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EDITION

ELECTION LAWS OF IOWA

Iowa
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IOW

PUBLISHED BY **Iowa
Data**

BOX 1168 — CEDAR RAPIDS, IOWA 52406

ELECTION LAWS OF IOWA

1974 Edition

Containing selected statutes of the State of Iowa
in force on July 1, 1974, pertaining to the conduct of
elections and related duties by public officials, as
amended by the 1974 session of the General Assembly
to the extent indicated in appendix Z hereof.

*Published by: IOWA DATA
Box 1168
Cedar Rapids, Iowa 52406*

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FOREWORD

This third annual publication of the Election Laws of Iowa brings the publisher's goal closer to fulfillment: a reference work for election officials containing the most complete statement of the current statutes, published in time to be effective.

The book is made necessary by the election schedule which requires officials to hold elections under new laws six to eighteen months before an official printing of the statutes in the Code of Iowa. The editors have diligently searched all the laws (not just the major election bill) passed by the 65th general assembly and made an effort to incorporate every section effecting elections into this edition. Even sections designated as "temporary" are included. The Code itself omits the temporary laws which, although not of a "general and permanent nature" are still important for election officials, especially during the year of transition from non-registration to registration. For these reasons, Iowa Data publishes this work each year for the members of the Iowa Election Network and is happy to make extra copies available to interested persons.

Because this book is designed for election administrators, it now includes as footnotes summaries of court decisions and interpretations of the statutes by the attorney general's office. No attempt is made to include all such decisions or interpretations, but only those which are current and have not been nullified by a change in the statute. While decisions of courts are usually binding upon public officials, opinions of the attorney general are not. Such opinions do, however, represent the result of some legal research into the question presented and can be helpful when seeking to properly interpret a statute. The editors have included cross-references and other aids where appropriate to aid the user in understanding the statute.

A new feature of this year's edition is the "Pathfinder". It is designed to allow the user to find answers about specific elective offices by pointing him to the beginning of the trail. Although we have attempted to erect signposts along the way, it is easy to lose the way in the jungle of Iowa's election statutes, which have not been reorganized for over a generation, although heavily changed. We have added maps and reference tables where they will be helpful, but the reader must still navigate through some cumbersome election procedures and conflicting laws.

Because this is an unofficial publication of the statutes (only the Code of Iowa and the Acts of the General Assembly may be cited in Iowa courts), it is important for the user to have confidence in its accuracy. Therefore, we have included appendices at the back which show the authority for amending each statute, and which detail any known deviations from the Code which make the statute easier to understand without changing its meaning. One such device is the heavy vertical bar to the outside of some columns which shows that the material contained on those lines reflects changes made since printing of that statute in last years edition. The revision bars should aid the user in acquainting himself with the recent changes in the law.

As in any human work, errors will occur. We have provided a form in the back for calling such errors to our attention so they may be corrected in future editions, as well as for providing comments and suggestions on how this work can be made more useful.

Stanley R. Zegel, editor

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6-14-74 Iowa Data 6.34

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PATHFINDER

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Years in Term	Year on Ballot	Authoriza-tion	Nomina-tion	Resigna-tion	Vacancy	Office
4	1974	§54.1	§43.109(4)	§69.4(3)	§43.80	Presidential Elector
6	1974*	US I.3	§43.20(1)	§69.4(3)	§69.8(1)	US Senator
2	1974	US I.2	§43.20(2)	§69.4(3)	§69.14	US Representative
4	1974	C IV.1	§43.20(1)	§69.4(1)	C IV.17	Governor
4	1974	C IV.3	§43.20(1)	§69.4(3)	C IV.10	Lt. Governor
4	1974	C IV.22	§43.20(1)	§69.4(3)	§69.8(1)	Secretary of State
4	1974	C IV.22	§43.20(1)	§69.4(3)	§69.8(1)	State Auditor
4	1974	C IV.22	§43.20(1)	§69.4(3)	§69.8(1)	State Treasurer
4	1974	C IV.12	§43.20(1)	§69.4(3)	§69.8(1)	Attorney General
4	1974	§39.9	§43.20(1)	§69.4(3)	§69.8(1)	Secretary of Agriculture
4	1974*	§39.15	§43.20(2)	§69.4(2)	§69.14	State Senator
2	1974	§39.16	§43.20(2)	§69.4(2)	§69.14	State Representative
4	1974	§39.17	§43.20(3)	§69.4(4)	§69.8(4)	County Attorney
4	1976†	§39.17	§43.20(3)	§69.4(4)	§69.8(4)	County Auditor
4	1976†	§39.17	§43.20(3)	§69.4(4)	§69.8(6)	County Clerk of Court
4	1974	§39.17	§43.20(3)	§69.4(4)	§69.8(4)	County Recorder
4	1976‡	§39.17	§43.20(3)	§69.4(4)	§69.8(4)	County Sheriff
4	1974*	§39.17	§43.20(3)	§69.4(4)	§69.8(5)	County Supervisor
4	1974*	§39.18	§43.21	§69.4(4)	§69.8(7)	Township Trustee
4	1974	§39.23	§43.21	§69.4(4)	§69.8(7)	Township Clerk
6	1974*	§358.9	§358.9	§69.7	§358.9	Sanitary District Trustee
4	1974*	§145A.11	§347.25‡	§69.4(3)	C IV.10	Area Hospital Trustee
6	1974*	§347.9	§347.25‡	§69.4(4)	§347.10	County Hospital Trustee ¹
6	1974*	§347A.1	§347A.1‡	§69.4(4)	§347A.1	County Hospital Trustee ²
4	1974 ³	§303B.4	§303B.3‡	§69.4(3)	§303B.4	Regional Library Trustee
3	1974*	§39.24	§280A.15‡	§69.7	§280A.12	Area School Director
3	1974 ⁴	§39.24	§273.5‡	§69.7	§273.4	County School Director
3	1974*	§39.24	§277.4‡	§69.7	§279.6	Community School Director
2	varies	§277.26	§277.4‡	§69.7	§279.6	Community School Treasurer
8	1974 ⁵	§46.16	§46.14‡	§69.4(3)	§46.14	Supreme Court Judge
6	1974 ⁵	§46.16	§46.14‡	§69.4(3)	§46.14	District Judge
4	1974 ⁵	§602.29	§602.28‡	§69.4(3)	§602.30	District Assc. Judge
	1975 ⁶	---	---	---	---	Municipal Offices

*This office has staggered terms. Only some of the positions will be filled at this election.

†If the officer presently holding this position was appointed after the November 1972 election this office shall appear on the 1974 ballot.

‡All candidates for this office are placed upon the ballot. No nominating election is permitted.

¹Hospitals funded by taxation — 7 member board.

²Hospitals funded by revenue bonds — 5 member board.

³In 1974 all trustees will be elected; at subsequent elections the terms will be staggered as determined by casting lots following the 1974 election.

⁴SF1163 abolished the office of county board of education. Only terms of office to fill a vacancy which is presently filled by an appointee shall be voted upon in 1974. Terms expiring in 1974 shall be extended until 1975.

⁵Judicial positions are not elected positions but placed upon the ballot only for a vote of "retention"

⁶No municipal elections will be held in 1974. For information concerning the positions of mayor, councilmen, commissioners, city hospital trustees, etc., consult the 1975 edition of Election Laws of Iowa.

C = Constitution of Iowa

US = United States Constitution

Numbers with a decimal refer to sections of the Election Laws of Iowa.

CONSTITUTION OF IOWA
(excluding sections not pertaining to elections)

- | | | | |
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| I.2 | Political power | IV.2 | Governor's election and term |
| I.4 | Religious test - witnesses | IV.3 | Lieutenant governor - returns of elections |
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| III.19 | Impeachment | X.2 | More than one amendment |
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ARTICLE I.

BILL OF RIGHTS.

I.1 Rights of persons. All men are, by nature, free and equal, and have certain inalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

I.2 Political power. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

I.4 Religious test—witnesses. No religious test shall be required as a qualification for any office, or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take the testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

I.5 Dueling. Any citizen of this state who may hereafter be engaged either directly, or indirectly, in a duel, either as principal, or accessory before the fact, shall forever be disqualified from holding any office under the Constitution and laws of this state.

ARTICLE II.

RIGHT OF SUFFRAGE.

II.1 Electors. Every citizen of the United States of the age of twenty-one¹ years, who shall have been a resident of this state for such period of time² as shall be provided by law and of the county in which he claims his vote for such period of time³ as shall be provided by law, shall be entitled to vote at all elections which are now or hereafter may be authorized by law. The general assembly may provide by law for different periods⁴ of residence in order to vote for various officers or in order to vote in various elections. The required periods⁵ of residence shall not exceed six months in this state and sixty days in the county.

¹Lowered to age 18 by Amendment 26, U.S. Constitution.

²Durational residency requirements held contrary to U.S. Constitution in *Dunn vs Blumstein*, 405 U.S. 330 (1972).

³Ditto.

⁴Ditto.

⁵Ditto.

II.2 Privileged from arrest. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

II.3 From military duty. No elector shall be obliged to perform military duty on the day of election, except in time of war, or public danger.

II.4 Persons in military service. No person in the military, naval, or marine service of the United States shall be considered a resident of this state by being stationed in any garrison, barrack, or military or naval place, or station within this state.

II.5 Disqualified persons. No idiot, or insane person, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.

II.6 Ballot. All elections by the people shall be by ballot.

II.7 General election. The general election for state, district, county and township officers * * * shall be held at such time as the general assembly may by law provide.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

III.3 Representatives. The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

III.4 Qualifications. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, be a citizen of the United States, and shall have been an inhabitant of this state one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county, or district he may have been chosen to represent.

III.5 Senators-Qualifications. Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

III.6 Senators—number and classification. The number of senators shall total not more than one-half the membership of the house of representatives. Senators shall be classified so that as nearly as possible one-half of the members of the senate shall be elected every two years.

III.12 Vacancies. When vacancies occur in either house, the governor or the person exercising the func-

tions of governor, shall issue writs of election to fill such vacancies.

III.19 Impeachment. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two thirds of the members present.

III.20 Officers subject to impeachment—judgment. The governor, judges of the supreme and district courts, and other state officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit, under this state; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the general assembly may provide.

III.22 Disqualification. No person holding any lucrative office under the United States, or this state, or any other power, shall be eligible to hold a seat in the general assembly; but offices in the militia, to which there is attached no annual salary, or the office of justice of the peace, or postmaster whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

III.23 Failure to account. No person who may hereafter be a collector or holder of public monies, shall have a seat in either house of the general assembly, or be eligible to hold any office of trust or profit in this state, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

III.32 Oath of members. Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear, or affirm, (as the case may be,) that I will support the Constitution of the United States, and the Constitution of the state of Iowa, and that I will faithfully discharge the duties of senator, (or representative, as the case may be,) according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the said oath or affirmation.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

IV.2 Election and term. The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office for four years from the time of his installation, and until his successor is elected and qualifies.

IV.3 Lieutenant governor—returns of elections. There shall be a lieutenant governor who shall hold his office for the same term, and be elected at the same time as the governor. In voting for governor and lieutenant governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant governor. The returns of every election for governor, and lieutenant governor, shall be sealed up and transmitted to the seat of government of the state, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

IV.4 Election by general assembly. The persons respectively having the highest number of votes for governor and lieutenant governor, shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall, by joint vote, forthwith proceed to elect one of said persons governor or lieutenant governor, as the case may be.

If, upon the completion of the canvass of votes for governor and lieutenant governor by the general assembly, it shall appear that the person who received the highest number of votes for governor has since died, resigned, is unable to qualify, fails to qualify, or for any other reason is unable to assume the duties of the office of governor for the ensuing term, the powers and duties of the office shall devolve upon the person who received the highest number of votes for lieutenant governor until the disability is removed and, upon inauguration, he shall assume the powers and duties of governor.

IV.5 Contested elections. Contested elections for governor, or lieutenant governor, shall be determined by the general assembly in such manner as may be prescribed by law.

IV.6 Eligibility. No person shall be eligible to the office of governor, or lieutenant governor, who shall not have been a citizen of the United States, and a resident of the state, two years next preceding the election, and attained the age of thirty years at the time of said election.

IV.10 Vacancies. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.

IV.14 Disqualification. No person shall, while holding any office under the authority of the United States, or this state, execute the office of governor, or lieutenant governor, except as hereinafter expressly provided.

IV.15 Terms—compensation of lieutenant governor. The official term of the governor, and lieutenant governor, shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualify. The lieutenant governor, while acting as governor, shall receive the same compensation as provided for governor; and while presiding in the senate, and between sessions such compensation and expenses as provided by law.

IV.17 Lieutenant governor to act as governor. In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

IV.18 President of senate. The lieutenant governor shall be president of the senate, but shall only vote when the senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president pro tempore.

IV.19 Gubernatorial succession. If there be a vacancy in the office of governor and the lieutenant governor shall be reason of death, impeachment, resignation, removal from office, or other disability become incapable of performing the duties pertaining to the office of governor, the president pro tempore of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president pro tempore of the senate, for any of the above causes, shall be incapable of performing the duties pertaining to the office of governor the same shall devolve upon the speaker of the house of representatives; and if the speaker of the house of representatives, for any of the above causes, shall be incapable of performing the duties of the office of governor, the justices of the

supreme court shall convene the general assembly by proclamation and the general assembly shall organize by the election of a president pro tempore by the senate and a speaker by the house of representatives. The general assembly shall thereupon immediately proceed to the election of a governor and lieutenant governor in joint convention.

IV.22 Secretary—auditor—treasurer. A secretary of state, an auditor of state and a treasurer of state shall be elected by the qualified electors at the same time that the governor is elected and for a four-year term commencing on the first day of January next after their election, and they shall perform such duties as may be provided by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

V.12 Attorney General. The general assembly shall provide, by law,¹ for the election of an attorney general by the people whose term of office shall be four years, and until his successor is elected and qualifies.

¹See §39.9 of the Code

ARTICLE VII.

STATE DEBTS.

VII.5 Contracting debt—submission to the people. Except the debts herein before specified in this article, no debt shall be hereafter contracted by, or on behalf of this state, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the state, for three months preceding the election at which it is submitted to the people.

ARTICLE X.

AMENDMENTS TO THE CONSTITUTION.

X.1 How proposed—submission. Any amendment or amendments to this Constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the general assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to, by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people, in such manner, and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the general assembly, voting thereon, such amendment or amendments shall become a part of the Constitution of this state.

X.2 More than one amendment. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

X.3 Constitutional convention. At the general election to be held in the year one thousand nine hundred and seventy, and in each tenth year thereafter, and also at such times as the general assembly may, by law, provide, the question, "Shall there be a Convention to revise the Constitution, and propose amendment or amendments to same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election, for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention, and for submitting the results of said convention to the people, in such manner and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the general assembly, voting thereon, such amendment or amendments shall become a part of the constitution of this state. If two or more amendments shall be submitted at the same time, they shall be submitted in

such a manner that electors may vote for or against each such amendment separately.

duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this state, and also an oath of office.

ARTICLE XI.

MISCELLANEOUS.

XI.5 Oath of office. Every person elected or appointed to any office, shall, before entering upon the

XI.6 How vacancies filled. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified.

PROPOSED CONSTITUTIONAL AMENDMENTS OF 1974

(At the general election to be held November 5, 1974, the People will decide whether to approve these amendments, severally, which allow the legislature to call itself into session, and which repeal the requirement that fines go to school funds.)

I. SELF-CONVENING OF GENERAL ASSEMBLY.

The following amendment to the Constitution of the State of Iowa is hereby proposed:

Section two (2) of Article three (III) of the Constitution of the State of Iowa, as amended by amendment number one (1) of the Amendments of 1968 to the Constitution of the State of Iowa, is repealed and the following adopted in lieu thereof:

The General Assembly shall meet in session on the second Monday of January of each year. Upon the written request to the presiding officer of each House of the General Assembly by two-thirds of the members of each House, the General Assembly shall convene in special session. The Governor of the state may convene the General Assembly by proclamation in the interim.

II. DISPOSITION OF FINES.

The following amendment to the Constitution of the State of Iowa is hereby proposed:

1. Section four (4), subdivision two (2) entitled "School Funds and School Lands", of Article nine (IX) of the Constitution of the State of Iowa is hereby repealed.
2. Section four (4) of Article twelve (XII) of the Constitution of the State of Iowa is hereby repealed.

ABBREVIATIONS USED IN THIS BOOK

§	section	infra	below
§§	sections	OAG	opinion of the attorney general
ch	chapter	p	page
Const. Ia	Constitution of Iowa	SF	senate file
GA	general assembly	supra	above
HF	house file	l	revised by legislation

Chapter 6 - CONSTITUTIONAL AMENDMENTS AND PUBLIC MEASURES

(See Page 5 for Amendments to be Voted on by the People in 1974)

- 6.1 Publication of proposed amendment
- 6.2 Publication of proposed public measure
- 6.3 Proof of publication—record—report to legislature
- 6.4 Submission at general election
- 6.5 Submission at special election
- 6.6 Certification—sample ballot

- 6.7 Proclamation
- 6.8 Canvass—declaration of result—record
- 6.9 Expenses
- 6.10 Action to test legality
- 6.11 Parties

6.1 Publication of proposed amendment. Whenever any proposition to amend the Constitution has passed the general assembly and been referred to the next succeeding legislature, the state commissioner of elections shall cause the same to be published, once each month, in two newspapers of general circulation in each congressional district in the state, for the time required by the Constitution.

Time of publication, Constitution, Art. X, §1
Voting on public measures, see §§49.43—49.50

6.2 Publication of proposed public measure. Whenever any public measure has passed the general assembly which under the Constitution must be published and submitted to a vote of the entire people of the state, the state commissioner of elections shall cause the same to be published, once each month, in at least one newspaper of general circulation in each county in the state, for the time required by the Constitution.

Time of publication, Constitution, Art. VII, §5
Voting on public measures, see §§49.43—49.50

6.3 Proof of publication—record—report to legislature. Proof of the publication specified in sections 6.1 and 6.2 shall be made by the affidavits of the publishers of the newspapers designated by the state commissioner of elections, and such affidavits, with the certificate of the state commissioner of the selection of such newspapers, shall be filed in his office, recorded in a book kept for that purpose, and preserved by him, and in the case of constitutional amendments he shall report to the following legislature his action in the premises.

Constitution, Art. X, §1

6.4 Submission at general election. Whenever a public measure has passed the general assembly which under the Constitution must be submitted to a vote of the entire people of the state and no time is fixed by the Constitution or legislature for such submission, or whenever a proposition to amend the Constitution has been adopted by two succeeding general assemblies and no time is fixed by the last general assembly adopting the same for its submission to the people,

said measure or amendment shall be submitted to the people at the ensuing general election, in the manner required by law.

Submission, §§6.1, 6.2, 6.5, 49.43—49.50; Constitution, Arts. VII, §5, and X

6.5 Submission at special election. The general assembly may provide for the submission of a constitutional amendment to the people at a special election for that purpose, as such time as it may prescribe, proclamation for which election shall be made by the governor, and the same shall in all respects be governed and conducted as prescribed by law for the submission of a constitutional amendment at a general election.

Constitution, Art. X, §1
See note under §6.4

6.6 Certification—sample ballot. The state commissioner of elections shall, not less than fifty-five days preceding any election at which a constitutional amendment or public measure is to be submitted to a vote of the entire people of the state, transmit to the county commissioner of elections of each county a certified copy of such amendment or measure and a sample of the ballot to be used in such cases, prepared in accordance with law.

Constitution, Art. X, §1

6.7 Proclamation. Whenever a proposition to amend the Constitution is to be submitted to a vote of the electors, the governor shall issue a proclamation of that fact, and of the date when the proposition is to be voted on, at least sixty days before that date.

Additional provisions, §39.4 et seq.
Constitution, Art. X, §1

6.8 Canvass—declaration of result—record. The judges of election,¹ county boards of canvassers, and other election officials shall canvass the vote on any constitutional amendment or public measure, and make return thereof, in the same manner as required by law for the canvass and return of the vote for public officers. The board of state canvassers shall canvass such returns, declare the result, and enter the

same of record, immediately following and in connection with the proofs of publication of such amendment or measure, in the book kept for that purpose by the secretary of state.

'Because §50.2 has been repealed, this reference to judges of election canvassing should be stricken.

6.9 Expenses. Expenses incurred under the provisions of this chapter shall be audited and allowed by the state comptroller, and paid out of any money in the state treasury not otherwise appropriated.

6.10 Action to test legality. Whenever an amendment to the Constitution of the state of Iowa shall have been proposed and agreed to by the general assembly and shall have been agreed to by the succeeding general assembly, any taxpayer may file suit in equity in the district court at the seat of

government of the state, challenging the validity, legality or constitutionality of such amendment, or the procedure connected therewith, and in such suit the district court shall have jurisdiction to determine the validity, legality or constitutionality of said amendment or the procedure connected therewith, and enter its decree accordingly, and may grant a writ of injunction enjoining the governor and state commissioner of elections from submitting such constitutional amendment, if it, or the procedure connected therewith, shall have been found to be invalid, illegal or unconstitutional.

General procedure, §§619.2, 619.3, 624.7, 686.3, 686.6, 686.13

6.11 Parties. In such suit the taxpayer shall be plaintiff and the governor and state commissioner of elections shall be defendants. Any taxpayer may intervene, either as party plaintiff or defendant.

Chapter 39 — TIME OF ELECTION AND TERM OF OFFICE

- 39.1 General election
- 39.2 Special election
- 39.3 Definitions
- 39.4 Proclamation concerning revision of Constitution
- 39.5 Repealed
- 39.6 Notice of special election
- 39.7 Time of choosing officer
- 39.8 Term of office
- 39.9 State officers—term
- 39.10 U.S. senators
- 39.11—39.14 Repealed

- 39.15 State senators
- 39.16 Representatives
- 39.17 County officers
- 39.18 County supervisors and township trustees
- 39.19 Repealed
- 39.20 City officers
- 39.21 Repealed
- 39.22 Suffrage for township officers
- 39.23 Township clerk
- 39.24 School officers
- 39.25 Sex no disqualification

39.1 General election. The general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

See also 3 U.S.C. 1.

39.2 Special election. Special elections authorized by law, or held to fill vacancies in any office to be filled by the vote of the qualified electors of the entire state or of any district, county, or township may be held at the time designated by such law, or by the officer authorized to order such election. A special election may be held at the same time as a general election, primary election, city election or school election.

39.3 Definitions. The definitions established by this section shall apply wherever the terms so defined appear

in this chapter and in chapters 43, 44, 45, 47 to 53, and 56 unless the context in which any such term is used clearly requires otherwise.

1. "Eligible elector" means a person who possesses all of the qualifications necessary to entitle him to be registered to vote, whether or not he is in fact so registered.

2. "Qualified elector" means a person who is registered to vote pursuant to chapter 48.

3. "General election" means the biennial election for national or state officers, members of Congress and of the general assembly, county and township officers, and for the choice of other officers or the decision of questions as provided by law.

4. "Primary election" means that election by the members of various political parties for the purpose of

placing in nomination candidates for public office held as required by chapter 43.¹

5. "City election" means any election held in a city for nomination or election of the officers thereof.

6. "School election" means that election held pursuant to section 277.1.

7. "Special election" means any other election held for any purpose authorized or required by law.

8. "Election" means a general election, primary election, city election, school election or special election.

9. "City" means a municipal corporation including a town, but not including a county, township, school district, or any special purpose district or authority. When used in relation to land area, "city" includes only the land area within the city limits.

10. "Commissioner" means the county commissioner of elections.²

11. "State commissioner" means the state commissioner of elections.³

12. "Absentee ballot" means any ballot authorized by chapter 53.

¹See also §43.1

²See §47.2

³See §47.1

39.4 Proclamation concerning revision of constitution.

In the years in which the constitution requires, or at other times when the general assembly by law provides for, a vote on the question of calling a convention and revising the constitution, the governor shall at least sixty days before the general election issue a proclamation directing that at the general election there be proposed to the people the following question:

"Shall there be a convention to revise the constitution, and propose amendment or amendments to same?"¹

¹This conforms to the language of the question set forth in Art. X, Sec. 3, Constitution of Iowa.

39.6 Notice of special election. A proclamation shall be issued before any election ordered by the governor, designating the office to be filled or the public question to be submitted at the election and the time at which such election shall be held; and the commissioner of each county in which such election is to be held shall give notice thereof, as provided in section 49.53.

See also §6.7.

39.7 Time of choosing officer. At the general election next preceding the expiration of the term of any officer, his successor shall be elected.

39.8 Term of office. The term of office of all officers chosen at a general election for a full term shall commence on the first day of January following the election

which is not a Sunday or legal holiday,¹ except when otherwise provided by the constitution² or by statute;³ that of an officer chosen to fill a vacancy⁴ shall commence as soon as he has qualified therefor.

¹See also §63.1.

²See Constitution, IV.15, IV.2 and IV.3 for beginning of terms of governor and lt. governor; IV.22 for certain other officials, V.12 for attorney general, III.3 and III.5 for members of the general assembly.

³See §347A.1 for beginning of terms of certain county hospital trustees, §303B.4 for regional library trustees.

⁴See also §69.12

39.9 State officers—term. The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, and attorney general shall be elected for a term of four years¹ at the general election held in the year 1974 and every four years thereafter.

¹See Constitution, IV.15 for hold-over provisions for governor and lt. governor, V.12 for similar provision for attorney general, and III.3 for members of the general assembly.

39.10 United States senators. Senators in the Congress of the United States shall be elected in the same manner in which state officers are elected.

Governor and Lt. Governor

IV.2 Election of governor. The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office for four years from the time of his installation, and until his successor is elected and qualifies. [Const. Iowa IV.2]

IV.3 Election of lt. governor. There shall be a lieutenant governor who shall hold his office for the same term, and be elected at the same time as the governor. In voting for governor and lieutenant governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant governor. * * *. [Const. Iowa IV.3]

IV.6 Qualifications for governor and lt. governor. No person shall be eligible to the office of governor or lieutenant governor, who shall not have been a citizen of the United States, and a resident of the state, two years next preceding the election, and attained the age of thirty years at the time of said election. [Const. Iowa IV.6]

State Senators

III.5 Terms and qualifications for senators. Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives¹ as to residence and citizenship. [Const. Iowa III.5]

¹See Constitutional provisions preceding §39.16, *infra*.

39.15 State senators. Senators in the general assembly shall be elected at the general election¹ in the respective senatorial districts and shall hold office for the term of four years.

¹Senators from odd-numbered districts run in 1974; from even-numbered districts in 1976.

State Representatives

III.3 Terms of representatives. The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified. [Const. Iowa III.3]

III.4 Qualifications for representatives. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, be a citizen of the United States, and shall have been an inhabitant of this state one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county, or district he may have been chosen to represent. [Const. Iowa III.4]

39.16 Representatives. Members of the house of representatives shall be elected at the general election in the respective representative districts and hold office for the term of two years.

39.17 County officers. There shall be elected in each county at the general election to be held in the year 1976 and every four years thereafter, a clerk of the district court, an auditor and a sheriff who shall hold office for a term of four years.

There shall be elected in each county at the general election to be held in 1974 and each four years thereafter, a treasurer, a recorder and a county attorney who shall hold office for a term of four years.

39.18 Board of supervisors and township trustees. There shall be elected, biennially, in counties and townships, members of the board of supervisors and township trustees, respectively, to succeed those whose terms of office will expire on the first day of January following the election which is not a Sunday or legal holiday. The term of office of each supervisor or trustee shall be four years, except as otherwise provided by section 331.25, subsection 2, and section 331.26, subsection 4.

39.20 City officers. The times at which officers of cities shall be elected and their terms of office shall be as provided by or established pursuant to section 61¹ [of

chapter 1088, Acts of the 64th general assembly as amended by section 330 of chapter 136, Acts of the 65th general assembly] and section 62² of chapter 1088, Acts of the 64th general assembly. However, the times at which officers of cities and towns shall be elected and their terms of office shall be governed until July 1, 1975, by sections 363.8, 363.9, 363.10, 370.1 372.3 and 380.1, in the respective cities and towns to which these sections are applicable.

¹This will probably be 376.1 in the 1975 Code.

²This will probably be 376.2 in the 1975 Code.

39.22 Suffrage for township offices. Township trustees and the township clerk shall, in townships which embrace no city or town, be elected by the voters of the entire township. In townships which embrace a city or town, said officers shall be elected by the voters of the township who reside outside the corporate limits of such city or town; but any such officer may be a resident of said city or town.

39.23 Township clerk. There shall be elected, at the general election held in the year 1974 and every four years thereafter, in each civil township one township clerk, who shall hold his office for the term of four years.

39.24 School officers. Members of [county boards of education,¹ ²] boards of directors of community and independent school districts, and *elective members of boards of directors of area education agencies* [merged areas] shall be elected at the school election. Their respective terms of office shall be three years, except as otherwise provided by section 280A.12.

¹Terms of office of members of the boards of directors of county school systems and joint county systems expiring on October 7, 1974 are extended until July 1, 1975 and members shall not be elected to county boards of education and joint boards at the regular school election in 1974, except to fill a vacancy. See SF1163, 65GA.

²Bracketed material to be repealed on July 1, 1975, when italicized material becomes effective. See SF1163, 65GA.

39.25 Sex no disqualification. No person shall be disqualified on account of sex from holding any office created by the statutes of this state.

Chapter 40 — CONGRESSIONAL DISTRICTS

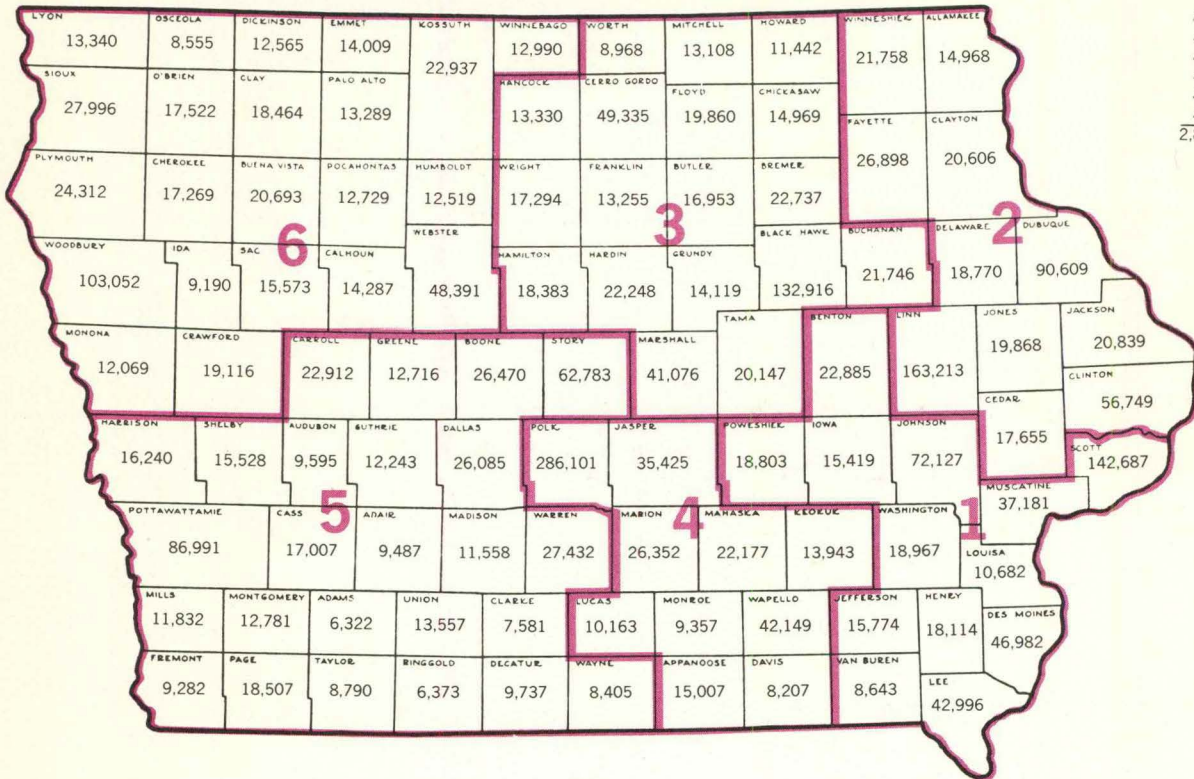
The various congressional districts are shown on this map, as described in chapter 40, Code of Iowa, 1973.

III.37 Congressional districts. When a congressional district is composed of two or more counties it shall not be entirely separated by a county belonging to another district and no county shall be divided in forming a congressional district. [Const. Iowa III.37]

1970 COUNTY POPULATIONS AND
 1974 CONGRESSIONAL DISTRICT MAP

1970 POPULATION

471,260	DIST. 1
471,933	DIST. 2
471,886	DIST. 3
468,881	DIST. 4
470,214	DIST. 5
470,867	DIST. 6
2,825,041	STATE



Chapter 41 — LEGISLATIVE DISTRICTS

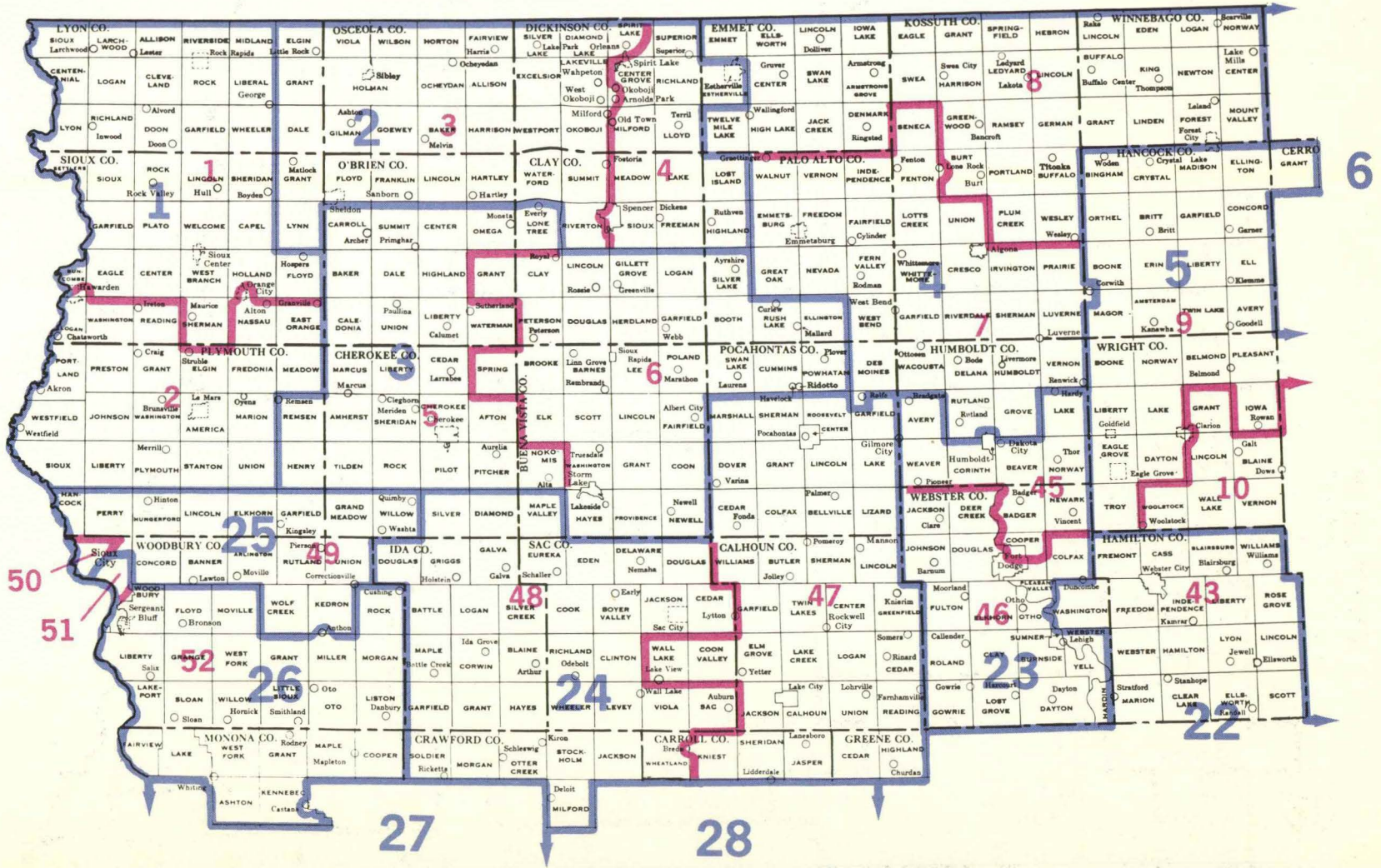
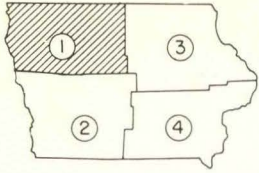
The various representative and senate districts of the general assembly are shown on the accompanying maps. For a detailed description of those districts, or the exact location of boundary lines not shown, consult chapter 41, Code of Iowa, 1973.

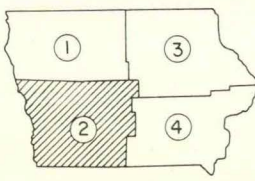
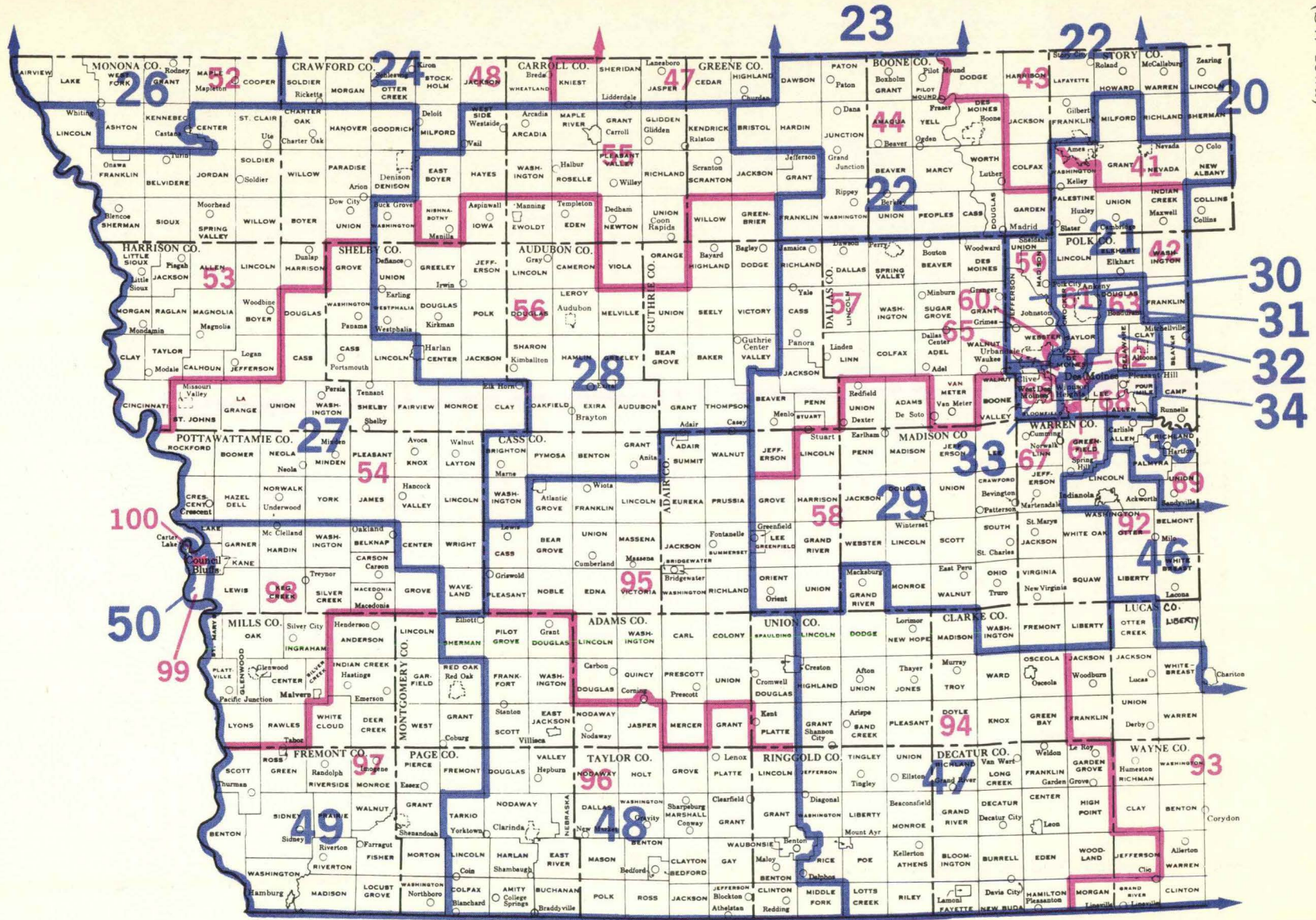
Rule of Construction

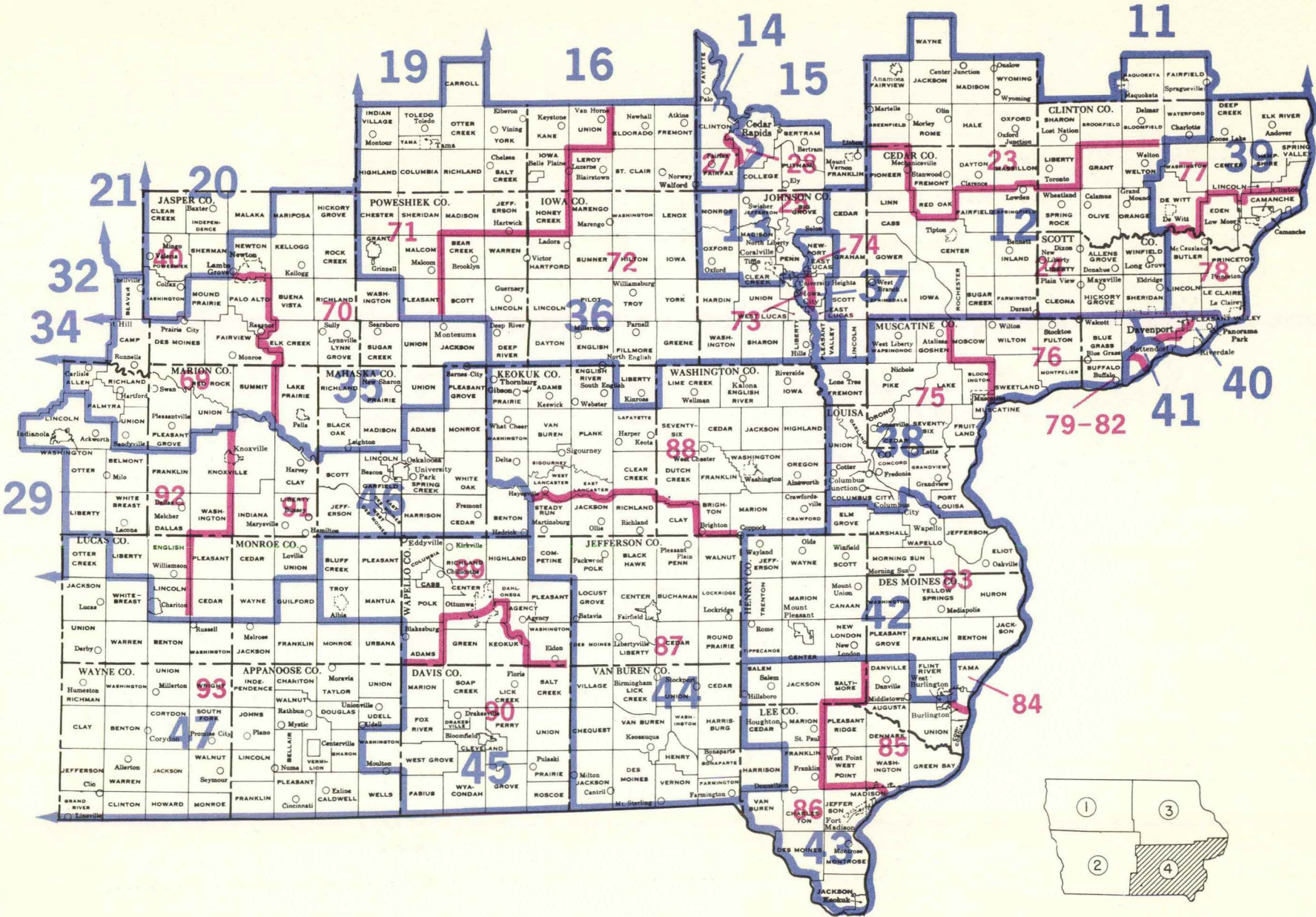
In a supplementary order correcting certain errors in the legislative apportionment plan promulgated by the Iowa Supreme Court, the Court stated the following rule of construction which can be found in the Acts of the 64th general assembly, second session, at page 585:

Rule of construction. As used in this [chapter], each reference to a specific city, town, township, street or road means the city, town, township, street or road so identified as its boundaries or location existed on April 1, 1970, the official date of the 1970 United States decennial census. Unless otherwise stated in this

[chapter], territory added to or taken from any city, town or township after April 1, 1970 shall be regarded as a part of the city, town or township to which the territory belonged on that date, for the purposes of this [chapter].







Chapter 43 — NOMINATIONS BY PRIMARY ELECTION

See section 39.3 for definitions applicable to this chapter.

There are three ways to get onto the ballot of the general election. This chapter covers nominations by political parties. See chapters 44 and 45 for the other methods.

- | | | | |
|-------------|---|--------|--|
| 43.1 | "Primary election" defined | 43.62 | Publication of proceedings |
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| 43.58 | Recount granted | 43.114 | Time of holding Davenport primary |
| 43.59 | Death or resignation of candidate | | |
| 43.60 | Abstracts to state commissioner | | |
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43.115 Davenport—nomination papers—number of signers
 43.116 Repealed
 43.117 Davenport—plurality vote nominates and elects
 43.118 Davenport—expense

43.1 Primary election construed. The primary election required by this chapter shall be construed to be an election by the members of various political parties for the purpose of placing in nomination candidates for public office.

See also §39.3(4)

43.2 “Political party” defined. The term “political party” shall mean a party which, at the last preceding general election, cast for its candidate for president of the United States or for governor, as the case may be, at least two percent of the total vote cast for all candidates for that office at that election.¹ It shall be the responsibility of the state commissioner to determine whether any organization claiming to be a political party qualifies as such under the foregoing definition.

A political organization which is not a “political party” within the meaning of this section may nominate candidates and have the names of such candidates placed upon the official ballot by proceeding under chapters 44 and 45.

¹Based upon the 1972 general election, only the Republican and Democratic parties are now qualified as political parties. The American Independent Party qualified in 1970 but failed to qualify in 1972.

43.3 Offices affected by primary. Candidates of all political parties for all offices which are filled at a regular biennial election by direct vote of the people, shall be nominated at a primary election at the time and in the manner hereinafter directed.

43.4 *moved to 43.89 in this publication for your convenience.*

43.5 Applicable statutes. The provisions of chapters 39, 47, 48, 49, 50, 51, 52, 53, 56, 57, 58, 59, 61, 62 and 738 shall apply, so far as applicable, to all primary elections, except as hereinafter provided.

43.6 Nomination of United States senators. Senators in the Congress of the United States, in case of a full term, shall be nominated in the year¹ preceding the expiration of the term of office of the incumbent. In case of a vacancy, such senators shall be nominated in the year in which occurs the first biennial election following the occurrence of the vacancy.

¹1974, 1978, 1980.

43.7 Time of holding. The primary election by all political parties shall be held at the usual voting places

43.119 Misconduct
 43.120 Bribery—illegal voting
 43.121 Nominations by petition or nonparty organizations
 43.122 Repealed

of the several precincts on the first Tuesday after the first Monday in June in each even-numbered year.

43.8 State Commissioner to furnish blanks. The state commissioner shall, at state expense, furnish blank nomination papers, in the form provided in this chapter, to any qualified elector who desires to petition for the nomination of any candidate, or to any person who intends to be a candidate, for any office for which nomination papers are required to be filed in his office.

43.9 Commissioner to furnish blanks. The commissioner shall, at county expense, perform the duty specified in section 43.8, as to all offices for which nomination papers are required to be filed in his office.

43.10 Blanks furnished by others. Blank nomination papers which are in form substantially as provided by this chapter may be used even though not furnished by the state commissioner or commissioner.

43.11 Filing of nomination papers. Nomination papers in behalf of a candidate shall be filed:

1. For an elective county office, in the office of the county commissioner not later than five o'clock p.m. on the fifty-fifth¹ day prior to the day fixed for holding the primary election.

2. For United States senator, for an elective state office, for representative in Congress, and for member of the general assembly, in the office of the state commissioner not earlier than eighty-five days² nor later than five o'clock p.m. on the sixty-seventh³ day prior to the day fixed for holding the primary⁴ election.

¹April 10, 1974

²March 11, 1974

³March 29, 1974

⁴June 4, 1974

43.12 Noting time of filing. The officer receiving nomination papers for filing shall endorse thereon the day, and time of day, of filing.

43.13 Failure to file nomination papers. No candidate for any office named in section 43.11 shall have his name printed on the official primary ballot of his party unless nomination papers are filed as therein provided.

43.14 Form of nomination papers. All nomination papers shall be about eight and one-half by thirteen inches in size and in substantially the following form:

“I, the undersigned, an eligible elector of county or legislative district, and state of Iowa, hereby nominate of county or legislative district, state of Iowa, who has affiliated with and is a member of the party, as a candidate for the office of to be voted for at the primary election to be held on

No signatures shall be counted unless they are on sheets each having such form written or printed at the top thereof. Nomination papers on behalf of candidates for seats in the general assembly need only designate the number of the senatorial or representative district, as appropriate, and not the county or counties, in which the candidate and the petitioners reside.

43.15 Requirements in signing. The following requirements shall be observed in the signing and preparation of nomination blanks:

1. Each signer may sign as many nomination papers for the same office as there are officers to be elected to said office, and no more.
2. Each signer shall add his residence, with street and number, if any, and the date of signing.
3. All signers, for all nominations, of each separate part of a nomination paper, shall reside in the same county, representative or senatorial district for members of the general assembly.
4. When more than one sheet is used, the sheets shall be neatly arranged and securely fastened together before filing, and shall be considered one nomination paper.
5. Only one candidate shall be petitioned for or nominated in the same nomination paper.

A restriction in §43.17 against members of one party signing nomination papers of the other party was repealed in 1973. However, see notes following §43.20.

43.16 Withdrawals and additions not allowed. A nomination paper, when filed, shall not¹ be withdrawn nor added to, nor any signature thereon revoked.

¹*But see §44.9 which allows a candidate to withdraw his candidacy even though he is being nominated under this chapter.*

43.17 Affidavit to nomination papers. The affidavit of an eligible elector, other than the candidate, shall be appended to each such nomination paper, or papers, if more than one for any candidate, stating that to the best of his knowledge and belief all the persons who have signed the paper or papers are electors of that county or legislative district; that they signed the same with full knowledge of the contents thereof; that their respective residences are truly stated therein; and that each signer signed the same on the date stated opposite his name.

43.18 Affidavit by candidate. Every candidate shall make and file an affidavit in substantially¹ the following form:

“I,, being duly sworn, say that I reside at street, city of, county of in the state of Iowa; that I am eligible to the office for which I am a candidate, and that the political party with which I affiliate is the party; that I am a candidate for nomination to the office of to be made at the primary election to be held on, and hereby request that my name be printed upon the official primary ballot as provided by law, as a candidate of that party. I furthermore declare that if I am nominated and elected I will qualify as such officer.

(Signed)

Subscribed and sworn to (or affirmed) before me by on this day of, 19.....

.....
(Name)

.....
(Official Title)

¹*See §56.311 for additional requirement.*

43.19 Manner of filing affidavit. The affidavit provided in section 43.18 shall be filed with the nomination papers when such papers are required; otherwise alone.

See §43.21

43.20 Signatures required—more than one office prohibited. Nomination papers shall be signed by eligible electors as follows:

1. If for a state office, or United States senator, by at least one percent of the voters of¹ the candidate’s party, in each of at least ten counties of the state, and in the aggregate not less than one-half of one percent of the total vote of the candidate’s party in the state, as shown by the last general election.
2. If for a representative in Congress, in districts composed of more than one county, by at least two percent of the voters of² the candidate’s party, as shown by the last general election, in each of at least one-half of the counties of the district, and in the aggregate not less than one percent of the total vote of the candidate’s party in such district, as shown by the last general election. If for a representative in the general assembly, not less than fifty voters of the representative district; and if for a senator in the general assembly, not less than one hundred voters of the senatorial district.

3. If for an office to be filled by the voters of the county or for the office of county supervisor elected from a district within the county, by at least two percent of the party vote in the county or supervisor district, as shown by the last general election, or by at least one hundred persons, whichever is less.

**Presidential vote in 1972
by party and county**

In each of the above cases, the vote to be taken for the purpose of computing the percentage shall be the vote cast for president of the United States or for governor, as the case may be.

No candidate for public office shall cause nomination papers to remain filed in the office of the state commissioner or the commissioner, on the last day for filing³ nomination papers, for more than one office to be filled at the primary election.

Any candidate for public office, to be voted for at a primary election, who has filed nomination papers for more than one office shall, not later than the final date⁴ for filing, notify the state commissioner or the com-

missioner by affidavit, for which office he elects to be a candidate, which in no case shall be more than one. In the event no such election is made by such date by the candidate, the state commissioner shall not certify his name to be placed on the ballot for any office nor shall the commissioner place his name on the ballot in any county.

¹This may imply that nominators for state-wide office must be members of that party.

²This may imply that nominators for congress must be members of that party.

³See §43.11

⁴See §43.11

1972 Vote for President

Use this table in 1974 to determine the number of signatures or votes necessary to nominate.

COUNTIES	County Total (several candidates)	Republican Richard M. Nixon	Democrat George McGovern	COUNTIES	County Total (several candidates)	Republican Richard M. Nixon	Democrat George McGovern
1. Adair	4,782	3,041	1,642	52. Johnson	36,236	14,823	20,922
2. Adams	3,045	1,814	1,161	53. Jones	8,521	4,962	3,468
3. Allamakee	6,562	4,150	2,271	54. Keokuk	6,565	3,831	2,619
4. Appanoose	6,747	4,321	2,283	55. Kossuth	10,358	5,841	4,393
5. Audubon	4,082	2,515	1,533	56. Lee	17,618	9,748	7,510
6. Benton	9,749	5,273	4,282	57. Linn	69,160	36,503	31,370
7. Black Hawk	53,782	30,929	21,721	58. Louisa	4,577	2,806	1,707
8. Boone	11,551	6,271	5,057	59. Lucas	4,690	2,851	1,759
9. Bremer	9,611	6,333	3,122	60. Lyon	5,252	3,788	1,407
10. Buchanan	9,048	5,277	3,609	61. Madison	5,864	3,480	2,234
11. Buena Vista	9,281	5,685	3,460	62. Mahaska	9,988	6,374	3,382
12. Butler	6,426	4,615	1,682	63. Marion	11,531	6,583	4,643
13. Calhoun	6,368	3,821	2,446	64. Marshall	17,744	10,798	6,618
14. Carroll	9,285	4,415	4,608	65. Mills	4,712	3,531	1,060
15. Cass	7,263	5,234	1,923	66. Mitchell	5,911	3,395	2,449
16. Cedar	7,023	4,452	2,465	67. Monona	5,495	3,237	2,189
17. Cerro Gordo	21,693	11,856	9,460	68. Monroe	4,155	2,357	1,736
18. Cherokee	7,594	4,726	2,780	69. Montgomery	6,041	4,391	1,559
19. Chickasaw	7,030	3,836	3,134	70. Muscatine	13,642	8,436	4,917
20. Clarke	3,901	2,214	1,590	71. O'Brien	7,491	5,159	2,224
21. Clay	7,696	4,564	2,887	72. Osceola	3,616	2,262	1,317
22. Clayton	9,048	5,447	3,366	73. Page	8,112	6,200	1,790
23. Clinton	22,964	12,768	9,895	74. Palo Alto	6,066	3,141	2,845
24. Crawford	7,667	4,493	3,018	75. Plymouth	10,466	6,339	4,033
25. Dallas	11,436	6,143	5,085	76. Pocahontas	5,487	3,138	2,241
26. Davis	4,188	2,287	1,806	77. Polk	132,659	70,245	59,169
27. Decatur	4,593	2,638	1,880	78. Pottawattamie	28,450	19,722	8,074
28. Delaware	7,920	4,848	2,944	79. Poweshiek	8,648	4,785	3,718
29. Des Moines	19,358	10,216	8,869	80. Ringgold	3,303	2,264	1,003
30. Dickinson	6,381	3,739	2,373	81. Sac	6,541	4,017	2,452
31. Dubuque	36,521	17,272	18,417	82. Scott	59,455	34,135	23,810
32. Emmet	5,461	3,436	1,970	83. Shelby	6,439	4,052	2,259
33. Fayette	11,940	7,263	4,413	84. Sioux	13,697	10,721	2,867
34. Floyd	8,192	4,726	3,338	85. Story	31,025	16,617	13,972
35. Franklin	5,786	3,643	1,986	86. Tama	8,880	5,058	3,693
36. Fremont	3,907	2,642	1,210	87. Taylor	4,336	3,042	1,247
37. Greene	5,680	3,371	2,152	88. Union	5,977	3,734	2,112
38. Grundy	6,625	4,706	1,844	89. Van Buren	3,596	2,272	1,268
39. Guthrie	6,022	3,655	2,258	90. Wapello	18,171	9,301	8,348
40. Hamilton	7,890	4,803	2,913	91. Warren	12,804	7,332	5,143
41. Hancock	6,129	3,706	2,349	92. Washington	8,089	5,187	2,784
42. Hardin	9,556	5,869	3,516	93. Wayne	4,324	2,681	1,574
43. Harrison	7,171	4,721	2,369	94. Webster	19,893	11,133	8,358
44. Henry	7,884	5,066	2,721	95. Winnebago	6,669	4,300	2,324
45. Howard	5,481	2,980	2,439	96. Winneshiek	10,452	5,877	4,401
46. Humboldt	5,792	3,622	2,062	97. Woodbury	41,430	23,757	16,974
47. Ida	4,359	2,819	1,490	98. Worth	4,636	2,564	2,034
48. Iowa	6,964	4,202	2,578	99. Wright	7,162	4,278	2,780
49. Jackson	8,924	4,975	3,704				
50. Jasper	16,513	9,133	7,007				
51. Jefferson	7,139	4,628	2,362				
				TOTAL	1,225,944	706,207	496,206

43.21 Township or sanitary district office. The name of a candidate for a township office shall be printed on the official primary ballot of his party if he files his personal affidavit, in the form prescribed by section 43.18, with the commissioner not later than five o'clock p.m. of the fifty-fifth day prior to the primary election. If prior to that time there is presented to the commissioner a nomination paper signed by at least ten eligible electors of the township requesting that the name of any person be placed on the primary ballot as a candidate for a township office, and the nomination paper is not accompanied by the candidate's personal affidavit, the commissioner shall advise the candidate that such an affidavit is required before his name may be placed on the ballot.

See §358.9 for clause making this procedure applicable to sanitary district elections.

43.22 Nominations certified. The state commissioner shall, at least fifty-five days before a primary election, furnish to the commissioner of each county a certificate under his hand and seal, which certificate shall show:

1. The name and post-office address of each person for whom a nomination paper has been filed in his office, and for whom the voters of said county have the right to vote at said election.
2. The office for which such person is a candidate.
3. The political party from which such person seeks a nomination.

43.25 Correction of errors. The commissioner shall correct any errors or omissions in the names of candidates and any other errors brought to his knowledge before the printing of the ballots.

43.26 Ballot—form. The official primary election ballot shall be prepared, arranged, and printed substantially in the following form:

See appendix "A."

43.27 Printing of ballots. The ballots of each political party shall be printed in black ink, on separate sheets of paper, uniform in color, quality, texture, and size, with the name of the political party printed at the head of said ballots, which ballots shall be prepared by the commissioner in the same manner as for the general election except as in this chapter provided.

43.28 Names of candidates—arrangement. The names of all candidates for offices shall be arranged and printed upon the primary election ballots under the direction of the commissioner. If there are more candidates for nomination by a political party to an office than the number of persons to be elected to that office at the general election, the names of the candidates of that

party for that nomination shall be rotated on the primary election ballot by the commissioner in the manner prescribed by section 49.31.

43.30 Sample ballots. The commissioner shall take from the official printed ballots of each precinct a suitable¹ number of ballots of each political party, and shall write or stamp, in red ink, near the top of each ballot, the words "sample ballot" and shall sign or stamp his official signature thereunder. Said ballots shall be delivered to the judges, but shall not be voted, received, or counted. Said judges shall, before the opening of the polls, cause said sample ballots to be posted in and about the polling places.

¹*See §49.71*

43.36 Australian ballot. The Australian ballot system as now¹ used in this state, except as herein modified, shall be used at said primary election. The endorsement of the precinct election officials² and the facsimile of the commissioner's signature shall appear upon the ballots as provided for general elections.

¹*1893*

²*See §§49.57 and 49.82*

43.38 Voter confined to party ticket. The elector shall be allowed to vote for candidates for nomination on the ballot of the party with which he is registered as affiliated,¹ and shall receive no other ballot. The voter shall return the ballot, folded, to one of the precinct election officials who shall deposit it in the ballot box.

¹*See also §43.42*

43.39 Ballot for another party's candidate. If any primary elector write upon his ticket the name of any person who is a candidate for the same office upon some other party ticket than that upon which his name shall be so written, such ballot shall be so counted for such person only as a candidate of the party upon whose ballot his name is written, and shall in no case be counted for such person as a candidate upon any other ticket.

43.41 Change of party affiliation before primary. Any qualified elector, who, having declared his party affiliation, desires to change the same, may, before the close of registration for the primary election, file a written declaration stating his change of party affiliation with the county commissioner of registration who shall enter a notation of such change on the registration records.

43.42 Change or declaration of party affiliation at polls. Any qualified elector may change or declare his party affiliation at the polls on election day and shall be entitled to vote at any primary election. Each change or

declaration of a qualified elector's party affiliation so received shall be reported by the election board to the commissioner of registration who shall enter a notation of the change on the registration records.

At each precinct located in a county or portion of a county *where permanent registration under chapter 48 is not required for voting before January 1, 1975*, any elector who seeks to vote the ballot of a political party at the primary election on June 4, 1974, and is challenged on the ground that he has previously registered as an elector of that precinct pursuant to chapter 48 and in so doing made a declaration regarding party affiliation inconsistent with the affiliation indicated by his request for a primary election ballot, may overcome the challenge by the procedure described in section 43.44.

This section was amended in 1973 to allow voters of the precinct to change parties at the polling place, but §43.44 was not amended. Before 1973, only first-time voters at a primary in that precinct could declare a party under §43.42 while others desiring to change were subject to challenge under §43.44. The effect of the 1973 amendments to this section is to give all qualified electors the right to change party affiliation at the polls.

Because of the Latest Enactment Rule of §4.8, this §43.42 probably controls over any conflicting portions of §43.44, which should probably have been repealed.

43.44 Change of affiliation. Any elector whose party affiliation has been recorded as provided by this chapter, and who desires to change his party affiliation on the primary election day, shall be subject to challenge. If the person challenged insists that he is entitled to vote the ticket of the political party to which he has transferred his political affiliation and the challenge is not withdrawn, such person shall sign an affidavit which shall be in substantially the following form:

See appendix "A."

If such person signs the affidavit, he shall be given a ballot of such political party and the precinct election officials of the primary election shall change his enrollment of party affiliation accordingly.

Any apparent conflict between this §43.44 and §43.42, supra, probably renders the conflicting parts of this §43.44 inoperative under the Latest Enactment Rule of §4.8.

43.45 Counting ballots and returns. Upon the closing of the polls the precinct election officials shall immediately:

1. Place the ballots of the several political parties in separate piles.
2. Separately count the ballots of each party, and make the correct entries thereof on the tally sheets.
3. Certify to the number of votes cast upon the ticket of each political party for each candidate for each office.
4. Seal the ballots cast on behalf of each of the parties in separate envelopes, and on the outside of such envelope write or print the names of said party's can-

didates for all offices and opposite each name enter the number of votes cast for such candidate in said precinct.

5. Seal all the envelopes of all political parties in one large envelope and on the outside thereof, or on a paper attached thereto, enter the number of votes cast by each party in said precinct.

6. Seal the precinct election register and the tally sheets and certificates of the precinct election officials, in an envelope, or other secure container, on the outside of which are written or printed in perpendicular columns the names of the several political parties with the names of the candidates for the different offices under their party name, and opposite each candidate's name enter the number of votes cast for such candidate in said precinct.

7. Enter at the bottom of each party column on said envelope total vote cast by said party in said precinct.

8. Communicate the results of the ballots cast for each candidate for office upon the ticket of each political party, in the manner required by section 50.11, to the commissioner of the county in which said polls are located, who shall remain on duty until the results are communicated to him from each polling place in the county.

43.46 Delivering returns. Said precinct election officials shall deliver the election register, tally sheets, certificates, envelopes containing ballots, and all unused supplies, within two days after the close of the polls, to the commissioner who shall preserve the returns and envelopes in the condition in which received and deliver them to the county board of canvassers.¹

¹This should probably read "supervisors." See §43.49

43.47 Messenger sent for returns. If the returns from any precinct are not delivered as provided in section 43.46, the commissioner shall forthwith send a messenger for the missing returns, and the messenger shall be paid as provided by section 50.47 for such services.

43.48 Elector may ascertain vote cast. Any elector of the county shall have the right, before the day fixed for canvassing the returns, to ascertain the vote cast for any candidate in any precinct in the county, as shown on the outside of the envelope containing the election register.

43.49 Canvass by county board. On the Monday following the primary election, the board of supervisors shall meet, open and canvass the returns from each voting precinct in the county, and make abstracts thereof, stating in words written at length:

1. The number of ballots cast in the county in each precinct by each political party, separately, for each office.

2. The name of each person voted for and the number of votes given to each person for each different office.

43.50 Signing and filing of abstract. The members of the board shall sign said abstracts and certify to the correctness thereof, and file the same with the commissioner.

43.51 Finality of canvass. Such canvass and certificate shall be final as to all candidates for nomination to any elective county office or office of a subdivision of a county.

See §§43.56 to 43.58 for recount procedures.

43.52 Nominees for county office. The nominee of each political party for any office to be filled by the voters of the county shall be the person receiving the highest number of votes cast in the primary election by the voters of that party for the office, and that person shall appear as the party's candidate for the office on the general election ballot.

If no candidate receives thirty-five percent or more of the votes cast by voters of his party for the office he is seeking, the primary is inconclusive and the nomination shall be made as provided by section 43.97, subsection 1.

When two or more nominees are required, as in the case of at-large elections, the nominees shall likewise be the required number of persons who receive the greatest number of votes cast in the primary election by the voters of the nominating party, but no candidate is nominated who fails to receive thirty-five percent of the number of votes found by dividing the number of votes cast by voters of the candidate's party for the office in question by the number of persons to be elected to that office. If the primary is inconclusive under this paragraph, the necessary number of nominations shall be made as provided by section 43.97, subsection 1.

43.53 Nominees for subdivision office—write-in candidates. The nominee of each political party for any office to be filled by the voters of any subdivision of the county shall be the person receiving the highest number of votes cast in the primary election by the voters of that party for the office and that person shall appear as the party's candidate for the office on the general election ballot. A person whose name is not printed on the official primary ballot shall not be declared nominated as a candidate in the general election unless he receives the greater of at least five votes or a number of votes equal to at least five percent of the votes cast in the subdivision at the last preceding general election for the party's candidate for president of the United States or for governor, as the case may be.

43.54 Right to place on ballot. Each candidate so nominated shall be entitled to have his name printed on the official ballot to be voted for at the general election without other certificate.

43.55 Nominee certified. The said canvassing board¹ shall separately prepare and certify a list of the candidates of each party so nominated. It shall deliver to the chairman of each party central committee for the county a copy of the list of candidates nominated by the party he represents; and shall also certify and deliver to such chairman a list of the offices to be filled by the voters of a county for which no candidate of his party was nominated because of the failure of any candidate for any such office to receive the legally required number of votes, together with the names of the candidates for each of such offices voted for at the primary election and the number of votes received by each of such candidates.

¹*This should probably read "board of supervisors."*

43.56 Recount Any candidate whose name appears upon the official primary ballot of any voting precinct may require the board of supervisors of the county in which such precinct is situated to recount the ballots cast in any such precinct as to the office for which he was a candidate, by filing with the commissioner not later than one o'clock p.m. on Friday after the official canvass made by the board of supervisors is finished, a showing in writing, duly sworn to by such candidate, that fraud was committed, or error or mistake made, in counting or returning the votes cast in any such precinct as to the office for which he was a candidate.

43.57 Showing must be specific. The showing for such recount must be specific, and from it there must appear reasonable ground to believe that a recount of the ballots would produce a result as to the applicant's candidacy different from the returns made by the judges.

43.58 Recount granted. If such showing is made to the satisfaction of the board, it shall thereupon recount the ballots cast in any such precinct for the office for which the contestant was a candidate, and if the result reached by the board on the recount of the ballots as to such office be different from that returned by the judges¹ of election, it shall be substituted therefor as the true and correct return and so regarded in all subsequent proceedings. The action of the board shall be final and no other contest of any kind shall be permitted.

¹*This should be election board. See HF1399.104.*

43.59 Death or resignation of candidate.

1. When any primary candidate dies or resigns between the date of filing nomination papers and the holding of the primary election, the appropriate county,

legislative district, or state central committee or district convention may place one additional name on the ballot.

2. Candidates nominated in primary elections may withdraw their names from the nominations any time prior to sixty-five¹ days preceding the general election and the appropriate county, legislative district, or state central committee or district convention shall designate a person to fill such vacancy. Vacancies shall be filled by the appropriate central committee or district convention within five days following the day of such withdrawal.

¹But see also §44.9

43.60 Abstracts to state commissioner. The county board of canvassers¹ shall also make a separate abstract of the canvass as to the following offices and certify to the same and forthwith forward it to the state commissioner viz:

1. United States senator.
2. All state offices.
3. United States representative.
4. Senators and representatives in the general assembly.

¹This should probably read "supervisors." See §43.49

43.61 Returns filed and abstracts recorded. When the canvass is concluded, the board shall deliver the original returns to the commissioner, who shall file the same and record each of the abstracts mentioned in section 43.60, in the election book.

43.62 Publication of meetings. The published proceedings of the canvassing board¹ shall be confined to a brief statement of:

1. The names of the candidates nominated by the electors of the county or subdivision thereof and the offices for which they are so nominated.
2. The offices for which no nomination was made by a political party participating in the primary, because of the failure of the candidate to receive the legally required number of votes cast by the party for such office.

¹This should probably read "board of supervisors."

43.63 Canvass by state board. On the second Friday after the primary election, the executive council shall meet as a canvassing board, and open and canvass the abstract returns received from each county in the state. The board shall make an abstract of its canvass, stating in words written at length, the number of ballots cast by each political party, separately, for each office designated in the abstracts forwarded to the state commissioner, the names of all the persons voted for, and the number of votes received by each person for each office, and shall sign and certify thereto.

43.64 State canvass conclusive. The canvass and certificates by the state board of canvassers shall be final as to all candidates named therein.

43.65 Who nominated. The candidate of each political party for nomination for each office to be filled by the voters of the entire state, and for each seat in the United States house of representatives, the Iowa house of representatives and each seat in the Iowa senate which is to be filled, who receives the highest number of votes cast by the voters of that party for that nomination shall be the candidate of that party for that office in the general election.

However, if there are more than two candidates for any nomination and none of the candidates receives thirty-five percent or more of the votes cast by voters of his party for that nomination, the primary is inconclusive and the nomination shall be made as provided by section 43.101, subsection 1, or section 43.109, subsection 1, whichever is appropriate.

43.66 Write-in candidates. The fact that the candidate who receives the highest number of votes cast for any party's nomination for an office to which section 43.52 or 43.65 is applicable is a person whose name was not printed on the official primary election ballot shall not affect the validity of the person's nomination as a candidate for that office in the general election. However, if there is no candidate on the official primary ballot of a political party for nomination to a particular office, a write-in candidate may obtain the party's nomination to that office in the primary if the candidate receives a number of votes equal to at least thirty-five percent of the total vote cast for all of that party's candidates for that office in the last preceding primary election for which the party had candidates on the ballot for that office. When two or more nominees are required, the division procedure prescribed in section 43.52 shall be applied to establish the minimum number of write-in votes necessary for nomination. If the primary is inconclusive, the necessary nominations shall be made in accordance with section 43.97, 43.101, or 43.109, whichever is applicable.

43.67 Nominee's right to place on ballot. Each candidate so nominated shall be entitled to have his name printed on the official ballot to be voted at the general election without other certificate.

43.68 Certified list of nominees. The state board of canvassers shall prepare and certify separate lists of the candidates nominated by each party, as shown by the state canvass, and deliver to the chairman of each party central committee for the state a copy of the list of candidates nominated by the party which said chairman represents.

43.69 Certificates in case of failure to nominate. Said state board shall, at once after completing its canvass, prepare separate certificates for each political party as to each office for which no candidate was nominated because of the failure of any candidate for any such office to receive the legally required number of votes cast by such party for such office. Such certificates shall show the names of the several candidates for each of such offices voted for at the primary election and the number of votes received by each of said candidates.

43.70 Delivery of certificates. The certificate provided in section 43.69 shall be sent:

1. To the chairman of the state central committee of said party, in case of offices to be filled by the voters of the entire state.

2. To the chairman, if known, of the district central committee of said party, and to each commissioner, in case of offices to be filled by the voters of any district of the state composed of more than one county.

3. To the chairman of the county central committee of said party, and to the commissioner, in case of offices to be filled by the voters of a district of the state composed of one county, or a portion of one county.

4. To the chairman of the legislative representative central committee or senate legislative central committee of said party and to each commissioner in case of a representative or senator in the general assembly elected from districts composed of all or portions of two or more counties.

43.71 Messenger sent for abstracts. If returns of abstracts have not been received by the state canvassing board from all the counties by the time fixed for the state canvass, the state commissioner shall immediately send a messenger after the missing abstracts, and the board may adjourn from time to time until the abstracts are received.

43.72 State returns filed and recorded. When the canvass is concluded, the board shall deliver the original abstract returns to the state commissioner, who shall file the same in his office and record the abstracts of the canvass of the state board and certificates attached thereto in the book kept by him known as the election book.

43.73 State commissioner to certify nominees. Not less than fifty-five days before the general election the state commissioner shall certify to each commissioner, under separate party headings, the name of each person nominated as shown by the official canvass made by the executive council,¹ or as certified to him by the proper persons when any person has been nominated by a convention or by a party committee, or by petition, the office to which he is nominated, and the order in which the

tickets of the several political parties shall appear on the official ballot.

¹This should probably read "state canvassing board."

43.74 Certificate in case of additional nominations. If, after the foregoing certificate has been forwarded, other authorized nominations are certified to the state commissioner, including nominations to be voted on at any time at a special election, the state commissioner shall at once, in the form provided in section 43.73, certify said nominations to the commissioners with a statement showing the reason therefor. Authorized nominations must be submitted to the state commissioner at least forty-five days prior to the general election.

43.75 Tie vote. In case of a tie vote resulting in no nomination for any office, the tie shall forthwith be determined by lot by the board of canvassers.

43.76 Vacancies in nominations prior to convention. Vacancies in nominations made in the primary election when such vacancies occur before the holding of the county, district, or state convention shall be filled:

1. By the county convention if the office in which the vacancy occurs is to be filled by the voters of the county.

2. By a district convention if the office in which the vacancy occurs is to be filled by the voters of a district composed of more than one county.

3. By the state convention if the office in which the vacancy occurs is to be filled by the voters of the entire state.

43.77 Failure of convention to fill. If the convention does not fill such vacancy, the same shall, except in case of vacancy in the office of United States senator,¹ be filled by the party central committee for the county, district, or state as the case may be.

¹See §43.79

43.78 Vacancies in nominations subsequent to convention. Vacancies in nominations made in the primary election when such vacancies occur after the holding of a county, district, or state convention, shall, except as provided in section 43.79, be filled by the party central committee for the county, district, or state as the case may be.

43.79 Vacancies in nomination of United States senator. Vacancies in nominations made in the primary election, for office of United States senator, when such vacancy occurs after the holding of the state convention or too late to be filled by said convention and thirty days prior to the holding of the regular November election, shall be filled by a state convention. For this purpose, the chairman of the party's state central committee

shall, within ten¹ days after said vacancy occurs, reconvene the delegates to the last preceding state convention.

¹But see §43.109(1)

43.80 Vacancies in nomination of presidential electors. Vacancies in nominations of presidential electors shall be filled by the party central committee for the state.

43.81 Vacancies in office prior to convention. Nominations occasioned by vacancies in office when such vacancies occur too late for the filing of nomination papers for candidates in the primary election shall be made by the convention which has jurisdiction to make nominations for the office in question if the convention has not previously been held. If the county or state convention having jurisdiction has been held prior to the vacancy, the vacancy shall be filled by the party central committee for the county or state as the case may be.

43.82 Vacancies in office subsequent to convention—United States senator. Nominations occasioned by vacancies in office when such vacancies occur after the holding of the county, district, or state convention, or when they occur before said convention, but too late to be made thereby, shall be made by the party central committee for the county, district, or state, as the case may be, except that when the vacancy is in the office of senator of the United States, and occurs thirty days prior to the holding of the regular November election, nomination shall be made by convention as provided in case of vacancies in nominations for such office.

43.83 Vacancies in office of congressman. A candidate to be voted on at a special election and occasioned by a vacancy in the office of United States representative, shall be nominated by a convention duly called by the district central committee not less than twenty-five days prior to the date set for the special election.

43.84 Legislative representative central committee. There shall be a legislative district central committee for each representative district, which committee shall be composed of the same precinct members chosen for each county central committee and who reside within that part of the county located within the representative district. A senate legislative central committee shall be composed of the two legislative representative central committees from the two representative districts comprising the senate district. The precinct members of the legislative district central committee for the various parts of counties comprising the representative district or senatorial district, as the case may be, shall meet,

organize by election of officers, and conduct business as appropriate at some convenient place within the legislative district to be chosen by the state chairman, on call of the state chairman to:

1. Make nominations of candidates to be voted on at a special election and occasioned by a vacancy in the office of senator or representative in the general assembly. Nominations made to fill vacancies at a special election by the central committee shall be made not less than twenty-five days prior to the date set for the special election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, the time limit herein provided shall not apply.

2. Make nominations of candidates for the party to membership in the general assembly when no nomination exists due to the failure of any candidate to file nomination papers for such office, when no candidate for such office has been nominated at the preceding primary election by reason of the failure of any candidate to receive the legally required number of votes cast by such party thereof, or to place a name on the ballot as authorized under section 43.59 if such convention is held following the preceding primary election.

3. Make nominations for these offices where a nomination made at a primary election has become vacant before the convening of the convention if such convention is held following the primary election.

4. Make nominations for such offices to fill vacancies occurring too late to file nomination papers in the primary election if such convention is held following the primary election.

43.85 County convention reconvened. When a nomination is directed to be made by a district convention composed of more than one county, and the county convention in any county of the district has adjourned without selecting delegates to such convention, the county convention shall be reconvened for the purpose of making such selection.

43.86 Committee may call convention. A party central committee empowered to make a nomination to fill a vacancy, either in a nomination authorized to be made at the primary or to fill a vacancy in office, may, in lieu of exercising such right, call a convention to make such nomination.

43.87 Vacancies in nominations—township and sanitary district offices. Vacancies in nominations made in the primary election, and nominations occasioned by vacancies in offices, when such offices are to be filled by a territory smaller than a county shall be filled by the members of the party committee for the county from such subdivision.

Nominations occasioned by a vacancy in an office shall be filled not less than twenty-five days prior to the date set for the special election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, the time limit herein provided shall not apply.

Applicable to sanitary district trustees. See §358.9

43.88 Certification of nominations. Nominations made by state, district, and county conventions, shall, under the name, place of residence, and post-office address of the nominee, and the office to which he is nominated, and the name of the political party making the nomination, be forthwith certified to the proper officer by the chairman and secretary of the convention, or by the committee, as the case may be, and if such certificate is received in time, the names of such nominees shall be printed on the official ballot the same as if the nomination had been made in the primary election.

Nominations made to fill vacancies at a special election shall be certified to the proper official not less than twenty days prior to the date set for the special election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, the time limit herein provided shall not apply.

43.89 Political party precinct caucuses. Delegates to county conventions of political parties and party committeemen shall be elected at precinct caucuses held not later than the second Monday in May of each even-numbered year. The state central committee of each political party shall set the date for said caucuses. In accordance therewith, the county central committee of each political party shall issue the call for said caucuses. The county chairman shall file with the county commissioner the meeting place of each precinct caucus at least seven days prior to the date of holding such caucus.

There shall be selected among those present at a precinct caucus a chairman and a secretary who shall forthwith certify to the county central committee and the county commissioner the names of those elected as party committeemen and delegates to the county convention.

The central committee of each political party shall notify the delegates and committeemen so elected and certified of their election and of the time and place of holding the county convention. Such conventions shall be held either preceding or following the primary election but no later than ten days following the primary election and shall be held on the same day throughout the state. [43.4]

43.90 Delegates. The county convention shall be composed of delegates elected at the last preceding precinct caucus. Delegates shall be persons who are or will by the date of the next general election become eligible electors and who are residents of the precinct. The number of delegates from each voting precinct shall be determined by a ratio adopted by the respective party county central committees, and a statement designating the number from each voting precinct in the county shall be filed by such committee at least fifty-five days before the primary election in the office of the commissioner. If the required statement is not filed, the commissioner shall fix the number of delegates from each voting precinct.

43.91 Voter at caucus must be precinct resident. Any person voting at a precinct caucus must be a person who is or will by the date of the next general election become an eligible elector and who is a resident of the precinct. A list of the names and addresses of each person to whom a ballot was delivered or who was allowed to vote in each precinct caucus shall be prepared by the caucus chairman and secretary who shall certify such list to the commissioner at the same time as the names of those elected as delegates and party committeemen are so certified.

43.92 Date of caucus published. The date, time, and place of each precinct caucus of a political party shall be published at least twice in at least one newspaper of general circulation in the precinct. Such publication shall be made not more than thirty days and not less than five days before the date of the caucus. Such publication shall also state in substance that each voter affiliated with the specified political party¹ may attend the precinct caucus. Publication in a news item or advertisement in such newspaper shall constitute publication for the purposes of this section. The cost of such publication, if any, shall be paid by the political party.

¹*There appears to be no requirement in §§43.90 through 43.91 that a person voting at a caucus must be a member of that party.*

43.94 Term of office of delegates. The term of office of delegates to the county convention shall begin on the day following their election at the precinct caucus, and shall continue for two years and until their successors are elected.

43.95 Calling convention to order. When the delegates, or a majority thereof, or when delegates representing a majority of the precincts, thus elected, shall have assembled in the county convention, the convention shall be called to order by the chairman of the county central committee, who shall present the certified list of delegates and members of the county central committee.

If the convention is being held after the primary election, the chairman shall also present a list of the offices for which no nomination was made at the primary election by reason of the failure of any candidate for any such office to receive the legally required number of votes cast by such party therefor.

43.96 Proxies prohibited. If any precinct shall not be fully represented the delegates present from such precinct shall cast the full vote thereof, if the rules of the convention, party bylaws or constitution so permit, and there shall be no proxies.

43.97 Duties performable by county convention. The said county convention shall:

1. Make nominations of candidates for the party for any office to be filled by the voters of a county when no candidate for such office has been nominated at the preceding primary election by reason of the failure of any candidate for any such office to receive the legally required number of votes cast by such party therefor if such convention is held following the primary election. If the county convention was held preceding the primary election, the delegates to the last preceding county convention shall be reconvened within five days following the certification of the official election results for the purpose of making such nominations as may be required by this subsection.

2. Make nominations in those cases where a nomination made in the primary election has become vacant before the convening of the convention if such convention is held following the primary election.

3. Make nominations to fill vacancies in office occurring too late to file nomination papers in the primary election if such convention is held following the primary election.

4. Elect delegates to the next ensuing regular state convention and to all district conventions of that year upon such ratio of representation as may be determined by the party organization for the state, district, or districts of the state, as the case may be. Delegates to district conventions need not be selected in the absence of any apparent reason therefor. Delegates shall be persons who are or will by the date of the next general election become eligible electors and who are residents of the county.

5. Elect a member of the party central committee for the congressional district.

43.99 Party committee members. Two members of the county central committee for each political party shall, at the precinct caucuses,¹ be elected from each precinct. The term of office of a member shall begin immediately following the adjournment of the county convention

and shall continue for two years and until his or her successor is elected and qualified, unless sooner removed by the county central committee for inattention to duty or incompetency.

¹See §43.89 for time of caucuses.

43.100 Central committee—duties. The county central committee shall organize on the day of the convention, immediately following the same.

Every county central committee shall adopt a constitution and bylaws which shall govern the committee's operation. A copy of the constitution and bylaws so adopted shall be kept on file at the office of the commissioner for the county in which the central committee exists and at the office of the state commissioner. Amendments to a county central committee's constitution or bylaws shall upon adoption be filed in the same manner as the original documents.

Vacancies in such committee may be filled by majority vote of the committee.

43.101 District convention. Each political party shall hold a congressional district convention in districts composed of more than one county:

1. When no nomination was made in the primary election for the office of representative in Congress because of the failure of a candidate to file nomination papers for such office, failure of any candidate to receive the legally required number of votes cast by his party for such candidates, or to place a name on the ballot as authorized under section 43.59, subsection 1.

2. When a vacancy exists in a nomination made in the primary election.

3. When a nomination is required to fill a vacancy in either of said offices, and when said vacancy occurred after said primary election, or, if before said election, too late for the filing of nomination papers.

4. When a vacancy exists due to a candidate nominated in the primary election withdrawing from the nomination prior to sixty-five¹ days preceding the general election.

¹See §43.59(2), but also see §44.9

43.102 Call for district convention. When a district convention is called for any of the purposes listed in section 43.101, a copy of the call stating the number of delegates to which each county or portion of a county will be entitled, and the time, place and purpose of the convention shall be filed at the earliest practicable time with the commissioner of each county in which any part of the district as located. The call for the convention shall be issued by the congressional district chairman, as soon as practicable after the necessity for a congressional district convention is known.

43.103 Duty of county commissioner. The commissioner, in case the district delegates for his county have not been selected, shall deliver a copy of said call to the chairman of the convention which selects said delegates.

43.104 Organization. The organization of a district convention and the procedure therein shall be substantially the same as in the state convention.

43.105 Nominations. The convention when organized shall make nominations to meet any of the conditions named in section 43.101.

43.107 State convention. Each political party shall hold a state convention either preceding or following the primary election. The state central committee of each political party shall designate the time and place of the state convention.

43.108. Organization—proxies prohibited. The convention shall be called to order by the chairman of the state central committee, who shall thereupon present a list of delegates, as certified by the various county conventions, and effect a temporary organization. If any county shall not be fully represented, the delegates present from such county shall cast the full vote thereof if the rules of the convention, party bylaws or constitution so allow, and there shall be no proxies.

43.109 Nominations authorized. Said state convention shall make nominations of candidates for the party for any office to be filled by the voters of the entire state:

1. When no candidate for such office has been nominated at the preceding primary election by reason of the failure of any candidate for any such office to receive the legally required number of votes cast by such party therefor if such convention is held following the primary election. If the state convention was held preceding the primary election, the delegates to the last preceding state convention shall be reconvened within five¹ days following the certification of the official election results for the purpose of making such nominations as may be required by this subsection.

2. When a vacancy exists in a nomination made in the primary election if such convention is held following the primary election.

3. When a nomination is required to fill a vacancy in an office and when such vacancy occurred after the primary election, or, if before such election, too late for the filing of nomination papers if such convention is held following the primary election.

4. Presidential electors in those years when presidential candidates are to be voted on.²

5. In all cases otherwise provided by law.

¹But see §43.79 for U.S. Senator.

²See §43.80 for filling vacancy.

43.110 Nominations permitted. The state convention of a party, if the convention is held following the primary election, may make nominations for any office for which no nomination exists due to the failure of a candidate to file nomination papers for such office. If the state convention was held preceding the primary election, the party state central committee shall reconvene the delegates of the last preceding state convention for such purpose.

43.111 State party platform, constitution, bylaws and central committee. The state convention held by each political party pursuant to section 43.107 shall adopt a state platform, adopt or amend a state party constitution, and bylaws if desired, and transact other business which may properly be brought before it. A copy of the constitution and any bylaws so adopted or amended shall be kept on file in the office of the state commissioner. Initial copies of each political party's state constitution, and bylaws, if any, shall be filed in compliance with this section not later than August 30, 1974.

There shall be selected at or prior to each political party's state convention a state party central committee consisting of an equal number of members from each congressional district, which number shall be determined by the party constitution or bylaws, who shall be elected or nominated by the district convention or caucus.

The state central committee so selected may organize at pleasure for political work as is usual and customary with such committees, adopt bylaws, provide for the governing of party auxiliary bodies, and shall continue to act until succeeded by another central committee selected as required by this section. The receipts and disbursements of each political party's state party central committee shall be audited annually by a certified public accountant selected by the state party central committee and the audit report shall be filed with the state commissioner.

43.112 Nominations in Davenport. This chapter shall, so far as applicable, govern the nominations of candidates by political parties for all offices to be filled by a direct vote of the people in the cities acting under a special charter in 1973 and having a population of over fifty thousand, except all such cities as adopt a plan of municipal government which specifically provides for a nonpartisan primary election.

Sections 43.113 to 43.118 shall apply only to cities to which this chapter is made applicable by this section.

43.113 Duty of Davenport officers. The duties devolving upon the commissioner and board of supervisors, by this chapter, shall, in municipal elections authorized by section 43.112, devolve upon the city clerk and city council respectively.

43.114 Time of holding Davenport primary. In special charter cities holding a municipal primary election under the provisions of section 43.112 such primary shall be held on the first Tuesday in October of the year in which general municipal elections are held.

43.115 Davenport—nomination papers—number of signers. All candidates for nominations to be made in primary elections held pursuant to section 43.112 shall file nomination papers with the city clerk not less than thirty days prior to the date of the election as established by section 43.114, except that candidates for precinct committee member shall file affidavits of candidacy as required by section 420.130. The number of eligible electors signing petitions required for printing the name of a candidate upon the official primary ballot shall be one hundred for an office to be filled by the voters of the entire city and twenty-five for an office to be filled by the voters of a subdivision of the city.

43.117 Davenport—plurality vote nominates and elects. A plurality shall nominate the party candidate for all offices filled by elections authorized by section 43.112, and a plurality shall elect the precinct committeemen.

43.118 Davenport—expense. The entire expense of conducting said municipal primary election and preparation of election registers shall be audited by the city council and paid by the city.

43.119 Misconduct. Any party committeeman or any primary election officer or public officer upon whom a duty is imposed by this chapter or by chapters herein made applicable, who shall willfully neglect to perform any such duty, or who shall willfully perform it in such a way as to hinder the objects thereof, or shall disclose to anyone, except as may be ordered by any court of justice, the manner in which a ballot may have been voted, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

43.120 Bribery—illegal voting. Whoever is guilty of any of the following acts shall be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than six months, to wit:

1. Offering or giving a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at a primary election.

2. Receiving and accepting such bribe, by an elector entitled to vote at any primary election.

3. Making false answers to any of the provisions of this chapter relative to his qualifications and party affiliations.

4. Willfully voting or offering to vote at a primary election by a person who has not met the qualifications to vote.

5. Willfully voting or offering to vote at a primary election by one who knows himself not to be a qualified elector of the precinct where he votes or offers to vote.

6. Violating any provision of this chapter, or any provision of law made applicable to this chapter.

7. Knowingly procuring, aiding, or abetting any violation specified in this section.

43.121 Nominations by petition or nonparty organizations. This chapter shall not be construed to prohibit nomination of candidates for office by petition,¹ or by nonparty organizations,² as hereafter provided in this title,³ but no person so nominated shall be permitted to use the name, or any part thereof, of any political party authorized or entitled under this chapter to nominate a ticket by primary vote, or that has nominated a ticket by primary vote under this chapter.

¹See chapter 45

²See chapter 44

³Title IV, Code of Iowa

Chapter 44 — NOMINATIONS BY NONPARTY POLITICAL ORGANIZATIONS ("THIRD PARTIES")

See section 39.3 for definitions applicable to this chapter.

This chapter provides the second of three methods of getting onto the ballot of the general election. See chapters 43 and 45 for the others.

This chapter is also used in some municipal elections along with chapter 45.

Candidates running as a slate under this chapter are not permitted to use the terms "Republican" or "Democratic" in the title of the ticket. See section 43.121.

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| 44.1 Nonparty political organizations | 44.9 Withdrawals |
| 44.2 Nominations certified | 44.10 Effect of withdrawal |
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| 44.4 Nominations and objections—time and place of filing | 44.12 Insufficient time for convention |
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44.1 Nonparty political organizations. Any convention or caucus of eligible electors representing a political organization which is not a political party as defined by law,¹ may, for the state, or for any division or municipality thereof, or for any county, or for any subdivision thereof, for which such convention or caucus is held, make one nomination of a candidate for each office to be filled therein at the general election. However, in order to qualify for any nomination made for a statewide elective office by such a political organization there shall be in attendance at the convention or caucus where the nomination is made a minimum of two hundred fifty eligible electors including at least one eligible elector from each of twenty-five counties. In order to qualify for any nomination to the office of United States representative there shall be in attendance at the convention or caucus where the nomination is made a minimum of fifty eligible electors who are residents of the congressional district including at least one eligible elector from each of at least one-half of the counties of the congressional district. In order to qualify for any nomination to an office to be filled by the voters of a county or of a city there shall be in attendance at the convention or caucus where the nomination is made a minimum of ten eligible electors who are residents of the county or city, as the case may be, including at least one eligible elector from at least one-half of the voting precincts in that county or city. In order to qualify for any nomination made for the general assembly there shall be in attendance at the convention or caucus where the nomination is made a minimum of ten eligible electors who are residents of the representative district or twenty eligible electors who are residents of the senatorial district, as the case may be,

with at least one eligible elector from one-half of the voting precincts in the district in each case. The names of all delegates in attendance at such convention or caucus and such fact shall be certified to the state commissioner together with the other certification requirements of this chapter.

¹See §43.2

44.2 Nominations certified. Nominations made under section 44.1 shall be certified by the chairman and secretary of the convention or caucus, who shall enter their place of residence opposite their signatures, and attach to said certificate their affidavit to the effect that the certificate is true.

44.3 Certificate. Said certificate shall state:

1. The name of each candidate nominated.
2. The office to which each candidate is nominated.
3. The name¹ of the political organization making such nomination, expressed in not more than five words.
4. The place of residence of each nominee, with the street or number thereof, if any.
5. In case of presidential electors, the names of the candidates for president and vice-president shall be added to the name of the organization.
6. The name and address of each member of the organization's executive or central committee.
7. The provision, if any, made for filling vacancies in nominations.
8. The name and address of each delegate or voter in attendance at a convention or caucus where a nomination is made.

¹See §43.121

44.4 Nominations and objections—time and place of filing. Nominations made under provisions of this chapter, chapter 43 and chapter 45 which are required to be filed in the office of the state commissioner shall be filed in that office not more than eighty-five nor later than five o'clock p.m. on the sixty-seventh day prior to the date of the general election to be held in November; and those nominations made for a special election called pursuant to section 69.14 shall be filed not less than twenty days prior to the date of an election called upon at least forty days' notice and not less than seven days prior to the date of an election called upon at least ten days' notice. Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the commissioner shall be filed in that office not later than five o'clock p.m. on the fifty-fifth day prior to the date of the general election. Nominations made under this chapter or chapter 45 for city office shall be filed not more than sixty-five days nor later than five o'clock p.m. on the fortieth day prior to the city election with the city clerk, who shall process them as provided by law.

Objection to the legal sufficiency of a certificate of nomination or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question. Such objections must be filed with the officer with whom such certificate is filed and within the following time:

1. Those filed with the state commissioner, not less than sixty days before the day of election.
2. Those filed with the commissioner, not less than fifty days before the day of election.
3. Those filed with the city clerk, at least thirty days prior to the municipal election.
4. In case of nominations to fill vacancies occurring after the time when an original nomination for any office is required to be filed, objections shall be filed within three days after the filing of the certificate.

44.5 Notice of objections. When objections are filed notice shall forthwith be given to the candidate affected thereby, addressed to his place of residence as given in the certificate of nomination, stating that objections have been made to said certificate, also stating the time and place such objections will be considered.

44.6 Hearing before state commissioner. Objections filed with the state commissioner shall be considered by the secretary of state¹ and auditor of state and attorney general, and a majority decision shall be final; but if the objection is to the certificate of nomination of one or more of the above named officers, said officer or officers so objected to shall not pass upon the same, but their places shall be filled, respectively, by the treasurer of state, the governor, and the secretary of agriculture.

¹According to the enrolled Act.

44.7 Hearing before commissioner. Objections filed with the commissioner shall be considered by the county auditor, clerk of the district court, and county attorney, and a majority decision shall be final; but if the objection is to the certificate of nomination of one or more of the above named county officers, said officer or officers so objected to shall not pass upon such objection, but their places shall be filled, respectively, by the county treasurer, the sheriff, and county recorder.

44.8 Hearing before mayor. Objections filed with the city clerk shall be considered by the mayor and clerk and one member of the council chosen by the council by ballot, and a majority decision shall be final; but if the objection is to the certificate of nomination of either of those city officials, he shall not pass upon said objection, but his place shall be filled by a member of the council against whom no such objection exists, chosen as above provided.

44.9 Withdrawals. Any candidate named under this chapter or chapter 43¹ may withdraw his nomination by a written request, signed and acknowledged by him before any officer empowered to take acknowledgment of deeds.² Such withdrawal³ must be filed as follows:

1. In the office of the state commissioner, at least sixty days before the day of election.
2. In the offices of the proper commissioner, at least fifty days before the day of the election.
3. In the office of the proper city clerk, at least thirty days before the day of the election.
4. In the office of the state commissioner, in case of a special election to fill vacancies, at least sixteen days before the day of election.
5. In the office of the proper commissioner, in case of a special election to fill vacancies, at least thirty days before the day of election.

¹This section was specifically amended in 1955 to allow candidates named under chapter 43 to withdraw. §43.16 has not been amended since 1913, so it would appear that the Latest Enactment Rule would apply if necessary.

The two statutes can be distinguished in that §43.16 speaks of withdrawing nomination papers whereas this §44.9 deals with a withdrawal of candidacy itself.

²See §§558.20 and 558.26—558.39

³See §43.59 for conflicting dates.

44.10 Effect of withdrawal. No name so withdrawn shall be printed on the official ballot under such nomination.

44.11 Vacancies filled. If a candidate named under this chapter declines a nomination, or dies before election day, or should any certificate of nomination be held insufficient or inoperative by the officer with whom it is required to be filed, or in case any objection made to any

certificate of nomination, or to the eligibility of any candidate therein named, is sustained by the board appointed to determine such questions, the vacancy or vacancies thus occasioned may be filled by the convention, or caucus, or in such manner as such convention or caucus has previously provided. The vacancy or vacancies shall be filled not less than sixty days prior to the election in the case of nominations required to be filed with the state commissioner, not less than fifty days prior to the election in the case of nominations required to be filed with the commissioner, and not less than thirty days prior to the election in the case of nominations required to be filed in the office of the city clerk.

The apparent conflict in filing dates between §§44.11 and 44.14 probably renders the conflicting parts of §44.11 inoperative because of the Last Listing Rule of §4.8.

44.12 Insufficient time for convention. If the time is insufficient for again holding such convention or caucus, or in case no such previous provisions have been made, such vacancy shall be filled by the regularly elected or appointed executive or central committee of the particular division or district representing the political organization holding such convention or caucus.

44.13 Certificates in matter of vacancies. The certificates of nominations made to supply such vacancies shall state, in addition to the facts required in an original certificate, the name of the original nominee, the date of his death or declination of nomination, or the fact that the former nomination has been held insufficient or inoperative, and the measures taken in accordance with the above requirements for filling a vacancy, and shall be signed and sworn to by the presiding officer and secretary of the convention, or caucus, or by the chairman and secretary of the committee, as the case may be.

44.14 Filing of certificates. Said certificates of nominations shall be filed as follows:

1. For state, congressional, and legislative offices, with the state commissioner, not more than eighty-five nor less than sixty-seven days before the general election, and such certificates for all other offices, except for cities, shall be filed with the commissioner not more than seventy-five nor less than fifty-five days before the general election.

2. For municipal office, with the city clerk not more than sixty-five days nor less than forty days prior to the municipal election.

3. In case of special elections to fill vacancies for offices to be filled by the electors of a larger district than a county, with the state commissioner, not less than fifteen days before the time of holding such special election.

4. In case of special elections to fill vacancies for offices to be filled by the voters of a county, with the commissioner, not less than twelve days before the time of holding such special election.

See note following §44.11

44.15 Presumption of validity. Certificates thus filed, and being apparently in conformity with law, shall be regarded as valid, unless objection in writing thereto shall be made, and, under proper regulations, shall be open to public inspection, and preserved by the receiving officer for not less than six months after the election is held.

44.16 Correction of errors. Any error found in such certificate may be corrected by the substitution of another certificate, executed as is required for an original.

Chapter 45 — NOMINATIONS BY PETITION

See section 39.3 for definitions applicable to this chapter.

This chapter provides the third method of getting onto the general election ballot. See chapters 43 and 44 for the others. This chapter governs the general form of nomination papers used for municipal, school, and other offices.

45.1 Nominations by petition
45.2 Adding name by petition

45.1 Nominations by petition. Nominations for candidates for state offices may be made by nomination papers signed by not less than one thousand eligible electors of the state; for candidates for offices filled by the voters of a county, district or other division by such papers signed by eligible electors residing in the county, district or division equal in number to at least two per cent of the total vote received by all candidates for president of the United States or governor, as the case may be, at the last preceding general election in such county, district or division; and for township, city or ward, by such papers signed by not less than twenty-five eligible electors, residents of such township, city or ward.

45.2 Adding name by petition. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.

45.3 Preparation of petition. Each petitioning voter shall add to his signature his residence address, and date of signing. Before filing said petition, there shall be en-

45.3 Preparation of petition
45.4 Filing—presumption—withdrawals—objections

dorsed thereon or attached thereto the affidavit of at least one of the signers of said petition, which affidavit or affidavits shall show:

1. The name and residence (including street and number, if any) of said nominee and the office to which he is nominated.

2. That each of said signers is an eligible elector of the state, as defined by section 39.3, and entitled to vote for such nominee for such office.

3. That each of said petitioners voluntarily signed said petition.

Such petition when so verified shall be known as a nomination paper.

45.4 Filing—presumption—withdrawals—objections. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the law¹ relating to nominations by political organizations which are not political parties.

¹See chapter 44.

Chapter 46 — NOMINATION AND ELECTION OF JUDGES

- 46.1 Appointment of state judicial nominating commissioners
- 46.2 Election of state judicial nominating commissioners
- 46.3 Appointment of district judicial nominating commissioners
- 46.4 Election of district judicial nominating commissioners
- 46.5 Vacancies
- 46.6 Equal seniority
- 46.7 Eligibility to vote
- 46.8 Bar registration
- 46.9 Conduct of elections
- 46.10 Nomination of elective nominating commissioners
- 46.11 Certification of commissioners
- 46.12 Notification of vacancy and resignation
- 46.13 Notice of meetings
- 46.14 Nomination
- 46.15 Appointments to be from nominees
- 46.16 Terms of judges
- 46.17 Time of judicial election
- 46.18 Eligibility of voters
- 46.19 Election registers
- 46.20 Declaration of candidacy
- 46.21 Conduct of elections
- 46.22 Voting
- 46.23 General election and absent voter laws
- 46.24 Results of election
- 46.25 Eligible elector defined

46.1 Appointment of state judicial nomination commissioners. The governor shall appoint, subject to confirmation by the senate, one eligible elector of each congressional district to the state judicial nominating commission for a six-year term beginning July 1. The terms of no more than three nor less than two of such members shall expire within the same two-year period. The governor shall within thirty days following the organization of each regular session of the general assembly, appoint for a like term, with approval of the senate, a successor to the member of the commission from a congressional district whose terms of office will expire June 30 following.

46.2 Election of state judicial nominating commissioners. The resident members of the bar of each congressional district shall elect¹ one eligible elector of such district to the state judicial nominating commission for a six-year term beginning July 1. The terms of no more than three nor less than two of such members shall expire within the same two-year period, the expiration dates being governed by the expiration dates of the terms of the original appointive members. The members of the bar of the respective congressional districts shall in January, immediately preceding the expiration of the term of a member of the commission, elect a successor for a like term.

¹For constitutionality of suffrage granted only to members of the bar, see Article V, §16, Constitution of Iowa.

46.3 Appointment of district judicial nominating commissioners. In January 1972 the governor shall appoint five eligible electors of each judicial election district to the district judicial nominating commission for terms commencing February 1, 1972. He shall appoint two such commissioners to serve until January 31, 1974, two to serve until January 31, 1976, and one to serve until January 31, 1978. In the month of January when each of those terms expire and every six years thereafter the

governor shall appoint district judicial nominating commissions for six-year terms.

46.4 Election of district judicial nominating commissioners. In January 1972 the resident members of the bar of each judicial election district shall elect five eligible electors of the district to the district judicial nominating commission for terms commencing February 1, 1972. One of such commissioners shall serve until January 31, 1974, two until January 31, 1976, and two until January 31, 1978, as determined by lot by such commissioners. In the month of January when each of those terms expire and every six years thereafter such members of the bar of the respective judicial election districts shall elect district nominating commissioners for six year terms.

46.5 Vacancies. When a vacancy occurs in the office of appointive judicial nominating commissioner, the chairman of the particular commission shall promptly notify the governor in writing of such fact. Vacancies in the office of appointive judicial nominating commissioner shall be filled by appointment by the governor. The term of state judicial nomination commissioners so appointed shall commence upon their appointment pending confirmation by the senate at the then session of the general assembly or at its next session if it is not then in session. The term of district judicial nominating commissioners so appointed shall commence upon their appointment.

Except where the term has less than ninety days remaining, vacancies in the office of elective member of the state judicial nominating commission shall be filled by a special election within the congressional district where the vacancy occurs, such election to be conducted as provided in sections 46.9 and 46.10.

Vacancies in the office of elective judicial nominating commissioner of district judicial nominating com-

missioners shall be filled by majority vote of the authorized number of elective members of the particular commission, at a meeting of such members called in the manner provided in section 46.13. The term of judicial nominating commissioners so chosen shall commence upon their selection.

If a vacancy occurs in the office of chairman of a judicial nominating commission, or in the absence of the chairman, the members of the particular commission shall elect a temporary chairman from their own number.

46.6 Equal seniority. If the judges of longest service (other than the chief justice) of the supreme court or of the district court in a district are of equal service, the eldest of such judges shall be chairman of the particular judicial nominating commission.

46.7 Eligibility to vote. To be eligible to vote in elections of judicial nominating commissioners, a member of the bar must have registered in writing with the clerk of the district court of the county of his residence at the last bar registration preceding such election. A judge who has been admitted to the bar of the state of Iowa shall be considered a member of the bar.

For constitutionality, see Article V, §16, Constitution of Iowa.

46.8 Bar registration. A book known as the bar register shall be maintained in each county in the office of the clerk of the district court. Where there are two county seats in a county, the bar register shall be maintained at the more populous county seat. In the first week of May of each odd-numbered year the clerk of the supreme court shall be mail direct each clerk of the district court maintaining a bar register to publish and post the notice hereafter prescribed, but failure of such a clerk of the district court to give the notice shall not invalidate an election of judicial nominating commissioners thereafter held. In May of each odd-numbered year each such clerk of the district court shall post in his office and publish once in an official newspaper in his county a notice substantially as follows:

“NOTICE TO THE BAR
..... County, Iowa

Each member of the bar of the State of Iowa residing in this county is notified to register in writing his name, address, and year of admission to the Iowa bar, in the office of the undersigned in May, 19....., to be eligible to vote in elections of judicial nominating commissioners.

.....
(Name of Clerk)
Clerk of District Court”

On June 1 of each odd-numbered year, each such clerk of the district court shall certify to the clerk of the supreme court the names, addresses, and years of admission of the members of the bar who registered during the preceding month. The clerk of the supreme court shall promptly ascertain from his record of admissions whether the individuals so certified are members of the bar of the state of Iowa and shall delete from the certified list any who are not.

46.9 Conduct of elections. When an election of judicial nominating commissioners is to be held, the clerk of the supreme court shall cause ballots to be mailed in accordance with the current certified list of resident members of the bar to such members of the proper districts, substantially as follows:

See Appendix “A”.

The elector receiving the most votes shall be elected. When more than one commissioner is to be elected, the electors receiving the most votes shall be elected, in the same number as the offices to be filled.

The ballot must be completed and mailed or delivered to the clerk of the supreme court prior to expiration of the period within which the election must be held.

The ballots shall be counted under the direction of the clerk of the supreme court.

46.10 Nomination of elective nominating commissioners. In order to have his name printed on the ballot for state or district judicial nominating commissioner, an eligible elector must file in the office of the clerk of the supreme court at least thirty days prior to expiration of the period within which the election must be held a nominating petition signed by at least fifty resident members of the bar of the congressional district in case of a candidate for state judicial nominating commissioner, or at least ten resident members of the bar of the judicial district in case of a candidate for district judicial nominating commissioner. No member of the bar may sign more nominating petitions for state or district judicial nominating commissioners than there are such commissioners to be elected.

Ballots for state and district judicial nominating commissioners shall contain blank lines equal to the number of such commissioners to be elected, where names may be written in.

46.11 Certification of commissioners. The governor and the clerk of the supreme court respectively shall promptly certify the names and addresses of appointive and elective judicial nominating commissioners to the state commissioner of elections and the chairman of the respective nominating commissions.

46.12 Notification of vacancy and resignation. When a vacancy occurs or will occur within sixty days in the supreme court or district court, the state commissioner of elections shall forthwith so notify the chairman of the proper judicial nominating commission. The chairman shall call a meeting of the commission within ten days after such notice; if he fails to do so, the chief justice shall call such meeting.

When a judge of the supreme court or district court resigns, he shall submit a copy of his resignation to the state commissioner of elections at the time he submits his resignation to the governor; and when a judge of the supreme court or district court dies, the clerk of district court of the county of his residence shall forthwith notify the state commissioner of elections of such fact.

46.13 Notice of meetings. The chairman of each judicial nominating commission shall give the members of the commission at least five days written notice by mail of the time and place of every meeting, except as to members who execute written waivers of notice at or before the meeting or unless the commission at its next previous meeting designated the time and place of the meeting.

46.14 Nomination. Each judicial nominating commission shall carefully consider the individuals available for judge, and within sixty days after receiving notice of a vacancy shall certify to the governor and the chief justice the proper number of nominees, in alphabetical order. Such nominees shall be chosen by the affirmative vote of a majority of the full statutory number of commissioners upon the basis of their qualifications and without regard to political affiliation. Nominees shall be members of the bar of Iowa, shall be residents of the state or district of the court to which they are nominated, and shall be of such age that they will be able to serve an initial and one regular term of office to which they are nominated before reaching the age of seventy-two years. No person shall be eligible for nomination by a commission as judge during the term for which he was elected or appointed to that commission. Absence of a commissioner or vacancy upon the commission shall not invalidate a nomination. The chairman of the commission shall promptly certify the names of the nominees, in alphabetical order, to the governor and the chief justice.

46.15 Appointments to be from nominees. All appointments to the supreme court and district court shall be made from the nominees of the respective judicial nominating commissions.

46.16 Terms of judges. Subject to the provisions of sections 605.24 and 605.25 and to removal for cause:

1. The initial term of office of judges of the supreme court and district court shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year; and

2. The regular term of office of judges of the supreme court retained at a judicial election shall be eight years, and of judges of the district court so retained shall be six years, from the expiration of their initial or previous regular term as the case may be.

46.17 Time of judicial election. Judicial elections shall be held at the time of the general election.

46.18 Eligibility of voters. Electors entitled to vote at the general election shall be entitled to vote at the judicial election. All voting procedures provided by chapter 53 for absent voting by armed forces in general elections shall be applicable to judicial elections.

46.19 Election Registers. The election registers used for the general election shall also constitute the election registers for the judicial election.

46.20 Declaration of candidacy. At least ninety days prior to the judicial election preceding expiration of his initial or regular term of office, a judge of the supreme court or district court including district associate judges may file a declaration of candidacy with the state commissioner of elections, whereupon such judge shall stand for retention or rejection at that election. If a judge fails to file such declaration, his office shall be vacant at the end of his term. District associate judges filing such a declaration shall stand for retention in the county of their residence.

46.21 Conduct of elections. At least fifty-five days prior to each judicial election, the state commissioner of elections shall certify to the county commissioner of elections of each county a list of the judges of the supreme court and district court including district associate judges to be voted on in such county at that election. The county commissioner of elections shall place the names upon the ballot in the order in which they appear in the certificate, unless only one county is voting thereon. The state commissioner of elections shall rotate the names in the certificate by county, or the county commissioner of elections shall rotate them upon the ballot by precinct if only one county is voting thereon. The names of all judges to be voted on shall be placed upon one ballot, which shall be in substantially the following form:

See Appendix "A."

46.22 Voting. Voting at judicial elections shall be by separate paper ballot or by voting machine in the space provided for public measures. If paper ballots are used the election judges shall offer a ballot to each voter. Separate ballot boxes for the general election ballots and the judicial election ballots shall not be required. The general election ballot and the judicial election ballot may be voted in the same voting booth.

46.23 General election and absent voter laws. So far as applicable general election and absent voter laws shall apply to judicial elections. An application for an absent voter ballot for a general election shall also constitute an application for an absent voter ballot for a judicial election to be held at the same time, and the ballots shall be mailed or delivered to the voter together. The sealed envelope transmitted by the absent voter to the county commissioner of elections containing the absent voter general election ballot may also contain the judicial election ballot.

46.24 Results of election. A judge of the supreme court or district court including district associate judge must receive more affirmative than negative votes to be retained in office. When the poll is closed, the election judges shall publicly canvass the vote forthwith. The board of supervisors shall canvass the returns at its meeting on Monday after the election, and shall promptly certify the number of affirmative and negative votes on each judge to the state commissioner of elections.

The state board of canvassers shall, at the time of canvassing the vote cast at a general election, open and canvass all of the returns for the judicial election. Each judge of the supreme court or district court, including district associate judge, who has received more affirmative than negative votes shall receive from the state board of canvassers an appropriate certificate so stating.

46.25 Eligible elector defined. As used in this chapter, the term "eligible elector" has the meaning assigned that term by section 39.3.

Chapter 47 — ELECTION OFFICIALS AND VOTER QUALIFICATIONS

See section 39.3 for definitions applicable to this chapter.

- 47.1 State commissioner of elections
- 47.2 County commissioner of elections
- 47.3 Election expenses

47.1 State commissioner of elections. The secretary of state is designated as the state commissioner of elections¹ and shall supervise the activities of the county commissioners of elections. There is established within the office of the secretary of state a division of elections which shall be under the direction of the state commissioner of elections. The state commissioner of elections may appoint a person² to be in charge of the division of elections who shall perform such duties as may be assigned to him by the state commissioner of elections. The state commissioner of elections shall prescribe uniform election practices and procedures and shall prescribe the necessary forms required for voter registration and the conduct of elections. The state commissioner of elections may adopt rules and regulations, pursuant to chapter 17A, to carry out the provisions of this section.

See also §53.46

¹*Melvin D. Synhorst, Des Moines.*

1974-75 salary: \$22,500

1973-74 salary: \$22,500

1972-73 salary: \$18,500

²*Louise A. Whitcome, Ames.*

1974-75 salary: \$13,812

1973-74 salary: \$13,812

1972-73 salary: \$12,918

- 47.4 Voter qualifications
- 47.5 Purchasing by competitive bidding

47.2 County commissioner of elections. The county auditor of each county is designated as the county commissioner of elections in each county. The county commissioner of elections shall conduct voter registration pursuant to chapter 48 and conduct all elections within the county.

All election and registration duties prior to April 8, 1972, imposed upon other public officials within the county are transferred to the county commissioner of elections.¹

When an election is to be held as required by law or is called by a political subdivision of the state and the political subdivision is located in more than one county, the county commissioner of elections of the county having the greatest taxable base² within the political subdivision shall conduct that election. The county commissioners of elections of the other counties in which the political subdivision is located shall cooperate with the county commissioner of elections who is conducting the election.

The governing body of any political subdivision which has decided to call an election under any law permitting that governing body discretion to fix the date of the election shall, before finally determining

the date for the election, consult with the commissioner who will be responsible for conducting the election regarding the date on which the election may most conveniently be held, within the limitations imposed by the law authorizing the election.

The commissioner may designate as a deputy county commissioner of elections any officer of a political subdivision who is required by law to accept nomination papers filed by candidates for office in that political subdivision, and when so designated that person shall assist the commissioner in administering elections conducted by the commissioner for that subdivision. The designation of a person as a deputy commissioner of elections pursuant to this section, once made, shall continue in effect until the designation is withdrawn by the commissioner.

The commissioner shall appoint the city clerk to conduct municipal elections in cities³ acting under a special charter in 1973 and having a population of over fifty thousand.

¹Although it has not been repealed, this paragraph was not printed in the Code of Iowa, 1973.

²See appendix E for taxable base.

³Davenport only.

47.3 Election expenses. The costs of conducting a special election called by the governor, general election, and the primary election held prior to the general election shall be paid by the county.

The cost of conducting other elections shall be paid by the political subdivision for which the election is held. The costs shall include, but not be limited to, the printing of the ballots and the election register, publication of notices, printing of declaration of eligibility affidavits, compensation for precinct election boards, canvass materials, and the preparation and installation of voting machines. The county commissioner of elections shall certify to the county board of supervisors a statement of cost for an election. The cost shall be assessed by the county board of supervisors against the political subdivision for which the election was held.

Costs of registration and administrative and clerical costs shall not be charged as a part of the election costs.

If voting machines are used in any election, the county commissioner of elections shall not charge any political subdivision of the state a rental fee for the use of any voting machines.

47.4 Voter qualifications.

See also Article II, Constitution of Iowa

1. Every citizen of the United States of the age of eighteen years or older who is a resident of this state shall be an eligible elector.

2. Every qualified elector of the state shall have only one voting residence.

3. Every citizen of the United States of the age of eighteen or older is presumed to have a residence some place in the United States for the purpose of voting for president and vice president of the United States.

4. A person's residence, for voting purposes only, is the place which he declares is his home with the intent to remain there permanently or for a definite or indefinite or undeterminable length of time.

However, see Art. II, §4, Constitution of Iowa, for limitation on servicemen stationed in this state.

5. Every eligible elector shall¹ be registered pursuant to the provisions of chapter 48 to qualify to vote in any² election.

¹This is not a requirement until January 1, 1975, in areas where permanent registration was not in effect on June 30, 1973. See §48A.1.

²See §53.38 for servicemen in primary and general elections.

If a person who meets the above requirements moves to a new residence, within or without the state, and does not meet the voter requirements at his new residence, he may vote at his former precinct in Iowa until he meets the voter requirements of his new residence. However, a person who has moved to a new residence and fails to register to vote at his new residence after becoming eligible to do so shall not thereafter be entitled to vote at his former precinct in Iowa.

47.5 Purchasing by competitive bidding. The commissioner shall take bids for any goods and services which will be performed or provided by persons who are not employees of the commissioner and where the costs of such services exceed five thousand dollars per contract in the case of contracts for the printing of ballots or, in the case of other services, two thousand five hundred dollars per contract. No bids shall be required for legal services. The commissioner shall publish notice to bidders, including specifications regarding the goods or services to be purchased or a description of the nature and object of the services to be retained, in a newspaper of general circulation in the county not less than fifteen days before the final date for submission of bids. The commissioner shall also file a copy of the bid specifications in the office of the state commissioner for a period of not less than twenty days prior to the date the bid is let. When competitive bidding procedures are used, the purchase of goods or services shall be made from the lowest responsible bidder which meets the specifications or description of the services needed or the commissioner may reject all bids and readvertise. In determining the lowest responsible bidder, various factors may be con-

sidered, including but not limited to the past performance of the bidder relative to quality of product or service, the past experience of the purchaser in relation to the product or service, the relative quality of products or services, the proposed terms of delivery and the best interest of the county.

A county shall not enter into an intergovernmental agreement with any other political subdivision of the

state for acquisition of goods or performance of services until an audit has been conducted by the auditor of state or an independent certified public accountant not in the regular employ of the counties executing an agreement which sets forth the costs of each county for providing goods and services.

Any election or registration data or records which may be in the possession of a contractor shall remain the property of the commissioner.

Chapter 48 — PERMANENT REGISTRATION

See section 39.3 for definitions applicable to this chapter.

48.1 Commissioner of registration
 48.2 Who may register
 48.3 Repealed
 48.4 Commissioner of registration—duties
 48.5 Registration records
 48.6 Form of records
 48.7 Change of address notice
 48.8 Election registers
 48.9 Repealed
 48.10 Deceased persons—record
 48.11 Registration time limits
 48.12 Disabled or absent voters
 48.13—48.14 Repealed
 48.15 Challenges

48.16 Penalties
 48.17 Qualification of officers
 48.18—48.22 Repealed
 48.23 Mobile deputy registrars—appointment
 48.24 Permanent board
 48.25 Qualifications
 48.26 Duties
 48.27 Termination
 48.28 Repealed
 48.29 Removal of registration
 48.30 Notification of changes in registration
 48.31 Cancellation of registration
 48.32 Annual report

48.1 Commissioner of registration. The commissioner of elections of each county is designated the commissioner of registration for that county. He may designate the city clerk of any city in the county as a deputy commissioner of registration who shall be responsible for voter registration, subject to the supervision of the county commissioner.

48.2 Who may register. Any person who is an eligible elector may register to vote with the commissioner of registration or a deputy commissioner of registration in the county of his residence. Any person who is an eligible elector in all respects except that he has not attained the age of eighteen may, at any time during the six months next preceding his eighteenth birthday, register to vote in the county of his residence. When a person less than eighteen years of age registers, the commissioner shall affix to the receipt of registration, issued as provided by section 48.6, a date which shall

be the registrant's eighteenth birthday and the receipt shall state on its face that the person is registered and qualifies to vote in any election held on or after the date affixed to the registration receipt.

48.4 Commissioner of registration—duties. The commissioner of registration shall have complete charge of the registration of all qualified voters within the county. He shall appoint such deputies and clerks as may be necessary, from the two political parties receiving the highest vote at the last general election. Notwithstanding the provisions of this section, the commissioner of registration may also appoint a city clerk as a deputy.¹ The number of such deputies and clerks for all precinct² registration places, and the central registration office, shall be equally divided between the members of the two said political parties. These appointments shall be subject to the approval of the county board of supervisors. The commissioner of

registration shall provide such printed forms and blanks as may be necessary, together with such other supplies and equipment as are necessary to properly carry out the provisions of this chapter. Registration places shall be established throughout the cities or counties.

¹Although it has not been repealed, this sentence was not printed in the Code of Iowa, 1973.

²Precinct registration (§48.26, Code of Iowa, 1971) repealed by §1025.35, 64 G.A.

48.5 Registration records. The county commissioner of registration shall safely maintain at his office or other designated locations the original registration records of all qualified electors in his county. The original registration records shall not be removed from his office or other designated locations except upon court order. One copy¹ of the original registration records which includes the elector's name, address, precinct, and party affiliation shall be prepared before the primary election and on August 1 preceding the general election, upon request and without charge, for the county chairman of each political party. The county commissioner of registration shall, each week, upon demand and without charge, from August 1 until October 1, prior to the general election and each day thereafter until the close of registration, provide the county chairman of each political party a list of electors who have registered since the last such list was provided. Additional copies may be provided to political parties at cost. Duplicate registration records shall be open to inspection by the public at reasonable times.

Such lists shall not be used² for any commercial purpose, advertising, or solicitation, of any kind or nature, other than to request such person's vote at a primary or general election, or any other bona fide political purpose. The commissioner shall keep a list of the name, address, telephone number, and social security number of each person who copies or duplicates such lists. Any person that uses such lists in violation of this section shall, upon conviction, be imprisoned in the county jail, not to exceed one year, or be fined not to exceed one thousand dollars, or by both such fine and imprisonment, for each violation.

¹Where the list is available in more than one form, the county commissioner must furnish the data in whichever form each of the political parties requests, provided that if one form is more expensive than another a party requesting the more expensive form may be charged the difference, according to an Opinion of the Attorney General (Jan. 28, 1974).

²The commissioner must permit every citizen, corporate or otherwise, to examine the list, but the commissioner cannot be held responsible if a copy of it is used contrary to this §48.5. Such improper use is imputable solely to the perpetrator and subjects him to penalties, according to an Opinion of the Attorney General (Jan. 28, 1974). See also chapter 68A of the Code for a citizen's right to examine and copy public records in general.

48.6 Form of records. The registration forms shall be large enough to contain the necessary information required in legible writing. The registration form shall require the following information to be provided:

1. The name of the applicant in full. Whenever any change of name shall occur, the registrant shall not be allowed to vote until the registrant has reregistered, and after such reregistration the previous registration record shall be removed from the files. Where the only change in the previous registration information is a legal change of surname, the registrant may effect the reregistration required by this subsection by mailing the county commissioner a written notice stating in full both the name under which the registrant was previously registered and the name under which the registrant is now to be registered, and the registrant's social security number, if available.

2. Residence, giving name and number of the street, avenue, or other location of the dwelling, and such additional clear and definite description as may be necessary to give the exact residence of the applicant. Post office box numbers shall not be used unless no other method of identifying the residence exists for the community.

3. Date of birth.

4. Sex.

5. Date of registration.

6. Ward, precinct, school district, and such other districts in which the registrant resides which are empowered to call special elections.

7. Last previous address if the registrant has resided at his present address for less than five years.

8. Party affiliation. No party affiliation need be stated if the registrant declines to make such statement.

9. An affidavit in such form as prescribed by the state commissioner of elections which states that the registrant will be a qualified elector on the day of the next known election.¹

10. An expressed authorization to cancel all other registrations to vote.

11. The social security number of the registrant, if available.

12. The signature of registrant.

A receipt of registration shall be given to each registrant. If a person registers to vote while registration is closed preceding any election, the county commissioner of registration shall affix a date to the receipt which date shall be the day after the election for which registration is closed and the receipt shall state on its face that the person is registered and qualifies to vote in any election held on or after the date affixed to the registration receipt.

¹See Appendix "A" for form of affidavit.

48.7 Change of address notice. Change of address notice shall be provided for the use of any registered voter moving to a new location within the county. Change of address notice shall provide space for the previous address of the voter, the address of the exact location to which he is moving, and his signature. Any written notification from the voter containing the required information and signature shall be sufficient to validate his registration. If the commissioner of registration receives written notification of change of address from any registered voter in the county and the notification does not contain the required information, the commissioner shall immediately mail to the voter at his last known address notice that his registration is defective. Upon receipt of any valid change of address notice received on or before the last day of registration before any election, the commissioner of registration shall make entry of any change on the original and duplicate registration lists and the voter shall be qualified to vote in the new election precinct. If an elector moves before the close of registration and does not record a change of address with the county commissioner of registration, he shall not be qualified to vote.

48.8 Election registers. The county commissioner of registration shall prepare an election register for each county precinct between the time of the closing of registration and election day. The election register shall be a copy of the list of all qualified electors of the precinct and shall be in a form¹ prescribed by the state commissioner of elections.

If the name of a registered elector does not appear in the election register, the county commissioner of elections may authorize a correction to the election register by the judges of election at the precinct. Authorization to correct the election register need not be in writing and may be transmitted by telephone. The authorization must verify the registration in question and be made by the county commissioner of elections who shall make a written record verifying every authorized correction.

¹See Appendix "A"

48.10 Deceased persons—record. It is the mandatory duty of each local registrar and deputy registrar of vital statistics to provide the commissioner of registration of his county with a certified list of the names and last known addresses, and social security numbers and dates of birth, if known, of all persons eighteen years of age or over who have died in his county. Such lists shall be delivered by the tenth day of each

month. The commissioner of registration, shall, upon receipt of such report, examine the original registration list and shall remove the registration records of all registered persons certified by the local registrar or deputy registrar of vital statistics as deceased.

48.11 Registration time limits. The county commissioner of registration shall register, on forms prescribed by the state commissioner of elections, electors for elections in a precinct until the close of registration in the precinct. An elector may register during the time registration is closed in the elector's precinct but the registration shall not become effective until registration opens again in his precinct.

Registration shall close in a precinct at five o'clock p.m., ten¹ days before an election.

¹This is the second Saturday before a Tuesday election. Where the tenth day before an election falls on a Saturday the registration office should be kept open, according to an Opinion of the Attorney General (Oct. 17, 1972).

48.12 Disabled or absent voters. Any person entitled to register who is permanently disabled by sickness or otherwise, or who will be absent from the election precinct until after the next succeeding election, may apply in writing to the commissioner of registration, who shall forward to such person the necessary forms for permanent registration, which shall be executed before a notary public by the applicant and returned to the commissioner of registration. If a form is properly executed and shows that the voter is duly qualified, and is returned during the period when registrants are allowed to register in person, then the applicant's name shall be placed on the registration list.

48.15 Challenges. Any person may challenge a registration at any time by filing a written challenge with the commissioner of registration. The commissioner of registration shall immediately give five days notice of a hearing by registered or certified mail to the challenger and the person challenged. If the person challenged fails to appear, his name shall be removed from the registration list. However, if the person challenged notifies the commissioner prior to the date set for the hearing that he is unable to appear on the date specified, the commissioner may reschedule the hearing. At such hearing the commissioner shall hear such evidence as he deems to have probative value. The person challenged shall be required to sign an affidavit as provided in section 48.6, subsection 9, and may then be questioned concerning his voting residence and qualifications. In all

cases the commissioner shall decide the right to the entry under the evidence. Either party may appeal to the district court of the county in which the challenge is made, and a date for the hearing shall be fixed and the decision of such court shall be final.

48.16 Penalties. Any officer or employee who shall willfully fail to perform or enforce any of the provisions of this chapter, or who shall unlawfully or fraudulently remove any registration card or record from its proper compartment in the registration records, or who shall willfully destroy any record provided by this chapter, or any person who shall willfully or fraudulently register more than once, or register under any but his true name, or votes or attempts to vote by impersonating another who is registered, or who willfully or fraudulently registers in any election precinct where he is not a resident at the time of registering, or who adds a name or names to a page or pages, or who violates any of the provisions of this chapter, shall be guilty of felony and, upon conviction, shall be imprisoned in the state penitentiary for not less than one year.

48.17 Qualifications of officers. Before entering upon his duties, each officer or clerk in whatever capacity shall subscribe to an oath in such form¹ as provided by the state commissioner.

¹See Appendix "A"

48.23 Mobile deputy registrars—appointment. Mobile deputy registrars shall be appointed by the county commissioner of registration not more than one hundred eighty days prior to any general election or not more than one hundred twenty days prior to any primary, general or partisan city election, or any election held pursuant to section 69.14, in accordance with the following guidelines:

1. Mobile deputy registrars shall be selected from lists of nominees submitted to the county commissioner of registration by the county chairman of the two political parties receiving the highest number of votes in that county in the last preceding general election.

2. Each political party shall submit a list of nominees and may request not more than one person for each one thousand six hundred residents or major fraction thereof in the county to be appointed as mobile deputy registrars.

3. The county commissioner of registration shall make the requested number of appointments from the lists submitted by the county chairman not more than thirty days from the date the lists of nominees were submitted. If persons listed by the county chairman cannot serve or are disqualified, the county chairman

may add additional names to his list. The additional persons shall be appointed within five days if the next election is to be held within ninety-five days.

4. The appointment of mobile deputy registrars from one political party shall not be contingent upon the other political party submitting a list of nominees.

5. The fact that any political party does not submit a list including the full number of names which may be appointed shall not preclude the appointment of the full number of persons to which any other political party is entitled.

6. The term of office of mobile deputy registrars appointed under the provisions of this section shall expire at five o'clock p.m. on the day registration closes prior to the general election or at the time the mobile deputy registrar returns his supplies to the county commissioner of registration, whichever occurs first.

7. When an election has been called pursuant to section 69.14, mobile deputy registrars shall be appointed within three days after submission of a list of nominees by the county chairman of either of the two political parties whose candidates for president of the United States or for governor, as the case may be, received the largest and next largest number of votes in the county at the last general election. [48.27(1), editorially divided]

48.24 Permanent board. There is established in each county a permanent board of mobile deputy registrars who shall be selected from lists of nominees submitted to the county commissioner of registration by the county chairman of the two political parties polling the highest number of votes in the county in the last preceding general election. The chairman of the two political parties shall submit a list of nominees to serve as registrars on the permanent mobile deputy registrar board not later than January 15 of each year. The county commissioner of registration shall, not later than January 31 of each year, appoint one person from each political party for each 10,000 residents or major fraction thereof in the county to serve as mobile deputy registrars on the permanent mobile deputy registrar board. The county commissioner of registration shall appoint at least two mobile deputy registrars to serve on the board in each county from each political party. If a county chairman of a political party does not submit a list of nominees for the permanent mobile deputy registrar board, the county commissioner of registration shall appoint persons known to be members of that political party to serve as permanent mobile deputy registrars. The term of office of permanent mobile deputy registrars shall commence on the date of appointment and shall continue until December 31 of that year. [48.27(2), editorially divided]

48.25 Qualifications. Mobile deputy registrars shall meet the following qualifications:

1. Mobile deputy registrars shall reside in the county of the county commissioner of registration making the appointment.

2. Mobile deputy registrars shall be persons of known good character who are at least eighteen years of age and who are familiar with the registration laws of the state. Mobile deputy registrars shall be persons who have clear handwriting and who exhibit to the commissioner the capability for making records in a neat and accurate manner. The commissioner may require a handwriting sample to insure that this requirement is fulfilled.

3. Mobile deputy registrars shall take a training course prescribed by the commissioner and upon completion thereof shall take an oath of office administered by the commissioner.

4. No candidate for an office to be filled by the voters at any election shall serve as a mobile deputy registrar. [48.27(3), editorially divided]

48.26 Duties. Mobile deputy registrars shall perform their duties according to the following guidelines:

1. They shall secure registration of eligible voters anywhere in the jurisdiction of the county commissioner of registration. It shall be unlawful for any mobile deputy registrar to refuse to register any eligible voter and any unreasonable refusal shall be a misdemeanor.

2. Mobile deputy registrars shall register electors on registration forms provided by the county commissioner of registration. These forms shall be numbered and accounted for by the mobile deputy registrar to the county commissioner of registration. There shall be provided on said form a space for the signature of the mobile deputy registrar who shall sign same and identify himself in the presence of the voter with appropriate identity papers or badge provided by the county commissioner of registration. The mobile deputy registrar shall give the voter a receipt signed by the mobile deputy registrar stating that such person is duly registered.

3. Mobile deputy registrars shall serve without compensation from any source.

4. Mobile deputy registrars shall return all completed registration records at least weekly to the county commissioner of registration except that completed registration records shall be turned in at least every two working days during the last ten days of registration. All completed and unused material must be turned in no later than six o'clock on the day registration closes for the election. Failure to comply with this provision shall be a misdemeanor.

5. Mobile deputy registrars shall not influence the elector in designating party affiliation during the registration process.

6. It shall be the duty of the state commissioner to designate a suitable voter registration form for the purposes of this section. [48.27(4), editorially divided]

See Appendix "A" for form.

48.27 Termination. The county commissioner of registration may terminate the appointment of a mobile deputy registrar who is not properly registering electors, and shall immediately terminate the appointment upon the written request of the county chairman of the party from whose list of nominees the mobile deputy registrar was selected. When an appointment is terminated the county commissioner of registration shall promptly notify the county chairman of the political party which nominated the mobile deputy registrar whose appointment has been terminated, and shall appoint another person within five days from a list of substitute nominees provided by that county chairman. A mobile deputy registrar whose appointment is terminated shall immediately return all of his supplies to the county commissioner of registration. If a mobile deputy registrar's appointment is terminated within thirty days of an election, other than by request of the county chairman of the party from whose list of nominees the mobile deputy registrar was appointed, a replacement shall be appointed within twenty-four hours from a list of substitute nominees provided by the appropriate county chairman. [48.27(5), editorially divided]

48.29 Removal of registration. The county commissioner of registration who registers an elector who has changed his residence shall notify the county commissioner of registration of the registrant's former residence that the registrant has become a qualified elector at his present residence. The registrant shall execute an authorization to the county commissioner of registration of his former residence to remove the registrant's registration. The county commissioner of registration of the former residence shall cause the registrant's record to be removed from his file of valid registrations.

48.30 Notification of changes in registration. The clerk of the district court shall promptly notify the county commissioner of registration of changes of name and of convictions of infamous crimes or felonies, or legal declarations of mental incompetence¹ and of diagnosis of severe or profound mental retardation, or of severe psychiatric illness of persons of voting age.

The clerk of the district court shall also notify the county commissioner of registration of the restoration of citizenship of a person who has been convicted of

an infamous crime or felony and of the finding that a person is of good mental health. The notice will not restore voter registration. The county commissioner of registration shall notify the person whose citizenship has been restored or who has been declared to be in good mental health that his registration to vote was canceled and he must register again to become a qualified elector.

The clerk is required to notify the commissioner when a person is placed under guardianship or conservatorship because of mental problems; he need not notify the commissioner if the incompetency is merely because of a physical impairment. Such notice should be limited to situations where the presence of serious mental problems has been established, according to an Opinion of the Attorney General (Aug. 28, 1972).

48.31 Cancellation of registration. The registration of a qualified elector shall be canceled in any of the following instances:

1. The elector fails to vote once in the last preceding four consecutive calendar years.
2. The elector registers to vote in another place.
3. The elector does not record a change of address.
4. The elector dies.
5. The clerk of district court sends notification of an elector's conviction of an infamous crime or felony.
6. The clerk of district court sends notification of a legal determination that the elector is severely or profoundly mentally retarded, or has been diagnosed as ill for severe psychiatric reasons, or under conservatorship or guardianship by reason of incompetency.

Certification by the superintendent of a mental health hospital or other institution upon the discharge of any such person that he is, at that time, restored to good mental health shall qualify such person to again be an elector, subject to the other provisions of this chapter. Termination by the court of any such conservatorship or guardianship shall qualify any such ward to again be an elector, subject to the other provisions of this chapter.

7. The elector does not record a change of name.

8. When first class mail, which is designated "not to be forwarded," was addressed to the elector at the address shown on the registration records and is returned by the postal service.

Whenever a registration is cancelled, notice of the cancellation shall be sent to the registrant at his last known address shown upon the registration records. Such notice shall be sent first class mail and bear the words "Please Forward." However, notice is not necessary when the cancellation is due to death or if an authorization for the removal of his registration is received as provided in this chapter.

48.32 Annual report. The county commissioner of elections shall make reports as required by the state commissioner of elections. On August first of each year the state commissioner of elections shall report the number of persons registered in each political party in each county.

Chapter 48A — IMPLEMENTING STATE-WIDE REGISTRATION

Chapter 136, Acts of the 65th General Assembly, extended permanent voter registration to all areas of the state as of January 1, 1975, while leaving permanent voter registration in effect where it was previously being used. This chapter contains provisions of law which cover the initial registration of voters. Because these sections are temporary, they will not be printed in future compilations of the statutes.

48A.1 Transition
48A.2 State commissioner to resolve conflicts
48A.3 Progress report
48A.4 Registration at the polls
48A.5 Signs at polls

48A.6 Election board to register voters
48A.7 Additional registrars
48A.8 Primary election in 1974
48A.9 Appointment and compensation

48A.1 Transition. The operation of section 47.4(5), insofar as it requires that eligible electors be registered in the manner prescribed by chapter 48 as a prerequisite to voting at any election or serving as election officials, is suspended in its operation until January 1, 1975 with respect to any county or portion of a county in which registration of eligible electors was not required as a prerequisite to voting by section 48.1, Code of Iowa, 1973, or pursuant to section 48.22, Code of Iowa, 1973, on June 30, 1973. Nothing in this

section shall be construed to prevent or limit the full operation in all parts of the state of any of the provisions of chapter 48 which pertain to the procedure for registering electors to vote in future elections. It is the intent of this section that persons who were not required to register to vote prior to July 1, 1973, may vote without registering until January 1, 1975 in those areas where permanent voter registration was not required prior to July 1, 1973, and that after January 1, 1975 voter registration will be required

throughout this state as prescribed by chapter 48. [HF745.399]

48A.2 State commissioner to resolve conflicts. The state commissioner of elections shall adopt rules pursuant to chapter 17A providing necessary procedures for selection of jurors¹ and for conducting elections after July 1, 1973 and prior to January 1, 1975 in those areas of the state where permanent registration is not required as a prerequisite to voting, and the continued use of pollbooks² rather than election registers will therefore be necessary, until that date.

The procedures prescribed by the rules of the state commissioner shall be substantially in accord with those prescribed by the Code of Iowa, 1973, with respect to use of pollbooks, but shall take account of amendments to the elections laws which, in the judgment of the state commissioner, it is feasible to implement immediately. [HF745.399]

¹Secretary of state rule 5.1:

5.1 Selection of jurors. In those areas of the state where permanent registration is not required as a prerequisite to voting the selection of jurors shall be the same as prescribed in chapter 609, Code of Iowa, 1973, and shall be in effect until December 31, 1974. [adopted 1-31-74]

²Secretary of state rule 5.2:

5.2 Use of pollbooks. In those areas of the state where permanent registration is not required as a prerequisite to voting the commissioner of elections shall continue the use of pollbooks as prescribed by the Code of Iowa, 1973, until December 31, 1974. The commissioner of elections in the conduct of all elections shall follow the election laws of the Code of Iowa, 1973, as amended by the 1973 Acts of the 65th GA, chapter 136. [adopted 1-31-74]

48A.3 Progress report. The county commissioner of elections of each county to all or any portion of which section 48A.1 is applicable, shall on August 30, 1974 send a report to the state commissioner of elections stating the total number of persons registered to vote in that county or portion of a county as of that date. If the report has not been received by the state commissioner by September 10, 1974 he shall investigate the cause of the delay. If it appears from the report that the number of persons registered to vote in that county or portion of a county is unduly low, the state commissioner shall consult with the county commissioner of the county involved regarding measures which may be employed to encourage registration of eligible electors as voters prior to January 1, 1975. [HF1399.96]

48A.4 Registration at the polls. At each election held after July 1, 1973, and before January 1, 1975, in any county or portion of a county in which registration is not required as a prerequisite to voting, pursuant to section 48A.1, there shall be provided to each elector appearing at the polls on election day an op-

portunity to register to vote in elections held after January 1, 1975. [HF745.400, HF1399.92]

48A.5 Signs at polls. At each such election there shall be prominently displayed in every polling place one or more signs which state "You May Register To Vote Here Today. You Will Not Be Allowed To Vote After January 1, 1975 Until You Are Registered." [HF1399.92]

Such signs are available from Iowa Data, Box 1168, Cedar Rapids, Iowa 52406 for fifty cents each, plus shipping.

48A.6 Election board to register voters. Registration of voters at the polls under section 48A.4 shall be conducted in accordance with chapter 48 insofar as possible. It shall be the duty of the precinct election officials, in addition to their usual duties, to register all eligible electors as defined by section 39.3(1) who desire to register at the polls as permitted by section 48A.4, unless the county commissioner of registration appoints other persons to perform this duty. [HF745.400, HF1399.92]

48A.7 Additional registrars. The county commissioner of registration shall in advance of the 1974 general election, and may in advance of any other election occurring after July 1, 1973 and before January 1, 1975, appoint¹ two or more persons in addition to the precinct election officials to register electors at each polling place on election day as permitted by section 48A.4. [HF745.400, HF1399.92]

¹See §48A.9 for manner of appointment.

48A.8 Primary election in 1974. The appointment, pursuant to section 48A.7, of two or more persons in addition to the precinct election officials to register electors at each polling place at the June 4, 1974 primary election shall be mandatory in each county or portion of a county to which section 48A.1 is applicable if on May 15, 1974 the total number of persons in that county or portion of a county who are registered to vote does not equal or exceed ten percent of the total population of that county or portion of a county as shown by the 1970 federal decennial census.¹ [HF1399.94]

¹See congressional district map in chapter 40 for 1970 official populations.

48A.9 Appointment and compensation. The appointments shall be made in the manner prescribed by section 48.23(1) for appointment of mobile deputy registrars, and the persons so appointed shall be compensated for their services at the polling place on election day in the same manner as provided by section 49.20 for precinct election officials. [HF1399.92]

Chapter 49 — METHOD OF CONDUCTING ELECTIONS

See section 39.3 for definitions applicable to this chapter.

- 49.1 Elections included
- 49.2 Repealed
- 49.3 Election precincts
- 49.4 Precincts drawn by county board
- 49.5 City precincts
- 49.6 Power to combine township and city precincts
- 49.7 When reprecincting required
- 49.8 Changes in precincts
- 49.9 Proper place of voting
- 49.10 Polling places for certain precincts
- 49.11 Notice of boundaries of precincts—merger or division
- 49.12 Election boards
- 49.13 Commissioner to appoint members, chairman
- 49.14 Repealed
- 49.15 Commissioner to draw up election board panel
- 49.16 Tenure of election board panel
- 49.17 Repealed
- 49.18 Vacancies occurring on election day
- 49.19 Optional authority for certain city precincts
- 49.20 Compensation of members
- 49.21 Polling places
- 49.22 Repealed
- 49.23 Notice of change
- 49.24 Schoolhouses as polling places
- 49.25 Equipment required at polling places
- 49.26 Commissioner to decide method of voting
- 49.27 Precincts where some electors may not vote for all candidates or questions
- 49.28 Commissioner to furnish registers and supplies
- 49.29 Voting by ballot or machine
- 49.30 All candidates on one ballot—exception
- 49.31 Arrangement of names on ballot
- 49.32 Candidates for president in place of electors
- 49.33 One square for president and vice-president
- 49.34 United States senators
- 49.35 Order of arranging names
- 49.36 Candidates of nonparty organization
- 49.37 Columns to be separated
- 49.38 Candidate's name to appear but once
- 49.39 Dual nomination
- 49.40 Failure to designate
- 49.41 Repealed
- 49.42 Form of official ballot
- 49.43 Ballot for Constitutional amendment or other public measure
- 49.44 State commissioner to prepare summary
- 49.45 General form of ballot
- 49.46 Marking ballots on public measures
- 49.47 Notice on ballots
- 49.48 Repealed
- 49.49 Printing of ballots on public measures
- 49.50 Endorsement and delivery of ballots
- 49.51 Commissioner to control printing
- 49.52 Repealed
- 49.53 Publication of ballot and notice
- 49.54 Cost of publication
- 49.55 Delivery of supplies to officials
- 49.56 Maximum cost of printing
- 49.57 Method and style of printing ballots
- 49.58 Vacancies certified before ballots are printed
- 49.59 Vacancies certified after ballots are printed
- 49.60 Inserting name of vacancy nominee
- 49.61 Furnishing election board name of nominee—
pasters
- 49.62 Filling in name of vacancy nominee
- 49.63 Time of printing—inspection and correction
- 49.64 Number ballots delivered
- 49.65 Packing ballots—delivery—receipts—records
- 49.66 Reserve supply of ballots
- 49.67 Form of reserve supply
- 49.68 State commissioner to furnish instructions
- 49.69 Repealed
- 49.70 Precinct election officials furnished instructions
- 49.71 Posting instruction cards and sample ballots
- 49.72 Absentee voters designated before polling place opened
- 49.73 Time of opening and closing polls
- 49.74 Qualified electors entitled to vote after closing time
- 49.75 Oath
- 49.76 How administered
- 49.77 Ballot furnished to voter
- 49.78 Repealed
- 49.79 Challenges
- 49.80 Examination on challenge
- 49.81 Oath in case of challenge
- 49.82 Voter to receive one ballot—endorsement
- 49.83 Names to be marked on election register
- 49.84 Marking and return of ballot
- 49.85 Depositing ballots
- 49.86 Failure to vote—return of ballot
- 49.87 Prohibited ballot—taking ballot from polling place
- 49.88 Limitation on persons in booth and time for voting
- 49.89 Selection of officials to assist voters
- 49.90 Assisting voter
- 49.91 Assistance indicated on register
- 49.92 Voting mark
- 49.93 But one vote for same office except in groups
- 49.94 How to mark a straight ticket
- 49.95 Voting part of ticket only
- 49.96 Group candidates for offices of same class
- 49.97 How to mark a mixed ticket
- 49.98 Counting ballots
- 49.99 Writing name on ballot
- 49.100 Spoiled ballots
- 49.101 Defective ballot does not nullify vote
- 49.102 Defective ballots
- 49.103 Wrong ballots
- 49.104 Persons permitted at polling places
- 49.105 Ordering arrest
- 49.106 Repealed
- 49.107 Prohibited acts on election day
- 49.108 Penalty
- 49.109 Employees entitled to time to vote
- 49.110 Intimidation of employees by employer
- 49.111 Unlawful acts
- 49.112 Penalty
- 49.113 Official neglect or misconduct
- 49.114—49.118 Repealed
- 49.119 Penalty
- 49.120 Promise of position
- 49.121 Promise of influence

49.122 Penalty
 49.123 Courthouse open on election day
 49.124 Training course by commissioner

49.125 Compensation of trainees
 49.126 Manual by state commissioner
 49.127 Commissioner to examine machines

49.1 Elections included. The provisions of this chapter shall apply to all elections except those special elections which by the terms of the statutes authorizing them are exempt from the provisions of this chapter.

49.3 Election precincts. Election precincts shall be drawn by the county board of supervisors in all unincorporated portions of each county, and by the city council of each city in which it is necessary or deemed advisable to establish more than one precinct. Precincts established as provided by this chapter shall be used for all elections, except where temporary merger of established precincts is specifically permitted by law for certain elections, and no political subdivision shall concurrently maintain different sets of precincts for use in different types of elections. Election precincts shall be drawn so that:

1. No precinct shall have a total population¹ in excess of three thousand five hundred, as shown by the most recent federal decennial census.

2. Each precinct is contained wholly within an existing legislative district, except:

a. When adherence to this requirement would force creation of a precinct which includes the places of residence of fewer than fifty qualified electors. The limitations imposed by section 49.8 notwithstanding, a county board of supervisors or city council having jurisdiction over a precinct which includes the places of residence of fewer than fifty qualified electors may prior to July 1, 1975 attach the precinct to an abutting precinct if the attachment is permissible under this paragraph.

b. When the general assembly by resolution designates a period after the federal decennial census is taken and before the next succeeding reapportionment of legislative districts required by Article III, section 35, Constitution of the State of Iowa as amended in 1968, during which precincts may be drawn without regard to the boundaries of existing legislative districts.

¹A city having a population greater than 3,500 must form two or more precincts, according to an Opinion of the Attorney General dated February 15, 1972.

49.4 Precincts drawn by county board. In the absence of contrary action by the board of supervisors, each civil township which does not include any part of a city of over two thousand population, and the portion of each civil township containing any such city which lies outside the corporate limits of that city or those cities, shall constitute an election precinct.

1. Where a civil township, or the portion of a civil township outside the corporate limits of any city of over two thousand population contained therein, is divided into two or more election precincts, the precincts shall be so drawn that their total populations shall be reasonably equal on the basis of data available from the most recent federal decennial census.

2. Counties using alternative supervisor representation plans two or three, as described in section 331.8 shall be apportioned into single-member supervisor districts on the basis of population. The boundaries of supervisor districts shall follow the boundaries of election precincts.¹

3. Notwithstanding any other provision of this chapter, the Indian settlement lying in Tama, Toledo and Indian Village townships of Tama county shall be an election precinct, and the polling place of that precinct shall be located in the structure commonly called the Indian School located in section 19, township 83 north, range 15 west, or in such structure as designated by the election commissioner of Tama county.

¹This sentence appears to conflict with §331.26. Because of the latest Enactment Rule of §4.8, §49.4 probably controls.

49.5 City precincts. The council of a city where establishment of more than one precinct is necessary or deemed advisable shall at the time required by law, by ordinance definitely fixing the boundaries, divide the city into such number of election precincts as will best serve the convenience of the voters. As used in this section, the term "the convenience of the voters" refers to, but is not necessarily limited to, the use of precinct boundaries which can be readily described to and identified by voters and ease of access by voters to their respective precinct polling places by reasonably direct routes of travel. Before final adoption of any change in election precinct boundaries pursuant to this section or section 49.6, the council shall permit the commissioner not more than ten days time to offer comments on the proposed reprecincting.

1. Election precincts within the same city shall be so drawn that their total population shall be reasonably equal on the basis of the most recent federal decennial census, but equality of population among precincts shall not take precedence over consideration of the convenience of voters as defined in this section. The boundaries of each precinct shall follow the boundaries of areas for which official population figures are available from the most recent federal decennial census, however in cities for which block-by-block data from that census

are not available and where all or some of the areas for which data from that census are available are not suitable for forming precincts, the city council may use other reliable and documented indicators of population distribution in forming precincts in the city or any portion of it.

2. Each city of over twenty-five thousand population shall enter into the necessary arrangements with the United States bureau of the census or its successor agency for the next succeeding federal decennial census to be taken in the city on a block-by-block basis. Any charge therefor imposed on the city by the federal government, which the city would not otherwise be liable to pay, may be reported to the state commissioner, who shall forward the report to the next regular session of the general assembly. The city shall preserve data on the composition and population of each area within its boundaries defined as a city block for the most recent federal decennial census. Precincts in the city shall to the greatest extent practicable follow the boundaries of such areas.

3. Cities using any form of city government authorized by law in which some or all members of the city council are elected from wards shall be apportioned into wards on the basis of population. The ward boundaries shall follow the boundaries of election precincts.

See §49.3 for requirement that these precincts be used in all elections.

This is consistent with an Opinion of the Attorney General dated June 6, 1972 affirming that precincts established by the city council are to be used in general elections.

49.6 Power to combine township and city precincts.

Election precincts composed partially of unincorporated territory and partially of all or any part of a city may be established within a single county in any manner which is not contrary to section 49.3 and is mutually satisfactory to the board of supervisors and the city council of the city involved.

49.7 When reprecincting required. Each county board of supervisors and city council shall make any changes in precinct boundaries necessary to comply with sections 49.3, 49.4 and 49.5 not earlier than July 1 nor later than December 31 of the year immediately following each year in which the federal decennial census is taken, unless the general assembly by joint resolution establishes different dates for compliance with these sections. Any or all of the publications required by section 49.11 may be made after December 31 if necessary. Each county board and city council shall notify the state commissioner and the commissioner whenever the boundaries of election precincts are changed and shall provide a map delineating the new boundary lines. Upon failure of any county board or city council to

make the required changes by the dates established by or pursuant to this section, the state commissioner shall make or cause to be made the necessary changes as soon as possible, and shall assess to the county or city, as the case may be, the expenses incurred in so doing. The state commissioner may request the services of personnel of and materials available to the legislative service bureau to assist him in making any required changes in election precinct boundaries which become his responsibility.

49.8 Changes in precincts. After any required changes in precinct boundaries have been made following each federal decennial census, at the time established by or pursuant to section 49.7, the county board or city council shall make no further changes in precinct boundaries until after the next federal decennial census, except in the following circumstances:

1. When deemed necessary by the board of supervisors of any county because of a change in the location of the boundaries, dissolution or establishment of any civil township, the boundaries of precincts actually affected may be changed as necessary to conform to the new township boundaries.

2. When territory is annexed to a city the city council may attach all or any part of the annexed territory to any established precinct or precincts which are contiguous to the annexed territory, however this subsection shall not prohibit establishment of one or more new precincts in the annexed territory.

3. A city may have one special federal census taken each decade and the population figures obtained may be used to revise precinct boundaries in accordance with the requirements of sections 49.3 and 49.5.

4. Precinct boundaries established by or pursuant to section 49.4, and not changed under subsection 1 of this section since the most recent federal decennial census, may be changed once during the period beginning January first of the second year following a year in which a federal decennial census is taken and ending June thirtieth of the year immediately following the year in which the next succeeding federal decennial census is taken, if the commissioner recommends and the board of supervisors find that the change will effect a substantial savings in election costs.

5. When the boundaries of any county supervisor, city council, or school director district, or any other district from which one or more members of any public representative body other than the general assembly are elected by the voters thereof, are changed by annexation, reprecincting or other means, the change shall not result in the term of any officer elected from the former district being terminated before or extended beyond the expiration of the term to which the officer was last elected.

49.9 Proper place of voting. No person shall vote in any precinct but that of his residence.

See §47.4(4) for definition of residence.

49.10 Polling places for certain precincts.

1. Polling places for precincts outside the limits of a city, but within the township, or originally within and set off as a separate township from the township in which the city is in whole or in part situated, and a polling place for a township which entirely surrounds another township containing a city, may be fixed at some room or rooms in the courthouse or in some other building within the limits of the city as the commissioner may provide.

2. If the commissioner determines, or if a petition is filed with him ninety days before any primary, general or special election stating, that there is no suitable or adequate polling place within a township constituting a voting precinct and that it is desirable and to the interest of the voters of that township voting precinct that a voting place be designated for it outside its territorial limits, the commissioner shall fix a polling place for that precinct outside its territorial limits, which he deems convenient to the electors of the township precinct. A petition submitted under this subsection must be signed by eligible electors of the precinct exceeding in number one-half the total number of votes cast in the township precinct for the office of president of the United States or governor, as the case may be, at the last preceding general election. When the commissioner has fixed such a polling place it shall remain the polling place at all subsequent primary, general and special elections, until such time as he shall fix a different polling place for the precinct.

3. In any city in which precinct lines have been changed to comply with section 49.5, the commissioner may fix the polling place for any precinct outside the boundaries of the precinct if there is no building or facility within the precinct suitable and available for use as a polling place. In so doing, the commissioner shall fix the polling place at the point nearest the precinct which is suitable and available for use as a polling place and is reasonably accessible to voters of the precinct. No single room or area of any building or facility shall be fixed as the polling place for more than one precinct unless there are separate entrances thereto each clearly marked on the days on which elections are held as the entrance to the polling place of a particular precinct, and suitable arrangements are made within such room or area to prevent direct access from the polling place of any precinct to the polling place of any other precinct. When the commissioner has fixed such a polling place for any precinct it shall remain the polling place at all subsequent elections, except elections for which the precinct is

merged with another precinct as permitted by section 49.11, until the boundaries of the precinct are changed or the commissioner fixes a new polling place, except that the polling place shall be changed to a point within the boundaries of the precinct at any time not less than sixty days before the next succeeding election that a building or facility suitable for such use becomes available within the precinct.

4. If two or more contiguous townships have been combined into one election precinct by the board of supervisors, the commissioner shall provide a polling place which is convenient to all of the electors in the precinct.

See §49.23 for publication requirements

49.11 Notice of boundaries of precincts—merger or division. The board of supervisors or council shall number or name the several precincts established, and cause the boundaries of each to be recorded in the records of said board of supervisors or council, as the case may be, and publish notice thereof in some newspaper of general circulation, published in such county or city, once each week for three consecutive weeks, the last to be made at least thirty days before the next general election. The precincts thus established shall continue until changed in the manner provided by law, except that for any election other than the primary or general election or any special election held under section 69.14, the county commissioner of elections may:

1. Consolidate two or more precincts into one. However, he shall not do so if there is filed with him at least twenty days before the election a petition signed by twenty-five or more eligible electors of any precinct requesting that it not be merged with any other precinct. There shall be attached to the petition the affidavit of an eligible elector of the precinct that the signatures on the petition are genuine and that all of the signers are to the best of the affiant's knowledge and belief eligible electors of the precinct.

If a special election is to be held in which only those qualified electors residing in a specified portion of any established precinct are entitled to vote, that portion of the precinct may be merged by the commissioner with one or more other established precincts or portions of established precincts for the special election, and the right to petition against merger of a precinct shall not apply.

2. Divide any precinct permanently established under this section which contains all or any parts of two or more mutually exclusive political subdivisions, each of which is independently electing one or more officers on the same date, into two or more temporary precincts and designate a polling place for each.

3. Notwithstanding the provisions of the first unnumbered paragraph of this section the commissioner may consolidate precincts for any election including a primary and general election if one of the precincts involved consists entirely of dormitories that are closed at the time the election is held.

49.12 Election boards. There shall be appointed in each election precinct an election board which shall ordinarily consist of five precinct election officials. However, in precincts using only one voting machine at any one time, and in precincts voting by paper ballot where no more than one hundred votes were cast in the last preceding similar election, the board shall consist of three precinct election officials; and in precincts using more than two voting machines one additional precinct election official may be appointed for each such additional machine. Not more than a simple majority¹ of the members of the election board in any precinct shall be members of the same political party or organization if one or more qualified electors of another party or organization are qualified and willing to serve on the board. Double election boards may be appointed for any precinct as provided by chapter 51.

If double counting boards are not appointed for precincts using paper ballots and using only three precinct election officials a fourth precinct election official shall be appointed from the election board panel to serve beginning at 8:00 P.M. to assist in counting the paper ballots.

¹The appointing authority may use its discretion in determining which party receives a majority of the members of the election board, according to a 1966 Opinion of the Attorney General (1966 OAG 194).

49.13 Commissioner to appoint members, chairman. The membership of each precinct election board shall be appointed by the commissioner, not less than fifteen days before each election held in the precinct, from the election board panel drawn up as provided in section 49.15. Each election board member shall be a member of one of the two political parties whose candidates for president of the United States or for governor, as the case may be, received the largest and next largest number of votes in the precinct at the last general election, except that persons not members of either of these parties may be appointed to serve for any election in which no candidates appear on the ballot under the heading of either of these political parties. In appointing the election board to serve for any election in which candidates' names do appear under the heading of these political parties, the commissioner shall give preference to the persons designated by the respective county chairman of these political parties for placement on the election board panel, as provided by section 49.15, in the order that they were so designated. The commissioner

shall designate one member of each precinct election board as chairman of that board, and also of the counting board authorized by chapter 51 if one is appointed, with authority over the mechanics of the work of both boards.

49.15 Commissioner to draw up election board panel. Not less than twenty days before each primary election, the commissioner shall draw up for each precinct an election board panel from which members of the precinct election board shall be appointed for each election held in the precinct during the ensuing two years. Each panel shall include members of each of the political parties referred to in section 49.13, whose names may be designated by the county chairman of each of these political parties not less than thirty days prior to each primary election. The commissioner may place on the election board panel names of persons known to him to be members of these political parties, if the respective county chairmen fail to designate a sufficient number of names, and may also add names of persons, whether or not they are members of either of these political parties, who have advised him they are willing to serve on the election board for elections in which no candidates appear on the ballot under the heading of either of these political parties, or whom either a school board or the city council of a city of three thousand five hundred or less population has advised the commissioner at least thirty days before each primary election are willing to serve without pay at elections conducted for that school district or city, as the case may be, during the tenure of the election board panel on which these names are included.

49.16 Tenure of election board panel. Each person whose name is placed on the election board panel as provided in section 49.15 shall remain available for appointment to the election board of the precinct, subject to the provisions of section 49.12, until a new panel is drawn up unless his name is sooner deleted from the panel by the commissioner. The election board for each election held in the precinct shall be drawn from the panel, however:

1. No person shall serve on the election board at any election in which he or any person related to him within the third degree of consanguinity or affinity is a candidate to be voted upon in that precinct, and it shall be the responsibility of each person whose name is listed on the election board panel to notify the commissioner not less than fifteen days before any election at which he is ineligible to serve by reason of this subsection. However, this subsection shall not apply in the case of any candidate or relative of a candidate seeking an office or nomination which no opposing candidate is seeking.

Any candidate for an office or for nomination to an office to which two or more persons are to be elected at large is unopposed, for the purpose of this subsection, if the number of candidates for the office or nomination does not exceed the number of persons to be elected or nominated.

2. When all or portions of two or more precincts are merged for any election as permitted by section 49.11, subsection 1, the commissioner may appoint the election board for the merged precinct from the election board panels of any of the precincts so merged. When any permanent precinct is divided as permitted by section 49.11, subsection 2, the commissioner shall so far as possible appoint the election board for each of the temporary precincts so created from the election board panel of the permanent precinct.

3. Persons whose names are listed on the election board panel shall not be required to serve on the election board for any election which by the terms of the statute authorizing it is exempt from the provisions of this chapter. The necessary officers for such elections shall be designated as provided by law or, if there is no applicable statute, by the commissioner.

4. In appointing the election board for any election conducted for any school district or a city of three thousand five hundred or less population, the commissioner may give preference to any persons who are willing to serve without pay at those elections.

49.18 Vacancies occurring on election day. If, at the opening of the polls in any precinct, there shall be a vacancy in the office of precinct election official, the vacancy shall be filled by the commissioner or, with his approval and for that election only by the members of the board present, consideration being given to the political party affiliation of the person appointed if necessary in order to comply with the requirements of sections 49.12 and 49.13.

49.19 Optional authority for certain city elections. The commissioner may appoint unpaid election precinct officials to election boards, as provided by sections 49.15, 49.16, and 49.20, elect not to use voting machines even though they are available, as permitted by section 49.26, and direct that the polls be opened at twelve o'clock noon, as permitted by section 49.73, for any election held for a city, regardless of the city's population, if there is no contest for any office on the ballot and no public question is being submitted to the voters at that election.

49.20 Compensation of members. The members of election boards shall receive two dollars¹ per hour while engaged in the discharge of their duties and shall be

reimbursed for actual and necessary travel expense,² except that persons whom the commissioner has been advised prior to their appointment to the election board are willing to serve without pay at elections conducted for any school district or a city of three thousand five hundred or less population shall receive no compensation for service at those elections. Compensation shall be paid to members of election boards only after the vote has been canvassed and it has been determined in the course of such canvass that the election record certificate has been properly executed by the election board.

¹See also §49.19 for compensation of election boards in certain city elections.

²See note following §50.47.

49.21 Polling places. It is the responsibility of the commissioner to designate a polling place for each precinct in the county.

Upon the application of the commissioner, the authority which has control of any buildings or grounds supported by taxation under the laws of this state shall make available the necessary space therein for the purpose of holding elections, without charge for the use thereof.

Except as otherwise provided by law, the polling place in each precinct in the state shall be located in a central location if a building is available. However, first consideration shall be given to the use of public buildings supported by taxation.

In the selection of polling places, consideration shall also be given to the use of buildings accessible to elderly and physically disabled persons.

49.23 Notice of change. When a change is made from the usual polling place for the precinct or when the precinct polling place for any primary or general election is different from that used for the precinct at the last preceding primary or general election, notice of such change shall be given by publication in a newspaper of general circulation in the precinct not more than fifteen nor less than five days prior to the day on which the election is to be held. In addition a notice of the present polling place for the precinct shall be posted, not later than the hour at which the polls open on the day of the election, on each door to the usual or former polling place in the precinct and shall remain there until the polls have closed.

49.24 Schoolhouses as polling places. In precincts outside of cities the election shall, if practicable, be held in the public school building. All damage to the building or furniture shall be paid by the county.

See §297.9

49.25 Equipment required at polling places. In any county or portion of a county for which voting

machines have been acquired under section 52.2 the commissioner shall determine pursuant to section 49.26, in advance of each election conducted for any school district or a city of three thousand five hundred or less population, and individually for each precinct, whether voting in that election shall be by machine or by paper ballot. The commissioner shall furnish to each precinct where paper ballots are to be used the necessary ballot boxes, suitably equipped with locks and keys, and shall insure that the number, arrangement, and construction of voting booths at the polling place in each precinct are as follows:

1. Each booth shall be at least three feet square, and have three sides enclosed, the side in front to open and shut by a door swinging outward, or closed with a curtain.

2. Each side of the booth shall be seven feet high, and the door or curtain shall extend to within two feet of the floor, and shall be closed while the voter is preparing his ballot.

3. Each booth shall contain a shelf at least one foot wide, at a convenient height for writing, and shall be well lighted.

4. The number of voting booths shall not be less than one to every three hundred voters or major fraction thereof who voted in the last preceding similar election in the precinct.

5. The booths shall be so built and arranged, if possible, as to be permanent, so that after the election they may be taken down and deposited with the commissioner or his designee for safekeeping and for future use.

49.26 Commissioner to decide method of voting.

When voting machines are available for an election precinct, the commissioner shall determine in advance of each election conducted for a school district or a city¹ of three thousand five hundred or less population in which voting occurs in that precinct whether voting shall be by machine or paper ballot. If the commissioner concludes, on the basis of voter turnout for recent similar elections and factors considered likely to affect voter turnout for the forthcoming election, that voting will probably be so light as to make preparation and use of paper ballots less expensive than preparation and use of a voting machine, paper ballots shall be used.

¹See §49.19 for use of voting machines in certain city elections.

49.27 Precincts where some electors may not vote for all candidates or questions. When the territory of a precinct is such that one or more of the candidates or questions on the ballot in any election may not be legally voted upon by all qualified electors of the

precinct, the commissioner may not place those candidates or questions upon a voting machine which may be used by qualified electors of the entire precinct unless the machine is equipped with a device, readily operable by the election official attending the machine, by which that portion of the machine on which those candidates or questions appear may be locked when the machine is to be used by a qualified elector not eligible to vote for those candidates or questions. If the voting machines in any precinct to which this section is applicable are not so designed, the commissioner may place the candidates or questions for which not all voters of the precincts may legally vote on one or more, but not all, of the voting machines in the precinct. In any precinct to which this section is applicable and in which neither of the foregoing procedures are feasible, or in which all voting is by paper ballot, the commissioner shall prepare separate ballots for the candidates or questions which may not be legally voted upon by all qualified electors of the precinct, and shall furnish a separate ballot box in which only those ballots shall be deposited.

49.28 Commissioner to furnish registers and supplies.

The commissioner shall prepare and furnish to each precinct an election register, and all other books, blanks, materials, and supplies necessary to carry out the provisions of this chapter. Voter registration records shall be kept so that the election register for each precinct contains the names of no electors except those eligible to vote in that precinct. When a precinct lies in more than one political subdivision or district from which any officer is elected, the election register must clearly indicate who are the eligible electors of each political subdivision or district in which the precinct lies. The election register does not need to indicate the eligible electors of school director districts.

49.29 Voting by ballot or machine. In all elections regulated by this chapter, the voting shall be by ballots printed and distributed as provided by law, or by voting machines meeting the requirements of chapter 52.

49.30 All candidates on one ballot—exception. The names of all candidates to be voted for in each election precinct, other than presidential electors, shall be printed on one ballot, except as otherwise required by section 46.22 and except that at any election where voting machines are used, and it is impossible to place the names of all candidates on the machine ballot, the commissioner may provide a separate printed ballot for the candidates for judge of district court and the

township ticket, or either; one of each of said printed ballots to be furnished each qualified voter.

It does not appear that this section authorizes the offices of hospital, library or sanitary district trustee, or other nonpartisan office to be on a separate ballot. It would also appear that at school elections, area, county, and local school board candidates should be on the same ballot.

§46.22 requires separate paper ballots for judges when paper ballots are used.

§49.43 requires separate ballots for public measures. §358.9 authorizes alternate ballots where only a portion of a precinct is within the sanitary district.

For a 1962 Opinion of the Attorney General dealing with some of these points, see 1962 OAG 208.

49.31 Arrangement of names on ballot. All nominations of any political party¹ or group of petitioners,² except as provided in section 49.30, shall be placed under the party name or title³ of such party or group, as designated by them in their certificates of nomination or petitions, or if none be designated, then under some suitable title, and the ballot shall contain no other names, except as provided in section 49.32.

The commissioner shall prepare a list⁴ of the election precincts of his county, by arranging the various townships and cities in the county in alphabetical order, and the wards or precincts in each city or township in numerical order under the name of such city or township. He shall then arrange the surnames of each political party's candidates for such offices alphabetically for the respective offices for the first precinct on the list; thereafter, for each political party and for each succeeding precinct, the names appearing first for the respective offices in the last preceding precinct shall be placed last, so that the names that were second before the change shall be first after the change. The procedure for arrangement of names on ballots provided in this section shall likewise be substantially followed in elections in political subdivisions of less than a county.

The ballots for any city elections or school elections, or any special election at which any office is to be filled on a nonpartisan basis shall contain the names of all nominees or candidates arranged in alphabetical order by surname under the heading of the office to be filled. When a city election, school election or special election to fill an office is held in more than one precinct, the candidates' names shall be rotated on the ballot from precinct to precinct in the manner prescribed by the preceding paragraph of this section.

If electors in any precinct are entitled to vote for more than one nominee or candidate for a particular office, the heading for that office on the precinct ballot shall be immediately followed by a notation of the number of nominees or candidates for that office

for whom each elector may vote. Provision shall be made on the ballot to allow the elector to write in the name of any person for whom he desires to vote for any office or nomination on the ballot.

¹See §43.2

²See §49.36

³§44.3(3) limits the length of the name and §43.121 prohibits use of a political party's name (or part) except by that party.

⁴Where rural precincts have been made by combining or dividing townships, the commissioner should refer to the numbers or names of the precincts established in the latest resolution of the board of supervisors adopted pursuant to §49.11.

49.32 Candidates for president in place of electors.

The candidates for electors of president and vice-president of any political party or group of petitioners¹ shall not be placed on the ballot, but in the years in which they are to be elected the names of candidates² for president and vice-president, respectively, of such parties or group of petitioners shall be placed on the ballot, as the names of candidates for United States senators³ are placed⁴ thereon, under their respective party, petition, or adopted titles for each political party, or group of petitioners, nominating a set of candidates for electors.

¹See §49.36

²See §54.5 for naming such candidates

³Plural according to the Code

⁴See §49.34

49.33 One square for president and vice-president.

Upon the left-hand margin of each separate column of the ballot, immediately opposite the names of the candidates for president and vice-president, a single square, the sides of which shall not be less than one-fourth of an inch in length, shall be printed in front of a bracket enclosing the names of the said candidates for president and vice-president. The votes for said candidates shall be counted and certified to by the election board in the same manner as the votes for other candidates.

49.34 United States senators. At all general elections next preceding the expiration of the term of office of United States senator, there shall be placed upon the official ballot in the proper place the names of candidates for all parties or groups of petitioners for said office that have been nominated by law. The votes for said candidates shall be counted and certified to by the election board in the same manner as votes for other candidates.

49.35 Order of arranging names. Each list of candidates for the several parties and groups of petitioners shall be placed in a separate column on the ballot, in such order as the authorities charged with the printing of the ballots shall decide, except as otherwise^{1 2} provided, and be called a ticket.

¹Under §43.73, the state commissioner of elections determines the order of the political parties on the general election ballot.

²Several Opinions of the Attorney General indicate that when more than one independent or nonparty candidate seeks the same seat, whether the post is partisan or not, the names of those nonparty candidates should be placed on separate columns of the vertical ballot, opposite the names of all other opponents. For example, if two partisan candidates and two candidates not nominated under chapter 43 seek a single post, there would be four (not three) columns on a vertical ballot (four rows on a voting machine) for that seat, plus space for a write-in. See 1928 OAG 417 and 1962 OAG 208.

49.36 Candidates of non-party organization. The term "group of petitioners" as used in the foregoing sections shall embrace an organization which is not a political party so defined¹ by law.

¹See §43.2 for definition, and chapters 44 and 45 for such alternate methods of nomination.

49.37 Columns to be separated. Each of the columns containing the list of candidates, including the party name, shall be separated by a distinct line.

49.38 Candidate's name to appear but once. The name of a candidate shall not appear upon the ballot in more than one place for the same office, whether nominated by convention, primary, caucus, or petition, except as hereinafter provided.

49.39 Dual nomination. When two or more political parties, or when two or more political organizations which are not political parties, or when a political party and a political organization which is not a political party, nominate the same candidate for the same office, such nominee shall forthwith designate, in writing, the political party name, or the political organization name, under which he desires to have his name printed on the official ballot for the ensuing general election; such written designation shall be filed with the officer with whom the nomination paper, or certificate of nomination by a convention or caucus, is filed and the name of such nominee shall appear on the ballot in accordance therewith.

49.40 Failure to designate. If the designation referred to in section 49.39 be not filed, the following rules shall govern:

1. If the nomination be by two or more political parties, the name of such nominee shall be printed under the party designation under which nomination papers were first filed in his behalf.

2. If the nomination be by a political party and also by a political organization which is not a political party, the name of such nominee shall be printed under the name of the political party or political organization first filing nomination papers, or certificate of nomination, as the case may be.

3. If the nomination be by two or more political organizations which are not political parties, the name of such nominee shall be printed under the name of the political organization first filing a certificate of nomination of such candidate.

In fewer words: "If such designation is not filed, the name shall be printed under the organization which filed the name first."

49.42 Form of official ballot. The ballot for the general election shall be substantially the following form:

See Appendix A.

1. *Orientation of the ballot: Paper ballots are vertical (see §§49.35—49.37 which refer to "columns" to separate tickets, and §49.42 which gives such an example). Under §52.10, ballots on a voting machine may be horizontal or vertical. Chapter 53 does not specify the form of an absentee ballot, although a reasonable conclusion would be that absentee ballots should also be vertical.*

2. *Names of candidates: "Dr." may not be used as a prefix to a candidate's name, according to a 1932 Opinion of the Attorney General (1932 OAG 218).*

3. *Write-ins: There must be a space to write-in a candidate for each post on the ballot, according to §49.31 and §49.99. If there are no nominees at all for the entire election, a blank ballot would be furnished to the voter. Under §49.99, it is no longer necessary to place a voting mark in front of a write-in to have it count, and under §49.92, it is not necessary to use only a black lead pencil for a write-in.*

4. *Printing due-date: The commissioner must have the ballots 40 days before the general election. See §49.63 and §53.39.*

5. *Printing rules: See §49.56 et seq. and §49.30 et seq.*

49.43 Ballot for constitutional amendment or other public measure. When a constitutional amendment or other public measure is to be voted upon by paper ballot it shall be printed in full upon a separate¹ ballot, preceded by the words "Shall the following amendment to the Constitution (or public measure) be adopted?" Upon the right-hand side of the ballot, opposite these words, two spaces shall be left, one for votes favoring the amendment or public measure and the other for votes opposing it. In one of these spaces, the word "yes" or other word required by law shall be printed; in the other, "no" or other word required by law shall be printed. Immediately to the right of each of these spaces a square shall be printed to receive the voting cross or check.

In fewer words, see §§49.45 and 49.46

¹Several different, even conflicting, public measures can be printed on the same ballot as long as the voter can vote on each of them independently, according to a 1938 Opinion of the Attorney General (1938 OAG 841).

49.44 State commissioner to prepare summary. When a proposed constitutional amendment or other public measure to be decided by the voters of the entire¹ state is to be voted upon, the state commissioner shall prepare a written summary of the amendment or measure. The summary shall be printed immediately preceding the text of the proposed amendment or measure on the paper ballot referred to in section 49.43 and, in precincts where the amendment or measure will be voted on by machine, shall be placed in the voting machine inserts as required by section 52.25.

¹Where the measure is being voted upon in less than the entire state upon voting machines, §52.25 authorizes the county commissioner of elections to similarly summarize the public measure. However, paper and absentee ballots must contain the full text of the public measure.

49.45 General form of ballot. Ballots referred to in section 49.43 shall be substantially in the following form:

“Shall the following amendment to the Constitution [or public measure] be adopted?”

Yes

No

[Here insert the summary, if it be for a constitutional amendment, or statewide public measure, and in full the proposed constitutional amendment or public measure.]

For redundancy, see also §49.43

For color of ballot for public measures, see §49.49

49.46 Marking ballots on public measures. The elector shall designate his vote by a cross mark, thus, “X”, or a check mark, thus, “✓”, placed in the proper square.

For redundancy, see also §49.43. For analogous provision relating to candidates, not public measures, see §49.92.

49.47 Notice on ballots. At the top of ballots on such public measures shall be printed the following:

“[Notice to voters. For an affirmative vote upon any question submitted upon this ballot make a cross (X) mark or check (✓) in the square after the word ‘Yes’. For a negative vote make a similar mark in the square following the word ‘No’.]”

49.49 Printing of ballots on public measures. All of such ballots for the same polling place shall be of the same size, similarly printed, upon yellow colored paper. On the back of each such ballot shall be printed appropriate words, showing that such ballot relates to a constitutional or other question to be submitted to the electors, so as to distinguish the said

ballots from the official ballot for candidates for office, and a facsimile of the signature of the commissioner who has caused the ballot to be printed.

49.50 Endorsement and delivery of ballots. Ballots on such public measures shall be endorsed and given to each voter by the precinct election officials, as in case of ballots generally, and shall be subject to all other laws governing ballots for candidates, so far as the same shall be applicable.

49.51 Commissioner to control printing. For all elections held under his jurisdiction, the commissioner shall have charge of the printing of ballots in his county, and shall cause to be placed thereon the names of all candidates and questions which have been certified to him by the state commissioner, in the order the same appear upon said certificate, together with those of all other candidates and questions to be voted for thereat, whose nominations have been made in conformity with law.

49.53 Publication of ballot and notice. The commissioner shall, not less than four nor more than twenty days prior to the day of each election, except those elections for which different publication requirements are provided by law,¹ publish notice of the election. The notice shall contain a sample ballot of the first rotation as prescribed by section 49.31, second paragraph, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, and the names of the precincts voting at each polling place. The notice shall be published in at least one newspaper, as defined in section 618.3, which is published in the county or other political subdivision in which the election is to occur or, if no newspaper is published there, in at least one newspaper of substantial circulation in the county or political subdivision. For the general election or the primary election the foregoing notice shall be published in at least two newspapers published in the county representing, if possible, the two political parties whose candidates for president of the United States or for governor, as the case may be, received the largest and next largest number of votes in the county at the last preceding general election. However, if there is only one newspaper published in the county, publication in one newspaper shall be sufficient.

¹See §§280A.39, 296.4, 298.18, et al.

²See §618.3 for requirement of paid circulation.

49.54 Cost of publication. The cost of the publication required by section 49.53, shall not exceed an

amount¹ determined by the director of the state department of general services or his designee.

¹The amount has been under consideration by the department since October, 1973, but as of the publication date of this book, has not been set.

49.55 Delivery of supplies to officials. In all cases the necessary election supplies, including paper ballots for precincts where they are to be used, shall be furnished the precinct election officials not less than one hour before the opening of the polls on the morning of the election.

49.56 Maximum cost of printing. The cost of printing the official election ballots and printed supplies for voting machines shall not exceed an amount determined by the director of the department of general services or his designee.

49.57 Method and style of printing ballots. Ballots shall be prepared as follows:

1. They shall be on plain white paper, through which the printing or writing cannot be read.

2. The party name shall be printed in capital letters, not less than one-fourth of an inch in height.

3. The names of candidates shall be printed in capital letters, not less than one-eighth, nor more than one-fourth of an inch in height.

4. A square, the sides of which shall not be less than one-fourth of an inch in length, shall be printed at the beginning of each line in which the name of a candidate is printed, except as otherwise provided.

5. On the outside of the ballot, so as to appear when folded, shall be printed the words "Official ballot", followed by the name and location of the polling place for which the ballot is prepared, the date of the election, and a facsimile of the signature of the commissioner who has caused the ballot to be printed.

49.58 Vacancies certified before ballots are printed. The name supplied for a vacancy by the certificate of the state commissioner, or by nomination certificates or papers for a vacancy filed with the commissioner shall, if the ballots are not already printed, be placed on the ballots in place of the name of the original nominee.

49.59 Vacancies certified after ballots are printed. If vacancies be certified after the ballots have been printed, new ballots, whenever practicable, shall be furnished.

49.60 Inserting name of vacancy nominee. When it may not be practicable, after a vacancy has been certified, to have new ballots printed, the commissioner

shall place the name supplied for the vacancy upon each ballot used before delivering it to the precinct election officials.

49.61 Furnishing officials name of vacancy nominee—pasters. If said ballots have been delivered to the precinct election officials before a vacancy has been certified, the commissioner shall immediately furnish the name of such substituted nominee to all precinct election officials within the territory in which said nominee may be a candidate.

Pasters with the name of the substituted nominee thereon shall likewise be furnished the voter with his ballot when possible to do so.

49.62 Filling in name of vacancy nominee. Precinct election officials having charge of the ballots shall, in the case contemplated in section 49.61, place the name supplied for the vacancy upon each ballot issued before delivering it to the voter, by affixing a paster, or by writing or stamping the name thereon.

The pasters must not be affixed in a manner which would identify the ballot. See §49.68(5)

49.63 Time of printing—inspection and correction. Ballots shall be printed and in the possession of the commissioner in time to enable him to furnish ballots to absent voters as provided by sections 53.8 and 53.11.¹ The printed ballots shall be subject to the inspection of candidates and their agents. If mistakes are discovered, they shall be corrected without delay, in the manner provided in this chapter.

¹See also §53.39.

49.64 Number ballots delivered. The commissioner shall cause ballots of the kind to be voted in each precinct, to be delivered to the precinct election officials as follows: In general elections which are presidential elections seventy-five ballots for every fifty votes, or fraction thereof, cast in said precinct at the last preceding general election which was also a presidential election; and in general elections which are not presidential elections, seventy-five ballots for every fifty votes, or fraction thereof, cast therein at the last preceding general election which was not a presidential election.

49.65 Packing ballots—delivery—receipts—records. The required number of ballots for each precinct shall be wrapped and sealed, and each package shall be clearly marked on the outside to indicate the number of ballots contained in the package and the name or number of the precinct and the location of the polling place for which they are intended. The ballots shall be delivered¹ to the precinct election officials together

with other necessary election supplies, as provided by section 49.55, and one of the officials shall sign a receipt for the ballots which receipt shall be preserved by the commissioner. The commissioner shall keep a record of the number of ballots delivered for each polling place, the person who signed the receipt for them, and the time they were delivered, on a form which also provides space for the entries required by section 50.10.

'The commissioner is entitled to be reimbursed for mileage and expenses of delivery, according to a 1936 Opinion of the Attorney General (1936 OAG 285).

49.66 Reserve supply of ballots. The commissioner shall provide and retain at his office an ample supply of ballots, in addition to those distributed to the several voting precincts, and if at any time the ballots furnished to any precinct shall be lost, destroyed, or exhausted before the polls are closed, on written application, signed by a majority of the precinct election officials of such precinct, or signed and sworn to by one of such officials, he shall immediately cause to be delivered to such officials, at the polling place, such additional supply of ballots as may be required, and sufficient to comply with the provisions of this chapter.

49.67 Form of reserve supply. For general elections, the supply of ballots so retained shall only equal the number provided for the precinct casting the largest vote at the preceding general election, and shall include only the portions of the various tickets to be voted for throughout the entire county, with blank spaces in which the names of candidates omitted may be written by the voter, and with blank spaces in the endorsement upon the back of such ballots, in which the name of the precinct shall be written by the precinct election officials.

49.68 State commissioner to furnish instructions. The state commissioner with the approval of the attorney general shall prepare, and from time to time revise, written instructions to the voters relative to voting, and shall furnish each commissioner with copies of the instructions. Such instructions shall cover the following matters:

1. The manner of obtaining ballots.
2. The manner of marking ballots.
3. That unmarked or improperly marked ballots will not be counted.
4. The method of gaining assistance in marking ballots.
5. That any erasures or identification marks, or otherwise spoiling or defacing a ballot, will render it invalid.

6. Not to vote a spoiled or defaced ballot.
7. How to obtain a new ballot in place of a spoiled or defaced one.
8. Upon the right of an employee to absent himself for two hours for the purpose of voting, by application for leave so to do made before the day of election, without deduction from his salary or wages.
9. Any other matters thought necessary.

The instructions on this card relating to defining identifying marks on a ballot were not admitted into evidence in a case decided in 1916. See 177 Iowa 64

49.70 Precinct election officials furnished instructions. The commissioner shall cause copies of the foregoing instructions to be printed in large, clear type, under the heading of "Card of Instructions", and shall furnish the precinct election officials with a sufficient number of such cards as will enable them to comply with section 49.71.

49.71 Posting instruction cards and sample ballots. The precinct election officials, before the opening of the polls, shall cause said cards of instructions to be securely posted as follows:

1. One copy in each voting booth.
2. Not less than four copies, with an equal number of sample ballots, in and about the polling place.

See also §52.13 for requirement of posting in voting machine precincts.

See also §359.23 for certain documents which must be posted by the township clerk.

See §49.107(1) for prohibition against posting unauthorized items.

49.72 Absentee voters designated before polling place opened. The commissioner shall deliver to each precinct election board not less than one hour before the time at which the polls are to open for any election the list of all qualified¹ electors of that precinct who have been given or sent an absentee ballot for that election, and the election board shall immediately designate those qualified electors who are so listed and therefore not entitled to vote in person at the polls, as required by section 53.19.

¹If the list is limited to only "qualified" (registered) electors, and under §53.38 servicemen and their dependents are not required to register before voting by absentee ballot in primary and general elections, the question arises whether persons who have received absentee ballots pursuant to division II of chapter 53 should be included on such list. See §§39.3(2), 47.4(5), 53.19 and 53.38. In the absence of any prohibition by the state commissioner of elections, the county commissioner would be well advised to place the names of servicemen and their dependents upon this list.

49.73 Time of opening and closing polls. At all¹ elections, except as otherwise permitted by this section, the polls shall be opened at seven o'clock a.m., or as soon thereafter as vacancies on the precinct election

board have been filled. The commissioner may direct that the polls be opened at twelve o'clock noon for any election conducted for any school district or a city of three thousand five hundred or less population at which he concludes, on the basis of voter turnout for recent similar elections and factors considered likely to affect voter turnout for the forthcoming election, that voting will probably be so light as to justify shortened voting hours for that election, except that the commissioner shall not do so for any election if there is filed in the commissioner's office, at least twenty days before the election, a petition signed by at least fifty eligible electors of the school district or city, as the case may be, requesting that the polls not² be opened later than seven o'clock a.m. All polling places where the candidates of or any public question submitted by any one political subdivision are being voted upon shall be opened at the same hour. The hours at which the respective precinct polling places are to open shall not be changed after publication of the notice required by section 49.53. In all cases the polling places shall be closed at eight o'clock p.m.

¹However, in addition to the exceptions in this section, additional exceptions for city elections for uncontested offices appear in §49.19, which probably controls due to the Last Listing Rule.

²This misplaced modifier so appears in the enrolled Act.

49.74 Qualified electors entitled to vote after closing time. Every qualified elector who is on the premises of his precinct polling place at the time the polling place is to be closed for any election shall be permitted to vote in that election. Wherever possible, when there are persons on the premises of a polling place awaiting an opportunity to claim their vote at the time the polling place is to be closed, the election board shall cause those persons to move inside the structure in which the polling place is located and shall then shut the doors of the structure and shall not admit any additional persons to the polling place for the purpose of voting. If it is not feasible to cause persons on the premises of a polling place awaiting an opportunity to claim their vote at the time the polling place is to be closed to move inside the structure in which the polling place is located, the election board shall cause those persons to be designated in some reasonable manner and shall not receive votes after that time from any persons except those qualified electors so designated.

49.75 Oath. Before opening the polls, each of the board members shall take the following oath:

"I, A. B., do solemnly swear that I will impartially, and to the best of my knowledge and ability, perform the duties of precinct election official of this election,

and will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same."

See also §51.5

49.76 How administered. Any one of the precinct election officials present may administer the oath to the others, and it shall be entered in the election records, subscribed by the person taking it, and certified by the officer administering it.

49.77 Ballot furnished to voter. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall give his name and address to the precinct election officials, one of whom shall announce the person's name aloud for the benefit of political party challengers if any are present in the polling place. No person whose name does not appear on the election register of the precinct in which he claims his vote shall be permitted to vote unless the county commissioner of elections informs the precinct election officials that an error has been made¹ and that the person is a qualified elector of that precinct. The elector shall sign a voter's declaration provided by the officials, in substantially the following form:

See Appendix A.

A precinct election official may require of an elector unknown to the official, identification upon which the elector's signature or mark appears. If identification is established to the satisfaction of the precinct election officials, the person may then be allowed to vote.

All voters' declarations may be seen by the challengers of each political party, at the request of such challengers.

See §48.8

49.79 Challenges. Any person offering to vote may be challenged as unqualified by any precinct election official or elector; and it is the duty of each of the officials to challenge any person offering to vote whom he knows or suspects not to be duly qualified. At primary elections challenges may be made on the grounds stated in section 43.44. No board member shall receive a ballot from a voter who is challenged, until such voter shall have established his right to vote.

49.80 Examination on challenge.

1. When the status of any person as a qualified elector is so challenged, the precinct election officials shall explain to him the qualifications¹ of an elector, and may examine him under oath touching his qualifications as a voter.

2. In case of all challenges of electors at the time he is offering to vote in a precinct, a precinct election official may place such person under oath and question him as, (a) where he maintains his home; (b) how long he has maintained his home at such place; (c) if he maintains a home at any other location; (d) his age. The precinct election official may permit the challenger to participate in such questions. The challenged elector shall be allowed to present to the official such evidence and facts that he feels sustains the fact that he is qualified to vote. Upon completion thereof, the official hearing the challenge shall determine if the challenged elector shall be allowed to vote.

3. In case of a challenge on the grounds stated in section 43.44, the procedures set forth in that section shall be followed.²

¹See §47.4 for qualifications

²Parts of §49.80 may be inoperative if §43.44 is inoperative. See note following §43.44.

49.81 Oath in case of challenge. If the elector is challenged when offering to vote, but offers a receipt of registration¹ to the precinct election officials as proof of his eligibility to vote, the commissioner shall decide whether the elector shall be entitled to vote. If in the opinion of the commissioner there is sufficient evidence of the elector's eligibility, one of the officials shall tender to the challenged elector an affidavit² prescribed by the state commissioner which reaffirms the challenged elector's eligibility.

¹However, §49.77 still requires the voter's name to appear on the election register. See §48.8 for correction of an omission on the election register.

²See appendix A for form of affidavit.

49.82 Voter to receive one ballot—endorsement. One of the precinct election officials shall give the voter one and only one of each of the ballots to be voted at that election in that precinct, except as provided by section 49.100, on the back of which a precinct election official shall endorse¹ his initials so that they may be seen when the ballot is properly folded. No ballot without the required official endorsement shall be deposited in the ballot box.

¹Failure to endorse will not void the ballot. See §49.101.

49.83 Names to be marked on election register. The name of each voter shall be marked on the election register by a precinct election official when the voter's declaration of eligibility has been approved by the officials.

49.84 Marking and return of ballot. On receipt of the ballot, the voter shall immediately retire alone to one of the voting booths, and without delay mark his

ballot, and, before leaving the voting booth, shall fold the ballot so as to conceal the marks thereon, and deliver it to one of the precinct election officials. No identifying mark or symbol shall be endorsed on the back of his ballot.

49.85 Depositing ballots. One of the precinct election officials shall at once, after receiving the ballot, in the presence of the voter, deposit it in the ballot box.

49.86 Failure to vote—return of ballot. Any voter who, after receiving an official ballot, decides not to vote, shall, before entering the voting booth, surrender to the election officers the official ballot which has been given him, and such fact shall be noted on the election records. A refusal to surrender such ballot shall subject the person so offending to immediate arrest and the penalties¹ provided for violation of this chapter.

¹See §49.119 for penalty

49.87 Prohibited ballot—taking ballot from polling place. No voter shall vote or offer to vote any ballot except such as he has received from the precinct election officials, nor take or remove any ballot from the polling place before the close of the poll.

49.88 Limitation on persons in booth and time for voting. No more than one person shall be allowed to occupy any voting booth at any time. No person shall occupy such booth for more than three minutes to cast his vote. Nothing in this section shall prohibit assistance to voters under section 49.90.

For limitation in voting machines see §52.18

49.89 Selection of officials to assist voters. At, or before, the opening of the polls, the election board of each precinct shall select two members of the board, of different political parties in the case of any election in which candidates appear on the ballot under the heading of either of the political parties referred to in section 49.13, to assist voters who may be unable to cast their votes without assistance. Voters who are blind may have the assistance of any person they may select.

49.90 Assisting voter. Any voter who may declare upon oath that he cannot read the English language, or that, by reason of any physical disability other than intoxication, he is unable to cast his vote without assistance, shall, upon request, be assisted by said two officers, or by any person the blind voter may select, in casting his vote. Said officers, or person selected by the blind voter, shall cast the vote of the voter requiring assistance, and shall thereafter give no information regarding the same.

49.91 Assistance indicated on register. The precinct election officials shall mark upon the election register the name of any elector who received such assistance in casting his vote.

49.92 Voting mark. The voting mark shall be a cross or check¹ which shall be placed in the circle at the head of a ticket, or in the squares opposite the names of candidates. The fact that the voting mark is made by an instrument other than a black lead pencil shall not affect the validity of the ballot unless it appears that the color or nature of the mark is intended to identify the ballot contrary to the intent of section 49.107(7).

¹See also §§49.46 and 49.98

49.93 But one vote for same office except in groups. No voter shall vote for more than one candidate for the same office, nor for a greater number of candidates for two or more offices of the same class than there are offices of such class to be filled at such election.

49.94 How to mark a straight ticket. If the names of all the candidates for whom a voter desires to vote in any election other than the primary election appear upon the same ticket, and he desires to vote for all candidates whose names appear upon such ticket he may do so in any one of the following ways:

1. He may place a cross or check in the circle at the top of such ticket without making a cross or check in any square beneath said circle.

2. He may place a cross or check in the square opposite the name of each such candidate without making any cross or check in the circle at the top of such ticket.

3. He may place a cross or check in the circle at the top of such ticket and also a cross or check in any or all of the squares beneath said circle.

49.95 Voting part of ticket only. If the names of all the candidates for whom the voter desires to vote appear upon a single ticket but he does not desire to vote for all of the candidates whose names appear thereon, he shall place a cross or check in the square opposite the name of each such candidate for whom he desires to vote without making any cross or check in the circle at the top of such ticket.

49.96 Group candidates for offices of same class. Where two or more offices of the same class are to be filled at the same election, and all of the candidates for such offices, for whom the voter desires to vote, appear upon his party ticket at the top of which he

has marked a cross or check in the circle, he need not otherwise indicate his vote for such candidate; but if the name of any candidate for whom he desires to vote for such office appears upon a different ticket, then as to such group of candidates the cross or check in the circle does not apply and to indicate his choice the voter must place a cross or check in the square opposite the name of each such candidate for whom he desires to vote whether the same appears under such marked circle or not.

49.97 How to mark a mixed ticket. If the names of all candidates for whom a voter desires to vote do not appear upon the same ticket, he may indicate the candidates of his choice by marking his ballot in any one of the following ways:

1. He may place a cross or check in the circle at the top of a ticket on which the names of some of the candidates for whom he desires to vote appear and also a cross or check in the square opposite the name of each other candidate of his choice, whose name appears upon some ticket other than the one in which he has marked the circle at the top.

2. He may place a cross or check in the square opposite the name of each candidate for whom he desires to vote without placing any cross or check in any circle.

49.98 Counting ballots. The ballots shall be counted according to the markings thereon, respectively, as provided in sections 49.92 to 49.97, and not otherwise. If, for any reason, it is impossible to determine from a ballot, as marked, the choice of the voter for any office, such ballot shall not be counted for such office. When there is a conflict between the cross or check in the circle on one ticket and the cross or check in the square on another ticket on the ballot, the cross or check in the square shall be held to control, and the cross or check in the circle in such case shall not apply as to that office. Any ballot marked in any other manner than as authorized in sections 49.92 to 49.97, and in such manner as to show that the voter employed such mark for the purpose of identifying his ballot, shall be rejected.

The Iowa Supreme Court has held that a voter signing or numbering his own ballot will disqualify it; that where the voter voted for "A", changed his mind, completely erased the mark for "A" (although a crease or tracing was still visible in the paper) and marked the ballot clearly for "B", the ballot should have been counted for "B"; that the impression of a notary seal on an absentee ballot will not void the ballot; that where the voter's intent is not determinable for one office, but is for other offices, the ballot should be counted for those offices possible and not thrown out entirely; that stray or distinguishing marks made by someone other than the voter will not disqualify the ballot; and where there was an error in printing the ballot and the judges corrected some ballots, but not others, before distributing them to the voters of the precinct, that the judges' corrections were not identifying marks, and the ballots should be counted.

Many of these principles have since been declared in Iowa statutes, and the public policy seems to be to count the ballot unless there is evidence of fraud, that the voter is attempting to identify himself, or that his intent cannot be determined.

On this last point, it has been held that the lines of the cross must intersect substantially within the square or circle.

49.99 Writing name on ballot. The voter may also insert in writing in the proper place the name of any person for whom he desires to vote and place a cross or check in the square opposite thereto. The writing of such name shall constitute a valid vote for the person whose name has been written on the ballot without regard to whether the voter has made a cross or check opposite thereto. The making of a cross or check in a square opposite a blank without writing a name therein, shall not affect the validity of the remainder of the ballot.

Organized write-in campaigns using preprinted stickers are discouraged where voting machines are used because the stickers will soon build up on the write-in roll, jamming the machine. The jammed machine may keep the write-in candidate from getting the votes needed to win, so the candidates should appreciate the problem of using stickers on voting machines.

Stickers are not a problem on paper ballots:

Over the years, several Opinions of the Attorney General have acknowledged the validity of using preprinted stickers for write-in votes. The opinions have cautioned that the stickers should contain but one name apiece, should not cover any part of the ballot except the place for write-ins for that office, and should not simulate any part of the ballot.

If possible, the stickers should be distributed before election day by the candidate's supporters. If they are to be distributed on election day, due respect must be paid to §49.107 which prohibits electioneering near the polling places.

49.100 Spoiled ballots. Any voter who shall spoil his ballot may, on returning the same to the precinct election officials, receive another in place thereof, but no voter shall receive more than three ballots, including the one first delivered to him. None but ballots provided in accordance with the provisions of this chapter shall be counted.

49.101 Defective ballot does not nullify vote. No ballot properly marked by the voter shall be rejected:

1. Because of any discrepancy between the printed ballot and the nomination paper, or certificate of nomination, or certified abstract of the canvassing board.

2. Because of any error in stamping or writing the endorsement thereon by the official charged with such duties.

3. Because of any error on the part of the officer charged with such duty in delivering the wrong ballots at any polling place.

See also §49.92.

49.102 Defective ballots. Said defective ballots shall be counted for the candidate or candidates for such offices named in the nomination papers, certificate of nomination, or certified abstract.

49.103 Wrong ballots. Said wrong¹ ballots shall be counted as cast for all candidates for whom the voter had the right to vote, and for whom he did vote.

¹*See §49.101(3)*

49.104 Persons permitted at polling places. The following persons shall be permitted to be present at and in the immediate vicinity of the polling places, provided they do not solicit votes:

1. Any person who is by law authorized to perform or is charged with the performance of official duties at the election.

2. Any number of persons, not exceeding three from each political party having candidates to be voted for at such election, to act as challenging committees, who are appointed and accredited by the executive or central committee of such political party or organization.

3. Any number of persons not exceeding three from each of such political parties, appointed and accredited in the same manner as above prescribed for challenging committees, to witness the counting of ballots.

4. Any peace officer assigned or called upon to keep order or maintain compliance with the provisions of this chapter, upon request of the commissioner or of the chairman of the precinct election board.

5. One observer representing any nonparty political organization, any candidate nominated by petition pursuant to chapter 45, or any other nonpartisan candidate in a city or school election, appearing on the ballot of the election in progress.

49.105 Ordering arrest. Any precinct election official shall order the arrest of any person who conducts himself in a noisy, riotous, tumultuous or disorderly manner at or about the polls, so as to disturb the election, or insults or abuses the officials, or commits a breach of the peace, or violates any of the provisions of this chapter. If the person so arrested is a qualified elector of the precinct which that polling place serves, and has not yet voted, he shall be permitted to do so before being removed from the polling place.

II.2 Privileged from arrest. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom. [Const. Iowa II,2]

49.107 Prohibited acts on election day. The following acts, except as specially authorized by law, are prohibited on any election day:

1. Loitering, congregating, electioneering,¹ posting of signs, treating voters, or soliciting votes, during the receiving of the ballots, either on the premises of any polling place or within three hundred feet of any outside door of any building affording access to any room where the polls are held, or of any outside door of any building affording access to any hallway, corridor, stairway, or other means of reaching the room where the polls are held, except this subsection shall not apply to the posting of signs on private property not a polling place.

2. Interrupting, hindering, or opposing any voter while in or approaching the polling place for the purpose of voting.

3. A voter allowing any person to see how his ballot is marked.

4. A false statement by a voter as to his ability to mark his ballot.

5. Interfering or attempting to interfere with a voter when inside the enclosed space, or when marking his ballot.

6. Endeavoring to induce a voter to show how he marks, or has marked his ballot.

7. Marking, or causing in any manner to be marked, on any ballot, any character for the purpose of identifying² such ballot.

¹*In an opinion dated Nov. 1, 1968, the Attorney General felt that an election worker wearing a badge containing the name of the incumbent elected official running the election would be electioneering, thus violating this section.*

²*See §49.92.*

49.108 Penalty. Any violation of the provisions of section 49.107 shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment for not less than ten days nor more than thirty days in the county jail, or by both fine and imprisonment.

49.109 Employees entitled to time to vote. Any person entitled to vote at a general election in this state who does not have three consecutive hours in the period between the time of the opening and the time of the closing of the polls during which he is not required to be present at work for an employer, shall be entitled to such time off from his work time to vote as will in addition to his non-working time total three consecutive hours during the time the polls are open. Application by any employee for such absence shall be made individually and in writing prior to the date of the election, and the employer shall designate the period of time to be taken. Such voter shall not be

liable to any penalty nor shall any deduction be made from his regular salary or wages on account of such absence.

49.110 Intimidation of employees by employer. Any employer who shall refuse to an employee the privilege conferred by section 49.109, or shall subject such employee to a penalty or reduction of wages because of the exercise of such privilege, or shall in any manner attempt to influence or control such employee as to how he shall vote, by offering any reward,¹ or threatening discharge from employment, or otherwise intimidating or attempting to intimidate such employee from exercising his right to vote, shall be punished by a fine of not less than five dollars nor more than one hundred dollars.

¹*See also §§738.1—738.3*

49.111 Unlawful acts. It shall be unlawful for any person, prior to the closing of the polls, willfully to do any of the following acts:

1. Destroy, deface, tear down, or remove any list of candidates, card of instruction, or specimen ballot posted as provided by law.

2. Remove or destroy any of the supplies or articles furnished for the purpose of enabling voters to prepare their ballots.

49.112 Penalty. Any person violating section 49.111 shall be fined not less than ten dollars nor more than one hundred dollars, or imprisoned not less than ten nor more than thirty days, or be punished by both said fine and imprisonment.

49.113 Official neglect or misconduct. Any public officer upon whom a duty is imposed by this chapter, who shall willfully neglect to perform such duty, or who shall willfully perform it in such a way as to hinder the object thereof, or shall disclose to anyone, except as may be ordered by any court of competent jurisdiction, the manner in which any ballot may have been voted, shall be punished by a fine of not less than five dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

See also §66.1

49.119 Penalty. Any person violating or attempting to violate any provisions or requirements of this chapter, or failing or refusing to comply with any order or command of an election officer, made in pursuance of the provisions of this chapter, shall, unless otherwise provided,¹ be punished by a fine of not less than fifty dollars nor more than two hundred dollars,

or by imprisonment of not less than twenty days, nor more than six months, in the county jail.

See also chapter 738.

49.120 Promise of position. It shall be unlawful for any candidate for any office to be voted for at any election, prior to his nomination or election, to promise, either directly or indirectly, to support or use his influence in behalf of any person or persons for any position, place, or office, or to promise directly or indirectly to name or appoint any person or persons to any place, position, or office in consideration of any person or persons supporting him or using his, her, or their influence in securing his or her nomination, election, or appointment.

49.121 Promise of influence. It shall be unlawful for any person to solicit from any candidate for any office to be voted for at any election, or any candidate for appointment to any public office, prior to his nomination, election, or appointment, a promise, directly or indirectly, to support or use his or her influence in behalf of any person or persons for any position, place, or office, or a promise either directly or indirectly to name or appoint any person or persons to any place, position, or office in consideration of any person or persons supporting him or her, or using his, her, or their influence in securing his or her nomination, election, or appointment.

49.122 Penalty. Any person violating any of the provisions of sections 49.120 and 49.121 shall be deemed guilty of a misdemeanor and punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months.

49.123 Courthouse open on election day. The courthouse of each county shall remain open on election day.

49.124 Training course by commissioner. It shall be the duty of the commissioner to conduct, not less than three days before each primary and general election, a training course of not more than two hours for all election personnel, and the commissioner may do so before any other election he administers. Such personnel shall include all precinct election officials and any other persons who will be employed in or around the polling places on election day. At least two precinct election officials who will serve on each precinct election board at the forthcoming election shall attend the training course, and if the entire board does not attend, those members who do attend shall so far as possible be persons who have not previously attended a similar training course.

49.125 Compensation of trainees. All election personnel attending such training course shall be paid for attending such course for a period not to exceed two hours. The wages shall be two dollars per hour and payment for attendance shall be made at the time that payment is made for duties performed on election day.

While §49.20, relating to pay on election day, allows mileage in addition to the hourly pay, this section speaks only of the hourly pay.

49.126 Manual by state commissioner. It shall be the duty of the state commissioner to provide a training manual and such additional materials as may be necessary to all commissioners for conducting the required training course and to revise the manual from time to time as may be necessary.

49.127 Commissioner to examine machines. It shall be the duty of each commissioner to determine that all voting machines are operational and functioning properly and that all materials necessary for the conduct of the election are in his possession and are correct.

Chapter 50 — CANVASS OF VOTES

See section 39.3 for definitions applicable to this chapter.

- 50.1 Canvass by officials
- 50.2 Repealed
- 50.3 Double or defective ballots
- 50.4 Ballots objected to
- 50.5 Disputed ballots returned separately
- 50.6 Votes in excess of voter declarations
- 50.7 Error on county office—township office
- 50.8 Error on state or district office—tie vote
- 50.9 Return of ballots not voted
- 50.10 Record of ballots returned
- 50.11 Proclamation of result
- 50.12 Return and preservation of ballots
- 50.13 Destruction of ballots
- 50.14 Destruction of primary election ballots
- 50.15 Destruction in abeyance pending contest
- 50.16 Tally list of board
- 50.17 Return of election register
- 50.18 Repealed
- 50.19 Preservation of books—when destroyed
- 50.20—50.22 Repealed
- 50.23 Messengers for missing tally lists
- 50.24 Canvass by board of supervisors
- 50.25 Abstract of votes in the general election
- 50.26 Duplicate abstracts
- 50.27 Declaration of election
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- 50.43 Senator or congressman
- 50.44 Tie vote
- 50.45 Canvass public—result determined
- 50.46 Special elections—canvass and certificate
- 50.47 Messengers for election tally lists

50.1 Canvass by officials. At every election conducted under chapter 49, except the primary election provided for by chapter 43, and at every other election unless the law authorizing the election otherwise requires, the vote shall be canvassed at each polling place by the election board in the manner prescribed by this chapter. When the poll is closed, the precinct election officials shall forthwith, and without adjournment:

1. Publicly canvass the vote, and credit each candidate with the number of votes counted for him.
2. Ascertain the result of the vote.
3. Prepare in writing a list of any apparently or possibly erroneous information appearing in the precinct election register.
4. Designate two election board members, not members of the same political party, who shall each separately keep a tally list of the count.

For comments on counting ballots, see notes following §49.98.

Where the voter votes for both candidates for an office, the ballot should not be counted for that office, but the rest of the ballot should still be counted, according to several Opinions of the Attorney General.

50.3 Double or defective ballots. If two or more marked ballots are so folded together as to appear to be cast as one, the precinct election officials shall endorse thereon "Rejected as double". Such ballots shall not be counted, but shall be folded together and kept

as hereinafter directed. Every ballot not counted shall be endorsed "Defective" on the back thereof.

50.4 Ballots objected to. Every ballot objected to by a precinct election official or challenger, but counted, shall be endorsed on the back thereof, "Objected to", and there shall also be endorsed thereon, and signed by the officials, a statement as to how it was counted.

50.5 Disputed ballots returned separately. All ballots endorsed as required by sections 50.3 and 50.4 shall be enclosed and securely sealed in an envelope, on which the precinct election officials shall endorse "Disputed ballots", with a signed statement of the precinct in which, and date of the election at which, they were cast.

50.6 Votes in excess of voter declarations. If the number of votes cast for any office or on any question exceeds the number of voters' declarations of eligibility signed as required by section 49.77, such fact shall be certified, with the number of the excess, in the return.

If the discrepancy could change the results of the election, there are certain circumstances under which the appropriate authorities might choose to order a new election in those precincts where the discrepancies are found, according to an Opinion of the Attorney General dated Nov. 16, 1971.

50.7 Error on county office—township office. If, in case of such excess, the vote of the precinct where the error occurred would change the result as to a county office if the person appearing to be elected were deprived of so many votes, then the election shall be set aside as to him in that precinct, and a new election ordered therein; but no person who was not a qualified elector in that precinct at the time of the general election shall be allowed to vote at such special election. If the error occurs in relation to an office of a city, school district, township, or of any special district whose elections may be conducted under this chapter, the governing body of the political subdivision involved may order a new election or not, in their discretion.

50.8 Error on state or district office—tie vote. If the error be in relation to a district or state office, it shall be certified with the number of the excess to the state commissioner. If the error affects the result of the election, the canvass shall be suspended and a new vote ordered in the precinct where the error occurred. When there is a tie vote due to such an excess, there shall be a new election. No person who was not a qualified elector in that precinct at the time of the general election shall be allowed to vote at such special election. When the new vote is taken and returned, the canvass shall be completed.

50.9 Return of ballots not voted. Ballots not voted, or spoiled by voters while attempting to vote, shall be returned by the precinct election officials to the commissioner, and a receipt taken therefor, and they shall be preserved for six months.

50.10 Record of ballots returned. The commissioner shall enter on the record maintained as required by section 49.65 a notation of the number and character of the ballots returned from each precinct, and the time when and the person by whom they are returned.

50.11 Proclamation of result. When the canvass is completed one of the precinct election officials shall publicly announce the total number of votes received by each of the persons voted for, the office for which he is designated, as announced by the designated tally keepers, and the number of votes for, and the number of votes against, any proposition which shall have been submitted to a vote of the people, and he shall communicate said information by telephone or telegraph or in person to the commissioner who is conducting the election immediately upon completion of the canvass; and the commissioner shall remain on duty until such information is communicated to him from each polling place in his county.

50.12 Return and preservation of ballots. Immediately after making such proclamation, and before separating, the board members of each precinct in which votes have been received by paper ballot shall fold in two folds, and string closely upon a single piece of flexible wire, all ballots which have been counted by them, except those endorsed "Rejected as double", "Defective", or "Objected to", unite the ends of such wire in a firm knot, seal the knot in such a manner that it cannot be untied without breaking the seal, enclose the ballots so strung in an envelope, and securely seal such envelope. The precinct election officials shall return all the ballots to the commissioner, who shall carefully preserve them for six months.

See §§50.3—50.5.

50.13 Destruction of ballots. If at the expiration of six months no contest is pending, the commissioner, without opening the package in which they have been enclosed, shall destroy the same, in the presence of two electors, one from each of the two leading political parties, who shall be designated by the chairman of the board of supervisors.

Ballots for constitutional amendments can be destroyed after the same time, according to an Opinion of the Attorney General (1964 OAG 183).

50.14 Destruction of primary election ballots. The ballots cast at a primary election, with the nomination papers, shall, where no contest is pending, be destroyed ten days prior to the holding of the general election following the primary election at which said ballots were cast.

50.15 Destruction in abeyance pending contest. If a contest is pending, the ballots shall be kept until the contest is finally determined.

50.16 Tally list of board. The tally list shall be prepared in writing by the election board, giving, in legibly printed numerals, the whole number of ballots cast for each officer, except those rejected, the name of each person voted for, and the number of votes given to each person for each different office; which tally list shall be signed by the precinct election officials, and be substantially as follows:

See Appendix "A."

50.17 Return of election register. The precinct election register prepared for each election, together with the ballots to be returned pursuant to section 50.12, if any, and the signed and attested tally list, shall be delivered to the commissioner by one of the precinct

election officials within two days after the day of the election.

50.19 Preservation of books—when destroyed. The commissioner shall file precinct election registers, and other papers pertaining to registration, together with the declarations of eligibility signed by voters at the election, in his office and preserve the same for four years and until the determination of any contest then pending, after which they shall be destroyed.

50.23 Messengers for missing tally lists. The commissioner shall, on the fourth day following an election, send messengers for all tally lists not then received by him. The expense of securing such tally lists shall be paid by the county.

See also §50.47

50.24 Canvass by board of supervisors. The county board of supervisors shall meet at nine o'clock on the morning of the first Monday after the day of each election to which this chapter is applicable, unless the law authorizing the election specifies another date for the canvass, and shall open and canvass the tally lists. The board shall prepare abstracts stating, in words written at length, the number of votes cast in the county, or in that portion of the county in which the election was held, for each office or on each question on the ballot for the election. The abstract shall further indicate the name of each person who received votes for each office on the ballot, and the number of votes each person named received for that office, and the number of votes for and against each question submitted to the voters at the election.

50.25 Abstract of votes in general election. At the canvass of the general election, the abstract of the votes for each of the following classes shall be made on a different sheet:

1. President and vice president of the United States.
2. Senator in the Congress of the United States.
3. Representative in the Congress of the United States.
4. Governor and lieutenant governor.
5. A state officer not otherwise provided for.
6. Senator or representative in the general assembly by districts.
7. A county officer.

See also §6.8

50.26 Duplicate abstracts. All abstracts of votes cast in the general election, except the abstracts of votes for county officers, shall be made in duplicate, and signed by the board of county canvassers. One of said

abstracts shall be forwarded to the state commissioner, and the other filed by the commissioner.

50.27 Declaration of election. Each abstract of the votes for such officers as the county alone elects at the general election, except district judges and senators and representatives in the general assembly, or of the votes for officers of political subdivisions whose elections are conducted by the commissioner, shall contain a declaration of whom the canvassers determine to be elected. Each abstract of votes for and against each public question submitted to and decided by the voters of the county alone, or of a single political subdivision whose elections the county board canvasses, shall contain a declaration of the result as determined by the canvassers. When a public question has been submitted to the voters of a political subdivision whose elections the county board canvasses, the commissioner shall certify a duplicate of the abstract and declaration to the governing body of the political subdivision.

50.28 Tally lists filed. When the canvass is conducted, the board shall deliver the original tally lists to the commissioner, who shall file the same, and record each of the abstracts above mentioned in the election book.

50.29 Certificate of election. When any person is thus declared elected, there shall be delivered to him a certificate of election, under the official seal of the county, in substance as follows:

See Appendix "A."

Such certificate shall be presumptive evidence of his election and qualification.

50.30 Abstracts forwarded to state commissioner. The commissioner shall, within ten days after the election, forward to the state commissioner, in separate, securely sealed envelopes, one of the said duplicate abstracts of votes for each of the following offices:

1. President and vice-president of the United States.
2. Senator in Congress.
3. Representative in Congress.
4. Governor and lieutenant governor.
5. Senator or representative in the general assembly by districts.
6. A state officer not otherwise specified above.

See also §6.8

50.31 Abstracts for governor and lieutenant governor. The envelope containing the abstracts of votes for governor and lieutenant governor shall be endorsed

substantially as follows: "Abstract of votes for governor and lieutenant governor from county". After being so endorsed said envelope shall be addressed, "To the Speaker of the House of Representatives".

IV.3 Returns. The returns of every election for governor, and lieutenant governor, shall be sealed up and transmitted to the seat of government of the state, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly. [Const. Iowa IV.3]

50.32 Endorsement on other envelopes. Said remaining envelopes shall be endorsed substantially in the manner provided in section 50.31, with changes necessary to indicate the particular office, and each shall be addressed, "To the State Commissioner of Elections."

50.33 Forwarding of envelopes. Said envelopes, including the one addressed to the speaker, after being prepared, sealed, and endorsed as aforesaid, shall be placed in one package and forwarded to the state commissioner.

50.34 Missing abstracts. If the abstracts from any county are not received at the office of the state commissioner within fifteen days after the day of election, he shall send a messenger to the commissioner of such county, who shall furnish him with them, or, if they have been sent, with a copy thereof, and he shall return them to the state commissioner without delay.

See also §50.47

50.35 Abstracts on governor. The envelopes containing the abstracts of votes for governor and lieutenant governor shall not be opened by the state commissioner, but he shall securely preserve the same and deliver them to the speaker of the house of representatives at the time said abstracts are canvassed as provided¹ by law.

¹See §2.27 for the time of canvass

50.36 Envelopes containing other abstracts. All other envelopes containing abstracts of votes shall be kept by the state commissioner unopened, until the time fixed by law¹ for the canvass of such abstracts, and they shall then be opened only in the presence of the state board² of canvassers.

¹See §50.38 for time of canvass

²Called "board of state canvassers" in §50.38

50.37 State canvassing board. The executive council shall constitute a board of canvassers of all abstracts of votes required to be filed with the state com-

missioner, except for the offices of governor and lieutenant governor. No member of such board shall take part in canvassing the votes for an office for which he is a candidate. Any clerical error found by the state board of canvassers shall be corrected by the county commissioner in a letter addressed to the state board of canvassers.

50.38 Time of state canvass. On the twentieth day after the day of election, the board of state¹ canvassers shall open and canvass all of the tally lists. If they are not received from all the counties, it may adjourn, not exceeding twenty days, for the purpose of obtaining them, and, when received, shall proceed with the canvass. The tally lists of votes cast for senators and representatives in the general assembly shall be canvassed at least twenty days prior to the convening of the general assembly.

¹Called "state board of canvassers" in §50.36

50.39 Abstract. It shall make an abstract stating, in words written at length, the number of ballots cast for each office, the names of all the persons voted for, for what office, the number of votes each received, and whom it declares to be elected, and if a public question has been submitted to the voters of the state, the number of ballots cast for and against the question and a declaration for the result as determined by the canvassers; which abstract shall be signed by the canvassers in their official capacity and as state canvassers, and have the seal of the state affixed.

50.40 Record of canvass. The state commissioner shall file the abstracts when received and shall have the same bound in book form to be kept by him as a record of the result of said state election, to be known as the state election book.

50.41 Certificate of election. Each person declared elected by the state board of canvassers shall receive a certificate thereof, signed by the governor, or, in his absence, by the secretary of state, with the seal of the state affixed, attested by the other canvassers, to be in substance as follows:

STATE OF IOWA:

To A..... B....., Greeting: It is hereby certified that, at an election holden on the day of you were elected to the office of of said state, for the term of years, from and after the day of (or if to fill a vacancy, for the residue of the term, ending on the day of).

Given at the seat of government this day of

If the governor be absent, the certificate of the election of the secretary of state shall be signed by the

auditor. The certificate to members of the legislature shall describe, by the number, the district from which the member is elected.

50.42 Certificates mailed. The state commissioner shall prepare and deliver or mail certificates of election to the persons declared elected.

50.43 Senator or congressman. The certificate of the election of a senator or representative in Congress shall be signed by the governor, with the seal of the state affixed, and be countersigned by the secretary of state.

50.44 Tie vote. If more than the requisite number of persons, including presidential electors, are found to have an equal and the highest number of votes, the election of one of them shall be determined by lot. The name of each of such candidates shall be written on separate pieces of paper, as nearly uniform in size and material as possible, and placed in a receptacle so that the names cannot be seen. In the presence of the board of canvassers, one of them shall publicly draw one of such names, and such person shall be declared elected. The result of such drawing shall be entered upon the abstract of votes and duly recorded, and a certificate of election issued to such person, as provided in this chapter.

50.45 Canvass public—result determined. All canvasses of tally lists shall be public, and the persons having the greatest number of votes shall be declared elected.

50.46 Special elections—canvass and certificate.

When a special election has been held to fill a vacancy, pursuant to section 69.14, the board of county canvassers¹ shall meet at one o'clock in the afternoon of the second day thereafter, and canvass the votes cast thereat. The commissioner, as soon as the canvass is completed, shall transmit to the state commissioner an abstract of the votes so canvassed, and the state board, within five days after receiving such abstracts, shall canvass the tally lists. A certificate of election shall be issued by the county or state board of canvassers, as in other cases. All the provisions regulating elections, obtaining tally lists, and canvass of votes at general elections, except as to time, shall apply to special elections.

¹See §50.24

50.47 Messengers for election tally lists. Messengers sent for the tally lists of elections shall be paid from the state or county treasury, necessary travel expense.¹

¹See §79.9, as amended by SF1139.6:

79.9 Charge for use of automobile. When a public officer or employee, other than a state officer or employee, is entitled to be paid for expenses in performing a public duty, a charge shall be made, allowed, and paid for the use of an automobile of fifteen cents per mile for actual and necessary travel. A statutory provision stipulating necessary, mileage, travel, or actual reimbursement to a public officer or employee shall be construed to fall within this fifteen cents limitation unless specifically provided otherwise. Any peace officer as defined in section 748.3 who is required to use his private vehicle in the performance of his official duties shall receive reimbursement for mileage expense at the rate of fifteen cents per mile.

Chapter 51 — SPECIAL COUNTING BOARDS FOR PAPER BALLOTS

See section 39.3 for definitions applicable to this chapter.

51.1 Election counting board
 51.2 Appointment
 51.3 "Receiving" and "counting" boards defined
 51.4 Duties of receiving board
 51.5 Oath
 51.6 Administration of oath
 51.7 Duties of double boards
 51.8 Ballot boxes
 51.9 Manner of counting

51.10 Secrecy of ballot
 51.11 Presence of persons
 51.12 Counting quarters—guarding ballots
 51.13 Certification of count—returns
 51.14 Compensation of board
 51.15 Applicability of law
 51.16 Violations
 51.17 Circulation of information

51.1 Election counting board. In all election precincts the board of supervisors may authorize the commissioner to appoint for each primary and general election five additional precinct election officials to be known as the election counting board.

This section does not permit the use of special counting boards at special elections, according to an Opinion of the Attorney General (1962 OAG 206).

See also §51.15

51.2 Appointment. The members of the election counting board shall be appointed by the commissioner from the election board panel drawn up as provided by section 49.15. The requirements of section 49.13, relative to political party affiliation of members of the election board appointed to serve for partisan elections shall apply to the membership of the election counting board.

51.3 "Receiving" and "counting" boards defined. The precinct election officials as provided in chapter 49 shall be known as the "receiving board" and it shall be their duty to supervise the casting of ballots at said election, and the precinct election officials provided for in sections 51.1 and 51.2 shall be known as the "counting board."

51.4 Duties of receiving board. The receiving board shall perform all the functions of precinct election officials as provided by law except as to counting and certifying¹ the vote as by this chapter provided.

¹*See §51.13*

51.5 Oath. All board members shall take an oath as provided in section 49.75, for precinct election officials and in addition to such oath the counting board shall take the following oath:

"I do swear (or affirm) that I will duly attend to the ensuing election during the continuance thereof as a member of the counting board; that I will not, prior to the closing of polls, communicate in any

manner, directly or indirectly, by word or sign, the progress of the counting, nor the result so far as ascertained, nor any information whatsoever in relation thereto; that I will make and return a perfect return of the said election, and will in all things truly, impartially, and faithfully perform my duty respecting the same to the best of my judgment and ability; that I am not directly or indirectly interested in any bet or wager on the result of this election."

51.6 Administration of oath. This oath shall be administered at the time the board enters upon its duties by a precinct election official of the receiving board who is hereby empowered to administer such oath.

51.7 Duties of double boards. The counting boards shall proceed to the respective voting places to which they have been appointed, at one o'clock p.m., or in any precinct in which the commissioner shall deem it necessary, at such earlier hour after nine o'clock a.m., as the commissioner may direct, and shall take charge of the ballot box containing the ballots already cast in that precinct. It shall retire to a partitioned space or room provided for that purpose and there proceed to count and tabulate the ballots as it shall find them deposited in the ballot box. The receiving board shall continue to receive the votes of electors in the other box provided, until such time as the counting board shall have finished counting and tabulating the ballots cast in the first ballot box. The two boards shall then exchange the first box for the second box and so continue until they have counted and tabulated all the votes cast on that election day. When the hour arrives for closing the polls, the receiving board shall certify to all matters pertaining to casting of ballots and shall then unite with the counting board in the counting of ballots. The precinct election officials shall then divide the ballots not counted and each group of officials shall proceed to canvass their portion of the same. When the canvass has been completed the officials

shall report the result of their canvass in the manner provided by section 50.11.

51.8 Ballot boxes. It shall be the duty of the commissioner to provide the precinct election officials with such ballot boxes and other election supplies as may be required to be furnished in duplicate to accomplish the purpose of this chapter.

51.9 Manner of counting. Whenever the counting board receives from the receiving board the ballot box, they shall also be furnished a statement from the receiving board giving the number of voters' declarations of eligibility signed up to that time, which shall¹ equal the number of votes in the ballot box. The counting board shall on opening the ballot box first count the ballots therein. If the number of ballots found in the ballot box exceeds the number as shown by the statement received from the receiving board the counting board members shall proceed to examine the official endorsement of said ballots, and, if any ballots are found that do not bear proper official endorsement, said ballots shall be kept separate and a record of such ballots shall be made and returned under the head of excess ballots. The counting board shall then proceed to count the ballots as now provided by law.

¹*This should probably read "should".*

51.10 Secrecy of ballot. The space or room occupied by the counting board shall be policed in such manner as to prevent any person, or persons, from gaining information regarding the progress of the count before the polls are closed.

51.11 Presence of persons. No person shall be admitted into the space or room where such ballots are being counted until the polls are closed, except the counting board.

Challengers are not permitted to watch the counting of ballots by this special counting board while the polls are open, but may be present after the polls have closed, according to a 1940 Opinion of the Attorney General (1940 OAG 578).

51.12 Counting quarters—guarding ballots. The commissioner shall provide suitable places for the counting of ballots, but when it becomes necessary to remove the ballot box from one room to another, or from one building to another, and at all times when they are in possession of the counting board, they shall be under constant observation of at least one counting board member from each political party.

51.13 Certification of count—returns. Both¹ boards shall certify to all matters pertaining to counting and canvassing of votes and shall return all materials and ballots to the commissioner as provided by law.

¹*See §51.4*

51.14 Compensation of board. Compensation for counting board members shall be the same as provided by law¹ for precinct election officials.

¹*See §49.20*

51.15 Applicability of law. This chapter shall apply to all general and primary elections, but shall not apply where voting machines are used.

51.16 Violations. Any judge or clerk¹ violating the provisions of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not to exceed five hundred dollars, or imprisonment in the county jail not to exceed six months. Any person so convicted shall be disfranchised for five years thereafter.

¹*This should be precinct election official. See HF1399.104.*

51.17 Circulation of information. Anyone circulating or attempting to circulate any information with reference to the result of the counted ballots shall be guilty of a misdemeanor and punished as provided by section 51.16.

Chapter 52 — VOTING MACHINES

See section 39.3 for definitions applicable to this chapter.

- 52.1 Use of voting machines
- 52.2 Purchase
- 52.3 Terms of purchase—tax levy
- 52.4 Commissioners—term—removal
- 52.5 Examination of machine
- 52.6 Compensation
- 52.7 Construction of machine approved
- 52.8 Experimental use
- 52.9 Duties of local authorities—certificate of test
- 52.10 Ballots—form
- 52.11 Locking of unused party row
- 52.12 Exception—party circle and general form
- 52.13 Sample ballots
- 52.14 Two sets of ballots
- 52.15 Delivery of ballots and supplies
- 52.16 Duties of election officers—independent ballots
- 52.17 Voting machine in plain view
- 52.18 Method of voting
- 52.19 Instructions
- 52.20 Injury to machine
- 52.21 Canvass of vote—tally sheet
- 52.22 Locking machine
- 52.23 Written statements of election
- 52.24 What statutes apply—separate ballots
- 52.25 Summary of amendment or public measure

52.1 Use of voting machines. At all elections conducted under chapter 49, and at any other election unless specifically prohibited by the statute¹ authorizing the election, votes may be cast, registered, recorded, and counted by means of voting machines, as hereinafter provided.

¹See §55.15

52.2 Purchase. The board of supervisors of any county may, by a majority vote, authorize, purchase, and order the use of voting machines in any one or more voting precincts within said county until otherwise ordered by said board of supervisors.¹

¹However, §49.26 allows the commissioner to choose to use paper ballots in city and school elections, and probably controls under the Latest Enactment Rule.

52.3 Terms of purchase—tax levy. The county board of supervisors, on the adoption and purchase of a voting machine, may provide for the payment therefor in such manner as they may deem for the best interest of the county, and may for that purpose issue bonds, certificates of indebtedness, or other obligations, which shall be a charge on the county, or levy not to exceed one-half mill. Any amounts so levied and collected in excess of actual costs of voting machines shall revert to the general fund of the county. Such bonds, certificates, or other obligations may be issued with or without interest, payable at such time or times as the county board may determine, but shall not be issued or sold at less than par.

52.4 Commissioners—term—removal. The governor shall appoint three commissioners, not more than two of whom shall be from the same political party. The said commissioners¹ shall hold office for the term of

five years, subject to removal at the pleasure of the governor.

¹Roy E. Voelker, Oskaloosa; Ralph DeCook, Knoxville; Dorothy J. Elliott, Nevada. All terms expire February 3, 1979.

52.5 Examination of machine. Any person or corporation owning or being interested in any voting machine may call upon the said commissioners to examine the said machine, and make report to the state commissioner upon the capacity of the said machine to register the will of voters, its accuracy and efficiency, and with respect to its mechanical perfections and imperfections. Their report shall be filed in the office of the state commissioner and shall state whether in their opinion the kind of machine so examined can be safely used by such voters at elections under the conditions prescribed in this chapter. If the report states that the machine can be so used, it shall be deemed approved¹ by the commissioners, and machines of its kind may be adopted for use at elections as herein provided. Any form of voting machine not so approved cannot be used at any election.

¹Voting machines approved:

Shoup Voting Machine Corp., Philadelphia, Penn.

(Ten-column, 50-row combination manual or electrically operated, approved Feb. 15, 1950 with a recommendation that the paper roll compartment be sealed during the election.)

Automatic Voting Machine Division of Rockwell Mfg. Co., Jamestown, N.Y.

(Machines of the same type, kind and manufacture as the machine bearing the serial number 110,635, approved June 17, 1959.)

52.6 Compensation. Each commissioner is entitled to one hundred fifty dollars for his compensation and expenses in making such examination and report, to be paid by the person or corporation applying for

such examination. No commissioner shall have any interest whatever in any machine reported upon. Provided that said commissioner shall not receive to exceed fifteen hundred dollars and reasonable expenses in any one year; and all sums collected for such examinations over and above said maximum salaries and expenses shall be turned into the state treasury.

52.7 Construction of machine approved. A voting machine approved by the state board of voting machine commissioners must be so constructed as to provide facilities for voting for the candidates of at least seven¹ different parties or organizations, must permit a voter to vote for any person for any office although not nominated as a candidate by any party or organization, and must permit voting in absolute secrecy.

It must also be so constructed as to prevent voting for more than one person for the same office, except where the voter is lawfully entitled to vote for more than one person for that office; and it must afford him an opportunity to vote for any or all persons for that office as he is by law entitled to vote for and no more, at the same time preventing his voting for the same person twice.

It may also be provided with one ballot in each party column or row containing only the words "presidential electors", preceded by the party name, and a vote for such ballot shall operate as a vote for all the candidates of such party for presidential electors.

Such machine shall be so constructed as to accurately account for every vote cast upon it.

If there are too many candidates or parties to be properly handled by the voting machine in a given election, the machine cannot be used and paper ballots must be used instead, according to an Opinion of the Attorney General (1930 OAG 347).

52.8 Experimental use. The board of supervisors of any county may provide for the experimental use at an election in one or more districts, of a machine which it might lawfully adopt, without a formal adoption thereof; and its use at such election shall be as valid for all purposes as if it had been lawfully adopted.

52.9 Duties of local authorities—certificate of test. The commissioner having jurisdiction of any precinct for which the board of supervisors has adopted voting by machine shall, as soon as practicable thereafter, provide for the precinct polling place one or more¹ voting machines in complete working order, and shall thereafter keep them in repair, and shall have the custody thereof and of the furniture and equipment of the polling place when not in use at an election. The

machines shall be used for voting at all elections² unless the commissioner directs otherwise pursuant to section 49.26. If it shall be impracticable to supply each and every election precinct for which machine voting has been adopted with a voting machine or voting machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election precincts as the commissioner may direct.

It shall be the duty of the commissioner or his duty authorized agents when so requested by the county chairman of one of the political parties referred to in section 49.13, to examine and test the voting machines to be used at any election not less than twelve hours before the opening of the polls on the morning of the election. If voting machines are to be so examined and tested, the chairman of each political party shall be notified in writing of the time said machines shall be examined and tested so that they may be present, or have a representative present. Those present for the examination and testing shall sign a certificate which shall read substantially as follows:

See Appendix "A."

On those voting machines equipped with an after-election latch and on all machines placed in use after January 1, 1961, in this state, the after-election latch shall be fully used by election officials.

¹*Section 49.26 formerly required a minimum of one voting machine for every 300 voters, or major fraction thereof, who voted in the last preceding similar election in a machine precinct. That ratio was repealed in 1974, probably inadvertently.*

²*See §49.26 for discretionary use of paper ballots in school and city elections.*

52.10 Ballots—form. All ballots shall be printed in black ink on clear, white material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. The party name for each political party represented on the machine shall be prefixed to the list of candidates of such party. The order of the list of candidates of the several parties or organizations shall be arranged as provided in sections 49.30 to 49.42, except that the lists may be arranged in horizontal rows or vertical columns.

52.11 Locking of unused party row. At all general elections the commissioner in preparing the ballot upon every voting machine shall cause the party row next underneath the names of the Republican candidates, and also the party row underneath the names of the Democratic candidates, to be locked and left blank except when more than five political parties have nominated candidates whose names are entitled to be placed on the official ballot.

52.12 Exception—party circle and general form. The provisions of section 49.42 shall not be applicable to voting machines owned prior to April 1, 1921, by any county or municipality insofar as they relate to the party circle and the form of the ballot generally; but nothing herein contained shall prohibit the use of voting machines equipped to comply with the foregoing provisions.

52.13 Sample ballots. The commissioner shall provide for each precinct polling place at which votes are to be cast by machine two sample ballots, which shall be arranged in the form of a diagram showing the entire front of the voting machine as it will appear after the official ballots are arranged for voting on election day. Such sample ballots shall be open to public inspection at such polling place during the day of election.

52.14 Two sets of ballots. Two sets of ballots shall be provided for each polling place for each election for use in the voting machine.

52.15 Delivery of ballots and supplies. The voting machine ballots and other necessary supplies shall be delivered to the board members of each precinct in which votes are to be cast by machine at the time required by section 49.55.

52.16 Duties of election officers—*independent ballots.* The election board of each precinct in which votes are to be cast by machine shall meet at the precinct polling place, at least one hour before the time set for the opening of the polls at each election, and shall proceed to arrange the furniture, stationery, and voting machine for the conduct of the election. The board shall cause at least two instruction cards to be posted conspicuously within the polling place. If not previously done, they shall arrange, in their proper place on the voting machine, the ballots containing the names of the offices to be filled at such election, and the names of the candidates nominated therefor. If not previously done, the machine shall be so arranged as to show that no vote has been cast, and the same shall not be thereafter operated, except by electors in voting. Before the polls are open for elections, the board shall carefully examine every machine and see that no vote has been cast, and the same shall be subject to inspection of the election officers. Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office, are herein referred to as independent ballots. When two or more persons are to be elected to the same office, and the machine requires that all independent ballots

voted for that office be deposited in a single receptacle or device, an elector may vote in or by such receptacle or device for one or more persons whose names do not appear upon the machine with or without the names of one or more persons whose names do so appear. With that exception, and except for presidential electors, no independent ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office; any independent ballot so voted shall not be counted. An independent ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

52.17 Voting machine in plain view. The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers. The voting machine shall be placed at least three feet from every wall and partition of the polling place, and at least four feet from the clerk's table.

52.18 Method of voting. After the opening of the polls, the precinct election officials shall not allow any voter to enter the voting machine booth until they ascertain that he is duly entitled to vote. Only one voter at a time shall be permitted to enter the voting machine booth to vote. The operating of the voting machine by the elector while voting shall be secret and obscured from all other persons, except as provided by this chapter¹ in cases of voting by assisted electors. No voter shall remain within the voting machine booth longer than three minutes, and if he shall refuse to leave it after the lapse of three minutes, he shall be removed² by the officials.

¹See §§49.81—49.91, via §52.24

²It appears that overtime voting is not one of the offenses proscribed by §49.105, so it is probably not necessary to allow the voter to finish voting (see §49.105) before removing him.

52.19 Instructions. In case any elector after entering the voting machine booth shall ask for further instructions concerning the matter of voting, two precinct election officials of opposite political parties shall give such instructions to him; but no precinct election official or other election officer or person assisting an elector shall in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instructions, such elector shall vote as in the case of an unassisted voter.

52.20 Injury to machine. No voter, or other person, shall deface or injure the voting machine or the ballot thereon. It shall be the duty of the precinct election

officials to enforce the provisions of this section. During the entire period of an election, at least one of their number, designated by them from time to time, shall be stationed beside the entrance to the booth and shall see that it is properly closed after a voter has entered to vote. He shall also, at such intervals as he may deem proper or necessary, examine the face of the machine to ascertain whether it has been defaced or injured, to detect the wrongdoer, and to repair any injury.

52.21 Canvass of vote—tally sheet. As soon as the polls of the election are closed, the precinct election officials thereat shall immediately lock the voting machine against voting and open the counting compartments in the presence of all persons who may be lawfully within the polling place, and proceed to canvass the vote. Said officials shall use a voting machine return and tally sheet in substantially the following form:

See Appendix "A."

After the canvass has been completed the officials shall immediately report the result of the canvass in the manner provided by section 50.11.

52.22 Locking machine. The precinct election officials shall, as soon as the count is completed and fully ascertained as in this chapter required, lock the machine against voting, and it shall so remain¹ until thirty days after the proclamation of the results of said election, except that it shall remain locked only ten days after a primary election, including a city primary election, if such election is not contested. However, if the machines in any precinct are so constructed as to deliver, immediately upon conclusion of the voting at any election, multiple copies of a printed record of the votes cast and the totals for each candidate or question appearing on the face of the machine, the machines may be unlocked immediately following the canvass of votes unless the precinct election board informs the commissioner that the printed record produced by the machine is smeared, torn or otherwise unreadable. In the latter case, the machines

shall be kept locked for the period of time prescribed for machines which do not print such a record.

Whenever independent ballots have been voted, the officials shall return all of such ballots properly secured in a sealed package as prescribed by section 50.12.

This section does not prevent the board of supervisors from opening the machines during the canvass, according to an Opinion of the Attorney General (1918 OAG 368).

52.23 Written statements of election. After the total vote for each candidate has been ascertained, and before leaving the room or voting place, the precinct election officials shall make and sign the canvass forms referred to in section 52.21, which canvass shall serve as a written statement of election. Said canvass statement shall be in lieu of the tally list required in section 50.16.

52.24 What statutes apply—separate ballots. All of the provisions of the election law not inconsistent with the provisions of this chapter shall apply with full force to all counties adopting the use of voting machines. Nothing in this chapter shall be construed as prohibiting the use of a separate ballot for public measures.

52.25 Summary of amendment or public measure. The question of a constitutional convention, amendments and public measures including bond issues may be voted on the voting machines in the following manner:

The entire convention question, amendment or public measure shall be printed and displayed prominently in at least two places within the voting precinct and on the left-hand side inside the curtain of each voting machine, said printing to be in conformity with the provisions of chapter 49. The public measure shall be summarized by the commissioner and in the largest type possible printed on the inserts used in said voting machines, except in the case of the question of a constitutional convention, or of an amendment or measure to be voted on in more than one county, the summary to be placed in the voting machine inserts shall be worded by the state commissioner of elections as required by section 49.44.

Chapter 53 — ABSENTEE BALLOTS

See section 39.3 for definitions applicable to this chapter.

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DIVISION I — PUBLIC ABSENTEES

53.1 Right to vote—conditions. Any qualified¹ elector may, subject to the provisions of this chapter, vote at any election:

1. When he expects to be absent on election day during the time the polls are open from the precinct in which he is a qualified elector.
2. When, through illness or physical disability, he expects to be prevented from going to the polls and voting on election day.

¹However, see exemption in §53.38

53.2 Application for ballot. Any qualified elector, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, make written application to the commissioner for an absentee ballot.

Nothing in this section shall be construed to require that a written communication mailed to the commissioner's office to request an absentee ballot, or any other document except the absent voter's affidavit required by section 53.13, be notarized as a prerequisite to receiving or marking an absentee ballot or returning to the commissioner an absentee ballot which has been voted.

Each application shall contain the name and signature of the qualified elector, the address at which he is qualified to vote, and the name or date of the election for which the absentee ballot is requested, and such other information as may be necessary to determine the correct absentee ballot for the qualified elector. If insufficient information has been provided, the commissioner shall, by the best means available, obtain the additional necessary information.

53.7 Penalty. It shall be unlawful for any employee of the state or any political subdivision thereof to solicit any application or request for application for an absentee ballot, or to take an affidavit in connection with any absentee ballot. However, any such employee may take such affidavit in connection with an absentee ballot which is cast by the qualified elector in person in the office where such employee is employed in accordance with section 53.11. This section shall not apply to any elected official.

See also chapter 740.

53.8 Ballot mailed. Upon receipt of an application for an absentee ballot and immediately after the absentee ballots are printed, it shall be the duty of the commissioner to mail an absentee ballot to the applicant within twenty-four hours. The absentee ballot

shall be enclosed in an unsealed envelope bearing a serial number and affidavit.¹ The absentee ballot and unsealed envelope shall be enclosed in a carrier envelope which bears the same serial number as the unsealed envelope. The absentee ballot, unsealed envelope, and carrier envelope shall be enclosed in a third envelope to be sent to the qualified elector.

If an application is received so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner shall enclose with the absentee ballot a statement to that effect. The statement shall also point out that it is possible for the applicant to personally deliver his completed absentee ballot to the office of the commissioner at any time before eight o'clock p.m.² on election day.

¹See §53.22

²See §53.16 for position of affidavit in envelope.

53.11 Personal delivery of absentee ballot. The commissioner shall deliver an absentee ballot to any qualified elector applying in person at his office not more than forty days before the date of the general election or the primary election, and for all other elections,¹ as soon as the ballot is available. The qualified elector shall immediately mark the ballot, enclose it in a ballot envelope with proper affidavit, and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and ballot envelope along with the name of the qualified elector. The commissioner of any county in which there is located a city of 25,000 or more population, which is not the county seat, may permit qualified electors to appear in person at some designated place within each such² city and there cast an absentee ballot in the manner prescribed by this section.

¹There should probably be no comma here.
Ames and Cedar Falls.

53.12 Duty of commissioner. The commissioner shall enclose the absentee ballot in an unsealed envelope, to be furnished by him, which envelope shall bear upon its face the words "county commissioner of elections," the address of his office, and the same serial number appearing on the unsealed envelope shall be affixed to the application. The seal of the officer notarizing the affidavit shall, if possible, be placed on the affidavit envelope in such a manner that the ballot will not be marked by the seal, however, if the officer's seal makes an imprint on the ballot that marking shall not invalidate the ballot.

53.13 Voter's affidavit. On the¹ unsealed envelope shall be printed an affidavit form prescribed² by the state commissioner of elections.

¹Reverse side of (see §53.16).

²See Appendix "A" for form of affidavit.

53.14 Party affiliation. Said affidavit shall designate the voter's party affiliation only in case the ballot enclosed is a primary election ballot.

53.15 Marking ballot. The qualified elector, on receipt of an absentee ballot, shall, in the presence of the officer notarizing the affidavit, mark such ballot in such manner that such officer will not know how such ballot is marked.

Qualified electors who are blind, cannot read, or because of any other physical disability, are unable to mark their own absentee ballot, may have the assistance of any person the qualified elector may select.

53.16 Taking and subscribing oath. After marking such ballot, the voter shall, before said officer, make and subscribe to the affidavit on the reverse side of the envelope, and, in the presence of such officer, fold such ballot, or ballots, separately, so as to conceal the markings thereon, and deposit the same in said envelope, which shall then be securely sealed.

53.17 Mailing or delivering ballot—balloting by confined persons. The sealed envelope containing the absentee ballot shall be enclosed in a carrier envelope which shall be securely sealed. The sealed carrier envelope shall be delivered by the qualified elector or his designee to the commissioner or a deputy in his office, or mailed, postage paid, to the office of the commissioner. The carrier envelope shall be received by the commissioner until eight o'clock¹ p.m. on election day.

An applicant who is a resident or patient in a health care facility or hospital located in the county to which the application has been submitted shall² have his absentee ballot delivered to him by one member of each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the panel drawn up as provided by section 49.15 for the special precinct established by section 53.23. The persons so appointed by the commissioner shall be notaries public and shall be sworn in the manner provided by section 49.75 for election board members. They may assist the qualified electors in filling out the ballot as provided in section 49.90. The voted absentee ballots shall be deposited in a sealed container which shall be returned to the commissioner on the same day.

The persons appointed by the commissioner pursuant to this section shall perform their duties during the three working days preceding the election. They shall receive compensation as provided in section 49.20. They shall travel together in the same vehicle and both shall be present when an applicant casts his absentee ballot.

¹See §53.22

²The word "shall" appears to prohibit mailing an absentee ballot to a person in such an institution.

53.18 Manner of preserving ballot and application.

Upon receipt of the absentee ballot, the commissioner shall at once record the number appearing on the application and ballot envelope and time of receipt of such ballot and enclose the same, unopened, with the application made by the qualified elector, in a large carrier envelope on which shall appear the words "This envelope contains an absent voter's ballot for the election", and securely seal the same.

53.19 Listing absentee ballots. The commissioner shall maintain a list of the absentee ballots provided to qualified electors, the serial number appearing on the unsealed envelope, the date the application for the absentee ballot was received, and the date the absentee ballot was sent to the qualified elector requesting the absentee ballot.

The commissioner shall provide each precinct election board with a list of all qualified electors from that precinct who have received an absentee ballot. The precinct officials shall immediately designate on the election register those qualified electors who have received an absentee ballot and are not entitled to vote in person at the polls.¹

However, any qualified elector who has received an absentee ballot and not voted it, may surrender the unmarked absentee ballot to the precinct officials and vote in person at the polls. The precinct officials shall mark the uncast absentee ballot "void" and return it to the commissioner. Any qualified elector who has been sent an absentee ballot by mail but for any reason has not received it may present himself at his precinct polling place on election day and sign an affidavit to that effect, after which he shall be permitted to vote in person. The form of the affidavit for use in such cases shall be prescribed by the state commissioner.

¹See also §49.72

53.22 Absentee ballots received. All absentee ballots forwarded to qualified electors and received by the

commissioner before¹ the closing of the polls² shall be counted by the absentee ballot counting board.

¹See also §53.17. However, this section probably controls pursuant to the Last Listing Rule of §4.8.

²See §49.73

53.23 Absentee ballot counting board. There is created a special precinct in each county in which all absentee ballots cast at any election in this state shall be counted.

The election board of the special precinct shall be known as the "absentee ballot counting board". There shall be only one absentee ballot counting board existing at any time in each county, and when two or more political subdivisions in the county hold elections simultaneously the absentee ballot counting board shall count absentee ballots cast in all of the elections so held. The commissioner shall appoint the absentee ballot counting board in the manner prescribed in sections 49.12 and 49.13, except that the number of precinct election officials on the absentee ballot counting board shall be sufficient to complete the counting of absentee ballots by nine o'clock p.m. and shall set the convening time for the board, allowing a reasonable amount of time to complete counting the absentee ballots prior to that hour. The commissioner may direct the board to meet on the day prior to the election solely for the purpose of reviewing the absentee voters' affidavits appearing on the sealed ballot envelopes, if in the commissioner's judgment this procedure is necessary due to the number of absentee ballots received, but under no circumstances shall a sealed ballot envelope be opened before the board convenes on election day.

The board's powers and duties shall be the same as provided in chapter 50 for precinct election officials in regular precinct polling places, except that the board shall receive and count all absentee ballots for all precincts in the county upon receipt from the commissioner.

The room occupied by the absentee ballot counting board shall be policed in such manner as to prevent any person from obtaining information regarding the progress of the count before the polls are closed. No person shall be admitted into the room where such ballots are being counted until the polls are closed except the absentee ballot counting board, one challenger representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter 45 or any other nonpartisan candidate in a city or school election appearing on the ballot of the election in progress, and the commissioner or his designee.

The tally list shall be recorded on forms prescribed¹ by the state commissioner of elections.

The absentee ballot counting board shall not release the results of the balloting until the polls have been closed.

¹See appendix A for form of tally list.

53.24 Counties using voting machines. In counties which provide the absentee ballot counting board with a voting machine, the absentee ballot envelopes shall be opened by the counting board and shall, without being unfolded, be thoroughly intermingled¹ in some proper manner, after which they shall be unfolded and, under the personal supervision of all the judges, be registered on the voting machine the same as if the absent voter had been present and voted in person. When two or more political subdivisions in the county are holding separate elections simultaneously, the commissioner may arrange the machine so that the absentee ballots for more than one such election may be recorded on the same machine.

¹Even if voting machines are NOT used, this procedure of intermingling the unfolded ballots should be used to preserve the secrecy of the voter's ballot.

53.25 Rejecting ballot. In case the absentee voter's affidavit is found to be insufficient, or that the applicant is not a duly qualified elector in such precinct, or that the ballot envelope is open, or has been opened and resealed, or that the ballot envelope contains more than one ballot of any one kind, or that said voter has voted in person, such vote shall not be accepted or counted.

If the absentee ballot is rejected prior to the opening of the ballot envelope, the voter casting the ballot shall be notified by an election judge by the time the canvass is completed of the reason for the rejection on a form¹ prescribed by the state commissioner of elections.

¹See Appendix "A" for form of rejection.

53.26 Rejected ballots—how handled. Every ballot not counted shall be endorsed on the back thereof "Rejected because (giving reason therefor)." All rejected ballots shall be enclosed and securely sealed in an envelope on which the judges shall endorse "Defective ballots", with a statement of the precinct in which and the date of the election at which they were cast, signed by the judges and returned to the same officer and in the same manner as by law provided for the return and preservation of official ballots voted at such election.

53.27 Rejection of ballot—return of envelope. If the ballot is rejected, said ballot envelope, with the affidavit of the voter endorsed thereon, shall be returned with said rejected ballot in the envelope endorsed "Defective ballots."

53.30 Ballot envelope preserved. The ballot envelope having the qualified elector's affidavit thereon shall be preserved.¹

¹Because the ballot envelope serves as the Voter's Declaration of Eligibility (see §49.77), it should probably be preserved, along with those Declarations, for four years (see §50.19).

53.31 Challenges. The vote of any absent voter may be challenged for cause and the judges of election¹ shall determine the legality of such ballot as in other cases.

¹This should probably read precinct election officials. See HF1399.104, 65GA.

53.32 Ballot of deceased voter. When it shall be made to appear by due proof¹ to the judges of election that any elector, who has so marked and forwarded his ballot, has died before the ballot envelope is opened, then the ballot of such deceased voter shall be endorsed, "Rejected because voter is dead", and be returned to the commissioner; but the casting of the ballot of a deceased voter shall not invalidate the election.

¹See §350.5

53.34 False affidavit. Any person who shall willfully swear falsely to any of such affidavits shall be guilty of perjury, and punished accordingly.

53.35 Refusal to return ballot. Any person who, having procured an official ballot or ballots, shall willfully neglect or refuse to cast or return the same in the manner provided, or who shall willfully violate any provision of this chapter, shall, unless otherwise provided, be fined not to exceed one hundred dollars, or imprisoned in the county jail not to exceed thirty days. Any person who applies for a ballot and willfully neglects or refuses to return the same shall be deemed to have committed an offense in the county to which such ballot was returnable.

53.36 Offenses by officers. If any commissioner or any election officer shall refuse or neglect to perform any of the duties prescribed by this chapter, or shall violate any of the provisions thereof, he shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned in the county jail not to exceed ninety days.

DIVISION II — SERVICEMAN'S ABSENTEES

53.37 "Armed forces" defined. The term "Armed Forces of the United States," as used in this division shall mean the army, navy, marine corps, coast guard, and air force of the United States.

For the purpose of absentee voting only there shall be included in the term "armed forces of the United States" the following:

1. Spouses and dependents of members of the armed forces while in active service.
2. Members of the merchant marine of the United States and their spouses and dependents.
3. Civilian employees of the United States in all categories serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by Congress.
4. Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents.

53.38 Affidavit constitutes registration. Whenever registration is required in order to vote at either the primary election or general election, in the case of voters in the armed forces of the United States, the affidavit upon the ballot envelope of such voter, otherwise qualified, shall constitute a sufficient registration, if registration is required under the provisions of chapter 48.

53.39 Request for ballot. The provisions of section 53.2 shall not apply in connection with the primary and general elections in the case of a qualified elector of the state of Iowa serving in the armed forces of the United States; in any such case an application for ballot as provided for in said section shall not be required and an absent voter's ballot shall be sent or made available to any such voter upon a request being made therefor as provided for in this division. All official ballots to be voted by qualified absent voters in the armed forces of the United States at the primary election and the general election shall be printed prior to forty days before the said respective elections and shall be available for transmittal to such qualified electors in the armed forces of the United States forty days prior to the respective elections. The provisions of this chapter shall apply to absent voting by qualified voters in the armed forces of the United States at said elections except as modified by the provisions of this division.

53.40 Request requirements—transmission of ballot.

Request in writing for ballot for the primary election and for the general election may be made by any member of the armed forces of the United States who is or will be a qualified voter on the day of the election at which said ballot is to be cast, at any time prior to either of said elections, the request stating for which election the request is made. In the case of the general election such request may likewise be made, not more than seventy days before said election, for and on behalf of a voter in the armed forces of the United States by a spouse, parent, parent-in-law, adult brother, adult sister, or adult child of any such voter, residing in the county of said voter's residence, provided that any such request made by other than the voter may be required to be made on forms prescribed by the Iowa serviceman's ballot commission.¹

A request shall show the residence (including street address, if any) of the voter, the age of the voter, and length of residence in the city, town or township, county and state, and shall designate the address to which the ballot is to be sent, and in the case of the primary election, the party affiliation of such voter.² Such request shall be made to the commissioner of the county of the voter's residence, provided that if the request is made by the voter to any elective state, city, town or county official, the said official shall forward it to the commissioner of the county of the voter's residence, and such request so forwarded shall have the same force and effect as if made direct to the commissioner by the voter.

The commissioner shall immediately on the fortieth day prior to the particular election transmit ballots to the voter by mail or otherwise, postage prepaid, as may be directed by the Iowa servicemen's ballot commission,³ requests for which are in his hands at that time, and thereafter so transmit ballots immediately upon receipt of requests for same. A request for ballot [sic] for the primary election which does not state the party affiliation of the voter making the request shall be void and of no effect. A request which does not show that the person for whom ballot [sic] is requested will be a qualified voter in the precinct in which said ballot is to be cast on the day of the election for which the ballot is requested, shall not be honored; provided that a request which states the age and the city or town, including street address, if any, or township, and county wherein the voter resides, and which shows a sufficient period of residence, shall be sufficient to show that he is such a qualified voter. A request by the voter containing substantially the information required herein shall be sufficient.

If the affidavit on the ballot envelope shows that the affiant is not a qualified voter on the day of the

election at which said ballot is offered for voting, the envelope shall not be opened, but the envelope and ballot contained therein shall be preserved and returned by the judges of election to the commissioner, who shall preserve same for the period of time and under the conditions provided for in sections 50.12 to 50.15.

¹*The Iowa Serviceman's Ballot Commission has been abolished. The duties thereof are now performed by the state commissioner of elections.*

²*Because these requirements are more restrictive than those required for absentee voters who are not servicemen, if the request from a serviceman does not contain all of the items required above, the county commissioner of elections may choose, in the spirit of fair play, to treat the request as though it were from a member of the public and to process it pursuant to Division I of Chapter 53 instead of this Division II. The main difference will be that the county will need to pay the postage on the ballot.*

³*The Iowa Servicemen's Ballot Commission has been abolished. The duties thereof are now performed by the state commissioner of elections.*

⁴*Durational residency requirements held unconstitutional. See Dunn vs. Blumstein 405 US 330(1972).*

53.41 Records by commissioner. The commissioner shall establish and maintain a record of all requests for ballots which are made, and of all ballots transmitted, and the manner of transmittal, from and received in his office under the provisions of this division. In the event more than one request for absent voter's ballot for a particular election shall be made to the commissioner by or on behalf of a voter in the armed forces of the United States, the request first received shall be honored, except that if one of the requests is made by the voter himself, and a request on his behalf has not been previously honored, such request of the voter shall be honored in preference to a request made on his behalf by another. Not more than one ballot shall be transmitted by the commissioner to any voter for a particular election. In the event the commissioner shall receive more than one absent voter's ballot, provided for by this division, from or purporting to be from any one voter for a particular election, all of said ballots so received from or purporting to be from such voter shall be null and void, and the commissioner shall not deliver any of said ballots to the judges of election, but shall retain them in his office, and preserve them for the period and under the conditions provided for in sections 50.12 to 50.15.

53.42 Voting in person in commissioner's office. Notwithstanding the provision as to time found in section 53.11 any qualified voter in the armed forces of the United States may personally appear in the office of the commissioner of the county of his residence and there vote an absent voter's ballot at any time not

earlier than forth days before the primary or general election, as the case may be.

53.43 Identification on envelope. The envelopes used in connection with voting by absent voter's ballot by voters who are members of the armed forces of the United States, shall have stamped or printed on them the words "Serviceman's Ballot" and a designation of the election at which said ballot is to be cast, either "Primary Election" or "General Election", as the case may be.

53.44 Administration of oath. Any commissioned officer in the armed forces of the United States, or any person authorized by the government of the United States to administer oaths to members of the armed forces of the United States are authorized to administer and attest any oath required in connection with the voting of an absent voter's ballot by a voter in the armed forces of the United States. Such officer or person shall show his rank and branch of service or other legal qualifications in connection with his signature in attesting any oath.

53.46 Powers and duties of state commissioner. The state commissioner is authorized and empowered:

1. To make rules and regulations for the purpose of carrying out the provisions and intent of this division;
2. To prescribe and direct the preparation of specially printed ballots, envelopes and other papers of different size and weight to be used in connection with absent voting by voters in the armed forces of the United States, if, in the discretion of the state commissioner, he shall determine that such a special ballot and other papers will facilitate voting by such voters; provided that the content of any such specially printed matter shall be the same as that used for absent voters generally in the particular precinct in which said serviceman's ballot is to be cast, and provided further that such ballots, envelopes and other papers shall be substantially uniform in size and weight throughout the state; and provided further that the provisions of section 49.56, establishing the maximum cost of printing ballots, shall apply to the cost of printing any such specially printed ballots by the several counties;
3. To prescribe any forms that are not otherwise prescribed by law, and which in the judgment of the state commissioner are necessary to facilitate the carrying out of the purposes and intent of this division;
4. To arrange for special transportation of ballots in co-operation with the government of the United States through any authorized instrumentality thereof,

and to that end the state commissioner is empowered to direct the commissioners of the several counties of the state to send ballots to voters in the armed forces of the United States other than in the usual course of mail;

5. To employ such clerical assistance as he may require in carrying out his functions, to purchase and requisition any office supplies he may require, and certify for payment the expenses of carrying out his functions under this division;

6. To call upon any department or division of the state government for information and assistance in connection with carrying out the provisions of this division;

7. To co-operate with any authorized departments, agencies and instrumentalities of the government of the United States in effecting the intent and purposes of this division.

53.47 Materials furnished by department of general services. In order to establish uniformity in size, weight and other characteristics of the ballot and facilitate its distribution and return, the department of general services shall upon direction of the state commissioner purchase any material needed for any special ballots, envelopes and other printed matter, and sell any such materials to the several counties of the state at cost plus handling and transportation costs.

There is hereby appropriated to the department of general services from the general fund of the state such sums as may be necessary to purchase any materials provided for herein. The proceeds from sale of such materials to counties shall be turned into the general fund of the state upon receipt of same by the department of general services.

53.48 Postage on ballots. In the event the government of the United States or any branch, department, agency or other instrumentality thereof shall make provision for sending of any voting matter provided for in this division through the mails postage free, or

otherwise, the election officials of the state of Iowa and of the several counties of the state are authorized to make use thereof under the direction of the state commissioner.

53.49 Applicable to armed forces and other citizens. The provisions of this division as to absent voting shall apply only to absent voters in the armed forces of the United States as defined for the purpose of absentee voting in section 53.37. The provisions of sections 53.1 to 53.36, shall apply to all other qualified voters not members of the armed forces of the United States.

However, citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them shall be accorded the privilege of absentee voting in the same manner as members of the armed forces.

53.50 Appropriation. There is hereby appropriated to the state commissioner from the general fund of the state such sums as are necessary for him to pay his expenses and perform his functions under this division. Warrants shall be drawn by the comptroller upon certification by the state commissioner or his deputy.

53.51 Rule of construction. This division shall be liberally construed in order to provide means and opportunity for qualified voters of the state of Iowa serving in the armed forces of the United States to vote at the primary and general elections.

53.52 Inconsistent provisions—rule. The provision or provisions of this division which are inconsistent with any provision or provisions of any other existing statute or any part of any such other existing statute, shall prevail. Likewise, the provision or provisions of any other existing statute or any part of any other existing statute which is not inconsistent with this division, shall prevail.

Chapter 54 — PRESIDENTIAL ELECTORS

There being no presidential election until 1976, the editors have concluded that there is insufficient interest in this chapter to warrant printing it this year. It will be printed in appropriate future years. Persons interested are referred to the Code of Iowa, 1973, for the text of this chapter.

Chapter 55 — AMENDMENTS TO FEDERAL CONSTITUTION

This chapter was enacted in 1933 to implement ratification of the Twenty-first amendment to the U.S. Constitution (repealing prohibition) and has not been used since. There being no further repeals of prohibition pending at this time, the editors have concluded that there is insufficient interest in this chapter to warrant printing it. Historians, scholars, and members of the Anti-Saloon League are referred to the Code of Iowa, 1973, for the text of this chapter.

Chapter 56 — CAMPAIGN FINANCES

See section 39.3 for definitions applicable to this chapter.

The arrangement of this chapter is somewhat different from the arrangement which will probably appear in the Code of Iowa, 1975, but the editors have concluded that the arrangement used here will be much easier for the reader to use. The meaning of the statutes has not been changed by such rearrangement. The section numbers which will probably be used in the Code of Iowa, 1975, appear in brackets following each section in this chapter. See also appendix Y for corresponding sections in the Code.

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Division I — GENERAL PROVISIONS

56.110 Citation. This chapter may be cited as the "Campaign Disclosure-Income Tax Check-off Act." [56.1]

56.120 Application to federal elections. This chapter shall apply to candidates and political¹ committees for federal office only in the event such candidates are not subject to a federal² law requiring the disclosure of

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- 56.340 Data are cumulative
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campaign financing. Any such federal law shall supersede the provisions of this chapter. [56.17]

¹Such committees may be subject to federal campaign disclosure statutes (2 USC 431-442) if they receive or expend more than the \$1,000 set out in 2 USC 431(d), according to an Opinion of the Attorney General (March 6, 1974).

²A federal law, 2 USC 431(c), operates to give this section the effect of excluding candidates for president, vice-president, US Senator and US representative from the provisions of this chapter, however, under 2 USC 439, copies of the federal reports required of those candidates must be filed with the Iowa secretary of state, according to an Opinion of the Attorney General (March 6, 1974).

56.130 Penalty. Any person who willfully violates any provisions of this chapter shall upon conviction, be subject to a fine of not more than one thousand dollars or imprisonment in the county jail for not more than thirty days. [56.16]

§66.1 makes violation of this chapter grounds for removal from elective or appointive office.

See also §738.22

56.140 Definitions. As used in this chapter, unless the context otherwise requires:¹

1. "Candidate" means any individual who has taken affirmative action² to seek nomination or election to a public office but shall exclude any judge standing for retention in a judicial election.

2. "Public office" means any federal, state, county, city, or school office filled by election.

3. "County office" includes the office of drainage district trustee.

4. "Contribution" means:

a. A gift, loan, advance, deposit, rebate, refund, or transfer of money or a gift in kind.

b. The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee for any such purpose.

"Contribution" shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate or political committee except when organized or provided on a collective basis by a business, trade association, labor union, or any other organized group or association. "Contribution" shall not include refreshments served at a campaign function so long as such refreshments do not exceed fifty dollars in value or transportation provided to a candidate so long as its value computed at a rate of ten cents per mile does not exceed fifty dollars in value.

5. "Person" means, without limitation, any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

6. "Political committee" means a person, including a candidate³, or committee, including a statutory political committee, which accepts contributions or makes expenditures in the aggregate of more than one hundred dollars in any one calendar year for the purpose of supporting or opposing a candidate for public office.

7. "State statutory political committee" means a committee as defined in section 43.111.

8. "County statutory political committee" means a committee as defined in section 43.100.

9. "Campaign function" means any meeting related to a candidate's campaign for election.

10. "Commission" means the campaign finance disclosure commission created under section 56.410.

11. "State income tax liability" means the state individual income tax imposed under section 422.5 reduced by the sum of the deductions from the computed tax as provided under section 422.12.

12. "Fund-raising event" means any campaign function to which admission is charged or at which goods or services are sold. [56.2]

¹See §39.3 for additional definitions.

²See also §56.420(6).

³See §56.310 for special definition applicable to part of division III only.

56.150 Reports generally. All statements and reports required¹ to be filed under this chapter for a federal or state office shall be filed with the state commissioner. All statements and reports required to be filed under this chapter for a county, city or school office shall be filed with the [county] commissioner. State statutory political committees shall file all statements and reports with the state commissioner. All other statutory political committees shall file the statements and reports with the appropriate [county] commissioner with a copy sent to the state commissioner. [56.4]

¹Reports are not required at all from a political committee (see §56.140(6), *supra*, for definition) unless the committee accepts or spends more than \$100 in a calendar year, according to an Opinion of the Attorney General dated Aug. 28, 1973.

56.151 Forms provided. The commissioners shall furnish the necessary forms to persons required to file reports and statements in their office. [56.8(2)]

56.152 Signature required. A report or statement required to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be signed by the person filing the report. [56.7(1)]

56.153 Copy to be preserved. A copy of every report or statement shall be preserved by the person filing it or his successor for at least one year following the filing of the report or statement. [56.7(2)]

56.160 Preservation and publication of reports. The state commissioner and the commissioner shall:

1. Make the reports and statements filed available for public inspection and copying, not later than the end of the day following the day during which a report or statement was received. There may be a charge for the actual cost¹ of copying these reports and statements. Information copied from reports and statements shall not be sold by any person for the

purpose of soliciting contributions or for any commercial purpose.

2. Preserve the reports and statements for a period of five years from the date of receipt.

3. Prepare and publish such other reports as may be deemed appropriate. [56.8(3)]

¹If the Specificity Rule of §4.7 is applied to reports filed with the state commissioner of elections, it would appear the cost would not necessarily be the same as specified in §9.4(2).

56.170 Duties of state commissioner of elections. The state commissioner shall:

1. Develop forms for the filing of reports and statements required to be filed under this chapter.

2. Furnish the necessary forms to persons required to file reports and statements and to the commissioners.

3. Distribute the necessary forms to each commissioner to be furnished to persons required to file reports and statements.

4. Recommend rules to the commission¹ to carry out the provisions of this chapter. [56.8(1)]

¹Campaign finance disclosure commission.

Division II — CONTRIBUTIONS AND EXPENSES

56.210 Contributions reported. Every person who receives contributions in excess of one hundred dollars for a political committee shall, not later than fifteen days from the date of receipt of the contributions or on demand of the treasurer,¹ render to the treasurer an account of the total of all contributions; including the name and address of the persons making a contribution in excess of ten dollars, the amount of such contribution, and the date on which the contributions were received. All funds of a political committee shall be segregated from any personal funds of officers, members, or associates of the political committee. [56.3(2)]

¹Political committee treasurer.

56.220 Agents or false names. A person shall not make a contribution or expenditure in the name of another person, and a person shall not knowingly accept a contribution or expenditure made by one person in the name of another. [56.12, editorially divided]

56.230 Borrowed Money. Any candidate or committee receiving funds, the original source of which was a loan, shall be required to list the lender as a contributor. No candidate or committee shall knowingly receive funds from a contributor who has borrowed the money without listing the original source of said money. [56.12, editorially divided]

56.240 Imputed knowledge. Action by any person or political committee on behalf of a candidate, if known and approved by the candidate, shall be deemed action by the candidate. It shall be presumed that a candidate approves such action if he had knowledge thereof and failed to file a statement of disavowal with the appropriate commissioner of elections and take corrective action within seventy-two hours thereof.

However, this section shall not be construed to require duplicate reporting of anything reported under this chapter, by a political committee, or of action by any person which does not constitute a contribution. [56.13]

Corporations organized under chapter 491

491.69 Political contributions prohibited. It shall be unlawful for any corporation doing business within the state, or any officer, agent, or representative thereof acting for such corporation, to give or contribute any money, property, labor, or thing of value, directly or indirectly, to any member of any political committee, political party, or employee or representative thereof, or to any candidate for any public office or candidate for nomination to any public office or to the representative of such candidate, for campaign expenses or for any political purpose whatsoever, or to any person, partnership, or corporation for the purpose of influencing or causing such person, partnership, or corporation to influence any elector of the state to vote for or against any candidate for public office or for nomination for public office or to any public officer for the purpose of influencing his official action, but nothing in this section shall be construed to restrain or abridge the liberty of the press or prohibit the consideration and discussion therein of candidacies, nominations, public officers, or political questions.

491.70 Solicitation from corporations. It shall be unlawful for any member of any political committee, political party, or employee or representative thereof, or candidate for any office or the representative of such candidate, to solicit, request, or knowingly receive from any corporation or any officer, agent, or representative thereof, any money, property, or thing of value belonging to such corporation, for campaign expenses or for any political purposes whatsoever.

491.71 Violations. Any person convicted of a violation of any of the provisions of sections 491.69 and 491.70 shall be punished by imprisonment in the county jail not less than six months or more than one year and, in the discretion of the court, by fine not exceeding ten hundred dollars.

Corporations organized under chapter 496A

496A.145 Political contributions prohibited. It shall be unlawful for any corporation, domestic or foreign, or any officer, agent, or representative thereof acting for such corporation, to give or contribute any money, property, labor, or thing of value, directly or indirectly, to any member of any political committee, political party, or employee or representative thereof, or to any candidate for any public office or candidate for nomination to any public office or to the representative of such candidate, for campaign expenses or for any political purpose whatsoever, or to any person, partnership or corporation for the purpose of influencing or

causing such person, partnership, or corporation to influence any elector of the state to vote for or against any candidate for public office or for nomination for public office or to any public officer for the purpose of influencing his official action, but nothing in this section shall be construed to restrain or abridge the liberty of the press or prohibit the consideration and discussion therein of candidacies, nominations, public officers, or political questions.

It shall be unlawful for any member of any political committee, political party, or employee or representative thereof, or candidate for any office or the representative of such candidate, to solicit, request, or knowingly receive from any corporation or any officer, agent, or representative thereof, any money, property, or thing of value belonging to such corporation, for campaign expenses or for any political purpose whatsoever.

Any person convicted of a violation of any of the provisions of this section shall be punished by imprisonment in the county jail not less than six months or more than one year and, in the discretion of the court, by a fine not exceeding ten hundred dollars.

56.260 Computing expense limits. The state commissioner shall determine the total number of votes cast for candidates for the office of president of the United States by the electors of the state in each state legislative district, in each congressional district, and statewide at the preceding presidential election.

The state commissioner shall in each case multiply the total number of votes cast for all presidential candidates by thirty cents. The resulting amount shall be the campaign expense limitation for candidates seeking offices in the executive and legislative branches of state government and candidates seeking congressional offices, respectively.¹

The campaign expense limitation amount shall apply only to items specified in section 56.270 and not to the total campaign expenses. [56.14]

If the term "respectively" is strictly construed, limits for executive branch candidates would be based upon legislative districts, legislative branch upon congressional districts, and congressional seats upon statewide votes because the lists at the end of the first two paragraphs of this section are not parallel.

56.270 Application of expense limits. Candidates subject to the campaign expense limitation¹ provided in section 56.260 shall not expend an amount greater than their limitation for all of the following combined purposes in connection with each primary, special, or general election campaign:

1. Television advertising
2. Radio advertising
3. Newspaper advertising²
4. Billboard advertising.

If any of the above means of campaigning are made available to or for the benefit of a candidate for free or at a reduced rate, or if the candidate owns the means of campaigning, he shall report this fact on his statement. In addition he shall report the fair market

value of the means of campaigning used and shall apply this sum to his campaign expense limitations in the same manner as if actually expended. [56.15, editorially divided]

¹*Limitations apply only to candidates for executive and legislative branches of state government and U.S. senators and representatives, according to an Opinion of the Attorney General dated Aug. 28, 1973. This chapter has only conditional application to candidates for federal office, though. See §56.120.*

²*See also §§738.22 and 738.23*

56.275 Exceptions. Candidates subject to section 56.270 shall not be required to apply the fair market value of the following items to their campaign expense limitation:

1. Coverage on television or radio news broadcasts.
2. Newspaper editorials and articles relating to the candidates or campaign issues.
3. Television or radio debates, provided all the candidates for the office representing a political party, are participants in the debate or were invited to participate.
4. Television or radio discussion programs, provided that each candidate for the office, representing a political party of the state, has been offered equal time or is also a participant in the program. [56.15, editorially divided]

Division III — CAMPAIGN ORGANIZATION AND REPORTS

56.310 Organization statement required. Every political committee which receives or expends any amount of money shall file a statement of organization within ten days from the date of its organization. For the purposes of sections 56.310 to 56.319, "political committee" means a person or committee, but not a candidate, including a statutory committee which accepts any contributions or makes any expenditures for the purpose of supporting or opposing a candidate for public office. [56.5(1)]

56.311 Candidate's Acknowledgment. *All affidavits of candidacy required by law¹ shall contain a sworn statement by the candidate in substantially the following form:*
"I am aware that I am required to file additional² reports if I receive or expend more than one hundred dollars for the purpose of supporting or opposing any candidate for public office."³

¹*See §§43.18, 43.21, 46.20, 273.5, 277.4.*

²*It appears that no organization statement is required of candidates by §56.310, so "additional" probably means only the quarterly reports required by §56.330.*

³*Italicized material will become effective January 21, 1975. See SF1200.17, 65 G.A.*

56.313 Form of statement. The statement of organization shall include:

1. The name and mailing address of the political committee.¹

2. The name, mailing address, and position of the political committee officers.

3. The name, mailing address, and position of the custodian of records and accounts.

4. The name, address, office sought, and the party affiliation of all candidates whom the political committee is supporting and if the political committee is supporting the entire ticket of any party, the name of the party.

5. The disposition of funds which will be made in the event of dissolution if the committee is not a statutory committee.

6. *A signed statement by the candidate² or any officer of the political party which shall be in the following form:*

"I am aware that I am required to file additional reports if I receive or expend more than one hundred dollars for the purpose of supporting or opposing any candidate for public office."³

7. Such other information as may be required by this chapter or rules adopted pursuant to this chapter. [56.5(2)]

¹See §56.310 for special definition of political committee which excludes a candidate.

²However, §56.310 does not require this statement of organization from a candidate.

³Italicized material will become effective January 21, 1975. See SF1200.17, 65GA.

56.319 Change in organization. Any change in information previously submitted in a statement of organization or notice in case of dissolution of the political committee shall be reported to the state commissioner or commissioner not more than 30 days from the date of the change or dissolution. [56.5(3)]

56.320 Treasurer appointed. Every political committee shall appoint a treasurer. An expenditure shall not be made by the treasurer or his designee for or on behalf of a political committee without the approval of the chairman of the political committee, or the candidate. [56.3(1)]

56.321 Treasurer's records. The treasurer of a political committee shall keep a detailed and exact account of:

1. All contributions made to or for the political committee.

2. The name and mailing address of every person making contributions in excess of ten dollars, and the date and amount of the contribution.

3. All disbursements made from contributions by or on behalf of the political committee.

4. The name and mailing address of every person to whom any expenditure is made, the date and amount of the expenditure and the name and address of, and office sought by each candidate, if any, on whose behalf the expenditure was made. Notwithstanding the provisions of this paragraph, the treasurer may keep a miscellaneous account for disbursements of less than five dollars which need only show the amount of the disbursement so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed one hundred dollars.

5. Notwithstanding the provisions of subsection 4, when an expenditure is made by a political committee in support of the entire state or local political party ticket, only the name of the party shall be given. [56.3(3)]

56.322 Records preserved. The treasurer shall preserve all records required to be kept by section 56.321 for a period of one year from the date of the election. [56.3(4)]

56.330 Regular reports. Each treasurer of a political committee shall file with the state commissioner or commissioner reports of contributions received and disbursed on forms prescribed by the state commissioner. The reports from all committees, except those committees for municipal and school elective offices, shall be filed on the 20th day of January, May, July, and October of each year. The January and July reports shall be current to the end of the month preceding the filing. The May and October reports shall be current as of five days prior to the filing deadline. The January report shall be the annual report. Political¹ committees for municipal and school elective offices shall file reports five days prior to any election in which the name of the candidate which they support or oppose appears on the printed ballot and thirty days following the general or run-off election. [56.6(1)]

¹Error in SF1200.4 has been corrected.

56.335 Final report. If any political committee, after having filed one or more statements of organization, dissolves or determines that it shall no longer receive contributions or make disbursements, the treasurer of the political committee shall notify the state commissioner or the commissioner within 30 days following such dissolution by filing a dissolution report on forms prescribed by the state commissioner. [56.6(2), editorially divided]

56.337 Refunded money. *Moneys refunded in accordance with a dissolution statement shall not be considered a disbursement or expense and the names of persons receiving refunds shall not be released or reported unless the contributors' names were required to be reported when the contribution was received.¹ [56.6(2), editorially divided]*

¹*Italicized material effective January 21, 1975. See SF 1200.17, 65G.A.*

56.340 Data are cumulative. The reports required to be filed by sections 56.330 through 56.341 shall be cumulative during the calendar year, but where there has been no change in an item reported in a previous report during the year, only the amount shall be carried forward. If no contributions have been accepted nor any disbursements made during that reporting period, the treasurer of the political committee shall also be required to file a statement. A candidate who does not receive or expend an amount of money in excess of one hundred dollars shall not be required to file disclosure statements. [56.6(4)]

56.341 Form of regular and final reports. Each report under sections 56.330 through 56.341 shall disclose:

1. The amount of cash on hand at the beginning of the reporting period.

2. The name and mailing address of each person who has made one or more contributions to the political committee including the proceeds or contributions from any fund-raising events, when the aggregate¹ amount in a calendar year exceeds the amount specified in the following schedule:

- | | |
|---|-------|
| a. For any candidate for school or township office..... | \$ 25 |
| b. For any candidate for city office..... | \$ 25 |
| c. For any candidate for county office..... | \$ 25 |
| d. For any candidate for the general assembly | \$ 50 |
| e. For any candidate for the congress of the United States..... | \$100 |
| f. For any candidate for statewide office | \$100 |
| g. For any state statutory political committee..... | \$100 |
| h. For any county statutory political committee | \$ 50 |

3. The total amount of contributions made to the political committee during the reporting period and not reported under subsection 2.

4. The name and address of each political committee from which the reporting committee received or

to which that committee transferred funds, together with the amounts and date of such receipts or disbursements.

5. Each loan to or from any person within the calendar year in an aggregate amount in excess of those amounts enumerated in the schedule in subsection 2, together with the name and mailing address of the lender and endorsers and the date and amount of such loans. A state or county statutory political committee shall report the name and mailing address of each person who has made one or more loans in an aggregate amount in excess of one hundred dollars.

6. The total amount of proceeds or contributions from any fund-raising event.

7. The name and mailing address of each person to whom disbursements have been made by the political committee from contributions during the reporting period and the amount and date of each disbursement except that disbursements of less than five dollars may be shown as miscellaneous disbursements so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed one hundred dollars.

8. The amount and nature of debts and obligations owed in excess of those amounts stated in the schedule in subsection 2 by or to the political committee, in such form as the state commissioner may prescribe and a continuous reporting of its debts and obligations following the election at such times as the state commissioner may require until such debts and obligations are paid.

9. Such other information as may be required by this chapter or rules adopted pursuant to this chapter.

10. The aggregate amount received by a candidate or an officeholder in any form of an honorarium in excess of those amounts enumerated in the schedule in subsection 2. [56.6(3)]

¹*When considered in light of subsection 3, "aggregate" refers to the contributions from each contributor, not to the total from all contributors.*

Division IV — CAMPAIGN FINANCE DISCLOSURE COMMISSION

*Appropriation: \$47,550 for fiscal year ending
June 30, 1975, plus any federal money.*

56.410 Creation. There is created a campaign finance disclosure commission which shall consist of five members,¹ not more than three of whom shall be from the same political party. The governor shall appoint the members of the commission for a term of six years, subject to the confirmation of the senate. Of the members first appointed one member shall be appointed for a term of two years, two members shall be appointed for a term of four years, and two members shall be appointed for a term of six years, beginning July 1, 1973. Any vacancy shall be filled by appoint-

ment for the unexpired portion of the term in accordance with the provisions for regular appointment insofar as is applicable. [56.9(1)]

Chairman: Charles G. Rehling, Davenport (1979); Vice-chairman: Larry Scalise, Des Moines (1979); Other members: Jolene Stevens, Sioux City (1975), Russell M. Ross, Iowa City (1977), and Charles W. Wiggins, Ames (1977). [City of residence and year term expires follow names.]

56.411 Organization. The commission shall elect one member to serve as chairman and one member to serve as vice chairman. The vice chairman shall act as the chairman in the absence or disability of the chairman or in the event of a vacancy in that office. [56.9(2)]

56.412 Compensation. Members of the commission shall, while serving on the business of the commission, be entitled to receive a per diem of forty dollars and actual and necessary expenses actually incurred in the performance of their duties. [56.9(3)]

56.413 Merit system. The commission shall employ such personnel as are necessary to carry out the duties of the commission, consistent with the provisions of chapter 19A and subject to the policies of the commission. [56.9(4)]

56.420 Duties of commission. The commission shall:

1. Approve the forms developed by the state commissioner pursuant to section 56.170(1).
2. Review reports and statements filed under the provisions of this chapter and may, upon its own motion, initiate action and conduct a hearing as provided in sections 56.450 to 56.452. The campaign finance disclosure commission may require the state and county commissioners to file summary reports with them periodically.
3. Prepare and publish a manual setting forth examples of approved uniform systems of accounts for use by persons required to file statements and reports by this chapter.
4. Assure that the statements and reports which have been filed in accordance with this chapter are available for public inspection and copying during the regular office hours of the state and county commissioners of election.
5. Adopt rules pursuant to chapter 17A to carry out the provisions of this chapter.
6. Determine, in case of dispute, at what time a person has become a candidate. [56.10]

See also §56.525

56.450 Complaints. Any opposing candidate, candidate's political committee or statutory political com-

mittee may file a complaint of an alleged violation with the commission and such complaint shall be verified and shall be supported by affidavit detailing the circumstances of the violation alleged. If the commission initiates action on its own motion, the commission shall file a complaint of an alleged violation supported by an affidavit detailing the violation alleged. The commission shall send a copy of the complaint and a notice of hearing, which shall be set not more than fifteen days from the date the complaint is received by the commission, to the person, candidate, or political committee against which the complaint is filed and to each candidate, if any, for the public office affected. The commission shall serve the person, candidate, or political committee with a copy of the complaint, supporting affidavit, and notice in the manner provided by the Rules of Civil Procedure. However, any complaint which is filed within a period of time less than fifteen days prior to the election shall be cause for the commission to set a hearing at the earliest possible date so as to allow the issue to be resolved prior to the election. An extension of time for the hearing may be granted when both parties mutually agree on an alternative date for the hearing. In such instances as shall be determined by the commission, the county attorney or the attorney general shall assist the commission in any investigation and report to the commission as directed. [56.11(1)]

56.452 Procedure. The commission shall investigate the complaint and conduct the hearing. The commission shall have the power to subpoena and review all records of a candidate or political committee required to be kept under this chapter. Due process, including the right to be represented by counsel, shall be accorded the accused. The commission shall provide for the confidentiality of the records of a candidate or political committee during the investigation and hearing process and shall provide for confidential hearings if requested by either party to the complaint. After the hearing the commission shall determine whether or not there is a reasonable belief that a violation of the provisions of this chapter did occur. The commission shall send a copy of its findings of fact and decision to the person, candidate or political committee against which the complaint was filed and to each candidate for the public office affected. [56.11(2), editorially divided]

56.453 Costs. The campaign finance disclosure commission may assess the cost of such hearings against either party involved in the hearing. [56.11(2), editorially divided]

56.454 Report issued. If the commission finds that the person, candidate, or political committee has engaged in any act or practice which constitutes a violation of this chapter, the commission shall report such a suspected violation of law to the United States attorney, the attorney general, or the county attorney, as the case may be, with a recommendation of appropriate action to be taken. [56.11(3)]

56.456 Prosecution of report. Upon receipt of the report and recommendations of the commission, the county attorney or attorney general shall review the report and recommendation and within five days of receiving the report institute the recommended actions and any other action for relief, including a permanent or temporary injunction, restraining order or other appropriate remedy in the district court in and for the county in which the accused resides or shall advise the commission that in his judgment the case does not merit prosecution. In the event the county attorney or attorney general does not initiate the recommended action within five days of receipt or if he advises against prosecution of the report, the commission may take the report before any judge of the district court, who shall determine if sufficient cause exists to warrant action. If the judge of the district court finds that the report warrants prosecution, the county attorney or attorney general shall immediately commence the action or disqualify himself. In the event of disqualification, the commission may retain an attorney to represent it and commence the action. The county attorney, attorney general, or United States attorney, may also institute criminal action. [56.11(4)]

Division V — INCOME TAX CHECK-OFF

56.505 Administration. The state director of revenue, in cooperation with the state comptroller and campaign finance disclosure commission, shall administer the provisions of this division and they shall promulgate all necessary rules and regulations in accordance with chapter 17A. [56.20]

56.510 Income tax form. The director of revenue shall provide space for this campaign finance income tax check-off on the most frequently used Iowa income tax form. An explanation shall be included which clearly states that this check-off does not constitute an additional tax liability. The form¹ shall provide for the taxpayer to designate that the check-off shall go to the political party of his choice. [56.25]

¹See also §56.511

56.511 Check-off. Any person whose state income tax liability for any taxable year is one dollar or more

may designate one dollar of such liability to be paid over to the Iowa election campaign fund for the account of any specified political party, as defined by section 43.2 when submitting his state income tax return to the department of revenue. In the case of a joint return of husband and wife having a state income tax liability of two dollars or more, each spouse may designate that one dollar be paid to any such account in the fund. The director of revenue shall revise the income tax form to allow the designation of political contributions to a political party on the face of the tax return and immediately above the signature lines. [56.18]

56.520 Campaign funds granted. Any candidate for public office, except president or vice president of the United States, may receive campaign funds through the state statutory political committee under this chapter from the Iowa election campaign fund. However, the chairman of the state statutory political committee shall apply to the state comptroller for these funds not later than 65 days before a general election.

The state comptroller shall remit by check drawn upon the Iowa election campaign fund all funds in the party's account to the chairman upon certification by the state commissioner that the party has qualified to have candidate names placed on the official general election ballot. [56.21]

56.521 Distribution. The chairman of the state statutory political committee shall distribute the funds received from the director¹ as he is directed to do so by the party, except that all moneys delegated for the campaigning purposes for the offices of representative in congress, state representative, and state senator shall be distributed on a strictly equal basis to all the party's candidates for the offices. Funds distributed pursuant to this chapter shall not be used for primary election expenses or for expenses related to the selection of a candidate at a political convention. [56.22]

¹This should probably be "comptroller". See §56.520

56.525 Use of public campaign funds. The chairman of the state statutory political committee shall produce evidence to the state comptroller and campaign finance disclosure commission not later than 30 days after the election returns have been certified by the board of state canvassers, that all funds paid for the campaign expenses of that election have been utilized exclusively for such campaign expenses.

The campaign finance disclosure commission shall issue, prior to the payment of any money, guidelines which explain which expenses and evidence thereof qualify as acceptable campaign expenses.

Should the campaign finance disclosure commission and the state comptroller determine that any part of the funds have been used for noncampaign or improper expenses, they may order the political party or the candidate to return all or any part of the total funds paid to that political party for that election. When such funds are returned, they shall be deposited in the general fund of the state. [56.23]

56.529 Reversion. All funds on account for the campaign expenses of any designated political party which are not utilized by that political party by January 1 of the year following a general election, shall revert to the general fund of the state. [56.24]

56.590 Election campaign fund. The Iowa election campaign fund is created within the office of the treasurer of state. The fund shall consist of funds paid by persons having an Iowa income tax liability as provided in section 56.511. The director of revenue shall remit funds collected as provided in section 56.511 to the treasurer of state who shall deposit such funds in the appropriate account within the Iowa election campaign fund. Any interest income received by the treasurer of state from investment of moneys deposited in the fund shall be deposited in the Iowa

election campaign fund. Such funds shall be subject to payment to the chairman of the specified political party by the state comptroller in the manner provided in this division. [56.19]

56.591 Appropriation. There is appropriated from the Iowa election campaign fund within the office of the treasurer of state such funds as are legally payable from such fund in accordance with the provisions of this chapter. [56.26]

Commission Rules

The commission is authorized to make rules which implement this chapter, and a copy of such rules would be helpful to most candidates. A copy can be secured without charge by writing to the Campaign Finance Disclosure Commission, Iowa Capitol Building, Des Moines, Iowa 50319.

At the deadline date for this publication, only one chapter of rules had been approved by the proper legislative committee. Because it is merely a set of procedural rules for a complaint hearing, and because such hearings will probably never occur due to the commission's authority in such matters being limited to referring the matter to a county or state attorney (which the complainant could directly do himself), the editors have concluded that the chapter adopted to date would be of little use to the reader, but that appropriate rules adopted in the future will be printed in later editions of this publication.

Chapter 57 — CONTESTING ELECTIONS-GENERAL PROVISIONS

This chapter does not cover contests in primary elections, which are regulated by sections 43.58 and 43.64.

For Quo Warranto procedure, see chapter 660 of the Code and rules of civil procedure 299 to 305.

Generally, after the election is over, the courts tend to presume its legality and the burden is on the petitioner to show that the results of the election were changed by the activity complained of. See 183 Iowa 764 (1918), 206 Iowa 845 (1928) and 257 Iowa 422 (1965).

57.1 Grounds of contest
57.2 Certificate withheld
57.3 Incumbent

57.4 Change of result
57.5 Recanvass in case of contest
57.6 Other contests

57.1 Grounds of contest. The election of any person to any county office¹ or to a seat in either branch of the general assembly,² may be contested by any person eligible to such office; and the election of any person to a state office,³ to the office of senator or representative in Congress,⁴ or to the office of presidential elector,⁵ by any eligible person who received votes for the same office; and the grounds therefor shall be as follows:

1. Misconduct, fraud, or corruption on the part of judges of election in any precinct, or of any board of canvassers, or any member of either board, sufficient to change the result.

2. That the incumbent was not eligible to the office at the time of election.

3. That the incumbent has been duly convicted of an infamous crime before the election, and the judgment has not been reversed, annulled, or set aside, nor the incumbent pardoned, at the time of election.

4. That the incumbent has given or offered to any elector, or any judge, clerk, or canvasser of the election, any bribe or reward in money, property, or thing of value, for the purpose of procuring his election.⁶

5. That illegal votes have been received or legal votes rejected at the polls, sufficient to change the result.

6. Any error in any board of canvassers in counting the votes, or in declaring the result of the election, if the error would affect the result.⁷

7. Any other cause which shows that another person was the person duly elected.

¹See chapter 62

²See chapter 59

³See chapters 58—61

⁴See chapter 60

⁵See chapter 60

⁶See also §738.14. *A promise by a candidate to repay to the public treasury a portion of his official salary was held to be a bribe of the electorate and grounds for disqualification in 53 Iowa 346 (1880).*

⁷See §738.18

57.2 Certificate withheld. If notice of contesting the election of an officer is filed before the certificate of election is delivered to him, it shall be withheld until the determination of the contest.

57.3 Incumbent. The term “incumbent” in this chapter means the person whom the canvassers declare elected.

57.4 Change of result. When the misconduct, fraud, or corruption complained of is on the part of the judges of election in a precinct, it shall not be held sufficient to set aside the election, unless the rejection of the vote of that precinct would change the result as to that office.

See also §738.18

57.5 Recanvass in case of contest. The parties to any contested election shall have the right, in open session of the court or tribunal trying the contest, and in the presence of the officer having them in custody, to have the ballots opened, and all errors of the judges in counting or refusing to count ballots corrected by such court or tribunal.

57.6 Other contests. All the provisions of the chapter in relation to contested elections of county officers¹ shall be applicable, as near as may be, to contested elections for other offices, except as herein otherwise provided, and in all cases process and papers may be issued to and served by the sheriff of any county.

¹See chapter 62

Chapter 58 — CONTESTING ELECTIONS OF GOVERNOR AND LIEUTENANT GOVERNOR

This chapter is not applicable to primary elections. See section 43.64.

58.1 Notice—grounds
58.2 Notice to incumbent
58.3 Houses notified
58.4 Contest court

58.5 Powers and proceedings
58.6 Testimony
58.7 Judgment

IV.4 Election by general assembly. The persons respectively having the highest number of votes for governor and lieutenant governor, shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall, by joint vote, forthwith proceed to elect one of said persons governor or lieutenant governor, as the case may be.

If, upon the completion of the canvass of votes for governor and lieutenant governor by the general assembly, it shall appear that the person who received the highest number of votes for governor has since died, resigned, is unable to qualify, fails to qualify,¹ or for any other reason is unable to assume the duties of the office of governor for the ensuing term, the powers and duties of the office shall devolve upon the person who received the highest number of votes for lieutenant governor until the disability is removed and, upon inauguration, he shall assume the powers and duties of governor. [Const. Iowa, IV.4]

¹See §63.5

IV.5 Contested elections. Contested elections for governor, or lieutenant governor, shall be determined by the general assembly in such manner as may be prescribed by law. [Const. Iowa, IV.5]

58.1 Notice—grounds. The contestant for the office of governor or lieutenant governor shall, within thirty days after the proclamation of the result of the election, deliver to the presiding officer of each house of the general assembly a notice of his intent to contest, and a specification of the grounds¹ of such contest, as provided in chapter 62.²

¹See §57.1

²See §62.5

58.2 Notice to incumbent. As soon as the presiding officers have received the notice and specifications, they shall make out a notice, directed to the incumbent, including a copy of the specifications, which shall be served by the sergeant at arms.

58.3 Houses notified. The presiding officers shall also immediately make known to their respective

houses that such notice and specifications have been received.

58.4 Contest court. Each house shall forthwith proceed, separately, to choose seven members of its own body in the following manner:

1. The names of members of each house, except the presiding officer, written on similar paper tickets, shall be placed in a box, the names of the senators in their presence by their secretary, and the names of the representatives in their presence by their clerk.

2. The secretary of the senate in the presence of the senate, and the clerk of the house of representatives in the presence of the house, shall draw from their respective boxes the names of seven members each.

3. As soon as the names are thus drawn, the names of the members drawn by each house shall be communicated to the other, and entered on the journal of each house.

58.5 Powers and proceedings. The members thus drawn shall constitute a committee to try and determine the contested election, and for that purpose shall hold their meetings publicly at the place where the general assembly is sitting, at such times as they may designate; and may adjourn from day to day or to a day certain, not more than four days distant, until such trial is determined; shall have power to send for persons and papers, and to take all necessary means to procure testimony, extending like privileges to the contestant and the incumbent; and shall report their judgment to both branches of the general assembly, which report shall be entered on the journals of both houses.

58.6 Testimony. The testimony shall be confined to the matters contained in the specifications.

58.7 Judgment. The judgment of the committee pronounced in the final decision on the election shall be conclusive.

Chapter 59 — CONTESTING ELECTIONS FOR GENERAL ASSEMBLY

This chapter is not applicable to primary elections. See section 43.64.

59.1 Statement served
59.2 Subpoenas
59.3 Depositions

59.4 Return of depositions
59.5 Statement and depositions—notice
59.6 Power of general assembly

III.7 Officers—elections determined. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law. [Const. Iowa III.7]

59.1 Statement served. The contestant for a seat in either branch of the general assembly shall, prior to twenty days before¹ the first day of the next session, serve on the incumbent a statement² of notice of contest which shall allege a fact or facts, believed true by the contestant which, if true, would alter the outcome of the election.

¹Dec. 24, 1974.

²See §§57.1 and 62.5.

59.2 Subpoenas. Any judge or clerk of a court of record may issue subpoenas in the above cases, as in those provided in chapters 61 and 62, and compel the attendance of witnesses thereunder.

59.3 Depositions. Depositions may be taken in such cases in the same manner and under the same rules¹ as in an action at law in the district court, but no cause for taking the same need be shown.

¹See rules of Civil Procedure 140 et. seq.

59.4 Return of depositions. A copy of the statement, and of the notice for taking depositions, with the service endorsed, and verified by affidavit if not served by an officer, shall be returned to the officer taking the depositions, and then, with the depositions, shall be sealed up and transmitted to the secretary of state, with an endorsement thereon showing the nature of the papers, the names of the contesting parties, and the branch of the general assembly before whom the contest is to be tried.

59.5 Statement and depositions—notice. The secretary shall deliver the same unopened to the presiding officer of the house in which the contest is to be tried, on or before the second day of the session, regular or special, of the general assembly next after taking the depositions, and the presiding officer shall immediately give notice to his house that such papers are in his possession.

59.6 Power of general assembly. Nothing herein contained shall be construed to abridge the right of either branch of the general assembly to grant commissions to take depositions, or to send for and examine any witness it may desire to hear on such trial.

Chapter 60 — CONTESTING ELECTIONS OF FEDERAL OFFICIALS

See also 3 U.S.C. 5 for federal statutes relating to certain contests.

60.1 Court of contest
60.2 Clerk
60.3 Oath
60.4 Statement

60.5 Organization and trial
60.6 Judgment
60.7 Contestant to file bond

60.1 Court of contest. The court for the trial of contested elections for presidential electors¹ or for the office of senator or representative in Congress² shall consist of the chief justice of the supreme court, who shall be presiding judge of the court, and four judges of the district court to be selected by the supreme court, two of whom, with the chief justice, shall constitute a quorum for the transaction of the business of the court. If the chief justice should for any cause be unable to attend at the trial, the judge longest on the supreme court bench shall preside in place of the chief justice; and any question arising as to the membership of the court shall be determined by the members of the court not interested in the question.

¹See 3 U.S.C. 5.

²However, U.S. Const. Art. I, §5 provides "Each house shall be the judge of the elections, returns and qualifications of its own members***"

60.2 Clerk. The secretary of state shall be the clerk of the court, or, in his absence or inability to act, the clerk of the supreme court.

60.3 Oath. Each member of the court, before entering upon the discharge of his duties, shall take an oath before the secretary of state, or some officer qualified to administer oaths, that he will support the Constitution of the United States and that of the state of Iowa, and that, without fear, favor, affection, or hope of reward, he will, to the best of his knowledge and ability, administer justice according to law and the facts in the case.

60.4 Statement. The contestant shall file the statement provided for in chapter 62¹ in the office of the secretary of state within ten days from the day on which the returns are canvassed by the state board of canvassers, and, within the same time, serve a copy of the same, with a notice of the contest, on the incumbent.

¹See §62.5 for form of notice and §57.1 for grounds.

60.5 Organization and trial. The clerk of the court shall, immediately after the filing of the statement, notify the judges herein named, and fix a day for the organization of the court within three days thereafter, and also notify the parties to the contest. The judges shall meet on the day fixed, and organize the court, and make and announce such rules for the trial of the case as they shall think necessary for the protection of the rights of each party and a just and speedy trial of the case, and commence the trial of the case as early as practicable thereafter, and so arrange for and conduct the trial that a final determination of the same and judgment shall be rendered at least six¹ days before the first Monday after the second Wednesday in December next following.

¹This time must conform to 3 U.S.C. 5

60.6 Judgment. The judgment of the court shall determine which of the parties to the action is entitled to hold the office and shall be authenticated by the presiding judge and clerk of the court and filed with the secretary of state; and the judgment so rendered shall constitute a final determination of the title to the office, and a certificate of appointment shall be issued to the successful party.

60.7 Contestant to file bond. The contestant shall file in the office of the clerk of the supreme court a bond, with security to be approved by the clerk of the supreme court, in such amount as shall be set by the presiding judge of the court, conditional to pay all costs in case the election be confirmed or the contest dismissed. The presiding judge shall further set the date upon which the required bond shall be filed. If the required bond is not filed by the date set, the contest shall stand dismissed by operation of law.

Chapter 61 — CONTESTING ELECTIONS OF STATE OFFICERS

This chapter is not applicable to primary elections. See section 43.64.

61.1 Contest court
 61.2 Clerk
 61.3 Statement filed
 61.4 Selection of court
 61.5 Notice of selection
 61.6 Organization
 61.7 Repealed

61.8 Delivery of papers
 61.9 Time of trial
 61.10 Notice to incumbent—trial
 61.11 Subpoenas—depositions
 61.12 Judgment filed—execution
 61.13 Power of judge
 61.14 Compensation of judges

61.1 Contest court. The court for the trial of contested state offices, except that of governor and lieutenant governor,¹ shall consist of three district judges, not interested, who shall be selected by the chief justice of the supreme court.

¹See chapter 58

61.2 Clerk. The secretary of state shall be the clerk of this court; but if the person holding that office is a party to the contest, the clerk of the supreme court, or, in case of his absence or inability, the auditor of state shall be clerk.

61.3 Statement filed. The statement, as provided in chapter 62¹ must be filed with such clerk within thirty days from the day when incumbent was declared elected.

¹See §62.5

61.4 Selection of court. Upon the filing of such statement, the chief justice of the supreme court shall select the membership of the court to try such contest, and immediately certify such selection to the clerk of the supreme¹ court. Vacancies shall also be filled by the chief justice.

¹“Supreme” should probably be repealed. See §§61.2 and 61.3

61.5 Notice of selection. The clerk of the supreme¹ court, on receipt of such certificate, shall forthwith in writing notify the members of such court of contest of their selection.

¹See note following §61.4

61.6 Organization. The members so selected for said contest court shall meet at the seat of government within ten days after said notification and qualify by taking the oath required in case of contest over the office of presidential elector,¹ and proceed, at said place, with the discharge of their duties.

¹See §60.3

61.8 Delivery of papers. Upon the organization of said court of contest, all papers in the possession of

the clerk of the supreme¹ court shall be forthwith delivered to said court of contest.

¹See note following §61.4

61.9 Time of trial. The time for the trial of any contest relative to a state office shall not be set beyond the last Monday in January following the election.

61.10 Notice to incumbent—trial. Upon the organization of said court of contest, the court shall cause a notice of said contest to be served on the incumbent, together with a copy of the statement of contest filed by the contestant. No trial shall be held sooner than twenty days following said notice, except by consent of all parties.

61.11 Subpoenas—depositions. The secretary of state, the several clerks of the supreme and district courts, under their respective seals of office, and either of the judges of the supreme or district courts, under their hands, may issue subpoenas for witnesses to attend this court; and disobedience to such process may be treated as a contempt.¹ Depositions may also be taken as in the case of contested county elections.²

¹See chapter 66.5

²See §62.16

61.12 Judgment filed—execution. A transcript of the judgment rendered by such court, filed in the office of the clerk of the supreme court, shall have the force and effect of a judgment of the supreme court, and execution may issue therefrom in the first instance against the party's property generally.

61.13 Power of judge. The presiding judge of this court shall have authority to carry into effect any order of the court, after the adjournment thereof, by attachment or otherwise.

61.14 Compensation of judges. The judges shall be entitled to receive for their travel and attendance the sum of twelve dollars each per day, with such mileage as is allowed to members of the general assembly, to be paid from the state treasury.

Chapter 62 — CONTESTING ELECTIONS OF COUNTY OFFICERS

This chapter is not applicable to primary elections. See section 43.58.

62.1 Contest court
 62.2 Judges
 62.3 Clerk
 62.4 Sheriff to attend
 62.5 Statement
 62.6 Bond
 62.7 When auditor is party
 62.8 Names of voters specified
 62.9 Trial—Notice
 62.10 Place of trial
 62.11 Subpoenas
 62.12 Postponement
 62.13 Procedure—powers of court

62.14 Sufficiency of statement
 62.15 Amendment—continuance
 62.16 Testimony
 62.17 Voters required to testify
 62.18 Judgment
 62.19 How enforced
 62.20 Appeal
 62.21 Judgment
 62.22 Process—fees
 62.23 Compensation
 62.24 Costs
 62.25 How collected

62.1 Contest court. The court for the trial of contested county elections shall be thus constituted: The chairman of the board of supervisors¹ shall be the presiding officer,² and the contestant and incumbent may each name a person who shall be associated with him.

¹In the challenge of Walters vs Bartel in 1973 for a seat on the Johnson County board of supervisors, the chairman of the board petitioned the district court for permission to recuse himself, pleading that while he was not prejudiced in the case, past differences with one of the parties might give the appearance that he was not impartial. The district court refused to excuse the chairman from serving, saying that the remaining members of the board were either prejudiced or interested in the case, so to allow a non-prejudiced member to recuse himself, in the absence of a statute allowing anyone else to preside, would deny justice to the contestant.

²Where the chairman of the board of supervisors was disqualified because of interest, the remaining members of the board should designate a temporary chairman to preside over the contest court, according to a 1962 decision (253 Iowa 311).

62.2 Judges. The contestant and incumbent shall each file in the auditor's office, on or before the day of trial, a written nomination of one associate judge of the contested election, who shall be sworn in manner and form as trial jurors are in trials of civil actions; if either the contestant or the incumbent fails to nominate, the presiding judge shall appoint for him. When either of the nominated judges fails to appear on the day of trial, his place may be filled by another appointment under the same rule.

62.3 Clerk. The county auditor shall be clerk of this court, and keep all papers, and record the proceedings in the election book, in manner similar to the record of the proceedings of the district court, but when the county auditor is a party, the court shall appoint a

suitable person as clerk, whose appointment shall be recorded.

62.4 Sheriff to attend. The court or presiding judge may direct the attendance of the sheriff or a deputy when necessary.

62.5 Statement. The contestant shall file in the office of the county auditor, within twenty days after the day when the incumbent was declared elected,¹ a written statement² of his intention to contest the election, setting forth the name of the contestant, and that he or she is qualified to hold such office, the name of the incumbent, the office contested, the time of the election, and the particular causes³ of contest, which statement shall be verified by the affidavit of the contestant, or some elector of the county, that the causes set forth are true as he verily believes.

¹The time tolls from the canvass by the board of supervisors pursuant to §50.24, according to 95 Iowa 439 (1895).

²See also §62.14

³See §57.1

62.6 Bond. The contestant must also file with the county auditor a bond, with security to be approved by said auditor, conditioned to pay all costs in case the election be confirmed, or the statement be dismissed, or the prosecution fail.

The bond need not be filed at the same time as the statement of contest under §62.5 as long as they are both filed within the statutory period, according to 221 Iowa 150 (1936).

62.7 When auditor is party. When the auditor is a party, the clerk of the district court shall receive such statement and approve such bond.

62.8 Names of voters specified. When the reception of illegal or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted, or whose votes were rejected, with the precinct where they voted or offered to vote, shall be set forth in the statement.

62.9 Trial—notice. The chairman of the board of supervisors shall thereupon fix a day for the trial, not more than thirty nor less than twenty days thereafter, and shall cause a notice of such trial to be served on the incumbent, with a copy of the contestant's statement, at least ten days before the day set for trial.

62.10 Place of trial. The trial of contested county elections shall take place at the county seat, unless some other place within the county is substituted by the consent of the court and parties.

62.11 Subpoenas. Subpoenas for witnesses may be issued at any time after the notice of trial is served, either by the clerk of the district court or by the county auditor, and shall command the witnesses to appear at, on, to testify in relation to a contested election, wherein A..... B..... is contestant and C..... D..... is incumbent.

62.12 Postponement. The trial shall proceed at the time appointed, unless postponed for good cause shown by affidavit, the terms of which postponement shall be in the discretion of the court.

62.13 Procedure—powers of court. The proceedings shall be assimilated to those in an action, so far as practicable, but shall be under the control and direction of the court, which shall have all the powers of the district court necessary to the right hearing and determination of the matter, to compel the attendance of witnesses, swear them and direct their examination, to punish for contempt in its presence or by disobedience to its lawful mandate, to adjourn from day to day, to make any order concerning intermediate costs, and to enforce its orders by attachment. It shall be governed by the rules of law and evidence applicable to the case.

62.14 Sufficiency of statement. The statement shall not be dismissed for want of form, if the particular causes of contest are alleged with such certainty as will sufficiently advise the incumbent of the real grounds of contest.

62.15 Amendment—continuance. If any part of the causes are held insufficient, they may be amended,¹ but the incumbent will be entitled to an adjournment, if he states on oath that he has matter of answer to the amended causes, for the preparation of which he needs further time. Such adjournment shall be upon

such terms as the court thinks reasonable; but if all the causes are held insufficient and an amendment is asked, the adjournment shall be at the cost of contestant. If no amendment is asked for or made, or in case of entire failure to prosecute, the proceedings may be dismissed.

¹*An amendment may be filed after the time provided in §62.5, according to 76 Iowa 479 (1889).*

62.16 Testimony. The testimony may be oral or by deposition, taken as in an action at law in the district court.

62.17 Voters required to testify. The court may require any person called as a witness, who voted at such election, to answer touching his qualifications as a voter, and, if he was not a qualified voter in the county¹ where he voted, then to answer for whom he voted.

¹*This should be amended to read "district" to cover supervisor districts and other areas embracing less than the entire county.*

62.18 Judgment. The court shall pronounce judgment whether the incumbent or any other person was duly elected, and adjudge that the person so declared elected will be entitled to his certificate. If the judgment be against the incumbent, and he has already received the certificate, the judgment shall annul it. If the court find that no person was elected, the judgment shall be that the election be set aside.

62.19 How enforced. When either the contestant or incumbent shall be in possession of the office, by holding over or otherwise, the presiding judge shall, if the judgment be against the party so in possession of the office and in favor of his antagonist, issue an order to carry into effect the judgment of the court, which order shall be under the seal of the county, and shall command the sheriff of the county to put the successful party into possession of the office without delay, and to deliver to him all books and papers belonging to the same; and the sheriff shall execute such order as other writs.

62.20 Appeal. The party against whom judgment is rendered may appeal within twenty days to the district court, but, if he be in possession of the office, such appeal will not supersede the execution of the judgment of the court as provided in section 62.19, unless he gives a bond, with security to be approved by the district judge in a sum to be fixed by him, and which shall be at least double the probable compensation of such officer for six months, which bond shall be conditioned that he will prosecute his appeal without delay, and that, if the judgment appealed from be affirmed, he will pay over to the successful party all compensation received by him while in possession of said office after the judgment appealed from was

rendered. The court shall hear the appeal in equity and determine anew all questions arising in the case.

62.21 Judgment. If, upon appeal, the judgment is affirmed, the district court may render judgment upon the bond for the amount of damages, against the appellant and the sureties thereon.

62.22 Process—fees. The style, form, and manner of service of process and papers, and the fees of officers and witnesses, shall be the same as in the district court, so far as the nature of the case admits.

62.23 Compensation. The judges shall be entitled to receive four dollars a day for the time occupied by the trial.

62.24 Costs. The contestant and the incumbent are liable to the officers and witnesses for the costs made by them, respectively; but if the election be confirmed, or the statement be dismissed, or the prosecution fail, judgment shall be rendered against the contestant for costs; and if the judgment be against the incumbent, or the election be set aside, it shall be against him for costs.

62.25 How collected. A transcript of the judgment may be filed and recorded in the office of the clerk of the district court and shall have the same effect of a judgment of that court and execution may issue thereon.

Chapter 63 — TIME AND MANNER OF QUALIFYING

- 63.1 Time
- 63.2 Repealed
- 63.3 Unavoidable casualty
- 63.4 Contest
- 63.5 Governor and lieutenant governor
- 63.6 Judges
- 63.7 Officer holding over

- 63.8 Vacancies—time to qualify
- 63.9 Temporary officer
- 63.10 Other officers
- 63.11 Oath on bond
- 63.12 Re-elected incumbent
- 63.13 Approval conditioned

63.1 Time. Each officer, elective or appointive, before entering upon his duties as such, shall qualify¹ by taking the prescribed oath² and by giving, when required, a bond,³ which qualification shall be perfected, unless otherwise specified, before noon of the second secular day in January⁴ of the first year of the term⁵ for which such officer⁶ was elected.

¹The Constitution of Iowa prohibits principals or accessories before the fact to duels from holding public office, provides that any person who has been a collector or holder of public monies may not hold office until he has made a final settlement, and requires all elected and appointed officials to take an oath to support the Constitutions of the United States and the state of Iowa and an oath of office. It prohibits the use of any religious test as a qualification for public office.

In addition, age requirements of 21 years are imposed upon representatives in the general assembly, 25 years for senators in the general assembly, and 30 years upon the governor and lieutenant governor.

The constitution also imposes durational residency requirements upon members of the general assembly and the governor and lieutenant governor.

In 1916, the Iowa Supreme Court held that a person must be a qualified elector to be eligible for an elective office created by the Constitution, so such officials are further restricted by the provisions of Article II of the Constitution. Note that the definition of "qualified elector" given in section 39.3 requires that a person be registered as a voter under chapter 48.

In 1915, the Iowa Supreme Court held that, unless the statute creating the office provided otherwise, holders of all elective offices must be qualified electors, so the provisions of Article II of the

Constitution and chapter 48 might appear to apply to most candidates when considered in light of §57.1(2).

Article II of the Constitution withholds the privilege of an elector from idiots, insane persons, persons convicted of any infamous crime, persons who claim residence solely by being stationed at a federal military installation in this state, and persons under age 21 or who are not residents of the state.

However, the 26th amendment to the Constitution of the United States effectively lowered the voting age to 18 years.

Section 39.25 provides that sex is to be no bar to holding offices created by statute, but conviction of bribery is a permanent bar under §739.3.

²For general form of the oath, see §63.10. For governor and lt. governor, see §63.5. For judges, see §63.6. For members of the general assembly, see III.32 of the Constitution.

³See chapter 64 for bonds.

⁴See §39.8 for deviant language.

⁵The cases generally hold that age, residency, and other requirements for qualification must be met at the time the person enters office, not at the time he is elected. See 135 Iowa 100 (1907) and 87 Iowa 569 (1893).

However, durational residency requirements toll from the date of election, not qualification, for members of the general assembly and governor and lt. governor. See III.4 and IV.6, Constitution of Iowa.

Also, §57.1(2) appears to give some grounds for contesting the election if the candidate was not eligible on the date of the election.

⁶Generally, a person who has for some technical reason not fully satisfied the requirements for entering into office, but who exercises the office and is generally accepted as the proper officer, is a de facto officer and his official acts will generally be upheld by the courts. However, upon discovery of the deficiency, he should remedy the defect at once or resign so the vacancy thus created may be filled as provided by law. See §740.11 for penalty for willful failure to take the oath of office.

63.3 Unavoidable casualty. When on account of sickness, the inclement state of the weather, unavoidable absence, or casualty, an officer has been prevented from qualifying within the prescribed time, he may do so within ten days after the time herein fixed.

If the officer does not then qualify, the incumbent may hold-over by requalifying under §69.1 and 63.7. If the incumbent fails to requalify, a vacancy would exist under §69.2(2).

63.4 Contest. In case the election of an officer is contested, the successful party shall qualify within ten days after the decision is rendered.

See note following §63.3

63.5 Governor and lieutenant governor. The governor¹ and lieutenant governor shall each qualify within ten days after the result of the election shall be declared by the general assembly, by taking an oath in its presence, in joint convention assembled, administered by a judge of the supreme court, to the effect that he will support the Constitution of the United States and the Constitution of the State of Iowa, and will faithfully and impartially, and to the best of his knowledge and ability, discharge the duties incumbent upon him as governor, or lieutenant governor, of this state.

¹If the governor fails to qualify, IV.4, Constitution of Iowa provides that the office devolves upon the lt. governor "until the disability is removed". Failure of the lt. governor to qualify does not appear to be adequately covered; it is possible that the former lt. governor might hold-over under §69.1, or the governor might have the power to appoint a lt. governor under IV.10 of the Constitution.

63.6 Judges. All judges of courts of record shall qualify before taking office following appointment by taking and subscribing an oath to the effect that they will support the Constitution of the United States and that of the state of Iowa, and that, without fear, favor, affection, or hope of reward, they will, to the best of their knowledge and ability, administer justice according to the law, equally to the rich and the poor.

63.7 Officer holding over. When it is ascertained that the incumbent is entitled to hold over by reason of the nonelection of a successor, or for the neglect or refusal of the successor to qualify, he shall qualify anew, within the time provided by section 63.8.

63.8 Vacancies—time to qualify. Persons elected or appointed to fill¹ vacancies, and officers entitled to hold over to fill vacancies, occurring through a failure to elect, appoint, or qualify, as provided in chapter 69, shall qualify within ten days from such election, ap-

pointment, or failure to elect, appoint, or qualify, in the same manner as those originally elected or appointed to such offices.

¹See §69.12

63.9 Temporary officer. Any person temporarily appointed to fill an office during the incapacity or suspension¹ of the regular incumbent shall qualify, in the manner required by this chapter, for the office so to be filled.

¹See §67.8

63.10 Other officers. All other civil officers, elected by the people or appointed to any civil office, unless otherwise provided, shall¹ take and subscribe an oath substantially as follows:

"I,, do solemnly swear² that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all the duties of the office of (naming it) in (naming the township, town, city, county, district, or state, as the case may be), as now or hereafter required by law."

¹Willful failure to take the oath is punishable by fine and imprisonment under §740.11.

²4.1(12) Oath—affirmation. The word "oath" includes affirmation in all cases where an affirmation may be substituted for an oath, and in like cases the word "swear" includes "affirm".

63.11 Oath on bond. Every civil officer who is required to give bond¹ shall take and subscribe the oath provided for in section 63.10, on the back of his bond, or on a paper attached thereto, to be certified by the officer administering it.

¹See chapter 64

63.12 Re-elected incumbent. When the incumbent of an office is re-elected, he shall qualify as above directed, but a judge retained at a judicial election need not requalify.

63.13 Approval conditioned. When the re-elected officer has had public funds or property in his control, under color of his office, his bond shall not be approved until he has produced and fully accounted for such funds and property to the proper person to whom he should account therefor; and the officer or board approving the bond shall endorse upon the bond, before its approval, the fact that the said officer has fully accounted for and produced all funds and property before that time under his control as such officer.

Chapter 64 — OFFICIAL AND PRIVATE BONDS

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| 64.1 Bond not required | 64.14 Payable by town—when |
| 64.2 Conditions of bond of public officers | 64.15 Bonds of deputy officers and clerks |
| 64.3 Liability of surety | 64.16 Minimum number of sureties—qualifications |
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| 64.5 Want of compliance—effect | 64.18 Beneficiary of bond |
| 64.6 State officers—amount of bonds | 64.19 Approval of bonds |
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| 64.8 County officers | 64.21 Approval by auditor |
| 64.9 Minimum bonds of county officers | 64.22 Failure of board to approve—application to judge |
| 64.10 Bond of county treasurer | 64.23 Custody of bond |
| 64.11 Expense of bonds paid by county | 64.24 Recording |
| 64.12 Township clerk—expense of bond | 64.25 Failure to give bond |
| 64.13 Municipal officers | |

64.1 Bond not required. Bonds shall not be required¹ of the following public officers:

1. Governor
2. Lieutenant governor
3. Members of the general assembly
4. Judges of the supreme and district courts and district associate judges
5. Township trustees
6. Aldermen, councilmen, and commissioners of cities [and towns.], *other than mayors.*²

¹Public official's bond not required by statute is void for want of consideration, according to 56 Iowa 404 (1881).

²Bracketed material to be repealed on July 1, 1975, when italicized material becomes effective. See SF 1101, 65GA.

64.2 Conditions of bond of public officers. All other public officers,¹ except as otherwise specially provided, shall give bond² with the conditions, in substance, as follows:

"That as (naming the office), in (city, township, county, or state of Iowa), he will render a true account of his office and of his doings therein to the proper authority, when required thereby or by law; that he will promptly pay over to the officer or person entitled thereto all³ moneys which may come into his hands by virtue of his office; that he will promptly account for all balances of money remaining in his hands at the termination of his office; that he will exercise all reasonable diligence and care in the preservation and lawful disposal of all money, books, papers, securities, or other property appertaining to his said office, and deliver them to his successor, or to any other person authorized to receive the same; and that he will faithfully and impartially, without fear, favor, fraud, or oppression, discharge all duties now or hereafter required of his office by law."

The attachment of a renewal certificate to an existing bond shall not constitute compliance with this section.

¹Deputies of state officials are required to post bond under §27.1, of county officials under §341.2, of assessors under §441.15.

"Public officers" is a term which includes any person receiving public funds for a public treasury, regardless of title, tenure, or nature of services, according to 219 Iowa 1155 (1935).

²A county officer may determine who shall be the surety on his official bond, and the board of supervisors may not let the bonds to the lowest bidder but is limited to determining whether the prices are reasonable when paying for the bonds, according to 1963 OAG 101.

³Interest earned on trust funds deposited by a public officer (e.g. tax sale redemptions, child support payments, etc.) must be turned over to the person for whom the interest-bearing deposit was made along with the principal, according to 130 Iowa 729 (1906).

64.3 Liability of surety. The sureties on such bond shall be liable for all money or public property that may come into the hands of such officer at any time during his possession of such office.

64.4 Conditions of other bonds. All other bonds required by law, when not otherwise specially provided, shall be conditioned as the bonds of public officers.

64.5 Want of compliance—effect. All bonds required by law shall be construed as impliedly containing the conditions required by statute, anything in the terms of said bonds to the contrary notwithstanding.

64.6 State officers—amount of bonds. State officers¹ shall give bonds in an amount as follows:

1. Secretary of state, auditor of state, attorney general, clerk of the supreme court, not less than ten thousand dollars.

2. Treasurer of state, not less than three hundred thousand dollars.

* * *

5. Commissioner of public health, secretary of agriculture, and each Iowa state commerce commissioner, not less than five thousand dollars.

* * *

25. All other public officers, in the amount provided by law, or as fixed under section 64.7.

The state shall pay the reasonable cost of the bonds required by this section.

¹See §§64.15 and 27.1 for bonds of deputies.

64.7 Amount of bond, when not fixed by law. In all cases where no amount or a minimum amount is fixed by law for the official bond of a public officer, the approving officer or board shall fix the bond at such amount as public interest may require.

64.8 County officers. The bonds of the following county officers, viz: Clerks of the district courts, county attorneys, recorders, auditors, [superintendents of schools,¹] sheriffs and assessors shall each be in a penal sum of not less than ten thousand dollars each per annum.

In case this §64.8 is too hard to understand, see §64.9

¹Bracketed material will be repealed on July 1, 1975.

See SF1163, 65GA.

64.9 Minimum bonds of county officers. Bonds of members of the board of supervisors, clerks of the district courts, county auditors, sheriffs, and county attorneys shall not be in less sum than ten thousand dollars each.

This section exists in case you missed reading §64.8

64.10 Bond of county treasurer. The bond of the county treasurer shall be in the sum of twenty-five thousand dollars per annum.

64.11 Expense of bonds paid by county. If any county treasurer, clerk of the district court, county attorney, recorder, auditor, sheriff, medical examiner, members of soldiers relief commission,¹ members of the board of supervisors, engineer, steward or matron shall elect to furnish a bond² with any association or incorporation as surety as provided in this chapter, the reasonable cost of such bond shall be paid by the county where the bond is filed.

¹This should be "veteran affairs commission". See §250.3.

²Who shall be surety is a decision by the elected official; the board of supervisors is limited to paying the reasonable cost of the bond, according to an Opinion of the Attorney General (1963 OAG 101).

64.12 Township clerk—expense of bond. All bonds required of the township clerk shall be furnished and paid for by the township.

64.13 Municipal officers. The bonds of all municipal officers who are required to give bonds shall each be in such penal sum as may be provided by law or as the council shall from time to time prescribe by ordinance; but the bonds of mayors shall not be in less sum than five hundred dollars each.

64.14 Payable by town—when. In all instances where a municipal officer receives a compensation of one hundred dollars per year or less and is required to furnish bond for his office, the reasonable cost of such bond may be paid by such municipality.

This section will be repealed as of July 1, 1975. See chapter 1088.9 and 1088.227, 64 G.A. and SF1101.1, 65 G.A.

64.15 Bonds of deputy officers and clerks. Bonds required by law¹ of deputy state, county, city, and town officers shall, unless otherwise provided, be in such amounts as may be fixed by the governor, board of supervisors, or the council, as the case may be, with sureties as required for the bonds of the principal, and filed with the same officer. The giving of such bond shall not relieve the principal from liability for the official acts of the deputy. The reasonable cost of the bonds required of deputy county officers, clerks and cashiers employed by county officers shall be paid by the county where the bond is filed.

¹See note 1 following §64.2

64.16 Minimum number of sureties—qualifications. Every bond required by this chapter, except as hereinafter specified, shall be executed with at least two sureties, each of whom shall be a freeholder of the state. The bonds of the state treasurer and of the county treasurer shall have not less than four sureties, possessed of like qualifications.

64.17 Surety company bonds. Any association or incorporation which does the business of insuring¹ the fidelity of others, and which has authority by law to do business in this state, shall be accepted as surety upon bonds required by law.

¹See §515.48(2)

64.18 Beneficiary of bond. All bonds of public officers shall run to the state, and be for the use and benefit of any corporation, public or private, or person injured or sustaining loss, with a right of action in the name of the state for its or his use.

64.19 Approval of bonds. Bonds shall be approved:

1. By the governor, in case of state and district officers, elective or appointive.
2. By the board of supervisors, in case of county officers, township clerks, and assessors.
3. By a judge or the clerk of the district court of the county in question, in case of members of the board of supervisors.
4. By the township clerk, in case of other township officers.
5. By the mayor, or as may be provided by ordinance, in case of city and town officers.

6. By the city or town council, in case of the office of mayor.

See also chapter 65

64.20 Time for approval. All bonds shall be approved or disapproved within five days after their presentation for that purpose, and endorsed, in case of approval, to that effect and filed.

64.21 Approval by auditor. When a bond, approvable by the board of supervisors, of any public officer is presented after the final adjournment of the January session of said board, except those of the county auditor and treasurer, the auditor may approve such bond, in which case he shall report his action to the board at its next session. The action of the auditor in approving the bond shall stand as the action of the board unless the board enters its disapproval. If such disapproval be entered, the new bond must be given within five days from the date of such decision, but the old bond shall stand good for all acts done up to the time of the approval of the new bond.

64.22 Failure of board to approve—application to judge. If the board of supervisors refuses or neglects to approve the bond of any county officer, he may within five days thereafter, or after the expiration of the time allowed for such approval, present the same for approval to a judge of the district court of the proper district, who shall fix a day for the hearing. Notice of such hearing shall be given the board and return made in the same manner as in a civil action, and the court or judge at the time fixed shall, unless good cause for postponement be shown, proceed to hear the matter and approve the bond, if found sufficient, and such approval shall have the same force and effect as an approval by the board.

64.23 Custody of bond. The bonds and official oaths of public officers shall, after approval and proper record, be filed:

1. For all state officers, elective or appointive, except those of the secretary of state and judicial

magistrates, with the secretary of state. Bonds and official oaths of judicial magistrates shall be filed in the office of the district court clerk.

2. For the secretary of state, with the state auditor.

3. For county and township officers, except those of the county auditor, with the county auditor.

4. For county auditor, with the county treasurer.

5. For members of the board of supervisors, with the clerk of the district court.

6. For officers of cities and towns, and officers not otherwise provided for, when both bond and oath are required, in the office of the officer or clerk of the body approving the bond.

7. For officers of cities and towns when only an oath is required, in the office of the mayor.

64.24 Recording. The secretary of state, each county auditor, district court clerk, and each auditor or clerk of a city or town, shall keep a book, to be known as the "Record of Official Bonds", and all official bonds shall be recorded therein in full as follows:

1. In the record kept by the secretary of state, the official bonds of all state officers, elective or appointive, except the bonds of notaries public.

2. In the record kept by the county auditor, the official bonds of all county officers, elective or appointive, and township clerks.

3. In the record kept by the city or town auditor or clerk, the official bonds of all city or town officers, elective or appointive.

4. In the record kept by the district court clerk, the official bonds of judicial magistrates.

Said records shall have an index which, under the title of each office, shall show the name of each principal, his sureties, and the date of the filing of the bond.

A bond when recorded shall be returned to the officer charged with the custody thereof.

64.25 Failure to give bond. Any officer who acts in an official capacity without giving bond when such bond is required shall be fined in an amount not exceeding the amount of the bond required of him.

Chapter 65 — ADDITIONAL SECURITY AND DISCHARGE OF SURETIES

- 65.1 Additional security
- 65.2 New bond
- 65.3 Effect
- 65.4 Sureties on bonds of public officers
- 65.5 Notice
- 65.6 Subpoenas

- 65.7 Hearing—order—effect
- 65.8 Failure to comply
- 65.9 Repealed
- 65.10 Sureties on other bonds
- 65.11 Return of premium by surety

65.1 Additional security. Whenever the governor¹ shall deem it advisable that the bonds of any state officer shall be increased and the security enlarged, or a new bond given, he shall notify said officer of the fact, the amount of new or additional security to be given, and the time when the same shall be executed; which said new security shall be approved and filed as provided by law.

¹See §64.19(1)

65.2 New bond. Any officer or board who has the approval of another officer's bond, when of the opinion that the public security requires it, upon giving ten days' notice to show cause to the contrary, may require him to give additional security by a new bond, within a reasonable time to be prescribed.

65.3 Effect. If a requisition made under either section 65.1 or section 65.2 be complied with, both the old and the new security shall be in force; if not, the office shall become and be declared vacant, and the fact be certified to the proper officer, to be recorded in the election book or township record.

65.4 Sureties on bonds of public officers. When any surety on the bond of a public officer desires to be relieved of his obligation, he may petition the approving officer or board for relief, stating the grounds therefor.

65.5 Notice. The surety shall give the principal at least twenty-four hours' notice of the presenting and filing of the petition, with a copy thereof. At the expiration of this notice the approving officer may hear the matter, or may postpone it, as justice requires.

65.6 Subpoenas. The approving officer may issue subpoenas in his official name for witnesses, compel them to attend and testify, in the same way an officer authorized to take depositions may.

65.7 Hearing—order—effect. If, upon the hearing, there appears substantial ground for apprehension, the approving officer or board may order the principal to give a new bond and to supply the place of the petitioning surety within a reasonable time to be prescribed, and, upon such new bond being given, the petitioning surety upon the former bond shall be declared discharged from liability on the same for future acts, which order of discharge shall be entered in the proper election book, but the bond will continue binding upon those who do not petition for relief.

65.8 Failure to comply. If the new bond is not given as required, the office shall be declared vacant, and the order to that effect entered in the proper election book.

65.10 Sureties on other bonds. When the principal on the bond has been appointed by a judge or court or is under the jurisdiction of a court, the petition for release must be presented to said court and the release shall be made subject to the orders of said court.

Such petition for release may be presented either by the principal or the surety on the bond.

Sureties on other bonds required by law who desire to be released of their obligation may proceed in the manner required for release in case of bonds of public officers.

The provisions of this section shall not apply to sureties on bonds given to secure the performance of contracts for public works, nor to sureties on appearance bonds in criminal cases.

65.11 Return of premium by surety. When a surety is released as heretofore provided, he shall refund to the party entitled thereto the premium paid, if any, less a prorata part thereof for the time said bond has been in force.

Chapter 66 — REMOVAL FROM OFFICE

See also section 24.24 for budget and public improvement violators, section 32.6 for sheriffs, section 68B.8 for conflicts of interest, section 69.15 for governor's appointees, section 331.12 for county supervisor, section 332.3(9) for county officers, section 347.10 for county hospital trustees, section 363.40 for municipal officers, section 363B.12 for municipal commissioners, section 363C.10 for certain city councilmen, section 739.3 for bribery, section 740.8 for misappropriation of fees, Const. III.9 for members of general assembly.

66.1 Removal by court
 66.2 Jurisdiction
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 66.24 Want of probable cause
 66.25 Expense of judge and reporter
 66.26 Appointive state officers
 66.27 Subpoenas—contempt
 66.28 Witness fees
 66.29 City or town elective officers
 66.30 Ordinance

66.1 Removal by court. Any appointive or elective officer, except such as may be removed only by impeachment,¹ holding any public office in the state or in any division or municipality thereof, may be removed from office by the district court for any of the following reasons:

1. For willful or habitual neglect or refusal to perform the duties of his office.
2. For willful misconduct or maladministration in office.
3. For corruption.
4. For extortion.
5. Upon conviction of a felony.
6. For intoxication, or upon conviction of being intoxicated.
7. Upon conviction of violating the provisions of chapter 56.

¹See chapter 68

66.2 Jurisdiction. The jurisdiction of the proceeding provided for in this chapter shall be as follows:

1. As to state officers whose offices are located at the seat of government, the district court of Polk County.

2. As to state officers whose duties are confined to a district within the state, the district court of any county within such district.

3. As to county, municipal, or other officers, the district court of the county in which such officers' duties are to be performed.

66.3 Who may file petition. The petition for removal may be filed:

1. By the attorney general in all cases.
2. As to state officers, by not fewer than twenty-five electors of the state.
3. As to any other officer, by five qualified electors of the district, county, or municipality where the duties of the office are to be performed.
4. As to district officers, by the county attorney of any county in the district.

5. As to all county and municipal officers, by the county attorney of the county where the duties of the office are to be performed.

66.4 Bond for costs. If the petition for removal is filed by anyone other than the attorney general or the county attorney, the court shall require the petitioners to file a bond in such amount and with such surety or sureties as the court may require, said bond to be approved by the clerk, to cover the costs of such removal suit, including attorney fees, if final judgment is not entered removing the officer charged.

66.5 Petition—other pleading. The petition shall be filed in the name of the state of Iowa. The accused shall be named as defendant, and the petition, unless filed by the attorney general, shall be verified. The petition shall state the charges against the accused and may be amended as in ordinary actions, and shall be filed in the office of the clerk of the district court of the county having jurisdiction. The petition shall be deemed denied but the accused may plead thereto.

66.6 Notice. Upon the filing of a petition, notice of such filing and of the time and place of hearing shall be served upon the accused in the manner required for the service of notice of the commencement of an ordinary action. Said time shall not be less than ten days nor more than twenty days after completed service of said notice.

66.7 Suspension from office. Upon presentation of the petition to the court, the court may suspend the accused from office, if in its judgment sufficient cause appear from the petition and affidavits which may be presented in support of the charges contained therein.

66.8 Effect of suspension. In case of suspension, the order shall be served upon the officer in question and it shall be unlawful for him to exercise or attempt to exercise any of the functions of his office until such suspension is revoked.

66.9 Salary pending charge. An order of the district court suspending a public officer from the exercise of his office, after the filing of a petition for the removal from office of such officer, shall, from the date of such order, automatically suspend the further payment to said officer of all official salary or compensation until said petition has been dismissed, or until said officer has been acquitted on any pending indictments charging misconduct, in office.

66.10 Governor to direct filing. The governor shall direct the attorney general to file such petition against any of said officers whenever he has reasonable grounds for such direction. The attorney general shall comply with such direction and prosecute such action.

66.11 Duty of county attorney. The county attorney of any county in which an action is instituted under section 66.10 shall, at the request of the attorney general, appear and assist in the prosecution of such action. In all other cases instituted in his county, the county attorney shall appear and prosecute when the officer sought to be removed is other than himself.

66.12 Special prosecutor. When the proceeding is brought to remove the county attorney, the court may appoint an attorney to appear in behalf of the state and prosecute such proceedings.

66.13 Application for outside judge. At any time not less than five days prior to the time the accused is required to appear, a copy of the petition may be filed by either party in the office of the clerk of the supreme court, together with an application to the supreme court for the appointment of a judge outside the judicial district in which the trial is to be had to hear said petition.

66.14 Appointment of judge. It shall be the duty of the chief justice of the supreme court, upon the filing of said copy and application, or in his absence or inability to act, any justice thereof, to forthwith issue a written commission directing a district judge outside of such district to proceed to the county in which the complaint was filed, and hear the same. The clerk of the supreme court shall transmit a certified copy of said order to the clerk of the district court where the cause is pending.

66.15 Order by appointed judge. Upon the receipt of such commission, said judge shall immediately make an order fixing a time and place of hearing in the county in which the petition is filed. Said time shall not be less than ten days nor more than twenty days from the date of the order.

66.16 Filing order—effect. Said order shall be forwarded to the clerk of the district court of the county in which the hearing is to be had. Said order shall supersede the time and place specified in any notice already served.

66.17 Notice to accused. The clerk shall file said order, and forthwith give the defendant, by mail, notice of the time and place of hearing.

66.18 Nature of action—when triable. The proceeding shall be summary in its nature and shall be triable as an equitable action.

66.19 Temporary officer. Upon such suspension, the board or person authorized to fill a vacancy in the office shall temporarily fill the office by appointment. In case of a suspension of a clerk or sheriff, the district court may supply such place by appointment until a temporary appointment shall be made. Such orders of suspension and temporary appointment of county and township officers shall be certified to the county auditor,¹ and be by him entered in the election book; those of city and town officers, certified to the clerk and entered upon the records; in case of other officers, to the person or body making the original appointment.

¹It is recommended that this section be amended to require notice to the county commissioner of elections in the case of elected officers, and to the appointing authority in other cases.

66.20 Judgment of removal. Judgment of removal, if rendered, shall be entered of record, and the vacancy forthwith filed as provided by law.

66.21 Hearing on appeal. In case of appeal, the supreme court shall fix the time of hearing and the filing of abstracts and arguments, and said cause shall be advanced and take precedence over all other causes upon the court calendar, and shall be heard at the next term after the appeal is taken, provided the abstract and arguments are filed in said court in time for said action to be heard.

66.22 Effect of appeal. The taking of an appeal by the defendant and the filing of a supersedeas bond shall not operate to stay the proceedings of the district court, or restore said defendant to office pending such appeal.

66.23 Effect of dismissal. If the petition be dismissed on final hearing on the merits, the defendant shall have judgment against the state, if the action was instituted by the attorney general, and against the county, city, town, or other subdivision of the state if the action is otherwise instituted, for the reasonable and necessary expenses incurred by the defendant in making his defense, including a reasonable attorney fee, to be fixed by the court or judge. Such payment shall be

made out of any funds in the state treasury not otherwise appropriated, or out of the general fund of the county, city, town, or other subdivision of the state, as the case may be.

66.24 Want of probable cause. If the action is instituted upon complaint of citizens, and it appears to the court that there was no reasonable cause for filing the complaint, such expense may be taxed as costs against the complaining parties.

66.25 Expense of judge and reporter. A judge who is required to preside at such hearing, outside of his judicial district, and the judge's official reporter who is required to report such hearing, shall be allowed, from the state treasury, their necessary and actual expenses incurred by reason of such hearing.

66.26 Appointive state officers. Any appointive state officer may also be removed from office by a majority vote of the executive council for any of the following causes:

1. Habitual or willful neglect of duty.
2. Any disability preventing a proper discharge of the duties of his office.
3. Gross partiality.
4. Oppression.
5. Extortion.
6. Corruption.
7. Willful misconduct or maladministration in office.
8. Conviction of felony.
9. A failure to produce and fully account for all public funds and property in his hands at any inspection or settlement.
10. Becoming ineligible to hold the office.

66.27 Subpoenas—contempt. The executive council, in any investigation held by it, may issue subpoenas for witnesses and for the production of records, books, papers, and other evidence. If a witness, duly subpoenaed, refuses to appear, or refuses to testify, or otherwise refuses to comply with said subpoena, such fact shall be certified by such council to the district court or judge of the county where the hearing is being held and said court or judge shall proceed with said refusal as though the same had occurred in a legal proceeding before said court or judge.

66.28 Witness fees. Said witnesses, if in the employ of the state, shall not be entitled to any witness fees, but shall receive the mileage allowed witnesses in the district court. Other witnesses shall receive the fees

and mileage allowed witnesses in district court. A sum sufficient to pay said fees and mileage is hereby appropriated out of any unappropriated funds in the state treasury.

66.29 City or town elective officers. Any city or town officer elected by the people may be removed from office, after hearing on written charges filed with the council of such city or town, for any cause which would be ground for an equitable action for removal

in the district court, but such removal can only be made by a two-thirds vote of the entire council.

See also §66.1

66.30 Ordinance. The council may, by ordinance, provide as to the manner of preferring and hearing such charges. No person shall be twice removed by the council from the same office for the same offense. Proceedings before the council shall not be a bar to proceedings in district court as in this chapter provided.

Chapter 68 — IMPEACHMENT

- 68.1 Impeachment defined
- 68.2 Specification of charges—majority must concur
- 68.3 Board of managers—articles
- 68.4 Notice to governor
- 68.5 Officer suspended—temporary appointment
- 68.6 President of senate—notice to senate
- 68.7 Warrant of arrest

- 68.8 Appearance—answer—counsel
- 68.9 Organization of court
- 68.10 Powers of court
- 68.11 Record of proceedings—administering oaths
- 68.12 Process for witnesses
- 68.13 Punishment
- 68.14 Compensation—fees—payment

III.19 Impeachment. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two thirds of the members present. [Const. Iowa III.19]

III.20 Officers subject to impeachment—judgment. The governor, judges of the supreme and district courts, and other state officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit, under this state; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the general assembly may provide.¹ [Const. Iowa III.20]

¹*See chapter 66*

68.1 Impeachment defined. An impeachment is a written accusation against the governor, or a judge of the supreme or district court, or other state officer, by the house of representatives before the senate, of a misdemeanor or malfeasance in office.

68.2 Specification of charges—majority must concur. An impeachment must specify the offenses charged as in an indictment. If more than one misdemeanor or malfeasance is charged, each shall be stated separately

and distinctly. A majority of all the members of the house of representatives elected must concur in the impeachment.

68.3 Board of managers—articles. When an impeachment is concurred in, the house of representatives shall elect from its own body seven members whose duty it shall be to prosecute the same, and, as a board of managers, they shall be authorized to exhibit and present articles of impeachment in accordance with the resolutions of the house previously adopted.

68.4 Notice to governor. When an impeachment is concurred in, the clerk of the house of representatives must forthwith in writing notify the governor thereof.

68.5 Officer suspended—temporary appointment. Every officer impeached shall be suspended by the governor from the exercise of his official duties until his acquittal, and the governor shall forthwith appoint some suitable person to temporarily fill the office, and he, having qualified as required by law, shall perform all the duties and enjoy all the rights pertaining to the office until the removal of the suspension of his predecessor or the election of a successor.

When the governor is impeached, he is likewise suspended. See IV.17, Const. Iowa

68.6 President of senate—notice to senate. If the president of the senate is impeached, notice thereof must be immediately given to the senate, which shall thereupon choose another president, to hold his office until the result of the trial is determined.

When the governor is impeached, his office devolves upon the Lt. governor.

68.7 Warrant of arrest. When presented with an impeachment, the senate must forthwith cause the person accused to be arrested and brought before it. The warrant of arrest or other process shall be issued by the secretary of the senate, signed by him, and may be served by any person authorized by the senate or president.

68.8 Appearance—answer—counsel. Upon the appearance of the person impeached, he is entitled to a copy of the impeachment, and to a reasonable time in which to answer the same, and shall be allowed counsel as in an ordinary criminal prosecution.

68.9 Organization of court. When an impeachment is presented, the senate shall, after the hour of final adjournment of the legislature, be forthwith organized as a court of impeachment for the trial thereof, at the capitol.

An oath or affirmation shall be administered by the secretary of the senate to its president, and by him to each member of that body, to the effect that he will truly and impartially try and determine the charges of impeachment according to the law and evidence.

No member shall sit on the trial or give his evidence thereon until he has taken such oath or affirmation.

The organization of such court shall be perfected when such presiding officer and the members present, but not less than a majority of the whole number, have taken and subscribed the oath or affirmation.

68.10 Powers of court. The court of impeachment shall sit in the senate chamber, and have power:

1. To compel the attendance of its members as the senate may do when engaged in the ordinary business of legislation.

2. To establish rules necessary for the trial of the accused.

3. To appoint from time to time such subordinate officers, clerks, and reporters as are necessary for the convenient transaction of its business, and at any time to remove any of them.

4. To issue subpoenas, process, and orders, which shall run into any part of the state, and may be served by any adult person authorized so to do by the president of the senate, or by the sheriff of any county, or his deputy, in the name of the state, and with the same force and effect as in an ordinary criminal prosecution, and to compel obedience thereto.

5. To exercise the powers and privileges conferred upon the senate for punishment as for contempts in the chapter entitled "General Assembly".¹

6. To adjourn from time to time, and to dissolve when its work is completed.

¹See §§2.18—2.22

68.11 Record of proceedings—administering oaths. The secretary of the senate, in all cases of impeachment, shall keep a full and accurate record of the proceedings, which shall be a public record; and shall have power to administer all requisite oaths or affirmations, and issue subpoenas for witnesses.

68.12 Process for witnesses. The board of managers and counsel for the person impeached shall each be entitled to process for compelling the attendance of persons or the production of papers and records required in the trial of the impeachment.

68.13 Punishment. When any person impeached is found guilty, judgment shall be rendered for his removal from office and his disqualification to hold any office of honor, trust, or profit under the state.

68.14 Compensation—fees—payment. The presiding officer and members of the senate, while sitting as a court of impeachment, and the managers elected by the house of representatives, shall receive the sum of six dollars each per day, and shall be reimbursed for mileage¹ expense in going from and returning to their places of residence by the ordinary traveled routes; the secretary, sergeant at arms, and all subordinate officers, clerks, and reporters, shall receive such amount as shall be determined upon by a majority vote of the members of such court. The same fees shall be allowed to witnesses, to officers, and to other persons serving process or orders, as are allowed for like services in criminal cases, but no fees can be demanded in advance. The state treasurer shall, upon the presentation of certificates signed by the presiding officer and secretary of the senate, pay all of the foregoing compensations and the expenses of the senate incurred under the provisions of this chapter.

¹See note following §50.47.

Chapter 69 — VACANCIES IN OFFICE

- 69.1 Holding over
- 69.2 What constitutes vacancy
- 69.3 Possession of office
- 69.4 Resignations
- 69.5 Vacancy in general assembly
- 69.6 Vacancy in state boards
- 69.7 Duty of officer receiving resignation
- 69.8 Vacancies—how filled

- 69.9 Person removed not eligible
- 69.10 Appointments
- 69.11 Tenure of vacancy appointee
- 69.12 Officers elected to fill vacancies—tenure
- 69.13 Repealed
- 69.14 Special election to fill vacancies
- 69.15 Board members—nonattendance—vacancy

III.12 Vacancies. When vacancies occur in either house, the governor or the person exercising the function of governor, shall issue writs of election to fill such vacancies. [Const. Iowa III.12]

IV.10 Vacancies. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people. [Const. Iowa IV.10]

IV.17 Lieutenant governor to act as governor. In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor. [Const. Iowa IV.17]

IV.19 Gubernatorial succession. If there be a vacancy in the office of governor and the lieutenant governor shall de reason of death, impeachment, resignation, removal from office, or other disability become incapable of performing the duties pertaining to the office of governor, the president pro tempore of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president pro tempore of the senate, for any of the above causes, shall be incapable of performing the duties pertaining to the office of governor the same shall devolve upon the speaker of the house of representatives; and if the speaker of the house of representatives, for any of the above causes, shall be incapable of performing the duties of the office of governor, the justices of the supreme court shall convene the general assembly by proclamation and the general assembly shall organize by the election of a president pro tempore by the senate and a speaker by the house of representatives. The general assembly shall thereupon immediately proceed to the election of a governor and lieutenant governor in joint convention. [Const. Iowa IV.19]

XI.6 How vacancies filled. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified. [Const. Iowa XI.6]

69.1 Holding over. Except when otherwise¹ provided, every officer elected or appointed for a fixed term shall hold² office until his successor³ is elected and qualified, unless he resigns,⁴ or is removed⁵ or suspended,⁶ as provided by law.

¹See §69.2.

²An incumbent holding over must requalify for office by filing a new bond and oath of office; he does not necessarily hold for the entire term but only until his successor, by appointment or otherwise, qualifies. See §63.7.

³Death of a successor before qualifying creates a vacancy under §69.2(4), so incumbent cannot hold-over past the time the appointed successor qualifies, according to 225 Iowa 338 (1938).

⁴See §69.4 for method of resigning, and note 7 to §69.2 for general discussion of resignations.

⁵See chapter 66 for removals.

⁶See chapter 67 for suspension of state officers.

69.2 What constitutes vacancy. Every civil office shall be vacant upon the happening of either of the following events:

1. A failure to elect at the proper election, or to appoint within the time fixed by law, unless the incumbent holds over.¹

2. A failure of the incumbent or holdover officer to qualify within the time² prescribed by law.

3. The incumbent ceasing to be a resident³ of the state, district,⁴ county,⁵ township, city, [town,]⁶ or ward by or for which he was elected or appointed, or in which the duties of his office are to be exercised. This subsection shall not apply to [appointments authorized by section 368A.1(7)] *appointed city officers*.⁶

4. The resignation⁷ or death of the incumbent, or the officer-elect before qualifying.

5. The removal⁸ of the incumbent from, or forfeiture⁹ of, his office, or the decision of a competent tribunal declaring his office vacant.

6. The conviction of incumbent¹⁰ of an infamous crime, or of any public offense involving the violation of his oath¹¹ of office.

¹If the incumbent does hold over, failure to elect of itself does not create a vacancy, according to 195 Iowa 57 (1922).

²See §63.8 for time limit on qualifying for vacancies.

³A temporary absence does not operate to create a vacancy, but lack of intent to return will create a vacancy even though no extra-territorial domicile is established, according to 189 Iowa 123 (1920). See also §49.8(4) for new (1973) statute allowing official to finish his term if his district moves away from him instead of him moving out of his district. See also §47.4(4) for a definition of residency for voting purposes enacted in 1972.

⁴This includes school and school director, legislative and county supervisor districts, and offices of township trustee and mayor according to several Opinions of the Attorney General. However, a later Opinion of the Attorney General dated April 1, 1974, expresses the view that this subsection is inoperative when applied to legislators, the governor, and the Lt. governor because it imposes a qualification (continuing residence) beyond that provided in the Iowa Constitution.

⁵See §331.12 for mandatory declaration of vacancy when county supervisor is absent from the county for sixty consecutive days.

⁶Bracketed material to be repealed on July 1, 1975, when italicized material becomes effective. See §1088.228, 64 G.A., SF1101.1, 65 G.A.

⁷A resignation need not be formally accepted in writing to be effective, but if it has been so accepted it cannot be withdrawn, according to 12 Iowa 405 (1861). Resignation by a reelected incumbent before requalifying creates a vacancy in the new term, according to an Opinion of the Attorney General (1955 OAG 3). See also discussion of incompatible offices in note 9, *infra*.

⁸See chapter 66.

⁹See §65.3 for declaration of vacancy upon failure to post sufficient additional bond, and §65.8 for withdrawal of sureties.

Acceptance of an incompatible office is considered a forfeiture or resignation of the old office and creates a vacancy in the old office. The test of incompatibility is subordination of one of the offices to the other and the duties of the two being inherently inconsistent with the public interest, according to 155 Iowa 271 (1912). For example, according to several opinions of the Attorney General, the offices of city and county attorney are incompatible, as are city councilman and county supervisor, city councilman and trustee of a municipally-owned utility, and (in the days when mayors held court) mayor and deputy sheriff.

¹⁰This should probably read "the incumbent". See usage in all preceding subsections.

¹¹See §63.10 for form of oath. See also §64.2 for conditions of bond, and §65.4 for power of surety to seek release of obligation for cause, and vacancy declared for want of bond in §65.8 and §65.3.

69.3 Possession of office. When a vacancy occurs in a public office, possession shall be taken of the office room, the books, papers, and all things pertaining thereto, to be held until the qualification of a successor, as follows: Of the office of the county auditor, by the clerk of the district court; of the clerk or treasurer, by the county auditor; of any of the state officers, by the governor, or, in his absence or inability at the time of the occurrence, as follows: Of the secretary, by the treasurer; of the auditor, by the secretary; of the treasurer, by the secretary and auditor, who shall make an inventory of the money and warrants therein, sign the same, and transmit it to the governor; and the secretary shall take the keys of

the safe and desks, after depositing the books, papers, money and warrants therein, and the auditor shall take the key of the office room.

69.4 Resignations. Resignations in writing by civil officers may be made as follows, except as otherwise provided:

1. By the governor, to the general assembly, if in session, if not, to the secretary of state.

2. By state senators and representatives, and all officers appointed by the senate or house, or by the presiding officers thereof, to the respective presiding officers of the senate and house, when the general assembly is in session, and such presiding officers shall immediately transmit to the governor information of the resignation of any member thereof; when the general assembly is not in session, all such resignations shall be made to the governor.

3. By senators and representatives in Congress, all officers elected by the qualified voters in the state or any district or division thereof larger than a county, or chosen by the general assembly, all judges of courts of record, all officers, trustees, inspectors, and members of all boards and commissions now or hereafter created under the laws of the state, and all persons filling any position of trust or profit in the state, for which no other provision is made, to the governor.

4. By all county and township officers, to the county auditor, except that of the auditor, which shall be to the board of supervisors.

5. By all councilmen and officers of cities and towns, to the clerk or mayor.

69.5 Vacancy in general assembly. When a vacancy shall occur in the office of senator or representative in the general assembly, except by resignation, the auditor of the county of his residence shall notify the governor of such fact and the cause.

See also §69.14

69.6 Vacancy in state boards. In case of a vacancy from any cause, other than resignation or expiration of term, occurring in any of the governing boards of the state institutions, the secretary thereof shall immediately notify the governor.

See also §69.15

69.7 Duty of officer receiving resignation. An officer receiving any resignation, or notice of any vacancy, shall forthwith notify the board, tribunal, or officer, if any, empowered to fill the same by appointment.

69.8 Vacancies—how filled. Vacancies shall be filled by the officer or board named, and in the manner, and under the conditions, following:

1. *United States senator.* In the office of United States senator, when the vacancy occurs¹ when the senate of the United States is in session, or when such senate will convene prior to the next general election, by the governor.

2. *State offices.* In all state offices, judges of courts of record, officers, trustees, inspectors, and members of all boards or commissions, and all persons filling any position of trust or profit in the state, by the governor, except when some other method is specially provided.

3. *Supreme court appointees.* In the offices of clerk and code editor, by the supreme court.

4. *County offices.* In county offices, by the board of supervisors.

5. *Board of supervisors.* In the membership of the board of supervisors, by the clerk of the district court, auditor, and recorder.

6. *Clerk of the district court.* In the office of the clerk of the district court, by the said court or by a judge thereof, by order entered of record in the court journal which order shall be effective until the vacancy shall be filled in the manner² provided by law.

7. *Township offices.* In township offices, including trustees, by the trustees, but where the offices of the three trustees are all vacant, the county board of supervisors shall have the power to either instruct the county auditor to fill the vacancies or adopt a resolution stating that the board will exercise all powers and duties assigned by law to the trustees of the township in which such vacancies exist, until such time as the vacancies may be filled by election.

See also §347.10 for county hospital trustees, and Constitution IV.10 for unlisted offices.

¹See also §43.6

²See subsection 4

69.9 Person removed not eligible. No person can be appointed to fill a vacancy who has been removed from office within one year next preceding.

69.10 Appointments. Appointments under the provisions of this chapter shall be in writing, and filed in the office¹ where the oath of office is required to be filed.

¹See §64.23

69.11 Tenure of vacancy appointee. An officer filling a vacancy in an office which is filled by election of the people shall continue to hold until the next election at which such vacancy can be filled as provided by section 69.12, and until a successor is elected and qualified. Appointments to all other offices, made un-

der this chapter, shall continue for the remainder of the term of each office, and until a successor is appointed and qualified.

69.12 Officers elected to fill vacancies—tenure.

When a vacancy occurs in any elective office of a political subdivision of this state, and a method for electing a person to the vacant office for the remainder of the unexpired term is not otherwise provided by law, the vacancy shall be filled pursuant to this section. As used in this section, 'pending election' means any election at which there will be on the ballot either the office in which the vacancy exists, or any other office to be filled or any public question to be decided by the voters of the same question to be decided by the voters of the same political subdivision.

1. If the unexpired term in which the vacancy occurs has more than seventy days to run after the date of the next pending election, the vacancy shall be filled as follows:

a. A vacancy occurring forty or more days prior to the next pending election shall be filled at that election. The fact that absentee ballots were distributed or voted before the vacancy occurred or was declared shall not invalidate the election.

b. A vacancy occurring less than forty days prior to the next pending election shall be filled by appointment as provided by law until the succeeding pending election.

2. When the unexpired term of office in which the vacancy occurs will expire within seventy days after the date of the next pending election, or after the date of a preceding election in which that office was on the ballot, the person elected to the office for the succeeding term shall also be deemed elected to fill the remainder of the unexpired term. If the vacancy is on a multi-member body to which more than one non-incumbent is elected for the succeeding term, the non-incumbent who received the most votes shall be deemed elected to fill the remainder of the unexpired term. A person so elected to fill an unexpired term shall qualify within the time required by sections 63.3 and 63.8. Unless other requirements are imposed by law, qualification for the unexpired term shall also constitute qualification for the full term to which the person was elected.

69.14 Special election to fill vacancies. A special election to fill a vacancy shall be held for a representative in Congress,¹ or senator or representative in the general assembly,² when the body in which such vacancy exists is in session, or will convene prior to the next general election, and the governor shall order, not later than five days from the date the vacancy exists, a special election, giving not less than forty days'

notice of such election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, the time limit herein provided shall not apply and the governor shall order such special election at the earliest practical time, giving at least ten days' notice thereof.

¹See §43.83 for nomination.

²See §43.84 for nomination.

69.15 Board members—nonattendance—vacancy.

Any person who has been appointed by the governor to any board under the laws of this state shall be deemed to have submitted his resignation from such office if either of the following events occurs:

1. He does not attend three or more consecutive regular meetings of such board. This paragraph does not apply unless the first and last of the consecutive meetings counted for this purpose are at least thirty days apart.

2. He attends less than one-half of the regular meetings of such board within any period of twelve

calendar months beginning on July 1 or January 1. This paragraph does not apply unless such board holds at least four regular meetings during such period. This paragraph applies only to such a period beginning on or after the date when he takes office as a member of such board.

If such person received no notice and had no knowledge of a regular meeting and gives the governor his sworn statement to that effect within ten days after he learns of the meeting, such meeting shall not be counted for the purposes of this section.

The governor in his discretion may accept or reject such resignation. If he accepts it, he shall notify such person, in writing, that his resignation is accepted pursuant to this section. The governor shall then make another appointment to such office. Such appointment shall be made in the same manner and for the same term as in the case of other vacancies caused by resignation from such office.

As used in this section, "board" includes any commission, committee, agency, or governmental body which has three or more members.

Chapter 145A — AREA HOSPITALS

See chapters 347 and 347A, infra, for county hospitals.

145A.11 Terms of members. The terms of members of the board shall be four years, except that members of the initial board shall determine their respective terms by lot so that the terms of one-half of the members, as nearly as may be, shall expire at the next general election. The remaining initial terms shall expire at the following general election. The successors of the initial board shall be chosen from area districts at regular elections, and shall be nominated and elected in the same manner as county hospital trustees

as provided in section 347.25, except that nomination papers on behalf of a candidate shall be signed by not less than twenty-five qualified electors from the area district, and shall be filed with the board.¹ When nominations are complete, the board shall certify the names of the nominees to each county *commissioner of elections* of the respective area districts.

¹*This appears to be an exception to the usual filing procedure under §47.2, but §47.2 was enacted after this section so the Latest Enactment Rule may be a consideration.*

Chapter 273 — COUNTY SCHOOL ELECTIONS

(Containing only sections relating to elections)

This chapter will be repealed on July 1, 1975. See SF1163.134, 65GA.

273.3 Election areas
273.4 County board—election
273.5 Nomination papers

273.6 Repealed
273.7 Canvass
273.8 Oath—expenses

IMPORTANT — SF1163, 65GA

SF1163.1 System abolished. The county school systems and joint county systems established pursuant to chapter 273 are abolished on July 1, 1975. Membership on county and joint county boards of education and employment in county and joint county systems shall terminate on July 1, 1975. Terms of office of members of the boards of directors of county school systems and joint county school systems expiring on October 7, 1974 are extended until July 1, 1975 and members shall not be elected to county boards of education and joint county boards of education at the regular school election in 1974, except to fill a vacancy.

SF1163.9 County systems. County and joint county boards of education and county and joint county school systems shall continue to function through June 30, 1975.

273.3 Election areas. The territory of the entire county school system shall be divided into four election areas, of as nearly as possible equal population and contiguous territory, to be designated as the first, the second, the third, and the fourth election areas. In the event of changes in the population of school districts, the county board of education shall make any such adjustments as may be necessary to equalize the population of the election areas, provided that no such change shall be made less than sixty days prior to the date of the annual school election.

273.4 County board—election. The county board of education shall consist of five members, electors of the county school system, one member to be elected from each of the four election areas by the electors of the respective areas, one member to be elected at large from the area of the county school system by the electors thereof. Their terms of office shall commence on the first Monday in October following their election.

Elections to the county board of education shall be held at the annual school elections for members whose terms expire on the first Monday in October following said elections and their term of office shall be for three years. Vacancies on said board shall be filled at the next regular meeting of the board by appointment by the remaining members of the board until the next annual school election at which election a member

shall be elected to fill the vacancy for the balance of the unexpired term. A vacancy shall be defined as in section 277.29.

All elections held under the provisions of this chapter shall be conducted by the county commissioner of elections pursuant to the provisions of chapters 39 to 53, except as otherwise specifically provided in this chapter.

273.5 Nomination papers. Nomination papers in behalf of a candidate for member of the county board of education shall be filed with the county superintendent of schools not more than sixty-five days, nor less than forty days prior to the election at which a member is to be elected. Nomination petitions shall be filed not later than five o'clock p.m. on the last day for filing. Each candidate shall be nominated by a petition signed by not less than twenty-five eligible electors of the area from which a member is to be elected, which petition shall state the name of the area from which a member is to be elected, the office to which he is to be elected, the name of the candidate and that he is a resident and elector in the named area. Signers of the petition shall, in addition to signing their names, show their residence, including street and number, if any, the school district in which they reside, and the date of signing, and each nomination paper shall have appended to it an affidavit of an elector other than the candidate in substantially the form provided in section 43.17 except as to the party affiliation.

The county superintendent of schools shall deliver all nomination petitions to the county commissioner of elections not later than five o'clock p.m. on the day following the last day on which nomination petitions can be filed.

273.7 Canvass. Within five days following the election, county commissioner of elections shall make return of the votes cast in said district to the county board of education¹ on forms provided therefor and the county board of supervisors shall meet at eight o'clock a.m. on the last Monday in September, and canvass the vote and the county commissioner of elections shall issue certificates of election.

This should probably be "county board of supervisors" instead of "county board of education" because it is the supervisors who, by the next clause of the same sentence, are responsible for canvassing.

273.8 Oath—expenses. The members of the board shall qualify by taking the oath required of county of-

ficers but shall not be required to give bond. They shall serve without compensation, but shall be paid their actual and necessary expenses including travel, in performing their duties. All such claims shall be audited by the board and paid from the county board of education fund.

Chapter 274 — SCHOOL DISTRICTS IN GENERAL

(Containing only sections relating to elections)

- 274.2 General applicability
- 274.6 School names
- 274.7 Directors

274.2 General applicability. The provisions of law relative to common schools shall apply alike to all districts, except when otherwise clearly stated, and the powers given to one form of corporation, or to a board in one kind of corporation, shall be exercised by the other in the same manner, as nearly as practicable. But school boards shall not incur original indebtedness by the issuance of bonds until authorized by the voters of the school corporation.

274.6 School names. School corporations shall be designated as follows: The independent school district of (naming city, town, township, or village, and if there are two or more districts therein, including some appropriate name or number), in the county of (naming county), state of Iowa; or, the consolidated school

district of (some appropriate name or number), in the county of (naming county), state of Iowa; or, the community school district of (some appropriate name), in the county (or counties) of (naming county or counties), state of Iowa; or, the (some appropriate name) community school district, in the county (or counties) or (naming county or counties), state of Iowa.

274.7 Directors. The affairs of each school corporation shall be conducted by a board of directors, the members of which in all community or independent school districts shall be chosen for a term of three years.

See §279.29 for compensation

For staggering of terms of Des Moines school board during transition from four-year to three-year terms, see HF1399.98, 65GA.

Chapter 275 — REORGANIZATION OF SCHOOL DISTRICTS

(Containing only sections relating to elections)

(SF1163, 65GA, effective July 1, 1975, will make amendments throughout this chapter, mainly changing most references from county or joint county boards of education to "area education agency" and "superintendent" to "administrator.")

275.1—275.8 Not applicable
 275.9 Methods of effectuating reorganization plans
 275.10 Repealed
 275.11 Proposals involving two or more districts
 275.12 Petition—method of election
 275.13 Affidavit—presumption
 275.14 Objection—time of filing—notice
 275.15 Hearing—decision—publication of order
 275.16 Hearing when territory in different counties
 275.17 Repealed
 275.18 Special election called—time
 275.19 Repealed
 275.20 Separate vote in existing districts
 275.21—275.22 Repealed

275.23 Canvass and return
 275.24 Effective date of change
 275.25 Election of directors
 275.26 Payment of expenses
 275.27 Names
 275.28—275.31 Not applicable
 275.32 School buildings—tax levy
 275.33 Contracts not affected
 275.34 Who shall initiate appeal
 275.35 Change of method of elections
 275.36 Submission of change to electors
 275.37 Increase in number of directors
 275.38 Implementing changed method of election
 275.39 Excluded territory included in new petition

275.9 Methods of effectuating reorganization plans.

When any school district is enlarged, reorganized, or changes its boundaries pursuant to the plans hereinabove provided¹ for, such enlargement, reorganization, or boundary change shall be accomplished by the method hereinafter provided.

The provisions of sections 275.1 to 275.5, inclusive relating to studies, surveys, hearings, and adoption of county plans shall constitute a mandatory prerequisite to the effectuation of any proposal for district boundary change. It shall be the mandatory duty of the county board or joint county boards to dismiss the petition if the above provisions are not complied with fully.

¹See §§275.1—275.8

275.11 Proposals involving two or more districts.

Subject to the approval of the county board of education contiguous territory located in two or more school districts may be united into a single district in the manner provided in sections 275.12 to 275.23 hereof.

275.12 Petition—method of election.

1. A petition describing the boundaries, or accurately describing the area included therein by legal descriptions, of the proposed district, which boundaries or area described shall conform to county plan or the petition shall request change of the county plan, shall be filed with the superintendent of schools of the county in which the greatest number of electors reside. Such petition shall be signed by voters in each existing school district affected or portion thereof equal in number to at least twenty percent of the number of eligible voters or four hundred voters,

whichever is the smaller number. School districts affected or portion thereof shall be defined to mean that area to be included in the plan of the proposed new school district.

2. Such petition shall also state the number of directors which may be either five or seven and the method of election of the school directors of the proposed district. The method of election of the directors shall be one of the following optional plans:

a. Election at large from the entire district by the electors of the entire district.

b. Division of the entire school district into designated geographical subdistricts, to be known as director districts, each of which director districts shall be represented on the school board by one director who shall be a resident of such director district but who shall be elected by the vote of the electors of the entire school district. The school district shall be divided into the same number of director districts as the number of school directors the district is authorized by law. The boundaries of such director districts and the area and population included within each district shall be such as justice, equity, and the interests of the people may require. Insofar as may be practicable, the boundaries of such districts shall follow established political or natural geographical divisions.

c. Election of not more than one-half of the total number of school directors at large from the entire district and the remaining directors from and as residents of designated director districts into which the entire school district shall be divided. In such case, all directors shall be elected by the electors of the entire school district.

d. Division of the entire school district into designated geographical subdistricts, to be known as

director districts, each of which director districts shall be represented on the school board by one director who shall be a resident of such director district and who shall be elected by the voters of said director district. Place of voting in such director districts shall be designated by the county board.

See §49.21

3. If the petition proposes the division of the school district into director districts, the boundaries of such proposed director districts shall be described in the petition.

4. The county board or boards of education in reviewing such petition as provided in sections 275.15 and 275.16 shall review the proposed method of election of school directors and shall have the duty and authority to change or amend such plan in any manner, including the changing of boundaries of director districts if proposed, or to specify a different method of electing school directors on the basis of area, school population, or assessed valuation as may be required by law, justice, equity, and the interest of the people. In such action the county board or boards shall follow the same procedure as is required by sections 275.15 and 275.16 for other action on the petition by the county board or boards.

275.13 Affidavit—presumption. Such petition shall be accompanied by an affidavit showing the number of qualified electors living in each affected district or portion thereof described in the petition and signed by a qualified elector residing in the territory, and if parts of the territory described in the petition are situated in different counties, the affidavit shall show separately as to each county, the number of qualified electors in the part of the county included in the territory described. The affidavit shall be taken as true unless objections to it are filed on or before the time fixed for filing objections as provided in section 275.14 hereof.

275.14 Objection—time of filing—notice. Within ten days after the petition is filed, the county superintendent shall fix a final date for filing objections to the petition in the office of the county superintendent, and give notice for at least ten days, by one publication in a newspaper published within the territory described in the petition, or if none is published therein, in a newspaper published in the county where the petition is filed, and of general circulation in the territory described. Objections shall be in writing in the form of an affidavit and may be made by any person residing or owning land within the territory described in the petition, or who would be injuriously affected by the change petitioned for and shall be on file not later

than twelve o'clock noon of the final day fixed for filing objections.

275.15 Hearing—decision—publication of order. On the final day fixed for filing objections, interested parties may present evidence and arguments, and the county board of education shall review the matter on its merits and within five days after the conclusion of any hearing, shall rule on the objections and shall enter an order fixing such boundaries for the proposed school corporation as will in its judgment be for the best interests of all parties concerned, having due regard for the welfare of adjoining districts or dismiss the petition. The county superintendent shall at once publish this order in the same newspaper in which the original notice was published and file any amendments to the county plan in the same manner as hereinabove provided for the original or tentative county plan. Within twenty days after the publication thereof the decision rendered by the county board of education may be appealed to a court of record in the county involved by any school district affected.

275.16 Hearing when territory in different counties. If the territory described in the petition for the proposed corporation lies in more than one county, the county superintendent with whom the petition is filed shall fix the time and place and call a joint meeting of the members of all the county boards of education of the counties in which any territory of the proposed school corporation lies, to act as a single board for the hearing of the said objections, and a majority of all members of the county boards of education of the different counties in which any part of the proposed corporation lies, shall constitute a quorum. The joint boards acting as a single board shall determine whether the petition conforms to county plans or, if the petition requests a change in county plans, whether such change should be made, and shall have the authority to change the plans of any or all the county boards affected by the petition, and it shall determine and fix boundaries for the proposed corporation as provided in section 275.15 or dismiss the petition. However, if such joint boards cast a tie vote and are unable to agree to an order fixing the boundaries for the proposed school district or to an order to dismiss the petition, the time during which such actions must be taken under the provisions of section 275.15 shall be extended from five days to fifteen days after the conclusion of the hearing under the provisions of section 275.15, and such joint board shall reconvene not less than ten and not more than fifteen days after the conclusion of such hearing. At such hearing the joint board shall reconsider their action and if a tie vote shall again be cast it shall be

deemed an order granting the petition and changing the plans of any and all of the county boards affected by the petition and fixing the boundaries for the proposed school corporation. The county superintendent shall at once publish the decision in the same newspaper in which the original notice was published.

In case a controversy arises from such meeting, the county board or boards or any school district aggrieved may bring the controversy to the state department of public instruction as provided in section 275.8, within twenty days from the publication of this order, and if said controversy is taken to the state department of public instruction, a ten-day notice in writing shall be given to all county boards and school districts affected or portions thereof. The state department shall have the authority to affirm the action of the joint boards, to vacate, to dismiss all proceedings or to make such modification of the action of the joint boards as in their judgment would serve the best interest of all the counties. This decision may be appealed to a court of record in one of the counties by any aggrieved party to the controversy as defined in section 275.8, within thirty days after the decision of the state department of public instruction.

The court on appeal shall have the same authority as is granted in this section to the state department of public instruction.

The provisions of this section shall apply to all tie votes under any provision of this chapter where a joint meeting of the members of two or more county boards of education are required and to all petitions pending on June 9, 1965.

275.18 Special election called—time. When the boundaries of the territory to be included in a proposed school corporation and the number and method of the election of the school directors of such proposed school corporation have been determined as herein provided, the county superintendent with whom such petition is filed shall call a special election in such proposed school corporation within thirty days from the date of the final determination of such boundaries, and serve notice on the county commissioner of elections of the county in the proposed school corporation which has the greatest taxable base in the proposed school corporation. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which previous notices have been published regarding the proposed school reorganization, and in addition thereto, if more than one county is involved, by one publication in a legal newspaper in each county other than that of the first publication, which publication shall be not less than four nor more than twenty days prior to the election.

In the case of joint districts, no notice for an election shall be published until the time for appeal, which shall be the same as that provided in section 285.12, has expired; and in the event of an appeal, not until the same has been disposed of.

275.20 Separate vote in existing districts. The voters shall vote separately in each existing school district affected or portion thereof upon the proposition to create such new school corporation. School districts affected or portion thereof shall be defined to mean that area included within the boundaries of the proposed new school corporation, except that where a portion of an existing school district operating a high school, or rural independent school district of eight sections or more operating a school formed prior to May 10, 1957, is included within the boundaries of the proposed new school corporation, that affected school district shall be defined as that existing district within and without the proposed new school corporation, and in such districts the entire district shall vote. If the proposition receives a majority of the votes cast in each of at least seventy-five percent of the said districts, and also a majority of the total number of votes cast in all of said districts, the proposition shall be deemed carried. Provided, however, that if two or more of the school districts affected have a resident average daily attendance in public schools of three hundred or more pupils who were enrolled in the public schools in the preceding school year, the proposition must also receive a majority of the votes cast in each of said districts in order to be deemed carried, and in such districts the entire existing district shall vote.

275.23 Canvass and return. The judges of election shall count the ballots, make return to and deposit the ballots with the county commissioner of elections, who shall enter the return of record in his office. The county commissioner of elections shall certify the results of the election to the county superintendent. If the majority of the votes cast by the qualified electors are in favor of the proposition, as provided in section 275.20, a new school corporation shall be organized. The county superintendent shall file a written description of the boundaries as provided in section 274.4.

275.24 Effective date of change. When any school district is enlarged, reorganized, or changes its boundary by the method hereinabove provided, the effective date of such change shall be July 1 following the election of the new board or, if no new board is elected, then on July 1 following the enlargement, reorganization or boundary change.

275.25 Election of directors. If the proposition to establish a new corporation carries under the method hereinabove provided a special election shall be called by the county superintendent. The county superintendent shall notify the county commissioner of elections who shall publish notice by one publication in the same newspaper in which the former notices were published. At such election, two directors shall be elected to serve until the next regular election, two until the second, and one until the third regular election thereafter, except in districts which include all or part of a city of fifteen thousand or more population and in districts in which the proposition to establish a new corporation provides for seven directors, three directors shall be elected to serve until the third regular election thereafter, all of whom to serve until such time as their successors are elected and qualified. Provided, however, that in all community school districts which include a city of fifteen thousand or more population and which became effective prior to July 4, 1955, and in all community school districts containing a city which has attained a population of fifteen thousand or more as shown by the most recent decennial federal census, the board of directors shall consist of seven members. Where it becomes necessary to increase the membership of any such board under the provisions hereof, two directors shall be added according to the procedure described in section 277.23. The county board of supervisors shall canvass the votes and the county commissioner of elections report the results to the county superintendent who shall notify the persons who are elected directors. The new board shall organize within fifteen days following their election upon call of the county superintendent. The new board of directors shall have complete control of the employment of all personnel for the newly formed community school district for the ensuing school year. Following the organization of the new board they shall have authority to establish policy, organize curriculum, enter into contracts and complete such other planning and take such action as is essential for the efficient management of the newly formed community school district.

Provided, however, in cases involving the districts only, where the population of the new district does not exceed the population of the more populous of said districts by more than twenty-five percent, the incumbent board members of said more populous district shall continue to hold office as the directors of the new district for the remainder of their elective terms. Vacancies on any board caused by change in boundaries¹ shall be filled in the manner provided in sections 279.6 and 279.7.

¹However, see §49.8(4)

275.26 Payment of expenses. If a district is established or changes its boundaries it shall pay all expenses incurred by the superintendent and the board of education in connection with the proceedings. The county commissioner of elections shall assess the costs of the election against the district as provided in section 47.3. If the proposition is dismissed or defeated at the election all expenses shall be apportioned among the several districts in proportion to the assessed valuation of property therein.

If the proposed district or boundary change embraces territory in more than one county such expenses shall be certified to and, if necessary, apportioned among the several districts by the joint board of education. If in only one county the certification shall be made by the county superintendent.

The respective boards to which such expenses are certified shall audit and order the same paid from the general fund. In the event of failure of any board to so audit and pay the expenses certified to it, the county superintendent shall certify the expenses to the county auditor in the same manner as is provided for tuition claims in section 282.21 and the funds shall be transferred by the county treasurer from the debtor district to the county board of education for payment of said expenses.

275.27 Names. School districts created or enlarged under the provisions of this chapter shall be known as community school districts and shall be part of the county school system of the county in which the greatest number of electors of said district reside at the time of the special election called for in section 275.18, and this provision pertaining to greatest number of electors shall be in full force and effect any statute to the contrary notwithstanding, and all provisions of the law applicable to the common schools generally shall be applicable to such districts in addition to the powers and privileges conferred by this chapter.

See §274.6

275.32 School buildings—tax levy. The board of any school corporation shall establish attendance centers and provide suitable buildings for each school in the district, and may at the regular or a special meeting call a special election to submit to the qualified electors of the district the question of voting a tax or authorizing the board to issue bonds, or both, for any or all of the following purposes:

1. To secure sites, build, purchase, or equip school buildings.
2. To build or purchase a superintendent's or teacher's house or houses.

3. To repair or improve any school building or grounds, or superintendent's or teacher's house or houses, when the cost will exceed five thousand dollars.

All monies received for such purposes shall be placed in the schoolhouse fund of said corporation and shall be used only for the purpose for which voted.

See also §§277.2 and 296.1

275.33 Contracts not affected. The terms of employment of superintendents, principals, and teachers, for any current school year shall not be affected by the formation of the new district.

275.34 Who shall initiate appeal. The aggrieved party, as defined in section 275.8, shall initiate the appeal or appeals to a court of record, as provided for in this chapter. Nothing herein shall be construed as affecting the rights of any school district, person or persons from bringing or engaging in any action in law or equity now granted or preserved to such school district, person or persons.

275.35 Change of method of election. Any existing or hereafter created or enlarged school district may change the number of directors from five to seven and may also change its method of election of school directors to any method authorized by section 275.12 by submission of a proposal, stating the proposed new method of election and describing the boundaries of the proposed director districts if any, by the school board of such district to the electors at any regular or special school election. The school board shall notify the county commissioner of elections who shall publish notice of the election in the manner provided in section 49.53. The election shall be conducted pursuant to chapters 39 to 53 by the county commissioner of elections. Such proposal shall be adopted:

1. If, in a district where the existing method of election of school directors is by election at large, it is approved by a majority of the votes cast on the proposition;

2. If, in a district which is subdivided into director districts for the election of all or part of the school directors, it is approved by a majority of the votes cast on the proposition.

What's the difference?

275.36 Submission of change to electors. If a petition for a change in the number of directors or in the method of election of school directors, describing the boundaries of the proposed director districts, if any, signed by at least one-third of the voters residing

within the school district and accompanied by affidavit as required by section 275.13 be filed with the school board of a school district, not earlier than six months and not later than two months before a regular or special school election, the school board shall submit such proposition to the voters at such election.

275.37 Increase in number of directors. At the next succeeding annual school election in a district where the number of directors has been increased from five to seven, and directors are elected at large, there shall be elected a director to succeed each incumbent director whose term is expiring in that year, and two additional directors. Upon organizing as required by section 279.1, the newly elected director who received the fewest votes in the election shall be assigned a term of either one year or two years if necessary in order that as nearly as possible one third of the members of the board shall be elected each year.

275.38 Implementing changed method of election. If change in the method of election of school directors is approved at a regular or special school election, the directors who were serving unexpired terms or were elected concurrently with approval of the change of method shall serve out the terms for which they were elected. If the plan adopted is that described in section 275.12, subsection 2, paragraph b, c or d, the board shall at the earliest practicable time designate the districts from which residents are to be elected as school directors at each of the next three succeeding annual school elections, arranging so far as possible for elections of directors as residents of the respective districts to coincide with the expiration of terms of incumbent members residing in those districts. If an increase in the size of the board from five to seven members is approved concurrently with the change in method of election of directors, the board shall make the necessary adjustment in the manner prescribed in section 275.37 as well as providing for implementation of the districting plan under this section.

275.39 Excluded territory included in new petition. Territory described in the petition of a proposed reorganization which has been set out of the proposed reorganization by the county board or the joint boards, as the case may be, and in the event of an appeal, after the decision of the state department of public instruction or the courts as by law provided, may be included in any new petition for reorganization.

Chapter 277 — COMMUNITY SCHOOL ELECTIONS

277.1 Regular election
 277.2 Special election
 277.3 Election laws applicable
 277.4 Nominations required
 277.5 Repealed
 277.6 Territory outside a city or county
 277.7—277.19 Repealed
 277.20 Canvassing returns
 277.21 Repealed
 277.22 Contested elections

277.23 Directors—number—change
 277.24 Repealed
 277.25 Directors in new districts
 277.26 Treasurer
 277.27 Qualification
 277.28 Oath required
 277.29 Vacancies
 277.30 Vacancies filled by election
 277.31 Surrendering office
 277.32 Penalties

277.1 Regular election. The regular election shall be held annually on the second Tuesday in September in each school district for the election of officers of the district, merged area, and county school system and for the purpose of submitting to the voters thereof any matter authorized by law.

See also chapter 278.

277.2 Special election. The board of directors in any school corporation may call a special election at which election the voters shall have the powers exercised at the regular election with reference to the sale of school property and the application to be made of the proceeds, the authorization of seven members of the board of directors, the authorization to establish or change the boundaries of director districts, the authorization of a schoolhouse tax or indebtedness, as provided by law, for the purchase of a site and the construction of a necessary schoolhouse, and for obtaining roads thereto.

See also §275.32.

277.3 Election laws applicable. The provisions of chapters 39 to 53 shall apply to the conduct of all school elections and the school elections shall be conducted by the county commissioner of elections, except as otherwise specifically provided in this chapter.

277.4 Nominations required. Nomination papers for all candidates for election to office in each school district shall be filed with the secretary of the school board not more than sixty-five days, nor less than forty days prior to the election. Nomination petitions shall be filed not later than five o'clock p.m. on the last day for filing. Each candidate shall be nominated by a petition signed by not less than ten eligible electors of the district. To each such petition shall be attached the affidavit of an eligible elector of the district, other than the candidate being nominated, that all of the signers thereof are electors of such district and that the signatures thereto are genuine. The petition shall include the affidavit¹ of the candidate being

nominated, stating his name, his residence, that he is a candidate and is eligible for the office he seeks, and that if elected he will qualify for the office.

The secretary of the school board shall deliver all nomination petitions to the county commissioner of elections not later than five o'clock p.m. on the day following the last day on which nomination petitions can be filed. Any person on whose behalf nomination petitions have been filed under this section may withdraw as a candidate by filing a signed statement to that effect with the commissioner at any time prior to five o'clock p.m. on the twenty-first day before the election.

¹*See §56.311 for additional requirement.*

277.6 Territory outside a city or county. If there is within a school corporation any territory not within the limits of the city or county, the county commissioner of elections may divide the territory which lies outside the city or county but within the school district into additional precincts, or may attach the various parts thereof to such contiguous city or county precincts as will best serve the convenience of the electors of said territory in voting on school matters.

277.20 Canvassing returns. On the next Monday after the election in each corporation the county board of supervisors shall canvass the returns made to the county commissioner of elections, ascertain the result of the voting with regard to every matter voted upon, declare the same, cause a record to be made thereof, and the county commissioner of elections shall at once issue a certificate to each person elected.

277.22 Contested elections. School elections may be contested as provided by law for the contesting of other elections.

See chapter 62.

277.23 Directors—number—change. In any district including all or part of a city of fifteen thousand or more population and in any district in which the

voters have authorized seven directors, the board shall consist of seven members; in all other districts the board shall consist of five members.

A change from five to seven directors shall be effected in a district at the first regular election after authorization by the voters or when a district becomes wholly or in part within a city of fifteen thousand population or more in the following manner: If the term of one director of the five-member board expires at the time of said regular election, three directors shall be elected to serve until the third regular election thereafter; if the terms of two directors expire at the time of said regular election, three directors shall be elected to serve until the third regular election thereafter and one director shall be elected to serve a term the expiration of which coincides with the expiration of the term of the director heretofore singly elected.

277.25 Directors to new districts. At the first election in newly organized districts the directors shall be elected as follows:

1. In districts having three¹ directors, one director shall be elected for one year, one for two years, and one for three years.

2. In districts having five directors, two shall be elected for one year, two for two years, and one for three years.

3. In districts having seven directors, two shall be elected for one year, two for two years, and three for three years.

¹See §277.23.

277.26 Treasurer. In districts composed in whole or in part of cities or towns a treasurer shall be chosen at the regular election. He shall serve without pay and his term shall begin on the first secular day of July following his election and continue for two years and until his successor is elected or appointed and qualified.

277.27 Qualification. A school officer or member of the board shall, at the time of election or appointment, be an eligible elector of the corporation or sub-district. Notwithstanding any contrary provision of the Code, no member of the board of directors of any school district, or his or her spouse, shall receive compensation directly from the school board. No director or spouse affected by this provision on July 1, 1972, whose term of office for which elected has not expired, or whose contract of employment has a fixed date of expiration and has not expired, shall be affected by this provision until the expiration of the term of office to which elected, or the expiration date of the contract for which employed.

277.28 Oath required. Each director elected at a regular district or director district election, as the case may be, shall qualify by taking the oath of office on or before the time set for the organization meeting of the board the third Monday in September, and his election and qualification entered of record by the secretary. The oath may be administered by any qualified member of the board, the secretary of the board, or the county superintendent of schools, and may be taken in substantially the following form:

"Do you solemnly swear that you will support the Constitution of the United States and the Constitution of the state of Iowa and that you will faithfully and impartially to the best of your ability discharge the duties of the office of (naming the office) in (naming the district) as now or hereafter required by law?"

If the oath of office is taken elsewhere than in the presence of the board in session it may be administered by any officer listed in section 78.1 and 78.2 and shall be subscribed to by the person taking it in substantially the following form:

"I,, do solemnly swear that I will support the Constitution of the United States and the Constitution of the state of Iowa and that I will faithfully and impartially to the best of my ability discharge the duties of the office of (naming the office) in (naming the district) as now or hereafter required by law."

Such oath shall be properly verified by the administering officer and filed with the secretary of the board.

The treasurer elected at a regular election in city and town districts¹ shall qualify by taking the oath of office in the manner herein required and filing a bond as required by section 291.2 within ten days after the first secular day in July following his election.

¹See §277.26.

277.29 Vacancies. Failure to elect at the proper election or to appoint within the time fixed by law or the failure of the officer elected or appointed to qualify within the time prescribed by law; the incumbent ceasing to be a resident¹ of the district or sub-district; the resignation or death of incumbent or of the officer-elect; the removal of the incumbent from, or forfeiture of, his office, or the decision of a competent tribunal declaring his office vacant; the conviction of incumbent of an infamous crime or of any public offense involving the violation of his oath of office, shall constitute a vacancy.

¹However, see §49.8(4).

277.30 Vacancies filled by election. When vacancies are to be filled at a regular election, the election shall be for the number of years required to fill the vacancy and until a successor is elected, or appointed, and qualified.

See also §279.6.

277.31 Surrendering office. Each school officer or member of the board upon the termination of his term of office shall immediately surrender to his successor all books, papers, and moneys pertaining or belonging to the office, taking a receipt therefor.

277.32 Penalties. Any school officer willfully violating any law relative to common¹ schools, or willfully failing or refusing to perform any duty imposed by law, shall forfeit and pay into the treasury of

the particular school corporation in which the violation occurs the sum of twenty-five dollars, action to recover which shall be brought in the name of the proper school corporation, and be applied to the use of the schools therein.

¹See §274.2.

277.33 moved to 277.3 in this publication for your convenience.

Chapter 278 — POWERS OF ELECTORS

278.1 Enumeration

278.2 Submission of proposition

278.3 Power given electors not to limit director's powers

278.1 Enumeration. The voters at the regular election shall have power to:

1. Direct a change of textbooks regularly adopted.
2. Direct the sale, lease, or other disposition of any schoolhouse or site or other property belonging to the corporation, and the application to be made of the proceeds thereof, provided, however, that nothing herein shall be construed to prevent the sale, lease, exchange, gift or grant and acceptance of any interest in real or other property by the board of directors without an election to the extent authorized in section 297.22.
3. Determine upon additional branches that shall be taught.
4. Instruct the board that school buildings may or may not be used for meetings of public interest.
5. Direct the transfer of any surplus in the schoolhouse fund to the general fund.
6. Authorize the board to obtain, at the expense of the corporation, roads for proper access to its schoolhouses.

7. Vote a schoolhouse tax, not exceeding two and one-half mills on the dollar in any one year, for the purchase of grounds, construction of schoolhouses, the payment of debts contracted for the erection of schoolhouses, not including interest on bonds, procuring libraries for and opening roads to schoolhouses or buildings, for the purchase of buildings or equipment for buildings or schoolhouses, for the purpose of repairing, remodeling, reconstructing, improving or expanding the schoolhouses or buildings for the

school district, for the purpose of landscaping, paving, or improving the schoolhouse or building grounds, or for the rental of facilities pursuant to chapter 28E. Interest earned from investments of these funds may be used for the purpose voted. The power to levy said tax, when voted, shall continue for such period of time as may be authorized by the voters and shall not be affected by any change in the boundaries of the school district, in whatever manner effected, except in case the school district is reorganized pursuant to sections 275.12 to 275.23.

Authorized levies for the period of time presently approved shall not be affected as a result of a failure of a proposition proposed to expand the purposes for which the funds may be expended.

As used in this subsection, "repair" means to restore the existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance or customary repainting; and "reconstruction" means to rebuild or to restore again as an entity the thing which was lost or destroyed.

8. Authorize the establishment and maintenance in each district of one or more schools of a higher order than an approved four-year high school course.

9. Authorize a change from five to seven directors.

10. Authorize the establishment or abandonment of director districts or a change of boundaries of director districts.

The board may, with approval of sixty percent of the voters, voting in a regular or special election in the

school district, make extended time-contracts not to exceed twenty years in duration for rental of buildings to supplement existing schoolhouse facilities; and where it is deemed advisable for buildings to be constructed or placed on real estate owned by the school district, such contracts may include lease-purchase option agreements, such amounts to be paid out of the schoolhouse fund.

Before entering into a rental or lease-purchase option contract, authorized by the electors, the board shall first adopt plans and specifications for a building or buildings which it considers suitable for the intended use and also adopt a form of rental or lease-purchase option contract. The board shall then invite bids thereon, by advertisement published once each week for two consecutive weeks, in a newspaper published in the county in which the building or buildings are to be located, and the rental or lease-purchase option contract shall be awarded to the lowest responsible bidder, but the board may reject any and all bids and advertise for new bids.

The voters at the regular or special election shall have power to vote a schoolhouse tax not exceeding five mills on the dollar in any one year providing for lease-purchase option of school buildings.

See also §296.1.

278.2 Submission of proposition. The board may, and upon the written request of twenty-five voters of any district having a population of five thousand or less, or of fifty voters of any other district, shall direct the county commissioner of elections to provide in the notice of the regular election for submitting any proposition authorized by law to the voters.

However, see filing deadline in §275.36.

278.3 Power given electors not to limit directors' power. The power vested in the electors by section 278.1 shall not affect or limit the power granted to the board of directors of a school district in section 297.7(2), and the authority granted in said subsection shall be construed as independent of the power vested in the electors by section 278.1.

Chapter 279 — DIRECTORS—POWERS AND DUTIES

(Containing only sections relating to elections)

279.6 Vacancies—qualification—tenure

279.7 Vacancies filled by special election—qualification—tenure

279.29 Compensation of officers

279.6 Vacancies—qualification—tenure. Vacancies occurring among the officers or members of a school board shall be filled by the board by appointment. A person so appointed to fill a vacancy in an elective office shall hold until the organization of the board the third Monday in September¹ immediately following the next regular election and until his successor is elected and qualified. A person appointed to fill a vacancy in an appointive office shall hold such office for the residue of the unexpired term and until his successor is appointed and qualified. Any person so appointed shall qualify within ten days thereafter in the manner required by section 277.28.

However, if a member of a school board resigns from the board prior to the time for filing nomination papers for office as a school board member, as provided in section 277.4, and he specifies in his resignation that the resignation will be effective on the date the next term of office for elective school officials

begins, the president of the board shall declare the office vacant as of that date and nomination papers shall be received for the unexpired term² of the resigning member. The person elected at the next regular school election to fill the vacancy shall take office at the same time and place as the other elected school board members.

¹*However, see Art. XI, §6, Constitution of Iowa.*

²*See also §277.30.*

279.7 Vacancies filled by special election—qualification—tenure. In any case where a vacancy or vacancies occur among the elective officers or members of a school board and the remaining members of such board have not filled such vacancy within ten days after the occurrence thereof, or when the board is reduced below a quorum for any cause, the secretary of the board, or if there be no secretary, the county superintendent of schools shall call a

special election in the district, subdistrict, or subdistricts, as the case may be, to fill such vacancy or vacancies. The county commissioner of elections shall publish the notices required by law for such special elections, which election shall be held not sooner than thirty days nor later than forty days after the tenth day following the occurrence of the vacancy. In any case where the secretary fails for more than three days to call such election, the county superintendent shall call it.

Any appointment by the board to fill any vacancy in an elective office on or after the day notice has been given for a special election to fill such vacancy as provided herein shall be null and void.

In any case of a special election as provided herein to fill a vacancy occurring among the elective officers or members of a school board before the expiration of a full term, the person so elected shall qualify within ten days thereafter in the manner required by section 277.28 and shall hold office for the residue of the un-

expired term¹ and until his successor is elected, or appointed, and qualified.

Nomination petitions shall be filed in the manner provided in section 277.4, except that the petitions shall be filed not less than ten days prior to the date set for the election.

¹However, see Art. XI, §6, Constitution of Iowa.

279.29 Compensation of officers. The board shall fix the compensation to be paid the secretary. No member of the board or treasurer shall receive compensation for official services, except that in consolidated districts that contain a city or town having a population less than one thousand, the board may pay a legally qualified school treasurer a reasonable compensation.

Actual and necessary expenses, including travel, incurred by the board or individual members thereof in the performance of official duties may be paid or reimbursed.

Chapter 280 — COURSES OF STUDY

(Containing only sections relating to elections)

280.19 Bonds

280.21 Sale of community or junior colleges—application of proceeds

280.19 Bonds for community or junior colleges. Subject to the approval of the voters thereof voting at an election called and held in the manner prescribed by chapter 296 as amended, any school corporation which is presently operating a public community or junior college, or any school corporation which may hereafter establish a public community or junior college as permitted and provided for in section 280.18 is hereby authorized to contract indebtedness and issue general obligation bonds to an amount which, together with all other indebtedness of said corporation, does not exceed five percent of the actual value of the taxable property within said school corporation, as ascertained by the last preceding state and county tax lists, for the purpose of providing funds to defray the cost of building, furnishing, reconstructing, repairing, improving or remodeling a public community or junior college building or buildings and additions thereto, and procuring a site or sites therefor, and for any one or more of such purposes, provided that the

vote in favor of the issuance of such bonds shall be equal to at least sixty percent of the total vote cast for and against said proposition at said election. Taxes for the payment of said bonds shall be levied in accordance with chapter 76, and said bonds shall mature within a period not exceeding twenty years from date of issue, shall bear interest at a rate or rates not exceeding five percent per annum and shall be of such form as the board of directors of such corporation shall by resolution provide. The proposition of issuing said bonds may be submitted to the voters of any school corporation at the same election at which the proposition of establishing and maintaining a public community or junior college in said corporation is voted upon.

The board of directors of any school corporation which has heretofore established or which may hereafter establish a public community or junior college is hereby authorized to apply for and accept federal aid or nonfederal gifts or grants of funds and

to use the same to pay all or any part of the cost of carrying out any building program or to pay any bonds and interest thereon issued for any of the purposes hereinbefore specified.

280.21 Sale of community or junior colleges—application of proceeds. Irrespective of the provisions of chapter 297, any school corporation which has heretofore sold or may hereafter sell any public community or junior college building, buildings, or other related property, whether under the provisions of chapter 280A or otherwise, is hereby authorized to use the proceeds of such sale to pay all or any part of the cost of building, furnishing, reconstructing, repairing, improving, or remodeling a schoolhouse or schoolhouses, or additions thereto, or for procuring a site or sites therefor, or any combination thereof, even though all of the bonds which may have been issued by such school corporation to pay the cost of the building, buildings or property sold have not been paid and retired; provided, however, that the proposition of using the money derived from such sale for any one or more of the foregoing pur-

poses must first be submitted to and approved by the voters of the school corporation at an election called and held in the manner hereinafter provided. The election may be called by the board of directors of the school corporation on its own motion, and the board shall notify the county commissioner of elections who shall publish the election notice. The notice of the election shall be published once each week for four consecutive weeks in a newspaper published in the school corporation, or if there is none, in a newspaper published in the county and of general circulation in the school corporation. The election shall be held on a day not less than five nor more than twenty days after the last publication of the notice. The county commissioner of elections shall conduct the election pursuant to the provisions of chapters 39 to 53. The votes cast in the election shall be canvassed by the county board of supervisors and the county commissioner of elections shall certify the results to the board of directors. No such proposition shall be declared carried unless the affirmative vote is equal to at least sixty percent of the total vote cast for and against the proposition at the election.

Chapter 280A — AREA VOCATIONAL SCHOOLS AND COMMUNITY COLLEGES .

(Containing only sections relating to elections)

280A.12 Governing board
280A.15 Conduct of elections
280A.19 Acquisition of sites and buildings
280A.20 Payment of bonds

280A.21 Election to incur indebtedness
280A.22 Additional tax
280A.39 Combining merged areas—election

280A.12 Governing board. The governing board of a merged area shall be a board of directors composed of one member elected from each director district¹ in the area by the electors of the respective district. Members of the board shall be residents of the district from which elected. Successors shall be chosen at the annual school elections for members whose terms expire on the first Monday in October following such elections. Terms of members of the board of directors shall be three years except that members of the initial board of directors elected at the special election shall determine their respective terms by lot so that the terms of one-third of the members, as nearly as may be, shall expire on the first Monday in October of each succeeding year. Vacancies on the board which occur more than ninety days prior to the next annual school election shall be filled at the next regular meeting of the board by appointment by the remaining members of the board: The member so chosen

shall be a resident of the district in which the vacancy occurred and shall serve until the next annual school election, at which election a number shall be elected to fill the vacancy for the balance of the unexpired term. A vacancy shall be defined as in section 277.29. No member shall serve on the board of directors who is a member of a board of directors of a local school district or a member of a county board of education.

¹See §§280A.5(13), 280A.8(4), 280A.23(2), 280A.25(2)

280A.15 Conduct of elections. The nomination of candidates, preparation of ballots, and canvass for all elections of members of the board of directors of an area vocational school or an area community college, except as otherwise directed, shall be conducted in the manner provided in sections 273.5, 273.6, and 273.7 for members of county boards of education. Nomination papers in behalf of a candidate shall be filed with the

secretary of the board of the merged area. Each candidate shall be nominated by a petition signed by not less than fifty qualified electors of the district from which the member is to be elected. The election notice shall be published as provided in chapter 49¹ and the election shall be conducted by the county commissioner of elections pursuant to the provisions of chapters 39 to 53. The votes cast in the election shall be canvassed by the county board of supervisors and the county commissioner of elections shall issue certificates of election as prescribed in section 273.7. Members elected to the board of directors of a merged area shall qualify by taking the oath of office prescribed in section 277.28.

¹See §49.53.

280A.19 Acquisition of sites and buildings. Boards of directors of merged areas may acquire sites and erect and equip buildings for use by area vocational schools or area community colleges and may contract indebtedness and issue bonds to raise funds for such purposes.

280A.20 Payment of bonds. Taxes for the payment of bonds issued under section 280A.19 shall be levied in accordance with chapter 76. The bonds shall be payable from a fund created from the proceeds of such taxes in not more than twenty years and bear interest at a rate not exceeding seven percent per annum, and shall be of such form as the board issuing the bonds shall by resolution provide. Any indebtedness incurred shall not be considered an indebtedness incurred for general and ordinary purposes [as prescribed under section 407.1].

Bracketed material repealed effective July 1, 1975. See SF1101.1, 65GA.

280A.21 Election to incur indebtedness. No indebtedness shall be incurred under section 280A.19 until authorized by an election. A proposition to incur indebtedness and issue bonds for area vocational school or area community college purposes shall be deemed carried in a merged area if approved by a sixty percent majority of all voters voting on the proposition in the area.

280A.22 Additional tax. In addition to the tax authorized under section 280A.17, the voters in any merged area may at the annual school election vote a tax not exceeding three-fourths mill on the dollar in any one year for a period not to exceed five years for the purchase of grounds, construction of buildings, payment of debts contracted for the construction of buildings, purchase of buildings and equipment for buildings, and the acquisition of libraries, and for the

purpose of maintaining, remodeling, improving, or expanding the area vocational school or area community college of the merged area which tax shall be collected by the county treasurers and remitted to the treasurer of the merged area as other taxes are collected and remitted, and the proceeds of said tax shall be deposited in a separate and distinct fund to be known as the voted tax fund, to be paid out upon warrants drawn by the president and secretary of the board of directors of the merged area district for the payment of costs incurred in providing the school facilities for which the tax was voted.* * *.

280A.39 Combining merged areas—election. Any merged area may combine with any adjacent merged area after a favorable vote by the electors of each of the areas involved. If the boards of directors of two or more merged areas agree to a combination, the question shall be submitted to the electors of each area at a special election to be held on the same day in each area. The special election shall not be held within thirty days of any general election. Prior to the special election, the board of each merged area shall notify the county commissioner of elections of the county in which the greatest proportion of the merged area's taxable base is located who shall publish notice of the election at least three times, no oftener than once a week, in one or more newspapers of general circulation within the merged area. The two respective county commissioners of elections shall conduct the election pursuant to the provisions of chapters 39 to 53. The votes cast in the election shall be canvassed by the county boards of supervisors and the county commissioners of elections who conducted the election shall certify the results to the board of directors of each merged area.

If the vote is favorable in each merged area, the boards of each area shall proceed to transfer the assets, liabilities, and facilities of the areas to the combined merged area, and shall serve as the acting board of the combined merged area until a new board of directors is elected. The acting board shall submit to the state board a plan for redistricting the combined merged area, and upon receiving approval from the state board, shall provide for the election of a director from each new district at the next regular school election. The directors elected from each new district shall determine their terms by lot¹ as provided in section 280A.12. Election of directors for the combined merged area shall follow the procedures established for election of directors of a merged area. A combined merged area shall be subject to all provisions of law and regulations governing merged areas.

¹However, see §49.8(4), which may control due to the Latest Enactment Rule of §4.8.

Chapter 296 — INDEBTEDNESS OF SCHOOL CORPORATIONS

296.1 Indebtedness authorized
 296.2 Petition for election
 296.3 Election called

296.4 Notice—ballots
 296.5 Date of election
 296.6 Bonds

296.1 Indebtedness authorized. Subject to the approval of the voters thereof, school districts are hereby authorized to contract indebtedness and to issue general obligation bonds to provide funds to defray the cost of purchasing, building, furnishing, reconstructing, repairing, improving or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, teachers' or superintendent's home or homes, and procuring a site or sites therefor, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field, and for any one or more of such purposes. Taxes for the payment of said bonds shall be levied in accordance with chapter 76, and said bonds shall mature within a period not exceeding twenty years from date of issue, shall bear interest at a rate or rates not exceeding seven percent per annum and shall be of such form as the board of directors of such school district shall be resolution provide, but the aggregate indebtedness of any school district shall not exceed five percent of the actual value of the taxable property within said school district, as ascertained by the last preceding state and county tax lists.

¹See also §280.19, 275.32, chapter 278.

296.2 Petition for election. Before such indebtedness can be contracted in excess of one and one-quarter percent of the assessed value of the taxable property, a petition signed by a number equal to twenty-five percent of those voting at the last election of school officials shall be filed with the president of the board of directors, asking that an election be called, stating the amount of bonds proposed to be issued and the purpose for which the indebtedness is to be created, and that the necessary schoolhouse or schoolhouses cannot

be built and equipped, or that sufficient land cannot be purchased to add to a site already owned, within the limit of one and one-quarter percent of the valuation.

296.3 Election called. The president of the board of directors on receipt of such petition shall, within ten days, call a meeting of the board which shall call such election, fixing the time¹ thereof, which may be at the time and place of holding the regular school election. The president shall notify the county commissioner of elections of the time of the election.

¹See §47.2 for requirement to consult with county commissioner of elections

296.4 Notice—ballots. Notice of the election shall be given by the county commissioner of elections by publication once each week for four weeks in some newspaper of general circulation in the district. The notice shall state the date of the election, the hours of opening and closing the polls and the exact location thereof, and the questions to be submitted, and shall be in lieu of any other notice, any other statute to the contrary notwithstanding. The county commissioner of elections shall conduct the election pursuant to the provisions of chapter 39 to 53 and certify the results to the board of directors.

296.5 Date of election. The election shall be held on a day not less than five nor more than twenty days after the last publication of notice.

296.6 Bonds. If the vote in favor of the issuance of such bonds is equal to at least sixty percent of the total vote cast for and against said proposition at said election, the board of directors shall issue the same and make provision for payment thereof.

Chapter 298 — SCHOOL TAXES AND BONDS

298.18 Bond tax—election—leasing buildings

298.18 Bond tax—election—leasing buildings. The board of each school corporation shall, when estimating and certifying the amount of money required for general purposes, estimate and certify to the board of supervisors of the proper county for the schoolhouse fund the amount required to pay interest due or that may become due for the year beginning January 1 thereafter, upon lawful bonded indebtedness, and in addition thereto such amount as the board may deem necessary to apply on the principal.

The amount estimated and certified to apply on principal and interest for any one year shall not exceed ten mills on the dollar of the assessed valuation of the taxable property of the school corporation except as hereinafter provided.

For the sole purpose of computing the amount of bonds which may be issued as a result of the application of any millage limitation referred to in this section, all interest on the bonds in excess of that accruing in the first twelve months may be excluded from the first annual levy of taxes, so that the need for including more than one year's interest in the first annual levy of taxes to pay the bonds and interest shall not operate to further restrict the amount of bonds which may be issued, and in certifying the annual levies to the county auditor or auditors such first annual levy of taxes shall be sufficient to pay all principal of and interest on said bonds becoming due prior to the next succeeding annual levy and the full amount of such first annual levy shall be entered for collection by said auditor or auditors, as provided in chapter 76.

The amount estimated and certified to apply on principal and interest for any one year may exceed ten mills by such number of mills as may be approved by the voters of the school corporation, but not exceeding fifteen mills, on the dollar of the assessed valuation of the taxable property within any school corporation, provided that the qualified voters of such school corporation have first approved such increased millage at a special election, which may be held at the same time as the regular school election. The proposition submitted to the voters at such special election shall be in substantially the following form:

"Shall the board of directors of the (insert name of school corporation), in the County of, State of Iowa, be authorized to levy annually a tax exceeding ten mills, but not exceeding mills, on the dollar of the

assessed valuation of the taxable property within said school corporation to pay the principal of and interest on bonded indebtedness of said school corporation, it being understood that the approval of this proposition shall not limit the source of payment of the bonds and interest but shall only operate to restrict the amount of bonds which may be issued?"

Notice of the election shall be given by the county commissioner of elections by publication once each week for four consecutive weeks in a newspaper of general circulation in the school corporation. Such notice shall state the date of the election, the hours of opening and closing the polls and the exact location thereof, and the question to be submitted. The election shall be held on a date not less than four nor more than twenty days after the last publication of the notice. Such notice shall be sufficient and shall be in lieu of any other notice required by any other statute. At such election the ballot used for the submission of said proposition shall be in substantially the form for submitting special questions at general elections. The county commissioner of elections shall conduct the election pursuant to the provisions of chapters 39 to 53 and certify the results to the board of directors. Such proposition shall not be deemed carried or adopted unless the vote in favor of such proposition is equal to at least sixty percent of the total vote cast for and against said proposition at said election. Whenever such a proposition has been approved by the voters of a school corporation as hereinbefore provided, no further approval of the voters of such school corporation shall be required as a result of any subsequent change in the boundaries of such school corporation.

The voted millage referred to herein shall not limit the source of payment of bonds and interest but shall only restrict the amount of bonds which may be issued.

The ability of a school corporation to exceed ten mills to service principal and interest payments on bonded indebtedness is limited and conferred only to those school corporations engaged in the administration of elementary and secondary education.

Provided further that if a school corporation leases a building or property, which has been used as a junior college by such corporation, to a merged area school corporation operating or proposing to operate an area community college, the annual amounts certified as herein provided by such leasing school corporation for payment of interest and principal due on

lawful bonded indebtedness incurred by such leasing school corporation for purchasing, building, furnishing, reconstructing, repairing, improving or remodeling the building leased or acquiring or adding to the site of such property leased, to the extent of the

respective annual rent the school corporation will receive under such lease, shall not be considered as a part of the total amount estimated and certified for the purposes of determining if such amount exceeds any millage limitation contained in this section.

Chapter 303B — REGIONAL LIBRARY TRUSTEES

303B.2 Regional library trustees

303B.3 Election

303B.4 Terms

303B.2 Regional library trustees. The regional library system shall consist of seven regional boards of library trustees which shall serve respectively the seven geographic regions specified in this section. Each region shall be divided into geographic districts, which shall be drawn along county lines and which shall be represented on regional boards by trustees elected to the boards in the following numbers and from the following districts:

1. To the southwestern board, two from Pottawatomie¹ county and one from each of the following five districts:

- a. Harrison,² Shelby, and Audubon counties.
- b. Guthrie, Cass,² and Adair counties.
- c. Mills, Fremont, and Page² counties.
- d. Montgomery,² Adams, Union, and Taylor counties.
- e. Clark, Lucas, Ringgold, Decatur, and Wayne² counties.

2. To the northwestern board, two from Woodbury¹ county and one from each of the following five districts:

- a. Lyon, Sioux,² and Osceola counties.
- b. Dickinson, Emmet, Clay,² and Palo Alto counties.
- c. O'Brien, Plymouth,² and Cherokee counties.
- d. Buena Vista,² Pocahontas, Ida, Sac, and Calhoun counties.
- e. Monona, Crawford, and Carroll² counties.

3. To the north central board, two from a district composed of Hancock, Cerro Cordo,² and Franklin counties; two from a district composed of Humboldt, Wright, and Webster¹ counties; and one from each of the following three districts:

- a. Kossuth² and Winnebago counties.
- b. Hamilton² and Hardin counties.
- c. Worth, Mitchell, and Floyd² counties.

4. To the central board, four from a district composed of Polk¹ and Marion counties, and one from each of the following three districts:

- a. Greene, Dallas,² Madison, and Warren counties.
- b. Boone and Story² counties.
- c. Marshall² and Jasper counties.

5. To the southeastern board, two from Scott¹ county and one from each of the following five districts:

- a. Appanoose, Davis, and Wapello² counties.
- b. Jefferson, Van Buren, and Lee² counties.
- c. Monroe, Mahaska,² and Keokuk counties.
- d. Henry and Des Moines² counties.
- e. Muscatine,² Louisa, and Washington counties.

6. To the east central board, three from a district composed of Linn¹ and Jones counties; two from a district composed of Iowa, Johnson,² and Cedar counties; and one from each of the following two districts:

- a. Tama, Benton,² and Poweshiek counties.
- b. Jackson and Clinton² counties.

7. To the northeastern board, two from Black Hawk¹ county; two from a district composed of Delaware and Dubuque² counties, and one from each of the following three districts:

- a. Grundy,² Butler, and Bremer counties.
- b. Howard, Winneshiek,² Allamakee, and Chickasaw counties.
- c. Buchanan, Fayette,² and Clayton counties.

¹Regional and district controlling county commissioner of elections. See §303B.3 and appendix E.

²District controlling county commissioner of elections. See §303B.3 and appendix E.

303B.3 Election. A trustee of a regional board shall be elected without regard to political affiliation at the general election by the vote of the electors of his district from a list of nominees, the names of which have been taken from nomination papers filed¹ in accor-

dance with chapter 45 in all respects except that they shall be signed by not less than twenty-five eligible electors of the respective district. The election shall be administered by the commissioner who has jurisdiction² under section 47.2.

¹See §44.4(2) for filing deadline.

²See footnotes of §303B.2 for controlling commissioners of each district.

303B.4 Terms. Regional library trustees shall take office on the first day of January following the general election and shall serve terms of four years, except

that trustees elected to the initial board in the year 1974 shall determine their respective terms by lot so that three members shall serve terms of two years and four members shall serve terms of four years. A vacancy¹ shall be filled when it occurs not less than ninety days before the next general election by appointment by the regional board for the unexpired term. No trustee shall serve on a local library board or be employed by a library during his term of office as a regional library trustee.

¹See §69.12 and Constitution IV.10 for additional confusion on filling vacancies not covered under this section.

Chapter 347 — COUNTY PUBLIC HOSPITALS

County hospitals which have a tax levy elect seven members to their board under this chapter. County hospitals which have no tax levy elect five members under chapter 347A, infra. For area hospitals, see chapter 145A, supra.

347.9 Trustees—appointment—terms of office

347.10 Vacancies

347.25 Election of trustees

347.9 Trustees—appointment—terms of office. When it has been determined by the voters of a county to establish a county public hospital, the board shall appoint seven trustees chosen from among the resident citizens of the county with reference to their fitness for such office, and not more than four of such trustees shall be residents of the city, town, or village at which such hospital is located. Such trustees shall hold office until the following general election, at which time their successors shall be elected, two for a term of two years, two for four years, and three for six years, and they shall determine by lot their respective terms, and thereafter their successors shall be elected for regular terms of six years each, none of whom shall be physicians or licensed¹ practitioners.

¹A registered nurse can be elected but must surrender her license before taking office as a trustee, according to an Opinion of the Attorney General (1970 OAG 738).

347.10 Vacancies. Vacancies in the board of trustees shall be filled by an appointment to fill the vacancy by the remaining members of the board of trustees. In the event that fewer than four trustees remain on the

board, the vacancies shall be filled by the board of supervisors. Should any board member be absent for four consecutive regular board meetings, without prior excuse, his position shall be declared vacant and filled as set out above.

347.25 Election of trustees. The election of hospital trustees shall take place at the general election on ballots which shall not reflect a nominee's political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by qualified electors of the county equal in number to one percent of the vote cast for president of the United States or governor, as the case may be, both political parties in the last previous general election, and shall be filed with the county commissioner of elections at least fifty-five days prior to the date of said general election. A plurality shall be sufficient to elect hospital trustees, it being the intent that there be no primary election.

If any of the provisions of this section shall be in conflict with any of the laws of this state, then the provisions of this section shall prevail.

Chapter 347A — SELF-SUPPORTING COUNTY HOSPITALS

See note at the beginning of chapter 347, supra.

347A.1 Trustees

347A.1 Trustees. * * * The administration and management of any county hospital acquired, constructed, equipped, enlarged or improved under this chapter shall be vested in a board of hospital trustees consisting of five members appointed by the board of supervisors from among the resident citizens of the county with reference to their fitness for such office, and not more than two of such trustees shall be residents of the same township. Such trustees shall hold office until the next succeeding election, at which time their successors shall be elected, two for a term of two years, two for a term of four years and one for a term of six years, and thereafter their successors shall be elected for regular terms of six years each. Vacancies in the board of trustees shall be filled in the same manner as original appointments to hold office until the next succeeding general election. Said trustees shall, within ten days after their appointment or election qualify by taking the usual oath of office, but no bond shall be required of them. The members of such

board of hospital trustees shall receive no compensation but shall be reimbursed for all expenses incurred by them with the approval of said board in the performance of their duties. The board first appointed shall organize promptly following their appointment, and shall serve until such time as their successors are elected and qualified; thereafter no later than December 1 of each year the board shall reorganize by the appointment of a chairman, secretary, and treasurer. The secretary and treasurer shall each file with the chairman of the board a surety bond in such penal sum as the board of trustees requires, with surties to be approved by the board of trustees, for the use and benefit of the county hospital. The reasonable cost of the bonds shall be paid from the operating funds of the hospital. The secretary shall report to the county auditor and the county treasurer the names of the chairman, secretary, and treasurer of the board as soon as practicable after the appointment of each.

* * *

Chapter 358 — SANITARY DISTRICTS

- 358.9 Election of trustees—term of office
358.10 Trustee's bond

358.9 Election of trustees—term of office. Within thirty days after the organization of a sanitary district under this chapter, the board of supervisors which had jurisdiction of the proceedings for its establishment, together with the board of supervisors of any other county, if any, in which any part of said district is located, shall order an election to be held in the district on a date not more than sixty days after the date of the order for the purpose of electing a board of trustees, consisting of three members, except as otherwise provided in this section, for the government, control and management of the affairs and business of such sanitary district. Said board, or boards, shall cause notice of said election to be posted and publish-

ed, and shall perform all other acts with reference to such election, and conduct the same, in like manner, as nearly as may be, as provided in this chapter for the election on the question of establishing such district.¹ Each trustee shall be a citizen of the United States, not less than eighteen years of age, and a resident within said sanitary district. Each voter at said election may write in upon the ballot the names of not more than three persons whom he desires for trustees and may cast not more than one vote for each of said three persons, and the three persons receiving the highest number of votes cast shall constitute the first board of trustees of the district. The term of office of the first board of trustees shall be for the period ex-

tending to the first secular² day of January following the next regular biennial election which is not a Sunday or a legal holiday. Three trustees to succeed the first board of trustees shall be nominated and elected at the next biennial primary and general elections following establishment of the district, in the same manner as provided by the primary and general election laws of this state for the nomination and election for offices to be filled by the voters of any subdivision of a county.³ Said trustees shall be elected for terms of two, four, and six years respectively, and their terms shall commence on the first⁴ day of January following the election which is not a Sunday or legal holiday. At each succeeding biennial election one trustee shall be nominated and elected in the manner herein provided for a six-year term to succeed the trustee whose term next expires. In all elections for trustees each qualified elector resident within the district may cast one vote for each office of trustee to be filled at the election. At all elections for trustees subsequent to the election of the first board the names of all candidates for trustees of such sanitary district shall be printed on the same ballot with candidates for other offices to be filled at such election. In case a regular election precinct includes territory lying partly within and partly without the sanitary district, it shall be the duty of the county commissioner of elections to furnish to the election judges of such precinct two sets of official ballots, one set including the names of candidates for trustees of such sanitary district, and one set without such names. All provisions of the primary and general election laws of Iowa shall govern the nomination and election of trustees hereunder, so far as applicable, and except as modified hereby.

Vacancies in the office of trustee of a sanitary district shall be filled by the remaining members of the board for the period extending to the second⁵ secular day of January following the next biennial election, when a trustee shall be elected to fill such vacancy for the unexpired term.

In cases where the state of Iowa owns at least four hundred acres of land contiguous to lakes within said district, then and only then the Iowa natural resources council shall appoint two members of said board of trustees in addition to the three members hereinbefore provided in this section. The additional two members shall be qualified as follows: They shall be United States citizens, not less than eighteen years of age, and shall be property owners within said district. In such cases the two additional appointive members shall have equal vote and authority with other members of trustees and shall hold office at the pleasure of the Iowa natural resources council.

¹See §358.6

²See footnote 5

³See §43.21

⁴See footnote 5 for conflict over expiration date

⁵This should probably be "first". See footnotes 2 and 4

358.10 Trustee's bond. Each trustee shall, before entering upon the duties of his office, execute a bond payable to the district, with security to be approved by the board of supervisors which had jurisdiction of the petition for establishment of the district, in such form and amount as said board of supervisors may determine, which bond shall be filed with the county auditor of said county.

Chapter 386 — ELECTRIC UTILITIES AND MOTORBUS LINES

(This chapter to be repealed July 1, 1975. See SF1101.1.)

386.1 Regulations
386.2 Motorbus lines
386.3 Franchise—election
386.4 Notice

386.5 Time of election
386.6 Repealed
386.7 Costs

386.1 Regulations. Cities and towns shall have the power to authorize and regulate telegraph, district telegraph, telephone, street railway, and other electric wires, and the poles and other supports thereof, by general and uniform regulation, and to provide the manner in which, and places where, the same shall be placed upon, along, or under the streets, roads,

avenues, alleys, and public places of such city or town, and may divide the city into districts for that purpose.

386.2 Motorbus lines. Cities and towns may grant franchises to operate and maintain on and over their streets bus and motor transportation lines to carry passengers for hire on a plan similar to street railways.

Such franchises may be granted to individuals or private corporations and shall not be exclusive, nor shall they extend for a longer period than ten years. Provided, however, that in cities or towns in which a street railway is established and operated, before the question of granting such franchise is submitted to the electorate, the proposed franchise must first be offered to the owner of the existing street railway, and if said owner shall agree in writing within thirty days from the time said proposed franchise is offered to accept said franchise and operate a bus or motor transportation line under the terms of said franchise, the question shall be submitted to the electorate of the granting of said franchise to the owner of the street railway. If the owner of said street railway fails to agree in writing within said thirty-day period to accept said franchise and operate the bus or motor transportation line therein provided for, the city or town council may then offer said franchise to another person, firm, or corporation, and may submit to the electorate the question of the granting of the franchise to said person, firm, or corporation.

No such franchise shall be granted, extended, or renewed unless a majority of the legal electors voting thereon vote in favor of the same at a general, city or town, or special election called for that purpose.

No such license shall be granted by any such city or town unless and until the applicant therefor shall file in the office of the clerk of the district court of the county in which said city or town may be located, an indemnity bond with sureties to be approved by the clerk of said district court, which said sureties shall qualify as provided in chapter 682.

The said bond shall inure to the benefit of the estate of any passenger killed and to the benefit of any passenger who may suffer bodily injury or property damage by reason of negligence or misconduct on the part of the driver, owner, or operator of any such jitney bus or motor vehicle.

The said bond shall be in the following penal sums, to wit: If there is carried in such jitney bus or motor vehicle less than ten passengers, at least five thousand dollars; and if there is carried therein ten passengers or more, at least ten thousand dollars.

In lieu of such bond there may be filed in such office a liability insurance policy issued by a company

authorized to do business in the state in like amounts for a single claim as for the bonds above provided, and conditioned that the same shall inure to the benefit of any passenger upon such vehicle or vehicles in the same manner and way as the bonds above provided.

When said bond or policy is approved by said clerk he shall file the same in his office for the purpose herein expressed and shall receive for filing and approving the same a fee of one dollar.

386.3 Franchise—election. No franchise shall be granted, renewed, or extended by any city or town for the use of its streets, highways, avenues, alleys, or public places, for any of the purposes named in sections 386.1 and 386.2 unless a majority of the legal electors voting thereon vote in favor of the same at a general, city or town, or special election. The council may order the question of the granting, renewal, or extension of any such franchise so submitted; or the mayor shall submit said question to such vote upon the petition of twenty-five property owners of each voting precinct in a city, or fifty property owners in any town.

The council or mayor may call a special election and notify the county commissioner of elections. The county commissioner of elections shall publish notice of the election as provided in section 386.4 and conduct the election pursuant to chapters 39 to 53 and report the results of the election to the council and mayor.

386.4 Notice. Notice of such election shall be given by publication once each week for four consecutive weeks in some newspaper published in the city or town, or if none be published therein, in a newspaper published in the county and of general circulation in the city or town.

386.5 Time of election. The election shall be held on a date not less than five nor more than twenty days after the last publication of said notice.

386.7 Costs. The party applying for the franchise, or a renewal or extension thereof, shall pay all expenses incurred in holding the election.

Chapter 444 — ELECTION EXPENSE FUND

444.9 Annual levies

444.9 Annual levies. The board of supervisors of each county shall, annually, at its September¹ session, levy the following taxes upon the assessed value of the taxable property in the county:

* * *

3 *Election expense fund.* There is created in the office of the county treasurer of each county a fund to be known as the election expense fund. Annually, the board of supervisors shall levy an amount sufficient to pay the costs of elections and voter registration, pursuant to chapter 48, incurred by the county. The funds deposited in this account shall be used to pay election and voter registration costs and shall not be appropriated for any other purposes or transferred into

any other county fund. If additional funds are needed to register voters, pursuant to chapter 48, after July 1, 1973, and until July 1, 1975, such costs shall be certified by the county commissioner of registration to the board of supervisors who shall, after approving the costs thereof, authorize the issuance of anticipatory warrants pursuant to section 334.5, to pay the additional costs. The moneys necessary to redeem anticipatory warrants issued under this subsection shall be part of the election expense fund levy for the next year.

* * *

"September" will be changed to "March" on July 1, 1975, pursuant to §1020.73, 64 G.A.

Chapter 608 — JURY COMMISSIONS

- 608.1 Ex officio commission to draw jurors
- 608.2 Appointive commission to select
- 608.3 Limitation on appointment
- 608.4 Manner of appointment
- 608.5 Clerk to notify
- 608.6 Vacancy

- 608.7 Qualification—tenure
- 608.8 Instructions to appointive commission
- 608.9 Instructions to election officials
- 608.10 Compensation and expenses
- 608.11 Assistants

608.1 Ex officio commission to draw jurors. In all counties the clerk of the district court, the county auditor, and the county recorder shall, ex officio, constitute the jury commission to draw jurors, but shall receive no extra compensation as such.

608.2 Appointive commission to select. In each county¹ having situated therein a city with a population of fourteen thousand or more, the judges of the district court of the judicial district in which said county is located shall, on or before October 1 of each year in which the general election is held, appoint three competent electors as a jury commission to select and make lists of the names of persons to serve as grand and petit jurors and talesmen for the two years beginning January 1 after such election.

'Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Jasper, Johnson, Lee (at Keokuk), Linn, Marshall, Muscatine, Polk, Pottawattamie (at Council Bluffs), Scott, Story, Wapello, Webster and Woodbury counties. See 1970 census.

608.3 Limitation on appointment. Not more than two members of the appointive commission shall be residents of the city in which the courthouse of the county in which they are appointed, is located, and no person shall be appointed who has solicited such appointment; nor shall any county officer or attorney at law be appointed a member of such commission.

608.4 Manner of appointment. The appointment shall be in writing, signed by three judges of the judicial district and shall be filed and made a matter of record, in the office of the clerk of the district court.

608.5 Clerk to notify. The clerk of the district court shall at once notify each appointive commissioner of his appointment.

608.6 Vacancy. If a vacancy occurs in such appointive commission through death, removal, or inability of a member thereof to act, the judge or judges of the judicial district shall appoint some person to act during the remainder of such unexpired term.

608.7 Qualification—tenure. The appointive commissioners shall qualify on or before the tenth day of October, following their appointment, by taking the oath¹ of office required of civil officers. Said oath shall be subscribed by them and filed in the office of the clerk of the district court. They shall hold office for the term of two years and until their successors are duly appointed and qualified.

¹See §63.10.

608.8 Instructions to appointive commission. It shall be the duty of the judges of the district court to give instructions to appointive jury commissioners at the

time of their appointment as to their duties, and to call their especial attention to the provisions of section 609.2.

608.9 Instructions to election officials. When the county auditor¹ transmits the certificate of apportionment of jurors to the judges² of the several election precincts, he shall call the attention of such judges to their duties, especially as set forth in section 609.2020

¹This should be county commissioner of elections. See §609.8.

²This should be precinct election officials. See HF1399.

608.10 Compensation and expenses. Each appointive commissioner shall, in addition to his actual expenses, receive a compensation of ten dollars for each day employed by him in the discharge of his official duties.

608.11 Assistants. The commissioners may employ such assistants in preparing the jury lists as they may deem necessary, and the board of supervisors shall allow reasonable compensation to such assistants.

Chapter 609 — SELECTION OF JURORS

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| 609.1 Jury lists. | 609.25 Grand jury panel. |
| 609.2 Noneligible names. | 609.26 Maximum service permitted. |
| 609.3 Judicial division of county. | 609.27 Number from township limited. |
| 609.4 Auditor to apportion and certify. | 609.28 Rejecting names. |
| 609.5 Additional information by auditor. | 609.29 Resealing of box. |
| 609.6 Repealed. | 609.30 Filing list—precept. |
| 609.7 Apportionment in other counties. | 609.31 Sheriff to summon. |
| 609.8 Certification to election board. | 609.32 Grand jurors summoned but once. |
| 609.9 Duties of election board. | 609.33 Contempt. |
| 609.10 Lists by board of supervisors. | 609.34 Cancellation for illegality. |
| 609.11 Certification. | 609.35 Discharged jurors—resummoning. |
| 609.12 Filing commissioners' lists. | 609.36 Additional petit jurors. |
| 609.13 Filing election boards' lists. | 609.37 Discharge of panel. |
| 609.14 Lists made official. | 609.38 Method of drawing. |
| 609.15 Preparation of ballots. | 609.39 Talesmen. |
| 609.16 Names rejected. | 609.40 Rejection of names. |
| 609.17 Ballot boxes—sealing and custody. | 609.41 Talesmen summoned. |
| 609.18 Repealed. | 609.42 Disposition of ballots. |
| 609.19 Juries. | 609.43 Talesmen at large. |
| 609.20 Time for drawing. | 609.44 Disposition of ballots drawn. |
| 609.21 Notice of drawing. | 609.45 Special venire of talesmen. |
| 609.22 Drawing of petit jurors. | 609.46 Delinquency of officers. |
| 609.23 Absence of commissioner. | 609.47 Correcting illegality in original lists. |
| 609.24 Details of drawing. | 609.48 Notice to commissioners. |

609.1 Jury lists. The appointive jury commission shall, on the second Monday after the general election is held in each even-numbered year, meet at the courthouse in rooms provided by the county, and, in

accordance with the certificate of apportionment¹ furnished by the county auditor,² prepare, select, and return on blanks furnished by the county, the following lists, to wit:

1. *Grand jurors.* A list of names and addresses of one hundred fifty electors from which to select grand jurors.

2. *Petit jurors.* A list of names and addresses of electors equal to one-eighth of the whole number of qualified electors in the county as shown by the election registers of the previous general election, from which to select petit jurors.

3. *Talesmen.* A list of the names and addresses of electors equal to fifteen percent of the whole number of qualified electors as shown by the election registers of the previous general election, in the city or town in which the district court is held and in the township or townships in which such city or town is located (but in no case exceeding five hundred names) from which to select talesmen.

¹See §609.4.

²See note 2 following §609.4.

609.2 Noneligible names. The appointive commission, in the preparation of said lists, shall not place thereon the name of any person:

1. Who is not an elector of the state.
2. Who is not of good moral character.
3. Who is not of sound judgment.
4. Who is not in full possession of the senses of hearing and seeing.
5. Who cannot speak, write, and read the English language.
6. Who has served in said county and in the district court as a grand or petit juror since the first day of January preceding the last general election.
7. Who by reason of the condition of his or her health, business, domestic duties, or other circumstances will probably be unable to serve as a juror.
8. Who has, directly or indirectly, requested that his or her name be placed on said lists, or on any of them.

607.4 False excuse—prohibited requests. Any person who knowingly makes any false affidavit, statement, or claim, for the purpose of relieving himself or another from serving as a juror, or any person who requests the judges of election to return his name as such juror, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not more than thirty days, or the court may punish such person as for contempt. [607.4]

See chapter 665 for contempts.

9. Who has been exempted by law from jury service.

607.2 Exempts. The following persons are exempt from liability to act as jurors:

1. Persons holding office under the laws of the United States or of this state.

2. Practicing attorneys, physicians, licensed embalmers, registered nurses, chiropractors, osteopaths, veterinarians, registered pharmacists, dentists, and clergymen, including Christian Science practitioners and readers.

3. Acting professors or teachers of any college, school, or other institution of learning.

4. Persons disabled by bodily infirmity.

5. Persons over sixty-five years of age.

6. Active¹ members of any fire company.

7. Persons conscientiously opposed to acting as a juror because of religious faith. [607.2]

¹But see §102.1, *infra*.

Precinct election officials, see §609.9.

29A.41 National guardsmen exempt. Every officer and enlisted person of the national guard shall be exempt from jury duty. * * * [29A.41]

102.1 Firemen exempt. Any person while an active member of any fire engine, hook and ladder, hose, or any other company for the extinguishment of fire, or the protection of property at fires, under the control of the corporate authorities of any city or town, shall be exempt * * * from serving as a juror. Any person who has been an active member of such company in any city or town as aforesaid, and has faithfully discharged his duties as such for the term of ten years, shall thereafter be exempt * * * from serving as a juror * * * . [102.1]

609.3 Judicial division of county. In counties which are divided for judicial purposes, and in which courts are held at more than one place,¹ each division shall be treated as a separate county, and the grand and petit jurors and talesmen, selected to serve in the respective courts, shall be drawn from the division of the county in which the court is held, at which they are required to serve.

¹*Lee and Pottawattamie counties. See §602.8.*

609.4 Auditor to apportion and certify. On or before the date of said meeting¹ of the appointive commission, the county auditor² shall apportion the number of grand and petit jurors to be selected among the several election precincts, and the talesmen of which there shall be at least two, among the precincts from which the same are to be drawn, in each case as nearly as practicable in proportion to the number of electors registered in such precincts as shown by the election registers of the last general election, and certify said apportionment to such commission.

¹See §609.1.

²This should probably be county commissioner of elections. See §609.7.

609.5 Additional information by auditor. For the purpose of aiding the appointive commission, in making the lists aforesaid, the county commissioner of elections shall furnish the commission with the election registers of the last preceding general election, and the clerk of the district court shall furnish the

commission with the names of all persons who have served as grand or petit jurors, after the first day of January, preceding the last general election.

609.7 Apportionment in other counties. The county commissioner of elections, in counties having no appointive jury commission, shall, prior to furnishing the precinct election officials the election registers, apportion the number of grand and petit jurors to be selected from among the several election precincts, and the talesmen of which there shall be at least two, among the precincts from which the same are to be selected, in each case as nearly as practicable in proportion to the number of electors registered in each precinct as shown by the election registers of the general election. Such apportionment shall be computed on the same basis as provided in section 609.1.

609.8 Certification to election board. In all counties having no appointive jury commission, the county commissioner of elections shall, at the time of furnishing the election registers to the judges of election,¹ furnish them also a certified statement of the number of persons apportioned to the respective precincts to be returned for each grand and petit jury list.

He shall also furnish the judges of election² in the city or town in which the district court is held and in the township or townships in which the said city or town is located, with a certified statement of the number of persons to be returned as talesmen.

He shall also furnish the judges³ of each election precinct in the county with the names of all persons who have served as grand or petit jurors since January 1 preceding which shall be provided to him by the clerk of the district court.

¹This should be "election board."

²Ditto.

³Ditto.

609.9 Duties of election board. The judges of election¹ of the several precincts shall make selection of the requisite number of persons to serve as grand and petit jurors, and of talesmen, if any, and return separate lists of the names so selected to the county commissioner of elections with the return of the election, but shall not place on said lists the name of any person described in section 609.2, or judges or clerks of the election.²

¹See note 1 following §609.8.

²See note 1 following §609.8.

609.10 Lists by board of supervisors. If the judges of election¹ in any precinct fail to return any list as provided in section 609.9, the board of supervisors shall, at the meeting held to canvass the votes cast at such election, make and certify such list or lists for the delinquent precincts, and the auditor² shall file such certified lists in his office and cause copies thereof to be recorded in the proper election record.

¹See note 1 following §609.8.

²This should probably be county commissioner of elections. See §609.9.

609.11 Certification. When the jury lists are completed, they shall be certified by the appointive commissioners, or by the judges of election for each precinct, as the case may be, in substantially the following form: We,, and, constituting the appointive jury commission for, county,

or

We,, and, the judges of election for the, precinct of, county,

do hereby certify that the foregoing grand jury, petit jury or talesmen lists do not, to our knowledge and belief, contain the name of any person.

1. Who is not an¹ elector of the state.
2. Who is not of good moral character.
3. Who is not of good sound judgment.
4. Who is not in full possession of the senses of hearing and seeing.
5. Who cannot speak, write, and read the English language.
6. Who has served in said county and in the district court as a grand or petit juror since the first of January preceding.
7. Who, by reason of the condition of his or her health, business, domestic duties, or other circumstances will probably be unable to serve as a juror.
8. Who has, directly or indirectly, requested that his or her name be placed on said list.
9. Who has been exempted by law² from jury service.
10. (In counties not having an appointive jury system.) Who is a judge or clerk³ at this election.

Dated this day of A.D. 19....

Jury commissioners for county, Iowa. Or

Judges of election for precinct, county, Iowa.

¹This should probably read "a qualified elector." See §607.1.

²See notes following §609.2(9).

³See note 1 following §609.8.

This certificate is based upon §§607.1, 607.2, and 609.9.

609.12 Filing commissioners' lists. The appointive commissioners shall, after so certifying said lists, place the same in envelopes and on or before the first Monday of December of the year in which such lists are made, deposit the same with the county auditor,¹ who shall file and record the same in the proper record.

¹See note 1 following §609.10.

609.13 Filing election boards' lists. The jury lists returned by the judges of election¹ together with the lists prepared by the board of supervisors, if any, shall, on or before the day stated in section 609.12, be filed with and recorded by the county auditor.²

¹See note 1 following §609.8.

²See note 1 following §609.12.

609.14 Lists made official. The names entered upon said lists and returned as herein provided shall constitute the grand and petit jury lists, and the list of talesmen from which grand and petit jurors and talesmen shall be selected, for the biennial period commencing with the first day of January next after the general election.

609.15 Preparation of ballots. Within five days after such lists are deposited with the county auditor,¹ the auditor² and clerk of the court shall prepare therefrom separate ballots, which shall be uniform in size, shape, and appearance, and upon which the names and places of residence of all persons selected for grand and petit jurors and talesmen, shall be written. The names of the classes of jurors shall be kept separate, and each ballot shall be folded, so as to conceal the name written thereon.

¹See note 2 following §609.13.

²Ditto.

609.16 Names rejected. In preparing the said ballots the county auditor¹ and clerk shall omit the names of all persons who have served as grand or petit jurors since January 1 preceding.

¹See note 1 following §609.15.

609.17 Ballot boxes—sealing and custody. The ballots containing the names of the grand and petit jurors and talesmen shall be deposited in separate boxes which shall be plainly marked so as to show the class of jurors whose names are contained therein, and shall have but one aperture through which a hand may be inserted. The boxes shall then be sealed by the auditor,¹ in the presence of the clerk, and deposited with the clerk of the district court.

¹See note 1 following §609.15.

609.19 Juries. In counties¹ containing a city having a population in excess of fifty thousand according to the latest decennial census, petit jury panels shall be drawn six times annually to serve for the following two months, and in other² counties they shall be drawn four times annually to serve for the following three months, however, a judge of the district court may, in his discretion, require that a new petit jury panel be drawn before the expiration of the periods of service herein required. After an individual juror has served in two or more trials the court shall on that juror's request discharge him from the panel. A juror serves in a trial within this section when he has been sworn as a juror for that trial whether or not the trial is completed to a verdict. Jurors may be added to the panel as needed. The number of jurors on a panel shall be ordered by a judge of the district.

¹Black Hawk, Dubuque, Linn, Polk, Pottawattamie (at Council Bluffs [see §609.3]), Scott and Woodbury counties. See 1970 census.

²All other counties and Pottawattamie at Avoca.

609.20 Time for drawing. Petit jurors shall be drawn by the ex officio commission¹ at the office of the clerk of the district court. The court may by order prescribe the time for such drawing. The clerk shall notify the jurors thus drawn of their selection and of their obligation to report for service when called.

¹See §608.1.

609.21 Notice of drawing. The said clerk shall, at least five days prior to the day of such drawing, notify in writing the other members of the ex officio commission¹ of the time and place of such drawing.

¹See §608.1.

609.22 Drawing of petit jurors. The members of the ex officio jury commission or a majority thereof, shall meet at the time and place fixed and shall draw from the petit jury box the required¹ number of names of persons to serve as petit jurors, and the persons whose names are so drawn shall constitute the petit jurors.

¹Determined by a judge of the district for petit juries. See §609.19. See §609.25 for grand juries, usually 12.

609.23 Absence of commissioner. In the absence or inability to act of any one of the ex officio jury commissioners, his deputy shall act as such commissioner in his stead.

609.24 Details of drawing. The appropriate box shall, at the time of the drawing, be first thoroughly shaken in the presence of the commissioners attending the drawing, and thereupon the seal on the opening shall be broken, likewise in the presence of the commissioners. One of said commissioners shall then,

without looking at the ballots, successively draw the required number of names¹ from the box, and successively pass said ballots to one of the other commissioners, who shall open said ballots as they are drawn, and read aloud the names thereon, and enter said names in writing on an appropriate list.

¹See note 1 following §609.22.

609.25 Grand jury panel. A grand jury panel of twelve persons shall be drawn by the said commissioners from the grand jury box on or before the last secular Monday of December preceding the new calendar year, and shall be drawn in the same manner and under the same conditions, except as otherwise provided, as are specified for the drawing of said petit jury panel. Such grand jury panel shall constitute the panel from which to select the grand jurors for one year.

A majority of the judges of the district court may order a second panel of twelve persons to be drawn in like manner from which a second grand jury may be selected. Such second grand jury shall serve on matters assigned to it by the foreman of the first grand jury and it shall be served by the same clerk and staff, but otherwise it shall be governed by the same law as in the case of the original grand jury panel and grand jury.

609.26 Maximum service permitted. No person on the list of grand jurors shall be eligible to serve as a grand juror except for one calendar year of the biennial period for which the list is made.

609.27 Number from township limited. In drawing grand jurors, not more than one¹ person shall be drawn as grand juror from any election precinct² in the county.

If any county has less than twelve election precincts, one or more persons may be drawn as a grand juror from any election precinct in the county, provided that at least one person shall be selected as a grand juror from each election precinct in the county.

¹But, "a motion to set aside an indictment shall not lie on the ground that the grand jury which returned the indictment was composed of more than one juror from the same civil township." See §776.2.

²See §49.3 to §49.8 for election precinct requirements.

609.28 Rejecting names. If more persons shall be drawn from any election precinct than is hereby authorized, or any person is drawn who has served during the preceding jury year as grand juror, it is the duty of the commissioners to reject all such names so drawn, and to proceed with the drawing until the required number of jurors shall be secured.

609.29 Resealing of box. After the required number of grand or petit jurors shall have been drawn in the manner provided, and their names entered upon the list, the box or boxes shall again be sealed by the commission, and returned to the custody of the clerk.

609.30 Filing list—precept. The clerk shall file said list or lists, in his office, and immediately, upon order of the court issue his precept or precepts to the sheriff, commanding him to summon the persons so drawn to appear at the courthouse at such times as the court may prescribe, to serve as petit or grand jurors, as the case may be.

609.31 Sheriff to summon. The sheriff shall immediately obey such precepts, and on or before the day for the appearance of said jurors must make return thereof, and, on a failure to do so without sufficient cause, may be punished for contempt.

609.32 Grand jurors summoned but once. The twelve persons from whom the grand jury is to be impaneled shall convene regularly four times a year on the first secular Monday of the first month of each calendar quarter without summons, or upon summons at such other additional times as the court may order.

609.33 Contempt. If any person fail to appear at any regularly scheduled meeting date or when summoned without sending a sufficient excuse, the court may issue an order requiring him to appear and show cause why he should not be punished for contempt, and unless he render a sufficient excuse for such failure he may be punished for contempt.

See chapter 665 for contempts.

609.34 Cancellation for illegality. If the court shall, for any reason, determine that the petit jurors have been illegally drawn, selected, or summoned, it may set aside the precept, under which they were summoned, and direct a sufficient number to be drawn and summoned. In such case, the jury commission¹ shall meet at the office of the clerk of the court, at such time as the court may direct, and in the manner provided for the drawing of an original panel, draw the number of petit jurors required, under the order of the court. The jurors so drawn and summoned shall be required to appear immediately, or at such time as the court may fix.

¹See §608.1, or perhaps §608.2.

609.35 Discharged jurors—resummoning. Jurors who have been discharged for any reason may, during the calendar quarter, be resummoned if the business before the court necessitates such action.

609.36 Additional petit jurors. The judge presiding over any trial calendar assignment may order as many additional jurors drawn therefor, or for the trial of any case, as he deems necessary.

609.37 Discharge of panel. The court may at any time discharge the panel of jurors, or any part of it, and order a new panel, or such number of jurors as may be deemed necessary to be drawn.

609.38 Method of drawing. The names of the jurors contemplated in sections 609.36 and 609.37 shall be drawn by the commissioners in the manner provided for the drawing of an original panel.

609.39 Talesmen. If the court shall determine that it is probable talesmen will be needed to complete a jury, or if the regular panel has been exhausted, the clerk shall, in the presence of the court, draw such number of names as the court may order from the talesmen box to complete the jury.

609.40 Rejection of names. The clerk, when the court directs, shall reject the names of those known to be unable to serve, or absent from the territory from which drawn.

609.41 Talesmen summoned. The talesmen whose names have been so drawn shall, so far as possible, be immediately summoned by the sheriff to appear forthwith.

609.42 Disposition of ballots. The names of talesmen so drawn, and who serve, shall be placed in a safe receptacle from time to time, until all the ballots are drawn from the talesmen's box, when such ballots shall be returned to the said box, to be drawn in like manner as before.

609.43 Talesmen at large. When the parties to the cause, by agreement entered of record, waive the drawing of talesmen as above provided, the court may direct the sheriff to summon such talesmen from the body of the county.

609.44 Disposition of ballots drawn. All ballots drawn, when the persons do not appear or do not serve (except when permanent ineligibility or disability

is shown), shall be returned to the respective boxes from which drawn or, at the discretion of the judge, a person excused from service on one panel may be required to serve on the succeeding panel if the reason for his being excused will not be present at such time. The ballots of the petit jurors, except talesmen, so drawn, who appear and serve during any calendar quarter, shall be destroyed.

609.45 Special venire of talesmen. When a city or town is a party to a suit, the talesmen shall not be drawn therefrom, but in such cases the court shall order a special venire, or may order the talesmen drawn from the petit jury box.

609.46 Delinquency of officers. Any officer whose duty it is to perform any of the services mentioned in this chapter, who shall intentionally fail to perform them as required by law, or who shall act corruptly in the discharge of such duties or any of them, shall be imprisoned in the county jail not less than six months, nor more than one year.

609.47 Correcting illegality in original lists. Should the court for any reason determine that there has been such substantial failure to comply with the law relative to the selection, preparation, or return of grand, petit, or talesmen lists that lawful grand or petit jurors or talesmen cannot be drawn, or when the petit jury list as provided for in subsection 2 of section 609.1 becomes exhausted, or insufficient for the needs of the court, said court shall order the appointive jury commissioners or ex officio jury commissioners as the case may be, to convene at the courthouse at a named time and to prepare lists in lieu of those lists which have been found to be illegal, or such additional list or lists as the court may deem necessary. If the ex officio commissioners are called upon to act, they shall make up the lists in the same manner as such lists are required to be made by appointive commissioners.

609.48 Notice to commissioners. Whenever the commission shall be required to meet for the purpose of drawing jurors under the order of the court, the clerk of the court shall at once notify each commissioner of such order, and the time fixed for the meeting of the commission; and, if deemed necessary, the court may order the notice to be served by the sheriff.

Chapter 738 — BRIBERY AND CORRUPTION IN ELECTIONS

738.1 Bribing electors—fine
 738.2 Agreement to refrain from voting—payment
 for work on election day
 738.3 Accepting agreement
 738.4 Exception
 738.5—738.6 Repealed
 738.7 Voting more than once
 738.8 Voting when not qualified
 738.9—738.10 Repealed
 738.11 Counseling to vote when not qualified
 738.12 Deceiving voter as to ballot
 738.13 Duress to prevent voting
 738.14 Bribing election officials
 738.15 Procuring vote by duress

738.1 Bribing electors—fine. Any person offering or giving a bribe to any elector for the purpose of influencing his vote at any election authorized by law, or any elector entitled to vote at such election receiving such bribe, shall be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding one year, or both.

738.2 Agreement to refrain from voting—payment for work on election day. If any person shall make an agreement with another to pay him any sum of money or other valuable thing in consideration that such other person shall refrain from voting at any election, or shall induce other qualified electors to refrain from voting, or that such other person shall perform any service or labor on any election day in the interest of any candidate for any office who is to be voted for at such election, or in the interest of any measure or political party, he shall be fined in any sum not less than fifty nor more than three hundred dollars, or be imprisoned in the county jail not exceeding ninety days.

738.3 Accepting agreement. Any person who shall, in consideration of any sum of money or other valuable thing, agree to refrain from voting at any public election, or to induce or attempt to induce others to do so, or agree to perform on election day any service in the interest of any candidate, party, or measure in consideration of any money or other valuable thing, or who shall accept money or other valuable thing for such services performed in the interest of any candidate, political party or measure, shall be punished as provided in section 738.2.

738.4 Exception. Nothing in sections 738.2 and 738.3 shall be so construed as to punish individuals or committees of any political party for making contracts

738.16 Precinct officials doing unlawful acts
 738.17 Illegally receiving or rejecting votes
 738.18 Misconduct to avoid election
 738.19 Failure to return materials
 738.20 Improper registry and false personation
 738.21 Forgery of papers or ballots
 738.22 Political advertisements
 738.23 Exceptions
 738.24 Illegal voting at primary election
 738.25 Punishment
 738.26 Prima-facie evidence of illegal voting
 738.27 Judges to examine voters—administer oaths
 738.28 Perjury in examination
 738.29 Exception—conventions under caucus system

in good faith for the conveyance of voters to and from polling places and the payment of any reasonable compensation for such service.

738.7 Voting more than once. If any elector unlawfully vote more than once at any election which may be held by virtue of any law of this state, he shall be fined not exceeding three hundred dollars, or be imprisoned in the county jail not exceeding one year.

738.8 Voting when not qualified. If any person, knowing himself not to be qualified, vote at any election authorized by law, he shall be fined not exceeding three hundred dollars, or be imprisoned in the county jail not exceeding one year.

738.11 Counseling to vote when not qualified. If any person procure, aid, assist, counsel, or advise another to give his vote, knowing that such person is disqualified, he shall be fined not exceeding five hundred nor less than fifty dollars, and be imprisoned in the county jail not exceeding one year.

738.12 Deceiving voter as to ballot. If any judge or clerk¹ of election furnish an elector with a ticket or ballot, informing him that it contains a name or names different from those which are written or printed therein, with an intent to induce him to vote contrary to his inclination, or fraudulently or deceitfully change a ballot of any elector, by which such elector is deprived of voting for such candidate or person as he intended, he shall be imprisoned in the county jail not exceeding two years, and be fined not exceeding one thousand dollars nor less than one hundred dollars.

¹This should be "precinct election official." See HF1399.104.

738.13 Duress to prevent voting. If any person unlawfully and by force, or threats of force, prevent, or endeavor to prevent, any elector from giving his vote at any public election, he shall be imprisoned in the county jail not exceeding six months, and fined not more than two hundred dollars.

738.14 Bribing election officials. If any person give or offer a bribe to any judge,¹ clerk,² or canvasser of any election authorized by law or any executive officer attending the same, as a consideration for some act done or omitted to be done contrary to his official duty in relation to such election, he shall be fined not exceeding seven hundred dollars, and imprisoned in the county jail not exceeding one year.

¹See note following §738.12.

²Ditto.

738.15 Procuring vote by duress. If any person procure, or endeavor to procure, the vote of any elector, or the influence of any person over other electors, at any election, for himself, or for or against any candidate, by means of violence, threats of violence, or threats of withdrawing custom or dealing in business or trade, or enforcing the payment of debts, or bringing any civil or criminal action, or any other threat of injury to be inflicted by him or by his means, he shall be fined not exceeding five hundred dollars, or imprisoned in the county jail not more than one year.

738.16 Precinct officials doing unlawful acts. If any judge or clerk¹ of any election authorized by law knowingly make or consent to any false entry on the election register; or put into the ballot box, or permit to be so put in, any ballot not given by a voter; or take out of such box, or permit to be so taken out, any ballot deposited therein, except in the manner prescribed by law; or by any other act or omission designedly destroy or change the ballots given by the electors, he shall be fined not exceeding one thousand dollars and imprisoned in the penitentiary not exceeding five years.

¹See note following §738.12.

738.17 Illegally receiving or rejecting votes. When anyone who offers to vote at any election is objected to by an elector as a person not possessing the requisite qualifications, if any judge¹ of such election unlawfully permit him to vote without producing proof of such qualification in the manner directed by law, or if any such judge² willfully refuse the vote of any person who complies with the requisites prescribed by law to prove his qualifications, he shall be fined not more than two hundred nor less than twenty dollars,

or be imprisoned in the county jail not exceeding six months.

¹See note following §738.12.

²Ditto.

738.18 Misconduct to avoid election. If any judge,¹ clerk,² or executive officer designedly omit to do any official act required by law, or designedly do any illegal act, in relation to any public election, by which act or omission the votes taken at any such election in any city, town, precinct, township, or district be lost, or the electors thereof be deprived of their suffrage at such election, or designedly do any act which renders such election void, he shall be fined not less than one hundred nor more than one thousand dollars, or imprisoned in the county jail not more than one year, or both.

¹See note following §738.12.

²Ditto.

738.19 Failure to return materials. If any judge,¹ clerk,² or messenger, after having been deputed by the judges³ of the election to return to the county commissioner of elections the election register and other materials as required by section 50.17, willfully or negligently fail to deliver them within the time and in the condition prescribed law, he shall, for every such offense, be fined not more than five hundred nor less than fifty dollars.

¹See note following §738.12.

²Ditto.

³Ditto.

738.20 Improper registry and false personation. Any person who causes his name to be registered, knowing that he is not or will not become a qualified elector in the precinct where his name is registered previous to the next election, or who shall wrongfully personate any qualified elector, and any person causing, or aiding or abetting any person in either of said acts, shall be, for each offense, imprisoned in the penitentiary not less than one year.

738.21 Forgery of papers or ballots. Any person who shall falsely make, or willfully destroy, any certificate of nomination or nomination papers, or any part thereof, or any letter of withdrawal, or file any certificate of nomination, or nomination papers, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination, or nomination papers, or in any part thereof, which have been duly filed, or forge or falsely make the official endorsement on any ballot, or substitute therefor any spurious or counterfeit ballot, or make, use, circulate, or cause to be made or circulated as an official ballot, any paper

printed in imitation or resemblance thereof, or willfully destroy or deface any ballot, or willfully delay the delivery of any ballots, shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the penitentiary not less than one nor more than five years, or by both fine and imprisonment.

738.22 Political advertisements. Whoever writes, prints, posts, or distributes, or causes to be written, printed, posted, or distributed, a circular, poster, or advertisement which is designed to promote the nomination or election of a candidate for public office or to injure and defeat the nomination or election of any candidate for public office, or to influence the voters on any constitutional amendment, or to influence the vote of any member of the legislature, unless there appears upon such circular or poster or advertisement, in a conspicuous place, either the name of the chairman or secretary or of two officers of the organization issuing the same, or of the person who is responsible therefor, with his name and address, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding one hundred dollars, or imprisoned in the county jail not to exceed thirty days, or be punished by both such fine and imprisonment.

738.23 Exceptions. Nothing in section 738.22 shall apply to the editorial or news advertisements of any magazine or newspaper where the same is not a political advertisement, nor to cards, posters, lithographs, or circulars, issued by a candidate advertising his own candidacy.

738.24 Illegal voting at primary election. Whenever any political party shall hold a primary election for the purpose of nominating a candidate for any public office or for the purpose of selecting delegates to any convention of such party, it shall be unlawful for any

person not a qualified elector, or any qualified elector not at the time a member in good faith of such political party, to vote at such primary election.

738.25 Punishment. Any person violating the provisions of section 738.24, and any person knowingly procuring, aiding, or abetting such violation, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not to exceed one hundred dollars or be imprisoned in the county jail not to exceed thirty days.

738.26 Prima-facie evidence of illegal voting. It shall be prima-facie evidence of the violation of section 738.24 for any person who has participated in any primary election of one political party, to vote at a primary election held by another political party, to select candidates to be voted for at the same election; or to select delegates to any convention of the party holding such primary election.

738.27 Judges to examine voters—administer oaths. Any judge of such primary election shall have power to administer oaths to, and to examine under oath, any person offering to vote at such election, touching his qualifications to participate in such primary election, and it shall be the duty of such judge of election to so examine or cause to be examined any person challenged as to his right to vote.

738.28 Perjury in examination. Any person testifying falsely as to any material matter, touching his qualifications to participate in such primary election, shall be deemed guilty of perjury and punished accordingly.

738.29 Exception—conventions under caucus system. Nothing in sections 738.24 to 738.28, shall be construed to apply to conventions held under the caucus system.

Chapter 740 — MISCONDUCT OR NEGLECT IN OFFICE

740.13 Solicitation for political purposes
740.14 Repealed
740.15 Using public motor vehicles

740.16 State employees not to participate
740.17 Exception
740.18 Penalty

740.13 Solicitation for political purposes. It shall be unlawful for any person or political organization either directly or indirectly to solicit or demand from any employee of any commission, board or agency created under the statutes of Iowa, any contribution of money or any other thing of value for election purposes or for the purpose of paying expenses of any political organization or any person seeking election to public office.

740.15 Using public motor vehicles. It shall be unlawful for any person to use or permit to be used any motor vehicle owned by the state of Iowa or any political subdivision thereof for the purpose of transporting any political literature or any person or persons engaging in a political campaign for any political party or any person seeking an elective office.

740.16 State employees not to participate. It shall be unlawful for any state officer, any state appointive officer, or state employee to leave the place of his or her employment or the duties of his or her office for the purpose of soliciting votes or engaging in campaign work during the hours of employment of any such officer or employee.

740.17 Exception. The provisions of sections 740.13 to 740.16, shall not be construed as prohibiting any such officer or employee who is a candidate for political office to engage in campaign at any time or at any place for himself.

740.18 Penalty. Any person who violates any provision of sections 740.13 to 740.17, shall be guilty of misdemeanor and shall be punished accordingly.

Appendix A — OFFICIAL FORMS

These forms are prescribed by the statute indicated unless otherwise noted.

43.26 Primary election ballot.

PRIMARY ELECTION BALLOT

(Name of Party)
of
..... Township or Precinct, Ward, City or Town
of, County of, State of Iowa.
Primary election held on the day of June, 19

FOR UNITED STATES SENATOR (Vote for one.)

.....Sally K. Brown
.....J. R. Wayne
.....

FOR UNITED STATES REPRESENTATIVE (Vote for one.)

.....Betty Williams
.....William Sanders
.....

FOR GOVERNOR (Vote for one.)

.....Patricia Collins
.....William Longley
.....

(Followed by other elective state and district officers in order.)

FOR COUNTY AUDITOR (Vote for one.)

.....Gladys Strong
.....Robert Thompson
.....

(Followed by other elective county officers in order.)

FOR TOWNSHIP CLERK (Vote for one.)

.....Dolores Black
.....John Raymond
.....

FOR TOWNSHIP TRUSTEES (Vote for two.)

.....Margaret Jones
.....William Jones
.....H. S. Wilson

43.44 Change of party affiliation.

CHANGE OF PARTY AFFILIATION

I do solemnly swear or affirm that I have in good faith changed my party affiliation to and desire to be a member of the _____ party.

Signature of Voter

Address

Approved:

Precinct Election Official

46.9 Judicial nominating commissioner ballot.

Iowa State (or Iowa Judicial District)
Judicial Nominating Commission

BALLOT

To be cast by the resident members of the bar of the Congressional (or Judicial) District of Iowa.

Vote for (state number) for Iowa State (or Iowa Judicial District) judicial nominating commissioner(s) for term commencing

- JOHN DOE
- RICHARD ROE
-
-

To be counted, this ballot must be completed and mailed or delivered to Clerk of the Supreme Court of Iowa, Des Moines, Iowa, not later than January 31, 19. . . . (or the appropriate date under section 46.5 in case of an election to fill a vacancy.)

DESTROY BALLOT IF NOT USED

46.21 Judicial ballot.

STATE OF IOWA
JUDICIAL BALLOT
(Date)

VOTE ON ALL NAMES BY PLACING AN X IN THE APPROPRIATE BOX AFTER EACH NAME.

SUPREME COURT

Shall the following judges of the Supreme Court be retained in office?

- | | | |
|-------------|------------------------------|-----------------------------|
| JOHN DOE | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| RICHARD ROE | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

DISTRICT COURT

Shall the following judge or associate judge of the District Court be retained in office?

- | | | |
|------------|------------------------------|-----------------------------|
| JOHN SMITH | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
|------------|------------------------------|-----------------------------|

48.6 Form of registration records.

AFFIDAVIT FOR VOTER REGISTRATION FORM

I do solemnly swear or affirm, under penalty of law, that on the day of the next known election I will be a qualified elector and that all of the information which I have given upon this voter registration record is true and complete. I hereby authorize cancellation of any or all of my previous registrations to vote in this or any other place, and my eligibility to vote in any place where registration is not required.

[State Commissioner of Elections, July 24, 1973, Pursuant to Section 48.6 (9 and 10).]

48.17 Qualification of officers.

OATH FOR OFFICER OR CLERK OF ELECTION

I, _____, do solemnly swear that I will impartially, and to the best of my knowledge and ability, perform the duties of _____ for the _____ election on _____, 19 ____ , and will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

Signature of Officer or Clerk

Address

Date

Officer Administering Oath

[State Commissioner of Elections, July 24, 1973, pursuant to section 48.17.]

48.18 Election register.

“Because of variations in voter registration systems, including the type of equipment used, it would not be practical at this time to prescribe an election register of certain dimensions, with headings in designated spaces, with uniform lines, spacings, etc. Therefore, this office prescribes that any such form that provides all information set forth in Section 48.8, 1973 Code of Iowa, will be acceptable.”

[State Commissioner of Elections, July 24, 1973, pursuant to section 48.8.]

48.26 (6) Registration form.

“The same form is prescribed as is described under section 48.6. There shall be provided also on this form a space for the signature of the deputy mobile registrar. The forms shall be numbered and accounted for, and a copy of each such voter registration form shall be given to the voter as a receipt of the fact that he is duly registered.”

[State Commissioner of Elections, July 24, 1973, pursuant to section 48.26 (6)]

49.42 Form of official ballot.

REPUBLICAN

DEMOCRATIC

PROHIBITION

UNION LABOR

{ For President
A..... B.....,
of Ohio.
For Vice-
President
C..... D.....,
of New York.

{ For President
N..... O.....,
of Virginia.
For Vice-
President
P..... Q.....,
of Indiana.

{ For President
A..... B.....,
of Maine.
For Vice-
President
C..... D.....,
of Illinois.

{ For President
N..... O.....,
of Idaho.
For Vice-
President
P..... Q.....,
of Ohio.

For
United States
Senator
E..... F.....,

For
United States
Senator
R..... S.....,

For
United States
Senator
E..... F.....,

For
United States
Senator
R..... S.....,

For
United States
Representative
G..... H.....,

For
United States
Representative
T..... U.....,

For
United States
Representative
G..... H.....,

For
United States
Representative
T..... U.....,

For Governor
I..... J.....,

For Governor
V..... W.....,

For Governor
I..... J.....,

For Governor
V..... W.....,

For Lieutenant
Governor
K..... L.....,

For Lieutenant
Governor
X..... Y.....,

For Lieutenant
Governor
K..... L.....,

For Lieutenant
Governor
X..... Y.....,

49.77 Voter's declaration of eligibility.

VOTER'S DECLARATION OF ELIGIBILITY

I do solemnly swear or affirm that I am a resident of the precinct, ward or township, city or town of, county of, Iowa.

I am a qualified elector. I have not voted and will not vote in any other precinct in said election.

(For primary election only:) I am affiliated with the party.

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

Approved:

.....
Signature of Voter

.....
Board Member

.....
Address

49.81 Oath in case of challenge.

AFFIDAVIT OF CHALLENGED VOTER

STATE OF IOWA, _____, County, ss.

I, the undersigned do solemnly swear and reaffirm that I am eligible to vote in the following election: _____

(Describe election)

(Signature) _____

Subscribed and sworn to (or affirmed) before me by _____
on this _____ day of _____, 19 ____ .

_____ Precinct, _____ Ward, _____ City, _____ Township,
_____ County, Iowa.

Judge of Election

[State Commissioner of Elections, July 24, 1973, pursuant to section 49.81.]

50.16 Tally list of board.

At an election at in township, or in precinct of city or township, in county, state of Iowa, on the day of A.D., there were ballots cast for the office of of which

A..... B..... had votes.

C..... D..... had votes.

(and in the same manner for any other officer).

A true tally list:

L..... M.....)
N..... O.....) Board Members
P..... Q.....)

Attest: { R..... S..... } Designated Tally Keepers.
 { T..... U..... }

50.29 Certificate of election.

STATE OF IOWA }
..... County. }

At an election holden in said county on the day of, A.D. A..... B..... was elected to the office for the term of years from the day of, A.D. (or if he was elected to fill a vacancy, say for the residue of the term ending on the day of, A.D., and until his successor is elected and qualified.

C..... D.....
President of the Board of Canvassers.
Witness, E..... F.....
County Commissioner of Elections (Clerk).

52.9 Certificate of test of voting machine.

The Undersigned Hereby Certify that, having duly qualified, we were present and witnessed the testing and preparation of the following voting machines; that we believe the same to be in proper condition for use in the election of ... 19 ..., that each registering counter of the machine is set at 000; that the public counter is set at 000; that the seal numbers and the protective counter numbers are as indicated below.

Signed

.....

Republican

.....

Democrat

.....

.....

Voting machine custodian

Dated..... 19.....

Machine
Number

Protective
Counter Number

Seal
Number

.....
.....
.....

.....
.....
.....

.....
.....
.....

52.21 Voting machine return and tally sheet.

VOTING MACHINE RETURN AND TALLY SHEET
ELECTION..... 19....., COUNTY OF

	President and Vice-President	United States Senator	United States Representative	Governor	Lt. Governor	Etc.
Republican Party	1A (name of candidate)	2A	3A	4A	5A	6A
Machine No.						
Machine No.						
Return Sheet Total						
Democratic Party	1B (name of candidate)	2B	3B	4B	5B	6B
Machine No.						
Machine No.						
Return Sheet Total						
Independents	1C (name of candidate)	2C	3C	4C	5C	6C
Machine No.						
Machine No.						
Etc.						
Public Measures	1F For	2F Against	3F	4F	5F	6F
Machine No.						
Machine No.						
Machine No.						
Machine No.						
Return Sheet Total						

52.21 (Continued).

The reverse side of said return shall carry a certificate in substantially the following form:

CERTIFICATE OF ELECTION OFFICIALS AND CANVASS

STATE OF IOWA]
 COUNTY OF] ss.

We, the undersigned precinct election officials for, Precinct No. of the county of and state of Iowa, do hereby certify that voting machine (was or were) used in the above mentioned precinct at the Election held on the day of, 19.....

"1. That before opening of the polls we compared the ballot labels on (the or each) machine with the sample ballots furnished, and found the names, numbers and letters thereon agreed.

"2. That we compared the number on the seal which sealed the curtain lever and the number on the protective counter and we found the same as follows:

Machine	Curtain Lever Seal	Protective Counter
No.	No.	No.
No.	No.	No.
No.	No.	No.
No.	No.	No.

"3. That the public counter was set at 000 and that we opened the rear of (the or each) machine and examined every registering counter and that each registered 000.

"4. That the following statement shows the number of the seal with which the curtain lever was sealed, the number on the public counter and the number on the protective counter after the poll was closed and the vote thereon canvassed and the machine locked:

Machine	Curtain Lever Seal	Protective Counter	Public Counter
No.	No.	No.	No.
No.	No.	No.	No.
No.	No.	No.	No.

"5. That we are precinct election officials of the...Election in and for, Precinct No. ... in the county of and state of Iowa, on the day of, 19....., and that we have canvassed all the votes registered on the voting machines for each candidate, and all irregular ballots written on the paper roll of each machine used in said precinct, and do hereby severally certify that the canvass thereof was duly and legally made, and the result of said canvass is correctly set forth in the within return-sheet statement, and that the said statement is true in all respects.

Dated this day of, 19...

.....

Precinct Election Officials"

53.13 Absent voter's affidavit.

ABSENT OR DISABLED VOTER'S AFFIDAVIT

STATE OF IOWA)
COUNTY OF _____) SS

I, _____, do solemnly swear or affirm that I am a resident of the _____ precinct, _____ ward or township, city or town of _____, county of _____, Iowa; and that I am a qualified elector. My date of birth is _____. I have not voted and will not vote in any other precinct in said election.

(For primary election only:) I am affiliated with the _____ party.

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

Signature of Voter

Voting residence

Subscribed and sworn to before me this _____ day of _____, 19____, and I hereby certify that the affiant exhibited the enclosed ballot to me unmarked; that he then in my presence and in the presence of no other person and in such manner that I could not see his vote marked such ballot and enclosed and sealed the same in this envelope; that the affiant was not solicited or advised by me for or against any candidate or measure.

Signature

Notary Public or Official Title

THIS BALLOT MUST BE RETURNED TO THE COUNTY COMMISSIONER
WHETHER VOTED OR NOT VOTED. (Sec. 53.35, Code of Iowa.)

"All affidavits must be numbered with numbers to coincide with numbers on the carrier envelope. (Section 53.8) The same serial number shall also be affixed to the kind of application referred to in section 53.12 for the third time."

[State Commissioner of Elections, July 24, 1973, pursuant to section 53.13.]

53.23 Tally list for use by absentee ballot counting boards.

"In counties where machines are used such tally list shall conform with all the requirements and substantially with the form set forth in section 52.21.

In counties where paper ballots are used such tally list shall conform with all the requirements and substantially with the form set forth in section 50.16.

In both instances the heading on the tally list shall show that it is for use by the absentee ballot counting board, and there should be an adequate number of spaces provided for all offices and questions being voted upon in that election."

[State Commissioner of Elections, July 24, 1973, pursuant to section 53.23.]

53.25 Rejected absentee ballot.

NOTICE TO VOTER OF REJECTION OF ABSENTEE BALLOT

TO: _____

You are hereby notified that your absentee ballot cast at the _____ election held on _____, 19 _____, has been rejected for the following reasons: _____

Signature of Precinct Election Official
Absentee Ballot Counting Board

NOTE: If the absentee ballot is rejected prior to the opening of the ballot envelope, the voter casting the ballot shall be notified by an election judge by the time the canvass is completed of the reason for the rejection on a form prescribed by the state commissioner of elections. (Sec. 53.25.) Code of Iowa

[State Commissioner of Elections, July 24, 1973, pursuant to section 53.25.]

Appendix B

Some miscellaneous and temporary statutes in the Code of Iowa, 1973, have been amended by the General Assembly to require that notice of certain unusual special elections be transmitted to the Commissioner of Elections who is to publish such notice. The statutes so amended and the type of special election involved are listed below.

<u>Section number</u>	<u>Type of election</u>
273.23	creation of a joint county school system
275.18	establishment and reorganization of school districts
275.35	change of number or method of election of school directors
275.37	election of additional school directors
280.21	authorization of certain expenditures from schoolhouse fund
280A.15	election of area school directors
280A.21	issuance of area school bonds
280A.39	merger of area schools
296.4	authorizing school bonds
298.18	authorizing excessive levy to retire school bonds
359.44	authorization of levy for rural fire protection

<u>Section number</u>	<u>Type of election</u>
360.1	authorization of levy for township hall
362.5	incorporation of municipalities
362.11	dissolution of municipal corporation
362.19	merger of municipalities
362.26	annexations by municipalities
364.3	establishment of Department of Publicity, Development and General Welfare
368.65	issuance of bonds for joint city-county building
374.1	establishment of community center house
380.10	issuance of bonds for municipal hospitals
381.10	authorization of municipal taxes for county bridges
386.3	approval of municipal telephone and bus franchises
386A.6	authorization of metropolitan bus subsidy
386B.4	authorization of acquisition of municipal transit system
386B.18	authorization of sale of municipal transit system
397.6	establishment, improvement or selling of municipal utilities
397.29	authorization of acquisition of municipal utilities
399.1	construction, purchase or sale of waterworks facilities in certain cities
407.8	authorization of certain municipal general obligation bonds
408A.4	authorization of certain municipal general obligation bonds when an election has been demanded
SF501.2	authorization of municipal 200 general obligation bonds

Appendix C

In addition to publishing the notice of unusual special elections, some temporary and miscellaneous statutes in the Code of Iowa, 1973, as amended by the General Assembly, now require the Commissioner of Elections to also conduct those elections. The statutes so amended and the type of special election involved are listed below.

<u>Section number</u>	<u>Type of election</u>
145A.7	establishment of an area hospital
273.23	creation of a joint county school system
275.18	establishment and reorganization of school districts
275.35	change of number or method of election of school directors
275.37	election of additional school directors
280.21	authorization of certain expenditures from schoolhouse fund
280A.15	election of area school directors
280A.21	issuance of area school bonds
280A.39	merger of area schools
296.4	authorizing school bonds
298.18	authorizing excessive levy to retire school bonds
309.86	authorization of bridges over Mississippi and Missouri Rivers
313A.34	authorization of toll bridges across Mississippi and Missouri Rivers
359.44	authorization of levy for rural fire protection
360.1	authorization of levy for township hall
362.6	incorporation of municipalities
362.7	election of original municipal officials

<u>Section number</u>	<u>Type of election</u>
362.12	dissolution of municipal corporation
362.20	merger of municipalities
362.26	annexations by municipalities
363.8	regular municipal elections
363.16	municipal run-off election
364.3	establishment of Department of Publicity, Development and General Welfare
368.65	issuance of bonds for joint city-county building
374.1	establishment of community center house
380.10	bonds for municipal hospitals
381.10	authorization of municipal taxes for county bridges
386.3	approval of municipal telephone and bus franchises
386A.4	authorization of metropolitan bus subsidy
386B.4	authorization of acquisition of municipal transit system
386B.18	authorization of sale of municipal transit system
397.6	establishment, improvement or sale of municipal utilities
397.29	authorization of acquisition of municipal utilities
398.7	authorization of purpose and construction of waterworks facilities in certain cities
399.1	construction, purchase or sale of waterworks facilities in certain cities

Appendix D

The County Commissioner of Elections may, but need not, conduct elections held pursuant to the following sections of the Code of Iowa, 1973:

<u>Chapter/ Section number</u>	<u>Type of election</u>
357	benefited water districts
357B	benefited fire districts
357C	benefited street lighting districts
358.5	establishment of a sanitary district
455.197	approval of classification of lands in levee and drainage districts
462	establishment of a board of trustees for a levee or drainage district
467A.5	advisory election to create a soil conservation district

Appendix E — TAXABLE BASE BY COUNTIES

Where an electoral district is in more than one county, section 47.2 specifies that the county commissioner of elections of the county having the largest taxable base within the district is in charge of the election. This table should determine such questions where whole counties are involved.

1973 Net Taxable Base	County	1973 Net Taxable Base	County	1973 Net Taxable Base	County
36,264,619	Adair	66,614,361	Floyd	46,353,815	Monona
25,474,609	Adams	67,467,999	Franklin	21,313,518	Monroe
37,499,704	Allamakee	41,086,880	Fremont	42,025,595	Montgomery
30,194,431	Appanoose	65,713,721	Greene	101,813,473	Muscatine
36,774,523	Audubon	68,549,095	Grundy	64,962,693	O'Brien
84,532,946	Benton	40,816,433	Guthrie	38,568,888	Osceola
272,382,121	Black Hawk	80,946,217	Hamilton	52,612,829	Page
85,652,329	Boone	72,028,011	Hancock	53,100,264	Palo Alto
59,171,323	Bremer	79,613,579	Hardin	81,675,658	Plymouth
55,657,557	Buchanan	54,998,722	Harrison	61,757,105	Pocahontas
76,498,895	Buena Vista	48,070,410	Henry	741,825,612	Polk
55,216,327	Butler	30,441,603	Howard	176,350,742	Pottawattamie
67,565,288	Calhoun	59,120,172	Humboldt	63,767,080	Poweshiek
75,227,170	Carroll	36,583,390	Ida	21,125,960	Ringgold
52,770,369	Cass	53,048,750	Iowa	62,705,472	Sac
64,465,248	Cedar	48,374,650	Jackson	374,621,757	Scott
141,169,163	Cerro Gordo	104,353,847	Jasper	54,265,278	Shelby
63,054,675	Cherokee	43,582,163	Jefferson	99,049,932	Sioux
45,571,179	Chickasaw	171,421,784	Johnson	165,287,926	Story
23,747,717	Clarke	55,690,366	Jones	75,752,518	Tame
70,974,336	Clay	42,338,975	Keokuk	28,871,667	Taylor
46,292,041	Clayton	110,057,440	Kossuth	36,447,917	Union
172,699,672	Clinton	118,735,232	Lee	23,644,999	Van Buren
62,840,530	Crawford	411,878,703	Linn	70,431,505	Wapello
86,487,898	Dallas	39,987,391	Louisa	64,680,531	Warren
23,403,065	Davis	25,441,742	Lucas	61,538,369	Washington
22,227,789	Decatur	53,296,435	Lyon	25,861,170	Wayne
52,224,362	Delaware	39,857,476	Madison	144,667,961	Webster
118,911,998	Des Moines	62,265,728	Mahaska	47,004,943	Winnebago
57,883,987	Dickinson	58,374,630	Marion	49,736,052	Winneshiek
188,380,871	Dubuque	122,876,496	Marshall	245,630,743	Woodbury
47,023,666	Emmet	47,378,003	Mills	38,747,833	Worth
76,035,459	Fayette	43,249,915	Mitchell	77,532,478	Wright
				Total 8,192,268,469	

Appendix Y — KNOWN DEVIATIONS FROM THE CODE OF IOWA

Every word of law enacted by the General Assembly does not appear in the Code of Iowa, and not every word in the Code of Iowa was necessarily enacted by the legislature. The Code contains only "statutes of a general and permanent nature" and transitional or temporary law is omitted from the Code. Because this publication is designed for persons involved with administering the law, we have *not* suppressed transitional or temporary law until it is clearly inoperative.

The placement and numbering of sections of law, especially new law added to a chapter in the Code, are external to the meaning of the law. Whenever possible, new sections of law are placed as close as practicable to their logical place in the Code, but if appropriate section numbers are not vacant, the new section may be placed out of context at the end of the chapter. Such editorial discretion is recognized by law, and section 14.13 of Code gives authority to "transpose sections or divide sections so as to give distinct subject matters a section number but without changing the meaning."

That authority has been used in this unofficial publication when, in the editor's opinion, proper rearrangement of the statute would make the statute easier to locate or understand. Similar discretion has been exercised on the headnotes or catchwords, which likewise are no part of the statute, but are guides for the reader.

The known deviations, exclusive of legislative amendments (see appendix Z), from the Code are:

<u>Code of Iowa</u>	<u>Election Laws of Iowa 1974 Edition</u>	<u>Code of Iowa</u>	<u>Election Laws of Iowa 1974 Edition</u>
39	Constitution quoted where appropriate.	43.111	Temporary provision retained until August 30, 1974.
39.3(9)	Reference to towns retained until July 1, 1975. See HF1392.32.	43.112 to 43.118	Catchwords reflect application to Davenport only.
39.4	Language of question left as enacted in HF1399.1 and as stated in Constitution.	47	Chapter title altered to reflect contents.
39.20	Reference to towns retained until July 1, 1975. See HF1392.32.	47.2	Sentence which, although not repealed, was omitted from the Code, has been retained.
39.22	Reference to towns retained until July 1, 1975. See HF1392.32.	48.4	Sentence which, although not repealed, was omitted from the Code, has been retained.
40	Map substituted for description.	48.27(1)	Moved to 48.23.
41	Rule of construction cited, maps substituted for lengthy descriptions.	48.27(2)	Moved to 48.24.
43.4	Moved to 43.89.	48.27(3)	Moved to 48.25.
43.21	Catchwords reflect application to sanitary district elections.	48.27(4)	Moved to 48.26.
43.42	Temporary provision for 1974 primary election included.	48.27(5)	Retained as whole 48.27. 48.28, Election Laws of Iowa, 1973, moved to chapter 48A. 48A. This chapter is compiled from temporary, but important, statutes relating to implementing state-wide voter registration.
43.87	Catchwords reflect application to sanitary district elections.		

<u>Code of Iowa</u>	<u>Election Laws of Iowa 1974 Edition</u>	<u>Code of Iowa</u>	<u>Election Laws of Iowa 1974 Edition</u>
49.3	Sentence which, although not repealed, was omitted from the Code has been retained.	56.6(2)	Moved to 56.335, 56.337.
49.61	Catchwords shortened.	56.6(3)	Moved to 56.341.
50.47	§79.9 quoted.	56.6(4)	Moved to 56.340.
51	Chapter title altered to reflect contents.	56.7(1)	Moved to 56.152.
51.2	Catchwords altered to reflect content.	56.7(2)	Moved to 56.153.
51.4	Catchwords altered to reflect content.	56.8(1)	Moved to 56.170.
51.9	Plural possessive form of "voters" retained to conform to §49.77 and legislative Act.	56.8(2)	Moved to 56.151.
52.15	Catchwords altered to reflect content.	56.8(3)	Moved to 56.160.
53	Divisions noted. See §53.49 and §53.51.	56.9(1)	Moved to 56.410.
53.13	Catchwords shortened.	56.9(2)	Moved to 56.411.
56.1	Moved to 56.110.	56.9(3)	Moved to 56.412.
56.2	Moved to 56.140.	56.9(4)	Moved to 56.413.
56.3(1)	Moved to 56.320.	56.10	Moved to 56.420.
56.3(2)	Moved to 56.210.	56.11(1)	Moved to 56.450.
56.3(3)	Moved to 56.321.	56.11(2)	Moved to 56.452, 56.453.
56.3(4)	Moved to 56.322.	56.11(3)	Moved to 56.454.
56.4	Moved to 56.150.	56.11(4)	Moved to 56.456.
56.5(1)	Moved to 56.310.	56.12	Moved to 56.220, 56.230.
56.5(2)	Moved to 56.313.	56.13	Moved to 56.240, 491.69—491.71 and 496A, 145 quoted.
56.5(3)	Moved to 56.319.	56.14	Moved to 56.260.
56.6(1)	Moved to 56.330 grammatical error from SF1200.4 corrected.	56.15	Moved to 56.270, 56.275.
		56.16	Moved to 56.130.
		56.17	Moved to 56.120.
		56.18	Moved to 56.511.
		56.19	Moved to 56.590.

<u>Code of Iowa</u>	<u>Election Laws of Iowa 1974 Edition</u>	<u>Code of Iowa</u>	<u>Election Laws of Iowa 1974 Edition</u>
56.20	Moved to 56.505.	145A.11	"Auditor" printed as "commissioner of elections," pursuant to §1025.2, 64GA.
56.21	Moved to 56.520.	277.28	Reference to towns retained until July 1, 1975. See HF1392.32.
56.22	Moved to 56.521.	275.	Amendments not effective until July 1, 1975, are not incorporated. See SF1163.
56.23	Moved to 56.525.	277.33	Moved to 277.3.
56.24	Moved to 56.529.	347.9	Reference to towns retained until July 1, 1975. See HF1392.32.
56.25	Moved to 56.510.	347A	Chapter title altered to reflect contents.
56.26	Moved to 56.591.	608.9	Catchwords reflect change of terminology.
60	Chapter title altered to reflect contents.	609.1(3)	Reference to towns retained until July 1, 1975. See HF1392.32.
63.10	§4.1(12) quoted.	609.2	§§29A.41, 102.4, 607.2, 607.4 quoted.
64.15	Reference to towns retained until July 1, 1975. See HF1392.32.	609.8	Reference to towns retained until July 1, 1975. See HF1392.32.
64.19(5)	Reference to towns retained until July 1, 1975. See HF1392.32.	609.27	§776.2 quoted.
64.19(6)	Reference to towns retained until July 1, 1975. See HF1392.32.	738.2	Catchwords altered to reflect content.
64.23(6)	Reference to towns retained until July 1, 1975. See HF1392.32.	738.3	Catchwords altered to reflect content.
66.23	Reference to towns retained until July 1, 1975. See HF1392.32.	738.16	Catchwords reflect change of terminology.
66.29	Reference to towns retained until July 1, 1975. See HF1392.32.	738.18	Reference to towns retained until July 1, 1975. See HF1392.32.
68.10(2)	"And regulations" deleted. See §4.1(32).		
69.4(5)	Reference to towns retained until July 1, 1975. See HF1392.32.		

Appendix Z — AMENDING AUTHORITY

This appendix shows what Act of the 65th General Assembly has caused the statute cited to be amended since last year's edition of the Election Laws of Iowa. If the statute was not printed in last year's book, amendments are shown since the Code of Iowa, 1973, was issued.

Statutes repealed are prefixed with an "R" before the amending authority.

Section	Amending Authority	Section	Amending Authority	Section	Amending Authority
6.1	HF745.333	49.55	HF1399.104	53.2	HF1399.53
6.2	HF745.334	49.57	HF1399.36	53.11	HF1399.54
6.3	HF745.335	49.60	HF1399.104	53.17	HF1399.55
6.6	HF745.336	49.61	HF1399.104	53.23	HF1399.56, HF1399.104
6.7	HF745.337	49.62	HF1399.104	53.40	HF1399.99
6.10	HF745.338	49.64	HF1399.104	53.41	HF1399.99
6.11	HF745.339	49.65	HF1399.104	53.42	HF1399.99
29A.41	SF1093.9	49.66	HF1399.104	53.49	HF1399.57
39.4	HF1399.1	49.67	HF1399.104	56.120	SF1200.13
39.20	HF1399.89, HF1392.	49.70	HF1399.104	56.230	SF1200.11
39.23	HF1399.2	49.71	HF1399.104	56.260	SF1200.12
39.24	SF1163.130	49.73	HF1399.37	56.310	SF1200.1
39.26	See ch 303B.	49.75	HF1399.104	56.311	SF1200.3
43.11	HF1399.4	49.76	HF1399.104	56.313(6)	SF1200.2
43.20	HF1399.5, HF1399.6	49.77	HF1399.104	56.330	SF1200.4
43.21	HF1399.7	49.79	HF1399.104	56.335	SF1200.5
43.36	HF1399.104	49.80	HF1399.104	56.337	SF1200.5
43.38	HF1399.104	49.81	HF1399.104	56.340	SF1200.7
43.42	HF1399.95, HF1399.104	49.82	HF1399.38	56.341(7)	SF1200.6
43.44	HF1399.104	49.83	HF1399.104	56.420(2)	SF1200.8
43.45	HF1399.8, HF1399.104	49.84	HF1399.39	56.450	SF1200.9
43.46	HF1399.9, HF1399.104	49.85	HF1399.40	56.453	SF1200.10
43.48	HF1399.10	49.87	HF1399.104	56.525	SF1200.15
43.59	HF1399.11	49.89	HF1399.104	56.529	SF1200.16
43.66	HF1399.12	49.91	HF1399.104	56.590	SF1200.14
43.73	HF1399.13	49.100	HF1392.6	64.1(6)	SF1101.1
43.74	HF1399.14	49.105	HF1392.104	64.6	HF1392.8
43.75	HF1399.15	49.124	HF1392.7, HF1399.104	64.8	SF1163.15
43.84	HF1399.16	50.1	HF1399.100	64.14	SF1101.1
43.89	HF1399.3	50.2	(R-HF1399.105)	68.14	SF1139.4
43.101	HF1399.17	50.3	HF1399.104	69.2(3)	SF1101.1
43.102	HF1399.18	50.4	HF1399.104	69.11	HF1399.58
43.106	(R-HF1399.105)	50.5	HF1399.104	69.12	HF1399.59
44.4	HF1399.19	50.8	HF1399.42	273	SF1163.1, SF1163.9
44.11	HF1399.20	50.9	HF1399.104	273.5	HF1399.106
47.5	HF1399.90	50.11	HF1399.101	273.7	HF1399.106
48.6(1)	SF1093.16	50.12	HF1399.104	275.18	HF1399.62
48.23	HF1399.91	50.16	HF1399.102	275.37	HF1399.63
48A.1	HF745.399	50.17	HF1399.104	275.38	HF1399.64
48A.2	HF745.399	50.19	HF1399.43	277.4	HF1399.65
48A.3	HF1399.96	50.27	HF1399.44	277.27	HF1399.66
48A.4	HF745.400, HF1399.92	50.37	HF1399.45	278.1(7)	SF59.1
48A.5	HF1399.92	50.39	HF1399.46	278.1(10)	HF1399.67
48A.6	HF745.400, HF1399.92	50.42	HF1399.47	278.3	HF395.2
48A.7	HF745.400, HF1399.92	50.47	SF1139.3	279.7	HF1399.68
48A.8	HF1399.94	51.1	HF1399.103	280A.15	HF1399.106
48A.9	HF1399.92	51.3	HF1399.104	280A.39	HF1399.70
49.3	HF1399.97	51.4	HF1399.104	296.4	HF1399.71
49.8(4)	HF1399.21	51.5	HF1399.104	298.18	HF1399.72
49.11	HF1399.22	51.6	HF1399.104	303B.2	SF271.2
49.12	HF1399.23	51.7	HF1399.104	303B.3	SF271.3, HF1399.93
49.15	HF1399.24	51.8	HF1399.104	303B.4	SF271.4
49.16(2)	HF1399.25	51.9	HF1399.104	347.9	SF1093.52
49.16(4)	HF1399.26	51.12	HF1399.104	358.9	SF82.39, HF745.375
49.19	HF1399.41	51.14	HF1399.104	386.3	HF745.304
49.20	SF1139.2, HF1399.27	52.5	HF1399.99	386.6	R-HF745.401
49.21	HF1399.28	52.9	HF1399.48	608.2	SF389.1
49.25	HF1399.29	52.13	HF1399.49	608.4	SF389.2
49.26	HF1399.30	52.15	HF1399.104	609.1	HF745.389
49.28	HF1399.31	52.16	HF1399.50	609.4	HF745.390
49.30	HF1399.32	52.18	HF1399.104	609.5	HF745.391
49.33	HF1392.4	52.19	HF1399.104	609.6	R-HF745.401
49.34	HF1392.5	52.20	HF1399.104	609.7	HF745.392, HF1399.81
49.49	HF1399.33	52.21	HF1399.104	609.8	HF745.393
49.50	HF1399.104	52.22	HF1399.51, HF1399.104	609.9	HF745.394
49.53	HF1399.34	52.23	HF1399.104	609.10	HF745.395
49.54	HF1399.35	52.25	HF1399.52		

EPILOGUE

An election official wandered off alone into a thicket of election laws a few weeks ago and had to be rescued before she became trapped in the overgrowth of vines.

When the search party was chopping its way out, it encountered a white haired old man wedged between §§64.8 and 64.9. He was happy to find civilization again and described his life of wandering among the election laws:

“Well, there are sure a lot of trails, but they don’t go anywhere. Only in the past few years have they done any token work on them. Straighten a curve here, repair a gutter there, but no freeways have been started.

“I got lost in there when the secret ballot got started in Iowa back in 1893. They just cleared a little courtyard for it at the end of a small lane. Didn’t even put up a street sign. I had seen it once of course, but was scared to death one of the other wanderers in there would ask me to describe it in detail or even find it again for them.

“I remember when they laid out the road for direct election of U.S. Senators back in 1913. We thought we might see a straight highway for once, but the workmen just put in some patches. One fella’ back in there — he’s dead now — went insane after twenty-seven years of trying to figure out how to fill a vacancy in the nomination for U.S. Senator occurring after the primary. He got violent at the end.

“And when they installed women’s voting fifty years ago, why, they just stuck a little alley on a back street. And was that a farce! Only last year did they get around to letting women form a majority of a party central committee, and only this year can they form the majority of a hospital board.

“And a few years ago, the attorney general led a parade against student voting into here, planning to march right down the center of §47.20. But when he got there, he went off into a ravine because they had repealed that boulevard long before. Yea, its confusing all right.

“You know, they are pretty cruel. They have “dead end” signs, but they don’t put them at the intersection. They put them at the far end of the road. You read a whole chapter of election laws, and the next to last section suddenly jumps out to you and says ‘However, this chapter does not apply to you.’

“Did you know they’ve got five different avenues in there named “Changing Party Affiliation” and they all go off in different directions?

“No, young fella, I don’t want to go back in there again. The whole ruin should be bulldozed down and the strongest pieces saved and laid out in broad freeways that would lead the searcher directly to his answer. They should get rid of the rubble. God himself needed only ten commandments for the whole world, but the Iowa legislature needs 130,000 words for just the election laws.

“When I first went in there, I was just trying to find out how to fill a vacancy for a regional library trustee. Now I don’t care because I’m so old I can’t see to read anymore.

“I hear there’s a new road crew working down near the legislature these days. Maybe they’ll clean the weeds out and rebuild the election laws. But they won’t even try unless you tell them you want them to.”

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