

1 SENATE BILL 198

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

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20 CONTRACT; REMOVING OUTDATED REFERENCES IN THE AVIATION ACT AND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 any
7 person to comply with an order of the department of
8 transportation within the time prescribed in the order or
9 within thirty days after the order is entered, whichever is
10 later, unless a stay has been granted, the department shall
11 seek enforcement of the order in the district court. The
12 enforcement hearing shall be held on an expedited basis. At
13 the hearing, the sole question shall be whether the person has
14 failed to comply with or 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 2022 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 2022 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 determines that:

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

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

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

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

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

22 (1) that is open to the public;

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

25 (3) that has such insurance or surety as is

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1 necessary to insure against all losses and damages proximately
2 caused by or resulting from the negligent operation,
3 maintenance or use of school buses or for loss of or damage to
4 property of others; and

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

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

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

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

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

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

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

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

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

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

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

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

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1 transportation and the local school board concerned."

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

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

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

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

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

21 "24-10B-4. BUREAU--DUTIES.--The bureau is designated as
22 the lead agency for the emergency medical services system,
23 including injury prevention, and shall establish and maintain a
24 program for regional planning and development, improvement,
25 expansion and direction of emergency medical services

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1 throughout the state, including:

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

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

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

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

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

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

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

25 (1) minimum standards for designation or

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1 retention of designation as a trauma center or a participating
2 trauma facility;

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

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

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

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

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

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

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

24 K. adoption of rules to establish a cardiac arrest
25 targeted response program pursuant to the Cardiac Arrest

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1 Response Act, including registration of automated external
2 defibrillator programs, maintenance of equipment, data
3 collection, approval of automated external defibrillator
4 training programs and a schedule of automated external
5 defibrillator program registration fees;

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

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

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

14 "24-15-4. INSURANCE.--

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

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1 Ski Safety Act. The minimum limits of liability insurance to
2 be provided by ski area operators shall be as follows:

3 SKI SAFETY ACT
4 LIABILITY INSURANCE
5 LIMITS OF LIABILITY
6 REQUIRED MINIMUM COVERAGES
7 FOR INJURIES, DEATH OR DAMAGES

8	LIMITS FOR BODILY			
9	INJURY TO OR DEATH			
10	LIMITS FOR BODILY	OF ALL PERSONS		
11	KIND AND NUMBER	INJURY TO OR DEATH	INJURED OR KILLED	PROPERTY
12	OF LIFTS OPERATED	OF ONE PERSON	IN ANY ONE ACCIDENT	DAMAGE
13	Not more than			
14	three surface lifts	\$ 100,000	\$ 300,000	\$ 5,000
15	Not more than			
16	three ski lifts,			
17	including one or more			
18	chair lifts	250,000	500,000	25,000
19	More than three			
20	ski lifts or one			
21	or more tramways	500,000	1,000,000	50,000.

22 B. No ski lift or tramway shall be operated in this state
23 after the effective date of the Ski Safety Act unless a current
24 insurance policy as required [~~herein~~] by this section is in effect
25 and properly filed with the [~~state corporation commission~~]

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

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

7 "24-15-8. DUTIES OF SKI AREA OPERATORS WITH RESPECT TO
8 SKI LIFTS.--Every ski area operator [~~shall have~~] has the duty
9 to operate, repair and maintain all ski lifts in safe
10 condition. The ski area operator, prior to December 1 of each
11 year, shall certify to the [~~state corporation commission~~]
12 department of transportation the policy number and name of the
13 company providing liability insurance for the ski area, [~~and~~]
14 the date of the ski lift inspections and the name of the person
15 making [~~such~~] those inspections."

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

18 "27-5-4. DEFINITIONS.--As used in the Indigent Hospital
19 and County Health Care Act:

20 A. "ambulance provider" or "ambulance service"
21 means a specialized carrier based within the state authorized
22 under provisions and subject to limitations as provided in
23 individual carrier certificates issued by the [~~public~~
24 ~~regulation commission~~] department of transportation to
25 transport persons alive, dead or dying en route by means of

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

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

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

18 D. "department" means the human services
19 department;

20 E. "fund" means a county health care assistance
21 fund;

22 F. "health care services" means treatment and
23 services designed to promote improved health in the county
24 indigent population, including primary care, prenatal care,
25 dental care, behavioral health care, alcohol or drug

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1 detoxification and rehabilitation, hospital care, provision of
2 prescription drugs, preventive care or health outreach
3 services, to the extent determined by resolution of the county;

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

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

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

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

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

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

19 "48-11-7. ENFORCEMENT OF LIEN.--

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

23 (1) after the occupant has been in default
24 continuously for a period of five days, the owner may deny the
25 occupant access to the occupant's space for storage;

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

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

14 B. The notice of intent to enforce a lien shall
15 include:

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

19 (2) a brief and general statement of the
20 personal property subject to the lien. That description shall
21 be reasonably adequate to permit the person notified to
22 identify the property, except that any container, including a
23 trunk, valise or box that is locked, fastened, sealed or tied
24 in a manner ~~[which]~~ that deters immediate access to its
25 contents, may be so described without describing its contents;

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

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

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

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

18 D. An owner shall provide written notice by
19 verified mail to the occupant's last known address or by
20 electronic mail to the occupant's last known electronic
21 address. If an owner sends a notice by electronic mail and
22 does not receive a response, return receipt or delivery
23 confirmation from the electronic address to which the notice
24 was sent within three business days after the day on which the
25 notice was sent, the owner shall deliver a one-time notice by

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1 verified mail to the occupant's last known address.

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

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

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

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

23 F. Any sale or other disposition of the personal
24 property shall conform to the terms of the notification as
25 provided for in this section.

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

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

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

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

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1 lienholder or other person in interest. If the occupant,
2 lienholder or other person in interest does not claim the
3 balance of the proceeds within two years of the date of sale,
4 it shall become the property of the owner without further
5 recourse by the occupant, lienholder or other person in
6 interest.

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

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

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

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1 "62-19-5. QUALIFICATIONS OF COMMISSIONERS.--

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

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

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

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

22 C. A commissioner shall not have a financial
23 interest in a public utility in this state or elsewhere and
24 shall not have been employed by a commission-regulated entity
25 at any time during the two years prior to appointment to the

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1 commission.

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

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

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

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

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

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

22 "62-19-12. COMMISSION--~~[DIVISIONS]~~ ORGANIZATIONAL
23 UNITS.--The commission includes the following organizational
24 units:

25 A. the administrative services division;

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- 1 B. the consumer relations division;
- 2 C. the legal division;
- 3 ~~[D. the transportation division; and~~
- 4 ~~E.]~~ D. the utility division; and
- 5 E. the pipeline safety bureau."

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

9 "62-19-16. [NEW MATERIAL] PIPELINE SAFETY BUREAU.--The
10 pipeline safety bureau shall serve as staff to the commission
11 for the regulation of pipelines and pipeline safety, as
12 provided by law."

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

15 "63-1-41. ANNUAL REPORT.--~~[SEC. 43.]~~ Every railroad
16 corporation ~~[must]~~ shall make an annual report to the ~~[state~~
17 ~~corporation commission]~~ department of transportation of the
18 operations of the year ending on ~~[the thirty-first day of]~~
19 December 31, which report shall be verified by the president or
20 general superintendent and the secretary and treasurer of the
21 corporation. ~~[Such]~~ The report must be filed ~~[in the office of~~
22 ~~said commission]~~ with the department of transportation on or
23 before ~~[the first day of]~~ March 1 next ensuing and shall state:

- 24 ~~[First]~~ A. the capital stock and the amount thereof
- 25 actually paid in;

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1 ~~[Second]~~ B. the amount paid for the purchase of
2 lands for the construction of the road, for buildings, engines
3 and cars, respectively;

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

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

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

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

14 ~~[Seventh]~~ G. the number and amount of dividends and
15 when paid; and

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

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

20 "63-7-1.1. COMMISSION POWERS AND DUTIES--~~[TRANSPORTATION~~
21 ~~AND]~~ TRANSMISSION COMPANIES ~~[AND COMMON CARRIERS]~~--TELEPHONE
22 AND TELEGRAPH COMPANIES.--

23 A. With respect to ~~[transportation and]~~
24 transmission companies ~~[and common carriers]~~, the commission
25 shall:

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

5 (2) determine any matters of public
6 convenience and necessity with respect to matters subject to
7 its regulatory authority as provided by law;

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

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

21 [~~(5)~~] (3) change, amend and rescind rates;

22 [~~(6)~~] (4) enforce its rules through
23 administrative sanctions and in the courts; and

24 [~~(7)~~] (5) carry out all other duties and have
25 all other powers provided by law.

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

8 C. The commission may subpoena witnesses and
9 documents, enforce its subpoenas through any court and, through
10 the court, punish for contempt.

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

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

20 F. The pendency of an appeal shall not
21 automatically stay the order appealed from. The appellant may
22 seek to obtain a stay from the commission or the supreme court.

23 G. The appeal shall be on the record of the hearing
24 before the commission and shall be governed by the appellate
25 rules applicable to administrative appeals. The supreme court

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1 shall affirm the commission's order unless it is:

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

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

6 (3) otherwise not in accordance with law.

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

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

18 "63-7-20. UTILITY [~~AND CARRIER~~] INSPECTION--FEE.--

19 A. Each utility [~~and carrier~~] doing business in
20 this state [~~which~~] that is subject to the control and
21 jurisdiction of the commission by virtue of the provisions of
22 Article 11 of the constitution of New Mexico with respect to
23 its rates and service shall pay annually to the commission a
24 fee in performance of its duties as now provided by law. [~~The~~
25 ~~fee for carriers shall not exceed two hundred fifty-six~~

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

16 B. When a fee is not paid on the date it is due,
17 interest shall be paid to the state on the amount due. The
18 interest on the amount due shall start to accrue on the day
19 following the due date and shall continue to accrue until the
20 total amount due is paid. The rate of interest on a late fee
21 payment shall be fifteen percent per year, computed at the rate
22 of one and one-fourth percent per month.

23 C. In addition to any interest due on a late fee
24 payment, a penalty shall be paid to the state for failure to
25 pay the fee when it is due. The penalty imposed shall be two

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1 percent of the amount of the fee due.

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

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

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

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

16 "64-1-12. DEFINITIONS.--As used in the Aviation Act:

17 A. "aircraft" means airplane and helicopter;

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

20 C. "passenger" means any person riding in an
21 aircraft except a pilot;

22 D. "department" means the [~~state highway and~~]
23 department of transportation [~~department~~];

24 E. "division" means the aviation division of the
25 department;

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1 F. "director" means the [~~executive head~~] director
2 of the division; and

3 G. "secretary" means the [~~executive head of the~~
4 ~~department~~] secretary of transportation."

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

7 "64-1-13. AVIATION DIVISION--POWERS AND DUTIES.--The
8 division shall:

9 A. cooperate with all public and private agencies
10 and organizations, state, local and federal, to encourage and
11 advance aviation in this state;

12 B. assemble and distribute to the public
13 information relating to aviation, landing fields, beacons and
14 other matters pertaining to aviation and may accept federal
15 money made available for the advancement of aviation;

16 C. authorize expenditures of money from the state
17 aviation fund for construction, development and maintenance of
18 public-use airport facilities, except airports serving
19 regularly scheduled interstate airlines using aircraft with a
20 maximum passenger capacity of more than one hundred seats or a
21 maximum payload capacity of more than twenty-five thousand
22 pounds, including rural landing fields and airstrips.
23 Expenditures shall be made according to the need for airport
24 facilities as determined by the division;

25 D. operate under a director, appointed by the

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1 secretary, with the approval of the governor, who shall have an
2 aviation background and meet other qualifications prescribed by
3 the secretary;

4 E. establish policies for operation of the
5 division;

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

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

15 H. have the following powers with respect to state
16 airports:

17 (1) the division may, on behalf of and in the
18 name of the state, out of appropriations and other money made
19 available for such purposes, plan, construct, enlarge, improve,
20 maintain, equip and operate airports and air navigation
21 facilities, including the construction, equipment, maintenance
22 and operation at such airports of buildings and other
23 facilities for the servicing of aircraft or for the comfort and
24 accommodation of air travelers. For such purposes, the
25 division may, in the name of the state, by purchase, gift,

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1 devise, lease or otherwise, acquire property, real or personal,
2 or any interest in property, including easements in airport
3 hazards or land outside the boundaries of an airport or airport
4 site, as are necessary to permit safe and efficient operation
5 of the airports or air navigation facilities. The division may
6 enter into any contracts necessary to the execution of the
7 powers granted it by this paragraph; and

8 (2) the division may accept, receive, receipt
9 for, disburse and expend federal money and other money, public
10 or private, made available to accomplish, in whole or in part,
11 any of the purposes of this subsection. All federal money
12 accepted under this subsection shall be accepted and expended
13 by the division upon such terms and conditions as are
14 prescribed by the United States. The division, on behalf of
15 the state, may enter into contracts with the United States or
16 with any person that may be required in connection with a grant
17 or loan of federal money for airport or air navigation facility
18 purposes. All money received by the division pursuant to this
19 subsection is appropriated for the purpose for which the money
20 was made available, to be disbursed or expended in accordance
21 with the terms and conditions upon which the money was made
22 available; provided that nothing contained in this section
23 shall affect the power of a local government to contract with
24 the United States or any person in connection with a grant or
25 loan of money for airports or air navigation facilities in

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1 accordance with the terms and conditions upon which the funds
2 were made available; and

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

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

7 "64-1-14. DIRECTOR--POWERS AND DUTIES.--The director
8 shall:

9 A. be the executive officer of the division;

10 B. with the consent of the secretary, employ
11 necessary personnel; and

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

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

17 "64-6-3. RURAL AIR SERVICE ENHANCEMENT GRANT PROGRAM.--

18 A. The "rural air service enhancement grant
19 program" is created in the division to be administered by the
20 director.

21 B. The director shall:

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

24 (2) develop procedures for receipt, review and
25 approval of grant applications;

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1 (3) receive, review and approve grant
2 applications;

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

7 (5) establish grant reporting requirements
8 that meet the general purpose of the Rural Air Service
9 Enhancement Act; and

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

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

15 D. The director shall award grants to applicants
16 through a competitive process and based upon the following
17 criteria:

18 (1) the demand for service on the proposed air
19 routes;

20 (2) the economic impact on the municipality or
21 county of the proposed new air routes; and

22 (3) the feasibility of a common carrier
23 [~~licensed by the state~~] servicing proposed new air routes.

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

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1 (1) municipalities or counties shall have a
2 minimum population of twenty thousand persons residing within a
3 fifty-mile radius of the airport unless the municipality or
4 county has existing scheduled air service;

5 (2) aircraft to be used to service proposed
6 new air routes served by the rural air service enhancement
7 grant program shall have a passenger capacity of not more than
8 nine persons;

9 (3) routes to be served by the program shall
10 be new air routes that were not served at the time the grant
11 was made; and

12 (4) minimum matching funds from a municipality
13 or county shall be:

14 (a) ten percent if the municipality or
15 county has no existing scheduled air service at the time of
16 application; and

17 (b) fifty percent if the municipality or
18 county has existing scheduled air service at the time of
19 application.

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

22 (1) exceed one million two hundred fifty
23 thousand dollars (\$1,250,000) per year for municipalities or
24 counties with existing scheduled air service;

25 (2) exceed one million seven hundred fifty

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1 thousand dollars (\$1,750,000) per year for municipalities or
2 counties not served by existing scheduled air service; or

3 (3) be used for infrastructure improvement.

4 G. Individual grants awarded through the rural air
5 service enhancement grant program shall cover a time frame of
6 at least two years.

7 H. No more than ten percent of the balance of the
8 rural air service enhancement fund on July 1 of any year may be
9 used by the division for infrastructure improvements associated
10 with individual grants awarded through the rural air service
11 enhancement grant program.

12 I. Funds received through individual grants awarded
13 through the rural air service enhancement grant program shall
14 be expended by the grantee municipality or county only to
15 airlines that have been selected through a competitive process
16 pursuant to the Procurement Code."

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

19 "65-1-6. FIELD ENFORCEMENT OF MOTOR TRANSPORTATION ACT
20 AND MOTOR CARRIER ACT AND RULES.--The department shall:

21 A. enforce in the field the provisions of the Motor
22 Transportation Act and the Motor Carrier Act and the rules
23 promulgated by the [~~public regulation commission~~] department of
24 transportation pursuant to the Motor Carrier Act; and

25 B. maintain sufficient personnel in the field to

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

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

7 "65-1-27. HEARINGS--ATTENDANCE.--The secretary or the
8 secretary's representative may attend all hearings held by the
9 [~~state corporation commission~~] department of transportation
10 concerning motor transportation. The [~~state corporation~~
11 ~~commission~~] department of transportation shall notify the
12 secretary of all such hearings, and the department is declared
13 to be an interested party and as such may present any evidence
14 pertaining to matters under consideration by the [~~commission~~]
15 department of transportation. The [~~state corporation~~
16 ~~commission~~] department of transportation shall send copies of
17 all orders entered by the [~~commission~~] department of
18 transportation in motor transportation matters to the
19 department."

20 SECTION 30. Section 65-2A-1 NMSA 1978 (being Laws 2003,
21 Chapter 359, Section 1) is amended to read:

22 "65-2A-1. SHORT TITLE.--[~~Sections 1 through 40 of this~~
23 ~~act~~] Chapter 65, Article 2A NMSA 1978 may be cited as the
24 "Motor Carrier Act"."

25 SECTION 31. Section 65-2A-3 NMSA 1978 (being Laws 2003,

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1 Chapter 359, Section 3, as amended) is amended to read:

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

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

8 B. "ambulance service" means the intrastate
9 transportation of sick or injured persons in an ambulance
10 meeting the standards established by the [~~commission~~]
11 department under the Ambulance Standards Act;

12 C. "amendment of a certificate [~~or permit~~]" means a
13 permanent change in the type or nature of service, territory or
14 terms of service authorized by an existing certificate [~~or~~
15 ~~permit~~];

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

18 E. "base state" means the registration state for an
19 interstate motor carrier that either is subject to regulation
20 or is transporting commodities exempt from regulation by the
21 federal motor carrier safety administration pursuant to the
22 unified carrier registration system;

23 F. "cancellation of an operating authority" means
24 the voluntary, permanent termination of all or part of an
25 operating authority;

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

4 H. "certificated service" means one of the
5 following transportation services:

- 6 (1) an ambulance service;
- 7 (2) a household goods service;
- 8 (3) a shuttle service;
- 9 (4) a specialized passenger service; or
- 10 (5) a taxicab service;

11 I. "change in a certificate [~~or permit~~]" means the
12 voluntary amendment, cancellation, change in form of legal
13 entity of the holder, lease, reinstatement, transfer or
14 voluntary suspension of a certificate [~~or permit~~];

15 J. "charter service" means the compensated
16 transportation of a group of persons in a motor vehicle who,
17 pursuant to a common purpose, under a single contract, at a
18 fixed charge for the motor vehicle and driver, have acquired
19 the exclusive use of the motor vehicle to travel together under
20 an itinerary either specified in advance or modified after
21 having left the place of origin;

22 [~~K. "commission" means the public regulation~~
23 ~~commission;~~

24 ~~L.]~~ K. "commuter service" means the intrastate
25 transportation of passengers in motor vehicles having a

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1 capacity of seven to fifteen persons, including the driver,
2 provided to a volunteer-driver commuter group that shares rides
3 to and from the workplace or training site, where participation
4 is incidental to the primary work or training-related purposes
5 of the commuter group, and where the fees paid by the
6 ~~[participants]~~ participants do not exceed the costs for
7 transportation, including gas and other trip-related expenses;

8 ~~[M.]~~ L. "continuous and adequate service" means:

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

20 (2) for general-service carriers, reasonably
21 continuous availability and offering of transportation services
22 through motor vehicles, equipment and resources satisfying
23 safety and financial responsibility requirements under the
24 Motor Carrier Act and ~~[commission]~~ department rule for the
25 nature of the transportation service authorized in the

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1 certificate;

2 [N.] M. "contract driver" means a person who
3 contracts with a motor carrier as an independent contractor to
4 drive a vehicle pursuant to an operating authority issued to
5 the motor carrier;

6 N. "department" means the department of
7 transportation;

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

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

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

20 R. "fitness to provide a transportation service"
21 means that an applicant or carrier complies with state law as
22 provided in the Motor Carrier Act or by rule of the
23 [~~commission~~] department;

24 S. "for hire" means that transportation is offered
25 or provided to the public for remuneration, compensation or

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1 reward of any kind, paid or promised, either directly or
2 indirectly;

3 T. "full service" means one of the following
4 certificated passenger services that are endorsed and required
5 to meet specific standards for the provision of service to or
6 throughout a community:

- 7 (1) an ambulance service;
- 8 (2) a scheduled shuttle service; or
- 9 (3) a municipal taxicab service;

10 U. "general service" means one of the following
11 certificated services that provides transportation services of
12 the type authorized, but is not required to provide
13 unprofitable or marginally profitable carriage:

- 14 (1) a general shuttle service;
- 15 (2) a general taxicab service;
- 16 (3) a specialized passenger service; or
- 17 (4) a household goods service;

18 V. "highway" means a way or place generally open to
19 the use of the public as a matter of right for the purpose of
20 vehicular travel, even though it may be temporarily closed or
21 restricted for the purpose of construction, maintenance, repair
22 or reconstruction;

23 W. "holder of an operating authority" means the
24 grantee of the operating authority or a person that currently
25 holds all or part of the right to exercise the authority

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1 through a transfer by operation of law;

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

11 Y. "household goods service" means the intrastate
12 transportation, packing and storage of household goods for
13 hire;

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

20 AA. "interstate motor carrier" means a person
21 providing compensated transportation in interstate commerce,
22 whether or not the person is subject to regulation by the
23 federal motor carrier safety administration;

24 BB. "intrastate motor carrier" means a motor
25 carrier offering or providing transportation for hire by motor

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1 vehicle between points and places in the state;

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

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

12 EE. "lease of equipment" means an agreement whereby
13 a motor carrier obtains equipment owned by another person for
14 use by the motor carrier in the exercise of its operating
15 authority, but does not include an agreement between a motor
16 carrier and its contract driver;

17 FF. "motor carrier" or "carrier" means a person
18 offering or providing transportation of persons, property or
19 household goods for hire by motor vehicle, whether in
20 intrastate or interstate commerce;

21 GG. "motor carrier organization" means an
22 organization approved by the [~~commission~~] department to
23 represent motor carriers and to discuss and propose industry
24 interests and matters other than rates, as well as discussing
25 and proposing rates and other matters pertaining to statewide

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1 tariffs;

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

7 II. "nature of service" means the type of
8 transportation service to be provided by a certificated
9 passenger service as set forth in Subsection A of Section
10 65-2A-8 NMSA 1978;

11 JJ. "nonconsensual tow" means the compensated
12 transportation of a motor vehicle by a towing service, if such
13 transportation is performed at the request of a law enforcement
14 officer or without the prior consent or authorization of the
15 owner or operator of the motor vehicle;

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

19 LL. "objection" means a document filed with the
20 [~~commission~~] department by an interested person or a member of
21 the public during the notice period for an application for a
22 certificate [~~or a permit~~], or for amendment, lease or transfer
23 of a certificate [~~or permit~~], that expresses an objection to,
24 or provides information concerning, the matter before the
25 [~~commission~~] department;

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1 MM. "operating authority" means a certificate,
2 ~~[permit]~~ warrant, unified carrier registration or temporary
3 authority issued by the ~~[commission]~~ department to a motor
4 carrier;

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

7 OO. "passenger service" means a transportation
8 service offered or provided for the transportation of
9 passengers by motor vehicle;

10 ~~[PP. "permit" means the authority issued by the~~
11 ~~commission to a person that authorizes the person to offer and~~
12 ~~provide a permitted service as a motor carrier;~~

13 ~~QQ. "permitted service" means the intrastate~~
14 ~~transportation of passengers or household goods for hire~~
15 ~~pursuant to a contract between the motor carrier and another~~
16 ~~person;~~

17 RR.] PP. "predatory rate or practice" means the
18 knowing and willful requirement by a carrier that a passenger
19 or shipper pay a rate, fare or other charge in excess of the
20 rates and charges or in a manner other than in accordance with
21 terms of service as provided by law, as provided in a tariff
22 governing the carrier or as provided in a preexisting written
23 contract regarding the carriage, when such charge is made:

24 (1) by a passenger carrier as a prior
25 condition for the provision of transportation or continued

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1 transportation of a passenger; or

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

6 [~~SS-~~] QQ. "process" means, in the context of legal
7 process, an order, subpoena or notice issued by the
8 [~~commission~~] department or an order, subpoena, notice, writ or
9 summons issued by a court;

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

19 [~~UU-~~] SS. "protest" means a document in the form of
20 a pleading filed with the [~~commission~~] department by a full-
21 service carrier that expresses an objection to an application
22 before the [~~commission~~] department for a certificate for
23 passenger service, [~~or for a permit~~] for ambulance service or
24 for passenger service pursuant to a public-charge contract or
25 for amendment, lease or transfer of such a certificate [~~or~~

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1 ~~permit~~]:

2 (1) when the territory involved in the
3 application includes all or a portion of the full-service
4 territory of the protesting carrier; and

5 (2) for a carrier other than an ambulance
6 service carrier, when the grant of the application will, or
7 presents a reasonable potential to, impair, diminish or
8 otherwise adversely affect its existing provision of full-
9 service passenger service to the public within its full-service
10 territory;

11 [~~VV-~~] TT. "public-charge contract" means a contract
12 or contractual arrangement between a motor carrier and a third
13 party for passenger service that requires or allows the motor
14 carrier to charge passengers a fare for the transportation
15 service to be provided pursuant to the contract;

16 [~~WW-~~] UU. "rate" means a form of compensation
17 charged, whether directly or indirectly, by a person for a
18 transportation service subject to the jurisdiction of the
19 [~~commission~~] department;

20 [~~XX-~~] VV. "record of a motor carrier" means an
21 account, correspondence, memorandum, tape, disc, paper, book or
22 transcribed information, or electronic data information,
23 including the electronic hardware or software necessary to
24 access the electronic data information in its document form,
25 regarding the operation of a motor carrier;

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1 ~~[YY.]~~ WW. "registration year" means a calendar
2 year;

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

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

8 ~~[BBB.]~~ ZZ. "shuttle service" means the intrastate
9 transportation of passengers for hire pursuant to a set fare
10 for each passenger between two or more specified terminal
11 points or areas and includes both scheduled shuttle service and
12 general shuttle service as follows:

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

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

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1 ~~[GGG.]~~ AAA. "specialized passenger service" means
2 the intrastate transportation for hire of passengers with
3 special physical needs by specialized types of vehicles, or for
4 specialized types of service to the public or community, as the
5 ~~[commission]~~ department may by rule provide;

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

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

- 17 (1) an ambulance service;
- 18 (2) a household goods service;
- 19 (3) a shuttle service;
- 20 (4) a specialized passenger service;
- 21 (5) a taxicab service; or
- 22 (6) a towing service performing nonconsensual
- 23 tows;

24 ~~[FFF.]~~ DDD. "taxicab association" means an
25 association, cooperative or other legal entity whose members

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1 are taxicab drivers, which shall be treated in the same manner
2 as any other applicant with regard to applications for a
3 certificate for general taxicab service or for full-service
4 municipal taxicab service and which shall be subject in the
5 same manner to all other provisions, requirements and
6 limitations of the Motor Carrier Act;

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

21 (1) "municipal taxicab service" means a
22 taxicab service that deploys vehicles at all times of the day
23 and year, is centrally dispatched and reasonably responds to
24 all calls for service within its endorsed full-service
25 territory regardless of profitability of the individual trip,

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1 in addition to the transportation service provided by a general
2 taxicab service; and

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

10 [~~HHH.~~] FFF. "terms of service" means all terms,
11 aspects, practices, limitations, conditions and schedules of
12 service other than specific rate amounts pertaining to a
13 tariffed service;

14 [~~HH.~~] GGG. "towing service" means the use of
15 specialized equipment, including repossession services using
16 towing equipment, to transport or store:

17 (1) a damaged, disabled or abandoned motor
18 vehicle and its cargo;

19 (2) a motor vehicle to replace a damaged,
20 disabled or abandoned motor vehicle;

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

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

25 (5) a motor vehicle whose driver has been

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1 removed from the scene or is unable to drive; or

2 (6) a motor vehicle repossessed or seized
3 pursuant to lawful authority;

4 [~~JJJ.~~] HHH. "transfer of a certificate [~~or permit~~]"
5 means a permanent conveyance of all or part of a certificate
6 [~~or permit~~];

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

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

18 [~~MMM.~~] KKK. "verification" means a notarized
19 signature verifying the contents of the document or other
20 filing or a signature verifying the contents of the document or
21 other filing under penalty of perjury, expressly providing that
22 the signatory swears or affirms the contents under penalty of
23 perjury as provided in Subsection A of Section 65-2A-33 NMSA
24 1978;

25 [~~NNN.~~] LLL. "voluntary suspension" means the

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1 ~~[commission-authorized]~~ department-authorized cessation of use
2 of all or part of a certificate ~~[or permit]~~ at the request of
3 the holder for a specified period of time, not to exceed twelve
4 consecutive months;

5 ~~[000.]~~ MMM. "warrant" means the authority issued by
6 the ~~[commission]~~ department to a person that authorizes the
7 person to offer and provide a warranted service as a motor
8 carrier;

9 ~~[PPP.]~~ NNN. "warranted service" means one of the
10 following intrastate transportation services offered or
11 provided for hire:

- 12 (1) a charter service;
- 13 (2) a property transportation service; or
- 14 (3) a towing service; and

15 ~~[000.]~~ 000. "weight-bumping" means the knowing and
16 willful statement of a fraudulent weight on a shipment of
17 household goods."

18 SECTION 32. Section 65-2A-4 NMSA 1978 (being Laws 2003,
19 Chapter 359, Section 4, as amended by Laws 2013, Chapter 73,
20 Section 3 and by Laws 2013, Chapter 77, Section 3) is amended
21 to read:

22 "65-2A-4. POWERS AND DUTIES OF THE ~~[COMMISSION]~~
23 DEPARTMENT.--

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

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

3 (2) establish minimum requirements for
4 financial responsibility for motor carriers; provided that the
5 financial responsibility standards required shall not be
6 inconsistent with applicable federal standards;

7 (3) establish safety requirements for
8 intrastate motor carrier motor vehicles and drivers subject to
9 the jurisdiction of the [~~commission~~] department; provided that
10 the safety requirements shall not be inconsistent with or more
11 stringent than applicable federal safety standards;

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

15 (5) regulate the rates of tariffed service
16 carriers to the extent provided in the Motor Carrier Act,
17 including rates and terms of service for storing household
18 goods and motor vehicles;

19 (6) determine matters of public interest and
20 other matters relating to authorities, rates, territories,
21 nature of service and other terms of service of motor carriers;

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

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

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

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

12 (11) adopt rules, issue orders and conduct
13 activities necessary to implement and enforce the Motor Carrier
14 Act.

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

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

24 (2) institute civil actions in the district
25 court of Santa Fe county in its own name to enforce the Motor

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1 Carrier Act, its orders and rules, and in the name of the state
2 to recover assessments of administrative fines;

3 (3) from time to time, modify the type and
4 nature of service, territory and terms of service of operating
5 authorities previously issued, and change or rescind rates
6 previously approved;

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

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

10 SECTION 33. Section 65-2A-5 NMSA 1978 (being Laws 2003,
11 Chapter 359, Section 5, as amended by Laws 2013, Chapter 73,
12 Section 4 and by Laws 2013, Chapter 77, Section 4) is amended
13 to read:

14 "65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF
15 AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

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

22 B. The [~~commission~~] department shall simplify to
23 the extent possible the process for approving applications.
24 The [~~commission~~] department may hold a public hearing on its
25 own initiative or specific to an objection that has been filed

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1 within the notice period in opposition to or in consideration
2 of an application.

3 C. The [~~commission~~] department shall hold a public
4 hearing on an application whenever a protest is filed
5 concerning the application during the notice period or the
6 [~~transportation division~~] traffic safety bureau of the
7 [~~commission~~] department requests a hearing during the notice
8 period.

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

20 SECTION 34. Section 65-2A-6 NMSA 1978 (being Laws 2003,
21 Chapter 359, Section 6, as amended by Laws 2013, Chapter 73,
22 Section 5 and by Laws 2013, Chapter 77, Section 5) is amended
23 to read:

24 "65-2A-6. NOTICE.--

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

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

19 B. Whenever the Motor Carrier Act requires
20 publication of notice regarding any other matter, the
21 requirement is met if notice is published once in a newspaper
22 of general circulation in the state. The [~~commission~~]
23 department shall not act on a matter less than ten days after
24 the date notice was published."

25 SECTION 35. Section 65-2A-7 NMSA 1978 (being Laws 2003,

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1 Chapter 359, Section 7, as amended) is amended to read:

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

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

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

16 C. A motor carrier shall carry a copy of its
17 operating authority in each motor vehicle it operates in New
18 Mexico.

19 D. A certificated service carrier shall render
20 reasonably continuous and adequate service as the [~~commission~~]
21 department may by rule prescribe."

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

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1 "65-2A-8. CERTIFICATES FOR PASSENGER SERVICE.--

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

4 (1) a certificate for an ambulance service;

5 (2) a certificate for a shuttle service shall
6 be endorsed for nature of service as a scheduled shuttle
7 service or as a general shuttle service;

8 (3) a certificate for a specialized passenger
9 service shall be endorsed for nature of service as provided by
10 [~~commission~~] department rule; and

11 (4) a certificate for a taxicab service shall
12 be endorsed for nature of service as a municipal taxicab
13 service or as a general taxicab service.

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

19 (1) the applicant is fit and able to provide
20 the transportation service to be authorized by the certificate;

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

25 (3) for an application for ambulance service,

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1 the transportation service to be provided under the certificate
2 is or will serve a useful public purpose that is responsive to
3 a public demand or need; and

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

6 C. Before granting a certificate for passenger
7 service, the [~~commission~~] department shall consider any
8 objections or protests that were filed within the notice
9 period.

10 D. Before granting a certificate for ambulance
11 service, the [~~commission~~] department shall also consider the
12 effect that issuance of the certificate would have on existing
13 ambulance service in the territory.

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

17 (1) nature of service to be rendered;
18 (2) territory authorized to be served; and
19 (3) reasonable terms of service as the
20 [~~commission~~] department may allow or require for the particular
21 certificate.

22 F. Territorial endorsements to a certificate for
23 passenger service shall:

24 (1) be limited to territory sought in the
25 application that will be served in a reasonably continuous and

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1 adequate manner beginning within thirty days of the issuance of
2 the certificate or such other definite period or date as the
3 [~~commission~~] department may provide for a particular
4 application and shall generally be authorized on the basis of
5 county or incorporated municipal boundaries, subject to other
6 specification reasonably allowed or required by the
7 [~~commission~~] department;

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

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

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

25 "65-2A-9. CERTIFICATES FOR HOUSEHOLD GOODS SERVICE.--

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

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

8 (2) has a place of business and stations
9 equipment within the state and is in compliance with the safety
10 and financial responsibility requirements of the Motor Carrier
11 Act, the rules of the [~~commission~~] department and other
12 applicable federal and state laws and rules; and

13 (3) has filed a tariff as provided in Section
14 65-2A-20 NMSA 1978.

15 B. Before granting a certificate for household
16 goods service to an applicant, the [~~commission~~] department
17 shall consider any objections that were filed within the notice
18 period.

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

22 (1) the territory to be served, which shall be
23 limited to territory sought in the application that will be
24 served in a reasonably continuous and adequate manner beginning
25 within thirty days of the issuance of the certificate or such

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1 other definite period or date as the [~~commission~~] department
2 may provide for a particular application, and shall generally
3 be specified on the basis of county boundaries, subject to
4 other or further specification by the [~~commission~~] department
5 by rule or in regard to a particular application; and

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

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

13 "65-2A-11. TEMPORARY AUTHORITY.--

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

19 (1) the notice period for such application has
20 not yet expired, the application is one directly involving
21 public safety, a governmental program or a specific public
22 event, there is an urgent and immediate public need for such
23 service and the public may be harmed by waiting for the notice
24 period to expire;

25 (2) the applicant for temporary authority has

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1 a complete application for a certificate [~~or permit~~] or for
2 amendment, lease or transfer of all or part of a certificate
3 [~~or permit~~] pending before the [~~commission~~] department;

4 (3) the applicant is fit to provide the
5 transportation service requested, is able to provide any
6 certificated service requested and is in compliance with the
7 safety and financial responsibility requirements of the Motor
8 Carrier Act and the rules of the [~~commission~~] department; and

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

12 B. An applicant for temporary authority as a
13 tariffed service carrier shall file tariffs covering the
14 transportation services for which temporary authority is being
15 sought.

16 C. If a hearing is held before a hearing examiner
17 for any reason on an application for a certificate [~~or permit~~]
18 or for amendment, lease or transfer of all or part of a
19 certificate [~~or permit~~] or for a tariff rate increase, the
20 applicant may move in such proceeding for a grant of temporary
21 authority or rate approval for a period not to exceed the
22 duration of the application process, and any protesting carrier
23 or the [~~transportation division~~] traffic safety bureau of the
24 [~~commission~~] department may move in such proceeding for
25 reconsideration or modification of any grant of temporary

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1 authority previously granted by the [~~commission~~] department or
2 the hearing examiner. The hearing examiner in the proceeding
3 shall hold an expedited preliminary public hearing on the grant
4 of temporary authority on the issues in the proceeding and the
5 testimony evidence presented in the hearing on such procedural
6 basis as the [~~commission~~] department shall by rule prescribe.

7 D. Motor carriers operating under temporary
8 authority shall comply with the requirements of the Motor
9 Carrier Act and the rules of the [~~commission~~] department.

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

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

14 "65-2A-12. WARRANTS.--

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

22 B. A towing service carrier performing
23 nonconsensual tows is subject to tariff rates and terms of
24 service. A towing service carrier performing nonconsensual
25 tows shall not use the same motor vehicles, equipment and

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1 facilities used by another warranted towing service carrier
2 performing nonconsensual tows.

3 C. A warrant shall not be transferred or leased to
4 another person.

5 D. The [~~commission~~] department may without notice
6 or a public hearing cancel a warrant if the owner fails to
7 operate under the warrant for twelve consecutive months or
8 fails to provide proof of financial responsibility as required
9 by the [~~commission~~] department for four consecutive months."

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

14 "65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

15 A. Any interested person or any member of the
16 public may provide information to the [~~commission~~] department
17 or express an objection to any application for a certificate
18 [~~or permit~~], or for amendment, lease or transfer of a
19 certificate [~~or permit~~], during the notice period for the
20 application by filing a written objection in regard to the
21 application. The [~~commission~~] department shall consider any
22 objections filed in regard to determining whether to hold a
23 hearing on the application. The [~~commission~~] department is not
24 required to hold a hearing pursuant to any objection but may,
25 in its discretion or on its own motion for any reason, hold a

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1 hearing on any application for a certificate [~~or permit~~] or for
2 an amendment, lease or transfer of a certificate [~~or permit~~].

3 B. The [~~commission~~] department shall hold a hearing
4 on an application whenever a protest is filed within the notice
5 period or the [~~transportation division~~] traffic safety bureau
6 of the [~~commission~~] department files a request for a hearing
7 relative to an application within the notice period. The
8 [~~commission~~] department shall allow a protesting carrier to
9 proceed as an intervenor in the application proceeding.

10 C. In any hearing held on an application:

11 (1) the applicant has the burden of proving
12 that the applicant meets the requirements of the Motor Carrier
13 Act and the rules of the [~~commission~~] department for the
14 application at issue, the burden of demonstrating with
15 reasonable specificity the nature and scope of its proposed
16 transportation service, the burden of proving any particular
17 factual matters that the [~~commission~~] department or the
18 [~~transportation division~~] traffic safety bureau of the
19 [~~commission~~] department may identify and require, the burden of
20 proving any additional allegations and matters of public
21 interest that it may raise and, if the application pertains to
22 ambulance service, the burden of proving that the ambulance
23 service that currently exists in the territory sought in the
24 application is inadequate and that the proposed service is
25 directly responsive to a public need and demand for the service

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1 proposed;

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

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

23 (4) all parties to a hearing may base their
24 demonstration and proof on business data, experienced persons
25 and mathematical calculations. Expert testimony shall not be

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1 required of any party but may be provided at the option of a
2 party.

3 D. The [~~commission~~] department shall not grant an
4 application:

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

15 (2) for a new certificate for general taxicab
16 service within the full-service territory of a protesting
17 municipal taxicab service carrier; or

18 (3) for a certificate for any passenger
19 service other than those identified in Paragraphs (1) and (2)
20 of this subsection, [~~or for a permit for passenger service
21 other than for an ambulance service pursuant to a public-charge
22 contract~~] or for amendment, lease or transfer of such a
23 certificate [~~or permit~~], within a protesting full-service
24 carrier's full-service territory, if it finds after hearing
25 that the grant of the application presents a reasonable

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1 potential to impair, diminish or otherwise adversely affect the
2 existing provision of full-service passenger service to the
3 public in the full-service territory or if the application is
4 otherwise contrary to the public interest in the full-service
5 territory. In considering the potential effect on provision of
6 transportation services to the public in regard to such an
7 application, the [~~commission~~] department shall consider all
8 evidence presented pertaining to such potential effect,
9 including evidence of the effect that diversion of revenue or
10 traffic may have on the provision of full-service passenger
11 service to the community. Diversion of revenue or traffic from
12 an existing motor carrier shall not, however, be sufficient
13 grounds for denying the application without a showing that the
14 diversion presents a reasonable potential to affect the
15 provision of full-service passenger service to the community."

16 SECTION 41. Section 65-2A-14 NMSA 1978 (being Laws 2003,
17 Chapter 359, Section 14, as amended by Laws 2013, Chapter 73,
18 Section 13 and by Laws 2013, Chapter 77, Section 13) is amended
19 to read:

20 "65-2A-14. CHANGES IN CERTIFICATES [~~OR PERMITS~~].--

21 A. A change in a certificate [~~or permit~~] shall not
22 be valid or effective without the approval of the [~~commission~~]
23 department.

24 B. The [~~commission~~] department may, for good cause
25 and after notice and public hearing requirements are met,

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1 authorize the following changes in all or part of a certificate
2 [~~or permit~~] at the request of the holder if the [~~commission~~]
3 department finds:

4 (1) that the applicant for amendment, lease or
5 transfer of a certificate for passenger service meets the
6 requirements pursuant to Section 65-2A-8 NMSA 1978 for a
7 certificate for such passenger service;

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

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

15 ~~(4)]~~ (3) in addition, that:

16 (a) for transfer or lease of all or part
17 of a certificate [~~or permit~~], the transferor-applicant has
18 rendered reasonably continuous and adequate service in the
19 territory to be transferred or leased prior to the application
20 for lease or transfer; and

21 (b) for transfer of all or a part of a
22 certificate [~~or permit~~], accrued taxes, rents, wages of
23 employees and other indebtedness pertaining to all or part of a
24 certificate [~~or permit~~] proposed to be transferred have been
25 paid by the transferor-applicant or assumed by the transferee-

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1 applicant.

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

5 (1) voluntary cancellation of the certificate
6 [~~or permit~~];

7 (2) voluntary suspension of the certificate
8 [~~or permit~~] for a period not to exceed twelve consecutive
9 months;

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

12 (4) reinstatement of the certificate [~~or~~
13 ~~permit~~] following voluntary suspension of a period not
14 exceeding twelve consecutive months;

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

19 (6) matters pertaining to transfers by
20 operation of law."

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

25 "65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS
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1 TRADE NAMES ALLOWED.--

2 A. A person may simultaneously hold certificates
3 for different kinds of certificated services [~~permits for~~
4 ~~different contracts~~] and warrants for different kinds of
5 warranted service within the same territory.

6 B. Any motor carrier that holds more than one
7 certificate for the same kind and nature of certificated
8 service in the same territory [~~or more than one permit for the~~
9 ~~same contract~~] shall file an application with the [~~commission~~
10 department] to consolidate [~~such~~] the operating authorities.

11 C. The [~~commission~~] department shall not grant any
12 new operating authority to a motor carrier that duplicates the
13 operating authority of the same kind and for the same territory
14 already held by that motor carrier.

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

21 E. Every certificated [~~permitted~~] or warranted
22 service carrier shall file with the [~~transportation division~~]
23 traffic safety bureau of the [~~commission~~] department all
24 business trade names under which the carrier operates its
25 service or services authorized and shall provide the

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1 ~~[transportation division]~~ traffic safety bureau of the
2 ~~[commission]~~ department with proof of financial responsibility
3 for all business trade names in addition to its legal name.
4 The ~~[commission]~~ department shall accept business trade names
5 as submitted by a carrier. Filing with the ~~[transportation~~
6 ~~division]~~ traffic safety bureau of the ~~[commission]~~ department
7 shall not, by itself, establish or otherwise affect the
8 ownership or right to use a business trade name under the
9 intellectual property laws of the state of New Mexico."

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

12 "65-2A-16. INTERSTATE MOTOR CARRIERS.--

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

21 B. The ~~[commission]~~ department is authorized to
22 follow rules and collect fee assessments set by the federal
23 secretary of transportation from foreign and domestic motor
24 carriers, motor private carriers, leasing companies, brokers
25 and freight forwarders and do all things necessary to enable

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1 New Mexico to participate in the federal unified carrier
2 registration system pursuant to the federal Unified Carrier
3 Registration Act of 2005, including the collection of an equal
4 amount of revenue as was collected by the [~~commission~~]
5 department in the last registration year under Section 4005 of
6 the federal Intermodal Surface Transportation Efficiency Act of
7 1991 and the collection of an equal amount of revenue annually
8 from all other sources allowed under the federal Unified
9 Carrier Registration Act of 2005 in the last year that such
10 collections were not prohibited by federal law.

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

19 D. Revenue remitted to the state from fees imposed
20 by the federal Unified Carrier Registration Act of 2005 shall
21 be remitted to the state treasurer, who shall deposit the
22 revenue in the motor transportation fee fund.

23 E. Compliance by an interstate motor carrier with
24 the provisions of the federal Unified Carrier Registration Act
25 of 2005 shall not authorize a carrier to provide intrastate

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1 transportation services in New Mexico. An interstate motor
2 carrier wishing to provide compensated transportation in
3 intrastate commerce shall apply for the appropriate intrastate
4 operating authority from the [~~commission~~] department. A
5 taxicab service or shuttle service traveling to or from a
6 federally licensed airport terminal facility located in the
7 state of New Mexico is engaged in nonexempt intrastate business
8 within the state regardless of a prior exemption if its service
9 provides, with regard to any service run, for both:

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

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

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

19 "65-2A-18. FINANCIAL RESPONSIBILITY.--

20 A. The [~~commission~~] department shall prescribe
21 minimum requirements for financial responsibility for all motor
22 carriers.

23 B. A motor carrier shall not operate on the
24 highways of this state without having filed with the
25 [~~commission~~] department proof of financial responsibility in

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1 the form and amount as the [~~commission~~] department shall by
2 rule prescribe.

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

17 D. The [~~commission~~] department may authorize a
18 motor carrier to carry its own insurance in lieu of filing a
19 policy of insurance, certificate showing the issuance of a
20 policy of insurance or a surety bond. In approving an
21 application to be self-insured, the [~~commission~~] department
22 shall consider:

- 23 (1) the financial stability of the carrier;
- 24 (2) previous loss history of the carrier;
- 25 (3) the safety record of the carrier;

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1 (4) the size, nature of operations and other
2 operating characteristics of the carrier; and

3 (5) other factors necessary for the protection
4 of passengers, shippers and the public.

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

9 (1) the insurance is for an interstate motor
10 carrier transporting commodities exempt from regulation by the
11 federal motor carrier safety administration participating in
12 the unified carrier registration system for those motor
13 carriers; and

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

16 F. All motor carriers shall carry proof of
17 financial responsibility in each motor vehicle they operate in
18 this state."

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

21 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
22 DRIVERS.--

23 A. A motor carrier shall provide safe and adequate
24 service, equipment and facilities for the rendition of
25 transportation services in this state.

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

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

18 D. The [~~commission~~] department shall implement
19 rules requiring carriers to obtain criminal background reports
20 for all employed or contract drivers of certificated service
21 carriers and for all other persons employed by certificated
22 household goods service carriers who enter private dwellings in
23 the course of household goods service."

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

3 "65-2A-20. TARIFFS.--

4 A. A tariffed service carrier shall not commence
5 operations or perform a new service under its operating
6 authority without having an approved tariff on file with the
7 ~~[commission]~~ department.

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

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1 terms of service contained in the operating authority for that
2 particular carrier.

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

10 (1) for ambulance and household goods service
11 carriers, in accordance with rates and terms of service
12 established by federal or state law for federal or state
13 governmental programs or operations; and

14 (2) for tariffed passenger service carriers
15 other than ambulance service carriers, in accordance with the
16 rates and terms of service established by governmental programs
17 or operations in which they voluntarily participate.

18 D. A tariffed service carrier shall not pay or
19 refund, directly or indirectly to any person, a portion of the
20 rate specified in its approved tariff, offer to a person
21 privileges or facilities, perform a service or remit anything
22 of value, except:

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

25 (2) for ambulance and household goods service

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1 carriers, in accordance with rates and terms of service
2 established by federal and state law for federal and state
3 governmental entities, programs or operations;

4 (3) for tariffed passenger service carriers
5 other than ambulance service carriers, in accordance with the
6 rates and terms of service established by governmental programs
7 or operations in which they voluntarily participate; or

8 (4) in settling or resolving a claim by a
9 customer.

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

19 F. A tariffed service carrier shall file an
20 application with the ~~[commission]~~ department for any change in
21 the tariff, accompanied by the proposed tariff, at least twenty
22 days prior to implementation of the amended rates and terms of
23 service contained in the tariff. Except as provided in this
24 section, an amended tariff shall be approved and become
25 effective twenty days after filing of the application for a

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1 change in the tariff. The [~~commission~~] department shall post
2 notice of each application for a change in a tariff along with
3 a copy of the proposed tariff on the [~~commission web site~~]
4 department website.

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

15 (1) a carrier may decline or terminate service
16 under circumstances that reasonably appear to present a
17 physical danger to the driver, to another employee of the
18 carrier or to passengers or, for carriers other than ambulance
19 service carriers, a danger to the condition of the motor
20 vehicle or cargo;

21 (2) a carrier is not responsible for
22 cancellations or delays due to weather or road conditions when
23 reasonably required for safety or when due to road
24 construction, road closures, law enforcement stops or similar
25 matters beyond the control of the carrier;

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

6 (4) a passenger service carrier other than an
7 ambulance service carrier may decline or terminate service when
8 the passenger cannot give an adequate description of, or
9 direction to, the destination or cannot transfer into or out of
10 the motor vehicle without requiring physical assistance from
11 the driver.

12 H. An application for amendment of tariff rates
13 that increases any tariff rate to a level greater than that
14 previously approved by the [~~commission~~] department for a full-
15 service carrier or a towing service providing nonconsensual
16 tows shall not become effective until approved by the
17 [~~commission~~] department as reasonable under Section 65-2A-21
18 NMSA 1978. The [~~commission~~] department shall hold a hearing
19 appropriate to the type of transportation service provided by
20 the carrier for any such application, if requested by the
21 applicant or by the [~~transportation division~~] traffic safety
22 bureau of the [~~commission~~] department, or if ordered in the
23 discretion of the [~~commission~~] department. The [~~commission~~]
24 department may provide for reasonable periodic rate increases
25 for full-service carriers or towing services providing

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1 nonconsensual tows pursuant to a rate escalator or adjustment
2 clause for any or all rates of a carrier on such basis as the
3 [~~commission~~] department finds reasonable.

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

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

23 "65-2A-21. RATES.--

24 A. Tariffed service carriers shall observe
25 nonpredatory and nondiscriminatory rates and terms of service

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1 for the transportation services they provide. A predatory or
2 discriminatory charge for service is unlawful.

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

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

14 D. A household goods service carrier shall
15 establish and observe nonpredatory and nondiscriminatory rates
16 and practices relating to the manner and method of presenting,
17 marking, packing and delivering household goods for
18 transportation and other matters relating to the transportation
19 of household goods.

20 E. In proceedings to determine the reasonableness
21 of rates, the [~~commission~~] department shall authorize revenue
22 levels that are adequate under honest, economical and efficient
23 management to cover total operating expenses, including the
24 operation of leased motor vehicles, and depreciation, plus a
25 reasonable profit. The rules adopted by the [~~commission~~]

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1 department to implement this section shall allow a carrier to
2 achieve revenue levels that will provide a flow of net income,
3 plus depreciation, adequate to support prudent capital outlays,
4 ensure the repayment of a reasonable level of debt, permit the
5 raising of needed equity capital and attract and retain capital
6 in amounts adequate to provide a sound motor carrier
7 transportation system in the state."

8 SECTION 48. Section 65-2A-22 NMSA 1978 (being Laws 2003,
9 Chapter 359, Section 22, as amended by Laws 2013, Chapter 73,
10 Section 20 and by Laws 2013, Chapter 77, Section 20) is amended
11 to read:

12 "65-2A-22. TIME SCHEDULES.--

13 A. A scheduled shuttle service carrier shall file a
14 proposed time schedule with its tariff and shall file any
15 change in its schedule through an amended tariff.

16 B. Failure by a scheduled shuttle service carrier
17 to operate the service on each day pursuant to [~~commission~~]
18 department rule as scheduled in its tariff shall result in an
19 appropriate penalty as the [~~commission~~] department, in its
20 discretion, shall determine.

21 C. A time schedule shall not be designed to require
22 the operation of a motor vehicle between given terminals or
23 terminal areas at a rate of speed greater than the maximum
24 speed allowed."

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

4 "65-2A-23. MOTOR CARRIER ORGANIZATIONS.--

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

14 (1) allows any intrastate motor carrier
15 authorized to provide the same type of service to become a
16 member of the organization and allows a member carrier to
17 discuss matters before the organization and to vote upon any
18 proposal;

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

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

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

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

7 B. A member carrier of the organization shall file
8 with the [~~commission~~] department information as the
9 [~~commission~~] department may by rule prescribe.

10 C. A motor carrier organization approved by the
11 [~~commission~~] department pursuant to this section shall be
12 subject to accounting, [~~record-keeping~~] recordkeeping,
13 reporting and inspection requirements as the [~~commission~~]
14 department may by rule prescribe.

15 D. The [~~commission~~] department may, upon complaint
16 or upon its own initiative, investigate and determine whether a
17 motor carrier organization previously authorized by it is not
18 in conformity with the requirements of this section or with the
19 terms and conditions upon which the motor carrier organization
20 was granted authorization. The [~~commission~~] department may
21 modify or terminate its authorization of a motor carrier
22 organization found to be noncompliant with the requirements of
23 this rule.

24 E. The antitrust laws of the state shall not apply
25 to discussions concerning general industry matters, terms of

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1 service or any matters concerning a statewide tariff, including
2 the rates contained in a statewide tariff, by member carriers
3 of a motor carrier organization authorized by the [~~commission~~]
4 department."

5 SECTION 50. Section 65-2A-24 NMSA 1978 (being Laws 2003,
6 Chapter 359, Section 24, as amended by Laws 2013, Chapter 73,
7 Section 22 and by Laws 2013, Chapter 77, Section 22) is amended
8 to read:

9 "65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--

10 A. An intrastate motor carrier shall not lease a
11 motor vehicle or operate a leased motor vehicle in the course
12 of its transportation service except as provided by
13 [~~commission~~] department rule. The [~~commission~~] department may
14 approve a motor vehicle lease without notice or a public
15 hearing.

16 B. A motor carrier may use employed or contract
17 drivers or taxicab association member drivers in the provision
18 of a transportation service. Regardless of the provisions of
19 any written or oral agreement between a motor carrier and a
20 contract driver or taxicab association member driver, motor
21 carriers providing transportation services that use contract
22 drivers or taxicab association member drivers remain fully
23 responsible to the [~~commission~~] department for complying with
24 all provisions of the Motor Carrier Act and [~~commission~~]
25 department rules applicable to transportation service carriers.

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

14 SECTION 51. Section 65-2A-25 NMSA 1978 (being Laws 2003,
15 Chapter 359, Section 25, as amended by Laws 2013, Chapter 73,
16 Section 23 and by Laws 2013, Chapter 77, Section 23) is amended
17 to read:

18 "65-2A-25. HOUSEHOLD GOODS OPERATIONS.--

19 A. The [~~commission~~] department shall establish a
20 statewide tariff for household goods services, containing terms
21 of service and maximum rates that household goods service
22 carriers may charge the public.

23 B. A certificated household goods service carrier
24 shall be responsible for acts or omissions of its agents that
25 relate to the performance of household goods transportation

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1 services, including accessorial or terminal services, that are
2 within the actual or apparent authority of the agent derived
3 from or ratified by the certificated household goods service
4 carrier.

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

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

25 E. If the household goods agent does not appear at

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1 the complaint hearing, or if the [~~commission~~] department finds
2 that the household goods agent has violated Subsection G or H
3 of Section 65-2A-33 NMSA 1978, or is consistently unfit,
4 unwilling or unable to provide adequate household goods
5 transportation services, including accessorial and terminal
6 services, the [~~commission~~] department shall issue an order to
7 compel compliance by the household goods agent. Thereafter,
8 the [~~commission~~] department may issue an order to limit or
9 prohibit the household goods agent from any involvement in the
10 provision of household goods transportation services if, after
11 notice and an opportunity to be heard, it finds that the
12 household goods agent has failed to comply with the order
13 within a reasonable time after the date of its issuance, but in
14 no event less than thirty days after its issuance. A household
15 goods agent may file a petition with the [~~commission~~]
16 department seeking reconsideration of an order entered by the
17 [~~commission~~] department pursuant to this section.

18 F. The [~~commission~~] department shall adopt rules
19 for the following elements of household goods transportation
20 services:

- 21 (1) methods of determining shipping charges;
- 22 (2) cost estimates, for which charges shall be
23 subject to the antitrust laws of this state;
- 24 (3) inventory;
- 25 (4) weighing;

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1 (5) receipts and bills of lading;

2 (6) liability based on value established
3 between the motor carrier and the shipper;

4 (7) equipment stationing by, and joint
5 transportation between, household goods service carriers;

6 (8) household goods agents; and

7 (9) service standards.

8 G. In adopting reasonable rules for intrastate
9 household goods service carriers, the [~~commission~~] department
10 shall balance the interests of shippers and carriers and
11 consider and observe industry standards.

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

16 (1) rates for the transportation of household
17 goods under the authority of the principal carrier;

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

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

24 or

25 (4) ownership of a household goods service

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1 carrier by an agent or membership on the board of directors of
2 any household goods service carrier by an agent."

3 SECTION 52. Section 65-2A-26 NMSA 1978 (being Laws 2003,
4 Chapter 359, Section 26, as amended by Laws 2013, Chapter 73,
5 Section 24 and by Laws 2013, Chapter 77, Section 24) is amended
6 to read:

7 "65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT
8 PROGRAM.--

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

16 (1) the program is designed to prevent a
17 household goods service carrier from having any special
18 advantage in a case in which the shipper resides or does
19 business at a place distant from the motor carrier's place of
20 business;

21 (2) the program provides adequate notice of
22 its availability, including a concise, understandable and
23 accurate summary of the program and disclosure of the legal
24 effects of using the program. The notice shall be given to the
25 shipper before the shipper tenders the household goods to the

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1 motor carrier for transportation;

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

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

15 (5) the person settling the dispute may charge
16 the shipper a fee of not more than twenty-five dollars (\$25.00)
17 for instituting a proceeding under the program if the program
18 is binding solely on the carrier, but shall not charge the
19 shipper a fee otherwise. The person settling the dispute shall
20 refund the fee to the shipper in a case in which the dispute is
21 settled in favor of the shipper, unless the person settling the
22 dispute determines that the refund is inappropriate;

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

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

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

19 B. The ~~[commission]~~ department may investigate at
20 any time the functioning of the program approved under this
21 section and may, after notice and an opportunity to be heard,
22 take appropriate action against any household goods service
23 carrier for failure to meet the requirements of this section
24 and rules as the ~~[commission]~~ department may prescribe.

25 C. In a court action to resolve a dispute between a

1 shipper and a household goods service carrier, concerning the
2 transportation of household goods by the carrier, the shipper
3 shall be awarded reasonable attorney fees if:

4 (1) the shipper submits a claim to the carrier
5 within one hundred twenty days after the date the shipment is
6 delivered or the date delivery is scheduled, whichever is
7 later;

8 (2) the shipper prevails in the court action;
9 and

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

13 (4) the court proceeding is to enforce a
14 decision rendered under the dispute settlement program and is
15 instituted after the period for performance under the decision
16 has elapsed.

17 D. In a court action to resolve a dispute between a
18 shipper and a household goods service carrier concerning the
19 transportation of household goods by the carrier, the carrier
20 shall be awarded reasonable attorney fees by the court only if
21 the shipper brought the action in bad faith:

22 (1) after resolution of the dispute under the
23 dispute settlement program; or

24 (2) after institution of a proceeding by the
25 shipper to resolve the dispute under the dispute settlement

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1 program and before:

2 (a) the expiration of the sixty-day
3 period or extension of the sixty-day period for resolution of
4 the dispute; and

5 (b) a decision resolving the dispute is
6 rendered under the program."

7 SECTION 53. Section 65-2A-27 NMSA 1978 (being Laws 2003,
8 Chapter 359, Section 27, as amended by Laws 2013, Chapter 73,
9 Section 25 and by Laws 2013, Chapter 77, Section 25) is amended
10 to read:

11 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR
12 AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

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

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

25 C. The [~~commission~~] department may, upon complaint

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

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

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

9 (3) comply with a term of service of an
10 operating authority or tariff; or

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

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

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

19 (2) the holder of the operating authority is
20 fit, and a certificate holder is able, to provide the
21 authorized transportation services, and the holder will comply
22 with the Motor Carrier Act and the rules of the [~~commission~~]
23 department."

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

3 "65-2A-28. DESIGNATION OF AN AGENT FOR SERVICE OF
4 PROCESS.--

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

19 B. If the holder of an operating authority from the
20 [~~commission~~] department operates without appointing a resident
21 agent for service of process, or the [~~commission~~] department
22 has unsuccessfully attempted to serve process upon the
23 designated resident agent, the holder shall be deemed to have
24 appointed the secretary of state as its resident agent for
25 service of process in an action or proceeding against the motor

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1 carrier growing out of an accident, collision or transaction in
2 which the motor carrier may be involved by operating in this
3 state.

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

13 D. The secretary of state shall assess to the motor
14 carrier the fee prescribed in Section 65-2A-36 NMSA 1978 for a
15 process from a court served upon the secretary of state but
16 shall not charge a fee for service of [~~commission~~] department
17 process.

18 E. The principal motor carrier of a household goods
19 agent shall be deemed to be the agent for service of process of
20 the household goods agent unless the household goods agent
21 notifies the [~~commission~~] department in writing of the
22 substitution of another agent for service of process."

23 SECTION 55. Section 65-2A-29 NMSA 1978 (being Laws 2003,
24 Chapter 359, Section 29, as amended by Laws 2013, Chapter 73,
25 Section 27 and by Laws 2013, Chapter 77, Section 27) is amended

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1 to read:

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

3 A. The [~~commission~~] department shall establish
4 reasonable requirements with respect to reports, records and
5 uniform systems of accounts and preservation of records for
6 motor carriers.

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

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

18 (1) land, buildings, improvements to real
19 property and equipment of motor carriers used in connection
20 with their operations; and

21 (2) records kept by motor carriers.

22 D. The [~~commission~~] department may, by order,
23 require a motor carrier subject to the Motor Carrier Act, or
24 its officers or agents, to produce within this state at such
25 reasonable time and place as it may designate, original or

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1 certified copies of records regardless of where they are kept
2 by the motor carrier when their production is pertinent to a
3 matter before the [~~commission~~] department, in order that the
4 [~~commission~~] department may examine them. No trade secret or
5 business confidentiality immunity or privilege may be asserted
6 by the motor carrier in response to such an order or request;
7 provided that nothing in this provision shall prevent a carrier
8 from moving for, or the [~~commission~~] department from entering,
9 an appropriate protective order to preserve the carrier's trade
10 secrets or business confidentiality from further disclosure,
11 nor shall this provision or any production required under this
12 provision waive or diminish the carrier's trade secret or
13 business confidentiality immunity or privilege as to persons
14 other than the [~~commission~~] department.

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

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

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1 to the public."

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

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

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

16 "65-2A-31. WITNESSES--SUBPOENAS--SERVICE OF PROCESS.--

17 A. If the [~~commission~~] department orders a person
18 to appear before it, the [~~commission~~] department shall
19 compensate the witness one full day's per diem plus mileage as
20 provided for employees in the Per Diem and Mileage Act. The
21 state shall pay such compensation out of the motor
22 transportation fee fund pursuant to rules of the department of
23 finance and administration. Witnesses subpoenaed by parties
24 other than the [~~commission~~] department shall be paid the same
25 compensation by the party issuing the subpoena.

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

16 C. Upon request of [~~a member of the commission~~] the
17 department, a district court may issue a writ of attachment to
18 a person who fails to comply with a subpoena issued by the
19 [~~commission~~] department compelling the person to comply with
20 the subpoena. The court shall have the power to punish for
21 contempt in the same manner as for disobedience of a subpoena
22 issued by the court.

23 D. [~~A member of the commission~~] The department may
24 administer an oath, certify to an official act, issue a
25 subpoena and compel the attendance of a witness and the

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1 production of evidence in hearings before the [commission]
2 department for the purposes provided in the Motor Carrier Act.

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

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

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

20 "65-2A-32. ADMINISTRATIVE PENALTIES.--

21 A. If the [commission] department finds after
22 investigation that a provision of the Motor Carrier Act or an
23 order or rule of the [commission] department is being, has been
24 or is about to be violated, it may issue an order specifying
25 the actual or proposed acts or omissions to act that constitute

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1 a violation and require that the violation be discontinued,
2 rectified or prevented.

3 B. Notwithstanding the existence of any other
4 penalties, the [~~commission~~] department may assess an
5 administrative fine of not more than ten thousand dollars
6 (\$10,000) for each violation of a provision of the Motor
7 Carrier Act or of a lawful rule or order of the [~~commission~~]
8 department. In case of a continuing violation, each day's
9 violation shall be deemed to be a separate and distinct
10 offense.

11 C. Notwithstanding the existence of other
12 penalties, the [~~commission~~] department may assess an
13 administrative fine of not more than ten thousand dollars
14 (\$10,000) against a person knowingly using a motor carrier not
15 properly authorized by the [~~commission~~] department.

16 D. All penalties accruing under the Motor Carrier
17 Act shall be cumulative, and a suit for recovery of one penalty
18 shall not be a bar to or affect the recovery of any other
19 penalty or be a bar to any criminal prosecution under the Motor
20 Carrier Act."

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

25 "65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE

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1 PRACTICES.--

2 A. A person who knowingly makes a false statement
3 of material fact under oath or penalty of perjury in a
4 [~~commission~~] department proceeding, whether orally or in
5 writing, shall be guilty of perjury.

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

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

21 D. An employee of the [~~commission~~] department who
22 divulges information about an inspection, examination or
23 investigation of a record or of the property and facilities of
24 a motor carrier, except insofar as may be authorized by the
25 [~~commission~~] department or a court of competent jurisdiction,

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1 shall be guilty of a misdemeanor and upon conviction shall be
2 fined not more than one thousand dollars (\$1,000).

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

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

13 (1) refuses to permit examination of its
14 records;

15 (2) conceals, destroys or mutilates its
16 records;

17 (3) attempts to conceal, destroy or mutilate
18 its records; or

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

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

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

6 (1) falsify the documents used in the
7 transportation of household goods that evidence the weight of
8 shipment; or

9 (2) charge for accessorial services that are
10 not performed, or for which the carrier is not entitled to be
11 compensated, in a case in which such services are not
12 reasonably necessary for the safe and adequate transportation
13 of the shipment.

14 I. A law enforcement officer of the state shall
15 arrest and the district attorney and attorney general shall
16 prosecute a violation of the Motor Carrier Act.

17 J. It is an unfair and deceptive trade practice
18 under the Unfair Practices Act for any transportation service
19 carrier to offer or provide transportation services of a type
20 for which, or in any territory in which, it is not authorized
21 to do so by the ~~[commission]~~ department. The attorney general
22 or a person who has been damaged or who is likely to be damaged
23 as the result of such unauthorized service, including a
24 shipper, a passenger or an authorized transportation service
25 carrier, may bring an action pursuant to the Unfair Practices

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1 Act against the transportation service carrier regarding such
2 unauthorized service. Any such civil action shall be in
3 addition to, and shall not bar, any investigation or civil or
4 criminal enforcement action regarding the unauthorized service
5 available to the attorney general or a district attorney, or
6 available to the [~~commission~~] department under the Motor
7 Carrier Act.

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

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

25 "65-2A-34. ACTIONS TO ENFORCE [~~COMMISSION~~] DEPARTMENT
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1 ORDERS.--If a person fails to comply with an order of the
2 [~~commission~~] department within the time prescribed in the order
3 or within thirty days after the order is entered, whichever is
4 later, unless a stay has been granted, the [~~commission~~]
5 department shall seek enforcement of the order in the district
6 court for Santa Fe county. The enforcement hearing shall be
7 held on an expedited basis. At the hearing, the sole question
8 shall be whether the person has failed to comply with the
9 order."

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

12 "65-2A-35. APPEAL TO SUPREME COURT.--

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

19 B. The pendency of an appeal shall not
20 automatically stay the order appealed from. The appellant may
21 petition the [~~commission~~] department or the supreme court for a
22 stay of the order.

23 C. The appeal shall be on the record of the hearing
24 before the [~~commission~~] department and shall be governed by the
25 appellate rules applicable to administrative appeals. The

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1 supreme court shall affirm the [~~commission's~~] department's
2 order unless it is:

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

5 (2) not supported by substantial evidence in
6 the record; or

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

8 SECTION 62. Section 65-2A-36 NMSA 1978 (being Laws 2003,
9 Chapter 359, Section 36, as amended by Laws 2013, Chapter 73,
10 Section 30 and by Laws 2013, Chapter 77, Section 30) is amended
11 to read:

12 "65-2A-36. FEES.--

13 A. The [~~commission~~] department shall charge and
14 collect the following fees:

15 (1) for filing an application for a
16 certificate or an application for an amendment of a
17 certificate, or for any protest or permissive intervention in
18 regard to such application, two hundred fifty dollars (\$250);

19 [~~(2) for filing an application for a permit or~~
20 ~~an application for amendment of a permit, or for any protest or~~
21 ~~permissive intervention in regard to such application, two~~
22 ~~hundred fifty dollars (\$250);~~

23 ~~(3)]~~ (2) for filing an application for a
24 warrant, twenty-five dollars (\$25.00);

25 [~~(4)]~~ (3) for filing an application or motion

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1 for temporary authority, one hundred dollars (\$100);

2 [~~(5)~~] (4) for filing an application for a
3 change in a tariff for a tariffed service carrier, two hundred
4 dollars (\$200);

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

9 [~~(7)~~] (6) for filing an application for
10 reinstatement of a certificate [~~or permit~~] following voluntary
11 or involuntary suspension, one hundred dollars (\$100);

12 [~~(8)~~] (7) for filing an application for
13 voluntary suspension of a certificate [~~or permit~~], fifteen
14 dollars (\$15.00);

15 [~~(9)~~] (8) for filing an application for a
16 single trip ticket, five dollars (\$5.00) per vehicle per trip;

17 [~~(10)~~] (9) for filing a change in the legal
18 name of any holder of an operating authority, or a change of
19 business trade name or the addition or deletion of a business
20 trade name of any holder or lessee of an operating authority,
21 ten dollars (\$10.00);

22 [~~(11)~~] (10) for filing an equipment lease,
23 five dollars (\$5.00) per vehicle leased;

24 [~~(12)~~] (11) for a miscellaneous filing, five
25 dollars (\$5.00) per document;

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1 [~~(13)~~] (12) for certifying copies of a record,
2 order or operating authority, the charge per page provided by
3 law for governmental agencies;

4 [~~(14)~~] (13) for copies of written [~~commission~~]
5 department documents or records, the charge per page provided
6 by law for governmental agencies, in addition to any applicable
7 certification charge; and

8 [~~(15)~~] (14) for copies of other [~~commission~~]
9 department records, including electronic media, an amount set
10 by the [~~commission~~] department, in addition to any applicable
11 certification charge.

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

16 C. The "motor transportation fee fund" is created
17 in the state treasury. The [~~commission~~] department shall
18 collect all fees at the time an application is filed or service
19 is provided, and shall remit them to the state treasurer, who
20 shall deposit them in the fund. At the end of each month, the
21 state treasurer shall transfer the unencumbered balance in the
22 fund to the state road fund.

23 D. If a fee has been erroneously paid, the person
24 having paid the fee may apply for a refund in writing to the
25 [~~commission~~] department no later than sixty days after the

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1 erroneous payment. Upon approval of the application by the
2 [~~commission~~] department, the amount erroneously paid shall be
3 refunded from the motor transportation fee fund to the person
4 who made the payment.

5 E. An application shall be fully completed within
6 sixty days or the fee submitted with the application shall be
7 forfeited to the state. If the applicant renews the
8 application, the applicant shall pay the applicable fee."

9 SECTION 63. Section 65-2A-37 NMSA 1978 (being Laws 2003,
10 Chapter 359, Section 37, as amended by Laws 2013, Chapter 73,
11 Section 31 and by Laws 2013, Chapter 77, Section 31) is amended
12 to read:

13 "65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF
14 DOCUMENTS--ELECTRONIC PAYMENT OF FEES.--

15 A. The [~~commission~~] department may adopt rules
16 permitting the electronic filing, submission and service of
17 documents by facsimile, electronic mail or other electronic
18 transmission, including original documents, and the
19 certification of electronically filed documents when filing or
20 certification is required or permitted pursuant to the Motor
21 Carrier Act. The rules shall provide for the appropriate
22 treatment of electronic filings to satisfy requirements for
23 original documents or copies and shall provide the requirements
24 for signature with respect to electronic filings. If the
25 [~~commission~~] department accepts electronic filing of a

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1 document, it may accept for filing a document containing a
2 signature line, however made.

3 B. The [~~commission~~] department may accept a credit
4 or debit card or other means of payment, in lieu of cash or
5 check, as payment of a fee pursuant to the Motor Carrier Act.
6 The [~~commission~~] department shall determine those credit or
7 debit cards or other means of payment that may be accepted for
8 payment."

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

11 "65-5-3. CLEARANCE CERTIFICATES--TYPES OF CARRIERS.--
12 After inspection of the vehicle and related documentation and
13 any necessary registration, clearance certificates or special
14 permits may be issued by the department for:

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

17 (1) all taxes and registration fees required
18 by the laws of this state upon the vehicles and contents of the
19 vehicles have been paid and all other laws and rules and
20 regulations of departments of this state applicable to the
21 vehicles and contents have been complied with; and

22 (2) the operator or owner of the vehicle is
23 not in default or delinquent in the payment of any tax, the
24 filing of any report or the observance of any requirements of
25 the Motor Carrier Act;

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1 B. commercial motor carrier vehicles classified and
2 designated in law as exempt when:

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

7 (2) the vehicles have been registered in this
8 state or another state and evidence of registration, including
9 proper display of registration plates, required by the laws of
10 this state is provided;

11 C. commercial motor carrier vehicles not registered
12 or licensed in this state that are transporting passengers for
13 hire or property for hire or resale when:

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

19 (2) the vehicle is properly covered by
20 liability insurance in accordance with the provisions of the
21 Motor Carrier Act and the regulations of the [~~state corporation~~
22 ~~commission~~] department of transportation; and

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

24 D. commercial motor carrier vehicles not registered
25 or licensed in this state that are transporting property not

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1 for hire or resale when:

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

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

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

9 "65-6-1. SHORT TITLE.--~~[Sections 1 through 6 of this act]~~
10 Chapter 65, Article 6 NMSA 1978 may be cited as the "Ambulance
11 Standards Act"."

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

14 "65-6-2. DEFINITIONS.--As used in the Ambulance Standards
15 Act:

16 A. "ambulance" means a vehicle, including motor
17 vehicles or watercraft, designed and used or intended to be
18 used for the transportation of sick or injured persons;

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

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

25 ~~D. "commission" means the public regulation~~

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1 ~~commission]~~

2 C. "department" means the department of
3 transportation; and

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

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

9 "65-6-4. [~~CORPORATION COMMISSION~~] DEPARTMENT--DUTIES.--

10 The [~~corporation commission~~] department, in accordance with its
11 responsibilities to regulate common carriers, shall [~~within one~~
12 ~~year of the effective date of this Act~~] hold public hearings as
13 prescribed in [~~Article 27 of Chapter 64 NMSA 1953~~] the Motor
14 Carrier Act and adopt [~~regulations~~] rules:

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

17 (1) vehicle design;

18 (2) health and safety equipment to be
19 maintained and used in ambulances;

20 (3) procedures for the operation of
21 ambulances; and

22 (4) at least annual inspection of [~~ambulances~~]
23 ambulances; and

24 B. for the licensure of all [~~ambulance~~] drivers and
25 attendants, to include:

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1 (1) [~~minumun~~] minimum training requirements to
2 include basic and advanced red cross and such other available
3 training as the [~~commission~~] department finds reasonable and in
4 the best interests of the public; and

5 (2) a written and practical examination of
6 competence limited to that material, information and training
7 required of [~~ambulance~~] drivers and attendants, respectively,
8 in the [~~regulations~~] rules adopted by the [~~corporation~~
9 ~~commission~~] department.

10 In establishing standards for ambulances, the [~~commission~~]
11 department shall give serious consideration to the vehicle
12 needs and limitations imposed by the topography and road and
13 weather conditions of various localities. Further, the
14 [~~commission~~] department shall take into consideration the
15 resources of the various communities, institutions and
16 sponsoring organizations providing ambulance service to the
17 public."

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

20 "65-7-1. SHORT TITLE.--[~~Sections 1 through 22 of this~~
21 ~~act~~] Chapter 65, Article 7 NMSA 1978 may be cited as the
22 "Transportation Network Company Services Act"."

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

25 "65-7-4. TRANSPORTATION NETWORK COMPANY PERMIT

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1 REQUIRED.--

2 A. A person shall not operate a transportation
3 network company in New Mexico without first having obtained a
4 permit from the [~~public regulation commission~~] department of
5 transportation.

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

9 C. The [~~public regulation commission~~] department of
10 transportation shall issue a permit to a transportation network
11 company that meets the requirements set forth in the
12 Transportation Network Company Services Act and any rules
13 adopted by the [~~commission~~] department pursuant to that act.
14 The transportation network company shall pay an annual permit
15 fee of ten thousand dollars (\$10,000) to the [~~commission~~]
16 department."

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

19 "65-7-13. VEHICLE SAFETY.--

20 A. A transportation network company shall not allow
21 a driver to be connected to potential passengers using the
22 digital network or software application service of the
23 transportation network company if the motor vehicle operated by
24 the driver to provide transportation services:

25 (1) is not in compliance with all federal,

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1 state and local laws concerning the operation and maintenance
2 of the motor vehicle;

3 (2) has fewer than four doors; or

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

6 B. A transportation network company shall inspect
7 or cause to be inspected every motor vehicle used by a driver
8 to provide transportation services before allowing the driver
9 to use the motor vehicle to provide prearranged rides and not
10 less than once each year thereafter.

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

16 SECTION 71. Section 65-7-19 NMSA 1978 (being Laws 2016,
17 Chapter 80, Section 19) is amended to read:

18 "65-7-19. TRANSPORTATION [~~DIVISION~~] NETWORK FUND
19 CREATED--ASSESSMENT AND COLLECTION OF FEES.--

20 A. The "transportation [~~division~~] network fund" is
21 created in the state treasury for the purpose of ensuring the
22 safety and financial responsibility of transportation network
23 companies and transportation network company drivers. The fund
24 shall consist of fees collected pursuant to the Transportation
25 Network Company Services Act, [~~administrative fines collected~~

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1 ~~under that act~~] appropriations, gifts, grants, donations and
2 earnings on investment of the fund. Balances in the fund shall
3 not revert to the general fund or any other fund at the end of
4 any fiscal year.

5 B. The transportation [~~division~~] network fund shall
6 be administered by the [~~public regulation commission~~]
7 department of transportation. Money in the fund is
8 appropriated to the [~~commission~~] department to carry out its
9 duties pursuant to the provisions of the Transportation Network
10 Company Services Act. Not more than five percent of the fees
11 collected pursuant to this section shall be used by the
12 [~~commission~~] department for administrative purposes.

13 C. Payments from the transportation [~~division~~]
14 network fund shall be made upon vouchers issued and signed by
15 the [~~director of the administrative services division of the~~
16 ~~public regulation commission or the director's~~] secretary of
17 transportation or the secretary's authorized representative
18 upon warrants drawn by the secretary of finance and
19 administration."

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

22 "65-7-20. RECORDS PURSUANT TO RULES OF THE [~~PUBLIC~~
23 ~~REGULATION COMMISSION~~] DEPARTMENT OF TRANSPORTATION.--

24 A. A transportation network company holding a
25 permit issued by the [~~public regulation commission~~] department

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1 of transportation shall maintain the records required pursuant
2 to the Transportation Network Company Services Act to be
3 collected by the transportation network company, including
4 records regarding transportation network company drivers.

5 B. In response to a specific complaint, the [~~public~~
6 ~~regulation commission~~] department of transportation, its
7 employees or its duly authorized agents may inspect those
8 records held by a transportation network company for the
9 investigation and resolution of the complaint.

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

17 D. Any proprietary records obtained by the [~~public~~
18 ~~regulation commission~~] department of transportation pursuant to
19 this section shall not be subject to disclosure by the
20 [~~commission~~] department."

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

23 "65-7-21. ADMINISTRATIVE PENALTIES.--

24 A. If the [~~public regulation commission~~] department
25 of transportation finds after investigation that a provision of

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1 the Transportation Network Company Services Act or an order or
2 rule of the [~~commission~~] department is being, has been or is
3 about to be violated, it may issue an order specifying the
4 actual or proposed acts or omissions to act that constitute a
5 violation and require that the violation be discontinued,
6 rectified or prevented.

7 B. Notwithstanding the existence of any other
8 penalties, the [~~public regulation commission~~] department of
9 transportation may assess an administrative fine of not more
10 than one thousand dollars (\$1,000) for each violation of a
11 provision of the Transportation Network Company Services Act or
12 of a lawful rule or order of the [~~commission~~] department. In
13 the case of a continuing violation, each day's violation shall
14 be deemed to be a separate and distinct offense.

15 C. All penalties accruing under the Transportation
16 Network Company Services Act shall be cumulative, and a suit
17 for recovery of one penalty shall not be a bar to or affect the
18 recovery of any other penalty or be a bar to any criminal
19 prosecution."

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

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

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

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1 (1) does not continuously maintain the
2 insurance coverage prescribed by the Transportation Network
3 Company Services Act;

4 (2) does not pay the fees owed by the
5 transportation network company and the transportation network
6 company's drivers; or

7 (3) operates in a manner that poses an
8 immediate or imminent threat to public safety.

9 B. Once suspended, the transportation network
10 company may apply for reinstatement by requesting a public
11 hearing before the [~~public regulation commission~~] department of
12 transportation and shall establish that the basis for the
13 suspension has been corrected."

14 SECTION 75. Section 66-1-4.16 NMSA 1978 (being Laws 1990,
15 Chapter 120, Section 17, as amended) is amended to read:

16 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
17 Code:

18 A. "safety glazing materials" means glazing
19 materials constructed, treated or combined with other materials
20 to reduce substantially, in comparison with ordinary sheet
21 glass or plate glass, the likelihood of injury to persons by
22 objects from exterior sources or by these safety glazing
23 materials when they are cracked and broken;

24 B. "safety zone" means the area or space that is
25 officially set apart within a highway for the exclusive use of

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1 pedestrians and that is protected or is so marked or indicated
2 by adequate signs as to be plainly visible at all times while
3 set apart as a safety zone;

4 C. "salvage vehicle" means a vehicle:

5 (1) other than a nonrepairable vehicle, of a
6 type subject to registration that has been wrecked, destroyed
7 or damaged excluding, pursuant to rules issued by the
8 department, hail damage, to the extent that the owner, leasing
9 company, financial institution or the insurance company that
10 insured or is responsible for repair of the vehicle considers
11 it uneconomical to repair the vehicle and that is subsequently
12 not repaired by or for the person who owned the vehicle at the
13 time of the event resulting in damage; or

14 (2) that was determined to be uneconomical to
15 repair and for which a total loss payment is made by an
16 insurer, whether or not the vehicle is subsequently repaired,
17 if, prior to or upon making payment to the claimant, the
18 insurer obtained the agreement of the claimant to the amount of
19 the total loss settlement and informed the claimant that,
20 pursuant to rules of the department, the title must be branded
21 and submitted to the department for issuance of a salvage
22 certificate of title for the vehicle;

23 D. "school bus" means a commercial motor vehicle
24 used to transport preprimary, primary or secondary school
25 students from home to school, from school to home or to and

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1 from school-sponsored events, but not including a vehicle:

2 (1) operated by a common carrier, subject to
3 and meeting all requirements of the [~~public regulation~~
4 ~~commission~~] department of transportation but not used
5 exclusively for the transportation of students;

6 (2) operated solely by a government-owned
7 transit authority, if the transit authority meets all safety
8 requirements of the [~~public regulation commission~~] department
9 of transportation but is not used exclusively for the
10 transportation of students;

11 (3) operated as a per capita feeder as
12 provided in Section 22-16-6 NMSA 1978; or

13 (4) that is a minimum six-passenger, full-
14 size, extended-length, sport utility vehicle operated by a
15 school district employee pursuant to Subsection D of Section
16 22-16-4 NMSA 1978;

17 E. "seal" means the official seal of the taxation
18 and revenue department as designated by the secretary;

19 F. "secretary" means the secretary of taxation and
20 revenue, and, except for the purposes of Sections 66-2-3 and
21 66-2-12 NMSA 1978, also includes the deputy secretary and any
22 division director delegated by the secretary;

23 G. "semitrailer" means a vehicle without motive
24 power, other than a pole trailer, designed for carrying persons
25 or property and for being drawn by a motor vehicle and so

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1 constructed that some significant part of its weight and that
2 of its load rests upon or is carried by another vehicle;

3 H. "sidewalk" means a portion of street between the
4 curb lines, or the lateral lines of a roadway, and the adjacent
5 property lines, intended for the use of pedestrians;

6 I. "slow-moving vehicle" means a vehicle that is
7 ordinarily moved, operated or driven at a speed less than
8 twenty-five miles per hour;

9 J. "solid tire" means every tire of rubber or other
10 resilient material that does not depend upon compressed air for
11 the support of the load;

12 K. "special mobile equipment" means a vehicle not
13 designed or used primarily for the transportation of persons or
14 property and incidentally operated or moved over the highways,
15 including but not limited to farm tractors, road construction
16 or maintenance machinery, ditch-digging apparatus, well-boring
17 apparatus and concrete mixers;

18 L. "specially constructed vehicle" means a vehicle
19 of a type required to be registered under the Motor Vehicle
20 Code not originally constructed under a distinctive name, make,
21 model or type by a generally recognized manufacturer of
22 vehicles and not materially altered from its original
23 construction;

24 M. "standard driver's license" means a license or a
25 class of license issued by a state or other jurisdiction

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1 recognized by the laws of New Mexico that authorizes the holder
2 to operate motor vehicles and is not guaranteed to be accepted
3 by federal agencies for official federal purposes;

4 N. "standard identification card" means an
5 identification card that is not guaranteed to be accepted by
6 federal agencies for official federal purposes;

7 O. "state" means a state, territory or possession
8 of the United States, the District of Columbia or any state of
9 the Republic of Mexico or the Federal District of Mexico or a
10 province of the Dominion of Canada;

11 P. "state highway" means a public highway that has
12 been designated as a state highway by the legislature, the
13 state transportation commission or the secretary of
14 transportation;

15 Q. "stop", when required, means complete cessation
16 from movement;

17 R. "stop, stopping or standing", when prohibited,
18 means any stopping or standing of a vehicle, whether occupied
19 or not, except when necessary to avoid conflict with other
20 traffic or in compliance with the directions of a police
21 officer or traffic-control sign or signal;

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

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1 construction, maintenance, repair or reconstruction;

2 T. "subsequent offender" means a person who was
3 previously a first offender and who again, under state law,
4 federal law or a municipal ordinance or a tribal law, has been
5 adjudicated guilty of the charge of driving a motor vehicle
6 while under the influence of intoxicating liquor or any drug
7 that rendered the person incapable of safely driving a motor
8 vehicle, regardless of whether the person's sentence was
9 suspended or deferred; and

10 U. "suspension" means that a person's driver's
11 license and privilege to drive a motor vehicle on the public
12 highways are temporarily withdrawn."

13 SECTION 76. Section 66-3-120 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 67) is amended to read:

15 "66-3-120. TRANSPORTATION OF CERTAIN VEHICLES--PROOF OF
16 OWNERSHIP.--

17 A. Any person transporting any crushed or
18 inoperable vehicle or motor vehicle on any public way, street
19 or highway in any manner [~~whatsoever~~] shall have in [~~his~~] the
20 person's possession proof of ownership of [~~such~~] the vehicle
21 or:

22 (1) an affidavit from the property owner upon
23 whose property the vehicle or motor vehicle was abandoned
24 authorizing the vehicle's removal from the property owner's
25 land; and

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1 (2) a police clearance indicating the vehicle
2 or motor vehicle has not been reported stolen.

3 B. Any person who possesses either a New Mexico
4 dismantler's or wrecker's license, a New Mexico auto dealer's
5 license, a [~~state corporation commission~~] department of
6 transportation license or a vehicle contract or common carrier
7 license issued by the federal interstate commerce commission
8 shall be exempt from the provisions of this section while
9 transporting vehicles [~~which~~] that are not abandoned, provided
10 [~~he~~] the person prominently displays a dealer's license plate
11 or a dismantler's plate on the vehicle in tow or has a New
12 Mexico [~~state corporation commission~~] department of
13 transportation vehicle contract or common carrier permit number
14 or a federal interstate commerce commission vehicle contract or
15 common carrier permit number prominently displayed on the
16 towing vehicle.

17 C. Any person failing to have such documentation in
18 [~~his~~] the person's possession while transporting such a vehicle
19 or motor vehicle is subject to the penalties produced in
20 Section [~~64-4-9 NMSA 1953~~] 66-4-9 NMSA 1978, and any vehicle or
21 motor vehicle being transported by [~~such a~~] the person [~~shall~~
22 ~~be~~] is subject to immediate confiscation. [~~Said~~] The vehicle
23 or motor vehicle shall be towed to an authorized police impound
24 lot until proof of ownership is presented or until the
25 documentation described in this section is provided by either

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1 the owner of the vehicle or the person in possession. Failure
2 to provide [~~such~~] documentation within thirty days shall result
3 in the vehicle or motor vehicle being deemed unclaimed and thus
4 subject to claim by the person or firm in possession."

5 SECTION 77. Section 66-6-8 NMSA 1978 (being Laws 1978,
6 Chapter 35, Section 343, as amended) is amended to read:

7 "66-6-8. BUS REGISTRATION--AGRICULTURAL LABOR FEES.--

8 A. A bus that has a normal seating capacity of
9 forty passengers or less and that is used exclusively for the
10 transportation of agricultural laborers may be registered upon
11 payment to the division of a fee of thirty-three dollars
12 (\$33.00).

13 B. In addition to the registration fee imposed by
14 this section, there is imposed at the time of registration an
15 annual tire recycling fee of fifty cents (\$.50) per wheel that
16 is in contact with the ground on each vehicle subject to a
17 registration fee pursuant to this section.

18 C. Application for registration of a bus pursuant
19 to this section shall be made in the form prescribed by the
20 division and shall be accompanied by an affidavit that the bus
21 will be used exclusively for the transportation of agricultural
22 laborers. Upon registration, the bus is exempt from tariff-
23 filing requirements of the [~~public regulation commission~~]
24 department of transportation."

25 SECTION 78. Section 66-7-413 NMSA 1978 (being Laws 1978,

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1 Chapter 35, Section 484, as amended) is amended to read:

2 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL
3 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

4 A. The department of transportation and local
5 highway authorities may, in their discretion, upon application
6 in writing and good cause being shown, issue a special permit
7 in writing authorizing the applicant to operate or move a
8 vehicle or load of a size or weight exceeding the maximum
9 specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a
10 highway under the jurisdiction of the state transportation
11 commission or local authorities. Except for the movement of
12 manufactured homes, a permit may be granted, in cases of
13 emergency, for the transportation of loads on a certain unit or
14 combination of equipment for a specified period of time not to
15 exceed one year, and the permit shall contain the route to be
16 traversed, the type of load to be transported and any other
17 restrictions or conditions deemed necessary by the body
18 granting the permit. In every other case, the permit shall be
19 issued for a single trip and may designate the route to be
20 traversed and contain any other restrictions or conditions
21 deemed necessary by the body granting the permit. Every permit
22 shall be carried in the vehicle to which it refers and shall be
23 opened for inspection to any peace officer. It is a
24 misdemeanor for a person to violate a condition or term of the
25 special permit.

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1 B. The department of transportation shall
2 promulgate rules in accordance with the State Rules Act
3 pertaining to safety practices, liability insurance and
4 equipment for escort vehicles provided by the motor carrier and
5 for escort vehicles provided by a private business in this
6 state; provided that:

7 (1) the department of public safety or the
8 department of transportation shall provide the escort personnel
9 with a copy of applicable rules and shall inspect the escort
10 vehicles for the safety equipment required by the rules. If
11 the escort vehicles and personnel meet the requirements set
12 forth in the rules, the department of public safety shall issue
13 the special permit;

14 (2) the movement of vehicles upon the highways
15 of this state requiring a special permit and required to use an
16 escort of the type noted in Paragraph (1) of this subsection is
17 subject to the authority of the department of transportation
18 and the department of public safety and to inspection at all
19 times; and

20 (3) the department of transportation shall
21 conduct engineering investigations and engineering inspections
22 to determine which four-lane highways are safe for the
23 operation or movement of manufactured homes without an escort.
24 After making that determination, the department of
25 transportation shall hold public hearings in the area of the

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1 state affected by the determination, after which it may adopt
2 rules designating those four-lane highways as being safe for
3 the operation or movement of manufactured homes without an
4 escort. If a portion of such a four-lane highway lies within
5 the boundaries of a municipality, the department of
6 transportation, after obtaining the approval of the municipal
7 governing body, shall include such portions in its rules.

8 C. Except for the movement of manufactured homes,
9 special permits may be issued for a single vehicle or
10 combination of vehicles by the department of transportation for
11 a period not to exceed one year for a fee of two hundred fifty
12 dollars (\$250). The special permits may allow excessive
13 height, length and width for a vehicle or combination of
14 vehicles or load thereon and may include a provision for
15 excessive weight if the weight of the vehicle or combination of
16 vehicles is not greater than one hundred forty thousand pounds.
17 Utility service vehicles, operating with special permits
18 pursuant to this subsection, shall be exempt from prohibitions
19 or restrictions relating to hours or days of operation or
20 restrictions on movement because of poor weather conditions.

21 D. Special permits for a single trip for a vehicle
22 or combination of vehicles or load thereon of excessive weight,
23 width, length and height may be issued by the department of
24 transportation for a single vehicle for a fee of twenty-five
25 dollars (\$25.00) plus the product of two and one-half cents

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1 (\$.025) for each two thousand pounds in excess of eighty-six
2 thousand four hundred pounds or major fraction thereof
3 multiplied by the number of miles to be traveled by the vehicle
4 or combination of vehicles on the highways of this state.

5 E. If a vehicle for which a permit is issued
6 pursuant to this section is a manufactured home, the department
7 of transportation or local highway authority issuing the permit
8 shall furnish the following information to the property tax
9 division of the taxation and revenue department, which shall
10 forward the information:

11 (1) to the county assessor of a county from
12 which a manufactured home is being moved, the date the permit
13 was issued, the location being moved from, the location being
14 moved to if within the same county, the name of the owner of
15 the manufactured home and the identification and registration
16 numbers of the manufactured home;

17 (2) to the county assessor of any county in
18 this state to which a manufactured home is being moved, the
19 date the permit was issued, the location being moved from, the
20 location being moved to, the name of the owner of the
21 manufactured home and the registration and identification
22 numbers of the manufactured home; and

23 (3) to the owner of a manufactured home having
24 a destination in this state, notification that the information
25 required in Paragraphs (1) and (2) of this subsection is being

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1 given to the respective county assessors and that manufactured
2 homes are subject to property taxation.

3 F. Except as provided in Subsection G of this
4 section, if the movement of a manufactured home originates in
5 this state, a permit shall not be issued pursuant to Subsection
6 E of this section until the owner of the manufactured home or
7 the authorized agent of the owner obtains and presents to the
8 department of transportation proof that a certificate has been
9 issued by the county assessor or treasurer of the county in
10 which the manufactured home movement originates showing that
11 either:

12 (1) all property taxes due or to become due on
13 the manufactured home for the current tax year or any past tax
14 years have been paid, except for manufactured homes located on
15 an Indian reservation; or

16 (2) liability for property taxes on the
17 manufactured home does not exist for the current tax year or a
18 past tax year, except for manufactured homes located on an
19 Indian reservation.

20 G. The movement of a manufactured home from the lot
21 or business location of a manufactured home dealer to its
22 destination designated by an owner-purchaser is not subject to
23 the requirements of Subsection F of this section if the
24 manufactured home movement originates from the lot or business
25 location of the dealer and the manufactured home was part of

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1 the dealer's inventory prior to the sale to the owner-
2 purchaser; however, the movement of a manufactured home by a
3 dealer or the dealer's authorized agent as a result of a sale
4 or trade-in from a nondealer-owner is subject to the
5 requirements of Subsection F of this section whether the
6 destination is the business location of a dealer or some other
7 destination.

8 H. A permit shall not be issued pursuant to this
9 section for movement of a manufactured home whose width exceeds
10 eighteen feet with no more than a six-inch roof overhang on the
11 left side or twelve inches on the right side in addition to the
12 eighteen-foot width of the manufactured home. Manufactured
13 homes exceeding the limitations of this section shall only be
14 moved on dollies placed on the front and the rear of the
15 structure.

16 I. The secretary of transportation may by rule
17 provide for movers of manufactured homes to self-issue permits
18 for certain sizes of manufactured homes over specific routes.
19 The cost of a permit shall not be less than twenty-five dollars
20 (\$25.00).

21 J. The secretary of transportation may provide by
22 rule for dealers of implements of husbandry to self-issue
23 permits for the movement of certain sizes of implements of
24 husbandry from the lot or business location of the dealer over
25 specific routes with specific escort requirements, if

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1 necessary, to a destination designated by an owner-purchaser or
2 for purposes of a working demonstration on the property of a
3 proposed owner-purchaser. The department of transportation
4 shall charge a fee for each self-issued permit not to exceed
5 fifteen dollars (\$15.00).

6 K. A private motor carrier requesting an oversize
7 or overweight permit shall provide proof of insurance in at
8 least the following amounts:

9 (1) bodily injury liability, providing:

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

12 (b) one hundred thousand dollars
13 (\$100,000) for each accident; and

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

16 L. A motor carrier requesting an oversize permit
17 shall produce a copy of a warrant or a single state
18 registration receipt as evidence that the motor carrier
19 maintains the insurance minimums prescribed by the [~~public~~
20 ~~regulation commission~~] department of transportation.

21 M. The department of transportation may provide by
22 rule the time periods during which a vehicle or load of a size
23 or weight exceeding the maximum specified in Sections 66-7-401
24 through 66-7-416 NMSA 1978 may be operated or moved by a motor
25 carrier on a highway under the jurisdiction of the state

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1 transportation commission or local authorities.

2 N. An applicant for a special permit to operate a
3 vehicle or combination of vehicles with a gross weight not
4 exceeding ninety-six thousand pounds within six miles of the
5 port of entry at the border with Mexico at Santa Teresa or
6 within a circular quadrant starting at that port of entry with
7 an east boundary line running due north twelve miles from the
8 Santa Teresa port of entry to a point, then along an arc to the
9 west with a twelve-mile radius and central angle of
10 approximately ninety degrees to a point on the international
11 boundary with Mexico, then returning due east twelve miles to
12 the starting point at that port of entry, and twelve miles of
13 other ports of entry on the border with Mexico shall not be
14 required to demonstrate to the department of transportation
15 that the load cannot be reduced as a condition of the issuance
16 of the permit.

17 O. Revenue from fees for special permits
18 authorizing vehicles and loads of excessive size or weight to
19 operate or move upon a highway under the jurisdiction of the
20 state transportation commission or local authorities shall be
21 collected for the department of transportation and transferred
22 to the state road fund."

23 SECTION 79. Section 66-8-116.2 NMSA 1978 (being Laws
24 1989, Chapter 319, Section 13, as amended) is amended to read:

25 "66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS--MOTOR
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1 CARRIER ACT.--As used in the Motor Vehicle Code and the Motor
2 Carrier Act, "penalty assessment misdemeanor" means, in
3 addition to the definitions of that term in Sections 66-8-116
4 and 66-8-116.1 NMSA 1978, violation of the following listed
5 sections of the NMSA 1978 for which, except as provided in
6 Subsection E of this section, the listed penalty is
7 established:

8 A. GENERAL

9 COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
10 Failure to register		
11 motor carrier	66-3-1.1	\$300.00
12 Failure to carry tax		
13 identification		
14 permit	65-1-26	300.00
15 Failure of motor carrier		
16 to comply with weight distance		
17 requirements of the Weight		
18 Distance Tax Act	65-1-26	
19 (1) first conviction		300.00
20 (2) second conviction, within		
21 ten years of the first conviction		500.00
22 (3) third or subsequent		
23 conviction, within ten years of the		
24 first conviction		1,000.00
25 Failure to comply with		

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1 [~~public regulation~~
2 ~~commission~~] department of
3 transportation rules [~~and~~
4 ~~regulations~~] 65-2A-7 50.00

5 Failure to
6 carry single state
7 registration receipt issued
8 by a base state 65-2A-7 50.00

9 Failure to register with
10 a base state under the federal
11 Unified Carrier Registration Act
12 of 2005 65-2A-16 50.00

13 Failure to stop at
14 designated
15 registration place 65-5-1 100.00

16 Failure to obtain
17 proper clearance
18 certificates 65-5-3 100.00.

19 B. VEHICLE OUT-OF-SERVICE VIOLATIONS

20	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
21	Absence of braking action	65-3-9	\$100.00
22	Damaged brake lining or pads	65-3-9	50.00
23	Loose or missing brake		
24	components	65-3-12	100.00
25	Inoperable breakaway braking		

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1	system	65-3-12	50.00
2	Defective or damaged brake		
3	tubing	65-3-12	50.00
4	Inoperative low pressure		
5	warning device	65-3-9	50.00
6	Reservoir pressure not		
7	maintained	65-3-12	100.00
8	Inoperative tractor		
9	protection valve	65-3-9	100.00
10	Damaged or loose air		
11	compressor	65-3-12	100.00
12	Audible air leak at brake		
13	chamber	65-3-12	50.00
14	Defective safety devices--		
15	chains or hooks	65-3-9	100.00
16	Defective towing or coupling		
17	devices	65-3-9	100.00
18	Defective exhaust systems	65-3-9	30.00
19	Frame defects--trailers	65-3-12	100.00
20	Frame defects--other	65-3-9	100.00
21	Defective fuel systems	65-3-9	50.00
22	Missing or inoperative		
23	lamps	65-3-9	25.00
24	Missing lamps on projecting		
25	loads	65-3-9	50.00

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1	Missing or inoperative		
2	turn signal	65-3-9	25.00
3	Unsafe loading	65-3-8	100.00
4	Possession of radar detector		
5	in commercial motor carrier		
6	vehicle	65-3-8	100.00
7	Possession of alcoholic		
8	beverage in commercial		
9	motor carrier vehicle	65-3-8	200.00
10	Excessive steering wheel		
11	play	65-3-9	100.00
12	Steering column defects	65-3-9	100.00
13	Steering box or steering		
14	system defects	65-3-9	100.00
15	Suspension system defects	65-3-9	50.00
16	Defective springs or spring		
17	assembly	65-3-9	50.00
18	Defective tires--steering		
19	axle	65-3-9	100.00
20	Defective tires--other axles	65-3-9	30.00
21	Defective wheels and rims	65-3-9	50.00
22	Defective or missing		
23	windshield wipers	65-3-9	30.00
24	Defective or inoperative		
25	emergency exit--bus	65-3-9	100.00.

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1	C. DRIVER OUT-OF-SERVICE VIOLATIONS		
2	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
3	Driver's age	65-3-7	\$30.00
4	Driver not licensed for		
5	type of vehicle being		
6	operated	65-3-7	30.00
7	Failure to have valid		
8	commercial driver's license		
9	in possession	66-5-59	30.00
10	No waiver of physical		
11	disqualification		
12	in possession	65-3-7	30.00
13	Sickness or fatigue	65-3-8	100.00
14	Driver disqualification	65-3-7	500.00
15	Exceeding the 10-hour		
16	driving rule for		
17	passenger carrier		
18	transportation	65-3-11	100.00
19	Exceeding the 11-hour		
20	driving rule for property		
21	carrier transportation	65-3-11	100.00
22	Exceeding the 14-hour on		
23	duty rule for property		
24	carrier transportation	65-3-11	100.00
25	Exceeding the 15-hour on		
	.221803.3		

underscored material = new
[bracketed material] = delete

1	duty rule for passenger		
2	carrier transportation	65-3-11	100.00
3	Exceeding the 60 hours in 7		
4	days on duty rule	65-3-11	100.00
5	Exceeding the 70 hours in 8		
6	days on duty rule	65-3-11	100.00
7	False log book	65-3-11	100.00
8	No log book	65-3-11	100.00
9	No record for previous		
10	7 days	65-3-11	100.00.

D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS

12	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
13	Placarding violations	65-3-13	\$250.00
14	Cargo tank not meeting		
15	specifications	65-3-13	250.00
16	Internal valve operation		
17	violations	65-3-13	250.00
18	Hazardous materials		
19	packaging violations	65-3-13	250.00
20	Insecure load--hazardous		
21	materials	65-3-13	250.00
22	Shipping papers violations	65-3-13	30.00
23	Shipment of forbidden		
24	combination of hazardous		
25	materials	65-3-13	250.00

.221803.3

underscored material = new
~~[bracketed material] = delete~~

1 No hazardous waste manifest 65-3-13 30.00
2 Bulk packaging marking
3 violations 65-3-13 30.00
4 Cargo tank marking violations 65-3-13 30.00.

5 E. Upon a second conviction for failure to stop at a
6 port of entry or inspection station pursuant to Section 65-5-1
7 NMSA 1978, the penalty assessment shall be two hundred fifty
8 dollars (\$250). Upon a third or subsequent conviction, the
9 penalty assessment shall be five hundred dollars (\$500)."

10 SECTION 80. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
11 PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND
12 REFERENCES IN LAW.--

13 A. On January 1, 2023, all staff positions,
14 functions, personnel, appropriations, money, records,
15 equipment, supplies, other property and contractual obligations
16 of the public regulation commission related to motor carrier
17 regulation and enforcement, railroad safety enforcement and
18 ambulance standards are transferred to the department of
19 transportation.

20 B. Beginning January 1, 2023, all references in
21 law, rules, orders and other official acts to the public
22 regulation commission or the transportation division of the
23 public regulation commission related to motor carrier
24 regulation and enforcement, railroad safety enforcement and
25 ambulance standards shall be deemed references to the

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underscoring material = new
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1 department of transportation.

2 C. Beginning January 1, 2023, all contractual
3 obligations of the public regulation commission related to
4 motor carrier regulation and enforcement, railroad safety
5 enforcement and ambulance standards are binding on the
6 department of transportation.

7 D. The rules, orders and decisions of the public
8 regulation commission related to motor carrier regulation and
9 enforcement, railroad safety enforcement and ambulance
10 standards shall remain in effect until repealed or amended.

11 SECTION 81. REPEAL.--Sections 63-3-33, 64-1-1 through
12 64-1-10, 64-1-18, 65-2A-10, 65-2A-41 and 65-6-5 NMSA 1978
13 (being Laws 1915, Chapter 37, Section 5; Laws 1929, Chapter 71,
14 Sections 1 through 8 and 10; Laws 1941, Chapter 115, Section 1;
15 Laws 1939, Chapter 199, Section 5; Laws 2003, Chapter 359,
16 Section 10; Laws 2013, Chapter 73, Section 33 and Laws 2013,
17 Chapter 77, Section 33; and Laws 1974, Chapter 82, Section 5,
18 as amended) are repealed.

19 SECTION 82. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is January 1, 2023.