

1 AN ACT

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11 CONTRACT; REMOVING OUTDATED REFERENCES IN THE AVIATION ACT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

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

18 SECTION 1. DEPARTMENT OF TRANSPORTATION--POWERS AND
19 DUTIES--COMMON CARRIERS.--

20 A. With respect to common carriers, the department
21 of transportation shall:

22 (1) fix, determine, supervise, regulate and
23 control all charges and rates of railway, express, sleeping
24 car and other transportation companies and common carriers
25 within the state;

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

4 (3) require railway companies and other
5 common carriers to provide and maintain adequate equipment,
6 depots, stock pens, station buildings, agents and facilities
7 for the accommodation of shippers and passengers and for
8 receiving and delivering freight and express and to provide
9 and maintain necessary crossings, culverts, sidings and other
10 facilities for convenience and safety whenever in the
11 department's judgment the public interest demands;

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

18 (5) change, amend and rescind rates;

19 (6) enforce its rules through administrative
20 sanctions and in the courts; and

21 (7) carry out all other duties and have all
22 other powers provided by law.

23 B. The department of transportation may subpoena
24 witnesses and documents, enforce its subpoenas through any
25 court and, through the court, punish for contempt.

1 C. The department of transportation has the power,
2 after notice and hearing of record, to determine and decide
3 any question and to issue orders relating to its powers and
4 duties.

5 D. An interested party may appeal from a final
6 order of the department of transportation by filing a notice
7 of appeal with the supreme court asking for review of the
8 order within thirty days of the final order. The appellant
9 shall pay to the department any costs of preparing and
10 transmitting the record to the court.

11 E. The pendency of an appeal shall not
12 automatically stay the order appealed from. The appellant
13 may seek to obtain a stay from the department of
14 transportation or the supreme court.

15 F. The appeal shall be on the record of the
16 hearing before the department of transportation and shall be
17 governed by the appellate rules applicable to administrative
18 appeals. The supreme court shall affirm the department's
19 order unless it is:

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

22 (2) not supported by substantial evidence in
23 the record; or

24 (3) otherwise not in accordance with law.

25 G. In the case of a failure or refusal of a person SB 160
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1 to comply with an order of the department of transportation
2 within the time prescribed in the order or within thirty days
3 after the order is entered, whichever is later, unless a stay
4 has been granted, the department shall seek enforcement of
5 the order in the district court. The enforcement hearing
6 shall be held on an expedited basis. At the hearing, the
7 sole question shall be whether the person has failed to
8 comply with or violated the order.

9 SECTION 2. DEPARTMENT OF TRANSPORTATION MAY INSPECT
10 BOOKS AND RECORDS.--The department of transportation or
11 person authorized by the department in writing under its seal
12 to make an examination shall have the right at all times to
13 inspect the books, papers and records of all such companies
14 and common carriers doing business in this state relating to
15 any matter pending before or being investigated by the
16 department. Any officer, agent or employee of any such
17 company or corporation or any person in charge of such books,
18 papers and records who refuses to permit examination or who
19 conceals, destroys or mutilates or attempts to conceal,
20 destroy or mutilate any such books, papers or records or
21 remove the same beyond the limits of the state for the
22 purpose of preventing examination shall be deemed guilty of a
23 misdemeanor and upon conviction may be fined not to exceed
24 five hundred dollars (\$500) or imprisoned in the county jail
25 not more than six months.

1 SECTION 3. CARRIER INSPECTION--FEE.--

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

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

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

1 percent of the amount of the fee due.

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

5 SECTION 4. DISPOSITION OF FEES.--All money collected
6 under the provisions of Section 3 of this 2023 act shall be
7 deposited with the state treasurer who shall credit it to the
8 general fund.

9 SECTION 5. EXEMPTIONS.--The provisions of Section 3 of
10 this 2023 act shall not apply to common or contract motor
11 carriers or aircraft carriers transporting passengers or
12 property for hire.

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

15 "5-1-1. POLITICAL SUBDIVISIONS--AMBULANCE SERVICE.--

16 A. A municipality or county may:

17 (1) provide ambulance service to transport
18 sick or injured persons to a place of treatment in the
19 absence of an established ambulance service only as
20 authorized by the department of transportation;

21 (2) contract with other political
22 subdivisions or with private ambulance services for the
23 operation of its ambulance service;

24 (3) lease ambulances and other equipment
25 necessary to the operation of its ambulance service;

1 (4) in the course of its operation of an
2 ambulance service, proceed to the scene of a disaster beyond
3 its subdivision boundaries when requested, providing no local
4 established ambulance service is available or, if one exists,
5 such local ambulance service deems its capacity inadequate or
6 insufficient for emergency transportation of the disaster
7 victims; and

8 (5) transport sick or injured persons from
9 the subdivision boundaries to any place of treatment.

10 B. No personal action shall be maintained in any
11 court of this state against any member or officer of a
12 political subdivision for any tort or act done, or attempted
13 to be done, when done by the authority of the political
14 subdivision or in execution of its orders under this section.
15 In all such cases, political subdivisions shall be
16 responsible. Any member or officer of the political
17 subdivision may plead the provisions of this section in bar
18 of such action whether it is now pending or hereafter
19 commenced."

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

22 "7-24A-4. LIMITATIONS ON POWER.--

23 A. All contracts for work, material or labor in
24 connection with such transportation shall be let in the
25 manner provided by law for the letting of other contracts by

1 the county or municipality.

2 B. Transit service may not be extended to points
3 outside the county in which a city is located or outside the
4 boundaries of the county unless prior approval is obtained
5 from the department of transportation and other regulatory
6 bodies having jurisdiction in the matter."

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

9 "22-17-1. SHORT TITLE.--Chapter 22, Article 17 NMSA
10 1978 may be cited as the "Emergency Transportation Act"."

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

13 "22-17-2. DEPARTMENT OF TRANSPORTATION PERMITS.--

14 A. Subject to the Emergency Transportation Act,
15 the department of transportation may approve a permit
16 application of a school district operating its own school
17 buses or of an independent school bus operator who operates
18 school buses under contract with a school district for the
19 operation of such buses for general public transportation if
20 the department of transportation determines that:

21 (1) the school district operating its own
22 school buses or the independent school bus operator has
23 complied with laws, regulations and other requirements
24 governing transportation of the general public;

25 (2) existing public or private

1 transportation systems will not be adversely affected by the
2 use of school buses for general public transportation; and

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

6 B. Notice of approval or denial of the permit
7 application shall be submitted to the state transportation
8 director and to the applicant within ten days of final
9 determination by the department of transportation.

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

12 (1) that is open to the public;

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

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

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

23 (a) existing public transportation
24 systems cannot adequately and timely transport the public to
25 the event;

1 (b) private transportation systems are
2 unavailable or prohibitively expensive; or

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

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

8 "22-17-3. STATE TRANSPORTATION DIRECTOR--APPROVAL.--

9 A. Upon the receipt of approval of the permit
10 application from the department of transportation, the state
11 transportation director may grant a permit to operate school
12 buses for general public transportation to a school district
13 that operates its own school buses or to the independent
14 school bus operator who operates school buses under contract
15 with a school district if the director determines that:

16 (1) school bus service to students will not
17 be adversely affected by issuance of the permit;

18 (2) the operation of school buses for
19 general public transportation service by the school district
20 or the independent operator will not provide unnecessary
21 duplication of a general public transportation service by
22 school buses of another school district or independent school
23 bus operator contracting with another school district; and

24 (3) there has been compliance with the rules
25 and regulations of the state transportation director issued

1 pursuant to the Emergency Transportation Act.

2 B. The state transportation director subject to
3 the approval of the secretary shall by regulation provide for
4 application fees, forms and permit procedures pursuant to the
5 Emergency Transportation Act.

6 C. A permit issued under this section shall be
7 valid for one year and shall be annually renewed upon payment
8 of a reasonable application fee to the state transportation
9 division and certification by the department of
10 transportation of the permittee's compliance with all
11 applicable laws. Notice of renewal of the permit shall be
12 delivered by the state transportation division to the
13 department of transportation and the local school board
14 concerned."

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

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

22 A. the department of transportation that it has
23 determined that a public transportation emergency in the area
24 in which the permittee provides general public transportation
25 no longer exists or that public or private transportation

1 systems are being adversely affected in the area; or

2 B. the local school board that the local school
3 board has determined that school bus service to students is
4 being adversely affected by providing general public
5 transportation under the permit."

6 SECTION 12. Section 24-10B-4 NMSA 1978 (being Laws
7 1983, Chapter 190, Section 4, as amended) is amended to read:

8 "24-10B-4. BUREAU--DUTIES.--The bureau is designated as
9 the lead agency for the emergency medical services system,
10 including injury prevention, and shall establish and maintain
11 a program for regional planning and development, improvement,
12 expansion and direction of emergency medical services
13 throughout the state, including:

14 A. design, development, implementation and
15 coordination of emergency medical services communications
16 systems to join the personnel, facilities and equipment of a
17 given region or system that will allow for medical direction;

18 B. provision of technical assistance to the
19 department of transportation for further development and
20 implementation of standards for certification of ambulance
21 services, vehicles and equipment;

22 C. development of requirements for the collection
23 of data and statistics to evaluate the availability,
24 operation and quality of providers in the state;

25 D. adoption of rules for emergency medical

1 services medical direction upon the recommendation of the
2 medical direction committee;

3 E. approval of continuing education programs for
4 emergency medical services personnel;

5 F. adoption of rules pertaining to the training
6 and licensure of emergency medical dispatchers and their
7 instructors;

8 G. adoption of rules based upon the
9 recommendations of a trauma advisory committee, for
10 implementation and monitoring of a statewide, comprehensive
11 trauma care system, including:

12 (1) minimum standards for designation or
13 retention of designation as a trauma center or a
14 participating trauma facility;

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

17 (3) establishment for interfacility transfer
18 criteria and transfer agreements;

19 (4) standards for collection of data
20 relating to trauma system operation, patient outcome and
21 trauma prevention; and

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

23 H. adoption of rules, based upon the
24 recommendations of the air transport advisory committee, for
25 the certification of air ambulance services;

1 I. adoption of rules pertaining to authorization
2 of providers to honor advance directives, such as emergency
3 medical services do not resuscitate forms, to withhold or
4 terminate care in certain pre-hospital or interfacility
5 circumstances, as guided by local medical protocols;

6 J. operation of a critical incident stress
7 management program for emergency providers utilizing
8 specifically trained volunteers who shall be considered
9 public employees for the purposes of the Tort Claims Act when
10 called upon to perform their duties;

11 K. adoption of rules to establish a cardiac arrest
12 targeted response program pursuant to the Cardiac Arrest
13 Response Act, including registration of automated external
14 defibrillator programs, maintenance of equipment, data
15 collection, approval of automated external defibrillator
16 training programs and a schedule of automated external
17 defibrillator program registration fees;

18 L. adoption of rules for the administration of an
19 emergency medical services certification program for
20 certified emergency medical services; and

21 M. promoting, developing, implementing,
22 coordinating and evaluating risk reduction and injury
23 prevention systems."

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

1 "24-15-4. INSURANCE.--

2 A. Every ski area operator shall file with the
3 department of transportation and keep on file with the
4 department proof of financial responsibility in the form of a
5 current insurance policy in a form approved by the
6 department, issued by an insurance company authorized to do
7 business in the state and conditioned to pay, within the
8 limits of liability prescribed in this section, all final
9 judgments for personal injury or property damage proximately
10 caused by or resulting from negligence of the ski area
11 operator covered by the policy, as such negligence is defined
12 and limited by the Ski Safety Act. The minimum limits of
13 liability insurance to be provided by ski area operators
14 shall be as follows:

15 SKI SAFETY ACT

16 LIABILITY INSURANCE

17 LIMITS OF LIABILITY

18 REQUIRED MINIMUM COVERAGES

19 FOR INJURIES, DEATH OR DAMAGES

20 LIMITS FOR BODILY

21 INJURY TO OR DEATH

22 LIMITS FOR BODILY OF ALL PERSONS

23 KIND AND NUMBER INJURY TO OR DEATH INJURED OR KILLED PROPERTY

24 OF LIFTS OPERATED OF ONE PERSON IN ANY ONE ACCIDENT DAMAGE

25 Not more than

1	three surface lifts	\$ 100,000	\$ 300,000	\$ 5,000
2	Not more than			
3	three ski lifts,			
4	including one or more			
5	chair lifts	250,000	500,000	25,000
6	More than three			
7	ski lifts or one			
8	or more tramways	500,000	1,000,000	50,000.

9 B. No ski lift or tramway shall be operated in
10 this state after the effective date of the Ski Safety Act
11 unless a current insurance policy as required by this section
12 is in effect and properly filed with the department of
13 transportation. Each policy shall contain a provision that it
14 cannot be canceled prior to its expiration date without thirty
15 days' written notice of intent to cancel served by registered
16 mail on the insured and on the department."

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

19 "24-15-8. DUTIES OF SKI AREA OPERATORS WITH RESPECT TO
20 SKI LIFTS.--Every ski area operator has the duty to operate,
21 repair and maintain all ski lifts in safe condition. The ski
22 area operator, prior to December 1 of each year, shall certify
23 to the department of transportation the policy number and name
24 of the company providing liability insurance for the ski area,
25 the date of the ski lift inspections and the name of the

1 person making those inspections."

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

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

6 A. "ambulance provider" or "ambulance service"
7 means a specialized carrier based within the state authorized
8 under provisions and subject to limitations as provided in
9 individual carrier certificates issued by the department of
10 transportation to transport persons alive, dead or dying en
11 route by means of ambulance service. The rates and charges
12 established by department of transportation tariff shall
13 govern as to allowable cost. Also included are air ambulance
14 services approved by the county. The air ambulance service
15 charges shall be filed and approved pursuant to Subsection D
16 of Section 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

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

23 C. "county" means a county except a class A county
24 with a county hospital operated and maintained pursuant to a
25 lease or operating agreement with a state educational

1 institution named in Article 12, Section 11 of the
2 constitution of New Mexico;

3 D. "department" means the human services
4 department;

5 E. "fund" means a county health care assistance
6 fund;

7 F. "health care services" means treatment and
8 services designed to promote improved health in the county
9 indigent population, including primary care, prenatal care,
10 dental care, behavioral health care, alcohol or drug
11 detoxification and rehabilitation, hospital care, provision of
12 prescription drugs, preventive care or health outreach
13 services, to the extent determined by resolution of the
14 county;

15 G. "indigent patient" means a person to whom an
16 ambulance service, a hospital or a health care provider has
17 provided medical care, ambulance transportation or health care
18 services and who can normally support the person's self and
19 the person's dependents on present income and liquid assets
20 available to the person but, taking into consideration the
21 person's income, assets and requirements for other necessities
22 of life for the person and the person's dependents, is unable
23 to pay the cost of the ambulance transportation or medical
24 care administered or both; provided that if a definition of
25 "indigent patient" is adopted by a county in a resolution, the

1 definition shall not include any person whose annual income
2 together with that person's spouse's annual income totals an
3 amount that is fifty percent greater than the per capita
4 personal income for New Mexico as shown for the most recent
5 year available in the survey of current business published by
6 the United States department of commerce. "Indigent patient"
7 includes a minor who has received ambulance transportation or
8 medical care or both and whose parent or the person having
9 custody of that minor would qualify as an indigent patient if
10 transported by ambulance, admitted to a hospital for care or
11 treated by a health care provider;

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

14 I. "planning" means the development of a
15 countywide or multicounty health plan to improve and fund
16 health services in the county based on the county's needs
17 assessment and inventory of existing services and resources
18 and that demonstrates coordination between the county and
19 state and local health planning efforts;

20 J. "public entity" means a state, local or tribal
21 government or other political subdivision or agency of that
22 government; and

23 K. "qualifying hospital" means an acute care
24 general hospital licensed by the department of health that is
25 qualified to receive payments from the safety net care pool

1 pursuant to an agreement with the federal centers for medicare
2 and medicaid services."

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

5 "48-11-7. ENFORCEMENT OF LIEN.--

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

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

12 (2) after the occupant has been in default
13 continuously for a period of thirty days, the owner may enter
14 the space and may remove the personal property within it to a
15 safe place; provided that the owner has sent a notice of
16 intent to enforce a lien, pursuant to Subsection B of this
17 section, to the occupant at the occupant's last known address
18 within five days of entering the space. The owner shall also
19 give notice to all lienholders listed in the disclosure
20 provision in the rental agreement; and

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

25 B. The notice of intent to enforce a lien shall

1 include:

2 (1) an itemized statement of the owner's
3 claim showing the sum due at the time of the notice and the
4 date when the sum became due;

5 (2) a brief and general statement of the
6 personal property subject to the lien. That description shall
7 be reasonably adequate to permit the person notified to
8 identify the property, except that any container, including a
9 trunk, valise or box that is locked, fastened, sealed or tied
10 in a manner that deters immediate access to its contents, may
11 be so described without describing its contents;

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

17 (4) a demand for payment within a specified
18 time, not less than fifteen days after the delivery of the
19 notice; and

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

25 C. All notices made pursuant to this section shall SB 160
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1 be by verified mail or electronic mail pursuant to the
2 occupant's option at the time of entering into the current
3 rental agreement.

4 D. An owner shall provide written notice by
5 verified mail to the occupant's last known address or by
6 electronic mail to the occupant's last known electronic
7 address. If an owner sends a notice by electronic mail and
8 does not receive a response, return receipt or delivery
9 confirmation from the electronic address to which the notice
10 was sent within three business days after the day on which the
11 notice was sent, the owner shall deliver a one-time notice by
12 verified mail to the occupant's last known address.

13 E. After the expiration of the time given in the
14 notice of intent to enforce a lien, the owner shall publish an
15 advertisement of the sale or other disposition of the property
16 once a week for two consecutive weeks in a newspaper of
17 general circulation in the county where the self-service
18 storage facility is located. The advertisement shall include:

19 (1) a brief and general description of the
20 personal property reasonably adequate to permit its
21 identification as provided in Paragraph (2) of Subsection B of
22 this section, the address of the self-service storage facility
23 where the personal property is located and the name and last
24 known address of the occupant; and

25 (2) the time, place and manner of the sale

1 or other disposition. The sale or disposition shall take
2 place not sooner than fifteen days after the first
3 publication.

4 If there is no newspaper of general circulation in the
5 county where the self-service storage facility is located, the
6 owner shall post the advertisement at least ten days prior to
7 the sale or other disposition in at least six conspicuous
8 places in the neighborhood where the self-service storage
9 facility is located.

10 F. Any sale or other disposition of the personal
11 property shall conform to the terms of the notification as
12 provided for in this section.

13 G. Any sale or other disposition of the personal
14 property shall be held at the self-service storage facility or
15 at the nearest suitable place within the county to where the
16 personal property is held or stored or may be conducted on a
17 publicly accessible online website.

18 H. Before any sale or other disposition of
19 personal property pursuant to this section is made, the
20 occupant may pay the amount necessary to satisfy the lien and
21 the reasonable expenses incurred under this section and
22 thereby redeem the property. Upon receipt of the payment, the
23 owner shall return the personal property and thereafter the
24 owner shall have no liability to any person with regard to
25 that personal property.

1 I. A good faith purchaser takes the property free
2 of any rights of an unsecured lienholder and free of any
3 rights of a secured lienholder who has received notice by
4 owner as provided in this section.

5 J. In the event of a sale under this section, the
6 owner may satisfy the owner's lien from the proceeds of the
7 sale, subject to the rights of any prior lienholder who has
8 not received notice. The lien rights of such prior lienholder
9 are automatically transferred to the proceeds of the sale. If
10 the sale was made in good faith and conducted in a reasonable
11 manner, the owner shall not be subject to any surcharge for a
12 deficiency in the amount of a prior secured lien, but shall
13 hold the balance, if any, for delivery to the occupant,
14 lienholder or other person in interest. If the occupant,
15 lienholder or other person in interest does not claim the
16 balance of the proceeds within two years of the date of sale,
17 it shall become the property of the owner without further
18 recourse by the occupant, lienholder or other person in
19 interest.

20 K. Nothing in this section affects the rights and
21 liabilities of the owner, occupant or any other person if
22 there is a willful violation of any of the provisions of the
23 Self-Service Storage Lien Act. If the property subject to a
24 lien described in this section is a vehicle, watercraft or
25 trailer, the occupant is in default for a continuous sixty-day

1 period and the owner chose not to sell the vehicle, the owner
2 may have the vehicle towed from the self-storage facility by
3 an independent towing carrier that is licensed by the
4 department of transportation pursuant to the Motor Carrier
5 Act. Within one day after the day on which a vehicle is
6 towed, the owner shall send verified notice to the occupant's
7 last known address or electronic address that states:

8 (1) the date the vehicle was towed; and

9 (2) the address and telephone number of the
10 person that towed the vehicle."

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

13 "62-19-5. QUALIFICATIONS OF COMMISSIONERS.--

14 A. Commissioners shall be persons who are
15 independent of the industries regulated by the commission and
16 shall possess demonstrated competence.

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

19 (1) having a baccalaureate degree from an
20 institution of higher education that has been accredited by a
21 regional or national accrediting body and at least ten years
22 of professional experience in an area regulated by the
23 commission or in the energy sector and involving a scope of
24 work that includes accounting, public or business
25 administration, economics, finance, statistics, policy,

1 engineering or law; or

2 (2) having higher education resulting in at
3 least a professional license or a post-graduate degree from an
4 institution of higher education that has been accredited by a
5 regional or national accrediting body in a field related to an
6 area regulated by the commission, including accounting, public
7 or business administration, economics, finance, statistics,
8 policy, engineering or law, and at least ten years of
9 professional experience within the person's field.

10 C. A commissioner shall not have a financial
11 interest in a public utility in this state or elsewhere and
12 shall not have been employed by a commission-regulated entity
13 at any time during the two years prior to appointment to the
14 commission.

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

18 E. As used in this section, "professional
19 experience" means employment in which the prospective
20 appointee for commissioner regularly made decisions requiring
21 discretion and independent judgment and:

22 (1) engaged in policy analysis, research,
23 consumer advocacy or implementation in an area regulated by
24 the commission or in the energy sector;

25 (2) managed, as the head, deputy head or

1 division director, a federal, state, tribal or local
2 government department or division responsible for utilities,
3 energy policy or construction; or

4 (3) managed a business or organization
5 regulated by the commission or in the energy sector that had
6 five or more employees during the time it was managed by the
7 prospective appointee."

8 SECTION 18. Section 62-19-12 NMSA 1978 (being Laws
9 1998, Chapter 108, Section 6, as amended) is amended to read:

10 "62-19-12. COMMISSION--ORGANIZATIONAL UNITS.--The
11 commission includes the following organizational units:

- 12 A. the administrative services division;
- 13 B. the consumer relations division;
- 14 C. the legal division;
- 15 D. the utility division; and
- 16 E. the pipeline safety bureau."

17 SECTION 19. Section 62-19-16 NMSA 1978 (being Laws
18 1998, Chapter 108, Section 11) is repealed and a new Section
19 62-19-16 NMSA 1978 is enacted to read:

20 "62-19-16. PIPELINE SAFETY BUREAU.--The pipeline safety
21 bureau shall serve as staff to the commission for the
22 regulation of pipelines and pipeline safety, as provided by
23 law."

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

1 "63-1-41. ANNUAL REPORT.--Every railroad corporation
2 shall make an annual report to the department of
3 transportation of the operations of the year ending on
4 December 31. The president or general superintendent and the
5 secretary and treasurer of the corporation shall verify the
6 report. A railroad corporation shall file the report with the
7 department of transportation on or before March 1 next ensuing
8 and shall state:

9 A. the capital stock and the amount thereof
10 actually paid in;

11 B. the amount paid for the purchase of lands for
12 the construction of the road, for buildings, engines and cars,
13 respectively;

14 C. the amount and nature of the indebtedness of
15 the corporation and the amount due to it;

16 D. the amount received for the transportation of
17 passengers, property, mails, express matter, respectively, and
18 the amount received from any other sources;

19 E. the amount of freight transported, specifying
20 the quantity in tons;

21 F. the amount paid for the repair of engines,
22 cars, buildings and other expenses, in gross, showing the
23 current expense of running its road;

24 G. the number and amount of dividends and when
25 paid; and

1 H. the number of engine houses and shops, of
2 engines and cars and their character."

3 SECTION 21. Section 63-7-1.1 NMSA 1978 (being Laws
4 1998, Chapter 108, Section 52) is amended to read:

5 "63-7-1.1. COMMISSION POWERS AND DUTIES--TRANSMISSION
6 COMPANIES--TELEPHONE AND TELEGRAPH COMPANIES.--

7 A. With respect to transmission companies, the
8 commission shall:

9 (1) fix, determine, supervise, regulate and
10 control all charges and rates of telegraph, telephone and
11 other transmission companies within the state;

12 (2) determine any matters of public
13 convenience and necessity with respect to matters subject to
14 its regulatory authority as provided by law;

15 (3) change, amend and rescind rates;

16 (4) enforce its rules through administrative
17 sanctions and in the courts; and

18 (5) carry out all other duties and have all
19 other powers provided by law.

20 B. In fixing rates of telephone and telegraph
21 companies, due consideration shall be given to the earnings,
22 investments and expenditures as a whole within the state. The
23 commission shall include in that consideration the earnings,
24 investments and expenditures derived from or related to the
25 sale of directory advertising and other directory listing

1 services.

2 C. The commission may subpoena witnesses and
3 documents, enforce its subpoenas through any court and,
4 through the court, punish for contempt.

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

8 E. An interested party may appeal from a final
9 order of the commission by filing a notice of appeal with the
10 supreme court asking for review of the order within thirty
11 days of the final order. The appellant shall pay to the
12 commission any costs of preparing and transmitting the record
13 to the court.

14 F. The pendency of an appeal shall not
15 automatically stay the order appealed from. The appellant may
16 seek to obtain a stay from the commission or the supreme
17 court.

18 G. The appeal shall be on the record of the
19 hearing before the commission and shall be governed by the
20 appellate rules applicable to administrative appeals. The
21 supreme court shall affirm the commission's order unless it
22 is:

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

25 (2) not supported by substantial evidence in

1 the record; or

2 (3) otherwise not in accordance with law.

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

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

14 "63-7-20. UTILITY INSPECTION--FEE.--

15 A. Each utility doing business in this state that
16 is subject to the control and jurisdiction of the commission
17 by virtue of the provisions of Article 11 of the constitution
18 of New Mexico with respect to its rates and service shall pay
19 annually to the commission a fee in performance of its duties
20 as now provided by law. The fee for utilities shall not
21 exceed five hundred eleven thousandths percent of its gross
22 receipts from business transacted in New Mexico for the
23 preceding calendar year. This sum shall be payable annually
24 on or before April 1 in each year. No similar fee shall be
25 imposed upon the utility. In the case of utilities engaged in

1 interstate business, the fees shall be measured by the gross
2 receipts of the utilities from intrastate business only for
3 the preceding calendar year and not in any respect upon
4 receipts derived wholly or in part from interstate business.
5 As used in this section, "utility" includes telephone
6 companies and transmission companies but does not include
7 public utilities subject to the Public Utility Act.

8 B. When a fee is not paid on the date it is due,
9 interest shall be paid to the state on the amount due. The
10 interest on the amount due shall start to accrue on the day
11 following the due date and shall continue to accrue until the
12 total amount due is paid. The rate of interest on a late fee
13 payment shall be fifteen percent per year, computed at the
14 rate of one and one-fourth percent per month.

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

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

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

24 "63-7-22. EXEMPTIONS.--The provisions of Sections
25 63-7-20 through 63-7-22 NMSA 1978 shall not apply to pipelines

1 that are used for the transportation of oil, natural gas or
2 the products thereof."

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

5 "64-1-12. DEFINITIONS.--As used in the Aviation Act:

6 A. "aircraft" means airplane and helicopter;

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

9 C. "passenger" means any person riding in an
10 aircraft except a pilot;

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

13 E. "division" means the aviation division of the
14 department;

15 F. "director" means the director of the division;
16 and

17 G. "secretary" means the secretary of
18 transportation."

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

21 "64-1-13. AVIATION DIVISION--POWERS AND DUTIES.--The
22 division shall:

23 A. cooperate with all public and private agencies
24 and organizations, state, local and federal, to encourage and
25 advance aviation in this state;

1 B. assemble and distribute to the public
2 information relating to aviation, landing fields, beacons and
3 other matters pertaining to aviation and may accept federal
4 money made available for the advancement of aviation;

5 C. authorize expenditures of money from the state
6 aviation fund for construction, development and maintenance of
7 public-use airport facilities, except airports serving
8 regularly scheduled interstate airlines using aircraft with a
9 maximum passenger capacity of more than one hundred seats or a
10 maximum payload capacity of more than twenty-five thousand
11 pounds, including rural landing fields and airstrips.

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

14 D. operate under a director, appointed by the
15 secretary, with the approval of the governor, who shall have
16 an aviation background and meet other qualifications
17 prescribed by the secretary;

18 E. establish policies for operation of the
19 division;

20 F. promulgate rules for proper enforcement of
21 aviation laws;

22 G. provide for a surety bond, paid from the state
23 aviation fund, issued by a corporate surety company licensed
24 to do business in New Mexico, in an amount set by the state
25 board of finance, on a form approved by the attorney general,

1 conditioned upon the faithful performance of the duties of the
2 personnel of the division who expend or authorize the
3 expenditure of state funds;

4 H. have the following powers with respect to state
5 airports:

6 (1) the division may, on behalf of and in
7 the name of the state, out of appropriations and other money
8 made available for such purposes, plan, construct, enlarge,
9 improve, maintain, equip and operate airports and air
10 navigation facilities, including the construction, equipment,
11 maintenance and operation at such airports of buildings and
12 other facilities for the servicing of aircraft or for the
13 comfort and accommodation of air travelers. For such
14 purposes, the division may, in the name of the state, by
15 purchase, gift, devise, lease or otherwise, acquire property,
16 real or personal, or any interest in property, including
17 easements in airport hazards or land outside the boundaries of
18 an airport or airport site, as are necessary to permit safe
19 and efficient operation of the airports or air navigation
20 facilities. The division may enter into any contracts
21 necessary to the execution of the powers granted it by this
22 paragraph; and

23 (2) the division may accept, receive,
24 receipt for, disburse and expend federal money and other
25 money, public or private, made available to accomplish, in

1 whole or in part, any of the purposes of this subsection. All
2 federal money accepted under this subsection shall be accepted
3 and expended by the division upon such terms and conditions as
4 are prescribed by the United States. The division, on behalf
5 of the state, may enter into contracts with the United States
6 or with any person that may be required in connection with a
7 grant or loan of federal money for airport or air navigation
8 facility purposes. All money received by the division
9 pursuant to this subsection is appropriated for the purpose
10 for which the money was made available, to be disbursed or
11 expended in accordance with the terms and conditions upon
12 which the money was made available; provided that nothing
13 contained in this section shall affect the power of a local
14 government to contract with the United States or any person in
15 connection with a grant or loan of money for airports or air
16 navigation facilities in accordance with the terms and
17 conditions upon which the funds were made available; and

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

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

22 "64-1-14. DIRECTOR--POWERS AND DUTIES.--The director
23 shall:

- 24 A. be the executive officer of the division;
- 25 B. with the consent of the secretary, employ

1 necessary personnel; and

2 C. administer the aviation laws of this state and
3 enforce the policies, rules and regulations of the division."

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

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

7 A. The "rural air service enhancement grant
8 program" is created in the division to be administered by the
9 director.

10 B. The director shall:

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

13 (2) develop procedures for receipt, review
14 and approval of grant applications;

15 (3) receive, review and approve grant
16 applications;

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

21 (5) establish grant reporting requirements
22 that meet the general purpose of the Rural Air Service
23 Enhancement Act; and

24 (6) perform other duties as necessary to
25 carry out the provisions of the Rural Air Service Enhancement

1 Act.

2 C. Each fiscal year, competitive grants for
3 minimum revenue guarantees shall be awarded to applicants for
4 the sole purpose of funding rural air service enhancement
5 grants.

6 D. The director shall award grants to applicants
7 through a competitive process and based upon the following
8 criteria:

9 (1) the demand for service on the proposed
10 new air routes or expanded air routes;

11 (2) the economic impact on the municipality
12 or county of the proposed new air routes or expanded air
13 routes; and

14 (3) the feasibility of a common carrier
15 servicing proposed new air routes or expanded air routes.

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

18 (1) municipalities or counties shall have a
19 minimum population of twenty thousand persons residing within
20 a fifty-mile radius of the airport unless the municipality or
21 county has existing air routes;

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

1 (3) minimum matching funds from a
2 municipality or county shall be:

3 (a) ten percent if the municipality or
4 county has no existing scheduled air routes at the time of
5 application; and

6 (b) twenty percent if the municipality
7 or county has existing scheduled air routes at the time of
8 application.

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

11 (1) exceed two million two hundred fifty
12 thousand dollars (\$2,250,000) per year for municipalities or
13 counties with existing scheduled air routes;

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

17 (3) be used for infrastructure improvement.

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

23 H. No more than ten percent of the balance of the
24 rural air service enhancement fund on July 1 of any year may
25 be used by the division for infrastructure improvements

1 associated with individual grants awarded through the rural
2 air service enhancement grant program.

3 I. Funds received through individual grants
4 awarded through the rural air service enhancement grant
5 program shall be expended by the grantee municipality or
6 county only to airlines that have been selected through a
7 competitive process pursuant to the Procurement Code."

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

10 "65-1-6. FIELD ENFORCEMENT OF MOTOR TRANSPORTATION ACT
11 AND MOTOR CARRIER ACT AND RULES.--The department shall:

12 A. enforce in the field the provisions of the
13 Motor Transportation Act and the Motor Carrier Act and the
14 rules promulgated by the department of transportation pursuant
15 to the Motor Carrier Act; and

16 B. maintain sufficient personnel in the field to
17 enforce the provisions of the Motor Transportation Act and the
18 Motor Carrier Act and the rules promulgated by the department
19 of transportation pursuant to the Motor Carrier Act."

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

22 "65-1-27. HEARINGS--ATTENDANCE.--The secretary or the
23 secretary's representative may attend all hearings held by the
24 department of transportation concerning motor transportation.

25 The department of transportation shall notify the secretary of

1 all such hearings, and the department is declared to be an
2 interested party and as such may present evidence pertaining
3 to matters under consideration by the department of
4 transportation. The department of transportation shall send
5 copies of all orders entered by the department of
6 transportation in motor transportation matters to the
7 department."

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

10 "65-2A-1. SHORT TITLE.--Chapter 65, Article 2A NMSA 1978
11 may be cited as the "Motor Carrier Act"."

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

14 "65-2A-3. DEFINITIONS.--As used in the Motor Carrier
15 Act:

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

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

25 C. "amendment of a certificate" means a permanent

1 change in the type or nature of service, territory or terms of
2 service authorized by an existing certificate;

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

5 E. "base state" means the registration state for
6 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 unified carrier registration system;

10 F. "cancellation of an operating authority" means
11 the voluntary, permanent termination of all or part of an
12 operating authority;

13 G. "certificate" means the authority issued by the
14 department to a person that authorizes the person to offer and
15 provide a certificated service as a motor carrier;

16 H. "certificated service" means one of the
17 following transportation services:

18 (1) an ambulance service;

19 (2) a household goods service;

20 (3) a shuttle service;

21 (4) a specialized passenger service; or

22 (5) a taxicab service;

23 I. "change in a certificate" means the voluntary
24 amendment, cancellation, change in form of legal entity of the
25 holder, lease, reinstatement, transfer or voluntary suspension

1 of a certificate;

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

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

18 L. "continuous and adequate service" means:

19 (1) for full-service carriers, reasonably
20 continuous availability, offering and provision of
21 transportation services through motor vehicles, equipment and
22 resources satisfying safety and financial responsibility
23 requirements under the Motor Carrier Act and department rule,
24 that are reasonably adequate to serve the entire full-service
25 territory authorized in the certificate, with reasonable

1 response to all requests for service for the nature of
2 passenger service authorized, based on the nature of public
3 need, expense and volume of demand for the type of service
4 authorized during seasonal periods; and

5 (2) for general-service carriers, reasonably
6 continuous availability and offering of transportation
7 services through motor vehicles, equipment and resources
8 satisfying safety and financial responsibility requirements
9 under the Motor Carrier Act and department rule for the nature
10 of the transportation service authorized in the certificate;

11 M. "contract driver" means a person who contracts
12 with a motor carrier as an independent contractor to drive a
13 vehicle pursuant to an operating authority issued to the motor
14 carrier;

15 N. "department" means the department of
16 transportation;

17 O. "endorsement" means the specification in a
18 certificate of the territory in which the carrier is
19 authorized to operate, the nature of service to be provided by
20 a certificated passenger service and any additional terms of
21 service that may be reasonably granted or required by the
22 department for the particular authority granted;

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

25 Q. "financial responsibility" means the ability to SB 160
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1 respond in damages for liability arising out of the ownership,
2 maintenance or use of a motor vehicle in the provision of
3 transportation services;

4 R. "fitness to provide a transportation service"
5 means that an applicant or carrier complies with state law as
6 provided in the Motor Carrier Act or by rule of the
7 department;

8 S. "for hire" means that transportation is offered
9 or provided to the public for remuneration, compensation or
10 reward of any kind, paid or promised, either directly or
11 indirectly;

12 T. "full service" means one of the following
13 certificated passenger services that are endorsed and required
14 to meet specific standards for the provision of service to or
15 throughout a community:

16 (1) an ambulance service;

17 (2) a scheduled shuttle service; or

18 (3) a municipal taxicab service;

19 U. "general service" means one of the following
20 certificated services that provides transportation services of
21 the type authorized, but is not required to provide
22 unprofitable or marginally profitable carriage:

23 (1) a general shuttle service;

24 (2) a general taxicab service;

25 (3) a specialized passenger service; or

1 (4) a household goods service;

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

7 W. "holder of an operating authority" means the
8 grantee of the operating authority or a person that currently
9 holds all or part of the right to exercise the authority
10 through a transfer by operation of law;

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

20 Y. "household goods service" means the intrastate
21 transportation, packing and storage of household goods for
22 hire;

23 Z. "interested person" means a motor carrier
24 operating in the territory involved in an application or grant
25 of temporary authority, a person affected by an order of the

1 department or a rule proposed for adoption by the department
2 or a person the department may deem interested in a particular
3 matter;

4 AA. "interstate motor carrier" means a person
5 providing compensated transportation in interstate commerce,
6 whether or not the person is subject to regulation by the
7 federal motor carrier safety administration;

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

11 CC. "involuntary suspension" means the temporary
12 cessation of use of all or part of an operating authority
13 ordered by the department for cause for a stated period of
14 time or pending compliance with certain conditions;

15 DD. "lease of a certificate" means an agreement by
16 which the holder of a certificate grants to another person the
17 exclusive right to use all or part of the certificate for a
18 specified period of time in exchange for consideration, but
19 does not include an agreement between a motor carrier and its
20 contract driver;

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

1 FF. "motor carrier" or "carrier" means a person
2 offering or providing transportation of persons, property or
3 household goods for hire by motor vehicle, whether in
4 intrastate or interstate commerce;

5 GG. "motor carrier organization" means an
6 organization approved by the department to represent motor
7 carriers and to discuss and propose industry interests and
8 matters other than rates, as well as discussing and proposing
9 rates and other matters pertaining to statewide tariffs;

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

15 II. "nature of service" means the type of
16 transportation service to be provided by a certificated
17 passenger service as set forth in Subsection A of Section
18 65-2A-8 NMSA 1978;

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

24 KK. "notice period" means the period of time
25 specified in Section 65-2A-6 NMSA 1978 following publication

1 of notice during which the department may not act;

2 LL. "objection" means a document filed with the
3 department by an interested person or a member of the public
4 during the notice period for an application for a certificate,
5 or for amendment, lease or transfer of a certificate, that
6 expresses an objection to, or provides information concerning,
7 the matter before the department;

8 MM. "operating authority" means a certificate,
9 warrant, unified carrier registration or temporary authority
10 issued by the department to a motor carrier;

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

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

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

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

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

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

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

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

25 (1) when the territory involved in the

1 application includes all or a portion of the full-service
2 territory of the protesting carrier; and

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

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

14 UU. "rate" means a form of compensation charged,
15 whether directly or indirectly, by a person for a
16 transportation service subject to the jurisdiction of the
17 department;

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

24 WW. "registration year" means a calendar year;

25 XX. "revocation" means the involuntary, permanent

1 termination of all or part of an operating authority ordered
2 by the department for cause;

3 YY. "shipper" means a person who consigns or
4 receives property or household goods for transportation;

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

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

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

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

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

3 BBB. "tariff" means a document filed by a tariffed
4 service carrier that has been approved by the department and
5 sets forth the transportation services offered by the motor
6 carrier to the general public, including the rates, terms of
7 service and applicable time schedules relating to those
8 services;

9 CCC. "tariffed service" means one of the following
10 transportation services authorized by the department for the
11 provision of service on the basis of rates and terms of
12 service contained in a tariff approved by the department:

- 13 (1) an ambulance service;
- 14 (2) a household goods service;
- 15 (3) a shuttle service;
- 16 (4) a specialized passenger service;
- 17 (5) a taxicab service; or
- 18 (6) a towing service performing
19 nonconsensual tows;

20 DDD. "taxicab association" means an association,
21 cooperative or other legal entity whose members are taxicab
22 drivers, which shall be treated in the same manner as any
23 other applicant with regard to applications for a certificate
24 for general taxicab service or for full-service municipal
25 taxicab service and which shall be subject in the same manner

1 to all other provisions, requirements and limitations of the
2 Motor Carrier Act;

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

17 (1) "municipal taxicab service" means a
18 taxicab service that deploys vehicles at all times of the day
19 and year, is centrally dispatched and reasonably responds to
20 all calls for service within its endorsed full-service
21 territory regardless of profitability of the individual trip,
22 in addition to the transportation service provided by a
23 general taxicab service; and

24 (2) "general taxicab service" means a
25 taxicab service that need not be dispatched, that may pick up

1 on-demand passengers through flagging or at a taxicab stand or
2 queue, that need not deploy vehicles in any particular manner
3 and that may charge for trips to destination points or places
4 outside of the taxicab service's certificated territories on
5 the basis of a set fare;

6 FFF. "terms of service" means all terms, aspects,
7 practices, limitations, conditions and schedules of service
8 other than specific rate amounts pertaining to a tariffed
9 service;

10 GGG. "towing service" means the use of specialized
11 equipment, including repossession services using towing
12 equipment, to transport or store:

13 (1) a damaged, disabled or abandoned motor
14 vehicle and its cargo;

15 (2) a motor vehicle to replace a damaged,
16 disabled or abandoned motor vehicle;

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

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

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

23 (6) a motor vehicle repossessed or seized
24 pursuant to lawful authority;

25 HHH. "transfer of a certificate" means a permanent SB 160
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1 conveyance of all or part of a certificate;

2 III. "transfer by operation of law" means that all
3 or a part of a grantee's interest in an operating authority
4 passes to a fiduciary or other person by application of
5 established rules of law;

6 JJJ. "transportation service" means transportation
7 subject to the jurisdiction of the department, offered or
8 provided by a motor carrier, that requires the carrier to
9 obtain an operating authority from the department under the
10 Motor Carrier Act, regardless of whether the motor carrier has
11 obtained appropriate operating authority from the department;

12 KKK. "verification" means a notarized signature
13 verifying the contents of the document or other filing or a
14 signature verifying the contents of the document or other
15 filing under penalty of perjury, expressly providing that the
16 signatory swears or affirms the contents under penalty of
17 perjury as provided in Subsection A of Section 65-2A-33 NMSA
18 1978;

19 LLL. "voluntary suspension" means the
20 department-authorized cessation of use of all or part of a
21 certificate at the request of the holder for a specified
22 period of time, not to exceed twelve consecutive months;

23 MMM. "warrant" means the authority issued by the
24 department to a person that authorizes the person to offer and
25 provide a warranted service as a motor carrier;

1 NNN. "warranted service" means one of the
2 following intrastate transportation services offered or
3 provided for hire:

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

7 OOO. "weight-bumping" means the knowing and
8 willful statement of a fraudulent weight on a shipment of
9 household goods."

10 SECTION 32. Section 65-2A-4 NMSA 1978 (being Laws 2003,
11 Chapter 359, Section 4, as amended by Laws 2013, Chapter 73,
12 Section 3 and by Laws 2013, Chapter 77, Section 3) is amended
13 to read:

14 "65-2A-4. POWERS AND DUTIES OF THE DEPARTMENT.--

15 A. In accordance with the Motor Carrier Act, the
16 department shall:

- 17 (1) issue operating authorities for a motor
18 carrier operating in New Mexico;
19 (2) establish minimum requirements for
20 financial responsibility for motor carriers; provided that the
21 financial responsibility standards required shall not be
22 inconsistent with applicable federal standards;
23 (3) establish safety requirements for
24 intrastate motor carrier motor vehicles and drivers subject to
25 the jurisdiction of the department; provided that the safety

1 requirements shall not be inconsistent with or more stringent
2 than applicable federal safety standards;

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

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

10 (6) determine matters of public interest and
11 other matters relating to authorities, rates, territories,
12 nature of service and other terms of service of motor
13 carriers;

14 (7) have jurisdiction to determine any
15 matter under the Motor Carrier Act relating to any
16 transportation service carrier that has not obtained an
17 appropriate operating authority from the department;

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

21 (9) hold a public hearing specific to a
22 protest or a request by the traffic safety bureau of the
23 department that has been filed within the notice period in
24 opposition to or in consideration of an application;

25 (10) create a statewide tariff for household

1 goods service carriers establishing maximum rates that may be
2 charged by carriers; and

3 (11) adopt rules, issue orders and conduct
4 activities necessary to implement and enforce the Motor
5 Carrier Act.

6 B. The department may:

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

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

19 (3) from time to time, modify the type and
20 nature of service, territory and terms of service of operating
21 authorities previously issued, and change or rescind rates
22 previously approved;

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

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

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

6 "65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS
7 OF AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

8 A. A person shall file an application for any
9 matter for which department approval is required. An
10 application shall be made in writing, verified and in a form
11 that contains information and is accompanied by proof of
12 service upon interested persons as required by the department.

13 B. The department shall simplify to the extent
14 possible the process for approving applications. The
15 department may hold a public hearing on its own initiative or
16 specific to an objection that has been filed within the notice
17 period in opposition to or in consideration of an application.

18 C. The department shall hold a public hearing on
19 an application whenever a protest is filed concerning the
20 application during the notice period or the traffic safety
21 bureau of the department requests a hearing during the notice
22 period.

23 D. The department may approve or deny an
24 application in whole or in part, or allow or require
25 particular terms of service as it may find reasonable and

1 appropriate. If no objection, protest or request for hearing
2 by the traffic safety bureau of the department is filed during
3 the notice period, the department may grant the application by
4 ministerial action, if the application complies with the
5 provisions of the Motor Carrier Act and the rules of the
6 department regarding fitness, ability, financial
7 responsibility and safety."

8 SECTION 34. Section 65-2A-6 NMSA 1978 (being Laws 2003,
9 Chapter 359, Section 6, as amended by Laws 2013, Chapter 73,
10 Section 5 and by Laws 2013, Chapter 77, Section 5) is amended
11 to read:

12 "65-2A-6. NOTICE.--

13 A. The department shall electronically publish
14 notice regarding an application before the department for a
15 certificate or for a change in a certificate, regarding
16 proposed rulemaking, or regarding other orders of the
17 department of general application, by posting a copy of the
18 notice or document on the department's internet website and
19 sending electronic mail to all motor carriers, public
20 officials or agencies, or other persons or entities who have
21 previously supplied electronic mail addresses to the
22 department for the purpose of publication, advising such
23 persons of the filing and posting. If the department in its
24 discretion should also require publication by newspaper, the
25 requirement is met if notice is published once in a newspaper

1 of general circulation in the state. The department shall not
2 act on an application for a certificate or for an amendment,
3 lease or transfer of a certificate less than twenty days after
4 the date notice was published.

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

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

13 "65-2A-7. OPERATING AUTHORITIES IN GENERAL.--

14 A. Other than an entity receiving funding to
15 supplement transportation services through Title III B of the
16 federal Older Americans Act of 1965, no person shall offer or
17 provide a transportation service for hire within the state
18 without first obtaining an appropriate operating authority
19 from the department. Every motor carrier providing a
20 transportation service shall meet and comply with the
21 requirements of the Motor Carrier Act and the lawfully adopted
22 rules and orders of the department.

23 B. A certificate or warrant, or a change in a
24 certificate, shall be effective from the date issued by the
25 department and shall remain in effect until canceled, revoked,

1 suspended or amended.

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

5 D. A certificated service carrier shall render
6 reasonably continuous and adequate service as the department
7 may by rule prescribe."

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

12 "65-2A-8. CERTIFICATES FOR PASSENGER SERVICE.--

13 A. The department may issue a certificate for a
14 passenger service as follows:

15 (1) a certificate for an ambulance service;

16 (2) a certificate for a shuttle service

17 shall be endorsed for nature of service as a scheduled shuttle
18 service or as a general shuttle service;

19 (3) a certificate for a specialized
20 passenger service shall be endorsed for nature of service as
21 provided by department rule; and

22 (4) a certificate for a taxicab service
23 shall be endorsed for nature of service as a municipal taxicab
24 service or as a general taxicab service.

25 B. Except as provided in this section and in

1 Section 65-2A-13 NMSA 1978, the department shall issue a
2 certificate allowing a person to provide passenger service
3 after notice and public hearing requirements are met, if:

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

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

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

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

17 C. Before granting a certificate for passenger
18 service, the department shall consider any objections or
19 protests that were filed within the notice period.

20 D. Before granting a certificate for ambulance
21 service, the department shall also consider the effect that
22 issuance of the certificate would have on existing ambulance
23 service in the territory.

24 E. A certificate issued by the department for
25 provision of passenger service shall contain one or more

1 endorsements, each of which shall specify the:

2 (1) nature of service to be rendered;

3 (2) territory authorized to be served; and

4 (3) reasonable terms of service as the
5 department may allow or require for the particular
6 certificate.

7 F. Territorial endorsements to a certificate for
8 passenger service shall:

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

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

24 (3) for shuttle services, provide for
25 transportation between two or more specified end or

1 intermediate terminal points or areas, and authorize pick-up
2 or drop-off of passengers throughout a terminal area, but
3 shall not authorize transportation between points and places
4 within a single terminal area or the provision of
5 transportation services in any other areas of the state."

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

10 "65-2A-9. CERTIFICATES FOR HOUSEHOLD GOODS SERVICE.--

11 A. Except as provided in this section and in
12 Section 65-2A-13 NMSA 1978, the department shall issue a
13 certificate allowing a person to provide household goods
14 service after notice and public hearing requirements are met,
15 if the applicant:

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

18 (2) has a place of business and stations
19 equipment within the state and is in compliance with the
20 safety and financial responsibility requirements of the Motor
21 Carrier Act, the rules of the department and other applicable
22 federal and state laws and rules; and

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

25 B. Before granting a certificate for household

1 goods service to an applicant, the department shall consider
2 any objections that were filed within the notice period.

3 C. A certificate issued by the department for
4 provision of household goods service shall contain one or more
5 endorsements, each of which shall specify:

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

15 (2) any reasonable terms of service that the
16 department may allow or require for the particular
17 certificate."

18 SECTION 38. Section 65-2A-11 NMSA 1978 (being Laws
19 2003, Chapter 359, Section 11, as amended by Laws 2013,
20 Chapter 73, Section 10 and by Laws 2013, Chapter 77, Section
21 10) is amended to read:

22 "65-2A-11. TEMPORARY AUTHORITY.--

23 A. The department may without notice grant
24 temporary authority to an applicant for a certificate or for
25 amendment, lease or transfer of all or part of a certificate

1 for a period not to exceed the duration of the application
2 process, if it finds that:

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

9 (2) the applicant for temporary authority
10 has a complete application for a certificate or for amendment,
11 lease or transfer of all or part of a certificate pending
12 before the department;

13 (3) the applicant is fit to provide the
14 transportation service requested, is able to provide any
15 certificated service requested and is in compliance with the
16 safety and financial responsibility requirements of the Motor
17 Carrier Act and the rules of the department; and

18 (4) satisfactory proof of urgent and
19 immediate need has been made by verified proof as the
20 department shall by rule prescribe.

21 B. An applicant for temporary authority as a
22 tariffed service carrier shall file tariffs covering the
23 transportation services for which temporary authority is being
24 sought.

25 C. If a hearing is held before a hearing examiner

1 for any reason on an application for a certificate or for
2 amendment, lease or transfer of all or part of a certificate
3 or for a tariff rate increase, the applicant may move in such
4 proceeding for a grant of temporary authority or rate approval
5 for a period not to exceed the duration of the application
6 process, and any protesting carrier or the traffic safety
7 bureau of the department may move in such proceeding for
8 reconsideration or modification of any grant of temporary
9 authority previously granted by the department or the hearing
10 examiner. The hearing examiner in the proceeding shall hold
11 an expedited preliminary public hearing on the grant of
12 temporary authority on the issues in the proceeding and the
13 testimony evidence presented in the hearing on such procedural
14 basis as the department shall by rule prescribe.

15 D. Motor carriers operating under temporary
16 authority shall comply with the requirements of the Motor
17 Carrier Act and the rules of the department.

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

20 SECTION 39. Section 65-2A-12 NMSA 1978 (being Laws
21 2003, Chapter 359, Section 12, as amended) is amended to read:

22 "65-2A-12. WARRANTS.--

23 A. The department shall issue a warrant that
24 allows a person to provide warranted service as a charter
25 service, towing service or motor carrier of property if the

1 department finds that the applicant is in compliance with the
2 financial responsibility and safety requirements of the Motor
3 Carrier Act and the rules of the department.

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

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

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

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

21 "65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

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

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

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

16 C. In any hearing held on an application:

17 (1) the applicant has the burden of proving
18 that the applicant meets the requirements of the Motor Carrier
19 Act and the rules of the department for the application at
20 issue, the burden of demonstrating with reasonable specificity
21 the nature and scope of its proposed transportation service,
22 the burden of proving any particular factual matters that the
23 department or the traffic safety bureau of the department may
24 identify and require, the burden of proving any additional
25 allegations and matters of public interest that it may raise

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

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

23 (3) the department may allow other
24 interested persons to intervene, either generally or on the
25 basis of specific facts or issues. A permissive intervenor

1 has the burden of proof for its position on all factual
2 matters and legal issues that it alleges and on which it is
3 permitted to intervene; and

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

9 D. The department shall not grant an application:

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

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

23 (3) for a certificate for any passenger
24 service other than those identified in Paragraphs (1) and

25 (2) of this subsection, or for amendment, lease or transfer of

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

19 SECTION 41. Section 65-2A-14 NMSA 1978 (being Laws
20 2003, Chapter 359, Section 14, as amended by Laws 2013,
21 Chapter 73, Section 13 and by Laws 2013, Chapter 77, Section
22 13) is amended to read:

23 "65-2A-14. CHANGES IN CERTIFICATES.--

24 A. A change in a certificate shall not be valid or
25 effective without the approval of the department.

1 B. The department may, for good cause and after
2 notice and public hearing requirements are met, authorize the
3 following changes in all or part of a certificate at the
4 request of the holder if the department finds:

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

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

13 (3) in addition, that:

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

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

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

1 certificate at the request of the holder:

2 (1) voluntary cancellation of the
3 certificate;

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

6 (3) change in the form of legal entity or
7 name of the holder of the certificate;

8 (4) reinstatement of the certificate
9 following voluntary suspension of a period not exceeding
10 twelve consecutive months;

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

15 (6) matters pertaining to transfers by
16 operation of law."

17 SECTION 42. Section 65-2A-15 NMSA 1978 (being Laws
18 2003, Chapter 359, Section 15, as amended by Laws 2013,
19 Chapter 73, Section 14 and by Laws 2013, Chapter 77, Section
20 14) is amended to read:

21 "65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS
22 TRADE NAMES ALLOWED.--

23 A. A person may simultaneously hold certificates
24 for different kinds of certificated services and warrants for
25 different kinds of warranted service within the same

1 territory.

2 B. Any motor carrier that holds more than one
3 certificate for the same kind and nature of certificated
4 service in the same territory shall file an application with
5 the department to consolidate the operating authorities.

6 C. The department shall not grant any new
7 operating authority to a motor carrier that duplicates the
8 operating authority of the same kind and for the same
9 territory already held by that motor carrier.

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

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

1 of New Mexico."

2 SECTION 43. Section 65-2A-16 NMSA 1978 (being Laws
3 2003, Chapter 359, Section 16, as amended) is amended to read:

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

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

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

1 2005 in the last year that such collections were not
2 prohibited by federal law.

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

11 D. Revenue remitted to the state from fees imposed
12 by the federal Unified Carrier Registration Act of 2005 shall
13 be remitted to the state treasurer, who shall deposit the
14 revenue in the motor transportation fee fund.

15 E. Compliance by an interstate motor carrier with
16 the provisions of the federal Unified Carrier Registration Act
17 of 2005 shall not authorize a carrier to provide intrastate
18 transportation services in New Mexico. An interstate motor
19 carrier wishing to provide compensated transportation in
20 intrastate commerce shall apply for the appropriate intrastate
21 operating authority from the department. A taxicab service or
22 shuttle service traveling to or from a federally licensed
23 airport terminal facility located in the state of New Mexico
24 is engaged in nonexempt intrastate business within the state
25 regardless of a prior exemption if its service provides, with

1 regard to any service run, for both:

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

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

7 SECTION 44. Section 65-2A-18 NMSA 1978 (being Laws
8 2003, Chapter 359, Section 18, as amended by Laws 2013,
9 Chapter 73, Section 16 and by Laws 2013, Chapter 77, Section
10 16) is amended to read:

11 "65-2A-18. FINANCIAL RESPONSIBILITY.--

12 A. The department shall prescribe minimum
13 requirements for financial responsibility for all motor
14 carriers.

15 B. A motor carrier shall not operate on the
16 highways of this state without having filed with the
17 department proof of financial responsibility in the form and
18 amount as the department shall by rule prescribe.

19 C. In prescribing minimum requirements for
20 financial responsibility for motor carriers, the department
21 shall adopt the same minimum liability insurance requirements
22 as those required by the federal motor carrier safety
23 administration for interstate motor carriers for all motor
24 vehicles for carriage of property or household goods and for
25 all passenger motor vehicles with such capacities. The

1 department shall adopt reasonable minimum liability insurance
2 requirements for the use of passenger motor vehicles with
3 capacities less than those regulated by the federal motor
4 carrier safety administration and in doing so shall consider
5 the number of passengers being transported and the nature of
6 the transportation services provided by the motor carriers
7 using vehicles of those capacities.

8 D. The department may authorize a motor carrier to
9 carry its own insurance in lieu of filing a policy of
10 insurance, certificate showing the issuance of a policy of
11 insurance or a surety bond. In approving an application to be
12 self-insured, the department 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
19 protection of passengers, shippers and the public.

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

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

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

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

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

9 SECTION 45. Section 65-2A-19 NMSA 1978 (being Laws
10 2003, Chapter 359, Section 19, as amended) is amended to read:

11 "65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
12 DRIVERS.--

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

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

1 the transportation services to be provided by the motor
2 carrier.

3 C. The New Mexico state police division of the
4 department of public safety may immediately order, without
5 notice or a public hearing, a motor vehicle to be taken out of
6 service for violation of a federal or state law or rule
7 relating to safety if the violation would endanger the public
8 health or safety.

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

15 SECTION 46. Section 65-2A-20 NMSA 1978 (being Laws
16 2003, Chapter 359, Section 20, as amended by Laws 2013,
17 Chapter 73, Section 18 and by Laws 2013, Chapter 77, Section
18 18) is amended to read:

19 "65-2A-20. TARIFFS.--

20 A. A tariffed service carrier shall not commence
21 operations or perform a new service under its operating
22 authority without having an approved tariff on file with the
23 department.

24 B. A tariffed service carrier shall file with the
25 department proposed tariffs showing the rates for

1 transportation and all related activities and containing a
2 description of the type and nature of the service, territory
3 and all terms of service for transportation and related
4 services. The rates shall be stated in terms of United States
5 currency. Tariffs for individual carriers shall also include
6 the carrier's legal name, all business trade names used by the
7 carrier, contact information, information for service of
8 process, the territory authorized for each transportation
9 service listed in the tariff and any terms of service
10 contained in the operating authorities for that particular
11 carrier. Each tariffed service carrier operating pursuant to
12 a statewide tariff shall file with the department a tariff
13 statement referencing the statewide tariff being used and
14 include the carrier's legal name, all business trade names
15 used by the carrier, contact information, information for
16 service of process, the territory authorized for that carrier
17 and any terms of service contained in the operating authority
18 for that particular carrier.

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

1 (1) for ambulance and household goods
2 service carriers, in accordance with rates and terms of
3 service established by federal or state law for federal or
4 state governmental programs or operations; and

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

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

14 (1) in accordance with tariffs approved by
15 the department;

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

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

25 (4) in settling or resolving a claim by a

1 customer.

2 E. The department shall post on its internet
3 website electronic copies of all currently approved individual
4 and statewide tariffs, and all tariff statements filed by
5 carriers using statewide tariffs, in a manner to facilitate
6 public access, review and comparison of rates and terms of
7 service. A certificated passenger service carrier other than
8 an ambulance service carrier shall post its tariff rates in
9 each vehicle used in the provision of its transportation
10 service.

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

21 G. No changes in terms of service disapproved by
22 the traffic safety bureau of the department as inconsistent
23 with the Motor Carrier Act, rule of the department, the
24 individual operating authority of the carrier or otherwise in
25 violation of law shall become effective or be part of the

1 approved tariff. The following terms of service contained in
2 a tariff shall not be considered inconsistent with, or
3 predatory or discriminatory in nature under the Motor Carrier
4 Act or department rule:

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

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

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

21 (4) a passenger service carrier other than
22 an ambulance service carrier may decline or terminate service
23 when the passenger cannot give an adequate description of, or
24 direction to, the destination or cannot transfer into or out
25 of the motor vehicle without requiring physical assistance

1 from the driver.

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

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

1 by a tariffed carrier, or a term of service or practice
2 effected by a tariffed carrier, is unauthorized, predatory or
3 discriminatory, the department shall prescribe the rate or the
4 maximum or minimum rate to be observed or the terms of service
5 to be made effective."

6 SECTION 47. Section 65-2A-21 NMSA 1978 (being Laws
7 2003, Chapter 359, Section 21, as amended by Laws 2013,
8 Chapter 73, Section 19 and by Laws 2013, Chapter 77, Section
9 19) is amended to read:

10 "65-2A-21. RATES.--

11 A. Tariffed service carriers shall observe
12 nonpredatory and nondiscriminatory rates and terms of service
13 for the transportation services they provide. A predatory or
14 discriminatory charge for service is unlawful.

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

22 C. Towing services performing nonconsensual tows
23 may charge rates lower than the rates in their approved tariff
24 to members of not-for-profit motor clubs after those rates
25 have been filed with the department.

1 D. A household goods service carrier shall
2 establish and observe nonpredatory and nondiscriminatory rates
3 and practices relating to the manner and method of presenting,
4 marking, packing and delivering household goods for
5 transportation and other matters relating to the
6 transportation of household goods.

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

20 SECTION 48. Section 65-2A-22 NMSA 1978 (being Laws
21 2003, Chapter 359, Section 22, as amended by Laws 2013,
22 Chapter 73, Section 20 and by Laws 2013, Chapter 77, Section
23 20) is amended to read:

24 "65-2A-22. TIME SCHEDULES.--

25 A. A scheduled shuttle service carrier shall file

1 a proposed time schedule with its tariff and shall file any
2 change in its schedule through an amended tariff.

3 B. Failure by a scheduled shuttle service carrier
4 to operate the service on each day pursuant to department rule
5 as scheduled in its tariff shall result in an appropriate
6 penalty as the department, in its discretion, shall determine.

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

11 SECTION 49. Section 65-2A-23 NMSA 1978 (being Laws
12 2003, Chapter 359, Section 23, as amended by Laws 2013,
13 Chapter 73, Section 21 and by Laws 2013, Chapter 77, Section
14 21) is amended to read:

15 "65-2A-23. MOTOR CARRIER ORGANIZATIONS.--

16 A. A tariffed service carrier may enter into
17 discussions with another tariffed service carrier to establish
18 a motor carrier organization. The organization shall obtain
19 authorization from the department before its members enter
20 into any discussions concerning the rates contained in a
21 statewide tariff. The department may authorize the creation
22 of a motor carrier organization to discuss and promote
23 industry matters, other than the rates of individual carriers,
24 if the organization:

25 (1) allows any intrastate motor carrier

1 authorized to provide the same type of service to become a
2 member of the organization and allows a member carrier to
3 discuss matters before the organization and to vote upon any
4 proposal;

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

8 (3) does not file an objection, protest or
9 complaint with the department against a tariff item
10 independently published by or for the account of a member
11 carrier;

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

16 (5) proposes matters concerning statewide
17 tariffs for approval by the department.

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

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

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

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

8 E. The antitrust laws of the state shall not apply
9 to discussions concerning general industry matters, terms of
10 service or any matters concerning a statewide tariff,
11 including the rates contained in a statewide tariff, by member
12 carriers of a motor carrier organization authorized by the
13 department."

14 SECTION 50. Section 65-2A-24 NMSA 1978 (being Laws
15 2003, Chapter 359, Section 24, as amended by Laws 2013,
16 Chapter 73, Section 22 and by Laws 2013, Chapter 77, Section
17 22) is amended to read:

18 "65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--

19 A. An intrastate motor carrier shall not lease a
20 motor vehicle or operate a leased motor vehicle in the course
21 of its transportation service except as provided by department
22 rule. The department may approve a motor vehicle lease
23 without notice or a public hearing.

24 B. A motor carrier may use employed or contract
25 drivers or taxicab association member drivers in the provision

1 of a transportation service. Regardless of the provisions of
2 any written or oral agreement between a motor carrier and a
3 contract driver or taxicab association member driver, motor
4 carriers providing transportation services that use contract
5 drivers or taxicab association member drivers remain fully
6 responsible to the department for complying with all
7 provisions of the Motor Carrier Act and department rules
8 applicable to transportation service carriers.

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

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

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

1 A. The department shall establish a statewide
2 tariff for household goods services, containing terms of
3 service and maximum rates that household goods service
4 carriers may charge the public.

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

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

19 D. If the department has reason to believe from a
20 complaint or investigation that a household goods agent has
21 violated Subsection G or H of Section 65-2A-33 NMSA 1978, or
22 is consistently unfit, unwilling or unable to provide adequate
23 household goods transportation services, including accessorial
24 and terminal services, the department may issue to that
25 household goods agent notice of the complaint, specific

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

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

23 F. The department shall adopt rules for the
24 following elements of household goods transportation services:

- 25 (1) methods of determining shipping charges;

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

3 (3) inventory;

4 (4) weighing;

5 (5) receipts and bills of lading;

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

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

10 (8) household goods agents; and

11 (9) service standards.

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

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

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

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

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

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

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

11 "65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT
12 PROGRAM.--

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

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

25 (2) the program provides adequate notice of

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

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

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

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

1 settling the dispute determines that the refund is
2 inappropriate;

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

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

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

25 B. The department may investigate at any time the

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

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

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

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

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

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

23 D. In a court action to resolve a dispute between
24 a shipper and a household goods service carrier concerning the
25 transportation of household goods by the carrier, the carrier

1 shall be awarded reasonable attorney fees by the court only if
2 the shipper brought the action in bad faith:

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

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

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

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

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

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

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

24 B. The department may immediately suspend, without
25 notice or a public hearing, the operating authority of a motor

1 carrier for violation of a safety requirement of the Motor
2 Carrier Act, the department's rules or the rules of the
3 New Mexico state police division of the department of public
4 safety, if the violation endangers the public health or
5 safety.

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

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

13 (2) comply with a lawful order or rule of
14 the department;

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

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

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

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

25 (2) the holder of the operating authority is

1 fit, and a certificate holder is able, to provide the
2 authorized transportation services, and the holder will comply
3 with the Motor Carrier Act and the rules of the department."

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

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

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

24 B. If the holder of an operating authority from
25 the department operates without appointing a resident agent

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

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

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

21 E. The principal motor carrier of a household
22 goods agent shall be deemed to be the agent for service of
23 process of the household goods agent unless the household
24 goods agent notifies the department in writing of the
25 substitution of another agent for service of process."

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

5 "65-2A-29. REPORTS AND RECORDS.--

6 A. The department shall establish reasonable
7 requirements with respect to reports, records and uniform
8 systems of accounts and preservation of records for motor
9 carriers.

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

18 C. The department or its employees or duly
19 authorized agents shall, at all times, have access to:

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

23 (2) records kept by motor carriers.

24 D. The department may, by order, require a motor
25 carrier subject to the Motor Carrier Act, or its officers or

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

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

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

1 to the public."

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

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

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

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

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

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

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

22 D. The department may administer an oath, certify
23 to an official act, issue a subpoena and compel the attendance
24 of a witness and the production of evidence in hearings before
25 the department for the purposes provided in the Motor Carrier

1 Act.

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

13 F. The department may in writing authorize an
14 employee or other person to investigate and take testimony
15 regarding a matter pending before the department."

16 SECTION 58. Section 65-2A-32 NMSA 1978 (being Laws
17 2003, Chapter 359, Section 32) is amended to read:

18 "65-2A-32. ADMINISTRATIVE PENALTIES.--

19 A. If the department finds after investigation
20 that a provision of the Motor Carrier Act or an order or rule
21 of the department is being, has been or is about to be
22 violated, it may issue an order specifying the actual or
23 proposed acts or omissions to act that constitute a violation
24 and require that the violation be discontinued, rectified or
25 prevented.

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

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

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

18 SECTION 59. Section 65-2A-33 NMSA 1978 (being Laws
19 2003, Chapter 359, Section 33, as amended by Laws 2013,
20 Chapter 73, Section 29 and by Laws 2013, Chapter 77, Section
21 29) is amended to read:

22 "65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE
23 PRACTICES.--

24 A. A person who knowingly makes a false statement
25 of material fact under oath or penalty of perjury in a

1 department proceeding, whether orally or in writing, shall be
2 guilty of perjury.

3 B. A person who willfully makes a false return of
4 process or report to the department or an employee of the
5 department, and a person who knowingly aids or abets a person
6 who willfully makes a false return of process or report to the
7 department or an employee of the department, shall be guilty
8 of a felony, and upon conviction shall be imprisoned for not
9 more than five years.

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

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

24 E. A person who violates or who procures, aids or
25 abets in the violation of a provision of the Motor Carrier Act

1 or a rule or order of the department shall be guilty of a
2 misdemeanor and upon conviction shall be fined not more than
3 one thousand dollars (\$1,000), imprisoned for not more than
4 ninety days, or both.

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

9 (1) refuses to permit examination of its
10 records;

11 (2) conceals, destroys or mutilates its
12 records;

13 (3) attempts to conceal, destroy or mutilate
14 its records; or

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

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

22 H. A person shall be assessed a civil penalty of
23 not more than two thousand dollars (\$2,000) for each violation
24 and not more than five thousand dollars (\$5,000) for each
25 subsequent violation if the person knowingly engages in or

1 authorizes an agent or other person to:

2 (1) falsify the documents used in the
3 transportation of household goods that evidence the weight of
4 shipment; or

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

10 I. A law enforcement officer of the state shall
11 arrest and the district attorney and attorney general shall
12 prosecute a violation of the Motor Carrier Act.

13 J. It is an unfair and deceptive trade practice
14 under the Unfair Practices Act for any transportation service
15 carrier to offer or provide transportation services of a type
16 for which, or in any territory in which, it is not authorized
17 to do so by the department. The attorney general or a person
18 who has been damaged or who is likely to be damaged as the
19 result of such unauthorized service, including a shipper, a
20 passenger or an authorized transportation service carrier, may
21 bring an action pursuant to the Unfair Practices Act against
22 the transportation service carrier regarding such unauthorized
23 service. Any such civil action shall be in addition to, and
24 shall not bar, any investigation or civil or criminal
25 enforcement action regarding the unauthorized service

1 available to the attorney general or a district attorney, or
2 available to the department under the Motor Carrier Act.

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

17 SECTION 60. Section 65-2A-34 NMSA 1978 (being Laws
18 2003, Chapter 359, Section 34) is amended to read:

19 "65-2A-34. ACTIONS TO ENFORCE DEPARTMENT ORDERS.--If a
20 person fails to comply with an order of the department within
21 the time prescribed in the order or within thirty days after
22 the order is entered, whichever is later, unless a stay has
23 been granted, the department shall seek enforcement of the
24 order in the district court for Santa Fe county. The
25 enforcement hearing shall be held on an expedited basis. At

1 the hearing, the sole question shall be whether the person has
2 failed to comply with the order."

3 SECTION 61. Section 65-2A-35 NMSA 1978 (being Laws
4 2003, Chapter 359, Section 35) is amended to read:

5 "65-2A-35. APPEAL TO SUPREME COURT.--

6 A. A motor carrier or other interested person
7 aggrieved by a final order or determination of the department
8 issued pursuant to the Motor Carrier Act may appeal to the
9 supreme court within thirty days. The appellant shall pay to
10 the department the costs of preparing and transmitting the
11 record to the court.

12 B. The pendency of an appeal shall not
13 automatically stay the order appealed from. The appellant may
14 petition the department or the supreme court for a stay of the
15 order.

16 C. The appeal shall be on the record of the
17 hearing before the department and shall be governed by the
18 appellate rules applicable to administrative appeals. The
19 supreme court shall affirm the department's order unless it
20 is:

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

23 (2) not supported by substantial evidence in
24 the record; or

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

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

5 "65-2A-36. FEES.--

6 A. The department shall establish in rule
7 reasonable fees:

8 (1) for filing an application for a
9 certificate or an application for an amendment of a
10 certificate, or for any protest or permissive intervention in
11 regard to such application;

12 (2) for filing an application for a warrant;

13 (3) for filing an application or motion for
14 temporary authority;

15 (4) for filing an application for a change
16 in a tariff for a tariffed service carrier;

17 (5) for filing an application for lease or
18 transfer of a certificate, or for any protest or permissive
19 intervention in regard to such application;

20 (6) for filing an application for
21 reinstatement of a certificate following voluntary or
22 involuntary suspension;

23 (7) for filing an application for voluntary
24 suspension of a certificate;

25 (8) for filing an application for a single

1 trip ticket;

2 (9) for filing a change in the legal name of
3 any holder of an operating authority, or a change of business
4 trade name or the addition or deletion of a business trade
5 name of any holder or lessee of an operating authority;

6 (10) for filing an equipment lease;

7 (11) for a miscellaneous filing;

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

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

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

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

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

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

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

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

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

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

24 A. The department may adopt rules permitting the
25 electronic filing, submission and service of documents by

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

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

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

19 "65-5-3. CLEARANCE CERTIFICATES--TYPES OF CARRIERS.--
20 After inspection of the vehicle and related documentation and
21 any necessary registration, clearance certificates or special
22 permits may be issued by the department for:

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

25 (1) all taxes and registration fees required

1 by the laws of this state upon the vehicles and contents of
2 the vehicles have been paid and all other laws and rules and
3 regulations of departments of this state applicable to the
4 vehicles and contents have been complied with; and

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

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

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

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

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

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

1 vehicles and contents have been complied with;

2 (2) the vehicle is properly covered by
3 liability insurance in accordance with the provisions of the
4 Motor Carrier Act and the rules of the department of
5 transportation; and

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

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

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

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

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

17 "65-6-1. SHORT TITLE.--Chapter 65, Article 6 NMSA 1978
18 may be cited as the "Ambulance Standards Act"."

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

21 "65-6-2. DEFINITIONS.--As used in the Ambulance
22 Standards Act:

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

1 B. "attendant" means a person who, on a regular or
2 irregular basis, either paid or voluntary, serves as an
3 assistant to the driver in the operation of the ambulance;

4 C. "department" means the department of
5 transportation; and

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

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

11 "65-6-4. DEPARTMENT--DUTIES.--The department, in
12 accordance with its responsibilities to regulate common
13 carriers, shall hold public hearings as prescribed in the
14 Motor Carrier Act and adopt rules:

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

17 (1) vehicle design;

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

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

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

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

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

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

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

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

18 "65-7-1. SHORT TITLE.--Chapter 65, Article 7 NMSA 1978
19 may be cited as the "Transportation Network Company Services
20 Act"."

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

23 "65-7-4. TRANSPORTATION NETWORK COMPANY PERMIT
24 REQUIRED.--

25 A. A person shall not operate a transportation

1 network company in New Mexico without first having obtained a
2 permit from the department of transportation.

3 B. A permit issued to a transportation network
4 company by the department of transportation shall be effective
5 for one year.

6 C. The department of transportation shall issue a
7 permit to a transportation network company that meets the
8 requirements set forth in the Transportation Network Company
9 Services Act and any rules adopted by the department pursuant
10 to that act. The transportation network company shall pay an
11 annual permit fee of ten thousand dollars (\$10,000) to the
12 department."

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

15 "65-7-13. VEHICLE SAFETY.--

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

21 (1) is not in compliance with all federal,
22 state and local laws concerning the operation and maintenance
23 of the motor vehicle;

24 (2) has fewer than four doors; or

25 (3) is designed to carry more than eight

1 passengers, including the driver.

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

7 C. The department of transportation shall
8 promulgate rules setting forth the requirements of annual
9 inspection of a vehicle used by a transportation network
10 company driver while logged on to a digital network or engaged
11 in a prearranged ride."

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

14 "65-7-19. TRANSPORTATION NETWORK FUND CREATED--
15 ASSESSMENT AND COLLECTION OF FEES.--

16 A. The "transportation network fund" is created in
17 the state treasury for the purpose of ensuring the safety and
18 financial responsibility of transportation network companies
19 and transportation network company drivers. The fund shall
20 consist of fees collected pursuant to the Transportation
21 Network Company Services Act, appropriations, gifts, grants,
22 donations and earnings on investment of the fund. Balances in
23 the fund shall not revert to the general fund or any other
24 fund at the end of any fiscal year.

25 B. The transportation network fund shall be

1 administered by the department of transportation. Money in
2 the fund is appropriated to the department to carry out its
3 duties pursuant to the provisions of the Transportation
4 Network Company Services Act. Not more than five percent of
5 the fees collected pursuant to this section shall be used by
6 the department for administrative purposes.

7 C. Payments from the transportation network fund
8 shall be made upon vouchers issued and signed by the secretary
9 of transportation or the secretary's authorized representative
10 upon warrants drawn by the secretary of finance and
11 administration."

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

14 "65-7-20. RECORDS PURSUANT TO RULES OF THE DEPARTMENT
15 OF TRANSPORTATION.--

16 A. A transportation network company holding a
17 permit issued by the department of transportation shall
18 maintain the records required pursuant to the Transportation
19 Network Company Services Act to be collected by the
20 transportation network company, including records regarding
21 transportation network company drivers.

22 B. In response to a specific complaint, the
23 department of transportation, its employees or its duly
24 authorized agents may inspect those records held by a
25 transportation network company for the investigation and

1 resolution of the complaint.

2 C. No more than semiannually and as determined by
3 the department of transportation, the department, its
4 employees or its duly authorized agents may, in a mutually
5 agreed setting, inspect those records held by a transportation
6 network company whose review is necessary to ensure public
7 safety; provided that such review shall be on an audit rather
8 than a comprehensive basis.

9 D. Any proprietary records obtained by the
10 department of transportation pursuant to this section shall
11 not be subject to disclosure by the department."

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

14 "65-7-21. ADMINISTRATIVE PENALTIES.--

15 A. If the department of transportation finds after
16 investigation that a provision of the Transportation Network
17 Company Services Act or an order or rule of the department is
18 being, has been or is about to be violated, it may issue an
19 order specifying the actual or proposed acts or omissions to
20 act that constitute a violation and require that the violation
21 be discontinued, rectified or prevented.

22 B. Notwithstanding the existence of any other
23 penalties, the department of transportation may assess an
24 administrative fine of not more than one thousand dollars
25 (\$1,000) for each violation of a provision of the

1 Transportation Network Company Services Act or of a lawful
2 rule or order of the department. In the case of a continuing
3 violation, each day's violation shall be deemed to be a
4 separate and distinct offense.

5 C. All penalties accruing under the Transportation
6 Network Company Services Act shall be cumulative, and a suit
7 for recovery of one penalty shall not be a bar to or affect
8 the recovery of any other penalty or be a bar to any criminal
9 prosecution."

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

12 "65-7-22. INVOLUNTARY SUSPENSION AND REVOCATION.--

13 A. The department of transportation shall
14 immediately suspend, without notice or a hearing, the permit
15 of a transportation network company that:

16 (1) does not continuously maintain the
17 insurance coverage prescribed by the Transportation Network
18 Company Services Act;

19 (2) does not pay the fees owed by the
20 transportation network company and the transportation network
21 company's drivers; or

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

24 B. Once suspended, the transportation network
25 company may apply for reinstatement by requesting a public

1 hearing before the department of transportation and shall
2 establish that the basis for the suspension has been
3 corrected."

4 SECTION 75. Section 66-1-4.16 NMSA 1978 (being Laws
5 1990, Chapter 120, Section 17, as amended) is amended to read:

6 "66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle
7 Code:

8 A. "safety glazing materials" means glazing
9 materials constructed, treated or combined with other
10 materials to reduce substantially, in comparison with ordinary
11 sheet glass or plate glass, the likelihood of injury to
12 persons by objects from exterior sources or by these safety
13 glazing materials when they are cracked and broken;

14 B. "safety zone" means the area or space that is
15 officially set apart within a highway for the exclusive use of
16 pedestrians and that is protected or is so marked or indicated
17 by adequate signs as to be plainly visible at all times while
18 set apart as a safety zone;

19 C. "salvage vehicle" means a vehicle:

20 (1) other than a nonrepairable vehicle, of a
21 type subject to registration that has been wrecked, destroyed
22 or damaged excluding, pursuant to rules issued by the
23 department, hail damage, to the extent that the owner, leasing
24 company, financial institution or the insurance company that
25 insured or is responsible for repair of the vehicle considers

1 it uneconomical to repair the vehicle and that is subsequently
2 not repaired by or for the person who owned the vehicle at the
3 time of the event resulting in damage; or

4 (2) that was determined to be uneconomical
5 to repair and for which a total loss payment is made by an
6 insurer, whether or not the vehicle is subsequently repaired,
7 if, prior to or upon making payment to the claimant, the
8 insurer obtained the agreement of the claimant to the amount
9 of the total loss settlement and informed the claimant that,
10 pursuant to rules of the department, the title must be branded
11 and submitted to the department for issuance of a salvage
12 certificate of title for the vehicle;

13 D. "school bus" means a commercial motor vehicle
14 used to transport preprimary, primary or secondary school
15 students from home to school, from school to home or to and
16 from school-sponsored events, but not including a vehicle:

17 (1) operated by a common carrier, subject to
18 and meeting all requirements of the department of
19 transportation but not used exclusively for the transportation
20 of students;

21 (2) operated solely by a government-owned
22 transit authority, if the transit authority meets all safety
23 requirements of the department of transportation but is not
24 used exclusively for the transportation of students;

25 (3) operated as a per capita feeder as

1 provided in Section 22-16-6 NMSA 1978; or

2 (4) that is a minimum six-passenger,
3 full-size, extended-length, sport utility vehicle operated by
4 a school district employee pursuant to Subsection D of Section
5 22-16-4 NMSA 1978;

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

8 F. "secretary" means the secretary of taxation and
9 revenue, and, except for the purposes of Sections 66-2-3 and
10 66-2-12 NMSA 1978, also includes the deputy secretary and any
11 division director delegated by the secretary;

12 G. "semitrailer" means a vehicle without motive
13 power, other than a pole trailer, designed for carrying
14 persons or property and for being drawn by a motor vehicle and
15 so constructed that some significant part of its weight and
16 that of its load rests upon or is carried by another vehicle;

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

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

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

1 K. "special mobile equipment" means a vehicle not
2 designed or used primarily for the transportation of persons
3 or property and incidentally operated or moved over the
4 highways, including but not limited to farm tractors, road
5 construction or maintenance machinery, ditch-digging
6 apparatus, well-boring apparatus and concrete mixers;

7 L. "specially constructed vehicle" means a vehicle
8 of a type required to be registered under the Motor Vehicle
9 Code not originally constructed under a distinctive name,
10 make, model or type by a generally recognized manufacturer of
11 vehicles and not materially altered from its original
12 construction;

13 M. "standard driver's license" means a license or
14 a class of license issued by a state or other jurisdiction
15 recognized by the laws of New Mexico that authorizes the
16 holder to operate motor vehicles and is not guaranteed to be
17 accepted by federal agencies for official federal purposes;

18 N. "standard identification card" means an
19 identification card that is not guaranteed to be accepted by
20 federal agencies for official federal purposes;

21 O. "state" means a state, territory or possession
22 of the United States, the District of Columbia or any state of
23 the Republic of Mexico or the Federal District of Mexico or a
24 province of the Dominion of Canada;

25 P. "state highway" means a public highway that has SB 160
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1 been designated as a state highway by the legislature, the
2 state transportation commission or the secretary of
3 transportation;

4 Q. "stop", when required, means complete cessation
5 from movement;

6 R. "stop, stopping or standing", when prohibited,
7 means any stopping or standing of a vehicle, whether occupied
8 or not, except when necessary to avoid conflict with other
9 traffic or in compliance with the directions of a police
10 officer or traffic-control sign or signal;

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

16 T. "subsequent offender" means a person who was
17 previously a first offender and who again, under state law,
18 federal law or a municipal ordinance or a tribal law, has been
19 adjudicated guilty of the charge of driving a motor vehicle
20 while under the influence of intoxicating liquor or any drug
21 that rendered the person incapable of safely driving a motor
22 vehicle, regardless of whether the person's sentence was
23 suspended or deferred; and

24 U. "suspension" means that a person's driver's
25 license and privilege to drive a motor vehicle on the public

1 highways are temporarily withdrawn."

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

4 "66-3-120. TRANSPORTATION OF CERTAIN VEHICLES--PROOF OF
5 OWNERSHIP.--

6 A. A person transporting a crushed or inoperable
7 vehicle or motor vehicle on a public way, street or highway in
8 any manner shall have in the person's possession proof of
9 ownership of the vehicle or:

10 (1) an affidavit from the property owner
11 upon whose property the vehicle or motor vehicle was abandoned
12 authorizing the vehicle's removal from the property owner's
13 land; and

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

16 B. Any person who possesses either a New Mexico
17 dismantler's or wrecker's license, a New Mexico auto dealer's
18 license, a department of transportation license or a vehicle
19 contract or common carrier license issued by the federal
20 interstate commerce commission shall be exempt from the
21 provisions of this section while transporting vehicles that
22 are not abandoned, provided the person prominently displays a
23 dealer's license plate or a dismantler's plate on the vehicle
24 in tow or has a New Mexico department of transportation
25 vehicle contract or common carrier permit number or a federal

1 interstate commerce commission vehicle contract or common
2 carrier permit number prominently displayed on the towing
3 vehicle.

4 C. Any person failing to have such documentation
5 in the person's possession while transporting such a vehicle
6 or motor vehicle is subject to the penalties produced in
7 Section 66-4-9 NMSA 1978, and any vehicle or motor vehicle
8 being transported by the person is subject to immediate
9 confiscation. The vehicle or motor vehicle shall be towed to
10 an authorized police impound lot until proof of ownership is
11 presented or until the documentation described in this section
12 is provided by either the owner of the vehicle or the person
13 in possession. Failure to provide documentation within thirty
14 days shall result in the vehicle or motor vehicle being deemed
15 unclaimed and thus subject to claim by the person or firm in
16 possession."

17 SECTION 77. Section 66-6-8 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 343, as amended) is amended to read:

19 "66-6-8. BUS REGISTRATION--AGRICULTURAL LABOR FEES.--

20 A. A bus that has a normal seating capacity of
21 forty passengers or less and that is used exclusively for the
22 transportation of agricultural laborers may be registered upon
23 payment to the division of a fee of thirty-three dollars
24 (\$33.00).

25 B. In addition to the registration fee imposed by

1 this section, there is imposed at the time of registration an
2 annual tire recycling fee of fifty cents (\$.50) per wheel that
3 is in contact with the ground on each vehicle subject to a
4 registration fee pursuant to this section.

5 C. Application for registration of a bus pursuant
6 to this section shall be made in the form prescribed by the
7 division and shall be accompanied by an affidavit that the bus
8 will be used exclusively for the transportation of
9 agricultural laborers. Upon registration, the bus is exempt
10 from tariff-filing requirements of the department of
11 transportation."

12 SECTION 78. Section 66-7-413 NMSA 1978 (being Laws
13 1978, Chapter 35, Section 484, as amended) is amended to read:

14 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--
15 SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED
16 HOMES.--

17 A. The department of transportation and local
18 highway authorities may, in their discretion, upon application
19 in writing and good cause being shown, issue a special permit
20 in writing authorizing the applicant to operate or move a
21 vehicle or load of a size or weight exceeding the maximum
22 specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a
23 highway under the jurisdiction of the state transportation
24 commission or local authorities. Except for the movement of
25 manufactured homes, a permit may be granted, in cases of

1 emergency, for the transportation of loads on a certain unit
2 or combination of equipment for a specified period of time not
3 to exceed one year, and the permit shall contain the route to
4 be traversed, the type of load to be transported and any other
5 restrictions or conditions deemed necessary by the body
6 granting the permit. In every other case, the permit shall be
7 issued for a single trip and may designate the route to be
8 traversed and contain any other restrictions or conditions
9 deemed necessary by the body granting the permit. Every
10 permit shall be carried in the vehicle to which it refers and
11 shall be opened for inspection to any peace officer. It is a
12 misdemeanor for a person to violate a condition or term of the
13 special permit.

14 B. The department of transportation shall
15 promulgate rules in accordance with the State Rules Act
16 pertaining to safety practices, liability insurance and
17 equipment for escort vehicles provided by the motor carrier
18 and for escort vehicles provided by a private business in this
19 state; provided that:

20 (1) the department of public safety or the
21 department of transportation shall provide the escort
22 personnel with a copy of applicable rules and shall inspect
23 the escort vehicles for the safety equipment required by the
24 rules. If the escort vehicles and personnel meet the
25 requirements set forth in the rules, the department of public

1 safety shall issue the special permit;

2 (2) the movement of vehicles upon the
3 highways of this state requiring a special permit and required
4 to use an escort of the type noted in Paragraph (1) of this
5 subsection is subject to the authority of the department of
6 transportation and the department of public safety and to
7 inspection at all times; and

8 (3) the department of transportation shall
9 conduct engineering investigations and engineering inspections
10 to determine which four-lane highways are safe for the
11 operation or movement of manufactured homes without an escort.
12 After making that determination, the department of
13 transportation shall hold public hearings in the area of the
14 state affected by the determination, after which it may adopt
15 rules designating those four-lane highways as being safe for
16 the operation or movement of manufactured homes without an
17 escort. If a portion of such a four-lane highway lies within
18 the boundaries of a municipality, the department of
19 transportation, after obtaining the approval of the municipal
20 governing body, shall include such portions in its rules.

21 C. Except for the movement of manufactured homes,
22 special permits may be issued for a single vehicle or
23 combination of vehicles by the department of transportation
24 for a period not to exceed one year for a fee of two hundred
25 fifty dollars (\$250). The special permits may allow excessive

1 height, length and width for a vehicle or combination of
2 vehicles or load thereon and may include a provision for
3 excessive weight if the weight of the vehicle or combination
4 of vehicles is not greater than one hundred forty thousand
5 pounds. Utility service vehicles, operating with special
6 permits pursuant to this subsection, shall be exempt from
7 prohibitions or restrictions relating to hours or days of
8 operation or restrictions on movement because of poor weather
9 conditions.

10 D. Special permits for a single trip for a vehicle
11 or combination of vehicles or load thereon of excessive
12 weight, width, length and height may be issued by the
13 department of transportation for a single vehicle for a fee of
14 twenty-five dollars (\$25.00) plus the product of two and
15 one-half cents (\$.025) for each two thousand pounds in excess
16 of eighty-six thousand four hundred pounds or major fraction
17 thereof multiplied by the number of miles to be traveled by
18 the vehicle or combination of vehicles on the highways of this
19 state.

20 E. If a vehicle for which a permit is issued
21 pursuant to this section is a manufactured home, the
22 department of transportation or local highway authority
23 issuing the permit shall furnish the following information to
24 the property tax division of the taxation and revenue
25 department, which shall forward the information:

1 (1) to the county assessor of a county from
2 which a manufactured home is being moved, the date the permit
3 was issued, the location being moved from, the location being
4 moved to if within the same county, the name of the owner of
5 the manufactured home and the identification and registration
6 numbers of the manufactured home;

7 (2) to the county assessor of any county in
8 this state to which a manufactured home is being moved, the
9 date the permit was issued, the location being moved from, the
10 location being moved to, the name of the owner of the
11 manufactured home and the registration and identification
12 numbers of the manufactured home; and

13 (3) to the owner of a manufactured home
14 having a destination in this state, notification that the
15 information required in Paragraphs (1) and (2) of this
16 subsection is being given to the respective county assessors
17 and that manufactured homes are subject to property taxation.

18 F. Except as provided in Subsection G of this
19 section, if the movement of a manufactured home originates in
20 this state, a permit shall not be issued pursuant to
21 Subsection E of this section until the owner of the
22 manufactured home or the authorized agent of the owner obtains
23 and presents to the department of transportation proof that a
24 certificate has been issued by the county assessor or
25 treasurer of the county in which the manufactured home

1 movement originates showing that either:

2 (1) all property taxes due or to become due
3 on the manufactured home for the current tax year or any past
4 tax years have been paid, except for manufactured homes
5 located on an Indian reservation; or

6 (2) liability for property taxes on the
7 manufactured home does not exist for the current tax year or a
8 past tax year, except for manufactured homes located on an
9 Indian reservation.

10 G. The movement of a manufactured home from the
11 lot or business location of a manufactured home dealer to its
12 destination designated by an owner-purchaser is not subject to
13 the requirements of Subsection F of this section if the
14 manufactured home movement originates from the lot or business
15 location of the dealer and the manufactured home was part
16 of the dealer's inventory prior to the sale to the
17 owner-purchaser; however, the movement of a manufactured home
18 by a dealer or the dealer's authorized agent as a result of a
19 sale or trade-in from a nondealer-owner is subject to the
20 requirements of Subsection F of this section whether the
21 destination is the business location of a dealer or some other
22 destination.

23 H. A permit shall not be issued pursuant to this
24 section for movement of a manufactured home whose width
25 exceeds eighteen feet with no more than a six-inch roof

1 overhang on the left side or twelve inches on the right side
2 in addition to the eighteen-foot width of the manufactured
3 home. Manufactured homes exceeding the limitations of this
4 section shall only be moved on dollies placed on the front and
5 the rear of the structure.

6 I. The secretary of transportation may by rule
7 provide for movers of manufactured homes to self-issue permits
8 for certain sizes of manufactured homes over specific routes.
9 The cost of a permit shall not be less than twenty-five
10 dollars (\$25.00).

11 J. The secretary of transportation may provide by
12 rule for dealers of implements of husbandry to self-issue
13 permits for the movement of certain sizes of implements of
14 husbandry from the lot or business location of the dealer over
15 specific routes with specific escort requirements, if
16 necessary, to a destination designated by an owner-purchaser
17 or for purposes of a working demonstration on the property of
18 a proposed owner-purchaser. The department of transportation
19 shall charge a fee for each self-issued permit not to exceed
20 fifteen dollars (\$15.00).

21 K. A private motor carrier requesting an oversize
22 or overweight permit shall provide proof of insurance in at
23 least the following amounts:

24 (1) bodily injury liability, providing:

25 (a) fifty thousand dollars (\$50,000)

1 for each person; and

2 (b) one hundred thousand dollars
3 (\$100,000) for each accident; and

4 (2) property damage liability, providing
5 twenty-five thousand dollars (\$25,000) for each accident.

6 L. A motor carrier requesting an oversize permit
7 shall produce a copy of a warrant or a single state
8 registration receipt as evidence that the motor carrier
9 maintains the insurance minimums prescribed by the department
10 of transportation.

11 M. The department of transportation may provide by
12 rule the time periods during which a vehicle or load of a size
13 or weight exceeding the maximum specified in Sections 66-7-401
14 through 66-7-416 NMSA 1978 may be operated or moved by a motor
15 carrier on a highway under the jurisdiction of the state
16 transportation commission or local authorities.

17 N. An applicant for a special permit to operate a
18 vehicle or combination of vehicles with a gross weight not
19 exceeding ninety-six thousand pounds within six miles of the
20 port of entry at the border with Mexico at Santa Teresa or
21 within a circular quadrant starting at that port of entry with
22 an east boundary line running due north twelve miles from the
23 Santa Teresa port of entry to a point, then along an arc to
24 the west with a twelve-mile radius and central angle of
25 approximately ninety degrees to a point on the international

1 boundary with Mexico, then returning due east twelve miles to
2 the starting point at that port of entry, and twelve miles of
3 other ports of entry on the border with Mexico shall not be
4 required to demonstrate to the department of transportation
5 that the load cannot be reduced as a condition of the issuance
6 of the permit.

7 O. Revenue from fees for special permits
8 authorizing vehicles and loads of excessive size or weight to
9 operate or move upon a highway under the jurisdiction of the
10 state transportation commission or local authorities shall be
11 collected for the department of transportation and transferred
12 to the state road fund."

13 SECTION 79. Section 66-8-116.2 NMSA 1978 (being Laws
14 1989, Chapter 319, Section 13, as amended) is amended to read:

15 "66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS--MOTOR
16 CARRIER ACT.--As used in the Motor Vehicle Code and the Motor
17 Carrier Act, "penalty assessment misdemeanor" means, in
18 addition to the definitions of that term in Sections 66-8-116
19 and 66-8-116.1 NMSA 1978, violation of the following listed
20 sections of the NMSA 1978 for which, except as provided in
21 Subsection E of this section, the listed penalty is
22 established:

23 A. GENERAL
24 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY ASSESSMENT
25 Failure to register

1	motor carrier	66-3-1.1	\$300.00
2	Failure to carry tax		
3	identification		
4	permit	65-1-26	300.00
5	Failure of motor carrier		
6	to comply with weight distance		
7	requirements of the Weight		
8	Distance Tax Act	65-1-26	
9	(1) first conviction		300.00
10	(2) second conviction, within		
11	ten years of the first conviction		500.00
12	(3) third or subsequent		
13	conviction, within ten years of the		
14	first conviction		1,000.00
15	Failure to comply with		
16	department of		
17	transportation rules	65-2A-7	50.00
18	Failure to		
19	carry single state		
20	registration receipt issued		
21	by a base state	65-2A-7	50.00
22	Failure to register with		
23	a base state under the federal		
24	Unified Carrier Registration Act		
25	of 2005	65-2A-16	50.00

1 Failure to stop at
2 designated
3 registration place 65-5-1 100.00

4 Failure to obtain
5 proper clearance
6 certificates 65-5-3 100.00.

7 B. VEHICLE OUT-OF-SERVICE VIOLATIONS

8 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY ASSESSMENT

9 Absence of braking action 65-3-9 \$100.00

10 Damaged brake lining or pads 65-3-9 50.00

11 Loose or missing brake
12 components 65-3-12 100.00

13 Inoperable breakaway braking
14 system 65-3-12 50.00

15 Defective or damaged brake
16 tubing 65-3-12 50.00

17 Inoperative low pressure
18 warning device 65-3-9 50.00

19 Reservoir pressure not
20 maintained 65-3-12 100.00

21 Inoperative tractor
22 protection valve 65-3-9 100.00

23 Damaged or loose air
24 compressor 65-3-12 100.00

25 Audible air leak at brake

1	chamber	65-3-12	50.00
2	Defective safety devices--		
3	chains or hooks	65-3-9	100.00
4	Defective towing or coupling		
5	devices	65-3-9	100.00
6	Defective exhaust systems	65-3-9	30.00
7	Frame defects--trailers	65-3-12	100.00
8	Frame defects--other	65-3-9	100.00
9	Defective fuel systems	65-3-9	50.00
10	Missing or inoperative		
11	lamps	65-3-9	25.00
12	Missing lamps on projecting		
13	loads	65-3-9	50.00
14	Missing or inoperative		
15	turn signal	65-3-9	25.00
16	Unsafe loading	65-3-8	100.00
17	Possession of radar detector		
18	in commercial motor carrier		
19	vehicle	65-3-8	100.00
20	Possession of alcoholic		
21	beverage in commercial		
22	motor carrier vehicle	65-3-8	200.00
23	Excessive steering wheel		
24	play	65-3-9	100.00
25	Steering column defects	65-3-9	100.00

1	Steering box or steering		
2	system defects	65-3-9	100.00
3	Suspension system defects	65-3-9	50.00
4	Defective springs or spring		
5	assembly	65-3-9	50.00
6	Defective tires--steering		
7	axle	65-3-9	100.00
8	Defective tires--other axles	65-3-9	30.00
9	Defective wheels and rims	65-3-9	50.00
10	Defective or missing		
11	windshield wipers	65-3-9	30.00
12	Defective or inoperative		
13	emergency exit--bus	65-3-9	100.00.

C. DRIVER OUT-OF-SERVICE VIOLATIONS

15	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
16	Driver's age	65-3-7	\$30.00
17	Driver not licensed for		
18	type of vehicle being		
19	operated	65-3-7	30.00
20	Failure to have valid		
21	commercial driver's license		
22	in possession	66-5-59	30.00
23	No waiver of physical		
24	disqualification		
25	in possession	65-3-7	30.00

1	Sickness or fatigue	65-3-8	100.00
2	Driver disqualification	65-3-7	500.00
3	Exceeding the 10-hour		
4	driving rule for		
5	passenger carrier		
6	transportation	65-3-11	100.00
7	Exceeding the 11-hour		
8	driving rule for property		
9	carrier transportation	65-3-11	100.00
10	Exceeding the 14-hour on		
11	duty rule for property		
12	carrier transportation	65-3-11	100.00
13	Exceeding the 15-hour on		
14	duty rule for passenger		
15	carrier transportation	65-3-11	100.00
16	Exceeding the 60 hours in 7		
17	days on duty rule	65-3-11	100.00
18	Exceeding the 70 hours in 8		
19	days on duty rule	65-3-11	100.00
20	False log book	65-3-11	100.00
21	No log book	65-3-11	100.00
22	No record for previous		
23	7 days	65-3-11	100.00.

D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS

1	Placarding violations	65-3-13	\$250.00
2	Cargo tank not meeting		
3	specifications	65-3-13	250.00
4	Internal valve operation		
5	violations	65-3-13	250.00
6	Hazardous materials		
7	packaging violations	65-3-13	250.00
8	Insecure load--hazardous		
9	materials	65-3-13	250.00
10	Shipping papers violations	65-3-13	30.00
11	Shipment of forbidden		
12	combination of hazardous		
13	materials	65-3-13	250.00
14	No hazardous waste manifest	65-3-13	30.00
15	Bulk packaging marking		
16	violations	65-3-13	30.00
17	Cargo tank marking violations	65-3-13	30.00.

18 E. Upon a second conviction for failure to stop at
19 a port of entry or inspection station pursuant to Section
20 65-5-1 NMSA 1978, the penalty assessment shall be two hundred
21 fifty dollars (\$250). Upon a third or subsequent conviction,
22 the penalty assessment shall be five hundred dollars (\$500)."

23 SECTION 80. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
24 PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND
25 REFERENCES IN LAW.--

1 A. On July 1, 2024, all staff positions, functions,
2 personnel, appropriations, money, records, equipment,
3 supplies, other property and contractual obligations of the
4 public regulation commission related to motor carrier
5 regulation and enforcement, railroad safety enforcement and
6 ambulance standards are transferred to the department of
7 transportation.

8 B. Beginning July 1, 2024, all references in
9 law, rules, orders and other official acts to the public
10 regulation commission or the transportation division of the
11 public regulation commission related to motor carrier
12 regulation and enforcement, railroad safety enforcement and
13 ambulance standards shall be deemed references to the
14 department of transportation.

15 C. Beginning July 1, 2024, all contractual
16 obligations of the public regulation commission related to
17 motor carrier regulation and enforcement, railroad safety
18 enforcement and ambulance standards are binding on the
19 department of transportation.

20 D. The rules, orders and decisions of the public
21 regulation commission related to motor carrier regulation and
22 enforcement, railroad safety enforcement and ambulance
23 standards shall remain in effect until repealed or amended.

24 SECTION 81. TEMPORARY PROVISION--RULES.--The department
25 of transportation may review, amend, repeal and enact rules to

1 carry out the provisions of this act; provided that any rules
2 amended, repealed or enacted pursuant to the authority
3 provided in this section shall not be effective until July 1,
4 2024.

5 SECTION 82. REPEAL.--Sections 63-3-33, 64-1-1 through
6 64-1-10, 64-1-18, 65-2A-10, 65-2A-41 and 65-6-5 NMSA 1978
7 (being Laws 1915, Chapter 37, Section 5; Laws 1929, Chapter
8 71, Sections 1 through 8 and 10; Laws 1941, Chapter 115,
9 Section 1; Laws 1939, Chapter 199, Section 5; Laws 2003,
10 Chapter 359, Section 10; Laws 2013, Chapter 73, Section 33 and
11 Laws 2013, Chapter 77, Section 33; and Laws 1974, Chapter 82,
12 Section 5, as amended) are repealed.

13 SECTION 83. EFFECTIVE DATE.--The effective date of the
14 provisions of Sections 1 through 80 and 82 of this act is
15 July 1, 2024. _____

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