S T A T E O F N E W Y O R K

9271--B

Cal. No. 371

I N A S S E M B L Y

February 10, 2012

Introduced by M. of A. SILVER, CUSICK, CANESTRARI, FARRELL, McENENY, HOOPER -- Multi-Sponsored by -- M. of A. ABINANTI, ARROYO, BARRON, BENEDETTO, BRENNAN, BRINDISI, BRONSON, CAHILL, CLARK, CYMBROWITZ, DenDEKKER, ENGLEBRIGHT, ESPINAL, GABRYSZAK, GALEF, GLICK, GOLDFEDER, GUNTHER, JAFFEE, KAVANAGH, KELLNER, LANCMAN, LATIMER, LAVINE, LIFTON, LINARES, LUPARDO, MAGEE, MARKEY, MENG, M. MILLER, MILLMAN, MORELLE, MOYA, O'DONNELL, ORTIZ, QUART, REILLY, ROBERTS, ROSENTHAL, RUSSELL, RYAN, SCHIMEL, THIELE, TITONE, ZEBROWSKI -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the election law, in relation to primary elections and amending certain deadlines to facilitate the timely transmission of ballots to military voters stationed overseas; to amend the public officers law, in relation to filling vacancies in elective offices; to amend chapter 147 of the laws of 2011 amending the election law relating to the conducting of the presidential primary, in relation to the effectiveness thereof; to amend the election law, in relation to date of primary elections; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Subdivision 1 of section 1-106 of the election law, as amended by chapter 700 of the laws of 1977, is amended to read as follows:

1. All papers required to be filed pursuant to the provisions of this chapter shall, unless otherwise provided, be filed between the hours of nine A.M. and five P.M. If the last day for filing shall fall on a Saturday, Sunday or legal holiday, the next business day shall become the last day for filing. All papers sent by mail in an envelope postmarked prior to midnight of the last day of filing shall be deemed timely filed and accepted for filing when received, [excepted] EXCEPT THAT ALL CERTIFICATES AND PETITIONS OF DESIGNATION, CERTIFICATES OF ACCEPT-

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

LBD14635-07-2

ANCE OR DECLINATION OF SUCH DESIGNATIONS, CERTIFICATES OF AUTHORIZATION FOR SUCH DESIGNATIONS, CERTIFICATES OF DISQUALIFICATION, CERTIFICATES OF SUBSTITUTION FOR SUCH DESIGNATIONS AND OBJECTIONS AND SPECIFICATIONS OF OBJECTIONS TO SUCH CERTIFICATES AND PETITIONS REQUIRED TO BE FILED WITH THE STATE BOARD OF ELECTIONS OR A BOARD OF ELECTIONS OUTSIDE OF THE CITY OF NEW YORK SHALL BE DEEMED TIMELY FILED AND ACCEPTED FOR FILING IF SENT BY MAIL OR OVERNIGHT DELIVERY SERVICE AS DEFINED IN PARAGRAPH SIX OF SUBDIVISION (B) OF RULE 2103 OF THE CIVIL PRACTICE LAW AND RULES IN AN ENVELOPE POSTMARKED OR SHOWING RECEIPT BY THE OVERNIGHT DELIVERY SERVICE PRIOR TO MIDNIGHT OF THE LAST DAY OF FILING, AND RECEIVED NO LATER THAN ONE BUSINESS DAY AFTER THE LAST DAY TO FILE SUCH CERTIFICATES, PETITIONS, OBJECTIONS OR SPECIFICATIONS. FAILURE OF THE POST OFFICE OR ANY OTHER PERSON OR ENTITY TO DELIVER ANY SUCH PETITION, CERTIFICATE OR OBJECTION TO SUCH BOARD OF ELECTIONS OUTSIDE THE CITY OF NEW YORK NO LATER THAN ONE BUSINESS DAY AFTER THE LAST DAY TO FILE SUCH CERTIFICATES, PETITIONS, OBJECTIONS OR SPECIFICATIONS SHALL BE A FATAL DEFECT. EXCEPTED FURTHER that all certificates and petitions of designation or nomination, certificates of acceptance or declination of such designations and nominations, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the board of elections of the city of New York must be actually received by such city board of elections on or before the last day to file any such petition, certificate or objection and such office shall be open for the receipt of such petitions, certificates and objections until midnight on the last day to file any such petition, certificate or objection. Failure of the post office or any other person or entity to deliver any such petition, certificate or objection to such city board of elections on or before such last day shall be a fatal defect.

S 2. Paragraph b of subdivision 1 of section 4-108 of the election law, as amended by chapter 117 of the laws of 1985, is amended to read as follows:

b. Whenever any proposal, proposition or referendum as provided by law is to be submitted to a vote of the people of a county, city, town, village or special district, at an election conducted by the board of elections, the clerk of such political subdivision, at least [thirty-six] FIFTY-SEVEN days prior to the election at which such proposal, proposition or referendum is to be submitted, shall transmit to each board of elections a certified copy of the text of such proposal, proposition or referendum and a statement of the form in which it is to be submitted. If a special election is to be held, such transmittal shall also give the date of such election.

S 3. Section 4-110 of the election law, as amended by chapter 147 of the laws of 2011, is amended to read as follows:

S 4-110. Certification of primary election candidates; state board of elections. The state board of elections not later than [thirty-six] FIFTY-FOUR days before a primary election or [fifty-four days before] a presidential primary election, shall certify to each county board of elections: The name and residence of each candidate to be voted for within the political subdivision of such board for whom a designation has been filed with the state board; the title of the office or position for which the candidate is designated; the name of the party upon whose primary ballot his OR HER name is to be placed; and the order in which the names of the candidates are to be printed as determined by the state board. Where an office or position is uncontested, such certification shall state such fact.

S 4. Subdivision 1 of section 4-112 of the election law, as amended by chapter 4 of the laws of 2011, is amended to read as follows:

1. The state board of elections, not later than [thirty-six] FIFTY-FOUR days before a general election, or fifty-three days before a special election, shall certify to each county board of elections the name and residence of each candidate nominated in any valid certificate filed with it or by the returns canvassed by it, the title of the office for which nominated; the name of the party or body specified of which he OR SHE is a candidate; the emblem chosen to distinguish the candidates of the party or body; and a notation as to whether or not any litigation is pending concerning the candidacy. Upon the completion of any such litigation, the state board of elections shall forthwith notify the appropriate county boards of elections of the results of such litigation.

S 5. Section 4-114 of the election law, as amended by chapter 147 of the laws of 2011, is amended to read as follows:

S 4-114. Determination of candidates and questions; county board of elections. The county board of elections, not later than the [thirty-fifth] FIFTY-THIRD day before the day of a primary [or], general [election, or the fifty-third day before a], special [election], or presidential primary election, shall determine the candidates duly nominated for public office and the questions that shall appear on the ballot within the jurisdiction of that board of elections.

S 6. Subdivision 1 of section 4-117 of the election law, as amended by chapter 288 of the laws of 2009, is amended to read as follows:

1. The board of elections, [between August first and August fifth of each year] NOT LESS THAN SIXTY-FIVE DAYS NOR MORE THAN SEVENTY DAYS BEFORE THE PRIMARY ELECTION IN EACH YEAR, shall send by first class mail on which is endorsed "ADDRESS CORRECTION REQUESTED" and which contains a request that any such mail received for persons not residing at the address be dropped back in the mail, a communication, in a form approved by the state board of elections, to every registered voter who has been registered without a change of address since the beginning of such year, except that the board of elections shall not be required to send such communications to voters in inactive status. The communication shall notify the voter of the days and hours of the ensuing primary and general elections, the place where he OR SHE appears by his OR HER registration records to be entitled to vote, the fact that voters who have moved or will have moved from the address where they were last registered must re-register or, that if such move was to another address in the same county or city, that such voter may either notify the board of elections of his OR HER new address or vote by paper ballot at the polling place for his OR HER new address even if such voter has not re-registered, or otherwise notified the board of elections of the change of address. If the location of the polling place for the voter's election district has been moved, the communication shall contain the following legend in bold type: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT.....". The communication shall also indicate whether the polling place is accessible to physically disabled voters, that a voter who will be out of the city or county on the day of the primary or general election or a voter who is ill or physically disabled may obtain an absentee ballot, that a physically disabled voter whose polling place is not accessible may request that his OR HER registration record be moved to an election district which has a polling place which is accessible, the phone number to call for applications to move a registration record or for absentee ballot applications, the phone number to call for the location of regis-

tration and polling places, the phone number to call to indicate that the voter is willing to serve on election day as an election inspector, poll clerk, interpreter or in other capacities, the phone number to call to obtain an application for registration by mail, and such other information concerning the elections or registration as the board may include. In lieu of sending such communication to every registered voter, the board of elections may send a single communication to a household containing more than one registered voter, provided that the names of all such voters appear as part of the address on such communication.

S 7. Subdivision 1 of section 5-604 of the election law, as amended by chapter 28 of the laws of 2010, is amended to read as follows:

1. The board of elections shall also cause to be published for each election district a complete list of the registered voters of each election district. Such list shall, in addition to the information required for registration lists, include the party enrollment of each voter. At least as many copies of such list shall be prepared as the required minimum number of registration lists.

Lists for all the election districts in a ward or assembly district may be bound together in one volume. The board of elections shall also cause to be published a complete list of names and residence addresses of the registered voters, including the party enrollment of each voter, for each town and city over which the board has jurisdiction. The names for each town and city may be arranged according to street and number or alphabetically. Such lists shall be published before the first day of [April] FEBRUARY. The board shall keep at least five copies for public inspection at each main office or branch office of the board. Surplus copies of the lists shall be sold at a charge not exceeding the cost of publication.

S 7-a. Section 5-604 of the election law is amended by adding a new subdivision 1-a to read as follows:

1-A. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, IN THE YEAR TWO THOUSAND TWELVE, LISTS OF REGISTERED VOTERS SHALL BE PUBLISHED AS SOON AS PRACTICABLE.

S 8. Subdivision 1 of section 6-108 of the election law, as amended by chapter 160 of the laws of 1996, is amended to read as follows:

1. In any town in a county having a population of over seven hundred fifty thousand inhabitants, as shown by the latest federal decennial or special population census, party nominations of candidates for town offices shall be made at the primary preceding the election. In any other town, nominations of candidates for town offices shall be made by caucus or primary election as the rules of the county committee shall provide, except that the members of the county committee from a town may adopt by a two-thirds vote, a rule providing that the party candidates for town offices shall be nominated at the primary election. If a rule adopted by the county committee of a political party or by the members of the county committee from a town, provides that party candidates for town offices, shall be nominated at a primary election, such rule shall not apply to nor affect a primary held less than four months after a certified copy of the rule shall have been filed with the board of elections. After the filing of such a rule, the rule shall continue in force until a certified copy of a rule revoking the same shall have been filed with such board at least four months before a subsequent primary. Such a caucus shall be held no earlier than the first day on which designating petitions for the [fall] primary election may be signed.

S 9. Subdivision 4 of section 6-134 of the election law, as added by chapter 709 of the laws of 1996, is amended to read as follows:

4. A signature made earlier than [thirty-seven] TWENTY-SEVEN days before the last day to file designating petitions for the primary election shall not be counted.

S 10. Subdivision 1 and the opening paragraph of subdivision 2 of section 6-136 of the election law, subdivision 1 as amended by chapter 200 of the laws of 1996, the opening paragraph of subdivision 2 as amended by chapter 659 of the laws of 1994, are amended to read as follows:

1. Petitions for any office to be filled by the voters of the entire state must be signed by not less than [fifteen thousand] ELEVEN THOUSAND TWO HUNDRED FIFTY or [five] THREE AND THREE-QUARTERS per centum, whichever is less, of the then enrolled voters of the party in the state (excluding voters in inactive status), of whom not less than [one hundred] SEVENTY-FIVE or [five] THREE AND THREE-QUARTERS per centum, whichever is less, of such enrolled voters shall reside in each of one-half of the congressional districts of the state.

All other petitions must be signed by not less than [five] THREE AND THREE-QUARTERS per centum, as determined by the preceding enrollment, of the then enrolled voters of the party residing within the political unit in which the office or position is to be voted for (excluding voters in inactive status), provided, however, that for the following public offices the number of signatures need not exceed the following limits:

S 11. Paragraphs (a), (b), (c), (c-1), (d), (e), (f), (h), (i), and (l) of subdivision 2 of section 6-136 of the election law, paragraphs (a), (b), (c), (d), (e), (f), (h), (i), and (l) as amended by chapter 79 of the laws of 1992, and paragraph (c-1) as amended by chapter 418 of the laws of 1993, are amended to read as follows:

(a) For any office to be filled by all voters of the city of New York, [seven] FIVE thousand [five] SIX hundred TWENTY-FIVE signatures;

(b) For any office to be filled by all the voters of any county or borough within the city of New York, [four] THREE thousand signatures;

(c) For any office to be filled in the city of New York by all the voters of any municipal court district, one thousand [five] ONE hundred TWENTY-FIVE signatures;

(c-1) For any office to be filled in the city of New York by all the voters of any city council district, [nine] SIX hundred SEVENTY-FIVE signatures;

(d) For any office to be filled by all the voters of cities or counties, except the city of New York and counties therein, containing more than two hundred fifty thousand inhabitants according to the last preceding federal enumeration, [two] ONE thousand FIVE HUNDRED signatures;

(e) For any office to be filled by all the voters of cities or counties containing more than twenty-five thousand and not more than two hundred fifty thousand inhabitants, according to the last preceding federal enumeration, [one thousand] SEVEN HUNDRED FIFTY signatures;

(f) For any office to be filled by all the voters of any other city or county, or of a councilmanic district in any city other than the city of New York, [five] THREE hundred SEVENTY-FIVE signatures;

(h) For any office to be filled by all the voters of any state senatorial district, [one thousand] SEVEN HUNDRED FIFTY signatures;

(i) For any office to be filled by all voters of any assembly district, [five] THREE hundred SEVENTY-FIVE signatures;

(l) For any county legislative district, [five] THREE hundred SEVENTY-FIVE signatures.

S 12. Subdivisions 1 and 2 of section 6-147 of the election law, as amended by chapter 434 of the laws of 1984, are amended to read as follows:

1. The name of a person designated on more than one petition as a candidate for a party position to be filled by two or more persons shall be printed on the ballot with the group of candidates designated by the petition first filed unless such person, in a certificate duly acknowledged by him OR HER and filed with the board of elections not later than the [eighth] TENTH Tuesday preceding the primary election or five days after the board of elections mails such person notice of his OR HER designation in more than one group, whichever is later, specifies another group in which his OR HER name shall be printed.

2. A person designated as a candidate for the position of member of the county committee in more than one election district shall be deemed to have been designated in the lowest numbered election district unless such person, in a certificate duly acknowledged by him OR HER, and filed with the board of elections not later than the [eighth] TENTH Tuesday preceding the primary election or five days after the board of elections mails such person notice of his OR HER designation in more than one election district whichever is later, specifies that he OR SHE wishes to be deemed designated in a different election district.

S 13. Subdivisions 1, 4, 5, 6, 9, 11, 12 and 14 of section 6-158 of the election law, subdivisions 1, 4, 11 and 12 as amended by chapter 434 of the laws of 1984, subdivision 6 as amended by chapter 79 of the laws of 1992, and subdivision 9 as amended by chapter 517 of the laws of 1986, are amended to read as follows:

1. A designating petition shall be filed not earlier than the [tenth Monday] ELEVENTH TUESDAY before, and not later than the [ninth Thursday] ELEVENTH MONDAY preceding the primary election.

4. A petition of enrolled members of a party requesting an opportunity to write in the name of an undesignated candidate for a public office or party position at a primary election shall be filed not later than the [eighth] TENTH Thursday preceding the primary election. However, where a designating petition has been filed and the person named therein has declined such designation and another person has been designated to fill the vacancy, then in that event, a petition for an opportunity to ballot in a primary election shall be filed not later than the [seventh] NINTH Thursday preceding such primary election.

5. A judicial district convention shall be held not earlier than the [Tuesday] THURSDAY following the [third Monday in September] FIRST MONDAY IN AUGUST preceding the general election and not later than [the fourth Monday in September preceding such election] SIX DAYS THEREAFTER.

6. A certificate of a party nomination made other than at the primary election for an office to be filled at the time of a general election shall be filed not later than [seven] THIRTY days after the [fall] primary election, except that a certificate of nomination for an office which becomes vacant after the seventh day preceding such primary election shall be filed not later than fourteen days after the creation of such vacancy and except, further, that a certificate of party nomination of candidates for elector of president and vice-president of the United States shall be filed not later than [fourteen] SEVENTY-SIX days after the [fall] primary election, and except still further that a certificate of party nomination made at a judicial district convention shall be filed not later than the day after the last day to hold such

convention and the minutes of such convention, duly certified by the chairman and secretary, shall be filed within seventy-two hours after adjournment of the convention. A certificate of party nomination for an office to be filled at a special election shall be filed not later than ten days following the issuance of a proclamation of such election.

9. A petition for an independent nomination for an office to be filled at the time of a general election shall be filed not earlier than [twelve] TWENTY-FOUR weeks and not later than [eleven] TWENTY-THREE weeks preceding such election. A petition for an independent nomination for an office to be filled at a special election shall be filed not later than twelve days following the issuance of a proclamation of such election. A petition for trustee of the Long Island Power Authority shall be filed not earlier than seven weeks and not later than six weeks preceding the day of the election of such trustees.

11. A certificate of acceptance or declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the third day after the [eleventh] TWENTY-THIRD Tuesday preceding such election except that a candidate who files such a certificate of acceptance for an office for which there have been filed certificates or petitions designating more than one candidate for the nomination of any party, may thereafter file a certificate of declination not later than the third day after the primary election. A certificate of acceptance or declination of an independent nomination for an office to be filled at a special election shall be filed not later than fourteen days following the issuance of a proclamation of such election.

12. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the sixth day after the [eleventh] TWENTY-THIRD Tuesday preceding such election. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at a special election shall be filed not later than sixteen days following the issuance of a proclamation of such election.

14. A vacancy occurring THREE MONTHS before [September twentieth of] THE GENERAL ELECTION IN any year in any office authorized to be filled at a general election, except in the offices of governor, lieutenant-governor, or United States senator shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election.

S 14. Section 6-164 of the election law, as amended by chapter 16 of the laws of 1988, is amended to read as follows:

S 6-164. Primary, uncontested; opportunity to ballot. Enrolled members of a party entitled to vote in the nomination of a candidate for public office or the election of a candidate for party position in a primary election of such party, and equal in number to at least the number of signers required to designate a candidate for such office or position may file with the officer or board with whom or which are filed designating petitions for such office or position a petition requesting an opportunity to write in the name of a candidate or candidates, who need not be specified, for such office or position. Upon the receipt of such a petition, such office or position shall be deemed contested and the primary ballots of the party shall afford an opportunity to vote thereon. Requests for an opportunity to write in the names of candidates for two or more offices or positions may be included in the same petition. Such petitions shall be subject to objections and court determination

thereof in the same manner as designating petitions so far as the provisions therefor are applicable. All required notices shall be served on the members of the committee named in the petition. A signature to a petition for an opportunity to ballot in primary elections made earlier than [sixteen] NINETEEN days before the last day to file designating petitions for the primary election shall not be counted.

S 15. Paragraph (a) of subdivision 1 of section 8-100 of the election law, as amended by chapter 147 of the laws of 2011, is amended to read as follows:

(a) A primary election[, to be known as the fall primary,] shall be held on the [first] FOURTH Tuesday [after the second Monday] in [September] JUNE before every general election unless otherwise changed by an act of the legislature. Members of state and county committees and assembly district leaders and associate assembly district leaders and all other party positions to be elected shall be elected at [the fall] SUCH primary and all nominations for public office required to be made at a primary election in such year shall be made at [the fall] SUCH primary. In the year two thousand twelve in which electors of president and vice president of the United States are to be elected, an additional primary election, to be known as the presidential primary, shall be held on April twenty-fourth, two thousand twelve, unless otherwise changed by an act of the legislature, for the purpose of electing delegates to the national convention.

S 16. Subdivision 1 of section 9-208 of the election law, as amended by chapter 163 of the laws of 2010, is amended to read as follows:

1. Within [fifteen] TWENTY-ONE days after each general, special or primary election, and within seven days after every village election conducted by the board of elections at which ballot scanners are used, the board of elections, or a bipartisan committee of or appointed by said board shall, in each county using ballot scanners, make a record of the serial number of each ballot scanner used in each election district in such general, special or primary election. No person who was a candidate at such election shall be appointed to membership on the committee. Such board of elections or bipartisan committee shall recanvass the tabulated result tape from each ballot scanner used in each election district by comparing such tape with the numbers as recorded on the return of canvass. The said board or committee shall also make a recanvass of any election day paper ballots that have not been scanned and were hand counted pursuant to subdivision two of section 9-110 of this article and compare the results with the number as recorded on the return of canvass. The board or committee shall then recanvass write-in votes, if any, on ballots which were otherwise scanned and canvassed at polling places on election night. The board or committee shall validate and prove such sums. Before making such canvass the board of elections, with respect to each election district to be recanvassed, shall give notice in writing to the voting machine custodian thereof, to the state and county chair of each party or independent body which shall have nominated candidates for the said general or special election or nominated or elected candidates at the said primary election and to each individual candidate whose name appears on the office ballot, of the time and place where such canvass is to be made; and the state and county chair of each such party or independent body and each such individual candidate may send a representative to be present at such recanvass. Each candidate whose name appears on the official ballot, or his or her representative, shall have the right personally to examine and make a

record of the vote recorded on the tabulated result tape and any ballots which were hand counted.

S 17. Subdivision 1 of section 9-211 of the election law, as added by chapter 181 of the laws of 2005, is amended to read as follows:

1. Within [fifteen] TWENTY-ONE days after each general or special election, and within [seven] TWENTY-ONE days after every primary or village election conducted by the board of elections, the board of elections or a bipartisan committee appointed by such board shall manually audit the voter verifiable audit records from three percent of voting machines or systems within the jurisdiction of such board. Voting machines or systems shall be selected for audit through a random, manual process. At least five days prior to the time fixed for such selection process, the board of elections shall send notice by first class mail to each candidate, political party and independent body entitled to have had watchers present at the polls in any election district in such board's jurisdiction. Such notice shall state the time and place fixed for such random selection process. The audit shall be conducted in the same manner, to the extent applicable, as a canvass of paper ballots. Each candidate, political party or independent body entitled to appoint watchers to attend at a polling place shall be entitled to appoint such number of watchers to observe the audit.

S 18. Paragraph (a) of subdivision 1 of section 10-108 of the election law, as amended by chapter 147 of the laws of 2011, is amended to read as follows:

(a) Ballots for military voters shall be mailed or otherwise distributed by the board of elections, in accordance with the preferred method of transmission designated by the voter pursuant to section 10-107 of this article, as soon as practicable but in any event not later than [thirty-two] FORTY-FIVE days before a primary or general election[; twenty-five days before], a New York city community school board district or city of Buffalo school district election; fourteen days before a village election conducted by the board of elections; and forty-five days before a special election or presidential primary election. A voter who submits a military ballot application shall be entitled to a military ballot thereafter for each subsequent election through and including the next two regularly scheduled general elections held in even numbered years, including any run-offs which may occur; provided, however, such application shall not be valid for any election held within seven days after its receipt. Ballots shall also be mailed to any qualified military voter who is already registered and who requests such military ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not later than the seventh day before the election for which the ballot is requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for military ballot. In the case of a primary election, the board shall deliver only the ballot of the party with which the military voter is enrolled according to the military voter's registration records. In the event a primary election is uncontested in the military voter's election district for all offices or positions except the party position of member of the ward, town, city or county committee, no ballot shall be delivered to such military voter for such election; and the military voter shall be advised of the reason why he or she will not receive a ballot.

S 19. Subdivision 4 of section 11-204 of the election law, as amended by chapter 147 of the laws of 2011, is amended to read as follows:

4. If the board of elections shall determine that the applicant making the application provided for in this section is qualified to receive and vote a special federal ballot, it shall, as soon as practicable after it shall have so determined, or not later than [thirty-two] FORTY-FIVE days before each general or primary [election and forty-five days before each] OR special election or presidential primary election in which such applicant is qualified to vote, or three days after receipt of such an application, whichever is later, mail to him or her at the residence address outside the United States shown in his or her application, a special federal ballot, an inner affirmation envelope and an outer envelope, or otherwise distribute same to the voter in accordance with the preferred method of transmission designated by the voter pursuant to section 11-203 of this title. The board of elections shall also mail, or otherwise distribute in accordance with the preferred method of transmission designated by the voter pursuant to section 11-203 of this title, a special federal ballot to every qualified special federal voter who is already registered and who requests such special federal ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for a special federal ballot.

S 20. Subdivision 4 of section 16-102 of the election law, as added by chapter 135 of the laws of 1986, is amended to read as follows:

4. A final order INCLUDING THE RESOLUTION OF ANY APPEALS in any proceeding involving the names of candidates on ballots or voting machines shall be made, if possible, at least five weeks before the day of the election at which such ballots or voting machines are to be used, or if such proceeding is commenced within five weeks of such election, no later than the day following the day on which the case is heard.

S 21. Subdivisions 3 and 4 of section 16-104 of the election law, subdivision 3 as added by chapter 136 of the laws of 1978 and subdivision 4 as amended by chapter 117 of the laws of 1985, are amended to read as follows:

3. A proceeding pursuant to subdivision two of this section must be instituted within [fourteen] SEVEN days after the last day to certify the wording of any such abstract or form of submission.

4. A final order INCLUDING THE RESOLUTION OF ANY APPEALS in any proceeding involving the contents of official ballots on voting machines shall be made, if possible, at least five weeks before the day of the election at which such voting machines are to be used, or if such proceeding is commenced within five weeks of an election, no later than the day following the day on which the case is heard.

S 22. Subdivisions 1 and 4 of section 42 of the public officers law, subdivision 1 as amended by chapter 878 of the laws of 1946 and subdivision 4 as amended by chapter 317 of the laws of 1954, are amended to read as follows:

1. A vacancy occurring THREE MONTHS before [September twentieth of] THE GENERAL ELECTION IN any year in any office authorized to be filled at a general election, except in the offices of governor or lieutenant-governor, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election.

4. A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after [September] AUGUST nineteenth of such year; nor to fill a vacancy in the office of state senator or in the office of member of assembly, unless the vacancy occurs before the first day of April of the last year of the term of office, or unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after [September] AUGUST nineteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

S 23. Section 11 of chapter 147 of the laws of 2011 amending the election law relating to the conducting of the presidential primary, is amended to read as follows:

S 11. This act shall take effect immediately; except that if this act shall become a law after July 1, 2011, it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2011; and, EXCEPT FOR SECTIONS SIX, SEVEN, EIGHT, AND NINE OF THIS ACT shall expire December 31, 2012 when upon such date the provisions of this act, EXCEPT FOR SECTIONS SIX, SEVEN, EIGHT, AND NINE OF THIS ACT, shall be deemed repealed.

S 24. Subdivisions 1 and 4 of section 6-158 of the election law, as amended by section thirteen of this act, are amended to read as follows:

1. A designating petition shall be filed not earlier than the [eleventh Tuesday] THIRTEENTH MONDAY before, and not later than the [eleventh Monday] TWELFTH THURSDAY preceding the primary election.

4. A petition of enrolled members of a party requesting an opportunity to write in the name of an undesignated candidate for a public office or party position at a primary election shall be filed not later than the [tenth] ELEVENTH Thursday preceding the primary election. However, where a designating petition has been filed and the person named therein has declined such designation and another person has been designated to fill the vacancy, then in that event, a petition for an opportunity to ballot in a primary election shall be filed not later than the [ninth] TENTH Thursday preceding such primary election.

S 25. Paragraph (a) of subdivision 1 of section 8-100 of the election law, as amended by chapter 17 of the laws of 2007, is amended to read as follows:

(a) A primary election[, to be known as the fall primary,] shall be held on the [first] FOURTH Tuesday [after the second Monday] in [September] JUNE before every general election unless otherwise changed by an act of the legislature. MEMBERS OF THE STATE AND COUNTY COMMITTEES AND ASSEMBLY DISTRICT LEADERS AND ASSOCIATE DISTRICT LEADERS AND ALL OTHER PARTY POSITIONS TO BE ELECTED SHALL BE ELECTED AT SUCH PRIMARY AND ALL NOMINATIONS FOR PUBLIC OFFICE REQUIRED TO BE MADE AT A PRIMARY ELECTION IN SUCH YEAR SHALL BE MADE AT SUCH PRIMARY. In each year in which electors of president and vice president of the United States are to be elected an additional primary election, to be known as the spring primary, shall be held on the first Tuesday in February unless otherwise changed by an act of the legislature, for the purpose of electing delegates to the national convention[, members of state and county committees and assembly district leaders and associate assembly district leaders].

S 26. This act shall take effect immediately provided, however, that the provisions of sections one, seven-a, nine, ten and eleven of this act shall expire and be deemed repealed December 31, 2012; provided, further that the amendments to paragraph (a) of subdivision 1 of section 8-100 of the election law made by section fifteen of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith, when upon such date the provisions of section twenty-five of this act shall take effect; and provided further that section twenty-three of this act shall be deemed to have been in full force and effect on the same date that chapter 147 of the laws of 2011 took effect; provided further, that section twenty-four of this act shall take effect December 31, 2012.