

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1196
91ST GENERAL ASSEMBLY

2522S.16T

2002

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.

Be it enacted by the General Assembly of the state of Missouri, as follows:

- Section A. 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142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100 and 305.230, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 136.055, 142.803, 144.805, 155.080, 226.200, 226.540, 226.550, 226.573, 226.580, 226.585, 227.100, 227.107 and 305.230, to read as follows:
- 136.055. 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:
- (1) For each motor vehicle or trailer license sold, renewed or transferred--two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; **and five dollars beginning August 28, 2002**, for those licenses biennially renewed pursuant to section 301.147, RSMo. **Beginning July 1, 2003, for each motor vehicle or trailer license sold, renewed or transferred--three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147, RSMo;**
- (2) For each application or transfer of title--two dollars and fifty cents beginning January

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 1, 1998;

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

18 (4) For each notice of lien processed--two dollars and fifty cents beginning August 28,
19 2000;

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

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

27 3. Any person acting as agent of the department of revenue for the sale and issuance of
28 licenses and other documents related to motor vehicles shall have an insurable interest in all
29 license plates, licenses, tabs, forms and other documents held on behalf of the department.

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

33 The increased fees approved by the
34 Missouri Legislature and charged by
35 this fee office were requested by the
36 fee agents.

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

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

5 (2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with
6 a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly
7 sold or measured by the gallon, is used in motor vehicles on the highways of this state, the
8 director is authorized to assess and collect a tax upon such alternative fuel measured by the
9 nearest power potential equivalent to that of one gallon of regular grade gasoline. The
10 determination by the director of the power potential equivalent of such alternative fuel shall be
11 prima facie correct;

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

14 chapter.

15 2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be
16 precollected as described in this chapter, for the facility and convenience of the consumer. The
17 levy and assessment on other persons as specified in this chapter shall be as agents of this state
18 for the precollection of the tax.

 144.805. 1. In addition to the exemptions granted pursuant to the provisions of section
2 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to
3 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any
4 local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax
5 levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748,
6 and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section
7 32.085, RSMo, all sales of aviation jet fuel in a given calendar year to common carriers engaged
8 in the interstate air transportation of passengers and cargo, and the storage, use and consumption
9 of such aviation jet fuel by such common carriers, if such common carrier has first paid to the
10 state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes
11 pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption
12 of such aviation jet fuel in a maximum and aggregate amount of one million five hundred
13 thousand dollars of state sales and use taxes in such calendar year.

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

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

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

32 shall not exceed [five] **six** million dollars in each calendar year.

33 5. The provisions of this section and section 144.807 shall expire on December 31,
34 [2003] **2008**.

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

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

10 3. Each commercial agricultural aircraft operator may apply for a refund of the tax it has
11 paid for aviation fuel used in a commercial agricultural aircraft. All such applications for refunds
12 shall be made in accordance with the procedures specified in chapter 142, RSMo, for refunds of
13 motor fuel taxes paid. If any person who is eligible to receive a refund of aviation fuel tax fails
14 to apply for a refund as provided in chapter 142, RSMo, [he makes a gift of his refund to the
15 aviation trust fund] **the refund amount shall be deposited to the credit of the aviation trust**
16 **fund pursuant to section 305.230, RSMo.**

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

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

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

- 15 (1) Of collection of all said state revenue derived from highway users as an incident to
16 their use or right to use the highways of the state;
17 (2) Of maintaining the state highways and transportation commission;

- 18 (3) Of maintaining the state transportation department;
19 (4) Of any workers' compensation for state transportation department employees;
20 (5) Of the share of the transportation department in any retirement program for state
21 employees, only as may be provided by law; and
22 (6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

23 3. [For all future fiscal years,] **Beginning in fiscal year 2004**, the total amount of
24 appropriations from the state highways and transportation department fund for all state offices
25 and departments, **except for the highway patrol, and actual costs incurred by the office of**
26 **administration for or on behalf of the highway patrol and employees of the department of**
27 **transportation**, shall not exceed the total amount appropriated for such offices and departments
28 from said fund for fiscal year 2001. **Appropriations to the highway patrol from the state**
29 **highways and transportation department fund shall be made in accordance with article IV,**
30 **section 30(b) of the Missouri Constitution. Appropriations allocated from the state**
31 **highways and transportation department fund to the highway patrol shall only be used by**
32 **the highway patrol to administer and enforce state motor vehicle laws or traffic**
33 **regulations. Beginning July 1, 2007, any activities or functions conducted by the highway**
34 **patrol not related to enforcing or administering state motor vehicle laws or traffic**
35 **regulations shall not be funded by the state highways and transportation department fund,**
36 **but shall be funded from general revenue or any other applicable source. Any current**
37 **funding from the highways and transportation department fund used for activities not**
38 **related to enforcing state motor vehicle laws or traffic regulations shall expire on June 30,**
39 **2007. The state auditor shall annually audit and examine the appropriations made to the**
40 **highway patrol to determine whether such appropriations are actually being used for**
41 **administering and enforcing state motor vehicle laws and traffic regulations pursuant to**
42 **the constitution. The state auditor shall submit its annual findings to the general assembly**
43 **by January fifteenth of each year.**

44 4. The provisions of subsection 3 of this section shall not apply to appropriations from
45 the state highways and transportation department fund to the highways and transportation
46 commission and the state transportation department or to appropriations to the office of
47 administration for department of transportation employee fringe benefits and OASDHI payments,
48 or to appropriations to the department of revenue for motor vehicle fuel tax refunds under
49 chapter 142, RSMo, or to appropriations to the department of revenue for refunds or
50 overpayments or erroneous payments from the state highways and transportation department
51 fund.

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

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

56 7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any
57 funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo,
58 after April 1, 1992, shall not be used for administrative purposes or administrative expenses of
59 the transportation department.

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

8 (1) Lighting:

9 (a) No revolving or rotating beam or beacon of light that simulates any emergency light
10 or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or
11 lights will be permitted except scoreboards and other illuminated signs designating public service
12 information, such as time, date, or temperature, or similar information, will be allowed; **tri-**
13 **vision, projection and other changeable message signs shall be allowed subject to Missouri**
14 **highway and transportation commission regulations;**

15 (b) External lighting, such as floodlights, thin line and gooseneck reflectors are
16 permitted, provided the light source is directed upon the face of the sign and is effectively
17 shielded so as to prevent beams or rays of light from being directed into any portion of the main
18 traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated
19 as part of the National Highway System by the National Highway System Designation Act of
20 1995 and those highways subsequently designated as part of the National Highway System and
21 the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor
22 vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

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

25 (2) Size of signs:

26 (a) The maximum area for any one sign shall be eight hundred square feet with a
27 maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of border
28 and trim but excluding the base or apron, supports, and other structural members. The area shall
29 be measured as established **herein and** in rules promulgated by the commission. In determining
30 the size of a **conforming or nonconforming** sign structure, temporary cutouts and extensions

31 installed for the length of a specific display contract shall not be [included in calculating]
32 **considered a substantial increase to** the size of the permanent display; provided the actual
33 square footage of such temporary cutouts or extensions may not exceed thirty-three percent of
34 the permanent display area. **Signs erected in accordance with the provisions of sections**
35 **226.500 to 226.600 prior to the effective date of this provision which fail to meet the**
36 **requirements of this provision shall be deemed legal nonconforming as defined herein;**

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

40 (c) After August 28, 1999, no new sign structure shall be erected in which two or more
41 displays are stacked one above the other. Stacked structures existing on or before August 28,
42 1999, in accordance with sections 226.500 to 226.600 shall [not] be deemed **legal**
43 **nonconforming** [for failure to meet the requirements of this section until such sign's structure is
44 modified, repaired, replaced or rebuilt] **and may be maintained in accordance with the**
45 **provisions sections of 226.500 to 226.600.** Structures displaying more than one display on a
46 horizontal basis shall be allowed, provided that total display areas do not exceed the maximum
47 allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of
48 subdivision (2) of this section;

49 (3) Spacing of signs:

50 (a) **On all** interstate highways, [and] freeways [on the] **and nonfreeway** federal-aid
51 primary highways as of June 1, 1991, and all highways designated as part of the National
52 Highway System by the National Highway System Designation Act of 1995 and those highways
53 subsequently designated as part of the National Highway System:

54 a. No sign structure shall be erected within [five hundred] **one thousand four hundred**
55 feet of an existing sign on the same side of the highway;

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

64 (b) [Nonfreeway federal-aid primary highways as of June 1, 1991, and all highways
65 designated as part of the National Highway System by the National Highway System Designation
66 Act of 1995 and those highways subsequently designated as part of the National Highway

67 System:

68 a. Outside incorporated municipalities, no structure shall be erected within five hundred
69 feet of an existing sign on the same side of the highway. Sign structures existing prior to August
70 28, 1999, which complied with the requirements of this section when erected shall not be
71 deemed nonconforming for failure to comply with the spacing provisions of this section until
72 such sign's structure is modified, repaired, replaced or rebuilt;

73 b. Within incorporated municipalities, no structure shall be erected within five hundred
74 feet of an existing sign. Sign structures existing prior to August 28, 1999, which complied with
75 the requirements of this section when erected shall not be deemed nonconforming for failure to
76 comply with the spacing provisions of this section until such sign's structure is modified,
77 repaired, replaced or rebuilt;

78 (c) The spacing between structure provisions of subdivision (3) of this section do not
79 apply to signs which are separated by buildings, natural surroundings, or other obstructions in
80 such manner that only one sign facing located within such distance is visible at any one time.
81 Directional or other official signs or those advertising the sale or lease of the property on which
82 they are located, or those which advertise activities on the property on which they are located,
83 including products sold, shall not be counted, nor shall measurements be made from them for
84 the purpose of compliance with spacing provisions;

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

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

93 (4) As used in this section, the words "unzoned commercial and industrial land" shall
94 be defined as follows: that area not zoned by state or local law or ordinance and on which there
95 is located one or more permanent structures used for a commercial business or industrial activity
96 or on which a commercial or industrial activity is actually conducted together with the area along
97 the highway extending outwardly [six hundred] **seven hundred fifty** feet from and beyond the
98 edge of such activity. All measurements shall be from the outer edges of the regularly used
99 improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial
100 or industrial activity and along and parallel to the edge of the pavement of the highway. [On
101 nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part
102 of the National Highway System by the National Highway System Designation Act of 1995 and

103 those highways subsequently designated as part of the National Highway System, where there
104 is an unzoned commercial or industrial area on one side of the road as described in this section,
105 the term "unzoned commercial or industrial land" shall also include those lands directly opposite
106 on the other side of the highway to the extent of the same dimensions.] Unzoned land shall not
107 include:

108 (a) Land on the opposite side of [an interstate or freeway primary] **the** highway from an
109 unzoned commercial or industrial area as defined in this section **and located adjacent to**
110 **highways located on the interstate, federal-aid primary system as it existed on June 1, 1991,**
111 **or the national highway system as amended, unless the opposite side of the highway**
112 **qualifies as a separate unzoned commercial or industrial area; or**

113 (b) Land zoned by a state or local law, regulation, or ordinance;

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

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

119 (a) Outdoor advertising structures;

120 (b) Agricultural, forestry, ranching, grazing, farming, and related activities, including
121 seasonal roadside fresh produce stands;

122 (c) Transient or temporary activities;

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

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

126 (f) Railroad tracks and minor sidings;

127 (6) The words "unzoned commercial or industrial land" shall also include all areas not
128 specified in this section which constitute an "unzoned commercial or industrial area" within the
129 meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may
130 be amended. As used in this section, the words "zoned commercial or industrial area" shall refer
131 to those areas zoned commercial or industrial by the duly constituted zoning authority of a
132 municipality, county, or other lawfully established political subdivision of the state, or by the
133 state **and which is within seven hundred fifty feet of one or more permanent commercial**
134 **or industrial activities.** [Unzoned] Commercial or industrial activities as used in this section
135 are limited to those activities:

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

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

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

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

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

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

148 c. On-premise signs or other identification;

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

153 (7) In zoned commercial and industrial areas, whenever a state, county or municipal
154 zoning authority has adopted laws or ordinances which include regulations with respect to the
155 size, lighting and spacing of signs, which regulations are consistent with the intent of sections
156 226.500 to 226.600 and with customary use, then from and after the effective date of such
157 regulations, and so long as they shall continue in effect, the provisions of this section shall not
158 apply to the erection of signs in such areas. Notwithstanding any other provisions of this section,
159 after August 28, 1992, with respect to any outdoor advertising which is regulated by the
160 provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

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

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

168 (8) The state highways and transportation commission on behalf of the state of Missouri,
169 may seek agreement with the Secretary of Transportation of the United States under Section 131
170 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in
171 conformance with that Section 131 and provides effective control of outdoor advertising signs
172 as set forth therein. If such agreement cannot be reached and the penalties under subsection (b)
173 of Section 131 are invoked, the attorney general of this state shall institute proceedings described
174 in subsection (1) of that Section 131.

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

2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall be maintained without a one-time permanent permit for outdoor advertising issued by the state highways and transportation commission. If a one-time permanent permit was issued by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, it is not necessary for a new permit to be issued. If a one-time permanent permit was not issued for a lawfully erected and lawfully existing sign by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit shall be issued by the commission for each sign which is lawfully in existence on the day prior to August 28, 1992, upon application and payment of a permit fee of [twenty-eight dollars and fifty cents] **two hundred dollars**. All applications and fees due pursuant to this subsection shall be submitted before December 31, 1992.

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

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

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

37 (3) All signs erected after March 30, 1972, which are in conformity with sections
38 226.500 to 226.600;

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

41 4. On or after August 28, 1992, the state highways and transportation commission may,
42 in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial
43 inspection fee every two years after a state permit has been issued. Biennial inspection fees due
44 after August 28, [1992] **2002, and prior to August 28, 2003**, shall be [twenty-eight dollars and
45 fifty cents] **fifty dollars. Biennial inspection fees due on or after August 28, 2003, shall be**
46 **seventy-five dollars. Biennial inspection fees due on or after August 28, 2004, shall be one**
47 **hundred dollars**; except that, tax-exempt religious organizations as defined in subdivision (11)
48 of section 313.005, RSMo, service organizations as defined in subdivision (12) of section
49 313.005, RSMo, veterans' organizations as defined in subdivision (14) of section 313.005,
50 RSMo, and fraternal organizations as defined in subdivision (8) of section 313.005, RSMo, shall
51 not be required to pay such fee.

52 5. [In order to effect collection from a sign owner of delinquent and unpaid biennial
53 inspection fees which are payable pursuant to this section, or delinquent removal costs pursuant
54 to section 226.580, the state highways and transportation commission may require any delinquent
55 fees to be paid before a permit is issued to the delinquent sign owner for any new sign.] **In order**
56 **to effect the more efficient collection of biennial inspection fees, the state highways and**
57 **transportation commission is encouraged to adopt a renewal system in which all permits**
58 **on a particular county are renewed in the same month. In conjunction with the conversion**
59 **to this renewal system, the state highways and transportation commission is specifically**
60 **authorized to prorate renewal fees based on changes in renewal dates.**

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

65 7. The state highways and transportation commission shall deposit all fees received for
66 outdoor advertising permits and inspection fees in the state road fund, keeping a separate record
67 of such fees, and the same may be expended by the commission in the administration of sections
68 226.500 to 226.600.

226.573. The state highways and transportation commission is authorized to adopt
2 administrative rules regulating the use of new technology in outdoor advertising as allowed under
3 federal regulations for federal-aid primary highways as of June 1, 1991, and all highways
4 designated as part of the National Highway System by the National Highway System Designation

5 Act of 1995 and those highways subsequently designated as part of the National Highway
6 System. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is
7 promulgated pursuant to the authority delegated in this section shall become effective only if it
8 has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and
9 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
10 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul
11 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
12 proposed or adopted after [August 28, 1999,] **the effective date of this section** shall be invalid
13 and void.

14 226.580. 1. The following outdoor advertising within six hundred sixty feet of the
15 right-of-way of interstate or primary highways is deemed unlawful and shall be subject to
16 removal:

17 (1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500
18 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary
19 to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they
20 appeared in the revised statutes of Missouri 1969; or

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

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

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

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

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

30 (7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or
31 other natural features.

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

37 3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 [and
38 2] **to 7** of this section, the state highways and transportation commission shall give notice either
39 by certified mail or by personal service to the owner or occupant of the land on which advertising
40 believed to be unlawful is located and the owner of the outdoor advertising structure. Such

41 notice shall specify the basis for the alleged unlawfulness, shall specify the remedial action
42 which is required to correct the unlawfulness and shall advise that a failure to take the remedial
43 action within [thirty] **sixty** days will result in the sign being removed. Within [thirty] **sixty** days
44 after receipt of the notice as to him, the owner of the land or of the structure may remove the sign
45 or may take the remedial action specified or may file an action for administrative review pursuant
46 to the provisions of sections 536.067 to 536.090, RSMo, to review the action of the state
47 highways and transportation commission, or he may proceed under the provisions of section
48 536.150, RSMo, as if the act of the highways and transportation commission was one not subject
49 to administrative review. Notwithstanding any other provisions of sections 226.500 to 226.600,
50 no outdoor advertising structure erected prior to August 28, 1992, defined as a "structure lawfully
51 in existence" or "lawfully existing", by subdivision (1), (2) or (3) of subsection 2 of section
52 226.550, shall be removed for failure to have a permit until a notice, as provided in this section,
53 has been issued which shall specify failure to obtain a permit or pay a biennial inspection fee as
54 the basis for alleged unlawfulness, and shall advise that failure to take the remedial action of
55 applying for a permit or paying the inspection fee within [thirty] **sixty** days will result in the sign
56 being removed. **Signs for which biennial inspection fees are delinquent shall not be**
57 **removed unless the fees are more than twelve months past due and actual notice of the**
58 **delinquency has been provided to the sign owner.** Upon application made within the
59 [thirty-day] **sixty-day** period as provided in this section, and accompanied by the fee prescribed
60 by section 226.550, together with any inspection fees that would have been payable if a permit
61 had been timely issued, the state highways and transportation commission shall issue a one-time
62 permanent permit for such sign. Such signs with respect to which permits are so issued are
63 hereby determined by the state of Missouri to have been lawfully erected within the meaning of
64 "lawfully erected" as that term is used in Title 23, United States Code, section 131(g), as
65 amended, and shall only be removed upon payment of just compensation, except that the
66 issuance of permits shall not entitle the owners of such signs to compensation for their removal
67 if it is finally determined that such signs are not "lawfully erected" as that term is used in section
68 131(g) of Title 23 of the United States Code.

69 4. If **actual** notice as provided in this section is given and neither the remedial action
70 specified is taken nor an action for review is filed, or if an action for review is filed and is finally
71 adjudicated in favor of the state highways and transportation commission, the state highways and
72 transportation commission shall have authority to immediately remove the unlawful outdoor
73 advertising. The owner of the structure shall be liable for the costs of such removal. The
74 commission shall incur no liability for causing this removal, except for damage caused by
75 negligence of the commission, its agents or employees.

76 5. If notice as provided in this section is given and an action for review is filed under the

77 provisions of section 536.150, RSMo, or if administrative review pursuant to the provisions of
78 sections 536.067 to 536.090, RSMo, is filed and the state highways and transportation
79 commission enters its final decision and order to remove the outdoor advertising structure, the
80 advertising message contained on the structure shall be removed or concealed by the owner of
81 the structure, at the owner's expense, until the action for judicial review is finally adjudicated.
82 If the owner of the structure refuses or fails to remove or conceal the advertising message, the
83 commission may remove or conceal the advertising message and the owner of the structure shall
84 be liable for the costs of such removal or concealment. The commission shall incur no liability
85 for causing the removal or concealment of the advertising message while an action for review
86 is pending, except if the owner finally prevails in its action for judicial review, the commission
87 will compensate the owner at the rate the owner is actually receiving income from the advertiser
88 pursuant to written lease from the time the message is removed until the judicial review is final.

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

90 7. Any signs prohibited by section 226.527 which were lawfully erected prior to August
91 13, 1976, shall be removed pursuant to section 226.570.

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

226.585. The state transportation department may cut and trim any vegetation on the
2 highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected
3 billboard, or the highways and transportation commission shall promulgate reasonable rules and
4 regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way
5 by the owner of such billboard. **The right to a vegetation permit by an outdoor advertising**
6 **permit holder shall be issued in accordance with the current rules and regulations**
7 **promulgated by the highways and transportation commission and shall not be denied**
8 **without good cause.** Such rules and regulations shall be promulgated within twelve months
9 after August 28, 1992, or the commission shall suspend the collection of the biennial inspection
10 fees prescribed by section 226.550 until such rules are promulgated, and such rules may include
11 authority to charge a reasonable fee for such [permission] **permit**. This section shall not apply
12 if its implementation would have the effect of making Missouri be in noncompliance with
13 requirements of Title 23, United States Code, section 131.

227.100. 1. All contracts for the construction of said work shall be let to the lowest
2 responsible bidder or bidders after notice and publication of an advertisement in a newspaper
3 published in the county where the work is to be done, and in such other publications as the
4 commission may determine]; provided, that in all cases where the project advertised shall be for

5 the construction of more than ten miles of road, such advertisement shall provide for bids on
6 sections of said road not to exceed ten miles, as well as on the project as a whole, and such
7 contract shall then be let so as to provide for the most economical construction of said project].

8 2. Each bid shall be accompanied by a certified check or a cashier's check or a bid bond,
9 guaranteed by a surety company authorized by the director of the department of insurance to
10 conduct surety business in the state of Missouri, equal to five percent of the bid, which certified
11 check, cashier's check, or bid bond shall be deposited with the commissioner as a guaranty and
12 forfeited to the state treasurer to the credit of the state road fund in the event the successful
13 bidder fails to comply with the terms of the proposal, and return to the successful bidder on
14 execution and delivery of the performance bond provided for in subsection 4. The checks of the
15 unsuccessful bidders shall be returned to them in accordance with the terms of the proposal.

16 3. All notices of the letting of contracts under this section shall state the time and place
17 when and where bids will be received and opened, and all bids shall be sealed and opened only
18 at the time and place mentioned in such notice and in the presence of some member of the
19 commission or some person named by the commission for such purpose.

20 4. The successful bidders for the construction of said work shall enter into contracts
21 furnished and prescribed by the commission and shall give good and sufficient bond, in a sum
22 equal to the contract price, to the state of Missouri, with sureties approved by the commission
23 and to ensure the proper and prompt completion of said work in accordance with the provisions
24 of said contracts, and plans and specifications; provided, that if, in the opinion of the majority
25 of the members of the commission, the lowest bid or bids for the construction of any of the
26 roads, or parts of roads, herein authorized to be constructed, shall be excessive, then, and in that
27 event, said commission shall have the right, and it is hereby empowered and authorized to reject
28 any or all bids, and to construct, under its own direction and supervision, all of such roads and
29 bridges, or any part thereof.

**227.107. 1. Notwithstanding any provision of section 227.100 to the contrary, as an
2 alternative to the requirements and procedures specified by sections 227.040 to 227.100,
3 the state highways and transportation commission is authorized to enter into highway
4 design-build project contracts. The authority granted to the state highways and
5 transportation commission by this section shall be limited to a total of three design-build
6 project contracts. Two design-build projects authorized by this section shall be selected
7 by the highways and transportation commission from 1992 fifteen year plan projects.
8 Authority to enter into design-build projects granted by this section shall expire on July
9 1, 2012, unless extended by statute or upon completion of three projects, whichever is first.**

10 **2. For the purpose of this section a "design-builder" is defined as an individual,
11 corporation, partnership, joint venture or other entity, including combinations of such**

12 entities making a proposal to perform or performing a design-build highway project
13 contract.

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

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

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

25 **6. In any design-build highway project contract, whether involving state or federal**
26 **funds, the commission shall require that each person submitting a request for**
27 **qualifications provide a detailed disadvantaged business enterprise participation plan. The**
28 **plan shall provide information describing the experience of the person in meeting**
29 **disadvantaged business enterprise participation goals, how the person will meet the**
30 **department of transportation's disadvantaged business enterprise participation goal and**
31 **such other qualifications that the commission considers to be in the best interest of the**
32 **state.**

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

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

37 **9. The bid bond and performance bond requirements of section 227.100 and the**
38 **payment bond requirements of section 107.170, RSMo, shall apply to the design-build**
39 **highway project.**

40 **10. The commission is authorized to prescribe the form of the contracts for the**
41 **work.**

42 **11. The commission is empowered to make all final decisions concerning the**
43 **performance of the work under the design-build highway project contract, including**
44 **claims for additional time and compensation.**

45 **12. The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the**
46 **procurement of architectural, engineering or land surveying services for the design-build**
47 **highway project, except that any person providing architectural, engineering or land**

48 surveying services for the design-builder on the design-build highway project must be
49 licensed in Missouri to provide such services.

50 13. The commission shall pay a reasonable stipend to prequalified responsive
51 design-builders who submit a proposal, but are not awarded the design-build highway
52 project.

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

56 15. The commission shall promulgate administrative rules to implement this section
57 or to secure federal funds. Such rules shall be published for comment in the Missouri
58 Register and shall include prequalification criteria, the make-up of the prequalification
59 review team, specifications for the design criteria package, the method of advertising,
60 receiving and evaluating proposals from design-builders, the criteria for awarding the
61 design-build highway project based on the design criteria package and a separate proposal
62 stating the cost of construction, and other methods, procedures and criteria necessary to
63 administer this section.

64 16. The commission shall make a status report to the members of the general
65 assembly and the governor following the award of the design-build project, as an
66 individual component of the annual report submitted by the commission to the joint
67 transportation oversight committee in accordance with the provisions of section 21.795,
68 RSMo. The annual report prior to advertisement of the design-build highway project
69 contracts shall state the goals of the project in reducing costs and/or the time of completion
70 for the project in comparison to the design-bid-build method of construction and objective
71 measurements to be utilized in determining achievement of such goals. Subsequent annual
72 reports shall include: the time estimated for design and construction of different phases
73 or segments of the project and the actual time required to complete such work during the
74 period; the amount of each progress payment to the design-builder during the period and
75 the percentage and a description of the portion of the project completed regarding such
76 payment; the number and a description of design change orders issued during the period
77 and the cost of each such change order; upon substantial and final completion, the total
78 cost of the design-build highway project with a breakdown of costs for design and
79 construction; and such other measurements as specified by rule. The annual report
80 immediately after final completion of the project shall state an assessment of the
81 advantages and disadvantages of the design-build method of contracting for highway and
82 bridge projects in comparison to the design-bid-build method of contracting and an

83 **assessment of whether the goals of the project in reducing costs and/or the time of**
84 **completion of the project were met.**

85 **17. The commission shall give public notice of a request for qualifications in at least**
86 **two public newspapers that are distributed wholly or in part in this state and at least one**
87 **construction industry trade publication that is distributed nationally.**

88 **18. The commission shall publish its cost estimates of the design-build highway**
89 **project award and the project completion date along with its public notice of a request for**
90 **qualifications of the design-build project.**

91 **19. If the commission fails to receive at least two responsive submissions from**
92 **design-builders considered qualified, submissions shall not be opened and it shall**
93 **readvertise the project.**

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

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

16 3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the
17 owner or owners of any privately owned airport designated as a reliever by the Federal Aviation
18 Administration shall be made from the aviation trust fund. In making grants, the commission
19 shall consider whether the local community has given financial support to the airport in the past.
20 Priority shall be given to airports with local funding for the past five years with no reduction in
21 such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of
22 section 33.080, RSMo, relating to the transfer of funds to the general revenue funds of the state
23 by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be
24 deposited to the credit of the same fund.

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

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

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

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

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

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

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

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

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

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

44 (i) For purchase, installation or repair of air navigational and landing aid facilities and
45 communication equipment;

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

48 (k) For airport planning projects including master plans and site selection for
49 development of new airports, for updating or establishing master plans and airport layout plans
50 at existing airports;

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

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

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

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

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

61 (d) For the promotion of aerospace education;

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

67 5. In the event of a natural or manmade disaster which closes any runway or renders
68 inoperative any electronic or visual landing aid at an airport, any funds appropriated for the
69 purpose of capital improvements or maintenance of airports may be made immediately available
70 for necessary repairs once they are approved by the [Missouri department of transportation]
71 **commission**. For projects designated as emergencies by the [Missouri department of
72 transportation] **commission**, all requirements relating to normal procurement of engineering and
73 construction services are waived.

74 6. As used in this section, the term "instrumentality of the state" shall mean any state
75 educational institution as defined in section 176.010, RSMo, or any state agency which owned
76 or operated an airport on January 1, 1997, and continues to own or operate such airport.