

# House File 682 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 396)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act requiring a postelection audit after each general election  
2 and including effective and applicability date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 2125HV 83  
5 sc/nh/8

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1 1 Section 1. Section 49.53, subsection 1, Code 2009, is  
1 2 amended to read as follows:  
1 3 1. The commissioner shall not less than four nor more than  
1 4 twenty days before the day of each election, except those for  
1 5 which different publication requirements are prescribed by  
1 6 law, publish notice of the election. The notice shall contain  
1 7 a facsimile of the portion of the ballot containing the first  
1 8 rotation as prescribed by section 49.31, subsection 2, and  
1 9 shall show the names of all candidates or nominees and the  
1 10 office each seeks, and all public questions, to be voted upon  
1 11 at the election. The sample ballot published as a part of the  
1 12 notice may at the discretion of the commissioner be reduced in  
1 13 size relative to the actual ballot but such reduction shall  
1 14 not cause upper case letters appearing in candidates' names or  
1 15 in summaries of public measures on the published sample ballot  
1 16 to be less than ninety percent of the size of such upper case  
1 17 letters appearing on the actual ballot. The notice shall also  
1 18 state the date of the election, the hours the polls will be  
1 19 open, the location of each polling place at which voting is to  
1 20 occur in the election, the location of the polling places  
1 21 designated as early ballot pick-up sites, and the names of the  
1 22 precincts voting at each polling place, but the statement need  
1 23 not set forth any fact which is apparent from the portion of  
1 24 the ballot appearing as a part of the same notice. The notice  
1 25 shall include the full text of all public measures to be voted  
1 26 upon at the election. For the general election, the notice  
1 27 shall also include notice of the time and place of the  
1 28 postelection audit required in section 50.51.

1 29 Sec. 2. Section 50.12, Code 2009, is amended to read as  
1 30 follows:

1 31 50.12 RETURN AND PRESERVATION OF BALLOTS.

1 32 Immediately after making the proclamation, and before  
1 33 separating, the board members of each precinct in which votes  
1 34 have been received by paper ballot shall enclose in an  
1 35 envelope or other container all ballots which have been  
2 1 counted by them, except those endorsed "Rejected as double",  
2 2 "Defective", or "Objected to", and securely seal the envelope.  
2 3 The signatures of all board members of the precinct shall be  
2 4 placed across the seal or the opening of the container so that  
2 5 it cannot be opened without breaking the seal. The precinct  
2 6 election officials shall return all the ballots to the  
2 7 commissioner, who shall carefully preserve them for six  
2 8 months. Ballots from elections for federal offices shall be  
2 9 preserved for twenty-two months. The sealed packages  
2 10 containing voted ballots shall be opened only for an official  
2 11 recount authorized by section 50.48, 50.49, or 50.50, for an  
2 12 election contest held pursuant to chapters 57 through 62, for  
2 13 a postelection audit required by section 50.51, or to destroy

2 14 the ballots pursuant to section 50.19.

2 15 Sec. 3. Section 50.48, subsection 1, paragraph a,  
2 16 unnumbered paragraph 1, Code 2009, is amended to read as  
2 17 follows:

2 18 The county board of canvassers shall order a recount of the

2 19 votes cast for a particular office or nomination in one or  
2 20 more specified election precincts in that county if a written  
2 21 request therefor for a recount is made not later than 5:00  
2 22 p.m. on the third day following the county board's canvass of  
2 23 the election in question. However, if a postelection audit is  
2 24 expanded pursuant to section 50.51, subsection 6, paragraph  
2 25 "d", the request for a recount shall be made not later than  
2 26 5:00 p.m. on the first business day following completion of  
2 27 the audit. The request shall be filed with the commissioner  
2 28 of that county, or with the commissioner responsible for  
2 29 conducting the election if section 47.2, subsection 2, is  
2 30 applicable, and shall be signed by either of the following:  
2 31 Sec. 4. Section 50.49, subsection 1, Code 2009, is amended  
2 32 to read as follows:

2 33 1. A recount for any public measure shall be ordered by  
2 34 the board of canvassers if a petition requesting a recount is  
2 35 filed with the county commissioner not later than three days  
3 1 after the completion of the canvass of votes for the election  
3 2 at which the question appeared on the ballot. However, if a  
3 3 postelection audit is expanded to additional precincts  
3 4 pursuant to section 50.51, subsection 6, paragraph "d", the  
3 5 request for a recount shall be made not later than 5:00 p.m.  
3 6 on the first business day following completion of the audit.

3 7 The petition shall be signed by the greater of not less than  
3 8 ten eligible electors or a number of eligible electors  
3 9 equaling one percent of the total number of votes cast upon  
3 10 the public measure. Each petitioner must be a person who was  
3 11 entitled to vote on the public measure in question or would  
3 12 have been so entitled if registered to vote.

3 13 Sec. 5. NEW SECTION. 50.51 POSTELECTION AUDIT.

3 14 1. a. After each general election, a postelection audit  
3 15 of voting systems shall be conducted as provided in this  
3 16 section.

3 17 b. A postelection audit conducted pursuant to this section  
3 18 shall not affect a person's right to request a recount under  
3 19 section 50.48 or the right of electors to request a recount of  
3 20 a public measure under section 50.49 or the commissioner's  
3 21 right to request an administrative recount under section  
3 22 50.50. If a request for a recount is filed under section  
3 23 50.48 or 50.49, a postelection audit of the office or public  
3 24 measure for which the recount was requested shall not be  
3 25 conducted or shall be terminated, as the case may be.

3 26 2. The commissioner shall include notice of the time and  
3 27 place of the postelection audit in the notice of the election  
3 28 published pursuant to section 49.53. The commissioner shall  
3 29 also notify the county chairperson of each political party  
3 30 referred to in section 49.13, subsection 2, of the time and  
3 31 place of the postelection audit.

3 32 3. a. The postelection audit shall be conducted for the  
3 33 offices of president of the United States and governor and an  
3 34 additional office listed in paragraph "b" or "c", and the  
3 35 offices listed in paragraph "d", if applicable.

4 1 b. When the office of president of the United States  
4 2 appears on the ballot, the votes cast for one of the following  
4 3 contested offices shall be audited:

- 4 4 (1) United States senator.
- 4 5 (2) United States representative.
- 4 6 (3) Senator in the general assembly.
- 4 7 (4) Representative in the general assembly.

4 8 c. When the office of governor appears on the ballot, the  
4 9 votes cast for one of the following contested offices shall be  
4 10 audited:

- 4 11 (1) United States senator.
- 4 12 (2) United States representative.
- 4 13 (3) Senator in the general assembly.
- 4 14 (4) Representative in the general assembly.
- 4 15 (5) Secretary of state.
- 4 16 (6) Auditor of state.
- 4 17 (7) Treasurer of state.
- 4 18 (8) Attorney general.
- 4 19 (9) Secretary of agriculture.

4 20 d. The additional office to be audited under paragraph "b"  
4 21 or "c" shall be chosen by lot at the same time and in the same  
4 22 manner that precincts to be audited are chosen pursuant to  
4 23 subsection 4. If in the election to be audited, none of the  
4 24 offices listed in paragraph "b" were contested races, the  
4 25 offices of county supervisor, county auditor, and county  
4 26 sheriff shall be entered in the lot, and if none of the  
4 27 offices listed in paragraph "c" were contested races, the  
4 28 offices of county supervisor, county attorney, county  
4 29 treasurer, and county recorder shall be entered in the lot.

4 30 e. In addition to the offices listed in this subsection as  
4 31 being subject to the postelection audit, the commissioner may  
4 32 choose to include any other office or public measure that  
4 33 appeared on the ballot in those precincts chosen for the  
4 34 postelection audit.

4 35 4. a. The precincts for which a postelection audit shall  
5 1 be conducted shall be chosen by lot by the chairperson of the  
5 2 county board of canvassers on the day the canvass of the  
5 3 general election is conducted. After the precincts have been  
5 4 chosen, the additional office to be audited, as provided in  
5 5 subsection 3, shall be chosen by lot by the chairperson. The  
5 6 selection proceedings shall be open to the public and to  
5 7 observers from the political parties.

5 8 b. The number of precincts chosen shall be as follows:

5 9 (1) In counties with fifty thousand or fewer registered  
5 10 voters, two precincts.

5 11 (2) In counties with more than fifty thousand registered  
5 12 voters up to and including one hundred thousand registered  
5 13 voters, three precincts.

5 14 (3) In counties with more than one hundred thousand  
5 15 registered voters up to and including two hundred thousand  
5 16 registered voters, four precincts.

5 17 (4) In counties with more than two hundred thousand  
5 18 registered voters, six precincts.

5 19 c. The absentee and special voters precinct established in  
5 20 section 53.20 shall be considered a precinct for purposes of a  
5 21 postelection audit. If the absentee and special voters  
5 22 precinct is chosen by lot to be audited, a number of ballots  
5 23 equal to five percent of the absentee ballots cast in the  
5 24 election shall be audited.

5 25 d. For purposes of paragraph "b", "registered voters"  
5 26 means those persons registered to vote as of the close of  
5 27 registration for the general election pursuant to section  
5 28 48A.9, subsection 1.

5 29 e. The county board of canvassers shall not use a  
5 30 computerized process of randomization as the method of  
5 31 selecting by lot the precincts and offices to be audited.

5 32 5. The commissioner shall appoint the members of the  
5 33 postelection audit board. The postelection audit board shall  
5 34 be comprised of members affiliated with the political parties  
5 35 as provided for regular elections boards in section 49.12.

6 1 6. a. When all members of the postelection audit board  
6 2 have been selected and the canvass is completed, the board  
6 3 shall undertake the required audit. The audit shall be  
6 4 completed no later than two business days following the  
6 5 canvass. The audit shall be open to the public and to  
6 6 observers from the political parties.

6 7 b. The ballots in each precinct chosen shall be counted by  
6 8 hand. The commissioner or the commissioner's designee shall  
6 9 supervise the handling of ballots, tally lists, and the  
6 10 printed reports from the automatic tabulating equipment to  
6 11 ensure that the ballots, tally lists, and printed reports are  
6 12 protected from alteration or damage. The board shall open  
6 13 only the sealed ballot containers from the precincts chosen to  
6 14 be audited. The board shall recount only the ballots which  
6 15 were voted and counted for the office or public measure that  
6 16 is the subject of the audit. If the tabulating device  
6 17 overrode a vote for such office or public measure, that vote  
6 18 shall not be counted in the audit.

6 19 c. Immediately following the conclusion of the audit, the  
6 20 postelection audit board shall make and file with the  
6 21 commissioner a written report of its findings, which report  
6 22 shall be signed by the chairperson of the postelection audit  
6 23 board and one other member of the board who is affiliated with  
6 24 a political party different than that of the chairperson.

6 25 d. (1) If the postelection audit of an office or public  
6 26 measure reveals a difference greater than one-half of one  
6 27 percent, but no fewer than two votes, from the results on the  
6 28 printed report from the automatic tabulating equipment, the  
6 29 postelection audit board shall, within two days, conduct an  
6 30 audit of the offices or public measures for which such  
6 31 difference was found in at least two additional precincts  
6 32 chosen in the same manner the original precincts were chosen  
6 33 and shall immediately report the results to the commissioner.

6 34 (2) If the second audit also indicates a difference in the  
6 35 vote totals that is greater than one-half of one percent, but  
7 1 no fewer than two votes, from the results on the printed  
7 2 report from the automatic tabulating equipment, the  
7 3 commissioner shall immediately notify the state commissioner  
7 4 of elections.

7 5 (3) The state commissioner of elections may direct the

7 6 commissioner, or any other commissioner of a county where the  
7 7 office or public measure appeared on the ballot, to conduct an  
7 8 additional audit of the office or public measure in a number  
7 9 of precincts determined by the state commissioner.

7 10 7. All reports pertaining to a postelection audit shall be  
7 11 filed with the state commissioner of elections, and the state  
7 12 commissioner shall make public the results of the postelection  
7 13 audit in each county as those reports are received.

7 14 8. The state commissioner of elections shall adopt rules  
7 15 to implement this section including but not limited to rules  
7 16 establishing criteria for the state commissioner to utilize  
7 17 when evaluating the results of postelection audits.

7 18 Sec. 6. EFFECTIVE AND APPLICABILITY DATES. This Act takes  
7 19 effect July 1, 2010, and applies to the general election held  
7 20 in 2010 and all subsequent general elections.

#### 7 21 EXPLANATION

7 22 This bill requires a postelection audit after each general  
7 23 election. The postelection audit is a hand count of the  
7 24 ballots cast in certain contested, partisan offices in  
7 25 selected precincts. The precincts and offices to be audited  
7 26 are to be selected publicly by lot by the county board of  
7 27 canvassers, except that the office of President of the United  
7 28 States and governor are required to be audited after each  
7 29 general election.

7 30 The bill provides that the number of precincts to be  
7 31 audited is as follows:

7 32 (1) In counties with 50,000 or fewer registered voters,  
7 33 two precincts.

7 34 (2) In counties with more than 50,000 registered voters up  
7 35 to and including 100,000 registered voters, three precincts.

8 1 (3) In counties with more than 100,000 registered voters  
8 2 up to and including 200,000 registered voters, four precincts.

8 3 (4) In counties with more than 200,000 registered voters,  
8 4 six precincts.

8 5 The bill provides that if the postelection audit reveals a  
8 6 difference greater than one-half of 1 percent from the results  
8 7 on the printed report from the automatic tabulating equipment,  
8 8 the postelection audit board shall, within two days, conduct  
8 9 an audit of the offices for which such difference was found in  
8 10 at least two additional precincts. If the second audit also  
8 11 indicates a difference in the vote totals that is greater than  
8 12 one-half of 1 percent, but no fewer than two votes, from the  
8 13 results on the printed report from the automatic tabulating  
8 14 equipment, the commissioner shall immediately notify the state  
8 15 commissioner of elections. The state commissioner may direct  
8 16 the commissioner, or any other commissioner of a county where  
8 17 the office appeared on the ballot, to conduct an additional  
8 18 audit of the office in a number of precincts determined by the  
8 19 state commissioner.

8 20 The bill provides that if a recount of an office or public  
8 21 measure is requested, the postelection audit of that office or  
8 22 public measure shall not be conducted or shall be terminated,  
8 23 as the case may be.

8 24 The bill requires the state commissioner of elections to  
8 25 make public the results of postelection audits.

8 26 The bill takes effect July 1, 2010, and applies to the  
8 27 general election held in 2010 and all subsequent general  
8 28 elections.

8 29 LSB 2125HV 83

8 30 sc/nh/8