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SENATE FILE 376
BY HALVORSON and NEURHAUSER

(COMPANION TO LSB 2506HH
BY CHIODO)

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 ballots
2 and providing penalties.

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

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S.F. 376

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

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

4 1. The use of mail ballots for the election is authorized
5 pursuant to section 49B.5 or section 49B.6.

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

10 3. The election is nonpartisan.

11 4. The election is not held on the same date as another
12 election in which registered voters of that political
13 subdivision are eligible to cast ballots.

14 5. The election is one at which only the registered voters
15 of one of the following political subdivisions are eligible to
16 vote:

17 a. Counties.

18 b. Cities.

19 c. School districts.

20 d. Merged areas.

21 e. Benefited districts provided in chapters 357 through
22 357G.

23 Sec. 2. NEW SECTION. 49B.2 DEFINITIONS.

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

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

29 2. "Return verification envelope" means an envelope that
30 contains a secrecy envelope and which is designed to allow
31 election officials, upon examination of the outside of the
32 envelope, to determine that the ballot is being submitted by
33 someone who is in fact a registered voter and who has not
34 already voted.

35 3. "Secrecy envelope" means an envelope used to contain

1 the elector's ballot and that is designed to conceal the
2 voter's vote and to prevent the voter's ballot from being
3 distinguished from the ballots of other voters.

4 Sec. 3. NEW SECTION. 49B.3 MAIL BALLOT ELECTION
5 PROCEDURE.

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

10 Sec. 4. NEW SECTION. 49B.4 INITIATING A MAIL BALLOT
11 ELECTION.

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

16 Sec. 5. NEW SECTION. 49B.5 INITIATION BY GOVERNING BODY.

17 1. If the governing body of a political subdivision
18 determines that it is economically and administratively
19 feasible to conduct an election by mail and the election meets
20 the requirements of section 49B.1, the governing body, by
21 resolution, may require the county commissioner of elections
22 to conduct the election under this chapter by filing the
23 resolution with the county commissioner not later than seventy
24 days before the date of the election.

25 2. After the resolution is filed, the county commissioner
26 shall prepare a written plan for conduct of the election as
27 provided in section 49B.7. At least sixty days prior to the
28 date set for the election, the county commissioner shall
29 forward a copy of the written plan to the governing body
30 concerned.

31 Sec. 6. NEW SECTION. 49B.6 INITIATION BY COUNTY
32 COMMISSIONER.

33 1. The county commissioner may conduct an election which
34 meets the requirements of section 49B.1 as a mail ballot
election if the county commissioner determines it would be the

1 most economically and administratively feasible way of
2 conducting the election.

3 2. If the county commissioner decides to conduct a mail
4 ballot election pursuant to subsection 1, the county
5 commissioner shall prepare a written plan for conduct of the
6 election as provided in section 49B.7. At least sixty days
7 prior to the date set for the election, the county
8 commissioner shall forward a copy of the written plan to the
9 governing body concerned, together with a written statement
10 informing the governing body of the decision to conduct the
11 election by mail ballot and the reasons for the decision.

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

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

18 2. The plan may be amended by the county commissioner any
19 time before the fifty-fifth day before the date of the
20 election by notifying the state commissioner of elections in
21 writing of any changes.

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

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

29 Sec. 8. NEW SECTION. 49B.8 PUBLICATION OF NOTICE.

30 The county commissioner shall, not more than ten days and
31 not less than four days before the date that ballots are to be
32 mailed, publish notice that a mail ballot election will be
33 conducted. The notice shall include all of the following
34 information:

35 1. The date ballots will be mailed.

1 2. The last day that a voter can request an absentee
2 ballot.

3 3. Voter registration deadlines.

4 4. Location or locations where mail ballots can be
5 deposited pursuant to section 49B.15.

6 5. Instructions for obtaining a replacement ballot if a
7 voter's ballot is destroyed, spoiled, lost, or not received
8 pursuant to section 49B.11.

9 The county commissioner is not required to publish a sample
10 ballot.

11 Sec. 9. NEW SECTION. 49B.9 MAILING BALLOTS.

12 1. Official ballots for a mail ballot election shall be
13 prepared and all other initial procedures for elections shall
14 be followed as otherwise provided by law.

15 2. The county commissioner of elections shall mail an
16 official ballot to every registered voter of the political
17 subdivision conducting the election on a date not sooner than
18 the twentieth day before the date of the election and not
19 later than the tenth day before the date of the election. An
20 exception shall be made for those ballots delivered as
21 prescribed in section 49B.14.

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

23 4. Ballots mailed by the county commissioner shall be
24 addressed to the address of each voter appearing in the
25 registration records of the political subdivision, and placed
26 in an envelope which is prominently marked "Do Not Forward".

27 5. The ballot shall contain the following warning:

28 "Any person who, by use of violence, threats of violence,
29 or any means of duress, procures the vote of a voter for or
30 against any measure or candidate is subject, upon conviction,
31 to imprisonment or to a fine, or both."

32 Sec. 10. NEW SECTION. 49B.10 REGISTRATION.

33 The county commissioner shall not mail a ballot under this
34 chapter to any voter not registered thirty days before the
35 date of the election. Voters registered after thirty days

1 prior to the date of the election, but prior to the close of
2 registration, may apply for a ballot under section 49B.11.

3 Sec. 11. NEW SECTION. 49B.11 REPLACEMENT BALLOTS.

4 If the mail ballot is destroyed, spoiled, lost, or not
5 received by the voter, the voter may obtain a replacement
6 ballot from the county commissioner as provided in this
7 section. A voter seeking a replacement ballot shall sign a
8 statement, on a form prescribed by the state commissioner,
9 that the ballot was destroyed, spoiled, lost, or not received.
10 The voter or the voter's designee shall deliver the statement
11 to the county commissioner before noon on the date of the
12 election. The voter may mail the statement to the county
13 commissioner. However, a county commissioner shall not
14 transmit a ballot by mail under this section unless the
15 statement is received before five p.m. on the fourth day
16 before the date of the election. When a statement is timely
17 received under this section, the county commissioner shall
18 give the ballot to the voter if the voter is present in the
19 office of the county commissioner, or promptly mail the ballot
20 to the voter at the address contained in the statement, except
21 when prohibited by this section. If the voter is present in
22 the county commissioner's office, the ballot shall be voted at
23 that time. The county commissioner shall keep a record of
24 each replacement ballot provided under this section. If a
25 voter, having received and voted a replacement ballot as
26 provided under this section, later finds the lost ballot, the
27 voter shall return the lost ballot to the county commissioner.

28 Sec. 12. NEW SECTION. 49B.12 VOTING AND RETURN OF
29 BALLOT.

30 1. A registered voter, upon receipt of a mail ballot,
31 shall mark the ballot in such a manner that no other person
32 will know how the ballot is marked and shall place it in the
33 secrecy envelope provided with the ballot and shall securely
34 seal the secrecy envelope.

35 A voter who is blind, cannot read, or because of a physical

1 disability is unable to mark the ballot, may be assisted by
2 any person selected by the voter.

3 2. The voter shall then place the secrecy envelope
4 containing the ballot in the return verification envelope and
5 sign and securely seal the return verification envelope. The
6 sealed return verification envelope shall be returned to the
7 county commissioner by one of the following methods:

8 a. The sealed return verification envelope may be
9 delivered by the registered voter or the voter's designee to
10 the county commissioner's office or a place designated by the
11 commissioner no later than the time the polls close on
12 election day.

13 b. The sealed return verification envelope may be mailed,
14 postage paid, to the county commissioner. In order for the
15 ballot to be counted, the return verification envelope must be
16 clearly postmarked by an officially authorized postal service
17 not later than the day before the election and received by the
18 county commissioner not later than the time established for
19 the canvass by the board of supervisors for that election.
20 The county commissioner shall contact the post office serving
21 the county commissioner's office at the latest practical hour
22 prior to the canvass by the board of supervisors for that
23 election, and shall arrange for return verification envelopes
24 received in that post office but not yet delivered to the
25 commissioner's office to be brought to the commissioner's
26 office prior to the canvass for that election by the board of
27 supervisors.

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

29 1. A registered voter who will be absent from the precinct
30 during the time when the ballots are mailed may do either of
31 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 voter and

1 addressed to the county commissioner, that the ballot be
2 mailed to an address other than that which appears on the
3 voter'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 voters pursuant to this section shall
7 be mailed the same day that all other ballots are mailed.

8 Sec. 14. NEW SECTION. 49B.14 BALLOTING BY CONFINED
9 PERSONS.

10 A person who is a resident or patient in a health care
11 facility or hospital located in the county in which the
12 election is to be held shall not be mailed a ballot but shall
13 have a ballot delivered in the manner prescribed by section
14 53.22, subsection 1.

15 Sec. 15. NEW SECTION. 49B.15 PERSONAL DELIVERY OF MAIL
16 BALLOT -- SATELLITE VOTING STATIONS.

17 Satellite voting stations for the deposit of mail ballots
18 shall be established throughout the cities and county at the
19 direction of the county commissioner or upon receipt of a
20 petition signed by not less than one hundred eligible electors
21 requesting that a satellite voting station be established at a
22 location to be described in the petition. A petition
23 requesting a satellite voting station must be filed no later
24 than five p.m. on the eleventh day before the election. A
25 satellite voting station established at the direction of the
26 commissioner or by petition shall be open from eight a.m.
27 until five p.m. on the day of the election.

28 Sec. 16. NEW SECTION. 49B.16 RECEIPT OF BALLOT --
29 SIGNATURE VERIFICATION.

30 When a mail ballot is returned, the county commissioner, or
31 the county commissioner's designees, shall first qualify the
32 submitted ballot by examining the return verification envelope
33 to determine whether it is submitted by a registered voter who
34 has not previously voted. A ballot shall be counted only if
35 it is returned in the return verification envelope, the

1 envelope is signed by the voter to whom the ballot is issued,
2 and the signature has been verified as provided in this
3 section.

4 The county commissioner or the county commissioner's
5 designees shall verify the signature of each voter on the
6 return verification envelope with the signature in the voter's
7 registration records and may commence verification at any time
8 before election day. If the county commissioner determines
9 that a voter to whom a replacement ballot has been issued
10 under section 49B.11 has voted more than once, the county
11 commissioner shall not count any ballot cast by the voter.

12 If the voter's signature is verified and the ballot is
13 otherwise valid, the county commissioner or the county
14 commissioner's designees shall then deposit the ballot
15 unopened in an official ballot box.

16 Sec. 17. NEW SECTION. 49B.17 PROCEDURE FOR INVALID
17 BALLOTS.

18 If the county commissioner is not convinced that the
19 individual who signed the return verification envelope is the
20 voter whose name appears on the registration card, the county
21 commissioner shall not validate the ballot but shall do all of
22 the following:

23 1. Give notice to the voter as follows:

24 a. As soon as possible after receipt of a voter's ballot,
25 give notice to the voter, either by telephone or by first
26 class mail, if the county commissioner is unable to verify the
27 voter's signature.

28 b. Inform the voter that the voter may appear in person at
29 the county commissioner's office prior to the close of the
30 polls on election day and verify the signature.

31 2. Permit any voter appearing pursuant to subsection 1,
32 paragraph "b", to:

33 a. Verify the voter's signature, after proof of
34 identification, by affirming that the signature is in fact the
35 voter's or by completing a new registration card containing

1 the voter's current signature.

2 b. If necessary, request and receive a replacement ballot
3 and vote at that time.

4 3. If the discrepancy is not rectified to the county
5 commissioner's satisfaction, present the unopened envelope and
6 the registration card to the special precinct election board
7 for a determination. If the election board is unable to
8 resolve the issue to its satisfaction, the ballot shall not be
9 counted.

10 Sec. 18. NEW SECTION. 49B.18 COUNTING BALLOTS.

11 Mail ballots shall be counted in the manner prescribed by
12 section 53.23. The county commissioner shall supervise the
13 procedures for the handling, counting, and canvassing of
14 ballots to ensure the safety and confidentiality of all
15 ballots properly cast.

16 Sec. 19. NEW SECTION. 49B.19 CHALLENGES.

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

20 Sec. 20. NEW SECTION. 49B.20 CANVASS OF VOTES.

21 The provisions of chapter 50 relating to canvass of votes
22 apply to this chapter only to the extent they do not conflict
23 with this chapter.

24 Sec. 21. NEW SECTION. 49B.21 OTHER LAWS.

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

27 Sec. 22. NEW SECTION. 49B.22 RULES.

28 The state commissioner of elections shall adopt rules
29 pursuant to chapter 17A to govern the procedures and forms
30 necessary to implement this chapter. The authority of the
31 state commissioner to adopt rules under this chapter shall be
32 liberally construed.

33 Sec. 23. NEW SECTION. 49B.23 MISCONDUCT -- VIOLATIONS --
34 PENALTIES.

35 1. A person who, by use of violence, threats of violence,

1 or any means of duress, procures or endeavors to procure the
2 vote of a voter for or against any measure or candidate
3 commits an aggravated misdemeanor.

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

7 Sec. 24. Section 39.3, Code 1997, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 8A. "Mail ballot election" means an
10 election conducted pursuant to chapter 49B.

11 EXPLANATION

12 This bill creates a new Code chapter 49B and establishes a
13 procedure for certain elections to be conducted primarily by
14 mailed ballots. To qualify for this method of election, the
15 election of a specified political subdivision (county, city,
16 school district, merged area, or benefited district) must be
17 the only election scheduled, must be nonpartisan, and must be
18 conducted pursuant to a plan proposed by the county
19 commissioner of elections (county auditor) and approved by the
20 state commissioner of elections (secretary of state).

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