

7709

I N   S E N A T E

June 14, 2012

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Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the election law, in relation to canvass procedures; and to repeal section 9-128 of the election law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. This act shall be known and may be cited as the "election  
2     night poll site procedures act of 2012".  
3     S 2. Section 9-100 of the election law, as amended by chapter 234 of  
4     the laws of 1976, is amended to read as follows:  
5     S 9-100. Canvass; required. At the close of the polls the inspectors  
6     of election shall, in the order set forth herein, [lock the machine  
7     against voting] CLOSE POLLS, account for the paper ballots, canvass the  
8     machine, cast and canvass all the ballots, canvass and ascertain the  
9     total vote and they shall not adjourn until the canvass be fully  
10    completed.  
11    S 3. Section 9-102 of the election law, subdivisions 1, 2, and 3 as  
12    amended by section 3 and paragraph (a) of subdivision 2 as amended by  
13    section 4 of chapter 163 of the laws of 2010, subdivisions 4 and 6 as  
14    amended by chapter 9 of the laws of 1978, is amended to read as follows:  
15    S 9-102. Canvass; general provisions for. 1. [As] EXCEPT IN THE CITY  
16    OF NEW YORK, AS soon as the polls of the election are closed, the  
17    inspectors of election thereat shall, in the order set forth herein;  
18    [a.)) (A) place an inspector at the ballot scanner to prevent further  
19    voting; [b.)) (B) reconcile the paper ballots pursuant to section 9-106  
20    of this title; [c.)) (C) remove surplus ballots, if any, pursuant to  
21    section 9-108 of this title; [d.)) (D) scan the ballots contained in the  
22    emergency box or other secure storage container pursuant to section  
23    9-110 of this title; [e.)) (E) hand count and secure ballots that cannot  
24    be scanned pursuant to section 9-110 of this title; [f.)) (F) close the  
25    poll, print the tabulated [result] RESULTS tape, announce the result and  
26    sign the return of canvass pursuant to subdivisions 2 and 3 of this  
27    section; [g.)) (G) close, lock and seal the machine; and [h.)) (H) sign  
28    the close of poll certificate, as provided by the board of elections.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD15772-04-2

1 1-A. IN THE CITY OF NEW YORK, AS SOON AS THE POLLS OF THE ELECTION ARE  
2 CLOSED, THE INSPECTORS OF ELECTION THEREAT SHALL, IN THE ORDER SET FORTH  
3 HEREIN: (A) PLACE AN INSPECTOR AT THE BALLOT SCANNER TO PREVENT FURTHER  
4 VOTING; (B) SCAN THE BALLOTS CONTAINED IN THE EMERGENCY BOX OR OTHER  
5 SECURE STORAGE CONTAINER PURSUANT TO SECTION 9-110 OF THIS TITLE, UNLESS  
6 IT IS NOT POSSIBLE TO DETERMINE WHICH SUCH BALLOTS SHOULD BE SO SCANNED  
7 BECAUSE THE ACCOUNTING AND RECONCILIATION REQUIRED BY SECTION 9-106 OF  
8 THIS TITLE CANNOT BE COMPLETED WITHOUT FIRST PRINTING THE RESULTS TAPE;  
9 (C) INITIATE THE BALLOT SCANNER'S CLOSE THE POLL MECHANISM, PRINT THE  
10 TABULATED RESULTS TAPE, AND POST THE RESULTS TAPE OR ANNOUNCE ITS  
11 CONTENTS OR BOTH; (D) REMOVE ONE OF THE PORTABLE MEMORY DEVICES FROM THE  
12 BALLOT SCANNER FOR THE PURPOSE OF REPORTING THE UNOFFICIAL TALLY OF  
13 ELECTION RESULTS PURSUANT TO SECTION 9-126 OF THIS TITLE; (E) RECONCILE  
14 THE PAPER BALLOTS PURSUANT TO SECTION 9-106 OF THIS TITLE; (F) REMOVE  
15 SURPLUS BALLOTS, IF ANY, PURSUANT TO THIS SECTION AND SECTION 9-108 OF  
16 THIS TITLE; (G) HAND COUNT AND SECURE BALLOTS THAT CANNOT BE SCANNED  
17 PURSUANT TO THIS SECTION AND SECTION 9-110 OF THIS TITLE; (H) POST OR  
18 ANNOUNCE THE RESULTS OF ANY HAND COUNTS AND SIGN THE RETURN OF CANVASS  
19 PURSUANT TO SUBDIVISIONS TWO AND THREE OF THIS SECTION; (I) CLOSE, LOCK  
20 AND SEAL THE MACHINE; AND (J) SIGN THE CLOSE OF POLL CERTIFICATE, AS  
21 PROVIDED BY THE BOARD OF ELECTIONS.

22 2. (a) The inspectors shall canvass the [machine vote by printing the]  
23 ballot scanner tabulated RESULTS BY PRINTING THE results tape in the  
24 presence of the watchers and all other persons who may be lawfully with-  
25 in the polling place, giving full view of the tabulated [result] RESULTS  
26 tape numbers. [The chair of the board of inspectors] AN INSPECTOR shall,  
27 under the scrutiny of an inspector of a different political party,  
28 EITHER POST THE RESULTS TAPE OR READ AND ANNOUNCE in the order of the  
29 offices as their titles are arranged on the tabulated [result] RESULTS  
30 tape, [read and announce] in distinct tones the public office or party  
31 position, candidate name, political party and the [result] RESULTS as  
32 shown on the tabulated [result] RESULTS tape and then shall announce the  
33 [aggregate] number of write-in votes recorded for each office. The  
34 [chair] INSPECTORS shall also in the same manner POST OR announce the  
35 [vote on] RESULTS FOR each ballot proposal.

36 (B) The results on the tabulated [result] RESULTS tape shall be  
37 entered on or the tabulated [result] RESULTS tape (REPRESENTING THE  
38 AGGREGATE RESULTS OF VOTES CAST ON THE BALLOT SCANNER OR THE RESULTS BY  
39 ELECTION DISTRICT AS APPLICABLE) shall be affixed to the return of  
40 canvass for that ballot scanner or election district pursuant to section  
41 9-120 of this title by an inspector[, ] under the scrutiny of an inspec-  
42 tor of a different political party, in the space indicated[; provided,  
43 however, if]. IF any election day paper ballots were hand counted pursu-  
44 ant to THIS SECTION AND subdivision two of section 9-110 of this title,  
45 [the results] AN INSPECTOR SHALL, UNDER THE SCRUTINY OF AN INSPECTOR OF  
46 A DIFFERENT POLITICAL PARTY, EITHER POST OR READ AND ANNOUNCE THE  
47 RESULTS OF SUCH HAND COUNT. THE TALLY SHEET of ANY such hand counting  
48 shall be SIGNED BY THE INSPECTORS CONDUCTING SAME, AFFIXED TO OR  
49 recorded on the return of canvass and THE AGGREGATE NUMBERS FROM SUCH  
50 HAND COUNTING SHALL be added to the AGGREGATE numbers reported from the  
51 tabulated results tape IN THE SPACE PROVIDED ON THE RETURN OF CANVASS to  
52 produce a single AGGREGATE total result for each candidate and ballot  
53 proposal. The return of canvass[, which shall show the aggregate number  
54 of votes cast for each office, the number of votes cast for each candi-  
55 date appearing on the ballot for each office and the aggregate number of  
56 write-in votes for each office, shall then be filled out. Such return]

1 and tabulated [result] RESULTS tape shall be signed by TWO INSPECTORS OF  
2 each [inspector] MAJOR POLITICAL PARTY.

3 [(b)] (C) The [printed or photographic record produced by such  
4 machine] RESULTS TAPE shall include a certificate which the inspectors  
5 shall sign, stating the number of voters as shown on the public counter  
6 and the number on the protective counter.

7 [(c)] (D) If the machine is provided with a removable electronic or  
8 computerized device which records the total of the votes cast on such  
9 machine (SUCH DEVICE, FOR PURPOSES OF THIS SECTION A "PORTABLE MEMORY  
10 DEVICE"), such device shall be removed from the machine after copies of  
11 the [printed record] RESULTS TAPE, sufficient to meet the requirements  
12 of this chapter and the regulations of the board of elections, have been  
13 produced. After the PORTABLE MEMORY device is removed from the machine,  
14 the inspectors shall place such device in the secure envelope or other  
15 secure container provided for its return to the board of elections. Such  
16 secure container shall be signed by the inspectors upon the securing of  
17 the device therein.

18 3. (a) During the canvass time any candidate or duly accredited watch-  
19 er who may desire to be present shall be admitted to the polling place.  
20 During the proclamation of the result, ample opportunity shall be given  
21 to any person lawfully present to compare the results so announced with  
22 the sum of the votes appearing on the tabulated [result] RESULTS tape  
23 and any hand counted election day ballots, if any, and any necessary  
24 corrections shall then and there be made on the return of canvass by the  
25 inspectors. Thereafter, the voting machine shall be closed and locked.  
26 The first copy of the [printed record] RESULTS TAPE for each voting  
27 machine should be posted on the wall of the polling place forthwith;  
28 provided, however, that if only one copy of such [printed record]  
29 RESULTS TAPE can be printed by any such machine at any election, such  
30 copy shall be used in preparation of the [statement of] returns OF  
31 CANVASS required by this title.

32 (b) Election day paper ballots that have not been scanned shall be  
33 canvassed and tallied pursuant to THIS SECTION AND sections 9-108 and  
34 9-110 of this title.

35 (c) At a primary election, the ballots of the parties represented on  
36 the board of inspectors shall be canvassed before the ballots of other  
37 parties are canvassed.

38 4. All types of ballots, enclosed in properly sealed envelopes respec-  
39 tively, and properly endorsed shall be filed with the original return of  
40 canvass, AS PROVIDED FOR IN SECTION 9-106 OF THIS TITLE.

41 5. The inspector OR OTHER COURIER ASSIGNED BY THE BOARD filing the  
42 returns shall deliver to the board or officer from whom received, the  
43 keys of the voting machine, enclosed in a sealed envelope having  
44 indorsed thereon a certificate of the inspectors stating the number of  
45 the machine, the election [district, ward or assembly district]  
46 DISTRICT(S), WARD(S) OR ASSEMBLY DISTRICT(S) where it has been used, the  
47 number on the seal and the number on the protective counter. IN THE  
48 CITY OF NEW YORK, POLICE OFFICERS OR PEACE OFFICERS DESIGNATED BY THE  
49 POLICE COMMISSIONER OF SUCH CITY MAY ALSO PROVIDE SUCH DELIVERY OF THE  
50 DEVICES.

51 6. The room in which such canvass is made shall be clearly lighted,  
52 ingress and egress through the main entrance thereto shall be freely  
53 permitted, and such canvass shall be made in plain view of those enti-  
54 tled to be present. The ballots shall at all times be kept on top of the  
55 table and in plain view of all persons entitled to examine them, until  
56 they have been [tied into bundles] RE-PACKAGED AND SEALED FOR RETURN TO

1 THE BOARD OF ELECTIONS as elsewhere provided. If requested by any person  
2 entitled to be present the inspectors shall, during the canvass of any  
3 ballots, exhibit to him OR HER the ballot then being canvassed, fully  
4 opened and in such a condition that he OR SHE may fully and carefully  
5 read and examine it, but no inspector shall allow any ballot to be taken  
6 from his OR HER hand or to be touched by any person but an inspector.

7 S 4. Section 9-106 of the election law, as amended by chapter 163 of  
8 the laws of 2010, is amended to read as follows:

9 S 9-106. Official ballots; accounting for number used. [At the close  
10 of] AFTER the polls OF THE ELECTION ARE CLOSED and before any boxes or  
11 [envelope] ENVELOPES containing voted ballots are opened, the clerks, or  
12 if there be no clerks, two inspectors representing different parties  
13 designated by the chair, shall account for all of the paper ballots  
14 furnished to the election district OR POLL SITE. On a reconciliation  
15 form supplied by the board of elections, they shall count, verify and  
16 record on such form the number of unused ballots, the number of ballots  
17 [cancelled] SPOILED before delivery to voters in the poll site, the  
18 number of ballots spoiled and returned by voters and the number of affi-  
19 davit ballots cast. These numbers shall be added to the number of  
20 ballots cast as recorded by the public counter number appearing on the  
21 ballot scanner [screen] SCREEN(S) OR RESULTS TAPE(S). The sum shall be  
22 recorded on the ballot reconciliation form. This resulting number shall  
23 be deducted from the number of ballots originally delivered to the  
24 ELECTION DISTRICT OR poll site, and the remainder number shall be deter-  
25 mined to be the number of ballots secured in the emergency ballot [box]  
26 BOX(ES) or other secure storage [container] CONTAINER(S) provided by the  
27 board of elections. This remainder number shall be recorded on the  
28 ballot reconciliation form[.

29 Such]. IF SUCH REMAINDER NUMBER IS ZERO AND THERE ARE NO BALLOTS IN  
30 THE EMERGENCY BALLOT BOX(ES) OR OTHER SUCH SECURE CONTAINER(S), INSPEC-  
31 TORS SHALL INITIATE THE BALLOT SCANNERS' CLOSE THE POLLS MECHANISM AND  
32 PRODUCE RESULTS TAPES, UNLESS IN THE CITY OF NEW YORK SUCH SCANNERS'  
33 CLOSE THE POLLS MECHANISM HAS ALREADY BEEN INITIATED AND THE RESULTS  
34 TAPES ALREADY PRODUCED PURSUANT TO PARAGRAPH (C) OF SUBDIVISION ONE-A OF  
35 SECTION 9-102 OF THIS TITLE. THE clerks or inspectors shall then sepa-  
36 rate, label and place each type of ballot in the box or container  
37 provided by the board of elections, and securely lock or seal each such  
38 box or container. They shall then sign such reconciliation form. IF  
39 SUCH REMAINDER NUMBER IS NOT ZERO OR THERE ARE UNSCANNED VOTED ELECTION  
40 DAY BALLOTS IN THE EMERGENCY BALLOT BOX(ES) OR OTHER SUCH SECURE  
41 CONTAINER(S), THE INSPECTORS OR CLERKS SHALL PROCEED WITH THE PROCESS  
42 PROVIDED FOR IN SECTION 9-108 AND 9-110 OF THIS TITLE. UPON COMPLETION  
43 OF SUCH PROCESS, THE CLERKS OR INSPECTORS SHALL THEN SEPARATE, LABEL AND  
44 PLACE EACH TYPE OF BALLOT IN THE BOX(ES) OR CONTAINER(S) PROVIDED BY THE  
45 BOARD OF ELECTIONS, AND SECURELY LOCK OR SEAL EACH SUCH BOX(ES) OR  
46 CONTAINER(S). THEY SHALL THEN SIGN SUCH AMENDED RECONCILIATION FORM.

47 S 5. Subdivision 2 of section 9-108 of the election law is amended to  
48 read as follows:

49 2. If the ballots found in any box shall be more than the number of  
50 ballots so shown to have been deposited therein, such ballots shall all  
51 be replaced, without being unfolded, in the box from which they were  
52 taken, and shall be thoroughly mingled therein, and one of the inspec-  
53 tors shall, with his OR HER back to the box, publicly draw out as many  
54 ballots as shall be equal to such excess and, without unfolding them  
55 forthwith shall enclose them in an envelope which he OR SHE shall then  
56 and there seal and endorse "excess ballots [from the box for ballots]

1 for the general election, presidential electors, or party ballots or  
2 otherwise", as the case may be, and shall sign his OR HER name thereto,  
3 and place such envelope in the box for defective or spoiled ballots.

4 S 6. Section 9-110 of the election law, as amended by chapter 163 of  
5 the laws of 2010, is amended to read as follows:

6 S 9-110. Canvass; election day paper ballots that have not been  
7 scanned; method of. 1. Election day paper ballots that have not been  
8 scanned because a ballot scanner was not available or because the ballot  
9 has been abandoned by a voter at the ballot scanner shall be canvassed  
10 as follows: a bipartisan team of inspectors shall cast such ballots on a  
11 ballot scanner, if one is available, at the close of the polls before  
12 the tabulated [result] RESULTS tape is printed. If a ballot does not  
13 scan because of an overvote or blank ballot warning on the ballot scan-  
14 ner screen, the inspectors shall cause the ballot scanner to eject such  
15 ballot to be hand counted pursuant to subdivision two of this section.

16 2. Election day paper ballots that cannot be scanned, as provided in  
17 SUBDIVISION ONE OR ONE-A OF SECTION 9-102 AS APPLICABLE AND subdivision  
18 one of this section shall be canvassed as follows: The inspectors shall  
19 unfold each ballot of the kind then to be canvassed and shall place all  
20 such ballots upon the table in one pile face down. The chair shall take  
21 up each ballot in order, turn it face up and announce loudly and  
22 distinctly the vote registered on each section, in the order of the  
23 sections upon the ballot, or that the ballot is void or the section  
24 blank, as the case may be. If more than one person is to be elected to  
25 the same office or party position the chair, if the ballot is void or  
26 the ballot or section is wholly blank, shall announce as many void or  
27 blank votes as there are persons to be elected to the office or party  
28 position. On a primary ballot a "section," as the term is used above,  
29 shall mean the space occupied by the title of an office or party posi-  
30 tion, names of candidates therefor and the voting squares therewith.  
31 The canvass of each ballot must be completed before the next ballot is  
32 taken up. When the tallies of the votes of all such ballots are proven,  
33 and the results announced, the [inspectors'] INSPECTORS shall AFFIX  
34 TALLY SHEETS TO OR record the results FROM SAME on the return of  
35 canvass.

36 3. Nothing in this section shall be construed to require or permit  
37 affidavit ballots to be canvassed at the poll site on election day.

38 S 7. Section 9-112 of the election law, subdivisions 1, 2, 4 and 5 as  
39 amended by chapter 352 of the laws of 1986, subdivision 6 as amended by  
40 chapter 647 of the laws of 1982, is amended to read as follows:

41 S 9-112. Canvass ballots; validity of ballot. 1. The whole ballot is  
42 void if the voter (a) does any act extrinsic to the ballot such as  
43 enclosing any paper or other article in the folded ballot or (b) defaces  
44 or tears the ballot except that a ballot card which is in perforated  
45 sections shall not be void because it has been separated into sections  
46 or (c) makes any erasure thereon or (d) makes any mark thereon other  
47 than a cross X mark or a check V mark in a voting square, or filling in  
48 the voting square, or [punching a hole in the voting square of a ballot  
49 intended to be counted by machine or] (e) writes, other than in the  
50 space provided, a name for the purpose of voting; except that an erasure  
51 or a mark other than a valid mark made in a voting square shall not make  
52 the ballot void, but shall render it blank as to the office, party posi-  
53 tion or ballot proposal in connection with which it is made. No ballot  
54 shall be declared void or partially blank because a mark thereon is  
55 irregular in form. The term "voting square" shall include the voting

1 space provided for a voter to mark his OR HER vote for a candidate or  
2 ballot proposal.

3 2. A cross X mark or a check V mark, made by the voter, in a voting  
4 square [at the left of] CORRESPONDING TO a candidate's name, or the  
5 voter's filling in such voting square, [or punching a hole in the voting  
6 square of a ballot intended to be counted by machine,] shall be counted  
7 as a vote for such candidate.

8 3. A vote shall be counted for a person whose name is written in under  
9 the title of an office or party position only if such name is written by  
10 the voter upon the ballot in the proper space provided therefor and only  
11 if such name is not printed under the title of such office or position.  
12 A voting mark before or after such written in name shall not invalidate  
13 the vote.

14 4. If, in the case of a candidate whose name appears on the ballot  
15 more than once for the same office, the voter shall make a cross X mark  
16 or a check V mark in each of two or more voting squares before the  
17 candidate's name, or fill in TWO OR MORE such voting squares [or punch  
18 out the hole in two or more voting squares of a ballot intended to be  
19 counted by machine,] only the first vote shall be counted for such  
20 candidate. If such vote was cast for the office of governor, such vote  
21 shall not be recorded in the tally sheet or returns in a separate place  
22 on the tally sheet as a vote not for any particular party or independent  
23 body.

24 5. If a voter makes a cross X mark or a check V mark in a voting  
25 square following the word "Yes" or the word "No", before a ballot  
26 proposal, or fills in such square, [or punches out the hole in a voting  
27 square of a ballot intended to be counted by machine,] such mark shall  
28 be counted in the affirmative or negative, as so indicated.

29 6. If the voter marks more names than there are persons to be elected  
30 or nominated for an office, or elected to a party position, or makes a  
31 mark in a place or manner not herein provided for, or if for any reason  
32 it is impossible to determine the voter's choice of a candidate or  
33 candidates for an office or party position or his OR HER vote upon a  
34 ballot proposal, his OR HER vote shall not be counted for such office or  
35 position or upon the ballot proposal, but shall be returned as a blank  
36 vote thereon.

37 S 8. Section 9-114 of the election law, subdivision 1 as amended by  
38 chapter 647 of the laws of 1982, is amended to read as follows:

39 S 9-114. Counting ballots; objections to. 1. If objection be made to  
40 the counting of any ballot or as to any section of any such ballot, the  
41 board of inspectors shall forthwith and [for] BEFORE canvassing any  
42 other ballot or section thereof, rule upon the objection. If the  
43 objection be continued after this ruling, the [chairman] CHAIR OR AN  
44 INSPECTOR UNDER THE SCRUTINY OF AN INSPECTOR OF THE OPPOSITE PARTY shall  
45 write in ink upon the back of the ballot a memorandum of the ruling and  
46 objection. The memorandum of the ruling shall be in the words "Counted  
47 void", or "Counted blank", or "Counted for (naming the candidate or  
48 candidates or the presidential ticket)", or, in the case of a ballot  
49 proposal "Counted for Proposal No.....", or "Counted against Proposal  
50 No.....", as the case may be. The memorandum of the objection shall  
51 be in the words "Objected to", followed by a brief statement of the  
52 nature of the objection, the name and address of the challenger and the  
53 signature of the [chairman] CHAIR OR INSPECTOR.

54 2. Any ballot to which objection is not taken but which is wholly  
55 blank or is void shall be indorsed in ink by the [chairman] CHAIR of the  
56 board of inspectors OR AN INSPECTOR UNDER THE SCRUTINY OF AN INSPECTOR

1 OF THE OPPOSITE PARTY with the words "Wholly blank" or "Void", as the  
2 case may be, and signed by the [chairman] CHAIR OR INSPECTOR.

3 3. When all the ballots of any one kind shall have been canvassed, the  
4 inspectors shall ascertain the total number of [wholly blank and void]  
5 ALL SUCH ballots and the number of ballots [as] to which any objection  
6 was taken and shall enter such numbers in the place provided therefor in  
7 the inspectors' returns of such canvass.

8 S 9. Subdivision 1 of section 9-116 of the election law, as amended by  
9 chapter 13 of the laws of 1988, is amended to read as follows:

10 1. As each vote for any office or position, or upon any ballot  
11 proposal, is announced, a clerk, or, if there be no clerks, an inspec-  
12 tor, under the scrutiny of a clerk or inspector of opposite political  
13 [faith] PARTY immediately shall tally it in [black] ink, with a downward  
14 stroke from right to left upon the official tally sheet. Each such clerk  
15 or inspector, as he OR SHE tallies a vote, shall announce clearly the  
16 name of the person for whom he OR SHE tallies it, or that he OR SHE  
17 tallies the vote blank or void as the case may be, or, in the case of a  
18 ballot proposal, that he OR SHE tallies the vote "yes" or "no". When the  
19 name of a person voted for is not printed on the tally sheet, such  
20 clerks or inspectors shall write it in full thereon in ink in the place  
21 provided therefor.

22 S 10. Section 9-120 of the election law, subdivision 1 as amended by  
23 chapter 262 of the laws of 1986, is amended to read as follows:

24 S 9-120. Returns of canvass; generally. 1. Upon completing the  
25 canvass, the inspectors shall prepare their returns of the canvass[.  
26 They shall use therefor the] ON A printed form supplied to them [and, at  
27 an election which was not conducted on a voting machine which produces a  
28 printed or photographic record, they shall carefully insert thereon, in  
29 ink, the appropriate names, words and figures according to the  
30 directions printed in the form provided by this chapter] BY THE BOARD OF  
31 ELECTIONS. The [printed or photographic record produced by the voting  
32 machine] RESULTS TAPE(S) and the tally [sheets] SHEET(S) for any office,  
33 party position or ballot proposal, if separate from [the statement of  
34 return] SUCH FORM, shall be securely attached by the [chairman] CHAIR to  
35 such [statement of] FORM returns AND IT SHALL NOT BE NECESSARY TO TRAN-  
36 SCRIBE INFORMATION PROVIDED BY SUCH RESULTS TAPES ONTO SUCH FORM. [A  
37 printed or photographic record] RESULTS TAPE(S) or a tally [sheet]  
38 SHEET(S), when so annexed, or forming part of the same paper as the  
39 return, shall be treated as part of the return. The inspectors, and  
40 clerks, if any, shall subscribe in ink the certificate at the end of the  
41 set of returns. Each set of returns shall be securely sealed in an  
42 envelope properly endorsed on the outside by the inspectors. At an  
43 election at which voting machines are not used, the ballot boxes, if  
44 any, supplied by the board of elections, may when securely locked be  
45 used instead of sealed envelopes.

46 2. The form for the return or returns of the canvass shall be printed  
47 in a [form] FORMAT approved by the state board of elections. THE FORM  
48 OF SUCH RETURN OF CANVASS SHALL PROVIDE FOR THE TOTAL NUMBER OF VOTES  
49 FOR EACH CANDIDATE IN EACH CONTEST, OR UPON EACH BALLOT PROPOSAL,  
50 INCLUDING THE TOTAL NUMBER OF UNSCANNED VOTED BALLOTS CANVASSSED IN  
51 ACCORDANCE WITH SECTION 9-110 OF THIS TITLE.

52 3. IN THE EVENT THAT THERE IS MORE THAN ONE ELECTION DISTRICT AT A  
53 POLLING PLACE, THE BOARD OF ELECTIONS MAY AUTHORIZE THE USE OF ONE OR  
54 MORE RETURNS OF CANVASS THAT CONSOLIDATE THE REPORT OF THE NUMBER OF  
55 VOTES FOR EACH CANDIDATE, OR UPON EACH BALLOT PROPOSAL, FOR MORE THAN  
56 ONE ELECTION DISTRICT OR MORE THAN ONE BALLOT SCANNER, PROVIDED THAT

1 SUCH CONSOLIDATED RETURNS OF CANVASS HAVE ATTACHED TO THEM THE RESULTS  
2 TAPE(S) PRODUCED BY THE BALLOT SCANNER(S) THAT IDENTIFY THE NUMBER OF  
3 VOTES FOR EACH CANDIDATE, OR UPON EACH BALLOT PROPOSAL, WITHIN EACH SUCH  
4 ELECTION DISTRICT AND EACH SUCH BALLOT SCANNER.

5 S 11. Section 9-122 of the election law, as amended by chapter 647 of  
6 the laws of 1982, is amended to read as follows:

7 S 9-122. Proclamation of result. Upon the completion of the canvass  
8 and of the returns of the canvass, the [chairman] CHAIR of the board of  
9 inspectors OR AN INSPECTOR UNDER THE SCRUTINY OF AN INSPECTOR OF THE  
10 OPPOSITE PARTY shall make public oral proclamation of the [whole] TOTAL  
11 number of votes cast at the election at the polling place for all candi-  
12 dates for each office, or, if it be a primary election, the [whole]  
13 TOTAL number of party votes of each party so cast for all candidates for  
14 each office or party position; upon each ballot proposal, if any[; the  
15 whole number of votes given for each person, with the title of the  
16 office or party position for which he was named on the ballot; and the  
17 whole number of votes given, respectively, for and against each such  
18 ballot proposal, if any] AND THE TOTAL NUMBER OF WRITE-IN VOTES RECORDED  
19 FOR EACH OFFICE.

20 S 12. Section 9-124 of the election law, as amended by chapter 9 of  
21 the laws of 1978, subdivision 1 as amended by chapter 659 of the laws of  
22 1994, subdivision 2 as amended by chapter 413 of the laws of 1991, and  
23 subdivision 3 as amended by chapter 91 of the laws of 1992, is amended  
24 to read as follows:

25 S 9-124. Returns of canvass, procedure after. 1. After the returns of  
26 the canvass are made out and signed, the inspectors shall enclose the  
27 protested[,] AND void [and wholly blank] ballots and the ballots cast in  
28 affidavit envelopes in a separate sealed envelope or envelopes and  
29 endorse thereon a certificate signed by each of them stating the number  
30 of the district and the number of ballots contained in such envelope or  
31 envelopes. THE INSPECTORS SHALL ENCLOSE THE UNSCANNED VOTED BALLOTS  
32 CANVASSED IN ACCORDANCE WITH SECTION 9-110 OF THIS TITLE IN A SEPARATE  
33 SEALED ENVELOPE AND ENDORSE THEREON A CERTIFICATE SIGNED BY EACH OF THEM  
34 STATING THE NUMBER OF THE DISTRICT AND THE NUMBER OF BALLOTS CONTAINED  
35 IN SUCH ENVELOPE. The inspectors shall then [tie up] PACKAGE and seal  
36 the other voted ballots and [return] PLACE them [to the ballot box which  
37 contained them] IN ONE OR MORE BOXES OR CONTAINERS, AND INCLUDE WITHIN  
38 SUCH BOXES OR CONTAINERS ONE PORTABLE MEMORY DEVICE FROM EACH BALLOT  
39 SCANNER PURSUANT TO PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION 9-102 OF  
40 THIS TITLE, AND ANY ABSENTEE, MILITARY, SPECIAL FEDERAL, OR SPECIAL  
41 PRESIDENTIAL BALLOTS WHICH MAY HAVE BEEN DELIVERED TO THE POLL SITE  
42 DURING ELECTION DAY, and securely lock and seal [the box, except that at  
43 elections in which voting machines are used, absentee and military,  
44 special federal, special presidential and emergency ballots and stubs,  
45 if any, shall be sealed in the envelope or envelopes provided therefor]  
46 SUCH BOXES OR CONTAINERS. NOTWITHSTANDING THE PRECEDING SENTENCE, SUCH  
47 PORTABLE MEMORY DEVICE FROM EACH BALLOT SCANNER WITH THE CORRESPONDING  
48 RESULTS TAPE MAY BE ENCLOSED IN A SEALED CONTAINER AND TRANSPORTED PRIOR  
49 TO AND SEPARATELY FROM OTHER MATERIALS REFERENCED IN THIS SECTION FOR  
50 THE PURPOSE OF USING SUCH DEVICE TO PROVIDE AN UNOFFICIAL TALLY OF  
51 RESULTS AS REQUIRED BY SECTION 9-126 OF THIS TITLE.

52 2. Each box [or], envelope, OR CONTAINER containing the ballots and  
53 stubs, if any, AND ALL ITEMS DESCRIBED IN SUBDIVISION ONE OF THIS  
54 SECTION shall be deposited by an inspector designated for that purpose  
55 with the officer or board from whom or which the board of inspectors  
56 received it[, together with the separate sealed package of unused



1 ballots]. In the city of New York, every SUCH box [or], envelope  
2 [containing any ballots or stubs and the package of unused ballots], OR  
3 CONTAINER shall be delivered at the polling place[, at the conclusion of  
4 the canvass,] to [the] police or peace [officer] OFFICERS DESIGNATED BY  
5 THE POLICE COMMISSIONER OF SUCH CITY, who shall deposit them with the  
6 board of elections.

7 3. [The books, returns and other papers enumerated below shall be  
8 disposed of as follows, except as otherwise provided:

9 (a) In a city or town, except the city of New York and in a village in  
10 which elections are conducted by the board of elections, the] (A) EXCEPT  
11 IN THE CITY OF NEW YORK, THE registration poll records or computer  
12 generated registration lists, the returns OF CANVASS with RESULTS TAPES  
13 AND tally sheets, IF ANY, annexed, the [absentee and military, special  
14 federal, special presidential and emergency] VOTED ballots, stubs,  
15 OPENED PACKAGES OF UNUSED BALLOTS and ballot envelopes, ANY ABSENTEE,  
16 MILITARY, SPECIAL FEDERAL, OR SPECIAL PRESIDENTIAL BALLOTS WHICH MAY  
17 HAVE BEEN DELIVERED TO THE POLL SITE DURING ELECTION DAY, the challenge  
18 records and the package of protested[, AND void [and wholly blank]  
19 ballots shall be filed with the board of elections[, and the flag shall  
20 be returned to it] IMMEDIATELY UPON THE CLOSE OF THE POLLS AND THE  
21 COMPLETION OF ALL RELATED TASKS IN COMPLIANCE WITH THIS TITLE.

22 (b) [Records and supplies to be filed with a city, town or village  
23 clerk shall be so filed or delivered immediately after the completion of  
24 the returns of the canvass, by an inspector designated by the board of  
25 inspectors. Returns, papers and registration poll records or computer  
26 generated registration lists to be filed with the board of elections  
27 shall be so filed by the chairman of the board of inspectors within  
28 twenty-four hours after the completion of such returns. The person  
29 receiving such returns in the board of elections shall give to the  
30 person delivering the returns a receipt stating therein the date and  
31 hour of delivery, the name of the person making the delivery, and to  
32 whom said returns were delivered and shall keep a duplicate of said  
33 receipt on file in the office of the board of elections.

34 (c) The county legislative body of any county in the state except the  
35 counties comprising the city of New York may, by a resolution, ordinance  
36 or act as required, provide that all returns, papers, registration poll  
37 records or computer generated registration lists, books, records, docu-  
38 ments, and other election supplies and materials shall be filed by the  
39 chairman of the board of inspectors of elections in a city or town and  
40 in a village in which elections are conducted by the board of elections,  
41 with the city, town or village clerk of such city, town or village in  
42 the county within eighteen hours after the closing of the polls at any  
43 primary, general, special or village election and the city, town or  
44 village clerk upon receiving such returns, papers, registers or lists,  
45 books, records, documents, and other election supplies and materials  
46 shall give to the person making the delivery, a receipt stating therein  
47 the date and hour of the delivery and the name of such person. Within  
48 twenty-four hours after the closing of the polls at any primary, gener-  
49 al, special or village election, the city, town or village clerk shall  
50 file all returns, papers, registration poll records or computer gener-  
51 ated registration lists, books, records, documents and other election  
52 supplies and materials filed with him by the inspectors of the election  
53 districts of the city, town or village, with the board of elections of  
54 the county and the board of elections shall give to the city, town or  
55 village clerk a receipt therefor stating therein the date and hour of  
56 the delivery and the name of the person making the delivery and to whom

1 it was made, and shall keep a duplicate of said receipt on file in the  
2 office of the board of elections.

3 (d)] In the city of New York, the board of inspectors[,] shall deliver  
4 to [the] police or peace [officer] OFFICERS DESIGNATED BY THE POLICE  
5 COMMISSIONER OF SUCH CITY, at the polling place the registration poll  
6 records or computer generated registration lists, challenge report,  
7 records, keys, the flag, other election supplies, INCLUDING the returns  
8 of the canvass and [the] ANY absentee [and], military, special federal,  
9 OR special presidential [and emergency ballots,] BALLOTS WHICH MAY HAVE  
10 BEEN DELIVERED TO THE POLL SITE DURING ELECTION DAY, VOTED BALLOTS,  
11 stubs, OPEN PACKAGES OF UNUSED BALLOTS and ballot envelopes. [The] SUCH  
12 police or peace [officer] OFFICERS shall file the returns, the package  
13 of void[,] AND protested [and wholly blank] ballots, if any, and the  
14 absentee [and], military, special federal, special presidential, and  
15 emergency ballots, stubs and ballot envelopes, if any, within twenty-  
16 four hours after the close of the polls, in the office of the board of  
17 elections or its branch office within the borough, as the case may be.

18 (C) THE PERSON RECEIVING SUCH RETURNS IN THE BOARD OF ELECTIONS SHALL  
19 GIVE TO THE PERSON DELIVERING THE RETURNS A RECEIPT STATING THEREIN THE  
20 DATE AND HOUR OF DELIVERY, THE NAME OF THE PERSON MAKING THE DELIVERY,  
21 AND TO WHOM SAID RETURNS WERE DELIVERED AND SHALL KEEP A DUPLICATE OF  
22 SUCH RECEIPT ON FILE IN THE OFFICE OF THE BOARD OF ELECTIONS.

23 S 13. Section 9-126 of the election law, the section heading as  
24 amended by chapter 9 of the laws of 1978, subdivision 1 and paragraph  
25 (a) of subdivision 2 as amended by chapter 647 of the laws of 1982,  
26 subdivision 3 as added by chapter 262 of the laws of 1986, and paragraph  
27 (b) of subdivision 3 as amended by chapter 356 of the laws of 1986, is  
28 amended to read as follows:

29 S 9-126. [Return of canvass; delivery of results to police and unoffi-  
30 cial] UNOFFICIAL tally of election results. 1. In an election district  
31 [of a city and] of the county of Nassau, the [chairman] CHAIR of the  
32 board of inspectors, upon the completion of the return of canvass, and  
33 the announcement thereof in a primary or general election, shall deliver  
34 to the police officer on duty at the polling place a statement signed by  
35 the board of inspectors stating the number of votes received by each  
36 person voted for and the number of votes cast for and the number of  
37 votes cast against each ballot proposal. Such officer forthwith shall  
38 convey the statement to the stationhouse of the police precinct in which  
39 such place of canvass is located, and shall deliver it inviolate to the  
40 officer in command thereof, who shall immediately transmit by telegraph,  
41 telephone or messenger, the contents of such statement to the officer  
42 commanding the police department of such [city or] county who shall  
43 immediately make the contents of such statement available for the press.  
44 [In the city of New York and the county of Nassau the chairman] THE  
45 CHAIR of the board of inspectors in each election district OF SUCH COUN-  
46 TY shall make two copies of the statement hereinbefore provided for,  
47 which shall be taken to the police station, whence one such copy shall  
48 be transmitted without delay to police headquarters, or such other  
49 location as may be designated by the officer commanding the police  
50 department, where it shall be made immediately available to the press  
51 for purposes of tabulation. The other copy shall be transmitted within  
52 twenty-four hours to the board of elections. All statements made pursu-  
53 ant to this section shall be preserved for six months by the police and  
54 shall be presumptive evidence of the result of such canvass.

55 2. (a) [In an election district outside of a city, except] EXCEPT in  
56 the county of Nassau, the [chairman] CHAIR of the board of inspectors,

upon completion of the return of canvass and the announcement thereof, in a general or primary election, shall immediately communicate such results by telephone, or delivery, to the [county] board of elections. Such results shall include the number of votes received by each person voted for and the number of votes cast for and against each ballot proposal.

(b) The [county] board of elections shall remain open after the close of the polls and shall receive and tabulate the voting results [from throughout the county] as they are received. The board OF ELECTIONS shall MAKE SUCH UNOFFICIAL RESULTS AVAILABLE TO THE MEDIA AND THE STATE BOARD OF ELECTIONS, AND SHALL post running totals in a public place AND ON THE INTERNET as the results become known to it.

[(c)] 3. The results made public pursuant to this section [are to] SHALL be released as the unofficial tally and shall not be admissible in evidence in any action or proceeding contesting the result of any election.

[(d) Any police department of a city outside the city of New York and the county of Nassau receiving statements as provided in subdivision one of this section shall immediately communicate the contents thereof to the county board of elections at a location designated by it. In lieu of requiring the delivery of statements to the police in cities outside of the city of New York and the county of Nassau as provided in subdivision one of this section, a]

4. A county board of elections may require the [chairman] CHAIR of the board of inspectors in each election district [within such a city to make a return of the vote pursuant to the provisions of this subdivision] TO REPORT UNOFFICIAL ELECTION NIGHT RESULTS BY TELEPHONE, FAX OR OTHER MEANS. SUCH RESULTS SHALL INCLUDE THE TOTAL AGGREGATE NUMBER OF VOTES RECEIVED BY EACH PERSON VOTED FOR, THE TOTAL AGGREGATE NUMBER OF WRITE-INS AND THE NUMBER OF VOTES CAST FOR AND AGAINST EACH BALLOT PROPOSAL.

[3.] 5. (a) The board of elections of counties in which voting machines which have [removable electronic or computerized] PORTABLE MEMORY devices [which record the total of the votes cast on such machines] are used, may establish WRITTEN procedures CONSISTENT WITH THE PROVISIONS OF THIS SECTION AND FILED WITH THE STATE BOARD OF ELECTIONS by which such devices may be used [after the close of the polls] to provide the unofficial tally of results required by this section.

(b) Such procedures may include: the installation, at the board of elections or at town or city halls, police stations, sheriff's offices or other public buildings, of machines which record and transmit the totals recorded in such devices to the board of elections or directly to a representative of the press; the delivery of the devices from the polling places to such locations and the removal of such devices, by at least two clerks or other agents of such board of elections of opposite political parties, from the containers or envelopes in which they were sealed at the polling places and the insertion of such devices into such machines.

(c) IN THE CITY OF NEW YORK, UNLESS THE BOARD OF ELECTIONS OF SUCH CITY DESIGNATES TWO CLERKS OR OTHER AGENTS OF OPPOSITE POLITICAL PARTIES FOR DELIVERY OF THE DEVICES FROM THE POLLING PLACES TO SUCH LOCATIONS, POLICE OFFICERS OR PEACE OFFICERS DESIGNATED BY THE POLICE COMMISSIONER OF SUCH CITY SHALL PROVIDE SUCH DELIVERY.

(D) The board of elections shall provide containers, at all such locations other than the offices of such board, into which all such devices shall be placed by the clerks or other agents of such board of

1 elections after they are removed from such machines. Such containers  
2 shall be sealed by such clerks or agents who shall also enter on a  
3 certificate which shall be printed on each such container, the total  
4 number of such devices placed in such container and the election  
5 districts from which such devices came. Such clerks shall also sign such  
6 certificate in the places provided.

7 [(d)] (E) Such containers shall be delivered to the board of elections  
8 by the public officials in whose offices such machines were installed  
9 within twenty-four hours after the closing of the polls [and the]. IN  
10 THE CITY OF NEW YORK, POLICE OFFICERS OR PEACE OFFICERS DESIGNATED BY  
11 THE POLICE COMMISSIONER OF SUCH CITY OR TWO CLERKS OR AGENTS DESIGNATED  
12 BY THE BOARD OF ELECTIONS OF SUCH CITY MAY ALSO DELIVER SUCH CONTAINERS.  
13 THE board of elections shall give such officials, POLICE OFFICERS, OR  
14 PEACE OFFICERS a receipt therefor which states therein the date and hour  
15 of delivery, the name of the person making the delivery and the name of  
16 the person to whom such delivery was made. The board of elections shall  
17 keep a duplicate of such receipt on file at the office of such board.

18 [(e)] (F) The cost of installing such machines at locations other than  
19 the board of elections and the cost of transmitting the results from  
20 such machines may be paid by the board of elections or by a represen-  
21 tative of the press. If such results are transmitted from a location  
22 other than the board of elections directly to a representative of the  
23 press, such cost shall be paid by such representative of the press.

24 S 14. Section 9-128 of the election law is REPEALED.

25 S 15. This act shall take effect immediately and shall apply to any  
26 election held on or after the seventy-fifth day after it shall have  
27 become a law.