

FIRST REGULAR SESSION

HOUSE BILL NO. 668

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CRAWFORD, DUSENBERG, BLACK, BROWN, HOBBS, SCHLOTTACH, SANDER, ERVIN, QUINN (Co-sponsors), MUNZLINGER, KELLY (144), KINGERY, RECTOR, PHILLIPS, SELF, DETHROW, CUNNINGHAM (145), PURGASON, WALLACE, ICET, BIVINS, MOORE, VIEBROCK, SHOEMAKER (8), HANAWAY, NIEVES, GUEST, MAY, MYERS, KING, JACKSON, BEAN, HOLAND, ENGLER, WILSON (130), HUNTER, WASSON, REINHART, SCHAAF, WRIGHT, WILSON (119), ANGST, BLACK, SCHNEIDER, SMITH (118), WOOD, BRUNS, JETTON, STEVENSON, STEFANICK, LUETKEMEYER, PEARCE AND SMITH (14).

Read 1st time March 12, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1760L.03I

AN ACT

To repeal sections 21.795 and 226.030, RSMo, and to enact in lieu thereof ten new sections relating to the transportation accountability act.

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

Section A. Sections 21.795 and 226.030, RSMo, are repealed and ten new sections
2 enacted in lieu thereof, to be known as sections 21.795, 226.030, 226.033, 226.192, 226.194,
3 226.195, 226.196, 226.197, 226.198, and 226.199, to read as follows:

21.795. 1. There is established a permanent joint committee of the general assembly to
2 be known as the "Joint Committee on Transportation Oversight" to be composed of seven
3 members of the standing transportation committees of both the senate and the house of
4 representatives and three nonvoting ex officio members. **The transportation inspector
5 general, established pursuant to section 226.192, RSMo, shall serve as executive director
6 of the joint committee. Of the seven members to be appointed to the joint committee, the
7 senate members [of the joint committee] shall be appointed by the president pro tem of the senate
8 and the house members shall be appointed by the speaker of the house of representatives. No
9 major party shall be represented by more than four members from the house of representatives
10 nor more than four members from the senate. The ex officio members shall be the state auditor,
11 the director of the oversight division of the committee on legislative research, and the**

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

12 commissioner of the office of administration or the designee of such auditor, director or
13 commissioner. The joint committee shall be chaired jointly by both chairs of the senate and
14 house transportation committees. A majority of the committee shall constitute a quorum, but the
15 concurrence of a majority of the members, other than the ex officio members, shall be required
16 for the determination of any matter within the committee's duties.

17 2. The department of transportation shall submit a written report prior to November tenth
18 of each year to the governor and every member of the senate and house of representatives which
19 shall contain the following:

20 (1) A comprehensive financial report of all funds for the preceding state fiscal year
21 which shall include a report by independent certified public accountants, selected by the
22 commissioner of the office of administration, attesting that the financial statements present fairly
23 the financial position of the department in conformity with generally accepted government
24 accounting principles. This report shall include amounts of:

25 (a) State revenues by sources, **including all new state revenue derived from highway**
26 **users which results from action of the general assembly or voter-approved measures taken**
27 **after August 28, 2003, and projects funded in whole or in part from such new state**
28 **revenue, and** amounts of federal revenues by source;

29 (b) Any other revenues available to the department by source;

30 (c) Funds appropriated, the amount the department has budgeted and expended for the
31 following: contracts, right-of-way purchases, preliminary and construction engineering,
32 maintenance operations and administration;

33 (d) Total state and federal revenue compared to the revenue estimate in the fifteen-year
34 highway plan as adopted in 1992.

35

36 All expenditures made by, or on behalf of, the department for personal services including fringe
37 benefits, all categories of expense and equipment, real estate and capital improvements shall be
38 assigned to the categories listed in this subdivision in conformity with generally accepted
39 government accounting principles;

40 (2) A detailed explanation of the methods or criteria employed to select construction
41 projects, including a listing of any new or reprioritized projects not mentioned in a previous
42 report, and an explanation as to how the new or reprioritized projects meet the selection methods
43 or criteria;

44 (3) The proposed allocation and expenditure of moneys and the proposed work plan for
45 the current fiscal year, at least the next four years, and for any period of time expressed in any
46 public transportation plan approved by either the general assembly or by the voters of Missouri.
47 This proposed allocation and expenditure of moneys shall include the amounts of proposed

48 allocation and expenditure of moneys in each of the categories listed in subdivision (1) of this
49 subsection;

50 (4) The amounts which were planned, estimated and expended for projects in the state
51 highway and bridge construction program or any other projects relating to other modes of
52 transportation in the preceding state fiscal year and amounts which have been planned, estimated
53 or expended by project for construction work in progress;

54 (5) The current status as to completion, by project, of the fifteen-year road and bridge
55 program adopted in 1992. The first written report submitted pursuant to this section shall include
56 the original cost estimate, updated estimate and final completed cost by project. Each written
57 report submitted thereafter shall include the cost estimate at the time the project was placed on
58 the most recent five-year highway and bridge construction plan and the final completed cost by
59 project;

60 (6) The reasons for cost increases or decreases exceeding five million dollars or ten
61 percent relative to cost estimates and final completed costs for projects in the state highway and
62 bridge construction program or any other projects relating to other modes of transportation
63 completed in the preceding state fiscal year. Cost increases or decreases shall be determined by
64 comparing the cost estimate at the time the project was placed on the most recent five-year
65 highway and bridge construction plan and the final completed cost by project. The reasons shall
66 include the amounts resulting from inflation, department-wide design changes, changes in project
67 scope, federal mandates, or other factors;

68 (7) Specific recommendations for any statutory or regulatory changes necessary for the
69 efficient and effective operation of the department;

70 (8) An accounting of the total amount of state, federal and earmarked federal highway
71 funds expended in each district of the department of transportation; and

72 (9) Any further information specifically requested by the joint committee on
73 transportation oversight.

74 3. Prior to December first of each year, the committee shall [meet] **hold its annual**
75 **meeting** and call before its members, officials or employees of the state highways and
76 transportation commission or department of transportation, as determined by the committee, for
77 the sole purpose of receiving and examining the report required pursuant to subsection 2 of this
78 section. **The committee may also call before its members at the annual meeting the**
79 **transportation inspector general for purposes authorized by section 226.194, RSMo.** The
80 committee shall not have the power to modify projects or priorities of the state highways and
81 transportation commission or department of transportation. The committee may make
82 recommendations to the state highways and transportation commission or the department of
83 transportation. Disposition of those recommendations shall be reported by the commission or

84 the department to the joint committee on transportation oversight.

85 **4. In addition to the annual meeting required by subsection 3 of this section, the**
86 **committee shall meet four times each year. The co-chairs of the committee shall establish**
87 **an agenda for each meeting that shall include, but not be limited to, the following items to**
88 **be discussed with the committee members throughout the year during the quarterly**
89 **meetings:**

90 **(1) Presentation of a prioritized plan for all modes of transportation;**

91 **(2) Discussion of department efficiencies and expenditure of cost-savings within the**
92 **department;**

93 **(3) Presentation of a semiannual accountability report;**

94 **(4) Presentation of a status report on department of transportation revenues and**
95 **expenditures, including a detailed summary of projects funded by new state revenue as**
96 **provided in subparagraph (a) of subdivision (1) of subsection 2 of this section;**

97 **(5) Review of any report from the inspector general; and**

98 **(6) Implementation of any actions as may be deemed necessary by the committee**
99 **as authorized by law.**

100

101 **The co-chairs of the committee may call special meetings of the committee with ten days'**
102 **notice to the members of the committee, the transportation inspector general, and the**
103 **department of transportation.**

104 **5. The joint committee on transportation oversight may, by majority vote, direct**
105 **the transportation inspector general to review, examine, or verify the written report of the**
106 **department of transportation prepared pursuant to subsection 2 of this section or any**
107 **section or information in such report. The transportation inspector general shall submit**
108 **a status report or final report in response to such direction at one or more regularly**
109 **scheduled meetings of the committee.**

110 **6. The joint committee on transportation oversight may, by majority vote, direct**
111 **the transportation inspector general to conduct a management evaluation or program**
112 **evaluation as authorized by section 226.195, RSMo.**

113 **7. The joint committee on transportation oversight may, by majority vote, approve**
114 **projects funded by new state revenue as provided in subparagraph (a) of subdivision (1)**
115 **of subsection 2 of this section. If approved by the committee, the list of such projects shall**
116 **be submitted to the general assembly before December thirty-first of each year. The**
117 **general assembly shall, by concurrent resolution within the first sixty legislative days of the**
118 **regular session immediately following the submission of such list, vote to approve or**
119 **disapprove any project or projects on such list.**

120 **8.** The committee shall submit records of its meetings to the secretary of the senate and
121 the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023,
122 RSMo.

226.030. **1.** The state highways and transportation commission shall consist of six
2 members, who shall be appointed by the governor, by and with the advice and consent of the
3 senate, not more than three thereof to be members of the same political party. Each
4 commissioner shall be a taxpayer and resident of state for at least five years prior to his
5 appointment. Any commissioner may be removed by the governor if fully satisfied of his
6 inefficiency, neglect of duty, or misconduct in office. [All commissioners appointed prior to
7 October 13, 1965, shall serve the term for which they were appointed.] Commissioners
8 appointed pursuant to this section shall be appointed for terms of six years. Upon the expiration
9 of each of the foregoing terms of these commissioners a successor shall be appointed for a term
10 of six years or until his successor is appointed and qualified which term of six years shall
11 thereafter be the length of term of each member of the commission unless removed as above
12 provided. The members of the commission shall receive as compensation for their services
13 twenty-five dollars per day for the time spent in the performance of their official duties, and also
14 their necessary traveling and other expenses incurred while actually engaged in the discharge of
15 their official duties. **Members whose terms otherwise expire December 1, 2003, shall serve
16 with terms expiring July 1, 2004; a member whose term otherwise expires December 1,
17 2005, shall serve with a term expiring July 1, 2006; a member whose term otherwise expires
18 December 1, 2007, shall serve with a term expiring July 1, 2008; and of the members whose
19 terms otherwise expire October 13, 2007, one member shall serve with a term expiring July
20 1, 2006, and the other member shall serve with a term expiring July 1, 2008, as determined
21 by the governor. The house and senate leadership, which shall mean the speaker of the
22 house of representatives, the president pro tempore of the senate, and the minority floor
23 leaders of the house and of the senate, from the same political party shall by party supply
24 three candidates to the governor for selection as members of the commission. The
25 governor shall select one candidate from each party. The candidates shall be appointed
26 by July first in even-numbered years. In the event of a vacancy on the commission, the
27 house and senate leadership of that political party of the vacating member shall submit
28 three candidates for selection as a member to the commission to the governor within thirty
29 days of the vacancy. The governor shall have fifteen days to select a new member of the
30 commission. The new member of the commission shall serve only the remainder of the
31 unexpired six-year term of the vacating member.**

32 **2.** Beginning August 28, 2003, when two members of the state highways and
33 transportation commission are within two years of expiration of their terms, the

34 commission shall appoint one of those two members as chair of the commission and the
35 other as vice chair, each to serve in such position for one year. At the end of such year, the
36 member currently serving as chair shall then serve as vice chair, and the member currently
37 serving as vice chair shall serve as chair, each to serve in such position for one year.

38 **3. No more than one-half of the members of the state highways and transportation**
39 **commission shall be of the same political party, excluding ex officio members of the**
40 **transportation commission. No member of the transportation commission shall directly**
41 **or indirectly make any contribution to or hold any office in a political party or**
42 **organization, or take part in any political campaign. The selection and removal of all**
43 **employees of the department of highways and transportation shall be without regard to**
44 **political affiliation.**

45 **4. The present members of the state highways and transportation commission shall**
46 **serve as members of the state highways and transportation commission for the remainder**
47 **of the terms for which they were appointed, except as provided in subsection 2 of this**
48 **section.**

49 **5. The director of the department of transportation shall, by February fifteenth of**
50 **each year, present an annual state of the state of transportation to a joint session of the**
51 **general assembly. The six members of the state highways and transportation commission**
52 **shall be present and available at such presentations for questions by members.**

226.033. 1. A commission member, during his or her tenure, shall not:

- 2 **(1) Personally solicit political contributions in a speech given at a fundraiser;**
- 3 **(2) Allow his or her official title to be used in connection with fundraising activities;**
- 4 **(3) Solicit, accept, or receive political contributions;**
- 5 **(4) Organize, sell tickets to, promote, or actively participate in a fundraising**
6 **activity of a candidate for partisan political office or of a political party or partisan**
7 **political group;**
- 8 **(5) Take an active part in managing the political campaign of a candidate for**
9 **partisan political office or a candidate for political party office; or**
- 10 **(6) Endorse or oppose a candidate for partisan political office or a candidate for**
11 **political party office in a political advertisement, broadcast, campaign literature, or similar**
12 **material.**

13 **2. If a commission member engages in any of the activities set forth in subsection**
14 **1 of this section, such activity shall be considered misconduct pursuant to section 226.030.**
15 **If the governor finds that the commissioner's involvement in such activities affects the**
16 **commissioner's ability to carry out his or her official duties in a nonpartisan manner, the**
17 **governor may remove the offending commissioner from the commission.**

226.192. 1. There is hereby created the "Office of Transportation Inspector General" which is assigned to the general assembly, and who shall serve as executive director of the joint committee on transportation oversight. The transportation inspector general shall be appointed by majority vote of a group consisting of the speaker of the house of representatives, the minority floor leader of the house of representatives, the president pro tempore of the senate, the minority floor leader of the senate, and the director of the department of transportation. The transportation inspector general initially appointed pursuant to this section shall take office January 1, 2004, for a term ending June 30, 2005. Subsequent transportation inspector generals shall be appointed for five-year terms, beginning July 1, 2005. The transportation inspector general may be removed by majority vote of both chambers of the general assembly because of his or her inefficiency, neglect of duty, or misconduct in office. Any transportation inspector general whose term is expiring shall be eligible for reappointment.

2. The transportation inspector general shall be an attorney or certified public accountant who at the time of his or her appointment is licensed or certified to practice in Missouri and has at least five years of experience in similar auditing or investigatory work. The transportation inspector general may, subject to appropriation, hire such auditors, investigators, attorneys, and other office personnel as necessary to carry out his or her duties. The selection and removal of all employees shall be without regard to political affiliation. Persons employed by the transportation inspector general as auditors shall be professional persons possessing a wide knowledge and demonstrated expertise in governmental programming and financial planning, in conducting program review evaluations and analytic studies, and of federal, state, and local government budgetary processes, laws, and regulations of the state of Missouri. The division of budget and planning, office of administration may at the request of the transportation inspector general lend support by assignment of budget analysts to assist the transportation inspector general. The department of transportation shall provide office space to the transportation inspector general and his or her staff.

3. The transportation inspector general and all employees of the transportation inspector general shall, before entering upon the duties of his or her office or employment, take and subscribe to an oath or affirmation to support the constitution of the United States and of this state, and to faithfully and honestly discharge the duties of such office or employment. Neither the transportation inspector general or any employee of the office of transportation inspector general shall, directly or indirectly, have any pecuniary interest in, or act as agent for, the sale of road or bridge building material, equipment, tools, machinery, or supplies, or in any contract for the design, construction, or maintenance of

37 state highways or bridges, or the financing thereof, or in any performance bond or
38 workers' compensation or any other insurance furnished to the highways and
39 transportation commission, or insurance furnished to any person, firm, or corporation
40 contracting with the commission. The transportation inspector general shall give a good
41 and sufficient bond from a federally certified surety company, in an amount of one million
42 dollars, conditioned upon the faithful discharge of the duties of his or her office. Any
43 attorney, auditor, investigator, or person employed by the transportation inspector general
44 in a supervisory capacity shall give a good and sufficient bond from a federally certified
45 surety company in an amount satisfactory to the transportation inspector general,
46 conditioned upon the faithful and honest discharge of duties of his or her office.

47 4. Funds shall be appropriated annually for all salaries and all other expenses of
48 the transportation inspector general, except that no appropriation shall be made for the
49 transportation inspector general from highway user fees or other funds allocated for the
50 operation of the department of transportation.

226.194. 1. It shall be the duty of the transportation inspector general to:

- 2 (1) Serve as executive director of the joint committee on transportation oversight;
- 3 (2) Promote economy, efficiency, effectiveness, and public integrity in the
4 administration of the programs and operations of the department of transportation;
- 5 (3) To detect and prevent fraud, waste, and abuse in department programs and
6 operations;
- 7 (4) To provide independent and objective assistance to help assure the department
8 is operated in compliance with the constitutions and laws of the United States and the state
9 of Missouri;
- 10 (5) To keep the highways and transportation commission, governor, and joint
11 committee on transportation oversight fully and currently informed about any problems
12 or deficiencies relating to the administration of department programs and operations and
13 the necessity for and progress of any corrective actions taken.

14 2. In carrying out duties as prescribed in subsection 1 of this section the
15 transportation inspector general is authorized to:

- 16 (1) Conduct an independent review, examination, or verification of the written
17 annual report of the department of transportation as required by subsection 2 of section
18 21.780, RSMo, if requested to do so upon majority vote of the members appointed and
19 serving on the joint committee on transportation oversight;
- 20 (2) Conduct management evaluations or program evaluations of the department
21 of transportation pursuant to section 226.195;
- 22 (3) Review and respond to complaints of Missouri citizens pursuant to section

23 **226.196;**

24 **(4) Receive reports of mismanagement or violations of law from employees of the**
25 **department of transportation pursuant to section 226.197; and**

26 **(5) Conduct investigations of violations of state law which are subject to criminal**
27 **or civil penalty pursuant to section 226.198.**

226.195. 1. Upon written request of the governor, upon majority vote of members
2 **of the joint committee of transportation oversight, or upon majority vote of the highways**
3 **and transportation commission, or as provided in section 226.197, the transportation**
4 **inspector general shall conduct a management evaluation or program evaluation of the**
5 **department of transportation.**

6 **2. For purposes of this section, "management evaluation" means an evaluation**
7 **which determines, with regard to the purpose, functions, and duties of the department of**
8 **transportation or a division or program of the department of transportation as to:**

9 **(1) Whether the agency resources are managed or utilized in an economical and**
10 **efficient manner; and**

11 **(2) Identification of inefficiencies or uneconomical practices, including**
12 **inadequacies in the use and management of information systems, internal, and**
13 **administrative procedures, organizational structure, use of resources, allocation of**
14 **personnel, and purchasing policies.**

15 **3. For purposes of this section, "program evaluation" means an evaluation which**
16 **determines and evaluates program performance according to program objectives,**
17 **responsibilities, and duties as set forth by statute or regulation. Program evaluations, in**
18 **accordance with generally accepted program evaluation standards, shall determine:**

19 **(1) Whether the program is being performed and administered as authorized or**
20 **required by law, and whether this action conforms with statutory intent;**

21 **(2) Whether the objectives and intended benefits are being achieved efficiently and**
22 **effectively;**

23 **(3) Benefits derived from any program in relation to the expenditures made**
24 **therefore; and**

25 **(4) Whether the program duplicates, overlaps, or conflicts with any other state**
26 **program.**

27

28 **A program evaluation may include determinations within the scope of a management**
29 **evaluation to the extent necessary or appropriate to the conduct of a particular program**
30 **evaluation. As used in this section, the term "resources" includes state funds, federal**
31 **funds, grants, and personnel, and also includes equipment and space, whether assigned,**

32 owned, or leased.

33 4. A written report of the results of any management evaluation or program
34 evaluation conducted pursuant to this section, together with recommendations for
35 corrections or improvements within the department of transportation shall be submitted
36 to the governor, the joint committee on transportation oversight, and the highways and
37 transportation commission. If the joint committee on transportation oversight is to
38 consider a management or program evaluation in a regular or special meeting, the
39 transportation inspector general shall provide a copy of the evaluation to the department
40 of transportation at least fifteen days in advance of the meeting and the commission chair
41 or director, or his or her designee, shall be allowed to respond and provide additional
42 information to the committee during the meeting.

43 5. Any management evaluation or program evaluation of the transportation
44 inspector general shall not duplicate the comprehensive financial report of the independent
45 certified public accountant for the last fiscal year, submitted with the written report
46 required from the department of transportation pursuant to subsection 2 of section 21.780,
47 RSMo, and no management or program evaluation of the transportation inspector general
48 shall duplicate any evaluation completed in the preceding two calendar years by the state
49 auditor or the oversight division of the committee on legislative research.

50 6. All evaluations performed by the transportation inspector general shall conform
51 to the standards for auditing of governmental organizations, programs, activities, and
52 functions established by the comptroller general of the United States. The evaluation
53 objectives as defined in the standards shall determine the type of evaluation to be
54 conducted.

55 7. The department of transportation, its officers and employees, any agency to
56 which state highway user fees or general revenue is appropriated for transportation
57 purposes, any governmental entity, political subdivision, or other person, and any
58 contractor to the department of transportation shall fully cooperate with the
59 transportation inspector general in the conduct of management or program evaluations.

226.196. 1. The governor or any member of the general assembly may present the
2 complaint of any citizen of this state to the transportation inspector general regarding the
3 following:

4 (1) Any policy or practice regarding the acquisition of right-of-way for
5 transportation projects. The transportation inspector general shall have no authority over
6 any matter under the jurisdiction of condemnation commissioners or the courts, under
7 state law;

8 (2) The condition or design of any roadway or bridge or the performance of any

9 activity or service by the department or its agents which present a safety hazard to the
10 general public; or

11 (3) The conduct of any department of transportation employee, or the employee of
12 a contractor to the department.

13 2. The inspector general shall immediately present such complaint to the
14 appropriate official of the department of transportation and the department shall respond
15 in writing to the inspector general within thirty days regarding corrective actions to be
16 undertaken or stating reasons that the complaint is not justified or the reasons that
17 corrective action cannot be taken. The inspector general shall immediately report to the
18 elected official and the citizen making the complaint regarding the department's response.

19 3. The inspector general shall endeavor to resolve complaints from citizens through
20 negotiation with the department of transportation.

21 4. The inspector general shall state the number and nature of complaints received
22 from citizens through their elected representatives in the report presented at regular
23 meetings of the joint committee on transportation oversight. The report shall state the
24 status of such complaints, the department's response, and actions taken by the
25 transportation inspector general or department to resolve such complaints.

226.197. 1. The transportation inspector general may receive information from any
2 employee of the department of transportation which the employee reasonably believes
3 evidences:

4 (1) A violation of any law, rule, or regulation; or

5 (2) Mismanagement, a gross waste of funds, or abuse of authority, or a substantial
6 and specific danger to public health or safety, if the disclosure is not specifically prohibited
7 by law.

8 2. Employees reporting to the transportation inspector general are subject to the
9 same limitations and protections as provided in sections 105.055 and 105.058, RSMo,
10 regarding reports by state employees to the state auditor and members of the general
11 assembly.

12 3. If upon review by the transportation inspector general of information provided
13 by an employee of the department of transportation, the transportation inspector general
14 determines that the employee knew or had reason to know that the information reported
15 was false, that the information was a closed record under the open meetings law or any
16 other law, or that the information relates to the employee's own violations of law,
17 mismanagement, gross waste of funds, abuse of authority, or endangerment of the public
18 health or safety, the employee shall not be protected from disciplinary action under section
19 105.055, RSMo, and the transportation inspector general shall make a report of his or her

20 findings to the employee's supervisor.

21 4. Based upon substantial evidence presented to the inspector general under
22 subsection 1 of this section, the transportation inspector general may initiate a
23 management evaluation or program evaluation under section 226.195 or may initiate an
24 investigation under section 226.198.

 226.198. 1. The transportation inspector general may initiate an investigation
2 based upon substantial evidence obtained through a management evaluation or program
3 evaluation, through the report of any citizen, regardless of whether presented through the
4 process outlined in section 226.196, through the report of an employee of the department
5 of transportation under section 226.197, or which was obtained upon the transportation
6 inspector general's own initiative. For purposes of section 226.194 and 226.199,
7 "investigation" means an investigation of acts or omissions which are subject to criminal
8 or civil penalties under Missouri statutes or regulations.

9 2. The transportation inspector general may conduct an investigation authorized
10 under subsection 1 of this section regarding any officer or employee of the department of
11 transportation, any person or company contracting with the department of transportation,
12 or any person or entity which receives federal or state funds from the department of
13 transportation.

14 3. The transportation inspector general shall maintain records of all investigations
15 conducted, including any record or document or thing, any summary, writing, complaint,
16 data of any kind, tape or video recordings, electronic transmissions, e-mail, other paper or
17 electronic documents, records, reports, digital recordings, photographs, software programs
18 and software, expense accounts, phone logs, diaries, travel logs, or other things, including
19 originals or copies of any of the above. Records of investigations by the inspector general
20 shall be an "investigative report" of law enforcement agency under the provisions of
21 section 610.100, RSMo. As provided in such section, such records shall be a closed record
22 until the investigation becomes inactive. If the transportation inspector general refers a
23 violation of law to the appropriate prosecuting attorney or the attorney general, such
24 records shall be transmitted with the referral. If the transportation inspector general finds
25 no violation of law or determines not to refer the subject of the investigation to the
26 appropriate prosecuting attorney or the attorney general regarding matters referred to the
27 appropriate prosecuting attorney or the attorney general and the statute of limitations
28 expires without any action being filed, the records shall remain closed. As provided in
29 section 610.100, RSMo, any person may bring an action pursuant to this section in the
30 circuit court having jurisdiction to authorize disclosure of information in the records of the
31 transportation inspector general which would otherwise be closed pursuant to this section.

32 Any disclosure of records by the transportation inspector general in violation of this
33 section shall be grounds for a suit brought by any individual, person, or corporation to
34 recover damages, and upon award to the plaintiff reasonable attorney's fees.

35 4. If upon conclusion of an investigation, the transportation inspector general
36 determines that there is a preponderance of evidence that a violation of state statute or
37 regulation has occurred which is subject to criminal or civil penalty, the transportation
38 inspector general shall report such violation together with records of the investigation to
39 the appropriate prosecuting attorney or the attorney general for prosecution or other
40 action as may be authorized by law.

226.199. 1. The authority of the transportation inspector general under sections
2 226.192 to 226.199 shall not extend to:

3 (1) The administration of or any potential violation of any environmental law under
4 the jurisdiction of the department of natural resources or the United States Environmental
5 Protection Agency;

6 (2) Any matter relating to workers' compensation, employment security, prevailing
7 wage or other employment laws under the jurisdiction of the department of labor and
8 industrial relations, except that the transportation inspector general may conduct
9 management evaluations as to the effective and efficient administration of the department
10 of transportation in complying with those laws;

11 (3) Any matter relating to taxation under the jurisdiction of the department of
12 revenue, except for management evaluations as to best practices in the collection of
13 highway user fees;

14 (4) Any matter related to acts or omissions under the jurisdiction of the United
15 States Occupational Safety and Health Administration;

16 (5) Any matter relating to the authority of the highways and transportation
17 commission to include or omit any specific project in a short-term or long-term plan of the
18 commission, to build, maintain, or improve any specific transportation project, or to award
19 or not award a contract to a specific person or company, except as those decisions by the
20 commission pertain to a violation of a statute, rule, or policy of the department which
21 would subject any person to a criminal penalty for violation of law; or

22 (6) Any other matter not directly related to the effective and efficient performance
23 of duties assigned to the department of transportation under state or federal law.

24 2. The transportation inspector general and any person appointed by him or her
25 for that purpose may administer oaths and cause to be summoned before them any person
26 whose testimony is desired or necessary in any management evaluation or program
27 evaluation, and may require the person to produce necessary papers, documents, and

28 writings.

29 **3. In the course of any investigation pursuant to section 226.198, the transportation**
30 **inspector general may request the circuit judge of Cole County to issue a subpoena to any**
31 **witness who may have information, for the purpose of oral examination under oath or to**
32 **require the production of any records or other materials of an evidentiary nature at the**
33 **office of the transportation inspector general. The subpoena shall be requested and**
34 **enforced in the same manner as a subpoena sought by a prosecuting attorney under section**
35 **56.085, RSMo.**