



Office of Missouri State Auditor
Nicole Galloway, CPA

General Assembly and Supporting Functions

Senate



Nicole Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Senate

Personnel Policies and Procedures

Although the Senate revised its intern and sexual harassment policies and procedures after the resignation of a former senator following allegations of harassment involving a former intern, auditors identified needed improvements in personnel policies and procedures. The Senate's revised sexual harassment policy does not require sexual harassment training be provided periodically to members and employees. Additionally, the Senate has not required members' and part-time session employees to utilize the new electronic timesheet system, and the manual timesheets prepared for members' employees are not adequate. The Senate also granted employees administrative leave, costing up to \$89,000 per year, for days in addition to state holidays although most other state employees do not receive additional days off. The Senate's workplace handbook does not provide for employee leave to care for a returning service member as provided by the Family Medical Leave Act and does not include a whistleblower policy to protect employees from potential retaliation.

Records Policies

While it is the Senate's position that the Sunshine Law does not apply to records of individual members, the Senate has not defined in a policy what records it asserts are specifically closed or open. The Senate also has not established a written policy regarding email retention. Currently, the Senate archives email correspondence in its system for 30 days; however, these retention procedures have not been documented in a policy.

Incomplete Documentation

The Senate did not completely document salary adjustments provided to some administration employees. Auditors reviewed supporting documentation and interviewed the Senate administrator regarding raises provided to 17 administration employees and found the Senate did not adequately document the reasons for raises for 4 of those employees.

Senate Administrator's Fund

Despite recommendations in our two prior audits, the Senate continues to maintain the Senate Administrator's Fund in a bank account outside the state treasury for the purpose of soliciting contributions from lobbyists to pay for meals provided to members and employees who work late during legislative sessions. Contributions from lobbyists totaled \$6,500 during the 2 years ended June 30, 2015. The Senate does not have authority to maintain the bank account and administrative duties related to the account are not properly segregated.

Senate Committee Meeting Minutes

The Senate did not adequately prepare or retain meeting minutes for two Senate committees in accordance with the Sunshine Law. Meeting minutes for open and closed sessions of the Administration Committee did not always include the time, place, and members present or absent, and did not always properly document votes taken. The Senate could not locate any meeting minutes for the 2013 Interim Committee on Capital Improvement Assessment and Planning.

Joint Committees

Some Senate/House joint committees did not adequately prepare or retain agendas and/or meeting minutes in accordance with the Sunshine Law. In addition, some committees did not meet or report their activities as required by enabling statutes. Auditors selected 17 joint committees to review the meeting agendas, minutes, and reports produced by the committees in calendar years 2013, 2014, and/or 2015. Eight of the 12 joint committees that held meetings during the period reviewed did not prepare properly detailed minutes and/or agendas. Seven of the 13 joint statutory committees reviewed did not meet and/or report their activities to the General Assembly during the period reviewed as required by enabling statutes.

In the areas audited, the overall performance of this entity was **Good**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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NICOLE GALLOWAY, CPA

Missouri State Auditor

Members of the General Assembly, Senate
Jefferson City, Missouri

We have audited certain operations of the General Assembly and Supporting Functions, Senate in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2015 and 2014. The objectives of our audit were to:

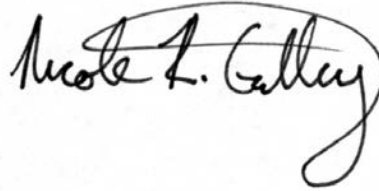
1. Evaluate the Senate's internal controls over significant management and financial functions.
2. Evaluate the Senate's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the Senate; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the Senate's management and was not subjected to the procedures applied in our audit of the Senate.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the General Assembly and Supporting Functions, Senate.

A handwritten signature in black ink that reads "Nicole R. Galloway". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

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1. Personnel Policies and Procedures

We identified weaknesses in some Senate personnel policies and procedures. In addition, the Senate does not require a single comprehensive timesheet for all employees and some administrative leave granted to employees during the 2 years ended June 30, 2015, was questionable.

Due to issues noted in prior audits and recent concerns, we performed a review of the Senate's personnel policies and procedures. In August 2015, a former senator resigned after the Senate Administration committee completed an investigation into allegations of sexual harassment involving a former intern. This event exposed weaknesses in certain Senate policies and prompted the Senate to make changes.

The Senate revised its sexual harassment policy effective January 2016, to designate additional mandatory reporters (employees required to report observed or suspected sexual harassment).

The Senate re-evaluated its intern program procedures and determined changes were needed regarding oversight and management of the program. Effective January 2016, the Senate assigned an employee as Intern Coordinator to maintain records of participating interns and schools, monitor for compliance with Senate requirements, coordinate events and orientations, and serve as an additional contact for reporting of complaints. Additionally, the Senate developed new participation guidelines and requirements. According to listings of all capitol interns maintained by the House of Representatives (House), members accepted 37 interns during the 2015 legislative session and 28 interns during the 2014 legislative session.

Despite the changes made to intern and sexual harassment policies, further improvement in personnel policies and procedures is needed.

1.1 Sexual harassment training

The Senate sexual harassment policy does not require sexual harassment training be provided periodically to members and employees. While the policy requires all members and employees to receive sexual harassment training, the policy does not address the frequency of training. Members and employees are generally provided sexual harassment training only once when beginning their first term (members may serve for a maximum of 8 years) or employment. The Senate's revisions to the sexual harassment policy effective January 2016 did not address the need to provide more frequent sexual harassment training to members and employees.

To ensure members and employees remain aware of requirements regarding sexual harassment, the Senate should revise the sexual harassment policy to require periodic training. The House revised its sexual harassment policy in November 2015 to require annual training for all members and employees.



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1.2 Timesheets

The Senate has not required members' employees and part-time salaried employees to utilize the new electronic timesheet system, and the manual timesheets prepared for members' employees are not adequate.

In response to our prior audit recommendation, effective July 2013 the Senate implemented an electronic timesheet system for employees to record time worked and leave used. The system provides for electronic signatures of the employee and his or her supervisor. The system is utilized by all Senate administration employees, except for about 13 part-time salaried employees employed only during the session, who prepare no timesheet. The system is not utilized by members' employees.

Members' employees prepare manual employee authorization forms each pay period that only document the pay rate for salaried and hourly employees, the total number of hours worked for hourly employees, and total leave used for salaried employees. This form is signed by the member, but not the employee. According to the Senate Administrator, adopting the electronic system for use by members' employees has not been considered for approval by the Senate Administration Committee.

Adequately detailed records of actual time worked and leave taken, signed by the employee and his or her supervisor, are necessary to document hours worked, substantiate payroll disbursements, and provide a method to monitor individual attendance. Requiring members' and part-time salaried employees to utilize the electronic timesheet system would help ensure all mandatory and needed time information is properly recorded.

1.3 Administrative leave

The Senate granted employees administrative leave (paid time off) for full business days off in addition to state holidays. Most other state employees are not provided administrative leave for full days off that are not state holidays.

In addition to administrative leave provided for various partial days off, each full-time Senate administration employee was provided 3 full days administrative leave during each of fiscal years 2015 and 2014. Member employees were also provided the administrative leave, subject to approval of the member. Administrative leave for full days was granted on the business day preceding Christmas Day 2013 and Thanksgiving Day 2014; and the business day following Independence Day 2013, New Year's Day 2015, and Easter 2014 and 2015. We estimated salary costs (excluding fringe benefits) related to the administrative leave for full days to be up to \$89,000 for each fiscal year.

The practice of granting administrative leave for full days off that are not state holidays is costly and questionable considering it is not provided for most other state employees.



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1.4 Military service members The Senate Workplace Handbook does not provide for employee leave to care for a returning service member as provided by the federal Family Medical Leave Act (FMLA).

The FMLA, 29 U.S.C. Section 2612(a)(3), requires employers to provide employees up to 26 weeks of leave during a single 12-month period to care for a related military service member recovering from an injury or illness sustained while on active duty or for a preexisting serious injury or illness aggravated by active duty in the armed forces. Although legislative employees are not required to be covered under the FMLA, the Senate, as documented in the Senate Workplace Handbook, provides FMLA coverage to employees meeting FMLA eligibility requirements. To the extent the Senate has offered FMLA coverage, it must be kept up to date with current law. The Senate Workplace Handbook should be modified to address the FMLA requirement for employee leave to care for a covered service member.

1.5 Whistleblower rights The Senate Workplace Handbook does not include a whistleblower policy. Section 105.055, RSMo, protects employees from retaliation for discussing alleged prohibited activity under investigation with an investigating authority or reporting mismanagement, waste of funds, abuse of authority, danger to public health and safety, or violations of law. To inform employees of their rights, the Senate should consider developing and including a whistleblower policy in the Senate Workplace Handbook.

Recommendations

The Senate:

- 1.1 Amend the sexual harassment policy to require periodic training of all members and employees.
- 1.2 Require all employees utilize the electronic timesheet system.
- 1.3 Discontinue granting administrative leave to employees for full days off other than state holidays.
- 1.4 Amend the Senate Workplace Handbook to address the FMLA requirement for employee leave to care for a covered service member.
- 1.5 Establish a policy addressing employee whistleblower rights under state law.

Auditee's Response

- 1.1 *As noted, the Senate has a long-standing policy of requiring members and employees to complete sexual harassment training. The Senate will review employer best practices and consider implementing more frequent training of members and employees.*



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1.2 *The electronic timesheet system was developed in response to the previous audit and is currently used by Senate Administration staff to record time worked and leave taken. Before the system was recommended to Senators' office staff for their use, the Senate Administrator wanted to ensure the electronic system was perceived by the State Auditor's Office (SAO) as a leave and reporting system that would meet audit standards.*

The new electronic system requires supervisors to review and approve timesheets for recordkeeping purposes. As the prior audit noted, there were instances where Senate Administration staff did not appropriately sign and approve timesheets. This problem was not noted in Senators' offices. Senators currently provide manual authorization forms signed by supervisors, for each pay period to ensure leave taken and rates of pay are correct.

Expanding the electronic system to include Senators' offices is a significant change to the Senate's current payroll processing process but is worthy of further consideration. Senators and their staff may find the electronic system more convenient than the manual process. Senate Administration staff will provide demonstrations of the electronic system to Senators' offices for feedback from Senators' staff. If after further review, Senators deem the system to better meet the needs of their offices the Senate will consider further implementation of the electronic system.

1.3 *Senate staff traditionally work Lincoln's Birthday, Presidents' Day and Truman Day. The Senate does not pay for comp time earned during holidays and not all employees earn comp time for holidays worked. The granting of additional administrative leave replaces these holidays that other state employees receive.*

1.4 *The Senate Administration Committee recently requested that Senate policies be comprehensively reviewed and revised as necessary. Amending the Senate Workplace Handbook to address FMLA requirements will be considered and revised during the comprehensive review.*

1.5 *As part of the comprehensive policy review, the Senate Administration Committee will consider an employee whistleblower policy.*

2. Records Policies

The Senate has not established policies regarding public access to records related to individual members and email retention.



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2.1 Member records

The Senate has not outlined in a policy which records are open and closed under the Sunshine Law. While it is the Senate's position that the Sunshine Law does not apply to records of individual members, the Senate has not defined what records the Senate asserts are specifically open or closed.

Chapter 610 RSMo, known as the Sunshine Law, provides for public disclosure of records of governmental bodies. The Senate Sunshine Law policy indicates Senate records are public records unless closed according to state law; however, the policy and state law do not specifically address whether member's records are closed. To promote clarity and consistency and ensure compliance with the Sunshine Law, the Senate policies should clearly define which member records the Senate asserts are not subject to public disclosure.

2.2 Emails

As reported in the prior audit, the Senate has not established a formal written policy regarding the retention of email correspondence. While the Office of Administration maintains an email archiving system that retains state agency emails forever; currently, the Senate only archives email correspondence in its system for 30 days in accordance with its data backup policies. Any deleted emails are not retained beyond 30 days unless they are separately backed up by a Senate member or employee. However, these retention procedures have not been documented in a policy.

Certain email correspondences are considered public records and are accessible under the Sunshine Law. Email retention policies are necessary to demonstrate compliance with the Sunshine Law. While the legislature is exempted¹ from following the Secretary of State's Guidelines, Managing Email Records, the guidelines strongly encourage state agencies to implement an email policy that covers usage, content, public access, privacy, and records retention. The guidelines provide specific guidance for identifying emails that meet the criteria for public records and retaining such records, and the need to define these items in an email policy. Without a clear, specific, and adequate email policy, there may be inconsistencies in the understanding and implementation of records retention and accessibility, and the Senate could be subject to litigation under the Sunshine Law.

Recommendations

The Senate:

- 2.1 Amend the Sunshine Law policy to identify records the Senate asserts are not subject to the Sunshine Law.
- 2.2 Establish an email retention policy.

¹ Section 109.290, RSMo, and 15 CSR 30-45.010



Auditee's Response

- 2.1 *As part of the comprehensive policy review, the Senate Administration Committee will consider amending the Sunshine Law policy to better clarify records not subject to the Law. Records of individual Senators are not subject to the Sunshine Law under cases interpreting that law. This is important because confidential personal information of constituents is often included in records of individual Senators.*
- 2.2 *As part of the comprehensive policy review, the Senate Administration Committee will consider formalizing the current email retention policy.*

3. Incomplete Documentation

The Senate did not completely document salary adjustments provided to some administration employees. Employee wages totaled approximately \$8 million annually during the 2 years ended June 30, 2015. As of June 30, 2015, the Senate had 185 full-time, part-time, and session employees including 105 Senate administration employees and 80 members' employees.

In addition to cost of living adjustments (COLA)² for all employees, the Senate provided 76 salary increases to 65 administration employees during the 2 years ended June 30, 2015. These increases totaled approximately \$246,000 on an annual basis. A significant portion of these raises were given in July 2013 and June 2015 based on documented salary equity studies prepared by the Senate. The equity studies compared Senate administration employees' salaries to salaries of comparable positions in the House and state agencies, and resulted in raises for 43 employees that totaled about \$155,000 annually. The Senate also provided 72 salary increases to 43 members' employees, in addition to COLA increases, during the 2 years ended June 30, 2015. These increases totaled approximately \$364,000 on an annual basis.

The Senate salary administration policy, applicable only to administration employees, provides for discretionary performance-based adjustments to employee salaries upon written recommendation from the employee's supervisor, subject to review and approval by the senate administrator and/or the Administration Committee. The policy provides the extent of the adjustments should be determined by the senate administrator and/or the Administration Committee and should consider salaries of comparable positions in state agencies and the marketplace when applicable.

² Cost of living increases of \$500 in January 2014 and 1 percent in January 2015 were provided to most state employees.



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We reviewed supporting documentation and interviewed the Senate Administrator regarding raises provided to 17 administration employees. The Senate adequately documented the reasons for raises provided to 13 employees tested. Such documentation included a detailed employee change record, a letter or email message from the employee's supervisor justifying the raise, and/or a documented equity study. However, the Senate did not adequately document the reason for the raises provided to 4 (24 percent) employees tested. The employee change records prepared to support each of the raises awarded to these employees did not adequately detail the reasons for the raises and no additional documentation was prepared to support the raises when given. Upon our inquiries, the Senate Administrator subsequently prepared documentation indicating these raises were given for the following reasons:

- Two employees were awarded raises of 11 percent and 35 percent for successful performance after 12 months in their position. However, these reasons were not documented when the raises were given.
- Two employees were awarded raises of 7 percent and 10 percent for assuming additional duties and/or responsibilities of terminated employees; however, no documentation detailing the specific job duties assigned to these employees was prepared when the raises were given.

Chapter 21, RSMo, grants the Senate the authority to establish employee compensation. To support salary increases beyond those allowed by statewide COLA increases, the Senate should prepare and maintain detailed documentation of the reason(s) for providing each pay increase. Salary increases for additional duties and/or responsibilities should be supported by documentation detailing the specific additional duties and/or responsibilities.

Recommendation

The Senate prepare and maintain clearly detailed documentation supporting the reasons for providing pay increases to employees.

Auditee's Response

As reflected in Appendix C, Comparative Statement of Expenditures, the Senate's total personal service expenditures in FY 2015 were \$191,197 less than actual expenditures reported in FY 2011. The Senate strives to maintain employee salaries at an appropriate level to recruit and retain experienced professional staff. Salary adjustments are provided when duties of employees change or when the Senate has difficulty retaining senior staff. The four adjustments noted were well justified increases due to employee retirements and successful completion of probationary periods. As the SAO noted, there was limited written documentation to support the four adjustments. The issue of incomplete documentation for salary adjustments was corrected on January 1, 2015. Senate staff salary adjustments are now



approved only after completion of written documentation by the employee's supervisor.

4. Senate Administrator's Fund

Lobbyist contributions

Despite recommendations in our two prior audits, the Senate continues to maintain the Senate Administrator's Fund in a bank account outside the state treasury for the purpose of soliciting contributions from lobbyists to pay for meals provided to members and employees. Soliciting contributions from lobbyists gives the appearance of, and may result in, a conflict of interest. In addition, the Senate does not have authority to maintain the bank account and administrative duties related to the account are not properly segregated.

Senate officials solicited and received contributions totaling \$6,500 from lobbyists during the 2 years ended June 30, 2015. The contributions were deposited in the Senate Administrator's Fund and used to pay for meals provided to members and employees who worked late during legislative sessions. These meal costs totaled approximately \$5,800 during the 2 year period. While the Senate discontinued using contributions for retirement dinners and gifts for outgoing members after the prior audit, Senate officials indicated they continue to believe meals should be provided when members and employees work late during session.

Actively soliciting contributions from lobbyists gives the appearance of, and may result in, a conflict of interest. The House does not provide meals to members and employees when they work late.

Bank account

Senate personnel could not provide statutory or other authority to hold the bank account for the Senate Administrator's Fund outside the state treasury. Article IV, Section 15, Missouri Constitution, and Section 30.240, RSMo, require state funds to be held and disbursed by the state treasurer.

Segregation of duties

The duties of preparing and making deposits and preparing bank reconciliations are not adequately segregated. These duties are performed by the Senate Administrator. To safeguard against possible loss or misuse of funds, proper internal controls require segregating the duties of preparing and making the deposits, and reconciling the bank account.

Recommendation

The Senate discontinue the practice of soliciting contributions from lobbyists, and direct the Senate Administrator to close the Senate Administrator's Fund bank account and contact the State Treasurer's Office regarding the proper disposition of remaining funds. Until such disposition occurs, duties should be adequately segregated.

Auditee's Response

The Senate Administrator's account was established to provide a convenient and efficient means of paying for state reimbursable meal expenses incurred during late evening Senate sessions. The account maintains a minimum cash balance and is used in lieu of General Revenue. All account activities are



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transparent, donations are reported by lobbyists to the Ethics Commission, and the detailed documenting of each dollar deposited and expended is now segregated from the review of the bank statement reconciliation. The segregation process was reviewed and revised in response to the SAO audit.

This is a challenging situation because the Senate understands why the SAO recommends closing the account; however, there is no apparent solution that works operationally for the Senate. When the Senate is in session, Senate staff are required to be present until session adjourns and the schedule is such that it's difficult to predict when staff will work in excess of 12 hours. The Senate agrees to continue to review other ways to purchase meals as necessary.

5. Senate Committee Meeting Minutes

Administration committee

The Senate did not adequately prepare or retain meeting minutes for two Senate committees in accordance with the Sunshine Law.

Meeting minutes of the Senate Administration Committee did not always include some required information. This standing committee controls the financial obligations and business affairs of the Senate, and meets monthly.

Meeting minutes for open and closed sessions of the Administration Committee did not always include the time, place, and members present or absent. Also, the minutes did not always properly document votes taken. For example, when voting to go into closed session, some minutes did not document the roll call vote of each member during the open session. Also, closed meeting votes were not always documented by roll call vote of each committee member. In addition, open meeting minutes did not always document the specific section of law allowing a closed meeting.

Interim committees

Meeting minutes were not prepared for one of two Senate interim committees reviewed.

Senate Rule 31 allows the president pro tem to create Senate interim committees to review and report on certain matters affecting state law and government operations during the interim period between successive legislative sessions. Interim committee members are appointed by the president pro tem. At an initial organizational meeting, a chairperson is selected to lead each interim committee in fulfillment of the interim committee's purpose.

According to the Senate Administrator, four Senate interim committees were created for the 2015, 2014 and/or 2013 interim periods. We selected two interim committees to review meeting agendas, meeting minutes, and final reports. For one committee, the 2013 Interim Committee on Capital Improvement Assessment and Planning, the Senate could not locate any



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meeting minutes. According to the Senate Administrator, this committee met 4 times during the 2013 interim.

Conclusion

Chapter 610 RSMo, known as the Sunshine Law, sets forth requirements for meetings of public governmental bodies. Section 610.020, RSMo, requires a journal or minutes of all open and closed meetings. The minutes shall include the date, time, place, members present, members absent, and a record of any votes taken. In addition, Section 610.015, RSMo, requires all votes be recorded, and if a roll call is taken, requires that the minutes attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member. All votes taken in closed session are required to be taken by roll call. Also, Section 610.022, RSMo, provides that before any meeting may be closed, the question of holding the closed meeting and the specific reason for the closed meeting shall be voted on during open meeting and a record of the vote of each member should be documented.

The Senate Majority Caucus General Counsel asserts the Sunshine Law does not apply to Senate standing committees because the Senate has Constitutional authority to set the rules of its proceedings. The Sunshine Law, however, applies to all governmental bodies, which is defined under Section 610.010, RSMo, to include any legislative entity created under the Missouri Constitution or statutes. Under Section 610.011.1, RSMo, of the Sunshine Law, "It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy." Additionally, the Senate Sunshine Law policy, adopted February 2008, states the Senate shall comply with the Sunshine Law and the Senate provides Sunshine Law notices for its Administrative Committee and for joint committees. Compliance with the Sunshine Law is necessary to create transparency and provide proper records of actions and decisions.

Recommendation

The Senate ensure Senate Administration Committee meeting minutes include required information and minutes are prepared for all interim committee meetings in accordance with the Sunshine Law.

Auditee's Response

Based on Article III, Section 18 of the Missouri Constitution, the Missouri Senate views the operation of legislative committees as a matter of proceedings committed to the legislative branch of government. This view is supported by current case law. However, the Senate will continue to strive to promote transparency in its internal legislative committee recordkeeping procedures.



6. Joint Committees

Some Senate/House joint committees did not adequately prepare or retain agendas and/or meeting minutes in accordance with the Sunshine Law. In addition, some committees did not meet or report their activities as required by enabling statutes.

Joint committees are sometimes formed to review certain matters affecting state law and government operations, and are comprised of equal numbers of members from the House and the Senate. The committees are often created by legislation that outlines the purpose and size of the committee and usually allows House and Senate leadership to appoint members to the committees. These statutory committees are authorized until the enabling legislation is repealed or, if applicable, a sunset provision is reached. In addition, some joint interim committees are created by the speaker of the House and the Senate pro tem to review certain matters during the interim period between successive legislative sessions. The purpose and membership of these committees is determined by leadership of the House and the Senate. A chairperson is selected to lead each joint committee in fulfillment of the joint committee's purpose.

According to the Senate Administrator and Chief Clerk of the House, 32 statutory or interim joint committees were authorized during the 3 years ended December 31, 2015. Twelve statutory committees were repealed by Senate Bill No. 58, First Regular Session, 98th General Assembly, effective in August 2015 because the committees had dissolved or expired as required by their authorizing statutes. We selected 17 statutory and interim joint committees (including 4 repealed committees) to review the meeting agendas, minutes, and reports produced by the committees in calendar years 2013, 2014, and/or 2015.

Minutes and agendas

Eight³ of the 12 joint committees that held meetings during the period reviewed did not prepare properly detailed minutes and/or agendas as required.

Neither the Senate Administrator nor the Chief Clerk could locate agendas for 10 open meetings held by 4 joint committees, open meeting minutes for 14 meetings held by 6 joint committees, and closed meeting minutes for 1 joint committee meeting. In addition, one joint committee did not properly document in its meeting minutes the members absent or votes taken by roll call. Also, one committee did not always document the roll call vote of each

³ Joint Committee on Child Abuse and Neglect, Joint Committee on Education, Joint Committee on Legislative Research, Joint Committee on Solid Waste Management District Operations, Missouri Works Job Training Joint Legislative Oversight Committee, Joint Interim Committee on State Employee Wages, Joint Interim Committee on St. Louis Metropolitan Statistical Area Governance and Taxation, and Missouri Oral Chemotherapy Parity Interim Committee



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member during the open meeting when voting to go into closed session, and did not document one closed meeting vote by roll call.

Chapter 610 RSMo, known as the Sunshine Law, sets forth requirements for meetings of public governmental bodies. Section 610.020, RSMo, requires a tentative agenda be posted prior to all meetings and requires minutes be maintained of all open and closed meetings. The minutes shall include the date, time, place, members present, members absent, and a record of any votes taken. In addition, Section 610.015, RSMo, requires all votes be recorded; and if a roll call vote is taken, requires that the minutes attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member. All votes taken in closed session are required to be taken by roll call. Also, Section 610.022, RSMo, provides before any meeting may be closed, the question of holding the closed meeting and the specific reason for the closed meeting shall be voted on during open meeting and a record of the vote of each member should be documented. Compliance with the Sunshine Law is necessary to create transparency and provide proper records of actions and decisions.

Meetings and reports

Seven of the 13 joint statutory committees reviewed did not meet and/or report their activities to the General Assembly during the period reviewed as required by enabling statutes.

- The Joint Committee on Life Sciences, created in 2003 by House Bill No. 465, First Regular Session, 92nd General Assembly, and codified in Section 21.805, RSMo, requires the committee meet quarterly, study necessary legislation, policies, investments, and tax structures to support life sciences, and file an annual report of its activities with the General Assembly. The committee did not meet or file a report during the period reviewed.
- The Joint Committee on MO HealthNet, created in 2007 by Senate Bill No. 577, First Regular Session, 94th General Assembly, and codified in Section 208.952, RSMo, requires the committee to meet as necessary, study the annual MO HealthNet budget forecast, and make recommendations about the program in an annual report to the General Assembly. The committee did not meet or file a report during the period reviewed.
- The Joint Committee on Tax Policy, created in 2003 by House Bill No. 600, First Regular Session, 92nd General Assembly, and codified in Section 21.810, RSMo, requires the committee to make continual study and analysis of tax policies and agencies responsible for administration of tax policy and make recommendations to the General Assembly as necessary. The committee did not meet or file a report during the period reviewed.



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- The Joint Committee on Child Abuse and Neglect, created in 2012 by Senate Bill No. 628, Second Regular Session, 96th General Assembly, and codified in Section 21.771, RSMo, requires the committee to meet quarterly, study various aspects of systems for caring for children and investigating abuse, and prepare an annual report of its activities to the General Assembly. While the committee prepared annual reports, the committee did not comply with the meeting requirements in calendar years 2013 and 2014 because the committee met only twice in calendar year 2013 and once in calendar year 2014. Also, meeting minutes were not always properly prepared as noted above. The statute establishing this committee expires in January 2018.
- The Joint Committee on Government Accountability, created in 2004 by House Bill No. 1599, Second Regular Session, 92nd General Assembly, and codified in Section 21.820, RSMo, requires the committee to meet at least 4 times per year, study inefficiencies in state government, and prepare an annual report of its activities to the General Assembly. The committee did not meet during calendar year 2013, met only once in each of calendar years 2014 and 2015, and did not make any report on its activities during the period reviewed.
- Two committees created in 2003, the Joint Committee on General Assembly to Review Economic Stimulus Act and the Joint Committee on General Assembly to Review Rural Economic Stimulus Act, were repealed in August 2015, but did not meet or file reports during the period reviewed prior to repeal.

Joint committees should meet and/or report as required to ensure they accomplish the purposes for which they were created. State statutes for committees that have fulfilled their original purpose and are no longer needed should be repealed.

Recommendation

The Senate work with the House of Representatives to ensure each joint committee's compliance with the Sunshine Law. Additionally, each committee should meet and prepare reports as required; or if committees are no longer needed for the purposes created, the related statutes should be repealed.

Auditee's Response

The Senate provided the following response:

Based on Article III, Section 18 of the Missouri Constitution, the Missouri Senate views the operation of legislative committees as a matter of proceedings committed to the legislative branch of government. This view is supported by current case law. However, the Senate will work with the House to continue to review joint committees to ensure committees reflect current public policy needs and priorities.



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The House of Representatives provided the following response:

House administration acknowledges the recommendation. Based on Article III, Section 18 of the Missouri Constitution, House administration believes the operation of legislative committees as a matter of proceedings committed to the legislative branch of government. This view is supported by current case law. However, the House will work with the Senate to continue to review joint committees to ensure committees reflect current public policy needs and priorities.

General Assembly and Supporting Functions

Senate

Organization and Statistical Information

Legislative power in Missouri is vested by Article III, Section 1, Missouri Constitution, in the General Assembly, more commonly known as the legislature, composed of the Senate and the House of Representatives.

The Senate consists of 34 members elected for 4-year terms. Members from odd numbered districts are elected in Presidential election years. Members from even numbered districts are chosen in the "off-year" elections. A member must be at least 30 years of age, and a qualified voter of the state for 3 years and the district he or she represents for 1 year. The Lieutenant Governor is president and presiding officer of the Senate. In the Lieutenant Governor's absence, the president pro tem, who is elected by the Senate members, presides. The Senate convenes annually on the first Wednesday following the first Monday in January and adjourns on May 30, with no considerations of bills after 6:00 p.m. on the first Friday after the second Monday in May.

Senate leadership positions are classified as either a leadership or committee chairman. Senate leadership positions include the president pro tem and the majority and minority floor leaders. The member occupying the position of assistant minority floor leader receives the same allowance as a committee chairman position. The president pro tem, majority floor leader, minority floor leader, and chairman of the Senate Appropriations Committee are allowed to hire an administrative assistant. The president pro tem is authorized to hire a secretary for his administrative assistant, or an additional administrative assistant. The president pro tem and minority floor leader, at their option, may hire legal counsel in lieu of one administrative assistant.

For the 2 years ended June 30, 2015, members received the following compensation:

Position	Year Ended June 30,	
	2015	2014
President Pro Tem	\$ 38,415	38,415
Floor leaders	37,415	37,415
All remaining members	35,915	35,915

Each member is paid a per diem each day the member is in attendance at the legislative session. In addition, members are reimbursed for each mile traveled when commuting to and from Jefferson City for each week the legislature is in session. For the 2 years ended June 30, 2015, members were authorized the following per diem and mileage reimbursement:

Effective Dates	Per Diem	Mileage Rate
July 2013 to September 2013	\$ 98.40	.37
October 2013 to June 2015	103.20	.37



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Members also receive various annual allowances to be utilized in the performance of their official duties. These allowances are established by the Senate Administration Committee and are subject to the limitations imposed by the appropriation authorizing these expenditures. Maximum allowances have been set by category of expense with the provision that total expenditures for each member do not exceed the total base allowance of \$131,890, \$121,259, and \$112,861 for leadership positions, committee chairman positions, and all remaining members, respectively, for the year ended December 31, 2015. With approval of the Administration Committee, members may spend over the maximum allowance by category and carry unused allowances not exceeding 10 percent of the total allowance to subsequent years. The maximum allowance, by category, for the year ended December 31, 2015, was:

Maximum Allowance	Leadership Positions	Committee Chairman Positions	All Remaining Members
Personal service	\$ 122,214	110,044	101,200
District office	7,200	7,200	7,200
Postage	27,500	27,500	27,500
Travel (1)	3,800	3,800	3,800
Office expense	2,000	2,000	2,000

(1) Each member receives an additional amount for travel calculated at the beginning of each biennial assembly utilizing a formula that considers a member's round-trip mileage between his or her residence and the Capitol and the size of his or her district in square miles. The calculated amount is added to the \$3,800 maximum travel allowance.

The personal service allowance is used to pay the salaries of the members' capitol and district employees. Expenses to maintain a district office, such as rent and telephone charges, are charged against the district office allowance. The postage allowance is used to pay the cost of mailing information related to official state business. Travel expenses incurred in connection with the duties of a member are reimbursable from the travel allowance. The office expense allowance is used to pay for other expenses of a member's capitol and/or district office.

The Senate determines its own rules and procedures and rules may not be dispensed without at least 1 day notice and only by a vote of at least a majority of the Senate. However, a rule may be suspended for a special purpose by a vote of two-thirds majority of the members. This suspension shall remain only until the Senate proceeds to the consideration of business other than that for which the rule was suspended. The Senate is required to keep a daily journal (or record) of its proceedings.

Five members of the Senate are appointed by the president pro tem to serve on the Administration Committee, with the president pro tem serving as ex-



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officio chairman of the committee. This committee controls the financial obligations and business affairs of the Senate. Senator Tom Dempsey served as Chairman of the committee for the 2 years ended June 30, 2015. The committee employs a senate administrator who is responsible for maintaining the financial records and overseeing operations of the Senate. Jim Howerton served as Senate Administrator from January 2005 until his retirement in January 2015. Marga Hoelscher was named Senate Administrator effective January 2015.

The Senate administration is organized into six divisions consisting of: secretary of senate, appropriations, research, chief financial officer, operations, and communications. At June 30, 2015, the Senate had 160 full-time employees and 25 part-time employees.

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General Assembly and Supporting Functions

Senate

Combined Statement of Receipts, Disbursements, and Changes in Cash and Investments

Year Ended June 30, 2015

	Senate Revolving Fund	Senate Administrator's Fund
	<u> </u>	<u> </u>
RECEIPTS		
Information sales	\$ 7,538	0
Surplus property sales	1,376	0
Printing service	660	0
Vendor refunds	525	0
Recovery costs	543	0
Donations	0	4,500
Miscellaneous	3	0
Total Receipts	<u>10,645</u>	<u>4,500</u>
DISBURSEMENTS		
Staff dinners	<u>0</u>	<u>3,055</u>
Total Disbursements	<u>0</u>	<u>3,055</u>
RECEIPTS OVER (UNDER) DISBURSEMENTS	<u>10,645</u>	<u>1,445</u>
CASH AND INVESTMENTS, JULY 1	<u>19,394</u>	<u>1,254</u>
CASH AND INVESTMENTS, JUNE 30	<u>\$ 30,039</u>	<u>2,699</u>

The monies of the Senate Administrator's Fund are maintained in a separate bank account in the custody of Senate officials.

Appendix A-2

General Assembly and Supporting Functions

Senate

Combined Statement of Receipts, Disbursements, and Changes in Cash and Investments

Year Ended June 30, 2014

	Senate Revolving Fund	Senate Administrator's Fund
	<u> </u>	<u> </u>
RECEIPTS		
Information sales	\$ 7,820	0
Surplus property sales	3,292	0
Printing service	2,053	0
Vendor refunds	85	0
Recovery costs	1,059	0
Donations	0	2,000
Miscellaneous	85	0
Total Receipts	<u>14,394</u>	<u>2,000</u>
DISBURSEMENTS		
Transfers to General Revenue Fund - State	30,601	0
Staff dinners	0	2,740
Total Disbursements	<u>30,601</u>	<u>2,740</u>
RECEIPTS OVER (UNDER) DISBURSEMENTS	<u>(16,207)</u>	<u>(740)</u>
CASH AND INVESTMENTS, JULY 1	<u>35,601</u>	<u>1,994</u>
CASH AND INVESTMENTS, JUNE 30	<u>\$ 19,394</u>	<u>1,254</u>

The monies of the Senate Administrator's Fund are maintained in a separate bank account in the custody of Senate officials.

Appendix B

General Assembly and Supporting Functions

Senate

Comparative Statement of Appropriations and Expenditures

	Year Ended June 30,					
	2015			2014		
	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances
GENERAL REVENUE FUND						
Senate contingent expenses	\$ 9,045,869	8,646,813	399,056	8,964,991	8,542,972	422,019
Senators' salaries	1,226,610	1,187,696	38,914	1,226,610	1,201,620	24,990
Senators' mileage	87,406	65,476	21,930	87,406	68,419	18,987
Senators' per diems	226,100	226,100	0	226,100	226,100	0
General Assembly:						
Joint contingent equipment and expenses	125,000	125,000	0	125,000	125,000	0
Joint Committee on Administrative Rules	125,269	119,231	6,038	124,268	111,294	12,974
Joint Committee on Public Employee Retirement	165,869	115,204	50,665	164,439	113,992	50,447
Joint Committee on Education -						
Personal service	63,828	49,741	14,087	68,917	67,005	1,912
Expense and equipment	10,789	3,599	7,190	5,158	4,586	572
Total General Revenue Fund	<u>11,076,740</u>	<u>10,538,860</u>	<u>537,880</u>	<u>10,992,889</u>	<u>10,460,988</u>	<u>531,901</u>
SENATE REVOLVING FUND						
Contingent expenses	40,000	0	40,000	40,000	0	40,000
Total All Funds	<u>\$ 11,116,740</u>	<u>10,538,860</u>	<u>577,880</u>	<u>11,032,889</u>	<u>10,460,988</u>	<u>571,901</u>

Appendix C

General Assembly and Supporting Functions

Senate

Comparative Statement of Expenditures (From Appropriations)

	Year Ended June 30,				
	2015	2014	2013	2012	2011
Salaries and wages	\$ 8,879,707	8,874,428	8,908,000	9,045,105	9,070,904
Legislative per diems	241,901	238,110	241,280	280,020	230,880
Travel, in-state	135,730	146,318	134,356	166,750	162,874
Travel, out-of-state	25,362	8,036	8,259	2,834	5,077
Supplies	354,100	404,354	414,636	326,906	295,821
Professional development	185,347	113,593	76,948	69,663	7,220
Communication services and supplies	66,422	73,812	78,150	81,147	84,901
Services:					
Professional	86,490	29,245	47,961	60,007	113,709
Housekeeping and janitorial	89,568	87,146	87,609	86,966	87,399
Maintenance and repair	96,445	123,924	190,492	110,169	123,220
Equipment					
Computer	94,373	232,100	165,325	63,390	99,186
Motorized	0	20,801	0	0	0
Office	21,213	13,091	68,496	25,575	20,755
Other	74,104	10,694	12,148	7,849	42,189
Property and improvements	100,000	0	0	0	0
Building lease payments	15,000	14,400	16,800	36,575	35,696
Equipment rental and leases	50,735	50,656	24,227	7,356	48,734
Miscellaneous expenses	22,363	20,280	25,945	23,260	25,318
Total	\$ 10,538,860	10,460,988	10,500,632	10,393,572	10,453,883

Appendix D

General Assembly and Supporting Functions
 Senate
 Statement of Changes in General Capital Assets

<u>All Funds</u>	<u>Equipment</u>	<u>Vehicles</u>	<u>Total</u>
Balance, July 1, 2013	\$ 1,864,103	22,042	1,886,145
Additions	140,239	20,801	161,040
Dispositions	(221,128)	0	(221,128)
Balance, June 30, 2014	1,783,214	42,843	1,826,057
Additions	65,897	0	65,897
Dispositions	(116,748)	0	(116,748)
Balance, June 30, 2015	\$ <u>1,732,363</u>	<u>42,843</u>	<u>1,775,206</u>
			<u>Balance</u>
			<u>June 30, 2015</u>
<u>Fund of Acquisition</u>			
General Revenue Fund			\$ 1,762,506
Senate Revolving Fund			12,700
Total All Funds			\$ <u>1,775,206</u>