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10/22/03
Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2405

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2405

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/07/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		2960 to end
Tape 1		x	0-132
Committee Clerk Signature <i>L. Walters</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens SB 2405. All senators present.

Senator Dever: Prime sponsor of bill along with Senator Krebsbach. He introduces and explains the bill. He has asked Cory Fong from the Secretary of State's office to explain further.

Senator Nelson: What if your boss says you can't serve in the legislature, this pertains to subsection 6?

Senator Dever: In the last session there was a bill saying that if your boss says that can serve in the legislature, you can not be fired for serving in the legislature.

Cory Fong, Deputy Secretary of State: (Testimony and information attached)

Senator Nelson: Is there a time the appointed person would never serve.

Fong: No, the appointed person would serve but, they would serve either until the next election when they were up anyway, or special election prompted by petition.

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2405

Hearing Date 02/07/03

Senator Nelson: But, there is not a time period which you could appoint somebody and then have a special election and not have an intervening session.

Fong: You mean a legislative session?

Senator Nelson: For example Shirley Meier, she was appointed and then she went to the interim committee meetings and she was elected the next election but, had she not been reelected she would have never served in a session but in the interim.

Fong: Rep. Martin passed away in Feb. '97, we couldn't pull off an election according to an election deadline. So the session was over with so that seat was vacant. In the current framework under this bill, the district chairman would fill the seat during the session, unless the governor could call a special election. but, that election couldn't take place until after the session.

Senator Nelson: If Rep. Martin had died on the first of April you probably wouldn't have appointed anyone before session was over, and then you may not serve during a session.

Fong: Those were the days before there were 4 year terms. Under this framework if you are on a 4 year term he may not have been able to serve.

Senator Wardner: Now over a 4 year term, what if the individual died in the 1st session of the 4 year term. Do they have to run in 2 years or when the 4 year term would be up?

Fong: In the bill the existing language is the bottom of page 3 line 26 through 30. if more than 828 days left, the person whose appointed would have to run for election in the next election.

Senator Krebsbach: Same thing happened in the office of Public Service Commissioner, she had to run immediately after she had been appointed.

Fong: Make sure that a vacancy is filled and give the option to the people. Give Secretary of State tools to give the oath of office.

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10/22/03
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Page 3

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2405

Hearing Date 02/07/03

Senator Krebsbach: Do you change your certificate to say certificate of appointment rather than certificate of election?

Fong: Yes, and was only signed by Secretary of State, the certificate of election is signed by the Governor, Secretary of State, and Clerk of the Supreme Court.

Senator Nelson: Section 1 gives me heartburn. I think this is why other party put this in. I think this is a political issue. B is restitutive.

Senator Dever: You can't deny that was a consideration. I think in the New Jersey situation was what lead to this bill. Had source elections where there was no candidates.

Senator Krebsbach: I understand Senator Nelson's concerns. Therefore I feel that we should do this properly for all sides and parties, and do this correctly.

Closed SB 2405

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10/22/03

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2405

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/13/03

Tape Number	Side A	Side B	Meter #
Tape 2	x		4550 to end
Tape 2		x	0-200
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman reopens SB 2405. All senators present.

Cory Fong, Deputy Secretary of State, reexplains the bill.

Senator Nelson :If I were to make a motion to delete subsection 6 of section 1 you got to ... is that what you are telling us?

Fong: Yes, that language is also in a house bill.

Senator Dever : If we leave it in do we not need the house bill?

Fong: If you approve this bill as is the house bill does not contain that.

Senator Brown moves amendment

Senator Wardner

6 Yes 0 No

Senator Nelson: I have no idea what it means when it says would be unable to serve if elected in result of a debilitating illness, the debilitating illness of who? There are all sorts of reasons why a

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Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2405

Hearing Date 02/13/03

candidate would have to withdraw after a primary and a lot of them have to do with illness and not necessarily themselves. This does not tell me who it is. If I wouldn't have had someone else helping I would have had to withdraw because of my mother. I think things are working just fine the way they are. I don't understand why we have to go in here and say just because someone puts in a place holder that that person must run.

Senator Nelson moves to amend to delete section 6

Senator Fairfield 2nd

Senator Fairfield : I would concur with Senator Nelson this is just vary specific as well. There are any number of reasons why a person might have a change in their situation and to say that can't be filled. I guess it is trying to make a point.

Senator Dever : I think in fairness to the candidates that in one party in March and April go through the process and then are considered in the primary by members of their party, I think it is important. Because the people of both parties vote in the primer to move forward the candidates of their party. Then I think to come in September and find that you've got different opponents for no real valid reason at all I think is unfair. I the debilitating illness of Senator Nelson's mother I think that would be legitimate I think it should be considered in here.

Senator Fairfield : You hit the nail on the head when you said valid reason. Fro example, a pregnancy, a job loss. Being pregnant isn't a debilitating illness. To say that you can't fill that position, I think the definition is too narrow.

2 Yes 4 No to delete subsection 6

Senator Brown moves a Do Pass as amended

Senator Wardner 2nd

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Page 3
Senate Government and Veterans Affairs Committee
Bill/Resolution Number SB 2405
Hearing Date 02/13/03

4 yes 2 No

Carrier: Senator Wardner

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10/22/03
Date

Date: 
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2405

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38364.0201 Title .0300

Action Taken 1st amendment

Motion Made By Brown Seconded By Wardner

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

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1022103

Deanna Hallmark
Operator's Signature

10122103

Date

Date: 2/13/03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2405

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken 2nd amendment to delete subsection 6

Motion Made By Nelson Seconded By Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.		✓	Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.		✓	Senator Carolyn Nelson	✓	
Senator Richard Brown		✓			
Senator Rich Wardner		✓			

Total (Yes) 2 No 4

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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10/22/03
Date

Date: 2/13/03
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2405

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38364.0201 Title .0300

Action Taken Do Pass as amended

Motion Made By Brown Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield		✓
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson		✓
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment Wardner

If the vote is on an amendment, briefly indicate intent:

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10/22/03
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REPORT OF STANDING COMMITTEE (410)
February 14, 2003 12:04 p.m.

Module No: SR-29-2735
Carrier: Wardner
Insert LC: 38364.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2405: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2405 was placed
on the Sixth order on the calendar.

Page 3, line 4, remove "or"

Page 3, line 5, replace "legislative district for which the" with "an individual nominated for
legislative office will not be a resident of the legislative district at the time of the
election; or

d. Ceases to be qualified to serve, if elected, as otherwise provided by
law."

Page 3, remove line 6

Renumber accordingly

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2405

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10/22/03

Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2405

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-20-03

Tape Number	Side A	Side B	Meter #
2	x		38.5-end
2		x	0-5.7
Committee Clerk Signature <i>Joseph Burke</i>			

Minutes: Chairman Klein: called the hearing to order on SB 2405. All committee members were present.

Senator Dever: was present and gave a statement in favor of SB 2405, he also was a sponsor of the bill and provided testimony (SEE ATTACHED TESTIMONY).

Cory Fong, Deputy Secretary of State: appeared in support of SB 2405 and provided a statement (SEE ATTACHED TESTIMONY).

Representative Kasper: I have a concern on the Governor being able to call the election, wouldn't it be wise to put a time line between when the legislation session adjourns and when the Governor can call a special election like 45 or 60 days after the adjournment of the session, when the election would be held.

Cory Fong: they will be appointed and would be able to do that and I think as a committee you have that ability to make that decision. If you look at lines 20-22 on page 4, you could say 60 days following the adjournment if that is what your trying to achieve.

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10/22/03
Date

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2405

Hearing Date 3-20-03

Al Jaeger, Secretary of State: appeared in support of SB 2405. You as legislators have the ability or should decide how to make or fail a bill, so we have not taken an official position on that, we have only given you our technical expertise, the one area that I think we want is I need to be able to give somebody that is appointed something more than a letter, all of you have gotten a certificate of assignment, is not very official what I'm giving out now. Somebody that is appointed does deserve a lot more.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2405

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-27-03

Tape Number	Side A	Side B	Meter #
1		x	24.6-28.5
Committee Clerk Signature <i>James Rennie</i>			

Minutes: Chairman Klein: lets take up SB 2405. All committee members were present except KLEMIN.

Representative Kasper: all the amendment does that I have presented you with is what it says is after the legislative session adjourns you can't call a special election for 80 days so on page 4 line 21, you would insert "eighty days following".

Representative Grande: I move those AMENDMENTS as presented by KASPER.

Representative Sitte: **SECOND**.

All were in favor.

Representative Meier: made a **DO PASS motion on SB 2405 as AMENDED**.

Representative Tieman: **SECOND** the do pass motion on SB 2405.

VOTE: 13-YES 0-NO 1-ABSENT (KLEMIN)

Motion carried.

Representative Sitte: will carry the bill to the floor.

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10/22/03
Date

38364.0301
Title.0400

Adopted by the Government and Veterans
Affairs Committee

March 27, 2003

House Amendments to Engrossed SB 2405 - Government and Veterans Affairs
Committee 03/27/2003

Page 4, line 21, after "through" insert "eighty days following"

Renumber accordingly

1 of 1

38364.0301

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10/22/03
Date

Roll Call Vote #:

Date: 3-27-03

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2405

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Move Amendment by Kasper

Motion Made By

Grande

Seconded By

Sitte

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein			B. Amernman		
Vice Chairman B.B. Grande			L. Potter		
W.R. Devlin			C. Williams		
C.B. Haas			L. Winrich		
J. Kasper					
L.R. Klemin					
L. Meier					
M. Sitte					
W.W. Tieman					
R.H. Wikenheiser					

Total (Yes) 13 No 0

Absent 1 (Klemin)

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

page 4 line 21, after through insert
"eighty days following"

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Operator's Signature

10/22/03

Date

Date: 3-27-03

Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2405

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS As Amended by Kasper

Motion Made By Meier Seconded By Tieman

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin	X		C. Williams	X	
C.B. Haas	X		L. Winrich	X	
J.Kasper	X				
L.R. Klemin	A	A			
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 13 No 0

Absent 1 (Klemin)

Floor Assignment Rep Sitte

If the vote is on an amendment, briefly indicate intent:

page 4 line 21.

Operator's Signature

Date 10/22/03

REPORT OF STANDING COMMITTEE (410)
March 28, 2003 9:52 a.m.

Module No: HR-56-0021
Carrier: Sitts
Insert LC: 38364.0301 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2405, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2405 was placed on the Sixth order on the calendar.

Page 4, line 21, after "through" insert "eighty days following"

Renumber accordingly

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10/22/03

Date

2003 TESTIMONY

SB 2405

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10/22/03
Date

ALVIN A. JAEGER
SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 E BOULEVARD AVE DEPT 109
BISMARCK ND 58505-0800

E-MAIL ees@state.nd.us
WEB PAGE www.state.nd.us/sec



SECRETARY OF STATE

February 7, 2003

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TOLL FREE 1-800-362-0867

TO: Senator Karen Krebsbach and Members of the Senate Government and Veteran's Affairs Committee

FR: Cory G. Fong, Deputy Secretary of State

RE: Senate Bill. No. 2405 - Filling Vacancies in Nominations and Legislative Vacancies

The sponsor of Senate Bill No. 2405 has asked me to explain the election mechanics of this bill. The legislation relates to the process for filling nominations following primary elections and the process for filling legislative vacancies.

Before I explain the highlights of Senate Bill No. 2405, the Secretary of State's office is proposing some amendments to the bill. The amendments are intended to mirror amendments that were made to House Bill No. 1250, a similar bill passed by the House earlier in the week. My explanation of the bill will also include discussion of these proposed amendments.

The bill with the proposed amendments accomplishes the following:

- State law allows state and district parties to fill vacancies in nominations for state and legislative office following a primary election. To fill a vacancy, the executive committee of the state or district party must make an appointment before 4:00 p.m. on the 60th day before the general election. Senate Bill No. 2405 continues to allow state and district parties to fill these vacancies provided the nominated candidate has:
 - Died;
 - Would be unable to serve, if elected, as a result of a debilitating illness;
 - Ceases to be a resident of the state or an individual nominated for legislative office will not be a resident of the legislative district at the time of the election; or
 - Ceases to be qualified to serve, if elected, as otherwise provided by law. (Section 1 and proposed amendments)
- In other words, Senate Bill No. 2405 establishes specific criteria for allowing vacancies in nominations to be filled by state and district parties between primary and general elections. (Section 1)
- Retains current law in Section 16.1-13-10 that requires a legislative vacancy be filled by appointment made by either the vacating member's district party committee or the chairman of legislative council. (Section 2)
- Adds new language to Section 16.1-13-10 allowing the residents of the legislative district to prompt a special election by petitioning the Secretary of State within 30 days after an appointment is made. (Section 2)

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10/22/03
Date

SB 2405 - Vacancies
Senate Government and Veteran's Affairs
February 7, 2003
Page two

- Petitions submitted to the Secretary of State to prompt a special election must contain signatures equal to four percent of the resident population of the legislative district as determined by the last federal census (approximately 550 voters).
- A valid petition submitted to the Secretary of State would require the Governor to issue a writ of election calling for a special election to fill the vacancy at a time designated by the Governor. A special election called by the Governor:
 - Must conform to the applicable election deadlines;
 - May be called to coincide with a regularly scheduled primary or general election provided the special election is called in time for the district parties to legally nominate candidates for inclusion on the primary or general election ballot; and
 - May not be scheduled to occur during the time from a general election through the adjournment of the next ensuing regular session of the legislative assembly. (Section 2)
- An individual appointed to fill a vacancy shall serve until a successor is elected and qualified following the next general election or special election called by the Governor, if 828 days or more remain in the vacating member's term of office. (Section 2)
- Provides for an administrative vehicle for the Secretary of State to use when transmitting a certificate of appointment and an oath of office to an individual appointed to fill a legislative vacancy. (Section 2)

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2405

Page 3, line 4, remove "or"

Page 3, line 5, replace "legislative district for which the" with "an individual nominated for legislative office will not be a resident of the legislative district at the time of the election;

or

d. Ceases to be qualified to serve, if elected, as otherwise provided by law."

Page 3, line 6, remove "candidate would serve, if elected."

Renumber accordingly

Page 1

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Date

Calling Special Elections According to Senate Bill No. 2405

Traditional Odd-Numbered Year When Legislative Assembly is in Session

Example 2003	January	February	March	April	May	June	July	August	September	October	November	December
	<div>Legislative Assembly in Session</div> <div>A special election called by the Governor may not be held during this time.</div>											

Traditional Even-Numbered Election Year

Example 2004	January	February	March	April	May	June Primary Election	July	August	September	October	November General Election	December
	<div>General Election</div> <div>Legislative Assembly</div> <div>A special election called by the Governor may not be held during this time.</div>											

Note: An individual appointed to fill a vacancy shall serve until a successor is elected and qualified following the next general election or special election called by the Governor, if 828 days or more remain in the vacating member's term of office.

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Operator's Signature Deanna Walker

Date 10/22/03

Senate Bill 2405
Committee Testimony
House Government & Veteran's Affairs
Senator Dick Dever

Mr. Chairman, members of the committee, for the record I am Dick Dever, Senator from District 32, which is most of south Bismarck, and that area sometimes referred to as the "Cathedral area".

SB 2405 concerns itself with vacancies. The first provision that the bill offers is concerning the vacancy of a nomination following a primary election. As you all know, the purpose of a primary election is for the people to align themselves with a party and choose, by election, the candidates for that party. The bill provides that there be legitimate reasons for changing candidates after the people have spoken.

Those reasons are spelled out in sub-section 6 of Section 1 at the top of page 3. It says a person is no longer a candidate if they die, if they cease to be a resident of the state or will not be a resident of the district at the time of election, or if they cease to be qualified to serve, if elected, as otherwise provided by law. It also says that they can withdraw their name if they would be unable to serve as a result of a debilitating illness.

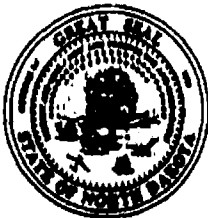
The other vacancy the bill refers to is a vacancy that occurs after a person is elected. During the last session, we passed a bill that allowed that such a vacancy would be filled by appointment of the executive committee of the party that the person represented. This bill will allow that a petition could be circulated and call for a special election if four per cent of the residents of the district signed it.

It allows for an election but it still provides that a seat will not be vacant during a session. In most cases, when a vacancy occurs outside of the session, the person filling the position will not cast a vote.

With that, Mr. Chairman, I would be happy to respond to any questions, and I would encourage a Do Pass recommendation from the committee. Thank you.

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SECRETARY OF STATE

March 20, 2003

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TO: Representative Matt Klein and Members of the House Government and Veterans Affairs Committee

FR: Cory G. Fong, Deputy Secretary of State

RE: Senate Bill. No. 2405 – Filling Vacancies in Nominations and Legislative Vacancies

The sponsor of Senate Bill No. 2405 has asked me to explain the election mechanics of this bill. The legislation relates to the process for filling nominations following primary elections and the process for filling legislative vacancies.

The bill accomplishes the following:

- State law allows state and district parties to fill vacancies in nominations for state and legislative office following a primary election. To fill a vacancy, the executive committee of the state or district party must make an appointment before 4:00 p.m. on the 60th day before the General Election. Senate Bill No. 2405 continues to allow state and district parties to fill these vacancies provided the nominated candidate has:
 - Died;
 - Would be unable to serve, if elected, as a result of a debilitating illness;
 - Ceases to be a resident of the state or an individual nominated for legislative office will not be a resident of the legislative district at the time of the election; or
 - Ceases to be qualified to serve, if elected, as otherwise provided by law. (Section 1)
- In other words, Senate Bill No. 2405 establishes specific criteria for allowing vacancies in nominations to be filled by state and district parties between primary and general elections. (Section 1)
- Retains current law in Section 16.1-13-10 that requires a legislative vacancy be filled by appointment made by either the vacating member's district party committee or the chairman of legislative council. (Section 2)
- Adds new language to Section 16.1-13-10 allowing the residents of the legislative district to prompt a special election by petitioning the Secretary of State within 30 days after an appointment is made. (Section 2)
- Petitions submitted to the Secretary of State to prompt a special election must contain signatures equal to four percent of the resident population of the legislative district as determined by the last federal census (approximately 550 voters). (Section 2)
- A valid petition submitted to the Secretary of State would require the Governor to issue a writ of election calling for a special election to fill the vacancy at a time designated by the Governor. A special election called by the Governor:

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- o Must conform to the applicable election deadlines;
 - o May be called to coincide with a regularly scheduled primary or general election provided the special election is called in time for the district parties to legally nominate candidates for inclusion on the primary or general election ballot; and
 - o May not be scheduled to occur during the time from a general election through the adjournment of the next ensuing regular session of the legislative assembly. (Section 2)
- An individual appointed to fill a vacancy shall serve until a successor is elected and qualified following the next General Election or special election called by the Governor, if 828 days or more remain in the vacating member's term of office. (Section 2)
 - Provides for an administrative vehicle for the Secretary of State to use when transmitting a certificate of appointment and an oath of office to an individual appointed to fill a legislative vacancy. (Section 2)

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Deanna Hall
Operator's signature

10/22/03
Date