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HOUSE BILL 836

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Stevan Pearce

AN ACT

RELATING TO HIGHWAYS; AMENDING A SECTION OF THE NMSA 1978 TO  
AUTHORIZE THE STATE HIGHWAY AND TRANSPORTATION DEPARTMENT 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~~] department 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

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1 crossings are substituted therefor or where such grade  
2 crossings become unnecessary to the public convenience by  
3 reason of changes in highway locations;

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

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

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D. accommodate telecommunications facilities  
statewide on, along, over or under state highways by:

(1) designing, constructing or maintaining  
telecommunications facilities;

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

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

~~[(d) To]~~ E. employ an attorney to assist and  
advise ~~[said commission]~~ the department and all of the  
employees and agents thereof in the discharge of their duties  
and to appear and represent the interests of ~~[said commission]~~  
the department or its ~~[said]~~ employees in any case before any  
court or tribunal in which the official duties, powers, rights  
or privileges of ~~[said commission]~~ the department or any of  
its employees or agents may be involved or affected and to pay  
such attorney the reasonable value of his services out of the  
state road fund;

~~[(e) To]~~ F. bring and maintain in the name of the  
state ~~[of New Mexico]~~ all actions and proceedings deemed  
necessary by the ~~[said commission]~~ department for the  
condemnation of rights of way for public highways or for the  
removal or condemnation of buildings or other improvements  
which encroach in whole or part upon the rights of way of

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1 public highways or for the condemnation of gravel pits or  
2 other deposits of materials or supplies suitable for the  
3 construction of public highways.

4 The attorney general [~~of the State of New Mexico~~] shall  
5 appear in and prosecute all such cases on behalf of the state  
6 [~~of New Mexico~~] upon request of the [~~state highway commission~~]  
7 department. All such proceedings shall be conducted in the  
8 same manner as other cases for the condemnation of real  
9 property. The damages assessed in proceedings brought under  
10 the provisions of this act shall be paid out of the state road  
11 fund from [~~monies~~] money furnished for that purpose by  
12 cooperative agreement between the state, federal government  
13 and the county within which [~~said~~] the condemned property is  
14 situate or any such governmental bodies or out of [~~monies~~]  
15 money furnished for the construction of the highway in  
16 connection with which the condemnation is had, by the county  
17 in which the condemned property is situate; provided, however,  
18 that if no such [~~monies are~~] money is available, [~~such~~] the  
19 damages shall be advanced on behalf of said counties out of  
20 their [~~monies~~] money in the state road fund and the state  
21 treasurer shall thereafter reimburse the state road fund for  
22 the [~~monies so~~] money advanced out of the next installment [~~or~~  
23 ~~installments~~] of [~~monies~~] money from motor vehicle license  
24 fees accruing to the road fund of the county for which such  
25 funds were so advanced; and

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1                    [~~(f) To~~] G. designate in its discretion one of  
2 its employees as acting state highway engineer to act at all  
3 times when the state highway engineer [~~may be~~] is absent from  
4 the state capital. [~~Such~~] The acting state highway engineer,  
5 when designated, [~~shall have~~] has the right and is hereby  
6 given authority at all times when [~~such~~] the state highway  
7 engineer [~~may be~~] is absent from the state capital to sign all  
8 federal project statements, federal project agreements and  
9 federal vouchers with the same force and effect as if [~~the~~  
10 ~~same were~~] signed by the state highway engineer in person, and  
11 the certificate of [~~such~~] the acting state highway engineer  
12 attached to any [~~such~~] federal project statement, federal  
13 project agreement or federal voucher to the effect that the  
14 state highway engineer was absent from the state capital at  
15 the time that the same was so signed by [~~said~~] the acting  
16 state highway engineer shall be conclusive evidence of the  
17 truth of such fact. [~~Said~~] The acting state highway engineer  
18 may also be vested by [~~said state highway commission~~] the  
19 department with power and authority to act for [~~said~~] the  
20 state highway engineer in such other matters as [~~said state~~  
21 ~~highway commission~~] the department may determine. "

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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6 March 2, 1999  
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8 Mr. Speaker:  
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10 Your TRANSPORTATION COMMITTEE, to whom has been  
11 referred  
12

13 HOUSE BILL 836  
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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

17 Respectfully submitted,  
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22 Daniel P. Silva, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HB 836

Page 7

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

6 (Chief Clerk)

(Chief Clerk)

8 Date \_\_\_\_\_

10 The roll call vote was 12 For 0 Against

11 Yes: 12

12 Excused: Chavez

13 Absent: None

15 J: \99BillSWP\H0836

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

1 HB 836

Page 8

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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March 10, 1999

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Mr. President:

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Your CORPORATIONS & TRANSPORTATION COMMITTEE, to

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whom has been referred

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HOUSE BILL 836

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has had it under consideration and reports same with

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recommendation that it DO PASS, and thence referred to the

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JUDICIARY COMMITTEE.

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Respectfully submitted,

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Roman M. Maes, Chairman

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

1 **HB 836**

Page 9

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Adopted \_\_\_\_\_ Not

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Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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The roll call vote was 7 For 0 Against

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Yes: 7

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No: 0

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Excused: Aragon, Kidd, Robinson

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Absent: None

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