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HOUSE BILL 535

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

BEN LUJAN

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO MOTOR CARRIERS; PROVIDING FOR REGULATION BY THE
STATE CORPORATION COMMISSION ON SAFETY AND FINANCIAL
RESPONSIBILITY; PROVIDING POWERS AND DUTIES; CREATING A FUND;
ESTABLISHING FEES; PROVIDING ADMINISTRATIVE AND CRIMINAL
PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA
1978; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 37 of this act may be cited as the "Motor Carrier Act".

Section 2. [NEW MATERIAL] 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, vital to all the states, by protecting the public
safety, promoting financial responsibility on the part of motor

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1 carriers, providing for economic regulation of motor carriers of
2 passengers and household goods and promoting uniformity and
3 reducing redundancy of state regulation of motor carriers.

4 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
5 Motor Carrier Act:

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

8 B. "base state" means either:

9 (1) the registration state for an interstate
10 motor carrier subject to regulation by the interstate commerce
11 commission or its successor agency if New Mexico is
12 participating in the single state registration system for such
13 motor carriers and means New Mexico otherwise; or

14 (2) the registration state for an interstate
15 motor carrier transporting commodities exempt from regulation by
16 the interstate commerce commission if New Mexico is
17 participating in a single state registration system for such
18 motor carriers and means New Mexico otherwise;

19 C. "broker" means a person who is not a bona fide
20 employee or agent of an authorized motor carrier, but who, as
21 principal or agent, sells or offers for sale any transportation
22 services subject to the Motor Carrier Act or negotiates for or
23 holds itself out by solicitation, advertisement or otherwise as
24 one who sells, provides, furnishes, contracts or arranges for
25 such transportation services;

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1 D. "cancellation" means the voluntary, permanent
2 termination of a certificate;

3 E. "certificate" means the operating authority
4 issued by the commission to intrastate common motor carriers of
5 passengers and household goods;

6 F. "certificate of registration of insurance" means
7 the operating authority issued by the commission to intrastate
8 motor carriers of property;

9 G. "change in a certificate" means cancellation,
10 change in a motor carrier agreement, change in a rate or tariff,
11 change in ownership other than by operation of law, endorsement,
12 lease, subsequent transfer from a transferee by operation of
13 law, transfer or voluntary suspension of a certificate;

14 H. "change in name" means a change in the legal name
15 of the holder of an operating authority or in doing business as
16 the name of the transportation business, but does not include a
17 change in ownership;

18 I. "change in ownership" of a certificate means the
19 occurrence of any change:

20 (1) in the officers, directors or holders of
21 more than ten percent of the voting stock of the corporation, if
22 the certificate is held by a corporation;

23 (2) in general partners or limited partners
24 contributing ten percent or more of the total value of
25 contributions made to the limited partnership or entitled to ten

1 percent or more of total profits earned or other compensation by
2 way of income paid by the limited partnership, if the
3 certificate is held by a limited partnership; or

4 (3) in the trustees or partners or owners of
5 more than ten percent interest in the entity, if the certificate
6 is held by a legal entity that is not a corporation or limited
7 partnership;

8 J. "commission" means the state corporation
9 commission;

10 K. "common motor carrier" means a person offering
11 compensated transportation by motor vehicle to the general
12 public whether over regular or irregular routes or under
13 scheduled or nonscheduled service;

14 L. "contract motor carrier" means a person offering
15 compensated transportation by motor vehicle under individual
16 contracts or agreements with particular customers or shippers;

17 M. "endorsement" means a permanent change in the
18 scope of an existing certificate;

19 N. "equipment interchange agreement" means an
20 agreement between two motor carriers holding operating authority
21 from the commission concerning the use of equipment;

22 O. "fund" means the motor transportation fee fund;

23 P. "household goods" means:

24 (1) personal effects and property used or to be
25 used in a dwelling when they are part of the equipment or supply

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1 of the dwelling, including property moving from a factory or
2 store, that has been purchased by a householder with intent to
3 use in his dwelling and the transportation is requested by and
4 paid for by the householder;

5 (2) furniture, fixtures, equipment and the
6 property of stores, offices, museums, institutions, hospitals or
7 other establishments when a part of their stock, equipment or
8 supply, but does not include the stock-in-trade of any
9 establishment, whether consignor or consignee, other than used
10 furniture and used fixtures, except when transported as
11 incidental to the moving of the establishment, or a portion
12 thereof, from one location to another; and

13 (3) articles, including objects of art,
14 displays, exhibits and other similar articles that, because of
15 their unusual nature or value, require the specialized handling
16 and equipment usually employed in moving household goods, but
17 does not include any article, whether crated or uncrated, that
18 does not, because of its unusual nature or value, require the
19 specialized handling and equipment usually employed in moving
20 household goods;

21 Q. "interested parties" means all motor carriers
22 operating over the routes or in the territory involved in any
23 application for a certificate or a permit, or all persons
24 affected by a rule proposed for adoption by the commission, and
25 any other parties the commission may deem interested in the

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1 particular matter;

2 R. "interstate motor carrier" means a person
3 providing compensated transportation in interstate commerce,
4 whether or not the person is subject to regulation by the
5 interstate commerce commission or its successor agency;

6 S. "intrastate motor carrier" means a person
7 providing compensated transportation in intrastate commerce;

8 T. "involuntary suspension" means the temporary
9 termination of all or part of an operating authority ordered by
10 the commission for cause for a stated period of time or pending
11 compliance with certain conditions;

12 U. "irregular route" means that the route to be used
13 by a motor carrier is not restricted to any specific highway
14 within the area the motor carrier is authorized to serve;

15 V. "lease of a certificate" means a contract by
16 which the owner of a certificate grants to another the exclusive
17 right to use the certificate for a specified period of time in
18 exchange for payment;

19 W. "lease of equipment" means a contractual
20 arrangement whereby a motor carrier obtains equipment owned by
21 another for use by the motor carrier in the exercise of its
22 operating authority;

23 X. "license" means the operating authority issued by
24 the commission to a broker;

25 Y. "motor carrier" means a person offering

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1 compensated transportation by motor vehicle, whether in
2 intrastate or interstate commerce;

3 Z. "motor carrier agreement" means a tariff applying
4 to two or more common motor carriers;

5 AA. "motor carrier association" means any
6 organization established or continued under a motor carrier
7 agreement for the purpose of arriving at rate and tariff
8 agreements or representing motor carriers that are parties to
9 such agreements;

10 BB. "not-for-profit" means an organization exempt
11 from federal income taxation in accordance with Section 501(c)
12 of the Internal Revenue Code of 1986, as amended or a not-for-
13 profit motor club;

14 CC. "operating authority" means a certificate,
15 permit, license, registration receipt, ticket, temporary
16 authority or emergency authority issued by the commission to a
17 motor carrier or broker;

18 DD. "permit" means the operating authority issued by
19 the commission to intrastate contract motor carriers of
20 passengers or household goods;

21 EE. "property" means any commodity having value but
22 does not include household goods;

23 FF. "public highways" has the same meaning as is
24 defined in Section 67-2-1 NMSA 1978;

25 GG. "registration receipt" means the document issued

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1 annually to a motor carrier operating in interstate commerce
2 evidencing that proof of financial responsibility and safety has
3 been filed with the base state and that the annual per vehicle
4 fees have been paid for that registration year;

5 HH. "registration year" means the period from
6 January 1 to December 31;

7 II. "regular route" means a fixed course to be
8 traveled by a motor carrier's vehicles rendering service to,
9 from or between various points in this state;

10 JJ. "revocation" means the involuntary, permanent
11 termination of all or part of an operating authority ordered by
12 the commission for cause;

13 KK. "school bus" means a motor vehicle operating
14 under the authority of the state board of education or private
15 school or parochial school interests that is used to transport
16 children, students or teachers to and from schools or to and
17 from any school activity, but not including any vehicle:

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

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

25 (3) operated as per capita feeder as provided

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1 in Section 22-16-6 NMSA 1978;

2 LL. "ticket" means the operating authority issued by
3 the commission for a single trip by a charitable organization in
4 a school bus;

5 MM. "transfer" means a permanent sale of all or part
6 of a certificate;

7 NN. "transfer by operation of law" means that the
8 ownership of or interest in a certificate passes to another by
9 application of established rules of law, as upon inheritance,
10 bequest, order in bankruptcy or insolvency, execution sale,
11 repossession upon default in performance of the terms of a lease
12 or executory sales contract or otherwise than by voluntary
13 transfer;

14 OO. "transportation services" means any service
15 performed for compensation by a broker or by a motor carrier in
16 motor vehicles operated by, for or in the interest of any motor
17 carrier, irrespective of ownership;

18 PP. "voluntary suspension" means the temporary non-
19 use of all or part of a certificate at the request of the
20 certificate holder for a stated period of time or pending
21 compliance with certain conditions; and

22 QQ. "wrecker service" means the use of specialized
23 equipment to transport:

24 (1) wrecked, damaged, disabled or abandoned
25 motor vehicles and their cargo;

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1 (2) vehicles to replace or parts and equipment
2 to repair wrecked, damaged, disabled or abandoned motor
3 vehicles;

4 (3) vehicles whose driver has been declared
5 unable to drive by a duly authorized law enforcement officer; or

6 (4) vehicles repossessed, confiscated or seized
7 by any lawful authority.

8 Section 4. [NEW MATERIAL] POWERS AND AUTHORITY OF
9 COMMISSION. --

10 A. The commission shall:

11 (1) issue operating authorities for brokers and
12 motor carriers operating in New Mexico;

13 (2) require that tariffs for all intrastate
14 common motor carriers of passengers and household goods be filed
15 and approved before being put into effect;

16 (3) authorize changes in the certificates of
17 intrastate common motor carriers of passengers and household
18 goods;

19 (4) establish reasonable requirements with
20 respect to a uniform system of accounts, records and reports and
21 preservation of records for brokers and motor carriers;

22 (5) establish minimum requirements for
23 financial responsibility for brokers and motor carriers;

24 (6) establish safety regulations for intrastate
25 motor carrier motor vehicles and drivers with a gross vehicle

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1 weight above ten thousand pounds not inconsistent with motor
2 transportation division of the taxation and revenue department
3 regulations;

4 (7) have the authority to adopt definitions not
5 inconsistent with, or more stringent than, the terms defined in
6 the current Section 390.5 of the Code of Federal Regulations;

7 (8) determine who shall be allowed to intervene
8 and protest an application for a certificate, permit or license
9 and under what circumstances and to conduct default proceedings
10 if no interested party intervenes after proper notice;

11 (9) expend money as may be necessary for the
12 administration and enforcement of the single state registration
13 and certificate of registration of insurance programs;

14 (10) establish and enforce vehicle and
15 equipment specifications for wrecker services;

16 (11) regulate all rates and charges of
17 intrastate common motor carriers of passengers and household
18 goods;

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

21 (13) subpoena witnesses and enforce their
22 attendance before the commission through a district court or the
23 supreme court of New Mexico and through such court to punish for
24 contempt;

25 (14) remove an order to the supreme court for

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1 failure of a person subject to such order to comply with it;

2 (15) hold public hearings as required;

3 (16) adopt rules to implement its
4 constitutional powers; and

5 (17) require tariffs for wrecker services to be
6 filed and approved if the wrecker service performs the
7 transportation without the prior written consent or
8 authorization of the owner or operator of the motor vehicle as
9 provided under Section 14501 of the ICC Termination Act of 1995.

10 B. The commission may:

11 (1) designate inspectors who may inspect the
12 books and records of all motor carriers subject to the Motor
13 Carrier Act and who shall have the powers of a commissioned
14 peace officer in this state with respect to any law or rule that
15 the commission is empowered to implement or enforce, excluding
16 the powers granted to the taxation and revenue department in
17 Section 65-1-6 NMSA 1978;

18 (2) institute civil actions in its own name in
19 the district court of Santa Fe county to enforce the Motor
20 Carrier Act, its orders, rules and assessments of administrative
21 fines, except for actions removable to the supreme court of New
22 Mexico under Article 11, Section 7 of the constitution of New
23 Mexico; and

24 (3) adopt rules to implement its additional
25 powers and effectuate the purpose and transportation policy of

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1 the Motor Carrier Act.

2 Section 5. [NEW MATERIAL] OPERATING AUTHORITIES IN
3 GENERAL. --

4 A. A person shall file an application for an
5 operating authority with the commission. The commission may
6 approve an application in whole or in part or may deny the
7 application.

8 B. Applications for operating authorities shall be
9 made in writing to the commission, shall be verified under oath
10 and shall be in a form and contain information and be
11 accompanied by proof of service on interested parties as the
12 commission shall by rule require.

13 C. Every applicant for an operating authority shall
14 file with the commission an appointment in writing of a resident
15 agent for service of process. Service upon the appointed agent
16 of any order of the commission or of any lawful process of any
17 court shall have the same effect as if service had been made
18 personally upon the authorized entity within this state.

19 D. Interstate operating authorities shall be
20 effective from the date issued and shall remain in effect until
21 terminated. Registration receipts for interstate motor carriers
22 shall be effective only for the registration year for which they
23 are issued. Tickets for a single trip shall be effective only
24 for the trip for which the ticket is issued.

25 E. No motor carrier shall furnish free

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1 transportation to passengers except to bona fide owners,
2 officers or employees of the motor carriers and their
3 dependents. Stockholders of incorporated motor carriers shall
4 not be considered owners for purposes of this section.

5 F. All motor carriers shall carry their operating
6 authority in every vehicle operated in New Mexico.

7 Section 6. [NEW MATERIAL] CERTIFICATES FOR INTRASTATE
8 COMMON MOTOR CARRIERS OF PASSENGERS. --

9 A. It is unlawful for a common motor carrier to
10 provide compensated intrastate transportation of passengers
11 without first having obtained a certificate from the commission.

12 B. Except as provided in this section, the
13 commission shall issue a certificate to a person authorizing
14 that person to provide compensated intrastate transportation as
15 a common motor carrier of passengers if, after notice and a
16 public hearing, the commission finds that:

17 (1) the person is fit, willing and able to
18 provide the transportation to be authorized by the certificate
19 and to comply with the Motor Carrier Act and the rules of the
20 commission;

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

24 (3) the transportation to be provided under the
25 certificate is or will be required by the present or future

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1 public convenience and necessity.

2 C. The commission shall give special consideration
3 to providing and maintaining service to small and rural
4 communities.

5 D. The commission shall not issue a certificate to
6 an intrastate common motor carrier of passengers if it finds
7 from the evidence that the service furnished by existing
8 transportation companies in the territory for which a
9 certificate is sought is reasonably adequate.

10 E. Every certificate issued to an intrastate common
11 motor carrier of passengers shall specify the service to be
12 rendered; the territory to be served; the terminals between
13 which service is to be provided; and, for regular route service,
14 the routes, schedules and intermediate and off-route points on
15 the route.

16 Section 7. [NEW MATERIAL] CERTIFICATES FOR INTRASTATE
17 COMMON MOTOR CARRIERS OF HOUSEHOLD GOODS. --

18 A. It is unlawful for any common motor carrier to
19 provide compensated intrastate transportation of household goods
20 without first having obtained a certificate from the commission.

21 B. Except as provided in this section, the
22 commission shall issue a certificate to a person authorizing
23 that person to provide compensated intrastate transportation as
24 a common motor carrier of household goods if, after notice and a
25 public hearing, the commission finds that:

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1 (1) the person is fit, willing and able to
2 provide the transportation to be authorized by the certificate
3 and to comply with the Motor Carrier Act and the rules of the
4 commission;

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

8 (3) on the basis of evidence presented by
9 persons supporting the issuance of the certificate, the service
10 proposed will serve a useful public purpose, responsive to a
11 public demand or need. For purposes of this requirement, the
12 service proposed will be deemed to serve a useful public
13 purpose, responsive to a public demand or need if the
14 application is for authority to provide transportation:

15 (a) to any community not regularly served
16 by an authorized intrastate common motor carrier of household
17 goods;

18 (b) for services that will be a direct
19 substitute for abandoned rail service to a community if such
20 abandonment results in the community not having any rail service
21 and if the application is filed within one hundred twenty days
22 after the abandonment has been approved by the commission or by
23 the United States interstate commerce commission or its
24 successor agency; or

25 (c) for the United States government of

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1 used household goods that is incidental to a pack and crate
2 service on behalf of the defense department.

3 C. The commission shall not issue a certificate to
4 an intrastate common motor carrier of household goods if it
5 finds, on the basis of evidence presented by persons objecting
6 to the issuance of a certificate, that the transportation to be
7 authorized by the certificate is inconsistent with the public
8 convenience and necessity.

9 D. Before granting a certificate to an intrastate
10 common motor carrier of household goods, the commission shall
11 take into consideration the transportation policy of the Motor
12 Carrier Act and the effect that issuance of the certificate
13 would have on existing carriers; provided, however, the
14 commission shall not find diversion of revenue or traffic from
15 an existing carrier to be, in and of itself, inconsistent with
16 the public convenience and necessity.

17 E. Every certificate issued by the commission to an
18 intrastate common motor carrier of household goods shall specify
19 the service to be rendered; the territory to be served; the
20 terminals between which service is to be provided; and, for
21 regular route service, the routes, schedules and intermediate
22 and off-route points on the route.

23 Section 8. [NEW MATERIAL] RATES. --

24 A. Every intrastate common motor carrier of
25 passengers or household goods or wrecker services providing

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1 intrastate transportation of motor vehicles as defined in
2 Section 14501(c) of the ICC Termination Act of 1995 shall
3 observe just, reasonable and nondiscriminatory rates and
4 practices for the transportation services it provides, in
5 furtherance of the transportation policy of the Motor Carrier
6 Act. Reduced rates for students traveling between their homes
7 and their schools and for persons sixty-five years of age or
8 older shall not be considered discriminatory within the meaning
9 of this section.

10 B. Intrastate common motor carriers of passengers or
11 household goods or wrecker services providing intrastate
12 transportation of motor vehicles as defined in Section 14501(c)
13 of the ICC Termination Act of 1995 shall establish with each
14 other reasonable through routes and joint rates, charges and
15 classifications. Participating carriers shall have the duty to
16 establish just and reasonable practices in connection with such
17 joint transportation and just, reasonable and equitable
18 divisions of the joint rates adopted so as not to unduly prefer
19 or prejudice any participating carrier.

20 C. In proceedings to determine the reasonableness of
21 rates for an intrastate common motor carrier of passengers or
22 household goods or for a wrecker service providing intrastate
23 transportation of motor vehicles as defined in Section 14501(c)
24 of the ICC Termination Act of 1995 or a group of intrastate
25 common motor carriers of passengers or household goods or a

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1 group of wrecker services providing intrastate transportation of
2 motor vehicles as defined in Section 14501(c) of the ICC
3 Termination Act of 1995, the commission shall authorize revenue
4 levels that are adequate under honest, economical and efficient
5 management to cover total operating expenses, including the
6 operation of leased equipment and depreciation, plus a
7 reasonable profit. The rules adopted by the commission to
8 implement this section shall allow carriers to achieve revenue
9 levels that will provide a flow of net income, plus
10 depreciation, adequate to support prudent capital outlays,
11 assure the repayment of a reasonable level of debt, permit the
12 raising of needed equity capital and attract and retain capital
13 in amounts adequate to provide a sound motor carrier
14 transportation system in the state.

15 D. No intrastate common motor carrier of passengers
16 or household goods or wrecker service providing intrastate
17 transportation of motor vehicles as defined in Section 14501(c)
18 of the ICC Termination Act of 1995 shall charge, or permit its
19 bona fide agents or employees to charge, a greater or lesser or
20 different compensation for transportation, or for any service
21 rendered to or for the user of the service, other than the rates
22 specified in the approved tariffs in effect at the time. The
23 rates of an otherwise valid tariff are not applicable when
24 payment for services is directly paid by a medicaid or medicare
25 program.

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1 E. No intrastate common motor carrier of passengers
2 or household goods or wrecker service providing intrastate
3 transportation of motor vehicles as defined in Section 14501(c)
4 of the ICC Termination Act of 1995 shall refund or remit in any
5 manner or by any device, directly or indirectly, any portion of
6 the rates specified in its approved tariff or extend to any user
7 any privileges, facilities or services or do or perform any
8 service or give, remit or refund anything of value except in
9 accordance with tariffs and schedules approved by the
10 commission.

11 F. A person may make complaint in writing to the
12 commission that any rate, classification or practice is in
13 violation of the Motor Carrier Act. Whenever, after hearing
14 upon a complaint or after an investigation on its own
15 initiative, the commission finds that an individual or joint
16 rate demanded or collected by an intrastate common motor carrier
17 of passengers or household goods or wrecker service providing
18 intrastate transportation of motor vehicles as defined in
19 Section 14501(c) of the ICC Termination Act of 1995 or any
20 classification or practice of any intrastate common motor
21 carrier of passengers or household goods or wrecker service
22 providing intrastate transportation of motor vehicles as defined
23 in Section 14501(c) of the ICC Termination Act of 1995 affecting
24 the rate is unjust, unreasonable or unjustly discriminatory,
25 preferential or prejudicial, it shall determine and prescribe

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1 the lawful rate of the maximum or minimum rate to be observed or
2 the lawful classification or practice to be made effective.

3 Section 9. [NEW MATERIAL] MOTOR CARRIER AGREEMENTS. --

4 A. An intrastate common motor carrier of passengers
5 or household goods may enter into an agreement with one or more
6 other intrastate common motor carriers of passengers or
7 household goods or wrecker service providing intrastate
8 transportation of motor vehicles as defined in Section 14501(c)
9 of the ICC Termination Act of 1995 concerning rates, charges
10 between common motor carriers, compensation paid or received for
11 the use of facilities and equipment, allowances,
12 classifications, division or related practices or procedures for
13 jointly considering, initiating or establishing them. Antitrust
14 laws do not apply to parties and other persons with respect to
15 making or carrying out motor carrier agreements made in
16 accordance with this section.

17 B. No motor carrier agreement shall be effective
18 without the prior approval of the commission, following notice
19 and a public hearing. The commission may impose such terms and
20 conditions upon approval of the agreement as the public interest
21 may require.

22 C. The commission shall not approve any motor
23 carrier agreement unless:

24 (1) the agreement is in furtherance of the
25 transportation policy of the Motor Carrier Act;

1 (2) any agreement between or among common motor
2 carriers of different classes is limited to matters relating to
3 transportation under joint rates or practices;

4 (3) the agreement contains reasonable quorum
5 standards to be applied for meetings of a motor carrier
6 association;

7 (4) each common motor carrier that is a party
8 to an agreement files with the commission such information as
9 the commission may by rule require; and

10 (5) a motor carrier association approved in
11 accordance with this section complies with the following
12 requirements:

13 (a) the motor carrier association may
14 allow any member motor carrier to discuss any rate or practice
15 proposal docketed; provided, only those motor carriers with
16 authority to participate in the transportation to which the
17 proposal applies may vote upon the proposal;

18 (b) the motor carrier association may
19 propose general rate increases or decreases or rate or practice
20 restructuring of any motor carrier association tariff approved
21 by the commission;

22 (c) the motor carrier association shall
23 not interfere with a common motor carrier's right to establish
24 its own rates or practices and shall not change or cancel any
25 independently established rate or practice;

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1 (d) the motor carrier association shall
2 not file a protest or complaint with the commission against any
3 tariff item independently published by or for the account of any
4 common motor carrier;

5 (e) the motor carrier association shall
6 not permit one of its employees or an employee committee to
7 docket or act upon any proposal effecting a change in any tariff
8 item published by or for the account of any of its member motor
9 carriers;

10 (f) upon request, the motor carrier
11 association shall divulge to any person the name of the
12 proponent of a practice or rate docketed with it, shall admit
13 any person to any meeting at which practices or rates will be
14 discussed or voted upon and shall divulge to any person the vote
15 cast by any member motor carrier on any proposal before the
16 motor carrier association;

17 (g) the motor carrier association shall
18 not allow a motor carrier to vote on behalf of one or more other
19 motor carriers without specific written, notarized authority
20 from the motor carrier being represented; and

21 (h) the motor carrier association shall
22 make a final disposition of a practice or rate docketed with it
23 by the one hundred twentieth day after the proposal is docketed,
24 except that if unusual circumstances require, the motor carrier
25 association may extend the period subject to review by the

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1 commission.

2 D. In any proceeding in which a party to the
3 proceeding alleges that a motor carrier voted, discussed or
4 agreed on a rate or allowance in violation of this section, that
5 party has the burden of showing that the vote, discussion or
6 agreement occurred. A showing of parallel behavior shall not
7 satisfy that burden by itself.

8 E. Each motor carrier association shall be subject
9 to all the accounting, record keeping, reporting and inspection
10 requirements of the commission's rules.

11 F. The commission may, upon complaint or upon its
12 own initiative, investigate and determine whether any agreement
13 previously approved by it in accordance with this section is not
14 in conformity with the requirements of this section or with the
15 terms or conditions upon which approval of the agreement was
16 granted. The commission may modify or terminate its approval of
17 any agreement found not to be in continued conformity.

18 Section 10. [NEW MATERIAL] TARIFFS. --

19 A. It is unlawful for any intrastate common motor
20 carrier of passengers or household goods or wrecker service
21 providing intrastate transportation of motor vehicles as defined
22 in Section 14501(c) of the ICC Termination Act of 1995 to
23 commence operations or perform any new service under its
24 certificate until rates and tariffs for the services to be
25 performed have been approved by the commission after notice and

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1 a public hearing.

2 B. Every interstate common motor carrier of
3 passengers or household goods or wrecker service providing
4 intrastate transportation of motor vehicles as defined in
5 Section 14501(c) of the ICC Termination Act of 1995 shall file
6 with the commission proposed tariffs showing all the rates and
7 conditions for transportation and related services between
8 points on its own routes and those of any common carrier by
9 railroad or express when a through route and joint rate have
10 been established. The rates shall be stated in terms of dollars
11 and cents.

12 C. It is unlawful for an intrastate common motor
13 carrier of passengers or household goods or wrecker service
14 providing intrastate transportation of motor vehicles as defined
15 in Section 14501(c) of the ICC Termination Act of 1995 to:

16 (1) give any undue or unreasonable preference
17 or advantage to any particular persons, port, gateway, locality
18 or region, district, territory or description of traffic in any
19 respect; or

20 (2) subject any particular person, port,
21 gateway, locality, region, district, territory or description of
22 traffic to any unjust discrimination or any undue or
23 unreasonable prejudice or disadvantage in any respect; provided,
24 this paragraph shall not be construed to apply to
25 discrimination, prejudices or disadvantages to the traffic of

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1 any other motor carrier.

2 Section 11. [NEW MATERIAL] TIME SCHEDULES. --

3 A. Intrastate common motor carriers of passengers
4 providing scheduled service to the general public shall file
5 proposed time and service schedules with their application for a
6 certificate. The time schedule shall be approved by the
7 commission and filed for public inspection.

8 B. Proposed changes in scheduled service shall be
9 filed with the commission for approval not less than thirty days
10 prior to the proposed effective date of the changed schedule.
11 The commission may prescribe a lesser time within which the
12 schedule may be made effective.

13 C. Failure by an intrastate common motor carrier of
14 passengers to operate the service on each day as scheduled shall
15 result in appropriate penalties as the commission in its
16 discretion shall determine.

17 D. Time schedules shall in no instance be designed
18 to require the operation of a motor vehicle between any given
19 terminals or between any way stations at a rate of speed greater
20 than the maximum speed allowed under the laws of this state.

21 Section 12. [NEW MATERIAL] CHANGES IN CERTIFICATES. --

22 A. No change in a certificate, rate, tariff or motor
23 carrier agreement shall be effective without the prior approval
24 of the commission.

25 B. The commission may, after notice and a public

1 hearing, authorize the following changes in all or part of any
2 certificate at the request of the person holding the certificate
3 if it finds:

4 (1) for cancellation of a certificate, that the
5 public convenience and necessity will not be harmed;

6 (2) for a change in a rate or tariff or a
7 change in a motor carrier agreement, that the proposed rates are
8 just, reasonable and nondiscriminatory;

9 (3) for a change in ownership other than by
10 operation of law, that the new owner is fit, willing and able to
11 provide the authorized transportation services and to comply
12 with the Motor Carrier Act and the rules of the commission;

13 (4) for endorsement of a certificate as a
14 common motor carrier of passengers that:

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

19 (b) the applicant is in compliance with
20 the safety and financial responsibility requirements of the
21 Motor Carrier Act and the rules of the commission; and

22 (c) the transportation to be provided
23 under the endorsed certificate is or will be required by the
24 present or future public convenience and necessity;

25 (5) for endorsement of a certificate as a

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1 common motor carrier of household goods that:

2 (a) the person is fit, willing and able
3 to provide the transportation to be authorized by the
4 certificate and to comply with the Motor Carrier Act and the
5 rules of the commission;

6 (b) the applicant is in compliance with
7 the safety and financial responsibility requirements of the
8 Motor Carrier Act and the rules of the commission; and

9 (c) on the basis of evidence presented by
10 persons supporting the issuance of the certificate, the service
11 proposed will serve a useful public purpose, responsive to a
12 public demand or need;

13 (6) for lease of a certificate as a common
14 motor carrier of passengers or household goods that the lessee
15 is fit, willing and able to provide the authorized
16 transportation services and to comply with the Motor Carrier Act
17 and the rules of the commission;

18 (7) for voluntary suspension of a certificate
19 that it is reasonably necessary;

20 (8) for transfer of a certificate as a common
21 motor carrier of passengers or household goods, and for
22 subsequent transfer of a certificate as a common motor carrier
23 of passengers or household goods from a transferee by operation
24 of law, that:

25 (a) the new owner is fit, willing and

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

4 (b) the transfer includes operating
5 equipment;

6 (c) the transferor of the certificate or
7 part of the certificate to be transferred has rendered
8 reasonably continuous and adequate service prior to the
9 application for transfer;

10 (d) all accrued taxes, rents, wages of
11 employees and all other indebtedness pertaining to the
12 certificate, or part of the certificate, proposed to be
13 transferred has been paid;

14 (e) the transfer will not have the effect
15 of destroying competition or creating a monopoly; and

16 (f) the transfer would not be
17 inconsistent with the public interest; and

18 (9) for transfer by operation of law, the
19 commission shall approve the application unless it has reason to
20 believe that the transferee by operation of law may not be fit,
21 willing and able to provide the authorized transportation
22 services and to comply with the rules of the commission.

23 Section 13. [NEW MATERIAL] PROTESTS OF APPLICATIONS FOR A
24 CERTIFICATE OR FOR A CHANGE IN A CERTIFICATE AS A COMMON MOTOR
25 CARRIER OF PASSENGERS OR HOUSEHOLD GOODS. --

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1 A. No contract motor carrier may protest an
2 application for a certificate or for a change in a certificate.

3 B. No common motor carrier may protest an
4 application for a certificate or for a change in a certificate
5 unless:

6 (1) it possesses authority to handle, in whole
7 or in part, the traffic for which authority is applied;

8 (2) it is willing and able to provide service
9 that meets the reasonable needs of the shippers involved; and

10 (3) at least one of the three following factors
11 is true:

12 (a) it has performed service within the
13 scope of the application during the previous twelve-month period
14 or has, actively and in good faith, solicited service within the
15 scope of the application during such period;

16 (b) it has pending before the commission
17 an application filed prior to the application being considered
18 for substantially the same traffic; or

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

22 Section 14. [NEW MATERIAL] PERMITS FOR CONTRACT MOTOR
23 CARRIERS OF PASSENGERS OR HOUSEHOLD GOODS. --

24 A. It is unlawful for any contract motor carrier to
25 provide compensated intrastate transportation of passengers or

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1 household goods without first having obtained a permit from the
2 commission.

3 B. Except as provided in this section, the
4 commission shall issue a permit to a person authorizing that
5 person to provide compensated intrastate transportation as a
6 contract motor carrier of passengers or household goods if,
7 after notice and a public hearing, the commission finds that:

8 (1) the person is fit, willing and able to
9 provide the transportation to be authorized by the permit and to
10 comply with the Motor Carrier Act and the rules of the
11 commission;

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

15 (3) the transportation to be provided under the
16 permit is or will be consistent with the public interest and the
17 transportation policy of the Motor Carrier Act.

18 C. Before granting a permit to an intrastate
19 contract motor carrier of passengers, the commission shall
20 consider:

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

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

25 (3) whether granting the permit would endanger

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1 or impair the operations of motor carriers protesting the
2 application for a permit to an extent contrary to the public
3 interest;

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

7 (5) the changing character of the requirements
8 of the applicant's customers.

9 D. The commission shall not issue a permit to an
10 intrastate contract motor carrier of passengers unless it is
11 established by competent evidence that the authority sought will
12 not impair the efficient public service of any certificated
13 intrastate common motor carrier of passengers then adequately
14 serving the same territory.

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

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

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

23 F. Each intrastate contract motor carrier of
24 passengers or household goods shall file with the commission
25 each contract under which it intends to operate. The commission

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1 shall approve a contract and authorize operations if it finds
2 that the contract is consistent with the public interest, the
3 transportation policy of the Motor Carrier Act and the
4 provisions of this section.

5 G. Every permit issued by the commission shall
6 specify the business of the intrastate contract motor carrier,
7 the scope of the authority granted to it and the terms,
8 conditions and limitations of the authority.

9 H. The commission shall not limit any intrastate
10 contract motor carrier of passengers or household goods to a
11 fixed number of contracts.

12 I. Intrastate contract motor carriers of passengers
13 or household goods shall dedicate equipment for use in providing
14 transportation services under any contract.

15 Section 15. [NEW MATERIAL] PROTESTS OF APPLICATIONS FOR A
16 PERMIT AS A CONTRACT MOTOR CARRIER OF PASSENGERS OR HOUSEHOLD
17 GOODS. --No motor carrier may protest an application to provide
18 transportation as an intrastate contract motor carrier of
19 passengers or household goods unless:

20 A. it possesses the operating authority to handle,
21 in whole or in part, the traffic for which application is made;

22 B. it is willing and able to provide service that
23 meets the reasonable needs of the shippers involved; and

24 C. it has performed service within the scope of the
25 application during the previous twelve-month period or has,

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1 actively and in good faith, solicited service within the scope
2 of the application during such period; or

3 D. it has pending before the commission an
4 application filed prior in time to the application being
5 considered for substantially the same traffic; or

6 E. the commission grants leave to intervene upon a
7 showing of other interests that are not contrary to the
8 transportation policy of the Motor Carrier Act.

9 Section 16. [NEW MATERIAL] CERTIFICATE OF REGISTRATION OF
10 INSURANCE. --

11 A. It is unlawful for a motor carrier to provide
12 compensated intrastate transportation of property without first
13 having obtained a certificate of registration of insurance from
14 the commission.

15 B. The commission shall issue a certificate of
16 registration of insurance to a person if the commission finds
17 that the person is in compliance with the:

18 (1) financial responsibility requirements of
19 the Motor Carrier Act and the rules of the commission;

20 (2) safety requirements of the Motor Carrier
21 Act and the rules of the commission; and

22 (3) requirement that it file a tariff if the
23 person is a wrecker service providing intrastate transportation
24 of motor vehicles as defined in Section 14501(c) of the ICC
25 Termination Act of 1995.

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1 C. No certificate of registration of insurance may
2 be transferred or leased to another person.

3 D. Notice and a hearing shall not be required prior
4 to the issuance of a certificate of registration of insurance
5 except in the case of a wrecker service providing intrastate
6 transportation of motor vehicles as defined in Section 14501(c)
7 of the ICC Termination Act of 1995 and then only for approval of
8 the tariff filed by the wrecker service under this subsection.

9 E. The commission shall promulgate rules that allow
10 for the electronic filing of an application for a certificate of
11 registration of insurance and for electronic payment of the
12 application fee.

13 Section 17. [NEW MATERIAL] LICENSES. --

14 A. It is unlawful for a person to operate as a
15 broker in this state without having first obtained a license
16 from the commission.

17 B. The commission may waive the requirements for
18 notice and a hearing and issue a license to a person authorizing
19 that person to act as a broker if the commission finds that:

20 (1) the applicant is fit, willing and able to
21 provide the services to be authorized by the license and to
22 comply with the Motor Carrier Act and the rules of the
23 commission; and

24 (2) the transportation services to be provided
25 under the license will promote the public interest and the

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1 transportation policy of the Motor Carrier Act.

2 C. In the execution of an agreement to sell, furnish
3 or arrange for transportation, it is unlawful for a broker to
4 employ any intrastate motor carrier not authorized by the
5 commission.

6 D. No intrastate motor carrier holding a certificate
7 or permit from the commission, or bona fide employee or agent of
8 that motor carrier, is required to obtain a license as a broker
9 from the commission for transportation services to be furnished
10 wholly by the motor carrier or jointly with other motor carriers
11 holding certificates or permits, or with a common carrier by
12 railroad or express.

13 Section 18. [NEW MATERIAL] TICKETS FOR A SINGLE TRIP.--

14 The commission may, without requiring notice or a public
15 hearing, issue a ticket for a single trip by a charitable
16 organization in a school bus if:

17 A. the commission determines that no intrastate
18 common or contract motor carrier of passengers is available for
19 the trip described in the application for the single-trip
20 ticket;

21 B. the school buses are in compliance with all
22 school bus safety requirements established by the state
23 transportation director pursuant to Sections 22-16-2 and
24 22-16-11 NMSA 1978; and

25 C. the school buses are in compliance with the

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

3 Section 19. [NEW MATERIAL] INTERSTATE MOTOR CARRIERS. --

4 A. It is unlawful for a motor carrier engaged in
5 interstate commerce to provide compensated interstate
6 transportation of passengers or property on state highways
7 without first having obtained a registration receipt from a base
8 state. The commission shall issue registration receipts without
9 requiring notice or a public hearing.

10 B. The commission may collect an annual per motor
11 vehicle fee, enter into agreements with state agencies and other
12 state governments and promulgate all rules necessary to enable
13 New Mexico to participate in the single state registration
14 system for interstate motor carriers subject to regulation by
15 the interstate commerce commission pursuant to Section 4005 of
16 the federal Intermodal Surface Transportation Efficiency Act of
17 1991 and implementing regulations promulgated by the interstate
18 commerce commission or its successor agency.

19 C. The commission may collect an annual per motor
20 vehicle fee, enter into agreements with state agencies and other
21 state governments and promulgate all rules necessary to enable
22 New Mexico to participate in the single state registration
23 system for interstate motor carriers transporting commodities
24 exempt from regulation by the interstate commerce commission or
25 its successor agency.

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1 D. The commission shall require an application,
2 proof of financial responsibility and a registration receipt
3 showing that the annual per motor vehicle fees have been paid
4 for New Mexico from an interstate motor carrier transporting
5 commodities exempt from regulation by the interstate commerce
6 commission or its successor agency in interstate commerce on a
7 state highway, but shall not require payment of duplicate annual
8 per motor vehicle fees from an interstate motor carrier
9 transporting both exempt and regulated commodities.

10 E. Compliance by an interstate motor carrier with
11 the provisions of the federal Intermodal Surface Transportation
12 Efficiency Act of 1991 shall not authorize a motor carrier to
13 provide any intrastate transportation services in New Mexico.
14 An interstate motor carrier wishing to provide intrastate motor
15 carrier services shall obtain the appropriate operating
16 authority from the commission.

17 Section 20. [NEW MATERIAL] TEMPORARY AUTHORITY FOR
18 INTRASTATE MOTOR CARRIERS OF PASSENGERS OR HOUSEHOLD GOODS. --

19 A. The commission may waive the requirements for
20 notice and a public hearing and grant temporary operating
21 authority to an intrastate motor carrier of passengers or
22 household goods for a period not to exceed ninety days when:

- 23 (1) there is an urgent and immediate need for
24 such service to, from or between a point or points within a
25 territory;

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1 (2) there is no authorized intrastate motor
2 carrier of passengers or household goods deemed capable of
3 meeting the need;

4 (3) the applicant for temporary authority has
5 an application for a certificate, permit or endorsement of a
6 certificate pending before the commission; and

7 (4) it would be in furtherance of the
8 transportation policy of the Motor Carrier Act.

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

12 C. After temporary authority has been granted, the
13 commission shall notify any motor carrier already authorized to
14 perform all or part of the service temporarily authorized and,
15 upon application in writing by the motor carrier, shall hold
16 hearings and make such further determination with respect to
17 temporary authority as the public interest may require.

18 D. An applicant for temporary authority as a common
19 motor carrier shall file tariffs covering the transportation
20 services for which temporary authority is being sought.

21 E. Intrastate motor carriers operating under
22 temporary authority shall comply with all financial
23 responsibility and safety requirements of the Motor Carrier Act
24 and the rules of the commission.

25 F. The grant of temporary authority may be extended

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1 as deemed necessary by the commission.

2 G. Issuance of the temporary authority shall create
3 no presumption that permanent authority will be granted.

4 Section 21. [NEW MATERIAL] EMERGENCY AUTHORITY. --

5 A. The commission may, without notice or a public
6 hearing, grant emergency operating authority to a person to
7 provide transportation services for which there is an urgent and
8 immediate need within a territory having no transportation
9 services deemed capable of meeting the need when the commission
10 finds it necessary to protect the public health and safety.

11 B. Satisfactory proof of urgent and immediate need
12 for transportation services to protect the public health and
13 safety shall be made by affidavit or other verified proof as the
14 commission may prescribe.

15 C. The commission may grant emergency operating
16 authority for a period not to exceed thirty days. The grant of
17 emergency authority may be extended if deemed necessary by the
18 commission.

19 Section 22. [NEW MATERIAL] EQUIPMENT LEASES AND
20 INTERCHANGE AGREEMENTS. --

21 A. It is unlawful for intrastate common motor
22 carriers of passengers or household goods to lease or
23 interchange equipment or to operate such equipment without first
24 having obtained approval of each equipment lease or interchange
25 agreement from the commission.

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1 B. A separate equipment lease or interchange
2 agreement shall be filed for each motor vehicle to be leased or
3 interchanged.

4 C. The commission shall disapprove a proposed
5 equipment lease or interchange agreement if it finds that the
6 purpose of the equipment lease or interchange agreement is to
7 circumvent any rule of the commission pertaining to the status,
8 service, classification of facilities or rates of authorized
9 motor carriers or the financial responsibility requirements of
10 the Motor Carrier Act and the commission's rules.

11 D. Leases and equipment interchange agreements shall
12 specify which of the two parties to the agreement are
13 responsible for complying with the financial responsibility and
14 safety requirements of the Motor Carrier Act and the rules of
15 the commission.

16 Section 23. [NEW MATERIAL] HOUSEHOLD GOODS OPERATIONS. --

17 A. Each intrastate common motor carrier of household
18 goods is responsible for all acts or omissions of any of its
19 agents that relate to the performance of household goods
20 transportation services, including accessorial or terminal
21 services, that are within the actual or apparent authority of
22 the agent derived from the common motor carrier or that are
23 ratified by the common motor carrier.

24 B. The commission shall adopt rules for the
25 following elements of household goods motor carrier operations:

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- 1 (1) rates;
- 2 (2) estimates;
- 3 (3) inventory;
- 4 (4) weighing;
- 5 (5) receipts and bills of lading;
- 6 (6) liability based on value between the motor
7 carrier and the shipper;
- 8 (7) joint transportation between motor
9 carriers;
- 10 (8) household goods agents; and
- 11 (9) dispute settlement programs.

12 C. In adopting rules for motor carriers of household
13 goods, the commission shall take into account at least the
14 following:

- 15 (1) the level of performance that can be
16 achieved by a well-managed motor carrier of household goods;
- 17 (2) the degree of harm to individual shippers
18 that could result from a violation of the rule;
- 19 (3) the need to deter abuses that result in
20 harm to consumers;
- 21 (4) service requirements of the motor carriers;
- 22 (5) the cost of compliance in relation to the
23 consumer benefits to be achieved from such compliance; and
- 24 (6) the need to encourage motor carriers to
25 offer service responsive to shipper needs.

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1 D. Antitrust laws do not apply to discussions or
2 agreements between a motor carrier of household goods and its
3 authorized agents whether or not an agent is also a motor
4 carrier, related solely to:

5 (1) rates for the transportation of household
6 goods under the authority of the principal motor carrier;

7 (2) accessorial, terminal, storage or other
8 charges for transportation services incidental to the
9 transportation of household goods transported under the
10 authority of the principal motor carrier;

11 (3) allowances relating to transportation of
12 household goods under the authority of the principal motor
13 carrier; or

14 (4) ownership of a motor carrier of household
15 goods by an agent or membership on the board of directors of any
16 such common motor carrier by an agent.

17 E. Antitrust laws do not apply to any charge for a
18 cost estimate for transportation of household goods provided by
19 an intrastate common motor carrier of household goods to a
20 shipper.

21 Section 24. [NEW MATERIAL] FINANCIAL RESPONSIBILITY
22 REQUIREMENTS. --

23 A. It is unlawful for a motor carrier to operate on
24 state highways without having filed with the commission proof of
25 financial responsibility in the form and amounts as the

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1 commission shall by rule prescribe.

2 B. In prescribing minimum requirements for financial
3 responsibility for motor carriers operating on public highways
4 in this state, the commission shall take into consideration:

5 (1) the creation of sufficient incentives to
6 motor carriers to maintain and operate their equipment in a safe
7 manner; and

8 (2) all other factors necessary to assure that
9 motor carriers maintain an appropriate level of financial
10 responsibility.

11 C. The commission may authorize a motor carrier to
12 carry its own insurance if the superintendent of insurance
13 approves the motor carrier's program of self-insurance.

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

18 (1) the insurance is for an interstate motor
19 carrier transporting commodities exempt from regulation by the
20 interstate commerce commission or its successor agency
21 participating in the single state registration program for such
22 motor carriers; and

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

25 Section 25. [NEW MATERIAL] SAFETY REQUIREMENTS FOR MOTOR

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1 VEHICLES USED IN COMPENSATED TRANSPORTATION. -- The safety
2 requirements for motor vehicles and the drivers used by motor
3 carriers on state highways are the federal motor carrier safety
4 regulations and the federal hazardous materials regulations
5 found at Title 49, Code of Federal Regulations, Parts 40, 325,
6 382, 383, 385, 386, 387, 390 through 397 and 399 with the
7 variances adopted by the motor transportation division of the
8 taxation and revenue department.

9 Section 26. [NEW MATERIAL] INVOLUNTARY SUSPENSION OR
10 REVOCATION OF OPERATING AUTHORITIES--REINSTATEMENT. --

11 A. The motor transportation division of the taxation
12 and revenue department without notice or public hearing may
13 order immediate involuntary suspension or revocation of an
14 operating authority or may order a motor vehicle to be taken out
15 of service for violation of any requirement of the Motor Carrier
16 Act or the commission rules relating to safety or financial
17 responsibility, if such violation would endanger the public
18 health or safety. A motor carrier may protest such action
19 before the commission only if the motor carrier files a petition
20 and requests a hearing before the commission within ten days of
21 being placed out of service and if it thinks the action was
22 taken without good cause. In the alternative, the motor carrier
23 may be reinstated upon compliance with the motor transportation
24 division director's out-of-service order pursuant to the Motor
25 Carrier Safety Act.

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1 B. The commission upon complaint or on the
2 commission's own initiative after notice and a public hearing
3 may order involuntary suspension or revocation, in whole or in
4 part, of any operating authority for failure to:

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

7 (2) comply with any lawful order or rule of the
8 commission;

9 (3) comply with any term, condition or
10 limitation of any operating authority; or

11 (4) render reasonably continuous service under
12 a certificate or permit.

13 C. The commission may approve an application for
14 reinstatement of an operating authority following involuntary
15 suspension if it finds, after notice and a public hearing that:

16 (1) the holder of the operating authority is
17 fit, willing and able to provide the authorized transportation
18 services and to comply with the Motor Carrier Act and the rules
19 of the commission;

20 (2) the reasons for the involuntary suspension
21 no longer pertain; and

22 (3) the person has paid the required
23 application and filing fees.

24 Section 27. [NEW MATERIAL] DESIGNATION BY OPERATION OF
25 LAW OF AN AGENT FOR SERVICE OF PROCESS. --

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

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

21 C. A fee shall be assessed as costs in the
22 proceeding for each process from a court served upon the
23 secretary of state. No fee shall be charged for service of a
24 commission order.

25 Section 28. [NEW MATERIAL] NOTICE. --Whenever the

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1 constitution of New Mexico or the Motor Carrier Act requires
2 publication of notice regarding a matter before the commission,
3 such requirement shall be met if notice is published once in a
4 newspaper of general circulation not less than ten days prior to
5 the date set for a hearing on the matter.

6 Section 29. [NEW MATERIAL] ANNUAL REPORTS--
7 CONFIDENTIALITY OF FINANCIAL INFORMATION. --

8 A. The commission may, in its discretion, require
9 motor carriers and brokers holding operating authority from the
10 commission to prepare and transmit to the commission an annual
11 report of its operations. The report shall be in the form,
12 contain information and be due on a date as the commission may
13 by rule require.

14 B. Any financial data filed by motor carriers in
15 annual reports shall not be made available for examination by
16 the public.

17 Section 30. [NEW MATERIAL] ACCESS TO INFORMATION--
18 PRODUCTION OF INFORMATION. --

19 A. The commission or its duly authorized agent
20 shall, at all times, have access to:

21 (1) all lands, buildings or equipment of motor
22 carriers and brokers used in connection with their operations;
23 and

24 (2) all pertinent accounts, records, documents
25 and memoranda required to be kept by motor carriers and brokers.

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1 B. The commission, by order, may require a motor
2 carrier or broker subject to the Motor Carrier Act, or any of
3 their officers or agents, to produce at such reasonable times
4 and places as it may designate, any books, records, accounts or
5 documents kept in any office or place without or within this
6 state, or certified copies of such documents, whenever their
7 production is reasonably required and pertinent to any matter
8 before the commission, in order that an examination of them may
9 be made by the commission or by a person employed by the
10 commission.

11 C. The motor transportation division of the taxation
12 and revenue department shall furnish to the commission all
13 information needed by the commission to carry out its
14 responsibilities when such information is obtainable only in the
15 field by patrolling state public highways, establishing ports of
16 entry, setting up roadblocks or similar activities for the
17 purpose of checking motor carriers.

18 Section 31. [NEW MATERIAL] FEES--FUND CREATED--
19 DISTRIBUTION.--

20 A. The commission shall charge and collect the
21 stated fee for filing an application for:

22 (1) a certificate as an intrastate common motor
23 carrier of passengers or household goods, two hundred fifty
24 dollars (\$250);

25 (2) a permit as an intrastate contract motor

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1 carrier of passengers or household goods, two hundred fifty
2 dollars (\$250);

3 (3) a certificate of registration of insurance
4 as an intrastate motor carrier of property or as a not-for-
5 profit intrastate motor carrier of passengers, ten dollars
6 (\$10.00);

7 (4) a license as a broker, one hundred dollars
8 (\$100);

9 (5) an intrastate temporary authority as a
10 common or contract motor carrier of passengers or household
11 goods, one hundred dollars (\$100); and

12 (6) a ticket for a single trip, ten dollars
13 (\$10.00).

14 B. The commission shall charge and collect the
15 stated fee for filing an application for:

16 (1) a change in an intrastate rate or tariff,
17 two hundred dollars (\$200);

18 (2) approval of a motor carrier agreement, two
19 hundred dollars (\$200);

20 (3) the lease, transfer or change in ownership
21 of a certificate, two hundred dollars (\$200);

22 (4) reinstatement of a certificate or permit
23 after involuntary suspension, one hundred dollars (\$100);

24 (5) reinstatement of a license after
25 involuntary suspension, forty dollars (\$40.00);

- 1 (6) each extension of temporary authority,
- 2 fifty dollars (\$50.00);
- 3 (7) voluntary suspension of a certificate,
- 4 fifteen dollars (\$15.00); and
- 5 (8) a change in name, ten dollars (\$10.00).

6 C. The commission shall charge and collect the
7 following miscellaneous fees:

8 (1) for filing an amended application for a
9 certificate or a permit or for lease or transfer of a
10 certificate:

11 (a) fifty dollars (\$50.00) if it is
12 necessary to vacate and reschedule the hearing and temporary
13 authority has not yet been issued; and

14 (b) one hundred dollars (\$100) if either
15 the hearing needs to be vacated and rescheduled or temporary
16 authority has been issued;

17 (2) for filing requests to vacate and
18 reschedule a hearing, fifty dollars (\$50.00);

19 (3) for filing proof of financial
20 responsibility for public liability, fifteen dollars (\$15.00)
21 per filing;

22 (4) for filing proof of financial
23 responsibility for cargo liability, fifteen dollars (\$15.00) per
24 filing;

25 (5) for filing a lease or equipment interchange

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1 agreement, five dollars (\$5.00) per motor vehicle leased or
2 interchanged;

3 (6) for other miscellaneous filings, five
4 dollars (\$5.00) per document;

5 (7) for certifying copies of any record, order
6 or operating authority, fifteen dollars (\$15.00);

7 (8) for copies of written commission documents
8 or records, one dollar (\$1.00) per page, in addition to any
9 applicable certification charge;

10 (9) for copies of other commission records,
11 including magnetic tape and computer diskettes, an amount set by
12 the commission, in addition to any applicable certification
13 charge; and

14 (10) for registration receipts for interstate
15 motor carriers, ten dollars (\$10.00) per motor vehicle per
16 registration year or portion of a registration year.

17 D. The secretary of state shall charge and collect a
18 fee of ten dollars (\$10.00) for each process from a court served
19 upon the secretary of state as the designated agent for service
20 of process by operation of law. No fee shall be charged for a
21 service of any order of the commission.

22 E. The "motor transportation fee fund" is created in
23 the state treasury. All fees shall be collected by the
24 commission or the motor vehicle division of the taxation and
25 revenue department at the time the service is provided, and

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1 shall be remitted to the state treasurer and deposited in the
2 fund. At the end of each month, the state treasurer shall
3 transfer the unencumbered balance in the fund to the state road
4 fund.

5 F. Whenever a fee has been erroneously paid, the
6 person having paid the fee may apply in writing to the
7 commission for a refund no later than sixty days after the
8 payment. Upon approval of the application by the commission,
9 the amount erroneously paid shall be refunded from the fund to
10 the person who made the payment.

11 G. All applications shall be fully completed within
12 sixty days or the fee submitted with the application shall be
13 forfeited to the state. If the applicant desires to renew the
14 application, the applicant shall pay another fee in the same
15 amount as the original.

16 Section 32. [NEW MATERIAL] ACTIONS TO VACATE COMMISSION
17 ORDER. --

18 A. A party in interest dissatisfied with an order of
19 the commission not removable to the supreme court of New Mexico
20 under the provisions of Article 11, Section 7 of the
21 constitution of New Mexico may commence an action in the
22 district court for Santa Fe county against the commission as
23 defendant to vacate and set aside the order on the ground that
24 it is unlawful or unreasonable. In such proceeding, the court
25 may grant relief by injunction, mandamus or other extraordinary

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1 remedy. In any action, the complaint shall be served with the
2 summons. The person who files the complaint shall, by certified
3 mail, send a copy of the complaint to all persons who
4 participated as parties in the action before the commission.

5 B. The commission's answer to the complaint shall be
6 served and filed within thirty days after service of the
7 complaint.

8 C. A person not a party to the action but having an
9 interest in the subject may be made a party.

10 D. All such actions shall have precedence over any
11 civil cause of a different nature.

12 E. Every action to vacate or amend an order of the
13 commission or to enjoin the enforcement of the order or to
14 prevent the order from becoming effective shall be commenced,
15 and every appeal to the courts or right of recourse to the
16 courts shall be taken or exercised, within thirty days after the
17 entry, of the order. The right to commence an action or to take
18 or exercise any appeal or right of recourse to the courts shall
19 terminate absolutely at the end of thirty days.

20 F. A substantial compliance by the commission with
21 the requirements of the Motor Carrier Act shall be sufficient to
22 give effect to all rules, orders and acts of the commission, and
23 they shall not be declared inoperative, illegal or void for any
24 omission of a technical nature.

25 G. A party to the action, within thirty days after

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1 service of a copy of the order or judgment of the district
2 court, may appeal to the supreme court, and the cause shall be
3 placed on the calendar of the then pending term and shall be
4 assigned and brought to a hearing in the same manner as other
5 causes on the calendar.

6 H. In such actions and proceedings in court, all
7 processes shall be served and the practice and rules of evidence
8 shall be the same as in civil actions, except as otherwise
9 provided.

10 Section 33. [NEW MATERIAL] EXEMPTIONS. -- The Motor Carrier
11 Act shall not apply to the following:

12 A. school buses, or the use of school buses to
13 provide emergency transportation in accordance with the
14 Emergency Transportation Act; provided, school buses shall be
15 subject to all applicable school bus safety provisions
16 established by the state transportation director pursuant to
17 Sections 22-16-2 and 22-16-11 NMSA 1978;

18 B. United States mail carriers operating star
19 routes, unless they are engaged in other business as common or
20 contract motor carriers of passengers or household goods;

21 C. hearses, funeral coaches or any other motor
22 vehicle belonging to or operated in connection with the business
23 of a funeral service practitioner licensed by the state;

24 D. a county or municipal public transportation
25 system;

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1 E. intrastate farm carriers transporting unprocessed
2 farm products from the place of harvesting to market, to storage
3 or to a processing plant or hauling livestock in lots of less
4 than twenty-five thousand pounds; or

5 F. private carriers.

6 Section 34. [NEW MATERIAL] TRANSITION. --

7 A. Certificates and permits issued to intrastate
8 motor carriers of passengers or household goods by the
9 commission under the authority of previous acts shall remain in
10 effect, subject to the provisions of the Motor Carrier Act and
11 the commission's rules.

12 B. Certificates and permits issued to intrastate
13 motor carriers of property by the commission under the authority
14 of previous acts are void on the effective date of the Motor
15 Carrier Act.

16 C. Warrants issued to intrastate motor carriers of
17 property by the commission pursuant to its rules are void on the
18 effective date of the Motor Carrier Act. The commission shall
19 issue instead a certificate of proof of insurance to intrastate
20 motor carriers of property previously holding warrants, provided
21 the motor carrier has valid and current proof of financial
22 responsibility on file with the commission on the effective date
23 of the Motor Carrier Act.

24 Section 35. [NEW MATERIAL] EFFECT ON MUNICIPAL POWERS. --

25 Nothing in the Motor Carrier Act shall be construed to limit or

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1 restrict the powers of home-rule municipalities except as
2 otherwise provided by law.

3 Section 36. [NEW MATERIAL] ADMINISTRATIVE PENALTIES. --

4 A. Whenever, after investigation, the commission
5 finds that any provision of the Motor Carrier Act or any order
6 or rule of the commission is being, has been or is about to be
7 violated, it may make and enter of record an order in the
8 premises, specifying the actual or proposed act or omission that
9 constitutes a real or proposed violation and requiring that the
10 violation be discontinued or rectified, or both, or that it be
11 prevented.

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

19 C. Notwithstanding the existence of any other
20 penalties, the commission may assess administrative fines of not
21 more than ten thousand dollars (\$10,000) against any shipper
22 knowingly using common or contract motor carriers not properly
23 certified by the commission.

24 D. A person shall be assessed a civil penalty of not
25 more than two thousand dollars (\$2,000) for a first violation

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1 and not more than five thousand dollars (\$5,000) for each
2 subsequent violation if that person knowingly engages in or
3 authorizes an agent or other person to:

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

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

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

17 Section 37. [NEW MATERIAL] CRIMINAL PENALTIES. --

18 A. Any person who knowingly makes a false statement
19 of material fact under oath, whether oral or in writing, as
20 required by the Motor Carrier Act or the rules of the
21 commission, is guilty of perjury, and upon conviction shall be
22 punished as provided for in the perjury statutes of this state.

23 B. Any person who willfully makes a false report to
24 the commission or to any member or employee of the commission,
25 and any person who knowingly aids or abets such person, is

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1 guilty of a felony and upon conviction shall be imprisoned for a
2 definite term not to exceed five years.

3 C. Any person who willfully makes a false entry in
4 the accounts or records required by the Motor Carrier Act or the
5 rules of the commission, or willfully destroys, mutilates or by
6 any other means willfully falsifies the accounts or records, or
7 willfully neglects or fails to make full, true and correct
8 entries of all facts is guilty of a felony and upon conviction
9 shall be imprisoned for a definite term not to exceed five
10 years.

11 D. Any employee of the commission who divulges any
12 fact or information coming to his knowledge respecting an
13 inspection, examination or investigation of an account, record,
14 memorandum, book or paper or of the property and facilities of a
15 motor carrier, except insofar as he is authorized by the
16 commission or a court of competent jurisdiction, is guilty of a
17 misdemeanor and upon conviction shall be fined not more than one
18 thousand dollars (\$1,000).

19 E. Weight-bumping consists of the knowing and
20 willful making or securing of a fraudulent weight on a shipment
21 of household goods that is subject to the jurisdiction of the
22 commission under the Motor Carrier Act. Any person who commits
23 weight-bumping is guilty of a felony and upon conviction for
24 each offense shall be fined not less than one thousand dollars
25 (\$1,000) nor more than ten thousand dollars (\$10,000) or

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1 imprisoned for not more than two years, or both.

2 F. Any person who violates or who procures, aids or
3 abets in the violation of any provision of the Motor Carrier Act
4 or of any lawful rule or order of the commission is guilty of a
5 misdemeanor and upon conviction shall be punished by
6 imprisonment for a definite term of not more than ninety days or
7 a fine of not more than one thousand dollars (\$1,000), or both.

8 G. It is the duty of any commissioned law
9 enforcement officer of this state or local governmental entity
10 to make arrests and the district attorneys and attorney general
11 to prosecute all violations of the Motor Carrier Act.

12 Section 38. Section 66-7-413 NMSA 1978 (being Laws 1978,
13 Chapter 35, Section 484, as amended) is amended to read:

14 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL
15 NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

16 A. The department and local highway authorities may,
17 in their discretion, upon application in writing and good cause
18 being shown, issue a special permit in writing authorizing the
19 applicant to operate or move a vehicle or load of a size or
20 weight exceeding the maximum specified in Sections 66-7-401
21 through 66-7-416 NMSA 1978 on any highway under the jurisdiction
22 of the state highway commission or local authorities. Except
23 for the movement of manufactured homes, a permit may be granted,
24 in cases of emergency, for the transportation of loads on a
25 certain unit or combination of equipment for a specified period

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1 of time not to exceed one year, and the permit shall contain the
2 route to be traversed, the type of load to be transported and
3 any other restrictions or conditions deemed necessary by the
4 body granting the permit. In every other case, the permit shall
5 be issued for a single trip and may designate the route to be
6 traversed and contain any other restrictions or conditions
7 deemed necessary by the body granting the permit. Every permit
8 shall be carried in the vehicle to which it refers and shall be
9 opened for inspection to any peace officer. It is a misdemeanor
10 for any person to violate any of the conditions or terms of the
11 special permit.

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

20 C. The department shall promulgate regulations in
21 accordance with the State Rules Act pertaining to safety
22 practices, liability insurance and equipment for escort vehicles
23 provided by the motor carrier himself and for escort vehicles
24 provided by a private business in this state.

25 (1) If a motor carrier provides his own escort

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1 vehicles and personnel, the department shall not charge an
2 escort fee but shall provide the motor carrier escort personnel
3 with a copy of applicable regulations and shall inspect the
4 escort vehicles for the safety equipment required by the
5 regulations. If the escort vehicles and personnel meet the
6 requirements set forth in the regulations and if the motor
7 carrier holds a valid certificate of [~~public convenience and~~
8 ~~necessity or permit, as~~] registration of insurance or
9 registration receipt, whichever is applicable, issued pursuant
10 to [~~Chapter 65, Article 2 NMSA 1978~~] the Motor Carrier Act, the
11 department shall issue the special permit.

12 (2) If the escort service is a private
13 business, the business shall have applied to the state
14 corporation commission for and been issued a [~~permit or~~]
15 certificate [~~to operate as a contract or common motor carrier~~]
16 of registration of insurance pursuant to [~~Chapter 65, Article 2~~
17 ~~NMSA 1978~~] the Motor Carrier Act. The state corporation
18 commission shall supply copies of applicable regulations to the
19 business by mail and shall supply additional copies upon
20 request. If the escort vehicles and personnel meet the
21 requirements set forth in the regulations and if the escort
22 service holds a certificate of registration of insurance, the
23 special permit shall be issued and the department shall not
24 charge an escort fee.

25 (3) The movement of vehicles upon the highways

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1 of this state requiring a special permit and required to use an
2 escort of the type noted in Paragraphs (1) and (2) of this
3 subsection is subject to department authority and inspection at
4 all times.

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

19 D. Except for the movement of manufactured homes,
20 special permits may be issued for a single vehicle or
21 combination of vehicles by the department for a period not to
22 exceed one year for a fee of sixty dollars (\$60.00). The
23 permits may allow excessive height, length and width for a
24 vehicle or combination of vehicles or load thereon and may
25 include a provision for excessive weight if the operation is to

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1 be within the vicinity of a municipality.

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

6 F. If the vehicle for which a permit is issued under
7 this section is a manufactured home, the department or local
8 highway authority issuing the permit shall furnish the following
9 information to the property tax division of the department,
10 which shall then forward the information:

11 (1) to the county assessor of any county from
12 which a manufactured home is being moved, the date the permit
13 was issued, the location being moved from, the location being
14 moved to if within the same county, the name of the owner of the
15 manufactured home and the identification and registration
16 numbers of the manufactured home;

17 (2) to the county assessor of any county in
18 this state to which a manufactured home is being moved, the date
19 the permit was issued, the location being moved from, the
20 location being moved to, the name of the owner of the
21 manufactured home and the registration and identification
22 numbers of the manufactured home; and

23 (3) to the owner of a manufactured home having
24 a destination in this state, notification that the information
25 required in Paragraphs (1) and (2) of this subsection is being

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1 given to the respective county assessors and that manufactured
2 homes are subject to property taxation.

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

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

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

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

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1 movement of a manufactured home by a dealer or his authorized
2 agent as a result of a sale or trade-in from a nondealer-owner
3 is subject to the requirements of Subsection G of this section
4 whether the destination is the business location of a dealer or
5 some other destination.

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

13 J. The secretary may by regulation provide for
14 movers of manufactured homes to self-issue permits for certain
15 sizes of manufactured homes over specific routes; however, in no
16 case may the cost of each permit be less than fifteen dollars
17 (\$15.00).

18 K. The secretary may provide by regulation for
19 dealers of implements of husbandry to self-issue permits for the
20 movement of certain sizes of implements of husbandry from the
21 lot or business location of the dealer over specific routes with
22 specific escort requirements, if necessary, to a destination
23 designated by an owner-purchaser or for purposes of a working
24 demonstration on the property of a proposed owner-purchaser.
25 The department shall charge a fee for each self-issued permit

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1 not to exceed fifteen dollars (\$15.00).

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

5 (1) bodily injury liability, providing:

6 (a) fifty thousand dollars (\$50,000) for
7 each person; and

8 (b) one hundred thousand dollars
9 (\$100,000) for each accident; and

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

12 M Any common motor carrier of manufactured homes
13 requesting an oversize permit shall produce a copy of a [~~form~~
14 ~~"e" or other acceptable~~] registration receipt or certificate of
15 registration of insurance, whichever is applicable, as evidence
16 that the common motor carrier maintains the insurance minimums
17 prescribed by the state corporation commission. "

18 Section 39. Section 66-8-116.2 NMSA 1978 (being Laws 1989,
19 Chapter 319, Section 13, as amended) is amended to read:

20 "66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS-- MOTOR
21 CARRIER ACT.--As used in the Motor Vehicle Code and the Motor
22 Carrier Act, "penalty assessment misdemeanor" means, in addition
23 to the definitions of that term in Sections 66-8-116 and
24 66-8-116.1 NMSA 1978, violation of the following listed sections
25 of the NMSA 1978 for which the listed penalty is established:

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A. GENERAL

| COMMON NAME OF OFFENSE | SECTION VIOLATED | PENALTY ASSESSMENT |
|---|---|--------------------|
| Failure to register motor carrier | 65-1-12 | \$100.00 |
| Failure to carry identification card | 65-1-26 | 50.00 |
| Failure to comply with state corporation commission rules and regulations | [65-2-83] <u>Section 4 of the Motor Carrier Act</u> | 50.00 |
| Failure to [register interstate motor carrier with state corporation commission] <u>carry registration receipt as issued by a base state</u> | [65-2-115] <u>Sections 4 and 19 of the Motor Carrier Act</u> | 50.00 |
| <u>Failure to carry certificate of registration of</u> | | |

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| | | | |
|----|--------------------------|-----------------------------|---------------|
| 1 | <u>insurance issued</u> | | |
| 2 | <u>by the state</u> | | |
| 3 | <u>corporation</u> | | |
| 4 | <u>commission</u> | <u>Sections 4 and 16</u> | |
| 5 | | <u>of the Motor Carrier</u> | |
| 6 | | <u>Act</u> | <u>250.00</u> |
| 7 | <u>Failure to carry</u> | | |
| 8 | <u>certificate</u> | | |
| 9 | <u>issued by the</u> | | |
| 10 | <u>state corporation</u> | | |
| 11 | <u>commission</u> | <u>Sections 4 and 6</u> | |
| 12 | | <u>or 7 of the Motor</u> | |
| 13 | | <u>Carrier Act</u> | <u>250.00</u> |
| 14 | <u>Failure to carry</u> | | |
| 15 | <u>permit issued</u> | | |
| 16 | <u>by the state</u> | | |
| 17 | <u>corporation</u> | | |
| 18 | <u>commission</u> | <u>Sections 4 and</u> | |
| 19 | | <u>14 of the Motor</u> | |
| 20 | | <u>Carrier Act</u> | <u>250.00</u> |
| 21 | Failure to stop at | | |
| 22 | designated | | |
| 23 | registration place | 65-5-1 | 100.00 |
| 24 | Failure to obtain | | |
| 25 | proper clearance | | |

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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
6 pads 65-3-9 50.00

7 Loose or missing brake
8 components 65-3-12 100.00

9 Inoperable breakaway braking
10 system 65-3-12 50.00

11 Defective or damaged brake
12 tubing 65-3-12 50.00

13 Inoperative low pressure
14 warning device 65-3-9 50.00

15 Reservoir pressure not
16 maintained 65-3-12 100.00

17 Inoperative tractor
18 protection valve 65-3-9 100.00

19 Damaged or loose air
20 compressor 65-3-12 100.00

21 Audible air leak at brake
22 chamber 65-3-12 50.00

23 Defective safety devices--
24 chains or hooks 65-3-9 100.00

25 Defective towing or coupling

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| | | | |
|----|-----------------------------|---------|--------|
| 1 | devices | 65-3-9 | 100.00 |
| 2 | Defective exhaust systems | 65-3-9 | 30.00 |
| 3 | Frame defects--trailers | 65-3-12 | 100.00 |
| 4 | Frame defects--other | 65-3-9 | 100.00 |
| 5 | Defective fuel systems | 65-3-9 | 50.00 |
| 6 | Missing or inoperative | | |
| 7 | lamps | 65-3-9 | 25.00 |
| 8 | Missing lamps on projecting | | |
| 9 | loads | 65-3-9 | 50.00 |
| 10 | Missing or inoperative | | |
| 11 | turn signal | 65-3-9 | 25.00 |
| 12 | Unsafe loading | 65-3-8 | 100.00 |
| 13 | Excessive steering wheel | | |
| 14 | play | 65-3-9 | 100.00 |
| 15 | Steering column defects | 65-3-9 | 100.00 |
| 16 | Steering box or steering | | |
| 17 | system defects | 65-3-9 | 100.00 |
| 18 | Suspension system defects | 65-3-9 | 50.00 |
| 19 | Defective springs or spring | | |
| 20 | assembly | 65-3-9 | 50.00 |
| 21 | Defective tires--steering | | |
| 22 | axle | 65-3-9 | 100.00 |
| 23 | Defective tires--other | | |
| 24 | axles | 65-3-9 | 30.00 |
| 25 | Defective wheels and rims | 65-3-9 | 50.00 |

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Underscored material = new
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|----|-------------------------------------|------------------|--------------------|
| 1 | Defective or missing | | |
| 2 | windshield wipers | 65-3-9 | 30.00 |
| 3 | Defective or inoperative | | |
| 4 | emergency exit--bus | 65-3-9 | 100.00. |
| 5 | C. DRIVER OUT-OF-SERVICE VIOLATIONS | | |
| 6 | COMMON NAME OF OFFENSE | SECTION VIOLATED | PENALTY ASSESSMENT |
| 7 | Driver's age | 65-3-7 | 30.00 |
| 8 | Driver not licensed for | | |
| 9 | type of vehicle being | | |
| 10 | operated | 65-3-7 | 30.00 |
| 11 | Failure to have valid | | |
| 12 | commercial driver's license | | |
| 13 | in possession | 66-5-59 | 30.00 |
| 14 | No waiver of physical | | |
| 15 | disqualification | | |
| 16 | in possession | 65-3-7 | 30.00 |
| 17 | Sickness or fatigue | 65-3-8 | 100.00 |
| 18 | Driver disqualification | 65-3-7 | 500.00 |
| 19 | Exceeding the 10-hour | | |
| 20 | driving rule | 65-3-11 | 100.00 |
| 21 | Exceeding the 15-hour on | | |
| 22 | duty rule | 65-3-11 | 100.00 |
| 23 | Exceeding the 60 hours in 7 | | |
| 24 | days on duty rule | 65-3-11 | 100.00 |
| 25 | Exceeding 70 hours in 8 | | |

. 109057.3

Underscored material = new
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1 days on duty rule 65-3-11 100.00
2 False log book 65-3-11 100.00.

3 D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS

4 COMMON NAME OF OFFENSE SECTION VIOLATED PENALTY ASSESSMENT

5 Placarding violations 65-3-13 250.00

6 Cargo tank not meeting

7 specifications 65-3-13 250.00

8 Internal valve operation

9 violations 65-3-13 250.00

10 Hazardous materials

11 packaging violations 65-3-13 250.00

12 Insecure load--hazardous

13 materials 65-3-13 250.00

14 Shipping papers violations 65-3-13 30.00

15 Shipment of forbidden

16 combination of hazardous

17 materials 65-3-13 250.00

18 No hazardous waste

19 manifest 65-3-13 30.00

20 Bulk packaging marking

21 violations 65-3-13 30.00

22 Cargo tank marking

23 violations 65-3-13 30.00."

24 Section 40. REPEAL.--Sections 13-2-1, 48-3-19, 65-2-80 through
25 65-2-127 and 65-4-1 through 65-4-18 NMSA 1978 (being Laws 1965,

. 109057.3

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1 Chapter 245, Section 1, Laws 1937, Chapter 150, Section 1, Laws 1981,
2 Chapter 358, Sections 1 through 36, Laws 1993, Chapter 95, Section 2,
3 Laws 1981, Chapter 358, Sections 37 through 46, Laws 1987, Chapter
4 134, Section 3, Laws 1981, Chapter 358, Sections 47 and 48 and Laws
5 1933, Chapter 120, Sections 1 through 17 and 19, as amended) are
6 repealed.

7 Section 41. SEVERABILITY. -- If any part or application of the
8 Motor Carrier Act is held invalid, the remainder or its application to
9 other situations or persons shall not be affected.

10 Section 42. EMERGENCY. -- It is necessary for the public peace,
11 health and safety that this act take effect immediately.

State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 7, 1996

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has been referred

HOUSE BILL 535

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 21, between lines 2 and 3, insert the following new subsection:

"G. Notwithstanding any other provision of the Motor Carrier Act, a towing company may establish, collect and receive from any not-for-profit motor club rates lower than the rates provided in the established tariff. Notice of the lower rates shall be filed with the commission but shall not be considered a tariff."

The roll call vote on Amendment #1 was 10 For 1 Against

Yes: 10

. 109057.3

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HTRC/HB 535

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No: Parsons
Excused: Ryan, Sandoval
Absent: None

Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 3 Against

Yes: 9
No: Crook, Hawkins, Parsons
Excused: Sandel
Absent: None

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 12, 1996

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
has been referred

HOUSE BILL 535, as amended

has had it under consideration and reports same with recommendation that
it DO PASS, and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

Roman M. Maes, III, Chairman

Adopted _____ Not Adopted _____

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Kidd, McKibben, Reagan, Robinson

Absent: 0

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Underscored material = new
[bracketed material] = delete

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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February 14, 1996

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10 Mr. President:

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Your FINANCE COMMITTEE, to whom has been referred

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HOUSE BILL 535, as amended

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has had it under consideration and reports same with recommendation that
it DO PASS.

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Respectfully submitted,

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Ben D. Altamirano, Chairman

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Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

1 HTRC/HB 535

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Date _____

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The roll call vote was 8 For 0 Against

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Yes: 8

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No: 0

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Excused: Donisthorpe, Duran, Ingle, Kidd, Kysar

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Absent: None

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H0535FC1

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