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HOUSE BILL 50

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO TRANSPORTATION; ADDRESSING THE REMOVAL OF STATE  
TRANSPORTATION COMMISSIONERS AND THE POWERS OF THE STATE  
TRANSPORTATION COMMISSION AND DEPARTMENT OF TRANSPORTATION;  
AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

**SECTION 1.** Section 67-3-2 NMSA 1978 (being Laws 1967,  
Chapter 266, Section 1, as amended) is amended to read:

"67-3-2. STATE TRANSPORTATION COMMISSIONERS--NUMBER--  
APPOINTMENT--POWERS--TERM OF OFFICE--BOND.--

A. The state transportation commission shall  
consist of six members to be appointed by the governor with the  
advice and consent of the senate.

B. State transportation commissioners shall be  
appointed for staggered terms of six years each commencing on

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1 January 1 so that the terms of not more than two commissioners  
2 expire on December 31 of each even-numbered year. Any vacancy  
3 shall be filled by appointment by the governor with the  
4 approval of the senate for the remainder of the unexpired term.

5 C. Each of the members, in order to qualify as  
6 such, shall take the usual oath and execute in favor of the  
7 state a surety company bond in a form approved by the attorney  
8 general in the amount of twenty-five thousand dollars (\$25,000)  
9 conditioned upon the faithful performance of ~~[his]~~ the member's  
10 duties. No more than four of the appointed commissioners shall  
11 belong to the same political party.

12 D. The state transportation commission shall have  
13 the limited power to determine ~~[all matters]~~ a matter of policy  
14 for the department to the extent that the matter of policy has  
15 not been established by law or the matter of policy has not  
16 been specifically addressed by an appropriation."

17 SECTION 2. Section 67-3-5 NMSA 1978 (being Laws 1967,  
18 Chapter 266, Section 4, as amended) is amended to read:

19 "67-3-5. REMOVAL OF COMMISSIONERS.--~~[The state~~  
20 ~~transportation commission, appointed by the governor and~~  
21 ~~confirmed by the senate, shall serve at the pleasure of the~~  
22 ~~governor. Transportation commissioners, appointed and~~  
23 ~~confirmed by the senate pursuant to Subsection B of Section~~  
24 ~~67-3-4 NMSA 1978, shall not be removed without prior~~  
25 ~~approval of the senate.]~~ A member of the state transportation

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1 commission shall not be removed from office except for  
2 incompetence, neglect of duty or malfeasance in office. The  
3 removal of a member shall not be made without the prior  
4 approval of the senate."

5 SECTION 3. Section 67-3-6 NMSA 1978 (being Laws 1967,  
6 Chapter 266, Section 5, as amended) is amended to read:

7 "67-3-6. CREATION OF DEPARTMENT OF TRANSPORTATION--  
8 ASSUMPTION OF CERTAIN COMMISSION AUTHORITY AND DUTY.--

9 A. A department of government within the  
10 executive branch to be known as the "department of  
11 transportation" is established. [~~Except for the powers~~  
12 ~~expressly granted to the state transportation commissioners~~  
13 ~~in Chapter 67, Article 3 NMSA 1978, the department shall~~  
14 ~~exercise all the power, authority and duty granted to the~~  
15 ~~state transportation commission in Chapter 67 NMSA 1978. All~~  
16 ~~references contained in the NMSA 1978, as amended, and which~~  
17 ~~refer to the "state transportation commission" or~~  
18 ~~"commissioners" shall, wherever appropriate, be construed to~~  
19 ~~refer to or to mean the department as designated in this~~  
20 ~~section.]~~

21 B. The authority granted to and duty imposed upon  
22 the state transportation commission are deemed granted to and  
23 imposed upon the department and references in the NMSA 1978,  
24 as amended, to the state transportation commission are deemed  
25 references to the department, except:

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1                   (1) the express authority to issue bonds and  
2 to promulgate rules;

3                   (2) the limited authority to set policy for  
4 the department;

5                   (3) references to the chair of the state  
6 transportation commission or to the state transportation  
7 commission regarding its own organization and administration;  
8 and

9                   (4) where a provision of law expressly  
10 requires interaction between the state transportation  
11 commission and the department or secretary."

12           SECTION 4. Section 67-3-14 NMSA 1978 (being Laws 1912,  
13 Chapter 54, Section 2, as amended) is amended to read:

14           "67-3-14. STATE TRANSPORTATION COMMISSION--POWERS AND  
15 DUTIES--ROAD FUNDS.--

16           A. The state transportation commission has charge  
17 of [~~all policy matters pertaining to the expenditure of the~~  
18 ~~state road fund in~~] the construction, improvement and  
19 maintenance of state highways and bridges in the state.

20           B. The state transportation commission may [~~also~~  
21 ~~make rules and regulations~~] promulgate rules governing the  
22 method of construction, improvement and maintenance of state  
23 highways and bridges and compel compliance with the laws and  
24 rules [~~and regulations~~] relating to state highways and  
25 bridges. The commission shall have no duty to maintain or

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1 supervise the maintenance of roads that are not designated  
2 state highways or bridges.

3 C. The secretary shall have authority to expend  
4 state road funds and use state forces and equipment in an  
5 amount not to exceed ten thousand dollars (\$10,000) for the  
6 purpose of restoring and preserving the public safety and  
7 welfare in any emergency involving a threat of injury to  
8 lives or property within areas under the control of the state  
9 or local governmental bodies."

10 SECTION 5. Section 67-3-22 NMSA 1978 (being Laws 1909,  
11 Chapter 42, Section 9, as amended) is amended to read:

12 "67-3-22. STATE TRANSPORTATION COMMISSION--DEPARTMENT--  
13 ANNUAL REPORT.--

14 A. The state transportation commission and the  
15 department shall, on or before the first day of [~~January~~]  
16 November of each year, make a report to the governor and the  
17 legislative finance committee of all business transacted by  
18 the commission and the department up to and including the  
19 thirtieth day of [~~November~~] September, showing an itemized  
20 statement of money received and disbursed.

21 B. The report shall include:

22 (1) the current status of the statewide  
23 transportation improvement plan and the statewide  
24 transportation improvement program required by 23 U.S.C.  
25 Section 135, as amended;

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1                   (2) a summary of the planning process,  
2 including the consultations, comparisons and considerations  
3 involved in developing the statewide transportation  
4 improvement plan and statewide transportation improvement  
5 program;

6                   (3) a detailed explanation of the projects,  
7 strategies and services that were considered for inclusion in  
8 the statewide transportation improvement plan or statewide  
9 transportation improvement program but were not included and  
10 the reasons for their exclusion; and

11                   (4) a detailed explanation of a financial  
12 plan considered to implement the statewide transportation  
13 improvement plan or statewide transportation improvement  
14 program if that financial plan has not been authorized by the  
15 legislature."

16           SECTION 6. Section 67-3-65.1 NMSA 1978 (being Laws  
17 1983, Chapter 211, Section 40, as amended) is amended to  
18 read:

19           "67-3-65.1. STATE ROAD FUND DISTRIBUTION.--Upon  
20 appropriation, the amounts distributed to the state road fund  
21 pursuant to Sections 7-1-6.10, 66-6-23 and 66-6-23.1 NMSA  
22 1978 shall be used for maintenance, construction and  
23 improvement of state transportation projects and to meet  
24 federal allotments under the federal-aid road laws, but  
25 sufficient money from the state road fund shall be set aside

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1 each year by the state treasurer to pay the principal and  
2 interest due each year on state transportation revenue bonds  
3 issued to anticipate the collection of this revenue."

4 SECTION 7. REPEAL.--Section 67-3-70 NMSA 1978 (being  
5 Laws 1975, Chapter 343, Section 4, as amended) is repealed.