

1.1 A bill for an act

1.2 relating to elections; modifying the procedures for filling a vacancy in the
1.3 Office of United States Senator or Representative in Congress; changing certain
1.4 provisions concerning vacancies in nomination; amending Minnesota Statutes
1.5 2008, sections 203B.12, subdivision 2; 204B.04, subdivisions 2, 3; 204B.07,
1.6 subdivision 1; 204B.09, subdivision 1; 204B.11, subdivision 2; 204B.13,
1.7 subdivisions 1, 2, by adding subdivisions; 204D.17; 204D.19; proposing coding
1.8 for new law in Minnesota Statutes, chapter 204D; repealing Minnesota Statutes
1.9 2008, sections 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, 6; 204B.41;
1.10 204D.169; 204D.28.

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. Minnesota Statutes 2008, section 203B.12, subdivision 2, is amended to read:

1.13 Subd. 2. **Examination of return envelopes.** Two or more election judges shall
1.14 examine each return envelope and shall mark it accepted or rejected in the manner
1.15 provided in this subdivision. ~~If a ballot has been prepared under section 204B.12,~~
1.16 ~~subdivision 2a, or 204B.41, the election judges shall not begin removing ballot envelopes~~
1.17 ~~from the return envelopes until 8:00 p.m. on election day, either in the polling place or at~~
1.18 ~~an absentee ballot board established under section 203B.13.~~

1.19 The election judges shall mark the return envelope "Accepted" and initial or sign
1.20 the return envelope below the word "Accepted" if the election judges or a majority
1.21 of them are satisfied that:

1.22 (1) the voter's name and address on the return envelope are the same as the
1.23 information provided on the absentee ballot application;

1.24 (2) the voter's signature on the return envelope is the genuine signature of the
1.25 individual who made the application for ballots and the certificate has been completed as
1.26 prescribed in the directions for casting an absentee ballot, except that if a person other

2.1 than the voter applied for the absentee ballot under applicable Minnesota Rules, the
2.2 signature is not required to match;

2.3 (3) the voter is registered and eligible to vote in the precinct or has included a
2.4 properly completed voter registration application in the return envelope; and

2.5 (4) the voter has not already voted at that election, either in person or by absentee
2.6 ballot.

2.7 There is no other reason for rejecting an absentee ballot. In particular, failure to
2.8 place the ballot within the security envelope before placing it in the outer white envelope
2.9 is not a reason to reject an absentee ballot.

2.10 The return envelope from accepted ballots must be preserved and returned to the
2.11 county auditor.

2.12 If all or a majority of the election judges examining return envelopes find that
2.13 an absent voter has failed to meet one of the requirements prescribed in clauses (1) to
2.14 (4), they shall mark the return envelope "Rejected," initial or sign it below the word
2.15 "Rejected," and return it to the county auditor.

2.16 Sec. 2. Minnesota Statutes 2008, section 204B.04, subdivision 2, is amended to read:

2.17 Subd. 2. **Candidates seeking nomination by primary.** No individual who
2.18 seeks nomination for any partisan or nonpartisan office at a primary shall be nominated
2.19 for the same office by nominating petition, except as otherwise provided for partisan
2.20 offices in section 204D.10, subdivision 2, ~~and for nonpartisan offices in section 204B.13,~~
2.21 ~~subdivision 4.~~

2.22 Sec. 3. Minnesota Statutes 2008, section 204B.04, subdivision 3, is amended to read:

2.23 Subd. 3. **Nomination for nonpartisan office.** No individual shall be nominated
2.24 by nominating petition for any nonpartisan office ~~except in the event of a vacancy in~~
2.25 ~~nomination as provided in section 204B.13.~~

2.26 Sec. 4. Minnesota Statutes 2008, section 204B.07, subdivision 1, is amended to read:

2.27 Subdivision 1. **Form of petition.** A nominating petition may consist of one or more
2.28 separate pages each of which shall state:

2.29 (a) the office sought;

2.30 (b) the candidate's name and residence address, including street and number if
2.31 any; and

2.32 (c) the candidate's political party or political principle expressed in not more than
2.33 three words. No candidate who files for a partisan office by nominating petition shall use

3.1 the term "nonpartisan" as a statement of political principle or the name of the candidate's
3.2 political party. No part of the name of a major political party may be used to designate the
3.3 political party or principle of a candidate who files for a partisan office by nominating
3.4 petition, except that the word "independent" may be used to designate the party or
3.5 principle. ~~A candidate who files by nominating petition to fill a vacancy in nomination for~~
3.6 ~~a nonpartisan office pursuant to section 204B.13, shall not state any political principle or~~
3.7 ~~the name of any political party on the petition.~~

3.8 Sec. 5. Minnesota Statutes 2008, section 204B.09, subdivision 1, is amended to read:

3.9 Subdivision 1. **Candidates in state and county general elections.** (a) Except as
3.10 otherwise provided by this subdivision, affidavits of candidacy and nominating petitions
3.11 for county, state, and federal offices filled at the state general election shall be filed not
3.12 more than 70 days nor less than 56 days before the state primary. The affidavit may
3.13 be prepared and signed at any time between 60 days before the filing period opens and
3.14 the last day of the filing period.

3.15 (b) Notwithstanding other law to the contrary, the affidavit of candidacy must be
3.16 signed in the presence of a notarial officer or an individual authorized to administer oaths
3.17 under section 358.10.

3.18 (c) This provision does not apply to candidates for presidential elector nominated by
3.19 major political parties. Major party candidates for presidential elector are certified under
3.20 section 208.03. Other candidates for presidential electors may file petitions on or before
3.21 the state primary day pursuant to section 204B.07. ~~Nominating petitions to fill vacancies~~
3.22 ~~in nominations shall be filed as provided in section 204B.13.~~ No affidavit or petition shall
3.23 be accepted later than 5:00 p.m. on the last day for filing.

3.24 (d) Affidavits and petitions for county offices must be filed with the county auditor
3.25 of that county. Affidavits and petitions for federal offices must be filed with the secretary
3.26 of state. Affidavits and petitions for state offices must be filed with the secretary of state or
3.27 with the county auditor of the county in which the candidate resides.

3.28 (e) Affidavits other than those filed pursuant to subdivision 1a must be submitted
3.29 by mail or by hand, notwithstanding chapter 325L, or any other law to the contrary and
3.30 must be received by 5:00 p.m. on the last day for filing.

3.31 Sec. 6. Minnesota Statutes 2008, section 204B.11, subdivision 2, is amended to read:

3.32 Subd. 2. **Petition in place of filing fee.** At the time of filing an affidavit of
3.33 candidacy, a candidate may present a petition in place of the filing fee. The petition may
3.34 be signed by any individual eligible to vote for the candidate. A nominating petition filed

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4.1 pursuant to section 204B.07 ~~or 204B.13, subdivision 4~~, is effective as a petition in place of
4.2 a filing fee if the nominating petition includes a prominent statement informing the signers
4.3 of the petition that it will be used for that purpose.

4.4 The number of signatures on a petition in place of a filing fee shall be as follows:

4.5 (a) for a state office voted on statewide, or for president of the United States, or
4.6 United States senator, 2,000;

4.7 (b) for a congressional office, 1,000;

4.8 (c) for a county or legislative office, or for the office of district judge, 500; and

4.9 (d) for any other office which requires a filing fee as prescribed by law, municipal
4.10 charter, or ordinance, the lesser of 500 signatures or five percent of the total number of
4.11 votes cast in the municipality, ward, or other election district at the preceding general
4.12 election at which that office was on the ballot.

4.13 An official with whom petitions are filed shall make sample forms for petitions in
4.14 place of filing fees available upon request.

4.15 Sec. 7. Minnesota Statutes 2008, section 204B.13, subdivision 1, is amended to read:

4.16 Subdivision 1. **Death or withdrawal.** A vacancy in nomination may be filled in the
4.17 manner provided by this section. A vacancy in nomination exists when:

4.18 ~~(a) (1) a major political party candidate or nonpartisan candidate who was nominated~~
4.19 ~~at a primary dies or files an affidavit of withdrawal as provided in section 204B.12,~~
4.20 ~~subdivision 2a; or~~

4.21 ~~(b) a candidate for a nonpartisan office, for which one or two candidates filed, dies~~
4.22 ~~or files an affidavit of withdrawal as provided in section 204B.12, subdivision 1. (2) a~~
4.23 major political party candidate who was nominated at a primary or the candidate's legal
4.24 guardian files an affidavit of vacancy at least one day prior to the general election with the
4.25 same official who received the affidavit of candidacy that states that:

4.26 (i) the candidate has a catastrophic illness that was diagnosed after the deadline
4.27 for withdrawal; and

4.28 (ii) the candidate's illness will permanently and continuously incapacitate the
4.29 candidate and prevent the candidate from performing the duties of the office sought.

4.30 The affidavit must be accompanied by a certificate verifying that the candidate's
4.31 illness meets the requirements of this clause, signed by at least two licensed physicians.

4.32 Sec. 8. Minnesota Statutes 2008, section 204B.13, subdivision 2, is amended to read:

4.33 Subd. 2. **Partisan office; nomination by party.** (a) A vacancy in nomination ~~for~~
4.34 ~~partisan office shall be filled as provided in this subdivision~~ effectively remove that office

5.1 from the ballot. Votes cast at the general election for that office are invalid and the office
5.2 must be filled in a special election held in accordance with section 204D.17, except as
5.3 provided by this section.

5.4 Except for the vacancy in nomination, all other candidates whose names would have
5.5 appeared on the general election ballot for this race must appear on the special election
5.6 ballot for this race. There must not be a primary to fill the vacancy in nomination.

5.7 A major political party has the authority to fill a vacancy in nomination of that
5.8 party's candidate by filing a nomination certificate with the same official who received
5.9 the affidavits of candidacy for that office.

5.10 (b) A major political party may provide in its governing rules a procedure, including
5.11 designation of an appropriate committee, to fill vacancies in nomination for all federal
5.12 and state offices ~~elected statewide~~. The nomination certificate shall be prepared under the
5.13 direction of and executed by the chair and secretary of the political party and filed within
5.14 ~~seven~~ 14 days after the vacancy in nomination occurs ~~or before the 14th day before the~~
5.15 ~~general election, whichever is sooner. If the vacancy in nomination occurs through the~~
5.16 ~~candidate's death or catastrophic illness, the nomination certificate must be filed within~~
5.17 ~~seven days after the vacancy in nomination occurs but no later than four days before~~
5.18 ~~the general election~~ but no later than seven days after the general election. The chair
5.19 and secretary when filing the certificate shall attach an affidavit stating that the newly
5.20 nominated candidate has been selected under the rules of the party and that the individuals
5.21 signing the certificate and making the affidavit are the chair and secretary of the party.

5.22 Sec. 9. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision
5.23 to read:

5.24 Subd. 7. **Date of special election.** The special election must be held on the second
5.25 Tuesday in December.

5.26 Sec. 10. Minnesota Statutes 2008, section 204B.13, is amended by adding a
5.27 subdivision to read:

5.28 Subd. 8. **Absentee voters.** The county auditor shall mail an absentee ballot for
5.29 the special election under this section to each applicant for an absentee ballot whose
5.30 application for an absentee ballot for the preceding general election was recorded under
5.31 section 203B.04 or 203B.17. If the vacancy in nomination is filled before the general
5.32 election, the county auditor shall transmit the ballot no earlier than the general election
5.33 and no later than five days after the general election. If the vacancy is filled after the

6.1 general election, the county auditor must transmit the ballot no later than five days after
6.2 the vacancy is filled.

6.3 Sec. 11. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision
6.4 to read:

6.5 Subd. 9. **Appropriation.** The secretary of state shall reimburse the counties and
6.6 municipalities for expenses incurred in the administration of a special election held under
6.7 section 204B.13, subdivision 2. The following expenses are eligible for reimbursement:
6.8 preparation and printing of ballots; postage for absentee ballots; publication of the
6.9 sample ballot; preparation of polling places; preparation of electronic voting equipment;
6.10 compensation for temporary staff or overtime payments; salaries of election judges; and
6.11 compensation of county canvassing board members.

6.12 Within 60 days after the special election, the county auditor and municipal clerk
6.13 shall submit to the secretary of state a request for payment accompanied by an itemized
6.14 description of actual costs incurred for the special election. The secretary of state must not
6.15 reimburse expenses unless the request for reimbursement has been submitted as required
6.16 by this subdivision. The secretary of state shall complete the issuance of reimbursements
6.17 to the counties and municipalities no later than 90 days after the special election.

6.18 When a special election is held under section 204B.13, subdivision 2, the secretary
6.19 of state shall reimburse local election officials for costs incurred as provided in this
6.20 subdivision. The amount necessary to make the payments under this subdivision is
6.21 appropriated to the secretary of state from the general fund. No payment shall be made
6.22 pursuant to this section until the secretary of state has given the commissioner of finance
6.23 an estimate of the cost of the special election, the commissioner of finance has reported
6.24 the estimate to the Committee on Finance of the senate and the Committee on Ways and
6.25 Means of the house of representatives, and the commissioner of finance has approved the
6.26 payment. After all reimbursements have been paid, the commissioner of finance shall
6.27 report the actual cost to the Committee on Finance of the senate and the Committee on
6.28 Ways and Means of the house of representatives.

6.29 Sec. 12. Minnesota Statutes 2008, section 204D.17, is amended to read:

6.30 **~~204D.17 REPRESENTATIVE IN CONGRESS; STATE SENATOR; STATE~~**
6.31 **~~REPRESENTATIVE STATE LEGISLATURE; VACANCY IN OFFICE; SPECIAL~~**
6.32 **~~ELECTION.~~**

6.33 Subdivision 1. **Special elections; exceptions.** A vacancy in the office of
6.34 ~~representative in Congress or~~ state senator or state representative shall be filled for the

7.1 unexpired term by special election upon the writ of the governor as provided in sections
7.2 204D.17 to 204D.27; except that if ~~Congress~~ or the legislature will not be in session before
7.3 the expiration of the vacant term no special election is required.

7.4 Subd. 2. **Two or more vacancies.** Two or more vacancies may be filled at the same
7.5 special election and the candidates may be nominated at the same special primary. Any
7.6 special primary or special election held pursuant to sections 204D.17 to 204D.27 may be
7.7 held on the same day as any other election.

7.8 Sec. 13. **[204D.175] UNITED STATES SENATE; REPRESENTATIVE IN**
7.9 **CONGRESS; VACANCY IN OFFICE.**

7.10 Subdivision 1. **Special election.** (a) Except as otherwise provided in this section,
7.11 a vacancy in the Office of United States Senator or Representative in Congress shall be
7.12 filled for the unexpired term at a special election upon the writ of the governor as provided
7.13 in section 204D.22. The writ shall be issued within five days after the vacancy occurs, and
7.14 the special election held on a Tuesday occurring between 70 and 100 days after issuance
7.15 of the writ. If a regularly scheduled state primary or general election will occur within
7.16 this period, the special election must be held on that date.

7.17 (b) A special election held pursuant to this section shall be held consistent with the
7.18 requirements of sections 204D.18 to 204D.27.

7.19 (c) Notwithstanding section 204D.21, if a special primary is required, the special
7.20 primary must be held no later than 45 days before the special election.

7.21 Subd. 2. **Vacancy late in term.** If a vacancy in office occurs after July 1 of the year
7.22 prior to the year in which the term is to expire, no special election shall be held. The
7.23 candidate elected at the state general election to the next term for that office shall succeed
7.24 to the office immediately and serve the remainder of the unexpired term.

7.25 Sec. 14. Minnesota Statutes 2008, section 204D.19, is amended to read:

7.26 **204D.19 SPECIAL ELECTIONS; STATE LEGISLATURE; WHEN HELD.**

7.27 Subdivision 1. **Vacancy filled at general election.** When a vacancy occurs in the
7.28 office of state senator or state representative more than 150 days before the next state
7.29 general election, and ~~the Congress~~ or the legislature will not be in session before the
7.30 final canvass of the state general election returns, the vacancy shall be filled at the next
7.31 state general election.

7.32 Subd. 2. **Special election when ~~Congress~~ or the legislature will be in session.**
7.33 Except for vacancies in the legislature which occur at any time between the last day of
7.34 session in an odd-numbered year and the 40th day prior to the opening day of session in

8.1 the succeeding even-numbered year, when a vacancy occurs in the office of state senator or
8.2 state representative and the ~~Congress~~ or legislature will be in session so that the individual
8.3 elected as provided by this section could take office and exercise the duties of the office
8.4 immediately upon election, the governor shall issue within five days after the vacancy
8.5 occurs a writ calling for a special election. The special election shall be held as soon as
8.6 possible, consistent with the notice requirements of section 204D.22, subdivision 3, but in
8.7 no event more than 35 days after the issuance of the writ.

8.8 Subd. 3. **Special election at other times.** When a vacancy occurs in the office of
8.9 state senator or state representative at a time other than those described in subdivisions 1
8.10 and 2 the governor shall issue a writ, calling for a special election to be held so that the
8.11 individual elected may take office at the opening of the next session of ~~the Congress~~ or of
8.12 the legislature, or at the reconvening of a session of ~~the Congress~~ or of the legislature.

8.13 Subd. 4. **Writ when vacancy results from election contest.** If a vacancy results
8.14 from a successful election contest, the governor shall issue 22 days after the first day of
8.15 the legislative session a writ calling for a special election unless the house in which the
8.16 contest may be tried has passed a resolution which states that it will or will not review
8.17 the court's determination of the contest. If the resolution states that the house will not
8.18 review the court's determination, the writ shall be issued within five days of the passage of
8.19 the resolution.

8.20 Sec. 15. **REPEALER.**

8.21 Minnesota Statutes 2008, sections 204B.12, subdivision 2a; 204B.13, subdivisions
8.22 4, 5, and 6; 204B.41; 204D.169; and 204D.28, are repealed.

8.23 Sec. 16. **EFFECTIVE DATE.**

8.24 This act is effective the day following final enactment.