

This Document can be made available  
in alternative formats upon request

State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-SIXTH  
SESSION

**HOUSE FILE No. 531**

February 5, 2009

Authored by Winkler, Simon and Kalin

The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform,  
Technology and Elections

1.1 A bill for an act  
1.2 relating to elections; modifying the procedures for filling a vacancy in the Office  
1.3 of United States Senator or Representative in Congress; amending Minnesota  
1.4 Statutes 2008, sections 204D.17; 204D.19; proposing coding for new law in  
1.5 Minnesota Statutes, chapter 204D; repealing Minnesota Statutes 2008, section  
1.6 204D.28.

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

1.8 Section 1. Minnesota Statutes 2008, section 204D.17, is amended to read:

1.9 **204D.17 REPRESENTATIVE IN CONGRESS; STATE SENATOR; STATE**  
1.10 **REPRESENTATIVE STATE LEGISLATURE; VACANCY IN OFFICE; SPECIAL**  
1.11 **ELECTION.**

1.12 Subdivision 1. **Special elections; exceptions.** A vacancy in the office of  
1.13 ~~representative in Congress or~~ state senator or state representative shall be filled for the  
1.14 unexpired term by special election upon the writ of the governor as provided in sections  
1.15 204D.17 to 204D.27; except that if ~~Congress or~~ the legislature will not be in session before  
1.16 the expiration of the vacant term no special election is required.

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

1.21 Sec. 2. **[204D.175] UNITED STATES SENATE; REPRESENTATIVE IN**  
1.22 **CONGRESS; VACANCY IN OFFICE.**

1.23 Subdivision 1. **Special election.** (a) Except as otherwise provided in this section,  
1.24 a vacancy in the Office of United States Senator or Representative in Congress shall be

2.1 filled for the unexpired term at a special election upon the writ of the governor as provided  
 2.2 in section 204D.22. The writ shall be issued within five days after the vacancy occurs,  
 2.3 and the special election held a Tuesday occurring between 80 and 100 days after issuance  
 2.4 of the writ. If a regularly scheduled state primary or general election will occur within  
 2.5 this period, the special election must be held on that date.

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

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

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

2.14 Sec. 3. Minnesota Statutes 2008, section 204D.19, is amended to read:

2.15 **204D.19 SPECIAL ELECTIONS; STATE LEGISLATURE; WHEN HELD.**

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

2.21 Subd. 2. **Special election when ~~Congress or~~ the legislature will be in session.**  
 2.22 Except for vacancies in the legislature which occur at any time between the last day of  
 2.23 session in an odd-numbered year and the 40th day prior to the opening day of session in  
 2.24 the succeeding even-numbered year, when a vacancy occurs in the office of state senator or  
 2.25 state representative and ~~the Congress or~~ legislature will be in session so that the individual  
 2.26 elected as provided by this section could take office and exercise the duties of the office  
 2.27 immediately upon election, the governor shall issue within five days after the vacancy  
 2.28 occurs a writ calling for a special election. The special election shall be held as soon as  
 2.29 possible, consistent with the notice requirements of section 204D.22, subdivision 3, but in  
 2.30 no event more than 35 days after the issuance of the writ.

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

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

3.8 Sec. 4. **REPEALER.**

3.9 Minnesota Statutes 2008, section 204D.28, is repealed.

3.10 Sec. 5. **EFFECTIVE DATE.**

3.11 This act is effective the day following final enactment.

**204D.28 UNITED STATES SENATE VACANCY; MANNER OF FILLING.**

Subdivision 1. **Scope of section.** Every vacancy in the office of United States senator shall be filled in the manner provided in this section.

Subd. 2. **Definitions.** The definitions in subdivisions 3 to 5 apply to this section.

Subd. 3. **Vacancy.** "Vacancy" means a vacancy in the Office of United States Senator.

Subd. 4. **November election.** "November election" means:

(a) the state general election in even-numbered years; or

(b) the first Tuesday after the first Monday in November of odd-numbered years.

Subd. 5. **Regular state primary.** "Regular state primary" means:

(a) the state primary at which candidates are nominated for offices elected at the state general election; or

(b) a primary held four weeks before the first Tuesday after the first Monday in November of odd-numbered years.

Subd. 6. **Special election required; exception; when held.** Every vacancy shall be filled for the remainder of the term by a special election held pursuant to this subdivision; except that no special election shall be held in the year before the term expires.

The special election shall be held at the next November election if the vacancy occurs at least six weeks before the regular state primary preceding that election. If the vacancy occurs less than six weeks before the regular state primary preceding the next November election, the special election shall be held at the second November election after the vacancy occurs.

Subd. 7. **Special primary; when held.** A special primary shall be held at the regular state primary preceding the November election at which the special election is held.

Subd. 8. **Notice of special election.** The secretary of state shall issue an official notice of any special election required to be held pursuant to this section not later than ten weeks before the special primary, except that if the vacancy occurs ten weeks or less before the special primary, the secretary of state shall issue the notice no later than two days after the vacancy occurs. The notice shall state the office to be filled, the opening and closing dates for filing of candidacy and the dates of the special primary and special election. For the purposes of those provisions of sections 204D.17 to 204D.27 that apply generally to special elections, this notice shall be used in place of the writ of the governor.

Subd. 9. **Filing by candidates.** The time for filing of affidavits and nominating petitions for candidates to fill a vacancy at a special election shall open six weeks before the special primary or on the day the secretary of state issues notice of the special election, whichever occurs later. Filings shall close four weeks before the special primary.

Subd. 10. **United States senator; candidates; designation of term.** When the names of candidates for both offices of United States senator are required to be placed on the same ballot, the expiration date of the term of each office shall be printed on the ballot opposite the name of each candidate for nomination or election to that office.

Subd. 11. **Temporary appointment.** The governor may make a temporary appointment to fill any vacancy. An appointee shall hold office until a successor is elected and qualified at a special election or until a successor is elected pursuant to subdivision 12.

Subd. 12. **Succession by regularly elected senator.** An individual who is elected to the office of United States senator for a regular six-year term when the office is vacant or is filled by an individual appointed pursuant to subdivision 11, shall also succeed to the office for the remainder of the unexpired term.

Subd. 13. **Application of other laws.** Except as otherwise provided in this section, all of the provisions of sections 204D.22 to 204D.27 that apply generally to other special elections apply to a special election held pursuant to this section.