

SENATE FILE 422
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 62)

Passed Senate, Date 2/26/91 (p. 255) Passed House, Date 4/15/91 (p. 1251)
Vote: Ayes 28 Nays 23 Vote: Ayes 51 Nays 48
2/2 Approved 5/2/91 (p. 1695)
Vote sustained 5/7/91 (p. 1700) 25-23 Motion to reconsider (p. 1252)
" w/lt 4/12/91

A BILL FOR

1 An Act allowing certain elections to be conducted by mail
2 ballots, providing penalties, and providing for the
3 prospective repeal of the Act.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 422

1 Section 1. NEW SECTION. 49A.1 MAIL BALLOT ELECTIONS.

2 An election shall not be conducted under this chapter
3 unless all of the following apply:

4 1. The county commissioner responsible under section 47.2
5 for conducting the election authorizes the use of mail ballots
6 for the election.

7 2. The state commissioner of elections approves a written
8 plan for conduct of the election, which shall include a
9 written timetable for the conduct of the election, submitted
10 by the county commissioner.

11 3. The election is nonpartisan.

12 4. The election is not one at which any candidate is to be
13 elected or retained.

14 5. The election is not held on the same date as another
15 election in which qualified electors of that political
16 subdivision of government are eligible to cast ballots.

17 6. The election is a ballot issue election at which all of
18 the qualified electors of one of the following political
19 subdivisions of government are the only electors eligible to
20 vote:

21 a. Counties.

22 b. Cities.

23 c. School districts, except that an election held pursuant
24 to chapter 275 shall not be a mail ballot election.

25 d. Benefited districts provided in chapters 357 through
26 357E.

27 Sec. 2. NEW SECTION. 49A.2 DEFINITIONS.

28 As used in this chapter, unless the context otherwise
29 requires:

30 1. "Election day" is the date established by law on which
31 a particular election would be held if that election were
32 being conducted by means other than a mail ballot election.

33 2. "Mail ballot election" means an election that involves
34 ballot issues and is conducted in compliance with the
35 procedures specified in this chapter.

1 3. "Return affidavit envelope" means an envelope that
2 contains a secrecy envelope and which is designed to
3 accomplish both of the following:

4 a. Allow election officials, upon examination of the
5 outside of the envelope, to determine that the ballot is being
6 submitted by someone who is in fact a qualified elector and
7 who has not already voted.

8 b. Allow it to be used in the United States mail.

9 4. "Secrecy envelope" means an envelope used to contain
10 the elector's ballot and that is designed to conceal the
11 elector's vote and to prevent the elector's ballot from being
12 distinguished from the ballots of other electors.

13 Sec. 3. NEW SECTION. 49A.3 MAIL BALLOT ELECTION
14 PROCEDURE.

15 A mail ballot election shall be conducted substantially as
16 provided in this chapter. The state commissioner of elections
17 shall prescribe uniform procedures and forms to be used in the
18 conduct of mail ballot elections.

19 Sec. 4. NEW SECTION. 49A.4 INITIATING A MAIL BALLOT
20 ELECTION.

21 A proposal to conduct an election under this chapter may be
22 initiated by either the county commissioner of elections or
23 the appropriate governing body as provided in sections 49A.5
24 and 49A.6.

25 Sec. 5. NEW SECTION. 49A.5 INITIATION BY GOVERNING BODY.

26 1. If the governing body of a political subdivision
27 determines that it is economically and administratively
28 feasible to conduct an election by mail, the governing body,
29 by resolution, may request that the election be conducted
30 under the provisions of this chapter by filing the resolution
31 with the county commissioner not later than seventy days
32 before the date of the election.

33 2. The decision to conduct an election under the
34 provisions of this chapter is within the sole discretion of
35 the county commissioner.

1 3. Within five days after receiving a request, the county
2 commissioner shall respond in writing, stating that the
3 request is either granted or denied for reasons specified. If
4 granted, the county commissioner shall prepare a plan as
5 provided in section 49A.7.

6 Sec. 6. NEW SECTION. 49A.6 INITIATION BY COUNTY
7 COMMISSIONER -- OBJECTION.

8 1. Except as provided in subsection 3, even if no request
9 has been received from the governing body concerned, the
10 county commissioner may conduct any election authorized by
11 this chapter as a mail ballot election if the county
12 commissioner determines that would be the most economically
13 and administratively feasible way of conducting the election
14 in question.

15 2. If the county commissioner decides to conduct a mail
16 ballot election pursuant to subsection 1, the county
17 commissioner shall prepare a written plan as provided in
18 section 49A.7 and at least sixty days before the date set for
19 the election shall forward a copy to the governing body
20 concerned, together with a written statement informing it of
21 the decision to conduct the election by mail ballot and the
22 reasons for the decision.

23 3. The governing body, by resolution, may object to the
24 conduct of the election under this chapter. The resolution
25 shall include a statement of the reasons for the objection.
26 If the resolution is filed with the county commissioner not
27 later than fifty-five days prior to the date set for the
28 election, the election shall not be conducted under this
29 chapter.

30 Sec. 7. NEW SECTION. 49A.7 WRITTEN PLAN FOR CONDUCT OF
31 ELECTION -- AMENDMENTS -- APPROVAL PROCEDURE.

32 1. The county commissioner shall prepare a written plan,
33 including a timetable, for the conduct of a mail ballot
34 election and shall submit it to the state commissioner of
35 elections at least sixty days before the date set for the

1 election.

2 2. The plan may be amended by the county commissioner any
3 time before the thirty-fifth day before election day by
4 notifying the state commissioner of elections in writing of
5 any changes.

6 3. Within five days after receiving the plan, and as soon
7 as possible after receiving any amendments, the state
8 commissioner of elections shall approve, disapprove, or
9 recommend changes to the plan or amendments.

10 4. When the written plan has been approved, the county
11 commissioner shall proceed to conduct the election according
12 to the approved plan.

13 Sec. 8. NEW SECTION. 49A.8 PUBLICATION OF NOTICE.

14 The county commissioner shall, not more than ten days and
15 not less than four days before the date that ballots are to be
16 mailed, publish notice that a mail ballot election will be
17 conducted. The notice shall include:

- 18 1. The date ballots will be mailed.
- 19 2. The last day that an elector can request an absentee
20 ballot.
- 21 3. Voter registration deadlines.
- 22 4. Location or locations where mail ballots can be
23 deposited.
- 24 5. Instructions for obtaining a replacement ballot if an
25 elector's ballot is destroyed, spoiled, lost, or not received.
- 26 6. The full text of the question or questions being voted
27 on.

28 It is not necessary to publish a sample ballot.

29 Sec. 9. NEW SECTION. 49A.9 MAILING BALLOTS.

- 30 1. Official ballots shall be prepared and all other
31 initial procedures followed as otherwise provided by law.
- 32 2. The county commissioner of elections shall mail an
33 official ballot to every qualified elector of the political
34 subdivision conducting the election on one date not sooner
35 than the twentieth day before the date of the election and not

1 later than the tenth day before the date of the election. An
2 exception shall be made for those ballots delivered as
3 prescribed in section 49A.14.

4 3. All ballots shall be mailed by first class mail.

5 4. Ballot envelopes mailed by the commissioner shall be
6 addressed to the address of each elector appearing in the
7 registration records of the political subdivision, and placed
8 in an envelope which is prominently marked "Do Not Forward".

9 5. The ballot shall contain the following warning:

10 Any person who, by use of violence, threats of violence, or
11 any means of duress, procures the vote of an elector for or
12 against any issue is subject, upon conviction, to imprisonment
13 or to a fine, or both.

14 6. The return affidavit envelope shall have printed on it
15 an affidavit in substantially the following form:

16 VOTER'S DECLARATION OF ELIGIBILITY

17 I do solemnly swear or affirm that I am a resident of the
18 _____ precinct, ward, or township, city of _____
19 county of _____, Iowa.

20 I am a qualified elector. I have not voted and will not
21 vote any other official ballot for this election.

22 I understand that any false statement in this declaration
23 is a criminal offense punishable as provided by law.

24 DATE SIGNED: _____

25 _____

26 SIGNATURE OF VOTER

27 _____

28 ADDRESS

29 _____, IOWA _____

30 CITY ZIP CODE

31 _____

32 TELEPHONE

33 7. The return affidavit envelope in which the ballot is
34 enclosed shall be marked with a serial number. A record shall
35 be maintained of the serial numbers to verify that the elector

1 to whom the ballot is mailed is the elector who returns the
2 ballot.

3 Sec. 10. NEW SECTION. 49A.10 REGISTRATION.

4 The county commissioner shall not mail a ballot under this
5 chapter to any elector not registered thirty days before the
6 date of the election. Electors registered after thirty days
7 before the date of the election, but before the close of
8 registration, may apply for a ballot under section 49A.11.

9 Sec. 11. NEW SECTION. 49A.11 REPLACEMENT BALLOTS.

10 If the mail ballot is destroyed, spoiled, lost, or not
11 received by the elector, the elector may obtain a replacement
12 ballot from the commissioner as provided in this section. An
13 elector seeking a replacement ballot shall sign a statement,
14 on a form prescribed by the state commissioner, that the
15 ballot was destroyed, spoiled, lost, or not received. The
16 applicant or the applicant's designee shall deliver the
17 statement to the commissioner before noon on the date of the
18 election. The applicant may mail the statement to the
19 commissioner, except a commissioner shall not transmit a
20 ballot by mail under this section unless the application is
21 received prior to five p.m. on the fourth day before the
22 election. When an application is timely received under this
23 section, the commissioner shall deliver the ballot to the
24 elector if the elector is present in the office of the
25 commissioner, or promptly transmit the ballot by mail to the
26 elector at the address contained in the application, except
27 when prohibited by this section. When the elector is present
28 in the commissioner's office, the ballot shall be voted at
29 that time. The commissioner shall keep a record of each
30 replacement ballot provided under this section. If an
31 elector, having received and voted a replacement ballot as
32 provided under this section, later finds the lost ballot, the
33 elector shall return it to the commissioner.

34 Sec. 12. NEW SECTION. 49A.12 VOTING AND RETURN OF
35 BALLOT.

1 1. A qualified elector, upon receipt of a mail ballot,
2 shall mark the ballot in such a manner that no other person
3 will know how the ballot is marked and shall place it in a
4 secrecy envelope.

5 A qualified elector who is blind, cannot read, or because
6 of a physical disability is unable to mark the ballot, may be
7 assisted by any person selected by the qualified elector other
8 than the elector's employer or an agent of the elector's
9 employer or an officer or agent of the elector's union.

10 2. The elector shall then place the secrecy envelope
11 containing the ballot in a return affidavit envelope and sign
12 and securely seal the return affidavit envelope. The sealed
13 return affidavit envelope shall be returned to the
14 commissioner by one of the following methods:

15 a. The sealed return affidavit envelope may be delivered
16 by the qualified elector or the elector's designee to the
17 commissioner's office or a place designated by the
18 commissioner no later than five p.m. on election day.

19 b. The sealed return affidavit envelope may be mailed,
20 postage paid, to the commissioner. In order for the ballot to
21 be counted, the return affidavit envelope must be received no
22 later than five p.m. on election day. Before the election the
23 commissioner shall contact the post office serving the
24 commissioner's office and shall arrange for return affidavit
25 envelopes received in that post office by five p.m. on
26 election day to be delivered to the commissioner's office on
27 election day.

28 Sec. 13. NEW SECTION. 49A.13 ABSENTEE BALLOTS.

29 1. A qualified elector who will be absent from the
30 precinct during the time when the ballots are mailed may do
31 either of the following:

32 a. Vote in person in the county commissioner's office as
33 soon as ballots are available and until noon the day before
34 the ballots are scheduled to be mailed.

35 b. Make a written request, signed by the applicant and

1 addressed to the county commissioner, that the ballot be
2 mailed to an address other than that which appears on the
3 elector's registration record. Written requests shall be
4 accepted until noon the day before the ballots are schedule
5 to be mailed.

6 2. Ballots mailed to electors pursuant to this section
7 shall be mailed the same day that all other ballots are
8 mailed.

9 Sec. 14. NEW SECTION. 49A.14 RECEIPT OF BALLOT --
10 REGISTRATION VERIFICATION.

11 When the ballot is returned, the commissioner, or the
12 commissioner's designees, shall examine the affidavit and the
13 serial number on the return affidavit envelope to determine
14 whether the ballot has been returned by the person to whom the
15 ballot was sent and whether the voter has returned any other
16 ballots. The return affidavit envelopes shall not be opened
17 and shall be kept in a secure place until they are delivered
18 to the precinct election officials on election day.

3425

19 The commissioner or the commissioner's designees shall
20 maintain a separate file of unopened return affidavit
21 envelopes under the following circumstances:

22 1. If it appears that an elector has cast more than one
23 ballot.

24 2. If the name on the affidavit does not correspond with
25 the name listed under the serial number on the return
26 affidavit envelope.

27 3. If it appears that the affidavit is not complete.

28 4. If the elector is challenged pursuant to section
29 49A.16.

30 Sec. 15. NEW SECTION. 49A.15 COUNTING BALLOTS.

31 Ballots shall be counted by precinct election officials
32 selected from among the election boards of the jurisdiction
33 for which the election is being conducted in the manner
34 prescribed by section 53.23. The commissioner shall supervise
35 the procedures for the handling, counting, and canvassing of

1 ballots to ensure the safety and confidentiality of all
2 ballots properly cast.

3 Sec. 16. NEW SECTION. 49A.16 CHALLENGES.

4 Votes cast pursuant to this chapter can be challenged in
5 the manner prescribed by sections 49.79 through 49.81, as
6 applicable.

7 Sec. 17. NEW SECTION. 49A.17 CANVASS OF VOTES.

8 The provisions of chapter 50 relating to canvass of votes
9 apply to this chapter only to the extent they do not conflict
10 with the provisions of this chapter. Results shall be
11 reported without regard to the precinct from which they were
12 cast.

13 Sec. 18. NEW SECTION. 49A.18 OTHER LAWS.

14 All laws which apply to elections apply to mail ballot
15 elections held under this chapter to the extent applicable.

16 Sec. 19. NEW SECTION. 49A.19 RULES.

17 The state commissioner of elections shall adopt rules
18 pursuant to chapter 17A to govern the procedures and forms
19 necessary to implement this chapter. The authority of the
20 state commissioner to adopt rules under this chapter shall be
21 liberally construed.

22 Sec. 20. NEW SECTION. 49A.20 MISCONDUCT -- VIOLATIONS --
23 PENALTIES.

24 1. A person who, by use of violence, threats of violence,
25 or any means of duress, procures or endeavors to procure the
26 vote of an elector for or against any issue commits an
27 aggravated misdemeanor.

28 2. A person who violates or attempts to violate any
29 provision or requirement of this chapter, for which a penalty
30 is not otherwise provided, commits a simple misdemeanor.

31 Sec. 21. Section 39.3, Code 1991, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 15. "Mail ballot election" means an
34 election conducted pursuant to chapter 49A.

35 Sec. 22. Section 48.31, subsection 6, Code 1991, is

1 amended to read as follows:

2 6. When first-class mail, which is designated "not to be
3 forwarded", was addressed to the elector at the address shown
4 on the registration records and is returned by the postal
5 service, except when first-class mail is used in conducting a
6 mail ballot election.

7 Sec. 23. NEW SECTION. 422B.5 MAIL BALLOT LOCAL OPTION
8 TAX ELECTIONS.

9 Elections at which questions regarding local option taxes
10 will be submitted to the qualified electors may be conducted
11 by mail as provided by chapter 49A. All provisions of chapter
12 49A which are not in conflict with this section shall apply.

13 The county commissioner of elections shall have sole
14 discretion to initiate a mail ballot election. Objections
15 shall not be filed if the commissioner determines that it is
16 economically and administratively feasible to conduct a local
17 option tax election by mail.

18 The costs of local option tax elections conducted by mail
19 shall be divided among the jurisdictions voting on the tax.
20 The percentage of the cost of the election to be paid by the
21 jurisdiction shall be the same as the jurisdiction's
22 percentage of the qualified electors receiving ballots in the
23 election.

24 Sec. 24. PROSPECTIVE REPEAL. This Act is repealed
25 effective July 1, 1993. The Code editor shall return the
26 sections of this Act, which are not newly enacted, to the same
27 language, as nearly as possible, in effect prior to the
28 effective date of this Act.

29 EXPLANATION

30 This bill creates a new chapter 49A and establishes a
31 procedure for certain elections to be conducted primarily by
32 mailed ballots. To qualify for this method of election, the
33 election of a specified political subdivision (county, city,
34 school district, or benefited district) must be the only
35 election scheduled, must not involve candidates, must be

1 nonpartisan, and must be conducted pursuant to a plan proposed
2 by the county commissioner of elections (county auditor) and
3 approved by the state commissioner of elections (secretary of
4 state).

5 Provision is made for the governing body of the affected
6 political subdivision to reject the use of mail ballots for
7 the election as proposed by the county commissioner of
8 elections.

9 The bill prohibits county commissioners from purging
10 electors off voter registration lists if a mail ballot sent to
11 their address is returned as nonforwardable during the course
12 of a mail ballot election.

13 The bill takes effect July 1 following enactment. It would
14 be repealed effective July 1, 1993.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 422

H-3459

1 Amend Senate File 422, as passed by the Senate, as
2 follows:

3 1. Page 2, line 24, by inserting after the figure
4 "49A.6." the following: "However, if an entity other
5 than a political subdivision is responsible for the
6 payment of election costs, the proposal must be
7 approved by the entity."

By BLANSHAN of Greene

H-3459 FILED APRIL 2, 1991

FILE 4/15/91 (p 1242)

SENATE FILE 422

H-3438

1 Amend Senate File 422, as passed by the Senate, as
2 follows:

3 1. Page 8, line 16, by inserting after the word
4 "ballots." the following: "The commissioner shall
5 notify the voter that the ballot has been received."

By CARPENTER of Polk

H-3438 FILED APRIL 2, 1991

FILE 4/15/91 (p 1252)

GOVERNOR'S VETO MESSAGE

May 6, 1991

The Honorable Joseph Welsh
President of the Senate
State Capitol Building
L O C A L

Dear Mr. President:

Senate File 422, an act allowing certain elections to be conducted by mail ballots, providing penalties, and providing for the prospective repeal of the act, is hereby disapproved and transmitted to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

Senate File 422 establishes a procedure to allow certain ballot issue elections involving counties, cities, school districts, and benefited water districts to be conducted by mail ballot. The bill limits the situations in which an election could be conducted by mail ballot to those that are nonpartisan, do not involve the election of candidates, and those at which qualified voters of the political subdivision would not be voting at another election the same day. Despite its limited application, I believe the mail ballot elections procedure provided in this bill is unnecessary and increases the potential for voter fraud.

Individuals must exercise some responsibilities in a democracy. Currently, in this state there is little or no inconvenience associated with exercising the privilege to cast a vote. Registering to vote has become much easier, voting takes place in the neighborhoods, and absentee ballots provide great convenience to those unable to make it to the polls on election day. These provisions already offer great accommodations to Iowa voters. No evidence has been presented that voters are disenfranchised by the current process, therefore, I am not convinced of the need for this type of legislation.

While attempts were made to build in safeguards, the mail ballot election procedure provided in Senate File 422 would significantly increase the opportunity for voter fraud. All persons registered to vote would automatically receive a ballot by mail regardless of their intent or interest in voting in the election. The bill provides that additional ballots could be obtained by persons claiming the ballot previously mailed to them was destroyed, spoiled, lost or not received. The potential for abuse of the system, as well as an increased likelihood of non-valid ballots, recounts, and challenges of the votes cast, would seriously compromise the integrity of the election process.

For the above reasons, I hereby respectfully disapprove Senate File 422.

Sincerely,
TERRY E. BRANSTAD
Governor

GRONSTAL, AN.
RUNNING
NYSTROM

SSB 62
STATE GOVERNMENT

SENATE FILE 422
BY (PROPOSED SECRETARY OF STATE
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act allowing certain elections to be conducted by mail
2 ballots, providing penalties, and providing for the
3 prospective repeal of the Act.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. NEW SECTION. 49A.1 MAIL BALLOT ELECTIONS.

2 An election shall not be conducted under this chapter
3 unless all of the following apply:

4 1. The county commissioner responsible under section 47.2
5 for conducting the election authorizes the use of mail ballots
6 for the election.

7 2. The state commissioner of elections approves a written
8 plan for conduct of the election, which shall include a
9 written timetable for the conduct of the election, submitted
10 by the county commissioner.

11 3. The election is nonpartisan.

12 4. The election is not one at which any candidate is to be
13 elected or retained.

14 5. The election is not held on the same date as another
15 election in which qualified electors of that political
16 subdivision of government are eligible to cast ballots.

17 6. The election is a ballot issue election at which all of
18 the qualified electors of one of the following political
19 subdivisions of government are the only electors eligible to
20 vote:

21 a. Counties.

22 b. Cities.

23 c. School districts, except that an election held pursuant
24 to chapter 275 shall not be a mail ballot election.

25 d. Benefited districts provided in chapters 357 through
26 357E.

27 Sec. 2. NEW SECTION. 49A.2 DEFINITIONS.

28 As used in this chapter, unless the context otherwise
29 requires:

30 1. "Election day" is the date established by law on which
31 a particular election would be held if that election were
32 being conducted by means other than a mail ballot election.

33 2. "Mail ballot election" means an election that involves
34 ballot issues and is conducted in compliance with the
35 procedures specified in this chapter.

1 3. "Return affidavit envelope" means an envelope that
2 contains a secrecy envelope and which is designed to
3 accomplish both of the following:

4 a. Allow election officials, upon examination of the
5 outside of the envelope, to determine that the ballot is being
6 submitted by someone who is in fact a qualified elector and
7 who has not already voted.

8 b. Allow it to be used in the United States mail.

9 4. "Secrecy envelope" means an envelope used to contain
10 the elector's ballot and that is designed to conceal the
11 elector's vote and to prevent the elector's ballot from being
12 distinguished from the ballots of other electors.

13 Sec. 3. NEW SECTION. 49A.3 MAIL BALLOT ELECTION
14 PROCEDURE.

15 A mail ballot election shall be conducted substantially as
16 provided in this chapter. The state commissioner of elections
17 shall prescribe uniform procedures and forms to be used in the
18 conduct of mail ballot elections.

19 Sec. 4. NEW SECTION. 49A.4 INITIATING A MAIL BALLOT
20 ELECTION.

21 A proposal to conduct an election under this chapter may be
22 initiated by either the county commissioner of elections or
23 the appropriate governing body as provided in sections 49A.5
24 and 49A.6.

25 Sec. 5. NEW SECTION. 49A.5 INITIATION BY GOVERNING BODY.

26 1. If the governing body of a political subdivision
27 determines that it is economically and administratively
28 feasible to conduct an election by mail, the governing body,
29 by resolution, may request that the election be conducted
30 under the provisions of this chapter by filing the resolution
31 with the county commissioner not later than seventy days
32 before the date of the election.

33 2. The decision to conduct an election under the
34 provisions of this chapter is within the sole discretion of
35 the county commissioner.

1 3. Within five days after receiving a request, the county
2 commissioner shall respond in writing, stating that the
3 request is either granted or denied for reasons specified. If
4 granted, the county commissioner shall prepare a plan as
5 provided in section 49A.7.

6 Sec. 6. NEW SECTION. 49A.6 INITIATION BY COUNTY
7 COMMISSIONER -- OBJECTION.

8 1. Except as provided in subsection 3, even if no request
9 has been received from the governing body concerned, the
10 county commissioner may conduct any election authorized by
11 this chapter as a mail ballot election if the county
12 commissioner determines that would be the most economically
13 and administratively feasible way of conducting the election
14 in question.

15 2. If the county commissioner decides to conduct a mail
16 ballot election pursuant to subsection 1, the county
17 commissioner shall prepare a written plan as provided in
18 section 49A.7 and at least sixty days before the date set for
19 the election shall forward a copy to the governing body
20 concerned, together with a written statement informing it of
21 the decision to conduct the election by mail ballot and the
22 reasons for the decision.

23 3. The governing body, by resolution, may object to the
24 conduct of the election under this chapter. The resolution
25 shall include a statement of the reasons for the objection.
26 If the resolution is filed with the county commissioner not
27 later than fifty-five days prior to the date set for the
28 election, the election shall not be conducted under this
29 chapter.

30 Sec. 7. NEW SECTION. 49A.7 WRITTEN PLAN FOR CONDUCT OF
31 ELECTION -- AMENDMENTS -- APPROVAL PROCEDURE.

32 1. The county commissioner shall prepare a written plan,
33 including a timetable, for the conduct of a mail ballot
34 election and shall submit it to the state commissioner of
35 elections at least sixty days before the date set for the

1 election.

2 2. The plan may be amended by the county commissioner any
3 time before the thirty-fifth day before election day by
4 notifying the state commissioner of elections in writing of
5 any changes.

6 3. Within five days after receiving the plan, and as soon
7 as possible after receiving any amendments, the state
8 commissioner of elections shall approve, disapprove, or
9 recommend changes to the plan or amendments.

10 4. When the written plan has been approved, the county
11 commissioner shall proceed to conduct the election according
12 to the approved plan.

13 Sec. 8. NEW SECTION. 49A.8 PUBLICATION OF NOTICE.

14 The county commissioner shall, not more than ten days and
15 not less than four days before the date that ballots are to be
16 mailed, publish notice that a mail ballot election will be
17 conducted. The notice shall include:

18 1. The date ballots will be mailed.

19 2. The last day that an elector can request an absentee
20 ballot.

21 3. Voter registration deadlines.

22 4. Location or locations where mail ballots can be
23 deposited.

24 5. Instructions for obtaining a replacement ballot if an
25 elector's ballot is destroyed, spoiled, lost, or not received.

26 6. The full text of the question or questions being voted
27 on.

28 It is not necessary to publish a sample ballot.

29 Sec. 9. NEW SECTION. 49A.9 MAILING BALLOTS.

30 1. Official ballots shall be prepared and all other
31 initial procedures followed as otherwise provided by law.

32 2. The county commissioner of elections shall mail an
33 official ballot to every qualified elector of the political
34 subdivision conducting the election on one date not sooner
35 than the twentieth day before the date of the election and not

1 later than the tenth day before the date of the election. An
2 exception shall be made for those ballots delivered as
3 prescribed in section 49A.14.

4 3. All ballots shall be mailed by first class mail.

5 4. Ballot envelopes mailed by the commissioner shall be
6 addressed to the address of each elector appearing in the
7 registration records of the political subdivision, and placed
8 in an envelope which is prominently marked "Do Not Forward".

9 5. The ballot shall contain the following warning:

10 Any person who, by use of violence, threats of violence, or
11 any means of duress, procures the vote of an elector for or
12 against any issue is subject, upon conviction, to imprisonment
13 or to a fine, or both.

14 6. The return affidavit envelope shall have printed on it
15 an affidavit in substantially the following form:

16 VOTER'S DECLARATION OF ELIGIBILITY

17 I do solemnly swear or affirm that I am a resident of the
18 _____ precinct, ward, or township, city of _____,
19 county of _____, Iowa.

20 I am a qualified elector. I have not voted and will not
21 vote any other official ballot for this election.

22 I understand that any false statement in this declaration
23 is a criminal offense punishable as provided by law.

24 DATE SIGNED: _____

25 _____

26 SIGNATURE OF VOTER

27 _____

28 ADDRESS

29 _____, IOWA _____

30 CITY ZIP CODE

31 _____

32 TELEPHONE

33 7. The return affidavit envelope in which the ballot is
34 enclosed shall be marked with a serial number. A record shall
35 be maintained of the serial numbers to verify that the elector

1 to whom the ballot is mailed is the elector who returns the
2 ballot.

3 Sec. 10. NEW SECTION. 49A.10 REGISTRATION.

4 The county commissioner shall not mail a ballot under this
5 chapter to any elector not registered thirty days before the
6 date of the election. Electors registered after thirty days
7 before the date of the election, but before the close of
8 registration, may apply for a ballot under section 49A.11.

9 Sec. 11. NEW SECTION. 49A.11 REPLACEMENT BALLOTS.

10 If the mail ballot is destroyed, spoiled, lost, or not
11 received by the elector, the elector may obtain a replacement
12 ballot from the commissioner as provided in this section. An
13 elector seeking a replacement ballot shall sign a statement,
14 on a form prescribed by the state commissioner, that the
15 ballot was destroyed, spoiled, lost, or not received. The
16 applicant or the applicant's designee shall deliver the
17 statement to the commissioner before noon on the date of the
18 election. The applicant may mail the statement to the
19 commissioner, except a commissioner shall not transmit a
20 ballot by mail under this section unless the application is
21 received prior to five p.m. on the fourth day before the
22 election. When an application is timely received under this
23 section, the commissioner shall deliver the ballot to the
24 elector if the elector is present in the office of the
25 commissioner, or promptly transmit the ballot by mail to the
26 elector at the address contained in the application, except
27 when prohibited by this section. When the elector is present
28 in the commissioner's office, the ballot shall be voted at
29 that time. The commissioner shall keep a record of each
30 replacement ballot provided under this section. If an
31 elector, having received and voted a replacement ballot as
32 provided under this section, later finds the lost ballot, the
33 elector shall return it to the commissioner.

34 Sec. 12. NEW SECTION. 49A.12 VOTING AND RETURN OF
35 BALLOT.

1 1. A qualified elector, upon receipt of a mail ballot,
2 shall mark the ballot in such a manner that no other person
3 will know how the ballot is marked and shall place it in a
4 secrecy envelope.

5 A qualified elector who is blind, cannot read, or because
6 of a physical disability is unable to mark the ballot, may be
7 assisted by any person selected by the qualified elector other
8 than the elector's employer or an agent of the elector's
9 employer or an officer or agent of the elector's union.

10 2. The elector shall then place the secrecy envelope
11 containing the ballot in a return affidavit envelope and sign
12 and securely seal the return affidavit envelope. The sealed
13 return affidavit envelope shall be returned to the
14 commissioner by one of the following methods:

15 a. The sealed return affidavit envelope may be delivered
16 by the qualified elector or the elector's designee to the
17 commissioner's office or a place designated by the
18 commissioner no later than five p.m. on election day.

19 b. The sealed return affidavit envelope may be mailed,
20 postage paid, to the commissioner. In order for the ballot to
21 be counted, the return affidavit envelope must be received no
22 later than five p.m. on election day. Before the election the
23 commissioner shall contact the post office serving the
24 commissioner's office and shall arrange for return affidavit
25 envelopes received in that post office by five p.m. on
26 election day to be delivered to the commissioner's office on
27 election day.

28 Sec. 13. NEW SECTION. 49A.13 ABSENTEE BALLOTS.

29 1. A qualified elector who will be absent from the
30 precinct during the time when the ballots are mailed may do
31 either of the following:

32 a. Vote in person in the county commissioner's office as
33 soon as ballots are available and until noon the day before
34 the ballots are scheduled to be mailed.

35 b. Make a written request, signed by the applicant and

1 addressed to the county commissioner, that the ballot be
2 mailed to an address other than that which appears on the
3 elector's registration record. Written requests shall be
4 accepted until noon the day before the ballots are scheduled
5 to be mailed.

6 2. Ballots mailed to electors pursuant to this section
7 shall be mailed the same day that all other ballots are
8 mailed.

9 Sec. 14. NEW SECTION. 49A.14 RECEIPT OF BALLOT --
10 REGISTRATION VERIFICATION.

11 When the ballot is returned, the commissioner, or the
12 commissioner's designees, shall examine the affidavit and the
13 serial number on the return affidavit envelope to determine
14 whether the ballot has been returned by the person to whom the
15 ballot was sent and whether the voter has returned any other
16 ballots. The return affidavit envelopes shall not be opened
17 and shall be kept in a secure place until they are delivered
18 to the precinct election officials on election day.

19 The commissioner or the commissioner's designees shall
20 maintain a separate file of unopened return affidavit
21 envelopes under the following circumstances:

22 1. If it appears that an elector has cast more than one
23 ballot.

24 2. If the name on the affidavit does not correspond with
25 the name listed under the serial number on the return
26 affidavit envelope.

27 3. If it appears that the affidavit is not complete.

28 4. If the elector is challenged pursuant to section
29 49A.16.

30 Sec. 15. NEW SECTION. 49A.15 COUNTING BALLOTS.

31 Ballots shall be counted by precinct election officials
32 selected from among the election boards of the jurisdiction
33 for which the election is being conducted in the manner
34 prescribed by section 53.23. The commissioner shall supervise
35 the procedures for the handling, counting, and canvassing of

1 ballots to ensure the safety and confidentiality of all
2 ballots properly cast.

3 Sec. 16. NEW SECTION. 49A.16 CHALLENGES.

4 Votes cast pursuant to this chapter can be challenged in
5 the manner prescribed by sections 49.79 through 49.81, as
6 applicable.

7 Sec. 17. NEW SECTION. 49A.17 CANVASS OF VOTES.

8 The provisions of chapter 50 relating to canvass of votes
9 apply to this chapter only to the extent they do not conflict
10 with the provisions of this chapter. Results shall be
11 reported without regard to the precinct from which they were
12 cast.

13 Sec. 18. NEW SECTION. 49A.18 OTHER LAWS.

14 All laws which apply to elections apply to mail ballot
15 elections held under this chapter to the extent applicable.

16 Sec. 19. NEW SECTION. 49A.19 RULES.

17 The state commissioner of elections shall adopt rules
18 pursuant to chapter 17A to govern the procedures and forms
19 necessary to implement this chapter. The authority of the
20 state commissioner to adopt rules under this chapter shall be
21 liberally construed.

22 Sec. 20. NEW SECTION. 49A.20 MISCONDUCT -- VIOLATIONS --
23 PENALTIES.

24 1. A person who, by use of violence, threats of violence,
25 or any means of duress, procures or endeavors to procure the
26 vote of an elector for or against any issue commits an
27 aggravated misdemeanor.

28 2. A person who violates or attempts to violate any
29 provision or requirement of this chapter, for which a penalty
30 is not otherwise provided, commits a simple misdemeanor.

31 Sec. 21. Section 39.3, Code 1991, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 15. "Mail ballot election" means an
34 election conducted pursuant to chapter 49A.

35 Sec. 22. Section 48.31, subsection 6, Code 1991, is

1 amended to read as follows:

2 6. When first-class mail, which is designated "not to be
3 forwarded", was addressed to the elector at the address shown
4 on the registration records and is returned by, the postal
5 service, except when first-class mail is used in conducting a
6 mail ballot election.

7 Sec. 23. NEW SECTION. 422B.5 MAIL BALLOT LOCAL OPTION
8 TAX ELECTIONS.

9 Elections at which questions regarding local option taxes
10 will be submitted to the qualified electors may be conducted
11 by mail as provided by chapter 49A. All provisions of chapter
12 49A which are not in conflict with this section shall apply.

13 The county commissioner of elections shall have sole
14 discretion to initiate a mail ballot election. Objections
15 shall not be filed if the commissioner determines that it is
16 economically and administratively feasible to conduct a local
17 option tax election by mail.

18 The costs of local option tax elections conducted by mail
19 shall be divided among the jurisdictions voting on the tax.
20 The percentage of the cost of the election to be paid by the
21 jurisdiction shall be the same as the jurisdiction's
22 percentage of the qualified electors receiving ballots in the
23 election.

24 Sec. 24. PROSPECTIVE REPEAL. This Act is repealed
25 effective July 1, 1993. The Code editor shall return the
26 sections of this Act, which are not newly enacted, to the same
27 language, as nearly as possible, in effect prior to the
28 effective date of this Act.

29 EXPLANATION

30 This bill creates a new chapter 49A and establishes a
31 procedure for certain elections to be conducted primarily by
32 mailed ballots. To qualify for this method of election, the
33 election of a specified political subdivision (county, city,
34 school district, or benefited district) must be the only
35 election scheduled, must not involve candidates, must be

1 nonpartisan, and must be conducted pursuant to a plan proposed
2 by the county commissioner of elections (county auditor) and
3 approved by the state commissioner of elections (secretary of
4 state).

5 Provision is made for the governing body of the affected
6 political subdivision to reject the use of mail ballots for
7 the election as proposed by the county commissioner of
8 elections.

9 The bill prohibits county commissioners from purging
10 electors off voter registration lists if a mail ballot sent to
11 their address is returned as nonforwardable during the course
12 of a mail ballot election.

13 The bill takes effect July 1 following enactment. It would
14 be repealed effective July 1, 1993.

15 BACKGROUND STATEMENT

16 SUBMITTED BY THE AGENCY

17 This bill is modeled after laws of other states, primarily
18 Kansas and Montana. It is intended to provide county
19 commissioners of elections with an alternative means of
20 conducting nonpartisan, noncandidate elections. Mail ballot
21 elections have been used in a number of states and have proven
22 effective in decreasing the cost of elections while increasing
23 voter participation. Mail ballot elections have proven to be
24 popular with both voters and election officials in these
25 states.

26 This bill provides for a two-year test period in Iowa.
27 Unless action is taken by the legislature, the measure will
28 automatically be repealed July 1, 1993. However, the
29 experience in other states indicates that the sunset provision
30 is repealed before expiration of the law.

31 This bill allows the county commissioner of elections the
32 authority to determine when and if a mail ballot election will
33 be used. However, mail ballot elections cannot be called when
34 any candidate for any office is on the ballot. The governing
35 body of the affected political subdivision may reject the

1 county commissioner's proposal for the use of mail ballots.

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

Vetred

Senate File 422, p. 2

SENATE FILE 422

AN ACT

ALLOWING CERTAIN ELECTIONS TO BE CONDUCTED BY MAIL BALLOTS,
PROVIDING PENALTIES, AND PROVIDING FOR THE PROSPECTIVE
REPEAL OF THE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 49A.1 MAIL BALLOT ELECTIONS.

An election shall not be conducted under this chapter
unless all of the following apply:

1. The county commissioner responsible under section 47.2
for conducting the election authorizes the use of mail ballots
for the election.
2. The state commissioner of elections approves a written
plan for conduct of the election, which shall include a
written timetable for the conduct of the election, submitted
by the county commissioner.
3. The election is nonpartisan.

4. The election is not one at which any candidate is to be
elected or retained.

5. The election is not held on the same date as another
election in which qualified electors of that political
subdivision of government are eligible to cast ballots.

6. The election is a ballot issue election at which all of
the qualified electors of one of the following political
subdivisions of government are the only electors eligible to
vote:

- a. Counties.
- b. Cities.
- c. School districts, except that an election held pursuant
to chapter 275 shall not be a mail ballot election.
- d. Benefited districts provided in chapters 357 through
357E.

Sec. 2. NEW SECTION. 49A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise
requires:

1. "Election day" is the date established by law on which
a particular election would be held if that election were
being conducted by means other than a mail ballot election.
2. "Mail ballot election" means an election that involves
ballot issues and is conducted in compliance with the
procedures specified in this chapter.
3. "Return affidavit envelope" means an envelope that
contains a secrecy envelope and which is designed to
accomplish both of the following:
 - a. Allow election officials, upon examination of the
outside of the envelope, to determine that the ballot is being
submitted by someone who is in fact a qualified elector and
who has not already voted.
 - b. Allow it to be used in the United States mail.
4. "Secrecy envelope" means an envelope used to contain
the elector's ballot and that is designed to conceal the
elector's vote and to prevent the elector's ballot from being
distinguished from the ballots of other electors.

SF 422

Sec. 3. NEW SECTION. 49A.3 MAIL BALLOT ELECTION PROCEDURE.

A mail ballot election shall be conducted substantially as provided in this chapter. The state commissioner of elections shall prescribe uniform procedures and forms to be used in the conduct of mail ballot elections.

Sec. 4. NEW SECTION. 49A.4 INITIATING A MAIL BALLOT ELECTION.

A proposal to conduct an election under this chapter may be initiated by either the county commissioner of elections or the appropriate governing body as provided in sections 49A.5 and 49A.6.

Sec. 5. NEW SECTION. 49A.5 INITIATION BY GOVERNING BODY.

1. If the governing body of a political subdivision determines that it is economically and administratively feasible to conduct an election by mail, the governing body, by resolution, may request that the election be conducted under the provisions of this chapter by filing the resolution with the county commissioner not later than seventy days before the date of the election.

2. The decision to conduct an election under the provisions of this chapter is within the sole discretion of the county commissioner.

3. Within five days after receiving a request, the county commissioner shall respond in writing, stating that the request is either granted or denied for reasons specified. If granted, the county commissioner shall prepare a plan as provided in section 49A.7.

Sec. 6. NEW SECTION. 49A.6 INITIATION BY COUNTY COMMISSIONER -- OBJECTION.

1. Except as provided in subsection 3, even if no request has been received from the governing body concerned, the county commissioner may conduct any election authorized by this chapter as a mail ballot election if the county commissioner determines that would be the most economically and administratively feasible way of conducting the election in question.

2. If the county commissioner decides to conduct a mail ballot election pursuant to subsection 1, the county commissioner shall prepare a written plan as provided in section 49A.7 and at least sixty days before the date set for the election shall forward a copy to the governing body concerned, together with a written statement informing it of the decision to conduct the election by mail ballot and the reasons for the decision.

3. The governing body, by resolution, may object to the conduct of the election under this chapter. The resolution shall include a statement of the reasons for the objection. If the resolution is filed with the county commissioner not later than fifty-five days prior to the date set for the election, the election shall not be conducted under this chapter.

Sec. 7. NEW SECTION. 49A.7 WRITTEN PLAN FOR CONDUCT OF ELECTION -- AMENDMENTS -- APPROVAL PROCEDURE.

1. The county commissioner shall prepare a written plan, including a timetable, for the conduct of a mail ballot election and shall submit it to the state commissioner of elections at least sixty days before the date set for the election.

2. The plan may be amended by the county commissioner any time before the thirty-fifth day before election day by notifying the state commissioner of elections in writing of any changes.

3. Within five days after receiving the plan, and as soon as possible after receiving any amendments, the state commissioner of elections shall approve, disapprove, or recommend changes to the plan or amendments.

4. When the written plan has been approved, the county commissioner shall proceed to conduct the election according to the approved plan.

Sec. 8. NEW SECTION. 49A.8 PUBLICATION OF NOTICE.

The county commissioner shall, not more than ten days and not less than four days before the date that ballots are to be

mailed, publish notice that a mail ballot election will be conducted. The notice shall include:

1. The date ballots will be mailed.
2. The last day that an elector can request an absentee ballot.
3. Voter registration deadlines.
4. Location or locations where mail ballots can be deposited.
5. Instructions for obtaining a replacement ballot if an elector's ballot is destroyed, spoiled, lost, or not received.
6. The full text of the question or questions being voted on.

It is not necessary to publish a sample ballot.

Sec. 9. NEW SECTION. 49A.9 MAILING BALLOTS.

1. Official ballots shall be prepared and all other initial procedures followed as otherwise provided by law.
2. The county commissioner of elections shall mail an official ballot to every qualified elector of the political subdivision conducting the election on one date not sooner than the twentieth day before the date of the election and not later than the tenth day before the date of the election. An exception shall be made for those ballots delivered as prescribed in section 49A.14.
3. All ballots shall be mailed by first class mail.
4. Ballot envelopes mailed by the commissioner shall be addressed to the address of each elector appearing in the registration records of the political subdivision, and placed in an envelope which is prominently marked "Do Not Forward".
5. The ballot shall contain the following warning:
Any person who, by use of violence, threats of violence, or any means of duress, procures the vote of an elector for or against any issue is subject, upon conviction, to imprisonment or to a fine, or both.
6. The return affidavit envelope shall have printed on it an affidavit in substantially the following form:

VOTER'S DECLARATION OF ELIGIBILITY

I do solemnly swear or affirm that I am a resident of the _____ precinct, ward, or township, city of _____, county of _____, Iowa.

I am a qualified elector. I have not voted and will not vote any other official ballot for this election.

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

DATE SIGNED: _____

SIGNATURE OF VOTER _____

ADDRESS _____

_____, IOWA _____

CITY ZIP CODE

TELEPHONE _____

7. The return affidavit envelope in which the ballot is enclosed shall be marked with a serial number. A record shall be maintained of the serial numbers to verify that the elector to whom the ballot is mailed is the elector who returns the ballot.

Sec. 10. NEW SECTION. 49A.10 REGISTRATION.

The county commissioner shall not mail a ballot under this chapter to any elector not registered thirty days before the date of the election. Electors registered after thirty days before the date of the election, but before the close of registration, may apply for a ballot under section 49A.11.

Sec. 11. NEW SECTION. 49A.11 REPLACEMENT BALLOTS.

If the mail ballot is destroyed, spoiled, lost, or not received by the elector, the elector may obtain a replacement ballot from the commissioner as provided in this section. An elector seeking a replacement ballot shall sign a statement, on a form prescribed by the state commissioner, that the ballot was destroyed, spoiled, lost, or not received. The applicant or the applicant's designee shall deliver the statement to the commissioner before noon on the date of the

election. The applicant may mail the statement to the commissioner, except a commissioner shall not transmit a ballot by mail under this section unless the application is received prior to five p.m. on the fourth day before the election. When an application is timely received under this section, the commissioner shall deliver the ballot to the elector if the elector is present in the office of the commissioner, or promptly transmit the ballot by mail to the elector at the address contained in the application, except when prohibited by this section. When the elector is present in the commissioner's office, the ballot shall be voted at that time. The commissioner shall keep a record of each replacement ballot provided under this section. If an elector, having received and voted a replacement ballot as provided under this section, later finds the lost ballot, the elector shall return it to the commissioner.

Sec. 12. NEW SECTION. 49A.12 VOTING AND RETURN OF BALLOT.

1. A qualified elector, upon receipt of a mail ballot, shall mark the ballot in such a manner that no other person will know how the ballot is marked and shall place it in a secrecy envelope.

A qualified elector who is blind, cannot read, or because of a physical disability is unable to mark the ballot, may be assisted by any person selected by the qualified elector other than the elector's employer or an agent of the elector's employer or an officer or agent of the elector's union.

2. The elector shall then place the secrecy envelope containing the ballot in a return affidavit envelope and sign and securely seal the return affidavit envelope. The sealed return affidavit envelope shall be returned to the commissioner by one of the following methods:

a. The sealed return affidavit envelope may be delivered by the qualified elector or the elector's designee to the commissioner's office or a place designated by the commissioner no later than five p.m. on election day.

b. The sealed return affidavit envelope may be mailed, postage paid, to the commissioner. In order for the ballot to be counted, the return affidavit envelope must be received no later than five p.m. on election day. Before the election the commissioner shall contact the post office serving the commissioner's office and shall arrange for return affidavit envelopes received in that post office by five p.m. on election day to be delivered to the commissioner's office on election day.

Sec. 13. NEW SECTION. 49A.13 ABSENTEE BALLOTS.

1. A qualified elector who will be absent from the precinct during the time when the ballots are mailed may do either of the following:

a. Vote in person in the county commissioner's office as soon as ballots are available and until noon the day before the ballots are scheduled to be mailed.

b. Make a written request, signed by the applicant and addressed to the county commissioner, that the ballot be mailed to an address other than that which appears on the elector's registration record. Written requests shall be accepted until noon the day before the ballots are scheduled to be mailed.

2. Ballots mailed to electors pursuant to this section shall be mailed the same day that all other ballots are mailed.

Sec. 14. NEW SECTION. 49A.14 RECEIPT OF BALLOT -- REGISTRATION VERIFICATION.

When the ballot is returned, the commissioner, or the commissioner's designees, shall examine the affidavit and the serial number on the return affidavit envelope to determine whether the ballot has been returned by the person to whom the ballot was sent and whether the voter has returned any other ballots. The return affidavit envelopes shall not be opened and shall be kept in a secure place until they are delivered to the precinct election officials on election day.

The commissioner or the commissioner's designees shall maintain a separate file of unopened return affidavit envelopes under the following circumstances:

1. If it appears that an elector has cast more than one ballot.
2. If the name on the affidavit does not correspond with the name listed under the serial number on the return affidavit envelope.
3. If it appears that the affidavit is not complete.
4. If the elector is challenged pursuant to section 49A.16.

Sec. 15. NEW SECTION. 49A.15 COUNTING BALLOTS.

Ballots shall be counted by precinct election officials selected from among the election boards of the jurisdiction for which the election is being conducted in the manner prescribed by section 53.23. The commissioner shall supervise the procedures for the handling, counting, and canvassing of ballots to ensure the safety and confidentiality of all ballots properly cast.

Sec. 16. NEW SECTION. 49A.16 CHALLENGES.

Votes cast pursuant to this chapter can be challenged in the manner prescribed by sections 49.79 through 49.81, as applicable.

Sec. 17. NEW SECTION. 49A.17 CANVASS OF VOTES.

The provisions of chapter 50 relating to canvass of votes apply to this chapter only to the extent they do not conflict with the provisions of this chapter. Results shall be reported without regard to the precinct from which they were cast.

Sec. 18. NEW SECTION. 49A.18 OTHER LAWS.

All laws which apply to elections apply to mail ballot elections held under this chapter to the extent applicable.

Sec. 19. NEW SECTION. 49A.19 RULES.

The state commissioner of elections shall adopt rules pursuant to chapter 17A to govern the procedures and forms necessary to implement this chapter. The authority of the

state commissioner to adopt rules under this chapter shall be liberally construed.

Sec. 20. NEW SECTION. 49A.20 MISCONDUCT -- VIOLATIONS -- PENALTIES.

1. A person who, by use of violence, threats of violence, or any means of duress, procures or endeavors to procure the vote of an elector for or against any issue commits an aggravated misdemeanor.

2. A person who violates or attempts to violate any provision or requirement of this chapter, for which a penalty is not otherwise provided, commits a simple misdemeanor.

Sec. 21. Section 39.3, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 15. "Mail ballot election" means an election conducted pursuant to chapter 49A.

Sec. 22. Section 48.31, subsection 6, Code 1991, is amended to read as follows:

6. 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, except when first-class mail is used in conducting a mail ballot election.

Sec. 23. NEW SECTION. 422B.5 MAIL BALLOT LOCAL OPTION TAX ELECTIONS.

Elections at which questions regarding local option taxes will be submitted to the qualified electors may be conducted by mail as provided by chapter 49A. All provisions of chapter 49A which are not in conflict with this section shall apply.

The county commissioner of elections shall have sole discretion to initiate a mail ballot election. Objections shall not be filed if the commissioner determines that it is economically and administratively feasible to conduct a local option tax election by mail.

The costs of local option tax elections conducted by mail shall be divided among the jurisdictions voting on the tax. The percentage of the cost of the election to be paid by the

jurisdiction shall be the same as the jurisdiction's percentage of the qualified electors receiving ballots in the election.

Sec. 24. PROSPECTIVE REPEAL. This Act is repealed effective July 1, 1993. The Code editor shall return the sections of this Act, which are not newly enacted, to the same language, as nearly as possible, in effect prior to the effective date of this Act.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 422, Seventy-fourth General Assembly.

VETOED
~~Approved~~ 5/6/91, 1991

JOHN F. DWYER
Secretary of the Senate

TERRY E. BRANSTAD
Governor