

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 593

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SCOTT.

Read 1st time February 26, 2007, and ordered printed.

Read 2nd time February 28, 2007, and referred to the Committee on Financial and Governmental Organizations and Elections.

Reported from the Committee March 8, 2007, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 29, 2007. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

2413S.01P

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## AN ACT

To repeal sections 105.466, 105.485, 105.957, 105.973, and 130.036, RSMo, and to enact in lieu thereof four new sections relating to ethics.

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

Section A. Sections 105.466, 105.485, 105.957, 105.973, and 130.036, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 105.466, 105.485, 105.957, and 130.036, to read as follows:

105.466. 1. No provision of sections 105.450 to 105.458, 105.462 to [105.468] **105.467**, and [105.472] **105.470** to 105.482 shall be construed to prohibit any person from performing any ministerial act or any act required by order of a court or by law to be performed.

2. No provision of sections 105.450 to 105.458, 105.462 to [105.468] **105.467**, and [105.472] **105.470** to 105.482 shall be construed to prohibit any person from communicating with the office of the attorney general or any prosecuting attorney or any attorney for any political subdivision concerning any prospective claim or complaint then under consideration not otherwise prohibited by law.

3. No provision of sections 105.450 to 105.458, 105.462 to [105.468] **105.467**, and [105.472] **105.470** to 105.482 shall be construed to prohibit any person, firm or corporation from receiving compensation for property taken by the state or any political subdivision thereof under the power of eminent domain in accordance with the provisions of the constitution and the laws of the state.

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

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

6 2. Each person required to file a financial interest statement [pursuant  
7 to subdivisions (1) to (12) of] **under** section 105.483 shall file the following  
8 information for [himself, his] **such person, the person's** spouse and dependent  
9 children at any time during the period covered by the statement, whether  
10 singularly or collectively; provided, however, that said person, if [he] **the person**  
11 does not know and [his] **the person's** spouse will not divulge any information  
12 required to be reported by this section concerning the financial interest of [his]  
13 **the person's** spouse, shall state on [his] **the** financial interest statement that  
14 [he] **the person** has disclosed that information known to [him] **the person** and  
15 that [his] **the person's** spouse has refused or failed to provide other information  
16 upon [his] **the person's** bona fide request, and such statement shall be deemed  
17 to satisfy the requirements of this section for such financial interest of [his] **the**  
18 **person's** spouse; and provided further if the spouse of any person required to file  
19 a financial interest statement is also required by section 105.483 to file a  
20 financial interest statement, the financial interest statement filed by each need  
21 not disclose the financial interest of the other, provided that each financial  
22 interest statement shall state that the spouse of the person has filed a separate  
23 financial interest statement and the name under which the statement was filed:

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

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

37 a regulated stock exchange or automated quotation system in which the person  
38 owned two percent or more of any class of outstanding stock, limited partnership  
39 units or other equity interests;

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

48 (4) The location by county, the subclassification for property tax  
49 assessment purposes, the approximate size and a description of the major  
50 improvements and use for each parcel of real property in the state, other than the  
51 individual's personal residence, having a fair market value of ten thousand  
52 dollars or more in which such person held a vested interest including a leasehold  
53 for a term of ten years or longer, and, if the property was transferred during the  
54 year covered by the statement, the name and address of the persons furnishing  
55 or receiving consideration for such transfer;

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

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

71 (7) The name and address of each not-for-profit corporation and each  
72 association, organization, or union, whether incorporated or not, except

73 not-for-profit corporations formed to provide church services, fraternal  
74 organizations or service clubs from which the officer or employee draws no  
75 remuneration, in which such person was an officer, director, employee or trustee  
76 at any time during the year covered by the statement, and for each such  
77 organization, a general description of the nature and purpose of the organization;

78 (8) The name and address of each source from which such person received  
79 a gift or gifts, or honorarium or honoraria in excess of two hundred dollars in  
80 value per source during the year covered by the statement other than gifts from  
81 persons within the third degree of consanguinity or affinity of the person filing  
82 the financial interest statement. For the purposes of this section, a "gift" shall  
83 not be construed to mean political contributions otherwise required to be reported  
84 by law or hospitality such as food, beverages or admissions to social, art, or  
85 sporting events or the like, or informational material. For the purposes of this  
86 section, a "gift" shall include gifts to or by creditors of the individual for the  
87 purpose of canceling, reducing or otherwise forgiving the indebtedness of the  
88 individual to that creditor;

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

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

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

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

99 (d) Expenses which are reported by the campaign committee or candidate  
100 committee of the person filing the statement pursuant to the provisions of chapter  
101 130, RSMo; or

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

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

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

114 (a) Is employed by the state of Missouri, by a political subdivision of the  
115 state or special district, as defined in section 115.013, RSMo, of the state of  
116 Missouri;

117 (b) Is a lobbyist; or

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

119 (12) The name and address of each campaign committee, political  
120 committee, candidate committee, or continuing committee for which such person  
121 or any corporation listed on such person's financial interest statement received  
122 payment.

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

136 4. Each official, officer or employee or candidate of any political  
137 subdivision described in subdivision (11) of section 105.483 shall be required to  
138 file a financial interest statement as required by subsection 2 of this section,  
139 unless the political subdivision biennially adopts an ordinance, order or  
140 resolution at an open meeting by September fifteenth of the preceding year, which  
141 establishes and makes public its own method of disclosing potential conflicts of  
142 interest and substantial interests and therefore excludes the political subdivision  
143 or district and its officers and employees from the requirements of subsection 2  
144 of this section. A certified copy of the ordinance, order or resolution shall be sent

145 to the commission within ten days of its adoption. The commission shall assist  
146 any political subdivision in developing forms to complete the requirements of this  
147 subsection. The ordinance, order or resolution shall contain, at a minimum, the  
148 following requirements with respect to disclosure of substantial interests:

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

151 (a) For such person, and all persons within the first degree of  
152 consanguinity or affinity of such person, the date and the identities of the parties  
153 to each transaction with a total value in excess of five hundred dollars, if any,  
154 that such person had with the political subdivision, other than compensation  
155 received as an employee or payment of any tax, fee or penalty due to the political  
156 subdivision, and other than transfers for no consideration to the political  
157 subdivision;

158 (b) The date and the identities of the parties to each transaction known  
159 to the person with a total value in excess of five hundred dollars, if any, that any  
160 business entity in which such person had a substantial interest, had with the  
161 political subdivision, other than payment of any tax, fee or penalty due to the  
162 political subdivision or transactions involving payment for providing utility  
163 service to the political subdivision, and other than transfers for no consideration  
164 to the political subdivision;

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

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

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

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, RSMo;

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 **105.467** and section 171.181, RSMo; 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. Within five days after receipt [of a complaint] by  
22 the commission **of a complaint which is properly signed and notarized,**  
23 **and which alleges facts which, if true, fall within the jurisdiction of the**  
24 **commission,** a copy of the complaint, including the name of the complainant,  
25 shall be delivered to the alleged violator.

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

38 4. If the commission finds that any complaint is frivolous in nature or  
39 finds no probable cause to believe that there has been a violation, the commission  
40 shall dismiss the case. For purposes of this subsection, "frivolous" shall mean a  
41 complaint clearly lacking any basis in fact or law. Any person who submits a  
42 frivolous complaint shall be liable for actual and compensatory damages to the

43 alleged violator for holding the alleged violator before the public in a false light.  
44 If the commission finds that a complaint is frivolous or that there is not probable  
45 cause to believe there has been a violation, the commission shall issue a public  
46 report to the complainant and the alleged violator stating with particularity its  
47 reasons for dismissal of the complaint. Upon such issuance, the complaint and  
48 all materials relating to the complaint shall be a public record as defined in  
49 chapter 610, RSMo.

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

130.036. 1. The candidate, treasurer or deputy treasurer of a committee  
2 shall maintain accurate records and accounts on a current basis. The records and  
3 accounts shall be maintained in accordance with accepted normal bookkeeping  
4 procedures and shall contain the bills, receipts, deposit records, canceled checks  
5 and other detailed information necessary to prepare and substantiate any  
6 statement or report required to be filed pursuant to this chapter. Every person  
7 who acts as an agent for a committee in receiving contributions, making  
8 expenditures or incurring indebtedness for the committee shall, on request of that  
9 committee's treasurer, deputy treasurer or candidate, but in any event within five  
10 days after any such action, render to the candidate, committee treasurer or  
11 deputy treasurer a detailed account thereof, including names, addresses, dates,  
12 exact amounts and any other details required by the candidate, treasurer or  
13 deputy treasurer to comply with this chapter. Notwithstanding the provisions of  
14 subsection 4 of section 130.021 prohibiting commingling of funds, an individual,  
15 trade or professional association, business entity, or labor organization which acts  
16 as an agent for a committee in receiving contributions may deposit contributions  
17 received on behalf of the committee to the agent's account within a financial  
18 institution within this state, for purposes of facilitating transmittal of the  
19 contributions to the candidate, committee treasurer or deputy treasurer. Such  
20 contributions shall not be held in the agent's account for more than five days  
21 after the date the contribution was received by the agent, and shall not be  
22 transferred to the account of any other agent or person, other than the committee  
23 treasurer.

24           2. Unless a contribution is rejected by the candidate or committee and  
25 returned to the donor or transmitted to the state treasurer within ten business  
26 days after its receipt, it shall be considered received and accepted on the date  
27 received, notwithstanding the fact that it was not deposited by the closing date



28 of a reporting period.

29           3. Notwithstanding the provisions of section 130.041 that only  
30 contributors of more than one hundred dollars shall be reported by name and  
31 address for all committees, the committee's records shall contain a listing of each  
32 contribution received by the committee, including those accepted and those which  
33 are rejected and either returned to the donor or transmitted to the state  
34 treasurer. Each contribution, regardless of the amount, shall be recorded by date  
35 received, name and address of the contributor and the amount of the contribution,  
36 except that any contributions from unidentifiable persons which are received  
37 through fund-raising activities and events as permitted in subsection 6 of section  
38 130.031 shall be recorded to show the dates and amounts of all such contributions  
39 received together with information contained in statements required by  
40 subsection 6 of section 130.031. The procedure for recording contributions shall  
41 be of a type which enables the candidate, committee treasurer or deputy treasurer  
42 to maintain a continuing total of all contributions received from any one  
43 contributor.

44           4. Notwithstanding the provisions of section 130.041 that certain  
45 expenditures need not be identified in reports by name and address of the payee,  
46 the committee's records shall include a listing of each expenditure made and each  
47 contract, promise or agreement to make an expenditure, showing the date and  
48 amount of each transaction, the name and address of the person to whom the  
49 expenditure was made or promised, and the purpose of each expenditure made or  
50 promised.

51           5. In the case of a committee which makes expenditures for both the  
52 support or opposition of any candidate and the passage or defeat of a ballot  
53 measure, the committee treasurer shall maintain records segregated according to  
54 each candidate or measure for which the expenditures were made.

55           6. Records shall indicate which transactions, either contributions received  
56 or expenditures made, were cash transactions or in-kind transactions.

57           7. Any candidate who, pursuant to section 130.016, is exempt from the  
58 requirements to form a committee shall maintain records of each contribution  
59 received or expenditure made in support of his candidacy. Any other person or  
60 combination of persons who, although not deemed to be a committee according to  
61 the definition of the term "committee" in section 130.011, accepts contributions  
62 or makes expenditures, other than direct contributions from the person's own  
63 funds, for the purpose of supporting or opposing the election or defeat of any

64 candidate or for the purpose of supporting or opposing the qualifications, passage  
65 or defeat of any ballot measure shall maintain records of each contribution  
66 received or expenditure made. The records shall include name, address and  
67 amount pertaining to each contribution received or expenditure made and any  
68 bills, receipts, canceled checks or other documents relating to each transaction.

69 8. All records and accounts of receipts and expenditures shall be  
70 preserved for at least three years after the date of the election to which the  
71 records pertain. Records and accounts regarding supplemental disclosure reports  
72 or reports not required pursuant to an election shall be preserved for at least  
73 three years after the date of the report to which the records pertain. Such  
74 records shall be available for inspection by the [campaign finance review board]  
75 **Missouri ethics commission** and its duly authorized representatives.

2 [105.973. 1. The ethics commission shall print and make  
3 available a summary of all laws over which the commission has  
4 enforcement powers pursuant to chapter 105 and chapter 130,  
5 RSMo. The summary shall be in plain English and compiled to put  
6 individuals on notice of such laws.

7 2. A candidate shall sign a statement verifying that such  
candidate has received the summary when filing for an office.]

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