

# SENATE BILL NO. 917

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

3964S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 115.013, 115.045, 115.051, 115.065, 115.225, 115.227, 115.229, 115.233, 115.235, 115.237, 115.249, 115.255, 115.257, 115.259, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.415, 115.417, 115.419, 115.421, 115.423, 115.430, 115.433, 115.436, 115.439, 115.443, 115.447, 115.456, 115.459, 115.461, 115.467, 115.469, 115.471, 115.473, 115.475, 115.477, 115.479, 115.481, 115.483, 115.495, 115.501, 115.503, 115.541, 115.585, 115.631, 115.633, and 115.655, RSMo, and to enact in lieu thereof twenty-seven new sections relating to hand counting ballots, with penalty provisions and an effective date.

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

Section A. Sections 115.013, 115.045, 115.051, 115.065,  
2 115.225, 115.227, 115.229, 115.233, 115.235, 115.237, 115.249,  
3 115.255, 115.257, 115.259, 115.261, 115.263, 115.265, 115.267,  
4 115.269, 115.271, 115.273, 115.415, 115.417, 115.419, 115.421,  
5 115.423, 115.430, 115.433, 115.436, 115.439, 115.443, 115.447,  
6 115.456, 115.459, 115.461, 115.467, 115.469, 115.471, 115.473,  
7 115.475, 115.477, 115.479, 115.481, 115.483, 115.495, 115.501,  
8 115.503, 115.541, 115.585, 115.631, 115.633, and 115.655, RSMo,  
9 are repealed and twenty-seven new sections enacted in lieu  
10 thereof, to be known as sections 115.013, 115.045, 115.051,  
11 115.065, 115.225, 115.226, 115.237, 115.415, 115.417, 115.419,  
12 115.421, 115.423, 115.430, 115.433, 115.436, 115.439, 115.443,  
13 115.447, 115.456, 115.459, 115.461, 115.501, 115.541, 115.585,  
14 115.631, 115.633, and 115.655, to read as follows:

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

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

(1) ["Air-gap" or "air-gapped", a security measure in which equipment is physically and technically isolated from any network and is not directly connected to the internet nor is it connected to any other system that is connected to the internet. Data can only be passed to an air-gapped device physically via a USB or other removable media;

(2) "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 and which are air-gapped and not physically able to be connected to a network;

(3) "Ballot", the 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;

[(4)] (2) "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)] (3) "Counting location", a location selected by the election authority for the automatic processing or counting, or both, of ballots;

[(6)] (4) "County", any county in this state or any city not within a county;

[(7)] (5) "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;

33            [(8)] (6) "District", an area within the state or  
34 within a political subdivision of the state from which a  
35 person is elected to represent the area on a policy-making  
36 body with representatives of other areas in the state or  
37 political subdivision;

38            [(9) "Electronic voting machine", any part of an air-  
39 gapped electronic voting system on which a voter is able to  
40 cast a ballot under this chapter;

41            (10) "Electronic voting system", a system of casting  
42 votes by use of marking devices, and counting votes by use  
43 of automatic air-gapped tabulating or air-gapped data  
44 processing equipment, including computerized voting systems  
45 that mark or tabulate ballots;

46            [(11)] (7) "Established political party" for the state,  
47 a political party which, at either of the last two general  
48 elections, polled for its candidate for any statewide office  
49 more than two percent of the entire vote cast for the  
50 office. "Established political party" for any district or  
51 political subdivision shall mean a political party which  
52 polled more than two percent of the entire vote cast at  
53 either of the last two elections in which the district or  
54 political subdivision voted as a unit for the election of  
55 officers or representatives to serve its area;

56            [(12)] (8) "Federal office", the office of  
57 presidential elector, United States senator, or  
58 representative in Congress;

59            [(13)] (9) "Independent", a candidate who is not a  
60 candidate of any political party and who is running for an  
61 office for which political party candidates may run;

62            [(14)] (10) "Major political party", the political  
63 party whose candidates received the highest or second  
64 highest number of votes at the last general election;

65 [(15) "Marking device", any device approved by the  
66 secretary of state under section 115.225 which will enable  
67 the votes to be counted by automatic tabulating equipment;

68 [(16)] (11) "Municipal" or "municipality", a city,  
69 village, or incorporated town of this state;

70 [(17)] (12) "New party", any political group which has  
71 filed a valid petition and is entitled to place its list of  
72 candidates on the ballot at the next general or special  
73 election;

74 [(18)] (13) "Nonpartisan", a candidate who is not a  
75 candidate of any political party and who is running for an  
76 office for which party candidates may not run;

77 [(19)] (14) "Political party", any established  
78 political party and any new party;

79 [(20)] (15) "Political subdivision", a county, city,  
80 town, village, or township of a township organization county;

81 [(21)] (16) "Polling place", the voting place  
82 designated for all voters residing in one or more precincts  
83 for any election;

84 [(22)] (17) "Precincts", the geographical areas into  
85 which the election authority divides its jurisdiction for  
86 the purpose of conducting elections;

87 [(23)] (18) "Public office", any office established by  
88 constitution, statute or charter and any employment under  
89 the United States, the state of Missouri, or any political  
90 subdivision or special district thereof, but does not  
91 include any office in the Missouri state defense force or  
92 the National Guard or the office of notary public or city  
93 attorney in cities of the third classification or cities of  
94 the fourth classification;

95 [(24)] (19) "Question", any measure on the ballot  
96 which can be voted "YES" or "NO";

97            [(25)] (20) "Relative within the second degree by  
98 consanguinity or affinity", a spouse, parent, child,  
99 grandparent, brother, sister, grandchild, mother-in-law,  
100 father-in-law, daughter-in-law, or son-in-law;

101           [(26)] (21) "Special district", any school district,  
102 water district, fire protection district, hospital district,  
103 health center, nursing district, or other districts with  
104 taxing authority, or other district formed pursuant to the  
105 laws of Missouri to provide limited, specific services;

106           [(27)] (22) "Special election", elections called by  
107 any school district, water district, fire protection  
108 district, or other district formed pursuant to the laws of  
109 Missouri to provide limited, specific services; and

110           [(28)] (23) "Voting district", the one or more  
111 precincts within which all voters vote at a single polling  
112 place for any election.

115.045. Each election authority shall have the  
2 authority to employ such attorneys and other employees as  
3 may be necessary to promptly and correctly perform the  
4 duties of the election authority. Where [an electronic  
5 voting system or] voting machines **authorized under section**  
6 **115.226** are used, the election authority shall designate  
7 competent employees to have custody of and supervise  
8 maintenance of the voting equipment. Board of election  
9 commissioners' employees shall be subject to the same  
10 restrictions and subscribe the same oath as members of the  
11 board of election commissioners, except that no employee of  
12 a board of election commissioners shall be required to post  
13 bond or reside and be a registered voter within the  
14 jurisdiction of the election authority unless directed to do  
15 so by the board. Employee oaths and any bonds shall be  
16 filed and preserved in the office of the board.

115.051. 1. In each county which does not have a  
2 board of election commissioners, the county clerk shall have  
3 the right to employ such deputies and assistants as are  
4 necessary to promptly and correctly register voters and  
5 conduct elections. Where [an electronic voting system or]  
6 voting machines **authorized under section 115.226** are used,  
7 the county clerk shall designate competent employees to have  
8 custody of and supervise maintenance of the voting  
9 equipment. Each deputy shall be subject to the same  
10 restrictions and subscribe the same oath as the county  
11 clerk, except that no employee shall be required to post  
12 bond or reside and be a registered voter within the  
13 jurisdiction of the election authority unless directed to do  
14 so by the clerk. Employee oaths and any bonds shall be  
15 filed and preserved in the office of the county clerk.

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

115.065. 1. Except as provided in sections 115.069,  
2 115.071, 115.073 and 115.077, when any question or candidate  
3 is submitted to a vote by two or more political subdivisions  
4 or special districts, or by the state and one or more  
5 political subdivisions or special districts at the same  
6 election, all costs of the election shall be paid  
7 proportionally from the general revenues of the state and  
8 all political subdivisions and special districts submitting  
9 a question or candidate at the election, except that costs  
10 of publications of legal notice of elections shall not be  
11 paid proportionally. The state and each political  
12 subdivision and each special district shall pay for  
13 publication of its legal notice of election. At the  
14 discretion of the election authority, ballot printing costs,

15 if any, may be paid proportionally or the state and each  
16 political subdivision and each special district may pay for  
17 such ballot printing costs, if any.

18 2. Except as provided in sections 115.069, 115.071 and  
19 115.073, when any question or candidate is submitted to a  
20 vote by two or more political subdivisions or special  
21 districts at the same election, all costs of the election  
22 shall be paid proportionally from the general revenues of  
23 all political subdivisions and special districts submitting  
24 a question or candidate at the election.

25 3. Proportional election costs paid under the  
26 provisions of subsection 2 of this section shall be assessed  
27 by charging each political subdivision and special district  
28 the same percentage of the total cost of the election as the  
29 number of registered voters of the political subdivision or  
30 special district on the day of the election is to the total  
31 number of registered voters on the day of the election,  
32 derived by adding together the number of registered voters  
33 in each political subdivision and special district  
34 submitting a question or candidate at the election.

35 4. "Proportional costs" and "election costs", as used  
36 in this chapter, are defined as those costs that require  
37 additional out-of-pocket expense by the election authority  
38 in conducting an election. It may include reimbursement to  
39 county general revenue for the salaries of employees of the  
40 election authority for the hours worked to conduct an  
41 election, the rental of any [electronic] voting machine  
42 **authorized under section 115.226** or electronic poll book,  
43 any indirect expenses identified under an independent cost  
44 allocation study and an amount not to exceed five percent of  
45 the total cost of election to be credited to the election  
46 services fund of the county. The election services fund

47 shall be budgeted and expended at the direction of the  
48 election authority and shall not be used to substitute for  
49 or subsidize any allocation of general revenue for the  
50 operation of the election authority's office without the  
51 express consent of the election authority. The election  
52 services fund may be audited by the appropriate auditing  
53 agency, and any unexpended balance shall be left in the fund  
54 to accumulate from year to year with interest. The election  
55 services fund shall be used by the election authority for  
56 training programs and purchase of additional supplies or  
57 equipment to improve the conduct of elections, including  
58 anything necessarily pertaining thereto. In addition to  
59 these costs, the state shall, subject to appropriation,  
60 compensate the election services fund for transactions  
61 submitted pursuant to the provisions of section 115.157.

115.225. 1. [Before use by election authorities in  
2 this state, the secretary of state shall approve the marking  
3 devices and the automatic tabulating equipment used in  
4 electronic voting systems and may promulgate rules and  
5 regulations to implement the intent of sections 115.225 to  
6 115.235.

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

9 (1) Permits voting in absolute secrecy;

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

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

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

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

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

25 (7) Accurately counts all proper votes cast for each  
26 candidate and for and against each question;

27 (8) Is set to reject all votes, except write-in votes,  
28 for any office and on any question when the number of votes  
29 exceeds the number a voter is lawfully entitled to cast;

30 (9) Permits each voter, while voting, to clearly see  
31 the ballot label;

32 (10) Has been tested and is certified by an  
33 independent authority that meets the voting system standards  
34 developed by the Federal Election Commission or its  
35 successor agency. The provisions of this subdivision shall  
36 not be required for any system purchased prior to August 28,  
37 2002.

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

45 4. Any rule or portion of a rule, as that term is  
46 defined in section 536.010, that is created under the  
47 authority delegated in this section shall become effective  
48 only if it complies with and is subject to all of the  
49 provisions of chapter 536 and, if applicable, section

50 536.028. This section and chapter 536 are nonseverable and  
51 if any of the powers vested with the general assembly  
52 pursuant to chapter 536 to review, to delay the effective  
53 date or to disapprove and annul a rule are subsequently held  
54 unconstitutional, then the grant of rulemaking authority and  
55 any rule proposed or adopted after August 28, 2002, shall be  
56 invalid and void.

57 5. If any election authority uses any] Touchscreen  
58 direct-recording electronic vote-counting [machine, the  
59 election authority may continue to use such machine. Upon  
60 the removal of such voting machine from the election  
61 authority's inventory because of mechanical malfunction,  
62 wear and tear, or any other reason, the machine shall not be  
63 replaced and no additional direct-recording electronic vote-  
64 counting machine shall be added to the election authority's  
65 inventory. Such] machines shall not be used [beginning  
66 January 1, 2024. Equipment that is designed for  
67 accessibility shall provide a paper ballot audit trail].

68 [6.] 2. (1) Each election authority that controls its  
69 own information technology department shall, once every two  
70 years, allow a cyber security review of their office by the  
71 secretary of state or alternatively by an entity that  
72 specializes in cyber security reviews. Each political  
73 subdivision that controls the information technology  
74 department for an election authority shall, once every two  
75 years, allow a cyber security review of the information  
76 technology department by the secretary of state or  
77 alternatively by an entity that specializes in cyber  
78 security reviews. The secretary of state shall, once every  
79 two years, allow a cyber security review of its office by an  
80 entity that specializes in cyber security reviews. For

81 purposes of this section, an entity specializes in cyber  
82 security review if it employs one or more individuals who:

83 (a) Have at least five years management experience in  
84 information security or five years' experience as an  
85 information security analyst;

86 (b) Have worked in at least two of the domains listed  
87 in paragraph (c) of this subdivision that are covered in the  
88 exam required by such paragraph; and

89 (c) Have attained an information security  
90 certification by passing an exam that covers at least three  
91 of the following topics:

92 a. Information technology risk management,  
93 identification, mitigation, and compliance;

94 b. Information security incident management;

95 c. Information security program development and  
96 management;

97 d. Risk and control monitoring and reporting;

98 e. Access control systems and methodology;

99 f. Business continuity planning and disaster recovery  
100 planning;

101 g. Physical security of election authority property;

102 h. Networking security; or

103 i. Security architecture application and systems  
104 development.

105 (2) If an election authority or political subdivision  
106 fails to have a cyber security review as required by this  
107 subsection, the secretary of state may publish a notice of  
108 noncompliance in a newspaper within the jurisdiction of the  
109 election authority or in electronic format. The secretary  
110 of state is also authorized to withhold funds from an  
111 election authority in violation of this section unless such

112 funding is a federal mandate or part of a federal and state  
113 agreement.

114 [7.] 3. The secretary of state shall have authority to  
115 require cyber security testing, including penetration  
116 testing, of vendor machines, programs, and systems. Failure  
117 to participate in such testing shall result in a revocation  
118 of vendor certification. Upon notice from another  
119 jurisdiction of cyber security failures or certification  
120 withholds or revocation, the secretary of state shall have  
121 authority to revoke or withhold certification for vendors.  
122 The requirements of this section shall be subject to  
123 appropriation for the purpose of cyber security testing.

124 [8.] 4. The secretary of state may designate an  
125 organization of which each election authority shall be a  
126 member, provided there is no membership fee and the  
127 organization provides information to increase cyber security  
128 and election integrity efforts.

129 [9.] 5. All audits required by subsection [6] 2 of  
130 this section that are conducted by the secretary of state  
131 shall be solely paid for by state and federal funding.

115.226. 1. **Each election authority shall ensure that**  
2 **each polling place has in its jurisdiction a sufficient**  
3 **number of voting machines that are designed for**  
4 **accessibility for all elections. Such machines shall comply**  
5 **with the provisions of Section 301 of the federal Help**  
6 **America Vote Act, 52 U.S.C. Section 21081. Additionally,**  
7 **such machines shall print out a paper ballot for each voter**  
8 **who casts a ballot using the machine that is identical to**  
9 **the ballot required by section 115.237. The ballot printed**  
10 **out shall contain a distinguishing mark beside each**  
11 **candidate and question the voter has voted for.**

12           2. The secretary of state shall maintain a database  
13 containing the names of all individuals who are eligible to  
14 use a voting machine designed for accessibility pursuant to  
15 this section. Registered voters may submit requests to be  
16 included in such database. The database shall be updated as  
17 changes are made and every thirty days election authorities  
18 shall be given an updated list of registered voters in the  
19 jurisdiction of the election authority who are eligible to  
20 use such machines. Only registered voters who appear on the  
21 list may cast a ballot using a voting machine authorized  
22 under this section.

115.237. 1. [Each ballot printed or designed for use  
2 with an electronic voting system for any election pursuant  
3 to this chapter shall contain all questions and the names of  
4 all offices and candidates certified or filed pursuant to  
5 this chapter and no other.] Beginning January 1, 2023, the  
6 official ballot shall be a paper ballot that is hand-marked  
7 by the voter or by the voter's designee as permitted in  
8 section 115.445[, unless such voter chooses to use a ballot-  
9 marking device as provided in section 115.225]. As far as  
10 practicable, all questions and the names of all offices and  
11 candidates for which each voter is entitled to vote shall be  
12 printed on one page except for the ballot for political  
13 party committee persons [in polling places not utilizing an  
14 electronic voting system] which may be printed separately  
15 and in conformity with the requirements contained in this  
16 section. As far as practicable, ballots containing only  
17 questions and the names of nonpartisan offices and  
18 candidates shall be printed in accordance with the  
19 provisions of this section, except that the ballot  
20 information may be listed in vertical or horizontal rows.

21 The names of candidates for each office shall be listed in  
22 the order in which they are filed.

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

30 3. [Nothing in this subchapter shall be construed as  
31 prohibiting the use of a separate paper ballot for questions  
32 or for the presidential preference primary in any polling  
33 place using an electronic voting system.

34 4. Where electronic voting systems are used and] When  
35 write-in votes are authorized by law, a write-in ballot,  
36 which may be in the form of a separate paper ballot, card,  
37 or envelope, may be provided by the election authority to  
38 permit each voter to write in the names of persons whose  
39 names do not appear on the ballot.

40 [5.] 4. No ballot [printed or designed for use with an  
41 electronic voting system for any partisan election held  
42 under this chapter] shall allow a person to vote a straight  
43 political party ticket. For purposes of this subsection, a  
44 "straight political party ticket" means voting for all of  
45 the candidates for elective office who are on the ballot  
46 representing a single political party by a single selection  
47 on the ballot.

48 [6. The secretary of state shall promulgate rules that  
49 specify uniform standards for ballot layout for each  
50 electronic or computerized ballot counting system approved  
51 under the provisions of section 115.225 so that the ballot  
52 used with any counting system is, where possible, consistent

53 with the intent of this section. Nothing in this section  
54 shall be construed to require the format specified in this  
55 section if it does not meet the requirements of the ballot  
56 counting system used by the election authority.

57 **7.] 5.** Any rule or portion of a rule, as that term is  
58 defined in section 536.010, that is created under the  
59 authority delegated in this section shall become effective  
60 only if it complies with and is subject to all of the  
61 provisions of chapter 536 and, if applicable, section  
62 536.028. This section and chapter 536 are nonseverable and  
63 if any of the powers vested with the general assembly  
64 pursuant to chapter 536 to review, to delay the effective  
65 date or to disapprove and annul a rule are subsequently held  
66 unconstitutional, then the grant of rulemaking authority and  
67 any rule proposed or adopted after August 28, 2002, shall be  
68 invalid and void.

115.415. Before the time fixed by law for the opening  
2 of the polls, the election authority shall deliver to the  
3 authorized election officials or to the polling place the  
4 appropriate ballots, ballot boxes, precinct registers,  
5 voting booths, voting machines **authorized under section**  
6 **115.226** and all other supplies, material and equipment  
7 necessary and appropriate for the polling place. The  
8 election authority shall make and preserve a record of each  
9 delivery.

115.417. 1. Before the time fixed by law for the  
2 opening of the polls, the election authority shall deliver  
3 to each polling place a sufficient number of voter  
4 instruction cards which include the following information:  
5 how to obtain a ballot for voting, how to vote and prepare  
6 the ballot for deposit in the ballot box, and how to obtain  
7 a new ballot to replace one accidentally spoiled.

8           2. The election authority at each polling place shall  
9 post in a conspicuous place voting instructions on a poster  
10 no smaller than twenty-four inches by thirty inches. Such  
11 instructions shall also inform the voter that the  
12 **[electronic voting equipment] voting machines authorized**  
13 **under section 115.226** can be demonstrated upon request of  
14 the voter. The election authority shall also publicly post  
15 during the period of time in which a person may cast an  
16 absentee ballot and on election day a sample version of the  
17 ballot that will be used for that election, the date of the  
18 election, the hours during which the polling place will be  
19 open, instructions for mail-in registrants and first-time  
20 voters, general information on voting rights in accordance  
21 with the state plan filed by the secretary of state pursuant  
22 to the Help America Vote Act of 2002, general information on  
23 the right to cast a provisional ballot and instructions for  
24 provisional ballots, how to contact appropriate authorities  
25 if voting rights have been violated, and general information  
26 on federal and Missouri law regarding prohibitions on acts  
27 of fraud and misrepresentation. The secretary of state may  
28 promulgate rules to execute this section. No rule or  
29 portion of a rule promulgated pursuant to the authority of  
30 this section shall become effective unless it has been  
31 promulgated pursuant to chapter 536.

32           3. The secretary of state may develop multilingual  
33 voting instructions to be made available to election  
34 authorities.

          115.419. Before the time fixed by law for the opening  
2 of the polls, the election authority shall deliver to each  
3 polling place a sufficient number of sample ballots **[and**  
4 **ballot cards]** which shall be a different color but otherwise  
5 exact copies of the official ballot. The samples shall be

6 printed in the form of a diagram, showing the form of the  
7 ballot [or the front of the marking device or voting  
8 machine] as it will appear on election day. The secretary  
9 of state may develop multilingual sample ballots to be made  
10 available to election authorities.

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

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

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

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

23 (4) Compare the ballot[, ballot label or ballot card]  
24 and ballot label with the sample ballots, see that the  
25 names, numbers and letters agree and certify thereto in the  
26 tally book. If the names, numbers or letters do not agree,

27 the election judges shall immediately notify the election  
28 authority and proceed as it directs; and

29 (5) Sign the tally book in the manner provided in the  
30 form for tally books in section 115.461 or 115.473. If any  
31 election judge, challenger or watcher has not been  
32 previously sworn as the law directs, he or she shall take  
33 and subscribe the oath of his or her office as provided in  
34 section 115.091 or 115.109, and the oath shall be returned  
35 to the election authority with the tally book.

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

115.430. 1. This section shall apply to primary and  
2 general elections where candidates for federal or statewide  
3 offices are nominated or elected and any election where  
4 statewide issue or issues are submitted to the voters.

5 2. (1) A voter claiming to be properly registered in  
6 the jurisdiction of the election authority and eligible to  
7 vote in an election, but whose eligibility at that precinct  
8 cannot be immediately established upon examination of the  
9 precinct register, shall be entitled to vote a provisional  
10 ballot after providing a form of personal identification  
11 required pursuant to section 115.427 or upon executing an  
12 affidavit under section 115.427, or may vote at a central

13 polling place as established in section 115.115 where the  
14 voter may vote his or her appropriate ballot for his or her  
15 precinct of residence upon verification of eligibility or  
16 vote a provisional ballot if eligibility cannot be  
17 determined. The provisional ballot provided to a voter  
18 under this section shall be the ballot provided to a  
19 resident of the voter's precinct determined by reference to  
20 the affidavit provided for in this section. If the voter  
21 declares that the voter is eligible to vote and the election  
22 authority determines that the voter is eligible to vote at  
23 another polling place, the voter shall be directed to the  
24 correct polling place or a central polling place as  
25 established by the election authority pursuant to subsection  
26 5 of section 115.115. If the voter refuses to go to the  
27 correct polling place or a central polling place, the voter  
28 shall be permitted to vote a provisional ballot at the  
29 incorrect polling place, but such ballot shall not be  
30 counted if the voter was not eligible to vote at that  
31 polling place.

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

34 (a) The election judge shall examine the precinct  
35 register as provided in section 115.425. If the voter is  
36 registered and eligible to vote at the polling place, the  
37 voter shall receive a regular ballot;

38 (b) If the voter's eligibility cannot be immediately  
39 established by examining the precinct register, the election  
40 judge shall contact the election authority. If the election  
41 authority cannot immediately establish that the voter is  
42 registered and eligible to vote at the polling place upon  
43 examination of the Missouri voter registration system, or if  
44 the election judge is unable to make contact with the

45 election authority immediately, the voter shall be notified  
46 that the voter is entitled to a provisional ballot.

47 (3) The voter shall have the duty to appear and vote  
48 at the correct polling place. If an election judge  
49 determines that the voter is not eligible to vote at the  
50 polling place at which a voter presents himself or herself,  
51 and if the voter appears to be eligible to vote at another  
52 polling place, the voter shall be informed that he or she  
53 may cast a provisional ballot at the current polling place  
54 or may travel to the correct polling place or a central  
55 polling place, as established by the election authority  
56 under subsection 5 of section 115.115, where the voter may  
57 cast a regular ballot or provisional ballot if the voter's  
58 eligibility still cannot be determined. Provisional ballots  
59 cast at a polling place shall be counted only if the voter  
60 was eligible to vote at such polling place as provided in  
61 subsection 5 of this section.

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

67 (5) Prior to accepting any provisional ballot at the  
68 polling place, the election judges shall determine that the  
69 information provided on the provisional ballot envelope by  
70 the provisional voter is consistent with the identification  
71 provided by such person under section 115.427.

72 3. (1) No person shall be entitled to receive a  
73 provisional ballot until such person has completed a  
74 provisional ballot affidavit on the provisional ballot  
75 envelope.

76           (2) The secretary of state shall produce appropriate  
77 sizes of provisional ballot envelopes and distribute them to  
78 each election authority according to their tabulating  
79 system. All provisional ballot envelopes shall be printed  
80 on a distinguishable color of paper that is different from  
81 the color of the regular ballot. The provisional ballot  
82 envelope shall be in the form required by subsection 4 of  
83 this section. All provisional ballots shall be marked with  
84 a conspicuous stamp or other distinguishing mark that makes  
85 them readily distinguishable from the regular ballots.

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

88           4. The provisional ballot in its envelope shall be  
89 deposited in the ballot box. The provisional ballot  
90 envelope shall be completed by the voter for use in  
91 determining eligibility. The provisional ballot envelope  
92 specified in this section shall contain a voter's  
93 certificate which shall be in substantially the following  
94 form:

95           STATE OF \_\_\_\_\_

96           COUNTY OF \_\_\_\_\_

97           I do solemnly swear (or affirm) that my name is  
98 \_\_\_\_\_; that my date of birth is \_\_\_\_\_; that the  
99 last four digits of my Social Security Number are  
100 \_\_\_\_\_; that I am registered to vote in \_\_\_\_\_  
101 County or City (if a City not within a County),  
102 Missouri; that I am a qualified voter of said  
103 County (or City not within a County); that I am  
104 eligible to vote at this polling place; and that I  
105 have not voted in this election.

106           I understand that if the above-provided information  
107 is not correct and the election authority  
108 determines that I am not registered and eligible to  
109 vote, my vote will not be counted. I further

110 understand that knowingly providing false  
111 information is a violation of law and subjects me  
112 to possible criminal prosecution.

113 \_\_\_\_\_

114 (Signature of Voter)

115 \_\_\_\_\_

116 (Current Address)

117 Subscribed and affirmed before me this \_\_\_\_\_ day  
118 of \_\_\_\_\_, 20\_\_\_\_\_

119 \_\_\_\_\_

120 (Signature of Election Official)

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

125 5. (1) Prior to counting any provisional ballot, the  
126 election authority shall determine if the voter is  
127 registered and eligible to vote and if the vote was properly  
128 cast. The eligibility of provisional votes shall be  
129 determined according to the requirements for a voter to cast  
130 a ballot in the election as set forth in sections 115.133  
131 and 115.135. A provisional voter ballot shall not be  
132 eligible to be counted until the election authority has  
133 determined that:

134 (a) The voter cast such provisional ballot at a  
135 polling place established for the voter or the central  
136 polling place established by the election authority under  
137 subsection 5 of section 115.115;

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

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

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

146           (2) When the ballot boxes are delivered to the  
147 election authority from the polling places, the receiving  
148 teams shall separate the provisional ballots from the rest  
149 of the ballots and place the sealed provisional ballot  
150 envelopes in a separate container. Teams of election  
151 authority employees or teams of election judges with each  
152 team consisting of one member of each major political party  
153 shall photocopy each provisional ballot envelope, such  
154 photocopy to be used by the election authority to determine  
155 provisional voter eligibility. The sealed provisional  
156 ballot envelopes shall be placed by the team in a sealed  
157 container and shall remain therein until tabulation.

158           (3) To determine whether a provisional ballot is valid  
159 and entitled to be counted, the election authority shall  
160 examine its records and verify that the provisional voter is  
161 properly registered and eligible to vote in the election.  
162 If the provisional voter has provided information regarding  
163 the registration agency where the provisional voter  
164 registered to vote, the election authority shall make an  
165 inquiry of the registration agency to determine whether the  
166 provisional voter is properly registered and eligible to  
167 vote in the election.

168           (4) If the election authority determines that the  
169 provisional voter is registered and eligible to vote in the

170 election, the election authority shall provide documentation  
171 verifying the voter's eligibility. Such documentation shall  
172 be noted on the copy of the provisional ballot envelope and  
173 shall contain substantially the following information:

- 174 (a) The name of the provisional voter;
- 175 (b) The name of the reviewer;
- 176 (c) The date and time; and
- 177 (d) A description of evidence found that supports the  
178 voter's eligibility.

179 (5) The local election authority shall record on a  
180 provisional ballot acceptance/rejection list the provisional  
181 ballot identification number and a notation marking it as  
182 accepted.

183 (6) If the election authority determines that the  
184 provisional voter is not registered or eligible to vote in  
185 the election, the election authority shall provide  
186 documentation verifying the voter's ineligibility. Such  
187 documentation shall be noted on the copy of the provisional  
188 ballot envelope and shall contain substantially the  
189 following information:

- 190 (a) The name of the provisional voter;
- 191 (b) The name of the reviewer;
- 192 (c) The date and time;
- 193 (d) A description of why the voter is ineligible.

194 (7) The local election authority shall record on a  
195 provisional ballot acceptance/rejection list the provisional  
196 ballot identification number and notation marking it as  
197 rejected.

198 (8) If rejected, a photocopy of the envelope shall be  
199 made and used by the election authority as a mail-in voter  
200 registration. The actual provisional ballot envelope shall  
201 be kept as ballot material, and the copy of the envelope

202 shall be used by the election authority for registration  
203 record keeping.

204         6. All provisional ballots cast by voters whose  
205 eligibility has been verified as provided in this section  
206 shall be counted in accordance with the rules governing  
207 ballot tabulation. Provisional ballots shall not be counted  
208 until all provisional ballots are determined either eligible  
209 or ineligible and all provisional ballots must be processed  
210 before the election is certified. The provisional ballot  
211 shall be counted only if the election authority determines  
212 that the voter is registered and eligible to vote.  
213 Provisional ballots voted in the wrong polling place shall  
214 not be counted. If the voter is not registered but is  
215 qualified to register for future elections, the affidavit  
216 shall be considered a mail-in application to register to  
217 vote pursuant to this chapter.

218         7. (1) After the election authority completes its  
219 review of the provisional voter's eligibility under  
220 subsection 5 of this section, the election authority shall  
221 deliver the provisional ballots and copies of the  
222 provisional ballot envelopes that include eligibility  
223 information to bipartisan counting teams, which may be the  
224 board of verification, for review and tabulation. The  
225 election authority shall maintain a record of such  
226 delivery. The record shall include the number of ballots  
227 delivered to each team and shall include a signed receipt  
228 from two judges, one from each major political party. The  
229 election authority shall provide each team with a ballot box  
230 and material necessary for tabulation.

231         (2) If the person named on the provisional ballot  
232 affidavit is found to have been properly qualified and  
233 registered to cast a ballot in the election and the

234 provisional ballot otherwise qualifies to be counted under  
235 the provisions of this section, the envelope shall be  
236 opened, and the ballot shall be placed in a ballot box to be  
237 counted.

238 (3) If the person named on the provisional ballot  
239 affidavit is found not to have been properly qualified and  
240 registered to cast a ballot in the election or if the  
241 election authority is unable to determine such person's  
242 right to vote, the envelope containing the provisional  
243 ballot shall not be opened, and the person's vote shall not  
244 be counted. The members of the team shall follow the  
245 procedures set forth in subsection 5 of this section for  
246 rejected provisional ballots.

247 (4) The votes shall be tallied and the returns made as  
248 provided in sections 115.447 to 115.525 [for paper ballots].  
249 After the vote on all ballots assigned to a team have been  
250 counted, the ballots, ballot envelopes, and copies of ballot  
251 envelopes with the eligibility information provided by the  
252 election authority shall be enclosed in sealed containers  
253 marked "Voted provisional ballots and ballot envelopes from  
254 the election held \_\_\_\_\_, 20\_\_\_\_". All rejected  
255 provisional ballots, ballot envelopes, and copies of ballot  
256 envelopes with the eligibility information provided by the  
257 election authority shall be enclosed in sealed containers  
258 marked "Rejected provisional ballots and ballot envelopes  
259 from the election held \_\_\_\_\_, 20\_\_\_\_". On the outside of  
260 each voted ballot and rejected ballot container, each member  
261 of the team shall write their name and all such containers  
262 shall be returned to the election authority. Upon receipt  
263 of the returns and ballots, the election authority shall  
264 tabulate the provisional votes.

265           8. Challengers and watchers, as provided by sections  
266 115.105 and 115.107, may be present during all times that  
267 the bipartisan counting teams are reviewing or counting the  
268 provisional ballots, the provisional ballot envelopes, or  
269 copies of the provisional ballot envelopes that include  
270 eligibility information provided by the election authority.  
271 Challengers and watchers shall be permitted to observe the  
272 determination of the eligibility of all provisional  
273 ballots. The election authority shall notify the county  
274 chair of each major political party of the time and location  
275 when bipartisan counting teams will be reviewing or counting  
276 the provisional ballots, the provisional ballot envelopes,  
277 or the copies of the provisional ballot envelopes that  
278 include the eligibility information provided by the election  
279 authority.

280           9. [The certificate of ballot cards shall:

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

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

285           10. In counties where the voting system does not  
286 utilize a paper ballot, the election authority shall provide  
287 the appropriate provisional ballots to each polling place.

288           11.] The secretary of state may promulgate rules for  
289 purposes of ensuring the uniform application of this  
290 section. No rule or portion of a rule promulgated pursuant  
291 to the authority of this section shall become effective  
292 unless it has been promulgated pursuant to chapter 536.

293           [12.] 10. The secretary of state shall design and  
294 provide to the election authorities the envelopes and forms  
295 necessary to carry out the provisions of this section.

296 [13.] 11. Pursuant to the Help America Vote Act of  
297 2002, the secretary of state shall ensure a free access  
298 system is established, such as a toll-free number or an  
299 internet website, that any individual who casts a  
300 provisional ballot may access to discover whether the vote  
301 of that individual was counted, and, if the vote was not  
302 counted, the reason that the vote was not counted. At the  
303 time an individual casts a provisional ballot, the election  
304 authority shall give the voter written information that  
305 states that any individual who casts a provisional ballot  
306 will be able to ascertain under such free access system  
307 whether the vote was counted, and if the vote was not  
308 counted, the reason that the vote was not counted.

309 [14.] 12. In accordance with the Help America Vote Act  
310 of 2002, any individual who votes in an election as a result  
311 of a court order or any other order extending the time  
312 established for closing the polls in section 115.407 may  
313 vote only by using a provisional ballot, and such  
314 provisional ballot shall be separated and held apart from  
315 other provisional ballots cast by those not affected by the  
316 order. Such ballots shall not be counted until such time as  
317 the ballots are determined to be valid. No state court  
318 shall have jurisdiction to extend the polling hours  
319 established by law, including section 115.407.

115.433. After the voter's identification certificate  
2 has been initialed, two judges of different political  
3 parties, or one judge from a major political party and one  
4 judge with no political affiliation, shall[, where paper  
5 ballots are used,] initial the voter's ballot [or ballot  
6 card].

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

3 voter within two hundred feet of a polling place is unable  
4 to enter the polling place, two election judges, one of each  
5 major political party, shall take a ballot[, equipment] and  
6 materials necessary for voting to the voter. The voter  
7 shall mark the ballot, and the election judges shall place  
8 the ballot in an envelope and place it in the ballot box.

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

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

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

5           (1) When a voter desires to vote for a candidate, the  
6 voter shall place a distinguishing mark immediately beside  
7 the name of the candidate for which the voter intends to  
8 vote;

9           (2) If a write-in line appears on the ballot, the  
10 voter may write the name of the person for whom he or she  
11 wishes to vote on the line and place a distinguishing mark  
12 immediately beside the name;

13           (3) If the ballot is one which contains no candidates,  
14 the voter shall place a distinguishing mark directly to the  
15 left of each "YES" or "NO" he **or she** desires to vote.

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

18           2. If the voter accidentally spoils [his] **the** ballot  
19 [or ballot card] or makes an error, [he] **the voter** may  
20 return it to an election judge and receive another. The  
21 election judge shall mark "SPOILED" across the ballot [or  
22 ballot card] and place it in an envelope marked "SPOILED  
23 BALLOTS". After another ballot has been prepared in the  
24 manner provided in section 115.433, the ballot shall be  
25 given to the voter for voting.

26           3. Any rule or portion of a rule, as that term is  
27 defined in section 536.010, that is created under the  
28 authority delegated in this section shall become effective  
29 only if it complies with and is subject to all of the  
30 provisions of chapter 536 and, if applicable, section  
31 536.028. This section and chapter 536 are nonseverable and  
32 if any of the powers vested with the general assembly  
33 pursuant to chapter 536 to review, to delay the effective  
34 date or to disapprove and annul a rule are subsequently held  
35 unconstitutional, then the grant of rulemaking authority and

36 any rule proposed or adopted after August 28, 2002, shall be  
37 invalid and void.

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

6 2. **In case of** [Where electronic] voting machines [are  
7 used,] **authorized under section 115.226,** the voter shall  
8 register [his] **a** vote as directed in the instructions for  
9 use of the machine, **fold the printed ballot so that the**  
10 **distinguishing marks are concealed, place the ballot in the**  
11 **ballot box,** and leave the polling place immediately.

115.447. [1.] As used in [this subchapter] **sections**  
2 **115.447 through 115.483,** unless the context clearly implies  
3 otherwise, the following terms shall mean:

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

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

11 (3) "Recording judges" are the two judges, one from  
12 each major political party, who tally the votes received by  
13 each candidate and for and against each question at a  
14 polling place. These terms describe functions rather than  
15 individuals, and any election judge may perform more than  
16 one function at a polling place on election day[.];

17 [2. As used in this subchapter, unless the context  
18 clearly implies otherwise, the following terms shall mean:

19            [(1)] (4) "Defective ballot" is any ballot on which the  
20 number of write-in votes and votes cast on the ballot for  
21 any office exceed the number allowed by law[, and any ballot  
22 which is bent or damaged so that it cannot be properly  
23 counted by automatic tabulating equipment];

24            [(2)] (5) "Rejected ballot" is any ballot on which no  
25 votes are counted because the ballot fails to have the  
26 initials of the proper election judges, because the number  
27 of votes for all offices and on all questions exceeds the  
28 number authorized by law, because the voter is deemed by the  
29 election judges to be unqualified, because it is an absentee  
30 ballot not accompanied by a completed and signed affidavit,  
31 or because the ballot was voted with unlawful assistance;

32            [(3)] (6) "Spoiled ballot" is any ballot accidentally  
33 spoiled by a voter and replaced by election judges in the  
34 manner provided in subsection 2 of section 115.439.

115.456. 1. [(1) The election authority shall be  
2 responsible for ensuring that the standards provided for in  
3 this subsection are followed when counting ballots cast  
4 using optical scan voting systems.

5            (2) Prior to tabulating ballots, all machines shall be  
6 programmed to reject blank ballots where no votes are  
7 recorded or where an overvote is registered in any race.

8            (3) In jurisdictions using precinct-based tabulators,  
9 the voter who cast the ballot shall review the ballot if  
10 rejected, if the voter wishes to make any changes to the  
11 ballot, or if the voter would like to spoil the ballot and  
12 receive another ballot.

13            (4) In jurisdictions using centrally based tabulators,  
14 if a ballot is so rejected it shall be reviewed by a  
15 bipartisan team using the following criteria:

16 (a) If a ballot is determined to be damaged, the  
17 bipartisan team shall spoil the original ballot and  
18 duplicate the voter's intent on the new ballot, provided  
19 that there is an undisputed method of matching the duplicate  
20 card with its original after it has been placed with the  
21 remainder of the ballot cards from such precinct; and

22 (b) Voter intent shall be determined using the  
23 following criteria:

24 a. There is a distinguishing mark in the printed oval  
25 or divided arrow adjacent to the name of the candidate or  
26 issue preference;

27 b. There is a distinguishing mark adjacent to the name  
28 of the candidate or issue preference; or

29 c. The name of the candidate or issue preference is  
30 circled.

31 (5) In jurisdictions using optical scan systems, a  
32 valid vote for a write-in candidate shall include the  
33 following:

34 (a) A distinguishing mark in the designated location  
35 preceding the name of the candidate;

36 (b) The name of the candidate. If the name of the  
37 candidate as written by the voter is substantially as  
38 declared by the candidate it shall be counted, or in those  
39 circumstances where the names of candidates are similar, the  
40 names of candidates as shown on voter registration records  
41 shall be counted; and

42 (c) The name of the office for which the candidate is  
43 to be elected.

44 (6) Whenever a hand recount of votes of optical scan  
45 ballots is ordered, the provisions of this subsection shall  
46 be used to determine voter intent.

47           **2.]** (1) The election authority shall be responsible  
48 for ensuring that the standards provided for in this  
49 subsection are followed when counting ballots **[cast using**  
50 **paper ballots]**.

51           (2) Voter intent shall be determined using the  
52 following criteria:

53           (a) There is a distinguishing mark in the square  
54 adjacent to the name of the candidate or issue preference;

55           (b) There is a distinguishing mark adjacent to the  
56 name of the candidate or issue preference; or

57           (c) The name of the candidate or issue preference is  
58 circled.

59           (3) **[In jurisdictions using paper ballots,]** A valid  
60 vote for a write-in candidate shall include the following:

61           (a) A distinguishing mark in the square immediately  
62 preceding the name of the candidate;

63           (b) The name of the candidate. If the name of the  
64 candidate as written by the voter is substantially as  
65 declared by the candidate it shall be counted, or in those  
66 circumstances where the names of candidates are similar, the  
67 names of candidates as shown on voter registration records  
68 shall be counted; and

69           (c) The name of the office for which the candidate is  
70 to be elected.

71           (4) Whenever a hand recount of votes **[of paper**  
72 **ballots]** is ordered, the provisions of this subsection shall  
73 be used to determine voter intent.

74           **[3.] 2.** Notwithstanding any other provision of law, a  
75 distinguishing mark indicating a general preference for or  
76 against the candidates of one political party shall not be  
77 considered a vote for or against any specific candidate.

115.459. At each polling place [using paper ballots],  
2 after the polling place is closed, the election judges shall

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

12 (2) Certify on two statements of returns the number of  
13 votes received by each candidate and for and against each  
14 question. No returns shall be signed in blank or before the  
15 polls have closed and all proper votes cast at the polling  
16 place have been counted;

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

115.461. 1. The tally book for each polling place  
2 [using paper ballots] shall be in substantially the  
3 following form:

4 Tally book for \_\_\_\_\_ precincts, at the general  
5 (special, primary) election held on the \_\_\_\_\_ day  
6 of \_\_\_\_\_, 20\_\_\_\_\_ AB, CD, EF, and XP judges, and  
7 ZR and LT, watchers and BH and SP challengers at  
8 this polling place, were sworn as the law directs  
9 before beginning their duties.

10 We hereby certify:

11 The number of ballots received at this polling  
12 place is \_\_\_\_\_;

13 The information on the official ballots  
14 received at this polling place is the same as  
15 the information on the sample ballots received  
16 at this polling place.

17 AB

18 CD Election Judges

19 EF

20 XP

21 We hereby certify:

22 The number of ballots cast at this polling  
23 place is \_\_\_\_\_;

24 The number of identification certificates  
25 signed at this polling place is \_\_\_\_\_;

26 The number of rejected ballots at this polling  
27 place is \_\_\_\_\_;

28 The number of spoiled ballots at this polling  
29 place is \_\_\_\_\_;

30 The number of ballots received at this polling  
31 place which were not cast at this election is  
32 \_\_\_\_\_;

33 AB

34 CD

35 EF

36 XP

37 2. At each polling place [using paper ballots,] two  
38 tally sheets shall be included in each tally book. The  
39 tally sheets shall be in substantially the following form:

40 NAMES OF PERSONS VOTED FOR AND

41 FOR WHAT OFFICE AND THE NUMBER



71 We hereby certify that MC had \_\_\_\_\_ votes for  
 72 governor, and HK had \_\_\_\_\_ votes for governor and  
 73 EH had \_\_\_\_\_ votes for governor; that SS had  
 74 \_\_\_\_\_ votes for representative in Congress, etc.

75 We hereby certify that proposition number 1  
 76 received \_\_\_\_\_ votes for and \_\_\_\_\_ votes  
 77 against; constitutional amendment number 1  
 78 received \_\_\_\_\_ votes for and \_\_\_\_\_ votes  
 79 against, etc.

80 We, the duly qualified and acting Judges of the  
 81 polling place for \_\_\_\_\_ precincts, at the general  
 82 (special, primary) election held on the \_\_\_\_\_ of  
 83 \_\_\_\_\_, 20\_\_\_\_\_, in \_\_\_\_\_ county (City of St.  
 84 Louis, Kansas City), Missouri do hereby certify  
 85 that the foregoing is a full and accurate return  
 86 of all votes cast at this polling place for all  
 87 candidates and for and against all questions.

88 AB

89 CD Election Judges

90 EF

91 XP

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

14 ballot. If there is a discrepancy between the returns of  
15 the election judges and the election authority and the  
16 record of the verification board, the verification board  
17 shall correct the returns made by the judges and election  
18 authority to conform to its record. The corrected returns  
19 shall supersede the returns made by the election judges and  
20 the election authority on election day. Both the record and  
21 the returns shall be retained by the election authority as  
22 provided in section 115.493.

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

20 2. Whenever a recount of votes [cast on paper ballots]  
21 is ordered pursuant to section 115.539 or 115.601, the court  
22 shall proceed to open and count the votes and, after the

23 count has been completed, shall tabulate by voting district  
24 the votes cast for the contestant and the contestee.

25 [3. Whenever a recount of votes cast on any voting  
26 machine is ordered pursuant to section 115.539 or 115.601,  
27 the court shall make visible the registering counters of the  
28 machine and, without unlocking the machine against voting,  
29 shall record the votes cast on the machine.]

30 4. Whenever a recount of votes cast on ballot cards is  
31 ordered pursuant to section 115.539 or 115.601, the court  
32 shall supervise a test of the automatic tabulating equipment  
33 conducted in the manner provided in section 115.233 and  
34 shall cause the votes to be recounted automatically or may  
35 order a hand count of the votes. In its discretion, the  
36 court may order a new computer program to be made, which  
37 shall be tested in the manner provided in section 115.233  
38 before the votes in question are recounted automatically.]

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

17 forth the day selected by the election authority for the  
18 recount.

19         2. Whenever a recount is ordered pursuant to section  
20 115.583, the court or legislative body shall have authority  
21 to pass upon the form and determine the legality of the  
22 votes brought into question and to determine the  
23 qualifications of any voter whose vote is brought into  
24 question, provided that the name of a voter upon a precinct  
25 register for the polling place shall be prima facie evidence  
26 of the proper qualifications of the voter. A comparison may  
27 be made between the signatures on the identification  
28 certificates and those which appear in the precinct  
29 registers, and no votes shall be counted except the votes of  
30 registered voters and those entitled to vote as provided in  
31 subsection 2 of section 115.137 and section 115.277 without  
32 being registered. No votes of any person found by the court  
33 to be unqualified to vote at the election shall be counted.

34         3. Whenever a recount of votes [cast on paper ballots]  
35 is ordered pursuant to section 115.583 or 115.601, the court  
36 or legislative body shall proceed to open and count the  
37 votes and, after the count has been completed, shall  
38 tabulate by voting district the votes cast for the  
39 contestant and the contestee.

40         [4. Whenever a recount of votes cast on any voting  
41 machine is ordered pursuant to section 115.583 or 115.601,  
42 the court or legislative body shall make visible the  
43 registering counters of the machine and, without unlocking  
44 the machine against voting, shall record the votes cast on  
45 the machine.

46         5. Whenever a recount of votes cast on ballot cards is  
47 ordered pursuant to section 115.583 or 115.601, the court or  
48 legislative body shall supervise a test of the automatic

49 tabulating equipment conducted in the manner provided in  
50 section 115.233 and shall cause the votes to be recounted  
51 automatically, or may order a hand count of the votes. In  
52 its discretion, the court or legislative body may order a  
53 new computer program to be made, which shall be tested in  
54 the manner provided in section 115.233 before the votes in  
55 question are recounted automatically.]

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

9 (1) Willfully and falsely making any certificate,  
10 affidavit, or statement required to be made pursuant to any  
11 provision of this chapter, including but not limited to  
12 statements specifically required to be made "under penalty  
13 of perjury"; or in any other manner knowingly furnishing  
14 false information to an election authority or election  
15 official engaged in any lawful duty or action in such a way  
16 as to hinder or mislead the authority or official in the  
17 performance of official duties. If an individual willfully  
18 and falsely makes any certificate, affidavit, or statement  
19 required to be made under section 115.155, including but not  
20 limited to statements specifically required to be made  
21 "under penalty of perjury", such individual shall be guilty  
22 of a class D felony;

23 (2) Voting more than once or voting at any election  
24 knowing that the person is not entitled to vote or that the

25 person has already voted on the same day at another location  
26 inside or outside the state of Missouri;

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

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

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

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

42 (7) Knowingly furnishing any voter with a false or  
43 fraudulent or bogus ballot, or knowingly practicing any  
44 fraud upon a voter to induce him or her to cast a vote which  
45 will be rejected, or otherwise defrauding him or her of his  
46 or her vote;

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

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

55 (10) Knowingly removing any legal ballot from a ballot  
56 box for the purpose of changing the true and lawful count of

57 any election or in any other manner knowingly changing the  
58 true and lawful count of any election;

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

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

66 (13) On the part of any person authorized to receive,  
67 tally or count a poll list, tally sheet or election return,  
68 receiving, tallying or counting a poll list, tally sheet or  
69 election return the person knows is fraudulent, forged or  
70 counterfeit, or knowingly making an incorrect account of any  
71 election;

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

78 (15) Willfully destroying or damaging any official  
79 ballots, whether marked or unmarked, after the ballots have  
80 been prepared for use at an election and during the time  
81 they are required by law to be preserved in the custody of  
82 the election judges or the election authority;

83 (16) Willfully tampering with, disarranging, altering  
84 the information on, defacing, impairing or destroying any  
85 voting machine [or marking device] after the machine [or  
86 marking device] has been prepared for use at an election and  
87 during the time it is required by law to remain locked and  
88 sealed with intent to impair the functioning of the machine

89 [or marking device] at an election, mislead any voter at the  
90 election, or to destroy or change the count or record of  
91 votes on such machine;

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

96 (18) Procuring any other person to register knowing  
97 the person is not legally entitled to register, or aiding,  
98 abetting or advising another person to register knowing the  
99 person is not legally entitled to register;

100 (19) Knowingly preparing, altering or substituting any  
101 computer program or other counting equipment to give an  
102 untrue or unlawful result of an election;

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

106 (21) On the part of any registration or election  
107 official, permitting any person to register to vote or to  
108 vote when such official knows the person is not legally  
109 entitled to register or not legally entitled to vote;

110 (22) On the part of a notary public acting in his or  
111 her official capacity, knowingly violating any of the  
112 provisions of this chapter or any provision of law  
113 pertaining to elections;

114 (23) Violation of any of the provisions of sections  
115 115.275 to 115.303, or of any provision of law pertaining to  
116 absentee voting;

117 (24) Assisting a person to vote knowing such person is  
118 not legally entitled to such assistance, or while assisting  
119 a person to vote who is legally entitled to such assistance,  
120 in any manner coercing, requesting or suggesting that the

121 voter vote for or against, or refrain from voting on any  
122 question, ticket or candidate;

123 (25) Engaging in any act of violence, destruction of  
124 property having a value of five hundred dollars or more, or  
125 threatening an act of violence with the intent of denying a  
126 person's lawful right to vote or to participate in the  
127 election process; and

128 (26) Knowingly providing false information about  
129 election procedures for the purpose of preventing any person  
130 from going to the polls.

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

9 (1) on the day of election or before the counting of  
10 votes is completed, willfully concealing, breaking, or  
11 destroying any ballot box used or intended to be used at  
12 such election or willfully or fraudulently concealing or  
13 removing any ballot box from the custody of the election  
14 judges;

15 (2) Willfully tampering with, disarranging, defacing,  
16 materially altering, impairing, or destroying any voting  
17 machine [or automatic tabulating equipment] owned or leased  
18 by or loaned to an election authority.

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

3 (1) By first class mail to the mailing address of each  
4 voter as it appears on the registration records of the

5 election authority on the deadline specified in subsection 1  
6 of section 115.135 for registration. Each ballot so mailed  
7 shall be placed by the election authority in an envelope  
8 which is prominently marked "Do Not Forward" and mailed not  
9 later than the tenth day prior to the election; or

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

17 Voters shall also be provided with a return identification  
18 envelope, a secrecy envelope, and instructions sufficient to  
19 describe the voting process.

20 2. Upon receipt of the ballot, the voter shall mark  
21 it, place and seal the marked ballot in the secrecy envelope  
22 supplied with the ballot, place and seal the sealed secrecy  
23 envelope containing the marked ballot in the return  
24 identification envelope supplied with the ballot which has  
25 been signed by the voter and then return the marked ballot  
26 to the election authority by either:

27 (1) United States mail; or

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

30 3. The election authority may provide additional sites  
31 for return delivery of ballots. The election authority may  
32 provide for the payment of postage on the return of ballots.

33 4. The return identification envelope shall be in  
34 substantially the following form:

35 PLEASE PRINT:

36 NAME \_\_\_\_\_

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

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

46 \_\_\_\_\_

47 Signature

48 \_\_\_\_\_

49 Residence Address

50 \_\_\_\_\_

51 Mailing Address (if  
 52 different)

53 5. If the ballot is destroyed, spoiled, lost or not  
 54 received by the voter, the voter may obtain a replacement  
 55 ballot from the election authority as provided in this  
 56 subsection. A voter seeking a replacement ballot shall sign  
 57 a statement verified on oath or affirmation, on a form  
 58 prescribed by the election authority that the ballot was  
 59 destroyed, spoiled, lost or not received. The applicant  
 60 shall deliver the statement to the election authority before  
 61 noon on the date of the election. The applicant may mail  
 62 the statement to the election authority; but, no election  
 63 authority shall transmit a ballot by mail under this  
 64 subsection unless the application is received prior to the  
 65 close of business on the fifth day prior to the election.  
 66 When an application is timely received under this

67 subsection, the election authority shall deliver the ballot  
68 to the voter if the voter is present in the office of the  
69 election authority, or promptly transmit the ballot by mail  
70 to the voter at the address contained in the application,  
71 except when prohibited in this subsection. The election  
72 authority shall keep a record of each replacement ballot  
73 provided under this subsection.

74 6. A ballot must be returned by mail or received in  
75 the office of the election authority or at a site provided  
76 for receipt of ballots by the election authority no later  
77 than 7:00 p.m. on election day. The election authority  
78 shall transmit all return identification envelopes to a team  
79 or teams of judges of not less than four, with an equal  
80 number from each major political party. The judges shall be  
81 selected by the election authority from lists submitted  
82 under the provisions of section 115.087, and subscribe to  
83 the oath provided in section 115.091. Upon receipt of such  
84 envelopes the judges shall verify the signature of each  
85 voter on the return identification envelope with the  
86 signature of the voter on the voter registration records.  
87 Such verification may commence at time prior to the day of  
88 the election. The election authority shall adopt procedures  
89 for securing and accounting for all verified return  
90 identification envelopes. The secrecy envelope shall not be  
91 separated from the return identification envelope before  
92 ballots are counted. Ballots may be counted at any time on  
93 election day provided the results are not released before  
94 7:00 p.m. on that day. Counting of ballots [may] shall be  
95 done by hand [or through the utilization of automatic  
96 tabulating equipment] and shall be governed by the  
97 applicable sections of this chapter.

2 [115.227. All provisions of law not  
3 inconsistent with sections 115.225 to 115.235  
4 shall apply with full force and effect to  
5 elections in each jurisdiction using an  
6 electronic voting system.]

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

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

2 [115.233. Within fourteen days prior to an  
3 election at which an electronic voting system is  
4 to be used, the election authority shall have  
5 the automatic tabulating equipment tested to  
6 ascertain that the equipment is in compliance  
7 with the law and that it will correctly count  
8 the votes cast for all offices and on all  
9 questions. At least forty-eight hours prior to  
10 the test, notice of the time and place of the  
11 test shall be mailed to each independent and new  
12 party candidate and the chairman of the county  
13 committee of each established political party  
14 named on the ballot. The test shall be observed  
15 by at least two persons designated by the  
16 election authority, one from each major  
17 political party, and shall be open to  
18 representatives of the political parties,  
19 candidates, the news media and the public. The  
20 test shall be conducted by processing a  
21 preaudited group of ballots. If any error is  
22 detected, the cause shall be ascertained and  
23 corrected, and an errorless count shall be made  
before the tabulating equipment is approved.]

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

2 [115.249. No voting machine shall be used  
3 unless it:

- 4 (1) Permits voting in absolute secrecy;
- 5 (2) Permits each voter to vote for as many  
6 candidates for each office as he is lawfully  
7 entitled to vote for, and no other;
- 8 (3) Permits each voter to vote for or  
9 against as many questions as he is lawfully  
entitled to vote on, and no more;

- 10 (4) Provides facilities for each voter to  
11 cast as many write-in votes for each office as  
12 he is lawfully entitled to cast;
- 13 (5) Permits each voter in a primary  
14 election to vote for the candidates of only one  
15 party announced by the voter in advance;
- 16 (6) Correctly registers or records and  
17 accurately counts all votes cast for each  
18 candidate and for and against each question;
- 19 (7) Is provided with a lock or locks which  
20 prevent any movement of the voting or  
21 registering mechanism and any tampering with the  
22 mechanism;
- 23 (8) Is provided with a protective counter  
24 or other device whereby any operation of the  
25 machine before or after an election will be  
26 detected;
- 27 (9) Is provided with a counter which shows  
28 at all times during the election how many people  
29 have voted on the machine;
- 30 (10) Is provided with a proper light which  
31 enables each voter, while voting, to clearly see  
32 the ballot labels.]

2 [115.255. The use of separate paper  
3 ballots for questions and candidates in polling  
4 places shall not be prohibited where electronic  
voting machines are used.]

- 2 [115.257. 1. In jurisdictions where  
3 electronic voting machines are used, the  
4 election authority shall cause the voting  
5 machines to be put in order, set, adjusted and  
6 made ready for voting before they are delivered  
7 to polling places.
- 8 2. At least five days before preparing  
9 electronic voting machines for any election,  
10 notice of the time and place of such preparation  
11 shall be mailed to each independent candidate  
12 and the chairman of the county committee of each  
13 established political party named on the  
14 ballot. The preparation shall be watched by two  
15 observers designated by the election authority,  
16 one from each major political party, and shall  
17 be open to representatives of the political  
18 parties, candidates, the news media and the  
19 public.
- 20 3. When an electronic voting machine has  
21 been examined by such observers and shown to be  
22 in good working order, the machine shall be  
23 locked against voting. The observers shall  
24 certify the vote count on each machine is set at  
25 zero.
- 26 4. After an electronic voting machine has  
27 been properly prepared and locked, its keys  
28 shall be retained by the election authority and  
29 delivered to the election judges along with the  
other election supplies.]

30           5. For the purpose of processing absentee  
31 ballots, cast by voters in person in the office  
32 of the election authority that is deemed  
33 designated as a polling place, the election  
34 authority may cause voting machines, if used, to  
35 be put in order, set, adjusted, tested, and made  
36 ready for voting within one business day of the  
37 printing of absentee ballots as provided in  
38 section 115.281. The election authority shall  
39 have the recording counter except for the  
40 protective counter on the voting machine set to  
41 zero (000). After the voting machines have been  
42 made ready for voting, the election authority  
43 shall not permit any person to handle any voting  
44 machine, except voters while they are voting and  
45 others expressly authorized by the election  
46 authority. The election authority shall neither  
47 be nor permit any other person to be in any  
48 position or near any position that enables the  
49 authority or person to see how any absentee  
50 voter votes or has voted.

51           6. Nothing in this section shall prohibit  
52 the on-site storage of electronic voting  
53 machines and the preparation of the electronic  
54 machines for voting, provided the electronic  
55 voting machines are put in order, set, adjusted  
56 and made ready for voting as provided in  
57 subsections 1, 2, 3, 4, and 5 of this section.]

          [115.259. At each polling place using  
2 voting machines, the exterior of the voting  
3 machines shall be in plain view of the election  
4 judges. The election judges shall not be nor  
5 permit any other person to be in any position,  
6 or near any position, that enables them to see  
7 how any voter votes or has voted. The election  
8 judges may inspect any machine as necessary to  
9 make sure the ballot label is in its proper  
10 place and that the machine has not been damaged.]

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

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

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

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

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

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

7 2. Any election authority may rent its  
8 electronic voting machines to any other group  
9 for use in its elections.

10 3. At the discretion of the election  
11 authority, the machines may be transported at  
12 the expense of the organizations using them.  
The president or secretary of each organization

13 using such machines shall sign a receipt  
14 therefor and shall agree in writing that the  
15 organization assumes liability for any damage or  
16 loss occurring to the machines up to the time  
17 they are returned to the election authority and  
18 will return the machines by a designated time.]

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

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

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

34 3. All proper write-in votes shall be  
35 read, recorded and counted as provided in  
36 sections 115.449 and 115.453. No write-in vote  
37 shall be counted for any candidate for any  
38 office whose name appears on the ballot label as  
39 a candidate for the office, except when more  
40 than one person is to be nominated or elected to  
41 an office. When more than one person is to be  
42 nominated or elected to an office, the voter may  
43 write in the names of one or more persons whose  
44 names do not appear on the ballot label with or  
45 without the names of one or more persons whose  
names do appear.

46 4. If any ballot card is damaged so that  
47 it cannot properly be counted by the automatic  
48 tabulating equipment, the fact shall be noted on  
49 the back of the ballot card and it shall be  
50 returned to the counting location in the  
51 envelope marked "DEFECTIVE BALLOTS".]

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

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

45 3. If early counting of write-in votes is  
46 begun pursuant to this section, the election  
47 authority shall appoint a team of employees or  
48 election judges who shall, between the hours of  
49 eleven o'clock in the morning and three o'clock  
50 in the afternoon, receive the ballot container

51 from the election judges at the polling place  
52 and immediately deliver it to the counting  
53 location. Each team appointed pursuant to this  
54 subsection shall consist of two members, one  
55 from each major political party. If any ballot  
56 container is not sealed when it is delivered to  
57 the counting location, the election official  
58 receiving the container shall make a statement  
59 of the fact which includes the location of the  
60 polling place and the date of the election  
61 printed on the container and the reason the  
62 container is not sealed, if known.

63 4. After delivery to the counting  
64 location, any ballot which is damaged and cannot  
65 be properly counted by the automatic tabulating  
66 equipment may be handcounted or duplicated in  
67 the manner provided in subsection 3 of section  
68 115.477.

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

76 6. Write-in ballots may also be counted as  
77 provided in section 115.451.]

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

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

18 (2) Where tallying of write-in votes is to  
19 be done at the polling place, certify on two  
20 statements of returns the number of write-in  
21 votes received by each candidate. No returns  
22 shall be signed in blank or before the polls  
23 have closed and all proper write-in votes cast  
24 at the polling place have been counted;

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

30 returned with the statement to the election  
31 authority.]

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

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

11 We hereby certify:

12 The number of ballots received at this  
13 polling place is \_\_\_\_\_;  
14 The information on the ballot cards and  
15 ballot labels received at this polling place  
16 is the same as the information on the sample  
17 ballots received at this polling place.  
18 AB

19 CD Election Judges

20 EF

21 XP

22 We hereby certify:

23 The number of ballots cast at this polling  
24 place is \_\_\_\_\_;  
25 The number of identification certificates  
26 signed at this polling place is \_\_\_\_\_;  
27 The number of defective ballots at this  
28 polling place is \_\_\_\_\_;  
29 The number of spoiled ballots at this polling  
30 place is \_\_\_\_\_;  
31 The number of voters casting proper write-in  
32 votes at this polling place is \_\_\_\_\_;  
33 The number of ballots received at this  
34 polling place which were not cast at this  
35 election is \_\_\_\_\_;  
36 AB

37 CD Election Judges

38 EF

39 XP

]

40 [2. Where tallying of write-in votes is to  
41 be done at the polling place, at each polling  
42 place using an electronic voting system, two  
43 tally sheets shall be included in each tally

44 book. The tally sheets shall be used to record  
 45 the proper write-in votes and shall be in  
 46 substantially the same form provided in  
 47 subsection 2 of section 115.461.

48 3. Where tallying of write-in votes is to  
 49 be done at the polling place, at each polling  
 50 place using an electronic voting system, two  
 51 statements of returns shall be provided to the  
 52 election judges. The statements of returns  
 53 shall be in substantially the following form:

54 We hereby certify that BK had write-  
 55 in votes for governor, and SF had  
 56 write-in votes for governor, that JH had  
 57 write-in votes for representative in  
 58 Congress, etc. We, the duly qualified and  
 59 acting judges of the polling place for  
 60 precincts, at the general (special,  
 61 primary) election held on the day of  
 62 , 20 , in County (City of  
 63 St. Louis, Kansas City), Missouri, do  
 64 hereby certify that the foregoing is a full  
 65 and accurate return of all write-in votes  
 66 cast at this polling place for all  
 candidates.

67 AB

68 CD Election Judges

69 EF

70 XP ]

2 [115.475. 1. As soon as possible after  
 3 signing the statements of returns, the election  
 4 judges shall seal and enclose the ballots,  
 5 electronic voting machine memory cards, write-in  
 6 forms containing no votes, the unused ballots  
 7 and other election supplies in containers  
 8 designated by the election authority.

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

23 3. If the election authority has directed  
 24 the supervisory judges to deliver election  
 materials to a place other than the counting

25 location, the election authority shall appoint  
26 at least one team of election judges who shall  
27 receive the containers from the supervisory  
28 judges and immediately deliver them to the  
29 counting location. Each team appointed pursuant  
30 to this subsection shall consist of two election  
31 judges or employees of the election authority,  
32 one from each major political party.]

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

12 2. The automatic tabulating equipment  
13 shall produce a return showing the total number  
14 of votes cast for each candidate and on each  
15 question at each polling place and in the  
16 jurisdiction as a whole.

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

2 [115.479. In each jurisdiction using an  
3 electronic voting system, the election authority  
4 shall, after the count has been completed and  
5 the results received, have the automatic  
6 tabulating equipment tested to ascertain that  
7 the equipment has correctly counted the votes  
8 for all offices and on all questions. The test  
9 shall be observed by at least two persons  
10 designated by the election authority, one from  
each major political party, and shall be open to

11 the public. The test shall be conducted by  
12 processing the same preaudited group of ballots  
13 used in the preelection test provided for in  
14 section 115.233. If any error is detected, the  
15 cause shall be ascertained and corrected, and an  
16 errorless count shall be made before the final  
17 results are announced. After the completion of  
18 an errorless count, the programs and the ballots  
19 shall be sealed, retained and disposed of as  
20 provided for paper ballots.]

2 [115.481. The final and correct return  
3 printed by the automatic tabulating equipment  
4 added to the write-in, absentee and handcounted  
5 votes shall be the official return of each  
6 polling place and the jurisdiction.]

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

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

25 3. All proper write-in votes shall be  
26 read, recorded and counted as provided in  
27 sections 115.449 and 115.453. No write-in vote  
28 shall be counted for any candidate for any  
29 office whose name appears on the ballot label as  
30 a candidate for the office, except when more  
31 than one person is to be nominated or elected to  
32 an office. When more than one person is to be  
33 nominated or elected to an office, the voter may  
34 write in the names of one or more persons whose  
35 names do not appear on the ballot label with or  
36 without the names of one or more persons whose  
37 names do appear. No write-in vote shall be  
38 counted unless it is cast in the appropriate  
39 place on the machine.

40 4. If more than one voting machine is used  
41 in a polling place, the election judges shall  
read, verify and record all the totals from the

42 first machine before proceeding to the second,  
43 and so on, until all of the totals on each  
44 machine in the polling place have been read,  
45 verified and recorded. The total number of  
46 votes from each machine shall be added to the  
47 write-in votes to determine the total vote for  
48 each candidate and for and against each  
49 question.]

2 [115.495. 1. After being secured against  
3 further voting by the election judges,  
4 electronic voting machines shall remain secured  
5 for the period provided by law for filing an  
6 election contest and as much longer as may be  
7 necessary or advisable because of any threatened  
8 or pending contest, grand jury investigation, or  
9 civil or criminal case relating to the  
10 election. During this time, the electronic  
11 voting machines shall not be unsecured, except  
12 upon order of a court, grand jury or legislative  
13 body trying an election contest.]

14 2. Notwithstanding the provisions of  
15 subsection 1 of this section to the contrary,  
16 when an election is required by law to be held  
17 after an election during any period of time  
18 described in subsection 1 of this section, the  
19 data of the electronic voting machine relating  
20 to the initial election shall be removed and  
21 secured and such machine shall be made available  
for use in the subsequent election.]

2 [115.503. 1. As soon as possible after an  
3 election in which electronic voting machines are  
4 used, the verification board, or a bipartisan  
5 committee appointed by the verification board,  
6 shall inspect each secured electronic voting  
7 machine and record the votes cast on the  
8 machine. In precincts where electronic voting  
9 machines equipped with printed election returns  
10 mechanisms are used, the counter compartment  
11 shall not be opened and the original and  
12 duplicate originals of the printed return sheets  
13 of the votes cast on questions and for  
14 candidates regularly nominated, or who have duly  
15 filed, together with the tabulation and  
16 inclusion of any votes written in on the paper  
17 roll for those not regularly nominated, or who  
18 have not filed, shall constitute the official  
19 return sheet for the votes cast on that machine,  
20 when properly certified by the precinct election  
21 officers. One copy of such printed return sheet  
22 shall be returned to the election authority and  
23 retained by it for not less than one year. Any  
24 bipartisan committee appointed pursuant to this  
25 subsection shall consist of at least two people,  
26 one from each major political party, who shall  
27 be appointed in the same manner and possess the  
same qualifications as election judges.]

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

Section B. Section A of this act shall become  
2 effective on January 1, 2025.

✓