

3536--A

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

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
21 of this title; [c.)) (C) remove surplus ballots, if any, pursuant to
22 section 9-108 of this title; [d.)) (D) scan the ballots contained in the

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

LBD03458-05-3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 2. If the ballots found in any box shall be more than the number of
56 ballots so shown to have been deposited therein, such ballots shall all

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

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

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

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

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

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

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

1 or a mark other than a valid mark made in a voting square shall not make
2 the ballot void, but shall render it blank as to the office, party posi-
3 tion or ballot proposal in connection with which it is made. No ballot
4 shall be declared void or partially blank because a mark thereon is
5 irregular in form. The term "voting square" shall include the voting
6 space provided for a voter to mark his OR HER vote for a candidate or
7 ballot proposal.

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

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

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

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

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

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

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

1 nature of the objection, the name and address of the challenger and the
2 signature of the [chairman] CHAIR OR INSPECTOR.

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

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

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

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

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

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

52 2. The form for the return or returns of the canvass shall be printed
53 in a [form] FORMAT approved by the state board of elections. THE FORM
54 OF SUCH RETURN OF CANVASS SHALL PROVIDE FOR THE TOTAL NUMBER OF VOTES
55 FOR EACH CANDIDATE IN EACH CONTEST, OR UPON EACH BALLOT PROPOSAL,

1 INCLUDING THE TOTAL NUMBER OF UNSCANNED VOTED BALLOTS CANVASSED IN
2 ACCORDANCE WITH SECTION 9-110 OF THIS TITLE.

3 3. IN THE EVENT THAT THERE IS MORE THAN ONE ELECTION DISTRICT AT A
4 POLLING PLACE, THE BOARD OF ELECTIONS MAY AUTHORIZE THE USE OF ONE OR
5 MORE RETURNS OF CANVASS THAT CONSOLIDATE THE REPORT OF THE NUMBER OF
6 VOTES FOR EACH CANDIDATE, OR UPON EACH BALLOT PROPOSAL, FOR MORE THAN
7 ONE ELECTION DISTRICT OR MORE THAN ONE BALLOT SCANNER, PROVIDED THAT
8 SUCH CONSOLIDATED RETURNS OF CANVASS HAVE ATTACHED TO THEM THE RESULTS
9 TAPE(S) PRODUCED BY THE BALLOT SCANNER(S) THAT IDENTIFY THE NUMBER OF
10 VOTES FOR EACH CANDIDATE, OR UPON EACH BALLOT PROPOSAL, WITHIN EACH SUCH
11 ELECTION DISTRICT AND EACH SUCH BALLOT SCANNER.

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

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

30 S 12. Section 9-124 of the election law, as amended by chapter 9 of
31 the laws of 1978, subdivision 1 as amended by chapter 659 of the laws of
32 1994, subdivision 2 as amended by chapter 413 of the laws of 1991, and
33 subdivision 3 as amended by chapter 91 of the laws of 1992, is amended
34 to read as follows:

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

1 PORTABLE MEMORY DEVICE FROM EACH BALLOT SCANNER WITH THE CORRESPONDING
2 RESULTS TAPE MAY BE ENCLOSED IN A SEALED CONTAINER AND TRANSPORTED PRIOR
3 TO AND SEPARATELY FROM OTHER MATERIALS REFERENCED IN THIS SECTION FOR
4 THE PURPOSE OF USING SUCH DEVICE TO PROVIDE AN UNOFFICIAL TALLY OF
5 RESULTS AS REQUIRED BY SECTION 9-126 OF THIS TITLE.

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

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

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

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

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

1 twenty-four hours after the closing of the polls at any primary, gener-
2 al, special or village election, the city, town or village clerk shall
3 file all returns, papers, registration poll records or computer gener-
4 ated registration lists, books, records, documents and other election
5 supplies and materials filed with him by the inspectors of the election
6 districts of the city, town or village, with the board of elections of
7 the county and the board of elections shall give to the city, town or
8 village clerk a receipt therefor stating therein the date and hour of
9 the delivery and the name of the person making the delivery and to whom
10 it was made, and shall keep a duplicate of said receipt on file in the
11 office of the board of elections.

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

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

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

twenty-four hours to the board of elections. All statements made pursuant to this section shall be preserved for six months by the police and shall be presumptive evidence of the result of such canvass.

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

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

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

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

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

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

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

(c) IN THE CITY OF NEW YORK, UNLESS THE BOARD OF ELECTIONS OF SUCH CITY DESIGNATES TWO CLERKS OR OTHER AGENTS OF OPPOSITE POLITICAL PARTIES FOR DELIVERY OF THE DEVICES FROM THE POLLING PLACES TO SUCH LOCATIONS,

POLICE OFFICERS OR PEACE OFFICERS DESIGNATED BY THE POLICE COMMISSIONER OF SUCH CITY SHALL PROVIDE SUCH DELIVERY AS SOON AS PRACTICABLE.

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

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

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

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

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