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SENATE BILL 677

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO COUNTIES; ELIMINATING THE ELECTED POSITION OF
COUNTY ASSESSOR; AUTHORIZING THE EMPLOYMENT OF A COUNTY
ASSESSOR BY EACH COUNTY; 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;

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

17 Section 2. Section 4-38-6 NMSA 1978 (being Laws 1899,
18 Chapter 30, Section 1, as amended) is amended to read:

19 "4-38-6. ELECTION--TERM.--

20 A. In each county, all county commissioners shall
21 be elected to serve four-year terms, subject to the provisions
22 of Subsection B of this section.

23 B. In those counties that consist of a three-member
24 board of county commissioners, the secretary of state shall
25 designate by lottery the terms for each county commission

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1 district, which shall elect two county commissioners for terms
2 of four years and one county commissioner for a term of two
3 years. The terms for two commissioners shall expire in the
4 same year.

5 C. In those counties that, prior to 1992, have not
6 had four-year terms for elected officials, the [~~assessor~~]
7 sheriff and probate judge shall be elected to four-year terms
8 and the treasurer and clerk shall be elected to two-year terms
9 in the 1994 general election; thereafter, all elected officials
10 shall be elected for terms of four years. The terms of the
11 [~~assessor~~] sheriff and probate judge shall expire in the same
12 year, and the terms of the treasurer and clerk shall expire in
13 the same year."

14 Section 3. Section 4-38-19 NMSA 1978 (being Laws 1969,
15 Chapter 219, Section 1, as amended) is amended to read:

16 "4-38-19. COUNTY COMMISSIONERS--EMPLOYING DEPUTIES AND
17 EMPLOYEES--EMPLOYING A COUNTY MANAGER--EMPLOYING A COUNTY
18 ASSESSOR.--

19 A. A board of county commissioners may set the
20 salaries of such employees and deputies as it feels necessary
21 to discharge the functions of the county, except that elected
22 county officials have the authority to hire and recommend the
23 salaries of persons employed by them to carry out the duties
24 and responsibilities of the offices to which they are elected.

25 B. A board of county commissioners may employ and

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1 set the salary of a county manager to conduct the business of
2 the county, to serve as personnel officer, fiscal director,
3 budget officer and property custodian and to act generally as
4 the administrative assistant to the board, aiding and assisting
5 it in the exercise of its duties and responsibilities.

6 C. A board of county commissioners shall employ a
7 county assessor as a classified employee. A person employed as
8 county assessor shall at a minimum be a state certified real
9 estate appraiser or a state licensed real estate appraiser
10 pursuant to the provisions of the Real Estate Appraisers Act.
11 A county assessor shall, within ninety days of employment,
12 attend assessment administration specialist training by the
13 international association of assessing officers. A county
14 assessor shall not serve at the pleasure of the board of county
15 commissioners, but shall be removed only for cause.

16 [~~G.~~] D. All officials, officers, deputies and
17 employees of the county or of an elected official of the county
18 shall receive their salaries or wages for services rendered on
19 regular paydays not more than sixteen days apart."

20 Section 4. Section 4-38-38 NMSA 1978 (being Laws 1959,
21 Chapter 239, Section 1) is amended to read:

22 "4-38-38. CREATION OF COUNTY ADVISORY BOARDS.--There is
23 created a county advisory board in each county of the fourth
24 and fifth class. The board shall consist of the county
25 commissioners, the county treasurer, [~~county assessor~~] sheriff

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1 and county clerk."

2 Section 5. Section 4-38-40 NMSA 1978 (being Laws 1959,
3 Chapter 239, Section 3) is amended to read:

4 "4-38-40. EXECUTIVE COMMITTEE.--The county treasurer
5 [~~county assessor~~] and county clerk are ex-officio the executive
6 committee of the county advisory board."

7 Section 6. Section 4-44-4 NMSA 1978 (being Laws 1957,
8 Chapter 196, Section 2, as amended) is amended to read:

9 "4-44-4. CLASS A COUNTIES--SALARIES.--The annual salaries
10 of elected officers of class A counties shall not exceed:

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

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

15 [~~G. assessor, sixty-five thousand five hundred one~~
16 ~~dollars (\$65,501);~~

17 ~~D.] C. sheriff, sixty-eight thousand three hundred~~

18 eight dollars (\$68,308);
19 [~~E.] D. county clerk, sixty-five thousand five~~

20 hundred one dollars (\$65,501);
21 [~~F.] E. probate judge, twenty-eight thousand eight~~

22 hundred twenty dollars (\$28,820); and
23 [~~G.] F. county surveyor, twenty-two thousand three~~

24 hundred fifty-eight dollars (\$22,358)."
25 Section 7. Section 4-44-4.1 NMSA 1978 (being Laws 1986,

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1 Chapter 67, Section 2, as amended) is amended to read:

2 "4-44-4.1. CLASS B COUNTIES--OVER THREE HUNDRED MILLION
3 DOLLARS (\$300,000,000) VALUATION--SALARIES.--The annual
4 salaries of elected officers of class B counties with an
5 assessed valuation of over three hundred million dollars
6 (\$300,000,000) shall not exceed:

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

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

11 [~~G.~~] ~~assessor, fifty-seven thousand two hundred~~
12 ~~sixty-five dollars (\$57,265);~~

13 ~~D.]~~ C. sheriff, fifty-nine thousand six hundred
14 ninety-nine dollars (\$59,699);

15 [~~E.]~~ D. county clerk, fifty-seven thousand two
16 hundred sixty-five dollars (\$57,265);

17 [~~F.]~~ E. probate judge, twenty thousand twenty-four
18 dollars (\$20,024); and

19 [~~G.]~~ F. county surveyor, a reasonable rate of
20 compensation as determined by the board of county
21 commissioners."

22 Section 8. Section 4-44-5 NMSA 1978 (being Laws 1957,
23 Chapter 196, Section 3, as amended) is amended to read:

24 "4-44-5. CLASS B COUNTIES--SALARIES.--The annual salaries
25 of elected officers of class B counties with an assessed

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1 valuation of over seventy-five million dollars (\$75,000,000)
2 but under three hundred million dollars (\$300,000,000) shall
3 not exceed:

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

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

8 [~~G.~~] ~~county assessor, forty-nine thousand thirty-one~~
9 ~~dollars (\$49,031);~~

10 ~~D.]~~ C. county sheriff, fifty-one thousand two
11 hundred seventy-seven dollars (\$51,277);

12 [~~E.]~~ D. county clerk, forty-nine thousand thirty-
13 one dollars (\$49,031);

14 [~~F.]~~ E. probate judge, eleven thousand four hundred
15 sixteen dollars (\$11,416); and

16 [~~G.]~~ F. county surveyor, a reasonable rate of
17 compensation as determined by the board of county
18 commissioners."

19 Section 9. Section 4-44-6 NMSA 1978 (being Laws 1957,
20 Chapter 196, Section 4, as amended) is amended to read:

21 "4-44-6. CLASS C COUNTIES--SALARIES.--The annual salaries
22 of elected officers of class C counties shall not exceed:

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

25 B. county treasurer, forty-nine thousand thirty-one

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1 dollars (\$49,031);

2 [~~G.~~ county assessor, forty nine thousand thirty one
3 dollars (\$49,031);

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

6 [~~E.~~] D. county clerk, forty-nine thousand thirty-
7 one dollars (\$49,031);

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

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

13 Section 10. Section 4-44-7 NMSA 1978 (being Laws 1957,
14 Chapter 196, Section 5, as amended) is amended to read:

15 "4-44-7. FIRST CLASS COUNTIES--OVER TWENTY-SEVEN MILLION
16 DOLLARS (\$27,000,000) VALUATION--SALARIES.--The annual salaries
17 of elected officers of counties of the first class with an
18 assessed valuation of over twenty-seven million dollars
19 (\$27,000,000) but under forty-five million dollars
20 (\$45,000,000) shall not exceed:

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

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

25 [~~G.~~ assessor, thirty-five thousand nine hundred

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1 ~~thirty-three dollars (\$35,933);~~

2 ~~D.]~~ C. sheriff, thirty-eight thousand seven hundred
3 thirty-nine dollars (\$38,739);

4 ~~E.]~~ D. county clerk, thirty-five thousand nine
5 hundred thirty-three dollars (\$35,933);

6 ~~F.]~~ E. probate judge, nine thousand five hundred
7 forty-five dollars (\$9,545); and

8 ~~G.]~~ F. county surveyor, a reasonable rate of
9 compensation as determined by the board of county
10 commissioners."

11 Section 11. Section 4-44-8 NMSA 1978 (being Laws 1957,
12 Chapter 196, Section 6, as amended) is amended to read:

13 "4-44-8. FIRST CLASS COUNTIES--UNDER TWENTY-SEVEN MILLION
14 DOLLARS (\$27,000,000) VALUATION--SALARIES.--The annual salaries
15 of elected officers of counties of the first class with an
16 assessed valuation of over fourteen million dollars
17 (\$14,000,000) but under twenty-seven million dollars
18 (\$27,000,000) shall not exceed:

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

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

23 ~~[C. assessor, thirty thousand five hundred five~~
24 ~~dollars (\$30,505);~~

25 ~~D.]~~ C. sheriff, thirty-eight thousand seven hundred

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1 thirty-nine dollars (\$38,739);

2 [E-] D. county clerk, thirty thousand five hundred
3 five dollars (\$30,505);

4 [F-] E. probate judge, eight thousand seven hundred
5 ninety-five dollars (\$8,795); and

6 [G-] F. county surveyor, a reasonable rate of
7 compensation as determined by the board of county
8 commissioners."

9 Section 12. Section 4-44-14 NMSA 1978 (being Laws 1955,
10 Chapter 4, Section 2, as amended) is amended to read:

11 "4-44-14. H CLASS COUNTIES--SALARIES AND EXPENSES.--

12 A. Officers elected or appointed in an
13 unincorporated county of the H class shall receive the
14 following annual salaries:

15 (1) county commissioners, one dollar (\$1.00);

16 (2) treasurer, one dollar (\$1.00);

17 [~~3~~] ~~assessor, one dollar (\$1.00);~~

18 [~~4~~] (3) sheriff, one dollar (\$1.00);

19 [~~5~~] (4) county clerk, one dollar (\$1.00);

20 [~~6~~] (5) probate judge, three thousand five
21 hundred five dollars (\$3,505); and

22 [~~7~~] (6) county surveyor, not to exceed ten
23 dollars (\$10.00) per day for each day actually employed under
24 orders by the board of county commissioners, such employment
25 not to exceed fifty days in any one year.

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1 B. The elected H class county officials listed in
2 Subsection A of this section, except probate judge, in addition
3 to the salaries prescribed shall be entitled to receive as per
4 diem expense the sum of not more than fifteen dollars (\$15.00)
5 while in actual attendance at county commission meetings or
6 while engaged in the performance of their official duties for
7 the county. However, the total per diem expense allowance for
8 each elected H class county official listed in Subsection A of
9 this section shall not exceed three hundred fifty dollars
10 (\$350) in any fiscal year. Such per diem expense shall be in
11 addition to any allowance for sheriff's mileage or for other
12 out-of-county expenses allowed for all officials by law and
13 shall be budgeted, paid and audited as provided by laws
14 governing expenditures of county funds."

15 Section 13. Section 4-44-36 NMSA 1978 (being Laws 1953,
16 Chapter 167, Section 1, as amended) is amended to read:

17 "4-44-36. ABOLISHMENT OF CERTAIN COUNTY OFFICES.--Any
18 county of the third, fourth ~~and~~ or fifth class and H class
19 counties may abolish the offices of ~~[county assessor]~~ county
20 clerk, county surveyor and county treasurer and transfer the
21 powers and duties of those offices to the board of county
22 commissioners in the manner ~~[hereinafter]~~ prescribed in
23 Sections 4-44-37 through 4-44-45 NMSA 1978. Any county may
24 abolish the office of county surveyor and transfer the powers
25 and duties of that office to the board of county commissioners

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1 in the manner [~~hereinafter~~] prescribed in those sections."

2 Section 14. Section 4-44-40 NMSA 1978 (being Laws 1953,
3 Chapter 167, Section 5) is amended to read:

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

10 Shall the offices of [~~county assessor~~]
11 county clerk, county surveyor and county
12 treasurer be abolished and the powers and
13 duties of such officers be transferred to the
14 board of county commissioners?

15 YES _____

16 NO _____."

17 Section 15. Section 4-44-44 NMSA 1978 (being Laws 1953,
18 Chapter 167, Section 11) is amended to read:

19 "4-44-44. PETITION FOR RESTORATION OF OFFICES--
20 ELECTION.--

21 [~~(a)~~] A. Whenever any county has abolished the
22 offices of [~~county assessor~~] county clerk, county surveyor and
23 county treasurer and transferred the powers and duties of
24 [~~such~~] those offices to the board of county commissioners as
25 [~~herein~~] provided in Chapter 4, Article 44 NMSA 1978, a

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1 petition may be filed with the board of county commissioners of
2 [~~such~~] that county requesting that an election be held to
3 determine whether the county offices previously abolished are
4 to be re-established and the powers and duties previously
5 transferred to the board of county commissioners are to be
6 returned to the offices from which they were transferred.
7 [~~Such~~] The petition shall be signed by at least ten [~~(10)~~]
8 percent of the registered electors of the county.

9 [~~(b)~~] B. Except as provided in this [~~paragraph (b)~~]
10 subsection upon the filing of the petition provided for in this
11 section, the provisions of Sections [~~3, 4, 5, 6, 7 and 8 of~~
12 ~~this Act~~] 4-44-38 through 4-44-43 NMSA 1978 shall be
13 applicable. Ballots for an election to re-establish county
14 offices previously abolished and to return to [~~such~~] those
15 offices the powers and duties previously transferred from
16 [~~such~~] the offices shall read as follows:

17 Shall the offices of [~~county assessor~~]
18 county clerk, county surveyor and county
19 treasurer be reestablished and the powers and
20 duties of [~~such~~] those offices previously
21 transferred to the board of county
22 commissioners be returned to the offices from
23 which they were transferred?

24 YES _____

25 NO _____.

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1 If a majority of those voting on the above question have voted
2 "Yes", [~~such~~] the offices shall be re-established as of January
3 [~~1st~~] 1 of the next odd-numbered year, and upon [~~such~~] that
4 date all powers and duties previously transferred from [~~such~~]
5 the offices shall be returned to the office from which they had
6 been previously transferred."

7 Section 16. Section 10-1-13 NMSA 1978 (being Laws 1967,
8 Chapter 238, Section 1) is amended to read:

9 "10-1-13. COUNTY OFFICERS--OATH--BOND.--

10 A. As used in this section, "county officer" means
11 county commissioner, [~~county assessor~~] county clerk, county
12 sheriff, county surveyor, county treasurer, probate judge,
13 county flood commissioner and small claims court clerk.

14 B. Before assuming the duties of [~~his~~] office, each
15 county officer shall take and subscribe the oath of office
16 prescribed by the constitution of New Mexico and give an
17 official bond payable to the state and conditioned for the
18 faithful performance of [~~his~~] duties, during [~~his~~] the county
19 officer's term of office and until [~~his~~] a successor is elected
20 or appointed and is qualified, and that [~~he will~~] the county
21 officer shall pay all money received in [~~his~~] the county
22 officer's official capacity to the person entitled to receive
23 it. The bond shall be executed by a corporate surety company
24 authorized to do business in this state. The amount of the
25 bond required shall be fixed by the board of county

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1 commissioners in a sum equal to twenty percent of the public
2 money handled by the county officer during the preceding fiscal
3 year but not to exceed:

4	county commissioner - - - - -	\$ 5,000
5	[county assessor - - - - -	5,000]
6	county clerk - - - - -	10,000
7	county sheriff - - - - -	20,000
8	county surveyor - - - - -	5,000
9	county treasurer - - - - -	50,000
10	probate judge - - - - -	5,000
11	county flood commissioner - - - - -	10,000
12	small claims court clerk - - - - -	10,000.

13 C. Each county officer shall appoint a deputy or
14 clerk, as allowed by law, who shall take the oath of office
15 required of the appointing county officer and shall receive
16 salary as provided by law. In case of the death of the
17 appointing county officer, the deputy shall continue in office
18 and perform the duties of the county officer until a new county
19 officer is appointed and qualified as required by law.

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

25 E. If any county officer fails to give bond by

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1 January 10 following [~~his~~] the county officer's election or
2 within ten days of [~~his~~] appointment, the board of county
3 commissioners shall declare the office vacant."

4 Section 17. Section 61-30-10 NMSA 1978 (being Laws 1990,
5 Chapter 75, Section 10, as amended) is amended to read:

6 "61-30-10. REGISTRATION, LICENSE OR CERTIFICATION
7 REQUIRED--EXCEPTIONS.--

8 A. It is unlawful for [~~any~~] a person in this state to
9 engage or attempt to engage in the business of developing or
10 communicating real estate appraisals or appraisal reports
11 without first registering as an apprentice or obtaining a
12 license or certificate from the board under the provisions of
13 the Real Estate Appraisers Act.

14 B. No person, unless certified by the board as a
15 state certified real estate appraiser under a general
16 certification or residential certification, shall:

17 (1) assume or use [~~any~~] a title, designation or
18 abbreviation likely to create the impression of a state
19 certified real estate appraiser;

20 (2) use the term "state certified" to describe or
21 refer to [~~any~~] an appraisal or evaluation of real estate
22 prepared by [~~him~~] the person;

23 (3) assume or use any title, designation or
24 abbreviation likely to create the impression of certification
25 as a state certified real estate appraiser firm, partnership,

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1 corporation or group; or

2 (4) assume or use [~~any~~] a title, designation or
3 abbreviation likely to create the impression of certification
4 under a general certificate or describe or refer to [~~any~~] an
5 appraisal or evaluation of nonresidential real estate by the
6 term "state certified" if the preparer's certification is
7 limited to residential real estate.

8 C. A state apprentice real estate appraiser who is
9 registered but does not hold a license or certificate is
10 authorized to prepare appraisals of all types of real estate or
11 real property, provided such appraisals are not described or
12 referred to as being prepared by a "state certified real estate
13 appraiser" holding a residential or general certificate or by a
14 "state licensed real estate appraiser" and provided, further,
15 such person does not assume or use [~~any~~] a title, designation
16 or abbreviation likely to create the impression of
17 certification as a state certified real estate appraiser or
18 licensure as a state licensed real estate appraiser.

19 D. A holder of a license or residential certificate
20 is authorized to prepare appraisals of nonresidential real
21 estate, provided such appraisals are not described or referred
22 to as "state certified by a general certified appraiser" and
23 provided, further, the holder of the certificate does not
24 assume or use [~~any~~] a title, designation or abbreviation likely
25 to create the impression of general certification.

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1 E. To perform in federally related transactions, as
2 referenced in the federal Financial Institutions Reform,
3 Recovery and Enforcement Act of 1989, a real estate appraiser
4 shall, at a minimum, meet the requirements for licensing as
5 currently defined.

6 F. The requirement of registration, licensing or
7 certification shall not apply to a real estate broker or
8 salesperson who, in the ordinary course of business, gives an
9 opinion of the price or value of real estate for the purpose of
10 securing a listing, marketing of real property, affecting a
11 sale, lease or exchange, conducting market analyses or
12 rendering specialized services; provided, however, this opinion
13 of the price or value shall not be referred to or construed as
14 an appraisal or appraisal report and no compensation, fee or
15 other consideration is expected or charged for such opinion,
16 other than the real estate brokerage commission or fee for
17 services rendered in connection with the identified real estate
18 or real property.

19 G. The requirement of registration, licensing or
20 certification shall not apply to real estate appraisers of the
21 property tax division of the taxation and revenue department
22 [~~to a county assessor~~] or to [~~the~~] a county assessor's
23 employees, who as part of their duties are required to engage
24 in real estate appraisal activity as a county assessor or on
25 behalf of the county assessor and no additional compensation

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1 fee or other consideration is expected or charged for such
2 appraisal activity, other than such compensation as is provided
3 by law.

4 H. The prohibition of Subsection A of this section
5 does not apply to persons whose real estate appraisal
6 activities are limited to the appraisal of interests in
7 minerals, including oil, natural gas, liquid hydrocarbons or
8 carbon dioxide, and property held or used in connection with
9 mineral property, if that person is authorized in [~~his~~] the
10 person's state of residence to practice and is actually engaged
11 in the practice of the profession of engineering or geology.

12 I. The process of analyzing, without altering, an
13 appraisal report that is part of a request for mortgage credit
14 is considered a specialized service as defined in Subsection M
15 of Section 61-30-3 NMSA 1978 and is exempt from the
16 requirements of registration, licensing or certification."

17 Section 18. REPEAL.--Sections 4-39-4 through 4-39-6 NMSA
18 1978 (being Laws 1969, Chapter 269, Section 3, Laws 1977,
19 Chapter 138, Section 2 and Laws 1955, Chapter 176, Section 5,
20 as amended) are repealed.