

Journal of the Senate

FIRST REGULAR SESSION

EIGHTEENTH DAY—MONDAY, FEBRUARY 11, 2013

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

Wisdom states: “Whoever finds me finds life and obtains favor from the Lord;” (Proverbs 8:35)

Gracious God, grant us wisdom to love, desire, seek and serve You with our full hearts. Provide us hope and trust that knows with You there is knowledge about living that the world cannot give. Provide us intelligence about our world that we may serve effectively and graciously as we are able. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal for Thursday, February 7, 2013 was read and approved.

The following Senators were present during the day’s proceedings:

Present—Senators

Brown	Chappelle-Nadal	Cunningham	Curls	Dixon	Emery	Holsman	Justus
Keaveny	Kehoe	Kraus	Lager	Lamping	LeVota	Libla	McKenna
Munzlinger	Nasheed	Nieves	Parson	Pearce	Richard	Romine	Rupp
Sater	Schaaf	Schaefer	Schmitt	Sifton	Silvey	Wallingford	Walsh

Wasson—33

Absent—Senators—None

Absent with leave—Senator Dempsey—1

Vacancies—None

The Lieutenant Governor was present.

RESOLUTIONS

Senator Richard moved that **SR 237** be taken up for adoption, which motion prevailed.

On motion of Senator Richard, **SR 237** was adopted.

Senator Wasson offered Senate Resolution No. 242, regarding Dorothy K. Knowles, Springfield, which was adopted.

Senator LeVota offered Senate Resolution No. 243, regarding William Chrisman High School, which was adopted.

Senator LeVota offered Senate Resolution No. 244, regarding Christian Ott Elementary School, which was adopted.

Senator Schaefer offered Senate Resolution No. 245, regarding Ethan Michael Stevenson, Ashland, which was adopted.

Senator Wasson offered Senate Resolution No. 246, regarding Rick Busse, Willard, which was adopted.

Senator Wasson offered Senate Resolution No. 247, regarding Donald Smith, Willard, which was adopted.

Senator Chappelle-Nadal offered Senate Resolution No. 248, regarding the Chinese New Year, which was adopted.

Senator Munzlinger offered Senate Resolution No. 249, regarding the former First Presbyterian Church, La Grange, which was adopted.

Senator Holsman offered Senate Resolution No. 250, regarding the Todd Bolender Center for Dance and Creativity, Kansas City, which was adopted.

Senator Holsman offered Senate Resolution No. 251, regarding Kansas City Missouri Public Schools, which was adopted.

Senator Pearce offered Senate Resolution No. 252, regarding Vincent Theus, which was adopted.

Senator Pearce offered Senate Resolution No. 253, regarding Jordan Alexander Helmig, which was adopted.

Senator Pearce offered Senate Resolution No. 254, regarding Jackson Couch, which was adopted.

Senator Pearce offered Senate Resolution No. 255, regarding Jacob Adam Mertes, which was adopted.

Senator Justus offered Senate Resolution No. 256, regarding the One Hundredth Birthday of Perry Willard Reams, Mexico, which was adopted.

Senator Nasheed offered Senate Resolution No. 257, regarding Willard Moore, III, which was adopted.

Senator Sifton offered Senate Resolution No. 258, regarding Matthew Gregory Joseph “Matt” Henson, St. Louis, which was adopted.

Senator Brown offered Senate Resolution No. 259, regarding Donna Riggs, Rolla, which was adopted.

CONCURRENT RESOLUTIONS

Senator Pearce offered the following concurrent resolution:

SENATE CONCURRENT RESOLUTION NO. 7

WHEREAS, the United States relies - and will continue to rely for many years - on gasoline, diesel, and jet fuel, as well as renewable and alternative sources of energy; and

WHEREAS, in order to fuel our economy, the United States will need more oil and natural gas while also requiring additional alternative energy sources; and

WHEREAS, the United States accounts for 20 percent of world energy consumption and is the world's largest petroleum consumer. The U.S. consumes more than 15 million barrels of oil each day-forecasts suggest this will not change for decades. Current imports amount to over eight million barrels each day, approximately 50 percent of the United States' requirements; and

WHEREAS, even with new technology, oil discoveries, alternative fuels and conservation efforts, the U.S. will remain dependent on imported energy for decades to come. A secure supply of crude oil is not only needed for Americans to continue to heat their homes, cook their food and drive their vehicles, but to allow the U.S. economy to thrive and grow free from the potential threats and disruptions of crude oil supply from less secure parts of the world; and

WHEREAS, the growing production of conflict-free oil from Canada's oil sands and the Bakken formation in Saskatchewan, Montana, North Dakota, and South Dakota can replace crude imported from countries that do not share American values, additional pipeline capacity to refineries in the U.S. Midwest and Gulf Coast is required; and

WHEREAS, increasing energy imports from Canada makes sense for the United States. Canada is a trusted neighbor with a stable democratic government, strong environmental standards equal to that of the U.S., and some of the most stringent human rights and worker protection legislation in the world; and

WHEREAS, improvements in production technology have reduced the carbon footprint of Canadian oil sands development by 26% on a per barrel basis since 1990. Oil sands production accounts for 6.9% of Canada's greenhouse gas (GHG) emissions and 0.1% (1/1000th) of global GHG emissions. Total emissions from Canada's oil sands sector was 48 megatons in 2010, equivalent to 0.5% of U.S. GHG emissions. Oil sands crude has similar CO₂ emissions to other heavy oils and is 6% more carbon-intensive than the average crude refined in the U.S. on a wells-to-wheels basis; and

WHEREAS, the 57 refineries in the Gulf Coast region provide a total refining capacity of approximately 8.7 million bpd, or half of U.S. refining capacity. In 2011, these refineries imported approximately 5 million bpd of crude oil from more than 30 countries, with the top four suppliers being Mexico (22 percent), Saudi Arabia (17 percent), Venezuela (16 percent), and Nigeria (9 percent). Imports from Mexico and Venezuela are declining as production from those countries decreases and supply contracts expire. Once completed, TransCanada's Keystone XL, and Gulf Coast Expansion projects could displace roughly 40% of the oil the U.S. currently imports from the Persian Gulf and Venezuela; and

WHEREAS, the Keystone XL pipeline project, which has been subject to the most thorough public consultation process of any proposed US pipeline, and the subject of multiple environmental impacts statements and several U.S. Department of State studies, have concluded that it poses the least impact to the environment and is much safer than other modes of transporting crude oil; and

WHEREAS, the original Keystone Pipeline which spans across the northern part of Missouri supplies over 500,000 barrels of North American crude oil to American refineries in the Midwest. The Keystone XL Pipeline will, when completed, carry 830,000 barrels of North American crude oil to American refineries in the Gulf Coast region which will make its way back to Missouri in the form of gasoline, diesel and jet fuel; and

WHEREAS, the Keystone XL project will create approximately 9,000 construction jobs. The Gulf Coast Project is a \$2.3 billion project that has created approximately 4,000 construction jobs. Combined, they support yet another 7,000 manufacturing jobs. Seventy-five percent of the pipe used to build Keystone XL in the U.S. will come from North American mills, including half made by U.S. workers. Goods for the pipeline valued at approximately \$800 million have already been sourced from U.S. manufacturers:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-seventh General Assembly, First Regular Session, the House of Representatives concurring therein, hereby support continued and increased development and delivery of oil derived from North American oil reserves to American refineries and hereby urge the United States Congress to: support continued and increased development and delivery of oil from Canada to the United States; and urge the President to support the continued and increased importation of oil derived from the Bakken formation in Montana, North Dakota and South Dakota as well as Canadian oil sands; and ask the U.S. Secretary of State to approve the newly-routed pipeline application from TransCanada to reduce dependence on unstable governments, create new jobs, improve our national security, and strengthen ties with an important ally; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, the President Pro Tem of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Missouri Congressional delegation.

INTRODUCTION OF BILLS

The following Bills and Joint Resolutions were read the 1st time and ordered printed:

SB 289—By Sifton.

An Act to repeal section 324.024, RSMo, and to enact in lieu thereof one new section relating to professional applications containing Social Security numbers.

SB 290—By Walsh.

An Act to repeal sections 130.016, 130.036, 130.037, 130.049, 130.050, 130.054, and 130.086, RSMo, section 130.011 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, ninety-fifth general assembly, second regular session, section 130.011 as enacted by conference committee substitute for senate substitute for house committee substitute for house bill no. 1900, ninety-third general assembly, second regular session, section 130.021 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, section 130.021 as enacted by senate bill no. 485, ninety-fifth general assembly, first regular session, section 130.026 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, ninety-fifth general assembly, second regular session, section 130.026 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bill no. 262, eighty-eighth general assembly, first regular session, section 130.031 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, section 130.031 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bills nos. 31 & 285, ninety-second general assembly, first regular session, section 130.041 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, ninety-fifth general assembly, second regular session, section 130.041 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bills nos. 31 & 285, ninety-second general assembly, first regular session, section 130.046 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, ninety-fifth general assembly, second regular session, section 130.046 as enacted by conference committee substitute for senate substitute for house committee substitute for house bill no. 1900, ninety-third general assembly, second regular session, section 130.057 as truly agreed to and finally passed by conference committee substitute no. 3 for house committee substitute no. 2 for senate bill no. 844, ninety-fifth general assembly, second regular session, and section 130.057 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 676 merged with conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bills nos. 31 & 285, ninety-second general assembly, first regular session, and to enact in lieu thereof thirteen new sections relating to campaign finance.

SB 291—By Rupp.

An Act to amend chapter 34, RSMo, by adding thereto one new section relating to awarding state contracts to vendors employing individuals with qualifying disabilities.

SB 292—By Rupp.

An Act to repeal section 287.745, RSMo, and to enact in lieu thereof one new section relating to workers' compensation tax overpayments.

SB 293—By Pearce.

An Act to repeal section 37.005, RSMo, and to enact in lieu thereof one new section relating to the transfer of property by the governing bodies of certain public institutions of higher education, with an emergency clause.

SB 294—By Schmitt.

An Act to repeal section 386.210, RSMo, and to enact in lieu thereof one new section relating to public service commission intervention in certain legal proceedings.

SB 295—By Lager.

An Act to amend chapter 85, RSMo, by adding thereto one new section relating to paid members of any fire department or fire district.

SB 296—By Lager.

An Act to repeal sections 174.700, 174.703, 174.706, and 544.157, RSMo, and to enact in lieu thereof six new sections relating to college or university police officers.

SB 297—By Lager.

An Act to repeal sections 393.320, 393.1000, and 393.1003, RSMo, and to enact in lieu thereof three new sections relating to ratemaking for water utilities.

SJR 18—By Schmitt.

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing sections 2 and 7 of article III of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to apportionment commissions.

SJR 19—By Lager.

Joint Resolution submitting to the qualified voters of Missouri, an amendment repealing section 17 of article IV of the Constitution of Missouri, and adopting one new section in lieu thereof relating to term limits for statewide elected officials.

Senator Kehoe assumed the Chair.

MESSAGES FROM THE GOVERNOR

The following messages were received from the Governor, reading of which was waived:

GOVERNOR OF MISSOURI

JEFFERSON CITY

65102

February 7, 2013

To the Senate of the 97th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Michael L. Hodges, 3138 Sutton Boulevard, Saint Louis, Saint Louis County, Missouri 63143, as a member of the Interior Design Council,

for a term ending April 6, 2016, and until his successor is duly appointed and qualified; vice, Catherine F. Brown, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102
February 7, 2013

To the Senate of the 97th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Brian C. Maddux, 19663 Balke Road, Warsaw, Benton County, Missouri 65355, as a member of the Board of Boiler and Pressure Vessel Rules, for a term ending September 28, 2015, and until his successor is duly appointed and qualified; vice, Francis G. Slack, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102
February 7, 2013

To the Senate of the 97th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Brian McIntyre, 928 Abbeville Drive, University City, Saint Louis County, Missouri 63130, as a member of the Missouri State Board of Chiropractic Examiners, for a term ending February 5, 2017, and until his successor is duly appointed and qualified; vice, Richard D. James, term expired.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102
February 7, 2013

To the Senate of the 97th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Forrest Miller Jr., Republican, 9100 Appomattox Court, Crestwood, Saint Louis County, Missouri 63123, as a member of the Missouri Community Service Commission, for a term ending December 15, 2015, and until his successor is duly appointed and qualified; vice, Forrest Miller Jr., reappointed.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

February 7, 2013

To the Senate of the 97th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Ann Nunn-Jones, Democrat, 4922 Lake Road, Jefferson City, Cole County, Missouri 65101, as a member of the Missouri Real Estate Appraisers Commission, for a term ending September 12, 2015, and until her successor is duly appointed and qualified; vice, Ann Nunn-Jones, reappointed.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

February 7, 2013

To the Senate of the 97th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Mariea Snell, 808 East Pacific, Saint Louis, Saint Louis County, Missouri 63119, as a member of the Missouri State Board of Nursing, for a term ending June 1, 2013, and until her successor is duly appointed and qualified; vice, Ann K. Shelton, resigned.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

February 7, 2013

To the Senate of the 97th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Mishely Tisius, 7461 Bland Avenue, Clayton, Saint Louis County, Missouri 63105, as a member of the Board of Certification of Interpreters, for a term ending June 27, 2015, and until her successor is duly appointed and qualified; vice, RSMo. 209.287.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

Also,

GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

February 7, 2013

To the Senate of the 97th General Assembly of the State of Missouri:

I have the honor to transmit to you herewith for your advice and consent the following appointment:

Gary Vandiver, Democrat, 500 Deer Ridge Drive, Richmond, Ray County, Missouri 64085, as a member of the State Soil and Water Districts Commission, for a term ending August 15, 2014, and until his successor is duly appointed and qualified; vice, Gary Vandiver, reappointed.

Respectfully submitted,
Jeremiah W. (Jay) Nixon
Governor

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 87**, entitled:

An Act to repeal sections 135.090, 135.327, 135.535, 135.562, 135.630, 135.647, and 135.800, RSMo, and to enact in lieu thereof seven new sections relating to certain benevolent tax credits, with an emergency clause.

Emergency clause adopted.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

SENATE BILLS FOR PERFECTION

Senator Munzlinger moved that **SB 41** be taken up for perfection, which motion prevailed.

Senator Justus offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 41, Page 1, Section 537.291, Lines 1-2 by striking “enjoin, abate, or recover damages” and inserting in lieu thereof the following “**enjoin or abate**”.

Senator Justus moved that the above amendment be adopted, which motion failed.

At the request of Senator Munzlinger, **SB 41** was placed on the Informal Calendar.

Senator Lager assumed the Chair.

Senator Kehoe moved that **SB 139** be taken up for perfection, which motion prevailed.

Senator Schaefer offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 139, Page 1, In the Title, Line 3 of the title by striking said line and inserting in lieu there of the following: “to public records and meetings, with an”; and

Further amend said bill and page, Section A, Line 2, by inserting after all of said line the following:

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

(1) “Closed meeting”, “closed record”, or “closed vote”, any meeting, record or vote closed to the public;

(2) “Copying”, if requested by a member of the public, copies provided as detailed in section 610.026,

if duplication equipment is available;

(3) “Public business”, all matters which relate in any way to the performance of the public governmental body’s functions or the conduct of its business;

(4) “Public governmental body”, any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

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

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

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

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

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

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

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

b. Performs a public function as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that

directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation; and

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

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

(6) “Public record”, any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term “public record” shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described in this subdivision shall be retained by the public governmental body in the same manner as any other public record. **Any lease, sublease, rental agreement, or similar instrument entered into by any public governmental body, or any sublease of a publicly-owned facility entered into between any party and the entity which shall have the rights to manage said facility, or any other agreement for the rental, construction, or renovation of said facility shall be a public record;**

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

610.020. 1. All public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, Internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any **member of the public** or representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a

bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

2. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least [twenty-four] **forty-eight** hours, **or twenty-four hours for the general assembly and any committee thereof**, exclusive of weekends and holidays when the facility is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.

3. A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of section 610.021 shall be permitted without permission of the public body; any person who violates this provision shall be guilty of a class C misdemeanor.

4. When it is necessary **for such governmental bodies** to hold a meeting on less than [twenty-four] **forty-eight** hours' notice, **or twenty-four hours' notice for the general assembly and any committee thereof**, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

5. A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

6. If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.

7. A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include, **but not be limited to**, the date, time, place, members present, members absent, and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member of the public governmental body. **Minutes shall contain a list of the subjects discussed during any closed meeting, but nothing in this subsection shall require the disclosure of records or votes that are properly closed under section 610.021.**"; and

Further amend said bill, Page 1, Section 610.021, Line 11, by striking "made public" and inserting in lieu thereof the following: "**publicly disclosed in an open meeting**"; and further amend line 18, by striking "announced or become public" and inserting in lieu thereof the following: "**publicly disclosed in an open meeting**"; and

Further amend said bill and section, Page 2, Line 20, by inserting after “record” the following: “. **When public disclosure in an open meeting is prescribed, such disclosure shall be done orally or in writing, or both, and shall occur at the next scheduled open meeting of the public body, or at the resumption of a recessed or subsequent open meeting, whatever is applicable soonest to the time lines for disclosure as prescribed in this section. Where the public governmental body shall close meetings, records, and votes due to a “cause of action” as provided in this subdivision, the body shall have received evidence that a lawsuit has been filed, although not yet served, or shall have actual correspondence from a party stating that litigation shall be filed under certain circumstances stated in said correspondence**”; and

Further amend said bill and section, Page 5, Line 136, by inserting after all of said line the following:

“610.022. 1. Except as set forth in subsection 2 of this section, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific section of this chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.

2. A public governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to the specific exception allowed pursuant to the provisions of section 610.021. Such notice shall comply with the procedures set forth in section 610.020 for notice of a public meeting.

3. Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. **Only members of a public governmental body, their attorney and staff assistants, and any other person necessary to provide information needed by or requested by the public governmental body in regard to the matter being discussed shall be permitted in a closed meeting.** Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

4. Nothing in sections 610.010 to 610.028 shall be construed as to require a public governmental body to hold a closed meeting, record or vote to discuss or act upon any matter.

5. Public records shall be presumed to be open unless otherwise exempt pursuant to the provisions of this chapter.

6. In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in this chapter, such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member’s objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any

claim filed against the objecting member pursuant to section 610.027.

610.023. 1. Each public governmental body is to appoint a custodian who is to be responsible for the maintenance of that body's records. The identity and location of a public governmental body's custodian is to be made available upon request. **Each custodian of a public governmental body is encouraged to create and maintain an index of all public records maintained by its public governmental body.**

2. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.

3. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.

4. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.

610.027. 1. The remedies provided by this section against public governmental bodies shall be in addition to those provided by any other provision of law. Any aggrieved person, taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek judicial enforcement of the requirements of sections 610.010 to 610.026. Suits to enforce sections 610.010 to 610.026 shall be brought in the circuit court for the county in which the public governmental body has its principal place of business. Upon service of a summons, petition, complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of sections 610.010 to 610.026, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption pursuant to section 610.021 or the assertion that the requested record is not a public record until the court directs otherwise.

2. [Once a party seeking judicial enforcement of sections 610.010 to 610.026 demonstrates to the court that the body in question is subject to the requirements of sections 610.010 to 610.026 and has held a closed meeting, record or vote, the burden of persuasion shall be on the body and its members to demonstrate compliance with the requirements of sections 610.010 to 610.026.] **In any legal proceeding, there shall be a presumption that a meeting, record, or vote is open to the public. The burden shall be on a public governmental body or a member of a public governmental body to prove that such meeting, record, or vote may be closed to the public.**

3. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has [knowingly] violated sections 610.010 to 610.026, the public governmental

body or the member shall be subject to a civil penalty in an amount [up to one thousand] **of one hundred** dollars. If the court finds that there is a [knowing] violation of sections 610.010 to 610.026, the court [may] **shall** order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. [The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.] **In making this determination of reasonable attorney fees, the court shall take into account the size of the jurisdiction, annual operating budget, and other sources of revenue.**

4. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

5. Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, a court shall void any action taken in violation of sections 610.010 to 610.026, if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken in the [closed] meeting, record or vote. Suit for enforcement shall be brought within one year from which the violation is ascertainable and in no event shall it be brought later than two years after the violation. This subsection shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a public governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

6. A public governmental body which is in doubt about the legality of closing a particular meeting, record or vote may bring suit at the expense of that public governmental body in the circuit court of the county of the public governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body.”; and

Further amend the title and enacting clause accordingly.

Senator Schaefer moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Emery, Justus, Kehoe and Sater.

Senator Justus offered **SA 1 to SA 1**:

SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Bill No. 139, Page 5, Section 610.010, Lines 12-14, by striking all of said lines and inserting in lieu thereof the following: “**entered into by any public governmental body, or**”.

Senator Justus moved that the above amendment be adopted, which motion prevailed.

SA 1, as amended, was again taken up.

Senator Sifton offered **SA 2** to **SA 1**:

SENATE AMENDMENT NO. 2 TO
SENATE AMENDMENT NO. 1

Amend Senate Amendment No. 1 to Senate Bill No. 139, Page 8, Section 610.020, Line 10 by inserting immediately after “610.021.” the following: “**Audio recordings of closed meetings shall be made and preserved. Such recordings shall be available only to a court for in camera proceedings in an action to enforce the provisions of chapter 610.**”.

Senator Sifton moved that the above amendment be adopted and requested a roll call vote be taken. He was joined in his request by Senators Justus, McKenna, Chappelle-Nadal and Holsman.

At the request of Senator Kehoe, **SB 139**, with **SA 1** and **SA 2** to **SA 1** (pending), was placed on the Informal Calendar.

INTRODUCTIONS OF GUESTS

Senator Richard introduced to the Senate, Jon and Terri Stouffer, Neosho; and Jay Mitchell, Seneca.

On motion of Senator Richard, the Senate adjourned under the rules.

SENATE CALENDAR

NINETEENTH DAY–TUESDAY, FEBRUARY 12, 2013

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 211-Rupp	SB 227-LeVota
SB 212-Cunningham	SB 228-Holsman
SB 213-Kraus	SB 229-Brown
SB 214-Silvey	SB 230-Brown, et al
SB 215-Silvey	SB 231-Munzlinger
SB 216-Silvey	SB 232-Wallingford
SB 217-LeVota	SB 233-Sater, et al
SB 218-LeVota	SB 234-Wasson
SB 219-Sater	SB 235-Cunningham
SB 220-Lamping	SB 236-Parson
SB 221-Lamping	SB 237-Emery
SB 222-Lamping	SB 238-Emery
SB 223-Curls	SB 239-Emery
SB 224-Curls, et al	SB 240-Lager
SB 225-Curls	SB 241-Lager
SB 226-Schaefer	SB 242-Kehoe

SB 243-Brown	SB 277-Holsman
SB 244-Schaefer	SB 278-Kehoe
SB 245-Justus	SB 279-Kehoe
SB 246-Walsh and Silvey	SB 280-Wasson
SB 247-Walsh	SB 281-Wasson
SB 248-Wasson	SB 282-Wasson
SB 249-Nasheed	SB 283-Parson
SB 250-Schaaf	SB 284-Sifton, et al
SB 251-Kraus and Chappelle-Nadal	SB 285-Romine
SB 252-Kraus	SB 286-Romine, et al
SB 253-Justus	SB 287-Rupp
SB 254-Pearce	SB 288-Lamping
SB 255-Schmitt and Schaefer	SB 289-Sifton
SB 256-Silvey	SB 290-Walsh
SB 257-Silvey	SB 291-Rupp
SB 258-LeVota	SB 292-Rupp
SB 259-Schaaf	SB 293-Pearce
SB 260-Brown	SB 294-Schmitt
SB 261-Rupp	SB 295-Lager
SB 262-Curls	SB 296-Lager
SB 263-Curls	SB 297-Lager
SB 264-Dempsey	SJR 8-Dixon
SB 265-Nieves	SJR 9-Emery
SB 266-Nieves	SJR 10-Nasheed and Walsh
SB 267-Nieves	SJR 11-Curls
SB 268-Nieves	SJR 12-Sater
SB 269-Nieves	SJR 13-Chappelle-Nadal
SB 270-Nieves	SJR 14-Schaefer, et al
SB 271-Nieves	SJR 15-Schaaf
SB 272-Nieves	SJR 16-Kehoe and McKenna
SB 273-Wallingford	SJR 17-Nieves
SB 274-Walsh	SJR 18-Schmitt
SB 275-Walsh	SJR 19-Lager
SB 276-Emery and Nieves	

HOUSE BILLS ON SECOND READING

HCS for HB 87

SENATE BILLS FOR PERFECTION

SB 12-Schaefer	SB 43-Munzlinger
SB 42-Munzlinger, with SCS	SB 51-Munzlinger
SB 106-Brown, with SCS	SB 86-Keaveny, with SCS
SB 117-Kraus, with SCS	

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 1-Rupp, with SCS, SS for SCS & SA 3
(pending)
SB 3-Rupp
SB 21-Dixon
SB 22-Dixon

SB 41-Munzlinger
SB 48-Lamping
SB 139-Kehoe, with SA 1 & SA 2 to SA 1
(pending)

CONSENT CALENDAR

Senate Bills

Reported 2/6

SB 58-Romine
SB 80-Romine

SB 77-Lamping

RESOLUTIONS

To be Referred

SCR 7-Pearce

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