

New York Supreme Court

APPELLATE DIVISION—THIRD DEPARTMENT

ELISE STEFANIK, NICOLE MALLIOTAKIS, NICHOLAS LANGWORTHY, CLAUDIA TENNEY, ANDREW GOODELL, MICHAEL SIGLER, PETER KING, GAIL TEAL, DOUGLAS COLETY, BRENT BOGARDUS, MARK E. SMITH, THOMAS A. NICHOLS, MARY LOU A. MONAHAN, ROBERT F. HOLDEN, CARLA KERR STEARNS, JERRY FISHMAN, NEW YORK REPUBLICAN STATE COMMITTEE, CONSERVATIVE PARTY OF NEW YORK STATE, NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE and REPUBLICAN NATIONAL COMMITTEE,

Petitioners-Appellants,

—against—

KATHY HOCHUL, in her official capacity as Governor of New York, NEW YORK STATE BOARD OF ELECTIONS, PETER S. KOSINSKI, in his official capacity as Co-Chair of the New York State Board of Elections, DOUGLAS A. KELLNER, in his official capacity as Co-Chair of the New York State Board of Elections, and THE STATE OF NEW YORK,

Defendants-Respondents,

—and—

DCCC, KIRSTEN GILLIBRAND, YVETTE CLARKE, GRACE MENG, JOSEPH MORELLE, RITCHIE TORRES, JANICE STRAUSS, GEOFF STRAUSS, RIMA LISCUM, BARBARA WALSH, MICHAEL COLOMBO and YVETTE VASQUEZ,

Intervenors-Defendants-Respondents.

**BRIEF FOR *AMICUS CURIAE* COMMON CAUSE NEW YORK
IN SUPPORT OF DEFENDANTS-RESPONDENTS EXCLUDING KOSINSKI
AND INTERVENORS-DEFENDANTS-RESPONDENTS**

MATTHEW C. SULLIVAN
PETER W. BAUTZ
HOGAN LOVELLS US LLP
390 Madison Avenue
New York, New York 10017
(212) 918-3000
matthew.sullivan@hoganlovells.com
peter.bautz@hoganlovells.com

*Attorneys for Amicus Curiae
Common Cause New York*

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INTEREST OF AMICUS CURIAE

Amicus curiae is the New York chapter of Common Cause (“Common Cause New York”). Common Cause is a non-partisan, nonprofit organization, with more than 1 million members nationwide, dedicated to upholding the core values of American democracy. Common Cause works to create open, honest, and accountable government that serves the public interest; to promote equal rights, opportunity, and representation for all; and to empower all people to make their voices heard in the political process. To that end, Common Cause has chapters in at least 30 states, including New York.

Common Cause New York is one of Common Cause’s most active state chapters, with over 62,000 members in New York State. Common Cause New York strives to mobilize support for, and action on, election administration reform, campaign finance reform, and strengthening and enforcing ethics laws important to maintain the public’s faith in democracy, including vote-by-mail.

Since the second half of 2022, Common Cause New York has devoted substantial time and effort to support the Early Mail Voter Act specifically and mail voting generally. Common Cause New York spent time and resources advocating for the Early Mail Voter Act, including disseminating memos in support of the Act to members and staff of the Legislature as well as coalition partners, directly lobbying Assembly Members and Senators for its passage, publishing op-eds in New

York newspapers regarding the Early Mail Voter Act, and lending its support to Appellee Kathy Hochul's signing of the Act. Since the Act was signed into law, Common Cause New York has worked with boards of elections to help develop language for the required online portal, as well as work with the New York City Board of Elections and other New York City agencies to develop uniform language describing the availability of Early Vote by Mail in materials provided to voters. Common Cause New York has also briefed its members and coalition members about the details of the new law and helped develop voter education materials announcing it.

Common Cause's seeks to respond to Appellants' treatment of cases from other states regarding the constitutionality of early mail voting when faced with applicable provisions in their respective state constitutions. In addition, Common Cause seeks to provide this Court with important context regarding early mail voting statutes in New York and elsewhere.

PRELIMINARY STATEMENT

The original constitutional language, interpretive history, and judicial tradition of New York establish the constitutionality of the Early Mail Voter Act ("EMVA"). Significantly, New York is not alone in enacting constitutional early mail voting procedures.

Two sister states with similar legal traditions and history, Pennsylvania and Massachusetts, have upheld early mail voting statutes in the face of constitutional absentee voting limitations challenges. *See Lyons v. Secretary of the Commonwealth*, 192 N.E.3d 1078 (Mass. 2022); *McLinko v. Dep't of State*, 279 A.3d 539 (Pa. 2022). In fact, New York's constitutional language, interpretive history, and judicial tradition are far more akin to those of Pennsylvania and Massachusetts than that of the one state that has struck down an early mail voting regime—Delaware. *See Albence v. Higgin*, 295 A.3d 1065 (Del. 2022). Delaware's Supreme Court made clear that its deviation from the decisions of the high courts of Pennsylvania and Massachusetts was grounded explicitly in Delaware's unique history:

In diverging from the approach taken in Pennsylvania and Massachusetts . . . had our historical record and constitutional tradition not pointed us firmly in the direction we have taken, we might very well have followed their lead. In the end, however, we are satisfied with the guidance provided by our own history as reflected in our case law and its longstanding acceptance by our political branches.

Albence, 295 A.3d at 1094.

Importantly, New York's history and constitutional tradition aligns more closely with Pennsylvania's or Massachusetts's than it does the outlier state of Delaware. Like Pennsylvania and Massachusetts, New York has long-recognized that the Legislature has plenary powers—in New York, under Article II, Section 7—to determine the method of elections. Indeed, New York's Constitution was specifically amended to be sufficiently broad to allow the Legislature to adapt to

evolving voting methods. And unlike Delaware's Constitution, the New York Constitution is purposefully sparse in its dictates, leaving many questions pertaining to election law to the discretion of the Legislature. New York should follow the path of its sister states, Massachusetts and Pennsylvania, and hold that the EVMA is a constitutional exercise of the Legislature's plenary powers over elections.

ARGUMENT

I. THE CONSTITUTIONAL TEXT, HISTORY, AND PRECEDENTIAL DEVELOPMENTS OF NEW YORK ARE SIMILAR TO ITS SISTER STATES THAT HAVE AFFIRMED THE USE OF EARLY MAIL VOTING.

New York's constitutional text, history, and precedential developments are similar to those in states that have affirmed the constitutionality of a legislature choosing to adopt early mail voting.

A. The Text of New York's Constitution Is More Similar to Massachusetts and Pennsylvania than Delaware.

The text of New York's Constitution relating to the power of the Legislature to control the method of voting and to how much the details of voting are left to the Legislature is more similar to that of Massachusetts and Pennsylvania than Delaware.

1. Language Related to Method of Voting

New York's decision to grant the Legislature plenary power over the method of voting is more in line with how Massachusetts and Pennsylvania structured their constitutions than Delaware. In anticipation of the 1938 New York Constitutional

Convention, a Constitutional Convention Committee was appointed to “collect factual data” to aid the drafters’ analysis. *Problems Relating to Home Rule and Local Government*, N.Y. State Constitutional Convention Committee (1938). The Committee reviewed documentation from the 1894 convention, the convention that introduced the relevant language in the modern Article II, Section 7. The 1894 convention changed the language of the New York Constitution, which read, “All elections by the citizens shall be by ballot. . . .” by adding the phrase: “or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.” *Id.* at 213–14. One factor behind the change was a concern that “the etymology of the word ‘ballot’ or its use or judicial construction would warrant the use of mechanical devices, known as voting machines, in General State elections.” *Id.* at 214–15. In other words, the drafters wanted the Legislature to have flexibility—including the option of adopting voting machines as a method of voting, if they so chose. In response to complaints that any method besides voting by paper ballot in person would be “open sesame to fraud,” the delegates to the 1894 convention noted that paper ballots were also susceptible to fraud and that “it is not an argument against the use of another method to state that there may be frauds committed.” *Id.* at 215. As one delegate noted: “Provision should now be made to admit of an adjustment of the manner of our elections to the improved methods of voting. . . . likely to come into use, and the proposed amendment is considered

adequate to the accomplishment of that result.” *Id.* The same delegate further explained that the change to the New York Constitution was designed to “enable the legislature to get out of the strait jacket which is created by the present Constitution and enable it to adopt new ideas, if, after experiment, they are found to be worthy of trial.” *Id.* at 215.

This language demonstrates that the purpose behind the 1894 revision was to authorize the Legislature to implement modern and evolved methods of voting that might develop in the future, so long as the system provided for secrecy of voting. The drafters wanted to grant the Legislature the flexibility to adapt to updated practices, technology, and events. Thus, the purpose of the amendment was to liberate the Legislature to implement modern forms of voting—which today would plainly include vote-by-mail.

While the 1894 revision expanded the broad reach of the Constitution, a constitutional amendment in 1966 removed language pertaining to in-person elections from Article II, Section 1. Rep. of Joint Legis. Comm. to Make a Study of the Election Law and Related Statutes, Legis. Doc. No. 30, at 11 (1966). Thus, the history of New York supports broad plenary powers, while more recent developments make clear that there is no in-person requirement to hold the Legislature back. Pennsylvania has confirmed the constitutionality of mail voting under a parallel provision in its constitution, Pa. Const. art. VII, § 4. That provision

was similarly amended to broaden the scope of the legislature’s powers regarding elections. *See McLinko*, 279 A.3d at 560. The language of that amended provision, “[a]ll elections by the citizens shall be by ballot *or by such other method as may be prescribed by law*: Provided, That secrecy in voting be preserved,” Pa. Const. art. VII, § 4 (emphasis added), almost directly matches New York’s language Article II, Section 7. N.Y. Const. art. II, § 7. It was this language that Pennsylvania’s Supreme Court found granted the legislature authority to enact vote-by-mail—it was “such other method.” *McLinko*, 279 A.3d at 560. Because of the parallels between Pennsylvania’s and New York’s constitutional structure and language, this Court has a firm basis for taking guidance from Pennsylvania’s approach when analyzing New York’s Constitution.

Although the Massachusetts Constitution contains language which could be read to require in-person voting without providing flexibility to the legislature to adopt different methods of voting, the Massachusetts Supreme Court nevertheless interpreted those provisions as providing the legislature with plenary power to refine the method of elections. When discussing how elections for State senators and the governor shall be conducted, Chapter 2, Article III of Massachusetts’ constitution uses the language “such meetings,” and “in the presence of the inhabitants”—arguably suggesting that voting is to occur in person. The Massachusetts Supreme Court, however, has noted that the word “meeting” “has been overtaken by use of

the word ‘election,’ and the Legislature long ago was granted express authority with respect to the manner of calling, holding, and conducting elections.” *See Lyons*, 192 N.E.3d at 1094. Thus, Massachusetts’ Constitution similarly vests the legislature with express authority to legislate regarding the manner of conducting elections, just as New York’s Constitution expressly permits the legislature to legislate regarding the method of elections.

By contrast, Delaware’s constitutional text is far more constraining and lacks the judicial construction granting the legislature plenary power over the method of elections found in Massachusetts. Delaware’s fourth and current constitution was written in 1897. *The Delaware Constitution of 1987 as Amended*, The Delaware Code Online, <https://delcode.delaware.gov/constitution/>. Various provisions of the Delaware Constitution explicitly or implicitly refer to elections occurring in person—provisions which have not received a similar judicial gloss as in Massachusetts. For example, Article V, Section 5 of the Delaware Constitution refers to “attendance” at elections and “going to and returning from them.” *Id.* By contrast, New York’s Article II, Section 7 contains no reference to “returning” to an election. *See* N.Y. Const. art. II, § 7. Article II, Section 2 does not alter this conclusion—as described in more detail *infra*, that section does not restrict voting to in-person. But even if it did, the sponsors and supporters of the EVMA expressly rejected contentions from opponents of the EVMA that it was being promulgated

under the absentee ballot provisions in Article II, Section 2, as described more fully in Section II.B, *infra*.

The New York Legislature's plenary powers to govern the method of elections is not constrained by any broader requirement or assumption of in-person voting; the 1966 Amendment repealing the restrictive in-person language makes this clear. Further, this absence of constraint makes thematic sense; the drafters of New York's Constitution were focused specifically on avoiding applying a "strait jacket" to the Legislature's plenary power. *See Problems Relating to Home Rule and Local Government*, New York State Constitutional Convention Committee, at 215 (1938). Delaware, then, stands apart from the constitutional framework and judicial construction found in New York, Pennsylvania, and Massachusetts.

2. Language Relating to Constitutional Scope

Another difference among the states is their broader approach to legislative prerogative over election laws, as determined by the degree of authority that state constitutions give to the legislature. Pennsylvania, Massachusetts, and New York, generally delegate power to their legislatures to enact election rules and regulations as opposed to enshrining them in their constitution. For instance, while some states incorporate rules regarding voter intimidation into their constitution, the states of Pennsylvania, Massachusetts, and New York decided to leave these issue to their

respective legislatures. *See* Mass. Gen. Laws ch. 56, §§ 29-31, 43, 46-49; 25 Pa. Cons. Stat. §§ 320-1827, 1828, 1839 and 1847(a); 25 Pa. Cons. Stat. § 3547.

Here again, Delaware stands apart from the other states. In Delaware's Constitution, Section 1 refers to "intimidation thereof" that one may encounter at an in-person election. *See* Del. Const. art. V, § 1. New York, however, has housed its anti-threat policy in its statutory election law. *See* N.Y. Elec. Law § 17-150. To cite another example, the Delaware Constitution's Article V, Section 3 discusses bribery at elections. *See* Del. Const. art. V, § 3. New York has no such constitutional provision, generally addressing such bribery offenses under statutory authority. *See e.g.*, N.Y. Penal Law § 200.40 (2019). Further, the Delaware provision referring to "returning from" an election pertained to immunity from arrest during voting under certain conditions. Such a provision is absent from the New York Constitution. This approach is consistent with New York's commitment to granting greater legislative discretion, through the exercise of its plenary authority—precisely as the drafters of New York's Constitution intended. *Problems Relating to Home Rule and Local Government*, New York State Constitutional Convention Committee, at 215 (1938).

Scholars have recognized the Delaware Constitution's distinctive approach, with experts noting how the document strays into the "minutiae" of elections. *See* Paul Dolan, *The Constitution of Delaware*, 59 Dick. L. Rev 75, 82 (1954); *cf.* Randy J. Holland, *The Delaware State Constitution*, at 22 (2nd ed. 2017) ("The finished

product was significantly longer and more extensive than Delaware’s previous constitutions.”). Indeed, Professor Dolan notes that the constitutional provisions were written in “such detail that the legislature found them an obstacle in attempting to write a statute covering absentee voting.” *See Dolan, The Constitution of Delaware*, 59 Dick. L. Rev. at 82. At one time, Delaware and New York faced similar problems: the existing constitutional provisions were too constraining on the legislature when it came to elections. However, the two states had fundamentally different responses. New York pointedly fixed its “strait jacket” problem by broadening Article II, Section 7 and removing restrictions in Article II, Section 1. By contrast, Delaware’s Constitution remains relatively constraining, and to the extent constitutional amendment occurred, it did so through the absentee ballot clause—not by expanding the plenary powers of the Legislature. In other words, whereas Delaware overcame its obstacles by amending its *absentee ballot* provision, New York took a different path—giving considerable flexibility to the Legislature to meet new challenges through Article II, Section 7’s *plenary power*.

B. The Precedential Developments of New York Support Following Sister States that Found Early Mail Voting Constitutional.

Precedential developments in New York relating to the Legislature’s power generally, emergency powers during COVID, and various ballot initiatives also support following New York’s sister states in finding early mail voting constitutional.

1. Legislature's Power over Method of Voting Generally

There are notable differences in how subsequent courts, legislatures, and officials have understood their states' respective constitutional provisions. In New York, there has been little instruction from the courts regarding vote-by-mail. To the extent New York courts have grappled with the issue, they frequently recognize that the Legislature's power to regulate the method of voting is plenary. *See, e.g., Burr v. Voorhis*, 128 N.E. 220, 221, 224 (N.Y. 1920) (noting constitutional "restriction upon the exercise of legislative wisdom and provision in the matter of elections could scarcely be less stringent"); *Hopper v. Britt*, 96 N.E. 371, 373 (N.Y. 1911); *People ex rel. Lardner v. Carson*, 50 N.E. 292, 292 (N.Y. 1898). This plenary power is established by Article II, Section 7, and it instructs the Legislature that it can provide for voting "by ballot, or by such other method as may be prescribed by law." N.Y. Const. art. II, § 7. This broad language—combined with the historical context that the constitutional drafters wanted to free the Legislature from its "strait jacket" so it could adopt modern voting systems—suggests that changes to the form of voting belong in Article II, Section 7. Article II, Section 7 is about the *type* of voting system. In the 1920s, the New York Court of Appeals recognized that what is now Article II, Section 7 is the "sole enactment concerning the ballot or method of voting." *See Burr*, 128 N.E. at 224. Accordingly, when New York adopted voting machines, it did so through Article II, Section 7.

In contrast to Article II, Section 7, the absentee ballot provision of Article II, Section 2 pertains to the Legislature’s power to provide voting opportunities when the voters are sick or absent from their home. Systematic changes to how votes are cast have not been governed by the absentee ballot system. Put simply, the absentee provision serves a different function than the plenary power of Article II, Section 7. This distinction may give reason as to limits in New York case law—and why the case law that does exist squarely supports that idea that the Legislature has broad plenary power.

New York’s constitutional history is largely similar to that of Massachusetts in that no precedent in Massachusetts prohibited the Legislature’s authority to enact a vote-by-mail system. Even in Pennsylvania—where some earlier decisions did speak to the issue of in-person voting—the Pennsylvania Supreme Court has concluded that those decisions did not prohibit its endorsement of vote-by-mail. In two Pennsylvania cases now at least a century old—*Chase v. Miller* and *In re Contested Election in Fifth Ward of Lancaster City*, courts had stated that the term “offer to vote” in the Constitution envisioned in-person voting. See *Chase v. Miller*, 41 Pa. 403 (1862); *In re Contested Election in Fifth Ward of Lancaster City*, 126 A. 199 (Pa. 1924). Nevertheless, in its *McLinko v. Commonwealth* decision of 2022, the Pennsylvania Supreme Court concluded that *Chase*’s discussion regarding an in-person voting requirement was dicta and the rationale no longer applicable based on

new voter verification methods. In *McLinko*, the Pennsylvania court further found that *Lancaster City* “did not reconcile the basis of the *Chase* Court’s interpretation of ‘offer to vote’ with the amended Constitution before it in 1924.” *See* 279 A.3d at 569-72. It therefore chose to depart from these earlier cases, insofar as they can be read to endorse an in-person voting requirement, and concluded that the Pennsylvania Constitution contains no requirement of in-person voting.

Delaware, conversely, had a different precedential history that reflected events unique to that state. In 2022, the Delaware Supreme Court held that their state’s historical constitutional tethering of voting to in-person locations, including the “historical context” that all three branches of the Delaware government have a “settled understanding” that the Delaware Constitution’s absentee-voting provisions limit voting to in-person only unless one of the enumerated excuses applies, forced the conclusion that vote-by-mail legislation was barred by the historical and settled interpretation of the absentee ballot provision of the Delaware Constitution. *See Albence*, 295 A.3d at 1089–90; *Opinion of the Justices*, 295 A.2d 718 (Del. 1972) (adding a “caveat” that the legislature may not expand who is eligible to receive an absentee ballot prior to the election by statute beyond the excuse categories in the state constitution). The Delaware Supreme Court pointed to both the pandemic-induced vote-by-mail bill passed under emergency powers and the failed 2020 vote-by-mail constitutional amendment as evidence of this understanding. *See Albence*,

295 A.3d at 1081–84. While doing so, the Delaware Supreme Court repeatedly recognized that other states’ “historical experience differs from ours.” *Id.* at 1090. And so it does—New York does not have the same historical tradition of treating mail voting as the same as absentee voting.

2. Emergency Powers

Developments related to emergency powers of legislatures during COVID similarly support following New York’s sister states in finding vote-by-mail constitutional. New York passed two iterations of COVID-19-related election policy. To begin, New York’s governor signed an executive order to allow voters to vote absentee in the upcoming primary. New York’s governor signed an executive order which, among many things, modified deadlines, procedures, and scope for voters in certain areas to vote absentee. *See Amid COVID-19 Pandemic, Governor Cuomo Signs Executive Order Temporarily Modifying Election Procedures to Reduce Spread of Coronavirus*, New York State Governor Kathy Hochul (March 14, 2020), <https://www.governor.ny.gov/news/amid-covid-19-pandemic-governor-cuomo-signs-executive-order-temporarily-modifying-election>. Then, in 2020, the Legislature passed a three-part package to address COVID-19 fears for the general election. *See* N.Y. State Assembly Speaker Carl E. Heastie, S08015D, available here: <https://nyassembly.gov/leg/?bn=S08015&term=2019>. One of these bills allowed voters who were worried about contracting or transmitting

COVID-19 to others to request an absentee ballot. Thus, this absentee expansion passed under the provisions already provided by Article II, Section 2. This system was not a vote-by-mail system; rather, it was a legislative expansion of absentee voting consistent with the language of the New York Constitution. It was not an attempt to pass vote-by-mail through Article II, Section 2, and it did not touch on the same constitutional questions that appeared in other states.

Pennsylvania was uniquely situated to deal with the COVID-19 pandemic and its effect on elections because it had passed Act 77, granting universal mail-in voting on October 31, 2019. *See McLinko*, 279 A.3d at 544. Similarly, Massachusetts only had to extend its pre-existing VOTES Act, through the COVID-19 Act, to apply to primary and city and town elections held before December 31, 2020. *See Lyons*, 192 N.E.3d at 1083. In short, none of New York's sister states viewed the emergency powers in the context of COVID-19 as creating a precedent that absentee ballot provisions in a state constitution restrict the legislature's plenary power to enact statutes regarding the method of voting.

Here again, the experiences of New York, Pennsylvania, and Massachusetts differ markedly from that of Delaware. The Delaware Supreme Court's 2022 decision pointed to the state's emergency voting measure and the subsequent failed vote-by-mail constitutional amendment as evidence of a historical understanding that vote-by-mail should be evaluated under its absentee ballot provision rather than

provisions relating to the legislature’s power to enact laws related to the method of voting. *See Albence*, 295 A.3d at 1081–82. In 2020, the Delaware General Assembly expanded absentee ballots in response to the COVID-19 pandemic, using its emergency powers. The Delaware Supreme Court found that passing such a measure through the emergency powers clause would only be necessary if the Legislature’s plenary powers did not allow for passage otherwise. *See id.* Further, the Court notes that the General Assembly “found and declared” that “[t]he list of reasons for absentee voting is exhaustive. . . .” and that it would be “impracticable” to comply with Delaware’s absentee ballot provision. *See id.* at 1081-82 n.90(citing *Republican State Comm. of Del. v. Dep’t. of Elections*, 250 A.3d 911, 918 (Del. Ch. 2020) (emphasis in original)). This understanding was further confirmed when the law was challenged in court and both parties agreed that the emergency procedures would not otherwise be constitutional because of Delaware’s absentee ballot provision. *See id.* at 1082. A very different result occurred in New York, where the Fourth Department ruled that New York’s expansion of who counted under the “excuses” for illness in New York due to COVID-19 was constitutional under Article II, Section 2—not an emergency-powers-only reasoning. *Ross v. State*, 198 A.D.3d 1384 N.Y. App. Div. 2021) (summarily affirming Supreme Court’s ruling that expansion of absentee voting excuses to cover fear of catching COVID-19 was constitutional); *Cavalier v. Warren Cnty. Bd. of Elections*, 174 N.Y.S.3d 568 (N.Y.

Sup. Ct. 2022) (same), *aff'd*, 178 N.Y.S.3d 217 (N.Y. App. Div. 2022). The fact that Delaware passed these measures under an emergency power provision of the Constitution and received court blessing only on that basis—unlike New York which passed its expansion under the absentee ballot provisions of its Constitution—is strong evidence of Delaware’s and New York’s differing approaches to constitutional interpretation and legislative discretion to govern elections.

3. Failed Absentee Ballot Amendment

The failed absentee ballot amendment in New York in no way suggests that this Court should follow Delaware’s precedent, as Appellants contend. Appellants’ Br. at 49. New York recently had a proposed amendment to the absentee ballot section of the Constitution fail. The proposed New York amendment was about removing the need to have an excuse to request an absentee ballot. Unlike in Delaware, New York’s history points to a legal distinction between the *method* of voting, compared to the *scope* of absentee voting. New York’s failed constitutional amendment decidedly aimed to do the latter.

Indeed, Article II, Section 2 of the New York Constitution does not mandate the method of voting absentee, instead permitting the Legislature to provide for “a manner in which” those who will be absent on election day may vote. Nothing required (or requires) the Legislature to use mail voting as the method for voting

absentee. This further demonstrates how there is a difference between a person voting absentee and the *method* by which people vote.

This distinction is further supported by the floor debate regarding the failed amendment. While most of the 2018-2019 New York legislative debate on the no-excuse absentee ballot amendment focused solely on absentee ballots, the distinction between a vote-by-mail system and an expanded absentee ballot system came up in the legislative debates over the proposed constitutional amendment. At the time of debate regarding no-excuse absentee ballots, Assemblyperson Phillip Steck said that he supported “voting by mail, such as the system Oregon has” but asserted that no-excuse absentee voting had been “a problem” in New York. *See* Appendix 2 at 73.

He went on to say:

“People should not wait on line for hours to vote. That is why I support a process of voting by mail, such as Oregon has, which assures no manipulation of the process of casting a vote. Until appropriate safeguards are in place, the concept of no excuses absentee ballot will not be a policy to increase turnout, but one that favors voter manipulation.”

Id. at 75.

Further, Assemblyperson Steck specifically said that: “[No-excuse absentee ballot voting is] not supposed to be an invitation to unlimited voting by mail. If that’s what we’re going to do, then we should do that, but not do it through the absentee ballot process.” *See id.* at 35. This statement suggests that he understood

that the two systems are separate, and that the amendment at issue at the time did not apply to the vote-by-mail issue.

While other legislators were less direct, other comments recognized the distinction between no-excuse absentee ballot states and vote-by-mail states. For example, the amendment's sponsor Assemblyperson Vanel cited to the "27 other states, they have no-excuse absentee ballot voting[,]” as opposed to the fewer number of states that have vote-by-mail. *See id.* at 30. Indeed, Vanel noted that there are difficulties getting absentee ballots if someone is in a big county or works in a different area of New York City than where they live. *See id.* These concerns relate to removing the barriers to absentee ballots located in Article II, Section 2.

On the other hand, legislators Thomas McKeivitt and Brian Kavanagh believed that the constitutional amendment would make it possible to adopt a full “mail-in” system. Assemblyperson Kavanagh said that a full mail-in system would be possible “if this constitutional amendment were passed by both Houses and became part of the Constitution and then a future Legislature decided that a full mail-in system was desirable.” *See id.* at 148. Assemblyperson McKeivitt urged other legislators to consider the possibility that the amendment could pave the way for a full mail-in system. In addition, the original committee's Memorandum in Support seems to have conflated absentee voting and vote-by-mail. *See id.* at 7. Taking these comments along with those of legislators Steck and Vanel, the implications are that

the legislature was split on whether amending Article II, Section 2 would allow for a full vote-by-mail system. Some legislators wanted to support the amendment because they thought it was necessary for allowing vote-by-mail while others expressed concerns about the amendment because they recognized a distinction between vote-by-mail and absentee voting. These conflicting understandings certainly deal a fatal blow to any idea that New York has a long-established understanding that absentee ballots and vote-by-mail systems are interchangeable terms.

Taking the failure of the no-excuse absentee voting amendment as proof that voters thought it was necessary for vote-by-mail is not legally sound. Unlike Delaware, New York's proposed no-excuse absentee ballot amendment failed at the public referendum stage, not in the legislature. Attempting to divine reasoning of a multitude of voters as to why they cast their vote a certain way in a secret ballot is an exercise in futility. While it is possible that voters thought that an amendment was necessary to permit vote-by-mail but unwanted, it is equally true that the voters could have rejected the amendment because they thought it unnecessary for the enactment of no-excuse absentee ballots or vote-by-mail, and thus they voted against the amendment as superfluous. *See People v. Thomas*, 121 N.E.3d 270, 278 n.9 (N.Y. 2019) (“[I]naction . . . is a weak reed upon which to lean in determining . . . intent.”); *Golden v. Koch*, 404 N.E.2d 1321, 1323 (N.Y. 1980) (rejecting

interpretation of city charter language based on voter intent because “it is clear that so few voters do what the ‘intelligent, careful voter’ rule assumes they do that this standard has become little more than an empty legal fiction”). Further, voters might have believed that while an amendment is necessary to expand absentee ballot voting, it was not necessary to implement vote-by-mail. These possibilities must be taken seriously as the proposed amendment was not written in plain language, creating a high risk of many voters misunderstanding the proposed language. Indeed, this problem was so apparent that New York *unanimously* passed a new law in 2023 mandating that proposed amendments must use “plain language” that does not exceed an eighth-grade level of reading comprehension. *See* SB 1381.

Further, many third-party lobbying efforts focused on absentee ballots and did not mention vote-by-mail. *See e.g.*, Appendix 2 at 127, 129–30, and 133–34. *But see id.* at 26. For example, the League of Women Voters wrote in their materials that: “Thirty-four states and Washington D.C., do not require an excuse from those who wish to vote absentee or by mail.” *See id.* at 116. No mention was made of the smaller number of states who have a vote-by-mail system. In all events, New York simply does not have a long-standing and accepted understanding regarding the relationship between absentee ballot voting and vote-by-mail, and it is impossible in this context to determine what voters meant when they rejected a no-excuse absentee voting amendment. The legislature has never ceded away its right to legislate the

method of conducting elections under its plenary authority, and no court has heard a case—much less issued a binding ruling—on the issue until now.

C. New York’s Understanding of Vote-by-Mail as Distinct from Absentee Ballot Voting is Supported by Other Vote-by-Mail States.

New York’s understanding that systematic changes to the type of voting method (Article II, Section 7) is distinct from that of the absentee ballot provision (Article II, Section 2) is consistent with that of fellow states. Other states that have passed vote-by-mail statutes have also found it necessary to maintain additional absentee provisions. To take one example, Oregon is a vote-by-mail state, and Oregon still has an absentee system. Indeed, there is an Oregon Absentee Ballot Request Form for those traveling during election day, suggesting that vote-by-mail and absentee ballot provisions are not redundant and serve different purposes. *See Voting in Oregon*, Oregon Sec. of State, <https://sos.oregon.gov/elections/Pages/voteinor.aspx>. Moreover, Oregon has not faced similar challenges to the constitutionality of its mail voting system or absentee balloting despite a constitutional provision specifying the “place of voting” as being “in a county or within the state.” Or. Const. art. II, § 17. Massachusetts and Pennsylvania similarly have both early mail voting and separate absentee voting. The office of the Secretary of the Commonwealth of Massachusetts has stated that although “[m]ost voters who qualify for an absentee ballot can choose instead to apply for an early Vote by Mail ballot. . . [t]here are some times that an absentee

ballot application is needed.” *See Absentee Voting*, Sec’y of the Commonwealth of Mass., <https://www.sec.state.ma.us/divisions/elections/voting-information/absentee-voting.htm> (last visited Feb. 23, 2024). Similarly, the Pennsylvania Department of State published that absentee ballots are appropriate, “[i]f you plan to be out of the municipality on election day or if you have a disability or illness that prevents you from going to your polling place on election day. . . .” *See Mail-in and Absentee Ballot*, Pa. Dept. of State, <https://www.vote.pa.gov/Voting-in-PA/Pages/Mail-and-Absentee-Ballot.aspx> (last visited Feb. 23, 2024). The need for an absentee ballot system within vote-by-mail states speaks to the distinction of purpose between plenary power provisions and absentee provisions. There still needs to be a system for absentees, even when the type of voting system has changed.

Hawaii is yet another example of a state recognizing a distinction between vote-by-mail and absentee ballot systems. Like New York, Massachusetts, Pennsylvania, and Delaware, Hawaii has an absentee ballot provision in its state Constitution and enacted a universal vote-by-mail law. *See* Haw. Const. art. II, § 4 (providing that “[t]he legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections”); *see* Haw. Rev. Stat. § 11-101–11-110 (2023).

Yet, the available legislative history of the bill enacting universal vote-by-mail suggests no constitutional challenges for Hawaii’s universal mail voting statute. *See, e.g., Testimony in Opposition to HB 1248*, Haw. Office of Elections, Feb. 13, 2023, https://www.capitol.hawaii.gov/sessions/Session2019/Testimony/HB1248_TESTIMONY_JUD_01-31-19_.PDF; *see also* Hawaii’s State Legislature, 2019 Archives, HB1248 HD1 SD2 CD1 https://www.capitol.hawaii.gov/session/archives/measure_indiv_Archives.aspx?billtype=HB&billnumber=1248&year=2019 (providing links to publicly available legislative history). Further, legislative history and bill text reveal that Hawaii state legislators intended to preserve the state’s absentee voting system while establishing a universal vote by mail system. Through committee markups, the Hawaii Legislature drafted and amended bill language to preserve the absentee ballot system. *See, e.g.,* Haw. Comm. on Judiciary, Stand. Comm. Rep. No. 1377 (Mar. 22, 2019) (amending the bill by “[in]making clarifying and conforming amendments to sections of the absentee voting law to account for all mail-in voting.”); Haw. Comm. on Ways & Means, Stand. Comm. Rep. No. 2015 (2019) (amending the bill’s language “relating to the return and receipt of absentee ballots”). Subsequently, the enacted law established the new “Elections by Mail” system by amending Chapter 11 of the Hawaii Revised Statutes. *See* H.B. 1248, 2019 Leg., 30th Reg. Sess., at 3 (Haw. 2019). Legislators also amended the existing absentee voting system, governed by

Chapter 15, in recognition of the ways universal vote-by-mail would *impact* absentee voting. *Id.* at 57. For example, legislators provided that “[a]ny person registered to vote who is unable to receive a ballot at a person’s voter registration address of record may request an absentee ballot” but eliminated the ability to request a “permanent absentee ballot.” *Id.* Recognizing the unique roles that each system plays in voting, the legislature preserved the relevant absentee voting provisions while simultaneously establishing universal vote by mail all in alignment with its constitutional obligations to “provide . . . for absentee voting and . . . prescribe the method of voting at all elections.” Haw. Const. art. II, § 4.

One of the likely reasons for such a distinction between absentee voting and vote-by-mail is that most states do not mandate mail as the only method of absentee voting. Some states permit overseas servicemembers to vote by email; others permit voters to vote absentee in-person before the election date. Moreover, in New York, a person with a long-term or permanent disability may apply for absentee ballots for all future elections, whereas a mail ballot under the EVMA must be requested every election.

In short, the precedential developments in numerous other states that have vote-by-mail systems that passed constitutional muster are similar to those in New York. This Court should follow the example of New York’s sister states and find that the EVMA is constitutional.

D. New York’s Understanding of Vote-by-Mail as Distinct from Absentee Ballot Voting is Supported by Legal and Electoral Scholarship.

New York’s historical distinction between voting method and absentee ballot scope is supported by scholarship. See Christopher B. Mann, *Mail Ballots in the United States: Policy Choice and Administrative Challenges*, in *The Measure of American Elections* (Barry C. Burden & Charles Stewart, III eds., 2014) (“Postal voting systems also have ‘traditional absentee’ provisions that allow voters to request mail ballot be delivered somewhere other than a voter’s registration address.”); Darrell M. West, *How Does Vote-by-Mail Work and Does it Increase Election Fraud?*, Brookings (June 22, 2020) (“There are two kinds of mail balloting systems: universal vote by mail and absentee balloting.”); Daniel M. Thompson, Jennifer A. Wu, Jesse Yoder & Andrew B. Hall, *Universal Vote-by-Mail Has No Impact on Partisan Turnout or Vote Share*, 117 PNAS 14053, 14053 (2020) (discussing universal vote-by-mail as different from no-excuse absentee ballot voting); Elizabeth Bergman & Philip A. Yates, *Changing Election Methods: How does Mandated Vote-by-Mail Affect Individual Registrants*, 10 Election L.J. 115, 115 (noting that some states have vote-by-mail while other states have absentee systems) (June 2011); Sarah Niebler, *Vote-by-Mail: COVID-19 and the 2020 Presidential Primaries*, 57 Society 547, 547 (Oct. 2020) (explaining that some states have “conducted all voting by mail” and differentiating from absentee systems); Daniel

M. Thompson, Jennifer A. Wu, Jesse Yoder & Andrew B. Hall, *The Neutral Partisan Effects of Vote-by-Mail: Evidence from County-Level Rolls-Outs*, Dem & Polarization Lab., Stanford University, 1, 3–4 (Apr. 15, 2020) (discussing the six states that have moved to all-mail voting in relation to partisan advantage). New York’s decision to treat absentee voting and vote-by-mail as separate systems is thus supported not only by its history and tradition but also by scholarship.

II. THE LEGISLATIVE HISTORY OF THE EMVA CONFIRMS ITS CONSTITUTIONAL GROUNDING IN ARTICLE II, SECTION 7.

A. When Interpreting Statutes, New York Courts Frequently Rely on Legislative History to Determine Lawmakers’ Intent.

As an initial matter, the New York courts rely on legislative history to understand the legislature’s intent, with the Court of Appeals going so far as to note that such history “is not to be ignored, even if [the statute’s] words be clear. The primary goal of the court in interpreting a statute is to determine and implement the Legislature’s intent.” *Tompkins Cnty. Support Collection Unit ex rel. Chamberlin v. Chamberlin*, 786 N.E.2d 14, 19 (N.Y. 2003) (internal quotation marks and citations omitted). To understand such intent, courts consider, *inter alia*, floor debates and bill sponsors’ statements as such sources provide key insight into the intentions and understandings of those closest to the laws. *See, e.g., Expressions Hair Design v. Schneiderman*, 117 N.E.3d 730, 735–37 (N.Y. 2018) (relying on statements made

by members of the Legislature during debate, *inter alia*, to inform court's understanding of legislative intent).

B. The EMVA's Legislative History Demonstrates that Its Drafters Relied on Article II, Section 7 as the Constitutional Authority for the EMVA.

The New York Assembly floor debate on the EMVA sheds light on the constitutional authority the law's authors relied upon in its drafting. Assemblymember Reyes, the EMVA lead sponsor in the New York State Assembly, repeatedly asserted that the bill's authority stemmed from Article II, Section 7 when asked by colleagues. Section 7 "gives [the Legislature] the authority to create this independent system." Appendix 3 at 75, Transcript of June 9, 2023 Debate, N.Y. Legis. Assemb., Reg. Sess. 2023–2024 (Jun. 9, 2023) at 362, available at https://nystateassembly.granicus.com/MinutesViewer.php?view_id=6&clip_id=7682&doc_id=9fa8d587-5962-11ee-ae13-0050569183fa. Using that authority, EMVA establishes a "separate system" that "would allow anybody who is eligible to vote in the election to request a mail-in ballot." *Id.* at 339–40, 362. The authority to create this system stems from the legislature's authority to "prescribe[] how ballots may be used in elections" under Article II, Section 7. *Id.* at 341–42. Ms. Reyes never wavered from her position that Article II, Section 7 permits the legislature to enact EMVA when debating its constitutionality.

Critics of the legislation argued that vote-by-mail fell under Article II, Section 2 of the New York Constitution. In response, Ms. Reyes distinguished the concept of absentee voting from early mail voting, emphasizing that her colleagues were wrongly “conflating two sections of the Constitution.” *Id.* at 342. Reyes stated, “[T]he Constitution, Article II, Section 2 is what governs absentee voting and that is not what we are touching here . . . [W]e are not, by any means, touching the absentee ballot system that exists and will remain. This is creating another system by which eligible voters can vote by mail,” as permitted by the Legislature’s authority under Article II, Section 7. *Id.* at 342. This comment makes sense given the fact that New York would still require an absentee system after the EMVA’s passage: Article II, Section 2 is not superfluous. When asked by an Assemblymember whether she “find[s] [the EMVA] to be an expansion of absentee voting in the State of New York,” Ms. Reyes explicitly rejected that assertion and again differentiated mail voting from absentee voting. *Id.* at 341–42. In short, this history reflects that the legislation’s sponsors and supporters sought to exercise the well-established authority to enact the EMVA pursuant to Article II, Section 7.

CONCLUSION

For the foregoing reasons, this Court should hold that the EMVA is constitutional and reject petitioner’s appeal.

Dated: March 20, 2024

Respectfully Submitted,

/s/ Matthew C. Sullivan

Matthew Sullivan

Peter W. Bautz

HOGAN LOVELLS US LLP

390 Madison Avenue

New York, NY 10017

Telephone: (212) 918-3000

Facsimile: (212) 918-3100

matthew.sullivan@hoganlovells.com

peter.bautz@hoganlovells.com

Alex Tobin (PHV Forthcoming)

HOGAN LOVELLS US LLP

555 13th St. NW

Washington, DC 20004

alex.tobin@hoganlovells.com

Attorneys for Amicus Curiae

Common Cause New York

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/s/ Matthew C. Sullivan

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Appendix I

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APPENDIX 1

	Voting methods provision	Absentee provision
New York	<p><i>Art. II, Sec. 7: Manner of Voting; Identification of Voters</i></p> <p>All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved. The legislature shall provide for identification of voters through their signatures in all cases where personal registration is required and shall also provide for the signatures, at the time of voting, of all persons voting in person by ballot or voting machine, whether or not they have registered in person, save only in cases of illiteracy or physical disability.</p>	<p><i>Art. II, Sec. 2: Absentee Voting</i></p> <p>The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who, on the occurrence of any election, may be absent from the county of their residence or, if residents of the city of New York, from the city, and qualified voters who, on the occurrence of any election, may be unable to appear personally at the polling place because of illness or physical disability, may vote and for the return and canvass of their votes.</p>
Pennsylvania	<p><i>Art. VII, Sec. 4: Method of Elections; Secrecy in Voting</i></p> <p>All elections by the citizens shall be by ballot or by such other method as may be prescribed by law: Provided, That secrecy in voting be preserved.</p>	<p><i>Art. VII, Sec. 14: Absentee Voting</i></p> <p>(a) The Legislature shall, by general law, provide a manner in which, and the time and place at which, qualified electors who may, on the occurrence of any election, be absent from the municipality of their residence, because their duties, occupation or business require</p>

		<p>them to be elsewhere or who, on the occurrence of any election, are unable to attend at their proper polling places because of illness or physical disability or who will not attend a polling place because of the observance of a religious holiday or who cannot vote because of election day duties, in the case of a county employee, may vote, and for the return and canvass of their votes in the election district in which they respectively reside.</p>
<p>Massachusetts</p>	<p><i>Part the Second, Ch. II, Sec. I, Art. III</i></p> <p>Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth, shall, at a meeting to be called for that purpose, on the [first Monday of April annually], give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting;</p>	<p><i>Amendments, Art. XLV</i></p> <p>The general court shall have power to provide by law for voting, in the choice of any officer to be elected or upon any question submitted at an election, by qualified voters of the commonwealth who, at the time of such an election, are absent from the city or town of which they are inhabitants or are unable by reason of physical disability to cast their votes in person at the polling places or who hold religious beliefs in conflict with the act of voting on the day on which such an election is to be held.</p>

and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county thirty days at least before the [last Wednesday in May]; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said [last Wednesday in May]; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before the said day; and the secretary shall lay the same before the senate and the house of representatives, on the [last Wednesday in May], to be by them examined: and in case of an election by a [majority] of all the votes returned, the choice shall be by them declared and published. . . .

Amendments, Art. XXXVIII

Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law: provided, however, that the right of secret voting shall be preserved.

<p>Delaware</p>	<p><i>Art. V, Sec. 1: Time and Manner of Holding General Elections</i></p> <p>The general election shall be held biennially on the Tuesday next after the first Monday in the month of November, and shall be by ballot; but the General Assembly may by law prescribe the means, methods and instruments of voting so as best to secure secrecy and the independence of the voter, preserve the freedom and purity of elections and prevent fraud, corruption and intimidation thereat.</p>	<p><i>Art. V, Sec. 4A: General Laws for Absentee Voting</i></p> <p>The General Assembly shall enact general laws providing that any qualified elector of this State, duly registered, who shall be unable to appear to cast his or her ballot at any general election at the regular polling place of the election district in which he or she is registered, either because of being in the public service of the United States or of this State, or his or her spouse or dependents when residing with or accompanying him or her, because of the nature of his or her business or occupation, because of his or her sickness or physical disability, because of his or her absence from the district while on vacation, or because of the tenets or teachings of his or her religion, may cast a ballot at such general election to be counted in such election district.</p>
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Appendix 2

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LEGISLATIVE HISTORY

2021

Ballot Proposal #4

170 PAGES

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NO-EXCUSE ABSENTEE VOTING Constitution Article 2 §2

This Proposal was Disapproved by the People November 2, 2021

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We accept the following:



S1049 COMRIE Same as S 871 COMRIE, A 778 Vanel (MS)
ON FILE: 01/10/19 Constitution, Concurrent Resolutions to Amend
TITLE....Authorizes ballot by mail by removing cause for absentee ballot voting
01/10/19 REFERRED TO JUDICIARY
01/11/19 TO ATTORNEY-GENERAL FOR OPINION
01/14/19 REPORTED AND COMMITTED TO RULES
01/14/19 ORDERED TO THIRD READING CAL.4
01/14/19 PASSED SENATE
01/14/19 DELIVERED TO ASSEMBLY
01/14/19 referred to judiciary
01/14/19 substituted for a778
01/14/19 ordered to third reading rules cal.7
01/14/19 passed assembly
01/14/19 returned to senate
01/15/19 DELIVERED TO SECRETARY OF STATE

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STATE OF NEW YORK

1049

2019-2020 Regular Sessions

IN SENATE

January 10, 2019

Introduced by Sens. COMRIE, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, 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, STEWART-COUSINS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

- 1 Section 1. Resolved (if the Assembly concur), That section 2 of arti-
2 cle 2 of the constitution be amended to read as follows:
3 § 2. The legislature may, by general law, provide a manner in which,
4 and the time and place at which, qualified voters [who, on the occur-
5 rence of any election, may be absent from the county of their residence
6 or, if residents of the city of New York, from the city, and qualified
7 voters who, on the occurrence of any election, may be unable to appear
8 personally at the polling place because of illness or physical disabili-
9 ty,] may vote and for the return and canvass of their votes in any
10 election.
11 § 2. Resolved (if the Assembly concur), That the foregoing amendment
12 be referred to the first regular legislative session convening after the
13 next succeeding general election of members of the assembly, and, in
14 conformity with section 1 of article 19 of the constitution, be
15 published for 3 months previous to the time of such election.

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

LBD89004-01-9

01/14/19 S1049 Senate Vote Aye: 56 Nay: 5

Aye Addabbo	Aye Akshar	Aye Amedore	Aye Antonacci
Aye Bailey	Aye Benjamin	Aye Biaggi	Aye Boyle
Aye Breslin	Aye Brooks	Aye Carlucci	Aye Comrie
Aye Felder	Exc Flanagan	Aye Funke	Aye Gallivan
Aye Gaughran	Aye Gianaris	Aye Gounardes	Aye Griffo
Aye Harckham	Nay Helming	Aye Hoylman	Aye Jackson
Exc Jacobs	Nay Jordan	Aye Kaminsky	Aye Kaplan
Aye Kavanagh	Aye Kennedy	Aye Krueger	Aye Lanza
Aye LaValle	Aye Little	Aye Liu	Aye Martinez
Aye May	Aye Mayer	Aye Metzger	Aye Montgomery
Aye Myrie	Aye O'Mara	Nay Ort	Aye Parker
Aye Persaud	Aye Ramos	Nay Ranzenhofer	Aye Ritchie
Aye Rivera	Aye Robach	Aye Salazar	Aye Sanders
Aye Savino	Aye Sepulveda	Aye Serino	Aye Serrano
Aye Seward	Aye Skoufis	Aye Stavisky	Aye Stewart-Cousins
Aye Tedisco	Aye Thomas	Nay Young	

NYLS Note: 34 pages of debate.

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01/14/19 S1049 Assembly Vote Yes: 136 No : 9

Yes	Abbate	Yes	Abinanti	Yes	Arroyo	Yes	Ashby
Yes	Aubry	Yes	Barclay	Yes	Barnwell	Yes	Barrett
Yes	Barron	Yes	Benedetto	Yes	Bichotte	Yes	Blake
Yes	Blankenbush	Yes	Brabenec	Yes	Braunstein	Yes	Bronson
Yes	Buchwald	Yes	Burke	Yes	Buttenschon	Yes	Byrne
No	Byrnes	Yes	Cahill	Yes	Carroll	Yes	Colton
Yes	Cook	Yes	Crespo	ER	Crouch	Yes	Cruz
Yes	Cusick	Yes	Cymbrowitz	Yes	Davila	Yes	De La Rosa
Yes	DenDekker	Yes	DeStefano	Yes	Dickens	Yes	Dilan
Yes	Dinowitz	No	DiPietro	Yes	D'Urso	Yes	Eichenstein
Yes	Englebright	Yes	Epstein	Yes	Fahy	Yes	Fall
Yes	Fernandez	Yes	Finch	Yes	Fitzpatrick	No	Friend
Yes	Frontus	Yes	Galef	Yes	Gantt	Yes	Garbarino
Yes	Giglio	Yes	Glick	Yes	Goodell	Yes	Gottfried
Yes	Griffin	Yes	Gunther A	Yes	Hawley	Yes	Hevesi
Yes	Hunter	Yes	Hyndman	Yes	Jacobson	Yes	Jaffee
Yes	Jean-Pierre	Yes	Johns	Yes	Jones	Yes	Joyner
Yes	Kim	Yes	Kolb	No	Lalor	Yes	Lavine
No	Lawrence	Yes	Lentol	Yes	Lifton	No	LiPetri
Yes	Lupardo	Yes	Magnarelli	Yes	Malliotakis	No	Manktelow
ER	McDonald	Yes	McDonough	Yes	McMahon	Yes	Mikulin
Yes	Miller B	Yes	Miller MG	Yes	Miller ML	Yes	Montesano
Yes	Morinello	Yes	Mosley	Yes	Niou	ER	Nolan
Yes	Norris	Yes	O'Donnell	Yes	Ortiz	Yes	Otis
Yes	Palmesano	Yes	Palumbo	Yes	Paulin	Yes	Peoples-Stokes
Yes	Perry	Yes	Pheffer Amato	Yes	Pichardo	Yes	Pretlow
Yes	Quart	Yes	Ra	Yes	Raia	Yes	Ramos
Yes	Raynor	Yes	Reilly	Yes	Reyes	Yes	Richardson
Yes	Rivera	Yes	Rodriguez	Yes	Romeo	Yes	Rosenthal D
Yes	Rosenthal L	Yes	Rozic	Yes	Ryan	Yes	Salka
Yes	Santabarbara	Yes	Sayegh	ER	Schimminger	Yes	Schmitt
Yes	Seawright	Yes	Simon	Yes	Simotas	Yes	Smith
Yes	Smullen	Yes	Solages	Yes	Stec	No	Steck
Yes	Stern	Yes	Stirpe	Yes	Tague	Yes	Taylor
Yes	Thiele	Yes	Titus	Yes	Vanel	No	Walczyk
ER	Walker	Yes	Wallace	Yes	Walsh	Yes	Weinstein
Yes	Weprin	Yes	Williams	Yes	Woerner	Yes	Wright
Yes	Zebrowski K	Yes	Mr. Speaker				

NYLS Note: 12 pages of debate.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S1049

SPONSOR: COMRIE

TITLE OF BILL:

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

PURPOSE:

This resolution shall propose to amend the state Constitution to allow for any voter to request to vote by mail without declaring any reason for doing so.

JUSTIFICATION:

Currently, the New York State Constitution only allows absentee voting if a person expects to be absent from the county in which they live, or the City of New York, or because of illness or physical disability. As we have seen in the most recent election, many states have allowed for alternate ways of voting, including mail in voting without having to declare any reason for doing so. There is no reason to prevent New Yorkers from doing so as well. By providing choices, we give voters the opportunity to cast their ballot in whatever way each finds most comfortable, whether that be in a voting booth on election day, or in the comfort of their own home prior to election day.

LEGISLATIVE HISTORY:

2018: S840 (Comrie) - Died in Judiciary/P-Assem.

2017: S840 (Comrie) - Died in Judiciary/P-Assem.

2016: S4456 (Comrie) - Died in Judiciary/P-Assem.

2015: S4456 (Comrie) - Died in Judiciary/P-Assem.

FISCAL IMPLICATIONS:

None to the state

EFFECTIVE DATE:

This act would take effect immediately.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A778

SPONSOR: Vanel (MS)

TITLE OF BILL:

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

PURPOSE:

This resolution shall propose to amend the state Constitution to allow any eligible voter to request to vote by mail without declaring a reason for doing so.

SUMMARY OF PROVISIONS:

Section 1 of the bill amends section 2 of article. 2 of the constitution to remove certain restrictions on the legislature's ability to permit voters to cast. absentee ballots, and to instead permit the legislature to provide the manner, time, and place for qualified voters to vote on or before the day of the election other than by personal appearance at polling places.

Section 2 of the bill provides that the amendment be referred to the first, regular legislative session after the next general election of members of the assembly and, be published for three months prior to the date of such election

JUSTIFICATION:

Currently, the New York State Constitution only allows absentee voting if a person expects to be absent from the county in which they live or the City of New York, or because of illness or physical disability. As we have seen recently, many states have allowed for alternate ways of voting, including mail in voting, without having to declare any reason for doing so. There is no reason to prevent New Yorkers from doing so as well. By providing choices, voters are provided with the opportunity to cast their ballot in whatever way they find most convenient - whether that be in a voting booth on election day, or in the comfort of their own home prior to election day.

FISCAL ON THE STATE:

None.

PRIOR LEGISLATIVE HISTORY:

2018: A.7623 (Vanel) - Passed Assembly

2017: A.7623 (Vanel) - Passed Assembly

2016: A.3874B (Brennan) Passed Assembly

2015: A.3874B(Brennan)Election Law

2014: A.4526 (Brennan) Election Law

2013: A.4526 (Brennan) Election. Law

EFFECTIVE DATE:

This amendment takes effect on the first day of January of the year after its approval and ratification by the people.

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FY 2020 NEW YORK STATE EXECUTIVE BUDGET

**NO EXCUSE ABSENTEE BALLOT
CONSTITUTIONAL AMENDMENT**

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

CONCURRENT RESOLUTION
OF THE SENATE AND ASSEMBLY

proposing an amendment to section 2 of
article 2 of the constitution, in relation to
absentee voting

Purpose:

This bill would amend the constitution to allow any eligible voter to request an absentee ballot regardless of the voter's reasons for doing so.

Summary of Provisions and Statement in Support:

This bill amends the constitution to remove the provisions requiring that voters have an approved reason for requesting an absentee ballot.
This bill reduces barriers to voting.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

NEW YORK STATE SENATE

DEMOCRATIC CONFERENCE

For Immediate Release: January 14, 2019

Contact: Gary Ginsburg | ginsburg@nysenate.gov | 518-455-2415

Protecting New York's Democracy: Senate Democratic Majority Passes Historic Election Reforms

(Albany, NY) The Senate Democratic Majority passed major legislation today to improve New York State's broken electoral system. New York consistently ranks as one of the worst voter turnout states in the nation. As the first major act this legislative session, the new Senate Democratic Majority, under the leadership of Senate Majority Leader Andrea Stewart Cousins, passed a series of bills to establish early voting and no-excuse absentee voting, modernize and expand voter registration, impose limits on LLC contributions, extend Primary Election voting hours and ensure uniformity throughout the state.

"Government should be about breaking down barriers, which is why the Senate Democratic Majority is making it easier for those who are eligible to vote. We need more voices in our democracy, not fewer," **Senate Majority Leader Andrea Stewart-Cousins** said. "Easing access to voting and having New Yorkers exercise their Constitutional right to have their voices heard shouldn't be partisan or controversial. Other states have taken the lead on issues like early voting, same-day registration, pre-registration, and no-excuse absentee voting. It is time for New York State to catch up, so we can once again lead the way forward."

The historic legislation passed by the Senate Democratic Majority includes:

- **Early Voting:** This bill, [S.1102](#) introduced by Chair of the Elections Committee, Senator Zellnor Myrie, will establish an Early Voting system to permit eligible voters in New York State to vote in person during a designated period.
- **Consolidation of Federal and State Primaries:** This bill, [S.1103](#) introduced by Senate Majority Leader Andrea Stewart-Cousins, will save taxpayer dollars and make state primary elections the same day as federal primary elections. It also ensures that New York State's election law complies with the federal Military and Overseas Voter Empowerment (MOVE) Act.
- **Closing the LLC Loophole:** This bill, [S.1101](#), introduced by Senator Brian Kavanagh, will amend Election Law to hold LLC's to the same aggregate contribution limit of \$5,000 that applies to corporations. The amendment would require the disclosure of the identity and proportion of ownership of all direct and indirect owners of the membership interests in the LLC. This legislation will also amend the Election Law to require all contributions made to political committees or campaigns by an LLC be attributed to each member of the LLC in proportion to the member's ownership interest.
- **Same-Day Voter Registration:** This bill, [S.1048](#) introduced by Deputy Majority Leader Michael Gianaris, amends the constitution to remove the ten-day advance voter registration requirement, subject to second passage of the next legislature and approval by a statewide referendum.
- **No-Excuse Absentee Voting:** This bill, [S.1049](#) introduced by Senator Leroy Comrie will amend the state Constitution to allow for any voter to request to vote by mail without declaring reason subject to second passage of the next legislature and approval by a statewide referendum.
- **Voter Registration Transfers:** This bill, [S.1099](#), introduced by Senator David Carlucci, will require the Board of Elections to transfer the registration and enrollment of a voter to wherever they move in New York State.

- **Voter Pre-Registration:** This bill, [S.1100](#), introduced by Senator David Carlucci, will enable 16- and 17-year olds to pre-register to vote and requires local boards of education to adopt policies to promote student voter registration and pre-registration.

Deputy Majority Leader Michael Gianaris and bill sponsor, said, “At a time when voting rights are under assault, we must fight for our democracy because there’s nothing more important than the right to vote. Our new Senate Majority will make voter registration easier and access to the ballot box fairer.”

Senate Elections Committee Chair and bill sponsor Senator Zellnor Myrie, said, “Too many New Yorkers struggle to get to the polls because of work obligations, family obligations, or other barriers. Early voting helps ensure that all New Yorkers have the opportunity to make their voices heard at the ballot box.”

Bill sponsor Senator David Carlucci said, “It is a new day in Albany. No longer will New York tolerate voter suppression and turnout lagging behind the rest of the nation. With this package of bills, we will aggressively break down voting barriers and ensure every New Yorker can have their voice heard.”

Bill sponsor Senator Leroy Comrie said, “Countless New Yorkers across our state lack access to the ballot because of antiquated absentee voting requirements. Passing no excuse absentee voting will simplify requirements so that New Yorkers with disabilities or work and family obligations--folks who for too long have been denied a reasonable opportunity to vote--rightfully have the ability to participate in our democracy by casting a ballot.”

Bill sponsor Senator Brian Kavanagh, said, “Our state has some of the worst election laws in the country, making it unnecessarily difficult to vote and allowing special interests to drown out the voices of millions of New Yorkers by giving unlimited amounts of money to politicians. For years, Democrats in both the Senate and the Assembly have fought to change this, and as an Assemblymember I was proud to sponsor and pass nearly all of the bills before us today--only to see them blocked by Senate Republicans. Well, today is a new day! The sweeping reforms to our broken voting system that we are passing under the leadership of Andrea Stewart-Cousins and Election Chair Zellnor Myrie will make it clear that we want every eligible voter to participate in our democracy without undue hardship. And closing the LLC Loophole--the most egregious defect in our campaign finance system--will cut off an enormous flow of unlimited, often virtually anonymous campaign contributions that have allowed certain individuals and narrow business interests to buy influence wholesale. This is a huge first step in what I hope will be a broader overhaul of our campaign finance system.”

Senator Joseph Jr. Addabbo said, “As a former chair of the Senate Elections Committee, I know that expanding and protecting voter rights is critical to making the process easier and more accessible for larger numbers of New York residents. Voting is a cornerstone of our democracy, and it is imperative we enact measures to allow and encourage more voters to cast their ballots. While sensible safeguards are obviously key to ensuring the integrity of the electoral process, we must also remove unnecessarily burdensome obstacles that deter potential voters from having a voice in their own government.”

Senator Jamaal Bailey said, “New York State currently ranks forty-one in voter turnout. Despite their desire and willingness to participate in the election process, citizens across the state cannot vote due to the significant barriers they face in casting their ballots. The election system in New York State disenfranchises people who want to make a difference in our government, public policies, and democracy. We need voter reform to make it easier for New Yorkers to exercise their constitutionally-given right to vote and make their powerful voices heard. I thank my colleagues in the Senate Democratic Conference for passing comprehensive legislation that will safeguard the voting rights and civic participation of all New Yorkers.”

Senator Brian Benjamin said, “These voting reforms, which will modernize our electoral system, will pave the way for significantly increased voter turnout and civic participation in our democracy. New Yorkers entrusted

us with a strong mandate to restore power to the people and I look forward to working with my Senate colleagues to make that a reality.”

Senator Alessandra Biaggi said, “There is nothing more important than having people participate in government and vote to choose their representatives at all levels. Maximizing participation, along with campaign finance reform, are the best ways to ensure that elected officials represent their districts and not special interests. I am proud that my first votes as a new State Senator will be for legislation that makes it easier to vote. And I will work hard to see that everyone in my district eligible to vote, starting with high school students, takes advantage of the new laws. Thank you to Majority Leader Stewart-Cousins and my colleagues for appropriately prioritizing these bills as our first business.”

Senator Neil Breslin said, “Our democracy is founded upon fair and open elections which is why it is critical that we modernize New York’s antiquated voting laws. This legislative package the Senate Democratic Conference is passing today will make voting easier while ensuring voter’s rights are protected.”

Senator John Brooks said, “Today, the Senate Democratic Majority has sent a clear message—We are putting an end to blocking pro-voter legislation, and tackling the problems we are facing as a State head on. The passage of these election reform bills, as well as addressing issues where there is continued discrimination, sends a clear message that the New York State Senate is opening the door to perhaps the most successful and progressive session in this State’s history.”

Senator James Gaughran said, “Democracy dies in the darkness and we’re about to light a fire in New York State. I’m proud to be a co-sponsor of this important packing of voting reforms.”

Senator Andrew Gounardes said, “Voting is the lifeblood of our democracy. New York State should be at the forefront of progressive change, but for years, we have been plagued by a system designed to suppress our vote. These changes speak to the very core of our promise to bring about fundamental change for New York State. New York’s voting laws have been an embarrassment and a stark contrast to our progressivism. Government should work to make it easier to vote, not harder. Democrats in New York State promised to create a more inclusive system, and that’s exactly what we’re doing.”

Senator Pete Harckham said, “These common sense reforms will open greater access for voters to exercise their fundamental right to vote.”

Senator Brad Hoylman said, “For far too long, our antiquated voting laws have prevented New Yorkers from exercising their constitutionally-guaranteed right to vote. Today, that changes. These reforms will increase voter participation and help restore the integrity of our electoral institutions, marking a bold, first legislative victory for our Democratic Conference. I applaud Leader Stewart-Cousins, Deputy Leader Mike Gianaris, Senator Myrie, and my Democratic colleagues for their commitment to making our democracy more accessible and fair. From this day forward, New Yorkers can continue to count on their lawmakers in Albany to act on the progressive ideas that led them to the ballot box in November. We’re only just getting started.”

Senator Robert Jackson said, “It is crucial that we fix the regressive voting laws in New York State that make it more difficult for people, especially the working class, to exercise their democratic rights. I am committed to making sure that we pass legislation now to ensure that same-day registration, early voting, and other proven reforms are in place for the next election cycle.”

Senator Todd Kaminsky said, “The ability to vote is at the heart of our republic and it is critical for us to enable and empower our fellow citizens to partake in the democratic process. From allowing New Yorkers to vote at a time convenient to them, to allowing same-day voter registration, these reforms are no-brainers, and I was proud to be part of the effort to reduce barriers to participation in our democracy. By increasing voter

turnout, we can jumpstart the participation our democracy deserves to ensure that government works for the people it is meant to serve.”

Senator Anna Kaplan said, “Voting is the most important action any citizen can take to ensure their voice is being heard, yet New York’s outdated election laws make it far too difficult for New Yorkers to exercise their constitutional right and have a say in our democracy. I’m proud to co-sponsor legislation to allow early voting in New York, as well as legislation modernizing our archaic voter registration laws, because New Yorkers should be given every opportunity to make it to the polls and have their voices heard.”

Senator Tim Kennedy said, “When we see low voter turnout statewide, more often than not, people want to get out to vote and exercise their right as Americans, but are hampered by arcane election laws that hinder voter participation rather than encourage it. I’m proud to join my colleagues to make these reforms a top priority, because this is truly a bipartisan issue; it has nothing to do with who you’re voting for, and everything to do with how accessible your right to vote should be.”

Senator Liz Krueger said, “The right to vote is one of the most fundamental freedoms belonging to every American. But New York’s convoluted and out-dated voting laws have discouraged participation in our electoral process and caused us to have one of the lowest voter turnout rates in the country. I am pleased to join my Democratic colleagues in advancing this important package of bills that will modernize voting procedures, remove barriers to voting, and help give New Yorkers the free, fair, and accessible elections they deserve.”

Senator John Liu said, “Our nation’s founding principles of democracy can only be upheld and nurtured with active participation by the citizenry. Unfortunately and unacceptably, our state’s archaic laws have for too long made voting difficult and resulted in the lowest voter turnouts in the country. Voting is everyone’s civic duty and today we make it easier for our fellow New Yorkers to cast their ballots in every election. Vote, damn it, vote!”

Senator Monica R. Martinez said, “Voting rights are a critical cornerstone of our democracy. Enhancing voting rights will remove obstacles that currently exist that prevent people from participating and making their voices heard.”

Senator Rachel May said, “Voters are angry about the barriers they face in trying to participate in our democracy. Many important races in our upstate district were decided in the second primary of the year, on a Thursday afternoon in September, on a date exquisitely timed to prevent the many college students in the district from registering at their new addresses. Ordinary voters proudly made modest donations to candidates, only to find that large donors were having a much greater impact. I am proud to support these changes in our voting laws that will open the polls longer, make it easier to register, and reduce the power of big money in our elections.”

Senator Shelley Mayer said, “Democracy has never demanded greater participation. I am proud to stand with Majority Leader Andrea Stewart-Cousins and my colleagues as we pass momentous legislation to expand voter access in New York State. For far too long, New York State saw one of lowest voter participation rates in the country. Outdated rules and regulations acted as barriers and kept voters from getting to the polls. We know from the experiences of other states that if we expand voter access, more people will participate. Early voting, automatic voter registration, vote-by-mail, and closing the LLC loophole in the campaign finance system will increase civic engagement and participation in New York State. I have supported and co-sponsored these bills for many years, and I am thrilled to see them finally pass the State Senate.”

Senator Jen Metzger said, “This package of election reforms advances our most fundamental democratic right, the right to vote, and will do much to address the flaws and barriers in our current laws that have contributed to New York having one of the worst voter-turnout records in the country. Expanding opportunities to vote will be

particularly beneficial to more rural communities, where work obligations and transportation constraints can pose obstacles to getting to the polls on election day.”

Senator Velmanette Montgomery said, “It is clear today, more than ever, that every election matters and every vote counts. New Yorkers deserve the right to have their powerful voices heard and be given the ability to participate in the electoral process. Finally, today, under the leadership of Democratic Majority Leader Andrea Stewart Cousins, we strike down antiquated voting laws that have disenfranchised marginalized communities and introduce legislation that supports individuals taking part in the democratic process. I am proud to join my colleagues in the Senate Democratic Conference to support these voting reforms to strengthen democracy across New York State.”

Senator Kevin Parker said, “Voting and fair elections underpin a functioning democracy, but for far too long Senate Republicans have stifled commonsense reforms that Senate Democrats have long supported. I applaud Majority Leader Stewart-Cousins and the Senate Democratic Conference for making these reforms a top priority as we embark on a historic legislative session.”

Senator Roxanne Persaud said, “Voting is the cornerstone of citizens’ ability to take part in our government, and access to it is what makes our democracy strong. I applaud my colleagues in the Democratic Conference and Majority Leader Andrea Stewart-Cousins for addressing this important issue at the beginning of the new legislative session.”

Senator Jessica Ramos said, “New York’s voter turnout has decreased to historic lows, fueling a culture of corruption in Albany. We were ranked 49th in 2014! When we commit as your representatives to increasing voter turnout, we are increasing accountability too. Our state can only be its best with an educated and engaged electorate. These bills will expand our democracy and therefore lead to a better New York.”

Senator Gustavo Rivera said, “We in the Senate Majority Conference were serious when we said that a new era was dawning in New York State. That is why we are starting by reforming our State’s draconian election system, which has limited New Yorkers’ ability to be civically engaged for far too long. I am proudly casting my votes for measures that will increase access to our democracy and ensure that New Yorkers can make their votes count.”

Senator Julia Salazar said, “I’m delighted to get to vote in support of all of these proposed elections reforms in committee and on the floor today. Although these reforms mark long-awaited progress in the way that our elections are administered I fervently believe that we have more work to do in order to make our elections truly accessible, democratic, and free from the outsized influence of corporate interests. I look forward to being a strong voice in advancing these goals.”

Senator James Sanders Jr. said, “It is our duty and our responsibility as Americans to make our voices heard. We have the power to effect change, but we lose that power when we don’t exercise our right to vote. By enacting these reforms, it is my hope that more New Yorkers will sign up to take part in the Democratic process.”

Senator Diane Savino said, “Thank you to Leader Stewart-Cousins on her leadership in bringing election reform as the first issues to the floor this year. It is long overdue that we ensure everyone in New York has proper access to the voting booth, and we’re approaching updating election law in a pragmatic way.”

Senator Luis Sepulveda said, “I am excited to work with New York Senate Democrats to pass overdue voting reforms that will increase access to the polls for our citizens. The right to vote is a bedrock principle of American democracy. Ensuring that every adult citizen can cast a ballot is a top priority for my office.”

Senator Jose Serrano said, “For far too long, archaic election laws and disenfranchisement efforts have undermined the democratic process throughout our state and nation. New York has consistently had some of the lowest voter turnout rates in the country. By cutting through red tape, modernizing voter registration, and enabling early voting, today’s historic actions will make it easier for New Yorkers to make their presence felt and exercise their right to vote for government representatives that reflect their needs and values.”

Senator James Skoufis said, “New York State has embarrassingly low voter turnout, and it’s about time we do something about it. This package of voting and election reforms is a vital first step in engaging New Yorkers in the democratic process. I’ve long supported these measures in the Assembly and am proud to join my new Senate colleagues in finally getting these improvements passed into law.”

Senator Toby Ann Stavisky said, “New York has some of the poorest voter participation rates in the nation because of its antiquated election laws. We have waited too long to resolve this problem. We must strengthen our democracy by expanding our fundamental right and responsibility to vote. These bills will improve the process.”

Senator Kevin Thomas said, “This is yet another step in the right direction that proves the NY Democratic Senate Caucus is leading the way in opening government to all the people. Democracy only works when it is accessible to everyone. Equality is only achieved when each person has their voting rights protected and all obstacles are removed so they can more easily and efficiently cast their vote.”

Susan Lerner, Executive Director of Common Cause/NY and Founding Member of Let NY Vote, said, “For years, New Yorkers have been demanding efficient, equitable and accessible elections and, finally, on the first full day of the legislative session the new Senate Majority, responded with a robust package of voting reforms; making clear their commitment to democracy. The initial bills including, early voting, registration portability, consolidation of primaries, and pre-registration of 16 and 17 year olds, are a fantastic first step and we look forward to working with lawmakers and the Board of Elections to implement these long overdue reforms. New York can and will be a shining example of democracy.”

Blair Horner, Executive Director of NYPIRG, said, “For way too long, New Yorkers have had to endure obstacles to voting and a disgraceful pay to play campaign financing system. And to add insult to injury, no movement for reform out of Albany. The new Senate Majority and their colleagues in the Assembly and the Governor’s mansion deserve credit for taking the first meaningful steps to strengthen New York’s democracy. This down payment on democracy should send a strong signal to New Yorkers that the days of voter frustration and cynicism are beginning to end.”

Sean Morales-Doyle, Counsel in the Democracy Program at the Brennan Center for Justice at NYU Law, said, “This is a tremendous moment for New York legislators to focus on passing democracy reform as their first priority in 2019. Voters in November made it clear: there is an incredible thirst in New York and nationally for a functioning democracy, and it’s encouraging to see legislators are responding to this demand.”

Dustin M. Czarny, Democratic Caucus Chair of the NYS Elections Commissioner Association, said, “It is fitting that the most significant reform to New York State voting laws since women’s suffrage in New York has been brought about in part by our new Majority leader Andrea Stewart-Cousins. She and the new unified State Government has delivered what voters demanded when they went to the polls in 2018, a modern voting system for a modern society. We look forward to implementing these reforms for the voters.”

Alex Camarda, Senior Policy Advisor at Reinvent Albany, said, “We commend the Senate and Assembly for modernizing voting and voter registration in New York. During these tumultuous times, it is essential democracy works for New Yorkers, and people feel they can express their voice. Reinvent Albany salutes the many organizations, electeds and their staffs, and everyday New Yorkers who advocated for a better voting experience since the last century, culminating in this remarkable moment Albany can be proud of.”

Javier H. Valdés, Co-Executive Director of Make the Road New York, said, “We applaud the State Senate in reforming our voting laws that will help transform our state democracy. Same-day registration, early voting and allowing 16 year olds to pre-register to vote, are all long overdue in New York State. We look forward to these changes, along with ending the corporate contribution loopholes, to ensure our community is heard in every election.”

Michael Miller, President of the New York State Bar Association, said, “Measures to remove barriers to registration and voting and to encourage participation — while maintaining the integrity of the process — will go a long way toward improving civic engagement and enhancing our democracy. Modernizing New York’s systems for registration and voting is a legislative priority for the New York State Bar Association, and we commend the Legislature for acting on these important bills as one of its first actions of the new session.”

Mario Cilento, President of the New York State AFL-CIO, said, “The New York State AFL-CIO strongly supports voting reforms and improvements that will make it easier for individuals to exercise the most fundamental and basic rights in any democracy. Together, these reforms will encourage and increase voter participation by removing barriers to voting. I congratulate Senate Majority Leader Andrea Stewart-Cousins for getting this important legislation to the Senate floor for a vote and I thank the Democratic majority for making these reforms a priority this session.”

Hector Figueroa, President of 32BJ SEIU, said, “This is a historic moment for New York. When working people have full and fair access to the ballot, our democracy is stronger and works better for everyone. We applaud our elected officials for making voting access a top priority in 2019.”

Andy Pallotta, President of NYSUT, said, “Exercising our right to vote is the fundamental way working families can ensure our voices are heard in the halls of power.” “Removing barriers to voting is critical to building a strong and vibrant democracy that protects the interests of the people instead of wealthy special interests. I applaud Senate Majority Leader Andrea Stewart-Cousins and her colleagues for advancing this critical issue.”

Dennis Trainor, Vice President of CWA District 1, said, “Protecting and expanding voting rights is one of the most important issues for our members. New York has lagged behind the rest of the country on things like same-day voter registration, early voting, mail-in ballots, and more. It’s time for us to make a change. It’s time for us to make it easier for New Yorkers to vote and repair our political system. I’m thrilled to see our elected leaders stepping up to make this a reality. We applaud Leader Stewart-Cousins and Speaker Heastie for promoting these essential steps to improve our democracy, and we look forward to working with them to make New York a true leader in fair elections.”

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News Release

Assembly Speaker Carl E. Heastie

FOR IMMEDIATE RELEASE:

January 14, 2019

Assembly to Pass Legislation to Reform New York's Electoral Process, Making it Easier for New Yorkers to Vote

Package Includes Measure That Would Bring Transparency to New York's Elections by Closing the LLC Loophole

Assembly Speaker Carl Heastie and Election Law Committee Chair Charles Lavine announced that today the Assembly will take up and pass a seven bill package of legislation to reform New York State's antiquated electoral process, expanding New Yorkers' access to the polls and bringing more transparency to campaign finance.

"The Assembly Majority is committed to making it easier, not harder for New Yorkers to exercise their constitutional right to vote," **Speaker Heastie** said. "I am proud that we will once again pass these reforms to expand access to our democratic process and make our electoral system more transparent. I look forward to seeing these bills finally make it through the Senate and be signed into law in New York State."

"Our democratic process is dependent on our ability to ensure New Yorkers are able to exercise their fundamental right to vote with ease," **Assemblymember Charles Lavine** said. "These bills will ensure accessibility and encourage participation in our electoral system, while bringing transparency to our campaign finance laws. Now more than ever, we need to stand up and protect our democratic process."

The Assembly Majority believes that every registered voter should have ample opportunity to get to the polls. Legislation that will pass today will ensure voters' access to the ballot box by establishing a nine day early voting period, including two full weekends, for voters to vote in person prior to any primary, special or general election day (A.780, Lavine). Each county would be required to provide a set amount of early voting hours over the course of the nine day period, but would have the flexibility to offer hours that best meet the needs of its residents. This measure would go into effect immediately, and be in place for the 2019 General Election.

Under current law, absentee voting is only allowed if an individual expects to be absent on Election Day, or is unable to get to the polls because of physical illness or disability. An amendment to the New York State Constitution included in this legislative package would continue expanding accessibility to the polls to allow no excuse absentee voting (A.778, Vanel). This measure offers a more equitable voting experience by allowing busy New Yorkers more options for casting their ballots. As a constitutional amendment, this would be on the ballot for New York State voters no earlier than November 2021.

"Restrictions on absentee voting only make it harder for New Yorkers to have their say in government, and it is time to end that practice," **Assemblymember Clyde Vanel** said. "I am proud that today we will eliminate these absentee eligibility requirements and make it easier for voters to cast their ballot."

Also on the floor today is legislation to combine the federal non-presidential primary and state primary, making voting easier for New Yorkers and saving millions of dollars statewide ([A.779](#), Lavine). The combined federal and state primary would be held in June. The measure would also ensure New York State's compliance with the federal Military Overseas Voter Empowerment (MOVE) Act. This would take effect immediately.

Included in the package are two bills aimed at streamlining the voter registration process. The first is a constitutional amendment that would allow for Election Day registration ([A.777](#), Carroll). This bill would allow New Yorkers to register to vote on Election Day, ensuring every voter can exercise their constitutional right to vote. As a constitutional amendment, this would be on the ballot for New York State voters no earlier than November 2021.

"The easier we make it for New Yorkers to vote, the stronger our democracy is," **Assemblymember Robert C. Carroll** said. "By allowing same day registration, we make sure that eligible voters are not left out of having their voices heard on Election Day. This amendment will ensure New York's elections are open to all eligible voters and that arbitrary time restraints no longer impede someone from registering and voting on the same day."

The second bill would streamline the process by automatically transferring a voter's registration when they move within New York State ([A.775](#), Dinowitz). This would take effect 60 days after the measure is signed into law. Under current law, voters who move within New York but move out of their current county or New York City must update their registration before the established deadline in order to vote.

"Moving is already a hassle, we should not make New Yorkers jump through additional hoops in order to vote in their new residence," **Assemblymember Jeffrey Dinowitz** said. "My bill eliminates one of those hoops by automatically transferring their voter enrollment and registration to their new home when they move within the state."

Also included in today's legislative package is legislation aimed at promoting civic engagement among young voters ([A.774](#), Lavine). This bill would require voter registration forms to include a space for pre-registering applicants at least 16 years of age; and require local boards of education to adopt policies to promote student voter registration and pre-registration in high schools. This would go into effect on January 1, 2020. The Assembly Majority is dedicated to ensuring transparency in New York State's elections. That's why, for the fourth time since 2016, the Assembly will pass legislation to restrict LLC campaign contributions to the same \$5,000 aggregate contribution limit that exists for corporations ([A.776](#), Simon). The bill, which would go into effect seven days after being signed into law, would also require the disclosure of all direct and indirect owners of the LLC and that all contributions by an LLC be attributed to each member in proportion to each member's ownership interests. Under current law, as interpreted by the State Board of Elections, a single individual is allowed to make multiple large contributions to the same candidate or committee through separate LLCs, making it difficult to determine who made the contributions and evaded individual contribution limits.

"We should not be allowing the wealthy and special interests to anonymously pour unlimited amounts of money into campaigns in the hope of influencing preferred candidates," **Assemblymember Jo Anne Simon** said. "In the Assembly Majority, we have repeatedly passed this critical campaign finance reform bill. New Yorkers deserve transparency and fairness in the electoral process and finally closing the notorious LLC loophole is an important step forward."

New York State Assembly

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**REPORT ON LEGISLATION BY THE
ELECTION LAW COMMITTEE AND
THE GOVERNMENT ETHICS AND STATE AFFAIRS COMMITTEE**

**A.778
S.1049**

**M. of A. Vanel
Sen. Comrie**

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

THIS BILL IS APPROVED

The Election Law Committee and the Government Ethics and State Affairs Committee of the New York City Bar Association¹ supports a constitutional amendment which would permit “no-excuse” absentee voting in New York.² The enactment of a no-excuse absentee voting system in New York would remove from the Election Law any requirement that voters provide an excuse before being issued an absentee ballot. Currently, 28 states and the District of Columbia permit any qualified voter to vote absentee without offering an excuse.³

In New York, voters requesting an absentee ballot are required to provide an excuse for their inability to vote at their designated polling place. Acceptable excuses include unavoidable absence from the county of residence due to duties, occupation, business, studies, or vacation and inability to vote due to illness or physical disability. Any voter with an excuse to vote absentee other than those listed in the current Election Law are not entitled to an absentee ballot.

As a matter of policy, the City Bar believes that voting should be a convenient and common practice, and thus any reform to expand the franchise and make voting more convenient

¹ The Election Law Committee is comprised of City Bar members interested in, and often with decades of expertise concerning, New York State Election Law. The Committee has been active in commenting on proposed revisions of state election law and local election rules. It also regularly provides election law training for candidates and the public. The Government Ethics and State Affairs Committee seeks to shine a light broadly on issues of ethical conduct in public service at the city, state, and federal levels.

² See “Instituting No-Excuse Absentee Voting in New York,” Election Law Committee, May 2010, <http://www.nycbar.org/pdf/report/uploads/20071936-NoExcuseAbsenteeBallotReport.pdf>.

³ “Absentee and Early Voting,” National Conference of Legislatures, Jan. 3, 2019, <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx> (last visited Jan. 11, 2019).

for those who otherwise have difficulty doing so is worthy of serious consideration.⁴ In evaluating whether New York's electoral process would benefit from implementing no excuse absentee voting, the City Bar has considered several policy factors:

- Necessity to modernize, ease voting experience and increase voter participation: New York's voter turnout has historically ranked among the lowest in the nation. In 2016, with two New Yorkers at the top of the presidential ballot, our state still ranked 41st out of 50 in terms of turnout. Removing barriers to voting absentee would allow more people to vote in the manner most convenient for them. New York's current absentee voting laws also have the potential to disproportionately benefit those with high socioeconomic status;
- Impact on poll site lines and administrative burden: A no-excuse absentee voting system is likely to reduce both poll lines and the administrative burden on election officials, thereby decreasing the total cost of administering elections;
- Effects of no-excuse absentee voting on election litigation: Removal of the requirement that a voter provide an excuse for not voting at the polls removes the principal basis for challenging absentee ballots, therefore the number of challenged and litigated ballots will decrease.

The City Bar believes that no-excuse absentee voting requires a constitutional amendment, as the state constitution currently precludes the Legislature from enacting no-excuse absentee voting by statute.

Election Law Committee
Martin E. Connor, Chair

Government Ethics and State Affairs Committee
Jennifer Rodgers, Chair

Reissued January 2019

⁴ In addition to the enactment of no-excuse absent voting, the City Bar supports legislation which would provide for a flexible in-person early voting period for elections (see <http://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/support-for-early-voting-in-new-york-state>).

MEMORANDUM OF SUPPORT

Universal (“No-Excuse”) Absentee Voting A778 (Vanel) / S1049 (Comrie)

The New York Democratic Lawyers Council (NYDLC) strongly supports the enactment of **A778 / S1049**. This Bill would extend the convenient option of voting absentee to all New York voters who prefer to do so, by amending Article II § 2 of the NYS Constitution. This legislation passed the Assembly in 2018, 2017, and 2016 and was supported by the Assembly’s GOP Minority leader.

New York’s current voting rules make it needlessly difficult for many voters to participate in our democracy. New York is one of only 12 states that requires an excuse for absentee voting and does not allow in-person early voting.¹ As of 2018, 28 states and Washington D.C. provide voters with the option to vote absentee without requiring a statutorily valid excuse.² Currently, absentee balloting in New York is only available to a few limited categories of voters, like those who claim well in advance that they will be absent from their county (or in New York City, the entire city) for the full Election Day (the entirety of 6AM-9PM), or those who are ill or physically disabled.

As a result, anyone else who may be unable to physically make it to a sole assigned location on a single workday Tuesday is ineligible to vote, regardless of unforeseen circumstances; they have no alternative to exercise their fundamental right to vote.

If enacted, this bill would provide all New York voters with the convenience of vote-by-mail or early in-person voting options. College students, working families, single parents, those with child- or elder-care obligations, or anyone with a busy or inflexible schedule should not be prevented from voting simply because they were unable to appear and wait in line at an assigned location on a single day. As traditional work schedules and gender roles evolve, the limitation on who qualifies to vote absentee is increasingly arbitrary.

In order to improve access and encourage greater participation in our democracy, policymakers must improve our antiquated voting process and streamline administration so it comports with the expectations of modern Americans. One simple way to do that is to provide more convenient options to busy New York voters. Doing so would reduce systemic pressure, long lines, and improve the overall voting experience.

For the foregoing reasons, NYDLC strongly supports the enactment of A778 / S1049.

¹ National Conference of State Legislatures, *Absentee and Early Voting*, Jan. 3, 2019, <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

² *Id.*



MEMO OF SUPPORT
LEGISLATIVE DEMOCRACY INITIATIVES
January 11, 2019

- Early Voting - A.780 (Lavine)/S.1102 (Myrie)**
- No-Excuse Absentee Voting - A.778 (Vanel)/S.1049 (Comrie)**
- Same-Day Registration - A.777 (Carroll)/S.1048 (Gianaris)**
- Consolidated Primary - A.779 (Lavine)/S.1103 (Stewart-Cousins)**
- Pre-Registration for Minors - A.774 (Lavine)/S.1100 (Carlucci)**
- Universal Transfer of Registration - A.775 (Dinowitz)/S.1099 (Carlucci)**
- LLC Loophole - A.776 (Simon)/S.1101 (Kavanagh)**

Reinvent Albany supports all seven bills in the Democracy Initiative the Assembly and Senate intend to pass Monday. For the LLC loophole bill, we encourage the legislature to consider chapter amendments negotiated with the Governor that incorporate his call for a ban on all corporate contributions.

This legislation collectively modernizes and improves the voting and registration experience for New Yorkers, bringing New York into the 21st Century, in particular if the constitutional amendments are again passed and then approved by voters.

If New York State implements early voting, no-excuse absentee voting, and same-day registration, it will join 18 states and the District of Columbia (DC) who do so in some form. If no-excuse absentee voting allows for a ballot request by mail (as opposed to in-person absentee voting), it will join just 6 other states and DC and make New York State one of the leading states for voting reforms.

We believe this package thoughtfully improves the voting and registration process. The various elements are phased in over years, so boards of election should be able to effectively implement the many reforms without being overwhelmed.

Reinvent Albany salutes the many organizations, elected officials and their staffs, and everyday New Yorkers who for decades have advocated for a democracy that better enables New Yorkers to participate in the political process.

Early Voting - A.780 (Lavine)/S.1102 (Myrie)

This bill establishes early voting in New York for primary, special, general and runoff elections. Thirty-eight states already have early voting. New Yorkers will be able to vote from 10 days before Election Day through the Sunday before Election Day, including two weekends and weekday evenings. Each county will have at least one early voting site and as many as seven or more depending on the population of the county, with boards of election having discretion in determining where voters can vote early based on criteria in the statute. Early voting will begin with the 2019 general election.

Reinvent Albany supports early voting because it makes it more convenient to vote, and makes it easier for boards of election to administer elections. New Yorkers have busy lives, and those who can't make it to the polls on Election Day because of work or family obligations should still be able to exercise their right to vote. The New York City Board of Elections in particular has struggled to handle many voters turning out on Election Day, resulting in long lines and voters giving up on casting their ballots. Early voting will give boards the opportunity to refine procedures during the Early Voting period and relieve volumes and pressures on the system on Election Day.

No-Excuse Absentee Voting - A.778 (Vanel)/S.1049 (Comrie)

This bill amends the constitution to allow no-excuse absentee voting by mail. Twenty-eight states and the District of Columbia have no-excuse absentee voting. This bill allows voters to vote by mail at their request. It removes constitutionally required excuses like being ill, acting as a caretaker, or not being in the county on Election Day. At the earliest, no-excuse absentee voting will be approved by voters in 2021. First, the legislature will have to pass the same constitutional amendment again, then the voters will have to approve it on the ballot. The legislature will also have to pass a statute to define how vote by mail will work. This will involve changing restrictions in statute which this bill removes in the constitution and involve fundamental decisions like whether voters should have to request a ballot or whether a ballot should automatically be sent to voters.

Reinvent Albany supports no-excuse absentee voting and this first step amending the constitution to provide the legislature with the authority and flexibility to create a vote by mail program. Like early voting, no-excuse absentee voting will make it easier for people to vote who can't make it to the polls on Election Day and will reduce

administrative burdens on boards of election on Election Day. We request the legislature hold hearings on the necessary changes to statute to put into place a vote by mail program, and invite experts from the other 28 states and the District of Columbia to learn from their experience.

Same-Day Registration - A.777 (Carroll)/S.1048 (Gianaris)

This bill amends the state constitution to repeal the requirement that voters register at least 10 days prior to Election Day. Same-day registration is the law in 18 states and the District of Columbia. This bill is the first step in enabling unregistered New Yorkers to register and vote on Election Day if they are eligible. The legislature seated in 2021-2022 must pass this constitutional amendment again, and the voters must approve it on the ballot. The earliest this law can be approved by the voters is in 2021. A companion statute will also need to be passed to define how same-day registration will be administered, and to remove the 25-day statutory deadline for registration.

Reinvent Albany supports this legislation. Approximately 800,000 New Yorkers are not registered to vote but are eligible to. Oftentimes, busy New Yorkers do not think about registering until just before or on Election Day, and they are not able to do so because of constitutional and statutory restrictions that prevent them from registering fewer than 25 days before Election Day. People are most likely to register during the month prior to an election. In New York City alone, more citizens registered to vote in October 2016 than all of 2017. By enabling voters to register and cast their vote on Election Day, we invite people into the democratic process who may not otherwise participate. Research has shown same-day registration can boost voter turnout several percentage points, with some studies showing increases as much as 7 percent.

Consolidated Primary - A.779 (Lavine)/S.1103 (Stewart-Cousins)

This bill consolidates the primary date in June for both federal and state and local elections beginning in 2019, and makes many technical adjustments to milestones and deadlines in the election calendar in moving state and local elections to June. New York is currently the only state in the nation that has separate federal and state primaries. The federal primary was moved to June in 2012 under court order to provide military and overseas voters adequate time to receive their ballots, vote and send them to boards of election. Up until 1974, New York State had a June primary.

Reinvent Albany supports this legislation, which will increase voter turnout while saving New York State an estimated \$25 million per election which should be used to support early voting and other election reforms. New York has experienced low voter turnout

relative to other states in part because we have too many elections - as many as four elections in presidential years.

Pre-Registration for Minors - A.774 (Lavine)/S.1100 (Carlucci)

This bill enables 16- and 17-year-olds to pre-register to vote so that their registration will automatically be activated once they turn 18. Twenty-three states have pre-registration in some for 16 and/or 17-year olds. This bill also requires boards of education to adopt policies encouraging pre-registration, which may include collaborating with local boards of election to do pre-registration drives in schools. It goes into effect in 2020.

Reinvent Albany supports this bill because it empowers schools, parents and community organizations to both formally and informally engage young people to register to vote. The 18-to-29 age bracket has consistently voted the least of any age group in the United States, and encouraging young people to register early could increase turnout significantly. This new system will also spare younger voters from having to send in registration forms when they turn 18, removing an additional hurdle that could keep young New Yorkers from the ballot box.

Universal Transfer of Registration - A.775 (Dinowitz)/S.1099 (Carlucci)

This legislation allows New York State voters to move from one county to another without having to update their voter registration information. Twenty states and the District of Columbia already have some form of this, which is referred to as “universal transfer of voter registration records.” Currently, voters who relocate to another county are required to update their voter registration information (unless it is within New York City). Through universal transfer, voter registration information will be automatically updated by boards of elections, which will transfer the registration from one county to another. Voters can also fill out an affidavit ballot certifying that they have moved; the new address will then be verified with boards of elections.

Reinvent Albany supports this bill because updating registration with an address change was just one more hindrance in a voting system filled with them, and universal transfer of registration is a simple but necessary step toward easing the process of relocating for voters. New Yorkers should be able to move between counties without having to worry about it affecting their registration status and ability to vote in a new district.

LLC Loophole - A.776 (Simon)/S.1101 (Kavanagh)

This bill “closes” the LLC loophole by restricting a limited liability company to a total of \$5,000 annually in campaign contributions, the same limit as for other forms of corporations. Limited liability companies have members, and this bill requires the

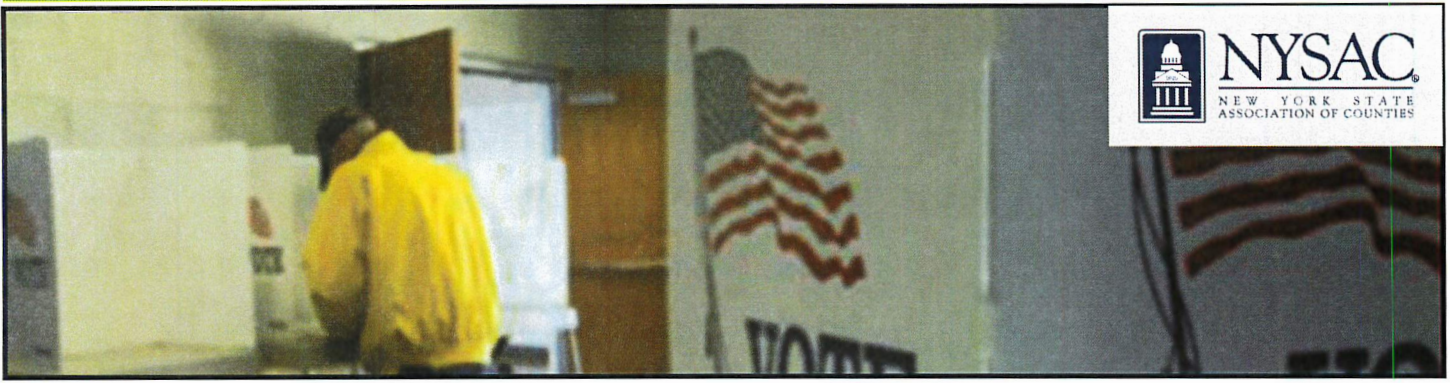
disclosure of direct and indirect membership interests in the LLC making a campaign contribution, and for the contribution to be attributed accordingly.

Reinvent Albany prefers a ban on corporate contributions as supported by Governor Cuomo and is law in New York City. LLC contributions to federal candidates are also banned except when LLCs are partnerships or single-member LLCs that have not chosen corporate tax treatment. Real estate companies can have dozens and sometimes hundreds of LLCs because typically each property owned has an LLC.

We recognize, however, this is a substantial improvement over the unlimited contributions LLCs can currently make. While disclosure of members of the contributing LLC is helpful, we are very concerned this will not necessarily result in disclosure of the persons controlling the LLC. This is particularly true if an LLC's members are other LLCs and the LLCs are "stacked" or "nested" to obscure what persons control and fund them.

The Governor has publicly said he would like to ban corporate contributions. We support that goal and we urge the sponsors to work with him to include LLCs in a corporate ban.

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Voter Friendly Ballot Act

NYS Legislature (A.2682A/S.2300A)

This legislation changes the format of the ballot layout to make it easier for voters to read and use. This legislation takes effect immediately and shall apply to all ballots to be used for elections occurring on or after July 1, 2020.

Elimination of Duplicate Electronic Filing

NYS Legislature (A.1740/S.3134)

This legislation would remove the requirement that any candidate required to file electronically with the state board of elections shall not have to file with the local campaign finance board. This legislation takes effect January 1, 2020.

County Recommendations

Continuing Funding Commitment in 2020

Counties urge the State to continue to fund early voting reforms and implementation costs in 2020.

→ *“No Excuse” Absentee Ballot Solution*

Counties outside of New York City believe that the most cost-effective early voting option is to implement a new “no excuse” absentee ballot application, so that registered voters who are unable to vote on election day, for any reason, can vote by absentee ballot. Counties support this constitutional amendment, which needs passage by two consecutive State Legislatures and voter approval.

Voting Reform Taskforce

NYSAC urges the Governor to create a state taskforce to study the full cost of implementing early voting and the fiscal impact of this legislation on local boards of elections.



Passed Voting Reform Legislation

Voting is about to get easier for New Yorkers. New York has long been behind most of the country when it comes to voting. Our election laws were archaic making it difficult for people to vote and resulting in low voter turnout. However, both the Assembly and Senate passed 7 election laws bills. Five of these reforms have been signed into law by Governor Cuomo. However, not all are effectively immediately and some will require additional money to be added in the state budget.

1. **EARLY VOTING.** Will take place for the first time in New York. (Thirty-eight states and District of Columbia have already instituted in person early voting.) Voters will be able to vote at designated poll sites 10 days prior to election day. Each County Board of Elections will follow the law designating the number of and placement of the early voting poll sites and notify voter of the days, hours, and locations of the early polling sites.

This act will take effect immediately and first apply to the 2019 general election: i.e., early voting will begin Oct. 27, 2019 and go through Nov. 3, 2019. All polls will be open Election Day Nov. 5, 2019.

2. **PRIMARY CONSOLIDATION.** This act combines federal and state primaries into one primary, the fourth Tuesday in June, and amends certain deadlines so NY is in compliance with the federal Military and Overseas Voter Empowerment (MOVE) Act. This prevents NY from having to go to two primaries for in nonpresidential years and three primaries in presidential years, saving state about \$25,000,000. In addition to cost savings, it should increase voter turnout.

This act will take effect immediately with a June primary date beginning in 2019

3. **SAME DAY VOTER REGISTRATION.** Would allow voters to register and vote on Election Day. In order for this to become law, the NYS Constitution (which requires registration to vote to be completed at least 10 days before Election Day) needs to be amended. Changing the Constitution would require the same bill that passed this year to be also passed in both the Assembly and Senate in the Leg session following the 2020 general election, and then being passed by voters in a referendum in 2021. Therefore, first time this could go into effect would be in 2022.

Currently, New Yorkers need to be registered 25 days before Election Day.



4. **NO- EXCUSE ABSENTEE VOTING.** Would remove need for a cause for absentee ballot voting. Currently in NY, you can request absentee ballot for six reasons: absence from county on election day; temporary illness or physical disability; permanent illness or physical disability; duties related to primary

care of individual(s) who are ill or disabled; patient or inmate in VA; or detention in jail/prison awaiting trial, action by grand jury or convicted of crime which is not a felony.

Currently 28 states and the District of Columbia allows voters to vote absentee without a cause. No-excuse absentee voting would require a constitutional amendment and could not take place until also passed in both the Assembly and Senate in the Leg session following the 2020 general election, and then being passed by voters in a referendum in 2021 with both houses in 2020 and then passing a referendum in 2021.

5. **PREREGISTRATION FOR 16 AND 17 YEAR OLDS.** Currently the only time 17 year olds can register to vote is if they are turning 18 in that calendar year even if their birthday is after Election Day. This new bill would allow 16 and 17 year olds to preregister. The voter registration form would be modified to include space where there is an explanation of preregistration and allow for form to be pending.

This act would not take effect until January 2020.

6. **STATE-WIDE VOTER REGISTRATION TRANSFER.** Provides that the Board of Elections would transfer the registration and enrollment of a voter appearing on a statewide voter list to wherever they move in the state. This would enable voters who move to a different county in NY to vote on an affidavit ballot even if their new county was not notified of the change of address and have their vote counted. Currently it is up to the voter to reregister in new county to where they move.

This act will take effect 60th day after it becomes law.

7. **CLOSURE OF THE LLC LOOPHOLE.** Will change way that candidates can run and fund their campaigns. This will eliminate the loophole which has allowed corporations to pour almost unlimited money into races through limited liability companies. According to this bill, each limited liability company that makes a contribution or expenditure for political purposes will need to file the identity of owners in the limited liability company and the proportion of their interest with the NYS Board of Elections.

This act will take effect on seventh day after it becomes law.

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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 14, 2019

3:30 p.m.

REGULAR SESSION

LIEUTENANT GOVERNOR KATHLEEN C. HOCHUL, President

ALEJANDRA N. PAULINO, ESQ., Secretary

1 Helming, Jordan, Lanza, Little, O'Mara, Ortt,
2 Ranzenhofer, Ritchie, Robach, Serino, Seward,
3 Tedisco and Young.

4 Ayes, 44. Nays, 17.

5 THE PRESIDENT: The resolution is
6 adopted.

7 Senator Gianaris.

8 SENATOR GIANARIS: Madam President,
9 can we next take up Calendar Number 4, by Senator
10 Comrie.

11 THE PRESIDENT: The Secretary will
12 ring the bell.

13 The Secretary will read.

14 THE SECRETARY: Calendar Number 4,
15 by Senator Comrie, Senate Print 1049, Concurrent
16 Resolution of the Senate and Assembly proposing
17 an amendment to Section 2 of Article II of the
18 Constitution.

19 THE PRESIDENT: Senator Young.

20 SENATOR YOUNG: Thank you,
21 Madam President. Will the sponsor yield for some
22 questions.

23 THE PRESIDENT: Will the sponsor
24 yield to questions?

25 SENATOR YOUNG: But before we

1 begin, it's interesting -- because I'm going to
2 be touching on voter fraud in a minute, but it's
3 interesting to hear all of my colleagues, my
4 Democratic colleagues, talk about their viewpoint
5 that there's absolutely no voter fraud --

6 THE PRESIDENT: Senator --
7 Senator -- are you on the bill, Senator?

8 SENATOR YOUNG: -- when people have
9 been screaming about it since the 2016 election.
10 But that's another story.

11 Senator Comrie --

12 THE PRESIDENT: Senator, direct
13 your comments to the chair.

14 SENATOR YOUNG: This bill would
15 require a vast expansion of local resources by
16 not requiring that local Boards of Elections
17 produce, print, process and count a large
18 additional number of absentee ballots on an
19 ongoing basis without any concomitant meaningful
20 benefits, since this measure would not allow
21 anyone to vote who cannot vote by some other
22 means at present.

23 Why has absolutely no state money
24 been appropriated whatsoever in this bill to
25 provide for this huge unfunded mandate?

1 SENATOR COMRIE: I'm sorry, someone
2 was in my ear.

3 (Laughter.)

4 SENATOR COMRIE: Can you repeat the
5 essence of your question again, please? I'm
6 honored to take questions from you, I've been
7 looking forward to this all week.

8 SENATOR YOUNG: Okay, I'll give the
9 abridged version. Why has absolutely no state
10 money been appropriated whatsoever in this bill
11 to provide for this enormous unfunded state
12 mandate?

13 SENATOR COMRIE: As you know,
14 Senator, this no-excuse absentee voting bill that
15 we're putting forth is a constitutional bill
16 that's going to require two votes from the
17 State Senate to happen. It's been voted on in
18 the State Assembly for the past three consecutive
19 years. I'm grateful that it comes today to the
20 Senate floor with cosponsorship of every member
21 of the Majority conference.

22 There is already absentee ballot
23 mandate that absentee ballots are printed for
24 elections by the state. It does not change that.
25 We look forward to having this voted twice and

1 then go before the voters as a constitutional
2 amendment. So there's no need to put a dollar
3 amount on it today, because this is something
4 that is going to take time and actually will come
5 before the voters as something that the voters
6 will vote on after 2022.

7 SENATOR YOUNG: Through you,
8 Madam President, will the sponsor continue to
9 yield?

10 THE PRESIDENT: Will the sponsor
11 continue to yield?

12 SENATOR COMRIE: Yes.

13 THE PRESIDENT: The sponsor yields.

14 SENATOR YOUNG: So the sponsor has
15 indicated and he just reiterated that there are
16 no fiscal implications for this bill.

17 SENATOR COMRIE: I did not say
18 there were no fiscal implications. I said we did
19 not do a fiscal impact today because we already
20 have absentee ballots that are automatically
21 printed and accessed by every county, as per law.

22 SENATOR YOUNG: But through you,
23 Madam President, your actual sponsor memo
24 indicates that there are no fiscal
25 implications for this bill.

1 And basically what the sponsor is
2 saying is that yes, there are a lot of costs
3 associated with that, but we'll pass this first
4 without knowing what they are and then come back
5 later and tell the taxpayers how much money they
6 have to pony up.

7 But has the sponsor inquired with
8 the State Board of Elections regarding the costs
9 and administration involved with the provisions
10 of this bill?

11 SENATOR COMRIE: This bill, along
12 with all the package of bills that will be vetted
13 today are being passed now so that we can have
14 those discussions in the budget process. But
15 again, on this specific bill, there's no
16 immediate cost. And the cost that -- as I said
17 earlier, absentee ballots are already done by
18 mandate by the government, by the state, so that
19 absentee ballots are in every Board of Elections
20 district, every ED today for whenever there's an
21 election. So we don't anticipate a major
22 extended cost in absentee ballots at the board.

23 This also is a no-excuse absentee
24 ballot which will give people the same
25 opportunity that if you're impaired, if you're

1 sick, if you're on a mandated travel because of
2 your job, if you're a parent, if you're someone
3 that just can't get to the polling, you know that
4 you can't get there on Election Day, you'll have
5 another tool, another option so that you'll be
6 able to vote and cast your ballot as a New York
7 State citizen.

8 SENATOR YOUNG: Through you,
9 Madam President, will the sponsor continue to
10 yield?

11 THE PRESIDENT: Will the sponsor
12 yield?

13 SENATOR COMRIE: Yes.

14 THE PRESIDENT: The sponsor yields.

15 SENATOR YOUNG: How many absentee
16 ballots does the sponsor project that this bill
17 would increase in New York State?

18 SENATOR COMRIE: I don't believe
19 that it will increase any amount of the total
20 absentee ballots, because each precinct has a
21 certain percentage of absentee ballots that are
22 already preprinted.

23 Also, with this opportunity, you're
24 still going to have to fill out an application to
25 do an absentee ballot, which will go to the Board

1 of Elections prior to Election Day so that you
2 can actually receive the absentee ballot, which
3 must be filed, at the latest, by Election Day.

4 SENATOR YOUNG: Through you,
5 Madam President, would the sponsor continue to
6 yield?

7 THE PRESIDENT: Will the sponsor
8 yield?

9 SENATOR COMRIE: Yes.

10 THE PRESIDENT: The sponsor yields.

11 SENATOR YOUNG: What is the annual
12 cost of a local board to produce, print, process
13 and count an absentee ballot, do you know?

14 SENATOR COMRIE: I don't have that
15 exact figure. But they're already -- as I said
16 earlier, each Board of Elections, each local
17 board has to print absentee ballots to be
18 available at the polling place on Election Day.
19 It would be the same cost that they are now.

20 SENATOR YOUNG: Thank you. And
21 will the sponsor continue to yield?

22 THE PRESIDENT: Will the sponsor
23 yield?

24 SENATOR COMRIE: Yes.

25 THE PRESIDENT: The sponsor yields.

1 SENATOR YOUNG: Is the sponsor
2 aware that -- the reason for and rationale behind
3 absentee ballots is to allow people who otherwise
4 would be unable to cast a ballot on Election Day,
5 due to absence of the voter from the voting
6 jurisdiction or due to a disability or illness of
7 the voter that would prevent them from voting at
8 the polls on Election Day, to be able to vote.
9 But is the sponsor aware that such absentee
10 ballots are expensive, labor-intensive and time
11 consuming in distributing, processing, and
12 counting and slow the entire election process in
13 determining results?

14 SENATOR COMRIE: We believe that --
15 and the host of groups that are supporting this
16 bill, the New York City Bar Association, the
17 Democratic Lawyers Council, the New York State
18 Vote Coalitions and the League of Women Voters --
19 believe that this could actually bring costs down
20 because it will enable people that already know
21 that they cannot vote on Election Day to file
22 their absentee ballots early so that that can
23 make sure that that process is eliminated.

24 We don't believe that there will be
25 any additional costs, and we believe that

1 actually there will be a cost savings so that
2 people don't have to show up at the Board of
3 Elections or an election site, tying up lines,
4 complaining about why they cannot file an
5 absentee ballot.

6 SENATOR YOUNG: Through you,
7 Madam President, will the sponsor continue to
8 yield?

9 THE PRESIDENT: Will the sponsor
10 continue to yield?

11 SENATOR COMRIE: Yes.

12 THE PRESIDENT: The sponsor yields.

13 SENATOR YOUNG: Now, through my
14 Boards of Elections -- and I did attend an event
15 a few days ago where Boards of Elections
16 commissioners from around the state were there,
17 and they actually disagreed with the sponsor on
18 what was just said about the additional cost.

19 But -- so we don't agree on that,
20 and we're hearing it from the front lines
21 regarding the cost. So we're -- it's
22 established, this is an unfunded mandate, it's
23 going to cost localities a lot of money, drive up
24 taxes for taxpayers. But -- so can the sponsor
25 tell us why we should do this bill if we also

1 just did that bill to implement early voting?
2 Aren't the two duplicative, and don't they
3 overlap each other, and then you've got two huge
4 unfunded mandates upon each other?

5 SENATOR COMRIE: Again, we don't
6 believe that this will be a -- this is just the
7 first of two votes that has to be taken before
8 this is brought to the people in a constitutional
9 amendment, with all of the language fully fleshed
10 out by the time it goes before the voters, with
11 all the costs imparted in it by the time it goes
12 to the voters in 2022. We are not concerned
13 about -- and again, we believe that at the end of
14 the day, there will be a savings as a result of
15 this opportunity where we will create no excuses
16 for people to be able to go out and do the
17 absentee ballot.

18 And again, I want to remind folks
19 that this is going to go before the voters in a
20 constitutional amendment that will be fully
21 vetted by everyone in this room and vetted
22 through the budget process. So by the time we go
23 to 2022, it will be a fully fleshed document with
24 all of the costs involved.

25 I also believe that we should not

1 deny any voter the opportunity to have this as a
2 part of their tool so that they can exercise
3 their franchise as a New York State citizen, to
4 be able to vote when it's convenient for them to
5 vote and not be stuck in voting or running to the
6 poll at 7 o'clock at night to find out that their
7 poll site was changed, they didn't know it
8 because they've been to that poll site for five
9 or ten years, and they're walking with a kid or
10 they're walking with a cane, and they don't want
11 to go anywhere else, they want to be able to vote
12 where they were because they stood on a line for
13 an hour and a half to exercise their franchise,
14 they came from work, they're already grumpy.
15 I've been in polling sites where I've had to
16 ameliorate people and calm people down so that
17 they could stay on line so that they could fill
18 out an absentee ballot.

19 The no-excuse absentee ballot would
20 eliminate that opportunity. It would shorten the
21 lines, it would stop excuses, and it would stop
22 the frustration from poll workers who would also,
23 after a long day, have to put up with people
24 coming at them at the last minute insisting that
25 they want to be able to vote and they're told

1 they can't.

2 SENATOR YOUNG: Thank you,
3 Madam President. Will the sponsor continue to
4 yield?

5 THE PRESIDENT: Will the sponsor
6 yield?

7 SENATOR COMRIE: Yes.

8 THE PRESIDENT: The sponsor yields.

9 SENATOR YOUNG: Is the sponsor
10 aware that this constitutional amendment will
11 increase the risk of coercion, where a person
12 such an employer, for example, somebody's job
13 depends on that employer supporting what they're
14 doing. But an employer now can demand that
15 employees vote by absentee and insist they
16 complete their ballots in front of him. Have you
17 contemplated that potential?

18 SENATOR COMRIE: I'm contemplating
19 it now.

20 (Laughter.)

21 SENATOR COMRIE: But I would say
22 that anyone that has a situation where an
23 employer is trying to intimidate them into not
24 being able to vote on Election Day should contact
25 their legislator so that that person can be

1 properly indicted and convicted for voter
2 harassment.

3 I don't think that any employer in
4 their right mind in this day and age, in our
5 instant communications opportunity, would be able
6 to get away with that unless the constituent just
7 decided not to fight them. But anybody that will
8 have an opportunity between now and 2022 to look
9 at this issue will know that there's a protection
10 built in to ensure that everyone has the right to
11 vote.

12 SENATOR YOUNG: Thank you.
13 Madam President, will the sponsor continue to
14 yield?

15 THE PRESIDENT: Will the sponsor
16 yield?

17 SENATOR COMRIE: Yes.

18 THE PRESIDENT: The sponsor yields.

19 SENATOR YOUNG: What about the
20 scenario -- so maybe there's not an overt like,
21 You vote this way and you vote in front of me.
22 But the employees or -- you know, maybe it's a
23 union leader, maybe it's a boss. But just
24 filling out the absentee ballot in front of them
25 presents a significant risk. So even if it's not

1 overt, it still could influence how someone would
2 vote, correct?

3 SENATOR COMRIE: Senator, I would
4 hope that no one is intimidated by a union leader
5 or a president or a boss as they're filling out
6 an absentee ballot. It can be done privately no
7 matter where it's being presented to you.

8 And I think that it's easy enough
9 for us to make sure that once we put this law out
10 in a constitutional amendment that those issues
11 and those possibilities will be definitely vetted
12 and promoted so that anyone can feel comfortable
13 with voting by absentee ballot.

14 SENATOR YOUNG: Thank you, Senator
15 Comrie.

16 Madam President, will the sponsor
17 continue to yield?

18 THE PRESIDENT: Will the sponsor
19 yield?

20 SENATOR COMRIE: Yes.

21 THE PRESIDENT: The sponsor yields.

22 SENATOR YOUNG: So is the sponsor
23 further aware that this bill would abandon, for
24 all those who now choose to vote by absentee
25 rather than at the polling place, that such voter

1 will now be abandoning hundreds of years of
2 proven privacy and voting security controls
3 present at Election Day polling places that are
4 not available, those same protections are not
5 available when you vote by absentee ballot?

6 SENATOR COMRIE: Again, I think
7 that a person choosing to vote by absentee ballot
8 is doing it as a convenience and as a choice and
9 they'd like to do it from the comfort of their
10 home, the opportunity to do it if they're infirm,
11 the opportunity not to have to leave their job or
12 the opportunity to be able to do it before they
13 have to go away. And I think that the
14 opportunities for privacy will be actually
15 enhanced for those people that choose to vote by
16 absentee ballot.

17 SENATOR YOUNG: Thank you. Is the
18 sponsor willing to continue to yield?

19 SENATOR COMRIE: Yes.

20 THE PRESIDENT: The sponsor will
21 yield.

22 SENATOR YOUNG: Is the sponsor also
23 aware that the challenges of securing a huge new
24 number of paper ballots and protecting them from
25 nefarious activity or merely accidental loss,

1 damage or destruction, also presents a serious
2 issue?

3 SENATOR COMRIE: Again, I don't
4 believe that the handling of the ballots will be
5 changing in any significant way from the way that
6 absentee ballots are registered and transmitted
7 now. I would hope that improvements over time
8 with technology and opportunities, that we will
9 be able to do this electronically, hopefully, in
10 the next ten years, which will only further
11 secure the absentee ballot process.

12 But I've not heard of anyone that's
13 talked about fraud with absentee balloting in the
14 last three election cycles that I'm aware of.

15 SENATOR YOUNG: I'd like to follow
16 up on that, please, if the sponsor will still
17 yield.

18 SENATOR COMRIE: Yes.

19 THE PRESIDENT: Does the sponsor
20 yield? The sponsor will yield.

21 SENATOR YOUNG: So through you,
22 Madam President, I actually looked up cases of
23 different voter crimes that have occurred not
24 only across the country, but in New York State.
25 Are you familiar with the Hector Ramirez case,

1 who was a 2014 State Assembly candidate for the
2 86th Assembly District?

3 SENATOR COMRIE: I'm not aware of
4 that case.

5 SENATOR YOUNG: Okay. So Hector
6 Ramirez pleaded guilty to one count of criminal
7 possession of a forged instrument. He was
8 running for the Assembly, and he deceived voters
9 into giving their absentee ballots to his
10 campaign on the false premise that the campaign
11 would then submit the ballots. Instead,
12 Ramirez's campaign inserted his name on at least
13 35 of the absentee ballots.

14 So there's one tangible recent case
15 where absentee ballots were actually collected
16 and forged.

17 SENATOR COMRIE: Senator, that is a
18 crime. And any crime that is committed by any
19 individual will be vigorously prosecuted by law
20 enforcement officials. And I don't believe that
21 Hector Ramirez is a sitting Assemblyman, and he
22 got his just deserts by the voters. And I'm sure
23 that he has also gotten his just deserts by the
24 prosecutorial system that definitely investigated
25 that particular case.

1 And I would hope that anyone that
2 tries to use an absentee ballot in a fraudulent
3 way is discovered and prosecuted quickly, because
4 we need to protect the process for those people
5 that want to use their democratic right to be
6 able to vote in no-excuse absentee voting.

7 SENATOR YOUNG: Thank you,
8 Madam President. Will the sponsor continue to
9 yield?

10 THE PRESIDENT: Will the sponsor
11 yield?

12 SENATOR COMRIE: Yes.

13 THE PRESIDENT: The sponsor will
14 yield.

15 SENATOR YOUNG: Well, thank you,
16 Senator Comrie, for that. And I believe that
17 Hector Ramirez got what he deserved also by
18 defrauding the voters. But this is not an
19 isolated case. Are you familiar with the case --
20 it was actually a major scandal that occurred in
21 Troy in 2013, where there was a voter fraud
22 scandal, people went to jail or they got -- some
23 went to jail, some got community service. But
24 they were doing the same thing, in conjunction
25 with the Working Families Party. They were

1 harvesting -- they were harvesting absentee
2 ballots.

3 And during the questionable
4 circumstances surrounding these cases, witnesses
5 throughout both trials provided a glimpse into
6 the seedy political underworld that existed that
7 allowed this to happen. They preyed on those
8 that they felt were the most vulnerable members
9 of society, making them easy targets for voter
10 schemes.

11 So for example, they targeted -- and
12 this was all brought up in court, by the way.
13 They targeted immigrants --

14 SENATOR COMRIE: And were
15 prosecuted, if I recall, Madam President.

16 SENATOR YOUNG: Right. And they're
17 the ones that got caught. But this is the type
18 of thing that already exists that I believe that
19 the bill that's before us today will actually
20 make a lot worse.

21 But they targeted immigrants who
22 struggled with the English language and had
23 little knowledge of the U.S. election process.
24 They targeted college kids with little money,
25 paying them for their voter registration cards.

1 They targeted people living in low-income housing
2 because there was a sense that poor people were
3 less likely to ask any questions. And they
4 tricked mentally disabled individuals into
5 signing over their absentee ballots.

6 What in this bill before us right
7 now builds any kind of protections against those
8 types of situations from happening?

9 SENATOR COMRIE: Senator, I believe
10 there are already plenty of protections in place
11 to prevent fraud from individuals that are intent
12 on doing fraud.

13 I would hope that collectively that
14 everyone that is involved in elections would make
15 sure that whenever they saw fraud, that they
16 would point it out quickly. And as those people
17 were prosecuted, that we made sure that they got
18 the necessary punishment for a heinous act for
19 violating our constitutional right as citizens
20 for taking advantage of poor people and people
21 that were indigent and people that were not able
22 to understand what the process was. I think
23 that's a horrible example.

24 But we will be doing everything we
25 can to inform voters of what their rights are,

1 what their obligations are, and what the
2 opportunities are for enforcement. And I'm glad
3 that that was brought to -- that was highlighted,
4 that was discovered. And I'm sure that working
5 together across the aisle with all my colleagues
6 over the next three years before 2022 to make
7 sure that this is done in a way that all
8 New Yorkers would be able to feel comfortable
9 about casting a ballot through absentee voting.

10 SENATOR YOUNG: Through you,
11 Madam President, will the sponsor continue to
12 yield?

13 THE PRESIDENT: Will the sponsor
14 yield?

15 SENATOR COMRIE: Yes.

16 THE PRESIDENT: The sponsor will
17 yield.

18 SENATOR YOUNG: So those were just
19 a couple of cases out of many. I have a lot
20 right here from throughout New York State. But
21 is the sponsor also aware that the large increase
22 in total volume of absentee paper ballots only
23 increases the chances of misconduct concerning
24 such ballots from false or fraudulent ballots,
25 stuffing the ballot box, to mass solicitation of

1 votes from vulnerable populations, as I said, to
2 the purposeful miscollection of ballots for voter
3 suppression, as was recently alleged in
4 North Carolina?

5 All of those factors, are you
6 aware -- I mean, that increases the chances of
7 voter fraud. And as I said earlier, every time
8 voter fraud occurs, it cancels out the vote of
9 citizens who have the right to vote in this
10 country.

11 SENATOR COMRIE: Senator, as you
12 know, in New York State it's required that you
13 fill out an affidavit before you get an absentee
14 ballot. I think that is one process that will
15 definitely stay in place. And making sure that
16 that affidavit is filled out will decrease the
17 opportunity for voter fraud. This is not
18 North Carolina, where you can grab three dozen
19 absentee ballots, take them to a neighborhood and
20 get them signed and turned in at the same time.
21 There will be an affidavit required.

22 I believe that through due
23 diligence, through all of the people in this room
24 and all of the people around this state that are
25 concerned about fair and fair elections, that any

1 bad actors -- and there will always be bad actors
2 no matter what system is in place. There will
3 always be someone to try to subvert the system.

4 But I believe that working together,
5 we can eliminate those bad actors and, with the
6 advent of technology, even clean up anyone that's
7 trying to do voter fraud so that we can have an
8 opportunity for people to have options and to
9 have no-excuse absentee voting.

10 SENATOR YOUNG: Thank you, Senator
11 Comrie.

12 And Madam President, on the bill.

13 THE PRESIDENT: Senator, on the
14 bill.

15 SENATOR YOUNG: Thank you,
16 Madam President.

17 This bill has several deeply
18 concerning aspects that call into question the
19 administrative difficulty and cost of this
20 measure, together with its overall negative
21 impact on the integrity of our elections in
22 general.

23 Problem one, enormous unnecessary
24 cost. I hate to keep repeating myself, but there
25 is something that is prevalent throughout all of

1 these bills that is a theme: Unfunded mandates,
2 huge costs to the taxpayers. It would require a
3 vast expansion of local resources by now
4 requiring that local Boards of Elections produce,
5 print, process and count a large additional
6 number of absentee ballots on an ongoing basis
7 without any meaningful benefit since this measure
8 would not allow anyone to vote who cannot vote by
9 some other means at present.

10 We just passed something that
11 allowed for early voting that also has a
12 significant cost to the taxpayers. This does
13 too. I don't understand, it's very difficult to
14 understand why you would do both when there are
15 huge enormous impacts on the taxpayers and at the
16 same time they duplicate what you're trying to
17 get at. As absolutely no state money is
18 appropriated whatsoever, this bill is an enormous
19 unfunded state mandate.

20 Problem two, presents serious
21 administrative challenges. The reason for and
22 rationale behind absentee ballots is to allow
23 people who otherwise would not be able to cast a
24 ballot on Election Day, due to the absence of the
25 voter from the voting jurisdiction or due to a

1 disability or illness of the voter that would
2 prevent them from voting at the polls on
3 Election Day, to be able to vote.

4 But such ballots are expensive, as
5 the Boards of Elections will tell you,
6 labor-intensive and time-consuming in
7 distributing, processing and counting. And they
8 actually slow the entire election process because
9 it takes so long. And already we have issues
10 where results may not be determined in a close
11 election for weeks and even months. This would
12 slow it down even further.

13 It would also require voters to take
14 multiple steps to vote: One, properly apply for
15 the absentee ballot, complete the ballot,
16 properly enclose it in the board's return
17 envelope, properly sign and date such envelope,
18 and return such ballot back to the Board of
19 Elections by mail or hand delivery before
20 Election Day.

21 Compare that to what happens at the
22 polls. At the polls, that voter would merely
23 sign in, fill out their ballot, and deposit it in
24 a voting machine to vote.

25 Problem three, serious election

1 fraud. Security issues. This bill also presents
2 numerous and serious issues regarding fraud.
3 This not only arises because of an increased risk
4 of coercion that I brought up -- where a person
5 such as an employer, a union leader and so on,
6 now can demand that employees vote by absentee
7 and insist they complete their ballot in front of
8 them -- but also because of the hundreds of years
9 of proven privacy and voting security controls
10 present at Election Day at polling places, that
11 those protections are not available when you use
12 absentee ballots.

13 The challenges of securing a huge
14 new number of paper ballots and protecting them
15 from nefarious activity, or even just losing
16 them, merely accidental loss, which we have been
17 reading about in the news recently about ballots
18 getting lost in certain elections -- paper
19 ballots only increase the chance of misconduct
20 concerning such ballots from false or fraudulent
21 ballots, which is known as stuffing the ballot
22 box, to mass solicitation of votes from
23 vulnerable populations, to the purposeful
24 miscollection of ballots for voter suppression,
25 as was recently alleged in North Carolina. And

1 frankly, they had to void that entire election
2 because of that problem.

3 And problem four, duplicative, as I
4 said, of early voting.

5 And so this amendment appears to be
6 repeating something, rising costs, all the
7 problems with fraud. It's begging the question,
8 why should we do this?

9 And so the recommendation is that we
10 do not pass this constitutional amendment, that
11 we stick to systems that actually protect the
12 integrity of our elections. And so I would urge
13 my colleagues to not pass this today.

14 Thank you.

15 THE PRESIDENT: Seeing and hearing
16 no other Senator that wishes to be heard, the
17 debate is closed.

18 The Secretary will ring the bell.

19 Call the roll.

20 (The Secretary called the roll.)

21 THE PRESIDENT: Senator Metzger to
22 explain your vote.

23 SENATOR METZGER: Thank you. I'm
24 very pleased to be cosponsoring this legislation
25 and supporting it.

1 To Senator Young's question of why
2 we would move forward with this, it's because
3 there are people that actually can't get to the
4 polls, have a really hard time getting to the
5 polls.

6 I represent a largely rural
7 district, huge areas. There's no public
8 transportation, and people have a hard time
9 getting to the polls. There are people that work
10 two, three jobs, they have families, they are
11 challenged to get to the polls.

12 So this is about expanding voter
13 participation. This whole package of amendments
14 does this. The early voting alone cannot get to
15 every single obstacle that is confronting voters.
16 And this will go a long way to making sure
17 everyone can exercise that fundamental right to
18 vote.

19 Thank you.

20 THE PRESIDENT: Thank you, Senator.
21 Senator Boyle to explain his vote.

22 SENATOR BOYLE: Thank you,
23 Madam President. I want to explain my vote.

24 I want to commend Senator Comrie on
25 bringing this bill, this resolution to the floor,

1 and all the other colleagues that are supporting
2 it.

3 I was honored to be the prime
4 sponsor of this legislation in years past. And
5 this really came to me years ago when I was
6 speaking to my Aunt Susan at the time, an elderly
7 woman not in good health. And so many of our
8 constituents, we know -- they basically lie.
9 They say they're going to be out of town, they
10 say they're going to be sick. But my Aunt Susan,
11 who wanted to vote for me, but I would say I feel
12 guilty -- and it was a very difficult for her to
13 get to the polls, but she did it, when now with
14 this bill it's very simple. Anybody can vote by
15 absentee without making any excuse.

16 Also very quickly in terms of the
17 early voting and this bill, please consider my
18 bill, or please, Majority member, take it, to
19 call for a final vote, a piece of legislation
20 that says if you do absentee or you do early
21 voting, you always have the opportunity to go on
22 Election Day and make your final vote. And that
23 one counts, negating the earlier one.

24 We all remember the guy running for
25 Congress out in Montana who beat up the reporter

1 the night before Election Day. He won, because
2 so many constituents had voted early. He may not
3 be there. And there's other examples like that.
4 Please consider that.

5 On this resolution, I vote in the
6 affirmative.

7 THE PRESIDENT: Senator Harckham to
8 explain your vote.

9 SENATOR HARCKHAM: Thank you very
10 much, Madam President.

11 I commend Senator Comrie and all
12 colleagues for sponsoring measures in this
13 package. I'm sitting here bewildered, listening
14 to the array of fear and the sky is falling, and
15 that everything that we are considering now will
16 create chaos. And I guess this must have been
17 what it was like when we were debating horseless
18 carriages coming on our dirt roads a hundred
19 years ago when these legislative and electoral
20 processes were in gear.

21 We've heard about a lot about how
22 people leave New York because of high taxes. The
23 other reason people leave is that this state does
24 not work for them. And we have an opportunity to
25 make lives easier for people, to make it easier

1 to vote, to give them more time in their day to
2 their families, to commuting, to working.

3 So there are so many things that
4 this package of bills touches upon. I'm
5 wondering what the resistance is all about. That
6 voter fraud has been unfounded, both in this
7 state and in this country. The issue of the
8 unfunded mandates has been addressed and will be
9 addressed both in the Governor's budget -- and we
10 are a coequal branch of government, and we can
11 and we will fund these measures. We don't want
12 to pass these costs along to local governments.

13 So what's the resistance to making
14 life easier and making voter access more
15 affordable and accessible?

16 Thank you.

17 THE PRESIDENT: Senator Krueger to
18 explain your vote.

19 SENATOR KRUEGER: Thank you,
20 Madam President. I rise to support this bill.

21 And you know, it's sort of
22 interesting, because the theme seems to have been
23 "but if it costs us more." Well, I guess I would
24 ask, what is the cost of democracy? Maybe it
25 does cost us more, some of the things. But

1 interestingly, as this bill was being debated, I
2 was looking at research that's been done. And
3 for states who have expanded their absentee
4 voting and gone to mail voting, actually the
5 research is clear. It's cheaper to handle a
6 ballot through the mail than people coming into
7 sites.

8 So does it require a change in
9 system per person at some level? Yes. But
10 apparently a mail voting in an absentee ballot
11 option is not an increased cost, it actually
12 shows itself to be a decreased cost. And yet it
13 still lets us expand voting for more people, and
14 that's the goal here of all these bills today.

15 So I'm proud to stand and vote yes,
16 Madam President.

17 THE PRESIDENT: Thank you, Senator.
18 Senator Sanders to explain your
19 vote.

20 SENATOR SANDERS: Thank you,
21 Madam President.

22 I have heard excellent arguments
23 from many of the people raising these points. I
24 am yet to be convinced, however. I have to
25 remind my colleagues that the problems of

1 democracy can only be solved by more democracy.
2 You can't solve the problems by saying, well,
3 since there is a problem, we won't have it at
4 all.

5 I think that the approach that the
6 Coun -- Councilmember, hmm -- Senator Comrie is
7 taking is an excellent approach. It's part of
8 what the agenda is coming up with. And I
9 encourage all of us to figure out ways that we
10 can make sure that more of the people of
11 New York, more of the American people participate
12 in democracy.

13 When we are way down on the line of
14 states that are voting, that should be a warning
15 shot to all of us. All of us should be doing
16 something and coming up with some proposals to
17 ensure that we make it easier and that we make
18 government that exists more beneficial to the
19 average New Yorker.

20 So I'm proud to support my colleague
21 from Queens and vote yes on this measure.

22 Thank you.

23 THE PRESIDENT: Thank you, Senator.

24 Announce the result.

25 THE SECRETARY: Those recorded in

1 the negative on Calendar Number 4 are
2 Senators Jordan, Ortt, Ranzenhofer and Young.

3 Ayes, 57. Nays, 4.

4 THE PRESIDENT: The resolution is
5 adopted.

6 THE SECRETARY: Also Senator
7 Helming.

8 Ayes, 56. Nays, 5.

9 THE PRESIDENT: The resolution is
10 adopted.

11 Senator Gianaris.

12 SENATOR GIANARIS: Madam President,
13 can we please take up Calendar Number 5, by
14 Senator Carlucci.

15 THE PRESIDENT: The Secretary will
16 ring the bell, and the Secretary will read.

17 THE SECRETARY: Senator Carlucci
18 moves to discharge, from the Committee on Rules,
19 Assembly Bill 775 and substitute it for the
20 identical Senate Bill Number 1099, Third Reading
21 Calendar 5.

22 THE PRESIDENT: The substitution is
23 so ordered.

24 The Secretary will read.

25 THE SECRETARY: Calendar Number 5,

level. We've talked about several different bills here and each time, yep, we're going to take care of it, yes, we're going to take care of it. We're putting all this burden back on our local Board of Elections. And, by the way, we're not funding it. As a -- as a former county legislator and a town supervisor, I do know that every time you add one of these pieces of bills back to our local people, we've got to take care of that. And not having an answer, *Well, we'll work it out.* Well, we work it out, that doesn't always work. It definitely does not work from the State level down to the local municipalities in governments.

So, we've got to find a way of funding these things as we move forward, because right now our county budgets are so tight underneath the tax cap in doing so. And every time we add one other thing to that -- to that mission of these people, we're adding more cost to the local governments. And we want to keep the costs down. We want to keep people here. We want them to be able to do so. So, I'm going to vote no on this, only because there's no explanation of how we're going to fund it, who's going to do it. And, oh, by the way, we'll fix it later. That does not work. Thank you.

ACTING SPEAKER AUBRY: Mr. Manktelow in the negative. Welcome to the New York State Legislature, sir.

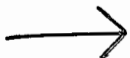
(Laughter)

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A00778, Rules Report



No. 7, Vanel, Lavine, Heastie, Cusick, Lupardo, Gottfried, Paulin, Aubry, Simotas, Galef, Lifton, Abinanti, Zebrowski, Colton, Carroll, Weprin, Barnwell, Seawright, Ramos, Simon, Otis, Glick, Schimminger, Dinowitz, Jones, Buchwald, L. Rosenthal, Wallace, Englebright, Jaffee, Hyndman, Burke, Cruz, Eichenstein, Epstein, Fall, Griffin, Jacobson, McMahon, Raynor, Reyes, Romeo, Weinstein, Blake, DenDekker, Frontus, Taylor, Gantt, Lentol. Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 2 of Article II of the Constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting.

ACTING SPEAKER AUBRY: On a motion by Mr. Vanel, the Senate bill is before the House. The Senate bill is advanced and a (sic) explanation is requested, Mr. Vanel.

MR. VANEL: Thank you, Mr. Speaker.

This bill is about protecting the franchise of voting. Voting is a cornerstone of our Democracy. It is the rock that this House is built upon. We must do all in our power to ensure that New Yorkers are not constrained by exercising their right to vote. During a recent -- this recent General Election in 2018 in New York City, many people waited on line for over an hour-and-a-half to cast their ballot. Many poll -- poll sites were overcrowded, poll workers were overworked, and too many New Yorkers were turned away. In Upstate New York, there are counties that are very large that span many miles. It's extremely difficult for those New Yorkers and those counties to vote if they work on one end of the county to get to the

other end of a county to work on that -- I mean, to -- to vote on that day.

Today, the law does not allow that person to vote via absentee ballot because they would not have a valid excuse. We must make it easier for New Yorkers to vote. This bill amends Section 2, Article II of the New York State Constitution by removing cause for absentee ballot voting. In New -- a New Yorker would be able to apply for an absentee ballot by right without having to identify an -- an enumerated excuse.

ACTING SPEAKER AUBRY: Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Will the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, Mr. Vanel?

MR. VANEL: Yes, I will.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. RA: Thank you very much. So, you know, as we know this is -- the provisions regarding, you know, what excuses allow somebody to currently apply for an absentee ballot are listed in our State Constitution. So, the only way to expand that is through a Constitutional Amendment such as this, correct?

MR. VANEL: Correct.

MR. RA: So, now, we're not really adding additional excuses, what we're really saying here is that you don't need any excuse. If you want to vote for absentee, you'll -- you know, you'll fill

out, presumably, the paperwork like you do now if you had met one of the excuses, you'll -- you'll fill out the paperwork, submit it to the Board of Elections and you can vote absentee.

MR. VANEL: That's correct. So, right now, the application for absentee ballot, I think the second or third section has enumerated excuses that would be -- that make up -- we'd have to have enumerate -- enumerating legislation to figure out, you know, whether or not to remove and how to remove that -- that section in the application.

MR. RA: Okay. And just, presumably like -- like the previous resolution, this would require in the future maybe some type of enacting legislation on what the procedures would be within the Board of Elections?

MR. VANEL: That is correct. So, if it -- this legislation passes today and in the Senate, we'd have to pass it again in the next Session, and then we'd have to figure out the -- the enacting legislation.

MR. RA: Okay. Thank you very much.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, Mr. Ra.

MR. RA: I -- I think this -- this piece of legislation, and I've supported it in the past, is a -- is a good one in that we're going to give people the opportunity, you know, who want to vote absentee. With our current system, unfortunately, because you have to be absent from the county, you could -- you could be a couple of hours

away and still be within the county -- the county. You know, maybe you live on one end of the county on a larger county, and -- and you work on the other end, you wouldn't currently be eligible. So, I think that this, rather than the bill that we're going to be taking up later on to -- to allow the 10 days of early voting, I think this is really the better approach for us to -- to give people the ability to submit for an absentee ballot and -- and cast their ballot in that way, as opposed to some of the concerns with -- with costs that are going to come up with the early voting proposal later on.

So, I'm happy to support this piece of legislation. Again, I understand there are some concerns that people have with bringing in many more absentee ballots than -- than we're used to, be they from, you know, that there may be some potential for fraud, or there may be just an in -- a major increase in absentee ballots that might delay, you know, calculating election results. But I think by and large this is -- this is the right approach and I'm going to be casting my vote in the affirmative.

ACTING SPEAKER AUBRY: Thank you.

Mr. Phillip Steck.

MR. STECK: Thank you, Mr. Speaker. I want to commend the sponsor for undertaking to change the Constitution to make this possible. I will be voting no not so much because I'm against this in concept, but because I want to sound an alarm so that when we do subsequent legislation to implement it, we will get it right. The Governor has proposed, although only in a press release

without any details, voting by mail. I support that concept because in voting by mail, such as the system Oregon has, ballots are sent direct to voters without the need for applications. Only voters can handle the ballots.

In New York, the no excuses absentee ballots has been a -- a problem. And I am hoping that someone will listen and revise our current process in which political operatives can handle absentee ballots. The ability of political operatives to manipulate absentee ballots has led to corruption in those parts of the State where minor party primaries matter. Our Court of Appeals has recognized this problem numerous times in decisions relating to absentee ballots. Manipulation of absentee ballots has enabled major parties to take over minor party lines, such as the Green Party and the Working Families Party by persons who do not support the principles of either party. This is a fraud on the voters who go to the polls, for example, to vote Green, and then end up voting for a Conservative candidate who is opposed to everything the Green Party stands for.

I will cite three examples from within my district. In Schenectady, I was the attorney for Marion Porterfield, the only African-American City Council member in a contest over the Working Families Party endorsement. Her opponent, an owner of many apartments in the city, enrolled tenants of his in the Working Families Party, even though the testimony showed they could not understand the absentee ballot application, and did not know anything about the Working Families Party. Fortunately, due to the fact that

one brother signed the poll book in place of another brother, the scheme was exposed, and Ms. Porterfield retained the Working Families line.

A similar scheme occurred in Colonie. A Conservative candidate enrolled 21 persons in the Green Party. All 21 voted in the Green Party Primary by absentee ballot. It was highly improbable that all 21 were qualified to vote by absentee ballot. The Conservative candidate voted them by absentee ballot and seized the Green Party line even though he did not subscribe to any of the principles of the Green Party. In the Independence Party Primary, the candidate endorsed by that party won the primary 2-1 on the machine. But her opponent orchestrated a scheme to enroll over 100 people in the Independence Party, almost all of whom voted by absentee ballot, completely reversing the result of the election.

In fact, this is possible due to a combination of factors. First, in reality, we already have no excuses absentee balloting in New York. The current form allows someone to vote by absentee ballot just by checking the box saying they are ill or not in the county. There's no evidence needed to support that claim. Second, political operatives tell the voters that they do not have to go to the polls on Election Day, which is not the truth. Third, political operatives carry absentee applications to voters, return them to the Board of Elections, then carry the ballots back to the voters, often supervise the voting process and then return the completed ballots to the Board. The secret ballot process is thus defeated.

This is something that has been occurring all over the State, not just in the 110th Assembly District, though it may not occur in areas where minor party lines do not matter. Incidentally, in my 30-plus years of electoral involvement in the community I represent, I have never heard of anyone being denied an absentee ballot who sincerely wanted to get one. Nor do I see any evidence that turnout will be increased, unless people who are not voting now come to see they have a stake in the system. Believing you have a stake in the system, that the system is there for you, increases turnout. No excuses absentee ballots have very little to do with it.

To repeat, I agree with the sponsor very strongly. People should not wait on line for hours to vote. That is why I support a process of voting by mail, such as Oregon has, which assures that there is no manipulation of the process of casting a vote. Until appropriate safeguards are in place, the concept of no excuses absentee ballot will not be a policy to increase voter turnout, but one that favors voter manipulation. I hope that as we go forward with the statutes to implement this change that we will understand the importance of a vote by mail scheme, as opposed to a structure of an absentee ballot, and that we can follow through to preserve the integrity of the voting system. Thank you.

ACTING SPEAKER AUBRY: Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Buchwald to explain his vote.

MR. BUCHWALD: Thank you, Mr. Speaker. I -- I first rise to thank and congratulate the sponsor of the -- of this Constitutional Amendment, but I want to have most of my remarks to go to the entire package of seven Election Law reform bills that we're adopting today because I think each of them stand for a principle which is that we should be encouraging people to vote, but collectively, they also send a message that votes of New Yorkers really do matter. And the fact that these bills are coming to the floor, not just to the Assembly but are going to pass the other Body, and those that go to the Governor go to the Governor, these Constitutional Amendments will come back to the Legislature for us to vote on a second time, really do, I think, encourage New Yorkers to see that their votes do make a difference, and that message in totality is extremely important. So, my thanks to all the sponsors of these individual pieces of legislation.

I also want to thank the Chair of the Election Law Committee, Mr. Lavine, who I have the honor of serving with, and the leadership of this Assembly, for, I think, providing a very bright day for the future of voting here in New York State. With that, I urge my colleagues to support this bill and all the bills in the package.

Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Thank you. Mr. Buchwald in the affirmative.

Mr. Abinanti.

MR. ABINANTI: Thank you, Mr. Speaker. I join in thanking our colleagues for bringing these Constitutional Amendments forward, and the Committees for moving them so quickly. These Constitutional Amendments all remove restrictive language that constrains this Legislature from modernizing our election process to meet today's conditions. They will allow us to craft new legislation with appropriate language to make sure that none of the concerns expressed by our colleagues become problems. But we can't pass those statutes unless we first change the Constitution and give our ourselves that leeway. So, therefore, I commend my colleagues on these and I vote in the affirmative.

I'd like to make one additional note. On this particular Constitutional Amendment, it has been suggested by some that we, in effect, have absentee voting today without excuse. I respectfully disagree with my colleagues. As an election attorney, I've spent hours, hours at hearings arguing over validity of absentee ballots. In the end, the ballots are usually accepted, but there -- I have been in circumstances where evidence has been brought forward to challenge the validity of an absentee ballot claiming that a person was, in fact, in the county on the date of the election, or was not sick on the date of an election. This would remove a lot of litigation if we properly draft the statute after passing this Constitutional Amendment.

So, I vote in the affirmative.

ACTING SPEAKER PICHARDO: Mr. Abinanti in

the affirmative.

Mr. Montesano to explain his vote.

MR. MONTESANO: Thank you, Mr. Speaker. I support this bill and gladly vote for it, and I would hope that sometime during this legislative year we pass legislation which a bill I have, that amends the Education Law for the same reason, for absentee ballots for school vote -- school board votes, school budgets, library votes have the most restrictions on absentee ballots, even more so than what the State currently has. So it's my hope that we do the same amendment to that law to make those ballots just as easily accessible. So, I vote in the affirmative. Thank you.

ACTING SPEAKER PICHARDO: Mr. Montesano in the affirmative.

Ms. Walsh to explain her vote.

MS. WALSH: Thank you, Mr. Speaker. I rise just to explain my vote. In the past, I have not supported this measure. I am supporting it today. I do think that out of the package of different reforms that have been put forward today that we're addressing, this is probably, I think, the most workable. I just think that it bears mentioning that voting is a civic responsibility and there's always a preference for in-person voting. So I -- I was contacted by a number of constituents in the last couple of years really expressing that because of their work schedules and other difficulties, that they aren't able to exercise currently the absentee ballot legitimately, unless they want to, you know, make a liar of themselves. So, I do think that it

may make voting more convenient for some people in that situation.

I just would say that, you know, if we think that making more convenient is necessarily going to considerably increase voter participation, I think we all might be, you know, surprised to find out that it really doesn't. I think that the people who genuinely really want to vote and exercise their vote, are going to do so.

But I will support this measure today. Thank you.

ACTING SPEAKER PICHARDO: Ms. Walsh in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A00779 --

(Pause)

ACTING SPEAKER AUBRY: The Clerk will read.

THE CLERK: Assembly No. A00779, Rules Report No. 8, 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, Frontus, Reyes, Taylor, Gantt, Zebrowski, Simon. 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

WRITTEN TESTIMONY OF JERRY H. GOLDFEDER

**ASSEMBLY STANDING COMMITTEE ON ELECTION LAW AND
SUBCOMMITTEE ON ELECTION DAY OPERATIONS
AND VOTER DISENFRANCHISEMENT**

HEARING ON IMPROVING OPPORTUNITIES TO VOTE IN NEW YORK STATE

November 15, 2018

My name is Jerry Goldfeder and I appreciate the opportunity to testify before you today on behalf of the New York City Bar Association. I have had the privilege of serving as Chair of its New York City Affairs Committee for the last three years and previously as the Chair of the Election Law Committee. I am pleased to have the opportunity to talk with you about your historic opportunity to improve and enhance voting opportunities in New York elections.

New York has failed to enact meaningful voting reform for many years. We have a woefully restrictive set of election laws. Thirty seven states have early voting;¹ New York does not. Fifteen states and the District of Columbia have enacted automatic registration;² New York should at least provide the opportunity to register on the eve of elections. Twenty seven states and Washington D.C. allow no-excuse absentee voting;³ we should permit it. There are many states that allow open primaries;⁴ New York voters should not have to wait almost a year to change political party affiliation. And Instant Run-off Voting, used in fifteen cities and the State of Maine, would eliminate an extra trip to the polls and save taxpayer dollars; this was used in New York City School Board elections.⁵

The urgent need for voting reforms was on full display across New York City on Election Day as we saw voters struggling with long lines, broken scanners and general confusion. Voter participation in New York has declined dramatically over the past half century and now stands near the bottom as compared to other states. And when New Yorkers do try to access the polls as they did last week, they all too often face obstacles to actually voting. New York must take

¹ <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

² <https://www.brennancenter.org/analysis/automatic-voter-registration>.

³ http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx#no_excuse.

⁴ <https://www.openprimaries.org/>.

⁵ See Press Release, Fairvote, May 1, 2018.

action to ease access and ensure its citizens have the opportunity to fully participate in the democratic process.

The following reforms should be enacted to improve voter participation:

Permit “no excuse” absentee voting.⁶ The enactment of a no-excuse absentee voting system in New York would remove from the Election Law any requirement that voters provide an excuse before being issued an absentee ballot. In New York, voters requesting an absentee ballot are required to provide an excuse for their inability to vote on Election Day at their designated polling place. Acceptable excuses include unavoidable absence from the county of residence due to duties, occupation, business, studies, or vacation and inability to vote due to illness or physical disability. Any voter with an excuse to vote absentee other than those listed in the current Election Law are not entitled to an absentee ballot. Removing barriers to voting absentee would allow more people to vote in the manner most convenient for them. New York’s current absentee voting laws also have the potential to disproportionately benefit those with high socioeconomic status. A no-excuse absentee voting system is likely to reduce both polling site lines and the administrative burden on election officials, thereby decreasing the total cost of administering elections. A “no-excuse” system also removes the principal basis for challenging absentee ballots, thereby reducing the number of challenged and litigated ballots.

Provide for early voting.⁷ New York’s current voting system, which limits regular voting to a single 15-hour window in the middle of the work week, results in many voters being unable to vote. Long lines, work responsibilities, extensive commutes to and from work, broken machines, impaired poll site access, child/elder care duties, and bad weather all can deter voters on Election Day. Single-day elections are no longer the norm and it is time that New York joined the 37 other states that have already enacted early voting. This will enable more citizens to exercise this most important right, and will ease the systemic pressure placed on election administrators during a high volume Election Day. Early voting can spread voter traffic across a number of days, which will ease long lines, give poll workers more time to do their jobs well, and give busy New Yorkers more opportunity to cast their ballots.

The City Bar supports an early voting system that provides New Yorkers with at least 7 days of early voting. During that period, polling places should be required to be open to voters for at least eight hours per week day, for evening hours at least two days during the week and for at least five hours per day minimum on weekends and legal holidays. To implement early voting responsibly, we believe the state should include adequate funding in the budget to reduce the financial strain on the local boards of elections, which will need to develop new policies and procedures as well as undertake necessary staff training and public education.

Provide Election Day registration and allow party enrollment up to 30 days before a primary election. Currently, state law provides that a new voter must register twenty-five days

⁶ Report in support of A.7623 (M.A. Vanel) / S.840 (Sen. Comrie), May 2018, <https://s3.amazonaws.com/documents.nycbar.org/files/2017377-NoExcuseAbsenteeVoting.pdf>.

⁷ Report in support of S.7400-A (Sen. Kavanagh) and A.9608-B (M.A. Lavine), May 2018, <https://s3.amazonaws.com/documents.nycbar.org/files/2017375-EarlyVoting.pdf>.

in advance of the election (even though the state constitution permits registration up until the tenth day prior to an election). If a voter wants to change his or her party enrollment to vote in a primary election, the deadline is twenty five days prior to the general election next preceding the primary – often a full eleven months prior to the primary. These deadlines are restrictive and dissuade potential voters from exercising their right to vote if they fail to act consistently with these arbitrary and extensive periods of time. Expanded voter registration and enrollment procedures would allow greater participation, and have the potential to improve turnout.

Provide for felony re-enfranchisement. In April, Governor Cuomo restored voting rights to New Yorkers on parole.⁸ This effects approximately 35,000 New Yorkers, the majority of whom are people of color. While this Executive Order is a step in the right direction, the order is subject to rescission by future governors and therefore must be codified into law to adequately protect the voting rights of the previously incarcerated. Law enforcement officials and criminal justice experts across the country and in New York recognize that voting rights and rehabilitation are closely related.⁹ Voting promotes positive behavior and ensures that an individual is invested in the well-being of his or her community. It is important that the Legislature codify felony re-enfranchisement into law.

Establish a single primary day.¹⁰ Currently, New York holds its primaries for public office in state and local municipalities and for party positions (other than President and National Convention delegates and alternates) in September, while primaries for public offices at the federal level are held in June. This creates the possibility of as many as three primaries in a given calendar year. The current system – imposed by a federal court because the Legislature has not been able to restore federal and state primary elections to one day consistent with the prescriptions of the federal MOVE Act – causes voter confusion, expends additional taxpayer dollars for an extra election, and strains the administrative burdens on the various boards of elections. Thus, the Legislature should hold primaries for both federal offices and state and local offices on one day. Furthermore, the Legislature ought to schedule such primaries in June, as New York did for many years.¹¹

Permit instant run-off voting in municipal elections.¹² Currently, under state law, candidates for New York City city-wide office (mayor, public advocate, comptroller) must

⁸ Executive Order No. 181, https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_181.pdf.

⁹ See ERIKA WOOD, RESTORING THE RIGHT TO VOTE 10-12 (2009), available at <http://www.brennancenter.org/publication/restoring-right-vote>; Resolution Supporting Restoration of Voting Rights, American Probation and Parole Association, Enacted Sept. 2007, https://www.appa-net.org/eweb/Dynamicpage.aspx?webcode=IB_Resolution&wps_key=3c8f5612-9e1c-4f60-8e8b-1bf46c00138e; Resolution on Restoring Voting Rights, National Black Police Association, June 2008, <https://www.brennancenter.org/analysis/nbpa-resolution-restoring-voting-rights>; Resolution on Restoring Voting Rights, Association of Paroling Authorities International, April 30, 2008, <http://www.apaintl.org/about/resolutions.html>.

¹⁰ See https://www2.nycbar.org/pdf/report/uploads/9_20072588-NewYorkPrimaryDay.pdf.

¹¹ *Id.*

¹² Voting-Reform Related Proposals: NYC Charter Revision Commissions, July 10, 2018, https://s3.amazonaws.com/documents.nycbar.org/files/2018406-CharterRevision_ElectionReforms.pdf; Report in

receive 40% of the vote in a primary election to be nominated by a political party and advance to the general election. If no candidate for such office receives at least forty percent of the vote in the primary election, the two leading candidates will participate in a run-off election to determine their party's nominee for the general election.¹³ The run-off election must take place two weeks after the primary election,¹⁴ except there has been already been one instance when the run-off has been postponed because of insufficient time to administer such election.¹⁵

The City Bar supports implementing instant run-off voting for the primaries for citywide office in New York City. The system would allow voters to rank up to five candidates in order of preference on their ballot during the primary. If the candidate with the most votes garners less than 50% plus one vote of the votes, the two candidates with the most votes proceed to a second round of ballot-counting. In this second round, each ballot is counted as a vote for whichever of the two advancing candidates is ranked higher by that voter. The candidate with the most votes in the second round would be declared the winner of the run-off. This approach would save New York City considerable time, resources and money over conducting the run-off election now required by law if no candidate for citywide office receives 40% of the vote in the primary, while at the same time ensuring that the candidate ultimately elected in a primary has significant support from her/his party.

Make Election Day a work holiday. The aforementioned reforms would be strengthened and reinforced if New York made Election Day a work holiday. In addition to increasing access to the polls, establishing a holiday on Election Day sends an important message to New Yorkers about the roll voting should play in our democracy and our governments respect for that roll.

* * *

As a matter of policy, the City Bar believes that voting should be a convenient and common practice, and thus any reform to expand the franchise and make voting more convenient for those who otherwise have difficulty doing so is worthy of serious consideration. We urge the Legislature to make meaningful and comprehensive voting and election law reform a priority in the coming legislative session.

Support of Instant Run-Off Voting in the Primaries for Citywide Office in New York City, Reissued August 2017, <https://s3.amazonaws.com/documents.nycbar.org/files/20072732-InstantRunoffElections.pdf>.

¹³ N.Y. Elec. Law §6-162.

¹⁴ N.Y. Elec. Law §8-100(1)(b).

¹⁵ Kate Taylor, *High-Cost Runoff for Public Advocate's Post Prompts Calls for Reform*, New York Times, (2013) <https://www.nytimes.com/2013/09/30/nyregion/high-cost-runoff-for-public-advocates-post-prompts-calls-for-reform.html>.

New York Needs to Upgrade Its Voting System

Early voting and automatic voter registration would improve the state's voting process, the Brennan Center's Natalie Tennant, a former West Virginia secretary of state, told New York lawmakers

November 15, 2018

New York desperately needs a 21st-century election system. This was highlighted, again, during last Tuesday's midterm elections, as widespread reports **surfaced** throughout the day complaining of early long lines and broken voting machines all across New York. Even before the election, New York voters faced an outdated registration system.

On Thursday, the Brennan Center's **Natalie Tennant** testified before a New York State Assembly subcommittee focused on Election Day operations and voter disenfranchisement. Before joining the Brennan Center, Tennant served as West Virginia's Secretary of State from 2009 to 2017. Under her leadership, West Virginia became the third state in the country to pass automatic voter registration (AVR).

In her testimony on Thursday, Tennant shared what she learned from her work on making West Virginia a leader in election modernization. She also outlined two policy solutions, early voting and automatic voter registration, that would significantly improve the voting process in New York.

Early voting would help shorten voting lines in New York

New York is **one of only 13 states** where early voting was still unavailable for this election. Surveys continue to show that early voting is extremely popular with voters, since it makes the voting process more convenient and accessible for voters, especially for those who face logistical challenges on Election Day, such as work schedules, commutes, or bad weather. This was reinforced by the **surge in early voting numbers** in last week's midterm elections.

Early voting would also help New York shorten lines on Election Day and reduce the overall stress on its voting system, which serves about 12.7 million registered voters. An extended voting period would also allow poll workers to gain experience before Election Day and become more efficient in their work. The extended period would create time to discover and fix registration errors and technical glitches before Election Day.

Automatic voter registration would help prevent improper voter purges

In addition to long lines, New York voters also face the risk of being turned away from the polls, thanks to the state's outdated voter registration system. In last week's election, there was a large number of complaints from voters who knew they had registered to vote but were not showing

up on the voter rolls. Inaccurate registration rolls are a recurring problem in New York. For example, in the 2016 election, more than 200,000 names were **improperly deleted** from the voter rolls in New York City due to a misguided purge.

Automatic voter registration is a simple, secure, accurate, and affordable solution to New York's voter registration woes. In states with AVR, eligible voters are automatically signed up to vote through a digitized system when they interact with a government agency, unless they choose to opt out. New York should join the growing momentum for AVR. Just last week, **Nevada and Michigan** approved ballot measures to adopt AVR. There are now 15 states, along with Washington, DC, that will have AVR ready in time for the 2020 election.

It's time for New York to take action

As stories from last week's election showed us, New York needs to fix its voting system, which has been called one of the worst in the United States. Thankfully, there are proven solutions – such as early voting and automatic voter registration – that will help the state improve. With all the momentum for democracy reform across the country, New York's lawmakers should take action now – or risk getting left in the dust.

Tennant's testimony to the New York Assembly is below:

Good morning Assembly members. I am Natalie Tennant with the Brennan Center for Justice at NYU School of Law and the former Secretary of State of West Virginia.

Thank you for having this hearing and for allowing me to testify about the benefits of early voting and other election modernization efforts.

First, I would like to tell you about the Brennan Center for Justice. We are a nonpartisan law and policy institute that seeks to improve our systems of democracy and justice. We work on a range of issues pertaining to voting rights and elections.

We do this through many avenues including legislative advocacy and education of the public through reports like ***Early Voting: What Works***, and ***The Case for Automatic Registration***.

We are thrilled by the possibility that New York may be able to achieve real election reform this session. There's a lot to do, and I'd like to talk about a few of the reforms we think should be top priorities.

I think it may be helpful for you to hear from someone that has real-world experience administering a statewide election. I am proud to say that West Virginia has been on the forefront in election modernization. We were among the first states to have early voting, online voter registration, and to pass automatic voter registration legislation.

Early voting was implemented in the Mountain State in 2002. At first it was only available at the county courthouses and voters would come to the county seat to vote. Seven years later, because early voting was so popular, we expanded it to community areas around the counties at the discretion of the county clerk and county commission.

From the beginning, we have had early voting for at least 10 days, including two weekends. I want to emphasize the importance of providing an extended period with off-hours in order to maximize the impact of early voting.

The benefits of early voting are immense because it answers the demands of the voters' lifestyles by offering convenience and flexibility. And in New York's case, that's convenience and flexibility for about 12.7 million registered voters.

I can tell you from personal experience that early voting reduces the stress on the voting process on Election Day. You are trying to cram 12.7 million voters into a 15-hour time period. Early voting alleviates administrative burdens and causes less frustration while improving poll worker and staff performances because it allows election workers to gain valuable experience, which can make them more efficient at handling higher volume on Election Day.

An extended voting period provides more opportunity to discover and correct problems before the polls close. Last week we had reports of scanners being broken in precincts. In one specific polling place, only a single scanner was working for about 1,500 people causing long lines.

A longer voting period creates more time to recalibrate voting machines, re-check electronic systems like scanners, and fine tune poll site management, all which helps systematically eliminate the small glitches that can lead to major errors during the increased pressure of Election Day.

Many of my colleagues and several of the people who spoke today participated in a nationwide program called Election Protection in which voters can call if they have problems voting or concerns when they vote.

The top two complaints in New York were: first, the long lines, with many voters telling us they had to wait over two hours to cast a ballot; and second, folks who knew they had registered to vote but they were not showing up on the voter rolls.

We already talked about how we can solve the first problem. The second one can be addressed by implementing automatic voter registration, a common-sense approach that uses an eligible citizen's information to register them to vote when they interact with a government agency unless they decline.

There are two important things to keep in mind when putting automatic voter registration into place in New York: 1) it should not be limited to the DMV, as it is in some states; and 2) it should provide the opportunity for voters to opt out at the point of service.

There are 15 states and the District of Columbia that have approved AVR and just two weeks ago, New Jersey launched its system.

If we had time, I would like to talk about other priorities, but I will just mention them for the record. They include codifying the right to vote for people on parole, consolidating the primaries, election day registration, changing registration and party affiliation deadlines and no excuse absentee voting.

These are current modernization efforts and Americans deserve to use them whether they live in West Virginia or New York. I urge you to pull your election systems, and processes into the 21st Century as West Virginia has done, and we will help you. My colleagues and I at the Brennan Center are ready to assist.

Thank you again for this opportunity and I will gladly answer any questions.



Reinvent Albany Calls on Assembly to Think Big, Pass Comprehensive Voting Reforms at Election Hearing

November 15, 2018

Reinvent Albany Calls for Online Voter Registration, Same Day Registration, No-Excuse Absentee Voting, and Early Voting at Assembly Elections Hearing Calls for City Board of Elections to Administratively Improve Ballot Design and Retool Operations and Poll Worker Training

Reinvent Albany today released comprehensive recommendations at an Assembly Election Law oversight hearing for improving election administration, and making it easier for New Yorkers to register and vote.

“We are encouraged by comments from state leaders that they will pass voting reforms like early voting,” said Alex Camarda, Senior Policy Advisor at Reinvent Albany. “But we call on the legislature to think big and pass numerous reforms to modernize New York’s antiquated elections.”

Reinvent Albany calls on the Assembly to act on its long support of numerous bills that will ease barriers to voting, registration and modernize the voting experience.

Reinvent Albany supports passage of [A.3052](#) (Cusick)/S.3562 (Stewart Cousins), which sets a June primary date for both state and local elections and will increase voter turnout while saving New York State \$25 million. New York is the only state in the nation that has two separate federal and state/local primaries.

We also support enacting [A.5382-A](#) (Cusick)/S. 5115-A to establish online voter registration after amending the bill to replicate a [New York City law](#) that passed in 2017, making online voter registration available on mobile phones and enabling state agencies and third parties to utilize the Board of Election’s portal to register voters. The state’s current online registration portal at the Department of Motor Vehicles registered over 1 million since 2012. An online registration portal untethered from the DMV and used by outside groups, other state agencies and candidates will register countless voters.

Reinvent Albany also backs the legislature making amendments to the constitution so same-day registration ([A.2090-A](#)/S.2478-A amends the constitution and [A.8612](#)/S.3235 amends the statute) and no-excuse absentee voting ([A.7623](#) (Vanel)/S.840 (Comrie)), can be in place for the 2022 elections. Same-day registration is the law in 19 states, and allows voters to register and vote on Election Day. By starting the process through passing amendments this year, constitutional reforms will be phased in after statutory reforms like early voting go into effect for the 2019 election.

Other important reforms include automatic voter registration and changing the deadline for party affiliation from 13 months before a general election to less than 50 days before a primary election. Four of the 12 states do so that have closed primaries and a change in party affiliation deadline before a voter registration deadline.

Reinvent Albany also made recommendations the City Board of Elections can implement immediately without a change to state law. The City Board should make ballots more readable and shorter by reducing the number of languages on each ballot. It should accept Mayor de Blasio's offer to hire an operations consultant in exchange for more funding. An operations consultant is needed to ensure the Board can respond better to scanner malfunctions, including redeploying working scanners, improving use of emergency ballots, and redesigning poll site layout to reduce lines and ease overcrowding.

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Dana Harris Gives Testimony to the NYS Assembly on Voting Rights and Access

5 pro-voter reforms for New York State



Generation Citizen

Nov 16, 2018 ·

On November 15, 2018, Generation Citizen's Advocacy Director Dana Harris submitted public testimony to the New York Assembly Standing Committee On Election Law with recommendations related to voter access to facilitate participation for New York's youth and undeserved communities. Read on!

November 15, 2018

Assembly Standing Committee On Election Law
Subcommittee On Election Day Operations And Voter Disenfranchisement

250 Broadway
New York, NY 10007

Good Afternoon Members of the Assembly,

Thank you for the opportunity to testify before you today at this public hearing on Improving Opportunities to Vote in New York State.

I am the Advocacy Director at Generation Citizen. Generation Citizen is a nine-year old, national, nonpartisan civics education organization whose mission is to ensure that every student receives an Action Civics education. Generation Citizen New York City is the flagship of our six sites and we provide an experiential civics education to students in all five boroughs of New York City and this year, began expansion outside of the City, in Patchogue, Long Island. Since 2011, our Democracy Coach and teacher-led models have equipped over 18,000 young New Yorkers with the civic knowledge, skills, and disposition needed for lifelong civic engagement in our 21st century democracy.

Action Civics is a project-based approach to civics education where young people learn about the political process by taking action on specific issues they identify in their communities. The program operates during the school day, but in a real-world lab where students have the opportunity to become agents of positive change. This semester, our students are working with their local policymakers and school administrators on diverse issues including gang and gun violence, curricular improvements, and relevantly, voting rights.

In order to develop youth as civic actors, and ensure that their voices are heard and reflected by their representatives, we need voting reforms that break down barriers to political participation, and facilitate political participation for youth and all citizens. Indeed, voting — and easy access to it — both provides critical civics lessons to our young people, and enables them to manifest their civic dispositions, encouraging long-term engagement.

We recommend the Assembly consider the following 5 pro-voter reforms:

1. *Establish automatic voter registration.*

Too many people do not vote not because they do not want to, but because New York's voter registration processes are too antiquated, complex and time consuming or they learn that their registration is invalid when they show up at the polls on Election Day. Automatic voter registration (AVR), whereby completion of a government form automatically enrolls citizens as voters unless they choose to opt-out, can prevent these barriers to participation and increase turnout. To date, 15 states and Washington D.C. have approved AVR. In New York, AVR could begin at the DMV and expand to include other state agencies as they develop the capacity to support it. AVR is particularly important for facilitating the participation of underserved communities who may not have the time, capacity, or language ability to navigate the current bureaucracy of voter registration.

2. *Implement early voting.*

New York should follow the lead of 37 states and adopt early voting. Early voting allows citizens to cast their ballots at a time that is convenient for their own schedules. For individuals who have inflexible commitments including but not limited to: students, parents, seniors, working people and in particular, people with hourly wage jobs, this common sense policy creates the opportunity to participate without risking unnecessary compromise. Furthermore, when voting days are spread out, lines at the polls and risks of machine failure reduce. Early voting is a reform that would facilitate greater turnout among all, but particularly underserved communities, and make the voting experience a more positive one for all.

3. *Implement voter pre-registration for 16- and 17- year olds, authorizing individuals to register to vote once they reach the age of sixteen.*

Allowing prospective voters to pre-register before they reach the age of 18 is a commonsense policy that improves the the likelihood of young New Yorkers casting their ballot once they are eligible to do so. When students can pre-register to vote before turning 18, schools are more likely to host voter registration drives. This policy has been proven to increase youth voter turnout in states that have enacted it. Currently, 13 states plus Washington D.C. provide for 16-year-old voter pre-registration. New York should join them. This is an easy and inexpensive reform that would be a significant improvement to our voting system. In nearly all states that have adopted pre-registration, the bills providing for it have been accompanied by fiscal notes stating the bills would have zero impact on the state's budget as it uses existing systems and software. This reform would allow 16 and 17 year olds to conveniently register to vote at the DMV when they go to get their driver's permit or license and at high school voter drives.

4. *Allow 17 year olds to vote in primary elections in years that they will be 18 and eligible to vote in the general election.*

Currently, there is a notable portion of citizens who are eligible to vote in the general election, but not able to have a say in determining who will be on the ballot because they are not able to vote in the preceding primary election. Granting voting rights to 17-year olds for primary elections if they'll be 18 by the time of the general election allows their

participation to be truly representative. Furthermore, it can bolster lifelong voter participation among youth. Engaging young people at the polls early allows voting to become a habit and depending on the time of the primary, can allow 17 year olds to vote while they are living at home and in high school, creating a supportive environment for them to engage. A vote in the primary can also increase their investment, and likeliness to turn out, in the general election. Nearly half of all US states allow 17 year olds to vote in primaries when they will be 18 by the time of the general election. New York should follow suit to make its elections more representative and to ensure to put young people on a more direct path to lifelong political participation.

5. Lower the voting age to 16 in state and municipal elections.

Lowering the voting age to 16 in elections helps young people establish the lifelong habit of voting by giving them the opportunity to vote in their first elections while they are still in secondary school. This policy also strengthens existing civics education classes and incentivizes schools to teach more, and higher quality, civics education. This voting reform is being successfully implemented in the cities of Takoma Park and Hyattsville, MD; within the school board elections of Berkeley, CA; and is currently being considered by the Council of Washington D.C. Lowering the voting age would enfranchise hundreds of thousands of New Yorkers, instilling the lifelong habit of voting within the context of a supportive network of family and immediate community, rather than the comparatively less stable environment of a college or another post-secondary context.

We urge the Assembly to take these recommendations into consideration as critical means through which to improve our state's democracy and make sure that all voices are heard and reflected in our government.

Thank you for your time and consideration of our testimony.

Dana Harris

Advocacy Director, Generation Citizen

Voting Reform

Nothing should keep New Yorkers from exercising their right to vote. Everyone deserves a say in our government and our democracy – no matter where we live, what language we speak, or how much money we have. Voting is the right we exercise to protect all other rights.

Yet New York makes voting hard. Residents face red-tape and arbitrary deadlines just to register. If New Yorkers can take time away from work and family to vote, they may stand in long lines at the polls. They may find their names missing from paper poll books, causing them to cast affidavit ballots that might not get counted. Facing these challenges, New York has dismal voter registration and turnout.

That's why Governor Cuomo and the leadership in Albany should pass and implement the following four reforms in 2018:



NYCLU.ORG

1. EARLY VOTING & NO-EXCUSE ABSENTEE BALLOTING

One of the top reasons people report not voting is because they're too busy. Work and family obligations, health and transportation issues, and other unexpected obstacles can make it too difficult to cast a ballot in-person on one day. Amending the State Constitution to permit no-excuse absentee balloting could help make voting easier by allowing anyone to vote by mail. But for now, the legislature can and should allow a substantial period of in-person early voting to help make sure that all voters can find a convenient time to cast a ballot.

2. ELECTRONIC POLL BOOKS

At many polling locations around the state, a poll worker looks you up in a large paper poll book so you can stand in another line where another poll worker looks you up in another paper book. As large as those poll books are, they may be missing significant numbers of "inactive" voters, who are registered but haven't voted recently. Electronic poll books would save printing costs and shorten lines by speeding up the processing of voters. More importantly, electronic poll books will make sure that more voters get to cast a real ballot that gets counted and not a provisional one that might not. Electronic poll books can also facilitate implementation of early voting by allowing poll books to be updated regularly and easily.

3. AUTOMATIC VOTER REGISTRATION

In November 2016, New York ranked 47th among the 50 states and DC in voter registration rate (59 percent) according to data released by the Census Bureau. The burden is on voters to make sure that they're registered. AVR flips that burden by registering any eligible citizen who comes in contact with a state agency, unless the citizen chooses to opt-out. There are few better ways than automatic voter registration to make significant improvements to New York's dismal registration rate.

4. SHORTER REGISTRATION DEADLINES

New York's deadline to register 25 days before an election was passed before most modern computing and Internet technology. There's no reason the deadline shouldn't be reduced to 10 days before an election – the minimum required by the State Constitution. Election Day Registration would require an amendment to the New York State Constitution, but we can begin that process now. In fact, in the modern era, there's no reason not to pass a constitutional amendment this year to pave the way for same-day registration in New York by 2020. Fifteen states and DC allow voters to register and cast a ballot on the same day.

Expanding ballot access is a nonpartisan issue that enhances confidence in the democratic process, strengthens the legitimacy of elected officials and helps ensure that New Yorkers can hold their government accountable.

New York should be leading, not lagging when it comes to our voting process. New York is a state of innovators but we need to catch up to other states and bring our 19th century election system up to date.

- 37 states and DC allow early voting, but not New York.
- 30 states and DC permit or require no-excuse absentee balloting, but not New York.
- 15 states and DC offer same-day voter registration. New York requires voters to register 25 days before an election.
- 7 states and DC offer automatic voting registration, but not New York.

New York can save time and money. Reforming New York's archaic election system will make registering and casting a ballot faster and less costly for voters, the counties and the state.

- Early voting allows voters to cast a ballot at a time that is convenient for them and reduces traffic at polling places.
- Electronic poll books help voters get to the ballot box faster and reduce the cost of voting law compliance for county election boards.
- Later registration deadlines, and automatic and expanded online registration will relieve the burden on eligible voters and reduce the administrative costs of dealing with paper forms.

The NYCLU is mobilizing activists to contact lawmakers, participating in actions in Albany to demonstrate how important voting rights are, and working alongside a broad coalition of voting reform advocacy groups to amplify our message.

With the Trump regime committed to silencing voters, the time for meaningful, systemic reform in New York is now.



S360 COMRIE Same as **A 4431** Vanel

ON FILE: 01/06/21 Constitution, Concurrent Resolutions to Amend

TITLE....Authorizes ballot by mail by removing cause for absentee ballot voting

01/06/21 REFERRED TO JUDICIARY

01/08/21 TO ATTORNEY-GENERAL FOR OPINION

01/11/21 REPORTED AND COMMITTED TO RULES

01/11/21 ORDERED TO THIRD READING CAL.3

01/11/21 PASSED SENATE

01/11/21 DELIVERED TO ASSEMBLY

01/11/21 referred to election law

03/17/21 OPINION REFERRED TO JUDICIARY

05/10/21 substituted for a4431

05/10/21 ordered to third reading cal.312

05/11/21 passed assembly

05/11/21 returned to senate

05/12/21 DELIVERED TO SECRETARY OF STATE

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STATE OF NEW YORK

360

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

1 Section 1. Resolved (if the Assembly concur), That section 2 of arti-
2 cle 2 of the constitution be amended to read as follows:

3 § 2. The legislature may, by general law, provide a manner in which,
4 and the time and place at which, qualified voters [who, on the occur-
5 rence of any election, may be absent from the county of their residence
6 or, if residents of the city of New York, from the city, and qualified
7 voters who, on the occurrence of any election, may be unable to appear
8 personally at the polling place because of illness or physical disabili-
9 ty,] may vote and for the return and canvass of their votes in any
10 election.

11 § 2. Resolved (if the Assembly concur), That the foregoing amendment
12 be submitted to the people for approval at the general election to be
13 held in the year 2021 in accordance with the provisions of the election
14 law.

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

LBD89075-01-1



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01/11/21 S360 Senate Vote Aye: 50 Nay: 13

Aye	Addabbo	Aye	Akshar	Aye	Bailey	Aye	Benjamin
Aye	Biaggi	Nay	Borrello	Aye	Boyle	Aye	Breslin
Aye	Brisport	Aye	Brooks	Aye	Brouk	Aye	Comrie
Aye	Cooney	Aye	Felder	Aye	Gallivan	Aye	Gaughran
Aye	Gianaris	Aye	Gounardes	Aye	Griffo	Aye	Harckham
Nay	Helming	Aye	Hinchey	Aye	Hoylman	Aye	Jackson
Nay	Jordan	Aye	Kaminsky	Aye	Kaplan	Aye	Kavanagh
Aye	Kennedy	Aye	Krueger	Nay	Lanza	Aye	Liu
Aye	Mannion	Nay	Martucci	Nay	Mattera	Aye	May
Aye	Mayer	Aye	Myrie	Nay	Oberacker	Nay	O'Mara
Nay	Ortt	Aye	Palumbo	Aye	Parker	Aye	Persaud
Aye	Ramos	Nay	Rath	Aye	Reichlin-Melnick	Nay	Ritchie
Aye	Rivera	Aye	Ryan	Aye	Salazar	Aye	Sanders
Aye	Savino	Aye	Sepulveda	Aye	Serino	Aye	Serrano
Aye	Skoufis	Aye	Stavisky	Nay	Stec	Aye	Stewart-Cousins
Aye	Tedisco	Aye	Thomas	Nay	Weik		

NYLS Note: No debate.

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**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S360

SPONSOR: COMRIE

TITLE OF BILL:

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

PURPOSE:

This resolution amends the state Constitution to allow for any voter to request to vote by mail without declaring any reason for doing so.

JUSTIFICATION:

Historically, the New York State Constitution allows absentee voting in extraordinarily narrow circumstances, such as if a person expects to be absent from the county in which they live, or the City of New York, or because of illness for physical disability. As we have seen in the most recent election, voting by mail is becoming the norm, not the exception. A majority of states now allow for alternate ways of voting, including mail in voting without having to declare any reason for doing so. There is no reason to prevent New Yorkers from doing so as well, particularly in view of the impressive array of pro-democracy legislation passed in the Empire State since 2019. By providing choices, we give voters the opportunity to cast their ballot in whatever way each finds most comfortable, whether that be in a voting booth on election day, or in the comfort of their own home prior to election day.

LEGISLATIVE HISTORY:

2019-20: S.1049 (Comrie)/A.778 (Vanel) I Passed Both Houses.
2015-2018: Passed The Assembly/Died In The Senate.

FISCAL IMPLICATIONS:

None to the state.

EFFECTIVE DATE:

This act would take effect immediately, should it achieve second passage and be affirmed by the voters.



NEW YORK
CITY BAR

REPORT ON LEGISLATION BY
THE ELECTION LAW COMMITTEE AND
THE GOVERNMENT ETHICS AND STATE AFFAIRS COMMITTEE

A.4431
S.360

M. of A. Vanel
Sen. Comrie

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

THIS BILL IS APPROVED

The Election Law Committee and the Government Ethics and State Affairs Committee of the New York City Bar Association¹ supports a constitutional amendment which would permit “no-excuse” absentee voting in New York.² The enactment of a no-excuse absentee voting system in New York would remove from the state Constitution any requirement that voters provide an excuse before being issued an absentee ballot.³ Currently, 34 states and the District of Columbia permit any qualified voter to vote absentee without offering an excuse.⁴

In New York, voters requesting an absentee ballot are required to provide an excuse for their inability to vote at their designated polling place. Acceptable excuses include unavoidable

¹ The Election Law Committee is comprised of City Bar members interested in, and often with decades of expertise concerning, New York State Election Law. The Committee has been active in commenting on proposed revisions of state election law and local election rules. It also regularly provides election law training for candidates and the public. The Government Ethics and State Affairs Committee seeks to shine a light broadly on issues of ethical conduct in public service at the city, state, and federal levels.

² The City Bar supported first passage of this constitutional amendment in 2019. A.778 passed the Assembly by a vote of 136-9 and S.1049 passed the Senate by of vote of 56-5 on Jan. 14, 2019. This report has been updated to reflect developments since it was first issued in January 2019. See also “Instituting No-Excuse Absentee Voting in New York,” Election Law Committee, May 2010, <http://www.nycbar.org/pdf/report/uploads/20071936-NoExcuseAbsenteeBallotReport.pdf>.

³ N.Y. Const. Art. II, § 2.

⁴ “Absentee and Early Voting,” National Conference of Legislatures, Sept. 24, 2020, <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx> (all websites last visited Jan. 8, 2021).

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

absence from the county of residence due to duties, occupation, business, studies, or vacation and inability to vote due to illness or physical disability. Any voter with an excuse to vote absentee other than those listed in the state Constitution and further detailed in the Election Law are not entitled to an absentee ballot.

As a matter of policy, the City Bar believes that voting should be a convenient and common practice, and thus any reform to expand the franchise and make voting more convenient for those who otherwise have difficulty doing so is worthy of serious consideration.⁵ In evaluating whether New York's electoral process would benefit from implementing no excuse absentee voting, the City Bar has considered several policy factors:

- Necessity to modernize, ease voting experience and increase voter participation: Removing barriers to voting absentee would allow more people to vote in the manner most convenient for them. New York's current absentee voting laws also have the potential to disproportionately benefit those with high socioeconomic status. New York's voter turnout has historically ranked among the lowest in the nation. In 2016, with two New Yorkers at the top of the presidential ballot, our state still ranked 41st out of 50 in terms of turnout. Following a series of election law reforms enacted in 2019⁶ and a series of emergency Executive Orders to allow New Yorkers to safely vote (either in person or by mail) in light of the COVID-19 pandemic,⁷ the 2020 election saw significant improvements to voter participation.⁸ The COVID-19 pandemic has made it all the more clear how critical it is that New York take action to ensure easy access to no-excuse absentee voting.
- Impact on poll site lines and administrative burden: A no-excuse absentee voting system is likely to reduce both poll lines and the administrative burden on election officials, thereby decreasing the total cost of administering elections;
- Effects of no-excuse absentee voting on election litigation: Removal of the requirement that a voter provide an excuse for not voting at the polls removes the principal basis for challenging absentee ballots, therefore the number of challenged and litigated ballots will decrease.

⁵ See *i.e.* "2020 NYS Legislative Agenda: Build upon Reforms to Further Modernize New York's Voting System and Election Law," Jan. 7, 2020, <https://www.nycbar.org/media-listing/media/detail/nys-legislative-agenda-build-upon-reforms-to-further-modernize-new-yorks-voting-system-and-election-law>.

⁶ "Statement by New York City Bar Association President Roger Juan Maldonado on Passage of Voting Reforms," Jan. 14, 2019, <https://www.nycbar.org/media-listing/media/detail/statement-by-new-york-city-bar-association-president-roger-juan-maldonado-on-passage-of-voting-reforms>; see also "New York Election Law 2019 Year in Review: A Summary of Key Statutory Changes," The National Law Review, Jan. 2, 2020, <https://www.natlawreview.com/article/new-york-election-law-2019-year-review-summary-key-statutory-changes>.

⁷ NYSBOE Guidance on COVID-19, <https://www.elections.ny.gov/Covid19ExecOrders.html>.

⁸ Ethan Geringer-Sameth, "New York City Sees First-Ever Balance Among Early, Absentee & Election Day Voting," Gotham Gazette, Dec. 16, 2020, <https://www.gothamgazette.com/city/9997-new-york-city-2020-balance-early-absentee-election-day-voting-turnout>.

The City Bar believes that no-excuse absentee voting requires a constitutional amendment, as the state constitution currently precludes the Legislature from enacting no-excuse absentee voting by statute, and supports second passage of this legislation.

Election Law Committee
Katharine G. Loving, Chair

Government Ethics and State Affairs Committee
Edward L. Murray, Chair

Updated and Reissued May 2021*

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Contact

Elizabeth Kocienda, Director of Advocacy | 212.382.4788 | ekocienda@nycbar.org

*Jeffrey M. Wice and John Wm. Zaccone of the Election Law Committee abstained from participation in this report. This report was first issued in May 2018 during the terms of the following committee chairs: Martin E. Connor, Election Law Committee; Jennifer Rodgers, Government Ethics & State Affairs Committee.

I will be voting in the affirmative and I hope my colleagues do the same.

ACTING SPEAKER AUBRY: Mr. Carroll in the affirmative.

Are there --

(Pause)

Do we have exceptions, Mr. Goodell?

MR. GOODELL: No, sir.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes?

MRS. PEOPLES-STOKES: No.

ACTING SPEAKER AUBRY: Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Page 28, Calendar No. 312, the Clerk will read.

→ THE CLERK: Senate No. S00360, Calendar No. 312, Senator Comrie (A04431, Vanel, Jacobson, Stirpe, Galef, Burdick, Hyndman). Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 2 of Article II of the Constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Vanel.

MR. VANEL: This bill is for a concurrent resolution

of the Senate and Assembly which proposes an amendment to Section 2, Article II of the New York State Constitution in relation to authorizing ballot by mail by removing cause for absentee ballot voting. The resolution shall proposed to amend the Constitution to allow for an eligible request without declaring a reason for doing so.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you. Would the sponsor yield?

ACTING SPEAKER AUBRY: Mr. Vanel, will you yield?

MR. VANEL: Yes.

ACTING SPEAKER AUBRY: Mr. Vanel yields.

MR. GOODELL: Thank you. Under current law you had to file an application and ask them for an absentee ballot and it requires that the person who is applying for it certify that they meet certain criteria, correct?

MR. VANEL: Correct.

MR. GOODELL: And if this amendment passes then there would no longer be any need to certify for anything, correct?

MR. VANEL: Correct.

MR. GOODELL: And since there would no longer be any need to certify for anything, am I correct, then, that the application for an absentee ballot will no longer require a signature?

MR. VANEL: That is not correct.

MR. GOODELL: So why would you have a

signature requirement if -- if there's nothing for the signature to attest to?

MR. VANEL: So, this -- with respect to this -- this amendment in relation to absentee ballot voting, there's going to be enacting legislation to require what other requirements there are, what needs to be with respect to an absentee ballot. Currently, Section 2, Article II of the Constitution states that in order to be qualified for an absentee ballot you either have to be absent from the -- from the county on the day of the election, or -- or ill. And we find that we must make it easier for people to be able to -- to vote. But there are going to be some other enacting regulations in order -- you know, after this -- if and when this -- this amendment to the Constitution is ratified.

MR. GOODELL: And am I -- I'm correct, right, Calendar 206, for example, it eliminates signature requirements by allowing an electronic application, right? So that would fit right into this.

MR. VANEL: Excuse me? I didn't hear what you said.

MR. GOODELL: Okay. It's not your bill so I know you didn't come prepared to debate on the legislation. But thank you, Mr. Vanel. I appreciate your comments.

On the bill.

ACTING SPEAKER AUBRY: On the bill, Mr. Goodell.

MR. GOODELL: Thank you. Mr. Speaker, when this legislation was introduced a couple of years ago I supported it as an alternative to early voting. I thought it was a preferable method of maximizing the voter opportunity. But the Legislature went ahead with early voting, and as a result the residents of the State of New York can vote for a couple weeks before the election. And with the advent of early voting, the need for absentee ballots went down dramatically because you had two weeks to schedule a time for you to vote. And so the likelihood that you wouldn't be able to vote in a two-week period was dramatically reduced. My concern, of course, is that as we eliminate any excuse and as we look at other legislation that's actually on our Calendar today, we can see the move is to eliminate any signature requirement for absentee ballots, but no requirement that voter rolls be purged of people who are no longer alive or are no longer residing where they should be resided -- residing. And so we're seeing a substantial erosion in all of the provisions that we normally would look to to help ensure voter integrity. And this is the last Constitutional Amendment on this subject. And as for the other ones, it makes it easier for those who are not eligible to vote or shouldn't be voting or are taking advantage of our system to obtain an absentee ballot with no excuse whatsoever, with no justification whatsoever, even though they have two weeks to vote, and thereby circumvent our voter integrity provisions.

So while I supported it in the past, with the advent of early voting I cannot support it today. Thank you, sir.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote on Senate print 360. This is a Party vote. Any member who wishes to be recorded as an exception to their Conference position is reminded to contact the Majority or Minority Leader at the numbers previously provided.

Mr. Goodell.

MR. GOODELL: Thank you, sir. The Republican Conference is generally opposed to this constitutional amendment, but those who support it are encouraged to call the Minority Leader's Office so we can properly record their vote.

Thank you, sir.

ACTING SPEAKER AUBRY: So noted.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr. Speaker. The Majority Conference will be in the affirmative on this one. Those desiring to be in the negative for an exception should feel free to contact the Majority Leader's Office at the previously given number and your vote will be properly recorded.

ACTING SPEAKER AUBRY: Thank you so much.

(The Clerk recorded the vote.)

Mr. Lawler to explain his vote.

MR. LAWLER: Thank you, Mr. Speaker. I support

allowing any legally eligible voter the opportunity to vote how they choose to. Whether it's by mail, by early voting or on Election Day. I have in the past and today support the opportunity for somebody to vote by mail without a reason. I do believe people have that right so long as they are legally eligible. And that is the key. As we make some of these changes, what will be critically important is ensuring that anybody who applies to vote by absentee ballot is legally eligible to do so, and that it is, in fact, they, the individual who is requesting that ballot. What we cannot allow is for absentee ballots to be mailed en masse to those who have not requested it. And so while I do support this legislation, I think it is critically important to get on the record that we must, as a Body, safeguard against the ability of ballots to just go out the door willy-nilly. We need to make sure that those requesting that ballot are, in fact, the ones legally eligible to vote on that ballot.

So I support this legislation and hope that my colleagues will join me in safeguarding against any attempt to misuse the absentee ballot process.

ACTING SPEAKER AUBRY: Mr. Lawler in the affirmative.

Ms. Walsh.

MS. WALSH: Thank you, Mr. Speaker. Just briefly to explain my vote. I had supported this piece of legislation the last time it came up. But for the reasons that one of my colleagues just recently expressed, I don't think it's necessary anymore. I -- I always

had felt that -- I didn't want to make a liar out of somebody who just had to say that they were going to be out of the county and unavailable in order to get an absentee ballot. I never liked that idea. But now that we've got the early voting option, and that's -- and that's in-person voting which I think is really the gold standard because we want to get people in person, able to vote, whenever possible. And we -- we are still -- we would still be allowing, obviously, the absentee balloting process for those who still required it. You know, again, I've just got to go back to the race, the congressional race that we talked about. The -- the egregious mishandling of the tens of thousands of absentee ballots in that case really made me start to worry about having a lot of paper being submitted on Election Day. And just, you know, batches of ballots that weren't counted or lost. The "stickygate" scandal where there were sticky notes that they couldn't figure out what the signature matching was about. It was just a big mess. I think if we want to encourage people to come in person to vote, I'm going to vote no this year on this and I think that -- I think that that's the right thing to do for me anyway. So, thank you.

ACTING SPEAKER AUBRY: Thank you. Ms.

Walsh in the negative.

Mr. Jacobson.

MR. JACOBSON: Thank you, Mr. Speaker. First, I want to thank the sponsor for this legislation for the Constitutional Amendment. We have slowly chipped away at all the phony restrictions on absentee ballots. It used to be you had to get a doctor's

note. It used to be that you -- if you were out of the area for a certain period of time and you didn't -- and -- but you were back at quarter to nine, well then you could have voted when that really wasn't the case. And I do believe my -- the fundamental principle is that voting should be simple and easy. We should remove all barriers. And unlike some of our friends on the other side of the aisle, let's not look for red herrings. Let's not look for reasons why to deny people an easier way to vote. We should make it simple. We should make it easy. And by doing this, we're going to have a radical transformation. It's going to be, *I want a ballot. Please mail it to me. Or, I want to pick up a ballot. Please give it to me.* I don't think that's radical at all, to come down to it. It's really a matter of common sense.

So I'm so happy that we're doing this so we don't have to play the games, so people aren't going to court, they didn't check the box. Now, we -- we've made reforms last year. We're going to continue to make reforms this year, and this is a fundamental reform that's long overdue and I proudly support this Constitutional Amendment. Thank you.

ACTING SPEAKER AUBRY: Mr. Jacobson in the affirmative.

Mr. Jensen.

MR. JENSEN: Thank you, Mr. Speaker. To echo the -- the remarks of one of my earlier colleagues, I do believe that every New Yorker who's eligible to vote should have access to vote. So I will be supporting this Constitutional Amendment. However, I -- I do

not believe that we should be doing anything in addition that would eliminate the voters' need to request an absentee ballot, eliminate any signature requirements or signature matching or any sort of ballot harvesting.

So while I support this Constitutional Amendment, I still believe that there should be safeguards in place to ensure that the voter who's requesting the absentee ballot is the voter casting the absentee ballot. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Mr.

Speaker, for the opportunity to explain my vote. I want to begin by, of course, thanking the sponsor of this Constitutional Amendment and to say that I think any opportunities we have as elected officials, we should be encouraging as many people to vote as possible. And so this opportunity I think is an awesome one. But the best thing I think about this one is that we're not just going to make the decision for the electorate. We're going to put this on the ballot and allow them to make it. And I think all too often as electeds, we would like to think we have all the answers and can get this done by just what we say. Sometimes I think it's important to bring it back to the people, and I want to applaud the sponsor for doing that and I look forward to the results of it. It's my pleasure to vote in favor of this legislation.

ACTING SPEAKER AUBRY: Mrs. Peoples-Stokes in the affirmative.

Mr. Vanel to close.

MR. VANEL: We're very -- you know, we're working very hard to make sure that we expand the franchise of voting. We have to make sure that people -- that we make it easier for people to vote. Today, under Article II, Section 2 of the Constitution you have to be either absent or sick in order to -- to vote absentee ballot voting. Even with early voting, for some of my members that are -- that are Upstate -- for some of my members that are Upstate, their -- some of their early voting sites are very far from where people live. So we have to make it easier for people to be able to go and vote. So now what does this -- what does this amendment do? This amendment removes the reason for being able to have to file an absentee ballot, making it easier for people to vote. Now keep in mind, I really believe that New Yorkers, all of us on both sides, believe that the proper authentication must happen when it comes to absentee ballots. Proper authentication must happen when it comes to voting. Even with that, we must make sure that the franchise of voting is easier, people are able to vote, and on November of this year the people of New York will have the opportunity in a referendum to vote on whether or not to remove the blockage of having an excuse to be able to vote.

I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Vanel in the affirmative.

Mr. Goodell.

MR. GOODELL: Thank you, sir. In addition to

those who are voting in favor of this bill on the floor of the Assembly, please record the following additional members: Mr. Ashby, Mr. Gandolfo, Mr. Giglio, Ms. Miller, Mr. Morinello, Mr. Norris and Mr. Schmitt.

Thank you, sir.

ACTING SPEAKER AUBRY: So noted. Thank you.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes

MRS. PEOPLES-STOKES: Mr. Speaker, colleagues, we can now turn our attention to page 26, Calendar No. 299 by Mr. Rodriguez, followed by page 19, Calendar No. 226 by Mr. Abbate.

ACTING SPEAKER AUBRY: Calendar No. 299, the Clerk will read.

THE CLERK: Assembly No. A03213-A, Calendar No. 299, Rodriguez, Montesano, Fahy, Peoples-Stokes, Woerner, Weprin, Barron, Gottfried, Palmesano, Santabarbara, Ramos, Pichardo, Joyner, Epstein, Aubry, DeStefano, Cruz, Lavine, Glick, Simon, Carroll, Fernandez, Jacobson, Galef, McDonald, Dickens, Quart, Kelles, Lupardo, Cook, Mitaynes, Septimo, Braunstein, Taylor, De La Rosa, Seawright, González-Rojas, O'Donnell, Reyes, Richardson, Abbate, Griffin, Burdick. An act to amend the General Business Law, in relation to the Secure Choice Savings Program.



News Release

Assembly Speaker Carl E. Heastie

FOR IMMEDIATE RELEASE:

May 11, 2021

Assembly Passes Legislation Expanding Voters' Access to the Ballot in New York

Legislation Includes Constitutional Amendments to Allow No Excuse Absentee Ballots and Same Day Voter Registration

Speaker Carl Heastie and Election Law Committee Chair Latrice Walker today announced that the Assembly has passed legislation to expand access to absentee ballot voting in New York by removing the constitutional barrier to “no excuse” absentee ballots and allowing voters to request absentee ballots online. A second constitutional change would permit the Legislature to allow voters to register and vote on Election Day. These measures would make it easier for voters to register and cast their ballots. This is second passage for both constitutional amendments, in the next step in the process they will go before New York’s voters for approval.

“The Assembly Majority is committed to making it easier for voters to exercise their constitutional right to vote,” **Speaker Heastie** said. “These bills will increase accessibility to the polls and continue some of the safety precautions we began taking during the pandemic. As we see states roll back access to voting, New York will fight to make sure every eligible voter is able to have their voice heard.”

“Voting is an integral part of ensuring a functioning democracy, and part of our civic duty as Americans,” said **Assemblymember Walker**. “The Assembly Majority will continue working to ensure every eligible voter has access to the ballot – whether in person or by absentee ballot – and is able to have their voice heard.”

The Assembly Majority today passed several bills that would reform the absentee ballot process in New York State and make it easier for New Yorkers to cast their ballots by mail. Under current New York State law, a voter must provide a specific reason for why they will not be able to vote in person in order to obtain an absentee ballot. A constitutional amendment passed today would eliminate that requirement, allowing for a “no excuse” absentee ballot ([A.4431](#), Vanel).

“Over the last year, throughout the global health crisis, we saw how important voting by mail was to ensure voters could cast their ballots,” **Assemblymember Clyde Vanel** said. “This bill would remove requirements and barriers to receiving an absentee ballot and ensure that New York voters are able to vote.”

The Assembly also passed legislation that would allow voters to request absentee ballots electronically, increasing accessibility while maintaining the level of safety that is required due to the COVID-19 pandemic ([A.6046](#), Bichotte Hermelyn). A third bill would make Election Day the last day an absentee ballot can be postmarked, consistent with the deadline for hand-delivered absentee ballots ([A.6047-A](#), Bichotte Hermelyn).

“These bills will make it easier for New Yorkers to vote using an absentee ballot,” **Assemblymember Rodneyse Bichotte Hermelyn** said. “By allowing voters to use electronic means to request a ballot, and allowing ballots postmarked on Election Day to be counted, we will help ensure that all voters’ voices are heard and counted.”

A second constitutional amendment would eliminate the requirement that voters register to vote at least 10 days before an election. This constitutional change would allow the Legislature to authorize the registration of voters on Election Day ([A.502](#), Carroll).

“This legislation will make it easier for eligible New Yorkers to exercise their right to vote here in New York,” **Assemblymember Robert C. Carroll** said. “We should be removing barriers to voting, not adding them like we are seeing in other parts of the country. This measure will increase voter participation and ensure every voter has their voice heard.”

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Pre-Budget Legislative Packet

TO: Local League Presidents/Action Chairs
FROM: Sally Robinson, VP Issues and Advocacy, sally.s.robinson@gmail.com
Laura Ladd Bierman, Executive Director, laura@lwvny.org
Jennifer Wilson, Deputy Director, jennifer@lwvny.org

Although the Capitol remains closed during the ongoing pandemic, we are continuing our legislative advocacy for 2021. This year we are again providing members key information on current legislative issues expected to be covered in the state budget and asking you all to meet with and lobby your legislators on these issues. Enclosed please find the pre-budget legislative packet to assist with your lobby visits with your state Senators and Assembly Members. Pre-budget legislative lobbying in legislators' district offices should be **scheduled between February 11th and February 21st**. This year it covers funding for voting and New York's independent redistricting commission, and new laws proposed by the Governor related to absentee and early voting.

Though we are continuing to work on our other priority issues related to voting (including voting for the formerly incarcerated), good government, health care, women's issues, and environmental conservation, we are not taking action on these with relation to the state budget. Should these issues be advanced before the April 1st budget deadline, we will issue action alerts to all members through our social media and email. Members should always feel free to mention any advocacy issue mentioned in the League's 2021 Legislative Agenda during their advocacy visits, but we do ask that you focus your conversations on the issues included in this packet. We expect that our legislative priorities not directly impacted by the budget will be the primary focus of our post-budget lobbying.

Although we have presented you with several options for discussion with your legislator, you do not need to cover all included topics. This exchange of information benefits the state League in its efforts to develop strategies that promote our advocacy at the Capitol. Our influence in Albany depends on your contact with your state Senator and Assemblyperson(s). They know you elect them! If you haven't done so already, set up an appointment to see your state Assemblyperson(s) and Senator virtually. Seeing a staff person is fine.

Summary of Reforms:

Funding for Voting

Last year, before the pandemic began, we asked local Leagues to advocate for early voting implementation funding in the 2020 budget. This year, we will continue our efforts to secure funds for early voting and also request new funds to support the increased opportunities for voting by absentee ballot.

The State Board of Elections received significant grant funding from the federal government to run elections during the pandemic. Without these funds, counties would not have been able to afford the increased cost of absentee ballots and envelopes, return postage, increased staffing, PPE for poll workers and staff, and other expenses related to voting during the pandemic.

One obvious take away from the 2020 election is that New York State voters love early voting. More than 2.5 million voters took advantage of early voting in 2020; many of these voters waited in lines up to 6 hours long for the opportunity to cast their ballot early. The legislature has already taken action to expand early voting in New York State to increase the number of poll sites in each county to avoid long lines in

League of Women Voters of New York State
62 Grand Street, Albany NY 122013
(518) 465-4162 lwvny@lwvny.org



future elections and the Governor has also put forward a reform to extend early voting hours on weekends. The League supports this effort but there is no additional funding identified in the budget to support these changes. The League is urging the legislature to consider creating a regular revenue stream to fund early voting in New York for major elections.

Independent Redistricting Commission

Now that the census count is complete, New York's first ever Independent Redistricting Commission is gearing up to redraw our state and congressional legislative district lines. This commission needs to receive funding from the state so that it can hire staff, acquire map making software, hold public hearings, and deliver maps to the legislature by the constitutional deadline of January 1st, 2022.

Despite this mandate, the 10-member Commission has yet to receive any funding. The FY 2020-2021 budget included \$1 million in funding for the Commission, but that funding has now been delayed for more than 9 months. The Commission has been told that this funding will be paid out through SUNY Research Foundation and that \$350,000 will be set aside for legal fees and a 10% payment to SUNY Research Foundation leaving the Commission with only \$750,000 to use for their work.

The League is calling for the legislature to ensure the Commission is fully funded so that they are able to independently complete their work. The League is proposing the state base funding for the Commission on funding provided to the Legislative Task Force on Demographic Research & Reapportionment (LATFOR) in prior redistricting years.

Voting Reforms Proposed by Governor Cuomo

The Governor has put forward a package of 5 voting reforms related to absentee voting, early voting, and the canvassing of elections. The package includes:

1. Expansion of Absentee Ballot Request Period
2. Establish a Deadline for Processing Absentee Ballot Requests
3. Early Voting Hours Expansion
4. Expedite Absentee Ballot Counting
5. Timely Election Recounts

Although the League is supportive of the general concept of these measures, the State Senate has also proposed similar reforms that are in some cases better than the Governor's proposal.

Final Thoughts:

This Packet is available on the state League homepage, www.lwvny.org. Please return the attached form to the League office following your meeting by email to jennifer@lwvny.org. You should feel free to rely on the main points in this document and the handouts for your visit, but more background information is available online on our website for your reference. For any questions or concerns, please contact Jennifer at jennifer@lwvny.org

- The amendment's general wording gives great flexibility to the New York courts to interpret and apply the provisions. More details regarding enforcement and definitions, duties and obligations related to environmental rights are required.
- Courts could require NY cities and counties to make expensive changes to brick & mortar facilities, or to move, or renovate them. It could be called another "Unfunded Mandate."

PROPOSAL NUMBER THREE

Eliminating Ten-Day-Advance Voter Registration Requirement

Description of Proposal: Section 5 of Article 2 of the New York Constitution now requires that a citizen be registered to vote at least ten days before an election. The proposed amendment would delete that requirement. If this amendment is adopted, the Legislature will be authorized to enact laws permitting a citizen to register to vote less than ten days before the election.

Question as it Will Appear on Ballot:

The proposed amendment would delete the current requirement in Article 2, § 5 that a citizen be registered to vote at least ten days before an election and would allow the Legislature to enact laws permitting a citizen to register to vote less than ten days before the election. Shall the proposed amendment be approved?

PROS:

- More voters will be enfranchised by shortening or eliminating the deadline to register to vote.
- This proposal would allow the Legislature to implement same-day voter registration. Twenty states currently allow for same-day voter registration.
- Same-day registration can increase voter turnout and participation by ensuring all eligible voters can cast their ballot.
- On election day voter rolls can be updated and corrected allowing eligible voters who have moved, or been removed in error from the official rolls, to update their registration records.

CONS:

- Should same-day voter registration be implemented after passage of this amendment, election officials may have difficulty determining how many ballots are needed at each poll site.
- Implementing same-day voter registration has the potential to allow for in-person election fraud if a voter illegally registers at multiple sites and votes.

PROPOSAL NUMBER FOUR

Authorizing No-Excuse Absentee Ballot Voting

Description of Proposal: The purpose of this proposal is to eliminate the requirement that a voter provide a reason for voting by absentee ballot. The proposed amendment would do so by deleting the requirement currently in the Constitution that restricts absentee voting to people under one of two specific circumstances: (1) those who expect to be absent from the county of their residence, or from New York City for residents of that city, on Election Day, and (2) those who are unable to appear at their polling place because of illness or physical disability.

Question as it Will Appear on Ballot:

The proposed amendment would delete from the current provision on absentee ballots the requirement that an absentee voter must be unable to appear at the polls by reason of absence from the county or illness or physical disability. Shall the proposed amendment be approved?

PROS:

- Any voter would have the ability to request an absentee ballot for a primary and/or general election thereby increasing voter access to elections.
- Absentee voting was heavily utilized during the COVID-19 pandemic. Removing the cause for requesting an absentee ballot would ensure voters can request to vote by absentee ballot should another pandemic occur.
- Thirty-four states and Washington, D.C., do not require an excuse from those who wish to vote absentee or by mail.
- There is the potential to take pressure off poll sites by reducing the number of in-person voters.

CONS:

- The proposed amendment would provide less protection against potential absentee ballot voter fraud. The number of absentee ballots would increase, but the proposed amendment offers no suggestions for increasing protection against potential fraud.
- There is potential for loss of anonymity with more absentee voting.
- Additional reliance on absentee voting can slow election results and reporting.
- An increase in absentee voting can cost municipalities additional money for printing of ballots, envelopes, and for postage.
- The civic experience of voting with neighbors at a local school, church, or other polling place no longer exists.

PROPOSAL NUMBER FIVE

Increasing the Jurisdiction of the New York City Civil Court

Description of Proposal: The purpose of this proposal is to amend Article 5, Section 15 of the New York Constitution to increase the jurisdiction of the New York City Civil Court. The New York City Civil Court is currently limited to hearing and deciding claims for \$25,000 or less. The proposed amendment would allow the New York City Civil Court to hear and decide claims for \$50,000 or less.

Question as it Will Appear on Ballot:

The proposed amendment would increase the New York City Civil Court's jurisdiction by allowing it to hear and decide claims for up to \$50,000 instead of the current jurisdictional limit of \$25,000. Shall the proposed amendment be approved?

PROS:

- In 1983, the Constitution was amended to raise the jurisdictional limit of the New York City Civil Court from claims of \$10,000 to \$25,000, where it has remained. This was done to adjust for inflation, and to help lift a burden off of a backlogged New York State Supreme Court. This proposal will raise the jurisdictional limit of New York City Civil Court to \$50,000.
- This proposal will reduce backlogs and delays by relieving some of the burden placed on New York Supreme Court judges who hear civil cases with claims above \$25,000.

CONS:

- The Civil Court of the City of New York consists of 3 Parts: General Civil, Housing, and Small Claims. General Civil cases include matters where parties are seeking monetary relief up to \$25,000. The Housing Part hears landlord-tenant matters and cases involving maintenance of housing standards. The Small Claims Part hears cases where parties are seeking monetary relief up to \$10,000. This proposal may place an additional burden on the New York City Civil Court by increasing the number of cases they may receive.

Please Join Us

Membership is open to women and men. There are over 47 local Leagues across NY state. Joining at any level automatically confers membership at every level: local, state and national. Membership enables you to support the League and receive publications from all three levels, and provides the opportunity to be involved in local, state and national issues.

Visit www.lwvny.org and click on JOIN LWVNYS. To find a local League in your area, click on FIND A LOCAL LEAGUE. Or support the League's efforts with a donation at www.lwvny.org.



www.vote411.org

Your one-stop shop for nonpartisan election information. Find out: How to register to vote; where to vote; what candidates are on the ballot in your district; what the candidates' positions are on issues; and information on any ballot proposals.



Countdown to Election Day 2021

General Election – November 2

- Oct. 8 – last day to postmark voter registration form or register in person at BOE
- Oct. 18 – last day to apply for absentee ballot by mail, online portal, email or fax
- Oct. 23 – early voting is available through Oct. 31
- Oct. 31 – early voting ends
- Nov 1 – last day to apply in person for absentee ballot
- Nov. 2 – last day to postmark ballot for general election
- Nov. 2 – last day to deliver absentee ballot in person to BOE

For more information on your ballot including candidates and ballot proposals go to www.vote411.org

League of Women Voters® of New York State
62 Grand Street, Albany, NY 12207
Phone (518) 465-4162 • Fax (518) 465-0812
www.lwvny.org • lwvny@lwvny.org

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The League of Women Voters, a nonpartisan political organization, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

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2021 VOTERS GUIDE

Part II ~ Ballot Proposals



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Election Day 2021

Tuesday, November 2, 2021
Polls are open 6 a.m.-9 p.m.

For whom/what will I be voting on in the 2021 election?

- Some village, town, or county positions
- State ballot proposals and constitutional amendments on voting, redistricting, clean air and water, and NYC Civil Court Jurisdiction
- Some local ballot proposals
- Go to www.vote411.org for all ballot info

Who can vote?

To vote, you must:

- be a United States citizen
- be 18 years old by the date of the general, primary or other election in which you want to vote (16 and 17 year olds may pre-register)
- live at your present address at least 30 days before the election
- not be in prison for a felony conviction
- not be adjudged mentally incompetent by a court
- not claim the right to vote elsewhere
- be registered to vote

How do I register?

- Online through NYS Department of Motor Vehicles website: voterreg.dmv.ny.gov/MotorVoter (must have a valid NYS driver's license, Learner Permit or Non-Driver ID)
- In-person on any business day at your county Board of Elections (BOEs) or any state agency participating in the National Voter Registration Act (including State University and City University campuses)
- By mail by completing a voter registration form available at BOEs, libraries, town halls, post offices and the League of Women Voters

How do I make sure I am registered to vote?

- Visit Voter Registration Search site on the NYS Board of Elections website, <https://voterlookup.elections.ny.gov/>
- Call your county BOE

Where do I vote?

- Check postcard sent by county BOE prior to election with polling site location, dates of election and more
- Visit Voter Registration Search site on the NYS Board of Elections website, <https://voterlookup.elections.ny.gov/>
- Call your county BOE
- Visit www.vote411.org

Three ways to vote

- Vote in person on primary or election day at assigned polling place
- Submit absentee ballot application and vote by absentee ballot
- Vote early in person during nine days leading up to election days

How do I vote by absentee ballot?

- Meet one of the qualifications: **1.** Absent from your county or, if a resident of New York City, absent from the five boroughs on Election Day **2.** Unable to appear at the polls due to temporary or permanent illness or disability (temporary illness includes being unable to appear due to risk of contracting or spreading a communicable disease like COVID-19) **3.** Unable to appear because you are the primary care giver of one or more individuals who are ill or physically disabled **4.** A resident or patient of a Veterans Health Administration Hospital **5.** Detained in jail awaiting Grand Jury action, trial, or disposition of a case but not yet convicted **6.** Confined in prison after conviction for an offense other than a felony
- Complete and mail absentee ballot application to your county BOE office <https://www.elections.ny.gov/NYSBOE/download/voting/AbsenteeBallot-English.pdf>
- Apply for an absentee ballot online at <https://absenteeballot.elections.ny.gov/>

Do I need identification to vote?

- NO! Your signature is your identification to vote
- First time voters may be asked for ID, such as a driver's license, lease or utility bill

Where do I find ballot and candidate information?

- Go to www.vote411.org, the League's electronic voter guide

BALLOT PROPOSALS

This Voter Guide will help you evaluate the proposals that will be on the November 2021 ballot.

PROPOSAL NUMBER ONE

Amending the Apportionment and Redistricting Process

Description of Proposal: The purpose of this proposal is to amend the portions of Article 3 of the New York Constitution that relate to the way district lines for congressional and state legislative offices are determined.

The proposal would do the following:

- Amend and repeal portions of the state constitutional amendment adopted by voters in 2014 that created a redistricting commission.
- Allow the redistricting commission to appoint two co-executive directors by simple majority vote, without consideration as to the party affiliation of the individual being appointed. Furthermore, this amendment would eliminate the alternative process currently in place that allows for the appointment of co-executive directors and co-deputy executive directors by the legislature should the redistricting commission fail to appoint co-executive directors, and remove the requirement that the two co-executive directors of the redistricting commission be members of different political parties.
- Freeze the number of state senators at the current number of 63. Currently, under the state constitution, the number of senators was originally set at 50 and thereafter increased over time to 63.
- Require that state assembly and senate district lines be based on the total population of the state, and require the state to count all residents, including non-citizens and Native Americans if the federal census fails to include them.
- Provide for incarcerated people to be counted at their place of last residence, instead of at their place of incarceration, for the purpose of redistricting. This practice is already established by state statute for Senate and Assembly districts.

- Revise the procedure for drawing and approving Congressional and state legislative districts scheduled to be first applied in 2022. The proposed amendment would alter the redistricting procedure in the following ways:

--- Change the redistricting map approval procedures for the redistricting commission and legislature by making changes to the voting thresholds needed to approve/adopt a plan. Under this proposal:

- Approval of a plan by the redistricting commission would require at least seven votes, out of the ten commissioners, in favor thereof. There would no longer be a requirement that at least one commissioner appointed by each of the legislative leaders vote in favor of a plan in order to approve it. A plan approved by at least seven commissioners must be approved by a majority of each house of the legislature to be approved.

- However, in the event that the redistricting commission votes on but does not have the seven votes needed to approve a plan, the commission is required to send the legislature the redistricting plan or plans that garnered the most votes. The legislature would be able to adopt such plan with a 60% majority. This amendment would repeal the requirement that in the event the speaker of the assembly and the temporary president of the senate are members of the same political party, approval shall require the vote in support of its passage by at least two thirds of the members elected in each house. If the commission fails to vote on any plan or plans by the deadline, all plans, including draft plans in the commission's possession are sent to the legislature, and each house of the legislature can introduce and adopt such a plan with or without amendments.

- The redistricting commission voting requirements and legislative vote thresholds for approving the commission's plan would no longer vary depending on the political affiliation of the Temporary President of the Senate and the Speaker of the Assembly.

--- Require the redistricting commission that draws the lines to submit its redistricting plan and implementing legislation to the Legislature two months earlier than called for under the current procedure the timeline set forth in the 2014 state constitutional amendment. (For the redistricting cycle due to proceed in 2022, the time frame would be condensed to meet election-related deadlines).

- Remove certain restrictions on how Senate district lines are drawn, including the "block on border" rule that require placing of blocks on the border of districts in certain districts.
- Delete certain provisions that the United States Supreme Court has deemed unconstitutional.

Question as it Will Appear on Ballot:

This proposed constitutional amendment would freeze the number of state senators at 63, amend the process for the counting of the state's population, delete certain provisions that violate the United States Constitution, repeal and amend certain requirements for the appointment of the co-executive directors of the redistricting commission and amend the manner of drawing district lines for congressional and state legislative offices. Shall the proposed amendment be approved?

PROS:

- The current New York State law requiring incarcerated individuals to be counted as living in their last place of residence, and not prison, for purposes of redistricting would be constitutionalized.
- In case the Federal Census fails to include non-citizen and Native American residents in its count, New York State would be required to count them for purposes of redistricting.

- The proposed amendment simplifies commission voting rules and legislative voting procedures that are currently based on which political party controls the Senate and Assembly.

- The proposed amendment removes a partisan basis for voting procedures.
- The amendment moves the timeline for the commission to submit their draft mapping plans to the legislature. The current timeline will potentially prevent candidates from collecting petition signatures for election because district maps may not be signed into law in time.

CONS:

- The proposed amendment would unfairly empower the majority party by preventing the minority party from having input into the final proposed maps.
- The amendment repeals the special legislative voting rules in place in case one party controls both legislative houses, which require plans to be approved by at least two-thirds of the members of each house. Instead, a simple majority will be needed to approve the commission's plans, or a 60% majority if the commission is unable to obtain seven votes to approve a redistricting plan on time.
- The amendment takes away the voting rights of minority party-appointed commission members in appointing the two co-executive directors of the commission.
- The proposed amendment significantly reduces the role of the commission in the entire process. Proposed subdivision (g-1) of section five-b provides that if the commission does not reach a decision by November 1, 2021, its draft plans will be submitted to the Legislature that can then (according to proposed changes to section four-b) introduce its own redistricting plans.

PROPOSAL NUMBER TWO

Right to Clean Air, Clean Water, and a Healthful Environment

Description of Proposal: The purpose of this proposal is to protect public health and the environment by adding the right of each person to clean air and water and a healthful environment to the Bill of Rights in Article 1 of the New York Constitution.

Question as it Will Appear on Ballot:

The proposed amendment to Article 1 of the New York Constitution would establish the right of each person to clean air and water and a healthful environment. Shall the proposed amendment be approved?

PROS:

- This amendment will require state and local governments and businesses to consider the environment and its citizens' relationship to it in all decision making.
- Advocates in favor of the amendment believe it will create a mechanism for combating environmental racism and rebalancing the inequities communities of color and low-income communities face from disproportionate exposure to pollution and other environment-harming practices.
- Forty-three states have some form of expression of environmental values in their Constitutions; but only Montana and Pennsylvania have recognized protecting environmental rights as an unchallengeable right, putting environmental rights on par with other political and civil liberties. New York would be the third state to adopt this measure.

CONS:

- The amendment's broad language could lead to complications, including frivolous lawsuits against companies with facilities sited under existing environmental rules.



Board of Election

**Ballot Proposal 4:
FORM OF SUBMISSION OF PROPOSAL NUMBER FOUR, AN AMENDMENT
Authorizing No-Excuse Absentee Ballot Voting**

The proposed amendment would delete from the current provision on absentee ballots the requirement that an absentee voter must be unable to appear at the polls by reason of absence from the county or illness or physical disability. Shall the proposed amendment be approved?

**ABSTRACT OF PROPOSAL NUMBER FOUR, AN AMENDMENT
Authorizing No-Excuse Absentee Ballot Voting**

The purpose of this proposal is to eliminate the requirement that a voter provide a reason for voting by absentee ballot. The proposed amendment would do so by deleting the requirement currently in the Constitution that restricts absentee voting to people under one of two specific circumstances: (1) those who expect to be absent from the county of their residence, or from New York City for residents of that city, on Election Day, and (2) those who are unable to appear at their polling place because of illness or physical disability.

**TEXT OF PROPOSAL NUMBER FOUR, AN AMENDMENT
CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY**

proposing an amendment to section 2 of article II of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

Section 1. Resolved (if the Assembly concur), That section 2 of article II of the constitution be amended to read as follows:

§ 2. The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters [who, on the occurrence of any election, may be absent from the county of their residence or, if residents of the city of New York, from the city, and qualified voters who, on the occurrence of any election, may be unable to appear personally at the polling place because of illness or physical disability,] may vote and for the return and canvass of their votes in any election.

§ 2. Resolved (if the Assembly concur), That the foregoing amendment be submitted to the people for approval at the general election to be held in the year 2021 in accordance with the provisions of the election law.

Explanation – Matter underscored is new; matter in brackets [] is old law to be omitted.



Ballot Proposal 3, an Amendment: Eliminating Ten-Day-Advance Voter Registration Requirement

The proposed amendment would delete the current requirement in Article 2, § 5 that a citizen be registered to vote at least ten days before an election and would allow the Legislature to enact laws permitting a citizen to register to vote less than ten days before the election. Shall the proposed amendment be approved?

CITIZENS UNION **SUPPORTS** THIS PROPOSAL

Statement of Support

Citizens Union recommends a yes vote on question 3, which would allow voters to register to vote and cast their ballots less than ten days before an election. This proposal would allow the legislature to enact laws that make it possible to register to vote and cast your ballot on the same day. This streamlines registration and voting into a single process, diminishing administrative burdens associated with registration procedures and affidavit ballots and eliminating confusion and uncertainty over voter registration status. Every eligible citizen should have the opportunity to cast their ballot, regardless of when they registered to vote. Eliminating the current unnecessary restriction on voter registration will make it easier to vote and increase turnout in our elections.

Ballot Proposal 4, an Amendment: Authorizing No-Excuse Absentee Ballot Voting

The proposed amendment would delete from the current provision on absentee ballots the requirement that an absentee voter must be unable to appear at the polls by reason of absence from the county or illness or physical disability. Shall the proposed amendment be approved?

CITIZENS UNION **SUPPORTS** THIS PROPOSAL

Statement of Support

Citizens Union recommends a yes vote on question 4, which would eliminate the requirement that absentee voters must be unable to physically cast their ballot for reasons of illness or physical disability. This measure would give alternative voting options to people who have unmovable obligations or irregular schedules. Given that most elections are held during work days, many citizens simply cannot afford to wait for hours in line to vote or incur the costs of traveling to and from the poll site. If this amendment is approved, all New Yorkers could easily cast their votes on their own time from the comfort of their own homes by mailing their ballot. Not only would this proposal increase voter turnout and public participation in our elections, but it would also carry the additional benefit of decreasing the number of challenged and litigated absentee ballots, making the process easier for election administrators. In fact, New York already implemented no-excuse absentee voting in 2020 and 2021, when this restriction was waived under the COVID state of emergency. Voters enthusiastically adopted this new voting method, and the result was dramatic increases in turnout in all elections.



Ballot proposal 5, an Amendment: Increasing the Jurisdiction of the New York City Civil Court

The proposed amendment would increase the New York City Civil Court's jurisdiction by allowing it to hear and decide claims for up to \$50,000 instead of the current jurisdictional limit of \$25,000. Shall the proposed amendment be approved?

CITIZENS UNION SUPPORTS THIS PROPOSAL

Statement of Support

Citizens Union recommends a yes vote on question 5, which would increase the jurisdiction of the New York City Civil Court to hear and decide claims for \$50,000 or less. The jurisdictional limit of the New York City Civil Court was last raised in 1983, when a constitutional amendment changed it from \$10,000 to \$25,000 to adjust for inflation and reduce the backlog of the State Supreme Court. It is well past time to raise the 35-year-old threshold. Citizens Union believes this amendment would reduce backlogs and delays, and adjust the current limit for inflation.

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DAILY NEWS EDITORIAL

Bench press

Last week and this, The Wall Street Journal identified 131 federal judges who, between 2010 and 2018, heard cases involving entities in which they, their spouses or minor children held stock, with almost half having traded those stocks while the litigation was ongoing. That's a lot of judges and a lot of potential conflicts of interest in cases worth millions of dollars.

Asked about these violations of both ethics rules and federal law, several judges claimed that they were simply unaware that their money managers had held or had traded these stocks. It shouldn't be too much to ask that, at the genesis of a case, jurists — who are duty-bound to be impartial — at least confirm that they don't directly own stock in any of the parties or their subsidiaries, and attest to this fact.

If the men and women in robes really find the burden of examining their portfolios for conflicts of interest too onerous, we have a simple suggestion: offload it to litigants, who will be more than

happy to seek the recusal of judges who hold their counterparty's stock.

For this to happen seamlessly, there needs to be a public, constantly updated, searchable database laying out the holdings of judges and their immediate families. Journal reporters did a painstaking and admirable job in individually perusing disclosures and matching them to court records, but this type of dedication should not be necessary to ensure that federal judges — the people who resolve disputes and interpret the laws of the land — are never in a position to issue rulings that could affect their bottom line. Such a database could be maintained by the Administrative Office of the U.S. Courts.

A simpler solution would be amending judicial ethics to prohibit judges from actively managing investment portfolios while they sit on the bench. If they want to invest, they can do so through blind trusts or general index funds, a small price to pay in exchange for a lifetime appointment to the federal bench.

No on 1, Yes on the rest

On the back of the ballot for mayor are five proposed amendments to the state Constitution. Several are important and should pass; one is minor and might as well pass; one is feel-good meaninglessness, and one is a mulligan stew of some good ideas tainted with a partisan poison pill.

By the numbers, the Daily News urges readers vote no on Proposal No. 1 and yes on Proposal Nos. 2 through 5. Each is being put before voters having been passed by the Legislature in two successive sessions.

The best on the list are No. 3, which allows for expanding absentee and other mail-in voting, which was a godsend during COVID, and No. 4, which permits easier voter registration. No. 5 is so inconsequential that we are upset that it's even there. It doubles the dollar value of cases in New York City Civil Court to \$50,000. Give it a yes vote anyway.

No. 2 establishes a "right" to a clean environment. Sure, why not; Pennsylvania's had a

similar provision on the books for 50 years and it hasn't stopped it from eating New York's lunch in hydrofracking.

All of these amendments passed Albany with bipartisan support. No. 1 is different. Pushed by the Legislature via strict party-line votes by Democrats alone, it jams together a half-dozen electoral reforms, many of which are good, like codifying the correct practice of counting prisoners not in their cells, but back at their homes. The problem, a big one, is how it monkeys around with the new redistricting process that was approved by voters in 2014 and is ongoing now for the first time.

We backed the 2014 change, calling it "far from perfect"; now, as predicted, partisan deadlock is upon us, with two competing sets of gerrymandered maps produced by the "independent" commission. The change to the change would make it easier for a single party in control of both houses (read Democrats) to draw their own districts, the same bad old way they've always done it before. No way.

Strike up the band

In its original form, the Ivy League had nothing to do with academics or selective admissions or billion-dollar endowments. It was the glue of sports, specifically football played by eight old schools in seven Northeast states, that held the gang together.

The Ivies canceled their 2020 season due to COVID, so today Columbia is hosting the first Ivy League game in New York City since the Lions were trounced 48-22 by Brown's Bears before a far-from-capacity crowd of just 4,207 at Kraft Field/Wien Stadium/Baker Field in November 2019. Today also happens to be the first Columbia homecoming in two years, with the 2021 Lions a respectable 3-1.

But unique in the Ivy League, there won't be a band to root on the home team when the Lions suit up against Penn. The visiting Quakers have a band, but it's not traveling this season because of COVID. And the Columbia band is no more. With a long history of being pranksters and pests,

it was banned early in 2019 with officials even confiscating contraband instruments in the stands like they were weapons. The band was then unbanned in time for the last homecoming. Last year, with no games, the band disbanded.

The university says that the city's COVID vaccine and masking rules would silence all the trumpets and tubas and drums even if the band still existed, but that doesn't make any sense since everyone on campus and everyone attending a game must be vaccinated — and the band, just like the football team, plays outside. The only face masks the football players wear are part of their helmets.

Why does all this matter? Because piped-in music on the public address system is a poor substitute to cheer on the third-oldest college team in the country, which is only averaging 3,600 home fans this year. Tickets for today's homecoming game have a \$5 premium above the regular prices. So someone's into raising revenues, if not spirits.

The Conservative Party Urges You To

VOTE NO on Propositions #1, #3 and #4

TUESDAY, NOVEMBER 2, 2021

On Election Day, Democrats Want To:

Gerrymander Districts

Invite Election Fraud

Allow Vote By Mail

BALLOT PROP #1

Redistricting Amendment

Weakens the independent redistricting process enacted by voters in 2014 before it's been allowed to work.

- Designed to change the redistricting rules on the day the Independent Redistricting Commission must submit its plan to the legislature this year.
- Eliminates the safeguards built into the law that ensure Republicans have an equal role at the Independent Redistricting Commission.
- Reduces the voting requirement from 66% to 60%, which makes it easier for Democrats to overrule the Independent Redistricting Commission without Republican votes.
- *Creates a mechanism for Democrats to circumvent the independent redistricting process by refusing to allow a vote on a redistricting plan, which would give Democrats in the legislature a free hand to draw the maps.*

BALLOT PROP #3

Same Day Voter Registration

Eliminates the requirement that citizens register to vote at least 10 days before an election.

- Enables voter registration at the polling place where poll workers will be unable to properly verify proof of residency and eligibility to vote.
- Newly registered voters will vote on the machines, instead of affidavit ballots, making it impossible to disqualify the votes of those later determined to be ineligible to vote.
- *Invitation to voter fraud.*

BALLOT PROP #4

No Excuse Absentee Voting

"The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters may vote and for the return and canvass of their votes in any election."

- Eliminates the requirement for absentee voting that the voter be absent from the county or unable to appear at the polling place because of illness or physical disability.
- Allows universal vote by mail and ballot harvesting.
- *Opens the door to internet voting.*





Proposed Amendments Await November Vote

On November 2, 2021, New York voters will elect candidates to various judgeships and local offices, including Mayor of New York City. They will also vote on five proposed amendments to the New York State Constitution. While these five ballot measures may not receive as much media attention as political campaigns do, they may have a greater impact on the future of the Empire State. This position paper will provide an overview of the five proposed amendments.

NYCF Urges A No Vote On Proposal One

Proposal One would overhaul New York's redistricting process. Every 10 years, following the national census, New York's congressional, State Senate, and State Assembly districts are redrawn. In 2014, voters passed a constitutional amendment that substantially changed the redistricting process. Now, before that process has even been used, the Legislature is pushing for a new set of changes. Why?

It seems clear that the purpose behind Proposal One is to make the redistricting process less independent and cause the majority party to have unfettered control of it. Specifically, Proposal One would (a) repeal the requirement that the two co-executive directors of the redistricting commission be members of different parties; (b) repeal the requirement that a commission redistricting plan be approved by commission members of both parties; and (c) repeal the requirement that a redistricting plan be approved by a two-thirds vote of the Legislature if the Senate and the Assembly are each controlled by the same political party. This is exactly the opposite of the way a redistricting process should operate. New Yorkers for Constitutional Freedoms opposes this naked power grab by Senate Majority Leader Andrea Stewart-Cousins (D-Yonkers) and Assembly Speaker Carl Heastie (D-Bronx) and urges voters to vote NO on Proposal One.

NYCF Remains Neutral On Proposal Two

Proposal Two would amend the New York State Constitution to provide that "each person shall have a right to clean air and water, and a healthful environment." While New Yorkers for Constitutional Freedoms wants clean air and water for all New Yorkers, we are uncertain

about whether this amendment would advance that goal. We take no position on Proposal Two. However, progressives are framing this issue as one of racial and environmental justice.

NYCF Urges A No Vote On Proposal Three

Proposal Three would remove the requirement that a voter wishing to vote in an election be registered to vote at least 10 days prior to that election. This requirement is currently set forth in Section 5 of Article II of the New York Constitution. The passage of Proposal Three would allow the Legislature to pass a law allowing voters to register less than 10 days before a given election; in fact, it would open the door to the passage of a same-day voter registration law. Because a same-day voter registration system could create administrative headaches and provide opportunities for voter fraud, New Yorkers for Constitutional Freedoms calls for a NO vote on Proposal Three.

NYCF Urges A No Vote On Proposal Four

Proposal Four would allow no-excuse absentee balloting in New York. Currently, the New York State Constitution allows absentee balloting only if (a) a voter expects to be outside of his/her county of residence on Election Day; or (b) a voter is unable to vote in person due to disability or illness. Allowing large numbers of voters to use absentee ballots makes it difficult for boards of elections to tally election results quickly. Furthermore, unlimited absentee balloting creates a climate in which voter fraud is very difficult to detect. New Yorkers for Constitutional Freedoms calls for a NO vote on Proposal Four.

NYCF Remains Neutral On Proposal Five

Proposal Five would expand the jurisdiction of the New York City Civil Court. Currently, the Court may decide claims for up to \$25,000. Proposal Five would raise that jurisdictional limit to \$50,000. New Yorkers for Constitutional Freedoms takes no position on Proposal Five.

For more information on Proposals One through five, please visit the website of the New York State Board of Elections at <https://www.elections.ny.gov/2021BallotProposals.html>.

NYC VOTES

An initiative of the New York City
Campaign Finance Board

2021 General Election

voter guide

Your nonpartisan guide to
city elections since 1989

Queens Edition
Council Districts 19–32, 34

Español por el otro lado



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Vote
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Profiles
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Frequently
Asked Questions
Page 46

Early Voting: October 23–31
Election Day: November 2

Voting History: Did you vote in these elections?
The Board of Elections public records indicate
if you voted, but **who** you voted for is private.

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Question #4

No-Excuse Absentee Voting

What you will see on the ballot

Authorizing No-Excuse Absentee Ballot Voting

The proposed amendment would delete from the current provision on absentee ballots the requirement that an absentee voter must be unable to appear at the polls by reason of absence from the county or illness or physical disability. Shall the proposed amendment be approved?

Proposal Summary:

Under the New York State Constitution, voters are currently required to affirm that they are out of town on the day of the election, ill, or physically disabled in order to vote by mail. All other voters are required to vote in person. While all New York voters are temporarily eligible to vote by mail due to the risk of COVID-19, this amendment could permanently expand that eligibility. This proposal would amend the State Constitution to allow the State Legislature to pass new laws that would give all New York voters the option to vote by mail without providing an excuse.

If Ballot Question #4 Passes:

- The New York State Constitution would be amended to give the State Legislature the power to pass new laws that allow more New York voters to vote by mail.
- Passing this proposal would not guarantee that laws will change, but it would give lawmakers the ability to pass new laws that allow New York voters to vote by mail without needing to provide a reason.

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YES ON 1 3 4

This fall, New Yorkers can Vote Yes for a stronger democracy while dramatically increasing our freedom to vote. While other states aggressively restrict access to the ballot, New York will send a message to the rest of the country, because everyone should have a say in New York:

- **YES ON 1 means districts that put New Yorkers before politicians.**
- **YES ON 3 means no more voter registration deadlines.**
- **YES ON 4 means vote absentee, no excuse needed.**

THAT'S WHY NEW YORKERS MUST FLIP THEIR BALLOT AND VOTE YES

YES ON 1 - REDISTRICTING

In 2014, New York voters approved a first step towards a better redistricting process by setting uniform criteria for drawing political districts. Now, we have a chance to go further, put communities first, and protect ourselves from politicians looking to divide us by:

- Guaranteeing that political districts include all residents regardless of citizenship status -- as originally intended -- for fair representation
- Ensuring incarcerated people are not political pawns
- Reducing the ability of political parties to manipulate the mapmaking process

Other fixes include making sure there's a workable timeline for maps in 2022 and beyond, as well as freezing the number of State Senators to 63.

YES ON 3 - NO MORE VOTER REGISTRATION DEADLINES

This will eliminate the nearly two week voter registration cutoff before an election.

YES ON 4 - NO EXCUSE ABSENTEE VOTING

Voting during a pandemic was a stark reminder that New York voters need more options. No-excuse absentee voting means you can vote absentee without a checklist of limited reasons. Voters will still need to request their absentee ballot but can now do so without needless red tape.

VOTE ABSENTEE: MAIL YOUR BALLOT BY NOVEMBER 2
VOTE EARLY: OCTOBER 23 - OCTOBER 31 (HOURS VARY)
VOTE ON ELECTION DAY: NOVEMBER 2 FROM 6 AM - 9 PM

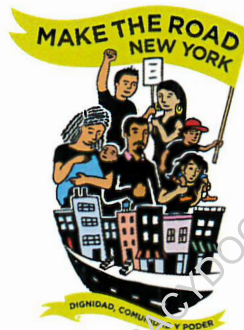
For more information, visit www.yeson1-3-4.org

YES ON 1 3 4

WHO WE ARE

Yes on 1, 3 & 4 is a statewide coalition of New Yorkers who believe our democracy must work for all of us. That's why we want New Yorkers to vote yes and move New York in the right direction. Our groups are grassroots activists, civil rights and civil liberties organizations, good government groups, social service providers and immigrant rights groups.

THE CAMPAIGN COMMITTEE



ENDORISING ORGANIZATIONS



Empire State Indivisible



Caribbean Equality Project

For more information, visit www.yeson1-3-4.org

Paid for and approved by Yes on 1, 3, 4.



Ballot Proposals - November 2021

The League of Women Voters of New York State has announced a statewide campaign on the 2021 New York State ballot proposals. The League will be opposing Proposal 1, supporting Proposals 2, 3, and 4, and taking no position on Proposal 5.

The League will be working to ensure all voters are prepared to vote on the five statewide ballot proposals which include:

4. Authorizing No-Excuse Absentee Ballot Voting

Question as it Will Appear on Ballot:

The proposed amendment would delete from the current provision on absentee ballots the requirement that an absentee voter must be unable to appear at the polls by reason of absence from the county or illness or physical disability. Shall the proposed amendment be approved?

PROS:

- Any voter would have the ability to request an absentee ballot for a primary and/or general election thereby increasing voter access to elections.
- Absentee voting was heavily utilized during the COVID-19 pandemic. Removing the cause for requesting an absentee ballot would ensure voters can request to vote by absentee ballot should another pandemic occur.
- Thirty-four states and Washington, D.C., do not require an excuse from those who wish to vote absentee or by mail.
- Has the potential to take pressure off poll sites by reducing the number of in-person voters.

CONS:

- The proposed amendment would provide less protection against potential absentee ballot voter fraud. The number of absentee ballots would increase, but the proposed amendment offers no suggestions for increasing protection against potential fraud.

- There is potential for loss of anonymity with more absentee voting.
- Additional reliance on absentee voting can slow election results and reporting.
- An increase in absentee voting can cost municipalities additional money for printing of ballots, envelopes, and for postage.
- The civic experience of voting with neighbors at a local school, church, or other polling place no longer exists.

The LWVNY recommends voting **YES** on Proposal 4

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**NEW YORK
CITY BAR**

REPORT ON THE 2021 STATEWIDE BALLOT PROPOSALS

New Yorkers across the state will have the opportunity to vote on five ballot proposals in the November 2nd election.¹ Below are the City Bar’s positions on those proposals.

PROPOSAL 1: AMENDING THE APPORTIONMENT AND REDISTRICTING PROCESS

This proposed constitutional amendment would freeze the number of state senators at 63, amend the process for the counting of the state’s population, delete certain provisions that violate the United States Constitution, repeal and amend certain requirements for the appointment of the co-executive directors of the redistricting commission and amend the manner of drawing district lines for congressional and state legislative offices. Shall the proposed amendment be approved?

This amendment is necessary to address delays in the census created by the pandemic and to accommodate New York State’s change from a September primary to an earlier June primary for both federal and state elections. Without this change, it is possible that new districts will not be ready in time for the political process to proceed in a timely manner for a June 2022 primary.

The amendment also sets the number of senators at 63, preventing partisan abuse of the current provision for varying the number of districts.

Prison populations would also be re-enumerated to the incarcerated individuals’ prior home addresses to the extent possible and adds congressional redistricting to the current statutory requirement that re-enumerations be made for state legislative districts.

Total population has been used for legislative redistricting since 1972 after a 1969 constitutional amendment eliminated citizen-only based redistricting. The amendment clarifies the 1969 amendment and deletes the language (“excluding aliens”) that had been repealed over 50 years ago.

¹ The language of the ballot proposals is available on the New York State Board of Elections website at: <https://www.elections.ny.gov/2021BallotProposals.html>. (all sites last visited Oct, 21, 2021).

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

The amendment eliminates the current rules for legislative plan approval, which now depends on which political party controls the Senate and Assembly. The amendment would require approval of the Redistricting Commission's plans by a simple majority vote in each chamber instead of making passage requirements dependent on party control. A 60% vote in each chamber would be required for plan approval if the Redistricting Commission fails to recommend plans to the Legislature.

Other amendment provisions meriting support include eliminating partisan Redistricting Commission co-directors; removing the 'block-on-border' rule that protects towns, but not cities, from being divided by senate district boundaries; modernizing some of the out-of-date provisions from the 1894 Constitution and permitting the Legislature to enact redistricting legislation if the Redistricting Commission fails to complete action and develop plans.

PROPOSAL 2: RIGHT TO CLEAN AIR, CLEAN WATER, AND A HEALTHFUL ENVIRONMENT

The proposed amendment to Article I of the New York Constitution would establish the right of each person to clean air and water and a healthful environment. Shall the proposed amendment be approved?

The City Bar supports the amendment because it would enshrine a baseline level of environmental protection in our state that can endure over time regardless of changes in political leadership. The amendment sends a clear signal about our values as a society. We also believe that placing the amendment in the New York Constitution's Bill of Rights communicates the importance of environmental rights, placing them on the same footing as other fundamental rights.

The amendment would provide incentives for lawmakers and government officials to consider the environment in all policy decisions, and to focus on avoiding environmental harms before they occur. The amendment also may support more protective rulemaking and enforcement by the Department of Environmental Conservation and other State regulators. For example, the amendment may help regulators defend their decisions in court, and it could be a factor weighing in favor of environmental protection in cost-benefit analyses.

The amendment also could be a tool for communities to secure healthy environments when existing laws fail them, including by providing a remedy when communities are deprived of access to clean air and water or are facing impending environmental dangers. This is particularly important in underserved communities that experience disproportionate impacts from polluting activities under our existing regulatory systems. The amendment may serve to fill in gaps in environmental laws.

Opponents to the amendment have cited potential disruption of the balance of power between the political and judicial branches as well as the potential flooding of courts with litigation. However, we are of the view that, despite the benefits the amendment would have, it is unlikely to result in the sea change feared by opponents. For example, with respect to policymaking, New York courts historically have been deferential in their review of legislation. And with respect to concerns about the volume of litigation, it is worth noting that other states

with environmental rights amendments such as Pennsylvania have not experienced a flood of litigation.

PROPOSAL 3: ELIMINATING TEN-DAY-ADVANCE VOTER REGISTRATION REQUIREMENT

The proposed amendment would delete the current requirement in Article II, § 5 that a citizen be registered to vote at least ten days before an election and would allow the Legislature to enact laws permitting a citizen to register to vote less than ten days before the election. Shall the proposed amendment be approved?

The City Bar supports eliminating barriers to voting, including the requirement under the state constitution that citizens register to vote at least ten days before an election. In fact, the City Bar supports permitting voter registration up to and including on Election Day.²

It is also worth noting that state law currently requires new voters to register 25 days in advance of an election (despite the fact that the constitution permits registration up until the tenth day before an election). And if a voter wants to change his or her party enrollment to vote in a primary election, the deadline is February 14th, which means registering months before the June primary. These deadlines are restrictive and dissuade potential voters from exercising their right to vote if they fail to act consistently with these arbitrary and extensive periods of time.³

Expanded voter registration and enrollment procedures would allow greater participation, and have the potential to improve voter turnout. The City Bar believes that restrictive deadlines for voter registration should be eliminated.

PROPOSAL 4: AUTHORIZING NO-EXCUSE ABSENTEE BALLOT VOTING

The proposed amendment would delete from the current provision on absentee ballots the requirement that an absentee voter must be unable to appear at the polls by reason of absence from the county or illness or physical disability. Shall the proposed amendment be approved?

The City Bar has long supported no-excuse absentee voting in New York.⁴ The enactment of a no-excuse absentee voting system would remove from the state Constitution any requirement

² See “Written Testimony of Jerry H. Goldfeder, Assembly Standing Committee on Election Law and Subcommittee on Election Day Operations and Voter Disenfranchisement, Hearing On Improving Opportunities To Vote In New York State” (Nov. 15, 2018), available at: <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/assembly-hearing-changes-to-voting-in-new-york>.

³ See *id.*

⁴ See *e.g.*, “Instituting No-Excuse Absentee Voting in New York,” Committee on Election Law (May 2010), available at: <https://www.nycbar.org/pdf/report/uploads/20071936-NoExcuseAbsenteeBallotReport.pdf>; Letter to New York City Charter Revision Commission, “Election-Reform Related Proposals for Consideration in the City Charter Revision Process” (July 10, 2018), available at: <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/voting-reform-related-proposals-nyc-charter-revision-commissions>; “Written Testimony of Jerry H. Goldfeder, Assembly Standing Committee on Election Law and

that voters provide an excuse before being issued an absentee ballot. Currently, 34 states and the District of Columbia permit any qualified voter to vote absentee without offering an excuse.⁵

In New York, voters requesting an absentee ballot are required to provide an excuse for their inability to vote at their designated polling place. Acceptable excuses include unavoidable absence from the county of residence due to duties, occupation, business, studies, or vacation and inability to vote due to illness or physical disability. Any voter with an excuse to vote absentee other than those listed in the state Constitution and further detailed in the Election Law are not entitled to an absentee ballot.

As a matter of policy, the City Bar believes that voting should be a convenient and common practice, and thus any reform to expand the franchise and make voting more convenient for those who otherwise have difficulty doing so is worthy of serious consideration.⁶ In evaluating whether New York's electoral process would benefit from implementing no excuse absentee voting, the City Bar has considered several policy factors:

- *Necessity to modernize, ease voting experience and increase voter participation:* Removing barriers to voting absentee would allow more people to vote in the manner most convenient for them. New York's current absentee voting laws also have the potential to disproportionately benefit those with high socioeconomic status. New York's voter turnout has historically ranked among the lowest in the nation. In 2016, with two New Yorkers at the top of the presidential ballot, our state still ranked 41st out of 50 in terms of turnout. Following a series of election law reforms enacted in 2019⁷ and a series of emergency Executive Orders to allow New Yorkers to safely vote (either in person or by mail) in light of the COVID-19 pandemic,⁸ the 2020 election

Subcommittee on Election Day Operations and Voter Disenfranchisement, Hearing On Improving Opportunities To Vote In New York State" (Nov. 15, 2018), available at: <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/assembly-hearing-changes-to-voting-in-new-york>; Report on Legislation by the Election Law Committee and Government Ethics & State Affairs Committee in support of A.4431/S.360 (proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting) (updated and reissued May 2021), available at: <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/no-excuse-absentee-voting-constitutional-amendment>.

⁵ See "Absentee and Early Voting," National Conference of Legislatures (Sept. 24, 2020), available at: <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

⁶ These arguments in favor of a no-excuse absentee voting system are based on a report from the Election Law Committee and Government Ethics & State Affairs Committee issued in May 2021 (which also references earlier City Bar reports and statements urging voting reforms), available at: <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/no-excuse-absentee-voting-constitutional-amendment>.

⁷ "Statement by New York City Bar Association President Roger Juan Maldonado on Passage of Voting Reforms" (Jan. 14, 2019), available at: <https://www.nycbar.org/media-listing/media/detail/statement-by-new-york-city-bar-association-president-roger-juan-maldonado-on-passage-of-voting-reforms>; see also "New York Election Law 2019 Year in Review: A Summary of Key Statutory Changes," The National Law Review (Jan. 2, 2020), available at: <https://www.natlawreview.com/article/new-york-election-law-2019-year-review-summary-key-statutory-changes>.

⁸ NYSBOE Guidance on COVID-19, available at: <https://www.elections.ny.gov/Covid19ExecOrders.html>.

saw significant improvements to voter participation.⁹ The COVID-19 pandemic has made it all the more clear how critical it is that New York take action to ensure easy access to no-excuse absentee voting.

- *Impact on poll site lines and administrative burden:* A no-excuse absentee voting system is likely to reduce both poll lines and the administrative burden on election officials, thereby decreasing the total cost of administering elections.
- *Effects of no-excuse absentee voting on election litigation:* Removal of the requirement that a voter provide an excuse for not voting at the polls removes the principal basis for challenging absentee ballots, therefore the number of challenged and litigated ballots will decrease.

PROPOSAL 5: INCREASING THE JURISDICTION OF THE NEW YORK CITY CIVIL COURT

The proposed amendment would increase the New York City Civil Court’s jurisdiction by allowing it to hear and decide claims for up to \$50,000 instead of the current jurisdictional limit of \$25,000. Shall the proposed amendment be approved?

The City Bar supports the proposal to amend the New York State Constitution to raise the jurisdiction limit for the civil courts.

Currently, cases can only be brought in civil court for claims of \$25,000 or less. If a case claims an amount of money higher than \$25,000, the case must be brought in Supreme Court. The current proposal would raise the limit on cases that can be brought in civil court to \$50,000. If approved, it is very likely that many more cases would be filed in civil court, instead of Supreme Court.

Allowing more cases to be filed in civil court would generally benefit litigants. The cost to file cases in civil court is lower than in Supreme Court, allowing more people to pursue their rights without encountering financial barriers. Additionally, civil court has a more streamlined procedure, making cases easier to navigate, particularly for litigants who are representing themselves and do not have access to attorneys. Finally, many more resources, such as access to volunteer lawyer programs, are available in civil court.

However, adding additional cases to the civil court’s docket does raise some concerns, as there is a shortage of judges to hear cases. There currently are 120 judges elected to the court. Because of the structural problems with the New York court system only about 50 civil court judges actually sit in civil court. The rest are assigned to Criminal Court, Family Court or the Supreme Court to serve as Acting Supreme Court justices. If the jurisdictional limit is increased,

⁹ Ethan Geringer-Sameth, “New York City Sees First-Ever Balance Among Early, Absentee & Election Day Voting,” Gotham Gazette (Dec. 16, 2020), available at: <https://www.gothamgazette.com/city/9997-new-york-city-2020-balance-early-absentee-election-day-voting-turnout>.

resulting in significantly increased filings, additional judges and support staff must be assigned to civil court to handle the increased number of cases.

Overall, the City Bar supports raising the jurisdictional cap, but urges the Office of Court Administration to provide the civil court with resources to ensure that all cases are heard swiftly.

October 2021

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* This report was compiled with input from the City Bar's Election Law Committee (Katharine Loving, Chair), Environmental Law Committee (L. Margaret Barry and Bethany Davis Noll, Co-Chairs), and Civil Court Committee (Sidney Cherubin, Chair).

Contact

Maria Cilenti, Senior Policy Counsel | 212.382.6655 | mcilenti@nycbar.org

Mary Margulis-Ohnuma, Policy Counsel | 212.382.6767 | mmargulis-ohnuma@nycbar.org

How New Yorkers Can Help Shape Voting Rules and Environmental Rights

Breaking down the five proposals New York voters will see on their ballots, all involving potential amendments to the State Constitution.



By Ashley Wong

Published Oct. 30, 2021 Updated Nov. 4, 2021

5 MIN READ

Update: New York voters rejected ballot proposals on voting and redistricting.

If you're reading this, you are probably well aware of New York City's mayoral election and the other city races being contested this year. But you may be less familiar with the five potential amendments to the State Constitution you'll see when you flip your ballot over.

The ballot questions include measures involving legislative redistricting, changes to voting laws, environmental policy and New York City's civil courts. Any that are approved would take effect on Jan. 1, 2022.

According to the political website Ballotpedia, New Yorkers approved 74 percent of state ballot measures from 1985 to 2020.

Registered voters can weigh in on the proposals by casting ballots during early voting, which runs through Sunday, or on Election Day, Tuesday, Nov. 2. The Board of Elections' poll site locator has information on where and when to cast your ballot.

Here is a rundown of the five ballot measures and what they entail. The full text of each can be found on the Board of Elections' website.

1. Changes to the state's redistricting process

This measure involves the drawing of legislative maps, which occurs every 10 years. Among other things, it would cap the number of state senators at 63, require that all New York residents be counted in the U.S. census regardless of their citizenship status, and count incarcerated people at their last place of residence rather than where they are detained.

Michael Li, a senior counsel at New York University's Brennan Center for Justice, said that maintaining the existing number of state senators was necessary to prevent gerrymandering, the practice of manipulating congressional district lines for political gain. Freezing the number, Mr. Li said, would prevent the creation of new districts that could be exploited for partisan purposes.

The measure would also scrap the current requirement that two-thirds of state lawmakers must agree to pass redistricting plans, in favor of simple majorities in both the Assembly and Senate.

The proposal's opponents, including The League of Women Voters of New York State, have focused on this point, saying that allowing a simple majority to make such decisions could diminish a minority party's voting power.

"It's not giving other parties a fair shot at having any sort of say in this process," said Jennifer Wilson, the group's deputy director.

Mr. Li argued that it was difficult to say with any certainty whether the new district maps would be better or worse for minority parties because the process is complicated.

"We'll see how this new system works," he said. "It may be that New York needs more reform after we see what the maps look like."

2. An environmental rights amendment

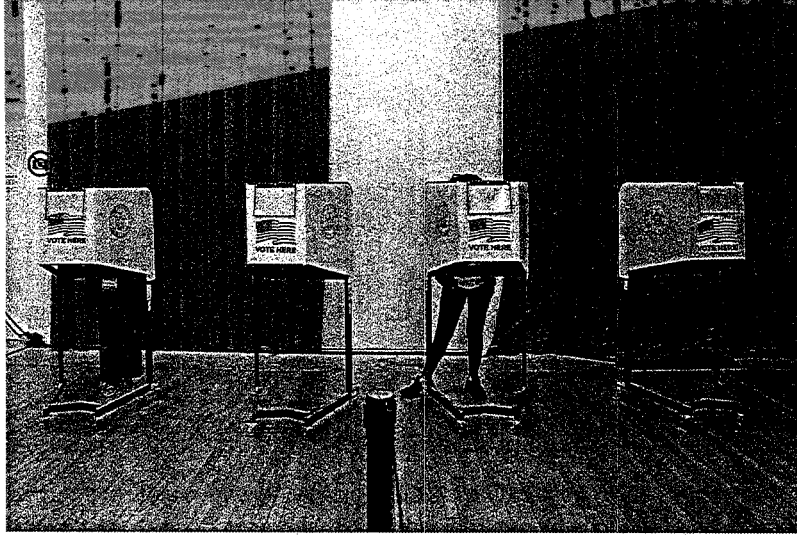
This measure would give New Yorkers a constitutional right to clean air, water and a "healthful environment." The proposal language is vague on what a "healthful environment" is or how the standard would be legally enforced.

Eddie Bautista, the executive director of the New York City Environmental Justice Alliance, said the measure was especially important for Black and brown communities because they experience disproportionate rates of pollution.

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"We can't exercise our right to free speech if we're having trouble breathing," Mr. Bautista said. "If you want to have a right to speak, you have a right to breathe. This is a long overdue and welcome addition to the Constitution."

Critics of the measure have cited its broad language as a concern, arguing that the lack of specificity could lead to unnecessary lawsuits. State Senator Dan Stec, a Republican who represents the North Country region, said in a statement that the proposal would place the burden of enforcement on the courts.



New Yorkers approved 74 percent of statewide ballot measures between 1985 and 2020, according to Ballotpedia. Amir Hamja for The New York Times

“Businesses, including farms, are very concerned what this will mean if adopted, especially at a time of tremendous challenges and uncertainty because of Covid-19,” Mr. Stec said. “We owe it to the voters to at least offer them something more clearly defined.”

But environmental advocates said the proposal’s language only poses a risk to those who know they may be polluting the environment.

3. A push to allow same-day voter registration

The measure, one of two ballot proposals related to voting rights, would eliminate a rule that requires voters to register at least 10 days before an election.

If passed, the measure would make it possible for state lawmakers to adopt same-day voter registration, something that 20 states already have.

The measure would be particularly beneficial to voters who do not start paying attention to local politics until late in the election cycle, said Jan Combopiano, the senior policy director for the Brooklyn Voters Alliance.

“It really hurts people who get activated and interested in an election late in the game, and there’s no reason to punish those people,” she said. “They haven’t been paying attention until maybe the last month — that’s like human nature.”

4. Making it easier to cast absentee ballots

The second proposed change to the voting process would erase the requirement that those who request absentee ballots explain why they are doing so.

Under current law, mail-in ballots are only allowed for voters who expect to be away on Election Day, or who have an illness or disability that would prevent them from voting in person.

There was an increase in absentee ballots cast last year because of the coronavirus pandemic; Gov. Andrew M. Cuomo issued an executive order automatically providing all New Yorkers with absentee ballot applications.

Ms. Combopiano said that, if approved, both of the measures related to voting would increase participation in elections by making it easier to cast ballots. Expanding access to absentee voting specifically would make it easier for New Yorkers to take their time and make more informed decisions, she said.

5. Changes to New York City’s civil courts

This measure would double the monetary limit for claims filed in New York City’s civil courts to \$50,000 from \$25,000. This would enable the courts to consider more small claims, reducing the burden of such actions on the state’s Supreme Court.

In theory, the measure is meant to make it faster, easier and less expensive for people to resolve disputes legally.

Although the change would be likely to increase the efficiency with which lawsuits are resolved, it might also increase the workload for the city's civil courts, which are already understaffed, said Sidney Cherubin, the director of legal services at the Brooklyn Volunteer Lawyers Project.

If the measure passes, he said, the state would have to help the civil courts handle the probable surge in cases, perhaps by hiring more judges or increasing the funding for the system.

"What we anticipate is quicker resolution for litigants," Mr. Cherubin said. He added: "It's not going to cure all the issues, but it takes us a step in the right direction."

A version of this article appears in print on , Section A, Page 15 of the New York edition with the headline: How New Yorkers Can Shape Voting Rules and Environmental Rights

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Why New Yorkers Rejected Ballot Proposals on Voting and Redistricting

Republicans worked hard to defeat the measures, which aimed to broaden ballot access and change the redistricting process. Democrats did little to promote them.



By Dana Rubinstein

Published Nov. 3, 2021 Updated Nov. 8, 2021

4 MIN READ

In October, New York's Republican and Conservative Parties went nuclear.

Eager to rally their bases in an off-year election, and concerned about ballot initiatives that they considered a threat, the parties devised a two-pronged offensive. The Conservative Party spent about \$3 million, according to its chairman, on television and radio ads arguing that the initiatives were tantamount to corruption. Republicans mounted a whistle-stop "Just Say No" tour that traversed 40 counties in 10 days. By comparison, Democrats spent and did little.

At issue were three of five proposed constitutional amendments listed on the back of voters' ballots. The first would have required that, for redistricting purposes, incarcerated New Yorkers be counted at their last place of residence. But the League of Women Voters of New York and the Conservative Party argued the measure would have also reduced the power of minority parties in the redistricting process.

Another proposal would have eliminated a rule requiring voters to register at least 10 days before an election, while yet another would have removed a rule requiring voters to provide an excuse — such as that they are leaving town or incapacitated — when requesting an absentee ballot.

All three measures failed on Election Day, according to The Associated Press.

Voters opposed the three proposals from Niagara County in Western New York to Nassau County on Long Island. They passed in four of New York City's five boroughs, but not by particularly large margins. Many New York City voters did not vote on the ballot questions at all. Staten Island, as usual, was the odd borough out. All three measures failed there.

Two other ballot proposals fared better. One that passed would preserve in the State Constitution the "right to clean air, clean water, and a healthful environment." Another that passed is meant to make courts run more efficiently by doubling the monetary limit for claims filed in New York City civil court.

But the defeat of the voting and redistricting proposals represented yet another blow for a Democratic Party reeling from electoral losses in New York and Virginia and an unexpectedly tight governor's race in New Jersey.

Susan Lerner, the executive director of the civic watchdog group Common Cause New York and a proponent of all three initiatives, argued that the success of Republican and Conservative attacks highlighted the fragility of democracy itself.

"There was a strong anti-democratic push and the pro-democracy folks stayed home," she said.

But for New York's Republicans, the initiatives represented an electoral target that played on national Republican themes — unfounded fears of voter fraud in particular — to get out the vote in a year when no congressional or statewide seats were being contested.

"In a year like this, you don't have a built-in turnout around New York because there was no statewide office," said Nick Langworthy, the state Republican Party chairman. "What we had to do was rally our base."

At the launch of the party's "Just Say No" tour on Staten Island in October, Mr. Langworthy argued that the two voting-related ballot proposals "threaten our democracy" and were akin to "rolling out the red carpet for voter fraud."

Twenty states offer same-day voter registration. All require proof of residency, which was not included in the proposed amendment.

Representative Nicole Malliotakis, a Republican who represents parts of Staten Island and Brooklyn, claimed at the appearance that Democrats hoped to "tilt the scale" in their favor, tying their efforts to a national voting rights bill and warning of ballot harvesting, a common subject of misinformation spread on social media.

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Similar performances played out across the state. Around the same time, the Conservative Party began running its ads.

“How corrupt are the politicians in Albany?” asked the narrator of the TV spot, which argued that the proposals were an “invitation to fraud and a scam to rig the system.”

Aside from the hard-charging efforts by the Republican and Conservative parties, opponents of the proposals benefited from outside dynamics, too.

The first ballot proposal divided watchdog groups, because it appeared to diminish the power of minority parties.

“Proposition 1 on redistricting was an overreach by Democrats that heavily motivated the G.O.P. and wasn't backed by party energy or funds,” said John Kaehny, the executive director of the government reform group Reinvent Albany, which did not take a position on the proposal.

The state Democratic Party spent no money directly backing the ballot proposals, according to the state senator who sponsored two of them and the party's leader, Jay Jacobs.

Mr. Jacobs said in an interview that the party was “never asked by any of the stakeholders to do that,” an assertion that the senator, Michael Gianaris, called “an outright lie.”

Mr. Gianaris, who leads the state's Democratic Senate Campaign Committee, said the committee had spent more than \$300,000 in support of the initiatives. Mr. Gianaris also shared an Oct. 20 email that one of his top aides sent to one of Mr. Jacobs's top aides seeking the party's help “on email blasts, social and mail.”

“That's NO ask for money for a campaign!” Mr. Jacobs texted The New York Times when asked about the email, arguing that the aide's email did not amount to a request for money.

Finally, as written, the ballot questions, which required voters to flip their ballots over to weigh in, were hard to understand, according to Common Cause and like-minded groups.

The state attorney general's office proposes the ballot's wording, but the state Board of Elections has final say, said Douglas Kellner, the board's co-chairman.

“The ballot language for 1, 3, and 4 was frankly impenetrable,” Ms. Lerner said of the three measures that went down to defeat.

Perhaps the most powerful dynamic at work was the general anti-Democratic tilt of Tuesday's election.

Gerard Kassar, the Conservative Party chairman, said that he was on the phone with Mr. Langworthy at about 1:30 a.m. Wednesday, and that by that point they had still not taken stock of all of their wins.

“We had a good night, to be honest with you,” Mr. Kassar said.

Dana Rubinstein is a reporter on the Metro desk covering New York City politics. Before joining The Times in 2020, she spent nine years at the publication now known as Politico New York. @danarubinstein

A version of this article appears in print on , Section A, Page 13 of the New York edition with the headline: G.O.P. Campaign Defeats Ballot Proposals on Voting

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A7623 Vanel (MS) Same as S 840 COMRIE

Constitution, Concurrent Resolutions to Amend

TITLE....Authorizes ballot by mail by removing cause for absentee ballot voting

05/05/17 referred to election law

05/08/17 to attorney-general for opinion

05/09/17 reported referred to judiciary

05/09/17 reported

05/11/17 advanced to third reading cal.363

05/17/17 passed assembly

05/17/17 delivered to senate

05/17/17 REFERRED TO JUDICIARY

05/22/17 opinion referred to judiciary

01/03/18 DIED IN SENATE

01/03/18 RETURNED TO ASSEMBLY

01/03/18 ordered to third reading cal.538

01/08/18 to attorney-general for opinion

01/31/18 opinion referred to judiciary

04/17/18 passed assembly

04/17/18 delivered to senate

04/17/18 REFERRED TO JUDICIARY

END

A3874-B Brennan (MS) Same as S 4456-A COMRIE

Constitution, Concurrent Resolutions to Amend

TITLE....Authorizes ballot by mail by removing cause for absentee ballot voting

01/27/15 referred to election law

01/30/15 to attorney-general for opinion

02/20/15 opinion referred to judiciary

05/15/15 amend (t) and recommit to election law

05/15/15 print number 3874a

05/22/15 amend and recommit to election law

05/22/15 print number 3874b

05/27/15 to attorney-general for opinion

06/03/15 reported referred to judiciary

06/19/15 opinion referred to judiciary

01/06/16 referred to election law

01/13/16 to attorney-general for opinion

02/05/16 opinion referred to judiciary

04/12/16 reported referred to judiciary

05/10/16 reported

05/12/16 advanced to third reading cal.588

06/17/16 passed assembly

06/17/16 delivered to senate

06/17/16 REFERRED TO RULES

END

STATE OF NEW YORK

3874

2015-2016 Regular Sessions

IN ASSEMBLY

January 27, 2015

Introduced by M. of A. BRENNAN, LUPARDO, LAVINE, GOTTFRIED, PAULIN,
AUBRY, SIMOTAS -- Multi-Sponsored by -- M. of A. MAGEE, PERRY -- read
once and referred to the Committee on Election Law

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 2 of article 2 of the constitution, in
relation to early voting

1 Section 1. Resolved (if the Senate concur), That section 2 of article
2 2 of the constitution be amended to read as follows:
3 § 2. The legislature may, by general law, provide a manner in which,
4 and the time and place at which, qualified voters who, on the occurrence
5 of any election, [may be absent from the county of their residence or,
6 if residents of the city of New York, from the city, and qualified
7 voters who, on the occurrence of any election, may be unable to appear
8 personally at the polling place because of illness or physical disabili-
9 ty, may vote and for the return and canvass of their votes] choose to
10 vote by mail may do so.
11 § 2. Resolved (if the Senate concur), That the foregoing amendment be
12 referred to the first regular legislative session convening after the
13 next succeeding general election of members of the assembly, and, in
14 conformity with section 1 of article 19 of the constitution, be
15 published for 3 months previous to the time of such election.

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

LBD89017-01-5



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**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A3874

SPONSOR: Brennan (MS)

TITLE OF BILL:

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 2 of article 2 of the constitution, in relation to early voting

PURPOSE OR GENERAL IDEA OF BILL:

This resolution shall propose to amend the state Constitution to allow for any voter to request to vote by mail without declaring any reason for doing so.

JUSTIFICATION:

Currently, the New York State Constitution only allows absentee voting if a person expects to be absent from the county in which they live, or the City of New York, or because of illness for physical disability. As we have seen in the most recent election, many states have allowed for alternate ways of voting, including mail in voting without having to declare any reason for doing so. There is no reason to prevent New Yorkers from doing so as well. By providing choices, we give voters the opportunity to cast their ballot in whatever way each finds most comfortable, whether that be in a voting booth on election day, or in the comfort of their own home prior to election day.

PRIOR LEGISLATIVE HISTORY:

2009-10 - A5099;
2011-12 - A5202 In Election Law Committee.

FISCAL IMPLICATIONS TO STATE AND LOCAL GOVERNMENT:

EFFECTIVE DATE:

This bill provides for first passage of a constitutional amendment.

them we discovered was already being addressed in a piece of legislation by one of our colleagues, "Mr. You-Know-Who," whose name is on that board. I'm happy tonight that we're able to assure that should ride-sharing transportation network companies ever come to Upstate New York and the rest of New York, that we will now, in statute, assure their ability to regulate.

I salute the sponsor for his foresight, and I withdraw my request and vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Cahill in the affirmative.

Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The bill is passed.

→ THE CLERK: Bill No. 3874-B, Calendar No. 588, Brennan, Lupardo, Lavine, Gottfried, Paulin, Aubry, Simotas, Galef, Brindisi, Lifton, Abinanti, Weinstein, Zebrowski, Seawright, Kavanagh. Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 2 of Article 2 of the Constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Kavanagh.

MR. KAVANAGH: Thank you, Mr. Speaker. As the board says, this is a constitutional amendment proposal. It would

constitute first passage of this amendment. It basically removes from the Constitution certain restrictions on this Legislature's ability to set the terms under which people can vote by absentee ballot.

ACTING SPEAKER AUBRY: Mr. McKeVitt.

MR. MCKEVITT: Will Mr. Kavanagh please yield for a few questions, please?

ACTING SPEAKER AUBRY: Mr. Kavanagh, on behalf of Mr. Brennan, will you yield?

MR. KAVANAGH: I would be happy, as the pinch-hitter, to yield.

ACTING SPEAKER AUBRY: Mr. Kavanagh will yield.

MR. MCKEVITT: As you noted in your explanation, I think people may be surprised that our requirements that we have for an absentee ballot are not actually in statute, they're in the Constitution. And you're right, it requires two interesting requirements that has been long held in the Constitution: In order to apply for that absentee ballot, you must be either absent from the county where you reside on the day of the election, or, number two, you are unable to get to the polling place because of an illness or physical disability, correct?

MR. KAVANAGH: Thank you, yes. I always try to keep my explanation brief, but thank you for that addendum.

MR. MCKEVITT: And what you're seeking to do in this amendment to the Constitution is remove those causes that you

need; either absent from the county or the physical disability or illness, correct?

MR. KAVANAGH: That is correct.

MR. MCKEVITT: Okay. So I guess the issue I have with it is that for many years, in order to have the absentee ballot, you needed to do it for a cause, and what this amendment does is remove that "for cause."

MR. KAVANAGH: What this does is remove conditions -- I think that we would say that the part about physical disability or illnesses is a specific cause in the Constitution. The other part of this is basically arbitrary. The notion that the question we should be asking is, *Are you within the county lines on Election Day* just seems like an arbitrary provision. Some counties are very large and you could be hundreds of miles from home and still within your county. My county is a lot smaller, and you could be, you know, not too distant at all. Actually, I should note that this has been interpreted to apply to the City of New York as a whole.

MR. MCKEVITT: Correct.

MR. KAVANAGH: You could be just outside the City -- somebody could be in Yonkers and live in the Bronx and be able to get an absentee ballot, but somebody else could be hundreds of miles from home and not be able to get an absentee ballot. This is a constitutional amendment. It eliminates these restrictions. There is a desire on the part of many people to see a more open system for granting people absentee ballots, but it still would be up to the

Legislature to set the terms of that, and there would obviously be some future Legislature after second passage of this constitutional amendment.

MR. MCKEVITT: But by removing the terms for cause, couldn't one make an argument that you can now convert the system to essentially a mail-in system? Because now that you remove any cause, you may say, *Well, now we may enact a system whereby* -- like some states do, and you may argue -- we could differ on whether that is a positive or a negative -- that you could essentially just do it several weeks before and do it by mail and never have to go to the ballot and not abide with the law because you no longer have to have a cause.

MR. KAVANAGH: If this constitutional amendment were passed by both Houses and became part of the Constitution and then a future Legislature decided that a full mail-in system were desirable, yes, that would be possible --

MR. MCKEVITT: Okay. Thank you very much.

MR. KAVANAGH: -- that that would require --

MR. MCKEVITT: Mr. Speaker, on the bill.

ACTING SPEAKER PICHARDO: On the bill, Mr. McKevitt.

MR. MCKEVITT: Certainly, for many years we have determined that a person should come to the polls, and some people here have argued that there's some sort of a tradition in this country, you go to elections on Election Day. It's part of the culture

and it's part of our process. But certainly, you can recognize that situations happen. People may be ill. There are people on a permanent absentee list many times because they may be in an illness for many years and are unable to get to the polling place, and we have certainly recognized that. The terms which are deleted in this amendment essentially removes any reason that one must give in order to go and get an absentee ballot, and essentially it turns into a mail system which, to me, is a very different system than what we've had here for many years.

So, for that reason, I just want members to take into consideration that this is more than just a simple amendment to the absentee ballot system. This can actually cause us to convert to a brand-new system such as a mail-in system when we have our elections instead. So, just consider that on your vote. Thank you.

ACTING SPEAKER PICHARDO: Thank you, Mr. McKevitt.

Mr. Raia on the resolution -- on the bill, I'm sorry.

MR. RAI: Thank you, Mr. Speaker. I spoke a little bit about this and referenced this legislation yesterday when we were talking about early voting. I believe this is the right way to go, as opposed to early voting. And I used the example, my first job right out of college was working for Assemblyman Thiele's predecessor, a gentleman by the name of John Behan, who sat in this very Chamber for many, many years. He represented Montauk and lived in Montauk. I still vividly remember to this day, calling and asking for

an absentee ballot and I was told by the Board of Elections, *Well, why?* And I said, *Well, I'm going to be at work and I won't be able to make it to my home polling station*, which happened to be in Suffolk County. Well, to get from Montauk, Long Island to Huntington, Long Island -- which happens to be in the same county -- could take anywhere from an hour-and-a-half to two hours, depending on traffic. So, it was theoretically impossible for me to get home in time to vote after working a full day.

It's for that reason I believe this is the proper way to go, and I will be supporting this legislation. Thank you.

ACTING SPEAKER RICHARDO: Thank you, Mr. Raia.

The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Kavanagh to explain his vote.

MR. KAVANAGH: Thank you, Mr. Speaker. I know the hour is late, but I think I would be remiss if I, first of all, did not add my thanks and congratulations to the sponsor of this bill who has been working on it for six years. I know he's watching us at home, enjoying the fact that we're moving this as his last bill. I also would like to note that this is the last of a very long series of election reform bills that we have done in this House in the last few days, and that package was quietly assembled by our great Election Law Chair, Michael Cusick. This really is a transformative package, and this is the last of the very big steps. So, I just wanted to thank and

congratulate him for all of that work as well.

Thank you, Mr. Speaker. I vote in the affirmative.

ACTING SPEAKER PICHARDO: Mr. Kavanagh in the affirmative.

ACTING SPEAKER AUBRY: Are there any other votes? The Clerk will announce the results.

(The Clerk announced the results.)

The resolution is passed.

Mr. Morelle.

MR. MORELLE: Thank you, Mr. Speaker. If I could just give an update on where we are. We are currently preparing Ways and Means and Rules agendas. We will have an additional Ways and Means and Rules. It probably will not be the last Ways and Means and Rules Committee of the evening, but we're doing probably two of each just to move things along and to try to actually shorten the evening, as counterintuitive as that sounds. So, while we wait for Ways and Means and Rules, which should be relatively soon, I would just ask people to sort of stand in place. If they want to go to the lounge for a few moments and relax, but don't wander off. That gives you an idea.

ACTING SPEAKER AUBRY: State Police have sealed the building.

(Laughter)

We will stand in place, which means everybody get up.

with Rules Report No. 66 by Mr. Carroll which is on page 6 of the main Calendar.

ACTING SPEAKER AUBRY: The Clerk will read.

→ THE CLERK: Assembly No. 7623, Calendar No. 363, Vanel, Cusick, Kavanagh, Lupardo, Lavine, Gottfried, Paulin, Aubry, Simotas, Galef, Brindisi, Lifton, Abinanti, Zebrowski, Sepulveda, Colton, Carroll, Weprin, Barnwell, Seawright, Ramos, Harris. Concurrent Resolution of the Senate and Assembly proposing an amendment of Section 2 of Article II of the Constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting.

ACTING SPEAKER AUBRY: Mr. Vanel, an explanation is being requested.

MR. VANEL: Now, this bill would propose an amendment to the New York State Constitution Article II Section 2 in relation to authorizing the ballot by mail by removing cause for absentee voting. In other words, it'll allow for no-excuse absentee ballot voting.

ACTING SPEAKER AUBRY: Mr. McKeVitt.

MR. MCKEVITT: Sure. Will the sponsor yield for a few questions, please?

ACTING SPEAKER AUBRY: Will you yield, sir?

MR. VANEL: I will.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. MCKEVITT: Thank you for the explanation. I

think what the explanation does is really key to my question that although this may seem to be a very simple revision of the Constitution, it is actually quite broad because right now in order to be able to obtain perhaps an absentee ballot, the Constitution and not the statute requires it, it's a Constitutional requirement that you either not be in -- present in the county of which you reside on the date of election or you're unable to get to the polls because of an illness or physical disability. So by removing this language, you may just think that simply what this amendment does is say, okay, you don't necessarily have to be absent from your county or for -- be ill or physically disabled, but what this amendment really does, it very much broadens up the process. So, for example, we had a debate about doing a type of early voting or maybe even a type of voting by mail at that point. The only way you could do like a mail system is by enacting this Constitutional amendment first; would that be correct?

MR. VANEL: Well, now this law allows for the amendment under the Constitution, you're right, Mr. McKevitt. Under the Constitution now in Section II of the -- of that Article, you're allowed to vote via absentee by being absent in the entire county or absent in the City if it's within New York City or with an -- with an illness; as a matter of fact, also, on the first section of the absentee ballot applications, you have that -- there are certain enumerated reasons for -- that you have to use in order to be out for absence. This amendment would allow or change would allow for an amendment to the Constitution to promulgate so that there will be no-excuse

absentee ballot voting. If this passes, what -- what it means is that in order to pass the -- the no-excuse absentee ballot voting, we have to create more laws to be able to promulgate how that would happen.

MR. MCKEVITT: Right and, but, it goes, then, just beyond the ability of just no-excuse absentee voting because after, let's presume that this amendment were passed by both Houses in two Legislatures and passed by the voters, what the new amendment will simply say is the Legislature may, by general law, provide a manner in which -- and the time and place at which qualified voters may vote and for the return and canvas of their votes in any election. So, again, what -- you're correct; what this does is is that it just really removes the Constitutional requirement and then would require successive legislatures to do further regulation enactment on how the system would work.

MR. VANEL: That is correct. Right now, 27 other states, they have no-excuse absentee ballot voting. It's very important for us to make sure that there is more acc -- this is -- in this Democracy, we have to make it easier and more access to people to go out and vote. And what we're doing is just that, we're allowing no -- no -- no-excuse absentee ballot voting. For example, in New York City, if there's a New York City voter that's -- that's working in Queens, but -- for instance, but, has to, you know, live in the Bronx, they are within New York City. They won't be able to use the absentee ballot voting. This will make it easier for people to be able to vote and be able to vote via absentee ballot. Also, there are

counties Upstate where -- that are -- that are really big, where people may not be around, you know, their county on that day, or they may not be sure if they're going to be around their county on that day. So, this -- this would allow them to have no excuse -- for no excuse to be able to -- to vote via absentee ballot.

MR. MCKEVITT: Okay. Thank you.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: On the bill, Mr. McKevitt.

MR. MCKEVITT: Yeah, just to clarify again, this amendment may seem very simple at first, just removing the requirement that you either be absent from your county on the day of the election or have a physical illness or physical disability, but, again, this is actually much broader than that. It could allow, again, no-excuse absentee ballot or even a mail system at that point. That would be for future legislatures to decide the policy, but this amendment would allow those possibilities in the future. So, I just urge my colleagues to consider that when voting on this bill. Thank you.

ACTING SPEAKER AUBRY: Thank you.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Lentol to explain his vote.

MR. LENTOL: Thank you, Mr. Speaker. I rise because I want to congratulate Mr. Vanel for breathing a breath of fresh air into the archaic voter law system that we have in New York State, and by bringing forward a Constitutional amendment that will change the way in which we think about absentee ballots. And I believe that it's about time that we stop using the subterfuge of physical disability or absentee -- absenteeism from this State or have any excuse why we shouldn't be able to get an absentee ballot. And I think that it's incumbent upon us -- every four years we see press accounts about people who don't vote in the State of New York, or people who don't vote in Presidential or Gubernatorial elections, and the reason they don't vote is because the system that we have. And I congratulate, again, Mr. Vanel for making an attempt by a Constitutional amendment to change that system in a small way, but an important way. I vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Lentol in the affirmative.

Are there any other votes?

Mr. Raia.

MR. RAIA: Thank you. I -- I was a -- a late button push, but I definitely beat the buzzer. I concur with my colleague from Brooklyn and I'll -- I'll just, a little personal story. My -- my first job after Interning in this fine establishment back in 1991 was to work for an Assemblyman by the name of John Behan who represented the

East End, Fred Theile's district, who also was employed by Mr. Behan, and I'm in the Wainscott office which is roughly hour-and-a-half, almost two hours from my home location and I remember requesting an absentee ballot and the Board of Elections wouldn't give me one because I was still technically in the same county. Well, as some of my Upstate colleagues can attest to, just because you're still in the same county doesn't mean that you can't be hours away from -- from your polling place. So I look forward to supporting this legislation. I think this particular piece of legislation solves a lot of problems and, in my mind, if we have this without any exceptions then, who knows, maybe we really don't need early voting. Thank you, Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Hevesi to explain his vote.

MR. HEVESI: Thank you, Mr. Speaker. I just want to rise to suggest that this is a dangerous precedent. We have a rookie member amending the Constitution of the State of New York. This is not something we should be encouraging. There should be no talking in Conference, no talking on the floor. For all of you other rookies, don't get any bright ideas. But, congratulations, Mr. Vanel.

ACTING SPEAKER AUBRY: Mr. Hevesi in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

our Chamber today on behalf of our Assemblymembers Chris Friend and Mr. Palmesano. We have here representatives from LEAH, which as you know, is the home-school education group. They do a phenomenal job with students throughout our State. And here from -- from those districts we have Anita Pawlak and Thomas Pawlak, they're from Horseheads; Julie, Anna and Josh McKuzen -- McCuslan -- I'm sorry, McCausland -- sooner or later I'll get their name right. And maybe if I had gone home schooling, I could have gotten it faster. We also have Karol, Hunter and Jacob Tennant; Shelley and Julia Thomas from Corning. If you would welcome these great guests to our Chamber on behalf of Assemblymembers Friend and Palmesano, I'd appreciate it.

Thank you very much, Mr. Speaker.

ACTING SPEAKER AUBRY: Certainly. On behalf of Mr. Friend, Mr. Palmesano, the Speaker and all the members, we welcome you here to the New York State Assembly, the People's House. We extend to you the privileges of the floor, hope that you've enjoyed our proceedings as we continue to pass legislation. Thank you for the great work you're doing to ensure our children's education. Thank you so very much.

(Applause)

The Clerk will read.

→ THE CLERK: Assembly No. A07623, Calendar No. 538, Vanel, Cusick, Lupardo, Lavine, Gottfried, Paulin, Aubry, Simotas, Galef, Brindisi, Lifton, Abinanti, Zebrowski, Sepulveda,

Colton, Carroll, Weprin, Barnwell, Seawright, Ramos, Simon, Otis, Glick, Skoufis, Schimminger, Dinowitz, Jones, Buchwald.

Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 2 of Article II of the Constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting.

ACTING SPEAKER AUBRY: An explanation is requested, Mr. Vanel.

MR. VANEL: This bill is about protecting the franchise of voting. Voting is the cornerstone of our democracy. It's the rock that this House is built on. In 2016, in a general election, New York State ranked 41st out of 50 states for voter turnout, with only 50 per -- 57 percent of the eligible voters voting in the general election. In 2017, in a New York City mayoral election, New York City only had 23 percent of voter turnout of eligible voters. We must make it easier for -- for New Yorkers to vote.

This bill amends the New York State Constitution to remove cause for absentee ballot voting. In my district, in 2012, at PS 176, one of the polling sites, they -- the polling site was closed. And many people that used to walk to the polling site, or people that would -- that lived close, very close to the polling site, could not -- were -- were reassigned to another polling site, Holy Trinity, on the other side of Linden Boulevard in Cambria Heights. Many people had a -- found -- found difficulties to go out and vote. With the absentee ballot vote -- voting, there was no excuse there to allow them to use the absentee

ballots. There are counties Upstate where -- where large -- where it's very big -- very large counties, where it's very difficult to get from one side of the county to the next, and we don't have the -- the no excuse absentee ballot voting. We hope to make sure that -- and it's very important, for we, in this House and in the State, to make it easier for people to go and vote. We hope to make this a law. *I hope and pray that we will, but today this is still just a bill.*

(Laughter)

And Mr. Ra.

MR. RA: Thank you, Mr. Speaker. Will the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, Mr. Vanel?

MR. VANEL: Yes.

ACTING SPEAKER AUBRY: The sponsor yields.

MR. RA: You -- you caught me off guard with the Schoolhouse Rock there, that -- that was pretty good.

(Laughter)

MR. VANEL: I'm glad you caught the reference.

MR. RA: I did. I -- I have that t-shirt, I might -- I'll wear it one day before the end of Session.

(Laughter)

So, as -- as you explained, this -- this being a constitutional amendment, you know, currently within our State Constitution, if you're going to vote absentee -- and this is spelled out

in the State Constitution -- you have to either be absent from the county in which you reside, or have -- or have a reason like a disability or an illness. So, just kind of -- first things first. Because that's a constitutional provision, the only way to -- to change or really broaden the availability of absentee voting is through a constitutional amendment, correct?

MR. VANEL: That is correct. So, we would have to pass this -- this -- this bill in this House and in the Senate for two consecutive legislative Sessions, and then this bill -- and then this would also be on the referendum Statewide.

MR. RA: And so this would essentially become, I guess, not any excuse voting, but no excuse required in order to vote by absentee ballot.

MR. VANEL: Correct.

MR. RA: So, just in terms of how this would work, you know, if we pass this, the other House passes this, we come back maybe next year or the year after and it passes through and goes out to the public, would there be, you know, a need for further action? Say, you know, a statute or whatever, to implement this in terms of how we might --

MR. VANEL: We -- we -- we may -- we may have the option to promulgate more laws to -- to promulgate how to process this.

MR. RA: Okay. Because I -- I think one of the -- one of the issues that I think is going to pop up, and maybe it's

somewhat similar what was raised in the previous bill, is -- is the potential for -- for fraud and allowing, you know, some way to make sure that people are properly identified when -- when they're submitting a ballot. I think that's probably one of the reasons why we've had this provision in our Constitution for years, to limit absentee voting to certain circumstances.

MR. VANEL: So, this would -- you know, fraud is always a -- fraud is always an issue. It's always a -- you know, that we're going to -- we must deal with, when someone -- the process now for someone to be able to get an absentee ballot is that they have to -- they have to apply to get the ballot. The Board of Elections has to -- to authenticate that application, and then they have to get a ballot, and then they have to submit the -- the ballot. So that -- that process at this point would still be the same.

MR. RA: Okay. And then -- so, lastly, then, you know, the person applies for the ballot, they get their ballot, they submit it. Are there any concerns in terms of how, you know, this might delay election results in terms of there being a lot more absentee ballots that need to be counted than maybe there have been in the past?

MR. VANEL: I -- I'm not sure if we looked into -- so you're saying that this would open up the floodgates for more absentee ballots and that would delay voter results?

MR. RA: Well, I'm -- I'm saying -- look, I -- I think we would consider it successful if we enacted this and there were more people voting by absentee. I think that's -- that's the point. I'm

just wondering if you anticipate any -- any problems that could come up with that by there being many more ballots that now need to be counted?

MR. VANEL: So, currently in the law (pause - sidebar) -- currently in the law, absentee ballots have to be submitted within -- by the election day, or, they have to be post mailed -- they have to be mailed by the election day. So I don't foresee any change with that date and that process.

MR. RA: Okay. Thank you very much.

Mr. Speaker, on the bill.

ACTING SPEAKER AUBRY: Mr. Ra on the bill.

MR. RA: So -- so this one, obviously, being a constitutional amendment is going to require not just, you know, passage today and by the other House, but future passage, and ultimately would be put out to our voters to decide. Obviously, absentee voting is, you know, something that people currently are only able to take advantage of in very limited circumstances. There are reasons for that. But the flip side of it is, you know, people have cited examples in the past. We have some counties in the State that are quite large. You could be present in your county but -- but still be a number of hours away. So, I think if we can overcome some of the concerns raised, this could -- this could be a positive thing. And who knows, maybe that alleviates the need for some of the others things we're going to be talking about today, like -- like early voting. But I thank the sponsor for -- for the discussion, and I actually am going to

be supporting this bill today.

Thank you.

ACTING SPEAKER AUBRY: Thank you, sir.

Mr. Raia.

MR. RAI: Thank you, Mr. Speaker. On the bill.

ACTING SPEAKER AUBRY: On the bill, sir.

MR. RAI: I'd like to actually commend the sponsor. This is a fine piece of legislation. For those of you that have been around for 16 years listening to me talk about this every single year about how when I -- yes, that's the -- you are correct, sir. How when I was a legislative aide to a State Assemblyman out in Montauk, I just foolishly thought that I could get an absentee ballot because anyone who knows Long Island, to go from Montauk to Huntington is like going three-quarters of the way to Albany. And much to my surprise, I found out that I couldn't vote via absentee ballot, even though I was two hours away from home. And it kind of has been stuck in my -- my -- my craw for, oh, going on 20 years-plus. So, I'm very happy to -- to be voting in favor of this legislation. I'll be asking to -- to sign on as a cosponsor. And with passage of something like this, it really does answer all of those -- those questions out there. *Well, how do you do early voting?* Well, this takes -- takes the place of early voting, because you have the -- everyone has the ability to vote absentee ballot. This one single bill will increase ballot access to a lot of people.

So based on that, I will be voting yes. Thank you,

Mr. Speaker.

ACTING SPEAKER AUBRY: Mr. Raia in the affirmative. Yes.

Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you, Mr. Speaker. I just want to rise and commend the sponsor as well, and thank him for this piece of legislation. This is the easiest, simplest and most cost-effective way to provide early voting here in the State of New York. There is no need to go out and find locations, staff them. This is what the counties need to make early voting effective and easy. So, by passing this legislation and getting the Constitution amended to provide no excuse or no reason absentee voting is the most cost-effective way to provide early voting in the State of New York. There's no need to do anything else other than this, in my opinion.

Thank you very much.

ACTING SPEAKER AUBRY: Thank you, Mr. Fitzpatrick.

Read the last section.

THE CLERK: This act shall take effect immediately.

ACTING SPEAKER AUBRY: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Buchwald to explain his vote.

MR. BUCHWALD: Thank you very much, Mr. Speaker. Last year -- this vote occurred exactly eleven months ago

today. I know that because it is the eleventh-month birthday of my second daughter, Amelia. I didn't have the occasion last year to vote for this legislation, but I am a proud cosponsor, and today, as Chair of the Election Law Subcommittee on Election Day Operations, I very much recognize that Election Day is not the most convenient option for everyone, and it's very important that we give people the opportunity to vote by mail when their situation warrants.

So, thank you very much, Mr. Speaker. I proudly vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Buchwald in the affirmative.

Mr. Murray.

MR. MURRAY: Thank you, Mr. Speaker, to explain my vote. I, too, would like to echo the sentiments of many of my colleagues and commend the sponsor on this bill. As has been said, I think this really is the early voting vote -- vote that we're taking right now. This is the way to improve access to voting for those that do have difficulty. So, rather than spending literally millions of dollars and -- through another process, I think this is the simplest, the easiest, the fairest way that we can do this. And I'm proud to cast my vote in the affirmative.

Thank you.

ACTING SPEAKER AUBRY: Mr. Murray in the affirmative.

Mr. Phillip Steck.

MR. STECK: Thank you, Mr. Speaker. I want to quote from a decision of Gross v. Albany County Board of Elections in which our Court of Appeals said in an absentee ballot case that arose in Albany County, that "A too liberal construction of Election Law has the potential for inviting mischief on the part of candidates or their supporters or aides, or worse still, manipulations of the entire election process." I come from a county which has a long history of absentee ballot fraud. And the typical way this fraud is carried out is that party operatives go out and collect absentee ballots and applications from people who are perfectly able to go to the polls. And what happens is, particularly in minor party primaries, elections become a battle between which political organization can tell people the most and gather the most ballots and convince them that they do not have to go to the polls. This -- this legislation has merit. There is no question. But, it's not supposed to be an invitation to unlimited voting by mail. If that's what we're going to do, then we should do that, but not do it through the absentee ballot process. I'm very conflicted on this. I support increasing absentee ballots, but I have also seen elections manipulated as a result of this process, most recently in this last election cycle, and to the detriment of many people who might think they were encouraging ballot access through this legislation. I -- it is -- it is probably one of the most conflicted votes I've ever taken. I think we're going to have to revisit this issue and provide for further security on the issue of absentee ballot voting. But in the interest of ballot access, I will vote in the affirmative.

ACTING SPEAKER AUBRY: Mr. Phillip Steck in the affirmative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

THE CLERK: Assembly No. A09758-A, Calendar No. 705, Simon, Buchwald, M.G. Miller, Thiele, Ortiz, Niou, Fahy, Dinowitz, Gottfried, Mayer, Santabarbara, Glick, Sepulveda, Seawright, Magnarelli, D'Urso, Montesano, Arroyo, Mosley, Cahill, Zebrowski, Abinanti, Barnwell, Blake, Jenne, Carroll, Harris, Barron, Taylor, Galef, Pellegrino, Lupardo. An act to amend to Election Law, in relation to political contributions.

ACTING SPEAKER AUBRY: An explanation is requested, Ms. Simon.

MS. SIMON: Thank you, Mr. Speaker. This bill would close what we call the "LLC loophole." Currently, there is no provision in Election Law for the treatment, the proper treatment of Limited Liability Corporations, or LLCs. This law -- this bill would create a -- a -- would include the LLC in the Election Law for proper treatment.

ACTING SPEAKER AUBRY: Mr. Goodell.

MR. GOODELL: Thank you very much, Mr. Speaker. Would the sponsor yield?

ACTING SPEAKER AUBRY: Will you yield, Ms. Simon?



State of New York

Executive Chamber

No. 202.58

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue; and

WHEREAS, the expectation is that community contact transmission could increase this fall; and

WHEREAS, the need to ensure the safety and security of the electoral process is paramount, and voters must have confidence that they can cast their ballot and have it be counted in a manner of their choosing based on the relevant state laws; and

WHEREAS, these suspensions and modifications are intended to ensure that all voters have the opportunity to vote statewide;

NOW THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, do hereby suspend or modify the following through September 23, 2020:

- Sections 15-120 and 15-122 of the Election Law, Sections 2018-a and 2018-b of the Education Law, and Section 84-a of the Town Law, as well as any provision of law related to a special district election taking place prior to November 3, 2020, and not administered by the County Board of Elections to the extent necessary to include the potential for contraction of the COVID-19 virus as an illness for purposes of request or receipt of an absentee ballot;
- Section 8-400 and any provision of Article 9 of the Election Law, in order to provide that every voter that is in active and inactive status and is eligible to vote in any election on or before November 3, 2020, may be able to request an absentee ballot via phone or internet or electronically; and if such voter requests an absentee ballot, such voter shall be sent an absentee ballot, provided however each voter shall not be sent more than one ballot pursuant to a phone request, and shall not be required to complete an application either prior to or simultaneously to receiving the ballot. Further, the board of elections receiving the telephone request shall maintain a record of such telephone request for an absentee ballot, and may complete the absentee ballot application as such record on behalf of the voter requesting the absentee ballot, provided that no ballot shall be deemed invalid for lack of a complete absentee ballot application for any reason;
- Section 9-209(3) of the Election Law related to curing deficiencies in absentee ballots is modified to the extent necessary to require that a board of elections shall provide a five day cure period for any eligible deficiency instead of seven if such absentee ballot is received after November 3, 2020; and further modified to require that a board of election shall first notify any voter of any eligible

deficiency within 24 hours of identifying the deficiency by phone or email, if available and shall only mail such notification to the voter if notice to the voter by phone or email is not possible; and

- Article 16 of the Election Law is modified to the extent necessary to provide that no cause of action shall be maintained against a board of elections if, for the general election taking place on November 3, 2020, notice is not able to be made within the time period set forth in section 9-209(3) after a good faith effort, and through no fault of the board of elections.
- Sections 103 and 104-b of the General Municipal Law, to the extent necessary to allow a board of elections to procure and provide absentee ballot applications, absentee ballots, envelopes, mail notification cards pursuant to this executive order, or any other means of transmitting an absentee ballot application or absentee ballot to voters in accordance with the timeframes set forth in Executive Order 202 or any subsequent Executive Order;

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directives through September 23, 2020:

- All county Boards of Elections and the City of New York Board of Elections shall send an informational mailing to every registered voter by September 8, 2020, containing the following information:
 - The dates, hours, and locations for early voting in such voter's county, including the early voting location for which the voter is assigned, if applicable.
 - Information regarding how to apply for an absentee ballot, including the opportunity to apply online or by phone, and including the deadline for requesting an absentee ballot.
 - Information regarding the date and hours for the November 3, 2020 general election, and the voter's election day polling place location.
 - Information regarding how the voter can look up their registration status.
 - An explicit reminder or communication of the opportunities to vote prior to Election Day, including application for an absentee ballot and early voting options.
 - Expected mail times, if a voter chooses to request an absentee ballot.
- All county Boards of Elections and the City of New York Board of Elections must submit staffing plans and any staffing needs for early voting and election day poll site operations, as well as post-election canvass of results, to the state Board of Elections no later than September 20, 2020, to provide adequate time for the state Board of Elections to assist as feasible.
- All county Boards of Elections and the City of New York Board of Elections shall take all steps possible to count ballots as soon as possible, including reviewing absentee or military ballot envelopes prior to Election Day to ensure efficient and timely canvassing of ballots, including establishing objections by the Board to ballot envelopes prior to Election Day, any reporting of affidavit ballots by counties to the state board to compare against absentee ballots must be completed 48 hours after the election.
- The State Board of Elections must develop a uniform envelope for absentee ballots for use by local Boards of Elections by September 8, 2020. Such envelope shall establish where a voter must sign to be valid. All local county Boards of Elections and the City of New York Board of Elections must use such uniform envelope for absentee ballots developed by the State Board of Elections.



GIVEN under my hand and the Privy Seal of the

State in the City of Albany this

twenty-fourth of August in the year

two thousand twenty.

BY THE GOVERNOR


Secretary to the Governor



202.58



AUGUST 24, 2020 Albany, NY

Governor Cuomo Issues Executive Order to Bolster and Support New Yorkers' Right to Vote

Executive Order Requires County Boards of Elections to Take Concrete Steps to Properly Inform Voters and Provide Adequate Voting Options

Order Requires County Boards to Inform State of Election Staffing Needs, Use Uniform Stationary for Absentee Ballots and Ensure Absentee Ballots Can Be Used in Village Elections

Governor Andrew M. Cuomo today issued an executive order to bolster and support New Yorkers' right to vote. The order requires county boards of elections to take concrete steps to inform voters of upcoming deadlines, be prepared for upcoming elections and help ensure absentee ballots can be used in all elections. On August 20, Governor Cuomo signed into law sweeping election reforms that will make it easier for New Yorkers to vote and be counted in November.

"This election is going to be one of the most critical in modern history. It will be controversial. You already hear the statements questioning the vote, and the accuracy of the vote, and mail-in ballots. We want to make sure that every vote is counted; every voice is heard and that it's fair and right and accurate," **Governor Cuomo** said. "I'm issuing today's executive order because we want boards of elections to count votes efficiently and we want them to get it right, but we want it done in a timely manner. We don't want to hear after-the-fact excuses."

The executive order requires county boards of elections to take the following actions:

1. Send a mailing outlining all deadlines for voters by Tuesday, September 8.
2. Send staffing plans and needs to the New York State Board of Elections by September 20 so BOE can assist in ensuring adequate coverage.
3. Adopt a uniform clarified envelope for absentee ballots and require counties to use it.
4. Count votes faster: require all objections to be made by the county board in real time, make sure that boards are ready to count votes and reconcile affidavit and absentee ballots by 48 hours after elections.
5. Provide an option for New Yorkers to vote absentee in village, town and special district elections.

Appendix 3

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STATE OF NEW YORK

7394--A

2023-2024 Regular Sessions

IN SENATE

May 22, 2023

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, the education law, the town law and the New York city charter, in relation to establishing early mail voting

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

1 Section 1. This act shall be known and may be cited as the "New York
2 Early Mail Voter Act".

3 § 2. Article 8 of the election law is amended by adding a new title 7
4 to read as follows:

TITLE VII

EARLY MAIL VOTING

7 Section 8-700. Early voting by mail; application for ballot.

8 8-702. Early voting by mail; review of application by board of
9 elections.

10 8-704. Early mail ballots; delivery of.

11 8-706. Electronic early mail ballot application transmittal
12 system.

13 8-708. Early voting by mail; method of.

14 8-710. Early mail ballots; deadline for receipt, and delivery to
15 polling place.

16 8-712. Online early mail ballot tracking system.

17 § 8-700. Early voting by mail; application for ballot. 1. A registered
18 voter may apply to the county board of elections in the county in which
19 they are registered, or to the board of elections of the city of New
20 York, if registered in the city of New York, to vote early by mail under
21 this title in any election conducted by the board of elections in which
22 the voter is eligible to vote.

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

LBD11608-03-3

1 2. A registered voter who desires to vote early by mail at an election
2 must make an application to vote early by mail on a form to be obtained
3 and filed as provided in this section, by letter as provided in para-
4 graph (d) of this subdivision, or through the electronic early mail
5 ballot application transmittal system pursuant to section 8-706 of this
6 title.

7 (a) Application forms to vote early by mail shall be furnished by and
8 may be obtained from any board of elections at any time until the day
9 before such election, or on the electronic early mail ballot application
10 transmittal system. Application forms shall also be supplied by the
11 board of inspectors of the election district in which the applicant is a
12 registered voter on all of the days provided for local registration. In
13 addition, application forms shall be supplied upon the request of the
14 person authorized to vote pursuant to this section, any such person's
15 spouse, parent or child, a person residing with the applicant as a
16 member of their household, or the applicant's duly authorized agent.
17 Application forms sent outside of the United States to a country other
18 than Canada or Mexico, shall be sent by airmail. Any reference to "board
19 of elections" in the remaining provisions of this section, except with
20 respect to the furnishing and obtaining of applications to vote early by
21 mail, means only the board of elections of the county or city in which
22 the applicant is a registered voter.

23 (b) Applications may be filed with the board of elections, through the
24 electronic early mail ballot application transmittal system or in person
25 with the board of inspectors of the election district in which the
26 applicant is a registered voter on one of the days provided for local
27 registration.

28 (c) All applications requesting to vote early by mail transmitted by
29 mail or through the electronic early mail ballot application transmittal
30 system must be received by the board of elections not later than the
31 tenth day before the election for which a ballot is first requested.
32 Applications to vote early by mail delivered in person at the board of
33 elections must be received by such board not later than the day before
34 such election.

35 (d) The board of elections shall mail an early mail ballot to every
36 registered voter otherwise eligible for such a ballot, who requests such
37 an early mail ballot from such board of elections in writing in a
38 letter, telefax indicating the address, phone number and the telefax
39 number from which the writing is sent or other written instrument, or
40 through an electronic application submitted by the voter through the
41 electronic early mail ballot application transmittal system established
42 by the state board of elections, which is signed by the voter and
43 received by the board of elections not later than the tenth day before
44 the election for which the ballot is first requested and which states
45 the address where the voter is registered and the address to which the
46 ballot is to be mailed.

47 (e) When mailing an early mail ballot application to a voter the board
48 of elections shall provide a domestic postage paid return envelope. When
49 providing an early mail ballot application to a voter in-person, the
50 board of elections shall offer the voter a domestic postage paid return
51 envelope and provide one if requested.

52 3. The application for an early mail ballot when filed must contain in
53 each instance the following information:

54 (a) Applicant's full name, date of birth, and residence address,
55 including the street and number, if any, rural delivery route, if any,

1 mailing address if different from the residence address and their town
2 or city and an address to which the ballot shall be mailed.

3 (b) A statement that the applicant is a registered voter in the county
4 or city where they are applying to vote early by mail.

5 4. The application for an early mail ballot shall also provide the
6 applicant the opportunity to provide their telephone number and e-mail
7 address.

8 5. The application for an early mail ballot shall also provide the
9 applicant the opportunity to request to receive an early mail ballot for
10 all remaining elections in the calendar year in which the applicant is
11 eligible to vote. If an applicant indicates in the application for an
12 early mail ballot that they wish to receive an early mail ballot for all
13 remaining elections in the calendar year, upon filing of such applica-
14 tion, the board of elections shall indicate such request in the voter's
15 registration record. When early mail ballots are mailed for subsequent
16 elections in the calendar year in which the voter is eligible to vote,
17 the board of elections shall mail an early mail ballot to the voter at
18 their last known address by first class mail with a request to the
19 postal authorities not to forward such ballot but to return it in five
20 days in the event that it cannot be delivered to the addressee. Howev-
21 er, the board shall not be required to mail an early mail ballot pursu-
22 ant to this section if the voter's registration has been canceled since
23 the filing of such application.

24 6. The application for an early mail ballot shall contain the follow-
25 ing language printed in bold face directly above the signature line: "I
26 CERTIFY THAT THE INFORMATION IN THIS APPLICATION IS TRUE AND CORRECT AND
27 UNDERSTAND THAT THIS APPLICATION WILL BE ACCEPTED FOR ALL PURPOSES AS
28 THE EQUIVALENT OF AN AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE
29 STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY
30 SWORN." Such application shall be accepted for all purposes as the
31 equivalent of an affidavit and if it contains a material false statement
32 shall subject the person signing it to the same penalties as if he or
33 she had been duly sworn.

34 7. For purposes of this section, the use of titles, initials or
35 customary abbreviations of given names by the signers or witnesses of an
36 early mail ballot application or early mail ballot envelope, or the use
37 of customary abbreviations of addresses of such signers or witnesses,
38 shall not invalidate such voter's signature or witness's signature on an
39 application for early mail ballot or upon canvass or recanvass of the
40 ballot pursuant to this chapter.

41 8. (a) If a person entitled to an early mail ballot is unable to sign
42 their application because of illness, physical disability or inability
43 to read, they shall be excused from signing upon making a statement, in
44 substantially the following form, which shall be witnessed by one
45 person:

46 "I hereby state that I am unable to sign my application for an early
47 mail ballot without assistance because I am unable to write by reason of
48 illness or physical disability or because I am unable to read. I have
49 made, or have received assistance in making, my mark in lieu of my
50 signature."

51
52 (Date)

.....
(Mark)
.....

1

(Name of Voter)

2

"I, the undersigned, hereby certify that the above named voter affixed their mark to this application in my presence and I know them to be the person who affixed their mark to said application and understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn."

8

.....
(Signature of Witness)

9

10

.....
(Address of Witness)

11

(b) Such statement shall be included in the application form furnished by the board of elections.

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9. Printed forms of applications for early mail ballots in accordance with the requirements of this section shall be provided by the board of elections. An appropriate number shall be retained by the board of elections for the purpose of furnishing an application form to each registered voter who applies therefor before the board of elections, either in person or by mail, and an appropriate number shall be delivered to each board of inspectors on registration days with the election supplies, and the board of inspectors shall retain the completed and unused applications and return them to the board of elections with their election supplies and an appropriate number shall be available for distribution to officers of political parties, county clerks, city, town and village clerks, colleges, libraries, and any other convenient distribution source which is approved by the local or state board of elections and which requests such forms.

10. The state board of elections shall prescribe a standard application form for use under this section. The use of any application form which substantially complies with the provisions of this section shall be acceptable and any application filed on such a form shall be accepted for filing.

§ 8-702. Early voting by mail; review of application by board of elections. 1. Upon receipt of an application to vote early by mail the board of elections shall determine whether the applicant is a registered voter of the county or city at the address listed in the application and is eligible to vote in the election or elections for which the application is filed. An application to vote early by mail filed or received simultaneously with or on the same day as a valid registration application from the applicant shall be considered valid.

2. If the board of elections determines that the applicant is not a registered voter of the county or city at the address listed in the application pursuant to subdivision one of this section or the applicant is not eligible to vote in all of the elections for which the application is filed, the board of elections shall immediately notify the applicant of the rejection of the application to vote early by mail and provide the reason for such rejection.

3. In the case of a primary election, the board of elections shall deliver only the ballot of the party in which the records of the board of elections show the applicant to be enrolled. In the event a primary election is uncontested in the applicant's election district for all offices or positions except the party position of member of the ward,

1 town, city or county committee, no ballot shall be delivered to such
2 applicant for such election; and the applicant shall be advised why they
3 are not being sent a ballot.

4 4. The board shall keep a record of applications to vote early by mail
5 as they are received, showing the names and residences of the appli-
6 cants, and their party enrollment in the case of primary elections, and,
7 as soon as practicable shall, when requested, give to the chairman of
8 each political party or independent body in the county, and shall make
9 available for inspection to any other registered voter upon request, a
10 complete list of all applicants to whom early mail ballots have been
11 delivered or mailed, containing their names and places of residence as
12 they appear on the registration record, including the election district
13 and ward, if any, and in the city of New York and the county of Nassau,
14 the assembly district, and their party enrollment in the case of primary
15 elections.

16 § 8-704. Early mail ballots; delivery of. 1. If the board finds that
17 the applicant is a registered voter of the county or city at the address
18 listed in the application, the applicant is eligible to vote in the
19 election at issue, and the application is otherwise sufficient, it
20 shall, as soon as practicable, mail to the applicant at an address
21 designated by them, or deliver to them, or to any person designated for
22 such purpose in writing by them, at the office of the board, an early
23 mail ballot or set of ballots and an envelope therefor. If the ballot or
24 ballots are to be sent outside of the United States to a country other
25 than Canada or Mexico, such ballot or ballots shall be sent by air mail.

26 2. When mailing an early mail ballot to a voter the board of elections
27 shall provide a domestic postage paid return envelope. When providing an
28 early mail ballot to a voter in-person, the board of elections shall
29 offer the voter a domestic postage paid return envelope and provide one
30 if requested.

31 § 8-706. Electronic early mail ballot application transmittal system.
32 1. In addition to any other means of applying for an early mail ballot,
33 the state board of elections shall establish and maintain an electronic
34 early mail ballot application transmittal system through which voters
35 may apply for an early mail ballot online. The state board of elections
36 shall electronically transmit such applications to the applicable board
37 of elections of each county or the city of New York for processing
38 consistent with this chapter. In accordance with technical specifica-
39 tions provided by the state board of elections, each board of elections
40 shall maintain an early mail ballot application system capable of
41 receiving and processing electronic early mail ballot applications,
42 including, but not limited to, electronic signatures, from the electron-
43 ic early mail ballot application transmittal system established by the
44 state board of elections pursuant to this section. Such transmittal
45 system shall be fully integrated with each county board of elections and
46 the city of New York board of elections so that a voter may apply online
47 directly either through the website of their board of elections or the
48 state board of elections. Notwithstanding any other inconsistent
49 provision of this chapter, applications filed using such system shall be
50 considered filed with the applicable board of elections on the calendar
51 date the application is initially transmitted by the voter through the
52 electronic early mail ballot application transmittal system.

53 2. (a) A voter shall be able to apply for an early mail ballot using a
54 personal online application submitted through the electronic early mail
55 ballot application transmittal system when the voter:

1 (i) completes an electronic early mail ballot application promulgated
2 by the state board of elections which shall include all of the informa-
3 tion required by section 8-700 of this title; and

4 (ii) affirms, subject to penalty of perjury, by means of electronic or
5 manual signature, that the information contained in the early mail
6 ballot application is true; and

7 (iii) consents to the use of an electronic copy of the individual's
8 manual signature that is in the custody of the department of motor vehi-
9 cles, the state board of elections, or other agency designated by
10 section 5-211 or 5-212 of this chapter, as the individual's early mail
11 ballot exemplar signature, or provides such a signature by direct upload
12 in a manner that complies with the New York state electronic signature
13 and records act and the rules and regulations promulgated by the state
14 board of elections.

15 (b) The board of elections shall provide the personal online early
16 mail ballot application in any language required by the federal Voting
17 Rights Act of 1965 (52 U.S.C. Sec. 10503) in any county in the state.

18 (c) The online early mail ballot application process shall provide
19 reasonable accommodations to improve accessibility for persons with
20 disabilities and shall be compatible for use with standard online acces-
21 sibility assistance tools for persons with visual, physical or percep-
22 tive disabilities.

23 (d) The state board of elections shall promulgate rules and regu-
24 lations for the creation and administration of an early mail ballot
25 application system pursuant to this section.

26 3. (a) If an early mail ballot exemplar signature is not provided by
27 an applicant who submits an early mail ballot application pursuant to
28 this section, the local board shall seek to obtain such exemplar signa-
29 ture from the statewide voter registration database, the state board of
30 elections, or a state or local agency designated by section 5-211 or
31 5-212 of this chapter.

32 (b) If such exemplar signature is not available from the statewide
33 voter registration database, the state board of elections, or a state or
34 local agency designated by section 5-211 or 5-212 of this chapter, the
35 local board of elections shall, absent another reason to reject the
36 application, require the voter to provide an exemplar signature by any
37 one of the following methods: in person, by electronic mail, or by elec-
38 tronic upload to the board of elections through the electronic early
39 mail ballot application transmittal system.

40 (c) If such voter does not provide the required exemplar signature,
41 the board of elections shall proceed to issue an early mail ballot to
42 the voter along with an early mail ballot application form requiring
43 such voter to submit a signature upon such application form and return
44 it to the board of elections with the voter's ballot.

45 4. The electronic early mail ballot application transmittal system
46 shall be combined on a single website with the electronic absentee
47 ballot application transmittal system created pursuant to section 8-408
48 of this article. A person using the website must first be provided with
49 an early mail ballot application before being offered the opportunity to
50 apply for an absentee ballot. If a person submits an early mail ballot
51 application, the person shall not be offered the opportunity to apply
52 for an absentee ballot.

53 § 8-708. Early voting by mail; method of. The early mail voter shall
54 mark an early mail ballot as provided for paper ballots or ballots
55 prepared for counting by ballot counting machines. They shall make no
56 mark or writing whatsoever upon the ballot, except as above prescribed,

1 and shall see that it bears no such mark or writing. They shall make no
2 mark or writing whatsoever on the outside of the ballot. In cases where
3 the express intent of the voter is unambiguous, any stray marks or writ-
4 ing shall not be a basis for voiding a ballot. After marking the ballot
5 or ballots they shall fold each such ballot and enclose them in the
6 envelope and seal the envelope. They shall then take and subscribe the
7 oath on the envelope, with blanks properly filled in. The envelope,
8 containing the ballot or ballots, shall then be mailed or delivered to
9 the board of elections of the county or city of their residence.

10 § 8-710. Early mail ballots; deadline for receipt, and delivery to
11 polling place. 1. The board of elections shall cause all early mail
12 ballots received by it before the close of the polls on election day and
13 all ballots contained in envelopes showing a cancellation mark of the
14 United States postal service or a foreign country's postal service, or
15 showing a dated endorsement of receipt by another agency of the United
16 States government, with a date which is ascertained to be not later than
17 the day of the election and received by such board of elections not
18 later than seven days following the day of election to be cast and
19 counted. For purposes of this section, any early mail ballot received
20 by the board of elections by mail that does not bear or display a dated
21 postmark shall be presumed to have been timely mailed or delivered if
22 such ballot bears a time stamp of the receiving board of elections indi-
23 cating receipt by such board on the day after the election.

24 2. Early mail ballots received by the board of elections shall be
25 retained at the board of elections and cast and canvassed pursuant to
26 the provisions of section 9-209 of this chapter.

27 § 8-712. Online early mail ballot tracking system. 1. The state board
28 of elections shall establish and maintain an electronic early mail
29 ballot tracking system. In accordance with technical specifications
30 provided by the state board of elections, each local board of elections
31 shall maintain an early mail ballot tracking system integrated with the
32 state board's system, and which may be integrated with the United States
33 postal service tracking system, to allow a voter who has submitted an
34 application for an early mail ballot to track the status of an early
35 mail ballot application and an early mail ballot on the state board or
36 local board website.

37 2. Such website shall not require users to create an account but shall
38 require verification that the user is accessing their own record through
39 the inclusion of data identifying the voter and the board of elections
40 at which the voter is registered, and any other information required by
41 the state board of elections.

42 3. The ballot tracking system shall indicate to the voter if the
43 board:

- 44 (a) received such voter's application for an early mail ballot;
- 45 (b) approved or rejected such application and, if rejected, an indi-
46 cation of the reason for such rejection;
- 47 (c) mailed or delivered an early mail ballot to such voter, the date
48 of such mailing or delivery, and the expected date of receipt;
- 49 (d) received the ballot back as undeliverable;
- 50 (e) received such voter's completed early mail ballot;
- 51 (f) determined the ballot envelope was subject to a cure; and
- 52 (g) counted or rejected such voter's completed early mail ballot and,
53 if rejected, a brief statement of the reason for rejection.

54 4. The electronic early mail ballot tracking system shall be combined
55 on a single website with the electronic absentee ballot tracking system
56 created pursuant to section 8-414 of this article.

1 § 3. Paragraphs (c) and (d) of subdivision 2 of section 8-400 of the
2 election law, as separately amended by chapters 273 and 746 of the laws
3 of 2021, are amended to read as follows:

4 (c) All applications requesting an absentee ballot by mail or through
5 the electronic absentee ballot application transmittal system must be
6 received by the board of elections not later than the [fifteenth] tenth
7 day before the election for which a ballot is first requested. Applica-
8 tions for an absentee ballot that will be delivered in person at the
9 board of elections to the voter or to an agent of the voter must be
10 received by such board not later than the day before such election.

11 (d) The board of elections shall mail an absentee ballot to every
12 qualified voter otherwise eligible for such a ballot, who requests such
13 an absentee ballot from such board of elections in writing in a letter,
14 telefax indicating the address, phone number and the telefax number from
15 which the writing is sent or other written instrument, or an electronic
16 application submitted by the voter through the electronic absentee
17 ballot application transmittal system established by the state board of
18 elections, which is signed by the voter and received by the board of
19 elections not later than the [fifteenth] tenth day before the election
20 for which the ballot is first requested and which states the address
21 where the voter is registered and the address to which the ballot is to
22 be mailed; provided, however, a military voter may request a military
23 ballot or voter registration application or an absentee ballot applica-
24 tion in a letter as provided in subdivision three of section 10-106 of
25 this chapter; and provided further, a special federal voter may request
26 a special federal ballot or voter registration application or an absen-
27 tee ballot application in a letter as provided in paragraph d of subdivi-
28 sion one of section 11-202 of this chapter. The board of elections
29 shall enclose with such ballot a form of application for absentee ballot
30 if the applicant is registered with such board of elections.

31 § 4. The election law is amended by adding a new section 7-119 to read
32 as follows:

33 § 7-119. Ballots; early mail voters. 1. (a) Ballots for early mail
34 voters shall be, as nearly as practicable, in the same form as those to
35 be voted in the district on election day, except that such ballots need
36 not have a stub, and shall have the words "Early Mail Ballot", endorsed
37 thereon.

38 (b) All provisions of this chapter not inconsistent with this subdivi-
39 sion shall be applicable to early mail ballots prepared for counting by
40 a ballot scanner or by hand. The instructions for marking an early mail
41 ballot shall be provided and shall be substantially as follows, so that
42 they accurately reflect the ballot layout:

43 INSTRUCTIONS

44 Mark the (insert "oval" or "square") to the left of the name of your
45 choice. (Provide illustration of correctly-marked voting position here.)
46 To vote for a candidate whose name is not printed on the ballot, (insert
47 "mark the oval (or square) to the left of 'write-in' and print the name
48 clearly" or "print the name clearly in the box labeled 'write-in'),
49 staying within the box. Any mark or writing outside the spaces provided
50 for voting may void the entire ballot. You have a right to a replacement
51 ballot. If you make a mistake or want to change your vote, call the
52 board of elections at (insert phone number here) for instructions on how
53 to obtain a new ballot. The number of choices is listed for each
54 contest. Do not mark the ballot for more candidates than allowed. If you
55 do, your vote in that contest will not count.



1 (c) When a question or proposal is included on the ballot,
2 instructions substantially similar to those provided in subdivision
3 fifteen of section 7-104 of this article shall be included.

4 2. The determination of the appropriate county board of elections as
5 to the candidates duly designated or nominated for public office or
6 party position whose name shall appear on the early mail ballot and as
7 to ballot proposals to be voted on shall be made no later than the day
8 after the state board of elections issues its certification of those
9 candidates to be voted for at the general, special or primary election.
10 The determinations of the state board of elections and the respective
11 county boards of elections shall be final and conclusive with respect to
12 such offices for which petitions or certificates are required to be
13 filed with such boards, as the case may be but nothing contained in this
14 section shall prevent a board of elections, or a court of competent
15 jurisdiction from determining at a later date that any such certifi-
16 cation, designation or nomination is invalid and, in the event of such
17 later determination, no vote cast for any such nominee by any voter
18 shall be counted at the election.

19 3. There shall be three envelopes for each early mail ballot issued by
20 mail: the inner affirmation envelope into which a voter places their
21 voted ballot, the outer envelope which shall be addressed to the early
22 mail voter, and the mailing envelope which is addressed to the county
23 board of elections. The board of elections shall furnish with each early
24 mail ballot an inner affirmation envelope. On one side of the envelope
25 shall be printed:

26 OFFICIAL EARLY MAIL BALLOT
27 for
28 GENERAL (OR PRIMARY OR SPECIAL) ELECTION,

29, 20.....

30 Name of voter
31 Residence (street and number if any)
32 City/or town of (village, if any)
33 County of

34 Assembly District
35 Legislative District (as applicable)
36 Ward (as applicable)
37 Election District
38 Party Enrollment (in case of primary election)

39 4. The date of the election, name of the county, and name of a city,
40 if there be a separate ballot for city voters, shall be printed, and the
41 name of the voter, residence, number of the assembly district, if any,
42 name of town, number of ward, if any, election district and party
43 enrollment, if required, shall be either printed or written or stamped
44 in by the board.

45 5. There shall also be a place for two board of elections staff
46 members or inspectors of opposite political parties to indicate, by
47 placing their initials thereon, that they have checked and marked the
48 voter's poll record and a box labeled "BOE use only" for notations
49 required when the board of elections reviews affirmation ballot envel-
50 opes pursuant to section 9-209 of this chapter.

51 6. On the reverse side of such inner affirmation envelope shall be
52 printed the following statement:

1

AFFIRMATION

2 I do declare that I am a citizen of the United States, that I am duly
3 registered in the election district shown on the reverse side of this
4 envelope and I am qualified to vote in such district; that I have not
5 qualified nor do I intend to vote elsewhere, that I have not committed
6 any act nor am I under any impediment which denies me the right to vote.

7 I hereby declare that the foregoing is a true statement to the best of
8 my knowledge and belief, and I understand that if I make any material
9 false statement in the foregoing statement of early mail voter, I shall
10 be guilty of a misdemeanor.

11 Date 20

12
13 Signature or mark of voter

14
15 Signature of Witness
16 (required only if voter
17 does not sign their own
18 name)

19
20 Address of Witness

21 7. The inner affirmation envelope shall be gummed, ready for sealing,
22 and shall have printed thereon, on the side opposite the statement,
23 instructions as to the duties of the voter after the marking of the
24 ballot, which instructions shall include a specific direction stating
25 when such ballot must be postmarked and when such ballot must reach the
26 office of the board of elections in order to be canvassed.

27 8. Each inner affirmation ballot envelope shall be enclosed in an
28 outer envelope addressed to the appropriate board of elections and bear-
29 ing on it a specific direction that if an original application for an
30 early mail ballot is received with the ballot, such application must be
31 completed by the voter and returned in the outer envelope together with
32 the sealed inner affirmation envelope containing the early mail ballot
33 within the time limits for receipt of the early mail ballot itself. Such
34 inner affirmation envelope and outer envelope shall be enclosed in the
35 third envelope addressed to the early mail voter. The outer and third
36 envelopes shall have printed on the face thereof the words "Election
37 Material--Please Expedite".

38 § 5. The election law is amended by adding a new section 15-119 to
39 read as follows:

40 § 15-119. Early mail voting at village elections. 1. A registered
41 voter of a village may vote by early mail ballot under this section for
42 a general or special village election in which the voter is eligible to
43 vote.

44 2. A registered voter desirous of obtaining an early mail ballot shall
45 make written application therefor to the village clerk. Application
46 forms for use pursuant to this section shall be in a form prescribed by
47 the state board of elections. The use of any application which is on a
48 form prescribed by the state board of elections shall be acceptable.

49 3. An application for an early mail ballot must be signed by the
50 applicant. If a person entitled to an early mail ballot is unable to

1 sign their application because of illness, physical disability or
 2 inability to read, they shall be excused from signing upon making a
 3 statement, in substantially the following form, which shall be witnessed
 4 by one person: "I hereby state that I am unable to sign my application
 5 for an early mail ballot without assistance because I am unable to write
 6 by reason of illness or physical disability or because I am unable to
 7 read. I have made, or have received assistance in making, my mark in
 8 lieu of my signature."

9

10 (Date)

11

12 (Mark)

13

14 (Name of Voter)

15 "I, the undersigned, hereby certify that the above named voter affixed
 16 their mark to this application in my presence and I know them to be the
 17 person who affixed their mark to said application and understand that
 18 this statement will be accepted for all purposes as the equivalent of an
 19 affidavit and if it contains a material false statement, shall subject
 20 me to the same penalties as if I had been duly sworn."

21

22 (Signature of Witness)

23

24 (Address of Witness)

25 Such statement shall be included in the application blank form furnished
 26 by the village clerk.

27 4. The application for an early mail ballot when filed must contain in
 28 each instance the following information:

29 (a) Applicant's full name, date of birth, and residence address,
 30 including the street and number, if any, rural delivery route, if any,
 31 mailing address if different from the residence address and their
 32 village and an address to which the ballot shall be mailed.

33 (b) A statement that the applicant is a registered voter.

34 (c) Such application shall permit the applicant to apply for an early
 35 mail ballot for a single election or for all remaining elections in the
 36 calendar year for which the voter is eligible to vote.

37 5. The application for an early mail ballot shall also provide the
 38 applicant the opportunity to provide their telephone number and e-mail
 39 address.

40 6. Printed forms containing the application for the early mail ballot,
 41 in accordance with the requirements of this section, shall be in the
 42 form prescribed by the state board of elections and shall be provided by
 43 the village clerk and shall be available at the office of the clerk.
 44 Application forms for early mail ballots for use pursuant to this
 45 section shall be furnished by the village clerk upon request of the
 46 person authorized to vote under this section or by any such person's
 47 spouse, parent, child, authorized agent or any nurse charged with the
 48 care of such person.

49 7. An application must be received by the village clerk no earlier
 50 than four months before the election for which an early mail ballot is
 51 sought, except as provided in paragraph (c) of subdivision four of this
 52 section. If the application requests that the early mail ballot be
 53 mailed, such application must be received not later than seven days

1 before the election. If the applicant or their agent delivers the appli-
2 cation to the village clerk in person, such application must be received
3 not later than the day before the election. The village clerk shall
4 examine each application. If the application is complete, the applicant
5 is a registered voter of the village at the address listed in the appli-
6 cation, and the applicant is eligible to vote in the election, the
7 application shall be deemed accepted.

8 8. No later than six days before the election for which an application
9 has been received and accepted by the village clerk, the village clerk
10 shall mail, by regular mail, an early mail ballot to each applicant who
11 has applied before such day and who has requested that such early mail
12 ballot be mailed to them at the address set forth in their application.
13 If the applicant or their agent delivers the application to the village
14 clerk in person after the seventh day before the village election and
15 not later than the day before the election, the village clerk shall
16 forthwith deliver such early mail ballots for those applicants whom they
17 determine are qualified to make such applications and to receive such
18 ballots to such applicants or the agents named in the applications when
19 such applicants or agents appear in the village clerk's office.

20 9. The early mail ballot shall be caused to be prepared and printed by
21 the village clerk as provided by law for paper ballots or machine
22 ballots, whichever are to be used in said election and appropriate
23 modifications for the purposes of this section. The village clerk shall
24 also cause to be prepared and printed return envelopes addressed to
25 themselves, conforming so far as may be practicable to the provisions of
26 this chapter stating thereon that in order for the ballot contained
27 therein to be counted it must be received by the village clerk not later
28 than the close of the polls on election day. On the reverse side of each
29 return envelope there shall be written instructions for the voter to
30 insert at designated places their signature, their name printed, their
31 residence address within the village and their village election district
32 if there be more than one district within the village.

33 10. The method of marking, preparing and mailing such ballot for
34 voting shall conform, wherever practicable, to the methods used for
35 early mail ballots for a general election, except that the envelope in
36 which it is contained shall be returned to the village clerk. On the day
37 of the election, the village clerk shall deliver all such ballots, which
38 have been returned to them, in the sealed envelopes to the board of
39 inspectors of election of the proper election district. No such ballot
40 shall be deemed to have been voted unless or until it shall have been
41 delivered to the board of inspectors of election of the election
42 district in which the elector casting the ballot resides and shall have
43 been deposited by the chairman of such board in the box provided for
44 receiving such ballot.

45 11. When such ballots shall have been delivered to the board of
46 inspectors of election of the proper election district and shall have
47 been duly determined by such board to have been lawfully cast by a qual-
48 ified elector of such district, the chairman of such board shall, after
49 the close of the polls, open the envelopes containing such ballots and,
50 without unfolding such ballots or permitting the face thereof to be
51 exposed to the view of anyone, shall deposit each such ballot in a box
52 specifically furnished for such purpose by the village clerk. If the
53 board of inspectors shall determine that any such ballot has been cast
54 by an elector who would not be qualified under the provisions of this
55 section, then such ballot shall not be counted.

1 12. After all the ballots shall have been deposited, the box shall be
2 opened and such ballots canvassed in the same manner as other ballots
3 cast at such election and shall be counted and included in the total of
4 all ballots cast at such election.

5 § 6. Paragraph b of subdivision 2 of section 15-124 of the election
6 law is amended to read as follows:

7 b. the investigation of any registrant or any applicant for an early
8 mail or absentee ballot to determine his or her qualifications to be
9 registered or vote, and

10 § 7. Subdivision 4 of section 3-108 of the election law is amended to
11 read as follows:

12 4. Only those persons duly registered to vote upon the original date
13 of the general election who did not vote on such date shall be entitled
14 to vote on the additional day for voting. Voting on the additional day
15 provided for in this section shall be accomplished solely by physically
16 appearing at the polling place and nothing contained in this section
17 shall be construed to extend the time set by law for casting or canvass-
18 ing a military, early mail, absentee or special presidential ballot;
19 provided, however, that nothing contained herein shall be deemed to
20 invalidate any early mail, absentee, military or special presidential
21 ballot duly received on the original date of the general election.

22 § 8. Subdivision 3 of section 3-222 of the election law, as amended by
23 chapter 282 of the laws of 2011, is amended to read as follows:

24 3. Except as hereinafter provided, packages of protested, void and
25 wholly blank ballots, open packages of unused ballots and all early
26 mail, absentee and military, special federal, special presidential and
27 emergency ballots and ballot envelopes, if any, opened or unopened,
28 shall be preserved for two years after the election. Sealed packages of
29 unused ballots shall be retained for four months, and may then be
30 destroyed, provided a certificate articulating the election district
31 identifying data and numbers of such ballots is filed with the balance
32 of ballots described in this section, for the balance of the two year
33 retention period. Except as hereinafter provided, boxes containing voted
34 paper ballots, if any shall be preserved inviolate for four months after
35 the election, or until one month before the next election occurring
36 within five months after a preceding election if such boxes are needed
37 for use at such next election and if the officer or board in charge of
38 such voted paper ballots is required by law to furnish ballot boxes
39 therefor. Provided, however, that such ballot boxes and such packages
40 may be opened, and their contents and the early mail, absentee and mili-
41 tary, special federal, special presidential and emergency ballots and
42 ballot envelopes may be examined, upon the order of any court or justice
43 of competent jurisdiction. Boxes and envelopes containing early mail,
44 absentee, military and emergency ballots voted at a general or special
45 election, for the office of member of the senate or assembly, packages
46 of void, protested and wholly blank ballots, unopened early mail, absen-
47 tee and military ballot envelopes and the packages of unused ballots, in
48 connection with such election, also may be opened, and their contents
49 and such envelopes also may be examined, by direction of a committee of
50 the senate or assembly to investigate and report on contested elections
51 of members of the legislature. Unless otherwise ordered or directed by
52 such a court, justice or committee, such boxes shall be opened and their
53 contents and such packages and the envelopes containing voted ballots
54 and ballot envelopes shall be destroyed, at the expiration of the period
55 during which they are required by the provisions of this section to be
56 preserved, except that instead of being destroyed, they may be sold and

1 the proceeds paid over in the manner provided with respect to the sale
2 of books, records and papers pertaining to an election.

3 § 9. Section 3-506 of the election law, as added by chapter 244 of the
4 laws of 2009, is amended to read as follows:

5 § 3-506. Boards of elections; voting materials in Russian. A board of
6 elections in a city of over one million shall provide the same informa-
7 tion in Russian that it provides in languages other than English on its
8 website. It shall also produce and disseminate citywide a booklet that
9 includes: (a) a voter registration form in English with instructions in
10 Russian; (b) instructions in Russian regarding the criteria and applica-
11 tion process for obtaining an early mail or absentee ballot; and (c) a
12 section with general voter information in Russian including frequently
13 asked questions. Such board may include other languages on its website
14 and in such booklet.

15 § 10. Subdivision 1 of section 4-117 of the election law, as amended
16 by chapter 175 of the laws of 2022, is amended to read as follows:

17 1. The board of elections, between the third Tuesday in April and the
18 second Friday in May in each year, shall send by mail on which is
19 endorsed such language designated by the state board of elections to
20 ensure postal authorities do not forward such mail but return it to the
21 board of elections with forwarding information, when it cannot be deliv-
22 ered as addressed and which contains a request that any such mail
23 received for persons not residing at the address be dropped back in the
24 mail, a communication, in a form approved by the state board of
25 elections, to every registered voter who has been registered without a
26 change of address since the beginning of such year, except that the
27 board of elections shall not be required to send such communications to
28 voters in inactive status. The communication shall notify the voter in
29 bold print contained in such notice of the days and hours of the ensuing
30 primary and general elections, the place where he or she appears by his
31 or her registration records to be entitled to vote, and also in other
32 than bold type of the fact that voters who have moved or will have moved
33 from the address where they were last registered must either notify the
34 board of elections of his or her new address or vote by paper ballot at
35 the polling place for his or her new address even if such voter has not
36 re-registered, or otherwise notified the board of elections of the
37 change of address. If the primary will not be held on the first Tuesday
38 after the second Monday in September, the communication shall contain a
39 conspicuous notice in all capital letters and bold font notifying the
40 voter of the primary date. If the location of the polling place for the
41 voter's election district has been moved, the communication shall
42 contain the following legend in bold type: "YOUR POLLING PLACE HAS BEEN
43 CHANGED. YOU NOW VOTE AT.....". The communication shall indicate
44 that any registered voter may vote early by mail by applying for an
45 early mail ballot, and provide information on how to apply for an early
46 mail ballot. The communication shall also indicate whether the polling
47 place is accessible to physically disabled voters, that a voter who will
48 be out of the city or county on the day of the primary or general
49 election or a voter who is ill or physically disabled may obtain an
50 absentee ballot, that a physically disabled voter whose polling place is
51 not accessible may request that his registration record be moved to an
52 election district which has a polling place which is accessible, the
53 phone number to call for applications to move a registration record or
54 for early mail or absentee ballot applications, the phone number to call
55 for the location of registration and polling places, the phone number to
56 call to indicate that the voter is willing to serve on election day as

1 an election inspector, poll clerk, interpreter or in other capacities,
2 the phone number to call to obtain an application for registration by
3 mail, and such other information concerning the elections or registra-
4 tion as the board may include. In lieu of sending such communication to
5 every registered voter, the board of elections may send a single commu-
6 nication to a household containing more than one registered voter,
7 provided that the names of all such voters appear as part of the address
8 on such communication.

9 § 11. Subdivision 1 of section 4-119 of the election law, as amended
10 by chapter 992 of the laws of 1984, is amended to read as follows:

11 1. The board or body authorized to designate places for registration
12 in any city, other than the city of New York, shall publish on each day
13 of registration a list of the places for registration designated within
14 such city in two newspapers published in such city. The lists shall
15 refer to the election districts by their numbers and wards or assembly
16 districts. Such lists shall identify those polling places which do not
17 provide access to handicapped voters. The board of elections of the city
18 of New York shall publish in at least two newspapers in such city, a
19 notice, at least one-half page in size, in English and such other
20 languages as such board deems appropriate which shall set forth the
21 dates and hours of registration and the phone number to call for infor-
22 mation about location of polling places, their accessibility to the
23 handicapped, applications for early mail and absentee ballots and any
24 other subjects which such board deems appropriate. So far as is consist-
25 ent with the provisions of this section, one of such newspapers in each
26 such city or, in each county of the city of New York, shall represent
27 each of the major political parties and shall have a large circulation
28 affording wide publicity. If the newspaper is an evening newspaper the
29 notice shall be published on the last day, other than a Sunday, prior to
30 any such day of registration.

31 § 12. Subdivision 3 of section 4-120 of the election law, as amended
32 by chapter 359 of the laws of 1989, is amended to read as follows:

33 3. The board of elections of the city of New York shall publish on the
34 eighth day before and the day before each general election, in at least
35 two newspapers in such city, a notice, at least one-half page in size,
36 in English and such other languages as such board deems appropriate,
37 which sets forth the dates and hours of the election and the phone
38 number to call for information about the location of polling places,
39 their accessibility to the handicapped, applications for early mail and
40 absentee ballots and any other subjects which such board deems appropri-
41 ate.

42 § 13. Subdivision 9 of section 5-210 of the election law, as amended
43 by chapter 113 of the laws of 2023, is amended to read as follows:

44 9. The county board of elections shall, as soon as practicable and in
45 any event, not later than seven days after receipt by it of the applica-
46 tion, verify the identity of the applicant. In order to do so, the coun-
47 ty board of elections shall utilize the information provided in the
48 application and shall attempt to verify such information with the infor-
49 mation provided by the department of motor vehicles, social security
50 administration and any other lawful available information source. If the
51 county board of elections is unable to verify the identity of the appli-
52 cant within seven days of the receipt of the application, it shall imme-
53 diately take steps to confirm that the information provided by the
54 applicant was accurately utilized by such county board of elections, was
55 accurately verified with other information sources and that no data
56 entry error, or other similar type of error, occurred. Following

1 completion of the preceding steps, the county board of elections shall
2 mail (a) a notice of its approval, (b) a notice of its approval which
3 includes an indication that such board has not yet been able to verify
4 the identity of the applicant and a request for more information so that
5 such verification may be completed, or (c) a notice of its rejection of
6 the application to the applicant in a form approved by the state board
7 of elections. Notices of approval, notices of approval with requests for
8 more information or notices of rejection shall be sent by nonforwardable
9 first class or return postage guaranteed mail on which is endorsed such
10 language designated by the state board of elections to ensure postal
11 authorities do not forward such mail but return it to the board of
12 elections with forwarding information, when it cannot be delivered as
13 addressed and which contains a request that any such mail received for
14 persons not residing at the address be dropped back in the mail. The
15 voter's registration and enrollment shall be complete upon receipt of
16 the application by the appropriate county board of elections. The fail-
17 ure of a county board of elections to verify an applicant's identity
18 shall not be the basis for the rejection of a voter's application,
19 provided, however, that such verification failure shall be the basis for
20 requiring county board of elections to take the additional verification
21 steps provided by this chapter. The notice shall also advise the regis-
22 trant of the date when their registration and enrollment is effective,
23 of the date and the hours of the next regularly scheduled primary or
24 general election in which such registrant will be eligible to vote, of
25 the location of the polling place of the election district in which such
26 registrant is or will be a qualified voter, whether such polling place
27 is accessible to physically handicapped voters, an indication that any
28 registered voter may vote early by mail and information on how to obtain
29 an early mail ballot, that physically handicapped voters or voters who
30 are ill or voters who will be out of the city or county on the day of
31 the primary or general election, may obtain an absentee ballot and the
32 phone number to call for absentee ballot applications, the phone numbers
33 to call for location of polling places, to obtain registration forms and
34 the phone number to call to indicate that the voter is willing to serve
35 on election day as an inspector, poll clerk or interpreter. The notice
36 of approval, notice of approval with request for more information or
37 notice of rejection shall also advise the applicant to notify the board
38 of elections if there is any inaccuracy. The form of such mail notifica-
39 tion shall be prescribed by the state board of elections and shall
40 contain such other information and instructions as it may reasonably
41 require to carry out the purposes of this section. The request for more
42 information shall inform the voter that "THE FAILURE TO CONTACT THE
43 BOARD OF ELECTIONS AND CORRECT ANY INACCURACIES IN THE APPLICATION OR
44 PROVIDE REQUESTED ADDITIONAL INFORMATION MAY RESULT IN A REQUEST FOR
45 IDENTIFICATION AT THE POLLS IN ORDER TO CAST A VOTE ON A VOTING
46 MACHINE." If such notice is returned undelivered without a new address,
47 the board shall forthwith send such applicant a confirmation notice
48 pursuant to the provisions of section 5-712 of this article and place
49 such applicant in inactive status. The state board of elections shall
50 prepare uniform notices by this section as provided for in subdivision
51 eight of section 3-102 of this chapter.

52 § 14. Subdivision 18 of section 5-211 of the election law, as amended
53 by section 1 of subpart M of part XX of chapter 55 of the laws of 2020,
54 is amended to read as follows:

55 18. (a) (i) On or before January first, two thousand twenty, all
56 institutions of the state university of New York and the city university

1 of New York shall create and make available to all students a webpage
2 for voter education on each such institution's website, containing a
3 link to an application for voter registration, a link to an application
4 for an [absentee] early mail ballot, contact information for the county
5 board of elections, and the name and contact information for the admin-
6 istrator responsible for voter registration assistance on each campus.

7 (ii) Each such institution shall, at the beginning of the school year,
8 and again in January of a year in which the president of the United
9 States is to be elected, provide an application for voter registration
10 and an application for an [absentee] early mail ballot to each student
11 in each such institution. Each institution shall be considered in
12 compliance with the requirements of this subparagraph for each student
13 to whom the institution electronically transmits a message containing
14 the link to the webpage for voter education, the link to an application
15 for voter registration and the link to an application for an [absentee]
16 early mail ballot, if such information is in an electronic message
17 devoted exclusively to voter registration.

18 (iii) Each such institution shall provide the same degree of assist-
19 ance as required of participating agencies.

20 (b) The state university of New York and the city university of New
21 York, on behalf of each institution within its system, shall on or
22 before June first, two thousand twenty, and each subsequent year, submit
23 a report disaggregated according to each institution to the state board
24 of elections that includes:

25 (i) the efforts of the institution to register voters in the preceding
26 calendar year;

27 (ii) a date-stamped screen shot of the webpage for voter education
28 that contains the required information under paragraph (a) of this
29 subdivision;

30 (iii) the number of students who were registered for course work in
31 the preceding twelve months at such institution and the number of clicks
32 on the links to online voter registration and [absentee] early mail
33 ballot applications; and

34 (iv) any other efforts or recommendations the institution plans to
35 implement to improve access to voter registration and [absentee] early
36 mail ballot voting for students at the institution.

37 (c) The state board of elections shall make the reports provided
38 pursuant to paragraph (b) of this subdivision publicly available on its
39 website.

40 § 15. Subdivision 5 of section 5-215 of the election law, as amended
41 by chapter 375 of the laws of 2015, is amended to read as follows:

42 5. If a veterans health administration hospital in which any veteran
43 entitled to vote in this state is a resident or patient, is located
44 outside the State of New York, an application for an early mail or
45 absentee ballot signed by such veteran or his or her spouse, parent or
46 child accompanying or being with him or her, if a qualified voter and a
47 resident of the same election district, shall constitute permanent
48 personal registration.

49 § 16. Subdivision 1 of section 5-502 of the election law, as amended
50 by chapter 510 of the laws of 1985, is amended to read as follows:

51 1. The board of elections shall furnish in time for use by the boards
52 of inspectors of election, the registration records, an American flag, a
53 map or certified description of the election district, and the adjoining
54 election districts, challenge affidavits, early mail ballot applica-
55 tions, absentee voting applications, a list of voters who are currently
56 registered in the election district, a list of those voters who have

1 been cancelled in the last year with the reason for such cancellations,
2 forms for statements of temporary absence, a sufficient number of copies
3 of the ballot proposals to be submitted to the voters at the ensuing
4 election, at least one copy of the instruction booklet for inspectors
5 and all other forms and supplies required for the administration of the
6 registration system as provided by this article.

7 § 17. Paragraph i of subdivision 3 of section 5-614 of the election
8 law, as added by chapter 24 of the laws of 2005, is amended to read as
9 follows:

10 i. allow local boards of elections, using their own systems, to
11 perform essential election functions including but not limited to proc-
12 essing of early mail voters, absentee voters, administration of poll
13 workers and polling places, assignment of election jurisdictions based
14 on residence and address and other functions necessary for the conduct
15 of elections using voter registration information from the official
16 statewide voter registration list.

17 § 18. Subdivision 2-a and subparagraph (ii) of paragraph (e) of subdi-
18 vision 3 of section 8-302 of the election law, subdivision 2-a as added
19 by chapter 763 of the laws of 2021, and subparagraph (ii) of paragraph
20 (e) of subdivision 3 as amended by chapter 113 of the laws of 2023, are
21 amended to read as follows:

22 2-a. If a voter's name appears in the ledger or computer generated
23 registration list with a notation indicating that the board of elections
24 has issued the voter an early mail, absentee, military or special
25 ballot, such voter shall not be permitted to vote on a voting machine at
26 an early voting site or on election day but may vote by affidavit
27 ballot.

28 (ii) They may swear to and subscribe an affidavit stating that they
29 have duly registered to vote, the address in such election district from
30 which they registered, that they remain a duly qualified voter in such
31 election district, that their registration poll record appears to be
32 lost or misplaced or that their name and/or their signature was omitted
33 from the computer generated registration list or such record indicates
34 the voter already voted when they did not do so or that they have moved
35 within New York state since they last registered, the address from which
36 they were previously registered and the address at which they currently
37 reside, and at a primary election, the party in which they are enrolled.
38 The inspectors of election shall offer such an affidavit to each such
39 voter whose residence address is in such election district. Each such
40 affidavit shall be in a form prescribed by the state board of elections,
41 shall be printed on an envelope of the size and quality used for an
42 [absentee] early mail ballot envelope, and shall contain an acknowledg-
43 ment that the affiant understands that any false statement made therein
44 is perjury punishable according to law. Such form prescribed by the
45 state board of elections shall request information required to register
46 such voter should the county board determine that such voter is not yet
47 registered and shall constitute an application to register to vote. The
48 voter's name and the entries required shall then be entered without
49 delay and without further inquiry in the fourth section of the challenge
50 report or in the place provided in the computer generated registration
51 list, with the notation that the voter has executed the affidavit
52 hereinabove prescribed, or, if such person's name appears in such regis-
53 tration list, the board of elections may provide a place to make such
54 entry next to their name in such list. The voter shall then, without
55 further inquiry, be permitted to vote an affidavit ballot provided for
56 by this chapter. Such ballot shall thereupon be placed in the envelope

1 containing their affidavit, and the envelope sealed and returned to the
2 board of elections in the manner provided by this chapter for protested
3 official ballots, including a statement of the number of such ballots.

4 § 19. Section 8-502 of the election law, as amended by chapter 373 of
5 the laws of 1978, is amended to read as follows:

6 § 8-502. Challenges; generally. Before his vote is cast at an election
7 any person may be challenged as to his right to vote, or his right to
8 vote by early mail, absentee, military, special federal or special pres-
9 idential ballot. Such challenge may be made by an inspector or clerk, by
10 any duly appointed watcher, or by any registered voter properly in the
11 polling place. An inspector shall challenge every person offering to
12 vote, whom he shall know or suspect is not entitled to vote in the
13 district, and every person whose name appears on the list of persons to
14 be challenged on election day which is furnished by the board of
15 elections.

16 § 20. The section heading and subdivision 1 of section 8-506 of the
17 election law, the section heading as amended by chapter 8 of the laws of
18 1978 and subdivision 1 as amended by chapter 40 of the laws of 2009, are
19 amended to read as follows:

20 Challenges; early mail, absentee, military, special federal and
21 special presidential ballots. 1. During the examination of early mail,
22 absentee, military, special federal and special presidential voters'
23 ballot envelopes, any inspector shall, and any watcher or registered
24 voter properly in the polling place may, challenge the casting of any
25 ballot upon the ground or grounds allowed for challenges generally, or
26 (a) that the voter was not entitled to cast an early mail, absentee,
27 military, special federal or special presidential ballot, or (b) that
28 notwithstanding the permissive use of titles, initials or customary
29 abbreviations of given names, the signature on the ballot envelope does
30 not correspond to the signature on the registration poll record, or (c)
31 that the voter died before the day of the election. A challenge to an
32 early mail ballot may not be made on the basis that the voter should
33 have applied for an absentee ballot. A challenge to an absentee ballot
34 may not be made on the basis that the voter should have applied for an
35 early mail ballot.

36 § 21. Subdivisions 1 and 3 of section 9-124 of the election law, as
37 amended by chapter 437 of the laws of 2019, are amended to read as
38 follows:

39 1. After the returns of the canvass are made out and signed, the
40 inspectors shall enclose the ballot stubs, protested and void ballots
41 and the ballots cast in affidavit envelopes in separate sealed envelopes
42 or containers and endorse thereon a certificate signed by each of them
43 stating the number of the district and the number of ballots contained
44 in such envelopes or containers. The inspectors shall enclose the
45 unscanned voted ballots canvassed in accordance with section 9-110 of
46 this title in a separate sealed envelope or container and endorse there-
47 on a certificate signed by each of them stating the number of the
48 district, ballot scanner identification information and the number of
49 ballots contained in such envelope or container. The inspectors shall
50 then package and seal the other voted ballots and place them in one or
51 more boxes or containers, and include within such boxes or containers
52 one portable memory device from each ballot scanner pursuant to para-
53 graph (d) of subdivision two of section 9-102 of this title, and any
54 early mail, absentee, military, special federal, or special presidential
55 ballots which may have been delivered to the poll site during election
56 day, and securely lock and seal such boxes or containers. Notwithstand-

1 ing the preceding sentence, such portable memory device from each ballot
2 scanner with the corresponding results tape may be enclosed in a sealed
3 container and transported prior to and separately from other materials
4 referenced in this section for the purpose of using such device to
5 provide an unofficial tally of results as required by section 9-126 of
6 this title.

7 3. (a) Except in the city of New York, the registration poll records
8 or computer generated registration lists, the returns of canvass with
9 results tapes and tally sheets, if any, annexed, the voted ballots,
10 stubs, opened packages of unused ballots and ballot envelopes, any early
11 mail, absentee, military, special federal, or special presidential
12 ballots which may have been delivered to the poll site during election
13 day, the challenge report records, keys and the package of protested and
14 void ballots shall be filed with the board of elections.

15 (b) Records and supplies to be filed with a city, town or village
16 clerk shall be so filed or delivered immediately after the completion of
17 the returns of the canvass, by an inspector designated by the board of
18 inspectors. Returns, papers and registration poll records or computer
19 generated registration lists to be filed with the board of elections
20 shall be so filed by the chairman of the board of inspectors within
21 twenty-four hours after the completion of such returns. The person
22 receiving such returns in the board of elections shall give to the
23 person delivering the returns a receipt stating therein the date and
24 hour of delivery, the name of the person making the delivery, and to
25 whom said returns were delivered and shall keep a duplicate of said
26 receipt on file in the office of the board of elections.

27 (c) In the city of New York, the board of inspectors shall deliver to
28 police or peace officers designated by the police commissioner of such
29 city, at the polling place the registration poll records or computer
30 generated registration lists, challenge report, records, keys, other
31 election supplies, including two copies of the returns of the canvass
32 and any early mail, absentee, military, special federal, or special
33 presidential ballots which may have been delivered to the poll site
34 during election day, voted ballots, stubs, open packages of unused
35 ballots and ballot envelopes. Such police or peace officers shall file
36 the returns, the package of void and protested ballots, if any, and the
37 early mail, absentee, military, special federal, or special presidential
38 ballots which may have been delivered to the poll site during election
39 day; and emergency ballots, stubs and ballot envelopes, if any, within
40 twenty-four hours after the close of the polls, in the office of the
41 board of elections or its branch office within the borough, as the case
42 may be.

43 § 22. The section heading and opening paragraph, subdivision 1, the
44 subdivision heading and opening paragraph of subdivision 2, paragraphs
45 (a) and (b) of subdivision 4, the subdivision heading and paragraph (f)
46 of subdivision 6, paragraphs (a) and (k) of subdivision 7, the subdivi-
47 sion heading and paragraph (a) of subdivision 8 and subdivision 9 of
48 section 9-209 of the election law, as added by chapter 763 of the laws
49 of 2021, are amended to read as follows:

50 Canvass of early mail, absentee, military and special ballots, and
51 ballots cast in affidavit envelopes. Before completing the canvass of
52 votes cast in any primary, general, special, or other election at which
53 voters are required to sign their registration poll records before
54 voting, the board of elections shall proceed in the manner hereinafter
55 prescribed to review, cast and canvass early mail, any absentee, mili-
56 tary, special presidential, special federal or other special ballots and

1 any ballots cast in affidavit envelopes. Each such ballot shall be
2 retained in the original envelope containing the voter's affidavit and
3 signature, in which it is delivered to the board of elections until such
4 time as it is to be reviewed, in order to be cast and canvassed.

5 1. Central board of canvassers. Within four days of the receipt of an
6 early mail, absentee, military or special ballot, the board of elections
7 shall designate itself or such of its employees as it shall deem appro-
8 priate as a set of poll clerks to review such ballot envelopes. The
9 board may designate additional sets of poll clerks and if it designates
10 more than one such set shall apportion among all such sets the election
11 districts from which such ballots have been received, provided that when
12 reviewing ballots, all ballots from a single election district shall be
13 assigned to a single set of clerks, and that each such set shall be
14 divided equally between representatives of the two major political
15 parties. Each such set of clerks shall be deemed a central board of
16 canvassers for purposes of this section.

17 Review of early mail, absentee, military and special ballot envelopes.
18 Within four days of the receipt of an early mail, absentee, military or
19 special ballot before the election, and within one day of receipt on or
20 after the election, each central board of canvassers shall examine the
21 ballot affirmation envelopes as nearly as practicable in the following
22 manner:

23 (a) Such central board of canvassers shall review any federal write-in
24 absentee ballots validly cast by an early mail voter, an absentee voter,
25 a military voter or a special federal voter for the offices of president
26 and vice-president, United States senator and representative in
27 congress. Such central board of canvassers shall also review any federal
28 write-in absentee ballots validly cast by a military voter for all ques-
29 tions or proposals, public offices or party positions for which a mili-
30 tary voter is otherwise eligible to vote as provided in section 10-104
31 of this chapter.

32 (b) Federal write-in absentee ballots shall be deemed valid only if:
33 (i) an application for an early mail, absentee, military or special
34 federal ballot was received from the early mail, absentee, military or
35 special federal voter; (ii) the federal write-in absentee ballot was
36 submitted from inside or outside the United States by a military voter
37 or was submitted from outside the United States by a special federal
38 voter; (iii) such ballot is received by the board of elections not later
39 than thirteen days following the day of election or seven days after a
40 primary election; and (iv) the early mail, absentee, military or special
41 federal ballot which was sent to the voter is not received by the board
42 of elections by the thirteenth day following the day of a general or
43 special election or the seventh day after a primary election.

44 Casting and canvassing of early mail, absentee, military and special
45 ballots.

46 (f) Upon completing the casting and canvassing of any remaining valid
47 ballots as hereinabove provided for any election district, the central
48 board of canvassers shall thereupon, as nearly as practicable in the
49 manner provided in this article for early mail, absentee, military and
50 special ballots, verify the number of ballots so cast, tally the votes
51 so cast, add such tally to the previous tally of all votes cast in such
52 election district, and record the result.

53 (a) Within four business days of the election, the board of elections
54 shall review all affidavit ballots cast in the election. If the central
55 board of canvassers determines that a person was entitled to vote at
56 such election it shall cast and canvass such affidavit ballot; provided,

1 however, if the board of elections receives one or more timely early
2 mail or absentee ballots from a voter who also cast an affidavit ballot
3 at a poll site, the last such timely early mail or absentee ballot
4 received shall be canvassed and the affidavit ballot shall be set aside
5 unopened; and provided further, if a voter was issued an early mail or
6 absentee ballot and votes in person via an affidavit ballot and the
7 board does not receive such early mail or absentee ballot, the affidavit
8 ballot shall be canvassed if the voter is otherwise qualified to vote in
9 such election.

10 (k) The board of elections shall enter information into the ballot
11 tracking system, as defined in [section] sections 8-414 and 8-712 of
12 this chapter, to allow a voter who cast a ballot in an early voting or
13 affidavit envelope to determine if the vote was counted.

14 Post-election review of invalid early mail, absentee, military and
15 special ballots. (a) Within four business days of the election, the
16 board of elections shall designate itself or such of its employees to
17 act as a central board of canvassers as provided in subdivision one of
18 this section and meet to review early mail, absentee, military and
19 special ballots determined to be invalid pursuant to paragraph (a) of
20 subdivision two of this section, ballot envelopes that were returned to
21 the board as undeliverable, and ballot envelopes containing one or more
22 curable defects that have not been timely cured.

23 9. State board of elections; powers and duties for canvassing of early
24 mail, absentee, military, special and affidavit ballots. The state board
25 of elections shall promulgate rules and regulations necessary for the
26 implementation of the provisions of this section. Such rules and regu-
27 lations shall include, but not be limited to, provisions to (a) ensure
28 an efficient and fair review process that respects the privacy of the
29 voter, (b) ensure the security of the central count scanners used before
30 election day, and (c) ensure that ballots cast as provided in this
31 section are canvassed and counted as if cast on election day.

32 § 23. Section 10-122 of the election law, the section heading as
33 amended by chapter 373 of the laws of 1978, is amended to read as
34 follows:

35 § 10-122. Military voter: early mail or absentee ballot, right to. Any
36 military voter may vote by early mail ballot or absentee ballot rather
37 than military ballot provided that he complies with the provisions of
38 this chapter relating thereto.

39 § 24. Subdivision 2 of section 10-124 of the election law, as added by
40 chapter 262 of the laws of 2003, is amended to read as follows:

41 2. The state board of elections shall be responsible for providing
42 information regarding voter registration procedures and [absentee]
43 ballot procedures applicable to military and special federal voters
44 wishing to register or vote in any jurisdiction of the state.

45 § 25. Section 11-300 of the election law, as amended by chapter 163 of
46 the laws of 2010, is amended to read as follows:

47 § 11-300. Special ballots on account of religious scruples. A voter
48 may deliver to the inspectors of election of the election district in
49 which he is registered, or to the board of elections, at any time during
50 the period in which an application for early mail or absentee ballot may
51 be so delivered pursuant to the provisions of this chapter, a written
52 statement of religious scruples against voting at a polling place
53 located in a premises used for religious purposes. In the event the
54 polling place for any such voter's election district shall be located in
55 a premises used for religious purposes, the board of elections shall
56 permit such voter to cast a special ballot, at an office of such board

1 of elections, not earlier than one week before the election and not
2 later than the close of the polls on election day. Such ballots shall be
3 retained at the board of elections and cast and canvassed pursuant to
4 the provisions of section 9-209 of this chapter.

5 § 26. Subdivision 1 of section 11-306 of the election law, as amended
6 by chapter 150 of the laws of 2019, is amended to read as follows:

7 1. A voter may deliver to the board of elections, in person or by
8 mail, at any time during the period in which early mail or absentee
9 ballot applications may be delivered, a signed written statement swear-
10 ing or affirming:

11 (a) that he or she is the victim of domestic violence;

12 (b) that he or she has left his or her residence because of such
13 violence; and

14 (c) that because of the threat of physical or emotional harm to
15 himself or herself or to family or household members, he or she wishes
16 to cast a special ballot in the next election. The statement must
17 include the voter's address of registration. The board of elections
18 shall permit such a voter to cast a special ballot at an office of such
19 board of elections not later than the close of the polls on election
20 day, or by mail within the same time and in the same manner in which
21 early mail or absentee ballots may be cast, provided however that the
22 distribution of such ballots to such voters shall be timed to afford
23 such voters sufficient time to cast such ballots prior to the close of
24 the polls on election day. Such ballots shall be retained at the board
25 of elections and cast and canvassed pursuant to the provisions of
26 section 9-209 of this chapter.

27 § 27. Subdivisions 1 and 2 of section 11-308 of the election law, as
28 added by chapter 485 of the laws of 2016, are amended to read as
29 follows:

30 1. A registered voter who serves as an emergency responder in times of
31 emergency, as declared by the governor or a court of competent jurisdic-
32 tion, may apply to the board of elections by letter or special applica-
33 tion via mail, facsimile or e-mail, for a special ballot. Such applica-
34 tion or letter may be delivered to the board of elections at any time
35 prior to any election, without regard to deadlines for the receipt of
36 early mail or absentee ballot applications.

37 2. Emergency responders may utilize an early mail or absentee ballot
38 application to request a special ballot, or may file a written statement
39 that he or she will be unable to appear at the polling place on the day
40 of an election because his or her duties as an emergency responder
41 require such voter to be elsewhere. The emergency responder shall desig-
42 nate a preference for the receipt of a special ballot. The board of
43 elections shall provide such voter a special ballot immediately upon
44 such request, and shall utilize overnight express delivery for such mail
45 ballot delivery. If the designated preference is for facsimile or elec-
46 tronic transmission, the ballot shall be furnished in the same manner
47 applicable to military voters who request ballots in such format.

48 § 28. Section 15-100 of the election law, as amended by chapter 359 of
49 the laws of 1989, is amended to read as follows:

50 § 15-100. Application of article. This article applies to all general
51 and special village elections for officers and all the provisions of
52 this chapter, not inconsistent with this article, shall apply to all
53 village elections, except that if a village has adopted a resolution
54 pursuant to paragraph c of subdivision one of section 15-104 of this
55 article, the other provisions of this chapter governing the conduct of
56 elections and proceedings relating thereto, including the manner and

1 times for making nominations and proceedings relating to early mail and
2 absentee voting, and the provisions of this article not inconsistent
3 with other provisions of this chapter shall apply to such elections.

4 § 29. Subdivision 8 of section 15-118 of the election law, as amended
5 by chapter 217 of the laws of 1992, is amended to read as follows:

6 8. The village clerk shall furnish the inspectors of election, at
7 village expense, with all necessary registration books, papers, equip-
8 ment and supplies. The village clerk shall also deliver to the inspec-
9 tors a list of all persons who have applied for early mail or absentee
10 ballots for the election for which the registration meeting is being
11 held.

12 § 30. Subdivisions 1 and 5 of section 16-106 of the election law, as
13 amended by chapter 763 of the laws of 2021, are amended to read as
14 follows:

15 1. The post-election refusal to cast: (a) challenged ballots, blank
16 ballots, or void ballots; (b) early mail, absentee, military, special,
17 or federal write-in ballots; (c) emergency ballots; and (d) ballots
18 voted in affidavit envelopes may be contested in a proceeding instituted
19 in the supreme or county court, by any candidate or the chairman of any
20 party committee, and by any voter with respect to the refusal to cast
21 such voter's ballot, against the board of canvassers of the returns from
22 such district, if any, and otherwise against the board of inspectors of
23 election of such district. If the court determines that the person who
24 cast such ballot was entitled to vote at such election, it shall order
25 such ballot to be cast and canvassed, including if the court finds that
26 ministerial error by the board of elections or any of its employees
27 caused such ballot envelope not to be valid on its face.

28 5. In the event procedural irregularities or other facts arising
29 during the election suggest a change or altering of the canvass sched-
30 ule, as provided for in section 9-209 of this chapter, may be warranted,
31 a candidate may seek an order for temporary or preliminary injunctive
32 relief or an impound order halting or altering the canvassing schedule
33 of early mail, absentee, military, special or affidavit ballots. Upon
34 any such application, the board or boards of elections have a right to
35 be heard. To obtain such relief, the petitioner must meet the criteria
36 in article sixty-three of the civil practice law and rules and show by
37 clear and convincing evidence, that, because of procedural irregulari-
38 ties or other facts arising during the election, the petitioner will be
39 irreparably harmed absent such relief. For the purposes of this section,
40 allegations that opinion polls show that an election is close is insuf-
41 ficient to show irreparable harm to a petitioner by clear and convincing
42 evidence.

43 § 31. Subdivision 4 of section 16-108 of the election law is amended
44 to read as follows:

45 4. Such court, justice or judge, in a proceeding instituted by any
46 voter unlawfully denied an early mail or absentee ballot or the applica-
47 tion therefor, shall compel, by order, the delivery to such voter of a
48 ballot or application.

49 § 32. Subdivision 8 of section 17-132 of the election law is amended
50 and a new closing paragraph is added to read as follows:

51 8. Fraudulently signs the name of another upon an early mail or absen-
52 tee voter's envelope or aids in doing or attempting to do a fraudulent
53 act in connection with an early mail or absentee vote cast or attempted
54 to be cast; or,

1 § 33. Paragraph (b) of subdivision 1 of section 17-212 of the election
2 law, as added by chapter 226 of the laws of 2022, is amended to read as
3 follows:

4 (b) A violation of paragraph (a) of this subdivision shall be estab-
5 lished if:

6 (i) a person uses or threatens to use any force, violence, restraint,
7 abduction or duress, or inflicts or threatens to inflict any injury,
8 damage, harm or loss, or in any other manner practices intimidation that
9 causes or will reasonably have the effect of causing any person to vote
10 or refrain from voting in general or for or against any particular
11 person or for or against any proposition submitted to voters at such
12 election; to place or refrain from placing their name upon a registry of
13 voters; or to request or refrain from requesting an early mail or absen-
14 tee ballot; or

15 (ii) a person knowingly uses any deceptive or fraudulent device,
16 contrivance or communication, that impedes, prevents or otherwise inter-
17 feres with the free exercise of the elective franchise by any person, or
18 that causes or will reasonably have the effect of causing any person to
19 vote or refrain from voting in general or for or against any particular
20 person or for or against any proposition submitted to voters at such
21 election; to place or refrain from placing their name upon a registry of
22 voters; or to request or refrain from requesting an early mail or absen-
23 tee ballot; or

24 (iii) a person obstructs, impedes, or otherwise interferes with access
25 to any polling place or elections office, or obstructs, impedes, or
26 otherwise interferes with any voter in any manner that causes or will
27 reasonably have the effect of causing any delay in voting or the voting
28 process, including the canvassing and tabulation of ballots.

29 § 34. Subdivision 1 of section 1512 of the education law, as amended
30 by chapter 461 of the laws of 1996, is amended to read as follows:

31 1. Such meeting shall be organized as provided in section fifteen
32 hundred twenty-three. Such meeting may adopt a resolution to consolidate
33 such districts if two-thirds of the qualified electors of each district
34 having less than fifteen of such electors are present, or in case of
35 districts having fifteen or more qualified electors if ten or more are
36 present. The vote upon such resolution shall be by ballot or by taking
37 and recording the ayes and noes. If the vote shall be by taking and
38 recording the ayes and noes, the clerk and such assistants as may be
39 provided for him by the meeting shall keep a poll-list upon which shall
40 be recorded the names of all qualified electors voting upon the resol-
41 ution, the districts in which such electors reside, and how each elector
42 voted. If the vote shall be by ballot, one or more inspectors of
43 election shall be appointed in such manner as the meeting shall deter-
44 mine, who shall receive the votes cast, canvass the same and announce
45 the result of the ballot to the chairman. If the vote shall be by
46 ballot then voting machines may be used in the manner prescribed by
47 section two thousand thirty-five of this [chapter] title and provision
48 shall be made for absentee ballots as provided in section two thousand
49 eighteen-a or two thousand eighteen-b of this [chapter] title, whichever
50 shall apply, and early mail ballots as provided in section two thousand
51 eighteen-e or two thousand eighteen-f of this title, whichever shall
52 apply. If it shall appear that a majority of the qualified electors
53 present and voting from each district are in favor of such resolution,
54 it shall be declared adopted and where at least one of the districts
55 consolidated is a union free school district it shall be lawful for such
56 meeting thereafter to proceed to the election of a board of education as

1 provided in sections seventeen hundred two and seventeen hundred four of
2 this [chapter] title. If a majority of the qualified electors present
3 and voting from each district are not in favor of such resolution, all
4 further proceedings at such meeting, except a motion to reconsider or
5 adjourn, shall be dispensed with and no such meeting shall be again
6 called within one year thereafter.

7 § 35. Subdivision 5 of section 1522 of the education law, as amended
8 by chapter 461 of the laws of 1996, is amended to read as follows:

9 5. Whenever fifteen persons, entitled as aforesaid, from each of two
10 or more adjoining districts, shall unite in a request for a meeting of
11 the inhabitants of such districts, to determine whether such districts
12 shall be consolidated by the establishment of a union free school
13 district therein, it shall be the duty of the trustees of such
14 districts, or a majority of them, to submit such proposed consolidation
15 to the commissioner of education for approval. If the commissioner
16 approve such proposed consolidation, it shall be the duty of such trus-
17 tees, or a majority of them, to give public notice of such meeting, at
18 some convenient place within such districts, and as central as may be,
19 within the time and to be published and served in the manner set forth
20 in this section, in each of such districts and to provide for the use of
21 absentee ballots as provided under section two thousand eighteen-a or
22 two thousand eighteen-b of this [chapter] title, whichever shall apply,
23 and early mail ballots as provided in section two thousand eighteen-e or
24 two thousand eighteen-f of this title, whichever shall apply.

25 § 36. Subdivision 1 of section 1524 of the education law, as amended
26 by chapter 461 of the laws of 1996, is amended to read as follows:

27 1. Notwithstanding the provisions of this chapter or any other gener-
28 al, special, or local law to the contrary, whenever the qualified voters
29 of a school district which is contiguous to the city school district of
30 a city with less than one hundred twenty-five thousand inhabitants,
31 according to the latest federal census, by a majority vote taken at an
32 annual or special meeting of such district shall adopt a proposition to
33 consolidate such school district with such city school district, and the
34 board of education of such city school district shall by resolution duly
35 adopted consent thereto, the commissioner of education may by order
36 consolidate such school district with such city school district;
37 provided, however, that where several school districts are contiguous to
38 each other and at least one of such school districts is contiguous to
39 such city school district, such vote may be taken in each of such school
40 districts at the same time, and if the proposition to consolidate is
41 adopted by a majority vote in each such district, including any votes
42 cast by absentee ballot as provided under section two thousand eigh-
43 teen-a or two thousand eighteen-b of this [chapter] title, whichever
44 shall apply, and any votes cast by early mail ballots as provided in
45 section two thousand eighteen-e or two thousand eighteen-f of this
46 title, whichever shall apply, and upon the consent of the city school
47 district board of education, the commissioner of education may include
48 each such district in one order of consolidation; provided, further,
49 however, that if the proposition to consolidate is not adopted by a
50 majority vote in each such district, but is so adopted in one or more of
51 such districts, upon the consent of the city school district board of
52 education, the commissioner may include in one order of consolidation
53 only such district or districts as, either singly or as a group, are
54 contiguous to such city school district. Such order shall specify a date
55 on which the same shall take effect, and shall have the same effect as
56 an order made by a district superintendent dissolving two or more common

1 school districts and forming a new district therefrom, or dissolving one
2 or more common school districts and uniting the territory thereof to a
3 union free school district under the provisions of article thirty-one of
4 this [chapter] title. A copy of such order shall be filed with the
5 clerk of each school district affected thereby.

6 § 37. Subdivision 5 of section 1803 of the education law, as amended
7 by chapter 461 of the laws of 1996, is amended to read as follows:

8 5. Votes upon the adoption of a resolution shall be cast in the same
9 manner as votes for the election of school district trustees. The
10 commissioner of education may order such modifications in the manner of
11 voting as are customary for school district elections in the community
12 affected by such vote. Such modifications may include the use of voting
13 machines and shall include the use of absentee ballots as provided under
14 section two thousand eighteen-a or two thousand eighteen-b of this
15 [chapter] title, whichever shall apply, and early mail ballots as
16 provided in section two thousand eighteen-e or two thousand eighteen-f
17 of this title, whichever shall apply.

18 § 38. Paragraph f of subdivision 2 of section 1803-a of the education
19 law, as added by chapter 461 of the laws of 1996, is amended to read as
20 follows:

21 f. Provision shall be made for the use of absentee ballots as provided
22 under section two thousand eighteen-a or two thousand eighteen-b of this
23 [chapter] title, whichever shall apply, and early mail ballots as
24 provided under section two thousand eighteen-e or two thousand eigh-
25 teen-f of this title, whichever shall apply.

26 § 39. Subdivision 2 of section 1951 of the education law is amended by
27 adding a new paragraph t to read as follows:

28 t. The board of cooperative educational services shall provide early
29 mail ballots to qualified voters. The commissioner shall adopt regu-
30 lations for the purposes of implementing the provisions of this para-
31 graph which shall include, but not be limited to, creating the procedure
32 for which such early mail ballots shall be submitted; providing that
33 such early mail ballots shall be, as nearly as practicable, in the same
34 form as those voted at the district election; requiring that any early
35 mail ballot applicant is or will be, on the day of the vote, a qualified
36 voter of the board of cooperative educational services and that he or
37 she will be on such date over eighteen years of age, a citizen of the
38 United States and has or will have resided in said district for thirty
39 days next preceding such date; and providing instructions as to the
40 proper marking thereof.

41 § 40. Subdivision 7 of section 2004 of the education law, as added by
42 chapter 219 of the laws of 1978, is amended to read as follows:

43 7. Such notice shall also state that applications for early mail and
44 absentee ballots for election of board members may be applied for at the
45 office of the clerk of the district. Such notice, in such case, shall
46 further state that a list of all persons to whom early mail and absentee
47 ballots shall have been issued, will be available in the said office of
48 the clerk on each of the five days prior to the day of the election
49 except Sundays, and that such list will also be posted at the polling
50 place or places at the election of members of the board of education.

51 § 41. Subdivision 6 of section 2018-a of the education law, as amended
52 by chapter 29 of the laws of 2000, is amended to read as follows:

53 6. The board of registration shall make a list of all persons to whom
54 absentee voter's ballots shall have been issued and file such list in
55 the office of the clerk where it shall be available for public
56 inspection during regular office hours until the day of the election.

1 Any qualified voter may, upon examination of such list, file a written
2 challenge of the qualifications as a voter of any person whose name
3 appears on such list, stating the reasons for such challenge. A chal-
4 lenge to an absentee ballot may not be made on the basis that the voter
5 should have applied for an early mail ballot. Such written challenge
6 shall be transmitted by the clerk to the inspectors of election on
7 election day.

8 § 42. Subdivisions 3 and 7 of section 2018-b of the education law,
9 subdivision 3 as amended by chapter 46 of the laws of 1992 and subdivi-
10 sion 7 as amended by chapter 29 of the laws of 2000, are amended to read
11 as follows:

12 3. If, upon examining the application required under the provisions of
13 subdivision two of this section, and upon such inquiry as it deems prop-
14 er, the clerk of the school district or designee of the trustees or
15 school board shall be satisfied that the applicant is a qualified voter
16 of the district, and entitled to vote by absentee ballot, such clerk of
17 the school district or designee of the trustees or school board shall
18 cause to be issued or mailed to the applicant an absentee voter's ballot
19 and the clerk of the school district or designee of the trustees or
20 school board shall make an appropriate entry on the poll list pursuant
21 to section two thousand twenty-nine of this [article] part.

22 7. The clerk of the school district or designee of the trustees or
23 school board shall make a list of all persons to whom absentee voter's
24 ballots shall have been issued and maintain such list where it shall be
25 available for public inspection during regular office hours until the
26 day of the election. Any qualified voter may, upon examination of such
27 list, file a written challenge of the qualifications as a voter of any
28 person whose name appears on such list, stating the reasons for such
29 challenge. A challenge to an absentee ballot may not be made on the
30 basis that the voter should have applied for an early mail ballot. Such
31 written challenge shall be transmitted by the clerk or the designee of
32 the trustees or school board to the inspectors of election on election
33 day.

34 § 43. The education law is amended by adding a new section 2018-e to
35 read as follows:

36 § 2018-e. Early mail ballots for school district elections. 1. The
37 board of education of any union free, central or central high school
38 district which elects school board members by ballot and provides for
39 personal registration of voters, shall provide for early mail ballots
40 for the election of members of the board of education and school
41 district public library trustees, the adoption of the annual budget and
42 school district public library budget and referenda, in accordance with
43 the provisions of this section.

44 1-a. In counties with a population of one million or more, the board
45 of education of any union free, central or central high school district
46 which elects school board members by ballot and provides for personal
47 registration of voters shall provide for early mail ballots for the
48 election of members of the board of education and school district public
49 library trustees, the adoption of the annual budget and school district
50 public library budget and referenda, in accordance with the provisions
51 of this section.

52 2. a. A qualified voter may vote as an early mail voter under this
53 section.

54 b. Each person entitled to vote as an early mail voter pursuant to
55 this section and desirous of obtaining an early mail ballot shall make
56 written application therefor to the district clerk. Application forms

1 for use pursuant to this section shall be in a form prescribed by the
2 state board of elections. The use of any application which is on a form
3 prescribed by the state board of elections shall be acceptable.

4 c. The application for an early mail ballot when filed must contain in
5 each instance the following information:

6 (1) Applicant's full name, date of birth, and residence address,
7 including the street and number, if any, rural delivery route, if any,
8 mailing address if different from the residence address and an address
9 to which the ballot shall be mailed.

10 (2) A statement that the applicant is a qualified and registered
11 voter.

12 d. Such application shall include the following statement to be signed
13 by the voter:

14 I hereby declare that the foregoing is a true statement to the best of
15 my knowledge and belief, and I understand that if I make any material
16 false statement in the foregoing statement of application for early mail
17 ballot, I shall be guilty of a misdemeanor.

18 Date.....Signature of Voter

19 e. An application must be received by the district clerk no earlier
20 than the thirtieth day before the election for which an early mail
21 ballot is sought. If the application requests that the early mail ballot
22 be mailed, such application must be received not later than seven days
23 before the election. If the applicant or their agent delivers the appli-
24 cation to the district clerk in person, such application must be
25 received not later than the day before the election. The district clerk
26 shall examine each application and shall determine from the information
27 contained therein whether the applicant is qualified under this section
28 to receive an early mail ballot.

29 f. No later than six days before the election for which an application
30 has been received and for which the district clerk has determined the
31 applicant to be qualified to vote by early mail ballot the district
32 clerk shall mail, by regular mail, an early mail ballot to each quali-
33 fied applicant who has applied before such day and who has requested
34 that such early mail ballot be mailed to him or her at the address set
35 forth in their application. If the applicant or their agent delivers the
36 application to the district clerk in person after the seventh day before
37 the election and not later than the day before the election, the
38 district clerk shall forthwith deliver such early mail ballots for those
39 applicants whom he or she determines are qualified to make such applica-
40 tions and to receive such ballots to such applicants or the agents named
41 in the applications when such applicants or agents appear in the
42 district clerk's office.

43 3. If, upon examining the application required under the provisions of
44 subdivision two of this section, and upon such inquiry as it deems prop-
45 er, the board of registration shall be satisfied that the applicant is a
46 qualified voter of the district entitled to vote by early mail ballot,
47 such board shall place their name upon the register, thereupon the
48 applicant shall be issued or mailed an early mail voter's ballot and the
49 board of registration shall make an appropriate entry on the register
50 indicating that an early mail ballot has been applied for by, and issued
51 to, the applicant.

52 4. Ballots for early mail voters shall be, as nearly as practicable,
53 in the same form as those to be voted at the district election; if the
54 vote at such election shall be by ballot, the early mail ballot shall
55 conform to the regular ballot; if the vote of such election shall be by
56 voting machine, the early mail ballot shall conform as closely as possi-

ble to the manner in which the names of the candidates, the questions and the propositions appear on the voting machines, except that the early mail ballot shall also contain a space for a write-in or write-ins. Such early mail ballots shall also contain instructions as to the proper marking thereof, in accordance with the provisions of sections two thousand thirty-two and two thousand thirty-four of this part. On the back of such early mail ballots shall be printed the words "Official Ballot, Early Mail Voter".

5. a. The board of registration shall enclose each early mail voter's ballot in an envelope which shall be labelled:

ELECTION MATERIAL
PLEASE EXPEDITE

On one side of such envelope shall be printed:

OFFICIAL BALLOT, EARLY MAIL VOTER
for
School District Election

Name of Voter
Residence (street and number, if any)
City (or Town) of
County of
School District
School Election District (if applicable)

The date of the election and name of the school district shall be printed, and the name of the voter, residence, school district and school election district (if applicable) shall be written in by the board of registration.

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF EARLY MAIL VOTER

I do declare that I am a citizen of the United States, and will be at least eighteen years of age, on the date of the school district election; that I will have been a resident of this state and of the school district and school election district, if any, shown on the reverse side of this envelope for thirty days next preceding the said election and duly registered in the school district and school election district, if any, shown on the reverse side of this envelope and that I am or on such date will be, a qualified voter of said school district; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this school district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this school district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to register and vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material

1 false statement in the foregoing statement of early mail voter, I shall
2 be guilty of a misdemeanor.

3 Date Signature of Voter

4 c. The envelope shall be gummed, ready for sealing, and shall have
5 printed thereon, on the side opposite the statement, instructions as to
6 the duties of the voter after the marking of the ballot, which
7 instructions shall include a specific direction stating that the envel-
8 ope must reach the office of the clerk of the school district not later
9 than five P.M. on the day of the election in order that their vote may
10 be canvassed.

11 d. A person who shall make any material false statement in the state-
12 ment of early mail voter appearing on the reverse side of the envelope
13 as provided in this subdivision, shall be guilty of a misdemeanor.

14 6. The board of registration shall make a list of all persons to whom
15 early mail voter's ballots shall have been issued and file such list in
16 the office of the clerk where it shall be available for public
17 inspection during regular office hours until the day of the election.
18 Any qualified voter may, upon examination of such list, file a written
19 challenge of the qualifications as a voter of any person whose name
20 appears on such list, stating the reasons for such challenge. A chal-
21 lenge to an early mail voter may not be made on the basis that the voter
22 should have applied for an absentee ballot. Such written challenge shall
23 be transmitted by the clerk to the inspectors of election on election
24 day.

25 7. a. The board of registration shall be authorized to call upon the
26 commissioner of police and the officers and members of the police force
27 for such assistance in the enforcement of the provisions of this section
28 as such board shall require, and such commissioner and officers and
29 members of the police force shall be authorized to render such assist-
30 ance.

31 b. The board of registration may require any person to attend before
32 it at the office of the clerk of the school district and be examined by
33 the board as to any matter in relation to which such board is charged
34 with a duty under this section, and may issue a subpoena therefor. Each
35 member of such board shall be authorized to administer any oath that may
36 be required or authorized by law in this connection.

37 8. No early mail voter's ballot shall be canvassed, unless it shall
38 have been received in the office of the clerk of the school district not
39 later than five P.M. on the day of the election.

40 9. The clerk of the district shall, on the day of the election, trans-
41 mit all early mail voters' envelopes, received by them in accordance
42 with subdivision eight of this section, to the inspectors of election.

43 10. If, at the school district election, any early mail voters' envel-
44 opes shall have been received at the polling place, the inspectors of
45 election immediately after the closing of the polls shall examine them,
46 and shall compare the signature, if any, on each envelope with the
47 signature, if any, on the register, of the person of the same name who
48 registered from the same address. If the signatures are found to corre-
49 spond, the inspectors shall certify thereto by signing their initials
50 opposite the name of the voter at the appropriate place in the register.
51 If a person whose name is on an envelope as a voter, shall have already
52 voted in person at such school district election, or if their name,
53 residence and signature, as stated on the envelope, are not on the
54 register, or if there is no signature on the envelope, this envelope
55 shall be laid aside unopened and be returned unopened to the clerk of
56 the district. If such person is found to be registered and has not so

1 voted in person, and if no objection is made, or if an objection made be
2 not sustained, the envelope shall be opened and the ballot withdrawn
3 without unfolding and deposited in the proper box or boxes. At the time
4 of the deposit of such ballot, the inspectors shall enter the words
5 "early mail vote" at an appropriate place in the register.

6 11. During such examination any qualified voter present in the polling
7 place may object to the voting of the ballot contained in any envelope
8 upon the ground or grounds that the person named thereon is not a quali-
9 fied voter of the school district, or school election district (where
10 applicable). An inspector shall make such an objection if he shall know
11 or suspect that the person named on such envelope is not such a quali-
12 fied voter. The inspectors of election shall forthwith proceed to deter-
13 mine each objection including any written challenge transmitted to them
14 by the district clerk as provided in subdivision six of this section.
15 Unless the inspectors, by majority vote, shall sustain the objection,
16 the chairman, or if he refuses, another inspector shall endorse upon the
17 envelope the objection and the words "not sustained," shall sign such
18 endorsement, and shall open the envelope and deposit the ballot as
19 provided in this section. Should the inspectors, by majority vote,
20 sustain such objection, the objection and word "sustained" shall be
21 similarly endorsed upon the envelope, the envelope shall not be opened
22 nor the ballots therein canvassed, and such envelope shall be returned
23 unopened to the clerk of the district. If the inspectors of election
24 shall have received an envelope endorsed with the name of a person who
25 to the knowledge of the inspectors is deceased on the day of the
26 election, the inspectors shall return such envelope unopened to the
27 clerk of the district with the words "deceased--objection sustained"
28 endorsed on the envelope.

29 12. If the inspectors of election shall have received an envelope, and
30 upon opening the same no ballot shall be found therein, the inspectors
31 shall make a memorandum showing that the ballot is missing. When the
32 casting of early mail voters' ballots shall have been completed, the
33 inspectors shall ascertain the number of such ballots which have been
34 deposited in the ballot box by deducting from the number of envelopes
35 opened the number of missing ballots, and shall make a separate return
36 thereof in duplicate. The number of early mail voters' ballots deposited
37 in the ballot box shall be added to the number of other ballots deposit-
38 ed in the ballot box in order to determine the number of all ballots to
39 be accounted for in the ballot box. Such ballots shall then be counted
40 or canvassed by the inspectors of election along with the other ballots
41 cast at such school district election, or, where voting machines are
42 used, shall be added to the votes recorded on such machines.

43 13. Where the district shall have been divided into school election
44 districts pursuant to the provisions of this chapter, the provisions of
45 this section shall be applicable, provided that any reference in this
46 section to the term "board of registration" shall in such case refer to
47 the board of registration appointed by the board of education for each
48 school election district, except that paragraph b of subdivision seven
49 of this section shall apply according to its terms.

50 § 44. The education law is amended by adding a new section 2018-f to
51 read as follows:

52 § 2018-f. Early mail ballots for school district elections by poll
53 registration. 1. Notwithstanding the provisions of sections two thousand
54 fourteen and two thousand eighteen-e of this part, the trustees or the
55 board of education of any common, union free, central or central high
56 school district which does not provide for the personal registration of

1 voters for school district meetings and elections but which elects trus-
2 tees or school board members by ballot, shall provide for early mail
3 ballots for the election of the trustees or members of the board and
4 school district public library trustees, the adoption of the annual
5 budget and school district public library budget and referenda.

6 1-a. Notwithstanding the provisions of sections two thousand fourteen
7 and two thousand eighteen-e of this part, in any county with a popu-
8 lation of one million or more, the trustees or the board of education of
9 any common, union free, central or central high school district which
10 does not provide for the personal registration of voters for school
11 district meetings and elections but which elects trustees or school
12 board members by ballot shall provide for early mail ballots for the
13 election of the trustees or members of the board and school district
14 public library trustees, the adoption of the annual budget and school
15 district public library budget and referenda.

16 2. a. An applicant for such an early mail ballot shall submit an
17 application setting forth (1) their name and residence address, includ-
18 ing the street and number, if any, or town and rural delivery route, if
19 any; (2) that they are or will be, on the day of the school district
20 election, a qualified voter of the school district in which he resides
21 in that he is or will be, on such date, over eighteen years of age, a
22 citizen of the United States and has or will have resided in the
23 district for thirty days next preceding such date. Such application must
24 be received by the district clerk or designee of the trustees or school
25 board at least seven days before the election if the ballot is to be
26 mailed to the voter, or the day before the election, if the ballot is to
27 be delivered personally to the voter.

28 b. Such application shall include the following statement to be signed
29 by the voter.

30 I hereby declare that the foregoing is a true statement to the best of
31 my knowledge and belief, and I understand that if I make any material
32 false statement in the foregoing statement of application for early mail
33 ballot, I shall be guilty of a misdemeanor.

34 Date Signature of Voter

35 3. If, upon examining the application required under the provisions of
36 subdivision two of this section, and upon such inquiry as it deems prop-
37 er, the clerk of the school district or designee of the trustees or
38 school board shall be satisfied that the applicant is a qualified voter
39 of the district, and entitled to vote by early mail ballot, such clerk
40 of the school district or designee of the trustees or school board shall
41 cause to be issued or mailed to the applicant an early mail voter's
42 ballot and the clerk of the school district or designee of the trustees
43 or school board shall make an appropriate entry on the poll list pursu-
44 ant to section two thousand twenty-nine of this part.

45 4. The clerk of the school district or a designee of the trustees or
46 school board shall also mail an early mail ballot to every qualified
47 voter otherwise eligible for such ballot, who requests an early mail
48 ballot from such clerk or trustees or school board designee in a letter
49 which is signed by the voter and received by the clerk or trustees or
50 school board designee not earlier than the thirtieth day nor later than
51 the seventh day before the election for which the ballot is first
52 requested and which states the address where the voter resides and to
53 which the ballot is to be mailed. The clerk or designee of the trustees
54 or school board shall enclose with such ballot a form of application for
55 early mail ballot. The early mail ballot of a voter who requested such
56 ballot by letter, rather than application, shall not be counted unless a

1 valid application form, signed by such voter, is received by the clerk
2 of the school district or designee of the trustees or school board with
3 such ballot.

4 5. Ballots for early mail voters shall be, as nearly as practicable,
5 in the same form as those to be voted at the district election; if the
6 vote at such election shall be by ballot, the early mail ballot shall
7 conform to the regular ballot; if the vote of such election shall be by
8 voting machine, the early mail ballot shall conform as closely as possi-
9 ble to the manner in which the names of the candidates, the questions
10 and the propositions appear on the voting machines, except that the
11 early mail ballot shall also contain a space for a write-in or write-
12 ins. On the back of such early mail ballots shall be printed words
13 "Official Ballot, Early Mail Voter".

14 6. a. The clerk of the school district or designee of the trustees or
15 school board shall enclose each early mail voter's ballot in an envelope
16 which shall be labelled:

17 ELECTION MATERIAL
18 PLEASE EXPEDITE

19 On one side of such envelope shall be printed:

20 OFFICIAL BALLOT, EARLY MAIL VOTER

21 for

22 School District Election

23 Name of Voter

24 Residence (street and number, if any)

25 City (or Town) of

26 County of

27 School District

28 School Election District (if applicable)

29 The date of the election and name of the school district shall be
30 printed, and the name of the voter, residence, school district and
31 school election district (if applicable) shall be included.

32 b. On the reverse side of such envelope shall be printed the following
33 statement:

34 STATEMENT OF EARLY MAIL VOTER

35 I do declare that I am a citizen of the United States, and will be at
36 least eighteen years of age on the date of the school district election;
37 that I will have been a resident of this state and of the school
38 district and school election district, if any, shown on the reverse side
39 of this envelope for thirty days next preceding the said election and
40 that I am or on such date will be, a qualified voter of said school
41 district; that I have not qualified, or do I intend to vote, elsewhere
42 than as set forth on the reverse side of this envelope; that I have not
43 received or offered, do not expect to receive, have not paid, offered or
44 promised to pay, contributed, offered or promised to contribute to
45 another to be paid or used, any money or other valuable thing, as a
46 compensation or reward for the giving or withholding of a vote at this
47 school district election, and have not made any promise to influence the
48 giving or withholding of any such votes; that I have not made or become
49 directly or indirectly interested in any bet or wager depending upon the
50 result of this school district election; and that I have not been
51 convicted of bribery or any infamous crime, or, if so convicted, that I
52 have been pardoned or restored to all the rights of a citizen, without
53 restriction as to the right of suffrage, or have received a certificate
54 of relief from disabilities or a certificate of good conduct pursuant to

1 article twenty-three of the correction law removing my disability to
2 vote.

3 I hereby declare that the foregoing is a true statement to the best of
4 my knowledge and belief, and I understand that if I make any material
5 false statement in the foregoing statement of early mail voter, I shall
6 be guilty of a misdemeanor.

7 Date Signature of Voter

8 c. The envelope shall be gummed, ready for sealing, and shall have
9 printed thereon, on the side opposite the statement, instructions as to
10 the duties of the voter after the marking of the ballot, which
11 instructions shall include a specific direction stating that the envel-
12 ope must reach the office of the clerk of the school district or desig-
13 nee of the trustees or school board not later than five P.M. on the day
14 of the election in order that their vote may be canvassed.

15 d. A person who shall make any material false statement in the state-
16 ment of the early mail voter appearing on the reverse side of the envel-
17 ope as provided in this subdivision, shall be guilty of a misdemeanor.

18 7. The clerk of the school district or designee of the trustees or
19 school board shall make a list of all persons to whom early mail voter's
20 ballots shall have been issued and maintain such list where it shall be
21 available for public inspection during regular office hours until the
22 day of the election. Any qualified voter may, upon examination of such
23 list, file a written challenge of the qualifications as a voter of any
24 person whose name appears on such list, stating the reasons for such
25 challenge. A challenge to an early mail ballot may not be made on the
26 basis that the voter should have applied for an absentee ballot. Such
27 written challenge shall be transmitted by the clerk or the designee of
28 the trustees or school board to the inspectors of election on election
29 day.

30 8. a. The clerk of the school district or designee of the trustees or
31 school board shall be authorized to call upon the commissioner of police
32 and the officers and members of the police force for such assistance in
33 the enforcement of the provisions of this section as such trustees or
34 board shall require, and such commissioner and officers and members of
35 the police force shall be authorized to render such assistance.

36 b. The clerk of the school district or designee of the trustees or
37 school board may require any person to attend before it at the office of
38 the clerk of the school district or the office of the designee of the
39 trustees or school board and be examined by the trustees or board as to
40 any matter in relation to which such trustees or board is charged with a
41 duty under this section, and may issue a subpoena therefor. Each member
42 of such trustees or board shall be authorized to administer any oath
43 that may be required or authorized by law in this connection.

44 9. No early mail voter's ballot shall be canvassed, unless it shall
45 have been received in the office of the clerk of the school district or
46 designee of the trustees or school board not later than five P.M. on the
47 day of the election.

48 10. The clerk of the district or designee of the trustees or school
49 board shall, on the day of the election, transmit all early mail voters'
50 envelopes, received by him in accordance with subdivision eight of this
51 section, to the inspectors of election.

52 11. If a person whose name is on an envelope as a voter shall have
53 already voted in person at such school district election, or if there is
54 no signature on the envelope, this envelope shall be laid aside unopened

1 and be returned unopened to the clerk of the district or designee of the
2 trustees or school board. If such person has not so voted in person, and
3 if no objection is made, or if an objection made be not sustained, the
4 envelope shall be opened and the ballot withdrawn without unfolding and
5 deposited in the proper box or boxes.

6 12. If the inspectors of election shall have received an envelope, and
7 upon opening the same no ballot shall be found therein, the inspectors
8 shall make a memorandum showing that the ballot is missing. When the
9 casting of early mail voters' ballots shall have been completed, the
10 inspectors shall ascertain the number of such ballots which have been
11 deposited in the ballot box by deducting from the number of envelopes
12 opened the number of missing ballots, and shall make a separate return
13 thereof in duplicate. The number of early mail voters' ballots deposited
14 in the ballot box shall be added to the number of other ballots to be
15 accounted for in the ballot box. Such ballots shall then be counted or
16 canvassed by the inspectors of election along with the other ballots
17 cast at such school district election, or, where voting machines are
18 used, shall be added to the votes recorded on such machines.

19 § 45. Section 2613 of the education law, as amended by chapter 489 of
20 the laws of 2019, is amended to read as follows:

21 § 2613. Absentee, early mail, and military ballots. The board of
22 education of each city school district to which this article applies
23 shall provide for absentee ballots in accordance with the provisions of
24 section two thousand eighteen-a of this title, early mail ballots in
25 accordance with the provisions of section two thousand eighteen-e of
26 this title, and military ballots in accordance with section two thousand
27 eighteen-d of this title.

28 § 46. Subdivision 5 of section 84 of the town law, as amended by chap-
29 ter 281 of the laws of 1998, is amended to read as follows:

30 5. In order to assist boards of registration in the preparation of
31 their registers, the town clerk, prior to the first meeting of such
32 boards of registration, shall obtain from the board of elections of the
33 county in which such town is located, the list of names and addresses of
34 all voters registered with such board of elections on or before the
35 twenty-third day before such special election. The town clerk shall
36 deliver the names and addresses of qualified voters to the appropriate
37 board or boards of registration on or before the first meeting of such
38 board or boards. At the first and subsequent meetings of the board of
39 registration for each voting place designated by the town board for such
40 special town election, such board of registration shall place on the
41 register described in subdivision four hereof the names of all qualified
42 voters and all other qualified voters who personally appear, those
43 voters who have made application for early mail ballots, and those mili-
44 tary voters and such other voters who are absent by reason of confining
45 illness or physical disability or whose duties, occupation or business
46 required them to be outside of the state of New York, having the quali-
47 fications of voters prescribed in this section and who have made appli-
48 cation for absentee ballots as certified to them by the town clerk.

49 § 47. Paragraph a of subdivision 6 of section 84-a of the town law, as
50 added by chapter 396 of the laws of 1988, is amended to read as follows:

51 a. The town clerk shall make a list of all persons to whom absentee
52 voter's ballots shall have been issued and keep such list on file in his
53 office where it shall be available for public inspection during regular
54 office hours until the day of the election. Any qualified voter may,
55 upon examination of such list, file a written challenge of the quali-
56 fications as a voter of any person whose name appears on such list,



1 stating the reasons for such challenge. A challenge to an absentee
2 ballot may not be made on the basis that the voter should have applied
3 for an early mail ballot. Such written challenge shall be transmitted by
4 the town clerk to the inspectors of election on election day.

5 § 48. The town law is amended by adding a new section 84-b to read as
6 follows:

7 § 84-b. Early mail ballots for special town elections; special
8 provisions. 1. Early mail ballots shall be provided for all special town
9 elections for which personal registration is required.

10 2. a. An applicant for such an early mail ballot shall submit an
11 application setting forth (1) their name and residence address, includ-
12 ing the street and number, if any, or town and rural delivery route, if
13 any; (2) that they are or will be, on the day of the election, a quali-
14 fied voter of the town in which they reside; and (3) that they are
15 registered in the town. Such application must be received by the town
16 clerk at least seven days before the election if the ballot is to be
17 mailed to the voter, or the day before the election, if the ballot is to
18 be delivered personally to the voter or their agent.

19 b. Such application shall include the following statement to be signed
20 by the voter:

21 I hereby declare that the foregoing is a true statement to the best of
22 my knowledge and belief, and I understand that if I make any material
23 false statement in the foregoing statement of application for early mail
24 ballots, I shall be guilty of a misdemeanor.

25 Date Signature of Voter

26 3. If, upon examining the application required under the provisions of
27 subdivision two of this section, and upon such inquiry as it deems prop-
28 er, the board of inspectors shall be satisfied that the applicant is a
29 qualified voter of the town, and entitled to vote by early mail ballot,
30 such board of inspectors shall place their name upon a list, thereupon
31 the applicant shall be issued or mailed an early mail ballot and the
32 town clerk shall make an appropriate entry on the list indicating that
33 an early mail ballot has been applied for by, and issued to, the appli-
34 cant.

35 4. Ballots for early mail voters shall be, as nearly as practicable,
36 in the same form as those to be voted at the town election. On the back
37 of such early mail ballots shall be printed the words "Official Ballot,
38 Early Mail Voter".

39 5. a. The board of registration shall enclose each early mail voter's
40 ballot in an envelope which shall be labelled:

41 ELECTION MATERIAL

42 PLEASE EXPEDITE

43 On one side of such envelope shall be printed:

44 OFFICIAL BALLOT, EARLY MAIL VOTER

45 for

46 Special Town Election

47 Name of Voter

48 Residence (street and number, if any)

49 Town of

50 County of

51 The date of the election and name of the town shall be printed, and
52 the name of the voter, residence and district shall be written in by the
53 town clerk.

54 b. On the reverse side of such envelope shall be printed the following
55 statement:

STATEMENT OF EARLY MAIL VOTER

1
2 I do declare that I will have been a citizen of the United States for
3 thirty days, and will be at least eighteen years of age, on the date of
4 the special town election; that I will have been a resident of this
5 state and of the town shown on the reverse side of this envelope for
6 thirty days next preceding the said election; that I am or on such date
7 will be, a registered voter of said town; that I have not qualified, or
8 do I intend to vote, elsewhere than as set forth on the reverse side of
9 this envelope; that I have not received or offered, do not expect to
10 receive, have not paid, offered or promised to pay, contributed, offered
11 or promised to contribute to another to be paid or used, any money or
12 other valuable thing, as a compensation or reward for the giving or
13 withholding of a vote at this special town election, and have not made
14 any promise to influence the giving or withholding of any such votes;
15 that I have not made or become directly or indirectly interested in any
16 bet or wager depending upon the result of this special town election;
17 and that I have not been convicted of bribery or any infamous crime, or,
18 if so convicted, that I have been pardoned or restored to all the rights
19 of a citizen, without restriction as to the right of suffrage, or
20 received a certificate of relief from disabilities or a certificate of
21 good conduct pursuant to article twenty-three of the correction law
22 removing my disability to register and vote.

23 I hereby declare that the foregoing is a true statement to the best of
24 my knowledge and belief, and I understand that if I make any material
25 false statement in the foregoing statement of early mail voter, I shall
26 be guilty of a misdemeanor.

27 Date... Signature of Voter....

28 c. The envelope shall be gummed, ready for sealing, and shall have
29 printed thereon, on the side opposite the statement, instructions as to
30 the duties of the voter after the marking of the ballot, which
31 instructions shall include a specific direction stating that the envel-
32 ope must reach the office of the town clerk not later than five P.M. on
33 the day of the election in order that their vote may be canvassed.

34 d. A person who shall make any material false statement in the state-
35 ment of early mail voter appearing on the reverse side of the envelope
36 as provided in this subdivision, shall be guilty of a misdemeanor.

37 6. a. The town clerk shall make a list of all persons to whom early
38 mail voter's ballots shall have been issued and keep such list on file
39 in their office where it shall be available for public inspection during
40 regular office hours until the day of the election. Any qualified voter
41 may, upon examination of such list, file a written challenge of the
42 qualifications as a voter of any person whose name appears on such list,
43 stating the reasons for such challenge. A challenge to an early mail
44 ballot may not be made on the basis that the voter should have applied
45 for an absentee ballot. Such written challenge shall be transmitted by
46 the town clerk to the inspectors of election on election day.

47 b. Such list shall also be posted in a conspicuous place or places
48 during the election, and any qualified voter may challenge the accept-
49 ance of the early mail voter's ballot of any person on such list, by
50 making their challenge and the reasons therefor known to the inspectors
51 of election before the close of the polls.

52 7. a. The town clerk shall be authorized to call upon the commissioner
53 of police and the officers and members of the police force for such
54 assistance in the enforcement of the provisions of this section as he
55 shall require, and such commissioner and officers and members of the
56 police force shall be authorized to render such assistance.

1 b. The board of inspectors may require any person to attend before it
2 at the office of the town clerk of the district and be examined as to
3 any matter in relation to which such board is charged with a duty under
4 this section, and may issue a subpoena therefor. Each member of such
5 board of inspectors district shall be authorized to administer any oath
6 that may be required or authorized by law in this connection.

7 8. No early mail voter's ballot shall be canvassed, unless it shall
8 have been received in the office of the town clerk not later than five
9 P.M. on the day of the election.

10 9. The town clerk shall, on the day of the election, transmit all
11 early mail voters' envelopes, received by him in accordance with subdi-
12 vision eight of this section, to the inspectors of election.

13 10. If, at the election, any early mail voters' envelopes shall have
14 been received at the polling place, the inspectors of election imme-
15 diately after the closing of the polls shall examine them, and shall
16 compare the signature, if any, on each envelope with the signature, if
17 any, on the register, of the person of the same name who registered from
18 the same address. If the signatures are found to correspond, the inspec-
19 tors shall certify thereto by signing their initials opposite the name
20 of the voter at the appropriate place in the register. If a person whose
21 name is on an envelope as a voter, shall have already voted in person at
22 such special town election, or if their name, residence and signature,
23 as stated on the envelope, are not on the register, or if there is no
24 signature on the envelope, this envelope shall be laid aside unopened
25 and be returned unopened to the town clerk. If such person is found to
26 be registered and has not so voted in person, and if no objection is
27 made, or if an objection made be not sustained, the envelope shall be
28 opened and the ballot withdrawn without unfolding and deposited in the
29 proper box or boxes. At the time of the deposit of such ballot, the
30 inspectors shall enter the words "early mail vote" at an appropriate
31 place in the register.

32 11. During such examination any qualified voter present in the polling
33 place may object to the voting of the ballot contained in any envelope
34 upon the ground or grounds that the person named thereon is not a quali-
35 fied voter of the town. An inspector shall make such an objection if he
36 shall know or suspect that the person named on such envelope is not such
37 a qualified voter. The election inspectors shall forthwith proceed to
38 determine each objection including any written challenge transmitted to
39 them by the town clerk as provided in subdivision six of this section.
40 Unless the inspectors, by majority vote, shall sustain the objection,
41 the chairman, or if he refuses, another inspector shall endorse upon the
42 envelope the objection and the words "not sustained," shall sign such
43 endorsement, and shall open the envelope and deposit the ballot as
44 provided in this section. Should the inspectors, by majority vote,
45 sustain such objection, the objection and word "sustained" shall be
46 similarly endorsed upon the envelope, the envelope shall not be opened
47 nor the ballots therein canvassed, and such envelope shall be returned
48 unopened to the town clerk. If the inspectors of election shall have
49 received an envelope endorsed with the name of a person who to the know-
50 ledge of the inspectors is deceased on the day of the election, the
51 inspectors shall return such envelope unopened to the town clerk with
52 the words "deceased--objection sustained" endorsed on the envelope.

53 12. If the inspectors of election shall have received an envelope, and
54 upon opening the same no ballot shall be found therein, the inspectors
55 shall make a memorandum showing that the ballot is missing. When the
56 casting of early mail voters' ballots shall have been completed, the



1 inspectors shall ascertain the number of such ballots which have been
2 deposited in the ballot box by deducting from the number of envelopes
3 opened the number of missing ballots, and shall make a separate return
4 thereof in duplicate. The number of early mail voters' ballots deposited
5 in the ballot box shall be added to the number of other ballots deposit-
6 ed in the ballot box in order to determine the number of all ballots to
7 be accounted for in the ballot box. Such ballots shall then be counted
8 or canvassed by the inspectors of election along with the other ballots
9 cast at such district election, or, where voting machines are used,
10 shall be added to the votes recorded on such machines.

11 13. The provisions of this section shall apply to early mail ballots
12 in special town elections, notwithstanding any other provision of law.
13 The provisions of any other law as they relate to special town elections
14 not inconsistent herewith shall apply to the conduct of such elections.

15 § 49. Paragraph 1 of subdivision a of section 1053 of the New York
16 city charter, as amended by local law number 48 of the city of New York
17 for the year 2022, is amended to read as follows:

18 1. material explaining the date and hours during which the polls will
19 be open for that election; when, where, and how to register to vote;
20 when an eligible voter is required to reregister; when, where, and how
21 early mail and absentee ballots are obtained and used, instructions on
22 how to vote; information on the political subdivisions applicable to a
23 particular voter's address; and any other general information on voting
24 deemed by the board to be necessary or useful to the electorate or
25 otherwise consistent with the goals of this charter;

26 § 50. Paragraph 8 of subdivision b of section 1054 of the New York
27 city charter, as added by local law number 6 of the city of New York for
28 the year 2019, is amended to read as follows:

29 8. conduct yearly trainings for all relevant staff of the department
30 of correction. Such training shall include, at minimum, information on
31 voting laws for currently and formerly incarcerated individuals in the
32 state of New York, voter registration procedures, early mail and absen-
33 tee voting, and determining eligibility to vote.

34 § 51. Subdivision 9 of section 1057-a of the New York city charter, as
35 amended by chapter 322 of the laws of 2021, is amended to read as
36 follows:

37 9. In addition to the other requirements of this section, the depart-
38 ment of correction shall implement and administer a program of distrib-
39 ution and submission of early mail and absentee ballot applications, and
40 subsequently received early mail or absentee ballots, for eligible
41 incarcerated individuals. Such department shall offer, to all incarcer-
42 ated individuals who are registered to vote, early mail and absentee
43 ballot applications, and a means to complete them, during the period
44 from sixty days prior to any primary, special, or general election in
45 the city of New York until two weeks prior to any such election. Such
46 department shall subsequently provide any early mail or absentee ballot
47 received from the board of elections in response to any such application
48 to the applicable incarcerated individual, as well as a means to
49 complete it. Such department shall provide assistance to any such incar-
50 cerated individual in filling out such application or ballot upon
51 request. Such department shall, not later than five days after receipt,
52 transmit such completed applications and ballots from any incarcerated
53 individual who wishes to have them transmitted to the board of elections
54 for the city of New York. The provisions of this subdivision shall not
55 apply in any specific instance in which the department deems it unsafe
56 to comply therewith.

1 § 52. Paragraph 3 of subdivision a of section 1057-d of the New York
2 city charter, as added by local law number 64 of the city of New York
3 for the year 2016, is amended to read as follows:

4 (3) notification of the deadline for submission of [a] an early mail
5 voting application or a mailed absentee voting application for such
6 election, sent ten business days prior to such deadline; and

7 § 53. Subdivision a of section 1057-e of the New York city charter, as
8 added by local law number 65 of the city of New York for the year 2016,
9 is amended to read as follows:

10 a. allowing any registered voter who has submitted an application for
11 an early mail or absentee ballot, or who otherwise has a right to
12 receive an early mail or absentee ballot, for an upcoming election
13 pursuant to the election law to view the current status of their early
14 mail or absentee application and early mail or absentee ballot. Such
15 website and mobile application shall indicate for each such voter wheth-
16 er the board of elections in the city of New York has:

17 (1) received such voter's request for an early mail or absentee
18 ballot, if applicable;

19 (2) approved or rejected such request, if applicable, and, if
20 rejected, a brief statement of the reason for rejection;

21 (3) mailed or delivered an early mail or absentee ballot to such voter
22 for such upcoming election, and shall include the ability for such voter
23 to see the status of a mailed early mail or absentee ballot by United
24 States postal service intelligent mail barcode or successor technology;

25 (4) received such voter's completed early mail or absentee ballot for
26 such upcoming election; and

27 (5) determined that such voter's completed early mail or absentee
28 ballot was invalid, and, if such a finding was made, a brief statement
29 of the reason.

30 § 54. The last undesignated paragraph of subparagraph (a) of paragraph
31 3 of subdivision d of section 1057-g of the New York city charter, as
32 amended by local law number 3 of the city of New York for the year 2023,
33 is amended to read as follows:

34 You have a right to a replacement ballot. If you make a mistake, or
35 want to change your vote. (insert "ask a poll worker for a new ballot"
36 or, for early mail or absentee ballots, "call the board of elections at
37 (insert phone number here) for instructions on how to obtain a new
38 ballot").

39 § 55. This act shall take effect January 1, 2024 and shall apply to
40 any general, primary, run-off primary, or special election held there-
41 after.

S7394-A GIANARIS Same as A 7632-A Reyes

Election Law

TITLE....Establishes the "New York Early Mail Voter Act"

05/22/23 REFERRED TO ELECTIONS

06/01/23 AMEND AND RECOMMIT TO ELECTIONS

06/01/23 PRINT NUMBER 7394A

06/06/23 COMMITTEE DISCHARGED AND COMMITTED TO RULES

06/06/23 ORDERED TO THIRD READING CAL.1658

06/06/23 PASSED SENATE

06/06/23 DELIVERED TO ASSEMBLY

06/06/23 referred to election law

06/09/23 substituted for a7632a

06/09/23 ordered to third reading rules cal.800

06/09/23 passed assembly

06/09/23 returned to senate

09/19/23 DELIVERED TO GOVERNOR

09/20/23 SIGNED CHAP.481

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06/06/23 S7394-A Senate Vote Aye: 41 Nay: 21

Aye	Addabbo	Nay	Ashby	Aye	Bailey
Aye	Breslin	Aye	Brisport	Aye	Brouk
Aye	Chu	Aye	Cleare	Aye	Comrie
Exc	Felder	Aye	Fernandez	Nay	Gallivan
Aye	Gonzalez	Aye	Gounardes	Nay	Griffo
Nay	Helming	Aye	Hinchey	Aye	Hoylman-Sigal
Aye	Kavanagh	Aye	Kennedy	Aye	Krueger
Aye	Liu	Aye	Mannion	Aye	Martinez
Nay	Mattera	Aye	May	Aye	Mayer
Aye	Myrie	Nay	Oberacker	Nay	O'Mara
Nay	Palumbo	Aye	Parker	Aye	Persaud
Nay	Rhoads	Aye	Rivera	Nay	Rolison
Aye	Salazar	Aye	Sanders	Aye	Scarcella-Spanton
Aye	Serrano	Aye	Skoufis	Aye	Stavisky
Aye	Stewart-Cousins	Nay	Tedisco	Aye	Thomas
Aye	Webb	Nay	Weber	Nay	Weik

NYLS Note: 5 pages of debate

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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 6, 2023

3:11 p.m.

REGULAR SESSION

SENATOR ROXANNE J. PERSAUD, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

1 (Laughter.)

2 THE SECRETARY: Calendar Number
3 1658, Senate Print 7394A, by Senator Gianaris, an
4 act to amend the Election Law.

5 ACTING PRESIDENT MAYER: Senator
6 Borrello, why do you rise?

7 SENATOR BORRELLO: Madam President,
8 will the sponsor yield for a question.

9 ACTING PRESIDENT MAYER: Senator
10 Gianaris, do you yield?

11 SENATOR GIANARIS: Yes.

12 ACTING PRESIDENT MAYER: The
13 Senator yields.

14 SENATOR BORRELLO: The esteemed
15 Senator Gianaris.

16 You know, this bill looks an awful
17 lot like the bill -- the constitutional amendment
18 that was defeated overwhelmingly by voters in
19 2021, which would give essentially no-excuse
20 absentee balloting.

21 Isn't this just the same thing? Why
22 aren't you just proposing another amendment?

23 SENATOR GIANARIS: No, you're
24 mistaken -- Madam President, Senator Borrello is
25 mistaken.

1 The referendum was relevant to the
2 absentee ballot process. This bill relates to a
3 form of early voting.

4 SENATOR BORRELLO: Madam President,
5 on the bill.

6 ACTING PRESIDENT MAYER: Senator
7 Borrello on the bill.

8 SENATOR BORRELLO: Thank you,
9 Senator Gianaris, for that spirited and long
10 debate.

11 (Laughter.)

12 SENATOR BORRELLO: You know, I
13 think my concern here is -- and on the part of a
14 lot of other people -- is that this essentially
15 is saying that you can now mail in your early
16 voting ballot and you can, you know, circumvent
17 the system.

18 You know, the bottom line is we here
19 in New York State have made it very, very easy to
20 vote. Other than allowing you to vote while
21 you're standing in line at Walmart, it couldn't
22 get any easier than it is to vote here in
23 New York State.

24 When we start talking about mail-in
25 ballots, we saw what's happened in the past when

1 it overwhelms the system here. And I continue to
2 say it: The most important thing in New York
3 State and across the nation is not that everybody
4 votes, because at the end of the day this is the
5 United States, and you can still choose not to
6 vote.

7 So circumventing the system,
8 overwhelming the system to ensure that we have
9 all of these people that may be able to vote by
10 mail or may not, could prevent those people that
11 have to vote by mail, those people who have to
12 vote by absentee, from actually having their
13 ballot count. And that undermines the integrity
14 of our entire system.

15 And this is just really a
16 work-around on that bill that overwhelmingly
17 failed here in New York State where the voters of
18 New York said, No, we're going to stick to the
19 Constitution and we're going to say that only
20 certain circumstances should allow someone to
21 vote by mail, vote by absentee, or whatever it
22 might be.

23 This bill essentially ignores the
24 will of the people of New York State. And I'll
25 be voting no, and I encourage my colleagues to do

1 the same. Thank you.

2 ACTING PRESIDENT MAYER: Thank you.

3 Are there any other Senators wishing
4 to be heard?

5 Seeing and hearing none, debate is
6 closed. The Secretary will ring the bell.

7 Read the last section.

8 THE SECRETARY: Section 55. This
9 act shall take effect January 1, 2024.

10 ACTING PRESIDENT MAYER: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT MAYER: Announce
14 the results.

15 THE SECRETARY: In relation to
16 Calendar 1658, those Senators voting in the
17 negative are Senators Ashby, Borrello,
18 Canzoneri-Fitzpatrick, Gallivan, Griffio, Helming,
19 Lanza, Martins, Mattera, Murray, Oberacker,
20 O'Mara, Ortt, Palumbo, Rhoads, Rolison, Stec,
21 Tedisco, Walczyk, Weber and Weik.

22 Ayes, 41. Nays, 21.

23 ACTING PRESIDENT MAYER: The bill
24 is passed.

25 Senator Gianaris.

06/09/23 S7394-A Assembly Vote Yes: 94 No : 51

Yes	Alvarez	Yes	Anderson	No	Angelino
Yes	Aubry	No	Barclay	Yes	Barrett
No	Bendett	Yes	Benedetto	Yes	Bichotte Hermelyn
No	Blumencranz	Yes	Bores	No	Brabenec
Yes	Bronson	No	Brook-Krasny	No	Brown E
Yes	Burdick	Yes	Burgos	Yes	Burke
No	Byrnes	Yes	Carroll	Yes	Chandler-Waterman
Yes	Clark	Yes	Colton	Yes	Conrad
Yes	Cruz	Yes	Cunningham	No	Curran
Yes	Davila	Yes	De Los Santos	No	DeStefano
No	Dilan	Yes	Dinowitz	No	DiPietro
Yes	Eachus	ER	Eichenstein	Yes	Epstein
Yes	Fall	No	Fitzpatrick	No	Flood
No	Friend	Yes	Gallagher	No	Gallahan
Yes	Gibbs	No	Giglio JA	No	Giglio JM
Yes	Gonzalez-Rojas	No	Goodell	No	Gray
No	Hawley	Yes ‡	Hevesi	Yes	Hunter
Yes	Jackson	Yes	Jacobson	Yes	Jean-Pierre
Yes	Jones	Yes	Joyner	Yes	Kelles
Yes	Lavine	Yes	Lee	No	Lemondes
Yes ‡	Lucas	Yes	Lunsford	Yes	Lupardo
No	Maher	Yes	Mamdani	No	Manktelow
No ‡	McDonough	No	McGowan	Yes	McMahon
No	Mikulin	No	Miller	Yes	Mitaynes
No	Norris	No	Novakhov	Yes ‡	O'Donnell
No	Palmesano	Yes	Paulin	Yes	Peoples-Stokes
No	Pirozzolo	Yes	Pretlow	No	Ra
Yes	Rajkumar	Yes	Ramos	No	Reilly
Yes	Rivera	ER	Rosenthal D	Yes	Rosenthal L
Yes	Santabarbara	Yes	Sayegh	Yes	Seawright
Yes	Shimsky	Yes	Shrestha	Yes	Sillitti
Yes	Simone	No	Simpson	No	Slater
No	Smullen	Yes	Solages	Yes	Steck
Yes	Stirpe	No	Tague	No	Tannousis
Yes	Taylor	Yes	Thiele	Yes	Vanel
Yes	Wallace	No	Walsh	Yes	Weinstein
No	Williams	Yes	Woerner	Yes	Zaccaro
Yes	Zinerman	Yes	Mr. Speaker		

‡ Indicates voting via videoconference

NYLS Note: 60 pages of debate

thing.

My friends, this prohibition will hurt New York farmers. It will not allow them to do their jobs and produce the food that is needed for those that need it. Mr. Speaker, I again, I plead, I plead with my fellow legislators, do not bite the hand that feeds you, vote no. Join me and vote no for New York State farmers. Thank you.

ACTING SPEAKER AUBRY: Mr. Tague in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

(Applause)

Page 5, Rules Report No. 800, the Clerk will read.

THE CLERK: Assembly No. A07632-A, Rules Report No. 800, Reyes, Woerner. An act to amend the Election Law, the Education Law, the Town Law and the New York City Charter, in relation to establishing early mail voting.

ACTING SPEAKER AUBRY: On a motion by Ms. Reyes, the Senate bill is before the House. The Senate bill is advanced and an explanation is requested, Ms. Reyes.

MS. REYES: This bill establishes a new process in which a voter may cast the ballot through the mail. The language of the bill is in line with procedures we already have in place for absentee voting and also makes conforming changes to current

statutes of the Election Law, Education Law, Town Law and New York City Charter. This process would include provisions for how individuals apply for an early vote by mail ballot, how those ballots are delivered, the establishment of an electronic early mail ballot application transmittal system, deadlines and delivery timelines to polling places, and the establishment of an online early mail ballot tracking system. This new process will provide voters with greater opportunities to cast their vote and make their choices -- have their choices made on the ballot.

ACTING SPEAKER AUBRY: Mr. Norris.

MR. NORRIS: Thank you, Mr. Speaker. Will the sponsor yield for some questions?

ACTING SPEAKER AUBRY: Ms. Reyes, will you yield?

MS. REYES: Yes, of course.

ACTING SPEAKER AUBRY: Ms. Reyes yields, sir.

MR. NORRIS: Ms. Reyes, thank you very much. My first question just surrounds the constitutionality of this provision so I'm going to ask you what constitutional implications, if any, does this bill have as it relates to Article II, Section 2, governing absentee voting?

MS. REYES: So Article II, Section 2 talks about absentee ballot and this is not that. This is a separate system that we will be creating.

MR. NORRIS: What's the difference?

MS. REYES: Well, under Article II, Section 2 it enumerates the ways a person can request an absentee ballot and the reasons for which, due to illness and/or other reasons listed in the statute, or if the voter can't physically go to the polls, whereas creating an early voting by mail system just requires anybody -- would allow anybody who is eligible to vote in the election to request a mail-in ballot.

MR. NORRIS: Okay. So you don't find this to be an expansion of absentee voting in the State of New York?

MS. REYES: No, it is not that.

MR. NORRIS: Okay. And I respectfully disagree with you. These are paper ballots, they're being mailed, and I think that it will be examined certainly by the courts down the road and we'll see what they have to say about that.

MS. REYES: May I add?

MR. NORRIS: Sure.

MS. REYES: So Article II, Section 7, of the Constitution does allow for the State Legislature, it provides the authority to prescribe methods other than the ballot to elect its officials and we are relying on -- we are using that interpretation to be able to say that we can, in fact, create early mail by vote system.

MR. NORRIS: I see. So the -- the Article II, Section 2, says that the Legislature may, by General Law, provide for reasons for the occurrence of these issues, so let me just read them to you that the State Legislature has promulgated: Absent from your county or if

a resident of New York City absent from the five boroughs on Election Day; unable to appear at the polls due to temporary or permanent illness or disability; unable to appear because you are the primary caregiver of one or more individuals; a resident or a patient of the Veterans' Health Administration or detained in jail awaiting grand jury action or confined in prison. We've already done that, and I want to just call your attention to 2021 when the voters in the State of New York rejected no excuse absentee voting and it was pretty significant; 1,677,582 won, that was against, and for was 1,370,897. The voters resoundingly rejected a scheme where paper ballots would be going out to voters with no excuse. And those excuses have been enumerated in State law, some are also mentioned in the Constitution, as you have mentioned. And I just one, feel that this is a far stretch.

Now I'll ask additional questions if you can just bear with me for a moment. I think it's a far stretch, it's a scheme to get around the Constitutional provision that is in place and the will of the voters that have already taken place. So let me ask you this: Was it contemplated by the Majority to allow the voters once again to have an opportunity to be heard on this matter and to sponsor a concurrent resolution which would then be adopted potentially this term or the next term and then placed on the ballot for the voters?

MS. REYES: So again, the Constitution, Article II, Section 2 of the Constitution is what governs absentee voting and that is not what we are touching here. We are using Article II, Section 7, which prescribes the authority to the Legislature to decide how -- how

ballots may be -- prescribes how ballots may be used in elections. So we are not, by any means, touching the absentee ballot system that exists and will remain. This is creating another system by which eligible voters can vote by mail.

MR. NORRIS: Okay. Let me ask you it again: Was there any contemplation to enumerate this in the Constitution to ensure that there's no issue whatsoever and allow the voters of the State of New York to determine whether or not they want early mail voting?

MS. REYES: This -- this change does not require a constitutional amendment.

MR. NORRIS: Well, I think it would be a good idea, certainly to put this up to the voters and I think, especially since they've already weighed in on this matter in 2021 and defeated it. They said, we don't want this in the State of New York. So I only think it would be reasonable that we put it back out to the voters, and we allow them to decide whether or not they want this process or not. Now --

MS. REYES: I understand your sentiment, but we're conflating two sections of the Constitution.

MR. NORRIS: Potentially. We'll see what the courts have to say when they review it. My next question is, is the system going to be different between the absentee voting and this early mail voting?

MS. REYES: There will be two different systems.

There is a system for absentee voting and one for mail-in voting.

MR. NORRIS: Okay. Now, how would you apply for that?

MS. REYES: Apply for what?

MR. NORRIS: The early mail ballot. How do you apply for that if you're a voter.

MS. REYES: You can request the ballot by mail.

MR. NORRIS: Okay.

MS. REYES: You can request it at the Board of Elections.

MR. NORRIS: Okay.

MS. REYES: And then there is an electronic way that you can request the ballot as well.

MR. NORRIS: So if you apply on a physical absentee ballot application, would they be different? By mailing it to the Board, like, a piece of paper?

MS. REYES: There would be two different systems and you -- there is a different application for an absentee ballot because this is not an absentee ballot.

MR. NORRIS: All right. I just want to ask this though, I understand that it would be two different physical applications, but in terms of the portal, the website application, will there be one system or two?

MS. REYES: Two.

MR. NORRIS: Two. Okay. So I want to just read

from the statute, your bill, not a statute yet, might be one day, and I'm gonna read from, on page 6, number 4, which is the following starting at line 45 in the bill: *The electronic early mail ballot application transmittal system shall be combined on a single website with -- confined on a single website with the electronic absentee ballot application transmittal system created pursuant to this section.* So I'm reading it as it will be a combined system.

MS. REYES: It's not a combined system. We're just not creating two separate websites. It's one website --

MR. NORRIS: I see.

MS. REYES: -- two systems.

MR. NORRIS: And I want to just read because I think this is actually pretty interesting.

MS. REYES: Okay.

MR. NORRIS: *A person using the website must first be provided with a early mail ballot application before being offered the opportunity to apply for an absentee ballot.* So the default will be automatically -- they'll be sent to the early mail vote?

MS. REYES: Correct.

MR. NORRIS: Very interesting. They won't even make it to the absentee ballot application. Now, I have another question. Does someone have to sign these applications?

MS. REYES: Yes.

(Pause)

Yes.

MR. NORRIS: Okay. So if they mail it in at the Board of Elections, they have to physically sign it?

MS. REYES: Oh, you're asking whether they sign the application or they sign the ballot?

MR. NORRIS: Let's focus on the application, so that's okay. On the application, do they have to sign it?

MS. REYES: Yes. Unless they request it online in which case they would be providing an e-signature.

MR. NORRIS: An e-signature. Can you explain that for me?

MS. REYES: It is a way to authenticate your signature on line and I think there's -- the registration database will have an exemplar signature, as well.

MR. NORRIS: Okay. So you'll put in your information, you'll tell the system to go find my signature maybe in the DMV? To apply.

MS. REYES: There's a database that's being created for registration so it wouldn't necessarily be the DMV.

MR. NORRIS: Has the State Legislature provided funds to the Board of Elections to create this database?

(Pause)

MS. REYES: No, because it's already coming on board, this new database.

MR. NORRIS: I see. So -- but -- so they have the funds already in place to do this?

MS. REYES: Correct.

MR. NORRIS: Great. Okay, that's good news. All right. So I'm just going to go back. If they don't have this electronic signature in some way, does the voter still get a ballot in the mail?

(Pause)

MS. REYES: Yes. They can obtain their ballot -- I mean, if they can't get it on line, they can always obtain their ballot through the Board of Elections as well.

MR. NORRIS: Okay. So if I'm a voter, I fill out my little thing, tell the Board of Elections on the portal I want a ballot to be mailed to me, they can't find my signature, I don't upload a signature, the Board of Elections will still send me a ballot without a signature?

MS. REYES: It sounds to me what you're describing is an incomplete application so I don't believe so.

MR. NORRIS: Yes, but these things happen so that's why I'm just asking the question. So I'm going to read again from the statute just because I think people need to know what the word actually is in the statute. It says, *if an early mail ballot exemplar signature, which is an electronic signature, is not provided by an applicant who submits an early mail ballot application pursuant to this section, the State Board of Elections shall seek to obtain that signature from the database. If they don't, it will require them* -- I just want to make sure I get the right spot -- I'm reading off of 40. *If such voter does not provide the required signature, the Board of Elections*

shall proceed to issue an early mail ballot to the voter along with the early mail ballot application form requiring such voter to submit a signature upon application form and return it to the Board of Elections. So --

MS. REYES: Correct.

MR. NORRIS: -- so I want to just make sure I go back. So number line 40, that's where I was intending to read from. So my point of that --

MS. REYES: You're absolutely right, actually. They would get the ballot, but they would have to submit their signature when they submit their completed ballot.

MR. NORRIS: Thank you. And I wanted to make sure I had the right section and I didn't jump down. Who can apply for these applications on line, or in person?

MS. REYES: Eligible voters.

MR. NORRIS: Anybody else?

MS. REYES: No.

MR. NORRIS: Can someone's spouse, parent, child, person residing with the applicant as a member of their household, or the applicant's duly-authorized agent?

MS. REYES: Correct.

MR. NORRIS: Thank you. The bill is very long, so I understand we have to just work through this language and I know it's very lengthy so I certainly understand that. My -- my concern about all of this is that it's not just the voter who can apply for these

(inaudible) process, it could be any of the people that I just mentioned including an authorized person. Well, who could that be? And then they put the information into the system, they can't find a signature for them and the Board of Elections then sends it potentially to the authorized person. Who -- who could that be? Is that a potential scenario?

MS. REYES: I'm sorry. Could you repeat that question?

MR. NORRIS: Sure. So someone could apply for absentee ballot, and they could enter the information, it doesn't have to be the voter, it could be an authorized person of the voter.

MS. REYES: Correct.

MR. NORRIS: Very vague, but authorized person of the voter, put the information into the system, the Board of Elections can't find a signature of this person -- of the voter through the electronic means. Then under the other section that I found and cited for you, they will mail out this ballot to wherever it was requested to go, potentially to the authorized person. Is that a possibility?

MS. REYES: Yes.

MR. NORRIS: Yes. And my concern with that is, is that potentially the voter themselves may not even know that a ballot was requested on their behalf, and then it might be sent to someone else and then they maybe will take a signature and submit it and the voter potentially may not even know that a vote was cast on their behalf.

MS. REYES: So all the ballots will be checked, similarly how we checked -- we checked mail-in ballots in 2020.

MR. NORRIS: Yes.

MS. REYES: And we used them in 2020 very safely and effectively.

MR. NORRIS: Madam Speaker, if I could just use my next 15 as the Ranking Member of the Election Law [sic]?

ACTING SPEAKER LUPARDO: Yes, go ahead.

MR. NORRIS: Thank you, Madam Chair.

MS. REYES: So very similarly to how we used mail-in ballots in 2020 and we used it very effectively and safely, we have a system by which we can verify signatures. I would hate to draw this parallel, but authorized persons are able to request absentee ballots as well, even though this is not what this is. But I say that because the process already exists.

MR. NORRIS: I see. So I just -- I just find it as a potential issue of how the system is set up and how this signature issue could be used by an outside agent to actually get ballots into the system without the voters even knowing it. I know you're going to say, that's a slim possibility, these things don't happen, but it's possible and that's why I'm concerned about that and I want to make sure the integrity of our system is paramount. And that's why I go back to the constitutional provisions and they are set forth in our Constitution. The voters rejecting those (inaudible) absentee voting in 2021 and they should have an opportunity to be heard on this once again. But I

want to just continue with a few more questions --

MS. REYES: Sure.

MR. NORRIS: -- I appreciate your cooperation.

Will this apply to all elections in the State of New York?

MS. REYES: Yes.

MR. NORRIS: Okay. And that would include fire districts, for example, libraries?

MS. REYES: Yes, we believe so.

MR. NORRIS: And fire districts. When you make your application onto the portal, or in person, you know, writing it out and sending it into the Board of Elections, is it a one-stop shop?

MS. REYES: I don't know what you mean by one-stop shop.

MR. NORRIS: Okay. Well, let me just take a step back. If you do it once, how long is it good for?

MS. REYES: If you do what once?

MR. NORRIS: Fill out the application. Is it good for all the elections for ever, for one year, for how long?

MS. REYES: You can request it for all of the elections in that calendar year.

MR. NORRIS: In the calendar year, okay. Do you have to then apply separately to the school board, to the village clerk, to the fire district commissioner, to the Board of Elections?

(Pause)

MS. REYES: You would have to apply to whichever

entity is issuing the ballots.

MR. NORRIS: Okay. So it's multiple different people.

MS. REYES: Correct.

MR. NORRIS: You know, you would think if you're doing this system, there would be a little bit of cooperation, right? Maybe that's something that can be done in the future, you can do it in one place and they can send the information to other places, as well. But I also understand jurisdiction, there might be issues with that with something that potentially could be contemplated down the road.

MS. REYES: It sounds like you like this process.

MR. NORRIS: Well, I haven't gotten on the bill yet. The -- I do want to just say, you had discussions with the State Board of Elections to how this will actually be implemented in conjunction with the County Board of Elections, what that process will be?

MS. REYES: I -- I mean the process will be no different than it was in 2020 for the Board of Elections. So they already have experience.

MR. NORRIS: They'll be interfacing back and forth?

MS. REYES: Correct.

MR. NORRIS: Great.

I have no further questions. Thank you very much, Ms. Reyes.

MS. REYES: Thank you.

MR. NORRIS: I appreciate it.

Mr. Speaker -- Madam Speaker, on the bill.

ACTING SPEAKER LUPARDO: On the bill.

MR. NORRIS: Thank you very much. I just -- I have to say, I have concerns about this method of voting which I do believe skirts the Constitution of the State of New York because the absentee ballot provisions were put into place in the Constitution and there were exceptions that were granted for individuals who were not able to vote at their polling site. And, quite frankly, I just find this to be an end-around of that absentee ballot system. I find that the voters spoke very loudly and clearly in 2021, that they had concerns about ballot security. They had concerns about this process. They believed that you should go vote on Election Day if you don't -- unless you have an excuse. And I think it's very important that we send this back to the voters of the State of New York and let them make a determination themselves to whether or not they want to allow early mail voting in the State of New York.

Now, I -- I believe that the courts will review that and we'll see where that ends up, but I do believe on the constitutionality basis there are certainly concerns, and let the voters decide. I -- I must say I have concerns about potential -- of fraud. We had mentioned them earlier. I laid out the potential scenario that an agent could make an application, put information into the portal, it could then go to the agent, there is no signature and a voter may not even know if they actually cast a ballot or not. And that is a concern because ballot security and the sanctity of one's ballot is very important and it should

be important for everybody.

I will also say this: Because of the constitutionality concerns, I will be voting no on this piece of legislation. But I've now served as the Ranking Member of the Election Law Committee for seven years, I can't believe it's been that long, but I have, and I really would have hoped that this piece of legislation could've been vetted through the Election Law Committee and even have hearings on this because there are issues that need to be addressed and it's just being rammed through here at the end of Session with five or six other Election Law bills, I have a couple more to debate, and I -- I just have -- have concerns about that.

Now, I will tell you this, as well. In 2019, I know I'm not supposed to mention names, but Chuck Lavine who was the Chair at the time, I debated a bill on early voting. I voted in the negative. But I can tell you a lot of people in my district have opened up to the idea of early voting. They like to have the accessibility of early voting. I have concerns about the cost still on early voting because I think that it's a burden particularly in non -- in non-presidential election years on the Board of Election to have so many days of early voting, and that's why I put forth a bill in non-presidential years to reduce early voting to five days to reduce costs, but to also provide the opportunity and the accessibility for voters on that topic, because I've heard from them. But I've also heard from the Board of Elections and the burden and the cost per voter on the ballots and the costs to administer early voting for that what might be period of time.

So again, I have concerns about the constitutionality of this bill and for that reason I will be voting in the negative. I just believe that voters should have an opportunity to say and be heard on this topic because it's certainly an important one and I have heard from constituents in my district and they do like the option of early voting, we just have to weigh all the factors and all the factors and all the costs that is associated with this. So thank you, Madam Speaker, for having me to be heard on this bill, and thank you to the sponsor for answering my questions.

ACTING SPEAKER LUPARDO: Mr. Flood.

MR. FLOOD: Thank you, Madam Speaker.

On the bill, please?

ACTING SPEAKER LUPARDO: On the bill.

MR. FLOOD: You know, I know it's late and we still have a lot more to get through, so I'm going to keep this pretty brief. My colleague just spoke pretty eloquently and I think his approach is going to be a little bit more diplomatic than mine. If we're being honest, this bill just opens up or it's an invitation to commit election fraud. This is going to create substantial distrust amongst our, you know, electorate. It was pretty clear when they voted this down upon a referendum that they didn't want to expand upon this. This is just absolutely disrespectful to the voice of the people of this State. When we put something up for a referendum and it's clearly voted down, and then to circumvent it and say we know better, it's a slap in the face to all the people who believe in the electoral process. So I would

encourage this Body, if we really truly care about doing our people's work, our people spoke on this already, they said they didn't want it, this should be voted down and I encourage my colleagues to do the same. Thank you.

ACTING SPEAKER LUPARDO: Mr. Slater.

MR. SLATER: Thank you, Madam Speaker. Will the sponsor yield for a few short questions?

ACTING SPEAKER LUPARDO: Will the sponsor yield?

MS. REYES: Yes.

ACTING SPEAKER LUPARDO: The sponsor yields.

MR. SLATER: Thank you, Assemblymember Reyes. I just wanted to check on a couple things here. So can you confirm if the language used in this bill is nearly identical to the language used in Title 4 of the Election Law related to absentee voting?

MS. REYES: It's modeled after that system.

MR. SLATER: It's basically identical with just three words difference, I believe.

MS. REYES: Then it's not identical.

MR. SLATER: I'll take that as nearly identical. So wouldn't that then qualify as codifying the no excuse absentee measure that the voters defeated?

MS. REYES: No, because that's not what this is.

MR. SLATER: Essentially I respectfully disagree. In

2020, Chenango County suffered a cyber attack on about 250 computers operated by the county. I don't know if you're aware of that. In that case, hackers demanded a rent of \$450 per computer to unlock those files. And I think it raises concerns that some of the e-mail absentee ballot applications may not have been processed. And so I'm really curious about what are we doing in this legislation regarding data privacy? Specifically cyber security protections with respect to the proposed electronic early mail ballot application transmittal system, especially given the sensitive and sacred nature of our elections. Are there safeguards that are required as part of this proposal?

MS. REYES: I think our system can handle cyber security. I think you're giving me a one-off example, but ultimately, we are able to do mail-in ballots for those who are either absentee affidavit military ballots, we have a process by which we process these. So we're confident that the Board of Elections will be able to handle that and its security as well.

MR. SLATER: But many of those applications are also done via mail, not just electronic, correct?

MS. REYES: Correct.

MR. SLATER: And so have we consulted --

MS. REYES: Or in person.

MR. SLATER: -- with the State Board of Elections or County Board of Elections about whether or not those safeguards are in place for data privacy and cyber security to manage what you're

trying to accomplish here?

(Pause)

MS. REYES: We're a little confused about your question on cyber security. I mean, the Board of Elections already processes...

MR. SLATER: My question, again, is have you consulted with both the State and individual County Board of Elections that considering what you're trying to propose, that they have the safeguards in place to protect the data and privacy of those who are going to utilize the system that you're trying to implement?

MS. REYES: We have confidence that they're able to manage it.

MR. SLATER: Confidence, but not confirmation. My other question is under this bill, what level of encryption would be used for the electronic application for early mail ballot application and the system, and the online early mail ballot? So is there any type of encryption system in place? I guess that goes back to what I was just saying on safeguards.

MS. REYES: Whatever system -- whatever encryption system they use for absentee ballots currently.

MR. SLATER: I want to just, if we can, focus on some of the costs. My colleague, Mr. Norris -- excuse me, my colleague pointed out and I believe you confirmed that the applications are going to be sent basically individualized depending on -- on the election, right? So local elections, county elections,

school board elections, they will all be individualized when being translated or utilized? So is there a cost associated with that to each of those entities?

(Pause)

MS. REYES: We don't have a cost estimate off the top of our heads.

MR. SLATER: But we do expect there to be a fiscal impact.

MS. REYES: Possibly.

MR. SLATER: And I'm just curious on -- well, we know, I guess, it's safe to assume that there will be a fiscal impact especially from the Board of Elections, but what about our school districts?

MS. REYES: Possibly.

MR. SLATER: So on that basis --

MS. REYES: It may be nominal.

MR. SLATER: -- of a possibility -- it's just ironic to me because last night or yesterday, I don't even know what time it is anymore, we had a lengthy conversation about consolidating Local and County elections with State and Presidential elections. And one of the things that we heard emphatically was that there was going to be a cost-savings. But if we are saying now there's a possible cost to implement this, I'm just curious if that was taken into consideration based on what we discussed just the other hour or last night.

MS. REYES: Well, the -- the legislation takes effect

January 1st of 2024, so there's a possibility that we can discuss this early in the year and making an allocation.

MR. SLATER: But the bottom line is, when we talked about a cost-analysis on consolidating those elections, this was not part of that equation in that -- in that debate, or in that deliberation?

MS. REYES: I think ultimately what we're trying to do is increase voter participation, whether that be in our local elections or more broadly, I think that whenever we encourage the electorate to participate and make it easier for them, we -- we should all be happy for that and moving in that direction.

MR. SLATER: And we should also make sure it's safe, correct?

MS. REYES: Absolutely.

MR. SLATER: Very good.

MS. REYES: As it is now.

MR. SLATER: Very good. I appreciate the answers to your questions.

Madam Speaker, on the bill if I may.

ACTING SPEAKER LUPARDO: On the bill.

MR. SLATER: I think that as we've already heard by some of my colleagues here on this particular issue, this very topic was put forward to the voters and the voters rejected it wholeheartedly. So the fact now that we feel empowered as a legislative Body to tell our voters that they were wrong, that we know

better, I think does a great disservice to the very people that we're here representing. I think that there are significant constitutional concerns. I think that they are very significant because we haven't been told definitively. I think they are very significant safety concerns on -- on -- on our data privacy. There doesn't seem to be additional safeguards in place to make sure that are County Board of Elections and our school districts are able to manage the data that they're going to be collecting as part of this process. And I go back to cost. We do not know the cost of the proposals that we're trying to implement. And so we hear in one side -- we hear, oh, we're going to do things that's going to save taxpayer dollars, and the very next, well, we don't know if we're going to save taxpayer dollars but it's probably going to be more. So we're really just running around blindfolded here spending dollars that are not ours. Spending dollars that are belonging to the taxpayer. For those reasons, Madam Speaker, I'll be voting in the negative. Thank you very much.

ACTING SPEAKER LUPARDO: Mr. Smullen.

MR. SMULLEN: Thank you, Madam Speaker.

Would the sponsor yield for some questions, please?

ACTING SPEAKER LUPARDO: Will the sponsor yield?

MS. REYES: Yes.

ACTING SPEAKER LUPARDO: The sponsor yields.

MR. SMULLEN: Thank you. I just -- I want to get

back to the original question. I -- I know we've heard some -- some questions from my colleagues, but how is this system different than the absentee system from a voter verification perspective? How is it going to be verified that a voter is actually the person that they say they are when they submit an application for a ballot first and how do they verify that they're that voter when they submit the ballot? How's that done in this supposedly new system?

MS. REYES: From a voter verification standpoint, it doesn't differ. What differs is under the absentee ballot you need to have an illness, you need to be out of the country or similarly whether you're an active duty in the military. This just happens to be that anyone can vote by mail. The verification system is the same.

MR. SMULLEN: So today anyone can vote by mail through the absentee system if they have one of the valid reasons for voting absentee.

MS. REYES: Correct.

MR. SMULLEN: So if there's no -- no difference in the voter verification procedures, then we are just saying this is no excuse absentee ballot.

MS. REYES: It's not.

MR. SMULLEN: It is.

MS. REYES: In order to make a no excuse absentee ballot system you need a constitutional amendment.

MR. SMULLEN: So we -- we asked for that and the voters resoundingly rejected it.

MS. REYES: Correct, but --

MR. SMULLEN: Thank you.

MS. REYES: -- like I said, Article II, Section 7 of the State Constitution gives us the authority to create this independent system, which is what we're doing here.

MR. SMULLEN: Respectfully, no it does not. It just says that you can propose legislation that can say it does but it doesn't necessarily -- because you say it so, doesn't make it so.

MS. REYES: The Supreme Court has upheld it in Massachusetts, it has upheld it in Pennsylvania and they have identical constitutional language as the State of New York.

MR. SMULLEN: We'll see -- we'll see how that turns out for New York State going forward.

So let's get -- let's get to talk about this actual voter verification to make sure that the person who is -- who is eligible to vote. Now, in this case, are only citizens eligible to vote in this system?

MS. REYES: Correct.

MR. SMULLEN: And -- and that would be citizens that reside in certain areas. At what point do they have to register before an election to be able to vote and request this new -- supposedly new system?

(Pause)

MS. REYES: We have current -- current registration deadlines. Fifteen by mail (inaudible).

MR. SMULLEN: Now I read -- I read in the bill that there was a -- a requirement that the application be ten days before an election; is that true?

MS. REYES: Up to ten days before an election.

MR. SMULLEN: Up to ten days before an election. So if an election is on, you know, the first Tuesday in November and it's November 2nd say, they would have until October 25th in order to request this ballot.

MS. REYES: Yes.

MR. SMULLEN: And then it would be mailed to them. At what point would it have to be back to the Board of Elections by?

(Pause)

MS. REYES: It has to be in by close of polls if it's brought in in person, or seven days after if it's mailed in.

MR. SMULLEN: Seven days after, okay. And now, does the actual written ballot application, does it have to be signed by a voter?

MS. REYES: Yes.

MR. SMULLEN: And is that checked on a signature role that's already held by the Board of Elections that would also be checked for an absentee ballot?

MS. REYES: Yes, sir.

MR. SMULLEN: Okay. And then when the ballot is returned, is that the same signature that's checked?

MS. REYES: When the ballot is returned --

MR. SMULLEN: If someone fills out a ballot --

MS. REYES: -- to the Board of Elections?

MR. SMULLEN: If someone fills out a ballot and -- and mails it back into the Board of Elections, is it the same signature requirement?

MS. REYES: When you say *someone*, you mean the voter?

MR. SMULLEN: The voter.

MS. REYES: Yes.

MR. SMULLEN: Excuse me. So what I'm -- what I'm getting at, excuse me, (coughing), is what are the penalties if it is not the voter that has requested it or has returned the ballot? Is it -- is it done under perjury penalties?

(Pause)

MS. REYES: We'll double-check. I don't have an answer for you right now.

MR. SMULLEN: And what would those penalties be if someone were to --

MS. REYES: I don't -- I don't have that answer for you currently.

MR. SMULLEN: Thank you. Now, when we go -- let's talk a little bit about the actually online application and then the -- the return of the ballot, the paper ballot that would come back mailed by the person. I noted that the ballot would be mailed with a postage

and an addressed envelope back to the Board of Elections; is that true?

MS. REYES: Correct.

MR. SMULLEN: So every ballot would cost at least a dollar or so to -- to be able to mail out?

MS. REYES: Whatever the postage is. Postage and printing and...

MR. SMULLEN: The -- the envelope, the postage and the return things. So the actual online application, how is that tracked that the person is actually the voter if there is no written signature to verify? If you -- if you submit an application online for this mail-in ballot, how is it verified that that's actually the person that is submitting the application that it's a registered voter?

MS. REYES: That's when we had the automatic voter registration system. And when the ballot is returned to the Board of Elections or the Body that's issuing the ballot, then they can check the signature and --

MR. SMULLEN: So in that case there would only be -- there would only be one check as to -- as to whether the signature is correct, not initial application and the return of the ballot. It would just be a single return. So anyone could request a ballot. Now, what procedures does the -- excuse me, (coughing).

MS. REYES: I mean we already talked about that issue, but there is also procedures for them to contest the ballot.

MR. SMULLEN: To contest -- I'm -- I'm not talking about contesting a ballot. I'm actually ensuring that the ballot that's

being requested is being requested by an authorized voter or as was said the representative.

MS. REYES: Correct.

MR. SMULLEN: Does the Board of Elections do any geofencing or IP address capture to see where the actual application is coming from?

(Pause)

MS. REYES: I -- I -- I'm not sure if they have geofencing.

MR. SMULLEN: Okay. And does the New York State Board of Elections use any blockchain methodologies for security of documents that are sent from a -- a residence?

(Pause)

MS. REYES: I just think you're providing examples that are extremely rare. I don't think you're asking me for legitimate --

MR. SMULLEN: I'm -- I'm talking about common procedures that are used in the banking industry everyday when --

MS. REYES: This isn't --

MR. SMULLEN: -- (inaudible) transactions --

MS. REYES: -- the banking industry.

MR. SMULLEN: -- are secure.

MS. REYES: This isn't the banking industry. The Board of Elections --

MR. SMULLEN: This is much more important than the banking industry --

MS. REYES: The Board of Elections has a system by which they verify the voters when like I said, absentee affidavit military ballots have a process --

MR. SMULLEN: I would -- I would --

MS. REYES: -- the process would be no different.

MR. SMULLEN: I would respectfully disagree that they do on someone who does not have a signature on file or if you're doing it from an online application. There is no way to ensure that the person is who they say they are to any level of -- of surety that would be commonly practiced in business at this point. That's a fact.

MS. REYES: I would also present that in 2020 the Board of Elections has used mail-in ballots safely and effectively and once we implement the system they will have a more robust way in terms of verifying, but...

MR. SMULLEN: Well, I think the Board of Elections should use the blockchain or modern technology to be able to ensure that it's secure. This is one of the most important transactions that citizens have with their government is the -- is the right of the franchise, the right to vote. And I think it's absolutely critical.

Madam Speaker, on the bill if I could.

ACTING SPEAKER LUPARDO: On --

MR. SMULLEN: Thank you to the sponsor.

ACTING SPEAKER LUPARDO: -- the bill.

MR. SMULLEN: This is a really important debate

and it's a really important point that needs to be made for all the citizens who are listening here at 10:00 p.m. on a Friday night as the legislative Session comes to a close. This is a very critical issue having to do with the security of our elections. And we're passing what is billed as a -- as a separate additional system onto a system right now that's secure which has been validated by the voters in a constitutional amendment that was soundly rejected by them just a year ago. And my concern is with the security of mail-in ballots to make sure that the person that's requesting them and the person that is returning them is actually the voter that's registered and authorized to vote in their elections. And I'm not satisfied at this point and I think all of my colleagues should think very closely about this and we should all vote no on this ill-conceived notion that's been put before us tonight. Thank you very much.

ACTING SPEAKER LUPARDO: Ms. Walsh.

MS. WALSH: Thank you, Madam Speaker.

On the bill.

ACTING SPEAKER LUPARDO: On the bill.

MS. WALSH: I -- I -- I physically had to close my mouth as I was listening to this debate. Are you kidding me? Are you kidding me? I -- I am absolutely blown away by what I am hearing tonight as the previous speaker just said, as we end Session after days and nights of work and little sleep and all of the problems that are facing New York and we get *this* bill handed to us on a Friday night with the Gallery empty now and I am astounded. I -- yesterday, last

night, whenever it was, early morning, a -- a member of the other side of the aisle said that he trusted the voters. Well, yes. And trusted the voters and I said, that's really funny because in 2021 the voters rejected no excuse absentee voting. And -- and what we're getting tonight, quite honestly, are some really cute answers that *oh, this isn't really no excuse absentee voting*. It's really -- it's -- it's the New York Early Mail Voting Act. Oh, well, is it -- is it similar language? Well -- it's -- it's modeled after that system but it's different. It's completely different, because if it were the same, we'd have to get a constitutional amendment and so that's not what this is. And, you know, maybe there are some other states that have done it, too, we'll have to see. This -- this is troubling, this is troubling. You know, the issues have been raised as far as the security of the system data breaches or data security issues, I'm not going to go into those. All I'm going -- there's no cost estimate. And oh, by the way, it's going to be effective in less than six months, all right, 'cause great big programs that we put into place are really very effective when you have less than six months to implement, you know. I -- I just cannot believe this. And I think it's kind of unfair to the sponsor because she doesn't sit on the Elections Committee, she is not an attorney or an elections attorney and -- and she tried to answer the questions but, quite honestly, this is not a piece of legislation that should have been brought to the floor. And it's going to be challenged. And I -- I -- I hope, I hope that the people who are in this Chamber and the people who are within my voice will come and vote against this. It -- it is

really -- all I could think of was the saying that *if it walks like a duck and it quacks like a duck, it's a duck*. This is exactly what the voters rejected. So if we trust the voters, why are we pushing this through right now? It's -- this is embarrassing. We have bigger, more important issues than to take up a bill like this. So, I will be in the negative. Come on, people. Let's get real. We've got other work to do. This is not one of the things that we should even have been presented with for a vote. I'll be obviously in the negative. Thank you.

ACTING SPEAKER LUPARDO: And Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker.

Would the sponsor yield?

ACTING SPEAKER LUPARDO: Will the sponsor yield?

MS. REYES: Sure.

ACTING SPEAKER LUPARDO: The sponsor yields.

MS. REYES: As long as you're not throwing insults at me.

MR. GOODELL: Well, I wasn't planning on it, but thank you for yielding.

MS. REYES: Sure.

MR. GOODELL: So I just -- looking at the bill language and just want to check some things for you. So I'm looking at page 2, lines 12 through 16. It appears that the application for this

ballot can be made by not only the voter but the spouse, parent, child or someone residing with the voter, correct?

MS. REYES: Correct.

MR. GOODELL: And that application can be not only for this election but looking at line 35 and 36 can be for -- I'm sorry, for multiple elections, right?

MS. REYES: Within the same calendar year.

MR. GOODELL: Yes. And -- and when they apply for this ballot, am I correct that the application requires that they provide their name, date of birth, residence address, but they don't have to put any excuse, right, when they're asking for it? That's not required, correct?

MS. REYES: Correct. That's why it's a separate vote by mail system.

MR. GOODELL: I see. And -- and they can -- oh, I see it, yup, and you had mentioned they could then get it for the rest of them. And of course, since this application can be submitted by somebody other than the voter, it doesn't have to be signed by the voter, right? It can be signed by or submitted by a spouse, child, parent or just someone living with the voter, correct?

MS. REYES: No.

MR. GOODELL: Oh, so it does have to be, even though the application is submitted by somebody who's not the voter, the application has to be signed by the voter?

MS. REYES: They could request it, but the actual

ballot needs to be signed by the voter.

MR. GOODELL: I see. And looking at page 4, the top of page 4, or the bottom of page 3, the application says, it says, I'm unable to sign my application, right? So if you're disabled, for example, or can't read - which makes me wonder how you're going to fill out the application and know what you're voting on - but -- but in any event, it says if you're disabled or can't read, then you're excused from signing.

MS. REYES: Right. That's the application, they can mark and then it's witnessed.

MR. GOODELL: And so then the application is actually signed by somebody else, right, who certifies that they were a witness?

MS. REYES: The application.

MR. GOODELL: And the person who signs it as a witness, they don't need to be a notary like we have to be if we're circulating petitions, for example, on an independent party. It can be anybody, correct?

MS. REYES: I'm sorry?

MR. GOODELL: The -- the person that witnesses this if the voter can't sign, they don't have to be a notary, correct?

MS. REYES: Correct.

MR. GOODELL: I'm looking at the top of page 4. They don't need to be a notary.

MS. REYES: Correct.

MR. GOODELL: And do they have to provide any identification by the way, the witness?

(Pause)

MS. REYES: If -- if you're voting by mail, who do you show your ID to? I mean this is the same process by which we do absentee ballots.

MR. GOODELL: Okay. Now this has an extensive language about having these applications signed by an exemplary signature or an electronic signature. So that's not the person --

MS. REYES: The application.

MR. GOODELL: What's that?

MS. REYES: That's the application.

MR. GOODELL: Yeah. And that's not their real signature then, right? It's like a copy, an electronic copy?

MS. REYES: I think there's language here that says that they can upload it.

MR. GOODELL: Uh-huh. And it also says, doesn't it, that the State Board of Elections or the Board of Elections will actually supply that in some cases; am I correct?

MS. REYES: Yes. I mean they can check it -- the local board shall seek to obtain such exemplar signature from the Statewide voter registration database, the State Board of Elections or a State or local agency designated by Section 5 to 11 or five to 12 of this chapter.

MR. GOODELL: Okay. So the application doesn't

have to be signed -- submitted by the voter, it can be submitted by someone who lives with the voter. It doesn't have to be signed by the voter. It could be -- it could have an electronic signature but if the -- if the voter doesn't have one, the Board of Elections can affix one, right?

(Pause)

MS. REYES: If there is no signature then the Board of Elections can request one in person, it says it here. If you're -- if such exemplar signature is not available from the Statewide voter registration database, the State Board of Elections or State of local agency designated by Section 5-211 or 5-212 of this chapter, the local Board of Elections shall, absent another reason to reject the application, require the voter to provide the exemplar signature by any one of the following methods: In person, by electronic mail or by electronic upload to the Board of Elections through the electronic early mail ballot application transmittal system.

MR. GOODELL: And I appreciate that. So there's four of them and one of them is an electronic signature they already have on file, correct? That's number three I think. Yeah?

MS. REYES: Correct.

MR. GOODELL: So, now let's say the person submits a ballot application, and we've already confirmed there's no -- you don't need to give an excuse, right, so no excuse application, you just say I want one, right?

MS. REYES: That's not what this is.

MR. GOODELL: And they -- they fill it out, right? Hopefully the voter fills it out, and this is called early mail voting. So they put it in an envelope. Does the envelope have to come back in the mail or can they deliver it personally?

MS. REYES: They can deliver it in person as well.

MR. GOODELL: I see. And so if they bring it back personally then presumably it would have no postmark. I mean because once you put it in the mail you can't deliver it back personally, that's pretty obvious. And they can deliver it back personally up to seven days after the election?

MS. REYES: No. Deliver it in person up to close of polls on Election Day.

MR. GOODELL: Well, I direct your attention to page 7, line 19. It says, *any early mail ballot received by the Board of Elections by mail that does not bear or display a dated postmark shall be presumed to have been timely mailed.* How is it that something goes through the post office without getting a postmark? I mean, how would you distinguish between that and somebody who just hand-delivers it with a stamp?

MS. REYES: Can you finish reading the rest of the sentence?

MR. GOODELL: Most certainly. *Shall be presumed to have been timely mailed or delivered if it bears the timestamp of the receiving Board of Elections indicating that it was received on the day after the election.*

MS. REYES: There's your -- that's your answer.

MR. GOODELL: So you can deliver it the day after but not seven days after.

MS. REYES: Correct.

MR. GOODELL: Okay. So you can wait and see what the preliminary election results are and then bring it in as long as it's got a stamp on it and as long as it's stamped the next day you're okay?

(Pause)

MS. REYES: I'm sorry. What was that question again?

MR. GOODELL: No. I -- I said so you can sit back in your armchair and watch the preliminary results on Election Day and then bring in your ballot the next day as long as it's delivered within the next day and it has a stamp on it you're okay?

(Pause)

MS. REYES: You already answered your question. I don't know about sitting in the armchair.

MR. GOODELL: Oh, okay.

MS. REYES: That's all embellishment but...

MR. GOODELL: Certainly, certainly. Now if we were to have a voter-approved constitutional amendment that authorizes no excuse absentee ballot system, how would that different -- differ from this system?

(Pause)

MS. REYES: That's not what's before us. That's not what's before us.

MR. GOODELL: Oh, that's not, okay. So the only way this differs, am I correct, the only way this differs from the actual process of an absentee ballot that we currently have is that when you seek an absentee ballot under the current system you have to give one of the excuses that you mentioned, right?

MS. REYES: Correct. Those are enumerated in the Constitution.

MR. GOODELL: So -- so with an absentee ballot application you have to give the excuse. Under this it's the same application process but you don't have to give an excuse, right?

MS. REYES: This is a system that's going to be available to all voters.

MR. GOODELL: Yes, all voters without an excuse, you don't have to give any explanation, right? And so up to that point, that's the first that voters would (inaudible). Let's say you submit an application for absentee ballot, Board of Elections sends you a ballot, right? And under this system that we're talking about, the early voting by mail, they send the same ballot, right, to the same residence of the voter, correct? It's not a different ballot or anything, right? It's the same ballot.

MS. REYES: Of course.

MR. GOODELL: Yes. And of course you fill it out and both of them require you to put it in an inside envelope and then

an outside envelope and -- and send it back, correct?

MS. REYES: Correct.

MR. GOODELL: And so the letters coming from the Board of Elections would be indistinguishable. It's going to be the same ballot, the same envelope, the same internal envelope. I mean we're not -- we're not going to print up different types of envelopes, right? We just send them back and -- and the ballots that come back will be in the same envelopes and the same exact ballots, correct?

MS. REYES: I think that it could potentially say -- be distinguished whether it's an absentee ballot that you requested because you have one of the -- you meet one of the requirements to receive an absentee ballot or if you're receiving a vote by mail ballot.

MR. GOODELL: And of course, as you know, the law is really clear, you can't put any extraneous marks on a ballot. So it's not like you can take a red stamp on the ballot and say, *absentee ballot, boom*, and this one, *no excuse ballot*, right? You can't put any --

MS. REYES: It's not no excuse, it's not no excuse ballot. That's not --

MR. GOODELL: Well, what excuse do you need to get this ballot?

MS REYES: It's a mail-in ballot.

MR. GOODELL: I understand, but it's no excuse, right? We've been over this several times, you don't need to give an excuse why you want it, right?

MS. REYES: When you create a system that's available to all voters, you don't need to say that -- that you're not getting an excuse.

MR. GOODELL: Okay.

MS. REYES: You just --

(Inaudible/cross-talk)

MR. GOODELL: You mentioned -- you mentioned Article II, Section 7 of the State Constitution. Of course it says that the voting -- secrecy in voting must be preserved. And then it says the Legislature shall provide for identification of voters through their signatures and all cases where personal registration is required and shall also provide for the signatures, at the time of voting, of all persons voting in person by ballot or voting machine. Now, is it your view that even though these ballots are sent out that it's still the same as in-person voting?

(Pause)

MS. REYES: It's not in-person voting.

MR. GOODELL: I'm sorry?

MS. REYES: It's not in-person voting.

MR. GOODELL: Oh, it's not in-person voting and therefore you don't need to have the personal signatures; is that correct?

MS. REYES: You do need a signature on the ballot.

MR. GOODELL: Oh, so you do need a personal signature on the return envelope?

MS. REYES: Yes.

MR. GOODELL: I see. So the only difference between this method and the one that we talked about Article II, Section 2 on the absentee ballot is you don't have to meet any of those criteria for an absentee ballot, right?

MS. REYES: Correct.

MR. GOODELL: Okay. Again, thank you very much. And I apologize that, you know, you kind of had to walk me through each of those lines, but I certainly appreciate your patience and your -- your answers.

On -- on the bill, Madam Speaker.

ACTING SPEAKER LUPARDO: On the bill.

MR. GOODELL: So we have two identical systems -- I'm sorry, we have two systems. We have one where the voter submits an application and they have to give an excuse why they don't want to vote in person. And that's called absentee ballot. And we have a second system that's being proposed today where the voter submits an application and they don't have to provide any explanation, there's no excuse, they don't have to give any excuse. And then the two processes come back together, don't they? In both cases Board of Elections sends out the identical paperwork, identical envelopes, identical ballots. And in both cases the voters presumably fill them out and send them back, and they send them back in the identical process. Two envelopes, you know the routine, it goes back to the Board of Elections. The only difference is, one, you have to provide

an excuse, and the other is no excuse. Now, in both cases, as the sponsor acknowledged, both cases -- I'm out of time. Otherwise -- oh, that's right. I wouldn't be able to tell you the difference.

Thank you, Madam Speaker.

ACTING SPEAKER LUPARDO: Thank you.

Ms. Sillitti.

MS. SILLITTI: Will the sponsor yield for a couple of questions?

MS. REYES: Yes.

MS. STILLITTI: Sorry about my voice. It's the -- the smoke has gotten to me the past couple of days.

In the system that we're proposing, does a Republican and a Democrat have to review the applications.

MS. REYES: Yes.

MS. STILLITTI: In the system when the ballots -- when the ballots go out and they come back and they have a signature, do a Republican and a Democrat, like as they do now, have to review those ballots?

MS. REYES: Yes.

MS. STILLITTI: Okay.

On the bill.

ACTING SPEAKER LUPARDO: On the bill.

MS. STILLITTI: So what a difference a day makes. Yesterday we were talking about -- everybody was excited about increasing voter participation, it's a little bit different today. There

was a lot of talk about fraud in this debate. I don't know if we're saying do we not trust our friends at the Board of Elections, do we not trust the Democratic -- Democrat members, the Republican members. I actually used to, fun fact, Gina fact, I used to work at the Nassau County Board of Elections. So I know exactly what these applications look like, I know what goes into them and I emphatically trust both the Republicans and the Democrats that work at the Nassau County of Board of Elections, if any of them are listening right now. And I trust that with this system they will do as they do before. They will diligently review it to make sure the voters are who they say they are, that they're eligible to vote, and when that ballot comes back, that they are in fact they are who they say they are. But I also wanted to make mention of something that was talked about tonight which was no excuse the constitutional amendment, which is not what this is, for the record. It was -- you know, we were talking about odd years and even years last night. It was an odd year election. It was in fact probably one of the lowest voter turnouts and the lowest participation. It was incredibly low. Resounding would not be the word I would use. And also there was a multi-million dollar misinformation campaign to confuse people of what it actually did, so I wanted to state that for the record. It was simply if somebody wanted -- I had a constituent, we'll call her Betty to not give her real name. She came up to me at an event and she goes, *I don't know how I'm going to vote*. I was like, *well, what do you mean?* She like, *well, I went to go fill out the absentee ballot application and none of the above things applied to*

me. I said, well, what's going on? She said, well, I have a really bad car, I can't afford to fix it and I'm worried that it's not going to work on Election Day and I'm not going to be able to get to the polls, that's not something I could write on my ballot. Well, of course, we made sure Betty got a ride to the poll and she was able to cast her vote. You know, in her 82 years she had never missed a single election and I wasn't about to let that happen.

So I just wanted to state those things for the record, that we had a great conversation last night about increasing voter participation and that we want more people to be involved in the process and make it easier for folks. And I think that this bill here tonight is a step in the right direction. And I just want to make sure that we give voters the correct information tonight and not misinformation. Thank you so much.

ACTING SPEAKER LUPARDO: Ms. Simon.

MS. SIMON: Yes.

On the bill, Madam Speaker.

ACTING SPEAKER LUPARDO: On the bill.

MS. SIMON: So I'm reading this bill, and I notice that it does require an exemplar signature and if one isn't available from another registry or including, for example, a state or a local agency designated in this chapter, you know, we did do original voter registration by online through the DMV, for example. The local Board of Elections will not reject the application but will require the voter to submit a signature. And I point this out because in reality so

many of us have filled out one of those forms by the State Board of Elections and we mail it in and nobody knows if it's my signature or the guy next door's signature. It could be anybody's signature. But somehow or other because it's on a piece of paper we believe it. The reality is that there is no verifying of anything when you are registering to vote by submitting a regular paper application. So -- and then you go to vote in person, your signature should match to some extent because everybody's signature changes over time. The reality is that we do have systems that can be revised to work for this particular program. We do have instances throughout the State where applications or ballots that were actually there weren't counted for one reason or another because the local Board of Elections didn't process that information. There has been no fraud found in mail-in ballots whether they were absentee ballots or in other states mail-in ballots. It is a very secure process. We can do it. Other states do it. In fact, other states do it very regularly with no problem. So I am quite confident that we will be able to institute this program and I am not concerned about whether blockchain is used. I know that in fact in many, many of our local Boards of Elections, their computer systems are -- are quite basic and concerns about blockchain technology I think are misplaced at this juncture. So thank you. I will be voting in the affirmative.

ACTING SPEAKER LUPARDO: Mr. Tague.

MR. TAGUE: Thank you, Madam Speaker. Would the sponsor please yield?

ACTING SPEAKER LUPARDO: Will the sponsor yield?

MS. REYES: Yes.

MR. TAGUE: Thank you.

ACTING SPEAKER LUPARDO: The sponsor yields.

MR. TAGUE: Thank you. I'll be brief. But first I want to start off with, why did this bill not go through Election Law Committee?

MS. REYES: It just wasn't ready at the time.

MR. TAGUE: Well, what makes you think it's ready now then? I mean this is disturbing. This is the second bill in two nights that never went through Election Law Committee where we have professionals on both sides of the aisle that are experienced, some are attorneys, that were not able to look at these bills, brief them and go back to their conferences and discuss this bill. We found out about this bill a day -- a day or so -- well, who knows now. We've been here for two days with about a three-hour break so... But same different -- the same thing that happened with the bill last night. Your colleagues sat down there and told me that the bill wasn't prepared. So it's prepared now for us to vote on? I -- I don't get it, I don't get it.

Another thing that I wanted to brief on. In Election Law, Section 2, it states the legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who, on the occurrence of any election, may be absent from the

county of their residence or, if residents of the city of New York, from the city, and qualified voters who, on the occurrence of any election, may be unable to appear personally at the polling place. So unable to vote in the polling place, Section 2. Section 7, All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved. The legislature shall provide for identification of voters through their signatures in all cases where personal registration is required and shall also provide for the signatures, at the time of voting.

MS. REYES: Mr. Tague, do you have a question for me?

MR. TAGUE: I do.

MS. REYES: Okay.

MR. TAGUE: I'm asking you which part of the law does this bill fall under? I believe you said earlier under Section 7.

MS. REYES: Article II, Section 7 --

MR. TAGUE: Absolutely not.

MS. REYES: -- of the Constitution.

MR. TAGUE: Absolutely not. It falls under Section 2.

Madam Speaker, on the bill.

Again, incredibly unprepared bringing another unconstitutional bill and waste our time after we've been here for two days. Absolutely ridiculous wasting the taxpayer's time and the

citizens of New York to steal elections. Absolutely ridiculous. You ought to be ashamed of yourselves. And to circumvent committees that each and every one of us serve on with people that are professionals, people that have experience, some that are Election Law attorneys that sit on those committees and not allow them the time to go through and brief the bills and brief the people within their conference to be able to come on the floor and speak intelligently. This is a sham. You ought to be ashamed of yourselves. Ought to be ashamed of yourselves. I vote no. I stand -- I stand for America and I stand for the Constitution of the State of New York and the United States Constitution and each and every one of you should, too.

ACTING SPEAKER LUPARDO: Ms. Walker.

MS. WALKER: Thank you, Madam Speaker. Will the sponsor yield for a couple of questions?

ACTING SPEAKER LUPARDO: Will the sponsor yield?

MS. REYES: Yes.

ACTING SPEAKER LUPARDO: The sponsor yields.

MS. WALKER: Thank you for the great work that you are doing on this piece of legislation which we believe is important.

So a few of our colleagues here have been asking about the type of ballot that will be received in the vote-by-mail scenario. So is the ballot that's going to be received by the voter the

same for absentee ballots, vote-by-mail ballots as well as in-person voting ballots?

MS. REYES: The ballot, yes, but the envelope in which it comes in delineates whether it is an absentee ballot or a vote-by-mail ballot.

MS. WALKER: Absolutely. And so I submit to you that the distinctions that are being made by many of our colleagues here today is a distinction without a difference, because notwithstanding how it is that a voter votes for a particular election whether it is through absentee ballot, whether it is by vote-by-mail or whether it is in-person voting. The ballots are utilizing the words that I've been hearing this evening will all be an identical ballot. Thank you very much for your time.

MS. REYES: Thank you.

ACTING SPEAKER LUPARDO: And Mr. Giglio.

MR. GIGLIO: Thank you, Madam Speaker. I've heard a lot over the last few days about more turnout. We're doing all of these things to make sure that people come out and vote. But I ask myself, and you should all ask yourself the same question, why aren't people coming out to vote anymore? Why has it diminished year in and year out? Do we have to have gimmicks now to get people to vote? Even years, no response, whatever we're calling this one. And the next two and some more that are coming. I'll tell you why they're not coming out, because we've lost their trust. The public does not trust us anymore. They do not think their vote matters. They do not

think anything will change. It's not just us. Look at the Federal Government. It's a joke. Everything about it is a joke. Now partisanship is 24/7 365 days a year. That's not what it was intended to be. It was intended to we'd go out, have a battle of ideas, those of us that were fortunate enough to be sent here would then work together to make New York a better place. The same for Congress, the same for the Senate. But instead now all we have done the last two days is partisan stuff that said you're good, we're good, you're bad, you're bad, that's all we ever do. We have a state that we need to save. We sit in a Chamber whose history is so great, and yet all we do is bicker. Bicker for what? For the next election? For what? Why did we come here? So that the next election starts the day after we finish? We're a good Body. There are good people in this House. And we can do great things and good things together but no. No, we never do it together. It has to be on that side of the aisle or that one. So you bring us stuff, we tell you how bad it is. And when we're done telling you that, you tell us how bad we are. Is that the way this is supposed to be? So you wonder why when you guys go door to door - we were talking about that yesterday - what do people tell you? This doesn't work anymore. The Great American Experiment is failing and it's failing on our watch. And we should be ashamed of ourselves because of that. Not because of what this bill says or doesn't say, none of that. What we should be saying is, why did we come here? And I'll bet you if you polled every one of us, we'd all say to do something good, not just for our district but for the whole darn State of New

York. And I sit here, and like I said, every day and even when I'm home I say, one of the proudest things I've ever had was to be able to walk through those doors and work in this Chamber, to sit in this Capitol. And this is all I hear every year, year in and year out no matter who's here and who's not. At some point, people, we have to come together as a Body and do what we were intended to do. This is not what we're intended to do. You don't need the advantage. You win an election outside on ideas. The Majority is a supermajority. What the heck are you worried about? God in heaven. This is disgraceful. Let's get together for once and do good things together when we're done. Not be afraid of how we vote, what we do and worry about the next election and where the money is going to come from and how the money is going to be spent and that's -- that's going to make everything better. If you're looking for a job that you don't want to lose, join the service. Thank you.

ACTING SPEAKER LUPARDO: Read the last section.

THE CLERK: This act shall take effect January 1st, 2024.

ACTING SPEAKER LUPARDO: A Party vote has been requested.

Mr. Goodell.

MR. GOODELL: Thank you, Madam Speaker. The Republican Conference will be generally no on this bill. Those who wish to vote for it are encouraged to do so on the floor. Thank you,

Madam Speaker.

ACTING SPEAKER LUPARDO: Mrs.

Peoples-Stokes.

MRS. PEOPLES-STOKES: Thank you, Madam Speaker. The Majority Conference is generally interested in making sure that everyone has access to voting so we are going to be in favor of this piece of legislation.

ACTING SPEAKER LUPARDO: The Clerk will record the vote.

(The Clerk recorded the vote.)

Mr. Goodell to explain his vote.

MR. GOODELL: Thank you, Madam Speaker.

Article II of the State Constitution is actually quite simple. It sets forth two ways you can vote in New York. One is by absentee ballot, that's when you're absent from the polling place. And two, in person. And as you might guess, that's when you show up at the polling place. Those are the only two ways authorized in the State Constitution, it's pretty straightforward. It's either in person, in which case you got to show up in person. You can't send an agent or anyone else and you have to sign. Or, you don't have to show up. You can be absent, in which case you have to ask for an absentee ballot. It's abundantly clear. This system allows you to be absent from the polling place without asking for an absentee ballot. It is exactly the process that the voters rejected. Now you may think the voters were wrong, but I think we still have to respect what they did, and they said no. If you

don't want to vote in person, you have to comply with the absentee ballot process and you have to have an excuse. This is no excuse. Absentee ballot was expressly rejected by the voters. And therefore, I can't support it and I wouldn't recommend that anyone else does either. Thank you.

ACTING SPEAKER LUPARDO: Mr. DiPietro.

MR. DIPIETRO: To explain my vote, Madam Speaker.

ACTING SPEAKER LUPARDO: To explain your vote.

MR. DIPIETRO: First off, there's a group called New York Citizens Audit that's been going around the State since before and after this last election. In 2022, they found - it's an independent group - they found over 340,000 fraudulent votes so far, they're still going county to county. It's a lot of votes. Eighty-five percent of them are from the cities, 65 percent I think are from -- 65 percent probably are from New York City approximately, I think. Also, that report has been given to everyone in the State. Continually from the Governor and the Attorney General, they refused to do anything with it. Also, a gentleman, a scientist in this country, came to New York who is a computer expert around the world and spent a long time this past year checking the voting machines and the county rolls and found not one, not two, not three, but four algorithms that were inserted illegally into these machines and have corrupted votes that you can't even imagine. He's trying to get that report up into New

York State to top, they won't take it. So you can see why there's a lot of suspicion, but I just take it a different way, you know. I know that this is going to pass. I don't know what the problem is with no excuse voting. We got it right here in the Chamber, just look around. Every day after day this year, nobody's in their seats. It's no excuse. So God bless them. I'm all for it.

ACTING SPEAKER LUPARDO: Mr. Lavine.

MR. LAVINE: I just want -- I want to thank the sponsor for the way she handled all the -- all the questions and this is an interesting concept that's being advanced. But I do want to comment on a couple things mentioned by a couple of my friends across the aisle. I'm not so sure the American Experiment has failed. When we go back into history, even though Adams and Jefferson were bitter enemies, they reconciled, they both died I think on the 50th Anniversary of the Declaration of Independence. And they're correspondence makes clear that -- and we have their correspondence. They were very disappointed in Americans because those Americans weren't living up to their expectations. I think there might be something just very inherent in being an American. So don't give up on the American Experiment. And to my other friend across the aisle who voiced such strong support for the Constitution, I just want to -- and I don't see him here right now, I don't know where he may have gone, but I also support the Constitution of the United States as does hopefully almost everyone in this room. I think anything we can do to help people vote is good, and I continue to say what I said yesterday

which is that I trust the voters. So I'm going to be voting in the -- in the affirmative. Thank you very much.

ACTING SPEAKER LUPARDO: Ms. Reyes.

MS. REYES: You know, I may not sit on the Election Committee and I may not be a lawyer, but I sure as hell sit in this Chamber - sorry - as a clinical professional and hear people opine on medical procedures, conditions, you name it. But I can read, and I'll read this. The Court of Appeals has described the legislators' -- the Legislature's power to prescribe the method of conducting elections as plenary, subject only to the limitations explicitly placed upon it by the Constitution and Federal law. And the case law has been clear in saying that this is actually within our constitutional power to do.

Um, so I am happy to vote in the affirmative, and I'm happy to be able to expand access to the ballot to so many New Yorkers, because if our interest is ultimately to increase participation, this is one way that we do it. And this -- this access to the ballot doesn't know Democrat or Republican. It just knows somebody who is gonna be having an easier time at casting their vote in the future.

So thank you, Mr. Speaker, I -- Madam Speaker, I vote in the affirmative

ACTING SPEAKER LUPARDO: Mr. Curran.

MR. CURRAN: Madam Speaker, to explain my vote. So, I have four children and they range from 21, 18, 15 and then I have a third-grader who I kindly -- kindly refer to as my non-retirement baby. So what they were explaining to me, I had a

problem understanding the word or the phrase "gaslighting." And I had my 21- and 18-year-old explain gaslighting to me just last week. And what I always had a problem with, or what I couldn't understand is when people say something to you and it has been demonstratively proven not to be the case. We have a bill in front of us that with the exception of three words is the exact same referendum that went before the people in 2021 and was rejected by 60 percent. That is gaslighting. If you're going to tell me if you trust the voters and then come back here and do something exactly different from what the voters want.

Thank you, Madam Speaker. I'm voting in the negative.

ACTING SPEAKER LUPARDO: Mr. Maher.

MR. MAHER: Thank you, Madam Speaker. I definitely appreciate my colleague, and I completely agree. The Great American Experiment is not dead, it's alive and well, it's alive and well in this Chamber with so many folks. And I heard again in a -- in a previous debate and I heard again just now from my colleague, trust the voters. And I do. I think a lot of us in this Chamber - I don't want to speak for everyone - but I hope everyone also trusts the voters. I also trust political operatives on both sides of the aisle to be political operatives and to take advantage of every opportunity to win elections. That's something that we know is real. That's something that we know is true. At the end of the day, I'll be voting no on this piece of legislation because I believe that voters have the ability to vote

through early voting, through the natural absentee process and on Election Day. So in a climate where we know countless New Yorkers have issues with election integrity, we are creating more opportunities for distrust and more opportunities for political operatives on both sides to take advantage of this system, and I don't think that's something that we should even be considering.

The second aspect of voting no obviously is, you know, there is going to be a cost to this and there does not seem to be an allotment attached. You look at the school districts, you look at the local elections and the Board of Elections, this certainly will be an unfunded mandate.

So for all those reasons and many more, I will be voting in the negative. Thank you, Madam Speaker.

ACTING SPEAKER AUBRY: Mr. Palmesano to explain his vote.

MR. PALMESANO: Yes, Mr. Speaker, to briefly explain my vote. I wasn't going to speak, but throughout this debate and yesterday I heard over and over again from our friends on the other side, "I trust the voters, I trust the voters." That's not the problem. The voters don't trust us, that's the problem. And who can blame them? The proposal we have in front of us is the same -- pretty much the same proposal the voters overwhelmingly rejected on the constitutional amendment. Everyone in this Chamber knows it, the language is very similar. So why would they trust us when they send us a message and say, *We don't want it*, but then we come back with

the same thing over again, saying we know better over and over again. The hypocrisy and arrogancy just is so evident by this. So, you can say you trust the voters all you want. What you don't understand is the voters don't trust us. That's the problem, and that's why we should reject this proposal. And that's what why I'm rejecting the proposal. I vote no.

ACTING SPEAKER AUBRY: Mr. Palmesano in the negative.

Are there any other votes? Announce the results.

(The Clerk announced the results.)

The bill is passed.

Mrs. Peoples-Stokes.

MRS. PEOPLES-STOKES: Mr. Speaker, colleagues, we're going to pivot a little bit and go to Rules Report No. 450 -- 670, Rules Report No. 670 by Mr. Bronson, and then we're going to go to our A-Calendar so that we might consent it.

ACTING SPEAKER AUBRY: Thank you, Mrs. Peoples-Stokes.

Page 18, Rules Report No. 670, the Clerk will read.

THE CLERK: Senate No. S01783-A, Rules Report No. 670, Senator Hoylman-Sigal (A00372-A, Bronson, Seawright, Dinowitz, Glick, Simone, Septimo, Kim, Epstein, Burdick, Simon, Sillitti, Clark, Forrest). An act to amend the Public Health Law, in relation to establishing the Lesbian, Gay, Bisexual and Transgender and People Living with HIV Long-Term Care Facility Residents' Bill

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S7394A

SPONSOR: GIANARIS

TITLE OF BILL:

An act to amend the election law, the education law, the town law and the New York city charter, in relation to establishing early mail voting

PURPOSE:

The purpose of this bill is to create an early mail voting system in NYS.

SUMMARY OF PROVISIONS:

Section 1 titles the bill the "New York Early Mail Voter Act."

Section 2 amends article 8 of the election law to add a new title 7 laying out how individuals apply for an early vote by mail ballot, how those ballots are delivered, the establishment of an electronic early mail ballot application transmittal system, the method behind the process, deadlines and delivery timelines to polling places, and the establishment of an online early mail ballot tracking system.

Section 3 amends paragraphs c and d of subdivision 2 of section 8-400 of the election law to state that applications for absentee ballots must be received by the board of elections no later than the 10th day before the election.

Section 4 amends election law by adding a new section 7-119 which establishes how early mail voter ballots shall be formulated and counted for general, primary, and special elections.

Section 5 amends election law by adding a new section 15-119 which establishes how the early mail voting process shall function in village elections.

Section 6 amends paragraph b of subdivision 2 of section 15-124 of selection law to state that duties of the village clerk in village elections shall also include the investigation of any registrant or applicant for an early mail ballot.

Section 7 amends subdivision 4 of section 3-108 of the election law to add references to early mail voting methods.

Section 8 amends subdivision 3 of section 3-222 of the election law to add references to early mail for preservation of ballots and ballot envelopes; examination of early mail ballots; and unopened early mail ballots.

Section 9 amends section 3-506 of the election law to state that boards of elections providing information in Russian in a city with a population of over 1 million shall include information for obtaining and early mail ballot.

Section 10 amends subdivision 1 of section 4-117 of the election law to state that the board of elections, when mailing notice of an election to every registered voter, shall indicate that any registered voter may vote early by mail by applying for an early mail ballot, and provide information on how to apply for an early mail ballot.

Section 11 amends subdivision 1 of section 4-119 of election law to add that NYC board of elections shall include in their publications in at least 2 newspapers information about applications for early mail ballots.

Section 12 amends subdivision 3 of section 4-120 of the election law to add that NYC board of elections shall include in their publications in at least 2 newspapers information about applications for early mail ballots.

Section 13 amends subdivision 9 of section 5-210 of election law to state that county boards of elections shall provide notice to registrants that any registered voter may vote early by mail and provide information on how to obtain an early mail ballot.

Section 14 amends subdivision 13 of section 5-211 of the election law to state that SUNY and CUNY institutions will include a link to applications for early mail ballots on their voter education webpage.

Section 15 amends subdivision 5 of section 5-215 of the election law to state that veterans health administration hospitals in which any veteran entitled to vote in this state is a resident or patient, located outside of the state of NY, an application for an early mail shall constitute permanent personal registration.

Section 16 amends subdivision 1 of section 5-502 of election law to add that the board of elections shall furnish in time for use by the boards of inspectors of election early mail ballot applications.

Section 17 amends paragraph i of subdivision 3 of section 5-614 of the election law to add that local boards of elections are allowed to use their own systems to process early mail voters.

Section 18 amends subdivision 2-a and subparagraph ii of paragraph e of subdivision 3 of section 8-302 of election law to add that if a voter appears in the ledger or computer generated registration list with a notation that the board of elections has issued an early mail ballot, such voter shall not be permitted to vote on a voting machine at an early voting site but may vote by affidavit ballot. This section also states that such affidavits shall be printed on an envelope of the size and quality used for an early mail ballot envelope.

Section 19 amends section 8-502 of election law to add that any person may be challenged their right to vote by early mail.

Section 20 amends the section heading and subdivision 1 of section 8-506 of election law to include references to challenges of early mail ballots, and also states that a challenge to an early mail ballot may not be made on the basis that the voter should have applied for an absentee ballot, and a challenge to an absentee ballot may not be made on the basis that the voter should have applied for an early mail ballot.

Section 21 amends subdivisions 1 and 3 of section 9-124 of election law to add a reference to early mail voting insofar as it relates to portable memory devices from each ballot scanner including such ballots which may have been delivered to the poll site during election day. In addition, this section adds that in NYC, the board of inspectors shall deliver any early mail ballots which may have been delivered to the poll site during election day.

Section 22 amends the section heading and opening paragraph, subdivision 1, the subdivision heading and opening paragraph of subdivision 2, paragraphs a and b of subdivision 4, the subdivision heading and paragraph f of subdivision 6, paragraphs a and k of subdivision 7, the subdivision heading and paragraph a of subdivision 8 and 9 of section 9-209 of election law to add mention of canvass of early mail ballots, including receipt, review, casting, ballot tracking system inclusion, and post-election review of such ballots.

Section 23 amends section 10-122 of the election law to add that military voters may vote early by mail.

Section 24 amends subdivision 2 of section 10-124 of election law to clarify that the state board of elections is responsible for including information regarding voter registration procedures and ballot procedures.

Section 25 amends section 11-300 of election law to add that a voter may deliver at any time during which an early mail application may be delivered a written statement of religious scruples against voting at a polling place located in a premises used for religious purposes.

Section 26 amends subdivision 1 of section 11-306 of election law to add that signed written statements regarding being a victim of domestic violence may be delivered to the board of elections at any time during which early mail ballot applications may be delivered.

Section 27 amends subdivisions 1 and 2 of section 11-308 of election law to add that emergency responder registered voters may apply for a special ballot without regard to early mail application deadlines.

Section 28 amends section 15-100 of election law to add reference to early mail voting as it relates to the application of the article to all general and special village elections applying to village elections.

Section 29 amends subdivision 8 of section 15-118 of election law to add that the village clerk shall deliver to inspectors a list of all persons who have applied for early mail ballots for the election which the registration meeting is being held.

Section 30 amends subdivisions 1 and 5 of section 16-106 of selection law to add reference to early mail as it relates to the post-election refusal to cast such ballots.

Section 31 amends subdivision 4 of section 16-108 of election law to add that unlawfully denied early mail ballots or applications shall be compelled to be delivered by courts, justices, or judges in a related proceeding.

Section 32 amends subdivision 8 of section 17-132 of election law to add reference to fraudulently signing the name of another on an early mail voter's envelope.

Section 33 amends paragraph b of subdivision 1 of section 17-212 of election law to add actions involving early mail voting as violations of these sections.

Section 34 amends subdivision 1 of section 1512 of the education law to state that provision shall be made to vote by early mail ballots in district meetings.

Section 35 amends subdivision 5 of section 1522 of education law to state that provision shall be made to vote by early mail ballots in meetings for establishments of union free school district meetings.

Section 36 amends subdivision 1 of section 1524 of the education law to state that provision shall be made to vote by early mail ballots as it relates to consolidation with city school districts. Section 37 amends subdivision 5 of section 1803 of election law to state that the commissioner of education may order modifications in the manner of voting as are customary for school district elections including those to early mail ballots.

Section 38 amends paragraph f of subdivision 2 of section 1803-a of the education law to state that provision shall be made to vote by early mail ballots in central school district voting.

Section 39 amends subdivision 2 of section 1951 of election law to state that the board of cooperative education services shall provide early ballots to qualified voters, and that the commission shall adopt regulations for the purpose of implementing this process.

Section 40 amends subdivision 7 of section 2004 of education law to add that notice for early mail ballots for election of board members may be applied for at the office of the clerk of the district, and that a list of all persons to whom early mail ballots have been issued will be available in the office of the clerk.

Section 41 amends subdivisions 3 and 6 of section 2018-a of election law to state that a challenge to an absentee ballot may not be made on the basis that the voter should have applied for an early mail ballot.

Section 42 amends paragraph a of subdivision 2 and subdivisions 3 and 7 of section 2018-b of education law to add that a challenge to an absentee ballot may not be made on the basis that the voter should have applied for an early mail ballot. 1.10i'

Section 43 amends education law by adding a new section 2018-e which states that early mail ballots for school district elections shall be provided for the election of members of the board of education and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda, and sets forth how such early mail voting shall occur.

Section 44 amends education law by adding a new section 2018-f which states that early mail ballots for school district elections by poll registration shall be provided for the election of the trustees or members of the board and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda, and sets forth how such early mail voting shall occur.

Section 45 amends section 2613 of the education law to add that the board of education of each city district shall provide early mail ballots.

Section 46 amends subdivision 5 of section 84 of the town law to state that the board of registration shall place the names of all qualified voters who made application for early mail ballots on the register.

Section 47 amends subdivision 3 and paragraph a of subdivision 6 of section 84-a of the town law to state that a challenge to an absentee ballot may not be made on the basis that the voter should have applied for an early mail ballot.

Section 48 amends the town law to add a new section 84-b which states that early mail ballots shall be provided for all special town elections for which personal registration is required.

Section 49 amends paragraph 1 of subdivision a of section 1053 of the NYC charter to include reference to early mail insofar as it relates to what must be included in materials.

Section 50 amends paragraph 8 of subdivision b of section 1054 of the NYC charter to add reference to early mail voting insofar as it relates to conducting yearly training for all relevant staff of the department of correction.

Section 51 amends subdivision 9 of section 1057-a of NYC charter to add that the department of correction shall implement and administer a program of distribution and submission of early mail applications and received early mail ballots for eligible incarcerated individuals.

Section 52 amends paragraph 3 of subdivision a of section 1057-d of the NYC charter to add notification of the deadline for submission of an early mail voting application.

Section 53 amends subdivision a of section 1057-e of the NYC charter to add reference to early mail ballots.

Section 54 amends the last undesignated paragraph of subparagraph a of paragraph 3 of subdivision d of section 1057-g of the NYC charter to add that there is a right to a replacement early mail ballot.

Section 55 sets the effective date.

JUSTIFICATION:

New York must be a lifejacket for democracy and combat the national tide and demonstrate free, fair, elections with ease of participation. This legislation intends to make New York State a leader in engaging the electorate, meeting voters where they are and opening up greater opportunities for people to have their choices made on the ballot.

LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

TBD.

LOCAL FISCAL IMPLICATIONS: TBD.

EFFECTIVE DATE:

This act shall take effect January 1, 2024 and shall apply to any general, primary, run-off primary, or special election held thereafter.



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EXPLAINER

The Constitutionality of the New York Early Mail Voter Act

by Richard Rifkin*

December 13, 2023

With the recent enactment of the “New York Early Mail Voter Act,” there are now two conflicting provisions of law setting forth different rules regarding the ability of voters to cast their vote by mail. New York will face a significant problem in conducting elections in 2024, unless the courts are able to reach a final decision early next year that resolves the question of which of the two contrary provisions of law will govern. Without resolution of this question, the primary elections will be held without certainty as to this important issue, placing the outcomes in legal jeopardy.

The Constitution

The New York State Constitution provides that voters must vote in person at their polling place unless they are either absent from their county of residence (or from New York City if a resident of the City) or “unable to appear . . . because of illness or a disability.”¹ Under this provision, voters may vote by mailing in absentee ballots only if they come within either of the two exceptions to the requirement that they vote in person.

The procedure for amending the New York State Constitution requires voter approval after the proposal has twice been passed by the Legislature in consecutive sessions. In an effort to expand voting by mail, the Legislature passed a proposed constitutional amendment in two consecutive sessions that would have repealed the existing restrictions. This proposal was placed on the ballot in the November 2021 general election. However, it was defeated by the voters at that election, thereby causing the provision containing the limitations on voting by mail to remain in the Constitution.

When the COVID-19 pandemic began and caused almost every citizen to reshape their lives, former Governor Andrew Cuomo, acting pursuant to a law giving him the authority

* Richard Rifkin is Legal Director of the Government Law Center at Albany Law School.

¹ N.Y. Const., art. 2, § 2.

to suspend statutes and local laws during a statewide disaster emergency,² interpreted the constitutional disability exception to cover situations in which a voter would have to choose between prioritizing their health and practicing their right to vote on account of the pandemic. However, when the COVID emergency expired, the suspension of the constitutional restrictions—which may or may not have been within the authority of the Governor—ended, and they again became applicable. Thus, voters were no longer permitted to submit absentee ballots by mail by citing the pandemic as the basis for a disability.

The New York Early Mail Voter Act

In the 2023 legislative session, a statutory provision was enacted that would effectively remove the constitutional limitations. Having been approved by Governor Kathy Hochul, the New York Early Mail Voter Act became part of New York’s statutory law on September 20, 2023, with an effective date of January 1, 2024.³ Thus, it will be applicable for the first time in the 2024 primary elections, scheduled to be held on April 2.⁴

The question, of course, is whether this statutory provision of law can override a seemingly contrary constitutional provision. The sponsors of the legislation have explained why they believe that the statute is valid as follows.

Until 2019, voting in person required voters to go to the polls on Election Day. In January 2019, a new law was enacted authorizing what is called “early voting.” This law mandated that polls be open on certain days starting ten days prior to Election Day. It gave voters an option as to the day on which they could cast their in-person ballots. This is now the established procedure for elections.⁵

The New York Early Mail Voter Act permits a voter “to vote early by mail . . . in any election . . . in which the voter is eligible to vote.” Under the statute’s provisions, an application for an “early vote mail in ballot” must be submitted to the appropriate Board of Elections. If the Board finds the applicant eligible to vote, it sends a ballot to the applicant. The applicant must then vote and return the completed ballot so that it is received by the Board before the close of the polls on Election Day or, alternatively, be postmarked by that time.

Conflict Between Constitution and Statute

The sponsors of the 2023 legislation seem to argue that the constitutional restrictions on voting by mail were inserted at a time when all voters were required to vote in person on Election Day. They argue that the restrictions should apply only to voting on that day. The

² N.Y. Exec. Law, § 29-a.

³ 2023 N.Y. Laws, ch. 481, § 55.

⁴ Date set by 2023 N.Y. Laws, ch. 474.

⁵ N.Y. Elec. Law, § 8-600.

recently adopted statute provides that it covers the method of voting adopted in 2019. Therefore, its application is limited to voters who are voting under the early voting statute. The rules for early voting, they argue, can be different from those that apply to Election Day voting.

As a result, we now have constitutional limitations on the ability to vote by mail but statutory provisions that seem to remove these limitations. Consequently, there will be a question as to whether those votes cast by mail without an absentee exception for not voting in person will be counted. Without the courts determining before the election whether the statutory provisions conflict with the constitutional limitations, and are, therefore, invalid, boards of elections and voters will not know what to do. A court decision after the election could result in the rejection of mail-in votes, thereby risking chaos and the possibility of a change in the election results.

An action challenging the constitutionality of the new statute was brought within one day of the Governor's approval of the bill.⁶ We now need a final decision on the validity of the 2023 statute well in advance of the April 2, 2024, primary elections to allow those elections to proceed without the risk of uncertainty and, even worse, the possibility that mail-in votes will be rejected after having been cast pursuant to the statute.

The Government Law Center provides the nonpartisan legal research and analysis that help state and local governments serve their communities. Our role is to explain, not to advocate for a position or course of action.

⁶ *Stefanik v. Hochul*, No. 908840-23, NYSCEF Doc. No. 1 (Sup. Ct., Albany County, Sept. 20, 2023).

11-20-2023

November 20 Roundtable Update

Jeffrey M. Wice

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**WE ARE NEW YORK'S LAW SCHOOL****N.Y. CENSUS & REDISTRICTING ROUNDTABLE UPDATE****LITIGATION****Congressional: *Hoffmann v. Independent Redistricting Commission (IRC)***

For complete background information on the case, see the Institute's litigation tracker here: <https://redistrictingonline.org/stateredistrictingalmanac/state-redistricting-info-new-york/>

Court of Appeals Hearing: A New Map?

From City and State, by Jeff Wice. Read the full oped here; <http://bit.ly/3sDSI1P>

"Thursday's spirited, nearly two-hour court hearing may lead to a very closely divided court decision. Chief Judge Rowan Wilson and Associate Justices Jenny Rivera and Shirley Troutman all dissented in last year's ruling, and stated that redistricting is, in the end, a state legislative responsibility. Judges Wilson and Rivera appeared sympathetic to the Democratic arguments. Judges Anthony Cannataro, Michael Garcia and Madeline Singas peppered the Democratic lawyers with concerns over replacing the 2022 map as unnecessary and motivated more by process concerns over substantive issues.

After new Associate Judge Caitlin Halligan recused herself from this case, Manhattan Appellate Court Judge Dianne Renwick [took her place and may end up as the swing vote](#). It's important to note that Renwick was part of an appellate panel that supported having the Independent Redistricting Commission and Legislature redraw the Assembly map last year.

We're likely to get a decision by December, leaving enough time for the Commission and Legislature to enact a new map in time for the start of the 2024 campaign in late February when petitioning gets underway for the June primary. That's if the Court of Appeals agrees with the Democrats. Should the Republican arguments carry the day, the protracted post-2020 redistricting process should finally end and leave the court ordered 2022 map in place through the end of the decade.

But in today's supercharged political climate, we're left to expect the unexpected."

N.Y. Early Voting Law Challenged: *Stefanik v. Hochul*

On September 20, a group of Republican plaintiffs (including organizations and elected officials) filed suit in Albany County State Supreme Court seeking to invalidate the New York Early Mail Voter Act (EMVA) as unconstitutional and seeking to block the implementation of the law.

RECENT ACTION

November 13, 2023: Two memos filed in support of plaintiffs & opposed to the Early Mail Voting Act.

Memo in Opposition to Motions to Dismiss and in Support of Plaintiffs' Cross-Motion for Summary Judgment

The plaintiffs contend that the EMVA is inconsistent with the text, structure, and history of Article II, Section 2 of the state constitution and that they have standing to challenge it. They argue that the EMVA violates the state constitution because, in their view, Article II, Section 2 limits absentee voting to those who are absent from their county on election day, voters who are ill, and voters who are disabled. They further assert that mail voting, by definition, is a form of absentee voting. They contend that this is the way New Yorkers have interpreted the state constitution for a century and a half.

On the issue of standing, the plaintiffs assert that the court does not need to address whether the candidate, organizational, or commissioner plaintiffs have standing because even the State appears to agree that the voter plaintiffs have standing as they "plainly suffer redressable injury when an unconstitutional law 'dilutes' the weight of their votes, whether 'by a false tally or by a stuffing of the ballot box.'" Therefore, the plaintiffs ask the court to deny the motions to dismiss and grant their cross-motion for summary judgment.

Defendant Peter S. Kosinski's Memo in Opposition to Motions to Dismiss and in Support of Plaintiffs' Cross-Motion for Summary Judgment

Co-Chair of the NY State Board of Elections, Commissioner Kosinski, argues that the EMVA is unconstitutional because the legislature ignored the state constitution's requirement for amendment of its absentee voting provisions. He asserts that after New Yorkers rejected the proposed amendment related

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to “no-excuse absentee voting,” the legislature disregarded the constitutional amendment procedure and the will of the People and enacted the EMVA, which Commissioner Kosinski maintains is “the exact same bill cloaked euphemistically (if not disingenuously) with a different name.”

Commissioner Kosinski also argues, contrary to the defendants’ position, that the Court of Appeals has already held that Article II, Section 7 does not grant the legislature plenary (complete/absolute) power to authorize no-excuse absentee voting. He contends that Section 7 is limited and was enacted to allow “solely” the substitution of voting machines in place of paper ballots.

He also asserts that the State is judicially estopped [prohibited from making a certain argument because they took a contradictory position in another case] from arguing that the state constitution grants the legislature plenary authority to allow mail in voting under Article II, Section 7 because the State previously succeeded in arguing that the constitution requires in-person voting except where absentee voting is authorized by Article II, Section 2.

Commissioner Kosinski concludes by arguing that the Defendants’ justification for the EMVA’s constitutionality defies multiple accepted principles of statutory interpretation.

N.Y. Absentee Voting Challenge: *Amedure et al v. State of New York et al*

On August 31, in Saratoga County State Supreme Court, the New York Republican Party and other petitioners filed a challenge to the state absentee voting law (Chapter 763 of the Laws of 2021). The law allows review of absentee ballots on a rolling basis, requires voters who request absentee ballots but decide to vote in person to vote using a provisional ballot, and prevents legal challenges to ballots that were already cast.

RECENT ACTION**Petitioners’ Memo in Support of Motion for Preliminary Injunction**

On November 15, Rich Amedure and other Republican petitioners filed a memo asking the court to grant them a preliminary injunction declaring state absentee voting law (Chapter 763 of the Laws of 2021) unconstitutional as to the 2024 election cycle.

To secure a preliminary injunction, petitioners must show (1) a likelihood of success on the merits; (2) irreparable injury in the absence of a preliminary injunction; (3) that the balance of hardships favors the plaintiffs; and (4) that granting the relief would not be outweighed by public policy considerations.

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The petitioners argue that they have shown a likelihood of success on the merits because in 2022 the trial court held that Chapter 763 is unconstitutional, and that holding is still the law of this courthouse because the Appellate Division dismissed the petition based on timeliness, not the merits.

They also argue that they will be irreparably harmed by the law if the court does not grant an injunction because “the continual application of this unconstitutional statute will supplant the rights of the petitioners guaranteed to them by the Constitution.”

The petitioners also assert that any “perceived prejudice” that could occur by granting a preliminary injunction is outweighed by the prejudice inherent in the “trampling of constitutionally protected rights.”

They conclude by stating that “Accuracy counts. Instant gratification is not the answer. We need to assure the public that the results are true, even if it takes some time to scrutinize the ballots, and give the candidates due process and an opportunity for judicial review. This is why the Respondents must be enjoined from enforcing...Chapter 763.”

AROUND THE NATION**North Dakota’s Map Dilutes the Native American Vote**

On November 17, a federal judge ruled that North Dakota’s 2021 legislative redistricting plan violates the rights of two Native American tribes by diluting their voting strength. The judge has given the state legislature and Secretary of State until December 22 to adopt a plan to remedy the violation, after which the tribes may file objections.

During the 2021 redistricting process, the state legislature split the 9th Legislative District in half for the first time in the state’s history, splitting it into Subdistrict 9A and 9B, with each subdistrict electing a state House member. The tribes alleged that the redistricting plan unlawfully packed House Subdistrict 9A with a supermajority of Native Americans and cracked the remaining Native American voters in the region into other districts, including the 15th district. The state maintained that the two subdistricts were created to allow tribal nations to elect their candidate of choice.

The court held that the plan prevented Native American voters from having an equal opportunity to elect a candidate of their choice, violating Section 2 of the Voting Rights Act. The opinion acknowledged that voting in the Northeastern portion of the state is racially polarized, with Native American

voters preferring different candidates than their White counterparts, and it also referenced the historic discrimination faced by Native American voters.

Galveston County TX Voters Submit Emergency Application to the Supreme Court

On November 16, voting groups asked the U.S. Supreme Court to lift the 5th Circuit Court of Appeal's pause of the decision ordering Galveston County, Texas to redraw its commissioners court districts to comply with Section 2 of the Voting Rights Act. The panel acknowledged that while it was bound by its precedent allowing for minority coalition claims, it believed that permitting such claims is "wrong as a matter of law" and called for the case to be reheard by the 5th Circuit en banc to reconsider this precedent. The panel issued a separate order that extended its temporary pause of the district court's decision requiring the county to redraw its commissioners district for the 2024 election. The order remains in effect pending a decision from the entire 5th Circuit regarding whether it will rehear the case en banc.

In the emergency application, Galveston County voters argue that the 5th Circuit's extension of a temporary pause is delaying the implementation of VRA complaint districts. They also stressed that under the *Purcell* principle, which prohibits changes to maps or voting rules too close to an election, the urgency of adopting a new map in advance of the 2024 election is even more pronounced.

The emergency application is addressed to Justice Samuel Alito, who oversees all emergency applications for the 5th Circuit. Justice Alito can decide to grant or deny the stay himself or refer the matter to the entire Supreme Court. If the full court considers the application, the votes of five justices are required to grant the emergency application.

Short descriptions of the legislative bills used for the 2023 Legislature Ratings in the New York State Legislature

1. **108-A Krueger/A.1283 Seawright:** This is the inaccurately named “Equality Act” which hampers parent’s rights on issues including gender assignment while enshrining in the State Constitution the ability to induce an abortion until term. CPNYS opposes this bill.
2. **636-A Comrie/A. 5981-A Paulin:** This bill seeks to provide data to the public about the gender, ethnicity, and race of companies’ employees. CPNYS believes that this bill undermines the ability for private employees to choose their employees on merit, and if enacted would require specific groups to be equally represented as an employee, not on the merits of their ability to do the job and is therefore opposed to the bill.
3. **1066-B Mayer/A.1709-B Reyes:** This bill raises interstate commerce issues by allowing NYS to create protections for non-state residents to seek an abortion in New York State without establishing residency. It will enhance New York’s already deplorable abortion tourism industry. CPNYS is opposed to these changes
4. **1163-A Sanders/A. 7691 Solanges:** This bill seeks to establish the New York State Community Commission on Reparations Remedies. There is no doubt that slavery was inhumane and had to be ended. America did just that after the Civil War ended in May of 1865. America’s history is unique in that America recognizes and changes its shortfalls, however, a commission on reparations remedies is not the answer in 2023, one hundred and fifty-eight years after the Civil War. CPNYS opposes the creation of this commission, it does however, support education on slavery to be certain that no race or religion is ever enslaved again.
5. **2328-A Mayer/A. 2793-A Otis:** This bill seeks to provide additional protection for military monuments and memorials. Recent attempts to remove long established memorials for “political correctness” makes this bill necessary. CPNYS supports this bill.
6. **2475-B Hoylman-Sigal/A. 6046-Bronson:** This bill seeks to allow courts and physicians the authority to provide gender transitions for those who are too young to sign consent forms themselves and who live out of state. This is yet another bill where the extreme left interferes in the policies of other states by affirming that gender transitioning is welcomed and encouraged in New York State. CPNYS opposes this bill that also seeks to undermine the rights of parents.
7. **2980-C Kavanagh/A.6216-B Rosenthal, L:** This bill expands tenant protections first passed in 2019. CPNYS opposes the bill that leaves owners/landlords with little protections from delinquent or unruly tenants.
8. **3225-Hoylman-Sigal/A. 358 Bronson:** This bill seeks to keep accurate and relevant public records of population by sexual orientation and gender identity or expression in the state of New York. CPNYS opposes the public record of all data collection of employees as there is no viable need to collect it.
9. **3505-B Skoufis/A4282-B Paulin:** If enacted, local elections and the many important issues candidates in such elections discuss will take second place to presidential and statewide elections, thus doing local constituencies a disservice. CPNYS opposes these changes.

10. **4000-D Budget/A. 3000-D Budget:** This is the State Operations Budget Bill that continues unchecked increases to state agencies spending and is a major component to the historically large increases in 2023-2024. CPNYS is opposed to this.
11. **4007-C Budget/A 3007-C Budget:** This budget bill contains the state health and mental health legislation that provides abortion expansion in the state budget. CPNYS is opposed to this.
12. **4009C Budget Bill/A. 3007-C Budget:** This Budget Bill (Article VII) includes tax increases, movie tax credit expansion and a variety of MTA related language that resulted in a partial state bailout. CPNYS is opposed to this.
13. **5025 Mayer/A. 1771-A McDonald:** This constitutional amendment seeks to remove the debt cap currently imposed upon small city school districts. Although the Party does not oppose the use of increased debt to aid small school districts, we do, as a matter of principle, oppose lifting debt cap limits. New priorities in state leverage, as well as revising pay as you go (PAYGO), in the views of the Conservative Party makes more sense. Therefore, CPNYS opposes this bill.
14. **5826 Kavanagh/A 3057 Cruz:** This bill would require that before entering a plea a non-citizen defendant be told that there is a risk of deportation. CPNYS opposes this bill that undermines the federal law passed in 1996 that may subject a defendant to automatic removal even if it is a minor offense.
15. **5984-A Kavanagh/A. 6132-A Carroll:** This is same day registration. It was overwhelmingly rejected as a ballot proposal in 2020. It will lead to increased fraud and therefore CPNYS is opposed to this bill.
16. **6218-A Parker/A. 7764 Mitaynes:** CPNYS opposes this program inasmuch as significant unresolved conflicts exist in the viability both scientifically and economically for large scale offshore wind projects.
17. **6714-B Thomas/ A. 6568-B McDonald:** This bill seeks to establish the New York State organized retail crime task force. CPNYS supports this common-sense legislation to help resolve the rising crime rates and help address the economic impact in New York State.
18. **7050 Skoufis/A. 124-A Solages:** This bill seeks to prohibit municipal officers or employees from displaying political advertisements on or with public buildings and various other places. CPNYS objects to the portion of this proposal that seeks to eliminate the *display* of a political advertisement as an attempt to infringe the First Amendment of the US Constitution.
19. **7354 Hinchey/ A.7430 Peoples-Stokes:** This bill extends authorization to process and distribute cannabis products. Marijuana continues to be classified as a Federal Schedule 1 substance under the Controlled Substance Act, as well as viewed as a gateway drug by the majority of substance abuse treatment specialists due to its high potential for abuse. Therefore, CPNYS opposed this bill.
20. **S 7394-A Gianaris/ A. 7632-A Reyes:** This bill violates the public intent as shown in the overwhelming rejection of a ballot proposal in 2020 to amend the state constitution to establish mail in voting. It will lead to increased fraud; therefore, CPNYS is opposed to this bill.
21. **7414 Gonzalez/A. 7364 Otis:** The bill seeks to clarify that homeland security and emergency services statutory review and provide analysis of measures to protect the security of critical infrastructure including for cyber security. CPNYS supports this necessary piece of legislation.

22. **7548 Myrie/A. 2878 Aubry:** This bill seeks to make it easier to vacate judgements in criminal procedure law due to various options such as changes in the law the applicant was convicted of. If a court grants a motion under this section, it must vacate and seal the judgement. CPNYS believes those truly wrongfully convicted should be allowed to clear their name, however the changes in the bill open the possibility of a flood gate of applications due to the loosening of reasonable restrictions. CPNYS opposes this bill.
23. **7549-A Thomas/A.7763 Hunter:** This bill seeks a one-year moratorium on rem foreclosures. CPNYS believes that additional time granted to the debtor for non-payment of taxes places an unnecessary burden on the locality, other property owners and the public.
24. **7551-A Myrie/A. 1029-C Cruz:** This bill, also known as the “Clean Slate” bill, seeks to automatically seal records pertaining to specified offenses. CPNYS opposes the “automatic” sealing of records (there is a process to expunge records) and believes that any record eligible for sealing must be reviewed by appropriate legal staff.
- 25). **S.7564 Myrie/A.7760 Walker:** This bill seeks to expand the public campaign program. CPNYS is firmly opposed to using tax dollars for campaigns. This proposal expands the current allowances resulting in the commitment of larger donations for the use in establishing matching funds allocations.

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