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AN ACT

RELATING TO STATE PROPERTIES; AMENDING SECTION 67-3-12 NMSA 1978 (BEING LAWS 1929, CHAPTER 110, SECTION 1, AS AMENDED) TO AUTHORIZE THE STATE TRANSPORTATION COMMISSION TO PRESCRIBE CONDITIONS FOR THE INSTALLATION OF BROADBAND INTERNET INFRASTRUCTURE PLACED ALONG, ACROSS, OVER OR UNDER PUBLIC HIGHWAYS OR OTHER PROPERTY UNDER THE JURISDICTION OF THE DEPARTMENT OF TRANSPORTATION; AUTHORIZING THE WAIVER OF FEES OR LEASING COSTS FOR INFRASTRUCTURE THAT IS TO BE USED TO PROVIDE BROADBAND INTERNET SERVICES TO UNSERVED OR UNDERSERVED LOCATIONS AS DEFINED IN THE CONNECT NEW MEXICO ACT.

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, as amended) is amended to read:

"67-3-12. POWERS AND DUTIES.--In addition to the powers now conferred upon it by law, the state transportation commission:

A. may declare abandoned and 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 crossings become unnecessary to the public convenience by reason of changes in highway locations;

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

13 C. shall prescribe by rule the conditions under
14 which fiber cable lines, conduit, poles, wireless technology
15 or other infrastructure used for broadband internet services,
16 pipelines, telephone, telegraph and electric transmission
17 lines and ditches may be placed along, across, over or under
18 public highways in this state or other property under the
19 jurisdiction of the department and shall forcibly remove or
20 cause to be removed fiber cable lines, conduit, poles,
21 pipelines, telephone, telegraph or electric transmission
22 lines or wireless technology or other infrastructure or
23 ditches that may be placed along, across, over or under such
24 public highways in violation of such rules and regulations;

25 D. may waive administrative fees and annual fees

1 for infrastructure authorized pursuant to Subsection C of
2 this section that is to be used to provide broadband internet
3 services to unserved or underserved locations, as defined in
4 the Connect New Mexico Act;

5 E. shall employ an attorney to assist and advise
6 the state transportation commission and the department in the
7 discharge of their duties and to appear and represent the
8 interests of the commission or department in any case before
9 any court or tribunal in which the official duties, powers,
10 rights or privileges of the commission or department may be
11 involved or affected and to pay that attorney the reasonable
12 value of the attorney's services out of the state road fund;

13 F. shall bring and maintain in the name of the
14 state actions and proceedings deemed necessary by the state
15 transportation commission for the condemnation of rights of
16 way for public highways or for the removal or condemnation of
17 buildings or other improvements that encroach in whole or
18 part upon the rights of way of public highways or for the
19 condemnation of gravel pits or other deposits of materials or
20 supplies suitable for the construction of public highways.

21 The attorney general of New Mexico shall appear in and
22 prosecute all such cases on behalf of the state upon request
23 of the state transportation commission. All such proceedings
24 shall be conducted in the same manner as other cases for the
25 condemnation of real property. The damages assessed in

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

16 G. shall designate in its discretion one of its
17 employees as acting secretary to act at all times when the
18 secretary is absent from the state capital. The acting
19 secretary, when designated, has the right and is hereby given
20 authority at all times when the secretary is absent from the
21 state capital to sign all federal project statements, federal
22 project agreements and federal vouchers with the same force
23 and effect as if signed by the secretary in person, and the
24 certificate of the acting secretary attached to any federal
25 project statement, federal project agreement or federal

1 voucher to the effect that the secretary was absent from the
2 state capital at the time that the same was so signed by the
3 acting secretary shall be conclusive evidence of the truth of
4 such fact. The acting secretary may also be vested by the
5 state transportation commission with power and authority to
6 act for the secretary in such other matters as the state
7 transportation commission may determine;

8 H. subject to the provisions of Subsection I of
9 this section, may conduct, permit or authorize commercial
10 enterprises or activities on department- or commission-owned
11 land or land leased to or from the department for the purpose
12 of providing goods and services to the users of the property
13 or facilities on the land, including commercial enterprises
14 or activities, other than commercial enterprises or
15 activities on a controlled-access facility conducted,
16 permitted or authorized pursuant to Section 67-11-9 NMSA
17 1978. In furtherance of these commercial enterprises or
18 activities, the commission may:

19 (1) authorize the lease of department- or
20 commission-owned land as it deems necessary, in which case
21 consideration for the lease shall be payments in cash or cash
22 equivalent that shall be deposited into the state road fund;
23 or

24 (2) authorize the sale or exchange or lease
25 with in-lieu value consideration of department- or

1 commission-owned land; provided that the sale or exchange or
2 lease with in-lieu value shall be subject to the ratification
3 and approval by joint resolution of the state legislature
4 prior to the sale or exchange or lease with in-lieu value
5 becoming effective; and

6 I. for the purposes of Subsection H of this
7 section shall:

8 (1) adopt rules necessary to carry out the
9 provisions of Subsection H of this section;

10 (2) prior to initiating any action to
11 conduct, permit or authorize commercial enterprises or
12 activities, adopt a rule providing a procedure to involve
13 residents of the municipality or county in which the
14 commercial enterprises or activities are proposed to occur in
15 the department's planning and decision-making process for the
16 sole purpose of advising the commission and department on the
17 feasibility and suitability of the proposed commercial
18 enterprises or activities;

19 (3) comply with the Procurement Code in the
20 acquisition process whenever commercial enterprises or
21 activities result in the commission or department acquiring
22 construction, services or tangible personal property, as
23 those terms are defined in the Procurement Code;

24 (4) if the commercial enterprises or
25 activities are to be developed or operated by a private

1 entity, direct that private entity to:

2 (a) create its plans to be not
3 necessarily in compliance but generally compatible with local
4 zoning and land use policies, including affordable housing
5 and historic and architectural standards, if any, and, to the
6 extent the private entity will obtain water or other services
7 from a local authority, negotiate an agreement between
8 relevant parties for those services, the terms and conditions
9 of which shall be no more stringent than the local
10 authority's then current laws, rules and policies; and

11 (b) submit its plans to the local
12 zoning and land use authority for comment. The local
13 authority shall communicate its recommendations and comments
14 in writing to the department and private entity within thirty
15 days of receiving the plans. The department, commission and
16 private entity shall take no action on the project in
17 reliance on those plans until they have received the local
18 authority's recommendations and comments or until the thirty-
19 day comment period has expired, whichever comes first;
20 provided that the local authority's approval is not required
21 under this section, and this section does not delegate to the
22 local authority power that it does not otherwise have; and

23 (5) not use the power of eminent domain to
24 acquire land to be developed or operated by a private
25 entity."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023. _____