



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 30 2020

The Honorable Michael R. Pence
President
United States Senate
Washington, DC 20510

Dear Mr. President:

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), we are pleased to transmit to you the Attorney General's annual report. We apologize for the delay of our transmittal.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in cursive script that reads "Prim Escalona / for".

Stephen E. Boyd
Assistant Attorney General

Enclosure



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Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 30 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), we are pleased to transmit to you the Attorney General's annual report. We apologize for the delay of our transmittal.

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JAN 30 2020

The Honorable Charles Grassley
President Pro Tempore
United States Senate
Washington, DC 20510

Dear Mr. President Pro Tempore:

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), we are pleased to transmit to you the Attorney General's annual report. We apologize for the delay of our transmittal.

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JAN 30 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), we are pleased to transmit to you the Attorney General's annual report. We apologize for the delay of our transmittal.

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Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 30 2020

The Honorable Charles E. Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), we are pleased to transmit to you the Attorney General's annual report. We apologize for the delay of our transmittal.

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Assistant Attorney General

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Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 30 2020

The Honorable Steny H. Hoyer
Majority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Leader:

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), we are pleased to transmit to you the Attorney General's annual report. We apologize for the delay of our transmittal.

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Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 30 2020

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Leader:

Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), we are pleased to transmit to you the Attorney General's annual report. We apologize for the delay of our transmittal.

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Assistant Attorney General

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**United States Department of Justice
Uniformed and Overseas Citizens Absentee Voting Act
Annual Report to Congress
2019**

I. Summary

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, 52 U.S.C. §§ 20301-20311, as amended by the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-35 (2009), requires States to afford military and overseas voters a meaningful opportunity to register and vote absentee in elections for Federal office. Protecting the voting rights of military and overseas voters remains one of the highest priorities of the Department of Justice (“Department”). This report describes the Department’s litigation and compliance monitoring work in 2019 to enforce this important statute.

Although 2019 was an “off-year” in the Federal election cycle, the Department continued significant work to enforce UOCAVA through its monitoring of a number of special elections held in 2019 to fill Congressional vacancies. The Department closely monitored the scheduling of these elections, and requested that States confirm to the Department that they timely transmitted UOCAVA ballots for the special elections. Our monitoring resulted in additional enforcement work by the Department with one State, Wisconsin, to ensure that absentee ballots could be timely transmitted to military and overseas voters for a special election scheduled for 2020. Two States¹ held special elections to fill Congressional vacancies this year. The Department continues its communication with a number of States that are in the process of scheduling special elections to occur in 2020.

In accordance with our 2018 consent decree with the State of Wisconsin, the State enacted amendments to Wisconsin law to ensure UOCAVA protections for eligible overseas citizens in future elections for Federal office. In connection with our 2010 UOCAVA litigation against the State of New York, the State enacted legislation to permanently move the date of its Federal primary election to ensure UOCAVA compliance in future Federal general elections. Copies of the significant documents referenced herein are attached to this report.

Finally, in preparation for its nationwide compliance monitoring program for the 2020 Federal election cycle, the Department wrote to all the chief State election officials in November 2019 to remind them of their UOCAVA responsibilities and to request teleconferences to discuss their preparations for the primary elections. As in prior Federal election cycles, we requested that the State election offices monitor the transmission of absentee ballots and provide confirmation to the Department that ballots that were requested by the 45th day prior to the Federal elections were transmitted by that date.

II. Background

UOCAVA, enacted in 1986, requires that States and Territories allow American citizens

¹ Two special elections for U.S. House seats were held in North Carolina, and one special election for a U.S. House seat was held in Pennsylvania.

who are active duty members of the United States uniformed services and merchant marine, their spouses and dependents, and American citizens residing outside the United States to register and vote absentee in elections for Federal offices. UOCAVA was strengthened significantly in 2009 when Congress passed the MOVE Act to expand the protections for individuals eligible to vote under its terms. One of the key provisions added by the MOVE Act is the requirement that States transmit absentee ballots to military and overseas voters no later than 45 days before an election for Federal office when the request has been received by that date. 52 U.S.C. § 20302(a)(8)(A).

The Secretary of Defense is the Presidential designee with primary responsibility for implementing the Federal functions mandated by UOCAVA, and the Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out the provisions of UOCAVA. 52 U.S.C. § 20301(a); 52 U.S.C. § 20307(a). The Attorney General has assigned responsibility for enforcement of UOCAVA to the Civil Rights Division. Since UOCAVA was enacted in 1986, the Division has initiated and resolved numerous cases to enforce UOCAVA. A case list and selected documents are available at <http://www.justice.gov/crt/about/vot/litigation/caselist.php>.

Under the MOVE Act amendments, UOCAVA requires that the Attorney General submit an annual report to Congress by December 31 of each year on any civil action brought under the Attorney General's enforcement authority under UOCAVA during the preceding year. 52 U.S.C. § 20307(b). As detailed in its prior reports to Congress, the Department has engaged in extensive enforcement of the MOVE Act's requirements since they went into effect for the 2010 general election.

III. UOCAVA Enforcement Activity by the Attorney General in 2019

A. UOCAVA Litigation

In 2019, the Department continued to monitor compliance with UOCAVA orders and to advance litigation in cases initiated in previous election cycles. This year, additional activity occurred in the following cases filed prior to 2019:

United States v. Wisconsin: On June 19, 2018, the Department filed a lawsuit against the State of Wisconsin and Wisconsin election officials to resolve violations of UOCAVA arising from the exclusion under state law of certain overseas U.S. citizens from the full set of voting protections that UOCAVA guarantees. *United States v. Wisconsin*, No. 3:18-cv-00471 (W.D. Wis. 2018). Specifically, Wisconsin law did not permit U.S. citizens who are residing temporarily outside of the United States to receive an absentee ballot electronically or use a Federal Write-In Absentee Ballot for Federal elections as UOCAVA requires. The case was resolved by a consent decree filed simultaneously with the complaint and entered by the Federal district court on June 20, 2018. The consent decree required Wisconsin to afford all UOCAVA voters, including its temporary overseas voters, the option to receive absentee ballots electronically and to use the Federal Write-In Absentee Ballot for the 2018 federal election cycle in accordance with UOCAVA. The consent decree also included notice and reporting requirements related to implementation of its terms.

In addition, the consent decree specified that the State would take any necessary actions to ensure temporary overseas voters receive full UOCAVA protections in future Federal elections, including proposing state legislation and taking any administrative actions necessary to achieve compliance.

In late 2018, Wisconsin enacted legislation as a permanent remedy to eliminate the structural impediment to future UOCAVA compliance and thus ensure UOCAVA's protections are extended to all U.S. citizens temporarily residing overseas. In 2019, we continued to monitor compliance with the consent decree's requirements.

United States v. New York: In *United States v. New York*, No. 1:10-cv-1214 (N.D.N.Y.), the Department's lawsuit against New York for violating UOCAVA in the 2010 Federal general election, the State of New York adopted legislation in January 2019 to implement a permanent remedial fix for its election calendar, moving the date of its primary election to the fourth Tuesday in June, in accord with the prior remedial order of the federal court.

In 2012, after New York failed to enact legislation to modify its election calendar to cure the structural issues that contributed to New York's late transmission of UOCAVA ballots in the 2010 Federal general election, the court granted the Department's motion for supplemental relief to alter the election calendar. The court entered a permanent injunction and ordered a modification of New York's Federal primary election date from September to June, setting the 2012 Federal primary election for June 26, 2012. The court further ordered that future Federal primary elections would be held on the fourth Tuesday in June, unless and until New York enacted legislation resetting the Federal primary date for a date that complies fully with UOCAVA and is approved by the court.

Because the State had not previously enacted legislation to alter the September Federal primary election date set forth in state law, the court had entered calendars to govern each of the subsequent Federal election cycles since its original remedial order to supersede provisions of New York law and ensure UOCAVA compliance for the Federal primary and general elections.

B. Other Enforcement Activity in 2019 to Obtain UOCAVA Compliance

South Dakota: We wrote a letter to South Dakota officials to address the UOCAVA implications of a bill introduced in the state legislature in 2019 that would have required transmittal of absentee ballots significantly later than the 45th day before the election, as UOCAVA mandates. The bill was not passed by the State.

Wisconsin: The Department worked closely with Wisconsin officials to ensure that uniformed services voters and U.S. citizens overseas would have sufficient time to vote in a special election to fill a vacancy in a congressional seat. On September 23, 2019, the Governor issued an executive order setting a special election to fill the remaining term of office for Wisconsin's Seventh

Congressional District. The executive order set a special primary date, if needed, of December 30, 2019, and a special election date of January 27, 2020. Nomination papers had to be filed by candidates no later than December 2, 2019.

The Department contacted state election officials to discuss the concern that the special election schedule embodied in the September 23 executive order would not allow for timely transmission of UOCAVA ballots. We subsequently advised the State that we had authority to file suit, if needed, to remedy the conflict in Wisconsin law that prevents UOCAVA compliance in special congressional elections, including for the upcoming 2020 election to fill a vacancy.

On October 19, 2019, the Governor issued a new executive order to address the UOCAVA concerns, setting a new calendar for the 2020 special election. The special election will be held on May 12, 2020, with a primary to be held, if needed, on February 18, 2020. We continue to monitor the matter to ensure that steps are taken to remove the impediments to UOCAVA compliance in Wisconsin law for future special elections.

Other states: In addition, we communicated with state election officials in several other states in 2019 concerning their timetables for holding special elections to fill a vacancy in Federal office. We continue to discuss with officials in a number of States potential state law structural obstacles to UOCAVA compliance to ensure that such obstacles are resolved in advance of any future special election that may arise.

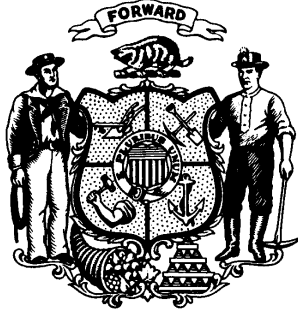
ATTACHMENTS

**III. UOCAVA Enforcement Activity by the
Attorney General in 2019**

A. UOCAVA Litigation

United States v. Wisconsin

State of Wisconsin



2017 Senate Bill 884

Date of enactment: **December 14, 2018**
Date of publication*: **December 15, 2018**

2017 WISCONSIN ACT 369

AN ACT *to repeal* 6.34 (1) (b), 6.87 (4) (a) 2., 16.84 (5) (d), 165.055 (3), 230.08 (2) (sb) and 238.399 (3) (e); *to renumber and amend* 13.90 (3), 165.08, 165.25 (6) (a), 227.40 (3) (intro.), 227.40 (3) (a) and 343.50 (1) (c); *to consolidate, renumber and amend* 6.34 (1) (intro.) and (a) and 6.87 (4) (a) (intro.) and 1.; *to amend* 5.02 (6m) (f), 5.05 (13) (c), 5.05 (13) (d) 1., 6.22 (2) (b), 6.22 (2) (e), 6.22 (4) (a), 6.22 (4) (c), 6.24 (2), 6.24 (4) (c), 6.24 (4) (d), 6.24 (4) (e), 6.25 (1) (b), 6.276 (1), 6.86 (1) (b), 6.865 (1), 6.87 (2), 6.87 (3) (d), 6.87 (4) (b) 1., 6.88 (1), 6.97 (1), 7.15 (1) (cm), 7.15 (1) (j), 13.56 (2), 13.90 (2), 13.91 (1) (c), 20.455 (1) (gh), 20.455 (2) (gb), 20.455 (3) (g), 45.57, 165.10, 165.25 (1), 165.25 (1m), 227.01 (13) (intro.), subchapter II (title) of chapter 227 [precedes 227.10], 227.11 (title), 227.13, 227.40 (1), 227.40 (2) (intro.), 227.40 (2) (e), 227.40 (3) (b) and (c), 227.40 (4) (a), 227.40 (6), 227.57 (11), 238.02 (1), 238.02 (2), 238.03 (2) (c), 238.03 (2) (e), 238.16 (5) (e), 238.306 (1) (a), 238.308 (5) (b), 238.395 (3) (d), 238.396 (4) (d), 238.399 (3) (a), 238.399 (6) (f), 281.665 (5) (d), 343.50 (3) (b), 801.50 (3) (b), 806.04 (11), 809.13 and subchapter VIII (title) of chapter 893 [precedes 893.80]; and *to create* 5.02 (12n), 6.855 (5), 13.124, 13.127, 13.365, 13.90 (3) (a) and (b), 16.84 (2m), 16.973 (15), 35.93 (2) (b) 3. im., 227.01 (3m), 227.05, 227.10 (2g), 227.11 (3), 227.112, 227.26 (2) (im), 238.04 (15), 238.399 (3) (am), 301.03 (16), 343.165 (8), 343.50 (1) (c) 2., 343.50 (3) (c), 803.09 (2m) and 893.825 of the statutes; **relating to:** legislative powers and duties, state agency and authority composition and operations, absentee ballots, and administrative rule-making process.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 5.02 (6m) (f) of the statutes is amended to read:

5.02 (6m) (f) An unexpired identification card issued by a university or college in this state that is accredited, as defined in s. 39.30 (1) (d), or by a technical college in this state that is a member of and governed by the technical college system under ch. 38, that contains the date of issuance and signature of the individual to whom it is issued and that contains an expiration date indicating that the card expires no later than 2 years after the date of issuance if the individual establishes that he or she is

enrolled as a student at the university or college on the date that the card is presented.

SECTION 1b. 5.02 (12n) of the statutes is created to read:

5.02 (12n) "Overseas elector" means a U.S. citizen who is residing outside of the United States, who is not disqualified from voting under s. 6.03, who has attained or will attain the age of 18 by the date of an election at which the citizen proposes to vote, who was last domiciled in this state or whose parent was last domiciled in this state immediately prior to the parent's departure from the United States, and who is not registered to vote or voting in any other state, territory, or possession.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 1c. 5.05 (13) (c) of the statutes is amended to read:

5.05 (13) (c) The commission shall maintain a freely accessible system under which a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~, who casts an absentee ballot may ascertain whether the ballot has been received by the appropriate municipal clerk.

SECTION 1d. 5.05 (13) (d) 1. of the statutes is amended to read:

5.05 (13) (d) 1. To permit a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~, to request a voter registration application or an application for an absentee ballot at any election at which the elector is qualified to vote in this state.

SECTION 1e. 6.22 (2) (b) of the statutes is amended to read:

6.22 (2) (b) A military elector shall make and subscribe to the certification under s. 6.87 (2) before a witness who is an adult U.S. citizen.

SECTION 1f. 6.22 (2) (e) of the statutes is amended to read:

6.22 (2) (e) A military elector may file an application for an absentee ballot by means of electronic mail or facsimile transmission in the manner prescribed in s. 6.86 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the elector an absentee ballot or, if the elector is a military elector, as defined in s. 6.34 (1) (a), and the elector so requests, shall transmit an absentee ballot to the elector by means of electronic mail or facsimile transmission in the manner prescribed in s. 6.87 (3) (d).

SECTION 1fg. 6.22 (4) (a) of the statutes is amended to read:

6.22 (4) (a) Upon receiving a timely request for an absentee ballot under par. (b) by an individual who qualifies as a military elector, the municipal clerk shall send or, if the individual is a military elector as defined in s. 6.34 (1) (a), shall transmit to the elector upon the elector's request an absentee ballot for all elections that occur in the municipality or portion thereof where the elector resides in the same calendar year in which the request is received, unless the individual otherwise requests.

SECTION 1fm. 6.22 (4) (c) of the statutes is amended to read:

6.22 (4) (c) A military elector may indicate an alternate address on his or her absentee ballot application. If the elector's ballot is returned as undeliverable prior to the deadline for return of absentee ballots under s. 6.87 (6), and the elector remains eligible to receive absentee ballots under this section, the municipal clerk shall immediately send or, if the elector is a military elector as defined in s. 6.34 (1) (a), transmit an absentee ballot to the elector at the alternate address.

SECTION 1g. 6.24 (2) of the statutes is amended to read:

6.24 (2) ELIGIBILITY. An overseas elector ~~under sub. (1)~~ may vote in any election for national office, including the partisan primary and presidential preference primary and any special primary or election. Such elector may not vote in an election for state or local office unless the elector qualifies as a resident of this state under s. 6.10. An overseas elector shall vote in the ward or election district in which the elector was last domiciled or in which the elector's parent was last domiciled prior to departure from the United States.

SECTION 1gc. 6.24 (4) (c) of the statutes is amended to read:

6.24 (4) (c) Upon receipt of a timely application from an individual who qualifies as an overseas elector and who has registered to vote in a municipality under sub. (3), the municipal clerk of the municipality shall send, or if the individual is an overseas elector, ~~as defined in s. 6.34 (1) (b)~~, shall transmit, an absentee ballot to the individual upon the individual's request for all subsequent elections for national office to be held during the year in which the ballot is requested, except as otherwise provided in this paragraph, unless the individual otherwise requests or until the individual no longer qualifies as an overseas elector of the municipality. The clerk shall not send an absentee ballot for an election if the overseas elector's name appeared on the registration list in eligible status for a previous election following the date of the application but no longer appears on the list in eligible status. The municipal clerk shall ensure that the envelope containing the absentee ballot is clearly marked as not forwardable. If an overseas elector who files an application under this subsection no longer resides at the same address that is indicated on the application form, the elector shall so notify the municipal clerk.

SECTION 1gd. 6.24 (4) (d) of the statutes is amended to read:

6.24 (4) (d) An overseas elector, regardless of whether the elector qualifies as a resident of this state under s. 6.10, who is not registered may request both a registration form and an absentee ballot at the same time, and the municipal clerk shall send or transmit the ballot automatically if the registration form is received within the time prescribed in s. 6.28 (1). The commission shall prescribe a special certificate form for the envelope in which the absentee ballot for such overseas electors is contained, which shall be substantially similar to that provided under s. 6.87 (2). ~~An~~ The overseas elector shall make and subscribe to the special certificate form before a witness who is an adult U.S. citizen.

SECTION 1gf. 6.24 (4) (e) of the statutes is amended to read:

6.24 (4) (e) An overseas elector, regardless of whether the elector qualifies as a resident of this state under s. 6.10, may file an application for an absentee ballot by means of electronic mail or facsimile transmission

in the manner prescribed in s. 6.86 (1) (ac). Upon receipt of a valid application, the municipal clerk shall send the elector an absentee ballot or, if the elector is an overseas elector, as defined in s. 6.34 (1) (b) and the elector so requests, shall transmit an absentee ballot to the elector by means of electronic mail or facsimile transmission in the manner prescribed in s. 6.87 (3) (d).

SECTION 1h. 6.25 (1) (b) of the statutes is amended to read:

6.25 (1) (b) Any individual who qualifies as an overseas elector ~~under s. 6.24 (1), regardless of whether the elector qualifies as a resident of this state under s. 6.10,~~ and who transmits an application for an official absentee ballot for an election ~~for national office,~~ including a primary election, no later than the latest time specified for an elector in s. 6.86 (1) (b) may, in lieu of the official ballot, cast a federal write-in absentee ballot prescribed under [42 USC 1973ff-2](#) for any candidate or for all candidates of any recognized political party ~~for national office~~ listed on the official ballot at that election, if the federal write-in absentee ballot is received by the appropriate municipal clerk no later than the applicable time prescribed in s. 6.87 (6).

SECTION 1i. 6.276 (1) of the statutes is amended to read:

6.276 (1) In this section, “military elector” ~~and “overseas elector”~~ have has the meanings meaning given in s. 6.34 (1).

SECTION 1j. 6.34 (1) (intro.) and (a) of the statutes are consolidated, renumbered 6.34 (1) and amended to read:

6.34 (1) In this section: ~~(a) “Military, “military elector”~~ means a member of a uniformed service on active duty who, by reason of that duty, is absent from the residence where the member is otherwise qualified to vote; a member of the merchant marine, as defined in s. 6.22 (1) (a), who by reason of service in the merchant marine, is absent from the residence where the member is otherwise qualified to vote; or the spouse or dependent of any such member who, by reason of the duty or service of the member, is absent from the residence where the spouse or dependent is otherwise qualified to vote.

SECTION 1jb. 6.34 (1) (b) of the statutes is repealed.

SECTION 1js. 6.855 (5) of the statutes is created to read:

6.855 (5) A governing body may designate more than one alternate site under sub. (1).

SECTION 1k. 6.86 (1) (b) of the statutes is amended to read:

6.86 (1) (b) Except as provided in this section, if application is made by mail, the application shall be received no later than 5 p.m. on the 5th day immediately preceding the election. If application is made in person, the application shall be made no earlier than ~~the opening of business on the 3rd Monday~~ 14 days preceding the election and no later than ~~7 p.m. on the Friday~~ Sunday preceding the election. No application may be received

on a legal holiday. ~~An application made in person may only be received Monday to Friday between the hours of 8 a.m. and 7 p.m. each day.~~ A municipality shall specify the hours in the notice under s. 10.01 (2) (e). The municipal clerk or an election official shall witness the certificate for any in-person absentee ballot cast. Except as provided in par. (c), if the elector is making written application for an absentee ballot at the partisan primary, the general election, the presidential preference primary, or a special election for national office, and the application indicates that the elector is a military elector, as defined in s. 6.34 (1), the application shall be received by the municipal clerk no later than 5 p.m. on election day. If the application indicates that the reason for requesting an absentee ballot is that the elector is a sequestered juror, the application shall be received no later than 5 p.m. on election day. If the application is received after 5 p.m. on the Friday immediately preceding the election, the municipal clerk or the clerk’s agent shall immediately take the ballot to the court in which the elector is serving as a juror and deposit it with the judge. The judge shall recess court, as soon as convenient, and give the elector the ballot. The judge shall then witness the voting procedure as provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who shall deliver it to the polling place or, in municipalities where absentee ballots are canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application is made under sub. (2) or (2m), the application may be received no later than 5 p.m. on the Friday immediately preceding the election.

SECTION 1L. 6.865 (1) of the statutes is amended to read:

6.865 (1) In this section, “military elector” ~~and “overseas elector”~~ have has the meanings meaning given under s. 6.34 (1).

SECTION 1m. 6.87 (2) of the statutes is amended to read:

6.87 (2) Except as authorized under sub. (3) (d), the municipal clerk shall place the ballot in an unsealed envelope furnished by the clerk. The envelope shall have the name, official title and post-office address of the clerk upon its face. The other side of the envelope shall have a printed certificate which shall include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that if the absentee elector voted in person under s. 6.86 (1) (ar), the elector presented proof of identification to the clerk and the clerk verified the proof presented. The certificate shall also include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the elector is exempt from providing proof of identification because the individual is a military elector or an overseas elector who does not qualify as a resident of this state under s. 6.10 or is exempted from providing proof of identification under sub. (4) (b) 2. or 3. The certificate shall be in substantially the following form:

[STATE OF

County of]

or

[(name of foreign country and city or other jurisdictional unit)]

I,, certify subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false statements, that I am a resident of the [... ward of the] (town) (village) of, or of the aldermanic district in the city of, residing at* in said city, the county of, state of Wisconsin, and am entitled to vote in the (ward) (election district) at the election to be held on; that I am not voting at any other location in this election; that I am unable or unwilling to appear at the polling place in the (ward) (election district) on election day or have changed my residence within the state from one ward or election district to another later than 28 days before the election. I certify that I exhibited the enclosed ballot unmarked to the witness, that I then in (his) (her) presence and in the presence of no other person marked the ballot and enclosed and sealed the same in this envelope in such a manner that no one but myself and any person rendering assistance under s. 6.87 (5), Wis. Stats., if I requested assistance, could know how I voted.

Signed

Identification serial number, if any:

The witness shall execute the following:

I, the undersigned witness, subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false statements, certify that I am an adult U.S. citizen** and that the above statements are true and the voting procedure was executed as there stated. I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk). I did not solicit or advise the elector to vote for or against any candidate or measure.

....(Name Printed name)

....(Address)**_

Signed

* — An elector who provides an identification serial number issued under s. 6.47 (3), Wis. Stats., need not provide a street address.

** — An individual who serves as a witness for a military elector or an overseas elector voting absentee, regardless of whether the elector qualifies as a resident of Wisconsin under s. 6.10, Wis. Stats., need not be a U.S. citizen but must be 18 years of age or older.

*** — If this form is executed before 2 special voting deputies under s. 6.875 (6), Wis. Stats., both deputies shall witness and sign.

SECTION 1mq. 6.87 (3) (d) of the statutes is amended to read:

6.87 (3) (d) A municipal clerk shall, if the clerk is reliably informed by a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b) regardless of whether the elector qualifies as a resident of this state under s. 6.10, of a facsimile transmission number or electronic mail address where the elector can

receive an absentee ballot, transmit a facsimile or electronic copy of the elector's ballot to that elector in lieu of mailing under this subsection. An elector may receive an absentee ballot only if the elector is a military elector or an overseas elector ~~under s. 6.34 (1)~~ and has filed a valid application for the ballot as provided in s. 6.86 (1). If the clerk transmits an absentee ballot to a military or overseas elector electronically, the clerk shall also transmit a facsimile or electronic copy of the text of the material that appears on the certificate envelope prescribed in sub. (2), together with instructions prescribed by the commission. The instructions shall require the military or overseas elector to make and subscribe to the certification as required under sub. (4) (b) and to enclose the absentee ballot in a separate envelope contained within a larger envelope, that shall include the completed certificate. The elector shall then affix sufficient postage unless the absentee ballot qualifies for mailing free of postage under federal free postage laws and shall mail the absentee ballot to the municipal clerk. Except as authorized in s. 6.97 (2), an absentee ballot received from a military or overseas elector who receives the ballot electronically shall not be counted unless it is cast in the manner prescribed in this paragraph and sub. (4) and in accordance with the instructions provided by the commission.

SECTION 1mp. 6.87 (4) (a) (intro.) and 1. of the statutes are consolidated, renumbered 6.87 (4) (a) and amended to read:

6.87 (4) (a) In this subsection: ~~1. "Military, "military elector"~~ has the meaning given in s. 6.34 (1) (a).

SECTION 1mq. 6.87 (4) (a) 2. of the statutes is repealed.

SECTION 1ms. 6.87 (4) (b) 1. of the statutes is amended to read:

6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, ~~the an~~ elector voting absentee, other than a military elector or an overseas elector, shall make and subscribe to the certification before one witness who is an adult U.S. citizen. A military elector or an overseas elector voting absentee, regardless of whether the elector qualifies as a resident of this state under s. 6.10, shall make and subscribe to the certification before one witness who is an adult but who need not be a U.S. citizen. The absent elector, in the presence of the witness, shall mark the ballot in a manner that will not disclose how the elector's vote is cast. The elector shall then, still in the presence of the witness, fold the ballots so each is separate and so that the elector conceals the markings thereon and deposit them in the proper envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that the elector conceals the markings thereon and deposit the ballot in the proper envelope. If proof of residence under s. 6.34 is required and the document enclosed by the elector under this subdivision does not constitute proof of residence under s. 6.34, the elector shall also enclose proof of residence under s. 6.34 in the

envelope. Except as provided in s. 6.34 (2m), proof of residence is required if the elector is not a military elector or an overseas elector and the elector registered by mail or by electronic application and has not voted in an election in this state. If the elector requested a ballot by means of facsimile transmission or electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the envelope a copy of the request which bears an original signature of the elector. The elector may receive assistance under sub. (5). The return envelope shall then be sealed. The witness may not be a candidate. The envelope shall be mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots. If the envelope is mailed from a location outside the United States, the elector shall affix sufficient postage unless the ballot qualifies for delivery free of postage under federal law. Failure to return an unused ballot in a primary does not invalidate the ballot on which the elector's votes are cast. Return of more than one marked ballot in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an electronic voting system in a primary which is marked for candidates of more than one party invalidates all votes cast by the elector for candidates in the primary.

SECTION 1mt. 6.88 (1) of the statutes is amended to read:

6.88 (1) When an absentee ballot arrives at the office of the municipal clerk, or at an alternate site under s. 6.855, if applicable, the clerk shall enclose it, unopened, in a carrier envelope which shall be securely sealed and endorsed with the name and official title of the clerk, and the words "This envelope contains the ballot of an absent elector and must be opened in the same room where votes are being cast at the polls during polling hours on election day or, in municipalities where absentee ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of absentee ballot canvassers under s. 7.52, stats.": If the elector is a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, ~~as defined in s. 6.34 (1) (b)~~ regardless of whether the elector qualifies as a resident of this state under s. 6.10, and the ballot was received by the elector by facsimile transmission or electronic mail and is accompanied by a separate certificate, the clerk shall enclose the ballot in a certificate envelope and securely append the completed certificate to the outside of the envelope before enclosing the ballot in the carrier envelope. The clerk shall keep the ballot in the clerk's office or at the alternate site, if applicable until delivered, as required in sub. (2).

SECTION 1mv. 6.97 (1) of the statutes is amended to read:

6.97 (1) Whenever any individual who is required to provide proof of residence under s. 6.34 in order to be permitted to vote appears to vote at a polling place and cannot provide the required proof of residence, the inspectors shall offer the opportunity for the individual to vote under this section. Whenever any individual, other

than a military elector, as defined in s. 6.34 (1) (a), ~~or, an overseas elector, as defined in s. 6.34 (1) (b)~~, or an elector who has a confidential listing under s. 6.47 (2), appears to vote at a polling place and does not present proof of identification under s. 6.79 (2), whenever required, the inspectors or the municipal clerk shall similarly offer the opportunity for the individual to vote under this section. If the individual wishes to vote, the inspectors shall provide the elector with an envelope marked "Ballot under s. 6.97, stats." on which the serial number of the elector is entered and shall require the individual to execute on the envelope a written affirmation stating that the individual is a qualified elector of the ward or election district where he or she offers to vote and is eligible to vote in the election. The inspectors shall, before giving the elector a ballot, write on the back of the ballot the serial number of the individual corresponding to the number kept at the election on the poll list or other list maintained under s. 6.79 and the notation "s. 6.97". If voting machines are used in the municipality where the individual is voting, the individual's vote may be received only upon an absentee ballot furnished by the municipal clerk which shall have the corresponding number from the poll list or other list maintained under s. 6.79 and the notation "s. 6.97" written on the back of the ballot by the inspectors before the ballot is given to the elector. When receiving the individual's ballot, the inspectors shall provide the individual with written voting information prescribed by the commission under s. 7.08 (8). The inspectors shall indicate on the list the fact that the individual is required to provide proof of residence or proof of identification under s. 6.79 (2) but did not do so. The inspectors shall notify the individual that he or she may provide proof of residence or proof of identification to the municipal clerk or executive director of the municipal board of election commissioners. The inspectors shall also promptly notify the municipal clerk or executive director of the name, address, and serial number of the individual. The inspectors shall then place the ballot inside the envelope and place the envelope in a separate carrier envelope.

SECTION 1n. 7.15 (1) (cm) of the statutes is amended to read:

7.15 (1) (cm) Prepare official absentee ballots for delivery to electors requesting them, and except as provided in this paragraph, send an official absentee ballot to each elector who has requested a ballot by mail, and to each military elector, as defined in s. 6.34 (1) (a), and overseas elector, ~~as defined in s. 6.34 (1) (b)~~, who has requested a ballot by mail, electronic mail, or facsimile transmission, no later than the 47th day before each partisan primary and general election and no later than the 21st day before each other primary and election if the request is made before that day; otherwise, the municipal clerk shall send or transmit an official absentee ballot within one business day of the time the elector's request for such a ballot is received. The clerk shall send or trans-

mit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference primary if the request is made before that day, or, if the request is not made before that day, within one business day of the time the request is received. For purposes of this paragraph, "business day" means any day from Monday to Friday, not including a legal holiday under s. 995.20.

SECTION 1ng. 7.15 (1) (j) of the statutes is amended to read:

7.15 (1) (j) Send an absentee ballot automatically to each elector and send or transmit an absentee ballot to each military elector, as defined in s. 6.34 (1) (a), and each overseas elector, as defined in s. 6.34 (1) (b), making an authorized request therefor in accordance with s. 6.22 (4), 6.24 (4) (e), or 6.86 (2) or (2m).

SECTION 3. 13.124 of the statutes is created to read:

13.124 Legal representation. (1) (a) The speaker of the assembly, in his or her sole discretion, may authorize a representative to the assembly or assembly employee who requires legal representation to obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a), if the acts or allegations underlying the action are arguably within the scope of the representative's or employee's duties. The speaker shall approve all financial costs and terms of representation.

(b) The speaker of the assembly, in his or her sole discretion, may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a), in any action in which the assembly is a party or in which the interests of the assembly are affected, as determined by the speaker. The speaker shall approve all financial costs and terms of representation.

(2) (a) The senate majority leader, in his or her sole discretion, may authorize a senator or senate employee who requires legal representation to obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (b), if the acts or allegations underlying the action are arguably within the scope of the senator's or employee's duties. The senate majority leader shall approve all financial costs and terms of representation.

(b) The senate majority leader, in his or her sole discretion, may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (b), in any action in which the senate is a party or in which the interests of the senate are affected, as determined by the senate majority leader. The senate majority leader shall approve all financial costs and terms of representation.

(3) (a) The cochairpersons of the joint committee on legislative organization, in their sole discretion, may authorize an employee of a legislative service agency, as

defined in s. 13.90 (1m) (a), who requires legal representation to obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a) or (b), as determined by the cochairpersons, if the acts or allegations underlying the action are arguably within the scope of the employee's duties. The cochairpersons shall approve all financial costs and terms of representation.

(b) The cochairpersons of the joint committee on legislative organization, in their sole discretion, may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a) or (b), as determined by the cochairpersons, in any action in which the legislature is a party or in which the interests of the legislature are affected, as determined by the cochairpersons. The cochairpersons shall approve all financial costs and terms of representation.

SECTION 4. 13.127 of the statutes is created to read:

13.127 Advice and consent of the senate. Any individual nominated by the governor or another state officer or agency, and with the advice and consent of the senate appointed, to any office or position may not hold the office or position, be nominated again for the office or position, or perform any duties of the office or position during the legislative session biennium if the individual's confirmation for the office or position is rejected by the senate.

SECTION 5. 13.365 of the statutes is created to read:

13.365 Intervention. Pursuant to s. 803.09 (2m), when a party to an action challenges in state or federal court the constitutionality of a statute, facially or as applied, challenges a statute as violating or preempted by federal law, or otherwise challenges the construction or validity of a statute, as part of a claim or affirmative defense:

(1) The committee on assembly organization may intervene at any time in the action on behalf of the assembly. The committee on assembly organization may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a), to represent the assembly in any action in which the assembly intervenes.

(2) The committee on senate organization may intervene at any time in the action on behalf of the senate. The committee on senate organization may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (b), to represent the senate in any action in which the senate intervenes.

(3) The joint committee on legislative organization may intervene at any time in the action on behalf of the legislature. The joint committee on legislative organization may obtain legal counsel other than from the department of justice, with the cost of representation paid from the appropriation under s. 20.765 (1) (a) or (b), as deter-

mined by the cochairpersons, to represent the legislature in any action in which the joint committee on legislative organization intervenes.

SECTION 7. 13.56 (2) of the statutes is amended to read:

13.56 (2) PARTICIPATION IN CERTAIN PROCEEDINGS. The cochairpersons of the joint committee for review of administrative rules or their designated agents shall accept service made under ss. 227.40 (5) and 806.04 (11). If the committee determines that the legislature should be represented in the proceeding, it shall request the joint committee on legislative organization to ~~designate the legislature's representative for~~ intervene in the proceeding ~~as provided under s. 806.04 (11)~~. The costs of participation in the proceeding shall be paid equally from the appropriations under s. 20.765 (1) (a) and (b), except that such costs incurred by the department of justice shall be paid from the appropriation under s. 20.455 (1) (d).

SECTION 8. 13.90 (2) of the statutes is amended to read:

13.90 (2) The cochairpersons of the joint committee on legislative organization or their designated agent shall accept service made under ~~s. ss. 806.04 (11) and 893.825 (2)~~. If the committee, the senate organization committee, or the assembly organization committee, determines that the legislature should ~~be represented~~ intervene in the proceeding, ~~that committee shall designate the legislature's representative for the proceeding. as provided under s. 803.09 (2m), the assembly shall represent the assembly, the senate shall represent the senate, and the joint committee on legislative organization shall represent the legislature.~~ The costs of participation in the proceeding shall be paid equally from the appropriations under s. 20.765 (1) (a) and (b), except that such costs incurred by the department of justice shall be paid from the appropriation under s. 20.455 (1) (d).

SECTION 9. 13.90 (3) of the statutes is renumbered 13.90 (3) (c) and amended to read:

13.90 (3) (c) The joint committee on legislative organization shall assign office space for legislative offices and the offices of the legislative service agencies ~~as defined in sub. (1m)~~. The joint committee may assign any space in the capitol not reserved for other uses under s. 16.835. Except as provided in ss. 13.09 (6) and 13.45 (4) (c), the joint committee may locate any legislative office or the office of any legislative service agency outside the capitol at another suitable building in the city of Madison.

SECTION 10. 13.90 (3) (a) and (b) of the statutes are created to read:

13.90 (3) (a) In this subsection, "legislative service agency" has the meaning given in sub. (1m).

(b) The cochairpersons of the joint committee on legislative organization shall lease or acquire office space for legislative offices or legislative service agencies under par. (c).

SECTION 11. 13.91 (1) (c) of the statutes is amended to read:

13.91 (1) (c) Perform the functions prescribed in ~~s. 227.15 for the review and resolution of problems ch. 227~~ relating to administrative rules and guidance documents.

SECTION 16. 16.84 (2m) of the statutes is created to read:

16.84 (2m) Send notice to the joint committee on legislative organization of any proposed changes to security at the capitol, including the posting of a firearm restriction under s. 943.13 (1m) (c) 2. or 4. If, within 14 working days after the date of the notice, the cochairpersons of the joint committee on legislative organization do not notify the department that the committee has scheduled a meeting to review the department's proposal, the department may implement the changes as proposed in the notice. If, within 14 working days after the date of the department's notice, the cochairpersons of the committee notify the department that the committee has scheduled a meeting to review the department's proposal, the department may implement the proposed changes only upon approval of the committee. If there is a risk of imminent danger, the department may take any action related to security at the capitol that is necessary to prevent or mitigate the danger and the cochairpersons may review the action later if the cochairpersons determine review is necessary.

SECTION 17. 16.84 (5) (d) of the statutes is repealed.

SECTION 18. 16.973 (15) of the statutes is created to read:

16.973 (15) By October 1 of each year, submit to the joint committee on finance and the legislature under s. 13.172 (2) a report on the administration of the information technology and communication services self-funded portal. The report shall include the following information regarding the portal for the immediately preceding fiscal year:

(a) A financial statement of state revenues and expenditures.

(b) A list of services available through the portal, identifying services added since the previous reporting period.

(c) Fees charged for each service available through the portal.

(d) The activity level of each service available through the portal.

(e) Any other information the department determines to be appropriate to include.

SECTION 19. 20.455 (1) (gh) of the statutes is amended to read:

20.455 (1) (gh) *Investigation and prosecution.* Monies received under ss. 23.22 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3), 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the expenses of investigation and

prosecution of violations, including attorney fees, and for expenses related to s. 165.055 (3).

SECTION 20. 20.455 (2) (gb) of the statutes is amended to read:

20.455 (2) (gb) *Gifts and grants.* The amounts in the schedule to carry out the purposes for which gifts and grants are made and received. All moneys received from gifts and grants, other than moneys received for and credited to another appropriation account under this subsection, ~~to carry out the purposes for which made and received shall be credited to this appropriation account.~~

SECTION 21. 20.455 (3) (g) of the statutes is amended to read:

20.455 (3) (g) *Gifts, grants and proceeds.* The amounts in the schedule to carry out the purposes for which gifts and grants are made and collected. All moneys received from gifts and grants and all proceeds from services, conferences, and sales of publications and promotional materials ~~to carry out the purposes for which made or collected,~~ except as provided in sub. (2) (gm) and (gp) and to transfer to s. 20.505 (1) (kg), at the discretion of the attorney general, an amount not to exceed \$98,300 annually, shall be credited to this appropriation account.

SECTION 22. 35.93 (2) (b) 3. im. of the statutes is created to read:

35.93 (2) (b) 3. im. Notices of public comment periods on proposed guidance documents under s. 227.112 (1) (a).

SECTION 23. 45.57 of the statutes is amended to read:

45.57 Veterans homes; transfer of funding. The department may transfer all or part of the unencumbered balance of any of the appropriations under s. 20.485 (1) (g), (gd), (gk), or (i) to the veterans trust fund or to the veterans mortgage loan repayment fund. The department shall notify the joint committee on finance in writing of any balance transferred under this section.

SECTION 24. 165.055 (3) of the statutes is repealed.

SECTION 26. 165.08 of the statutes is renumbered 165.08 (1) and amended to read:

165.08 (1) Any civil action prosecuted by the department by direction of any officer, department, board, or commission, ~~shall be compromised or discontinued when so directed by such officer, department, board or commission. Any or any~~ civil action prosecuted by the department on the initiative of the attorney general, or at the request of any individual may be compromised or discontinued with the approval of the governor an intervenor under s. 803.09 (2m) or, if there is no intervenor, by submission of a proposed plan to the joint committee on finance for the approval of the committee. The compromise or discontinuance may occur only if the joint committee on finance approves the proposed plan. No proposed plan may be submitted to the joint committee on finance if the plan concedes the unconstitutionality or other invalidity of a statute, facially or as applied, or concedes that a statute violates or is preempted by federal

law, without the approval of the joint committee on legislative organization.

(2) In any criminal action prosecuted by the attorney general, the department shall have the same powers with reference to such action as are vested in district attorneys.

SECTION 27. 165.10 of the statutes, as created by 2017 Wisconsin Act 59, is amended to read:

165.10 Limits on expenditure Deposit of discretionary settlement funds. ~~Notwithstanding s. 20.455 (3), before the The attorney general may expend shall deposit all settlement funds under s. 20.455 (3) (g) that are not committed under the terms of the settlement, the attorney general shall submit to the joint committee on finance a proposed plan for the expenditure of the funds. If the cochairpersons of the committee do not notify the attorney general within 14 working days after the submittal that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the attorney general may expend the funds to implement the proposed plan. If, within 14 working days after the submittal, the cochairpersons of the committee notify the attorney general that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the attorney general may expend the funds only to implement the plan as approved by the committee into the general fund.~~

SECTION 28. 165.25 (1) of the statutes is amended to read:

165.25 (1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in ss. 5.05 (2m) (a), 19.49 (2) (a), and 978.05 (5), appear for the state and prosecute or defend all actions and proceedings, civil or criminal, in the court of appeals and the supreme court, in which the state is interested or a party, and attend to and prosecute or defend all civil cases sent or remanded to any circuit court in which the state is a party. The joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) at any time. Nothing in this subsection deprives or relieves the attorney general or the department of justice of any authority or duty under this chapter.

SECTION 29. 165.25 (1m) of the statutes is amended to read:

165.25 (1m) REPRESENT STATE IN OTHER MATTERS. If requested by the governor or either house of the legislature, appear for and represent the state, any state department, agency, official, employee or agent, whether required to appear as a party or witness in any civil or criminal matter, and prosecute or defend in any court or before any officer, any cause or matter, civil or criminal, in which the state or the people of this state may be interested. The joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) at any time. The public service commission may request under s. 196.497 (7) that the attorney general intervene in federal proceedings. All expenses of the proceedings shall be paid from the appropriation under s. 20.455 (1) (d).

SECTION 30. 165.25 (6) (a) of the statutes is renumbered 165.25 (6) (a) 1. and amended to read:

165.25 (6) (a) 1. At the request of the head of any department of state government, the attorney general may appear for and defend any state department, or any state officer, employee, or agent of the department in any civil action or other matter brought before a court or an administrative agency which is brought against the state department, or officer, employee, or agent for or on account of any act growing out of or committed in the lawful course of an officer's, employee's, or agent's duties. Witness fees or other expenses determined by the attorney general to be reasonable and necessary to the defense in the action or proceeding shall be paid as provided for in s. 885.07. The attorney general may compromise and settle the action as the attorney general determines to be in the best interest of the state except that, if the action is for injunctive relief or there is a proposed consent decree, the attorney general may not compromise or settle the action without the approval of an intervenor under s. 803.09 (2m) or, if there is no intervenor, without first submitting a proposed plan to the joint committee on finance. If, within 14 working days after the plan is submitted, the cochairpersons of the committee notify the attorney general that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, the attorney general may compromise or settle the action only with the approval of the committee. The attorney general may not submit a proposed plan to the joint committee on finance under this subdivision in which the plan concedes the unconstitutionality or other invalidity of a statute, facially or as applied, or concedes that a statute violates or is preempted by federal law, without the approval of the joint committee on legislative organization.

2. Members, officers, and employees of the Wisconsin state agencies building corporation and the Wisconsin state public building corporation are covered by this section. Members of the board of governors created under s. 619.04 (3), members of a committee or subcommittee of that board of governors, members of the injured patients and families compensation fund peer review council created under s. 655.275 (2), and persons consulting with that council under s. 655.275 (5) (b) are covered by this section with respect to actions, claims, or other matters arising before, on, or after April 25, 1990. The attorney general may compromise and settle claims asserted before such actions or matters formally are brought or may delegate such authority to the department of administration. This paragraph may not be construed as a consent to sue the state or any department thereof or as a waiver of state sovereign immunity.

SECTION 31. 227.01 (3m) of the statutes is created to read:

227.01 (3m) (a) "Guidance document" means, except as provided in par. (b), any formal or official docu-

ment or communication issued by an agency, including a manual, handbook, directive, or informational bulletin, that does any of the following:

1. Explains the agency's implementation of a statute or rule enforced or administered by the agency, including the current or proposed operating procedure of the agency.

2. Provides guidance or advice with respect to how the agency is likely to apply a statute or rule enforced or administered by the agency, if that guidance or advice is likely to apply to a class of persons similarly affected.

(b) "Guidance document" does not include any of the following:

1. A rule that has been promulgated and that is currently in effect or a proposed rule that is in the process of being promulgated.

2. A standard adopted, or a statement of policy or interpretation made, whether preliminary or final, in the decision of a contested case, in a private letter ruling under s. 73.035, or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts.

3. Any document or activity described in sub. (13) (a) to (zz), except that "guidance document" includes a pamphlet or other explanatory material described under sub. (13) (r) that otherwise satisfies the definition of "guidance document" under par. (a).

4. Any document that any statute specifically provides is not required to be promulgated as a rule.

5. A declaratory ruling issued under s. 227.41.

6. A pleading or brief filed in court by the state, an agency, or an agency official.

7. A letter or written legal advice of the department of justice or a formal or informal opinion of the attorney general, including an opinion issued under s. 165.015 (1).

8. Any document or communication for which a procedure for public input, other than that provided under s. 227.112 (1), is provided by law.

9. Any document or communication that is not subject to the right of inspection and copying under s. 19.35 (1).

SECTION 32. 227.01 (13) (intro.) of the statutes is amended to read:

227.01 (13) (intro.) "Rule" means a regulation, standard, statement of policy, or general order of general application which that has the effect force of law and which that is issued by an agency to implement, interpret, or make specific legislation enforced or administered by the agency or to govern the organization or procedure of the agency. "Rule" includes a modification of a rule under s. 227.265. "Rule" does not include, and s. 227.10 does not apply to, any action or inaction of an agency, whether it would otherwise meet the definition under this subsection, which that:

SECTION 33. 227.05 of the statutes is created to read:

227.05 Agency publications. An agency, other than the Board of Regents of the University of Wisconsin System, the Technical College System Board, or the department of employee trust funds, shall identify the applicable provision of federal law or the applicable state statutory or administrative code provision that supports any statement or interpretation of law that the agency makes in any publication, whether in print or on the agency's Internet site, including guidance documents, forms, pamphlets, or other informational materials, regarding the laws the agency administers.

SECTION 34. Subchapter II (title) of chapter 227 [precedes 227.10] of the statutes is amended to read:

CHAPTER 227
SUBCHAPTER II
ADMINISTRATIVE RULES AND
GUIDANCE DOCUMENTS

SECTION 35. 227.10 (2g) of the statutes is created to read:

227.10 (2g) No agency may seek deference in any proceeding based on the agency's interpretation of any law.

SECTION 36. 227.11 (title) of the statutes is amended to read:

227.11 (title) ~~Extent to which chapter confers Agency rule-making authority.~~

SECTION 37. 227.11 (3) of the statutes is created to read:

227.11 (3) (a) A plan that is submitted to the federal government for the purpose of complying with a requirement of federal law does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. No agency may agree to promulgate a rule as a component of a compliance plan unless the agency has explicit statutory authority to promulgate the rule at the time the compliance plan is submitted.

(b) A settlement agreement, consent decree, or court order does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. No agency may agree to promulgate a rule as a term in any settlement agreement, consent decree, or stipulated order of a court unless the agency has explicit statutory authority to promulgate the rule at the time the settlement agreement, consent decree, or stipulated order of a court is executed.

SECTION 38. 227.112 of the statutes is created to read:

227.112 Guidance documents. (1) (a) Before adopting a guidance document, an agency shall submit to the legislative reference bureau the proposed guidance document with a notice of a public comment period on the proposed guidance document under par. (b), in a format approved by the legislative reference bureau, for publication in the register. The notice shall specify the place where comments should be submitted and the deadline for submitting those comments.

(b) The agency shall provide for a period for public comment on a proposed guidance document submitted under par. (a), during which any person may submit written comments to the agency with respect to the proposed guidance document. Except as provided in par. (c), the period for public comment shall end no sooner than the 21st day after the date on which the proposed guidance document is published in the register under s. 35.93 (2) (b) 3. im. The agency may not adopt the proposed guidance document until the comment period has concluded and the agency has complied with par. (d).

(c) An agency may hold a public comment period shorter than 21 days with the approval of the governor.

(d) An agency shall retain all written comments submitted during the public comment period under par. (b) and shall consider those comments in determining whether to adopt the guidance document as originally proposed, modify the proposed guidance document, or take any other action.

(2) An agency shall post each guidance document that the agency has adopted on the agency's Internet site and shall permit continuing public comment on the guidance document. The agency shall ensure that each guidance document that the agency has adopted remains on the agency's Internet site as provided in this subsection until the guidance document is no longer in effect, is no longer valid, or is superseded or until the agency otherwise rescinds its adoption of the guidance document.

(3) A guidance document does not have the force of law and does not provide the authority for implementing or enforcing a standard, requirement, or threshold, including as a term or condition of any license. An agency that proposes to rely on a guidance document to the detriment of a person in any proceeding shall afford the person an adequate opportunity to contest the legality or wisdom of a position taken in the guidance document. An agency may not use a guidance document to foreclose consideration of any issue raised in the guidance document.

(4) If an agency proposes to act in any proceeding at variance with a position expressed in a guidance document, it shall provide a reasonable explanation for the variance. If an affected person in any proceeding may have relied reasonably on the agency's position, the explanation must include a reasonable justification for the agency's conclusion that the need for the variance outweighs the affected person's reliance interest.

(5) Persons that qualify under s. 227.12 to petition an agency to promulgate a rule may, as provided in s. 227.12, petition an agency to promulgate a rule in place of a guidance document.

(6) Any guidance document shall be signed by the secretary or head of the agency below the following certification: "I have reviewed this guidance document or proposed guidance document and I certify that it com-

plies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.”

(7) (a) This section does not apply to guidance documents adopted before the first day of the 7th month beginning after the effective date of this paragraph [LRB inserts date], but on that date any guidance document that has not been adopted in accordance with sub. (1) or that does not contain the certification required under sub. (6) shall be considered rescinded.

(b) This section does not apply to guidance documents or proposed guidance documents of the Board of Regents of the University of Wisconsin System, the Technical College System Board, or the department of employee trust funds.

(8) The legislative council staff shall provide agencies with assistance in determining whether documents and communications are guidance documents that are subject to the requirements under this section.

SECTION 39. 227.13 of the statutes is amended to read:

227.13 Advisory committees and informal consultations. An agency may use informal conferences and consultations to obtain the viewpoint and advice of interested persons with respect to contemplated rule making. An agency also may also appoint a committee of experts, interested persons or representatives of the public to advise it with respect to any contemplated rule making. The Such a committee shall have advisory powers only. Whenever an agency appoints a committee under this section, the agency shall submit a list of the members of the committee to the joint committee for review of administrative rules.

SECTION 64. 227.26 (2) (im) of the statutes is created to read:

227.26 (2) (im) *Multiple suspensions.* Notwithstanding pars. (i) and (j), the committee may act to suspend a rule as provided under this subsection multiple times.

SECTION 65. 227.40 (1) of the statutes is amended to read:

227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review of the validity of a rule or guidance document shall be an action for declaratory judgment as to the validity of the rule or guidance document brought in the circuit court for the county where the party asserting the invalidity of the rule or guidance document resides or has its principal place of business or, if that party is a nonresident or does not have its principal place of business in this state, in the circuit court for the

county where the dispute arose. The officer or other agency whose rule or guidance document is involved shall be the party defendant. The summons in the action shall be served as provided in s. 801.11 (3) and by delivering a copy to that officer or, if the agency is composed of more than one person, to the secretary or clerk of the agency or to any member of the agency. The court shall render a declaratory judgment in the action only when it appears from the complaint and the supporting evidence that the rule or guidance document or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the plaintiff. A declaratory judgment may be rendered whether or not the plaintiff has first requested the agency to pass upon the validity of the rule or guidance document in question.

SECTION 66. 227.40 (2) (intro.) of the statutes is amended to read:

227.40 (2) (intro.) The validity of a rule or guidance document may be determined in any of the following judicial proceedings when material therein:

SECTION 67. 227.40 (2) (e) of the statutes is amended to read:

227.40 (2) (e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), 106.50, 106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or 949 for review of decisions and orders of administrative agencies if the validity of the rule or guidance document involved was duly challenged in the proceeding before the agency in which the order or decision sought to be reviewed was made or entered.

SECTION 68. 227.40 (3) (intro.) of the statutes is renumbered 227.40 (3) (ag) and amended to read:

227.40 (3) (ag) In any judicial proceeding other than one ~~set out above~~ under sub. (1) or (2), in which the invalidity of a rule or guidance document is material to the cause of action or any defense thereto, the assertion of ~~such that~~ such the invalidity shall be set forth in the pleading of the party ~~so~~ maintaining the invalidity of ~~such the~~ such the rule or guidance document in that proceeding. The party ~~so~~ asserting the invalidity of ~~such the~~ such the rule or guidance document shall, within 30 days after the service of the pleading in which the party sets forth ~~such the~~ such the invalidity, apply to the court in which ~~such the~~ such the proceedings are had for an order suspending the trial of ~~said the~~ said the proceeding until after a determination of the validity of ~~said the~~ said the rule or guidance document in an action for declaratory judgment under sub. (1) ~~hereof~~.

SECTION 69. 227.40 (3) (a) of the statutes is renumbered 227.40 (3) (ar) and amended to read:

227.40 (3) (ar) Upon the hearing of ~~such the~~ such the application, if the court is satisfied that the validity of ~~such the~~ such the rule or guidance document is material to the issues of the case, an order shall be entered staying the trial of said proceeding until the rendition of a final declaratory judgment in proceedings to be instituted forthwith by the

party asserting the invalidity of ~~such~~ the rule or guidance document. If the court shall find finds that the asserted invalidity of ~~a~~ the rule or guidance document is not material to the case, an order shall be entered denying the application for stay.

SECTION 70. 227.40 (3) (b) and (c) of the statutes are amended to read:

227.40 (3) (b) Upon the entry of a final order in said the declaratory judgment action, it shall be the duty of the party who asserts the invalidity of the rule or guidance document to formally advise the court of the outcome of the declaratory judgment action so brought as ordered by the court. After the final disposition of the declaratory judgment action the court shall be bound by and apply the judgment so entered in the trial of the proceeding in which the invalidity of the rule or guidance document is asserted.

(c) Failure to set forth the invalidity of a rule or guidance document in a pleading or to commence a declaratory judgment proceeding within a reasonable time pursuant to such the order of the court or to prosecute such the declaratory judgment action without undue delay shall preclude such the party from asserting or maintaining such that the rule or guidance document is invalid.

SECTION 71. 227.40 (4) (a) of the statutes is amended to read:

227.40 (4) (a) In any proceeding pursuant to this section for judicial review of a rule or guidance document, the court shall declare the rule or guidance document invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was promulgated or adopted without compliance with statutory rule-making or adoption procedures.

SECTION 72. 227.40 (6) of the statutes is amended to read:

227.40 (6) Upon entry of a final order in a declaratory judgment action under sub. (1) with respect to a rule, the court shall send an electronic notice to the legislative reference bureau of the court's determination as to the validity or invalidity of the rule, in a format approved by the legislative reference bureau, and the legislative reference bureau shall publish a notice of that determination in the Wisconsin administrative register under s. 35.93 (2) and insert an annotation of that determination in the Wisconsin administrative code under s. 13.92 (4) (a).

SECTION 80. 227.57 (11) of the statutes is amended to read:

227.57 (11) Upon review of an agency action or decision ~~affecting a property owner's use of the property owner's property~~, the court shall accord no deference to the agency's interpretation of law ~~if the agency action or decision restricts the property owner's free use of the property owner's property~~.

SECTION 81. 230.08 (2) (sb) of the statutes is repealed.

SECTION 82m. 238.02 (1) of the statutes is amended to read:

238.02 (1) There is created an authority, which is a public body corporate and politic, to be known as the "Wisconsin Economic Development Corporation." The members of the board shall consist of 6 members nominated by the governor, and with the advice and consent of the senate appointed, to serve at the pleasure of the governor; ~~3~~ 4 members appointed by the speaker of the assembly, ~~consisting of one majority and one minority party representative to the assembly, appointed as are the members of standing committees in the assembly, and one person employed in the private sector, to serve at the speaker's pleasure; and 3~~ 4-year terms; one member appointed by the minority leader of the assembly to serve a 4-year term; 4 members appointed by the senate majority leader, ~~consisting of one majority and one minority party senator, appointed as are members of standing committees in the senate, and one person employed in the private sector, to serve at the majority leader's pleasure~~ 4-year terms; and one member appointed by the minority leader of the senate to serve a 4-year term. Neither the speaker of the assembly nor the senate majority leader may appoint more than 2 members of the legislature to the board. The secretary of administration and the secretary of revenue shall also serve on the board as nonvoting members. The board shall elect a chairperson from among its nonlegislative voting members. A vacancy on the board shall be filled in the same manner as the original appointment to the board for the remainder of the unexpired term, if any.

SECTION 83. 238.02 (2) of the statutes is amended to read:

238.02 (2) A majority of the ~~voting~~ appointed members of the board currently serving constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, ~~notwithstanding the existence of any vacancies~~. Action may be taken by the board upon a vote of a majority of the ~~voting~~ appointed members present.

SECTION 84e. 238.03 (2) (c) of the statutes is amended to read:

238.03 (2) (c) Require that each recipient of a grant ~~or~~ loan award, or tax credit under the program submit a report to the corporation. Each contract with a recipient of a grant ~~or~~ loan award, or tax credit under the program must specify the frequency and format of the report to be submitted to the corporation and the performance measures to be included in the report. Each recipient shall submit a statement to the corporation signed by the recipient or the director or principal officer of the recipient attesting to the accuracy and truthfulness of the information.

SECTION 84f. 238.03 (2) (e) of the statutes is amended to read:

238.03 (2) (e) Annually and independently verify, from a sample of grants ~~and loans, loan awards, and tax credits~~, the accuracy of the information required to be reported under par. (c).

SECTION 85. 238.04 (15) of the statutes is created to read:

238.04 (15) Appoint and supervise the economic development liaison project position created in [2017 Wisconsin Act 58](#), section 61 (1).

SECTION 85e. 238.16 (5) (e) of the statutes is amended to read:

238.16 (5) (e) The corporation shall ~~annually~~ verify, under s. 238.03 (2) (e), the information submitted to the corporation by the person for the purpose of claiming tax benefits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q).

SECTION 85k. 238.306 (1) (a) of the statutes is amended to read:

238.306 (1) (a) ~~Annually verify~~ Verify, under s. 238.03 (2) (e), the information submitted to the department of revenue ~~under ss. 71.07 (2dy), 71.28 (1dy), 71.47 (1dy), and 76.637 by persons certified under s. 238.301 (2) and eligible to receive tax benefits under s. 238.303 corporation by the person for the purpose of claiming tax benefits~~.

SECTION 85m. 238.308 (5) (b) of the statutes is amended to read:

238.308 (5) (b) The corporation shall ~~annually~~ verify, under s. 238.03 (2) (e), the information submitted to ~~it~~ the corporation by the person for the purpose of claiming tax benefits under ss. 71.07 (3y), 71.28 (3y), and 71.47 (3y).

SECTION 85o. 238.395 (3) (d) of the statutes is amended to read:

238.395 (3) (d) The corporation ~~annually~~ shall verify, under s. 238.03 (2) (e), the information submitted to the corporation ~~under s. 71.07 (2dm) or (2dx), 71.28 (1dm) or (1dx), 71.47 (1dm) or (1dx), or 76.636 by the person for the purpose of claiming tax benefits~~.

SECTION 85r. 238.396 (4) (d) of the statutes is amended to read:

238.396 (4) (d) The corporation shall ~~annually~~ verify, under s. 238.03 (2) (e), the information submitted to the corporation ~~under ss. 71.07 (3wm) and 71.28 (3wm) by the person for the purpose of claiming tax benefits~~.

SECTION 86. 238.399 (3) (a) of the statutes is amended to read:

238.399 (3) (a) The corporation may designate ~~not more than 30 any number of~~ enterprise zones in this state.

SECTION 87. 238.399 (3) (am) of the statutes is created to read:

238.399 (3) (am) The corporation may not designate a new enterprise zone under par. (a) except as follows:

1. Before the corporation designates a new enterprise zone, the corporation shall notify the joint committee on finance in writing of the corporation's intention to designate a new enterprise zone. The notice shall describe the

new zone and the purposes for which the corporation proposes to designate the new zone.

2. If, within 14 working days after the date of the corporation's notice under subd. 1., the cochairpersons of the joint committee on finance do not notify the corporation that the committee has scheduled a meeting to review the corporation's proposal, the corporation may designate the new enterprise zone as proposed in the corporation's notice. If, within 14 working days after the date of the corporation's notice under subd. 1., the cochairpersons of the committee notify the corporation that the committee has scheduled a meeting to review the corporation's proposal, the corporation may designate the new enterprise zone only upon approval of the committee.

SECTION 88. 238.399 (3) (e) of the statutes is repealed.

SECTION 88f. 238.399 (6) (f) of the statutes is amended to read:

238.399 (6) (f) The corporation shall ~~annually~~ verify, under s. 238.03 (2) (e), the information submitted to the corporation ~~under ss. 71.07 (3w), 71.28 (3w), or 71.47 (3w) by the person for the purpose of claiming tax benefits~~.

SECTION 89. 281.665 (5) (d) of the statutes is amended to read:

281.665 (5) (d) Notwithstanding pars. (a) to (c), during the 2017-19 ~~and 2019-21~~ fiscal ~~biennium~~ bienniums, the department shall consider an applicant to be eligible for a cost-sharing grant for a project under this section if the project is funded or executed in whole or in part by the U.S. army corps of engineers under [33 USC 701s](#).

SECTION 90. 301.03 (16) of the statutes is created to read:

301.03 (16) At the request of the legislature, submit to the legislature under s. 13.172 (2) a report that includes the following information and post the report on the department's website:

(a) If, since the previous report was submitted or during a date range specified in the request, an individual was pardoned for a crime or was released from a term of imprisonment without completing his or her sentence, the name of the individual, the pertinent crime, and the name of the person who authorized the action.

(b) If an individual who appears on a report submitted under this subsection is convicted of a crime, the name of that individual and the crime for which he or she was convicted.

SECTION 91. 343.165 (8) of the statutes is created to read:

343.165 (8) Notwithstanding subs. (1) to (4), for an applicant requesting that an identification card be provided without charge for purposes of voting, all of the following apply:

(a) Except as provided in par. (b), if a person is unable to provide proof of name and date of birth, and the documents are unavailable to the person, the person may make a written petition to the department for an exception to the requirements of sub. (1) (a) or (b). The application shall include proof of identity and all of the following:

1. A certification of the person's name, date of birth, and current residence street address on the department's form.
2. An explanation of the circumstances by which the person is unable to provide proof of name and date of birth.
3. Whatever documentation is available that states the person's name and date of birth.

(b) 1. If a person applies for and requests an identification card without charge for the purposes of voting and the person's proof of name and date of birth or of proof of citizenship, legal permanent resident status, conditional resident status, or legal presence is unavailable, the person may make a written petition to the department for an exception to the requirement for which proof is unavailable. The department shall provide appropriate translation for any person who is unable to read or understand the petition process instructions and related communications under this subsection or s. 343.50 (1) (c) 2. The petition shall include the person's statement under oath or affirmation of all of the following:

- a. That the person is unable to provide proof of name and date of birth or proof of citizenship, legal permanent resident status, conditional resident status, or legal presence.
- b. That the documents are unavailable to the person.
- c. His or her name, date of birth, place of birth, and such other birth record information requested by the department, or the person's alien or U.S. citizenship and immigration service number or U.S. citizenship certificate number.

2. Upon receiving a petition that meets the requirements under subd. 1., the department of transportation shall forward the petition to the central office of its division of motor vehicles for processing. The department of transportation shall provide the person's birth record information to the department of health services, for the sole purpose of verification by the department of health services of the person's birth certificate information or the equivalent document from another jurisdiction, other than a province of the Dominion of Canada, or to a federal agency for the sole purpose of verifying the person's certificate of birth abroad issued by the federal department of state, or of verifying the person's alien or U.S. citizenship and immigration service number or U.S. citizenship certificate number. The department of transportation shall open a file containing the petition and shall create therein a report with a dated record of events, including all communication to or with the applicant. The department of transportation may not complete processing of

the application prior to receiving verification under this subdivision, except as provided in subd. 3.

3. If the department does not receive verification under subd. 2. within 30 days or receives notice under subd. 2. that the birth information provided in the application does not match that of the birth record custodian, the department shall promptly notify the person in writing of that failure to verify and request the person contact the department within 10 days. If the person does not respond within 10 days, the department shall send the person a 2nd letter with substantially similar contents. If the person does not respond to the 2nd letter within 10 days and the department knows the person's telephone number, the department shall call the person on the telephone and notify the person that the birth information was not verified and request the person provide additional information within 10 days. If 30 days have elapsed since the date of the first letter sent under this subdivision without contact from the person, the department shall suspend the investigation and send written notice that the person has not responded, that the department has no further leads for it to locate or obtain secondary documentation or verification of birth information, that the department has suspended its investigation or research until such time as the person contacts the department, and that if within 180 days after the date of the written notice the person fails to contact the department the petition will be denied and no further identification card receipts will be issued under s. 343.50 (1) (c) 2. If the person fails to contact the department within 180 days after the department suspends the investigation, the department shall deny the petition in writing and shall inform the person that the department will resume the investigation if the person contacts the department to discuss the petition. Whenever the applicant contacts the department to discuss the petition, the investigation under this subdivision shall begin anew, notwithstanding any prior denial due to the person's failure to timely respond. The applicant shall act in good faith and use reasonable efforts to provide additional information that could reasonably lead the department to discover correct birth information or secondary documentation as described in subd. 3g., to assist the department in processing the application. The department shall investigate the petition and any additional information provided under this subdivision with prompt and due diligence and shall use reasonable efforts to locate and obtain the secondary documentation by pursuing leads provided by the person. Investigations may only be completed within the division of motor vehicles' central office by employees whose regular job duties include investigation and fraud detection and prevention. If the investigation discovers new or corrected birth information, the department of transportation shall resubmit the new or corrected birth information to the department of health services for verification under subd. 2. The department of transportation

shall pay any actual, necessary fees required by the record custodian to obtain the secondary documentation.

3g. If the department of health services does not verify the birth record information within 30 days, the department of transportation may issue an identification card to the person only if the department of transportation receives verification under subd. 2., if the person provides proof of name and date of birth or proof of citizenship, legal permanent resident status, conditional resident status or legal presence, or if the department of transportation receives other secondary documentation acceptable to the department of transportation and deemed sufficient under subd. 3., which may include the following:

- a. Baptismal certificate.
- b. Hospital birth certificate.
- c. Delayed birth certificate.
- d. Census record.
- e. Early school record.
- f. Family Bible record.
- g. Doctor's record of post-natal care.
- h. Other documentation deemed acceptable to the department of transportation, within the department's reasonable discretion.

4. In this paragraph, "proof of citizenship, legal permanent resident status, conditional resident status or legal presence" means any of the following:

- a. A U.S. state or local government issued certificate of birth.
- b. Valid U.S. passport.
- c. Valid foreign passport with appropriate immigration documents, which shall include or be accompanied by federal form I-94, arrival and departure record.
- d. Certificate of U.S. citizenship.
- e. A U.S. Certificate of naturalization.
- f. Valid department of homeland security/U.S. citizenship and immigration services federal form I-551, resident alien registration receipt card, issued since 1997.
- g. Valid department of homeland security/U.S. citizenship and immigration services federal form I-688, temporary resident identification card.
- h. Valid department of homeland security/U.S. citizenship and immigration services federal form I-688B or I-766, employment authorization document.
- i. Valid department of homeland security/U.S. citizenship and immigration services federal form I-571, refugee travel document.
- j. Department of homeland security/U.S. citizenship and immigration services federal form I-797, notice of action.
- k. Department of homeland security/transportation security administration transportation worker identification credential.

L. A U.S. department of state reception and placement program assurance form (refugee version), which

shall include or be accompanied by federal form I-94, arrival and departure record.

m. Documentary proof specified in s. 343.14 (2) (es), that is approved by the appropriate federal authority.

5. In this paragraph, "proof of identity" means a supporting document identifying the person by name and bearing the person's signature, a reproduction of the person's signature, or a photograph of the person. Acceptable supporting documents include:

- a. A valid operator's license, including a license from another jurisdiction, except a province of the Dominion of Canada, bearing a photograph of the person.
- b. Military discharge papers.
- c. A U.S. government and military dependent identification card.
- d. A valid photo identification card issued by Wisconsin or another jurisdiction, except a province of the Dominion of Canada, bearing a photograph of the person.
- e. A marriage certificate or certified copy of judgment of divorce.
- f. A social security card issued by the social security administration.

g. Any document described under subd. 6., if it bears a photograph of the person and was not used as proof of name and date of birth.

h. Department of homeland security/transportation security administration transportation worker identification credential.

6. In this paragraph, "proof of name and date of birth" means any of the following:

- a. For a person born in Wisconsin, a copy of the person's Wisconsin birth certificate issued and certified in accordance with s. 69.21.
- b. For a person born in another jurisdiction, other than a province of the Dominion of Canada, a certified copy of his or her birth certificate or the equivalent document from that other jurisdiction or a certificate of birth abroad issued by the federal department of state.
- c. A U.S. passport.
- d. A valid, unexpired passport issued by a foreign country with federal I-551 resident alien registration receipt card or federal I-94 arrival and departure record that bears a photograph of the person and identifies the person's first and last names, and the person's day, month, and year of birth.
- e. A Wisconsin operator's license bearing a photograph of the person.
- f. A Wisconsin identification card issued under s. 343.50, bearing a photograph of the person, other than an identification card issued under s. 343.50 (1) (c) 2.
- g. A federal I-551 "permanent resident alien registration receipt card."
- h. A federal I-94 "parole edition" or "refugees version" arrival-departure record, together with a certification, on the department's form, by the person, of the per-

son's name and date of birth, a copy of a federal department of state refugee data center reception and placement program assurance form and a letter from the person's sponsoring agency on its letterhead, supporting the person's application for a Wisconsin identification card or operator's license and confirming the person's identification. Applicants who are unable to provide a reception and placement program assurance form may be issued a Wisconsin identification card or operator's license, but only after their identification has been confirmed by the U.S. citizenship and immigration services.

i. A U.S. certificate of naturalization.

j. A certificate of U.S. citizenship.

k. A federal temporary resident card or employment authorization card, I-688, I-688A, I-688B, and I-766.

L. A Native American identification card that is issued by a federally recognized tribe or a band of a federally recognized tribe, is issued in Wisconsin, includes a photograph and signature or reproduction of a signature of the person, and has been approved by the secretary for use as identification.

m. A court order under seal related to the adoption or divorce of the individual or to a name or gender change that includes the person's current full legal name, date of birth, and, in the case of a name change or divorce order, the person's prior name.

n. An armed forces of the U.S. common access card or DD Form 2 identification card issued to military personnel.

o. Department of homeland security/transportation security administration transportation worker identification credential.

7. In this paragraph, "unavailable" means that the applicant does not have the document and would be required to pay a government agency to obtain it.

(c) The administrator may delegate to the deputy administrator or to a bureau director, as described in s. 15.02 (3) (c) 2., whose regular responsibilities include driver licensing and identification card issuance, the authority to accept or reject such extraordinary proof of name, date of birth, or U.S. citizenship under this subsection.

(e) The denial of a petition under par. (b) is subject to judicial review in the manner provided in ch. 227 for the review of administrative decisions.

(f) If the administrator, or delegate described in par. (c), determines that an applicant has knowingly made a false statement or knowingly concealed a material fact or otherwise committed a fraud in an application, petition, or additional information, the department shall immediately suspend the investigation, shall notify the person in writing of the suspension and the reason for the suspension, and refer any suspected fraud to law enforcement.

(g) A person whose petition is suspended or denied due to a failure to respond timely may revive the petition at any time by contacting the department to discuss the

petition application. If a person revives a petition, the department shall immediately issue, and shall continue to reissue, an identification card receipt to the person as provided in s. 343.50 (1) (c) 2., except that the department shall first require the person to take a photograph if required under s. 343.50 (1) (c) 2.

(h) The department shall grant a petition if the department concludes, on the basis of secondary documentation or other corroborating information, that it is more likely than not that the name, date of birth, and U.S. citizenship provided in the application is correct.

SECTION 92. 343.50 (1) (c) of the statutes is renumbered 343.50 (1) (c) 1. and amended to read:

343.50 (1) (c) 1. The department may issue a receipt to any applicant for an identification card, and shall issue a receipt to an applicant requesting an identification card under sub. (5) (a) 3., which receipt shall constitute a temporary identification card while the application is being processed and shall be valid for a period not to exceed 60 days. If the application for an identification card is processed under the exception specified in s. 343.165 (7) or (8), the receipt shall include the marking specified in sub. (3) (b).

SECTION 93. 343.50 (1) (c) 2. of the statutes is created to read:

343.50 (1) (c) 2. If the department issues a receipt to an applicant petitioning the department under s. 343.165 (8), all of the following apply:

a. The department shall issue the receipt not later than the 6th working day after the person made the petition and shall deliver the receipt by 1st class mail, except that if a petition is filed or revived within 7 days before or 2 days after a statewide election the department shall issue a receipt not later than 24 hours after the petition is filed or revived and shall deliver the receipt by overnight or next-day mail. The department shall issue a new receipt to the person not later than 10 days before the expiration date of the prior receipt, and having a date of issuance that is the same as the expiration date of the prior receipt. The department shall issue no receipt to a person after the denial of a petition under s. 343.165 (8), unless the person revives an investigation. The department shall continue to reissue identification card receipts to a person unless the department cancels the identification card receipt upon the circumstances specified in sub. (10), upon the issuance of an operator's license or identification card to the person, upon the person's request, upon the denial of the application, upon return to the department of a receipt as nondeliverable, upon the person's failure to contact the department to discuss the petition for a period of 180 days or more, or whenever the department receives information that prohibits issuance of an identification card under sub. (1) (c). The department shall require the person to take a photograph prior to reissuing an identification card receipt if the photograph of the person on file with the department is 8 or more years old.

b. An identification card receipt issued under this subdivision shall constitute a temporary identification card while the application is being processed under s. 343.165 (8) and shall be valid for a period not to exceed the period specified in sub. (1) (c). The department shall clearly mark the receipt “FOR VOTING PURPOSES ONLY” as validated for use for voting as provided in ss. 5.02 (6m) (d) and 6.79 (2) (a). A receipt issued under this subsection shall contain the information specified under s. 343.17 (3), including the date of issuance, the expiration date, the name and signature of the person to whom it was issued, and, except as authorized in sub. (4g), a photograph of the individual to whom it was issued, and may contain such further information as the department deems necessary.

c. The department shall issue a replacement identification card receipt under subd. 1. a. upon request of the person to whom it is issued if the receipt is lost or destroyed.

d. Notwithstanding subd. 2. a., the department shall cancel or refuse to issue an identification card receipt under this subsection upon the circumstances specified in sub. (10), upon the issuance of an operator’s license or identification card to the person, upon the person’s request, upon the denial of the application, upon return to the department of a receipt as nondeliverable, or whenever the department receives information that prohibits issuance of an identification card under subd. 1.

e. Whenever any person, after receiving an identification card receipt under this subdivision, moves from the address named in the application or in the receipt issued to him or her or is notified by the local authorities or by the postal authorities that the address so named has been changed, the person shall, within 30 days, notify the department of his or her change of address. Upon receiving a notice of change of address, the department shall promptly issue a new receipt under subd. 2. a. showing the correct address and having the expiration date of the prior receipt.

SECTION 94. 343.50 (3) (b) of the statutes is amended to read:

343.50 (3) (b) If an identification card is issued based upon the exception specified in s. 343.165 (7) or (8), the card shall, in addition to any other required legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a marking similar or identical to the marking described in s. 343.03 (3r).

SECTION 95. 343.50 (3) (c) of the statutes is created to read:

343.50 (3) (c) 1. Notwithstanding par. (a), the department may issue an identification card bearing a name other than the name that appears on a supporting document if the person provides evidence acceptable to the department that the person has used the name in a manner that qualifies the name as being legally changed under the common law of Wisconsin, including evidence of the

person’s prior name, changed name, the length of time the person has consistently and continuously used the changed name, an affirmation that the person no longer uses the prior name, and an affirmation that the person did not change his or her name for a dishonest or fraudulent purpose or to the injury of any other person. The department shall mark an identification card issued under this subdivision in the manner described in s. 343.03 (3r).

2. Notwithstanding par. (a), the department shall approve a name change requested by a person who cannot provide supporting documentation of a lawful change of name but who does one of the following:

a. Provides proof of identity in the new name, and the department receives from the federal social security administration evidence or confirmation of the name change.

b. Applies for an identification card and provides an affidavit declaring all facts required under subd. 1. to prove a name change under the common law of Wisconsin.

SECTION 96. 801.50 (3) (b) of the statutes is amended to read:

801.50 (3) (b) All actions relating to the validity or invalidity of a rule or guidance document shall be venued as provided in s. 227.40 (1).

SECTION 97. 803.09 (2m) of the statutes is created to read:

803.09 (2m) When a party to an action challenges in state or federal court the constitutionality of a statute, facially or as applied, challenges a statute as violating or preempted by federal law, or otherwise challenges the construction or validity of a statute, as part of a claim or affirmative defense, the assembly, the senate, and the legislature may intervene as set forth under s. 13.365 at any time in the action as a matter of right by serving a motion upon the parties as provided in s. 801.14.

SECTION 98. 806.04 (11) of the statutes is amended to read:

806.04 (11) PARTIES. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration may prejudice the right of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, the municipality shall be made a party, and shall be entitled to be heard. If a statute, ordinance or franchise is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the attorney general shall also be served with a copy of the proceeding and be entitled to be heard. If a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the speaker of the assembly, the president of the senate, and the senate majority leader shall also be served with a copy of the

proceeding, and the assembly, the senate, and the state legislature are entitled to be heard. If the assembly, the senate, or the joint committee on legislative organization intervenes as provided under s. 803.09 (2m), the assembly shall represent the assembly, the senate shall represent the senate, and the joint committee on legislative organization shall represent the legislature. In any proceeding under this section in which the constitutionality, construction or application of any provision of ch. 227, or of any statute allowing a legislative committee to suspend, or to delay or prevent the adoption of, a rule as defined in s. 227.01 (13) is placed in issue by the parties, the joint committee for review of administrative rules shall be served with a copy of the petition and, with the approval of the joint committee on legislative organization, shall be made a party and be entitled to be heard. ~~In any proceeding under this section in which the constitutionality, construction or application of any provision of ch. 13, 20, 111, 227 or 230 or subch. I, III or IV of ch. 16 or s. 753.075, or of any statute allowing a legislative committee to suspend, or to delay or prevent the adoption of, a rule as defined in s. 227.01 (13) is placed in issue by the parties, the joint committee on legislative organization shall be served with a copy of the petition and the joint committee on legislative organization, the senate committee on organization or the assembly committee on organization may intervene as a party to the proceedings and be heard.~~

SECTION 99. 809.13 of the statutes is amended to read:

809.13 Rule (Intervention). A person who is not a party to an appeal may file in the court of appeals a petition to intervene in the appeal. A party may file a response to the petition within 11 days after service of the petition. The court may grant the petition upon a showing that the petitioner's interest meets the requirements of s. 803.09 (1) ~~or~~, (2), ~~or~~ (2m).

SECTION 100. Subchapter VIII (title) of chapter 893 [precedes 893.80] of the statutes is amended to read:

CHAPTER 893
SUBCHAPTER VIII
CLAIMS AGAINST GOVERNMENTAL
BODIES, OFFICERS AND EMPLOYEES;
STATUTORY CHALLENGES

SECTION 101. 893.825 of the statutes is created to read:

893.825 Statutory challenges. (1) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the attorney general shall be served with a copy of the proceeding and is entitled to be heard.

(2) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the speaker of the assembly, the

president of the senate, and the senate majority leader shall also be served with a copy of the proceeding and the assembly, the senate, and the joint committee on legislative organization are entitled to be heard.

SECTION 102. Nonstatutory provisions.

(1) INTERVENTION BY ASSEMBLY, SENATE, AND JOINT COMMITTEE ON LEGISLATIVE ORGANIZATION. The assembly, senate, and joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) in any litigation pending in state or federal court on the effective date of this subsection.

(2m) WEDC; STAGGERING OF INITIAL TERMS. Notwithstanding the length of terms specified for the members of the board of directors of the Wisconsin Economic Development Corporation under s. 238.02 (1), the initial members appointed by the speaker and minority leader of the assembly and the majority leader and minority leader of the senate beginning on the effective date of this subsection shall be appointed for terms expiring as follows:

(a) The terms of 2 members appointed by the speaker of the assembly and 2 members appointed by the senate majority leader shall expire on October 1, 2020.

(b) The terms of 2 members appointed by the speaker of the assembly, the member appointed by the assembly minority leader, 2 members appointed by the senate majority leader, and the member appointed by the senate minority leader, shall expire on October 1, 2022.

(2s) WEDC; CURRENT BOARD MEMBERS. The members of the board of directors of the Wisconsin Economic Development Corporation serving at the pleasure of the speaker of the assembly and senate majority leader on the day before the effective date of this subsection shall continue to serve at pleasure pending the appointment of members under sub. (2m), but may not serve after January 6, 2019, unless appointed under sub. (2m).

(2t) WEDC; ADDITIONAL BOARD MEMBERS. Notwithstanding s. 238.02 (1), the board of directors of the Wisconsin Economic Development Corporation shall include one additional member appointed by the speaker of the assembly and one additional member appointed by the senate majority leader, to serve terms expiring on September 1, 2019.

(2v) WEDC; CEO. Notwithstanding s. 238.02 (3), the chief executive officer of the Wisconsin Economic Development Corporation shall be appointed by the board of directors of the Wisconsin Economic Development Corporation. This subsection does not apply after September 1, 2019.

SECTION 103. Fiscal changes.

(1) SETTLEMENT FUNDS. Notwithstanding s. 20.001 (3) (c), from the appropriation account under s. 20.455 (3) (g), on the effective date of this subsection, there is lapsed to the general fund the unencumbered balance of any settlement funds in that appropriation account, as determined by the attorney general.

(2) OFFICE OF SOLICITOR GENERAL POSITIONS. In the schedule under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455 (1) (gh), the dollar amount for fiscal year 2018–19 is decreased by \$320,000 to decrease the authorized FTE positions for the department by 1.0 PR solicitor general position and 3.0 PR deputy solicitor general positions on January 1, 2019.

(3) DEPARTMENT OF JUSTICE GIFTS AND GRANTS. Notwithstanding s. 20.001 (2) (b), any moneys encumbered under the appropriation accounts under s. 20.455 (2) (gb) and (3) (g) before the effective date of this subsection may be expended pursuant to the terms of the encumbrance.

SECTION 104. Initial applicability.

(1) AGENCY PUBLICATIONS. The treatment of s. 227.05 with respect to printed publications first applies to guidance documents, forms, pamphlets, or other informational materials that are printed 60 days after the effective date of this subsection.

SECTION 105. Effective date.

(1) AGENCY PUBLICATIONS. The treatment of s. 227.05 and SECTION 104 (1) takes effect on the first day of the 7th month beginning after publication.



United States v. New York

STATE OF NEW YORK

S. 1103

A. 779

2019-2020 Regular Sessions

SENATE - ASSEMBLY

January 10, 2019

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

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

AN ACT to amend the election law, in relation to primary elections and amending certain deadlines to facilitate the timely transmission of ballots to military voters stationed overseas; to amend the public officers law, in relation to filling vacancies in elective offices; to amend the election law, in relation to date of primary elections; and to amend the election law, in relation to canvass and audit of returns

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

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

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

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

LBD04591-04-9

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 § 23. This act shall take effect immediately.

**III. UOCAVA Enforcement Activity by the
Attorney General in 2019**

**B. Other Enforcement Activity in 2019 to Obtain
UOCAVA Compliance**

South Dakota



U.S. Department of Justice

Civil Rights Division

Voting Section - NWB
950 Pennsylvania Ave, NW
Washington, DC 20530

February 25, 2019

VIA EMAIL AND FIRST CLASS MAIL

The Honorable Steve Barnett
Secretary of State
Capitol Building
500 East Capitol Avenue, Suite 204
Pierre, SD 57501

Dear Secretary Barnett:

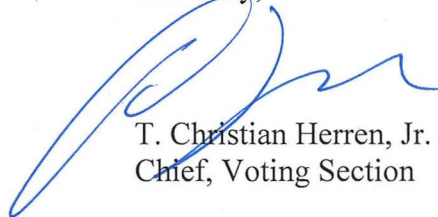
We write to you as the chief elections official for the State of South Dakota regarding the state's compliance with the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), 52 U.S.C. §§ 20301 et seq.

As you know, House Bill 1178 ("An Act to revise provisions regarding the beginning period for absentee voting") passed the South Dakota House of Representatives on February 21, 2019. It is our understanding that if HB 1178 is signed into law, the period for absentee voting—which currently begins 46 days prior to any election, S.D.C.L. § 12-19-1.2—will begin the first Friday in October prior to a general election and thirty-two days prior to a primary election. Likewise, while current South Dakota law on the period of absentee voting specifically mentions voters covered by UOCAVA, HB 1178 makes no mention of UOCAVA voters.

As you know, UOCAVA requires that all states transmit absentee ballots to absent uniformed services and overseas voters not later than 45 days before all general, special, primary and runoff elections for federal office if the UOCAVA voter has requested a ballot by that date. 52 U.S.C. § 20302.

We would appreciate your office keeping us apprised of any legislative developments that may impact South Dakota's procedures for ensuring timely transmission of absentee ballots to voters protected by UOCAVA. If you would like to discuss this matter or if we can be of assistance, please do not hesitate to contact Eileen O'Connor, a trial attorney in the Voting Section, at 202-305-2526.

Sincerely,



T. Christian Herren, Jr.
Chief, Voting Section

cc: Kea Warne, Director

Wisconsin



EXECUTIVE ORDER #53

**Relating to a Special Election for the 7th Congressional District and
Amending Executive Order #46**

WHEREAS, United States Representative Sean Duffy, representing Wisconsin's 7th Congressional District, submitted his resignation to the Secretary of State, effective September 23, 2019;

WHEREAS, the Uniformed Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. § 20307, mandates that UOCAVA-eligible voters must be able to receive absentee ballots at least 45 days before an election for national office;

WHEREAS, the Uniform Overseas Citizens Absentee Voting Act is critical for ensuring that each and every active military personnel stationed overseas and their family members of voting age have their votes counted;

WHEREAS, the Legislature amended the dates of the fall partisan primary to comply with UOCAVA when it enacted 2011 Wisconsin Act 75. However, the Legislature did not amend the special election statute – Wis. Stat. § 8.50 – to fully comply with UOCAVA; and

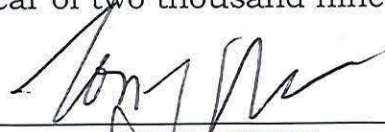
WHEREAS, pursuant to Article VI, Clause 2 of the United States Constitution, any state voting law that conflicts with the mandatory provisions of the Uniformed and Overseas Citizens Absentee Voting Act is preempted and invalid.

NOW, THEREFORE, I, TONY EVERS, Governor of the State of Wisconsin, pursuant to Article IV, Clause 2 of the United State Constitution, 52 U.S.C. Section 20307, and Section 8.50 of the Wisconsin Statutes, amend Executive Order #46 by replacing paragraph 1 with the following:

1. A special election shall be held on Tuesday, May 12, 2020, to fill the vacancy in the 7th Congressional District. The term of office for the 7th Congressional District will expire at noon on January 3, 2021. If a primary is necessary, it shall be held on Tuesday, February 18, 2020. Circulation of nomination papers for candidates began September 23, 2019, and nomination papers shall be filed no later than 5:00 p.m. on December 2, 2019, in the office of the Elections Commission, 212 East Washington Avenue, Third Floor, Madison, Wisconsin. These elections shall be held, conducted, canvassed, and returned in accordance with law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this nineteenth day of October in the year of two thousand nineteen.



TONY EVERS
Governor

By the Governor:



DOUGLAS LA FOLLETTE
Secretary of State