

7709--A

I N S E N A T E

June 14, 2012

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 section; [g.]] (G) close, lock and seal the machine; and [h.]] (H) sign
2 the close of poll certificate, as provided by the board of elections.

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

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

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

1 be filled out. Such return] and tabulated [result] RESULTS tape shall be
2 signed by TWO INSPECTORS OF 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 SHALL 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 OR
35 AN INSPECTOR UNDER THE SCRUTINY OF AN INSPECTOR OF THE OPPOSITE PARTY to
36 such [statement of] FORM returns AND IT SHALL NOT BE NECESSARY TO TRAN-
37 SCRIBE INFORMATION PROVIDED BY SUCH RESULTS TAPES ONTO SUCH FORM. [A
38 printed or photographic record] RESULTS TAPE(S) or a tally [sheet]
39 SHEET(S), when so annexed, or forming part of the same paper as the
40 return, shall be treated as part of the return. The inspectors, and
41 clerks, if any, shall subscribe in ink the certificate at the end of the
42 set of returns. Each set of returns shall be securely sealed in an
43 envelope properly endorsed on the outside by the inspectors. At an
44 election at which voting machines are not used, the ballot boxes, if
45 any, supplied by the board of elections, may when securely locked be
46 used instead of sealed envelopes.

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

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

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

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

8 S 9-122. Proclamation of result. Upon the completion of the canvass
9 and of the returns of the canvass, the [chairman] CHAIR of the board of
10 inspectors OR AN INSPECTOR UNDER THE SCRUTINY OF AN INSPECTOR OF THE
11 OPPOSITE PARTY shall make public oral proclamation of the [whole] TOTAL
12 number of votes cast at the election at the polling place for all candi-
13 dates for each office, or, if it be a primary election, the [whole]
14 TOTAL number of party votes of each party so cast for all candidates for
15 each office or party position; upon each ballot proposal, if any[; the
16 whole number of votes given for each person, with the title of the
17 office or party position for which he was named on the ballot; and the
18 whole number of votes given, respectively, for and against each such
19 ballot proposal, if any] AND THE TOTAL NUMBER OF WRITE-IN VOTES RECORDED
20 FOR EACH OFFICE. AS AN ALTERNATIVE TO SUCH ORAL PROCLAMATION, SUCH
21 CHAIR OR INSPECTOR MAY CAUSE TO BE POSTED THE RESULTS TAPE(S), TALLY
22 SHEET(S), AND ANY OTHER MATERIALS NECESSARY TO ASCERTAIN SUCH TOTAL
23 NUMBERS OF VOTES CAST.

24 S 12. Section 9-124 of the election law, as amended by chapter 9 of
25 the laws of 1978, subdivision 1 as amended by chapter 659 of the laws of
26 1994, subdivision 2 as amended by chapter 413 of the laws of 1991, and
27 subdivision 3 as amended by chapter 91 of the laws of 1992, is amended
28 to read as follows:

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

1 2. Each box [or], envelope, OR CONTAINER containing the ballots and
2 stubs, if any, AND ALL ITEMS DESCRIBED IN SUBDIVISION ONE OF THIS
3 SECTION shall be deposited by an inspector designated for that purpose
4 with the officer or board from whom or which the board of inspectors
5 received it[, together with the separate sealed package of unused
6 ballots]. In the city of New York, every SUCH box [or], envelope
7 [containing any ballots or stubs and the package of unused ballots], OR
8 CONTAINER shall be delivered at the polling place[, at the conclusion of
9 the canvass,] to [the] police or peace [officer] OFFICERS DESIGNATED BY
10 THE POLICE COMMISSIONER OF SUCH CITY, who shall deposit them with the
11 board of elections.

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

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

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

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

1 supplies and materials filed with him by the inspectors of the election
2 districts of the city, town or village, with the board of elections of
3 the county and the board of elections shall give to the city, town or
4 village clerk a receipt therefor stating therein the date and hour of
5 the delivery and the name of the person making the delivery and to whom
6 it was made, and shall keep a duplicate of said receipt on file in the
7 office of the board of elections.

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

24 (C) THE PERSON RECEIVING SUCH RETURNS IN THE BOARD OF ELECTIONS SHALL
25 GIVE TO THE PERSON DELIVERING THE RETURNS A RECEIPT STATING THEREIN THE
26 DATE AND HOUR OF DELIVERY, THE NAME OF THE PERSON MAKING THE DELIVERY,
27 AND TO WHOM SAID RETURNS WERE DELIVERED AND SHALL KEEP A DUPLICATE OF
28 SUCH RECEIPT ON FILE IN THE OFFICE OF THE BOARD OF ELECTIONS.

29 S 13. Section 9-126 of the election law, the section heading as
30 amended by chapter 9 of the laws of 1978, subdivision 1 and paragraph
31 (a) of subdivision 2 as amended by chapter 647 of the laws of 1982,
32 subdivision 3 as added by chapter 262 of the laws of 1986, and paragraph
33 (b) of subdivision 3 as amended by chapter 356 of the laws of 1986, is
34 amended to read as follows:

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

1 for purposes of tabulation. The other copy shall be transmitted within
2 twenty-four hours to the board of elections. All statements made pursu-
3 ant to this section shall be preserved for six months by the police and
4 shall be presumptive evidence of the result of such canvass.

5 2. (a) [In an election district outside of a city, except] EXCEPT in
6 the county of Nassau, the [chairman] CHAIR of the board of inspectors,
7 upon completion of the return of canvass and the announcement thereof,
8 in a general or primary election, shall immediately communicate such
9 results by telephone, or delivery, to the [county] board of elections.
10 Such results shall include the number of votes received by each person
11 voted for and the number of votes cast for and against each ballot
12 proposal.

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

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

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

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

38 [3.] 5. (a) The board of elections of counties in which voting
39 machines which have [removable electronic or computerized] PORTABLE
40 MEMORY devices [which record the total of the votes cast on such
41 machines] are used, may establish WRITTEN procedures CONSISTENT WITH THE
42 PROVISIONS OF THIS SECTION AND FILED WITH THE STATE BOARD OF ELECTIONS
43 by which such devices may be used [after the close of the polls] to
44 provide the unofficial tally of results required by this section.

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

55 (c) IN THE CITY OF NEW YORK, UNLESS THE BOARD OF ELECTIONS OF SUCH
56 CITY DESIGNATES TWO CLERKS OR OTHER AGENTS OF OPPOSITE POLITICAL PARTIES

1 FOR DELIVERY OF THE DEVICES FROM THE POLLING PLACES TO SUCH LOCATIONS,
2 POLICE OFFICERS OR PEACE OFFICERS DESIGNATED BY THE POLICE COMMISSIONER
3 OF SUCH CITY SHALL PROVIDE SUCH DELIVERY AS SOON AS PRACTICABLE.

4 (D) The board of elections shall provide containers, at all such
5 locations other than the offices of such board, into which all such
6 devices shall be placed by the clerks or other agents of such board of
7 elections after they are removed from such machines. Such containers
8 shall be sealed by such clerks or agents who shall also enter on a
9 certificate which shall be printed on each such container, the total
10 number of such devices placed in such container and the election
11 districts from which such devices came. Such clerks shall also sign such
12 certificate in the places provided.

13 [(d)] (E) Such containers shall be delivered to the board of elections
14 by the public officials in whose offices such machines were installed
15 within twenty-four hours after the closing of the polls [and the]. IN
16 THE CITY OF NEW YORK, UNLESS THE BOARD OF ELECTIONS OF SUCH CITY DESIG-
17 NATES TWO CLERKS OR OTHER AGENTS OF OPPOSITE POLITICAL PARTIES FOR
18 DELIVERY OF SUCH CONTAINERS TO THE BOARD OF ELECTIONS, POLICE OFFICERS
19 OR PEACE OFFICERS DESIGNATED BY THE POLICE COMMISSIONER OF SUCH CITY
20 SHALL DELIVER SUCH CONTAINERS. THE board of elections shall give such
21 officials, POLICE OFFICERS, OR PEACE OFFICERS a receipt therefor which
22 states therein the date and hour of delivery, the name of the person
23 making the delivery and the name of the person to whom such delivery was
24 made. The board of elections shall keep a duplicate of such receipt on
25 file at the office of such board.

26 [(e)] (F) The cost of installing such machines at locations other than
27 the board of elections and the cost of transmitting the results from
28 such machines may be paid by the board of elections or by a represen-
29 tative of the press. If such results are transmitted from a location
30 other than the board of elections directly to a representative of the
31 press, such cost shall be paid by such representative of the press.

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

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