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HOUSE BILL 194

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

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO MOTOR CARRIERS; ELIMINATING THE MOTOR CARRIER  
EXCEPTION FROM STATE ANTITRUST LAWS; ELIMINATING THE  
REQUIREMENT FOR A CERTIFICATE, PERMIT OR TARIFF FOR MOTOR  
CARRIERS OF HOUSEHOLD GOODS; LIMITING PROTESTS AND STREAMLINING  
THE FILING OF TARIFFS AND APPLICATIONS FOR CERTIFICATES AND  
PERMITS BY MOTOR CARRIERS OF PASSENGERS OTHER THAN AMBULANCES;  
PROVIDING FOR THE TRANSITION OF CERTAIN MOTOR CARRIER  
CERTIFICATES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE  
NMSA 1978.

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

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

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

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1 "Motor Carrier Act"."

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

4 "65-2A-2. [~~TRANSPORTATION~~] POLICY AND PURPOSE.--

5 A. It is the policy of this state to foster the  
6 development, coordination and preservation of a safe, sound and  
7 adequate motor carrier system, requiring financial  
8 responsibility and accountability on the part of motor carriers  
9 [~~providing for economic regulation of motor carriers of persons~~  
10 ~~and household goods and towing services performing~~  
11 ~~nonconsensual tows and by streamlining and promoting uniformity~~  
12 ~~of state]~~ by the licensing and regulation of motor carriers.

13 B. The purpose of the Motor Carrier Act is to  
14 provide for uniform statewide licensing and regulation of motor  
15 carriers for financial responsibility, public safety and  
16 consumer protection and to promote competition, business  
17 formation and job creation."

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

20 "65-2A-3. DEFINITIONS.--As used in the Motor Carrier Act:

21 A. "ambulance service" means the intrastate  
22 transportation of sick or injured persons in an ambulance  
23 meeting the standards established by the commission under the  
24 Ambulance Standards Act;

25 [~~A.-]~~ B. "amendment" means a permanent change in the

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1 type of service or territory or terms of service authorized by  
2 an existing certificate [~~or~~], permit or tariff;

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

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

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

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

18 G. "certificated service" means an ambulance  
19 service, a shuttle service, a specialized passenger service or  
20 a taxicab service;

21 [~~F.~~] H. "change in a certificate or permit" means  
22 the voluntary amendment, cancellation, [~~change in tariff~~]  
23 change in form of [~~ownership~~] legal entity of the holder,  
24 lease, reinstatement, transfer or voluntary suspension of a  
25 certificate or permit;

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1           ~~[G. "change of name" means a change in the legal~~  
2 ~~name of the owner of an operating authority or in the does-~~  
3 ~~business as name of the motor carrier, but does not include a~~  
4 ~~change in the form of ownership;]~~

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

12           ~~[H.]~~ J. "commission" means the public regulation  
13 commission;

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

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

22           ~~K. "common tariff" means a tariff applying to two~~  
23 ~~or more common motor carriers;~~

24           ~~L.]~~ K. "commuter service" means [a person who  
25 provides seven- to fifteen-passenger motor vehicles] the

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

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

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

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

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

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

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

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1 ~~the limited partnership, or entitlement to ten percent or more~~  
2 ~~of the profits earned or other compensation paid by the limited~~  
3 ~~partnership, if the operating authority is held by a limited~~  
4 ~~partnership;~~

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

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

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

14 L. "continuous and adequate service" for a  
15 certificated service means:

16 (1) for full-service carriers, reasonably  
17 continuous availability, offering and provision of  
18 transportation services through motor vehicles, equipment and  
19 resources reasonably adequate to serve the entire full-service  
20 territory authorized in the certificate and to respond  
21 reasonably to all requests for service for the type of  
22 passenger service authorized, based on the nature of public  
23 need, expense and volume of demand for the type of service  
24 authorized during seasonal periods; and

25 (2) for general-service carriers, reasonably

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1 continuous availability and offering of transportation services  
2 through motor vehicles, equipment and resources of the carrier  
3 and solicitation of business throughout the territory, for the  
4 type of transportation service authorized in the certificate;

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

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

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

17 P. "fit" means:

18 (1) that an applicant or carrier is in  
19 compliance with the Motor Carrier Act and relevant rules of the  
20 commission; and

21 (2) in the case of an applicant for a  
22 certificate or a certificated carrier, that the applicant or  
23 carrier can provide reasonably continuous and adequate  
24 transportation service of the type required in the territory  
25 authorized or sought to be authorized;

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1           Q. "for hire" means that transportation is offered  
2 or provided to the public for remuneration, compensation or  
3 reward, paid or promised, either directly or indirectly;

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

8                   (1) an ambulance service;

9                   (2) a scheduled shuttle service; or

10                   (3) a municipal taxicab service;

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

15                   (1) a general shuttle service;

16                   (2) a general taxicab service; or

17                   (3) a specialized passenger service;

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

23           U. "general taxicab service" means a taxicab  
24 service that need not be dispatched, that may pick up on-demand  
25 passengers through flagging or at a taxicab stand or queue,

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1 that need not deploy vehicles in a particular manner and that  
2 may charge for trips outside its certificated territories on  
3 the basis of a set fare;

4 [Q-] V. "highway" means a way or place generally  
5 open to the use of the public as a matter of right for the  
6 purpose of vehicular travel, even though it may be temporarily  
7 closed or restricted for the purpose of construction,  
8 maintenance, repair or reconstruction;

9 W. "holder of an operating authority" means the  
10 grantee of the operating authority or a person or entity that  
11 currently holds all or part of the authority granted through a  
12 transfer by operation of law pursuant to rule of the  
13 commission;

14 [R-] X. "household goods" means personal effects  
15 and property used or to be used in a dwelling when a part of  
16 the equipment or supply of the dwelling and other similar  
17 property as the federal motor carrier safety administration may  
18 provide by regulation but shall not include property moving to  
19 or from a factory or store, other than property the householder  
20 has purchased to use in the householder's dwelling that is  
21 transported at the request of, and the transportation charges  
22 are paid to the carrier by, the householder;

23 Y. "household goods service" means the intrastate  
24 transportation, packing and storage of household goods for  
25 hire;

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1           ~~[S.]~~ Z. "incidental carrier" means a motor carrier  
2 ~~[of persons]~~ that transports passengers using vehicles designed  
3 to transport sixteen or more ~~[passengers]~~ persons, including  
4 the driver, and for which the customer pays either directly or  
5 indirectly;

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

12           ~~[U.]~~ BB. "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           ~~[V.]~~ CC. "intrastate motor carrier" means a  
17 ~~[person]~~ motor carrier offering or providing ~~[compensated]~~  
18 transportation for hire by motor vehicle between points and  
19 places in the state;

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

24           ~~[X.]~~ ~~"irregular route" means that the route to be~~  
25 ~~used by a motor carrier is not restricted to a specific highway~~

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1 ~~within the territory the motor carrier is authorized to serve;~~

2           ~~Y.]~~ EE. "lease of a certificate or permit" means an  
3 agreement by which the ~~[owner]~~ holder of a certificate or  
4 permit grants to another person the exclusive right to use all  
5 or part of the certificate or permit for a specified period of  
6 time in exchange for consideration;

7           ~~[Z. "lease of equipment" means an agreement whereby~~  
8 ~~a motor carrier obtains equipment owned by another for use by~~  
9 ~~the motor carrier in the exercise of its operating authority;~~

10           ~~AA.]~~ FF. "motor carrier" or "carrier" means a  
11 person offering ~~[compensated]~~ or providing ground  
12 transportation of persons, ~~[or]~~ property or household goods for  
13 hire by motor vehicle, whether in intrastate or interstate  
14 commerce;

15           ~~[BB. "motor carrier organization" means an~~  
16 ~~organization approved by the commission to discuss and propose~~  
17 ~~a common tariff for a group of motor carriers or to represent~~  
18 ~~motor carriers that have adopted the common tariff;~~

19           ~~GG. "motor carrier of persons" means a person who~~  
20 ~~provides compensated transportation of persons on a highway in~~  
21 ~~the state;~~

22           ~~DD.]~~ GG. "motor vehicle" ~~[means a vehicle]~~ or  
23 "vehicle" means any type of vehicle, machine, tractor, trailer  
24 or semitrailer propelled or drawn by mechanical power and used  
25 on a highway in the ground transportation of property,

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1 household goods or persons but does not include a vehicle,  
2 locomotive or car operated exclusively on rails;

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

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

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

19 KK. "notice period" means the period of time  
20 specified in Subsection A of Section 65-2A-6 NMSA 1978  
21 following publication of notice during which the commission may  
22 not act on an application, except as otherwise provided in the  
23 Motor Carrier Act;

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

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

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

10 NN. "passenger" means a person other than the  
11 driver of a motor vehicle transported in a motor vehicle,  
12 including patients and other riders carried in an ambulance;

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

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

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

24 RR. "predatory rate or practice" means the knowing  
25 and willful requirement by a carrier that a passenger or

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1 shipper pay a rate, fare or other charge in excess of the rates  
2 and charges, or in a manner other than in accordance with terms  
3 of service, as provided by law, as provided in a tariff  
4 governing the carrier or as provided in a preexisting written  
5 contract, when such charge is made:

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

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

14 ~~[HH-]~~ SS. "process" means an order, subpoena or  
15 notice issued by the commission or an order, subpoena, notice,  
16 writ or summons issued by a court;

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

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

5                   (1) that expresses an objection to an  
6 application before the commission for a certificate for  
7 ambulance service or general service or for a permit for  
8 ambulance service or for passenger service pursuant to a  
9 public-charge contract, or for amendment, lease or transfer of  
10 such a certificate or permit, when the territory involved in  
11 the application includes all or a portion of the full-service  
12 territory of the protesting carrier; and

13                   (2) in which the protesting carrier pleads in  
14 good faith and with reasonable specificity that it currently  
15 provides full-service passenger service under certificate  
16 within its full-service territory and that, for a motor carrier  
17 other than an ambulance service, the grant of the application  
18 will, or presents a reasonable potential to, impair, diminish  
19 or otherwise adversely affect the availability of full-service  
20 passenger service to the public within its full-service  
21 territory;

22           VV. "public-charge contract" means a contract or  
23 contractual arrangement between a motor carrier and a third  
24 party for passenger or household goods service that requires or  
25 allows the motor carrier to charge passengers, shippers or

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1 persons other than the contracting parties on behalf of  
2 passengers or shippers, for the transportation service to be  
3 provided pursuant to the contract;

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

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

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

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

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

23 AAA. "scheduled shuttle service" means a shuttle  
24 service that transports passengers to and from an airport, both  
25 through prior arrangement and through presentment at terminal

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1 locations, on the basis of a daily time schedule filed with the  
2 commission, that must be met in a timely fashion with a vehicle  
3 present at the terminal location regardless of the number of  
4 passengers carried on a run and includes general shuttle  
5 service;

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

8 [~~QQ.~~ "~~single state registration receipt~~" means the  
9 ~~document issued annually to a motor carrier operating in~~  
10 ~~interstate commerce evidencing that proof of financial~~  
11 ~~responsibility and safety has been filed with the base state~~  
12 ~~and that the annual per vehicle fees have been paid for that~~  
13 ~~registration year;~~]

14 CCC. "shuttle service" means the intrastate  
15 transportation of passengers for hire pursuant to a set fare  
16 for each passenger between two or more specified terminal  
17 points or areas and includes both scheduled shuttle service and  
18 general shuttle service;

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

24 [RR.] EEE. "tariff" means a document filed by a  
25 [~~motor carrier of persons or household goods or a towing~~

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1 ~~service performing nonconsensual tows that has been approved by~~  
2 ~~the commission] tariffed service carrier that [and] sets forth~~  
3 the transportation services offered by the motor carrier to the  
4 general public, including the rates, terms [~~and conditions~~] of  
5 service and applicable time schedules relating to those  
6 services [~~including a common tariff~~];

7 FFF. "tariffed service" means an ambulance service,  
8 a shuttle service, a specialized passenger service, a taxicab  
9 service or a towing service performing nonconsensual tows  
10 authorized by the commission for the provision of service on  
11 the basis of rates and terms of service filed with the  
12 commission;

13 [~~SS.~~] GGG. "taxicab service" means [~~a common motor~~  
14 ~~carrier engaged in unscheduled passenger transportation]~~  
15 intrastate transportation of passengers for hire in a motor  
16 vehicle having a capacity of not more than eight [~~passengers]~~  
17 persons, including the driver, [not operated on a regular route  
18 or between specified places, and that:

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

21 ~~(2) if not licensed or regulated by a state or~~  
22 ~~local jurisdiction as a taxicab service, is offered by a person~~  
23 ~~that:~~

24 ~~(a) provides local transportation for a~~  
25 ~~fare determined, except with respect to transportation to or~~

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1 ~~from airport, train or bus terminals, primarily on the basis of~~  
2 ~~the distance traveled; and~~

3 ~~(b) does not primarily provide~~  
4 ~~transportation to or from one or more airport, train or bus~~  
5 ~~terminals;~~

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

8 ~~(1) is prearranged by contract or operated by~~  
9 ~~hire on a regular route, allowing for deviation to pick up or~~  
10 ~~drop off passengers, between specified or generally specified~~  
11 ~~points; and~~

12 ~~(2) primarily provides transportation to or~~  
13 ~~from one or more airport, train or bus terminals but may also~~  
14 ~~provide for intermediate pickup or departure of passengers] for~~  
15 ~~which the passenger or person engaging the vehicle is allowed~~  
16 ~~to direct or specify not only the origin and destination points~~  
17 ~~of the trip, but also, within reason, the route taken by the~~  
18 ~~vehicle, an intermediate stop, waiting at a stop and other~~  
19 ~~passengers transported during the trip and for which the~~  
20 ~~passenger or person engaging the vehicle is charged a fare for~~  
21 ~~use of the vehicle primarily on the bases of a drop-flag fee,~~  
22 ~~cumulative mileage and cumulative wait time through a taxicab~~  
23 ~~meter used to cumulate and display the fare to the passenger~~  
24 ~~and includes both municipal taxicab service and general taxicab~~  
25 ~~service;~~

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1           HHH. "terms of service" means all terms, aspects,  
2 practices, limitations, conditions and schedules of service,  
3 other than specific rate amounts, pertaining to a tariffed  
4 service;

5           ~~[UU.]~~ III. "towing services" means the use of  
6 specialized equipment, including repossession services using  
7 towing equipment, to transport:

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

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

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

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

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

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

20           ~~[VV.]~~ JJJ. "transfer of a certificate or permit"  
21 means a permanent conveyance of all or part of a certificate or  
22 permit;

23           ~~[WW.]~~ KKK. "transfer by operation of law" means  
24 that ~~[the ownership of or interest in a certificate or permit~~  
25 ~~passes to another]~~ all or part of a grantee's interest in an

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1 operating authority passes to a fiduciary or other person by  
2 application of established rules of law;

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

8 MMM. "verified" means a notarized signature  
9 verifying the contents of a document or other filing or a  
10 signature verifying the contents of a document or other filing  
11 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 ~~[XX.]~~ 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 [motor carrier]  
18 holder for a specified period of time not to exceed twelve  
19 consecutive months;

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

25 PPP. "warranted service" means an intrastate

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1 charter passenger transportation service, commuter service,  
2 household goods service, property transportation service or  
3 towing service; and

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

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

9 "65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

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

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

14 (2) establish minimum requirements for  
15 financial responsibility for a motor carrier;

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

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

24 (5) regulate the rates [~~of intrastate common~~  
25 ~~motor carriers of persons and household goods and towing~~

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1 ~~services performing nonconsensual tows, including rates for~~  
2 ~~storing household goods and motor vehicles]~~ and terms of  
3 service of tariffed service carriers to the extent provided in  
4 the Motor Carrier Act;

5 (6) determine matters of public [~~convenience~~  
6 ~~and necessity relating to]~~ interest and other matters relating  
7 to authorities, rates, territories, nature of service and other  
8 terms of service of motor carriers;

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

12 (8) hold a public hearing specific to a  
13 protest or a request by the transportation division of the  
14 commission that has been filed timely in opposition to or in  
15 consideration of an application; and

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

19 B. The commission may:

20 (1) designate inspectors who may inspect the  
21 records of a motor carrier subject to the Motor Carrier Act and  
22 who shall have the powers of peace officers in the state's  
23 political subdivisions with respect to a law or rule that the  
24 commission is empowered to enforce pursuant to Section 65-1-6  
25 NMSA 1978, excluding the enforcement authority granted to the

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1 motor transportation division of the department of public  
2 safety;

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

7 (3) from time to time, modify the type and  
8 nature of service, territory and terms [~~conditions and~~  
9 ~~limitations~~] of service of operating authorities previously  
10 issued and change or rescind rates previously adopted; [~~as~~  
11 ~~needed; and~~]

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

14 [~~(4)~~] (5) adopt rules to implement these  
15 powers."

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

18 "65-2A-5. APPLICATIONS IN GENERAL--WHEN PUBLIC HEARINGS  
19 ARE REQUIRED.--

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

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

7           C. The commission shall hold a public hearing on an  
8 application whenever [~~an interested person protests the~~  
9 ~~application~~] a protest is filed during the notice period or the  
10 transportation division of the commission requests a hearing  
11 during the notice period.

12           D. If no objection, protest or request for hearing  
13 by the transportation division of the commission is filed  
14 during the notice period, the commission shall grant the  
15 application if it complies with the provisions of the Motor  
16 Carrier Act and the rules of the commission regarding fitness,  
17 ability, financial responsibility and safety.

18           ~~[D-]~~ E. The commission may approve or deny an  
19 application in whole or in part or allow or require particular  
20 terms of service as it may find reasonable and appropriate."

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

23           "65-2A-6. NOTICE.--

24           A. [~~If the Motor Carrier Act requires publication~~  
25 ~~of notice regarding an application before~~] The commission shall

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

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

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

25 "65-2A-7. OPERATING AUTHORITIES IN GENERAL.--

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1           A. Every motor carrier providing a transportation  
2 service shall meet and comply with the requirements of the  
3 Motor Carrier Act and the rules and orders of the commission.

4           ~~[A.]~~ B. A certificate, permit or warrant, or a  
5 change in a certificate or permit, shall be effective from the  
6 date issued by the commission and shall remain in effect until  
7 canceled, ~~[or revoked. A single state registration receipt]~~  
8 revoked, suspended or amended. A unified carrier registration  
9 for interstate motor carriers shall be effective only for the  
10 registration year for which it is issued. ~~[A single trip~~  
11 ~~ticket shall be effective only for the duration of the trip for~~  
12 ~~which it is issued.~~

13           ~~B.]~~ C. A motor carrier shall carry a copy of its  
14 operating authority in each motor vehicle it operates in New  
15 Mexico.

16           ~~[C.]~~ D. A ~~[motor]~~ certificated service carrier  
17 shall render reasonably continuous and adequate service as the  
18 commission may by rule prescribe.

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

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

23           "65-2A-8. CERTIFICATES FOR ~~[INTRASTATE COMMON MOTOR~~  
24 ~~CARRIERS OF PERSONS]~~ PASSENGER SERVICE.--

25           ~~[A. A common motor carrier of persons shall not~~

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1 ~~provide compensated intrastate transportation in the state~~  
2 ~~without a certificate from the commission.]~~

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

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

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

11 (3) a certificate for a taxicab service shall  
12 be endorsed for nature of service as a municipal taxicab  
13 service or as a general taxicab service; and

14 (4) a certificate for an ambulance 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 [~~compensated~~  
18 ~~intrastate transportation as a common motor carrier of persons~~]  
19 passenger service after notice and public hearing requirements  
20 are met, if:

21 (1) the person is fit [~~willing and able~~] to  
22 provide the transportation service to be authorized by the  
23 certificate;

24 (2) the person is in compliance with the  
25 safety and financial responsibility requirements of the Motor

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1 Carrier Act, the rules of the commission and other applicable  
2 federal and state laws and rules; and

3 ~~[(3) the transportation service to be provided~~  
4 ~~under the certificate is or will serve a useful public purpose~~  
5 ~~that is responsive to a public demand or need]~~

6 (3) the person has filed a tariff pursuant to  
7 Section 65-2A-20 NMSA 1978.

8 C. Before granting a certificate ~~[to an intrastate~~  
9 ~~common motor carrier of persons]~~ for passenger service, the  
10 commission shall consider ~~[the effect that issuance of the~~  
11 ~~certificate would have on existing motor carriers]~~ protests and  
12 objections that were timely filed during the notice period;  
13 provided that the commission shall not find diversion of  
14 revenue or traffic from an existing motor carrier to be ~~[in and~~  
15 ~~of itself]~~ sufficient grounds for denying the certificate.

16 D. A certificate issued by the commission to ~~[an~~  
17 ~~intrastate common motor carrier of persons]~~ a passenger service  
18 carrier shall contain one or more endorsements, each of which  
19 shall specify the:

- 20 (1) nature of service to be rendered;  
21 (2) territory authorized to be served; and  
22 (3) reasonable terms ~~[conditions and~~  
23 ~~limitations as the public convenience and necessity may~~  
24 ~~require; and, if necessary:~~

25 ~~(a) terminals between which service is~~

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1 ~~to be provided; or~~

2 ~~(b) routes, schedules and intermediate~~  
3 ~~and off-route points on the route for regular route service] of~~  
4 service as the commission may allow or require for the  
5 particular certificate.

6 E. Territorial endorsements to a certificate for  
7 passenger service shall:

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

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

22 (3) for shuttle services, provide for  
23 transportation between two or more specified end or intermediate  
24 terminal points or areas and authorize pickup or drop-off of  
25 passengers throughout a terminal area."

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

3           "65-2A-10. PERMITS FOR ~~[INTRASTATE CONTRACT MOTOR CARRIERS~~  
4 ~~OF PERSONS OR HOUSEHOLD GOODS]~~ THE TRANSPORTATION OF PASSENGERS.--

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

9           ~~B.]~~ A. Except as provided in this section and Section  
10 65-2A-13 NMSA 1978, the commission shall issue a permit allowing a  
11 person to provide ~~[compensated intrastate transportation as a~~  
12 ~~contract motor carrier of persons or household goods]~~ permitted  
13 service for the transportation of passengers after notice and  
14 public hearing requirements are met, if:

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

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

21                   ~~(3) the transportation to be provided under the~~  
22 ~~permit is or will be consistent with the public interest.~~

23           ~~G.]~~ B. Before granting a permit ~~[to an intrastate~~  
24 ~~contract motor carrier of persons]~~, the commission shall consider

25                   ~~[(1) the number of customers to be served by the~~

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1 carrier;

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

4 ~~(3) whether granting the permit would endanger or~~  
5 ~~impair the operations of motor carriers to an extent contrary to~~  
6 ~~the public interest;~~

7 ~~(4) the effect that denying the permit would have~~  
8 ~~on the person applying for the permit and its customers; and~~

9 ~~(5) the changing character of the requirements of~~  
10 ~~the applicant's customers.~~

11 ~~D. The commission shall not issue a permit to an~~  
12 ~~intrastate contract motor carrier of persons if it finds that the~~  
13 ~~authority sought will impair the provision of transportation~~  
14 ~~services by a certificated intrastate common motor carrier of~~  
15 ~~persons then serving the same territory.~~

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

18 ~~(1) whether granting the permit would endanger or~~  
19 ~~impair the operations of carriers to an extent contrary to the~~  
20 ~~public interest; and~~

21 ~~(2) the effect that denying the permit would have~~  
22 ~~on the person applying for the permit and its shippers] protests~~  
23 ~~and objections that were timely filed during the notice period.~~

24 C. The commission shall not grant a permit for  
25 ambulance service or for provision of transportation service

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1 pursuant to a public-charge contract, or a lease or transfer of  
2 such a permit, unless the applicant possesses a certificate for  
3 provision of the appropriate certificated service in the territory  
4 to be served under contract. A carrier's operations under a  
5 contract shall meet and be held to the same standards as are its  
6 operations under its certificated service. If the transportation  
7 to be provided under the contract is passenger service, the  
8 contractual rates and terms of service affecting passengers shall  
9 be reflected through amendment to the carrier's tariff.

10 D. The commission shall not issue a permit for  
11 passenger service if the contract or arrangement between the  
12 carrier and the other contracting party effectively excludes or  
13 otherwise impairs opportunity and access to public places for the  
14 provision of transportation services by certificated passenger  
15 service carriers then serving the same territory, and no permit  
16 issued may be used to effect such exclusion or impairment of  
17 certificated passenger service.

18 E. The holder of a permit shall apply to the  
19 commission for an amendment of the permit when there is a change,  
20 reissuance or amendment of the contract for which the permit was  
21 issued that provides for different types or natures of  
22 transportation service, for different service territory or for  
23 different rates or terms of service to the public under a  
24 public-charge contract.

25 [~~G.~~] F. A permit issued by the commission shall

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1 specify the business of the [~~intrastate contract motor~~] carrier,  
2 the scope of the authority granted to it and the terms, conditions  
3 and limitations of the authority.

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

10 [I.] H. The commission shall not limit [~~an intrastate~~  
11 ~~contract motor carrier of persons or household goods to a fixed~~  
12 ~~number of contracts.~~

13 I. ~~A motor carrier owning a certificate and a permit~~  
14 ~~for the same type of service may use the same equipment for both~~  
15 ~~common and contract services provided that shared use does not~~  
16 ~~impair the provision of transportation services under the~~  
17 ~~certificate] the number of permits that may be issued to a  
18 carrier."~~

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

21 "65-2A-11. TEMPORARY AUTHORITY FOR [~~INTRASTATE MOTOR~~  
22 ~~CARRIERS OF PERSONS OR HOUSEHOLD GOODS~~] PASSENGER SERVICE.--

23 A. The commission may without notice grant temporary  
24 [~~operating authority to an intrastate motor carrier of persons or~~  
25 ~~household goods for a period not to exceed ninety days if it finds~~

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1 ~~that:~~

2 ~~(1) there is an urgent and immediate need for~~  
3 ~~such service; and~~

4 ~~(2)]~~ authority to an applicant for a certificate  
5 or permit or for amendment, lease or transfer of all or part of a  
6 certificate or permit for a period not to exceed the duration of  
7 the application process if it finds that:

8 (1) the applicant for temporary authority has a  
9 complete application for a certificate or permit or for amendment,  
10 lease or transfer of all or part of a certificate or permit,  
11 pending before the commission; and

12 (2) the applicant is fit to provide the  
13 transportation service requested and is in compliance with the  
14 safety and financial responsibility requirements of the Motor  
15 Carrier Act and the rules of the commission.

16 B. Satisfactory proof of [~~urgent and immediate need~~  
17 ~~shall be made~~] a necessary factual matter shall be made to the  
18 commission by affidavit or other verified proof as the commission  
19 shall by rule prescribe.

20 C. An applicant for temporary authority as a [~~common~~  
21 ~~motor~~] tariffed service carrier shall file tariffs covering the  
22 transportation services for which temporary authority is being  
23 sought.

24 D. [~~After temporary authority has been granted, the~~  
25 ~~applicant shall give notice of the grant of temporary authority to~~

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1 ~~a motor carrier authorized to perform the service temporarily~~  
2 ~~authorized. If such motor carrier or the staff of the~~  
3 ~~transportation division of the commission files a written request~~  
4 ~~for a hearing within twenty-five days of the date notice was~~  
5 ~~mailed, the commission shall hold a public hearing and make such]~~  
6 If a protest is filed or the transportation division of the  
7 commission requests a hearing concerning the application for which  
8 temporary authority has been granted by the commission, the  
9 protesting carrier or the staff of the transportation division of  
10 the commission may file a written request for modification or  
11 reconsideration of the grant of temporary authority in the  
12 proceeding. The hearing examiner in that proceeding shall hold an  
13 expedited preliminary public hearing on the grant of temporary  
14 authority based on the issues in the proceeding and the testimony  
15 evidence presented in such hearing. The hearing examiner shall  
16 make further determination with respect to the grant of temporary  
17 authority as the public interest may require.

18 E. [~~Intrastate motor~~] Transportation service carriers  
19 operating under temporary authority shall comply with the  
20 requirements of the Motor Carrier Act and the rules of the  
21 commission.

22 F. A grant of temporary authority shall not create a  
23 presumption that permanent authority will be granted.

24 G. If a hearing is held on an application for a  
25 certificate or permit or for amendment, lease or transfer of all

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1 or part of a certificate or permit, or for a tariff rate increase,  
2 and the applicant did not apply for a grant of temporary authority  
3 by the commission, or if the commission denied such an application  
4 for temporary authority, the applicant may move for a grant of  
5 temporary authority or rate approval for a period not to exceed  
6 the duration of the application process, and the hearing examiner  
7 in that proceeding shall hold an expedited preliminary public  
8 hearing on the grant of temporary authority based on the issues in  
9 the proceeding and the testimony evidence presented in such  
10 hearing."

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

13 "65-2A-12. WARRANTS.--

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

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

25 ~~[G. A person may protest an application for a warrant~~

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1 ~~if the person has reason to believe that the applicant does not~~  
2 ~~meet the safety or financial responsibility requirements of the~~  
3 ~~Motor Carrier Act and the rules of the commission.]~~

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

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

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

16 E. The commission may revoke a warrant for a household  
17 goods service, after notice and public hearing requirements are  
18 met, if the holder fails to comply with a provision of the Motor  
19 Carrier Act or commission rules."

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

22 "65-2A-13. PROTESTS, ~~[OF]~~ OBJECTIONS AND HEARINGS REGARDING  
23 APPLICATIONS FOR A CERTIFICATE OR PERMIT OR FOR A CHANGE IN A  
24 CERTIFICATE OR PERMIT.--

25 ~~[A. A contract motor carrier shall not protest an~~

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1 ~~application for a certificate or for a change in a certificate.~~

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

4 ~~C. A common motor carrier shall not protest an~~  
5 ~~application for a certificate or for a change in a certificate~~  
6 ~~unless:~~

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

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

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

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

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

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1 period for the application by filing a written objection in regard  
2 to the application. The commission is not required to hold a  
3 hearing pursuant to an objection but may, on its own motion, hold  
4 a hearing on an application for a certificate or permit or for an  
5 amendment, lease or transfer of a certificate or permit.

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

12 C. If a hearing is held on an application, the  
13 following apply:

14 (1) the applicant has the burden of:

15 (a) proving that the applicant meets the  
16 requirements of the Motor Carrier Act and commission rules for the  
17 application at issue;

18 (b) proving particular factual matters that  
19 the commission or the transportation division of the commission  
20 may identify and require;

21 (c) demonstrating with reasonable  
22 specificity the nature and scope of its proposed transportation  
23 service;

24 (d) proving additional allegations and  
25 matters of public interest that it may raise; and

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1                   (e) if the application is for ambulance  
2 service, proving that the ambulance service that currently exists  
3 in the territory sought in the application is inadequate and that  
4 the proposed service is directly responsive to a public need and  
5 demand for the service proposed;

6                   (2) a protesting carrier has the burden of  
7 proving:

8                   (a) all matters of fact pertaining to its  
9 full-service operation within its certificated full-service  
10 territory;

11                   (b) the potential impairment or adverse  
12 impact on its existing full-service operation by the  
13 transportation service proposed by the applicant;

14                   (c) the potential impairment of the  
15 availability of the relevant type of full-service transportation  
16 to the public in the relevant territory; and

17                   (d) all other allegations and matters of  
18 public interest that it may raise;

19                   (3) the protesting carrier's proof shall include,  
20 without limitation, a demonstration with reasonable specificity of  
21 the nature of the existing full service currently being provided;  
22 the volume of passengers currently being transported and that were  
23 transported in the recent past; economic analysis related to  
24 current expenses and revenues of the full-service operation; and  
25 the anticipated economic, business or functional effect of the

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1 proposed service on the existing provision of, or rates for,  
2 provision of full-service transportation within the full-service  
3 territory;

4 (4) the commission may allow other interested  
5 persons to intervene, either generally or on the basis of specific  
6 facts or issues. A permissive intervenor has the burden of proof  
7 on all factual matters and legal issues that it alleges and on  
8 which it is permitted to intervene; and

9 (5) parties to a hearing may base their  
10 demonstration and proof on business data, experienced persons and  
11 mathematical calculations. Expert testimony shall not be required  
12 of a party but may be provided at the option of a party.

13 D. The commission shall not:

14 (1) grant an application for a certificate for  
15 ambulance service, or for amendment, lease or transfer of that  
16 certificate, to the extent that it finds, after hearing, that the  
17 present ambulance service is offered on a reasonably continuous  
18 and adequate basis in the territory in which the new service is  
19 sought, or that the present ambulance service may be made  
20 reasonably continuous and adequate pursuant to commission order by  
21 the current holder or lessee of the certificate for ambulance  
22 service for such territory; and

23 (2) grant an application for a certificate for  
24 passenger service other than ambulance service or a permit for  
25 ambulance service or for passenger service pursuant to a public

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1 charge contract, or for amendment, lease or transfer of such a  
2 certificate or permit, within a protesting full-service carrier's  
3 full-service territory if it finds, after hearing, that the grant  
4 of the application presents a reasonable potential to impair,  
5 diminish or otherwise adversely affect the provision of the  
6 relevant type of full-service passenger service to the public in  
7 the full-service territory or if the application is otherwise  
8 contrary to the public interest in the full-service territory.  
9 Diversion of revenue or traffic from an existing motor carrier,  
10 including the protesting carrier, or potential impairment or  
11 adverse impact on the business of an existing motor carrier shall  
12 not be sufficient grounds for denying the application, so long as  
13 the public will continue to have access to the relevant type of  
14 service in the territory at issue."

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

17 "65-2A-14. CHANGES IN CERTIFICATES OR PERMITS.--

18 A. A change in a certificate or permit [~~or tariff~~]  
19 shall not be valid or effective without the approval of the  
20 commission.

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

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

3                   ~~(2)]~~ (1) that the applicant for amendment, lease  
4 or transfer for a certificate meets the requirements and  
5 procedures pursuant to Section ~~[8 of the Motor Carrier Act]~~  
6 65-2A-8 NMSA 1978 for an ~~[amendment of]~~ application for a  
7 certificate as a ~~[common motor]~~ passenger service carrier; ~~[of~~  
8 ~~persons;~~

9                   ~~(3) that the applicant meets the requirements~~  
10 ~~pursuant to Section 10 of the Motor Carrier Act for an amendment~~  
11 ~~of a permit as a contract motor carrier of persons;~~

12                   ~~(4) that the applicant meets the requirements~~  
13 ~~pursuant to Section 9 of the Motor Carrier Act for an amendment of~~  
14 ~~a certificate as a common motor carrier of household goods;~~

15                   ~~(5)]~~ (2) that the applicant for amendment, lease  
16 or transfer of all or part of a permit meets the requirements and  
17 procedures pursuant to Section ~~[10 of the Motor Carrier Act]~~  
18 65-2A-10 NMSA 1978 for an ~~[amendment of]~~ application for a permit  
19 ~~[as a contract motor carrier of household goods]; and~~

20                   ~~[(6)]~~ (3) that:

21                   (a) for a transfer of all or part of a  
22 certificate or permit: ~~[(a)]~~ 1) the transferee-applicant is fit  
23 ~~[willing and able]~~ to provide the authorized transportation  
24 services and to comply with the Motor Carrier Act and the rules of  
25 the commission; ~~[(b)]~~ and 2) the transferor-applicant or lessor-

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1 applicant has rendered reasonably continuous and adequate service  
2 in the territory to be transferred or leased prior to the  
3 application for lease or transfer; and

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

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

11 ~~(e) the transfer is not inconsistent with~~  
12 ~~the public interest; or~~

13 ~~(7) that for a lease of all or part of a~~  
14 ~~certificate or permit:~~

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

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

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

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

25 C. The commission may, without notice or a public

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1 hearing, authorize the following changes in all or part of a  
2 certificate or permit at the request of the [~~person owning the~~  
3 ~~certificate or permit~~] holder:

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

6 (2) voluntary suspension of the certificate or  
7 permit;

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

11 (4) reinstatement of the certificate or permit  
12 following voluntary suspension;

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

17 (6) transfers by operation of law."

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

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

22 A. A person may simultaneously hold [~~a certificate as~~  
23 ~~a common motor carrier, a permit as a contract motor carrier and a~~  
24 ~~warrant authorizing transportation by motor vehicle over the same~~  
25 ~~routes or within the same territory, if the commission finds that~~

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1 ~~the multiple operating authorities are consistent with the public~~  
2 ~~interest.~~

3 ~~B. A person shall not control more than one~~  
4 ~~certificate or more than one permit for the same kind of service~~  
5 ~~in the same territory] multiple certificates for different kinds~~  
6 ~~of certificated services, permits for different contracts and~~  
7 ~~warrants for different kinds of warranted services within the same~~  
8 ~~territory.~~

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

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

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

22 ~~D. If two motor carriers come to be held in common~~  
23 ~~control, and each motor carrier has operating authority that~~  
24 ~~duplicates the operating authority of the other, then one of them~~  
25 ~~shall have its operating authority modified to exclude the portion~~

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1 of the operating authority that is of the same kind and for the  
2 same territory, but shall be allowed to operate in the name and  
3 under the operating authority of the other motor carrier with  
4 which it is held in common control.

5 ~~E. Motor~~] D. Certificated service carriers [of  
6 ~~household goods possessing]~~ holding both a certificate and permit  
7 or warrant for related services may use the same vehicles and may  
8 transport passengers and property or mixed loads [of common and  
9 ~~contract motor carrier household goods]~~ pursuant to those  
10 operating authorities in the same vehicles and on the same trip.

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

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

24 "65-2A-16. INTERSTATE MOTOR CARRIERS.--

25 A. Foreign and domestic motor carriers, motor private

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

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

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

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1 follow rules governing the unified carrier registration agreement  
2 issued under the unified carrier registration plan by its board of  
3 directors.

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

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

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

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

22 "65-2A-18. FINANCIAL RESPONSIBILITY.--

23 A. The commission shall prescribe minimum requirements  
24 for financial responsibility for all motor carriers, including  
25 incidental carriers pursuant to this section. ~~[Rules regarding~~

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1 ~~financial responsibility of incidental carriers shall be adopted~~  
2 ~~by July 1, 2006 by the commission, and implementation of the~~  
3 ~~financial responsibility requirements for incidental carriers~~  
4 ~~shall begin on July 1, 2006.]~~

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

12 C. In prescribing minimum requirements for financial  
13 responsibility for motor carriers, the commission shall adopt the  
14 same minimum liability insurance requirements as those required by  
15 the federal motor carrier safety administration for interstate  
16 motor carriers for all motor vehicles for carriage of property or  
17 household goods and for all passenger motor vehicles with a  
18 capacity in excess of eight persons, including the driver. The  
19 commission shall adopt reasonable minimum liability insurance  
20 requirements for the use of passenger motor vehicles with a  
21 capacity lower than that regulated by the federal motor carrier  
22 safety administration and shall consider:

23 (1) the creation of sufficient incentives to  
24 motor carriers to maintain and operate their equipment in a safe  
25 manner;

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1 (2) the number of passengers being transported;

2 (3) the nature of the transportation services  
3 provided by the motor ~~carrier~~ carriers using vehicles of that  
4 capacity; and

5 (4) other factors necessary to ensure that motor  
6 carriers using vehicles of that capacity maintain an appropriate  
7 level of financial responsibility.

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

13 (1) the financial stability of the carrier;

14 (2) previous loss history of the carrier;

15 (3) the safety record of the carrier;

16 (4) the size, nature of operations and other  
17 operating characteristics of the carrier; and

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

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

24 (1) the insurance is for an interstate motor  
25 carrier transporting commodities exempt from regulation by the

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1 federal motor carrier safety administration participating in the  
2 single state registration system for those motor carriers; and

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

5 F. All motor carriers shall carry proof of financial  
6 responsibility in each motor vehicle they operate in this state."

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

9 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND  
10 DRIVERS [~~USED IN COMPENSATED TRANSPORTATION~~].--

11 A. A motor carrier shall provide safe and adequate  
12 service, equipment and facilities for the rendition of  
13 transportation services in this state.

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

24 C. A commuter service carrier shall certify that it  
25 has a program providing for an initial drug test for a person

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1 seeking to be a commuter service driver. The program shall use  
2 reasonable collection and analysis procedures to ensure accurate  
3 results, require testing only for substances controlled by federal  
4 regulation of commercial motor carriers and ensure the  
5 confidentiality of the test results and medical information  
6 obtained.

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

12 E. The commission shall require carriers to obtain  
13 criminal background reports for all drivers employed by  
14 certificated service carriers other than ambulance service  
15 carriers and for all other persons employed by certificated  
16 household goods service carriers who enter private dwellings in  
17 the course of the household goods service."

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

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

21 A. ~~[An intrastate common motor carrier of persons or~~  
22 ~~household goods or a towing service performing nonconsensual tows]~~  
23 A tariffed service carrier shall not commence operations or  
24 perform a new service under its operating authority without  
25 ~~[approval of a tariff from]~~ having an approved tariff on file with

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1 the commission.

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

17 C. ~~[An intrastate common motor carrier of persons or~~  
18 ~~household goods or a towing service performing nonconsensual tows]~~  
19 A tariffed service carrier shall not charge, or permit its ~~[bona~~  
20 ~~fide agents or]~~ employees, lessees, licensees or agents to charge,  
21 a different or additional rate or apply different or additional  
22 terms of service for transportation or for a service rendered to  
23 or for the user of the service other than the rates and terms of  
24 service specified in approved tariffs in effect at the time ~~[The~~  
25 ~~rates of an otherwise valid tariff are not applicable when a~~

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1 ~~medicaid program directly pays for services~~, except in accordance  
2 with rates and terms of service established by law for  
3 governmental programs or operations.

4 D. ~~[An intrastate common motor carrier of persons or~~  
5 ~~household goods or a towing service performing nonconsensual tows]~~  
6 A tariffed service carrier shall not refund, directly or  
7 indirectly, a portion of the rate specified in its approved  
8 tariff, offer to a person privileges or facilities, perform a  
9 service or remit anything of value except in accordance with  
10 tariffs approved by the commission or in accordance with rates and  
11 terms of service established by governmental entities, programs or  
12 operations or in settling or resolving a claim by a customer.

13 E. The commission shall post on its web site all  
14 current approved individual and statewide tariffs, and all tariff  
15 statements filed by carriers using statewide tariffs, in a manner  
16 to facilitate public access, review and comparison. A  
17 certificated passenger service carrier other than an ambulance  
18 service carrier shall post its tariff rates in each vehicle used  
19 in the provision of its transportation service.

20 F. A tariffed service carrier shall file an  
21 application with the commission for a change in the tariff,  
22 accompanied by the proposed tariff, at least twenty days prior to  
23 implementation of the amended rates and terms of service contained  
24 in the tariff. An application for a change in a tariff shall  
25 identify with precision each change made. Except as provided in

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1 this section, an amended tariff shall be approved and become  
2 effective twenty days after filing of the application for a change  
3 in the tariff. The commission shall post notice of each  
4 application for a change in a tariff along with a copy of the  
5 proposed tariff on the commission web site and shall post all  
6 amended tariffs approved.

7 G. No changes in terms of service disapproved by the  
8 transportation division of the commission as inconsistent with the  
9 Motor Carrier Act, rule of the commission, the individual  
10 operating authority of the carrier or otherwise in violation of  
11 law shall become effective or be part of the approved tariff.

12 H. The following terms of service contained in a  
13 tariff shall not be considered inconsistent with the Motor Carrier  
14 Act or discriminatory in nature:

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

20 (2) a carrier is not responsible for delays due  
21 to weather or road conditions that require slow vehicular travel  
22 or cancellation for safety, or due to road construction, road  
23 closures, law enforcement stops or similar matters, and a carrier  
24 other than an ambulance service may determine not to provide all  
25 or part of its service due to weather or road conditions that

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1 reasonably make travel dangerous;

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

7 (4) a passenger service carrier other than an  
8 ambulance service carrier may decline or terminate service, or  
9 require advance payment of all or a portion of the fare, in  
10 situations that reasonably appear that the passenger may not be  
11 able to provide compensation for the transportation service under  
12 the tariff or applicable contract or where the passenger cannot  
13 give an adequate description of, or direction to, the destination;  
14 and

15 (5) a passenger service carrier other than an  
16 ambulance service carrier may decline service in situations where  
17 a passenger cannot transfer into or out of the motor vehicle  
18 without requiring physical assistance from the driver or other  
19 employee of the carrier.

20 I. An application for amendment of a tariff of a  
21 full-service carrier or a towing service providing nonconsensual  
22 tows that increases a tariff rate to a level greater than that  
23 previously approved by the commission shall not become effective  
24 until approved by the commission as reasonable pursuant to Section  
25 65-2A-21 NMSA 1978. The carrier's application shall include

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1 financial justification for the increase based on verified  
2 testimony and data as may be required by the commission. The  
3 commission shall hold a streamlined hearing appropriate to the  
4 type of transportation service provided by the carrier for the  
5 application, if requested by the applicant or by the  
6 transportation division of the commission, or if ordered in the  
7 discretion of the commission.

8 J. The commission may provide for reasonable periodic  
9 rate increases for full-service carriers or towing services  
10 providing nonconsensual tows pursuant to a rate escalator or  
11 adjustment clause on a basis that the commission finds reasonable.

12 K. If no request for hearing by the transportation  
13 division of the commission is filed during the notice period of an  
14 application for a proposed tariff or change in tariff, the  
15 commission shall grant the application if the application complies  
16 with the provisions of the Motor Carrier Act and the rules of the  
17 commission.

18 ~~[E.]~~ L. A person may make a complaint in writing to  
19 the commission that ~~[an individual or joint rate or practice is]~~ a  
20 rate or term of service contained in a tariff, or a rate otherwise  
21 charged or practice otherwise affected, is inconsistent with or in  
22 violation of the Motor Carrier Act, commission rule or the  
23 operating authority or current tariff of the motor carrier. The  
24 commission may suspend the operation of a rate, term of service or  
25 practice for a period not to exceed sixty days to investigate its

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1 appropriateness or reasonableness. If the commission finds that  
2 [~~an individual or joint~~] a rate charged by [~~an intrastate common~~  
3 ~~motor carrier of persons or household goods or a towing service~~  
4 ~~performing nonconsensual tows, or an individual or joint practice~~  
5 ~~of any intrastate common motor carrier of persons or household~~  
6 ~~goods or any towing service performing nonconsensual tows~~  
7 ~~affecting the rate~~] a tariffed service carrier, or a term of  
8 service or practice of a tariffed service carrier is unauthorized,  
9 unreasonable, predatory or discriminatory, the commission shall  
10 prescribe the rate or the maximum or minimum rate to be observed  
11 or the [~~practice~~] terms of service to be made effective."

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

14 "65-2A-21. RATES.--

15 A. [~~An intrastate common motor carrier of persons or~~  
16 ~~household goods and a towing service performing nonconsensual tows~~  
17 ~~shall observe~~] Tariffed service carriers shall provide for  
18 reasonable, nonpredatory and nondiscriminatory rates and  
19 [~~practices~~] terms of service for the transportation services they  
20 provide [~~An unreasonable~~], as required by the Motor Carrier Act.  
21 A predatory or discriminatory rate or charge for service is  
22 unlawful.

23 B. Reduced rates for minor children accompanied by an  
24 adult, for students traveling between their homes and their  
25 schools and for persons sixty-five years of age or older shall not

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1 be considered discriminatory [~~within the meaning of this section~~].  
2 A motor carrier shall not furnish free transportation to persons  
3 except to [~~bona fide~~] owners, officers, [~~or~~] employees or business  
4 personnel of the motor carrier and their dependents. [~~Stockowners~~  
5 ~~of incorporated motor carriers shall not be considered owners for~~  
6 ~~purposes of this subsection.~~]

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

18 D. ~~A common motor carrier of household goods shall~~  
19 ~~establish and observe just and reasonable rates and practices~~  
20 ~~relating to the manner and method of presenting, marking, packing~~  
21 ~~and delivering household goods for transportation and other~~  
22 ~~matters relating to the transportation of household goods.~~

23 E. ~~An intrastate common motor carrier of persons or~~  
24 ~~household goods and a towing service performing nonconsensual tows~~  
25 ~~shall establish with each other reasonable through routes and~~

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1 ~~joint rates and practices. Participating motor carriers shall~~  
2 ~~have the duty to establish reasonable practices in connection with~~  
3 ~~joint transportation and reasonable and equitable divisions of the~~  
4 ~~joint rates adopted so as not to unduly prefer or prejudice any~~  
5 ~~participating motor carrier.~~

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

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

20 "65-2A-22. SCHEDULED SHUTTLE SERVICE--TIME SCHEDULES.--

21 A. ~~[An intrastate common motor carrier of persons~~  
22 ~~providing scheduled service to the general public]~~ A scheduled  
23 shuttle service carrier shall file a proposed time schedule with  
24 its ~~[application for a certificate. The commission shall approve~~  
25 ~~the time schedule before the schedule is put into effect]~~ original

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1 tariff and with each amended tariff.

2 B. Failure by [~~an intrastate common motor carrier of~~  
3 ~~persons~~] a scheduled shuttle service carrier to operate the  
4 service on each day as scheduled pursuant to commission rule and  
5 the terms and service contained in its tariff shall result in an  
6 appropriate penalty as the commission, in its discretion, shall  
7 determine.

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

12 SECTION 21. Section 65-2A-25 NMSA 1978 (being Laws 2003,  
13 Chapter 359, Section 25) is amended to read:

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

15 A. [~~An intrastate common motor carrier of household~~  
16 ~~goods~~] Before providing transportation or accessorial services, a  
17 household goods service carrier shall make a contract with the  
18 shipper specifying the price charged and services that will be  
19 provided.

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

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

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

21                   ~~[D.]~~ E. If the household goods agent does not appear  
22 at the complaint hearing, or if the commission finds that the  
23 household goods agent has violated Subsection G or H of Section  
24 ~~[33 of the Motor Carrier Act, or is consistently unfit, unwilling~~  
25 ~~or unable to provide adequate household goods transportation~~

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1 ~~services including accessorial and terminal services]~~ 65-2A-33  
2 NMSA 1978, 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 household  
5 goods agent from any involvement in the provision of household  
6 goods transportation services if, after notice and an opportunity  
7 to be heard, it finds that the household goods agent has failed to  
8 comply with the order within a reasonable time after the date of  
9 its issuance, but in no event less than thirty days after its  
10 issuance. A household goods agent may file a petition with the  
11 commission seeking reconsideration of an order entered by the  
12 commission pursuant to this section.

13 ~~[E.]~~ F. The commission shall adopt rules for the  
14 following elements of household goods transportation services:

15 (1) ~~[rates]~~ methods of determining shipping  
16 charges;

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

19 (3) inventory;

20 (4) weighing;

21 (5) receipts and bills of lading;

22 (6) liability based on value established between  
23 the motor carrier and the shipper;

24 (7) equipment stationing by and joint  
25 transportation ~~[between common motor carriers]~~ of household goods

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1 service carriers;

2 (8) household goods agents; and

3 (9) service standards.

4 [~~F.~~] G. In adopting reasonable rules for [~~intrastate~~  
5 ~~common motor carriers of~~] household goods service carriers, the  
6 commission shall [~~consider:~~

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

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

11 (~~3) the need to deter abuses that result in harm~~  
12 ~~to shippers;~~

13 (~~4) service requirements of motor carriers of~~  
14 ~~household goods;~~

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

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

21 [~~G.~~] H. The antitrust laws shall not apply to  
22 discussions or agreements between [~~an intrastate common motor~~  
23 ~~carrier of~~] a household goods service carrier and its authorized  
24 agents, whether or not an agent is also a [~~motor carrier of~~]  
25 certificated household goods service carrier, related solely to:

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

3 (2) accessorial, terminal, storage or other  
4 charges for transportation services incidental to the  
5 transportation of household goods transported under the authority  
6 of the principal carrier;

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

9 (4) ownership of a common motor carrier of  
10 household goods by an agent or membership on the board of  
11 directors of any common motor carrier of household goods by an  
12 agent."

13 SECTION 22. Section 65-2A-26 NMSA 1978 (being Laws 2003,  
14 Chapter 359, Section 26) is amended to read:

15 "65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT  
16 PROGRAMS.--

17 A. ~~[A common motor carrier of household goods may~~  
18 ~~submit an application to the commission to]~~ The commission shall  
19 establish a program to settle, at the voluntary option of a  
20 shipper, disputes between shippers and [common motor carriers of]  
21 household goods service carriers concerning the transportation of  
22 household goods ~~[The application shall be in a form and contain~~  
23 ~~information as the commission may by rule require.~~

24 B. ~~The commission shall review and approve, within~~  
25 ~~forty-five days of the filing of an application, a program for~~

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1 ~~settling disputes concerning the transportation of household goods~~  
2 ~~that meets the requirements of Subsection C of this section.~~

3 C. ~~The commission shall not approve a program for~~  
4 ~~settling disputes concerning the transportation of household goods~~  
5 ~~unless the program] that is a fair and expeditious method for~~  
6 settling disputes and complies with each of the following  
7 requirements and rules the commission may prescribe:

8 (1) the program is designed to prevent a [~~motor~~]  
9 household goods service carrier from having any special advantage  
10 in a case in which the shipper resides or does business at a place  
11 distant from the motor carrier's place of business;

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

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

21 (4) a person authorized pursuant to the program  
22 to settle disputes shall be independent of the parties to the  
23 dispute and shall be capable, as determined by rules prescribed by  
24 the commission, to resolve disputes fairly and expeditiously. The  
25 program shall ensure that a person chosen to settle a dispute is

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1 authorized and able to obtain from the shipper or motor carrier  
2 any material and relevant information necessary to carry out a  
3 fair and expeditious decision-making process;

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

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

15 (7) the program may provide for an oral  
16 presentation of a dispute concerning transportation of household  
17 goods by a party to the dispute or a party's representative, but  
18 an oral presentation shall not be made unless the parties to the  
19 dispute expressly agree to the presentation and the date, time and  
20 location of the presentation; and

21 (8) a person settling a dispute under the program  
22 shall, as expeditiously as possible, but no later than sixty days  
23 after receipt of written notification of the dispute, render a  
24 decision based on the information gathered; except that, in a case  
25 in which a party to the dispute fails to timely provide

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1 information that the person settling the dispute may reasonably  
2 require, the person settling the dispute may extend the sixty-day  
3 period for a reasonable period of time. A decision resolving a  
4 dispute may include remedies appropriate under the circumstances,  
5 including repair, replacement, refund or reimbursement for  
6 expenses and compensation for damages.

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

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

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

21 (2) the shipper prevails in the court action; and  
22 ~~[(3) a dispute settlement program approved under~~  
23 ~~this section was not available for use by the shipper to resolve~~  
24 ~~the dispute; or~~

25 ~~(4)]~~ (3) a decision resolving the dispute was not

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1 rendered under [~~a~~] the dispute settlement program [~~approved under~~  
2 ~~this section~~] within sixty days or an extension of the sixty-day  
3 period; or

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

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

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

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

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

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

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

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

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1 OF OPERATING AUTHORITIES--REINSTATEMENT.--

2 A. The commission shall immediately suspend, without  
3 notice or a public hearing, the operating authority of a [~~motor~~  
4 ~~carrier~~] certificated or permitted service carrier and shall  
5 immediately revoke the operating authority of a warranted service  
6 carrier for failure to continuously maintain the forms and amounts  
7 of financial responsibility prescribed by commission rule for a  
8 period of four months or longer.

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

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

- 20 (1) comply with a provision of the Motor Carrier  
21 Act;
- 22 (2) comply with a lawful order or rule of the  
23 commission;
- 24 (3) comply with a term [~~condition or limitation~~]  
25 of service of an operating authority or tariff; or

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1 (4) render reasonably continuous and adequate  
2 service under a certificate [~~or permit~~].

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

7 (1) the reasons for the involuntary suspension no  
8 longer pertain; and

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

13 SECTION 24. Section 65-2A-28 NMSA 1978 (being Laws 2003,  
14 Chapter 359, Section 28) is amended to read:

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

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

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

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

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

23 D. The secretary of state shall assess to the [~~motor~~  
24 ~~carrier~~] holder the fee prescribed in Section [~~36 of the Motor~~  
25 ~~Carrier Act~~] 65-2A-36 NMSA 1978 for a process from a court served

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1 upon the secretary of state but shall not charge a fee for service  
2 of commission process.

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

8 SECTION 25. Section 65-2A-29 NMSA 1978 (being Laws 2003,  
9 Chapter 359, Section 29) is amended to read:

10 "65-2A-29. REPORTS AND RECORDS.--

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

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

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

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

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1 their operations; and

2 (2) records kept by motor carriers.

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

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

18 F. All applications, protests, objections, amendments  
19 to filings, operating authorities, tariffs, pleadings or other  
20 documents filed in a docketed proceeding not subject to a  
21 confidentiality order are public records and shall, as soon as  
22 practicable, be made electronically available to the public."

23 SECTION 26. Section 65-2A-30 NMSA 1978 (being Laws 2003,  
24 Chapter 359, Section 30) is amended to read:

25 "65-2A-30. UNAUTHORIZED CARRYING OF PERSONS PROHIBITED.--[A

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1 ~~motor~~] Except in the case of an emergency, a transportation  
2 service carrier not authorized to transport [persons] passengers  
3 shall not carry a [person] passenger, including a hitchhiker,  
4 [~~except~~] other than on-duty employees or other business personnel  
5 of the [~~motor~~] carrier or commission representatives on official  
6 business [~~or in case of an emergency~~] in a vehicle used in the  
7 provision of transportation service under its operating  
8 authority."

9 SECTION 27. Section 65-2A-33 NMSA 1978 (being Laws 2003,  
10 Chapter 359, Section 33) is amended to read:

11 "65-2A-33. CRIMINAL AND CIVIL PENALTIES.--

12 A. A person who knowingly makes a false statement of  
13 material fact under oath or penalty of perjury in a commission  
14 proceeding, whether orally or in writing, shall be guilty of  
15 perjury.

16 B. A person who willfully makes a false return of  
17 process or report to the commission or a member or employee of the  
18 commission, and a person who knowingly aids or abets a person who  
19 willfully makes a false return of process or report to the  
20 commission or a member or employee of the commission, shall be  
21 guilty of a felony and upon conviction shall be imprisoned for not  
22 more than five years.

23 C. A person who willfully makes a false entry in  
24 records required by the Motor Carrier Act or the rules of the  
25 commission, willfully destroys, mutilates or by other means

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1 willfully falsifies the records or willfully neglects or fails to  
2 make full, true and correct entries of all facts shall be guilty  
3 of a felony and upon conviction shall be imprisoned for not more  
4 than five years.

5 D. An employee of the commission who divulges  
6 information about an inspection, examination or investigation of a  
7 record or of the property and facilities of a motor carrier,  
8 except insofar as may be authorized by the commission or a court  
9 of competent jurisdiction, shall be guilty of a misdemeanor and  
10 upon conviction shall be fined not more than one thousand dollars  
11 (\$1,000).

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

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

- 22 (1) refuses to permit examination of its records;  
23 (2) conceals, destroys or mutilates its records;  
24 (3) attempts to conceal, destroy or mutilate its  
25 records; or

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

3 G. A person who commits weight-bumping shall be guilty  
4 of a felony and upon conviction shall be fined not less than one  
5 thousand dollars (\$1,000) nor more than ten thousand dollars  
6 (\$10,000), imprisoned for not more than two years, or both.

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

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

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

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

23 J. It is an unfair and deceptive trade practice under  
24 the Unfair Practices Act for a transportation service carrier or  
25 its licensee, employee or agent to charge or collect a predatory

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

11 SECTION 28. Section 65-2A-36 NMSA 1978 (being Laws 2003,  
12 Chapter 359, Section 36) is amended to read:

13 "65-2A-36. FEES.--

14 A. The commission shall charge and collect the  
15 following fees:

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

21 (2) for filing an application for a permit [~~as an~~  
22 ~~intrastate contract motor carrier of persons or household goods~~]  
23 or an application for an amendment of a permit, or for a protest  
24 or permissive intervention in regard to the application, two  
25 hundred fifty dollars (\$250);

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

4 (4) for filing an application or motion for  
5 intrastate temporary authority [~~as a common or contract motor~~  
6 ~~carrier of persons or household goods~~] or a motion for  
7 modification or reconsideration of a grant of temporary authority,  
8 one hundred dollars (\$100);

9 (5) for filing an application for extension of  
10 temporary authority, fifty dollars (\$50.00);

11 (6) for filing an application for a change in an  
12 intrastate tariff for a tariffed service carrier, two hundred  
13 dollars (\$200);

14 (7) for filing an application for lease or  
15 transfer of a certificate or permit or for a protest or permissive  
16 intervention in regard to the application, two hundred dollars  
17 (\$200);

18 (8) for filing an application for reinstatement  
19 of a certificate or permit following voluntary or involuntary  
20 suspension, one hundred dollars (\$100);

21 (9) for filing an application for voluntary  
22 suspension of a certificate or permit, fifteen dollars (\$15.00);

23 [~~(10) for filing an application for a single trip~~  
24 ~~ticket, five dollars (\$5.00) per vehicle per trip;~~

25 ~~(11) for a single state registration receipt for~~

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1 ~~interstate motor carriers, ten dollars (\$10.00) per vehicle per~~  
2 ~~registration year or portion of a registration year;~~

3 ~~(12)]~~ (10) for filing a change ~~[of]~~ in the legal  
4 name of a holder of an operating authority, a change of business  
5 trade name or the addition or deletion of a business trade name of  
6 a holder of an operating authority, ten dollars (\$10.00);

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

9 ~~(14) for filing an equipment lease, five dollars~~  
10 ~~(\$5.00) per vehicle leased;~~

11 ~~(15)]~~ (11) for a miscellaneous filing, five  
12 dollars (\$5.00) per document;

13 ~~[(16)]~~ (12) for certifying copies of a record,  
14 order or operating authority, ~~[fifteen dollars (\$15.00)]~~ the  
15 charge per page provided by law for governmental agencies;

16 ~~[(17)]~~ (13) for paper or electronic copies of  
17 written commission documents or records, ~~[one dollar (\$1.00) per~~  
18 ~~page, in addition to any applicable certification charge]~~ the  
19 charge per page provided by law for governmental agencies; and

20 ~~[(18)]~~ (14) for copies of other commission  
21 records, including electronic media, an amount set by the  
22 commission, in addition to any applicable certification charge.

23 B. The secretary of state shall charge and collect a  
24 fee of four dollars (\$4.00) for each process from a court served  
25 upon the secretary of state as the designated agent for service of

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1 process by operation of law.

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

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

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

19 SECTION 29. Section 65-2A-37 NMSA 1978 (being Laws 2003,  
20 Chapter 359, Section 37) is amended to read:

21 "65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF  
22 DOCUMENTS--ELECTRONIC PAYMENT OF FEES.--

23 A. The commission [~~may~~] shall adopt rules permitting  
24 the electronic filing [~~of documents~~], submission and service of  
25 documents by facsimile, electronic mail or other electronic

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

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

15 SECTION 30. A new section of the Motor Carrier Act is  
16 enacted to read:

17 "[NEW MATERIAL] TRANSITION.--

18 A. Except as provided in this section, certificates,  
19 permits and warrants issued to motor carriers by the commission  
20 prior to July 1, 2013 shall remain in effect, subject to the  
21 provisions of the Motor Carrier Act and the commission's rules.

22 B. Certificates for limousine service and for tour and  
23 sightseeing service issued by the commission prior to July 1, 2013  
24 shall be, on and after July 1, 2013, certificates for specialized  
25 passenger service endorsed for nature of service as provided by

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1 commission rule. The commission may require holders of these  
2 certificates to exchange their certificates for newly issued  
3 certificates.

4 C. Certificates for taxicab service issued prior to  
5 July 1, 2013 shall become void on and after July 1, 2013 and shall  
6 be replaced by certificates for taxicab service endorsed for the  
7 same territory and with the same additional terms of service as in  
8 the preexisting certificates. The certificates shall be endorsed  
9 also for nature of service as a general taxicab service, unless  
10 the holder of a certificate for taxicab service issued prior to  
11 July 1, 2013 has provided municipal taxicab service within the  
12 certificated territory, or portion thereof, adequately and  
13 continuously for the immediately prior twelve-month period, in  
14 which case the holder shall be issued a certificate endorsed for  
15 municipal taxicab service within that territory and endorsed for  
16 general taxicab service for any remainder of its certificated  
17 territory. The commission may provide for reasonable procedures  
18 regarding replacement of certificates and nature-of-service  
19 endorsement and shall issue new certificates effective on July 1,  
20 2013.

21 D. Certificates for shuttle service, terminal shuttle  
22 service, shared-ride service and bingo bus service issued prior to  
23 July 1, 2013 shall become void on and after that date and shall be  
24 replaced by certificates for shuttle service endorsed for the same  
25 territory and with the same additional terms of service as in the

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1 preexisting certificates. The certificates shall be endorsed also  
2 for nature of service as a general shuttle service, unless the  
3 holder of a certificate for shuttle service issued prior to July  
4 1, 2013 has provided scheduled shuttle service within the  
5 certificated terminal territory, or portion thereof, adequately  
6 and continuously for the immediately prior twelve-month period, in  
7 which case the holder shall be issued a certificate endorsed for  
8 scheduled shuttle service within that territory and endorsed for  
9 general shuttle service for any remainder of its certificated  
10 territory. The commission may provide by order for reasonable  
11 procedures regarding replacement of certificates and  
12 nature-of-service endorsement and shall issue new certificates  
13 effective on July 1, 2013.

14 E. Certificates for household goods service issued  
15 prior to July 1, 2013 shall become void on and after that date and  
16 shall be replaced by warrants. The commission may provide by  
17 order for reasonable procedures regarding replacement of  
18 certificates by warrants and shall issue warrants for household  
19 goods service effective on July 1, 2013.

20 F. A person applying for a certificate, permit or  
21 warrant from July 1, 2013 through June 30, 2014 shall not be  
22 rejected on the grounds that the person has previously provided  
23 motor carrier services without authorization from the commission."

24 SECTION 31. REPEAL.--Sections 65-2A-9, 65-2A-17, 65-2A-23,  
25 65-2A-24 and 65-2A-40 NMSA 1978 (being Laws 2003, Chapter 359,

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1 Sections 9, 17, 23, 24 and 40) are repealed.

2 SECTION 32. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2013.

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