

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 741, Page 1, Section TITLE, Lines 3-4,

2 by striking "the disclosure of personal information to
3 public agencies" and inserting in lieu thereof the
4 following: "involvement of public agencies in the
5 disclosure of information"; and

6 Further amend said bill, page 4, Section 105.1500, line
7 90, by inserting after all of said line the following:

8 "610.010. As used in this chapter, unless the context
9 otherwise indicates, the following terms mean:

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

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

15 (3) "Public business", [all matters which relate in
16 any way to the performance of the public governmental body's
17 functions or the conduct of its business] the deliberations
18 of at least the number of individual public governmental
19 body members required to take action on behalf of the public
20 governmental body where such deliberations determine or
21 result in the joint conduct or disposition of official
22 public governmental body business;

23 (4) "Public governmental body", any legislative,
24 administrative or governmental entity created by the
25 Constitution or statutes of this state, by order or
26 ordinance of any political subdivision or district, judicial

27 entities when operating in an administrative capacity, or by
28 executive order, including:

29 (a) Any body, agency, board, bureau, council,
30 commission, committee, board of regents or board of curators
31 or any other governing body of any institution of higher
32 education, including a community college, which is supported
33 in whole or in part from state funds, including but not
34 limited to the administrative entity known as "The Curators
35 of the University of Missouri" as established by section
36 172.020;

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

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

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

49 (e) Any committee appointed by or at the direction of
50 any of the entities and which is authorized to report to any
51 of the above-named entities, any advisory committee
52 appointed by or at the direction of any of the named
53 entities for the specific purpose of recommending, directly
54 to the public governmental body's governing board or its
55 chief administrative officer, policy or policy revisions or
56 expenditures of public funds including, but not limited to,
57 entities created to advise bi-state taxing districts
58 regarding the expenditure of public funds, or any policy
59 advisory body, policy advisory committee or policy advisory

60 group appointed by a president, chancellor or chief
61 executive officer of any college or university system or
62 individual institution at the direction of the governing
63 body of such institution which is supported in whole or in
64 part with state funds for the specific purpose of
65 recommending directly to the public governmental body's
66 governing board or the president, chancellor or chief
67 executive officer policy, policy revisions or expenditures
68 of public funds provided, however, the staff of the college
69 or university president, chancellor or chief executive
70 officer shall not constitute such a policy advisory
71 committee. The custodian of the records of any public
72 governmental body shall maintain a list of the policy
73 advisory committees described in this subdivision;

74 (f) Any quasi-public governmental body. The term
75 "quasi-public governmental body" means any person,
76 corporation or partnership organized or authorized to do
77 business in this state pursuant to the provisions of chapter
78 352, 353, or 355, or unincorporated association which either:

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

83 b. Performs a public function as evidenced by a
84 statutorily based capacity to confer or otherwise advance,
85 through approval, recommendation or other means, the
86 allocation or issuance of tax credits, tax abatement, public
87 debt, tax-exempt debt, rights of eminent domain, or the
88 contracting of leaseback agreements on structures whose
89 annualized payments commit public tax revenues; or any
90 association that directly accepts the appropriation of money
91 from a public governmental body, but only to the extent that
92 a meeting, record, or vote relates to such appropriation; and

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

95 (5) "Public meeting", any meeting of a public
96 governmental body subject to sections 610.010 to 610.030 at
97 which any public business is discussed, decided, or public
98 policy formulated, whether such meeting is conducted in
99 person or by means of communication equipment, including,
100 but not limited to, conference call, video conference,
101 internet chat, or internet message board. The term "public
102 meeting" shall not include an informal gathering of members
103 of a public governmental body for ministerial or social
104 purposes when there is no intent to avoid the purposes of
105 this chapter or any meeting of a group of members of a
106 public governmental body who are not acting on behalf of the
107 entire public governmental body or when a public
108 governmental body is an individually elected or appointed
109 official who is meeting with members of his or her staff in
110 the ordinary course of business, but the term shall include
111 a public vote of all or a majority of the members of a
112 public governmental body or a group of members of a public
113 governmental body voting to advance an item to a vote of
114 another group of members or the entire public governmental
115 body, by electronic communication or any other means,
116 conducted in lieu of holding a public meeting with the
117 members of the public governmental body gathered at one
118 location in order to conduct public business;

119 (6) "Public record", any record, whether written or
120 electronically stored, retained by or of any public
121 governmental body including any report, survey, memorandum,
122 or other document or study prepared for the public
123 governmental body by a consultant or other professional
124 service paid for in whole or in part by public funds,
125 including records created or maintained by private

126 contractors under an agreement with a public governmental
127 body or on behalf of a public governmental body; provided,
128 however, that personally identifiable student records
129 maintained by a public [educational institutions]
130 governmental body shall be open for inspection only by the
131 parents, guardian or other custodian of students under the
132 age of eighteen years and by the parents, guardian or other
133 custodian and the student if the student is over the age of
134 eighteen years. The term "public record" shall not include
135 any internal memorandum or letter received or prepared by or
136 on behalf of a member of a public governmental body
137 consisting of advice, opinions and recommendations in
138 connection with the deliberative decision-making process of
139 said body, unless such records are [retained by the public
140 governmental body or] presented at a public meeting. Any
141 document or study prepared for a public governmental body by
142 a consultant or other professional service as described in
143 this subdivision shall be retained by the public
144 governmental body in the same manner as any other public
145 record. The term "public record" shall not include
146 transitory records;

147 (7) "Public vote", any vote, whether conducted in
148 person, by telephone, or by any other electronic means, cast
149 at any public meeting of any public governmental body;

150 (8) "Transitory record", includes draft versions of
151 final documents, non-decision making materials, materials
152 that are not required to sustain administrative or
153 operational function of the agency, materials that are only
154 recorded for the time required for completion of the action,
155 or materials that do not have substantial administrative or
156 operational value.

157 610.021. Except to the extent disclosure is otherwise
158 required by law, a public governmental body is authorized to

159 close meetings, records and votes, to the extent they relate
160 to the following:

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

185 (2) Leasing, purchase or sale of real estate by a
186 public governmental body where public knowledge of the
187 transaction might adversely affect the legal consideration
188 therefor. However, any minutes, vote or public record
189 approving a contract relating to the leasing, purchase or
190 sale of real estate by a public governmental body shall be

191 made public upon execution of the lease, purchase or sale of
192 the real estate;

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

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

210 (5) Nonjudicial mental or physical health proceedings
211 involving identifiable persons, including all records or
212 portions of records relating to medical, psychiatric,
213 psychological, or alcoholism or drug dependency diagnosis or
214 treatment;

215 (6) Scholastic probation, expulsion, or graduation of
216 identifiable individuals, including records of individual
217 test or examination scores; however, personally identifiable
218 student records maintained by public educational
219 institutions shall be open for inspection by the parents,
220 guardian or other custodian of students under the age of
221 eighteen years and by the parents, guardian or other
222 custodian and the student if the student is over the age of
223 eighteen years;

224 (7) Testing and examination materials, before the test
225 or examination is given or, if it is to be given again,
226 before so given again;

227 (8) Welfare cases of identifiable individuals;

228 (9) Preparation, including any discussions or work
229 product, on behalf of a public governmental body or its
230 representatives for negotiations with employee groups;

231 (10) Software codes for electronic data processing and
232 documentation thereof;

233 (11) Specifications for competitive bidding, until
234 either the specifications are officially approved by the
235 public governmental body or the specifications are published
236 for bid;

237 (12) Sealed bids and related documents, until the bids
238 are opened; and sealed proposals and related documents or
239 any documents related to a negotiated contract until a
240 contract is executed, or all proposals are rejected;

241 (13) Individually identifiable personnel records,
242 performance ratings or records pertaining to employees or
243 applicants for employment, except that this exemption shall
244 not apply to the names, positions, salaries and lengths of
245 service of officers and employees of public agencies once
246 they are employed as such, and the names of private sources
247 donating or contributing money to the salary of a chancellor
248 or president at all public colleges and universities in the
249 state of Missouri and the amount of money contributed by the
250 source;

251 (14) Records which are protected from disclosure by
252 law;

253 (15) Meetings and public records relating to
254 scientific and technological innovations in which the owner
255 has a proprietary interest;

256 (16) Records relating to municipal hotlines
257 established for the reporting of abuse and wrongdoing;

258 (17) Confidential or privileged communications between
259 a public governmental body and its auditor, including all
260 auditor work product; however, all final audit reports
261 issued by the auditor are to be considered open records
262 pursuant to this chapter;

263 (18) (a) Security measures, global positioning system
264 (GPS) data, and investigative or surveillance techniques of
265 any public agency responsible for law enforcement or public
266 safety which, if disclosed, has the potential to endanger
267 individual or public safety or health.

268 (b) Operational guidelines, policies and specific
269 response plans developed, adopted, or maintained by any
270 public agency responsible for law enforcement, public
271 safety, first response, or public health for use in
272 responding to or preventing any critical incident which is
273 or appears to [be terrorist in nature and which has the
274 potential to] endanger individual or public safety or
275 health. Financial records related to the procurement of or
276 expenditures relating to operational guidelines, policies or
277 plans purchased with public funds shall be open. When
278 seeking to close information pursuant to this exception, the
279 public governmental body shall affirmatively state in
280 writing that disclosure would impair the public governmental
281 body's ability to protect the security or safety of persons
282 or real property, and shall in the same writing state that
283 the public interest in nondisclosure outweighs the public
284 interest in disclosure of the records;

285 (19) Existing or proposed security systems, security
286 protocols, and structural plans of real property owned or
287 leased by a public governmental body, and information that
288 is voluntarily submitted by a nonpublic entity owning or

289 operating an infrastructure to any public governmental body
290 for use by that body to devise plans for protection of that
291 infrastructure, the public disclosure of which would
292 threaten public safety:

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

296 (b) When seeking to close information pursuant to this
297 exception, the public governmental body shall affirmatively
298 state in writing that disclosure would impair the public
299 governmental body's ability to protect the security or
300 safety of persons or real property, and shall in the same
301 writing state that the public interest in nondisclosure
302 outweighs the public interest in disclosure of the records;

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

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

313 (21) Records that identify the configuration of
314 components or the operation of a computer, computer system,
315 computer network, or telecommunications network, and would
316 allow unauthorized access to or unlawful disruption of a
317 computer, computer system, computer network, or
318 telecommunications network of a public governmental body.
319 This exception shall not be used to limit or deny access to
320 otherwise public records in a file, document, data file or
321 database containing public records. Records related to the

322 procurement of or expenditures relating to such computer,
323 computer system, computer network, or telecommunications
324 network, including the amount of moneys paid by, or on
325 behalf of, a public governmental body for such computer,
326 computer system, computer network, or telecommunications
327 network shall be open;

328 (22) Credit card numbers, personal identification
329 numbers, digital certificates, physical and virtual keys,
330 access codes or authorization codes that are used to protect
331 the security of electronic transactions between a public
332 governmental body and a person or entity doing business with
333 a public governmental body. Nothing in this section shall
334 be deemed to close the record of a person or entity using a
335 credit card held in the name of a public governmental body
336 or any record of a transaction made by a person using a
337 credit card or other method of payment for which
338 reimbursement is made by a public governmental body;

339 (23) Records submitted by an individual, corporation,
340 or other business entity to a public institution of higher
341 education in connection with a proposal to license
342 intellectual property or perform sponsored research and
343 which contains sales projections or other business plan
344 information the disclosure of which may endanger the
345 competitiveness of a business; [and]

346 (24) Records relating to foster home or kinship
347 placements of children in foster care under section 210.498;

348 (25) Email addresses and telephone numbers submitted
349 to a public governmental body by individuals or entities for
350 the sole purpose of receiving electronic or other
351 communications limited to newsletters, notifications,
352 advisories, alerts, and periodic reports;

353 (26) Individually identifiable customer usage and
354 billing records for customers of a municipally owned utility

355 unless the records are requested by the customer or
356 authorized for release by the customer, except that a
357 municipally owned utility shall make available to the public
358 the customer's name, billing address, location of service,
359 and dates of service provided for any commercial service
360 account;

361 (27) Any record retained by a public governmental body
362 that is related to a constituent of the public governmental
363 body, a dignitary, or a foreign leader. The provisions of
364 this subdivision shall authorize the closure of any health
365 or mental health record of a constituent in its entirety and
366 shall authorize the redaction of any portion of a record
367 that may be used to individually identify a constituent of
368 the public governmental body. As used in this subdivision,
369 "constituent" shall mean any person who is a resident within
370 the boundaries of the public governmental body, any person
371 who owns real property within the boundaries of the public
372 governmental body, or any person who owns an interest in a
373 business entity operating within the boundaries of the
374 public governmental body. The term "constituent" shall not
375 include a person who is registered as a lobbyist or a
376 lobbyist principal, as such terms are defined in section
377 105.470, or a public official, regardless of whether such
378 person otherwise meets the definition of "constituent". As
379 used in this subdivision, the term "public official" shall
380 mean any statewide elected official or any person holding
381 elective office of any political subdivision as well as an
382 employee of such elected official when such employee is
383 acting in an official capacity. Nothing in this subdivision
384 shall authorize the closure of a record that has been
385 offered in a public meeting of the public governmental body,
386 or any committee thereof;

387 (28) Inter-agency or intra-agency memoranda or letters
388 that would not be available by state or federal law to a
389 party other than an agency in litigation with the agency,
390 provided that the deliberative process privilege shall not
391 apply to records created twenty-five years or more before
392 the date on which the records were requested and shall not
393 apply to any record to or from a person who is registered as
394 a lobbyist or a lobbyist principal, as such terms are
395 defined in section 105.470; and

396 (29) Any record retained in the office of a member of
397 the general assembly, an employee of either house of the
398 general assembly, or an employee of a caucus of either the
399 majority or minority party of either house that contains
400 information regarding proposed legislation or the
401 legislative process; however, nothing in this subdivision
402 shall allow the closure of a record that has been offered in
403 a public meeting of a house of the general assembly, or any
404 committee thereof, nor any record addressed to, or from, in
405 whole or in part, a lobbyist or a lobbyist principal, as
406 such terms are defined in section 105.470.

407 610.023. 1. Each public governmental body is to
408 appoint a custodian who is to be responsible for the
409 maintenance of that body's records. The identity and
410 location of a public governmental body's custodian is to be
411 made available upon request.

412 2. Each public governmental body shall make available
413 for inspection and copying by the public of that body's
414 public records. No person shall remove original public
415 records from the office of a public governmental body or its
416 custodian without written permission of the designated
417 custodian. No public governmental body shall, after August
418 28, 1998, grant to any person or entity, whether by
419 contract, license or otherwise, the exclusive right to

420 access and disseminate any public record unless the granting
421 of such right is necessary to facilitate coordination with,
422 or uniformity among, industry regulators having similar
423 authority.

424 3. Each request for access to a public record shall be
425 acted upon as soon as possible, but in no event later than
426 the end of the [third] fifth business day following the date
427 the request is received by the custodian of records of a
428 public governmental body. If records are requested in a
429 certain format, the public body shall provide the records in
430 the requested format, if such format is available. If
431 access to the public record is not granted immediately, the
432 custodian shall give a detailed explanation of the cause for
433 further delay and the place and earliest time and date that
434 the record will be available for inspection. Access to and
435 the production of the records may be conditioned upon
436 receipt of payment pursuant to section 610.026. This period
437 for document production may exceed [three] five days for
438 reasonable cause.

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

446 610.024. 1. If a public record contains material
447 which is not exempt from disclosure as well as material
448 which is exempt from disclosure, the public governmental
449 body shall separate the exempt and nonexempt material and
450 make the nonexempt material available for examination and
451 copying. Where a single record or document contains both
452 open and closed records, the public governmental body shall

453 make a redacted version of such record or document available
454 in order to protect the information that would otherwise
455 make the record or document a closed record.

456 2. When designing a public record, a public
457 governmental body shall, to the extent practicable,
458 facilitate a separation of exempt from nonexempt
459 information. If the separation is readily apparent to a
460 person requesting to inspect or receive copies of the form,
461 the public governmental body shall generally describe the
462 material exempted unless that description would reveal the
463 contents of the exempt information and thus defeat the
464 purpose of the exemption.

465 610.026. 1. Except as otherwise provided by law, each
466 public governmental body shall provide access to and, upon
467 request, furnish copies of public records subject to the
468 following:

469 (1) Fees for copying public records, except those
470 records restricted under section 32.091, shall not exceed
471 ten cents per page for a paper copy not larger than nine by
472 fourteen inches, with the hourly fee for duplicating time
473 not to exceed the average hourly rate of pay for clerical
474 staff of the public governmental body. Research time
475 required for fulfilling records requests may be charged at
476 the actual cost of research time. Based on the scope of the
477 request, the public governmental body shall produce the
478 copies using employees of the body that result in the lowest
479 amount of charges for search, research, redaction, and
480 duplication time. Prior to producing copies of the
481 requested records, the person requesting the records may
482 request the public governmental body to provide an estimate
483 of the cost to the person requesting the records. Documents
484 may be furnished without charge or at a reduced charge when
485 the public governmental body determines that waiver or

486 reduction of the fee is in the public interest because it is
487 likely to contribute significantly to public understanding
488 of the operations or activities of the public governmental
489 body and is not primarily in the commercial interest of the
490 requester;

491 (2) Fees for providing access to public records
492 maintained on computer facilities, recording tapes or disks,
493 videotapes or films, pictures, maps, slides, graphics,
494 illustrations or similar audio or visual items or devices,
495 and for paper copies larger than nine by fourteen inches
496 shall include only the cost of copies, staff time, which
497 shall not exceed the average hourly rate of pay for staff of
498 the public governmental body required for making copies and
499 programming, if necessary, and the cost of the disk, tape,
500 or other medium used for the duplication. Fees for maps,
501 blueprints, or plats that require special expertise to
502 duplicate may include the actual rate of compensation for
503 the trained personnel required to duplicate such maps,
504 blueprints, or plats. If programming is required beyond the
505 customary and usual level to comply with a request for
506 records or information, the fees for compliance may include
507 the actual costs of such programming.

508 2. (1) Payment of [such copying] fees may be
509 requested prior to [the making of copies] fulfilling the
510 request.

511 (2) A request for public records to a public
512 governmental body shall be considered withdrawn if the
513 requester fails to remit all fees within thirty days of a
514 request for payment of the fees by the public governmental
515 body, prior to fulfilling the request. The public
516 governmental body shall include notice to the requester that
517 if the requester fails to remit payment of the fees within
518 thirty days, then the request for public records shall be

519 considered withdrawn. If the public governmental body
520 responds to a request for public records in order to seek a
521 clarification of the request and no response to the request
522 for clarification is received by the public governmental
523 body within thirty days of sending the request for
524 clarification, then such request for public records shall be
525 considered withdrawn. The request for clarification by the
526 public governmental body shall include notice to the
527 requester that if the requester fails to respond within
528 thirty days, then the request shall be considered
529 withdrawn. If the same or a substantially similar request
530 for public records is made within six months after the
531 expiration of the thirty day period and no fee was remitted
532 for such request or no response was received to the request
533 for clarification, then the public governmental body may
534 request payment of the same fees made for the original
535 request that has expired in addition to any allowable fees
536 necessary to fulfill the subsequent request. The provisions
537 of this subdivision shall not apply if a lawsuit has been
538 filed against the public governmental body with regard to
539 the records that are the subject of the request under this
540 subdivision.

541 3. Except as otherwise provided by law, each public
542 governmental body of the state shall remit all moneys
543 received by or for it from fees charged pursuant to this
544 section to the director of revenue for deposit to the
545 general revenue fund of the state.

546 4. Except as otherwise provided by law, each public
547 governmental body of a political subdivision of the state
548 shall remit all moneys received by it or for it from fees
549 charged pursuant to sections 610.010 to 610.028 to the
550 appropriate fiscal officer of such political subdivision for
551 deposit to the governmental body's accounts.

552 5. The term "tax, license or fees" as used in Section
553 22 of Article X of the Constitution of the State of Missouri
554 does not include copying charges and related fees that do
555 not exceed the level necessary to pay or to continue to pay
556 the costs for providing a service, program, or activity
557 which was in existence on November 4, 1980, or which was
558 approved by a vote of the people subsequent to November 4,
559 1980."; and

560 Further amend the title and enacting clause accordingly.