

CHAPTER 50

CANVASS OF VOTES

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50.1 Definitions.

As used in this chapter, unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

50.1A 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 the candidate.
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.

[C51, §261, 266; R60, §496, 501; C73, §622, 626; C97, §1138; C24, 27, 31, 35, 39, §840; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.1]

C2001, §50.1A

50.2 One tally list in certain machine precincts. Repealed by 2009 Acts, ch 57, § 96.

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.

[C51, §262; R60, §497; C73, §623; C97, §1139; C24, 27, 31, 35, 39, §842; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.3]

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.

[C97, §1139; C24, 27, 31, 35, 39, §843; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.4]

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.

[C97, §1139; C24, 27, 31, 35, 39, §844; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.5]

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.

[C51, §263; R60, §498; C73, §627; C97, §1140; C24, 27, 31, 35, 39, §845; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.6]

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 that person in that precinct, and a new election ordered therein; but no person who was not a registered voter 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.

[C51, §263; R60, §498; C73, §627; C97, §1140; C24, 27, 31, 35, 39, §846; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.7]

94 Acts, ch 1169, §64

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 registered voter 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.

[C51, §263; R60, §498; C73, §627; C97, §1140; C24, 27, 31, 35, 39, §847; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.8]

94 Acts, ch 1169, §64

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 for the ballots. The spoiled ballots shall be preserved for twenty-two months following elections for federal offices and for six months following elections for all other offices. The commissioner shall record the number of ballots sent to the polling places but not voted. The ballots not voted shall be destroyed after the end of the period for contesting the election. However, if a contest is requested, the ballots not voted shall be preserved until the election contest is concluded.

[C51, §269; R60, §504; C73, §630; C97, §1141; C24, 27, 31, 35, 39, §848; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.9]

93 Acts, ch 143, §20; 2008 Acts, ch 1115, §101

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.

[C97, §1141; C24, 27, 31, 35, 39, §849; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.10]

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 the person 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. A precinct election official shall communicate the election results by telephone or in person to the commissioner who is conducting the election immediately upon completion of the canvass.

Election results may be transmitted electronically from voting equipment to the commissioner's office only after the precinct election officials have produced a written report of the election results. The devices used for the electronic transmission of election results shall be approved for use by the board of examiners pursuant to section 52.41. The state commissioner of elections shall adopt rules establishing procedures for the electronic transmission of election results.

The commissioner shall remain on duty until such information is communicated to the commissioner from each polling place in the commissioner's county.

[C97, §1142; C24, 27, 31, 35, 39, §850; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.11]

2002 Acts, ch 1134, §45, 115

50.12 Return and preservation of ballots.

Immediately after making the proclamation, and before separating, the board members of each precinct in which votes have been received by paper ballot shall enclose in an envelope or other container all ballots which have been counted by them, except those endorsed "Rejected as double", "Defective", or "Objected to", and securely seal the envelope. The signatures of all board members of the precinct shall be placed across the seal or the opening of the container so that it cannot be opened without breaking the seal. The precinct election officials shall return all the ballots to the commissioner, who shall carefully preserve them for six months. Ballots from elections for federal offices shall be preserved for twenty-two months. The sealed packages containing voted ballots shall be opened only for an official recount authorized by

section 50.48, 50.49, or 50.50, for an election contest held pursuant to chapters 57 through 62, or to destroy the ballots pursuant to section 50.19.

[C51, §269; R60, §504; C73, §630; C97, §1142; C24, 27, 31, 35, 39, §851; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.12]

87 Acts, ch 221, §21; 89 Acts, ch 136, §44; 2002 Acts, ch 1134, §46, 115

50.13 Destruction of ballots.

If, at the expiration of the length of time specified in section 50.12, a contest is not pending, the commissioner, without opening the package in which they have been enclosed, shall destroy the ballots.

If the ballots are to be shredded, the package may be opened, if necessary, but the ballots shall not be examined before shredding. Shredded ballots may be recycled. The commissioner shall invite the chairperson of each of the political parties to designate a person to witness the destruction of the ballots.

[C97, §1143; S13, §1143; C24, 27, 31, 35, 39, §852; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.13]

89 Acts, ch 136, §45; 91 Acts, ch 129, §14; 97 Acts, ch 170, §57

50.14 Repealed by 89 Acts, ch 136, § 75.

50.15 Destruction in abeyance pending contest.

If a contest is pending, the ballots shall be kept until the contest is finally determined, and then so destroyed.

[C97, §1143; S13, §1143; C24, 27, 31, 35, 39, §854; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.15]

50.15A Unofficial results of voting — general election only.

1. In order to provide the public with an early source of election results before the official canvass of votes, the state commissioner of elections, in cooperation with the commissioners of elections, shall conduct an unofficial canvass of election results following the closing of the polls on the day of a general election. The unofficial canvass shall report election results for national offices, statewide offices, the office of state representative, the office of state senator, and other offices or public measures at the discretion of the state commissioner of elections. The unofficial canvass shall also report the total number of ballots cast at the general election.

2. *a.* After the polls close on election day, the commissioner of elections shall periodically provide election results to the state commissioner of elections as the precincts in the county report election results to the commissioner pursuant to section 50.11. If the commissioner determines that all precincts will not report election results before the office is closed, the commissioner shall report the most complete results available prior to leaving the office at the time the office is closed as provided in section 50.11. The commissioner shall specify the number of precincts included in the report to the state commissioner of elections.

b. The state commissioner of elections shall tabulate unofficial election results as the results are received from the commissioners of elections and shall periodically make the reports of the results available to the public.

3. Before the day of the general election, the state commissioner of elections shall provide a form and instructions for reporting unofficial election results pursuant to this section.

2008 Acts, ch 1115, §102; 2009 Acts, ch 57, §38

50.16 Tally list of board.

The tally list shall be prepared in writing by the election board giving, in legibly printed numerals, the total number of people who cast ballots in the precinct, the total number of ballots cast for each office, except those rejected, the name of each person voted for, and the number of votes given to each person for each different office. The tally list shall be signed by the precinct election officials, and be substantially as follows:

At an election at in township, or in precinct of city or township, in county, state of Iowa, on the day of, there were ballots cast for the office of of which
 (Candidate's name) had votes.
 (Candidate's name) had votes.
 (and in the same manner for any other officer).

A true tally list:

(Name) Election Board
 (Name) Members.
 (Name)

Attest:

(Name) Designated
 (Name) Tally Keepers.

[C51, §267, 303; R60, §502, 537; C73, §628, 661; C97, §1144; C24, 27, 31, 35, 39, §855; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.16]

93 Acts, ch 143, §21; 2000 Acts, ch 1058, §8; 2001 Acts, ch 24, §18; 2007 Acts, ch 59, §13, 19

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 by noon of the day following the election.

[C51, §268; R60, §333, 503, 1131; C73, §503, 629; C97, §1145; C24, 27, 31, 35, 39, §856; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.17]

50.18 Repealed by 73 Acts, ch 136, § 401.

50.19 Preservation and destruction of books.

1. The commissioner may destroy precinct election registers, the declarations of eligibility signed by voters, and other material pertaining to any election in which federal offices are not on the ballot, except the tally lists and abstracts of votes which have not been electronically recorded, six months after the election if a contest is not pending. If a contest is pending, all election materials shall be preserved until final determination of the contest. Before destroying the election registers and declarations of eligibility, the commissioner shall prepare records as necessary to permit compliance with chapter 48A, subchapter V. Nomination papers for primary election candidates for state and county offices shall be destroyed ten days before the general election, if a contest is not pending.

2. Material pertaining to elections for federal offices, including ballots, precinct election registers, declarations of eligibility signed by voters, documents relating to absentee ballots, and challenges of voters, shall be preserved for twenty-two months after the election. If a contest is not pending the materials may be destroyed at the end of the retention period.

[C51, §268; R60, §333, 503, 1131; C73, §503, 629; C97, §1145; C24, 27, 31, 35, 39, §858; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.19]

89 Acts, ch 136, §46; 94 Acts, ch 1169, §52; 98 Acts, ch 1119, §29; 2010 Acts, ch 1033, §24

[T] Section amended

50.20 Notice of number of provisional ballots.

The commissioner shall compile a list of the number of provisional ballots cast under section 49.81 in each precinct. The list shall be made available to the public as soon as possible, but in no case later than nine o'clock a.m. on the second day following the election. Any elector may examine the list during normal office hours, and may also examine the affidavit envelopes bearing the ballots of challenged electors until the reconvening of the special precinct board as required by this chapter. Only those persons so permitted by section 53.23, subsection 4, shall have access to the affidavits while that board is in session.

Any elector may present written statements or documents, supporting or opposing the counting of any provisional ballot, at the commissioner's office until the reconvening of the special precinct board.

[C77, 79, 81, §50.20]

87 Acts, ch 221, §22; 2004 Acts, ch 1083, §22, 37; 2005 Acts, ch 19, §21

50.21 Special precinct board reconvened.

The commissioner shall reconvene the election board of the special precinct established by section 53.20 not earlier than noon on the second day following each election which is required by law to be canvassed on the Monday or Tuesday following the election. If the second day following such an election is a legal holiday the special precinct election board may be convened at noon on the day following the election, and if the canvass of the election is scheduled at any time earlier than the Monday following the election, the special precinct election board shall be reconvened at noon on the day following the election.

If no provisional ballots were cast in the county pursuant to section 49.81 at any election, the special precinct election board need not be so reconvened. If the number of provisional ballots cast at any election is not sufficient to require reconvening of the entire election board of the special precinct, the commissioner may reconvene only the number of members required. If the number of provisional ballots cast at any election exceeds the number of absentee ballots cast, the size of the special precinct election board may be increased at the commissioner's discretion. The commissioner shall observe the requirements of sections 49.12 and 49.13 in making adjustments to the size of the special precinct election board.

[C77, 79, 81, §50.21; 81 Acts, ch 34, §35]

87 Acts, ch 221, §23; 90 Acts, ch 1238, §25; 2004 Acts, ch 1083, §23, 37

50.22 Special precinct board to determine challenges and canvass absentee ballots.

Upon being reconvened, the special precinct election board shall review the information upon the envelopes bearing the provisional ballots, and all evidence submitted in support of or opposition to the right of each challenged person to vote in the election. The board may divide itself into panels of not less than three members each in order to hear and determine two or more challenges simultaneously, but each panel shall meet the requirements of section 49.12 as regards political party affiliation of the members of each panel.

The decision to count or reject each ballot shall be made upon the basis of the information given on the envelope containing the provisional ballot, the evidence concerning the challenge, the registration and the returned receipts of registration.

If a provisional ballot is rejected, the person casting the ballot shall be notified by the commissioner within ten days of the reason for the rejection, on the form prescribed by the state commissioner pursuant to section 53.25, and the envelope containing the provisional ballot shall be preserved unopened and disposed of in the same manner as spoiled ballots. The provisional ballots which are accepted shall be counted in the manner prescribed by section 53.23, subsection 5. The commissioner shall make public the number of provisional ballots rejected and not counted, at the time of the canvass of the election.

The special precinct board shall also canvass any absentee ballots which were received after the polls closed in accordance with section 53.17. If necessary, they shall reconvene again on the day of the canvass by the board of supervisors to canvass any absentee ballots which were timely received. The special precinct board shall submit their tally list to the supervisors before the conclusion of the canvass by the board.

[C77, 79, 81, §50.22]

87 Acts, ch 221, §24; 88 Acts, ch 1119, §20; 89 Acts, ch 136, §47, 48; 94 Acts, ch 1169, §53; 2005 Acts, ch 19, §22; 2009 Acts, ch 57, §39

50.23 Messengers for missing tally lists.

The commissioner shall send messengers for all tally lists not received in the commissioner's office by noon of the day following the election. The expense of securing such tally lists shall be paid by the county.

[C51, §270; R60, §505; C73, §634; C97, §1148; C24, 27, 31, 35, 39, §862; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.23]

[P] Mileage paid messengers, §50.47

50.24 Canvass by board of supervisors.

1. The county board of supervisors shall meet to canvass the vote on the first Monday or Tuesday after the day of each election to which this chapter is applicable, unless the law authorizing the election specifies another date for the canvass. If that Monday or Tuesday is a public holiday, section 4.1, subsection 34, controls.

2. Upon convening, the board shall open and canvass the tally lists and shall prepare abstracts stating the number of votes cast in the county, or in that portion of the county in which the election was held, for each office and on each question on the ballot for the election. The board shall contact the chairperson of the special precinct board before adjourning and include in the canvass any absentee ballots which were received after the polls closed in accordance with section 53.17 and which were canvassed by the special precinct board after election day. 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. The votes of all write-in candidates who each received less than five percent of the votes cast for an office shall be reported collectively under the heading "scattering".

3. The board shall certify an election canvass summary report prepared by the commissioner. The election canvass summary report shall include the results of the election, including scatterings, overvotes, and undervotes, by precinct for each contest and public measure that appeared on the ballot of the election being canvassed. However, if paper ballots are used pursuant to section 49.26, the election canvass summary report shall not include overvotes and undervotes.

4. Any obvious clerical errors in the tally lists from the precincts shall be corrected by the supervisors. Complete records of any changes shall be recorded in the minutes of the canvass.

[C51, §271, 304, 305; R60, §335, 506, 538, 539, 1131; C73, §502, 503, 631, 635, 662; C97, §1146, 1149; C24, 27, 31, 35, 39, §859, 860, 863; C46, 50, 54, 58, 62, 66, 71, 73, §50.20, 50.21, 50.24; C75, 77, 79, 81, §50.24]

84 Acts, ch 1291, §10; 89 Acts, ch 136, §49; 90 Acts, ch 1238, §26; 93 Acts, ch 143, §22; 95 Acts, ch 189, §10; 2009 Acts, ch 57, §40; 2010 Acts, ch 1033, §25, 26

[T] Subsection 3 amended

[T] Subsection 4 stricken and former subsection 5 renumbered as 4

50.25 Abstract of votes in the general election.

1. 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:

- a. President and vice president of the United States.
- b. Senator in the Congress of the United States.
- c. Representative in the Congress of the United States.
- d. Governor and lieutenant governor.
- e. A state officer not otherwise provided for.
- f. Senator or representative in the general assembly by districts.

2. The abstract of the votes for each county office is not required to be made on a different sheet.

[C51, §272, 304, 305; R60, §507, 538, 539; C73, §636, 662; C97, §1150; S13, §1150; C24, 27, 31, 35, 39, §864; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.25]

2007 Acts, ch 59, §14, 15, 19

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.

[C51, §272, 304, 305; R60, §507, 538, 539; C73, §637, 662; C97, §1151; S13, §1151; C24, 27, 31, 35, 39, §865; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.26]

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.

[C51, §275; R60, §509; C73, §639; C97, §1152; C24, 27, 31, 35, 39, §866; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.27]

50.28 Tally lists filed.

When the canvass is concluded, 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.

[C51, §276; R60, §335, 510; C73, §640; C97, §1154; C24, 27, 31, 35, 39, §867; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.28]

50.29 Certificate of election.

1. When any person is thus declared elected, there shall be delivered to that person a certificate of election, under the official seal of the county, in substance as follows:

STATE OF IOWA)
..... County.)

At an election held in said county on the day of (month), (year), (candidate's name) was elected to the office of for the term of years from the day of (month), (year) [if elected to fill a vacancy, for the residue of the term ending on the day of (month), (year)], and until a successor is elected and qualified.

.....,
President of Board of Canvassers.
Witness,
County Commissioner of Elections
(clerk).

2. The certificate of election is presumptive evidence of the person's election and qualification.

[C51, §277; R60, §511, 514; C73, §641; C97, §1155; C24, 27, 31, 35, 39, §868; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.29]

87 Acts, ch 115, §9; 2000 Acts, ch 1058, §9; 2008 Acts, ch 1032, §201; 2009 Acts, ch 41, §26

50.30 Abstracts forwarded to state commissioner.

1. The commissioner shall, within thirteen days after the election, forward to the state commissioner one of the duplicate abstracts of votes for each of the following offices:

- a. President and vice president of the United States.
- b. Senator in Congress.
- c. Representative in Congress.
- d. Governor and lieutenant governor.
- e. Senator or representative in the general assembly by districts.
- f. A state officer not otherwise specified above.

2. The abstracts for all offices except governor and lieutenant governor shall be enclosed in a securely sealed envelope.

[C51, §283, 284, 305; R60, §517, 518, 539; C73, §645, 662; C97, §1157; S13, §1157; C24, 27, 31, 35, 39, §869; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.30]

91 Acts, ch 129, §15; 2008 Acts, ch 1032, §201; 2009 Acts, ch 57, §41

50.30A Election canvass summary forwarded to state commissioner.

The commissioner shall, within thirteen days after each primary election, general election, and special election conducted pursuant to section 69.14, forward to the state commissioner a true and exact copy of the election canvass summary report certified by the county board of canvassers.

2009 Acts, ch 57, §42; 2010 Acts, ch 1033, §27

[T] Section amended

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".

[C51, §283; R60, §517; C73, §645; C97, §1157; S13, §1157; C24, 27, 31, 35, 39, §870; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.31]

50.32 Endorsement on other envelope.

The envelope for offices other than governor and lieutenant governor shall be endorsed substantially in the manner provided in section 50.31, with changes necessary to indicate the particular offices, and shall be addressed, "To the State Commissioner of Elections".

[C51, §283, 305; R60, §517, 539; C73, §645, 662; C97, §1157; S13, §1157; C24, 27, 31, 35, 39, §871; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.32]

91 Acts, ch 129, §16

50.33 Forwarding of envelopes.

The envelopes, including the one addressed to the speaker, after being prepared, sealed, and endorsed as required by this chapter, shall be placed in one package and forwarded to the state commissioner.

[C51, §284, 305; R60, §518, 539; C73, §645, 662; C97, §1157; S13, §1157; C24, 27, 31, 35, 39, §872; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.33]

93 Acts, ch 143, §23

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, the state commissioner shall send a messenger to the commissioner of such county, who shall furnish the messenger with them, or, if they have been sent, with a copy thereof, and the messenger shall return them to the state commissioner without delay.

[C51, §285; R60, §519; C73, §649; C97, §1158; C24, 27, 31, 35, 39, §873; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.34]

50.35 Delivery of abstracts.

The envelopes containing the abstracts of votes for governor and lieutenant governor shall not be opened by the state commissioner, but the state commissioner shall securely preserve the same and deliver them to the speaker of the house of representatives at the time said abstracts are canvassed as provided by law.

[C24, 27, 31, 35, 39, §874; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.35]

[P] Canvass for governor, §2.27 et seq.; also Iowa Constitution, Art. IV, §3

50.36 Envelopes containing other abstracts — canvass.

The secretary of state, upon receipt of the envelopes containing the abstracts of votes, shall open and canvass the abstracts for all offices except governor and lieutenant governor.

The secretary of state shall invite to attend the canvass one representative from each political 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, as determined by the secretary of state. The secretary of state shall notify the chairperson of each political party of the time of the canvass. However, the presence of a representative from a political party is not necessary for the canvass to proceed.

[C51, §286; R60, §520; C73, §650; C97, §1159; C24, 27, 31, 35, 39, §875; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.36]

95 Acts, ch 189, §11

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 commissioner, except for the offices of governor and lieutenant governor. Any clerical error found by the secretary of state or state board of canvassers shall be corrected by the county commissioner in a letter addressed to the state board of canvassers.

[C51, §287; R60, §521; C73, §647, 651; C97, §1160, 1162; S13, §1162; C24, 27, 31, 35, 39, §876; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.37]

95 Acts, ch 189, §12

[P] Additional provisions, §49A.8

50.38 Time of state canvass.

Not later than twenty-seven days after the day of the election, the secretary of state shall present to the board of state canvassers abstracts of votes cast at the election showing the number of ballots cast for each office and a summary of the results for each office, showing the votes cast in each county. The state board of canvassers shall review the results compiled by the secretary of state and, if the results are accurately tabulated, the state board shall approve the canvass.

[C51, §288, 306; R60, §522, 540; C73, §647, 652, 663; C97, §1161, 1162; S13, §1162; C24, 27, 31, 35, 39, §877; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.38]

95 Acts, ch 189, §13

[P] Canvass under special election, §50.46

50.39 Abstract.

It shall make an abstract stating 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 of 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.

[C51, §289, 306; R60, §523, 540; C73, §653, 663; C97, §1163; C24, 27, 31, 35, 39, §878; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.39]

2009 Acts, ch 57, §43

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 the state commissioner as a record of the result of said state election, to be known as the state election book.

[C51, §290; R60, §524; C73, §654; C97, §1164; S13, §1164; C24, 27, 31, 35, 39, §879; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.40]

50.41 Certificate of election.

1. Each person declared elected by the state board of canvassers shall receive a certificate, signed by the governor or, in the governor's absence, by the secretary of state, with the seal of state affixed, attested by the other canvassers, to be in substance as follows:

STATE OF IOWA:

To (candidate's name): It is hereby certified that, at an election held on the day of you were elected to the office of of Iowa, for the term of years, from 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
.....

2. If the governor is 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.

[C51, §288, 306; R60, §522, 540; C73, §652, 657, 663; C97, §1165; C24, 27, 31, 35, 39, §880; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.41]

87 Acts, ch 115, §10; 2000 Acts, ch 1058, §10

[T] Section numbered editorially

50.42 Certificates mailed.

The state commissioner shall prepare and deliver or mail certificates of election to the persons declared elected.

[C51, §292, 294; R60, §526, 528; C73, §648, 656, 658; C97, §1167; C24, 27, 31, 35, 39, §881; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.42]

50.43 Senator or representative.

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.

[C51, §294; R60, §528; C73, §658; C97, §1166; C24, 27, 31, 35, 39, §882; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.43]

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.

[C51, §281, 282, 307, 316; R60, §515, 516, 541, 547; C73, §632, 643, 644, 664; C97, §1169, 2754; S13, §2754; C24, §883, 4204; C27, §883, 4204, 4211-b8; C31, 35, §883, 4216-c21; C39, §883, 4216.21; C46, 50, 54, 58, 62, 66, 71, 73, §50.44, 277.21; C75, 77, 79, 81, §50.44]

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. When a public measure has been submitted to the electors, the proposition shall be declared to have been adopted if the vote cast in favor of the question is greater than fifty percent of the total vote cast in favor and against the question, unless laws pertaining specifically to the public measure election establish a higher percentage of a favorable vote. All ballots cast and not counted as a vote in favor or against the proposition shall not be used in computing the total vote cast in favor and against the proposition.

[C51, §262, 273, 307; R60, §497, 508, 541; C73, §623, 638, 664; C97, §1170; C24, 27, 31, 35, 39, §884; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.45]

88 Acts, ch 1119, §21

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 canvassers shall meet no earlier than 1:00 p.m. on the second day after the election, and canvass the votes cast at the election. If the second day after the election is a public holiday, section 4.1, subsection 34, controls. 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.

[R60, §673; C73, §791-793; C97, §1171; C24, 27, 31, 35, 39, §885; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.46]

90 Acts, ch 1238, §27; 2010 Acts, ch 1033, §28

[T] Section amended

50.47 Messengers for election tally lists.

Messengers sent for the tally lists of elections shall be paid from the state or county treasury for necessary travel expense.

[C51, §295; R60, §529; C73, §3827; C97, §1172; C24, 27, 31, 35, 39, §886; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.47]

50.48 General recount provisions.

1. a. The county board of canvassers shall order a recount of the votes cast for a particular office or nomination in one or more specified election precincts in that county if a written request therefor is made not later than 5:00 p.m. on the third day following the county board's canvass of the election in question. The request shall be filed with the commissioner of that county, or with the commissioner responsible for conducting the election if section 47.2, subsection 2, is applicable, and shall be signed by either of the following:

(1) A candidate for that office or nomination whose name was printed on the ballot of the precinct or precincts where the recount is requested.

(2) Any other person who receives votes for that particular office or nomination in the precinct or precincts where the recount is requested and who is legally qualified to seek and to hold the office in question.

b. Immediately upon receipt of a request for a recount, the commissioner shall send a copy of the request to the apparent winner by certified mail. The commissioner shall also attempt to contact the apparent winner by telephone. If the apparent winner cannot be reached within four days, the chairperson of the political party or organization which nominated the apparent winner shall be contacted and shall act on behalf of the apparent winner, if necessary. For candidates for state or federal offices, the chairperson of the state party shall be contacted. For candidates for county offices, the county chairperson of the party shall be contacted.

2. a. The candidate requesting a recount under this section shall post a bond, unless the abstracts prepared pursuant to section 50.24, or section 43.49 in the case of a primary election, indicate that the difference between the total number of votes cast for the apparent winner and the total number of votes cast for the candidate requesting the recount is less

than the greater of fifty votes or one percent of the total number of votes cast for the office or nomination in question. If a recount is requested for an office to which more than one person was elected, the vote difference calculations shall be made using the difference between the number of votes received by the person requesting the recount and the number of votes received by the apparent winner who received the fewest votes. Where votes cast for that office or nomination were canvassed in more than one county, the abstracts prepared by the county boards in all of those counties shall be totaled for purposes of this subsection. If a bond is required, it shall be filed with the state commissioner for recounts involving a state office, including a seat in the general assembly, or a seat in the United States Congress, and with the commissioner responsible for conducting the election in all other cases, and shall be in the following amount:

- (1) For an office filled by the electors of the entire state, one thousand dollars.
- (2) For United States representative, five hundred dollars.
- (3) For senator in the general assembly, three hundred dollars.
- (4) For representative in the general assembly, one hundred fifty dollars.
- (5) For an office filled by the electors of an entire county having a population of fifty thousand or more, two hundred dollars.

(6) For any elective office to which subparagraphs (1) through (5) are not applicable, one hundred dollars.

b. After all recount proceedings for a particular office are completed and the official canvass of votes cast for that office is corrected or completed pursuant to subsections 5 and 6, if necessary, any bond posted under this subsection shall be returned to the candidate who requested the recount if the apparent winner before the recount is not the winner as shown by the corrected or completed canvass. In all other cases, the bond shall be deposited in the general fund of the state if filed with the state commissioner or in the election fund of the county with whose commissioner it was filed.

3. a. The recount shall be conducted by a board which shall consist of:

(1) A designee of the candidate requesting the recount, who shall be named in the written request when it is filed.

(2) A designee of the apparent winning candidate, who shall be named by that candidate at or before the time the board is required to convene.

(3) A person chosen jointly by the members designated under subparagraphs (1) and (2).

b. The commissioner shall convene the persons designated under paragraph "a", subparagraphs (1) and (2), not later than 9:00 a.m. on the seventh day following the county board's canvass of the election in question. If those two members cannot agree on the third member by 8:00 a.m. on the ninth day following the canvass, they shall immediately so notify the chief judge of the judicial district in which the canvass is occurring, who shall appoint the third member not later than 5:00 p.m. on the eleventh day following the canvass.

4. a. When all members of the recount board have been selected, the board shall undertake and complete the required recount as expeditiously as reasonably possible. The commissioner or the commissioner's designee shall supervise the handling of ballots to ensure that the ballots are protected from alteration or damage. The board shall open only the sealed ballot containers from the precincts specified to be recounted in the request or by the recount board. The board shall recount only the ballots which were voted and counted for the office in question, including any disputed ballots returned as required in section 50.5. If automatic tabulating equipment was used to count the ballots, the recount board may request the commissioner to retabulate the ballots using the automatic tabulating equipment. The same program used for tabulating the votes on election day shall be used at the recount unless the program is believed or known to be flawed.

b. Any member of the recount board may at any time during the recount proceedings extend the recount of votes cast for the office or nomination in question to any other precinct or precincts in the same county, or from which the returns were reported to the commissioner responsible for conducting the election, without the necessity of posting additional bond.

c. The ballots shall be resealed by the recount board before adjournment and shall be preserved as required by section 50.12. At the conclusion of the recount, the recount board shall make and file with the commissioner a written report of its findings, which shall be

signed by at least two members of the recount board. The recount board shall complete the recount and file its report not later than the eighteenth day following the county board's canvass of the election in question.

5. If the recount board's report is that the abstracts prepared pursuant to the county board's canvass were incorrect as to the number of votes cast for the candidates for the office or nomination in question, in that county or district, the commissioner shall at once so notify the county board. The county board shall reconvene within three days after being so notified, and shall correct its previous proceedings.

6. The commissioner shall promptly notify the state commissioner of any recount of votes for an office to which section 50.30 or section 43.60 in the case of a primary election, is applicable. If necessary, the state canvass required by section 50.38, or by section 43.63, as the case may be, shall be delayed with respect to the office or the nomination to which the recount pertains. The commissioner shall subsequently inform the state commissioner at the earliest possible time whether any change in the outcome of the election in that county or district resulted from the recount.

7. If the election is an election held by a city which is not the final election for the office in question, the recount shall progress according to the times provided by this subsection. If this subsection applies the canvass shall be held by the second day after the election, the request for a recount must be made by the third day after the election, the board shall convene to conduct the recount by the sixth day after the election, and the report shall be filed by the eleventh day after the election.

[S13, §1087-a18; C24, 27, 31, 35, 39, §584 – 586; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.56 – 43.58; S81, §50.48; 81 Acts, ch 34, §34]

86 Acts, ch 1224, §15, 16; 93 Acts, ch 143, §24, 25; 94 Acts, ch 1180, §19; 97 Acts, ch 170, §58; 2002 Acts, ch 1134, §47, 115; 2007 Acts, ch 190, §3; 2008 Acts, ch 1032, §153; 2009 Acts, ch 57, §44

50.49 Recounts for public measures.

1. A recount for any public measure shall be ordered by the board of canvassers if a petition requesting a recount is filed with the county commissioner not later than three days after the completion of the canvass of votes for the election at which the question appeared on the ballot. The petition shall be signed by the greater of not less than ten eligible electors or a number of eligible electors equaling one percent of the total number of votes cast upon the public measure. Each petitioner must be a person who was entitled to vote on the public measure in question or would have been so entitled if registered to vote.

2. The recount shall be conducted by a board which shall consist of:

a. A designee named in the petition requesting the recount.

b. A designee named by the commissioner at or before the time the board is required to convene.

c. A person chosen jointly by the members designated under paragraphs "a" and "b".

3. The commissioner shall convene the persons designated under subsection 2, paragraphs "a" and "b", not later than 9:00 a.m. on the seventh day following the canvass of the election in question. If those two members cannot agree on the third member by 8:00 a.m. on the ninth day following the canvass, they shall immediately notify the chief judge of the judicial district in which the canvass is occurring, who shall appoint the third member not later than 5:00 p.m. on the eleventh day following the canvass.

4. The petitioners requesting the recount shall post a bond as required by section 50.48, subsection 2. The amount of the bond shall be one thousand dollars for a public measure appearing on the ballot statewide or one hundred dollars for any other public measure. If the difference between the affirmative and negative votes cast on the public measure is less than the greater of fifty votes or one percent of the total number of votes cast for and against the question, a bond is not required. If approval by sixty percent of the votes cast is required for adoption of the public measure, no bond is required if the difference between sixty percent of the total votes cast for and against the question and the number of affirmative votes cast is less than the greater of fifty votes or one percent of the total number of votes cast.

5. The procedure for the recount shall follow the provisions of section 50.48, subsections 4 through 7, as far as possible.

95 Acts, ch 189, §14; 2002 Acts, ch 1134, §48, 115; 2008 Acts, ch 1032, §154; 2008 Acts, ch 1115, §103

50.50 Administrative recounts.

The commissioner who was responsible for conducting an election may request an administrative recount when the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, or if the precinct election officials report counting errors to the commissioner after the conclusion of the canvass of votes in the precinct. An administrative recount shall be conducted by the board of the special precinct established by section 53.23. Bond shall not be required for an administrative recount. The state commissioner may adopt rules for administrative recounts.

If the recount board finds that there is an error in the programming of any voting equipment which may have affected the outcome of the election for any office or public measure on the ballot, the recount board shall describe the errors in its report to the commissioner. The commissioner shall notify the board of supervisors. The supervisors shall determine whether to order an administrative recount for any or all of the offices and public measures on the ballot.

97 Acts, ch 170, §59; 2002 Acts, ch 1134, §49, 115