

FIRST REGULAR SESSION

SENATE BILL NO. 70

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Pre-filed December 11, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

0418S.011

AN ACT

To repeal sections 105.487, RSMo, sections 105.955, 105.957, 105.959, 105.961, 105.963, and 105.966 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, ninety-fifth general assembly, second regular session, sections 105.955 and 105.966 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bills nos. 31 & 285, ninety-second general assembly, first regular session, section 105.961 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 16, ninety-first general assembly, first regular session, and sections 105.957, 105.959, and 105.963 as enacted by conference committee substitute for senate substitute for house committee substitute for house bill no. 1900, ninety-third general assembly, second regular session, and to enact in lieu thereof seven new sections relating to Missouri ethics commission operations and procedures.

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

Section A. Sections 105.487, RSMo, sections 105.955, 105.957, 105.959, 105.961, 105.963, and 105.966 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, ninety-fifth general assembly, second regular session, sections 105.955 and 105.966 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bills nos. 31 & 285, ninety-second general assembly, first regular session, section 105.961 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 16, ninety-first

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

10 general assembly, first regular session, and sections 105.957, 105.959, and
11 105.963 as enacted by conference committee substitute for senate substitute for
12 house committee substitute for house bill no. 1900, ninety-third general assembly,
13 second regular session, are repealed and seven new sections enacted in lieu
14 thereof, to be known as sections 105.487, 105.955, 105.957, 105.959, 105.961,
15 105.963, and 105.966, to read as follows:

105.487. The financial interest statements shall be filed at the following
2 times, but no person is required to file more than one financial interest statement
3 in any calendar year:

4 (1) Each candidate for elective office, except those candidates for county
5 committee of a political party pursuant to section 115.609 or section 115.611, who
6 is required to file a personal financial disclosure statement shall file a financial
7 interest statement no later than fourteen days after the close of filing at which
8 the candidate seeks nomination or election, and the statement shall be for the
9 twelve months prior to the closing date, except that in the event an individual
10 does not become a candidate until after the date of certification for candidates,
11 the statement shall be filed within fourteen days of the individual's nomination
12 by caucus. An individual required to file a financial interest statement because
13 of the individual's candidacy for office prior to a primary election in accordance
14 with this section is also required to amend such statement no later than the close
15 of business on Monday prior to the general election to reflect any changes in
16 financial interest during the interim. The appropriate election authority shall
17 provide to the candidate at the time of filing for election written notice of the
18 candidate's obligation to file pursuant to sections 105.483 to 105.492 and the
19 candidate shall sign a statement acknowledging receipt of such notice;

20 (2) Each person appointed to office, except any person elected for county
21 committee of a political party pursuant to section 115.617, and each official or
22 employee described in section 105.483 who is not otherwise covered in this
23 subsection shall file the statement within thirty days of such appointment or
24 employment;

25 (3) Every other person required by sections 105.483 to 105.492 to file a
26 financial interest statement shall file the statement annually not later than the
27 first day of May and the statement shall cover the calendar year ending the
28 immediately preceding December thirty-first; provided that the governor,
29 lieutenant governor, any member of the general assembly or any member of the
30 governing body of a political subdivision may supplement such person's financial

31 interest statement to report additional interests acquired after December
32 thirty-first of the covered year until the date of filing of the financial interest
33 statement;

34 (4) The deadline for filing any statement required by sections 105.483 to
35 105.492 shall be 5:00 p.m. of the last day designated for filing the
36 statement. When the last day of filing falls on a Saturday or Sunday or on an
37 official state holiday, the deadline for filing is extended to 5:00 p.m. on the next
38 day which is not a Saturday or Sunday or official holiday. Any statement
39 required within a specified time shall be deemed to be timely filed if it is
40 postmarked not later than midnight of the day [previous to the last day]
41 designated for filing the statement.

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

24 2. Within thirty days of submission of the person's name to
25 the governor as provided in subsection 1 of this section, and in

26 order to be an eligible nominee for appointment to the commission,
27 a person shall file a financial interest statement in the manner
28 provided by section 105.485 and shall provide the governor, the
29 president pro tempore of the senate, and the commission with a list
30 of all political contributions and the name of the candidate or
31 committee, political party, or political action committee, as defined
32 in chapter 130, to which those contributions were made within the
33 four-year period prior to such appointment, made by the nominee,
34 the nominee's spouse, or any business entity in which the nominee
35 has a substantial interest. The information shall be maintained by
36 the commission and available for public inspection during the
37 period of time during which the appointee is a member of the
38 commission. In order to be an eligible nominee for membership on
39 the commission, a person shall be a citizen and a resident of the
40 state and shall have been a registered voter in the state for a
41 period of at least five years preceding the person's appointment.

42 3. The term of each member shall be for four years, except
43 that of the members first appointed, the governor shall select three
44 members from even-numbered congressional districts and three
45 members from odd-numbered districts. Not more than three
46 members of the commission shall be members of the same political
47 party, nor shall more than one member be from any one United
48 States congressional district. Not more than two members
49 appointed from the even-numbered congressional districts shall be
50 members of the same political party, and no more than two
51 members from the odd-numbered congressional districts shall be
52 members of the same political party. Of the members first
53 appointed, the terms of the members appointed from the
54 odd-numbered congressional districts shall expire on March 15,
55 1994, and the terms of the members appointed from the
56 even-numbered congressional districts shall expire on March 15,
57 1996. Thereafter all successor members of the commission shall be
58 appointed for four-year terms. Terms of successor members of the
59 commission shall expire on March fifteenth of the fourth year of
60 their term. No member of the commission shall serve on the
61 commission after the expiration of the member's term. No person

62 shall be appointed to more than one full four-year term on the
63 commission.

64 4. Vacancies or expired terms on the commission shall be
65 filled in the same manner as the original appointment was made,
66 except as provided in this subsection. Within thirty days of the
67 vacancy or ninety days before the expiration of the term, the names
68 of two eligible nominees for membership on the commission shall
69 be submitted to the governor by the congressional district
70 committees of the political party or parties of the vacating member
71 or members, from the even- or odd-numbered congressional
72 districts, based on the residence of the vacating member or
73 members, other than from the congressional district committees
74 from districts then represented on the commission and from the
75 same congressional district party committee or committees which
76 originally appointed the member or members whose positions are
77 vacated. Appointments to fill vacancies or expired terms shall be
78 made within forty-five days after the deadline for submission of
79 names by the congressional district committees, and shall be
80 subject to the same qualifications for appointment and eligibility
81 as is provided in subsections 2 and 3 of this section. Appointments
82 to fill vacancies for unexpired terms shall be for the remainder of
83 the unexpired term of the member whom the appointee succeeds,
84 and such appointees shall be eligible for appointment to one full
85 four-year term. If the congressional district committee does not
86 submit the required two nominees within the thirty days or if the
87 congressional district committee does not submit the two nominees
88 within an additional thirty days after receiving notice from the
89 governor to submit the nominees, then the governor may appoint
90 a person or persons who shall be subject to the same qualifications
91 for appointment and eligibility as provided in subsections 2 and 3
92 of this section.

93 5. The governor, with the advice and consent of the senate,
94 may remove any member only for substantial neglect of duty,
95 inability to discharge the powers and duties of office, gross
96 misconduct or conviction of a felony or a crime involving moral
97 turpitude. Members of the commission also may be removed from

98 office by concurrent resolution of the general assembly signed by
99 the governor. If such resolution receives the vote of two-thirds or
100 more of the membership of both houses of the general assembly,
101 the signature of the governor shall not be necessary to effect
102 removal. The office of any member of the commission who moves
103 from the congressional district from which the member was
104 appointed shall be deemed vacated upon such change of residence.

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

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

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

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

120 (1) Be employed by the state or any political subdivision of
121 the state;

122 (2) Be employed as a lobbyist;

123 (3) Serve on any other governmental board or commission;

124 (4) Be an officer of any political party or political
125 organization;

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

129 (6) Participate in any way in any election campaign; except
130 that a member or employee of the commission shall retain the right
131 to register and vote in any election, to express the person's opinion
132 privately on political subjects or candidates, to participate in the
133 activities of a civic, community, social, labor or professional

134 organization and to be a member of a political party.

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

140 11. The commission shall appoint an executive director who
141 shall serve subject to the supervision of and at the pleasure of the
142 commission, but in no event for more than six years. The executive
143 director shall be responsible for the administrative operations of
144 the commission and perform such other duties as may be delegated
145 or assigned to the director by law or by rule of the
146 commission. The executive director shall employ staff and retain
147 such contract services as the director deems necessary, within the
148 limits authorized by appropriations by the general assembly.

149 12. Beginning on January 1, 1993, all lobbyist registration
150 and expenditure reports filed pursuant to section 105.473, financial
151 interest statements filed pursuant to subdivision (1) of section
152 105.489, and campaign finance disclosure reports filed other than
153 with election authorities or local election authorities as provided by
154 section 130.026 shall be filed with the commission.

155 13. Within sixty days of the initial meeting of the first
156 commission appointed, the commission shall obtain from the clerk
157 of the supreme court or the state courts administrator a list of
158 retired appellate and circuit court judges who did not leave the
159 judiciary as a result of being defeated in an election. The executive
160 director shall determine those judges who indicate their desire to
161 serve as special investigators and to investigate any and all
162 complaints referred to them by the commission. The executive
163 director shall maintain an updated list of those judges qualified
164 and available for appointment to serve as special
165 investigators. Such list shall be updated at least annually. The
166 commission shall refer complaints to such special investigators on
167 that list on a rotating schedule which ensures a random
168 assignment of each special investigator. Each special investigator
169 shall receive only one unrelated investigation at a time and shall

170 not be assigned to a second or subsequent investigation until all
171 other eligible investigators on the list have been assigned to an
172 investigation. In the event that no special investigator is qualified
173 or available to conduct a particular investigation, the commission
174 may appoint a special investigator to conduct such particular
175 investigation.

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

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

187 (2) Review and investigate any reports and statements
188 required by the campaign finance disclosure laws contained in
189 chapter 130, and financial interest disclosure laws or lobbyist
190 registration and reporting laws as provided by sections 105.470 to
191 105.492, for timeliness, accuracy and completeness of content as
192 provided in sections 105.955 to 105.963;

193 (3) Conduct investigations as provided in subsection 2 of
194 section 105.959;

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

204 (5) Provide information and assistance to lobbyists, elected
205 and appointed officials, and employees of the state and political

206 subdivisions in carrying out the provisions of sections 105.450 to
207 105.496 and chapter 130;

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

217 (7) Render advisory opinions as provided by this section;

218 (8) Promulgate rules relating to the provisions of sections
219 105.955 to 105.963 and chapter 130. All rules and regulations
220 issued by the commission shall be prospective only in operation;

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

224 15. In connection with such powers provided by sections
225 105.955 to 105.963 and chapter 130, the commission may:

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

229 (2) Administer oaths and affirmations;

230 (3) Take evidence and require by subpoena duces tecum the
231 production of books, papers, and other records relating to any
232 matter being investigated or to the performance of the commission's
233 duties or exercise of its powers. Subpoenas duces tecum shall be
234 served and enforced in the same manner provided by section
235 536.077;

236 (4) Employ such personnel, including legal counsel, and
237 contract for services including legal counsel, within the limits of its
238 appropriation, as it deems necessary provided such legal counsel,
239 either employed or contracted, represents the Missouri ethics
240 commission before any state agency or before the courts at the
241 request of the Missouri ethics commission. Nothing in this section

242 shall limit the authority of the Missouri ethics commission as
243 provided for in subsection 2 of section 105.961; and

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

249 16. (1) Upon written request for an advisory opinion
250 received by the commission, and if the commission determines that
251 the person requesting the opinion would be directly affected by the
252 application of law to the facts presented by the requesting person,
253 the commission shall issue a written opinion advising the person
254 who made the request, in response to the person's particular
255 request, regarding any issue that the commission can receive a
256 complaint on pursuant to section 105.957. The commission may
257 decline to issue a written opinion by a vote of four members and
258 shall provide to the requesting person the reason for the refusal in
259 writing. The commission shall give an approximate time frame as
260 to when the written opinion shall be issued. Such advisory
261 opinions shall be issued no later than ninety days from the date of
262 receipt by the commission. Such requests and advisory opinions,
263 deleting the name and identity of the requesting person, shall be
264 compiled and published by the commission on at least an annual
265 basis. Advisory opinions issued by the commission shall be
266 maintained and made available for public inspection and copying
267 at the office of the commission during normal business hours. Any
268 advisory opinion or portion of an advisory opinion rendered
269 pursuant to this subsection shall be withdrawn by the commission
270 if, after hearing thereon, the joint committee on administrative
271 rules finds that such advisory opinion is beyond or contrary to the
272 statutory authority of the commission or is inconsistent with the
273 legislative intent of any law enacted by the general assembly, and
274 after the general assembly, by concurrent resolution, votes to adopt
275 the findings and conclusions of the joint committee on
276 administrative rules. Any such concurrent resolution adopted by
277 the general assembly shall be published at length by the

278 commission in its publication of advisory opinions of the
279 commission next following the adoption of such resolution, and a
280 copy of such concurrent resolution shall be maintained by the
281 commission, along with the withdrawn advisory opinion, in its
282 public file of advisory opinions. The commission shall also send a
283 copy of such resolution to the person who originally requested the
284 withdrawn advisory opinion. Any advisory opinion issued by the
285 ethics commission shall act as legal direction to any person
286 requesting such opinion and no person shall be liable for relying on
287 the opinion and it shall act as a defense of justification against
288 prosecution. An advisory opinion of the commission shall not be
289 withdrawn unless:

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

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

305 17. The state auditor and the state auditor's duly
306 authorized employees who have taken the oath of confidentiality
307 required by section 29.070 may audit the commission and in
308 connection therewith may inspect materials relating to the
309 functions of the commission. Such audit shall include a
310 determination of whether appropriations were spent within the
311 intent of the general assembly, but shall not extend to review of
312 any file or document pertaining to any particular investigation,
313 audit or review by the commission, an investigator or any staff or

314 person employed by the commission or under the supervision of the
315 commission or an investigator. The state auditor and any employee
316 of the state auditor shall not disclose the identity of any person
317 who is or was the subject of an investigation by the commission and
318 whose identity is not public information as provided by law.

319 18. From time to time but no more frequently than annually
320 the commission may request the officials and entities described in
321 subdivision (6) of section 105.450 to identify for the commission in
322 writing those persons associated with such office or entity which
323 such office or entity has designated as a decision-making public
324 servant. Each office or entity delineated in subdivision (6) of
325 section 105.450 receiving such a request shall identify those so
326 designated within thirty days of the commission's request.]

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

20 2. Within thirty days of submission of the person's name to the governor
21 as provided in subsection 1 of this section, and in order to be an eligible nominee
22 for appointment to the commission, a person shall file a financial interest
23 statement in the manner provided by section 105.485 and shall provide the

24 governor, the president pro tempore of the senate, and the commission with a list
25 of all political contributions and the name of the candidate or committee, political
26 party, or continuing committee, as defined in chapter 130, to which those
27 contributions were made within the four-year period prior to such appointment,
28 made by the nominee, the nominee's spouse, or any business entity in which the
29 nominee has a substantial interest. The information shall be maintained by the
30 commission and available for public inspection during the period of time during
31 which the appointee is a member of the commission. In order to be an eligible
32 nominee for membership on the commission, a person shall be a citizen and a
33 resident of the state and shall have been a registered voter in the state for a
34 period of at least five years preceding the person's appointment.

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

53 4. Vacancies or expired terms on the commission shall be filled in the
54 same manner as the original appointment was made, except as provided in this
55 subsection. Within thirty days of the vacancy or ninety days before the expiration
56 of the term, the names of two eligible nominees for membership on the
57 commission shall be submitted to the governor by the congressional district
58 committees of the political party or parties of the vacating member or members,
59 from the even- or odd-numbered congressional districts, based on the residence

60 of the vacating member or members, other than from the congressional district
61 committees from districts then represented on the commission and from the same
62 congressional district party committee or committees which originally appointed
63 the member or members whose positions are vacated. Appointments to fill
64 vacancies or expired terms shall be made within forty-five days after the deadline
65 for submission of names by the congressional district committees, and shall be
66 subject to the same qualifications for appointment and eligibility as is provided
67 in subsections 2 and 3 of this section. Appointments to fill vacancies for
68 unexpired terms shall be for the remainder of the unexpired term of the member
69 whom the appointee succeeds, and such appointees shall be eligible for
70 appointment to one full four-year term. If the congressional district committee
71 does not submit the required two nominees within the thirty days or if the
72 congressional district committee does not submit the two nominees within an
73 additional thirty days after receiving notice from the governor to submit the
74 nominees, then the governor may appoint a person or persons who shall be
75 subject to the same qualifications for appointment and eligibility as provided in
76 subsections 2 and 3 of this section.

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

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

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

95 8. In the event that a retired judge is appointed as a member of the

96 commission, the judge shall not serve as a special investigator while serving as
97 a member of the commission.

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

100 (1) Be employed by the state or any political subdivision of the state;

101 (2) Be employed as a lobbyist;

102 (3) Serve on any other governmental board or commission;

103 (4) Be an officer of any political party or political organization;

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

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

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

115 11. The commission shall appoint an executive director who shall serve
116 subject to the supervision of and at the pleasure of the commission[, but in no
117 event for more than six years]. The executive director shall be responsible for the
118 administrative operations of the commission and perform such other duties as
119 may be delegated or assigned to the director by law or by rule of the
120 commission. The executive director shall employ staff and retain such contract
121 services as the director deems necessary, within the limits authorized by
122 appropriations by the general assembly.

123 12. Beginning on January 1, 1993, all lobbyist registration and
124 expenditure reports filed pursuant to section 105.473, financial interest
125 statements filed pursuant to subdivision (1) of section 105.489, and campaign
126 finance disclosure reports filed other than with election authorities or local
127 election authorities as provided by section 130.026 shall be filed with the
128 commission. **Notwithstanding section 130.057 to the contrary, all**
129 **committees required to file campaign financial disclosure reports with**
130 **the Missouri ethics commission shall file any required disclosure report**
131 **in an electronic format as prescribed by the ethics commission.**

132 13. Within sixty days of the initial meeting of the first commission
133 appointed, the commission shall obtain from the clerk of the supreme court or the
134 state courts administrator a list of retired appellate and circuit court judges who
135 did not leave the judiciary as a result of being defeated in an election. The
136 executive director shall determine those judges who indicate their desire to serve
137 as special investigators and to investigate any and all complaints referred to
138 them by the commission. The executive director shall maintain an updated list
139 of those judges qualified and available for appointment to serve as special
140 investigators. Such list shall be updated at least annually. The commission shall
141 refer complaints to special investigators on that list on a rotating schedule
142 which ensures a random assignment of each special investigator. Each special
143 investigator shall receive only one unrelated investigation at a time and shall not
144 be assigned to a second or subsequent investigation until all other eligible
145 investigators on the list have been assigned to an investigation. In the event that
146 no special investigator is qualified or available to conduct a particular
147 investigation, the commission may appoint a special investigator to conduct such
148 particular investigation.

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

152 (1) Receive and review complaints regarding alleged violation of sections
153 105.450 to 105.496 and chapter 130, conduct initial reviews and investigations
154 regarding such complaints as provided herein; refer complaints to appropriate
155 prosecuting authorities and appropriate disciplinary authorities along with
156 recommendations for sanctions; and initiate judicial proceedings as allowed by
157 sections 105.955 to 105.963;

158 (2) Review and audit any reports and statements required by the
159 campaign finance disclosure laws contained in chapter 130, and financial interest
160 disclosure laws or lobbyist registration and reporting laws as provided by sections
161 105.470 to 105.492, for timeliness, accuracy and completeness of content as
162 provided in sections 105.955 to 105.963;

163 (3) Develop appropriate systems to file and maintain an index of all such
164 reports and statements to facilitate public access to such information, except as
165 may be limited by confidentiality requirements otherwise provided by law,
166 including cross-checking of information contained in such statements and
167 reports. The commission may enter into contracts with the appropriate filing

168 officers to effectuate such system. Such filing officers shall cooperate as
169 necessary with the commission as reasonable and necessary to effectuate such
170 purposes;

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

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

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

182 (7) Promulgate rules relating to the provisions of sections 105.955 to
183 105.963 and chapter 130. All rules and regulations issued by the commission
184 shall be prospective only in operation;

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

187 15. In connection with such powers provided by sections 105.955 to
188 105.963 and chapter 130, the commission may:

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

192 (2) Administer oaths and affirmations;

193 (3) Take evidence and require by subpoena duces tecum the production of
194 books, papers, and other records relating to any matter being investigated or to
195 the performance of the commission's duties or exercise of its powers. Subpoenas
196 duces tecum shall be served and enforced in the same manner provided by section
197 536.077;

198 (4) Employ such personnel, including legal counsel, and contract for
199 services including legal counsel, within the limits of its appropriation, as it deems
200 necessary provided such legal counsel, either employed or contracted, represents
201 the Missouri ethics commission before any state agency or before the courts at the
202 request of the Missouri ethics commission. Nothing in this section shall limit the
203 authority of the Missouri ethics commission as provided for in subsection 2 of

204 section 105.961; and

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

209 16. (1) Upon written request for an advisory opinion received by the
210 commission, and if the commission determines that the person requesting the
211 opinion would be directly affected by the application of law to the facts presented
212 by the requesting person, the commission shall issue a written opinion advising
213 the person who made the request, in response to the person's particular request,
214 regarding any issue that the commission can receive a complaint on pursuant to
215 section 105.957. The commission may decline to issue a written opinion by a vote
216 of four members and shall provide to the requesting person the reason for the
217 refusal in writing. The commission shall give an approximate time frame as to
218 when the written opinion shall be issued. Such advisory opinions shall be issued
219 no later than ninety days from the date of receipt by the commission. Such
220 requests and advisory opinions, deleting the name and identity of the requesting
221 person, shall be compiled and published by the commission on at least an annual
222 basis. Advisory opinions issued by the commission shall be maintained and made
223 available for public inspection and copying at the office of the commission during
224 normal business hours. Any advisory opinion or portion of an advisory opinion
225 rendered pursuant to this subsection shall be withdrawn by the commission if,
226 after hearing thereon, the joint committee on administrative rules finds that such
227 advisory opinion is beyond or contrary to the statutory authority of the
228 commission or is inconsistent with the legislative intent of any law enacted by the
229 general assembly, and after the general assembly, by concurrent resolution, votes
230 to adopt the findings and conclusions of the joint committee on administrative
231 rules. Any such concurrent resolution adopted by the general assembly shall be
232 published at length by the commission in its publication of advisory opinions of
233 the commission next following the adoption of such resolution, and a copy of such
234 concurrent resolution shall be maintained by the commission, along with the
235 withdrawn advisory opinion, in its public file of advisory opinions. The
236 commission shall also send a copy of such resolution to the person who originally
237 requested the withdrawn advisory opinion. Any advisory opinion issued by the
238 ethics commission shall act as legal direction to any person requesting such
239 opinion and no person shall be liable for relying on the opinion and it shall act

240 as a defense of justification against prosecution. An advisory opinion of the
241 commission shall not be withdrawn unless:

- 242 (a) The authorizing statute is declared unconstitutional;
243 (b) The opinion goes beyond the power authorized by statute; or
244 (c) The authorizing statute is changed to invalidate the opinion.
245 (2) Upon request, the attorney general shall give the attorney general's
246 opinion, without fee, to the commission, any elected official of the state or any
247 political subdivision, any member of the general assembly, or any director of any
248 department, division or agency of the state, upon any question of law regarding
249 the effect or application of sections 105.450 to 105.496, or chapter 130. Such
250 opinion need be in writing only upon request of such official, member or director,
251 and in any event shall be rendered within sixty days that such request is
252 delivered to the attorney general.

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

265 18. From time to time but no more frequently than annually the
266 commission may request the officials and entities described in subdivision (6) of
267 section 105.450 to identify for the commission in writing those persons associated
268 with such office or entity which such office or entity has designated as a
269 decision-making public servant. Each office or entity delineated in subdivision
270 (6) of section 105.450 receiving such a request shall identify those so designated
271 within thirty days of the commission's request.

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

- 3 (1) The requirements imposed on lobbyists by sections
4 105.470 to 105.478;

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

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

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

12 (5) The conflict of interest laws contained in sections
13 105.450 to 105.468 and section 171.181; and

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

18 2. Complaints filed with the commission shall be in writing
19 and filed only by a natural person. The complaint shall contain all
20 facts known by the complainant that have given rise to the
21 complaint and the complaint shall be sworn to, under penalty of
22 perjury, by the complainant. No complaint shall be investigated
23 unless the complaint alleges facts which, if true, fall within the
24 jurisdiction of the commission. Within five days after receipt by
25 the commission of a complaint which is properly signed and
26 notarized, and which alleges facts which, if true, fall within the
27 jurisdiction of the commission, a copy of the complaint, including
28 the name of the complainant, shall be delivered to the alleged
29 violation.

30 3. No complaint shall be investigated which concerns
31 alleged criminal conduct which allegedly occurred previous to the
32 period of time allowed by law for criminal prosecution for such
33 conduct. The commission may refuse to investigate any conduct
34 which is the subject of civil or criminal litigation. The commission,
35 its executive director or an investigator shall not investigate any
36 complaint concerning conduct which is not criminal in nature
37 which occurred more than two years prior to the date of the
38 complaint. A complaint alleging misconduct on the part of a
39 candidate for public office, other than those alleging failure to file
40 the appropriate financial interest statements or campaign finance

41 disclosure reports, shall not be accepted by the commission within
42 sixty days prior to the primary election at which such candidate is
43 running for office, and until after the general election.

44 4. If the commission finds that any complaint is frivolous
45 in nature, the commission shall dismiss the case. For purposes of
46 this subsection, "frivolous" shall mean a complaint clearly lacking
47 any basis in fact or law. Any person who submits a frivolous
48 complaint shall be liable for actual and compensatory damages to
49 the alleged violator for holding the alleged violator before the
50 public in a false light. If the commission finds that a complaint is
51 frivolous, the commission shall issue a public report to the
52 complainant and the alleged violator stating with particularity its
53 reasons for dismissal of the complaint. Upon such issuance, the
54 complaint and all materials relating to the complaint shall be a
55 public record as defined in chapter 610.

56 5. Complaints which allege violations as described in this
57 section which are filed with the commission shall be handled as
58 provided by section 105.961.]

105.957. 1. The commission shall receive any complaints alleging
2 violation of the 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
5 105.483 to 105.492;

6 (3) The campaign finance disclosure requirements contained in chapter
7 130;

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

11 (5) The conflict of interest laws contained in sections 105.450 to 105.468
12 and section 171.181; and

13 (6) The provisions of the constitution or state statute or order, ordinance
14 or resolution of any political subdivision relating to the official conduct of officials
15 or employees of the state and political subdivisions.

16 2. Complaints filed with the commission shall be in writing and filed only
17 by a natural person. The complaint shall contain all facts known by the
18 complainant that have given rise to the complaint and the complaint shall be

19 sworn to, under penalty of perjury, by the complainant. No complaint shall be
20 investigated unless the complaint alleges facts which, if true, fall within the
21 jurisdiction of the commission. **Notwithstanding subsection 2 of section**
22 **130.054 to the contrary**, within five days after receipt of a complaint by the
23 commission, a copy of the complaint, including the name of the complainant, shall
24 be delivered to the alleged violator.

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

37 4. If the commission finds that any complaint is frivolous in nature [or
38 finds no probable cause to believe that there has been a violation], the
39 commission shall dismiss the case. For purposes of this subsection, "frivolous"
40 shall mean a complaint clearly lacking any basis in fact or law. Any person who
41 submits a frivolous complaint shall be liable for actual and compensatory
42 damages to the alleged violator for holding the alleged violator before the public
43 in a false light. If the commission finds that a complaint is frivolous [or that
44 there is not probable cause to believe there has been a violation], the commission
45 shall issue a public report to the complainant and the alleged violator stating
46 with particularity its reasons for dismissal of the complaint. Upon such issuance,
47 the complaint and all materials relating to the complaint shall be a public record
48 as defined in chapter 610.

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

[105.959. 1. The executive director of the commission,
2 under the supervision of the commission, shall review reports and
3 statements filed with the commission or other appropriate officers
4 pursuant to sections 105.470, 105.483 to 105.492, and chapter 130

5 for completeness, accuracy and timeliness of filing of the reports or
6 statements and any records relating to the reports or statements,
7 and upon review, if there are reasonable grounds to believe that a
8 violation has occurred, shall conduct an investigation of such
9 reports, statements, and records and assign a special investigator
10 following the provisions of subsection 1 of section 105.961.

11 2. (1) If there are reasonable grounds to believe that a
12 violation has occurred and after the commission unanimously votes
13 to proceed with all six members voting, the executive director shall,
14 without receipt of a complaint, conduct an independent
15 investigation of any potential violations of the provisions of:

16 (a) The requirements imposed on lobbyists by sections
17 105.470 to 105.478;

18 (b) The financial interest disclosure requirements contained
19 in sections 105.483 to 105.492;

20 (c) The campaign finance disclosure requirements contained
21 in chapter 130;

22 (d) Any code of conduct promulgated by any department,
23 division, or agency of state government, or by state institutions of
24 higher education, or by executive order;

25 (e) The conflict of interest laws contained in sections
26 105.450 to 105.468 and section 171.181; and

27 (f) The provisions of the constitution or state statute or
28 order, ordinance, or resolution of any political subdivision relating
29 to the official conduct of officials or employees of the state and
30 political subdivisions.

31 (2) If an investigation conducted under this subsection fails
32 to establish reasonable grounds to believe that a violation has
33 occurred, the investigation shall be terminated and the person who
34 had been under investigation shall be notified of the reasons for
35 the disposition of the complaint.

36 3. Upon findings of the appropriate filing officer which are
37 reported to the commission in accordance with the provisions of
38 section 130.056, the executive director shall investigate disclosure
39 reports, statements and records pertaining to such findings within
40 a reasonable time after receipt of the reports from the appropriate

41 filing officer.

42 4. The commission may make such investigations and
43 inspections within or outside of this state as are necessary to
44 determine compliance.

45 5. The commission shall notify the person under
46 investigation under this section, by registered mail, within five
47 days of the decision to conduct such investigation and assign a
48 special investigator following the provisions of subsection 1 of
49 section 105.961.

50 6. After completion of an investigation, the executive
51 director shall provide a detailed report of such investigation to the
52 commission. Upon determination that there are reasonable
53 grounds to believe that a person has violated the requirements of
54 sections 105.470, 105.483 to 105.492, or chapter 130, by a vote of
55 four members of the commission, the commission may refer the
56 report with the recommendations of the commission to the
57 appropriate prosecuting authority together with the details of the
58 investigation by the commission as is provided in subsection 2 of
59 section 105.961.

60 7. All investigations by the executive director of an alleged
61 violation shall be strictly confidential with the exception of
62 notification of the commission and the complainant and the person
63 under investigation. Revealing any such confidential investigation
64 information shall be cause for removal or dismissal of the executive
65 director or a commission member or employee.]

105.959. 1. The executive director of the commission, under the
2 supervision of the commission, shall review reports and statements **required to**
3 **be** filed with the commission or other appropriate officers pursuant to sections
4 105.470, 105.483 to 105.492, and chapter 130, **and any records relating to the**
5 **reports or statements**, for completeness, accuracy and timeliness of filing of
6 the reports or statements, and upon review, if there are reasonable grounds to
7 believe that a violation has occurred, shall conduct an audit of such reports [and],
8 statements, **and records and assign a special investigator following the**
9 **provisions of subsection 1 of section 105.961.** All investigations by the
10 executive director of an alleged violation shall be strictly confidential with the
11 exception of notification of the commission and the complainant or the person

12 under investigation. All investigations by the executive director shall be limited
13 to the information contained in the reports [or], statements, **and records**. The
14 commission shall notify the complainant or the person under investigation, by
15 registered mail, within five days of the decision to conduct such
16 investigation. Revealing any such confidential investigation information shall be
17 cause for removal or dismissal of the executive director or a commission member
18 or employee.

19 2. Upon findings of the appropriate filing officer which are reported to the
20 commission in accordance with the provisions of section 130.056, the executive
21 director shall audit disclosure reports, statements and records pertaining to such
22 findings within a reasonable time after receipt of the reports from the appropriate
23 filing officer.

24 3. [Upon a sworn written complaint of any natural person filed with the
25 commission pursuant to section 105.957, the commission shall audit and
26 investigate alleged violations. Within sixty days after receipt of a sworn written
27 complaint alleging a violation, the executive director shall notify the complainant
28 in writing of the action, if any, the executive director has taken and plans to take
29 on the complaint. If an investigation conducted pursuant to this subsection fails
30 to establish reasonable grounds to believe that a violation has occurred, the
31 investigation shall be terminated and the complainant and the person who had
32 been under investigation shall be notified of the reasons for the disposition of the
33 complaint.

34 4.] The commission may make such investigations and inspections within
35 or outside of this state as are necessary to determine compliance.

36 [5. If, during an audit or investigation, the commission determines that
37 a formal investigation is necessary, the commission shall assign the investigation
38 to a special investigator in the manner provided by subsection 1 of section
39 105.961.

40 6.] 4. After completion of an audit or investigation, the executive director
41 shall provide a detailed report of such audit or investigation to the
42 commission. Upon determination that there are reasonable grounds to believe
43 that a person has violated the requirements of sections 105.470, 105.483 to
44 105.492, or chapter 130, by a vote of four members of the commission, the
45 commission may refer the **cause for a hearing as provided in subsection 3**
46 **of section 105.961** report with the recommendations of the commission to the
47 appropriate prosecuting authority together with a copy of the audit and the

48 details of the investigation by the commission as is provided in subsection 2 of
49 section 105.961.

[105.961. 1. Upon receipt of a complaint as described by
2 section 105.957 or upon notification by the commission of an
3 investigation under subsection 5 of section 105.959, the commission
4 shall assign the complaint or investigation to a special investigator,
5 who may be a commission employee, who shall investigate and
6 determine the merits of the complaint or investigation. Within ten
7 days of such assignment, the special investigator shall review such
8 complaint and disclose, in writing, to the commission any conflict
9 of interest which the special investigator has or might have with
10 respect to the investigation and subject thereof. Within ninety
11 days of receipt of the complaint from the commission, the special
12 investigator shall submit the special investigator's report to the
13 commission. The commission, after review of such report, shall
14 determine:

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

17 (2) That there are no reasonable grounds for belief that a
18 violation exists and the complaint or investigation shall be
19 dismissed; or

20 (3) That additional time is necessary to complete the
21 investigation, and the status and progress of the investigation to
22 date. The commission, in its discretion, may allow the
23 investigation to proceed for no more than two additional successive
24 periods of ninety days each, pending reports regarding the status
25 and progress of the investigation at the end of each such period.

26 2. When the commission concludes, based on the report
27 from the special investigator, or based on an investigation
28 conducted pursuant to section 105.959, that there are reasonable
29 grounds to believe that a violation of any criminal law has
30 occurred, and if the commission believes that criminal prosecution
31 would be appropriate upon a vote of four members of the
32 commission, the commission shall refer the report to the Missouri
33 office of prosecution services, prosecutors coordinators training
34 council established in section 56.760, which shall submit a panel

35 of five attorneys for recommendation to the court having criminal
36 jurisdiction, for appointment of an attorney to serve as a special
37 prosecutor; except that, the attorney general of Missouri or any
38 assistant attorney general shall not act as such special
39 prosecutor. The court shall then appoint from such panel a special
40 prosecutor pursuant to section 56.110 who shall have all the
41 powers provided by section 56.130. The court shall allow a
42 reasonable and necessary attorney's fee for the services of the
43 special prosecutor. Such fee shall be assessed as costs if a case is
44 filed, or ordered by the court if no case is filed, and paid together
45 with all other costs in the proceeding by the state, in accordance
46 with rules and regulations promulgated by the state courts
47 administrator, subject to funds appropriated to the office of
48 administration for such purposes. If the commission does not have
49 sufficient funds to pay a special prosecutor, the commission shall
50 refer the case to the prosecutor or prosecutors having criminal
51 jurisdiction. If the prosecutor having criminal jurisdiction is not
52 able to prosecute the case due to a conflict of interest, the court
53 may appoint a special prosecutor, paid from county funds, upon
54 appropriation by the county or the attorney general to investigate
55 and, if appropriate, prosecute the case. The special prosecutor or
56 prosecutor shall commence an action based on the report by the
57 filing of an information or seeking an indictment within sixty days
58 of the date of such prosecutor's appointment, or shall file a written
59 statement with the commission explaining why criminal charges
60 should not be sought. If the special prosecutor or prosecutor fails
61 to take either action required by this subsection, upon request of
62 the commission, a new special prosecutor, who may be the attorney
63 general, shall be appointed. The report may also be referred to the
64 appropriate disciplinary authority over the person who is the
65 subject of the report.

66 3. When the commission concludes, based on the report
67 from the special investigator or based on an investigation
68 conducted pursuant to section 105.959, that there are reasonable
69 grounds to believe that a violation of any law has occurred which
70 is not a violation of criminal law or that criminal prosecution is not

71 appropriate, the commission shall conduct a hearing which shall be
72 a closed meeting and not open to the public. The hearing shall be
73 conducted pursuant to the procedures provided by sections 536.063
74 to 536.090 and shall be considered to be a contested case for
75 purposes of such sections. The commission shall determine, in its
76 discretion, whether or not that there is probable cause that a
77 violation has occurred. If the commission determines, by a vote of
78 at least four members of the commission, that probable cause exists
79 that a violation has occurred, the commission may refer its findings
80 and conclusions to the appropriate disciplinary authority over the
81 person who is the subject of the report, as described in subsection
82 8 of this section.

83 4. If the appropriate disciplinary authority receiving a
84 report from the commission pursuant to subsection 3 of this section
85 fails to follow, within sixty days of the receipt of the report, the
86 recommendations contained in the report, or if the commission
87 determines, by a vote of at least four members of the commission
88 that some action other than referral for criminal prosecution or for
89 action by the appropriate disciplinary authority would be
90 appropriate, the commission shall take any one or more of the
91 following actions:

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

96 (2) Notify the person of the requirement to file, amend or
97 correct any report, statement, or other document or information
98 required by sections 105.473, 105.483 to 105.492, or chapter 130
99 and that the commission may seek judicial enforcement of its
100 decision pursuant to subsection 5 of this section; and

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

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

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

107 (6) Through reconciliation agreements or action of the
108 commission, the power to seek fees for violations in an amount not
109 greater than one thousand dollars or double the amount involved
110 in the violation.

111 5. Upon vote of at least four members, the commission may
112 initiate formal judicial proceedings in the circuit court of Cole
113 County seeking to obtain any of the following orders:

114 (1) Cease and desist violation of any provision of sections
115 105.450 to 105.496, or chapter 130, or sections 105.955 to 105.963;

116 (2) Pay any civil penalties required by sections 105.450 to
117 105.496 or chapter 130;

118 (3) File any reports, statements, or other documents or
119 information required by sections 105.450 to 105.496, or chapter
120 130; or

121 (4) Pay restitution for any unjust enrichment the violator
122 obtained as a result of any violation of any criminal statute as
123 described in subsection 7 of this section.

124 6. After the commission determines by a vote of at least
125 four members of the commission that a violation has occurred,
126 other than a referral for criminal prosecution, and the commission
127 has referred the findings and conclusions to the appropriate
128 disciplinary authority over the person who is the subject of the
129 report, or has taken an action under subsection 4 of this section,
130 the subject of the report may appeal the determination of the
131 commission to the circuit court of Cole County. The court shall
132 conduct a de novo review of the determination of the
133 commission. Such appeal shall stay the action of the Missouri
134 ethics commission. Such appeal shall be filed not later than the
135 fourteenth day after the subject of the commission's action receives
136 actual notice of the commission's action. If a petition for judicial
137 review of a final order is not filed as provided in this section or
138 when an order for fees under subsection 4 of this section becomes
139 final following an appeal to the circuit court of Cole County, the
140 commission may file a certified copy of the final order with the
141 circuit court of Cole County. When any order for fees under
142 subsection 4 of this section becomes final, the commission may file

143 a certified copy of the final order with the circuit court of Cole
144 County. The order so filed shall have the same effect as a
145 judgment of the court and may be recorded, enforced, or satisfied
146 in the same manner as a judgment of the court.

147 7. In the proceeding in the circuit court of Cole County, the
148 commission may seek restitution against any person who has
149 obtained unjust enrichment as a result of violation of any provision
150 of sections 105.450 to 105.496, or chapter 130 and may recover on
151 behalf of the state or political subdivision with which the alleged
152 violator is associated, damages in the amount of any unjust
153 enrichment obtained and costs and attorney's fees as ordered by
154 the court.

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

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

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

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

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

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

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

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

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

183 9. The special investigator having a complaint referred to
184 the special investigator by the commission shall have the following
185 powers:

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

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

193 (3) To administer oaths and affirmations;

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

210 (5) To request from the commission such investigative,
211 clerical or other staff assistance or advancement of other expenses
212 which are necessary and convenient for the proper completion of an
213 investigation. Within the limits of appropriations to the
214 commission, the commission may provide such assistance, whether

215 by contract to obtain such assistance or from staff employed by the
216 commission, or may advance such expenses.

217 10. (1) Any retired judge may request in writing to have
218 the judge's name removed from the list of special investigators
219 subject to appointment by the commission or may request to
220 disqualify himself or herself from any investigation. Such request
221 shall include the reasons for seeking removal;

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

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

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

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

241 14. If, in the opinion of the commission, the complaining
242 party was motivated by malice or reason contrary to the spirit of
243 any law on which such complaint was based, in filing the complaint
244 without just cause, this finding shall be reported to appropriate law
245 enforcement authorities. Any person who knowingly files a
246 complaint without just cause, or with malice, is guilty of a class A
247 misdemeanor.

248 15. A respondent party who prevails in a formal judicial
249 action brought by the commission shall be awarded those
250 reasonable fees and expenses incurred by that party in the formal

251 judicial action, unless the court finds that the position of the
252 commission was substantially justified or that special
253 circumstances make such an award unjust.

254 16. The special investigator and members and staff of the
255 commission shall maintain confidentiality with respect to all
256 matters concerning a complaint, with the exception of
257 communications with any person which are necessary to the
258 investigation. Any person who violates the confidentiality
259 requirements imposed by this section or subsection 17 of section
260 105.955 required to be confidential is guilty of a class A
261 misdemeanor and shall be subject to removal from or termination
262 of employment by the commission.

263 17. Any judge of the court of appeals or circuit court who
264 ceases to hold such office by reason of the judge's retirement and
265 who serves as a special investigator pursuant to this section shall
266 receive annual compensation, salary or retirement for such services
267 at the rates of compensation provided for senior judges by
268 subsections 1, 2 and 4 of section 476.682. Such retired judges shall
269 by the tenth day of each month following any month in which the
270 judge provided services pursuant to this section certify to the
271 commission and to the state courts administrator the amount of
272 time engaged in such services by hour or fraction thereof, the dates
273 thereof, and the expenses incurred and allowable pursuant to this
274 section. The commission shall then issue a warrant to the state
275 treasurer for the payment of the salary and expenses to the extent,
276 and within limitations, provided for in this section. The state
277 treasurer upon receipt of such warrant shall pay the same out of
278 any appropriations made for this purpose on the last day of the
279 month during which the warrant was received by the state
280 treasurer.]

105.961. 1. Upon receipt of a complaint as described by section 105.957,
2 the commission shall assign the complaint to a special investigator, who may be
3 a commission employee, who shall investigate and determine the merits of the
4 complaint. Within ten days of such assignment, the special investigator shall
5 review such complaint and disclose, in writing, to the commission any conflict of
6 interest which the special investigator has or might have with respect to the

7 investigation and subject thereof. Within [one hundred twenty] **ninety** days of
8 receipt of the complaint from the commission, the special investigator shall
9 submit the special investigator's report to the commission. The commission, after
10 review of such report, shall determine:

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

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

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

21 2. When the commission concludes, based on the report from the special
22 investigator, or based on an audit conducted pursuant to section 105.959, that
23 there are reasonable grounds to believe that a violation of any criminal law has
24 occurred, and if the commission believes that criminal prosecution would be
25 appropriate upon a vote of four members of the commission, the commission shall
26 refer the report to the Missouri office of prosecution services, prosecutors
27 coordinators training council established in section 56.760, which shall submit a
28 panel of five attorneys for recommendation to the court having criminal
29 jurisdiction, for appointment of an attorney to serve as a special prosecutor;
30 except that, the attorney general of Missouri or any assistant attorney general
31 shall not act as such special prosecutor. The court shall then appoint from such
32 panel a special prosecutor pursuant to section 56.110 who shall have all the
33 powers provided by section 56.130. The court shall allow a reasonable and
34 necessary attorney's fee for the services of the special prosecutor. Such fee shall
35 be assessed as costs if a case is filed, or ordered by the court if no case is filed,
36 and paid together with all other costs in the proceeding by the state, in
37 accordance with rules and regulations promulgated by the state courts
38 administrator, subject to funds appropriated to the office of administration for
39 such purposes. If the commission does not have sufficient funds to pay a special
40 prosecutor, the commission shall refer the case to the prosecutor or prosecutors
41 having criminal jurisdiction. If the prosecutor having criminal jurisdiction is not
42 able to prosecute the case due to a conflict of interest, the court may appoint a

43 special prosecutor, paid from county funds, upon appropriation by the county or
44 the attorney general to investigate and, if appropriate, prosecute the case. The
45 special prosecutor or prosecutor shall commence an action based on the report by
46 the filing of an information or seeking an indictment within sixty days of the date
47 of such prosecutor's appointment, or shall file a written statement with the
48 commission explaining why criminal charges should not be sought. If the special
49 prosecutor or prosecutor fails to take either action required by this subsection,
50 upon request of the commission, a new special prosecutor, who may be the
51 attorney general, shall be appointed. The report may also be referred to the
52 appropriate disciplinary authority over the person who is the subject of the
53 report.

54 3. When the commission concludes, based on the report from the special
55 investigator or based on an audit conducted pursuant to section 105.959, that
56 there are reasonable grounds to believe that a violation of any law has occurred
57 which is not a violation of criminal law or that criminal prosecution is not
58 appropriate, the commission shall conduct a hearing which shall be a closed
59 meeting and not open to the public. The hearing shall be conducted pursuant to
60 the procedures provided by sections 536.063 to 536.090 and shall be considered
61 to be a contested case for purposes of such sections. The commission shall
62 determine, in its discretion, whether or not that there is probable cause that a
63 violation has occurred. If the commission determines, by a vote of at least four
64 members of the commission, that probable cause exists that a violation has
65 occurred, the commission may refer its findings and conclusions to the
66 appropriate disciplinary authority over the person who is the subject of the
67 report, as described in subsection [7] 8 of this section. [After the commission
68 determines by a vote of at least four members of the commission that probable
69 cause exists that a violation has occurred, and the commission has referred the
70 findings and conclusions to the appropriate disciplinary authority over the person
71 subject of the report, the subject of the report may appeal the determination of
72 the commission to the administrative hearing commission. Such appeal shall stay
73 the action of the Missouri ethics commission. Such appeal shall be filed not later
74 than the fourteenth day after the subject of the commission's action receives
75 actual notice of the commission's action.]

76 4. If the appropriate disciplinary authority receiving a report from the
77 commission pursuant to subsection 3 of this section fails to follow, within sixty
78 days of the receipt of the report, the recommendations contained in the report, or

79 if the commission determines, by a vote of at least four members of the
80 commission that some action [other than referral for criminal prosecution or for
81 action by the appropriate disciplinary authority] would be appropriate, the
82 commission shall take any one or more of the following actions:

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

86 (2) Notify the person of the requirement to file, amend or correct any
87 report, statement, or other document or information required by sections 105.473,
88 105.483 to 105.492, or chapter 130 and that the commission may seek judicial
89 enforcement of its decision pursuant to subsection 5 of this section; and

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

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

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

96 (6) Through reconciliation agreements or [civil] action **of the**
97 **commission**, the power to seek fees for violations in an amount not greater than
98 one thousand dollars or double the amount involved in the violation.

99 5. Upon vote of at least four members, the commission may initiate formal
100 judicial proceedings **in the circuit court of Cole County** seeking to obtain any
101 of the following orders:

102 (1) Cease and desist violation of any provision of sections 105.450 to
103 105.496, or chapter 130, or sections 105.955 to 105.963;

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

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

108 (4) Pay restitution for any unjust enrichment the violator obtained as a
109 result of any violation of any criminal statute as described in subsection 6 of this
110 section. [The Missouri ethics commission shall give actual notice to the subject
111 of the complaint of the proposed action as set out in this section. The subject of
112 the complaint may appeal the action of the Missouri ethics commission, other
113 than a referral for criminal prosecution, to the administrative hearing
114 commission. Such appeal shall stay the action of the Missouri ethics

115 commission. Such appeal shall be filed no later than fourteen days after the
116 subject of the commission's actions receives actual notice of the commission's
117 actions.]

118 **6. After the commission determines by a vote of at least four**
119 **members of the commission that a violation has occurred, other than**
120 **a referral for criminal prosecution, and the commission has referred**
121 **the findings and conclusions to the appropriate disciplinary authority**
122 **over the person who is the subject of the report, or has taken an action**
123 **under subsection 4 of this section, the subject of the report may appeal**
124 **the determination of the commission to the circuit court of Cole**
125 **County. The court shall conduct a de novo review of the determination**
126 **of the commission. Such appeal shall stay the action of the Missouri**
127 **ethics commission. Such appeal shall be filed not later than the**
128 **fourteenth day after the subject of the commission's action receives**
129 **actual notice of the commission's action. If a petition for judicial**
130 **review of a final order is not filed as provided in this section or when**
131 **an order for fees under subsection 4 of this section becomes final**
132 **following an appeal as provided by law, the commission may file a**
133 **certified copy of the final order with the circuit court of Cole**
134 **County. When any order for fees under subsection 4 of this section**
135 **becomes final, the commission may file a certified copy of the final**
136 **order with the circuit court of Cole County. The order so filed shall**
137 **have the same effect as a judgment of the court and may be recorded,**
138 **enforced, or satisfied in the same manner as a judgment of the court.**

139 **7. In the proceeding in the circuit court of Cole County, the commission**
140 **may seek restitution against any person who has obtained unjust enrichment as**
141 **a result of violation of any provision of sections 105.450 to 105.496, or chapter**
142 **130 and may recover on behalf of the state or political subdivision with which the**
143 **alleged violator is associated, damages in the amount of any unjust enrichment**
144 **obtained and costs and attorney's fees as ordered by the court.**

145 **[7.] 8. The appropriate disciplinary authority to whom a report shall be**
146 **sent pursuant to subsection 2 or 3 of this section shall include, but not be limited**
147 **to, the following:**

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

150 (2) In the case of a person holding an elective office or an appointive office

151 of the state, if the alleged violation is an impeachable offense, the report shall be
152 referred to the ethics committee of the house of representatives;

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

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

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

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

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

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

170 **[8.] 9.** The special investigator having a complaint referred to the special
171 investigator by the commission shall have the following powers:

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

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

177 (3) To administer oaths and affirmations;

178 (4) Upon refusal by any person to comply with a request for information
179 relevant to an investigation, an investigator may issue a subpoena for any person
180 to appear and give testimony, or for a subpoena duces tecum to produce
181 documentary or other evidence which the investigator deems relevant to a matter
182 under the investigator's inquiry. The subpoenas and subpoenas duces tecum may
183 be enforced by applying to a judge of the circuit court of Cole County or any
184 county where the person or entity that has been subpoenaed resides or may be
185 found, for an order to show cause why the subpoena or subpoena duces tecum
186 should not be enforced. The order and a copy of the application therefor shall be

187 served in the same manner as a summons in a civil action, and if, after hearing,
188 the court determines that the subpoena or subpoena duces tecum should be
189 sustained and enforced, the court shall enforce the subpoena or subpoena duces
190 tecum in the same manner as if it had been issued by the court in a civil action;
191 and

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

198 [9.] 10. (1) Any retired judge may request in writing to have the judge's
199 name removed from the list of special investigators subject to appointment by the
200 commission or may request to disqualify himself or herself from any
201 investigation. Such request shall include the reasons for seeking removal;

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

206 [10.] 11. Any person who is the subject of any investigation pursuant to
207 this section shall be entitled to be represented by counsel at any proceeding
208 before the special investigator or the commission.

209 [11.] 12. The provisions of sections 105.957, 105.959 and 105.961 are in
210 addition to other provisions of law under which any remedy or right of appeal or
211 objection is provided for any person, or any procedure provided for inquiry or
212 investigation concerning any matter. The provisions of this section shall not be
213 construed to limit or affect any other remedy or right of appeal or objection.

214 [12.] 13. No person shall be required to make or file a complaint to the
215 commission as a prerequisite for exhausting the person's administrative remedies
216 before pursuing any civil cause of action allowed by law.

217 [13.] 14. If, in the opinion of the commission, the complaining party was
218 motivated by malice or reason contrary to the spirit of any law on which such
219 complaint was based, in filing the complaint without just cause, this finding shall
220 be reported to appropriate law enforcement authorities. Any person who
221 knowingly files a complaint without just cause, or with malice, is guilty of a class
222 A misdemeanor.

223 [14.] 15. A respondent party who prevails in a formal judicial action
224 brought by the commission shall be awarded those reasonable fees and expenses
225 incurred by that party in the formal judicial action, unless the court finds that
226 the position of the commission was substantially justified or that special
227 circumstances make such an award unjust.

228 [15.] 16. The special investigator and members and staff of the
229 commission shall maintain confidentiality with respect to all matters concerning
230 a complaint [until and if a report is filed with the commission], with the
231 exception of communications with any person which are necessary to the
232 investigation. [The report filed with the commission resulting from a complaint
233 acted upon under the provisions of this section shall not contain the name of the
234 complainant or other person providing information to the investigator, if so
235 requested in writing by the complainant or such other person.] Any person who
236 violates the confidentiality requirements imposed by this section or subsection 17
237 of section 105.955 required to be confidential is guilty of a class A misdemeanor
238 and shall be subject to removal from or termination of employment by the
239 commission.

240 [16.] 17. Any judge of the court of appeals or circuit court who ceases to
241 hold such office by reason of the judge's retirement and who serves as a special
242 investigator pursuant to this section shall receive annual compensation, salary
243 or retirement for such services at the rates of compensation provided for senior
244 judges by subsections 1, 2 and 4 of section 476.682. Such retired judges shall by
245 the tenth day of each month following any month in which the judge provided
246 services pursuant to this section certify to the commission and to the state courts
247 administrator the amount of time engaged in such services by hour or fraction
248 thereof, the dates thereof, and the expenses incurred and allowable pursuant to
249 this section. The commission shall then issue a warrant to the state treasurer for
250 the payment of the salary and expenses to the extent, and within limitations,
251 provided for in this section. The state treasurer upon receipt of such warrant
252 shall pay the same out of any appropriations made for this purpose on the last
253 day of the month during which the warrant was received by the state treasurer.

2 [105.963. 1. The executive director shall assess every
3 committee, as defined in section 130.011, failing to file with a filing
4 officer other than a local election authority as provided by section
5 130.026 a campaign disclosure report or statement of limited
activity as required by chapter 130, other than the report required

6 pursuant to subdivision (1) of subsection 1 of section 130.046, a late
7 filing fee of fifty dollars for each day after such report is due to the
8 commission, provided that the total amount of such fees assessed
9 under this subsection per report shall not exceed three thousand
10 dollars. The executive director shall send a notice to any candidate
11 and the treasurer of any committee who fails to file such report
12 within seven business days of such failure to file informing such
13 person of such failure and the fees provided by this section.

14 2. Any committee that fails to file a campaign disclosure
15 report required pursuant to subdivision (1) of subsection 1 of
16 section 130.046, other than a report required to be filed with a local
17 election authority as provided by section 130.026, shall be assessed
18 by the executive director a late filing fee of one hundred dollars for
19 each day that the report is not filed, provided that the total amount
20 of such fees assessed under this subsection per report shall not
21 exceed three thousand dollars. The executive director shall send
22 a notice to any candidate and the treasurer of any committee who
23 fails to file the report described in this subsection within seven
24 business days of such failure to file informing such person of such
25 failure and the fees provided by this section.

26 3. The executive director shall assess every person required
27 to file a financial interest statement pursuant to sections 105.483
28 to 105.492 failing to file such a financial interest statement with
29 the commission a late filing fee of ten dollars for each day after
30 such statement is due to the commission. The executive director
31 shall send a notice to any person who fails to file such statement
32 informing the individual required to file of such failure and the fees
33 provided by this section. If the person persists in such failure for
34 a period in excess of thirty days beyond receipt of such notice, the
35 amount of the late filing fee shall increase to one hundred dollars
36 for each day thereafter that the statement is late, provided that the
37 total amount of such fees assessed pursuant to this subsection per
38 statement shall not exceed six thousand dollars.

39 4. Any person assessed a late filing fee may seek review of
40 such assessment or the amount of late filing fees assessed, at the
41 person's option, by filing a petition within fourteen days after

42 receiving notice of assessment with the circuit court of Cole
43 County.

44 5. The executive director of the Missouri ethics commission
45 shall collect such late filing fees as are provided for in this
46 section. Unpaid late filing fees shall be collected by action filed by
47 the commission. The commission shall contract with the
48 appropriate entity to collect such late filing fees after a thirty-day
49 delinquency. If not collected within one hundred twenty days, the
50 Missouri ethics commission shall file a petition in Cole County
51 circuit court to seek a judgment on said fees. After obtaining a
52 judgment for the unpaid late filing fees, the commission or any
53 entity contracted by the commission may proceed to collect the
54 judgment in any manner authorized by law, including but not
55 limited to garnishment of and execution against the committee's
56 official depository account as set forth in subsection 4 of section
57 130.021 after a thirty-day delinquency. All late filing fees collected
58 pursuant to this section shall be transmitted to the state treasurer
59 and deposited to the general revenue fund.

60 6. The late filing fees provided by this section shall be in
61 addition to any penalty provided by law for violations of sections
62 105.483 to 105.492 or chapter 130.

63 7. If any lobbyist fails to file a lobbyist report in a timely
64 manner and that lobbyist is assessed a late fee, or if any individual
65 who is required to file a personal financial disclosure statement
66 fails to file such disclosure statement in a timely manner and is
67 assessed a late fee, or if any candidate or the treasurer of any
68 committee fails to file a campaign disclosure report or a statement
69 of limited activity in a timely manner and that candidate or
70 treasurer of any committee who fails to file a disclosure statement
71 in a timely manner and is assessed a late filing fee, the lobbyist,
72 individual, candidate, or the treasurer of any committee may file
73 an appeal of the assessment of the late filing fee with the
74 commission. The commission may forgive the assessment of the
75 late filing fee upon a showing of good cause. Such appeal shall be
76 filed within ten days of the receipt of notice of the assessment of
77 the late filing fee.]

105.963. 1. The executive director shall assess every committee, as
2 defined in section 130.011, failing to file with a filing officer other than a local
3 election authority as provided by section 130.026 a campaign disclosure report **or**
4 **statement of limited activity** as required by chapter 130, other than the
5 report required pursuant to subdivision (1) of subsection 1 of section 130.046, a
6 late filing fee of ten dollars for each day after such report is due to the
7 commission. The executive director shall [mail] **send** a notice, by [registered]
8 mail **and, at the discretion of the executive director, by other means**, to
9 any candidate and the treasurer of any committee who fails to file such report
10 informing such person of such failure and the fees provided by this section. If the
11 candidate or treasurer of any committee persists in such failure for a period in
12 excess of thirty days beyond [receipt] **the sending** of such notice, the amount of
13 the late filing fee shall increase to one hundred dollars for each day that the
14 report is not filed, provided that the total amount of such fees assessed pursuant
15 to this subsection per report shall not exceed three thousand dollars. **For**
16 **purposes of this subsection, evidence that the notice was properly**
17 **addressed and sent by mail or electronic mail to the address designated**
18 **by the committee shall create a rebuttable presumption that the**
19 **committee, treasurer, deputy treasurer, or candidate received the**
20 **notice.**

21 2. (1) Any candidate for state or local office who fails to file a campaign
22 disclosure report required pursuant to subdivision (1) of subsection 1 of section
23 130.046, other than a report required to be filed with a local election authority
24 as provided by section 130.026, shall be assessed by the executive director a late
25 filing fee of one hundred dollars for each day that the report is not filed, until the
26 first day after the date of the election. After such election date, the amount of
27 such late filing fee shall accrue at the rate of ten dollars per day that such report
28 remains unfiled, except as provided in subdivision (2) of this subsection.

29 (2) The executive director shall [mail] **send** a notice, [by certified mail or
30 other means to give actual notice,] to any candidate **and the treasurer of any**
31 **committee** who fails to file the report described in subdivision (1) of this
32 subsection informing such person of such failure and the fees provided by this
33 section. If the candidate persists in such failure for a period in excess of thirty
34 days beyond [receipt] **the sending** of such notice, the amount of the late filing
35 fee shall increase to one hundred dollars for each day that the report is not filed,
36 provided that the total amount of such fees assessed pursuant to this subsection

37 per report shall not exceed six thousand dollars.

38 3. The executive director shall assess every person required to file a
39 financial interest statement pursuant to sections 105.483 to 105.492 failing to file
40 such a financial interest statement with the commission a late filing fee of ten
41 dollars for each day after such statement is due to the commission. The executive
42 director shall [mail] **send** a notice[, by certified mail,] to any person who fails to
43 file such statement informing the individual required to file of such failure and
44 the fees provided by this section. If the person persists in such failure for a
45 period in excess of thirty days beyond [receipt] **the sending** of such notice, the
46 amount of the late filing fee shall increase to one hundred dollars for each day
47 thereafter that the statement is late, provided that the total amount of such fees
48 assessed pursuant to this subsection per statement shall not exceed six thousand
49 dollars.

50 4. Any person assessed a late filing fee may seek review of such
51 assessment or the amount of late filing fees assessed, at the person's option, by
52 filing a petition within fourteen days after receiving [actual] notice of assessment
53 with [the administrative hearing commission, or without exhausting the person's
54 administrative remedies may seek review of such issues with] the circuit court
55 of Cole County.

56 5. The executive director of the Missouri ethics commission shall collect
57 such late filing fees as are provided for in this section. Unpaid late filing fees
58 shall be collected [by action filed] by the commission. The commission shall
59 contract with the appropriate entity to collect such late filing fees after a
60 thirty-day delinquency. If [not collected within one hundred twenty days] a
61 **petition is not filed under subsection 4 of this section or when an order**
62 **for fees becomes final following an appeal as provided by law**, the
63 Missouri ethics commission shall file a [petition in] **certified statement of**
64 **account with the circuit clerk of the** Cole County circuit court [to seek a
65 judgment on said fees]. **The certified statement of account shall state the**
66 **total amount of fees and that all administrative appeals have been**
67 **exhausted and shall certify that a copy was sent to the individual at the**
68 **individual's last known address. The certified statement of account**
69 **filed with the circuit clerk shall have the same effect as a judgment of**
70 **the court and may be recorded, enforced, or satisfied in the same**
71 **manner as a judgment of the court. After filing the account, the**
72 **commission or any entity contracted by the commission may proceed**

73 **to collect the judgment in any manner authorized by law, including but**
74 **not limited to garnishment of and execution against the committee's**
75 **official depository account as set forth in subsection 4 of section**
76 **130.021 after a thirty-day delinquency.** All late filing fees collected pursuant
77 to this section shall be transmitted to the state treasurer and deposited to the
78 general revenue fund.

79 6. The late filing fees provided by this section shall be in addition to any
80 penalty provided by law for violations of sections 105.483 to 105.492 or chapter
81 130.

82 7. If any **lobbyist fails to file a lobbyist report in a timely manner**
83 **and that lobbyist is assessed a late fee, or if any individual who is**
84 **required to file a personal financial disclosure statement fails to file**
85 **such disclosure statement in a timely manner and is assessed a late fee,**
86 **or if any candidate or the treasurer of any committee fails to file a**
87 **campaign disclosure report or a statement of limited activity in a timely**
88 **manner and that candidate or treasurer of any committee who fails to file**
89 **a disclosure statement in a timely manner and** is assessed a late filing fee,
90 the **lobbyist, individual, candidate, [candidate committee treasurer or**
91 **assistant] or the treasurer of such committee** may file an appeal of the
92 assessment of the late filing fee with the commission. The commission may
93 forgive the assessment of the late filing fee upon a showing of good cause. Such
94 appeal shall be filed within ten days of the receipt of notice of the assessment of
95 the late filing fee.

[105.966. 1. The ethics commission shall complete and
2 make determinations pursuant to subsection 1 of section 105.961
3 on all complaint investigations within ninety days of initiation.

4 2. Any complaint investigation not completed and decided
5 upon by the ethics commission within the time allowed by this
6 section shall be deemed to not have been a violation.]

105.966. 1. [Except as provided in subsection 2 of this section,] The ethics
2 commission shall complete and make determinations pursuant to subsection 1 of
3 section 105.961 on all complaint investigations[, except those complaint
4 investigations assigned to a retired judge,] within ninety days of initiation.

5 2. [The commission may file a petition in the Cole County circuit court to
6 request an additional ninety days for investigation upon proving by a
7 preponderance of the evidence that additional time is needed. Upon filing the

8 petition, the ninety-day period shall be tolled until the court determines whether
9 additional time is needed.

10 3. The hearing shall be held in camera before the Cole County circuit
11 court and all records of the proceedings shall be closed.

12 4. The provisions of this section shall apply to all ongoing complaint
13 investigations on July 13, 1999.

14 5.] Any complaint investigation not completed and decided upon by the
15 ethics commission within the time allowed by this section shall be deemed to not
16 have been a violation.

Unofficial

Bill

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