

3536--B

Cal. No. 1148

2013-2014 Regular Sessions

I N S E N A T E

February 5, 2013

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report -- advanced to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 2013".
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, subdivision 1 as amended by
12 section 2, subdivision 2 as amended by section 3, paragraph (a) of
13 subdivision 2 as amended by section 4 and subdivision 3 as amended by
14 section 5 of chapter 163 of the laws of 2010, subdivisions 4 and 6 as
15 amended by chapter 9 of the laws of 1978, is amended to read as follows:
16 S 9-102. Canvass; general provisions for. 1. [As] EXCEPT IN THE CITY
17 OF NEW YORK, AS soon as the polls of the election are closed, the
18 inspectors of election thereat shall, in the order set forth herein;
19 [a.)) (A) place an inspector at the ballot scanner to prevent further
20 voting; [b.)) (B) reconcile the paper ballots pursuant to section 9-106

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

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1 of this title; [c.]] (C) remove surplus ballots, if any, pursuant to
2 section 9-108 of this title; [d.]] (D) scan the ballots contained in the
3 emergency box or other secure storage container pursuant to section
4 9-110 of this title; [e.]] (E) hand count and secure ballots that cannot
5 be scanned pursuant to section 9-110 of this title; [f.]] (F) close the
6 poll, print the tabulated [result] RESULTS tape, announce the result and
7 sign the return of canvass pursuant to subdivisions 2 and 3 of this
8 section; [g.]] (G) close, lock and seal the machine; and [h.]] (H) sign
9 the close of poll certificate, as provided by the board of elections.

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

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

45 (B) The results on the tabulated [result] RESULTS tape shall be
46 entered on or the tabulated [result] RESULTS tape (REPRESENTING THE
47 AGGREGATE RESULTS OF VOTES CAST ON THE BALLOT SCANNER OR THE RESULTS BY
48 ELECTION DISTRICT AS APPLICABLE) shall be affixed to the return of
49 canvass for that ballot scanner or election district pursuant to section
50 9-120 of this title by an inspector[,] under the scrutiny of an inspec-
51 tor of a different political party, in the space indicated[; provided,
52 however, if]. IF any election day paper ballots were hand counted pursu-
53 ant to THIS SECTION AND subdivision two of section 9-110 of this title,
54 [the results] AN INSPECTOR SHALL, UNDER THE SCRUTINY OF AN INSPECTOR OF
55 A DIFFERENT POLITICAL PARTY, EITHER POST OR READ AND ANNOUNCE THE
56 RESULTS OF SUCH HAND COUNT. THE TALLY SHEET of ANY such hand counting

1 shall be SIGNED BY THE INSPECTORS CONDUCTING SAME AND AFFIXED TO OR
2 recorded on the return of canvass [and be added to the numbers reported
3 from the tabulated results tape to produce a single total result for
4 each candidate and ballot proposal]. The return of canvass[, which shall
5 show the aggregate number of votes cast for each office, the number of
6 votes cast for each candidate appearing on the ballot for each office
7 and the aggregate number of write-in votes for each office, shall then
8 be filled out. Such return] and tabulated [result] RESULTS tape shall be
9 signed by TWO INSPECTORS OF each [inspector] MAJOR POLITICAL PARTY.

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

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

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

39 (b) Election day paper ballots that have not been scanned shall be
40 canvassed and tallied pursuant to THIS SECTION AND sections 9-108 and
41 9-110 of this title.

42 (c) At a primary election, the ballots of the parties represented on
43 the board of inspectors shall be canvassed before the ballots of other
44 parties are canvassed.

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

48 5. The inspector OR OTHER COURIER ASSIGNED BY THE BOARD filing the
49 returns shall deliver to the board or officer from whom received, the
50 keys of the voting machine, enclosed in a sealed envelope having
51 indorsed thereon a certificate of the inspectors stating the number of
52 the machine, the election [district, ward or assembly district]
53 DISTRICT(S), WARD(S) OR ASSEMBLY DISTRICT(S) where it has been used, the
54 number on the seal and the number on the protective counter. IN THE
55 CITY OF NEW YORK, POLICE OFFICERS OR PEACE OFFICERS DESIGNATED BY THE

1 POLICE COMMISSIONER OF SUCH CITY SHALL PROVIDE SUCH DELIVERY OF THE
2 DEVICES.

3 6. The room in which such canvass is made shall be clearly lighted,
4 ingress and egress through the main entrance thereto shall be freely
5 permitted, and such canvass shall be made in plain view of those enti-
6 tled to be present. The ballots shall at all times be kept on top of the
7 table and in plain view of all persons entitled to examine them, until
8 they have been [tied into bundles] RE-PACKAGED AND SEALED FOR RETURN TO
9 THE BOARD OF ELECTIONS as elsewhere provided. If requested by any person
10 entitled to be present the inspectors shall, during the canvass of any
11 ballots, exhibit to him OR HER the ballot then being canvassed, fully
12 opened and in such a condition that he OR SHE may fully and carefully
13 read and examine it, but no inspector shall allow any ballot to be taken
14 from his OR HER hand or to be touched by any person but an inspector.

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

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

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

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

1 2. If the ballots found in any box shall be more than the number of
2 ballots so shown to have been deposited therein, such ballots shall all
3 be replaced, without being unfolded, in the box from which they were
4 taken, and shall be thoroughly mingled therein, and one of the inspec-
5 tors shall, with his OR HER back to the box, publicly draw out as many
6 ballots as shall be equal to such excess and, without unfolding them
7 forthwith shall enclose them in an envelope which he OR SHE shall then
8 and there seal and endorse "excess ballots [from the box for ballots]
9 for the general election, presidential electors, or party ballots or
10 otherwise", as the case may be, and shall sign his OR HER name thereto,
11 and place such envelope in the box for defective or spoiled ballots.

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

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

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

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

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

49 S 9-112. Canvass ballots; validity of ballot. 1. The whole ballot is
50 void if the voter (a) does any act extrinsic to the ballot such as
51 enclosing any paper or other article in the folded ballot or (b) defaces
52 or tears the ballot except that a ballot card which is in perforated
53 sections shall not be void because it has been separated into sections
54 or (c) makes any erasure thereon or (d) makes any mark thereon other
55 than a cross X mark or a check V mark in a voting square, or filling in
56 the voting square, or [punching a hole in the voting square of a ballot

intended to be counted by machine or] (e) writes, other than in the space provided, a name for the purpose of voting; except that an erasure or a mark other than a valid mark made in a voting square shall not make the ballot void, but shall render it blank as to the office, party position or ballot proposal in connection with which it is made. No ballot shall be declared void or partially blank because a mark thereon is irregular in form. The term "voting square" shall include the voting space provided for a voter to mark his OR HER vote for a candidate or ballot proposal.

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

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

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

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

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

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

S 9-114. Counting ballots; objections to. 1. If objection be made to the counting of any ballot or as to any section of any such ballot, the board of inspectors shall forthwith and [for] BEFORE canvassing any other ballot or section thereof, rule upon the objection. If the objection be continued after this ruling, the [chairman] CHAIR UNDER THE SCRUTINY OF THE OPPOSITE PARTY shall write in ink upon the back of the ballot a memorandum of the ruling and objection. The memorandum of the ruling shall be in the words "Counted void", or "Counted blank", or "Counted for (naming the candidate or candidates or the presidential ticket)", or, in the case of a ballot proposal "Counted for Proposal No.....", or "Counted against Proposal No.....", as the case may

1 be. The memorandum of the objection shall be in the words "Objected to",
2 followed by a brief statement of the nature of the objection, the name
3 and address of the challenger and the signature of the [chairman] CHAIR
4 OR INSPECTOR.

5 2. Any ballot to which objection is not taken but which is wholly
6 blank or is void shall be indorsed in ink by the [chairman] CHAIR of the
7 board of inspectors OR AN INSPECTOR UNDER THE SCRUTINY OF AN INSPECTOR
8 OF THE OPPOSITE PARTY with the words "Wholly blank" or "Void", as the
9 case may be, and signed by the [chairman] CHAIR OR INSPECTOR.

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

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

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

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

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

54 2. The form for the return or returns of the canvass shall be printed
55 in a [form] FORMAT approved by the state board of elections. THE FORM
56 OF SUCH RETURN OF CANVASS SHALL PROVIDE FOR THE TOTAL NUMBER OF VOTES

1 FOR EACH CANDIDATE IN EACH CONTEST, OR UPON EACH BALLOT PROPOSAL,
2 INCLUDING THE TOTAL NUMBER OF UNSCANNED VOTED BALLOTS CANVASSED IN
3 ACCORDANCE WITH SECTION 9-110 OF THIS TITLE.

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

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

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

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

54 2. Each box [or], envelope, OR CONTAINER containing the ballots and
55 stubs, if any, AND ALL ITEMS DESCRIBED IN SUBDIVISION ONE OF THIS
56 SECTION shall be deposited by an inspector designated for that purpose

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

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

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

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

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

1 the delivery and the name of the person making the delivery and to whom
2 it was made, and shall keep a duplicate of said receipt on file in the
3 office of the board of elections.

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

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

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

52 2. (a) [In an election district outside of a city, except] EXCEPT in
53 the county of Nassau, the [chairman] CHAIR of the board of inspectors,
54 upon completion of the return of canvass and the announcement thereof,
55 in a general or primary election, shall immediately communicate such
56 results by telephone, or delivery, to the [county] board of elections.

1 Such results shall include the number of votes received by each person
2 voted for and the number of votes cast for and against each ballot
3 proposal.

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

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

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

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

29 [3.] 5. (a) The board of elections of counties in which voting
30 machines which have [removable electronic or computerized] PORTABLE
31 MEMORY devices [which record the total of the votes cast on such
32 machines] are used, may establish WRITTEN procedures CONSISTENT WITH THE
33 PROVISIONS OF THIS SECTION AND FILED WITH THE STATE BOARD OF ELECTIONS
34 by which such devices may be used [after the close of the polls] to
35 provide the unofficial tally of results required by this section.

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

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

51 (D) The board of elections shall provide containers, at all such
52 locations other than the offices of such board, into which all such
53 devices shall be placed by the clerks or other agents of such board of
54 elections after they are removed from such machines. Such containers
55 shall be sealed by such clerks or agents who shall also enter on a
56 certificate which shall be printed on each such container, the total

1 number of such devices placed in such container and the election
2 districts from which such devices came. Such clerks shall also sign such
3 certificate in the places provided.

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

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

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

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