

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1196

AN ACT

To repeal sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100 and 305.230, RSMo, relating to funding for transportation, and to enact in lieu thereof thirteen new sections relating to the same subject, with an emergency clause for certain sections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 136.055, 142.803, 144.805, 155.080,
2 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100 and
3 305.230, RSMo, are repealed and thirteen new sections enacted in
4 lieu thereof, to be known as sections 136.055, 142.803, 144.805,
5 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585,
6 227.100, 227.107 and 305.230, to read as follows:

7 136.055. 1. Any person who is selected or appointed by the
8 state director of revenue to act as an agent of the department of
9 revenue, whose duties shall be the sale of motor vehicle licenses
10 and the collection of motor vehicle sales and use taxes under the
11 provisions of section 144.440, RSMo, and who receives no salary
12 from the department of revenue, shall be authorized to collect
13 from the party requiring such services additional fees as
14 compensation in full and for all services rendered on the
15 following basis:

1 (1) For each motor vehicle or trailer license sold, renewed
2 or transferred--two dollars and fifty cents beginning January 1,
3 1998; and four dollars beginning July 1, 2000; and five dollars
4 beginning August 28, 2002, for those licenses biennially renewed
5 pursuant to section 301.147, RSMo. Beginning July 1, 2003, for
6 each motor vehicle or trailer license sold, renewed or
7 transferred--three dollars and fifty cents and seven dollars for
8 those licenses sold or biennially renewed pursuant to section
9 301.147, RSMo;

10 (2) For each application or transfer of title--two dollars
11 and fifty cents beginning January 1, 1998;

12 (3) For each chauffeur's, operator's or driver's license --
13 two dollars and fifty cents beginning January 1, 1998; and four
14 dollars beginning July 1, 2000; and five dollars beginning July
15 1, 2003, for six-year licenses issued or renewed;

16 (4) For each notice of lien processed--two dollars and
17 fifty cents beginning August 28, 2000;

18 (5) No notary fee or other fee or additional charge shall
19 be paid or collected except for electronic telephone transmission
20 reception--two dollars.

21 2. This section shall not apply to agents appointed by the
22 state director of revenue in any city, other than a city not
23 within a county, where the department of revenue maintains an
24 office. All fees charged shall not exceed those in this section.
25 Beginning July 1, 2003, the fees imposed by this section shall be
26 collected by all permanent branch offices and all full-time or
27 temporary offices maintained by the department of revenue.

28 3. Any person acting as agent of the department of revenue

1 for the sale and issuance of licenses and other documents related
2 to motor vehicles shall have an insurable interest in all license
3 plates, licenses, tabs, forms and other documents held on behalf
4 of the department.

5 4. The fee increases authorized by this section and
6 approved by the general assembly were requested by the fee
7 agents. All fee agent offices shall display a three foot by four
8 foot sign with black letters of at least three inches in height
9 on a white background which states:

10 The increased fees approved by the
11 Missouri Legislature and charged by
12 this fee office were requested by the
13 fee agents.

14 142.803. 1. A tax is levied and imposed on all motor fuel
15 used or consumed in this state as follows:

16 (1) Motor fuel, seventeen cents per gallon[. Beginning
17 April 1, 2008, the tax rate shall become eleven cents per
18 gallon];

19 (2) Alternative fuels, not subject to the decal fees as
20 provided in section 142.869, with a power potential equivalent of
21 motor fuel. In the event alternative fuel, which is not commonly
22 sold or measured by the gallon, is used in motor vehicles on the
23 highways of this state, the director is authorized to assess and
24 collect a tax upon such alternative fuel measured by the nearest
25 power potential equivalent to that of one gallon of regular grade
26 gasoline. The determination by the director of the power
27 potential equivalent of such alternative fuel shall be prima
28 facie correct;

1 (3) Aviation fuel used in propelling aircraft with
2 reciprocating engines, nine cents per gallon as levied and
3 imposed by section 155.080, RSMo, to be collected as required
4 under this chapter.

5 2. All taxes, surcharges and fees are imposed upon the
6 ultimate consumer, but are to be precollected as described in
7 this chapter, for the facility and convenience of the consumer.
8 The levy and assessment on other persons as specified in this
9 chapter shall be as agents of this state for the precollection of
10 the tax.

11 144.805. 1. In addition to the exemptions granted pursuant
12 to the provisions of section 144.030, there shall also be
13 specifically exempted from the provisions of sections 144.010 to
14 144.525, sections 144.600 to 144.748, and section 238.235, RSMo,
15 and the provisions of any local sales tax law, as defined in
16 section 32.085, RSMo, and from the computation of the tax levied,
17 assessed or payable pursuant to sections 144.010 to 144.525,
18 sections 144.600 to 144.748, and section 238.235, RSMo, and the
19 provisions of any local sales tax law, as defined in section
20 32.085, RSMo, all sales of aviation jet fuel in a given calendar
21 year to common carriers engaged in the interstate air
22 transportation of passengers and cargo, and the storage, use and
23 consumption of such aviation jet fuel by such common carriers, if
24 such common carrier has first paid to the state of Missouri, in
25 accordance with the provisions of this chapter, state sales and
26 use taxes pursuant to the foregoing provisions and applicable to
27 the purchase, storage, use or consumption of such aviation jet
28 fuel in a maximum and aggregate amount of one million five

1 hundred thousand dollars of state sales and use taxes in such
2 calendar year.

3 2. To qualify for the exemption prescribed in subsection 1
4 of this section, the common carrier shall furnish to the seller a
5 certificate in writing to the effect that an exemption pursuant
6 to this section is applicable to the aviation jet fuel so
7 purchased, stored, used and consumed. The director of revenue
8 shall permit any such common carrier to enter into a direct-pay
9 agreement with the department of revenue, pursuant to which such
10 common carrier may pay directly to the department of revenue any
11 applicable sales and use taxes on such aviation jet fuel up to
12 the maximum aggregate amount of one million five hundred thousand
13 dollars in each calendar year. The director of revenue shall
14 adopt appropriate rules and regulations to implement the
15 provisions of this section, and to permit appropriate claims for
16 refunds of any excess sales and use taxes collected in calendar
17 year 1993 or any subsequent year with respect to any such common
18 carrier and aviation jet fuel.

19 3. The provisions of this section shall apply to all
20 purchases and deliveries of aviation jet fuel from and after May
21 10, 1993.

22 4. [Effective September 1, 1998,] All sales and use tax
23 revenues upon aviation jet fuel received pursuant to this
24 chapter, less the amounts specifically designated pursuant to the
25 constitution or pursuant to section 144.701, for other purposes,
26 shall be deposited to the credit of the aviation trust fund
27 established pursuant to section 305.230, RSMo; provided however,
28 the amount of such state sales and use tax revenues deposited to

1 the credit of such aviation trust fund shall not exceed [five]
2 six million dollars in each calendar year.

3 5. The provisions of this section and section 144.807 shall
4 expire on December 31, [2003] 2008.

5 155.080. 1. There is hereby imposed a use tax on each
6 gallon of aviation fuel used in propelling aircraft with
7 reciprocating engines. The tax is imposed at the rate of nine
8 cents per gallon. Such tax is to be collected and remitted to
9 this state or paid to this state in the same manner and method
10 and at the same time as is prescribed by chapter 142, RSMo, for
11 the collection of the motor fuel tax imposed on each gallon of
12 motor fuel used in propelling motor vehicles upon the public
13 highways of Missouri.

14 2. All applicable provisions contained in chapter 142,
15 RSMo, governing administration, collection and enforcement of the
16 state motor fuel tax shall apply to this section, including but
17 not limited to reporting, penalties and interest.

18 3. Each commercial agricultural aircraft operator may apply
19 for a refund of the tax it has paid for aviation fuel used in a
20 commercial agricultural aircraft. All such applications for
21 refunds shall be made in accordance with the procedures specified
22 in chapter 142, RSMo, for refunds of motor fuel taxes paid. If
23 any person who is eligible to receive a refund of aviation fuel
24 tax fails to apply for a refund as provided in chapter 142, RSMo,
25 [he makes a gift of his refund to the aviation trust fund] the
26 refund amount shall be deposited to the credit of the aviation
27 trust fund pursuant to section 305.230, RSMo.

28 226.200. 1. There is hereby created a "State Highways and

1 Transportation Department Fund" into which shall be paid or
2 transferred all state revenue derived from highway users as an
3 incident to their use or right to use the highways of the state,
4 including all state license fees and taxes upon motor vehicles,
5 trailers, and motor vehicle fuels, and upon, with respect to, or
6 on the privilege of the manufacture, receipt, storage,
7 distribution, sale or use thereof (excepting the sales tax on
8 motor vehicles and trailers, and all property taxes), and all
9 other revenue received or held for expenditure by or under the
10 department of transportation or the state highways and
11 transportation commission, except:

- 12 (1) Money arising from the sale of bonds;
- 13 (2) Money received from the United States government; or
- 14 (3) Money received for some particular use or uses other
15 than for the payment of principal and interest on outstanding
16 state road bonds.

17 2. Subject to the limitations of subsection 3 of this
18 section, from said fund shall be paid or credited the cost:

- 19 (1) Of collection of all said state revenue derived from
20 highway users as an incident to their use or right to use the
21 highways of the state;
- 22 (2) Of maintaining the state highways and transportation
23 commission;
- 24 (3) Of maintaining the state transportation department;
- 25 (4) Of any workers' compensation for state transportation
26 department employees;
- 27 (5) Of the share of the transportation department in any
28 retirement program for state employees, only as may be provided

1 by law; and

2 (6) Of administering and enforcing any state motor vehicle
3 laws or traffic regulations.

4 3. [For all future fiscal years,] Beginning in fiscal year
5 2004, the total amount of appropriations from the state highways
6 and transportation department fund for all state offices and
7 departments, except for the highway patrol, and actual costs
8 incurred by the office of administration for or on behalf of the
9 highway patrol and employees of the department of transportation,
10 shall not exceed the total amount appropriated for such offices
11 and departments from said fund for fiscal year 2001.

12 4. The provisions of subsection 3 of this section shall not
13 apply to appropriations from the state highways and
14 transportation department fund to the highways and transportation
15 commission and the state transportation department or to
16 appropriations to the office of administration for department of
17 transportation employee fringe benefits and OASDHI payments, or
18 to appropriations to the department of revenue for motor vehicle
19 fuel tax refunds under chapter 142, RSMo, or to appropriations to
20 the department of revenue for refunds or overpayments or
21 erroneous payments from the state highways and transportation
22 department fund.

23 5. All interest earned upon the state highways and
24 transportation department fund shall be deposited in and to the
25 credit of such fund.

26 6. Any balance remaining in said fund after payment of said
27 costs shall be transferred to the state road fund.

28 7. Notwithstanding the provisions of subsection 2 of this

1 section to the contrary, any funds raised as a result of
2 increased taxation pursuant to sections 142.025 and 142.372,
3 RSMo, after April 1, 1992, shall not be used for administrative
4 purposes or administrative expenses of the transportation
5 department.

6 226.540. Notwithstanding any other provisions of sections
7 226.500 to 226.600, outdoor advertising shall be permitted within
8 six hundred and sixty feet of the nearest edge of the
9 right-of-way of [any interstate or primary highway] highways
10 located on the interstate, federal-aid primary system as it
11 existed on June 1, 1991, or the national highway system as
12 amended in areas zoned industrial, commercial or the like and in
13 unzoned commercial and industrial areas as defined in this
14 section, subject to the following regulations which are
15 consistent with customary use in this state:

16 (1) Lighting:

17 (a) No revolving or rotating beam or beacon of light that
18 simulates any emergency light or device shall be permitted as
19 part of any sign. No flashing, intermittent, or moving light or
20 lights will be permitted except scoreboards and other illuminated
21 signs designating public service information, such as time, date,
22 or temperature, or similar information, will be allowed; tri-
23 vision, projection and other changeable message signs shall be
24 allowed subject to Missouri highway and transportation commission
25 regulations;

26 (b) External lighting, such as floodlights, thin line and
27 gooseneck reflectors are permitted, provided the light source is
28 directed upon the face of the sign and is effectively shielded so

1 as to prevent beams or rays of light from being directed into any
2 portion of the main traveled way of the federal-aid primary
3 highways as of June 1, 1991, and all highways designated as part
4 of the National Highway System by the National Highway System
5 Designation Act of 1995 and those highways subsequently
6 designated as part of the National Highway System and the lights
7 are not of such intensity so as to cause glare, impair the vision
8 of the driver of a motor vehicle, or otherwise interfere with a
9 driver's operation of a motor vehicle;

10 (c) No sign shall be so illuminated that it interferes with
11 the effectiveness of, or obscures, an official traffic sign,
12 device, or signal;

13 (2) Size of signs:

14 (a) The maximum area for any one sign shall be eight
15 hundred square feet with a maximum height of thirty feet and a
16 maximum length of seventy-two feet, inclusive of border and trim
17 but excluding the base or apron, supports, and other structural
18 members. The area shall be measured as established herein and in
19 rules promulgated by the commission. In determining the size of
20 a conforming or nonconforming sign structure, temporary cutouts
21 and extensions installed for the length of a specific display
22 contract shall not be [included in calculating] considered a
23 substantial increase to the size of the permanent display;
24 provided the actual square footage of such temporary cutouts or
25 extensions may not exceed thirty-three percent of the permanent
26 display area. Signs erected in accordance with the provisions of
27 sections 226.500 to 226.600 prior to the effective date of this
28 provision which fail to meet the requirements of this provision

1 shall be deemed legal nonconforming as defined herein;

2 (b) The maximum size limitations shall apply to each side
3 of a sign structure, and signs may be placed back to back, double
4 faced, or in V-type construction with not more than two displays
5 to each facing, but such sign structure shall be considered as
6 one sign;

7 (c) After August 28, 1999, no new sign structure shall be
8 erected in which two or more displays are stacked one above the
9 other. Stacked structures existing on or before August 28, 1999,
10 in accordance with sections 226.500 to 226.600 shall [not] be
11 deemed legal nonconforming [for failure to meet the requirements
12 of this section until such sign's structure is modified,
13 repaired, replaced or rebuilt] and may be maintained in
14 accordance with the provisions sections of 226.500 to 226.600.

15 Structures displaying more than one display on a horizontal basis
16 shall be allowed, provided that total display areas do not exceed
17 the maximum allowed square footage for a sign structure pursuant
18 to the provisions of paragraph (a) of subdivision (2) of this
19 section;

20 (3) Spacing of signs:

21 (a) On all interstate highways, [and] freeways [on the] and
22 nonfreeway federal-aid primary highways as of June 1, 1991, and
23 all highways designated as part of the National Highway System by
24 the National Highway System Designation Act of 1995 and those
25 highways subsequently designated as part of the National Highway
26 System:

27 a. No sign structure shall be erected within [five hundred]
28 one thousand four hundred feet of an existing sign on the same

1 side of the highway;

2 b. Outside of incorporated municipalities, no structure may
3 be located adjacent to or within five hundred feet of an
4 interchange, intersection at grade, or safety rest area. Such
5 five hundred feet shall be measured from the beginning or ending
6 of the pavement widening at the exit from or entrance to the main
7 traveled way. For purpose of this subparagraph, the term
8 "incorporated municipalities" shall include "urban areas", except
9 that such "urban areas" shall not be considered "incorporated
10 municipalities" if it is finally determined that such would have
11 the effect of making Missouri be in noncompliance with the
12 requirements of Title 23, United States Code, Section 131;

13 (b) [Nonfreeway federal-aid primary highways as of June 1,
14 1991, and all highways designated as part of the National Highway
15 System by the National Highway System Designation Act of 1995 and
16 those highways subsequently designated as part of the National
17 Highway System:

18 a. Outside incorporated municipalities, no structure shall
19 be erected within five hundred feet of an existing sign on the
20 same side of the highway. Sign structures existing prior to
21 August 28, 1999, which complied with the requirements of this
22 section when erected shall not be deemed nonconforming for
23 failure to comply with the spacing provisions of this section
24 until such sign's structure is modified, repaired, replaced or
25 rebuilt;

26 b. Within incorporated municipalities, no structure shall
27 be erected within five hundred feet of an existing sign. Sign
28 structures existing prior to August 28, 1999, which complied with

1 the requirements of this section when erected shall not be deemed
2 nonconforming for failure to comply with the spacing provisions
3 of this section until such sign's structure is modified,
4 repaired, replaced or rebuilt;

5 (c)] The spacing between structure provisions of
6 subdivision (3) of this section do not apply to signs which are
7 separated by buildings, natural surroundings, or other
8 obstructions in such manner that only one sign facing located
9 within such distance is visible at any one time. Directional or
10 other official signs or those advertising the sale or lease of
11 the property on which they are located, or those which advertise
12 activities on the property on which they are located, including
13 products sold, shall not be counted, nor shall measurements be
14 made from them for the purpose of compliance with spacing
15 provisions;

16 [(d)] (c) No sign shall be located in such manner as to
17 obstruct or otherwise physically interfere with the effectiveness
18 of an official traffic sign, signal, or device or obstruct or
19 physically interfere with a motor vehicle operator's view of
20 approaching, merging, or intersecting traffic;

21 [(e)] (d) The measurements in this section shall be the
22 minimum distances between outdoor advertising sign structures
23 measured along the nearest edge of the pavement between points
24 directly opposite the signs along each side of the highway and
25 shall apply only to outdoor advertising sign structures located
26 on the same side of the highway involved;

27 (4) As used in this section, the words "unzoned commercial
28 and industrial land" shall be defined as follows: that area not

1 zoned by state or local law or ordinance and on which there is
2 located one or more permanent structures used for a commercial
3 business or industrial activity or on which a commercial or
4 industrial activity is actually conducted together with the area
5 along the highway extending outwardly [~~six hundred~~] seven hundred
6 fifty feet from and beyond the edge of such activity. All
7 measurements shall be from the outer edges of the regularly used
8 improvements, buildings, parking lots, landscaped, storage or
9 processing areas of the commercial or industrial activity and
10 along and parallel to the edge of the pavement of the highway.
11 [On nonfreeway federal-aid primary highways as of June 1, 1991,
12 and all highways designated as part of the National Highway
13 System by the National Highway System Designation Act of 1995 and
14 those highways subsequently designated as part of the National
15 Highway System, where there is an unzoned commercial or
16 industrial area on one side of the road as described in this
17 section, the term "unzoned commercial or industrial land" shall
18 also include those lands directly opposite on the other side of
19 the highway to the extent of the same dimensions.] Unzoned land
20 shall not include:

21 (a) Land on the opposite side of [an interstate or freeway
22 primary] the highway from an unzoned commercial or industrial
23 area as defined in this section and located adjacent to highways
24 located on the interstate, federal-aid primary system as it
25 existed on June 1, 1991, or the national highway system as
26 amended, unless the opposite side of the highway qualifies as a
27 separate unzoned commercial or industrial area; or

28 (b) Land zoned by a state or local law, regulation, or

1 ordinance;

2 [(c) Land on the opposite side of a nonfreeway primary
3 highway which is determined by the proper state authority to be a
4 scenic area;]

5 (5) "Commercial or industrial activities" as used in this
6 section means those which are generally recognized as commercial
7 or industrial by zoning authorities in this state, except that
8 none of the following shall be considered commercial or
9 industrial:

10 (a) Outdoor advertising structures;

11 (b) Agricultural, forestry, ranching, grazing, farming, and
12 related activities, including seasonal roadside fresh produce
13 stands;

14 (c) Transient or temporary activities;

15 (d) Activities more than six hundred sixty feet from the
16 nearest edge of the right-of-way or not visible from the main
17 traveled way;

18 (e) Activities conducted in a building principally used as
19 a residence;

20 (f) Railroad tracks and minor sidings;

21 (6) The words "unzoned commercial or industrial land" shall
22 also include all areas not specified in this section which
23 constitute an "unzoned commercial or industrial area" within the
24 meaning of the present Section 131 of Title 23 of the United
25 States Code, or as such statute may be amended. As used in this
26 section, the words "zoned commercial or industrial area" shall
27 refer to those areas zoned commercial or industrial by the duly
28 constituted zoning authority of a municipality, county, or other

1 lawfully established political subdivision of the state, or by
2 the state and which is within seven hundred fifty feet of one or
3 more permanent commercial or industrial activities. [Unzoned]

4 Commercial or industrial activities as used in this section are
5 limited to those activities:

6 (a) In which the primary use of the property is commercial
7 or industrial in nature;

8 (b) Which are clearly visible from the highway and
9 recognizable as a commercial business;

10 (c) Which are permanent as opposed to temporary or
11 transitory and of a nature that would customarily be restricted
12 to commercial or industrial zoning in areas comprehensively
13 zoned; and

14 (d) In determining whether the primary use of the property
15 is commercial or industrial pursuant to paragraph (a) of this
16 subdivision, the state highways and transportation commission
17 shall consider the following factors:

18 a. The presence of a permanent and substantial building;

19 b. The existence of utilities and [required] local business
20 licenses, if any, for the commercial activity;

21 c. On-premise signs or other identification;

22 d. [Communication with the business owner that can be
23 accomplished at regular intervals either in person, by telephone,
24 by fax machine, by electronic mail or by some other business
25 means] The presence of an owner or employee on the premises for
26 at least twenty hours per week;

27 (7) In zoned commercial and industrial areas, whenever a
28 state, county or municipal zoning authority has adopted laws or

1 ordinances which include regulations with respect to the size,
2 lighting and spacing of signs, which regulations are consistent
3 with the intent of sections 226.500 to 226.600 and with customary
4 use, then from and after the effective date of such regulations,
5 and so long as they shall continue in effect, the provisions of
6 this section shall not apply to the erection of signs in such
7 areas. Notwithstanding any other provisions of this section,
8 after August 28, 1992, with respect to any outdoor advertising
9 which is regulated by the provisions of subdivision (1), (3) or
10 (4) of section 226.520 or subsection 1 of section 226.527:

11 (a) No county or municipality shall issue a permit to allow
12 a regulated sign to be newly erected without a permit issued by
13 the state highways and transportation commission;

14 (b) A county or municipality may charge a reasonable
15 one-time permit or inspection fee to assure compliance with local
16 wind load and electrical requirements when the sign is first
17 erected, but a county or municipality may not charge a permit or
18 inspection fee for such sign after such initial fee. Changing
19 the display face or performing routine maintenance shall not be
20 considered as erecting a new sign;

21 (8) The state highways and transportation commission on
22 behalf of the state of Missouri, may seek agreement with the
23 Secretary of Transportation of the United States under Section
24 131 of Title 23, United States Code, as amended, that sections
25 226.500 to 226.600 are in conformance with that Section 131 and
26 provides effective control of outdoor advertising signs as set
27 forth therein. If such agreement cannot be reached and the
28 penalties under subsection (b) of Section 131 are invoked, the

1 attorney general of this state shall institute proceedings
2 described in subsection (1) of that Section 131.

3 226.550. 1. No outdoor advertising which is regulated by
4 subdivision (1), (3) or (4) of section 226.520 or subsection 1 of
5 section 226.527 shall be erected or maintained on or after August
6 28, 1992, without a one-time permanent permit issued by the state
7 highways and transportation commission. Application for permits
8 shall be made to the state highways and transportation commission
9 on forms furnished by the commission and shall be accompanied by
10 a permit fee of [twenty-eight dollars and fifty cents] two
11 hundred dollars for all signs; except that, tax-exempt religious
12 organizations as defined in subdivision (11) of section 313.005,
13 RSMo, service organizations as defined in subdivision (12) of
14 section 313.005, RSMo, veterans' organizations as defined in
15 subdivision (14) of section 313.005, RSMo, and fraternal
16 organizations as defined in subdivision (8) of section 313.005,
17 RSMo, shall be granted a permit for signs less than seventy-six
18 square feet without payment of the fee. In the event a permit
19 holder fails to erect a sign structure within twenty-four months
20 of issuance, said permit shall expire and a new permit must be
21 obtained prior to any construction.

22 2. No outdoor advertising which is regulated by subdivision
23 (1), (3) or (4) of section 226.520 or subsection 1 of section
24 226.527 which was erected prior to August 28, 1992, shall be
25 maintained without a one-time permanent permit for outdoor
26 advertising issued by the state highways and transportation
27 commission. If a one-time permanent permit was issued by the
28 state highways and transportation commission after March 30,

1 1972, and before August 28, 1992, it is not necessary for a new
2 permit to be issued. If a one-time permanent permit was not
3 issued for a lawfully erected and lawfully existing sign by the
4 state highways and transportation commission after March 30,
5 1972, and before August 28, 1992, a one-time permanent permit
6 shall be issued by the commission for each sign which is lawfully
7 in existence on the day prior to August 28, 1992, upon
8 application and payment of a permit fee of [twenty-eight dollars
9 and fifty cents] two hundred dollars. All applications and fees
10 due pursuant to this subsection shall be submitted before
11 December 31, 1992.

12 3. For purposes of sections 226.500 to 226.600, the
13 terminology "structure lawfully in existence" or "lawfully
14 existing" sign or outdoor advertising shall, nevertheless,
15 include the following signs unless the signs violate the
16 provisions of subdivisions (3) to (7) of subsection 1 of section
17 226.580:

18 (1) All signs erected prior to January 1, 1968;

19 (2) All signs erected before March 30, 1972, but on or
20 after January 1, 1968, which would otherwise be lawful but for
21 the failure to have a permit for such signs prior to March 30,
22 1972, except that any sign or structure which was not in
23 compliance with sizing, spacing, lighting, or location
24 requirements of sections 226.500 to 226.600 as the sections
25 appeared in the revised statutes of Missouri 1969, wheresoever
26 located, shall not be considered a lawfully existing sign or
27 structure;

28 (3) All signs erected after March 30, 1972, which are in

1 conformity with sections 226.500 to 226.600;

2 (4) All signs erected in compliance with sections 226.500
3 to 226.600, RSMo, prior to the effective date of this act.

4 4. On or after August 28, 1992, the state highways and
5 transportation commission may, in addition to the fees authorized
6 by subsections 1 and 2 of this section, collect a biennial
7 inspection fee every two years after a state permit has been
8 issued. Biennial inspection fees due after August 28, [1992]
9 2002, and prior to August 28, 2003, shall be [twenty-eight
10 dollars and fifty cents] fifty dollars. Biennial inspection fees
11 due on or after August 28, 2003, shall be seventy-five dollars.
12 Biennial inspection fees due on or after August 28, 2004, shall
13 be one hundred dollars; except that, tax-exempt religious
14 organizations as defined in subdivision (11) of section 313.005,
15 RSMo, service organizations as defined in subdivision (12) of
16 section 313.005, RSMo, veterans' organizations as defined in
17 subdivision (14) of section 313.005, RSMo, and fraternal
18 organizations as defined in subdivision (8) of section 313.005,
19 RSMo, shall not be required to pay such fee.

20 5. [In order to effect collection from a sign owner of
21 delinquent and unpaid biennial inspection fees which are payable
22 pursuant to this section, or delinquent removal costs pursuant to
23 section 226.580, the state highways and transportation commission
24 may require any delinquent fees to be paid before a permit is
25 issued to the delinquent sign owner for any new sign.] In order
26 to effect the more efficient collection of biennial inspection
27 fees, the state highways and transportation commission is
28 encouraged to adopt a renewal system in which all permits on a

1 particular county are renewed in the same month. In conjunction
2 with the conversion to this renewal system, the state highways
3 and transportation commission is specifically authorized to
4 prorate renewal fees based on changes in renewal dates.

5 6. Sign owners or owners of the land on which signs are
6 located must apply to the state highways and transportation
7 commission for biennial inspection and submit any fees as
8 required by this section on or before December 31, 1992. For a
9 permitted sign which does not have a permit, a permit shall be
10 issued at the time of the next biennial inspection.

11 7. The state highways and transportation commission shall
12 deposit all fees received for outdoor advertising permits and
13 inspection fees in the state road fund, keeping a separate record
14 of such fees, and the same may be expended by the commission in
15 the administration of sections 226.500 to 226.600.

16 226.573. The state highways and transportation commission
17 is authorized to adopt administrative rules regulating the use of
18 new technology in outdoor advertising as allowed under federal
19 regulations for federal-aid primary highways as of June 1, 1991,
20 and all highways designated as part of the National Highway
21 System by the National Highway System Designation Act of 1995 and
22 those highways subsequently designated as part of the National
23 Highway System. Any rule or portion of a rule, as that term is
24 defined in section 536.010, RSMo, that is promulgated pursuant to
25 the authority delegated in this section shall become effective
26 only if it has been promulgated pursuant to the provisions of
27 chapter 536, RSMo. This section and chapter 536, RSMo, are
28 nonseverable and if any of the powers vested with the general

1 assembly pursuant to chapter 536, RSMo, to review, to delay the
2 effective date or to disapprove and annul a rule are subsequently
3 held unconstitutional, then the grant of rulemaking authority and
4 any rule proposed or adopted after [August 28, 1999,] the
5 effective date of this section shall be invalid and void.

6 226.580. 1. The following outdoor advertising within six
7 hundred sixty feet of the right-of-way of interstate or primary
8 highways is deemed unlawful and shall be subject to removal:

9 (1) Signs erected after March 30, 1972, contrary to the
10 provisions of sections 226.500 to 226.600 and signs erected on or
11 after January 1, 1968, but before March 30, 1972, contrary to the
12 sizing, spacing, lighting, or location provisions of sections
13 226.500 to 226.600 as they appeared in the revised statutes of
14 Missouri 1969; or

15 (2) Signs for which a permit is not obtained or a biennial
16 inspection fee is [not paid as prescribed in sections 226.500 to
17 226.600] more than twelve months past due; or

18 (3) Signs which are obsolete; (Signs shall not be
19 considered obsolete solely because they temporarily do not carry
20 an advertising message.) or

21 (4) Signs that are not in good repair; or

22 (5) Signs not securely affixed to a substantial structure;
23 or

24 (6) Signs which attempt or appear to attempt to regulate,
25 warn, or direct the movement of traffic or which interfere with,
26 imitate, or resemble any official traffic sign, signal, or
27 device; or

28 (7) Signs which are erected or maintained upon trees or

1 painted or drawn upon rocks or other natural features.

2 2. Signs erected after August 13, 1976, beyond six hundred
3 sixty feet of the right-of-way outside of urban areas, visible
4 from the main traveled way of the interstate or primary system
5 and erected with the purpose of their message being read from
6 such traveled way, except those signs described in subdivisions
7 (1) and (2) of section 226.520 are deemed unlawful and shall be
8 subject to removal.

9 3. If a sign is deemed to be unlawful for any of the
10 reasons set out in subsections 1 [and 2] to 7 of this section,
11 the state highways and transportation commission shall give
12 notice either by certified mail or by personal service to the
13 owner or occupant of the land on which advertising believed to be
14 unlawful is located and the owner of the outdoor advertising
15 structure. Such notice shall specify the basis for the alleged
16 unlawfulness, shall specify the remedial action which is required
17 to correct the unlawfulness and shall advise that a failure to
18 take the remedial action within [thirty] sixty days will result
19 in the sign being removed. Within [thirty] sixty days after
20 receipt of the notice as to him, the owner of the land or of the
21 structure may remove the sign or may take the remedial action
22 specified or may file an action for administrative review
23 pursuant to the provisions of sections 536.067 to 536.090, RSMo,
24 to review the action of the state highways and transportation
25 commission, or he may proceed under the provisions of section
26 536.150, RSMo, as if the act of the highways and transportation
27 commission was one not subject to administrative review.
28 Notwithstanding any other provisions of sections 226.500 to

1 226.600, no outdoor advertising structure erected prior to August
2 28, 1992, defined as a "structure lawfully in existence" or
3 "lawfully existing", by subdivision (1), (2) or (3) of subsection
4 2 of section 226.550, shall be removed for failure to have a
5 permit until a notice, as provided in this section, has been
6 issued which shall specify failure to obtain a permit or pay a
7 biennial inspection fee as the basis for alleged unlawfulness,
8 and shall advise that failure to take the remedial action of
9 applying for a permit or paying the inspection fee within
10 [thirty] sixty days will result in the sign being removed. Signs
11 for which biennial inspection fees are delinquent shall not be
12 removed unless the fees are more than twelve months past due and
13 actual notice of the delinquency has been provided to the sign
14 owner. Upon application made within the [thirty-day] sixty-day
15 period as provided in this section, and accompanied by the fee
16 prescribed by section 226.550, together with any inspection fees
17 that would have been payable if a permit had been timely issued,
18 the state highways and transportation commission shall issue a
19 one-time permanent permit for such sign. Such signs with respect
20 to which permits are so issued are hereby determined by the state
21 of Missouri to have been lawfully erected within the meaning of
22 "lawfully erected" as that term is used in Title 23, United
23 States Code, section 131(g), as amended, and shall only be
24 removed upon payment of just compensation, except that the
25 issuance of permits shall not entitle the owners of such signs to
26 compensation for their removal if it is finally determined that
27 such signs are not "lawfully erected" as that term is used in
28 section 131(g) of Title 23 of the United States Code.

1 4. If actual notice as provided in this section is given
2 and neither the remedial action specified is taken nor an action
3 for review is filed, or if an action for review is filed and is
4 finally adjudicated in favor of the state highways and
5 transportation commission, the state highways and transportation
6 commission shall have authority to immediately remove the
7 unlawful outdoor advertising. The owner of the structure shall
8 be liable for the costs of such removal. The commission shall
9 incur no liability for causing this removal, except for damage
10 caused by negligence of the commission, its agents or employees.

11 5. If notice as provided in this section is given and an
12 action for review is filed under the provisions of section
13 536.150, RSMo, or if administrative review pursuant to the
14 provisions of sections 536.067 to 536.090, RSMo, is filed and the
15 state highways and transportation commission enters its final
16 decision and order to remove the outdoor advertising structure,
17 the advertising message contained on the structure shall be
18 removed or concealed by the owner of the structure, at the
19 owner's expense, until the action for judicial review is finally
20 adjudicated. If the owner of the structure refuses or fails to
21 remove or conceal the advertising message, the commission may
22 remove or conceal the advertising message and the owner of the
23 structure shall be liable for the costs of such removal or
24 concealment. The commission shall incur no liability for causing
25 the removal or concealment of the advertising message while an
26 action for review is pending, except if the owner finally
27 prevails in its action for judicial review, the commission will
28 compensate the owner at the rate the owner is actually receiving

1 income from the advertiser pursuant to written lease from the
2 time the message is removed until the judicial review is final.

3 6. Any signs advertising tourist oriented type business
4 will be the last to be removed.

5 7. Any signs prohibited by section 226.527 which were
6 lawfully erected prior to August 13, 1976, shall be removed
7 pursuant to section 226.570.

8 8. The transportation department shall reimburse to the
9 lawful owners of any said nonconforming signs that are now in
10 existence as defined in sections 226.540, 226.550, 226.580 and
11 226.585, said compensation calculated and/or based on a fair
12 market value and not mere replacement cost.

13 226.585. The state transportation department may cut and
14 trim any vegetation on the highway right-of-way which interferes
15 with the effectiveness of or obscures a lawfully erected
16 billboard, or the highways and transportation commission shall
17 promulgate reasonable rules and regulations to permit the cutting
18 and trimming of such vegetation on the highway or right-of-way by
19 the owner of such billboard. The right to a vegetation permit by
20 an outdoor advertising permit holder shall be issued in
21 accordance with the current rules and regulations promulgated by
22 the highways and transportation commission and shall not be
23 denied without good cause. Such rules and regulations shall be
24 promulgated within twelve months after August 28, 1992, or the
25 commission shall suspend the collection of the biennial
26 inspection fees prescribed by section 226.550 until such rules
27 are promulgated, and such rules may include authority to charge a
28 reasonable fee for such [permission] permit. This section shall

1 not apply if its implementation would have the effect of making
2 Missouri be in noncompliance with requirements of Title 23,
3 United States Code, section 131.

4 227.100. 1. All contracts for the construction of said
5 work shall be let to the lowest responsible bidder or bidders
6 after notice and publication of an advertisement in a newspaper
7 published in the county where the work is to be done, and in such
8 other publications as the commission may determine[; provided,
9 that in all cases where the project advertised shall be for the
10 construction of more than ten miles of road, such advertisement
11 shall provide for bids on sections of said road not to exceed ten
12 miles, as well as on the project as a whole, and such contract
13 shall then be let so as to provide for the most economical
14 construction of said project].

15 2. Each bid shall be accompanied by a certified check or a
16 cashier's check or a bid bond, guaranteed by a surety company
17 authorized by the director of the department of insurance to
18 conduct surety business in the state of Missouri, equal to five
19 percent of the bid, which certified check, cashier's check, or
20 bid bond shall be deposited with the commissioner as a guaranty
21 and forfeited to the state treasurer to the credit of the state
22 road fund in the event the successful bidder fails to comply with
23 the terms of the proposal, and return to the successful bidder on
24 execution and delivery of the performance bond provided for in
25 subsection 4. The checks of the unsuccessful bidders shall be
26 returned to them in accordance with the terms of the proposal.

27 3. All notices of the letting of contracts under this
28 section shall state the time and place when and where bids will

1 be received and opened, and all bids shall be sealed and opened
2 only at the time and place mentioned in such notice and in the
3 presence of some member of the commission or some person named by
4 the commission for such purpose.

5 4. The successful bidders for the construction of said work
6 shall enter into contracts furnished and prescribed by the
7 commission and shall give good and sufficient bond, in a sum
8 equal to the contract price, to the state of Missouri, with
9 sureties approved by the commission and to ensure the proper and
10 prompt completion of said work in accordance with the provisions
11 of said contracts, and plans and specifications; provided, that
12 if, in the opinion of the majority of the members of the
13 commission, the lowest bid or bids for the construction of any of
14 the roads, or parts of roads, herein authorized to be
15 constructed, shall be excessive, then, and in that event, said
16 commission shall have the right, and it is hereby empowered and
17 authorized to reject any or all bids, and to construct, under its
18 own direction and supervision, all of such roads and bridges, or
19 any part thereof.

20 227.107. 1. Notwithstanding any provision of section
21 227.100 to the contrary, as an alternative to the requirements
22 and procedures specified by sections 227.040 to 227.100, the
23 state highways and transportation commission is authorized to
24 enter into highway design-build project contracts. The authority
25 granted to the state highways and transportation commission by
26 this section shall be limited to a total of three design-build
27 project contracts. Two design-build projects authorized by this
28 section shall be selected by the highways and transportation

1 commission from 1992 fifteen year plan projects. Authority to
2 enter into design-build projects granted by this section shall
3 expire on July 1, 2012, unless extended by statute or upon
4 completion of three projects, whichever is first.

5 2. For the purpose of this section a "design-builder" is
6 defined as an individual, corporation, partnership, joint venture
7 or other entity, including combinations of such entities making a
8 proposal to perform or performing a design-build highway project
9 contract.

10 3. For the purpose of this section, "design-build highway
11 project contract" is defined as the procurement of all materials
12 and services necessary for the design, construction,
13 reconstruction or improvement of a state highway project in a
14 single contract with a design-builder capable of providing the
15 necessary materials and services.

16 4. For the purpose of this section, "highway project" is
17 defined as the design, construction, reconstruction or
18 improvement of highways or bridges under contract with the state
19 highways and transportation commission, which is funded by state,
20 federal or local funds or any combination of such funds.

21 5. In using a design-build highway project contract, the
22 commission shall establish a written procedure by rule for
23 prequalifying design-builders before such design-builders will be
24 allowed to make a proposal on the project.

25 6. In any design-build highway project contract, whether
26 involving state or federal funds, the commission shall require
27 that each person submitting a request for qualifications provide
28 a detailed disadvantaged business enterprise participation plan.

1 The plan shall provide information describing the experience of
2 the person in meeting disadvantaged business enterprise
3 participation goals, how the person will meet the department of
4 transportation's disadvantaged business enterprise participation
5 goal and such other qualifications that the commission considers
6 to be in the best interest of the state.

7 7. The commission is authorized to issue a request for
8 proposals to a maximum of five design-builders prequalified in
9 accordance with subsection 5 of this section.

10 8. The commission may require approval of any person
11 performing subcontract work on the design-build highway project.

12 9. The bid bond and performance bond requirements of
13 section 227.100 and the payment bond requirements of section
14 107.170, RSMo, shall apply to the design-build highway project.

15 10. The commission is authorized to prescribe the form of
16 the contracts for the work.

17 11. The commission is empowered to make all final decisions
18 concerning the performance of the work under the design-build
19 highway project contract, including claims for additional time
20 and compensation.

21 12. The provisions of sections 8.285 to 8.291, RSMo, shall
22 not apply to the procurement of architectural, engineering or
23 land surveying services for the design-build highway project,
24 except that any person providing architectural, engineering or
25 land surveying services for the design-builder on the design-
26 build highway project must be licensed in Missouri to provide
27 such services.

28 13. The commission shall pay a reasonable stipend to

1 prequalified responsive design-builders who submit a proposal,
2 but are not awarded the design-build highway project.

3 14. The commission shall comply with the provisions of any
4 act of congress or any regulations of any federal administrative
5 agency which provides and authorizes the use of federal funds for
6 highway projects using the design-build process.

7 15. The commission shall promulgate administrative rules to
8 implement this section or to secure federal funds. Such rules
9 shall be published for comment in the Missouri Register and shall
10 include prequalification criteria, the make-up of the
11 prequalification review team, specifications for the design
12 criteria package, the method of advertising, receiving and
13 evaluating proposals from design-builders, the criteria for
14 awarding the design-build highway project based on the design
15 criteria package and a separate proposal stating the cost of
16 construction, and other methods, procedures and criteria
17 necessary to administer this section.

18 16. The commission shall make a status report to the
19 members of the general assembly and the governor following the
20 award of the design-build project, as an individual component of
21 the annual report submitted by the commission to the joint
22 transportation oversight committee in accordance with the
23 provisions of section 21.795, RSMo. The annual report prior to
24 advertisement of the design-build highway project contracts shall
25 state the goals of the project in reducing costs and/or the time
26 of completion for the project in comparison to the design-bid-
27 build method of construction and objective measurements to be
28 utilized in determining achievement of such goals. Subsequent

1 annual reports shall include: the time estimated for design and
2 construction of different phases or segments of the project and
3 the actual time required to complete such work during the period;
4 the amount of each progress payment to the design- builder during
5 the period and the percentage and a description of the portion of
6 the project completed regarding such payment; the number and a
7 description of design change orders issued during the period and
8 the cost of each such change order; upon substantial and final
9 completion, the total cost of the design-build highway project
10 with a breakdown of costs for design and construction; and such
11 other measurements as specified by rule. The annual report
12 immediately after final completion of the project shall state an
13 assessment of the advantages and disadvantages of the design-
14 build method of contracting for highway and bridge projects in
15 comparison to the design-bid-build method of contracting and an
16 assessment of whether the goals of the project in reducing costs
17 and/or the time of completion of the project were met.

18 17. The commission shall give public notice of a request
19 for qualifications in at least two public newspapers that are
20 distributed wholly or in part in this state and at least one
21 construction industry trade publication that is distributed
22 nationally.

23 18. The commission shall publish its cost estimates of the
24 design-build highway project award and the project completion
25 date along with its public notice of a request for qualifications
26 of the design-build project.

27 19. If the commission fails to receive at least two
28 responsive submissions from design-builders considered qualified,

1 submissions shall not be opened and it shall readvertise the
2 project.

3 305.230. 1. The state highways and transportation
4 commission shall administer an aeronautics program within this
5 state. The [state] commission shall encourage, foster and
6 participate with the political subdivisions of this state in the
7 promotion and development of aeronautics. The [state] commission
8 may provide financial assistance in the form of grants from funds
9 appropriated for such purpose to any political subdivision or
10 instrumentality of this state acting independently or jointly or
11 to the owner or owners of any privately owned airport designated
12 as a reliever by the Federal Aviation Administration for the
13 planning, acquisition, construction, improvement or maintenance
14 of airports, or for other aeronautical purposes.

15 2. Any political subdivision or instrumentality of this
16 state or the owner or owners of any privately owned airport
17 designated as a reliever by the Federal Aviation Administration
18 receiving state funds for the purchase, construction, or
19 improvement, except maintenance, of an airport shall agree before
20 any funds are paid to it to control by ownership or lease the
21 airport for a period equal to the useful life of the project as
22 determined by the [state] commission following the last payment
23 of state or federal funds to it. In the event an airport
24 authority ceases to exist for any reason, this obligation shall
25 be carried out by the governing body which created the authority.

26 3. Unless otherwise provided, grants to political
27 subdivisions, instrumentalities or to the owner or owners of any
28 privately owned airport designated as a reliever by the Federal

1 Aviation Administration shall be made from the aviation trust
2 fund. In making grants, the commission shall consider whether
3 the local community has given financial support to the airport in
4 the past. Priority shall be given to airports with local funding
5 for the past five years with no reduction in such funding. The
6 aviation trust fund is a revolving trust fund exempt from the
7 provisions of section 33.080, RSMo, relating to the transfer of
8 funds to the general revenue funds of the state by the state
9 treasurer. All interest earned upon the balance in the aviation
10 trust fund shall be deposited to the credit of the same fund.

11 4. The moneys in the aviation trust fund shall be
12 administered by the [state] commission and, when appropriated,
13 shall be used for the following purposes:

14 (1) As matching funds on an up to [eighty] ninety percent
15 [state/twenty] state/ten percent local basis, except in the case
16 where federal funds are being matched, when the ratio of state
17 and local funds used to match the federal funds shall be fifty
18 percent state/fifty percent local:

19 (a) For preventive maintenance of runways, taxiways and
20 aircraft parking areas, and for emergency repairs of the same;

21 (b) For the acquisition of land for the development and
22 improvement of airports;

23 (c) For the earthwork and drainage necessary for the
24 construction, reconstruction or repair of runways, taxiways, and
25 aircraft parking areas;

26 (d) For the construction, or restoration of runways,
27 taxiways, or aircraft parking areas;

1 (e) For the acquisition of land or easements necessary to
2 satisfy Federal Aviation Administration safety requirements;

3 (f) For the identification, marking or removal of natural
4 or manmade obstructions to airport control zone surfaces and
5 safety areas;

6 (g) For the installation of runway, taxiway, boundary,
7 ramp, or obstruction lights, together with any work directly
8 related to the electrical equipment;

9 (h) For the erection of fencing on or around the perimeter
10 of an airport;

11 (i) For purchase, installation or repair of air
12 navigational and landing aid facilities and communication
13 equipment;

14 (j) For engineering related to a project funded under the
15 provisions of this section and technical studies or consultation
16 related to aeronautics;

17 (k) For airport planning projects including master plans
18 and site selection for development of new airports, for updating
19 or establishing master plans and airport layout plans at existing
20 airports;

21 (l) For the purchase, installation, or repair of safety
22 equipment and such other capital improvements and equipment as
23 may be required for the safe and efficient operation of the
24 airport;

25 (2) As total funds, with no local match:

26 (a) For providing air markers, windsocks, and other items
27 determined to be in the interest of the safety of the general
28 flying public;

1 (b) For the printing and distribution of state aeronautical
2 charts and state airport directories on an annual basis, and a
3 newsletter on a quarterly basis or the publishing and
4 distribution of any public interest information deemed necessary
5 by the [state] commission;

6 (c) For the conducting of aviation safety workshops;

7 (d) For the promotion of aerospace education;

8 (3) As total funds with no local match, up to five hundred
9 thousand dollars per year may be used for the cost of operating
10 existing air traffic control towers that do not receive funding
11 from the Federal Aviation Administration or the United States
12 Department of Defense, except no more than one hundred
13 twenty-five thousand dollars per year may be used for any
14 individual control tower.

15 5. In the event of a natural or manmade disaster which
16 closes any runway or renders inoperative any electronic or visual
17 landing aid at an airport, any funds appropriated for the purpose
18 of capital improvements or maintenance of airports may be made
19 immediately available for necessary repairs once they are
20 approved by the [Missouri department of transportation]
21 commission. For projects designated as emergencies by the
22 [Missouri department of transportation] commission, all
23 requirements relating to normal procurement of engineering and
24 construction services are waived.

25 6. As used in this section, the term "instrumentality of
26 the state" shall mean any state educational institution as
27 defined in section 176.010, RSMo, or any state agency which owned

1 or operated an airport on January 1, 1997, and continues to own
2 or operate such airport.

3 Section B. Because aesthetic highways and right-of-ways are
4 important to Missouri citizens, sections 226.540, 226.550 and
5 226.585 of this act are deemed necessary for the immediate
6 preservation of the public health, welfare, peace and safety, and
7 is hereby declared to be an emergency act within the meaning of
8 the constitution, and sections 226.540, 226.550 and 226.585 of
9 this act shall be in full force and effect upon its passage and
10 approval.