

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 512
101ST GENERAL ASSEMBLY

1187H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 105.955, 105.957, 105.961, 115.646, and 447.541, RSMo, and to enact in lieu thereof five new sections relating to the expenditure of public funds on printed matter, with penalty provisions.

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

Section A. Sections 105.955, 105.957, 105.961, 115.646, and 447.541, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 105.955, 105.957,
3 105.961, 115.646, and 447.541, to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

investigator is qualified or available to conduct a particular investigation, the commission may appoint a special investigator to conduct such particular investigation.

14. The commission shall have the following duties and responsibilities relevant to the impartial and effective enforcement of sections 105.450 to 105.496, **section 115.646**, and chapter 130, as provided in sections 105.955 to 105.963:

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

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

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

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

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

(6) Render advisory opinions as provided by this section;

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

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

159 15. In connection with such powers provided by sections 105.955 to 105.963 and chapter
160 130, the commission may:

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

163 (2) Administer oaths and affirmations;

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

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

174 (5) Obtain information from any department, division or agency of the state or any
175 political subdivision reasonably calculated to lead to the discovery of evidence which will
176 reasonably assist the commission in carrying out the duties prescribed in sections 105.955 to
177 105.963 and chapter 130.

178 16. (1) Upon written request for an advisory opinion received by the commission, and
179 if the commission determines that the person requesting the opinion would be directly affected
180 by the application of law to the facts presented by the requesting person, the commission shall
181 issue a written opinion advising the person who made the request, in response to the person's
182 particular request, regarding any issue that the commission can receive a complaint on pursuant
183 to section 105.957. The commission may decline to issue a written opinion by a vote of four
184 members and shall provide to the requesting person the reason for the refusal in writing. The
185 commission shall give an approximate time frame as to when the written opinion shall be issued.
186 Such advisory opinions shall be issued no later than ninety days from the date of receipt by the
187 commission. Such requests and advisory opinions, deleting the name and identity of the
188 requesting person, shall be compiled and published by the commission on at least an annual
189 basis. Advisory opinions issued by the commission shall be maintained and made available for
190 public inspection and copying at the office of the commission during normal business hours.
191 Any advisory opinion or portion of an advisory opinion rendered pursuant to this subsection shall
192 be withdrawn by the commission if, after hearing thereon, the joint committee on administrative
193 rules finds that such advisory opinion is beyond or contrary to the statutory authority of the
194 commission or is inconsistent with the legislative intent of any law enacted by the general

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

- (a) The authorizing statute is declared unconstitutional;
- (b) The opinion goes beyond the power authorized by statute; or
- (c) The authorizing statute is changed to invalidate the opinion.

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

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

18. From time to time but no more frequently than annually the commission may request the officials and entities described in subdivision (6) of section 105.450 to identify for the commission in writing those persons associated with such office or entity which such office or entity has designated as a decision-making public servant. Each office or entity delineated in

230 subdivision (6) of section 105.450 receiving such a request shall identify those so designated
231 within thirty days of the commission's request.

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

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

4 (2) The financial interest disclosure requirements contained in sections 105.483 to
5 105.492;

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

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

9 (5) The conflict of interest laws contained in sections 105.450 to 105.468 and section
10 171.181; ~~and~~

11 (6) The provisions of the constitution or state statute or order, ordinance or resolution
12 of any political subdivision relating to the official conduct of officials or employees of the state
13 and political subdivisions; **and**

14 **(7) The provisions of section 115.646.**

15 2. Complaints filed with the commission shall be in writing and filed only by a natural
16 person. The complaint shall contain all facts known by the complainant that have given rise to
17 the complaint and the complaint shall be sworn to, under penalty of perjury, by the complainant.
18 No complaint shall be investigated unless the complaint alleges facts which, if true, fall within
19 the jurisdiction of the commission. Within five days after receipt of a complaint by the
20 commission, a copy of the complaint, including the name of the complainant, shall be delivered
21 to the alleged violator.

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

32 4. If the commission finds that any complaint is frivolous in nature or finds no probable
33 cause to believe that there has been a violation, the commission shall dismiss the case. For
34 purposes of this subsection, "frivolous" shall mean a complaint clearly lacking any basis in fact

35 or law. Any person who submits a frivolous complaint shall be liable for actual and
36 compensatory damages to the alleged violator for holding the alleged violator before the public
37 in a false light. If the commission finds that a complaint is frivolous or that there is not probable
38 cause to believe there has been a violation, the commission shall issue a public report to the
39 complainant and the alleged violator stating with particularity its reasons for dismissal of the
40 complaint. Upon such issuance, the complaint and all materials relating to the complaint shall
41 be a public record as defined in chapter 610.

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

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

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

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

13 (3) That additional time is necessary to complete the investigation, and the status and
14 progress of the investigation to date. The commission, in its discretion, may allow the
15 investigation to proceed for additional successive periods of one hundred twenty days each,
16 pending reports regarding the status and progress of the investigation at the end of each such
17 period.

18 2. When the commission concludes, based on the report from the special investigator,
19 or based on an audit conducted pursuant to section 105.959, that there are reasonable grounds
20 to believe that a violation of any criminal law has occurred, and if the commission believes that
21 criminal prosecution would be appropriate upon a vote of four members of the commission, the
22 commission shall refer the report to the Missouri office of prosecution services, prosecutors
23 coordinators training council established in section 56.760, which shall submit a panel of five
24 attorneys for recommendation to the court having criminal jurisdiction, for appointment of an
25 attorney to serve as a special prosecutor; except that, the attorney general of Missouri or any
26 assistant attorney general shall not act as such special prosecutor. The court shall then appoint
27 from such panel a special prosecutor pursuant to section 56.110 who shall have all the powers

28 provided by section 56.130. The court shall allow a reasonable and necessary attorney's fee for
29 the services of the special prosecutor. Such fee shall be assessed as costs if a case is filed, or
30 ordered by the court if no case is filed, and paid together with all other costs in the proceeding
31 by the state, in accordance with rules and regulations promulgated by the state courts
32 administrator, subject to funds appropriated to the office of administration for such purposes.
33 If the commission does not have sufficient funds to pay a special prosecutor, the commission
34 shall refer the case to the prosecutor or prosecutors having criminal jurisdiction. If the
35 prosecutor having criminal jurisdiction is not able to prosecute the case due to a conflict of
36 interest, the court may appoint a special prosecutor, paid from county funds, upon appropriation
37 by the county or the attorney general to investigate and, if appropriate, prosecute the case. The
38 special prosecutor or prosecutor shall commence an action based on the report by the filing of
39 an information or seeking an indictment within sixty days of the date of such prosecutor's
40 appointment, or shall file a written statement with the commission explaining why criminal
41 charges should not be sought. If the special prosecutor or prosecutor fails to take either action
42 required by this subsection, upon request of the commission, a new special prosecutor, who may
43 be the attorney general, shall be appointed. The report may also be referred to the appropriate
44 disciplinary authority over the person who is the subject of the report.

45 3. When the commission concludes, based on the report from the special investigator or
46 based on an audit conducted pursuant to section 105.959, that there are reasonable grounds to
47 believe that a violation of any law has occurred which is not a violation of criminal law or that
48 criminal prosecution is not appropriate, the commission shall conduct a hearing which shall be
49 a closed meeting and not open to the public. The hearing shall be conducted pursuant to the
50 procedures provided by sections 536.063 to 536.090 and shall be considered to be a contested
51 case for purposes of such sections. The commission shall determine, in its discretion, whether
52 or not that there is probable cause that a violation has occurred. If the commission determines,
53 by a vote of at least four members of the commission, that probable cause exists that a violation
54 has occurred, the commission may refer its findings and conclusions to the appropriate
55 disciplinary authority over the person who is the subject of the report, as described in subsection
56 7 of this section. After the commission determines by a vote of at least four members of the
57 commission that probable cause exists that a violation has occurred, and the commission has
58 referred the findings and conclusions to the appropriate disciplinary authority over the person
59 subject of the report, the subject of the report may appeal the determination of the commission
60 to the administrative hearing commission. Such appeal shall stay the action of the Missouri
61 ethics commission. Such appeal shall be filed not later than the fourteenth day after the subject
62 of the commission's action receives actual notice of the commission's action.

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

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

72 (2) Notify the person of the requirement to file, amend or correct any report, statement,
73 or other document or information required by sections 105.473, 105.483 to 105.492, **115.646**,
74 or chapter 130 and that the commission may seek judicial enforcement of its decision pursuant
75 to subsection 5 of this section; and

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

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

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

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

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

86 (1) Cease and desist violation of any provision of sections 105.450 to 105.496, or chapter
87 130, or sections 105.955 to 105.963;

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

89 (3) File any reports, statements, or other documents or information required by sections
90 105.450 to 105.496, or chapter 130; or

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

93

94 The Missouri ethics commission shall give actual notice to the subject of the complaint of the
95 proposed action as set out in this section. The subject of the complaint may appeal the action
96 of the Missouri ethics commission, other than a referral for criminal prosecution, to the
97 administrative hearing commission. Such appeal shall stay the action of the Missouri ethics

98 commission. Such appeal shall be filed no later than fourteen days after the subject of the
99 commission's actions receives actual notice of the commission's actions.

100 6. In the proceeding in circuit court, the commission may seek restitution against any
101 person who has obtained unjust enrichment as a result of violation of any provision of sections
102 105.450 to 105.496, or chapter 130 and may recover on behalf of the state or political
103 subdivision with which the alleged violator is associated, damages in the amount of any unjust
104 enrichment obtained and costs and attorney's fees as ordered by the court.

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

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

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

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

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

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

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

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

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

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

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

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

133 (3) To administer oaths and affirmations;

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

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

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

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

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

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

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

13. If, in the opinion of the commission, the complaining party was motivated by malice or reason contrary to the spirit of any law on which such complaint was based, in filing the

170 complaint without just cause, this finding shall be reported to appropriate law enforcement
171 authorities. Any person who knowingly files a complaint without just cause, or with malice, is
172 guilty of a class A misdemeanor.

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

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

187 16. Any judge of the court of appeals or circuit court who ceases to hold such office by
188 reason of the judge's retirement and who serves as a special investigator pursuant to this section
189 shall receive annual compensation, salary or retirement for such services at the rates of
190 compensation provided for senior judges by subsections 1, 2 and 4 of section 476.682. Such
191 retired judges shall by the tenth day of each month following any month in which the judge
192 provided services pursuant to this section certify to the commission and to the state courts
193 administrator the amount of time engaged in such services by hour or fraction thereof, the dates
194 thereof, and the expenses incurred and allowable pursuant to this section. The commission shall
195 then issue a warrant to the state treasurer for the payment of the salary and expenses to the extent,
196 and within limitations, provided for in this section. The state treasurer upon receipt of such
197 warrant shall pay the same out of any appropriations made for this purpose on the last day of the
198 month during which the warrant was received by the state treasurer.

115.646. 1. No contribution or expenditure of public funds shall be made directly by any
2 officer, employee or agent of any political subdivision to advocate, support, or oppose any ballot
3 measure or candidate for public office. This section shall not be construed to prohibit any public
4 official of a political subdivision from making public appearances or from issuing press releases
5 concerning any such ballot measure.

6 2. **No contribution or expenditure of public funds on printed matter shall be made**
7 **directly by any officer, employee, director, board member, or agent of any state**

8 department, political subdivision, or special district to advocate for, support, oppose, or
9 provide education on any ballot measure, any matter pending before the general assembly,
10 or any candidate for public office. This section shall not be construed to prohibit any
11 public official or agent of any state department, political subdivision, or special district
12 from issuing press releases or preparing documents intended for internal distribution or
13 distribution to another governmental entity.

14 3. It shall not be a violation of subsection 2 of this section for a state department,
15 political subdivision, or special district of this state to publish the full text of a proposed
16 ballot measure or the ballot language approved by the secretary of state or local election
17 authority if that ballot measure is scheduled to appear on the ballot within sixty days of the
18 publication. Nothing in subsection 2 of this section shall prohibit any publication that is
19 required to comply with federal law or the laws of this state.

20 4. Any printed matter that is published by a state department, political subdivision,
21 or special district of this state shall, in a clear and conspicuous manner, contain the words
22 "Paid for by" followed by the department, political subdivision, or special district that paid
23 for the printed matter as well as the name of the director, principal officer, or other lead
24 administrator. The provisions of this subsection shall become effective on August 28, 2022.

25 5. For the purposes of this section, the term "printed matter" shall include any
26 pamphlet, circular, handbill, sample ballot, advertisement, sign, bumper sticker, or other
27 imprinted or lettered material but shall not include any news story, commentary, or
28 editorial published by a newspaper, periodical, or news website without charge to the
29 department, political subdivision, or any other person. "Printed matter" shall also not
30 include content displayed or distributed via website, email, social media platform, or other
31 electronic form of communication.

32 6. If the Missouri ethics commission or a court of competent jurisdiction determines
33 that there has been a violation of this section, it shall impose the following penalties:

34 (1) The department, political subdivision, or special district in violation shall be
35 subject to a civil penalty in an amount equal to ten times the expenditure that violated
36 section 115.646 or ten thousand dollars, whichever is greater;

37 (2) The director of the state department or the principal officer or lead
38 administrator of the political subdivision or special district shall be subject to a civil
39 penalty in an amount equal to ten times the expenditure that violated section 115.646 or
40 one thousand dollars, whichever is lesser; and

41 (3) The defendant shall be ordered to pay the plaintiff's costs and attorney's fees.

447.541. 1. Within two hundred forty days from the due date of the report required by
2 section 447.539, the treasurer shall cause notice to be published at least once each week for two

3 successive weeks in a newspaper of general circulation as defined in section 493.050 in the
4 county in this state in which is located the last known address of any person to be named in the
5 notice, **or by any other method which the treasurer, in his or her discretion, deems**
6 **appropriate and consistent with the intent of this section to notify the owners of property**
7 **presumed abandoned and reported under section 447.539.** If no address is listed or if the
8 address is outside this state and the property may be subject to sale or liquidation, the notice shall
9 be published in the county in which the holder of the abandoned property has his principal place
10 of business within this state.

11 2. The published notice **required under subsection 1 of this section** shall be entitled
12 "Notice of Names of Persons Appearing to be Owners of Abandoned Property", and shall
13 contain:

14 (1) The names in alphabetical order and last known addresses, if any, of persons listed
15 in the report and entitled to notice within the county as specified in subsection 1 of this section;

16 (2) A statement that information concerning the amount or description of the property
17 and the name and address of the holder may be obtained by any persons possessing an interest
18 in the property by addressing an inquiry to the treasurer;

19 (3) A statement that if proof of claim is not presented by the owner to the holder and if
20 the owner's right to receive the property is not established to the treasurer's satisfaction within
21 one year from the date of the delivery of the property to the treasurer, the abandoned property
22 will be sold as provided in section 447.558. The treasurer is not required to publish in the notice
23 any items of less than fifty dollars unless, in the aggregate, the items total fifty or more dollars
24 for any one individual. The treasurer shall use reasonable diligence to determine if small items
25 in fact belong to the same individual.

26 3. Within one hundred twenty days from the receipt of the report required by section
27 447.539, the treasurer shall mail a notice, **or provide a notice by any other method which the**
28 **treasurer, in his or her discretion, deems appropriate and consistent with the intent of this**
29 **subsection,** to each person having an address listed therein who appears to be entitled to property
30 of the value of fifty dollars or more presumed abandoned under sections 447.500 to 447.595.

31 4. The ~~mailed~~ notice **required under subsection 3 of this section** shall contain:

32 (1) A statement that, according to a report filed with the treasurer, property is being held
33 by the treasurer to which the addressee appears entitled; and

34 (2) A statement that, if satisfactory proof of claim is not presented by the owner to the
35 treasurer by the date specified in the published notice, the property will be sold as provided in
36 section 447.558.

37 5. Subsections 1 and 4 of this section are not applicable to sums payable on traveler's
38 checks or money orders.

39 6. In addition to the above forms of notice to owners of abandoned property, the treasurer
40 shall work with other state agencies to provide notice to holders of their rights and
41 responsibilities pursuant to sections 447.500 to 447.595 by including information regarding
42 Missouri's unclaimed property laws.

✓