

SECOND REGULAR SESSION

# HOUSE BILL NO. 1509

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ELLEBRACHT.

3375H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 105.955, 105.959, 105.961, 130.021, and 130.034, RSMo, and to enact in lieu thereof five new sections relating to ethics, with penalty provisions.

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

Section A. Sections 105.955, 105.959, 105.961, 130.021, and 130.034, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 105.955,  
3 105.959, 105.961, 130.021, and 130.034, to read as follows:

105.955. 1. A bipartisan "Missouri Ethics Commission", composed of six members,  
2 is hereby established. The commission shall be assigned to the office of administration with  
3 supervision by the office of administration only for budgeting and reporting as provided by  
4 subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974.  
5 Supervision by the office of administration shall not extend to matters relating to policies,  
6 regulative functions or appeals from decisions of the commission, and the commissioner of  
7 administration, any employee of the office of administration, or the governor, either directly  
8 or indirectly, shall not participate or interfere with the activities of the commission in any  
9 manner not specifically provided by law and shall not in any manner interfere with the budget  
10 request of or withhold any moneys appropriated to the commission by the general assembly.  
11 All members of the commission shall be appointed by the governor with the advice and  
12 consent of the senate from lists submitted pursuant to this section. Each congressional district  
13 committee of the political parties having the two highest number of votes cast for their  
14 candidate for governor at the last gubernatorial election shall submit two names of eligible  
15 nominees for membership on the commission to the governor, and the governor shall select  
16 six members from such nominees to serve on the commission.

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.

17           2. Within thirty days of submission of the person's name to the governor as provided  
18 in subsection 1 of this section, and in order to be an eligible nominee for appointment to the  
19 commission, a person shall file a financial interest statement in the manner provided by  
20 section 105.485 and shall provide the governor, the president pro tempore of the senate, and  
21 the commission with a list of all political contributions and the name of the candidate or  
22 committee, political party, or continuing committee, as defined in chapter 130, to which those  
23 contributions were made within the four-year period prior to such appointment, made by the  
24 nominee, the nominee's spouse, or any business entity in which the nominee has a substantial  
25 interest. The information shall be maintained by the commission and available for public  
26 inspection during the period of time during which the appointee is a member of the  
27 commission. In order to be an eligible nominee for membership on the commission, a person  
28 shall be a citizen and a resident of the state and shall have been a registered voter in the state  
29 for a period of at least five years preceding the person's appointment.

30           3. The term of each member shall be for four years, except that of the members first  
31 appointed, the governor shall select three members from even-numbered congressional  
32 districts and three members from odd-numbered districts. Not more than three members of  
33 the commission shall be members of the same political party, nor shall more than one member  
34 be from any one United States congressional district. Not more than two members appointed  
35 from the even-numbered congressional districts shall be members of the same political party,  
36 and no more than two members from the odd-numbered congressional districts shall be  
37 members of the same political party. Of the members first appointed, the terms of the  
38 members appointed from the odd-numbered congressional districts shall expire on March 15,  
39 1994, and the terms of the members appointed from the even-numbered congressional  
40 districts shall expire on March 15, 1996. Thereafter all successor members of the commission  
41 shall be appointed for four-year terms. Terms of successor members of the commission shall  
42 expire on March fifteenth of the fourth year of their term. No member of the commission  
43 shall serve on the commission after the expiration of the member's term. No person shall be  
44 appointed to more than one full four-year term on the commission.

45           4. Vacancies or expired terms on the commission shall be filled in the same manner as  
46 the original appointment was made, except as provided in this subsection. Within thirty days  
47 of the vacancy or ninety days before the expiration of the term, the names of two eligible  
48 nominees for membership on the commission shall be submitted to the governor by the  
49 congressional district committees of the political party or parties of the vacating member or  
50 members, from the even- or odd-numbered congressional districts, based on the residence of  
51 the vacating member or members, other than from the congressional district committees from  
52 districts then represented on the commission and from the same congressional district party  
53 committee or committees which originally appointed the member or members whose

54 positions are vacated. Appointments to fill vacancies or expired terms shall be made within  
55 forty-five days after the deadline for submission of names by the congressional district  
56 committees, and shall be subject to the same qualifications for appointment and eligibility as  
57 is provided in subsections 2 and 3 of this section. Appointments to fill vacancies for  
58 unexpired terms shall be for the remainder of the unexpired term of the member whom the  
59 appointee succeeds, and such appointees shall be eligible for appointment to one full four-  
60 year term. If the congressional district committee does not submit the required two nominees  
61 within the thirty days or if the congressional district committee does not submit the two  
62 nominees within an additional thirty days after receiving notice from the governor to submit  
63 the nominees, then the governor may appoint a person or persons who shall be subject to the  
64 same qualifications for appointment and eligibility as provided in subsections 2 and 3 of this  
65 section.

66 5. The governor, with the advice and consent of the senate, may remove any member  
67 only for substantial neglect of duty, inability to discharge the powers and duties of office,  
68 gross misconduct or conviction of a felony or a crime involving moral turpitude. Members of  
69 the commission also may be removed from office by concurrent resolution of the general  
70 assembly signed by the governor. If such resolution receives the vote of two-thirds or more of  
71 the membership of both houses of the general assembly, the signature of the governor shall  
72 not be necessary to effect removal. The office of any member of the commission who moves  
73 from the congressional district from which the member was appointed shall be deemed  
74 vacated upon such change of residence.

75 6. The commission shall elect biennially one of its members as the chairman. The  
76 chairman may not succeed himself or herself after two years. No member of the commission  
77 shall succeed as chairman any member of the same political party as himself or herself. At  
78 least four members are necessary to constitute a quorum, and at least four affirmative votes  
79 shall be required for any action or recommendation of the commission.

80 7. No member or employee of the commission, during the person's term of service,  
81 shall hold or be a candidate for any other public office.

82 8. In the event that a retired judge is appointed as a member of the commission, the  
83 judge shall not serve as a special investigator while serving as a member of the commission.

84 9. No member of the commission shall, during the member's term of service or within  
85 one year thereafter:

- 86 (1) Be employed by the state or any political subdivision of the state;
- 87 (2) Be employed as a lobbyist;
- 88 (3) Serve on any other governmental board or commission;
- 89 (4) Be an officer of any political party or political organization;

90 (5) Permit the person's name to be used, or make contributions, in support of or in  
91 opposition to any candidate or proposition;

92 (6) Participate in any way in any election campaign; except that a member or  
93 employee of the commission shall retain the right to register and vote in any election, to  
94 express the person's opinion privately on political subjects or candidates, to participate in the  
95 activities of a civic, community, social, labor or professional organization and to be a member  
96 of a political party.

97 10. Each member of the commission shall receive, as full compensation for the  
98 member's services, the sum of one hundred dollars per day for each full day actually spent on  
99 work of the commission, and the member's actual and necessary expenses incurred in the  
100 performance of the member's official duties.

101 11. The commission shall appoint an executive director who shall serve subject to the  
102 supervision of and at the pleasure of the commission, but in no event for more than six years.  
103 The executive director shall be responsible for the administrative operations of the  
104 commission and perform such other duties as may be delegated or assigned to the director by  
105 law or by rule of the commission. The executive director shall employ staff and retain such  
106 contract services as the director deems necessary, within the limits authorized by  
107 appropriations by the general assembly.

108 12. Beginning on January 1, 1993, all lobbyist registration and expenditure reports  
109 filed pursuant to section 105.473, financial interest statements filed pursuant to subdivision  
110 (1) of section 105.489, and campaign finance disclosure reports filed other than with election  
111 authorities or local election authorities as provided by section 130.026 shall be filed with the  
112 commission.

113 13. Within sixty days of the initial meeting of the first commission appointed, the  
114 commission shall obtain from the clerk of the supreme court or the state courts administrator a  
115 list of retired appellate and circuit court judges who did not leave the judiciary as a result of  
116 being defeated in an election. The executive director shall determine those judges who  
117 indicate their desire to serve as special investigators and to investigate any and all complaints  
118 referred to them by the commission. The executive director shall maintain an updated list of  
119 those judges qualified and available for appointment to serve as special investigators. Such  
120 list shall be updated at least annually. The commission shall refer complaints to such special  
121 investigators on that list on a rotating schedule which ensures a random assignment of each  
122 special investigator. Each special investigator shall receive only one unrelated investigation  
123 at a time and shall not be assigned to a second or subsequent investigation until all other  
124 eligible investigators on the list have been assigned to an investigation. In the event that no  
125 special investigator is qualified or available to conduct a particular investigation, the  
126 commission may appoint a special investigator to conduct such particular investigation.

127 14. The commission shall have the following duties and responsibilities relevant to  
128 the impartial and effective enforcement of sections 105.450 to 105.496 and chapter 130, as  
129 provided in sections 105.955 to 105.963:

130 (1) Receive and review complaints regarding alleged violation of sections 105.450 to  
131 105.496 and chapter 130, conduct initial reviews and investigations regarding such  
132 complaints as provided herein; refer complaints to appropriate prosecuting authorities and  
133 appropriate disciplinary authorities along with recommendations for sanctions; and initiate  
134 judicial proceedings as allowed by sections 105.955 to 105.963;

135 (2) Review and audit any reports and statements required by the campaign finance  
136 disclosure laws contained in chapter 130, and financial interest disclosure laws or lobbyist  
137 registration and reporting laws as provided by sections 105.470 to 105.492, for timeliness,  
138 accuracy and completeness of content as provided in sections 105.955 to 105.963;

139 (3) **Direct independent investigations as described under subsection 2 of section**  
140 **105.959;**

141 (4) Develop appropriate systems to file and maintain an index of all such reports and  
142 statements to facilitate public access to such information, except as may be limited by  
143 confidentiality requirements otherwise provided by law, including cross-checking of  
144 information contained in such statements and reports. The commission may enter into  
145 contracts with the appropriate filing officers to effectuate such system. Such filing officers  
146 shall cooperate as necessary with the commission as reasonable and necessary to effectuate  
147 such purposes;

148 ~~[(4)]~~ (5) Provide information and assistance to lobbyists, elected and appointed  
149 officials, and employees of the state and political subdivisions in carrying out the provisions  
150 of sections 105.450 to 105.496 and chapter 130;

151 ~~[(5)]~~ (6) Make recommendations to the governor and general assembly or any state  
152 agency on the need for further legislation with respect to the ethical conduct of public  
153 officials and employees and to advise state and local government in the development of local  
154 government codes of ethics and methods of disclosing conflicts of interest as the commission  
155 may deem appropriate to promote high ethical standards among all elected and appointed  
156 officials or employees of the state or any political subdivision thereof and lobbyists;

157 ~~[(6)]~~ (7) Render advisory opinions as provided by this section;

158 ~~[(7)]~~ (8) Promulgate rules relating to the provisions of sections 105.955 to 105.963  
159 and chapter 130. All rules and regulations issued by the commission shall be prospective  
160 only in operation;

161 ~~[(8)]~~ (9) Request and receive from the officials and entities identified in subdivision  
162 (6) of section 105.450 designations of decision-making public servants.

163           15. In connection with such powers provided by sections 105.955 to 105.963 and  
164 chapter 130, the commission may:

165           (1) Subpoena witnesses and compel their attendance and testimony. Subpoenas shall  
166 be served and enforced in the same manner provided by section 536.077;

167           (2) Administer oaths and affirmations;

168           (3) Take evidence and require by subpoena duces tecum the production of books,  
169 papers, and other records relating to any matter being investigated or to the performance of  
170 the commission's duties or exercise of its powers. Subpoenas duces tecum shall be served and  
171 enforced in the same manner provided by section 536.077;

172           (4) Employ such personnel, including legal counsel, and contract for services  
173 including legal counsel, within the limits of its appropriation, as it deems necessary provided  
174 such legal counsel, either employed or contracted, represents the Missouri ethics commission  
175 before any state agency or before the courts at the request of the Missouri ethics commission.  
176 Nothing in this section shall limit the authority of the Missouri ethics commission as provided  
177 for in subsection 2 of section 105.961; and

178           (5) Obtain information from any department, division or agency of the state or any  
179 political subdivision reasonably calculated to lead to the discovery of evidence which will  
180 reasonably assist the commission in carrying out the duties prescribed in sections 105.955 to  
181 105.963 and chapter 130.

182           16. (1) Upon written request for an advisory opinion received by the commission,  
183 and if the commission determines that the person requesting the opinion would be directly  
184 affected by the application of law to the facts presented by the requesting person, the  
185 commission shall issue a written opinion advising the person who made the request, in  
186 response to the person's particular request, regarding any issue that the commission can  
187 receive a complaint on pursuant to section 105.957. The commission may decline to issue a  
188 written opinion by a vote of four members and shall provide to the requesting person the  
189 reason for the refusal in writing. The commission shall give an approximate time frame as to  
190 when the written opinion shall be issued. Such advisory opinions shall be issued no later than  
191 ninety days from the date of receipt by the commission. Such requests and advisory opinions,  
192 deleting the name and identity of the requesting person, shall be compiled and published by  
193 the commission on at least an annual basis. Advisory opinions issued by the commission  
194 shall be maintained and made available for public inspection and copying at the office of the  
195 commission during normal business hours. Any advisory opinion or portion of an advisory  
196 opinion rendered pursuant to this subsection shall be withdrawn by the commission if, after  
197 hearing thereon, the joint committee on administrative rules finds that such advisory opinion  
198 is beyond or contrary to the statutory authority of the commission or is inconsistent with the  
199 legislative intent of any law enacted by the general assembly, and after the general assembly,

200 by concurrent resolution, votes to adopt the findings and conclusions of the joint committee  
201 on administrative rules. Any such concurrent resolution adopted by the general assembly  
202 shall be published at length by the commission in its publication of advisory opinions of the  
203 commission next following the adoption of such resolution, and a copy of such concurrent  
204 resolution shall be maintained by the commission, along with the withdrawn advisory  
205 opinion, in its public file of advisory opinions. The commission shall also send a copy of  
206 such resolution to the person who originally requested the withdrawn advisory opinion. Any  
207 advisory opinion issued by the ethics commission shall act as legal direction to any person  
208 requesting such opinion and no person shall be liable for relying on the opinion and it shall  
209 act as a defense of justification against prosecution. An advisory opinion of the commission  
210 shall not be withdrawn unless:

211 (a) The authorizing statute is declared unconstitutional;

212 (b) The opinion goes beyond the power authorized by statute; or

213 (c) The authorizing statute is changed to invalidate the opinion.

214 (2) Upon request, the attorney general shall give the attorney general's opinion,  
215 without fee, to the commission, any elected official of the state or any political subdivision,  
216 any member of the general assembly, or any director of any department, division or agency of  
217 the state, upon any question of law regarding the effect or application of sections 105.450 to  
218 105.496, or chapter 130. Such opinion need be in writing only upon request of such official,  
219 member or director, and in any event shall be rendered within sixty days that such request is  
220 delivered to the attorney general.

221 17. The state auditor and the state auditor's duly authorized employees who have  
222 taken the oath of confidentiality required by section 29.070 may audit the commission and in  
223 connection therewith may inspect materials relating to the functions of the commission. Such  
224 audit shall include a determination of whether appropriations were spent within the intent of  
225 the general assembly, but shall not extend to review of any file or document pertaining to any  
226 particular investigation, audit or review by the commission, an investigator or any staff or  
227 person employed by the commission or under the supervision of the commission or an  
228 investigator. The state auditor and any employee of the state auditor shall not disclose the  
229 identity of any person who is or was the subject of an investigation by the commission and  
230 whose identity is not public information as provided by law.

231 18. From time to time but no more frequently than annually the commission may  
232 request the officials and entities described in subdivision (6) of section 105.450 to identify for  
233 the commission in writing those persons associated with such office or entity which such  
234 office or entity has designated as a decision-making public servant. Each office or entity  
235 delineated in subdivision (6) of section 105.450 receiving such a request shall identify those  
236 so designated within thirty days of the commission's request.

105.959. 1. The executive director of the commission, under the supervision of the  
2 commission, shall review reports and statements filed with the commission or other  
3 appropriate officers pursuant to sections 105.470, 105.483 to 105.492, and chapter 130 for  
4 completeness, accuracy and timeliness of filing of the reports or statements, and upon review,  
5 if there are reasonable grounds to believe that a violation has occurred, shall conduct an audit  
6 of such reports and statements. All investigations by the executive director of an alleged  
7 violation shall be strictly confidential with the exception of notification of the commission  
8 and the complainant or the person under investigation. All investigations by the executive  
9 director shall be limited to the information contained in the reports or statements. The  
10 commission shall notify the complainant or the person under investigation, by registered mail,  
11 within five days of the decision to conduct such investigation. Revealing any such  
12 confidential investigation information shall be cause for removal or dismissal of the executive  
13 director or a commission member or employee.

14       2. **(1) If there are reasonable grounds to believe that a violation has occurred**  
15 **and after the commission unanimously votes to proceed with all six members voting, the**  
16 **executive director shall, without receipt of a complaint, conduct an independent**  
17 **investigation of any potential violations of the provisions of:**

18       (a) **The requirements imposed on lobbyists by sections 105.470 to 105.478;**

19       (b) **The financial interest disclosure requirements contained in sections 105.483**  
20 **to 105.492;**

21       (c) **The campaign finance disclosure requirements contained in chapter 130;**

22       (d) **Any code of conduct promulgated by any department, division, or agency of**  
23 **state government; by state institutions of higher education; or by executive order;**

24       (e) **The conflict of interest laws contained in sections 105.450 to 105.467 and**  
25 **section 171.181;**

26       (f) **The constitution of Missouri or state statute relating to the official conduct of**  
27 **officials or employees of the state;**

28       (g) **Any order, ordinance, or resolution of any political subdivision relating to the**  
29 **official conduct of officials or employees of the political subdivision; and**

30       (h) **The requirements under Article VIII, Section 23 and Article III, Sections 2**  
31 **and 20(c) of the Constitution of Missouri.**

32       **(2) If an investigation conducted under this subsection fails to establish**  
33 **reasonable grounds to believe that a violation has occurred, the investigation shall be**  
34 **terminated and the person who had been under investigation shall be notified of the**  
35 **reasons for the disposition of the investigation.**

36       3. Upon findings of the appropriate filing officer which are reported to the  
37 commission in accordance with the provisions of section 130.056, the executive director shall



38 audit disclosure reports, statements and records pertaining to such findings within a  
39 reasonable time after receipt of the reports from the appropriate filing officer.

40 ~~[3-]~~ 4. Upon a sworn written complaint of any natural person filed with the  
41 commission pursuant to section 105.957, the commission shall audit and investigate alleged  
42 violations. Within sixty days after receipt of a sworn written complaint alleging a violation,  
43 the executive director shall notify the complainant in writing of the action, if any, the  
44 executive director has taken and plans to take on the complaint. If an investigation conducted  
45 pursuant to this subsection fails to establish reasonable grounds to believe that a violation has  
46 occurred, the investigation shall be terminated and the complainant and the person who had  
47 been under investigation shall be notified of the reasons for the disposition of the complaint.

48 ~~[4-]~~ 5. The commission may make such investigations and inspections within or  
49 outside of this state as are necessary to determine compliance.

50 ~~[5-]~~ 6. If, during an audit or investigation, the commission determines that a formal  
51 investigation is necessary, the commission shall assign the investigation to a special  
52 investigator in the manner provided by subsection 1 of section 105.961.

53 ~~[6-]~~ 7. After completion of an audit or investigation, the executive director shall  
54 provide a detailed report of such audit or investigation to the commission. Upon  
55 determination that there are reasonable grounds to believe that a person has violated the  
56 requirements of sections 105.470, 105.483 to 105.492, or chapter 130, by a vote of four  
57 members of the commission, the commission may refer the report with the recommendations  
58 of the commission to the appropriate prosecuting authority together with a copy of the audit  
59 and the details of the investigation by the commission as is provided in subsection 2 of  
60 section 105.961.

105.961. 1. Upon receipt of a complaint as described by section 105.957, the  
2 commission shall assign the complaint to a special investigator, who may be a commission  
3 employee, who shall investigate and determine the merits of the complaint. Within ten days  
4 of such assignment, the special investigator shall review such complaint and disclose, in  
5 writing, to the commission any conflict of interest which the special investigator has or might  
6 have with respect to the investigation and subject thereof. Within one hundred twenty days of  
7 receipt of the complaint from the commission, the special investigator shall submit the special  
8 investigator's report to the commission. The commission, after review of such report, shall  
9 determine:

10 (1) That there is reasonable grounds for belief that a violation has occurred; or

11 (2) That there are no reasonable grounds for belief that a violation exists and the  
12 complaint should be dismissed; or

13 (3) That additional time is necessary to complete the investigation, and the status and  
14 progress of the investigation to date. The commission, in its discretion, may allow the

15 investigation to proceed for additional successive periods of one hundred twenty days each,  
16 pending reports regarding the status and progress of the investigation at the end of each such  
17 period.

18         2. When the commission concludes, based on the report from the special investigator,  
19 or based on an audit conducted pursuant to section 105.959, that there are reasonable grounds  
20 to believe that a violation of any criminal law has occurred, and if the commission believes  
21 that criminal prosecution would be appropriate upon a vote of four members of the  
22 commission, the commission shall refer the report to the Missouri office of prosecution  
23 services, prosecutors coordinators training council established in section 56.760, which shall  
24 submit a panel of five attorneys for recommendation to the court having criminal jurisdiction,  
25 for appointment of an attorney to serve as a special prosecutor; except that, the attorney  
26 general of Missouri or any assistant attorney general shall not act as such special prosecutor.  
27 The court shall then appoint from such panel a special prosecutor pursuant to section 56.110  
28 who shall have all the powers provided by section 56.130. The court shall allow a reasonable  
29 and necessary attorney's fee for the services of the special prosecutor. Such fee shall be  
30 assessed as costs if a case is filed, or ordered by the court if no case is filed, and paid together  
31 with all other costs in the proceeding by the state, in accordance with rules and regulations  
32 promulgated by the state courts administrator, subject to funds appropriated to the office of  
33 administration for such purposes. If the commission does not have sufficient funds to pay a  
34 special prosecutor, the commission shall refer the case to the prosecutor or prosecutors having  
35 criminal jurisdiction. If the prosecutor having criminal jurisdiction is not able to prosecute  
36 the case due to a conflict of interest, the court may appoint a special prosecutor, paid from  
37 county funds, upon appropriation by the county or the attorney general to investigate and, if  
38 appropriate, prosecute the case. The special prosecutor or prosecutor shall commence an  
39 action based on the report by the filing of an information or seeking an indictment within  
40 sixty days of the date of such prosecutor's appointment, or shall file a written statement with  
41 the commission explaining why criminal charges should not be sought. If the special  
42 prosecutor or prosecutor fails to take either action required by this subsection, upon request of  
43 the commission, a new special prosecutor, who may be the attorney general, shall be  
44 appointed. The report may also be referred to the appropriate disciplinary authority over the  
45 person who is the subject of the report.

46         3. When the commission concludes, based on the report from the special investigator  
47 or based on an audit conducted pursuant to section 105.959, that there are reasonable grounds  
48 to believe that a violation of any law has occurred which is not a violation of criminal law or  
49 that criminal prosecution is not appropriate, the commission shall conduct a hearing which  
50 shall be a closed meeting and not open to the public. The hearing shall be conducted pursuant  
51 to the procedures provided by sections 536.063 to 536.090 and shall be considered to be a

52 contested case for purposes of such sections. The commission shall determine, in its  
53 discretion, whether or not that there is probable cause that a violation has occurred. If the  
54 commission determines, by a vote of at least four members of the commission, that probable  
55 cause exists that a violation has occurred, the commission may refer its findings and  
56 conclusions to the appropriate disciplinary authority over the person who is the subject of the  
57 report, as described in subsection 7 of this section. After the commission determines by a  
58 vote of at least four members of the commission that probable cause exists that a violation has  
59 occurred, and the commission has referred the findings and conclusions to the appropriate  
60 disciplinary authority over the person subject of the report, the subject of the report may  
61 appeal the determination of the commission to the administrative hearing commission. Such  
62 appeal shall stay the action of the Missouri ethics commission. Such appeal shall be filed not  
63 later than the fourteenth day after the subject of the commission's action receives actual notice  
64 of the commission's action.

65 4. If the appropriate disciplinary authority receiving a report from the commission  
66 pursuant to subsection 3 of this section fails to follow, within sixty days of the receipt of the  
67 report, the recommendations contained in the report, or if the commission determines, by a  
68 vote of at least four members of the commission that some action other than referral for  
69 criminal prosecution or for action by the appropriate disciplinary authority would be  
70 appropriate, the commission shall take any one or more of the following actions:

71 (1) Notify the person to cease and desist violation of any provision of law which the  
72 report concludes was violated and that the commission may seek judicial enforcement of its  
73 decision pursuant to subsection 5 of this section;

74 (2) Notify the person of the requirement to file, amend or correct any report,  
75 statement, or other document or information required by sections 105.473, 105.483 to  
76 105.492, or chapter 130 and that the commission may seek judicial enforcement of its  
77 decision pursuant to subsection 5 of this section; and

78 (3) File the report with the executive director to be maintained as a public document;  
79 or

80 (4) Issue a letter of concern or letter of reprimand to the person, which would be  
81 maintained as a public document; or

82 (5) Issue a letter that no further action shall be taken, which would be maintained as a  
83 public document; or

84 (6) Through reconciliation agreements or civil action, the power to seek fees for  
85 violations in an amount not greater than one thousand dollars or double the amount involved  
86 in the violation.

87 5. Upon vote of at least four members, the commission may initiate formal judicial  
88 proceedings seeking to obtain any of the following orders:

89 (1) Cease and desist violation of any provision of sections 105.450 to 105.496, or  
90 chapter 130, or sections 105.955 to 105.963;

91 (2) Pay any civil penalties required by sections 105.450 to 105.496 or chapter 130;

92 (3) File any reports, statements, or other documents or information required by  
93 sections 105.450 to 105.496, or chapter 130; or

94 (4) Pay restitution for any unjust enrichment the violator obtained as a result of any  
95 violation of any criminal statute as described in subsection 6 of this section.

96

97 The Missouri ethics commission shall give actual notice to the subject of the complaint of the  
98 proposed action as set out in this section. The subject of the complaint may appeal the action  
99 of the Missouri ethics commission, other than a referral for criminal prosecution, to the  
100 administrative hearing commission. Such appeal shall stay the action of the Missouri ethics  
101 commission. Such appeal shall be filed no later than fourteen days after the subject of the  
102 commission's actions receives actual notice of the commission's actions.

103 6. In the proceeding in circuit court, the commission may seek restitution against any  
104 person who has obtained unjust enrichment as a result of violation of any provision of  
105 sections 105.450 to 105.496, or chapter 130 and may recover on behalf of the state or political  
106 subdivision with which the alleged violator is associated, damages in the amount of any  
107 unjust enrichment obtained and costs and attorney's fees as ordered by the court.

108 7. The appropriate disciplinary authority to whom a report shall be sent pursuant to  
109 subsection 2 or 3 of this section shall include, but not be limited to, the following:

110 (1) In the case of a member of the general assembly, the ethics committee of the  
111 house of which the subject of the report is a member;

112 (2) In the case of a person holding an elective office or an appointive office of the  
113 state, if the alleged violation is an impeachable offense, the report shall be referred to the  
114 ethics committee of the house of representatives;

115 (3) In the case of a person holding an elective office of a political subdivision, the  
116 report shall be referred to the governing body of the political subdivision;

117 (4) In the case of any officer or employee of the state or of a political subdivision, the  
118 report shall be referred to the person who has immediate supervisory authority over the  
119 employment by the state or by the political subdivision of the subject of the report;

120 (5) In the case of a judge of a court of law, the report shall be referred to the  
121 commission on retirement, removal and discipline, or if the inquiry involves an employee of  
122 the judiciary to the applicable presiding judge;

123 (6) In the case of a person holding an appointive office of the state, if the alleged  
124 violation is not an impeachable offense, the report shall be referred to the governor;

125 (7) In the case of a statewide elected official, the report shall be referred to the  
126 attorney general;

127 (8) In a case involving the attorney general, the report shall be referred to the  
128 prosecuting attorney of Cole County.

129 8. The special investigator having a complaint referred to the special investigator by  
130 the commission shall have the following powers:

131 (1) To request and shall be given access to information in the possession of any  
132 person or agency which the special investigator deems necessary for the discharge of the  
133 special investigator's responsibilities;

134 (2) To examine the records and documents of any person or agency, unless such  
135 examination would violate state or federal law providing for confidentiality;

136 (3) To administer oaths and affirmations;

137 (4) Upon refusal by any person to comply with a request for information relevant to  
138 an investigation, an investigator may issue a subpoena for any person to appear and give  
139 testimony, or for a subpoena duces tecum to produce documentary or other evidence which  
140 the investigator deems relevant to a matter under the investigator's inquiry. The subpoenas  
141 and subpoenas duces tecum may be enforced by applying to a judge of the circuit court of  
142 Cole County or any county where the person or entity that has been subpoenaed resides or  
143 may be found, for an order to show cause why the subpoena or subpoena duces tecum should  
144 not be enforced. The order and a copy of the application therefor shall be served in the same  
145 manner as a summons in a civil action, and if, after hearing, the court determines that the  
146 subpoena or subpoena duces tecum should be sustained and enforced, the court shall enforce  
147 the subpoena or subpoena duces tecum in the same manner as if it had been issued by the  
148 court in a civil action; and

149 (5) To request from the commission such investigative, clerical or other staff  
150 assistance or advancement of other expenses which are necessary and convenient for the  
151 proper completion of an investigation. Within the limits of appropriations to the commission,  
152 the commission may provide such assistance, whether by contract to obtain such assistance or  
153 from staff employed by the commission, or may advance such expenses.

154 9. (1) Any retired judge may request in writing to have the judge's name removed  
155 from the list of special investigators subject to appointment by the commission or may request  
156 to disqualify himself or herself from any investigation. Such request shall include the reasons  
157 for seeking removal;

158 (2) By vote of four members of the commission, the commission may disqualify a  
159 judge from a particular investigation or may permanently remove the name of any retired  
160 judge from the list of special investigators subject to appointment by the commission.

161           10. Any person who is the subject of any investigation pursuant to this section shall  
162 be entitled to be represented by counsel at any proceeding before the special investigator or  
163 the commission.

164           11. The provisions of sections 105.957, 105.959 and 105.961 are in addition to other  
165 provisions of law under which any remedy or right of appeal or objection is provided for any  
166 person, or any procedure provided for inquiry or investigation concerning any matter. The  
167 provisions of this section shall not be construed to limit or affect any other remedy or right of  
168 appeal or objection.

169           12. No person shall be required to make or file a complaint to the commission as a  
170 prerequisite for exhausting the person's administrative remedies before pursuing any civil  
171 cause of action allowed by law.

172           13. If, in the opinion of the commission, the complaining party was motivated by  
173 malice or reason contrary to the spirit of any law on which such complaint was based, in filing  
174 the complaint without just cause, this finding shall be reported to appropriate law enforcement  
175 authorities. Any person who knowingly files a complaint without just cause, or with malice,  
176 is guilty of a class A misdemeanor.

177           14. A respondent party who prevails in a formal judicial action brought by the  
178 commission shall be awarded those reasonable fees and expenses incurred by that party in the  
179 formal judicial action, unless the court finds that the position of the commission was  
180 substantially justified or that special circumstances make such an award unjust.

181           15. The special investigator and members and staff of the commission shall maintain  
182 confidentiality with respect to all matters concerning a complaint until and if a report is filed  
183 with the commission, with the exception of communications with any person which are  
184 necessary to the investigation. The report filed with the commission resulting from a  
185 complaint acted upon under the provisions of this section shall not contain the name of the  
186 complainant or other person providing information to the investigator, if so requested in  
187 writing by the complainant or such other person. Any person who violates the confidentiality  
188 requirements imposed by this section or subsection 17 of section 105.955 [~~required to be~~  
189 ~~confidential~~] is guilty of a class A misdemeanor and shall be subject to removal from or  
190 termination of employment by the commission.

191           16. Any judge of the court of appeals or circuit court who ceases to hold such office  
192 by reason of the judge's retirement and who serves as a special investigator pursuant to this  
193 section shall receive annual compensation, salary or retirement for such services at the rates  
194 of compensation provided for senior judges by subsections 1, 2 and 4 of section 476.682.  
195 Such retired judges shall by the tenth day of each month following any month in which the  
196 judge provided services pursuant to this section certify to the commission and to the state  
197 courts administrator the amount of time engaged in such services by hour or fraction thereof,

198 the dates thereof, and the expenses incurred and allowable pursuant to this section. The  
199 commission shall then issue a warrant to the state treasurer for the payment of the salary and  
200 expenses to the extent, and within limitations, provided for in this section. The state treasurer  
201 upon receipt of such warrant shall pay the same out of any appropriations made for this  
202 purpose on the last day of the month during which the warrant was received by the state  
203 treasurer.

130.021. 1. Every committee shall have a treasurer who, except as provided in  
2 subsection 10 of this section, shall be a resident of this state and reside in the district or county  
3 in which the committee sits. A committee may also have a deputy treasurer who, except as  
4 provided in subsection 10 of this section, shall be a resident of this state and reside in the  
5 district or county in which the committee sits, to serve in the capacity of committee treasurer  
6 in the event the committee treasurer is unable for any reason to perform the treasurer's duties.

7 2. Every candidate for offices listed in subsection 1 of section 130.016 who has not  
8 filed a statement of exemption pursuant to that subsection and every candidate for offices  
9 listed in subsection 6 of section 130.016 who is not excluded from filing a statement of  
10 organization and disclosure reports pursuant to subsection 6 of section 130.016 shall form a  
11 candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all  
12 further contributions received by such candidate and any of the candidate's own funds to be  
13 used in support of the person's candidacy shall be deposited in a candidate committee  
14 depository account established pursuant to the provisions of subsection 4 of this section, and  
15 all expenditures shall be made through the candidate, treasurer or deputy treasurer of the  
16 person's candidate committee. Nothing in this chapter shall prevent a candidate from  
17 appointing himself or herself as a committee of one and serving as the person's own treasurer,  
18 maintaining the candidate's own records and filing all the reports and statements required to  
19 be filed by the treasurer of a candidate committee.

20 3. A candidate who has more than one candidate committee supporting the person's  
21 candidacy shall designate one of those candidate committees as the committee responsible for  
22 consolidating the aggregate contributions to all such committees under the candidate's control  
23 and direction as required by section 130.041.

24 4. (1) Every committee shall have a single official fund depository within this state  
25 which shall be a federally or state-chartered bank, a federally or state-chartered savings and  
26 loan association, or a federally or state-chartered credit union in which the committee shall  
27 open and thereafter maintain at least one official depository account in its own name. An  
28 "official depository account" shall be a checking account or some type of negotiable draft or  
29 negotiable order of withdrawal account, and the official fund depository shall, regarding an  
30 official depository account, be a type of financial institution which provides a record of  
31 deposits, cancelled checks or other cancelled instruments of withdrawal evidencing each

32 transaction by maintaining copies within this state of such instruments and other transactions.  
33 All contributions which the committee receives in money, checks and other negotiable  
34 instruments shall be deposited in a committee's official depository account. Contributions  
35 shall not be accepted and expenditures shall not be made by a committee except by or through  
36 an official depository account and the committee treasurer, deputy treasurer or candidate.  
37 Contributions received by a committee shall not be commingled with any funds of an agent of  
38 the committee, a candidate or any other person, except that contributions from a candidate of  
39 the candidate's own funds to the person's candidate committee shall be deposited to an official  
40 depository account of the person's candidate committee. No expenditure shall be made by a  
41 committee when the office of committee treasurer is vacant except that when the office of a  
42 candidate committee treasurer is vacant, the candidate shall be the treasurer until the  
43 candidate appoints a new treasurer.

44 (2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a  
45 committee's official depository account and deposit such funds in one or more savings  
46 accounts in the committee's name in any bank, savings and loan association or credit union  
47 within this state, and may also withdraw funds from an official depository account for  
48 investment in the committee's name in any certificate of deposit, bond or security. Proceeds  
49 from interest or dividends from a savings account or other investment or proceeds from  
50 withdrawals from a savings account or from the sale of an investment shall not be expended  
51 or reinvested, except in the case of renewals of certificates of deposit, without first  
52 redepositing such proceeds in an official depository account. Investments, other than savings  
53 accounts, held outside the committee's official depository account at any time during a  
54 reporting period shall be disclosed by description, amount, any identifying numbers and the  
55 name and address of any institution or person in which or through which it is held in an  
56 attachment to disclosure reports the committee is required to file. Proceeds from an  
57 investment such as interest or dividends or proceeds from its sale, shall be reported by date  
58 and amount. In the case of the sale of an investment, the names and addresses of the persons  
59 involved in the transaction shall also be stated. Funds held in savings accounts and  
60 investments, including interest earned, shall be included in the report of money on hand as  
61 required by section 130.041.

62 (3) Notwithstanding any other provision of law to the contrary, funds held in  
63 candidate committees, campaign committees, debt service committees, ~~[and]~~ exploratory  
64 committees, **continuing committees, and political party committees** shall be liquid such  
65 that these funds shall be readily available for the specific and limited purposes allowed by  
66 law. These funds may be invested only in short-term treasury instruments or short-term bank  
67 certificates with durations of one year or less, or that allow the removal of funds at any time  
68 without any additional financial penalty other than the loss of interest income. ~~[Continuing~~



69 ~~committees, political party committees, and~~ Other committees such as out-of-state  
70 committees not formed for the benefit of any single candidate or ballot issue shall not be  
71 subject to the provisions of this subdivision. This subdivision shall not be interpreted to  
72 restrict the placement of funds in an interest-bearing checking account.

73         5. The treasurer or deputy treasurer acting on behalf of any person or organization or  
74 group of persons which is a committee by virtue of the definitions of committee in section  
75 130.011 and any candidate who is not excluded from forming a committee in accordance with  
76 the provisions of section 130.016 shall file a statement of organization with the appropriate  
77 officer within twenty days after the person or organization becomes a committee but no later  
78 than the date for filing the first report required pursuant to the provisions of section 130.046.  
79 The statement of organization shall contain the following information:

80         (1) The name, mailing address and telephone number, if any, of the committee filing  
81 the statement of organization. If the committee is deemed to be affiliated with a connected  
82 organization as provided in subdivision (11) of section 130.011, the name of the connected  
83 organization, or a legally registered fictitious name which reasonably identifies the connected  
84 organization, shall appear in the name of the committee. If the committee is a candidate  
85 committee, the name of the candidate shall be a part of the committee's name;

86         (2) The name, mailing address and telephone number of the candidate;

87         (3) The name, mailing address and telephone number of the committee treasurer, and  
88 the name, mailing address and telephone number of its deputy treasurer if the committee has  
89 named a deputy treasurer;

90         (4) The names, mailing addresses and titles of its officers, if any;

91         (5) The name and mailing address of any connected organizations with which the  
92 committee is affiliated;

93         (6) The name and mailing address of its depository, and the name and account  
94 number of each account the committee has in the depository. The account number of each  
95 account shall be redacted prior to disclosing the statement to the public;

96         (7) Identification of the major nature of the committee such as a candidate committee,  
97 campaign committee, continuing committee, political party committee, incumbent committee,  
98 or any other committee according to the definition of committee in section 130.011;

99         (8) In the case of the candidate committee designated in subsection 3 of this section,  
100 the full name and address of each other candidate committee which is under the control and  
101 direction of the same candidate, together with the name, address and telephone number of the  
102 treasurer of each such other committee;

103         (9) The name and office sought of each candidate supported or opposed by the  
104 committee;

105 (10) The ballot measure concerned, if any, and whether the committee is in favor of or  
106 opposed to such measure.

107 6. A committee may omit the information required in subdivisions (9) and (10) of  
108 subsection 5 of this section if, on the date on which it is required to file a statement of  
109 organization, the committee has not yet determined the particular candidates or particular  
110 ballot measures it will support or oppose.

111 7. A committee which has filed a statement of organization and has not terminated  
112 shall not be required to file another statement of organization, except that when there is a  
113 change in any of the information previously reported as required by subdivisions (1) to (8) of  
114 subsection 5 of this section an amended statement of organization shall be filed within twenty  
115 days after the change occurs, but no later than the date of the filing of the next report required  
116 to be filed by that committee by section 130.046.

117 8. Upon termination of a committee, a termination statement indicating dissolution  
118 shall be filed not later than ten days after the date of dissolution with the appropriate officer or  
119 officers with whom the committee's statement of organization was filed. The termination  
120 statement shall include: the distribution made of any remaining surplus funds and the  
121 disposition of any deficits; and the name, mailing address and telephone number of the  
122 individual responsible for preserving the committee's records and accounts as required in  
123 section 130.036.

124 9. Any statement required by this section shall be signed and attested by the  
125 committee treasurer or deputy treasurer, and by the candidate in the case of a candidate  
126 committee.

127 10. A committee domiciled outside this state shall be required to file a statement of  
128 organization and appoint a treasurer residing in this state and open an account in a depository  
129 within this state; provided that either of the following conditions prevails:

130 (1) The aggregate of all contributions received from persons domiciled in this state  
131 exceeds twenty percent in total dollar amount of all funds received by the committee in the  
132 preceding twelve months; or

133 (2) The aggregate of all contributions and expenditures made to support or oppose  
134 candidates and ballot measures in this state exceeds one thousand five hundred dollars in the  
135 current calendar year.

136 11. If a committee domiciled in this state receives a contribution of one thousand five  
137 hundred dollars or more from any committee domiciled outside of this state, the committee  
138 domiciled in this state shall file a disclosure report with the commission. The report shall  
139 disclose the full name, mailing address, telephone numbers and domicile of the contributing  
140 committee and the date and amount of the contribution. The report shall be filed within forty-

141 eight hours of the receipt of such contribution if the contribution is received after the last  
142 reporting date before the election.

143 12. Each legislative and senatorial district committee shall retain only one address in  
144 the district it sits for the purpose of receiving contributions.

130.034. 1. Contributions as defined in section 130.011, received by any committee  
2 shall not be converted to any personal use.

3 2. Contributions may be used for any purpose allowed by law including, but not  
4 limited to:

5 (1) Any ordinary expenses incurred relating to a campaign;

6 (2) Any ordinary and necessary expenses incurred in connection with the duties of a  
7 holder of elective office;

8 (3) Any expenses associated with the duties of candidacy or of elective office  
9 pertaining to the entertaining of or providing social courtesies to constituents, professional  
10 associations, or other holders of elective office;

11 (4) The return of any contribution to the person who made the contribution to the  
12 candidate or holder of elective office;

13 (5) To contribute to a political organization or candidate committee as allowed by  
14 law;

15 (6) To establish a new committee as defined by this chapter;

16 (7) To make an unconditional gift which is fully vested to any charitable, fraternal or  
17 civic organizations or other associations formed to provide for some good in the order of  
18 benevolence, if such candidate, former candidate or holder of elective office or such person's  
19 immediate family gain no direct financial benefit from the unconditional gift[;

20 ~~(8) Except when such candidate, former candidate or holder of elective office dies~~  
21 ~~while the committee remains in existence, the committee may make an unconditional gift to a~~  
22 ~~fund established for the benefit of the spouse and children of the candidate, former candidate~~  
23 ~~or holder of elective office. The provisions of this subdivision shall expire October 1, 1997].~~

24 3. Upon the death of the candidate, former candidate or holder of elective office who  
25 received such contributions, all contributions shall be disposed of according to this section  
26 and any funds remaining after final settlement of the candidate's decedent's estate, or if no  
27 estate is opened, then twelve months after the candidate's death, will escheat to the state of  
28 Missouri to be deposited in the general revenue fund.

29 4. No contributions, as defined in section 130.011, received by a candidate, former  
30 candidate or holder of elective office shall be used to make restitution payments ordered of  
31 such individual by a court of law or for the payment of any fine resulting from conviction of a  
32 violation of any local, state or federal law.

33           5. Committees described in subdivision (17) of section 130.011 shall make  
34 expenditures only for the purpose of determining whether an individual will be a candidate.  
35 Such expenditures include polling information, mailings, personal appearances, telephone  
36 expenses, office and travel expenses but may not include contributions to other candidate  
37 committees.

38           6. Any moneys in the exploratory committee fund may be transferred to the candidate  
39 committee upon declaration of candidacy for the position being explored. Such funds shall be  
40 included for the purposes of reporting and limitation. In the event that candidacy is not  
41 declared for the position being explored, the remaining exploratory committee funds shall be  
42 returned to the contributors on a pro rata basis. In no event shall the amount returned exceed  
43 the amount given by each contributor nor be less than ten dollars.

44           7. Funds held in candidate committees, campaign committees, debt service  
45 committees, ~~and~~ exploratory committees, **continuing committees, and political party**  
46 **committees** shall be liquid such that these funds shall be readily available for the specific and  
47 limited purposes allowed by law. These funds may be invested only in short-term treasury  
48 instruments or short-term bank certificates with durations of one year or less, or that allow the  
49 removal of funds at any time without any additional financial penalty other than the loss of  
50 interest income. ~~[Continuing committees, political party committees, and]~~ Other committees  
51 such as out-of-state committees not formed for the benefit of any single candidate or ballot  
52 issue shall not be subject to the provisions of this subsection. This subsection shall not be  
53 interpreted to restrict the placement of funds in an interest-bearing checking account.

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