

1 SENATE BILL 328

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Phil A. Griego

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9  
10 AN ACT

11 RELATING TO MOTOR CARRIERS; REVISING AND MODERNIZING THE MOTOR  
12 CARRIER ACT; PROVIDING FOR QUALITY OF SERVICE STANDARDS;  
13 SIMPLIFYING AND CLARIFYING ADMINISTRATIVE PROCEDURES; PROVIDING  
14 FOR ADDITIONAL UNFAIR PRACTICES ACT CIVIL PENALTIES; PROVIDING  
15 FOR FEES.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 65-2A-2 NMSA 1978 (being Laws 2003,  
19 Chapter 359, Section 2) is amended to read:

20 "65-2A-2. TRANSPORTATION POLICY--PURPOSE.--

21 A. It is the policy of this state to foster the  
22 development, coordination and preservation of a safe, sound and  
23 adequate motor carrier system, requiring financial  
24 responsibility and accountability on the part of motor carriers  
25 [~~providing for economic regulation of motor carriers of persons~~

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1 ~~and household goods and towing services performing~~  
2 ~~nonconsensual tows and by streamlining and promoting uniformity~~  
3 ~~of state]~~ through state licensing and regulation of motor  
4 carriers.

5 B. The purpose of the Motor Carrier Act is to:

6 (1) provide for uniform statewide licensing  
7 and regulation of motor carriers for purposes of financial  
8 responsibility, public safety and consumer interest, protection  
9 and information;

10 (2) promote and preserve ambulance, municipal  
11 taxicab and scheduled shuttle services that provide  
12 full-service passenger transportation services to a community,  
13 and to maintain rate regulation for these full-service  
14 passenger carriers, while otherwise providing for entry without  
15 rate regulation for other passenger service carriers;

16 (3) provide for entry without rate regulation  
17 for household goods service carriers, while preserving and  
18 maintaining industry-standard regulation designed to protect  
19 consumers, including terms of service and a uniform customer  
20 dispute resolution program; and

21 (4) maintain rate regulation for towing  
22 services performing nonconsensual tows, while providing for  
23 entry for all other property carriers without rate regulation."

24 SECTION 2. Section 65-2A-3 NMSA 1978 (being Laws 2003,  
25 Chapter 359, Section 3, as amended) is amended to read:

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1 "65-2A-3. DEFINITIONS.--As used in the Motor Carrier Act:

2 A. "ability to provide certificated service" means  
3 that an applicant or carrier can provide reasonably continuous  
4 and adequate transportation service of the type required by its  
5 operating authority in the territory authorized or sought to be  
6 authorized;

7 B. "ambulance service" means the intrastate  
8 transportation of sick or injured persons in an ambulance  
9 meeting the standards established by the commission under the  
10 Ambulance Standards Act and includes both 911-response  
11 ambulance service and general ambulance service, as follows:

12 (1) "911-response ambulance service" means  
13 evaluation, treatment and transportation of sick or injured  
14 patients requiring medical treatment by an ambulance service in  
15 response to dispatch by a 911 emergency medical dispatch  
16 agency, through ambulances deployed at all times of the day and  
17 year, regardless of the ability of any patient to pay for the  
18 service, and includes general ambulance service; and

19 (2) "general ambulance service" means  
20 transportation of passengers by an ambulance service providing  
21 inter-facility transfers of patients at the request of a health  
22 care facility, scheduled transportation of patients or  
23 non-emergency residential, stand-by or industry-standard  
24 services other than 911-dispatch response services;

25 [~~A.~~] C. "amendment of a certificate or permit"

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1 means a permanent change in the type or nature of service, [~~or~~]  
2 territory or terms of service authorized by an existing  
3 certificate or permit;

4 [~~B.~~] D. "antitrust laws" means the laws of this  
5 state relating to combinations in restraint of trade;

6 [~~G.~~] E. "base state" means the registration state  
7 for an interstate motor carrier that either is subject to  
8 regulation or is transporting commodities exempt from  
9 regulation by the federal motor carrier safety administration  
10 pursuant to the [~~single state~~] unified carrier registration  
11 system;

12 [~~D.~~] F. "cancellation of an operating authority"  
13 means the voluntary, permanent termination of all or part of an  
14 operating authority;

15 [~~E.~~] G. "certificate" means the [~~operating~~]  
16 authority issued by the commission to [~~intrastate common motor~~  
17 ~~carriers of persons or household goods~~] a person that  
18 authorizes the person to offer and provide a certificated  
19 service as a motor carrier;

20 H. "certificated service" means one of the  
21 following transportation services:

22 (1) an ambulance service;

23 (2) a household goods service;

24 (3) a shuttle service;

25 (4) a specialized passenger service; or

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1                   (5) a taxicab service;

2                   [F.] I. "change in a certificate or permit" means  
3 the voluntary amendment, cancellation, [~~change in tariff~~]  
4 change in form of [~~ownership~~] legal entity of the holder,  
5 lease, reinstatement, transfer or voluntary suspension of a  
6 certificate or permit;

7                   [G. ~~"change of name" means a change in the legal~~  
8 ~~name of the owner of an operating authority or in the does-~~  
9 ~~business as name of the motor carrier, but does not include a~~  
10 ~~change in the form of ownership;~~

11                   H.] J. "commission" means the public regulation  
12 commission;

13                   [I. ~~"common control" means control of more than one~~  
14 ~~operating authority of the same kind for the same or~~  
15 ~~overlapping territory;~~

16                   J. ~~"common motor carrier" means a person offering~~  
17 ~~compensated transportation by motor vehicle to the general~~  
18 ~~public, whether over regular or irregular routes, or under~~  
19 ~~scheduled or unscheduled service, but does not include commuter~~  
20 ~~services;]~~

21                   K. "common tariff" means a tariff applying to two  
22 or more [~~common motor~~] tariffed service carriers;

23                   L. "commuter service" means [~~a person who provides~~  
24 ~~seven to fifteen passenger motor vehicles~~] the intrastate  
25 transportation of passengers in motor vehicles having a maximum

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1 capacity of seven to fifteen persons, including the driver,  
2 provided to a volunteer-driver commuter group that shares rides  
3 to and from the workplace or training site, where participation  
4 is open to the public and incidental to the primary work or  
5 training-related purposes of the commuter group, and where the  
6 volunteer drivers have no employer-employee relationship with  
7 the commuter service;

8 ~~[M. "contract motor carrier" means a person~~  
9 ~~offering compensated transportation by motor vehicle under~~  
10 ~~individual agreements with particular customers or shippers;~~

11 ~~N. "control" means the power to direct or cause the~~  
12 ~~direction of the management and policies of a motor carrier~~  
13 ~~deriving from:~~

14 ~~(1) ownership of a sole proprietorship, if the~~  
15 ~~operating authority is held by an individual as a sole~~  
16 ~~proprietor;~~

17 ~~(2) ownership of ten percent or more of the~~  
18 ~~voting stock of the corporation, if the operating authority is~~  
19 ~~held by a corporation;~~

20 ~~(3) a partnership interest in a general~~  
21 ~~partnership, if the operating authority is held by a general~~  
22 ~~partnership;~~

23 ~~(4) an interest in a limited partnership of~~  
24 ~~ten percent or more of the total value of contributions made to~~  
25 ~~the limited partnership, or entitlement to ten percent or more~~

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1 of the profits earned or other compensation paid by the limited  
2 partnership, if the operating authority is held by a limited  
3 partnership;

4 ~~(5) a membership interest of ten percent or~~  
5 ~~more in a limited liability company, if the operating authority~~  
6 ~~is held by a limited liability company; or~~

7 ~~(6) capacity as a trustee, personal~~  
8 ~~representative or other person with a fiduciary duty to a motor~~  
9 ~~carrier;~~

10 ~~0. "electronic filing" means submission of a~~  
11 ~~document by facsimile, electronic mail or other electronic~~  
12 ~~transmission;]~~

13 M. "continuous and adequate service" means:

14 (1) for full-service carriers, reasonably  
15 continuous availability, offering and provision of  
16 transportation services through motor vehicles, equipment and  
17 resources satisfying safety and financial responsibility  
18 requirements under the Motor Carrier Act and commission rule,  
19 which are reasonably adequate to serve the entire full-service  
20 territory authorized in the certificate, with reasonable  
21 response to all requests for service for the nature of  
22 passenger service authorized, based on the nature of public  
23 need, expense and volume of demand for the type of service  
24 authorized during seasonal periods; and

25 (2) for general-service carriers, reasonably

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1 continuous availability and offering of transportation services  
2 through motor vehicles, equipment and resources satisfying  
3 safety and financial responsibility requirements under the  
4 Motor Carrier Act and commission rule for the nature of the  
5 transportation service authorized in the certificate;

6 N. "endorsement" means the specification in a  
7 certificate of the territory in which the carrier is authorized  
8 to operate, the nature of service to be provided by a  
9 certificated passenger service and any additional terms of  
10 service that may be reasonably granted or required by the  
11 commission for the particular authority granted;

12 O. "fare" means the full compensation charged for  
13 transportation by a tariffed passenger service;

14 P. "financial responsibility" means the ability to  
15 respond in damages for liability arising out of the ownership,  
16 maintenance or use of a motor vehicle in the provision of  
17 transportation services;

18 Q. "fitness to provide a transportation service"  
19 means that an applicant or carrier complies with state law as  
20 provided in the Motor Carrier Act or by rule of the commission;

21 R. "for hire" means that transportation is offered  
22 or provided to the public for remuneration, compensation or  
23 reward of any kind, paid or promised, either directly or  
24 indirectly;

25 S. "full service" means one of the following

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1 certificated passenger services that are endorsed and required  
2 to meet specific standards for the provision of service to or  
3 throughout a community:

4 (1) an ambulance service;

5 (2) a scheduled shuttle service; or

6 (3) a municipal taxicab service;

7 T. "general service" means one of the following  
8 certificated services that provides transportation services of  
9 the type authorized, but is not required to provide  
10 unprofitable or marginally profitable carriage:

11 (1) a general shuttle service;

12 (2) a general taxicab service;

13 (3) a specialized passenger service; or

14 (4) a household goods service;

15 [~~Q-~~] U. "highway" means a way or place generally  
16 open to the use of the public as a matter of right for the  
17 purpose of vehicular travel, even though it may be temporarily  
18 closed or restricted for the purpose of construction,  
19 maintenance, repair or reconstruction;

20 V. "holder of an operating authority" means the  
21 grantee of the operating authority or a person that currently  
22 holds all or part of the right to exercise the authority  
23 through a transfer by operation of law;

24 [~~R-~~] W. "household goods" means personal effects  
25 and property used or to be used in a dwelling when a part of

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1 the equipment or supply of the dwelling and other similar  
2 property as the federal motor carrier safety administration may  
3 provide by regulation, but shall not include property moving to  
4 or from a factory or store, other than property the householder  
5 has purchased to use in the householder's dwelling that is  
6 transported at the request of, and the transportation charges  
7 are paid to the carrier by, the householder;

8 X. "household goods service" means the intrastate  
9 transportation, packing and storage of household goods for  
10 hire;

11 [~~S.~~] Y. "incidental carrier" means a motor carrier  
12 [~~of persons~~] that transports passengers using vehicles designed  
13 to transport sixteen or more [~~passengers~~] persons, including  
14 the driver, and for which the customer pays either directly or  
15 indirectly;

16 [~~F.~~] Z. "interested person" means a motor carrier  
17 operating [~~over the routes or~~] in the territory involved in an  
18 application or grant of temporary authority, a person affected  
19 by an order of the commission or a rule proposed for adoption  
20 by the commission or a person the commission may deem  
21 interested in a particular matter;

22 [~~U.~~] AA. "interstate motor carrier" means a person  
23 providing compensated transportation in interstate commerce,  
24 whether or not the person is subject to regulation by the  
25 federal motor carrier safety administration;

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1           [V.] BB. "intrastate motor carrier" means a  
2 [person] motor carrier offering or providing [compensated]  
3 transportation for hire by motor vehicle between points and  
4 places in the state;

5           [W.] CC. "involuntary suspension" means the  
6 temporary cessation of use of all or part of an operating  
7 authority ordered by the commission for cause for a stated  
8 period of time or pending compliance with certain conditions;

9           ~~[X. "irregular route" means that the route to be~~  
10 ~~used by a motor carrier is not restricted to a specific highway~~  
11 ~~within the territory the motor carrier is authorized to serve;~~

12           ~~Y.]~~ DD. "lease of a certificate or permit" means an  
13 agreement by which the [owner] holder of a certificate or  
14 permit grants to another person the exclusive right to use all  
15 or part of the certificate or permit for a specified period of  
16 time in exchange for consideration;

17           [Z.] EE. "lease of equipment" means an agreement  
18 whereby a motor carrier obtains equipment owned by another  
19 person for use by the motor carrier in the exercise of its  
20 operating authority;

21           ~~[AA.]~~ FF. "motor carrier" or "carrier" means a  
22 person offering [compensated] or providing transportation of  
23 persons, [~~or~~] property or household goods for hire by motor  
24 vehicle, whether in intrastate or interstate commerce;

25           ~~[BB.]~~ GG. "motor carrier organization" means an

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1 organization approved by the commission to discuss and propose  
2 a common tariff for a group of motor carriers or to represent  
3 motor carriers that have adopted the common tariff;

4 ~~[GG. "motor carrier of persons" means a person who~~  
5 ~~provides compensated transportation of persons on a highway in~~  
6 ~~the state;~~

7 ~~DD.]~~ HH. "motor vehicle" or "vehicle" means a  
8 vehicle, machine, tractor, trailer or semitrailer propelled or  
9 drawn by mechanical power and used on a highway in the  
10 transportation of property, household goods or persons, but  
11 does not include a vehicle, locomotive or car operated  
12 exclusively on rails;

13 II. "nature of service" means the type of  
14 transportation service to be provided by a certificated  
15 passenger service as set forth in Subsection A of Section  
16 65-2A-8 NMSA 1978;

17 ~~[EE.]~~ JJ. "nonconsensual tow" means the compensated  
18 transportation of a motor vehicle by a towing service, if such  
19 transportation is performed at the request of a law enforcement  
20 officer or without the prior consent or authorization of the  
21 owner or operator of the motor vehicle;

22 KK. "notice period" means the period of time  
23 specified in Section 65-2A-6 NMSA 1978 following publication of  
24 notice during which the commission may not act;

25 LL. "objection" means a document filed with the

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1 commission by an interested person or a member of the public  
2 during the notice period for an application for a certificate  
3 or a permit, or for amendment, lease or transfer of a  
4 certificate or permit, that expresses an objection to, or  
5 provides information concerning, the matter before the  
6 commission;

7 [FF.] MM. "operating authority" means a  
8 certificate, permit, warrant, single trip ticket [~~single state~~  
9 ~~registration receipt~~] or temporary authority issued by the  
10 commission to a motor carrier;

11 NN. "passenger" means a person other than the  
12 driver of a motor vehicle transported in a motor vehicle;

13 OO. "passenger service" means a transportation  
14 service offered or provided for the transportation of  
15 passengers by motor vehicle;

16 [GG.] PP. "permit" means the [~~operating~~] authority  
17 issued by the commission to [~~intrastate contract motor carriers~~  
18 ~~of persons or household goods~~] a person that authorizes the  
19 person to offer and provide a permitted service as a motor  
20 carrier;

21 QQ. "permitted service" means the intrastate  
22 transportation of passengers or household goods for hire  
23 pursuant to a contract between the motor carrier and another  
24 person;

25 RR. "predatory rate or practice" means the knowing

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1 and willful requirement by a carrier that a passenger or  
2 shipper pay a rate, fare or other charge in excess of the rates  
3 and charges or in a manner other than in accordance with terms  
4 of service as provided by law, as provided in a tariff  
5 governing the carrier or as provided in a pre-existing written  
6 contract regarding the carriage, when such charge is made:

7 (1) by a passenger carrier as a prior  
8 condition for the provision of transportation or continued  
9 transportation of a passenger; or

10 (2) as a prior condition by a carrier of  
11 property, a towing service carrier or a household goods service  
12 carrier for delivery of, release of or access to the property,  
13 vehicles or household goods by the shipper or registered owner  
14 of the property;

15 ~~[HH-]~~ SS. "process" means, in the context of legal  
16 process, an order, subpoena or notice issued by the commission  
17 or an order, subpoena, notice, writ or summons issued by a  
18 court;

19 ~~[HH-]~~ TT. "property" means movable articles of  
20 value, including cadavers, hazardous matter, farm products,  
21 livestock feed, stock salt, manure, wire, posts, dairy  
22 products, livestock hauled in lots of twenty-five thousand  
23 pounds or more, farm or ranch machinery and the items  
24 transported by a towing service, but does not include household  
25 goods or unprocessed farm products transported by a farmer from

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1 the place of harvesting to market, storage or a processing  
2 plant;

3 ~~[JJ.]~~ UU. "protest" means a document in the form of  
4 a pleading filed with the commission ~~[by an interested person~~  
5 ~~that expresses an objection to a matter before the commission]:~~

6 (1) by a full-service carrier;

7 (2) that expresses an objection to an  
8 application before the commission for a certificate for  
9 passenger service or for a permit for ambulance service or for  
10 passenger service pursuant to a public-charge contract or for  
11 amendment, lease or transfer of such a certificate or permit;

12 (3) when the territory involved in the  
13 application includes all or a portion of the full-service  
14 territory of the protesting carrier; and

15 (4) in which the protesting carrier pleads in  
16 good faith and with reasonable specificity that it currently  
17 provides full-service passenger service under certificate  
18 within its full-service territory and, for a carrier providing  
19 full service other than 911-response ambulance service, that  
20 the grant of the application will, or presents a reasonable  
21 potential to, impair, diminish or otherwise adversely affect  
22 its existing provision of full-service passenger service to the  
23 public within its full-service territory;

24 VV. "public-charge contract" means a contract or  
25 contractual arrangement between a motor carrier and a third

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1 party for passenger service that requires or allows the motor  
2 carrier to charge passengers a fare for the transportation  
3 service to be provided pursuant to the contract;

4 [KK.] WW. "rate" means a form of compensation  
5 charged, whether directly or indirectly, by a person for a  
6 transportation service subject to the jurisdiction of the  
7 commission;

8 [LL.] XX. "record of a motor carrier" means an  
9 account, correspondence, memorandum, tape, disc, paper, book or  
10 transcribed information, or electronic data information,  
11 including the electronic hardware or software necessary to  
12 access the electronic data information in its document form,  
13 regarding the operation of a motor carrier;

14 [MM.] YY. "registration year" means a calendar  
15 year;

16 [NN. ~~"regular route" means a route used by a motor~~  
17 ~~carrier within the territory in which the motor carrier is~~  
18 ~~authorized to serve that is fixed by its operating authority;~~

19 ~~00.] ZZ. "revocation" means the involuntary,~~  
20 permanent termination of all or part of an operating authority  
21 ordered by the commission for cause;

22 [PP.] AAA. "shipper" means a person who consigns or  
23 receives property or household goods for transportation;

24 [QQ. ~~"single state registration receipt" means the~~  
25 ~~document issued annually to a motor carrier operating in~~

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1 ~~interstate commerce evidencing that proof of financial~~  
2 ~~responsibility and safety has been filed with the base state~~  
3 ~~and that the annual per vehicle fees have been paid for that~~  
4 ~~registration year;~~

5 RR.] BBB. "shuttle service" means the intrastate  
6 transportation of passengers for hire pursuant to a set fare  
7 for each passenger between two or more specified terminal  
8 points or areas and includes both scheduled shuttle service and  
9 general shuttle service as follows:

10 (1) "scheduled shuttle service" means a  
11 shuttle service that transports passengers to and from an  
12 airport both through prior arrangement and through presentment  
13 at terminal locations, on the basis of a daily time schedule  
14 filed with the commission, which must be met in a timely  
15 fashion with a vehicle present at the terminal location  
16 regardless of the number of passengers carried on any run, if  
17 any, and includes general shuttle service; and

18 (2) "general shuttle service" means a shuttle  
19 service that is not required to operate on a set schedule, that  
20 may optionally use a grid map to specify distant or adjacent  
21 terminal areas and that is not required to accept passengers  
22 other than pre-arranged passengers;

23 CCC. "specialized passenger service" means the  
24 intrastate transportation for hire of passengers with special  
25 physical needs by specialized types of vehicles, or for

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1 specialized types of service to the public or community, as the  
2 commission may by rule provide;

3 DDD. "tariff" means a document filed by a [~~motor~~  
4 ~~carrier of persons or household goods or a towing service~~  
5 ~~performing nonconsensual tows~~] tariffed service carrier that  
6 has been approved by the commission and sets forth the  
7 transportation services offered by the motor carrier to the  
8 general public, including the rates, terms [~~and conditions~~] of  
9 service and applicable time schedules relating to those  
10 services; [~~including a common tariff;~~

11 ~~SS-]~~ EEE. "tariffed service" means one of the  
12 following transportation services authorized by the commission  
13 for the provision of service on the basis of rates and terms of  
14 service contained in a tariff approved by the commission:

15 (1) an ambulance service;

16 (2) a household goods service;

17 (3) a shuttle service;

18 (4) a specialized passenger service;

19 (5) a taxicab service; or

20 (6) a towing service performing nonconsensual

21 tows;

22 FFF. "taxicab service" means [~~a common motor~~  
23 ~~carrier engaged in unscheduled passenger transportation]~~  
24 intrastate transportation of passengers for hire in a motor  
25 vehicle having a capacity of not more than eight [~~passengers~~]

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1 ~~persons, including the driver, [not operated on a regular route~~  
2 ~~or between specified places, and that:~~

3 ~~(1) is licensed as a taxicab service by a~~  
4 ~~state or local jurisdiction; or~~

5 ~~(2) if not licensed or regulated by a state or~~  
6 ~~local jurisdiction as a taxicab service, is offered by a person~~  
7 ~~that:~~

8 ~~(a) provides local transportation for a~~  
9 ~~fare determined, except with respect to transportation to or~~  
10 ~~from airport, train or bus terminals, primarily on the basis of~~  
11 ~~the distance traveled; and~~

12 ~~(b) does not primarily provide~~  
13 ~~transportation to or from one or more airport, train or bus~~  
14 ~~terminals;~~

15 ~~TT. "terminal shuttle service" means a common motor~~  
16 ~~carrier engaged in passenger transportation service that:~~

17 ~~(1) is prearranged by contract or operated by~~  
18 ~~hire on a regular route, allowing for deviation to pick up or~~  
19 ~~drop off passengers, between specified or generally specified~~  
20 ~~points; and~~

21 ~~(2) primarily provides transportation to or~~  
22 ~~from one or more airport, train or bus terminals but may also~~  
23 ~~provide for intermediate pickup or departure of passengers;~~

24 ~~UU.] for which the passenger or other person~~  
25 ~~engaging the vehicle is allowed to specify not only the origin~~

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1 and destination points of the trip but also, within reason, the  
2 route taken by the vehicle, any intermediate stop, any optional  
3 waiting at a stop and any other passengers transported during  
4 the trip and that charges a fare for use of the vehicle  
5 primarily on the basis of a drop-flag fee, cumulative mileage  
6 and cumulative wait time through a taxicab meter used to  
7 cumulate and display the fare to the passenger and includes  
8 both municipal taxicab service and general taxicab service, as  
9 follows:

10 (1) "municipal taxicab service" means a  
11 taxicab service that deploys vehicles at all times of the day  
12 and year, is centrally dispatched and reasonably responds to  
13 all calls for service within its endorsed full-service  
14 territory regardless of profitability of the individual trip,  
15 in addition to the transportation service provided by a general  
16 taxicab service; and

17 (2) "general taxicab service" means a taxicab  
18 service that need not be dispatched, that may pick up on-demand  
19 passengers through flagging or at a taxicab stand or queue,  
20 that need not deploy vehicles in any particular manner and that  
21 may charge for trips outside their certificated territories on  
22 the basis of a set fare;

23 GGG. "terms of service" means all terms, aspects,  
24 practices, limitations, conditions and schedules of service  
25 other than specific rate amounts pertaining to a tariffed

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1 service;

2 HHH. "towing [~~services~~] service" means the use of  
3 specialized equipment, including repossession services using  
4 towing equipment, to transport or store:

5 (1) a damaged, disabled or abandoned motor  
6 vehicle and its cargo;

7 (2) a motor vehicle to replace a damaged,  
8 disabled or abandoned motor vehicle;

9 (3) parts and equipment to repair a damaged,  
10 disabled or abandoned motor vehicle;

11 (4) a motor vehicle whose driver has been  
12 declared unable to drive by a law enforcement officer;

13 (5) a motor vehicle whose driver has been  
14 removed from the scene or is unable to drive; or

15 (6) a motor vehicle repossessed or seized  
16 pursuant to lawful authority;

17 [~~VV.~~] III. "transfer of a certificate or permit"  
18 means a permanent conveyance of all or part of a certificate or  
19 permit;

20 [~~WW.~~] JJJ. "transfer by operation of law" means  
21 that [~~the ownership of or~~] all or a part of a grantee's  
22 interest in [~~a certificate or permit~~] an operating authority  
23 passes to [~~another~~] a fiduciary or other person by application  
24 of established rules of law;

25 KKK. "transportation service" means transportation

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1 subject to the jurisdiction of the commission, offered or  
2 provided by a motor carrier, that requires the carrier to  
3 obtain an operating authority from the commission under the  
4 Motor Carrier Act, regardless of whether the motor carrier has  
5 obtained appropriate operating authority from the commission;

6 LLL. "verification" means:

7 (1) a notarized signature verifying the  
8 contents of the document or other filing; or

9 (2) a signature verifying the contents of the  
10 document or other filing under penalty of perjury, expressly  
11 providing that the signatory swears or affirms the contents  
12 under penalty of perjury as provided in Subsection A of Section  
13 65-2A-33 NMSA 1978;

14 ~~[XX.]~~ MMM. "voluntary suspension" means the  
15 commission-authorized cessation of use of all or part of a  
16 certificate or permit at the request of the [motor carrier]  
17 holder for a specified period of time, not to exceed twelve  
18 consecutive months;

19 ~~[YY.]~~ NNN. "warrant" means the [operating]  
20 authority issued by the commission to [charter services, towing  
21 services, commuter services and motor carriers of property;  
22 and] a person that authorizes the person to offer and provide a  
23 warranted service as a motor carrier;

24 000. "warranted service" means one of the following  
25 intrastate transportation services offered or provided for

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1 hire:

2 (1) a charter passenger transportation  
3 service;

4 (2) a commuter service;

5 (3) a property transportation service; or

6 (4) a towing service; and

7 [~~ZZ.~~] PPP. "weight-bumping" means the knowing and  
8 willful statement of a fraudulent weight on a shipment of  
9 household goods."

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

12 "65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

13 A. In accordance with the Motor Carrier Act, the  
14 commission shall:

15 (1) issue operating authorities for a motor  
16 carrier operating in New Mexico;

17 (2) establish minimum requirements for  
18 financial responsibility for [~~a~~] motor [~~carrier~~] carriers;  
19 provided that the financial responsibility standards required  
20 shall not be inconsistent with or more stringent than  
21 applicable federal standards;

22 (3) establish safety requirements for  
23 intrastate motor carrier motor vehicles and drivers subject to  
24 the jurisdiction of the commission, provided that the safety  
25 requirements shall not be inconsistent with or more stringent

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1 than applicable federal safety standards;

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

5 (5) regulate the rates of [~~intrastate common~~  
6 ~~motor carriers of persons and household goods and towing~~  
7 ~~services performing nonconsensual tows~~] tariffed service  
8 carriers to the extent provided in the Motor Carrier Act,  
9 including rates and terms of service for storing household  
10 goods and motor vehicles;

11 (6) determine matters of public [~~convenience~~  
12 ~~and necessity~~] interest and other matters relating to  
13 authorities, rates, territories, nature of service and other  
14 terms of service of motor carriers;

15 (7) have jurisdiction to determine any matter  
16 relating to any transportation service carrier that has not  
17 obtained an appropriate operating authority from the  
18 commission;

19 (8) subpoena witnesses and records, enforce  
20 its subpoenas through a court and, through the court, seek a  
21 remedy for contempt;

22 [~~8~~] (9) hold a public hearing specific to a  
23 protest or a request by the transportation division of the  
24 commission that has been filed [~~timely~~] within the notice  
25 period in opposition to or in consideration of an application;

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1 and

2 [~~(9)~~] (10) adopt rules, issue orders and  
3 conduct activities necessary to implement and enforce the Motor  
4 Carrier Act.

5 B. The commission may:

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

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

18 (3) from time to time, modify the type and  
19 nature of service, territory and terms [~~conditions and~~  
20 ~~limitations~~] of service of operating authorities previously  
21 issued, and change or rescind rates previously [~~adopted as~~  
22 ~~needed; and~~] approved;

23 (4) establish statewide tariffs as needed for  
24 voluntary and optional use by tariffed service carriers; and

25 (5) adopt rules to implement these powers."

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1           SECTION 4. Section 65-2A-5 NMSA 1978 (being Laws 2003,  
2 Chapter 359, Section 5) is amended to read:

3           "65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF  
4 AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

5           A. A person shall file an application [~~if~~] for any  
6 matter for which commission approval is required. An  
7 application shall be made in writing, verified [~~under oath~~] and  
8 [~~be~~] in a form that contains information and is accompanied by  
9 proof of service upon interested persons as required by the  
10 commission.

11           B. The commission shall [~~streamline and~~] simplify  
12 to the extent possible the process for approving applications.  
13 The commission may hold a public hearing on its own initiative  
14 or specific to [~~a protest or request~~] an objection that has  
15 been [~~timely~~] filed within the notice period in opposition to  
16 or in consideration of an application.

17           C. The commission shall hold a public hearing on an  
18 application whenever [~~an interested person protests~~] a protest  
19 is filed concerning the application during the notice period or  
20 the transportation division of the commission requests a  
21 hearing during the notice period.

22           D. The commission may approve or deny an  
23 application in whole or in part, or allow or require particular  
24 terms of service as it may find reasonable and appropriate. If  
25 no objection, protest or request for hearing by the

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1 transportation division of the commission is filed during the  
2 notice period, the commission may grant the application by  
3 ministerial action, if the application complies with the  
4 provisions of the Motor Carrier Act and the rules of the  
5 commission regarding fitness, ability, financial responsibility  
6 and safety."

7 SECTION 5. Section 65-2A-6 NMSA 1978 (being Laws 2003,  
8 Chapter 359, Section 6) is amended to read:

9 "65-2A-6. NOTICE.--

10 A. [~~If the Motor Carrier Act requires publication~~  
11 ~~of~~] The commission shall electronically publish notice  
12 regarding an application before the commission for a  
13 certificate or permit or for a change in a certificate or  
14 permit, regarding proposed rulemaking, or regarding other  
15 orders of the commission of general application, by posting a  
16 copy of the notice or document on the commission's internet web  
17 site and sending electronic mail to all motor carriers, public  
18 officials or agencies, or other persons or entities who have  
19 previously supplied electronic mail addresses to the commission  
20 for the purpose of publication, advising such persons of the  
21 filing and posting. If the commission in its discretion should  
22 also require publication by newspaper, the requirement is met  
23 if notice is published once in a newspaper of general  
24 circulation in the state. The commission shall not act on  
25 [~~the~~] an application for a certificate or permit or for an

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1 amendment, lease or transfer of a certificate or permit less  
2 than twenty days after the date notice was published.

3 B. Whenever the Motor Carrier Act requires  
4 publication of notice regarding [~~a~~] any other matter [~~other~~  
5 ~~than an application~~], the requirement is met if notice is  
6 published once in a newspaper of general circulation in the  
7 state. The commission shall not act on a matter less than ten  
8 days after the date notice was published."

9 SECTION 6. Section 65-2A-7 NMSA 1978 (being Laws 2003,  
10 Chapter 359, Section 7) is amended to read:

11 "65-2A-7. OPERATING AUTHORITIES IN GENERAL.--

12 A. No person shall offer or provide a  
13 transportation service for hire within the state without first  
14 obtaining an appropriate operating authority from the  
15 commission. Every motor carrier providing a transportation  
16 service shall meet and comply with the requirements of the  
17 Motor Carrier Act and the lawfully adopted rules and orders of  
18 the commission.

19 B. A certificate, permit or warrant, or a change in  
20 a certificate or permit, shall be effective from the date  
21 issued by the commission and shall remain in effect until  
22 canceled, [~~or~~] revoked [~~A single state registration receipt for~~  
23 ~~interstate motor carriers shall be effective only for the~~  
24 ~~registration year for which it is issued~~], suspended or  
25 amended. A single trip ticket shall be effective only for the

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1 duration of the trip for which it is issued.

2 ~~[B.]~~ C. A motor carrier shall carry a copy of its  
3 operating authority in each motor vehicle it operates in New  
4 Mexico.

5 ~~[G.]~~ D. A ~~[motor]~~ certificated carrier shall render  
6 reasonably continuous and adequate service as the commission  
7 may by rule prescribe.

8 ~~[D. A motor carrier shall comply with lawfully~~  
9 ~~adopted rules of the commission.]"~~

10 SECTION 7. Section 65-2A-8 NMSA 1978 (being Laws 2003,  
11 Chapter 359, Section 8) is amended to read:

12 "65-2A-8. CERTIFICATES FOR ~~[INTRASTATE COMMON MOTOR~~  
13 ~~CARRIERS OF PERSONS]~~ PASSENGER SERVICE.--

14 A. ~~[A common motor carrier of persons shall not~~  
15 ~~provide compensated intrastate transportation in the state~~  
16 ~~without a certificate from the commission.]~~ The commission may  
17 issue a certificate for a passenger service as follows:

18 (1) a certificate for an ambulance service  
19 shall be endorsed for nature of service as a 911-response  
20 ambulance service or as a general ambulance service;

21 (2) a certificate for a shuttle service shall  
22 be endorsed for nature of service as a scheduled shuttle  
23 service or as a general shuttle service;

24 (3) a certificate for a specialized passenger  
25 service shall be endorsed for nature of service as provided by

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1 commission rule; and

2 (4) a certificate for a taxicab service shall  
3 be endorsed for nature of service as a municipal taxicab  
4 service or as a general taxicab service.

5 B. Except as provided in this section and in  
6 Section 65-2A-13 NMSA 1978, the commission shall issue a  
7 certificate allowing a person to provide [~~compensated~~  
8 ~~intrastate transportation as a common motor carrier of persons~~]  
9 passenger service after notice and public hearing requirements  
10 are met, if the applicant:

11 (1) [~~the person~~] is fit [~~willing~~] and able to  
12 provide the transportation service to be authorized by the  
13 certificate;

14 (2) [~~the person~~] is in compliance with the  
15 safety and financial responsibility requirements of the Motor  
16 Carrier Act, the rules of the commission and other applicable  
17 federal and state laws and rules; and

18 (3) [~~the transportation service to be provided~~  
19 ~~under the certificate is or will serve a useful public purpose~~  
20 ~~that is responsive to a public demand or need~~] has filed a  
21 tariff as provided in Section 65-2A-20 NMSA 1978.

22 C. Before granting a certificate [~~to an intrastate~~  
23 ~~common motor carrier of persons~~] for passenger service, the  
24 commission shall consider [~~the effect that issuance of the~~  
25 ~~certificate would have on existing motor carriers; provided~~

.191642.2

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1 ~~that the commission shall not find diversion of revenue or~~  
2 ~~traffic from an existing motor carrier to be, in and of itself,~~  
3 ~~sufficient grounds for denying the certificate] any objections~~  
4 ~~or protests that were filed within the notice period.~~

5 D. A certificate issued by the commission [~~to an~~  
6 ~~intrastate common motor carrier of persons] for provision of~~  
7 ~~passenger service shall contain one or more endorsements, each~~  
8 ~~of which shall specify the:~~

- 9 (1) nature of service to be rendered;  
10 (2) territory authorized to be served; and  
11 (3) reasonable terms [~~conditions and~~  
12 ~~limitations] of service as the [~~public convenience and~~  
13 ~~necessity] commission may allow or require [~~and, if necessary:~~  
14 (a) ~~terminals between which service is~~  
15 ~~to be provided; or~~  
16 (b) ~~routes, schedules and intermediate~~  
17 ~~and off-route points on the route for regular route service]~~  
18 for the particular certificate.~~~~

19 E. Territorial endorsements to a certificate for  
20 passenger service shall:

- 21 (1) be limited to territory sought in the  
22 application that will be served in a reasonably continuous and  
23 adequate manner beginning within thirty days of the issuance of  
24 the certificate or such other definite period or date as the  
25 commission may provide for a particular application and shall

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1 generally be authorized on the basis of county or incorporated  
2 municipal boundaries, subject to other specification reasonably  
3 allowed or required by the commission;

4 (2) except for shuttle services, authorize  
5 transportation between points and places within the specified  
6 territory, and from points and places within the specified  
7 territory to all points and places in the state and return,  
8 unless otherwise expressly allowed or specified in the terms of  
9 service in the endorsement to the certificate; and

10 (3) for shuttle services, provide for  
11 transportation between two or more specified end or  
12 intermediate terminal points or areas, and authorize pick-up or  
13 drop-off of passengers throughout a terminal area, but shall  
14 not authorize transportation between points and places within a  
15 single terminal area or the provision of transportation  
16 services in any other areas of the state."

17 SECTION 8. Section 65-2A-9 NMSA 1978 (being Laws 2003,  
18 Chapter 359, Section 9) is amended to read:

19 "65-2A-9. CERTIFICATES FOR [~~INTRASTATE COMMON MOTOR~~  
20 ~~CARRIERS OF~~] HOUSEHOLD GOODS SERVICE.--

21 [~~A. A common motor carrier of household goods shall~~  
22 ~~not provide compensated intrastate transportation in the state~~  
23 ~~without a certificate from the commission.~~

24 ~~B.]~~ A. Except as provided in this section and in  
25 Section 65-2A-13 NMSA 1978, the commission shall issue a

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1 certificate allowing a person to provide [~~compensated~~  
2 ~~intrastate transportation as a common motor carrier of~~]  
3 household goods service after notice and public hearing  
4 requirements are met, if the applicant:

5 (1) [~~the person~~] is fit [~~willing~~] and able to  
6 provide the transportation to be authorized by the certificate;

7 (2) [~~the person~~] is in compliance with the  
8 safety and financial responsibility requirements of the Motor  
9 Carrier Act, the rules of the commission and other applicable  
10 federal and state laws and rules; and

11 (3) [~~the transportation service to be provided~~  
12 ~~under the certificate is or will serve a useful public purpose,~~  
13 ~~responsive to a public demand or need. The proposed~~  
14 ~~transportation service will be deemed to serve a useful public~~  
15 ~~purpose, responsive to a public demand or need, if the~~  
16 ~~application is for authority to provide:~~

17 (a) ~~transportation to a community not~~  
18 ~~regularly served by an authorized intrastate common motor~~  
19 ~~carrier of household goods;~~

20 (b) ~~transportation services that will be~~  
21 ~~a direct substitute for abandoned rail service to a community~~  
22 ~~if the abandonment results in the community not having rail~~  
23 ~~service and if the application is filed within one hundred~~  
24 ~~twenty days after the abandonment has been approved by the~~  
25 ~~commission or by the federal railway administration; or~~

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1                   (2) any reasonable terms of service that the  
2 commission may allow or require for the particular  
3 certificate."

4           SECTION 9. Section 65-2A-10 NMSA 1978 (being Laws 2003,  
5 Chapter 359, Section 10, as amended) is amended to read:

6           "65-2A-10. PERMITS [~~FOR INTRASTATE CONTRACT MOTOR~~  
7 ~~CARRIERS OF PERSONS OR HOUSEHOLD GOODS~~].--

8                   ~~[A. A contract motor carrier shall not provide~~  
9 ~~compensated intrastate transportation of persons or household~~  
10 ~~goods in the state without first having applied for and~~  
11 ~~obtained a permit from the commission.~~

12                   ~~B.]~~ A. Except as provided in this section and in  
13 Section 65-2A-13 NMSA 1978, the commission shall issue a permit  
14 allowing a person to provide [~~compensated intrastate~~] permitted  
15 service for transportation [~~as a contract motor carrier of~~  
16 ~~persons~~] of passengers or household goods pursuant to contract  
17 after notice and public hearing requirements are met, if the  
18 applicant is:

19                           (1) [~~the person is~~] fit [~~willing and able~~] to  
20 provide the transportation to be authorized by the permit; and

21                           (2) [~~the person is~~] in compliance with the  
22 safety and financial responsibility requirements of the Motor  
23 Carrier Act, the rules of the commission and other applicable  
24 federal and state laws and rules. [~~and~~

25                           ~~(3) the transportation to be provided under~~

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1 ~~the permit is or will be consistent with the public interest.~~

2           G.] B. Before granting a permit to an [~~intrastate~~  
3 ~~contract motor carrier of persons~~] applicant, the commission  
4 shall consider

5                   ~~(1) the number of customers to be served by~~  
6 ~~the carrier;~~

7                   ~~(2) the nature of the transportation proposed~~  
8 ~~to be provided;~~

9                   ~~(3) whether granting the permit would endanger~~  
10 ~~or impair the operations of motor carriers to an extent~~  
11 ~~contrary to the public interest;~~

12                   ~~(4) the effect that denying the permit would~~  
13 ~~have on the person applying for the permit and its customers;~~  
14 and

15                   ~~(5) the changing character of the requirements~~  
16 ~~of the applicant's customers.~~

17           D. ~~The commission shall not issue a permit to an~~  
18 ~~intrastate contract motor carrier of persons if it finds that~~  
19 ~~the authority sought will impair the provision of~~  
20 ~~transportation services by a certificated intrastate common~~  
21 ~~motor carrier of persons then serving the same territory.~~

22           E. ~~Before granting a permit to an intrastate~~  
23 ~~contract motor carrier of household goods, the commission shall~~  
24 ~~consider:~~

25                   ~~(1) whether granting the permit would endanger~~

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1 ~~or impair the operations of carriers to an extent contrary to~~  
2 ~~the public interest; and~~

3 ~~(2) the effect that denying the permit would~~  
4 ~~have on the person applying for the permit and its shippers.~~

5 ~~F.] any objections or protests that were filed~~  
6 ~~within the notice period.~~

7 ~~C. The commission shall not grant a permit for~~  
8 ~~ambulance or household goods service, or for provision of~~  
9 ~~passenger service pursuant to a public-charge contract, or for~~  
10 ~~a lease or transfer of such a permit, unless the applicant~~  
11 ~~holds a certificate for provision of the appropriate~~  
12 ~~certificated service in the territory to be served under~~  
13 ~~contract. A carrier's operations pursuant to permits for~~  
14 ~~contracts for ambulance service or household goods service, or~~  
15 ~~for public-charge contracts for passenger service, shall be~~  
16 ~~held to the same standards as are the carrier's certificated~~  
17 ~~service operations. If the transportation to be provided under~~  
18 ~~the contract is passenger service, the contractual rates and~~  
19 ~~terms of service affecting passengers shall be provided in the~~  
20 ~~carrier's tariff.~~

21 ~~D. The commission shall not issue a permit for~~  
22 ~~passenger service if the contract or arrangement between the~~  
23 ~~carrier and the other contracting party effectively excludes or~~  
24 ~~otherwise impairs opportunity and access to public places for~~  
25 ~~the provision of transportation services by a certificated~~

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1 passenger service carrier then serving the same territory, and  
2 no permit issued may be used to effect such exclusion or  
3 impairment of certificated passenger service.

4 E. A permit issued by the commission shall specify  
5 the business of the [~~intrastate contract motor~~] carrier, the  
6 scope of the authority granted to it and the terms, conditions  
7 and limitations of the authority.

8 [~~G.~~] F. An [~~intrastate contract motor carrier of~~  
9 ~~persons or household goods~~] applicant for a permit shall file  
10 with the commission each contract under which it intends to  
11 operate. [~~The commission shall approve a contract and~~  
12 ~~authorize operations if it finds that the contract is~~  
13 ~~consistent with the public interest and the provisions of this~~  
14 ~~section.~~

15 H. ~~The commission shall not limit an intrastate~~  
16 ~~contract motor carrier of persons or household goods to a fixed~~  
17 ~~number of contracts.~~

18 I. ~~A motor carrier owning a certificate and a~~  
19 ~~permit for the same type of service may use the same equipment~~  
20 ~~for both common and contract services provided that shared use~~  
21 ~~does not impair the provision of transportation services under~~  
22 ~~the certificate]"~~

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

25 "65-2A-11. TEMPORARY AUTHORITY [~~FOR INTRASTATE MOTOR~~

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1 ~~CARRIERS OF PERSONS OR HOUSEHOLD GOODS].--~~

2 A. The commission may without notice grant  
3 temporary [~~operating~~] authority to an [~~intrastate motor carrier~~  
4 ~~of persons or household goods~~] applicant for a certificate or  
5 permit or for amendment, lease or transfer of all or part of a  
6 certificate or permit for a period not to exceed [~~ninety days~~]  
7 the duration of the application process, if it finds that:

8 (1) the notice period for such application has  
9 not yet expired, the application is one directly involving  
10 public safety, a governmental program or a specific public  
11 event, there is an urgent and immediate public need for such  
12 service and the public may be harmed by waiting for the notice  
13 period to expire;

14 (2) the applicant for temporary authority has  
15 a complete application for a certificate or permit or for  
16 amendment, lease or transfer of all or part of a certificate or  
17 permit, pending before the commission;

18 (3) the applicant is fit to provide the  
19 transportation service requested, is able to provide any  
20 certificated service requested and is in compliance with the  
21 safety and financial responsibility requirements of the Motor  
22 Carrier Act and the rules of the commission; and

23 [~~B-~~] (4) satisfactory proof of urgent and  
24 immediate need [~~shall be~~] has been made by [~~affidavit or other~~]  
25 verified proof as the commission shall by rule prescribe.

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1           ~~[G.]~~ B. An applicant for temporary authority as a  
2           ~~[common motor]~~ tariffed service carrier shall file tariffs  
3           covering the transportation services for which temporary  
4           authority is being sought.

5           ~~[D. After temporary authority has been granted, the~~  
6           ~~applicant shall give notice of the grant of temporary authority~~  
7           ~~to a motor carrier authorized to perform the service~~  
8           ~~temporarily authorized. If such motor carrier or the staff of~~  
9           ~~the transportation division of the commission files a written~~  
10          ~~request for a hearing within twenty-five days of the date~~  
11          ~~notice was mailed, the commission shall hold a public hearing~~  
12          ~~and make such further determination with respect to the grant~~  
13          ~~of temporary authority as the public interest may require.~~

14          ~~E. Intrastate]~~ C. If a hearing is held for any  
15          reason on an application for a certificate or permit or for  
16          amendment, lease or transfer of all or part of a certificate or  
17          permit or for a tariff rate increase, the applicant may move in  
18          such proceeding for a grant of temporary authority or rate  
19          approval for a period not to exceed the duration of the  
20          application process, and any protesting carrier or the  
21          transportation division of the commission may move in such  
22          proceeding for reconsideration or modification of any grant of  
23          temporary authority previously granted by the commission or the  
24          hearing examiner. The hearing examiner in the proceeding shall  
25          hold an expedited preliminary public hearing on the grant of

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1 temporary authority on the issues in the proceeding and the  
2 testimony evidence presented in the hearing on such procedural  
3 basis as the commission shall by rule prescribe.

4 D. Motor carriers operating under temporary  
5 authority shall comply with the requirements of the Motor  
6 Carrier Act and the rules of the commission.

7 ~~[F.]~~ E. A grant of temporary authority shall not  
8 create a presumption that permanent authority will be granted."

9 SECTION 11. Section 65-2A-12 NMSA 1978 (being Laws 2003,  
10 Chapter 359, Section 12) is amended to read:

11 "65-2A-12. WARRANTS.--

12 ~~[A. It is unlawful for any commuter service,~~  
13 ~~charter service, towing service or motor carrier of property to~~  
14 ~~provide compensated intrastate transportation in the state~~  
15 ~~without a warrant from the commission.~~

16 ~~B.]~~ A. The commission shall issue a warrant that  
17 allows a person to provide [~~compensated intrastate~~  
18 ~~transportation~~] warranted service as a commuter service,  
19 charter service, towing service or motor carrier of property if  
20 the commission finds that the [~~person~~] applicant is in  
21 compliance with the financial responsibility and safety  
22 requirements of the Motor Carrier Act and the rules of the  
23 commission.

24 B. A towing service carrier performing  
25 nonconsensual tows is subject to tariff rates and terms of

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1 service. A towing service carrier performing nonconsensual  
2 tows shall not use the same motor vehicles, equipment and  
3 facilities used by another warranted towing service carrier  
4 performing nonconsensual tows.

5 ~~[G. A person may protest an application for a~~  
6 ~~warrant if the person has reason to believe that the applicant~~  
7 ~~does not meet the safety or financial responsibility~~  
8 ~~requirements of the Motor Carrier Act and the rules of the~~  
9 ~~commission.~~

10 ~~D.]~~ C. A warrant shall not be transferred or leased  
11 to another person.

12 ~~[E.]~~ D. The commission may without notice or a  
13 public hearing cancel a warrant if the owner fails to operate  
14 under the warrant for twelve consecutive months or fails to  
15 provide proof of financial responsibility as required by the  
16 commission for four consecutive months."

17 SECTION 12. Section 65-2A-13 NMSA 1978 (being Laws 2003,  
18 Chapter 359, Section 13) is amended to read:

19 "65-2A-13. PROTESTS, ~~[OF APPLICATIONS FOR A CERTIFICATE~~  
20 ~~OR PERMIT OR FOR A CHANGE IN A CERTIFICATE OR PERMIT]~~  
21 OBJECTIONS AND HEARINGS.--

22 ~~[A. A contract motor carrier shall not protest an~~  
23 ~~application for a certificate or for a change in a certificate.~~

24 ~~B. A common or contract motor carrier shall not~~  
25 ~~protest an application for a permit or for a change in a~~

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1 permit.

2 G. ~~A common motor carrier shall not protest an~~  
3 ~~application for a certificate or for a change in a certificate~~  
4 ~~unless:~~

5 ~~(1) it possesses authority to handle, in whole~~  
6 ~~or in part, the traffic for which the applicant seeks~~  
7 ~~authority, or it has pending before the commission an~~  
8 ~~application for authority for substantially the same traffic~~  
9 ~~filed prior to the application to be protested; and~~

10 ~~(2) it is willing and able to provide service~~  
11 ~~that meets the reasonable needs of the customers or shippers~~  
12 ~~involved; and~~

13 ~~(3) it has provided service within the scope~~  
14 ~~of the protested application during the previous twelve-month~~  
15 ~~period, or has actively and in good faith solicited service~~  
16 ~~within the scope of the protested application during such~~  
17 ~~period; or~~

18 ~~(4) the commission grants leave to intervene~~  
19 ~~upon a showing of other interests that are not contrary to the~~  
20 ~~provisions of the Motor Carrier Act.]~~

21 A. Any interested person or any member of the  
22 public may provide information to the commission or express an  
23 objection to any application for a certificate or permit, or  
24 for amendment, lease or transfer of a certificate or permit,  
25 during the notice period for the application by filing a

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1 written objection in regard to the application. The commission  
2 shall consider any objections filed in regard to determining  
3 whether to hold a hearing on the application. The commission  
4 is not required to hold a hearing pursuant to any objection but  
5 may, in its discretion or on its own motion for any reason,  
6 hold a hearing on any application for a certificate or permit  
7 or for an amendment, lease or transfer of a certificate or  
8 permit.

9 B. The commission shall hold a hearing on an  
10 application whenever a protest is filed within the notice  
11 period or the transportation division of the commission files a  
12 request for a hearing relative to an application within the  
13 notice period. The commission shall allow a protesting carrier  
14 to proceed as an intervenor in the application proceeding.

15 C. In any hearing held on an application:

16 (1) the applicant has the burden of proving  
17 that the applicant meets the requirements of the Motor Carrier  
18 Act and commission rule for the application at issue, the  
19 burden of demonstrating with reasonable specificity the nature  
20 and scope of its proposed transportation service, the burden of  
21 proving any particular factual matters that the commission or  
22 the transportation division of the commission may identify and  
23 require, the burden of proving any additional allegations and  
24 matters of public interest that it may raise and, if the  
25 application pertains to 911-response ambulance service, the

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1 burden of proving that the 911-response ambulance service that  
2 currently exists in the territory sought in the application is  
3 inadequate and that the proposed service is directly responsive  
4 to a public need and demand for the service proposed;

5 (2) a protesting carrier has the burden of  
6 proving all matters of fact pertaining to its full-service  
7 operation within its certificated full-service territory, the  
8 burden of proving the potential impairment or adverse impact on  
9 its existing full-service operation by the transportation  
10 service proposed by the applicant and the burden of proving all  
11 other allegations and matters of public interest that it may  
12 raise. The protesting carrier's proof should include, without  
13 limitation, a demonstration with reasonable specificity of the  
14 nature of the existing full service being provided, the volume  
15 of passengers transported, economic analysis related to  
16 expenses and revenues of the full-service operation and the  
17 anticipated economic, business or functional effect of the  
18 proposed service on the existing provision of, or rates for,  
19 full-service transportation within the full-service territory;

20 (3) the commission may allow other interested  
21 persons to intervene, either generally or on the basis of  
22 specific facts or issues. A permissive intervenor has the  
23 burden of proof for its position on all factual matters and  
24 legal issues that it alleges and on which it is permitted to  
25 intervene; and

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1                   (4) all parties to a hearing may base their  
2 demonstration and proof on business data, experienced persons  
3 and mathematical calculations. Expert testimony shall not be  
4 required of any party but may be provided at the option of a  
5 party.

6                   D. The commission shall not grant an application  
7 for a certificate for 911-response ambulance service, or for  
8 amendment, lease or transfer of such a certificate, to the  
9 extent that it finds after hearing that the existing  
10 911-response ambulance service is provided on a reasonably  
11 continuous and adequate basis in the territory in which the new  
12 service is sought or that the holder of the certificate or  
13 lessee providing the existing 911-response ambulance service in  
14 such territory is willing and able to provide, and does  
15 subsequently provide, reasonably continuous and adequate  
16 service within such territory, as specified by commission  
17 order.

18                   E. The commission shall not grant an application  
19 for a certificate for any passenger service other than 911-  
20 response ambulance service, or for a permit for ambulance  
21 service or for any passenger service pursuant to a  
22 public-charge contract, or for amendment, lease or transfer of  
23 such a certificate or permit, within a protesting full-service  
24 carrier's full-service territory, if it finds after hearing  
25 that the grant of the application presents a reasonable

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1 potential to impair, diminish or otherwise adversely affect the  
2 existing provision of full-service passenger service to the  
3 public in the full-service territory or if the application is  
4 otherwise contrary to the public interest in the full-service  
5 territory."

6 SECTION 13. Section 65-2A-14 NMSA 1978 (being Laws 2003,  
7 Chapter 359, Section 14) is amended to read:

8 "65-2A-14. CHANGES IN CERTIFICATES OR PERMITS.--

9 A. A change in a certificate or permit [~~or tariff~~]  
10 shall not be valid or effective without the approval of the  
11 commission.

12 B. The commission may, for good cause and after  
13 notice and public hearing requirements are met, authorize the  
14 following changes in all or part of a certificate or permit at  
15 the request of the [~~person owning the certificate or permit~~]  
16 holder if the commission finds:

17 [~~(1) that the proposed rates are reasonable,~~  
18 ~~non-predatory and nondiscriminatory for a change in a tariff;~~

19 ~~(2)] (1) that the applicant for amendment,~~

20 lease or transfer of a certificate for passenger service meets  
21 the requirements pursuant to Section [~~8 of the Motor Carrier~~  
22 ~~Act]~~ 65-2A-8 NMSA 1978 for [~~an amendment of]~~ a certificate for  
23 such passenger service; [~~as a common motor carrier of persons;~~

24 ~~(3) that the applicant meets the requirements~~  
25 ~~pursuant to Section 10 of the Motor Carrier Act for an~~

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1 ~~amendment of a permit as a contract motor carrier of persons;~~

2 ~~(4)]~~ (2) that the applicant for amendment,  
3 lease or a transfer of a certificate for household goods  
4 service meets the requirements pursuant to Section ~~[9 of the~~  
5 ~~Motor Carrier Act]~~ 65-2A-9 NMSA 1978 for ~~[an amendment of]~~ a  
6 certificate ~~[as a common motor carrier of]~~ for such household  
7 goods service;

8 ~~[(5)]~~ (3) that the applicant for amendment,  
9 lease or a transfer of a permit meets the requirements pursuant  
10 to Section ~~[10 of the Motor Carrier Act]~~ 65-2A-10 NMSA 1978 for  
11 ~~[an amendment of]~~ such a permit; ~~[as a contract motor carrier~~  
12 ~~of household goods;~~

13 ~~(6) that for a transfer of all or part of a~~  
14 ~~certificate or permit:~~

15 ~~(a) the transferee applicant is fit,~~  
16 ~~willing and able to provide the authorized transportation~~  
17 ~~services and to comply with the Motor Carrier Act and the rules~~  
18 ~~of the commission;~~

19 ~~(b)]~~ and

20 (4) in addition, that:

21 (a) for transfer or lease of all or part  
22 of a certificate or permit, the transferor-applicant has  
23 rendered reasonably continuous and adequate service in the  
24 territory to be transferred or leased prior to the application  
25 for lease or transfer; and

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1                                    ~~[(e)]~~ (b) for transfer of all or a part  
2 of a certificate or permit, accrued taxes, rents, wages of  
3 employees and other indebtedness pertaining to all or part of a  
4 certificate or permit proposed to be transferred have been paid  
5 by the transferor-applicant or assumed by the transferee-  
6 applicant

7                                    ~~[(d) the transfer does not have the~~  
8 ~~effect of destroying competition or creating a monopoly; and~~

9                                    ~~(e) the transfer is not inconsistent~~  
10 ~~with the public interest; or~~

11                                    ~~(7) that for a lease of all or part of a~~  
12 ~~certificate or permit:~~

13                                    ~~(a) the lessee applicant is fit, willing~~  
14 ~~and able to provide the authorized transportation services and~~  
15 ~~to comply with the Motor Carrier Act and the rules of the~~  
16 ~~commission;~~

17                                    ~~(b) the lessor applicant has rendered~~  
18 ~~reasonably continuous and adequate service prior to the~~  
19 ~~application for lease;~~

20                                    ~~(c) the lease does not have the effect~~  
21 ~~of destroying competition or creating a monopoly; and~~

22                                    ~~(d) the lease is not inconsistent with~~  
23 ~~the public interest].~~

24                                    C. The commission may, without notice or a public  
25 hearing, authorize the following changes in all or part of a

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1 certificate or permit at the request of the [~~person owning the~~  
2 ~~certificate or permit~~] holder:

3 (1) voluntary cancellation of the certificate  
4 or permit;

5 (2) voluntary suspension of the certificate or  
6 permit for a period not to exceed twelve consecutive months;

7 (3) change in the form of [~~ownership~~] legal  
8 entity or name of the holder of the certificate or permit;  
9 [~~and~~]

10 (4) reinstatement of the certificate or permit  
11 following voluntary suspension of a period not exceeding twelve  
12 consecutive months;

13 (5) change in control of a holder of the  
14 certificate or permit through issuance or transfer of stock or  
15 other legal interest in a holder that is a corporation,  
16 partnership, trust or other legal business entity; and

17 (6) transfers by operation of law."

18 SECTION 14. Section 65-2A-15 NMSA 1978 (being Laws 2003,  
19 Chapter 359, Section 15) is amended to read:

20 "65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS  
21 TRADE NAMES ALLOWED [~~COMMON CONTROL AND SHAM COMPETITION~~  
22 ~~PROHIBITED~~].--

23 [~~A. A person may simultaneously hold a certificate~~  
24 ~~as a common motor carrier, a permit as a contract motor carrier~~  
25 ~~and a warrant authorizing transportation by motor vehicle over~~

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1 ~~the same routes or within the same territory, if the commission~~  
2 ~~finds that the multiple operating authorities are consistent~~  
3 ~~with the public interest.~~

4 ~~B. A person shall not control more than one~~  
5 ~~certificate or more than one permit for the same kind of~~  
6 ~~service in the same territory.]~~

7 A. A person may simultaneously hold certificates  
8 for different kinds of certificated services, permits for  
9 different contracts and warrants for different kinds of  
10 warranted service within the same territory.

11 B. Any motor carrier that holds more than one  
12 certificate for the same kind and nature of certificated  
13 service in the same territory or more than one permit for the  
14 same contract shall file an application with the commission to  
15 consolidate such operating authorities.

16 C. The commission shall not grant any new operating  
17 authority to a motor carrier that [~~(1)~~] duplicates the  
18 operating authority of the same kind and for the same territory  
19 already held by that motor carrier. [~~or~~

20 ~~(2) is under common control with another motor~~  
21 ~~carrier that duplicates operating authority of the same kind or~~  
22 ~~for the same or overlapping territory already held by either of~~  
23 ~~them.~~

24 ~~D. If two motor carriers come to be held in common~~  
25 ~~control, and each motor carrier has operating authority that~~

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1 ~~duplicates the operating authority of the other, then one of~~  
2 ~~them shall have its operating authority modified to exclude the~~  
3 ~~portion of the operating authority that is of the same kind and~~  
4 ~~for the same territory, but shall be allowed to operate in the~~  
5 ~~name and under the operating authority of the other motor~~  
6 ~~carrier with which it is held in common control.~~

7 ~~E. Motor carriers of household goods possessing~~  
8 ~~both a certificate and permit may transport mixed loads of~~  
9 ~~common and contract motor carrier household goods.]~~

10 D. Certificated service carriers holding both a  
11 certificate and permit or warrant for related services may use  
12 the same vehicles and may transport passengers and property, or  
13 mixed loads of household goods and property, pursuant to those  
14 authorities in the same vehicles and on the same trip.

15 E. Every certificated, permitted or warranted  
16 service carrier shall file with the transportation division of  
17 the commission all business trade names under which the carrier  
18 operates its service or services authorized and shall provide  
19 the transportation division of the commission with proof of  
20 financial responsibility for all business trade names in  
21 addition to its legal name. The commission shall accept  
22 business trade names as submitted by a carrier. Filing with  
23 the transportation division of the commission shall not, by  
24 itself, establish or otherwise affect the ownership or right to  
25 use a business trade name under the intellectual property laws

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1 of the state of New Mexico."

2 SECTION 15. Section 65-2A-16 NMSA 1978 (being Laws 2003,  
3 Chapter 359, Section 16, as amended) is amended to read:

4 "65-2A-16. INTERSTATE MOTOR CARRIERS.--

5 A. Foreign and domestic motor carriers, motor  
6 private carriers, leasing companies, brokers and freight  
7 forwarders shall not operate in interstate commerce in this  
8 state without first registering with a base state and paying  
9 all fees as required under the federal Unified Carrier  
10 Registration Act of 2005. The commission is authorized to  
11 register applicants and collect all fees without notice or a  
12 public hearing.

13 B. The commission is authorized to follow rules and  
14 collect fee assessments set by the federal secretary of  
15 transportation from foreign and domestic motor carriers, motor  
16 private carriers, leasing companies, brokers and freight  
17 forwarders, and do all things necessary to enable New Mexico to  
18 participate in the federal unified carrier registration system  
19 pursuant to the federal Unified Carrier Registration Act of  
20 2005, including the collection of an equal amount of revenue as  
21 was collected by the commission in the last registration year  
22 under Section 4005 of the federal Intermodal Surface  
23 Transportation Efficiency Act of 1991 and the collection of an  
24 equal amount of revenue annually from all other sources allowed  
25 under the federal Unified Carrier Registration Act of 2005 in

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1 the last year that such collections were not prohibited by  
2 federal law.

3 C. The commission is the state agency in New Mexico  
4 responsible for operation of the federal Unified Carrier  
5 Registration Act of 2005, including participating in the  
6 development, implementation and administration of the unified  
7 carrier registration agreement. The commission is authorized  
8 to follow rules governing the unified carrier registration  
9 agreement issued under the unified carrier registration plan by  
10 its board of directors.

11 D. Compliance by an interstate motor carrier with  
12 the provisions of the federal Unified Carrier Registration Act  
13 of 2005 shall not authorize a carrier to provide intrastate  
14 transportation services in New Mexico. An interstate motor  
15 carrier wishing to provide compensated transportation in  
16 intrastate commerce shall apply for the appropriate intrastate  
17 operating authority from the commission. A taxicab service or  
18 [~~terminal~~] shuttle service traveling to or from a federally  
19 licensed airport terminal facility located in the state of New  
20 Mexico is engaged in nonexempt intrastate business within the  
21 state regardless of a prior exemption if its service provides,  
22 with regard to any service run, for both:

23 (1) initiation of the transportation of one or  
24 more passengers within this state; and

25 (2) delivery to a departure point within this

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1 state of one or more passengers whose transportation on that  
2 service run was initiated at a point within this state."

3 SECTION 16. Section 65-2A-17 NMSA 1978 (being Laws 2003,  
4 Chapter 359, Section 17) is amended to read:

5 "65-2A-17. SINGLE TRIP TICKETS.--The owner of a motor  
6 vehicle regularly used to convey children to and from school or  
7 school activities shall not use the motor vehicle for  
8 compensated transportation for a single trip sponsored by a  
9 charitable organization without a single trip ticket from the  
10 commission. An application for a single trip ticket shall be  
11 in a form prescribed by the commission and shall state the  
12 time, purpose, origin and destination of the trip and the name,  
13 purpose and status of the charitable organization sponsoring  
14 the trip. The commission may issue a single trip ticket  
15 without notice or a public hearing only if it finds that no  
16 certificated or permitted [~~common or contract motor carrier~~]  
17 service carrier is available for the trip described in the  
18 application and that the motor vehicle to be used for the trip  
19 complies with the safety requirements prescribed by the Motor  
20 Carrier Act and the commission's rules."

21 SECTION 17. Section 65-2A-18 NMSA 1978 (being Laws 2003,  
22 Chapter 359, Section 18, as amended) is amended to read:

23 "65-2A-18. FINANCIAL RESPONSIBILITY.--

24 A. The commission shall prescribe minimum  
25 requirements for financial responsibility for all motor

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1 carriers, including incidental carriers pursuant to this  
2 section. [~~Rules regarding financial responsibility of~~  
3 ~~incidental carriers shall be adopted by July 1, 2006 by the~~  
4 ~~commission, and implementation of the financial responsibility~~  
5 ~~requirements for incidental carriers shall begin on July 1,~~  
6 ~~2006.~~]

7 B. A motor carrier or incidental carrier shall not  
8 operate on the highways of this state without having filed with  
9 the commission proof of financial responsibility in the form  
10 and amount as the commission shall by rule prescribe. The  
11 maximum amount of financial responsibility, as determined by  
12 the commission, for incidental carriers shall not exceed that  
13 required of other motor carriers.

14 C. In prescribing minimum requirements for  
15 financial responsibility for motor carriers, the commission  
16 shall adopt the same minimum liability insurance requirements  
17 as those required by the federal motor carrier safety  
18 administration for interstate motor carriers for all motor  
19 vehicles for carriage of property or household goods and for  
20 all passenger motor vehicles with such capacities. The  
21 commission shall adopt reasonable minimum liability insurance  
22 requirements for the use of passenger motor vehicles with  
23 capacities less than those regulated by the federal motor  
24 carrier safety administration and in doing so shall consider

25 [~~(1) the creation of sufficient incentives to~~

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1 ~~motor carriers to maintain and operate their equipment in a~~  
2 ~~safe manner;~~

3                   ~~(2)]~~ the number of passengers being transported  
4 [~~(3)]~~ and the nature of the transportation services provided by  
5 the motor [~~carrier; and~~

6                   ~~(4) other factors necessary to ensure that~~  
7 ~~motor carriers maintain an appropriate level of financial~~  
8 ~~responsibility]~~ carriers using vehicles of those capacities.

9                   D. The commission may authorize a motor carrier to  
10 carry its own insurance in lieu of filing a policy of  
11 insurance, certificate showing the issuance of a policy of  
12 insurance or a surety bond. In approving an application to be  
13 self-insured, the commission shall consider:

- 14                   (1) the financial stability of the carrier;  
15                   (2) previous loss history of the carrier;  
16                   (3) the safety record of the carrier;  
17                   (4) the size, nature of operations and other  
18 operating characteristics of the carrier; and  
19                   (5) other factors necessary for the protection  
20 of passengers, shippers and the public.

21                   E. Notwithstanding any requirement of the New  
22 Mexico Insurance Code to the contrary, the commission may  
23 accept proof of public liability insurance from an insurer not  
24 authorized in New Mexico if:

- 25                   (1) the insurance is for an interstate motor

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1 carrier transporting commodities exempt from regulation by the  
2 federal motor carrier safety administration participating in  
3 the single state registration system for those motor carriers;  
4 and

5 (2) the insurer is authorized to write public  
6 liability insurance in at least one other state.

7 F. All motor carriers shall carry proof of  
8 financial responsibility in each motor vehicle they operate in  
9 this state."

10 SECTION 18. Section 65-2A-19 NMSA 1978 (being Laws 2003,  
11 Chapter 359, Section 19) is amended to read:

12 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND  
13 DRIVERS [~~USED IN COMPENSATED TRANSPORTATION~~].--

14 A. A motor carrier shall provide safe and adequate  
15 service, equipment and facilities for the rendition of  
16 transportation services in this state.

17 B. The commission shall prescribe safety  
18 requirements for drivers and for motor vehicles weighing  
19 twenty-six thousand pounds or less or carrying fifteen or fewer  
20 persons, including the driver, used by intrastate motor  
21 carriers operating in this state. The commission may prescribe  
22 additional requirements related to safety, including driver  
23 safety training programs, vehicle preventive maintenance  
24 programs, inquiries regarding the safety of the motor vehicles  
25 and drivers employed by a motor carrier, and the

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1       appropriateness of the motor vehicles and equipment for the  
2       transportation services to be provided by the motor carrier.

3               C. A commuter service shall certify that it has a  
4       program providing for an initial drug test for a person seeking  
5       to be a commuter service driver. The program shall use  
6       reasonable collection and analysis procedures to ensure  
7       accurate results, require testing only for substances  
8       controlled by federal regulation of commercial motor carriers  
9       and ensure the confidentiality of the test results and medical  
10      information obtained.

11              D. The motor transportation division of the  
12      department of public safety may immediately order, without  
13      notice or a public hearing, a motor vehicle to be taken out of  
14      service for violation of a federal or state law or rule  
15      relating to safety if the violation would endanger the public  
16      health or safety.

17              E. The commission shall require carriers to obtain  
18      criminal background reports for all drivers employed by, or  
19      driving pursuant to leases with, certificated service carriers,  
20      and for all other persons employed by certificated household  
21      goods service carriers who enter private dwellings in the  
22      course of the household goods service."

23              SECTION 19. Section 65-2A-20 NMSA 1978 (being Laws 2003,  
24      Chapter 359, Section 20) is amended to read:

25              "65-2A-20. TARIFFS.--

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1           A. ~~[An intrastate common motor]~~ A tariffed service  
2 carrier ~~[of persons or household goods or a towing service~~  
3 ~~performing nonconsensual tows]~~ shall not commence operations or  
4 perform a new service under its operating authority without  
5 ~~[approval of a]~~ having an approved tariff ~~[from]~~ on file with  
6 the commission.

7           B. ~~[An intrastate common motor carrier of persons~~  
8 ~~or household goods and a towing service performing~~  
9 ~~nonconsensual tows shall file with the commission proposed~~  
10 ~~tariffs showing the rates, terms and conditions for~~  
11 ~~transportation and related services between points in its~~  
12 ~~territory. The rates shall be stated in terms of United States~~  
13 ~~currency.]~~ A tariffed service carrier or a motor carrier  
14 organization proposing a common tariff shall file with the  
15 commission proposed tariffs showing the rates for  
16 transportation and all related activities and containing a  
17 description of the type and nature of the service, territory  
18 and all terms of service for transportation and related  
19 services. The rates shall be stated in terms of United States  
20 currency. Tariffs for individual carriers shall also include  
21 the carrier's legal name, all business trade names used by the  
22 carrier, contact information, information for service of  
23 process, the territory authorized for each transportation  
24 service listed in the tariff and any terms of service contained  
25 in the operating authorities for that particular carrier. Each

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1 tariffed service carrier operating pursuant to a common or  
2 statewide tariff shall file with the commission a tariff  
3 statement referencing the common or statewide tariff being used  
4 and include the carrier's legal name, all business trade names  
5 used by the carrier, contact information, information for  
6 service of process, the territory authorized for that carrier  
7 and any terms of service contained in the operating authority  
8 for that particular carrier.

9 C. ~~[An intrastate common motor]~~ A tariffed service  
10 carrier ~~[of persons or household goods or a towing service~~  
11 ~~performing nonconsensual tows]~~ shall not charge, or permit its  
12 ~~[bona fide agents or]~~ employees, lessees or agents, to charge a  
13 different or additional rate, or use different or additional  
14 practices or terms of service, for transportation or for a  
15 service rendered to or for the user of the service other than  
16 the rates and terms of service specified in approved tariffs in  
17 effect at the time, except in accordance with rates and terms  
18 of service established by law for governmental programs or  
19 operations. ~~[The rates of an otherwise valid tariff are not~~  
20 ~~applicable when a medicaid program directly pays for services.]~~

21 D. ~~[An intrastate common motor]~~ A tariffed service  
22 carrier ~~[of persons or household goods or a towing service~~  
23 ~~performing nonconsensual tows]~~ shall not refund, directly or  
24 indirectly, a portion of the rate specified in its approved  
25 tariff, offer to a person privileges or facilities, perform a

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1 service or remit anything of value except in accordance with  
2 tariffs approved by the commission, in accordance with rates  
3 and terms of service established by governmental entities,  
4 programs or operations or in settling or resolving a claim by a  
5 customer.

6 E. The commission shall post on its internet web  
7 site electronic copies of all currently approved individual,  
8 common and statewide tariffs, and all tariff statements filed  
9 by carriers using common or statewide tariffs, in a manner to  
10 facilitate public access, review and comparison of rates and  
11 terms of service. A certificated passenger service carrier  
12 other than an ambulance service carrier shall post its tariff  
13 rates in each vehicle used in the provision of its  
14 transportation service.

15 F. A tariffed service carrier shall file an  
16 application with the commission for any change in the tariff,  
17 accompanied by the proposed tariff, at least twenty days prior  
18 to implementation of the amended rates and terms of service  
19 contained in the tariff. Except as provided in this section,  
20 an amended tariff shall be approved and become effective twenty  
21 days after filing of the application for a change in the  
22 tariff. The commission shall post notice of each application  
23 for a change in a tariff along with a copy of the proposed  
24 tariff on the commission web site.

25 G. No changes in terms of service disapproved by

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1 the transportation division of the commission as inconsistent  
2 with the Motor Carrier Act, rule of the commission, the  
3 individual operating authority of the carrier or otherwise in  
4 violation of law shall become effective or be part of the  
5 approved tariff. The following terms of service contained in a  
6 tariff shall not be considered inconsistent with, or predatory  
7 or discriminatory in nature under the Motor Carrier Act or  
8 commission rule:

9 (1) a carrier may decline or terminate service  
10 under circumstances that reasonably appear to present a  
11 physical danger to the driver, to another employee of the  
12 carrier or to passengers or, for carriers other than ambulance  
13 service carriers, a danger to the condition of the motor  
14 vehicle or cargo;

15 (2) a carrier is not responsible for  
16 cancellations or delays due to weather or road conditions when  
17 reasonably required for safety or when due to road  
18 construction, road closures, law enforcement stops or similar  
19 matters beyond the control of the carrier;

20 (3) a passenger service carrier may require  
21 that all firearms carried by any passenger other than an  
22 authorized law enforcement officer be unloaded and placed in a  
23 locked area of the vehicle during transport, along with all  
24 ammunition and any other weapons; or

25 (4) a passenger service carrier other than an

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1 ambulance service carrier may decline or terminate service when  
2 the passenger cannot give an adequate description of, or  
3 direction to, the destination or cannot transfer into or out of  
4 the motor vehicle without requiring physical assistance from  
5 the driver.

6 H. An application for amendment of tariff rates  
7 that increases any tariff rate to a level greater than that  
8 previously approved by the commission for a full-service  
9 carrier or a towing service providing nonconsensual tows or for  
10 a common tariff shall not become effective until approved by  
11 the commission as reasonable under Section 65-2A-21 NMSA 1978.  
12 The commission shall hold a hearing appropriate to the type of  
13 transportation service provided by the carrier for any such  
14 application, if requested by the applicant or by the  
15 transportation division of the commission, or if ordered in the  
16 discretion of the commission. The commission may provide for  
17 reasonable periodic rate increases for full-service carriers or  
18 towing services providing nonconsensual tows pursuant to a rate  
19 escalator or adjustment clause for any or all rates of a  
20 carrier on such basis as the commission finds reasonable.

21 ~~[E.]~~ I. A person may make a complaint in writing to  
22 the commission that ~~[an individual or joint]~~ a rate or  
23 ~~[practice is]~~ term of service contained in a tariff, or a rate  
24 otherwise charged or practice otherwise effected, is  
25 inconsistent with or in violation of the Motor Carrier Act,

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1 commission rule or the operating authority or current tariff of  
2 the motor carrier. The commission may suspend the operation of  
3 a rate, term of service or practice for a period not to exceed  
4 sixty days to investigate its appropriateness or  
5 reasonableness. If the commission finds that [~~an individual or~~  
6 ~~joint~~] a rate charged by [~~an intrastate common motor carrier of~~  
7 ~~persons or household goods or a towing service performing~~  
8 ~~nonconsensual tows, or an individual or joint practice of any~~  
9 ~~intrastate common motor carrier of persons or household goods~~  
10 ~~or any towing service performing nonconsensual tows affecting~~  
11 ~~the rate, is unreasonable] a tariffed carrier, or a term of  
12 service or practice effected by a tariffed carrier, is  
13 unauthorized, predatory or discriminatory, the commission shall  
14 prescribe the rate or the maximum or minimum rate to be  
15 observed or the [~~practice~~] terms of service to be made  
16 effective."~~

17 SECTION 20. Section 65-2A-21 NMSA 1978 (being Laws 2003,  
18 Chapter 359, Section 21) is amended to read:

19 "65-2A-21. RATES.--

20 A. [~~An intrastate common motor carrier of persons~~  
21 ~~or household goods and a towing service performing~~  
22 ~~nonconsensual tows] Tariffed service carriers shall observe  
23 [~~reasonable~~] nonpredatory and nondiscriminatory rates and  
24 [~~practices~~] terms of service for the transportation services  
25 they provide. [~~An unreasonable~~] A predatory or discriminatory~~

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1 charge for service is unlawful.

2 B. Reduced rates for minor children accompanied by  
3 an adult, for students traveling between their homes and their  
4 schools and for persons sixty-five years of age or older shall  
5 not be considered discriminatory [~~within the meaning of this~~  
6 ~~section~~]. A motor carrier shall not furnish free  
7 transportation to persons except to [~~bona fide~~] owners,  
8 officers, [~~or~~] employees or other business personnel of the  
9 motor carrier and their dependents. [~~Stock owners of~~  
10 ~~incorporated motor carriers shall not be considered owners for~~  
11 ~~purposes of this subsection.~~]

12 C. [~~An intrastate common motor carrier of persons~~  
13 ~~or household goods or a towing service performing nonconsensual~~  
14 ~~tows shall not give an unreasonable advantage to a person,~~  
15 ~~point of entry, territory or classification of motor carrier in~~  
16 ~~any respect; provided that~~] Towing services performing  
17 nonconsensual tows may charge rates lower than the rates in  
18 their approved tariff to members of not-for-profit motor clubs  
19 after those rates have been filed with the commission [~~and~~  
20 ~~further provided that this subsection shall not be construed to~~  
21 ~~apply to disadvantages to the transportation service of other~~  
22 ~~motor carriers~~].

23 D. A [~~common motor carrier of~~] household goods  
24 service carrier shall establish and observe [~~just and~~  
25 ~~reasonable~~] nonpredatory and nondiscriminatory rates and

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1 practices relating to the manner and method of presenting,  
2 marking, packing and delivering household goods for  
3 transportation and other matters relating to the transportation  
4 of household goods.

5 ~~[E. An intrastate common motor carrier of persons~~  
6 ~~or household goods and a towing service performing~~  
7 ~~nonconsensual tows shall establish with each other reasonable~~  
8 ~~through routes and joint rates and practices. Participating~~  
9 ~~motor carriers shall have the duty to establish reasonable~~  
10 ~~practices in connection with joint transportation and~~  
11 ~~reasonable and equitable divisions of the joint rates adopted~~  
12 ~~so as not to unduly prefer or prejudice any participating motor~~  
13 ~~carrier.~~

14 ~~F.]~~ E. In proceedings to determine the  
15 reasonableness of rates, the commission shall authorize revenue  
16 levels that are adequate under honest, economical and efficient  
17 management to cover total operating expenses, including the  
18 operation of leased motor vehicles, and depreciation, plus a  
19 reasonable profit. The rules adopted by the commission to  
20 implement this section shall allow a carrier to achieve revenue  
21 levels that will provide a flow of net income, plus  
22 depreciation, adequate to support prudent capital outlays,  
23 ensure the repayment of a reasonable level of debt, permit the  
24 raising of needed equity capital and attract and retain capital  
25 in amounts adequate to provide a sound motor carrier

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1 transportation system in the state."

2 SECTION 21. Section 65-2A-22 NMSA 1978 (being Laws 2003,  
3 Chapter 359, Section 22) is amended to read:

4 "65-2A-22. TIME SCHEDULES.--

5 A. ~~[An intrastate common motor carrier of persons~~  
6 ~~providing scheduled service to the general public shall file a~~  
7 ~~proposed time schedule with its application for a certificate.~~  
8 ~~The commission shall approve the time schedule before the~~  
9 ~~schedule is put into effect.]~~ A scheduled shuttle service  
10 carrier shall file a proposed time schedule with its tariff and  
11 shall file any change in its schedule through an amended  
12 tariff.

13 B. Failure by ~~[an intrastate common motor carrier~~  
14 ~~of persons]~~ a scheduled shuttle service carrier to operate the  
15 service on each day pursuant to commission rule as scheduled in  
16 its tariff shall result in an appropriate penalty as the  
17 commission, in its discretion, shall determine.

18 C. A time schedule shall not be designed to require  
19 the operation of a motor vehicle between given terminals or  
20 ~~[between way stations]~~ terminal areas at a rate of speed  
21 greater than the maximum speed allowed."

22 SECTION 22. Section 65-2A-23 NMSA 1978 (being Laws 2003,  
23 Chapter 359, Section 23) is amended to read:

24 "65-2A-23. MOTOR CARRIER ORGANIZATIONS--COMMON TARIFFS.--

25 A. ~~[An intrastate common motor]~~ A tariffed service

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1 carrier may enter into discussions with another [~~intrastate~~  
2 ~~common motor~~] tariffed service carrier to establish a motor  
3 carrier organization. The organization shall obtain  
4 authorization from the commission before its members enter into  
5 any discussions concerning a common tariff. The commission  
6 shall not enter an order authorizing a motor carrier  
7 organization except after notice and public hearing  
8 requirements are met. The commission may authorize the  
9 creation of a motor carrier organization if the organization:

10 (1) allows a member carrier to discuss a  
11 tariff proposal filed with it, provided that only those  
12 carriers with authority to participate in the transportation to  
13 which the proposal applies may vote upon the proposal;

14 (2) does not interfere with a member carrier's  
15 right to establish its own tariff and does not change or cancel  
16 an independently established tariff;

17 (3) does not file [~~a~~] an objection, protest or  
18 complaint with the commission against a tariff item  
19 independently published by or for the account of a member  
20 carrier;

21 (4) does not permit its employees or an  
22 employee committee to file or act upon a proposal effecting a  
23 change in a tariff item published by or for the account of a  
24 member carrier;

25 (5) makes available, upon request, the name of

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1 the proponent of a rate or tariff item filed with it, admits  
2 the public to a meeting at which rates or tariff items will be  
3 discussed or voted upon and makes available the vote cast by a  
4 member carrier on a proposal before the motor carrier  
5 organization;

6 (6) prohibits a carrier to vote on behalf of  
7 one or more other member carriers without specific written  
8 notarized authority from the member carrier being represented;

9 (7) makes a final disposition of a rate or  
10 tariff item filed with the motor carrier organization within  
11 one hundred twenty days from the date the proposal is filed,  
12 except that if unusual circumstances require, the organization  
13 may extend the period, subject to review by the commission;

14 (8) adopts reasonable quorum standards for its  
15 meetings; and

16 (9) will propose common tariffs for approval  
17 by the commission.

18 B. A member carrier of the organization shall file  
19 with the commission information as the commission may by rule  
20 prescribe.

21 C. A motor carrier organization approved by the  
22 commission pursuant to this section shall be subject to  
23 accounting, record-keeping, reporting and inspection  
24 requirements as the commission may by rule prescribe.

25 D. The commission may, upon complaint or upon its

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1 own initiative, investigate and determine whether a motor  
2 carrier organization previously authorized by it is not in  
3 conformity with the requirements of this section or with the  
4 terms and conditions upon which the motor carrier organization  
5 was granted authorization. The commission may modify or  
6 terminate its authorization of a motor carrier organization  
7 found to be noncompliant with the requirements of this rule.

8 E. The antitrust laws of the state shall not apply  
9 to discussions concerning a common tariff by member carriers of  
10 a motor carrier organization authorized by the commission.

11 F. The motor carrier organization shall obtain  
12 approval of a common tariff from the commission before its  
13 member carriers may operate pursuant to the common tariff. The  
14 commission shall not enter an order approving a common tariff  
15 except after notice and public hearing requirements are met.  
16 The commission may approve a common tariff if the common tariff  
17 is limited to matters relating to transportation services  
18 provided by the member carriers party to the common tariff.  
19 The commission shall approve or disapprove a common tariff, in  
20 whole or in part, and may prescribe such terms and conditions  
21 as the public interest may require. The antitrust laws of the  
22 state shall not apply to common motor carriers who operate  
23 pursuant to a common tariff approved by the commission.

24 G. In any proceeding in which a party to the  
25 proceeding alleges that a member carrier voted, discussed or

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1 agreed on a common tariff in violation of this section, that  
2 party has the burden of showing that the vote, discussion or  
3 agreement occurred. A showing of parallel behavior shall not  
4 by itself satisfy that burden."

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

7 "65-2A-24. MOTOR VEHICLE LEASES.--

8 A. An intrastate motor carrier shall not lease a  
9 motor vehicle or operate a leased motor vehicle in the course  
10 of its transportation service without approval of each motor  
11 vehicle lease from the commission or as otherwise provided by  
12 commission rule. The commission may approve a motor vehicle  
13 lease without notice or a public hearing.

14 B. A motor carrier shall file a separate motor  
15 vehicle lease for each motor vehicle to be leased.

16 C. The commission shall not approve a proposed  
17 motor vehicle lease if it finds that the purpose of the motor  
18 vehicle lease is to circumvent a provision of the Motor Carrier  
19 Act or rule of the commission.

20 D. The commission shall by rule specify which of  
21 the two parties to a motor vehicle lease will be responsible  
22 for complying with the financial responsibility and safety  
23 requirements of the Motor Carrier Act and the rules of the  
24 commission."

25 SECTION 24. Section 65-2A-25 NMSA 1978 (being Laws 2003,

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1 Chapter 359, Section 25) is amended to read:

2 "65-2A-25. HOUSEHOLD GOODS OPERATIONS.--

3 A. [~~An intrastate common motor carrier of~~] A  
4 certificated household goods service carrier shall be  
5 responsible for acts or omissions of its agents that relate to  
6 the performance of household goods transportation services,  
7 including accessorial or terminal services, that are within the  
8 actual or apparent authority of the agent derived from or  
9 ratified by the [~~common motor carrier of~~] certificated  
10 household goods service carrier.

11 B. [~~An intrastate common motor carrier of~~] A  
12 certificated household goods service carrier shall use  
13 reasonable care in selecting and retaining household goods  
14 agents who are sufficiently knowledgeable, fit, willing and  
15 able to provide adequate household goods transportation  
16 services, including accessorial and terminal services, and to  
17 fulfill the obligations imposed upon them by the Motor Carrier  
18 Act and by the [~~common motor~~] certificated household goods  
19 service carrier.

20 C. If the commission has reason to believe from a  
21 complaint or investigation that a household goods agent has  
22 violated Subsection G or H of Section [~~33 of the Motor Carrier~~  
23 ~~Act~~] 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or  
24 unable to provide adequate household goods transportation  
25 services, including accessorial and terminal services, the

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1 commission may issue to that household goods agent notice of  
2 the complaint, specific charges and the time and place for a  
3 hearing on the complaint. The hearing shall be held no later  
4 than sixty days after service of the complaint to the household  
5 goods agent. The household goods agent has the right to appear  
6 at the hearing and rebut the charges contained in the  
7 complaint.

8 D. If the household goods agent does not appear at  
9 the complaint hearing, or if the commission finds that the  
10 household goods agent has violated Subsection G or H of Section  
11 [~~33 of the Motor Carrier Act~~] 65-2A-33 NMSA 1978, or is  
12 consistently unfit, unwilling or unable to provide adequate  
13 household goods transportation services, including accessorial  
14 and terminal services, the commission shall issue an order to  
15 compel compliance by the household goods agent. Thereafter,  
16 the commission may issue an order to limit or prohibit the  
17 household goods agent from any involvement in the provision of  
18 household goods transportation services if, after notice and an  
19 opportunity to be heard, it finds that the household goods  
20 agent has failed to comply with the order within a reasonable  
21 time after the date of its issuance, but in no event less than  
22 thirty days after its issuance. A household goods agent may  
23 file a petition with the commission seeking reconsideration of  
24 an order entered by the commission pursuant to this section.

25 E. The commission shall adopt rules for the

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1 following elements of household goods transportation services:

2 (1) [~~rates~~] methods of determining shipping  
3 charges;

4 (2) cost estimates, for which charges shall be  
5 subject to the antitrust laws of this state;

6 (3) inventory;

7 (4) weighing;

8 (5) receipts and bills of lading;

9 (6) liability based on value established  
10 between the motor carrier and the shipper;

11 (7) equipment stationing by, and joint  
12 transportation between [~~common motor carriers of~~], household  
13 goods service carriers;

14 (8) household goods agents; and

15 (9) service standards.

16 F. In adopting reasonable rules for intrastate  
17 [~~common motor carriers of~~] household goods service carriers,  
18 the commission shall [~~consider~~:

19 ~~(1) the level of performance that can be~~  
20 ~~achieved by a well-managed motor carrier of household goods;~~

21 ~~(2) the degree of harm to individual shippers~~  
22 ~~that could result from a violation of the rule;~~

23 ~~(3) the need to deter abuses that result in~~  
24 ~~harm to shippers;~~

25 ~~(4) service requirements of motor carriers of~~

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1 ~~household goods;~~

2 ~~(5) the cost of compliance in relation to the~~  
3 ~~benefits to shippers to be achieved from such compliance; and~~

4 ~~(6) the need to encourage motor carriers of~~  
5 ~~household goods to offer service responsive to shippers' needs]~~  
6 balance the interests of shippers and carriers and consider and  
7 observe industry standards.

8 G. The antitrust laws shall not apply to  
9 discussions or agreements between [~~an intrastate common motor~~  
10 ~~carrier of]~~ a household goods service carrier and its  
11 authorized agents, whether or not an agent is also a [~~motor~~  
12 ~~carrier of]~~ household goods service carrier when related solely  
13 to:

14 (1) rates for the transportation of household  
15 goods under the authority of the principal carrier;

16 (2) accessorial, terminal, storage or other  
17 charges for transportation services incidental to the  
18 transportation of household goods transported under the  
19 authority of the principal carrier;

20 (3) allowances relating to transportation of  
21 household goods under the authority of the principal carrier;

22 or

23 (4) ownership of a common motor carrier of  
24 household goods by an agent or membership on the board of  
25 directors of any common motor carrier of household goods by an

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1 agent."

2 SECTION 25. Section 65-2A-26 NMSA 1978 (being Laws 2003,  
3 Chapter 359, Section 26) is amended to read:

4 "65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT  
5 [~~PROGRAMS~~] PROGRAM.--

6 A. [~~A common motor carrier of household goods may~~  
7 ~~submit an application to~~] The commission [~~to~~] shall establish a  
8 program to settle disputes, at the voluntary option of the  
9 shipper, between shippers and [~~common motor carriers of~~] all  
10 household goods service carriers concerning the transportation  
11 of household goods, [~~The application shall be in a form and~~  
12 ~~contain information as the commission may by rule require.~~

13 B. ~~The commission shall review and approve, within~~  
14 ~~forty-five days of the filing of an application, a program for~~  
15 ~~settling disputes concerning the transportation of household~~  
16 ~~goods that meets the requirements of Subsection C of this~~  
17 ~~section.~~

18 C. ~~The commission shall not approve a program for~~  
19 ~~settling disputes concerning the transportation of household~~  
20 ~~goods unless the program is~~] which shall be a fair and  
21 expeditious method for settling disputes and complies with each  
22 of the following requirements and rules the commission may  
23 prescribe:

24 (1) the program is designed to prevent a  
25 [~~motor~~] household goods service carrier from having any special

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1 advantage in a case in which the shipper resides or does  
2 business at a place distant from the motor carrier's place of  
3 business;

4 (2) the program provides adequate notice of  
5 its availability, including a concise, understandable and  
6 accurate summary of the program and disclosure of the legal  
7 effects of using the program. The notice shall be given to the  
8 shipper before the shipper tenders the household goods to the  
9 motor carrier for transportation;

10 (3) upon request of a shipper, the motor  
11 carrier shall promptly provide forms and other information  
12 necessary to initiate an action to resolve a dispute under the  
13 program;

14 (4) a person authorized pursuant to the  
15 program to settle disputes shall be independent of the parties  
16 to the dispute and shall be capable, as determined by rules  
17 prescribed by the commission, to resolve disputes fairly and  
18 expeditiously. The program shall ensure that a person chosen  
19 to settle a dispute is authorized and able to obtain from the  
20 shipper or motor carrier any material and relevant information  
21 necessary to carry out a fair and expeditious decision-making  
22 process;

23 (5) the person settling the dispute may charge  
24 the shipper a fee of not more than twenty-five dollars (\$25.00)  
25 for instituting a proceeding under the program if the program

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1 is binding solely on the carrier, but shall not charge the  
2 shipper a fee otherwise. The person settling the dispute shall  
3 refund the fee to the shipper in a case in which the dispute is  
4 settled in favor of the shipper, unless the person settling the  
5 dispute determines that the refund is inappropriate;

6 (6) the program shall not require the shipper  
7 to agree to use the dispute settlement program prior to the  
8 time that a dispute arises;

9 (7) the program may provide for an oral  
10 presentation of a dispute concerning transportation of  
11 household goods by a party to the dispute or a party's  
12 representative, but an oral presentation shall not be made  
13 unless the parties to the dispute expressly agree to the  
14 presentation and the date, time and location of the  
15 presentation; and

16 (8) a person settling a dispute under the  
17 program shall, as expeditiously as possible, but no later than  
18 sixty days after receipt of written notification of the  
19 dispute, render a decision based on the information gathered;  
20 except that, in a case in which a party to the dispute fails to  
21 timely provide information that the person settling the dispute  
22 may reasonably require, the person settling the dispute may  
23 extend the sixty-day period for a reasonable period of time. A  
24 decision resolving a dispute may include remedies appropriate  
25 under the circumstances, including repair, replacement, refund

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1 or reimbursement for expenses and compensation for damages.

2 [D-] B. The commission may investigate at any time  
3 the functioning of [a] the program approved under this section  
4 and may, after notice and an opportunity to be heard, [~~suspend~~  
5 ~~or revoke its approval~~] take appropriate action against any  
6 household goods service carrier for failure to meet the  
7 requirements of this section and rules as the commission may  
8 prescribe.

9 [E-] C. In a court action to resolve a dispute  
10 between a shipper and a [~~common motor carrier of~~] household  
11 goods service carrier, concerning the transportation of  
12 household goods by the carrier, the shipper shall be awarded  
13 reasonable attorney fees if:

14 (1) the shipper submits a claim to the carrier  
15 within one hundred twenty days after the date the shipment is  
16 delivered or the date delivery is scheduled, whichever is  
17 later; [~~and~~]

18 (2) the shipper prevails in the court action;  
19 and

20 [~~(3) a dispute settlement program approved~~  
21 ~~under this section was not available for use by the shipper to~~  
22 ~~resolve the dispute; or~~

23 ~~(4)]~~ (3) a decision resolving the dispute was  
24 not rendered under [a] the dispute settlement program [~~approved~~  
25 ~~under this section~~] within sixty days or an extension of the

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1 sixty-day period; or

2 [~~(5)~~] (4) the court proceeding is to enforce a  
3 decision rendered under [a] the dispute settlement program  
4 [~~approved under this section~~] and is instituted after the  
5 period for performance under the decision has elapsed.

6 [F-] D. In a court action to resolve a dispute  
7 between a shipper and a [~~common motor carrier of~~] household  
8 goods service carrier concerning the transportation of  
9 household goods by the carrier, the carrier shall be awarded  
10 reasonable attorney fees by the court only if the shipper  
11 brought the action in bad faith:

12 (1) after resolution of the dispute under [a]  
13 the dispute settlement program [~~approved under this section~~];  
14 or

15 (2) after institution of a proceeding by the  
16 shipper to resolve the dispute under [a] the dispute settlement  
17 program [~~approved under this section~~]; and before:

18 (a) the expiration of the sixty-day  
19 period or extension of the sixty-day period for resolution of  
20 the dispute; and

21 (b) a decision resolving the dispute is  
22 rendered under the program."

23 SECTION 26. Section 65-2A-27 NMSA 1978 (being Laws 2003,  
24 Chapter 359, Section 27) is amended to read:

25 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR

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1 AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

2 A. The commission shall immediately suspend,  
3 without notice or a public hearing, the operating authority of  
4 a motor carrier for failure to continuously maintain the forms  
5 and amounts of financial responsibility prescribed by  
6 commission rule.

7 B. The commission may immediately suspend, without  
8 notice or a public hearing, the operating authority of a motor  
9 carrier for violation of a safety requirement of the Motor  
10 Carrier Act, the commission's rules or the rules of the motor  
11 transportation division of the department of public safety, if  
12 the violation endangers the public health or safety.

13 C. The commission may, upon complaint or the  
14 commission's own initiative and after notice and a public  
15 hearing, if required, order involuntary suspension, revocation  
16 or amendment, in whole or in part, of an operating authority  
17 for failure to:

- 18 (1) comply with a provision of the Motor  
19 Carrier Act;
- 20 (2) comply with a lawful order or rule of the  
21 commission;
- 22 (3) comply with a term [~~condition or~~  
23 ~~limitation~~] of service of an operating authority or tariff; or
- 24 (4) render reasonably continuous and adequate  
25 service under a certificate [~~or permit~~].

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1           D. The commission may approve an application for  
2 reinstatement of an operating authority following involuntary  
3 suspension if it finds, after notice and public hearing  
4 requirements are met, that:

5                   (1) the reasons for the involuntary suspension  
6 no longer pertain; and

7                   (2) the ~~[owner]~~ holder of the operating  
8 authority is fit, ~~[willing]~~ and a certificate holder is able,  
9 to provide the authorized transportation services, and ~~[to]~~ the  
10 holder will comply with the Motor Carrier Act and the rules of  
11 the commission."

12           SECTION 27. Section 65-2A-28 NMSA 1978 (being Laws 2003,  
13 Chapter 359, Section 28) is amended to read:

14                   "65-2A-28. DESIGNATION OF AN AGENT FOR SERVICE OF  
15 PROCESS.--

16           A. An applicant for an operating authority shall  
17 file with the commission an appointment in writing of a  
18 resident agent for service of process. The appointment shall  
19 specify the address of the agent and shall stipulate that  
20 service upon the appointed agent of process of the commission  
21 or of a court shall have the same force and effect as if  
22 service had been made personally upon the motor carrier within  
23 this state. The appointment shall continue in force until the  
24 motor carrier files an appointment of a substitute agent or  
25 until liability against the motor carrier growing out of its

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1 operations in the state has terminated. A copy of the  
2 appointment, duly certified by the commission, shall be  
3 accepted as sufficient evidence of appointment of an agent in a  
4 court of the state.

5 B. If [~~a motor carrier owning~~] the holder of an  
6 operating authority from the commission operates without  
7 appointing a resident agent for service of process, or the  
8 commission has unsuccessfully attempted to serve process upon  
9 the designated resident agent, the [~~motor carrier~~] holder shall  
10 be deemed to have appointed the secretary of state as its  
11 resident agent for service of process in an action or  
12 proceeding against the motor carrier growing out of an  
13 accident, collision or transaction in which the motor carrier  
14 may be involved by operating in this state.

15 C. If the secretary of state is served with process  
16 directed to [~~a motor carrier owning~~] the holder of an operating  
17 authority from the commission, the secretary of state shall  
18 forward the process by certified mail to the motor carrier at  
19 the address shown on its last change of address report, annual  
20 report or application with respect to its operating authority,  
21 whichever is most recent. The secretary of state shall file a  
22 certificate of service with the commission, which shall be  
23 accepted as prima facie proof of service.

24 D. The secretary of state shall assess to the motor  
25 carrier the fee prescribed in Section [~~36 of the Motor Carrier~~

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1 ~~Act]~~ 65-2A-36 NMSA 1978 for a process from a court served upon  
2 the secretary of state but shall not charge a fee for service  
3 of commission process.

4 E. The principal motor carrier of a household goods  
5 agent shall be deemed to be the agent for service of process of  
6 the household goods agent unless the household goods agent  
7 notifies the commission in writing of the substitution of  
8 another agent for service of process."

9 SECTION 28. Section 65-2A-29 NMSA 1978 (being Laws 2003,  
10 Chapter 359, Section 29) is amended to read:

11 "65-2A-29. REPORTS AND RECORDS.--

12 A. The commission shall establish reasonable  
13 requirements with respect to reports, records and uniform  
14 systems of accounts and preservation of records for motor  
15 carriers.

16 B. The commission may require [~~a motor carrier~~  
17 ~~owning~~] any holder of an operating authority from the  
18 commission or any lessee of an authority to prepare and  
19 transmit to the commission an annual report of its operations.  
20 The report shall be in the form, contain specific information,  
21 including financial information, and be due on a date as the  
22 commission may by rule require. Financial data filed by motor  
23 carriers in annual reports shall not be made available for  
24 inspection by the public.

25 C. The commission or its employees or duly

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1 authorized agents shall, at all times, have access to:

2 (1) land, buildings, improvements to real  
3 property and equipment of motor carriers used in connection  
4 with their operations; and

5 (2) records kept by motor carriers.

6 D. The commission may, by order, require a motor  
7 carrier subject to the Motor Carrier Act, or its officers or  
8 agents, to produce within this state at such reasonable time  
9 and place as it may designate, original or certified copies of  
10 records regardless of where they are kept by the motor carrier  
11 when their production is pertinent to a matter before the  
12 commission, in order that the commission may examine them. No  
13 trade secret or business confidentiality immunity or privilege  
14 shall be asserted by the motor carrier in response to such an  
15 order or request.

16 E. The motor transportation division of the  
17 department of public safety shall furnish to the commission all  
18 information needed or required by the commission to carry out  
19 its responsibilities when the information is obtainable only  
20 through field enforcement.

21 F. All applications, protests, objections,  
22 amendments to filings, operating authorities, tariffs,  
23 pleadings or any other documents filed in docketed proceedings  
24 not subject to confidentiality orders are public records and  
25 shall, as soon as practical, be made electronically available

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1 to the public."

2 SECTION 29. Section 65-2A-30 NMSA 1978 (being Laws 2003,  
3 Chapter 359, Section 30) is amended to read:

4 "65-2A-30. UNAUTHORIZED CARRYING OF PERSONS PROHIBITED.--  
5 ~~[A motor]~~ Except in the case of an emergency, a transportation  
6 service carrier not authorized to transport [persons]  
7 passengers shall not carry a [person] passenger, including a  
8 hitchhiker, except on-duty employees of the motor carrier or  
9 commission representatives on official business [or in case of  
10 an emergency] in a vehicle used in the provision of  
11 transportation service under its operating authority."

12 SECTION 30. Section 65-2A-33 NMSA 1978 (being Laws 2003,  
13 Chapter 359, Section 33) is amended to read:

14 "65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE  
15 PRACTICES.--

16 A. A person who knowingly makes a false statement  
17 of material fact under oath or penalty of perjury in a  
18 commission proceeding, whether orally or in writing, or who  
19 knowingly makes a false statement of material fact or  
20 misrepresents the person's identity by executing a verified  
21 signature on a document submitted to the commission, shall be  
22 guilty of perjury.

23 B. A person who willfully makes a false return of  
24 process or report to the commission or a member or employee of  
25 the commission, and a person who knowingly aids or abets a

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1 person who willfully makes a false return of process or report  
2 to the commission or a member or employee of the commission,  
3 shall be guilty of a felony, and upon conviction shall be  
4 imprisoned for not more than five years.

5 C. A person who willfully makes a false entry in  
6 records required by the Motor Carrier Act or the rules of the  
7 commission, willfully destroys, mutilates or by other means  
8 willfully falsifies the records or willfully neglects or fails  
9 to make full, true and correct entries of all facts, shall be  
10 guilty of a felony and upon conviction shall be imprisoned for  
11 not more than five years.

12 D. An employee of the commission who divulges  
13 information about an inspection, examination or investigation  
14 of a record or of the property and facilities of a motor  
15 carrier, except insofar as may be authorized by the commission  
16 or a court of competent jurisdiction, shall be guilty of a  
17 misdemeanor and upon conviction shall be fined not more than  
18 one thousand dollars (\$1,000).

19 E. A person who violates or who procures, aids or  
20 abets in the violation of a provision of the Motor Carrier Act  
21 or a rule or order of the commission shall be guilty of a  
22 misdemeanor and upon conviction shall be fined not more than  
23 one thousand dollars (\$1,000), imprisoned for not more than  
24 ninety days, or both.

25 F. A motor carrier shall be guilty of a misdemeanor

.191642.2

1 and upon conviction shall be fined not more than five hundred  
2 dollars (\$500), imprisoned for not more than six months, or  
3 both, if the motor carrier:

4 (1) refuses to permit examination of its  
5 records;

6 (2) conceals, destroys or mutilates its  
7 records;

8 (3) attempts to conceal, destroy or mutilate  
9 its records; or

10 (4) removes its records beyond the limits of  
11 the state for the purpose of preventing examination.

12 G. A person who commits weight-bumping shall be  
13 guilty of a felony and upon conviction shall be fined not less  
14 than one thousand dollars (\$1,000) nor more than ten thousand  
15 dollars (\$10,000), imprisoned for not more than two years, or  
16 both.

17 H. A person shall be assessed a civil penalty of  
18 not more than two thousand dollars (\$2,000) for each violation  
19 and not more than five thousand dollars (\$5,000) for each  
20 subsequent violation if the person knowingly engages in or  
21 authorizes an agent or other person to:

22 (1) falsify the documents used in the  
23 transportation of household goods that evidence the weight of  
24 shipment; or

25 (2) charge for accessorial services that are

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1 not performed, or for which the carrier is not entitled to be  
2 compensated, in a case in which such services are not  
3 reasonably necessary for the safe and adequate transportation  
4 of the shipment.

5 I. A law enforcement officer of the state shall  
6 arrest and the district attorney and attorney general shall  
7 prosecute a violation of the Motor Carrier Act.

8 J. It is an unfair and deceptive trade practice  
9 under the Unfair Practices Act for any transportation service  
10 carrier to offer or provide transportation services of a type  
11 for which, or in any territory in which, it is not authorized  
12 to do so by the commission. The attorney general or a person  
13 who has been damaged or who is likely to be damaged as the  
14 result of such unauthorized service, including an authorized  
15 transportation service carrier whose operating authority allows  
16 it to provide a similar transportation service within the  
17 territory where the unauthorized service is provided, may bring  
18 an action pursuant to the Unfair Practices Act against the  
19 transportation service carrier regarding such unauthorized  
20 service. Any such civil action shall be in addition to, and  
21 shall not bar, any investigation or civil or criminal  
22 enforcement action regarding the unauthorized service available  
23 to the attorney general or a district attorney, or available to  
24 the commission under the Motor Carrier Act.

25 K. It is an unfair and deceptive trade practice

.191642.2

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1 under the Unfair Practices Act for any transportation service  
2 carrier or its licensee, employee or agent to charge or collect  
3 a predatory rate or to undertake a predatory practice in the  
4 provision of transportation services. The attorney general or  
5 a person who has been damaged or who is likely to be damaged as  
6 the result of a predatory rate or practice may bring an action  
7 pursuant to the Unfair Practices Act against the transportation  
8 service carrier regarding such predatory rate or practice. Any  
9 such civil action shall be in addition to, and shall not bar,  
10 any investigation or civil or criminal enforcement action  
11 regarding the predatory rate or practice available to the  
12 attorney general or a district attorney, or available to the  
13 commission under the Motor Carrier Act."

14 SECTION 31. Section 65-2A-36 NMSA 1978 (being Laws 2003,  
15 Chapter 359, Section 36) is amended to read:

16 "65-2A-36. FEES.--

17 A. The commission shall charge and collect the  
18 following fees:

19 (1) for filing an application for a  
20 certificate [~~as an intrastate common motor carrier of persons~~  
21 ~~or household goods~~] or an application for an amendment of a  
22 certificate, or for any protest or permissive intervention in  
23 regard to such application, two hundred fifty dollars (\$250);

24 (2) for filing an application for a permit [~~as~~  
25 ~~an intrastate contract motor carrier of persons or household~~

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1 ~~goods]~~ or an application for amendment of a permit, or for any  
2 protest or permissive intervention in regard to such  
3 application, two hundred fifty dollars (\$250);

4 (3) for filing an application for a warrant  
5 [~~as an intrastate commuter service, charter service, towing~~  
6 ~~service or motor carrier of property~~], twenty-five dollars  
7 (\$25.00);

8 (4) for filing an application or motion for  
9 [~~intrastate~~] temporary authority [~~as a common or contract motor~~  
10 ~~carrier of persons or household goods~~], one hundred dollars  
11 (\$100);

12 [~~(5)~~] ~~for filing an application for extension~~  
13 ~~of temporary authority, fifty dollars (\$50.00);~~

14 ~~(6)]~~ (5) for filing an application for a  
15 change in [~~an intrastate~~] a tariff for a tariffed service  
16 carrier, two hundred dollars (\$200);

17 [~~(7)]~~ (6) for filing an application for lease  
18 or transfer of a certificate or permit, or for any protest or  
19 permissive intervention in regard to such application, two  
20 hundred dollars (\$200);

21 [~~(8)]~~ (7) for filing an application for  
22 reinstatement of a certificate or permit following voluntary or  
23 involuntary suspension, one hundred dollars (\$100);

24 [~~(9)]~~ (8) for filing an application for  
25 voluntary suspension of a certificate or permit, fifteen

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1 dollars (\$15.00);

2 [~~(10)~~] (9) for filing an application for a  
3 single trip ticket, five dollars (\$5.00) per vehicle per trip;

4 [~~(11)~~] ~~for a single state registration receipt~~  
5 ~~for interstate motor carriers, ten dollars (\$10.00) per vehicle~~  
6 ~~per registration year or portion of a registration year;~~

7 ~~(12)~~] (10) for filing a change [~~of name~~] in  
8 the legal name of any holder of an operating authority, or a  
9 change of business trade name or the addition or deletion of a  
10 business trade name of any holder or lessee of an operating  
11 authority, ten dollars (\$10.00);

12 [~~(13)~~] ~~for filing proof of financial~~  
13 ~~responsibility, fifteen dollars (\$15.00) per filing;~~

14 ~~(14)~~] (11) for filing an equipment lease, five  
15 dollars (\$5.00) per vehicle leased;

16 [~~(15)~~] (12) for a miscellaneous filing, five  
17 dollars (\$5.00) per document;

18 [~~(16)~~] (13) for certifying copies of a record,  
19 order or operating authority, [~~fifteen dollars (\$15.00)~~] the  
20 charge per page provided by law for governmental agencies;

21 [~~(17)~~] (14) for copies of written commission  
22 documents or records, [~~one dollar (\$1.00) per page~~] the charge  
23 per page provided by law for governmental agencies, in addition  
24 to any applicable certification charge; and

25 [~~(18)~~] (15) for copies of other commission

.191642.2

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1 records, including electronic media, an amount set by the  
2 commission, in addition to any applicable certification charge.

3 B. The secretary of state shall charge and collect  
4 a fee of four dollars (\$4.00) for each process from a court  
5 served upon the secretary of state as the designated agent for  
6 service of process by operation of law.

7 C. The "motor transportation fee fund" is created  
8 in the state treasury. The commission shall collect all fees  
9 at the time an application is filed or service is provided, and  
10 shall remit them to the state treasurer, who shall deposit them  
11 in the fund. At the end of each month, the state treasurer  
12 shall transfer the unencumbered balance in the fund to the  
13 state road fund.

14 D. If a fee has been erroneously paid, the person  
15 having paid the fee may apply for a refund in writing to the  
16 commission no later than sixty days after the erroneous  
17 payment. Upon approval of the application by the commission,  
18 the amount erroneously paid shall be refunded from the motor  
19 transportation fee fund to the person who made the payment.

20 E. An application shall be fully completed within  
21 sixty days or the fee submitted with the application shall be  
22 forfeited to the state. If the applicant renews the  
23 application, ~~[he]~~ the applicant shall pay the applicable fee."

24 SECTION 32. Section 65-2A-37 NMSA 1978 (being Laws 2003,  
25 Chapter 359, Section 37) is amended to read:

.191642.2

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1 "65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF  
2 DOCUMENTS--ELECTRONIC PAYMENT OF FEES.--

3 A. The commission may adopt rules permitting the  
4 electronic filing, submission and service of documents by  
5 facsimile, electronic mail or other electronic transmission,  
6 including original documents, and the certification of  
7 electronically filed documents when filing or certification is  
8 required or permitted pursuant to the Motor Carrier Act. The  
9 rules shall provide for the appropriate treatment of electronic  
10 filings to satisfy requirements for original documents or  
11 copies and shall provide the requirements for signature with  
12 respect to electronic filings. If the commission accepts  
13 electronic filing of a document, it may accept for filing a  
14 document containing [~~a copy of~~] a signature line, however made.

15 B. The commission may accept a credit or debit card  
16 or other means of payment, in lieu of cash or check, as payment  
17 of a fee pursuant to the Motor Carrier Act. The commission  
18 shall determine those credit or debit cards or other means of  
19 payment that may be accepted for payment."

20 SECTION 33. Section 65-2A-38 NMSA 1978 (being Laws 2003,  
21 Chapter 359, Section 38) is amended to read:

22 "65-2A-38. EXEMPTIONS.--The Motor Carrier Act shall not  
23 apply to:

24 A. school buses, provided that school buses shall  
25 be subject to applicable school bus safety provisions

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1 established by the state transportation director;

2 B. United States mail carriers, unless they are  
3 engaged in other business as ~~[common or contract]~~ motor  
4 carriers of persons or household goods;

5 C. hearses, funeral coaches or other motor vehicles  
6 belonging to or operated in connection with the business of a  
7 funeral service practitioner licensed by the state;

8 D. a county or municipal public bus transportation  
9 system; or

10 E. private carriers."

11 SECTION 34. Section 65-2A-40 NMSA 1978 (being Laws 2003,  
12 Chapter 359, Section 40) is amended to read:

13 "65-2A-40. TRANSITION.--

14 A. ~~[A certificate of public convenience and~~  
15 ~~necessity and a permit]~~ Except as provided in this section,  
16 certificates, permits and warrants issued to ~~[an intrastate]~~ a  
17 motor carrier ~~[of persons or household goods]~~ by the commission  
18 ~~[under the authority of previous acts]~~ prior to July 1, 2013  
19 shall remain in effect, subject to the provisions of the Motor  
20 Carrier Act and the commission's rules.

21 ~~[B. A certificate of public convenience and~~  
22 ~~necessity and a permit issued to an intrastate motor carrier of~~  
23 ~~property by the commission under the authority of previous acts~~  
24 ~~shall become null and void on July 1, 2003. The commission~~  
25 ~~shall issue a warrant to an intrastate motor carrier of~~

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1 ~~property upon surrender of its certificate of public~~  
2 ~~convenience and necessity or permit if, as of June 30, 2003,~~  
3 ~~the motor carrier has valid proof of financial responsibility~~  
4 ~~and current vehicle inspection certificates on file with the~~  
5 ~~commission. The commission shall not charge the warrant~~  
6 ~~application fee prescribed in Section 36 of the Motor Carrier~~  
7 ~~Act.~~

8 ~~G. A certificate of registration issued to a~~  
9 ~~commuter vanpool or farm carrier by the commission under the~~  
10 ~~authority of previous acts shall become null and void on July~~  
11 ~~1, 2003. The commission shall issue a warrant to a commuter~~  
12 ~~service or motor carrier of property, commuter vanpool or farm~~  
13 ~~carrier under previous acts upon surrender of its certificate~~  
14 ~~of registration if, as of June 30, 2003, the motor carrier has~~  
15 ~~valid proof of financial responsibility and current vehicle~~  
16 ~~inspection certificates on file with the commission. The~~  
17 ~~commission shall not charge the warrant application fee~~  
18 ~~prescribed in Section 36 of the Motor Carrier Act.~~

19 ~~D. A warrant issued to an intrastate charter~~  
20 ~~service or a motor carrier of property by the commission~~  
21 ~~pursuant to its rules shall remain in effect, subject to the~~  
22 ~~provisions of the Motor Carrier Act and the commission's~~  
23 ~~rules.]~~

24 B. Certificates for limousine service and for tour  
25 and sightseeing service issued prior to July 1, 2013 shall, on

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1 and after that date, become certificates for specialized  
2 passenger service endorsed for nature of service as provided by  
3 commission rule. The commission may require holders of such  
4 certificates to exchange their certificates for newly issued  
5 certificates.

6 C. Each certificate for ambulance service issued  
7 prior to July 1, 2013 shall become void on and after that date  
8 and shall be surrendered and replaced by a certificate for  
9 ambulance service endorsed for the same territory and with the  
10 same additional terms of service as in the pre-existing  
11 certificate, but endorsed also for nature of service as a  
12 911-dispatch ambulance service or a general ambulance service  
13 or both, depending on the actual nature of service provided by  
14 the holder within the certificated territory directly or under  
15 lease of the certificate continuously for the immediately prior  
16 twelve-month period. The commission may provide for reasonable  
17 procedures regarding replacement of certificates and  
18 nature-of-service endorsements and shall issue new certificates  
19 effective on July 1, 2013.

20 D. Each certificate for taxicab service issued  
21 prior to July 1, 2013 shall become void on and after that date  
22 and shall be replaced by a certificate for taxicab service  
23 endorsed for the same territory and with the same additional  
24 terms of service as in the pre-existing certificate, but  
25 endorsed also for nature of service as a municipal taxicab

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1 service or a general taxicab service or both, depending on the  
2 actual nature of service provided by the holder within the  
3 certificated territory directly or under lease of the  
4 certificate continuously for the immediately prior twelve-month  
5 period, in which case the holder shall be issued a certificate  
6 endorsed for municipal taxicab service within such territory  
7 and endorsed for general taxicab service for any remainder of  
8 its certificated territory. The commission may provide for  
9 reasonable procedures regarding replacement of certificates and  
10 nature-of-service endorsements and shall issue new certificates  
11 effective on July 1, 2013.

12 E. Each certificate for shuttle service, terminal  
13 shuttle service, shared-ride service and bingo bus service  
14 issued prior to July 1, 2013 shall become void on and after  
15 that date and shall be replaced by a certificate for shuttle  
16 service endorsed for the same territory and with the same  
17 additional terms of service as in the pre-existing certificate,  
18 but endorsed also for nature of service as a scheduled shuttle  
19 service or a general shuttle service or both, depending on the  
20 actual nature of service provided by the holder within the  
21 certificated terminal territory or portion thereof directly or  
22 under lease of the certificate continuously for the immediately  
23 prior twelve-month period, in which case the holder shall be  
24 issued a certificate endorsed for scheduled shuttle service  
25 within such territory and endorsed for general shuttle service

.191642.2

1 for any remainder of its certificated territory. The  
2 commission may provide by order for reasonable procedures  
3 regarding replacement of certificates and nature-of-service  
4 endorsements and shall issue new certificates effective on July  
5 1, 2013."

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