

SECOND REGULAR SESSION

HOUSE BILL NO. 1744

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WALTON (Sponsor) AND WHORTON (Co-sponsor).

Read 1st time April 20, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4992L.011

AN ACT

To repeal sections 115.045, 115.051, 115.076, 115.115, 115.225, 115.227, 115.229, 115.231, 115.233, 115.235, 115.237, 115.249, 115.251, 115.253, 115.255, 115.257, 115.259, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.301, 115.383, 115.395, 115.415, 115.417, 115.419, 115.420, 115.421, 115.423, 115.430, 115.436, 115.439, 115.443, 115.447, 115.467, 115.469, 115.471, 115.473, 115.475, 115.477, 115.479, 115.481, 115.483, 115.485, 115.487, 115.489, 115.493, 115.495, 115.501, 115.503, 115.541, 115.585, 115.631, 115.633, and 115.655, RSMo, and to enact in lieu thereof twenty-four new sections relating to the use of paper ballots for all elections, with a penalty clause for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 115.045, 115.051, 115.076, 115.115, 115.225, 115.227, 115.229, 2 115.231, 115.233, 115.235, 115.237, 115.249, 115.251, 115.253, 115.255, 115.257, 115.259, 3 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.301, 115.383, 115.395, 4 115.415, 115.417, 115.419, 115.420, 115.421, 115.423, 115.430, 115.436, 115.439, 115.443, 5 115.447, 115.467, 115.469, 115.471, 115.473, 115.475, 115.477, 115.479, 115.481, 115.483, 6 115.485, 115.487, 115.489, 115.493, 115.495, 115.501, 115.503, 115.541, 115.585, 115.631, 7 115.633, and 115.655, RSMo, are repealed and twenty-four new sections enacted in lieu thereof, 8 to be known as sections 115.014, 115.045, 115.051, 115.076, 115.115, 115.383, 115.395, 9 115.415, 115.417, 115.419, 115.421, 115.423, 115.430, 115.436, 115.439, 115.443, 115.447, 10 115.493, 115.501, 115.541, 115.585, 115.631, 115.633, and 115.655, to read as follows:

115.014. After August 28, 2004, all elections conducted in this state shall use only

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

2 **paper ballots, and no voting shall be done by ballot card, electronic voting system, marking**
3 **device, or any machine, nor shall any vote be counted electronically or by any machine.**
4 **All such ballots shall be counted in accordance with the procedures established for**
5 **counting paper ballots in this chapter. Each voter shall be provided with a copy of the**
6 **voter's completed ballot for the voter to retain as a voting record.**

115.045. Each election authority shall have the authority to employ such attorneys and
2 other employees as may be necessary to promptly and correctly perform the duties of the election
3 authority. [Where an electronic voting system or voting machines are used, the election authority
4 shall designate competent employees to have custody of and supervise maintenance of the voting
5 equipment.] Board of election commissioners' employees shall be subject to the same
6 restrictions and subscribe the same oath as members of the board of election commissioners,
7 except that no employee of a board of election commissioners shall be required to post bond
8 unless directed to do so by the board. Employee oaths and any bonds shall be filed and preserved
9 in the office of the board.

115.051. 1. In each county which does not have a board of election commissioners, the
2 county clerk shall have the right to employ such deputies and assistants as are necessary to
3 promptly and correctly register voters and conduct elections. [Where an electronic voting system
4 or voting machines are used, the county clerk shall designate competent employees to have
5 custody of and supervise maintenance of the voting equipment.] Each deputy shall be subject
6 to the same restrictions and subscribe the same oath as the county clerk, except that no employee
7 shall be required to post bond unless directed to do so by the clerk. Employee oaths and any
8 bonds shall be filed and preserved in the office of the county clerk.

9 2. Within the total amount for deputies and assistants approved by the county
10 commission, the salary of each deputy and assistant shall be set by the county clerk.

115.076. 1. Subject to appropriation of federal funds, the secretary of state shall
2 administer a grant, loan, or other aid program for the purpose of providing funds to election
3 authorities:

4 (1) [To purchase electronic voting machines that are accessible to all individuals with
5 disabilities, including people who are blind or visually impaired;

6 (2)] To make polling places, including path of travel, entrances, exits and voting areas
7 of each polling facility accessible to individuals with disabilities, including the blind and visually
8 impaired, in a manner that provides the same opportunity for access and secret, independent and
9 verifiable participation, including privacy and independence, as for other voters;

10 [(3)] (2) To provide individuals with disabilities and individuals who are blind and
11 visually impaired with information about the accessibility of polling places, including outreach
12 programs to inform individuals about the availability of accessible polling places and to train

13 election officials, poll workers, and election volunteers on how to best promote the access and
14 participation of individuals in elections, and to provide assistance in all accommodations needed
15 by voters with disabilities.

16

17 Such funding may be in the form of matching grants. The secretary of state when awarding
18 grants shall give priority to jurisdictions which have the highest number of residents, according
19 to the most recent federal census, with an income below the federal poverty level as established
20 by the federal Department of Health and Human Services or its successor agency. The secretary
21 of state may promulgate rules to effectuate the provisions of this section.

22 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
23 is created under the authority delegated in this section shall become effective only if it complies
24 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
25 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
26 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
27 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
28 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be
29 invalid and void.

115.115. 1. Except as provided in subsection 2 of this section or in section 115.436, for
2 each election within its jurisdiction, the election authority shall designate a polling place for each
3 precinct within which any voter is entitled to vote at the election.

4 2. For any election, the election authority shall have the right to consolidate two or more
5 adjoining precincts for voting at a single polling place and to designate one set of judges to
6 conduct the election for such precincts. Voters shall be notified of the place for voting in the
7 manner provided in section 115.127 or 115.129.

8 3. No person shall be required to go to more than one polling place to vote on the same
9 day.

10 4. Prior to the opening of the polling places on any election day, if candidates or issues
11 for more than one political subdivision or district are to be voted for at one precinct, the election
12 authority for that precinct shall provide color-coded ballots, or ballots with other distinguishing
13 codes, to show what candidates and issues the voter is eligible to vote, based on the voter's place
14 of residence, so that on election day no voter will have an opportunity to vote for candidates or
15 issues for which the voter is not entitled to vote. If such ballots are not available, the election
16 authority shall be notified and voting at that precinct shall not begin until appropriate ballots are
17 available.

18 5. Each local election authority shall designate one common site and may designate up
19 to four additional common sites as election day central polling places designed for accessibility

20 to voters who have physical disabilities, the elderly, and any other registered voter authorized
21 by law to vote at a central polling place. Such sites shall conform to nationally accepted
22 accessibility standards. In addition to being able to supply such voters with their appropriate
23 ballots, and being open during regular voting hours, such a polling place shall otherwise be
24 staffed and operated in accordance with law, especially as provided in subsection [3] 2 of section
25 115.436 and subsection 3 of section 115.445, and like any other polling place, insofar as
26 possible.

27 6. Subject to receipt of sufficient Section 261 funds authorized by the Help America
28 Vote Act of 2002, the secretary of state shall develop a comprehensive plan for increased polling
29 place accessibility. The secretary of state shall apply for funds pursuant to Section 261 of the
30 Help America Vote Act of 2002 and may allocate Section 101 of the Help America Vote Act of
31 2002 funding after reaching full compliance of Title III of the Help America Vote Act of 2002.
32 Any funds received pursuant to Section 291 of the Help America Vote Act of 2002 may be used
33 for provisions of this section. The plan shall include:

34 (1) Completion of a comprehensive audit of current polling place accessibility using
35 nationally accepted standards for architectural accessibility such as the Federal Election
36 Commission Polling Place Accessibility Survey or other survey developed using the Americans
37 with Disabilities Act Accessibility Guidelines. Audits shall be completed no later than twelve
38 months after receipt of Section 261 of the Help America Vote Act of 2002 funds. The audit shall
39 include recommendations and cost estimates for each polling place to achieve accessibility and
40 shall be procured in accordance with chapter 34, RSMo;

41 (2) Development of the plan, including time lines for barrier removal and funding needed
42 to achieve one hundred percent polling place accessibility within twenty-four months after the
43 completion of the audit. The implementation plan may be used by local election authorities in
44 applying for any available federal and state funds available to improve polling place accessibility
45 and shall be submitted to the general assembly by the secretary of state for use in determining
46 future requirements and funding needs for polling place accessibility;

47 (3) Establishment of an oversight committee made up of individuals with disabilities,
48 disability organizations, advocates, and election officials to assist the activities pursuant to this
49 section.

50

51 Nothing in this section shall be construed to limit the ability of local election authorities to apply
52 for and receive grants for polling place accessibility pursuant to Section 261 of the Help America
53 Vote Act of 2002 prior to the completion of the survey authorized pursuant to this section.
54 Improvements to polling places made with grants received pursuant to Section 261 of the Help
55 America Vote Act of 2002 shall be used to meet standards as outlined in this section unless the

56 requirements of the grant exceed these requirements.

115.383. Any election authority duly notified that a name is to be removed from the
2 ballot or that a new candidate has been selected shall have the proper corrections made on the
3 ballot before the ballot is delivered to or while it is in the hands of the printer. If time does not
4 permit correction of the printed ballot, the election authority shall have prepared small pasters,
5 suitable for covering the name to be removed on the ballots[,] **or** ballot labels [or on the
6 protective covering of each voting machine]. If a candidate is replaced by a candidate pursuant
7 to the provisions of sections 115.361 to 115.377, the paster shall contain the name to be
8 substituted in letters of the same size and type as all other names on the ballot. The appropriate
9 election authorities shall see that such pasters are properly applied to the ballots[,] **or** ballot
10 labels [or voting machines] before they are used for voting.

115.395. 1. At each primary election, there shall be as many separate ballots as there are
2 parties entitled to participate in the election.

3 2. The names of the candidates for each office on each party ballot shall be listed in the
4 order in which they are filed, except that, in the case of candidates who file a declaration of
5 candidacy with the secretary of state prior to 5:00 p.m. on the first day for filing, the secretary
6 of state shall determine by random drawing the order in which such candidates' names shall
7 appear on the ballot. The drawing shall be conducted so that each candidate may draw a number
8 at random at the time of filing. The secretary of state shall record the number drawn with the
9 candidate's declaration of candidacy. The names of candidates filing on the first day for filing
10 for each office on each party ballot shall be listed in ascending order of the numbers so drawn.
11 For the purposes of this subsection, the election authority responsible for oversight of the filing
12 of candidates, other than candidates that file with the secretary of state, shall clearly designate
13 where candidates shall form a line to effectuate such filings and determine the order of such
14 filings; except that, in the case of candidates who file a declaration of candidacy with the election
15 authority prior to 5:00 p.m. on the first day for filing, the election authority may determine by
16 random drawing the order in which such candidates' names shall appear on the ballot. If a
17 drawing is conducted pursuant to this subsection, it shall be conducted so that each candidate
18 may draw a number at random at the time of filing. If such drawing is conducted, the election
19 authority shall record the number drawn with the candidate's declaration of candidacy. If such
20 drawing is conducted, the names of candidates filing on the first day for filing for each office on
21 each party ballot shall be listed in ascending order of the numbers so drawn.

22 3. Insofar as applicable, the provisions of sections [115.237,] 115.241 and 115.245 shall
23 apply to each ballot prepared for a primary election, except that the ballot information may be
24 placed in vertical or horizontal rows, no circle shall appear under any party name and no write-in
25 lines shall appear under the name of any office for which a candidate is to be nominated at the

26 primary. At a primary election, write-in votes shall be counted only for persons who can be
27 elected to an office at the primary.

115.415. Before the time fixed by law for the opening of the polls, the election authority
2 shall deliver to the authorized election officials or to the polling place the appropriate ballots,
3 ballot boxes, precinct registers, voting booths, [voting machines] and all other supplies, material
4 and equipment necessary and appropriate for the polling place. The election authority shall make
5 and preserve a record of each delivery.

115.417. 1. Before the time fixed by law for the opening of the polls, the election
2 authority shall deliver to each polling place a sufficient number of voter instruction cards which
3 include [the following information:

4 (1) If paper ballots or an electronic voting system is used, the] instructions [shall inform]
5 **informing** the voter on how to obtain a ballot for voting, how to vote and prepare the ballot for
6 deposit in the ballot box and how to obtain a new ballot to replace one accidentally spoiled[;

7 (2) If voting machines are used, the instructions shall inform the voter how to operate
8 the machine in such a manner that the voter may vote as the voter wishes].

9 2. The election authority at each polling place shall post in a conspicuous place voting
10 instructions on a poster no smaller than twenty-four inches by thirty inches. Such instructions
11 shall also inform the voter that the voting equipment can be demonstrated upon request of the
12 voter. The election authority shall also publicly post during the period of time in which a person
13 may cast an absentee ballot and on election day a sample version of the ballot that will be used
14 for that election, the date of the election, the hours during which the polling place will be open,
15 instructions for mail-in registrants and first-time voters, general information on voting rights in
16 accordance with the state plan filed by the secretary of state pursuant to the Help America Vote
17 Act of 2002, general information on the right to cast a provisional ballot and instructions for
18 provisional ballots, how to contact appropriate authorities if voting rights have been violated, and
19 general information on federal and Missouri law regarding prohibitions on acts of fraud and
20 misrepresentation. The secretary of state may promulgate rules to execute this section. No rule
21 or portion of a rule promulgated pursuant to the authority of this section shall become effective
22 unless it has been promulgated pursuant to chapter 536, RSMo.

23 3. [If marking devices or voting machines are used, the election authority shall also
24 provide to each polling place a model of a marking device or portion of the face of a voting
25 machine. If requested to do so by a voter, the election judges shall give instructions on operation
26 of the marking device or voting machine by use of the model.

27 4.] The secretary of state may develop multilingual voting instructions to be made
28 available to election authorities.

115.419. Before the time fixed by law for the opening of the polls, the election authority

2 shall deliver to each polling place a sufficient number of sample ballots[, ballot cards] or ballot
3 labels which shall be a different color but otherwise exact copies of the official ballot. The
4 samples shall be printed in the form of a diagram, showing the form of the ballot [or the front
5 of the marking device or voting machine] as it will appear on election day. The secretary of state
6 may develop multilingual sample ballots to be made available to election authorities.

115.421. Before the time fixed by law for the opening of the polls, the election judges
2 shall:

3 (1) Set up the voting equipment, arrange the furniture, supplies and records and make
4 all other arrangements necessary to open the polls at the time fixed by law;

5 (2) Post a voter instruction card in each voting booth or machine and in at least one other
6 conspicuous place within the polling place and post a sample ballot in a conspicuous place near
7 the voting booths;

8 (3) Certify the number of ballots received at each polling place[. In each polling place
9 using voting machines, the election judges shall, in lieu of certifying the number of ballots
10 received, certify the number on each voting machine received at the polling place, the number
11 on the seal of each voting machine, the number on the protective counter of each voting machine
12 and that all recording counters on all voting machines at the polling place are set at zero. If a
13 recording counter on any voting machine is not set at zero, the election judges shall immediately
14 notify the election authority and proceed as it directs];

15 (4) Compare the ballot[, ballot label] or [ballot card and] ballot label with the sample
16 ballots, see that the names, numbers and letters agree and certify thereto in the tally book. If the
17 names, numbers or letters do not agree, the election judges shall immediately notify the election
18 authority and proceed as it directs;

19 (5) Sign the tally book in the manner provided in the form for tally books in section
20 115.461[, 115.473 or 115.487]. If any election judge, challenger or watcher has not been
21 previously sworn as the law directs, [he] **the election judge** shall take and subscribe the oath of
22 [his] office as provided in section 115.091 or 115.109, and the oath shall be returned to the
23 election authority with the tally book.

115.423. After the time fixed by law for the opening of the polls but before the voting
2 begins, the election judges shall open the ballot box and show to all present that it is empty. The
3 ballot box shall then be locked and the key kept by one of the election judges. The ballot box
4 shall not be opened or removed from public view from the time it is shown to be empty until the
5 polls close or until the ballot box is delivered for counting pursuant to section 115.451. [If
6 voting machines are used, the election judges shall call attention to the counter on the face of
7 each voting machine and show to all present that it is set at zero.]

115.430. 1. This section shall apply to primary and general elections where candidates

2 for federal or statewide offices are nominated or elected and any election where statewide issue
3 or issues are submitted to the voters.

4 2. A voter claiming to be properly registered in the jurisdiction of the election authority
5 and eligible to vote in an election, but whose eligibility cannot be immediately established upon
6 examination of the precinct register or upon examination of the records on file with the election
7 authority, shall be entitled to vote a provisional ballot after providing a form of personal
8 identification required pursuant to section 115.427, or may vote at a central polling place as
9 established in section 115.115 where they may vote their appropriate ballot upon verification of
10 eligibility or vote a provisional ballot if eligibility cannot be determined. The provisional ballot
11 contained in this section shall contain the statewide candidates and issues, and federal candidates.
12 The congressional district on the provisional ballot shall be for the address contained on the
13 affidavit provided for in this section. If the voter declares that the voter is eligible to vote and
14 the election authority determines that the voter is eligible to vote at another polling place, the
15 voter shall be directed to the correct polling place or a central polling place as established by the
16 election authority pursuant to subsection 5 of section 115.115. If the voter refuses to go to the
17 correct polling place or a central polling place, the voter shall be permitted to vote a provisional
18 ballot at the incorrect polling place, but such ballot shall not be counted.

19 3. Once voted, the provisional ballot shall be placed and sealed in a provisional ballot
20 envelope. The provisional ballot in its envelope shall be deposited in the ballot box. The
21 provisional ballot envelope shall be completed by the voter for use in determining eligibility.
22 The provisional ballot envelope specified in this section shall contain a voter's certificate which
23 shall be in substantially the following form:

24 STATE OF

25 COUNTY OF

26 I do solemnly swear (or affirm) that my name is; that my date of birth
27 is; that the last four digits of my Social Security Number are; that I am
28 registered to vote in County or City (if a City not within a County), Missouri; that I
29 am a qualified voter of said County (or City not within a County); that I am eligible to vote at
30 this polling place; and that I have not voted in this election.

31 I understand that if the above-provided information is not correct and the election
32 authority determines that I am not registered and eligible to vote, my vote will not be counted.
33 I further understand that knowingly providing false information is a violation of law and subjects
34 me to possible criminal prosecution.

35

36 (Signature of Voter)

37

38 (Current Address)

39 Subscribed and affirmed before me this day of, 20.....

40

41 (Signature of Election Official)

42

43 The voter may provide additional information to further assist the election authority in
44 determining eligibility, including the place and date the voter registered to vote, if known.

45 4. Prior to certification of the election, the election authority shall determine if the voter
46 is registered and entitled to vote and if the vote was properly cast. The provisional ballot shall
47 be counted only if the election authority determines that the voter is registered and entitled to
48 vote. Provisional ballots voted in the wrong polling place shall not be counted. If the voter is
49 not registered but is qualified to register for future elections, the affidavit shall be considered a
50 mail application to register to vote pursuant to this chapter.

51 5. [In counties where the voting system does not utilize a paper ballot, the election
52 authority shall provide the appropriate provisional ballots to each polling place.

53 6.] The secretary of state may promulgate rules for purposes of ensuring the uniform
54 application of this section. No rule or portion of a rule promulgated pursuant to the authority of
55 this section shall become effective unless it has been promulgated pursuant to chapter 536,
56 RSMo.

57 [7.] 6. The secretary of state shall design and provide to the election authorities the
58 envelopes and forms necessary to carry out the provisions of this section.

59 [8.] 7. Pursuant to the Help America Vote Act of 2002, the secretary of state shall ensure
60 a free access system is established, such as a toll-free number or an Internet web site, that any
61 individual who casts a provisional ballot may access to discover whether the vote of that
62 individual was counted, and, if the vote was not counted, the reason that the vote was not
63 counted. At the time an individual casts a provisional ballot, the election authority shall give the
64 voter written information that states that any individual who casts a provisional ballot will be
65 able to ascertain under such free access system whether the vote was counted, and if the vote was
66 not counted, the reason that the vote was not counted.

67 [9.] 8. In accordance with the Help America Vote Act of 2002, any individual who votes
68 in an election as a result of a court order or any other order extending the time established for
69 closing the polls in section 115.407 may vote only by using a provisional ballot, and such
70 provisional ballot shall be separated and held apart from other provisional ballots cast by those
71 not affected by the order. Such ballots shall not be counted until such time as the ballots are
72 determined to be valid.

115.436. 1. [In jurisdictions using paper ballots and electronic voting systems,] When

2 any physically disabled voter within two hundred feet of a polling place is unable to enter the
3 polling place, two election judges, one of each major political party, shall, when time permits,
4 take a ballot, equipment and materials necessary for voting to the voter. The voter shall mark
5 the ballot, and the election judges shall place the ballot in an envelope, seal it and place it in the
6 ballot box.

7 2. [In jurisdictions using voting machines, when any physically disabled voter within two
8 hundred feet of a polling place is unable to enter the polling place, two election judges, one of
9 each major political party, shall, when time permits, take an absentee ballot to the voter. The
10 voter shall mark the ballot, and the election judges shall place the ballot in an envelope, seal it
11 and place it in the ballot box.

12 3.] Upon request to the election authority, the election authority in any jurisdiction shall
13 designate a polling place accessible to any physically disabled voter other than the polling place
14 to which that voter would normally be assigned to vote, provided that the candidates and issues
15 voted on are consistent for both the designated location and the voting location for the voter's
16 precinct. Upon request, the election authority may also assign members of the physically
17 disabled voter's household and such voter's caregiver to the same voting location as the
18 physically disabled voter. In no event shall a voter be assigned under this section to a designated
19 location apart from the established voting location for the voter's precinct if the voter objects to
20 the assignment to another location.

115.439. 1. [If paper ballots or ballot cards are used,] The voter shall, immediately upon
2 receiving [his] a ballot, go alone to a voting booth and vote [his] **the** ballot in the following
3 manner:

4 (1) If the voter desires to vote a straight party ticket, [he] **the voter** may place a cross (X)
5 mark in the circle directly below the party name at the head of the column, or [he] may place
6 cross (X) marks in the squares directly to the left of the names of candidates on one party ticket;

7 (2) If the voter desires to vote a split party ticket, [he] **the voter** may place a cross (X)
8 mark in the circle directly below one party name at the head of the column and cross (X) marks
9 in the squares directly to the left of the names of candidates on other party tickets, or [he] may
10 place cross (X) marks in the squares directly to the left of the names of candidates on different
11 party tickets;

12 (3) If the voter desires to vote for a person whose name does not appear on the ballot,
13 [he] **the voter** may cross out a name which appears on the ballot for the office and write the
14 name of the person for whom [he] **the voter** wishes to vote above or below the crossed-out name
15 and place a cross (X) mark in the square directly to the left of the crossed-out name. If a write-in
16 line appears on the ballot, [he] **the voter** may write the name of the person for whom [he] **the**
17 **voter** wishes to vote on the line and place a cross (X) mark in the square directly to the left of

18 the name;

19 (4) If the ballot does not contain any party designations, the voter shall place a cross (X)
20 mark in the squares directly to the left of the names of the candidates for whom [he] **the voter**
21 desires to vote;

22 (5) If the ballot is one which contains no candidates, the voter shall place a cross (X)
23 mark in the square directly to the left of each "yes" or "no" [he] **the voter** desires to vote.

24

25 No voter shall vote for the same person more than once for the same office at the same election.

26 2. [For purposes of this section, a punch or sensor mark or any other mark clearly
27 indicating that the voter intends to mark that particular square shall be equivalent to a cross (X)
28 mark.

29 3. If voting machines are used, the voter shall, immediately upon direction by the judges,
30 go alone to a voting machine, close the curtain and vote in substantially the same manner
31 provided in subsection 1 of this section. Rather than placing cross (X) marks on the ballot,
32 however, the voter shall cause the designations to appear on the face of the voting machine, cast
33 any write-in votes and register his votes as directed in the instructions for use of the machine.

34 4.] If the voter accidentally spoils [his] **the** ballot or [ballot card or] makes an error, [he]
35 **the voter** may return it to an election judge and receive another. The election judge shall mark
36 "SPOILED" across the ballot [or ballot card] and place it in an envelope marked "SPOILED
37 BALLOTS". After another ballot has been prepared in the manner provided in section 115.433,
38 the ballot shall be given to the voter for voting.

39 [5.] 3. The election authority may authorize the use of a sticker or other item containing
40 a write-in candidate's name, in lieu of a handwritten name. All such stickers and items used by
41 election authorities shall conform to rules and regulations promulgated by the secretary of state
42 regarding the form of such stickers and items. The secretary of state shall promulgate rules and
43 regulations to prescribe uniform specifications for the form of such stickers and items. If
44 authorized, such sticker or item shall contain a cross (X) mark, or other mark as described in
45 subsection 2 of this section, in the square directly left of the candidate's name and the office for
46 which the candidate is a write-in candidate. A write-in vote that does not meet the requirements
47 of this subsection which appears on a ballot shall not be counted pursuant to sections 115.447
48 to 115.525. [In those jurisdictions using an electronic voting system which utilizes mark sense
49 or optical scan technology and if the election authority authorizes the use of stickers for
50 write-ins, such system shall be programmed to identify and separate those ballots which contain
51 an office in which write-in candidates are eligible to receive votes, and which contain less votes
52 than a voter is entitled to cast.] In addition, such sticker shall be considered "printed matter" as
53 defined in subsection 8 of section 130.031, RSMo, and as such shall contain the designation

54 required by subsection 8 of section 130.031, RSMo.

55 [6.] 4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
56 that is created under the authority delegated in this section shall become effective only if it
57 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
58 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of
59 the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay
60 the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then
61 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall
62 be invalid and void.

115.443. [1. Where paper ballots are used,] The voter shall, before leaving the voting
2 booth, fold [his] **the** ballot so that the cross (X) marks are concealed. The voter shall place [his]
3 **the** ballot in the ballot box and leave the polling place immediately.

4 [2. Where ballot cards with envelopes are used, the voter shall, immediately before
5 leaving the voting booth, place his ballot card in the ballot envelope. Where ballot cards with
6 stubs are used, the voter shall, immediately after leaving the voting booth, hand his ballot card
7 or envelope containing his ballot card to an election judge. The election judge shall remove the
8 stub from the ballot card and, where ballot envelopes are used, replace the ballot card in the
9 envelope and return the ballot card or envelope containing the ballot card to the voter. The voter
10 shall place the ballot card or envelope containing the ballot card in the ballot box and leave the
11 polling place immediately. Where ballot cards without stubs are used, the voter shall,
12 immediately after leaving the voting booth, place the ballot card or ballot envelope containing
13 the ballot card in the ballot box and leave the polling place immediately.

14 3. Where voting machines are used, the voter shall register his vote as directed in the
15 instructions for use of the machine and leave the polling place immediately.]

115.447. 1. As used in this subchapter, unless the context clearly implies otherwise, the
2 following terms shall mean:

3 (1) "Counting judges" are the two judges, one from each major political party, who read
4 each vote received by all candidates and each vote for and against all questions at a polling place;

5 (2) "Receiving judges" are the two judges, one from each major political party, who
6 initial each voter's ballot at a polling place;

7 (3) "Recording judges" are the two judges, one from each major political party, who tally
8 the votes received by each candidate and for and against each question at a polling place. These
9 terms describe functions rather than individuals, and any election judge may perform more than
10 one function at a polling place on election day.

11 2. As used in this subchapter, unless the context clearly implies otherwise, the following
12 terms shall mean:

13 (1) "Defective ballot" is any ballot card on which the number of write-in votes and votes
14 cast on the ballot card for any office exceed the number allowed by law, and any ballot card
15 which is bent or damaged so that it cannot be properly counted by automatic tabulating
16 equipment;

17 (2) "Rejected ballot" is any ballot on which no votes are counted because the ballot fails
18 to have the initials of the proper election judges, because the number of votes for all offices and
19 on all questions exceeds the number authorized by law, because the voter is deemed by the
20 election judges to be unqualified, because it is an absentee ballot not accompanied by a
21 completed and signed affidavit, or because the ballot was voted with unlawful assistance;

22 (3) "Spoiled ballot" is any ballot accidentally spoiled by a voter and replaced by election
23 judges in the manner provided in subsection [4] 2 of section 115.439.

115.493. The election authority shall keep all voted ballots, [ballot cards, processed
2 ballot materials in electronic form and] write-in forms, and all applications, statements,
3 certificates, **and** affidavits [and computer programs] relating to each election for twelve months
4 after the date of the election. During the time that voted ballots[, ballot cards, processed ballot
5 materials in electronic form] and write-in forms are kept by the election authority, it shall not
6 open or inspect them or allow anyone else to do so, except upon order of a legislative body trying
7 an election contest, a court or a grand jury. After twelve months, the ballots, [ballot cards,
8 processed ballot materials in electronic form,] write-in forms, applications, statements,
9 certificates, **and** affidavits [and computer programs] relating to each election may be destroyed.
10 If an election contest, grand jury investigation or civil or criminal case relating to the election is
11 pending at the time, however, the materials shall not be destroyed until the contest, investigation
12 or case is finally determined.

115.501. As soon as possible after an election in which paper ballots [or ballot cards] are
2 used, the verification board shall meet and check the addition and figures on all tally sheets and
3 statements of returns and shall compare its record with the returns made by the election judges
4 and the election authority on the day of the election. Before meeting, the verification board shall
5 give notice of the time and place of the meeting to each independent and new party candidate and
6 the chairman of the county committee of each political party named on the ballot at the election.
7 The meeting and proceedings of the verification board shall be open to a representative of each
8 independent candidate and political party named on the ballot. If there is a discrepancy between
9 the returns of the election judges and the election authority and the record of the verification
10 board, the verification board shall correct the returns made by the judges and election authority
11 to conform to its record. The corrected returns shall supersede the returns made by the election
12 judges and the election authority on election day. Both the record and the returns shall be
13 retained by the election authority as provided in section 115.493.

115.541. 1. Whenever a recount is ordered pursuant to section 115.539, the court shall
2 order all materials and records relating to the contest brought before it, so that the court has the
3 same materials and records as the election judges had while making the count and statements of
4 returns. The court shall have authority to pass upon the form and determine the legality of the
5 votes brought into question and to determine the qualifications of any voter whose vote is
6 brought into question, provided that the name of a voter upon a precinct register for the polling
7 place shall be prima facie evidence of the proper qualifications of the voter. A comparison may
8 be made between the signatures on the identification certificates and those which appear in the
9 precinct registers, and no votes shall be counted except the votes of registered voters and those
10 entitled to vote as provided in section 115.277 without being registered. No votes of any person
11 found by the court to be unqualified to vote at the primary election shall be counted.

12 2. Whenever a recount of votes cast on paper ballots is ordered pursuant to section
13 115.539 or 115.601, the court shall proceed to open and count the votes and, after the count has
14 been completed, shall tabulate by voting district the votes cast for the contestant and the
15 contestee.

16 [3. Whenever a recount of votes cast on any voting machine is ordered pursuant to
17 section 115.539 or 115.601, the court shall make visible the registering counters of the machine
18 and, without unlocking the machine against voting, shall record the votes cast on the machine.

19 4. Whenever a recount of votes cast on ballot cards is ordered pursuant to section
20 115.539 or 115.601, the court shall supervise a test of the automatic tabulating equipment
21 conducted in the manner provided in section 115.233 and shall cause the votes to be recounted
22 automatically or may order a hand count of the votes. In its discretion, the court may order a new
23 computer program to be made, which shall be tested in the manner provided in section 115.233
24 before the votes in question are recounted automatically.]

115.585. 1. Whenever a recount is ordered pursuant to section 115.583 or 115.601, the
2 court or legislative body trying the contest shall issue a writ to each election authority responsible
3 for conducting the election in any area in which an alleged irregularity occurred, commanding
4 the election authority to prepare its office and all records and materials relating to the contested
5 election for the recount. Such writ shall be served immediately on the election authority by the
6 sheriff of the county. Upon receipt of a writ, each election authority shall set a day, not more
7 than twenty days after receiving the writ, on which it will have its office and all records and
8 materials relating to the contested election prepared. Immediately upon setting the day, the
9 election authority shall send by certified or registered mail a notice to the court or legislative
10 body issuing the writ. The notice shall set forth the day selected by the election authority for the
11 recount.

12 2. Whenever a recount is ordered pursuant to section 115.583, the court or legislative

13 body shall have authority to pass upon the form and determine the legality of the votes brought
14 into question and to determine the qualifications of any voter whose vote is brought into
15 question, provided that the name of a voter upon a precinct register for the polling place shall be
16 prima facie evidence of the proper qualifications of the voter. A comparison may be made
17 between the signatures on the identification certificates and those which appear in the precinct
18 registers, and no votes shall be counted except the votes of registered voters and those entitled
19 to vote as provided in subsection 2 of section 115.137 and section 115.277 without being
20 registered. No votes of any person found by the court to be unqualified to vote at the election
21 shall be counted.

22 3. Whenever a recount of votes cast on paper ballots is ordered pursuant to section
23 115.583 or 115.601, the court or legislative body shall proceed to open and count the votes and,
24 after the count has been completed, shall tabulate by voting district the votes cast for the
25 contestant and the contestee.

26 [4. Whenever a recount of votes cast on any voting machine is ordered pursuant to
27 section 115.583 or 115.601, the court or legislative body shall make visible the registering
28 counters of the machine and, without unlocking the machine against voting, shall record the
29 votes cast on the machine.

30 5. Whenever a recount of votes cast on ballot cards is ordered pursuant to section
31 115.583 or 115.601, the court or legislative body shall supervise a test of the automatic
32 tabulating equipment conducted in the manner provided in section 115.233 and shall cause the
33 votes to be recounted automatically, or may order a hand count of the votes. In its discretion, the
34 court or legislative body may order a new computer program to be made, which shall be tested
35 in the manner provided in section 115.233 before the votes in question are recounted
36 automatically.]

115.631. The following offenses, and any others specifically so described by law, shall
2 be class one election offenses and are deemed felonies connected with the exercise of the right
3 of suffrage. Conviction for any of these offenses shall be punished by imprisonment of not more
4 than five years or by fine of not less than two thousand five hundred dollars but not more than
5 ten thousand dollars or by both such imprisonment and fine:

6 (1) Willfully and falsely making any certificate, affidavit, or statement required to be
7 made pursuant to any provision of sections 115.001 to 115.641 and sections 51.450 and 51.460,
8 RSMo, including but not limited to statements specifically required to be made "under penalty
9 of perjury"; or in any other manner knowingly furnishing false information to an election
10 authority or election official engaged in any lawful duty or action in such a way as to hinder or
11 mislead the authority or official in the performance of official duties;

12 (2) Voting more than once or voting at any election knowing that the person is not

13 entitled to vote or that the person has already voted on the same day at another location inside
14 or outside the state of Missouri;

15 (3) Procuring any person to vote knowing the person is not lawfully entitled to vote or
16 knowingly procuring an illegal vote to be cast at any election;

17 (4) Applying for a ballot in the name of any other person, whether the name be that of
18 a person living or dead or of a fictitious person, or applying for a ballot in his own or any other
19 name after having once voted at the election inside or outside the state of Missouri;

20 (5) Aiding, abetting or advising another person to vote knowing the person is not legally
21 entitled to vote or knowingly aiding, abetting or advising another person to cast an illegal vote;

22 (6) An election judge knowingly causing or permitting any ballot to be in the ballot box
23 at the opening of the polls and before the voting commences;

24 (7) Knowingly furnishing any voter with a false or fraudulent or bogus ballot, or
25 knowingly practicing any fraud upon a voter to induce him to cast a vote which will be rejected,
26 or otherwise defrauding him of his vote;

27 (8) An election judge knowingly placing or attempting to place or permitting any ballot,
28 or paper having the semblance of a ballot, to be placed in a ballot box at any election unless the
29 ballot is offered by a qualified voter as provided by law;

30 (9) Knowingly placing or attempting to place or causing to be placed any false or
31 fraudulent or bogus ballot in a ballot box at any election;

32 (10) Knowingly removing any legal ballot from a ballot box for the purpose of changing
33 the true and lawful count of any election or in any other manner knowingly changing the true and
34 lawful count of any election;

35 (11) Knowingly altering, defacing, damaging, destroying or concealing any ballot after
36 it has been voted for the purpose of changing the lawful count of any election;

37 (12) Knowingly altering, defacing, damaging, destroying or concealing any poll list,
38 report, affidavit, return or certificate for the purpose of changing the lawful count of any election;

39 (13) On the part of any person authorized to receive, tally or count a poll list, tally sheet
40 or election return, receiving, tallying or counting a poll list, tally sheet or election return the
41 person knows is fraudulent, forged or counterfeit, or knowingly making an incorrect account of
42 any election;

43 (14) On the part of any person whose duty it is to grant certificates of election, or in any
44 manner declare the result of an election, granting a certificate to a person the person knows is not
45 entitled to receive the certificate, or declaring any election result the person knows is based upon
46 fraudulent, fictitious or illegal votes or returns;

47 (15) Willfully destroying or damaging any official ballots, whether marked or unmarked,
48 after the ballots have been prepared for use at an election and during the time they are required

49 by law to be preserved in the custody of the election judges or the election authority;

50 (16) [Willfully tampering with, disarranging, altering the information on, defacing,
51 impairing or destroying any voting machine or marking device after the machine or marking
52 device has been prepared for use at an election and during the time it is required by law to remain
53 locked and sealed with intent to impair the functioning of the machine or marking device at an
54 election, mislead any voter at the election, or to destroy or change the count or record of votes
55 on such machine;

56 (17) Registering to vote knowing the person is not legally entitled to register or
57 registering in the name of another person, whether the name be that of a person living or dead
58 or of a fictitious person;

59 [(18)] (17) Procuring any other person to register knowing the person is not legally
60 entitled to register, or aiding, abetting or advising another person to register knowing the person
61 is not legally entitled to register;

62 [(19)] (19) Knowingly preparing, altering or substituting any computer program or other
63 counting equipment to give an untrue or unlawful result of an election;

64 (20) (18) On the part of any person assisting a blind or disabled person to vote,
65 knowingly failing to cast such person's vote as such person directs;

66 [(21)] (19) On the part of any registration or election official, permitting any person to
67 register to vote or to vote when such official knows the person is not legally entitled to register
68 or not legally entitled to vote;

69 [(22)] (20) On the part of a notary public acting in his official capacity, knowingly
70 violating any of the provisions of sections 115.001 to 115.627 or any provision of law pertaining
71 to elections;

72 [(23)] (21) Violation of any of the provisions of sections 115.275 to 115.303, or of any
73 provision of law pertaining to absentee voting;

74 [(24)] (22) Assisting a person to vote knowing such person is not legally entitled to such
75 assistance, or while assisting a person to vote who is legally entitled to such assistance, in any
76 manner coercing, requesting or suggesting that the voter vote for or against, or refrain from
77 voting on any question, ticket or candidate.

115.633. The following offenses, and any others specifically so described by law, shall
2 be class two election offenses and are deemed felonies not connected with the exercise of the
3 right of suffrage. Conviction for any of these offenses shall be punished by imprisonment of not
4 more than five years or by fine of not less than two thousand five hundred dollars but not more
5 than ten thousand dollars or by both such imprisonment and fine:

6 [(1)] (1) On the day of election or before the counting of votes is completed, willfully
7 concealing, breaking, or destroying any ballot box used or intended to be used at such election

8 or willfully or fraudulently concealing or removing any ballot box from the custody of the
9 election judges[;

10 (2) Willfully tampering with, disarranging, defacing, materially altering, impairing, or
11 destroying any voting machine or automatic tabulating equipment owned or leased by or loaned
12 to an election authority].

115.655. 1. The election authority shall provide for the delivery of official ballots to
2 each qualified voter:

3 (1) By first class mail to the mailing address of each voter as it appears on the
4 registration records of the election authority on the deadline specified in subsection 1 of section
5 115.135 for registration. Each ballot so mailed shall be placed by the election authority in an
6 envelope which is prominently marked "Do Not Forward" and mailed not later than the tenth day
7 prior to the election; or

8 (2) By delivering the ballot to the residential address of the voter as it appears on the
9 registration records of the election authority on the deadline specified in subsection 1 of section
10 115.135 for registration. Such delivery shall be made by a bi-partisan team appointed by the
11 election authority from lists submitted under the provisions of section 115.087.

12
13 Voters shall also be provided with a return identification envelope, a secrecy envelope, and
14 instructions sufficient to describe the voting process.

15 2. Upon receipt of the ballot, the voter shall mark it, place and seal the marked ballot in
16 the secrecy envelope supplied with the ballot, place and seal the sealed secrecy envelope
17 containing the marked ballot in the return identification envelope supplied with the ballot which
18 has been signed by the voter and then return the marked ballot to the election authority by either:

19 (1) United States mail; or

20 (2) Personally delivering the ballot to the office of the election authority.

21 3. The election authority may provide additional sites for return delivery of ballots. The
22 election authority may provide for the payment of postage on the return of ballots.

23 4. The return identification envelope shall be in substantially the following form:
24

25 PLEASE PRINT:

26

27 NAME

28 I declare under penalty of perjury, a felony, that I am a resident and a qualified voter for
29 this election as shown on voter registration records and that I have voted the enclosed ballot and
30 am returning it in compliance with sections 115.650 to 115.660, RSMo, and have not and will
31 not vote more than one ballot in this election.

32 I also understand that failure to complete the information below will invalidate my ballot.

33

34

.....

35

Signature

36

.....

37

Residence Address

38

.....

39

Mailing Address (if different)

40 5. If the ballot is destroyed, spoiled, lost or not received by the voter, the voter may
41 obtain a replacement ballot from the election authority as provided in this subsection. A voter
42 seeking a replacement ballot shall sign a statement verified on oath or affirmation, on a form
43 prescribed by the election authority that the ballot was destroyed, spoiled, lost or not received.
44 The applicant shall deliver the statement to the election authority before noon on the date of the
45 election. The applicant may mail the statement to the election authority; but, no election
46 authority shall transmit a ballot by mail under this subsection unless the application is received
47 prior to the close of business on the fifth day prior to the election. When an application is timely
48 received under this subsection, the election authority shall deliver the ballot to the voter if the
49 voter is present in the office of the election authority, or promptly transmit the ballot by mail to
50 the voter at the address contained in the application, except when prohibited in this subsection.
51 The election authority shall keep a record of each replacement ballot provided under this
52 subsection.

53 6. A ballot must be returned by mail or received in the office of the election authority
54 or at a site provided for receipt of ballots by the election authority no later than 7:00 p.m. on
55 election day. The election authority shall transmit all return identification envelopes to a team
56 or teams of judges of not less than four, with an equal number from each major political party.
57 The judges shall be selected by the election authority from lists submitted under the provisions
58 of section 115.087, and subscribe to the oath provided in section 115.091. Upon receipt of such
59 envelopes the judges shall verify the signature of each voter on the return identification envelope
60 with the signature of the voter on the voter registration records. Such verification may
61 commence at time prior to the day of the election. The election authority shall adopt procedures
62 for securing and accounting for all verified return identification envelopes. The secrecy envelope
63 shall not be separated from the return identification envelope before ballots are counted. Ballots
64 may be counted at any time on election day provided the results are not released before 7:00 p.m.
65 on that day. Counting of ballots [may] **shall** be done by hand [or through the utilization of
66 automatic tabulating equipment] and shall be governed by the applicable sections of this chapter.

[115.225. 1. Before use by election authorities in this state,

2 the secretary of state shall approve the marking devices and the
3 automatic tabulating equipment used in electronic voting systems and
4 may promulgate rules and regulations to implement the intent of
5 sections 115.225 to 115.235.

6 2. No electronic voting system shall be approved unless it:

7 (1) Permits voting in absolute secrecy;

8 (2) Permits each voter to vote for as many candidates for each
9 office as a voter is lawfully entitled to vote for;

10 (3) Permits each voter to vote for or against as many
11 questions as a voter is lawfully entitled to vote on, and no more;

12 (4) Provides facilities for each voter to cast as many write-in
13 votes for each office as a voter is lawfully entitled to cast;

14 (5) Permits each voter at a general election to vote for all
15 candidates of one party by one punch or mark or to vote a split ticket,
16 as a voter desires;

17 (6) Permits each voter in a primary election to vote for the
18 candidates of only one party announced by the voter in advance;

19 (7) Permits each voter at a presidential election to vote by use
20 of a single punch or mark for the candidates of one party or group of
21 petitioners for president, vice president and their presidential electors;

22 (8) Accurately counts all proper votes cast for each candidate
23 and for and against each question;

24 (9) Is set to reject all votes, except write-in votes, for any
25 office and on any question when the number of votes exceeds the
26 number a voter is lawfully entitled to cast;

27 (10) Permits each voter, while voting, to clearly see the ballot
28 label;

29 (11) Has been tested and is certified by an independent
30 authority that meets the voting system standards developed by the
31 Federal Election Commission or its successor agency. The provisions
32 of this subdivision shall not be required for any system purchased
33 prior to August 28, 2002.

34 3. The secretary of state shall promulgate rules and
35 regulations to allow the use of a computerized voting system. The
36 procedures shall provide for the use of a computerized voting system
37 with the ability to provide a paper audit trail. Notwithstanding any
38 provisions of this chapter to the contrary, such a system may allow for
39 the storage of processed ballot materials in an electronic form.

40 4. Any rule or portion of a rule, as that term is defined in
41 section 536.010, RSMo, that is created under the authority delegated
42 in this section shall become effective only if it complies with and is
43 subject to all of the provisions of chapter 536, RSMo, and, if
44 applicable, section 536.028, RSMo. This section and chapter 536,

45 RSMo, are nonseverable and if any of the powers vested with the
46 general assembly pursuant to chapter 536, RSMo, to review, to delay
47 the effective date or to disapprove and annul a rule are subsequently
48 held unconstitutional, then the grant of rulemaking authority and any
49 rule proposed or adopted after August 28, 2002, shall be invalid and
50 void.]

51

2 [115.227. All provisions of law not inconsistent with sections
3 8.001 to 8.040 shall apply with full force and effect to elections in
4 each jurisdiction using an electronic voting system.]

4

2 [115.229. 1. An electronic voting system may be used at any
3 primary election if it has been approved by the secretary of state,
4 complies with the provisions of section 115.225, and if the automatic
5 tabulating equipment will reject each vote on which a voter has voted
6 for candidates of more than one party.

7 2. An electronic voting system may be used at any other
8 election if it has been approved by the secretary of state and complies
9 with the provisions of section 115.225.]

9

2 [115.231. 1. In polling places using electronic voting
3 systems, the ballot information, whether placed on the ballot card or
4 on the marking device, may be arranged in vertical or horizontal
5 rows, or on a number of separate pages. In any event, the name of
6 each candidate, the candidate's party, the office for which he or she is
7 a candidate and each question shall be indicated clearly on the ballot
8 card or marking device.

9 2. Nothing in this subchapter shall be construed as prohibiting
10 the use of a separate paper ballot for questions or for the presidential
11 preference primary in any polling place using an electronic voting
12 system.

13 3. Where electronic voting systems are used and when
14 write-in votes are authorized by law, a write-in ballot, which may be
15 in the form of a separate paper ballot, card or envelope shall be
16 provided to permit each voter to write in the names of persons whose
17 names do not appear on the ballot.]

17

2 [115.233. Within fourteen days prior to an election at which
3 an electronic voting system is to be used, the election authority shall
4 have the automatic tabulating equipment tested to ascertain that the
5 equipment is in compliance with the law and that it will correctly
6 count the votes cast for all offices and on all questions. At least
forty-eight hours prior to the test, notice of the time and place of the

7 test shall be mailed to each independent and new party candidate and
8 the chairman of the county committee of each established political
9 party named on the ballot. The test shall be observed by at least two
10 persons designated by the election authority, one from each major
11 political party, and shall be open to representatives of the political
12 parties, candidates, the news media and the public. The test shall be
13 conducted by processing a preaudited group of ballots. If any error
14 is detected, the cause shall be ascertained and corrected, and an
15 errorless count shall be made before the tabulating equipment is
16 approved.]
17

2 [115.235. In jurisdictions where electronic voting systems are
3 used, the election authority shall cause the marking devices to be put
4 in order, set, adjusted and made ready for voting, before they are
5 delivered to polling places on election day.]

2 [115.237. 1. Each ballot printed or designed for use with an
3 electronic voting system for any election pursuant to this chapter shall
4 contain all questions and the names of all offices and candidates
5 certified or filed pursuant to this chapter and no other. As far as
6 practicable, all questions and the names of all offices and candidates
7 for which each voter is entitled to vote shall be printed on one page
8 except for the ballot for political party committee persons in polling
9 places not utilizing an electronic voting system which may be printed
10 separately and in conformity with the requirements contained in this
11 section. As far as practicable, ballots containing only questions and
12 the names of nonpartisan offices and candidates shall be printed in
13 accordance with the provisions of this section, except that the ballot
14 information may be listed in vertical or horizontal rows. The names
15 of candidates for each office shall be listed in the order in which they
16 are filed.

17 2. Except as provided in subsection 4 of this section, each
18 ballot shall have:

19 (1) Each party name printed in capital letters not less than
20 eighteen point in size;

21 (2) A circle one-half inch in diameter immediately below
22 each party name;

23 (3) The name of each office printed in capital letters not less
24 than eight point in size;

25 (4) The name of each candidate printed in capital letters not
26 less than ten point in size;

27 (5) A small square, the sides of which shall not be less than
one-fourth inch in length, printed directly to the left of each

28 candidate's name and on the same line as the candidate's name. When
 29 write-in votes are authorized and no candidate's name is to be printed
 30 under the name of an office in a party or nonpartisan column, under
 31 the name of the office in the column shall be printed a square.
 32 Directly to the right of the square shall be printed a horizontal line on
 33 which the voter may vote for a person whose name does not appear
 34 on the ballot. When more than one position is to be filled for an
 35 office, and the number of candidates' names under the office in a
 36 column is less than the number of positions to be filled, the number
 37 of squares and write-in lines printed in the column shall equal the
 38 difference between the number of candidates' names and the number
 39 of positions to be filled;

40 (6) The list of candidates of each party and all nonpartisan
 41 candidates placed in separate columns with a heavy vertical line
 42 between each list;

43 (7) A horizontal line extending across the ballot three-eighths
 44 of an inch below the last name or write-in line under each office in
 45 such a manner that the names of all candidates and all write-in lines
 46 for the same office appear between the same horizontal lines. If
 47 write-in votes are not authorized, the horizontal line shall extend
 48 across the ballot three-eighths of an inch below the name of the last
 49 candidate under each office;

50 (8) In a separate column or beneath a heavy horizontal line
 51 under all names and write-in lines, all questions;

52 (9) At least three-eighths of an inch below all other matter on
 53 the ballot, printed in ten-point Gothic type, the words "Instructions to
 54 Voters" followed by directions to the voter on marking the ballot as
 55 provided in section 115.439;

56 (10) Printed at the top on the face of the ballot the words
 57 "Official Ballot" followed by the date of the election and the
 58 statement "Instruction to Voters: Place an X in the square opposite
 59 the name of the person for whom you wish to vote."

60 3. As nearly as practicable, each ballot shall be in
 61 substantially the following form: OFFICIAL BALLOT

62 DATE

63
 64
 65 REPUBLICAN

66
 67 For President and Vice President

68
 69 DEMOCRATIC

70

- 71 For President and Vice President
- 72
- 73 THIRD PARTY
- 74
- 75 For President and Vice President
- 76
- 77 INDEPENDENT
- 78
- 79 For President and Vice President
- 80
- 81
- 82 For United States
- 83 Senator
- 84 For United States Senator
- 85 For United States Senator
- 86 For United States Senator
- 87
- 88
- 89
- 90
- 91 For Governor
- 92 For Governor
- 93 For Governor
- 94 For Governor
- 95
- 96
- 97
- 98
- 99 For Lieutenant Governor
- 100 For Lieutenant Governor
- 101 For Lieutenant Governor
- 102 For Lieutenant Governor
- 103
- 104
- 105
- 106
- 107 For Secretary
- 108 of State
- 109 For Secretary
- 110 of State
- 111 For Secretary
- 112 of State
- 113 For Secretary

114 of State
115
116
117
118
119 For Treasurer
120 For Treasurer
121 For Treasurer
122 For Treasurer
123
124
125
126
127 For Attorney General
128 For Attorney General
129 For Attorney General
130 For Attorney General
131
132
133
134
135 For United States Representative
136 For United States Representative
137 For United States Representative
138 For United States Representative
139
140
141
142
143 For State Senator
144 For State Senator
145 For State Senator
146 For State Senator
147
148
149
150
151
152 For State Representative
153
154 For State Representative
155
156 For State Representative

157
 158 For State Representative
 159

160
 161
 162
 163 For Circuit Judge
 164 For Circuit Judge
 165 For Circuit Judge
 166 For Circuit Judge
 167

168
 169
 170 4. The secretary of state shall promulgate rules that specify
 171 uniform standards for ballot layout for each electronic or
 172 computerized ballot counting system approved under the provisions
 173 of section 115.225 so that the ballot used with any counting system
 174 is, where possible, consistent with the intent of this section. Nothing
 175 in this section shall be construed to require the format specified in
 176 this section if it does not meet the requirements of the ballot counting
 177 system used by the election authority.

178 5. Any rule or portion of a rule, as that term is defined in
 179 section 536.010, RSMo, that is created under the authority delegated
 180 in this section shall become effective only if it complies with and is
 181 subject to all of the provisions of chapter 536, RSMo, and, if
 182 applicable, section 536.028, RSMo. This section and chapter 536,
 183 RSMo, are nonseverable and if any of the powers vested with the
 184 general assembly pursuant to chapter 536, RSMo, to review, to delay
 185 the effective date or to disapprove and annul a rule are subsequently
 186 held unconstitutional, then the grant of rulemaking authority and any
 187 rule proposed or adopted after August 28, 2002, shall be invalid and
 188 void.]

189
 2 [115.249. No voting machine shall be used unless it
 3 (1) Permits voting in absolute secrecy;
 4 (2) Permits each voter to vote for as many candidates for each
 5 office as he is lawfully entitled to vote for, and no other;
 6 (3) Permits each voter to vote for or against as many
 7 questions as he is lawfully entitled to vote on, and no more;
 8 (4) Provides facilities for each voter to cast as many write-in
 9 votes for each office as he is lawfully entitled to cast;
 10 (5) Permits each voter at a general election to vote for all
 candidates of one party by use of a single lever or to vote a split

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- ticket, as he desires;
- (6) Permits each voter in a primary election to vote for the candidates of only one party announced by the voter in advance;
- (7) Permits each voter at a presidential election to vote by use of a single lever for the candidates of one party or group of petitioners for president, vice president and their presidential electors;
- (8) Correctly registers or records and accurately counts all votes cast for each candidate and for and against each question;
- (9) Is provided with a lock or locks which prevent any movement of the voting or registering mechanism and any tampering with the mechanism;
- (10) Is provided with a protective counter or other device whereby any operation of the machine before or after an election will be detected;
- (11) Is provided with a counter which shows at all times during the election how many people have voted on the machine;
- (12) Is provided with a proper light which enables each voter, while voting, to clearly see the ballot labels;
- (13) Is provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters.]

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[115.251. Any voting machine may be provided with a device for printing, embossing or photographing the recording counters before the polls open and after the polls close. "Recording counters" are the counters which show the total number of votes cast for each candidate and for and against each question at any particular time.]

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[115.253. Prior to every election at which voting machines are used, the election authority shall insert ballot labels into the voting machines. The ballot labels shall be printed in black on white material of uniform size and shall fit the ballot frames of the machines. In its discretion, the election authority may print the names of the offices in red. The part of the ballot labels pertaining only to questions may be printed in black upon material tinted red. After the ballot labels have been inserted into the machines, the face of each ballot label shall be completely covered with a protective covering of smooth, hard, transparent material so that it is impossible to alter the face of the ballot label without removing or breaking the covering.]

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[115.255. 1. In polling places using voting machines, the ballot information may be arranged in vertical or horizontal rows. In

3 any event, the name of each candidate, his party, the office for which
4 he is a candidate and each question shall be indicated clearly on the
5 ballot label. All ballot labels shall be placed to indicate clearly to the
6 voter which key lever or other device to operate in order to vote on
7 questions and for the candidates of his choice.

8 2. Nothing in this subchapter shall be construed as prohibiting
9 the use of a separate paper ballot for questions in polling places where
10 voting machines are used.]
11

12 [115.257. 1. In jurisdictions where voting machines are used,
13 the election authority shall cause the voting machines to be put in
14 order, set, adjusted and made ready for voting before they are
15 delivered to polling places. Before delivery to the polling places, the
16 election authority shall have all recording counters, except the
17 protective counter on each voting machine set at zero (000).
18

19 2. At least five days before preparing voting machines for any
20 election, notice of the time and place of such preparation shall be
21 mailed to each independent candidate and the chairman of the county
22 committee of each established political party named on the ballot.
23 The preparation shall be watched by two observers designated by the
24 election authority, one from each major political party, and shall be
25 open to representatives of the political parties, candidates, the news
26 media and the public.
27

28 3. When a machine has been examined by such observers and
29 shown to be in good working order, the machine shall be locked
30 against voting and sealed in their presence with a numbered metal
31 seal. The observers shall certify the number on each machine, the
32 number on each protective counter, the number on each seal and that
33 each recording counter is set at zero.
34

35 4. After a voting machine has been properly prepared, locked
36 and sealed, its keys shall be retained by the election authority and
37 delivered to the election judges along with the other election supplies.
38

39 5. Nothing in this section shall prohibit the on-site storage of
40 voting machines and the preparation of the machines for voting,
41 provided the voting machines are put in order, set, adjusted and made
42 ready for voting as provided in subsections 1, 2, 3 and 4 of this
43 section.]
44

45 [115.259. At each polling place using voting machines, the
46 exterior of the voting machines shall be in plain view of the election
47 judges. Each voting machine shall be so placed that, unless its
48 construction requires otherwise, the ballot labels can be plainly seen
49 by the election judges when not in use by voters. The election judges

6 shall not be nor permit any other person to be in any position, or near
7 any position, that enables them to see how any voter votes or has
8 voted. The election judges may inspect any machine as necessary to
9 make sure the ballot label is in its proper place and that the machine
10 has not been damaged.]
11

2 [115.261. During an election, no door or other counter
3 compartment covering shall be unlocked or opened or the counters
4 exposed, except by direction of the election authority, and then only
5 for good and sufficient reason. If the door or other counter
6 compartment covering on any machine is opened by the election
7 authority or his representative, the reason for such opening shall be
8 stated in writing, signed by the election authority or his representative
9 and attached to one statement of returns.]

2 [115.263. After the opening of the polls, the election judges
3 shall not permit any person to handle any voting machine, except
4 voters while they are voting and others expressly authorized by the
5 election authority.]

2 [115.265. If any voting machine at a polling place becomes
3 inoperative, the election judges shall immediately notify the election
4 authority. If possible, the election authority shall repair or replace the
5 machine. If a voting machine is replaced with another machine, the
6 votes on both machines shall be recorded at the close of the polls and
7 shall be added together in determining the results of the election. If
8 the inoperative machine cannot be repaired, and no other machine is
9 available for use, paper ballots, made as nearly as practicable to the
10 official ballot may be used. At the close of the polls, the votes on
11 paper ballots and the votes on the voting machines shall be recorded
12 and shall be added together in determining the results of the election.
13 All paper ballots used pursuant to this section shall be used in
14 accordance with the laws affecting paper ballots and shall be returned
15 to the election authority as paper ballots are returned with a statement
16 describing how and why the paper ballots were voted.]

2 [115.267. Any election authority may adopt, experiment with
3 or abandon any voting machine meeting the requirements of this
4 subchapter or any electronic voting system approved for use in the
5 state, or may lease one or more voting machines or other equipment,
6 either with or without option to purchase, and may use any authorized
7 voting equipment at any polling place in its jurisdiction.]

2 [115.269. For the purpose of giving instructions on their use,
3 any election authority may designate suitable times and places for the
4 exhibition and demonstration of its voting machines or marking
5 devices. During such instructions, the voting machines and marking
6 devices may contain sample ballot labels which show the names of
7 offices and fictitious candidates. No voting machine shall be used for
8 instruction after it has been prepared and sealed for use at an election,
9 unless it is prepared again and resealed prior to the election. During
10 the instructions, no counting mechanism on any voting machine shall
11 be exposed to view.]

2 [115.271. 1. While its voting machines or marking devices
3 are not in use, the election authority may permit civic or educational
4 organizations to use the machines or devices for the purpose of giving
5 instructions on their use.

6 2. Any election authority may rent its voting machines or
7 marking devices to any other group for use in its elections.

8 3. At the discretion of the election authority, the machines or
9 devices may be transported at the expense of the organizations using
10 them. The president or secretary of each organization using such
11 machines or devices shall sign a receipt therefor and shall agree in
12 writing that the organization assumes liability for any damage or loss
13 occurring to the machines or devices up to the time they are returned
14 to the election authority and will return the machines or devices by a
15 designated time.]

2 [115.273. All provisions of law not inconsistent with the
3 provisions of sections 115.249 to 115.271 shall apply with full force
4 and effect to elections in jurisdictions using voting machines.]

2 [115.301. If ballot cards are used as absentee ballots, the
3 teams shall meet on election day at a time and place designated by the
4 election authority and shall proceed to separate the ballot cards from
5 the write-in forms and to count the write-in votes as provided in
6 section 115.467. The returns shall be made as provided in sections
7 115.471 and 115.473, and the ballot cards and other designated
8 election materials shall be delivered to the counting location and
9 tabulated in the manner provided in section 115.475, but no ballot
10 card shall be tabulated before the time fixed by law for the closing of
11 the polls.]

2 [115.420. 1. An election authority operating a voting system
that uses ballot cards shall not use a butterfly ballot unless the

3 secretary of state provides written approval to the election authority
4 for the use of a butterfly ballot in the particular election.

5 2. For purposes of this section, "butterfly ballot" means a
6 ballot where two ballot pages are used side by side and where voters
7 must vote on candidates or issues on both sides of the pages.

8 3. The secretary of state may approve the use of a butterfly
9 ballot in a particular election when a large number of candidates and
10 issues are to be decided, no alternative ballot is reasonable under the
11 circumstances, and the election authority submits to the secretary of
12 state a written explanation of the need for using a butterfly ballot.
13 The secretary of state shall respond to such written request within two
14 business days.]
15

2 [115.467. 1. As soon as the polls close in each polling place
3 using an electronic voting system, the election judges shall secure the
4 marking devices against further voting and begin to count the write-in
5 votes. If earlier counting of write-in votes is begun pursuant to
6 section 115.469, the election judges shall complete the count in the
7 manner provided in this section. Once begun, the count shall not be
8 adjourned or postponed until all proper write-in votes in the ballot
9 box have been counted.

10 2. The election judges shall remove the ballot cards from the
11 ballot box and separate the ballots with write-in votes from those
12 without write-in votes. If there is a separate form for write-in votes,
13 all forms on which write-in votes have been recorded shall be
14 consecutively numbered, starting with the number one, and the same
15 number shall be placed on the ballot card of the voter. Where tallying
16 of write-in votes is to be done at the polling place, the election judges
17 shall compare the write-in votes with the votes cast on the ballot card.
18 If the total number of votes including write-in votes for any office
19 exceeds the number allowed by law, or if a voter has voted more than
20 once for the same person for the same office at the same election, a
21 notation of the fact shall be noted on the back of the ballot card, and
22 it shall be returned with the write-in form, if any, to the counting
23 location in an envelope marked "DEFECTIVE BALLOTS".

24 3. All proper write-in votes shall be read, recorded and
25 counted as provided in sections 115.449 and 115.453. No write-in
26 vote shall be counted for any candidate for any office whose name
27 appears on the ballot label as a candidate for the office, except when
28 more than one person is to be nominated or elected to an office.
29 When more than one person is to be nominated or elected to an
30 office, the voter may write in the names of one or more persons
whose names do not appear on the ballot label with or without the

31 names of one or more persons whose names do appear.

32 4. If any ballot card is damaged so that it cannot properly be
33 counted by the automatic tabulating equipment, the fact shall be noted
34 on the back of the ballot card and it shall be returned to the counting
35 location in the envelope marked "DEFECTIVE BALLOTS".]

36

2 [115.469. 1. If authorized by the election authority, the
3 election judges at any polling place using an electronic voting system
4 may read and record write-in votes before the close of the polls and
5 may send other voted ballots to the counting place. If so authorized,
6 the election judges shall use one ballot box for the deposit of ballots
7 during the first five hours of voting. Between eleven o'clock in the
8 morning and twelve noon, the receiving judges shall deliver the ballot
9 box to the counting and recording judges, who shall give the
10 receiving judges a second empty ballot box. The second ballot box
11 shall be shown to be empty and locked in the manner provided in
12 section 115.423. The second ballot box shall not be opened or
13 removed from public view from the time it is shown to be empty until
14 the time the polls close. The ballot box containing the voted ballots
15 shall be taken to a private area within the polling place, and the
16 write-in votes shall be read and recorded in the manner provided in
17 section 115.467.

18 2. If early counting of write-in votes is begun pursuant to this
19 section, the election judges shall, after counting and recording all
20 proper write-in votes, separate all ballot cards, except defective ballot
21 cards, from the write-in forms if any. The ballots which do not have
22 write-in votes shall then be sent to the counting place in the same
23 manner as ballots are sent upon the close of the polls. The election
24 judges shall enclose the ballot cards, the envelope marked
25 "DEFECTIVE BALLOTS", and all write-in forms containing proper
26 votes, in a container designated by the election authority. The
27 container shall be securely sealed in such a manner that if the
28 container is opened, the seal will be broken beyond repair. On the
29 outside of the container, the location of the polling place and the date
30 of the election shall be printed. After sealing, the container shall be
31 closely watched by the election judges until it is delivered to the
32 counting location.

33 3. If early counting of write-in votes is begun pursuant to this
34 section, the election authority shall appoint a team of employees or
35 election judges who shall, between the hours of eleven o'clock in the
36 morning and three o'clock in the afternoon, receive the ballot
37 container from the election judges at the polling place and
immediately deliver it to the counting location. Each team appointed

38 pursuant to this subsection shall consist of two members, one from
 39 each major political party. If any ballot container is not sealed when
 40 it is delivered to the counting location, the election official receiving
 41 the container shall make a statement of the fact which includes the
 42 location of the polling place and the date of the election printed on the
 43 container and the reason the container is not sealed, if known.

44 4. After delivery to the counting location, any ballot which is
 45 damaged and cannot be properly counted by the automatic tabulating
 46 equipment may be handcounted or duplicated in the manner provided
 47 in subsection 3 of section 115.477.

48 5. After delivery to the counting location, the proper votes on
 49 each ballot card may be transferred to magnetic tapes. Under no
 50 circumstances shall any such tape be read or interpreted until after the
 51 time fixed by law for the close of the polls and then only in the
 52 manner provided in section 115.477.

53 6. Write-in ballots may also be counted as provided in section
 54 115.451.]

55

2 [115.471. At each polling place using an electronic voting
 3 system, after the polling place is closed, the election judges shall

4 (1) Certify in the tally book: the number of ballots cast by
 5 reconciling the ballot stubs against the number of identification
 6 certificates signed; the number of defective and spoiled ballots; the
 7 number of ballots with write-in votes; and the number of ballots
 8 received at the polling place which were not cast at the election. If
 9 the number of signed identification certificates is not the same as the
 10 number of ballots cast, the judges shall make a signed statement of
 11 the fact and the reasons therefor, if known, and shall return the
 12 statement with the statements of returns;

13 (2) Where tallying of write-in votes is to be done at the
 14 polling place, certify on two statements of returns the number of
 15 write-in votes received by each candidate. No returns shall be signed
 16 in blank or before the polls have closed and all proper write-in votes
 17 cast at the polling place have been counted;

18 (3) Certify that each statement made in the tally book and on
 19 each statement of returns is correct. If any judge declines to certify
 20 that all such statements are correct, he shall state his reasons in
 21 writing, which shall be attached to each statement of returns and
 22 returned with the statement to the election authority.]

22

2 [115.473. 1. The tally book for each polling place using an
 3 electronic voting system shall be in substantially the following form:

Tally book for precincts, at the general (special,

4 primary) election held on the day of, 20.... AB, CD, EF,
 5 and XP judges; and ZR and LT, watchers; and BH and SP,
 6 challengers, at this polling place, were sworn as the law directs before
 7 beginning their duties.

8 We hereby certify:

9 The number of ballots received at this polling place is;

10 The information on the ballot cards and ballot labels received
 11 at this polling place is the same as the information on the sample
 12 ballots received at this polling place.

13 AB

14 CD Election Judges

15 EF

16 XP We hereby certify:

17 The number of ballots cast at this polling place is

18 The number of identification certificates signed at this polling
 19 place is;

20 The number of defective ballots at this polling place is;

21 The number of spoiled ballots at this polling place is;

22 The number of voters casting proper write-in votes at this
 23 polling place is

24 The number of ballots received at this polling place which
 25 were not cast at this election is

26 AB

27 CD Election Judges

28 EF

29 XP

30 2. Where tallying of write-in votes is to be done at the polling
 31 place, at each polling place using an electronic voting system, two
 32 tally sheets shall be included in each tally book. The tally sheets shall
 33 be used to record the proper write-in votes and shall be in
 34 substantially the same form provided in subsection 2 of section
 35 115.461.

36 3. Where tallying of write-in votes is to be done at the polling
 37 place, at each polling place using an electronic voting system, two
 38 statements of returns shall be provided to the election judges. The
 39 statements of returns shall be in substantially the following form:

40 We hereby certify that BK had write-in votes for
 41 governor, and SF had write-in votes for governor, that JH had
 42 write-in votes for representative in Congress, etc. We, the duly
 43 qualified and acting judges of the polling place for precincts, at
 44 the general (special, primary) election held on the day of,
 45 20..., in County (City of St. Louis, Kansas City), Missouri,
 46 do hereby certify that the foregoing is a full and accurate return of all

47 write-in votes cast at this polling place for all candidates. AB CD
48 Election Judges EF XP]
49

2 [115.475. 1. Immediately after signing the statements of
3 returns, or earlier if convenient, the election judges shall separate all
4 ballot cards, except defective ballot cards, from the write-in forms if
5 any. As soon as possible after signing the statements of returns, the
6 election judges shall enclose the ballot cards, the envelope marked
7 "DEFECTIVE BALLOTS", all write-in forms containing proper
8 votes, and the tally book, tally sheets and statements of returns in a
9 container designated by the election authority. The container shall be
10 securely sealed in such a manner that if the container is opened, the
11 seal will be broken beyond repair. On the outside of the container,
12 the location of the polling place and date of the election shall be
13 printed.

14 2. As soon as possible after signing the statements of returns,
15 the election judges shall enclose the write-in forms containing no
16 votes, the unused ballots and other election supplies in containers
17 designated by the election authority.

18 3. Immediately after the ballot cards and other election
19 materials have been placed in the proper containers, the two
20 supervisory judges shall together deliver the containers to the
21 counting location or other place designated by the election authority.
22 If any ballot card container is not sealed when it is delivered to the
23 counting location or other place designated by the election authority,
24 the election official receiving the container shall make a statement of
25 the fact which includes the location of the polling place and the date
26 of the election printed on the container and the reason the container
27 is not sealed, if known.

28 4. If the election authority has directed the supervisory judges
29 to deliver election materials to a place other than the counting
30 location, the election authority shall appoint at least one team of
31 election judges who shall receive the ballot containers from the
32 supervisory judges and immediately deliver them to the counting
33 location. Each team appointed pursuant to this subsection shall
34 consist of two election judges or employees of the election authority,
35 one from each major political party.

36 5. The election authority may authorize the delivery of ballots
37 voted prior to 11:00 a.m. to the counting location prior to the closing
38 of the polls.]

2 [115.477. 1. In each jurisdiction using an electronic voting
system, all proceedings at the counting location shall be under the

3 direction of the election authority. The election authority shall
4 appoint two judges, one from each major political party, to be present
5 and observe the count. The counting shall be open to the public, but
6 no persons, except those employed and authorized for the purpose,
7 shall touch any ballot, ballot container or return.

8 2. All ballot cards shall be counted in order by polling place.
9 The automatic tabulating equipment shall produce a return showing
10 the total number of votes cast for each candidate and on each question
11 at each polling place and in the jurisdiction as a whole.

12 3. If any ballot is damaged and cannot be properly counted by
13 the automatic tabulating equipment, it may be handcounted in the
14 manner provided for absentee ballots, or a true duplicate copy may be
15 made of the defective ballot. If any ballot contains a number of votes
16 and write-in votes for any office which exceeds the number allowed
17 by law, it may be handcounted in the manner provided for absentee
18 ballots, a true duplicate copy be made which does not include the
19 invalid votes or, at the discretion of the election judges, a
20 self-adhesive removable label, sensitized, may be placed over any
21 mark to allow the ballot to be processed through the automatic
22 tabulating equipment. The duplication of each ballot shall be closely
23 observed by two election judges or employees of the election
24 authority, one from each major political party. Each duplicate ballot
25 shall be clearly labeled "duplicate", shall bear a serial number which
26 shall be recorded on the defective ballot, and shall be counted in lieu
27 of the defective ballot.]
28

2 [115.479. In each jurisdiction using an electronic voting
3 system, the election authority shall, after the count has been
4 completed and the results received, have the automatic tabulating
5 equipment tested to ascertain that the equipment has correctly
6 counted the votes for all offices and on all questions. The test shall
7 be observed by at least two persons designated by the election
8 authority, one from each major political party, and shall be open to
9 the public. The test shall be conducted by processing the same
10 preaudited group of ballot cards used in the preelection test provided
11 for in section 115.233. If any error is detected, the cause shall be
12 ascertained and corrected, and an errorless count shall be made before
13 the final results are announced. After the completion of an errorless
14 count, the programs and the ballot cards shall be sealed, retained and
15 disposed of as provided for paper ballots.]

2 [115.481. The final and correct return printed by the
automatic tabulating equipment added to the write-in, absentee and

3 handcounted votes shall be the official return of each polling place
4 and the jurisdiction.]
5

2 [115.483. 1. As soon as the polls close in each polling place
3 using voting machines, the election judges shall lock and seal each
4 voting machine against further voting and proceed to count the votes.
5 Once begun, the count shall not be adjourned or postponed until all
6 proper votes have been counted.

7 2. The election judges shall open the counting compartment
8 on each voting machine or, if a machine is equipped with a device for
9 printing, embossing or photographing the registering counters, the
10 judges shall operate the machine to produce a record of the counters.
11 One counting judge shall read the total vote cast for each candidate
12 and for and against each question on each machine. The other
13 counting judge shall watch and verify each total as it is being read
14 from the recording counters or from the record of the counters. The
15 two recording judges shall each record the votes cast for each
16 candidate and for and against each question as they are called out and
17 verified by the counting judges.

18 3. All proper write-in votes shall be read, recorded and
19 counted as provided in sections 115.449 and 115.453. No write-in
20 vote shall be counted for any candidate for any office whose name
21 appears on the ballot label as a candidate for the office, except when
22 more than one person is to be nominated or elected to an office.
23 When more than one person is to be nominated or elected to an
24 office, the voter may write in the names of one or more persons
25 whose names do not appear on the ballot label with or without the
26 names of one or more persons whose names do appear. No write-in
27 vote shall be counted unless it is cast in the appropriate place on the
28 machine.

29 4. If more than one voting machine is used in a polling place,
30 the election judges shall read, verify and record all the totals from the
31 first machine before proceeding to the second, and so on, until all of
32 the totals on each machine in the polling place have been read,
33 verified and recorded. The total number of votes from each machine
34 shall be added to the write-in votes to determine the total vote for
35 each candidate and for and against each question.]

2 [115.485. At each polling place using voting machines, after
3 the polling place is closed, the judges shall

4 (1) Certify in the tally book the number on the protective
5 counter of each machine, the number of identification certificates
signed and the number of proper write-in votes cast at the polling

6 place. If the number of signed identification certificates is not the
 7 same as the number of votes cast as registered on the protective
 8 counters, the judges shall make a signed statement of the fact and the
 9 reasons therefor if known and shall return the statement with the
 10 statements of returns;

11 (2) Certify on two statements of returns the total number of
 12 votes cast for each candidate and for and against each question at the
 13 polling place;

14 (3) Certify that each statement made in the tally book and on
 15 each statement of returns is correct. If any judge declines to certify
 16 that all such statements are correct, he shall state his reasons in
 17 writing, which shall be attached to each statement of returns and
 18 returned to the election authority.]
 19

2 [115.487. 1. The tally book for each polling place using
 3 voting machines shall be in substantially the following form:

4 Tally book for precincts, at the general (special, primary)
 5 election held on the day of, 20.... AB, CD, EF, and XP
 6 judges, and ZR and LT, watchers and BH and SP challengers at this
 7 polling place, were sworn as the law directs before beginning their
 8 duties. We hereby certify: This polling place received voting
 9 machines numbered and; The number on the seal of voting
 10 machine number is; the number on its protective counter is
 11; The number on the seal of voting machine number is; the
 12 number on its protective counter is; All recording counters on all
 13 voting machines received at this polling place are set at zero; The
 14 information on the ballot labels on all voting machines received at
 15 this polling place is the same as the information on the sample ballots
 16 received at this polling place.

16 AB

17 CD

18 EF Election Judges

19 XP We hereby certify: The number on the protective counter
 20 of voting machine number is; The number on the protective
 21 counter of voting machine number is; The number of
 22 identification certificates signed at this polling place is; The
 23 number of proper write-in votes cast at this polling place is

24 AB

25 CD

26 EF

27 XP

28 2. At each polling place using voting machines, two tally
 29 sheets shall be included in each tally book. The tally sheets shall be

30 used to record the votes cast for each candidate and for and against
31 each question as they are called out and verified by the counting
32 judges. The tally sheets shall be in substantially the following form:

33 NAMES OF PERSONS VOTED FOR AND FOR WHAT
34 OFFICE

35 AND THE NUMBER OF VOTES CAST FOR EACH
36 PERSON

37 Voting Voting
38 Machine Machine

39 Write-in Total Office

40 Candidates Number Number Votes Votes

41 MC Governor HK

42 EH

43 SS Representative

44 RK in Congress

45 CB

46 VOTES FOR AND AGAINST EACH QUESTION

47 Voting Voting
48 Machine Machine

49 Question Number Number

50 Total Total

51 Number of Number of
52 Votes Votes Votes Votes Votes Votes

53 FOR AGAINST FOR AGAINST FOR

54 AGAINST 1. To 2. To

55 3. At each polling place using voting machines, two
56 statements of returns shall be provided to the election judges. The
57 statements of returns shall be in substantially the form provided in
58 subsection 3 of section 115.461.]

59

2 [115.489. 1. Immediately after signing the statements of
3 returns, the election judges shall enclose the write-in votes, tally
4 books, statements of returns and other election supplies in containers
5 designated by the election authority.

6 2. In each jurisdiction using voting machines, the election
7 authority may direct the supervisory judges to place the precinct
8 registers, identification certificates and other election supplies inside
9 the voting machines and lock them for return to the election
10 authority.]

2 [115.495. After being locked and sealed against further
3 voting by the election judges, voting machines shall remain locked for
the period provided by law for filing an election contest and as much

4 longer as may be necessary or advisable because of any threatened or
5 pending contest, grand jury investigation, or civil or criminal case
6 relating to the election. During this time, the voting machines shall
7 not be unlocked, except upon order of a court, grand jury or
8 legislative body trying an election contest.]
9

2 [115.503. 1. As soon as possible after an election in which
3 voting machines are used, the verification board, or a bipartisan
4 committee appointed by the verification board, shall inspect each
5 voting machine not equipped with printed election return mechanisms
6 used at the election and shall make a record of the number on the seal
7 and protective counter of each machine, open the counter
8 compartment of the machine and, without unlocking the machine
9 against voting, record the votes cast on the machine. In precincts
10 where voting machines equipped with printed election returns
11 mechanisms are used, the counter compartment shall not be opened
12 and the original and duplicate originals of the printed return sheets of
13 the votes cast on questions and for candidates regularly nominated, or
14 who have duly filed, together with the tabulation and inclusion of any
15 votes written in on the paper roll for those not regularly nominated,
16 or who have not filed, shall constitute the official return sheet for the
17 votes cast on that machine, when properly certified by the precinct
18 election officers. One copy of such printed return sheet shall be
19 posted on the outside of the polling place for the information of the
20 public. One copy shall be returned to the election authority and
21 retained by it for not less than one year. Any bipartisan committee
22 appointed pursuant to this subsection shall consist of at least two
23 people, one from each major political party, who shall be appointed
24 in the same manner and possess the same qualifications as election
25 judges.

26 2. After the verification board or committee has completed its
27 inspection and record, it shall compare the record with the returns
28 made by the election judges on election day. If there is a discrepancy
29 between the returns of the election judges and the record of the
30 verification board or committee, the verification board shall correct
31 the returns made by the judges to conform to its record. The
32 corrected returns shall supersede the returns made by the election
33 judges on election day. Both the record and the returns shall be
retained by the election authority as provided in section 115.493.]