

SECOND REGULAR SESSION

# HOUSE BILL NO. 2309

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SAIN.

5138H.01I

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 115.013, 115.045, 115.051, 115.065, 115.076, 115.077, 115.225, 115.229, 115.237, 115.249, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.417, 115.419, 115.421, 115.423, 115.443, 115.475, 115.483, 115.495, 115.503, 115.541, 115.585, 115.631, and 115.633, RSMo, and to enact in lieu thereof twenty-one new sections relating to electronic voting machines.

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*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, 115.076, 115.077, 115.225, 115.229, 115.237, 115.249, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.417, 115.419, 115.421, 115.423, 115.443, 115.475, 115.483, 115.495, 115.503, 115.541, 115.585, 115.631, and 115.633, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 115.013, 115.045, 115.051, 115.065, 115.076, 115.077, 115.225, 115.229, 115.237, 115.249, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.417, 115.419, 115.421, 115.423, 115.443, 115.475, 115.483, 115.495, 115.503, 115.541, 115.585, 115.631, and 115.633, to read as follows:

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

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

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

24           [~~(10)~~] (10) "Electronic voting system", a system of casting votes by use of marking devices,  
25 and counting votes by use of automatic tabulating or data processing equipment, including  
26 computerized voting systems;

27           [~~(11)~~] (10) "Established political party" for the state, a political party which, at either of  
28 the last two general elections, polled for its candidate for any statewide office more than two  
29 percent of the entire vote cast for the office. "Established political party" for any district or  
30 political subdivision shall mean a political party which polled more than two percent of the entire  
31 vote cast at either of the last two elections in which the district or political subdivision voted as  
32 a unit for the election of officers or representatives to serve its area;

33           [~~(12)~~] (11) "Federal office", the office of presidential elector, United States senator, or  
34 representative in Congress;

35           [~~(13)~~] (12) "Independent", a candidate who is not a candidate of any political party and  
36 who is running for an office for which political party candidates may run;

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

39           [~~(15)~~] (14) "Marking device", any approved device which will enable the votes to be  
40 counted by automatic tabulating equipment;

41           [~~(16)~~] (15) "Municipal" or "municipality", a city, village, or incorporated town of this  
42 state;

43           [~~(17)~~] (16) "New party", any political group which has filed a valid petition and is  
44 entitled to place its list of candidates on the ballot at the next general or special election;

45       **[(18)] (17)** "Nonpartisan", a candidate who is not a candidate of any political party and  
46 who is running for an office for which party candidates may not run;

47       **[(19)] (18)** "Political party", any established political party and any new party;

48       **[(20)] (19)** "Political subdivision", a county, city, town, village, or township of a  
49 township organization county;

50       **[(21)] (20)** "Polling place", the voting place designated for all voters residing in one or  
51 more precincts for any election;

52       **[(22)] (21)** "Precincts", the geographical areas into which the election authority divides  
53 its jurisdiction for the purpose of conducting elections;

54       **[(23)] (22)** "Public office", any office established by constitution, statute or charter and  
55 any employment under the United States, the state of Missouri, or any political subdivision or  
56 special district thereof, but does not include any office in the Missouri state defense force or the  
57 National Guard or the office of notary public or city attorney in cities of the third classification  
58 or cities of the fourth classification;

59       **[(24)] (23)** "Question", any measure on the ballot which can be voted "YES" or "NO";

60       **[(25)] (24)** "Relative within the second degree by consanguinity or affinity", a spouse,  
61 parent, child, grandparent, brother, sister, grandchild, mother-in-law, father-in-law,  
62 daughter-in-law, or son-in-law;

63       **[(26)] (25)** "Special district", any school district, water district, fire protection district,  
64 hospital district, health center, nursing district, or other districts with taxing authority, or other  
65 district formed pursuant to the laws of Missouri to provide limited, specific services;

66       **[(27)] (26)** "Special election", elections called by any school district, water district, fire  
67 protection district, or other district formed pursuant to the laws of Missouri to provide limited,  
68 specific services; and

69       **[(28)] (27)** "Voting district", the one or more precincts within which all voters vote at  
70 a single polling place for any election.

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

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

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

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

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

15       3. Proportional election costs paid under the provisions of subsection 2 of this section  
16 shall be assessed by charging each political subdivision and special district the same percentage  
17 of the total cost of the election as the number of registered voters of the political subdivision or  
18 special district on the day of the election is to the total number of registered voters on the day of  
19 the election, derived by adding together the number of registered voters in each political  
20 subdivision and special district submitting a question or candidate at the election.

21       4. "Proportional costs" and "election costs", as used in this chapter, are defined as those  
22 costs that require additional out-of-pocket expense by the election authority in conducting an  
23 election. It may include reimbursement to county general revenue for the salaries of employees  
24 of the election authority for the hours worked to conduct an election, [~~the rental of any electronic~~  
25 ~~voting machine or electronic poll book,~~] any indirect expenses identified under an independent  
26 cost allocation study and an amount not to exceed five percent of the total cost of election to be

27 credited to the election services fund of the county. The election services fund shall be budgeted  
28 and expended at the direction of the election authority and shall not be used to substitute for or  
29 subsidize any allocation of general revenue for the operation of the election authority's office  
30 without the express consent of the election authority. The election services fund may be audited  
31 by the appropriate auditing agency, and any unexpended balance shall be left in the fund to  
32 accumulate from year to year with interest. The election services fund shall be used by the  
33 election authority for training programs and purchase of additional supplies or equipment to  
34 improve the conduct of elections, including anything necessarily pertaining thereto. In addition  
35 to these costs, the state shall, subject to appropriation, compensate the election services fund for  
36 transactions submitted pursuant to the provisions of section 115.157.

115.076. 1. Subject to appropriation of federal funds, the secretary of state shall  
2 administer a grant, loan, or other aid program for the purpose of providing funds to election  
3 authorities:

4 (1) ~~To purchase electronic voting machines that are accessible to all individuals with~~  
5 ~~disabilities, including people who are blind or visually impaired;~~

6 ———~~(2)~~ To make polling places, including path of travel, entrances, exits and voting areas  
7 of each polling facility accessible to individuals with disabilities, including the blind and visually  
8 impaired, in a manner that provides the same opportunity for access and secret, independent and  
9 verifiable participation, including privacy and independence, as for other voters;

10 [~~(3)~~] (2) To provide individuals with disabilities and individuals who are blind and  
11 visually impaired with information about the accessibility of polling places, including outreach  
12 programs to inform individuals about the availability of accessible polling places and to train  
13 election officials, poll workers, and election volunteers on how to best promote the access and  
14 participation of individuals in elections, and to provide assistance in all accommodations needed  
15 by voters with disabilities.

16  
17 Such funding may be in the form of matching grants. The secretary of state when awarding  
18 grants shall give priority to jurisdictions which have the highest number of residents, according  
19 to the most recent federal census, with an income below the federal poverty level as established  
20 by the federal Department of Health and Human Services or its successor agency. The secretary  
21 of state may promulgate rules to effectuate the provisions of this section.

22 2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
23 under the authority delegated in this section shall become effective only if it complies with and  
24 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
25 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
26 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule

27 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
28 proposed or adopted after August 28, 2002, shall be invalid and void.

115.077. 1. Special districts, cities, townships in township organization counties,  
2 villages and the state shall pay the election costs required by sections 115.063 to 115.077 to each  
3 election authority conducting its elections.

4 2. If the state is required to pay election costs pursuant to sections 115.063 to 115.065,  
5 the state shall, not later than the seventh Tuesday prior to any such election, pay each election  
6 authority conducting its elections an amount determined by the office of the secretary of state,  
7 in consultation with the election authority, to be a reasonable estimate of the cost of conducting  
8 such election, using a method developed by the secretary of state, in consultation with election  
9 authority, that is reviewed at least every two years.

10 3. Not later than the fifth Tuesday prior to any election to be conducted for a special  
11 district or political subdivision, the election authority shall submit the estimated cost of  
12 conducting the election for each political subdivision and special district submitting a candidate  
13 or question at the election. Not later than the third Tuesday prior to the election, each special  
14 district and political subdivision submitting a candidate or question at the election, except the  
15 county, shall deposit with the election authority an amount equal to the estimated cost of  
16 conducting the election for the political subdivision or special district.

17 4. All payments of election costs received by an election authority under the provisions  
18 of this section shall be placed by the election authority in a special account and used by the  
19 election authority only to pay the costs incurred in conducting the election. Not later than the  
20 tenth Tuesday following an election, if the amount paid to an election authority by the state or  
21 any political subdivision or special district exceeds the cost of conducting the election for the  
22 state, political subdivision or special district, the election authority shall refund to the state,  
23 political subdivision or special district the difference between the amount deposited with it and  
24 the cost of conducting the election. Not later than the tenth Tuesday following an election, if the  
25 amount deposited with an election authority by the state or any political subdivision or special  
26 district is less than the cost of conducting the election, the election authority shall submit a  
27 request to the state and each political subdivision and special district for the difference between  
28 the amount deposited and the cost of conducting the election.

29 5. (1) Within two weeks of receipt of actual cost and required documentation of actual  
30 expenses from the election authority, the state, political subdivision, or special district shall  
31 approve for payment the difference between the amount deposited and the cost of conducting the  
32 election.

33 (2) For the purposes of this section, the term "required documentation" shall mean a  
34 detailed list of expenses that the secretary of state intends to reimburse the election authority for

35 and a detailed description of the documentation that the election authority shall produce  
36 following the election. For any election in which the state is required to pay all or a proportion  
37 of the cost, the secretary of state shall, not later than the eleventh Tuesday prior to the election  
38 or, in case of a special election, no later than five business days following the issuance of a writ  
39 of election by the governor, transmit to the election authority the detailed list and description  
40 described above.

41       6. Except as provided in sections 115.063 to 115.072, all payments of election costs  
42 received by an election authority under the provisions of this section shall be placed by the  
43 election authority in a special account and used by the election authority only to pay the costs  
44 incurred in conducting elections.

45       7. When the state or any political subdivision or special district willfully fails to make  
46 payment of an election cost required by this subchapter by the time provided in this subchapter,  
47 it shall pay a penalty of fifty dollars for each day after the time provided in this subchapter proper  
48 payment is not made. Any such penalty shall be payable to the election authority authorized to  
49 receive payment of the election cost and shall be deposited in the general revenue fund of such  
50 election authority's city or county. For purposes of this subsection, the state shall not be  
51 considered to have willfully failed to make payment of an election cost if there is not sufficient  
52 cash or appropriation authority to make such a payment.

53       8. (1) There is hereby created the "State Election Subsidy Fund" in the state treasury.

54           (2) All unobligated funds in the state election subsidy fund on January 1, 2019, shall be  
55 transferred to the elections administration improvements fund authorized pursuant to section  
56 115.078. To meet the state's funding obligation to maintain expenditures pursuant to Section  
57 254(a)(7) of the Help America Vote Act of 2002, the commissioner of the office of  
58 administration shall annually transfer from general revenue to the election administration  
59 improvements fund, established pursuant to section 115.078, an amount not less than the amount  
60 expended in the fiscal year that ended June 30, 2000. Any other law to the contrary  
61 notwithstanding, the funds received pursuant to Sections 251 and 252 of the Help America Vote  
62 Act of 2002 shall be expended according to the state plan developed pursuant to the provisions  
63 of Section 254 of said act. The secretary of state shall develop the state plan through the  
64 committee appointed by the secretary of state under the provisions of Section 255 of the Help  
65 America Vote Act of 2002.

66       [9. An election authority may rent or lease out any electronic voting machine purchased  
67 by such election authority.]

115.225. 1. Before use by election authorities in this state, the secretary of state shall  
2 approve the marking devices and the automatic tabulating equipment used in electronic voting

3 systems and may promulgate rules and regulations to implement the intent of sections 115.225  
4 to 115.235.

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

6           (1) Permits voting in absolute secrecy;

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

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

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

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

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

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

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

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

23           (10) Has been tested and is certified by an independent authority that meets the voting  
24 system standards developed by the Federal Election Commission or its successor agency. The  
25 provisions of this subdivision shall not be required for any system purchased prior to August 28,  
26 2002.

27       3. The secretary of state shall promulgate rules and regulations to allow the use of a  
28 computerized voting system. The procedures shall provide for the use of a computerized voting  
29 system with the ability to provide a paper audit trail. Notwithstanding any provisions of this  
30 chapter to the contrary, such a system may allow for the storage of processed ballot materials in  
31 an electronic form.

32       4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
33 under the authority delegated in this section shall become effective only if it complies with and  
34 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
35 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
36 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule  
37 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
38 proposed or adopted after August 28, 2002, shall be invalid and void.

39       **5. Nothing in this section shall be construed to allow the use of electronic voting**  
40 **machines.**

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

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

7       **3. Nothing in this section shall be construed to allow the use of electronic voting**  
8 **machines.**

115.237. 1. Each ballot printed or designed for use with an electronic voting system for  
2 any election pursuant to this chapter shall contain all questions and the names of all offices and  
3 candidates certified or filed pursuant to this chapter and no other. As far as practicable, all  
4 questions and the names of all offices and candidates for which each voter is entitled to vote shall  
5 be printed on one page except for the ballot for political party committee persons in polling  
6 places not utilizing an electronic voting system which may be printed separately and in  
7 conformity with the requirements contained in this section. As far as practicable, ballots  
8 containing only questions and the names of nonpartisan offices and candidates shall be printed  
9 in accordance with the provisions of this section, except that the ballot information may be listed  
10 in vertical or horizontal rows. The names of candidates for each office shall be listed in the order  
11 in which they are filed.

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

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

19       4. Where electronic voting systems are used and when write-in votes are authorized by  
20 law, a write-in ballot, which may be in the form of a separate paper ballot, card, or envelope, may  
21 be provided by the election authority to permit each voter to write in the names of persons whose  
22 names do not appear on the ballot.

23       5. No ballot printed or designed for use with an electronic voting system for any partisan  
24 election held under this chapter shall allow a person to vote a straight political party ticket. For  
25 purposes of this subsection, a "straight political party ticket" means voting for all of the

26 candidates for elective office who are on the ballot representing a single political party by a  
27 single selection on the ballot.

28       6. The secretary of state shall promulgate rules that specify uniform standards for ballot  
29 layout for each electronic or computerized ballot counting system approved under the provisions  
30 of section 115.225 so that the ballot used with any counting system is, where possible, consistent  
31 with the intent of this section. Nothing in this section shall be construed to require the format  
32 specified in this section if it does not meet the requirements of the ballot counting system used  
33 by the election authority.

34       7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
35 under the authority delegated in this section shall become effective only if it complies with and  
36 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
37 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
38 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule  
39 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
40 proposed or adopted after August 28, 2002, shall be invalid and void.

41       **8. Nothing in this section shall be construed to allow the use of electronic voting  
42 machines.**

115.255. [~~The use of separate paper ballots for questions and candidates in polling places  
2 shall not be prohibited where electronic voting machines are used.~~] All elections in this state  
3 shall use paper ballots only and the use of electronic voting machines shall be prohibited.

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

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

7       2. The election authority at each polling place shall post in a conspicuous place voting  
8 instructions on a poster no smaller than twenty-four inches by thirty inches. [~~Such instructions  
9 shall also inform the voter that the electronic voting equipment can be demonstrated upon  
10 request of the voter.~~] The election authority shall also publicly post during the period of time in  
11 which a person may cast an absentee ballot and on election day a sample version of the ballot  
12 that will be used for that election, the date of the election, the hours during which the polling

13 place will be open, instructions for mail-in registrants and first-time voters, general information  
14 on voting rights in accordance with the state plan filed by the secretary of state pursuant to the  
15 Help America Vote Act of 2002, general information on the right to cast a provisional ballot and  
16 instructions for provisional ballots, how to contact appropriate authorities if voting rights have  
17 been violated, and general information on federal and Missouri law regarding prohibitions on  
18 acts of fraud and misrepresentation. The secretary of state may promulgate rules to execute this  
19 section. No rule or portion of a rule promulgated pursuant to the authority of this section shall  
20 become effective unless it has been promulgated pursuant to chapter 536.

21       3. The secretary of state may develop multilingual voting instructions to be made  
22 available to election authorities.

115.419. Before the time fixed by law for the opening of the polls, the election authority  
2 shall deliver to each polling place a sufficient number of sample ballots and ballot cards which  
3 shall be a different color but otherwise exact copies of the official ballot. The samples shall be  
4 printed in the form of a diagram, showing the form of the ballot or the front of the marking  
5 device [or voting machine] as it will appear on election day. The secretary of state may develop  
6 multilingual sample ballots to be made available to election authorities.

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

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

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

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

15           (4) Compare the ballot, ballot label or ballot card and ballot label with the sample  
16 ballots, see that the names, numbers and letters agree and certify thereto in the tally book. If the  
17 names, numbers or letters do not agree, the election judges shall immediately notify the election  
18 authority and proceed as it directs; and

19           (5) Sign the tally book in the manner provided in the form for tally books in section  
20 115.461 or 115.473. If any election judge, challenger or watcher has not been previously sworn

21 as the law directs, he or she shall take and subscribe the oath of his or her office as provided in  
22 section 115.091 or 115.109, and the oath shall be returned to the election authority with the tally  
23 book.

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

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

[2. Where electronic voting machines are used, the voter shall register his vote as  
5 directed in the instructions for use of the machine and leave the polling place immediately.]

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

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

3. If the election authority has directed the supervisory judges to deliver election  
13 materials to a place other than the counting location, the election authority shall appoint at least  
14 one team of election judges who shall receive the containers from the supervisory judges and  
15 immediately deliver them to the counting location. Each team appointed pursuant to this  
16 subsection shall consist of two election judges or employees of the election authority, one from  
17 each major political party.

115.541. 1. Whenever a recount is ordered pursuant to section 115.539, the court shall  
2 order all materials and records relating to the contest brought before it, so that the court has the  
3 same materials and records as the election judges had while making the count and statements of  
4 returns. The court shall have authority to pass upon the form and determine the legality of the

5 votes brought into question and to determine the qualifications of any voter whose vote is  
6 brought into question, provided that the name of a voter upon a precinct register for the polling  
7 place shall be *prima facie* evidence of the proper qualifications of the voter. A comparison may  
8 be made between the signatures on the identification certificates and those which appear in the  
9 precinct registers, and no votes shall be counted except the votes of registered voters and those  
10 entitled to vote as provided in section 115.277 without being registered. No votes of any person  
11 found by the court to be unqualified to vote at the primary election shall be counted.

12       2. Whenever a recount of votes cast on paper ballots is ordered pursuant to section  
13 115.539 or 115.601, the court shall proceed to open and count the votes and, after the count has  
14 been completed, shall tabulate by voting district the votes cast for the contestant and the  
15 contestee.

16       3. ~~[Whenever a recount of votes cast on any voting machine is ordered pursuant to section  
17 115.539 or 115.601, the court shall make visible the registering counters of the machine and,  
18 without unlocking the machine against voting, shall record the votes cast on the machine.]~~

19       4. Whenever a recount of votes cast on ballot cards is ordered pursuant to section  
20 115.539 or 115.601, the court shall supervise a test of the automatic tabulating equipment  
21 conducted in the manner provided in section 115.233 and shall cause the votes to be recounted  
22 automatically or may order a hand count of the votes. In its discretion, the court may order a new  
23 computer program to be made, which shall be tested in the manner provided in section 115.233  
24 before the votes in question are recounted automatically.

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

12       2. Whenever a recount is ordered pursuant to section 115.583, the court or legislative  
13 body shall have authority to pass upon the form and determine the legality of the votes brought  
14 into question and to determine the qualifications of any voter whose vote is brought into  
15 question, provided that the name of a voter upon a precinct register for the polling place shall be  
16 *prima facie* evidence of the proper qualifications of the voter. A comparison may be made

17 between the signatures on the identification certificates and those which appear in the precinct  
18 registers, and no votes shall be counted except the votes of registered voters and those entitled  
19 to vote as provided in subsection 2 of section 115.137 and section 115.277 without being  
20 registered. No votes of any person found by the court to be unqualified to vote at the election  
21 shall be counted.

22       3. Whenever a recount of votes cast on paper ballots is ordered pursuant to section  
23 115.583 or 115.601, the court or legislative body shall proceed to open and count the votes and,  
24 after the count has been completed, shall tabulate by voting district the votes cast for the  
25 contestant and the contestee.

26       4. ~~[Whenever a recount of votes cast on any voting machine is ordered pursuant to section  
27 115.583 or 115.601, the court or legislative body shall make visible the registering counters of  
28 the machine and, without unlocking the machine against voting, shall record the votes cast on  
29 the machine.]~~

30       5.] Whenever a recount of votes cast on ballot cards is ordered pursuant to section  
31 115.583 or 115.601, the court or legislative body shall supervise a test of the automatic  
32 tabulating equipment conducted in the manner provided in section 115.233 and shall cause the  
33 votes to be recounted automatically, or may order a hand count of the votes. In its discretion, the  
34 court or legislative body may order a new computer program to be made, which shall be tested  
35 in the manner provided in section 115.233 before the votes in question are recounted  
36 automatically.

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

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

15       (2) Voting more than once or voting at any election knowing that the person is not  
16 entitled to vote or that the person has already voted on the same day at another location inside  
17 or outside the state of Missouri;

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

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

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

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

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

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

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

35       (10) Knowingly removing any legal ballot from a ballot box for the purpose of changing  
36 the true and lawful count of any election or in any other manner knowingly changing the true and  
37 lawful count of any election;

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

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

42       (13) On the part of any person authorized to receive, tally or count a poll list, tally sheet  
43 or election return, receiving, tallying or counting a poll list, tally sheet or election return the  
44 person knows is fraudulent, forged or counterfeit, or knowingly making an incorrect account of  
45 any election;

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

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

53                 (16) Willfully tampering with, disarranging, altering the information on, defacing,  
54 impairing or destroying any [voting machine or] marking device after the [machine or] marking  
55 device has been prepared for use at an election and during the time it is required by law to remain  
56 locked and sealed with intent to impair the functioning of the [machine or] marking device at an  
57 election[;] or mislead any voter at the election[, or to destroy or change the count or record of  
58 votes on such machine];

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

62                 (18) Procuring any other person to register knowing the person is not legally entitled to  
63 register, or aiding, abetting or advising another person to register knowing the person is not  
64 legally entitled to register;

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

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

69                 (21) On the part of any registration or election official, permitting any person to register  
70 to vote or to vote when such official knows the person is not legally entitled to register or not  
71 legally entitled to vote;

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

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

76                 (24) Assisting a person to vote knowing such person is not legally entitled to such  
77 assistance, or while assisting a person to vote who is legally entitled to such assistance, in any  
78 manner coercing, requesting or suggesting that the voter vote for or against, or refrain from  
79 voting on any question, ticket or candidate;

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

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

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

6           (1) On the day of election or before the counting of votes is completed, willfully  
7 concealing, breaking, or destroying any ballot box used or intended to be used at such election  
8 or willfully or fraudulently concealing or removing any ballot box from the custody of the  
9 election judges;

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

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

- 2           (1) Permits voting in absolute secrecy;
- 3           (2) Permits each voter to vote for as many candidates for each office as  
4         he is lawfully entitled to vote for, and no other;
- 5           (3) Permits each voter to vote for or against as many questions as he is  
6         lawfully entitled to vote on, and no more;
- 7           (4) Provides facilities for each voter to cast as many write-in votes for  
8         each office as he is lawfully entitled to cast;
- 9           (5) Permits each voter in a primary election to vote for the candidates of  
10         only one party announced by the voter in advance;
- 11           (6) Correctly registers or records and accurately counts all votes cast for  
12         each candidate and for and against each question;
- 13           (7) Is provided with a lock or locks which prevent any movement of the  
14         voting or registering mechanism and any tampering with the mechanism;
- 15           (8) Is provided with a protective counter or other device whereby any  
16         operation of the machine before or after an election will be detected;
- 17           (9) Is provided with a counter which shows at all times during the  
18         election how many people have voted on the machine;
- 19           (10) Is provided with a proper light which enables each voter, while  
20         voting, to clearly see the ballot labels.]

21           [115.257. 1. In jurisdictions where electronic voting machines are used,  
2         the election authority shall cause the voting machines to be put in order, set,  
3         adjusted and made ready for voting before they are delivered to polling places.  
4           2. At least five days before preparing electronic voting machines for any  
5         election, notice of the time and place of such preparation shall be mailed to each  
6         independent candidate and the chairman of the county committee of each  
7         established political party named on the ballot. The preparation shall be watched  
8         by two observers designated by the election authority, one from each major

9 political party, and shall be open to representatives of the political parties,  
10 candidates, the news media and the public.

11 \_\_\_\_\_ 3. When an electronic voting machine has been examined by such  
12 observers and shown to be in good working order, the machine shall be locked  
13 against voting. The observers shall certify the vote count on each machine is set  
14 at zero.

15 \_\_\_\_\_ 4. After an electronic voting machine has been properly prepared and  
16 locked, its keys shall be retained by the election authority and delivered to the  
17 election judges along with the other election supplies.

18 \_\_\_\_\_ 5. For the purpose of processing absentee ballots, cast by voters in person  
19 in the office of the election authority, the election authority may cause voting  
20 machines to be put in order, set, adjusted, tested, and made ready for voting  
21 within one business day of the printing of absentee ballots as provided in section  
22 115.281. The election authority shall have the recording counter except for the  
23 protective counter on the voting machine set to zero (000). After the voting  
24 machines have been made ready for voting, the election authority shall not permit  
25 any person to handle any voting machine, except voters while they are voting and  
26 others expressly authorized by the election authority. The election authority shall  
27 neither be nor permit any other person to be in any position or near any position  
28 that enables the authority or person to see how any absentee voter votes or has  
29 voted.

30 \_\_\_\_\_ 6. Nothing in this section shall prohibit the on-site storage of electronic  
31 voting machines and the preparation of the electronic machines for voting,  
32 provided the electronic voting machines are put in order, set, adjusted and made  
33 ready for voting as provided in subsections 1, 2, 3, 4, and 5 of this section.]

34 [115.261. During an election, no door, compartment, or lock shall be  
2 unlocked or opened, except by direction of the election authority, and then only  
3 for good and sufficient reason. If the door, compartment, or lock on any machine  
4 is opened by the election authority or his representative, the reason for such  
5 opening shall be stated in writing, signed by the election authority or his  
6 representative and attached to one statement of returns.]

7 [115.263. After the opening of the polls, the election judges shall not  
2 permit any person to handle any electronic voting machine, except voters while  
3 they are voting and others expressly authorized by the election authority or state  
4 law.]

5 [115.265. If any electronic voting machine at a polling place becomes  
2 inoperative, the election judges shall immediately notify the election authority.  
3 If possible, the election authority shall repair or replace the machine. If an  
4 electronic voting machine is replaced with another machine, the votes on both  
5 machines shall be recorded at the close of the polls and shall be added together

6       in determining the results of the election. If the inoperative machine cannot be  
7       repaired, and no other machine is available for use, paper ballots made as nearly  
8       as practicable to the official ballot may be used. At the close of the polls, the  
9       votes on paper ballots and the votes on the electronic voting machines shall be  
10      recorded and shall be added together in determining the results of the election.  
11      All paper ballots used pursuant to this section shall be used in accordance with  
12      the laws affecting paper ballots and shall be returned to the election authority as  
13      paper ballots are returned with a statement describing how and why the paper  
14      ballots were voted.]  
15

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

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

4       2. Any election authority may rent its electronic voting machines to any  
5       other group for use in its elections.

6       3. At the discretion of the election authority, the machines may be  
7       transported at the expense of the organizations using them. The president or  
8       secretary of each organization using such machines shall sign a receipt therefor  
9       and shall agree in writing that the organization assumes liability for any damage  
10      or loss occurring to the machines up to the time they are returned to the election  
11      authority and will return the machines by a designated time.]  
12

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

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

5       2. The election judges shall open the counting compartment on each  
6       voting machine or, if a machine is equipped with a device for printing, embossing  
7       or photographing the registering counters, the judges shall operate the machine  
8       to produce a record of the counters. One counting judge shall read the total vote  
9       cast for each candidate and for and against each question on each machine. The

10 other counting judge shall watch and verify each total as it is being read from the  
11 recording counters or from the record of the counters. The two recording judges  
12 shall each record the votes cast for each candidate and for and against each  
13 question as they are called out and verified by the counting judges.

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

23 \_\_\_\_\_ 4. If more than one voting machine is used in a polling place, the election  
24 judges shall read, verify and record all the totals from the first machine before  
25 proceeding to the second, and so on, until all of the totals on each machine in the  
26 polling place have been read, verified and recorded. The total number of votes  
27 from each machine shall be added to the write-in votes to determine the total vote  
28 for each candidate and for and against each question.]

29

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

8 \_\_\_\_\_ 2. Notwithstanding the provisions of subsection 1 of this section to the  
9 contrary, when an election is required by law to be held after an election during  
10 any period of time described in subsection 1 of this section, the data of the  
11 electronic voting machine relating to the initial election shall be removed and  
12 secured and such machine shall be made available for use in the subsequent  
13 election.]

14

1 [115.503. 1. As soon as possible after an election in which electronic  
2 voting machines are used, the verification board, or a bipartisan committee  
3 appointed by the verification board, shall inspect each secured electronic voting  
4 machine and record the votes cast on the machine. In precincts where electronic  
5 voting machines equipped with printed election returns mechanisms are used, the  
6 counter compartment shall not be opened and the original and duplicate originals  
7 of the printed return sheets of the votes cast on questions and for candidates  
8 regularly nominated, or who have duly filed, together with the tabulation and  
9 inclusion of any votes written in on the paper roll for those not regularly

10       nominated, or who have not filed, shall constitute the official return sheet for the  
11      votes cast on that machine, when properly certified by the precinct election  
12      officers. One copy of such printed return sheet shall be returned to the election  
13      authority and retained by it for not less than one year. Any bipartisan committee  
14      appointed pursuant to this subsection shall consist of at least two people, one  
15      from each major political party, who shall be appointed in the same manner and  
16      possess the same qualifications as election judges.

17       2. After the verification board or committee has completed its inspection  
18      and record, it shall compare the record with the returns made by the election  
19      judges on election day. If there is a discrepancy between the returns of the  
20      election judges and the record of the verification board or committee, the  
21      verification board shall correct the returns made by the judges to conform to its  
22      record. The corrected returns shall supersede the returns made by the election  
23      judges on election day. Both the record and the returns shall be retained by the  
24      election authority as provided in section 115.493.]

✓