

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 955

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DATE	D-PG	OFFICIAL STATUS
02/19/2015	361	Introduction and first reading Referred to Rules and Administration

A bill for an act

1.1 relating to elections; authorizing voters to vote for "None of the Above; For a
 1.2 New Election" or "Prefer None of the Above;" requiring a new election where
 1.3 voters vote for a new election; amending Minnesota Statutes 2014, sections
 1.4 10A.01, subdivisions 7, 10; 200.02, by adding subdivisions; 203B.227; 204B.36,
 1.5 subdivision 2; 204C.06, subdivision 2; 204C.08, by adding a subdivision;
 1.6 206.80; 206.90, subdivision 6; proposing coding for new law in Minnesota
 1.7 Statutes, chapter 204D.
 1.8

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

1.10 Section 1. Minnesota Statutes 2014, section 10A.01, subdivision 7, is amended to read:

1.11 Subd. 7. **Ballot question.** "Ballot question" means a question or proposition that is
 1.12 placed on the ballot and that may be voted on by all voters of the state. "Promoting or
 1.13 defeating a ballot question" includes activities, other than lobbying activities, related
 1.14 to qualifying the question for placement on the ballot. Ballot question also includes
 1.15 advocating the use or disuse of the NOTA option, as defined in section 200.02, subdivision
 1.16 17b.

1.17 Sec. 2. Minnesota Statutes 2014, section 10A.01, subdivision 10, is amended to read:

1.18 Subd. 10. **Candidate.** "Candidate" means an individual who seeks nomination or
 1.19 election as a state constitutional officer, legislator, or judge. An individual is deemed to
 1.20 seek nomination or election if the individual has taken the action necessary under the law
 1.21 of this state to qualify for nomination or election, has received contributions or made
 1.22 expenditures in excess of \$750, or has given implicit or explicit consent for any other
 1.23 person to receive contributions or make expenditures in excess of \$750, for the purpose of
 1.24 bringing about the individual's nomination or election. A candidate remains a candidate
 1.25 until the candidate's principal campaign committee is dissolved as provided in section

2.1 10A.243. Candidate also includes candidates seeking nomination or election in a NOTA
2.2 election, as defined in section 200.02, subdivision 17a.

2.3 Sec. 3. Minnesota Statutes 2014, section 200.02, is amended by adding a subdivision
2.4 to read:

2.5 Subd. 17a. **NOTA election.** "NOTA election" means an election held pursuant
2.6 to sections 204D.30 to 204D.32.

2.7 Sec. 4. Minnesota Statutes 2014, section 200.02, is amended by adding a subdivision
2.8 to read:

2.9 Subd. 17b. **NOTA option.** "NOTA option" means voting for "None of the Above;
2.10 For a New Election" instead of a candidate in an election.

2.11 Sec. 5. Minnesota Statutes 2014, section 203B.227, is amended to read:

2.12 **203B.227 WRITE-IN ABSENTEE BALLOT.**

2.13 (a) A voter described in section 203B.16, subdivision 1, may use the federal write-in
2.14 absentee ballot to vote in any federal, state, or local election. In a state or local election, a
2.15 vote for a political party without specifying the name of a candidate must not be counted.
2.16 A voter may write in "None of the Above; For a New Election" in any office on the ballot,
2.17 except for president and vice president.

2.18 (b) If a voter submits a federal write-in absentee ballot for which a federal post
2.19 card application was not received, the federal write-in absentee ballot serves as a voter
2.20 registration, for voters who are eligible to register, in lieu of the voter's federal post card
2.21 application. If the voter has not already voted and the accompanying certificate is properly
2.22 completed, the absentee ballot board must accept the federal write-in absentee ballot.

2.23 Sec. 6. Minnesota Statutes 2014, section 204B.36, subdivision 2, is amended to read:

2.24 Subd. 2. **Candidates and offices.** The name of each candidate shall be printed at a
2.25 right angle to the length of the ballot. At a general election the name of the political party
2.26 or the political principle of each candidate for partisan office shall be printed above or
2.27 below the name of the candidate. The name of a political party or a political principle
2.28 shall be printed in capital and lowercase letters of the same type, with the capital letters
2.29 at least one-half the height of the capital letters used for names of the candidates. At
2.30 a general election, blank lines containing the words "write-in, if any" shall be printed
2.31 below the name of the last candidate for each office, or below the title of the office if no
2.32 candidate has filed for that office, so that a voter may write in the names of individuals

3.1 whose names are not on the ballot. One blank line shall be printed for each officer of that
3.2 kind to be elected. At a general or NOTA election, the words "None of the Above; For a
3.3 new election" shall be printed below the blank lines, except for the office of president and
3.4 vice president. At a presidential election, the words "Prefer None of the Above" shall be
3.5 printed below the blank lines. At a primary election, no blank lines shall be provided for
3.6 writing in the names of individuals whose names do not appear on the primary ballot.

3.7 On the left side of the ballot at the same level with the name of each candidate and
3.8 each blank line shall be printed a square in which the voter may designate a vote by a mark
3.9 (X). Each square shall be the same size. Above the first name on each ballot shall be printed
3.10 the words, "Put an (X) in the square opposite the name of each candidate you wish to vote
3.11 for." At the same level with these words and directly above the squares shall be printed a
3.12 small arrow pointing downward. Directly underneath the official title of each office shall be
3.13 printed the words "Vote for one" or "Vote for up to ..." (any greater number to be elected).

3.14 Sec. 7. Minnesota Statutes 2014, section 204C.06, subdivision 2, is amended to read:

3.15 Subd. 2. **Individuals allowed in polling place; identification.** (a) Representatives
3.16 of the secretary of state's office, the county auditor's office, and the municipal or school
3.17 district clerk's office may be present at the polling place to observe election procedures.
3.18 Except for these representatives, election judges, sergeants-at-arms, and challengers, an
3.19 individual may remain inside the polling place during voting hours only while voting or
3.20 registering to vote, providing proof of residence for an individual who is registering to
3.21 vote, or assisting a disabled voter or a voter who is unable to read English. During voting
3.22 hours no one except individuals receiving, marking, or depositing ballots shall approach
3.23 within six feet of a voting booth, ballot counter, or electronic voting equipment, unless
3.24 lawfully authorized to do so by an election judge or the individual is an election judge
3.25 monitoring the operation of the ballot counter or electronic voting equipment.

3.26 (b) Teachers and elementary or secondary school students participating in an
3.27 educational activity authorized by section 204B.27, subdivision 7, may be present at the
3.28 polling place during voting hours.

3.29 (c) Each official on duty in the polling place must wear an identification badge that
3.30 shows their role in the election process. The badge must not show their party affiliation.

3.31 (d) Individuals collecting signatures for nomination petitions for a NOTA election
3.32 must be allowed in the petition area as described in section 204D.31, subdivision 3.

3.33 Sec. 8. Minnesota Statutes 2014, section 204C.08, is amended by adding a subdivision
3.34 to read:

4.1 Subd. 1e. **Statement about NOTA.** The secretary of state shall prepare a statement
4.2 titled "Your Voter Consent Ballot Options" to be displayed, along with other materials
4.3 required by this section, so it is legible to voters at the polling place prior to voting as well
4.4 as within each voting booth, indicating the options available to the voter. The statement
4.5 must include the following statements:

4.6 "When "None of the Above; For a New Election" appears on the ballot after the
4.7 list of candidates for an office, then you may vote for "None of the Above; For a New
4.8 Election" instead of voting for a candidate. If you may vote for more than one candidate
4.9 for an office, then a vote for "None of the Above; For a New Election" counts as one vote.

4.10 If "None of the Above; For a New Election" receives more votes for an office than
4.11 any candidate, then no one is elected to that office and a new election with new candidates
4.12 must be held on the second Tuesday in February to fill the office.

4.13 When "Prefer None of the Above" appears on the ballot for the office of president and
4.14 vice president, you may vote for a candidate and also vote for "Prefer None of the Above."
4.15 Voting for "Prefer None of the Above" indicates you found no listed candidate acceptable.

4.16 The "Prefer None of the Above" votes are counted and reported; however, the
4.17 candidate for an office with the most votes is elected whatever the "Prefer None of the
4.18 Above" vote."

4.19 **Sec. 9. [204D.30] NOTA OPTION; RESULTS.**

4.20 Subdivision 1. **NOTA option.** A voter may vote for "None of the Above; For a New
4.21 Election" instead of voting for a candidate. If a voter may vote for multiple candidates for
4.22 an office, a vote for "None of the Above; For a New Election" counts as one vote. The
4.23 NOTA option must be included on all general and NOTA election ballots.

4.24 Subd. 2. **NOTA results.** Votes cast for "None of the Above; For a New Election"
4.25 shall be counted, canvassed, and reported as are votes for listed candidates. Any candidate
4.26 for office who receives fewer votes than the votes cast for "None of the Above; For a New
4.27 Election" for that office shall not be elected. In any election where no candidate is elected
4.28 to an office because of votes cast for "None of the Above; For a New Election," a NOTA
4.29 election shall be held pursuant to section 204D.31.

4.30 Subd. 3. **Presidential elections.** In elections to the offices of president and vice
4.31 president of the United States and their electors, "Prefer None of the Above" shall appear
4.32 after the list of candidates. Voters may choose to vote both for "Prefer None of the Above"
4.33 as well as for a candidate. Votes cast for "Prefer None of the Above" shall be counted
4.34 and reported in the same manner as are votes for listed candidates, but shall not otherwise
4.35 affect the election outcome.

5.1 Sec. 10. **[204D.31] NOTA ELECTION.**

5.2 Subdivision 1. **Election required.** In any election where no candidate is elected to
5.3 an office because more votes were for "None of the Above; For a New Election" than any
5.4 candidate, a NOTA election must be held pursuant to this section.

5.5 Subd. 2. **Eligibility; filing period.** (a) Any person who is eligible for nomination
5.6 as a candidate in the general election for an office shall be eligible for nomination as a
5.7 candidate in a NOTA election for that office, provided the person did not receive, as a
5.8 listed candidate in a prior election for the same office and term, fewer votes than those cast
5.9 for "None of the Above; For a New Election."

5.10 (b) Candidates for a NOTA election may file for office by filing an affidavit of
5.11 candidacy and paying a filing fee, or by filing an affidavit of candidacy and filing a
5.12 petition in place of a filing fee, in the manner provided in sections 204B.06, 204B.09, and
5.13 204B.11, except that all documents and fees required by those sections must be filed
5.14 within five days after the election. There must be a two-day period for withdrawal of
5.15 candidates after the last day for filing.

5.16 (c) A write-in candidate in the prior election may be nominated to be listed as a
5.17 candidate for an office in the following NOTA election by receiving write-in votes equal
5.18 to at least ten percent of either:

5.19 (1) the number of nominating signatures required for that office; or

5.20 (2) the total votes cast for the office in the current election.

5.21 The candidates shall submit to the local election official for local offices, or otherwise
5.22 the secretary of state, by the last day of the nomination period, a completed nominating
5.23 petition containing no filled-in signature lines with an attached affirmation by the
5.24 candidate stating the candidate received the requisite write-in votes for that office in the
5.25 prior election. Unlisted write-in candidates who do not receive the number of write-in
5.26 votes needed for nomination may seek nomination by petition.

5.27 Subd. 3. **Nominating petitions.** (a) The requirements of sections 204B.06 to
5.28 204B.10 apply to nominating petitions unless otherwise provided in this section.

5.29 (b) Signatures nominating petitions may be gathered at polling places, provided they
5.30 are gathered in one, or two if required, petition areas that shall be reserved at each polling
5.31 place for that purpose, and in a manner as to provide easy access for voters wishing to
5.32 sign the petitions or not, and in such a manner that voters shall pass by those collecting
5.33 nominating signatures before and after voting.

5.34 (c) Any person collecting nominating signatures at a polling place for one or more
5.35 petitions, hereinafter referred to as "collector," must be registered to vote at that polling
5.36 place. A collector may assist in the gathering of signatures for any nominating petition.

6.1 No signed petition may be removed from a petition area, except, after the polls close,
6.2 by the vote-counting authority, who shall deliver all signed petitions to the signature
6.3 verifying authority.

6.4 (d) The collector shall be seated in a chair behind a table, provided at no cost to the
6.5 collector, upon which the petitions shall be placed and kept while collecting signatures.
6.6 The collector shall not speak to, or otherwise communicate with, any voter unless
6.7 addressed first by that voter, and shall display no sign except, optionally, one reading
6.8 "Nominating Petition: (office)," where (office) shall be the name of the office for which
6.9 the petition is being gathered, using letters no greater than three inches in height and
6.10 affixed to the table in such a manner as to be visible to passing voters. The number of
6.11 collectors in each petition area shall be no more than two per one or more petition sheets
6.12 with the same candidate and party designation. A petition may be brought into and left
6.13 unattended in the petition area by any person.

6.14 (e) The petition area shall be part of the polling place, and any person failing to
6.15 conform to its requirements shall be considered a disorderly person.

6.16 Subd. 4. **Failure to nominate.** If no candidate qualifies for nomination for an office
6.17 in a NOTA election, the office shall appear on the ballot with no listed candidate with only
6.18 the write-in and "None of the Above; For a New Election" lines.

6.19 Subd. 5. **Date of NOTA election.** The governor shall issue a writ calling for a
6.20 special election to be conducted on the second Tuesday in February of the year following
6.21 the year in which voters exercised the NOTA option. Except where otherwise provided in
6.22 this section, the writ shall be issued and the special election conducted according to the
6.23 requirements of sections 204D.22 to 204D.27.

6.24 Subd. 6. **Absentee voters.** At least 46 days, but no more than 50 days, before a
6.25 NOTA election conducted under this section, the county auditor shall transmit an absentee
6.26 ballot for the NOTA election to each applicant for an absentee ballot whose application for
6.27 an absentee ballot for the preceding general election was recorded under section 203B.04
6.28 or 203B.17. New applicants for an absentee ballot may be provided a ballot in the manner
6.29 specified in chapter 203B.

6.30 Subd. 7. **Temporary appointment; assignment of duties.** (a) Temporary
6.31 appointment to offices except for the Office of the Governor, pending a NOTA election
6.32 and an elected candidate taking office, required to execute the duties of an office, shall
6.33 be made by the governor for statewide or legislative offices or by majority vote of the
6.34 governing body of a local government for local offices. The person appointed must be
6.35 either the office's current incumbent or who would be otherwise eligible for election to
6.36 that office. Temporary appointment to the Office of Governor must be by majority vote

7.1 of the Minnesota Supreme Court. No temporary appointment under this provision shall
 7.2 be made to the office's state representative, state senator, United States representative, or
 7.3 United States senator. If no appointment is made by the day before expiration of an office's
 7.4 current term, the office's incumbent is appointed by default.

7.5 (b) In elections to the Office of the Secretary of State, or an office for which the
 7.6 incumbent secretary of state is a candidate, the duties normally performed by the secretary
 7.7 of state under this act shall be performed by the Office of the Secretary of State under the
 7.8 direction of the attorney general.

7.9 Sec. 11. **[204D.32] NOTA CANDIDATE STATEMENT.**

7.10 Subdivision 1. **Requirements.** (a) To assist the voters in assessing candidates for
 7.11 office in NOTA elections, the secretary of state for statewide or legislative elections, or the
 7.12 local election official for local elections, must distribute candidate statements by mail to
 7.13 the electorate at least seven days before the NOTA election at no cost to the candidates.
 7.14 A candidate must only submit one candidate statement.

7.15 (b) At least 21 days before a NOTA election, a candidate may submit a candidate
 7.16 statement for distribution as provided in this section. The candidate statement must:

7.17 (1) be a black-and-white statement, consisting only of spaces, letters, punctuation
 7.18 marks, and numeric or other textual notation;

7.19 (2) be contained within both sides of a single 8.5 x 11-inch white paper sheet;

7.20 (3) be limited to identifying the candidate;

7.21 (4) contain no solicitation for funds; and

7.22 (5) not refer to other candidates.

7.23 (c) Additionally, the candidate statement may:

7.24 (1) include one black-and-white photograph of the candidate from the neck up no
 7.25 greater than 3 x 3 inches;

7.26 (2) describe the candidate's qualifications for office, party affiliations, and proposed
 7.27 policies; and

7.28 (3) include contact information.

7.29 (d) If the requirements and limitations of this subdivision are not met, the secretary
 7.30 of state or local election official must not distribute the statement.

7.31 Subd. 2. **Format.** Across the top inch of the first page of every candidate statement
 7.32 shall be a header that reads "Candidate Statement of (candidate name) for (office)." The
 7.33 name of the candidate must be the name of the candidate as it shall appear on the ballot.
 7.34 Below the header must be the statement "Prepared by the candidate and distributed to
 7.35 voters without cost to the candidate by the (Office of the Secretary of State or Local

8.1 Election Official)." The secretary of state shall make sample candidate statements
8.2 available to candidates for a NOTA election.

8.3 Subd. 3. **Review of statement.** (a) The secretary of state or local election official
8.4 must distribute the candidate statement as submitted, unless the secretary of state or local
8.5 election official determines that the candidate statement does not meet the requirements
8.6 and limits of a candidate statement. If the secretary of state or local election official
8.7 makes a determination, the secretary of state or local election official must transmit
8.8 within ten days an explanation of the nonconformance to the candidate along with a
8.9 proposed deletion notification to make the candidate statement conformant. The secretary
8.10 of state, local election official, or representative shall meet with the candidate upon the
8.11 candidate's request within two days of receipt of a request for a meeting to review the
8.12 candidate statement with the candidate's representatives. The candidate shall transmit to
8.13 the secretary of state or local election official within five days of the receipt of the deletion
8.14 notification or within two days after the meeting, whichever is later:

8.15 (1) the candidate's response to the deletion notification;

8.16 (2) a corrected candidate statement; or

8.17 (3) a candidate instruction, to be defined by the secretary of state, in the event of a
8.18 nonqualifying candidate statement, instructing the secretary of state either to withdraw the
8.19 candidate statement completely or to distribute the original candidate statement with the
8.20 deletions indicated by the deletion notification.

8.21 (b) Changes to the candidate content by the secretary of state or local election official
8.22 shall be by deletion only, using methods to be established in advance of the election by
8.23 the secretary of state so as to be obvious to voters which parts of the candidate content
8.24 were deleted. Should the candidate fail to provide an acceptable, corrected candidate
8.25 statement and fail to provide candidate instructions for the event, the secretary of state or
8.26 local election official shall distribute the original candidate statement with the deletions
8.27 specified in the deletion notification. The secretary of state or local election official shall
8.28 make available at its offices to any person, within one day of a written request, copies of
8.29 any original candidate statement, as well as associated opinions by the secretary of state
8.30 or local election official, the corrected candidate statement, the deletion notification, and
8.31 the candidate instruction, and other related documents during the election campaign and
8.32 for ten years after the election.

8.33 (c) Whenever possible, all candidate statements for the same office shall be
8.34 assembled into a single ballot pamphlet for distribution. Reference copies of the candidate
8.35 statements shall be made available at polling places for voter use.

9.1 Sec. 12. Minnesota Statutes 2014, section 206.80, is amended to read:

9.2 **206.80 ELECTRONIC VOTING SYSTEMS.**

9.3 (a) An electronic voting system may not be employed unless it:

9.4 (1) permits every voter to vote in secret;

9.5 (2) permits every voter to vote for all candidates and questions for whom or upon
9.6 which the voter is legally entitled to vote;

9.7 (3) provides for write-in voting when authorized;

9.8 (4) automatically rejects, except as provided in section 206.84 with respect to
9.9 write-in votes, all votes for an office or question when the number of votes cast on it
9.10 exceeds the number which the voter is entitled to cast;

9.11 (5) permits a voter at a primary election to select secretly the party for which the
9.12 voter wishes to vote;

9.13 (6) automatically rejects all votes cast in a primary election by a voter when the voter
9.14 votes for candidates of more than one party; ~~and~~

9.15 (7) provides every voter an opportunity to verify votes recorded on the permanent
9.16 paper ballot, either visually or using assistive voting technology, and to change votes or
9.17 correct any error before the voter's ballot is cast and counted, produces an individual,
9.18 discrete, permanent, paper ballot cast by the voter, and preserves the paper ballot as an
9.19 official record available for use in any recount; and

9.20 (8) provides for counting votes for "None of the Above; For a New Election" and
9.21 "Prefer None of the Above."

9.22 (b) An electronic voting system purchased on or after June 4, 2005, may not be
9.23 employed unless it:

9.24 (1) accepts and tabulates, in the polling place or at a counting center, a marked
9.25 optical scan ballot; or

9.26 (2) creates a marked optical scan ballot that can be tabulated in the polling place or
9.27 at a counting center by automatic tabulating equipment certified for use in this state.

9.28 Sec. 13. Minnesota Statutes 2014, section 206.90, subdivision 6, is amended to read:

9.29 Subd. 6. **Ballots.** In precincts using optical scan voting systems, a single ballot card
9.30 on which all ballot information is included must be printed in black ink on white colored
9.31 material except that marks not to be read by the automatic tabulating equipment may be
9.32 printed in another color ink. In state elections, a single ballot title must be used, as provided
9.33 in sections 204D.08, subdivision 6, and 204D.11, subdivision 1. In odd-numbered years
9.34 when both municipal and school district offices or questions appear on the ballot, the
9.35 single ballot title "City (or Town) and School District Ballot" must be used.

10.1 On the front of the ballot must be printed the words "Official Ballot" and the date of
10.2 the election and lines for the initials of at least two election judges.

10.3 When optical scan ballots are used, the offices to be elected must appear in the
10.4 following order: federal offices; state legislative offices; constitutional offices; proposed
10.5 constitutional amendments; county offices and questions; municipal offices and questions;
10.6 school district offices and questions; special district offices and questions; and judicial
10.7 offices.

10.8 On optical scan ballots, the names of candidates and the words "yes" and "no" for
10.9 ballot questions must be printed as close to their corresponding vote targets as possible.

10.10 The line on an optical scan ballot for write-in votes must contain the words "write-in,
10.11 if any."

10.12 Below the line for write-in votes must appear a line that contains the words "None
10.13 of the Above; For a New Election," except for the office of president and vice president.
10.14 Below the line for write-in votes for the office of president and vice president must appear
10.15 a line that contains the words "Prefer None of the Above."

10.16 If a primary ballot contains both a partisan ballot and a nonpartisan ballot, the
10.17 instructions to voters must include a statement that reads substantially as follows: "THIS
10.18 BALLOT CARD CONTAINS A PARTISAN BALLOT AND A NONPARTISAN
10.19 BALLOT. ON THE PARTISAN BALLOT YOU ARE PERMITTED TO VOTE FOR
10.20 CANDIDATES OF ONE POLITICAL PARTY ONLY." If a primary ballot contains
10.21 political party columns on both sides of the ballot, the instructions to voters must include a
10.22 statement that reads substantially as follows: "ADDITIONAL POLITICAL PARTIES ARE
10.23 PRINTED ON THE OTHER SIDE OF THIS BALLOT. VOTE FOR ONE POLITICAL
10.24 PARTY ONLY." At the bottom of each political party column on the primary ballot, the
10.25 ballot must contain a statement that reads substantially as follows: "CONTINUE VOTING
10.26 ON THE NONPARTISAN BALLOT." The instructions in section 204D.08, subdivision 4,
10.27 do not apply to optical scan partisan primary ballots. Electronic ballot displays and audio
10.28 ballot readers must follow the order of offices and questions on the optical scan or paper
10.29 ballot used in the same precinct, or the sample ballot posted for that precinct.

10.30 Sec. 14. **CONFLICTING PROVISIONS.**

10.31 The provisions of this act shall prevail over any conflicting provisions of any
10.32 other law.

10.33 Sec. 15. **SEVERABILITY.**

11.1 If any provision of this act is found to be unconstitutional and void, the remaining
11.2 provisions of this act are valid.

11.3 Sec. 16. **REVISOR'S INSTRUCTION.**

11.4 The revisor of statutes shall add references to NOTA elections and the NOTA option
11.5 where appropriate in Minnesota Statutes, chapters 200 to 212.

11.6 Sec. 17. **EFFECTIVE DATE.**

11.7 This act is effective two years after the day following final enactment.