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AN ACT

RELATING TO TRANSPORTATION; ENACTING A NEW MOTOR CARRIER ACT;
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. SHORT TITLE.--Sections 1 through 40 of this act may be cited as the "Motor Carrier Act".

Section 2. TRANSPORTATION POLICY.--It is the policy of this state to foster the development, coordination and preservation of a safe, sound and adequate motor carrier system, requiring financial responsibility and accountability on the part of motor carriers, providing for economic regulation of motor carriers of persons and household goods and towing services performing nonconsensual tows and by streamlining and promoting uniformity of state regulation of motor carriers.

Section 3. DEFINITIONS.--As used in the Motor Carrier Act:

A. "amendment" means a permanent change in the type of service or territory authorized by an existing certificate or permit;

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

C. "base state" means the registration state for an interstate motor carrier that either is subject to regulation or is transporting commodities exempt from regulation by the federal motor carrier safety administration pursuant to the single state registration system;

D. "cancellation" means the voluntary, permanent termination of all or part of an operating authority;

E. "certificate" means the operating authority issued by the commission to intrastate common motor carriers of persons or household goods;

F. "change in a certificate or permit" means the amendment, cancellation, change in tariff, change in form of ownership, lease, reinstatement, transfer or voluntary suspension of a certificate or permit;

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

4 H. "commission" means the public regulation commission;

5 I. "common control" means control of more than one operating
6 authority of the same kind for the same or overlapping territory;

7 J. "common motor carrier" means a person offering compensated
8 transportation by motor vehicle to the general public, whether over regular or irregular
9 routes, or under scheduled or unscheduled service, but does not include commuter
10 services;

11 K. "common tariff" means a tariff applying to two or more common
12 motor carriers;

13 L. "commuter service" means a person who provides seven- to fifteen-
14 passenger motor vehicles to a volunteer-driver commuter group that share rides to
15 and from the workplace or training site, where participation is open to the public and
16 incidental to the primary work or training-related purposes of the commuter group, and
17 where the volunteer drivers have no employer-employee relationship with the
18 commuter service;

19 M. "contract motor carrier" means a person offering compensated
20 transportation by motor vehicle under individual agreements with particular customers
21 or shippers;

22 N. "control" means the power to direct or cause the direction of the
23 management and policies of a motor carrier deriving from:

24 (1) ownership of a sole proprietorship, if the operating
25 authority is held by an individual as a sole proprietor;

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

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

1 (4) an interest in a limited partnership of ten percent or more of S
2 the total value of contributions made to the limited partnership, or entitlement to ten B
3 percent or more of the profits earned or other compensation paid by the limited 6
4 partnership, if the operating authority is held by a limited partnership; 9

5 (5) a membership interest of ten percent or more in a limited P
6 liability company, if the operating authority is held by a limited liability company; or a
7 9

8 (6) capacity as a trustee, personal representative or other e
9 person with a fiduciary duty to a motor carrier; 3

10 O. "electronic filing" means submission of a document by facsimile,
11 electronic mail or other electronic transmission;

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

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

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

S. "interested person" means a motor carrier operating over the routes
or in the territory involved in an application or grant of temporary authority, a person
affected by a rule proposed for adoption by the commission or a person the
commission may deem interested in a particular matter;

T. "interstate motor carrier" means a person providing compensated

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

3 U. "intrastate motor carrier" means a person providing compensated
4 transportation by motor vehicle between points and places in the state;

5 V. "involuntary suspension" means the temporary cessation of use of
6 all or part of an operating authority ordered by the commission for cause for a stated
7 period of time or pending compliance with certain conditions;

8 W. "irregular route" means that the route to be used by a motor carrier
9 is not restricted to a specific highway within the territory the motor carrier is authorized
10 to serve;

11 X. "lease of a certificate or permit" means an agreement by which the
12 owner of a certificate or permit grants to another the exclusive right to use all or part of
13 the certificate or permit for a specified period of time in exchange for consideration;

14 Y. "lease of equipment" means an agreement whereby a motor carrier
15 obtains equipment owned by another for use by the motor carrier in the exercise of its
16 operating authority;

17 Z. "motor carrier" means a person offering compensated
18 transportation of persons or property by motor vehicle, whether in intrastate or
19 interstate commerce;

20 AA. "motor carrier organization" means an organization approved by
21 the commission to discuss and propose a common tariff for a group of motor carriers
22 or to represent motor carriers that have adopted the common tariff;

23 BB. "motor carrier of persons" means a person who provides
24 compensated transportation of persons on a highway in the state;

25 CC. "motor vehicle" means a vehicle, machine, tractor, trailer or semi-
trailer propelled or drawn by mechanical power and used on a highway in the
transportation of property or persons, but does not include a vehicle, locomotive or car
operated exclusively on rails;

DD. "nonconsensual tow" means the compensated transportation of a

1 motor vehicle by a towing service, if such transportation is performed at the request of
2 a law enforcement officer or without the prior consent or authorization of the owner or
3 operator of the motor vehicle;

4 EE. "operating authority" means a certificate, permit, warrant, single
5 trip ticket, single state registration receipt or temporary authority issued by the
6 commission to a motor carrier;

7 FF. "permit" means the operating authority issued by the commission
8 to intrastate contract motor carriers of persons or household goods;

9 GG. "process" means an order, subpoena or notice issued by the
10 commission or an order, subpoena, notice, writ or summons issued by a court;

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

17 II. "protest" means a document filed with the commission by an
18 interested person that expresses an objection to a matter before the commission;

19 JJ. "rate" means a form of compensation charged, whether directly or
20 indirectly, by a person for a transportation service subject to the jurisdiction of the
21 commission;

22 KK. "record" means an account, correspondence, memorandum, tape,
23 disc, paper, book or transcribed information regarding the operation of a motor carrier;

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

25 MM. "regular route" means a route used by a motor carrier within the
territory in which the motor carrier is authorized to serve that is fixed by its operating
authority;

NN. "revocation" means the involuntary, permanent termination of all

1 or part of an operating authority ordered by the commission for cause;

2 OO. "shipper" means a person who consigns or receives goods for
3 transportation;

4 PP. "single state registration receipt" means the document issued
5 annually to a motor carrier operating in interstate commerce evidencing that proof of
6 financial responsibility and safety has been filed with the base state and that the
annual per vehicle fees have been paid for that registration year;

7 QQ. "tariff" means a document filed by a motor carrier of persons or
8 household goods or a towing service performing nonconsensual tows that has been
9 approved by the commission and sets forth the transportation services offered by the
10 motor carrier to the general public, including the rates, terms and conditions and
11 applicable time schedules relating to those services, including a common tariff;

12 RR. "taxicab service" means a common motor carrier engaged in
13 unscheduled passenger transportation in a motor vehicle having a capacity of not
14 more than eight passengers, including the driver, not operated on a regular route or
between specified places, and that:

15 (1) is licensed as a taxicab service by a state or local
16 jurisdiction; or

17 (2) if not licensed or regulated by a state or local jurisdiction as
18 a taxicab service, is offered by a person that:

19 (a) provides local transportation for a fare determined,
20 except with respect to transportation to or from airport, train or bus terminals, primarily
on the basis of the distance traveled; and

21 (b) does not primarily provide transportation to or from
22 one or more airport, train or bus terminals;

23 SS. "terminal shuttle service" means a common motor carrier engaged
24 in passenger transportation service that:

25 (1) is prearranged by contract or operated by hire on a regular
route, allowing for deviation to pick up or drop off passengers, between specified or

1 generally specified points; and

2 (2) primarily provides transportation to or from one or more
3 airport, train or bus terminals but may also provide for intermediate pickup or
4 departure of passengers;

5 TT. "towing services" means the use of specialized equipment,
including repossession services using towing equipment, to transport:

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

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

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

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

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

15 (6) a motor vehicle repossessed or seized pursuant to lawful
16 authority;

17 UU. "transfer of a certificate or permit" means a permanent
conveyance of all or part of a certificate or permit;

18 VV. "transfer by operation of law" means that the ownership of or
19 interest in a certificate or permit passes to another by application of established rules
20 of law;

21 WW. "voluntary suspension" means the commission-authorized
22 cessation of use of all or part of a certificate or permit at the request of the motor
23 carrier for a specified period of time;

24 XX. "warrant" means the operating authority issued by the commission
25 to charter services, towing services, commuter services and motor carriers of property;
and

1 YY. "weight-bumping" means the knowing and willful statement of a 8
2 fraudulent weight on a shipment of household goods. 8

3 Section 4. POWERS AND DUTIES OF THE COMMISSION.-- 6

4 A. In accordance with the Motor Carrier Act, the commission shall: 8

5 (1) issue operating authorities for a motor carrier operating in 8
6 New Mexico; P
7 a

8 (2) establish minimum requirements for financial responsibility 8
9 for a motor carrier; e

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

14 (4) establish reasonable requirements with respect to 8
15 continuous and adequate service to be provided under an operating authority; 8

16 (5) regulate the rates of intrastate common motor carriers of 8
17 persons and household goods and towing services performing nonconsensual tows, 8
18 including rates for storing household goods and motor vehicles; 8

19 (6) determine matters of public convenience and necessity 8
20 relating to motor carriers; 8

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

23 (8) hold a public hearing specific to a protest or request that 8
24 has been filed timely in opposition to or in consideration of an application; and 8

25 (9) adopt rules, issue orders and conduct activities necessary 8
to implement and enforce the Motor Carrier Act. 8

B. The commission may: 8

(1) designate inspectors who may inspect the records of a 8
motor carrier subject to the Motor Carrier Act and who shall have the powers of peace 8
officers in the state's political subdivisions with respect to a law or rule that the 8

1 commission is empowered to enforce pursuant to Section 65-1-6 NMSA 1978,
2 excluding the enforcement authority granted to the motor transportation division of the
3 department of public safety;

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

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

10 (4) adopt rules to implement these powers.

11 Section 5. APPLICATIONS IN GENERAL--WHEN PUBLIC HEARINGS
12 REQUIRED.--

13 A. A person shall file an application if commission approval is required.
14 An application shall be made in writing, verified under oath and be in a form that
15 contains information and is accompanied by proof of service upon interested persons
16 as required by the commission.

17 B. The commission shall streamline and simplify to the extent possible
18 the process for approving applications. The commission may hold a public hearing
19 specific to a protest or request that has been timely filed in opposition to or in
20 consideration of an application.

21 C. The commission shall hold a public hearing on an application
22 whenever an interested person protests the application during the notice period or the
23 transportation division of the commission requests a hearing during the notice period.

24 D. The commission may approve or deny an application in whole or in
25 part.

Section 6. NOTICE.--

A. If the Motor Carrier Act requires publication of notice regarding an
application before the commission, the requirement is met if notice is published once in
a newspaper of general circulation in the state. The commission shall not act on the

1 application less than twenty days after the date notice was published.

2 B. Whenever the Motor Carrier Act requires publication of notice
3 regarding a matter other than an application, the requirement is met if notice is
4 published once in a newspaper of general circulation in the state. The commission
5 shall not act on a matter less than ten days after the date notice was published.

6 Section 7. OPERATING AUTHORITIES IN GENERAL.--

7 A. A certificate, permit or warrant shall be effective from the date
8 issued by the commission and shall remain in effect until canceled or revoked. A
9 single state registration receipt for interstate motor carriers shall be effective only for
10 the registration year for which it is issued. A single trip ticket shall be effective only for
11 the duration of the trip for which it is issued.

12 B. A motor carrier shall carry a copy of its operating authority in each
13 motor vehicle it operates in New Mexico.

14 C. A motor carrier shall render reasonably continuous and adequate
15 service as the commission may by rule prescribe.

16 D. A motor carrier shall comply with lawfully adopted rules of the
17 commission.

18 Section 8. CERTIFICATES FOR INTRASTATE COMMON MOTOR CARRIERS
19 OF PERSONS.--

20 A. A common motor carrier of persons shall not provide compensated
21 intrastate transportation in the state without a certificate from the commission.

22 B. Except as provided in this section, the commission shall issue a
23 certificate allowing a person to provide compensated intrastate transportation as a
24 common motor carrier of persons after notice and public hearing requirements are
25 met, if:

(1) the person is fit, willing and able to provide the
transportation service to be authorized by the certificate;

(2) the person is in compliance with the safety and financial
responsibility requirements of the Motor Carrier Act, the rules of the commission and

1 other applicable federal and state laws and rules; and

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

5 C. Before granting a certificate to an intrastate common motor carrier
6 of persons, the commission shall consider the effect that issuance of the certificate
7 would have on existing motor carriers; provided that the commission shall not find
8 diversion of revenue or traffic from an existing motor carrier to be, in and of itself,
9 sufficient grounds for denying the certificate.

10 D. A certificate issued by the commission to an intrastate common
11 motor carrier of persons shall specify the:

12 (1) service to be rendered;

13 (2) territory to be served; and

14 (3) reasonable terms, conditions and limitations as the public
15 convenience and necessity may require; and, if necessary:

16 (a) terminals between which service is to be provided;

17 or

18 (b) routes, schedules and intermediate and off-route
19 points on the route for regular route service.

20 Section 9. CERTIFICATES FOR INTRASTATE COMMON MOTOR CARRIERS
21 OF HOUSEHOLD GOODS.--

22 A. A common motor carrier of household goods shall not provide
23 compensated intrastate transportation in the state without a certificate from the
24 commission.

25 B. Except as provided in this section, the commission shall issue a
certificate allowing a person to provide compensated intrastate transportation as a
common motor carrier of household goods after notice and public hearing
requirements are met, if:

(1) the person is fit, willing and able to provide the

1 transportation to be authorized by the certificate;

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

5 (3) the transportation service to be provided under the
6 certificate is or will serve a useful public purpose, responsive to a public demand or
7 need. The proposed transportation service will be deemed to serve a useful public
8 purpose, responsive to a public demand or need, if the application is for authority to
9 provide:

10 (a) transportation to a community not regularly served
11 by an authorized intrastate common motor carrier of household goods;

12 (b) transportation services that will be a direct
13 substitute for abandoned rail service to a community if the abandonment results in the
14 community not having rail service and if the application is filed within one hundred
15 twenty days after the abandonment has been approved by the commission or by the
16 federal railway administration; or

17 (c) transportation for the United States government of
18 used household goods that is incidental to a pack and crate service on behalf of the
19 department of defense.

20 C. Before granting a certificate to an intrastate common motor carrier
21 of household goods, the commission shall consider the effect that issuance of the
22 certificate would have on existing carriers; provided that the commission shall not find
23 diversion of revenue or traffic from an existing carrier to be, in and of itself, sufficient
24 grounds for denying the certificate.

25 D. A certificate issued by the commission to an intrastate common
motor carrier of household goods shall specify the territory to be served.

Section 10. PERMITS FOR INTRASTATE CONTRACT MOTOR CARRIERS OF
PERSONS OR HOUSEHOLD GOODS.--

A. A contract motor carrier shall not provide compensated intrastate

1 transportation of persons or household goods in the state without first having applied
2 for and obtained a permit from the commission.

3 B. Except as provided in this section, the commission shall issue a
4 permit allowing a person to provide compensated intrastate transportation as a
5 contract motor carrier of persons or household goods after notice and public hearing
6 requirements are met, if:

7 (1) the person is fit, willing and able to provide the
8 transportation to be authorized by the permit;

9 (2) the person is in compliance with the safety and financial
10 responsibility requirements of the Motor Carrier Act, the rules of the commission and
11 other applicable federal and state laws and rules; and

12 (3) the transportation to be provided under the permit is or will
13 be consistent with the public interest.

14 C. Before granting a permit to an intrastate contract motor carrier of
15 persons, the commission shall consider:

16 (1) the number of customers to be served by the carrier;

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

18 (3) whether granting the permit would endanger or impair the
19 operations of motor carriers protesting the application for a permit to an extent
20 contrary to the public interest;

21 (4) the effect that denying the permit would have on the person
22 applying for the permit and its customers; and

23 (5) the changing character of the requirements of the
24 applicant's customers.

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

E. Before granting a permit to an intrastate contract motor carrier of

1 household goods, the commission shall consider:

2 (1) whether granting the permit would endanger or impair the
3 operations of carriers protesting the application for a permit to an extent contrary to
4 the public interest; and

5 (2) the effect that denying the permit would have on the person
6 applying for the permit and its shippers.

7 F. A permit issued by the commission shall specify the business of the
8 intrastate contract motor carrier, the scope of the authority granted to it and the terms,
9 conditions and limitations of the authority.

10 G. An intrastate contract motor carrier of persons or household goods
11 shall file with the commission each contract under which it intends to operate. The
12 commission shall approve a contract and authorize operations if it finds that the
13 contract is consistent with the public interest and the provisions of this section.

14 H. The commission shall not limit an intrastate contract motor carrier of
15 persons or household goods to a fixed number of contracts.

16 I. A motor carrier owning a certificate and a permit for the same type of
17 service may use the same equipment for both common and contract services provided
18 that shared use does not impair the provision of transportation services under the
19 certificate.

20 Section 11. TEMPORARY AUTHORITY FOR INTRASTATE MOTOR
21 CARRIERS OF PERSONS OR HOUSEHOLD GOODS.--

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

25 (1) there is an urgent and immediate need for such service;
and

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

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1 B. Satisfactory proof of urgent and immediate need shall be made by 6
2 affidavit or other verified proof as the commission shall by rule prescribe. 9

3 C. An applicant for temporary authority as a common motor carrier 8
4 shall file tariffs covering the transportation services for which temporary authority is 9
5 being sought. 10

6 D. After temporary authority has been granted, the applicant shall give 11
7 notice of the grant of temporary authority to a motor carrier authorized to perform the 12
8 service temporarily authorized. If such motor carrier or the staff of the transportation 13
9 division of the commission files a written request for a hearing within twenty-five days 14
10 of the date notice was mailed, the commission shall hold a public hearing and make 15
11 such further determination with respect to the grant of temporary authority as the 16
12 public interest may require. 17

13 E. Intrastate motor carriers operating under temporary authority shall 18
14 comply with the requirements of the Motor Carrier Act and the rules of the commission. 19

15 F. A grant of temporary authority shall not create a presumption that 20
16 permanent authority will be granted. 21

17 Section 12. WARRANTS.--

18 A. It is unlawful for any commuter service, charter service, towing 22
19 service or motor carrier of property to provide compensated intrastate transportation 23
20 in the state without a warrant from the commission. 24

21 B. The commission shall issue a warrant that allows a person to 25
22 provide compensated intrastate transportation as a commuter service, charter service, 26
23 towing service or motor carrier of property if the commission finds that the person is in 27
24 compliance with the financial responsibility and safety requirements of the Motor 28
25 Carrier Act and the rules of the commission. 29

30 C. A person may protest an application for a warrant if the person has 31
32 reason to believe that the applicant does not meet the safety or financial responsibility 33
34 requirements of the Motor Carrier Act and the rules of the commission. 34

35 D. A warrant shall not be transferred or leased to another person. 35

1 E. The commission may without notice or a public hearing cancel a
2 warrant if the owner fails to operate under the warrant for twelve consecutive months.

3 Section 13. PROTESTS OF APPLICATIONS FOR A CERTIFICATE OR
4 PERMIT OR FOR A CHANGE IN A CERTIFICATE OR PERMIT.--

5 A. A contract motor carrier shall not protest an application for a
6 certificate or for a change in a certificate.

7 B. A common or contract motor carrier shall not protest an application
8 for a permit or for a change in a permit.

9 C. A common motor carrier shall not protest an application for a
10 certificate or for a change in a certificate unless:

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

15 (2) it is willing and able to provide service that meets the
16 reasonable needs of the customers or shippers involved; and

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

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

22 Section 14. CHANGES IN CERTIFICATES OR PERMITS.--

23 A. A change in a certificate, permit or tariff shall not be valid or
24 effective without the approval of the commission.

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

(1) that the proposed rates are reasonable, non-predatory and

1 nondiscriminatory for a change in a tariff;

2 (2) that the applicant meets the requirements pursuant to
3 Section 8 of the Motor Carrier Act for an amendment of a certificate as a common
4 motor carrier of persons;

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

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

11 (5) that the applicant meets the requirements pursuant to
12 Section 10 of the Motor Carrier Act for an amendment of a permit as a contract motor
13 carrier of household goods;

14 (6) that for a transfer of all or part of a certificate or permit:
15 (a) the transferee-applicant is fit, willing and able to
16 provide the authorized transportation services and to comply with the Motor Carrier Act
17 and the rules of the commission;

18 (b) the transferor-applicant has rendered reasonably
19 continuous and adequate service prior to the application for lease or transfer;

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

24 (d) the transfer does not have the effect of destroying
25 competition or creating a monopoly; and

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

(7) that for a lease of all or part of a certificate or permit:
(a) the lessee-applicant is fit, willing and able to provide

1 the authorized transportation services and to comply with the Motor Carrier Act and
2 the rules of the commission;

3 (b) the lessor-applicant has rendered reasonably
4 continuous and adequate service prior to the application for lease;

5 (c) the lease does not have the effect of destroying
6 competition or creating a monopoly; and

7 (d) the lease is not inconsistent with the public interest.

8 C. The commission may, without notice or a public hearing, authorize
9 the following changes in all or part of a certificate or permit at the request of the
10 person owning the certificate or permit:

11 (1) cancellation of the certificate or permit;

12 (2) voluntary suspension of the certificate or permit;

13 (3) change in the form of ownership of the certificate or permit;

14 and

15 (4) reinstatement of the certificate or permit following voluntary
16 suspension.

17 Section 15. MULTIPLE OPERATING AUTHORITIES ALLOWED--COMMON
18 CONTROL AND SHAM COMPETITION PROHIBITED.--

19 A. A person may simultaneously hold a certificate as a common motor
20 carrier, a permit as a contract motor carrier and a warrant authorizing transportation
21 by motor vehicle over the same routes or within the same territory, if the commission
22 finds that the multiple operating authorities are consistent with the public interest.

23 B. A person shall not control more than one certificate or more than
24 one permit for the same kind of service in the same territory.

25 C. The commission shall not grant any new operating authority to a
motor carrier that:

(1) duplicates operating authority of the same kind and for the
same territory already held by that motor carrier; or

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

4 D. If two motor carriers come to be held in common control, and each
5 motor carrier has operating authority that duplicates the operating authority of the
6 other, then one of them shall have its operating authority modified to exclude the
7 portion of the operating authority that is of the same kind and for the same territory,
8 but shall be allowed to operate in the name and under the operating authority of the
9 other motor carrier with which it is held in common control.

10 E. Motor carriers of household goods possessing both a certificate
11 and permit may transport mixed loads of common and contract motor carrier
12 household goods.

13 Section 16. INTERSTATE MOTOR CARRIERS.--

14 A. A motor carrier engaged in interstate commerce shall not provide
15 compensated interstate transportation of persons or property on the highways of this
16 state without a single state registration receipt from a base state. The commission is
17 authorized to issue single state registration receipts without notice or a public hearing.

18 B. The commission is authorized to collect an annual per vehicle fee,
19 enter into agreements with state agencies and other state governments and
20 promulgate rules necessary to enable New Mexico to participate in the single state
21 registration system or its successor system for interstate motor carriers either subject
22 to regulation, or transporting commodities exempt from regulation, by the federal motor
23 carrier safety administration pursuant to Section 4005 of the federal Intermodal
24 Surface Transportation Efficiency Act of 1991, and implementing regulations
25 promulgated by the federal motor carrier safety administration.

26 C. The commission shall require an application, proof of financial
27 responsibility and a single state registration receipt showing that the annual per
28 vehicle fee has been paid for New Mexico from an interstate motor carrier transporting
29 commodities exempt from regulation by the federal motor carrier safety administration

1 in interstate commerce on the highways of the state, but shall not require payment of
2 duplicate annual per vehicle fees from an interstate motor carrier transporting both
3 exempt and regulated commodities.

4 D. Compliance by an interstate motor carrier with the provisions of the
5 federal Intermodal Surface Transportation Efficiency Act of 1991 shall not authorize a
6 carrier to provide intrastate transportation services in New Mexico. An interstate motor
7 carrier wishing to provide compensated transportation in intrastate commerce shall
8 apply for the appropriate intrastate operating authority from the commission. A taxicab
9 service or terminal shuttle service is engaged in nonexempt intrastate business within
10 the state regardless of a prior exemption if its service provides, with regard to any
11 service run, for both:

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

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

17 Section 17. SINGLE TRIP TICKETS.--The owner of a motor vehicle regularly
18 used to convey children to and from school or school activities shall not use the motor
19 vehicle for compensated transportation for a single trip sponsored by a charitable
20 organization without a single trip ticket from the commission. An application for a
21 single trip ticket shall be in a form prescribed by the commission and shall state the
22 time, purpose, origin and destination of the trip and the name, purpose and status of
23 the charitable organization sponsoring the trip. The commission may issue a single
24 trip ticket without notice or a public hearing only if it finds that no certificated or
25 permitted common or contract motor carrier service is available for the trip described
in the application and that the motor vehicle to be used for the trip complies with the
safety requirements prescribed by the Motor Carrier Act and the commission's rules.

Section 18. FINANCIAL RESPONSIBILITY.--

A. A motor carrier shall not operate on the highways of this state

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1 without having filed with the commission proof of financial responsibility in the forms 6
2 and amounts as the commission shall by rule prescribe. 9
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4 B. In prescribing minimum requirements for financial responsibility for 8
5 motor carriers, the commission shall consider: 8
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7 (1) the creation of sufficient incentives to motor carriers to 8
8 maintain and operate their equipment in a safe manner; 9
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10 (2) the number of passengers being transported; 2
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12 (3) the nature of the transportation services provided by the 1
13 motor carrier; and

14 (4) other factors necessary to ensure that motor carriers
15 maintain an appropriate level of financial responsibility.

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

20 (1) the financial stability of the carrier;

21 (2) previous loss history of the carrier;

22 (3) the safety record of the carrier;

23 (4) the size, nature of operations and other operating
24 characteristics of the carrier; and

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

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

(1) the insurance is for an interstate motor carrier transporting
commodities exempt from regulation by the federal motor carrier safety administration
participating in the single state registration system for those motor carriers; and

(2) the insurer is authorized to write public liability insurance in

1 at least one other state.

2 E. All motor carriers shall carry proof of financial responsibility in each
3 motor vehicle they operate in this state.

4 Section 19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND
5 DRIVERS USED IN COMPENSATED TRANSPORTATION.--

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

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

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

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

26 Section 20. TARIFFS.--

27 A. An intrastate common motor carrier of persons or household goods
28 or a towing service performing nonconsensual tows shall not commence operations or
29 perform a new service under its operating authority without approval of a tariff from the

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1 commission.

2 B. An intrastate common motor carrier of persons or household goods
3 and a towing service performing nonconsensual tows shall file with the commission
4 proposed tariffs showing the rates, terms and conditions for transportation and related
5 services between points in its territory. The rates shall be stated in terms of United
6 States currency.

7 C. An intrastate common motor carrier of persons or household goods
8 or a towing service performing nonconsensual tows shall not charge, or permit its bona
9 fide agents or employees to charge, a different rate for transportation or for a service
10 rendered to or for the user of the service other than the rates specified in approved
11 tariffs in effect at the time. The rates of an otherwise valid tariff are not applicable
12 when a medicaid program directly pays for services.

13 D. An intrastate common motor carrier of persons or household goods
14 or a towing service performing nonconsensual tows shall not refund, directly or
15 indirectly, a portion of the rate specified in its approved tariff, offer to a person
16 privileges or facilities, perform a service or remit anything of value except in
17 accordance with tariffs approved by the commission.

18 E. A person may make a complaint in writing to the commission that an
19 individual or joint rate or practice is in violation of the Motor Carrier Act. The
20 commission may suspend the operation of a rate or practice for a period not to exceed
21 sixty days to investigate its reasonableness. If the commission finds that an individual
22 or joint rate charged by an intrastate common motor carrier of persons or household
23 goods or a towing service performing nonconsensual tows, or an individual or joint
24 practice of any intrastate common motor carrier of persons or household goods or any
25 towing service performing nonconsensual tows affecting the rate, is unreasonable,
predatory or discriminatory, the commission shall prescribe the rate or the maximum or
minimum rate to be observed or the practice to be made effective.

Section 21. RATES.--

A. An intrastate common motor carrier of persons or household goods

1 and a towing service performing nonconsensual tows shall observe reasonable,
2 nonpredatory and nondiscriminatory rates and practices for the transportation
3 services they provide. An unreasonable, predatory or discriminatory charge for
4 service is unlawful.

5 B. Reduced rates for students traveling between their homes and their
6 schools and for persons sixty-five years of age or older shall not be considered
7 discriminatory within the meaning of this section. A motor carrier shall not furnish free
8 transportation to persons except to bona fide owners, officers or employees of the
9 motor carrier and their dependents. Stockowners of incorporated motor carriers shall
not be considered owners for purposes of this subsection.

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

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

20 E. An intrastate common motor carrier of persons or household goods
21 and a towing service performing nonconsensual tows shall establish with each other
22 reasonable through routes and joint rates and practices. Participating motor carriers
23 shall have the duty to establish reasonable practices in connection with joint
24 transportation and reasonable and equitable divisions of the joint rates adopted so as
not to unduly prefer or prejudice any participating motor carrier.

25 F. In proceedings to determine the reasonableness of rates, the

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

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9 Section 22. TIME SCHEDULES.--

10 A. An intrastate common motor carrier of persons providing scheduled
11 service to the general public shall file a proposed time schedule with its application for
12 a certificate. The commission shall approve the time schedule before the schedule is
13 put into effect.

14 B. Failure by an intrastate common motor carrier of persons to operate
15 the service on each day as scheduled shall result in an appropriate penalty as the
16 commission, in its discretion, shall determine.

17 C. A time schedule shall not be designed to require the operation of a
18 motor vehicle between given terminals or between way stations at a rate of speed
19 greater than the maximum speed allowed.

20 Section 23. MOTOR CARRIER ORGANIZATIONS--COMMON TARIFFS.--

21 A. An intrastate common motor carrier may enter into discussions with
22 another intrastate common motor carrier to establish a motor carrier organization. The
23 organization shall obtain authorization from the commission before its members enter
24 into any discussions concerning a common tariff. The commission shall not enter an
25 order authorizing a motor carrier organization except after notice and public hearing
requirements are met. The commission may authorize the creation of a motor carrier
organization if the organization:

- (1) allows a member carrier to discuss a tariff proposal filed

- 1 with it, provided that only those carriers with authority to participate in the
2 transportation to which the proposal applies may vote upon the proposal;
- 3 (2) does not interfere with a member carrier's right to establish 6
4 its own tariff and does not change or cancel an independently established tariff; 9
5 (3) does not file a protest or complaint with the commission 8
6 against a tariff item independently published by or for the account of a member carrier; P
7 (4) does not permit its employees or an employee committee to a
8 file or act upon a proposal effecting a change in a tariff item published by or for the 9
9 account of a member carrier; e
- 10 (5) makes available, upon request, the name of the proponent 2
11 of a rate or tariff item filed with it, admits the public to a meeting at which rates or tariff 6
12 items will be discussed or voted upon and makes available the vote cast by a member
13 carrier on a proposal before the motor carrier organization;
- 14 (6) prohibits a carrier to vote on behalf of one or more other
15 member carriers without specific written notarized authority from the member carrier
16 being represented;
- 17 (7) makes a final disposition of a rate or tariff item filed with the
18 motor carrier organization within one hundred twenty days from the date the proposal
19 is filed, except that if unusual circumstances require, the organization may extend the
20 period, subject to review by the commission;
- 21 (8) adopts reasonable quorum standards for its meetings; and
22 (9) will propose common tariffs for approval by the commission.

23 B. A member carrier of the organization shall file with the commission
24 information as the commission may by rule prescribe.

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

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

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6 E. The antitrust laws of the state shall not apply to discussions
7 concerning a common tariff by member carriers of a motor carrier organization
8 authorized by the commission.

9 F. The motor carrier organization shall obtain approval of a common
10 tariff from the commission before its member carriers may operate pursuant to the
11 common tariff. The commission shall not enter an order approving a common tariff
12 except after notice and public hearing requirements are met. The commission may
13 approve a common tariff if the common tariff is limited to matters relating to
14 transportation services provided by the member carriers party to the common tariff.
15 The commission shall approve or disapprove a common tariff, in whole or in part, and
16 may prescribe such terms and conditions as the public interest may require. The
17 antitrust laws of the state shall not apply to common motor carriers who operate
18 pursuant to a common tariff approved by the commission.

18 G. In any proceeding in which a party to the proceeding alleges that a
19 member carrier voted, discussed or agreed on a common tariff in violation of this
20 section, that party has the burden of showing that the vote, discussion or agreement
21 occurred. A showing of parallel behavior shall not by itself satisfy that burden.

21 Section 24. MOTOR VEHICLE LEASES.--

22 A. An intrastate motor carrier shall not lease a motor vehicle or
23 operate a leased motor vehicle without approval of each motor vehicle lease from the
24 commission. The commission may approve a motor vehicle lease without notice or a
25 public hearing.

B. A motor carrier shall file a separate motor vehicle lease for each

1 motor vehicle to be leased.

2 C. The commission shall not approve a proposed motor vehicle lease
3 if it finds that the purpose of the motor vehicle lease is to circumvent a provision of the
4 Motor Carrier Act or rule of the commission.

5 D. The commission shall by rule specify which of the two parties to a
6 motor vehicle lease will be responsible for complying with the financial responsibility
7 and safety requirements of the Motor Carrier Act and the rules of the commission.

8 Section 25. HOUSEHOLD GOODS OPERATIONS.--

9 A. An intrastate common motor carrier of household goods shall be
10 responsible for acts or omissions of its agents that relate to the performance of
11 household goods transportation services, including accessorial or terminal services,
12 that are within the actual or apparent authority of the agent derived from or ratified by
13 the common motor carrier of household goods.

14 B. An intrastate common motor carrier of household goods shall use
15 reasonable care in selecting and retaining household goods agents who are
16 sufficiently knowledgeable, fit, willing and able to provide adequate household goods
17 transportation services, including accessorial and terminal services, and to fulfill the
18 obligations imposed upon them by the Motor Carrier Act and by the common motor
19 carrier.

20 C. If the commission has reason to believe from a complaint or
21 investigation that a household goods agent has violated Subsection G or H of Section
22 33 of the Motor Carrier Act, or is consistently unfit, unwilling or unable to provide
23 adequate household goods transportation services, including accessorial and terminal
24 services, the commission may issue to that household goods agent notice of the
25 complaint, specific charges and the time and place for a hearing on the complaint.
The hearing shall be held no later than sixty days after service of the complaint to the
household goods agent. The household goods agent has the right to appear at the
hearing and rebut the charges contained in the complaint. D. If the

household goods agent does not appear at the complaint hearing, or if the

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

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

- 15 (1) rates;
- 16 (2) cost estimates, for which charges shall be subject to the
17 antitrust laws of this state;
- 18 (3) inventory;
- 19 (4) weighing;
- 20 (5) receipts and bills of lading;
- 21 (6) liability based on value established between the motor
22 carrier and the shipper;
- 23 (7) joint transportation between common motor carriers of
24 household goods;
- 25 (8) household goods agents; and
- (9) service standards.

F. In adopting rules for intrastate common motor carriers of household
goods, the commission shall consider:

- (1) the level of performance that can be achieved by a

- 1 well-managed motor carrier of household goods; SB
2 (2) the degree of harm to individual shippers that could result
3 from a violation of the rule; 6
4 (3) the need to deter abuses that result in harm to shippers; 9
5 (4) service requirements of motor carriers of household goods; 8
6 (5) the cost of compliance in relation to the benefits to shippers Pa
7 to be achieved from such compliance; and ge
8 (6) the need to encourage motor carriers of household goods 3
9 to offer service responsive to shippers' needs. 0

9 G. The antitrust laws shall not apply to discussions or agreements
10 between an intrastate common motor carrier of household goods and its authorized
11 agents, whether or not an agent is also a motor carrier of household goods, related
12 solely to:

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

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

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

18 (4) ownership of a common motor carrier of household goods
19 by an agent or membership on the board of directors of any common motor carrier of
20 household goods by an agent.

21 Section 26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT
22 PROGRAMS.--

23 A. A common motor carrier of household goods may submit an
24 application to the commission to establish a program to settle disputes between
25 shippers and common motor carriers of household goods concerning the
transportation of household goods. The application shall be in a form and contain

1 information as the commission may by rule require.

2 B. The commission shall review and approve, within forty-five days of
3 the filing of an application, a program for settling disputes concerning the
4 transportation of household goods that meets the requirements of Subsection C of this
5 section.

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

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

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

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

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

(5) the person settling the dispute may charge the shipper a
fee of not more than twenty-five dollars (\$25.00) for instituting a proceeding under the

1 program if the program is binding solely on the carrier, but shall not charge the
2 shipper a fee otherwise. The person settling the dispute shall refund the fee to the
3 shipper in a case in which the dispute is settled in favor of the shipper, unless the
4 person settling the dispute determines that the refund is inappropriate;

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

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

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

21 D. The commission may investigate at any time the functioning of a
22 program approved under this section and may, after notice and an opportunity to be
23 heard, suspend or revoke its approval for failure to meet the requirements of this
24 section and rules as the commission may prescribe.

25 E. In a court action to resolve a dispute between a shipper and a
common motor carrier of household goods, concerning the transportation of
household goods by the carrier, the shipper shall be awarded reasonable attorney
fees if:

(1) the shipper submits a claim to the carrier within one

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1 hundred twenty days after the date the shipment is delivered or the date delivery is 8
2 scheduled, whichever is later; and 3
3 (2) the shipper prevails in the court action; and 6
4 (3) a dispute settlement program approved under this section 9
5 was not available for use by the shipper to resolve the dispute; or 8
6 (4) a decision resolving the dispute was not rendered under a P
7 dispute settlement program approved under this section within sixty days or an a
8 extension of the sixty-day period; or 9
9 (5) the court proceeding is to enforce a decision rendered e
10 under a dispute settlement program approved under this section and is instituted after 3
11 the period for performance under the decision has elapsed. 3

11 F. In a court action to resolve a dispute between a shipper and a
12 common motor carrier of household goods concerning the transportation of household
13 goods by the carrier, the carrier shall be awarded reasonable attorney fees by the
14 court only if the shipper brought the action in bad faith:

14 (1) after resolution of the dispute under a dispute settlement
15 program approved under this section; or

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

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

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

22 Section 27. INVOLUNTARY SUSPENSION, REVOCATION OR AMENDMENT
23 OF OPERATING AUTHORITIES--REINSTATEMENT.--

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

1 rule.

2 B. The commission may immediately suspend, without notice or a
3 public hearing, the operating authority of a motor carrier for violation of a safety
4 requirement of the Motor Carrier Act, the commission's rules or the rules of the motor
5 transportation division of the department of public safety, if the violation endangers the
6 public health or safety.

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

- 11 (1) comply with a provision of the Motor Carrier Act;
- 12 (2) comply with a lawful order or rule of the commission;
- 13 (3) comply with a term, condition or limitation of an operating
14 authority; or
- 15 (4) render reasonably continuous and adequate service under
16 a certificate or permit.

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

- 20 (1) the reasons for the involuntary suspension no longer
21 pertain; and
- 22 (2) the owner of the operating authority is fit, willing and able to
23 provide the authorized transportation services and to comply with the Motor Carrier Act
24 and the rules of the commission.

25 Section 28. DESIGNATION OF AN AGENT FOR SERVICE OF PROCESS.--

26 A. An applicant for an operating authority shall file with the commission
27 an appointment in writing of a resident agent for service of process. The appointment
28 shall specify the address of the agent and shall stipulate that service upon the
29 appointed agent of process of the commission or of a court shall have the same force

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

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

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

18 D. The secretary of state shall assess to the motor carrier the fee
19 prescribed in Section 36 of the Motor Carrier Act for a process from a court served
20 upon the secretary of state but shall not charge a fee for service of commission
process.

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

25 Section 29. REPORTS AND RECORDS.--

A. The commission shall establish reasonable requirements with

1 respect to reports, records and uniform systems of accounts and preservation of S
2 records for motor carriers. B

3 B. The commission may require a motor carrier owning operating 6
4 authority from the commission to prepare and transmit to the commission an annual 9
5 report of its operations. The report shall be in the form, contain specific information, 8
6 including financial information, and be due on a date as the commission may by rule P
7 require. Financial data filed by motor carriers in annual reports shall not be made a
8 available for inspection by the public. g
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10 C. The commission or its employees or duly authorized agents shall, at
11 all times, have access to:

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

14 (2) records kept by motor carriers.

15 D. The commission may, by order, require a motor carrier subject to
16 the Motor Carrier Act, or its officers or agents, to produce within this state at such
17 reasonable time and place as it may designate, original or certified copies of records
18 regardless of where they are kept by the motor carrier when their production is
19 pertinent to a matter before the commission, in order that the commission may
20 examine them.

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

25 Section 30. UNAUTHORIZED CARRYING OF PERSONS PROHIBITED.--A
26 motor carrier not authorized to transport persons shall not carry a person, including a
27 hitchhiker, except on-duty employees of the motor carrier, commission representatives
28 on official business or in case of an emergency.

29 Section 31. WITNESSES--SUBPOENAS--SERVICE OF PROCESS.--

30 A. If the commission orders a person to appear before it, the

1 commission shall compensate the witness one full day's per diem plus mileage as
2 provided for employees in the Per Diem and Mileage Act. The state shall pay such
3 compensation out of the motor transportation fee fund pursuant to rules of the
4 department of finance and administration. Witnesses subpoenaed by parties other
5 than the commission shall be paid the same compensation by the party issuing the
subpoena.

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

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

19 D. A member of the commission may administer an oath, certify to an
20 official act, issue a subpoena and compel the attendance of a witness and the
21 production of evidence in hearings before the commission for the purposes provided
22 in the Motor Carrier Act.

23 E. The commission may issue and serve process on the person
24 affected by delivering a copy of the process, signed by a member of the commission,
25 to the person or to an officer or agent of the person. An employee of the commission,
a duly authorized law enforcement officer or a person over the age of eighteen who is

1 not a party to the proceeding may serve process and shall return a copy of the
2 process served, with an endorsement of service, to the commission. The endorsed
3 process shall be entered into the record of the proceeding and shall be prima facie
4 evidence that the process was duly served.

5 F. The commission may in writing authorize a commissioner, the chief
6 of staff or other person to investigate and take testimony regarding a matter pending
7 before the commission.

8 Section 32. ADMINISTRATIVE PENALTIES.--

9 A. If the commission finds after investigation that a provision of the
10 Motor Carrier Act or an order or rule of the commission is being, has been or is about
11 to be violated, it may issue an order specifying the actual or proposed acts or
12 omissions to act that constitute a violation and require that the violation be
13 discontinued, rectified or prevented.

14 B. Notwithstanding the existence of any other penalties, the
15 commission may assess an administrative fine of not more than ten thousand dollars
16 (\$10,000) for each violation of a provision of the Motor Carrier Act or of a lawful rule or
17 order of the commission. In case of a continuing violation, each day's violation shall
18 be deemed to be a separate and distinct offense.

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

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

Section 33. CRIMINAL AND CIVIL PENALTIES.--

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

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1 perjury.

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

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

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

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

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

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

G. A person who commits weight-bumping shall be guilty of a felony

1 and upon conviction shall be fined not less than one thousand dollars (\$1,000) nor
2 more than ten thousand dollars (\$10,000), imprisoned for not more than two years, or
3 both.

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

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

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

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

14 Section 34. ACTIONS TO ENFORCE COMMISSION ORDERS.--If a person
15 fails to comply with an order of the commission within the time prescribed in the order
16 or within thirty days after the order is entered, whichever is later, unless a stay has
17 been granted, the commission shall seek enforcement of the order in the district court
18 for Santa Fe county. The enforcement hearing shall be held on an expedited basis.
19 At the hearing, the sole question shall be whether the person has failed to comply with
the order.

20 Section 35. APPEAL TO SUPREME COURT.--

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

25 B. The pendency of an appeal shall not automatically stay the order
appealed from. The appellant may petition the commission or the supreme court for a

1 stay of the order.

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

- 5 (1) arbitrary, capricious or an abuse of discretion;
- 6 (2) not supported by substantial evidence in the record; or
- 7 (3) otherwise not in accordance with law.

8 Section 36. FEES.--

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

- 10 (1) for filing an application for a certificate as an intrastate
11 common motor carrier of persons or household goods, two hundred fifty dollars
12 (\$250);
- 13 (2) for filing an application for a permit as an intrastate contract
14 motor carrier of persons or household goods, two hundred fifty dollars (\$250);
- 15 (3) for filing an application for a warrant as an intrastate
16 commuter service, charter service, towing service or motor carrier of property, twenty-
17 five dollars (\$25.00);
- 18 (4) for filing an application for intrastate temporary authority as
19 a common or contract motor carrier of persons or household goods, one hundred
20 dollars (\$100);
- 21 (5) for filing an application for extension of temporary authority,
22 fifty dollars (\$50.00);
- 23 (6) for filing an application for a change in an intrastate tariff,
24 two hundred dollars (\$200);
- 25 (7) for filing an application for lease or transfer of a certificate
or permit, two hundred dollars (\$200);
- (8) for filing an application for reinstatement of a certificate or
permit following voluntary or involuntary suspension, one hundred dollars (\$100);
- (9) for filing an application for voluntary suspension of a

- 1 certificate or permit, fifteen dollars (\$15.00);
- 2 (10) for filing an application for a single trip ticket, five dollars
- 3 (\$5.00) per vehicle per trip;
- 4 (11) for a single state registration receipt for interstate motor
- 5 carriers, ten dollars (\$10.00) per vehicle per registration year or portion of a
- 6 registration year;
- 7 (12) for filing a change of name, ten dollars (\$10.00);
- 8 (13) for filing proof of financial responsibility, fifteen dollars
- 9 (\$15.00) per filing;
- 10 (14) for filing an equipment lease, five dollars (\$5.00) per
- 11 vehicle leased;
- 12 (15) for a miscellaneous filing, five dollars (\$5.00) per
- 13 document;
- 14 (16) for certifying copies of a record, order or operating
- 15 authority, fifteen dollars (\$15.00);
- 16 (17) for copies of written commission documents or records,
- 17 one dollar (\$1.00) per page, in addition to any applicable certification charge; and
- 18 (18) for copies of other commission records, including
- 19 electronic media, an amount set by the commission, in addition to any applicable
- 20 certification charge.

21 B. The secretary of state shall charge and collect a fee of four dollars

22 (\$4.00) for each process from a court served upon the secretary of state as the

23 designated agent for service of process by operation of law.

24 C. The "motor transportation fee fund" is created in the state treasury.

25 The commission shall collect all fees at the time an application is filed or service is

provided, and shall remit them to the state treasurer, who shall deposit them in the

fund. At the end of each month, the state treasurer shall transfer the unencumbered

balance in the fund to the state road fund.

D. If a fee has been erroneously paid, the person having paid the fee

1 may apply for a refund in writing to the commission no later than sixty days after the
2 erroneous payment. Upon approval of the application by the commission, the amount
3 erroneously paid shall be refunded from the motor transportation fee fund to the
4 person who made the payment.

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

8 Section 37. ELECTRONIC FILING AND CERTIFICATION OF DOCUMENTS--
9 ELECTRONIC PAYMENT OF FEES.--

10 A. The commission may adopt rules permitting the electronic filing of
11 documents, including original documents, and the certification of electronically filed
12 documents when filing or certification is required or permitted pursuant to the Motor
13 Carrier Act. The rules shall provide for the appropriate treatment of electronic filings
14 to satisfy requirements for original documents or copies and shall provide the
15 requirements for signature with respect to electronic filings. If the commission accepts
16 electronic filing of a document, it may accept for filing a document containing a copy of
17 a signature, however made.

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

22 Section 38. EXEMPTIONS.--The Motor Carrier Act shall not apply to:

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

26 B. United States mail carriers, unless they are engaged in other
27 business as common or contract motor carriers of persons or household goods;

28 C. hearses, funeral coaches or other motor vehicles belonging to or
29 operated in connection with the business of a funeral service practitioner licensed by

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1 the state;

2 D. a county or municipal public bus transportation system; or

3 E. private carriers.

4 Section 39. EFFECT ON MUNICIPAL POWERS.--Nothing contained in the
5 Motor Carrier Act shall be construed:

6 A. to limit or restrict the police jurisdiction or power of a municipality
7 over its streets, highways and public places except as otherwise provided by law;

8 B. in respect to matters other than rates and service regulations, to
9 repeal a power of a municipality:

10 (1) to adopt and enforce reasonable police regulations and
11 ordinances in the interest of the public safety, morals and convenience; or

12 (2) to protect the public against fraud, imposition or oppression
13 by motor carriers within their respective jurisdiction.

14 Section 40. TRANSITION.--

15 A. A certificate of public convenience and necessity and a permit
16 issued to an intrastate motor carrier of persons or household goods by the
17 commission under the authority of previous acts shall remain in effect, subject to the
18 provisions of the Motor Carrier Act and the commission's rules.

19 B. A certificate of public convenience and necessity and a permit
20 issued to an intrastate motor carrier of property by the commission under the authority
21 of previous acts shall become null and void on July 1, 2003. The commission shall
22 issue a warrant to an intrastate motor carrier of property upon surrender of its
23 certificate of public convenience and necessity or permit if, as of June 30, 2003, the
24 motor carrier has valid proof of financial responsibility and current vehicle inspection
25 certificates on file with the commission. The commission shall not charge the warrant
application fee prescribed in Section 36 of the Motor Carrier Act.

C. A certificate of registration issued to a commuter vanpool or farm
carrier by the commission under the authority of previous acts shall become null and
void on July 1, 2003. The commission shall issue a warrant to a commuter service or

1 motor carrier of property, commuter vanpool or farm carrier under previous acts upon
2 surrender of its certificate of registration if, as of June 30, 2003, the motor carrier has
3 valid proof of financial responsibility and current vehicle inspection certificates on file
4 with the commission. The commission shall not charge the warrant application fee
5 prescribed in Section 36 of the Motor Carrier Act.

6 D. A warrant issued to an intrastate charter service or a motor carrier
7 of property by the commission pursuant to its rules shall remain in effect, subject to the
8 provisions of the Motor Carrier Act and the commission's rules.

9 Section 41. Section 65-1-6 NMSA 1978 (being Laws 1967, Chapter 97,
10 Section 8, as amended) is amended to read:

11 "65-1-6. FIELD ENFORCEMENT OF MOTOR CARRIER ACT AND
12 REGULATIONS.--The department shall:

13 A. enforce in the field the provisions of the Motor Carrier Act and the
14 regulations promulgated by the public regulation commission pursuant to that act; and

15 B. maintain sufficient personnel in the field to enforce the provisions of
16 the Motor Carrier Act and the regulations promulgated by the public regulation
17 commission pursuant to that act."

18 Section 42. Section 66-7-413 NMSA 1978 (being Laws 1978, Chapter 35,
19 Section 484, as amended) is amended to read:

20 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT --SPECIAL
21 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

22 A. The department and local highway authorities may, in their
23 discretion, upon application in writing and good cause being shown, issue a special
24 permit in writing authorizing the applicant to operate or move a vehicle or load of a size
25 or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416
NMSA 1978 on any highway under the jurisdiction of the state transportation
commission or local authorities. Except for the movement of manufactured homes, a
permit may be granted, in cases of emergency, for the transportation of loads on a
certain unit or combination of equipment for a specified period of time not to exceed

1 one year, and the permit shall contain the route to be traversed, the type of load to be
2 transported and any other restrictions or conditions deemed necessary by the body
3 granting the permit. In every other case, the permit shall be issued for a single trip
4 and may designate the route to be traversed and contain any other restrictions or
5 conditions deemed necessary by the body granting the permit. Every permit shall be
6 carried in the vehicle to which it refers and shall be opened for inspection to any
7 peace officer. It is a misdemeanor for any person to violate any of the conditions or
8 terms of the special permit.

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8 B. The department shall charge and collect, when the movement
9 consists of any load of a width of twenty feet or greater for a distance of five miles or
10 more, the sum of three hundred dollars (\$300) a day or fraction thereof to defray the
11 cost of state or local police escort. The permit issued and the fee charged shall be
12 based upon the entire movement at one time requiring police escort and not upon the
13 number of vehicles involved.

13 C. The department shall promulgate regulations in accordance with
14 the State Rules Act pertaining to safety practices, liability insurance and equipment for
15 escort vehicles provided by the motor carrier itself and for escort vehicles provided by
16 a private business in this state.

17 (1) The department shall provide escort personnel with a copy
18 of applicable rules and shall inspect the escort vehicles for the safety equipment
19 required by the regulations. If the escort vehicles and personnel meet the
20 requirements set forth in the rules, the department shall issue the special permit but
21 shall not charge an escort fee. If a motor carrier provides its own escort vehicles and
22 personnel, the department shall require that the motor carrier have a warrant issued
23 by the public regulation commission.

23 (2) The movement of vehicles upon the highways of this state
24 requiring a special permit and required to use an escort of the type noted in
25 Paragraph (1) of this subsection is subject to department authority and inspection at
all times.

1 (3) The state highway and transportation department shall
2 conduct engineering investigations and engineering inspections to determine which
3 four-lane highways are safe for the operation or movement of manufactured homes
4 without an escort. After making that determination, the state highway and
5 transportation department shall hold public hearings in the area of the state affected
6 by the determination, after which it may adopt regulations designating those four-lane
7 highways as being safe for the operation or movement of manufactured homes without
8 an escort. If any portion of such a four-lane highway lies within the boundaries of a
9 municipality, the state highway and transportation department, after obtaining the
10 approval of the municipal governing body, shall include such portions in its
11 regulations.

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11 D. Except for the movement of manufactured homes, special permits
12 may be issued for a single vehicle or combination of vehicles by the department for a
13 period not to exceed one year for a fee of sixty dollars (\$60.00). The permits may
14 allow excessive height, length and width for a vehicle or combination of vehicles or
15 load thereon and may include a provision for excessive weight if the operation is to be
16 within the vicinity of a municipality.

16 E. Special permits for a single trip for a vehicle or combination of
17 vehicles or load thereon of excessive weight, width, length and height may be issued
18 for a single vehicle for a fee of fifteen dollars (\$15.00).

19 F. If the vehicle for which a permit is issued under this section is a
20 manufactured home, the department or local highway authority issuing the permit shall
21 furnish the following information to the property tax division of the department, which
22 shall then forward the information:

22 (1) to the county assessor of any county from which a
23 manufactured home is being moved, the date the permit was issued, the location being
24 moved from, the location being moved to if within the same county, the name of the
25 owner of the manufactured home and the identification and registration numbers of the
manufactured home;

1 (2) to the county assessor of any county in this state to which a
2 manufactured home is being moved, the date the permit was issued, the location being
3 moved from, the location being moved to, the name of the owner of the manufactured
4 home and the registration and identification numbers of the manufactured home; and

5 (3) to the owner of a manufactured home having a destination
6 in this state, notification that the information required in Paragraphs (1) and (2) of this
7 subsection is being given to the respective county assessors and that manufactured
8 homes are subject to property taxation.

8 G. Except as provided in Subsection H of this section, if the movement
9 of a manufactured home originates in this state, no permit shall be issued under
10 Subsection F of this section until the owner of the manufactured home or his
11 authorized agent obtains and presents to the department proof that a certificate has
12 been issued by the county assessor or treasurer of the county in which the
13 manufactured home movement originates showing that either:

13 (1) all property taxes due or to become due on the
14 manufactured home for the current tax year or any past tax years have been paid,
15 except for manufactured homes located on an Indian reservation; or

16 (2) no liability for property taxes on the manufactured home
17 exists for the current tax year or any past tax years, except for manufactured homes
18 located on an Indian reservation.

18 H. The movement of a manufactured home from the lot or business
19 location of a manufactured home dealer to its destination designated by an owner-
20 purchaser is not subject to the requirements of Subsection G of this section if the
21 manufactured home movement originates from the lot or business location of the
22 dealer and the manufactured home was part of his inventory prior to the sale to the
23 owner-purchaser; however, the movement of a manufactured home by a dealer or his
24 authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to
25 the requirements of Subsection G of this section whether the destination is the
business location of a dealer or some other destination.

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1 I. No permit shall be issued under this section for movement of a
2 manufactured home whose width exceeds eighteen feet with no more than a six-inch
3 roof overhang on the left side or twelve inches on the right side in addition to the
4 eighteen-foot width of the manufactured home. Manufactured homes exceeding the
5 limitations of this section shall only be moved on dollies placed on the front and the
6 rear of the structure.

7 J. The secretary may by regulation provide for movers of
8 manufactured homes to self-issue permits for certain sizes of manufactured homes
9 over specific routes; however, in no case may the cost of each permit be less than
10 fifteen dollars (\$15.00).

11 K. The secretary may provide by regulation for dealers of implements
12 of husbandry to self-issue permits for the movement of certain sizes of implements of
13 husbandry from the lot or business location of the dealer over specific routes with
14 specific escort requirements, if necessary, to a destination designated by an owner-
15 purchaser or for purposes of a working demonstration on the property of a proposed
16 owner-purchaser. The department shall charge a fee for each self-issued permit not
17 to exceed fifteen dollars (\$15.00).

18 L. Any private motor carrier requesting an oversize or overweight
19 permit shall provide proof of insurance in at least the following amounts:

- 20 (1) bodily injury liability, providing:
21 (a) fifty thousand dollars (\$50,000) for each person;
22 and
23 (b) one hundred thousand dollars (\$100,000) for each
24 accident; and

25 (2) property damage liability, providing twenty-five thousand
dollars (\$25,000) for each accident.

M. A motor carrier requesting an oversize permit shall produce a copy
of a warrant or single state registration receipt as evidence that the motor carrier
maintains the insurance minimums prescribed by the public regulation commission."

1 Section 43. Section 66-8-116.2 NMSA 1978 (being Laws 1989, Chapter 319, SB

2 Section 13, as amended) is amended to read:

3 "66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS--MOTOR CARRIER 6
4 ACT.--As used in the Motor Vehicle Code and the Motor Carrier Act, "penalty 9
5 assessment misdemeanor" means, in addition to the definitions of that term in Sections 8
6 66-8-116 and 66-8-116.1 NMSA 1978, violation of the following listed sections of the Page
7 NMSA 1978 for which the listed penalty is established: 9
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7 A. GENERAL 5
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8 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY ASSESSMENT

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
9 Failure to register		
10 motor carrier	65-1-12	\$100.00
11 Failure to carry		
12 identification card	65-1-26	50.00
13 Failure to comply with		
14 public regulation		
15 commission rules and		
16 regulations	Section 7 of	
	the Motor Carrier Act	50.00
17 Failure to		
18 carry single state		
19 registration receipt issued		
20 by a base state	Section 7 of	
	the Motor Carrier Act	50.00
21 Failure to stop at		
22 designated		
23 registration place	65-5-1	100.00
24 Failure to obtain		
25 proper clearance		

1	certificates	65-5-3	100.00.
2	B. VEHICLE OUT-OF-SERVICE VIOLATIONS		
3	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
4	Absence of braking action	65-3-9	\$100.00
5	Damaged brake lining or pads	65-3-9	50.00
6	Loose or missing brake components	65-3-12	100.00
7	Inoperable breakaway braking system	65-3-12	50.00
8	Defective or damaged brake tubing	65-3-12	50.00
9	Inoperative low pressure warning device	65-3-9	50.00
10	Reservoir pressure not maintained	65-3-12	100.00
11	Inoperative tractor protection valve	65-3-9	100.00
12	Damaged or loose air compressor	65-3-12	100.00
13	Audible air leak at brake chamber	65-3-12	50.00
14	Defective safety devices--chains or hooks	65-3-9	100.00
15	Defective towing or coupling devices	65-3-9	100.00
16	Defective exhaust systems	65-3-9	30.00
17	Frame defects--trailers	65-3-12	100.00
18	Frame defects--other	65-3-9	100.00

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1	Defective fuel systems	65-3-9	50.00	S B
2	Missing or inoperative			
3	lamps	65-3-9	25.00	6 9
4	Missing lamps on projecting			
5	loads	65-3-9	50.00	8 P a g e
6	Missing or inoperative			
7	turn signal	65-3-9	25.00	5 2
8	Unsafe loading	65-3-8	100.00	
9	Excessive steering wheel			
10	play	65-3-9	100.00	
11	Steering column defects	65-3-9	100.00	
12	Steering box or steering			
13	system defects	65-3-9	100.00	
14	Suspension system defects	65-3-9	50.00	
15	Defective springs or spring			
16	assembly	65-3-9	50.00	
17	Defective tires--steering			
18	axle	65-3-9	100.00	
19	Defective tires--other axles	65-3-9	30.00	
20	Defective wheels and rims	65-3-9	50.00	
21	Defective or missing			
22	windshield wipers	65-3-9	30.00	
23	Defective or inoperative			
24	emergency exit--bus	65-3-9	100.00.	
25	C. DRIVER OUT-OF-SERVICE VIOLATIONS			
	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT	
	Driver's age	65-3-7	30.00	
	Driver not licensed for			
	type of vehicle being			

1	operated	65-3-7	30.00	S B 6 9 8 P a g e 5 3
2	Failure to have valid			
3	commercial driver's license			
4	in possession	66-5-59	30.00	
5	No waiver of physical			
6	disqualification			
7	in possession	65-3-7	30.00	
8	Sickness or fatigue	65-3-8	100.00	
9	Driver disqualification	65-3-7	500.00	
10	Exceeding the 10-hour			
11	driving rule	65-3-11	100.00	
12	Exceeding the 15-hour on			
13	duty rule	65-3-11	100.00	
14	Exceeding the 60 hours in 7			
15	days on duty rule	65-3-11	100.00	
16	Exceeding 70 hours in 8			
17	days on duty rule	65-3-11	100.00	
18	False log book	65-3-11	100.00.	
19	D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS			
20	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT	
21	Placarding violations	65-3-13	250.00	
22	Cargo tank not meeting			
23	specifications	65-3-13	250.00	
24	Internal valve operation			
25	violations	65-3-13	250.00	
26	Hazardous materials			
27	packaging violations	65-3-13	250.00	
28	Insecure load--hazardous			
29	materials	65-3-13	250.00	

1	Shipping papers violations	65-3-13	30.00	S B 6 9 8 P a g e 5 4
2	Shipment of forbidden			
3	combination of hazardous			
4	materials	65-3-13	250.00	
5	No hazardous waste manifest	65-3-13	30.00	
6	Bulk packaging marking			
7	violations	65-3-13	30.00	
8	Cargo tank marking violations	65-3-13	30.00."	

8 Section 44. REPEAL.--Sections 65-2-80 through 65-2-127 and 65-4-1 through
9 65-4-18 NMSA 1978 (being Laws 1981, Chapter 358, Sections 1 through 36, Laws
10 1993, Chapter 95, Section 2, Laws 1981, Chapter 358, Section 37, Laws 2001,
11 Chapter 259, Section 2, Laws 1981, Chapter 358, Section 38, Laws 1998, Section
12 108, Chapter 75, Laws 1981, Chapter 358, Sections 42 through 46, Laws 1987,
13 Chapter 134, Section 3, Laws 1981, Chapter 358, Sections 47 and 48 and Laws 1933,
Chapter 120, Sections 1 through 17 and 19, as amended) are repealed.

14 Section 45. EFFECTIVE DATE.--The effective date of the provisions of this act
15 is July 1, 2003.

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