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SENATE BILL 429

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

INTRODUCED BY

Stuart Ingle

AN ACT

RELATING TO COUNTIES; ELIMINATING THE ELECTED POSITION OF  
COUNTY SURVEYOR; AMENDING AND REPEALING SECTIONS OF THE NMSA  
1978.

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

**SECTION 1.** Section 1-10-8 NMSA 1978 (being Laws 1977,  
Chapter 222, Section 31, as amended) is amended to read:

"1-10-8. BALLOTS--PRIMARY AND GENERAL ELECTIONS--ORDER OF  
OFFICES.--The ballot used in the primary and general elections  
shall contain, when applicable, the offices to be voted on in  
the following order:

- A. president and vice president;
- B. United States senator;
- C. United States representative;
- D. candidates for state offices to be voted on at

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1 large, in order prescribed by the secretary of state;  
2 E. state senator;  
3 F. state representative;  
4 G. other district candidates, in the order  
5 prescribed by the secretary of state;  
6 H. metropolitan and magistrate judges;  
7 I. county commissioners;  
8 J. county clerk;  
9 K. county treasurer;  
10 L. county assessor;  
11 M. county sheriff;  
12 N. probate judge; and  
13 [~~O. county surveyor, if applicable; and~~  
14 ~~P.~~] O. other issues as prescribed by the secretary  
15 of state."

16 SECTION 2. Section 4-35-1 NMSA 1978 (being Laws 1912,  
17 Chapter 45, Section 1, as amended) is amended to read:

18 "4-35-1. [~~COUNTY~~] BOUNDARIES--DISPUTE--[~~PROCEDURE~~]  
19 COMMISSION TO SETTLE.--[~~Sec. 113. That~~] Whenever the location  
20 of the boundary line between two or more counties is in  
21 dispute, [~~such~~] the controversy shall be settled by a boundary  
22 commission consisting of the [~~chairman~~] chair of the board of  
23 county commissioners and [~~county surveyor~~] a licensed  
24 professional surveyor appointed by the board of county  
25 commissioners of each of the counties affected by [~~such~~] the

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1 dispute and the district attorney of the district in which  
2 [~~such~~] the counties are situate. If such counties are in more  
3 than one judicial district, the district attorney of each  
4 district shall be a member of [~~such~~] the commission."

5 SECTION 3. Section 4-42-1 NMSA 1978 (being Laws 1891,  
6 Chapter 33, Section 1, as amended) is amended to read:

7 "4-42-1. COUNTY SURVEYOR [~~ELECTION--QUALIFICATIONS~~].--The  
8 elected office of county surveyor is [~~created in the several~~  
9 ~~counties. No person is eligible to hold the office who is not~~  
10 ~~a practical land surveyor actually engaged in the business. A~~  
11 ~~county surveyor shall be elected for each county in the same~~  
12 ~~manner that other county officers are elected, and he shall~~  
13 ~~hold his office for the term of two years and until his~~  
14 ~~successor is elected and qualified. His term of office shall~~  
15 ~~commence on January 1 succeeding his election] abolished."~~

16 SECTION 4. Section 4-42-3 NMSA 1978 (being Laws 1891,  
17 Chapter 33, Section 4, as amended) is amended to read:

18 "4-42-3. LICENSED PROFESSIONAL SURVEYOR--INQUIRY AS TO  
19 BOUNDARIES--OATH TO WITNESSES--REPORT.--[~~Sec. 229.~~] When [~~any~~  
20 ~~county]~~ a licensed professional surveyor appointed by the board  
21 of county commissioners is called upon to make any survey [~~or~~  
22 ~~surveys which are]~~ that is to be used in any court, [~~such~~  
23 ~~county]~~ the surveyor is hereby authorized and required, upon  
24 application of either party, to administer an oath or  
25 affirmation to any witness who may be brought to prove any

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1 corner or line of [~~said~~] that survey [~~or surveys~~] or any  
2 natural or artificial object or mark [~~which~~] that may be  
3 necessary to identify the same, which testimony shall be  
4 reduced to writing and subscribed by the witness [~~or witnesses~~]  
5 and a return made thereof with the return of the surveyor."

6 SECTION 5. Section 4-42-4 NMSA 1978 (being Laws 1891,  
7 Chapter 33, Section 5, as amended) is amended to read:

8 "4-42-4. LICENSED PROFESSIONAL SURVEYOR--OFFICE AND  
9 RECORDS.--[~~Sec. 230. The county surveyor shall keep his office~~  
10 ~~at the county seat and~~] A licensed professional surveyor  
11 appointed by the board of county commissioners shall keep two  
12 books of [~~record which~~] records that shall be furnished [~~him~~]  
13 the surveyor by the board of county commissioners for that  
14 purpose, which books [~~he~~] the surveyor shall transmit to [~~his~~]  
15 the surveyor's successor in office. One book shall contain the  
16 calculations by latitudes and departures of all surveys made by  
17 [~~him~~] the surveyor or [~~his~~] the surveyor's deputies, and each  
18 calculation shall have a corresponding number with the plat and  
19 field notes to which it refers in the book of records. The  
20 other book shall be a book of records and so constituted as to  
21 have the left page for diagrams and plats and the right page  
22 for notes and remarks, and each diagram and plat shall be  
23 numbered progressively [~~and~~]. The field notes of the survey so  
24 recorded shall contain a full statement of [~~such~~] the surveys,  
25 with the variations of the magnetic needle, length of lines and

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1 location of corners, with description of such corners [~~also~~]  
2 and description of all witness trees and other marks used as  
3 witness marks for such corners, with size, distance and  
4 course."

5 SECTION 6. Section 4-42-5 NMSA 1978 (being Laws 1891,  
6 Chapter 33, Section 6, as amended) is amended to read:

7 "4-42-5. LICENSED PROFESSIONAL SURVEYOR--LATITUDES AND  
8 DEPARTURES--FOLLOWING UNITED STATES INSTRUCTIONS.--[~~Sec. 231.~~]

9 All calculations to ascertain the contents of a tract of land  
10 by [~~the county~~] a licensed professional surveyor appointed by  
11 the board of county commissioners shall be made by latitudes  
12 and departures, and on each plat shall be laid down the  
13 variations of the magnetic needle from the true meridian. In  
14 re-establishing missing corners, the county surveyor shall  
15 establish said corners in strict accordance with the manual of  
16 instructions of the United States to the United States deputy  
17 surveyors."

18 SECTION 7. Section 4-42-6 NMSA 1978 (being Laws 1891,  
19 Chapter 33, Section 7, as amended) is amended to read:

20 "4-42-6. LICENSED PROFESSIONAL SURVEYOR--INTERFERENCE  
21 WITH.--[~~Sec. 232.~~] If [~~any county~~] a licensed professional  
22 surveyor appointed by the board of county commissioners shall  
23 be molested or prevented from doing or performing any of [~~his~~]  
24 the surveyor's official duties by means of threats or improper  
25 interference of any person [~~or persons, such~~], the surveyor

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1 shall call on the sheriff [~~constable~~] or other peace officer of  
2 the county, who shall accompany [~~him~~] the surveyor and afford  
3 [~~him~~] the surveyor all necessary protection against any person  
4 [~~or persons~~] thus threatening or improperly interfering with  
5 [~~any county~~] the surveyor while performing [~~his~~] official  
6 duties. [~~Such~~] The person [~~or persons~~] so offending shall, on  
7 conviction thereof before any court of competent jurisdiction,  
8 be fined in a sum not less than five dollars (\$5.00) nor  
9 exceeding one hundred dollars [~~(\$100.00)~~] (\$100) and [~~moreover~~]  
10 be liable for all damages caused to any person by the hindrance  
11 of the surveyor and [~~also~~] for all the expenses that may accrue  
12 in consequence of the attendance of the sheriff or officer and  
13 the delay of the surveyor."

14 SECTION 8. Section 4-42-7 NMSA 1978 (being Laws 1891,  
15 Chapter 33, Section 8, as amended) is amended to read:

16 "4-42-7. FEES--PURCHASE OF PLATS OF UNITED STATES  
17 SURVEYS--ADMISSIBILITY OF CERTIFIED COPIES OF SURVEYS AS  
18 EVIDENCE--FILING COPY OF SURVEYS.--The expense of the chain  
19 carriers and corner man shall be paid in advance, if required  
20 by [~~the county~~] a licensed professional surveyor appointed by  
21 the board of county commissioners or [~~his~~] the surveyor's  
22 deputy, by the party on whose application the survey may be  
23 made, and the money so advanced shall be accounted for by the  
24 surveyor, and the amount expended to be taxed on the bill of  
25 costs. However, each surveyor may retain the return of any

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1 survey made by [~~him made~~] the surveyor until [~~he~~] the surveyor  
2 is paid the fee established by law and may collect fees by  
3 action. The board of county commissioners of each county in  
4 this state, at [~~their~~] its discretion, may procure copies, duly  
5 certified by the surveyor general to be correct, of the field  
6 notes and plats of the original surveys by the United States of  
7 the lands of [~~their~~] its county, and the board shall bind the  
8 plats and field notes each substantially in book form and keep  
9 them in the county [~~surveyor's~~] clerk's office for the benefit  
10 of the public. The certificate of the [~~county~~] licensed  
11 professional surveyor appointed by the board of county  
12 commissioners or any of [~~his~~] the surveyor's deputies as to the  
13 correctness or accuracy of any survey, plat or field notes made  
14 by [~~him~~] the surveyor or any certified copy of them shall be  
15 admitted as legal evidence in any court of the state, but only  
16 when the surveyor is dead or when it is impossible to obtain  
17 [~~his~~] the surveyor's evidence either by [~~his~~] the surveyor's  
18 personal attendance or by means of a deposition taken according  
19 to law. This evidence may be explained or rebutted by other  
20 evidence. The [~~county~~] licensed professional surveyors  
21 appointed by the boards of county commissioners of the  
22 different counties of this state may administer all oaths or  
23 affirmations necessary to be administered to road viewers and  
24 for all other purposes necessary to the discharge of their  
25 official duties. A copy of all surveys shall be filed with the

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1 county clerk by the ~~[county]~~ surveyor."

2 SECTION 9. Section 4-42-8 NMSA 1978 (being Laws 1891,  
3 Chapter 33, Section 9, as amended) is amended to read:

4 "4-42-8. SURVEY OF LANDS DIVIDED BY COUNTY LINE.--~~[Sec.~~  
5 ~~234.]~~ Any person owning or claiming lands ~~[where the same are]~~  
6 divided by a county line and wishing to have ~~[such]~~ the lands  
7 surveyed may apply to ~~[the]~~ a licensed professional surveyor  
8 appointed by the board of county commissioners of any county in  
9 which any part of ~~[such]~~ the land is situate, and, on such  
10 application being made, the surveyor is authorized to make  
11 ~~[such]~~ a survey, which shall be as valid as though ~~[such]~~ the  
12 lands were situate entirely in one county."

13 SECTION 10. Section 4-42-9 NMSA 1978 (being Laws 1891,  
14 Chapter 33, Section 10, as amended) is amended to read:

15 "4-42-9. ESTABLISHING COUNTY LINE--JOINT SURVEY.--~~[Sec.~~  
16 ~~235.]~~ Where a boundary line between two counties is to be  
17 established, ~~[the county]~~ licensed professional surveyors  
18 appointed by the board of county commissioners, or their  
19 deputies, of the two counties affected by ~~[such]~~ the boundaries  
20 shall together make the survey and establish the lines and  
21 erect monuments, and all corners set by the ~~[county surveyor]~~  
22 surveyors or ~~[his]~~ their deputies shall be made in strict  
23 conformity with the manual of instructions of the United  
24 States."

25 SECTION 11. Section 4-42-10 NMSA 1978 (being Laws 1891,

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1 Chapter 33, Section 11, as amended) is amended to read:

2 "4-42-10. LICENSED PROFESSIONAL SURVEYOR TO DO ALL COUNTY  
3 WORK.--[~~Sec. 236.~~] All county surveying and engineering on  
4 roads and bridges shall be performed by [~~the county~~] a licensed  
5 professional surveyor appointed by the board of county  
6 commissioners, and [~~he~~] the surveyor shall by virtue of [~~his~~]  
7 the surveyor's office be one of the viewers in the establishing  
8 of new roads or the location of bridges."

9 SECTION 12. Section 4-42-11 NMSA 1978 (being Laws 1891,  
10 Chapter 33, Section 12) is amended to read:

11 "4-42-11. [~~COUNTY~~] LICENSED PROFESSIONAL SURVEYOR--  
12 CONTRACTING.--Private individuals may contract for the work of  
13 county [~~surveyors~~] surveying."

14 SECTION 13. Section 4-42-13 NMSA 1978 (being Laws 1891,  
15 Chapter 33, Section 15, as amended) is amended to read:

16 "4-42-13. LICENSED PROFESSIONAL SURVEYOR--NUMBERING  
17 SURVEYS--ASSESSMENT FOR TAXATION.--[~~Sec. 239.~~] All surveys made  
18 by the [~~county~~] licensed professional surveyors appointed by  
19 the board of county commissioners of the several counties in  
20 accordance with [~~this~~] Chapter 4, Article 42 NMSA 1978, which  
21 are not government subdivisions, shall be numbered with a  
22 consecutive series of numbers, commencing with thirty-seven,  
23 and it shall be the duty of the assessor in each county to  
24 enter for taxation in [~~his~~] the assessor's book all lands  
25 liable for taxation, referring to them by the proper number as

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1 designated by the [county] surveyor in [~~his~~] the surveyor's  
2 records."

3 SECTION 14. Section 4-42-14 NMSA 1978 (being Laws 1891,  
4 Chapter 33, Section 16, as amended) is amended to read:

5 "4-42-14. LICENSED PROFESSIONAL SURVEYOR--NOT TO CHANGE  
6 ESTABLISHED CORNERS OR SURVEY PRIVATE LANDS.--[~~Sec. 240.~~]

7 Nothing in [~~this~~] Chapter 4, Article 42 NMSA 1978 shall be  
8 construed to empower any [county] licensed professional  
9 surveyor appointed by the board of county commissioners to  
10 change the established lines or corners of any land owned or  
11 possessed by any person [~~or persons~~], and no private lands  
12 shall be surveyed except by the consent of the owner of [~~said~~]  
13 the land."

14 SECTION 15. Section 4-42-15 NMSA 1978 (being Laws 1912,  
15 Chapter 34, Section 1, as amended) is amended to read:

16 "4-42-15. COUNTY SURVEYS.--The board of county  
17 commissioners is authorized to have the lands of the county, or  
18 any portion thereof, surveyed by [~~the county surveyor, another~~  
19 ~~surveyor deputized by him or any~~] a licensed land surveyor  
20 under the direction and in accordance with the instructions of  
21 the board of county commissioners. The board of county  
22 commissioners is authorized to purchase from any licensed  
23 professional surveyor [~~who may have made under the supervision~~  
24 ~~of the county surveyor~~] any survey and the related plats, maps  
25 and field notes [~~thereof~~] with payment to be made from the

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1 county general fund."

2 SECTION 16. Section 4-44-4 NMSA 1978 (being Laws 1957,  
3 Chapter 196, Section 2, as amended) is amended to read:

4 "4-44-4. CLASS A COUNTIES--SALARIES.--The annual salaries  
5 of elected officers of class A counties shall not exceed:

6 A. county commissioners, twenty-nine thousand five  
7 hundred sixty-nine dollars (\$29,569) each;

8 B. treasurer, sixty-five thousand five hundred one  
9 dollars (\$65,501);

10 C. assessor, sixty-five thousand five hundred one  
11 dollars (\$65,501);

12 D. sheriff, sixty-eight thousand three hundred  
13 eight dollars (\$68,308);

14 E. county clerk, sixty-five thousand five hundred  
15 one dollars (\$65,501); and

16 F. probate judge, twenty-eight thousand eight  
17 hundred twenty dollars (\$28,820) [~~and~~

18 ~~G. county surveyor, twenty-two thousand three~~  
19 ~~hundred fifty-eight dollars (\$22,358)]."~~

20 SECTION 17. Section 4-44-4.1 NMSA 1978 (being Laws 1986,  
21 Chapter 67, Section 2, as amended) is amended to read:

22 "4-44-4.1. CLASS B COUNTIES--OVER THREE HUNDRED MILLION  
23 DOLLARS (\$300,000,000) VALUATION--SALARIES.--The annual  
24 salaries of elected officers of class B counties with an  
25 assessed valuation of over three hundred million dollars

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1 (\$300,000,000) shall not exceed:

2 A. county commissioners, twenty-two thousand eight  
3 hundred thirty-two dollars (\$22,832) each;

4 B. treasurer, fifty-seven thousand two hundred  
5 sixty-five dollars (\$57,265);

6 C. assessor, fifty-seven thousand two hundred  
7 sixty-five dollars (\$57,265);

8 D. sheriff, fifty-nine thousand six hundred ninety-  
9 nine dollars (\$59,699);

10 E. county clerk, fifty-seven thousand two hundred  
11 sixty-five dollars (\$57,265); and

12 F. probate judge, twenty thousand twenty-four  
13 dollars (\$20,024) [~~and~~

14 ~~G. county surveyor, a reasonable rate of~~  
15 ~~compensation as determined by the board of county~~  
16 ~~commissioners]."~~

17 SECTION 18. Section 4-44-5 NMSA 1978 (being Laws 1957,  
18 Chapter 196, Section 3, as amended) is amended to read:

19 "4-44-5. CLASS B COUNTIES--SALARIES.--The annual salaries  
20 of elected officers of class B counties with an assessed  
21 valuation of over seventy-five million dollars (\$75,000,000)  
22 but under three hundred million dollars (\$300,000,000) shall  
23 not exceed:

24 A. county commissioners, sixteen thousand two  
25 hundred eighty-two dollars (\$16,282) each;

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1           B. treasurer, forty-nine thousand thirty-one  
2 dollars (\$49,031);

3           C. county assessor, forty-nine thousand thirty-one  
4 dollars (\$49,031);

5           D. county sheriff, fifty-one thousand two hundred  
6 seventy-seven dollars (\$51,277);

7           E. county clerk, forty-nine thousand thirty-one  
8 dollars (\$49,031); and

9           F. probate judge, eleven thousand four hundred  
10 sixteen dollars (\$11,416) [~~and~~

11           ~~G. county surveyor, a reasonable rate of~~  
12 ~~compensation as determined by the board of county~~  
13 ~~commissioners]."~~

14           SECTION 19. Section 4-44-6 NMSA 1978 (being Laws 1957,  
15 Chapter 196, Section 4, as amended) is amended to read:

16           "4-44-6. CLASS C COUNTIES--SALARIES.--The annual salaries  
17 of elected officers of class C counties shall not exceed:

18           A. county commissioners, sixteen thousand two  
19 hundred eighty-two dollars (\$16,282) each;

20           B. county treasurer, forty-nine thousand thirty-one  
21 dollars (\$49,031);

22           C. county assessor, forty-nine thousand thirty-one  
23 dollars (\$49,031);

24           D. county sheriff, fifty-one thousand two hundred  
25 seventy-seven dollars (\$51,277);

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1           E. county clerk, forty-nine thousand thirty-one  
2 dollars (\$49,031); and

3           F. probate judge, eleven thousand four hundred  
4 sixteen dollars (\$11,416) [~~and~~

5           ~~G. county surveyor, a reasonable rate of~~  
6 ~~compensation as determined by the board of county~~  
7 ~~commissioners]."~~

8           SECTION 20. Section 4-44-7 NMSA 1978 (being Laws 1957,  
9 Chapter 196, Section 5, as amended) is amended to read:

10           "4-44-7. FIRST CLASS COUNTIES--OVER TWENTY-SEVEN MILLION  
11 DOLLARS (\$27,000,000) VALUATION--SALARIES.--The annual salaries  
12 of elected officers of counties of the first class with an  
13 assessed valuation of over twenty-seven million dollars  
14 (\$27,000,000) but under forty-five million dollars  
15 (\$45,000,000) shall not exceed:

16           A. county commissioners, fourteen thousand seven  
17 hundred eighty-four dollars (\$14,784) each;

18           B. treasurer, thirty-five thousand nine hundred  
19 thirty-three dollars (\$35,933);

20           C. assessor, thirty-five thousand nine hundred  
21 thirty-three dollars (\$35,933);

22           D. sheriff, thirty-eight thousand seven hundred  
23 thirty-nine dollars (\$38,739);

24           E. county clerk, thirty-five thousand nine hundred  
25 thirty-three dollars (\$35,933); and

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1 F. probate judge, nine thousand five hundred forty-  
2 five dollars (\$9,545) [~~and~~

3 ~~G. county surveyor, a reasonable rate of~~  
4 ~~compensation as determined by the board of county~~  
5 ~~commissioners]."~~

6 SECTION 21. Section 4-44-8 NMSA 1978 (being Laws 1957,  
7 Chapter 196, Section 6, as amended) is amended to read:

8 "4-44-8. FIRST CLASS COUNTIES--UNDER TWENTY-SEVEN MILLION  
9 DOLLARS (\$27,000,000) VALUATION--SALARIES.--The annual salaries  
10 of elected officers of counties of the first class with an  
11 assessed valuation of over fourteen million dollars  
12 (\$14,000,000) but under twenty-seven million dollars  
13 (\$27,000,000) shall not exceed:

14 A. county commissioners, nine thousand nine hundred  
15 nineteen dollars (\$9,919) each;

16 B. treasurer, thirty thousand five hundred five  
17 dollars (\$30,505);

18 C. assessor, thirty thousand five hundred five  
19 dollars (\$30,505);

20 D. sheriff, thirty-eight thousand seven hundred  
21 thirty-nine dollars (\$38,739);

22 E. county clerk, thirty thousand five hundred five  
23 dollars (\$30,505); and

24 F. probate judge, eight thousand seven hundred  
25 ninety-five dollars (\$8,795) [~~and~~

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1                   ~~G. county surveyor, a reasonable rate of~~  
2                   ~~compensation as determined by the board of county~~  
3                   ~~commissioners]."~~

4                   SECTION 22. Section 4-44-36 NMSA 1978 (being Laws 1953,  
5                   Chapter 167, Section 1, as amended) is amended to read:

6                   "4-44-36. ABOLISHMENT OF CERTAIN COUNTY OFFICES.--Any  
7                   county of the third, fourth ~~[and]~~ or fifth class and H class  
8                   counties may abolish the offices of county assessor, county  
9                   clerk ~~[county surveyor]~~ and county treasurer and transfer the  
10                  powers and duties of those offices to the board of county  
11                  commissioners in the manner ~~[hereinafter]~~ prescribed in  
12                  Sections 4-44-37 through 4-44-45 NMSA 1978. ~~[Any county may~~  
13                  ~~abolish the office of county surveyor and transfer the powers~~  
14                  ~~and duties of that office to the board of county commissioners~~  
15                  ~~in the manner hereinafter prescribed]."~~

16                  SECTION 23. Section 4-44-40 NMSA 1978 (being Laws 1953,  
17                  Chapter 167, Section 5) is amended to read:

18                  "4-44-40. ELECTION JUDGES AND CLERKS--FORM OF BALLOT.--At  
19                  ~~[such]~~ an election held ~~[hereunder]~~ pursuant to Chapter 4,  
20                  Article 44 NMSA 1978, there shall be three [~~3~~] election  
21                  judges and two [~~2~~] election clerks for each polling place.  
22                  Ballots shall be printed and furnished by the board of county  
23                  commissioners, which ballots shall read as follows:

24                                Shall the offices of county assessor, county  
25                                clerk ~~[county surveyor]~~ and county treasurer be



1 abolished and the powers and duties of such officers  
2 be transferred to the board of county commissioners?

3 YES \_\_\_\_\_

4 NO \_\_\_\_\_."

5 SECTION 24. Section 4-44-44 NMSA 1978 (being Laws 1953,  
6 Chapter 167, Section 11) is amended to read:

7 "4-44-44. PETITION FOR RESTORATION OF OFFICES--  
8 ELECTION.--

9 [~~a~~] A. Whenever any county has abolished the  
10 offices of county assessor, county clerk [~~county surveyor~~] and  
11 county treasurer and transferred the powers and duties of  
12 [~~such~~] those offices to the board of county commissioners as  
13 [~~herein~~] provided in Chapter 4, Article 44 NMSA 1978, a  
14 petition may be filed with the board of county commissioners of  
15 [~~such~~] that county requesting that an election be held to  
16 determine whether the county offices previously abolished are  
17 to be reestablished and the powers and duties previously  
18 transferred to the board of county commissioners are to be  
19 returned to the offices from which they were transferred.  
20 [~~Such~~] The petition shall be signed by at least ten [~~(10)~~]  
21 percent of the registered electors of the county.

22 [~~b~~] B. Except as provided in this [~~paragraph (b)~~]  
23 subsection upon the filing of the petition provided for in this  
24 section, the provisions of Sections [~~3, 4, 5, 6, 7 and 8 of~~  
25 ~~this Act~~] 4-44-38 through 4-44-43 NMSA 1978 shall be

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1 applicable. Ballots for an election to reestablish county  
2 offices previously abolished and to return to ~~[such]~~ those  
3 offices the powers and duties previously transferred from  
4 ~~[such]~~ the offices shall read as follows:

5           Shall the offices of county assessor, county  
6 clerk ~~[county surveyor]~~ and county treasurer be  
7 reestablished and the powers and duties of ~~[such]~~  
8 those offices previously transferred to the board of  
9 county commissioners be returned to the offices from  
10 which they were transferred?

11                           YES \_\_\_\_\_

12                           NO \_\_\_\_\_.

13 If a majority of those voting on the above question have voted  
14 "Yes", ~~[such]~~ the offices shall be reestablished as of January  
15 ~~[1st]~~ 1 of the next odd-numbered year, and upon ~~[such]~~ that  
16 date all powers and duties previously transferred from ~~[such]~~  
17 the offices shall be returned to the office from which they had  
18 been previously transferred."

19           **SECTION 25.** Section 10-1-13 NMSA 1978 (being Laws 1967,  
20 Chapter 238, Section 1) is amended to read:

21           "10-1-13. COUNTY OFFICERS--OATH--BOND.--

22                   A. As used in this section, "county officer" means  
23 county commissioner, county assessor, county clerk, county  
24 sheriff ~~[county surveyor]~~, county treasurer, probate judge,  
25 county flood commissioner and small claims court clerk.

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1           B. Before assuming the duties of [his] office, each  
2 county officer shall take and subscribe the oath of office  
3 prescribed by the constitution of New Mexico and give an  
4 official bond payable to the state and conditioned for the  
5 faithful performance of [his] duties, during [his] the county  
6 officer's term of office and until [his] a successor is elected  
7 or appointed and is qualified, and that ~~[he will]~~ the county  
8 officer shall pay all money received in [his] the county  
9 officer's official capacity to the person entitled to receive  
10 it. The bond shall be executed by a corporate surety company  
11 authorized to do business in this state. The amount of the  
12 bond required shall be fixed by the board of county  
13 commissioners in a sum equal to twenty percent of the public  
14 money handled by the county officer during the preceding fiscal  
15 year but not to exceed:

16	county commissioner - - - - -	\$ 5,000
17	county assessor - - - - -	5,000
18	county clerk - - - - -	10,000
19	county sheriff - - - - -	20,000
20	<del>[county surveyor - - - - -</del>	<del>5,000]</del>
21	county treasurer - - - - -	50,000
22	probate judge - - - - -	5,000
23	county flood commissioner - - - - -	10,000
24	small claims court clerk - - - - -	10,000.

25           C. Each county officer shall appoint a deputy or

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1 clerk, as allowed by law, who shall take the oath of office  
2 required of the appointing county officer and shall receive  
3 salary as provided by law. In case of the death of the  
4 appointing county officer, the deputy shall continue in office  
5 and perform the duties of the county officer until a new county  
6 officer is appointed and qualified as required by law.

7 D. The cost of official bonds for county officers  
8 shall be paid from the county general fund, and the board of  
9 county commissioners may elect to provide a schedule or blanket  
10 corporate surety bond covering county officers and employees  
11 for any period of time not exceeding four years.

12 E. If any county officer fails to give bond by  
13 January 10 following [~~his~~] the county officer's election or  
14 within ten days of [~~his~~] appointment, the board of county  
15 commissioners shall declare the office vacant."

16 SECTION 26. Section 61-23-28 NMSA 1978 (being Laws 1987,  
17 Chapter 336, Section 28, as amended) is amended to read:

18 "61-23-28. REFERENCE MARKS--REMOVAL OR OBLITERATION--  
19 REPLACEMENT.--When it becomes necessary by reason of the  
20 construction of public or private works to remove or obliterate  
21 any triangulation station, benchmark, corner, monument, stake,  
22 witness mark or other reference mark, it shall be the duty of  
23 the person in charge of the work to cause to be established by  
24 a licensed surveyor one or more permanent reference marks,  
25 which shall be plainly marked as witness corners or reference

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1 marks as near as practicable to the original mark and to record  
2 a map, field notes or both with the county clerk [~~and county~~  
3 ~~surveyor~~] of the county wherein located, showing clearly the  
4 position of the marks established with reference to the  
5 position of the original mark. The surveys or measurements  
6 made to connect the reference marks with the original mark  
7 shall be of at least the same order of precision as the  
8 original survey."

9 SECTION 27. Section 67-3-26 NMSA 1978 (being Laws 1917,  
10 Chapter 38, Section 7, as amended) is amended to read:

11 "67-3-26. DUTIES OF SECRETARY--DISBURSEMENT OF STATE ROAD  
12 FUND.--The secretary shall have charge of all records of the  
13 state transportation commission; shall keep a record of all  
14 proceedings and orders pertaining to the business of [~~his~~] the  
15 secretary's office and of the state transportation commission;  
16 and shall keep on file copies of all plans, specifications and  
17 estimates prepared by [~~his~~] the secretary's office. [~~He~~] The  
18 secretary shall cause to be made and kept in [~~his~~] the  
19 secretary's office a general highway plan of the state. [~~He~~]  
20 The secretary shall prepare or cause to be prepared or call  
21 upon [~~the county surveyor or~~] the county highway superintendent  
22 to furnish a map showing all of the main highways of the  
23 several counties of the state and shall, under the direction of  
24 the state transportation commission, select and designate the  
25 highways that should comprise a system of state roads, which

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1 shall, as nearly as practicable, be such as will best serve the  
2 traffic needs and develop the resources of the state. Upon its  
3 adoption by the state transportation commission, the system of  
4 state roads so designated shall be improved as soon thereafter  
5 as practicable under the provisions of Chapter 67 NMSA 1978 and  
6 such other provisions as the legislature may enact therefor.  
7 The system of state roads so designated may be changed or added  
8 to from time to time by the secretary subject to the approval  
9 of the state transportation commission. The secretary shall  
10 collect information with reference to the mileage, character  
11 and condition of the highways and bridges in the several  
12 counties of the state and shall investigate and determine the  
13 methods of road construction and maintenance best adapted to  
14 the various sections of the state, having due regard to  
15 topography, natural conditions, the availability of road  
16 building materials, the prevailing traffic conditions and the  
17 ability of the counties to meet the cost of building and  
18 maintaining roads and bridges therein. [~~He~~] The secretary may,  
19 at all reasonable times, be consulted by county and other  
20 officials having authority over highways and bridges relative  
21 to any question affecting such highways and bridges, and [~~he~~]  
22 the secretary may in like manner call on county road officials  
23 [~~and county surveyors~~] for any information or maps relative to  
24 the location, character and condition of the highways and  
25 bridges within their jurisdiction or control. Any such

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1 official who fails to supply such information when so called  
2 upon is guilty of a misdemeanor and upon conviction thereof  
3 shall be subject to a fine of not less than ten dollars  
4 (\$10.00) nor more than one hundred dollars (\$100). [~~He~~] The  
5 secretary shall determine the character of and have supervision  
6 over the construction, repair and maintenance of all state  
7 roads and bridges improved under the provisions of Chapter 67  
8 NMSA 1978 and shall prepare or approve all plans and  
9 specifications and estimates therefor. [~~He~~] The secretary  
10 shall report the proceedings of [~~his~~] the secretary's office  
11 annually to the state transportation commission at such time as  
12 it may designate. All money in the state road fund shall be  
13 expended only upon itemized vouchers approved by the secretary,  
14 filed with the department of finance and administration, and  
15 warrants drawn by the secretary of finance and administration  
16 upon the state treasurer."

17 SECTION 28. Section 67-5-12 NMSA 1978 (being Laws 1905,  
18 Chapter 124, Section 10, as amended) is amended to read:

19 "67-5-12. LAYING OUT ROAD--ASSESSMENT FOR DAMAGES--  
20 SURVEY.--[~~Sec. 37.~~] The viewers shall meet at the time and  
21 place specified in the warrant and commence at the place  
22 designated in [~~said~~] the petition as the starting point of the  
23 road sought to be altered, widened, changed or laid out and  
24 established. The [~~said~~] viewers shall proceed to view and mark  
25 out the [~~same~~] road by setting stakes, blazing trees, turning a

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1 furrow or other appropriate monuments to the terminus named in  
2 the petition by the most practicable and convenient route that  
3 they in their judgment can find. They shall assess the  
4 benefits and damages accruing to all persons by reason of the  
5 alteration, widening, changing or laying out of ~~[such]~~ the road  
6 and award to any person damages in excess of the benefits  
7 accruing to ~~[him or them]~~ the person a sum equal to such  
8 excess. ~~[And]~~ If the viewers or a majority of them ~~[be]~~ are of  
9 the opinion that the road should be altered, widened, changed  
10 or laid out and established, they shall cause a survey and plat  
11 of the ~~[same]~~ road to be made by ~~[the county]~~ a licensed  
12 professional surveyor or other competent person giving the  
13 courses and distances and specifying the land over which the  
14 road extends."

15 SECTION 29. REPEAL.--Section 4-42-2 NMSA 1978 (being Laws  
16 1891, Chapter 33, Section 3, as amended) is repealed effective  
17 December 31, 2012.

18 SECTION 30. EFFECTIVE DATE.--

19 A. The effective date of the provisions of Sections  
20 1, 23 and 24 of this act is July 1, 2011.

21 B. The effective date of the provisions of Sections  
22 2 through 22 and 25 through 28 of this act is December 31,  
23 2012.