

1 SENATE BILL 160

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Steven P. Neville and Peter Wirth

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10 AN ACT

11 RELATING TO PUBLIC SERVICE COMPANY REGULATION; TRANSFERRING
12 RESPONSIBILITY FOR TRANSPORTATION REGULATION FROM THE PUBLIC
13 REGULATION COMMISSION TO THE DEPARTMENT OF TRANSPORTATION,
14 INCLUDING MOTOR CARRIER REGULATION AND ENFORCEMENT, RAILROAD
15 SAFETY ENFORCEMENT AND AMBULANCE STANDARDS; TRANSFERRING
16 PERSONNEL, FUNCTIONS, MONEY, APPROPRIATIONS, OTHER PROPERTY AND
17 CONTRACTUAL OBLIGATIONS; CHANGING REFERENCES IN LAW;
18 ELIMINATING FROM THE MOTOR CARRIER ACT REDUNDANT PERMITS FOR
19 TRANSPORTATION OF PASSENGERS OR HOUSEHOLD GOODS PURSUANT TO A
20 CONTRACT; REMOVING OUTDATED REFERENCES IN THE AVIATION ACT AND
21 THE RURAL AIR SERVICE ENHANCEMENT ACT; REPEALING PROVISIONS
22 RELATING TO AVIATION COMMON CARRIERS AND AIR TRAFFIC RULES;
23 AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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1 SECTION 1. [NEW MATERIAL] DEPARTMENT OF TRANSPORTATION--
2 POWERS AND DUTIES--COMMON CARRIERS.--

3 A. With respect to common carriers, the department
4 of transportation shall:

5 (1) fix, determine, supervise, regulate and
6 control all charges and rates of railway, express, sleeping car
7 and other transportation companies and common carriers within
8 the state;

9 (2) determine any matters of public
10 convenience and necessity with respect to matters subject to
11 its regulatory authority as provided by law;

12 (3) require railway companies and other common
13 carriers to provide and maintain adequate equipment, depots,
14 stock pens, station buildings, agents and facilities for the
15 accommodation of shippers and passengers and for receiving and
16 delivering freight and express and to provide and maintain
17 necessary crossings, culverts, sidings and other facilities for
18 convenience and safety whenever in the department's judgment
19 the public interest demands;

20 (4) require railway companies, transportation
21 companies and common carriers to provide such reasonable safety
22 appliances and use such reasonable safety practices as may be
23 necessary and proper for the safety of employees and the public
24 as required by federal or state laws and rules;

25 (5) change, amend and rescind rates;

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1 (6) enforce its rules through administrative
2 sanctions and in the courts; and

3 (7) carry out all other duties and have all
4 other powers provided by law.

5 B. The department of transportation may subpoena
6 witnesses and documents, enforce its subpoenas through any
7 court and, through the court, punish for contempt.

8 C. The department of transportation has the power,
9 after notice and hearing of record, to determine and decide any
10 question and to issue orders relating to its powers and duties.

11 D. An interested party may appeal from a final
12 order of the department of transportation by filing a notice of
13 appeal with the supreme court asking for review of the order
14 within thirty days of the final order. The appellant shall pay
15 to the department any costs of preparing and transmitting the
16 record to the court.

17 E. The pendency of an appeal shall not
18 automatically stay the order appealed from. The appellant may
19 seek to obtain a stay from the department of transportation or
20 the supreme court.

21 F. The appeal shall be on the record of the hearing
22 before the department of transportation and shall be governed
23 by the appellate rules applicable to administrative appeals.
24 The supreme court shall affirm the department's order unless it
25 is:

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1 (1) arbitrary, capricious or an abuse of
2 discretion;

3 (2) not supported by substantial evidence in
4 the record; or

5 (3) otherwise not in accordance with law.

6 G. In the case of a failure or refusal of a person
7 to comply with an order of the department of transportation
8 within the time prescribed in the order or within thirty days
9 after the order is entered, whichever is later, unless a stay
10 has been granted, the department shall seek enforcement of the
11 order in the district court. The enforcement hearing shall be
12 held on an expedited basis. At the hearing, the sole question
13 shall be whether the person has failed to comply with or
14 violated the order.

15 SECTION 2. [NEW MATERIAL] DEPARTMENT OF TRANSPORTATION
16 MAY INSPECT BOOKS AND RECORDS.--The department of
17 transportation or person authorized by the department in
18 writing under its seal to make an examination shall have the
19 right at all times to inspect the books, papers and records of
20 all such companies and common carriers doing business in this
21 state relating to any matter pending before or being
22 investigated by the department. Any officer, agent or employee
23 of any such company or corporation or any person in charge of
24 such books, papers and records who refuses to permit
25 examination or who conceals, destroys or mutilates or attempts

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1 to conceal, destroy or mutilate any such books, papers or
2 records or remove the same beyond the limits of the state for
3 the purpose of preventing examination shall be deemed guilty of
4 a misdemeanor and upon conviction may be fined not to exceed
5 five hundred dollars (\$500) or imprisoned in the county jail
6 not more than six months.

7 SECTION 3. [NEW MATERIAL] CARRIER INSPECTION--FEE.--

8 A. Each carrier doing business in this state that
9 is subject to the control and jurisdiction of the department of
10 transportation with respect to its rates and service shall pay
11 annually to the department a fee in performance of its duties
12 as now provided by law. The fee for carriers shall not exceed
13 two hundred fifty-six thousandths percent of its gross receipts
14 from business transacted in New Mexico for the preceding
15 calendar year. This sum shall be payable annually on or before
16 April 1 in each year. No similar fee shall be imposed upon the
17 carrier. In the case of carriers engaged in interstate
18 business, the fees shall be measured by the gross receipts of
19 the carriers from intrastate business only for the preceding
20 calendar year and not in any respect upon receipts derived
21 wholly or in part from interstate business.

22 B. When a fee is not paid on the date it is due,
23 interest shall be paid to the state on the amount due. The
24 interest on the amount due shall start to accrue on the day
25 following the due date and shall continue to accrue until the

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1 total amount due is paid. The rate of interest on a late fee
2 payment shall be fifteen percent per year, computed at the rate
3 of one and one-fourth percent per month.

4 C. In addition to any interest due on a late fee
5 payment, a penalty shall be paid to the state for failure to
6 pay the fee when it is due. The penalty imposed shall be two
7 percent of the amount of the fee due.

8 D. The attorney general, in the name of the state,
9 shall bring suit to collect fees, interest and penalties that
10 remain unpaid.

11 SECTION 4. [NEW MATERIAL] DISPOSITION OF FEES.--All money
12 collected under the provisions of Section 3 of this 2023 act
13 shall be deposited with the state treasurer who shall credit it
14 to the general fund.

15 SECTION 5. [NEW MATERIAL] EXEMPTIONS.--The provisions of
16 Section 3 of this 2023 act shall not apply to common or
17 contract motor carriers or aircraft carriers transporting
18 passengers or property for hire.

19 SECTION 6. Section 5-1-1 NMSA 1978 (being Laws 1967,
20 Chapter 167, Section 1, as amended) is amended to read:

21 "5-1-1. POLITICAL SUBDIVISIONS--AMBULANCE SERVICE.--

22 A. A municipality or county may:

23 [~~A.~~] (1) provide ambulance service to
24 transport sick or injured persons to a place of treatment in
25 the absence of an established ambulance service only as

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1 authorized by the [~~state corporation commission~~] department of
2 transportation;

3 [B.] (2) contract with other political
4 subdivisions or with private ambulance services for the
5 operation of its ambulance service;

6 [C.] (3) lease ambulances and other equipment
7 necessary to the operation of its ambulance service;

8 [D.] (4) in the course of its operation of an
9 ambulance service, proceed to the scene of a disaster beyond
10 its subdivision boundaries when requested, providing no local
11 established ambulance service is available or, if one exists,
12 such local ambulance service deems [~~their~~] its capacity
13 inadequate or insufficient for emergency transportation of the
14 disaster victims; and

15 [E.] (5) transport sick or injured persons
16 from the subdivision boundaries to any place of treatment
17 [~~and~~].

18 [F.] B. No personal action shall be maintained in
19 any court of this state against any member or officer of a
20 political subdivision for any tort or act done, or attempted to
21 be done, when done by the authority of the political
22 subdivision or in execution of its orders under this section.
23 In all such cases, political subdivisions shall be responsible.
24 Any member or officer of the political subdivision may plead
25 the provisions of this section in bar of such action whether it

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1 is now pending or hereafter commenced."

2 SECTION 7. Section 7-24A-4 NMSA 1978 (being Laws 1978,
3 Chapter 182, Section 4) is amended to read:

4 "7-24A-4. LIMITATIONS ON POWER.--

5 A. All contracts for work, material or labor in
6 connection with such transportation shall be let in the manner
7 provided by law for the letting of other contracts by the
8 county or municipality.

9 B. Transit service may not be extended to points
10 outside the county in which a city is located or outside the
11 boundaries of the county unless prior approval is obtained from
12 the [~~state corporation commission~~] department of transportation
13 and other regulatory bodies having jurisdiction in the matter."

14 SECTION 8. Section 22-17-1 NMSA 1978 (being Laws 1974,
15 Chapter 38, Section 1) is amended to read:

16 "22-17-1. SHORT TITLE.-- [~~Sections 1 through 4 of this~~
17 ~~act~~] Chapter 22, Article 17 NMSA 1978 may be cited as the
18 "Emergency Transportation Act"."

19 SECTION 9. Section 22-17-2 NMSA 1978 (being Laws 1974,
20 Chapter 38, Section 2, as amended) is amended to read:

21 "22-17-2. [~~PUBLIC REGULATION COMMISSION~~] DEPARTMENT OF
22 TRANSPORTATION PERMITS.--

23 A. Subject to the Emergency Transportation Act, the
24 [~~public regulation commission~~] department of transportation may
25 approve a permit application of a school district operating its

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1 own school buses or of an independent school bus operator who
2 operates school buses under contract with a school district for
3 the operation of such buses for general public transportation
4 if the [~~commission~~] department of transportation determines
5 that:

6 (1) the school district operating its own
7 school buses or the independent school bus operator has
8 complied with laws, regulations and other requirements
9 governing transportation of the general public;

10 (2) existing public or private transportation
11 systems will not be adversely affected by the use of school
12 buses for general public transportation; and

13 (3) a public transportation emergency exists
14 within the proposed area of operation necessitating the use of
15 school buses for general public transportation.

16 B. Notice of approval or denial of the permit
17 application shall be submitted to the state transportation
18 director and to the applicant within ten days of final
19 determination by the [~~public regulation commission~~] department
20 of transportation.

21 C. As used in the Emergency Transportation Act,
22 "public transportation emergency" includes an event:

23 (1) that is open to the public;

24 (2) that, if in a class A county, is expected
25 to attract over fifty thousand visitors and residents;

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1 (3) that has such insurance or surety as is
2 necessary to insure against all losses and damages proximately
3 caused by or resulting from the negligent operation,
4 maintenance or use of school buses or for loss of or damage to
5 property of others; and

6 (4) for which school buses are needed to
7 transport the public to the event because:

8 (a) existing public transportation
9 systems cannot adequately and timely transport the public to
10 the event;

11 (b) private transportation systems are
12 unavailable or prohibitively expensive; or

13 (c) the event and the surrounding area
14 are likely to suffer economic hardship if school buses are
15 not utilized pursuant to the Emergency Transportation Act."

16 SECTION 10. Section 22-17-3 NMSA 1978 (being Laws 1974,
17 Chapter 38, Section 3) is amended to read:

18 "22-17-3. STATE TRANSPORTATION DIRECTOR--APPROVAL.--

19 A. Upon the receipt of approval of the permit
20 application from the [~~state corporation commission~~] department
21 of transportation, the state transportation director may grant
22 a permit to operate school buses for general public
23 transportation to a school district that operates its own
24 school buses or to the independent school bus operator who
25 operates school buses under contract with a school district if

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1 [he] the director determines that:

2 (1) [~~that~~] school bus service to students will
3 not be adversely affected by [~~issuing~~] issuance of the permit;

4 (2) [~~that~~] the operation of [~~such~~] school
5 buses for general public transportation service by the school
6 district or the independent operator will not provide
7 unnecessary duplication of a general public transportation
8 service by school buses of another school district or
9 independent school bus operator contracting with another school
10 district; and

11 (3) [~~that~~] there has been compliance with the
12 rules and regulations of the state transportation director
13 issued pursuant to the Emergency Transportation Act.

14 B. The state transportation director subject to the
15 approval of the [~~state superintendent of public instruction~~]
16 secretary shall by regulation provide for application fees,
17 forms and permit procedures pursuant to the Emergency
18 Transportation Act.

19 C. A permit issued under this section shall be
20 valid for one year and shall be annually renewed upon payment
21 of a reasonable application fee to the state transportation
22 division and certification by the [~~state corporation~~
23 ~~commission~~] department of transportation of the permittee's
24 compliance with all applicable laws. Notice of renewal of the
25 permit shall be delivered by the state transportation division

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1 to the [~~state corporation commission~~] department of
2 transportation and the local school board concerned."

3 SECTION 11. Section 22-17-4 NMSA 1978 (being Laws 1974,
4 Chapter 38, Section 4) is amended to read:

5 "22-17-4. TERMINATION OF PERMIT.--A permit issued
6 pursuant to the Emergency Transportation Act shall be
7 terminated by the state transportation director upon thirty
8 days' written notice to the holder of the permit if the state
9 transportation director receives written notice from:

10 A. the [~~state corporation commission~~] department of
11 transportation that it has determined that a public
12 transportation emergency in the area in which the permittee
13 provides general public transportation no longer exists or that
14 public or private transportation systems are being adversely
15 affected in [~~such~~] the area; or

16 B. the local school board that [~~such~~] the local
17 school board has determined that school bus service to students
18 is being adversely affected by providing general public
19 transportation under the permit."

20 SECTION 12. Section 24-10B-4 NMSA 1978 (being Laws 1983,
21 Chapter 190, Section 4, as amended) is amended to read:

22 "24-10B-4. BUREAU--DUTIES.--The bureau is designated as
23 the lead agency for the emergency medical services system,
24 including injury prevention, and shall establish and maintain a
25 program for regional planning and development, improvement,

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1 expansion and direction of emergency medical services
2 throughout the state, including:

3 A. design, development, implementation and
4 coordination of emergency medical services communications
5 systems to join the personnel, facilities and equipment of a
6 given region or system that will allow for medical direction;

7 B. provision of technical assistance to the ~~[public~~
8 ~~regulation commission]~~ department of transportation for further
9 development and implementation of standards for certification
10 of ambulance services, vehicles and equipment;

11 C. development of requirements for the collection
12 of data and statistics to evaluate the availability, operation
13 and quality of providers in the state;

14 D. adoption of rules for emergency medical services
15 medical direction upon the recommendation of the medical
16 direction committee;

17 E. approval of continuing education programs for
18 emergency medical services personnel;

19 F. adoption of rules pertaining to the training and
20 licensure of emergency medical dispatchers and their
21 instructors;

22 G. adoption of rules based upon the recommendations
23 of a trauma advisory committee, for implementation and
24 monitoring of a statewide, comprehensive trauma care system,
25 including:

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1 (1) minimum standards for designation or
2 retention of designation as a trauma center or a participating
3 trauma facility;

4 (2) pre-hospital care management guidelines
5 for the triage and transportation of traumatized persons;

6 (3) establishment for interfacility transfer
7 criteria and transfer agreements;

8 (4) standards for collection of data relating
9 to trauma system operation, patient outcome and trauma
10 prevention; and

11 (5) creation of a state trauma care plan;

12 H. adoption of rules, based upon the
13 recommendations of the air transport advisory committee, for
14 the certification of air ambulance services;

15 I. adoption of rules pertaining to authorization of
16 providers to honor advance directives, such as emergency
17 medical services do not resuscitate forms, to withhold or
18 terminate care in certain pre-hospital or interfacility
19 circumstances, as guided by local medical protocols;

20 J. operation of a critical incident stress
21 management program for emergency providers utilizing
22 specifically trained volunteers who shall be considered public
23 employees for the purposes of the Tort Claims Act when called
24 upon to perform their duties;

25 K. adoption of rules to establish a cardiac arrest

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1 targeted response program pursuant to the Cardiac Arrest
2 Response Act, including registration of automated external
3 defibrillator programs, maintenance of equipment, data
4 collection, approval of automated external defibrillator
5 training programs and a schedule of automated external
6 defibrillator program registration fees;

7 L. adoption of rules for the administration of an
8 emergency medical services certification program for certified
9 emergency medical services; and

10 M. promoting, developing, implementing,
11 coordinating and evaluating risk reduction and injury
12 prevention systems."

13 SECTION 13. Section 24-15-4 NMSA 1978 (being Laws 1969,
14 Chapter 218, Section 4, as amended) is amended to read:

15 "24-15-4. INSURANCE.--

16 A. Every ski area operator shall file with the
17 [~~state corporation commission~~] department of transportation and
18 keep on file [~~therewith~~] with the department proof of financial
19 responsibility in the form of a current insurance policy in a
20 form approved by the [~~commission~~] department, issued by an
21 insurance company authorized to do business in the state and
22 conditioned to pay, within the limits of liability [~~herein~~]
23 prescribed in this section, all final judgments for personal
24 injury or property damage proximately caused by or resulting
25 from negligence of the ski area operator covered [~~thereby~~] by

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1 the policy, as such negligence is defined and limited by the
2 Ski Safety Act. The minimum limits of liability insurance to
3 be provided by ski area operators shall be as follows:

4 SKI SAFETY ACT

5 LIABILITY INSURANCE

6 LIMITS OF LIABILITY

7 REQUIRED MINIMUM COVERAGES

8 FOR INJURIES, DEATH OR DAMAGES

9 LIMITS FOR BODILY

10 INJURY TO OR DEATH

11 LIMITS FOR BODILY OF ALL PERSONS

12	KIND AND NUMBER	INJURY TO OR DEATH	INJURED OR KILLED	PROPERTY
13	OF LIFTS OPERATED	OF ONE PERSON	IN ANY ONE ACCIDENT	DAMAGE

14 Not more than

15	three surface lifts	\$ 100,000	\$ 300,000	\$ 5,000
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16 Not more than

17 three ski lifts,

18 including one or more

19	chair lifts	250,000	500,000	25,000
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20 More than three

21 ski lifts or one

22	or more tramways	500,000	1,000,000	50,000.
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23 B. No ski lift or tramway shall be operated in this
24 state after the effective date of the Ski Safety Act unless a
25 current insurance policy as required ~~herein~~ by this section

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1 is in effect and properly filed with the [~~state corporation~~
2 ~~commission~~] department of transportation. Each policy shall
3 contain a provision that it cannot be canceled prior to its
4 expiration date without thirty days' written notice of intent
5 to cancel served by registered mail on the insured and on the
6 [~~commission~~] department."

7 SECTION 14. Section 24-15-8 NMSA 1978 (being Laws 1979,
8 Chapter 279, Section 5) is amended to read:

9 "24-15-8. DUTIES OF SKI AREA OPERATORS WITH RESPECT TO
10 SKI LIFTS.--Every ski area operator [~~shall have~~] has the duty
11 to operate, repair and maintain all ski lifts in safe
12 condition. The ski area operator, prior to December 1 of each
13 year, shall certify to the [~~state corporation commission~~]
14 department of transportation the policy number and name of the
15 company providing liability insurance for the ski area, [~~and~~]
16 the date of the ski lift inspections and the name of the person
17 making [~~such~~] those inspections."

18 SECTION 15. Section 27-5-4 NMSA 1978 (being Laws 1965,
19 Chapter 234, Section 4, as amended) is amended to read:

20 "27-5-4. DEFINITIONS.--As used in the Indigent Hospital
21 and County Health Care Act:

22 A. "ambulance provider" or "ambulance service"
23 means a specialized carrier based within the state authorized
24 under provisions and subject to limitations as provided in
25 individual carrier certificates issued by the [~~public~~

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1 ~~regulation commission]~~ department of transportation to
2 transport persons alive, dead or dying en route by means of
3 ambulance service. The rates and charges established by
4 ~~[public regulation commission]~~ department of transportation
5 tariff shall govern as to allowable cost. Also included are
6 air ambulance services approved by the county. The air
7 ambulance service charges shall be filed and approved pursuant
8 to Subsection D of Section 27-5-6 NMSA 1978 and Section 27-5-11
9 NMSA 1978;

10 B. "cost" means all allowable costs of providing
11 health care services, to the extent determined by resolution of
12 a county, for an indigent patient. Allowable costs shall be
13 based on medicaid fee-for-service reimbursement rates for
14 hospitals, licensed medical doctors and osteopathic physicians;

15 C. "county" means a county except a class A county
16 with a county hospital operated and maintained pursuant to a
17 lease or operating agreement with a state educational
18 institution named in Article 12, Section 11 of the constitution
19 of New Mexico;

20 D. "department" means the human services
21 department;

22 E. "fund" means a county health care assistance
23 fund;

24 F. "health care services" means treatment and
25 services designed to promote improved health in the county

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1 indigent population, including primary care, prenatal care,
2 dental care, behavioral health care, alcohol or drug
3 detoxification and rehabilitation, hospital care, provision of
4 prescription drugs, preventive care or health outreach
5 services, to the extent determined by resolution of the county;

6 G. "indigent patient" means a person to whom an
7 ambulance service, a hospital or a health care provider has
8 provided medical care, ambulance transportation or health care
9 services and who can normally support the person's self and the
10 person's dependents on present income and liquid assets
11 available to the person but, taking into consideration the
12 person's income, assets and requirements for other necessities
13 of life for the person and the person's dependents, is unable
14 to pay the cost of the ambulance transportation or medical care
15 administered or both; provided that if a definition of
16 "indigent patient" is adopted by a county in a resolution, the
17 definition shall not include any person whose annual income
18 together with that person's spouse's annual income totals an
19 amount that is fifty percent greater than the per capita
20 personal income for New Mexico as shown for the most recent
21 year available in the survey of current business published by
22 the United States department of commerce. "Indigent patient"
23 includes a minor who has received ambulance transportation or
24 medical care or both and whose parent or the person having
25 custody of that minor would qualify as an indigent patient if

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1 transported by ambulance, admitted to a hospital for care or
2 treated by a health care provider;

3 H. "medicaid eligible" means a person who is
4 eligible for medical assistance from the department;

5 I. "planning" means the development of a countywide
6 or multicounty health plan to improve and fund health services
7 in the county based on the county's needs assessment and
8 inventory of existing services and resources and that
9 demonstrates coordination between the county and state and
10 local health planning efforts;

11 J. "public entity" means a state, local or tribal
12 government or other political subdivision or agency of that
13 government; and

14 K. "qualifying hospital" means an acute care
15 general hospital licensed by the department of health that is
16 qualified to receive payments from the safety net care pool
17 pursuant to an agreement with the federal centers for medicare
18 and medicaid services."

19 SECTION 16. Section 48-11-7 NMSA 1978 (being Laws 1987,
20 Chapter 314, Section 7, as amended) is amended to read:

21 "48-11-7. ENFORCEMENT OF LIEN.--

22 A. An owner's lien, as provided under the Self-
23 Service Storage Lien Act, for a claim that has become due may
24 be satisfied as follows:

25 (1) after the occupant has been in default

1 continuously for a period of five days, the owner may deny the
2 occupant access to the occupant's space for storage;

3 (2) after the occupant has been in default
4 continuously for a period of thirty days, the owner may enter
5 the space and may remove the personal property within it to a
6 safe place; provided that the owner has sent a notice of intent
7 to enforce a lien, pursuant to Subsection B of this section, to
8 the occupant at the occupant's last known address within five
9 days of entering the space. The owner shall also give notice
10 to all lienholders listed in the disclosure provision in the
11 rental agreement; and

12 (3) no action to sell any property as provided
13 in the Self-Service Storage Lien Act shall be taken by an owner
14 until the occupant has been in default continuously for a
15 period of ninety days.

16 B. The notice of intent to enforce a lien shall
17 include:

18 (1) an itemized statement of the owner's claim
19 showing the sum due at the time of the notice and the date when
20 the sum became due;

21 (2) a brief and general statement of the
22 personal property subject to the lien. That description shall
23 be reasonably adequate to permit the person notified to
24 identify the property, except that any container, including a
25 trunk, valise or box that is locked, fastened, sealed or tied

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1 in a manner [~~which~~] that deters immediate access to its
2 contents, may be so described without describing its contents;

3 (3) a notification of denial of access to the
4 personal property. That notification shall provide the name,
5 street address and telephone number of the owner or the owner's
6 designated agent whom the occupant may contact to respond to
7 that notification;

8 (4) a demand for payment within a specified
9 time, not less than fifteen days after the delivery of the
10 notice; and

11 (5) a conspicuous statement that unless the
12 claim is paid within the time stated in the notice, the
13 personal property will be advertised for sale or other
14 disposition and will be sold or otherwise disposed of to
15 satisfy the owner's lien.

16 C. All notices made pursuant to this section shall
17 be by verified mail or electronic mail pursuant to the
18 occupant's option at the time of entering into the current
19 rental agreement.

20 D. An owner shall provide written notice by
21 verified mail to the occupant's last known address or by
22 electronic mail to the occupant's last known electronic
23 address. If an owner sends a notice by electronic mail and
24 does not receive a response, return receipt or delivery
25 confirmation from the electronic address to which the notice

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1 was sent within three business days after the day on which the
2 notice was sent, the owner shall deliver a one-time notice by
3 verified mail to the occupant's last known address.

4 E. After the expiration of the time given in the
5 notice of intent to enforce a lien, the owner shall publish an
6 advertisement of the sale or other disposition of the property
7 once a week for two consecutive weeks in a newspaper of general
8 circulation in the county where the self-service storage
9 facility is located. The advertisement shall include:

10 (1) a brief and general description of the
11 personal property reasonably adequate to permit its
12 identification as provided in Paragraph (2) of Subsection B of
13 this section, the address of the self-service storage facility
14 where the personal property is located and the name and last
15 known address of the occupant; and

16 (2) the time, place and manner of the sale or
17 other disposition. The sale or disposition shall take place
18 not sooner than fifteen days after the first publication.

19 If there is no newspaper of general circulation in the
20 county where the self-service storage facility is located, the
21 owner shall post the advertisement at least ten days prior to
22 the sale or other disposition in at least six conspicuous
23 places in the neighborhood where the self-service storage
24 facility is located.

25 F. Any sale or other disposition of the personal

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1 property shall conform to the terms of the notification as
2 provided for in this section.

3 G. Any sale or other disposition of the personal
4 property shall be held at the self-service storage facility or
5 at the nearest suitable place within the county to where the
6 personal property is held or stored or may be conducted on a
7 publicly accessible online [~~web-site~~] website.

8 H. Before any sale or other disposition of personal
9 property pursuant to this section is made, the occupant may pay
10 the amount necessary to satisfy the lien and the reasonable
11 expenses incurred under this section and thereby redeem the
12 property. Upon receipt of the payment, the owner shall return
13 the personal property and thereafter the owner shall have no
14 liability to any person with regard to that personal property.

15 I. A good faith purchaser takes the property free
16 of any rights of an unsecured lienholder and free of any rights
17 of a secured lienholder who has received notice by owner as
18 provided in this section.

19 J. In the event of a sale under this section, the
20 owner may satisfy the owner's lien from the proceeds of the
21 sale, subject to the rights of any prior lienholder who has not
22 received notice. The lien rights of such prior lienholder are
23 automatically transferred to the proceeds of the sale. If the
24 sale was made in good faith and conducted in a reasonable
25 manner, the owner shall not be subject to any surcharge for a

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1 deficiency in the amount of a prior secured lien, but shall
2 hold the balance, if any, for delivery to the occupant,
3 lienholder or other person in interest. If the occupant,
4 lienholder or other person in interest does not claim the
5 balance of the proceeds within two years of the date of sale,
6 it shall become the property of the owner without further
7 recourse by the occupant, lienholder or other person in
8 interest.

9 K. Nothing in this section affects the rights and
10 liabilities of the owner, occupant or any other person if there
11 is a willful violation of any of the provisions of the Self-
12 Service Storage Lien Act. If the property subject to a lien
13 described in this section is a vehicle, watercraft or trailer,
14 the occupant is in default for a continuous sixty-day period
15 and the owner chose not to sell the vehicle, the owner may have
16 the vehicle towed from the self-storage facility by an
17 independent towing carrier that is licensed by the [~~public~~
18 ~~regulation commission~~] department of transportation pursuant to
19 the Motor Carrier Act. Within one day after the day on which a
20 vehicle is towed, the owner shall send verified notice to the
21 occupant's last known address or electronic address that
22 states:

- 23 (1) the date the vehicle was towed; and
24 (2) the address and telephone number of the
25 person that towed the vehicle."

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1 SECTION 17. Section 62-19-5 NMSA 1978 (being Laws 2013,
2 Chapter 64, Section 1, as amended) is amended to read:

3 "62-19-5. QUALIFICATIONS OF COMMISSIONERS.--

4 A. Commissioners shall be persons who are
5 independent of the industries regulated by the commission and
6 shall possess demonstrated competence.

7 B. In order to be appointed as a commissioner, a
8 person must be qualified for office by:

9 (1) having a baccalaureate degree from an
10 institution of higher education that has been accredited by a
11 regional or national accrediting body and at least ten years of
12 professional experience in an area regulated by the commission
13 or in the energy sector and involving a scope of work that
14 includes accounting, public or business administration,
15 economics, finance, statistics, policy, engineering or law; or

16 (2) having higher education resulting in at
17 least a professional license or a post-graduate degree from an
18 institution of higher education that has been accredited by a
19 regional or national accrediting body in a field related to an
20 area regulated by the commission, including accounting, public
21 or business administration, economics, finance, statistics,
22 policy, engineering or law, and at least ten years of
23 professional experience within the person's field.

24 C. A commissioner shall not have a financial
25 interest in a public utility in this state or elsewhere and

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1 shall not have been employed by a commission-regulated entity
2 at any time during the two years prior to appointment to the
3 commission.

4 D. Commissioners shall give their entire time to
5 the business of the commission and shall not pursue any other
6 business or vocation or hold any other office for profit.

7 E. As used in this section, "professional
8 experience" means employment in which the prospective appointee
9 for commissioner regularly made decisions requiring discretion
10 and independent judgment and:

11 (1) engaged in policy analysis, research,
12 consumer advocacy or implementation in an area regulated by the
13 commission or in the energy sector;

14 (2) managed, as the head, deputy head or
15 division director, a federal, state, tribal or local government
16 department or division responsible for utilities, energy policy
17 [~~transportation~~] or construction; or

18 (3) managed a business or organization
19 regulated by the commission or in the energy sector that had
20 five or more employees during the time it was managed by the
21 prospective appointee."

22 SECTION 18. Section 62-19-12 NMSA 1978 (being Laws 1998,
23 Chapter 108, Section 6, as amended) is amended to read:

24 "62-19-12. COMMISSION--[DIVISIONS] ORGANIZATIONAL
25 UNITS.--The commission includes the following organizational

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1 units:

2 A. the administrative services division;

3 B. the consumer relations division;

4 C. the legal division;

5 ~~[D. the transportation division; and~~

6 ~~E.]~~ D. the utility division; and

7 E. the pipeline safety bureau."

8 SECTION 19. Section 62-19-16 NMSA 1978 (being Laws 1998,
9 Chapter 108, Section 11) is repealed and a new Section 62-19-16
10 NMSA 1978 is enacted to read:

11 "62-19-16. [NEW MATERIAL] PIPELINE SAFETY BUREAU.--The
12 pipeline safety bureau shall serve as staff to the commission
13 for the regulation of pipelines and pipeline safety, as
14 provided by law."

15 SECTION 20. Section 63-1-41 NMSA 1978 (being Laws 1878,
16 Chapter 1, Section 8-22, as amended) is amended to read:

17 "63-1-41. ANNUAL REPORT.--~~[SEC. 43.]~~ Every railroad
18 corporation ~~[must]~~ shall make an annual report to the ~~[state~~
19 ~~corporation commission]~~ department of transportation of the
20 operations of the year ending on ~~[the thirty-first day of]~~
21 December 31. ~~[which report shall be verified by]~~ The president
22 or general superintendent and the secretary and treasurer of
23 the corporation shall verify the report. ~~[Such report must be~~
24 ~~filed in the office of said commission]~~ A railroad corporation
25 shall file the report with the department of transportation on

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1 or before [~~the first day of~~] March 1 next ensuing and shall
2 state:

3 [~~First~~] A. the capital stock and the amount thereof
4 actually paid in;

5 [~~Second~~] B. the amount paid for the purchase of
6 lands for the construction of the road, for buildings, engines
7 and cars, respectively;

8 [~~Third~~] C. the amount and nature of the
9 indebtedness of the corporation and the amount due to it;

10 [~~Fourth~~] D. the amount received for the
11 transportation of passengers, property, mails, express matter,
12 respectively, and the amount received from any other sources;

13 [~~Fifth~~] E. the amount of freight transported,
14 specifying the quantity in tons;

15 [~~Sixth~~] F. the amount paid for the repair of
16 engines, cars, buildings and other expenses, in gross, showing
17 the current expense of running its road;

18 [~~Seventh~~] G. the number and amount of dividends and
19 when paid; and

20 [~~Eighth~~] H. the number of engine houses and shops,
21 of engines and cars and their character."

22 SECTION 21. Section 63-7-1.1 NMSA 1978 (being Laws 1998,
23 Chapter 108, Section 52) is amended to read:

24 "63-7-1.1. COMMISSION POWERS AND DUTIES--~~[TRANSPORTATION~~
25 ~~AND] TRANSMISSION COMPANIES [~~AND COMMON CARRIERS~~]--TELEPHONE~~

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1 AND TELEGRAPH COMPANIES.--

2 A. With respect to [~~transportation and~~]
3 transmission companies [~~and common carriers~~], the commission
4 shall:

5 (1) fix, determine, supervise, regulate and
6 control all charges and rates of [~~railway, express~~] telegraph,
7 telephone [~~sleeping car and other transportation~~] and other
8 transmission companies [~~and common carriers~~] within the state;

9 (2) determine any matters of public
10 convenience and necessity with respect to matters subject to
11 its regulatory authority as provided by law;

12 [~~(3) require railway companies and other~~
13 ~~common carriers to provide and maintain adequate equipment,~~
14 ~~depots, stockpens, station buildings, agents and facilities for~~
15 ~~the accommodation of shippers and passengers and for receiving~~
16 ~~and delivering freight and express and to provide and maintain~~
17 ~~necessary crossings, culverts, sidings and other facilities for~~
18 ~~convenience and safety whenever in the commission's judgment~~
19 ~~the public interest demands;~~

20 ~~(4) require railway companies, transportation~~
21 ~~companies and common carriers to provide such reasonable safety~~
22 ~~appliances and use such reasonable safety practices as may be~~
23 ~~necessary and proper for the safety of employees and the public~~
24 ~~as required by federal or state laws and rules;~~

25 ~~(5)]~~ (3) change, amend and rescind rates;

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1 [~~(6)~~] (4) enforce its rules through
2 administrative sanctions and in the courts; and

3 [~~(7)~~] (5) carry out all other duties and have
4 all other powers provided by law.

5 B. In fixing rates of telephone and telegraph
6 companies, due consideration shall be given to the earnings,
7 investments and expenditures as a whole within the state. The
8 commission shall include in that consideration the earnings,
9 investments and expenditures derived from or related to the
10 sale of directory advertising and other directory listing
11 services.

12 C. The commission may subpoena witnesses and
13 documents, enforce its subpoenas through any court and, through
14 the court, punish for contempt.

15 D. The commission has the power, after notice and
16 hearing of record, to determine and decide any question and to
17 issue orders relating to its powers and duties.

18 E. An interested party may appeal from a final
19 order of the commission by filing a notice of appeal with the
20 supreme court asking for review of the order within thirty days
21 of the final order. The appellant shall pay to the commission
22 any costs of preparing and transmitting the record to the
23 court.

24 F. The pendency of an appeal shall not
25 automatically stay the order appealed from. The appellant may

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1 seek to obtain a stay from the commission or the supreme court.

2 G. The appeal shall be on the record of the hearing
3 before the commission and shall be governed by the appellate
4 rules applicable to administrative appeals. The supreme court
5 shall affirm the commission's order unless it is:

6 (1) arbitrary, capricious or an abuse of
7 discretion;

8 (2) not supported by substantial evidence in
9 the record; or

10 (3) otherwise not in accordance with law.

11 H. In the case of a failure or refusal of any
12 person to comply with an order of the commission within the
13 time prescribed in the order or within thirty days after the
14 order is entered, whichever is later, unless a stay has been
15 granted, the commission shall seek enforcement of the order in
16 the district court. The enforcement hearing shall be held on
17 an expedited basis. At the hearing, the sole question shall be
18 whether the person has failed to comply with or violated the
19 order."

20 SECTION 22. Section 63-7-20 NMSA 1978 (being Laws 1951,
21 Chapter 194, Section 1, as amended) is amended to read:

22 "63-7-20. UTILITY [~~AND CARRIER~~] INSPECTION--FEE.--

23 A. Each utility [~~and carrier~~] doing business in
24 this state [~~which~~] that is subject to the control and
25 jurisdiction of the commission by virtue of the provisions of

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1 Article 11 of the constitution of New Mexico with respect to
2 its rates and service shall pay annually to the commission a
3 fee in performance of its duties as now provided by law. [~~The~~
4 ~~fee for carriers shall not exceed two hundred fifty-six~~
5 ~~thousandths percent of its gross receipts from business~~
6 ~~transacted in New Mexico for the preceding calendar year.~~] The
7 fee for utilities shall not exceed five hundred eleven
8 thousandths percent of its gross receipts from business
9 transacted in New Mexico for the preceding calendar year. This
10 sum shall be payable annually on or before April 1 in each
11 year. No similar fee shall be imposed upon the utility [~~or~~
12 ~~carrier~~]. In the case of utilities [~~or carriers~~] engaged in
13 interstate business, the fees shall be measured by the gross
14 receipts of the utilities [~~or carriers~~] from intrastate
15 business only for the preceding calendar year and not in any
16 respect upon receipts derived wholly or in part from interstate
17 business. As used in this section, "utility" includes
18 telephone companies and transmission companies but does not
19 include public utilities subject to the Public Utility Act.

20 B. When a fee is not paid on the date it is due,
21 interest shall be paid to the state on the amount due. The
22 interest on the amount due shall start to accrue on the day
23 following the due date and shall continue to accrue until the
24 total amount due is paid. The rate of interest on a late fee
25 payment shall be fifteen percent per year, computed at the rate

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1 of one and one-fourth percent per month.

2 C. In addition to any interest due on a late fee
3 payment, a penalty shall be paid to the state for failure to
4 pay the fee when it is due. The penalty imposed shall be two
5 percent of the amount of the fee due.

6 D. The attorney general, in the name of the state,
7 shall bring suit to collect fees, interest and penalties that
8 remain unpaid."

9 SECTION 23. Section 63-7-22 NMSA 1978 (being Laws 1951,
10 Chapter 194, Section 3) is amended to read:

11 "63-7-22. EXEMPTIONS.--The provisions of [~~this act~~]
12 Sections 63-7-20 through 63-7-22 NMSA 1978 shall not apply to
13 pipelines [~~which~~] that are used for the transportation of oil,
14 natural gas or the products thereof [~~neither shall the~~
15 ~~provisions of this act apply to common or contract motor~~
16 ~~carriers or aircraft carriers transporting passengers or~~
17 ~~property for hire~~]."

18 SECTION 24. Section 64-1-12 NMSA 1978 (being Laws 1963,
19 Chapter 314, Section 2, as amended) is amended to read:

20 "64-1-12. DEFINITIONS.--As used in the Aviation Act:

21 A. "aircraft" means airplane and helicopter;

22 B. "pilot" means any person participating in the
23 operation of an aircraft while it is in flight;

24 C. "passenger" means any person riding in an
25 aircraft except a pilot;

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1 D. "department" means the [~~state highway and~~
2 department of transportation [~~department~~];

3 E. "division" means the aviation division of the
4 department;

5 F. "director" means the [~~executive head~~] director
6 of the division; and

7 G. "secretary" means the [~~executive head of the~~
8 department] secretary of transportation."

9 SECTION 25. Section 64-1-13 NMSA 1978 (being Laws 1963,
10 Chapter 314, Section 5, as amended) is amended to read:

11 "64-1-13. AVIATION DIVISION--POWERS AND DUTIES.--The
12 division shall:

13 A. cooperate with all public and private agencies
14 and organizations, state, local and federal, to encourage and
15 advance aviation in this state;

16 B. assemble and distribute to the public
17 information relating to aviation, landing fields, beacons and
18 other matters pertaining to aviation and may accept federal
19 money made available for the advancement of aviation;

20 C. authorize expenditures of money from the state
21 aviation fund for construction, development and maintenance of
22 public-use airport facilities, except airports serving
23 regularly scheduled interstate airlines using aircraft with a
24 maximum passenger capacity of more than one hundred seats or a
25 maximum payload capacity of more than twenty-five thousand

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1 pounds, including rural landing fields and airstrips.

2 Expenditures shall be made according to the need for airport
3 facilities as determined by the division;

4 D. operate under a director, appointed by the
5 secretary, with the approval of the governor, who shall have an
6 aviation background and meet other qualifications prescribed by
7 the secretary;

8 E. establish policies for operation of the
9 division;

10 F. promulgate rules for proper enforcement of
11 aviation laws [~~except for those relating to common carriers~~];

12 G. provide for a surety bond, paid from the state
13 aviation fund, issued by a corporate surety company licensed to
14 do business in New Mexico, in an amount set by the state board
15 of finance, on a form approved by the attorney general,
16 conditioned upon the faithful performance of the duties of the
17 personnel of the division who expend or authorize the
18 expenditure of state funds;

19 H. have the following powers with respect to state
20 airports:

21 (1) the division may, on behalf of and in the
22 name of the state, out of appropriations and other money made
23 available for such purposes, plan, construct, enlarge, improve,
24 maintain, equip and operate airports and air navigation
25 facilities, including the construction, equipment, maintenance

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1 and operation at such airports of buildings and other
2 facilities for the servicing of aircraft or for the comfort and
3 accommodation of air travelers. For such purposes, the
4 division may, in the name of the state, by purchase, gift,
5 devise, lease or otherwise, acquire property, real or personal,
6 or any interest in property, including easements in airport
7 hazards or land outside the boundaries of an airport or airport
8 site, as are necessary to permit safe and efficient operation
9 of the airports or air navigation facilities. The division may
10 enter into any contracts necessary to the execution of the
11 powers granted it by this paragraph; and

12 (2) the division may accept, receive, receipt
13 for, disburse and expend federal money and other money, public
14 or private, made available to accomplish, in whole or in part,
15 any of the purposes of this subsection. All federal money
16 accepted under this subsection shall be accepted and expended
17 by the division upon such terms and conditions as are
18 prescribed by the United States. The division, on behalf of
19 the state, may enter into contracts with the United States or
20 with any person that may be required in connection with a grant
21 or loan of federal money for airport or air navigation facility
22 purposes. All money received by the division pursuant to this
23 subsection is appropriated for the purpose for which the money
24 was made available, to be disbursed or expended in accordance
25 with the terms and conditions upon which the money was made

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1 available; provided that nothing contained in this section
2 shall affect the power of a local government to contract with
3 the United States or any person in connection with a grant or
4 loan of money for airports or air navigation facilities in
5 accordance with the terms and conditions upon which the funds
6 were made available; and

7 I. have the power to engage in planning for the
8 development of a system of public airports within the state."

9 SECTION 26. Section 64-1-14 NMSA 1978 (being Laws 1963,
10 Chapter 314, Section 6, as amended) is amended to read:

11 "64-1-14. DIRECTOR--POWERS AND DUTIES.--The director
12 shall:

13 A. be the executive officer of the division;

14 B. with the consent of the secretary, employ
15 necessary personnel; and

16 C. administer the aviation laws of this state
17 [~~except those relating to common carriers~~] and enforce the
18 policies, rules and regulations of the division."

19 SECTION 27. Section 64-6-3 NMSA 1978 (being Laws 2021,
20 Chapter 47, Section 3, as amended) is amended to read:

21 "64-6-3. RURAL AIR SERVICE ENHANCEMENT GRANT PROGRAM.--

22 A. The "rural air service enhancement grant
23 program" is created in the division to be administered by the
24 director.

25 B. The director shall:

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1 (1) establish and publish deadlines and
2 guidelines for the submission of grant applications;

3 (2) develop procedures for receipt, review and
4 approval of grant applications;

5 (3) receive, review and approve grant
6 applications;

7 (4) monitor municipalities' and counties' use
8 of grant money by reviewing annual reports submitted to the
9 director to ensure that grants are used consistently with the
10 terms of the grant awards;

11 (5) establish grant reporting requirements
12 that meet the general purpose of the Rural Air Service
13 Enhancement Act; and

14 (6) perform other duties as necessary to carry
15 out the provisions of the Rural Air Service Enhancement Act.

16 C. Each fiscal year, competitive grants for minimum
17 revenue guarantees shall be awarded to applicants for the sole
18 purpose of funding rural air service enhancement grants.

19 D. The director shall award grants to applicants
20 through a competitive process and based upon the following
21 criteria:

22 (1) the demand for service on the proposed new
23 air routes or expanded air routes;

24 (2) the economic impact on the municipality or
25 county of the proposed new air routes or expanded air routes;

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1 and

2 (3) the feasibility of a common carrier
3 [~~licensed by the state~~] servicing proposed new air routes or
4 expanded air routes.

5 E. Applicants shall meet the following minimum
6 criteria to be eligible for a grant:

7 (1) municipalities or counties shall have a
8 minimum population of twenty thousand persons residing within a
9 fifty-mile radius of the airport unless the municipality or
10 county has existing air routes;

11 (2) aircraft to be used to service proposed
12 new air routes or expanded air routes served by the rural air
13 service enhancement grant program shall have a passenger
14 capacity of not more than thirty persons; and

15 (3) minimum matching funds from a municipality
16 or county shall be:

17 (a) ten percent if the municipality or
18 county has no existing scheduled air routes at the time of
19 application; and

20 (b) twenty percent if the municipality
21 or county has existing scheduled air routes at the time of
22 application.

23 F. Individual grants awarded through the rural air
24 service enhancement grant program shall not:

25 (1) exceed two million two hundred fifty

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1 thousand dollars (\$2,250,000) per year for municipalities or
2 counties with existing scheduled air routes;

3 (2) exceed two million seven hundred fifty
4 thousand dollars (\$2,750,000) per year for municipalities or
5 counties not served by existing scheduled air routes; or

6 (3) be used for infrastructure improvement.

7 G. Individual grants awarded through the rural air
8 service enhancement grant program shall cover a time frame of
9 at least two years. If funds are available in the rural air
10 service enhancement fund, the director may extend the term of
11 an existing grant up to three additional years.

12 H. No more than ten percent of the balance of the
13 rural air service enhancement fund on July 1 of any year may be
14 used by the division for infrastructure improvements associated
15 with individual grants awarded through the rural air service
16 enhancement grant program.

17 I. Funds received through individual grants awarded
18 through the rural air service enhancement grant program shall
19 be expended by the grantee municipality or county only to
20 airlines that have been selected through a competitive process
21 pursuant to the Procurement Code."

22 SECTION 28. Section 65-1-6 NMSA 1978 (being Laws 1967,
23 Chapter 97, Section 8, as amended) is amended to read:

24 "65-1-6. FIELD ENFORCEMENT OF MOTOR TRANSPORTATION ACT
25 AND MOTOR CARRIER ACT AND RULES.--The department shall:

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1 A. enforce in the field the provisions of the Motor
2 Transportation Act and the Motor Carrier Act and the rules
3 promulgated by the [~~public regulation commission~~] department of
4 transportation pursuant to the Motor Carrier Act; and

5 B. maintain sufficient personnel in the field to
6 enforce the provisions of the Motor Transportation Act and the
7 Motor Carrier Act and the rules promulgated by the [~~public~~
8 ~~regulation commission~~] department of transportation pursuant to
9 the Motor Carrier Act."

10 SECTION 29. Section 65-1-27 NMSA 1978 (being Laws 1967,
11 Chapter 97, Section 17, as amended) is amended to read:

12 "65-1-27. HEARINGS--ATTENDANCE.--The secretary or the
13 secretary's representative may attend all hearings held by the
14 [~~state corporation commission~~] department of transportation
15 concerning motor transportation. The [~~state corporation~~
16 ~~commission~~] department of transportation shall notify the
17 secretary of all such hearings, and the department is declared
18 to be an interested party and as such may present [~~any~~]
19 evidence pertaining to matters under consideration by the
20 [~~commission~~] department of transportation. The [~~state~~
21 ~~corporation commission~~] department of transportation shall send
22 copies of all orders entered by the [~~commission~~] department of
23 transportation in motor transportation matters to the
24 department."

25 SECTION 30. Section 65-2A-1 NMSA 1978 (being Laws 2003,

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

2 "65-2A-1. SHORT TITLE.--~~[Sections 1 through 40 of this~~
3 ~~act]~~ Chapter 65, Article 2A NMSA 1978 may be cited as the
4 "Motor Carrier Act"."

5 SECTION 31. Section 65-2A-3 NMSA 1978 (being Laws 2003,
6 Chapter 359, Section 3, as amended) is amended to read:

7 "65-2A-3. DEFINITIONS.--As used in the Motor Carrier Act:

8 A. "ability to provide certificated service" means
9 that an applicant or carrier can provide reasonably continuous
10 and adequate transportation service of the type required by its
11 application or its operating authority in the territory
12 authorized or sought to be authorized;

13 B. "ambulance service" means the intrastate
14 transportation of sick or injured persons in an ambulance
15 meeting the standards established by the ~~[commission]~~
16 department under the Ambulance Standards Act;

17 C. "amendment of a certificate ~~[or permit]~~" means a
18 permanent change in the type or nature of service, territory or
19 terms of service authorized by an existing certificate ~~[or~~
20 ~~permit]~~;

21 D. "antitrust laws" means the laws of this state
22 relating to combinations in restraint of trade;

23 E. "base state" means the registration state for an
24 interstate motor carrier that either is subject to regulation
25 or is transporting commodities exempt from regulation by the

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1 federal motor carrier safety administration pursuant to the
2 unified carrier registration system;

3 F. "cancellation of an operating authority" means
4 the voluntary, permanent termination of all or part of an
5 operating authority;

6 G. "certificate" means the authority issued by the
7 [~~commission~~] department to a person that authorizes the person
8 to offer and provide a certificated service as a motor carrier;

9 H. "certificated service" means one of the
10 following transportation services:

11 (1) an ambulance service;

12 (2) a household goods service;

13 (3) a shuttle service;

14 (4) a specialized passenger service; or

15 (5) a taxicab service;

16 I. "change in a certificate [~~or permit~~]" means the
17 voluntary amendment, cancellation, change in form of legal
18 entity of the holder, lease, reinstatement, transfer or
19 voluntary suspension of a certificate [~~or permit~~];

20 J. "charter service" means the compensated
21 transportation of a group of persons in a motor vehicle who,
22 pursuant to a common purpose, under a single contract, at a
23 fixed charge for the motor vehicle and driver, have acquired
24 the exclusive use of the motor vehicle to travel together under
25 an itinerary either specified in advance or modified after

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1 having left the place of origin;

2 ~~[K. "commission" means the public regulation~~
3 ~~commission;~~

4 ~~L.]~~ K. "commuter service" means the intrastate
5 transportation of passengers in motor vehicles having a
6 capacity of seven to fifteen persons, including the driver,
7 provided to a volunteer-driver commuter group that shares rides
8 to and from the workplace or training site, where participation
9 is incidental to the primary work or training-related purposes
10 of the commuter group, and where the fees paid by the
11 ~~[partieiants]~~ participants do not exceed the costs for
12 transportation, including gas and other trip-related expenses;

13 ~~[M.]~~ L. "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]~~
19 department rule, that are reasonably adequate to serve the
20 entire full-service territory authorized in the certificate,
21 with reasonable response to all requests for service for the
22 nature of passenger service authorized, based on the nature of
23 public need, expense and volume of demand for the type of
24 service 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~~] department rule for the
5 nature of the transportation service authorized in the
6 certificate;

7 [N.] M. "contract driver" means a person who
8 contracts with a motor carrier as an independent contractor to
9 drive a vehicle pursuant to an operating authority issued to
10 the motor carrier;

11 N. "department" means the department of
12 transportation;

13 O. "endorsement" means the specification in a
14 certificate of the territory in which the carrier is authorized
15 to operate, the nature of service to be provided by a
16 certificated passenger service and any additional terms of
17 service that may be reasonably granted or required by the
18 [~~commission~~] department for the particular authority granted;

19 P. "fare" means the full compensation charged for
20 transportation by a tariffed passenger service;

21 Q. "financial responsibility" means the ability to
22 respond in damages for liability arising out of the ownership,
23 maintenance or use of a motor vehicle in the provision of
24 transportation services;

25 R. "fitness to provide a transportation service"

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1 means that an applicant or carrier complies with state law as
2 provided in the Motor Carrier Act or by rule of the
3 [~~commission~~] department;

4 S. "for hire" means that transportation is offered
5 or provided to the public for remuneration, compensation or
6 reward of any kind, paid or promised, either directly or
7 indirectly;

8 T. "full service" means one of the following
9 certificated passenger services that are endorsed and required
10 to meet specific standards for the provision of service to or
11 throughout a community:

12 (1) an ambulance service;

13 (2) a scheduled shuttle service; or

14 (3) a municipal taxicab service;

15 U. "general service" means one of the following
16 certificated services that provides transportation services of
17 the type authorized, but is not required to provide
18 unprofitable or marginally profitable carriage:

19 (1) a general shuttle service;

20 (2) a general taxicab service;

21 (3) a specialized passenger service; or

22 (4) a household goods service;

23 V. "highway" means a way or place generally open to
24 the use of the public as a matter of right for the purpose of
25 vehicular travel, even though it may be temporarily closed or

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1 restricted for the purpose of construction, maintenance, repair
2 or reconstruction;

3 W. "holder of an operating authority" means the
4 grantee of the operating authority or a person that currently
5 holds all or part of the right to exercise the authority
6 through a transfer by operation of law;

7 X. "household goods" means personal effects and
8 property used or to be used in a dwelling when a part of the
9 equipment or supply of the dwelling and other similar property
10 as the federal motor carrier safety administration may provide
11 by regulation, but shall not include property moving to or from
12 a factory or store, other than property the householder has
13 purchased to use in the householder's dwelling that is
14 transported at the request of, and the transportation charges
15 are paid to the carrier by, the householder;

16 Y. "household goods service" means the intrastate
17 transportation, packing and storage of household goods for
18 hire;

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

25 AA. "interstate motor carrier" means a person

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1 providing compensated transportation in interstate commerce,
2 whether or not the person is subject to regulation by the
3 federal motor carrier safety administration;

4 BB. "intrastate motor carrier" means a motor
5 carrier offering or providing transportation for hire by motor
6 vehicle between points and places in the state;

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

11 DD. "lease of a certificate ~~[or permit]~~" means an
12 agreement by which the holder of a certificate ~~[or permit]~~
13 grants to another person the exclusive right to use all or part
14 of the certificate ~~[or permit]~~ for a specified period of time
15 in exchange for consideration, but does not include an
16 agreement between a motor carrier and its contract driver;

17 EE. "lease of equipment" means an agreement whereby
18 a motor carrier obtains equipment owned by another person for
19 use by the motor carrier in the exercise of its operating
20 authority, but does not include an agreement between a motor
21 carrier and its contract driver;

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

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1 GG. "motor carrier organization" means an
2 organization approved by the [~~commission~~] department to
3 represent motor carriers and to discuss and propose industry
4 interests and matters other than rates, as well as discussing
5 and proposing rates and other matters pertaining to statewide
6 tariffs;

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

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

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

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

24 LL. "objection" means a document filed with the
25 [~~commission~~] department by an interested person or a member of

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1 the public during the notice period for an application for a
2 certificate [~~or a permit~~], or for amendment, lease or transfer
3 of a certificate [~~or permit~~], that expresses an objection to,
4 or provides information concerning, the matter before the
5 [~~commission~~] department;

6 MM. "operating authority" means a certificate,
7 [~~permit~~] warrant, unified carrier registration or temporary
8 authority issued by the [~~commission~~] department to a motor
9 carrier;

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

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

15 ~~PP. "permit" means the authority issued by the~~
16 ~~commission to a person that authorizes the person to offer and~~
17 ~~provide a permitted service as a motor carrier;~~

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

22 ~~RR.]~~ PP. "predatory rate or practice" means the
23 knowing and willful requirement by a carrier that a passenger
24 or shipper pay a rate, fare or other charge in excess of the
25 rates and charges or in a manner other than in accordance with

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1 terms of service as provided by law, as provided in a tariff
2 governing the carrier or as provided in a preexisting written
3 contract regarding the carriage, when such charge is made:

4 (1) by a passenger carrier as a prior
5 condition for the provision of transportation or continued
6 transportation of a passenger; or

7 (2) as a prior condition by a towing service
8 carrier performing nonconsensual tows or a household goods
9 service carrier for delivery of, release of or access to
10 vehicles or household goods by the shipper or registered owner;

11 [~~SS-~~] QQ. "process" means, in the context of legal
12 process, an order, subpoena or notice issued by the
13 [~~commission~~] department or an order, subpoena, notice, writ or
14 summons issued by a court;

15 [~~TT-~~] RR. "property" means movable articles of
16 value, including cadavers, hazardous matter, farm products,
17 livestock feed, stock salt, manure, wire, posts, dairy
18 products, livestock hauled in lots of twenty-five thousand
19 pounds or more, farm or ranch machinery and the items
20 transported by a towing service, but does not include household
21 goods or unprocessed farm products transported by a farmer from
22 the place of harvesting to market, storage or a processing
23 plant;

24 [~~UU-~~] SS. "protest" means a document in the form of
25 a pleading filed with the [~~commission~~] department by a full-

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1 service carrier that expresses an objection to an application
2 before the [~~commission~~] department for a certificate for
3 passenger service, [~~or for a permit~~] for ambulance service or
4 for passenger service pursuant to a public-charge contract or
5 for amendment, lease or transfer of such a certificate [~~or~~
6 ~~permit~~]:

7 (1) when the territory involved in the
8 application includes all or a portion of the full-service
9 territory of the protesting carrier; and

10 (2) for a carrier other than an ambulance
11 service carrier, when the grant of the application will, or
12 presents a reasonable potential to, impair, diminish or
13 otherwise adversely affect its existing provision of full-
14 service passenger service to the public within its full-service
15 territory;

16 [~~VV.~~] TT. "public-charge contract" means a contract
17 or contractual arrangement between a motor carrier and a third
18 party for passenger service that requires or allows the motor
19 carrier to charge passengers a fare for the transportation
20 service to be provided pursuant to the contract;

21 [~~WW.~~] UU. "rate" means a form of compensation
22 charged, whether directly or indirectly, by a person for a
23 transportation service subject to the jurisdiction of the
24 [~~commission~~] department;

25 [~~XX.~~] VV. "record of a motor carrier" means an

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1 account, correspondence, memorandum, tape, disc, paper, book or
2 transcribed information, or electronic data information,
3 including the electronic hardware or software necessary to
4 access the electronic data information in its document form,
5 regarding the operation of a motor carrier;

6 ~~[YY-]~~ WW. "registration year" means a calendar
7 year;

8 ~~[ZZ-]~~ XX. "revocation" means the involuntary,
9 permanent termination of all or part of an operating authority
10 ordered by the ~~[commission]~~ department for cause;

11 ~~[AAA-]~~ YY. "shipper" means a person who consigns or
12 receives property or household goods for transportation;

13 ~~[BBB-]~~ ZZ. "shuttle service" means the intrastate
14 transportation of passengers for hire pursuant to a set fare
15 for each passenger between two or more specified terminal
16 points or areas and includes both scheduled shuttle service and
17 general shuttle service as follows:

18 (1) "scheduled shuttle service" means a
19 shuttle service that transports passengers to and from an
20 airport both through prior arrangement and through presentment
21 at terminal locations, on the basis of a daily time schedule
22 filed with the ~~[commission]~~ department, that must be met in a
23 timely fashion with a vehicle present at the terminal location
24 regardless of the number of passengers carried on any run, if
25 any, and that includes general shuttle service; and

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

6 ~~[CCC-]~~ AAA. "specialized passenger service" means
7 the intrastate transportation for hire of passengers with
8 special physical needs by specialized types of vehicles, or for
9 specialized types of service to the public or community, as the
10 ~~[commission]~~ department may by rule provide;

11 ~~[DDD-]~~ BBB. "tariff" means a document filed by a
12 tariffed service carrier that has been approved by the
13 ~~[commission]~~ department and sets forth the transportation
14 services offered by the motor carrier to the general public,
15 including the rates, terms of service and applicable time
16 schedules relating to those services;

17 ~~[EEE-]~~ CCC. "tariffed service" means one of the
18 following transportation services authorized by the
19 ~~[commission]~~ department for the provision of service on the
20 basis of rates and terms of service contained in a tariff
21 approved by the ~~[commission]~~ department:

- 22 (1) an ambulance service;
- 23 (2) a household goods service;
- 24 (3) a shuttle service;
- 25 (4) a specialized passenger service;

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1 (5) a taxicab service; or

2 (6) a towing service performing nonconsensual
3 tows;

4 ~~[FFF.]~~ DDD. "taxicab association" means an
5 association, cooperative or other legal entity whose members
6 are taxicab drivers, which shall be treated in the same manner
7 as any other applicant with regard to applications for a
8 certificate for general taxicab service or for full-service
9 municipal taxicab service and which shall be subject in the
10 same manner to all other provisions, requirements and
11 limitations of the Motor Carrier Act;

12 ~~[GGG.]~~ EEE. "taxicab service" means intrastate
13 transportation of passengers for hire in a motor vehicle having
14 a capacity of not more than eight persons, including the
15 driver, for which the passenger or other person engaging the
16 vehicle is allowed to specify not only the origin and
17 destination points of the trip but also, within reason, the
18 route taken by the vehicle, any intermediate stop, any optional
19 waiting at a stop and any other passengers transported during
20 the trip and that charges a fare for use of the vehicle
21 primarily on the basis of a drop-flag fee, cumulative mileage
22 and cumulative wait time through a taxicab meter used to
23 cumulate and display the fare to the passenger and includes
24 both municipal taxicab service and general taxicab service, as
25 follows:

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1 (1) "municipal taxicab service" means a
2 taxicab service that deploys vehicles at all times of the day
3 and year, is centrally dispatched and reasonably responds to
4 all calls for service within its endorsed full-service
5 territory regardless of profitability of the individual trip,
6 in addition to the transportation service provided by a general
7 taxicab service; and

8 (2) "general taxicab service" means a taxicab
9 service that need not be dispatched, that may pick up on-demand
10 passengers through flagging or at a taxicab stand or queue,
11 that need not deploy vehicles in any particular manner and that
12 may charge for trips to destination points or places outside of
13 the taxicab service's certificated territories on the basis of
14 a set fare;

15 ~~[HHH-]~~ FFF. "terms of service" means all terms,
16 aspects, practices, limitations, conditions and schedules of
17 service other than specific rate amounts pertaining to a
18 tariffed service;

19 ~~[HH-]~~ GGG. "towing service" means the use of
20 specialized equipment, including repossession services using
21 towing equipment, to transport or store:

22 (1) a damaged, disabled or abandoned motor
23 vehicle and its cargo;

24 (2) a motor vehicle to replace a damaged,
25 disabled or abandoned motor vehicle;

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

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

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

7 (6) a motor vehicle repossessed or seized
8 pursuant to lawful authority;

9 [~~JJJ.~~] HHH. "transfer of a certificate [~~or permit~~]"
10 means a permanent conveyance of all or part of a certificate
11 [~~or permit~~];

12 [~~KKK.~~] III. "transfer by operation of law" means
13 that all or a part of a grantee's interest in an operating
14 authority passes to a fiduciary or other person by application
15 of established rules of law;

16 [~~LLL.~~] JJJ. "transportation service" means
17 transportation subject to the jurisdiction of the [~~commission~~]
18 department, offered or provided by a motor carrier, that
19 requires the carrier to obtain an operating authority from the
20 [~~commission~~] department under the Motor Carrier Act, regardless
21 of whether the motor carrier has obtained appropriate operating
22 authority from the [~~commission~~] department;

23 [~~MMM.~~] KKK. "verification" means a notarized
24 signature verifying the contents of the document or other
25 filing or a signature verifying the contents of the document or

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1 other filing under penalty of perjury, expressly providing that
2 the signatory swears or affirms the contents under penalty of
3 perjury as provided in Subsection A of Section 65-2A-33 NMSA
4 1978;

5 ~~[NNN.]~~ LLL. "voluntary suspension" means the
6 ~~[commission-authorized]~~ department-authorized cessation of use
7 of all or part of a certificate ~~[or permit]~~ at the request of
8 the holder for a specified period of time, not to exceed twelve
9 consecutive months;

10 ~~[000.]~~ MMM. "warrant" means the authority issued by
11 the ~~[commission]~~ department to a person that authorizes the
12 person to offer and provide a warranted service as a motor
13 carrier;

14 ~~[PPP.]~~ NNN. "warranted service" means one of the
15 following intrastate transportation services offered or
16 provided for hire:

- 17 (1) a charter service;
- 18 (2) a property transportation service; or
- 19 (3) a towing service; and

20 ~~[000.]~~ 000. "weight-bumping" means the knowing and
21 willful statement of a fraudulent weight on a shipment of
22 household goods."

23 **SECTION 32.** Section 65-2A-4 NMSA 1978 (being Laws 2003,
24 Chapter 359, Section 4, as amended by Laws 2013, Chapter 73,
25 Section 3 and by Laws 2013, Chapter 77, Section 3) is amended

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1 to read:

2 "65-2A-4. POWERS AND DUTIES OF THE [COMMISSION]
3 DEPARTMENT.--

4 A. In accordance with the Motor Carrier Act, the
5 [~~commission~~] department shall:

6 (1) issue operating authorities for a motor
7 carrier operating in New Mexico;

8 (2) establish minimum requirements for
9 financial responsibility for motor carriers; provided that the
10 financial responsibility standards required shall not be
11 inconsistent with applicable federal standards;

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

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

20 (5) regulate the rates of tariffed service
21 carriers to the extent provided in the Motor Carrier Act,
22 including rates and terms of service for storing household
23 goods and motor vehicles;

24 (6) determine matters of public interest and
25 other matters relating to authorities, rates, territories,

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1 nature of service and other terms of service of motor carriers;

2 (7) have jurisdiction to determine any matter
3 under the Motor Carrier Act relating to any transportation
4 service carrier that has not obtained an appropriate operating
5 authority from the [~~commission~~] department;

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

9 (9) hold a public hearing specific to a
10 protest or a request by the [~~transportation division~~] traffic
11 safety bureau of the [~~commission~~] department that has been
12 filed within the notice period in opposition to or in
13 consideration of an application;

14 (10) create a statewide tariff for household
15 goods service carriers establishing maximum rates that may be
16 charged by carriers; and

17 (11) adopt rules, issue orders and conduct
18 activities necessary to implement and enforce the Motor Carrier
19 Act.

20 B. The [~~commission~~] department may:

21 (1) designate inspectors who may inspect the
22 records of a motor carrier subject to the Motor Carrier Act and
23 who shall have the powers of peace officers in the state's
24 political subdivisions with respect to a law or rule that the
25 [~~commission~~] department is empowered to enforce pursuant to

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1 Section 65-1-6 NMSA 1978, excluding the enforcement authority
2 granted to the [~~motor transportation~~] New Mexico state police
3 division of the department of public safety;

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

8 (3) from time to time, modify the type and
9 nature of service, territory and terms of service of operating
10 authorities previously issued, and change or rescind rates
11 previously approved;

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

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

15 SECTION 33. Section 65-2A-5 NMSA 1978 (being Laws 2003,
16 Chapter 359, Section 5, as amended by Laws 2013, Chapter 73,
17 Section 4 and by Laws 2013, Chapter 77, Section 4) is amended
18 to read:

19 "65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF
20 AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

21 A. A person shall file an application for any
22 matter for which [~~commission~~] department approval is required.
23 An application shall be made in writing, verified and in a form
24 that contains information and is accompanied by proof of
25 service upon interested persons as required by the [~~commission~~]

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1 department.

2 B. The [~~commission~~] department shall simplify to
3 the extent possible the process for approving applications.
4 The [~~commission~~] department may hold a public hearing on its
5 own initiative or specific to an objection that has been filed
6 within the notice period in opposition to or in consideration
7 of an application.

8 C. The [~~commission~~] department shall hold a public
9 hearing on an application whenever a protest is filed
10 concerning the application during the notice period or the
11 [~~transportation division~~] traffic safety bureau of the
12 [~~commission~~] department requests a hearing during the notice
13 period.

14 D. The [~~commission~~] department may approve or deny
15 an application in whole or in part, or allow or require
16 particular terms of service as it may find reasonable and
17 appropriate. If no objection, protest or request for hearing
18 by the [~~transportation division~~] traffic safety bureau of the
19 [~~commission~~] department is filed during the notice period, the
20 [~~commission~~] department may grant the application by
21 ministerial action, if the application complies with the
22 provisions of the Motor Carrier Act and the rules of the
23 [~~commission~~] department regarding fitness, ability, financial
24 responsibility and safety."

25 SECTION 34. Section 65-2A-6 NMSA 1978 (being Laws 2003,

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1 Chapter 359, Section 6, as amended by Laws 2013, Chapter 73,
2 Section 5 and by Laws 2013, Chapter 77, Section 5) is amended
3 to read:

4 "65-2A-6. NOTICE.--

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

24 B. Whenever the Motor Carrier Act requires
25 publication of notice regarding any other matter, the

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1 requirement is met if notice is published once in a newspaper
2 of general circulation in the state. The [~~commission~~]
3 department shall not act on a matter less than ten days after
4 the date notice was published."

5 SECTION 35. Section 65-2A-7 NMSA 1978 (being Laws 2003,
6 Chapter 359, Section 7, as amended) is amended to read:

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

8 A. Other than an entity receiving funding to
9 supplement transportation services through Title III B of the
10 federal Older Americans Act of 1965, no person shall offer or
11 provide a transportation service for hire within the state
12 without first obtaining an appropriate operating authority from
13 the [~~commission~~] department. Every motor carrier providing a
14 transportation service shall meet and comply with the
15 requirements of the Motor Carrier Act and the lawfully adopted
16 rules and orders of the [~~commission~~] department.

17 B. A certificate [~~permit~~] or warrant, or a change
18 in a certificate [~~or permit~~], shall be effective from the date
19 issued by the [~~commission~~] department and shall remain in
20 effect until canceled, revoked, suspended or amended.

21 C. A motor carrier shall carry a copy of its
22 operating authority in each motor vehicle it operates in New
23 Mexico.

24 D. A certificated service carrier shall render
25 reasonably continuous and adequate service as the [~~commission~~]

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1 department may by rule prescribe."

2 SECTION 36. Section 65-2A-8 NMSA 1978 (being Laws 2003,
3 Chapter 359, Section 8, as amended by Laws 2013, Chapter 73,
4 Section 7 and by Laws 2013, Chapter 77, Section 7) is amended
5 to read:

6 "65-2A-8. CERTIFICATES FOR PASSENGER SERVICE.--

7 A. The [~~commission~~] department may issue a
8 certificate for a passenger service as follows:

- 9 (1) a certificate for an ambulance service;
- 10 (2) a certificate for a shuttle service shall

11 be endorsed for nature of service as a scheduled shuttle
12 service or as a general shuttle service;

- 13 (3) a certificate for a specialized passenger
14 service shall be endorsed for nature of service as provided by
15 [~~commission~~] department rule; and

- 16 (4) a certificate for a taxicab service shall
17 be endorsed for nature of service as a municipal taxicab
18 service or as a general taxicab service.

19 B. Except as provided in this section and in
20 Section 65-2A-13 NMSA 1978, the [~~commission~~] department shall
21 issue a certificate allowing a person to provide passenger
22 service after notice and public hearing requirements are met,
23 if:

- 24 (1) the applicant is fit and able to provide
25 the transportation service to be authorized by the certificate;

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1 (2) the applicant is in compliance with the
2 safety and financial responsibility requirements of the Motor
3 Carrier Act, the rules of the [~~commission~~] department and other
4 applicable federal and state laws and rules;

5 (3) for an application for ambulance service,
6 the transportation service to be provided under the certificate
7 is or will serve a useful public purpose that is responsive to
8 a public demand or need; and

9 (4) the applicant has filed a tariff as
10 provided in Section 65-2A-20 NMSA 1978.

11 C. Before granting a certificate for passenger
12 service, the [~~commission~~] department shall consider any
13 objections or protests that were filed within the notice
14 period.

15 D. Before granting a certificate for ambulance
16 service, the [~~commission~~] department shall also consider the
17 effect that issuance of the certificate would have on existing
18 ambulance service in the territory.

19 E. A certificate issued by the [~~commission~~]
20 department for provision of passenger service shall contain one
21 or more endorsements, each of which shall specify the:

22 (1) nature of service to be rendered;

23 (2) territory authorized to be served; and

24 (3) reasonable terms of service as the

25 [~~commission~~] department may allow or require for the particular

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1 certificate.

2 F. Territorial endorsements to a certificate for
3 passenger service shall:

4 (1) be limited to territory sought in the
5 application that will be served in a reasonably continuous and
6 adequate manner beginning within thirty days of the issuance of
7 the certificate or such other definite period or date as the
8 [~~commission~~] department may provide for a particular
9 application and shall generally be authorized on the basis of
10 county or incorporated municipal boundaries, subject to other
11 specification reasonably allowed or required by the
12 [~~commission~~] department;

13 (2) except for shuttle services, authorize
14 transportation between points and places within the specified
15 territory, and from points and places within the specified
16 territory to all points and places in the state and return,
17 unless otherwise expressly allowed or specified in the terms of
18 service in the endorsement to the certificate; and

19 (3) for shuttle services, provide for
20 transportation between two or more specified end or
21 intermediate terminal points or areas, and authorize pick-up or
22 drop-off of passengers throughout a terminal area, but shall
23 not authorize transportation between points and places within a
24 single terminal area or the provision of transportation
25 services in any other areas of the state."

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1 SECTION 37. Section 65-2A-9 NMSA 1978 (being Laws 2003,
2 Chapter 359, Section 9, as amended by Laws 2013, Chapter 73,
3 Section 8 and by Laws 2013, Chapter 77, Section 8) is amended
4 to read:

5 "65-2A-9. CERTIFICATES FOR HOUSEHOLD GOODS SERVICE.--

6 A. Except as provided in this section and in
7 Section 65-2A-13 NMSA 1978, the [~~commission~~] department shall
8 issue a certificate allowing a person to provide household
9 goods service after notice and public hearing requirements are
10 met, if the applicant:

11 (1) is fit and able to provide the
12 transportation to be authorized by the certificate;

13 (2) has a place of business and stations
14 equipment within the state and is in compliance with the safety
15 and financial responsibility requirements of the Motor Carrier
16 Act, the rules of the [~~commission~~] department and other
17 applicable federal and state laws and rules; and

18 (3) has filed a tariff as provided in Section
19 65-2A-20 NMSA 1978.

20 B. Before granting a certificate for household
21 goods service to an applicant, the [~~commission~~] department
22 shall consider any objections that were filed within the notice
23 period.

24 C. A certificate issued by the [~~commission~~]
25 department for provision of household goods service shall

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1 contain one or more endorsements, each of which shall specify:

2 (1) the territory to be served, which shall be
3 limited to territory sought in the application that will be
4 served in a reasonably continuous and adequate manner beginning
5 within thirty days of the issuance of the certificate or such
6 other definite period or date as the [~~commission~~] department
7 may provide for a particular application, and shall generally
8 be specified on the basis of county boundaries, subject to
9 other or further specification by the [~~commission~~] department
10 by rule or in regard to a particular application; and

11 (2) any reasonable terms of service that the
12 [~~commission~~] department may allow or require for the particular
13 certificate."

14 SECTION 38. Section 65-2A-11 NMSA 1978 (being Laws 2003,
15 Chapter 359, Section 11, as amended by Laws 2013, Chapter 73,
16 Section 10 and by Laws 2013, Chapter 77, Section 10) is amended
17 to read:

18 "65-2A-11. TEMPORARY AUTHORITY.--

19 A. The [~~commission~~] department may without notice
20 grant temporary authority to an applicant for a certificate [~~or~~
21 ~~permit~~] or for amendment, lease or transfer of all or part of a
22 certificate [~~or permit~~] for a period not to exceed the duration
23 of the application process, if it finds that:

24 (1) the notice period for such application has
25 not yet expired, the application is one directly involving

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1 public safety, a governmental program or a specific public
2 event, there is an urgent and immediate public need for such
3 service and the public may be harmed by waiting for the notice
4 period to expire;

5 (2) the applicant for temporary authority has
6 a complete application for a certificate [~~or permit~~] or for
7 amendment, lease or transfer of all or part of a certificate
8 [~~or permit~~] pending before the [~~commission~~] department;

9 (3) the applicant is fit to provide the
10 transportation service requested, is able to provide any
11 certificated service requested and is in compliance with the
12 safety and financial responsibility requirements of the Motor
13 Carrier Act and the rules of the [~~commission~~] department; and

14 (4) satisfactory proof of urgent and immediate
15 need has been made by verified proof as the [~~commission~~]
16 department shall by rule prescribe.

17 B. An applicant for temporary authority as a
18 tariffed service carrier shall file tariffs covering the
19 transportation services for which temporary authority is being
20 sought.

21 C. If a hearing is held before a hearing examiner
22 for any reason on an application for a certificate [~~or permit~~]
23 or for amendment, lease or transfer of all or part of a
24 certificate [~~or permit~~] or for a tariff rate increase, the
25 applicant may move in such proceeding for a grant of temporary

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1 authority or rate approval for a period not to exceed the
2 duration of the application process, and any protesting carrier
3 or the [~~transportation division~~] traffic safety bureau of the
4 [~~commission~~] department may move in such proceeding for
5 reconsideration or modification of any grant of temporary
6 authority previously granted by the [~~commission~~] department or
7 the hearing examiner. The hearing examiner in the proceeding
8 shall hold an expedited preliminary public hearing on the grant
9 of temporary authority on the issues in the proceeding and the
10 testimony evidence presented in the hearing on such procedural
11 basis as the [~~commission~~] department shall by rule prescribe.

12 D. Motor carriers operating under temporary
13 authority shall comply with the requirements of the Motor
14 Carrier Act and the rules of the [~~commission~~] department.

15 E. A grant of temporary authority shall not create
16 a presumption that permanent authority will be granted."

17 SECTION 39. Section 65-2A-12 NMSA 1978 (being Laws 2003,
18 Chapter 359, Section 12, as amended) is amended to read:

19 "65-2A-12. WARRANTS.--

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

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1 ~~[commission]~~ department.

2 B. A towing service carrier performing
3 nonconsensual tows is subject to tariff rates and terms of
4 service. A towing service carrier performing nonconsensual
5 tows shall not use the same motor vehicles, equipment and
6 facilities used by another warranted towing service carrier
7 performing nonconsensual tows.

8 C. A warrant shall not be transferred or leased to
9 another person.

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

15 SECTION 40. Section 65-2A-13 NMSA 1978 (being Laws 2003,
16 Chapter 359, Section 13, as amended by Laws 2013, Chapter 73,
17 Section 12 and by Laws 2013, Chapter 77, Section 12) is amended
18 to read:

19 "65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

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

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

8 B. The [~~commission~~] department shall hold a hearing
9 on an application whenever a protest is filed within the notice
10 period or the [~~transportation division~~] traffic safety bureau
11 of the [~~commission~~] department files a request for a hearing
12 relative to an application within the notice period. The
13 [~~commission~~] department shall allow a protesting carrier to
14 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 the rules of the [~~commission~~] department for the
19 application at issue, the burden of demonstrating with
20 reasonable specificity the nature and scope of its proposed
21 transportation service, the burden of proving any particular
22 factual matters that the [~~commission~~] department or the
23 [~~transportation division~~] traffic safety bureau of the
24 [~~commission~~] department may identify and require, the burden of
25 proving any additional allegations and matters of public

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1 interest that it may raise and, if the application pertains to
2 ambulance service, the burden of proving that the ambulance
3 service that currently exists in the territory sought in the
4 application is inadequate and that the proposed service is
5 directly responsive to a public need and demand for the service
6 proposed;

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

22 (3) the ~~[commission]~~ department may allow
23 other interested persons to intervene, either generally or on
24 the basis of specific facts or issues. A permissive intervenor
25 has the burden of proof for its position on all factual matters

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1 and legal issues that it alleges and on which it is permitted
2 to intervene; and

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

8 D. The [~~commission~~] department shall not grant an
9 application:

10 (1) for a certificate [~~or permit~~] for
11 ambulance service, or for amendment, lease or transfer of such
12 a certificate [~~or permit~~], if it finds after hearing that the
13 existing ambulance service is provided on a reasonably
14 continuous and adequate basis in the territory in which the new
15 service is sought or that the holder of the certificate or
16 lessee providing the existing ambulance service in such
17 territory is willing and able to provide, and does subsequently
18 provide, reasonably continuous and adequate service within such
19 territory, as specified by [~~commission~~] department order;

20 (2) for a new certificate for general taxicab
21 service within the full-service territory of a protesting
22 municipal taxicab service carrier; or

23 (3) for a certificate for any passenger
24 service other than those identified in Paragraphs (1) and (2)
25 of this subsection, [~~or for a permit for passenger service~~

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1 ~~other than for an ambulance service pursuant to a public charge~~
2 ~~contract~~] or for amendment, lease or transfer of such a
3 certificate [~~or permit~~], within a protesting full-service
4 carrier's full-service territory, if it finds after hearing
5 that the grant of the application presents a reasonable
6 potential to impair, diminish or otherwise adversely affect the
7 existing provision of full-service passenger service to the
8 public in the full-service territory or if the application is
9 otherwise contrary to the public interest in the full-service
10 territory. In considering the potential effect on provision of
11 transportation services to the public in regard to such an
12 application, the [~~commission~~] department shall consider all
13 evidence presented pertaining to such potential effect,
14 including evidence of the effect that diversion of revenue or
15 traffic may have on the provision of full-service passenger
16 service to the community. Diversion of revenue or traffic from
17 an existing motor carrier shall not, however, be sufficient
18 grounds for denying the application without a showing that the
19 diversion presents a reasonable potential to affect the
20 provision of full-service passenger service to the community."

21 SECTION 41. Section 65-2A-14 NMSA 1978 (being Laws 2003,
22 Chapter 359, Section 14, as amended by Laws 2013, Chapter 73,
23 Section 13 and by Laws 2013, Chapter 77, Section 13) is amended
24 to read:

25 "65-2A-14. CHANGES IN CERTIFICATES [~~OR PERMITS~~].--

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1 A. A change in a certificate [~~or permit~~] shall not
2 be valid or effective without the approval of the [~~commission~~]
3 department.

4 B. The [~~commission~~] department may, for good cause
5 and after notice and public hearing requirements are met,
6 authorize the following changes in all or part of a certificate
7 [~~or permit~~] at the request of the holder if the [~~commission~~]
8 department finds:

9 (1) that the applicant for amendment, lease or
10 transfer of a certificate for passenger service meets the
11 requirements pursuant to Section 65-2A-8 NMSA 1978 for a
12 certificate for such passenger service;

13 (2) that the applicant for amendment, lease or
14 a transfer of a certificate for household goods service meets
15 the requirements pursuant to Section 65-2A-9 NMSA 1978 for a
16 certificate for such household goods service; and

17 ~~[(3) that the applicant for amendment, lease~~
18 ~~or a transfer of a permit meets the requirements pursuant to~~
19 ~~Section 65-2A-10 NMSA 1978 for such a permit; and~~

20 ~~(4)]~~ (3) 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 (b) for transfer of all or a part of a
2 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
5 paid by the transferor-applicant or assumed by the transferee-
6 applicant.

7 C. The [~~commission~~] department may, without notice
8 or a public hearing, authorize the following changes in all or
9 part of a certificate [~~or permit~~] at the request of the holder:

10 (1) voluntary cancellation of the certificate
11 [~~or permit~~];

12 (2) voluntary suspension of the certificate
13 [~~or permit~~] for a period not to exceed twelve consecutive
14 months;

15 (3) change in the form of legal entity or name
16 of the holder of the certificate [~~or permit~~];

17 (4) reinstatement of the certificate [~~or~~
18 ~~permit~~] following voluntary suspension of a period not
19 exceeding twelve consecutive months;

20 (5) change in control of a holder of the
21 certificate [~~or permit~~] through issuance or transfer of stock
22 or other legal interest in a holder that is a corporation,
23 partnership, trust or other legal business entity; and

24 (6) matters pertaining to transfers by
25 operation of law."

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1 SECTION 42. Section 65-2A-15 NMSA 1978 (being Laws 2003,
2 Chapter 359, Section 15, as amended by Laws 2013, Chapter 73,
3 Section 14 and by Laws 2013, Chapter 77, Section 14) is amended
4 to read:

5 "65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS
6 TRADE NAMES ALLOWED.--

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~~
15 department] to consolidate [~~such~~] the operating authorities.

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

20 D. Certificated service carriers holding both a
21 certificate and [~~permit or~~] warrant for related services may
22 use the same vehicles and may transport passengers and
23 property, or mixed loads of household goods and property,
24 pursuant to those authorities in the same vehicles and on the
25 same trip.

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1 E. Every certificated [~~permitted~~] or warranted
2 service carrier shall file with the [~~transportation division~~]
3 traffic safety bureau of the [~~commission~~] department all
4 business trade names under which the carrier operates its
5 service or services authorized and shall provide the
6 [~~transportation division~~] traffic safety bureau of the
7 [~~commission~~] department with proof of financial responsibility
8 for all business trade names in addition to its legal name.
9 The [~~commission~~] department shall accept business trade names
10 as submitted by a carrier. Filing with the [~~transportation~~
11 ~~division~~] traffic safety bureau of the [~~commission~~] department
12 shall not, by itself, establish or otherwise affect the
13 ownership or right to use a business trade name under the
14 intellectual property laws of the state of New Mexico."

15 SECTION 43. Section 65-2A-16 NMSA 1978 (being Laws 2003,
16 Chapter 359, Section 16, as amended) is amended to read:

17 "65-2A-16. INTERSTATE MOTOR CARRIERS.--

18 A. Foreign and domestic motor carriers, motor
19 private carriers, leasing companies, brokers and freight
20 forwarders shall not operate in interstate commerce in this
21 state without first registering with a base state and paying
22 all fees as required under the federal Unified Carrier
23 Registration Act of 2005. The [~~commission~~] department is
24 authorized to register applicants and collect all fees without
25 notice or a public hearing.

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1 B. The [~~commission~~] department is authorized to
2 follow rules and collect fee assessments set by the federal
3 secretary of transportation from foreign and domestic motor
4 carriers, motor private carriers, leasing companies, brokers
5 and freight forwarders and do all things necessary to enable
6 New Mexico to participate in the federal unified carrier
7 registration system pursuant to the federal Unified Carrier
8 Registration Act of 2005, including the collection of an equal
9 amount of revenue as was collected by the [~~commission~~]
10 department in the last registration year under Section 4005 of
11 the federal Intermodal Surface Transportation Efficiency Act of
12 1991 and the collection of an equal amount of revenue annually
13 from all other sources allowed under the federal Unified
14 Carrier Registration Act of 2005 in the last year that such
15 collections were not prohibited by federal law.

16 C. The [~~commission~~] department is the state agency
17 in New Mexico responsible for operation of the federal Unified
18 Carrier Registration Act of 2005, including participating in
19 the development, implementation and administration of the
20 unified carrier registration agreement. The [~~commission~~]
21 department is authorized to follow rules governing the unified
22 carrier registration agreement issued under the unified carrier
23 registration plan by its board of directors.

24 D. Revenue remitted to the state from fees imposed
25 by the federal Unified Carrier Registration Act of 2005 shall

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1 be remitted to the state treasurer, who shall deposit the
2 revenue in the motor transportation fee fund.

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

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

17 (2) delivery to a departure point within this
18 state of one or more passengers whose transportation on that
19 service run was initiated at a point within this state."

20 SECTION 44. Section 65-2A-18 NMSA 1978 (being Laws 2003,
21 Chapter 359, Section 18, as amended by Laws 2013, Chapter 73,
22 Section 16 and by Laws 2013, Chapter 77, Section 16) is amended
23 to read:

24 "65-2A-18. FINANCIAL RESPONSIBILITY.--

25 A. The [~~commission~~] department shall prescribe

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1 minimum requirements for financial responsibility for all motor
2 carriers.

3 B. A motor carrier shall not operate on the
4 highways of this state without having filed with the
5 [~~commission~~] department proof of financial responsibility in
6 the form and amount as the [~~commission~~] department shall by
7 rule prescribe.

8 C. In prescribing minimum requirements for
9 financial responsibility for motor carriers, the [~~commission~~]
10 department shall adopt the same minimum liability insurance
11 requirements as those required by the federal motor carrier
12 safety administration for interstate motor carriers for all
13 motor vehicles for carriage of property or household goods and
14 for all passenger motor vehicles with such capacities. The
15 [~~commission~~] department shall adopt reasonable minimum
16 liability insurance requirements for the use of passenger motor
17 vehicles with capacities less than those regulated by the
18 federal motor carrier safety administration and in doing so
19 shall consider the number of passengers being transported and
20 the nature of the transportation services provided by the motor
21 carriers using vehicles of those capacities.

22 D. The [~~commission~~] department may authorize a
23 motor carrier to carry its own insurance in lieu of filing a
24 policy of insurance, certificate showing the issuance of a
25 policy of insurance or a surety bond. In approving an

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1 application to be self-insured, the [~~commission~~] department
2 shall consider:

- 3 (1) the financial stability of the carrier;
4 (2) previous loss history of the carrier;
5 (3) the safety record of the carrier;
6 (4) the size, nature of operations and other
7 operating characteristics of the carrier; and
8 (5) other factors necessary for the protection
9 of passengers, shippers and the public.

10 E. Notwithstanding any requirement of the New
11 Mexico Insurance Code to the contrary, the [~~commission~~]
12 department may accept proof of public liability insurance from
13 an insurer not authorized in New Mexico if:

- 14 (1) the insurance is for an interstate motor
15 carrier transporting commodities exempt from regulation by the
16 federal motor carrier safety administration participating in
17 the unified carrier registration system for those motor
18 carriers; and
19 (2) the insurer is authorized to write public
20 liability insurance in at least one other state.

21 F. All motor carriers shall carry proof of
22 financial responsibility in each motor vehicle they operate in
23 this state."

24 SECTION 45. Section 65-2A-19 NMSA 1978 (being Laws 2003,
25 Chapter 359, Section 19, as amended) is amended to read:

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1 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
2 DRIVERS.--

3 A. A motor carrier shall provide safe and adequate
4 service, equipment and facilities for the rendition of
5 transportation services in this state.

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

17 C. The New Mexico state police division of the
18 department of public safety may immediately order, without
19 notice or a public hearing, a motor vehicle to be taken out of
20 service for violation of a federal or state law or rule
21 relating to safety if the violation would endanger the public
22 health or safety.

23 D. The [~~commission~~] department shall implement
24 rules requiring carriers to obtain criminal background reports
25 for all employed or contract drivers of certificated service

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1 carriers and for all other persons employed by certificated
2 household goods service carriers who enter private dwellings in
3 the course of household goods service."

4 SECTION 46. Section 65-2A-20 NMSA 1978 (being Laws 2003,
5 Chapter 359, Section 20, as amended by Laws 2013, Chapter 73,
6 Section 18 and by Laws 2013, Chapter 77, Section 18) is amended
7 to read:

8 "65-2A-20. TARIFFS.--

9 A. A tariffed service carrier shall not commence
10 operations or perform a new service under its operating
11 authority without having an approved tariff on file with the
12 ~~[commission]~~ department.

13 B. A tariffed service carrier shall file with the
14 ~~[commission]~~ department proposed tariffs showing the rates for
15 transportation and all related activities and containing a
16 description of the type and nature of the service, territory
17 and all terms of service for transportation and related
18 services. The rates shall be stated in terms of United States
19 currency. Tariffs for individual carriers shall also include
20 the carrier's legal name, all business trade names used by the
21 carrier, contact information, information for service of
22 process, the territory authorized for each transportation
23 service listed in the tariff and any terms of service contained
24 in the operating authorities for that particular carrier. Each
25 tariffed service carrier operating pursuant to a statewide

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

8 C. A tariffed service carrier shall not charge, or
9 permit its agents, employees or contract drivers to charge, a
10 different or additional rate, or to use different or additional
11 practices or terms of service, for transportation or for a
12 service rendered to or for the user of the service other than
13 the rates and terms of service specified in approved tariffs in
14 effect at the time, except:

15 (1) for ambulance and household goods service
16 carriers, in accordance with rates and terms of service
17 established by federal or state law for federal or state
18 governmental programs or operations; and

19 (2) for tariffed passenger service carriers
20 other than ambulance service carriers, in accordance with the
21 rates and terms of service established by governmental programs
22 or operations in which they voluntarily participate.

23 D. A tariffed service carrier shall not pay or
24 refund, directly or indirectly to any person, a portion of the
25 rate specified in its approved tariff, offer to a person

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1 privileges or facilities, perform a service or remit anything
2 of value, except:

3 (1) in accordance with tariffs approved by the
4 [~~commission~~] department;

5 (2) for ambulance and household goods service
6 carriers, in accordance with rates and terms of service
7 established by federal and state law for federal and state
8 governmental entities, programs or operations;

9 (3) for tariffed passenger service carriers
10 other than ambulance service carriers, in accordance with the
11 rates and terms of service established by governmental programs
12 or operations in which they voluntarily participate; or

13 (4) in settling or resolving a claim by a
14 customer.

15 E. The [~~commission~~] department shall post on its
16 internet [~~web site~~] website electronic copies of all currently
17 approved individual and statewide tariffs, and all tariff
18 statements filed by carriers using statewide tariffs, in a
19 manner to facilitate public access, review and comparison of
20 rates and terms of service. A certificated passenger service
21 carrier other than an ambulance service carrier shall post its
22 tariff rates in each vehicle used in the provision of its
23 transportation service.

24 F. A tariffed service carrier shall file an
25 application with the [~~commission~~] department for any change in

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1 the tariff, accompanied by the proposed tariff, at least twenty
2 days prior to implementation of the amended rates and terms of
3 service contained in the tariff. Except as provided in this
4 section, an amended tariff shall be approved and become
5 effective twenty days after filing of the application for a
6 change in the tariff. The [~~commission~~] department shall post
7 notice of each application for a change in a tariff along with
8 a copy of the proposed tariff on the [~~commission web site~~]
9 department website.

10 G. No changes in terms of service disapproved by
11 the [~~transportation division of the commission~~] traffic safety
12 bureau of the department as inconsistent with the Motor Carrier
13 Act, rule of the [~~commission~~] department, the individual
14 operating authority of the carrier or otherwise in violation of
15 law shall become effective or be part of the approved tariff.
16 The following terms of service contained in a tariff shall not
17 be considered inconsistent with, or predatory or discriminatory
18 in nature under the Motor Carrier Act or [~~commission~~]
19 department rule:

20 (1) a carrier may decline or terminate service
21 under circumstances that reasonably appear to present a
22 physical danger to the driver, to another employee of the
23 carrier or to passengers or, for carriers other than ambulance
24 service carriers, a danger to the condition of the motor
25 vehicle or cargo;

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1 (2) a carrier is not responsible for
2 cancellations or delays due to weather or road conditions when
3 reasonably required for safety or when due to road
4 construction, road closures, law enforcement stops or similar
5 matters beyond the control of the carrier;

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

11 (4) a passenger service carrier other than an
12 ambulance service carrier may decline or terminate service when
13 the passenger cannot give an adequate description of, or
14 direction to, the destination or cannot transfer into or out of
15 the motor vehicle without requiring physical assistance from
16 the driver.

17 H. An application for amendment of tariff rates
18 that increases any tariff rate to a level greater than that
19 previously approved by the [~~commission~~] department for a full-
20 service carrier or a towing service providing nonconsensual
21 tows shall not become effective until approved by the
22 [~~commission~~] department as reasonable under Section 65-2A-21
23 NMSA 1978. The [~~commission~~] department shall hold a hearing
24 appropriate to the type of transportation service provided by
25 the carrier for any such application, if requested by the

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1 applicant or by the [~~transportation division~~] traffic safety
2 bureau of the [~~commission~~] department, or if ordered in the
3 discretion of the [~~commission~~] department. The [~~commission~~]
4 department may provide for reasonable periodic rate increases
5 for full-service carriers or towing services providing
6 nonconsensual tows pursuant to a rate escalator or adjustment
7 clause for any or all rates of a carrier on such basis as the
8 [~~commission~~] department finds reasonable.

9 I. A person may make a complaint in writing to the
10 [~~commission~~] department that a rate or term of service
11 contained in a tariff, or a rate otherwise charged or practice
12 otherwise effected, is inconsistent with or in violation of the
13 Motor Carrier Act, [~~commission~~] department rule or the
14 operating authority or current tariff of the motor carrier.
15 The [~~commission~~] department may suspend the operation of a
16 rate, term of service or practice for a period not to exceed
17 sixty days to investigate its reasonableness. If the
18 [~~commission~~] department finds that a rate charged by a tariffed
19 carrier, or a term of service or practice effected by a
20 tariffed carrier, is unauthorized, predatory or discriminatory,
21 the [~~commission~~] department shall prescribe the rate or the
22 maximum or minimum rate to be observed or the terms of service
23 to be made effective."

24 SECTION 47. Section 65-2A-21 NMSA 1978 (being Laws 2003,
25 Chapter 359, Section 21, as amended by Laws 2013, Chapter 73,
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1 Section 19 and by Laws 2013, Chapter 77, Section 19) is amended
2 to read:

3 "65-2A-21. RATES.--

4 A. Tariffed service carriers shall observe
5 nonpredatory and nondiscriminatory rates and terms of service
6 for the transportation services they provide. A predatory or
7 discriminatory charge for service is unlawful.

8 B. Reduced rates for minor children accompanied by
9 an adult, for students traveling between their homes and their
10 schools and for persons sixty-five years of age or older shall
11 not be considered discriminatory. A motor carrier shall not
12 furnish free transportation to persons except to bona fide
13 owners, officers, employees or other business personnel of the
14 motor carrier and their dependents.

15 C. Towing services performing nonconsensual tows
16 may charge rates lower than the rates in their approved tariff
17 to members of not-for-profit motor clubs after those rates have
18 been filed with the [~~commission~~] department.

19 D. A household goods service carrier shall
20 establish and observe nonpredatory and nondiscriminatory rates
21 and practices relating to the manner and method of presenting,
22 marking, packing and delivering household goods for
23 transportation and other matters relating to the transportation
24 of household goods.

25 E. In proceedings to determine the reasonableness

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1 of rates, the [~~commission~~] department shall authorize revenue
2 levels that are adequate under honest, economical and efficient
3 management to cover total operating expenses, including the
4 operation of leased motor vehicles, and depreciation, plus a
5 reasonable profit. The rules adopted by the [~~commission~~]
6 department to implement this section shall allow a carrier to
7 achieve revenue levels that will provide a flow of net income,
8 plus depreciation, adequate to support prudent capital outlays,
9 ensure the repayment of a reasonable level of debt, permit the
10 raising of needed equity capital and attract and retain capital
11 in amounts adequate to provide a sound motor carrier
12 transportation system in the state."

13 SECTION 48. Section 65-2A-22 NMSA 1978 (being Laws 2003,
14 Chapter 359, Section 22, as amended by Laws 2013, Chapter 73,
15 Section 20 and by Laws 2013, Chapter 77, Section 20) is amended
16 to read:

17 "65-2A-22. TIME SCHEDULES.--

18 A. A scheduled shuttle service carrier shall file a
19 proposed time schedule with its tariff and shall file any
20 change in its schedule through an amended tariff.

21 B. Failure by a scheduled shuttle service carrier
22 to operate the service on each day pursuant to [~~commission~~]
23 department rule as scheduled in its tariff shall result in an
24 appropriate penalty as the [~~commission~~] department, in its
25 discretion, shall determine.

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1 C. A time schedule shall not be designed to require
2 the operation of a motor vehicle between given terminals or
3 terminal areas at a rate of speed greater than the maximum
4 speed allowed."

5 SECTION 49. Section 65-2A-23 NMSA 1978 (being Laws 2003,
6 Chapter 359, Section 23, as amended by Laws 2013, Chapter 73,
7 Section 21 and by Laws 2013, Chapter 77, Section 21) is amended
8 to read:

9 "65-2A-23. MOTOR CARRIER ORGANIZATIONS.--

10 A. A tariffed service carrier may enter into
11 discussions with another tariffed service carrier to establish
12 a motor carrier organization. The organization shall obtain
13 authorization from the [~~commission~~] department before its
14 members enter into any discussions concerning the rates
15 contained in a statewide tariff. The [~~commission~~] department
16 may authorize the creation of a motor carrier organization to
17 discuss and promote industry matters, other than the rates of
18 individual carriers, if the organization:

19 (1) allows any intrastate motor carrier
20 authorized to provide the same type of service to become a
21 member of the organization and allows a member carrier to
22 discuss matters before the organization and to vote upon any
23 proposal;

24 (2) does not interfere with a member carrier's
25 right to establish its own tariff and does not change or cancel

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1 an independently established tariff;

2 (3) does not file an objection, protest or
3 complaint with the [~~commission~~] department against a tariff
4 item independently published by or for the account of a member
5 carrier;

6 (4) does not permit its employees or an
7 employee committee to file or act upon a proposal effecting a
8 change in a tariff item published by or for the account of a
9 member carrier; and

10 (5) proposes matters concerning statewide
11 tariffs for approval by the [~~commission~~] department.

12 B. A member carrier of the organization shall file
13 with the [~~commission~~] department information as the
14 [~~commission~~] department may by rule prescribe.

15 C. A motor carrier organization approved by the
16 [~~commission~~] department pursuant to this section shall be
17 subject to accounting, [~~record-keeping~~] recordkeeping,
18 reporting and inspection requirements as the [~~commission~~]
19 department may by rule prescribe.

20 D. The [~~commission~~] department may, upon complaint
21 or upon its own initiative, investigate and determine whether a
22 motor carrier organization previously authorized by it is not
23 in conformity with the requirements of this section or with the
24 terms and conditions upon which the motor carrier organization
25 was granted authorization. The [~~commission~~] department may

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1 modify or terminate its authorization of a motor carrier
2 organization found to be noncompliant with the requirements of
3 this rule.

4 E. The antitrust laws of the state shall not apply
5 to discussions concerning general industry matters, terms of
6 service or any matters concerning a statewide tariff, including
7 the rates contained in a statewide tariff, by member carriers
8 of a motor carrier organization authorized by the [~~commission~~]
9 department."

10 SECTION 50. Section 65-2A-24 NMSA 1978 (being Laws 2003,
11 Chapter 359, Section 24, as amended by Laws 2013, Chapter 73,
12 Section 22 and by Laws 2013, Chapter 77, Section 22) is amended
13 to read:

14 "65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--

15 A. An intrastate motor carrier shall not lease a
16 motor vehicle or operate a leased motor vehicle in the course
17 of its transportation service except as provided by
18 [~~commission~~] department rule. The [~~commission~~] department may
19 approve a motor vehicle lease without notice or a public
20 hearing.

21 B. A motor carrier may use employed or contract
22 drivers or taxicab association member drivers in the provision
23 of a transportation service. Regardless of the provisions of
24 any written or oral agreement between a motor carrier and a
25 contract driver or taxicab association member driver, motor

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1 carriers providing transportation services that use contract
2 drivers or taxicab association member drivers remain fully
3 responsible to the [~~commission~~] department for complying with
4 all provisions of the Motor Carrier Act and [~~commission~~]
5 department rules applicable to transportation service carriers.

6 C. Motor carriers providing intrastate
7 transportation services that use contract drivers or taxicab
8 association member drivers shall maintain, at their principal
9 places of business within the state, a current written
10 agreement with each such driver. No agreement with any
11 contract driver or taxicab association member driver shall
12 contain any provision contrary to a provision of the Motor
13 Carrier Act or a rule of the [~~commission~~] department. Each
14 written agreement shall contain a clause that requires the
15 contract driver or taxicab association member driver to adhere
16 to all provisions of the Motor Carrier Act and to all
17 [~~commission~~] department rules applicable to transportation
18 service carriers."

19 SECTION 51. Section 65-2A-25 NMSA 1978 (being Laws 2003,
20 Chapter 359, Section 25, as amended by Laws 2013, Chapter 73,
21 Section 23 and by Laws 2013, Chapter 77, Section 23) is amended
22 to read:

23 "65-2A-25. HOUSEHOLD GOODS OPERATIONS.--

24 A. The [~~commission~~] department shall establish a
25 statewide tariff for household goods services, containing terms

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1 of service and maximum rates that household goods service
2 carriers may charge the public.

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

10 C. A certificated household goods service carrier
11 shall use reasonable care in selecting and retaining household
12 goods agents who are sufficiently knowledgeable, fit, willing
13 and able to provide adequate household goods transportation
14 services, including accessorial and terminal services, and to
15 fulfill the obligations imposed upon them by the Motor Carrier
16 Act and by the certificated household goods service carrier.

17 D. If the [~~commission~~] department has reason to
18 believe from a complaint or investigation that a household
19 goods agent has violated Subsection G or H of Section 65-2A-33
20 NMSA 1978, or is consistently unfit, unwilling or unable to
21 provide adequate household goods transportation services,
22 including accessorial and terminal services, the [~~commission~~]
23 department may issue to that household goods agent notice of
24 the complaint, specific charges and the time and place for a
25 hearing on the complaint. The hearing shall be held no later

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1 than sixty days after service of the complaint to the household
2 goods agent. The household goods agent has the right to appear
3 at the hearing and rebut the charges contained in the
4 complaint.

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

23 F. The [~~commission~~] department shall adopt rules
24 for the following elements of household goods transportation
25 services:

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- 1 (1) methods of determining shipping charges;
- 2 (2) cost estimates, for which charges shall be
- 3 subject to the antitrust laws of this state;
- 4 (3) inventory;
- 5 (4) weighing;
- 6 (5) receipts and bills of lading;
- 7 (6) liability based on value established
- 8 between the motor carrier and the shipper;
- 9 (7) equipment stationing by, and joint
- 10 transportation between, household goods service carriers;
- 11 (8) household goods agents; and
- 12 (9) service standards.

13 G. In adopting reasonable rules for intrastate
14 household goods service carriers, the ~~[commission]~~ department
15 shall balance the interests of shippers and carriers and
16 consider and observe industry standards.

17 H. The antitrust laws shall not apply to
18 discussions or agreements between a household goods service
19 carrier and its authorized agents, whether or not an agent is
20 also a household goods service carrier when related solely to:

- 21 (1) rates for the transportation of household
- 22 goods under the authority of the principal carrier;
- 23 (2) accessorial, terminal, storage or other
- 24 charges for transportation services incidental to the
- 25 transportation of household goods transported under the

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1 authority of the principal carrier;

2 (3) allowances relating to transportation of
3 household goods under the authority of the principal carrier;
4 or

5 (4) ownership of a household goods service
6 carrier by an agent or membership on the board of directors of
7 any household goods service carrier by an agent."

8 SECTION 52. Section 65-2A-26 NMSA 1978 (being Laws 2003,
9 Chapter 359, Section 26, as amended by Laws 2013, Chapter 73,
10 Section 24 and by Laws 2013, Chapter 77, Section 24) is amended
11 to read:

12 "65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT
13 PROGRAM.--

14 A. The [~~commission~~] department shall establish a
15 program to settle disputes, at the voluntary option of the
16 shipper, between shippers and all household goods service
17 carriers concerning the transportation of household goods,
18 which shall be a fair and expeditious method for settling
19 disputes and complies with each of the following requirements
20 and rules the [~~commission~~] department may prescribe:

21 (1) the program is designed to prevent a
22 household goods service carrier from having any special
23 advantage in a case in which the shipper resides or does
24 business at a place distant from the motor carrier's place of
25 business;

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

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

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

20 (5) the person settling the dispute may charge
21 the shipper a fee of not more than twenty-five dollars (\$25.00)
22 for instituting a proceeding under the program if the program
23 is binding solely on the carrier, but shall not charge the
24 shipper a fee otherwise. The person settling the dispute shall
25 refund the fee to the shipper in a case in which the dispute is

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1 settled in favor of the shipper, unless the person settling the
2 dispute determines that the refund is inappropriate;

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

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

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

24 B. The [~~commission~~] department may investigate at
25 any time the functioning of the program approved under this

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1 section and may, after notice and an opportunity to be heard,
2 take appropriate action against any household goods service
3 carrier for failure to meet the requirements of this section
4 and rules as the [~~commission~~] department may prescribe.

5 C. In a court action to resolve a dispute between a
6 shipper and a household goods service carrier, concerning the
7 transportation of household goods by the carrier, the shipper
8 shall be awarded reasonable attorney fees if:

9 (1) the shipper submits a claim to the carrier
10 within one hundred twenty days after the date the shipment is
11 delivered or the date delivery is scheduled, whichever is
12 later;

13 (2) the shipper prevails in the court action;
14 and

15 (3) a decision resolving the dispute was not
16 rendered under the dispute settlement program within sixty days
17 or an extension of the sixty-day period; or

18 (4) the court proceeding is to enforce a
19 decision rendered under the dispute settlement program and is
20 instituted after the period for performance under the decision
21 has elapsed.

22 D. In a court action to resolve a dispute between a
23 shipper and a household goods service carrier concerning the
24 transportation of household goods by the carrier, the carrier
25 shall be awarded reasonable attorney fees by the court only if

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1 the shipper brought the action in bad faith:

2 (1) after resolution of the dispute under the
3 dispute settlement program; or

4 (2) after institution of a proceeding by the
5 shipper to resolve the dispute under the dispute settlement
6 program and before:

7 (a) the expiration of the sixty-day
8 period or extension of the sixty-day period for resolution of
9 the dispute; and

10 (b) a decision resolving the dispute is
11 rendered under the program."

12 SECTION 53. Section 65-2A-27 NMSA 1978 (being Laws 2003,
13 Chapter 359, Section 27, as amended by Laws 2013, Chapter 73,
14 Section 25 and by Laws 2013, Chapter 77, Section 25) is amended
15 to read:

16 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR
17 AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

18 A. The [~~commission~~] department shall immediately
19 suspend, without notice or a public hearing, the operating
20 authority of a motor carrier for failure to continuously
21 maintain the forms and amounts of financial responsibility
22 prescribed by [~~commission~~] department rule.

23 B. The [~~commission~~] department may immediately
24 suspend, without notice or a public hearing, the operating
25 authority of a motor carrier for violation of a safety

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1 requirement of the Motor Carrier Act, the [~~commission's~~]
2 department's rules or the rules of the [~~motor transportation~~]
3 New Mexico state police division of the department of public
4 safety, if the violation endangers the public health or safety.

5 C. The [~~commission~~] department may, upon complaint
6 or the [~~commission's~~] department's own initiative and after
7 notice and a public hearing, if required, order involuntary
8 suspension, revocation or amendment, in whole or in part, of an
9 operating authority for failure to:

10 (1) comply with a provision of the Motor
11 Carrier Act;

12 (2) comply with a lawful order or rule of the
13 [~~commission~~] department;

14 (3) comply with a term of service of an
15 operating authority or tariff; or

16 (4) render reasonably continuous and adequate
17 service under a certificate.

18 D. The [~~commission~~] department may approve an
19 application for reinstatement of an operating authority
20 following involuntary suspension if it finds, after notice and
21 public hearing requirements are met, that:

22 (1) the reasons for the involuntary suspension
23 no longer pertain; and

24 (2) the holder of the operating authority is
25 fit, and a certificate holder is able, to provide the

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1 authorized transportation services, and the holder will comply
2 with the Motor Carrier Act and the rules of the [~~commission~~
3 department]."

4 SECTION 54. Section 65-2A-28 NMSA 1978 (being Laws 2003,
5 Chapter 359, Section 28, as amended by Laws 2013, Chapter 73,
6 Section 26 and by Laws 2013, Chapter 77, Section 26) is amended
7 to read:

8 "65-2A-28. DESIGNATION OF AN AGENT FOR SERVICE OF
9 PROCESS.--

10 A. An applicant for an operating authority shall
11 file with the [~~commission~~] department an appointment in writing
12 of a resident agent for service of process. The appointment
13 shall specify the address of the agent and shall stipulate that
14 service upon the appointed agent of process of the [~~commission~~]
15 department or of a court shall have the same force and effect
16 as if service had been made personally upon the motor carrier
17 within this state. The appointment shall continue in force
18 until the motor carrier files an appointment of a substitute
19 agent or until liability against the motor carrier growing out
20 of its operations in the state has terminated. A copy of the
21 appointment, duly certified by the [~~commission~~] department,
22 shall be accepted as sufficient evidence of appointment of an
23 agent in a court of the state.

24 B. If the holder of an operating authority from the
25 [~~commission~~] department operates without appointing a resident

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1 agent for service of process, or the [~~commission~~] department
2 has unsuccessfully attempted to serve process upon the
3 designated resident agent, the holder shall be deemed to have
4 appointed the secretary of state as its resident agent for
5 service of process in an action or proceeding against the motor
6 carrier growing out of an accident, collision or transaction in
7 which the motor carrier may be involved by operating in this
8 state.

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

18 D. The secretary of state shall assess to the motor
19 carrier the fee prescribed in Section 65-2A-36 NMSA 1978 for a
20 process from a court served upon the secretary of state but
21 shall not charge a fee for service of [~~commission~~] department
22 process.

23 E. The principal motor carrier of a household goods
24 agent shall be deemed to be the agent for service of process of
25 the household goods agent unless the household goods agent

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1 notifies the [~~commission~~] department in writing of the
2 substitution of another agent for service of process."

3 SECTION 55. Section 65-2A-29 NMSA 1978 (being Laws 2003,
4 Chapter 359, Section 29, as amended by Laws 2013, Chapter 73,
5 Section 27 and by Laws 2013, Chapter 77, Section 27) is amended
6 to read:

7 "65-2A-29. REPORTS AND RECORDS.--

8 A. The [~~commission~~] department shall establish
9 reasonable requirements with respect to reports, records and
10 uniform systems of accounts and preservation of records for
11 motor carriers.

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

21 C. The [~~commission~~] department or its employees or
22 duly authorized agents shall, at all times, have access to:

23 (1) land, buildings, improvements to real
24 property and equipment of motor carriers used in connection
25 with their operations; and

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1 (2) records kept by motor carriers.

2 D. The [~~commission~~] department may, by order,
3 require a motor carrier subject to the Motor Carrier Act, or
4 its officers or agents, to produce within this state at such
5 reasonable time and place as it may designate, original or
6 certified copies of records regardless of where they are kept
7 by the motor carrier when their production is pertinent to a
8 matter before the [~~commission~~] department, in order that the
9 [~~commission~~] department may examine them. No trade secret or
10 business confidentiality immunity or privilege may be asserted
11 by the motor carrier in response to such an order or request;
12 provided that nothing in this provision shall prevent a carrier
13 from moving for, or the [~~commission~~] department from entering,
14 an appropriate protective order to preserve the carrier's trade
15 secrets or business confidentiality from further disclosure,
16 nor shall this provision or any production required under this
17 provision waive or diminish the carrier's trade secret or
18 business confidentiality immunity or privilege as to persons
19 other than the [~~commission~~] department.

20 E. The [~~motor transportation~~] New Mexico state
21 police division of the department of public safety shall
22 furnish to the [~~commission~~] department all information needed
23 or required by the [~~commission~~] department to carry out its
24 responsibilities when the information is obtainable only
25 through field enforcement.

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1 F. All applications, protests, objections,
2 amendments to filings, operating authorities, tariffs,
3 pleadings or any other documents filed in docketed proceedings
4 not subject to confidentiality orders are public records and
5 shall, as soon as practical, be made electronically available
6 to the public."

7 SECTION 56. Section 65-2A-30 NMSA 1978 (being Laws 2003,
8 Chapter 359, Section 30, as amended by Laws 2013, Chapter 73,
9 Section 28 and by Laws 2013, Chapter 77, Section 28) is amended
10 to read:

11 "65-2A-30. UNAUTHORIZED CARRYING OF PERSONS
12 PROHIBITED.--Except in the case of an emergency, a
13 transportation service carrier not authorized to transport
14 passengers shall not carry a passenger, including a hitchhiker,
15 except on-duty employees of the motor carrier or [~~commission~~]
16 department representatives on official business in a vehicle
17 used in the provision of transportation service under its
18 operating authority."

19 SECTION 57. Section 65-2A-31 NMSA 1978 (being Laws 2003,
20 Chapter 359, Section 31) is amended to read:

21 "65-2A-31. WITNESSES--SUBPOENAS--SERVICE OF PROCESS.--
22 A. If the [~~commission~~] department orders a person
23 to appear before it, the [~~commission~~] department shall
24 compensate the witness one full day's per diem plus mileage as
25 provided for employees in the Per Diem and Mileage Act. The

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1 state shall pay such compensation out of the motor
2 transportation fee fund pursuant to rules of the department of
3 finance and administration. Witnesses subpoenaed by parties
4 other than the [~~commission~~] department shall be paid the same
5 compensation by the party issuing the subpoena.

6 B. A person shall not be excused from testifying or
7 producing documentary evidence before the [~~commission~~]
8 department or a court in obedience to a subpoena of the
9 [~~commission~~] department issued pursuant to the Motor Carrier
10 Act on the ground that the testimony or documentary evidence
11 required of the person may tend to incriminate [~~him~~] the person
12 or subject [~~him~~] the person to a penalty. A person shall not
13 be prosecuted or subjected to a penalty for a transaction or
14 matter about which [~~he~~] the person may be required to testify
15 or produce documentary evidence; provided that a person
16 testifying shall not be exempt from prosecution and punishment
17 for perjury committed in testifying. A person shall not be
18 required to testify or produce documentary evidence in response
19 to an inquiry not pertinent to a question lawfully before the
20 [~~commission~~] department or court for determination.

21 C. Upon request of [~~a member of the commission~~] the
22 department, a district court may issue a writ of attachment to
23 a person who fails to comply with a subpoena issued by the
24 [~~commission~~] department compelling the person to comply with
25 the subpoena. The court shall have the power to punish for

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1 contempt in the same manner as for disobedience of a subpoena
2 issued by the court.

3 D. ~~[A member of the commission]~~ The department may
4 administer an oath, certify to an official act, issue a
5 subpoena and compel the attendance of a witness and the
6 production of evidence in hearings before the ~~[commission]~~
7 department for the purposes provided in the Motor Carrier Act.

8 E. The ~~[commission]~~ department may issue and serve
9 process on the person affected by delivering a copy of the
10 process, signed by a member of the ~~[commission]~~ department, to
11 the person or to an officer or agent of the person. An
12 employee of the ~~[commission]~~ department, a duly authorized law
13 enforcement officer or a person over the age of eighteen who is
14 not a party to the proceeding may serve process and shall
15 return a copy of the process served, with an endorsement of
16 service, to the ~~[commission]~~ department. The endorsed process
17 shall be entered into the record of the proceeding and shall be
18 prima facie evidence that the process was duly served.

19 F. The ~~[commission]~~ department may in writing
20 authorize ~~[a commissioner, the chief of staff]~~ an employee or
21 other person to investigate and take testimony regarding a
22 matter pending before the ~~[commission]~~ department."

23 SECTION 58. Section 65-2A-32 NMSA 1978 (being Laws 2003,
24 Chapter 359, Section 32) is amended to read:

25 "65-2A-32. ADMINISTRATIVE PENALTIES.--

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1 A. If the [~~commission~~] department finds after
2 investigation that a provision of the Motor Carrier Act or an
3 order or rule of the [~~commission~~] department is being, has been
4 or is about to be violated, it may issue an order specifying
5 the actual or proposed acts or omissions to act that constitute
6 a violation and require that the violation be discontinued,
7 rectified or prevented.

8 B. Notwithstanding the existence of any other
9 penalties, the [~~commission~~] department may assess an
10 administrative fine of not more than ten thousand dollars
11 (\$10,000) for each violation of a provision of the Motor
12 Carrier Act or of a lawful rule or order of the [~~commission~~]
13 department. In case of a continuing violation, each day's
14 violation shall be deemed to be a separate and distinct
15 offense.

16 C. Notwithstanding the existence of other
17 penalties, the [~~commission~~] department may assess an
18 administrative fine of not more than ten thousand dollars
19 (\$10,000) against a person knowingly using a motor carrier not
20 properly authorized by the [~~commission~~] department.

21 D. All penalties accruing under the Motor Carrier
22 Act shall be cumulative, and a suit for recovery of one penalty
23 shall not be a bar to or affect the recovery of any other
24 penalty or be a bar to any criminal prosecution under the Motor
25 Carrier Act."

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1 SECTION 59. Section 65-2A-33 NMSA 1978 (being Laws 2003,
2 Chapter 359, Section 33, as amended by Laws 2013, Chapter 73,
3 Section 29 and by Laws 2013, Chapter 77, Section 29) is amended
4 to read:

5 "65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE
6 PRACTICES.--

7 A. A person who knowingly makes a false statement
8 of material fact under oath or penalty of perjury in a
9 [~~commission~~] department proceeding, whether orally or in
10 writing, shall be guilty of perjury.

11 B. A person who willfully makes a false return of
12 process or report to the [~~commission~~] department or [~~a member~~
13 ~~or~~] an employee of the [~~commission~~] department, and a person
14 who knowingly aids or abets a person who willfully makes a
15 false return of process or report to the [~~commission~~]
16 department or [~~a member or~~] an employee of the [~~commission~~]
17 department, shall be guilty of a felony, and upon conviction
18 shall be imprisoned for not more than five years.

19 C. A person who willfully makes a false entry in
20 records required by the Motor Carrier Act or the rules of the
21 [~~commission~~] department, willfully destroys, mutilates or by
22 other means willfully falsifies the records or willfully
23 neglects or fails to make full, true and correct entries of all
24 facts, shall be guilty of a felony and upon conviction shall be
25 imprisoned for not more than five years.

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1 D. An employee of the [~~commission~~] department who
2 divulges information about an inspection, examination or
3 investigation of a record or of the property and facilities of
4 a motor carrier, except insofar as may be authorized by the
5 [~~commission~~] department or a court of competent jurisdiction,
6 shall be guilty of a misdemeanor and upon conviction shall be
7 fined not more than one thousand dollars (\$1,000).

8 E. A person who violates or who procures, aids or
9 abets in the violation of a provision of the Motor Carrier Act
10 or a rule or order of the [~~commission~~] department shall be
11 guilty of a misdemeanor and upon conviction shall be fined not
12 more than one thousand dollars (\$1,000), imprisoned for not
13 more than ninety days, or both.

14 F. A motor carrier shall be guilty of a misdemeanor
15 and upon conviction shall be fined not more than five hundred
16 dollars (\$500), imprisoned for not more than six months, or
17 both, if the motor carrier:

- 18 (1) refuses to permit examination of its
19 records;
- 20 (2) conceals, destroys or mutilates its
21 records;
- 22 (3) attempts to conceal, destroy or mutilate
23 its records; or
- 24 (4) removes its records beyond the limits of
25 the state for the purpose of preventing examination.

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

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

11 (1) falsify the documents used in the
12 transportation of household goods that evidence the weight of
13 shipment; or

14 (2) charge for accessorial services that are
15 not performed, or for which the carrier is not entitled to be
16 compensated, in a case in which such services are not
17 reasonably necessary for the safe and adequate transportation
18 of the shipment.

19 I. A law enforcement officer of the state shall
20 arrest and the district attorney and attorney general shall
21 prosecute a violation of the Motor Carrier Act.

22 J. It is an unfair and deceptive trade practice
23 under the Unfair Practices Act for any transportation service
24 carrier to offer or provide transportation services of a type
25 for which, or in any territory in which, it is not authorized

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1 to do so by the [~~commission~~] department. The attorney general
2 or a person who has been damaged or who is likely to be damaged
3 as the result of such unauthorized service, including a
4 shipper, a passenger or an authorized transportation service
5 carrier, may bring an action pursuant to the Unfair Practices
6 Act against the transportation service carrier regarding such
7 unauthorized service. Any such civil action shall be in
8 addition to, and shall not bar, any investigation or civil or
9 criminal enforcement action regarding the unauthorized service
10 available to the attorney general or a district attorney, or
11 available to the [~~commission~~] department under the Motor
12 Carrier Act.

13 K. It is an unfair and deceptive trade practice
14 under the Unfair Practices Act for any transportation service
15 carrier or its agent, employee or contract driver to charge or
16 collect a predatory rate or to undertake a predatory practice
17 in the provision of transportation services. The attorney
18 general or a person who has been damaged or who is likely to be
19 damaged as the result of a predatory rate or practice may bring
20 an action pursuant to the Unfair Practices Act against the
21 transportation service carrier regarding [~~such~~] the predatory
22 rate or practice. Any [~~such~~] civil action shall be in addition
23 to, and shall not bar, any investigation or civil or criminal
24 enforcement action regarding the predatory rate or practice
25 available to the attorney general or a district attorney, or

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1 available to the [~~commission~~] department under the Motor
2 Carrier Act."

3 SECTION 60. Section 65-2A-34 NMSA 1978 (being Laws 2003,
4 Chapter 359, Section 34) is amended to read:

5 "65-2A-34. ACTIONS TO ENFORCE [~~COMMISSION~~] DEPARTMENT
6 ORDERS.--If a person fails to comply with an order of the
7 [~~commission~~] department within the time prescribed in the order
8 or within thirty days after the order is entered, whichever is
9 later, unless a stay has been granted, the [~~commission~~]
10 department shall seek enforcement of the order in the district
11 court for Santa Fe county. The enforcement hearing shall be
12 held on an expedited basis. At the hearing, the sole question
13 shall be whether the person has failed to comply with the
14 order."

15 SECTION 61. Section 65-2A-35 NMSA 1978 (being Laws 2003,
16 Chapter 359, Section 35) is amended to read:

17 "65-2A-35. APPEAL TO SUPREME COURT.--

18 A. A motor carrier or other interested person
19 aggrieved by a final order or determination of the [~~commission~~]
20 department issued pursuant to the Motor Carrier Act may appeal
21 to the supreme court within thirty days. The appellant shall
22 pay to the [~~commission~~] department the costs of preparing and
23 transmitting the record to the court.

24 B. The pendency of an appeal shall not
25 automatically stay the order appealed from. The appellant may

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1 petition the [~~commission~~] department or the supreme court for a
2 stay of the order.

3 C. The appeal shall be on the record of the hearing
4 before the [~~commission~~] department and shall be governed by the
5 appellate rules applicable to administrative appeals. The
6 supreme court shall affirm the [~~commission's~~] department's
7 order unless it is:

8 (1) arbitrary, capricious or an abuse of
9 discretion;

10 (2) not supported by substantial evidence in
11 the record; or

12 (3) otherwise not in accordance with law."

13 SECTION 62. Section 65-2A-36 NMSA 1978 (being Laws 2003,
14 Chapter 359, Section 36, as amended by Laws 2013, Chapter 73,
15 Section 30 and by Laws 2013, Chapter 77, Section 30) is amended
16 to read:

17 "65-2A-36. FEES.--

18 A. The [~~commission~~] department shall [~~charge and~~
19 ~~collect the following~~] establish in rule reasonable fees:

20 (1) for filing an application for a
21 certificate 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 or~~
25 ~~an application for amendment of a permit, or for any protest or~~

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1 ~~permissive intervention in regard to such application, two~~
2 ~~hundred fifty dollars (\$250);~~

3 ~~(3)]~~ (2) for filing an application for a
4 warrant; [~~twenty-five dollars (\$25.00);~~

5 ~~(4)]~~ (3) for filing an application or motion
6 for temporary authority; [~~one hundred dollars (\$100);~~

7 ~~(5)]~~ (4) for filing an application for a
8 change in a tariff for a tariffed service carrier; [~~two hundred~~
9 ~~dollars (\$200);~~

10 ~~(6)]~~ (5) for filing an application for lease
11 or transfer of a certificate [~~or permit~~], or for any protest or
12 permissive intervention in regard to such application; [~~two~~
13 ~~hundred dollars (\$200);~~

14 ~~(7)]~~ (6) for filing an application for
15 reinstatement of a certificate [~~or permit~~] following voluntary
16 or involuntary suspension; [~~one hundred dollars (\$100);~~

17 ~~(8)]~~ (7) for filing an application for
18 voluntary suspension of a certificate [~~or permit~~]; [~~fifteen~~
19 ~~dollars (\$15.00);~~

20 ~~(9)]~~ (8) for filing an application for a
21 single trip ticket; [~~five dollars (\$5.00) per vehicle per trip;~~

22 ~~(10)]~~ (9) for filing a change in the legal
23 name of any holder of an operating authority, or a change of
24 business trade name or the addition or deletion of a business
25 trade name of any holder or lessee of an operating authority;

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1 [ten dollars (\$10.00)];

2 ~~(11)~~ (10) for filing an equipment lease;

3 [five dollars (\$5.00) per vehicle leased;

4 ~~(12)~~ (11) for a miscellaneous filing; [five
5 dollars (\$5.00) per document;

6 ~~(13)~~ (12) for certifying copies of a record,
7 order or operating authority, the charge per page provided by
8 law for governmental agencies;

9 ~~(14)~~ (13) for copies of written [commission]
10 department documents or records, the charge per page provided
11 by law for governmental agencies, in addition to any applicable
12 certification charge; and

13 ~~(15)~~ (14) for copies of other [commission]
14 department records, including electronic media, an amount set
15 by the [commission] department, in addition to any applicable
16 certification charge.

17 B. The fees established by the department pursuant
18 to Subsection A of this section shall not exceed the actual
19 cost of processing the application or providing the
20 administrative service.

21 ~~[B.]~~ C. The secretary of state shall charge and
22 collect a fee of four dollars (\$4.00) for each process from a
23 court served upon the secretary of state as the designated
24 agent for service of process by operation of law.

25 ~~[C.]~~ D. The "motor transportation fee fund" is

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1 created in the state treasury. The [~~commission~~] department
2 shall collect all fees at the time an application is filed or
3 service is provided, and shall remit them to the state
4 treasurer, who shall deposit them in the fund. At the end of
5 each month, the state treasurer shall transfer the unencumbered
6 balance in the fund to the state road fund.

7 [~~D.~~] E. If a fee has been erroneously paid, the
8 person having paid the fee may apply for a refund in writing to
9 the [~~commission~~] department no later than sixty days after the
10 erroneous payment. Upon approval of the application by the
11 [~~commission~~] department, the amount erroneously paid shall be
12 refunded from the motor transportation fee fund to the person
13 who made the payment.

14 [~~E.~~] F. An application shall be fully completed
15 within sixty days or the fee submitted with the application
16 shall be forfeited to the state. If the applicant renews the
17 application, the applicant shall pay the applicable fee."

18 SECTION 63. Section 65-2A-37 NMSA 1978 (being Laws 2003,
19 Chapter 359, Section 37, as amended by Laws 2013, Chapter 73,
20 Section 31 and by Laws 2013, Chapter 77, Section 31) is amended
21 to read:

22 "65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF
23 DOCUMENTS--ELECTRONIC PAYMENT OF FEES.--

24 A. The [~~commission~~] department may adopt rules
25 permitting the electronic filing, submission and service of

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

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

18 SECTION 64. Section 65-5-3 NMSA 1978 (being Laws 1943,
19 Chapter 125, Section 10, as amended) is amended to read:

20 "65-5-3. CLEARANCE CERTIFICATES--TYPES OF CARRIERS.--
21 After inspection of the vehicle and related documentation and
22 any necessary registration, clearance certificates or special
23 permits may be issued by the department for:

24 A. commercial motor carrier vehicles operating in
25 compliance with the provisions of the Motor Carrier Act when:

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1 (1) all taxes and registration fees required
2 by the laws of this state upon the vehicles and contents of the
3 vehicles have been paid and all other laws and rules and
4 regulations of departments of this state applicable to the
5 vehicles and contents have been complied with; and

6 (2) the operator or owner of the vehicle is
7 not in default or delinquent in the payment of any tax, the
8 filing of any report or the observance of any requirements of
9 the Motor Carrier Act;

10 B. commercial motor carrier vehicles classified and
11 designated in law as exempt when:

12 (1) all taxes required by the laws of this
13 state upon the contents of the vehicles have been paid and all
14 other laws and rules and regulations of departments of this
15 state applicable to the contents have been complied with; and

16 (2) the vehicles have been registered in this
17 state or another state and evidence of registration, including
18 proper display of registration plates, required by the laws of
19 this state is provided;

20 C. commercial motor carrier vehicles not registered
21 or licensed in this state that are transporting passengers for
22 hire or property for hire or resale when:

23 (1) all taxes and registration fees required
24 by the laws of this state upon the vehicles and contents of the
25 vehicles have been paid and all other laws and rules and

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1 regulations of departments of this state applicable to the
2 vehicles and contents have been complied with;

3 (2) the vehicle is properly covered by
4 liability insurance in accordance with the provisions of the
5 Motor Carrier Act and the ~~[regulations]~~ rules of the ~~[state~~
6 ~~corporation commission]~~ department of transportation; and

7 (3) the trip tax has been fully paid; and

8 D. commercial motor carrier vehicles not registered
9 or licensed in this state that are transporting property not
10 for hire or resale when:

11 (1) all taxes required by the laws of this
12 state upon the contents of the vehicles have been paid and all
13 other laws, rules and regulations applicable to such contents
14 have been complied with; and

15 (2) the trip tax has been fully paid."

16 SECTION 65. Section 65-6-1 NMSA 1978 (being Laws 1974,
17 Chapter 82, Section 1) is amended to read:

18 "65-6-1. SHORT TITLE.--~~[Sections 1 through 6 of this act]~~
19 Chapter 65, Article 6 NMSA 1978 may be cited as the "Ambulance
20 Standards Act"."

21 SECTION 66. Section 65-6-2 NMSA 1978 (being Laws 1974,
22 Chapter 82, Section 2, as amended) is amended to read:

23 "65-6-2. DEFINITIONS.--As used in the Ambulance Standards
24 Act:

25 A. "ambulance" means a vehicle, including motor

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1 vehicles or watercraft, designed and used or intended to be
2 used for the transportation of sick or injured persons;

3 ~~[B. "driver" means a person who, on a regular or~~
4 ~~irregular basis, either paid or voluntary, serves as the~~
5 ~~operator of an ambulance;~~

6 ~~G.]~~ B. "attendant" means a person who, on a regular
7 or irregular basis, either paid or voluntary, serves as an
8 assistant to the driver in the operation of the ambulance; ~~[and~~

9 ~~D. "commission" means the public regulation~~
10 ~~commission]~~

11 C. "department" means the department of
12 transportation; and

13 D. "driver" means a person who, on a regular or
14 irregular basis, either paid or voluntary, serves as the
15 operator of an ambulance."

16 SECTION 67. Section 65-6-4 NMSA 1978 (being Laws 1974,
17 Chapter 82, Section 4) is amended to read:

18 "65-6-4. ~~[CORPORATION COMMISSION]~~ DEPARTMENT--DUTIES.--
19 The ~~[corporation commission]~~ department, in accordance with its
20 responsibilities to regulate common carriers, shall ~~[within one~~
21 ~~year of the effective date of this Act]~~ hold public hearings as
22 prescribed in ~~[Article 27 of Chapter 64 NMSA 1953]~~ the Motor
23 Carrier Act and adopt ~~[regulations]~~ rules:

24 A. for the establishment of reasonable, flexible
25 standards for ambulances, including but not limited to:

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- 1 (1) vehicle design;
- 2 (2) health and safety equipment to be
- 3 maintained and used in ambulances;
- 4 (3) procedures for the operation of
- 5 ambulances; and
- 6 (4) at least annual inspection of ~~[ambulances]~~
- 7 ambulances; and

8 B. for the licensure of all ~~[ambulance]~~ drivers and

9 attendants, to include:

10 (1) ~~[minimum]~~ minimum training requirements to

11 include basic and advanced red cross and such other available

12 training as the ~~[commission]~~ department finds reasonable and in

13 the best interests of the public; and

14 (2) a written and practical examination of

15 competence limited to that material, information and training

16 required of ~~[ambulance]~~ drivers and attendants, respectively,

17 in the ~~[regulations]~~ rules adopted by the ~~[corporation~~

18 ~~commission]~~ department.

19 In establishing standards for ambulances, the ~~[commission]~~

20 department shall give serious consideration to the vehicle

21 needs and limitations imposed by the topography and road and

22 weather conditions of various localities. Further, the

23 ~~[commission]~~ department shall take into consideration the

24 resources of the various communities, institutions and

25 sponsoring organizations providing ambulance service to the

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1 public."

2 SECTION 68. Section 65-7-1 NMSA 1978 (being Laws 2016,
3 Chapter 80, Section 1) is amended to read:

4 "65-7-1. SHORT TITLE.--~~[Sections 1 through 22 of this~~
5 ~~act]~~ Chapter 65, Article 7 NMSA 1978 may be cited as the
6 "Transportation Network Company Services Act"."

7 SECTION 69. Section 65-7-4 NMSA 1978 (being Laws 2016,
8 Chapter 80, Section 4) is amended to read:

9 "65-7-4. TRANSPORTATION NETWORK COMPANY PERMIT
10 REQUIRED.--

11 A. A person shall not operate a transportation
12 network company in New Mexico without first having obtained a
13 permit from the ~~[public regulation commission]~~ department of
14 transportation.

15 B. A permit issued to a transportation network
16 company by the ~~[public regulation commission]~~ department of
17 transportation shall be effective for one year.

18 C. The ~~[public regulation commission]~~ department of
19 transportation shall issue a permit to a transportation network
20 company that meets the requirements set forth in the
21 Transportation Network Company Services Act and any rules
22 adopted by the ~~[commission]~~ department pursuant to that act.
23 The transportation network company shall pay an annual permit
24 fee of ten thousand dollars (\$10,000) to the ~~[commission]~~
25 department."

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1 SECTION 70. Section 65-7-13 NMSA 1978 (being Laws 2016,
2 Chapter 80, Section 13) is amended to read:

3 "65-7-13. VEHICLE SAFETY.--

4 A. A transportation network company shall not allow
5 a driver to be connected to potential passengers using the
6 digital network or software application service of the
7 transportation network company if the motor vehicle operated by
8 the driver to provide transportation services:

9 (1) is not in compliance with all federal,
10 state and local laws concerning the operation and maintenance
11 of the motor vehicle;

12 (2) has fewer than four doors; or

13 (3) is designed to carry more than eight
14 passengers, including the driver.

15 B. A transportation network company shall inspect
16 or cause to be inspected every motor vehicle used by a driver
17 to provide transportation services before allowing the driver
18 to use the motor vehicle to provide prearranged rides and not
19 less than once each year thereafter.

20 C. The [~~public regulation commission~~] department of
21 transportation shall promulgate rules [~~and regulations~~] setting
22 forth the requirements of annual inspection of a vehicle used
23 by a transportation network company driver while logged on to a
24 digital network or engaged in a prearranged ride."

25 SECTION 71. Section 65-7-19 NMSA 1978 (being Laws 2016,

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1 Chapter 80, Section 19) is amended to read:

2 "65-7-19. TRANSPORTATION [~~DIVISION~~] NETWORK FUND
3 CREATED--ASSESSMENT AND COLLECTION OF FEES.--

4 A. The "transportation [~~division~~] network fund" is
5 created in the state treasury for the purpose of ensuring the
6 safety and financial responsibility of transportation network
7 companies and transportation network company drivers. The fund
8 shall consist of fees collected pursuant to the Transportation
9 Network Company Services Act, [~~administrative fines collected~~
10 ~~under that act~~] appropriations, gifts, grants, donations and
11 earnings on investment of the fund. Balances in the fund shall
12 not revert to the general fund or any other fund at the end of
13 any fiscal year.

14 B. The transportation [~~division~~] network fund shall
15 be administered by the [~~public regulation commission~~]
16 department of transportation. Money in the fund is
17 appropriated to the [~~commission~~] department to carry out its
18 duties pursuant to the provisions of the Transportation Network
19 Company Services Act. Not more than five percent of the fees
20 collected pursuant to this section shall be used by the
21 [~~commission~~] department for administrative purposes.

22 C. Payments from the transportation [~~division~~]
23 network fund shall be made upon vouchers issued and signed by
24 the [~~director of the administrative services division of the~~
25 ~~public regulation commission or the director's~~] secretary of

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1 transportation or the secretary's authorized representative
2 upon warrants drawn by the secretary of finance and
3 administration."

4 SECTION 72. Section 65-7-20 NMSA 1978 (being Laws 2016,
5 Chapter 80, Section 20) is amended to read:

6 "65-7-20. RECORDS PURSUANT TO RULES OF THE [~~PUBLIC~~
7 ~~REGULATION COMMISSION~~] DEPARTMENT OF TRANSPORTATION.--

8 A. A transportation network company holding a
9 permit issued by the [~~public regulation commission~~] department
10 of transportation shall maintain the records required pursuant
11 to the Transportation Network Company Services Act to be
12 collected by the transportation network company, including
13 records regarding transportation network company drivers.

14 B. In response to a specific complaint, the [~~public~~
15 ~~regulation commission~~] department of transportation, its
16 employees or its duly authorized agents may inspect those
17 records held by a transportation network company for the
18 investigation and resolution of the complaint.

19 C. No more than semiannually and as determined by
20 the [~~public regulation commission, the commission~~] department
21 of transportation, the department, its employees or its duly
22 authorized agents may, in a mutually agreed setting, inspect
23 those records held by a transportation network company whose
24 review is necessary to ensure public safety; provided that such
25 review shall be on an audit rather than a comprehensive basis.

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1 D. Any proprietary records obtained by the [~~public~~
2 ~~regulation commission~~] department of transportation pursuant to
3 this section shall not be subject to disclosure by the
4 [~~commission~~] department."

5 **SECTION 73.** Section 65-7-21 NMSA 1978 (being Laws 2016,
6 Chapter 80, Section 21) is amended to read:

7 "65-7-21. ADMINISTRATIVE PENALTIES.--

8 A. If the [~~public regulation commission~~] department
9 of transportation finds after investigation that a provision of
10 the Transportation Network Company Services Act or an order or
11 rule of the [~~commission~~] department is being, has been or is
12 about to be violated, it may issue an order specifying the
13 actual or proposed acts or omissions to act that constitute a
14 violation and require that the violation be discontinued,
15 rectified or prevented.

16 B. Notwithstanding the existence of any other
17 penalties, the [~~public regulation commission~~] department of
18 transportation may assess an administrative fine of not more
19 than one thousand dollars (\$1,000) for each violation of a
20 provision of the Transportation Network Company Services Act or
21 of a lawful rule or order of the [~~commission~~] department. In
22 the case of a continuing violation, each day's violation shall
23 be deemed to be a separate and distinct offense.

24 C. All penalties accruing under the Transportation
25 Network Company Services Act shall be cumulative, and a suit

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1 for recovery of one penalty shall not be a bar to or affect the
2 recovery of any other penalty or be a bar to any criminal
3 prosecution."

4 SECTION 74. Section 65-7-22 NMSA 1978 (being Laws 2016,
5 Chapter 80, Section 22) is amended to read:

6 "65-7-22. INVOLUNTARY SUSPENSION AND REVOCATION.--

7 A. The [~~public regulation commission~~] department of
8 transportation shall immediately suspend, without notice or a
9 hearing, the permit of a transportation network company that:

10 (1) does not continuously maintain the
11 insurance coverage prescribed by the Transportation Network
12 Company Services Act;

13 (2) does not pay the fees owed by the
14 transportation network company and the transportation network
15 company's drivers; or

16 (3) operates in a manner that poses an
17 immediate or imminent threat to public safety.

18 B. Once suspended, the transportation network
19 company may apply for reinstatement by requesting a public
20 hearing before the [~~public regulation commission~~] department of
21 transportation and shall establish that the basis for the
22 suspension has been corrected."

23 SECTION 75. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
24 Chapter 120, Section 17, as amended) is amended to read:

25 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
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1 Code:

2 A. "safety glazing materials" means glazing
3 materials constructed, treated or combined with other materials
4 to reduce substantially, in comparison with ordinary sheet
5 glass or plate glass, the likelihood of injury to persons by
6 objects from exterior sources or by these safety glazing
7 materials when they are cracked and broken;

8 B. "safety zone" means the area or space that is
9 officially set apart within a highway for the exclusive use of
10 pedestrians and that is protected or is so marked or indicated
11 by adequate signs as to be plainly visible at all times while
12 set apart as a safety zone;

13 C. "salvage vehicle" means a vehicle:

14 (1) other than a nonrepairable vehicle, of a
15 type subject to registration that has been wrecked, destroyed
16 or damaged excluding, pursuant to rules issued by the
17 department, hail damage, to the extent that the owner, leasing
18 company, financial institution or the insurance company that
19 insured or is responsible for repair of the vehicle considers
20 it uneconomical to repair the vehicle and that is subsequently
21 not repaired by or for the person who owned the vehicle at the
22 time of the event resulting in damage; or

23 (2) that was determined to be uneconomical to
24 repair and for which a total loss payment is made by an
25 insurer, whether or not the vehicle is subsequently repaired,

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1 if, prior to or upon making payment to the claimant, the
2 insurer obtained the agreement of the claimant to the amount of
3 the total loss settlement and informed the claimant that,
4 pursuant to rules of the department, the title must be branded
5 and submitted to the department for issuance of a salvage
6 certificate of title for the vehicle;

7 D. "school bus" means a commercial motor vehicle
8 used to transport preprimary, primary or secondary school
9 students from home to school, from school to home or to and
10 from school-sponsored events, but not including a vehicle:

11 (1) operated by a common carrier, subject to
12 and meeting all requirements of the [~~public regulation~~
13 ~~commission~~] department of transportation but not used
14 exclusively for the transportation of students;

15 (2) operated solely by a government-owned
16 transit authority, if the transit authority meets all safety
17 requirements of the [~~public regulation commission~~] department
18 of transportation but is not used exclusively for the
19 transportation of students;

20 (3) operated as a per capita feeder as
21 provided in Section 22-16-6 NMSA 1978; or

22 (4) that is a minimum six-passenger, full-
23 size, extended-length, sport utility vehicle operated by a
24 school district employee pursuant to Subsection D of Section
25 22-16-4 NMSA 1978;

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1 E. "seal" means the official seal of the taxation
2 and revenue department as designated by the secretary;

3 F. "secretary" means the secretary of taxation and
4 revenue, and, except for the purposes of Sections 66-2-3 and
5 66-2-12 NMSA 1978, also includes the deputy secretary and any
6 division director delegated by the secretary;

7 G. "semitrailer" means a vehicle without motive
8 power, other than a pole trailer, designed for carrying persons
9 or property and for being drawn by a motor vehicle and so
10 constructed that some significant part of its weight and that
11 of its load rests upon or is carried by another vehicle;

12 H. "sidewalk" means a portion of street between the
13 curb lines, or the lateral lines of a roadway, and the adjacent
14 property lines, intended for the use of pedestrians;

15 I. "slow-moving vehicle" means a vehicle that is
16 ordinarily moved, operated or driven at a speed less than
17 twenty-five miles per hour;

18 J. "solid tire" means every tire of rubber or other
19 resilient material that does not depend upon compressed air for
20 the support of the load;

21 K. "special mobile equipment" means a vehicle not
22 designed or used primarily for the transportation of persons or
23 property and incidentally operated or moved over the highways,
24 including but not limited to farm tractors, road construction
25 or maintenance machinery, ditch-digging apparatus, well-boring

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1 apparatus and concrete mixers;

2 L. "specially constructed vehicle" means a vehicle
3 of a type required to be registered under the Motor Vehicle
4 Code not originally constructed under a distinctive name, make,
5 model or type by a generally recognized manufacturer of
6 vehicles and not materially altered from its original
7 construction;

8 M. "standard driver's license" means a license or a
9 class of license issued by a state or other jurisdiction
10 recognized by the laws of New Mexico that authorizes the holder
11 to operate motor vehicles and is not guaranteed to be accepted
12 by federal agencies for official federal purposes;

13 N. "standard identification card" means an
14 identification card that is not guaranteed to be accepted by
15 federal agencies for official federal purposes;

16 O. "state" means a state, territory or possession
17 of the United States, the District of Columbia or any state of
18 the Republic of Mexico or the Federal District of Mexico or a
19 province of the Dominion of Canada;

20 P. "state highway" means a public highway that has
21 been designated as a state highway by the legislature, the
22 state transportation commission or the secretary of
23 transportation;

24 Q. "stop", when required, means complete cessation
25 from movement;

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1 R. "stop, stopping or standing", when prohibited,
2 means any stopping or standing of a vehicle, whether occupied
3 or not, except when necessary to avoid conflict with other
4 traffic or in compliance with the directions of a police
5 officer or traffic-control sign or signal;

6 S. "street" or "highway" means a way or place
7 generally open to the use of the public as a matter of right
8 for the purpose of vehicular travel, even though it may be
9 temporarily closed or restricted for the purpose of
10 construction, maintenance, repair or reconstruction;

11 T. "subsequent offender" means a person who was
12 previously a first offender and who again, under state law,
13 federal law or a municipal ordinance or a tribal law, has been
14 adjudicated guilty of the charge of driving a motor vehicle
15 while under the influence of intoxicating liquor or any drug
16 that rendered the person incapable of safely driving a motor
17 vehicle, regardless of whether the person's sentence was
18 suspended or deferred; and

19 U. "suspension" means that a person's driver's
20 license and privilege to drive a motor vehicle on the public
21 highways are temporarily withdrawn."

22 SECTION 76. Section 66-3-120 NMSA 1978 (being Laws 1978,
23 Chapter 35, Section 67) is amended to read:

24 "66-3-120. TRANSPORTATION OF CERTAIN VEHICLES--PROOF OF
25 OWNERSHIP.--

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1 A. ~~[Any]~~ A person transporting ~~[any]~~ a crushed or
2 inoperable vehicle or motor vehicle on ~~[any]~~ a public way,
3 street or highway in any manner ~~[whatsoever]~~ shall have in
4 ~~[his]~~ the person's possession proof of ownership of ~~[such]~~ the
5 vehicle or:

6 (1) an affidavit from the property owner upon
7 whose property the vehicle or motor vehicle was abandoned
8 authorizing the vehicle's removal from the property owner's
9 land; and

10 (2) a police clearance indicating the vehicle
11 or motor vehicle has not been reported stolen.

12 B. Any person who possesses either a New Mexico
13 dismantler's or wrecker's license, a New Mexico auto dealer's
14 license, a ~~[state corporation commission]~~ department of
15 transportation license or a vehicle contract or common carrier
16 license issued by the federal interstate commerce commission
17 shall be exempt from the provisions of this section while
18 transporting vehicles ~~[which]~~ that are not abandoned, provided
19 ~~[he]~~ the person prominently displays a dealer's license plate
20 or a dismantler's plate on the vehicle in tow or has a New
21 Mexico ~~[state corporation commission]~~ department of
22 transportation vehicle contract or common carrier permit number
23 or a federal interstate commerce commission vehicle contract or
24 common carrier permit number prominently displayed on the
25 towing vehicle.

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1 C. Any person failing to have such documentation in
2 ~~[his]~~ the person's possession while transporting such a vehicle
3 or motor vehicle is subject to the penalties produced in
4 Section ~~[64-4-9 NMSA 1953]~~ 66-4-9 NMSA 1978, and any vehicle or
5 motor vehicle being transported by ~~[such a]~~ the person ~~[shall~~
6 ~~be]~~ is subject to immediate confiscation. ~~[Said]~~ The vehicle
7 or motor vehicle shall be towed to an authorized police impound
8 lot until proof of ownership is presented or until the
9 documentation described in this section is provided by either
10 the owner of the vehicle or the person in possession. Failure
11 to provide ~~[such]~~ documentation within thirty days shall result
12 in the vehicle or motor vehicle being deemed unclaimed and thus
13 subject to claim by the person or firm in possession."

14 SECTION 77. Section 66-6-8 NMSA 1978 (being Laws 1978,
15 Chapter 35, Section 343, as amended) is amended to read:

16 "66-6-8. BUS REGISTRATION--AGRICULTURAL LABOR FEES.--

17 A. A bus that has a normal seating capacity of
18 forty passengers or less and that is used exclusively for the
19 transportation of agricultural laborers may be registered upon
20 payment to the division of a fee of thirty-three dollars
21 (\$33.00).

22 B. In addition to the registration fee imposed by
23 this section, there is imposed at the time of registration an
24 annual tire recycling fee of fifty cents (\$.50) per wheel that
25 is in contact with the ground on each vehicle subject to a

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1 registration fee pursuant to this section.

2 C. Application for registration of a bus pursuant
3 to this section shall be made in the form prescribed by the
4 division and shall be accompanied by an affidavit that the bus
5 will be used exclusively for the transportation of agricultural
6 laborers. Upon registration, the bus is exempt from tariff-
7 filing requirements of the [~~public regulation commission~~]
8 department of transportation."

9 SECTION 78. Section 66-7-413 NMSA 1978 (being Laws 1978,
10 Chapter 35, Section 484, as amended) is amended to read:

11 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL
12 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

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

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

10 B. The department of transportation shall
11 promulgate rules in accordance with the State Rules Act
12 pertaining to safety practices, liability insurance and
13 equipment for escort vehicles provided by the motor carrier and
14 for escort vehicles provided by a private business in this
15 state; provided that:

16 (1) the department of public safety or the
17 department of transportation shall provide the escort personnel
18 with a copy of applicable rules and shall inspect the escort
19 vehicles for the safety equipment required by the rules. If
20 the escort vehicles and personnel meet the requirements set
21 forth in the rules, the department of public safety shall issue
22 the special permit;

23 (2) the movement of vehicles upon the highways
24 of this state requiring a special permit and required to use an
25 escort of the type noted in Paragraph (1) of this subsection is

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1 subject to the authority of the department of transportation
2 and the department of public safety and to inspection at all
3 times; and

4 (3) the department of transportation shall
5 conduct engineering investigations and engineering inspections
6 to determine which four-lane highways are safe for the
7 operation or movement of manufactured homes without an escort.
8 After making that determination, the department of
9 transportation shall hold public hearings in the area of the
10 state affected by the determination, after which it may adopt
11 rules designating those four-lane highways as being safe for
12 the operation or movement of manufactured homes without an
13 escort. If a portion of such a four-lane highway lies within
14 the boundaries of a municipality, the department of
15 transportation, after obtaining the approval of the municipal
16 governing body, shall include such portions in its rules.

17 C. Except for the movement of manufactured homes,
18 special permits may be issued for a single vehicle or
19 combination of vehicles by the department of transportation for
20 a period not to exceed one year for a fee of two hundred fifty
21 dollars (\$250). The special permits may allow excessive
22 height, length and width for a vehicle or combination of
23 vehicles or load thereon and may include a provision for
24 excessive weight if the weight of the vehicle or combination of
25 vehicles is not greater than one hundred forty thousand pounds.

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1 Utility service vehicles, operating with special permits
2 pursuant to this subsection, shall be exempt from prohibitions
3 or restrictions relating to hours or days of operation or
4 restrictions on movement because of poor weather conditions.

5 D. Special permits for a single trip for a vehicle
6 or combination of vehicles or load thereon of excessive weight,
7 width, length and height may be issued by the department of
8 transportation for a single vehicle for a fee of twenty-five
9 dollars (\$25.00) plus the product of two and one-half cents
10 (\$.025) for each two thousand pounds in excess of eighty-six
11 thousand four hundred pounds or major fraction thereof
12 multiplied by the number of miles to be traveled by the vehicle
13 or combination of vehicles on the highways of this state.

14 E. If a vehicle for which a permit is issued
15 pursuant to this section is a manufactured home, the department
16 of transportation or local highway authority issuing the permit
17 shall furnish the following information to the property tax
18 division of the taxation and revenue department, which shall
19 forward the information:

20 (1) to the county assessor of a county from
21 which a manufactured home is being moved, the date the permit
22 was issued, the location being moved from, the location being
23 moved to if within the same county, the name of the owner of
24 the manufactured home and the identification and registration
25 numbers of the manufactured home;

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1 (2) to the county assessor of any county in
2 this state to which a manufactured home is being moved, the
3 date the permit was issued, the location being moved from, the
4 location being moved to, the name of the owner of the
5 manufactured home and the registration and identification
6 numbers of the manufactured home; and

7 (3) to the owner of a manufactured home having
8 a destination in this state, notification that the information
9 required in Paragraphs (1) and (2) of this subsection is being
10 given to the respective county assessors and that manufactured
11 homes are subject to property taxation.

12 F. Except as provided in Subsection G of this
13 section, if the movement of a manufactured home originates in
14 this state, a permit shall not be issued pursuant to Subsection
15 E of this section until the owner of the manufactured home or
16 the authorized agent of the owner obtains and presents to the
17 department of transportation proof that a certificate has been
18 issued by the county assessor or treasurer of the county in
19 which the manufactured home movement originates showing that
20 either:

21 (1) all property taxes due or to become due on
22 the manufactured home for the current tax year or any past tax
23 years have been paid, except for manufactured homes located on
24 an Indian reservation; or

25 (2) liability for property taxes on the

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1 manufactured home does not exist for the current tax year or a
2 past tax year, except for manufactured homes located on an
3 Indian reservation.

4 G. The movement of a manufactured home from the lot
5 or business location of a manufactured home dealer to its
6 destination designated by an owner-purchaser is not subject to
7 the requirements of Subsection F of this section if the
8 manufactured home movement originates from the lot or business
9 location of the dealer and the manufactured home was part of
10 the dealer's inventory prior to the sale to the owner-
11 purchaser; however, the movement of a manufactured home by a
12 dealer or the dealer's authorized agent as a result of a sale
13 or trade-in from a nondealer-owner is subject to the
14 requirements of Subsection F of this section whether the
15 destination is the business location of a dealer or some other
16 destination.

17 H. A permit shall not be issued pursuant to this
18 section for movement of a manufactured home whose width exceeds
19 eighteen feet with no more than a six-inch roof overhang on the
20 left side or twelve inches on the right side in addition to the
21 eighteen-foot width of the manufactured home. Manufactured
22 homes exceeding the limitations of this section shall only be
23 moved on dollies placed on the front and the rear of the
24 structure.

25 I. The secretary of transportation may by rule

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1 provide for movers of manufactured homes to self-issue permits
2 for certain sizes of manufactured homes over specific routes.
3 The cost of a permit shall not be less than twenty-five dollars
4 (\$25.00).

5 J. The secretary of transportation may provide by
6 rule for dealers of implements of husbandry to self-issue
7 permits for the movement of certain sizes of implements of
8 husbandry from the lot or business location of the dealer over
9 specific routes with specific escort requirements, if
10 necessary, to a destination designated by an owner-purchaser or
11 for purposes of a working demonstration on the property of a
12 proposed owner-purchaser. The department of transportation
13 shall charge a fee for each self-issued permit not to exceed
14 fifteen dollars (\$15.00).

15 K. A private motor carrier requesting an oversize
16 or overweight permit shall provide proof of insurance in at
17 least the following amounts:

- 18 (1) bodily injury liability, providing:
19 (a) fifty thousand dollars (\$50,000) for
20 each person; and
21 (b) one hundred thousand dollars
22 (\$100,000) for each accident; and

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

25 L. A motor carrier requesting an oversize permit

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1 shall produce a copy of a warrant or a single state
2 registration receipt as evidence that the motor carrier
3 maintains the insurance minimums prescribed by the [~~public~~
4 ~~regulation commission~~] department of transportation.

5 M. The department of transportation may provide by
6 rule the time periods during which a vehicle or load of a size
7 or weight exceeding the maximum specified in Sections 66-7-401
8 through 66-7-416 NMSA 1978 may be operated or moved by a motor
9 carrier on a highway under the jurisdiction of the state
10 transportation commission or local authorities.

11 N. An applicant for a special permit to operate a
12 vehicle or combination of vehicles with a gross weight not
13 exceeding ninety-six thousand pounds within six miles of the
14 port of entry at the border with Mexico at Santa Teresa or
15 within a circular quadrant starting at that port of entry with
16 an east boundary line running due north twelve miles from the
17 Santa Teresa port of entry to a point, then along an arc to the
18 west with a twelve-mile radius and central angle of
19 approximately ninety degrees to a point on the international
20 boundary with Mexico, then returning due east twelve miles to
21 the starting point at that port of entry, and twelve miles of
22 other ports of entry on the border with Mexico shall not be
23 required to demonstrate to the department of transportation
24 that the load cannot be reduced as a condition of the issuance
25 of the permit.

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1 O. Revenue from fees for special permits
2 authorizing vehicles and loads of excessive size or weight to
3 operate or move upon a highway under the jurisdiction of the
4 state transportation commission or local authorities shall be
5 collected for the department of transportation and transferred
6 to the state road fund."

7 SECTION 79. Section 66-8-116.2 NMSA 1978 (being Laws
8 1989, Chapter 319, Section 13, as amended) is amended to read:

9 "66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS--MOTOR
10 CARRIER ACT.--As used in the Motor Vehicle Code and the Motor
11 Carrier Act, "penalty assessment misdemeanor" means, in
12 addition to the definitions of that term in Sections 66-8-116
13 and 66-8-116.1 NMSA 1978, violation of the following listed
14 sections of the NMSA 1978 for which, except as provided in
15 Subsection E of this section, the listed penalty is
16 established:

17 A. GENERAL

18 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
19 Failure to register		
20 motor carrier	66-3-1.1	\$300.00
21 Failure to carry tax		
22 identification		
23 permit	65-1-26	300.00
24 Failure of motor carrier		
25 to comply with weight distance		

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1	requirements of the Weight		
2	Distance Tax Act	65-1-26	
3	(1) first conviction		300.00
4	(2) second conviction, within		
5	ten years of the first conviction		500.00
6	(3) third or subsequent		
7	conviction, within ten years of the		
8	first conviction		1,000.00
9	Failure to comply with		
10	[public regulation		
11	commission] <u>department of</u>		
12	<u>transportation</u> rules [and		
13	regulations]	65-2A-7	50.00
14	Failure to		
15	carry single state		
16	registration receipt issued		
17	by a base state	65-2A-7	50.00
18	Failure to register with		
19	a base state under the federal		
20	Unified Carrier Registration Act		
21	of 2005	65-2A-16	50.00
22	Failure to stop at		
23	designated		
24	registration place	65-5-1	100.00
25	Failure to obtain		

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1 proper clearance
2 certificates 65-5-3 100.00.

3 B. VEHICLE OUT-OF-SERVICE VIOLATIONS

4 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY ASSESSMENT

5 Absence of braking action 65-3-9 \$100.00

6 Damaged brake lining or pads 65-3-9 50.00

7 Loose or missing brake
8 components 65-3-12 100.00

9 Inoperable breakaway braking
10 system 65-3-12 50.00

11 Defective or damaged brake
12 tubing 65-3-12 50.00

13 Inoperative low pressure
14 warning device 65-3-9 50.00

15 Reservoir pressure not
16 maintained 65-3-12 100.00

17 Inoperative tractor
18 protection valve 65-3-9 100.00

19 Damaged or loose air
20 compressor 65-3-12 100.00

21 Audible air leak at brake
22 chamber 65-3-12 50.00

23 Defective safety devices--
24 chains or hooks 65-3-9 100.00

25 Defective towing or coupling

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1	devices	65-3-9	100.00
2	Defective exhaust systems	65-3-9	30.00
3	Frame defects--trailers	65-3-12	100.00
4	Frame defects--other	65-3-9	100.00
5	Defective fuel systems	65-3-9	50.00
6	Missing or inoperative		
7	lamps	65-3-9	25.00
8	Missing lamps on projecting		
9	loads	65-3-9	50.00
10	Missing or inoperative		
11	turn signal	65-3-9	25.00
12	Unsafe loading	65-3-8	100.00
13	Possession of radar detector		
14	in commercial motor carrier		
15	vehicle	65-3-8	100.00
16	Possession of alcoholic		
17	beverage in commercial		
18	motor carrier vehicle	65-3-8	200.00
19	Excessive steering wheel		
20	play	65-3-9	100.00
21	Steering column defects	65-3-9	100.00
22	Steering box or steering		
23	system defects	65-3-9	100.00
24	Suspension system defects	65-3-9	50.00
25	Defective springs or spring		

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1	assembly	65-3-9	50.00
2	Defective tires--steering		
3	axle	65-3-9	100.00
4	Defective tires--other axles	65-3-9	30.00
5	Defective wheels and rims	65-3-9	50.00
6	Defective or missing		
7	windshield wipers	65-3-9	30.00
8	Defective or inoperative		
9	emergency exit--bus	65-3-9	100.00.

C. DRIVER OUT-OF-SERVICE VIOLATIONS

11	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
12	Driver's age	65-3-7	\$30.00
13	Driver not licensed for		
14	type of vehicle being		
15	operated	65-3-7	30.00
16	Failure to have valid		
17	commercial driver's license		
18	in possession	66-5-59	30.00
19	No waiver of physical		
20	disqualification		
21	in possession	65-3-7	30.00
22	Sickness or fatigue	65-3-8	100.00
23	Driver disqualification	65-3-7	500.00
24	Exceeding the 10-hour		
25	driving rule for		

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1	passenger carrier		
2	transportation	65-3-11	100.00
3	Exceeding the 11-hour		
4	driving rule for property		
5	carrier transportation	65-3-11	100.00
6	Exceeding the 14-hour on		
7	duty rule for property		
8	carrier transportation	65-3-11	100.00
9	Exceeding the 15-hour on		
10	duty rule for passenger		
11	carrier transportation	65-3-11	100.00
12	Exceeding the 60 hours in 7		
13	days on duty rule	65-3-11	100.00
14	Exceeding the 70 hours in 8		
15	days on duty rule	65-3-11	100.00
16	False log book	65-3-11	100.00
17	No log book	65-3-11	100.00
18	No record for previous		
19	7 days	65-3-11	100.00.

D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS

21	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
22	Placarding violations	65-3-13	\$250.00
23	Cargo tank not meeting		
24	specifications	65-3-13	250.00
25	Internal valve operation		

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1	violations	65-3-13	250.00
2	Hazardous materials		
3	packaging violations	65-3-13	250.00
4	Insecure load--hazardous		
5	materials	65-3-13	250.00
6	Shipping papers violations	65-3-13	30.00
7	Shipment of forbidden		
8	combination of hazardous		
9	materials	65-3-13	250.00
10	No hazardous waste manifest	65-3-13	30.00
11	Bulk packaging marking		
12	violations	65-3-13	30.00
13	Cargo tank marking violations	65-3-13	30.00.

14 E. Upon a second conviction for failure to stop at a
15 port of entry or inspection station pursuant to Section 65-5-1
16 NMSA 1978, the penalty assessment shall be two hundred fifty
17 dollars (\$250). Upon a third or subsequent conviction, the
18 penalty assessment shall be five hundred dollars (\$500)."

19 SECTION 80. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
20 PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND
21 REFERENCES IN LAW.--

22 A. On January 1, 2024, all staff positions,
23 functions, personnel, appropriations, money, records,
24 equipment, supplies, other property and contractual obligations
25 of the public regulation commission related to motor carrier

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1 regulation and enforcement, railroad safety enforcement and
2 ambulance standards are transferred to the department of
3 transportation.

4 B. Beginning January 1, 2024, all references in
5 law, rules, orders and other official acts to the public
6 regulation commission or the transportation division of the
7 public regulation commission related to motor carrier
8 regulation and enforcement, railroad safety enforcement and
9 ambulance standards shall be deemed references to the
10 department of transportation.

11 C. Beginning January 1, 2024, all contractual
12 obligations of the public regulation commission related to
13 motor carrier regulation and enforcement, railroad safety
14 enforcement and ambulance standards are binding on the
15 department of transportation.

16 D. The rules, orders and decisions of the public
17 regulation commission related to motor carrier regulation and
18 enforcement, railroad safety enforcement and ambulance
19 standards shall remain in effect until repealed or amended.

20 SECTION 81. REPEAL.--Sections 63-3-33, 64-1-1 through
21 64-1-10, 64-1-18, 65-2A-10, 65-2A-41 and 65-6-5 NMSA 1978
22 (being Laws 1915, Chapter 37, Section 5; Laws 1929, Chapter 71,
23 Sections 1 through 8 and 10; Laws 1941, Chapter 115, Section 1;
24 Laws 1939, Chapter 199, Section 5; Laws 2003, Chapter 359,
25 Section 10; Laws 2013, Chapter 73, Section 33 and Laws 2013,

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1 Chapter 77, Section 33; and Laws 1974, Chapter 82, Section 5,
2 as amended) are repealed.

3 SECTION 82. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is January 1, 2024.