

CHAPTER 53

ABSENT VOTERS

[P]

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ABSENT VOTING BY ARMED FORCES

53.1 Right to vote — conditions.

1. Any registered voter may, subject to the provisions of this chapter, vote at any election:
 - a. When the voter expects to be absent on election day during the time the polls are open from the precinct in which the voter is a registered voter.
 - b. When, through illness or physical disability, the voter expects to be prevented from going to the polls and voting on election day.
 - c. When the voter expects to be unable to go to the polls and vote on election day.
2. A person who has been designated to have power of attorney by a registered voter does not have authority to request or to cast an absentee ballot on behalf of the registered voter. [SS15, §1137-b; C24, 27, 31, 35, 39, §927; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.1] 90 Acts, ch 1238, §28; 93 Acts, ch 143, §31; 94 Acts, ch 1169, §65; 2008 Acts, ch 1032, §201

53.2 Application for ballot.

1. a. Any registered voter, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, apply

in person for an absentee ballot at the commissioner's office or at any location designated by the commissioner. However, for those elections in which the commissioner directs the polls be opened at noon pursuant to section 49.73, a voter may apply in person for an absentee ballot at the commissioner's office from 8:00 a.m. until 11:00 a.m. on election day.

b. A registered voter may make written application to the commissioner for an absentee ballot. A written application for an absentee ballot must be received by the commissioner no later than 5:00 p.m. on the Friday before the election. A written application for an absentee ballot delivered to the commissioner and received by the commissioner more than seventy days prior to the date of the election shall be retained by the commissioner and processed in the same manner as a written application received not more than seventy days before the date of the election.

2. a. The state commissioner shall prescribe a form for absentee ballot applications. However, if a registered voter submits an application on a sheet of paper no smaller than three by five inches in size that includes all of the information required in this section, the prescribed form is not required.

b. Absentee ballot applications may include instructions to send the application directly to the county commissioner of elections. However, no absentee ballot application shall be preaddressed or printed with instructions to send the applications to anyone other than the appropriate commissioner.

c. No absentee ballot application shall be preaddressed or printed with instructions to send the ballot to anyone other than the voter.

3. This section does not require that a written communication mailed to the commissioner's office to request an absentee ballot, or any other document be notarized as a prerequisite to receiving or marking an absentee ballot or returning to the commissioner an absentee ballot which has been voted.

4. Each application shall contain the name and signature of the registered voter, the registered voter's date of birth, the address at which the voter is registered to vote, and the name or date of the election for which the absentee ballot is requested, and such other information as may be necessary to determine the correct absentee ballot for the registered voter. If insufficient information has been provided, either on the prescribed form or on an application created by the applicant, the commissioner shall, by the best means available, obtain the additional necessary information.

5. An application for a primary election ballot which specifies a party different from that recorded on the registered voter's voter registration record, or if the voter's voter registration record does not indicate a party affiliation, shall be accepted as a change or declaration of party affiliation. The commissioner shall approve the change or declaration and enter a notation of the change on the registration records at the time the absentee ballot request is noted on the voter's registration record. A notice shall be sent with the ballot requested informing the voter that the voter's registration record will be changed to show that the voter is now affiliated with the party whose ballot the voter requested. If an application for a primary election ballot does not specify a party and the voter registration record of the voter from whom the application is received shows that the voter is affiliated with a party, the voter shall be mailed the ballot of the party indicated on the voter's registration record.

6. If an application for an absentee ballot is received from an eligible elector who is not a registered voter the commissioner shall send the eligible elector a voter registration form and another absentee ballot application form. If the application is received after the time registration closes pursuant to section 48A.9 but by 5:00 p.m. on the Saturday before the election for general and primary elections or by 5:00 p.m. on the Friday before the election for all other elections, the commissioner shall notify the applicant by mail of the election day and in-person absentee registration provisions of section 48A.7A. In addition to notification by mail, the commissioner shall also attempt to contact the applicant by any other method available to the commissioner.

7. A registered voter who has not moved from the county in which the elector is registered to vote may submit a change of name, telephone number, or address on the absentee ballot application form when requesting an absentee ballot. The commissioner may also update a voter's identification number, as described in section 48A.11, subsection 1, paragraph "e",

if an identification number is provided on an absentee ballot application. Upon receipt of a properly completed form, the commissioner shall enter a notation of the change on the registration records.

8. An application for an absentee ballot that is returned to the commissioner by a person acting as an actual or implied agent for a political party, candidate, or committee, all as defined by chapter 68A, shall be returned to the commissioner within seventy-two hours of the time the completed application was received from the applicant or no later than 5:00 p.m. on the Friday before the election, whichever is earlier.

[SS15, §1137-c, -d; C24, 27, 31, 35, 39, §928, 930; C46, 50, 54, 58, 62, 66, 71, §53.2, 53.4; C73, 75, 77, 79, 81, §53.2]

83 Acts, ch 176, §6; 84 Acts, ch 1291, §11; 86 Acts, ch 1224, §28; 87 Acts, ch 221, §25; 91 Acts, ch 129, §17; 94 Acts, ch 1169, §54; 95 Acts, ch 189, §15; 97 Acts, ch 170, §68; 2004 Acts, ch 1083, §28, 29, 37; 2007 Acts, ch 59, §23, 38; 2008 Acts, ch 1032, §157; 2008 Acts, ch 1053, §1, 2; 2009 Acts, ch 57, §61; 2010 Acts, ch 1033, §29, 56

[T] 2010 amendment to subsection 7 takes effect March 10, 2010, and applies to elections held on or after May 15, 2010; 2010 Acts, ch 1033, §56

[T] Subsection 7 amended

53.3 Requirements for certain absentee ballot applications — prescribed form — receipt.

1. When an application for an absentee ballot is solicited by, or collected for return to the commissioner by, a person acting as an actual or implied agent for a political party, candidate, or committee, as defined by chapter 68A, the person shall provide the applicant with the form prescribed by the state commissioner.

2. *a.* When an application for an absentee ballot is solicited by, and returned to the commissioner by, a person acting as an actual or implied agent for a political party, candidate, or committee, as defined by chapter 68A, the person shall issue to the applicant a receipt for the completed application.

b. The receipt shall contain the following information:

- (1) The name of the applicant.
- (2) The date and time the completed application was received from the applicant.
- (3) The name and date of the election for which the application is being completed.
- (4) The name of the political party, candidate, or committee for whom the person is soliciting and returning the application for the absentee ballot.

(5) The name of the person acting as an actual or implied agent for the political party, candidate, or committee.

(6) A statement that the application will be delivered to the appropriate commissioner within seventy-two hours of the date and time the completed application was received from the applicant or no later than 5:00 p.m. on the Friday before the election, whichever is earlier.

(7) A statement that an absentee ballot will be mailed to the applicant within twenty-four hours after the ballot for the election is available.

c. The commissioner shall make receipt forms required by this section available for photocopying at the expense of the political party, candidate, or committee.

2004 Acts, ch 1083, §30, 37; 2004 Acts, ch 1175, §360; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1053, §3

53.4 through 53.6 Reserved.

53.7 Solicitation by public employees.

1. It shall be unlawful for any employee of the state or any employee of a political subdivision to solicit any application or request for application for an absentee ballot, or to take an affidavit in connection with any absentee ballot while the employee is on the employer's premises or otherwise in the course of employment. However, any such employee may take such affidavit in connection with an absentee ballot which is cast by the registered voter in person in the office where such employee is employed in accordance with section 53.10 or 53.11. This subsection shall not apply to any elected official.

2. It is unlawful for any public officer or employee, or any person acting under color of a public officer or employee, to knowingly require a public employee to solicit an application

or request an application for an absentee ballot, or to knowingly require an employee to take an affidavit or request for an affidavit in connection with an absentee ballot application.

[SS15, §1137-d; C24, 27, 31, 35, 39, §933; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.7] 91 Acts, ch 129, §18; 94 Acts, ch 1169, §64; 2002 Acts, ch 1071, §11; 2002 Acts, ch 1175, §80; 2007 Acts, ch 59, §24, 38

53.8 Ballot mailed.

1. Upon receipt of an application for an absentee ballot and immediately after the absentee ballots are printed, the commissioner shall mail an absentee ballot to the applicant within twenty-four hours, except as otherwise provided in subsection 3. The absentee ballot shall be enclosed in an unsealed envelope bearing a serial number and affidavit. The absentee ballot and unsealed envelope shall be enclosed in or with a return envelope marked postage paid which bears the same serial number as the unsealed envelope. The absentee ballot, unsealed envelope, and return envelope shall be enclosed in a third envelope to be sent to the registered voter. If the ballot cannot be folded so that all of the votes cast on the ballot will be hidden, the commissioner shall also enclose a secrecy envelope with the absentee ballot.

2. a. The commissioner shall enclose with the absentee ballot a statement informing the applicant that the sealed return envelope may be mailed to the commissioner by the registered voter or the voter's designee or may be personally delivered to the commissioner's office by the registered voter or the voter's designee. The statement shall also inform the voter that the voter may request that the voter's designee complete a receipt when retrieving the ballot from the voter. A blank receipt shall be enclosed with the absentee ballot.

b. If an application is received so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner shall enclose with the absentee ballot a statement to that effect.

3. a. When an application for an absentee ballot is received by the commissioner of any county from a registered voter who is a patient in a hospital in that county or a resident of any facility in that county shown to be a health care facility by the list of licenses provided the commissioner under section 135C.29, the absentee ballot shall be delivered to the voter and returned to the commissioner in the manner prescribed by section 53.22.

b. (1) If the application is received more than five days before the ballots are printed and the commissioner has elected to have the ballots personally delivered during the ten-day period after the ballots are printed, the commissioner shall mail to the applicant within twenty-four hours a letter in substantially the following form:

Your application for an absentee ballot for the election to be held on has been received. This ballot will be personally delivered to you by a bipartisan team sometime during the ten days after the ballots are printed. If you will not be at the address from which your application was sent during any or all of the ten-day period immediately following the printing of the ballots, the ballot will be personally delivered to you sometime during the fourteen days preceding the election. If you will not be at the address from which your application was sent during either of these time periods, contact this office and arrangements will be made to have your absentee ballot delivered at a time when you will be present at that address.

(2) If the application is received more than fourteen calendar days before the election and the commissioner has not elected to mail absentee ballots to applicants as provided under section 53.22, subsection 3, and has not elected to have the absentee ballots personally delivered during the ten-day period after the ballots are printed, the commissioner shall mail to the applicant within twenty-four hours a letter in substantially the following form:

Your application for an absentee ballot for the election to be held on has been received. This ballot will be personally delivered to you by a bipartisan team sometime during the fourteen days preceding the election. If you will not be at the address from which your application was sent during any or all of the fourteen-day period immediately preceding the election, contact this office and arrangements will be made to have your absentee ballot delivered at a time when you will be present at that address.

c. Nothing in this subsection nor in section 53.22 shall be construed to prohibit a registered voter who is a hospital patient or resident of a health care facility, or who anticipates entering a hospital or health care facility before the date of a forthcoming election, from casting an absentee ballot in the manner prescribed by section 53.10 or 53.11.

[SS15, §1137-c, -d; C24, 27, 31, 35, 39, §928, 930; C46, 50, 54, 58, 62, 66, 71, §53.2, 53.4; C73, §53.2; C75, 77, 79, 81, §53.8]

83 Acts, ch 176, §7; 84 Acts, ch 1291, §12; 86 Acts, ch 1224, §30; 94 Acts, ch 1169, §64; 2002 Acts, ch 1134, §62, 115; 2004 Acts, ch 1083, §31, 32, 37; 2007 Acts, ch 59, §25, 26, 38; 2007 Acts, ch 215, §223; 2009 Acts, ch 57, §62, 63; 2009 Acts, ch 143, §1

53.9 Prohibited persons.

No person required to file reports under chapter 68A, and no person acting as an actual or implied agent for a person required to file reports under chapter 68A, shall receive absentee ballots on behalf of voters. This prohibition does not apply to section 53.17.

97 Acts, ch 170, §69

53.10 Absentee voting at the commissioner's office.

1. Not more than forty days before the date of the primary election or the general election, the commissioner shall provide facilities for absentee voting in person at the commissioner's office. This service shall also be provided for other elections as soon as the ballots are ready, but in no case shall absentee ballots be available more than forty days before an election.

2. Each person who wishes to vote by absentee ballot at the commissioner's office shall first sign an application for a ballot including the following information: name, current address, and the election for which the ballot is requested. The person may report a change of address or other information on the person's voter registration record at that time. The registered voter shall immediately mark the ballot; enclose the ballot in a secrecy envelope, if necessary, and seal it in an affidavit envelope; subscribe to the affidavit on the reverse side of the envelope; and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and affidavit envelope along with the name of the registered voter.

3. During the hours when absentee ballots are available in the office of the commissioner, electioneering shall not be allowed within the sight or hearing of voters at the absentee voting site.

2002 Acts, ch 1134, §63, 115; 2005 Acts, ch 72, §1; 2007 Acts, ch 215, §224; 2008 Acts, ch 1191, §114

53.11 Satellite absentee voting stations.

1. a. Satellite absentee voting stations may be established throughout the cities and county at the direction of the commissioner and shall be established upon receipt of a petition signed by not less than one hundred eligible electors requesting that a satellite absentee voting station be established at a location to be described on the petition. However, if a special election is scheduled in the county on a date that falls between the date of the regular city election and the date of the city runoff election, the commissioner is not required to establish a satellite absentee voting station for the city runoff election.

b. A satellite absentee voting station established by petition must be open at least one day for a minimum of six hours. A satellite absentee voting station established at the direction

of the commissioner or by petition may remain open until 5:00 p.m. on the day before the election.

2. A petition requesting a satellite absentee voting station must be filed by the following deadlines:

a. For a primary or general election, no later than 5:00 p.m. on the forty-seventh day before the election.

b. For the regular city election or a city primary election, no later than 5:00 p.m. on the thirtieth day before the election.

c. For a city runoff election, no later than 5:00 p.m. on the twenty-first day before the election.

d. For the regular school election, no later than 5:00 p.m. on the thirtieth day before the election.

e. For a special election, no later than thirty-two days before the special election.

3. Procedures for absentee voting at satellite absentee voting stations shall be the same as specified in section 53.10 for voting at the commissioner's office. Additional procedures shall be prescribed by rule by the state commissioner.

4. During the hours when absentee ballots are available at a satellite absentee voting station, electioneering shall not be allowed within the sight or hearing of voters at the satellite absentee voting station.

5. At least seven days before the date that absentee ballots will be available at a satellite absentee voting station, the commissioner shall notify the county chairperson of each political party of the date, time, and place that the satellite absentee voting station will be in operation in the county, so that the chairpersons may appoint observers to be present at the station during the hours absentee ballots are available. No more than two observers from each political party shall be present at any one satellite absentee voting station.

[SS15, §1137-e; C24, 27, 31, 35, 39, §937; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.11]

84 Acts, ch 1291, §13; 91 Acts, ch 129, §19; 93 Acts, ch 143, §32; 94 Acts, ch 1169, §65; 97 Acts, ch 170, §70, 71; 2002 Acts, ch 1134, §64 – 66, 115; 2005 Acts, ch 72, §2; 2007 Acts, ch 112, §1 – 3; 2008 Acts, ch 1191, §115; 2009 Acts, ch 131, §1

53.12 Duty of commissioner.

The commissioner shall enclose the absentee ballot in an unsealed envelope, to be furnished by the commissioner, which envelope shall bear upon its face the words "*county commissioner of elections*", the address of the commissioner's office, and the same serial number appearing on the unsealed envelope shall be affixed to the application.

[SS15, §1137-f; C24, 27, 31, 35, 39, §938; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.12]

84 Acts, ch 1291, §14

53.13 Voter's affidavit on envelope.

On the unsealed envelope shall be printed an affidavit form prescribed by the state commissioner of elections.

[SS15, §1137-f; C24, 27, 31, 35, 39, §939; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.13]

53.14 Party affiliation.

Said affidavit shall designate the voter's party affiliation only in case the ballot enclosed is a primary election ballot.

[SS15, §1137-f; C24, 27, 31, 35, 39, §940; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.14]

53.15 Marking ballot.

The registered voter, on receipt of an absentee ballot, shall mark the ballot in such a manner that no other person will know how the ballot is marked.

Registered voters who are blind, cannot read, or because of any other physical disability,

are unable to mark their own absentee ballot, may have the assistance of any person the registered voter may select.

[SS15, §1137-g; C24, 27, 31, 35, 39, §941; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.15]

84 Acts, ch 1291, §15; 94 Acts, ch 1169, §64

53.16 Subscribing to affidavit.

After marking the ballot, the voter shall make and subscribe to the affidavit on the reverse side of the envelope, and fold the ballot or ballots, separately, so as to conceal the markings on them, and deposit them in the envelope, and securely seal the envelope.

[SS15, §1137-g; C24, 27, 31, 35, 39, §942; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.16]

84 Acts, ch 1291, §16

53.17 Mailing or delivering ballot.

1. The sealed envelope containing the absentee ballot shall be enclosed in a return envelope which shall be securely sealed. The sealed return envelope shall be returned to the commissioner by one of the following methods:

a. The sealed return envelope may be delivered by the registered voter, by the voter's designee, or by the special precinct election officials designated pursuant to section 53.22, subsection 1, to the commissioner's office no later than the time the polls are closed on election day. However, if delivered by the voter's designee, the envelope shall be delivered within seventy-two hours of retrieving it from the voter or before the closing of the polls on election day, whichever is earlier.

b. The sealed return envelope may be mailed to the commissioner by the registered voter or by the voter's designee. If mailed by the voter's designee, the envelope must be mailed within seventy-two hours of retrieving it from the voter or within time to be postmarked not later than the day before the election, whichever is earlier.

2. In order for the ballot to be counted, the return envelope must be received in the commissioner's office before the polls close on election day or be clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner not later than noon on the Monday following the election.

3. If the law authorizing the election specifies that the supervisors canvass the votes earlier than the Monday following the election, absentee ballots returned through the mail must be received not later than the time established for the canvass by the board of supervisors for that election. The commissioner shall contact the post office serving the commissioner's office at the latest practicable hour before the canvass by the board of supervisors for that election, and shall arrange for absentee ballots received in that post office but not yet delivered to the commissioner's office to be brought to the commissioner's office before the canvass for that election by the board of supervisors.

4. When a person designated by the voter retrieves a completed absentee ballot from the voter, the designee shall, upon request of the voter, fill out a receipt to be retained by the voter. The state commissioner shall prescribe a form for receipts required by this subsection. The receipt shall include all of the following:

- a. The name of the voter's designee.
- b. The date and time the completed absentee ballot was received from the voter.
- c. The name and date of the election for which the absentee ballot is being voted.
- d. The name of the political party, candidate, or committee for which the designee is acting as an actual or implied agent, if applicable.
- e. A telephone number at which the voter's designee may be contacted.
- f. A statement that the completed absentee ballot will be delivered to the commissioner's office within seventy-two hours of retrieving it from the voter or before the closing of the polls on election day, whichever is earlier, or that the completed absentee ballot will be mailed to

the commissioner within seventy-two hours of retrieving it from the voter or within time to be postmarked not later than the day before the election, whichever is earlier.

[SS15, §1137-g; C24, 27, 31, 35, 39, §943; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.17; 81 Acts, ch 34, §36]

84 Acts, ch 1291, §17; 87 Acts, ch 221, §26; 90 Acts, ch 1238, §29; 94 Acts, ch 1169, §64; 94 Acts, ch 1180, §22; 2004 Acts, ch 1083, §33, 37; 2004 Acts, ch 1175, §361, 362; 2007 Acts, ch 59, §27, 38; 2007 Acts, ch 215, §225 – 228; 2009 Acts, ch 57, §64

53.18 Manner of preserving ballot and application — review of affidavit — replacement ballots.

1. When the return envelope containing the completed absentee ballot is received by the commissioner, the commissioner shall at once record receipt of such ballot. Absentee ballots shall be stored in a secure place until they are delivered to the absentee and special voters precinct board.

2. If the commissioner receives the return envelope containing the completed absentee ballot by 5:00 p.m. on the Saturday before the election for general and primary elections and by 5:00 p.m. on the Friday before the election for all other elections, the commissioner shall open the envelope to review the affidavit for completeness. If the affidavit is incomplete, the commissioner shall, within twenty-four hours of the time the envelope was received, notify the voter of that fact and that the voter may complete the affidavit in person at the office of the commissioner by 5:00 p.m. on the day before the election, vote a replacement ballot in the manner and within the time period provided in subsection 3, or appear at the voter's precinct polling place on election day and cast a ballot in accordance with section 53.19, subsection 3.

3. If the affidavit envelope contains a defect that would cause the absentee ballot to be rejected by the absentee and special voters precinct board, the commissioner shall immediately notify the voter of that fact and that the voter's absentee ballot shall not be counted unless the voter requests and returns a replacement ballot in the time permitted under section 53.17, subsection 2. The voter may request a replacement ballot in person, in writing, or over the telephone. The same serial number that was assigned to the records of the original absentee ballot application shall be used on the envelope and records of the replacement ballot. The affidavit envelope containing the completed replacement ballot shall be marked "Replacement ballot". The affidavit envelope containing the original ballot shall be marked "Defective" and the replacement ballot shall be attached to the affidavit envelope containing the original ballot and shall be stored in a secure place until they are delivered to the absentee and special voters precinct board, notwithstanding sections 53.26 and 53.27.

4. The state commissioner of elections shall adopt rules for implementation of this section. [SS15, §1137-h, -i; C24, 27, 31, 35, 39, §944; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.18]

89 Acts, ch 136, §52; 91 Acts, ch 129, §20; 2002 Acts, ch 1134, §67, 115; 2007 Acts, ch 215, §229; 2009 Acts, ch 57, §65; 2010 Acts, ch 1026, §13

[T] Subsections 2 and 3 amended

53.19 Listing absentee ballots.

1. The commissioner shall maintain a list of the absentee ballots provided to registered voters, the serial number appearing on the unsealed envelope, the date the application for the absentee ballot was received, and the date the absentee ballot was sent to the registered voter requesting the absentee ballot.

2. The commissioner shall provide each precinct election board with a list of all registered voters from that precinct who have received an absentee ballot. The precinct officials shall immediately designate on the election register those registered voters who have received an absentee ballot and are not entitled to vote in person at the polls, except as provided in subsection 3.

3. a. A registered voter who has received an absentee ballot and not returned it may surrender the absentee ballot to the precinct officials and vote in person at the polls. The precinct officials shall mark the uncast absentee ballot "void" and return it to the commissioner.

b. A registered voter who has requested an absentee ballot by mail but for any reason has not received it or who has not brought the ballot to the polls may appear at the voter's precinct polling place on election day and, after the precinct election officials confirm the commissioner has not received the voter's absentee ballot, the voter shall be permitted to vote in person at the polls. If the precinct election officials are unable to confirm whether the commissioner has received the voter's absentee ballot, the voter shall cast a ballot in accordance with section 49.81.

c. A registered voter who has been notified by the commissioner pursuant to section 53.18 of the need to complete the affidavit or vote a replacement absentee ballot and who has not completed the affidavit or voted a replacement absentee ballot may appear at the voter's precinct polling place on election day and, after the precinct election officials confirm the voter has not completed the affidavit or voted a replacement ballot, the voter shall be permitted to vote in person at the polls. If the precinct election officials are unable to confirm whether the voter has completed the affidavit or voted a replacement ballot, the voter shall cast a ballot in accordance with section 49.81.

[C71, §53.4; C73, §53.2; C75, 77, 79, 81, §53.19]

94 Acts, ch 1169, §64; 97 Acts, ch 170, §72; 98 Acts, ch 1123, §11; 2002 Acts, ch 1134, §68, 115; 2007 Acts, ch 215, §230; 2010 Acts, ch 1026, §14

[T] Section amended

53.20 Special precinct established.

1. There is established in each county a special precinct to be known as the absentee ballot and special voters precinct. Its jurisdiction shall be conterminous with the borders of the county, for the purposes specified by sections 53.22 and 53.23, and the requirement that precincts not cross the boundaries of legislative districts shall not be applicable to it. The commissioner shall draw up an election board panel for the special precinct in the manner prescribed by section 49.15, having due regard for the nature and extent of the duties required of members of the election board and the election officers to be appointed from the panel.

2. a. Results from the special precinct shall be reported separately from the results of the ballots cast at the polls on election day. The commissioner shall for general elections also report the results of the special precinct by the resident precincts of the voters who cast absentee and provisional ballots. For all other elections, the commissioner may report the results of the special precinct by the resident precincts of the voters who cast absentee and provisional ballots, or may report the absentee results as a single precinct.

b. For the general election and for any election in which the commissioner determines in advance of the election to report the results of the special precinct by the resident precincts of the voters who cast absentee and provisional ballots, the commissioner shall prepare a separate absentee ballot style for each precinct in the county and shall program the voting system to produce reports by the resident precincts of the voters.

[C77, 79, 81, §53.20]

2008 Acts, ch 1159, §1; 2009 Acts, ch 57, §66

53.21 Replacement of lost or spoiled absentee ballots.

1. A voter who has requested an absentee ballot may obtain a replacement ballot if the voter declares that the original ballot was lost or did not arrive. The commissioner upon receipt of a written or oral request for a replacement ballot shall provide a duplicate ballot. The same serial number that was assigned to the records of the original absentee ballot request shall be used on the envelopes and records of the replacement ballot.

2. a. The commissioner shall include with the replacement ballot two copies of a statement in substantially the following form:

The absentee ballot which I requested on
(date) has been lost or was never received. If I find this absentee
ballot I will return it, unvoted, to the commissioner.

.....
(Signature of voter)

.....
(Date)

b. The voter shall enclose one copy of the above statement in the return envelope with the affidavit envelope and retain a copy for the voter's records.

3. a. A voter who spoils an absentee ballot may return it to the commissioner. The outside of the return envelope shall be marked "SPOILED BALLOT". The commissioner shall replace the ballot in the manner provided in this section for lost ballots.

b. An absentee ballot returned to the commissioner without a designation that the ballot was spoiled shall not be replaced.

89 Acts, ch 136, §53; 93 Acts, ch 143, §33; 2007 Acts, ch 215, §231; 2009 Acts, ch 57, §67

53.22 Balloting by confined persons.

1. a. (1) A registered voter who has applied for an absentee ballot, in a manner other than that prescribed by section 53.10 or 53.11, and who is a resident or patient in a health care facility or hospital located in the county to which the application has been submitted shall be delivered the appropriate absentee ballot by two special precinct election officers, one of whom shall be a member of each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the election board panel for the special precinct established by section 53.20. The special precinct election officers shall be sworn in the manner provided by section 49.75 for election board members, shall receive compensation as provided in section 49.20, and shall perform their duties during the ten calendar days after the ballots are printed if the commissioner so elects, during the fourteen calendar days preceding the election, and on election day if all ballots requested under section 53.8, subsection 3, have not previously been delivered and returned.

(2) If materials are prepared for the two special precinct election officials, a list shall be made of all voters to whom ballots are to be delivered. The list shall be sent with the officials who deliver the ballots and shall include spaces to indicate whether the person was present at the hospital or health care facility when the officials arrived, whether the person requested assistance from the officials, whether the person was assisted by another person of the voter's choice, the time that the ballot was returned to the officials, and any other notes the officials deem necessary.

(3) The officials shall also be issued a supply of extra ballots to replace spoiled ballots. Receipts shall be issued in substantially the same form as receipts issued to precinct election officials pursuant to section 49.65. All ballots shall be accounted for and shall be returned to the commissioner. Separate envelopes shall be provided for the return of spoiled ballots and unused ballots.

b. If an applicant under this subsection notifies the commissioner that the applicant will not be available at the health care facility or hospital address at any time during the ten-day period after the ballots are printed, if applicable, or during the fourteen-day period immediately prior to the election, but will be available there at some other time prior to the election or on election day, the commissioner shall direct the two special precinct election officers to deliver the applicant's ballot at an appropriate time preceding the election or on election day. If a person who so requested an absentee ballot has been dismissed from the health care facility or hospital, the special precinct election officers may take the ballot to the voter if the voter is currently residing in the county.

c. The special precinct election officers shall travel together in the same vehicle and both shall be present when an applicant casts an absentee ballot. If either or both of the special precinct election officers fail to appear at the time the duties set forth in this section are to be performed, the commissioner shall at once appoint some other person, giving preference to persons designated by the respective county chairpersons of the political parties described in

section 49.13, to carry out the requirements of this section. The persons authorized by this subsection to deliver an absentee ballot to an applicant, if requested, may assist the applicant in filling out the ballot as permitted by section 49.90. After the voter has securely sealed the marked ballot in the envelope provided and has subscribed to the oath, the voted absentee ballots shall be deposited in a sealed container which shall be returned to the commissioner on the same day the ballots are voted. On election day the officers shall return the sealed container by the time the polls are closed.

2. Any registered voter who becomes a patient or resident of a hospital or health care facility in the county where the voter is registered to vote within three days prior to the date of any election or on election day may request an absentee ballot during that period or on election day. As an alternative to the application procedure prescribed by section 53.2, the registered voter may make the request directly to the officers who are delivering and returning absentee ballots under this section. Alternatively, the request may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a registered voter of that county, these officers shall deliver the appropriate absentee ballot to the registered voter in the manner prescribed by this section.

3. For any election except a primary or general election or a special election to fill a vacancy under section 69.14, the commissioner may, as an alternative to subsection 1, mail an absentee ballot to an applicant under this section to be voted and returned to the commissioner in accordance with this chapter. This subsection only applies to applications for absentee ballots from a single health care facility or hospital if there are no more than two applications from that facility or hospital.

4. The commissioner shall mail an absentee ballot to a registered voter who has applied for an absentee ballot and who is a patient or resident of a hospital or health care facility outside the county in which the voter is registered to vote.

5. *a.* If the registered voter becomes a patient or resident of a hospital or health care facility outside the county where the voter is registered to vote within three days before the date of any election or on election day, the voter may designate a person to deliver and return the absentee ballot. The designee may be any person the voter chooses except that no candidate for any office to be voted upon for the election for which the ballot is requested may deliver a ballot under this subsection. The request for an absentee ballot may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a registered voter of that county, the ballot shall be delivered by mail or by the person designated by the voter. An application form shall be included with the absentee ballot and shall be signed by the voter and returned with the ballot.

b. Absentee ballots voted under this subsection shall be delivered to the commissioner no later than the time the polls are closed on election day. If the ballot is returned by mail the return envelope must be received by the time the polls close, or clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner no later than the time established for the canvass by the board of supervisors for that election.

6. Observers representing candidates, political parties, or nonparty political organizations, or observers who are opponents or proponents of a ballot issue to be voted on at the election are prohibited from being present at a hospital or health care facility during the time the special precinct election officers are delivering absentee ballots to the residents of such hospital or health care facility.

[C71, 73, 75, §53.17; C77, 79, 81, §53.22; 81 Acts, ch 34, §37]

84 Acts, ch 1291, §18, 19; 85 Acts, ch 67, §8; 87 Acts, ch 221, §27, 28; 88 Acts, ch 1119, §28; 93 Acts, ch 143, §34; 94 Acts, ch 1169, §65; 94 Acts, ch 1180, §23, 24; 2007 Acts, ch 59, §28, 38; 2009 Acts, ch 57, §68; 2009 Acts, ch 143, §2 – 4

53.23 Special precinct election board.

1. The election board of the absentee ballot and special voters precinct shall be appointed by the commissioner in the manner prescribed by sections 49.12 and 49.13, except that the

number of precinct election officials appointed to the board shall be sufficient to complete the counting of absentee ballots by 10:00 p.m. on election day.

2. The board's powers and duties shall be the same as those provided in chapter 50 for precinct election officials in regular precinct polling places. However, the election board of the special precinct shall receive from the commissioner and count all absentee ballots for all precincts in the county; when two or more political subdivisions in the county hold elections simultaneously the special precinct election board shall count absentee ballots cast in all of the elections so held. The tally list shall be recorded on forms prescribed by the state commissioner.

3. a. The commissioner shall set the convening time for the board, allowing a reasonable amount of time to complete counting all absentee ballots by 10:00 p.m. on election day.

b. (1) The commissioner may direct the board to meet on the day before the election for the purpose of reviewing the absentee voters' affidavits appearing on the sealed affidavit envelopes. If in the commissioner's judgment this procedure is necessary due to the number of absentee ballots received, the members of the board may open the sealed affidavit envelopes and remove the secrecy envelope containing the ballot, but under no circumstances shall a secrecy envelope be opened before the board convenes on election day, except as provided in paragraph "c". If the affidavit envelopes are opened before election day pursuant to this paragraph "b", two observers, one appointed by each of the two political parties referred to in section 49.13, subsection 2, shall witness the proceedings. The observers shall be appointed by the county chairperson or, if the county chairperson fails to make an appointment, by the state chairperson. However, if either or both political parties fail to appoint an observer, the commissioner may continue with the proceedings.

(2) If the board finds any ballot not enclosed in a secrecy envelope and the ballot is folded in such a way that any of the votes cast on the ballot are visible, the two special precinct election officials, one from each of the two political parties referred to in section 49.13, subsection 2, shall place the ballot in a secrecy envelope. No one shall examine the ballot, except as provided in paragraph "c".

c. For the general election, the commissioner may convene the special precinct election board on the day before the election to begin counting absentee ballots. However, if in the preceding general election the counting of absentee ballots was not completed by 10:00 p.m. on election day, the commissioner shall convene the special precinct election board on the day before the next general election to begin counting absentee ballots. The board shall not release the results of its tabulation pursuant to this paragraph until the count is completed on election day.

4. The room where members of the special precinct election board are engaged in counting absentee ballots on the day before the election pursuant to subsection 3, paragraph "c", or during the hours the polls are open shall be policed so as to prevent any person other than those whose presence is authorized by this subsection from obtaining information about the progress of the count. The only persons who may be admitted to that room are the members of the board, one challenger representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter 45 or any other nonpartisan candidate in a city or school election appearing on the ballot of the election in progress, one observer representing persons supporting a public measure appearing on the ballot and one observer representing persons opposed to such measure, and the commissioner or the commissioner's designee. It shall be unlawful for any of these persons to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time while the board is convened pursuant to subsection 3, paragraph "c", or at any time before the polls are closed.

5. The special precinct election board shall preserve the secrecy of all absentee and provisional ballots. After the affidavits on the envelopes have been reviewed and the qualifications of the persons casting the ballots have been determined, those that have been accepted for counting shall be opened. The ballots shall be removed from the affidavit envelopes without being unfolded or examined, and then shall be thoroughly intermingled, after which they shall be unfolded and tabulated. If secrecy folders or envelopes are used

with provisional paper ballots, the ballots shall be removed from the secrecy folders after the ballots have been intermingled.

6. The special precinct election board shall not release the results of its tabulation on election day until all of the ballots it is required to count on that day have been counted, nor release the tabulation of provisional ballots accepted and counted under chapter 50 until that count has been completed.

[SS15, §1137-j; C24, 27, 31, 35, 39, §949; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.23]

90 Acts, ch 1238, §30; 92 Acts, ch 1163, §13; 95 Acts, ch 189, §16; 97 Acts, ch 170, §73; 2005 Acts, ch 19, §23; 2007 Acts, ch 59, §29, 38; 2007 Acts, ch 215, §232; 2008 Acts, ch 1115, §104; 2009 Acts, ch 140, §1

53.24 Counties using voting machines. Repealed by 2009 Acts, ch 57, § 96.

53.25 Rejecting ballot.

1. If the absentee voter's affidavit lacks the voter's signature, if the applicant is not a duly registered voter on election day in the precinct where the absentee ballot was cast, if the affidavit envelope contains more than one ballot of any one kind, or if the voter has voted in person, such vote shall be rejected by the absentee and special voters precinct board. If the affidavit envelope is open, or has been opened and resealed, or if the ballot is not enclosed in the affidavit envelope, and an affidavit envelope with the same serial number and marked "Replacement ballot" is not attached as provided in section 53.18, the vote shall be rejected by the absentee and special voters precinct board.

2. If the absentee ballot is rejected prior to the opening of the affidavit envelope, the voter casting the ballot shall be notified by a precinct election official by the time the canvass is completed of the reason for the rejection on a form prescribed by the state commissioner of elections.

[SS15, §1137-j; C24, 27, 31, 35, 39, §951; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.25]

94 Acts, ch 1169, §64; 2007 Acts, ch 215, §234; 2009 Acts, ch 57, §69

53.26 Rejected ballots — how handled.

Every ballot not counted shall be endorsed on the back thereof "Rejected because (giving reason therefor)." All rejected ballots shall be enclosed and securely sealed in an envelope on which the precinct election officials shall endorse "Defective ballots", with a statement of the precinct in which and the date of the election at which they were cast, signed by the precinct election officials and returned to the same officer and in the same manner as by law provided for the return and preservation of official ballots voted at such election.

[SS15, §1137-j; C24, 27, 31, 35, 39, §952; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.26]

[P] Return of rejected ballots, §50.5

53.27 Rejection of ballot — return of envelope.

If the ballot is rejected, the affidavit envelope, with the affidavit of the voter endorsed thereon, shall be returned with the rejected ballot in the envelope endorsed "Defective ballots".

[C24, 27, 31, 35, 39, §953; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.27]
2007 Acts, ch 215, §235

53.28 and 53.29 Repealed by 73 Acts, ch 136, § 401.

53.30 Ballots, ballot envelopes, and other information preserved.

At the conclusion of each meeting of the absentee and special voter's precinct board, the board shall securely seal all ballots counted by them in the manner prescribed in section 50.12. The ballot envelopes, including the envelope having the registered voter's affidavit on it, the return envelope, and secrecy envelope bearing the signatures of precinct election officials,

as required by section 53.23, shall be preserved. All applications for absentee ballots, ballots rejected without being opened, absentee ballot logs, and any other documents pertaining to the absentee ballot process shall be preserved until such time as the documents may be destroyed pursuant to section 50.19.

[C24, 27, 31, 35, 39, §956; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.30]
95 Acts, ch 67, §53; 2002 Acts, ch 1134, §69, 115; 2009 Acts, ch 57, §70

53.31 Challenges.

1. Any person qualified to vote at the election in progress may challenge the qualifications of a person casting an absentee ballot by submitting a written challenge to the commissioner no later than 5:00 p.m. on the Friday before the election. It is the duty of the special precinct officials to challenge the absentee ballot of any person whom the official knows or suspects is not duly qualified. Challenges by members of the special precinct election board or observers present pursuant to section 53.23 may be made at any time before the close of the polls on election day. The challenge shall state the reasons for which the challenge is being submitted and shall be signed by the challenger. When a challenge is received the absentee ballot shall be set aside for consideration by the special precinct election board when it meets as required by section 50.22.

2. The commissioner shall immediately send a written notice to the elector whose qualifications have been challenged. The notice shall be sent to the address at which the challenged elector is registered to vote. If the ballot was mailed to the challenged elector, the notice shall also be sent to the address to which the ballot was mailed if it is different from the elector's registration address. The notice shall advise the elector of the reason for the challenge, the date and time that the special precinct election board will reconvene to determine challenges, and that the elector has the right to submit written evidence of the elector's qualifications. The notice shall include the telephone number of the commissioner's office. If the commissioner has access to a facsimile machine, the notice shall include the telephone number of the facsimile machine. As far as possible, other procedures for considering provisional ballots shall be followed.

[SS15, §1137-k; C24, 27, 31, 35, 39, §957; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.31]

93 Acts, ch 143, §35; 2005 Acts, ch 19, §25; 2007 Acts, ch 59, §30, 38

[P] Challenges, §49.79 – 49.81

53.32 Ballot of deceased voter.

When it shall be made to appear by due proof to the precinct election officials that any elector, who has so marked and forwarded a ballot, has died before the affidavit envelope is opened, then the ballot of such deceased voter shall be endorsed, "Rejected because voter is dead", and be returned to the commissioner; but the casting of the ballot of a deceased voter shall not invalidate the election.

[SS15, §1137-l; C24, 27, 31, 35, 39, §958; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.32]

2007 Acts, ch 215, §236

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

53.34 False affidavit.

Any person who shall willfully swear falsely to any of such affidavits shall be guilty of a fraudulent practice.

[SS15, §1137-n; C24, 27, 31, 35, 39, §960; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.34]

53.35 Refusal to return ballot. Repealed by 2007 Acts, ch 59, § 37, 38.

53.35A Failure to return ballot.

It is unlawful for any person designated by the commissioner, or by the elector casting the absentee ballot, to deliver the sealed envelope containing the absentee ballot, to willfully fail to return the ballot to the commissioner or the commissioner's designee.

93 Acts, ch 143, §36; 2002 Acts, ch 1071, §13

53.36 Repealed by 2002 Acts, ch 1071, § 15. See § 39A.2 – 39A.5.

ABSENT VOTING BY ARMED FORCES

53.37 Definitions.

1. This division is intended to implement the federal Uniform and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff et seq.

2. The term “*armed forces of the United States*”, as used in this division, shall mean the army, navy, marine corps, coast guard, and air force of the United States.

3. For the purpose of absentee voting only, there shall be included in the term “*armed forces of the United States*” the following:

- a. Spouses and dependents of members of the armed forces while in active service.
- b. Members of the merchant marine of the United States and their spouses and dependents.

c. Civilian employees of the United States in all categories serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by the Congress.

d. Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents.

e. Citizens of the United States who do not fall under any of the categories described in paragraphs “a” through “d”, but who are entitled to register and vote pursuant to section 48A.5, subsection 4.

4. For the purposes of this division, “*qualified voter*” means a person who is included within the term “*armed forces of the United States*” as described in this section, who would be qualified to register to vote under section 48A.5, subsection 2, except for residency, and who is not disqualified from registering to vote and voting under section 48A.6.

[C54, 58, 62, 66, §53.37; C71, 73, 75, 77, 79, §53.37, 53.49; C81, §53.37]

94 Acts, ch 1180, §25; 95 Acts, ch 67, §8; 2001 Acts, ch 56, §4; 2007 Acts, ch 59, §31, 38; 2007 Acts, ch 215, §243

53.37A State commissioner duties.

The state commissioner of elections shall provide information regarding voter registration procedures and absentee ballot procedures to be used by members of the armed forces of the United States. The state commissioner shall accept valid voter registration applications and absentee ballot applications and shall forward the applications to the appropriate county commissioner of elections in a timely manner.

2004 Acts, ch 1083, §34, 37

53.38 What constitutes registration.

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the affidavit envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under chapter 48A. A completed federal postcard registration and federal absentee ballot request form submitted by such eligible elector shall also constitute a sufficient registration under chapter 48A. The commissioner shall place the voter's name on the registration record as a registered voter if it does not already appear

there. The identification requirements of section 48A.8 and the verification requirements of section 48A.25A do not apply to persons who register to vote under this division.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.38]

88 Acts, ch 1119, §29; 94 Acts, ch 1169, §55; 2002 Acts, ch 1134, §70, 115; 2007 Acts, ch 59, §32, 38; 2007 Acts, ch 215, §237

53.39 Request for ballot — when available.

1. Section 53.2 does not apply in the case of a qualified voter of the state of Iowa serving in the armed forces of the United States. In any such case an application for ballot as provided for in that section is not required and an absent voter's ballot shall be sent or made available to any such qualified voter upon a request as provided in this division.

2. All official ballots to be voted by qualified absent voters in the armed forces of the United States at the primary election and the general election shall be printed prior to forty-five days before the respective elections and shall be available for transmittal to such qualified voters in the armed forces of the United States at least forty-five days before the respective elections. The provisions of this chapter apply to absent voting by qualified voters in the armed forces of the United States except as modified by the provisions of this division.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.39]

89 Acts, ch 136, §54; 94 Acts, ch 1169, §64; 94 Acts, ch 1180, §26; 95 Acts, ch 67, §9; 2010 Acts, ch 1033, §30, 56

[T] 2010 amendment takes effect March 10, 2010, and applies to elections held on or after May 15, 2010; 2010 Acts, ch 1033, §56

[T] Section amended

53.40 Request requirements — transmission of ballot.

1. a. A request in writing for a ballot may be made by any member of the armed forces of the United States who is or will be a qualified voter on the day of the election at which the ballot is to be cast, at any time before the election. Any member of the armed forces of the United States may request ballots for all elections to be held during a calendar year. The request may be made by using the federal postcard application form and indicating that the applicant wishes to receive ballots for all elections as permitted by state law. If the applicant does not specify which elections the request is for, the county commissioner shall send the applicant a ballot for each federal election held after the application is received until the end of the calendar year in which the request is received. If the applicant requests ballots for all elections to be held in a calendar year, the commissioner, if necessary, shall forward a copy of the absentee ballot request to other commissioners who are responsible under section 47.2, subsection 2, for conducting elections in which the applicant is eligible to vote.

b. Unless the request specifies otherwise, a request for the primary election shall also be considered a request for the general election. In the case of the general election, request may be made not more than seventy days before the election, for and on behalf of a voter in the armed forces of the United States by a spouse, parent, parent-in-law, adult brother, adult sister, or adult child of the voter, residing in the county of the voter's residence. However, a request made by other than the voter may be required to be made on forms prescribed by the state commissioner.

c. A request shall show the residence, including street address, if any, of the voter and the age of the voter and shall designate the address to which the ballot is to be sent. In the case of the primary election, the request shall also show the party affiliation of the voter. The request shall be made to the commissioner of the county of the voter's residence. However, if the request is made by the voter to any elective state, city, or county official, the official shall forward it to the commissioner of the county of the voter's residence, and such request so forwarded shall have the same force and effect as if made directly to the commissioner by the voter.

2. The commissioner shall immediately on the forty-fifth day prior to the particular election transmit ballots to the voter by mail or otherwise, postage prepaid, as directed by the state commissioner, requests for which are in the commissioner's hands at that time, and thereafter so transmit ballots immediately upon receipt of requests. A request for ballot for the primary election which does not state the party affiliation of the voter making the

request is void and of no effect. A request which does not show that the person for whom a ballot is requested will be a qualified voter in the precinct in which the ballot is to be cast on the day of the election for which the ballot is requested, shall not be honored. However, a request which states the age and the city, including street address, and county where the voter resides is sufficient to show that the person is a qualified voter. A request by the voter containing substantially the information required is sufficient.

3. If the affidavit on the affidavit envelope shows that the affiant is not a qualified voter on the day of the election at which the ballot is offered for voting, the envelope shall not be opened, but the envelope and ballot contained in the envelope shall be preserved and returned by the precinct election officials to the commissioner, who shall preserve them for the period of time and under the conditions provided for in sections 50.12, 50.13, 50.15, and 50.19.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.40]

84 Acts, ch 1219, §3; 87 Acts, ch 221, §18; 89 Acts, ch 136, §55; 94 Acts, ch 1180, §27; 2002 Acts, ch 1134, §71, 115; 2004 Acts, ch 1083, §35, 37; 2007 Acts, ch 215, §238; 2009 Acts, ch 57, §71; 2010 Acts, ch 1033, §31, 32, 56; 2010 Acts, ch 1061, §8

[T] 2010 amendments to subsection 1, paragraph a, and subsection 2 take effect March 10, 2010, and apply to elections held on or after May 15, 2010; 2010 Acts, ch 1033, §56

[T] Subsection 1, paragraph a amended

[T] Subsections 2 and 3 amended

53.41 Records by commissioner — excess requests or ballots.

1. The commissioner of each county shall establish and maintain a record of all requests for ballots which are made, and of all ballots transmitted, and the manner of transmittal, from and received in the commissioner's office under the provisions of this division.

2. If more than one request for absent voter's ballot for a particular election is made to the commissioner before the ballots are ready to mail by or on behalf of a voter in the armed forces of the United States, the last request received shall be honored, except that if one of the requests is made by the voter, the request of the voter shall be honored in preference to a request made on the voter's behalf by another.

3. Not more than one ballot shall be transmitted by the commissioner to any voter for a particular election unless after the ballot has been mailed the voter reports a change in the address to which the ballot should be sent. A ballot shall be mailed using a serial number that indicates that this is a replacement sent to an updated address. The original ballot shall be counted only if the replacement ballot does not arrive. If the commissioner receives more than one absent voter's ballot, provided for by this division, from or purporting to be from any one voter for a particular election, all of the ballots so received from or purporting to be from such voter are void, and the commissioner shall not deliver any of the ballots to the precinct election officials, but shall retain them in the commissioner's office, and preserve them for the period and under the conditions provided for in sections 50.12, 50.13, 50.15, and 50.19.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.41]

89 Acts, ch 136, §56; 2007 Acts, ch 59, §33, 38; 2010 Acts, ch 1061, §9

[T] Subsection 3 amended

53.42 Voting in person in commissioner's office.

Notwithstanding the provision as to time found in section 53.10, any qualified voter in the armed forces of the United States may personally appear in the office of the commissioner of the county of the voter's residence and there vote an absent voter's ballot at any time not earlier than forty days before the primary or general election, as the case may be.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.42]

53.43 Identification on envelope.

The envelopes used in connection with voting by absent voter's ballot by voters who are members of the armed forces of the United States, shall have stamped or printed on them the words "*Armed Forces or Overseas Ballot*" and a designation of the election at which the ballot is to be cast.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.43]

86 Acts, ch 1224, §31, 40; 94 Acts, ch 1180, §28

53.44 Affidavit to be signed and returned.

The affidavit on the affidavit envelope used in connection with voting by absentee ballot under this division by members of the armed forces of the United States need not be notarized or witnessed, but the affidavit on such envelope shall be completed and signed by the voter.

Absentee ballots issued under this division shall be returned in the same manner and within the same time limits specified in section 53.17.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.44]

84 Acts, ch 1291, §20; 89 Acts, ch 136, §57; 2007 Acts, ch 215, §239

53.45 Special absentee ballot.

1. a. As provided in this section, the commissioner shall provide special absentee ballots to be used for state general elections. A special absentee ballot shall only be provided to an eligible elector who completes an application stating both of the following to the best of the eligible elector's belief:

(1) The eligible elector will be residing or stationed or working outside the continental United States.

(2) The eligible elector will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

b. The application for a special absentee ballot shall not be filed earlier than ninety days prior to the general election. The special absentee ballot shall list the offices and measures, if known, scheduled to appear on the general election ballot. The eligible elector may use the special absentee ballot to write in the name of any eligible candidate for each office and may vote on any measure.

2. With any special absentee ballot issued under this section, the commissioner shall include a listing of any candidates who have filed before the time of the application for offices that will appear on the ballot at that general election and a list of any measures that have been referred to the ballot before the time of the application.

3. Write-in votes on special absentee ballots shall be counted in the same manner provided by law for the counting of other write-in votes. The commissioner shall process and canvass the special absentee ballots provided under this section in the same manner as other absentee ballots.

4. Notwithstanding the provisions of section 53.49, an eligible elector who requests a special absentee ballot under this section may also make application for an absentee ballot under section 53.2 or an armed forces absentee ballot under section 53.40. If the regular absentee or armed forces absentee ballot is properly voted and returned, the special absentee ballot is void and the commissioner shall reject it in whole when special absentee ballots are canvassed.

87 Acts, ch 221, §29; 88 Acts, ch 1119, §30; 2008 Acts, ch 1032, §201

53.46 Powers and duties of state commissioner.

The state commissioner is authorized and empowered:

1. To make rules for the purpose of carrying out the provisions and intent of this division;

2. To prescribe and direct the preparation of specially printed ballots, envelopes and other papers of different size and weight to be used in connection with absent voting by voters in the armed forces of the United States, if, in the discretion of the state commissioner, the state commissioner shall determine that such a special ballot and other papers will facilitate voting by such voters; provided that the content of any such specially printed matter shall be the same as that used for absent voters generally in the particular precinct in which said armed forces ballot is to be cast, and provided further that such ballots, envelopes and other papers shall be substantially uniform in size and weight throughout the state; and provided further that the provisions of section 49.56, establishing the maximum cost of printing ballots, shall apply to the cost of printing any such specially printed ballots by the several counties;

3. To prescribe any forms that are not otherwise prescribed by law, and which in the judgment of the state commissioner are necessary to facilitate the carrying out of the purposes and intent of this division;

4. To arrange for special transportation of ballots in cooperation with the government of

the United States through any authorized instrumentality thereof and to that end the state commissioner is empowered to direct the commissioners of the several counties of the state to send ballots to voters in the armed forces of the United States other than in the usual course of mail;

5. To employ such clerical assistance as the state commissioner may require in carrying out the state commissioner's functions, to purchase and requisition any office supplies the state commissioner may require, and certify for payment the expenses of carrying out the state commissioner's functions under this division;

6. To call upon any department or division of the state government for information and assistance in connection with carrying out the provisions of this division;

7. To cooperate with any authorized departments, agencies and instrumentalities of the government of the United States in effecting the intent and purposes of this division.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.46]

53.47 Materials furnished by department of administrative services.

In order to establish uniformity in size, weight and other characteristics of the ballot and facilitate its distribution and return, the department of administrative services shall upon direction of the state commissioner purchase any material needed for any special ballots, envelopes and other printed matter, and sell any such materials to the several counties of the state at cost plus handling and transportation costs.

There is hereby appropriated to the department of administrative services from the general fund of the state such sums as may be necessary to purchase any materials provided for herein. The proceeds from sale of such materials to counties shall be turned into the general fund of the state upon receipt of same by the department of administrative services.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.47]

2003 Acts, ch 145, §286

53.48 Postage on ballots.

In the event the government of the United States or any branch, department, agency or other instrumentality thereof shall make provision for sending of any voting matter provided for in this division through the mails postage free, or otherwise, the election officials of the state of Iowa and of the several counties of the state are authorized to make use thereof under the direction of the state commissioner.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.48]

53.49 Applicable to armed forces and other citizens.

The provisions of this division as to absent voting shall apply only to absent voters in the armed forces of the United States as defined for the purpose of absentee voting in section 53.37. The provisions of sections 53.1 through 53.34 shall apply to all other voters not members of the armed forces of the United States.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.49]

86 Acts, ch 1224, §32; 87 Acts, ch 221, §30; 2002 Acts, ch 1071, §14; 2007 Acts, ch 59, §34, 38

53.50 Appropriation.

There is hereby appropriated to the state commissioner from the general fund of the state such sums as are necessary to pay the state commissioner's expenses and perform the state commissioner's functions under this division. Warrants shall be drawn by the director of the department of administrative services upon certification by the state commissioner or the state commissioner's deputy.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.50]

2003 Acts, ch 145, §286

[P] Appropriation limited for fiscal years beginning on or after July 1, 1993; see §8.59

53.51 Rule of construction.

This division shall be liberally construed in order to provide means and opportunity for qualified voters of the state of Iowa serving in the armed forces of the United States to vote.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.51]

94 Acts, ch 1180, §29

53.52 Inconsistent provisions — rule.

The provision or provisions of this division which are inconsistent with any provision or provisions of any other existing statute or any part of any such other existing statute, shall prevail. Likewise, the provision or provisions of any other existing statute or any part of any other existing statute which is not inconsistent with this division, shall prevail.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.52]

53.53 Federal write-in ballots.

1. Upon receipt of an official federal write-in ballot, the commissioner shall examine the voter's written declarations on the envelope. If it appears that the voter is eligible to vote under the provisions of this division, has applied in a timely fashion for an absentee ballot, and has complied with all requirements for the federal write-in ballot, then the federal write-in ballot is valid unless the Iowa absentee ballot is received in time to be counted.

2. The voter's declaration or affirmation on the federal write-in ballot constitutes a sufficient registration under the provisions of chapter 48A and the commissioner shall place the voter's name on the registration record as a registered voter, if the voter's name does not already appear on the registration record. No witness to the oath is necessary.

3. Federal write-in absentee ballots may be used in primary and general elections, and in special elections held pursuant to section 69.14. The federal write-in absentee ballot transmission envelope may also serve as an application for voter registration if the information submitted is sufficient to register the person to vote and the applicant is otherwise eligible to vote under the provisions of this division.

4. The federal write-in ballot shall not be counted if any of the following apply:

a. The ballot was submitted from within the United States, unless the voter is a member of the armed forces of the United States as described in section 53.37, subsection 2, on active duty, and away from the voter's county of residence for purposes of serving on active duty.

b. The voter's application for a regular absentee ballot was received by the commissioner less than fourteen days prior to the election. However, if the voter's application for a regular absentee ballot is not received by the commissioner and if the federal write-in absentee ballot is not prohibited by another provision of this subsection, a federal write-in absentee ballot cast by the voter and received by the commissioner is valid.

c. The voter's completed regular or special Iowa absentee ballot was received by the deadline for return of absentee ballots established in section 53.17.

d. The voter's federal write-in ballot was received after the deadline for return of absentee ballots established in section 53.17.

5. A federal write-in ballot received by the state commissioner of elections shall be forwarded immediately to the appropriate county commissioner. However, if the state commissioner receives a federal write-in ballot after election day and before noon on the Monday following an election, the state commissioner shall at once verify that the voter has complied with the requirements of this section and that the voter's federal write-in ballot is eligible to be counted. If the ballot is eligible to be counted, the state commissioner shall notify the appropriate county commissioner and make arrangements for the ballot to be transmitted to the county for counting. If the ballot is not eligible to be counted, the state commissioner shall mail the ballot to the appropriate commissioner along with notification that the ballot is ineligible to be counted. The county commissioner shall keep the ballot with the other records of the election.

6. The county commissioner shall notify a voter when the voter's federal write-in ballot was not counted and shall give the voter the reason the ballot was not counted.

88 Acts, ch 1119, §31; 94 Acts, ch 1169, §56; 94 Acts, ch 1180, §30; 2004 Acts, ch 1083, §36, 37; 2007 Acts, ch 59, §35, 36, 38; 2009 Acts, ch 57, §72