

SECOND REGULAR SESSION

[CORRECTED]

[PERFECTED]

# HOUSE BILL NO. 1136

## 97TH GENERAL ASSEMBLY

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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.03P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 115.013, 115.104, 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.

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

Section A. Sections 115.013, 115.104, 115.121, 115.221, 115.231, 115.237, 115.251, 2 115.253, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 3 115.301, 115.305, 115.342, 115.346, 115.417, 115.420, 115.431, 115.443, 115.453, 115.475, 4 115.477, 115.479, 115.483, 115.485, 115.487, 115.489, 115.495, and 115.503, RSMo, are 5 repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 115.013, 6 115.104, 115.121, 115.221, 115.237, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 7 115.269, 115.271, 115.273, 115.342, 115.417, 115.420, 115.431, 115.443, 115.453, 115.475, 8 115.477, 115.479, 115.483, 115.495, and 115.503, to read as follows:

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.

115.013. As used in this chapter, unless the context clearly implies otherwise, the following terms mean:

(1) "Automatic tabulating equipment", the apparatus necessary to examine and automatically count votes, and the data processing machines which are used for counting votes and tabulating results;

(2) "Ballot", the ballot card, paper ballot or ballot designed for use with an electronic voting system on which each voter may cast all votes to which he or she is entitled at an election;

(3) "Ballot card", a ballot which is voted by making a punch or sensor mark which can be tabulated by automatic tabulating equipment;

(4) "Ballot label", the card, paper, booklet, page or other material containing the names of all offices and candidates and statements of all questions to be voted on;

(5) "Counting location", a location selected by the election authority for the automatic processing or counting, or both, of ballots;

(6) "County", any one of the several counties of this state or the City of St. Louis;

(7) "Disqualified", a determination made by a court of competent jurisdiction, the Missouri ethics commission, an election authority or any other body authorized by law to make such a determination that a candidate is ineligible to hold office or not entitled to be voted on for office;

(8) "District", an area within the state or within a political subdivision of the state from which a person is elected to represent the area on a policy-making body with representatives of other areas in the state or political subdivision;

**(9) "Electronic voting machine", any part of an electronic voting system on which a voter is able to cast a ballot under this chapter;**

[(9)] **(10) "Electronic voting system"**, a system of casting votes by use of marking devices, and counting votes by use of automatic tabulating or data processing equipment, and includes computerized voting systems;

[(10)] **(11) "Established political party"** for the state, a political party which, at either of the last two general elections, polled for its candidate for any statewide office, more than two percent of the entire vote cast for the office. "Established political party" for any district or political subdivision shall mean a political party which polled more than two percent of the entire vote cast at either of the last two elections in which the district or political subdivision voted as a unit for the election of officers or representatives to serve its area;

[(11)] **(12) "Federal office"**, the office of presidential elector, United States senator, or representative in Congress;

[(12)] **(13) "Independent"**, a candidate who is not a candidate of any political party and who is running for an office for which party candidates may run;

37           [(13)] **(14)** "Major political party", the political party whose candidates received the  
38 highest or second highest number of votes at the last general election;

39           [(14)] **(15)** "Marking device", either an apparatus in which ballots are inserted and voted  
40 by use of a punch apparatus, or any approved device which will enable the votes to be counted  
41 by automatic tabulating equipment;

42           [(15)] **(16)** "Municipal" or "municipality", a city, village, or incorporated town of this  
43 state;

44           [(16)] **(17)** "New party", any political group which has filed a valid petition and is  
45 entitled to place its list of candidates on the ballot at the next general or special election;

46           [(17)] **(18)** "Nonpartisan", a candidate who is not a candidate of any political party and  
47 who is running for an office for which party candidates may not run;

48           [(18)] **(19)** "Political party", any established political party and any new party;

49           [(19)] **(20)** "Political subdivision", a county, city, town, village, or township of a  
50 township organization county;

51           [(20)] **(21)** "Polling place", the voting place designated for all voters residing in one or  
52 more precincts for any election;

53           [(21)] **(22)** "Precincts", the geographical areas into which the election authority divides  
54 its jurisdiction for the purpose of conducting elections;

55           [(22)] **(23)** "Public office", any office established by constitution, statute or charter and  
56 any employment under the United States, the state of Missouri, or any political subdivision or  
57 special district, but does not include any office in the reserve forces or the National Guard or the  
58 office of notary public or city attorney in cities of the third classification or cities of the fourth  
59 classification;

60           [(23)] **(24)** "Question", any measure on the ballot which can be voted "YES" or "NO";

61           [(24)] **(25)** "Relative within the first degree by consanguinity or affinity", a spouse,  
62 parent, or child of a person;

63           [(25)] **(26)** "Relative within the second degree by consanguinity or affinity", a spouse,  
64 parent, child, grandparent, brother, sister, grandchild, mother-in-law, father-in-law, daughter-in-  
65 law, or son-in-law;

66           [(26)] **(27)** "Special district", any school district, water district, fire protection district,  
67 hospital district, health center, nursing district, or other districts with taxing authority, or other  
68 district formed pursuant to the laws of Missouri to provide limited, specific services;

69           [(27)] **(28)** "Special election", elections called by any school district, water district, fire  
70 protection district, or other district formed pursuant to the laws of Missouri to provide limited,  
71 specific services; and

72 [(28)] (29) "Voting district", the one or more precincts within which all voters vote at  
73 a single polling place for any election.

74 115.104. 1. As used in this section, the term "participant" means a Missouri youth  
75 election participant.

76 2. Notwithstanding any other law to the contrary, any person more than fifteen years of  
77 age but less than eighteen years of age who is in full-time attendance in a school of this state may  
78 aid and assist any election judge or election authority authorized or appointed pursuant to this  
79 chapter. Such [persons] **person** shall be known as "Missouri Youth Election Participants" and  
80 shall, before entering upon the duties related to an election conducted pursuant to this chapter,  
81 take and subscribe the following oath, which shall be signed by the participant and an original  
82 copy thereof delivered to the election authority:

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

91 .....

92 Signature of Missouri Youth

93 Election Participant

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

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

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

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

104 4. The chief administrative officer of the school shall transmit a written list of nominees  
105 to the election authority of the jurisdiction at least sixty days prior to the election. If, in the  
106 opinion of the election authority, the appointment of participants nominated pursuant to this  
107 section would not be disruptive to the election process, the election authority may appoint any

108 number of participants for each polling place or place where votes are to be counted within its  
109 jurisdiction. Such appointment shall include a schedule of the time during which the participant  
110 is expected to serve. [No participant shall be entitled to any compensation or remuneration for  
111 the time served as a participant or costs incurred in the performance of his duties.] Nothing in  
112 this section shall be construed to mandate the appointment of any participant if, in the sole  
113 discretion of the election authority, the presence of such participants in any polling place or place  
114 where votes are counted would be disruptive to the orderly election process.

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

120         6. Each election authority and election judge appointed pursuant to this chapter shall  
121 have the authority to direct any Missouri youth election participant in his duties and to compel  
122 compliance with law. Each election authority may, in its sole discretion, substitute participants  
123 on or before election day. Each election authority or election judge shall have the authority at  
124 any time to take any action necessary to remove any participant from any polling place or place  
125 where votes are being counted. It shall be the duty of any law enforcement officer, if requested  
126 by the election authority or judges of election, to exclude any participant from the polling place  
127 or place where votes are being counted.

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

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;

16 (4) A small square, the sides of which shall not be less than one-fourth inch in length,  
17 printed directly to the left of each candidate's name and on the same line as the candidate's name.

18 When write-in votes are authorized and no candidate's name is to be printed under the name of  
19 an office in a party or nonpartisan column, under the name of the office in the column shall be  
20 printed a square. Directly to the right of the square shall be printed a horizontal line on which  
21 the voter may vote for a person whose name does not appear on the ballot. When more than one  
22 position is to be filled for an office, and the number of candidates' names under the office in a  
23 column is less than the number of positions to be filled, the number of squares and write-in lines  
24 printed in the column shall equal the difference between the number of candidates' names and  
25 the number of positions to be filled;

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

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

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

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

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

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





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 booth, fold his ballot so that the [cross (X)] **distinguishing** marks are concealed. The voter shall place his ballot in the ballot box and leave the polling place immediately.

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

3.] Where **electronic** voting machines are used, the voter shall register his vote as 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:

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

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

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

(4) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate for election to office with the proper 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  
2 shall, after the count has been completed and the results received, have the automatic tabulating  
3 equipment tested to ascertain that the equipment has correctly counted the votes for all offices  
4 and on all questions. The test shall be observed by at least two persons designated by the  
5 election authority, one from each major political party, and shall be open to the public. The test  
6 shall be conducted by processing the same preaudited group of [ballot cards] **ballots** used in the  
7 preelection test provided for in section 115.233. If any error is detected, the cause shall be  
8 ascertained and corrected, and an errorless count shall be made before the final results are  
9 announced. After the completion of an errorless count, the programs and the [ballot cards]  
10 **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  
2 machines, the election judges shall [lock and seal] **secure** each voting machine against further  
3 voting and proceed to count the votes. Once begun, the count shall not be adjourned or  
4 postponed until all proper votes have been counted.

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

13 3. All proper write-in votes shall be read, recorded and counted as provided in sections  
14 115.449 and 115.453. No write-in vote shall be counted for any candidate for any office whose  
15 name appears on the ballot label as a candidate for the office, except when more than one person  
16 is to be nominated or elected to an office. When more than one person is to be nominated or  
17 elected to an office, the voter may write in the names of one or more persons whose names do  
18 not appear on the ballot label with or without the names of one or more persons whose names

19 do appear. No write-in vote shall be counted unless it is cast in the appropriate place on the  
20 machine.

21 4. If more than one voting machine is used in a polling place, the election judges shall  
22 read, verify and record all the totals from the first machine before proceeding to the second, and  
23 so on, until all of the totals on each machine in the polling place have been read, verified and  
24 recorded. The total number of votes from each machine shall be added to the write-in votes to  
25 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  
2 judges, **electronic** voting machines shall remain [locked] **secured** for the period provided by law  
3 for filing an election contest and as much longer as may be necessary or advisable because of any  
4 threatened or pending contest, grand jury investigation, or civil or criminal case relating to the  
5 election. During this time, the **electronic** voting machines shall not be [unlocked] **unsecured**,  
6 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  
2 are used, the verification board, or a bipartisan committee appointed by the verification board,  
3 shall inspect each **secured electronic** voting machine [not equipped with printed election return  
4 mechanisms used at the election and shall make a record of the number on the seal and protective  
5 counter of each machine, open the counter compartment of the machine] and [, without  
6 unlocking the machine against voting,] record the votes cast on the machine. In precincts where  
7 **electronic** voting machines equipped with printed election returns mechanisms are used, the  
8 counter compartment shall not be opened and the original and duplicate originals of the printed  
9 return sheets of the votes cast on questions and for candidates regularly nominated, or who have  
10 duly filed, together with the tabulation and inclusion of any votes written in on the paper roll for  
11 those not regularly nominated, or who have not filed, shall constitute the official return sheet for  
12 the votes cast on that machine, when properly certified by the precinct election officers. [One  
13 copy of such printed return sheet shall be posted on the outside of the polling place for the  
14 information of the public.] One copy of **such printed return sheet** shall be returned to the  
15 election authority and retained by it for not less than one year. Any bipartisan committee  
16 appointed pursuant to this subsection shall consist of at least two people, one from each major  
17 political party, who shall be appointed in the same manner and possess the same qualifications  
18 as election judges.

19 2. After the verification board or committee has completed its inspection and record, it  
20 shall compare the record with the returns made by the election judges on election day. If there  
21 is a discrepancy between the returns of the election judges and the record of the verification  
22 board or committee, the verification board shall correct the returns made by the judges to  
23 conform to its record. The corrected returns shall supersede the returns made by the election

24 judges on election day. Both the record and the returns shall be retained by the election authority  
25 as provided in section 115.493.

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

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

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

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

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.]

2 [115.346. Notwithstanding any other provisions of law to the contrary,  
3 no person shall be certified as a candidate for a municipal office, nor shall such  
4 person's name appear on the ballot as a candidate for such office, who shall be in  
5 arrears for any unpaid city taxes or municipal user fees on the last day to file a  
6 declaration of candidacy for the office.]

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

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

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

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

2 [115.487. 1. The tally book for each polling place using voting machines  
3 shall be in substantially the following form: Tally book for ..... precincts, at the  
4 general (special, primary) election held on the ..... day of ....., 20.... AB, CD, EF,  
5 and XP judges, and ZR and LT, watchers and BH and SP challengers at this  
6 polling place, were sworn as the law directs before beginning their duties. We  
7 hereby certify: This polling place received voting machines numbered ..... and  
8 .....; The number on the seal of voting machine number ..... is .....; the number on  
9 its protective counter is .....; The number on the seal of voting machine number  
10 ..... is .....; the number on its protective counter is .....; All recording counters on  
11 all voting machines received at this polling place are set at zero; The information  
12 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.

13 AB  
 14 CD  
 15 EF Election Judges  
 16 XP  
 17 We hereby certify: The number on the protective counter of voting machine  
 18 number ..... is .....;  
 19 The number on the protective counter of voting machine number ..... is .....;  
 20 The number of identification certificates signed at this polling place is .....;  
 21 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

32 Office	Candidates	Voting	Voting	
33 Machine	Machine	Machine	Write-in	Total
34 Number__	Number__	Number__	Votes	Votes
<hr/>				
37 Governor	MC			
38	HK			
39	EH			
<hr/>				
42 Represen-	SS			
43 tative in	RK			
44 Congress	CB			

45 VOTES FOR AND AGAINST EACH QUESTION

48 Question	Voting Machine		Voting Machine		Total	Total
49	Number__		Number__		Number	Number
50	of		of		of	of
51	Votes	Votes	Votes	Votes	Votes	Votes
52	FOR	AGAINST	FOR	AGAINST	FOR	AGAINST
53 1. To_____						
54 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.]  
59

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  
6 direct the supervisory judges to place the precinct registers, identification  
7 certificates and other election supplies inside the voting machines and lock them  
for return to the election authority.]

✓