

**HOUSE****AMENDMENT NO. \_\_\_\_\_****Offered by \_\_\_\_\_****of \_\_\_\_\_**

1 AMEND House Committee Substitute for House Bill Nos. 1258 & 1267,  
 2 Page 1, In the Title, Lines 3 and 4, by deleting all of said  
 3 lines and inserting in lieu thereof the following: "no. 1120,  
 4 ninety-first general assembly, second regular session, sections  
 5 105.473, 105.955, 105.957, 105.959, 105.961, 105.963, and 130.031  
 6 as enacted by conference committee substitute no. 3"; and  
 7

8 Further amend said bill, Page 1, In the Title, Line 6, by  
 9 deleting all of said line and inserting in lieu thereof the  
 10 following: "assembly, second regular session, sections 105.473,  
 11 105.957, 105.959, and 105.963 as enacted by conference"; and  
 12

13 Further amend said bill, Page 1, In the Title, Line 8, by  
 14 deleting all of said line and inserting in lieu thereof the  
 15 following: "no. 1900, ninety-third general assembly, second  
 16 regular session, sections 105.955 and 130.031 as"; and  
 17

18 Further amend said bill, Page 1, In the Title, Line 11, by  
 19 inserting immediately after the word "session," the following:  
 20 "and section 105.961 as enacted by conference committee  
 21 substitute no. 2 for house substitute for house committee  
 22 substitute for senate committee substitute for senate bill no.  
 23 16, ninety-first general assembly, first regular session,"; and  
 24

25 Further amend said bill, Page 1, Section A, Lines 2 and 3,  
 26 by deleting all of said lines and inserting in lieu thereof the  
 27 following: "house bill no. 1120, ninety-first general assembly,  
 28 second regular session, sections 105.473, 105.955, 105.957,  
 29 105.959, 105.961, 105.963, and 130.031 as enacted by conference

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Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 committee substitute no. 3 for"; and

2  
3 Further amend said bill, Page 1, Section A, Line 5, by  
4 inserting immediately after the number "105.473" the following:  
5 ", 105.957, 105.959, and 105.963"; and

6  
7 Further amend said bill, Page 1, Section A, Line 7, by  
8 deleting the words "and section" and inserting in lieu thereof  
9 the following: "sections 105.955 and"; and

10  
11 Further amend said bill, Page 1, Section A, Line 9, by  
12 inserting immediately after the word "session," the following:  
13 "and section 105.961 as enacted by conference committee  
14 substitute no. 2 for house substitute for house committee  
15 substitute for senate committee substitute for senate bill no.  
16 16, ninety-first general assembly, first regular session,"; and

17  
18 Further amend said bill, Page 1, Section A, Line 11, by  
19 inserting after all of said line the following:

20 "27.035. When directed by the Missouri ethics commission,  
21 the attorney general, or a designated assistant, shall aid the  
22 ethics commission in any investigation as provided in subsection  
23 9 of section 105.959.

24 28.320. When directed by the Missouri ethics commission,  
25 the elections division of the office of the secretary of state  
26 shall aid the ethics commission in any investigation as provided  
27 in subsection 9 of section 105.959.

28 56.060. 1. Each prosecuting attorney shall commence and  
29 prosecute all civil and criminal actions in the prosecuting  
30 attorney's county in which the county or state is concerned,  
31 defend all suits against the state or county, and prosecute  
32 forfeited recognizances and actions for the recovery of debts,  
33 fines, penalties and forfeitures accruing to the state or county.  
34 In all cases, civil and criminal, in which changes of venue are  
35 granted, the prosecuting attorney shall follow and prosecute or  
36 defend, as the case may be, all the causes, for which, in  
37 addition to the fees now allowed by law, the prosecuting attorney

1 shall receive his or her actual expenses. If any misdemeanor  
2 case is taken to the court of appeals by appeal the prosecuting  
3 attorney shall represent the state in the case in the court and  
4 make out and cause to be printed, at the expense of the county,  
5 all necessary abstracts of record and briefs, and if necessary  
6 appear in the court in person, or shall employ some attorney at  
7 the prosecuting attorney's own expense to represent the state in  
8 the court, and for his or her services he or she shall receive  
9 the compensation that is proper, not to exceed twenty-five  
10 dollars for each case, and necessary traveling expenses, to be  
11 audited and paid as other claims are audited and paid by the  
12 county commission of the county.

13 2. Notwithstanding the provisions of subsection 1 of this  
14 section, in any county for which a county counselor is appointed,  
15 the prosecuting attorney shall only perform those duties  
16 prescribed by subsection 1 of this section which are not  
17 performed by the county counselor under the provisions of law  
18 relating to the office of county counselor.

19 3. In addition to all other duties required under this  
20 chapter, when directed by the Missouri ethics commission, the  
21 prosecuting attorney of each county or city not within a county  
22 shall aid the ethics commission in any investigation as provided  
23 in subsection 9 of section 105.959."; and  
24

25 Further amend said bill, Page 14, Section 105.499, Line 34,  
26 by inserting after all of said line the following:

27 "[105.955. 1. A bipartisan "Missouri Ethics  
28 Commission", composed of six members, is hereby  
29 established. The commission shall be assigned to the  
30 office of administration with supervision by the office  
31 of administration only for budgeting and reporting as  
32 provided by subdivisions (4) and (5) of subsection 6 of  
33 section 1 of the Reorganization Act of 1974.  
34 Supervision by the office of administration shall not  
35 extend to matters relating to policies, regulative  
36 functions or appeals from decisions of the commission,  
37 and the commissioner of administration, any employee of  
38 the office of administration, or the governor, either  
39 directly or indirectly, shall not participate or  
40 interfere with the activities of the commission in any

1 manner not specifically provided by law and shall not  
2 in any manner interfere with the budget request of or  
3 withhold any moneys appropriated to the commission by  
4 the general assembly. All members of the commission  
5 shall be appointed by the governor with the advice and  
6 consent of the senate from lists submitted pursuant to  
7 this section. Each congressional district committee of  
8 the political parties having the two highest number of  
9 votes cast for their candidate for governor at the last  
10 gubernatorial election shall submit two names of  
11 eligible nominees for membership on the commission to  
12 the governor, and the governor shall select six members  
13 from such nominees to serve on the commission.

14 2. Within thirty days of submission of the  
15 person's name to the governor as provided in subsection  
16 1 of this section, and in order to be an eligible  
17 nominee for appointment to the commission, a person  
18 shall file a financial interest statement in the manner  
19 provided by section 105.485 and shall provide the  
20 governor, the president pro tempore of the senate, and  
21 the commission with a list of all political  
22 contributions and the name of the candidate or  
23 committee, political party, or political action  
24 committee, as defined in chapter 130, to which those  
25 contributions were made within the four-year period  
26 prior to such appointment, made by the nominee, the  
27 nominee's spouse, or any business entity in which the  
28 nominee has a substantial interest. The information  
29 shall be maintained by the commission and available for  
30 public inspection during the period of time during  
31 which the appointee is a member of the commission. In  
32 order to be an eligible nominee for membership on the  
33 commission, a person shall be a citizen and a resident  
34 of the state and shall have been a registered voter in  
35 the state for a period of at least five years preceding  
36 the person's appointment.

37 3. The term of each member shall be for four  
38 years, except that of the members first appointed, the  
39 governor shall select three members from even-numbered  
40 congressional districts and three members from  
41 odd-numbered districts. Not more than three members of  
42 the commission shall be members of the same political  
43 party, nor shall more than one member be from any one  
44 United States congressional district. Not more than  
45 two members appointed from the even-numbered  
46 congressional districts shall be members of the same  
47 political party, and no more than two members from the  
48 odd-numbered congressional districts shall be members

1 of the same political party. Of the members first  
2 appointed, the terms of the members appointed from the  
3 odd-numbered congressional districts shall expire on  
4 March 15, 1994, and the terms of the members appointed  
5 from the even-numbered congressional districts shall  
6 expire on March 15, 1996. Thereafter all successor  
7 members of the commission shall be appointed for  
8 four-year terms. Terms of successor members of the  
9 commission shall expire on March fifteenth of the  
10 fourth year of their term. No member of the commission  
11 shall serve on the commission after the expiration of  
12 the member's term. No person shall be appointed to  
13 more than one full four-year term on the commission.

14 4. Vacancies or expired terms on the commission  
15 shall be filled in the same manner as the original  
16 appointment was made, except as provided in this  
17 subsection. Within thirty days of the vacancy or  
18 ninety days before the expiration of the term, the  
19 names of two eligible nominees for membership on the  
20 commission shall be submitted to the governor by the  
21 congressional district committees of the political  
22 party or parties of the vacating member or members,  
23 from the even- or odd-numbered congressional districts,  
24 based on the residence of the vacating member or  
25 members, other than from the congressional district  
26 committees from districts then represented on the  
27 commission and from the same congressional district  
28 party committee or committees which originally  
29 appointed the member or members whose positions are  
30 vacated. Appointments to fill vacancies or expired  
31 terms shall be made within forty-five days after the  
32 deadline for submission of names by the congressional  
33 district committees, and shall be subject to the same  
34 qualifications for appointment and eligibility as is  
35 provided in subsections 2 and 3 of this section.  
36 Appointments to fill vacancies for unexpired terms  
37 shall be for the remainder of the unexpired term of the  
38 member whom the appointee succeeds, and such appointees  
39 shall be eligible for appointment to one full four-year  
40 term. If the congressional district committee does not  
41 submit the required two nominees within the thirty days  
42 or if the congressional district committee does not  
43 submit the two nominees within an additional thirty  
44 days after receiving notice from the governor to submit  
45 the nominees, then the governor may appoint a person or  
46 persons who shall be subject to the same qualifications  
47 for appointment and eligibility as provided in  
48 subsections 2 and 3 of this section.

1           5. The governor, with the advice and consent of  
2 the senate, may remove any member only for substantial  
3 neglect of duty, inability to discharge the powers and  
4 duties of office, gross misconduct or conviction of a  
5 felony or a crime involving moral turpitude. Members  
6 of the commission also may be removed from office by  
7 concurrent resolution of the general assembly signed by  
8 the governor. If such resolution receives the vote of  
9 two-thirds or more of the membership of both houses of  
10 the general assembly, the signature of the governor  
11 shall not be necessary to effect removal. The office  
12 of any member of the commission who moves from the  
13 congressional district from which the member was  
14 appointed shall be deemed vacated upon such change of  
15 residence.

16           6. The commission shall elect biennially one of  
17 its members as the chairman. The chairman may not  
18 succeed himself or herself after two years. No member  
19 of the commission shall succeed as chairman any member  
20 of the same political party as himself or herself. At  
21 least four members are necessary to constitute a  
22 quorum, and at least four affirmative votes shall be  
23 required for any action or recommendation of the  
24 commission.

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

28           8. In the event that a retired judge is appointed  
29 as a member of the commission, the judge shall not  
30 serve as a special investigator while serving as a  
31 member of the commission.

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

34           (1) Be employed by the state or any political  
35 subdivision of the state;

36           (2) Be employed as a lobbyist;

37           (3) Serve on any other governmental board or  
38 commission;

39           (4) Be an officer of any political party or  
40 political organization;

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

44           (6) Participate in any way in any election  
45 campaign; except that a member or employee of the  
46 commission shall retain the right to register and vote  
47 in any election, to express the person's opinion  
48 privately on political subjects or candidates, to

1 participate in the activities of a civic, community,  
2 social, labor or professional organization and to be a  
3 member of a political party.

4 10. Each member of the commission shall receive,  
5 as full compensation for the member's services, the sum  
6 of one hundred dollars per day for each full day  
7 actually spent on work of the commission, and the  
8 member's actual and necessary expenses incurred in the  
9 performance of the member's official duties.

10 11. The commission shall appoint an executive  
11 director who shall serve subject to the supervision of  
12 and at the pleasure of the commission, but in no event  
13 for more than six years. The executive director shall  
14 be responsible for the administrative operations of the  
15 commission and perform such other duties as may be  
16 delegated or assigned to the director by law or by rule  
17 of the commission. The executive director shall employ  
18 staff and retain such contract services as the director  
19 deems necessary, within the limits authorized by  
20 appropriations by the general assembly.

21 12. Beginning on January 1, 1993, all lobbyist  
22 registration and expenditure reports filed pursuant to  
23 section 105.473, financial interest statements filed  
24 pursuant to subdivision (1) of section 105.489, and  
25 campaign finance disclosure reports filed other than  
26 with election authorities or local election authorities  
27 as provided by section 130.026 shall be filed with the  
28 commission.

29 13. Within sixty days of the initial meeting of  
30 the first commission appointed, the commission shall  
31 obtain from the clerk of the supreme court or the state  
32 courts administrator a list of retired appellate and  
33 circuit court judges who did not leave the judiciary as  
34 a result of being defeated in an election. The  
35 executive director shall determine those judges who  
36 indicate their desire to serve as special investigators  
37 and to investigate any and all complaints referred to  
38 them by the commission. The executive director shall  
39 maintain an updated list of those judges qualified and  
40 available for appointment to serve as special  
41 investigators. Such list shall be updated at least  
42 annually. The commission shall refer complaints to  
43 such special investigators on that list on a rotating  
44 schedule which ensures a random assignment of each  
45 special investigator. Each special investigator shall  
46 receive only one unrelated investigation at a time and  
47 shall not be assigned to a second or subsequent  
48 investigation until all other eligible investigators on

1 the list have been assigned to an investigation. In  
2 the event that no special investigator is qualified or  
3 available to conduct a particular investigation, the  
4 commission may appoint a special investigator to  
5 conduct such particular investigation.

6 14. The commission shall have the following  
7 duties and responsibilities relevant to the impartial  
8 and effective enforcement of sections 105.450 to  
9 105.496 and chapter 130, as provided in sections  
10 105.955 to 105.963:

11 (1) Receive and review complaints regarding  
12 alleged violation of sections 105.450 to 105.496 and  
13 chapter 130, conduct initial reviews and investigations  
14 regarding such complaints as provided herein; refer  
15 complaints to appropriate prosecuting authorities and  
16 appropriate disciplinary authorities along with  
17 recommendations for sanctions; and initiate judicial  
18 proceedings as allowed by sections 105.955 to 105.963;

19 (2) Review and investigate any reports and  
20 statements required by the campaign finance disclosure  
21 laws contained in chapter 130, and financial interest  
22 disclosure laws or lobbyist registration and reporting  
23 laws as provided by sections 105.470 to 105.492, for  
24 timeliness, accuracy and completeness of content as  
25 provided in sections 105.955 to 105.963;

26 (3) Conduct investigations as provided in  
27 subsection 2 of section 105.959;

28 (4) Develop appropriate systems to file and  
29 maintain an index of all such reports and statements to  
30 facilitate public access to such information, except as  
31 may be limited by confidentiality requirements  
32 otherwise provided by law, including cross-checking of  
33 information contained in such statements and reports.  
34 The commission may enter into contracts with the  
35 appropriate filing officers to effectuate such system.  
36 Such filing officers shall cooperate as necessary with  
37 the commission as reasonable and necessary to  
38 effectuate such purposes;

39 (5) Provide information and assistance to  
40 lobbyists, elected and appointed officials, and  
41 employees of the state and political subdivisions in  
42 carrying out the provisions of sections 105.450 to  
43 105.496 and chapter 130;

44 (6) Make recommendations to the governor and  
45 general assembly or any state agency on the need for  
46 further legislation with respect to the ethical conduct  
47 of public officials and employees and to advise state  
48 and local government in the development of local



1 government codes of ethics and methods of disclosing  
2 conflicts of interest as the commission may deem  
3 appropriate to promote high ethical standards among all  
4 elected and appointed officials or employees of the  
5 state or any political subdivision thereof and  
6 lobbyists;

7 (7) Render advisory opinions as provided by this  
8 section;

9 (8) Promulgate rules relating to the provisions  
10 of sections 105.955 to 105.963 and chapter 130. All  
11 rules and regulations issued by the commission shall be  
12 prospective only in operation;

13 (9) Request and receive from the officials and  
14 entities identified in subdivision (6) of section  
15 105.450 designations of decision-making public  
16 servants.

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

20 (1) Subpoena witnesses and compel their  
21 attendance and testimony. Subpoenas shall be served and  
22 enforced in the same manner provided by section  
23 536.077;

24 (2) Administer oaths and affirmations;

25 (3) Take evidence and require by subpoena duces  
26 tecum the production of books, papers, and other  
27 records relating to any matter being investigated or to  
28 the performance of the commission's duties or exercise  
29 of its powers. Subpoenas duces tecum shall be served  
30 and enforced in the same manner provided by section  
31 536.077;

32 (4) Employ such personnel, including legal  
33 counsel, and contract for services including legal  
34 counsel, within the limits of its appropriation, as it  
35 deems necessary provided such legal counsel, either  
36 employed or contracted, represents the Missouri ethics  
37 commission before any state agency or before the courts  
38 at the request of the Missouri ethics commission.  
39 Nothing in this section shall limit the authority of  
40 the Missouri ethics commission as provided for in  
41 subsection 2 of section 105.961; and

42 (5) Obtain information from any department,  
43 division or agency of the state or any political  
44 subdivision reasonably calculated to lead to the  
45 discovery of evidence which will reasonably assist the  
46 commission in carrying out the duties prescribed in  
47 sections 105.955 to 105.963 and chapter 130.

48 16. (1) Upon written request for an advisory

1 opinion received by the commission, and if the  
2 commission determines that the person requesting the  
3 opinion would be directly affected by the application  
4 of law to the facts presented by the requesting person,  
5 the commission shall issue a written opinion advising  
6 the person who made the request, in response to the  
7 person's particular request, regarding any issue that  
8 the commission can receive a complaint on pursuant to  
9 section 105.957. The commission may decline to issue a  
10 written opinion by a vote of four members and shall  
11 provide to the requesting person the reason for the  
12 refusal in writing. The commission shall give an  
13 approximate time frame as to when the written opinion  
14 shall be issued. Such advisory opinions shall be  
15 issued no later than ninety days from the date of  
16 receipt by the commission. Such requests and advisory  
17 opinions, deleting the name and identity of the  
18 requesting person, shall be compiled and published by  
19 the commission on at least an annual basis. Advisory  
20 opinions issued by the commission shall be maintained  
21 and made available for public inspection and copying at  
22 the office of the commission during normal business  
23 hours. Any advisory opinion or portion of an advisory  
24 opinion rendered pursuant to this subsection shall be  
25 withdrawn by the commission if, after hearing thereon,  
26 the joint committee on administrative rules finds that  
27 such advisory opinion is beyond or contrary to the  
28 statutory authority of the commission or is  
29 inconsistent with the legislative intent of any law  
30 enacted by the general assembly, and after the general  
31 assembly, by concurrent resolution, votes to adopt the  
32 findings and conclusions of the joint committee on  
33 administrative rules. Any such concurrent resolution  
34 adopted by the general assembly shall be published at  
35 length by the commission in its publication of advisory  
36 opinions of the commission next following the adoption  
37 of such resolution, and a copy of such concurrent  
38 resolution shall be maintained by the commission, along  
39 with the withdrawn advisory opinion, in its public file  
40 of advisory opinions. The commission shall also send a  
41 copy of such resolution to the person who originally  
42 requested the withdrawn advisory opinion. Any advisory  
43 opinion issued by the ethics commission shall act as  
44 legal direction to any person requesting such opinion  
45 and no person shall be liable for relying on the  
46 opinion and it shall act as a defense of justification  
47 against prosecution. An advisory opinion of the  
48 commission shall not be withdrawn unless:

1 (a) The authorizing statute is declared  
2 unconstitutional;

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

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

7 (2) Upon request, the attorney general shall give  
8 the attorney general's opinion, without fee, to the  
9 commission, any elected official of the state or any  
10 political subdivision, any member of the general  
11 assembly, or any director of any department, division  
12 or agency of the state, upon any question of law  
13 regarding the effect or application of sections 105.450  
14 to 105.496 or chapter 130. Such opinion need be in  
15 writing only upon request of such official, member or  
16 director, and in any event shall be rendered within  
17 sixty days after such request is delivered to the  
18 attorney general.

19 17. The state auditor and the state auditor's  
20 duly authorized employees who have taken the oath of  
21 confidentiality required by section 29.070 may audit  
22 the commission and in connection therewith may inspect  
23 materials relating to the functions of the commission.  
24 Such audit shall include a determination of whether  
25 appropriations were spent within the intent of the  
26 general assembly, but shall not extend to review of any  
27 file or document pertaining to any particular  
28 investigation, audit or review by the commission, an  
29 investigator or any staff or person employed by the  
30 commission or under the supervision of the commission  
31 or an investigator. The state auditor and any employee  
32 of the state auditor shall not disclose the identity of  
33 any person who is or was the subject of an  
34 investigation by the commission and whose identity is  
35 not public information as provided by law.

36 18. From time to time but no more frequently than  
37 annually the commission may request the officials and  
38 entities described in subdivision (6) of section  
39 105.450 to identify for the commission in writing those  
40 persons associated with such office or entity which  
41 such office or entity has designated as a  
42 decision-making public servant. Each office or entity  
43 delineated in subdivision (6) of section 105.450  
44 receiving such a request shall identify those so  
45 designated within thirty days of the commission's  
46 request.]

47 105.955. 1. A bipartisan "Missouri Ethics Commission",

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

24 2. Within thirty days of submission of the person's name to  
25 the governor as provided in subsection 1 of this section, and in  
26 order to be an eligible nominee for appointment to the  
27 commission, a person shall file a financial interest statement in  
28 the manner provided by section 105.485 and shall provide the  
29 governor, the president pro tempore of the senate, and the  
30 commission with a list of all political contributions and the  
31 name of the candidate or committee, political party, or  
32 [continuing] political action committee, as defined in chapter  
33 130, to which those contributions were made within the four-year  
34 period prior to such appointment, made by the nominee, the  
35 nominee's spouse, or any business entity in which the nominee has  
36 a substantial interest. The information shall be maintained by  
37 the commission and available for public inspection during the

1 period of time during which the appointee is a member of the  
2 commission. In order to be an eligible nominee for membership on  
3 the commission, a person shall be a citizen and a resident of the  
4 state and shall have been a registered voter in the state for a  
5 period of at least five years preceding the person's appointment.

6 3. The term of each member shall be for four years, except  
7 that of the members first appointed, the governor shall select  
8 three members from even-numbered congressional districts and  
9 three members from odd-numbered districts. Not more than three  
10 members of the commission shall be members of the same political  
11 party, nor shall more than one member be from any one United  
12 States congressional district. Not more than two members  
13 appointed from the even-numbered congressional districts shall be  
14 members of the same political party, and no more than two members  
15 from the odd-numbered congressional districts shall be members of  
16 the same political party. Of the members first appointed, the  
17 terms of the members appointed from the odd-numbered  
18 congressional districts shall expire on March 15, 1994, and the  
19 terms of the members appointed from the even-numbered  
20 congressional districts shall expire on March 15, 1996.  
21 Thereafter all successor members of the commission shall be  
22 appointed for four-year terms. Terms of successor members of the  
23 commission shall expire on March fifteenth of the fourth year of  
24 their term. No member of the commission shall serve on the  
25 commission after the expiration of the member's term, except that  
26 a member's term may be extended one time for up to one hundred  
27 twenty days if there are vacancies on the commission. No person  
28 shall be appointed to more than one full four-year term on the  
29 commission plus one term extension of one hundred twenty days as  
30 provided in this subsection.

31 4. Vacancies or expired terms on the commission shall be  
32 filled in the same manner as the original appointment was made,  
33 except as provided in this subsection. Within thirty days of the  
34 vacancy or ninety days before the expiration of the term, the  
35 names of two eligible nominees for membership on the commission  
36 shall be submitted to the governor by the congressional district  
37 committees of the political party or parties of the vacating

1 member or members, from the even- or odd-numbered congressional  
2 districts, based on the residence of the vacating member or  
3 members, other than from the congressional district committees  
4 from districts then represented on the commission and from the  
5 same congressional district party committee or committees which  
6 originally appointed the member or members whose positions are  
7 vacated. Appointments to fill vacancies or expired terms shall  
8 be made within forty-five days after the deadline for submission  
9 of names by the congressional district committees, and shall be  
10 subject to the same qualifications for appointment and  
11 eligibility as is provided in subsections 2 and 3 of this  
12 section. Appointments to fill vacancies for unexpired terms  
13 shall be for the remainder of the unexpired term of the member  
14 whom the appointee succeeds, and such appointees shall be  
15 eligible for appointment to one full four-year term. If the  
16 congressional district committee does not submit the required two  
17 nominees within the thirty days or if the congressional district  
18 committee does not submit the two nominees within an additional  
19 thirty days after receiving notice from the governor to submit  
20 the nominees, then the governor may appoint a person or persons  
21 who shall be subject to the same qualifications for appointment  
22 and eligibility as provided in subsections 2 and 3 of this  
23 section.

24 5. The governor, with the advice and consent of the senate,  
25 may remove any member only for substantial neglect of duty,  
26 inability to discharge the powers and duties of office, gross  
27 misconduct or conviction of a felony or a crime involving moral  
28 turpitude. Members of the commission also may be removed from  
29 office by concurrent resolution of the general assembly signed by  
30 the governor. If such resolution receives the vote of two-thirds  
31 or more of the membership of both houses of the general assembly,  
32 the signature of the governor shall not be necessary to effect  
33 removal. The office of any member of the commission who moves  
34 from the congressional district from which the member was  
35 appointed shall be deemed vacated upon such change of residence.

36 6. The commission shall elect biennially one of its members  
37 as the [chairman] chair. The [chairman may] chair shall not

1 succeed himself or herself after two years. No member of the  
2 commission shall succeed as [chairman] chair any member of the  
3 same political party as himself or herself. At least four  
4 members are necessary to constitute a quorum, and at least four  
5 affirmative votes shall be required for any action or  
6 recommendation of the commission.

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

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

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

15 (1) Be employed by the state or any political subdivision  
16 of the state;

17 (2) Be employed as a lobbyist;

18 (3) Serve on any other governmental board or commission;

19 (4) Be an officer of any political party or political  
20 organization;

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

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

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

36 11. The commission shall appoint an executive director who  
37 shall serve subject to the supervision of and at the pleasure of

1 the commission[, but in no event for more than six years]. The  
2 executive director shall be responsible for the administrative  
3 operations of the commission and perform such other duties as may  
4 be delegated or assigned to the director by law or by rule of the  
5 commission. The executive director shall employ staff and retain  
6 such contract services as the director deems necessary, within  
7 the limits authorized by appropriations by the general assembly.

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

15 13. Within sixty days of the initial meeting of the first  
16 commission appointed, the commission shall obtain from the clerk  
17 of the supreme court or the state courts administrator a list of  
18 retired appellate and circuit court judges who did not leave the  
19 judiciary as a result of being defeated in an election. The  
20 executive director shall determine those judges who indicate  
21 their desire to serve as special investigators and to investigate  
22 any and all complaints referred to them by the commission. The  
23 executive director shall maintain an updated list of those judges  
24 qualified and available for appointment to serve as special  
25 investigators. Such list shall be updated at least annually.  
26 The commission shall refer complaints to such special  
27 investigators on that list on a rotating schedule which ensures a  
28 random assignment of each special investigator. Each special  
29 investigator shall receive only one unrelated investigation at a  
30 time and shall not be assigned to a second or subsequent  
31 investigation until all other eligible investigators on the list  
32 have been assigned to an investigation. In the event that no  
33 special investigator is qualified or available to conduct a  
34 particular investigation, the commission may appoint a special  
35 investigator to conduct such particular investigation.

36 14. The commission shall have the following duties and  
37 responsibilities relevant to the impartial and effective



1 enforcement of sections 105.450 to 105.496 and chapter 130, as  
2 provided in sections 105.955 to 105.963:

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

10 (2) Review and ~~[audit]~~ investigate any reports and  
11 statements required by the campaign finance disclosure laws  
12 contained in chapter 130, and financial interest disclosure laws  
13 or lobbyist registration and reporting laws as provided by  
14 sections 105.470 to 105.492, for timeliness, accuracy and  
15 completeness of content as provided in sections 105.955 to  
16 105.963;

17 (3) Conduct investigations as provided in subsection 2 of  
18 section 105.959;

19 (4) Develop appropriate systems to file and maintain an  
20 index of all such reports and statements to facilitate public  
21 access to such information, except as may be limited by  
22 confidentiality requirements otherwise provided by law, including  
23 cross-checking of information contained in such statements and  
24 reports. The commission may enter into contracts with the  
25 appropriate filing officers to effectuate such system. Such  
26 filing officers shall cooperate as necessary with the commission  
27 as reasonable and necessary to effectuate such purposes;

28 ~~[(4)]~~ (5) Provide information and assistance to lobbyists,  
29 elected and appointed officials, and employees of the state and  
30 political subdivisions in carrying out the provisions of sections  
31 105.450 to 105.496 and chapter 130;

32 ~~[(5)]~~ (6) Make recommendations to the governor and general  
33 assembly or any state agency on the need for further legislation  
34 with respect to the ethical conduct of public officials and  
35 employees and to advise state and local government in the  
36 development of local government codes of ethics and methods of  
37 disclosing conflicts of interest as the commission may deem

1 appropriate to promote high ethical standards among all elected  
2 and appointed officials or employees of the state or any  
3 political subdivision thereof and lobbyists;

4 [(6)] (7) Render advisory opinions as provided by this  
5 section;

6 [(7)] (8) Promulgate rules relating to the provisions of  
7 sections 105.955 to 105.963 and chapter 130. All rules and  
8 regulations issued by the commission shall be prospective only in  
9 operation;

10 [(8)] (9) Request and receive from the officials and  
11 entities identified in subdivision (6) of section 105.450  
12 designations of decision-making public servants.

13 15. In connection with such powers provided by sections  
14 105.955 to 105.963 and chapter 130, the commission may:

15 (1) Subpoena witnesses and compel their attendance and  
16 testimony. Subpoenas shall be served and enforced in the same  
17 manner provided by section 536.077, except that during an  
18 investigation, the commission may delegate the power to issue  
19 subpoenas to the executive director;

20 (2) Administer oaths and affirmations;

21 (3) Take evidence and require by subpoena duces tecum the  
22 production of books, papers, and other records relating to any  
23 matter being investigated or to the performance of the  
24 commission's duties or exercise of its powers. Subpoenas duces  
25 tecum shall be served and enforced in the same manner provided by  
26 section 536.077, except that during an investigation, the  
27 commission may delegate the power to issue subpoenas duces tecum  
28 to the executive director;

29 (4) Employ such personnel, including legal counsel, and  
30 contract for services including legal counsel, within the limits  
31 of its appropriation, as it deems necessary provided such legal  
32 counsel, either employed or contracted, represents the Missouri  
33 ethics commission before any state agency or before the courts at  
34 the request of the Missouri ethics commission. Nothing in this  
35 section shall limit the authority of the Missouri ethics  
36 commission as provided for in subsection 2 of section 105.961;  
37 and

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

6           16. (1) Upon written request for an advisory opinion  
7 received by the commission, and if the commission determines that  
8 the person requesting the opinion would be directly affected by  
9 the application of law to the facts presented by the requesting  
10 person, the commission shall issue a written opinion advising the  
11 person who made the request, in response to the person's  
12 particular request, regarding any issue that the commission can  
13 receive a complaint on pursuant to section 105.957. The  
14 commission may decline to issue a written opinion by a vote of  
15 four members and shall provide to the requesting person the  
16 reason for the refusal in writing. The commission shall give an  
17 approximate time frame as to when the written opinion shall be  
18 issued. Such advisory opinions shall be issued no later than  
19 ninety days from the date of receipt by the commission. Such  
20 requests and advisory opinions, deleting the name and identity of  
21 the requesting person, shall be compiled and published by the  
22 commission on at least an annual basis. Advisory opinions issued  
23 by the commission shall be maintained and made available for  
24 public inspection and copying at the office of the commission  
25 during normal business hours. Any advisory opinion or portion of  
26 an advisory opinion rendered pursuant to this subsection shall be  
27 withdrawn by the commission if, after hearing thereon, the joint  
28 committee on administrative rules finds that such advisory  
29 opinion is beyond or contrary to the statutory authority of the  
30 commission or is inconsistent with the legislative intent of any  
31 law enacted by the general assembly, and after the general  
32 assembly, by concurrent resolution, votes to adopt the findings  
33 and conclusions of the joint committee on administrative rules.  
34 Any such concurrent resolution adopted by the general assembly  
35 shall be published at length by the commission in its publication  
36 of advisory opinions of the commission next following the  
37 adoption of such resolution, and a copy of such concurrent

1 resolution shall be maintained by the commission, along with the  
2 withdrawn advisory opinion, in its public file of advisory  
3 opinions. The commission shall also send a copy of such  
4 resolution to the person who originally requested the withdrawn  
5 advisory opinion. Any advisory opinion issued by the ethics  
6 commission shall act as legal direction to any person requesting  
7 such opinion and no person shall be liable for relying on the  
8 opinion and it shall act as a defense of justification against  
9 prosecution. An advisory opinion of the commission shall not be  
10 withdrawn unless:

11 (a) The authorizing statute is declared unconstitutional;

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

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

16 (2) Upon request, the attorney general shall give the  
17 attorney general's opinion, without fee, to the commission, any  
18 elected official of the state or any political subdivision, any  
19 member of the general assembly, or any director of any  
20 department, division or agency of the state, upon any question of  
21 law regarding the effect or application of sections 105.450 to  
22 105.496, or chapter 130. Such opinion need be in writing only  
23 upon request of such official, member or director, and in any  
24 event shall be rendered within sixty days [that] after such  
25 request is delivered to the attorney general.

26 17. The state auditor and the state auditor's duly  
27 authorized employees who have taken the oath of confidentiality  
28 required by section 29.070 may audit the commission and in  
29 connection therewith may inspect materials relating to the  
30 functions of the commission. Such audit shall include a  
31 determination of whether appropriations were spent within the  
32 intent of the general assembly, but shall not extend to review of  
33 any file or document pertaining to any particular investigation,  
34 audit or review by the commission, an investigator or any staff  
35 or person employed by the commission or under the supervision of  
36 the commission or an investigator. The state auditor and any  
37 employee of the state auditor shall not disclose the identity of

1 any person who is or was the subject of an investigation by the  
2 commission and whose identity is not public information as  
3 provided by law.

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

13 19. (1) Notwithstanding any other provision of law to the  
14 contrary, fifty percent of any fine, fee, or penalty imposed for  
15 violations of any provisions subject to the ethics commission's  
16 jurisdiction, excluding the clear proceeds of any penalty,  
17 forfeiture, and fine collected for any breach of the penal laws  
18 of the state that are distributed as provided in Section 7,  
19 Article III, Constitution of Missouri, shall be deposited in the  
20 Missouri ethics commission enforcement fund created in this  
21 subsection.

22 (2) There is hereby created in the state treasury the  
23 "Missouri Ethics Commission Enforcement Fund", which shall  
24 consist of money collected under this subsection. The state  
25 treasurer shall be custodian of the fund. In accordance with  
26 sections 30.170 and 30.180, the state treasurer may approve  
27 disbursements. The fund shall be a dedicated fund and, upon  
28 appropriation, money in the fund shall be used solely to fund  
29 authorized activities of the ethics commission. Notwithstanding  
30 the provisions of section 33.080 to the contrary, any moneys  
31 remaining in the fund at the end of the biennium shall not revert  
32 to the credit of the general revenue fund. The state treasurer  
33 shall invest moneys in the fund in the same manner as other funds  
34 are invested. Any interest and moneys earned on such investments  
35 shall be credited to the fund.

36 (3) All funds in the Missouri ethics commission enforcement  
37 fund shall be deemed to be additional funding to allow the ethics

1 commission to fulfil the duties required of the commission by  
2 state law, and no amount appropriated to the ethics commission  
3 shall for any fiscal year beginning on or after July 1, 2014,  
4 shall be reduced below the appropriation made for the fiscal year  
5 ending on June 30, 2014.

6 [105.957. 1. The commission shall receive any  
7 complaints alleging violation of the provisions of:

8 (1) The requirements imposed on lobbyists by  
9 sections 105.470 to 105.478;

10 (2) The financial interest disclosure  
11 requirements contained in sections 105.483 to 105.492;

12 (3) The campaign finance disclosure requirements  
13 contained in chapter 130;

14 (4) Any code of conduct promulgated by any  
15 department, division or agency of state government, or  
16 by state institutions of higher education, or by  
17 executive order;

18 (5) The conflict of interest laws contained in  
19 sections 105.450 to 105.468 and section 171.181; and

20 (6) The provisions of the constitution or state  
21 statute or order, ordinance or resolution of any  
22 political subdivision relating to the official conduct  
23 of officials or employees of the state and political  
24 subdivisions.

25 2. Complaints filed with the commission shall be  
26 in writing and filed only by a natural person. The  
27 complaint shall contain all facts known by the  
28 complainant that have given rise to the complaint and  
29 the complaint shall be sworn to, under penalty of  
30 perjury, by the complainant. No complaint shall be  
31 investigated unless the complaint alleges facts which,  
32 if true, fall within the jurisdiction of the  
33 commission. Within five days after receipt by the  
34 commission of a complaint which is properly signed and  
35 notarized, and which alleges facts which, if true, fall  
36 within the jurisdiction of the commission, a copy of  
37 the complaint, including the name of the complainant,  
38 shall be delivered to the alleged violator.

39 3. No complaint shall be investigated which  
40 concerns alleged criminal conduct which allegedly  
41 occurred previous to the period of time allowed by law  
42 for criminal prosecution for such conduct. The  
43 commission may refuse to investigate any conduct which  
44 is the subject of civil or criminal litigation. The  
45 commission, its executive director or an investigator  
46 shall not investigate any complaint concerning conduct

1 which is not criminal in nature which occurred more  
2 than two years prior to the date of the complaint. A  
3 complaint alleging misconduct on the part of a  
4 candidate for public office, other than those alleging  
5 failure to file the appropriate financial interest  
6 statements or campaign finance disclosure reports,  
7 shall not be accepted by the commission within sixty  
8 days prior to the primary election at which such  
9 candidate is running for office, and until after the  
10 general election.

11 4. If the commission finds that any complaint is  
12 frivolous in nature, the commission shall dismiss the  
13 case. For purposes of this subsection, "frivolous"  
14 shall mean a complaint clearly lacking any basis in  
15 fact or law. Any person who submits a frivolous  
16 complaint shall be liable for actual and compensatory  
17 damages to the alleged violator for holding the alleged  
18 violator before the public in a false light. If the  
19 commission finds that a complaint is frivolous, the  
20 commission shall issue a public report to the  
21 complainant and the alleged violator stating with  
22 particularity its reasons for dismissal of the  
23 complaint. Upon such issuance, the complaint and all  
24 materials relating to the complaint shall be a public  
25 record as defined in chapter 610.

26 5. Complaints which allege violations as  
27 described in this section which are filed with the  
28 commission shall be handled as provided by section  
29 105.961.]

30 105.957. 1. The commission shall receive any complaints  
31 alleging violation of the provisions of:

32 (1) The requirements imposed on lobbyists by sections  
33 105.470 to 105.478;

34 (2) The financial interest disclosure requirements  
35 contained in sections 105.483 to 105.492;

36 (3) The campaign finance disclosure requirements contained  
37 in chapter 130;

38 (4) Any code of conduct promulgated by any department,  
39 division or agency of state government, or by state institutions  
40 of higher education, or by executive order;

41 (5) The conflict of interest laws contained in sections  
42 105.450 to 105.468 and section 171.181; and

43 (6) The provisions of the constitution or state statute or

1 order, ordinance or resolution of any political subdivision  
2 relating to the official conduct of officials or employees of the  
3 state and political subdivisions.

4 2. Complaints filed with the commission shall be in writing  
5 and filed only by a natural person. The complaint shall contain  
6 all facts known by the complainant that have given rise to the  
7 complaint and the complaint shall be sworn to, under penalty of  
8 perjury, by the complainant. No complaint shall be investigated  
9 unless the complaint alleges facts which, if true, fall within  
10 the jurisdiction of the commission. Within five days after  
11 receipt [of a complaint] by the commission of a complaint that is  
12 properly signed and notarized, and that alleges facts that, if  
13 true, fall within the jurisdiction of the commission, a copy of  
14 the complaint, including the name of the complainant, shall be  
15 delivered to the alleged violator.

16 3. No complaint shall be investigated which concerns  
17 alleged criminal conduct which allegedly occurred previous to the  
18 period of time allowed by law for criminal prosecution for such  
19 conduct. The commission may refuse to investigate any conduct  
20 which is the subject of civil or criminal litigation. The  
21 commission, its executive director or an investigator shall not  
22 investigate any complaint concerning conduct which is not  
23 criminal in nature which occurred more than two years prior to  
24 the date of the complaint. A complaint alleging misconduct on  
25 the part of a candidate for public office, other than those  
26 alleging failure to file the appropriate financial interest  
27 statements or campaign finance disclosure reports, shall not be  
28 accepted by the commission within sixty days prior to the primary  
29 election at which such candidate is running for office, and until  
30 after the general election.

31 4. If the commission finds that any complaint is frivolous  
32 in nature [or finds no probable cause to believe that there has  
33 been a violation], the commission shall dismiss the case. For  
34 purposes of this subsection, "frivolous" shall mean a complaint  
35 clearly lacking any basis in fact or law. Any person who submits  
36 a frivolous complaint shall be liable for actual and compensatory  
37 damages to the alleged violator for holding the alleged violator



1 before the public in a false light. If the commission finds that  
2 a complaint is frivolous [or that there is not probable cause to  
3 believe there has been a violation], the commission shall issue a  
4 public report to the complainant and the alleged violator stating  
5 with particularity its reasons for dismissal of the complaint.  
6 Upon such issuance, the complaint and all materials relating to  
7 the complaint shall be a public record as defined in chapter 610.

8 5. Complaints which allege violations as described in this  
9 section which are filed with the commission shall be handled as  
10 provided by section 105.961.

11 6. (1) As used in this subsection, "original source of  
12 information" means information no part of which has been  
13 previously disclosed to or known by the government or public.

14 (2) If any person is the original source of information  
15 used by the ethics commission in an investigation concluding that  
16 a violation of any provision of law under the ethics commission's  
17 jurisdiction has occurred for which a fine, fee, or penalty is  
18 imposed, excluding the clear proceeds of any penalty, forfeiture,  
19 and fine collected for any breach of the penal laws of the state  
20 that are distributed as provided in Section 7, Article III,  
21 Constitution of Missouri, such person may be reimbursed for such  
22 information under this subsection as determined by the ethics  
23 commission. No amount reimbursed to any person under this  
24 subsection shall exceed ten percent of the amount of such fines,  
25 fees, or penalties resulting from such investigation. Any amount  
26 reimbursed under this subsection shall be reimbursed solely from  
27 funds in the Missouri ethics commission enforcement fund created  
28 in section 105.955.

29 (3) If the ethics commission finds that the person who was  
30 the original source of the information for such investigation  
31 planned, initiated, or participated in the conduct investigated  
32 by the ethics commission, such person shall not be entitled to  
33 any amount under this subsection.

34 105.959. 1. (1) The executive director of the commission,  
35 under the supervision of the commission, shall review reports  
36 [and], statements, and records filed with the commission or other  
37 appropriate officers pursuant to sections 105.470, 105.483 to

1 105.492, and chapter 130 for completeness, accuracy [and],  
2 timeliness of filing of the reports or statements and any records  
3 relating to the reports or statements, [and] any records relating  
4 to the reports, statements and records, and any investigation  
5 conducted under paragraph (d) of subdivision (3) of subsection 3  
6 of section 130.031. If, upon review, [if] the executive director  
7 finds there are reasonable grounds to believe that a violation  
8 has occurred, the executive director shall conduct an  
9 investigation of such reports, statements, and records and assign  
10 a special investigator following the provisions of subsection 1  
11 of section 105.961.

12 (2) If an investigation conducted under this subsection  
13 fails to establish reasonable grounds to believe that a violation  
14 has occurred, the investigation shall be terminated and the  
15 person who had been under investigation shall be notified of the  
16 reasons for the disposition of the investigation.

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

23 (a) The requirements imposed on lobbyists by sections  
24 105.470 to 105.478;

25 (b) The financial interest disclosure requirements  
26 contained in sections 105.483 to 105.492;

27 (c) The campaign finance disclosure requirements contained  
28 in chapter 130;

29 (d) Any code of conduct promulgated by any department,  
30 division, or agency of state government, or by state institutions  
31 of higher education, or by executive order;

32 (e) The conflict of interest laws contained in sections  
33 105.450 to 105.468 and section 171.181; and

34 (f) The provisions of the constitution or state statute or  
35 order, ordinance, or resolution of any political subdivision  
36 relating to the official conduct of officials or employees of the  
37 state and political subdivisions.

1           (2) If an investigation conducted under this subsection  
2 fails to establish reasonable grounds to believe that a violation  
3 has occurred, the investigation shall be terminated and the  
4 person who had been under investigation shall be notified of the  
5 reasons for the disposition of the complaint.

6           3. Upon findings of the appropriate filing officer which  
7 are reported to the commission in accordance with the provisions  
8 of section 130.056, the executive director shall investigate  
9 disclosure reports, statements and records pertaining to such  
10 findings within a reasonable time after receipt of the reports  
11 from the appropriate filing officer.

12           4. The commission may make such investigations and  
13 inspections within or outside of this state as are necessary to  
14 determine compliance.

15           5. The commission shall notify the person under  
16 investigation under this section, by registered mail, within five  
17 days of the decision to conduct such investigation and assign a  
18 special investigator following the provisions of subsection 1 of  
19 section 105.961.

20           6. After completion of an investigation, the executive  
21 director shall provide a detailed report of such investigation to  
22 the commission. Upon determination that there are reasonable  
23 grounds to believe that a person has violated the requirements of  
24 sections 105.470, 105.483 to 105.492, or chapter 130, by a vote  
25 of four members of the commission, the commission may refer the  
26 report with the recommendations of the commission to the  
27 appropriate prosecuting authority together with the details of  
28 the investigation by the commission as is provided in subsection  
29 2 of section 105.961.

30           7. All investigations by the executive director of an  
31 alleged violation shall be strictly confidential with the  
32 exception of notification of the commission and the complainant  
33 and the person under investigation. Revealing any such  
34 confidential investigation information shall be cause for removal  
35 or dismissal of the executive director or a commission member or  
36 employee.

37           8. The time limits prescribed in subsections 1 to 6 of this

1 section shall apply unless an action prohibited under paragraph  
2 (d) of subdivision (3) of subsection 3 of section 130.031 occurs  
3 in an even-number year, from April until the general election  
4 day, or between the opening of the period of candidate filing to  
5 the special election day in any year in which a special election  
6 is scheduled, in which cases the following time limits shall  
7 apply:

8 (1) For the notification required under subsection 1 of  
9 this section, within the first business day after such complaint  
10 or investigation is received;

11 (2) For all other procedures required in subsections 2 to 6  
12 of this section, within ten business days after such complaint or  
13 investigation is received.

14 9. The ethics commission shall have the authority to direct  
15 the office of the attorney general, the elections division of the  
16 office of the secretary of state, and any prosecuting attorney of  
17 any county or city not within a county in which a violation of  
18 paragraph (d) of subdivision (3) of subsection 3 of section  
19 130.031 occurs to assist with any investigation subject to the  
20 time limits of subsection 8 of this section and, to direct that  
21 findings investigated under this subsection be submitted to the  
22 ethics commission within such time limits.

23 [105.959. 1. The executive director of the  
24 commission, under the supervision of the commission,  
25 shall review reports and statements filed with the  
26 commission or other appropriate officers pursuant to  
27 sections 105.470, 105.483 to 105.492, and chapter 130  
28 for completeness, accuracy and timeliness of filing of  
29 the reports or statements, and upon review, if there  
30 are reasonable grounds to believe that a violation has  
31 occurred, shall conduct an audit of such reports and  
32 statements. All investigations by the executive  
33 director of an alleged violation shall be strictly  
34 confidential with the exception of notification of the  
35 commission and the complainant or the person under  
36 investigation. All investigations by the executive  
37 director shall be limited to the information contained  
38 in the reports or statements. The commission shall  
39 notify the complainant or the person under  
40 investigation, by registered mail, within five days of  
41 the decision to conduct such investigation. Revealing

1 any such confidential investigation information shall  
2 be cause for removal or dismissal of the executive  
3 director or a commission member or employee.

4 2. Upon findings of the appropriate filing  
5 officer which are reported to the commission in  
6 accordance with the provisions of section 130.056, the  
7 executive director shall audit disclosure reports,  
8 statements and records pertaining to such findings  
9 within a reasonable time after receipt of the reports  
10 from the appropriate filing officer.

11 3. Upon a sworn written complaint of any natural  
12 person filed with the commission pursuant to section  
13 105.957, the commission shall audit and investigate  
14 alleged violations. Within sixty days after receipt  
15 of a sworn written complaint alleging a violation, the  
16 executive director shall notify the complainant in  
17 writing of the action, if any, the executive director  
18 has taken and plans to take on the complaint. If an  
19 investigation conducted pursuant to this subsection  
20 fails to establish reasonable grounds to believe that a  
21 violation has occurred, the investigation shall be  
22 terminated and the complainant and the person who had  
23 been under investigation shall be notified of the  
24 reasons for the disposition of the complaint.

25 4. The commission may make such investigations  
26 and inspections within or outside of this state as are  
27 necessary to determine compliance.

28 5. If, during an audit or investigation, the  
29 commission determines that a formal investigation is  
30 necessary, the commission shall assign the  
31 investigation to a special investigator in the manner  
32 provided by subsection 1 of section 105.961.

33 6. After completion of an audit or investigation,  
34 the executive director shall provide a detailed report  
35 of such audit or investigation to the commission. Upon  
36 determination that there are reasonable grounds to  
37 believe that a person has violated the requirements of  
38 sections 105.470, 105.483 to 105.492, or chapter 130,  
39 by a vote of four members of the commission, the  
40 commission may refer the report with the  
41 recommendations of the commission to the appropriate  
42 prosecuting authority together with a copy of the audit  
43 and the details of the investigation by the commission  
44 as is provided in subsection 2 of section 105.961.]

45 105.961. 1. Upon receipt of a complaint as described by  
46 section 105.957 or upon notification by the commission of an  
47 investigation under subsection 5 of section 105.959, the

1 executive director on behalf of the commission shall assign the  
2 complaint or investigation to a special investigator, who may be  
3 a commission employee, who shall investigate and determine the  
4 merits of the complaint or investigation. Within ten days of  
5 such assignment, the special investigator shall review such  
6 complaint or investigation and disclose, in writing, to the  
7 commission any conflict of interest which the special  
8 investigator has or might have with respect to the investigation  
9 and subject thereof. Within ninety days of receipt of the  
10 complaint from the commission, the special investigator shall  
11 submit the special investigator's report to the commission. The  
12 commission, after review of such report, shall determine:

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

15 (2) That there are no reasonable grounds for belief that a  
16 violation exists and the complaint or investigation shall be  
17 dismissed or the investigation shall be terminated; or

18 (3) That additional time is necessary to complete the  
19 investigation, and the status and progress of the investigation  
20 to date. The commission, in its discretion, may allow the  
21 investigation to proceed for [no more than two] additional  
22 successive periods of ninety days each, pending reports regarding  
23 the status and progress of the investigation at the end of each  
24 such period.

25 2. When the commission concludes, based on the report from  
26 the special investigator, or based on an investigation conducted  
27 pursuant to section 105.959, that there are reasonable grounds to  
28 believe that a violation of any criminal law has occurred, and if  
29 the commission believes that criminal prosecution would be  
30 appropriate upon a vote of four members of the commission, the  
31 commission shall refer the report to the Missouri office of  
32 prosecution services, prosecutors coordinators training council  
33 established in section 56.760, which shall submit a panel of five  
34 attorneys for recommendation to the court having criminal  
35 jurisdiction, for appointment of an attorney to serve as a  
36 special prosecutor; except that, the attorney general of Missouri  
37 or any assistant attorney general shall not act as such special

1 prosecutor. The court shall then appoint from such panel a  
2 special prosecutor pursuant to section 56.110, who shall have all  
3 the powers provided by section 56.130. The court shall allow a  
4 reasonable and necessary attorney's fee for the services of the  
5 special prosecutor. Such fee shall be assessed as costs if a  
6 case is filed, or ordered by the court if no case is filed, and  
7 paid together with all other costs in the proceeding by the  
8 state, in accordance with rules and regulations promulgated by  
9 the state courts administrator, subject to funds appropriated to  
10 the office of administration for such purposes. If the  
11 commission does not have sufficient funds to pay a special  
12 prosecutor, the commission shall refer the case to the prosecutor  
13 or prosecutors having criminal jurisdiction. If the prosecutor  
14 having criminal jurisdiction is not able to prosecute the case  
15 due to a conflict of interest, the court may appoint a special  
16 prosecutor, paid from county funds, upon appropriation by the  
17 county or the attorney general to investigate and, if  
18 appropriate, prosecute the case. The special prosecutor or  
19 prosecutor shall commence an action based on the report by the  
20 filing of an information or seeking an indictment within sixty  
21 days of the date of such prosecutor's appointment, or shall file  
22 a written statement with the commission explaining why criminal  
23 charges should not be sought. If the special prosecutor or  
24 prosecutor fails to take either action required by this  
25 subsection, upon request of the commission, a new special  
26 prosecutor, who may be the attorney general, shall be appointed.  
27 The report may also be referred to the appropriate disciplinary  
28 authority over the person who is the subject of the report.

29 3. When the commission concludes, based on the report from  
30 the special investigator or based on an investigation conducted  
31 pursuant to section 105.959, that there are reasonable grounds to  
32 believe that a violation of any law has occurred which is not a  
33 violation of criminal law or that criminal prosecution is not  
34 appropriate, the commission shall conduct a hearing which shall  
35 be a closed meeting and not open to the public. The hearing  
36 shall be conducted pursuant to the procedures provided by  
37 sections 536.063 to 536.090 and shall be considered to be a

1 contested case for purposes of [such] sections 536.063 to  
2 536.090. The commission shall determine, in its discretion,  
3 whether or not that there is probable cause that a violation has  
4 occurred. If the commission determines, by a vote of at least  
5 four members of the commission, that probable cause exists that a  
6 violation has occurred, the commission may refer its findings and  
7 conclusions to the appropriate disciplinary authority over the  
8 person who is the subject of the report, as described in  
9 subsection 8 of this section. When the violation that has  
10 occurred is a violation of paragraph (d) of subdivision (3) of  
11 subsection 3 of section 130.031 and such violation occurs in an  
12 even-number year, from April until the general election day, or  
13 between the opening of the period of candidate filing to the  
14 special election day in any year in which a special election is  
15 scheduled, any action required under this subsection shall be  
16 concluded within ten business days of the commission's  
17 conclusion.

18 4. If the appropriate disciplinary authority receiving a  
19 report from the commission pursuant to subsection 3 of this  
20 section fails to follow, within sixty days of the receipt of the  
21 report, or within fifteen days of the receipt of the report when  
22 the violation that has occurred is a violation of paragraph (d)  
23 of subdivision (3) of subsection 3 of section 130.031 and such  
24 violation occurs in an even-number year, from April until the  
25 general election day, or between the opening of the period of  
26 candidate filing to the special election day in any year in which  
27 a special election is scheduled, the recommendations contained in  
28 the report, or if the commission determines, by a vote of at  
29 least four members of the commission that some action other than  
30 referral for criminal prosecution or for action by the  
31 appropriate disciplinary authority would be appropriate, the  
32 commission shall take any one or more of the following actions  
33 within ten business days of the commission's conclusion under  
34 subsection 3 of this section:

35 (1) Notify the person to cease and desist violation of any  
36 provision of law which the report concludes was violated and that  
37 the commission may seek judicial enforcement of its decision



1 pursuant to subsection 5 of this section;

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

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

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

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

13 (6) Through reconciliation agreements or action of the  
14 commission, the power to seek fees for violations in an amount  
15 not greater than one thousand dollars or double the amount  
16 involved in the violation.

17 5. Upon a vote of at least four members, the commission may  
18 initiate formal judicial proceedings in the circuit court of Cole  
19 County seeking to obtain any of the following orders:

20 (1) Cease and desist violation of any provision of sections  
21 105.450 to 105.496, or chapter 130, or sections 105.955 to  
22 105.963;

23 (2) Pay any civil penalties required by sections 105.450 to  
24 105.496 or chapter 130;

25 (3) File any reports, statements, or other documents or  
26 information required by sections 105.450 to 105.496, or chapter  
27 130; or

28 (4) Pay restitution for any unjust enrichment the violator  
29 obtained as a result of any violation of any criminal statute as  
30 described in subsection 7 of this section.

31 6. After the commission determines by a vote of at least  
32 four members of the commission that a violation has occurred,  
33 other than a referral for criminal prosecution, and the  
34 commission has referred the findings and conclusions to the  
35 appropriate disciplinary authority over the person who is the  
36 subject of the report, or has taken an action under subsection 4  
37 of this section, the subject of the report may appeal the

determination of the commission to the circuit court of Cole County. [The court shall conduct a de novo review of the determination of the commission.] Such appeal shall stay the action of the Missouri ethics commission. Such appeal shall be filed not later than the fourteenth day after the subject of the commission's action receives actual notice of the commission's action. If a petition for judicial review of a final order is not filed as provided in this section or when an order for fees under subsection 4 of this section becomes final following an appeal to the circuit court of Cole County, the commission may file a certified copy of the final order with the circuit court of Cole County. [When any order for fees under subsection 4 of this section becomes final, the commission may file a certified copy of the final order with the circuit court of Cole County.] The order so filed shall have the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

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

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

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

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

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

1 governing body of the political subdivision;

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

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

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

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

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

18 9. The special investigator having a complaint referred to  
19 the special investigator by the commission shall have the  
20 following powers:

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

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

28 (3) To administer oaths and affirmations;

29 (4) Upon refusal by any person to comply with a request for  
30 information relevant to an investigation, an investigator may  
31 issue a subpoena for any person to appear and give testimony, or  
32 for a subpoena duces tecum to produce documentary or other  
33 evidence which the investigator deems relevant to a matter under  
34 the investigator's inquiry. The subpoenas and subpoenas duces  
35 tecum may be enforced by applying to a judge of the circuit court  
36 of Cole County or any county where the person or entity that has  
37 been subpoenaed resides or may be found, for an order to show

1 cause why the subpoena or subpoena duces tecum should not be  
2 enforced. The order and a copy of the application therefor shall  
3 be served in the same manner as a summons in a civil action, and  
4 if, after hearing, the court determines that the subpoena or  
5 subpoena duces tecum should be sustained and enforced, the court  
6 shall enforce the subpoena or subpoena duces tecum in the same  
7 manner as if it had been issued by the court in a civil action;  
8 and

9 (5) To request from the commission such investigative,  
10 clerical or other staff assistance or advancement of other  
11 expenses which are necessary and convenient for the proper  
12 completion of an investigation. Within the limits of  
13 appropriations to the commission, the commission may provide such  
14 assistance, whether by contract to obtain such assistance or from  
15 staff employed by the commission, or may advance such expenses.

16 10. (1) Any retired judge may request in writing to have  
17 the judge's name removed from the list of special investigators  
18 subject to appointment by the commission or may request to  
19 disqualify himself or herself from any investigation. Such  
20 request shall include the reasons for seeking removal;

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

26 11. Any person who is the subject of any investigation  
27 pursuant to this section shall be entitled to be represented by  
28 counsel at any proceeding before the special investigator or the  
29 commission.

30 12. The provisions of sections 105.957, 105.959 and 105.961  
31 are in addition to other provisions of law under which any remedy  
32 or right of appeal or objection is provided for any person, or  
33 any procedure provided for inquiry or investigation concerning  
34 any matter. The provisions of this section shall not be  
35 construed to limit or affect any other remedy or right of appeal  
36 or objection.

37 13. No person shall be required to make or file a complaint

1 to the commission as a prerequisite for exhausting the person's  
2 administrative remedies before pursuing any civil cause of action  
3 allowed by law.

4 14. If, in the opinion of the commission, the complaining  
5 party was motivated by malice or reason contrary to the spirit of  
6 any law on which such complaint was based, in filing the  
7 complaint without just cause, this finding shall be reported to  
8 appropriate law enforcement authorities. Any person who  
9 knowingly files a complaint without just cause, or with malice,  
10 is guilty of a class A misdemeanor.

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

17 16. The special investigator and members and staff of the  
18 commission shall maintain confidentiality with respect to all  
19 matters concerning a complaint, with the exception of  
20 communications with any person which are necessary to the  
21 investigation. Any person who violates the confidentiality  
22 requirements imposed by this section or subsection 17 of section  
23 105.955 [required to be confidential] is guilty of a class A  
24 misdemeanor and shall be subject to removal from or termination  
25 of employment by the commission.

26 17. Any judge of the court of appeals or circuit court who  
27 ceases to hold such office by reason of the judge's retirement  
28 and who serves as a special investigator pursuant to this section  
29 shall receive annual compensation, salary or retirement for such  
30 services at the rates of compensation provided for senior judges  
31 by subsections 1, 2 and 4 of section 476.682. Such retired  
32 judges shall by the tenth day of each month following any month  
33 in which the judge provided services pursuant to this section  
34 certify to the commission and to the state courts administrator  
35 the amount of time engaged in such services by hour or fraction  
36 thereof, the dates thereof, and the expenses incurred and  
37 allowable pursuant to this section. The commission shall then

1 issue a warrant to the state treasurer for the payment of the  
2 salary and expenses to the extent, and within limitations,  
3 provided for in this section. The state treasurer upon receipt  
4 of such warrant shall pay the same out of any appropriations made  
5 for this purpose on the last day of the month during which the  
6 warrant was received by the state treasurer.

7 [105.961. 1. Upon receipt of a complaint as  
8 described by section 105.957, the commission shall  
9 assign the complaint to a special investigator, who may  
10 be a commission employee, who shall investigate and  
11 determine the merits of the complaint. Within ten days  
12 of such assignment, the special investigator shall  
13 review such complaint and disclose, in writing, to the  
14 commission any conflict of interest which the special  
15 investigator has or might have with respect to the  
16 investigation and subject thereof. Within one hundred  
17 twenty days of receipt of the complaint from the  
18 commission, the special investigator shall submit the  
19 special investigator's report to the commission. The  
20 commission, after review of such report, shall  
21 determine:

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

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

27 (3) That additional time is necessary to complete  
28 the investigation, and the status and progress of the  
29 investigation to date. The commission, in its  
30 discretion, may allow the investigation to proceed for  
31 additional successive periods of one hundred twenty  
32 days each, pending reports regarding the status and  
33 progress of the investigation at the end of each such  
34 period.

35 2. When the commission concludes, based on the  
36 report from the special investigator, or based on an  
37 audit conducted pursuant to section 105.959, that there  
38 are reasonable grounds to believe that a violation of  
39 any criminal law has occurred, and if the commission  
40 believes that criminal prosecution would be appropriate  
41 upon a vote of four members of the commission, the  
42 commission shall refer the report to the Missouri  
43 office of prosecution services, prosecutors  
44 coordinators training council established in section  
45 56.760, which shall submit a panel of five attorneys  
46 for recommendation to the court having criminal

1 jurisdiction, for appointment of an attorney to serve  
2 as a special prosecutor; except that, the attorney  
3 general of Missouri or any assistant attorney general  
4 shall not act as such special prosecutor. The court  
5 shall then appoint from such panel a special prosecutor  
6 pursuant to section 56.110 who shall have all the  
7 powers provided by section 56.130. The court shall  
8 allow a reasonable and necessary attorney's fee for the  
9 services of the special prosecutor. Such fee shall be  
10 assessed as costs if a case is filed, or ordered by the  
11 court if no case is filed, and paid together with all  
12 other costs in the proceeding by the state, in  
13 accordance with rules and regulations promulgated by  
14 the state courts administrator, subject to funds  
15 appropriated to the office of administration for such  
16 purposes. If the commission does not have sufficient  
17 funds to pay a special prosecutor, the commission shall  
18 refer the case to the prosecutor or prosecutors having  
19 criminal jurisdiction. If the prosecutor having  
20 criminal jurisdiction is not able to prosecute the case  
21 due to a conflict of interest, the court may appoint a  
22 special prosecutor, paid from county funds, upon  
23 appropriation by the county or the attorney general to  
24 investigate and, if appropriate, prosecute the case.  
25 The special prosecutor or prosecutor shall commence an  
26 action based on the report by the filing of an  
27 information or seeking an indictment within sixty days  
28 of the date of such prosecutor's appointment, or shall  
29 file a written statement with the commission explaining  
30 why criminal charges should not be sought. If the  
31 special prosecutor or prosecutor fails to take either  
32 action required by this subsection, upon request of the  
33 commission, a new special prosecutor, who may be the  
34 attorney general, shall be appointed. The report may  
35 also be referred to the appropriate disciplinary  
36 authority over the person who is the subject of the  
37 report.

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

1 of such sections. The commission shall determine, in  
2 its discretion, whether or not that there is probable  
3 cause that a violation has occurred. If the commission  
4 determines, by a vote of at least four members of the  
5 commission, that probable cause exists that a violation  
6 has occurred, the commission may refer its findings and  
7 conclusions to the appropriate disciplinary authority  
8 over the person who is the subject of the report, as  
9 described in subsection 7 of this section. After the  
10 commission determines by a vote of at least four  
11 members of the commission that probable cause exists  
12 that a violation has occurred, and the commission has  
13 referred the findings and conclusions to the  
14 appropriate disciplinary authority over the person  
15 subject of the report, the subject of the report may  
16 appeal the determination of the commission to the  
17 administrative hearing commission. Such appeal shall  
18 stay the action of the Missouri ethics commission.  
19 Such appeal shall be filed not later than the  
20 fourteenth day after the subject of the commission's  
21 action receives actual notice of the commission's  
22 action.

23 4. If the appropriate disciplinary authority  
24 receiving a report from the commission pursuant to  
25 subsection 3 of this section fails to follow, within  
26 sixty days of the receipt of the report, the  
27 recommendations contained in the report, or if the  
28 commission determines, by a vote of at least four  
29 members of the commission that some action other than  
30 referral for criminal prosecution or for action by the  
31 appropriate disciplinary authority would be  
32 appropriate, the commission shall take any one or more  
33 of the following actions:

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

39 (2) Notify the person of the requirement to file,  
40 amend or correct any report, statement, or other  
41 document or information required by sections 105.473,  
42 105.483 to 105.492, or chapter 130 and that the  
43 commission may seek judicial enforcement of its  
44 decision pursuant to subsection 5 of this section; and

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

47 (4) Issue a letter of concern or letter of  
48 reprimand to the person, which would be maintained as a



1 public document; or

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

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

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

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

15 (2) Pay any civil penalties required by sections  
16 105.450 to 105.496 or chapter 130;

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

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

24 The Missouri ethics commission shall give actual notice  
25 to the subject of the complaint of the proposed action  
26 as set out in this section. The subject of the  
27 complaint may appeal the action of the Missouri ethics  
28 commission, other than a referral for criminal  
29 prosecution, to the administrative hearing commission.  
30 Such appeal shall stay the action of the Missouri  
31 ethics commission. Such appeal shall be filed no later  
32 than fourteen days after the subject of the  
33 commission's actions receives actual notice of the  
34 commission's actions.

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

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

48 (1) In the case of a member of the general

1 assembly, the ethics committee of the house of which  
2 the subject of the report is a member;

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

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

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

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

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

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

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

31 8. The special investigator having a complaint  
32 referred to the special investigator by the commission  
33 shall have the following powers:

34 (1) To request and shall be given access to  
35 information in the possession of any person or agency  
36 which the special investigator deems necessary for the  
37 discharge of the special investigator's  
38 responsibilities;

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

42 (3) To administer oaths and affirmations;

43 (4) Upon refusal by any person to comply with a  
44 request for information relevant to an investigation,  
45 an investigator may issue a subpoena for any person to  
46 appear and give testimony, or for a subpoena duces  
47 tecum to produce documentary or other evidence which  
48 the investigator deems relevant to a matter under the

1 investigator's inquiry. The subpoenas and subpoenas  
2 duces tecum may be enforced by applying to a judge of  
3 the circuit court of Cole County or any county where  
4 the person or entity that has been subpoenaed resides  
5 or may be found, for an order to show cause why the  
6 subpoena or subpoena duces tecum should not be  
7 enforced. The order and a copy of the application  
8 therefor shall be served in the same manner as a  
9 summons in a civil action, and if, after hearing, the  
10 court determines that the subpoena or subpoena duces  
11 tecum should be sustained and enforced, the court shall  
12 enforce the subpoena or subpoena duces tecum in the  
13 same manner as if it had been issued by the court in a  
14 civil action; and

15 (5) To request from the commission such  
16 investigative, clerical or other staff assistance or  
17 advancement of other expenses which are necessary and  
18 convenient for the proper completion of an  
19 investigation. Within the limits of appropriations to  
20 the commission, the commission may provide such  
21 assistance, whether by contract to obtain such  
22 assistance or from staff employed by the commission, or  
23 may advance such expenses.

24 9. (1) Any retired judge may request in writing  
25 to have the judge's name removed from the list of  
26 special investigators subject to appointment by the  
27 commission or may request to disqualify himself or  
28 herself from any investigation. Such request shall  
29 include the reasons for seeking removal;

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

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

39 11. The provisions of sections 105.957, 105.959  
40 and 105.961 are in addition to other provisions of law  
41 under which any remedy or right of appeal or objection  
42 is provided for any person, or any procedure provided  
43 for inquiry or investigation concerning any matter.  
44 The provisions of this section shall not be construed  
45 to limit or affect any other remedy or right of appeal  
46 or objection.

47 12. No person shall be required to make or file a  
48 complaint to the commission as a prerequisite for

1 exhausting the person's administrative remedies before  
2 pursuing any civil cause of action allowed by law.

3 13. If, in the opinion of the commission, the  
4 complaining party was motivated by malice or reason  
5 contrary to the spirit of any law on which such  
6 complaint was based, in filing the complaint without  
7 just cause, this finding shall be reported to  
8 appropriate law enforcement authorities. Any person  
9 who knowingly files a complaint without just cause, or  
10 with malice, is guilty of a class A misdemeanor.

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

18 15. The special investigator and members and  
19 staff of the commission shall maintain confidentiality  
20 with respect to all matters concerning a complaint  
21 until and if a report is filed with the commission,  
22 with the exception of communications with any person  
23 which are necessary to the investigation. The report  
24 filed with the commission resulting from a complaint  
25 acted upon under the provisions of this section shall  
26 not contain the name of the complainant or other person  
27 providing information to the investigator, if so  
28 requested in writing by the complainant or such other  
29 person. Any person who violates the confidentiality  
30 requirements imposed by this section or subsection 17  
31 of section 105.955 required to be confidential is  
32 guilty of a class A misdemeanor and shall be subject to  
33 removal from or termination of employment by the  
34 commission.

35 16. Any judge of the court of appeals or circuit  
36 court who ceases to hold such office by reason of the  
37 judge's retirement and who serves as a special  
38 investigator pursuant to this section shall receive  
39 annual compensation, salary or retirement for such  
40 services at the rates of compensation provided for  
41 senior judges by subsections 1, 2 and 4 of section  
42 476.682. Such retired judges shall by the tenth day of  
43 each month following any month in which the judge  
44 provided services pursuant to this section certify to  
45 the commission and to the state courts administrator  
46 the amount of time engaged in such services by hour or  
47 fraction thereof, the dates thereof, and the expenses  
48 incurred and allowable pursuant to this section. The

1 commission shall then issue a warrant to the state  
2 treasurer for the payment of the salary and expenses to  
3 the extent, and within limitations, provided for in  
4 this section. The state treasurer upon receipt of such  
5 warrant shall pay the same out of any appropriations  
6 made for this purpose on the last day of the month  
7 during which the warrant was received by the state  
8 treasurer.]

9 105.963. 1. The executive director shall assess every  
10 committee, as defined in section 130.011, failing to file with a  
11 filing officer other than a local election authority as provided  
12 by section 130.026 a campaign disclosure report or statement of  
13 limited activity as required by chapter 130, other than the  
14 report required pursuant to subdivision (1) of subsection 1 of  
15 section 130.046, a late filing fee of fifty dollars for each day  
16 after such report is due to the commission[, provided that the  
17 total amount of such fees assessed under this subsection per  
18 report shall not exceed three thousand dollars]. The executive  
19 director shall send a notice to any candidate and the treasurer  
20 of any committee who fails to file such report within seven  
21 business days of such failure to file informing such person of  
22 such failure and the fees provided by this section.

23 2. Any committee that fails to file a campaign disclosure  
24 report required pursuant to subdivision (1) of subsection 1 of  
25 section 130.046, other than a report required to be filed with a  
26 local election authority as provided by section 130.026, shall be  
27 assessed by the executive director a late filing fee of one  
28 hundred dollars for each day that the report is not filed[,  
29 provided that the total amount of such fees assessed under this  
30 subsection per report shall not exceed three thousand dollars].  
31 The executive director shall send a notice to any candidate and  
32 the treasurer of any committee who fails to file the report  
33 described in this subsection within seven business days of such  
34 failure to file informing such person of such failure and the  
35 fees provided by this section.

36 3. The executive director shall assess every person  
37 required to file a financial interest statement pursuant to  
38 sections 105.483 to 105.492 failing to file such a financial

1 interest statement with the commission a late filing fee of ten  
2 dollars for each day after such statement is due to the  
3 commission. The executive director shall send a notice to any  
4 person who fails to file such statement informing the individual  
5 required to file of such failure and the fees provided by this  
6 section. If the person persists in such failure for a period in  
7 excess of thirty days beyond receipt of such notice, the amount  
8 of the late filing fee shall increase to one hundred dollars for  
9 each day thereafter that the statement is late[, provided that  
10 the total amount of such fees assessed pursuant to this  
11 subsection per statement shall not exceed six thousand dollars].

12 4. Any person assessed a late filing fee may seek review of  
13 such assessment or the amount of late filing fees assessed, at  
14 the person's option, by filing a petition within fourteen days  
15 after receiving notice of assessment with the circuit court of  
16 Cole County.

17 5. The executive director of the Missouri ethics commission  
18 shall collect such late filing fees as are provided for in this  
19 section. Unpaid late filing fees shall be collected by action  
20 filed by the commission. The commission shall contract with the  
21 appropriate entity to collect such late filing fees after a  
22 thirty-day delinquency. If not collected within one hundred  
23 twenty days, the Missouri ethics commission shall file a petition  
24 in Cole County circuit court to seek a judgment on said fees.  
25 After obtaining a judgment for the unpaid late filing fees, the  
26 commission or any entity contracted by the commission may proceed  
27 to collect the judgment in any manner authorized by law,  
28 including but not limited to garnishment of and execution against  
29 the committee's official depository account as set forth in  
30 subsection 4 of section 130.021 after a thirty-day delinquency.  
31 All late filing fees collected pursuant to this section shall be  
32 transmitted to the state treasurer and deposited to the general  
33 revenue fund.

34 6. The late filing fees provided by this section shall be  
35 in addition to any penalty provided by law for violations of  
36 sections 105.483 to 105.492 or chapter 130.

37 7. If any lobbyist fails to file a lobbyist report in a

1 timely manner and that lobbyist is assessed a late fee, or if any  
2 individual who is required to file a personal financial  
3 disclosure statement fails to file such disclosure statement in a  
4 timely manner and is assessed a late fee, or if any candidate or  
5 the treasurer of any committee fails to file a campaign  
6 disclosure report or a statement of limited activity in a timely  
7 manner and that candidate or treasurer of any committee who fails  
8 to file a disclosure statement in a timely manner and is assessed  
9 a late filing fee, the lobbyist, individual, candidate, or the  
10 treasurer of any committee may file an appeal of the assessment  
11 of the late filing fee with the commission. The commission may  
12 forgive the assessment of the late filing fee upon a showing of  
13 good cause. Such appeal shall be filed within ten days of the  
14 receipt of notice of the assessment of the late filing fee.

15 [105.963. 1. The executive director shall assess  
16 every committee, as defined in section 130.011, failing  
17 to file with a filing officer other than a local  
18 election authority as provided by section 130.026 a  
19 campaign disclosure report as required by chapter 130,  
20 other than the report required pursuant to subdivision  
21 (1) of subsection 1 of section 130.046, a late filing  
22 fee of ten dollars for each day after such report is  
23 due to the commission. The executive director shall  
24 mail a notice, by registered mail, to any candidate and  
25 the treasurer of any committee who fails to file such  
26 report informing such person of such failure and the  
27 fees provided by this section. If the candidate or  
28 treasurer of any committee persists in such failure for  
29 a period in excess of thirty days beyond receipt of  
30 such notice, the amount of the late filing fee shall  
31 increase to one hundred dollars for each day that the  
32 report is not filed, provided that the total amount of  
33 such fees assessed pursuant to this subsection per  
34 report shall not exceed three thousand dollars.

35 2. (1) Any candidate for state or local office  
36 who fails to file a campaign disclosure report required  
37 pursuant to subdivision (1) of subsection 1 of section  
38 130.046, other than a report required to be filed with  
39 a local election authority as provided by section  
40 130.026, shall be assessed by the executive director a  
41 late filing fee of one hundred dollars for each day  
42 that the report is not filed, until the first day after  
43 the date of the election. After such election date,  
44 the amount of such late filing fee shall accrue at the

1 rate of ten dollars per day that such report remains  
2 unfiled, except as provided in subdivision (2) of this  
3 subsection.

4 (2) The executive director shall mail a notice,  
5 by certified mail or other means to give actual notice,  
6 to any candidate who fails to file the report described  
7 in subdivision (1) of this subsection informing such  
8 person of such failure and the fees provided by this  
9 section. If the candidate persists in such failure for  
10 a period in excess of thirty days beyond receipt of  
11 such notice, the amount of the late filing fee shall  
12 increase to one hundred dollars for each day that the  
13 report is not filed, provided that the total amount of  
14 such fees assessed pursuant to this subsection per  
15 report shall not exceed six thousand dollars.

16 3. The executive director shall assess every  
17 person required to file a financial interest statement  
18 pursuant to sections 105.483 to 105.492 failing to file  
19 such a financial interest statement with the commission  
20 a late filing fee of ten dollars for each day after  
21 such statement is due to the commission.

22 The executive director shall mail a notice, by  
23 certified mail, to any person who fails to file such  
24 statement informing the individual required to file of  
25 such failure and the fees provided by this section. If  
26 the person persists in such failure for a period in  
27 excess of thirty days beyond receipt of such notice,  
28 the amount of the late filing fee shall increase to one  
29 hundred dollars for each day thereafter that the  
30 statement is late, provided that the total amount of  
31 such fees assessed pursuant to this subsection per  
32 statement shall not exceed six thousand dollars.

33 4. Any person assessed a late filing fee may seek  
34 review of such assessment or the amount of late filing  
35 fees assessed, at the person's option, by filing a  
36 petition within fourteen days after receiving actual  
37 notice of assessment with the administrative hearing  
38 commission, or without exhausting the person's  
39 administrative remedies may seek review of such issues  
40 with the circuit court of Cole County.

41 5. The executive director of the Missouri ethics  
42 commission shall collect such late filing fees as are  
43 provided for in this section. Unpaid late filing fees  
44 shall be collected by action filed by the commission.  
45 The commission shall contract with the appropriate  
46 entity to collect such late filing fees after a  
47 thirty-day delinquency. If not collected within one  
48 hundred twenty days, the Missouri ethics commission



1 shall file a petition in Cole County circuit court to  
2 seek a judgment on said fees. All late filing fees  
3 collected pursuant to this section shall be transmitted  
4 to the state treasurer and deposited to the general  
5 revenue fund.

6 6. The late filing fees provided by this section  
7 shall be in addition to any penalty provided by law for  
8 violations of sections 105.483 to 105.492 or chapter  
9 130.

10 7. If any candidate fails to file a campaign  
11 disclosure report in a timely manner and that candidate  
12 is assessed a late filing fee, the candidate, candidate  
13 committee treasurer or assistant treasurer may file an  
14 appeal of the assessment of the late filing fee with  
15 the commission. The commission may forgive the  
16 assessment of the late filing fee upon a showing of  
17 good cause. Such appeal shall be filed within ten days  
18 of the receipt of notice of the assessment of the late  
19 filing fee.]" ; and

20  
21 Further amend said bill, Page 22, Section 130.031, Line 135,  
22 by inserting after all of said line the following:

23 "130.073. 1. In addition to or in lieu of any other  
24 penalty imposed in this chapter, the ethics commission may direct  
25 the secretary of state to remove a candidate for office from the  
26 ballot if:

27 (1) The candidate knowingly made or accepted a contribution  
28 or knowingly makes or incurs any expenditure in violation of  
29 subdivision (3) of subsection 3 of section 130.031; and

30 (2) The violation occurred either:

31 (a) In an even-numbered year, from the first of April to  
32 the general election day; or

33 (b) In any year in which a special election is scheduled,  
34 from the opening of the period of candidate filing to the special  
35 election day and the candidate is a candidate on the special  
36 election ballot; and

37 (3) The ethics commission, a judicial body, or a quasi-  
38 judicial body finds that the candidate violated subdivision (3)  
39 of subsection 3 of section 130.031, and such finding occurs  
40 before the general election day.

41 2. If a candidate is removed from the ballot as provided in

1 this section, such removal shall be accomplished and treated as  
2 other removals from the ballot are treated as provided in chapter  
3 115.

4 575.021. 1. A person commits the crime of obstruction of  
5 an ethics investigation if such person, for the purpose of  
6 obstructing or preventing an ethics investigation, knowingly  
7 commits any of the following acts:

8 (1) Confers or agrees to confer anything of pecuniary  
9 benefit to any person in direct exchange for that person's  
10 concealing or withholding any information concerning any  
11 violation of sections 105.450 to 105.496 and chapter 130;

12 (2) Accepting or agreeing to accept anything of pecuniary  
13 benefit in direct exchange for concealing or withholding any  
14 information concerning any violation of sections 105.450 to  
15 105.496 or chapter 130;

16 (3) Utters or submits a false statement that the person  
17 does not believe to be true to any member or employee of the  
18 Missouri ethics commission or to any official investigating any  
19 violation of sections 105.450 to 105.496 or chapter 130; or

20 (4) Submits any writing or other documentation that is  
21 inaccurate and that the person does not believe to be true to any  
22 member or employee of the Missouri ethics commission or to any  
23 official investigating any violation of sections 105.450 to  
24 105.496 or chapter 130.

25 2. It is a defense to a prosecution under subdivisions (3)  
26 and (4) of subsection 1 of this section that the person retracted  
27 the false statement, writing, or other documentation, but this  
28 defense shall not apply if the retraction was made after:

29 (1) The falsity of the statement, writing, or other  
30 documentation was exposed; or

31 (2) Any member or employee of the Missouri ethics  
32 commission or any official investigating any violation of  
33 sections 105.450 to 105.496 or chapter 130 took substantial  
34 action in reliance on the statement, writing, or other  
35 documentation.

36 3. The defendant shall have the burden of injecting the  
37 issue of retraction under this section.

1           4. Obstruction of an ethics investigation under this  
2 section is a class [A misdemeanor] D felony."; and

3  
4           Further amend said title, enacting clause and intersectional  
5 references accordingly.