

SECOND REGULAR SESSION

# HOUSE BILL NO. 1372

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ELLEBRACHT.

3419H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 105.955, 105.959, 105.961, 130.021, and 130.034, RSMo, and to enact in lieu thereof five new sections relating to ethics, with penalty provisions.

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

Section A. Sections 105.955, 105.959, 105.961, 130.021, and 130.034, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 105.955, 105.959,  
3 105.961, 130.021, and 130.034, to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

138           (3) **Direct independent investigations as described under subsection 2 of section**  
139 **105.959;**

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

146           ~~[(4)]~~ (5) Provide information and assistance to lobbyists, elected and appointed officials,  
147 and employees of the state and political subdivisions in carrying out the provisions of sections  
148 105.450 to 105.496 and chapter 130;

149           ~~[(5)]~~ (6) Make recommendations to the governor and general assembly or any state  
150 agency on the need for further legislation with respect to the ethical conduct of public officials  
151 and employees and to advise state and local government in the development of local government  
152 codes of ethics and methods of disclosing conflicts of interest as the commission may deem  
153 appropriate to promote high ethical standards among all elected and appointed officials or  
154 employees of the state or any political subdivision thereof and lobbyists;

155           ~~[(6)]~~ (7) Render advisory opinions as provided by this section;

156           ~~[(7)]~~ (8) Promulgate rules relating to the provisions of sections 105.955 to 105.963 and  
157 chapter 130. All rules and regulations issued by the commission shall be prospective only in  
158 operation;

159           ~~[(8)]~~ (9) Request and receive from the officials and entities identified in subdivision (6)  
160 of section 105.450 designations of decision-making public servants.

161           15. In connection with such powers provided by sections 105.955 to 105.963 and chapter  
162 130, the commission may:

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

165           (2) Administer oaths and affirmations;

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

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

176           (5) Obtain information from any department, division or agency of the state or any  
177 political subdivision reasonably calculated to lead to the discovery of evidence which will  
178 reasonably assist the commission in carrying out the duties prescribed in sections 105.955 to  
179 105.963 and chapter 130.

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

195 rules finds that such advisory opinion is beyond or contrary to the statutory authority of the  
196 commission or is inconsistent with the legislative intent of any law enacted by the general  
197 assembly, and after the general assembly, by concurrent resolution, votes to adopt the findings  
198 and conclusions of the joint committee on administrative rules. Any such concurrent resolution  
199 adopted by the general assembly shall be published at length by the commission in its publication  
200 of advisory opinions of the commission next following the adoption of such resolution, and a  
201 copy of such concurrent resolution shall be maintained by the commission, along with the  
202 withdrawn advisory opinion, in its public file of advisory opinions. The commission shall also  
203 send a copy of such resolution to the person who originally requested the withdrawn advisory  
204 opinion. Any advisory opinion issued by the ethics commission shall act as legal direction to any  
205 person requesting such opinion and no person shall be liable for relying on the opinion and it  
206 shall act as a defense of justification against prosecution. An advisory opinion of the  
207 commission shall not be withdrawn unless:

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

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

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

228 18. From time to time but no more frequently than annually the commission may request  
229 the officials and entities described in subdivision (6) of section 105.450 to identify for the  
230 commission in writing those persons associated with such office or entity which such office or

231 entity has designated as a decision-making public servant. Each office or entity delineated in  
232 subdivision (6) of section 105.450 receiving such a request shall identify those so designated  
233 within thirty days of the commission's request.

105.959. 1. The executive director of the commission, under the supervision of the  
2 commission, shall review reports and statements filed with the commission or other appropriate  
3 officers pursuant to sections 105.470, 105.483 to 105.492, and chapter 130 for completeness,  
4 accuracy and timeliness of filing of the reports or statements, and upon review, if there are  
5 reasonable grounds to believe that a violation has occurred, shall conduct an audit of such reports  
6 and statements. All investigations by the executive director of an alleged violation shall be  
7 strictly confidential with the exception of notification of the commission and the complainant  
8 or the person under investigation. All investigations by the executive director shall be limited  
9 to the information contained in the reports or statements. The commission shall notify the  
10 complainant or the person under investigation, by registered mail, within five days of the  
11 decision to conduct such investigation. Revealing any such confidential investigation  
12 information shall be cause for removal or dismissal of the executive director or a commission  
13 member or employee.

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

18       (a) **The requirements imposed on lobbyists by sections 105.470 to 105.478;**

19       (b) **The financial interest disclosure requirements contained in sections 105.483 to**  
20 **105.492;**

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

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

24       (e) **The conflict of interest laws contained in sections 105.450 to 105.467 and section**  
25 **171.181;**

26       (f) **The constitution or state statute relating to the official conduct of officials or**  
27 **employees of the state;**

28       (g) **Any order, ordinance, or resolution of any political subdivision relating to the**  
29 **official conduct of officials or employees of the political subdivision; and**

30       (h) **The requirements under Article VIII, Section 23, and Article III, Sections 2 and**  
31 **20(c), of the Constitution of Missouri.**

32       **(2) If an investigation conducted under this subsection fails to establish reasonable**  
33 **grounds to believe that a violation has occurred, the investigation shall be terminated and**



34 **the person who had been under investigation shall be notified of the reasons for the**  
35 **disposition of the investigation.**

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

40 ~~[3-]~~ **4.** Upon a sworn written complaint of any natural person filed with the commission  
41 pursuant to section 105.957, the commission shall audit and investigate alleged violations.  
42 Within sixty days after receipt of a sworn written complaint alleging a violation, the executive  
43 director shall notify the complainant in writing of the action, if any, the executive director has  
44 taken and plans to take on the complaint. If an investigation conducted pursuant to this  
45 subsection fails to establish reasonable grounds to believe that a violation has occurred, the  
46 investigation shall be terminated and the complainant and the person who had been under  
47 investigation shall be notified of the reasons for the disposition of the complaint.

48 ~~[4-]~~ **5.** The commission may make such investigations and inspections within or outside  
49 of this state as are necessary to determine compliance.

50 ~~[5-]~~ **6.** If, during an audit or investigation, the commission determines that a formal  
51 investigation is necessary, the commission shall assign the investigation to a special investigator  
52 in the manner provided by subsection 1 of section 105.961.

53 ~~[6-]~~ **7.** After completion of an audit or investigation, the executive director shall provide  
54 a detailed report of such audit or investigation to the commission. Upon determination that there  
55 are reasonable grounds to believe that a person has violated the requirements of sections  
56 105.470, 105.483 to 105.492, or chapter 130, by a vote of four members of the commission, the  
57 commission may refer the report with the recommendations of the commission to the appropriate  
58 prosecuting authority together with a copy of the audit and the details of the investigation by the  
59 commission as is provided in subsection 2 of section 105.961.

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

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

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

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

18 2. When the commission concludes, based on the report from the special investigator,  
19 or based on an audit **or investigation** conducted pursuant to section 105.959, that there are  
20 reasonable grounds to believe that a violation of any criminal law has occurred, and if the  
21 commission believes that criminal prosecution would be appropriate upon a vote of four  
22 members of the commission, the commission shall refer the report to the Missouri office of  
23 prosecution services, prosecutors coordinators training council established in section 56.760,  
24 which shall submit a panel of five attorneys for recommendation to the court having criminal  
25 jurisdiction, for appointment of an attorney to serve as a special prosecutor; except that, the  
26 attorney general of Missouri or any assistant attorney general shall not act as such special  
27 prosecutor. The court shall then appoint from such panel a special prosecutor pursuant to section  
28 56.110 who shall have all the powers provided by section 56.130. The court shall allow a  
29 reasonable and necessary attorney's fee for the services of the special prosecutor. Such fee shall  
30 be assessed as costs if a case is filed, or ordered by the court if no case is filed, and paid together  
31 with all other costs in the proceeding by the state, in accordance with rules and regulations  
32 promulgated by the state courts administrator, subject to funds appropriated to the office of  
33 administration for such purposes. If the commission does not have sufficient funds to pay a  
34 special prosecutor, the commission shall refer the case to the prosecutor or prosecutors having  
35 criminal jurisdiction. If the prosecutor having criminal jurisdiction is not able to prosecute the  
36 case due to a conflict of interest, the court may appoint a special prosecutor, paid from county  
37 funds, upon appropriation by the county or the attorney general to investigate and, if appropriate,  
38 prosecute the case. The special prosecutor or prosecutor shall commence an action based on the  
39 report by the filing of an information or seeking an indictment within sixty days of the date of  
40 such prosecutor's appointment, or shall file a written statement with the commission explaining  
41 why criminal charges should not be sought. If the special prosecutor or prosecutor fails to take  
42 either action required by this subsection, upon request of the commission, a new special  
43 prosecutor, who may be the attorney general, shall be appointed. The report may also be referred  
44 to the appropriate disciplinary authority over the person who is the subject of the report.

45 3. When the commission concludes, based on the report from the special investigator or  
46 based on an audit **or investigation** conducted pursuant to section 105.959, that there are

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

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

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

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

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

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

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

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

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

87 (1) Cease and desist violation of any provision of sections 105.450 to 105.496, or chapter  
88 130, or sections 105.955 to 105.963;

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

90 (3) File any reports, statements, or other documents or information required by sections  
91 105.450 to 105.496, or chapter 130; or

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

94

95 The Missouri ethics commission shall give actual notice to the subject of the complaint of the  
96 proposed action as set out in this section. The subject of the complaint may appeal the action  
97 of the Missouri ethics commission, other than a referral for criminal prosecution, to the  
98 administrative hearing commission. Such appeal shall stay the action of the Missouri ethics  
99 commission. Such appeal shall be filed no later than fourteen days after the subject of the  
100 commission's actions receives actual notice of the commission's actions.

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

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

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

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

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

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

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

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

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

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

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

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

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

134 (3) To administer oaths and affirmations;

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

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

151 9. (1) Any retired judge may request in writing to have the judge's name removed from  
152 the list of special investigators subject to appointment by the commission or may request to

153 disqualify himself or herself from any investigation. Such request shall include the reasons for  
154 seeking removal;

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

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

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

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

169 13. If, in the opinion of the commission, the complaining party was motivated by malice  
170 or reason contrary to the spirit of any law on which such complaint was based, in filing the  
171 complaint without just cause, this finding shall be reported to appropriate law enforcement  
172 authorities. Any person who knowingly files a complaint without just cause, or with malice, is  
173 guilty of a class A misdemeanor.

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

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

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

          130.021. 1. Every committee shall have a treasurer who, except as provided in  
2 subsection 10 of this section, shall be a resident of this state and reside in the district or county  
3 in which the committee sits. A committee may also have a deputy treasurer who, except as  
4 provided in subsection 10 of this section, shall be a resident of this state and reside in the district  
5 or county in which the committee sits, to serve in the capacity of committee treasurer in the event  
6 the committee treasurer is unable for any reason to perform the treasurer's duties.

7           2. Every candidate for offices listed in subsection 1 of section 130.016 who has not filed  
8 a statement of exemption pursuant to that subsection and every candidate for offices listed in  
9 subsection 6 of section 130.016 who is not excluded from filing a statement of organization and  
10 disclosure reports pursuant to subsection 6 of section 130.016 shall form a candidate committee  
11 and appoint a treasurer. Thereafter, all contributions on hand and all further contributions  
12 received by such candidate and any of the candidate's own funds to be used in support of the  
13 person's candidacy shall be deposited in a candidate committee depository account established  
14 pursuant to the provisions of subsection 4 of this section, and all expenditures shall be made  
15 through the candidate, treasurer or deputy treasurer of the person's candidate committee.  
16 Nothing in this chapter shall prevent a candidate from appointing himself or herself as a  
17 committee of one and serving as the person's own treasurer, maintaining the candidate's own  
18 records and filing all the reports and statements required to be filed by the treasurer of a  
19 candidate committee.

20           3. A candidate who has more than one candidate committee supporting the person's  
21 candidacy shall designate one of those candidate committees as the committee responsible for  
22 consolidating the aggregate contributions to all such committees under the candidate's control  
23 and direction as required by section 130.041.

24           4. (1) Every committee shall have a single official fund depository within this state  
25 which shall be a federally or state-chartered bank, a federally or state-chartered savings and loan  
26 association, or a federally or state-chartered credit union in which the committee shall open and  
27 thereafter maintain at least one official depository account in its own name. An "official  
28 depository account" shall be a checking account or some type of negotiable draft or negotiable  
29 order of withdrawal account, and the official fund depository shall, regarding an official  
30 depository account, be a type of financial institution which provides a record of deposits,  
31 cancelled checks or other cancelled instruments of withdrawal evidencing each transaction by  
32 maintaining copies within this state of such instruments and other transactions. All contributions  
33 which the committee receives in money, checks and other negotiable instruments shall be  
34 deposited in a committee's official depository account. Contributions shall not be accepted and  
35 expenditures shall not be made by a committee except by or through an official depository  
36 account and the committee treasurer, deputy treasurer or candidate. Contributions received by  
37 a committee shall not be commingled with any funds of an agent of the committee, a candidate  
38 or any other person, except that contributions from a candidate of the candidate's own funds to  
39 the person's candidate committee shall be deposited to an official depository account of the  
40 person's candidate committee. No expenditure shall be made by a committee when the office  
41 of committee treasurer is vacant except that when the office of a candidate committee treasurer  
42 is vacant, the candidate shall be the treasurer until the candidate appoints a new treasurer.

43           (2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a  
44 committee's official depository account and deposit such funds in one or more savings accounts  
45 in the committee's name in any bank, savings and loan association or credit union within this  
46 state, and may also withdraw funds from an official depository account for investment in the  
47 committee's name in any certificate of deposit, bond or security. Proceeds from interest or  
48 dividends from a savings account or other investment or proceeds from withdrawals from a  
49 savings account or from the sale of an investment shall not be expended or reinvested, except  
50 in the case of renewals of certificates of deposit, without first redepositing such proceeds in an  
51 official depository account. Investments, other than savings accounts, held outside the  
52 committee's official depository account at any time during a reporting period shall be disclosed  
53 by description, amount, any identifying numbers and the name and address of any institution or  
54 person in which or through which it is held in an attachment to disclosure reports the committee  
55 is required to file. Proceeds from an investment such as interest or dividends or proceeds from  
56 its sale, shall be reported by date and amount. In the case of the sale of an investment, the names  
57 and addresses of the persons involved in the transaction shall also be stated. Funds held in  
58 savings accounts and investments, including interest earned, shall be included in the report of  
59 money on hand as required by section 130.041.



60 (3) Notwithstanding any other provision of law to the contrary, funds held in candidate  
61 committees, campaign committees, debt service committees, ~~and~~ exploratory committees,  
62 **continuing committees, and political party committees** shall be liquid such that these funds  
63 shall be readily available for the specific and limited purposes allowed by law. These funds may  
64 be invested only in short-term treasury instruments or short-term bank certificates with durations  
65 of one year or less, or that allow the removal of funds at any time without any additional  
66 financial penalty other than the loss of interest income. ~~[Continuing committees, political party~~  
67 ~~committees, and]~~ Other committees such as out-of-state committees not formed for the benefit  
68 of any single candidate or ballot issue shall not be subject to the provisions of this subdivision.  
69 This subdivision shall not be interpreted to restrict the placement of funds in an interest-bearing  
70 checking account.

71 5. The treasurer or deputy treasurer acting on behalf of any person or organization or  
72 group of persons which is a committee by virtue of the definitions of committee in section  
73 130.011 and any candidate who is not excluded from forming a committee in accordance with  
74 the provisions of section 130.016 shall file a statement of organization with the appropriate  
75 officer within twenty days after the person or organization becomes a committee but no later than  
76 the date for filing the first report required pursuant to the provisions of section 130.046. The  
77 statement of organization shall contain the following information:

78 (1) The name, mailing address and telephone number, if any, of the committee filing the  
79 statement of organization. If the committee is deemed to be affiliated with a connected  
80 organization as provided in subdivision (11) of section 130.011, the name of the connected  
81 organization, or a legally registered fictitious name which reasonably identifies the connected  
82 organization, shall appear in the name of the committee. If the committee is a candidate  
83 committee, the name of the candidate shall be a part of the committee's name;

84 (2) The name, mailing address and telephone number of the candidate;

85 (3) The name, mailing address and telephone number of the committee treasurer, and the  
86 name, mailing address and telephone number of its deputy treasurer if the committee has named  
87 a deputy treasurer;

88 (4) The names, mailing addresses and titles of its officers, if any;

89 (5) The name and mailing address of any connected organizations with which the  
90 committee is affiliated;

91 (6) The name and mailing address of its depository, and the name and account number  
92 of each account the committee has in the depository. The account number of each account shall  
93 be redacted prior to disclosing the statement to the public;

94 (7) Identification of the major nature of the committee such as a candidate committee,  
95 campaign committee, continuing committee, political party committee, incumbent committee,  
96 or any other committee according to the definition of committee in section 130.011;

97 (8) In the case of the candidate committee designated in subsection 3 of this section, the  
98 full name and address of each other candidate committee which is under the control and direction  
99 of the same candidate, together with the name, address and telephone number of the treasurer of  
100 each such other committee;

101 (9) The name and office sought of each candidate supported or opposed by the  
102 committee;

103 (10) The ballot measure concerned, if any, and whether the committee is in favor of or  
104 opposed to such measure.

105 6. A committee may omit the information required in subdivisions (9) and (10) of  
106 subsection 5 of this section if, on the date on which it is required to file a statement of  
107 organization, the committee has not yet determined the particular candidates or particular ballot  
108 measures it will support or oppose.

109 7. A committee which has filed a statement of organization and has not terminated shall  
110 not be required to file another statement of organization, except that when there is a change in  
111 any of the information previously reported as required by subdivisions (1) to (8) of subsection  
112 5 of this section an amended statement of organization shall be filed within twenty days after the  
113 change occurs, but no later than the date of the filing of the next report required to be filed by  
114 that committee by section 130.046.

115 8. Upon termination of a committee, a termination statement indicating dissolution shall  
116 be filed not later than ten days after the date of dissolution with the appropriate officer or officers  
117 with whom the committee's statement of organization was filed. The termination statement shall  
118 include: the distribution made of any remaining surplus funds and the disposition of any deficits;  
119 and the name, mailing address and telephone number of the individual responsible for preserving  
120 the committee's records and accounts as required in section 130.036.

121 9. Any statement required by this section shall be signed and attested by the committee  
122 treasurer or deputy treasurer, and by the candidate in the case of a candidate committee.

123 10. A committee domiciled outside this state shall be required to file a statement of  
124 organization and appoint a treasurer residing in this state and open an account in a depository  
125 within this state; provided that either of the following conditions prevails:

126 (1) The aggregate of all contributions received from persons domiciled in this state  
127 exceeds twenty percent in total dollar amount of all funds received by the committee in the  
128 preceding twelve months; or

129 (2) The aggregate of all contributions and expenditures made to support or oppose  
130 candidates and ballot measures in this state exceeds one thousand five hundred dollars in the  
131 current calendar year.

132 11. If a committee domiciled in this state receives a contribution of one thousand five  
133 hundred dollars or more from any committee domiciled outside of this state, the committee  
134 domiciled in this state shall file a disclosure report with the commission. The report shall  
135 disclose the full name, mailing address, telephone numbers and domicile of the contributing  
136 committee and the date and amount of the contribution. The report shall be filed within  
137 forty-eight hours of the receipt of such contribution if the contribution is received after the last  
138 reporting date before the election.

139 12. Each legislative and senatorial district committee shall retain only one address in the  
140 district it sits for the purpose of receiving contributions.

130.034. 1. Contributions as defined in section 130.011, received by any committee  
2 shall not be converted to any personal use.

3 2. Contributions may be used for any purpose allowed by law including, but not limited  
4 to:

5 (1) Any ordinary expenses incurred relating to a campaign;

6 (2) Any ordinary and necessary expenses incurred in connection with the duties of a  
7 holder of elective office;

8 (3) Any expenses associated with the duties of candidacy or of elective office pertaining  
9 to the entertaining of or providing social courtesies to constituents, professional associations, or  
10 other holders of elective office;

11 (4) The return of any contribution to the person who made the contribution to the  
12 candidate or holder of elective office;

13 (5) To contribute to a political organization or candidate committee as allowed by law;

14 (6) To establish a new committee as defined by this chapter; **and**

15 (7) To make an unconditional gift which is fully vested to any charitable, fraternal or  
16 civic organizations or other associations formed to provide for some good in the order of  
17 benevolence, if such candidate, former candidate or holder of elective office or such person's  
18 immediate family gain no direct financial benefit from the unconditional gift[;

19 ~~——(8) Except when such candidate, former candidate or holder of elective office dies while  
20 the committee remains in existence, the committee may make an unconditional gift to a fund  
21 established for the benefit of the spouse and children of the candidate, former candidate or holder  
22 of elective office. The provisions of this subdivision shall expire October 1, 1997].~~

23 3. Upon the death of the candidate, former candidate or holder of elective office who  
24 received such contributions, all contributions shall be disposed of according to this section and

25 any funds remaining after final settlement of the candidate's decedent's estate, or if no estate is  
26 opened, then twelve months after the candidate's death, will escheat to the state of Missouri to  
27 be deposited in the general revenue fund.

28 4. No contributions, as defined in section 130.011, received by a candidate, former  
29 candidate or holder of elective office shall be used to make restitution payments ordered of such  
30 individual by a court of law or for the payment of any fine resulting from conviction of a  
31 violation of any local, state or federal law.

32 5. Committees described in subdivision (17) of section 130.011 shall make expenditures  
33 only for the purpose of determining whether an individual will be a candidate. Such  
34 expenditures include polling information, mailings, personal appearances, telephone expenses,  
35 office and travel expenses but may not include contributions to other candidate committees.

36 6. Any moneys in the exploratory committee fund may be transferred to the candidate  
37 committee upon declaration of candidacy for the position being explored. Such funds shall be  
38 included for the purposes of reporting and limitation. In the event that candidacy is not declared  
39 for the position being explored, the remaining exploratory committee funds shall be returned to  
40 the contributors on a pro rata basis. In no event shall the amount returned exceed the amount  
41 given by each contributor nor be less than ten dollars.

42 7. Funds held in candidate committees, campaign committees, debt service committees,  
43 ~~and~~ exploratory committees, **continuing committees, and political party committees** shall  
44 be liquid such that these funds shall be readily available for the specific and limited purposes  
45 allowed by law. These funds may be invested only in short-term treasury instruments or  
46 short-term bank certificates with durations of one year or less, or that allow the removal of funds  
47 at any time without any additional financial penalty other than the loss of interest income.  
48 ~~[Continuing committees, political party committees, and]~~ Other committees such as out-of-state  
49 committees not formed for the benefit of any single candidate or ballot issue shall not be subject  
50 to the provisions of this subsection. This subsection shall not be interpreted to restrict the  
51 placement of funds in an interest-bearing checking account.

✓