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HOUSE BILL 916

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Nick L. Salazar

AN ACT

RELATING TO HIGHWAYS; AUTHORIZING THE STATE HIGHWAY COMMISSION  
TO ACCOMMODATE TELECOMMUNICATIONS FACILITIES ALONG STATE  
HIGHWAYS.

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

Section 1. Section 67-3-12 NMSA 1978 (being Laws 1929,  
Chapter 110, Section 1) is amended to read:

"67-3-12. POWERS AND DUTIES. -- [~~That~~] In addition to the  
powers now conferred upon it by law, the state highway  
commission shall have [~~all of~~] the [~~following powers~~] power  
and authority [~~to-wit~~] to:

[~~(a) To~~] A. declare abandoned and to close to  
public traffic all grade crossings of railroads by state  
highways in cases where grade separations or other adequate  
crossings are substituted therefor or where such grade

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1 crossings become unnecessary to the public convenience by  
2 reason of changes in highway locations;

3           ~~[(b)—To]~~ B. offer and upon compliance with the  
4 conditions of such offer to pay rewards for information  
5 leading to the arrest and conviction of offenders in cases of  
6 theft, defacement or destruction of markers or highway signs,  
7 lights or other warning devices placed upon or along highways  
8 of this state under the supervision of ~~[said]~~ the state  
9 highway commission and for information leading to the arrest  
10 and conviction of offenders or for the return of property in  
11 case of theft or unlawful damaging of property under the  
12 control of ~~[said]~~ the commission. All such rewards when paid  
13 shall be paid from the state road fund upon voucher drawn by  
14 the state highway engineer or other authorized officer or  
15 agent of the state highway and transportation department;

16           ~~[(c)—To]~~ C. prescribe by rules and regulations  
17 the conditions under which pipelines, telephone, telegraph and  
18 electric transmission lines and ditches may be hereafter  
19 placed along, across, over or under all public highways in  
20 this state and to forcibly remove or cause to be removed any  
21 such pipelines, telephone, telegraph or electric transmission  
22 lines or ditches which may hereafter be placed along, across,  
23 over or under such public highways in violation of such rules  
24 and regulations;

25           ~~[(d)—To]~~ D. employ an attorney to assist and

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1 advise [~~said~~] the commission and all of the employees and  
2 agents thereof in the discharge of their duties and to appear  
3 and represent the interests of [~~said~~] the commission or its  
4 [~~said~~] employees in any case before any court or tribunal in  
5 which the official duties, powers, rights or privileges of  
6 [~~said~~] the commission or any of its employees or agents may be  
7 involved or affected and to pay such attorney the reasonable  
8 value of his services out of the state road fund;

9 [~~(e) To~~] E. bring and maintain in the name of the  
10 state [~~of New Mexico~~] all actions and proceedings deemed  
11 necessary by the [~~said~~] commission for the condemnation of  
12 rights of way for public highways or for the removal or  
13 condemnation of buildings or other improvements which encroach  
14 in whole or part upon the rights of way of public highways or  
15 for the condemnation of gravel pits or other deposits of  
16 materials or supplies suitable for the construction of public  
17 highways.

18 The attorney general [~~of the State~~] of New Mexico shall  
19 appear in and prosecute all such cases on behalf of the state  
20 [~~of New Mexico~~] upon request of the state highway commission.  
21 All such proceedings shall be conducted in the same manner as  
22 other cases for the condemnation of real property. The  
23 damages assessed in proceedings brought under the provisions  
24 of this act shall be paid out of the state road fund from  
25 [~~monies~~] money furnished for that purpose by cooperative

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1 agreement between the state, federal government and the county  
2 within which [~~said~~] the condemned property is situate or any  
3 such governmental bodies or out of [~~monies~~] money furnished  
4 for the construction of the highway in connection with which  
5 the condemnation is had, by the county in which the condemned  
6 property is situate; provided, however, that if no such  
7 [~~monies are~~] money is available, [~~such~~] the damages shall be  
8 advanced on behalf of said counties out of their [~~monies~~]  
9 money in the state road fund and the state treasurer shall  
10 thereafter reimburse the state road fund for the [~~monies so~~]  
11 money advanced out of the next installment [~~or installments~~]  
12 of [~~monies~~] money from motor vehicle license fees accruing to  
13 the road fund of the county for which such funds were so  
14 advanced;

15 [~~(f) To~~] F. designate in its discretion one of  
16 its employees as acting state highway engineer to act at all  
17 times when the state highway engineer [~~may be~~] is absent from  
18 the state capital. [~~Such~~] The acting state highway engineer,  
19 when designated, [~~shall have~~] has the right and is hereby  
20 given authority at all times when [~~such~~] the state highway  
21 engineer [~~may be~~] is absent from the state capital to sign all  
22 federal project statements, federal project agreements and  
23 federal vouchers with the same force and effect as if [~~the~~  
24 ~~same were~~] signed by the state highway engineer in person, and  
25 the certificate of [~~such~~] the acting state highway engineer

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1 attached to any [~~such~~] federal project statement, federal  
2 project agreement or federal voucher to the effect that the  
3 state highway engineer was absent from the state capital at  
4 the time that the same was so signed by [~~said~~] the acting  
5 state highway engineer shall be conclusive evidence of the  
6 truth of such fact. [~~Said~~] The acting state highway engineer  
7 may also be vested by [~~said~~] the state highway commission with  
8 power and authority to act for [~~said~~] the state highway  
9 engineer in such other matters as [~~said~~] the state highway  
10 commission may determine;

11 G. accommodate telecommunications facilities  
12 statewide, along, across, over or under state highways by:

13 (1) designing, constructing or maintaining  
14 telecommunications facilities;

15 (2) charging a reasonable fee to be deposited  
16 into the state road fund or other compensation for the use of  
17 highway rights of way or department facilities; or

18 (3) entering into agreements with private or  
19 public telecommunications providers; and

20 H. to prescribe by rules the specification for  
21 telecommunications conduit to be placed along, across, over or  
22 under all public highways in this state. Such placements of  
23 conduit shall be required in all new or rebuilt highway  
24 construction overseen by the department. Such conduit shall  
25 be installed to minimize the need for conduit trenching and

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1 repair of the public roads and the safety hazards inherent  
2 thereof. Such conduit shall become the property of the  
3 department. "

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