

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

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.