

1 HOUSE BILL 540

2 57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

3 INTRODUCED BY

4 Linda Serrato and Janelle Anyanonu and Michelle Paulene Abeyta

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10 AN ACT

11 RELATING TO ELECTIONS; ESTABLISHING ELIGIBILITY REQUIREMENTS
12 AND PROCEDURES TO FILL A VACANCY IN THE OFFICE OF
13 REPRESENTATIVE AND IN THE OFFICE OF SENATOR; REQUIRING BOARDS
14 OF COUNTY COMMISSIONERS TO ESTABLISH PROCEDURES TO FILL
15 VACANCIES.

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

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

20 "2-7F-4. ELECTIONS--VACANCIES--ELIGIBILITY--BOARDS OF
21 COUNTY COMMISSIONERS PROCEDURES.--

22 A. For purposes of this section, "eligible
23 individual" means an individual who is registered to vote in
24 and who resides in the district for which the individual will
25 serve when appointed; provided that the individual shall have

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1 been registered to vote and have resided in that district
2 continuously since the date of the secretary of state's
3 proclamation for the most recent previous general election.

4 ~~[A.]~~ B. Members of the house of representatives
5 shall be elected for terms of two years.

6 ~~[B.]~~ C. If a vacancy occurs in the office of
7 representative for any reason, the vacancy shall be filled as
8 follows:

9 (1) for a representative district that is
10 situated wholly within the exterior boundaries of a single
11 county, the board of county commissioners of that county shall
12 appoint the representative to fill the vacancy pursuant to the
13 procedures provided in Subsections D and E of this section; and

14 (2) for a representative district situated
15 within two or more counties:

16 (a) the board of county commissioners of
17 each county in the representative district shall submit one
18 name of an eligible individual to the governor; and

19 (b) the governor shall appoint the
20 representative to fill the vacancy from the list of names of
21 eligible individuals so submitted within seven business days of
22 receiving the list; provided that if one or more boards of
23 county commissioners has not submitted a name to the governor
24 within thirty days of the notice of vacancy, the governor may
25 appoint a representative from any names submitted.

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1 D. Except as provided in Subsection E of this
2 section, when a board of county commissioners is required to
3 fill a vacancy in the house of representatives by appointment,
4 the board shall:

5 (1) solicit and accept applications from
6 eligible individuals immediately following the vacancy;

7 (2) announce the date of a special public
8 meeting within two business days of the vacancy; and

9 (3) hold the special public meeting within
10 three weeks of the vacancy, at which the board shall vote by
11 ballot to make the appointment, to be administered by the
12 county clerk.

13 E. If a vacancy in the house of representatives
14 occurs during a legislative session, the board shall solicit
15 and accept applications from eligible individuals immediately
16 following the vacancy and vote by ballot to appoint a successor
17 within five business days of the vacancy to be administered by
18 the county clerk.

19 ~~[G.] F.~~ An appointment to fill a vacancy in the
20 house of representatives shall be for a term ending on December
21 31 after the next general election.

22 ~~[D. An appointment to fill a vacancy made before~~
23 ~~the general election of 2022 shall be made from the district as~~
24 ~~it was described in Section 2-7E-1 NMSA 1978, as established by~~
25 ~~the court in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Dist.~~

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1 ~~Ct., Judgment and Final Order on Remand (State House of~~
2 ~~Representatives Trial) filed February 28, 2012)]~~

3 G. On or after the general election of 2022, a
4 vacancy shall be filled by appointment from the district as set
5 out in the 2021 House Redistricting Act.

6 H. By January 1, 2026, each board of county
7 commissioners shall adopt a procedure to be used when the board
8 considers appointments to fill future vacancies in the house of
9 representatives. The procedure shall provide that:

10 (1) each commissioner shall rank in ascending
11 order of preference the top five candidates seeking appointment
12 to the vacancy; or

13 (2) if fewer than five candidates applied for
14 appointment to the vacancy, each commissioner shall rank in
15 ascending order of preference the candidates seeking
16 appointment to the vacancy."

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. For purposes of this section, "eligible
21 individual" means an individual who is registered to vote in
22 and who resides in the district for which the individual will
23 serve when appointed; provided that the individual shall have
24 been registered to vote and have resided in that district
25 continuously since the date of the secretary of state's

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1 proclamation for the most recent previous general election.

2 ~~[A.]~~ B. Members of the senate shall be elected for
3 terms of four years.

4 ~~[B.]~~ C. If a vacancy occurs in the office of
5 senator for any reason, the vacancy shall be filled as follows:

6 (1) for a senate district that is situated
7 wholly within the exterior boundaries of a single county, the
8 board of county commissioners of that county shall appoint the
9 senator to fill the vacancy pursuant to the procedures provided
10 in Subsections D and E of this section; and

11 (2) for a senate district situated within two
12 or more counties:

13 (a) the board of county commissioners of
14 each county in the senate district shall submit one name of an
15 eligible individual to the governor; and

16 (b) the governor shall appoint the
17 senator to fill the vacancy from the list of names of eligible
18 individuals so submitted within seven business days of
19 receiving the list; provided that if one or more boards of
20 county commissioners has not submitted a name to the governor
21 within thirty days of the notice of vacancy, the governor may
22 appoint a representative from any names submitted.

23 D. Except as provided in Subsection E of this
24 section, when a board of county commissioners is required to
25 fill a vacancy in the senate by appointment, the board shall:

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- 1 (1) solicit and accept applications from
- 2 eligible individuals immediately following the vacancy;
- 3 (2) announce the date of a special public
- 4 meeting within two business days of the vacancy; and
- 5 (3) hold the special public meeting within
- 6 three weeks of the vacancy, at which the board shall vote by
- 7 ballot to make the appointment, to be administered by the
- 8 county clerk.

9 E. If a vacancy occurs in the office of senator
10 during a legislative session, the board shall solicit and
11 accept applications from eligible individuals immediately
12 following the vacancy and vote by ballot to appoint a successor
13 within five business days of the vacancy to be administered by
14 the county clerk.

15 ~~[G.] F.~~ All appointments to fill vacancies in the
16 senate shall be for a term ending on December 31 subsequent to
17 the next succeeding general election, at which general election
18 ~~[a person]~~ an individual shall be elected to fill the remainder
19 of any unexpired term.

20 ~~[D. An appointment to fill a vacancy made before~~
21 ~~the general election of 2024 shall be made from the district as~~
22 ~~it was described in Section 2-8E-1 NMSA 1978, as established by~~
23 ~~the court in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Dist.~~
24 ~~Ct., Judgement and Final Order (State Senate Trial) filed~~
25 ~~January 25, 2012)]~~

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G. On or after the general election of 2024, a
vacancy shall be filled by appointment from the district as set
out in the 2021 Senate Redistricting Act.

H. By January 1, 2026, each board of county
commissioners shall adopt a procedure to be used when the board
considers appointments to fill future vacancies in the senate.

The procedure shall provide that:

(1) each commissioner shall rank in ascending
order of preference the top five candidates seeking appointment
to the vacancy; or

(2) if fewer than five candidates applied for
appointment to the vacancy, each commissioner shall rank in
ascending order of preference the candidates seeking
appointment to the vacancy."

SECTION 3. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2025.