

FIRST REGULAR SESSION

HOUSE BILL NO. 1050

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CARPENTER.

0445H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 105.455, 105.456, 105.470, and 105.473, RSMo, and to enact in lieu thereof five new sections relating to ethics, with penalty provisions.

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

Section A. Sections 105.455, 105.456, 105.470, and 105.473, RSMo, are repealed and
2 five new sections enacted in lieu thereof, to be known as sections 105.455, 105.456, 105.470,
3 105.473, and 130.039, to read as follows:

105.455. 1. No person elected or appointed to the ~~[state senate, to the state house of~~
2 ~~representatives, or to the]~~ office of governor, lieutenant governor, attorney general, secretary of
3 state, state treasurer, or state auditor who vacates the office, whether by resignation, expulsion,
4 ~~[term limitation under Article III, Section 8 of the Constitution of Missouri,]~~ or otherwise, shall
5 act, serve, or register as a lobbyist until six months after the expiration of any term of office for
6 which such person was elected or appointed.

7 2. No person holding an office that required appointment by the governor and
8 confirmation by the senate who vacates the office, whether by resignation, expulsion, or
9 otherwise, shall act, serve, or register as a lobbyist until six months after the vacation of such
10 office.

11 3. **No person employed by the general assembly or elected to the office of the state**
12 **senate or to the state house of representatives shall act, serve, or register as a lobbyist or**
13 **solicit prospective employers or clients to represent as a lobbyist during the time of such**
14 **service until the expiration of two calendar years after the adjournment of the regular**
15 **session of the general assembly in which the person last served and where such service was**

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

16 **after December 6, 2018. For purposes of this subsection, a regular session of the general**
17 **assembly shall be construed to occur each calendar year.**

18 **4.** For purposes of this section, the prohibition contained herein shall apply only to
19 lobbyists employed by a lobbyist principal for pay or other compensation in excess of
20 reimbursement for expenses incurred.

21 ~~[4:]~~ **5.** The provisions of **subsections 1 and 2 of** this section shall not apply to any
22 person who acts, serves, or registers as a lobbyist for a state department or agency.

23 ~~[5:]~~ **6.** For purposes of this section, the terms "lobbyist" and "lobbyist principal" shall
24 have the same meanings given to such terms under section 105.470.

105.456. 1. No member of the general assembly or the governor, lieutenant governor,
2 attorney general, secretary of state, state treasurer or state auditor shall:

3 (1) Perform any service for the state or any political subdivision of the state or any
4 agency of the state or any political subdivision thereof or act in his or her official capacity or
5 perform duties associated with his or her position for any person for any consideration other than
6 the compensation provided for the performance of his or her official duties;

7 (2) Sell, rent or lease any property to the state or political subdivision thereof or any
8 agency of the state or any political subdivision thereof for consideration in excess of five hundred
9 dollars per transaction or one thousand five hundred dollars per annum unless the transaction is
10 made pursuant to an award on a contract let or sale made after public notice and in the case of
11 property other than real property, competitive bidding, provided that the bid or offer accepted
12 is the lowest received;

13 (3) Attempt, for compensation other than the compensation provided for the performance
14 of his or her official duties, to influence the decision of any agency of the state on any matter,
15 except that this provision shall not be construed to prohibit such person from participating for
16 compensation in any adversary proceeding or in the preparation or filing of any public document
17 or conference thereon. The exception for a conference upon a public document shall not permit
18 any member of the general assembly or the governor, lieutenant governor, attorney general,
19 secretary of state, state treasurer or state auditor to receive any consideration for the purpose of
20 attempting to influence the decision of any agency of the state on behalf of any person with
21 regard to any application, bid or request for a state grant, loan, appropriation, contract, award,
22 permit other than matters involving a driver's license, or job before any state agency,
23 commission, or elected official. Notwithstanding Missouri supreme court rule 1.10 of rule 4 or
24 any other court rule or law to the contrary, other members of a firm, professional corporation or
25 partnership shall not be prohibited pursuant to this subdivision from representing a person or
26 other entity solely because a member of the firm, professional corporation or partnership serves
27 in the general assembly, provided that such official does not share directly in the compensation

28 earned, so far as the same may reasonably be accounted, for such activity by the firm or by any
29 other member of the firm. This subdivision shall not be construed to prohibit any inquiry for
30 information or the representation of a person without consideration before a state agency or in
31 a matter involving the state if no consideration is given, charged or promised in consequence
32 thereof; or

33 (4) Solicit any registered lobbyist for any compensated or noncompensated position, with
34 a hiring date beginning after such person is no longer an elected official, while such person holds
35 office.

36 2. No sole proprietorship, partnership, joint venture, or corporation in which a member
37 of the general assembly, governor, lieutenant governor, attorney general, secretary of state, state
38 treasurer, state auditor or spouse of such official is the sole proprietor, a partner having more than
39 a ten percent partnership interest, or a coparticipant or owner of in excess of ten percent of the
40 outstanding shares of any class of stock, shall:

41 (1) Perform any service for the state or any political subdivision thereof or any agency
42 of the state or political subdivision for any consideration in excess of five hundred dollars per
43 transaction or one thousand five hundred dollars per annum unless the transaction is made
44 pursuant to an award on a contract let or sale made after public notice and competitive bidding,
45 provided that the bid or offer accepted is the lowest received; or

46 (2) Sell, rent, or lease any property to the state or any political subdivision thereof or any
47 agency of the state or political subdivision thereof for consideration in excess of five hundred
48 dollars per transaction or one thousand five hundred dollars per annum unless the transaction is
49 made pursuant to an award on a contract let or a sale made after public notice and in the case of
50 property other than real property, competitive bidding, provided that the bid or offer accepted
51 is the lowest and best received.

52 3. No individual or business entity shall solicit a member of the general assembly to
53 become employed by that individual or business entity as a legislative lobbyist while such
54 member is holding office as a member of the general assembly. No member of the general
55 assembly shall solicit clients to represent as a legislative lobbyist.

56 4. **(1) No person serving as a member of or employed by the general assembly shall**
57 **accept, directly or indirectly, a gift of any tangible or intangible item, service, or thing of**
58 **value from any paid lobbyist or lobbyist principal in excess of five dollars per occurrence.**

59 **(2) For purposes of this subsection, "per occurrence" shall mean per day. Any**
60 **person subject to the prohibition in subdivision (1) of this subsection shall not accept more**
61 **than one gift of five dollars or less in one day from any one paid lobbyist or lobbyist**
62 **principal.**

63 **(3) Any person subject to the prohibition in subdivision (1) of this subsection shall**
64 **not accept gifts from two or more paid lobbyists or lobbyist principals for the purpose of**
65 **paying for a single item, service, or thing of value. This prohibition on bundling shall**
66 **apply even if the gifts are received on different days.**

67 **(4) Nothing in this subsection shall prevent candidates for the general assembly,**
68 **including candidates for reelection, from accepting campaign contributions consistent with**
69 **the provisions of chapter 130 and the Constitution of Missouri.**

70 **(5) Nothing in this subsection shall prevent a member of the general assembly or**
71 **a person employed by the general assembly from receiving gifts, family support, or**
72 **anything of value from persons related to him or her within the fourth degree by blood or**
73 **marriage.**

74 **(6) The dollar limitations of this subsection shall be increased or decreased each**
75 **year by the percentage of increase or decrease from the end of the previous calendar year**
76 **of the Consumer Price Index for All Urban Consumers for the United States, or successor**
77 **index published by the United States Department of Labor or its successor agency, and**
78 **rounded to the nearest dollar amount.**

79 **5.** For purposes of this section, the terms "lobbyist", "**lobbyist principal**", and
80 "legislative lobbyist" shall have the same meanings given to such terms under section 105.470.

 105.470. As used in section 105.473, unless the context requires otherwise, the following
2 words and terms mean:

3 (1) "Elected local government official lobbyist", any natural person employed
4 specifically for the purpose of attempting to influence any action by a local government official
5 elected in a county, city, town, or village with an annual operating budget of over ten million
6 dollars;

7 (2) "Executive lobbyist", any natural person who acts for the purpose of attempting to
8 influence any action by the executive branch of government or by any elected or appointed
9 official, employee, department, division, agency or board or commission thereof and in
10 connection with such activity, meets the requirements of any one or more of the following:

11 (a) Is acting in the ordinary course of employment on behalf of or for the benefit of such
12 person's employer; or

13 (b) Is engaged for pay or for any valuable consideration for the purpose of performing
14 such activity; or

15 (c) Is designated to act as a lobbyist by any person, business entity, governmental entity,
16 religious organization, nonprofit corporation, association or other entity; or

17 (d) Makes total expenditures of fifty dollars or more during the twelve-month period
18 beginning January first and ending December thirty-first for the benefit of one or more public

19 officials or one or more employees of the executive branch of state government in connection
20 with such activity.

21

22 An "executive lobbyist" shall not include a member of the general assembly, an elected state
23 official, or any other person solely due to such person's participation in any of the following
24 activities:

25 a. Appearing or inquiring in regard to a complaint, citation, summons, adversary
26 proceeding, or contested case before a state board, commission, department, division or agency
27 of the executive branch of government or any elected or appointed officer or employee thereof;

28 b. Preparing, filing or inquiring, or responding to any audit, regarding any tax return, any
29 public document, permit or contract, any application for any permit or license or certificate, or
30 any document required or requested to be filed with the state or a political subdivision;

31 c. Selling of goods or services to be paid for by public funds, provided that such person
32 is attempting to influence only the person authorized to authorize or enter into a contract to
33 purchase the goods or services being offered for sale;

34 d. Participating in public hearings or public proceedings on rules, grants, or other
35 matters;

36 e. Responding to any request for information made by any public official or employee
37 of the executive branch of government;

38 f. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or
39 television broadcast, or similar news medium, whether print or electronic;

40 g. Acting within the scope of employment by the general assembly, or acting within the
41 scope of employment by the executive branch of government when acting with respect to the
42 department, division, board, commission, agency or elected state officer by which such person
43 is employed, or with respect to any duty or authority imposed by law to perform any action in
44 conjunction with any other public official or state employee; or

45 h. Testifying as a witness before a state board, commission or agency of the executive
46 branch;

47 (3) "Expenditure", any payment made or charge, expense, cost, debt or bill incurred; any
48 gift, honorarium or item of value bestowed including any food or beverage; any price, charge or
49 fee which is waived, forgiven, reduced or indefinitely delayed; any loan or debt which is
50 cancelled, reduced or otherwise forgiven; the transfer of any item with a reasonably discernible
51 cost or fair market value from one person to another or provision of any service or granting of
52 any opportunity for which a charge is customarily made, without charge or for a reduced charge;
53 except that the term "expenditure" shall not include the following:

54 (a) Any item, service or thing of value transferred to any person within the ~~[third]~~ **fourth**
55 degree of consanguinity **or affinity** of the transferor which is unrelated to any activity of the
56 transferor as a lobbyist;

57 (b) Informational material such as books, reports, pamphlets, calendars or periodicals
58 informing a public official regarding such person's official duties, or souvenirs or mementos
59 valued at less than ten dollars;

60 (c) Contributions to the public official's campaign committee or candidate committee
61 which are reported pursuant to the provisions of chapter 130;

62 (d) Any loan made or other credit accommodations granted or other payments made by
63 any person or entity which extends credit or makes loan accommodations or such payments in
64 the regular ordinary scope and course of business, provided that such are extended, made or
65 granted in the ordinary course of such person's or entity's business to persons who are not public
66 officials;

67 (e) Any item, service or thing of de minimis value offered to the general public, whether
68 or not the recipient is a public official or a staff member, employee, spouse or dependent child
69 of a public official, and only if the grant of the item, service or thing of de minimis value is not
70 motivated in any way by the recipient's status as a public official or staff member, employee,
71 spouse or dependent child of a public official;

72 (f) ~~[The transfer of any item, provision of any service or granting of any opportunity with~~
73 ~~a reasonably discernible cost or fair market value when such item, service or opportunity is~~
74 ~~necessary for a public official or employee to perform his or her duty in his or her official~~
75 ~~capacity, including but not limited to entrance fees to any sporting event, museum, or other~~
76 ~~venue when the official or employee is participating in a ceremony, public presentation or~~
77 ~~official meeting therein;~~

78 ~~——(g)]~~ Any payment, ~~[gift,]~~ compensation, fee, expenditure or anything of value which is
79 bestowed upon or given to any public official or a staff member, employee, spouse or dependent
80 child of a public official when it is compensation for employment or given as an employment
81 benefit and when such employment is in addition to their employment as a public official;

82 (4) "Judicial lobbyist", any natural person who acts for the purpose of attempting to
83 influence any purchasing decision by the judicial branch of government or by any elected or
84 appointed official or any employee thereof and in connection with such activity, meets the
85 requirements of any one or more of the following:

86 (a) Is acting in the ordinary course of employment which primary purpose is to influence
87 the judiciary in its purchasing decisions on a regular basis on behalf of or for the benefit of such
88 person's employer, except that this shall not apply to any person who engages in lobbying on an
89 occasional basis only and not as a regular pattern of conduct; or

90 (b) Is engaged for pay or for any valuable consideration for the purpose of performing
91 such activity; or

92 (c) Is designated to act as a lobbyist by any person, business entity, governmental entity,
93 religious organization, nonprofit corporation or association; or

94 (d) Makes total expenditures of fifty dollars or more during the twelve-month period
95 beginning January first and ending December thirty-first for the benefit of one or more public
96 officials or one or more employees of the judicial branch of state government in connection with
97 attempting to influence such purchasing decisions by the judiciary.

98

99 A "judicial lobbyist" shall not include a member of the general assembly, an elected state official,
100 or any other person solely due to such person's participation in any of the following activities:

101 a. Appearing or inquiring in regard to a complaint, citation, summons, adversary
102 proceeding, or contested case before a state court;

103 b. Participating in public hearings or public proceedings on rules, grants, or other
104 matters;

105 c. Responding to any request for information made by any judge or employee of the
106 judicial branch of government;

107 d. Preparing, distributing or publication of an editorial, a newsletter, newspaper,
108 magazine, radio or television broadcast, or similar news medium, whether print or electronic; or

109 e. Acting within the scope of employment by the general assembly, or acting within the
110 scope of employment by the executive branch of government when acting with respect to the
111 department, division, board, commission, agency or elected state officer by which such person
112 is employed, or with respect to any duty or authority imposed by law to perform any action in
113 conjunction with any other public official or state employee;

114 (5) "Legislative lobbyist", any natural person who acts for the purpose of attempting to
115 influence the taking, passage, amendment, delay or defeat of any official action on any bill,
116 resolution, amendment, nomination, appointment, report or any other action or any other matter
117 pending or proposed in a legislative committee in either house of the general assembly, or in any
118 matter which may be the subject of action by the general assembly and in connection with such
119 activity, meets the requirements of any one or more of the following:

120 (a) Is acting in the ordinary course of employment, which primary purpose is to influence
121 legislation on a regular basis, on behalf of or for the benefit of such person's employer, except
122 that this shall not apply to any person who engages in lobbying on an occasional basis only and
123 not as a regular pattern of conduct; or

124 (b) Is engaged for pay or for any valuable consideration for the purpose of performing
125 such activity; or

(c) Is designated to act as a lobbyist by any person, business entity, governmental entity, religious organization, nonprofit corporation, association or other entity; or

(d) Makes total expenditures of fifty dollars or more during the twelve-month period beginning January first and ending December thirty-first for the benefit of one or more public officials or one or more employees of the legislative branch of state government in connection with such activity.

A "legislative lobbyist" shall include an attorney at law engaged in activities on behalf of any person unless excluded by any of the following exceptions. A "legislative lobbyist" shall not include any member of the general assembly, an elected state official, or any other person solely due to such person's participation in any of the following activities:

a. Responding to any request for information made by any public official or employee of the legislative branch of government;

b. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or television broadcast, or similar news medium, whether print or electronic;

c. Acting within the scope of employment of the legislative branch of government when acting with respect to the general assembly or any member thereof;

d. Testifying as a witness before the general assembly or any committee thereof;

(6) "Lobbyist", any natural person defined as an executive lobbyist, judicial lobbyist, elected local government official lobbyist, or a legislative lobbyist;

(7) "Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit corporation or association who employs, contracts for pay or otherwise compensates a lobbyist;

(8) "Public official", any member or member-elect of the general assembly, judge or judicial officer, or any other person holding an elective office of state government or any agency head, department director or division director of state government or any member of any state board or commission and any designated decision-making public servant designated by persons described in this subdivision.

105.473. 1. Each lobbyist shall, not later than January fifth of each year or five days after beginning any activities as a lobbyist, file standardized registration forms, verified by a written declaration that it is made under the penalties of perjury, along with a filing fee of ten dollars, with the commission. The forms shall include the lobbyist's name and business address, the name and address of all persons such lobbyist employs for lobbying purposes, the name and address of each lobbyist principal by whom such lobbyist is employed or in whose interest such lobbyist appears or works. The commission shall maintain files on all lobbyists' filings, which shall be open to the public. Each lobbyist shall file an updating statement under oath within one

9 week of any addition, deletion, or change in the lobbyist's employment or representation. The
10 filing fee shall be deposited to the general revenue fund of the state. The lobbyist principal or
11 a lobbyist employing another person for lobbying purposes may notify the commission that a
12 judicial, executive or legislative lobbyist is no longer authorized to lobby for the principal or the
13 lobbyist and should be removed from the commission's files.

14 2. Each person shall, before giving testimony before any committee of the general
15 assembly, give to the secretary of such committee such person's name and address and the
16 identity of any lobbyist or organization, if any, on whose behalf such person appears. A person
17 who is not a lobbyist as defined in section 105.470 shall not be required to give such person's
18 address if the committee determines that the giving of such address would endanger the person's
19 physical health.

20 3. (1) During any period of time in which a lobbyist continues to act as an executive
21 lobbyist, judicial lobbyist, legislative lobbyist, or elected local government official lobbyist, the
22 lobbyist shall file with the commission on standardized forms prescribed by the commission
23 monthly reports which shall be due at the close of business on the tenth day of the following
24 month;

25 (2) Each report filed pursuant to this subsection shall include a statement, verified by a
26 written declaration that it is made under the penalties of perjury, setting forth the following:

27 (a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on
28 behalf of all public officials, their staffs and employees, and their spouses and dependent
29 children, which expenditures shall be separated into at least the following categories by the
30 executive branch, judicial branch and legislative branch of government: printing and publication
31 expenses; media and other advertising expenses; travel; the time, venue, and nature of any
32 entertainment; honoraria; meals, food and beverages; and gifts;

33 (b) The total of all expenditures by the lobbyist or his or her lobbyist principals made on
34 behalf of all elected local government officials, their staffs and employees, and their spouses and
35 children. Such expenditures shall be separated into at least the following categories: printing
36 and publication expenses; media and other advertising expenses; travel; the time, venue, and
37 nature of any entertainment; honoraria; meals; food and beverages; and gifts;

38 (c) An itemized listing of the name of the recipient and the nature and amount of each
39 expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of
40 value, for all expenditures made during any reporting period, paid or provided to or for a public
41 official or elected local government official, such official's staff, employees, spouse or dependent
42 children;

(d) ~~[The total of all expenditures made by a lobbyist or lobbyist principal for occasions and the identity of the group invited, the date and description of the occasion and the amount of the expenditure for each occasion when any of the following are invited in writing:~~

~~—— a. All members of the senate;~~

~~—— b. All members of the house of representatives;~~

~~—— c. All members of a joint committee of the general assembly or a standing committee of either the house of representatives or senate; or~~

~~—— d. All members of a caucus of the majority party of the house of representatives, minority party of the house of representatives, majority party of the senate, or minority party of the senate;~~

~~—— (e)] Any expenditure made on behalf of a public official, an elected local government official or such official's staff, employees, spouse or dependent children, if such expenditure is solicited by such official, the official's staff, employees, or spouse or dependent children, from the lobbyist or his or her lobbyist principals and the name of such person or persons, except any expenditures made to any not-for-profit corporation, charitable, fraternal or civic organization or other association formed to provide for good in the order of benevolence; and~~

~~[(f)]~~ (e) A statement detailing any direct business relationship or association or partnership the lobbyist has with any public official or elected local government official. The reports required by this subdivision shall cover the time periods since the filing of the last report or since the lobbyist's employment or representation began, whichever is most recent.

4. No expenditure reported pursuant to this section shall include any amount expended by a lobbyist or lobbyist principal on himself or herself. All expenditures disclosed pursuant to this section shall be valued on the report at the actual amount of the payment made, or the charge, expense, cost, or obligation, debt or bill incurred by the lobbyist or the person the lobbyist represents. Whenever a lobbyist principal employs more than one lobbyist, expenditures of the lobbyist principal shall not be reported by each lobbyist, but shall be reported by one of such lobbyists. No expenditure shall be made on behalf of a state senator or state representative, or such public official's staff, employees, spouse, or dependent children for travel or lodging outside the state of Missouri unless such travel or lodging was approved prior to the date of the expenditure by the administration and accounts committee of the house or the administration committee of the senate.

5. Any lobbyist principal shall provide in a timely fashion whatever information is reasonably requested by the lobbyist principal's lobbyist for use in filing the reports required by this section.

6. All information required to be filed pursuant to the provisions of this section with the commission shall be kept available by the executive director of the commission at all times open

78 to the public for inspection and copying for a reasonable fee for a period of five years from the
79 date when such information was filed.

80 7. No person shall knowingly employ any person who is required to register as a
81 registered lobbyist but is not registered pursuant to this section. Any person who knowingly
82 violates this subsection shall be subject to a civil penalty in an amount of not more than ten
83 thousand dollars for each violation. Such civil penalties shall be collected by action filed by the
84 commission.

85 8. No lobbyist shall knowingly omit, conceal, or falsify in any manner information
86 required pursuant to this section.

87 9. The prosecuting attorney of Cole County shall be reimbursed only out of funds
88 specifically appropriated by the general assembly for investigations and prosecutions for
89 violations of this section.

90 10. Any public official or other person whose name appears in any lobbyist report filed
91 pursuant to this section who contests the accuracy of the portion of the report applicable to such
92 person may petition the commission for an audit of such report and shall state in writing in such
93 petition the specific disagreement with the contents of such report. The commission shall
94 investigate such allegations in the manner described in section 105.959. If the commission
95 determines that the contents of such report are incorrect, incomplete or erroneous, it shall enter
96 an order requiring filing of an amended or corrected report.

97 11. The commission shall provide a report listing the total spent by a lobbyist for the
98 month and year to any member or member-elect of the general assembly, judge or judicial
99 officer, or any other person holding an elective office of state government or any elected local
100 government official on or before the twentieth day of each month. For the purpose of providing
101 accurate information to the public, the commission shall not publish information in either written
102 or electronic form for ten working days after providing the report pursuant to this subsection.
103 The commission shall not release any portion of the lobbyist report if the accuracy of the report
104 has been questioned pursuant to subsection 10 of this section unless it is conspicuously marked
105 "Under Review".

106 12. Each lobbyist or lobbyist principal by whom the lobbyist was employed, or in whose
107 behalf the lobbyist acted, shall provide a general description of the proposed legislation or action
108 by the executive branch or judicial branch which the lobbyist or lobbyist principal supported or
109 opposed. This information shall be supplied to the commission on March fifteenth and May
110 thirtieth of each year.

111 13. The provisions of this section shall supersede any contradicting ordinances or charter
112 provisions.

130.039. 1. No political fundraising activities or political fundraising event by any
2 member of or candidate for the general assembly including, but not limited to, the
3 solicitation or delivery of contributions, supporting or opposing any candidate, initiative
4 petition, referendum petition, ballot measure, political party, or political committee, shall
5 occur in or on any premises, property, or building owned, leased, or controlled by the state
6 of Missouri or any agency or division thereof.

7 2. Any purposeful violation of this section shall be punishable by imprisonment for
8 up to one year or a fine of up to one thousand dollars or both, plus an amount equal to
9 three times the illegal contributions.

✓