

# STATE OF NEW YORK

S. 1103

A. 779

2019-2020 Regular Sessions

## SENATE - ASSEMBLY

January 10, 2019

IN SENATE -- Introduced by Sens. STEWART-COUSINS, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KENNEDY, KRUEGER, LIU, MARTINEZ, MAY, MAYER, METZGER, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SAVINO, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

IN ASSEMBLY -- Introduced by M. of A. LAVINE, HEASTIE, BRONSON, PAULIN, DenDEKKER, GOTTFRIED, ORTIZ, HEVESI, DINOWITZ, McDONALD, SIMOTAS, L. ROSENTHAL, STIRPE, ABINANTI, BARRETT, FAHY, BRABENEC, GALEF, WEPRIN, ROZIC, BLAKE, BURKE, CARROLL, CRUZ, EICHENSTEIN, EPSTEIN, FALL, GLICK, GRIFFIN, JACOBSON, LIFTON, McMAHON, OTIS, ROMEO, THIELE, WEINSTEIN -- Multi-Sponsored by -- M. of A. BENEDETTO, BRAUNSTEIN, BUCHWALD, LENTOL, LUPARDO, MAGNARELLI, B. MILLER, RODRIGUEZ, SANTABARBARA, SIMON, ZEBROWSKI -- read once and referred to the Committee on Election Law

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 the election law, in relation to date of primary elections; and to amend the election law, in relation to canvass and audit of returns

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

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

4 1. All papers required to be filed pursuant to the provisions of this  
5 chapter shall, unless otherwise provided, be filed between the hours of

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

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1 nine A.M. and five P.M. If the last day for filing shall fall on a  
2 Saturday, Sunday or legal holiday, the next business day shall become  
3 the last day for filing. All papers sent by mail in an envelope post-  
4 marked prior to midnight of the last day of filing shall be deemed time-  
5 ly filed and accepted for filing when received, except that all certif-  
6 icates and petitions of designation or nomination, certificates of  
7 acceptance or declination of such designations or nominations, certif-  
8 icates of authorization for such designations or nominations, certif-  
9 icates of disqualification, certificates of substitution for such desig-  
10 nations or nominations and objections and specifications of objections  
11 to such certificates and petitions required to be filed with the state  
12 board of elections or a board of elections outside of the city of New  
13 York shall be deemed timely filed and accepted for filing if sent by  
14 mail or overnight delivery service pursuant to subdivision three of this  
15 section, and received no later than two business days after the last day  
16 to file such certificates, petitions, objections or specifications.  
17 Failure of the post office or any other person or entity to deliver any  
18 such petition, certificate or objection to such board of elections  
19 outside the city of New York no later than two business days after the  
20 last day to file such certificates, petitions, objections or specifica-  
21 tions shall be a fatal defect. Excepted further that all certificates  
22 and petitions of designation or nomination, certificates of acceptance  
23 or declination of such designations and nominations, certificates of  
24 substitution for such designations or nominations and objections and  
25 specifications of objections to such certificates and petitions required  
26 to be filed with the board of elections of the city of New York must be  
27 actually received by such city board of elections on or before the last  
28 day to file any such petition, certificate or objection and such office  
29 shall be open for the receipt of such petitions, certificates and  
30 objections until midnight on the last day to file any such petition,  
31 certificate or objection. Failure of the post office or any other person  
32 or entity to deliver any such petition, certificate or objection to such  
33 city board of elections on or before such last day shall be a fatal  
34 defect.

35 § 2. Subdivision 1 of section 4-104 of the election law, as amended by  
36 chapter 180 of the laws of 2005, is amended to read as follows:

37 1. Every board of elections shall, in consultation with each city,  
38 town and village, designate the polling places in each election district  
39 in which the meetings for the registration of voters, and for any  
40 election may be held. The board of trustees of each village in which  
41 general and special village elections conducted by the board of  
42 elections are held at a time other than the time of a general election  
43 shall submit such a list of polling places for such village elections to  
44 the board of elections. A polling place may be located in a building  
45 owned by a religious organization or used by it as a place of worship.  
46 If such a building is designated as a polling place, it shall not be  
47 required to be open for voter registration on any Saturday if this is  
48 contrary to the religious beliefs of the religious organization. In such  
49 a situation, the board of elections shall designate an alternate  
50 location to be used for voter registration. Such polling places must be  
51 designated by [~~May first~~] March fifteenth, of each year, and shall be  
52 effective for one year thereafter. Such a list required to be submitted  
53 by a village board of trustees must be submitted at least four months  
54 before each general village election and shall be effective until four  
55 months before the subsequent general village election. No place in which  
56 a business licensed to sell alcoholic beverages for on premises consump-

1 tion is conducted on any day of local registration or of voting shall be  
2 so designated. If, within the discretion of the board of elections a  
3 particular polling place so designated is subsequently found to be  
4 unsuitable or unsafe or should circumstances arise that make a desig-  
5 nated polling place unsuitable or unsafe, then the board of elections is  
6 empowered to select an alternative meeting place. In the city of New  
7 York, the board of elections shall designate such polling places and  
8 alternate registration places if the polling place cannot be used for  
9 voter registration on Saturdays.

10 § 3. Subdivisions 1 and 2 of section 4-106 of the election law, subdi-  
11 vision 2 as amended by chapter 635 of the laws of 1990, are amended to  
12 read as follows:

13 1. The state board of elections shall, [~~at least eight months before~~  
14 ~~each~~] by February first in the year of each general election, make and  
15 transmit to the board of elections of each county, a certificate stating  
16 each office, except county, city, village and town offices to be voted  
17 for at such election in such county.

18 2. Each county, city, village and town clerk, [~~at least eight months~~  
19 ~~before each~~] by February first in the year of each general election,  
20 shall make and transmit to the board of elections a certificate stating  
21 each county, city, village or town office, respectively to be voted for  
22 at each such election. Each village clerk, at least five months before  
23 each general village election conducted by the board of elections, shall  
24 make, and transmit to such board, a certificate stating each village  
25 office to be filled at such election.

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

29 b. Whenever any proposal, proposition or referendum as provided by law  
30 is to be submitted to a vote of the people of a county, city, town,  
31 village or special district, at an election conducted by the board of  
32 elections, the clerk of such political subdivision, at least [~~thirty-six~~  
33 ~~days~~] three months prior to the general election at which such proposal,  
34 proposition or referendum is to be submitted, shall transmit to each  
35 board of elections a certified copy of the text of such proposal, propo-  
36 sition or referendum and a statement of the form in which it is to be  
37 submitted. If a special election is to be held, such transmittal shall  
38 also give the date of such election.

39 § 5. Section 4-110 of the election law, as amended by chapter 434 of  
40 the laws of 1984, is amended to read as follows:

41 § 4-110. Certification of primary election candidates; state board of  
42 elections. The state board of elections, not later than [~~thirty-six~~  
43 fifty-five] days before a primary election, shall certify to each county  
44 board of elections: The name and residence of each candidate to be voted  
45 for within the political subdivision of such board for whom a desig-  
46 nation has been filed with the state board; the title of the office or  
47 position for which the candidate is designated; the name of the party  
48 upon whose primary ballot his or her name is to be placed; and the order  
49 in which the names of the candidates are to be printed as determined by  
50 the state board. Where an office or position is uncontested, such  
51 certification shall state such fact.

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

54 1. The state board of elections, not later than [~~thirty-six~~] fifty-  
55 five days before a general election, or fifty-three days before a  
56 special election, shall certify to each county board of elections the

1 name and residence of each candidate nominated in any valid certificate  
2 filed with it or by the returns canvassed by it, the title of the office  
3 for which nominated; the name of the party or body specified of which he  
4 or she is a candidate; the emblem chosen to distinguish the candidates  
5 of the party or body; and a notation as to whether or not any litigation  
6 is pending concerning the candidacy. Upon the completion of any such  
7 litigation, the state board of elections shall forthwith notify the  
8 appropriate county boards of elections of the results of such liti-  
9 gation.

10 § 7. Section 4-114 of the election law, as amended by chapter 4 of the  
11 laws of 2011, is amended to read as follows:

12 § 4-114. Determination of candidates and questions; county board of  
13 elections. The county board of elections, not later than the [~~thirty-~~  
14 ~~fifth~~] fifty-fourth day before the day of a primary or general election,  
15 or the fifty-third day before a special election, shall determine the  
16 candidates duly nominated for public office and the questions that shall  
17 appear on the ballot within the jurisdiction of that board of elections.

18 § 8. Subdivision 1 of section 4-117 of the election law, as amended by  
19 chapter 3 of the laws of 2018, is amended to read as follows:

20 1. The board of elections, [~~between August first and August fifth of~~  
21 ~~each year~~] not less than sixty-five days nor more than seventy days  
22 before the primary election in each year, shall send by mail on which is  
23 endorsed such language designated by the state board of elections to  
24 ensure postal authorities do not forward such mail but return it to the  
25 board of elections with forwarding information, when it cannot be deliv-  
26 ered as addressed and which contains a request that any such mail  
27 received for persons not residing at the address be dropped back in the  
28 mail, a communication, in a form approved by the state board of  
29 elections, to every registered voter who has been registered without a  
30 change of address since the beginning of such year, except that the  
31 board of elections shall not be required to send such communications to  
32 voters in inactive status. The communication shall notify the voter of  
33 the days and hours of the ensuing primary and general elections, the  
34 place where he or she appears by his or her registration records to be  
35 entitled to vote, the fact that voters who have moved or will have moved  
36 from the address where they were last registered must re-register or,  
37 that if such move was to another address in the same county or city,  
38 that such voter may either notify the board of elections of his or her  
39 new address or vote by paper ballot at the polling place for his or her  
40 new address even if such voter has not re-registered, or otherwise noti-  
41 fied the board of elections of the change of address. If the primary  
42 will not be held on the first Tuesday after the second Monday in Septem-  
43 ber, the communication shall contain a conspicuous notice in all capital  
44 letters and bold font notifying the voter of the primary date. If the  
45 location of the polling place for the voter's election district has been  
46 moved, the communication shall contain the following legend in bold  
47 type: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT.....".  
48 The communication shall also indicate whether the polling place is  
49 accessible to physically disabled voters, that a voter who will be out  
50 of the city or county on the day of the primary or general election or a  
51 voter who is ill or physically disabled may obtain an absentee ballot,  
52 that a physically disabled voter whose polling place is not accessible  
53 may request that his registration record be moved to an election  
54 district which has a polling place which is accessible, the phone number  
55 to call for applications to move a registration record or for absentee  
56 ballot applications, the phone number to call for the location of regis-

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

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

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

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

30 § 10. Paragraph a of subdivision 5 of section 5-708 of the election  
31 law, as added by chapter 659 of the laws of 1994, is amended to read as  
32 follows:

33 a. At least once each year during the month of [~~May~~] **February**, each  
34 board of elections shall obtain through the National Change of Address  
35 System, the forwarding address for every voter registered with such  
36 board of elections for whom the United States Postal Service has such a  
37 forwarding address together with the name of each such voter whom the  
38 Postal Service records indicate has moved from the address at which he  
39 is registered without leaving a forwarding address.

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

42 1. In any town in a county having a population of over seven hundred  
43 fifty thousand inhabitants, as shown by the latest federal decennial or  
44 special population census, party nominations of candidates for town  
45 offices shall be made at the primary preceding the election. In any  
46 other town, nominations of candidates for town offices shall be made by  
47 caucus or primary election as the rules of the county committee shall  
48 provide, except that the members of the county committee from a town may  
49 adopt by a two-thirds vote, a rule providing that the party candidates  
50 for town offices shall be nominated at the primary election. If a rule  
51 adopted by the county committee of a political party or by the members  
52 of the county committee from a town, provides that party candidates for  
53 town offices, shall be nominated at a primary election, such rule shall  
54 not apply to nor affect a primary held less than four months after a  
55 certified copy of the rule shall have been filed with the board of  
56 elections. After the filing of such a rule, the rule shall continue in

1 force until a certified copy of a rule revoking the same shall have been  
2 filed with such board at least four months before a subsequent primary.  
3 Such a caucus shall be held no earlier than the first day on which  
4 designating petitions for the [~~fall~~] primary election may be signed.

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

8 1. The name of a person designated on more than one petition as a  
9 candidate for a party position to be filled by two or more persons shall  
10 be printed on the ballot with the group of candidates designated by the  
11 petition first filed unless such person, in a certificate duly acknowl-  
12 edged by him or her and filed with the board of elections not later than  
13 the [~~eighth~~] tenth Tuesday preceding the primary election or five days  
14 after the board of elections mails such person notice of his or her  
15 designation in more than one group, whichever is later, specifies anothe-  
16 er group in which his or her name shall be printed.

17 2. A person designated as a candidate for the position of member of  
18 the county committee in more than one election district shall be deemed  
19 to have been designated in the lowest numbered election district unless  
20 such person, in a certificate duly acknowledged by him or her, and filed  
21 with the board of elections not later than the [~~eighth~~] tenth Tuesday  
22 preceding the primary election or five days after the board of elections  
23 mails such person notice of his or her designation in more than one  
24 election district whichever is later, specifies that he or she wishes to  
25 be deemed designated in a different election district.

26 § 13. Subdivisions 1, 4, 5, 6, 9, 11, 12 and 14 of section 6-158 of  
27 the election law, subdivisions 1, 4, 11 and 12 as amended by chapter 434  
28 of the laws of 1984, subdivision 6 as amended by chapter 79 of the laws  
29 of 1992, and subdivision 9 as amended by chapter 517 of the laws of  
30 1986, are amended to read as follows:

31 1. A designating petition shall be filed not earlier than the [~~tenth~~]  
32 thirteenth Monday before, and not later than the [~~ninth~~] twelfth Thurs-  
33 day preceding the primary election.

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

43 5. A judicial district convention shall be held not earlier than the  
44 [~~Tuesday~~] Thursday following the [~~third Monday in September~~] first  
45 Monday in August preceding the general election and not later than [~~the~~]  
46 [~~fourth Monday in September preceding such election~~] six days thereafter.

47 6. (a) A certificate of a party nomination made other than at the  
48 primary election for an office to be filled at the time of a general  
49 election shall be filed not later than [~~seven~~] thirty days after the  
50 [~~fall~~] primary election, (b) except that a certificate of nomination  
51 for an office which becomes vacant after the seventh day preceding such  
52 primary election shall be filed not later than [~~fourteen~~] thirty days  
53 after the primary election or ten days after the creation of such vacan-  
54 cy, whichever is later, and (c) except, further, that a certificate of  
55 party nomination of candidates for elector of president and vice-presi-  
56 dent of the United States shall be filed not later than [~~fourteen~~]

1 seventy-four days after the [~~fall~~] primary election, and (d) except  
2 still further that a certificate of party nomination made at a judicial  
3 district convention shall be filed not later than the day after the last  
4 day to hold such convention and the minutes of such convention, duly  
5 certified by the chairman and secretary, shall be filed within seventy-  
6 two hours after adjournment of the convention. A certificate of party  
7 nomination for an office to be filled at a special election shall be  
8 filed not later than ten days following the issuance of a proclamation  
9 of such election.

10 9. A petition for an independent nomination for an office to be filled  
11 at the time of a general election shall be filed not earlier than  
12 [~~twelve~~] twenty-four weeks and not later than [~~eleven~~] twenty-three  
13 weeks preceding such election. A petition for an independent nomination  
14 for an office to be filled at a special election shall be filed not  
15 later than twelve days following the issuance of a proclamation of such  
16 election. [~~A petition for trustee of the Long Island Power Authority~~  
17 ~~shall be filed not earlier than seven weeks and not later than six weeks~~  
18 ~~preceding the day of the election of such trustees.~~]

19 11. A certificate of acceptance or declination of an independent nomi-  
20 nation for an office to be filled at the time of a general election  
21 shall be filed not later than the third day after the [~~eleventh~~] twen-  
22 ty-third Tuesday preceding such election except that a candidate who  
23 files such a certificate of acceptance for an office for which there  
24 have been filed certificates or petitions designating more than one  
25 candidate for the nomination of any party, may thereafter file a certif-  
26 icate of declination not later than the third day after the primary  
27 election. A certificate of acceptance or declination of an independent  
28 nomination for an office to be filled at a special election shall be  
29 filed not later than fourteen days following the issuance of a proclama-  
30 tion of such election.

31 12. A certificate to fill a vacancy caused by a declination of an  
32 independent nomination for an office to be filled at the time of a  
33 general election shall be filed not later than the sixth day after the  
34 [~~eleventh~~] twenty-third Tuesday preceding such election. A certificate  
35 to fill a vacancy caused by a declination of an independent nomination  
36 for an office to be filled at a special election shall be filed not  
37 later than sixteen days following the issuance of a proclamation of such  
38 election.

39 14. A vacancy occurring three months before [~~September twentieth of~~]  
40 the general election in any year in any office authorized to be filled  
41 at a general election, except in the offices of governor, lieutenant-  
42 governor, or United States senator shall be filled at the general  
43 election held next thereafter, unless otherwise provided by the consti-  
44 tution, or unless previously filled at a special election.

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

48 (a) A primary election[~~, to be known as the fall primary,~~] shall be  
49 held on the [~~first~~] fourth Tuesday [~~after the second Monday~~] in [~~Septem-~~  
50 ~~ber~~] June before every general election unless otherwise changed by an  
51 act of the legislature. Members of the state and county committees and  
52 assembly district leaders and associate district leaders and all other  
53 party positions to be elected shall be elected at such primary and all  
54 nominations for public office required to be made at a primary election  
55 in such year shall be made at such primary. In each year in which elec-  
56 tors of president and vice president of the United States are to be

1 elected an additional primary election, to be known as the spring primary,  
2 shall be held on the first Tuesday in February unless otherwise  
3 changed by an act of the legislature, for the purpose of electing delegates  
4 to the national convention[~~, members of state and county committees~~  
5 ~~and assembly district leaders and associate assembly district leaders~~].

6 § 15. Subdivision 1 of section 9-200 of the election law, as amended  
7 by chapter 250 of the laws of 1984, is amended to read as follows:

8 1. The board of elections shall canvass the returns of primary  
9 elections filed with it. It shall canvass first the votes of the delegates  
10 and alternates to judicial district conventions and complete such  
11 canvass at the earliest time possible. It shall complete the canvass  
12 otherwise within [~~nine~~ thirteen] days from the day upon which the primary  
13 election is held. Upon the completion of the canvass the board shall  
14 make and file in its office tabulated statements, signed by the members  
15 of such board or a majority thereof, of the number of votes cast for all  
16 the candidates for nomination to each public office or for election to  
17 each party position, and the number of votes cast for each such candidate.  
18 The candidate receiving the highest number of votes for nomination  
19 for a public office or for election to a party position voted for wholly  
20 within the political unit for which such board is acting, shall be the  
21 nominee of his party for such office or elected to such party position  
22 and the board, if requested by a candidate elected to a party position,  
23 shall furnish to him a certificate of election.

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

26 1. Within fifteen days after each general[~~7~~ or] special [~~ex~~ election,  
27 and within twenty days after a] primary election, and within seven days  
28 after every village election conducted by the board of elections at  
29 which ballot scanners are used, the board of elections, or a bipartisan  
30 committee of or appointed by said board shall, in each county using  
31 ballot scanners, make a record of the serial number of each ballot scanner  
32 used in each election district in such general, special or primary  
33 election. No person who was a candidate at such election shall be  
34 appointed to membership on the committee. Such board of elections or  
35 bipartisan committee shall recanvass the tabulated result tape from each  
36 ballot scanner used in each election district by comparing such tape  
37 with the numbers as recorded on the return of canvass. The said board or  
38 committee shall also make a recanvass of any election day paper ballots  
39 that have not been scanned and were hand counted pursuant to subdivision  
40 two of section 9-110 of this article and compare the results with the  
41 number as recorded on the return of canvass. The board or committee  
42 shall then recanvass write-in votes, if any, on ballots which were  
43 otherwise scanned and canvassed at polling places on election night. The  
44 board or committee shall validate and prove such sums. Before making  
45 such canvass the board of elections, with respect to each election  
46 district to be recanvassed, shall give notice in writing to the voting  
47 machine custodian thereof, to the state and county chair of each party  
48 or independent body which shall have nominated candidates for the said  
49 general or special election or nominated or elected candidates at the  
50 said primary election and to each individual candidate whose name  
51 appears on the office ballot, of the time and place where such canvass  
52 is to be made; and the state and county chair of each such party or  
53 independent body and each such individual candidate may send a representative  
54 to be present at such recanvass. Each candidate whose name  
55 appears on the official ballot, or his or her representative, shall have



1 the right personally to examine and make a record of the vote recorded  
2 on the tabulated result tape and any ballots which were hand counted.

3 § 17. Subdivision 1 of section 9-211 of the election law, as amended  
4 by chapter 515 of the laws of 2015, is amended to read as follows:

5 1. Within fifteen days after each general or special election, ~~[and]~~  
6 within ~~[seven]~~ thirteen days after every primary ~~[or]~~ election, and  
7 within seven days after every village election conducted by the board of  
8 elections, the board of elections or a bipartisan committee appointed by  
9 such board shall audit the voter verifiable audit records from three  
10 percent of voting machines or systems within the jurisdiction of such  
11 board. Such audits may be performed manually or via the use of any auto-  
12 mated tool authorized for such use by the state board of elections which  
13 is independent from the voting system it is being used to audit. Voting  
14 machines or systems shall be selected for audit through a random, manual  
15 process. At least five days prior to the time fixed for such selection  
16 process, the board of elections shall send notice by first class mail to  
17 each candidate, political party and independent body entitled to have  
18 had watchers present at the polls in any election district in such  
19 board's jurisdiction. Such notice shall state the time and place fixed  
20 for such random selection process. The audit shall be conducted in the  
21 same manner, to the extent applicable, as a canvass of paper ballots.  
22 Each candidate, political party or independent body entitled to appoint  
23 watchers to attend at a polling place shall be entitled to appoint such  
24 number of watchers to observe the audit.

25 § 18. Paragraph (a) of subdivision 1 of section 10-108 of the election  
26 law, as amended by chapter 4 of the laws of 2011, is amended to read as  
27 follows:

28 (a) Ballots for military voters shall be mailed or otherwise distrib-  
29 uted by the board of elections, in accordance with the preferred method  
30 of transmission designated by the voter pursuant to section 10-107 of  
31 this article, as soon as practicable but in any event not later than  
32 ~~[thirty-two]~~ forty-six days before a primary or general election~~[, twenty-~~  
33 ~~ty-five days before]~~ a New York city community school board district or  
34 city of Buffalo school district election; fourteen days before a village  
35 election conducted by the board of elections; and forty-five days before  
36 a special election. A voter who submits a military ballot application  
37 shall be entitled to a military ballot thereafter for each subsequent  
38 election through and including the next two regularly scheduled general  
39 elections held in even numbered years, including any run-offs which may  
40 occur; provided, however, such application shall not be valid for any  
41 election held within seven days after its receipt. Ballots shall also  
42 be mailed to any qualified military voter who is already registered and  
43 who requests such military ballot from such board of elections in a  
44 letter, which is signed by the voter and received by the board of  
45 elections not later than the seventh day before the election for which  
46 the ballot is requested and which states the address where the voter is  
47 registered and the address to which the ballot is to be mailed. The  
48 board of elections shall enclose with such ballot a form of application  
49 for military ballot. In the case of a primary election, the board shall  
50 deliver only the ballot of the party with which the military voter is  
51 enrolled according to the military voter's registration records. In the  
52 event a primary election is uncontested in the military voter's election  
53 district for all offices or positions except the party position of  
54 member of the ward, town, city or county committee, no ballot shall be  
55 delivered to such military voter for such election; and the military

1 voter shall be advised of the reason why he or she will not receive a  
2 ballot.

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

5 4. If the board of elections shall determine that the applicant making  
6 the application provided for in this section is qualified to receive and  
7 vote a special federal ballot, it shall, as soon as practicable after it  
8 shall have so determined, or not later than [~~thirty-two~~ forty-six days  
9 before each general or primary election [~~and forty-five days before~~  
10 ~~each~~] or special election in which such applicant is qualified to vote,  
11 or three days after receipt of such an application, whichever is later,  
12 mail to him or her at the residence address outside the United States  
13 shown in his or her application, a special federal ballot, an inner  
14 affirmation envelope and an outer envelope, or otherwise distribute same  
15 to the voter in accordance with the preferred method of transmission  
16 designated by the voter pursuant to section 11-203 of this title. The  
17 board of elections shall also mail, or otherwise distribute in accord-  
18 ance with the preferred method of transmission designated by the voter  
19 pursuant to section 11-203 of this title, a special federal ballot to  
20 every qualified special federal voter who is already registered and who  
21 requests such special federal ballot from such board of elections in a  
22 letter, which is signed by the voter and received by the board of  
23 elections not later than the seventh day before the election for which  
24 the ballot is first requested and which states the address where the  
25 voter is registered and the address to which the ballot is to be mailed.  
26 The board of elections shall enclose with such ballot a form of applica-  
27 tion for a special federal ballot.

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

30 4. A final order including the resolution of any appeals in any  
31 proceeding involving the names of candidates on ballots or voting  
32 machines shall be made, if possible, at least five weeks before the day  
33 of the election at which such ballots or voting machines are to be used,  
34 or if such proceeding is commenced within five weeks of such election,  
35 no later than the day following the day on which the case is heard.

36 § 21. Subdivisions 3 and 4 of section 16-104 of the election law,  
37 subdivision 3 as added by chapter 136 of the laws of 1978 and subdivi-  
38 sion 4 as amended by chapter 117 of the laws of 1985, are amended to  
39 read as follows:

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

43 4. A final order including the resolution of any appeals in any  
44 proceeding involving the contents of official ballots on voting machines  
45 shall be made, if possible, at least five weeks before the day of the  
46 election at which such voting machines are to be used, or if such  
47 proceeding is commenced within five weeks of an election, no later than  
48 the day following the day on which the case is heard.

49 § 22. Subdivisions 1 and 4 of section 42 of the public officers law,  
50 subdivision 1 as amended by chapter 878 of the laws of 1946 and subdivi-  
51 sion 4 as amended by chapter 317 of the laws of 1954, are amended to  
52 read as follows:

53 1. A vacancy occurring three months before [~~September twentieth of~~  
54 the general election in any year in any office authorized to be filled  
55 at a general election, except in the offices of governor or lieutenant-  
56 governor, shall be filled at the general election held next thereafter,

1 unless otherwise provided by the constitution, or unless previously  
2 filled at a special election.

3 4. A special election shall not be held to fill a vacancy in the  
4 office of a representative in congress unless such vacancy occurs on or  
5 before the first day of July of the last year of the term of office, or  
6 unless it occurs thereafter and a special session of congress is called  
7 to meet before the next general election, or be called after [~~September~~  
8 ~~nineteenth-of~~] three months before the general election in such year;  
9 nor to fill a vacancy in the office of state senator or in the office of  
10 member of assembly, unless the vacancy occurs before the first day of  
11 April of the last year of the term of office, or unless the vacancy  
12 occurs in either such office of senator or member of assembly after such  
13 first day of April and a special session of the legislature be called to  
14 meet between such first day of April and the next general election or be  
15 called after three months before the next general election [~~or be called~~  
16 ~~after—September nineteenth~~] in such year. If a special election to fill  
17 an office shall not be held as required by law, the office shall be  
18 filled at the next general election.

19 § 23. This act shall take effect immediately.