

SECOND REGULAR SESSION

HOUSE BILL NO. 1136

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DUGGER (Sponsor), ENTLICHER, CRAWFORD, CONWAY (10), DIEHL, MCGAUGH, CROSS, DAVIS, ENGLER, AUSTIN, COOKSON, HINSON, PHILLIPS, SHULL, RICHARDSON, JONES (50), BERNSKOETTER, COX, FRAKER, ROWLAND, HOUGH, RIDDLE, COLONA, NETH, PFAUTSCH, GANNON, KEENEY, DUNN, MUNTZEL, HURST, POGUE, BUTLER, THOMSON, ROSS, SPENCER, ANDERSON, KOLKMEYER, CIERPIOT, LYNCH, LAIR, MORRIS, LAUER, HOSKINS, FITZPATRICK, NEWMAN, GATSCHENBERGER, REMOLE, REIBOLDT, LANT AND GUERNSEY (Co-sponsors).

4098H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 115.104, 115.105, 115.121, 115.221, 115.231, 115.237, 115.251, 115.253, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.301, 115.305, 115.342, 115.346, 115.417, 115.420, 115.431, 115.443, 115.453, 115.475, 115.477, 115.479, 115.483, 115.485, 115.487, 115.489, 115.495, and 115.503, RSMo, and to enact in lieu thereof twenty-six new sections relating to elections.

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

Section A. Sections 115.104, 115.105, 115.121, 115.221, 115.231, 115.237, 115.251, 115.253, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.301, 115.305, 115.342, 115.346, 115.417, 115.420, 115.431, 115.443, 115.453, 115.475, 115.477, 115.479, 115.483, 115.485, 115.487, 115.489, 115.495, and 115.503, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 115.104, 115.105, 115.121, 115.221, 115.237, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.342, 115.417, 115.420, 115.431, 115.443, 115.453, 115.475, 115.477, 115.479, 115.483, 115.495, and 115.503, to read as follows:

- 115.104. 1. As used in this section, the term "participant" means a Missouri youth election participant.
2. Notwithstanding any other law to the contrary, any person more than fifteen years of age but less than eighteen years of age who is in full-time attendance in a school of this state may

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

5 aid and assist any election judge or election authority authorized or appointed pursuant to this
6 chapter. Such [persons] **person** shall be known as "Missouri Youth Election Participants" and
7 shall, before entering upon the duties related to an election conducted pursuant to this chapter,
8 take and subscribe the following oath, which shall be signed by the participant and an original
9 copy thereof delivered to the election authority:

10 I solemnly swear or affirm that I will impartially discharge the duties of a Missouri youth
11 election participant by following to the best of my ability the instructions of any election judge,
12 election authority, or teacher of my school. I also swear or affirm that I will not disclose how
13 any voter has voted unless I am told to do so by an election judge, election authority, or a court
14 of law in a proper judicial proceeding. I also swear or affirm that I will make no statement nor
15 give any information of any kind tending in any way to show the state of the count of votes prior
16 to the close of the polls on election day, nor will I make any statement during the conduct of my
17 duties which tends to show my preferences for any issue or candidate involved in the election.

18

19 Signature of Missouri Youth

20 Election Participant

21 3. If, in the opinion of the chief administrative officer of any high school of this state,
22 the appointment of students in the tenth, eleventh or twelfth grade as Missouri youth election
23 participants would benefit those persons involved and the election process, the officer may
24 nominate such persons as participants. The chief administrative officer shall establish the
25 academic and behavioral standards for qualification, but persons nominated shall, at a minimum:

26 (1) Have demonstrated age-appropriate academic ability and demeanor;

27 (2) Be a person of good repute who can speak, read and write the English language; and

28 (3) Not be related within the second degree of consanguinity or affinity to any person
29 whose name appears on the ballot, except that no participant shall be disqualified if related
30 within such degree to an unopposed candidate.

31 4. The chief administrative officer of the school shall transmit a written list of nominees
32 to the election authority of the jurisdiction at least sixty days prior to the election. If, in the
33 opinion of the election authority, the appointment of participants nominated pursuant to this
34 section would not be disruptive to the election process, the election authority may appoint any
35 number of participants for each polling place or place where votes are to be counted within its
36 jurisdiction. Such appointment shall include a schedule of the time during which the participant
37 is expected to serve. [No participant shall be entitled to any compensation or remuneration for
38 the time served as a participant or costs incurred in the performance of his duties.] Nothing in
39 this section shall be construed to mandate the appointment of any participant if, in the sole

40 discretion of the election authority, the presence of such participants in any polling place or place
41 where votes are counted would be disruptive to the orderly election process.

42 5. Subject to the provisions of this section and under the direct supervision of the
43 election authority or election judges, each participant may assist in the administration of the
44 polling place, assist in the counting of votes, assist in the execution of any administrative duty
45 of any election authority or election judge, and perform any other election-day-related duty as
46 instructed.

47 6. Each election authority and election judge appointed pursuant to this chapter shall
48 have the authority to direct any Missouri youth election participant in his duties and to compel
49 compliance with law. Each election authority may, in its sole discretion, substitute participants
50 on or before election day. Each election authority or election judge shall have the authority at
51 any time to take any action necessary to remove any participant from any polling place or place
52 where votes are being counted. It shall be the duty of any law enforcement officer, if requested
53 by the election authority or judges of election, to exclude any participant from the polling place
54 or place where votes are being counted.

55 7. In order to best prepare students for duty as Missouri youth election participants
56 pursuant to this section, each high school of this state may offer a course of instruction in the
57 democratic electoral process which concentrates upon the election law of this state. The high
58 school may require successful completion of such a course prior to qualification for nomination
59 as a Missouri youth election participant.

115.105. 1. The chair of the county committee of each political party named on the
2 ballot shall have the right to designate a challenger for each polling place, who may be present
3 during the hours of voting, and a challenger for each location at which absentee ballots are
4 counted, who may be present while the ballots are being prepared for counting and counted. No
5 later than [four business] **ten** days before the election, the chair of each county committee of each
6 political party named on the ballot shall provide signed official designation forms with the names
7 of the designated challengers and substitutes to the local election authority for confirmation of
8 eligibility to serve as a challenger. The local election authority, after verifying the eligibility of
9 each designated and substitute challenger, shall sign off on the official designation forms, unless
10 the challenger is found not to have the qualifications established by subsection 5 of this section.
11 If the election authority determines that a challenger does not meet the qualifications of
12 subsection 5 of this section, the designating party chair may designate a replacement challenger
13 and provide the local election authority with the name of the replacement challenger before 5:00
14 p.m. of the Monday preceding the election. The designating chair may substitute challengers at
15 his or her discretion during such hours.

16 2. Challenges may only be made when the challenger believes the election laws of this
17 state have been or will be violated, and each challenger shall report any such belief to the
18 election judges, or to the election authority if not satisfied with the decision of the election
19 judges.

20 3. Prior to the close of the polls, challengers may list and give out the names of those
21 who have voted. The listing and giving out of names of those who have voted by a challenger
22 shall not be considered giving information tending to show the state of the count.

23 4. In a presidential primary election, challengers may collect information about the party
24 ballot selected by the voter and may disclose party affiliation information after the polls close.

25 5. All persons selected as challengers shall have the same qualifications required by
26 section 115.085 for election judges, except that such challenger shall be a registered voter in the
27 jurisdiction of the election authority for which the challenger is designated as a challenger. **A**
28 **challenger may be required by the election authority to attend training if offered.**

29 6. Any challenge by a challenger to a voter's identification for validity shall be made only
30 to the election judges or other election authority. If the poll challenger is not satisfied with the
31 decision of the election judges, then he or she may report his or her belief that the election laws
32 of this state have been or will be violated to the election authority as allowed under this section.

115.121. 1. The general election day shall be the first Tuesday after the first Monday in
2 November of even-numbered years.

3 2. The primary election day shall be the first Tuesday after the first Monday in August
4 of even-numbered years.

5 3. The election day for the election of political subdivision and special district officers
6 shall be the first Tuesday after the first Monday in April each year; and shall be known as the
7 general municipal election day.

8 [4. In addition to the primary election day provided for in subsection 2 of this section,
9 for the year 2003, the first Tuesday after the first Monday in August, 2003, also shall be a
10 primary election day for the purpose of permitting school districts and other political
11 subdivisions of Missouri to incur debt in accordance with the provisions of article VI, section
12 26(a) through 26(g) of the Missouri Constitution, with the approval of four-sevenths of the
13 eligible voters of such school district or other political subdivision voting thereon, to provide
14 funds for the acquisition, construction, equipping, improving, restoration, and furnishing of
15 facilities to replace, repair, reconstruct, reequip, restore, and refurnish facilities damaged,
16 destroyed, or lost due to severe weather, including, without limitation, windstorms, hail storms,
17 flooding, tornadic winds, rainstorms and the like which occurred during the month of April or
18 May, 2003.

19 5. Notwithstanding the provisions of subsection 1 of section 115.125, the officer or
20 agency calling an election on the first Tuesday after the first Monday of August, 2003, shall
21 notify the election authorities responsible for conducting the election not later than 5:00 p.m. on
22 the sixth Tuesday prior to the election. For purposes of any such election, all references in
23 section 115.125 to the tenth Tuesday prior to such election shall be deemed to refer to the sixth
24 Tuesday prior to such election.

25 6. In addition to the general election day provided for in subsection 1 of this section, for
26 the year 2009 the first Tuesday after the first Monday in November shall be a general election
27 day for the purpose of permitting school districts to incur debt in accordance with the provisions
28 of article VI, section 26(a) through 26(g) of the Missouri Constitution, with the approval of
29 four-sevenths of the eligible voters of such school district, to provide funds for school districts
30 to acquire, construct, equip, improve, restore, and furnish public school facilities in accordance
31 with the provisions of Section 54F of the Internal Revenue Code of 1986, as amended, which
32 provides for qualified school construction bonds and the provisions of Section 54AA of the
33 Internal Revenue Code of 1986, as amended, which provides for build America bonds, as well
34 as in accordance with the provisions of Section 103 of the Internal Revenue Code of 1986, as
35 amended, which provides for traditional government bonds.]

 115.221. [At least once each year,] **Notwithstanding any other provisions of law to the**
2 **contrary**, each election authority [shall] **may** have the voting records inspected and may
3 investigate the qualifications of any person who has not voted or transferred his registration
4 within the four preceding calendar years.

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

12 2. [Except as provided in subsection 5 of this section, each ballot shall have:

- 13 (1) Each party name printed in capital letters not less than eighteen point in size;
14 (2) The name of each office printed in capital letters not less than eight point in size;
15 (3) The name of each candidate printed in capital letters not less than ten point in size;

(4) A small square, the sides of which shall not be less than one-fourth inch in length, printed directly to the left of each candidate's name and on the same line as the candidate's name. When write-in votes are authorized and no candidate's name is to be printed under the name of an office in a party or nonpartisan column, under the name of the office in the column shall be printed a square. Directly to the right of the square shall be printed a horizontal line on which the voter may vote for a person whose name does not appear on the ballot. When more than one position is to be filled for an office, and the number of candidates' names under the office in a column is less than the number of positions to be filled, the number of squares and write-in lines printed in the column shall equal the difference between the number of candidates' names and the number of positions to be filled;

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

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

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

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

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

In polling places using electronic voting systems, the ballot information may be arranged in vertical or horizontal rows or on a number of separate pages or screens. In any event, the name of each candidate, the candidate's party, the office for which he or she is a candidate, and each question shall be indicated clearly on the ballot.

3. [As nearly

as practicable, each ballot shall be in substantially the following form:

| | | | |
|--------------------|--------------------|--------------------|--------------------|
| OFFICIAL BALLOT | | | DATE |
| REPUBLICAN | DEMOCRATIC | THIRD PARTY | INDEPENDENT |
| For President | For President | For President | For President |
| and Vice President | and Vice President | and Vice President | and Vice President |
| ? | ? | ? | ? |

| | | | |
|----------------------|-------------------|-------------------|-------------------|
| 51 For | For | For | For |
| 52 United States | United States | United States | United States |
| 53 Senator | Senator | Senator | Senator |
| 54 ? | ? | ? | ? |
| 55 For Governor | For Governor | For Governor | For Governor |
| 56 ? | ? | ? | ? |
| 57 For Lieutenant | For Lieutenant | For Lieutenant | For Lieutenant |
| 58 Governor | Governor | Governor | Governor |
| 59 ? | ? | ? | ? |
| 60 For Secretary | For Secretary | For Secretary | For Secretary |
| 61 of State | of State | of State | of State |
| 62 ? | ? | ? | ? |
| 63 For Treasurer | For Treasurer | For Treasurer | For Treasurer |
| 64 ? | ? | ? | ? |
| 65 For Attorney | For Attorney | For Attorney | For Attorney |
| 66 General | General | General | General |
| 67 ? | ? | ? | ? |
| 68 For | For | For | For |
| 69 United States | United States | United States | United States |
| 70 Representative | Representative | Representative | Representative |
| 71 ? | ? | ? | ? |
| 72 For State Senator | For State Senator | For State Senator | For State Senator |
| 73 ? | ? | ? | ? |
| 74 For State | For State | For State | For State |
| 75 Representative | Representative | Representative | Representative |
| 76 ? | ? | ? | ? |
| 77 For Circuit Judge | For Circuit Judge | For Circuit Judge | For Circuit Judge |
| 78 ? | ? | ? | ?] |

79 **Nothing in this subchapter shall be construed as prohibiting the use of a separate**
80 **paper ballot for questions or for the presidential preference primary in any polling place**
81 **using an electronic voting system.**

82 **4. Where electronic voting systems are used and when write-in votes are authorized**
83 **by law, a write-in ballot, which may be in the form of a separate paper ballot, card, or**
84 **envelope, may be provided by the election authority to permit each voter to write in the**
85 **names of persons whose names do not appear on the ballot.**

86 **5.** No ballot printed or designed for use with an electronic voting system for any partisan
87 election held under this chapter shall allow a person to vote a straight political party ticket. For
88 purposes of this subsection, a "straight political party ticket" means voting for all of the
89 candidates for elective office who are on the ballot representing a single political party by a
90 single selection on the ballot.

91 [5.] **6.** The secretary of state shall promulgate rules that specify uniform standards for
92 ballot layout for each electronic or computerized ballot counting system approved under the
93 provisions of section 115.225 so that the ballot used with any counting system is, where possible,
94 consistent with the intent of this section. Nothing in this section shall be construed to require
95 the format specified in this section if it does not meet the requirements of the ballot counting
96 system used by the election authority.

97 [6.] **7.** Any rule or portion of a rule, as that term is defined in section 536.010, that is
98 created under the authority delegated in this section shall become effective only if it complies
99 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
100 This section and chapter 536 are nonseverable and if any of the powers vested with the general
101 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
102 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
103 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

 115.255. [1. In polling places using voting machines, the ballot information may be
2 arranged in vertical or horizontal rows. In any event, the name of each candidate, his party, the
3 office for which he is a candidate and each question shall be indicated clearly on the ballot label.
4 All ballot labels shall be placed to indicate clearly to the voter which key lever or other device
5 to operate in order to vote on questions and for the candidates of his choice.

6 2. Nothing in this subchapter shall be construed as prohibiting] The use of [a] separate
7 paper [ballot] **ballots** for questions **and candidates** in polling places **shall not be prohibited**
8 where **electronic** voting machines are used.

 115.257. 1. In jurisdictions where **electronic** voting machines are used, the election
2 authority shall cause the voting machines to be put in order, set, adjusted and made ready for
3 voting before they are delivered to polling places. [Before delivery to the polling places, the
4 election authority shall have all recording counters, except the protective counter on each voting
5 machine set at zero (000).]

6 2. At least five days before preparing **electronic** voting machines for any election, notice
7 of the time and place of such preparation shall be mailed to each independent candidate and the
8 chairman of the county committee of each established political party named on the ballot. The
9 preparation shall be watched by two observers designated by the election authority, one from

10 each major political party, and shall be open to representatives of the political parties, candidates,
11 the news media and the public.

12 3. When [a] **an electronic voting** machine has been examined by such observers and
13 shown to be in good working order, the machine shall be locked against voting [and sealed in
14 their presence with a numbered metal seal]. The observers shall certify the [number] **vote count**
15 on each machine[, the number on each protective counter, the number on each seal and that each
16 recording counter] is set at zero.

17 4. After [a] **an electronic** voting machine has been properly prepared[, and locked [and
18 sealed], its keys shall be retained by the election authority and delivered to the election judges
19 along with the other election supplies.

20 5. Nothing in this section shall prohibit the on-site storage of **electronic** voting machines
21 and the preparation of the **electronic** machines for voting, provided the **electronic** voting
22 machines are put in order, set, adjusted and made ready for voting as provided in subsections 1,
23 2, 3 and 4 of this section.

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

115.263. After the opening of the polls, the election judges shall not permit any person
2 to handle any **electronic** voting machine, except voters while they are voting and others
3 expressly authorized by the election authority **or state law**.

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

115.267. Any election authority may adopt, experiment with or abandon any [voting
2 machine meeting the requirements of this subchapter or any] electronic voting system approved

3 for use in the state, or may lease one or more **electronic** voting machines or other equipment,
4 either with or without option to purchase, and may use any authorized **electronic** voting
5 equipment at any polling place in its jurisdiction.

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

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

4 2. Any election authority may rent its **electronic** voting machines [or marking devices]
5 to any other group for use in its elections.

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

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

115.342. 1. Any person who files as a candidate for election to a public office shall be
2 disqualified from participation in the election for which the candidate has filed if such person
3 is delinquent in the payment of any state income taxes, personal property taxes, **municipal taxes**,
4 real property taxes on the place of residence, as stated on the declaration of candidacy, or if the
5 person is a past or present corporate officer of any fee office that owes any taxes to the state.

6 2. Each potential candidate for election to a public office shall file an affidavit with the
7 department of revenue and include a copy of the affidavit with the declaration of candidacy
8 required under section 115.349. Such affidavit shall be in substantially the following form:

9 AFFIRMATION OF TAX PAYMENTS AND BONDING REQUIREMENTS:

10 I hereby declare under penalties of perjury that I am not currently aware of any
11 delinquency in the filing or payment of any state income taxes, personal property taxes,

12 **municipal taxes**, real property taxes on the place of residence, as stated on the declaration of
13 candidacy, or that I am a past or present corporate officer of any fee office that owes any taxes
14 to the state, other than those taxes which may be in dispute. I declare under penalties of perjury
15 that I am not aware of any information that would prohibit me from fulfilling any bonding
16 requirements for the office for which I am filing.

17 Candidate's Signature

18 Printed Name of Candidate.

19 3. Upon receipt of a complaint alleging a delinquency of the candidate in the filing or
20 payment of any state income taxes, personal property taxes, **municipal taxes**, real property taxes
21 on the place of residence, as stated on the declaration of candidacy, or if the person is a past or
22 present corporate officer of any fee office that owes any taxes to the state, the department of
23 revenue shall investigate such potential candidate to verify the claim contained in the complaint.
24 If the department of revenue finds a positive affirmation to be false, the department shall contact
25 the secretary of state, or the election official who accepted such candidate's declaration of
26 candidacy, and the potential candidate. The department shall notify the candidate of the
27 outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed
28 which are not the subject of dispute between the department and the candidate. If the candidate
29 fails to remit such amounts in full within thirty days, the candidate shall be disqualified from
30 participating in the current election and barred from refiling for an entire election cycle even if
31 the individual pays all of the outstanding taxes that were the subject of the complaint.

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 the voter on how to obtain a ballot for voting, how to vote and prepare the ballot for deposit in
6 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 **electronic** voting equipment can be demonstrated upon
12 request of the voter. The election authority shall also publicly post during the period of time in
13 which a person may cast an absentee ballot and on election day a sample version of the ballot
14 that will be used for that election, the date of the election, the hours during which the polling
15 place will be open, instructions for mail-in registrants and first-time voters, general information
16 on voting rights in accordance with the state plan filed by the secretary of state pursuant to the

17 Help America Vote Act of 2002, general information on the right to cast a provisional ballot and
18 instructions for provisional ballots, how to contact appropriate authorities if voting rights have
19 been violated, and general information on federal and Missouri law regarding prohibitions on
20 acts of fraud and misrepresentation. The secretary of state may promulgate rules to execute this
21 section. No rule or portion of a rule promulgated pursuant to the authority of this section shall
22 become effective unless it has been promulgated pursuant to chapter 536.

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.

115.420. 1. An election authority [operating a voting system that uses ballot cards] shall
2 not use a butterfly ballot unless the secretary of state provides written approval to the election
3 authority for the use of a butterfly ballot in the particular election.

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

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

115.431. Upon satisfactory identification of the voter, two judges of different political
2 parties shall place their initials on the line where the voter signed the precinct register **or, if**
3 **electronic pollbooks are used, two judges of different political parties shall make the**
4 **appropriate mark on the pollbook.** [All voters' names on the precinct register shall be
5 numbered consecutively in the order in which they have signed, starting with the number "1".]
6 The [computer] **computerized or paper** precinct register shall then constitute the poll list.

115.443. 1. Where paper ballots are used, the voter shall, before leaving the voting
2 booth, fold his ballot so that the [cross (X)] **distinguishing** marks are concealed. The voter shall
3 place his 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 **electronic** voting machines are used, the voter shall register his vote as
15 directed in the instructions for use of the machine and leave the polling place immediately.

115.453. Election judges shall count votes for all candidates in the following manner:

2 (1) No candidate shall be counted as voted for, except a candidate before whose name
3 a [cross (X)] **distinguishing** mark appears [in the square] preceding the name and a [cross (X)]
4 **distinguishing** mark does not appear in the square preceding the name of any candidate for the
5 same office in another column. Except as provided in this subdivision and subdivision (2) of this
6 section, each candidate with a [cross (X)] **distinguishing** mark [in the square] preceding his or
7 her name shall be counted as voted for;

8 (2) If [cross (X)] **distinguishing** marks appear next to the names of more candidates for
9 an office than are entitled to fill the office, no candidate for the office shall be counted as voted
10 for. If more than one candidate is to be nominated or elected to an office, and any voter has
11 voted for the same candidate more than once for the same office at the same election, no votes
12 cast by the voter for the candidate shall be counted;

13 (3) No vote shall be counted for any candidate that is not marked substantially in
14 accordance with the provisions of this section. The judges shall count votes marked substantially
15 in accordance with this section and section 115.456 when the intent of the voter seems clear.
16 Regulations promulgated by the secretary of state shall be used by the judges to determine voter
17 intent. No ballot containing any proper votes shall be rejected for containing fewer marks than
18 are authorized by law;

19 (4) Write-in votes shall be counted only for candidates for election to office who have
20 filed a declaration of intent to be a write-in candidate for election to office with the proper
21 election authority, who shall then notify the proper filing officer of the write-in candidate prior
22 to 5:00 p.m. on the second Friday immediately preceding the election day; except that, write-in
23 votes shall be counted only for candidates for election to state or federal office who have filed
24 a declaration of intent to be a write-in candidate for election to state or federal office with the
25 secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second Friday
26 immediately preceding the election day. No person who filed as a party or independent candidate
27 for nomination or election to an office may, without withdrawing as provided by law, file as a
28 write-in candidate for election to the same office for the same term. No candidate who files for

29 nomination to an office and is not nominated at a primary election may file a declaration of intent
30 to be a write-in candidate for the same office at the general election. When declarations are
31 properly filed with the secretary of state, the secretary of state shall promptly transmit copies of
32 all such declarations to the proper election authorities for further action pursuant to this section.
33 The election authority shall furnish a list to the election judges and counting teams prior to
34 election day of all write-in candidates who have filed such declaration. This subdivision shall
35 not apply to elections wherein candidates are being elected to an office for which no candidate
36 has filed. No person shall file a declaration of intent to be a write-in candidate for election to any
37 municipal office unless such person is qualified to be certified as a candidate under section
38 115.346;

39 (5) Write-in votes shall be cast and counted for a candidate without party designation.
40 Write-in votes for a person cast with a party designation shall not be counted. Except for
41 candidates for political party committees, no candidate shall be elected as a write-in candidate
42 unless such candidate receives a separate plurality of the votes without party designation
43 regardless of whether or not the total write-in votes for such candidate under all party and
44 without party designations totals a majority of the votes cast;

45 (6) When submitted to the election authority, each declaration of intent to be a write-in
46 candidate for the office of United States president shall include the name of a candidate for vice
47 president and the name of nominees for presidential elector equal to the number to which the
48 state is entitled. At least one qualified resident of each congressional district shall be nominated
49 as presidential elector. Each such declaration of intent to be a write-in candidate shall be
50 accompanied by a declaration of candidacy for each presidential elector in substantially the form
51 set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of
52 presidential elector shall be subscribed and sworn to by the candidate before the election official
53 receiving the declaration of intent to be a write-in, notary public or other officer authorized by
54 law to administer oaths.

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

9 2.] As soon as possible after signing the statements of returns, the election judges shall
10 **seal and** enclose the **ballots, electronic voting machine memory cards,** write-in forms

11 containing no votes, the unused ballots and other election supplies in containers designated by
12 the election authority.

13 [3.] 2. Immediately after the [ballot cards and other] election materials have been placed
14 in the proper containers, the two supervisory judges shall together deliver the containers to the
15 counting location or other place designated by the election authority. If any [ballot card]
16 container is not sealed when it is delivered to the counting location or other place designated by
17 the election authority, the election official receiving the container shall make a statement of the
18 fact which includes the location of the polling place and the date of the election printed on the
19 container and the reason the container is not sealed, if known.

20 [4.] 3. If the election authority has directed the supervisory judges to deliver election
21 materials to a place other than the counting location, the election authority shall appoint at least
22 one team of election judges who shall receive the [ballot] containers from the supervisory judges
23 and immediately deliver them to the counting location. Each team appointed pursuant to this
24 subsection shall consist of two election judges or employees of the election authority, one from
25 each major political party.

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

115.477. 1. In each jurisdiction using an electronic voting system, all proceedings at the
2 counting location shall be under the direction of the election authority. The election authority
3 shall appoint two judges, one from each major political party, to be present and observe the
4 count. The counting shall be open to the public, but no persons, except those employed and
5 authorized for the purpose, shall touch any ballot, ballot container or return.

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

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

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

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

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

3. All proper write-in votes shall be read, recorded and counted as provided in sections 115.449 and 115.453. No write-in vote shall be counted for any candidate for any office whose name appears on the ballot label as a candidate for the office, except when more than one person is to be nominated or elected to an office. When more than one person is to be nominated or elected to an 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 names of one or more persons whose names do appear. No write-in vote shall be counted unless it is cast in the appropriate place on the machine.

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

115.495. After being [locked and sealed] **secured** against further voting by the election judges, **electronic** voting machines shall remain [locked] **secured** for the period provided by law for filing an election contest and as much longer as may be necessary or advisable because of any threatened or pending contest, grand jury investigation, or civil or criminal case relating to the election. During this time, the **electronic** voting machines shall not be [unlocked] **unsecured**, except upon order of a court, grand jury or legislative body trying an election contest.

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

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

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

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

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

2 [115.251. Any voting machine may be provided with a device for
3 printing, embossing or photographing the recording counters before the polls
4 open and after the polls close. "Recording counters" are the counters which show
5 the total number of votes cast for each candidate and for and against each
6 question at any particular time.]

2 [115.253. Prior to every election at which voting machines are used, the
3 election authority shall insert ballot labels into the voting machines. The ballot
4 labels shall be printed in black on white material of uniform size and shall fit the
5 ballot frames of the machines. In its discretion, the election authority may print
6 the names of the offices in red. The part of the ballot labels pertaining only to
7 questions may be printed in black upon material tinted red. After the ballot labels
8 have been inserted into the machines, the face of each ballot label shall be
9 completely covered with a protective covering of smooth, hard, transparent
10 material so that it is impossible to alter the face of the ballot label without
11 removing or breaking the covering.]

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

2 [115.305. This subchapter shall not apply to candidates for special
3 district offices, township offices in township organization counties, or city, town
4 and village offices; provided that, cities of the fourth class, except those in a
5 county of the first class with a charter form of government and which adjoins a
6 city not within a county, may elect, only by ordinance, to hold primary elections
7 in accordance with the provisions of sections 115.305 to 115.405 or in
8 accordance with the provisions of sections 78.470, 78.480 and 78.510, and the
9 ordinance shall state which of these provisions of law are being adopted.]

[115.346. Notwithstanding any other provisions of law to the contrary, no person shall be certified as a candidate for a municipal office, nor shall such person's name appear on the ballot as a candidate for such office, who shall be in arrears for any unpaid city taxes or municipal user fees on the last day to file a declaration of candidacy for the office.]

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

(1) Certify in the tally book the number on the protective counter of each machine, the number of identification certificates signed and the number of proper write-in votes cast at the polling place. If the number of signed identification certificates is not the same as the number of votes cast as registered on the protective counters, the judges shall make a signed statement of the fact and the reasons therefor if known and shall return the statement with the statements of returns;

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

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

[115.487. 1. The tally book for each polling place using voting machines shall be in substantially the following form: Tally book for precincts, at the general (special, primary) election held on the day of, 20.... AB, CD, EF, and XP judges, and ZR and LT, watchers and BH and SP challengers at this polling place, were sworn as the law directs before beginning their duties. We hereby certify: This polling place received voting machines numbered and; The number on the seal of voting machine number is; the number on its protective counter is; The number on the seal of voting machine number is; the number on its protective counter is; All recording counters on all voting machines received at this polling place are set at zero; The information on the ballot labels on all voting machines received at this polling place is the same as the information on the sample ballots received at this polling place.

AB

CD

EF Election Judges

XP

We hereby certify: The number on the protective counter of voting machine number is;

The number on the protective counter of voting machine number is;

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

The number of proper write-in votes cast at this polling place is

22 AB
 23 CD
 24 EF
 25 XP

26 2. At each polling place using voting machines, two tally sheets shall be included
 27 in each tally book. The tally sheets shall be used to record the votes cast for each
 28 candidate and for and against each question as they are called out and verified by the
 29 counting judges. The tally sheets shall be in substantially the following form:

30 NAMES OF PERSONS VOTED FOR AND FOR WHAT OFFICE AND
 31 THE NUMBER OF VOTES CAST FOR EACH PERSON

| Office | Candidates Machine Number__ | Voting Machine Number__ | Voting Write-in Votes | Total Votes |
|-------------------------------|-----------------------------------|-------------------------------|-----------------------------|----------------|
| Governor | MC | | | |
| | HK | | | |
| | EH | | | |
| Representative in Congress | SS | | | |
| | RK | | | |
| | CB | | | |

46 VOTES FOR AND AGAINST EACH QUESTION

| Question | Voting Machine Number____ | | Voting Machine Number____ | | Total Number of Votes | Total Number of Votes |
|------------|------------------------------|------------------|------------------------------|------------------|--------------------------------|--------------------------------|
| | Votes FOR | Votes AGAINST | Votes FOR | Votes AGAINST | Votes FOR | Votes AGAINST |
| 1. To_____ | | | | | | |
| 2. To_____ | | | | | | |

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

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

5 2. In each jurisdiction using voting machines, the election authority may
 direct the supervisory judges to place the precinct registers, identification

6 certificates and other election supplies inside the voting machines and lock them
7 for return to the election authority.]

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