

FIRST REGULAR SESSION

[PERFECTED]

HOUSE SUBSTITUTE FOR

# HOUSE BILL NO. 668

## 92ND GENERAL ASSEMBLY

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Taken up for Perfection April 2, 2003.

House Substitute for House Bill No. 668 ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

1760L.04P

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### AN ACT

To repeal sections 21.795 and 226.030, RSMo, and to enact in lieu thereof twelve new sections relating to the transportation accountability act, with an expiration date for certain sections.

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*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Section A. Sections 21.795 and 226.030, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 21.795, 226.030, 226.033, 226.096, 226.192, 226.194, 226.195, 226.196, 226.197, 226.198, 226.199, and 1, to read as follows:

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

**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.**

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

19 2. The department of transportation shall submit a written report prior to November tenth  
20 of each year to the governor, **lieutenant governor**, and every member of the senate and house  
21 of representatives [which]. **The report shall be posted to the department's Internet web site**  
22 **so that general assembly members may elect to access a copy of the report electronically.**  
23 **The written report** shall contain the following:

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

29 (a) State revenues by sources, amounts of federal revenues by source;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

85 the department to the joint committee on transportation oversight.

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

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

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

94 **(3) Presentation of an annual accountability report;**

95 **(4) Presentation of a status report on department of transportation revenues and**  
96 **expenditures; and**

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

99

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

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

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

112 **7. The committee shall submit records of its meetings to the secretary of the senate and**  
113 **the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023,**  
114 **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 thirty 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. The selection and removal of all employees  
40 of the department of highways and transportation shall be without regard to political  
41 affiliation.**

42 **4. The present members of the state highways and transportation commission shall**

43 serve as members of the state highways and transportation commission for the remainder  
44 of the terms for which they were appointed, except as provided in subsection 1 of this  
45 section.

46 **5. The director of the department of transportation shall, by February fifteenth of**  
47 **each year, present an annual state of the state of transportation to a joint session of the**  
48 **general assembly. The six members of the state highways and transportation commission**  
49 **shall be present and available at such presentations for questions by members. The**  
50 **transportation inspector general may also be present and report to the general assembly**  
51 **on any matter of concern within his or her statutory authority.**

**226.033. 1. Except as provided in subsection 3 of this section, a commission**  
2 **member, during his or her tenure, shall not directly or indirectly make any contribution**  
3 **to or hold any office in a political party or organization, or take part in any political**  
4 **campaign.**

5 **2. If a commission member engages in any of the activities set forth in subsection**  
6 **1 of this section, such activity shall be considered misconduct pursuant to section 226.030.**  
7 **If the governor finds that the commissioner's involvement in such activities affects the**  
8 **commissioner's ability to carry out his or her official duties in a nonpartisan manner, the**  
9 **governor may remove the offending commissioner from the commission.**

10 **3. A commission member shall be permitted to contribute to or take part in political**  
11 **campaigns if the campaign is for elective office sought by a commission member's spouse**  
12 **or family member related within the second degree of consanguinity. In addition, a**  
13 **commission member may participate in a fund-raiser for that member's employer so long**  
14 **as such fund-raiser is not for political purposes.**

**226.096. 1. This section shall govern any controversy or claim to which the Missouri**  
2 **department of transportation is a party, that arises out of or relates to a contract awarded**  
3 **pursuant to subdivision (9) of subsection 1 of section 226.130 and the claim exceeds twenty-**  
4 **five thousand dollars. Provided a claim has been filed pursuant to the procedures set forth**  
5 **in the Missouri Standard Specifications for Highway Construction, or its successor, upon**  
6 **issuance of a final decision as provided in such standards or upon expiration of ninety days**  
7 **from the date the claim was filed, the controversy or claim shall upon written demand by**  
8 **any party to the contract, be settled by arbitration administered by the American**  
9 **Arbitration Association under its Construction Industry Arbitration Rules, except as**  
10 **provided herein. The highway and transportation commission shall promulgate rules**  
11 **pursuant to chapter 536, RSMo, to become effective on or before July 1, 2004, establishing**  
12 **a method for appointment of arbitrators and allowing for the mediation of claims upon**  
13 **agreement of both parties. Judgment upon awards rendered under arbitration shall be**

14 entered in the circuit court of Cole County, Missouri.

15           2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
16 that is created under the authority delegated in this section shall become effective only if  
17 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
18 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonserverable  
19 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
20 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
21 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
22 adopted after August 28, 2003, shall be invalid and void.

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

15           2. The transportation inspector general may, subject to appropriation, hire such  
16 auditors, investigators, attorneys, and other office personnel as necessary to carry out his  
17 or her duties. The selection and removal of all employees shall be without regard to  
18 political affiliation. Persons employed by the transportation inspector general as auditors  
19 shall be professional persons possessing a wide knowledge and demonstrated expertise in  
20 governmental programming and financial planning, in conducting program review  
21 evaluations and analytic studies, and of federal, state, and local government budgetary  
22 processes, laws, and regulations of the state of Missouri. The division of budget and  
23 planning, office of administration may at the request of the transportation inspector  
24 general lend support by assignment of budget analysts to assist the transportation  
25 inspector general.

26           3. The transportation inspector general and all employees of the transportation  
27 inspector general shall, before entering upon the duties of his or her office or employment,

28 take and subscribe to an oath or affirmation to support the constitution of the United  
29 States and of this state, and to faithfully and honestly discharge the duties of such office  
30 or employment. Neither the transportation inspector general or any employee of the office  
31 of transportation inspector general shall, directly or indirectly, have any pecuniary interest  
32 in, or act as agent for, the sale of road or bridge building material, equipment, tools,  
33 machinery, or supplies, or in any contract for the design, construction, or maintenance of  
34 state highways or bridges, or the financing thereof, or in any performance bond or  
35 workers' compensation or any other insurance furnished to the highways and  
36 transportation commission, or insurance furnished to any person, firm, or corporation  
37 contracting with the commission. The transportation inspector general shall give a good  
38 and sufficient bond from a federally certified surety company, in an amount of one million  
39 dollars, conditioned upon the faithful discharge of the duties of his or her office. Any  
40 attorney, auditor, investigator, or person employed by the transportation inspector general  
41 in a supervisory capacity shall give a good and sufficient bond from a federally certified  
42 surety company in an amount satisfactory to the transportation inspector general,  
43 conditioned upon the faithful and honest discharge of duties of his or her office.

44 4. Funds shall be appropriated annually for all salaries and all other expenses of  
45 the transportation inspector general, except that no appropriation shall be made for the  
46 transportation inspector general from highway user fees or other funds allocated for the  
47 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, and joint committee on  
11 transportation oversight fully and currently informed about any problems or deficiencies  
12 relating to the administration of department programs and operations and the necessity  
13 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 majority vote of members of the joint committee of transportation  
2 oversight, or upon majority vote of the highways and transportation commission, or as  
3 provided in section 226.197, the transportation inspector general shall conduct a  
4 management evaluation or program evaluation of the department of transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (1) Any policy or practice regarding the acquisition of right-of-way for  
4 transportation projects. The transportation inspector general shall have no authority over

5 any matter under the jurisdiction of condemnation commissioners or the courts, under  
6 state law;

7 (2) The condition or design of any roadway or bridge or the performance of any  
8 activity or service by the department or its agents which present a safety hazard to the  
9 general public; or

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

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

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

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

**Section 1. The Missouri department of transportation shall not employ or have a**  
2 **position of inspector general or any person who acts in the capacity as the inspector**  
3 **general with the function provided in section 226.194, RSMo.**

Section B. The provisions of sections 226.192, 226.194, 226.195, 226.196, 226.197,  
2 226.198, and 226.199, of section A of this act, shall terminate on August 28, 2008.