STATE OF NEW YORK

2976--A

Cal. No. 888

2017-2018 Regular Sessions

IN SENATE

January 18, 2017

Introduced by Sens. LAVALLE, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- recommitted to the Committee on Elections in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to military voters and ballots for election of members of the board of education and school district public library trustees, and the adoption of the annual budget and school district public library budget and referenda

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new section 2018-d to read as follows:

§ 2018-d. Military voters. 1. As used in this section, the following terms shall have the following meanings:

(a) "Military service" means the military service of the state, or of the United States, including the army, navy, marine corps, air force, coast guard, merchant marine and all components thereof, and the coast and geodetic survey, the public health service, the national guard when in the service of the United States pursuant to call as provided by law, and the cadets or midshipmen of the United States Military Academy, United States Naval Academy, United States Air Force Academy and United States Coast Guard Academy.

(b) "Military voter" means a qualified voter of the state of New York who is in actual military service, as defined in paragraph (a) of this subdivision, and by reason of such military service is absent from his or her district on the day of registration or election, or a voter who is discharged from such military service within thirty days of an election and the spouse, parent, child or dependent of such voter accom-

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

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panying or being with him or her, if a qualified voter and a resident of the same school district.

(c) "Military ballot" means the ballot prepared, printed and supplied for use by the military for the election of members of the board of education and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda.

(d) "Military address" means the mailing address of a military voter other than his or her residence address in his or her school district.

(e) "Appropriate school board of education" means the board of education in whose jurisdiction the military voter resides as a qualified voter.

2. A military voter may designate a preference to receive a military ballot by mail, facsimile transmission or electronic mail. Such designation shall remain in effect until revoked or changed by the military voter. If a military voter does not designate a preference, the board of education shall transmit the military ballot application or military ballot by mail. If a military voter designates a preference for facsimile transmission or electronic mail but does not provide the necessary facsimile number or e-mail address, the board of education shall transmit the voter registration application, military ballot application or military ballot by mail and request the omitted information. All communications to the military voter shall include the mailing address of the board of education.

3. Irrespective of the preferred method of transmission designated by a military voter, a military voter's original military ballot application and military ballot must be returned by mail or in person.

4. Ballots for military voters shall be mailed or otherwise distributed by the board of education, in accordance with the preferred method of transmission, as soon as practicable, but not later than twenty-five days before any election as provided in this article, and fourteen days before any election as provided in article fifty-three of this title.

5. The military voter shall mark the military ballot provided for in this article in the same manner as an absentee ballot. After marking the ballot, he or she shall fold such ballot and enclose it in the inner affirmation envelope bearing the military voter's affirmation on the outside of the envelope and seal the envelope. He or she shall then sign the affirmation, with the blanks properly filled in. The inner affirmation envelope containing the military ballot shall then be inserted in the outer envelope addressed to the appropriate board of education, which shall be mailed or personally delivered to the appropriate board of education within the time limits provided by this article.

6. The board of education shall cause all military ballots received by it before the close of the polls on election day and showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government or are signed and dated by the voter and one witness thereto, with a date which is ascertained to be not later than the day before election and which must be received in the office of the clerk of the school district not later than five p.m. on the day of the election in order to be canvassed.

7. The board of inspectors shall thereafter process such ballots in the same manner as provided in sections two thousand eighteen-a and two thousand eighteen-b of this article for the canvassing of absentee ballots.

8. The board of education shall determine, three days before the first day for distribution of military ballots, the names of all candidates duly nominated for public office and the amendments, referenda, propositions and questions to be voted for on such ballots. If at a later date the nomination of any candidate named on a military ballot is found invalid, the ballot shall still be valid, but no vote cast for any such candidate on such ballot shall be counted at the election. The failure of any school board to include the name of any candidate or any proposition or question on the military ballot shall in no way affect the validity of the election with respect to the office for which the nomination was made or the validity of the military ballot as to any other matter.

9. The department is authorized to take such steps and do such things as, in its opinion, are necessary to make effective the provisions of any other section, in order to utilize fully any federal or other facilities in the distribution of military ballots.

10. The provisions of this section shall be liberally construed for the purpose of providing military voters the opportunity to vote. The department shall have power to adopt and promulgate regulations to effectuate the provisions of this section.

§ 2. Section 2613 of the education law, as amended by chapter 307 of the laws of 2000, is amended to read as follows:

§ 2613. Absentee **and military** ballots. The board of education of each city school district to which this article applies shall provide for absentee ballots in accordance with the provisions of section two thousand eighteen-a of this [~~chapter~~] **title, and military ballots in accordance with section two thousand eighteen-d of this title**.

§ 3. This act shall take effect immediately.