

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1088

AN ACT

To repeal sections 33.150, 34.040, 34.042, 34.044, 34.047, 536.015, 536.025, 536.031, 536.033, 536.200, and 536.205, RSMo, and to enact in lieu thereof twelve new sections relating to the office of administration.

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

1 Section A. Sections 33.150, 34.040, 34.042, 34.044, 34.047,
2 536.015, 536.025, 536.031, 536.033, 536.200, and 536.205, RSMo,
3 are repealed and twelve new sections enacted in lieu thereof, to
4 be known as sections 33.150, 34.040, 34.042, 34.044, 34.047,
5 37.960, 536.015, 536.025, 536.031, 536.033, 536.200, and 536.205,
6 to read as follows:

7 33.150. The original, or exact digital copy of the
8 original, of all accounts, vouchers and documents approved or to
9 be approved by the commissioner of administration shall be
10 preserved in his office; and copies thereof shall be given
11 without charge to any person, county, city, town, township and
12 school or special road district interested therein, that may
13 require the same for the purpose of being used as evidence in the
14 trial of the cause, and like copies shall be furnished to any
15 corporation or association requiring the same, under tender of
16 the fees allowed by law; provided, that the commissioner of

1 administration may destroy or dispose in the manner provided by
2 law of all paid accounts, vouchers and duplicate receipts of the
3 state treasurer and other documents which may have been on file
4 in the office of the commissioner of administration or his
5 predecessor as custodian of such documents for a period of five
6 years or longer, except such documents as may at the time be the
7 subject of litigation or dispute.

8 34.040. 1. All purchases in excess of [~~three~~] ten thousand
9 dollars shall be based on competitive bids, except as otherwise
10 provided in this chapter.

11 2. On any purchase where the estimated expenditure shall be
12 [~~twenty-five~~] one hundred thousand dollars or over, except as
13 provided in subsection 6 of this section, the commissioner of
14 administration shall:

15 (1) Advertise for bids in at least two daily newspapers of
16 general circulation in such places as are most likely to reach
17 prospective bidders and may advertise in at least two weekly
18 minority newspapers and may provide such information through an
19 electronic medium available to the general public at least five
20 days before bids for such purchases are to be opened. Other
21 methods of advertisement, which may include minority business
22 purchase councils, however, may be adopted by the commissioner of
23 administration when such other methods are deemed more
24 advantageous for the supplies to be purchased;

25 (2) Post a notice of the proposed purchase in his or her
26 office; and

27 (3) Solicit bids by mail or other reasonable method
28 generally available to the public from prospective suppliers.

1 All bids for such supplies shall be mailed or delivered to the
2 office of the commissioner of administration so as to reach such
3 office before the time set for opening bids.

4 3. The contract shall be let to the lowest and best bidder.
5 The commissioner of administration shall have the right to reject
6 any or all bids and advertise for new bids, or purchase the
7 required supplies on the open market if they can be so purchased
8 at a better price. When bids received pursuant to this section
9 are unreasonable or unacceptable as to terms and conditions,
10 noncompetitive, or the low bid exceeds available funds and it is
11 determined in writing by the commissioner of administration that
12 time or other circumstances will not permit the delay required to
13 resolicit competitive bids, a contract may be negotiated pursuant
14 to this section, provided that each responsible bidder who
15 submitted such bid under the original solicitation is notified of
16 the determination and is given a reasonable opportunity to modify
17 their bid and submit a best and final bid to the state. In cases
18 where the bids received are noncompetitive or the low bid exceeds
19 available funds, the negotiated price shall be lower than the
20 lowest rejected bid of any responsible bidder under the original
21 solicitation.

22 4. The director of the department of revenue shall follow
23 bidding procedures as contained in this chapter and may
24 promulgate rules necessary to establish such procedures. No
25 points shall be awarded on a request for proposal for a contract
26 license office to a bidder for a return-to-the-state provision
27 offer.

28 5. All bids shall be based on standard specifications

1 wherever such specifications have been approved by the
2 commissioner of administration. The commissioner of
3 administration shall make rules governing the delivery,
4 inspection, storage and distribution of all supplies so purchased
5 and governing the manner in which all claims for supplies
6 delivered shall be submitted, examined, approved and paid. The
7 commissioner shall determine the amount of bond or deposit and
8 the character thereof which shall accompany bids or contracts.

9 6. The department of natural resources may, without the
10 approval of the commissioner of administration required pursuant
11 to this section, enter into contracts of up to five hundred
12 thousand dollars to abate illegal waste tire sites pursuant to
13 section 260.276 when the director of the department determines
14 that urgent action is needed to protect public health, safety,
15 natural resources or the environment. The department shall
16 follow bidding procedures pursuant to this section and may
17 promulgate rules necessary to establish such procedures. Any
18 rule or portion of a rule, as that term is defined in section
19 536.010, that is created under the authority delegated in this
20 section shall become effective only if it complies with and is
21 subject to all of the provisions of chapter 536 and, if
22 applicable, section 536.028. This section and chapter 536 are
23 nonseverable and if any of the powers vested with the general
24 assembly pursuant to chapter 536 to review, to delay the
25 effective date or to disapprove and annul a rule are subsequently
26 held unconstitutional, then the grant of rulemaking authority and
27 any rule proposed or adopted after August 28, 1999, shall be
28 invalid and void.

1 7. The commissioner of administration and other agencies to
2 which the state purchasing law applies shall not contract for
3 goods or services with a vendor if the vendor or an affiliate of
4 the vendor makes sales at retail of tangible personal property or
5 for the purpose of storage, use, or consumption in this state but
6 fails to collect and properly pay the tax as provided in chapter
7 144. For the purposes of this section, "affiliate of the vendor"
8 shall mean any person or entity that is controlled by or is under
9 common control with the vendor, whether through stock ownership
10 or otherwise.

11 8. The commissioner of administration may hold reverse
12 auctions to procure merchandise, supplies, raw materials, or
13 finished goods if price is the primary factor in evaluating bids,
14 excluding items in section 34.047. The office of administration
15 shall promulgate rules regarding the handling of the reverse
16 auction process.

17 9. Any rule or portion of a rule, as that term is defined
18 in section 536.010 that is created under the authority delegated
19 in this section shall become effective only if it complies with
20 and is subject to all of the provisions of chapter 536, and, if
21 applicable, section 536.028. This section and chapter 536 are
22 nonseverable and if any of the powers vested with the general
23 assembly pursuant to chapter 536, to review, to delay the
24 effective date, or to disapprove and annul a rule are
25 subsequently held unconstitutional, then the grant of rulemaking
26 authority and any rule proposed or adopted after August 28, 2019,
27 shall be invalid and void.

28 34.042. 1. When the commissioner of administration

1 determines that the use of competitive bidding is either not
2 practicable or not advantageous to the state, supplies may be
3 procured by competitive proposals. The commissioner shall state
4 the reasons for such determination, and a report containing those
5 reasons shall be maintained with the vouchers or files pertaining
6 to such purchases. All purchases in excess of [~~five~~] ten
7 thousand dollars to be made under this section shall be based on
8 competitive proposals.

9 2. On any purchase where the estimated expenditure shall be
10 [~~twenty-five~~] one hundred thousand dollars or over, the
11 commissioner of administration shall:

12 (1) Advertise for proposals in at least two daily
13 newspapers of general circulation in such places as are most
14 likely to reach prospective offerors and may advertise in at
15 least two weekly minority newspapers and may provide such
16 information through an electronic medium available to the general
17 public at least five days before proposals for such purchases are
18 to be opened. Other methods of advertisement, however, may be
19 adopted by the commissioner of administration when such other
20 methods are deemed more advantageous for the supplies to be
21 purchased;

22 (2) Post notice of the proposed purchase; and

23 (3) Solicit proposals by mail or other reasonable method
24 generally available to the public from prospective offerors.

25
26 All proposals for such supplies shall be mailed or delivered to
27 the office of the commissioner of administration so as to reach
28 such office before the time set for opening proposals. Proposals

1 shall be opened in a manner to avoid disclosure of contents to
2 competing offerors during the process of negotiation.

3 3. The contract shall be let to the lowest and best offeror
4 as determined by the evaluation criteria established in the
5 request for proposal and any subsequent negotiations conducted
6 pursuant to this subsection. In determining the lowest and best
7 offeror, as provided in the request for proposals and under rules
8 promulgated by the commissioner of administration, negotiations
9 may be conducted with responsible offerors who submit proposals
10 selected by the commissioner of administration on the basis of
11 reasonable criteria for the purpose of clarifying and assuring
12 full understanding of and responsiveness to the solicitation
13 requirements. Those offerors shall be accorded fair and equal
14 treatment with respect to any opportunity for negotiation and
15 subsequent revision of proposals; however, a request for proposal
16 may set forth the manner for determining which offerors are
17 eligible for negotiation, including, but not limited to, the use
18 of shortlisting. Revisions may be permitted after submission and
19 before award for the purpose of obtaining best and final offers.
20 In conducting negotiations there shall be no disclosure of any
21 information derived from proposals submitted by competing
22 offerors. The commissioner of administration shall have the
23 right to reject any or all proposals and advertise for new
24 proposals or purchase the required supplies on the open market if
25 they can be so purchased at a better price.

26 4. The commissioner shall make available, upon request, to
27 any members of the general assembly, information pertaining to
28 competitive proposals, including the names of bidders and the

1 amount of each bidder's offering for each contract.

2 34.044. 1. The commissioner of administration may waive
3 the requirement of competitive bids or proposals for supplies
4 when the commissioner has determined in writing that there is
5 only a single feasible source for the supplies. Immediately upon
6 discovering that other feasible sources exist, the commissioner
7 shall rescind the waiver and proceed to procure the supplies
8 through the competitive processes as described in this chapter.
9 A single feasible source exists when:

10 (1) Supplies are proprietary and only available from the
11 manufacturer or a single distributor; or

12 (2) Based on past procurement experience, it is determined
13 that only one distributor services the region in which the
14 supplies are needed; or

15 (3) Supplies are available at a discount from a single
16 distributor for a limited period of time.

17 2. On any single feasible source purchase where the
18 estimated expenditure shall be [five] ten thousand dollars or
19 over, the commissioner of administration shall post notice of the
20 proposed purchase. Where the estimated expenditure is
21 [twenty-five] one hundred thousand dollars or over, the
22 commissioner of administration shall also advertise the
23 commissioner's intent to make such purchase in at least two daily
24 newspapers of general circulation in such places as are most
25 likely to reach prospective bidders or offerors and may provide
26 such information through an electronic medium available to the
27 general public at least five days before the contract is to be
28 let. Other methods of advertisement, however, may be adopted by

1 the commissioner of administration when such other methods are
2 deemed more advantageous for the supplies to be purchased. The
3 requirement for advertising may be waived, if not feasible, due
4 to the supplies being available at a discount for only a limited
5 period of time.

6 34.047. Notwithstanding any provision in section 34.040,
7 section 34.100, or any other law to the contrary, departments
8 shall have the authority to purchase products and services
9 related to information technology when the estimated expenditure
10 of such purchase shall not exceed [~~seventy-five~~] one hundred
11 fifty thousand dollars, the length of any contract or agreement
12 does not exceed twelve months, the department complies with the
13 informal methods of procurement established in section 34.040,
14 and 1 CSR 40-1.050(1) for expenditures of less than [~~twenty-five~~]
15 one hundred thousand dollars, and the department posts notice of
16 such proposed purchase on the online bidding/vendor registration
17 system maintained by the office of administration. For the
18 purposes of this section, "information technology" shall mean any
19 computer or electronic information equipment or interconnected
20 system that is used in the acquisition, storage, manipulation,
21 management, movement, control, display, switching, interchange,
22 transmission, or reception of information, including audio,
23 graphic, and text.

24 37.960. 1. This act shall be known and may be cited as the
25 "Million Dollar Boondoggle Act of 2019".

26 2. As used in this section, the term "executive agency"
27 shall mean any administrative governmental entity created by the
28 Constitution or statutes of this state under the executive

1 branch, including any department, agency, board, bureau, council,
2 commission, committee, or board of regents or board of curators
3 of any institution of higher learning supported in whole or in
4 part by state funds; any subdivision of an executive agency; and
5 any legally designated agent of such entity.

6 3. The office of administration shall submit to the general
7 assembly and post on the website of the office of administration
8 a report on each capital improvement, building, renovation, or
9 construction project or any information technology project of any
10 type that is funded by an executive agency using only funds
11 appropriated by the general assembly:

12 (1) That is more than one year behind schedule; or

13 (2) For which the amount spent on the project is at least
14 one million dollars more than the original cost estimate for the
15 project.

16 4. To prepare the report required under subsection 3 of
17 this section, the office of administration shall send a request
18 for information to executive agencies no later than September
19 first of each year and shall require a response no later than
20 December thirty-first. The office of administration shall submit
21 their report to the general assembly and post it on their website
22 by January thirty-first.

23 5. Each report submitted and posted under subsection 3 of
24 this section shall, for each project included in the report,
25 provide:

26 (1) A brief description of the project, including:

27 (a) The purpose of the project;

28 (b) Each location in which the project is carried out;

1 (c) The year in which the project was initiated;

2 (d) The state's share of the total cost of the project; and

3 (e) Each primary contractor and grant recipient of the
4 project;

5 (2) An explanation of any changes to the original scope of
6 the project, including the addition or narrowing of the initial
7 requirements of the project;

8 (3) The original expected date for completion of the
9 project;

10 (4) The current expected date for completion of the
11 project;

12 (5) The original cost estimate for the project, as adjusted
13 to reflect increases in the Consumer Price Index for All Urban
14 Consumers, as published by the Bureau of Labor Statistics;

15 (6) The current cost estimate for the project, as adjusted
16 to reflect increases in the Consumer Price Index for All Urban
17 Consumers, as published by the Bureau of Labor Statistics;

18 (7) An explanation for a delay in completion or increase in
19 the original cost estimate for the project; and

20 (8) The amount of and rationale, including terms and
21 conditions to receive or be denied, for any award, incentive fee,
22 or other type of bonus, if any, awarded for the project.

23 536.015. There is established a publication to be known as
24 the "Missouri Register", which shall be published in a format and
25 medium as prescribed by the secretary of state [and in writing
26 upon request] no less frequently than monthly by the secretary of
27 state.

28 536.025. 1. A rule may be made, amended or rescinded by a

1 state agency without following the provisions of section 536.021,
2 only if the state agency:

3 (1) Finds that an immediate danger to the public health,
4 safety or welfare requires emergency action or the rule is
5 necessary to preserve a compelling governmental interest that
6 requires an early effective date as permitted pursuant to this
7 section;

8 (2) Follows procedures best calculated to assure fairness
9 to all interested persons and parties under the circumstances;

10 (3) Follows procedures which comply with the protections
11 extended by the Missouri and United States Constitutions; and

12 (4) Limits the scope of such rule to the circumstances
13 creating an emergency and requiring emergency action.

14 2. At the time of or prior to the adoption of such rule,
15 the agency shall file with the secretary of state and the joint
16 committee on administrative rules the text of the rule and the
17 fiscal note required by sections 536.200 and 536.205 together
18 with the specific facts, reasons, and findings which support the
19 agency's conclusion that the agency has fully complied with the
20 requirements of subsection 1 of this section. If an agency finds
21 that a rule is necessary to preserve a compelling governmental
22 interest that requires an early effective date, the agency shall
23 certify in writing the reasons therefor.

24 3. [Material filed with the secretary of state and the
25 joint committee on administrative rules under the provisions of
26 subsection 2 of this section shall be published in the Missouri
27 Register by the secretary of state as soon as practicable after
28 the filing thereof] After a filing by an agency of materials

1 under subsection 2 of this section, the secretary of state shall:

2 (1) As soon as practicable, publish such materials in the
3 Missouri Register;

4 (2) Within three business days, email such materials to
5 persons who have registered to be notified of the agency's
6 actions through the secretary of state's administrative rules
7 notification system; and

8 (3) Within three business days, publish such materials on
9 the official website of the secretary of state.

10
11 Any rule adopted pursuant to this section shall be reviewed by
12 the secretary of state to determine compliance with the
13 requirements for its publication and adoption established in this
14 section, and in the event that the secretary of state determines
15 that such proposed material does not meet those requirements, the
16 secretary of state shall not publish the rule. The secretary of
17 state shall inform the agency of its determination, and offer the
18 agency a chance to either withdraw the rule or to have it
19 published as a proposed rule.

20 4. The committee may file with the secretary of state any
21 comments or recommendations that the committee has concerning a
22 proposed or final order of rulemaking. Such comments shall be
23 published in the Missouri Register.

24 5. The committee may refer comments or recommendations
25 concerning such rule to the appropriations and budget committee
26 of the house of representatives and the appropriations committee
27 of the senate for further action.

28 6. Rules adopted under the provisions of this section shall

1 be known as "emergency rules" and shall, along with the findings
2 and conclusions of the state agency in support of its employment
3 of emergency procedures, be judicially reviewable under section
4 536.050 or other appropriate form of judicial review. The
5 secretary of state and any employee thereof, acting in the scope
6 of employment, shall be immune from suit in actions regarding the
7 adoption of rules pursuant to this section.

8 7. A rule adopted under the provisions of this section
9 shall clearly state the interval during which it will be in
10 effect. Emergency rules shall not be in effect for a period
11 exceeding one hundred eighty calendar days or thirty legislative
12 days, whichever period is longer. For the purposes of this
13 section, a "legislative day" is each Monday, Tuesday, Wednesday
14 and Thursday beginning the first Wednesday after the first Monday
15 in January and ending the first Friday after the second Monday in
16 May, regardless of whether the legislature meets.

17 8. A rule adopted under the provisions of this section
18 shall not be renewable, nor shall an agency adopt consecutive
19 emergency rules that have substantially the same effect, although
20 a state agency may, at any time, adopt an identical rule under
21 normal rulemaking procedures.

22 9. A rule adopted under the provisions of this section may
23 be effective not less than ten business days after the filing
24 thereof in the office of the secretary of state, or at such later
25 date as may be specified in the rule, and may be terminated at
26 any time by the state agency by filing an order with the
27 secretary of state fixing the date of such termination, which
28 order shall be published by the secretary of state in the

1 Missouri Register as soon as practicable after the filing
2 thereof.

3 10. If it is found in a contested case by an administrative
4 or judicial fact finder that an agency rule should not have been
5 adopted as an emergency rule as provided by subsection 1 of this
6 section, then the administrative or judicial fact finder shall
7 award the nonstate party who prevails, as defined in this
8 section, its reasonable fees and expenses, as defined in this
9 section. This award shall constitute a reviewable order. If a
10 state agency in a contested case grants the relief sought by the
11 party prior to a finding by an administrative or judicial fact
12 finder that the state agency's action was based on a statement of
13 general applicability which should not have been adopted as an
14 emergency rule, but was in fact adopted as an emergency rule
15 pursuant to this section, then the affected party may bring an
16 action in circuit court of Cole County for the nonstate party's
17 reasonable fees and expenses, as defined in this section.

18 11. For the purposes of this section, the following terms
19 mean:

20 (1) "Prevails", obtains a favorable order, decision,
21 judgment or dismissal in a civil action or agency proceeding;

22 (2) "Reasonable fees and expenses" includes the reasonable
23 expenses of expert witnesses, the reasonable cost of any study,
24 analysis, engineering report, test or project which is found by
25 the court or agency to be necessary for the preparation of the
26 party's case, and reasonable attorney or agent fees.

27 536.031. 1. There is established a publication to be known
28 as the "Code of State Regulations", which shall be published in a

1 format and medium as prescribed [and in writing upon request] by
2 the secretary of state [as soon as practicable after ninety days
3 following January 1, 1976, and may be republished] from time to
4 time [thereafter] as determined by the secretary of state.

5 2. The code of state regulations shall contain the full
6 text of all rules of state agencies in force and effect upon the
7 effective date of the first publication thereof, and effective
8 September 1, 1990, it shall be revised no less frequently than
9 monthly thereafter so as to include all rules of state agencies
10 subsequently made, amended or rescinded. The code may also
11 include citations, references, or annotations, prepared by the
12 state agency adopting the rule or by the secretary of state, to
13 any intraagency ruling, attorney general's opinion,
14 determination, decisions, order, or other action of the
15 administrative hearing commission, or any determination,
16 decision, order, or other action of a court interpreting,
17 applying, discussing, distinguishing, or otherwise affecting any
18 rule published in the code.

19 3. The code of state regulations shall be published in
20 [looseleaf form in one or more volumes upon request and] a format
21 and medium as prescribed by the secretary of state [with an
22 appropriate index, and revisions in the text and index may be
23 made by the secretary of state as necessary and provided in
24 written format upon request].

25 4. An agency may incorporate by reference rules,
26 regulations, standards, and guidelines of an agency of the United
27 States or a nationally or state-recognized organization or
28 association without publishing the material in full. The

1 reference in the agency rules shall fully identify the
2 incorporated material by publisher, address, and date in order to
3 specify how a copy of the material may be obtained, and shall
4 state that the referenced rule, regulation, standard, or
5 guideline does not include any later amendments or additions,
6 except that:

7 (1) Hospital licensure regulations promulgated under this
8 chapter and chapter 197 may incorporate by reference Medicare
9 conditions of participation, as defined in section 197.005, and
10 later additions or amendments to such conditions of
11 participation; and

12 (2) Hospital licensure regulations governing life safety
13 code standards promulgated under this chapter and chapter 197 to
14 implement section 197.065 may incorporate, by reference, later
15 additions or amendments to such rules, regulations, standards, or
16 guidelines as needed to consistently apply current standards of
17 safety and practice.

18 5. The agency adopting a rule, regulation, standard, or
19 guideline under this section shall maintain a copy of the
20 referenced rule, regulation, standard, or guideline at the
21 headquarters of the agency and shall make it available to the
22 public for inspection and copying at no more than the actual cost
23 of reproduction. The secretary of state may omit from the code
24 of state regulations such material incorporated by reference in
25 any rule the publication of which would be unduly cumbersome or
26 expensive.

27 6. The courts of this state shall take judicial notice,
28 without proof, of the contents of the code of state regulations.

1 536.033. 1. Copies or subscription of the register or code
2 shall be made available to the public by the secretary of state
3 upon request for a reasonable charge to be established by [him]
4 the secretary of state, [said charge] not to exceed the actual
5 cost of publishing and delivery.

6 2. All [costs of printing and mailing the Missouri Register
7 and the code of state regulations shall be paid by the office of
8 the secretary of state from funds appropriated for this purpose
9 and all] fees collected from the sale [thereof] of the Missouri
10 Register or the code of state regulations by the secretary of
11 state shall be deposited to general revenue.

12 3. The secretary of state may correct typographical or
13 spelling errors in the publication of any rule, notice of
14 proposed rulemaking, or order of rulemaking.

15 536.200. 1. Any state agency filing a notice of proposed
16 rulemaking, as required by section 536.021, or an emergency rule,
17 as required by section 536.025, wherein the adoption, amendment,
18 or rescission of the rule would require or result in an
19 expenditure of public funds by or a reduction of public revenues
20 for that agency or any other state agency of the state government
21 or any political subdivision thereof including counties, cities,
22 towns, and villages, and school, road, drainage, sewer, water,
23 levee, or any other special purpose district which is estimated
24 to cost more than five hundred dollars in the aggregate to any
25 such agency or political subdivision, shall at the time of filing
26 the notice with the secretary of state file a fiscal note
27 estimating the cost to each affected agency or to each class of
28 the various political subdivisions to be affected. The fiscal

1 note shall contain a detailed estimated cost of compliance and
2 shall be supported with [an affidavit] a declaration subject to
3 the requirements of section 575.060 by the director of the
4 department to which the agency belongs that in the director's
5 opinion the estimate is reasonably accurate. If no fiscal note
6 is filed, the director of the department to which the agency
7 belongs shall file [an affidavit] a declaration subject to the
8 requirements of section 575.060 which states that the proposed
9 change will cost less than five hundred dollars in the aggregate
10 to all such agencies and political subdivisions.

11 2. A fiscal note for an emergency rule filed under section
12 536.025 shall only reflect the fiscal costs for the duration of
13 the emergency rule.

14 3. If at the end of the first full fiscal year after the
15 implementation of the rule, amendment, or rescission the cost to
16 all affected entities has exceeded by ten percent or more the
17 estimated cost in the fiscal note or has exceeded five hundred
18 dollars if [an affidavit] a declaration has been filed stating
19 the proposed change will cost less than five hundred dollars, the
20 original estimated cost together with the actual cost during the
21 first fiscal year shall be published by the adopting agency in
22 the Missouri Register within ninety days after the close of the
23 fiscal year. Such costs shall be determined by the adopting
24 agency. If the adopting agency fails to publish such costs as
25 required by this section, the rule, amendment, or rescission
26 shall be void and of no further force or effect.

27 [3.] 4. The estimated cost in the aggregate shall be
28 published in the Missouri Register contemporary with and adjacent

1 to the notice of [proposed] rulemaking, and failure to do so
2 shall render any rule promulgated thereunder void and of no force
3 or effect.

4 [4.] 5. Any challenge to a rule based on failure to meet
5 the requirements of this section shall be commenced within five
6 years after the effective date of the rule.

7 [5.] 6. In the event that any rule published prior to June
8 3, 1994, shall have failed to provide a fiscal note as required
9 by this section, such agency shall publish the required fiscal
10 note cross-referenced to the applicable rule prior to August 28,
11 1995, and in that event the rule shall not be void. Any such
12 rule shall be deemed to have met the requirements of this section
13 until that date.

14 536.205. 1. Any state agency filing a notice of proposed
15 rulemaking, as required by section 536.021, or an emergency rule,
16 as required by section 536.025, whereby the adoption, amendment,
17 or rescission of the rule would require an expenditure of money
18 by or a reduction in income for any person, firm, corporation,
19 association, partnership, proprietorship or business entity of
20 any kind or character which is estimated to cost more than five
21 hundred dollars in the aggregate, shall at the time of filing the
22 notice with the secretary of state file a fiscal note containing
23 the following information and estimates of cost:

24 (1) An estimate of the number of persons, firms,
25 corporations, associations, partnerships, proprietorships or
26 business entities of any kind or character by class which would
27 likely be affected by the adoption of the proposed rule,
28 amendment or rescission of a rule;

1 (2) A classification by types of the business entities in
2 such manner as to give reasonable notice of the number and kind
3 of businesses which would likely be affected;

4 (3) An estimate in the aggregate as to the cost of
5 compliance with the rule, amendment or rescission of a rule by
6 the affected persons, firms, corporations, associations,
7 partnerships, proprietorships or business entities of any kind or
8 character.

9 2. A fiscal note for an emergency rule filed under section
10 536.025 shall only reflect the fiscal costs for the duration of
11 the emergency rule.

12 3. The fiscal note shall be published in the Missouri
13 Register contemporary with and adjacent to the notice of
14 [proposed] rulemaking, and failure to do so shall render any rule
15 promulgated thereunder void and of no force and effect.

16 [3.] 4. Any challenge to a rule based on failure to meet
17 the requirements of this section shall be commenced no later than
18 five years after the effective date of the rule.

19 [4.] 5. In the event that any rule published prior to June
20 3, 1994, shall have failed to provide a fiscal note as required
21 by this section, such agency shall publish the required fiscal
22 note prior to August 28, 1995, and in that event the rule shall
23 not be void. Any such rule shall be deemed to have met the
24 requirements of this section until that date.