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AN ACT

RELATING TO MOTOR CARRIERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE MOTOR CARRIER ACT; PROVIDING FOR COMMUNITY QUALITY OF SERVICE STANDARDS; SIMPLIFYING AND CLARIFYING ADMINISTRATIVE PROCEDURES; PROVIDING FOR ADDITIONAL UNFAIR PRACTICES ACT CIVIL PENALTIES; PROVIDING FOR FEES.

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

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

"65-2A-2. TRANSPORTATION POLICY.--It is the policy of this state to foster the development, coordination and preservation of a safe, sound and adequate motor carrier system, requiring financial responsibility and accountability on the part of motor carriers through state licensing and regulation of motor carriers."

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

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

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

1           B. "ambulance service" means the intrastate  
2 transportation of sick or injured persons in an ambulance  
3 meeting the standards established by the commission under the  
4 Ambulance Standards Act;

5           C. "amendment of a certificate or permit" means a  
6 permanent change in the type or nature of service, territory  
7 or terms of service authorized by an existing certificate or  
8 permit;

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

11           E. "base state" means the registration state for  
12 an interstate motor carrier that either is subject to  
13 regulation or is transporting commodities exempt from  
14 regulation by the federal motor carrier safety administration  
15 pursuant to the unified carrier registration system;

16           F. "cancellation of an operating authority" means  
17 the voluntary, permanent termination of all or part of an  
18 operating authority;

19           G. "certificate" means the authority issued by the  
20 commission to a person that authorizes the person to offer  
21 and provide a certificated service as a motor carrier;

22           H. "certificated service" means one of the  
23 following transportation services:

24                 (1) an ambulance service;

25                 (2) a household goods service;

1 (3) a shuttle service;

2 (4) a specialized passenger service; or

3 (5) a taxicab service;

4 I. "change in a certificate or permit" means the  
5 voluntary amendment, cancellation, change in form of legal  
6 entity of the holder, lease, reinstatement, transfer or  
7 voluntary suspension of a certificate or permit;

8 J. "charter service" means the compensated  
9 transportation of a group of persons in a motor vehicle who,  
10 pursuant to a common purpose, under a single contract, at a  
11 fixed charge for the motor vehicle and driver, have acquired  
12 the exclusive use of the motor vehicle to travel together  
13 under an itinerary either specified in advance or modified  
14 after having left the place of origin;

15 K. "commission" means the public regulation  
16 commission;

17 L. "commuter service" means the intrastate  
18 transportation of passengers in motor vehicles having a  
19 capacity of seven to fifteen persons, including the driver,  
20 provided to a volunteer-driver commuter group that shares  
21 rides to and from the workplace or training site, where  
22 participation is open to the public and incidental to the  
23 primary work or training-related purposes of the commuter  
24 group, and where the volunteer drivers have no  
25 employer-employee relationship with the commuter service;

1 M. "continuous and adequate service" means:

2 (1) for full-service carriers, reasonably  
3 continuous availability, offering and provision of  
4 transportation services through motor vehicles, equipment and  
5 resources satisfying safety and financial responsibility  
6 requirements under the Motor Carrier Act and commission rule,  
7 which are reasonably adequate to serve the entire  
8 full-service territory authorized in the certificate, with  
9 reasonable response to all requests for service for the  
10 nature of passenger service authorized, based on the nature  
11 of public need, expense and volume of demand for the type of  
12 service authorized during seasonal periods; and

13 (2) for general-service carriers, reasonably  
14 continuous availability and offering of transportation  
15 services through motor vehicles, equipment and resources  
16 satisfying safety and financial responsibility requirements  
17 under the Motor Carrier Act and commission rule for the  
18 nature of the transportation service authorized in the  
19 certificate;

20 N. "contract driver" means a person who contracts  
21 with a motor carrier as an independent contractor to drive a  
22 vehicle pursuant to an operating authority issued to the  
23 motor carrier;

24 O. "endorsement" means the specification in a  
25 certificate of the territory in which the carrier is

1 authorized to operate, the nature of service to be provided  
2 by a certificated passenger service and any additional terms  
3 of service that may be reasonably granted or required by the  
4 commission for the particular authority granted;

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

7 Q. "financial responsibility" means the ability to  
8 respond in damages for liability arising out of the  
9 ownership, maintenance or use of a motor vehicle in the  
10 provision of transportation services;

11 R. "fitness to provide a transportation service"  
12 means that an applicant or carrier complies with state law as  
13 provided in the Motor Carrier Act or by rule of the  
14 commission;

15 S. "for hire" means that transportation is offered  
16 or provided to the public for remuneration, compensation or  
17 reward of any kind, paid or promised, either directly or  
18 indirectly;

19 T. "full service" means one of the following  
20 certificated passenger services that are endorsed and  
21 required to meet specific standards for the provision of  
22 service to or throughout a community:

23 (1) an ambulance service;

24 (2) a scheduled shuttle service; or

25 (3) a municipal taxicab service;

1           U. "general service" means one of the following  
2 certificated services that provides transportation services  
3 of the type authorized, but is not required to provide  
4 unprofitable or marginally profitable carriage:

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

9           V. "highway" means a way or place generally open  
10 to the use of the public as a matter of right for the purpose  
11 of vehicular travel, even though it may be temporarily closed  
12 or restricted for the purpose of construction, maintenance,  
13 repair or reconstruction;

14           W. "holder of an operating authority" means the  
15 grantee of the operating authority or a person that currently  
16 holds all or part of the right to exercise the authority  
17 through a transfer by operation of law;

18           X. "household goods" means personal effects and  
19 property used or to be used in a dwelling when a part of the  
20 equipment or supply of the dwelling and other similar  
21 property as the federal motor carrier safety administration  
22 may provide by regulation, but shall not include property  
23 moving to or from a factory or store, other than property the  
24 householder has purchased to use in the householder's  
25 dwelling that is transported at the request of, and the

1 transportation charges are paid to the carrier by, the  
2 householder;

3 Y. "household goods service" means the intrastate  
4 transportation, packing and storage of household goods for  
5 hire;

6 Z. "interested person" means a motor carrier  
7 operating in the territory involved in an application or  
8 grant of temporary authority, a person affected by an order  
9 of the commission or a rule proposed for adoption by the  
10 commission or a person the commission may deem interested in  
11 a particular matter;

12 AA. "interstate motor carrier" means a person  
13 providing compensated transportation in interstate commerce,  
14 whether or not the person is subject to regulation by the  
15 federal motor carrier safety administration;

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

19 CC. "involuntary suspension" means the temporary  
20 cessation of use of all or part of an operating authority  
21 ordered by the commission for cause for a stated period of  
22 time or pending compliance with certain conditions;

23 DD. "lease of a certificate or permit" means an  
24 agreement by which the holder of a certificate or permit  
25 grants to another person the exclusive right to use all or

1 part of the certificate or permit for a specified period of  
2 time in exchange for consideration, but does not include an  
3 agreement between a motor carrier and its contract driver;

4 EE. "lease of equipment" means an agreement  
5 whereby a motor carrier obtains equipment owned by another  
6 person for use by the motor carrier in the exercise of its  
7 operating authority, but does not include an agreement  
8 between a motor carrier and its contract driver;

9 FF. "motor carrier" or "carrier" means a person  
10 offering or providing transportation of persons, property or  
11 household goods for hire by motor vehicle, whether in  
12 intrastate or interstate commerce;

13 GG. "motor carrier organization" means an  
14 organization approved by the commission to represent motor  
15 carriers and to discuss and propose industry interests and  
16 matters other than rates, as well as discussing and proposing  
17 rates and other matters pertaining to statewide tariffs;

18 HH. "motor vehicle" or "vehicle" means a vehicle,  
19 machine, tractor, trailer or semitrailer propelled or drawn  
20 by mechanical power and used on a highway in the  
21 transportation of property, household goods or persons, but  
22 does not include a vehicle, locomotive or car operated  
23 exclusively on rails;

24 II. "nature of service" means the type of  
25 transportation service to be provided by a certificated

1 passenger service as set forth in Subsection A of Section  
2 65-2A-8 NMSA 1978;

3 JJ. "nonconsensual tow" means the compensated  
4 transportation of a motor vehicle by a towing service, if  
5 such transportation is performed at the request of a law  
6 enforcement officer or without the prior consent or  
7 authorization of the owner or operator of the motor vehicle;

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

11 LL. "objection" means a document filed with the  
12 commission by an interested person or a member of the public  
13 during the notice period for an application for a certificate  
14 or a permit, or for amendment, lease or transfer of a  
15 certificate or permit, that expresses an objection to, or  
16 provides information concerning, the matter before the  
17 commission;

18 MM. "operating authority" means a certificate,  
19 permit, warrant, unified carrier registration or temporary  
20 authority issued by the commission to a motor carrier;

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

23 OO. "passenger service" means a transportation  
24 service offered or provided for the transportation of  
25 passengers by motor vehicle;

1           PP. "permit" means the authority issued by the  
2 commission to a person that authorizes the person to offer  
3 and provide a permitted service as a motor carrier;

4           QQ. "permitted service" means the intrastate  
5 transportation of passengers or household goods for hire  
6 pursuant to a contract between the motor carrier and another  
7 person;

8           RR. "predatory rate or practice" means the knowing  
9 and willful requirement by a carrier that a passenger or  
10 shipper pay a rate, fare or other charge in excess of the  
11 rates and charges or in a manner other than in accordance  
12 with terms of service as provided by law, as provided in a  
13 tariff governing the carrier or as provided in a pre-existing  
14 written contract regarding the carriage, when such charge is  
15 made:

16                   (1) by a passenger carrier as a prior  
17 condition for the provision of transportation or continued  
18 transportation of a passenger; or

19                   (2) as a prior condition by a towing service  
20 carrier performing nonconsensual tows or a household goods  
21 service carrier for delivery of, release of or access to  
22 vehicles or household goods by the shipper or registered  
23 owner;

24           SS. "process" means, in the context of legal  
25 process, an order, subpoena or notice issued by the

1 commission or an order, subpoena, notice, writ or summons  
2 issued by a court;

3 TT. "property" means movable articles of value,  
4 including cadavers, hazardous matter, farm products,  
5 livestock feed, stock salt, manure, wire, posts, dairy  
6 products, livestock hauled in lots of twenty-five thousand  
7 pounds or more, farm or ranch machinery and the items  
8 transported by a towing service, but does not include  
9 household goods or unprocessed farm products transported by a  
10 farmer from the place of harvesting to market, storage or a  
11 processing plant;

12 UU. "protest" means a document in the form of a  
13 pleading filed with the commission by a full-service carrier  
14 that expresses an objection to an application before the  
15 commission for a certificate for passenger service or for a  
16 permit for ambulance service or for passenger service  
17 pursuant to a public-charge contract or for amendment, lease  
18 or transfer of such a certificate or permit:

19 (1) when the territory involved in the  
20 application includes all or a portion of the full-service  
21 territory of the protesting carrier; and

22 (2) for a carrier other than an ambulance  
23 service carrier, when the grant of the application will, or  
24 presents a reasonable potential to, impair, diminish or  
25 otherwise adversely affect its existing provision of

1 full-service passenger service to the public within its  
2 full-service territory;

3           VV. "public-charge contract" means a contract or  
4 contractual arrangement between a motor carrier and a third  
5 party for passenger service that requires or allows the motor  
6 carrier to charge passengers a fare for the transportation  
7 service to be provided pursuant to the contract;

8           WW. "rate" means a form of compensation charged,  
9 whether directly or indirectly, by a person for a  
10 transportation service subject to the jurisdiction of the  
11 commission;

12           XX. "record of a motor carrier" means an account,  
13 correspondence, memorandum, tape, disc, paper, book or  
14 transcribed information, or electronic data information,  
15 including the electronic hardware or software necessary to  
16 access the electronic data information in its document form,  
17 regarding the operation of a motor carrier;

18           YY. "registration year" means a calendar year;

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

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

24           BBB. "shuttle service" means the intrastate  
25 transportation of passengers for hire pursuant to a set fare

1 for each passenger between two or more specified terminal  
2 points or areas and includes both scheduled shuttle service  
3 and general shuttle service as follows:

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

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

17 CCC. "specialized passenger service" means the  
18 intrastate transportation for hire of passengers with special  
19 physical needs by specialized types of vehicles, or for  
20 specialized types of service to the public or community, as  
21 the commission may by rule provide;

22 DDD. "tariff" means a document filed by a tariffed  
23 service carrier that has been approved by the commission and  
24 sets forth the transportation services offered by the motor  
25 carrier to the general public, including the rates, terms of

1 service and applicable time schedules relating to those  
2 services;

3           EEE. "tariffed service" means one of the following  
4 transportation services authorized by the commission for the  
5 provision of service on the basis of rates and terms of  
6 service contained in a tariff approved by the commission:

- 7                   (1) an ambulance service;
- 8                   (2) a household goods service;
- 9                   (3) a shuttle service;
- 10                   (4) a specialized passenger service;
- 11                   (5) a taxicab service; or
- 12                   (6) a towing service performing  
13 nonconsensual tows;

14           FFF. "taxicab association" means an association,  
15 cooperative or other legal entity whose members are taxicab  
16 drivers, which shall be treated in the same manner as any  
17 other applicant with regard to applications for a certificate  
18 for general taxicab service or for full-service municipal  
19 taxicab service, and shall be subject in the same manner to  
20 all other provisions, requirements and limitations of the  
21 Motor Carrier Act;

22           GGG. "taxicab service" means intrastate  
23 transportation of passengers for hire in a motor vehicle  
24 having a capacity of not more than eight persons, including  
25 the driver, for which the passenger or other person engaging

1 the vehicle is allowed to specify not only the origin and  
2 destination points of the trip but also, within reason, the  
3 route taken by the vehicle, any intermediate stop, any  
4 optional waiting at a stop and any other passengers  
5 transported during the trip and that charges a fare for use  
6 of the vehicle primarily on the basis of a drop-flag fee,  
7 cumulative mileage and cumulative wait time through a taxicab  
8 meter used to cumulate and display the fare to the passenger  
9 and includes both municipal taxicab service and general  
10 taxicab service, as follows:

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

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

25 HHH. "terms of service" means all terms, aspects,

1 practices, limitations, conditions and schedules of service  
2 other than specific rate amounts pertaining to a tariffed  
3 service;

4 III. "towing service" means the use of specialized  
5 equipment, including repossession services using towing  
6 equipment, to transport or store:

7 (1) a damaged, disabled or abandoned motor  
8 vehicle and its cargo;

9 (2) a motor vehicle to replace a damaged,  
10 disabled or abandoned motor vehicle;

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

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

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

17 (6) a motor vehicle repossessed or seized  
18 pursuant to lawful authority;

19 JJJ. "transfer of a certificate or permit" means a  
20 permanent conveyance of all or part of a certificate or  
21 permit;

22 KKK. "transfer by operation of law" means that all  
23 or a part of a grantee's interest in an operating authority  
24 passes to a fiduciary or other person by application of  
25 established rules of law;

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

8           MMM. "verification" means a notarized signature  
9 verifying the contents of the document or other filing or a  
10 signature verifying the contents of the document or other  
11 filing under penalty of perjury, expressly providing that the  
12 signatory swears or affirms the contents under penalty of  
13 perjury as provided in Subsection A of Section 65-2A-33 NMSA  
14 1978;

15           NNN. "voluntary suspension" means the  
16 commission-authorized cessation of use of all or part of a  
17 certificate or permit at the request of the holder for a  
18 specified period of time, not to exceed twelve consecutive  
19 months;

20           OOO. "warrant" means the authority issued by the  
21 commission to a person that authorizes the person to offer  
22 and provide a warranted service as a motor carrier;

23           PPP. "warranted service" means one of the  
24 following intrastate transportation services offered or  
25 provided for hire:

- 1 (1) a charter service;
- 2 (2) a commuter service;
- 3 (3) a property transportation service; or
- 4 (4) a towing service; and

5           QQQ. "weight-bumping" means the knowing and  
6 willful statement of a fraudulent weight on a shipment of  
7 household goods."

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

10           "65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

11           A. In accordance with the Motor Carrier Act, the  
12 commission shall:

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

15                   (2) establish minimum requirements for  
16 financial responsibility for motor carriers; provided that  
17 the financial responsibility standards required shall not be  
18 inconsistent with applicable federal standards;

19                   (3) establish safety requirements for  
20 intrastate motor carrier motor vehicles and drivers subject  
21 to the jurisdiction of the commission, provided that the  
22 safety requirements shall not be inconsistent with or more  
23 stringent than applicable federal safety standards;

24                   (4) establish reasonable requirements with  
25 respect to continuous and adequate service to be provided

1 under an operating authority;

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

6 (6) determine matters of public interest and  
7 other matters relating to authorities, rates, territories,  
8 nature of service and other terms of service of motor  
9 carriers;

10 (7) have jurisdiction to determine any  
11 matter under the Motor Carrier Act relating to any  
12 transportation service carrier that has not obtained an  
13 appropriate operating authority from the commission;

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

17 (9) hold a public hearing specific to a  
18 protest or a request by the transportation division of the  
19 commission that has been filed within the notice period in  
20 opposition to or in consideration of an application;

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

24 (11) adopt rules, issue orders and conduct  
25 activities necessary to implement and enforce the Motor

1 Carrier Act.

2 B. The commission may:

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

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

15 (3) from time to time, modify the type and  
16 nature of service, territory and terms of service of  
17 operating authorities previously issued, and change or  
18 rescind rates previously approved;

19 (4) establish statewide tariffs as needed  
20 for voluntary and optional use by tariffed service carriers;  
21 and

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

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

25 "65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS

1 OF AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

2 A. A person shall file an application for any  
3 matter for which commission approval is required. An  
4 application shall be made in writing, verified and in a form  
5 that contains information and is accompanied by proof of  
6 service upon interested persons as required by the  
7 commission.

8 B. The commission shall simplify to the extent  
9 possible the process for approving applications. The  
10 commission may hold a public hearing on its own initiative or  
11 specific to an objection that has been filed within the  
12 notice period in opposition to or in consideration of an  
13 application.

14 C. The commission shall hold a public hearing on  
15 an application whenever a protest is filed concerning the  
16 application during the notice period or the transportation  
17 division of the commission requests a hearing during the  
18 notice period.

19 D. The commission may approve or deny an  
20 application in whole or in part, or allow or require  
21 particular terms of service as it may find reasonable and  
22 appropriate. If no objection, protest or request for hearing  
23 by the transportation division of the commission is filed  
24 during the notice period, the commission may grant the  
25 application by ministerial action, if the application

1 complies with the provisions of the Motor Carrier Act and the  
2 rules of the commission regarding fitness, ability, financial  
3 responsibility and safety."

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

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

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

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

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

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

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

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

15 B. A certificate, permit or warrant, or a change  
16 in a certificate or permit, shall be effective from the date  
17 issued by the commission and shall remain in effect until  
18 canceled, revoked, suspended or amended.

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

22 D. A certificated service carrier shall render  
23 reasonably continuous and adequate service as the commission  
24 may by rule prescribe."

25 SECTION 7. Section 65-2A-8 NMSA 1978 (being Laws 2003,

1 Chapter 359, Section 8) is amended to read:

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

3 A. The commission may issue a certificate for a  
4 passenger service as follows:

5 (1) a certificate for an ambulance service;

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

9 (3) a certificate for a specialized  
10 passenger service shall be endorsed for nature of service as  
11 provided by commission rule; and

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

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

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

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

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

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

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

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

14 E. A certificate issued by the commission for  
15 provision of passenger service shall contain one or more  
16 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 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

1 and adequate manner beginning within thirty days of the  
2 issuance of the certificate or such other definite period or  
3 date as the commission 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;

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  
13 of 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  
17 or drop-off of passengers throughout a terminal area, but  
18 shall not authorize transportation between points and places  
19 within a single terminal area or the provision of  
20 transportation services in any other areas of the state."

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

23 "65-2A-9. CERTIFICATES FOR HOUSEHOLD GOODS SERVICE.--

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

1 certificate allowing a person to provide household goods  
2 service after notice and public hearing requirements are met,  
3 if the applicant:

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

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

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

13 B. Before granting a certificate for household  
14 goods service to an applicant, the commission shall consider  
15 any objections that were filed within the notice period.

16 C. A certificate issued by the commission for  
17 provision of household goods service shall contain one or  
18 more endorsements, each of which shall specify:

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

1 boundaries, subject to other or further specification by the  
2 commission by rule or in regard to a particular application;  
3 and

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

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

9 "65-2A-10. PERMITS.--

10 A. Except as provided in this section and in  
11 Section 65-2A-13 NMSA 1978, the commission shall issue a  
12 permit allowing a person to provide permitted service for  
13 transportation of passengers or household goods pursuant to  
14 contract after notice and public hearing requirements are  
15 met, if the applicant is:

16 (1) fit to provide the transportation to be  
17 authorized by the permit; and

18 (2) in compliance with the safety and  
19 financial responsibility requirements of the Motor Carrier  
20 Act, the rules of the commission and other applicable federal  
21 and state laws and rules.

22 B. Before granting a permit to an applicant, the  
23 commission shall consider any objections or protests that  
24 were filed within the notice period.

25 C. The commission shall not grant a permit for

1 ambulance or household goods service, or for provision of  
2 passenger service pursuant to a public-charge contract, or  
3 for a lease or transfer of such a permit, unless the  
4 applicant holds a certificate for provision of the  
5 appropriate certificated service in the territory to be  
6 served under contract. A carrier's operations pursuant to  
7 permits for contracts for ambulance service or household  
8 goods service, or for public-charge contracts for passenger  
9 service, shall be held to the same standards as are the  
10 carrier's certificated service operations. If the  
11 transportation to be provided under the contract is passenger  
12 service other than ambulance service, the contractual rates  
13 and terms of service affecting passengers shall be provided  
14 in the carrier's tariff.

15 D. The commission shall not issue a permit for  
16 passenger service if the contract or arrangement between the  
17 carrier and the other contracting party effectively excludes  
18 or otherwise impairs a certificated carrier's access to  
19 public places or the public's access to certificated carriers  
20 for the provision of transportation services by a  
21 certificated passenger service carrier then serving the same  
22 territory, and no permit issued may be used to effect such  
23 exclusion or impairment of certificated passenger service.

24 E. A permit issued by the commission shall specify  
25 the business of the carrier, the scope of the authority

1 granted to it and the terms, conditions and limitations of  
2 the authority.

3 F. An applicant for a permit shall file with the  
4 commission each contract under which it intends to operate."

5 SECTION 10. Section 65-2A-11 NMSA 1978 (being Laws  
6 2003, Chapter 359, Section 11) is amended to read:

7 "65-2A-11. TEMPORARY AUTHORITY.--

8 A. The commission may without notice grant  
9 temporary authority to an applicant for a certificate or  
10 permit or for amendment, lease or transfer of all or part of  
11 a certificate or permit for a period not to exceed the  
12 duration of the application process, if it finds that:

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

19 (2) the applicant for temporary authority  
20 has a complete application for a certificate or permit or for  
21 amendment, lease or transfer of all or part of a certificate  
22 or permit, pending before the commission;

23 (3) the applicant is fit to provide the  
24 transportation service requested, is able to provide any  
25 certificated service requested and is in compliance with the

1 safety and financial responsibility requirements of the Motor  
2 Carrier Act and the rules of the commission; and

3 (4) satisfactory proof of urgent and  
4 immediate need has been made by verified proof as the  
5 commission shall by rule prescribe.

6 B. An applicant for temporary authority as a  
7 tariffed service carrier shall file tariffs covering the  
8 transportation services for which temporary authority is  
9 being sought.

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

1           D. Motor carriers operating under temporary  
2 authority shall comply with the requirements of the Motor  
3 Carrier Act and the rules of the commission.

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

6           SECTION 11. Section 65-2A-12 NMSA 1978 (being Laws  
7 2003, Chapter 359, Section 12) is amended to read:

8           "65-2A-12. WARRANTS.--

9           A. The commission shall issue a warrant that  
10 allows a person to provide warranted service as a commuter  
11 service, charter service, towing service or motor carrier of  
12 property if the commission finds that the applicant is in  
13 compliance with the financial responsibility and safety  
14 requirements of the Motor Carrier Act and the rules of the  
15 commission.

16           B. A towing service carrier performing  
17 nonconsensual tows is subject to tariff rates and terms of  
18 service. A towing service carrier performing nonconsensual  
19 tows shall not use the same motor vehicles, equipment and  
20 facilities used by another warranted towing service carrier  
21 performing nonconsensual tows.

22           C. A warrant shall not be transferred or leased to  
23 another person.

24           D. The commission may without notice or a public  
25 hearing cancel a warrant if the owner fails to operate under

1 the warrant for twelve consecutive months or fails to provide  
2 proof of financial responsibility as required by the  
3 commission for four consecutive months."

4 SECTION 12. Section 65-2A-13 NMSA 1978 (being Laws  
5 2003, Chapter 359, Section 13) is amended to read:

6 "65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

7 A. Any interested person or any member of the  
8 public may provide information to the commission or express  
9 an objection to any application for a certificate or permit,  
10 or for amendment, lease or transfer of a certificate or  
11 permit, during the notice period for the application by  
12 filing a written objection in regard to the application. The  
13 commission shall consider any objections filed in regard to  
14 determining whether to hold a hearing on the application.  
15 The commission is not required to hold a hearing pursuant to  
16 any objection but may, in its discretion or on its own motion  
17 for any reason, hold a hearing on any application for a  
18 certificate or permit or for an amendment, lease or transfer  
19 of a certificate or permit.

20 B. The commission shall hold a hearing on an  
21 application whenever a protest is filed within the notice  
22 period or the transportation division of the commission files  
23 a request for a hearing relative to an application within the  
24 notice period. The commission shall allow a protesting  
25 carrier to proceed as an intervenor in the application

1 proceeding.

2 C. In any hearing held on an application:

3 (1) the applicant has the burden of proving  
4 that the applicant meets the requirements of the Motor  
5 Carrier Act and the rules of the commission for the  
6 application at issue, the burden of demonstrating with  
7 reasonable specificity the nature and scope of its proposed  
8 transportation service, the burden of proving any particular  
9 factual matters that the commission or the transportation  
10 division of the commission may identify and require, the  
11 burden of proving any additional allegations and matters of  
12 public interest that it may raise and, if the application  
13 pertains to ambulance service, the burden of proving that the  
14 ambulance service that currently exists in the territory  
15 sought in the application is inadequate and that the proposed  
16 service is directly responsive to a public need and demand  
17 for the service proposed;

18 (2) a protesting carrier has the burden of  
19 proving all matters of fact pertaining to its full-service  
20 operation within its certificated full-service territory, the  
21 burden of proving the potential impairment or adverse impact  
22 on its existing full-service operation by the transportation  
23 service proposed by the applicant and the burden of proving  
24 all other allegations and matters of public interest that it  
25 may raise. The protesting carrier's proof should include,

1 without limitation, a demonstration with reasonable  
2 specificity of the nature of the existing full service being  
3 provided, the volume of passengers transported, economic  
4 analysis related to expenses and revenues of the full-service  
5 operation and the anticipated economic, business or  
6 functional effect of the proposed service on the existing  
7 provision of, or rates for, full-service transportation  
8 within the full-service territory;

9 (3) the commission may allow other  
10 interested persons to intervene, either generally or on the  
11 basis of specific facts or issues. A permissive intervenor  
12 has the burden of proof for its position on all factual  
13 matters and legal issues that it alleges and on which it is  
14 permitted to intervene; and

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

20 D. The commission shall not grant an application:

21 (1) for a certificate or permit for  
22 ambulance service, or for amendment, lease or transfer of  
23 such a certificate or permit, if it finds after hearing that  
24 the existing ambulance service is provided on a reasonably  
25 continuous and adequate basis in the territory in which the

1 new service is sought or that the holder of the certificate  
2 or lessee providing the existing ambulance service in such  
3 territory is willing and able to provide, and does  
4 subsequently provide, reasonably continuous and adequate  
5 service within such territory, as specified by commission  
6 order;

7 (2) for a new certificate for general  
8 taxicab service within the full-service territory of a  
9 protesting municipal taxicab service carrier; or

10 (3) for a certificate for any passenger  
11 service other than those identified in Paragraphs (1) and (2)  
12 of this subsection, or for a permit for passenger service  
13 other than for an ambulance service pursuant to a  
14 public-charge contract, or for amendment, lease or transfer  
15 of such a certificate or permit, within a protesting  
16 full-service carrier's full-service territory, if it finds  
17 after hearing that the grant of the application presents a  
18 reasonable potential to impair, diminish or otherwise  
19 adversely affect the existing provision of full-service  
20 passenger service to the public in the full-service territory  
21 or if the application is otherwise contrary to the public  
22 interest in the full-service territory. In considering the  
23 potential effect on provision of transportation services to  
24 the public in regard to such an application, the commission  
25 shall consider all evidence presented pertaining to such

1 potential effect, including evidence of the effect that  
2 diversion of revenue or traffic may have on the provision of  
3 full-service passenger service to the community. Diversion  
4 of revenue or traffic from an existing motor carrier shall  
5 not, however, be sufficient grounds for denying the  
6 application without a showing that the diversion presents a  
7 reasonable potential to affect the provision of full-service  
8 passenger service to the community."

9 SECTION 13. Section 65-2A-14 NMSA 1978 (being Laws  
10 2003, Chapter 359, Section 14) is amended to read:

11 "65-2A-14. CHANGES IN CERTIFICATES OR PERMITS.--

12 A. A change in a certificate or permit shall not  
13 be valid or effective without the approval of the commission.

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

18 (1) that the applicant for amendment, lease  
19 or transfer of a certificate for passenger service meets the  
20 requirements pursuant to Section 65-2A-8 NMSA 1978 for a  
21 certificate for such passenger service;

22 (2) that the applicant for amendment, lease  
23 or a transfer of a certificate for household goods service  
24 meets the requirements pursuant to Section 65-2A-9 NMSA 1978  
25 for a certificate for such household goods service;

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

4 (4) in addition, that:

5 (a) for transfer or lease of all or  
6 part of a certificate or permit, the transferor-applicant has  
7 rendered reasonably continuous and adequate service in the  
8 territory to be transferred or leased prior to the  
9 application for lease or transfer; and

10 (b) for transfer of all or a part of a  
11 certificate or permit, accrued taxes, rents, wages of  
12 employees and other indebtedness pertaining to all or part of  
13 a certificate or permit proposed to be transferred have been  
14 paid by the transferor-applicant or assumed by the  
15 transferee-applicant.

16 C. The commission may, without notice or a public  
17 hearing, authorize the following changes in all or part of a  
18 certificate or permit at the request of the holder:

19 (1) voluntary cancellation of the  
20 certificate or permit;

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

24 (3) change in the form of legal entity or  
25 name of the holder of the certificate or permit;

1 (4) reinstatement of the certificate or  
2 permit following voluntary suspension of a period not  
3 exceeding twelve consecutive months;

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

8 (6) matters pertaining to transfers by  
9 operation of law."

10 SECTION 14. Section 65-2A-15 NMSA 1978 (being Laws  
11 2003, Chapter 359, Section 15) is amended to read:

12 "65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS  
13 TRADE NAMES ALLOWED.--

14 A. A person may simultaneously hold certificates  
15 for different kinds of certificated services, permits for  
16 different contracts and warrants for different kinds of  
17 warranted service within the same territory.

18 B. Any motor carrier that holds more than one  
19 certificate for the same kind and nature of certificated  
20 service in the same territory or more than one permit for the  
21 same contract shall file an application with the commission  
22 to consolidate such operating authorities.

23 C. The commission shall not grant any new  
24 operating authority to a motor carrier that duplicates the  
25 operating authority of the same kind and for the same

1 territory already held by that motor carrier.

2 D. Certificated service carriers holding both a  
3 certificate and permit or warrant for related services may  
4 use the same vehicles and may transport passengers and  
5 property, or mixed loads of household goods and property,  
6 pursuant to those authorities in the same vehicles and on the  
7 same trip.

8 E. Every certificated, permitted or warranted  
9 service carrier shall file with the transportation division  
10 of the commission all business trade names under which the  
11 carrier operates its service or services authorized and shall  
12 provide the transportation division of the commission with  
13 proof of financial responsibility for all business trade  
14 names in addition to its legal name. The commission shall  
15 accept business trade names as submitted by a carrier.  
16 Filing with the transportation division of the commission  
17 shall not, by itself, establish or otherwise affect the  
18 ownership or right to use a business trade name under the  
19 intellectual property laws of the state of New Mexico."

20 SECTION 15. Section 65-2A-16 NMSA 1978 (being Laws  
21 2003, Chapter 359, Section 16, as amended) is amended to  
22 read:

23 "65-2A-16. INTERSTATE MOTOR CARRIERS.--

24 A. Foreign and domestic motor carriers, motor  
25 private carriers, leasing companies, brokers and freight

1 forwarders shall not operate in interstate commerce in this  
2 state without first registering with a base state and paying  
3 all fees as required under the federal Unified Carrier  
4 Registration Act of 2005. The commission is authorized to  
5 register applicants and collect all fees without notice or a  
6 public hearing.

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

22 C. The commission is the state agency in New  
23 Mexico responsible for operation of the federal Unified  
24 Carrier Registration Act of 2005, including participating in  
25 the development, implementation and administration of the

1 unified carrier registration agreement. The commission is  
2 authorized to follow rules governing the unified carrier  
3 registration agreement issued under the unified carrier  
4 registration plan by its board of directors.

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

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

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

23 SECTION 16. Section 65-2A-18 NMSA 1978 (being Laws  
24 2003, Chapter 359, Section 18, as amended) is amended to  
25 read:

1 "65-2A-18. FINANCIAL RESPONSIBILITY.--

2 A. The commission shall prescribe minimum  
3 requirements for financial responsibility for all motor  
4 carriers.

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

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

23 D. The commission may authorize a motor carrier to  
24 carry its own insurance in lieu of filing a policy of  
25 insurance, certificate showing the issuance of a policy of

1 insurance or a surety bond. In approving an application to  
2 be self-insured, the commission shall consider:

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

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

- 14 (1) the insurance is for an interstate motor  
15 carrier transporting commodities exempt from regulation by  
16 the federal motor carrier safety administration participating  
17 in the unified carrier registration system for those motor  
18 carriers; and

- 19 (2) the insurer is authorized to write  
20 public liability insurance in at least one other state.

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

24 SECTION 17. Section 65-2A-19 NMSA 1978 (being Laws  
25 2003, Chapter 359, Section 19) is amended to read:

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

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

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

18 C. A commuter service shall certify that it has a  
19 program providing for an initial drug test for a person  
20 seeking to be a commuter service driver. The program shall  
21 use reasonable collection and analysis procedures to ensure  
22 accurate results, require testing only for substances  
23 controlled by federal regulation of commercial motor carriers  
24 and ensure the confidentiality of the test results and  
25 medical information obtained.

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

7           E. The commission shall implement rules requiring  
8 carriers to obtain criminal background reports for all  
9 employed or contract drivers of certificated service carriers  
10 and for all other persons employed by certificated household  
11 goods service carriers who enter private dwellings in the  
12 course of household goods service."

13           SECTION 18. Section 65-2A-20 NMSA 1978 (being Laws  
14 2003, Chapter 359, Section 20) is amended to read:

15           "65-2A-20. TARIFFS.--

16           A. A tariffed service carrier shall not commence  
17 operations or perform a new service under its operating  
18 authority without having an approved tariff on file with the  
19 commission.

20           B. A tariffed service carrier shall file with the  
21 commission proposed tariffs showing the rates for  
22 transportation and all related activities and containing a  
23 description of the type and nature of the service, territory  
24 and all terms of service for transportation and related  
25 services. The rates shall be stated in terms of United

1 States currency. Tariffs for individual carriers shall also  
2 include the carrier's legal name, all business trade names  
3 used by the carrier, contact information, information for  
4 service of process, the territory authorized for each  
5 transportation service listed in the tariff and any terms of  
6 service contained in the operating authorities for that  
7 particular carrier. Each tariffed service carrier operating  
8 pursuant to a statewide tariff shall file with the commission  
9 a tariff statement referencing the statewide tariff being  
10 used and include the carrier's legal name, all business trade  
11 names used by the carrier, contact information, information  
12 for service of process, the territory authorized for that  
13 carrier and any terms of service contained in the operating  
14 authority for that particular carrier.

15 C. A tariffed service carrier shall not charge, or  
16 permit its agents, employees or contract drivers to charge, a  
17 different or additional rate, or to use different or  
18 additional practices or terms of service, for transportation  
19 or for a service rendered to or for the user of the service  
20 other than the rates and terms of service specified in  
21 approved tariffs in effect at the time, except:

22 (1) for ambulance and household goods  
23 service carriers, in accordance with rates and terms of  
24 service established by federal or state law for federal or  
25 state governmental programs or operations; and

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

5 D. A tariffed service carrier shall not pay or  
6 refund, directly or indirectly to any person, a portion of  
7 the rate specified in its approved tariff, offer to a person  
8 privileges or facilities, perform a service or remit anything  
9 of value, except:

10 (1) in accordance with tariffs approved by  
11 the commission;

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

16 (3) for tariffed passenger service carriers  
17 other than ambulance service carriers, in accordance with the  
18 rates and terms of service established by governmental  
19 programs or operations in which they voluntarily participate;  
20 or

21 (4) in settling or resolving a claim by a  
22 customer.

23 E. The commission shall post on its internet web  
24 site electronic copies of all currently approved individual  
25 and statewide tariffs, and all tariff statements filed by

1 carriers using statewide tariffs, in a manner to facilitate  
2 public access, review and comparison of rates and terms of  
3 service. A certificated passenger service carrier other than  
4 an ambulance service carrier shall post its tariff rates in  
5 each vehicle used in the provision of its transportation  
6 service.

7 F. A tariffed service carrier shall file an  
8 application with the commission for any change in the tariff,  
9 accompanied by the proposed tariff, at least twenty days  
10 prior to implementation of the amended rates and terms of  
11 service contained in the tariff. Except as provided in this  
12 section, an amended tariff shall be approved and become  
13 effective twenty days after filing of the application for a  
14 change in the tariff. The commission shall post notice of  
15 each application for a change in a tariff along with a copy  
16 of the proposed tariff on the commission web site.

17 G. No changes in terms of service disapproved by  
18 the transportation division of the commission as inconsistent  
19 with the Motor Carrier Act, rule of the commission, the  
20 individual operating authority of the carrier or otherwise in  
21 violation of law shall become effective or be part of the  
22 approved tariff. The following terms of service contained in  
23 a tariff shall not be considered inconsistent with, or  
24 predatory or discriminatory in nature under the Motor Carrier  
25 Act or commission rule:

1 (1) a carrier may decline or terminate  
2 service under circumstances that reasonably appear to present  
3 a physical danger to the driver, to another employee of the  
4 carrier or to passengers or, for carriers other than  
5 ambulance service carriers, a danger to the condition of the  
6 motor vehicle or cargo;

7 (2) a carrier is not responsible for  
8 cancellations or delays due to weather or road conditions  
9 when reasonably required for safety or when due to road  
10 construction, road closures, law enforcement stops or similar  
11 matters beyond the control of the carrier;

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

17 (4) a passenger service carrier other than  
18 an ambulance service carrier may decline or terminate service  
19 when the passenger cannot give an adequate description of, or  
20 direction to, the destination or cannot transfer into or out  
21 of the motor vehicle without requiring physical assistance  
22 from the driver.

23 H. An application for amendment of tariff rates  
24 that increases any tariff rate to a level greater than that  
25 previously approved by the commission for a full-service

1 carrier or a towing service providing nonconsensual tows  
2 shall not become effective until approved by the commission  
3 as reasonable under Section 65-2A-21 NMSA 1978. The  
4 commission shall hold a hearing appropriate to the type of  
5 transportation service provided by the carrier for any such  
6 application, if requested by the applicant or by the  
7 transportation division of the commission, or if ordered in  
8 the discretion of the commission. The commission may provide  
9 for reasonable periodic rate increases for full-service  
10 carriers or towing services providing nonconsensual tows  
11 pursuant to a rate escalator or adjustment clause for any or  
12 all rates of a carrier on such basis as the commission finds  
13 reasonable.

14 I. A person may make a complaint in writing to the  
15 commission that a rate or term of service contained in a  
16 tariff, or a rate otherwise charged or practice otherwise  
17 effected, is inconsistent with or in violation of the Motor  
18 Carrier Act, commission rule or the operating authority or  
19 current tariff of the motor carrier. The commission may  
20 suspend the operation of a rate, term of service or practice  
21 for a period not to exceed sixty days to investigate its  
22 reasonableness. If the commission finds that a rate charged  
23 by a tariffed carrier, or a term of service or practice  
24 effected by a tariffed carrier, is unauthorized, predatory or  
25 discriminatory, the commission shall prescribe the rate or

1 the maximum or minimum rate to be observed or the terms of  
2 service to be made effective."

3 SECTION 19. Section 65-2A-21 NMSA 1978 (being Laws  
4 2003, Chapter 359, Section 21) is amended to read:

5 "65-2A-21. RATES.--

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

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

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

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

1 transportation of household goods.

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

15 SECTION 20. Section 65-2A-22 NMSA 1978 (being Laws  
16 2003, Chapter 359, Section 22) is amended to read:

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

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

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

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

5 SECTION 21. Section 65-2A-23 NMSA 1978 (being Laws  
6 2003, Chapter 359, Section 23) is amended to read:

7 "65-2A-23. MOTOR CARRIER ORGANIZATIONS.--

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

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

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

25 (3) does not file an objection, protest or

1 complaint with the commission against a tariff item  
2 independently published by or for the account of a member  
3 carrier;

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

8 (5) proposes matters concerning statewide  
9 tariffs for approval by the commission.

10 B. A member carrier of the organization shall file  
11 with the commission information as the commission may by rule  
12 prescribe.

13 C. A motor carrier organization approved by the  
14 commission pursuant to this section shall be subject to  
15 accounting, record-keeping, reporting and inspection  
16 requirements as the commission may by rule prescribe.

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

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

7           SECTION 22. Section 65-2A-24 NMSA 1978 (being Laws  
8 2003, Chapter 359, Section 24) is amended 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 rule. The commission may approve a motor vehicle  
14 lease without notice or a public hearing.

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

25           C. Motor carriers providing intrastate

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

12 SECTION 23. Section 65-2A-25 NMSA 1978 (being Laws  
13 2003, Chapter 359, Section 25) is amended to read:

14 "65-2A-25. HOUSEHOLD GOODS OPERATIONS.--

15 A. The commission shall establish a statewide  
16 tariff for household goods services, containing terms of  
17 service and maximum rates that household goods service  
18 carriers may charge the public.

19 B. A certificated household goods service carrier  
20 shall be responsible for acts or omissions of its agents that  
21 relate to the performance of household goods transportation  
22 services, including accessorial or terminal services, that  
23 are within the actual or apparent authority of the agent  
24 derived from or ratified by the certificated household goods  
25 service carrier.

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

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

21           E. If the household goods agent does not appear at  
22 the complaint hearing, or if the commission finds that the  
23 household goods agent has violated Subsection G or H of  
24 Section 65-2A-33 NMSA 1978, or is consistently unfit,  
25 unwilling or unable to provide adequate household goods

1 transportation services, including accessorial and terminal  
2 services, the commission shall issue an order to compel  
3 compliance by the household goods agent. Thereafter, the  
4 commission may issue an order to limit or prohibit the  
5 household goods agent from any involvement in the provision  
6 of household goods transportation services if, after notice  
7 and an opportunity to be heard, it finds that the household  
8 goods agent has failed to comply with the order within a  
9 reasonable time after the date of its issuance, but in no  
10 event less than thirty days after its issuance. A household  
11 goods agent may file a petition with the commission seeking  
12 reconsideration of an order entered by the commission  
13 pursuant to this section.

14 F. The commission shall adopt rules for the  
15 following elements of household goods transportation  
16 services:

- 17 (1) methods of determining shipping charges;
- 18 (2) cost estimates, for which charges shall  
19 be subject to the antitrust laws of this state;
- 20 (3) inventory;
- 21 (4) weighing;
- 22 (5) receipts and bills of lading;
- 23 (6) liability based on value established  
24 between the motor carrier and the shipper;
- 25 (7) equipment stationing by, and joint

1 transportation between, household goods service carriers;

2 (8) household goods agents; and

3 (9) service standards.

4 G. In adopting reasonable rules for intrastate  
5 household goods service carriers, the commission shall  
6 balance the interests of shippers and carriers and consider  
7 and observe industry standards.

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

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

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

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

22 (4) ownership of a household goods service  
23 carrier by an agent or membership on the board of directors  
24 of any household goods service carrier by an agent."

25 SECTION 24. Section 65-2A-26 NMSA 1978 (being Laws

1 2003, Chapter 359, Section 26) is amended to read:

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

4 A. The commission shall establish a program to  
5 settle disputes, at the voluntary option of the shipper,  
6 between shippers and all household goods service carriers  
7 concerning the transportation of household goods, which shall  
8 be a fair and expeditious method for settling disputes and  
9 complies with each of the following requirements and rules  
10 the commission may prescribe:

11 (1) the program is designed to prevent a  
12 household goods service carrier from having any special  
13 advantage in a case in which the shipper resides or does  
14 business at a place distant from the motor carrier's place of  
15 business;

16 (2) the program provides adequate notice of  
17 its availability, including a concise, understandable and  
18 accurate summary of the program and disclosure of the legal  
19 effects of using the program. The notice shall be given to  
20 the shipper before the shipper tenders the household goods to  
21 the motor carrier for transportation;

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

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

10 (5) the person settling the dispute may  
11 charge the shipper a fee of not more than twenty-five dollars  
12 (\$25.00) for instituting a proceeding under the program if  
13 the program is binding solely on the carrier, but shall not  
14 charge the shipper a fee otherwise. The person settling the  
15 dispute shall refund the fee to the shipper in a case in  
16 which the dispute is settled in favor of the shipper, unless  
17 the person settling the dispute determines that the refund is  
18 inappropriate;

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

22 (7) the program may provide for an oral  
23 presentation of a dispute concerning transportation of  
24 household goods by a party to the dispute or a party's  
25 representative, but an oral presentation shall not be made

1 unless the parties to the dispute expressly agree to the  
2 presentation and the date, time and location of the  
3 presentation; and

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

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

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

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

5 (2) the shipper prevails in the court  
6 action; and

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

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

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

19 (1) after resolution of the dispute under  
20 the dispute settlement program; or

21 (2) after institution of a proceeding by the  
22 shipper to resolve the dispute under the dispute settlement  
23 program and before:

24 (a) the expiration of the sixty-day  
25 period or extension of the sixty-day period for resolution of

1 the dispute; and

2 (b) a decision resolving the dispute is  
3 rendered under the program."

4 SECTION 25. Section 65-2A-27 NMSA 1978 (being Laws  
5 2003, Chapter 359, Section 27) is amended to read:

6 "65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR  
7 AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--

8 A. The commission shall immediately suspend,  
9 without notice or a public hearing, the operating authority  
10 of a motor carrier for failure to continuously maintain the  
11 forms and amounts of financial responsibility prescribed by  
12 commission rule.

13 B. The commission may immediately suspend, without  
14 notice or a public hearing, the operating authority of a  
15 motor carrier for violation of a safety requirement of the  
16 Motor Carrier Act, the commission's rules or the rules of the  
17 motor transportation division of the department of public  
18 safety, if the violation endangers the public health or  
19 safety.

20 C. The commission may, upon complaint or the  
21 commission's own initiative and after notice and a public  
22 hearing, if required, order involuntary suspension,  
23 revocation or amendment, in whole or in part, of an operating  
24 authority for failure to:

25 (1) comply with a provision of the Motor

1 Carrier Act;

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

4 (3) comply with a term of service of an  
5 operating authority or tariff; or

6 (4) render reasonably continuous and  
7 adequate service under a certificate.

8 D. The commission may approve an application for  
9 reinstatement of an operating authority following involuntary  
10 suspension if it finds, after notice and public hearing  
11 requirements are met, that:

12 (1) the reasons for the involuntary  
13 suspension no longer pertain; and

14 (2) the holder of the operating authority is  
15 fit, and a certificate holder is able, to provide the  
16 authorized transportation services, and the holder will  
17 comply with the Motor Carrier Act and the rules of the  
18 commission."

19 SECTION 26. Section 65-2A-28 NMSA 1978 (being Laws  
20 2003, Chapter 359, Section 28) is amended to read:

21 "65-2A-28. DESIGNATION OF AN AGENT FOR SERVICE OF  
22 PROCESS.--

23 A. An applicant for an operating authority shall  
24 file with the commission an appointment in writing of a  
25 resident agent for service of process. The appointment shall

1 specify the address of the agent and shall stipulate that  
2 service upon the appointed agent of process of the commission  
3 or of a court shall have the same force and effect as if  
4 service had been made personally upon the motor carrier  
5 within this state. The appointment shall continue in force  
6 until the motor carrier files an appointment of a substitute  
7 agent or until liability against the motor carrier growing  
8 out of its operations in the state has terminated. A copy of  
9 the appointment, duly certified by the commission, shall be  
10 accepted as sufficient evidence of appointment of an agent in  
11 a court of the state.

12 B. If the holder of an operating authority from  
13 the commission operates without appointing a resident agent  
14 for service of process, or the commission has unsuccessfully  
15 attempted to serve process upon the designated resident  
16 agent, the holder shall be deemed to have appointed the  
17 secretary of state as its resident agent for service of  
18 process in an action or proceeding against the motor carrier  
19 growing out of an accident, collision or transaction in which  
20 the motor carrier may be involved by operating in this state.

21 C. If the secretary of state is served with  
22 process directed to the holder of an operating authority from  
23 the commission, the secretary of state shall forward the  
24 process by certified mail to the motor carrier at the address  
25 shown on its last change of address report, annual report or

1 application with respect to its operating authority,  
2 whichever is most recent. The secretary of state shall file  
3 a certificate of service with the commission, which shall be  
4 accepted as prima facie proof of service.

5 D. The secretary of state shall assess to the  
6 motor carrier the fee prescribed in Section 65-2A-36 NMSA  
7 1978 for a process from a court served upon the secretary of  
8 state but shall not charge a fee for service of commission  
9 process.

10 E. The principal motor carrier of a household  
11 goods agent shall be deemed to be the agent for service of  
12 process of the household goods agent unless the household  
13 goods agent notifies the commission in writing of the  
14 substitution of another agent for service of process."

15 SECTION 27. Section 65-2A-29 NMSA 1978 (being Laws  
16 2003, Chapter 359, Section 29) is amended to read:

17 "65-2A-29. REPORTS AND RECORDS.--

18 A. The commission shall establish reasonable  
19 requirements with respect to reports, records and uniform  
20 systems of accounts and preservation of records for motor  
21 carriers.

22 B. The commission may require any holder of an  
23 operating authority from the commission or any lessee of an  
24 authority to prepare and transmit to the commission an annual  
25 report of its operations. The report shall be in the form,

1 contain specific information, including financial  
2 information, and be due on a date as the commission may by  
3 rule require. Financial data filed by motor carriers in  
4 annual reports shall not be made available for inspection by  
5 the public.

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

8 (1) land, buildings, improvements to real  
9 property and equipment of motor carriers used in connection  
10 with their operations; and

11 (2) records kept by motor carriers.

12 D. The commission may, by order, require a motor  
13 carrier subject to the Motor Carrier Act, or its officers or  
14 agents, to produce within this state at such reasonable time  
15 and place as it may designate, original or certified copies  
16 of records regardless of where they are kept by the motor  
17 carrier when their production is pertinent to a matter before  
18 the commission, in order that the commission may examine  
19 them. No trade secret or business confidentiality immunity  
20 or privilege may be asserted by the motor carrier in response  
21 to such an order or request; provided that nothing in this  
22 provision shall prevent a carrier from moving for, or the  
23 commission from entering, an appropriate protective order to  
24 preserve the carrier's trade secrets or business  
25 confidentiality from further disclosure, nor shall this

1 provision or any production required under this provision  
2 waive or diminish the carrier's trade secret or business  
3 confidentiality immunity or privilege as to persons other  
4 than the commission.

5 E. The motor transportation division of the  
6 department of public safety shall furnish to the commission  
7 all information needed or required by the commission to carry  
8 out its responsibilities when the information is obtainable  
9 only through field enforcement.

10 F. All applications, protests, objections,  
11 amendments to filings, operating authorities, tariffs,  
12 pleadings or any other documents filed in docketed  
13 proceedings not subject to confidentiality orders are public  
14 records and shall, as soon as practical, be made  
15 electronically available to the public."

16 SECTION 28. Section 65-2A-30 NMSA 1978 (being Laws  
17 2003, Chapter 359, Section 30) is amended to read:

18 "65-2A-30. UNAUTHORIZED CARRYING OF PERSONS  
19 PROHIBITED.--Except in the case of an emergency, a  
20 transportation service carrier not authorized to transport  
21 passengers shall not carry a passenger, including a  
22 hitchhiker, except on-duty employees of the motor carrier or  
23 commission representatives on official business in a vehicle  
24 used in the provision of transportation service under its  
25 operating authority."

1 SECTION 29. Section 65-2A-33 NMSA 1978 (being Laws  
2 2003, Chapter 359, Section 33) is amended to read:

3 "65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE  
4 PRACTICES.--

5 A. A person who knowingly makes a false statement  
6 of material fact under oath or penalty of perjury in a  
7 commission proceeding, whether orally or in writing, shall be  
8 guilty of perjury.

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

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

23 D. An employee of the commission who divulges  
24 information about an inspection, examination or investigation  
25 of a record or of the property and facilities of a motor

1 carrier, except insofar as may be authorized by the  
2 commission or a court of competent jurisdiction, shall be  
3 guilty of a misdemeanor and upon conviction shall be fined  
4 not more than one thousand dollars (\$1,000).

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

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

15 (1) refuses to permit examination of its  
16 records;

17 (2) conceals, destroys or mutilates its  
18 records;

19 (3) attempts to conceal, destroy or mutilate  
20 its records; or

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

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

1 thousand dollars (\$10,000), imprisoned for not more than two  
2 years, or both.

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

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

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

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

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

1 passenger or an authorized transportation service carrier,  
2 may bring an action pursuant to the Unfair Practices Act  
3 against the transportation service carrier regarding such  
4 unauthorized service. Any such civil action shall be in  
5 addition to, and shall not bar, any investigation or civil or  
6 criminal enforcement action regarding the unauthorized  
7 service available to the attorney general or a district  
8 attorney, or available to the commission under the Motor  
9 Carrier Act.

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

25 SECTION 30. Section 65-2A-36 NMSA 1978 (being Laws

1 2003, Chapter 359, Section 36) is amended to read:

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

3 A. The commission shall charge and collect the  
4 following fees:

5 (1) for filing an application for a  
6 certificate or an application for an amendment of a  
7 certificate, or for any protest or permissive intervention in  
8 regard to such application, two hundred fifty dollars (\$250);

9 (2) for filing an application for a permit  
10 or an application for amendment of a permit, or for any  
11 protest or permissive intervention in regard to such  
12 application, two hundred fifty dollars (\$250);

13 (3) for filing an application for a warrant,  
14 twenty-five dollars (\$25.00);

15 (4) for filing an application or motion for  
16 temporary authority, one hundred dollars (\$100);

17 (5) for filing an application for a change  
18 in a tariff for a tariffed service carrier, two hundred  
19 dollars (\$200);

20 (6) for filing an application for lease or  
21 transfer of a certificate or permit, or for any protest or  
22 permissive intervention in regard to such application, two  
23 hundred dollars (\$200);

24 (7) for filing an application for  
25 reinstatement of a certificate or permit following voluntary

1 or involuntary suspension, one hundred dollars (\$100);

2 (8) for filing an application for voluntary  
3 suspension of a certificate or permit, fifteen dollars  
4 (\$15.00);

5 (9) for filing an application for a single  
6 trip ticket, five dollars (\$5.00) per vehicle per trip;

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

12 (11) for filing an equipment lease, five  
13 dollars (\$5.00) per vehicle leased;

14 (12) for a miscellaneous filing, five  
15 dollars (\$5.00) per document;

16 (13) for certifying copies of a record,  
17 order or operating authority, the charge per page provided by  
18 law for governmental agencies;

19 (14) for copies of written commission  
20 documents or records, the charge per page provided by law for  
21 governmental agencies, in addition to any applicable  
22 certification charge; and

23 (15) for copies of other commission records,  
24 including electronic media, an amount set by the commission,  
25 in addition to any applicable certification charge.

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

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

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

18           E. An application shall be fully completed within  
19 sixty days or the fee submitted with the application shall be  
20 forfeited to the state. If the applicant renews the  
21 application, the applicant shall pay the applicable fee."

22           SECTION 31. Section 65-2A-37 NMSA 1978 (being Laws  
23 2003, Chapter 359, Section 37) is amended to read:

24           "65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF  
25 DOCUMENTS--ELECTRONIC PAYMENT OF FEES.--

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

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

19           SECTION 32. Section 65-2A-38 NMSA 1978 (being Laws  
20 2003, Chapter 359, Section 38) is amended to read:

21           "65-2A-38. EXEMPTIONS.--The Motor Carrier Act shall not  
22 apply to:

23           A. school buses, provided that school buses shall  
24 be subject to applicable school bus safety provisions  
25 established by the state transportation director;

1           B. United States mail carriers, unless they are  
2 engaged in other business as motor carriers of persons or  
3 household goods;

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

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

10          E. private carriers."

11          SECTION 33. A new section of the Motor Carrier Act is  
12 enacted to read:

13          "TRANSITION.--

14           A. Except as provided in this section,  
15 certificates, permits and warrants issued to a motor carrier  
16 by the commission prior to July 1, 2013 shall remain in  
17 effect, subject to the provisions of the Motor Carrier Act,  
18 the Ambulance Standards Act and the commission's rules.

19           B. Certificates for limousine service and for tour  
20 and sightseeing service issued prior to July 1, 2013 shall,  
21 on and after that date, become certificates for specialized  
22 passenger service endorsed for the same territory and with  
23 the same additional terms of service as in the preexisting  
24 certificate, and for nature of service as provided by  
25 commission rule. The commission may require holders of such

1 certificates to exchange their certificates for newly issued  
2 certificates.

3 C. Each certificate for terminal shuttle service,  
4 shared-ride service and bingo bus service issued prior to  
5 July 1, 2013 shall, on and after that date, become a  
6 certificate for shuttle service endorsed for the same  
7 territory and with the same additional terms of service as in  
8 the preexisting certificate, and for nature of service as  
9 general shuttle service. The commission may require holders  
10 of such certificates to exchange their certificates for newly  
11 issued certificates.

12 D. Each certificate for taxicab service issued  
13 prior to July 1, 2013 shall become void on and after that  
14 date and shall be replaced by a certificate for taxicab  
15 service endorsed for the same territory and with the same  
16 additional terms of service as in the preexisting  
17 certificate, but endorsed also for nature of service as a  
18 municipal taxicab service or a general taxicab service or  
19 both, depending on the actual nature of service provided by  
20 the holder within the certificated territory directly or  
21 under lease of the certificate continuously for the  
22 immediately prior twelve-month period. The commission may  
23 provide for reasonable procedures regarding replacement of  
24 certificates and shall issue new certificates effective on  
25 July 1, 2013.

1           E. Each certificate for shuttle service issued  
2 prior to July 1, 2013 shall become void on and after that  
3 date and shall be replaced by a certificate for shuttle  
4 service endorsed for the same terminals or terminal areas and  
5 with the same additional terms of service as in the  
6 preexisting certificate, but endorsed also for nature of  
7 service as a scheduled shuttle service or a general shuttle  
8 service or both, depending on the actual nature of service  
9 provided by the holder directly or under lease of the  
10 certificate continuously for the immediately prior  
11 twelve-month period. The commission may provide by order for  
12 reasonable procedures regarding replacement of certificates  
13 and shall issue new certificates effective on July 1, 2013.

14           F. The common tariff of the New Mexico movers and  
15 warehousemen's association shall, on July 1, 2013, become the  
16 individual tariff of each of the individual member carriers  
17 of the New Mexico movers and warehousemen's association using  
18 that common tariff on June 30, 2013.

19           G. The commission shall not deny the application  
20 of a person applying for a new household goods service  
21 certificate during the period from July 1, 2013 through June  
22 30, 2015 solely on the grounds that the applicant has  
23 provided household goods service without an appropriate  
24 operating authority. The commission may consider the nature  
25 of the applicant's unauthorized operations or the applicant's

1 response to prior notices or efforts of the commission  
2 directed to the applicant, as well as any matters of public  
3 safety, financial liability and consumer issues involved in  
4 the applicant's unauthorized transportation service, in  
5 determining the applicant's fitness for the grant of a  
6 certificate."

7 SECTION 34. REPEAL.--Sections 65-2A-17 and 65-2A-40  
8 NMSA 1978 (being Laws 2003, Chapter 359, Sections 17 and 40)  
9 are repealed.

10 SECTION 35. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2013. \_\_\_\_\_

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