

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 836

103RD GENERAL ASSEMBLY

4195S.03C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 115.125, 115.127, 115.233, 115.277, 115.284, 115.427, 115.430, and 115.453, RSMo, and to enact in lieu thereof eight new sections relating to elections.

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

Section A. Sections 115.125, 115.127, 115.233, 115.277,
2 115.284, 115.427, 115.430, and 115.453, RSMo, are repealed and
3 eight new sections enacted in lieu thereof, to be known as
4 sections 115.125, 115.127, 115.233, 115.277, 115.284, 115.427,
5 115.430, and 115.453, to read as follows:

115.125. 1. Not later than 5:00 p.m. on the tenth
2 Tuesday prior to any election, except a special election to
3 decide an election contest, tie vote or an election to elect
4 seven members to serve on a school board of a district
5 pursuant to section 162.241, or a delay in notification
6 pursuant to subsection [3] 2 of this section, or pursuant to
7 the provisions of section 115.399, the officer or agency
8 calling the election shall notify the election authorities
9 responsible for conducting the election. The notice shall
10 be in writing, shall specify the name of the officer or
11 agency calling the election and shall include a certified
12 copy of the legal notice to be published pursuant to
13 subsection 2 of section 115.127. The notice and any other
14 information required by this section may, with the prior
15 notification to the election authority receiving the notice,

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

16 be accepted by **email or** facsimile transmission prior to 5:00
17 p.m. on the tenth Tuesday prior to the election[, provided
18 that the original copy of the notice and a certified copy of
19 the legal notice to be published shall be received in the
20 office of the election authority within three business days
21 from the date of the facsimile transmission.

22 2. In lieu of a certified copy of the legal notice to
23 be published pursuant to subsection 2 of section 115.127,
24 each notice of a special election to fill a vacancy shall
25 include the name of the office to be filled, the date of the
26 election and the date by which candidates must be selected
27 or filed for the office. Not later than the sixth Tuesday
28 prior to any special election to fill a vacancy called by a
29 political subdivision or special district, the officer or
30 agency calling the election shall certify a sample ballot to
31 the election authorities responsible for conducting the
32 election.

33 3.] 2. Except as provided for in sections 115.247 and
34 115.359, if there is no additional cost for the printing or
35 reprinting of ballots or if the political subdivision or
36 special district calling for the election agrees to pay any
37 printing or reprinting costs, a political subdivision or
38 special district may, at any time after certification of the
39 notice of election required in subsection 1 of this section,
40 but no later than 5:00 p.m. on the eighth Tuesday before the
41 election, be permitted to make late notification to the
42 election authority pursuant to court order, which, except
43 for good cause shown by the election authority in opposition
44 thereto, shall be freely given upon application by the
45 political subdivision or special district to the circuit
46 court of the area of such subdivision or district. No court
47 shall have the authority to order an individual or issue be

48 placed on the ballot less than eight weeks before the date
49 of the election.

115.127. 1. Except as provided in subsection 4 of
2 this section, upon receipt of notice of a special election
3 to fill a vacancy submitted pursuant to subsection 2 of
4 section 115.125, the election authority shall cause legal
5 notice of the special election to be published in a
6 newspaper of general circulation in its jurisdiction. The
7 notice shall include the name of the officer or agency
8 calling the election, the date and time of the election, the
9 name of the office to be filled and the date by which
10 candidates must be selected or filed for the office. Within
11 one week prior to each special election to fill a vacancy
12 held in its jurisdiction, the election authority shall cause
13 legal notice of the election to be published in two
14 newspapers of different political faith and general
15 circulation in the jurisdiction. The legal notice shall
16 include the date and time of the election, the name of the
17 officer or agency calling the election and a sample ballot.
18 If there is only one newspaper of general circulation in the
19 jurisdiction, the notice shall be published in the newspaper
20 within one week prior to the election. If there are two or
21 more newspapers of general circulation in the jurisdiction,
22 but no two of opposite political faith, the notice shall be
23 published in any two of the newspapers within one week prior
24 to the election.

25 2. Except as provided in subsections 1 and 4 of this
26 section and in sections 115.521, 115.549 and 115.593, the
27 election authority shall cause legal notice of each election
28 held in its jurisdiction to be published. The notice shall
29 be published in two newspapers of different political faith
30 and qualified pursuant to chapter 493 which are published

31 within the bounds of the area holding the election. If
32 there is only one so-qualified newspaper, then notice shall
33 be published in only one newspaper. If there is no
34 newspaper published within the bounds of the election area,
35 then the notice shall be published in two qualified
36 newspapers of different political faith serving the area.
37 Notice shall be published twice, the first publication
38 occurring in the second week prior to the election, and the
39 second publication occurring within one week prior to the
40 election. Each such legal notice shall include the date and
41 time of the election, the name of the officer or agency
42 calling the election and a sample ballot; and, unless notice
43 has been given as provided by section 115.129, the second
44 publication of notice of the election shall include the
45 location of polling places. The election authority may
46 provide any additional notice of the election it deems
47 desirable.

48 3. The election authority shall print the official
49 ballot as the same appears on the sample ballot, and no
50 candidate's name or ballot issue which appears on the sample
51 ballot or official printed ballot shall be stricken or
52 removed from the ballot except on death of a candidate or by
53 court order, but in no event shall a candidate or issue be
54 stricken or removed from the ballot less than eight weeks
55 before the date of the election.

56 4. In lieu of causing legal notice to be published in
57 accordance with any of the provisions of this chapter, the
58 election authority in jurisdictions which have less than
59 seven hundred fifty registered voters and in which no
60 newspaper qualified pursuant to chapter 493 is published,
61 may cause legal notice to be mailed during the second week
62 prior to the election, by first class mail, to each

63 registered voter at the voter's voting address. All such
64 legal notices shall include the date and time of the
65 election, the location of the polling place, the name of the
66 officer or agency calling the election and a sample ballot.

67 5. If the opening date for filing a declaration of
68 candidacy for any office in a political subdivision or
69 special district is not required by law or charter, the
70 opening filing date shall be 8:00 a.m., the [seventeenth]
71 **sixteenth** Tuesday prior to the election. If the closing
72 date for filing a declaration of candidacy for any office in
73 a political subdivision or special district is not required
74 by law or charter, the closing filing date shall be 5:00
75 p.m., the [fourteenth] **thirteenth** Tuesday prior to the
76 election, **or if the thirteenth Tuesday prior to the election**
77 **is a state or federal holiday, the closing filing date shall**
78 **be 5:00 p.m. on the next day that is not a state or federal**
79 **holiday.** The political subdivision or special district
80 calling an election shall, before the [seventeenth]
81 **sixteenth** Tuesday, prior to any election at which offices
82 are to be filled, notify the general public of the opening
83 filing date, the office or offices to be filled, the proper
84 place for filing and the closing filing date of the
85 election. Such notification may be accomplished by legal
86 notice published in at least one newspaper of general
87 circulation in the political subdivision or special district.

88 6. Except as provided for in sections 115.247 and
89 115.359, if there is no additional cost for the printing or
90 reprinting of ballots or if the candidate agrees to pay any
91 printing or reprinting costs, a candidate who has filed for
92 an office or who has been duly nominated for an office may,
93 at any time after the certification of the notice of
94 election required in subsection 1 of section 115.125 but no

95 later than 5:00 p.m. on the eighth Tuesday before the
96 election, withdraw as a candidate pursuant to a court order,
97 which, except for good cause shown by the election authority
98 in opposition thereto, shall be freely given upon
99 application by the candidate to the circuit court of the
100 area of such candidate's residence.

115.233. **[Within]** **At least** fourteen days prior to an
2 election **and no less than one week prior to an election** at
3 which an electronic voting system is to be used, the
4 election authority shall have the automatic tabulating
5 equipment tested to ascertain that the equipment is in
6 compliance with the law and that it will correctly count the
7 votes cast for all offices and on all questions. At least
8 forty-eight hours prior to the test, notice of the time and
9 place of the test shall be mailed to each independent and
10 new party candidate and the chairman of the county committee
11 of each established political party named on the ballot.
12 The test shall be observed by at least two persons
13 designated by the election authority, one from each major
14 political party, and shall be open to representatives of the
15 political parties, candidates, the news media and the
16 public. The test shall be conducted by processing a
17 preaudited group of ballots. If any error is detected, the
18 cause shall be ascertained and corrected, and an errorless
19 count shall be made before the tabulating equipment is
20 approved.

115.277. 1. A registered voter of this state may cast
2 an absentee ballot in person at a location designated by the
3 election authority for all candidates and issues for which
4 such voter is eligible to vote at the polling place if such
5 voter expects to be prevented from going to the polls to
6 vote on election day due to one of the reasons listed in

7 subsection 3 of this section. A registered voter casting a
8 ballot under the provisions of this subsection shall provide
9 a form of personal photo identification that is consistent
10 with subsection 1 of section 115.427. Beginning on the
11 second Tuesday prior to an election, a reason listed under
12 subsection 3 of this section shall not be required, provided
13 that, the provisions of section 1.140 to the contrary
14 notwithstanding, this sentence and section 115.427 shall be
15 nonseverable, and if any provision of section 115.427 is for
16 any reason held to be invalid, such decision shall
17 invalidate this sentence.

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

35 3. A voter may request an absentee ballot for any of
36 the following reasons:

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

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

45 (3) Religious belief or practice;

46 (4) Employment as:

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

50 (b) A first responder;

51 (c) A health care worker; or

52 (d) A member of law enforcement;

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

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

58 4. Any covered voter who is eligible to register and
59 vote in this state may vote in any election for federal
60 office, statewide office, state legislative office, or
61 statewide ballot initiatives by submitting a federal
62 postcard application to apply to vote by absentee ballot or
63 by submitting a federal postcard application at the [polling
64 place] **office of the election authority on election day**,
65 even though the person is not registered. A federal
66 postcard application submitted by a covered voter pursuant
67 to this subsection shall also serve as a voter registration
68 application under section 115.908 and the election authority

69 shall, if satisfied that the applicant is entitled to
70 register, place the voter's name on the voter registration
71 file. Each covered voter may vote by absentee ballot or,
72 upon submitting an affidavit that the person is qualified to
73 vote in the election, may vote at the person's polling place.

74 5. Any interstate former resident may vote by absentee
75 ballot **or at the office of the election authority on**
76 **election day** for presidential and vice presidential electors.

77 6. Any new resident may vote by absentee ballot **or at**
78 **the office of the election authority on election day** for
79 presidential and vice presidential electors after
80 registering to vote in such resident's new jurisdiction of
81 residence.

115.284. 1. There is hereby established an absentee
2 voting process to assist persons with permanent disabilities
3 in the exercise of their voting rights.

4 2. The local election authority shall send an
5 application to participate in the absentee voting process
6 set out in this section to any registered voter residing
7 within the election authority's jurisdiction upon request.

8 3. Upon receipt of a properly completed application,
9 the election authority shall enter the voter's name on a
10 list of voters qualified to participate as absentee voters
11 pursuant to this section.

12 4. The application to participate in the absentee
13 voting process shall be in substantially the following form:

14 State of _____

15 County (City) of _____

16 I, _____ (print applicant's name), declare
17 that I am a resident and registered voter of

18 _____ County, Missouri, and am permanently
 19 disabled. I hereby request that my name be placed
 20 on the election authority's list of voters
 21 qualified to participate as absentee voters
 22 pursuant to section 115.284, and that I be
 23 delivered an absentee ballot application for each
 24 election in which I am eligible to vote.

25 _____
 26 Signature of Voter

27 _____
 28 _____
 29 Voter's Address

30 5. Not earlier than ten weeks before an election but
 31 prior to the fourth Tuesday prior to an election, the
 32 election authority shall deliver to each voter qualified to
 33 participate as absentee voters pursuant to this section an
 34 absentee ballot application if the voter is eligible to vote
 35 in that election. If the voter returns the absentee request
 36 application to the election authority not later than 5:00
 37 p.m. on the second Wednesday before an election and has
 38 retained the necessary qualifications to vote, the election
 39 authority shall provide the voter with an absentee ballot
 40 pursuant to this chapter.

41 6. The election authority shall remove from the list
 42 of voters qualified to participate as absentee voters
 43 pursuant to this section any voter who:

44 (1) Asks to be removed from the list;

45 (2) Dies;

46 (3) Becomes disqualified from voting pursuant to this
 47 chapter; or

48 (4) No longer resides at the address of his or her
 49 voter registration.

50 **7. All lists of applications under this section shall**
51 **be kept confidential.**

115.427. 1. Persons seeking to vote in a public
2 election shall establish their identity and eligibility to
3 vote at the polling place or, if voting absentee in person
4 under section 115.277, at the office of the election
5 authority or other authorized location designated by the
6 election authority by presenting a form of personal photo
7 identification to election officials. No form of personal
8 photo identification other than the forms listed in this
9 section shall be accepted to establish a voter's
10 qualifications to vote. Forms of personal photo
11 identification that satisfy the requirements of this section
12 are any one of the following:

- 13 (1) Nonexpired Missouri driver's license;
- 14 (2) Nonexpired or nonexpiring Missouri nondriver's
15 license;
- 16 (3) A document that satisfies all of the following
17 requirements:
 - 18 (a) The document contains the name of the individual
19 to whom the document was issued, and the name substantially
20 conforms to the most recent signature in the individual's
21 voter registration record;
 - 22 (b) The document shows a photograph of the individual;
 - 23 (c) The document includes an expiration date, and the
24 document is not expired, or, if expired, the document
25 expired after the date of the most recent general election;
26 and
 - 27 (d) The document was issued by the United States or
28 the state of Missouri; or
 - 29 (4) Any identification containing a photograph of the
30 individual which is issued by the Missouri National Guard,

31 the United States Armed Forces, including the Space Force,
32 or the United States Department of Veteran Affairs to a
33 member or former member of the Missouri National Guard or
34 the United States Armed Forces, including the Space Force,
35 and that is not expired or does not have an expiration date.

36 2. (1) An individual who appears at a polling place
37 **or, if voting absentee in person pursuant to section**
38 **115.277, at the office of the election authority or other**
39 **authorized location designated by the election authority,**
40 without a form of personal identification described in
41 subsection 1 of this section and who is otherwise qualified
42 to vote at that [polling place] **location** shall be allowed to
43 cast a provisional ballot. The election judges **or election**
44 **authority** shall make a notation on the provisional ballot
45 envelope to indicate that the voter's identity was not
46 verified.

47 (2) No person shall be entitled to receive a
48 provisional ballot until such person has completed a
49 provisional ballot affidavit on the provisional ballot
50 envelope. All provisional ballots shall be marked with a
51 conspicuous stamp or mark that makes them distinguishable
52 from other ballots.

53 (3) The provisional ballot envelope shall be completed
54 by the voter for use in determining the voter's eligibility
55 to cast a ballot.

56 3. The provisional ballot envelope shall provide a
57 place for the voter's name, address, date of birth, and last
58 four digits of his or her Social Security number, followed
59 by a certificate in substantially the following form:

60 I do solemnly swear that I am the person identified
61 above and the information provided is correct. I
62 understand that my vote will not be counted unless:

63 (1) (a) I return to this polling place today
64 between 6:00 a.m. and 7:00 p.m. and provide one of
65 the following forms of identification:

66 a. Nonexpired Missouri driver's license;

67 b. Nonexpired or nonexpiring Missouri nondriver's
68 license;

69 c. A document that satisfies all of the following
70 requirements:

71 (i) The document contains my name, in
72 substantially the same form as the most recent
73 signature on my voter registration record;

74 (ii) The document contains my photograph;

75 (iii) The document contains an expiration date
76 and is not expired, or if expired, the document
77 expired after the date of the most recent general
78 election; and

79 (iv) The document was issued by the United States
80 or the state of Missouri; or

81 d. Identification containing my photograph issued
82 to me by the Missouri National Guard, the United
83 States Armed Forces, including Space Force, or the
84 United States Department of Veteran Affairs as a
85 member or former member of the Missouri National
86 Guard or the United States Armed Forces that is not
87 expired or does not have an expiration date; or

88 (b) The election authority verifies my identity by
89 comparing my signature on this envelope to the
90 signature on file with the election authority and

91 determines that I was eligible to cast a ballot at
92 this polling place; and

93 (2) This provisional ballot otherwise qualifies to
94 be counted under the laws of the State of Missouri.

95 _____

96 Signature of Voter Date

97 _____

98 Signature of Election Officials

99 Once voted, the provisional ballot shall be sealed in the
100 provisional ballot envelope and placed in a separate secured
101 container by the election judge **or election authority.**

102 4. The provisional ballot cast by such voter shall not
103 be counted unless:

104 (1) (a) The voter returns to the polling place during
105 the uniform polling hours established by section 115.407 **or,**
106 **if voting by absentee ballot in person, the voter returns to**
107 **the election authority's office by 7 p.m. on election day**
108 and provides a form of personal identification that allows
109 the election judges to verify the voter's identity as
110 provided in subsection 1 of this section; or

111 (b) The election authority verifies the identity of
112 the individual by comparing that individual's signature to
113 the signature on file with the election authority and
114 determines that the individual was eligible to cast a ballot
115 at the **[polling place] location** where the ballot was cast;
116 and

117 (2) The provisional ballot otherwise qualifies to be
118 counted under section 115.430.

119 5. The secretary of state shall provide notice of the
120 personal photo identification requirements described in
121 subsection 1 of this section on the official state internet
122 website of the secretary of state.

123 6. (1) Notwithstanding the provisions of section
124 136.055 and section 302.181 to the contrary, the state and
125 all fee offices shall provide one nondriver's license at no
126 cost to any otherwise qualified voter who does not already
127 possess such identification and who desires the
128 identification for voting.

129 (2) This state and its agencies shall provide one copy
130 of each of the following, free of charge, if needed by an
131 individual seeking to obtain a form of personal photo
132 identification described in subsection 1 of this section in
133 order to vote:

- 134 (a) A birth certificate;
- 135 (b) A marriage license or certificate;
- 136 (c) A divorce decree;
- 137 (d) A certificate of decree of adoption;
- 138 (e) A court order changing the person's name;
- 139 (f) A Social Security card reflecting an updated name;

140 and

141 (g) Naturalization papers or other documents from the
142 United States Department of State proving citizenship.

143 Any individual seeking one of the above documents in order
144 to obtain a form of personal photo identification described
145 in subsection 1 of this section for voting may request the
146 secretary of state to facilitate the acquisition of such
147 documents. The secretary of state shall pay any fee or fees
148 charged by another state or its agencies, or any court of
149 competent jurisdiction in this state or any other state, or

150 the federal government or its agencies, in order to obtain
151 any of the above documents from such state or the federal
152 government.

153 (3) Any applicant who requests a nondriver's license
154 for voting shall not be required to pay a fee. The state of
155 Missouri shall pay the legally required fees for any such
156 applicant. The department of revenue and a local election
157 authority may enter into a contract that allows the local
158 election authority to assist the department in issuing
159 nondriver's license photo identifications.

160 7. The director of the department of revenue shall, by
161 January first of each year, prepare and deliver to each
162 member of the general assembly a report documenting the
163 number of individuals who have requested and received a
164 nondriver's license photo identification for the purposes of
165 voting under this section. The report shall also include
166 the number of persons requesting a nondriver's license for
167 purposes of voting under this section, but not receiving
168 such license, and the reason for the denial of the
169 nondriver's license.

170 8. The precinct register shall serve as the voter
171 identification certificate. The following form shall be
172 printed at the top of each page of the precinct register:

173 VOTER'S IDENTIFICATION CERTIFICATE

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

177 PRECINCT

178 WARD OR TOWNSHIP _____

179 GENERAL (SPECIAL, PRIMARY) ELECTION

180 Held _____, 20_____

181 Date

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

185 9. The secretary of state shall promulgate rules to
186 effectuate the provisions of this section.

187 10. Any rule or portion of a rule, as that term is
188 defined in section 536.010, that is created under the
189 authority delegated in this section shall become effective
190 only if it complies with and is subject to all of the
191 provisions of chapter 536 and, if applicable, section
192 536.028. This section and chapter 536 are nonseverable and
193 if any of the powers vested with the general assembly
194 pursuant to chapter 536 to review, to delay the effective
195 date or to disapprove and annul a rule are subsequently held
196 unconstitutional, then the grant of rulemaking authority and
197 any rule proposed or adopted after August 28, 2002, shall be
198 invalid and void.

199 11. If any voter is unable to sign his name at the
200 appropriate place on the certificate or computer printout,
201 an election judge **or election authority** shall print the name
202 and address of the voter in the appropriate place on the
203 precinct register, the voter shall make his mark in lieu of
204 signature, and the voter's mark shall be witnessed by the
205 signature of an election judge **or election authority**.

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] **any**
5 **public election.**

6 2. (1) A voter claiming to be properly registered in
7 the jurisdiction of the election authority and eligible to
8 vote in an election, but whose eligibility at that precinct
9 cannot be immediately established upon examination of the
10 precinct register, shall be entitled to vote a provisional
11 ballot after providing a form of personal identification
12 required pursuant to section 115.427 or upon executing an
13 affidavit under section 115.427, or may vote at a central
14 polling place as established in section 115.115 where the
15 voter may vote his or her appropriate ballot for his or her
16 precinct of residence upon verification of eligibility or
17 vote a provisional ballot if eligibility cannot be
18 determined. The provisional ballot provided to a voter
19 under this section shall be the ballot provided to a
20 resident of the voter's precinct determined by reference to
21 the affidavit provided for in this section. If the voter
22 declares that the voter is eligible to vote and the election
23 authority determines that the voter is eligible to vote at
24 another polling place, the voter shall be directed to the
25 correct polling place or a central polling place as
26 established by the election authority pursuant to subsection
27 5 of section 115.115. If the voter refuses to go to the
28 correct polling place or a central polling place, the voter
29 shall be permitted to vote a provisional ballot at the
30 incorrect polling place, but such ballot shall not be
31 counted if the voter was not eligible to vote at that
32 polling place.

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

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

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

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

63 (4) For a voter requesting an absentee ballot in
64 person, such voter shall be entitled to cast a provisional
65 ballot when the voter's eligibility cannot be immediately

66 established upon examination of the precinct registers or
67 the Missouri voter registration system.

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

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

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

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

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

96 STATE OF _____

97 COUNTY OF _____

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

106 I understand that if the above-provided information is
107 not correct and the election authority determines that
108 I am not registered and eligible to vote, my vote
109 will not be counted. I further understand that
110 knowingly providing false information is a violation
111 of law and subjects me to possible criminal
112 prosecution.

113 _____

114 (Signature of Voter)

115 _____

116 (Current Address)

117 Subscribed and affirmed before me this _____ day of
118 _____, 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. The secretary of state shall design and provide to
294 the election authorities the envelopes and forms necessary
295 to carry out the provisions of this section.

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

309 14. In accordance with the Help America Vote Act of
310 2002, any individual who votes in an election as a result of
311 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.

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

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

11 (2) If distinguishing marks appear next to the names
12 of more candidates for an office than are entitled to fill
13 the office, no candidate for the office shall be counted as
14 voted for. If more than one candidate is to be nominated or
15 elected to an office, and any voter has voted for the same
16 candidate more than once for the same office at the same
17 election, no votes cast by the voter for the candidate shall
18 be counted;

19 (3) No vote shall be counted for any candidate that is
20 not marked substantially in accordance with the provisions
21 of this section. The judges shall count votes marked
22 substantially in accordance with this section and section
23 115.456 when the intent of the voter seems clear.
24 Regulations promulgated by the secretary of state shall be
25 used by the judges to determine voter intent. No ballot
26 containing any proper votes shall be rejected for containing
27 fewer marks than are authorized by law;

28 (4) Write-in votes shall be counted only for
29 candidates for election to office who have filed a
30 declaration of intent to be a write-in candidate for
31 election to office with the proper election authority, who
32 shall then notify the proper filing officer of the write-in
33 candidate prior to 5:00 p.m. on the second Friday
34 immediately preceding the election day; except that, write-
35 in votes shall be counted only for candidates for election
36 to state or federal office who have filed a declaration of
37 intent to be a write-in candidate for election to state or
38 federal office with the secretary of state pursuant to
39 section 115.353 prior to 5:00 p.m. on the second Friday
40 immediately preceding the election day. No person who filed
41 as a party or independent candidate for nomination or
42 election to an office may, without withdrawing as provided
43 by law, file as a write-in candidate for election to the
44 same office for the same term. No candidate who files for
45 nomination to an office and is not nominated at a primary
46 election may file a declaration of intent to be a write-in
47 candidate for the same office at the general election. When
48 declarations are properly filed with the secretary of state,
49 the secretary of state shall promptly transmit copies of all
50 such declarations to the proper election authorities for
51 further action pursuant to this section. The election
52 authority shall furnish a list to the election judges and
53 counting teams prior to election day of all write-in
54 candidates who have filed such declaration. [This
55 subdivision shall not apply to elections wherein candidates
56 are being elected to an office for which no candidate has
57 filed.] No person shall file a declaration of intent to be
58 a write-in candidate for election to any municipal office

59 unless such person is qualified to be certified as a
60 candidate under section 115.306;

61 (5) Write-in votes shall be cast and counted for a
62 candidate without party designation. Write-in votes for a
63 person cast with a party designation shall not be counted.
64 Except for candidates for political party committees, no
65 candidate shall be elected as a write-in candidate unless
66 such candidate receives a separate plurality of the votes
67 without party designation regardless of whether or not the
68 total write-in votes for such candidate under all party and
69 without party designations totals a majority of the votes
70 cast;

71 (6) When submitted to the election authority, each
72 declaration of intent to be a write-in candidate for the
73 office of United States president shall include the name of
74 a candidate for vice president and the name of nominees for
75 presidential elector equal to the number to which the state
76 is entitled. At least one qualified resident of each
77 congressional district shall be nominated as presidential
78 elector. Each such declaration of intent to be a write-in
79 candidate shall be accompanied by a declaration of candidacy
80 for each presidential elector in substantially the form set
81 forth in subsection 3 of section 115.399. Each declaration
82 of candidacy for the office of presidential elector shall be
83 subscribed and sworn to by the candidate before the election
84 official receiving the declaration of intent to be a write-
85 in, notary public or other officer authorized by law to
86 administer oaths.

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