

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 9

AN ACT

To repeal sections 106.020, 106.030, 106.040, 106.070, 106.080, 106.090, 106.100, 106.110, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180, 106.200, and 106.210, RSMo, and to enact in lieu thereof fourteen new sections relating to the impeachment process, with a contingent effective date.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 106.020, 106.030, 106.040, 106.070,  
2 106.080, 106.090, 106.100, 106.110, 106.120, 106.130, 106.150,  
3 106.160, 106.170, 106.180, 106.200, and 106.210, RSMo, are  
4 repealed and fourteen new sections enacted in lieu thereof, to be  
5 known as sections 106.020, 106.030, 106.040, 106.070, 106.080,  
6 106.100, 106.120, 106.130, 106.150, 106.160, 106.170, 106.180,  
7 106.200, and 106.210, to read as follows:

8           106.020. All elective executive officials of the state,  
9 judges of the supreme court, the court of appeals and circuit  
10 judges shall be liable to impeachment for [crime, misconduct,  
11 habitual drunkenness, willful neglect of duty, corruption in  
12 office, incompetency, or any offense involving moral turpitude,  
13 or oppression] corruption or crime in office.

14           106.030. The house of representatives shall have the sole  
15 power of impeachment. All impeachments shall be tried before the

1 [supreme court, except that the governor or a member of the  
2 supreme court shall be tried by a special commission as provided  
3 for in sections 106.020 to 106.210] senate, and when the governor  
4 or lieutenant governor shall be tried, the chief justice of the  
5 supreme court shall preside.

6 106.040. When the house of representatives shall be  
7 satisfied that there is good cause to impeach any officer, they  
8 shall cause articles of impeachment to be made out in due form  
9 against such officer and shall transmit the same to the [supreme  
10 court] senate, and immediately elect managers to prosecute such  
11 impeachment[; provided, however, that in the case of impeachment  
12 of the governor or a member of the supreme court, they shall  
13 transmit such articles of impeachment to the senate who shall,  
14 without delay, proceed to the election of a special commission to  
15 try such impeachment as provided in section 106.080. In case of  
16 death, resignation or failure to serve, of any manager elected by  
17 the house as aforesaid, the governor shall, if the house be not  
18 in session, fill such vacancy; and the person thus appointed  
19 shall have the same power and perform the same duties as if  
20 elected by the house].

21 106.070. When articles of impeachment shall be presented to  
22 the [supreme court] senate, the [court] senate shall immediately  
23 appoint some day for the appearance of the accused and cause a  
24 summons to be issued, signed by the [chief justice of the court]  
25 president of the senate, or the president pro tempore of the  
26 senate if the lieutenant governor shall be impeached, and  
27 countersigned by [one of the judges thereof] the secretary of the  
28 senate, with a copy of the articles of impeachment annexed,

1 requiring the accused to appear on the day appointed for that  
2 purpose, and answer the charges exhibited against him or her,  
3 which shall be served by the [marshal of the court] sergeant-at-  
4 arms of the senate, or by special messenger by the [court] senate  
5 appointed, a reasonable time before the day set for his or her  
6 appearance.

7 106.080. If the governor or [a judge of the supreme court]  
8 lieutenant governor shall be impeached, the [house of  
9 representatives shall immediately transmit such articles of  
10 impeachment to the senate who shall, without delay, proceed to  
11 the election of a special commission to try the cause, which  
12 commission shall be composed of seven eminent jurists, who at the  
13 time of their election are judges of the circuit or appellate  
14 courts of this state; provided, however, that judges of the  
15 supreme court shall not be eligible to serve on such special  
16 commission. The commission shall meet in the City of Jefferson  
17 within thirty days after their election on a day designated by  
18 the senate] chief justice of the supreme court shall be notified  
19 by the president pro tempore of the senate of such impeachment,  
20 and of the day when his or her attendance shall be required, and  
21 the chief justice shall attend and preside at the trial; and if  
22 he or she is sick and unable to attend, the next most senior  
23 supreme court judge in terms of length of service on the court  
24 shall be notified and shall preside at the trial.

25 106.100. The [notices] notice as required by [sections]  
26 section 106.070 [and 106.090] shall be served on the accused  
27 personally, if he or she can be found; and if he or she cannot be  
28 found, then by leaving a copy of such summons and articles of

1 impeachment at his or her dwelling house or usual place of abode,  
2 with some member of the family above the age of fifteen years.

3 106.120. Upon the appearance of the accused, he or she  
4 shall have reasonable time to answer the impeachment; and when  
5 the answer shall be filed, the managers may reply thereto; and  
6 when issue shall be joined on any such impeachment, the [court or  
7 commission] senate shall appoint a time for trial thereof.

8 106.130. The president [of the commission] of the senate or  
9 the chief justice of the supreme court when the governor or  
10 lieutenant governor is being tried, as the case may be, on  
11 application of the respondent, or any of his or her counsel, or  
12 either of the managers, shall issue subpoenas for witnesses and  
13 commissions to take depositions where the witness is unable to  
14 attend from sickness or other infirmity, or where the witness is  
15 without the state.

16 106.150. If the accused shall not appear after being  
17 notified, or, after appearing shall fail to answer, the [court or  
18 commission] senate may proceed ex parte.

19 106.160. At the time and place appointed for trial, and  
20 before proceeding thereon, [some person authorized by law so to  
21 do] the president of the senate or the chief justice of the  
22 supreme court shall administer to the [members of the special  
23 commission, in cases of impeachment of the governor or a judge of  
24 the supreme court, or to the judges of the supreme court, in  
25 cases of impeachments of other officers] members of the senate,  
26 and the secretary shall at the same time administer to the  
27 president or chief justice, an oath or affirmation impartially to  
28 try and determine the charges and to do justice according to the

1 law and the evidence; and no member shall sit or give his or her  
2 vote until he or she shall have taken such oath or affirmation.

3 106.170. The members being sworn, the [supreme court or the  
4 special commission, as the case may be,] senate shall proceed to  
5 hear, try and determine such impeachment, and may adjourn the  
6 trial to any other time; and the [court or commission] president  
7 of the senate or chief justice shall determine all questions of  
8 law arising during the trial upon the admissibility of evidence,  
9 the competency of witnesses, or otherwise, and may punish any  
10 person for contempt committed toward it, or for obstructing the  
11 administration of justice on such trial, in as full a manner as  
12 any court of record could do for like contempt toward such court.  
13 Except as otherwise provided in sections 106.020 to 106.210, the  
14 rules of evidence and procedure applicable in civil actions  
15 before circuit judges in the circuit courts of this state shall  
16 be followed in all trials of impeachment [whether] before the  
17 [supreme court or the special commission] senate.

18 106.180. In all such trials the accused shall have a right  
19 to be heard by himself or herself and his or her counsel, and all  
20 matters relating to procedure and the conduct of the trial shall  
21 be determined by a majority vote of the [judges or commissioners]  
22 senate and shall be entered and made a part of the record of the  
23 proceeding; but no judgment or sentence of conviction shall be  
24 given against any [person] judge upon any impeachment without  
25 concurrence of [five-sevenths of the judges of the supreme court  
26 or of the members of the special commission] at least two-thirds  
27 of all senators elected or, for any elective executive official  
28 of the state, upon any impeachment without concurrence of at

1 least three-fourths of all senators elected.

2 106.200. The [supreme court or special commission, as the  
3 case may be,] senate shall cause a transcript of the proceedings  
4 had on any impeachment to be made out, and the judgment of the  
5 [court or commission] senate, whether of conviction or acquittal,  
6 which shall be signed by the officer presiding at the trial and  
7 attested by the secretary of the [commission or a judge of the  
8 court hearing the cause] senate and deposited in the office of  
9 the secretary of state.

10 106.210. All writs by the [court or commission] senate  
11 shall run in the name of the state of Missouri, shall be  
12 subscribed by the presiding officer and countersigned by [a judge  
13 of the supreme court or in cases of impeachment of the governor  
14 or a judge of the supreme court, by the secretary of the  
15 commission] the secretary of the senate, and shall be served by  
16 the [marshal of the court] sergeant-at-arms of the senate or by a  
17 special messenger appointed for that purpose.

18 [106.090. Immediately upon meeting, the  
19 commission shall proceed to organize by electing a  
20 president and a secretary and thereupon shall designate  
21 some day not less than twenty days nor more than thirty  
22 days after the service of the summons for the  
23 appearance of the accused and cause a summons to be  
24 issued, signed by the president of the commission and  
25 countersigned by the secretary thereof, with a copy of  
26 the articles of impeachment annexed, requiring the  
27 accused to appear on the day designated for that  
28 purpose, and answer charges exhibited against him,  
29 which shall be served by a messenger appointed by the  
30 commission, a reasonable time before the day set for  
31 his appearance. The commission shall have power to  
32 employ such clerical help and assistants as they may  
33 deem necessary to the proper conduct of the trial.]

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35 [106.110. Each member of the special commission,  
36 provided for in section 106.080, shall be allowed an

1 amount not to exceed ten dollars per day for actual and  
2 necessary expenses incurred in the performance of his  
3 duties, which allowance shall be in lieu of all other  
4 compensation for such service.]

5 Section B. Section A of this act shall become effective  
6 only upon approval by the voters of an amendment to article VII  
7 of the Constitution of Missouri that modifies which entities are  
8 authorized to try impeachments of public officials.