

Opinion No. 50-5325

December 21, 1950

BY: JOE L. MARTINEZ, Attorney General

TO: Honorable Thomas J. Mabry Governor of New Mexico Santa Fe, New Mexico

{*187} I have examined the proclamation which you have submitted for examination calling for a special election in the 12th Senatorial District, Valencia County, for the election of a State Senator to succeed Tibo J. Chavez.

Article 4, Section 4 of the Constitution provides: "Vacancies in either house shall be filled by an election at a time to be designated by the Governor." A careful examination of the statute controlling elections fails to disclose any legislative provision for a special election such as is necessary in this case. It is my opinion, therefore, that you are vested with plenary power as to the manner and procedure to be followed in this election, subject only to the restriction that such action on your part be reasonable and give to the electors involved adequate and timely notice of the intended election.

It is my suggestion that in order to avoid any criticism as to fairness, that the procedure to be followed in this election, be similar to that which is set forth in Sec. 56-301 et seq., which governs the holding of elections in general. Upon the issuance of the proclamation the responsibility for handling the matter would be vested in the Secretary of State and she should proceed as in the case of general elections. It becomes incumbent upon her to furnish the instructions to voters as required by Sec. 56-312, New Mexico Statutes Annotated; the poll book required by Sec. 56-319, and the ballot boxes required by {*188} Sec. 56-322. All other expenses incident to the election such as the proclamation, wages of judges, and other officials, must be borne by the county. The cost to the state, therefore, should be relatively nominal.

I trust the foregoing adequately answers your question.