STATE OF NEW YORK

7690

2023-2024 Regular Sessions

IN ASSEMBLY

June 5, 2023

Introduced by M. of A. HEASTIE -- read once and referred to the Committee on Election Law

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 2024, and the "Presidential" and "June" primary in such year; to amend the election law, in relation to electing delegates to a national party convention; to amend the election law, in relation to cure affirmations received by the board of elections; to amend the election law, in relation to write-in votes for candidates; to amend the election law, in relation to ballot envelopes without a postmark; to amend the election law, in relation to certificates to fill a vacancy in a designation; to amend the election law, in relation to canvassing of absentee and affidavit ballots; to amend the election law, in relation to conditions for full manual recounts of ballots; to repeal certain provision of the election law relating to write-in votes for candidates; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. 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-four** in which electors of president and vice president of the

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

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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 second, two thousand twenty-four 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 2024 shall select either section three or section four of this act in order to conform to the rules of a national committee. A certified copy of such rule or resolution shall be filed with the state board of elections no later than 22 weeks before the presidential primary.

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

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

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

b. By votes cast at a primary election for candidates for the positions of delegate and alternate delegate to a national convention in districts no larger than congressional districts; and

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

2. If the rules of a state committee adopted pursuant to the provisions of this section provide for a primary election in which the office of president of the United States appears on the ballot, designation of candidates for such office shall be made pursuant to the provisions of sections 6-100, 6-118, 6-122 (except that such candidates need not be citizens of New York but only citizens of the United States), 6-130, 6-132 (except that references to a committee to fill vacancies shall be deemed references to a committee to receive notices and individuals appointed to such committee to receive notices shall not be required to file a certificate of acceptance), 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 and individuals appointed to such committee to receive notices shall not be required to file a certificate of acceptance), 6-154, and subdivisions one, one-b and the provision with respect to declinations in subdivision two of section 6-158 (except that such candidates may decline such designations not later than February sixth, two thousand twenty-four) of this chapter. The state board of elections shall forthwith notify the appropriate county boards of elections of any such declination filed.

3. Designating petitions, where required for candidates for the office of president of the United States to be voted on by voters of the entire state in a primary election, must be signed by not less than fifteen thousand of the then enrolled voters of the party in the state.

4. If the rules of a state committee provide for a primary election in which the office of the president of the United States appears on the ballot, in addition to the spaces on the ballot with the names of the candidates designated for such office there may be a space with the word

"uncommitted". The "uncommitted" space shall be listed on the ballot provided that a designating petition for such "uncommitted" space which meets the same requirements as a petition designating a candidate for the office of president of the United States is filed in the same manner as is required for such a petition.

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

I, the undersigned, do hereby state that I am a duly enrolled voter of the ..... Party and entitled to vote at the next primary 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 and individuals appointed to such committee to receive notices shall not be required to file a certificate of acceptance), 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 and individuals appointed to such committee to receive notices shall not be required to file a certificate of acceptance), 6-147, 6-154, and subdivisions one, one-b 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 twenty-two 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 twenty-first, two thousand twenty-three 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 letter (X) if the candidate identifies as any gender other than female or male. No designating petition containing the names of more than one candidate for either such position shall be presumptively valid unless among the candidates for delegate as a group, and among the candidates for alternate as a group, the variance within each group between those identifying as male and those identifying as female shall be no greater than one.

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

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

7. a. The rules of a state committee adopted pursuant to the provisions of this section may provide that no candidate for the positions of delegate and alternate delegate may appear on the ballot as pledged to support a particular presidential candidate, or as uncommitted, unless the name of such candidate for such position appears on a certificate listing the names of those candidates for such positions who have filed statements of candidacy for such positions with the secretary of the state committee within the time prescribed by such rules and who, if their statements of candidacy contained a pledge of support of a presidential candidate, were not rejected by such presidential candidate. Such certificate shall also list the address and gender of each such candidate for delegate and alternate delegate and the district in which such candidate may appear on the ballot.

b. Such certificate shall be filed by the secretary of such state committee, with the board of elections with which the designating

petitions for such candidates for such positions are required to be filed, not later than January twenty-third, two thousand twenty-four.

c. In the event that a designating petition for candidates for such positions, listed as pledged to support a presidential candidate, contains the names of one or more persons who have not been permitted by such presidential candidate to appear on the ballot as so pledged pursuant to the provisions of this section, then the names of such candidates shall not appear on the ballot but the names of other candidates on such petition who have been permitted by the presidential candidate to appear on the ballot shall be placed on the ballot provided that such candidates are otherwise eligible and that such petition is otherwise valid.

d. The state board of elections shall send a copy of the certificate required by section 4-110 of this chapter to the secretary of the state committee of each party conducting a primary pursuant to the provisions of this section not later than February eighth, two thousand twenty-four. Every other board of elections with which designating petitions for delegate and alternate delegate were filed pursuant to the provisions of this section shall, not later than February ninth, two thousand twenty-four, send a list of the names and addresses of those candidates who will appear on the ballot to the secretary of each such state committee.

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

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

c. The order of the names of candidates for the office of president and the word "uncommitted" on the ballot and the order of the names of candidates for the positions of delegate or alternate delegate within a particular row or column shall be determined pursuant to the provisions of subdivision three of section 7-116 of this chapter except that names of candidates for such positions who are designated by individual petitions and not in a group shall have their positions determined by lot in the same drawing as groups and except further that candidates or groups of candidates for delegates and alternate delegates designated by the same petition shall be treated as one group for the purposes of such

determination by lot. The provisions of subdivision six of such section 7-116 of this chapter shall not apply to any election conducted pursuant to the provisions of this section.

d. Immediately following the name of each candidate for delegate and alternate delegate on the ballot shall appear, in parenthesis, the letter (M) if such candidate identifies as male, the letter (F) if such candidate identifies as female, or the letter (X) if such candidate identifies as any gender other than female or male.

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

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

11. If the rules of a state committee provide for a primary election in which the office of president of the United States and the positions of delegate and alternate delegate to a national convention appear on the ballot pursuant to the provisions of this section, the state board of elections and the county boards of elections as the case may be shall canvass the results of such primary election for such office and positions pursuant to the provisions of sections 9-200 and 9-202 of this chapter, and shall certify to the secretary of the state committee of such party the votes cast for each candidate for such office and positions in such primary election and the votes cast for the "uncommitted" preference, tallied separately by congressional districts, except that no candidate or "uncommitted" preference shall be certified as nominated or elected to any such office or position.

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

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

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

2. General provisions. The awarding of delegates and alternate delegates to a national convention or conference of a political party pursuant to this section shall be determined by the votes cast at a statewide primary election for candidates for the office of president of the United States in which the names of candidates for such office appear on the ballot and the names of delegates and alternate delegates do not appear on such ballot. The total number of delegates and alternate delegates shall be determined by the call for the national convention. Three delegates and three alternate delegates shall be awarded from every congressional district in the state, unless the rules of the national Republican party and/or the call for the national convention

provide differently. The total number of delegates and alternate delegates as established by the call for the national convention minus the number of delegates and alternate delegates to be awarded from the congressional districts shall be designated at-large delegates and at-large alternate delegates.

A political party shall certify to the state board of elections, at least sixteen weeks prior to the date of the presidential primary, the number of delegates to which such party is entitled pursuant to its rules.

Congressional district delegates and alternate delegates shall be awarded based upon the results of separate and distinct primary elections held within each congressional district of the state. Congressional district delegates and alternate delegates shall be awarded to presidential candidates pursuant to paragraph b of subdivision four of this section and elected pursuant to paragraph c of subdivision four of this section. At-large delegates and alternate delegates shall be elected by the state committee and allocated to presidential candidates pursuant to subdivision five of this section.

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

a. Any candidate who has been certified as eligible to receive presidential primary matching fund payments pursuant to the provisions of 11 Code of Federal Regulations Part 9033, or any candidate who meets the eligibility criteria regarding matchable contributions established in 11 Code of Federal Regulations Part 9033.2(b)(3) regardless of whether such candidate actually applied for such matching fund payments, may request, by certificate filed and received by the state board of elections no sooner than sixteen weeks and not later than nine weeks prior to the date of the presidential primary, that the name of such candidate appear on the ballot at the primary of such party in the state of New York for that year.

b. Any candidate may request, by certificate filed and received by the state board of elections no sooner than sixteen weeks and not later than nine weeks prior to the date of the presidential primary, that the name of such candidate appear on the ballot at the primary of such party in the state of New York for the office of president of the United States. Such candidate shall be eligible to appear on the ballot of such party in the state of New York at the primary election for that year if the state board of elections determines that the person is a nationally known and recognized candidate and the candidacy of such person for the party nomination for president is generally and seriously advocated or recognized according to reports in the national or state news media. Notwithstanding any inconsistent provision of law to the contrary, a request by a candidate to appear on the presidential primary ballot of a major political party shall be determined solely upon a joint recommendation by the commissioners of the state board of elections who have been appointed on the recommendation of such political party or the legislative leaders of such political party, and no other commissioner of the state board of elections shall participate in such determination. The state board of elections shall act upon any such request no later than fifty-six days before the presidential primary.

c. Any candidate shall be eligible to appear on the ballot pursuant to the provisions of article six of this chapter. Designating petitions

shall be signed by not less than five thousand or five percent, whichever is less, of the then enrolled voters of the party in the state.

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

4. Election of delegates and alternate delegates from congressional districts. a. Each congressional district shall conduct a separate and distinct primary election. Enrolled Republican voters from a congressional district shall vote for a presidential candidate who has qualified for the primary ballot pursuant to subdivision three of this section.

b. All three delegates and all three alternate delegates from a congressional district shall be awarded to a presidential candidate who receives a majority of the total votes cast for presidential candidates in such congressional district. If no presidential candidate receives a majority of the votes in a congressional district, the presidential candidate receiving the most votes in the congressional district shall be awarded two delegates and two alternate delegates and the presidential candidate who receives the second most votes in the congressional district shall be awarded one delegate and one alternate delegate, provided however, that a presidential candidate must receive at least twenty percent of the total votes cast for presidential candidates in the congressional district in order to be awarded any delegates and alternate delegates from that congressional district. If only one presidential candidate receives twenty percent or more of the total votes cast for presidential candidates in a congressional district, such presidential candidate shall be awarded all three delegates and all three alternate delegates. If no presidential candidate receives twenty percent or more of the total votes cast for presidential candidates in a congressional district, the three delegate and three alternate delegate positions from such district shall be deemed vacant and filled pursuant to the rules of the national Republican party.

c. All congressional district delegates and alternate delegates shall be elected by the members of the New York Republican state committee representing each such congressional district and awarded to presidential candidates pursuant to paragraph b of this subdivision. The congressional district delegates and alternate delegates shall be elected by the members of the New York Republican state committee representing each such congressional district at meetings called by the state chairman and scheduled in compliance with Rules 16 and 20 of the Rules of the Republican Party (National) but, if practicable, following the certification of the results of the presidential primary by the New York state board of elections. The notices of call issued by the state chairman shall designate New York Republican state committee members to serve as chairs and secretaries of the congressional district meetings. At these congressional district meetings, the members of the New York Republican state committee shall each cast votes equal to the Republican enrollment for their unit of representation that is within the congressional district. Voting by proxy at the congressional district meeting shall be valid. The chair and secretary of each congressional district meeting shall file a certificate with the New York state board of elections stating the names and addresses of the individuals elected as

congressional district delegates and alternate delegates within five days of the meeting.

5. Election of at-large delegates and at-large alternate delegates. At-large delegates and at-large alternate delegates shall be selected by the New York Republican state committee and awarded to presidential candidates based upon the statewide vote results of the presidential primary election. All at-large delegates and at-large alternate delegates shall be awarded to the presidential candidate who receives a majority of the statewide total votes cast for presidential candidates. If no presidential candidate receives a majority of the statewide total votes cast for presidential candidates, at-large delegates and at-large alternate delegates shall be allocated and awarded as follows: based on the ratio of the total statewide vote received by each presidential candidate in relation to the total statewide vote for all presidential candidates receiving at least twenty percent of the statewide vote in the presidential primary election, the New York Republican state committee shall apportion pro-rata the number of at-large delegates and at-large alternate delegates that each presidential candidate is entitled to receive rounded to the nearest whole number: provided however, that a presidential candidate must receive at least twenty percent of the total statewide vote of the presidential primary election in order to be awarded any at-large delegates by the New York Republican state committee. In the event the pro-rata apportionment of delegates leaves one or more delegates unawarded by process of mathematical distribution, then any such delegate or delegates, shall be awarded to the presidential candidate with the most statewide votes for all presidential candidates. In the event pro-rata apportionment entitles presidential candidates by process of mathematical distribution to more delegates than are authorized pursuant to the rules of the national Republican party and the call for the national convention, then the number of delegates awarded for the candidate receiving the least statewide votes among those presidential candidates otherwise entitled to be awarded delegates, shall be decreased to the extent necessary to conform to the number of authorized delegate positions.

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

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

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

§ 6. Subdivision 6 of section 6-158 of the election law, as amended by chapter 164 of the laws of 2022, is amended to read as follows:

6. (a) A certificate of a party nomination made other than at the primary election for an office to be filled at the time of a general election shall be filed not later than thirty days after the June primary election, (b) except that a certificate of nomination for an office which becomes vacant after the seventh day preceding such primary election shall be filed not later than thirty days after the June primary election or ten days after the creation of such vacancy, whichever is later, and (c) except, further, that a certificate of party nomination of candidates for elector of president and vice-president of the United States shall be filed not later than [~~seventy-four~~] seventy-three days after the June primary election, and (d) except still further that a certificate of party nomination made at a judicial district convention

shall be filed not later than the day after the last day to hold such convention and the minutes of such convention, duly certified by the chairman and secretary, shall be filed within seventy-two hours after adjournment of the convention. A certificate of party nomination for an office to be filled at a special election shall be filed not later than ten days following the issuance of a proclamation of such election, provided, however, such certificate shall be filed not later than seven days following the issuance of a proclamation for a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law.

§ 7. Subdivision 1 of section 8-600 of the election law, as added by chapter 6 of the laws of 2019, is amended to read as follows:

1. **(a)** Beginning the tenth day prior to any general, primary, run-off primary pursuant to subdivision one of section 6-162 of this chapter or special election for any public or party position except for such an election held pursuant to title two of article six or article fifteen of this chapter, and ending on and including the second day prior to such general, primary, run-off primary or special election for such public office or party position, persons duly registered and eligible to vote at such election shall be permitted to vote as provided in this title. The board of elections shall establish procedures, subject to approval of the state board of elections, to ensure that persons who vote during the early voting period shall not be permitted to vote subsequently in the same election.

(b) Notwithstanding the other provisions of this subdivision, early voting for the presidential primary held on the second day of April in the year two thousand twenty-four shall begin on the twenty-third day of March of such year and shall end on the thirtieth day of March of such year.

§ 8. Section 8-600 of the election law is amended by adding a new subdivision 4-a to read as follows:

4-a. Notwithstanding any provisions of subdivision four of this section to the contrary, the duration for early voting for the presidential primary held on the second day of April in the year two thousand twenty-four shall be, in accordance with the other requirements of this section, at least nine hours on each day of early voting.

§ 9. Paragraph (e) of subdivision 3 of section 9-209 of the election law, as added by chapter 763 of the laws of 2021, is amended to read as follows:

(e) Such cure affirmation shall be [~~**filed with**~~] **received by** the board no later than seven business days after the board's mailing of such curable rejection notice or the day before the election, whichever is later. Provided the board determines that such affirmation addresses the curable defect, the rejected ballot shall be reinstated and prepared for canvassing pursuant to subdivision two of this section. If the board of elections is split as to the sufficiency of the cure affirmation, such envelope shall be prepared for canvassing pursuant to paragraph (d) of subdivision two of this section.

§ 10. Subdivision 2 of section 8-308 of the election law is REPEALED and a new subdivision 2 is added to read as follows:

2. Any write-in vote for a candidate whether or not such candidate's name is on the ballot for that contest shall be counted for such candidate unless such write-in vote creates an invalid overvote in the contest.

§ 11. Paragraphs (b) and (d) of subdivision 3 of section 9-209 of the election law, as added by chapter 763 of the laws of 2021, are amended to read as follows:

(b) A curable defect includes instances where the ballot envelope: (i) is unsigned; (ii) has a signature that does not correspond to the registration signature; (iii) has no required witness to a mark; (iv) is returned without a ballot affirmation envelope in the return envelope; (v) has a ballot affirmation envelope that is signed by the person that has provided assistance to the voter but is not signed or marked by the voter; [~~or~~] (vi) contains the signature of someone other than the voter and not of the voter**; or (vii) is returned by mail between two and seven days after the election without a postmark**.

(d) The voter may cure the aforesaid defects by filing a duly signed affirmation attesting to the same information required by the ballot affirmation envelope and attesting that the signer of the affirmation is the same person who submitted such ballot envelope**; provided, however, that for the defect described in subparagraph (vii) of paragraph (b) of this subdivision, such affirmation shall also include an attestation that the voter mailed the ballot envelope on or before the day of the election**. The board shall include a form of such affirmation with the notice to the voter. The affirmation shall be in a form prescribed by the state board of elections.

§ 12. Subdivisions 1 and 2 of section 16-102 of the election law, subdivision 1 as amended by chapter 373 of the laws of 1978 and subdivision 2 as amended by chapter 164 of the laws of 2022, are amended to read as follows:

1. The nomination or designation of any candidate for any public office or party position or any independent nomination, or the holding of an uncontested primary election, by reason of a petition for an opportunity to ballot having been filed, or the election of any person to any party position**, or the certificate to fill a vacancy in a designation,** may be contested in a proceeding instituted in the supreme court by any aggrieved candidate, or by the chairman of any party committee or by a person who shall have filed objections, as provided in this chapter, except that the chairman of a party committee may not bring a proceeding with respect to a designation or the holding of an otherwise uncontested primary.

2. A proceeding with respect to a petition shall be instituted within fourteen days after the last day to file the petition, **within four days after the last day that a certificate to fill a vacancy in a designation shall be filed,** or within three business days after the officer or board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition **or certificate to fill a vacancy**, whichever is later; except that a proceeding with respect to a petition for a village election or a nomination for a special election shall be instituted within seven days after the last day to file the certificate or petition for such village election or nomination or within three business days after the officer or board with whom or which such certificate or petition was filed, makes a determination of invalidity with respect to such certificate or petition, whichever is later. A proceeding with respect to a primary, convention, meeting of a party committee, or caucus shall be instituted within ten days after the holding of such primary or convention or the filing of the certificate of nominations made at such caucus or meeting of a party committee.

§ 13. Subdivision 3 of section 9-110 of the election law, as amended by chapter 437 of the laws of 2019, is amended to read as follows:

3. Nothing in this section shall be construed to require or permit **absentee or** affidavit ballots to be canvassed at the poll site on election day. **Such ballots shall be canvassed pursuant to section 9-209 of this article.**

§ 14. Subdivision 5 of section 9-209 of the election law, as added by chapter 763 of the laws of 2021, is amended to read as follows:

5. Nothing in this section prohibits a representative of a candidate, political party, or independent body entitled to have watchers present at the polls in any election district in the board's jurisdiction from observing, without objection, the review of ballot envelopes required by subdivisions two, three [~~and~~], four**, and seven** of this section.

§ 15. Subdivision 7 of section 9-209 of the election law is amended by adding a new paragraph (l) to read as follows:

(l) The provisions of this subdivision shall apply notwithstanding any other provision of this chapter.

§ 16. Paragraph (d) of subdivision 4 of section 9-208 of the election law, as added by section 1 of part JJ of chapter 55 of the laws of 2020, is amended to read as follows:

(d) **No board of elections shall commence a full manual recount of a particular contest unless and until such board of elections has completed and announced the results of the recanvass required by subdivision one of this section, for each applicable election district.**

(e) The result of the manual recount of ballots shall supersede the returns filed by the inspectors of election of the election district in which the canvass was initially made.

§ 17. Severability. If any sentence, clause, subparagraph, paragraph, subdivision, section or part of section one, two, three, four, five, six, seven, or eight of this act, or the application thereof to any party, person or circumstances shall be held or adjudged by any court of competent jurisdiction to be invalid, such holding or judgment shall not affect, impair or invalidate the remainder or any portion of the remainder of this act, or the application of such section or part of a section held or adjudged to be invalid, to any other person or circumstances, but shall be confined in its operation to the sentence, clause, subparagraph, paragraph, subdivision, section or part of such section or sections directly involved in the controversy in which such holding or judgment shall have been rendered, or to the party, person and circumstances therein involved.

§ 18. This act shall take effect immediately; provided, however, if this act shall have become a law after July 1, 2023, it shall take effect immediately and sections one through eight of this act shall be deemed to have been in full force and effect on and after July 1, 2023; provided, however, that section nine of this act shall take effect on the first of January next succeeding the date upon which it shall have become a law; and provided further, sections one through eight of this act shall expire December 31, 2024 when upon such date the provisions of this act shall be deemed repealed.