

STATE OF NEW YORK

6374

2019-2020 Regular Sessions

IN SENATE

June 6, 2019

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the election law, in relation to the conducting of the presidential primary, to provide for the election of delegates to a national party convention or a national party conference in 2020, and the "Presidential" and "June" primary in such year; to amend the election law, in relation to electing delegates to a national party convention; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Paragraph (a) of subdivision 1 of section 8-100 of the election law, as amended by chapter 5 of the laws of 2019, is amended to read as follows:

(a) A primary election shall be held on the fourth Tuesday in 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]~~ the year two thousand twenty 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]~~ presidential primary, shall be held on ~~[the first Tuesday in February]~~ April twenty-eight, two thousand twenty unless otherwise changed by an act of the legislature, for the purpose of electing delegates and alternate delegates to the national convention.

§ 2. Notwithstanding any inconsistent provisions of the election law, a rule or resolution of a state committee providing for the selection of delegates and alternate delegates to a national party convention or national party conference in the year 2020 shall select either section

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

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1 three or section four of this act in order to conform to the rules of a
2 national committee. A certified copy of such rule or resolution shall be
3 filed with the state board of elections no later than 22 weeks before
4 the presidential primary.

5 § 3. The election law is amended by adding a new section 2-122-a to
6 read as follows:

7 § 2-122-a. National convention; national party conference. 1. The
8 rules of the state committee of a party may provide that the delegates
9 and alternate delegates to a national convention or national party
10 conference be elected by a combination of all of the following methods:

11 a. By votes cast at a primary election for candidates for the office
12 of president of the United States in which the names of candidates for
13 such office appear on the ballot;

14 b. By votes cast at a primary election for candidates for the posi-
15 tions of delegate and alternate delegate to a national convention in
16 districts no larger than congressional districts; and

17 c. By the state committee or a committee of the state committee at a
18 meeting or convention called for such purpose as the rules of the party
19 may provide.

20 2. If the rules of a state committee adopted pursuant to the
21 provisions of this section provide for a primary election in which the
22 office of president of the United States appears on the ballot, desig-
23 nation of candidates for such office shall be made pursuant to the
24 provisions of sections 6-100, 6-118, 6-122 (except that such candidates
25 need not be citizens of New York but only citizens of the United
26 States), 6-130, 6-132 (except that references to a committee to fill
27 vacancies shall be deemed references to a committee to receive notices),
28 6-134, 6-144, the provisions with respect to declinations in subdivi-
29 sions one and two of section 6-146 (except that references to a commit-
30 tee to fill vacancies shall be deemed references to a committee to
31 receive notices), 6-154, and subdivision one and the provision with
32 respect to declinations in subdivision two of section 6-158 (except that
33 such candidates may decline such designations not later than February
34 tenth, two thousand twenty) of this chapter. The state board of
35 elections shall forthwith notify the appropriate county boards of
36 elections of any such declination filed.

37 3. Designating petitions, where required for candidates for the office
38 of president of the United States to be voted on by voters of the entire
39 state in a primary election, must be signed by not less than five thou-
40 sand of the then enrolled voters of the party in the state.

41 4. If the rules of a state committee provide for a primary election in
42 which the office of the president of the United States appears on the
43 ballot, in addition to the spaces on the ballot with the names of the
44 candidates designated for such office there may be a space with the word
45 "uncommitted". The "uncommitted" space shall be listed on the ballot
46 provided that a designating petition for such "uncommitted" space which
47 meets the same requirements as a petition designating a candidate for
48 the office of president of the United States is filed in the same manner
49 as is required for such a petition.

50 5. a. The form of a petition requesting that an "uncommitted" space be
51 listed on the ballot at a primary election for the office of president
52 of the United States held pursuant to the provisions of this section
53 shall be substantially as follows:

54 I, the undersigned, do hereby state that I am a duly enrolled voter of
55 the Party and entitled to vote at the next primary
56 election of such party to be held on the day of

..... 20...., that my place of residence is truly stated opposite my signature hereto, and I do hereby request that an "uncommitted" space be listed on the ballot at the primary election of such party for the office of president of the United States.

b. The appointment of a committee to receive notices shall be in the form prescribed for a petition for an opportunity to ballot. The signatures on the petition with all the required information and the signed statement of a witness or authentication by a person authorized to take oaths shall be in the form prescribed for a designating petition for such office.

6. a. If the rules of a state committee, adopted pursuant to the provisions of this section, provide that the positions of delegate and alternate delegate to a national convention appear on the ballot, designation of candidates for such positions shall be made pursuant to the provisions of sections 6-100, 6-118, 6-122, 6-130, 6-132 (except that references to a committee to fill vacancies shall be deemed references to a committee to receive notices), 6-134, 6-144, the provisions with respect to declinations in subdivisions one and two of section 6-146 (except that references to a committee to fill vacancies shall be deemed references to a committee to receive notices), 6-147, 6-154, and subdivision one and the provision with respect to declinations in subdivision two and subdivision three of section 6-158 of this chapter.

b. Candidates for the positions of district delegate and alternate district delegate to a national party convention pursuant to the provisions of this section shall be enrolled members of such party and residents of the district in which they are candidates. The board of elections with which a petition is filed shall conduct a prima facie review of the enrollment status of candidates for district delegate and alternate district delegate to determine ballot eligibility. The congressional districts used for the election of such delegates and alternate delegates shall be those districts in effect for the two thousand eighteen congressional elections.

c. Designating petitions for candidates for such positions must be signed by at least five hundred enrolled voters of the party residing in the district in which such candidates are designated, or by at least one-half of one percent (0.5%) of the then enrolled voters of such party in such district, whichever is less. Such petition signature requirement shall be computed using the official February first, two thousand nineteen enrollments published by the state board of elections.

d. The designating petition for any such candidate or candidates shall have printed thereon prior to the affixing of any signatures thereto, a legend naming the presidential candidate whom such candidates are pledged to support, or a legend that such candidates are uncommitted. Such legend shall be part of the title of such position.

e. No designating petition containing the names of more than one candidate for either such position shall be valid under this section, for purposes of delegates and alternate delegates, unless all such candidates for such positions have printed on such petition the legend that they are pledged to the same presidential candidate or unless all such candidates for such positions have printed on such petition the legend that they are uncommitted.

f. On the designating petition shall appear, in parenthesis, the letter (M) if the candidate identifies as male, the letter (F) if the candidate identifies as female or the letters (NB) if the candidate identifies as non-binary. No designating petition containing the names of more than one candidate for either such position shall be presump-

1 tively valid unless among the candidates for delegate as a group, and
2 among the candidates for alternate as a group, the variance within each
3 group between those identifying as male and those identifying as female
4 shall be no greater than one.

5 g. In the event that a designating petition is filed for candidates
6 for such positions listed as pledged to support a presidential candidate
7 or as uncommitted, and the name of such presidential candidate, or the
8 word uncommitted, will not appear on the ballot at the presidential
9 primary election in two thousand twenty, then the petition designating
10 such candidates for such positions shall be null and void and the names
11 of such candidates for such positions shall not appear on the ballot.

12 h. Every board of elections with which designating petitions are filed
13 pursuant to the provisions of this section shall, not later than four
14 days after the last day to file such petitions, file with the state
15 board of elections by express mail or by electronic transmission, a
16 complete list of all candidates for delegate and alternate delegate
17 together with their residence addresses, the districts in which they are
18 candidates and the name of the presidential candidate whom they are
19 pledged to support or that they are uncommitted. Such boards of
20 elections shall, not later than the day after a certificate of declina-
21 tion or substitution is filed with respect to any such candidate, file
22 such information with respect to such candidate with the state board of
23 elections by electronic transmission.

24 7. a. The rules of a state committee adopted pursuant to the
25 provisions of this section may provide that no candidate for the posi-
26 tions of delegate and alternate delegate may appear on the ballot as
27 pledged to support a particular presidential candidate, or as uncommi-
28 ttered, unless the name of such candidate for such position appears on a
29 certificate listing the names of those candidates for such positions who
30 have filed statements of candidacy for such positions with the secretary
31 of the state committee within the time prescribed by such rules and who,
32 if their statements of candidacy contained a pledge of support of a
33 presidential candidate, were not rejected by such presidential candi-
34 date. Such certificate shall also list the address and gender of each
35 such candidate for delegate and alternate delegate and the district in
36 which such candidate may appear on the ballot.

37 b. Such certificate shall be filed by the secretary of such state
38 committee, with the board of elections with which the designating
39 petitions for such candidates for such positions are required to be
40 filed, not later than February eighteenth, two thousand twenty.

41 c. In the event that a designating petition for candidates for such
42 positions, listed as pledged to support a presidential candidate,
43 contains the names of one or more persons who have not been permitted by
44 such presidential candidate to appear on the ballot as so pledged pursu-
45 ant to the provisions of this section, then the names of such candidates
46 shall not appear on the ballot but the names of other candidates on such
47 petition who have been permitted by the presidential candidate to appear
48 on the ballot shall be placed on the ballot provided that such candi-
49 dates are otherwise eligible and that such petition is otherwise valid.

50 d. The state board of elections shall send a copy of the certificate
51 required by section 4-110 of this chapter to the secretary of the state
52 committee of each party conducting a primary pursuant to the provisions
53 of this section not later than March fourth, two thousand twenty. Every
54 other board of elections with which designating petitions for delegate
55 and alternate delegate were filed pursuant to the provisions of this
56 section shall, not later than March fifth, two thousand twenty, send a

1 list of the names and addresses of those candidates who will appear on
2 the ballot to the secretary of each such state committee.

3 8. a. If the rules of a state committee adopted pursuant to the
4 provisions of this section provide for an election in which candidates
5 for the office of president of the United States and the word "uncommit-
6 ted" and candidates for the positions of delegate and alternate delegate
7 to a national convention appear on the ballot, such ballot shall be
8 arranged in the manner prescribed by this section.

9 b. The name of each candidate for the office of president of the
10 United States who has qualified to appear on the ballot and the word
11 "uncommitted," if a valid designating petition to place such word on the
12 ballot was filed with the state board of elections, shall appear in a
13 separate row or column. The names of all the candidates for delegate to
14 a national convention who filed designating petitions containing a
15 legend naming the presidential candidate whom they are pledged to
16 support or stating that they are uncommitted shall be listed in such row
17 or column immediately under or adjacent to the name of such presidential
18 candidate or the word "uncommitted," followed by the names of all candi-
19 dates for alternate delegate to such convention who filed such
20 petitions. If the number of candidates, or groups of candidates for
21 delegate and alternate delegate who are pledged to support a particular
22 presidential candidate or who are uncommitted is greater than the number
23 who may be listed in one row or column and if there are more rows or
24 columns available on the ballot than are required for the candidates for
25 president who have qualified to appear on the ballot, then the board of
26 elections shall use two rows or columns on such ballot to list the names
27 of such candidates for delegate and alternate delegate.

28 c. The order of the names of candidates for the office of president
29 and the word "uncommitted" on the ballot and the order of the names of
30 candidates for the positions of delegate or alternate delegate within a
31 particular row or column shall be determined pursuant to the provisions
32 of subdivision three of section 7-116 of this chapter except that names
33 of candidates for such positions who are designated by individual
34 petitions and not in a group shall have their positions determined by
35 lot in the same drawing as groups and except further that candidates or
36 groups of candidates for delegates and alternate delegates designated by
37 the same petition shall be treated as one group for the purposes of such
38 determination by lot. The provisions of subdivision six of such section
39 7-116 of this chapter shall not apply to any election conducted pursuant
40 to the provisions of this section.

41 d. Immediately following the name of each candidate for delegate and
42 alternate delegate on the ballot shall appear, in parenthesis, the
43 letter (M) if such candidate identifies as male, the letter (F) if such
44 candidate identifies as female, or the letters (NB) if such candidate
45 identifies as non-binary.

46 9. All primary elections conducted pursuant to the provisions of this
47 section shall use only voting systems authorized by title two of article
48 seven of this chapter.

49 10. Persons entitled to vote pursuant to section 11-200 of this chap-
50 ter shall be entitled to sign designating petitions for, and vote in,
51 any election held pursuant to the provisions of this section.

52 11. If the rules of a state committee provide for a primary election
53 in which the office of president of the United States and the positions
54 of delegate and alternate delegate to a national convention appear on
55 the ballot pursuant to the provisions of this section, the state board
56 of elections and the county boards of elections as the case may be shall

1 canvass the results of such primary election for such office and posi-
2 tions pursuant to the provisions of sections 9-200 and 9-202 of this
3 chapter, and shall certify to the secretary of the state committee of
4 such party the votes cast for each candidate for such office and posi-
5 tions in such primary election and the votes cast for the "uncommitted"
6 preference, tallied separately by congressional districts, except that
7 no candidate or "uncommitted" preference shall be certified as nominated
8 or elected to any such office or position.

9 12. Except as provided in this section and party rules and regu-
10 lations, all provisions of the election law, except any provisions of
11 section 2-122 of this article which are inconsistent with this section
12 and those sections and subdivisions of article six of this chapter not
13 specified in this section, shall apply to elections conducted pursuant
14 to this section.

15 § 4. The election law is amended by adding a new section 2-122-b to
16 read as follows:

17 § 2-122-b. Presidential primary. 1. Applicability. The selection of
18 delegates and alternate delegates from New York state to the national
19 convention of the Republican party in each year in which electors of
20 president and vice-president of the United States are to be elected
21 shall be conducted pursuant to the provisions of this section. The state
22 committee of any other political party may, by rule or resolution, opt
23 to conduct the selection of delegates and alternate delegates in any
24 such year in accordance with the provisions of this section. A certified
25 copy of such rule or resolution shall be filed with the state board of
26 elections no later than twenty weeks prior to the date of such election.

27 2. General provisions. The selection of delegates and alternate deleg-
28 ates to a national convention or conference of a political party pursu-
29 ant to this section shall be determined by the votes cast at a statewide
30 primary election for candidates for the office of president of the
31 United States in which the names of candidates for such office appear on
32 the ballot and the names of delegates and alternate delegates do not
33 appear on such ballot. All delegates and alternate delegates to a
34 national convention or conference of a political party from New York
35 state shall be allocated to the candidate receiving the greatest number
36 of votes at such presidential primary election. A political party shall
37 certify to the state board of elections, at least sixteen weeks prior to
38 the date of the presidential primary, the number of delegates to which
39 such party is entitled pursuant to its rules. At-large delegates and
40 alternate delegates shall be selected by the state committee of the
41 political party in accordance with the rules of the national committee
42 of such party and shall be allocated to the presidential candidate
43 receiving the greatest number of votes at the statewide presidential
44 primary election.

45 3. Ballot access methods. Candidates shall be eligible to appear on
46 the ballot in a presidential primary election of a political party for
47 the office of president of the United States pursuant to any of the
48 following provisions:

49 a. Any candidate who has been certified as eligible to receive presi-
50 dential primary matching fund payments pursuant to the provisions of 11
51 Code of Federal Regulations Part 9033, or any candidate who meets the
52 eligibility criteria regarding matchable contributions established in 11
53 Code of Federal Regulations Part 9033.2(b)(3) regardless of whether such
54 candidate actually applied for such matching fund payments, may request,
55 by certificate filed and received by the state board of elections no
56 sooner than sixteen weeks and not later than nine weeks prior to the

1 date of the presidential primary, that the name of such candidate appear
2 on the ballot at the primary of such party in the state of New York for
3 that year.

4 b. Any candidate may request, by certificate filed and received by the
5 state board of elections no sooner than sixteen weeks and not later than
6 nine weeks prior to the date of the presidential primary, that the name
7 of such candidate appear on the ballot at the presidential primary of
8 such party in the state of New York for the office of president of the
9 United States. Such candidate shall be eligible to appear on the ballot
10 of such party in the state of New York at the presidential primary
11 election for that year if the state board of elections determines that
12 the person is a nationally known and recognized candidate and the candi-
13 dacy of such person for the party nomination for president is generally
14 and seriously advocated or recognized according to reports in the
15 national or state news media. Notwithstanding any inconsistent
16 provision of law to the contrary, a request by a candidate to appear on
17 the presidential primary ballot of a major political party shall be
18 determined solely by the commissioners of the state board of elections
19 who have been appointed on the recommendation of such political party or
20 the legislative leaders of such political party, and no other commis-
21 sioner of the state board of elections shall participate in such deter-
22 mination. The state board of elections shall act upon any such request
23 no later than fifty-six days before the presidential primary.

24 c. Any candidate shall be eligible to appear on the presidential
25 primary ballot pursuant to the provisions of article six of this chap-
26 ter. Designating petitions shall be signed by not less than five thou-
27 sand or five percent, whichever is less, of the then enrolled voters of
28 the party in the state.

29 d. Presidential candidates determined eligible to appear on the presi-
30 dential primary ballot may have their name removed from such primary
31 ballot by filing a certificate with the state board of elections and
32 received no later than fifty-six days before such primary election.
33 After such date but before the seventh day before the presidential
34 primary, presidential candidates may file a certificate with the state
35 board of elections deeming any vote for such presidential candidate to
36 be a void vote.

37 4. Election of delegates and alternate delegates from congressional
38 districts. a. Any candidate eligible to appear on the presidential
39 primary ballot pursuant to the provisions of subdivision three of this
40 section shall file a certificate with the state board of elections
41 received no later than nine weeks prior to the date of the presidential
42 primary setting forth a complete slate of proposed delegates and alter-
43 nate delegates for each delegate and alternate delegate position to be
44 determined by the statewide primary election. The complete slate of
45 delegates and alternate delegates shall consist only of enrolled members
46 of such political party who reside in the congressional district they
47 seek to represent and who have committed to support such candidate and
48 shall be consistent with the rules of such party, including the rules of
49 the national party, if applicable. The state board of elections shall
50 review each such slate, and if it determines that such slate is not
51 complete or is not otherwise in compliance with the provisions of this
52 paragraph, it shall notify the candidate of any defects forthwith and
53 provide such candidate with no less than three business days to cure any
54 defects. A candidate eligible to appear on the ballot pursuant to the
55 provisions of subdivision three of this section shall appear on such

1 presidential primary election ballot only upon the filing of a valid
2 certificate in compliance with the provisions of this paragraph.

3 b. All delegates and alternate delegates, other than at-large deleg-
4 ates selected by the state committee of a political party, shall be
5 allocated to the presidential candidate receiving the greatest number of
6 votes at such presidential primary election. Such delegate positions
7 shall be filled in accordance with the slate of delegates and alternate
8 delegates set forth on the certificate filed pursuant to paragraph a of
9 this subdivision; provided, however, that the state board of elections
10 shall provide a candidate with a reasonable opportunity to fill any
11 delegate or alternate delegate positions that have become vacant subse-
12 quent to the filing of such certificate. The state board of elections
13 shall certify to the chairman of the state committee of such party, each
14 candidate and the national committee of such party the slate of deleg-
15 ates and alternate delegates elected as a result of the primary
16 election.

17 5. Election of at-large delegates and at-large alternate delegates.
18 At-large delegates and at-large alternate delegates shall be selected by
19 the New York republican state committee. All at-large delegates and
20 at-large alternate delegates shall be allocated to the presidential
21 candidate receiving the greatest number of votes cast for a presidential
22 candidate at the presidential primary election.

23 6. All provisions of this chapter which are not inconsistent with this
24 section shall be applicable to a primary election conducted pursuant to
25 this section.

26 § 5. Section 6-158 of the election law is amended by adding a new
27 subdivision 1-a to read as follows:

28 1-a. A designating petition for a presidential primary election shall
29 be filed not earlier than the thirteenth Monday before, and not later
30 than the twelfth Thursday preceding the presidential primary election.

31 § 6. Subdivision 6 of section 6-158 of the election law, as amended by
32 chapter 5 of the laws of 2019, is amended to read as follows:

33 6. (a) A certificate of a party nomination made other than at the
34 primary election for an office to be filled at the time of a general
35 election shall be filed not later than thirty days after the June prima-
36 ry election, (b) except that a certificate of nomination for an office
37 which becomes vacant after the seventh day preceding such primary
38 election shall be filed not later than thirty days after the primary
39 election or ten days after the creation of such vacancy, whichever is
40 later, and (c) except, further, that a certificate of party nomination
41 of candidates for elector of president and vice-president of the United
42 States shall be filed not later than [~~seventy-four~~ seventy-three days
43 after the June primary election, and (d) except still further that a
44 certificate of party nomination made at a judicial district convention
45 shall be filed not later than the day after the last day to hold such
46 convention and the minutes of such convention, duly certified by the
47 chairman and secretary, shall be filed within seventy-two hours after
48 adjournment of the convention. A certificate of party nomination for an
49 office to be filled at a special election shall be filed not later than
50 ten days following the issuance of a proclamation of such election.

51 § 7. Severability. If any sentence, clause, subparagraph, paragraph,
52 subdivision, section or other part of this act, or the application ther-
53 eof to any party, person or circumstances shall be held or adjudged by
54 any court of competent jurisdiction to be invalid, such holding or judg-
55 ment shall not affect, impair or invalidate the remainder or any portion
56 of the remainder of this act, or the application of such section or part

1 of a section held or adjudged to be invalid, to any other person or
2 circumstances, but shall be confined in its operation to the sentence,
3 clause, subparagraph, paragraph, subdivision, section or other part of
4 this act directly involved in the controversy in which such holding or
5 judgment shall have been rendered, or to the party, person and circum-
6 stances therein involved.

7 § 8. This act shall take effect immediately; provided, however, if
8 this act shall have become a law after July 1, 2019, it shall take
9 effect immediately and shall be deemed to have been in full force and
10 effect on and after July 1, 2019; provided further that section six of
11 this act shall take effect December 15, 2019; and provided further, this
12 act shall expire December 31, 2020 when upon such date the provisions of
13 this act shall be deemed repealed.