

1 SENATE BILL 416  
2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**  
3 INTRODUCED BY  
4 Antonio Maestas and Janelle Anyanonu  
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10 AN ACT

11 RELATING TO THE LEGISLATURE; ESTABLISHING PROCEDURES TO FILL A  
12 VACANCY IN THE OFFICE OF REPRESENTATIVE AND IN THE OFFICE OF  
13 SENATOR.  
14

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

16 SECTION 1. Section 2-7F-4 NMSA 1978 (being Laws 2021 (2nd  
17 S.S.), Chapter 6, Section 4) is amended to read:

18 "2-7F-4. ELECTIONS--VACANCIES.--

19 A. Members of the house of representatives shall be  
20 elected for terms of two years.

21 B. If a vacancy occurs in the office of  
22 representative for any reason, the vacancy shall be filled as  
23 follows:

24 (1) for a representative district that is  
25 situated wholly within the exterior boundaries of a single

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1 county, the board of county commissioners of that county shall  
2 appoint the representative to fill the vacancy following the  
3 procedures of Subsections C and D of this section; and

4 (2) for a representative district situated  
5 within two or more counties:

6 (a) the board of county commissioners of  
7 each county in the representative district shall submit one  
8 name to the governor; and

9 (b) the governor shall appoint the  
10 representative to fill the vacancy from the list of names so  
11 submitted.

12 C. Except as provided in Subsection D of this  
13 section, when a board of county commissioners is required to  
14 fill a vacancy in the house of representatives by appointment,  
15 the board shall:

16 (1) solicit and accept applications  
17 immediately following the vacancy;

18 (2) hold a special meeting within three weeks  
19 of the vacancy, at which the board shall make the appointment  
20 using ranked-choice voting, to be administered by the county  
21 clerk, who shall make the ballots publicly available; and

22 (3) announce the date of the special meeting  
23 within two business days of the vacancy.

24 D. If a vacancy occurs during a legislative  
25 session, the board shall solicit and accept applications

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1 immediately following the vacancy and appoint a successor  
2 within five business days of the vacancy using ranked-choice  
3 voting, to be administered by the county clerk, who shall make  
4 the ballots publicly available.

5 ~~[G.]~~ E. An appointment to fill a vacancy in the  
6 house of representatives shall be for a term ending on December  
7 31 after the next general election.

8 ~~[D. An appointment to fill a vacancy made before~~  
9 ~~the general election of 2022 shall be made from the district as~~  
10 ~~it was described in Section 2-7E-1 NMSA 1978, as established by~~  
11 ~~the court in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Dist.~~  
12 ~~Ct., Judgment and Final Order on Remand (State House of~~  
13 ~~Representatives Trial) filed February 28, 2012).]~~ F. On or  
14 after the general election of 2022, a vacancy shall be filled  
15 by appointment from the district as set out in the 2021 House  
16 Redistricting Act."

17 SECTION 2. Section 2-8F-4 NMSA 1978 (being Laws 2021 (2nd  
18 S.S.), Chapter 7, Section 4) is amended to read:

19 "2-8F-4. ELECTIONS--VACANCIES.--

20 A. Members of the senate shall be elected for terms  
21 of four years.

22 B. If a vacancy occurs in the office of senator for  
23 any reason, the vacancy shall be filled as follows:

24 (1) for a senate district that is situated  
25 wholly within the exterior boundaries of a single county, the

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1 board of county commissioners of that county shall appoint the  
2 senator to fill the vacancy following the procedures of  
3 Subsections C and D of this section; and

4 (2) for a senate district situated within two  
5 or more counties:

6 (a) the board of county commissioners of  
7 each county in the senate district shall submit one name to the  
8 governor; and

9 (b) the governor shall appoint the  
10 senator to fill the vacancy from the list of names so  
11 submitted.

12 C. Except as provided in Subsection D of this  
13 section, when a board of county commissioners is required to  
14 fill a legislative office vacancy by appointment, the board  
15 shall:

16 (1) solicit and accept applications  
17 immediately following the vacancy;

18 (2) hold a special meeting within three weeks  
19 of the vacancy, at which the board shall make the appointment  
20 using ranked-choice voting, to be administered by the county  
21 clerk, who shall make the ballots publicly available; and

22 (3) announce the date of the special meeting  
23 within two business days of the vacancy.

24 D. If a vacancy occurs during a legislative  
25 session, the board shall solicit and accept applications

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1 immediately following the vacancy and appoint a successor  
2 within five business days of the vacancy using ranked-choice  
3 voting, to be administered by the county clerk, who shall make  
4 the ballots publicly available.

5 ~~[G.]~~ E. All appointments to fill vacancies in the  
6 senate shall be for a term ending on December 31 [~~subsequent~~  
7 ~~to~~] after the next succeeding general election, at which  
8 general election a person shall be elected to fill the  
9 remainder of any unexpired term.

10 ~~[D.]~~ F. An appointment to fill a vacancy made  
11 before the general election of 2024 shall be made from the  
12 district as it was described in Section 2-8E-1 NMSA 1978, as  
13 established by the court in *Egolf v. Duran*, D-101-CV-2011-02942  
14 (1st Dist. Ct., Judgement and Final Order (State Senate Trial)  
15 filed January 25, 2012). On or after the general election of  
16 2024, a vacancy shall be filled by appointment from the  
17 district as set out in the 2021 Senate Redistricting Act."