

1.1 A bill for an act

1.2 relating to elections; changing special primary and special election requirements  
1.3 and provisions; amending Minnesota Statutes 2006, sections 204B.41; 204B.44;  
1.4 204D.19, subdivision 2, by adding a subdivision; 204D.21, by adding a  
1.5 subdivision; 204D.24, by adding a subdivision; 206.83.

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

1.7 Section 1. Minnesota Statutes 2006, section 204B.41, is amended to read:

1.8 **204B.41 VACANCY IN NOMINATION; CHANGING BALLOTS.**

1.9 When a vacancy in nomination occurs through the death or catastrophic illness of a  
1.10 candidate after the 16th day before ~~the~~ a general or special election, the officer in charge  
1.11 of preparing the ballots shall prepare and distribute a sufficient number of separate paper  
1.12 ballots which shall be headed with the words "OFFICIAL SUPPLEMENTAL BALLOT."  
1.13 This ballot shall contain the title of the office for which the vacancy in nomination has  
1.14 been filled and the names of all the candidates nominated for that office. The ballot  
1.15 shall conform to the provisions governing the printing of other official ballots as far as  
1.16 practicable. The title of the office and the names of the candidates for that office shall  
1.17 be blotted out or stricken from the regular ballots by the election judges. The official  
1.18 supplemental ballot shall be given to each voter when the voter is given the regular ballot  
1.19 or is directed to the voting machine. Regular ballots shall not be changed nor shall official  
1.20 supplemental ballots be prepared as provided in this section during the six calendar days  
1.21 before an election. Absentee ballots that have been mailed prior to the preparation of  
1.22 official supplemental ballots shall be counted in the same manner as if the vacancy had  
1.23 not occurred. Both an official supplemental ballot and a replacement regular ballot from  
1.24 which the title of the office and names of the candidates for that office have been blotted

2.1 out or stricken as provided in this section must be provided to each absentee voter or  
2.2 voter residing in a precinct voting by mail who requests either of them under section  
2.3 203B.06, subdivision 3. The election judges conducting absentee voting in health care  
2.4 facilities as provided in section 203B.11, subdivision 1, must deliver official supplemental  
2.5 ballots and replacement regular ballots to those facilities no later than 5:00 p.m. on the  
2.6 day before the election.

2.7 Sec. 2. Minnesota Statutes 2006, section 204B.44, is amended to read:

2.8 **204B.44 ERRORS AND OMISSIONS; REMEDY.**

2.9 Any individual may file a petition in the manner provided in this section for the  
2.10 correction of any of the following errors, omissions, or wrongful acts which have occurred  
2.11 or are about to occur:

2.12 (a) an error or omission in the placement or printing of the name or description of  
2.13 any candidate or any question on any official ballot;

2.14 (b) any other error in preparing or printing any official ballot;

2.15 (c) failure of the chair or secretary of the proper committee of a major political party  
2.16 to execute or file a certificate of nomination;

2.17 (d) any wrongful act, omission, or error of any election judge, municipal clerk,  
2.18 county auditor, canvassing board or any of its members, the secretary of state, or any other  
2.19 individual charged with any duty concerning an election.

2.20 The petition shall describe the error, omission, or wrongful act and the correction  
2.21 sought by the petitioner. The petition shall be filed with any judge of the Supreme Court  
2.22 in the case of an election for state or federal office or any judge of the district court in  
2.23 that county in the case of an election for county, municipal, or school district office. A  
2.24 petition relating to the placement of a candidate on the special primary or special election  
2.25 ballot or the manner in which the ballot is prepared must be filed no later than three days  
2.26 after the last day to file affidavits of candidacy. The petitioner shall serve a copy of the  
2.27 petition on the officer, board or individual charged with the error, omission, or wrongful  
2.28 act, and on any other party as required by the court. Upon receipt of the petition the  
2.29 court shall immediately set a time for a hearing on the matter and order the officer, board  
2.30 or individual charged with the error, omission or wrongful act to correct the error or  
2.31 wrongful act or perform the duty or show cause for not doing so. The court shall issue  
2.32 its findings and a final order for appropriate relief as soon as possible after the hearing.  
2.33 No change to the ballot may be made during the seven days before a special primary or  
2.34 special election. Failure to obey the order is contempt of court.

**S.F. No. 1366, 1st Engrossment - 85th Legislative Session (2007-2008)**

3.1 Sec. 3. Minnesota Statutes 2006, section 204D.19, subdivision 2, is amended to read:

3.2 Subd. 2. **Special election when the Congress or legislature will be in session.**

3.3 Except for vacancies in the legislature which occur at any time between the last day of  
3.4 session in an odd-numbered year and the 33rd day prior to the opening day of session  
3.5 in the succeeding even-numbered year, when a vacancy occurs and the Congress or  
3.6 legislature will be in session so that the individual elected as provided by this section  
3.7 could take office and exercise the duties of the office immediately upon election, the  
3.8 governor shall issue within five days after the vacancy occurs a writ calling for a special  
3.9 election. The special election shall be held as soon as possible, consistent with the notice  
3.10 requirements of section 204D.22, subdivision 3, but in no event more than ~~28~~ 42 days  
3.11 after the issuance of the writ.

3.12 Sec. 4. Minnesota Statutes 2006, section 204D.19, is amended by adding a subdivision  
3.13 to read:

3.14 Subd. 5. **Timing of special election.** A special primary or special election may not  
3.15 be held on a holiday as defined in section 645.44, subdivision 5, or within five days before  
3.16 or after a holiday, unless the special primary or special election is being held on the same  
3.17 day as a regularly scheduled primary or general election.

3.18 Sec. 5. Minnesota Statutes 2006, section 204D.21, is amended by adding a subdivision  
3.19 to read:

3.20 Subd. 4. **Date of special primary.** A special primary may not be held less than 21  
3.21 days after the last day to file affidavits of candidacy.

3.22 Sec. 6. Minnesota Statutes 2006, section 204D.24, is amended by adding a subdivision  
3.23 to read:

3.24 Subd. 3. **Replacement absentee ballots.** If a supplemental ballot is required as  
3.25 provided in section 204B.41, a replacement ballot must be provided to each absentee  
3.26 ballot applicant who requests it.

3.27 Sec. 7. Minnesota Statutes 2006, section 206.83, is amended to read:

3.28 **206.83 TESTING OF VOTING SYSTEMS.**

3.29 Within 14 days before election day, the official in charge of elections shall have the  
3.30 voting system tested to ascertain that the system will correctly mark ballots using all  
3.31 methods supported by the system, including through assistive technology, and count the  
3.32 votes cast for all candidates and on all questions. Public notice of the time and place of the

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4.1 test must be given at least two days in advance by publication once in official newspapers,  
4.2 except that before a special primary or special election the notice may be posted at least  
4.3 two days before the test rather than published. The test must be observed by at least  
4.4 two election judges, who are not of the same major political party, and must be open to  
4.5 representatives of the political parties, candidates, the press, and the public. The test must  
4.6 be conducted by (1) processing a preaudited group of ballots punched or marked to record  
4.7 a predetermined number of valid votes for each candidate and on each question, and must  
4.8 include for each office one or more ballot cards which have votes in excess of the number  
4.9 allowed by law in order to test the ability of the voting system tabulator and electronic  
4.10 ballot marker to reject those votes; and (2) processing an additional test deck of ballots  
4.11 marked using the electronic ballot marker for the precinct, including ballots marked using  
4.12 the electronic ballot display, audio ballot reader, and any assistive voting technology used  
4.13 with the electronic ballot marker. If any error is detected, the cause must be ascertained  
4.14 and corrected and an errorless count must be made before the voting system may be used  
4.15 in the election. After the completion of the test, the programs used and ballot cards must  
4.16 be sealed, retained, and disposed of as provided for paper ballots.