

SECOND REGULAR SESSION

SENATE BILL NO. 577

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Pre-filed December 1, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

3568S.011

AN ACT

To repeal sections 105.470, 105.483, and 105.485, RSMo, and to enact in lieu thereof five new sections relating to ethics.

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

Section A. Sections 105.470, 105.483, and 105.485, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 105.470,
3 105.483, 105.485, 105.960, and 130.039, to read as follows:

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

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

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

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

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

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 (d) Makes total expenditures of fifty dollars or more during the
20 twelve-month period beginning January first and ending December thirty-first for
21 the benefit of one or more public officials or one or more employees of the
22 executive branch of state government in connection with such activity. An
23 "executive lobbyist" shall not include a member of the general assembly, an
24 elected state official, or any other person solely due to such person's participation
25 in any of the following activities:

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

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

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

37 d. Participating in public hearings or public proceedings on rules, grants,
38 or other matters;

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

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

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

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

52 (3) "Expenditure", any payment made or charge, expense, cost, debt or bill
53 incurred; any gift, honorarium or item of value bestowed including any food or
54 beverage; any price, charge or fee which is waived, forgiven, reduced or

55 indefinitely delayed; any loan or debt which is canceled, reduced or otherwise
56 forgiven; the transfer of any item with a reasonably discernible cost or fair
57 market value from one person to another or provision of any service or granting
58 of any opportunity for which a charge is customarily made, without charge or for
59 a reduced charge; except that the term "expenditure" shall not include the
60 following:

61 (a) Any item, service or thing of value transferred to any person within
62 the third degree of consanguinity of the transferor which is unrelated to any
63 activity of the transferor as a lobbyist;

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

67 (c) Contributions to the public official's campaign committee or candidate
68 committee which are reported pursuant to the provisions of chapter 130, RSMo;

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

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

80 (f) The transfer of any item, provision of any service or granting of any
81 opportunity with a reasonably discernible cost or fair market value when such
82 item, service or opportunity is necessary for a public official or employee to
83 perform his or her duty in his or her official capacity, including but not limited
84 to entrance fees to any sporting event, museum, or other venue when the official
85 or employee is participating in a ceremony, public presentation or official meeting
86 therein;

87 (g) Any payment, gift, compensation, fee, expenditure or anything of value
88 which is bestowed upon or given to any public official or a staff member,
89 employee, spouse or dependent child of a public official when it is compensation
90 for employment or given as an employment benefit and when such employment

91 is in addition to their employment as a public official;

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

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

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

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

107 (d) Makes total expenditures of fifty dollars or more during the
108 twelve-month period beginning January first and ending December thirty-first for
109 the benefit of one or more public officials or one or more employees of the judicial
110 branch of state government in connection with attempting to influence such
111 purchasing decisions by the judiciary. A "judicial lobbyist" shall not include a
112 member of the general assembly, an elected state official, or any other person
113 solely due to such person's participation in any of the following activities:

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

116 b. Participating in public hearings or public proceedings on rules, grants,
117 or other matters;

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

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

123 e. Acting within the scope of employment by the general assembly, or
124 acting within the scope of employment by the executive branch of government
125 when acting with respect to the department, division, board, commission, agency
126 or elected state officer by which such person is employed, or with respect to any

127 duty or authority imposed by law to perform any action in conjunction with any
128 other public official or state employee;

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

136 (a) Is acting in the ordinary course of employment, [which primary]
137 **whose** purpose is to influence legislation on a regular basis, on behalf of or for
138 the benefit of such person's employer[, except that this shall not apply to any
139 person who engages in lobbying on an occasional basis only and not as a regular
140 pattern of conduct]; or

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

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

146 (d) Makes total expenditures of fifty dollars or more during the
147 twelve-month period beginning January first and ending December thirty-first for
148 the benefit of one or more public officials or one or more employees of the
149 legislative branch of state government in connection with such activity. A
150 "legislative lobbyist" shall include an attorney at law engaged in activities on
151 behalf of any person unless excluded by any of the following exceptions. A
152 "legislative lobbyist" shall not include any member of the general assembly, an
153 elected state official, or any other person solely due to such person's participation
154 in any of the following activities:

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

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

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

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

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

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

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

105.483. Each of the following persons shall be required to file a financial
2 interest statement:

3 (1) Associate circuit judges, circuit court judges, judges of the courts of
4 appeals and of the supreme court, and candidates for any such office;

5 (2) Persons holding an elective office of the state, whether by election or
6 appointment, and candidates for such elective office, except those running for or
7 serving as county committee members for a political party pursuant to section
8 115.609, RSMo, or section 115.611, RSMo;

9 (3) The principal administrative or deputy officers or assistants serving
10 the governor, lieutenant governor, secretary of state, state treasurer, state
11 auditor and attorney general, which officers shall be designated by the respective
12 elected state official;

13 (4) The members of each board or commission and the chief executive
14 officer of each public entity created pursuant to the constitution or interstate
15 compact or agreement and the members of each board of regents or curators and
16 the chancellor or president of each state institution of higher education;

17 (5) The director and each assistant deputy director and the general
18 counsel and the chief purchasing officer of each department, division and agency
19 of state government;

20 (6) Any official or employee of the state authorized by law to promulgate
21 rules and regulations or authorized by law to vote on the adoption of rules and
22 regulations;

23 (7) Any member of a board or commission created by interstate compact
24 or agreement, including the executive director and any Missouri resident who is
25 a member of the bi-state development agency created pursuant to sections 70.370
26 to 70.440, RSMo;

27 (8) Any board member of a metropolitan sewer district authorized under
28 section 30(a) of article VI of the state constitution;

29 (9) Any member of a commission appointed or operating pursuant to
30 sections 64.650 to 64.950, RSMo, sections 67.650 to 67.658, RSMo, or sections
31 70.840 to 70.859, RSMo;

32 (10) The members, the chief executive officer and the chief purchasing
33 officer of each board or commission which enters into or approves contracts for
34 the expenditure of state funds;

35 (11) Each elected official, candidate for elective office, the chief
36 administrative officer, the chief purchasing officer and the general counsel, if
37 employed full time, of each political subdivision with an annual operating budget
38 in excess of one million dollars, and each official or employee of a political
39 subdivision who is authorized by the governing body of the political subdivision
40 to promulgate rules and regulations with the force of law or to vote on the
41 adoption of rules and regulations with the force of law; unless the political
42 subdivision adopts an ordinance, order or resolution pursuant to subsection 4 of
43 section 105.485;

44 (12) Any person who is designated as a decision-making public servant by
45 any of the officials or entities listed in subdivision (6) of section 105.450;

46 **(13) All employees and staff of the general assembly including**
47 **employees of the majority and minority caucuses of the house of**
48 **representatives and the senate.**

105.485. 1. Each financial interest statement required by sections
2 105.483 to 105.492 shall be on a form prescribed by the commission and shall be
3 signed and verified by a written declaration that it is made under penalties of
4 perjury; provided, however, the form shall not seek information which is not
5 specifically required by sections 105.483 to 105.492.

6 2. Each person required to file a financial interest statement pursuant to
7 subdivisions (1) to (12) of section 105.483 shall file the following information for
8 himself, his spouse and dependent children at any time during the period covered
9 by the statement, whether singularly or collectively; provided, however, that said
10 person, if he does not know and his spouse will not divulge any information

11 required to be reported by this section concerning the financial interest of his
12 spouse, shall state on his financial interest statement that he has disclosed that
13 information known to him and that his spouse has refused or failed to provide
14 other information upon his bona fide request, and such statement shall be
15 deemed to satisfy the requirements of this section for such financial interest of
16 his spouse; and provided further if the spouse of any person required to file a
17 financial interest statement is also required by section 105.483 to file a financial
18 interest statement, the financial interest statement filed by each need not disclose
19 the financial interest of the other, provided that each financial interest statement
20 shall state that the spouse of the person has filed a separate financial interest
21 statement and the name under which the statement was filed:

22 (1) The name and address of each of the employers of such person from
23 whom income of one thousand dollars or more was received during the year
24 covered by the statement;

25 (2) The name and address of each sole proprietorship which he owned; the
26 name, address and the general nature of the business conducted of each general
27 partnership and joint venture in which he was a partner or participant; the name
28 and address of each partner or coparticipant for each partnership or joint venture
29 unless such names and addresses are filed by the partnership or joint venture
30 with the secretary of state; the name, address and general nature of the business
31 conducted of any closely held corporation or limited partnership in which the
32 person owned ten percent or more of any class of the outstanding stock or limited
33 partners' units; and the name of any publicly traded corporation or limited
34 partnership which is listed on a regulated stock exchange or automated quotation
35 system in which the person owned two percent or more of any class of outstanding
36 stock, limited partnership units or other equity interests;

37 (3) The name and address of any other source not reported pursuant to
38 subdivisions (1) and (2) and subdivisions (4) to (9) of this subsection from which
39 such person received one thousand dollars or more of income during the year
40 covered by the statement, including, but not limited to, any income otherwise
41 required to be reported on any tax return such person is required by law to file;
42 except that only the name of any publicly traded corporation or limited
43 partnership which is listed on a regulated stock exchange or automated quotation
44 system need be reported pursuant to this subdivision;

45 (4) The location by county, the subclassification for property tax
46 assessment purposes, the approximate size and a description of the major

47 improvements and use for each parcel of real property in the state, other than the
48 individual's personal residence, having a fair market value of ten thousand
49 dollars or more in which such person held a vested interest including a leasehold
50 for a term of ten years or longer, and, if the property was transferred during the
51 year covered by the statement, the name and address of the persons furnishing
52 or receiving consideration for such transfer;

53 (5) The name and address of each entity in which such person owned
54 stock, bonds or other equity interest with a value in excess of ten thousand
55 dollars; except that, if the entity is a corporation listed on a regulated stock
56 exchange, only the name of the corporation need be listed; and provided that any
57 member of any board or commission of the state or any political subdivision who
58 does not receive any compensation for his services to the state or political
59 subdivision other than reimbursement for his actual expenses or a per diem
60 allowance as prescribed by law for each day of such service need not report
61 interests in publicly traded corporations or limited partnerships which are listed
62 on a regulated stock exchange or automated quotation system pursuant to this
63 subdivision; and provided further that the provisions of this subdivision shall not
64 require reporting of any interest in any qualified plan or annuity pursuant to the
65 Employees' Retirement Income Security Act;

66 (6) The name and address of each corporation for which such person
67 served in the capacity of a director, officer or receiver;

68 (7) The name and address of each not-for-profit corporation and each
69 association, organization, or union, whether incorporated or not, except
70 not-for-profit corporations formed to provide church services, fraternal
71 organizations or service clubs from which the officer or employee draws no
72 remuneration, in which such person was an officer, director, employee or trustee
73 at any time during the year covered by the statement, and for each such
74 organization, a general description of the nature and purpose of the organization;

75 (8) The name and address of each source from which such person received
76 a gift or gifts, or honorarium or honoraria in excess of two hundred dollars in
77 value per source during the year covered by the statement other than gifts from
78 persons within the third degree of consanguinity or affinity of the person filing
79 the financial interest statement. For the purposes of this section, a "gift" shall
80 not be construed to mean political contributions otherwise required to be reported
81 by law or hospitality such as food, beverages or admissions to social, art, or
82 sporting events or the like, or informational material. For the purposes of this

83 section, a "gift" shall include gifts to or by creditors of the individual for the
84 purpose of canceling, reducing or otherwise forgiving the indebtedness of the
85 individual to that creditor;

86 (9) The lodging and travel expenses provided by any third person for
87 expenses incurred outside the state of Missouri whether by gift or in relation to
88 the duties of office of such official, except that such statement shall not include
89 travel or lodging expenses:

90 (a) Paid in the ordinary course of business for businesses described in
91 subdivisions (1), (2), (5) and (6) of this subsection which are related to the duties
92 of office of such official; or

93 (b) For which the official may be reimbursed as provided by law; or

94 (c) Paid by persons related by the third degree of consanguinity or affinity
95 to the person filing the statement; or

96 (d) Expenses which are reported by the campaign committee or candidate
97 committee of the person filing the statement pursuant to the provisions of chapter
98 130, RSMo; or

99 (e) Paid for purely personal purposes which are not related to the person's
100 official duties by a third person who is not a lobbyist, a lobbyist principal or
101 member, or officer or director of a member, of any association or entity which
102 employs a lobbyist. The statement shall include the name and address of such
103 person who paid the expenses, the date such expenses were incurred, the amount
104 incurred, the location of the travel and lodging, and the nature of the services
105 rendered or reason for the expenses;

106 (10) The assets in any revocable trust of which the individual is the
107 settlor if such assets would otherwise be required to be reported under this
108 section;

109 (11) The name, position and relationship of any relative within the first
110 degree of consanguinity or affinity to any other person who:

111 (a) Is employed by the state of Missouri, by a political subdivision of the
112 state or special district, as defined in section 115.013, RSMo, of the state of
113 Missouri;

114 (b) Is a lobbyist; or

115 (c) Is a fee agent of the department of revenue;

116 (12) The name and address of each campaign committee, political
117 committee, candidate committee, or continuing committee for which such person
118 or any corporation listed on such person's financial interest statement received

119 payment; and

120 (13) For members of the general assembly or any statewide elected public
121 official, their spouses, and their dependent children, whether any state tax credits
122 were claimed on the member's, spouse's, or dependent child's most recent state
123 income tax return.

124 **3. For individuals described in subdivision (13) of section**
125 **105.483, the statement shall consist only of all income, apart from**
126 **income earned from the state, of five thousand dollars or more,**
127 **received during the year covered by the statement, the source of such**
128 **income, and the general nature of the business conducted in connection**
129 **with such income.**

130 **4.** For the purposes of subdivisions (1), (2) and (3) of subsection 2 of this
131 section **and subsection 3 of this section**, an individual shall be deemed to
132 have received a salary from his employer or income from any source at the time
133 when he shall receive a negotiable instrument whether or not payable at a later
134 date and at the time when under the practice of his employer or the terms of an
135 agreement he has earned or is entitled to anything of actual value whether or not
136 delivery of the value is deferred or right to it has vested. The term income as
137 used in this section shall have the same meaning as provided in the Internal
138 Revenue Code of 1986, and amendments thereto, as the same may be or becomes
139 effective, at any time or from time to time for the taxable year, provided that
140 income shall not be considered received or earned for purposes of this section
141 from a partnership or sole proprietorship until such income is converted from
142 business to personal use.

143 **[4.] 5.** Each official, officer or employee or candidate of any political
144 subdivision described in subdivision (11) of section 105.483 shall be required to
145 file a financial interest statement as required by subsection 2 of this section,
146 unless the political subdivision biennially adopts an ordinance, order or
147 resolution at an open meeting by September fifteenth of the preceding year, which
148 establishes and makes public its own method of disclosing potential conflicts of
149 interest and substantial interests and therefore excludes the political subdivision
150 or district and its officers and employees from the requirements of subsection 2
151 of this section. A certified copy of the ordinance, order or resolution shall be sent
152 to the commission within ten days of its adoption. The commission shall assist
153 any political subdivision in developing forms to complete the requirements of this
154 subsection. The ordinance, order or resolution shall contain, at a minimum, the

155 following requirements with respect to disclosure of substantial interests:

156 (1) Disclosure in writing of the following described transactions, if any
157 such transactions were engaged in during the calendar year:

158 (a) For such person, and all persons within the first degree of
159 consanguinity or affinity of such person, the date and the identities of the parties
160 to each transaction with a total value in excess of five hundred dollars, if any,
161 that such person had with the political subdivision, other than compensation
162 received as an employee or payment of any tax, fee or penalty due to the political
163 subdivision, and other than transfers for no consideration to the political
164 subdivision;

165 (b) The date and the identities of the parties to each transaction known
166 to the person with a total value in excess of five hundred dollars, if any, that any
167 business entity in which such person had a substantial interest, had with the
168 political subdivision, other than payment of any tax, fee or penalty due to the
169 political subdivision or transactions involving payment for providing utility
170 service to the political subdivision, and other than transfers for no consideration
171 to the political subdivision;

172 (2) The chief administrative officer and chief purchasing officer of such
173 political subdivision shall disclose in writing the information described in
174 subdivisions (1), (2) and (6) of subsection 2 of this section;

175 (3) Disclosure of such other financial interests applicable to officials,
176 officers and employees of the political subdivision, as may be required by the
177 ordinance or resolution;

178 (4) Duplicate disclosure reports made pursuant to this subsection shall be
179 filed with the commission and the governing body of the political
180 subdivision. The clerk of such governing body shall maintain such disclosure
181 reports available for public inspection and copying during normal business hours.

**105.960. 1. There is hereby created within the ethics commission,
2 the office of independent investigation which shall operate
3 independently of the commission to investigate potential violations of
4 the provisions of:**

5 (1) **The requirements imposed on lobbyists by sections 105.470 to
6 105.478;**

7 (2) **The financial interest disclosure requirements contained in
8 sections 105.483 to 105.492;**

9 (3) **The campaign finance disclosure requirements contained in**

10 **chapter 130;**

11 **(4) Any code of conduct promulgated by any department,**
12 **division, or agency of state government, or by state institutions of**
13 **higher education, or by executive order;**

14 **(5) The conflict of interest laws contained in sections 105.450 to**
15 **105.468 and section 171.181; and**

16 **(6) The provisions of the constitution or state statute or order,**
17 **ordinance, or resolution of any political subdivision relating to the**
18 **official conduct of officials or employees of the state and political**
19 **subdivisions.**

20 **2. Any representative of the office may initiate and file a**
21 **complaint with the commission in the same manner other persons are**
22 **required to file complaints pursuant to section 105.957.**

23 **3. All other provisions in this chapter relating to ethics**
24 **complaints filed pursuant to section 105.957 shall apply to complaints**
25 **filed pursuant to this section.**

130.039. 1. No registered lobbyist or lobbyist principal shall
2 **make a contribution to any incumbent legislator's candidate committee,**
3 **any incumbent governor's candidate committee, any continuing**
4 **committee, or any campaign committee during the regular legislative**
5 **session of the general assembly.**

6 **2. No registered lobbyist or lobbyist principal shall make a**
7 **contribution to any incumbent governor's candidate committee, any**
8 **continuing committee, or any campaign committee when legislation**
9 **from the regular legislative session awaits gubernatorial action.**

10 **3. The ban in subsection 1 of this section shall not apply to**
11 **continuing committees, campaign committees, or an incumbent**
12 **legislator's candidate committee formed for an office sought at a**
13 **special election, thirty days before to thirty days after a special**
14 **election to fill a seat in the senate or house of representatives.**

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