

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 843, Page 9, Section 91.640, Line 20,

by by inserting after all of said line the following:

"105.955. 1. A bipartisan "Missouri Ethics Commission", composed of ~~[six]~~ eight members, with one member from each congressional district as provided in this section, is hereby established. The commission shall be assigned to the office of administration with supervision by the office of administration only for budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the office of administration shall not extend to matters relating to policies, regulative functions or appeals from decisions of the commission, and the commissioner of administration, any employee of the office of administration, or the governor, either directly or indirectly, shall not participate or interfere with the activities of the commission in any manner not specifically provided by law and shall not in any manner interfere with the budget request of or withhold any moneys appropriated to the commission by the general assembly. All members of the commission shall be appointed by the governor with the advice and consent of the senate ~~[from lists submitted pursuant to this section]~~. Each congressional district committee

1 of the political parties having the two highest number of votes
2 cast for their candidate for governor at the last gubernatorial
3 election shall submit a list of at least two but no more than
4 five names of eligible nominees for membership on the commission
5 for the position on the commission that corresponds with such
6 congressional district to the governor, and the governor [shall]
7 may select [six] members from such nominees to serve on the
8 commission.

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

1 serve on the commission.

2 3. (1) Except as otherwise provided in this subsection,
3 the term of each member shall be for four years[, except that of
4 the members first appointed, the governor shall select three
5 members from even-numbered congressional districts and three
6 members from odd-numbered districts].

7 (2) Not more than [three] two members of the commission
8 shall be members of the same political party, [nor shall more
9 than one member be from any one United States congressional
10 district] provided that beginning March 16, 2021, three members
11 of the commission may be from the same political party and
12 beginning March 16, 2022, four members may be from the same
13 party. [Not more than two members appointed from the
14 even-numbered congressional districts shall be members of the
15 same political party, and no more than two members from the
16 odd-numbered congressional districts shall be members of the same
17 political party. Of the members first appointed, the terms of
18 the members appointed from the odd-numbered congressional
19 districts shall expire on March 15, 1994, and the terms of the
20 members appointed from the even-numbered congressional districts
21 shall expire on March 15, 1996. Thereafter all successor members
22 of the commission shall be appointed for four-year terms.]

23 (3) The term of each member of the commission shall be as
24 follows:

25 (a) The governor shall appoint to the commission a person
26 from the first congressional district which term shall expire on
27 March 15, 2019, with all successive terms lasting four years from
28 March sixteenth of the year in which the previous term expires;

29 (b) The term of the member serving from the second

1 congressional district as of March 16, 2018, shall expire on
2 March 15, 2019, with all successive terms lasting four years from
3 March sixteenth of the year in which the previous term expires;

4 (c) The terms of the members from the third and fifth
5 congressional districts shall each begin on March 16, 2021, with
6 all successive terms lasting four years from March sixteenth of
7 the year in which the previous term expires;

8 (d) The terms of the members serving from the fourth and
9 sixth congressional districts as of March 16, 2018, shall expire
10 on March 15, 2020, with all successive terms lasting four years
11 from March sixteenth of the year in which the previous term
12 expires; and

13 (e) The terms of the members from the seventh and eighth
14 congressional districts shall each begin on March 16, 2022, with
15 all successive terms lasting four years from March sixteenth of
16 the year in which the previous term expires.

17 (4) Terms of [successor] members of the commission shall
18 expire on March fifteenth of the fourth year of their term. No
19 member of the commission shall serve on the commission after the
20 expiration of the member's term. No person shall be appointed to
21 more than one full four-year term on the commission.

22 4. (1) Vacancies [or expired terms] due to resignation,
23 removal, or expiration of the term of a member on the commission
24 shall be filled in the same manner as the original appointment
25 was made, except as provided in this subsection. Within thirty
26 days of [the] a vacancy due to resignation or removal or ninety
27 days before [the] a vacancy due to expiration of the term, the
28 names of [two] eligible nominees for membership on the commission
29 shall be submitted to the governor by the congressional district

1 committees [of the political party or parties of the vacating
2 member or members, from the even- or odd-numbered congressional
3 districts, based on the residence of the vacating member or
4 members, other than from the congressional district committees
5 from districts then represented on the commission and from the
6 same congressional district party committee or committees which
7 originally appointed the member or members whose positions are
8 vacated]. Appointments to fill vacancies [or expired terms]
9 shall be made within forty-five days after the deadline for
10 submission of names by the congressional district committees, and
11 shall be subject to the same qualifications for appointment and
12 eligibility as is provided in subsections 2 and 3 of this
13 section. Appointments to fill vacancies for unexpired terms
14 shall be for the remainder of the unexpired term of the member
15 whom the appointee succeeds, and such appointees shall be
16 eligible for appointment to one full four-year term. [If the
17 congressional district committee does not submit the required two
18 nominees within the thirty days or if the congressional district
19 committee does not submit the two nominees within an additional
20 thirty days after receiving notice from the governor to submit
21 the nominees, then the governor may appoint a person or persons
22 who shall be subject to the same qualifications for appointment
23 and eligibility as provided in subsections 2 and 3 of this
24 section.]

25 (2) Within one hundred twenty days of a vacancy due to
26 resignation or removal or one hundred twenty days prior to a
27 vacancy due to expiration of the term of a member of the
28 commission, the executive director of the commission shall notify
29 the respective congressional district committees, as designated

1 by subdivision (1) of this subsection, that it is the
2 responsibility of such committee or committees to submit eligible
3 nominees to the governor.

4 5. The governor, with the advice and consent of the senate,
5 may remove any member only for substantial neglect of duty,
6 inability to discharge the powers and duties of office, gross
7 misconduct or conviction of a felony or a crime involving moral
8 turpitude. Members of the commission also may be removed from
9 office by concurrent resolution of the general assembly signed by
10 the governor. If such resolution receives the vote of two-thirds
11 or more of the membership of both houses of the general assembly,
12 the signature of the governor shall not be necessary to effect
13 removal. The office of any member of the commission who moves
14 from the congressional district from which the member was
15 appointed shall be deemed vacated upon such change of residence.

16 6. (1) The commission shall elect biennially one of its
17 members as the chairman. The chairman may not succeed himself or
18 herself after two years. No member of the commission shall
19 succeed as chairman any member of the same political party as
20 himself or herself.

21 (2) Except as provided in subdivisions (3) and (4) of this
22 subsection, at least [four] three members are necessary to
23 constitute a quorum, and at least [four] three affirmative votes
24 shall be required for any action or recommendation of the
25 commission.

26 (3) Beginning March 16, 2021, at least four members shall
27 be necessary to constitute a quorum, and at least four
28 affirmative votes shall be required for any action or
29 recommendation of the commission.

1 (4) Beginning March 16, 2022, at least five members shall
2 be necessary to constitute a quorum, and at least five
3 affirmative votes shall be required for any action or
4 recommendation of the commission.

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

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

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

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

15 (2) Be employed as a lobbyist;

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

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

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

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

29 10. Each member of the commission shall receive, as full

1 compensation for the member's services, the sum of one hundred
2 dollars per day for each full day actually spent on work of the
3 commission, and the member's actual and necessary expenses
4 incurred in the performance of the member's official duties.

5 11. The commission shall appoint an executive director who
6 shall serve subject to the supervision of and at the pleasure of
7 the commission, but in no event for more than six years. The
8 executive director shall be responsible for the administrative
9 operations of the commission and perform such other duties as may
10 be delegated or assigned to the director by law or by rule of the
11 commission. The executive director shall employ staff and retain
12 such contract services as the director deems necessary, within
13 the limits authorized by appropriations by the general assembly.

14 12. Beginning on January 1, 1993, all lobbyist registration
15 and expenditure reports filed pursuant to section 105.473,
16 financial interest statements filed pursuant to subdivision (1)
17 of section 105.489, and campaign finance disclosure reports filed
18 other than with election authorities or local election
19 authorities as provided by section 130.026 shall be filed with
20 the commission.

21 13. Within sixty days of the initial meeting of the first
22 commission appointed, the commission shall obtain from the clerk
23 of the supreme court or the state courts administrator a list of
24 retired appellate and circuit court judges who did not leave the
25 judiciary as a result of being defeated in an election. The
26 executive director shall determine those judges who indicate
27 their desire to serve as special investigators and to investigate
28 any and all complaints referred to them by the commission. The
29 executive director shall maintain an updated list of those judges

1 qualified and available for appointment to serve as special
2 investigators. Such list shall be updated at least annually.
3 The commission shall refer complaints to such special
4 investigators on that list on a rotating schedule which ensures a
5 random assignment of each special investigator. Each special
6 investigator shall receive only one unrelated investigation at a
7 time and shall not be assigned to a second or subsequent
8 investigation until all other eligible investigators on the list
9 have been assigned to an investigation. In the event that no
10 special investigator is qualified or available to conduct a
11 particular investigation, the commission may appoint a special
12 investigator to conduct such particular investigation.

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

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

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

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

10 (4) Provide information and assistance to lobbyists,
11 elected and appointed officials, and employees of the state and
12 political subdivisions in carrying out the provisions of sections
13 105.450 to 105.496 and chapter 130;

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

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

24 (7) Promulgate rules relating to the provisions of sections
25 105.955 to 105.963 and chapter 130. All rules and regulations
26 issued by the commission shall be prospective only in operation;

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

1 15. In connection with such powers provided by sections
2 105.955 to 105.963 and chapter 130, the commission may:

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

6 (2) Administer oaths and affirmations;

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

13 (4) Employ such personnel, including legal counsel, and
14 contract for services including legal counsel, within the limits
15 of its appropriation, as it deems necessary provided such legal
16 counsel, either employed or contracted, represents the Missouri
17 ethics commission before any state agency or before the courts at
18 the request of the Missouri ethics commission. Nothing in this
19 section shall limit the authority of the Missouri ethics
20 commission as provided for in subsection 2 of section 105.961;
21 and

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

27 16. (1) Upon written request for an advisory opinion
28 received by the commission, and if the commission determines that
29 the person requesting the opinion would be directly affected by

1 the application of law to the facts presented by the requesting
2 person, the commission shall issue a written opinion advising the
3 person who made the request, in response to the person's
4 particular request, regarding any issue that the commission can
5 receive a complaint on pursuant to section 105.957. The
6 commission may decline to issue a written opinion by a vote of
7 four members and shall provide to the requesting person the
8 reason for the refusal in writing. The commission shall give an
9 approximate time frame as to when the written opinion shall be
10 issued. Such advisory opinions shall be issued no later than
11 ninety days from the date of receipt by the commission. Such
12 requests and advisory opinions, deleting the name and identity of
13 the requesting person, shall be compiled and published by the
14 commission on at least an annual basis. Advisory opinions issued
15 by the commission shall be maintained and made available for
16 public inspection and copying at the office of the commission
17 during normal business hours. Any advisory opinion or portion of
18 an advisory opinion rendered pursuant to this subsection shall be
19 withdrawn by the commission if, after hearing thereon, the joint
20 committee on administrative rules finds that such advisory
21 opinion is beyond or contrary to the statutory authority of the
22 commission or is inconsistent with the legislative intent of any
23 law enacted by the general assembly, and after the general
24 assembly, by concurrent resolution, votes to adopt the findings
25 and conclusions of the joint committee on administrative rules.
26 Any such concurrent resolution adopted by the general assembly
27 shall be published at length by the commission in its publication
28 of advisory opinions of the commission next following the
29 adoption of such resolution, and a copy of such concurrent

1 resolution shall be maintained by the commission, along with the
2 withdrawn advisory opinion, in its public file of advisory
3 opinions. The commission shall also send a copy of such
4 resolution to the person who originally requested the withdrawn
5 advisory opinion. Any advisory opinion issued by the ethics
6 commission shall act as legal direction to any person requesting
7 such opinion and no person shall be liable for relying on the
8 opinion and it shall act as a defense of justification against
9 prosecution. An advisory opinion of the commission shall not be
10 withdrawn unless:

11 (a) The authorizing statute is declared unconstitutional;

12 (b) The opinion goes beyond the power authorized by
13 statute; or

14 (c) The authorizing statute is changed to invalidate the
15 opinion.

16 (2) Upon request, the attorney general shall give the
17 attorney general's opinion, without fee, to the commission, any
18 elected official of the state or any political subdivision, any
19 member of the general assembly, or any director of any
20 department, division or agency of the state, upon any question of
21 law regarding the effect or application of sections 105.450 to
22 105.496, or chapter 130. Such opinion need be in writing only
23 upon request of such official, member or director, and in any
24 event shall be rendered within sixty days that such request is
25 delivered to the attorney general.

26 17. The state auditor and the state auditor's duly
27 authorized employees who have taken the oath of confidentiality
28 required by section 29.070 may audit the commission and in
29 connection therewith may inspect materials relating to the

1 functions of the commission. Such audit shall include a
2 determination of whether appropriations were spent within the
3 intent of the general assembly, but shall not extend to review of
4 any file or document pertaining to any particular investigation,
5 audit or review by the commission, an investigator or any staff
6 or person employed by the commission or under the supervision of
7 the commission or an investigator. The state auditor and any
8 employee of the state auditor shall not disclose the identity of
9 any person who is or was the subject of an investigation by the
10 commission and whose identity is not public information as
11 provided by law.

12 18. From time to time but no more frequently than annually
13 the commission may request the officials and entities described
14 in subdivision (6) of section 105.450 to identify for the
15 commission in writing those persons associated with such office
16 or entity which such office or entity has designated as a
17 decision-making public servant. Each office or entity delineated
18 in subdivision (6) of section 105.450 receiving such a request
19 shall identify those so designated within thirty days of the
20 commission's request."; and

21 Further amend said bill, page 82 , section 701.353, line 28,
22 by inserting after all of said line the following:

23
24 "[105.959. 1. The executive director of the
25 commission, under the supervision of the commission,
26 shall review reports and statements filed with the
27 commission or other appropriate officers pursuant to
28 sections 105.470, 105.483 to 105.492, and chapter 130
29 for completeness, accuracy and timeliness of filing of
30 the reports or statements and any records relating to
31 the reports or statements, and upon review, if there
32 are reasonable grounds to believe that a violation has
33 occurred, shall conduct an investigation of such
34 reports, statements, and records and assign a special

1 investigator following the provisions of subsection 1
2 of section 105.961.

3 2. (1) If there are reasonable grounds to
4 believe that a violation has occurred and after the
5 commission unanimously votes to proceed with all six
6 members voting, the executive director shall, without
7 receipt of a complaint, conduct an independent
8 investigation of any potential violations of the
9 provisions of:

10 (a) The requirements imposed on lobbyists by
11 sections 105.470 to 105.478;

12 (b) The financial interest disclosure
13 requirements contained in sections 105.483 to 105.492;

14 (c) The campaign finance disclosure requirements
15 contained in chapter 130;

16 (d) Any code of conduct promulgated by any
17 department, division, or agency of state government, or
18 by state institutions of higher education, or by
19 executive order;

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

22 (f) The provisions of the constitution or state
23 statute or order, ordinance, or resolution of any
24 political subdivision relating to the official conduct
25 of officials or employees of the state and political
26 subdivisions.

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

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

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

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

49 6. After completion of an investigation, the
50 executive director shall provide a detailed report of
51 such investigation to the commission. Upon
52 determination that there are reasonable grounds to

1 believe that a person has violated the requirements of
2 sections 105.470, 105.483 to 105.492, or chapter 130,
3 by a vote of four members of the commission, the
4 commission may refer the report with the
5 recommendations of the commission to the appropriate
6 prosecuting authority together with the details of the
7 investigation by the commission as is provided in
8 subsection 2 of section 105.961.

9 7. All investigations by the executive director
10 of an alleged violation shall be strictly confidential
11 with the exception of notification of the commission
12 and the complainant and the person under investigation.
13 Revealing any such confidential investigation
14 information shall be cause for removal or dismissal of
15 the executive director or a commission member or
16 employee.]" ; and
17

18 Further amend said bill, page 93, section 288.475, line 27,
19 by inserting after all of said line the following:

20 "Section B. Because of the need to ensure effective
21 enforcement of the ethics laws of the state of Missouri, the
22 repeal and reenactment of section 105.955 and the repeal of
23 section 105.959 of this act is deemed necessary for the immediate
24 preservation of the public health, welfare, peace and safety, and
25 is hereby declared to be an emergency act within the meaning of
26 the constitution, and the repeal and reenactment of section
27 105.955 and the repeal of section 105.959 of this act shall be in
28 full force and effect upon its passage and approval." ; and

29 Further amend the title and enacting clause accordingly.