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SENATE BILL 369

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

INTRODUCED BY

David Ulibarri and James R.J. Strickler

AN ACT

RELATING TO PUBLIC RECORDS; REORGANIZING CERTAIN PROVISIONS  
RELATED TO THE INSPECTION OF PUBLIC RECORDS AND RECORDING;  
PROVIDING FOR THE PROTECTION OF CERTAIN PERSONAL IDENTIFYING  
INFORMATION; UPDATING AND CLARIFYING RECORDING PROCEDURES AND  
FEES; PROVIDING PROCEDURES FOR THE INSPECTION OF PUBLIC RECORDS  
IN THE OFFICE OF THE COUNTY CLERK; ELIMINATING A PENALTY  
PROVISION; AMENDING, REPEALING AND ENACTING SECTIONS OF THE  
NMSA 1978.

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

**SECTION 1.** Section 4-40-5 NMSA 1978 (being Laws 1876,  
Chapter 1, Section 30, as amended) is amended to read:

"4-40-5. COUNTY CLERK--DUTY REGARDING ACCOUNTS.--~~[Sec-~~  
~~176.]~~ It shall be the duty of ~~[such]~~ the county clerk to  
designate upon every account, which shall be audited and

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1 approved and allowed by [~~said~~] the board of county  
2 commissioners, the amount so allowed [~~and he shall also deliver~~  
3 ~~to any person who may demand it a certified copy of any record~~  
4 ~~in his office or any accounts on file therein, on receiving~~  
5 ~~from such person fifteen cents for every page contained in such~~  
6 ~~copy~~]."

7 SECTION 2. Section 14-2-1 NMSA 1978 (being Laws 1947,  
8 Chapter 130, Section 1, as amended) is amended to read:

9 "14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--

10 A. Every person has a right to inspect public  
11 records of this state except:

12 (1) records pertaining to physical or mental  
13 examinations and medical treatment of persons confined to an  
14 institution;

15 (2) letters of reference concerning  
16 employment, licensing or permits;

17 (3) letters or [~~memorandums~~] memoranda that  
18 are matters of opinion in personnel files or students'  
19 cumulative files;

20 (4) law enforcement records that reveal  
21 confidential sources, methods, information or individuals  
22 accused but not charged with a crime. Law enforcement records  
23 include evidence in any form received or compiled in connection  
24 with a criminal investigation or prosecution by a law  
25 enforcement or prosecuting agency, including inactive matters

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1 or closed investigations to the extent that they contain the  
2 information listed in this paragraph;

3 (5) as provided by the Confidential Materials  
4 Act;

5 (6) trade secrets, attorney-client privileged  
6 information and long-range or strategic business plans of  
7 public hospitals discussed in a properly closed meeting;

8 ~~[(7) public records containing the identity of  
9 or identifying information relating to an applicant or nominee  
10 for the position of president of a public institution of higher  
11 education;~~

12 ~~(8)]~~ (7) tactical response plans or procedures  
13 prepared for or by the state or a political subdivision of the  
14 state, the publication of which could reveal specific  
15 vulnerabilities, risk assessments or tactical emergency  
16 security procedures that could be used to facilitate the  
17 planning or execution of a terrorist attack; and

18 ~~[(9) discharge papers of a veteran of the  
19 armed forces of the United States filed with the county clerk  
20 before July 1, 2005 that have not been commingled with other  
21 recorded documents. These papers will be available only to the  
22 veteran who filed the papers, the veteran's next of kin, the  
23 deceased veteran's properly appointed personal representative  
24 or executor, a person holding the veteran's general power of  
25 attorney or a person designated in writing by the veteran to~~

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1 ~~receive the records;~~

2 ~~(10) discharge papers of a veteran of the~~  
3 ~~armed forces of the United States filed with the county clerk~~  
4 ~~before July 1, 2005 that have been commingled with other~~  
5 ~~recorded documents if the veteran has recorded a request for~~  
6 ~~exemption from public disclosure of discharge papers with the~~  
7 ~~county clerk. If such a request has been recorded, the records~~  
8 ~~may be released only to the veteran filing the papers, the~~  
9 ~~veteran's next of kin, the deceased veteran's properly~~  
10 ~~appointed personal representative or executor, a person holding~~  
11 ~~the veteran's general power of attorney or a person designated~~  
12 ~~in writing by the veteran to receive the records;~~

13 ~~(11) discharge papers of a veteran of the~~  
14 ~~armed forces of the United States filed with the county clerk~~  
15 ~~after June 30, 2005. These papers will be available only to~~  
16 ~~the veteran who filed them, the veteran's next of kin, the~~  
17 ~~deceased veteran's properly appointed personal representative~~  
18 ~~or executor, a person holding the veteran's general power of~~  
19 ~~attorney or a person designated in writing by the veteran to~~  
20 ~~receive the records; and~~

21 ~~(12)] (8) as otherwise provided by law.~~

22 ~~[B. At least twenty-one days before the date of the~~  
23 ~~meeting of the governing board of a public institution of~~  
24 ~~higher education at which final action is taken on selection of~~  
25 ~~the person for the position of president of the institution,~~

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1 ~~the governing board shall give public notice of the names of~~  
2 ~~the finalists being considered for the position. The board~~  
3 ~~shall consider in the final selection process at least five~~  
4 ~~finalists. The required notice shall be given by publication~~  
5 ~~in a newspaper of statewide circulation and in a newspaper of~~  
6 ~~countywide circulation in the county in which the institution~~  
7 ~~is located. Publication shall be made once and shall occur at~~  
8 ~~least twenty-one days and not more than thirty days before the~~  
9 ~~described meeting.~~

10 ~~C. Postponement of a meeting described in~~  
11 ~~Subsection B of this section for which notice has been given~~  
12 ~~does not relieve the governing body from the requirement of~~  
13 ~~giving notice of a rescheduled meeting in accordance with the~~  
14 ~~provisions of Subsection B of this section.~~

15 ~~D. Action taken by a governing body without~~  
16 ~~compliance with the notice requirements of Subsections B and C~~  
17 ~~of this section is void.~~

18 ~~E. Nothing in Subsections B through D of this~~  
19 ~~section prohibits a governing body from identifying or~~  
20 ~~otherwise disclosing the information described in this~~  
21 ~~section.]~~

22 B. Protected personal identifier information  
23 contained in public records is exempt from public inspection.  
24 The presence of protected personal identifier information on a  
25 record does not exempt the remaining parts of the record from

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1 inspection. Unredacted records that contain protected personal  
2 identifier information shall not be made available on publicly  
3 accessible web sites operated by or managed on behalf of a  
4 public body."

5 SECTION 3. Section 14-2-6 NMSA 1978 (being Laws 1993,  
6 Chapter 258, Section 3) is amended to read:

7 "14-2-6. DEFINITIONS.--As used in the Inspection of  
8 Public Records Act:

9 A. "custodian" means any person responsible for the  
10 maintenance, care or keeping of a public body's public records,  
11 regardless of whether the records are in that person's actual  
12 physical custody and control;

13 B. "inspect" means to review all public records  
14 that are not excluded in Section 14-2-1 NMSA 1978;

15 C. "person" means any individual, corporation,  
16 partnership, firm, association or entity;

17 D. "protected personal identifier information"  
18 means:

19 (1) all but the last four digits of a:

20 (a) social security number;

21 (b) taxpayer identification number;

22 (c) financial account number; or

23 (d) driver's license number; and

24 (2) all but the year of a person's date of  
25 birth;

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1           ~~[D-]~~ E. "public body" means the executive,  
2 legislative and judicial branches of state and local  
3 governments and all advisory boards, commissions, committees,  
4 agencies or entities created by the constitution or any branch  
5 of government that receives any public funding, including  
6 political subdivisions, special taxing districts, school  
7 districts and institutions of higher education; and

8           ~~[E-]~~ F. "public records" means all documents,  
9 papers, letters, books, maps, tapes, photographs, recordings  
10 and other materials, regardless of physical form or  
11 characteristics, that are used, created, received, maintained  
12 or held by or on behalf of any public body and relate to public  
13 business, whether or not the records are required by law to be  
14 created or maintained."

15           SECTION 4. Section 14-8-1 NMSA 1978 (being Laws 1855-  
16 1856, Chapter 18, Section 1, as amended) is amended to read:

17           "14-8-1. COUNTY CLERKS TO BE RECORDERS.--~~[SECTION 1.]~~ The  
18 county clerks of the different counties of this state shall be  
19 ex officio recorders in their respective counties."

20           SECTION 5. Section 14-8-2 NMSA 1978 (being Laws 1855-  
21 1856, Section 2, as amended) is amended to read:

22           "14-8-2. COUNTY CLERK--DUTY AS RECORDER.--~~[SEC. 2.]~~ It  
23 ~~[shall be]~~ is the duty of the county clerk to ~~[record in a book~~  
24 ~~of good size, which he shall keep in his office for this~~  
25 ~~purpose]~~ maintain permanently all ~~[land titles and other papers~~

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1 ~~which~~ documents that by law should be recorded."

2 SECTION 6. Section 14-8-3 NMSA 1978 (being Laws 1963,  
3 Chapter 52, Section 1) is amended to read:

4 "14-8-3. RECORDING BOOKS.--When used in Chapter [~~71 New~~  
5 ~~Mexico Statutes Annotated, 1953 Compilation~~] 14, Articles 1  
6 through 5 and 8 through 10 NMSA 1978, "book" includes microfilm  
7 and digitized documents."

8 SECTION 7. Section 14-8-4 NMSA 1978 (being Laws 1901,  
9 Chapter 62, Section 18, as amended) is amended to read:

10 "14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--  
11 [~~DECREES~~] EXCEPTIONS.--

12 A. Any instrument of writing duly acknowledged [~~and~~  
13 ~~certified~~] may be filed and recorded. Any instrument of  
14 writing not duly acknowledged [~~and certified~~] may not be filed  
15 and recorded [~~nor~~] or considered of record, though so entered  
16 [~~provided, however, that judicial decrees or certified copies,~~  
17 ~~patents, land office receipts, certified copies of foreign~~  
18 ~~wills duly authenticated and instruments of writing in any~~  
19 ~~manner affecting lands in the state, when these instruments~~  
20 ~~have been duly executed by an authorized public officer, need~~  
21 ~~not be acknowledged but may be filed and recorded; provided~~  
22 ~~further~~].

23 B. For purposes of this section, "acknowledged"  
24 means notarized by a person empowered to perform notarial acts  
25 pursuant to the Notary Public Act or the Uniform Law on

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1 Notarial Acts.

2 C. Notwithstanding Subsection A of this section,  
3 the following documents need not be acknowledged but may be  
4 filed and recorded:

5 (1) court-certified copies of a court order,  
6 judgment or other judicial decree;

7 (2) court-certified transcripts of any money  
8 judgment obtained in a court of this state or, pursuant to  
9 Section 14-9-9 NMSA 1978, in the United States district court  
10 for the district of New Mexico;

11 (3) land patents and land office receipts;

12 (4) mining location notices and amended or  
13 additional notices made pursuant to Section 69-3-1 or 69-3-12  
14 NMSA 1978 if properly signed by the locator;

15 (5) notice of lis pendens filed pursuant to  
16 Section 38-1-14 NMSA 1978;

17 (6) certified copies of foreign wills,  
18 marriages or birth certificates duly authenticated; and

19 (7) instruments of writing in any manner  
20 affecting lands in the state filed pursuant to Section 14-9-7  
21 NMSA 1978, when these instruments have been duly executed by an  
22 authorized public officer.

23 D. Any filing or recording permitted or required  
24 under the provisions of the Uniform Commercial Code need not  
25 comply with the requirements of this section [~~and provided~~

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1 ~~further that~~].

2 E. Instruments acknowledged on behalf of a  
3 corporation need not have the corporation's seal affixed  
4 thereto in order to be filed and recorded."

5 **SECTION 8.** Section 14-8-5 NMSA 1978 (being Laws 1971,  
6 Chapter 202, Section 1) is amended to read:

7 "14-8-5. VALIDATIONS.--

8 A. Any instrument received for recording after June  
9 16, 1977 and before February 28, 1980 and that would have been  
10 validly filed but for the provisions of Subsection D of Section  
11 1 of Chapter 185 of Laws 1979 or Subsection D of Section 5 of  
12 Chapter 179 of Laws 1977 shall be conclusively presumed to have  
13 been validly filed on the date received for recording.

14 B. All recordings of unacknowledged mining location  
15 notices and amended or additional notices received for  
16 recording before June 18, 1971 and made pursuant to [~~Sections~~  
17 ~~63-2-1, 63-2-2, 63-2-6 or 63-2-15 NMSA 1953~~] Section 69-3-1,  
18 69-3-12 or 69-3-21 NMSA 1978, and the record thereof in the  
19 office of the county clerk, are hereby confirmed and made  
20 valid; [~~the provisions of Section 71-1-3 NMSA 1953~~  
21 ~~notwithstanding~~] provided, however, that existing or  
22 intervening rights of others are not affected. [~~Hereafter,~~  
23 ~~such notices need not be acknowledged but may be filed,~~  
24 ~~recorded and considered of record if properly signed by the~~  
25 ~~locator.~~]"

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1           SECTION 9. Section 14-8-6 NMSA 1978 (being Laws 1855-  
2 1856, Chapter 18, Section 3, as amended) is amended to read:

3           "14-8-6. COUNTY CLERKS--TO ENDORSE AND RECORD LAND  
4 TITLES--NOTICE.--[~~SEC. 3.~~] When any land title or other  
5 document [~~shall be~~] is delivered to the county clerk to be  
6 recorded, it [~~shall be his~~] is the clerk's duty to [~~indorse~~]  
7 endorse immediately on that document or other paper the day,  
8 month and year in which [~~he~~] the clerk received it, and [~~he~~]  
9 the clerk shall record it in the book of record as soon as  
10 possible [~~and~~]. The [~~said~~] documents, from the date on which  
11 they were delivered to the county clerk, shall be considered as  
12 recorded, and this shall be sufficient notice to the public of  
13 the contents thereof."

14           SECTION 10. Section 14-8-7 NMSA 1978 (being Laws 1923,  
15 Chapter 114, Section 1) is amended to read:

16           "14-8-7. STANDARDS--DURABILITY REQUIREMENTS.--It [~~shall~~  
17 ~~be~~] is the duty of county clerks in this state [~~to use either a~~  
18 ~~good grade of nonfadeable permanent black ink or a good grade~~  
19 ~~of black record typewriter ribbon~~] in recording all instruments  
20 of writing [~~which~~] that by law they are required to record to  
21 do so by a method that ensures permanency and durability. The  
22 county clerk of each county in the state shall provide, at the  
23 expense of the clerk's respective county, such books or  
24 technology as may be necessary and suitable in which to record  
25 notices, affidavits and other documents."

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1 SECTION 11. Section 14-8-9 NMSA 1978 (being Laws 1855-  
2 1856, Chapter 18, Section 4, as amended) is amended to read:

3 "14-8-9. SECURITY OF BOOKS OF RECORD--DELIVERY TO  
4 SUCCESSORS.--[~~SEC. 4.~~] It [~~shall be~~] is the duty of the county  
5 clerks to keep their books of record well secured, and when  
6 they [~~go out of~~] leave office as [~~such~~] clerks, they shall  
7 deliver them complete to their successors, including all  
8 necessary keys, combinations and passwords."

9 SECTION 12. Section 14-8-10 NMSA 1978 (being Laws 1855-  
10 1856, Chapter 18, Section 5, as amended) is amended to read:

11 "14-8-10. COUNTY CLERKS--FAILURE TO PERFORM DUTIES AS  
12 RECORDER [~~FEES~~].--[~~A.~~] For failure to comply with [~~Sections~~  
13 ~~71-1-1 through 71-1-7 New Mexico Statutes Annotated, 1953~~  
14 ~~Compilation~~] the responsibilities and duties in Chapter 14,  
15 Article 8 NMSA 1978, each county clerk is responsible on [~~his~~]  
16 the clerk's official bond for [~~all~~] damages suffered by the  
17 injured party.

18 [~~B. Each county clerk shall collect:~~

19 (1) ~~ten cents (\$.10) for every hundred words~~  
20 ~~recorded in accordance with Sections 71-1-1 through 71-1-7 New~~  
21 ~~Mexico Statutes Annotated, 1953 Compilation;]~~

22 (2) ~~one dollar (\$1.00) for each certificate~~  
23 ~~and seal to documents recorded, except marriage licenses; and~~

24 (3) ~~one dollar and fifty cents (\$1.50) for~~  
25 ~~each certificate and seal to marriage licenses recorded.]"~~

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1           SECTION 13. Section 14-8-12.2 NMSA 1978 (being Laws 1985,  
2 Chapter 122, Section 2, as amended) is amended to read:

3           "14-8-12.2. [~~RECORDING FEES~~] COUNTY CLERK RECORDING AND  
4 FILING FUND--USES.--

5           ~~[A. For each instrument recorded, the county clerk~~  
6 ~~shall charge a recording fee of five dollars (\$5.00) for the~~  
7 ~~first page and two dollars (\$2.00) for each additional page or~~  
8 ~~portion thereof of the same instrument.~~

9           ~~B. For each instrument recorded, the county clerk~~  
10 ~~may charge, in addition to any other fees authorized by law,~~  
11 ~~including the fee provided in Subsection A of this section, an~~  
12 ~~equipment recording fee. The equipment recording fee shall not~~  
13 ~~exceed four dollars (\$4.00) for each instrument recorded.~~

14           ~~C. Amounts collected from the equipment recording~~  
15 ~~fee shall be deposited into]~~

16           A. A "county clerk recording and filing fund"  
17 [~~which shall be~~] is established [~~by the~~] in each county.

18           ~~[D. The equipment recording fee and]~~

19           B. Expenditures from the county clerk recording and  
20 filing fund shall be determined annually by the county clerk  
21 and approved by the board of county commissioners.

22           ~~[E.]~~ C. Expenditures from the county clerk  
23 recording and filing fund may be expended only:

24                   (1) to rent, purchase, lease or lease-purchase  
25 recording equipment and for supplies, training and maintenance

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1 for such equipment;

2 (2) to rent, purchase, lease or lease-purchase  
3 equipment associated with all regular duties in the county  
4 clerk's office and for supplies, training and maintenance for  
5 such equipment;

6 (3) to rent, purchase, lease or lease-purchase  
7 vehicles associated with all regular duties in the county  
8 clerk's office and for supplies, training and maintenance for  
9 such vehicles, provided that the county clerk shall report  
10 annually to the board of county commissioners the usage,  
11 mileage and necessity of any vehicle acquired pursuant to this  
12 paragraph; [~~or~~]

13 (4) for technical assistance [~~staff travel~~  
14 ~~and~~] or for training associated with all regular duties of the  
15 county clerk's office [~~pursuant to the Per Diem and Mileage~~  
16 ~~Act~~]; or

17 (5) for staff travel associated with all  
18 regular duties of the county clerk's office pursuant to the Per  
19 Diem and Mileage Act."

20 SECTION 14. Section 14-8-14 NMSA 1978 (being Laws 1886-  
21 1887, Chapter 10, Section 6, as amended) is amended to read:

22 "14-8-14. [~~SEC. 7.~~] SEARCHING RECORDS--REPRODUCTION OF  
23 RECORDS--FEES.--

24 A. Records maintained in the office of the county  
25 clerk are available to be searched without charge during

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1 regular business hours.

2 B. County clerks [~~shall be entitled to receive as~~  
3 ~~fees for searching their records and certifying the result five~~  
4 ~~cents for each year for each name searched against for deeds,~~  
5 ~~and the same for mortgages, and twenty-five cents for a search~~  
6 ~~for judgments or for mechanic's lien~~]:

7 (1) may charge reasonable fees for conducting  
8 searches and for reproducing or permitting reproduction of  
9 their records as well as for certifying documents;

10 (2) shall not charge fees in excess of one  
11 dollar (\$1.00) per page for documents eleven inches by  
12 seventeen inches in size or smaller;

13 (3) may require advance payment of fees before  
14 making copies of public records;

15 (4) shall not charge a fee for the cost of  
16 determining whether any public record is subject to disclosure;

17 and

18 (5) shall provide a receipt, upon request.

19 C. County clerks shall establish reasonable fees  
20 for conducting searches and for reproducing or copying records  
21 maintained at the office of the county clerk."

22 SECTION 15. Section 14-8-15 NMSA 1978 (being Laws 1901,  
23 Chapter 62, Section 19, as amended) is amended to read:

24 "14-8-15. PAYMENT OF FEES--DISPOSITION.--[~~SEC. 19.~~]

25 A. No county clerk [~~of any county~~] shall receive

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1 any instrument of writing for filing or record unless [~~his~~  
2 ~~legal~~] the fees for such filing and recording [~~shall~~] have  
3 first been paid.

4 B. Unless otherwise specified by law, the county  
5 clerk shall collect a recording fee of twenty-five dollars  
6 (\$25.00) for each document filed or recorded by the county  
7 clerk.

8 C. If a document being filed or recorded contains  
9 more than ten entries to the county recording index, the county  
10 clerk shall collect an additional fee of twenty-five dollars  
11 (\$25.00) for each additional block of ten or fewer entries to  
12 the county recording index from the document.

13 D. To the extent documents described in Section  
14 14-8-13 NMSA 1978 are filed or recorded in the office of the  
15 county clerk, the documents shall be received pursuant to the  
16 fees described in this section.

17 E. For each fee of twenty-five dollars (\$25.00)  
18 collected by the county clerk pursuant to this section,  
19 eighteen dollars (\$18.00) shall be deposited in the county  
20 general fund and seven dollars (\$7.00) shall be deposited in  
21 the county clerk recording and filing fund."

22 SECTION 16. Section 14-8-16 NMSA 1978 (being Laws 1973,  
23 Chapter 258, Section 150, as amended) is amended to read:

24 "14-8-16. FILINGS OF LEGAL DESCRIPTIONS AND PLATS OF REAL  
25 PROPERTY AUTHORIZED--RECORDING [~~FEES~~].--

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1           A. ~~[Any]~~ A person owning real property that is  
2 subject to property taxation under the Property Tax Code may  
3 file for record in the office of the county clerk of the county  
4 where the real property is located a legal description or a  
5 plat of the real property. ~~[To be eligible for recording]~~ The  
6 legal description or plat shall be acknowledged and shall be  
7 certified by a professional surveyor licensed in the state.

8           B. The United States, the state or its political  
9 subdivisions and any agency, department or instrumentality of  
10 the United States, the state or its political subdivisions may  
11 file for record in the office of the county clerk of the county  
12 where the real property is located a legal description or a  
13 plat of real property. ~~[To be eligible for recording]~~ The  
14 legal description or plat shall be acknowledged and shall be  
15 certified by a professional surveyor licensed in the state and  
16 shall show the governmental agency, department or political  
17 subdivision under whose supervision and direction the  
18 description or plat was prepared.

19           C. The county clerk shall number descriptions filed  
20 under this section consecutively and shall number plats filed  
21 under this section consecutively. Immediately upon receiving a  
22 description or plat for filing, the county clerk shall note on  
23 the instrument the filing number, the date and the time of  
24 filing and shall make proper entries in ~~[his]~~ the reception  
25 book and in ~~[his]~~ the index to general real estate records.

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1           D. The county clerk shall record all descriptions  
2 and plats [~~filed under this section~~] in the same manner as  
3 other similar instruments affecting real property are recorded.  
4 The county clerk shall charge [~~a fee of two dollars fifty cents~~  
5 ~~(\$2.50) for filing and recording each description or plat. If~~  
6 ~~the county clerk uses a post binder with transparent protective~~  
7 ~~pages for the protection of the plats, he shall charge a fee of~~  
8 ~~five dollars (\$5.00) for filing and recording each unit of a~~  
9 ~~plat that is eighteen inches by twenty-four inches or part~~  
10 ~~thereof.~~

11           E. ~~For filing legal descriptions or plats of real~~  
12 ~~property, the county clerk may charge, in addition to any other~~  
13 ~~fees authorized by law, including the fee provided for in~~  
14 ~~Subsection D of this section, an equipment recording fee. The~~  
15 ~~equipment recording fee shall not exceed four dollars (\$4.00)~~  
16 ~~for each instrument or plat recorded.~~

17           F. ~~Amounts collected from the equipment recording~~  
18 ~~fee shall be deposited into a county clerk recording and filing~~  
19 ~~fund, which shall be established by the county. Money in the~~  
20 ~~county clerk recording and filing fund shall be expended only~~  
21 ~~to rent, purchase, lease or lease-purchase equipment associated~~  
22 ~~with recording, filing, maintaining or reproducing documents in~~  
23 ~~the county clerk's office and for staff training on office~~  
24 ~~procedures and equipment.~~

25           G. ~~The equipment recording fee and expenditures~~

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1 ~~from the county clerk recording and filing fund shall be~~  
2 ~~determined annually by the county clerk and approved by the~~  
3 ~~board of county commissioners]~~ a fee as provided for in Section  
4 14-8-15 NMSA 1978 for recording documents in the office of the  
5 county clerk.

6 E. If the county clerk has the appropriate  
7 technology, the clerk shall record the plat electronically,  
8 return the original to the person who submitted the plat and  
9 forward an electronic copy to the county assessor. Otherwise,  
10 ~~[H.] all plats to be recorded [pursuant to the provisions of~~  
11 ~~this section]~~ shall be filed in duplicate with the county  
12 clerk. One copy shall be recorded by the county clerk, and one  
13 copy shall be delivered by the county clerk to the county  
14 assessor."

15 SECTION 17. Section 14-8-17 NMSA 1978 (being Laws 1921,  
16 Chapter 61, Section 1, as amended) is amended to read:

17 "14-8-17. [~~SOLDIER'S DISCHARGE PAPERS]~~ DOCUMENTS RECORDED  
18 WITHOUT COST.--The county [clerks of the several counties of  
19 the state] clerk shall [upon presentation to them] record free  
20 of charge:

21 A. oaths of public office made pursuant to Article  
22 20, Section 1 of the constitution of New Mexico;

23 B. the discharge papers of any [soldier, sailor,  
24 marine, aviator, army nurse or yeomanette] person who was  
25 accepted for service and served in the armed forces of the

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1 United States for thirty days or more;

2 C. tax delinquency lists filed by the county  
3 treasurer pursuant to Section 7-38-61 NMSA 1978;

4 D. notices and warrants issued by the secretary of  
5 workforce solutions for defaults on payments to the  
6 unemployment compensation administration fund filed pursuant to  
7 Section 51-1-36 NMSA 1978; and

8 E. a claim of lien under oath of the state  
9 engineer, artesian well supervisor or an officer of an artesian  
10 conservancy district filed pursuant to Section 72-13-8 NMSA  
11 1978."

12 SECTION 18. Section 40-4-15 NMSA 1978 (being Laws 1947,  
13 Chapter 16, Section 4, as amended) is amended to read:

14 "40-4-15. CHILD SUPPORT TO CONSTITUTE LIEN ON REAL AND  
15 PERSONAL PROPERTY.--

16 A. In case a sum of money is allowed to the  
17 children by the decree for the support, education or  
18 maintenance of the children, the decree shall become a lien on  
19 the real and personal property of the obligor party from the  
20 date of filing of a notice of order or decree in the office of  
21 the county clerk of each county where any of the property may  
22 be situated.

23 B. The notice of order or decree shall contain:

24 (1) the caption of the case from which the  
25 duty of child support arose, including the state, county and

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1 court in which the case was heard, the case number and the  
2 names of the parties when the case was heard;

3 (2) the date of entry of the judgment, order  
4 or decree from which the duty of child support arose;

5 (3) the current names [~~social security~~  
6 ~~numbers~~] and [~~dates~~] years of birth of the parties; and

7 (4) each party's last known address, unless  
8 ordered otherwise in the judgment, order or decree from which  
9 the duty of child support arose.

10 C. The notice shall be executed and acknowledged in  
11 the same manner as a grant of land is executed and  
12 acknowledged.

13 D. A copy of the recorded notice shall be sent to  
14 the obligor spouse at [~~his~~] the obligor's last known address."

15 SECTION 19. Section 45-3-1205 NMSA 1978 (being Laws 1985,  
16 Chapter 12, Section 1 and Laws 1985, Chapter 132, Section 1) is  
17 amended to read:

18 "45-3-1205. SMALL ESTATES--TRANSFER OF TITLE TO HOMESTEAD  
19 TO SURVIVING SPOUSE BY AFFIDAVIT.--

20 A. Where a husband and wife own a homestead as  
21 community property and when either the husband or wife dies  
22 intestate or dies testate and by [~~their~~] the husband's or  
23 wife's will [~~devise their~~] devises the husband's or wife's  
24 interest in the homestead to the surviving spouse, the  
25 homestead passes to the survivor and no probate or

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1 administration is necessary.

2 B. Six months after the death of a decedent, the  
3 surviving spouse may record with the county clerk in the county  
4 in which the homestead is located an affidavit describing the  
5 real property and stating that:

6 (1) six months have elapsed since the death of  
7 the decedent as shown [~~in a certified copy of~~] on the death  
8 certificate [~~attached to the affidavit~~];

9 (2) the affiant and the decedent were at the  
10 time of the death of the decedent married and owned the  
11 homestead as community property;

12 (3) a copy of the deed with a legal  
13 description of the homestead is attached to the affidavit;

14 (4) but for the homestead, the decedent's  
15 estate need not be subject to any judicial probate proceeding  
16 either in district court or probate court;

17 (5) no application or petition for appointment  
18 of a personal representative or for admittance of a will to  
19 probate is pending or has been granted in any jurisdiction;

20 (6) funeral expenses, expenses of last illness  
21 and all unsecured debts of the decedent have been paid;

22 (7) the affiant is the surviving spouse of the  
23 decedent and is entitled to title to the homestead by intestate  
24 succession as provided in Section 45-2-102 NMSA 1978 or by  
25 devise under a valid last will of the decedent, the original of

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1 which is attached to the affidavit;

2 (8) no other person has a right to the  
3 interest of the decedent in the described property;

4 (9) no federal or state tax is due on the  
5 decedent's estate; and

6 (10) the affiant affirms that all statements  
7 in the affidavit are true and correct and further acknowledges  
8 that any false statement may subject the person to penalties  
9 relating to perjury and subornation of perjury.

10 C. As used in this section, "homestead" means the  
11 principal place of residence of the decedent or surviving  
12 spouse or the last principal place of residence if neither the  
13 decedent nor the surviving spouse is residing in that residence  
14 because of illness or incapacitation and ~~which~~ that consists  
15 of one or more dwellings together with appurtenant structures,  
16 the land underlying both the dwellings and the appurtenant  
17 structures and a quantity of land reasonably necessary for  
18 parking and other uses that facilitates the use of the  
19 dwellings and appurtenant structures, and provided the value of  
20 this property for property taxation purposes does not exceed  
21 one hundred thousand dollars (\$100,000)."

22 SECTION 20. Section 48-2-8 NMSA 1978 (being Laws 1880,  
23 Chapter 16, Section 8, as amended) is amended to read:

24 "48-2-8. RECORDING OF LIENS--INDEXING--FEES.--The county  
25 clerk ~~must~~ shall make a record ~~the~~ of a claim ~~in a book~~

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1 ~~kept by him for that purpose, which record must]~~ that shall be  
2 indexed as deeds and other conveyances are required by law to  
3 be indexed and for which [~~he~~] the county clerk may receive the  
4 same fees as are allowed by law for recording deeds and other  
5 instruments. Any claim, the form of which complies with the  
6 requirements of [~~this article~~] Chapter 48, Article 2 NMSA 1978,  
7 shall be entitled to be filed of record [~~and need not comply~~  
8 ~~with the requirements of Section 14-8-4 NMSA 1978]."~~

9 SECTION 21. Section 61-23-28.2 NMSA 1978 (being Laws  
10 1999, Chapter 259, Section 34) is amended to read:

11 "61-23-28.2. SURVEYING--RECORD OF SURVEY.--

12 A. For those surveys that do not create a division  
13 of land but only show existing tracts of record, except in the  
14 instance of remonumentation as specified in the board's minimum  
15 standards for boundary surveys, within sixty calendar days of  
16 the completion of the survey, a professional surveyor shall  
17 [~~file and~~] cause to be recorded at the office of the county  
18 clerk [~~shall accept and record~~] a [~~plat of~~] survey entitled  
19 "boundary survey [~~plat~~]" that shall:

20 (1) contain a printed certification of the  
21 professional surveyor stating that "this is a boundary survey  
22 [~~plat~~] of an existing tract", or existing tracts, if  
23 appropriate, and that "it is not a land division or subdivision  
24 as defined in the New Mexico Subdivision Act";

25 (2) identify all tracts by the uniform parcel

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1 code designation or other designation established by the county  
2 assessor, if applicable;

3 (3) meet the minimum standards for surveying  
4 in New Mexico as established by the board; and

5 (4) not exceed a size of eighteen inches by  
6 twenty-four inches and be at least eight and one-half inches by  
7 eleven inches [~~and~~

8 ~~(5) consist of two black-line copies, one of~~  
9 ~~which the county clerk's office may require to be a mylar copy,~~  
10 ~~made by the surveyor from a mylar original, which shall be~~  
11 ~~maintained in the professional surveyor's files. One of the~~  
12 ~~two black-line copies shall be filed and recorded by the county~~  
13 ~~clerk and the other, containing recording information, shall be~~  
14 ~~delivered by the county clerk to the county assessor].~~

15 B. Fees for recording a boundary survey [~~plat~~]  
16 shall be in conformance with [~~Sections 14-8-12 through 14-8-16~~]  
17 Section 14-8-15 NMSA 1978. [~~The county clerk shall keep a~~  
18 ~~proper index of boundary survey plats by the name of the~~  
19 ~~subdivision, if applicable; owner; and by section, township and~~  
20 ~~range or projected section, township and range if the subject~~  
21 ~~tract is in a land grant. The records shall be kept in~~  
22 ~~conformance with Sections 14-8-12 through 14-8-16 NMSA 1978.]~~

23 C. For those surveys that do create a division of  
24 land, the survey shall be completed in conformity with the  
25 board's minimum standards and in conformity with the New Mexico

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1 Subdivision Act and any applicable local subdivision  
2 ordinances. Filing procedures shall be prescribed in the  
3 board's minimum standards. The record of survey required to be  
4 filed and recorded pursuant to this subsection shall be ~~[filed]~~  
5 recorded at the office of the county clerk within sixty  
6 calendar days after completion of the survey or approval by the  
7 governing authority. ~~[The county clerk shall keep a proper  
8 index of land division plats by the name of the subdivision; by  
9 section, township and range or projected section, township and  
10 range if the subject tract is in a land grant; and by the  
11 number assigned to the land division plat by the local planning  
12 department, if applicable. The records shall be kept in  
13 conformance with Sections 14-8-12 through 14-8-16 NMSA 1978.]"~~

14 SECTION 22. A new section of Chapter 14, Article 8 NMSA  
15 1978 is enacted to read:

16 "[NEW MATERIAL] PUBLIC RECORDS--INSPECTION--EXCEPTIONS.--"

17 A. Except as provided in this section, all  
18 documents filed and recorded in the office of the county clerk  
19 are public records, subject to disclosure pursuant to the  
20 Inspection of Public Records Act.

21 B. The county clerk shall publicly post in the  
22 office of the county clerk and on the county's web page a  
23 notice that documents recorded in the office of the county  
24 clerk are public records, subject to inspection and disclosure.

25 C. Before digitizing or purchasing of documents by

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1 third parties, protected personal identifier information, as  
2 defined in the Inspection of Public Records Act, shall be  
3 redacted.

4 D. Documents containing health information that  
5 relates to and identifies specific individuals as patients are  
6 exempt as a public record pursuant to Section 14-6-1 NMSA 1978.

7 E. Discharge papers of a veteran of the armed  
8 forces of the United States recorded in the office of the  
9 county clerk shall be segregated from public records in the  
10 office of the county clerk. Discharge papers recorded before  
11 July 1, 2005 that have been commingled with public records and  
12 that remain unsegregated are available for inspection in the  
13 office of the county clerk but shall not be copied, digitized  
14 or purchased by any third party, except by those persons  
15 authorized in this section. As the technology becomes  
16 available, county clerks shall segregate commingled discharge  
17 papers from the public records in the office of the county  
18 clerk. Discharge papers recorded in the office of the county  
19 clerk are available only to:

- 20 (1) the veteran who filed the papers;  
21 (2) the veteran's next of kin;  
22 (3) the deceased veteran's properly appointed  
23 personal representative or executor;  
24 (4) a person holding the veteran's general  
25 power of attorney; or

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1 (5) a person designated by the veteran in an  
2 acknowledged statement to receive the records.

3 F. Death certificates that have been recorded in  
4 the office of the county clerk may be inspected, but shall not  
5 be copied, digitized or purchased by any third party unless  
6 fifty years have elapsed after the date of death and the cause  
7 of death and any other medical information contained on the  
8 death certificate is redacted, in addition to redaction of  
9 protected personal identifier information. Death certificates  
10 and other vital records recorded in the office of the county  
11 clerk are exempt from the restrictions contained in Subsection  
12 A of Section 24-14-27 NMSA 1978. The act of recording a death  
13 certificate in the office of the county clerk is considered a  
14 convenience; provided that no person shall be required to  
15 record a death certificate in the office of the county clerk to  
16 effect change of title or interest in property."

17 SECTION 23. A new section of Chapter 21, Article 1 NMSA  
18 1978 is enacted to read:

19 "[NEW MATERIAL] STATE INSTITUTIONS OF HIGHER EDUCATION--  
20 PRESIDENTIAL SEARCHES.--

21 A. Public records containing the identity of or  
22 identifying information relating to an applicant or nominee for  
23 the position of president of a public institution of higher  
24 education are exempt from inspection under the Inspection of  
25 Public Records Act.

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1           B. At least twenty-one days before the date of the  
2 meeting of the governing board of a public institution of  
3 higher education at which final action is taken on selection of  
4 the person for the position of president of the institution,  
5 the governing board shall give public notice of the names of  
6 the finalists being considered for the position. The board  
7 shall consider in the final selection process at least five  
8 finalists. The required notice shall be given by publication  
9 in a newspaper of statewide circulation and in a newspaper of  
10 countywide circulation in the county in which the institution  
11 is located. Publication shall be made once and shall occur at  
12 least twenty-one days and not more than thirty days before the  
13 described meeting.

14           C. Postponement of a meeting described in  
15 Subsection B of this section for which notice has been given  
16 does not relieve the governing body from the requirement of  
17 giving notice of a rescheduled meeting in accordance with the  
18 provisions of Subsection B of this section.

19           D. Action taken by a governing body without  
20 compliance with the notice requirements of Subsections B and C  
21 of this section is void.

22           E. Nothing in this section prohibits a governing  
23 body from identifying or otherwise disclosing the information  
24 described in this section.

25           F. This section may be enforced pursuant to the

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1 provisions of the Inspection of Public Records Act."

2 SECTION 24. REPEAL.--Sections 14-8-8, 14-8-11, 14-8-12.1,  
3 14-8-12.3, 14-8-12.4, 55-9-710 and 69-3-2 NMSA 1978 (being Laws  
4 1923, Chapter 114, Section 2, Laws 1939, Chapter 179, Section  
5 1, Laws 1980, Chapter 48, Section 2, Laws 1985, Chapter 122,  
6 Sections 3 and 4, Laws 2001, Chapter 139, Section 154 and Laws  
7 1876, Chapter 38, Section 2, as amended) are repealed.

8 SECTION 25. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2011.