

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1966
95TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, May 10, 2010, with recommendation that the Senate Committee Substitute do pass.

4527S.10C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 115.279, 115.281, 115.287, 115.291, 115.292, 115.427, and 115.430, RSMo, and to enact in lieu thereof ten new sections relating to elections, with a contingent effective date.

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

Section A. Sections 115.279, 115.281, 115.287, 115.291, 115.292, 115.427, 2 and 115.430, RSMo, are repealed and ten new sections enacted in lieu thereof, to 3 be known as sections 115.156, 115.276, 115.278, 115.279, 115.281, 115.287, 4 115.291, 115.292, 115.427, and 115.430, to read as follows:

115.156. 1. The secretary of state shall establish procedures for
2 **absent uniformed services voters and overseas voters to request, by**
3 **mail or electronically, that voter registration applications be sent to**
4 **the voter, and to request that such voter registration applications be**
5 **sent by mail or electronically in the preferred method of transmission**
6 **designated by the voter. The secretary of state shall designate not less**
7 **than one means of electronic communication for use by absent**
8 **uniformed services voters and overseas voters to request voter**
9 **registration applications and to send such voter registration**
10 **applications.**

11 **2. No election authority shall refuse to accept and process any**
12 **otherwise valid voter registration application submitted by an absent**
13 **uniformed services voter or an overseas voter solely on the basis of**
14 **restrictions on paper type.**

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

115.276. 1. Each local election authority shall establish one
2 advance voting center in each state senatorial district in the state, or
3 if a state senatorial district contains more than one county, in each
4 county located in such senatorial district. Only as provided in this
5 section, any registered voter of this state may vote by advance ballot
6 in person in any election in which presidential and vice presidential
7 electors or the offices of United States senator, governor, lieutenant
8 governor, secretary of state, state auditor, state treasurer, or attorney
9 general are on the ballot at an advance voting center in the senatorial
10 district in which the voter is registered during the advance voting
11 period established in this section.

12 2. The advance voting period shall begin on the second Saturday
13 immediately preceding an election and end on the Wednesday
14 immediately preceding an election, excluding Sundays. All local
15 election authorities shall conduct advance voting at each advance
16 voting center established by the local election authority between seven
17 o'clock in the morning and seven o'clock in the evening for an eight-
18 hour period on weekdays and for a four-hour period between nine
19 o'clock in the morning and five o'clock in the evening on Saturdays
20 during the advance voting period.

21 3. The secretary of state and each local election authority shall
22 provide adequate public notice of the advance voting centers and
23 periods, including but not limited to, posting such information at each
24 local election authority's office and on the website of each local
25 election authority that maintains a web site, and by such other methods
26 as the secretary of state and the local election authority may
27 select. Except as otherwise provided in this section, all provisions
28 relating to appointment of election judges and polling places
29 established by state law shall apply to any advance voting center
30 established under this section.

31 4. Absentee ballots distributed under this chapter shall be used
32 during the advance voting period. No statement of the voter's reason
33 for voting an absentee ballot shall be required for voters using an
34 absentee ballot under this subsection as such statements are required
35 for absentee ballots. All procedures for casting and counting an
36 absentee ballot under this chapter shall apply to advance voting under
37 this section, except as such procedures are changed as provided in this

38 section.

39 **5. Notwithstanding any provision of law to the contrary, all costs**
40 **associated with the implementation and the continuing operation of**
41 **advance voting under this section shall be reimbursed from the general**
42 **revenue of this state by an appropriation for that purpose. If there is**
43 **no appropriation of state funds, an election authority shall not conduct**
44 **advance voting.**

115.278. The secretary of state shall establish procedures for
2 **absent uniformed services voters and overseas voters to request, by**
3 **mail or electronically, that absentee ballot applications be sent to the**
4 **voter, and to request that such absentee ballot applications be sent by**
5 **mail or electronically in the preferred method of transmission**
6 **designated by the voter. The secretary of state shall designate not less**
7 **than one means of electronic communication for use by absent**
8 **uniformed services voters and overseas voters to request absentee**
9 **ballot applications, to send such absentee ballot applications, and to**
10 **provide related voting, balloting, and election information to such**
11 **voters.**

 115.279. 1. Application for an absentee ballot may be made by the
2 applicant in person, or by mail, or for the applicant, in person, by his or her
3 guardian or a relative within the second degree by consanguinity or affinity. The
4 election authority shall accept applications by facsimile transmission within the
5 limits of its telecommunications capacity.

6 2. Each application shall be made to the election authority of the
7 jurisdiction in which the person is or would be registered. Each application shall
8 be in writing and shall state the applicant's name, address at which he or she is
9 or would be registered, his or her reason for voting an absentee ballot [and], the
10 address to which the ballot is to be mailed, if mailing is requested, **and for**
11 **absent uniformed services and overseas applicants, the applicant's**
12 **email address if electronic transmission is requested.** Each application
13 to vote in a primary election shall also state which ballot the applicant wishes to
14 receive. If any application fails to designate a ballot, the election authority shall,
15 within three working days after receiving the application, notify the applicant by
16 mail that it will be unable to deliver an absentee ballot until the applicant
17 designates which political party ballot he or she wishes to receive. If the
18 applicant does not respond to the request for political party designation, the

19 election authority is authorized to provide the voter with that part of the ballot
20 for which no political party designation is required.

21 **3. Except as provided in subsection 3 of section 115.281,** all
22 applications for absentee ballots received prior to the sixth Tuesday before an
23 election shall be stored at the office of the election authority until such time as
24 the applications are processed in accordance with section 115.281. No application
25 for an absentee ballot received in the office of the election authority by mail, by
26 facsimile transmission or by a guardian or relative after 5:00 p.m. on the
27 Wednesday immediately prior to the election shall be accepted by any election
28 authority. No application for an absentee ballot submitted by the applicant in
29 person after 5:00 p.m. on the day before the election shall be accepted by any
30 election authority, except as provided in subsections 6, 8 and 9 of this section.

31 **4.** Each application for an absentee ballot shall be signed by the applicant
32 or, if the application is made by a guardian or relative pursuant to this section,
33 the application shall be signed by the guardian or relative, who shall note on the
34 application his or her relationship to the applicant. If an applicant, guardian or
35 relative is blind, unable to read or write the English language or physically
36 incapable of signing the application, he or she shall sign by mark, witnessed by
37 the signature of an election official or person of his or her own choosing. Any
38 person who knowingly makes, delivers or mails a fraudulent absentee ballot
39 application shall be guilty of a class one election offense.

40 **5. (1)** Notwithstanding any law to the contrary, any resident of the state
41 of Missouri who resides outside the boundaries of the United States or who is on
42 active duty with the armed forces of the United States or members of their
43 immediate family living with them may request an absentee ballot for both the
44 primary and subsequent general election with one application. [In addition, the
45 election authority shall provide to each absent uniformed services voter and each
46 overseas voter who submits an absentee ballot request an absentee ballot through
47 the next two regularly scheduled general elections for federal office.]

48 **(2)** The election authority shall provide each absent uniformed services
49 voter and each overseas voter who submits a voter registration application or an
50 absentee ballot request, if the election authority rejects the application or request,
51 with the reasons for the rejection.

52 **(3)** Notwithstanding any other law to the contrary, if a standard oath
53 regarding material misstatements of fact is adopted for uniformed and overseas
54 voters pursuant to the Help America Vote Act of 2002, the election authority shall

55 accept such oath for voter registration, absentee ballot, or other election-related
56 materials.

57 (4) Not later than sixty days after the date of each regularly scheduled
58 general election for federal office, each election authority which administered the
59 election shall submit to the secretary of state in a format prescribed by the
60 secretary a report on the combined number of absentee ballots transmitted to,
61 and returned by, absent uniformed services voters and overseas voters for the
62 election. The secretary shall submit to the Election Assistance Commission a
63 combined report of such information not later than ninety days after the date of
64 each regularly scheduled general election for federal office and in a standardized
65 format developed by the commission pursuant to the Help America Vote Act of
66 2002. The secretary shall make the report available to the general public.

67 (5) As used in this section, the terms "absent uniformed services voter"
68 and "overseas voter" shall have the meaning prescribed in 42 U.S.C. 1973ff-6.

69 6. An application for an absentee ballot by a new resident, as defined in
70 section 115.275, shall be submitted in person by the applicant in the office of the
71 election authority in the election jurisdiction in which such applicant
72 resides. The application shall be received by the election authority no later than
73 7:00 p.m. on the day of the election. Such application shall be in the form of an
74 affidavit, executed in duplicate in the presence of the election authority or any
75 authorized officer of the election authority, and in substantially the following
76 form:

77 "STATE OF.....
78 COUNTY OF....., ss.

79 I,....., do solemnly swear that:

80 (1) Before becoming a resident of this state, I resided at
81 (residence address) in
82 (town, township, village or city) of County in the state of
83

84 (2) I moved to this state after the last day to register to vote in such
85 general presidential election and I am now residing in the county of
86, state of Missouri;

87 (3) I believe I am entitled pursuant to the laws of this state to vote in the
88 presidential election to be held November, (year);

89 (4) I hereby make application for a presidential and vice presidential
90 ballot. I have not voted and shall not vote other than by this ballot at such

91 election.

92 Signed

93 (Applicant)

94

95 (Residence Address)

96 Subscribed and sworn to before me this day of

97,

98 Signed

99 (Title and name of officer authorized to administer oaths)"

100 7. The election authority in whose office an application is filed pursuant
101 to subsection 6 of this section shall immediately send a duplicate of such
102 application to the appropriate official of the state in which the new resident
103 applicant last resided and shall file the original of such application in its office.

104 8. An application for an absentee ballot by an intrastate new resident, as
105 defined in section 115.275, shall be made in person by the applicant in the office
106 of the election authority in the election jurisdiction in which such applicant
107 resides. The application shall be received by the election authority no later than
108 7:00 p.m. on the day of the election. Such application shall be in the form of an
109 affidavit, executed in duplicate in the presence of the election authority or an
110 authorized officer of the election authority, and in substantially the following
111 form:

112 "STATE OF

113 COUNTY OF, ss.

114 I,, do solemnly swear that:

115 (1) Before becoming a resident of this election jurisdiction, I resided at
116 (residence address) in
117 (town, township, village or city) of county in the state of
118

119 (2) I moved to this election jurisdiction after the last day to register to
120 vote in such election;

121 (3) I believe I am entitled pursuant to the laws of this state to vote in the
122 election to be held (date);

123 (4) I hereby make application for an absentee ballot for candidates and
124 issues on which I am entitled to vote pursuant to the laws of this state. I have
125 not voted and shall not vote other than by this ballot at such election.

126 Signed

127 (Applicant)
 128
 129 (Residence Address)
 130 Subscribed and sworn to before me this day of,
 131 Signed
 132 (Title and name of officer authorized to administer oaths)"

133 9. An application for an absentee ballot by an interstate former resident,
 134 as defined in section 115.275, shall be received in the office of the election
 135 authority where the applicant was formerly registered by 5:00 p.m. on the
 136 Wednesday immediately prior to the election, unless the application is made in
 137 person by the applicant in the office of the election authority, in which case such
 138 application shall be made no later than 7:00 p.m. on the day of the election.

115.281. 1. **Except as provided in subsection 3 of this section**, not
 2 later than the sixth Tuesday prior to each election, or within fourteen days after
 3 candidates' names or questions are certified pursuant to section 115.125, the
 4 election authority shall cause to have printed and made available a sufficient
 5 quantity of absentee ballots, ballot envelopes and mailing envelopes. As soon as
 6 possible after the proper officer calls a special state or county election, the
 7 election authority shall cause to have printed and made available a sufficient
 8 quantity of absentee ballots, ballot envelopes and mailing envelopes.

9 2. All absentee ballots for an election shall be in the same form as the
 10 official ballots for the election, except that in lieu of the words "Official Ballot"
 11 at the top of the ballot, the words "Official Absentee Ballot" shall appear.

12 **3. Not later than forty-five days before each general, primary,**
 13 **and special election for federal office, the election authority shall cause**
 14 **to have printed and made available a sufficient quantity of absentee**
 15 **ballots, ballot envelopes, and mailing envelopes for absent uniformed**
 16 **services voters and overseas voters.**

115.287. 1. Upon receipt of a signed application for an absentee ballot
 2 and if satisfied the applicant is entitled to vote by absentee ballot, the election
 3 authority shall, within three working days after receiving the application, or if
 4 absentee ballots are not available at the time the application is received, within
 5 five working days after they become available, deliver to the voter an absentee
 6 ballot, ballot envelope and such instructions as are necessary for the applicant
 7 to vote. Delivery shall be made to the voter personally in the office of the election
 8 authority or by bipartisan teams appointed by the election authority, or by first

9 class, registered, or certified mail at the discretion of the election authority, **or**
10 **in the case of absent uniformed services voters and overseas voters, by**
11 **electronic transmission if electronic transmission is requested by the**
12 **voter.** Where the election authority is a county clerk, the members of bipartisan
13 teams representing the political party other than that of county clerk shall be
14 selected from a list of persons submitted to the county clerk by the county
15 chairman of that party. If no list is provided by the time that absentee ballots
16 are to be made available, the county clerk may select a person or persons from
17 lists provided in accordance with section 115.087. If the election authority is not
18 satisfied that any applicant is entitled to vote by absentee ballot, it shall not
19 deliver an absentee ballot to the applicant. Within three working days of
20 receiving such an application, the election authority shall notify the applicant and
21 state the reason he or she is not entitled to vote by absentee ballot. The
22 applicant may appeal the decision of the election authority to the circuit court in
23 the manner provided in section 115.223.

24 2. If, after 5:00 p.m. on the Wednesday before an election, any voter from
25 the jurisdiction has become hospitalized, becomes confined due to illness or
26 injury, or is confined in an adult boarding facility, intermediate care facility,
27 residential care facility, or skilled nursing facility, as defined in section 198.006,
28 RSMo, in the county in which the jurisdiction is located or in the jurisdiction or
29 an adjacent election authority within the same county, the election authority
30 shall appoint a team to deliver, witness the signing of and return the voter's
31 application and deliver, witness the voting of and return the voter's absentee
32 ballot. In counties with a charter form of government and in cities not within a
33 county, and in each city which has over three hundred thousand inhabitants, and
34 is situated in more than one county, if the election authority receives ten or more
35 applications for absentee ballots from the same address it may appoint a team to
36 deliver and witness the voting and return of absentee ballots by voters residing
37 at that address, except when such addresses are for an apartment building or
38 other structure wherein individual living units are located, each of which has its
39 own separate cooking facilities. Each team appointed pursuant to this subsection
40 shall consist of two registered voters, one from each major political party. Both
41 members of any team appointed pursuant to this subsection shall be present
42 during the delivery, signing or voting and return of any application or absentee
43 ballot signed or voted pursuant to this subsection.

44 3. On the mailing and ballot envelopes for each applicant in federal

45 service, the election authority shall stamp prominently in black the words
46 "FEDERAL BALLOT, STATE OF MISSOURI" and "U.S. Postage Paid, 39 U.S.C.
47 3406".

48 4. No information which encourages a vote for or against a candidate or
49 issue shall be provided to any voter with an absentee ballot.

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

17 2. **Except as provided in subsection 4 of this section**, each absentee
18 ballot shall be returned to the election authority in the ballot envelope and shall
19 only be returned by the voter in person, or in person by a relative of the voter
20 who is within the second degree of consanguinity or affinity, by mail or registered
21 carrier or by a team of deputy election authorities; except that persons in federal
22 service, when sent from a location determined by the secretary of state to be
23 inaccessible on election day, shall be allowed to return their absentee ballots cast
24 by use of facsimile transmission or under a program approved by the Department
25 of Defense for electronic transmission of election materials.

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

32 **4. No election authority shall refuse to accept and process any**
33 **otherwise valid marked absentee ballot submitted in any manner by an**
34 **absent uniformed services voter or overseas voter solely on the basis**
35 **of restrictions on envelope type.**

36 **5. As provided in the Military and Overseas Voter Empowerment**
37 **Act, the secretary of state shall, in coordination with local election**
38 **authorities, develop a free access system by which an absent uniformed**
39 **services voter or overseas voter may determine whether the voter's**
40 **absentee ballot has been received by the appropriate election authority.**

115.292. 1. Notwithstanding any other provision of this chapter, a
2 qualified absentee voter, as described in subsection 3 of this section, may apply
3 for a special write-in absentee ballot within eighty days of a special, primary, or
4 general election for federal office. Such a ballot shall be for voting for all offices
5 being contested at such election.

6 2. A qualified absentee voter applying for a special write-in absentee
7 ballot pursuant to this section shall apply to the local election authority of the
8 area which contains his last residence in this state for such ballot. The
9 application for a special write-in absentee ballot may be made on the federal
10 postcard application form, by letter, or on a form provided by the local election
11 authority.

12 3. [In order to qualify for a special write-in absentee ballot, the voter shall
13 state that he is unable to vote by any other means due to requirements of
14 military service or due to living in isolated or extremely remote areas of the
15 world. This statement may be made by federal postcard application, by letter, or
16 on a form prepared by the local election authority.

17 4.] Upon receipt of the application, the election authority shall issue a
18 special write-in absentee ballot. Such ballot shall permit the voter to cast a ballot
19 by writing in a party preference for each office, the names of specific candidates,
20 or the names of persons whom the voter prefers.

21 [5.] 4. The election authority shall issue a regular absentee ballot as soon
22 as such ballots are available. If both the regular absentee ballot and the special
23 write-in absentee ballot are returned, the regular absentee ballot shall be counted
24 and the special write-in absentee ballot shall be voided.

25 **5. The special write-in absentee ballot provided for in this**
26 **section shall be used instead of the federal write-in absentee ballot in**
27 **general, special, and primary elections for federal office as authorized**

28 **in Title 42, U.S.C. Section 1973ff-2(e), as amended.**

115.427. 1. [Before receiving a ballot, voters] **Persons seeking to vote**
2 **in a public election** shall establish their identity and eligibility to vote at the
3 polling place by presenting a form of personal identification **to election**
4 **officials.** ["Personal identification" shall mean only] **No form of personal**
5 **identification other than the forms listed in this section shall be**
6 **accepted to establish a voter's qualifications to vote. Forms of personal**
7 **identification that satisfy the requirements of this section are any one**
8 of the following:

9 (1) Nonexpired Missouri driver's license [showing the name and a
10 photograph or digital image of the individual]; [or]

11 (2) Nonexpired or nonexpiring Missouri nondriver's license [showing the
12 name and a photographic or digital image of the individual]; [or]

13 (3) **Any identification containing a photograph of the individual**
14 **that is issued by the Missouri National Guard, the United States armed**
15 **forces, or the United States Department of Veterans Affairs to a**
16 **member or former member of the Missouri National Guard or the**
17 **United States armed forces and that does not have an expiration date;**
18 **or**

19 (4) A document that satisfies all of the following requirements:

20 (a) The document contains the name of the individual to whom the
21 document was issued, and the name substantially conforms to the most recent
22 signature in the individual's voter registration record;

23 (b) The document shows a [photographic or digital image] **photograph**
24 of the individual;

25 (c) The document includes an expiration date, and the document is not
26 expired, or if expired, **the document** expired [not before] **after** the date of the
27 most recent general election; and

28 (d) The document was issued by the United States or the state of
29 Missouri[; or

30 (4) Any identification containing a photographic or digital image of the
31 individual which is issued by the Missouri National Guard, the United States
32 armed forces, or the United States Department of Veteran Affairs to a member
33 or former member of the Missouri National Guard or the United States armed
34 forces and that does not have an expiration date].

35 2. [The] **All election authority costs associated with the**

36 **implementation of the photo identification requirements of this section**
37 **shall be reimbursed from the general revenue of this state by an**
38 **appropriation for that purpose. If there is no appropriation of state**
39 **funds, then election authorities shall not enforce the photo**
40 **identification requirements of this section.**

41 **3. Each** election authority shall post a clear and conspicuous notice at
42 each polling place informing each voter who appears at the polling place without
43 a form of personal identification that satisfies the requirements of [subsection 1
44 of] this section that the voter may return to the polling place with a proper form
45 of personal identification and vote a regular ballot after election judges have
46 verified the voter's identity and eligibility under [subsection 1 of] this section. In
47 addition to such posting, the election judges **at each polling place** may also
48 inform such voters by written or oral communication of such information posted
49 in the notice. Voters who return to the polling place during the uniform polling
50 hours established by section 115.407 with a current and valid form of personal
51 identification shall be given priority in any voting lines.

52 **[3.] 4.** An individual who appears at a polling place without **a form of**
53 **personal** identification [in the form] described in [subsection 1 of] this section
54 and who is otherwise qualified to vote at that polling place may execute an
55 affidavit averring that the voter is the person listed in the precinct register [and
56 that the voter], does not possess a form of **personal** identification specified in
57 this section, and is unable to obtain a current and valid form of personal
58 identification because of:

59 (1) A physical or mental disability or handicap of the voter, if the voter
60 is otherwise competent to vote under Missouri law; [or]

61 (2) **The inability to pay for a birth certificate or other supporting**
62 **documentation that is necessary to obtain the identification required**
63 **to vote under this section;**

64 (3) A sincerely held religious belief against the forms of personal
65 identification described in [subsection 1 of] this section; or

66 **[(3)] (4)** The voter being born on or before January 1, 1941.

67 Upon executing such affidavit, the individual may cast a provisional ballot. Such
68 provisional ballot shall be counted, provided the election authority verifies the
69 identity of the individual by comparing that individual's signature to the
70 signature on file with the election authority and determines that the individual
71 was eligible to cast a ballot at the polling place where the ballot was cast.

72 [4.] 5. The affidavit to be used for voting under subsection 3 of this
73 section shall be substantially in the following form:

74 "State of

75 County of

76 I do solemnly swear (or affirm) that my name is; that I
77 reside at; and that I am the person listed in the
78 precinct register under this name and at this address. I further swear (or affirm)
79 that I am unable to obtain a current and valid form of personal identification
80 because of:

81 A physical or mental disability or handicap; [or]
82 **An inability to pay for a birth certificate or other supporting**
83 **documentation necessary to obtain the identification required to vote**
84 **under this section;**

85 A sincerely held religious belief; or

86 My being born on or before January 1, 1941.

87 I understand that knowingly providing false information is a violation of law and
88 subjects me to possible criminal prosecution.

89

90 Signature of voter

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

92

93 Signature of election official"

94 [5.] 6. A voter shall be allowed to cast a provisional ballot under section
95 115.430 even if the election judges cannot establish the voter's identity **and**
96 **eligibility** under [subsection 1 of] this section. The election judges shall make
97 a notation on the provisional ballot envelope to indicate that the voter's identity
98 was not verified. The provisional ballot cast by such voter shall not be counted
99 unless:

100 (1) The voter returns to the polling place during the uniform polling hours
101 established by section 115.407 and provides a form of personal identification that
102 allows the election judges to verify the voter's identity as provided in [subsection
103 1 of] this section; and

104 (2) The provisional ballot otherwise qualifies to be counted under section
105 115.430.

106 [6.] 7. The [secretary of state] **election authority** shall provide advance
107 notice of the personal identification requirements of [subsection 1 of] this section

108 in a manner calculated to inform the public generally of the requirement for
109 [photographic] **forms of** personal identification as provided in this
110 section]. Such advance notice shall include, at a minimum, the use of
111 advertisements and public service announcements in print, broadcast television,
112 radio, and cable television media, as well as the posting of information on the
113 opening pages of the official state Internet websites of the secretary of state and
114 governor] **to be included in the notice required under sections 115.127**
115 **and 115.129.**

116 [7.] 8. The provisions of section 136.055[, RSMo,] and section 302.181[,
117 RSMo,] notwithstanding, **the state shall provide at least one such form of**
118 **the personal identification required to vote at no cost to any otherwise**
119 **qualified voter who does not already possess such identification and**
120 **who desires the identification in order to vote.** Any applicant who
121 requests a nondriver's license with a photograph or digital image for the purpose
122 of voting shall not be required to pay a fee if the applicant executes an affidavit
123 averring that the applicant does not have any other form of [photographic]
124 personal identification that meets the requirements of [subsection 1 of] this
125 section. The state of Missouri shall pay the legally required fees for any such
126 applicant. The director shall design an affidavit to be used for this
127 purpose. [However, any disabled or elderly person otherwise competent to vote
128 shall be issued a nondriver's license photo identification through a mobile
129 processing system operated by the Missouri department of revenue upon request
130 if the individual is physically unable to otherwise obtain a nondriver's license
131 photo identification. The department of revenue shall make nondriver's license
132 photo identifications available through its mobile processing system only at
133 facilities licensed under chapter 198, RSMo, and other public places accessible to
134 and frequented by disabled and elderly persons. The department shall provide
135 advance notice of the times and places when the mobile processing system will be
136 available. At least nine mobile units housed under the office of administration
137 shall remain available for dispatch upon the request of the department of revenue
138 to fulfill the requirements of this section.] The total cost associated with
139 nondriver's license photo identification under this subsection shall be borne by
140 the state of Missouri from funds appropriated to the department of revenue for
141 that specific purpose. The department of revenue and a local election authority
142 may enter into a contract that allows the local election authority to assist the
143 department in issuing nondriver's license photo identifications.

144 **[8.] 9.** The director of the department of revenue shall, by January first
 145 of each year, prepare and deliver to each member of the general assembly a report
 146 documenting the number of individuals who have requested and received a
 147 nondriver's license photo identification for the purposes of voting under this
 148 section. The report shall also include the number of persons requesting a
 149 nondriver's license for purposes of voting under this section, but not receiving
 150 such license, and the reason for the denial of the nondriver's license.

151 **[9.] 10.** The precinct register shall serve as the voter identification
 152 certificate. The following form shall be printed at the top of each page of the
 153 precinct register:

Unofficial
 VOTER'S IDENTIFICATION CERTIFICATE

155 Warning: It is against the law for anyone to vote, or attempt to vote, without
 156 having a lawful right to vote.

157 PRECINCT

158 WARD OR TOWNSHIP

159 GENERAL (SPECIAL, PRIMARY) ELECTION

160 Held, 20.....

161 Date

162 I hereby certify that I am qualified to vote at this election by signing my name
 163 and verifying my address by signing my initials next to my address.

164 **[10.] 11.** The secretary of state shall promulgate rules to effectuate the
 165 provisions of this section.

166 **[11.] 12.** Any rule or portion of a rule, as that term is defined in section
 167 536.010, RSMo, that is created under the authority delegated in this section shall
 168 become effective only if it complies with and is subject to all of the provisions of
 169 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
 170 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
 171 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
 172 date or to disapprove and annul a rule are subsequently held unconstitutional,
 173 then the grant of rulemaking authority and any rule proposed or adopted after
 174 August 28, 2002, shall be invalid and void.

175 **[12.] 13.** If any voter is unable to sign his name at the appropriate place
 176 on the certificate or computer printout, an election judge shall print the name and
 177 address of the voter in the appropriate place on the precinct register, the voter
 178 shall make his mark in lieu of signature, and the voter's mark shall be witnessed
 179 by the signature of an election judge.

180 [13. For any election held on or before November 1, 2008, an individual
181 who appears at a polling place without identification in the form described in
182 subsection 1 of this section, and who is otherwise qualified to vote at that polling
183 place, may cast a provisional ballot after:

184 (1) Executing an affidavit which is also signed by two supervising election
185 judges, one from each major political party, who attest that they have personal
186 knowledge of the identity of the voter, provided that the two supervising election
187 judges who sign an affidavit under this subdivision shall not be involved or
188 participate in the verification of the voter's eligibility by the election authority
189 after the provisional ballot is cast; or

190 (2) (a) Executing an affidavit affirming his or her identity; and

191 (b) Presenting a form of identification from the following list:

192 a. Identification issued by the state of Missouri, an agency of the state,
193 or a local election authority of the state;

194 b. Identification issued by the United States government or agency
195 thereof;

196 c. Identification issued by an institution of higher education, including a
197 university, college, vocational and technical school, located within the state of
198 Missouri;

199 d. A copy of a current utility bill, bank statement, government check,
200 paycheck, or other government document that contains the name and address of
201 the voter; or

202 e. Driver's license or state identification card issued by another
203 state. Such provisional ballot shall be entitled to be counted, provided the
204 election authority verifies the identity of the individual by comparing that
205 individual's signature to the current signature on file with the election authority
206 and determines that the individual was otherwise eligible to cast a ballot at the
207 polling place where the ballot was cast.

208 14. The affidavit to be used for voting under subsection 13 of this section
209 shall be substantially in the following form:

210 "State of

211 County of

212 I do solemnly swear (or affirm) that my name is; that I
213 reside at; and that I am the person listed in the precinct
214 register under this name and at this address.

215 I understand that knowingly providing false information is a violation of law and

216 subjects me to possible criminal prosecution.

217

218 Signature of voter

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

220

221 Signature of Election Official".

222 15. The provisions of subsections 1 to 5 and 8 to 14 of this section shall
223 become effective August 28, 2006, and this subsection shall expire September 1,
224 2006.]

115.430. 1. This section shall **not** apply **and provisional ballots shall**
2 **not be available for absentee voting and during advance voting**
3 **established under section 115.276** [to primary and general elections where
4 candidates for federal or statewide offices are nominated or elected and any
5 election where statewide issue or issues are submitted to the voters.

6 2.] (1) A voter claiming to be properly registered in the jurisdiction of the
7 election authority and eligible to vote in an election, but whose eligibility at that
8 precinct cannot be immediately established upon examination of the precinct
9 register, shall be entitled to vote a provisional ballot after providing a form of
10 personal identification required pursuant to section 115.427 or upon executing an
11 affidavit under section 115.427, or may vote at a central polling place as
12 established in section 115.115 where the voter may vote his or her appropriate
13 ballot for his or her precinct of residence upon verification of eligibility or vote a
14 provisional ballot if eligibility cannot be determined. The provisional ballot
15 provided to a voter under this section shall be the ballot provided to a resident
16 of the voter's precinct determined by reference to the affidavit provided for in this
17 section. If the voter declares that the voter is eligible to vote and the election
18 authority determines that the voter is eligible to vote at another polling place, the
19 voter shall be directed to the correct polling place or a central polling place as
20 established by the election authority pursuant to subsection 5 of section 115.115.
21 If the voter refuses to go to the correct polling place or a central polling place, the
22 voter shall be permitted to vote a provisional ballot at the incorrect polling place,
23 but such ballot shall not be counted if the voter was not eligible to vote at that
24 polling place.

25 (2) The following steps shall be taken to establish a voter's eligibility to
26 vote at a polling place:

27 (a) The election judge shall examine the precinct register as provided in

28 section 115.425. If the voter is registered and eligible to vote at the polling place,
29 the voter shall receive a regular ballot;

30 (b) If the voter's eligibility cannot be immediately established by
31 examining the precinct register, the election judge shall contact the election
32 authority. If the election authority cannot immediately establish that the voter
33 is registered and eligible to vote at the polling place upon examination of the
34 Missouri voter registration system, or if the election judge is unable to make
35 contact with the election authority immediately, the voter shall be notified that
36 the voter is entitled to a provisional ballot.

37 (3) The voter shall have the duty to appear and vote at the correct polling
38 place. If an election judge determines that the voter is not eligible to vote at the
39 polling place at which a voter presents himself or herself, and if the voter appears
40 to be eligible to vote at another polling place, the voter shall be informed that he
41 or she may cast a provisional ballot at the current polling place or may travel to
42 the correct polling place or a central polling place, as established by the election
43 authority under subsection 5 of section 115.115, where the voter may cast a
44 regular ballot or provisional ballot if the voter's eligibility still cannot be
45 determined. Provisional ballots cast at a polling place shall be counted only if the
46 voter was eligible to vote at such polling place as provided in subsection 5 of this
47 section.

48 (4) For a voter requesting an absentee ballot in person, such voter shall
49 be entitled to cast a provisional ballot when the voter's eligibility cannot be
50 immediately established upon examination of the precinct registers or the
51 Missouri voter registration system.

52 (5) Prior to accepting any provisional ballot at the polling place, the
53 election judges shall determine that the information provided on the provisional
54 ballot envelope by the provisional voter is consistent with the identification
55 provided by such person under section 115.427.

56 [3.] 2. (1) No person shall be entitled to receive a provisional ballot until
57 such person has completed a provisional ballot affidavit on the provisional ballot
58 envelope.

59 (2) The secretary of state shall produce appropriate sizes of provisional
60 ballot envelopes and distribute them to each election authority according to their
61 tabulating system. All provisional ballot envelopes shall be printed on a
62 distinguishable color of paper that is different from the color of the regular
63 ballot. The provisional ballot envelope shall be in the form required by

64 subsection 4 of this section. All provisional ballots shall be marked with a
65 conspicuous stamp or other distinguishing mark that makes them readily
66 distinguishable from the regular ballots.

67 (3) Once voted, the provisional ballot shall be placed and sealed in a
68 provisional ballot envelope.

69 [4.] 3. The provisional ballot in its envelope shall be deposited in the
70 ballot box. The provisional ballot envelope shall be completed by the voter for use
71 in determining eligibility. The provisional ballot envelope specified in this section
72 shall contain a voter's certificate which shall be in substantially the following
73 form:

74 STATE OF

75 COUNTY OF

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

82 I understand that if the above-provided information is not correct and the
83 election authority determines that I am not registered and eligible to vote, my
84 vote will not be counted. I further understand that knowingly providing false
85 information is a violation of law and subjects me to possible criminal prosecution.
86

87 (Signature of Voter)

88

89 (Current Address)

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

91

92 (Signature of Election Official) The voter may provide additional information to
93 further assist the election authority in determining eligibility, including the place
94 and date the voter registered to vote, if known.

95 [5.] 4. (1) Prior to counting any provisional ballot, the election authority
96 shall determine if the voter is registered and eligible to vote and if the vote was
97 properly cast. The eligibility of provisional votes shall be determined according
98 to the requirements for a voter to cast a ballot in the election as set forth in
99 sections 115.133 and 115.135. A provisional voter ballot shall not be eligible to

100 be counted until the election authority has determined that:

101 (a) The voter cast such provisional ballot at a polling place established for
102 the voter or the central polling place established by the election authority under
103 subsection 5 of section 115.115;

104 (b) The individual who cast the provisional ballot is an individual
105 registered to vote in the respective election at the polling place where the ballot
106 was cast;

107 (c) The voter did not otherwise vote in the same election by regular ballot,
108 absentee ballot, or otherwise; and

109 (d) The information on the provisional ballot envelope is found to be
110 correct, complete, and accurate.

111 (2) When the ballot boxes are delivered to the election authority from the
112 polling places, the receiving teams shall separate the provisional ballots from the
113 rest of the ballots and place the sealed provisional ballot envelopes in a separate
114 container. Teams of election authority employees or teams of election judges with
115 each team consisting of one member of each major political party shall photocopy
116 each provisional ballot envelope, such photocopy to be used by the election
117 authority to determine provisional voter eligibility. The sealed provisional ballot
118 envelopes shall be placed by the team in a sealed container and shall remain
119 therein until tabulation.

120 (3) To determine whether a provisional ballot is valid and entitled to be
121 counted, the election authority shall examine its records and verify that the
122 provisional voter is properly registered and eligible to vote in the election. If the
123 provisional voter has provided information regarding the registration agency
124 where the provisional voter registered to vote, the election authority shall make
125 an inquiry of the registration agency to determine whether the provisional voter
126 is properly registered and eligible to vote in the election.

127 (4) If the election authority determines that the provisional voter is
128 registered and eligible to vote in the election, the election authority shall provide
129 documentation verifying the voter's eligibility. Such documentation shall be
130 noted on the copy of the provisional ballot envelope and shall contain
131 substantially the following information:

132 (a) The name of the provisional voter;

133 (b) The name of the reviewer;

134 (c) The date and time; and

135 (d) A description of evidence found that supports the voter's eligibility.

136 (5) The local election authority shall record on a provisional ballot
137 acceptance/rejection list the provisional ballot identification number and a
138 notation marking it as accepted.

139 (6) If the election authority determines that the provisional voter is not
140 registered or eligible to vote in the election, the election authority shall provide
141 documentation verifying the voter's ineligibility. Such documentation shall be
142 noted on the copy of the provisional ballot envelope and shall contain
143 substantially the following information:

144 (a) The name of the provisional voter;

145 (b) The name of the reviewer;

146 (c) The date and time;

147 (d) A description of why the voter is ineligible.

148 (7) The local election authority shall record on a provisional ballot
149 acceptance/rejection list the provisional ballot identification number and notation
150 marking it as rejected.

151 (8) If rejected, a photocopy of the envelope shall be made and used by the
152 election authority as a mail-in voter registration. The actual provisional ballot
153 envelope shall be kept as ballot material, and the copy of the envelope shall be
154 used by the election authority for registration record keeping.

155 **[6.] 5.** All provisional ballots cast by voters whose eligibility has been
156 verified as provided in this section shall be counted in accordance with the rules
157 governing ballot tabulation. Provisional ballots shall not be counted until all
158 provisional ballots are determined either eligible or ineligible and all provisional
159 ballots must be processed before the election is certified. The provisional ballot
160 shall be counted only if the election authority determines that the voter is
161 registered and eligible to vote. Provisional ballots voted in the wrong polling
162 place shall not be counted. If the voter is not registered but is qualified to
163 register for future elections, the affidavit shall be considered a mail-in application
164 to register to vote pursuant to this chapter.

165 **[7.] 6.** (1) After the election authority completes its review of the
166 provisional voter's eligibility under subsection 5 of this section, the election
167 authority shall deliver the provisional ballots and copies of the provisional ballot
168 envelopes that include eligibility information to bipartisan counting teams, which
169 may be the board of verification, for review and tabulation. The election
170 authority shall maintain a record of such delivery. The record shall include the
171 number of ballots delivered to each team and shall include a signed receipt from

172 two judges, one from each major political party. The election authority shall
173 provide each team with a ballot box and material necessary for tabulation.

174 (2) If the person named on the provisional ballot affidavit is found to have
175 been properly qualified and registered to cast a ballot in the election and the
176 provisional ballot otherwise qualifies to be counted under the provisions of this
177 section, the envelope shall be opened, and the ballot shall be placed in a ballot
178 box to be counted.

179 (3) If the person named on the provisional ballot affidavit is found not to
180 have been properly qualified and registered to cast a ballot in the election or if
181 the election authority is unable to determine such person's right to vote, the
182 envelope containing the provisional ballot shall not be opened, and the person's
183 vote shall not be counted. The members of the team shall follow the procedures
184 set forth in subsection 5 of this section for rejected provisional ballots.

185 (4) The votes shall be tallied and the returns made as provided in sections
186 115.447 to 115.525 for paper ballots. After the vote on all ballots assigned to a
187 team have been counted, the ballots, ballot envelopes, and copies of ballot
188 envelopes with the eligibility information provided by the election authority shall
189 be enclosed in sealed containers marked "Voted provisional ballots and ballot
190 envelopes from the election held, 20...". All rejected provisional ballots,
191 ballot envelopes, and copies of ballot envelopes with the eligibility information
192 provided by the election authority shall be enclosed in sealed containers marked
193 "Rejected provisional ballots and ballot envelopes from the election held
194, 20.....". On the outside of each voted ballot and rejected ballot
195 container, each member of the team shall write their name and all such
196 containers shall be returned to the election authority. Upon receipt of the returns
197 and ballots, the election authority shall tabulate the provisional votes.

198 [8.] 7. Challengers and watchers, as provided by sections 115.105 and
199 115.107, may be present during all times that the bipartisan counting teams are
200 reviewing or counting the provisional ballots, the provisional ballot envelopes, or
201 copies of the provisional ballot envelopes that include eligibility information
202 provided by the election authority. Challengers and watchers shall be permitted
203 to observe the determination of the eligibility of all provisional ballots. The
204 election authority shall notify the county chair of each major political party of the
205 time and location when bipartisan counting teams will be reviewing or counting
206 the provisional ballots, the provisional ballot envelopes, or the copies of the
207 provisional ballot envelopes that include the eligibility information provided by

208 the election authority.

209 [9.] 8. The certificate of ballot cards shall:

210 (1) Reflect the number of provisional envelopes delivered; and

211 (2) Reflect the number of sealed provisional envelopes with voted ballots
212 deposited in the ballot box.

213 [10.] 9. In counties where the voting system does not utilize a paper
214 ballot, the election authority shall provide the appropriate provisional ballots to
215 each polling place.

216 [11.] 10. The secretary of state may promulgate rules for purposes of
217 ensuring the uniform application of this section. No rule or portion of a rule
218 promulgated pursuant to the authority of this section shall become effective
219 unless it has been promulgated pursuant to chapter 536, RSMo.

220 [12.] 11. The secretary of state shall design and provide to the election
221 authorities the envelopes and forms necessary to carry out the provisions of this
222 section.

223 [13.] 12. Pursuant to the Help America Vote Act of 2002, the secretary
224 of state shall ensure a free access system is established, such as a toll-free
225 number or an Internet web site, that any individual who casts a provisional ballot
226 may access to discover whether the vote of that individual was counted, and, if
227 the vote was not counted, the reason that the vote was not counted. At the time
228 an individual casts a provisional ballot, the election authority shall give the voter
229 written information that states that any individual who casts a provisional ballot
230 will be able to ascertain under such free access system whether the vote was
231 counted, and if the vote was not counted, the reason that the vote was not
232 counted.

233 [14.] 13. In accordance with the Help America Vote Act of 2002, any
234 individual who votes in an election as a result of a court order or any other order
235 extending the time established for closing the polls in section 115.407 may vote
236 only by using a provisional ballot, and such provisional ballot shall be separated
237 and held apart from other provisional ballots cast by those not affected by the
238 order. Such ballots shall not be counted until such time as the ballots are
239 determined to be valid. No state court shall have jurisdiction to extend the
240 polling hours established by law, including section 115.407.

Section B. Section A of this act shall become effective only upon the
2 passage and approval by the voters of a constitutional amendment submitted to
3 them by the general assembly regarding the authorization of advance voting,

4 photo identification, and voter requirements based on whether one appears to
5 vote in person by absentee ballot.

Section C. Notwithstanding any provision of section 1.140 to the contrary,
2 the provisions of section A of this act shall be nonseverable, and if any provision
3 of section A of this act is held to be invalid for any reason, such decision shall
4 invalidate all of the remaining provisions of section A of this act.

✓
Unofficial

Bill

Copy