

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend Senate Bill No. 139, Page 1, Section title, Line 3,

2 of the title by striking said line and inserting in lieu there of
 3 the following: "to public records of meetings, with an"; and

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

6 "610.010. As used in this chapter, unless the context
 7 otherwise indicates, the following terms mean:

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

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

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

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

21 (a) Any body, agency, board, bureau, council, commission,
 22 committee, board of regents or board of curators or any other

1 governing body of any institution of higher education, including
2 a community college, which is supported in whole or in part from
3 state funds, including but not limited to the administrative
4 entity known as "The Curators of the University of Missouri" as
5 established by section 172.020;

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

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

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

16 (e) Any committee appointed by or at the direction of any
17 of the entities and which is authorized to report to any of the
18 above-named entities, any advisory committee appointed by or at
19 the direction of any of the named entities for the specific
20 purpose of recommending, directly to the public governmental
21 body's governing board or its chief administrative officer,
22 policy or policy revisions or expenditures of public funds
23 including, but not limited to, entities created to advise
24 bi-state taxing districts regarding the expenditure of public
25 funds, or any policy advisory body, policy advisory committee or
26 policy advisory group appointed by a president, chancellor or
27 chief executive officer of any college or university system or
28 individual institution at the direction of the governing body of
29 such institution which is supported in whole or in part with

1 state funds for the specific purpose of recommending directly to
2 the public governmental body's governing board or the president,
3 chancellor or chief executive officer policy, policy revisions or
4 expenditures of public funds provided, however, the staff of the
5 college or university president, chancellor or chief executive
6 officer shall not constitute such a policy advisory committee.
7 The custodian of the records of any public governmental body
8 shall maintain a list of the policy advisory committees described
9 in this subdivision;

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

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

19 b. Performs a public function as evidenced by a statutorily
20 based capacity to confer or otherwise advance, through approval,
21 recommendation or other means, the allocation or issuance of tax
22 credits, tax abatement, public debt, tax-exempt debt, rights of
23 eminent domain, or the contracting of leaseback agreements on
24 structures whose annualized payments commit public tax revenues;
25 or any association that directly accepts the appropriation of
26 money from a public governmental body, but only to the extent
27 that a meeting, record, or vote relates to such appropriation;
28 and

29 (g) Any bi-state development agency established pursuant to

1 section 70.370;

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

17 (6) "Public record", any record, whether written or
18 electronically stored, retained by or of any public governmental
19 body including any report, survey, memorandum, or other document
20 or study prepared for the public governmental body by a
21 consultant or other professional service paid for in whole or in
22 part by public funds, including records created or maintained by
23 private contractors under an agreement with a public governmental
24 body or on behalf of a public governmental body; provided,
25 however, that personally identifiable student records maintained
26 by public educational institutions shall be open for inspection
27 by the parents, guardian or other custodian of students under the
28 age of eighteen years and by the parents, guardian or other
29 custodian and the student if the student is over the age of

1 eight years. The term "public record" shall not include any
2 internal memorandum or letter received or prepared by or on
3 behalf of a member of a public governmental body consisting of
4 advice, opinions and recommendations in connection with the
5 deliberative decision-making process of said body, unless such
6 records are retained by the public governmental body or presented
7 at a public meeting. Any document or study prepared for a public
8 governmental body by a consultant or other professional service
9 as described in this subdivision shall be retained by the public
10 governmental body in the same manner as any other public record.
11 Any lease, sublease, rental agreement, or similar instrument
12 entered into by any public governmental body, or any sublease of
13 a publicly-owned facility entered into between any party and the
14 entity which shall have the rights to manage said facility, or
15 any other agreement for the rental, construction, or renovation
16 of said facility shall be a public record;

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

20 610.020. 1. All public governmental bodies shall give
21 notice of the time, date, and place of each meeting, and its
22 tentative agenda, in a manner reasonably calculated to advise the
23 public of the matters to be considered, and if the meeting will
24 be conducted by telephone or other electronic means, the notice
25 of the meeting shall identify the mode by which the meeting will
26 be conducted and the designated location where the public may
27 observe and attend the meeting. If a public body plans to meet
28 by Internet chat, Internet message board, or other computer link,
29 it shall post a notice of the meeting on its website in addition

1 to its principal office and shall notify the public how to access
2 that meeting. Reasonable notice shall include making available
3 copies of the notice to any member of the public or
4 representative of the news media who requests notice of meetings
5 of a particular public governmental body concurrent with the
6 notice being made available to the members of the particular
7 governmental body and posting the notice on a bulletin board or
8 other prominent place which is easily accessible to the public
9 and clearly designated for that purpose at the principal office
10 of the body holding the meeting, or if no such office exists, at
11 the building in which the meeting is to be held.

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

27 3. A public body shall allow for the recording by
28 audiotape, videotape, or other electronic means of any open
29 meeting. A public body may establish guidelines regarding the

1 manner in which such recording is conducted so as to minimize
2 disruption to the meeting. No audio recording of any meeting,
3 record, or vote closed pursuant to the provisions of section
4 610.021 shall be permitted without permission of the public body;
5 any person who violates this provision shall be guilty of a class
6 C misdemeanor.

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

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

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

28 7. A journal or minutes of open and closed meetings shall
29 be taken and retained by the public governmental body, including,

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

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

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

1 said correspondence"; and

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

4 "610.022. 1. Except as set forth in subsection 2 of this
5 section, no meeting or vote may be closed without an affirmative
6 public vote of the majority of a quorum of the public
7 governmental body. The vote of each member of the public
8 governmental body on the question of closing a public meeting or
9 vote and the specific reason for closing that public meeting or
10 vote by reference to a specific section of this chapter shall be
11 announced publicly at an open meeting of the governmental body
12 and entered into the minutes.

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

20 3. Any meeting or vote closed pursuant to section 610.021
21 shall be closed only to the extent necessary for the specific
22 reason announced to justify the closed meeting or vote. Public
23 governmental bodies shall not discuss any business in a closed
24 meeting, record or vote which does not directly relate to the
25 specific reason announced to justify the closed meeting or vote.
26 Only members of a public governmental body, their attorney and
27 staff assistants, and any other person necessary to provide
28 information needed by or requested by the public governmental
29 body in regard to the matter being discussed shall be permitted

1 in a closed meeting. Public governmental bodies holding a closed
2 meeting shall close only an existing portion of the meeting
3 facility necessary to house the members of the public
4 governmental body in the closed session, allowing members of the
5 public to remain to attend any subsequent open session held by
6 the public governmental body following the closed session.

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

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

12 6. In the event any member of a public governmental body
13 makes a motion to close a meeting, or a record, or a vote from
14 the public and any other member believes that such motion, if
15 passed, would cause a meeting, record or vote to be closed from
16 the public in violation of any provision in this chapter, such
17 latter member shall state his or her objection to the motion at
18 or before the time the vote is taken on the motion. The public
19 governmental body shall enter in the minutes of the public
20 governmental body any objection made pursuant to this subsection.
21 Any member making such an objection shall be allowed to fully
22 participate in any meeting, record or vote that is closed from
23 the public over the member's objection. In the event the
24 objecting member also voted in opposition to the motion to close
25 the meeting, record or vote at issue, the objection and vote of
26 the member as entered in the minutes shall be an absolute defense
27 to any claim filed against the objecting member pursuant to
28 section 610.027.

29 610.023. 1. Each public governmental body is to appoint a

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

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

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

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

8 610.027. 1. The remedies provided by this section against
9 public governmental bodies shall be in addition to those provided
10 by any other provision of law. Any aggrieved person, taxpayer
11 to, or citizen of, this state, or the attorney general or
12 prosecuting attorney, may seek judicial enforcement of the
13 requirements of sections 610.010 to 610.026. Suits to enforce
14 sections 610.010 to 610.026 shall be brought in the circuit court
15 for the county in which the public governmental body has its
16 principal place of business. Upon service of a summons,
17 petition, complaint, counterclaim, or cross-claim in a civil
18 action brought to enforce the provisions of sections 610.010 to
19 610.026, the custodian of the public record that is the subject
20 matter of such civil action shall not transfer custody, alter,
21 destroy, or otherwise dispose of the public record sought to be
22 inspected and examined, notwithstanding the applicability of an
23 exemption pursuant to section 610.021 or the assertion that the
24 requested record is not a public record until the court directs
25 otherwise.

26 2. [Once a party seeking judicial enforcement of sections
27 610.010 to 610.026 demonstrates to the court that the body in
28 question is subject to the requirements of sections 610.010 to
29 610.026 and has held a closed meeting, record or vote, the burden

1 of persuasion shall be on the body and its members to demonstrate
2 compliance with the requirements of sections 610.010 to 610.026.]
3 In any legal proceeding, there shall be a presumption that a
4 meeting, record, or vote is open to the public. The burden shall
5 be on a public governmental body or a member of a public
6 governmental body to prove that such meeting, record, or vote may
7 be closed to the public.

8 3. Upon a finding by a preponderance of the evidence that a
9 public governmental body or a member of a public governmental
10 body has [knowingly] violated sections 610.010 to 610.026, the
11 public governmental body or the member shall be subject to a
12 civil penalty in an amount [up to one thousand] of one hundred
13 dollars. If the court finds that there is a [knowing] violation
14 of sections 610.010 to 610.026, the court [may] shall order the
15 payment by such body or member of all costs and reasonable
16 attorney fees to any party successfully establishing a violation.
17 [The court shall determine the amount of the penalty by taking
18 into account the size of the jurisdiction, the seriousness of the
19 offense, and whether the public governmental body or member of a
20 public governmental body has violated sections 610.010 to 610.026
21 previously.] In making this determination of reasonable attorney
22 fees, the court shall take into account the size of the
23 jurisdiction, annual operating budget, and other sources of
24 revenue.

25 4. Upon a finding by a preponderance of the evidence that a
26 public governmental body or a member of a public governmental
27 body has purposely violated sections 610.010 to 610.026, the
28 public governmental body or the member shall be subject to a
29 civil penalty in an amount up to five thousand dollars. If the

1 court finds that there was a purposeful violation of sections
2 610.010 to 610.026, then the court shall order the payment by
3 such body or member of all costs and reasonable attorney fees to
4 any party successfully establishing such a violation. The court
5 shall determine the amount of the penalty by taking into account
6 the size of the jurisdiction, the seriousness of the offense, and
7 whether the public governmental body or member of a public
8 governmental body has violated sections 610.010 to 610.026
9 previously.

10 5. Upon a finding by a preponderance of the evidence that a
11 public governmental body has violated any provision of sections
12 610.010 to 610.026, a court shall void any action taken in
13 violation of sections 610.010 to 610.026, if the court finds
14 under the facts of the particular case that the public interest
15 in the enforcement of the policy of sections 610.010 to 610.026
16 outweighs the public interest in sustaining the validity of the
17 action taken in the [closed] meeting, record or vote. Suit for
18 enforcement shall be brought within one year from which the
19 violation is ascertainable and in no event shall it be brought
20 later than two years after the violation. This subsection shall
21 not apply to an action taken regarding the issuance of bonds or
22 other evidence of indebtedness of a public governmental body if a
23 public hearing, election or public sale has been held regarding
24 the bonds or evidence of indebtedness.

25 6. A public governmental body which is in doubt about the
26 legality of closing a particular meeting, record or vote may
27 bring suit at the expense of that public governmental body in the
28 circuit court of the county of the public governmental body's
29 principal place of business to ascertain the propriety of any

1 such action, or seek a formal opinion of the attorney general or
2 an attorney for the governmental body."; and

3 Further amend the title and enacting clause accordingly.