

SECOND REGULAR SESSION

HOUSE BILL NO. 2069

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOGAN.

4252H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 105.455, 105.458, 105.470, 105.473, 610.010, 610.021, and 610.025, RSMo, and to enact in lieu thereof eight new sections relating to ethics, with penalty provisions.

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

Section A. Sections 105.455, 105.458, 105.470, 105.473, 610.010, 610.021, and 610.025, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 105.455, 105.458, 105.470, 105.473, 130.082, 610.010, 610.021, and 610.025 to read as follows:

105.455. 1. No person elected or appointed to the ~~[state senate, to the state house of representatives, or to the]~~ office of governor, lieutenant governor, attorney general, secretary of state, state treasurer, or state auditor who vacates the office, whether by resignation, expulsion, ~~[term limitation under Article III, Section 8 of the Constitution of Missouri,]~~ or otherwise, shall act, serve, or register as a lobbyist until ~~[six months]~~ **two calendar years** after the expiration of any term of office for which such person was elected or appointed.

2. No person holding an office that required appointment by the governor and confirmation by the senate who vacates the office, whether by resignation, expulsion, or otherwise, shall act, serve, or register as a lobbyist until six months after the vacation of such office.

3. **No person elected or appointed to be a member of the governing body of a political subdivision shall act, serve, or register as a lobbyist or solicit prospective employers or clients to represent as a lobbyist during the time of such service until the expiration of two calendar years after vacation of the office or position, whether by resignation, expulsion, or otherwise, if such service was after August 28, 2020.**

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.

16 **4.** For purposes of this section, the prohibition contained herein shall apply only to
17 lobbyists employed by a lobbyist principal for pay or other compensation in excess of
18 reimbursement for expenses incurred.

19 ~~[4.]~~ **5.** The provisions of **subsections 1 to 3** of this section shall not apply to any person
20 who acts, serves, or registers as a lobbyist for a state department or agency.

21 ~~[5.]~~ **6.** For purposes of this section, the terms "lobbyist" and "lobbyist principal" shall
22 have the same meanings given to such terms under section 105.470.

 105.458. 1. No member of any legislative or governing body of any political subdivision
2 of the state shall:

3 (1) Perform any service for such political subdivision or any agency of the political
4 subdivision for any consideration other than the compensation provided for the performance of
5 his or her official duties, except as otherwise provided in this section; or

6 (2) Sell, rent or lease any property to the political subdivision or any agency of the
7 political subdivision for consideration in excess of five hundred dollars per transaction or five
8 thousand dollars per annum, or in the case of a school board five thousand dollars per annum,
9 unless the transaction is made pursuant to an award on a contract let or a sale made after public
10 notice and in the case of property other than real property, competitive bidding, provided that the
11 bid or offer accepted is the lowest received; or

12 (3) Attempt, for any compensation other than the compensation provided for the
13 performance of his or her official duties, to influence the decision of any agency of the political
14 subdivision on any matter; except that, this provision shall not be construed to prohibit such
15 person from participating for compensation in any adversary proceeding or in the preparation or
16 filing of any public document or conference thereon.

17 2. No sole proprietorship, partnership, joint venture, or corporation in which any member
18 of any legislative body of any political subdivision is the sole proprietor, a partner having more
19 than a ten percent partnership interest, or a coparticipant or owner of in excess of ten percent of
20 the outstanding shares of any class of stock, shall:

21 (1) Perform any service for the political subdivision or any agency of the political
22 subdivision for any consideration in excess of five hundred dollars per transaction or five
23 thousand dollars per annum, or in the case of a school board five thousand dollars per annum,
24 unless the transaction is made pursuant to an award on a contract let after public notice and
25 competitive bidding, provided that the bid or offer accepted is the lowest received;

26 (2) Sell, rent or lease any property to the political subdivision or any agency of the
27 political subdivision where the consideration is in excess of five hundred dollars per transaction
28 or five thousand dollars per annum, or in the case of a school board five thousand dollars per
29 annum, unless the transaction is made pursuant to an award on a contract let or a sale made after

30 public notice and in the case of property other than real property, competitive bidding, provided
 31 that the bid or offer accepted is the lowest received.

32 **3. (1) For purposes of this subsection, the terms "lobbyist" and "lobbyist**
 33 **principal" shall have the same meanings given to the terms in section 105.470.**

34 **(2) No member of the governing body of a political subdivision or any person**
 35 **employed by the governing body of a political subdivision shall accept, directly or**
 36 **indirectly, a gift of any tangible or intangible item, service, or thing of value from any paid**
 37 **lobbyist or lobbyist principal in excess of five dollars per lobbyist per day.**

38 **(3) Nothing in this subsection shall prevent candidates for the governing body of**
 39 **a political subdivision, including candidates for reelection, from accepting campaign**
 40 **contributions consistent with the provisions of chapter 130 and the Constitution of**
 41 **Missouri.**

42 **(4) Nothing in this subsection shall prevent a member of the governing body of a**
 43 **political subdivision or a person employed by the governing body of a political subdivision**
 44 **from receiving gifts, family support, or anything of value from persons related to him or**
 45 **her within the fourth degree of consanguinity or affinity.**

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

3 (1) "Elected local government official lobbyist", any natural person [~~employed~~
 4 ~~specifically for the purpose of attempting~~] **who, as a part of his or her regular employment**
 5 **duties, attempts** to influence any action by:

6 **(a) A local government official elected in a county, city, town, or village** [~~with an annual~~
 7 ~~operating budget of over ten million dollars~~];

8 **(b) A superintendent or school board member of a school district; or**

9 **(c) A member of the governing body of a charter school**

10
 11 **and is not employed as an employee of the local government, school district, or charter**
 12 **school;**

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

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

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

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

23 (d) Makes total expenditures of fifty dollars or more during the twelve-month period
24 beginning January first and ending December thirty-first for the benefit of one or more public
25 officials or one or more employees of the executive branch of state government in connection
26 with such activity.

27

28 An "executive lobbyist" shall not include a member of the general assembly, an elected state
29 official, or any other person solely due to such person's participation in any of the following
30 activities:

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

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

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

40 d. Participating in public hearings or public proceedings on rules, grants, or other
41 matters;

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

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

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

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

53 (3) "Expenditure", any payment made or charge, expense, cost, debt or bill incurred; any
54 gift, honorarium or item of value bestowed including any food or beverage; any price, charge or
55 fee which is waived, forgiven, reduced or indefinitely delayed; any loan or debt which is
56 cancelled, reduced or otherwise forgiven; the transfer of any item with a reasonably discernible

57 cost or fair market value from one person to another or provision of any service or granting of
58 any opportunity for which a charge is customarily made, without charge or for a reduced charge;
59 except that the term "expenditure" shall not include the following:

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

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

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

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

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

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

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

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

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

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

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

100 (d) Makes total expenditures of fifty dollars or more during the twelve-month period
101 beginning January first and ending December thirty-first for the benefit of one or more public
102 officials or one or more employees of the judicial branch of state government in connection with
103 attempting to influence such purchasing decisions by the judiciary.

104

105 A "judicial lobbyist" shall not include a member of the general assembly, an elected state official,
106 or any other person solely due to such person's participation in any of the following activities:

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

109 b. Participating in public hearings or public proceedings on rules, grants, or other
110 matters;

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

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

115 e. Acting within the scope of employment by the general assembly, or acting within the
116 scope of employment by the executive branch of government when acting with respect to the
117 department, division, board, commission, agency or elected state officer by which such person
118 is employed, or with respect to any duty or authority imposed by law to perform any action in
119 conjunction with any other public official or state employee;

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

126 (a) Is acting in the ordinary course of employment, which primary purpose is to influence
127 legislation on a regular basis, on behalf of or for the benefit of such person's employer, except

128 that this shall not apply to any person who engages in lobbying on an occasional basis only and
129 not as a regular pattern of conduct; or

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

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

134 (d) Makes total expenditures of fifty dollars or more during the twelve-month period
135 beginning January first and ending December thirty-first for the benefit of one or more public
136 officials or one or more employees of the legislative branch of state government in connection
137 with such activity.

138

139 A "legislative lobbyist" shall include an attorney at law engaged in activities on behalf of any
140 person unless excluded by any of the following exceptions. A "legislative lobbyist" shall not
141 include any member of the general assembly, an elected state official, or any other person solely
142 due to such person's participation in any of the following activities:

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

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

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

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

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

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

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

105.473. 1. Each lobbyist shall, not later than January fifth of each year or five days
2 after beginning any activities as a lobbyist, file standardized registration forms, verified by a
3 written declaration that it is made under the penalties of perjury, along with a filing fee of ten
4 dollars, with the commission. The forms shall include the lobbyist's name and business address,

5 the name and address of all persons such lobbyist employs for lobbying purposes, the name and
6 address of each lobbyist principal by whom such lobbyist is employed or in whose interest such
7 lobbyist appears or works **and, for elected local government official lobbyists, the local**
8 **government entity to be lobbied.** The commission shall maintain files on all lobbyists' filings,
9 which shall be open to the public. Each lobbyist shall file an updating statement under oath
10 within one week of any addition, deletion, or change in the lobbyist's employment or
11 representation. The filing fee shall be deposited to the general revenue fund of the state. The
12 lobbyist principal or a lobbyist employing another person for lobbying purposes may notify the
13 commission that a judicial, executive or legislative lobbyist is no longer authorized to lobby for
14 the principal or the lobbyist and should be removed from the commission's files.

15 2. Each person shall, before giving testimony before any committee of the general
16 assembly, give to the secretary of such committee such person's name and address and the
17 identity of any lobbyist or organization, if any, on whose behalf such person appears. A person
18 who is not a lobbyist as defined in section 105.470 shall not be required to give such person's
19 address if the committee determines that the giving of such address would endanger the person's
20 physical health.

21 3. (1) During any period of time in which a lobbyist continues to act as an executive
22 lobbyist, judicial lobbyist, legislative lobbyist, or elected local government official lobbyist, the
23 lobbyist shall file with the commission on standardized forms prescribed by the commission
24 monthly reports which shall be due at the close of business on the tenth day of the following
25 month;

26 (2) Each report filed pursuant to this subsection shall include a statement, verified by a
27 written declaration that it is made under the penalties of perjury, setting forth the following:

28 (a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on
29 behalf of all public officials, their staffs and employees, and their spouses and dependent
30 children, which expenditures shall be separated into at least the following categories by the
31 executive branch, judicial branch and legislative branch of government: printing and publication
32 expenses; media and other advertising expenses; travel; the time, venue, and nature of any
33 entertainment; honoraria; meals, food and beverages; and gifts;

34 (b) The total of all expenditures by the lobbyist or his or her lobbyist principals made on
35 behalf of ~~[all] elected local government officials[, their staffs and employees, and their spouses~~
36 ~~and children]~~ **at any event described under subsection 14 of this section and a description**
37 **of the event.** Such expenditures shall be separated into at least the following categories:
38 printing and publication expenses; media and other advertising expenses; travel; the time, venue,
39 and nature of any entertainment; honoraria; meals; food and beverages; and gifts;

40 (c) An itemized listing of the name of the recipient and the nature and amount of each
41 expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of
42 value, for all expenditures made during any reporting period, paid or provided to or for a public
43 official or elected local government official, such official's staff, employees, spouse or dependent
44 children;

45 (d) The total of all expenditures made by a lobbyist or lobbyist principal for occasions
46 and the identity of the group invited, the date and description of the occasion and the amount of
47 the expenditure for each occasion when any of the following are invited in writing:

48 a. All members of the senate;

49 b. All members of the house of representatives;

50 c. All members of a joint committee of the general assembly or a standing committee of
51 either the house of representatives or senate; or

52 d. All members of a caucus of the majority party of the house of representatives, minority
53 party of the house of representatives, majority party of the senate, or minority party of the senate;

54 (e) Any expenditure made on behalf of a public official, an elected local government
55 official or such official's staff, employees, spouse or dependent children, if such expenditure is
56 solicited by such official, the official's staff, employees, or spouse or dependent children, from
57 the lobbyist or his or her lobbyist principals and the name of such person or persons, except any
58 expenditures made to any not-for-profit corporation, charitable, fraternal or civic organization
59 or other association formed to provide for good in the order of benevolence;

60 (f) A statement detailing any direct business relationship or association or partnership
61 the lobbyist has with any public official or elected local government official. The reports
62 required by this subdivision shall cover the time periods since the filing of the last report or since
63 the lobbyist's employment or representation began, whichever is most recent.

64 4. No expenditure reported pursuant to this section shall include any amount expended
65 by a lobbyist or lobbyist principal on himself or herself. All expenditures disclosed pursuant to
66 this section shall be valued on the report at the actual amount of the payment made, or the
67 charge, expense, cost, or obligation, debt or bill incurred by the lobbyist or the person the
68 lobbyist represents. Whenever a lobbyist principal employs more than one lobbyist, expenditures
69 of the lobbyist principal shall not be reported by each lobbyist, but shall be reported by one of
70 such lobbyists. No expenditure shall be made on behalf of a state senator or state representative,
71 or such public official's staff, employees, spouse, or dependent children for travel or lodging
72 outside the state of Missouri unless such travel or lodging was approved prior to the date of the
73 expenditure by the administration and accounts committee of the house or the administration
74 committee of the senate.

75 5. Any lobbyist principal shall provide in a timely fashion whatever information is
76 reasonably requested by the lobbyist principal's lobbyist for use in filing the reports required by
77 this section.

78 6. All information required to be filed pursuant to the provisions of this section with the
79 commission shall be kept available by the executive director of the commission at all times open
80 to the public for inspection and copying for a reasonable fee for a period of five years from the
81 date when such information was filed.

82 7. No person shall knowingly employ any person who is required to register as a
83 registered lobbyist but is not registered pursuant to this section. Any person who knowingly
84 violates this subsection shall be subject to a civil penalty in an amount of not more than ten
85 thousand dollars for each violation. Such civil penalties shall be collected by action filed by the
86 commission.

87 8. No lobbyist shall knowingly omit, conceal, or falsify in any manner information
88 required pursuant to this section.

89 9. The prosecuting attorney of Cole County shall be reimbursed only out of funds
90 specifically appropriated by the general assembly for investigations and prosecutions for
91 violations of this section.

92 10. Any public official or other person whose name appears in any lobbyist report filed
93 pursuant to this section who contests the accuracy of the portion of the report applicable to such
94 person may petition the commission for an audit of such report and shall state in writing in such
95 petition the specific disagreement with the contents of such report. The commission shall
96 investigate such allegations in the manner described in section 105.959. If the commission
97 determines that the contents of such report are incorrect, incomplete or erroneous, it shall enter
98 an order requiring filing of an amended or corrected report.

99 11. The commission shall provide a report listing the total spent by a lobbyist for the
100 month and year to any member or member-elect of the general assembly, judge or judicial
101 officer, or any other person holding an elective office of state government or any elected local
102 government official on or before the twentieth day of each month. For the purpose of providing
103 accurate information to the public, the commission shall not publish information in either written
104 or electronic form for ten working days after providing the report pursuant to this subsection.
105 The commission shall not release any portion of the lobbyist report if the accuracy of the report
106 has been questioned pursuant to subsection 10 of this section unless it is conspicuously marked
107 "Under Review".

108 12. Each lobbyist or lobbyist principal by whom the lobbyist was employed, or in whose
109 behalf the lobbyist acted, shall provide a general description of the proposed legislation or action
110 by the executive branch or judicial branch which the lobbyist or lobbyist principal supported or

111 opposed. This information shall be supplied to the commission on March fifteenth and May
112 thirtieth of each year.

113 **13. Notwithstanding any other provision of law, elected local government official**
114 **lobbyists may invite all members of the general assembly to an event. Elected local**
115 **government official lobbyists may make expenditures for each such event so long as they**
116 **deliver any item, service, or thing of value to all members of the general assembly who**
117 **appear at the event and so long as the expenditures are less than five dollars per public**
118 **official, staff, employee, spouse, or dependent child present at the event.**

119 **14. Notwithstanding any other provision of law, lobbyists may invite all elected or**
120 **appointed officials of a particular political subdivision to an event. Lobbyists may make**
121 **expenditures for each such event so long as they deliver any item, service, or thing of value**
122 **to all elected or appointed officials of a particular political subdivision who appear at the**
123 **event and so long as the expenditures are less than five dollars per public official, staff,**
124 **employee, spouse, or dependent child present at the event.**

125 **15. The provisions of this section shall supersede any contradicting ordinances or charter**
126 **provisions.**

130.082. 1. The amount of contributions made by or accepted from any person
2 **other than the candidate in any one election to elect an individual to any municipal,**
3 **political subdivision, or special district office in this state shall not exceed two thousand**
4 **dollars.**

5 **2. The ethics commission established in section 105.955 shall have jurisdiction over**
6 **and enforce the provisions of this section in accordance with sections 105.955 to 105.981.**

7 **3. This section is subject to the provisions of section 130.081.**

610.010. As used in this chapter, unless the context otherwise indicates, the following
2 terms mean:

3 (1) "Closed meeting", "closed record", or "closed vote", any meeting, record or vote
4 closed to the public;

5 (2) "Copying", if requested by a member of the public, copies provided as detailed in
6 section 610.026, if duplication equipment is available;

7 (3) "Public business", all matters which relate in any way to the performance of the
8 public governmental body's functions or the conduct of its business;

9 (4) "Public governmental body", any legislative, administrative or governmental entity
10 created by the Constitution or statutes of this state, by order or ordinance of any political
11 subdivision or district, judicial entities when operating in an administrative capacity, or by
12 executive order, including:

13 (a) Any body, agency, board, bureau, council, commission, committee, board of regents
14 or board of curators or any other governing body of any institution of higher education, including
15 a community college, which is supported in whole or in part from state funds, including but not
16 limited to the administrative entity known as "The Curators of the University of Missouri" as
17 established by section 172.020;

18 (b) Any advisory committee or commission appointed by the governor by executive
19 order;

20 (c) Any department or division of the state, of any political subdivision of the state, of
21 any county or of any municipal government, school district or special purpose district including
22 but not limited to sewer districts, water districts, and other subdistricts of any political
23 subdivision;

24 (d) Any other legislative or administrative governmental deliberative body under the
25 direction of three or more elected or appointed members having rulemaking or quasi-judicial
26 power;

27 (e) Any committee appointed by or at the direction of any of the entities and which is
28 authorized to report to any of the above-named entities, any advisory committee appointed by
29 or at the direction of any of the named entities for the specific purpose of recommending, directly
30 to the public governmental body's governing board or its chief administrative officer, policy or
31 policy revisions or expenditures of public funds including, but not limited to, entities created to
32 advise bi-state taxing districts regarding the expenditure of public funds, or any policy advisory
33 body, policy advisory committee or policy advisory group appointed by a president, chancellor
34 or chief executive officer of any college or university system or individual institution at the
35 direction of the governing body of such institution which is supported in whole or in part with
36 state funds for the specific purpose of recommending directly to the public governmental body's
37 governing board or the president, chancellor or chief executive officer policy, policy revisions
38 or expenditures of public funds provided, however, the staff of the college or university
39 president, chancellor or chief executive officer shall not constitute such a policy advisory
40 committee. The custodian of the records of any public governmental body shall maintain a list
41 of the policy advisory committees described in this subdivision;

42 (f) Any quasi-public governmental body. The term "quasi-public governmental body"
43 means any person, corporation or partnership organized or authorized to do business in this state
44 pursuant to the provisions of chapter 352, 353, or 355, or unincorporated association which
45 either:

46 a. Has as its primary purpose to enter into contracts with public governmental bodies,
47 or to engage primarily in activities carried out pursuant to an agreement or agreements with
48 public governmental bodies; or

49 b. Performs a public function as evidenced by a statutorily based capacity to confer or
50 otherwise advance, through approval, recommendation or other means, the allocation or issuance
51 of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the
52 contracting of leaseback agreements on structures whose annualized payments commit public
53 tax revenues; or any association that directly accepts the appropriation of money from a public
54 governmental body, but only to the extent that a meeting, record, or vote relates to such
55 appropriation; and

56 (g) Any bi-state development agency established pursuant to section 70.370;

57 (5) "Public meeting", any meeting of a public governmental body subject to sections
58 610.010 to 610.030 at which any public business is discussed, decided, or public policy
59 formulated, whether such meeting is conducted in person or by means of communication
60 equipment, including, but not limited to, conference call, video conference, internet chat, or
61 internet message board. The term "public meeting" shall not include an informal gathering of
62 members of a public governmental body for ministerial or social purposes when there is no intent
63 to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority
64 of the members of a public governmental body, by electronic communication or any other means,
65 conducted in lieu of holding a public meeting with the members of the public governmental body
66 gathered at one location in order to conduct public business;

67 (6) "Public record", any record, whether written or electronically stored, retained by or
68 of any public governmental body including any report, survey, memorandum, or other document
69 or study prepared for the public governmental body by a consultant or other professional service
70 paid for in whole or in part by public funds, including records created or maintained by private
71 contractors under an agreement with a public governmental body or on behalf of a public
72 governmental body; provided, however, that personally identifiable student records maintained
73 by public educational institutions shall be open for inspection by the parents, guardian or other
74 custodian of students under the age of eighteen years and by the parents, guardian or other
75 custodian and the student if the student is over the age of eighteen years. The term "public
76 record" shall not include any internal memorandum or letter received or prepared by or on behalf
77 of a member of a public governmental body consisting of advice, opinions and recommendations
78 in connection with the deliberative decision-making process of said body, unless such records
79 are ~~retained by the public governmental body or~~ presented at a public meeting. Any document
80 or study prepared for a public governmental body by a consultant or other professional service
81 as described in this subdivision shall be retained by the public governmental body in the same
82 manner as any other public record;

83 (7) "Public vote", any vote, whether conducted in person, by telephone, or by any other
84 electronic means, cast at any public meeting of any public governmental body.

610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

- 37 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including
38 records of individual test or examination scores; however, personally identifiable student records
39 maintained by public educational institutions shall be open for inspection by the parents,
40 guardian or other custodian of students under the age of eighteen years and by the parents,
41 guardian or other custodian and the student if the student is over the age of eighteen years;
- 42 (7) Testing and examination materials, before the test or examination is given or, if it
43 is to be given again, before so given again;
- 44 (8) Welfare cases of identifiable individuals;
- 45 (9) Preparation, including any discussions or work product, on behalf of a public
46 governmental body or its representatives for negotiations with employee groups;
- 47 (10) Software codes for electronic data processing and documentation thereof;
- 48 (11) Specifications for competitive bidding, until either the specifications are officially
49 approved by the public governmental body or the specifications are published for bid;
- 50 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals
51 and related documents or any documents related to a negotiated contract until a contract is
52 executed, or all proposals are rejected;
- 53 (13) Individually identifiable personnel records, performance ratings or records
54 pertaining to employees or applicants for employment, except that this exemption shall not apply
55 to the names, positions, salaries and lengths of service of officers and employees of public
56 agencies once they are employed as such, and the names of private sources donating or
57 contributing money to the salary of a chancellor or president at all public colleges and
58 universities in the state of Missouri and the amount of money contributed by the source;
- 59 (14) Records which are protected from disclosure by law;
- 60 (15) Meetings and public records relating to scientific and technological innovations in
61 which the owner has a proprietary interest;
- 62 (16) Records relating to municipal hotlines established for the reporting of abuse and
63 wrongdoing;
- 64 (17) Confidential or privileged communications between a public governmental body
65 and its auditor, including all auditor work product; however, all final audit reports issued by the
66 auditor are to be considered open records pursuant to this chapter;
- 67 (18) Operational guidelines, policies and specific response plans developed, adopted, or
68 maintained by any public agency responsible for law enforcement, public safety, first response,
69 or public health for use in responding to or preventing any critical incident which is or appears
70 to be terrorist in nature and which has the potential to endanger individual or public safety or
71 health. Financial records related to the procurement of or expenditures relating to operational
72 guidelines, policies or plans purchased with public funds shall be open. When seeking to close

73 information pursuant to this exception, the public governmental body shall affirmatively state
74 in writing that disclosure would impair the public governmental body's ability to protect the
75 security or safety of persons or real property, and shall in the same writing state that the public
76 interest in nondisclosure outweighs the public interest in disclosure of the records;

77 (19) Existing or proposed security systems and structural plans of real property owned
78 or leased by a public governmental body, and information that is voluntarily submitted by a
79 nonpublic entity owning or operating an infrastructure to any public governmental body for use
80 by that body to devise plans for protection of that infrastructure, the public disclosure of which
81 would threaten public safety:

82 (a) Records related to the procurement of or expenditures relating to security systems
83 purchased with public funds shall be open;

84 (b) When seeking to close information pursuant to this exception, the public
85 governmental body shall affirmatively state in writing that disclosure would impair the public
86 governmental body's ability to protect the security or safety of persons or real property, and shall
87 in the same writing state that the public interest in nondisclosure outweighs the public interest
88 in disclosure of the records;

89 (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the
90 receiving agency within ninety days of submission to determine if retention of the document is
91 necessary in furtherance of a state security interest. If retention is not necessary, the documents
92 shall be returned to the nonpublic governmental body or destroyed;

93 (20) The portion of a record that identifies security systems or access codes or
94 authorization codes for security systems of real property;

95 (21) Records that identify the configuration of components or the operation of a
96 computer, computer system, computer network, or telecommunications network, and would
97 allow unauthorized access to or unlawful disruption of a computer, computer system, computer
98 network, or telecommunications network of a public governmental body. This exception shall
99 not be used to limit or deny access to otherwise public records in a file, document, data file or
100 database containing public records. Records related to the procurement of or expenditures
101 relating to such computer, computer system, computer network, or telecommunications network,
102 including the amount of moneys paid by, or on behalf of, a public governmental body for such
103 computer, computer system, computer network, or telecommunications network shall be open;

104 (22) Credit card numbers, personal identification numbers, digital certificates, physical
105 and virtual keys, access codes or authorization codes that are used to protect the security of
106 electronic transactions between a public governmental body and a person or entity doing business
107 with a public governmental body. Nothing in this section shall be deemed to close the record
108 of a person or entity using a credit card held in the name of a public governmental body or any

109 record of a transaction made by a person using a credit card or other method of payment for
110 which reimbursement is made by a public governmental body;

111 (23) Records submitted by an individual, corporation, or other business entity to a public
112 institution of higher education in connection with a proposal to license intellectual property or
113 perform sponsored research and which contains sales projections or other business plan
114 information the disclosure of which may endanger the competitiveness of a business; ~~and~~

115 (24) Records relating to foster home or kinship placements of children in foster care
116 under section 210.498; **and**

117 (25) Personal cellular telephone numbers, Social Security numbers, and home addresses
118 of any individuals.

610.025. **1.** Any member of a public governmental body who transmits any message
2 relating to public business by electronic means shall also concurrently transmit that message to
3 either the member's public office computer or the custodian of records in the same format. The
4 provisions of this section shall only apply to messages sent to two or more members of that body
5 so that, when counting the sender, a majority of the body's members are copied. Any such
6 message received by the custodian or at the member's office computer shall be a public record
7 subject to the exceptions of section 610.021.

8 **2. No elected or appointed member of a public governmental body or any staff**
9 **member or employee of the public governmental body shall download or use software**
10 **designed to send encrypted messages by electronic means that automatically self-destruct**
11 **on any communication device purchased with public moneys.**

12 **3. No elected or appointed member of a public governmental body or any staff**
13 **member or employee of the public governmental body shall use software designed to send**
14 **encrypted messages by electronic means that automatically self-destruct to conduct public**
15 **business on any personally owned electronic device.**

16 **4. Any individual who knowingly or purposely violates this section shall only be**
17 **held individually liable under section 610.027. A staff member or employee of a public**
18 **governmental body shall be treated as a member of the public governmental body under**
19 **section 610.027 only for purposes of determining the appropriate penalty for violation of**
20 **this section.**

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