SENATE DOCKET, NO. 1002 FILED ON: 2/9/2021

SENATE . . . . . No. 459

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act fostering voter opportunities, trust, equity and security.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Cynthia Stone Creem	*First Middlesex and Norfolk*	
Eric P. Lesser	*First Hampden and Hampshire*	
Jason M. Lewis	*Fifth Middlesex*	*2/10/2021*
Thomas M. Stanley	*9th Middlesex*	*2/10/2021*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*2/10/2021*
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/10/2021*
Harriette L. Chandler	*First Worcester*	*2/10/2021*
Vanna Howard	*17th Middlesex*	*2/12/2021*
Jack Patrick Lewis	*7th Middlesex*	*2/12/2021*
Cindy F. Friedman	*Fourth Middlesex*	*2/12/2021*
John Barrett, III	*1st Berkshire*	*2/16/2021*
Joseph A. Boncore	*First Suffolk and Middlesex*	*2/16/2021*
Carmine Lawrence Gentile	*13th Middlesex*	*2/16/2021*
Kay Khan	*11th Middlesex*	*2/16/2021*
Rebecca L. Rausch	*Norfolk, Bristol and Middlesex*	*2/16/2021*
James B. Eldridge	*Middlesex and Worcester*	*2/16/2021*
Angelo J. Puppolo, Jr.	*12th Hampden*	*2/17/2021*
Edward J. Kennedy	*First Middlesex*	*2/18/2021*

Michelle L. Ciccolo	*15th Middlesex*	*2/18/2021*
Brendan P. Crighton	*Third Essex*	*2/19/2021*
Carol A. Doherty	*3rd Bristol*	*2/22/2021*
Christina A. Minicucci	*14th Essex*	*2/22/2021*
Michael J. Barrett	*Third Middlesex*	*2/23/2021*
Adam G. Hinds	*Berkshire, Hampshire, Franklin and Hampden*	*2/24/2021*
Maria Duaime Robinson	*6th Middlesex*	*2/24/2021*
Adam J. Scanlon	*14th Bristol*	*2/25/2021*
David Henry Argosky LeBoeuf	*17th Worcester*	*3/2/2021*
Erika Uyterhoeven	*27th Middlesex*	*3/2/2021*
Patricia D. Jehlen	*Second Middlesex*	*3/2/2021*
Michael O. Moore	*Second Worcester*	*3/10/2021*
John J. Cronin	*Worcester and Middlesex*	*3/10/2021*
Lori A. Ehrlich	*8th Essex*	*3/10/2021*
Anne M. Gobi	*Worcester, Hampden, Hampshire and Middlesex*	*3/15/2021*
Julian Cyr	*Cape and Islands*	*3/18/2021*
Sonia Chang-Diaz	*Second Suffolk*	*3/18/2021*
Adam Gomez	*Hampden*	*3/18/2021*
Susan L. Moran	*Plymouth and Barnstable*	*3/29/2021*
Joan B. Lovely	*Second Essex*	*4/1/2021*
Diana DiZoglio	*First Essex*	*5/5/2021*

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SENATE . . . . . No. 459

By Ms. Creem, a petition (accompanied by bill, Senate, No. 459) of Cynthia Stone Creem, Eric P. Lesser, Jason M. Lewis, Thomas M. Stanley and other members of the General Court for legislation to foster voter opportunities, trust, equity and security. Election Laws.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act fostering voter opportunities, trust, equity and security.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately foster voting opportunities trust, equity and security, including for elections occurring in the near future, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1F of chapter 51 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out, in line XX, the word “twentieth” and inserting in place thereof the following word:- tenth.

SECTION 2. Section 22A of said chapter 51 is hereby repealed.

SECTION 3. Section 26 of said chapter 51, as appearing in the 2018 Official Edition, is hereby amended by striking out, in line XX, the words ”twentieth day preceding such election and no later than eight o'clock in the evening on the tenth day preceding a special town meeting” and inserting in place thereof the following words:- tenth day before the election.

SECTION 4. Said chapter 51 is hereby further amended by inserting after section 34 the following section:-

Section 34A. (a) An individual who is eligible to vote may register as a voter by appearing in person at the polling place, during the hours it is open for voting, for the precinct in which the individual is a resident, or by appearing in person at an early voting site for the city or town in which the individual is a resident during the hours it is open for voting, by completing an affidavit of registration, by presenting proof of residence, and by making a written oath which shall be as follows: I certify that I: am a citizen of the United States; am at least 18 years old; am not under guardianship that prohibits me from voting; am not temporarily or permanently disqualified by law because of corrupt practices in respect to elections; have not and will not vote in any other location within the commonwealth or elsewhere; and understand that giving false information is a felony punishable by not more than 5 years imprisonment or a fine of not more than $5,000, or both.

(b) As used in this section, the term “proof of residence” means one of the following, so long as it includes the name of the applicant and the address from which the registrant is registering:

(i) a valid photo identification including, but not limited to, a Massachusetts driver’s license or other state-issued identification card; or

(ii) other documentation demonstrating the name and address where the registrant is a resident and seeks to register including, but not limited to, a copy of a current utility bill, bank statement, government check, residential lease agreement, wireless telephone statement, paycheck, other government document or correspondence, a current student fee statement or

other document from a post-secondary educational institution that verifies the student's current address.

(c) Upon compliance with subsection (a), an election officer shall permit the registrant to vote at that primary or election. Any person who registers to vote under this section shall be registered as a voter at all later primaries and elections, subject to this chapter.

(d) A registrant who fails to present suitable proof of residence shall be permitted to deposit a provisional ballot under section 76C of chapter 54, but shall within 2 business days after the primary or within 6 days after the election present sufficient proof of residence to the city or town clerk.

(e) The registrars may correct information supplied by the registrant to the extent necessary to maintain the integrity of their records. If an affidavit is incomplete or if it appears from the facts set forth in the affidavit that the registrant is not qualified to register as a voter, the registrars shall proceed in accordance with section 47 of chapter 51 of the General Laws.

(f) As soon as practicable after the election, the registrars shall add the registrant's name, address and effective date of registration to the annual register of voters.

(g) A registered voter shall not change party enrollment at a primary under this section.

(h) Upon credible information or allegation of illegal voter registration, or credible information or allegation of illegal multiple voting, the attorney general or the appropriate district attorney shall investigate the information or allegation. Nothing in this subsection shall exclude enforcement by any means otherwise provided by law.

(i) Violations of this section shall be punished under sections 8, 26 and 27 of chapter 56.

SECTION 5. Section 42G½ of said chapter 51, as appearing in the 2018 Official Edition, is hereby amended by inserting after the word “vote”, in line 57, the following words:- under subsection (d) of section 65.

SECTION 6. Said section 42G½ of said chapter 51 of the General Laws, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) In accordance with the memorandum of understanding required by subsection (b), each eligible applicant for services at an automatic voter registration agency who meets the qualifications to register to vote and does not decline to register to vote under subsection (d) of section 65 shall be registered as a voter under said section 65 as of the date the registrars add the person’s name and address to the register of voters, pursuant to paragraph (4) of said subsection (d) of said section 65; provided, however, that an applicant who meets the qualifications to register to vote, does not decline to register to vote under said subsection (d) of said section 65 and completes a qualifying transaction with an automatic voter registration agency not less than 21 days before an election shall be entitled to vote in that election. If necessary to comply with federal law, the division of medical assistance and the commonwealth health insurance connector authority may allow an applicant to decline to

register to vote at the time of application. Otherwise, all automatic voter registration agencies, including the registry of motor vehicles, shall transmit records of all eligible applicants as provided in subsection (e), and these applicants may decline to register to vote only after receiving notice from the registrars of voters under paragraph (3) of said subsection (d) of said section 65.

SECTION 7. Chapter 54 of the General Laws is hereby amended by inserting after section 16A the following section:-

Section 16B. Notwithstanding section 29 of chapter 53 and sections 11, 11B, 12 and 13 or any other general or special law to the contrary, for any primary or election, if the city or town clerk determines in writing that there is a deficiency in the number of required election officers, then the appointing authority may appoint election officers without regard to political party membership, voter status, residence in the city or town or inclusion on a list filed by a political party committee pursuant to said sections 11B and 12. If the position of the warden, clerk or inspector, or the deputy of any such officer, if any, is vacant within the 3 weeks preceding the primary or election, the city or town clerk may fill the vacancy by appointing a competent person willing to serve, without regard to political party membership, voter status, residence in the city or town or inclusion on a list filed by a political party committee pursuant to said sections 11B and 12.

SECTION 8. Said chapter 54 is hereby further amended by striking out section 25B and inserting in place thereof the following section:-

Section 25B. (a) A voter may vote early in person under this section:

(1) from the seventeenth day to the fourth day, inclusive, before a biennial state election, and any city or town election held on the same day as a biennial state election;

(2) from the tenth day to the fourth day, inclusive, before a presidential or state primary or special state election, and any city or town election held on the same day as a presidential or state primary or special state election;

(3) during the 10 days before any other city or town election, but only if, and on days and at times, approved by the city or town council or board of selectmen at least 14 days before any such early voting begins, after consulting the city or town clerk.

(b) (1) Early voting shall be conducted during the usual business hours of the city or town clerk. The registrars may provide for additional early voting hours beyond the hours required by this section, including weekend hours.

(2) In addition, on Saturdays and Sundays during the early voting period before a regular state primary, a presidential primary and a biennial state election, early voting shall be conducted: (i) for municipalities with fewer than 5,000 registered voters, for at least 2 hours each day; (ii) for municipalities with 5,000 or more registered voters but fewer than 20,000 registered voters, for

at least 4 hours each day; (iii) for municipalities with 20,000 or more registered voters but fewer than 40,000 registered voters, for at least 5 hours each day; (iv) for municipalities with 40,000 or more registered voters but fewer than 75,000 registered voters, for at least 6 hours each day; and (v) for municipalities with 75,000 or more registered voters, for at least 8 hours each day.

(c) The city or town clerk shall establish an early voting site that shall include the election office for the city or town; but if the registrars determine that the office is unavailable or unsuitable for early voting, the registrars shall identify and provide for an alternative centrally-located, suitable and convenient public building within the city or town as an early voting site. The registrars may also decide to provide for additional early voting sites. Each early voting site shall be accessible to persons with disabilities.

(d) Even when no other early voting in person is allowed under this section, voters who state that they will be absent from the city or town throughout the time when polls are open on the day of a primary or election may vote early in person in the office of the city or town clerk, during hours when it is open, until noon of the day before the primary or election.

(e) At least 21 days before each biennial state election, the state secretary shall deliver to each city or town clerk, in quantities as the state secretary determines necessary, the following papers: (1) official early voting ballots, similar to the official ballot to be used at the election; and (2) envelopes of sufficient size to contain the ballots specified in clause (1) bearing on their reverse the voter's affidavit in compliance with the requirements of subsection (g).

(f) An early voting ballot along with an envelope shall be provided to each voter who participates in early voting.

(g) A voter casting a ballot shall complete an affidavit under the state secretary’s regulations, which shall include a notice of penalties under section 26 of chapter 56.

(h) Before the beginning of early voting, the registrars shall prepare a list for each early voting sites, containing the names and residences of all voters of the city or town, as the names and residences appear upon the annual register, and shall reasonably transmit this list to the election officers at each early voting site.

(i) The election officers at the early voting site shall cause to be placed on the voting lists opposite the name of a qualified voter who participates in early voting the letters "EV".

(j) The registrars shall prepare lists of all voters casting early voting ballots and update the voting list in a manner prescribed by the state secretary.

(k) The counting of early voting ballots including, but not limited to, informing election officers and any challengers present under section 85A shall be set by regulations of the state secretary. All envelopes referred to in this section shall be retained with the ballots cast at the election

and shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

(l) The state secretary shall adopt regulations to carry out this section including, but not limited to, a process for applying for, receiving, separating, compiling, recording and securing early voting ballots.

(m) Section 72 shall not apply to this section; but a city or town may opt to detail a sufficient number of police officers or constables for each early voting site at the expense of the city or town to preserve order, protect the election officers and supervisors from any interference with their duties, and aid in enforcing the laws relating to elections.

(n) Except as this section provides otherwise, the laws governing voting on election day at polling places shall apply to early voting in person.

SECTION 9. Section 31 of said chapter 54, as appearing in the 2018 Official Edition, is hereby amended by striking out the second paragraph.

SECTION 10. Section 37 of said chapter 54, as so appearing, is hereby amended by adding the following paragraph:-

The state secretary may adopt regulations to carry out chapters 50 to 54, inclusive.

SECTION 11. Section 67 of said chapter 54, as so appearing, is hereby amended by striking out the first, second, and third sentences and inserting in place thereof the following 3 sentences:- One voting list shall be delivered to the ballot clerks and, if the city or town clerk so decides, another to the officer in charge of the ballot box. When a ballot is delivered to a voter, the voter's name shall be checked on the first voting list and on any second list when the voter deposits the ballot. If there is a second voting list, the officer in charge of the ballot box and the officer in charge of the voting list shall be of different political parties.

SECTION 12. Section 83 of said chapter 54, as so appearing, is hereby amended by striking out, in line 1, the words "Except where voting machines are used" and inserting in place thereof the following words:- Where a voting list at the ballot box is used under section 67.

SECTION 13. Said chapter 54 is hereby further amended by striking out section 86 and inserting in place thereof the following section:-

Section 86. A voter or a specially qualified voter may vote by mail ballot in any primary or election in accordance with sections 87 to 103, inclusive.

SECTION 14. Said chapter 54 is hereby further amended by striking out section 89, as amended by section 3 of chapter 115 of the acts of 2020, and inserting in place thereof the following 2 sections:-

Section 89. (a) Any form of written communication evidencing a desire to have a mail ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the state secretary. An application may be submitted electronically, but an electronic signature shall be written in substantially the same manner as a handwritten signature. An application under this section may request a mail ballot for all

primaries and elections in the calendar year, or may request a mail ballot for all primaries and elections indefinitely until the voter cancels the request or ceases to be an active or inactive voter at the address of residence, and the secretary's forms shall include these options. No application for a mail ballot shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters on or before the fourth business day preceding the election for which the ballot is being requested. An application by a voter admitted to a health care facility after noon of the seventh day before the relevant election, as provided in subsection (c) of section 91B, may be received until the time the polls close.

(b) Section 81 relative to spoiled ballots shall apply to mail ballots; but no request for a substitute ballot from a voter who has received a ballot by mail shall be valid unless it is accompanied by the spoiled ballot and received in the office of the city or town clerk before noon on the day before the election for which the substitute mail ballot is requested.

(c) No ballot shall be mailed or delivered, as provided in section 91B, until an application has first been filed and certified by the registrars and returned to the clerk, as provided in section 91.

(d) A family member of a person qualified to vote by mail ballot may apply in the same manner on behalf of that person. The applicant shall state the applicant's relationship to the absent voter, shall sign the application under the penalties of perjury, and shall transmit the application to the clerk of the city or town of the mail voter's residence.

(e) The state secretary shall, not later than July 15 of every even-numbered year, mail to all registered voters who registered to vote before July 1 at their residential addresses or mailing addresses if different from their residential addresses listed in the central registry an application

for a mail ballot. The state secretary need not mail an application to a voter whose previous application for a mail ballot for all elections in the calendar year has been accepted.

(f) The registrars of every city or town shall include an application for a mail ballot with the acknowledgement notice sent to persons registering to vote or changing their voter registration address on or after July 1 of every even-numbered year.

(g) Every application mailed under subsection (e) or (f) shall be pre-addressed to the city or town clerk with return postage guaranteed. Every such application shall be provided in any language required by the bilingual election requirements of the federal Voting Rights Act, 52 U.S.C. section 10503. Every such application mailed to a voter in the city of Boston shall include an option, which shall appear prominently on the application, to request a ballot printed in any language available at the voter's polling location pursuant to chapter 166 of the acts of 2014.

(h) Forms for the applications required by this section shall be made available on the websites of the state secretary and the clerk or registrars of every city or town.

(i) A voter wishing to apply to vote by mail in a presidential or state primary or state election and who needs accommodation by reason of disability may request such accommodation from the state secretary. Upon receiving information from the voter pursuant to the application in this subsection either by phone or electronically, the state secretary shall grant accommodations to the voter. Accommodations shall include, but not be limited to: (i) clear and electronic accessible instructions for completion, printing and returning of the ballot; (ii) an authorized accessible blank electronic ballot that can be filled out electronically, printed and signed; but the accessible electronic ballot marking system the voter utilizes to access their blank electronic ballot shall not collect or store any personally identifying information obtained in the process of

filling out the ballot; (iii) an envelope to return the ballot to the voter's town or city clerk; and (iv) hole punched markers in place of a wet signature required for certification. The electronic instructions and accommodations in this section shall comply with requirements contained in Title II of the federal Americans with Disabilities Act and shall conform to the Web Content Accessibility Guidelines (WCAG) 2.1 AA and the National Institute of Standards and Technology report titled "Principles and guidelines for remote ballot marking systems." Upon printing the ballot, the voter shall place the ballot in the envelope provided by the state secretary. A voter with accommodations in receipt of a ballot pursuant to this section may complete and return the ballot by delivering it, in person or by a family member, to the office of the appropriate city or town clerk or a secured municipal drop box, or by mailing it to the appropriate city or town clerk.

(j) The state secretary shall establish, maintain, and implement an internet portal on the secretary's website to allow a qualified voter to request a mail ballot for presidential and state primaries and state elections, to be mailed to the qualified voter's home address or a different mailing address as designated by the voter. The portal shall electronically update the central registry of voters, notify the city or town clerk electronically, and eliminate multiple requests by the same voter. Any request under this subsection shall not require the voter's signature.

Section 89A. The officer in charge of a correctional facility, house of correction, or jail, in this section called a facility, shall:

(a) not later than July 15 of an even-numbered year, display in prominent locations visible to inmates of the facility, a poster of voting rights and procedures, prepared by the state secretary;

(b) not later than July 15 of an even-numbered year, distribute to all inmates who may be eligible to vote, written information about voting rights and procedures, prepared by the state secretary;

(c) for all primaries and elections, assist inmates who may be eligible in registering as voters and in applying for mail ballots, including as specially qualified voters, and distribute forms for those purposes prepared by the state secretary;

(d) ensure the receipt, private voting, and return of mail ballots by eligible inmates;

(e) appoint a subordinate officer at the facility to supervise the actions required by this section; and

(f) not later than 14 days before every presidential and regular state primary and biennial state election, file a written report with the state secretary, detailing the actions taken under this section, in a form prescribed by the state secretary. The report shall be a public record.

SECTION 15. Said chapter 54 is hereby further amended by striking out section 91 and inserting in place thereof the following section:-

Section 91. When an application for a mail ballot is received by the clerk of a city or town, the clerk shall transmit it to the registrars, who shall examine it and, if they find it to be genuine and the applicant to be a duly registered voter or a family member of a duly registered voter, shall execute the certificate thereon and return the application to the clerk. The clerk shall cause to be placed on the voting lists prepared as required by section 60 of chapter 51, opposite the name of each voter on whose application such certificate has been so executed, the letter M. If the registrars do not execute the certificate, they shall immediately send the applicant written

notice to that effect, stating the reason, if possible by email, text, or telephone, and shall preserve the application during the time fixed by law for the preservation of ballots cast in the coming election, after which time the application shall be destroyed. The clerk shall prepare lists, arranged by voting precincts, of the names and addresses of all voters on whose applications for mail ballots the certificate has been executed as provided in this section, and shall post copies of such lists for public inspection. An applicant for a mail ballot who has been furnished a certificate of supplementary registration, as authorized by section 51 of chapter 51, shall submit the certificate with the application, and the clerk shall cause to be placed on such certificate opposite the name of the applicant the letter M. Every such certificate shall be securely affixed to the voting lists required by section 60 of chapter 51 to be transmitted to the polling place for the precinct where the applicant claims the right to vote and shall be considered a part thereof.

Section 59 of chapter 51 shall apply to applications for mail ballots, but the certificate shall be issued by the city or town clerk.

SECTION 16. Section 91B of said chapter 54, as so appearing, is hereby amended by inserting after the word ”prepaid”, in line XX, the following words:- and with return postage guaranteed.

SECTION 17. Subsection (a) of section 92 of said chapter 54 is hereby further amended by striking out the first sentence, as amended by section 5 of chapter 115 of the acts of 2020, and inserting in place thereof the following sentence:- A voter who receives the ballot by mail, as provided in subsection (a) of section 91B, may return it by mail to the city or town clerk in the envelope provided pursuant to subsection (d) of section 87, or the voter or a family member may

deliver it in person to the office of the city or town clerk, to a secured municipal drop box, or to an early voting site during the hours the site is open for voting under section 25B.

SECTION 18. Said chapter 54 is hereby further amended by striking out section 93 and inserting in place thereof the following section:-

Section 93. All voted mail ballots shall be received by the city or town clerk before the hour fixed for closing the polls. But ballots mailed on or before the day of a biennial state election shall be received until 5:00 P.M. of the third day after that election. A postmark, if legible, shall be evidence of the time of mailing.

SECTION 19. Section 94 of said chapter 54, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The city or town clerk, including a person designated by the clerk, shall open each envelope purporting to contain a mail ballot as soon as possible after receiving it, in the view of any persons who may be present. The clerk shall remove therefrom the inner envelope provided for in clause (c) of the first paragraph of section 87 and, without opening the inner envelope, compare the signature thereon with the signature on the application therefor, except if a family member signed the application or if the voter applied through the portal provided by subsection (j) of section 89 or if the voter received assistance in signing the application or the envelope, and examine the affidavit on each such envelope. If the clerk finds that the affidavit has been improperly executed, or does not sufficiently indicate that the ballot was marked and mailed or delivered as required by sections 92 and 93, or except as provided in the preceding sentence was not signed by the person who signed the application therefor, the clerk shall mark across the face thereof "Rejected as defective", and shall place on the mail voting disposition list required by

section 91 or 91A, as the case may be, opposite the name of the voter the capital letter R. Each envelope, so marked, all applications for mail ballots and all lists referred to in this section shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots. If the clerk does not mark the envelope "Rejected as defective", the clerk shall mark a check against the name of the voter on the mail voting disposition list required by section 91 or 91A, as the case may be. The clerk shall record on tally sheets prepared and furnished by the state secretary all envelopes, as well as accepted or rejected ballots of mail voters; and, in cities and towns divided into voting precincts, a separate record shall be made for each precinct.

SECTION 20. Said chapter 54 is hereby further amended by inserting after said section 94 the following section:-

Section 94A. Inner envelopes received by the clerk, and not marked “Rejected as Defective” under section 94 or “Rejected as Voted in Person” under section 100, and envelopes containing an early voting ballot under section 25B, may be opened before the day of the primary or

election, and the enclosed ballot immediately deposited into a tabulator, or into a ballot box where paper ballots are used, according to the state secretary’s regulations. Such ballots shall be kept secured, locked and unexamined, and no results shall be determined or announced until after the time the polls close on the day of the primary or election. Disclosing any such result before that time shall be punished as a violation of the first sentence of section 14 of chapter 56.

SECTION 21. The first paragraph of section 95 of said chapter 54, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following

sentence:- The city or town clerk, on the day of the election but no later than one hour after the hour for the closing of the polls, shall transmit all envelopes purporting to contain mail ballots received on or before the close of business on the day before the day of the election and which have not been opened under section 94A or marked "Rejected as Defective" under section 94 or "Rejected as Voted in Person" under section 100, to the election officers in the several precincts where the voters whose names appear on such envelopes assert the right to vote.

SECTION 22. Section 96 of said chapter 54, as so appearing, is hereby amended by striking out, in line XX, the words “, including that the voter was not unable by reason of physical disability to cast his vote in person at the polling place on the day of the election”.

SECTION 23. Section 99 of said chapter 54, as so appearing, is hereby amended by inserting after the words “such ballots”, in line XX, the following words:- mailed on or before the day of a biennial state election and received not later than 5:00 P.M. of the third day after that election, or”.

SECTION 24. Said chapter 54 is hereby further amended by striking out section 100 and inserting in place thereof the following section:-

Section 100. (a) A voter whose mail ballot the city or town clerk has received, and which has not been marked “Rejected as Defective” under section 94, may not vote in person. A voter who has applied for a mail ballot which the clerk has not yet received, or which has been so marked “Rejected as Defective”, may vote in person at an early voting site or at a polling place on election day. If, after such a voter has voted in person, the clerk receives from that voter an envelope purporting to contain a mail ballot, the clerk shall mark across the face of that envelope "Rejected as Voted in Person", and that envelope shall be preserved and destroyed in the manner

provided by law for the retention, preservation and destruction of official ballots. The state secretary shall adopt regulations to carry out this subsection.

(b) A mail ballot cast within the time required by sections 93 and 99 shall be processed as provided in sections 94 to 95, inclusive, although the city or town clerk knows that the voter has died after casting the ballot. For the purpose of this subsection, a voter casts a ballot when: (i) the voter deposits the ballot in the mail; or (ii) the voter or a family member returns the mail ballot to the clerk’s office, a municipal drop box, or an early voting s

SECTION 25. Said chapter 54 is hereby further amended by striking out section 109A and inserting in place thereof the following section:-

Section 109A. (a) As used in this section, the following terms shall have the following meanings:

"Audit unit", a precinct, a set of ballots, or a single ballot. A precinct, a set of ballots, or a single ballot may be used as an audit unit for purposes of this section only if:

(i) the relevant vote tabulating device is able to produce a report of the votes cast in the precinct, set of ballots, or single ballot; and

(ii) each ballot is assigned to not more than 1 audit unit.

"Contest", an election for an office or for a ballot question.

"Risk-limiting audit", a manual tally employing a statistical method that ensures a large, predetermined minimum chance of requiring a full manual tally whenever a full manual tally would show an electoral outcome that differs from the outcome reported by the vote tabulating system for the audited contest. A risk-limiting audit shall begin with a hand tally of the votes in 1

or more audit units and shall continue to hand tally votes in additional audit units until there is strong statistical evidence that the electoral outcome is correct. If counting additional audit units does not provide statistical evidence to 95 per cent certainty that the electoral outcome is correct, the audit shall continue until there has been a full manual tally to determine the correct electoral outcome of the audited contest.

"Unofficial final results", election results determined under sections 105 and 105A.

(b) The state secretary, in conjunction with the registrars, shall conduct risk-limiting audits after every regular state primary and biennial state election under this section.

(c) The audit program shall be conducted as follows:

(1) The following contests are subject to a risk-limiting audit if more than 1 candidate's name appears on the ballot: (i) president and vice president, representative in congress, senator in congress, governor, representative in the general court and senator in the general court; and (ii) 1 statewide ballot question, if any appear on the ballot, chosen by random drawing. The state secretary may include other contests if the secretary determines there is a substantial public interest in doing so.

(2) The state secretary shall audit units selected in a random, publicly verifiable, non-computerized drawing supervised by the state secretary within 48 hours after polls are closed. The drawing shall be fully observable to the public and representatives of each political party and shall use a procedure that can be easily understood to be random by members of the public. Notice of the time and place of the drawing shall be given at least 10 days before the election on the website of the state secretary.

(3) The state secretary shall make available to the public a report of the vote tabulating device results for the contest, including the results for each audit unit in the contest, before the random selection of audit units to be manually tallied and before the commencement of the audit.

(4) The state secretary in conjunction with the registrars shall conduct the audit upon tabulation of the unofficial final results.

(5) The state secretary in conjunction with the registrars shall conduct the audit in public view by manually counting the ballots according to regulations adopted by the state secretary.

(d) If a risk-limiting audit of a contest leads to a full manual tally of the ballots cast using the voting system, the vote counts according to that manual tally shall replace the vote counts reported for the purpose of determining the official contest results.

(e) The results of any audits conducted under this section shall be published on the website of the state secretary within 48 hours of being completed. If the audit involved a manual tally of 1 or more entire precincts, then the names and numbers of all precincts audited and a comparison of the vote tabulator results with the hand counts for each precinct shall be published with the audit results on the website.

(f) Any audit required under this section shall not commence for an election subject to a recount under section 135.

(g) The state secretary shall prepare and publish on the secretary’s website a comprehensive report of the results of audits under this section, not later than January 15 after a biennial state election.

(h) The state secretary shall adopt regulations and procedures to carry out this section.

SECTION 26. Section 51 of chapter 51, section 34A of chapter 53, sections 87, 88, 91A, 91B, 91C, 92, 103 and 135 of chapter 54, and sections 21, 27 and 27A of chapter 56 of the General Laws are hereby amended by striking out the words “absent voter”, “absent voting”, “absentee” or “absent” (with respect to a voter or ballot) wherever they appear and inserting in place thereof, in each instance, the following word:- mail.

SECTION 27. Whenever the term “absent voting”, “absentee voting” or the like appears in any statute, charter, regulation, contract, or other document, that term shall be taken to mean voting by mail ballot as provided in this act, unless the context clearly requires otherwise.

SECTION 28. A claim that a provision of this act providing for voting by mail ballot violates the constitution of the commonwealth may be brought only within 180 days after passage and only in the supreme judicial court, and shall be barred by laches to the extent that it seeks to affect the outcome of a primary or election in which any voter has cast a ballot before the claim was brought.

SECTION 29. Not later than June 30, 2022, the state secretary shall implement the portal required by subsection (j) of section 89 of the General Laws, as appearing in section 14 of this act, and shall enter into the agreement with the Electronic Registration Information Center, Inc. required by section 47C of chapter 51 of the General Laws.

SECTION 30. Sections 4, 5 and 6 shall take effect 90 days after passage.