

FIRST REGULAR SESSION

# HOUSE BILL NO. 367

## 103RD GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE BANDERMAN.

1332H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 115.123, 115.277, 115.283, 115.291, 115.351, 115.776, and 115.904, RSMo, and to enact in lieu thereof fifteen 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 115.123, 115.277, 115.283, 115.291, 115.351, 115.776, and  
2 115.904, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as  
3 sections 115.123, 115.277, 115.283, 115.291, 115.351, 115.755, 115.758, 115.761, 115.765,  
4 115.767, 115.770, 115.773, 115.776, 115.785, and 115.904, to read as follows:

115.123. 1. All public elections shall be held on Tuesday. Except as **otherwise**  
2 provided in [~~subsection 2 of~~] this section, and section 247.180, all public elections shall be  
3 held on the general election day, the primary election day, the general municipal election day,  
4 the first Tuesday after the first Monday in November, or on another day expressly provided  
5 by city or county charter, and in nonprimary years on the first Tuesday after the first Monday  
6 in August. Bond elections may be held on the first Tuesday after the first Monday in  
7 February but no other issue shall be included on the ballot for such election.

8       2. **Notwithstanding the provisions of subsection 1 of this section, an election for a**  
9 **presidential primary held under sections 115.755 to 115.785 shall be held on the first**  
10 **Tuesday in March of each presidential election year.**

11       3. The following elections shall be exempt from the provisions of subsection 1 of this  
12 section:

- 13       (1) Bond elections necessitated by fire, vandalism or natural disaster;  
14       (2) Elections for which ownership of real property is required by law for voting;  
15       (3) Special elections to fill vacancies and to decide tie votes or election contests; and

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.

16 (4) Tax elections necessitated by a financial hardship due to a five percent or greater  
17 decline in per-pupil state revenue to a school district from the previous year.

18 ~~[3-]~~ 4. Nothing in this section prohibits a charter city or county from having its  
19 primary election in March if the charter provided for a March primary before August 28,  
20 1999.

21 ~~[4-]~~ 5. Nothing in this section shall prohibit elections held pursuant to section 65.600,  
22 but no other issues shall be on the March ballot except pursuant to this chapter.

115.277. 1. A registered voter of this state may cast an absentee ballot in person at a  
2 location designated by the election authority for all candidates and issues for which such voter  
3 is eligible to vote at the polling place ~~[if such voter expects to be prevented from going to the  
4 polls to vote on election day due to one of the reasons listed in subsection 3 of this section]~~  
5 **beginning on the sixth Tuesday before election day without providing an excuse under  
6 subsection 3 of this section.** A registered voter casting a ballot under the provisions of this  
7 subsection shall provide a form of personal photo identification that is consistent with  
8 subsection 1 of section 115.427. ~~[Beginning on the second Tuesday prior to an election, a  
9 reason listed under subsection 3 of this section shall not be required, provided that, the  
10 provisions of section 1.140 to the contrary notwithstanding, this sentence and section 115.427  
11 shall be nonseverable, and if any provision of section 115.427 is for any reason held to be  
12 invalid, such decision shall invalidate this sentence.]~~

13 2. Except as provided in subsections 4, 5, and 6 of this section, a registered voter of  
14 this state may cast an absentee ballot not in person at a location designated by the election  
15 authority for all candidates and issues for which such voter would be eligible to vote at the  
16 polling place if such voter expects to be prevented from going to the polls to vote on election  
17 day due to one of the reasons listed in subsection 3 of this section. An absentee ballot that is  
18 not requested and completed in person at the office of the election authority with a form of  
19 personal photo identification that is consistent with subsection 1 of section 115.427 shall have  
20 the statement on the ballot envelope notarized as required under section 115.283, except that  
21 absentee ballots requested under subdivisions (2) and (5) of subsection 3 of this section shall  
22 not require notarization. This subsection shall apply only in the case of absentee ballots that  
23 are not cast in person.

24 3. A voter may request an absentee ballot **by mail** for any of the following reasons:

25 (1) Absence on election day from the jurisdiction of the election authority in which  
26 such voter is registered to vote;

27 (2) Incapacity or confinement due to illness or physical disability on election day,  
28 including a person who is primarily responsible for the physical care of a person who is  
29 incapacitated or confined due to illness or disability and resides at the same address;

30 (3) Religious belief or practice;

31 (4) Employment as:

32 (a) An election authority, as a member of an election authority, or by an election  
33 authority at a location other than such voter's polling place;

34 (b) A first responder;

35 (c) A health care worker; or

36 (d) A member of law enforcement;

37 (5) Incarceration, provided all qualifications for voting are retained;

38 (6) Certified participation in the address confidentiality program established under  
39 sections 589.660 to 589.681 because of safety concerns.

40 4. Any covered voter who is eligible to register and vote in this state may vote in any  
41 election for federal office, statewide office, state legislative office, or statewide ballot  
42 initiatives by submitting a federal postcard application to apply to vote by absentee ballot or  
43 by submitting a federal postcard application at the polling place even though the person is not  
44 registered. A federal postcard application submitted by a covered voter pursuant to this  
45 subsection shall also serve as a voter registration application under section 115.908 and the  
46 election authority shall, if satisfied that the applicant is entitled to register, place the voter's  
47 name on the voter registration file. Each covered voter may vote by absentee ballot or, upon  
48 submitting an affidavit that the person is qualified to vote in the election, may vote at the  
49 person's polling place.

50 5. Any interstate former resident may vote by absentee ballot for presidential and vice  
51 presidential electors.

52 6. Any new resident may vote by absentee ballot for presidential and vice presidential  
53 electors after registering to vote in such resident's new jurisdiction of residence.

115.283. 1. Each ballot envelope shall bear a statement on which the voter shall state  
2 the voter's name, the voter's voting address, the voter's mailing address and the voter's reason  
3 for voting an absentee ballot. If the reason for the voter voting absentee is due to the reasons  
4 established under subdivision (6) of subsection 3 of section 115.277, the voter shall state the  
5 voter's identification information provided by the address confidentiality program in lieu of  
6 the applicant's name, voting address, and mailing address. On the form, the voter shall also  
7 state under penalties of perjury that the voter is qualified to vote in the election, that the voter  
8 has not previously voted and will not vote again in the election, that the voter has personally  
9 marked the voter's ballot in secret or supervised the marking of the voter's ballot if the voter is  
10 unable to mark it, that the ballot has been placed in the ballot envelope and sealed by the voter  
11 or under the voter's supervision if the voter is unable to seal it, and that all information  
12 contained in the statement is true. In addition, any person providing assistance to the absentee  
13 voter shall include a statement on the envelope identifying the person providing assistance

14 under penalties of perjury. Persons authorized to vote only for federal and statewide officers  
15 shall also state their former Missouri residence.

16 2. The statement for persons voting absentee ballots **by mail** who are registered  
17 voters shall be in substantially the following form:

18 State of Missouri  
19 County (City) of \_\_\_\_\_

20 I, \_\_\_\_\_ (print name), a registered voter of \_\_\_\_\_ County (City of  
21 St. Louis, Kansas City), declare under the penalties of perjury that I am  
22 voting in person at a location designated by the local election authority  
23 or I expect to be prevented from going to the polls on election day due  
24 to (check one):

- 25 \_\_\_\_\_ absence on election day from the jurisdiction of the election
- 26 authority in which I am registered;
- 27 \_\_\_\_\_ incapacity or confinement due to illness or physical disability
- 28 on election day, including caring for a person who is
- 29 incapacitated or confined due to illness or disability and
- 30 resides at the same address;
- 31 \_\_\_\_\_ religious belief or practice;
- 32 \_\_\_\_\_ employment as an election authority, by an election authority
- 33 at a location other than my polling place, as a first responder,
- 34 as a health care worker, or as a member of law enforcement;
- 35 \_\_\_\_\_ incarceration, although I have retained all the necessary
- 36 qualifications for voting;
- 37 \_\_\_\_\_ certified participation in the address confidentiality program
- 38 established under sections 589.660 to 589.681 because of
- 39 safety concerns.

40 I hereby state under penalties of perjury that I am qualified to vote at  
41 this election; I have not voted and will not vote other than by this ballot  
42 at this election. I further state that I marked the enclosed ballot in secret  
43 or that I am blind, unable to read or write English, or physically  
44 incapable of marking the ballot, and the person of my choosing  
45 indicated below marked the ballot at my direction; all of the  
46 information on this statement is, to the best of my knowledge and  
47 belief, true.

48 \_\_\_\_\_  
49 \_\_\_\_\_  
50 Signature of Voter

\_\_\_\_\_  
\_\_\_\_\_  
Signature of Person

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Signed \_\_\_\_\_  
Signed \_\_\_\_\_

Address of Voter \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mailing Addresses  
(if different)

Assisting Voter  
(if applicable)  
Subscribed and sworn  
to before me this  
\_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Signature of notary or  
other officer  
authorized to  
administer oaths

3. The statement for persons voting absentee ballots **by mail** pursuant to the provisions of subsection 4, 5, or 6 of section 115.277 without being registered shall be in substantially the following form:

State of Missouri  
County (City) of \_\_\_\_\_

I, \_\_\_\_\_ (print name), declare under the penalties of perjury that I am a citizen of the United States and eighteen years of age or older. I am not adjudged incapacitated by any court of law, and if I have been convicted of a felony or of a misdemeanor connected with the right of suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to law. I hereby state under penalties of perjury that I am qualified to vote at this election.

I am an interstate former resident of Missouri and authorized to vote for presidential and vice presidential electors.

I further state under penalties of perjury that I have not voted and will not vote other than by this ballot at this election; I marked the enclosed ballot in secret or am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

\_\_\_\_\_

Subscribed to and

87	Signature of Voter	sworn before me this
88		_____ day of
89		_____, _____
90	_____	
91	_____	_____
92	Address of Voter	Signature of notary or
93		other officer
94		authorized to
95		administer oaths
96	_____	_____
97	Mailing Address (if different)	_____
98		_____
99	_____	_____
100	Signature of Person	Address of Last
101	Assisting Voter	Missouri Residence
102		(if applicable)

103 4. The statement for persons voting absentee ballots **by mail** who are entitled to vote  
 104 at the election pursuant to the provisions of subsection 2 of section 115.137 shall be in  
 105 substantially the following form:

106 State of Missouri  
 107 County (City) of \_\_\_\_\_  
 108 I, \_\_\_\_\_ (print name), declare under the penalties of perjury that I  
 109 expect to be prevented from going to the polls on election day due to  
 110 (check one):  
 111 \_\_\_\_\_ absence on election day from the jurisdiction of the election  
 112 authority in which I am directed to vote;  
 113 \_\_\_\_\_ incapacity or confinement due to illness or physical disability  
 114 on election day, including caring for a person who is  
 115 incapacitated or confined due to illness or disability and  
 116 resides at the same address;  
 117 \_\_\_\_\_ religious belief or practice;  
 118 \_\_\_\_\_ employment as an election authority, by an election authority  
 119 at a location other than my polling place, as a first responder,  
 120 as a health care worker, or as a member of law enforcement;  
 121 \_\_\_\_\_ incarceration, although I have retained all the necessary  
 122 qualifications of voting;

123 \_\_\_\_\_ certified participation in the address confidentiality program  
 124 established under sections 589.660 to 589.681 because of  
 125 safety concerns.

126 I hereby state under penalties of perjury that I own property in the \_\_\_\_  
 127 \_\_ district and am qualified to vote at this election; I have not voted  
 128 and will not vote other than by this ballot at this election. I further state  
 129 that I marked the enclosed ballot in secret or that I am blind, unable to  
 130 read and write English, or physically incapable of marking the ballot,  
 131 and the person of my choosing indicated below marked the ballot at my  
 132 direction; all of the information on this statement is, to the best of my  
 133 knowledge and belief, true.

134 _____ 135 Signature of Voter	Subscribed and sworn to before me this _____ day of _____, _____
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138 _____ 139 _____ 140 Address	_____ Signature of notary or other officer authorized to administer oaths
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144 \_\_\_\_\_  
 145 Signature of Person  
 146 Assisting Voter  
 147 (if applicable)

148 5. The statement for persons providing assistance to absentee voters shall be in  
 149 substantially the following form:

150 The voter needed assistance in marking the ballot and signing above,  
 151 because of blindness, other physical disability, or inability to read or to  
 152 read English. I marked the ballot enclosed in this envelope at the  
 153 voter's direction, when I was alone with the voter, and I had no other  
 154 communication with the voter as to how he or she was to vote. The  
 155 voter swore or affirmed the voter affidavit above and I then signed the  
 156 voter's name and completed the other voter information above. Signed  
 157 under the penalties of perjury.

158 Reason why voter needed assistance: \_\_\_\_\_

## 159 ASSISTING PERSON SIGN HERE

- 160 1. \_\_\_\_\_ (signature of assisting person)  
161 2. \_\_\_\_\_ (assisting person's name printed)  
162 3. \_\_\_\_\_ (assisting person's residence)  
163 4. \_\_\_\_\_ (assisting person's home city or town).

164 6. Notwithstanding any other provision of this section, any covered voter as defined  
165 in section 115.902 or persons who have declared themselves to be permanently disabled  
166 pursuant to section 115.284, otherwise entitled to vote, shall not be required to obtain a notary  
167 seal or signature on his or her absentee ballot.

168 7. Notwithstanding any other provision of this section or section 115.291 to the  
169 contrary, the subscription, signature and seal of a notary or other officer authorized to  
170 administer oaths shall not be required on any ballot, ballot envelope, or statement required by  
171 this section if the reason for the voter voting absentee is due to the reasons established  
172 pursuant to subdivision (2) of subsection 3 of section 115.277.

173 8. No notary shall charge or collect a fee for notarizing the signature on any absentee  
174 ballot or absentee voter registration.

175 9. A notary public who charges more than the maximum fee specified or who charges  
176 or collects a fee for notarizing the signature on any absentee ballot or absentee voter  
177 registration is guilty of official misconduct.

115.291. 1. Upon receiving an absentee ballot by mail, the voter shall mark the ballot  
2 in secret, place the ballot in the ballot envelope, seal the envelope and fill out the statement on  
3 the ballot envelope. The affidavit of each person voting an absentee ballot **by mail** shall be  
4 subscribed and sworn to before the election official receiving the ballot, a notary public or  
5 other officer authorized by law to administer oaths, unless the voter is voting absentee due to  
6 incapacity or confinement due to the provisions of section 115.284, illness or physical  
7 disability on election day, or the voter is a covered voter as defined in section 115.902. If the  
8 voter is blind, unable to read or write the English language, or physically incapable of voting  
9 the ballot, the voter may be assisted by a person of the voter's own choosing. Any person  
10 assisting a voter who is not entitled to such assistance, and any person who assists a voter and  
11 in any manner coerces or initiates a request or a suggestion that the voter vote for or against or  
12 refrain from voting on any question, ticket or candidate, shall be guilty of a class one election  
13 offense. If, upon counting, challenge or election contest, it is ascertained that any absentee  
14 ballot was voted with unlawful assistance, the ballot shall be rejected.

15 2. Except as provided in subsection 4 of this section, each absentee ballot that is not  
16 cast by the voter in person in the office of the election authority shall be returned to the  
17 election authority in the ballot envelope and shall only be returned by the voter in person, or



18 in person by a relative of the voter who is within the second degree of consanguinity or  
19 affinity, by mail or registered carrier or by a team of deputy election authorities; except that  
20 covered voters, when sent from a location determined by the secretary of state to be  
21 inaccessible on election day, shall be allowed to return their absentee ballots cast by use of  
22 facsimile transmission or under a program approved by the Department of Defense for  
23 electronic transmission of election materials.

24 3. In cases of an emergency declared by the President of the United States or the  
25 governor of this state where the conduct of an election may be affected, the secretary of state  
26 may provide for the delivery and return of absentee ballots by use of a facsimile transmission  
27 device or system. Any rule promulgated pursuant to this subsection shall apply to a class or  
28 classes of voters as provided for by the secretary of state.

29 4. No election authority shall refuse to accept and process any otherwise valid marked  
30 absentee ballot submitted in any manner by a covered voter solely on the basis of restrictions  
31 on envelope type.

32 5. No absentee ballot shall be delivered through a drop box and no election authority  
33 shall establish or use a drop box for the purpose of collecting absentee ballots.

115.351. No person who files as a party candidate for nomination or election to an  
2 office shall, without withdrawing, file as another party's candidate or an independent  
3 candidate for nomination or election to the office for the same term. No person who files as  
4 an independent candidate for election to an office shall, without withdrawing, file as a party  
5 candidate for nomination or election to the office for the same term. No person shall file for  
6 one office and, without withdrawing, file for another office to be filled at the same election.  
7 **A person who files a request to be included on the presidential primary ballot is not**  
8 **prohibited by this section from filing or appearing on any ballot as a party candidate for**  
9 **nomination to another office.** Receipt by the secretary of state of proper certification of  
10 nomination pursuant to subsection 1 of section 115.399 constitutes withdrawal by operation  
11 of law pursuant to subsection 1 of section 115.359 of any presidential or vice presidential  
12 nominee from any other office for which such nominee is a candidate at the same election.  
13 Any person violating any provision of this section shall be disqualified from running for  
14 nomination or election to any office at the primary and general election next succeeding the  
15 violation.

**115.755. A statewide presidential preference primary shall be held on the first**  
2 **Tuesday in March of each presidential election year.**

**115.758. On or before the tenth Tuesday prior to the date of the presidential**  
2 **preference primary, the secretary of state shall announce the official list of presidential**  
3 **candidates for each established political party as provided in section 115.761.**

115.761. 1. The official list of presidential candidates for each established political party shall include the names of all constitutionally qualified candidates for whom, on or after 8:00 a.m. on the fifteenth Tuesday prior to the presidential primary, and on or before 5:00 p.m., on the eleventh Tuesday prior to the presidential primary, a written request to be included on the presidential primary ballot is filed with the secretary of state along with:

(1) Receipt of payment to the state committee of the established political party on whose ballot the candidate wishes to appear of a filing fee of five thousand dollars; or

(2) A written statement, sworn to before an officer authorized by law to administer oaths, that the candidate is unable to pay the filing fee and does not have funds in a campaign fund or committee to pay the filing fee and a petition signed by not less than five thousand registered Missouri voters, as determined by the secretary of state, that the candidate's name be placed on the ballot of the specified established political party for the presidential preference primary. The request to be included on the presidential primary ballot shall include each signer's printed name, registered address and signature and shall be in substantially the following form:

I (We) the undersigned, do hereby request that the name of \_\_\_\_\_ be placed upon the March \_\_\_\_\_, \_\_\_\_\_, presidential primary ballot as candidate for nomination as the nominee for President of the United States on the \_\_\_\_\_ party ticket.

2. The state or national party organization of an established political party that adopts rules imposing signature requirements to be met before a candidate can be listed as an official candidate shall notify the secretary of state by October first of the year preceding the presidential primary.

3. Any candidate or such candidate's authorized representative may have such candidate's name stricken from the presidential primary ballot by filing with the secretary of state on or before 5:00 p.m. on the eleventh Tuesday prior to the presidential primary election a written statement, sworn to before an officer authorized by law to administer oaths, requesting that such candidate's name not be printed on the official primary ballot. Thereafter, the secretary of state shall not include the name of that candidate in the official list announced pursuant to section 115.758 or in the certified list of candidates transmitted pursuant to section 115.765.

4. The filing times set out in this section shall only apply to presidential preference primaries, and are in lieu of those established in section 115.349.

115.765. On or before the tenth Tuesday prior to a presidential preference primary, the secretary of state shall transmit to each election authority a certified list containing the names of all candidates whose names shall appear on the presidential

4 preference primary ballot of each party. The names of the candidates shall appear in  
5 the order in which their request to be included on the presidential primary ballot was  
6 received in the office of the secretary of state, except that, in the case of candidates who  
7 file a request to be included on the presidential primary ballot with the secretary of state  
8 prior to 5:00 p.m. on the first day for filing, the secretary of state shall determine by  
9 random drawing the order in which such candidates' names shall appear on the ballot.  
10 The drawing shall be conducted so that each candidate, or candidate's representative,  
11 may draw a number at random at the time of filing. The secretary of state shall record  
12 the number drawn with the candidate's request to be included on the presidential  
13 primary ballot. The names of candidates filing on the first day for filing on each party  
14 ballot shall be listed in ascending order of the numbers so drawn.

115.767. Each election authority shall cause the name of candidates certified by  
2 the secretary of state to appear on the presidential preference primary ballot of each  
3 party, followed by a listing for an uncommitted vote.

115.770. The conduct of the presidential preference primary election and the  
2 count and canvass of the votes cast therein shall conform as nearly as is practicable to  
3 that prescribed for the conduct of the primary election for state officers. All primary  
4 election laws not inconsistent with the provisions of sections 115.750 to 115.785 shall be  
5 applicable to the conduct of this election, and the form of the ballot insofar as is  
6 practicable shall be substantially as that prescribed by section 115.395. In a presidential  
7 preference primary, each voter shall be entitled to receive the ballot of one and only one  
8 established political party, designated by the voter before receiving such voter's ballot.  
9 Each voter who participates in a presidential preference primary shall be entitled to  
10 vote on all questions and for any candidates submitted by political subdivisions and  
11 special districts at the general municipal election. Each voter who does not wish to  
12 participate in a presidential preference primary may vote on all questions and for any  
13 candidates submitted by a political subdivision or special district at the general  
14 municipal election.

115.773. After the count and canvass of the votes cast, the secretary of state shall  
2 notify the state chair of each of the established political parties for whom a candidate  
3 was listed, of the number of votes recorded in that established political party's primary  
4 that each candidate and uncommitted listing received.

115.776. The state party organization which is the state organization recognized by  
2 the national organization of that established political party shall, after the primary and  
3 before the national convention, conduct a series of caucuses culminating in congressional and  
4 state conventions [~~for the purpose of nominating a candidate for the president of the United~~

5 ~~States~~]. Delegates to the national conventions shall be chosen at the congressional district  
6 and state conventions pursuant to rules established by the political parties.

**115.785. All costs of a presidential preference primary shall be paid by the state,  
2 except that, pursuant to section 115.065, costs shall be shared proportionately by the  
3 state and any political subdivisions and special districts holding an election on the same  
4 day as any such primary.**

115.904. The voting procedures in sections 115.900 to 115.936 shall apply to:

- 2 (1) A general, special, **presidential preference**, or primary election for federal office;
- 3 (2) A general, special, or primary election for statewide or state legislative office or  
4 state ballot measure; or
- 5 (3) Any election in which absentee voting is conducted pursuant to sections 115.275  
6 to 115.304.

✓