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May 19, 2004

The Honorable Bob Holden
Governor
State Capitol, Room 218
Jefferson City, Missouri 65101

Dear Governor Holden:

This comes in response to the three originals of the Proclamation calling for a special election for August 3, 2004, for the people's vote on Senate Joint Resolution No. 29 (SJR 29), which you delivered to my office this afternoon. I write to inform you of several legal requirements relating to placing this issue on the ballot.

For a constitutional amendment to be submitted to the electors for their approval or rejection, both the Missouri Constitution and state statutes require several things to occur. Article III, Section 30 of the Missouri Constitution requires Senate Joint Resolution No. 29 to be signed by the presiding officer of each house in open session. Once this occurs, the General Assembly will deliver SJR 29 to my office. Section 116.155, RSMo 2000 provides that the General Assembly may include in the joint resolution the official summary statement and a fiscal note summary in any statewide ballot measure it refers to the voters. If that is the case, no action by the Secretary of State or State Auditor to develop the ballot title is necessary. Section 116.160, RSMo 2000, provides that if the General Assembly adopts a joint resolution proposing a constitutional amendment without a fiscal note summary, after receipt of such resolution the Secretary of State shall promptly forward the resolution to the State Auditor. If the joint resolution contains no official summary statement, within twenty days after receipt of the resolution the Secretary of State shall develop and submit to the Attorney General a summary statement of the measure. The Attorney General has ten days to approve the summary statement. The Auditor has thirty days to prepare the fiscal note and fiscal summary. § 116.175, RSMo 2000. The Attorney General has ten days to approve the fiscal note summary. *Id.* Within three days of receiving the Attorney General's approval of the summary statement and fiscal note summary, the Secretary of State shall certify the official ballot title. § 116.180, RSMo 2000.

Only after all of the foregoing legal requirements have been completed, the ballot measure is ready to be certified to the election authorities. Section 116.240, RSMo 2000, provides: "Not later than the tenth Tuesday prior to an election at which a statewide ballot measure is to be voted on, the Secretary of State shall send each election authority a certified copy of the legal

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notice to be published. The legal notice shall include the date and time of the election and a sample ballot." Likewise section 115.125, RSMo 2000 provides that notice must be received by the election authority by 5:00 p.m. on the tenth Tuesday prior to the election.

May 25, 2004, is the tenth Tuesday before the August 3, 2004 election. We have not received SJR 29 from the General Assembly. If we receive it from the General Assembly and all of the steps outlined above are completed by May 25, 2004, we will make every effort to notify the election authorities prior to the deadline.

I note that you reference and enclose with your proclamation a copy of the House journal entry of May 14, 2004 relating to SJR 29 showing the vote of each Representative. I would point out that this does not constitute delivery or receipt of SJR 29 by the Secretary of State as required by Chapter 116, RSMo. I understand that you may be relying on the Missouri Supreme Court case of Brown v. Morris, 290 S.W. 2d 160 (Mo. banc 1955) which states that the Governor and the Courts may determine from the legislative journals whether a bill has passed both houses. That case has no application here because the issue is not whether SJR 29 passed -- rather, the issue is whether the Secretary of State has received it. Again, my office has not received SJR 29 from the General Assembly.

Sincerely,



Matt Blunt

cc: The Honorable Peter Kinder
The Honorable Catherine Hanaway