

A Report of
Citizens Union of the City of New York

CIRCUMVENTING DEMOCRACY:

The Flawed System for Filling Vacancies
for Elected Office in New York
2011 Update

Research and Policy Analysis by Citizens Union Foundation

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This report builds on the original report first issued by Citizens Union in 2007, “Circumventing Democracy: the Flawed Process for Filling Vacancies for Elected Office in New York.”¹ Like the first report, its research involved using biographies of legislators, analyzing board of elections results, contacting legislative staffs, researching press accounts and news archives, and consulting the *New York Red Book* to determine how legislators were first elected to office.

¹ Citizens Union Foundation. “Circumventing Democracy: The Flawed System for Filling Vacancies for Elected Office in New York.” April 2007. Available at: http://www.citizensunion.org/www/cu/site/hosting/Reports/CUReport_2007special_election.pdf

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SUMMARY OF FINDINGS AND RECOMMENDATIONS

Citizens Union Foundation in April 2007 released its first briefing paper on special elections and vacancies in New York State, finding that an astonishing number of state legislators were first elected in a special election – nearly a third or 31 percent of legislators. This paper updates its findings, looking at the current state legislature today as well as changes in the laws regarding vacancies since 2007.

With five assembly seats in the legislature confirmed to be vacant, the process for filling vacant seats in state government has attracted renewed attention. This report does not focus on the process for filling vacant congressional seats, though we are concerned about the lack of voter involvement in special elections at the federal level. Should a special election be called for the confirmed to be vacant assembly seats, the election will essentially resemble a general election in which voters only have a choice between the candidates selected by party officials. Such an occurrence denies the voters the opportunity to participate in selecting their party's candidates through a primary election.

Under state law, however, the governor has the discretion as to when and whether to call a special election for these assembly seats.² Given the proximity in time to the regularly scheduled election process, Citizens Union urges Governor Cuomo not to call a special election to fill these five seats. Instead, these five seats could be filled during the 2011 general election this fall and allow for the holding of primary elections in September in which all candidates could petition onto the ballot.

Summary of Findings

The report's main findings are as follows:

1. **26 percent – or 1 in 4 – of the 212 legislators taking office in January 2011 were first elected in a special election**, down a welcomed 5 percentage points from 31 percent four years ago, but still unacceptably high.
 - a. In the State Assembly, 31 percent of its members, or 46 of 150 were first elected in a special election.
 - b. In the State Senate, 16 percent, or 10 of 62, of its members were first elected in a special election.
2. Five state legislative seats are confirmed to be vacant and an additional five could also be empty by year's end. **Should all ten vacancies be troublingly filled in special elections, the percentage of legislators in both houses first elected in a special election would move back up to 30 percent, offsetting the encouraging downward trend** seen in the past few years and returning the prevalence of closed partisan special elections to an unacceptably high level.
 - a. For the Assembly, the percentage of those first elected in a special election would rise to 35 percent in the Assembly and remain at 16 percent in the Senate.

² See New York State Public Officers Law, §42-4

- 3. Voter turnout in past special elections from April 2007 to today averaged a dismayingly low 12 percent.** On the low end was the 2009 special election in the Bronx to fill Assembly District 85. Marcos Crespo (D) was elected to that seat with only 1,331 votes, and overall turnout for the election was only 2% of registered voters. On the high end was the 33 percent turnout for a vacant state senate seat in District 48 won by Darrel Aubertine (D) in April 2008. Not only is voter choice limited because of special elections, but candidates are elected with little initial support because of the timing and turnout of such special elections. The turnout in the last 12 special elections that have occurred since the release of our previous report in April 2007 is listed in Appendix B.

The continuation of a closed party nominating process in which party leaders essentially ordain the candidates whose names will appear on a special election ballot limits voter participation in our representative democracy. The nomination by party leaders leaves little but the formality of a special election – due to an abysmally low average voter turnout of 12 percent – between these candidates and long term incumbency. The process for filling vacant seats is provided in further detail in Section 2.

In a state with an incumbent re-election rate of 96 percent over the last decade, according to recent Citizens Union Foundation research, and majority party rule in many legislative districts, the special election process disenfranchises voters and circumvents the democratic process. It also denies legislators a potential mandate from the electorate to enact the various policies they support, while short-circuiting the public exchange of ideas critical to the democratic process.

The issue of vacancies for statewide office holders has also increasingly come under scrutiny. Prior to the 2010 elections, New York State had an unelected governor, lieutenant governor and comptroller (not to mention United States Senator). The process for filling vacancies for comptroller is especially unsettling as two of the last three state comptrollers were initially appointed by the state legislature voting as a whole to fill an unexpected vacancy, meaning that the Assembly essentially controlled the process, appointing two of their own members.

For the office of governor, the resignation of Governor Spitzer elevated David Paterson to Governor, leaving a vacancy in the office of the lieutenant governor. New precedent was set in 2009 with Paterson appointing Richard Ravitch as lieutenant governor. While the appointment was supported by Citizens Union and other good government groups as a means to fill a vacancy that was contributing to the deadlock in the State Senate in the summer of 2009, a long-term solution to vacancies in this office still needs to be enacted before a similar crisis strikes again.

Summary of Recommendations

Lastly, Citizens Union presents several policy options to increase democratic participation and strengthen voter enfranchisement in the process for both statewide and legislative offices, detailed in full in Section 4. Citizens Union urges the State Legislature and Governor to enact reforms to open up the process to voters of selecting the candidates that will fill vacancies in the state's elected offices, particularly for the state legislature, including the following:

I. Filling a Vacancy in the Offices of Comptroller and Attorney General

The State Legislature should have the power to appoint only an *interim* attorney general or comptroller, with the office being put on the ballot for voters in the next round of state primary and general elections, unless such a vacancy occurs within sixteen months of the next statewide election, in which case the interim appointment shall serve the remainder of the term.

II. Filling a Vacancy in the Office of Lieutenant Governor

The governor's nomination for lieutenant governor should be subject to confirmation by a majority vote of the senate and the assembly voting separately, ensuring that each house of the State Legislature plays an equal role in the confirmation process and that no one house by virtue of its size has more influence in the decision than the other.

III. Filling a Vacancy in the State Legislature

The current process of holding only one special election in which the candidates are chosen by the party committee should be abolished and replaced with either one of the following two reforms, along with the inclusion of reduced ballot signature requirements and instant runoff voting (IRV):

- Holding a primary election at least thirty days in advance of the special election, or
- Holding one non-partisan special election along the lines of the current process for filling vacancies in the New York City Council in which the ballot is open to all who can petition on to it.

IV. Filling a Vacancy in the New York City Council

An instant runoff voting (IRV) system should be used for the city's non-partisan, municipal special elections, allowing voters to rank candidates at the time of voting and ensure that should no candidate receive an outright majority of the vote, a candidate is elected that most accurately reflects the will of the electorate, as presented above.

V. Residency Requirements for Municipal Office

To correct the ambiguity in state law related to residency requirements for local office such as New York City Council, an elected official should be required to be a resident of the jurisdiction or district only at the time the official is sworn into office. The official would sign an affidavit affirming permanent residency within the district, and must continue to maintain primary residence in that jurisdiction throughout the duration of the term of office. However, when filing papers as a candidate for office, a candidate who lives outside the district must indicate his or her current address, not an intended future residency address.

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FILLING VACANCIES FOR ELECTED OFFICE

The current rules for filling vacancies that occur during a term of office differ greatly from the usual process of electing representatives through traditional primary and general elections. To prevent significant gaps in representation when an elected official leaves office unexpectedly, a variety of rules are used to fill seats in a timely manner. However, the rules as they exist, especially for the state legislature and the offices of comptroller and attorney general, have provided little room for meaningful public participation and have effectively disenfranchised voters through closed nomination systems that result in predetermined election winners.

Some progress has been made to open special elections to more voters, though only through the extension of dates to ensure that military voters can participate in filling vacancies for state legislature and congress, which occur under a tight timeframe. Governor Cuomo introduced a program bill which passed the legislature in March 2011, extending the amount of time after which special elections are held following their announcement. Special elections were previously held between 30 and 40 days after being called by the governor. Under the new law, special elections are held between 70 and 80 days after their announcement to ensure that members of the military serving overseas have sufficient time to receive their ballots and cast their votes.³ While the law gives more time for all voters to learn about the candidates in special elections, they still can only choose between party-selected candidates.

State Legislature

The selection process for filling vacancies in the state legislature has typically involved the nomination of candidates by party committees followed by a special election scheduled at a date set by the governor. If the governor does not call a special election, and a vacancy occurs prior to April 1st of the second year of the term, however, the seat may be filled at the next general election held in the state, which would include a primary election.⁴ In a special election, candidates may also petition to get on the ballot as an independent candidate under a newly created party label to compete with the party-backed candidates. The party nomination process replaces the usual public primary election with a few hundred party members who narrow the field of aspiring candidates down to one for each party line without any input from rank-and-file voters. Voters are given the opportunity to choose from these few candidates at the special election, but with so many legislative districts dominated by a single political party in this state (due in part to the way in which legislative districts are gerrymandered to favor majority party incumbents), a candidate who wins the dominant party nod rarely faces challenging competition at the polls. These special elections provide voters with little real choice.

State Comptroller and Attorney General

The state legislature is given the responsibility of filling vacancies in the offices of comptroller and attorney general by a collective majority vote of both houses of the legislature meeting in joint session. The newly appointed comptroller or attorney general serves until the end of the four-year term in which he or she is selected due to the requirements of the State Constitution that no election for the comptroller or attorney general may take place unless the governor is also up for election.

³ See S.3500/A.5698 of 2011, available at http://assembly.state.ny.us/leg/?default_fld=&bn=S03500&Summary=Y&Memo=Y&Text=Y

⁴ Public Officers Law, §42-4. Note that the governor may call a special election after April 1st on the second year of the term if there is a special session of the legislature.

Governor

Should the position of governor become vacant, the lieutenant governor, who was elected by the voters, assumes the role for the remainder of the term and the temporary president of the senate performs the duties of the lieutenant governor. If the offices of both governor and lieutenant governor become vacant, the temporary president of the senate assumes the role of governor until the next general election that happens at least three months after the vacancies first occur.

Lieutenant Governor

Under new precedent established by former Governor Paterson's appointment of Richard Ravitch as Lieutenant Governor in 2009 and upheld by the state Court of Appeals, the governor is authorized to make an appointment of his or her choosing to fill the position of lieutenant governor, with no confirmation required. In *Skelos v. Paterson*, the Court of Appeals ruled that under current law, the governor had the authority to appoint Ravitch. The decision, however, left open that the legislature is able to revisit the statutes to specify an alternate appointment process.⁵

Congressional Representative and Senator

If a U.S. House of Representatives seat becomes vacant, the governor is required to hold a special election, though the timing is at the discretion of the governor.⁶ In the case of a vacated senate office, the governor fills a vacancy with a temporary appointee and the office would be up for election at the subsequent general election to fill the rest of the term.

Please see Appendix A for a detailed chart outlining the procedures for how vacancies are filled in New York State, including for New York City elected positions.

⁵ *Skelos v. Paterson*, 13 N.Y.3d 141, 886 N.Y.S.2d 846 (2009)

⁶ *Fox v. Paterson*, 715 F.Supp2d 431 (W.D.N.Y 2010)

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HOW NEW YORK STATE LEADERS FIRST ASSUMED OFFICE

The Legislature

Since the release of our first report four years ago in April 2007, a total of 12 special elections have been held, with a disheartening average turnout of 12% of registered voters – some having turnout as low as 2% (for a detailed list of the special elections see Appendix B). The result of the prevalence of special elections is that 31% of the current members of the Assembly and 16% of the current senators were first elected in a special election. While this is a welcome drop of five percentage points from four years ago (due in part to the relatively high turnover rate of the 2010 elections), the number is still troublingly high, with one in four sitting legislators having been elected in a special election. Taken together, 26 percent of the members of the state legislature taking office in January 2011 were first elected in a special election.

Several recent vacancies occurred due to corruption or criminal issues forcing members to resign or to be expelled, causing special elections for the seats of former Assemblymember Anthony Seminerio and Senator Hiram Monserrate (who was expelled by a vote of the Senate).

Other legislators left midterm for appointments to other offices, prompting special elections, including Assemblymembers Ruben Diaz, Jr., Patricia Eddington, Pete Grannis, Aurelia Greene, Ivan Lafayette, Paul Tonko, Mark Weprin, Robert Walker, and Senator James Wright. One Assemblymember, Kenneth Zebrowski, passed away while in office in 2007, causing a special election to be held in which his son was elected. A list of these races, as well as voter turnout in each race, is provided in Appendix B.

Very few people turn out to the polls to vote in these contests. For state legislative special elections occurring over the last four years, the average voter turnout was 12 percent. The lowest turnout was a dismaying 2 percent, which occurred in a special election in the Bronx to fill Assembly District 85, which was vacated by Ruben Diaz, Jr. when he was elected Bronx Borough President in 2009. Marcos Crespo (D), who continues to represent Assembly District 85, was first elected by only 1,331 voters. The highest turnout, nearly 33 percent, occurred for a state senate seat vacated by James Wright, in which Darrel Aubertine (D) and William Barclay (R), both then members of the Assembly, ran in a close race for Senate District 48 in April 2008. For a list of all twelve special elections that have occurred in the last four years, see Appendix B.

New York's Special Election Legislators

State Assembly

- **46 out of 150 members, or 31 percent** of the members of the Assembly who took office in January 2011 were first elected in a special election.
- The initial vacancies occurred during the term in office as follows: 31 legislators won election or received appointment to another office, 6 retired, 5 died and 4 left because of actual or alleged corruption.

State Senate

- **10 out of 62 members, or 16 percent**, of the members of the Senate who took office in January 2011 were first elected in a special election.
- The initial vacancies occurred during the term in office as follows: 5 legislators won election or received appointment to another office, 2 retired, 2 died, and 1 left due to criminal issues.

And while turnout is abysmally low, special elections still cost almost as much per district as conventional elections. The counties running special elections must incur the standard costs of mailing information to voters, printing election materials, transporting voting machines and related equipment, as well as hiring and training poll workers, which are the largest expenses of an election.

The special election process raises additional concerns given the 96 percent re-election rate of incumbent legislators in New York State, according to Citizens Union Foundation research. Due to the powers of incumbency among other factors, dominant major party candidates that win the party's nod are practically assured a lifetime position in the state legislature should they seek it.

It should also be noted that the timing of special elections is often related to political considerations, which may or may not align with the interests of voters. With the ouster of Senator Hiram Monserrate in 2010, then Assemblymember José Peralta successfully ran in a special election on March 16th for the senate seat, leaving his assembly seat vacant. Despite calls that a special election for the district be called before the November General Election, Governor Paterson ultimately decided not to hold a special election. Some voters in the district contended that because the district was “high-need and under-resourced,” they deserved a special election so that they would have representation in the Assembly.⁷ It was speculated that a special election was not called because Paterson and the Queens Democratic Party's preferred candidate, Francisco Moya (who ultimately won the seat), would not have been eligible due to residency requirements until the General Election, as required by Election Law.⁸ If a special election were called, Moya would not have been eligible to run.

There will be at least five – and possibly as many as eight or even ten – vacancies with the possibility of special elections occurring in the near future. The five vacancies having already occurred or imminent are:

- **Assembly District 27** – Currently vacant. Nettie Mayersohn announced her retirement, effective shortly after the passage of the state budget on March 31, 2011.⁹
- **Assembly District 23** – Currently vacant. Assemblymember Audrey Pheffer was appointed Queens County Clerk, taking office on May 12, 2011.¹⁰ The former Clerk, Gloria D'Amico died in December 2010.¹¹
- **Assembly District 54** – Currently vacant. Darryl Towns was nominated by Governor Cuomo for Commissioner and C.E.O. of New York State Homes and Community Renewal (HCR).¹² He officially resigned from the Assembly on April 6, 2011.¹³

⁷ Walsh, Jeremy. “Questions Arise over Peralta Seat Vacancy.” Yournabe.com, 4/1/2010. Available at: http://www.yournabe.com/articles/2010/04/01/queens/qns_peralta_seat_roundup_20100401.txt

⁸ Benjamin, Liz. “Special Election Déjà vu.” Daily Politics, New York Daily News. March 18, 2010. Available at: <http://www.nydailynews.com/blogs/dailypolitics/2010/03/special-election-deja-vu.html#ixzz0iZhVDIUy>

⁹ Banrey, Jason. “Mayersohn Retires from Assembly.” Queens Tribune. March 31, 2011. Available at: http://www.queenstribune.com/deadline/Deadline_033111_Mayersohn.html

¹⁰ Colangelo, Lisa. “Former Assemblywoman Audrey Pheffer Hopes to Click with Residents as Queens County Clerk.” May 12, 2011. New York Daily News. Available at: http://www.nydailynews.com/ny_local/queens/2011/05/12/2011-05-12_pol_hopes_to_click_with_residents_as_clerk.html

¹¹ Cimino, Tony. “Queens County Clerk D'Amico Dies.” Queens Courier. December 22, 2010. Available at: http://www.queenscourier.com/articles/2010/12/22/news/top_stories/doc4d125be6c8021164519027.txt

¹² Governor Andrew Cuomo, Press Release 2/10/2011. Available at: <http://www.governor.ny.gov/press/021011cuomoannouncesappointment>

¹³ Benjamin, Liz. “Two Vacancies and Counting.” Capitol Tonight. April 18, 2011. Available at: <http://www.capitaltonight.com/2011/04/two-vacancies-and-counting/>

- **Assembly District 73** – Jonathan Bing was nominated by Governor Cuomo to the post of Special Deputy Superintendent of the New York Liquidation Department, a separate office under the jurisdiction of the Superintendent of Insurance, on June 8, 2011. He is expected to resign officially after the conclusion of the legislative session.¹⁴
- **Assembly District 116** – Currently vacant. RoAnn Destito was nominated by Governor Cuomo for Commissioner of the Office of General Services, and was sworn in after Senate confirmation on May 11, 2011.¹⁵

Three more vacancies could occur, pending the results of elections in the fall:

- **Assembly District 7** – Assemblymember Michael Fitzpatrick has been mentioned as a possible Republican candidate for the Suffolk County Executive Race.¹⁶ Incumbent County Executive Steve Levy announced that he will not be seeking another term for the office, which is up for election this November.¹⁷
- **Assembly District 103** – Assemblymember Marcus Molinaro has been endorsed by the Republican and Conservative Parties for the Dutchess County Executive Race, which will take place in fall 2011.¹⁸ Should he win election, a vacancy will be created, likely to be filled in a special election in early 2012.
- **Possible vacancy in one of several legislative districts** – With the resignation of Anthony Weiner from the U.S. House of Representative announced on June 16th and necessary paperwork submitted on June 20th,¹⁹ a number of state legislators have been cited as considering entering the race to fill the vacant seat. Assemblymembers David Weprin (District 24), Rory Lancman (District 25), and Alec Brook-Krasny (District 46) have been reported as interested in the seat, as well as Senator José Peralta (District 13).²⁰ The Governor is authorized to call a special election to fill this seat, or it can be filled in the fall 2011 general election. It should be noted, however, that only one of these seats would become vacant, as no sitting legislator would be required to resign while running for the seats.

And if history is any guide, two recently indicted state legislators may be forced to resign their seats if convicted of the charges against them:

- **Assembly District 55** – Assemblymember William Boyland was indicted for charges of bribery, money laundering and conspiring to commit mail and wire fraud in a case involving Senator Carl Kruger; should there be a felony charge, he will be forced to resign, leaving his seat vacant.²¹

¹⁴ Office of the Governor. “Governor Cuomo Announces Appointment of Assemblyman Jonathan Bing.” Press Release. June 8, 2011. Available at: <http://governor.ny.gov/press/06082011AssemblymanBing>; see also <http://www.hotnewsweb.com/news/finance/assemblyman-bing-joins-cuomo-administration>

¹⁵ Alford, Trevor. “Destito sworn in as OGS commish.” Legislative Gazette. May 11, 2011. Available at: <http://www.legislativegazette.com/Articles-c-2011-05-11-77230.113122-Destito-sworn-in-as-OGS-commish.html>

¹⁶ Kelly, Tim. “Comptroller Sawicki considering County Executive Run.” Riverhead News-Review. March 31, 2011. Available at: <http://riverheadnewsreview.timesreview.com/2011/03/11657/comptroller-sawicki-considering-county-executive-run/>

¹⁷ Rumsey, Spencer. “Steve Levy Leaving: What’s Next for Suffolk County?” Long Island Press. April 7, 2011. Available at: <http://www.longislandpress.com/2011/04/07/steve-levy-leaving/>

¹⁸ “Molinaro now official GOP candidate for Dutchess exec.” May 11, 2011. Midhudson News. Available at: http://www.midhudsonnews.com/News/2011/May/11/Molinaro_GOP_Endorse-11May11.htm

¹⁹ Benjamin, Liz. “Weiner Resigns, Officially.” Capitol Tonight, YNN. June 20, 2011. Available at: <http://www.capitaltonight.com/2011/06/weiner-resigns-officially/>

²⁰ Benjamin, Liz. “Replacing Weiner (Updated).” Capitol Tonight, YNN. June 16, 2011. Available at: <http://www.capitaltonight.com/2011/06/replacing-weiner/>

²¹ Reisman, Nick. “A New Indictment for Kruger, Boyland et al.” Capitol Tonight, YNN. April 7, 2011. Available at: <http://www.capitaltonight.com/2011/04/a-new-indictment-for-kruger-boyland-et-al/>

- **Senate District 27** – Senator Carl Kruger was indicted for charges of bribery, money laundering and conspiring to commit mail and wire fraud in a case also involving Assemblymember William Boyland; should there be a felony charge, he will be forced to resign, leaving his seat vacant.²²

This report represents a snapshot in time during a period after the 2010 General Election, in which many legislators who were first elected in a special election retired or ran for other office. We predict that over the course of the next year, more legislators will leave mid-term, causing more special elections to occur. As stated above, five seats are confirmed to be vacant, with five more vacancies possible in the next year. Should these vacancies be filled in special elections, the percentage of legislators in both houses first elected in a special election would move back up to 30 percent, offsetting the encouraging downward trend seen in the past few years and returning the prevalence of closed partisan special elections to an unacceptably high level. If special elections take place over the next year as opposed to some being filled through the normal election to fill all of these seats, 35 percent of the Assembly and 16 percent of the Senate would be elected in special elections.

Statewide Office

In the past two decades, New Yorkers have witnessed two state comptrollers resign before the end of their terms. Each time, the vacancy was filled by the legislature with one of their former legislative colleagues. After fourteen years in office, then Comptroller Edward Regan resigned in 1994 and was replaced by former state senator H. Carl McCall, who went on to win reelection twice before running for governor. Having just been re-elected State Comptroller in November 2006, Alan Hevesi resigned one month later in December after pleading guilty to a felony for using a state employee as his wife’s chauffeur.²³ The state legislature voted shortly after in January 2007 to appoint a replacement to fill his vacancy. With a majority in the assembly, the 107 Democratic assembly members, led by Assembly Speaker Sheldon Silver, had an overwhelming influence on the outcome. After wrangling with the governor over the process, the legislature appointed one of its own, Assemblymember Thomas DiNapoli, to serve as the watchdog over the state’s finances and as manager of the state’s pension fund and state-funded debt. Though the comptroller is an elected office, at no time during this previous four-year term did voters have an opportunity to confirm or replace the legislature’s appointee. In the 2010 general election in which Comptroller DiNapoli first stood for election, voters voted to retain him in office. In short, two of the past three comptrollers have been initially appointed to office by the state legislature.

Likewise, Attorney General Robert Abrams resigned in 1993 and the legislature appointed Assemblymember G. Oliver Koppell to fill the vacancy. Koppell finished the last year of the term before losing his bid for election in the Democratic Primary.

Governor Nelson Rockefeller left office early when he was chosen to be Vice President in 1974. He was succeeded by Lieutenant Governor Malcolm Wilson. Not to be missed is also the resignation of

New York’s Appointed State Comptrollers

- 2 out of the past 3 state comptrollers were first appointed by the legislature to fill a vacancy.
- Both replacement appointees were from the legislature.

²² Reisman, Nick. “A New Indictment for Kruger, Boyland et al.”

²³ Johnson, Mark. “NY Official Resigns Over Driver Scandal.” Associate Press. December 22, 2006. Available at: <http://www.foxnews.com/wires/2006Dec22/0,4670,NewYorkComptroller,00.html>

Governor Eliot Spitzer, which led to then Lieutenant Governor David Paterson rising to Governor. While Paterson's ascension meant that the vacancy was filled by a person who was elected in a statewide election by the voters, his appointment of Richard Ravitch as Lieutenant Governor was done unilaterally without the confirmation of the legislature, as is allowed under current law.

Please see Appendix C for a full list of the current members of the state legislature and the type of election that brought them into office.

4

TOWARD A MORE DEMOCRATIC PROCESS: POLICY OPTIONS FOR REFORM

Citizens Union recommends that the State Legislature and Governor enact legislation establishing new procedures for filling vacancies and clarifying residency requirements for the following elected offices:

I. Filling a Vacancy in the Offices of Comptroller and Attorney General

Should the position of Attorney General or State Comptroller become vacant, the State Legislature should have the power to appoint only an *interim* Attorney General or Comptroller, with the office being put on the ballot for voters in the next round of state primary and general elections, unless such a vacancy occurs within sixteen months of the next statewide election, in which case the interim appointment shall serve the remainder of the term. Any person elected at a general election to fill a vacancy that is not at the time of the quadrennial statewide elections shall serve the remainder of the four-year term.

II. Filling a Vacancy in the Office of Lieutenant Governor

Citizens Union supports requiring that the Governor's nomination for lieutenant governor be subject to confirmation by a majority vote of the Senate and the Assembly voting separately. This recommendation would ensure that the Governor nominates a candidate of his or her choosing and each house of the State Legislature plays an equal role in the confirmation process and that no one house by virtue of its size has more influence in the decision than the other. This approval process is currently used by the U.S. Congress in confirming appointments for vice president as put forward by the president.

III. Filling a Vacancy in the State Legislature

Citizens Union supports abolishing the current process of holding only one special election in which the candidates are chosen by the party committee, replacing it with either one of two reforms:

- Holding a primary election at least thirty days in advance of the special election, or
- Holding one non-partisan special election along the lines of the current process for filling vacancies in the New York City Council in which the ballot is open to all who can petition on to it.

Regardless of which system is implemented, Citizens Union believes that signature requirements should be reduced to provide greater access to the ballot, and that an instant runoff voting (IRV) procedure be established to ensure that the successful nominee or candidate receives a majority of the vote in the primary or special election. IRV will ensure that the election winner does not win with a minority of votes and that the result most accurately reflects the will of the electorate, because so few voters cast ballots during special elections.

IV. Filling a Vacancy in the New York City Council

Citizens Union also supports the establishment of an instant runoff voting (IRV) system for New York City's non-partisan, municipal special elections. This would allow voters to rank candidates at the time of voting and ensure that should no candidate receive an outright majority of the vote, a candidate is elected that most accurately reflects the will of the electorate, as presented above.

V. Residency Requirements for Municipal Office

To correct the ambiguity in state law related to residency requirements for local office, Citizens Union believes that to serve in an office at the local level such as New York City Council, an elected official must be a resident of the jurisdiction or district he or she is seeking to represent only at the time the official is sworn into office. The official would sign an affidavit affirming permanent residency within the district, and must continue to maintain primary residence in that jurisdiction throughout the duration of the term of office. However, when filing papers as a candidate for office, a candidate who lives outside the district must indicate his or her current address, not an intended residency at a future address. Citizens Union believes this will increase voter choice while providing information about a candidate's current residency.

Appendix A: Procedures for Filling Vacancies in New York State and City Elected Offices

Position	How Vacancy is Filled	Time Frame	Special Election Requirements to Run for Office	Length of Term
State Legislator	<ul style="list-style-type: none"> Governor may call special election at his/her discretion <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> Seat remains vacant until next general election 	<ul style="list-style-type: none"> Election can only be called before April 1st of the final year of the vacating legislator's term unless there is a special session Election must be held within 70 to 80 days of announcement of election Candidates must be nominated within 10 days of the announcement of special election Independent nominating petitions must be filed within 12 days of the announcement of special election 	<ul style="list-style-type: none"> Nomination by party according to party rules <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> Independent nominating petition filed with 1,500 signatures 	<ul style="list-style-type: none"> Balance of term
Governor/ Lt. Governor	<ul style="list-style-type: none"> Lt. Governor fills in for departing Governor The Lt. Governor position can be filled by appointment of the new Governor, with no confirmation required. 	<ul style="list-style-type: none"> If both positions become vacant, they are up for election at the next general election occurring at least three months from the time of the vacancies. 	<ul style="list-style-type: none"> Same as regular election 	<ul style="list-style-type: none"> Temporary President of the Senate serves until election of a new governor New Governor and Lt. Governor serve for balance of term
Attorney General & Comptroller	<ul style="list-style-type: none"> New York State Legislature appoints replacement by majority vote to serve duration of term 	<ul style="list-style-type: none"> Replacement serves for duration of term 	<ul style="list-style-type: none"> Not applicable 	<ul style="list-style-type: none"> Balance of term
Congressional Representative	<ul style="list-style-type: none"> A special election must be held by the governor to fill a vacancy, and the timing is at the discretion of the governor. 	<ul style="list-style-type: none"> Election must be held within 70 to 80 days of governor's announcement 	<ul style="list-style-type: none"> Nomination by party according to party rules <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> Independent nominating petition filed with 3,500 signatures 	<ul style="list-style-type: none"> Balance of term
U.S. Senator	<ul style="list-style-type: none"> Governor fills the vacancy with a temporary appointee General election held to select replacement 	<ul style="list-style-type: none"> The election for U.S. Senator shall occur at the next federal election not less than 60 days after a vacancy. 	<ul style="list-style-type: none"> Same as regular election 	<ul style="list-style-type: none"> Appointee serves until successor chosen in next general election takes office

Position	How Vacancy is Filled	Time Frame	Special Election Requirements to Run for Office	Length of Term
Mayor (NYC)	<ul style="list-style-type: none"> Public Advocate (or if vacant, Comptroller) serves as interim mayor until special election Winner of special election serves balance of term 	<ul style="list-style-type: none"> Within three days of vacancy, interim mayor will set date for special election. The election should take place within 60 days or to coincide with upcoming general election where practicable 	<ul style="list-style-type: none"> After proclamation of election, candidates may circulate independent nominating petition under nonpartisan system 	<ul style="list-style-type: none"> Serves until successor chosen in next general election takes office
Public Advocate (NYC)	<ul style="list-style-type: none"> Vacant until special election with City Council Speaker filling in as needed 	<ul style="list-style-type: none"> Within three days of the vacancy, the mayor will set the date for the special election Election held on the first Tuesday at least 45 days after the vacancy, or to coincide with upcoming general election where practicable 	<ul style="list-style-type: none"> After proclamation of election, candidates may circulate independent nominating petitions under nonpartisan system 	<ul style="list-style-type: none"> Serves until successor chosen in next general election takes office
Comptroller (NYC)	<ul style="list-style-type: none"> Vacant until special election with deputy comptroller filling in where specified 	<ul style="list-style-type: none"> Within three days of the vacancy, the mayor will set the date for the special election Election held on the first Tuesday at least 45 days after the vacancy, or to coincide with upcoming general election where practicable 	<ul style="list-style-type: none"> After proclamation of election, candidates may circulate independent nominating petitions under nonpartisan system 	<ul style="list-style-type: none"> Serves until successor chosen in next general election takes office
City Council (NYC)	<ul style="list-style-type: none"> Vacant until special election 	<ul style="list-style-type: none"> Within three days of vacancy, the mayor must set date for special election Election held on the first Tuesday at least 45 days after the vacancy or to coincide with upcoming general election where practicable 	<ul style="list-style-type: none"> After proclamation of election, candidates may circulate independent nominating petitions under nonpartisan system 	<ul style="list-style-type: none"> Serves until successor chosen in next general election takes office
Borough Presidents (NYC)	<ul style="list-style-type: none"> Vacant until special election with deputy borough president or executive assistant filling in where specified 	<ul style="list-style-type: none"> Within three days of the vacancy, the mayor will set the date for the special election Election held on the first Tuesday at least 45 days after the vacancy, or to coincide with upcoming general election where practicable 	<ul style="list-style-type: none"> After the proclamation, candidates may circulate independent nominating petitions under nonpartisan system 	<ul style="list-style-type: none"> Serves until successor chosen in next general election takes office

Information adapted from New York State Election Law, the Public Officers Law, the City Charter, and the Constitution of the State of New York.

Appendix B

List of Special Elections, April 2007 – June 2011 (Including Voter Turnout)

Date of Special Election	District	Winning Candidate	Votes for Winning Candidate	Candidate 2	Votes for Candidate 2	Total Votes Cast	Number of Registered Voters	Percent Turnout	Date of Enrollment Count
3/16/2010	Senate District 13	José Peralta (Dem)	10,337	Robert Beltrani (Rep)	1,162	15,828	115,135	13.75%	4/1/2010
2/9/2010	Assembly District 3	Dean Murray (Rep)	4,396	Lauren Thoden (Dem)	4,236	8,642	86,112	10.04%	4/1/2010
2/9/2010	Assembly District 15	Michael Montesano (Rep)	4,059	Matthew Meng (Dem)	1,652	5,727	88,197	6.49%	4/1/2010
2/9/2010	Assembly District 24	David Weprin (Dem)	4,465	Bob Friedrich (Rep)	2,757	7,246	71,967	10.07%	4/1/2010
2/9/2010	Assembly District 89	Robert Castelli (Rep)	5,639	Peter Harckham (Rep)	5,639	12,606	88,979	14.17%	4/1/2010
9/15/2009	Assembly District 38	Michael Miller (Dem)	2,792	Donna Marie Caltabiano (Rep)	1,458	4,298	53,929	7.97%	11/1/2009
6/2/2009	Assembly District 77	Vanessa Gibson (Dem)	1,756	Barbara Bowland (Rep)	93	2,369	62,884	3.77%	4/1/2009
6/2/2009	Assembly District 85	Marcos Crespo (Dem)	1,331	Leopold Paul (Rep)	106	1,457	63,478	2.30%	4/1/2009
4/26/2008	Senate District 48	Darrel Aubertine (Dem)	29,504	Will Barclay (Rep)	26,662	56,475	172,233	32.79%	3/1/2008
7/31/2007	Assembly District 105	George Amedore (Rep)	14,178	Edward Kosiur (Dem)	11,186	25,465	81,141	31.38%	11/1/2007
6/5/2007	Assembly District 65	Micah Kellner (Dem)	4,254	Gregory Camp (Rep)	2,273	6,559	74,756	8.77%	4/1/2007
5/1/2007	Assembly District 94	Kenneth P. Zebrowski (Dem)	3,913	Matthew Brennan (Rep)	1,268	5,214	82,708	6.30%	4/1/2007
Average Percent Turnout:								12.32%	

Appendix C – State Legislators’ Origins to Office

New York State Legislature Origins to Office and Possible Special Elections, 2011		
<u>Legislators Taking Office in January 2011</u>	<u>Number</u>	<u>Percentage of Members</u>
First Elected in General Election	156	74%
First Elected in Special Election	56	26%
<i>Total</i>	<i>212</i>	<i>100%</i>
Possible Special Elections for 2011	10*	N/A
<u>Status if All Possible Special Elections Occur</u>		
First Elected in General Election	148	70%
First Elected in Special Election	64	30%
<i>Total</i>	<i>212</i>	<i>100%</i>

New York State Assembly Members’ Origins to Office and Possible Special Elections, 2011		
<u>Legislators Taking Office in January 2011</u>	<u>Number</u>	<u>Percentage of Members</u>
First Elected in General Election	104	69%
First Elected in Special Election	46	31%
<i>Total</i>	<i>150</i>	<i>100%</i>
Possible Special Elections for 2011	9*	N/A
<u>Status if All Possible Special Elections Occur</u>		
First Elected in General Election	97	65%
First Elected in Special Election	53	35%
<i>Total</i>	<i>150</i>	<i>100%</i>

New York State Senate Members’ Origins to Office and Possible Special Elections, 2011		
<u>Legislators Taking Office in January 2011</u>	<u>Number</u>	<u>Percentage of Members</u>
First Elected in General Election	52	84%
First Elected in Special Election	10	16%
<i>Total</i>	<i>62</i>	<i>100%</i>
Possible Special Elections for 2011	2*	N/A
<u>Status if All Possible Special Elections Occur</u>		
First Elected in General Election	52	84%
First Elected in Special Election	10	16%
<i>Total</i>	<i>62</i>	<i>100%</i>

* Note that the possible vacancies for the assembly and senate together are 10, not 11. This is due to the possibility that Senator Peralta and Assemblymembers Weprin, Lancman and Brook-Krasny may run for former Congressman Anthony Weiner’s seat, but only one would win, so there can only be one vacancy.

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
49	Dem	Peter Abbate, Jr.	1986	General		
92	Dem	Thomas Abinanti	2010	General		
105	Rep	George Amedore, Jr.	2007	Special	Replaced Paul Tonko, who was appointed the head of the New York State Energy Research and Development Authority	AO
84	Dem	Carmen Arroyo	1994	Special	Replaced David Rosado, who left for a seat on the New York City Council	AO
35	Dem	Jeffrion Aubry	1992	Special	Replaced Mel Miller who resigned his seat after conspiracy and mail-fraud convictions	C
124	Rep	William Barclay	2002	General		
40	Dem	Inez Barron	2008	General		
82	Dem	Michael Benedetto	2004	General		
<i>73</i>	<i>Dem</i>	<i>Jonathan Bing (vacancy imminent – has been appointed to head the State Liquidation Bureau, a separate office under the Superintendent of Insurance)</i>	<i>2002</i>	<i>General</i>		
122	Rep	Kenneth Blankenbush	2010	General		
<i>55</i>	<i>Dem</i>	<i>William Boyland, Jr. (has been indicted in corruption investigation; should there be a felony charge, he will be forced to resign)</i>	<i>2003</i>	<i>Special</i>	<i>Elected to succeed his father, William F. Boyland, Sr., who retired</i>	<i>R</i>

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

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District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
8	Rep	Philip Boyle	2006	Special	Replaced Thomas Barraga who left to become a county legislator.	AO
26	Dem	Edward Braunstein	2010	General		
44	Dem	James Brennan	1984	General		
131	Dem	Harry Bronson	2010	General		
46	<i>Dem</i>	<i>Alec Brook-Krasny (has been listed as possible contender to fill the congressional seat vacated by Anthony Weiner)</i>	<i>2006</i>	<i>General</i>		
147	Rep	Daniel Burling	1998	General		
117	Rep	Marc Butler	1995	Special	Replaced Anthony J. Casale who left to become chairman of the State Liquor Authority	AO
101	Dem	Kevin Cahill	1998	General		
96	Rep	Nancy Calhoun	1990	General		
43	Dem	Karim Camara	2005	Special	Replaced Assemblyman Clarence Norman who was convicted of soliciting illegal campaign contributions and forced to leave the state legislature	C
106	Dem	Ronald Canestrari	1988	General		
89	Rep	Robert Castelli	2010	Special Election	Seat vacated by Adam Bradley, who successfully ran for mayor of White Plains. Bradley was later found guilty of third degree assault in a domestic violence case involving his wife.	AO
86	Dem	Nelson Castro	2008	General		

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

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District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
138	Rep	John Ceretto	2010	General		
33	Dem	Barbara Clark	1986	General		
47	Dem	William Colton	1996	General		
10	Rep	James Conte	1988	Special	Replaced Toni Rettaliata who left to become Town Supervisor of Huntington.	AO
32	Dem	Vivian Cook	1990	General		
142	Rep	Jane Corwin	2008	General		
85	Dem	Marcos Crespo	2009	Special	Replaced Ruben Diaz Jr, who was elected Bronx Borough President.	AO
107	Rep	Clifford Crouch	1995	Special	Replaced Clarence D. Rappleyea Jr. who became chairman of the New York State Power Authority	AO
14	Rep	Brian Curran	2000	General		
63	Dem	Michael Cusick	2002	General		
45	Dem	Steven Cymbrowitz	2000	General		
34	Dem	Michael DenDekker	2008	Special	Replaced Ivan Lafayette who was appointed Deputy Superintendent for Community Affairs at the State Insurance Department	AO
81	Dem	Jeffrey Dinowitz	1994	Special	Replaced G. Oliver Koppell who was appointed by the legislature to fill the vacancy for State Attorney General	AO
114	Rep	Janet Duprey	2006	General		
4	Dem	Steven Englebright	1992	Special	Replaced Robert Gaffney who left to become County Executive of Suffolk	AO
71	Dem	Herman Farrell, Jr.	1974	General		

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
123	Rep	Gary Finch	1999	Special	Replaced Republican Daniel J. Fessenden who left for a job with Carrier Corporation in Syracuse	R
7	<i>Rep</i>	<i>Michael Fitzpatrick (candidate for the November 2011 race for Suffolk County Executive; should he win, a vacancy would be created.)</i>	2002	<i>General</i>		
137	Rep	Christopher Friend	2010	General		
143	Dem	Dennis Gabryszak	2006	General		
90	Dem	Sandra Galef	1992	General		
133	Dem	David Gantt	1982	General		
77	Dem	Vanessa Gibson	2009	Special	Replaced Aurelia Greene who was appointed Deputy Bronx Borough President	AO
149	Rep	Joseph Giglio	2005	Special	Replaced Cathy Young who was elected to fill the 57th District Senate seat vacated by the death of State Senator Patricia McGee	AO
66	Dem	Deborah Glick	1990	General		
150	Rep	Andrew Goodell	2010	General		
75	Dem	Richard Gottfried	1970	General		
5	Rep	Alfred Graf	2010	General		
98	Dem	Aileen Gunther	2003	Special	Replaced husband Jake Gunther who died while in office	D
130	Rep	Sean Hanna	2010	General		
139	Rep	Stephen Hawley	2006	Special	Replaced Charles H. Nesbitt of Albion who left to take a post with the state tax tribunal	AO

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
148	Rep	James Hayes	1998	General		
83	Dem	Carl Heastie	2000	General		
28	Dem	Andrew Hevesi	2005	Special	Replaced Michael Cohen who retired	R
48	Dem	Dov Hikind	1982	General		
18	Dem	Earlene Hooper	1988	Special	Replaced Barbara Patton who left to become chairwoman of the State Workmen's Compensation Board	AO
144	Dem	Sam Hoyt	1992	Special	Replaced father William Hoyt, Jr. who died in office	D
42	Dem	Rhoda Jacobs	1978	General		
95	Dem	Ellen Jaffee	2006	General		
57	Dem	Hakeem Jeffries	2006	General		
135	Rep	Marc Johns	2010	General		
112	Rep	Tony Jordan	2008	General		
99	Dem	Steve Katz	2010	General		
74	Dem	Brian Kavanagh	2006	General		
65	Dem	Micah Kellner	2007	Special	Replaced Pete Grannis who was appointed Commissioner of the State Department of Environmental Conservation	AO
100	Rep	Thomas Kirwan	2010	General		
129	Rep	Brian Kolb	2000	Special	Replaced Craig Doran who left for a judgeship in Ontario County	AO

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

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District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
<i>25</i>	<i>Dem</i>	<i>Rory Lancman (has been listed as possible contender to fill the Congressional seat vacated by Anthony Weiner)</i>	<i>2006</i>	<i>General</i>		
91	Dem	George Latimer	2004	General		
13	Dem	Charles Lavine	2004	General		
50	Dem	Joseph Lentol	1972	General		
125	Dem	Barbara Lifton	2002	General		
72	Dem	Guillermo Linares	2010	General		
53	Dem	Vito Lopez	1984	General		
127	Rep	Peter Lopez	2006	General		
1	Rep	Daniel Losquadro	2010	General		
126	Dem	Donna Lupardo	2004	General		
111	Dem	Bill Magee	1990	General		
120	Dem	William Magnarelli	1998	Special	Replaced Bernard Mahoney who retired	R
59	Dem	Alan Maisel	2006	Special	Replaced Frank Seddio who was selected by Clarence Norman to take a newly created surrogate judgeship	AO
60	Rep	Nicole Malliotakis	2010	General		
30	Dem	Margaret Markey	1998	General		
19	Rep	David McDonough	2002	Special	Replaced Kathleen Murray who left to become Hempstead Town Clerk	AO
104	Dem	John McEneny	1992	General		
17	Rep	Thomas McKeivitt	2006	Special	Replaced Maureen C. O'Connell who left to become Nassau County Clerk	AO

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
108	Rep	Steve McLaughlin	2010	General		
22	Dem	Grace Meng	2008	General		
38	Dem	Michael Miller	2009	Special	Replaced Anthony Seminerio who resigned after a federal indictment; he pled guilty to theft of honest services for acceptance of "consulting fees" from those promised inside access in Albany.	C
102	Rep	Joel Miller	1994	General		
121	Rep	Donald Miller	2010	General		
52	Dem	Joan Millman	1997	Special	Replaced Eileen Dugan who died in office	D
<i>103</i>	<i>Rep</i>	<i>Marcus Molinaro (possible vacancy; is the current GOP candidate for the Dutchess County Executive race in fall 2011; should he win, a vacancy would be created)</i>	<i>2006</i>	<i>General</i>		
15	Rep	Michael Montesano	2005	Special	Replaced Donna Ferrara who left to become a commissioner on the State Workers' Compensation Board	AO
132	Dem	Joseph Morelle	1990	General		
39	Dem	Francisco Moya	2010	General		
3	Rep	Dean Murray	2010	Special	Replaced Patricia Eddington, who left to become Town Clerk of Brookhaven.	AO
37	Dem	Catherine Nolan	1984	General		
128	Rep	Robert Oaks	1992	General		
69	Dem	Daniel O'Donnell	2002	General		

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
51	Dem	Félix Ortiz	1994	General		
136	Rep	Philip Palmesano	2010	General		
88	Dem	Amy Paulin	2000	General		
141	Dem	Crystal Peoples-Stokes	2002	General		
58	Dem	N. Nick Perry	1992	General		
87	Dem	J. Gary Pretlow	1992	General		
21	Rep	Edward Ra	1996	General		
97	Rep	Ann Rabbitt	2004	General		
9	Rep	Andrew Raia	2004	General		
6	Dem	Philip Ramos	2002	General		
134	Rep	Bill Reilich	2002	General		
109	Dem	Robert Reilly	2004	General		
76	Dem	Peter Rivera	1992	General		
78	Dem	José Rivera	2000	General		
80	Dem	Naomi Rivera	2004	General		
119	Dem	Sam Roberts	2010	General		
56	Dem	Annette Robinson	2002	Special	Replaced Al Vann who left to become a member of the New York City Council	AO
68	Dem	Robert Rodriguez	2010	General		
67	Dem	Linda Rosenthal	2006	Special	Replaced Assemblyman Scott Stringer who left to become Manhattan Borough President	AO
118	Dem	Addie Russell	2008	General		
12	Rep	Joseph Saladino	2004	Special	Replaced Steven Labriola who left to become Oyster Bay Town Clerk	AO
113	Rep	Teresa Sayward	2002	General		

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
29	Dem	William Scarborough	1994	General		
16	Dem	Michelle Schimel	2007	Special	Replaced Thomas P. DiNapoli who was appointed State Comptroller.	AO
140	Dem	Robin Schimminger	1976	General		
145	Dem	Mark Schroeder	2001	Special	Replaced Mike Fitzpatrick who retired	R
64	Dem	Sheldon Silver	1976	General		
36	Dem	Aravella Simotas	2010	General		
146	Rep	Kevin Smardz	2010	General		
93	Dem	Mike Spano	1992	Special	Seat vacated by Terence Zaleski, who was elected mayor of Yonkers. Spano first elected in 1992 by special election, affected by redistricting in 1992, reelected in 1994, served until 2004 (took leave for two years) and then ran again in 2006	AO
79	Dem	Eric Stevenson	2010	General		
11	Dem	Robert Sweeney	1988	Special	Replaced Patrick G. Halpin who left to become Suffolk County Executive	AO
110	Rep	James Tedisco	1982	General		
115	Rep	Claudia Tenney	2010	General		
2	Ind	Fred Thiele, Jr.	1995	Special	Replaced John Behan who left to run the State Division of Veterans Affairs	AO
61	Dem	Matthew Titone	2007	Special	Replaced John W. Lavelle who died while in office	D
31	Dem	Michele Titus	2002	Special	Replaced Pauline Rhodd Cummings who died in office	D

**New York State Assembly
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Member of Assembly	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
62	Rep	Lou Tobacco	2007	Special	Replaced Vincent Ignizio who was elected to the New York City Council (Special Election scheduled for March 2007)	AO
41	Dem	Helene Weinstein	1980	General		
20	Dem	Harvey Weisenberg	1989	Special	Replaced Arthur Kremer who retired	R
24	<i>Dem</i>	<i>David Weprin (has been listed as possible contender to fill the Congressional seat vacated by Anthony Weiner)</i>	2009	<i>Special</i>	<i>Replaced brother Mark Weprin who successfully ran for New York City Council.</i>	<i>AO</i>
70	Dem	Keith L.T. Wright	1992	General		
94	Dem	Kenneth Zebrowski	2004	General		
23		<i>VACANT (previously held by Audrey Pheffer who was appointed Queens County Clerk)</i>				
27		<i>VACANT (previously held by Nettie Mayersohn who retired)</i>				
54		<i>VACANT (previously held by Darryl Towns who was appointed Commissioner and C.E.O. of New York State Homes and Community Renewal)</i>				
116		<i>VACANT (previously held by RoAnn Destito who was appointed Commissioner of the Office of General Services)</i>				

<p align="center">New York State Senate Current Membership and Origin to Office (Special or General Election) June 2011</p> <p align="center">Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.</p>						
District	Party	Senator	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
20	Dem	Eric Adams	2006	General		
15	Dem	Joseph Addabbo, Jr.	2008	General		
55	Rep	Jim Alesi	1996	Special	Replaced Mary Ellen Jones who left for a position on the State Parole Board	AO
11	Dem	Tony Avella	2010	General		
40	Rep	Greg Ball	2010	General		
42	Rep	John Bonacic	1998	General		
46	Dem	Neil Breslin	1996	General		
38	Dem	David Carlucci	2010	General		
50	Rep	John DeFrancisco	1992	General		
32	Dem	Ruben Diaz	2002	General		
17	Dem	Martin Malavé Dilan	2002	General		
29	Dem	Thomas Duane	1998	General		

**New York State Senate
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Senator	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
31	Dem	Adriano Espaillat	2010	General		
44	Rep	Hugh Farley	1976	General		
2	Rep	John Flanagan	2002	General		
8	Rep	Charles Fuschillo, Jr.	1998	Special	Replaced Norman Levy who died in office	D
59	Rep	Patrick Gallivan	2010	General		
12	Dem	Michael Gianaris	2010	General		
22	Rep	Martin Golden	2002	General		
47	Rep	Joseph Griffo	2006	General		
60	Rep	Mark Grisanti	2010	General		
6	Rep	Kemp Hannon	1989	Special	Replaced John R. Dunne who left to become Assistant Attorney General for Civil Rights at the U.S. Department of Justice	AO
36	Dem	Ruth Hassell Thompson	2000	General		
10	Dem	Shirley Huntley	2006	General		
4	Rep	Owen Johnson	1972	General		

<p align="center">New York State Senate Current Membership and Origin to Office (Special or General Election) June 2011</p> <p align="center">Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.</p>						
District	Party	Senator	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
58	Dem	Timothy Kennedy	2010	General		
34	Dem	Jeffrey Klein	2004	General		
26	Dem	Liz Krueger	2002	Special	Replaced Roy Goodman who retired	R
27	<i>Dem</i>	<i>Carl Kruger (has been indicted in corruption investigation; should there be a felony charge, he will be forced to resign)</i>	<i>1994</i>	<i>Special</i>	<i>Replaced Donald M. Halperin who left to become Commissioner of the Division of Housing and Community Renewal</i>	<i>AO</i>
24	Rep	Andrew Lanza	2006	General		
39	Rep	William Larkin, Jr.	1990	General		
1	Rep	Kenneth LaValle	1976	General		
52	Rep	Thomas Libous	1988	General		
45	Rep	Elizabeth O'C. Little	2002	General		
5	Rep	Carl Marcellino	1995	Special	Replaced Ralph Marino who retired	R
7	Rep	Jack Martins	2010	General		
62	Rep	George Maziarz	1995	Special	Replaced John B. Daly who left to become State Transportation Commissioner	AO
43	Rep	Roy McDonald	2008	General		
18	Dem	Velmanette Montgomery	1984	General		

**New York State Senate
Current Membership and Origin to Office
(Special or General Election)
June 2011**

Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.

District	Party	Senator	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
54	Rep	Michael Nozzolio	1992	General		
53	Rep	Thomas O'Mara	2010	General		
37	Dem	Suzi Oppenheimer	1984	General		
21	Dem	Kevin Parker	2002	General		
<i>13</i>	<i>Dem</i>	<i>José Peralta (has been cited as possible contender to fill the Congressional seat vacated by Anthony Weiner)</i>	<i>2010</i>	<i>Special</i>	<i>Replaced Hiram Monserrate who was expelled from the Senate after being charged for misdemeanor assault in a domestic violence incident involving his girlfriend</i>	<i>C</i>
30	Dem	Bill Perkins	2006	General		
61	Rep	Michael Ranzenhofer	2008	General		
48	Rep	Patricia Ritchie	2010	General		
33	Dem	J. Gustavo Rivera	2010	General		
56	Rep	Joseph Robach	2002	General		
41	Rep	Stephen Saland	1990	General		
19	Dem	John Sampson	1996	General		
23	Dem	Diane Savino	2004	General		
28	Dem	José Serrano	2004	General		
51	Rep	James Seward	1986	General		
9	Rep	Dean Skelos	1984	General		
14	Dem	Malcolm Smith	2000	Special	Replaced Alton Waldon who took a Manhattan Court of Claims judgeship	AO

<p align="center">New York State Senate Current Membership and Origin to Office (Special or General Election) June 2011</p> <p align="center">Highlighted members first elected in a special election; those highlighted and in italics have special election possible or pending.</p>						
District	Party	Senator	First Elected	Election Type	Reason for Vacancy	Abbreviations Key for Vacancy: AO=Another Office D=Deceased C=Corruption R=Retired
25	Dem	Daniel Squadron	2008	General		
16	Dem	Toby Ann Stavisky	1999	General		
35	Dem	Andrea Stewart-Cousins	2006	General		
49	Dem	David Valesky	2004	General		
57	Rep	Catharine Young	2005	Special	Replaced Patricia McGee who died in office	D
3	Rep	Lee Zeldin	2010	General		

Appendix D – Current and Possible Vacancies

New York State Legislature Current and Possible Vacancies June 2011					
Highlighted members first elected in a special election. Bolded districts currently vacant.					
House and District	Party	Member of Assembly or Previous Officeholder	First Elected	Election Type	Reason for Vacancy or Possible Vacancy
Senate District 27	Dem	Carl Kruger	1994	Special	Has been indicted in corruption investigation; should there be a felony charge, he will be forced to resign
Senate District 13	Dem	José Peralta	2010	Special	Has been listed as possible contender to fill the Congressional seat vacated by Anthony Weiner*
Assembly District 7	Rep	Michael Fitzpatrick	2002	General	Candidate for the November 2011 race for Suffolk County Executive; should he win, a vacancy would be created
Assembly District 23	Dem	Audrey Pheffer – Currently Vacant	1987	Special	Appointed Queens County Clerk
Assembly District 24	Dem	David Weprin	2009	Special	Has been listed as possible contender to fill the Congressional seat vacated by Anthony Weiner*
Assembly District 26	Dem	Rory Lancman	2006	General	Has been listed as possible contender to fill the Congressional seat vacated by Anthony Weiner*
Assembly District 27	Dem	Nettie Mayersohn – Currently Vacant	1982	General	Retired
Assembly District 46	Dem	Alec Brook-Krasny	2006	General	Has been listed as possible contender to fill the Congressional seat vacated by Anthony Weiner.*
Assembly District 54	Dem	Darryl Towns – Currently Vacant	1992	General	Appointed Commissioner and C.E.O. of New York State Homes and Community Renewal
Assembly District 55	Dem	William Boyland, Jr.	2003	Special	Has been indicted in corruption investigation; should there be a felony charge, he will be forced to resign

* Note that there is a possibility that Senator Peralta and Assemblymembers Weprin, Lancman and Brook-Krasny may run for former Congressman Anthony Weiner’s seat, but only one would win, so there can only be one vacancy.

<p align="center">New York State Legislature Current and Possible Vacancies June 2011</p> <p align="center">Highlighted members first elected in a special election. Bolded districts currently vacant.</p>					
House and District	Party	Member of Assembly or Previous Officeholder	First Elected	Election Type	Reason for Vacancy or Possible Vacancy
Assembly District 73	Dem	Jonathan Bing – Vacancy Imminent	2002	General	Appointed Deputy Superintendent of the New York Liquidation Department; is expected to officially resign at the end of the 2011 legislative session, which ended Friday, June 24th
Assembly District 103	Rep	Marcus Molinaro	2006	General	Republican candidate for the Dutchess County Executive race in fall 2011; should he win, a vacancy would be created
Assembly District 116	Dem	RoAnn Destito – Currently Vacant	1992	General	Appointed Commissioner of the Office of General Services

* Note that there is a possibility that Senator Peralta and Assemblymembers Weprin, Lancman and Brook-Krasny may run for former Congressman Anthony Weiner’s seat, but only one would win, so there can only be one vacancy.