapter 35, Section 484, as amended) is amended to read:

9 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL
10 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

11 A. The motor transportation department [~~of public~~
12 ~~safety~~] and local highway authorities may, in their discretion,
13 upon application in writing and good cause being shown, issue a
14 special permit in writing authorizing the applicant to operate
15 or move a vehicle or load of a size or weight exceeding the
16 maximum specified in Sections 66-7-401 through 66-7-416 NMSA
17 1978 on a highway under the jurisdiction of the state
18 transportation commission or local authorities. Except for the
19 movement of manufactured homes, a permit may be granted, in
20 cases of emergency, for the transportation of loads on a
21 certain unit or combination of equipment for a specified period
22 of time not to exceed one year, and the permit shall contain
23 the route to be traversed, the type of load to be transported
24 and [~~any~~] other restrictions or conditions deemed necessary by
25 the body granting the permit. In [~~every~~] other [~~case~~] cases,

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1 the permit shall be issued for a single trip and may designate
2 the route to be traversed and contain [~~any~~] other restrictions
3 or conditions deemed necessary by the body granting the permit.
4 [~~Every~~] A permit shall be carried in the vehicle to which it
5 refers and shall be opened for inspection to [~~any~~] a peace
6 officer. It is a misdemeanor for a person to violate a
7 condition or term of the special permit.

8 B. The motor transportation department [~~of public~~
9 ~~safety~~] shall charge and collect, when the movement consists of
10 a load of a width of twenty feet or greater for a distance of
11 five miles or more, the sum of three hundred dollars (\$300) a
12 day or fraction thereof to defray the cost of state or local
13 police escort. The permit issued and the fee charged shall be
14 based upon the entire movement at one time requiring police
15 escort and not upon the number of vehicles involved.

16 C. The motor transportation department [~~of public~~
17 ~~safety~~] shall promulgate rules in accordance with the State
18 Rules Act pertaining to safety practices, liability insurance
19 and equipment for escort vehicles provided by the motor carrier
20 and for escort vehicles provided by a private business in this
21 state.

22 [~~(1)~~] D. The motor transportation department [~~of~~
23 ~~public safety~~] shall provide [~~the~~] escort vehicle personnel
24 with a copy of applicable rules and shall inspect [~~the~~] escort
25 vehicles for the safety equipment required by the rules. If

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1 [the] escort vehicles and personnel meet the requirements set
2 forth in the rules, the motor transportation department [~~of~~
3 ~~public safety~~] shall issue [the] a special permit.

4 [~~2~~] E. The movement of vehicles upon [the]
5 highways [~~of this state~~] requiring a special permit and
6 [~~required to use~~] an escort [~~of the type noted in Paragraph (1)~~
7 ~~of this subsection~~] vehicle as required by this section is
8 subject to motor transportation department [~~of public safety~~]
9 authority and inspection at all times.

10 [~~3~~] F. The department of transportation shall
11 conduct engineering investigations and engineering inspections
12 to determine which four-lane highways are safe for the
13 operation or movement of manufactured homes without an escort.
14 After making that determination, the department of
15 transportation shall hold public hearings in the area of the
16 state affected by the determination, after which it may adopt
17 rules designating those four-lane highways as being safe for
18 the operation or movement of manufactured homes without an
19 escort. If a portion of [~~such a~~] those four-lane [~~highway~~
20 highways] lies within the boundaries of a municipality, the
21 department of transportation, after obtaining the approval of
22 the municipal governing body, shall include [~~such portions~~]
23 that portion in its rules.

24 [~~D.~~] G. Except for the movement of manufactured
25 homes, special permits may be issued for a single vehicle or

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1 combination of vehicles by the motor transportation department
2 [~~of public safety~~] for a period not to exceed one year for a
3 fee of two hundred fifty dollars (\$250). The special permits
4 may allow excessive height, length and width for a vehicle or
5 combination of vehicles or load [~~thereon~~] on those vehicles and
6 may include a provision for excessive weight if the weight of
7 the vehicle or combination of vehicles is not greater than one
8 hundred forty thousand pounds. Utility service vehicles,
9 operating with special permits pursuant to this subsection,
10 shall be exempt from prohibitions or restrictions relating to
11 hours or days of operation or restrictions on movement because
12 of poor weather conditions.

13 [~~E.~~] H. Special permits for a single trip for a
14 vehicle or combination of vehicles or load [~~thereon~~] on those
15 vehicles of excessive weight, width, length and height may be
16 issued by the motor transportation department [~~of public~~
17 ~~safety~~] for a single vehicle for a fee of twenty-five dollars
18 (\$25.00) plus the product of two and one-half cents (\$.025) for
19 each two thousand pounds in excess of eighty-six thousand four
20 hundred pounds or major fraction [~~thereof~~] of that weight
21 multiplied by the number of miles to be traveled by the vehicle
22 or combination of vehicles on the highways of this state.

23 [~~F.~~] I. If a vehicle for which a permit is issued
24 pursuant to this section is a manufactured home, the motor
25 transportation department [~~of public safety~~] or local highway

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1 authority issuing the permit shall furnish the following
2 information to the property tax division of the taxation and
3 revenue department, which shall forward the information:

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

10 (2) to the county assessor of [~~any~~] a county
11 [~~in this state~~] to which a manufactured home is being moved,
12 the date the permit was issued, the location being moved from,
13 the location being moved to, the name of the owner of the
14 manufactured home and the registration and identification
15 numbers of the manufactured home; and

16 (3) to the owner of a manufactured home having
17 a destination in this state, notification that the information
18 required in Paragraphs (1) and (2) of this subsection is being
19 given to the respective county assessors and that manufactured
20 homes are subject to property taxation.

21 [~~G.~~] J. Except as provided in Subsection [~~H~~] K of
22 this section, if the movement of a manufactured home originates
23 in this state, a permit shall not be issued pursuant to
24 Subsection [~~F~~] I of this section until the owner of the
25 manufactured home or the authorized agent of the owner obtains

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1 and presents to the motor transportation department [~~of public~~
2 ~~safety~~] proof that a certificate has been issued by the county
3 assessor or treasurer of the county in which the manufactured
4 home movement originates showing that either:

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

9 (2) liability for property taxes on the
10 manufactured home does not exist for the current tax year or a
11 past tax year, except for manufactured homes located on an
12 Indian reservation.

13 [~~H.~~] K. The movement of a manufactured home from
14 the lot or business location of a manufactured home dealer to
15 its destination designated by an owner-purchaser is not subject
16 to the requirements of Subsection [~~G~~] J of this section if the
17 manufactured home movement originates from the lot or business
18 location of the dealer and the manufactured home was part of
19 the dealer's inventory prior to the sale to the owner-
20 purchaser; however, the movement of a manufactured home by a
21 dealer or the dealer's authorized agent as a result of a sale
22 or trade-in from a nondealer-owner is subject to the
23 requirements of Subsection [~~G~~] J of this section whether the
24 destination is the business location of a dealer or some other
25 destination.

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1 ~~[F.]~~ L. A permit shall not be issued pursuant to
2 this section for movement of a manufactured home whose width
3 exceeds eighteen feet with no more than a six-inch roof
4 overhang on the left side or twelve inches on the right side in
5 addition to the eighteen-foot width of the manufactured home.
6 Manufactured homes exceeding the limitations of this section
7 shall only be moved on dollies placed on the front and the rear
8 of the structure.

9 ~~[J.]~~ M. The secretary of ~~[public safety]~~ motor
10 transportation may by rule provide for movers of manufactured
11 homes to self-issue permits for certain sizes of manufactured
12 homes over specific routes. The cost of a permit shall not be
13 less than twenty-five dollars (\$25.00).

14 ~~[K.]~~ N. The secretary of ~~[public safety]~~ motor
15 transportation may provide by rule for dealers of implements of
16 husbandry to self-issue permits for the movement of certain
17 sizes of implements of husbandry from the lot or business
18 location of the dealer over specific routes with specific
19 escort requirements, if necessary, to a destination designated
20 by an owner-purchaser or for purposes of a working
21 demonstration on the property of a proposed owner-purchaser.
22 The motor transportation department ~~[of public safety]~~ shall
23 charge a fee for each self-issued permit not to exceed fifteen
24 dollars (\$15.00).

25 ~~[L.]~~ O. A private motor carrier requesting an

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1 oversize or overweight permit shall provide proof of insurance
2 in at least the following amounts:

3 (1) bodily injury liability, providing:

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

6 (b) one hundred thousand dollars
7 (\$100,000) for each accident; and

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

10 [M-] P. A motor carrier requesting an oversize
11 permit shall produce a copy of a warrant or a single state
12 registration receipt as evidence that the motor carrier
13 maintains the insurance minimums prescribed by the public
14 regulation commission.

15 [N-] Q. The [~~department of public safety~~] secretary
16 of motor transportation may provide by rule the time periods
17 during which a vehicle or load of a size or weight exceeding
18 the maximum specified in Sections 66-7-401 through 66-7-416
19 NMSA 1978 may be operated or moved by a motor carrier on a
20 highway under the jurisdiction of the state transportation
21 commission or local authorities.

22 [Ø-] R. Revenue from fees for special permits
23 authorizing vehicles and loads of excessive size or weight to
24 operate or move upon a highway under the jurisdiction of the
25 state transportation commission or local authorities shall be

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1 collected for the department of transportation and transferred
2 to the state road fund."

3 Section 29. Section 66-7-413.2 NMSA 1978 (being Laws
4 1989, Chapter 291, Section 1, as amended) is amended to read:

5 "66-7-413.2. SPECIAL PERMIT--ENGINEERING INVESTIGATIONS
6 FOR VEHICLES IN EXCESS OF ONE HUNDRED SEVENTY THOUSAND POUNDS--
7 VIOLATION--PENALTY.--

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

12 (1) an engineering investigation and review
13 have been conducted to:

14 (a) establish whether the move could be
15 made without visible or documented damages to the [~~portion of~~
16 ~~road~~] highways or bridges upon which the move is to be made;

17 (b) establish whether the move could be
18 made without visible or documented damages to any private
19 facilities along the [~~road~~] highways upon which the move is to
20 be made; and

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

23 (2) when required, the applicant has submitted
24 to the motor transportation [~~division of the~~] department [~~of~~
25 ~~public safety~~] and the local highway authorities all pertinent

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1 ~~[information]~~ data requested of the applicant by the motor
2 transportation ~~[division of the]~~ department ~~[of public safety]~~.
3 If the submitted data ~~[is]~~ are not acceptable to the ~~[state~~
4 ~~highway and transportation]~~ department of transportation, the
5 applicant ~~[will]~~ shall be advised by the motor transportation
6 ~~[division of the]~~ department ~~[of public safety]~~ that
7 engineering investigations ~~[will]~~ shall be conducted by the
8 ~~[state highway and transportation]~~ department of transportation
9 and the cost incurred by ~~[the state highway and transportation]~~
10 ~~that~~ department ~~[will]~~ shall be paid by the applicant as an
11 added cost ~~[to his]~~ of a permit [fee].

12 B. The motor transportation ~~[division of the]~~
13 department ~~[of public safety]~~ shall adopt ~~[the necessary]~~ rules
14 ~~[and regulations]~~ for the development of data for an
15 investigation to determine whether to issue ~~[any]~~ a special
16 permit pursuant to Section 66-7-413 NMSA 1978.

17 C. The applicant or the applicant's employer shall
18 pay:

19 (1) the costs for ~~[any]~~ modifications to ~~[the~~
20 ~~road]~~ highways, bridges or private facilities ~~[along the road]~~
21 that the motor transportation ~~[division of the]~~ department ~~[of~~
22 ~~public safety]~~ has determined are necessary for the issuance of
23 ~~[the]~~ a special permit; and

24 (2) the costs for ~~[any]~~ damages to ~~[the road~~
25 ~~or]~~ highways, bridges or private facilities that are the result

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1 of the move and the fault of the mover [~~and not the motor~~
2 ~~transportation division of the department of public safety~~].

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

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

12 Section 30. Section 66-7-413.4 NMSA 1978 (being Laws
13 2001, Chapter 20, Section 2, as amended) is amended to read:

14 "66-7-413.4. SPECIAL PERMITS FOR EXCESSIVE WEIGHT.--

15 A. In addition to the authority granted in Section
16 66-7-413 NMSA 1978, the motor transportation [~~division of the~~]
17 department [~~of public safety~~] may issue special permits
18 authorizing an increase of up to twenty-five percent in axle
19 weight for liquid hauling tank vehicles whenever the liquid
20 hauling tank vehicles would have to haul less than a full tank
21 under the maximum weights authorized in Section 66-7-409 and
22 66-7-410 NMSA 1978. A special permit under this section may be
23 issued for a single trip or for a year. The fee for the
24 permits shall be thirty-five dollars (\$35.00) for a single-trip
25 permit and one hundred twenty dollars (\$120) for an annual

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1 permit. Revenue from the permit fee shall be used to build,
2 maintain, repair or reconstruct the highways and bridges of
3 this state. Revenue from the permit shall be collected for the
4 department of transportation and transferred to the state road
5 fund.

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

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

24 Section 31. Section 66-7-415 NMSA 1978 (being Laws 1955,
25 Chapter 37, Section 12, as amended) is amended to read:

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1 "66-7-415. WHEN THE STATE TRANSPORTATION COMMISSION OR
2 LOCAL AUTHORITIES MAY RESTRICT RIGHT TO USE STREETS.--

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

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

21 C. The state transportation commission ~~[shall~~
22 ~~likewise have authority, as granted to local authorities in~~
23 ~~Subsections A and B of this section, to]~~ may determine by
24 resolution ~~[and]~~ to impose restrictions as to the size and
25 weight of vehicles operated upon ~~[any]~~ highways under the

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

9 Section 32. Section 66-7-505 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 492, as amended) is amended to read:

11 "66-7-505. ADVISORY COMMITTEE--CREATION--MEMBERS--
12 TERMS.--

13 A. There is created a five-member advisory
14 committee to the bureau. The chief is, ex officio, the
15 [~~chairman~~] chair and a voting member of the committee. The
16 governor shall appoint three members, to terms coterminous with
17 [~~his~~] the governor's tenure, who shall have the following
18 qualifications:

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

21 (2) one member who is representative of the
22 school bus transportation function of the [~~state department of~~]
23 public education department; and

24 (3) one member who is representative of the
25 motor transportation [~~division of the taxation and revenue]~~

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1 department.

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

7 Section 33. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
8 PROPERTY AND CONTRACTS.--On the effective date of this act:

9 A. all personnel and functions of the motor
10 transportation division of the department of public safety are
11 transferred to the motor transportation department;

12 B. all appropriations, money, records, property,
13 equipment and supplies of the motor transportation division of
14 the department of public safety are transferred to the motor
15 transportation department; and

16 C. all contracts, grants and agreements of the
17 department of public safety relating to the motor
18 transportation division are binding on the motor transportation
19 department.

20 Section 34. APPROPRIATION.--Four hundred sixty-one
21 thousand dollars (\$461,000) is appropriated from the general
22 fund to the motor transportation department for expenditure in
23 fiscal year 2007 to employ seven new full-time employees for
24 administrative support. Any unexpended or unencumbered balance
25 remaining at the end of fiscal year 2007 shall revert to the

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general fund.

Section 35. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2006.